

Minutes of the Ogden Valley Township Planning Commission Special meeting held March 14, 2007, Weber County Commission Chambers, commencing at 6:00 p.m.

**Members Present:**

Louis Cooper, Chair  
Greg Graves  
Gary Allen  
Jim Banks  
Keith Rounkles (6:00)  
Verl Creager (6:30)

**Members Excused:**

Sharon Holmstrom

**Staff Present:**

Jim Gentry, Director  
Scott Mendoza, Planner  
Sean Wilkinson, Planner  
Monette Hurtado, Legal Counsel  
Kary Serrano, Secretary

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Pledge of Allegiance

**Consent Agenda Items**

- A. Conditional Use Permit CUP #32-06 Site Plan Approval for a Culinary Water Reservoir located at approximately 8150 E. Hwy 39
- B. Conditional Use Permit CUP #04-07 Site Plan Approval for a Culinary Water Reservoir located at approximately 7500 E. 900 S.
- C. Ward Acres Phase 3, 3150 E. 4100 S., 5 Lots - Final Approval

**Regular Agenda Items**

1. Approval of the September 5, 2006 and January 23, 2007 meeting minutes
2. Conditional Use Permit CUP #31-06 for the Construction and Operation of a Waste Water Treatment Facility located at approximately 8150 E. Hwy 39
3. Discussion - Zoning Petition Z.P. 01-07 to Amend Chapter 42 to redefine specifications and application procedure
4. Discussion - Zoning Petition Z.P. 02-07 to Amend Chapter 1 Definitions regarding height and bulk of buildings and other structures, the percentage of lot which may be occupied, size of lots, courts and other open spaces, the density and distribution of population, and other minor changes
5. Adjourn

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Consent items A, B, and C were moved to Regular Agenda for discussion.

**A. Conditional Use Permit CUP #32-06 Site Plan Approval for a Culinary Water Reservoir located at approximately 8150 E. Hwy 39**

Staff presented the following report:

The petitioner is requesting site plan approval for a Culinary Water Reservoir located at approximately 8150 E. Hwy 39. The project lies in a Forest (F-5) Zone, which lists "**Public Utility Substation**" as a conditional use. The project is proposed as a reinforced concrete 400,000 gallon culinary water tank, 62 feet in diameter, and 20 feet tall which will be served by a 12 foot gravel access road. It will be built on a knoll with an elevation of approximately 5205' and cut into the hillside. The tank will be completely buried when it is finished, up to 1.5 feet above existing grade. It is proposed that the tank will become part of the Eden Waterworks Company. There is no minimum lot area for a public utility substation, but it must meet the same setbacks required for dwellings in the same zone. The front yard setback for this project will be 30 ft., sides 20 ft., and the rear yard may be reduced to 20 ft. in a forest zone for a public utility substation according to Chapter 26 (Public Utility) of the Zoning Ordinance.

A landscape plan has been submitted which will help to conceal the cut made in the hillside. This plan includes re-seeding native grasses within the disturbed area, and maintaining existing vegetation. All improvements must be installed or a financial guarantee will be required for all landscaping and other site improvements before a final building permit will be issued.

A geotechnical report has been submitted with the project which stated "The subject site is suitable for the proposed construction provided the recommendations presented in this report are followed." The Weber County Engineer's office has reviewed the site plan and the geotechnical report for this project and has no concerns, except that the recommendations in the report are followed. A construct/operating permit from the State must be obtained before any construction begins and before final approval is given for the Bison Creek Ranch Subdivision. Any major changes that affect the proposed site plan or water tank location will be required to come back to the Planning Commission for approval..

Weber County Zoning Ordinance States: "The purpose and intent of Conditional Uses is to allow in certain areas, compatible integration of such uses as special exceptions but which are related to the permitted uses of the zone, but which may be suitable and desirable only in certain locations in that particular zone due to conditions and circumstances peculiar to that location and/or only if such uses as designed, laid out and constructed on the proposed site in a particular manner." Weber County Zoning Ordinance further states: **22C-5. Basis for Issuance of Conditional Use Permit.** The Planning Commission shall not authorize a Conditional Use Permit unless evidence is presented to establish:

1. That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community, and
2. That such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings and structures when considering traffic generation, parking, building design and location, landscaping and signs, and
3. That the proposed use will comply with the regulations and conditions specified in this Ordinance for such use, and
4. That the proposed use conforms to the goals, policies and governing principles and land use of the General Plan for Weber County
5. That the proposed use will not lead to the deterioration of the environment or ecology of the general area, nor will produce conditions or emit pollutants of such a type or of such a quantity so as to detrimentally effect, to any appreciable degree, public and private properties including the operation of existing uses thereon, in the immediate vicinity of the community or area as a whole.

**Conditions for Approval:**

1. Requirements and recommendations of the Weber County Engineers Office.
2. Requirements and recommendations of the Weber County Building Inspector.
3. Requirements and recommendations of the Weber County Fire District.
4. Requirements and Recommendations of the Utah State Department of Environmental Quality Division of Drinking Water, including a construct/operating permit before any construction and before final approval of the Bison Creek Ranch Subdivision.

**Staff Recommendations:**

Staff recommends approval subject to staff and other agency comments and recommendations.

Weber County Zoning Ordinance states "The Planning Commission may deny or permit a Conditional Use to be located within any zone in which the particular Conditional Use is permitted by the use regulations of that zone. In authorizing any Conditional Use, **the Planning Commission shall impose such requirements and conditions necessary for the protection of adjacent properties and the public welfare.**" Any variance from the Weber County Zoning Ordinance will require a petition, and granting of a variance from the Board of Adjustment.

The Planning Commission can approve the proposed Conditional Use Permit subject to staff and other agency comments.

The Planning Commission can deny the proposed application.

The Planning Commission can table this item if additional information is needed

The decision of the Planning Commission may be appealed to the County Commission by filing such appeal within 15 days after the date of the decision of the Planning Commission.

Staff stated that the tank would be buried except for a small area. Chair Cooper stated that this was talked about before and DEQ wanted the top exposed because soil on the top would be detrimental to the water systems.

Commissioner Rounkles stated that they were told that the tank would be completely buried when it's finished up to 1.5 feet above the existing grade. Staff replied that was what was originally proposed, but it has now changed and staff just received that information today.

Commissioner Rounkles asked staff where this tank is going to be for the Eden Water Works, will it supply all of Eden, or is this just for the Bison Creek Subdivision? Staff replied no, it will be hooked into their whole system, which is a pressurized system.

Barry Swartz, Petitioner, said he works for Destination Eden Development Company and is representing Bison Creek Ranch LLC. He stated he would like to run through some points as to why the conditional use permit application should be approved and then will turn the time over to Tyler Neilson, Gardner Engineering who can speak about the tank design. They believe that the storage tank will benefit the general public in the Ogden Valley. It will be owned and operated by Eden Water Works as part of an expansion of their system that will not only serve Bison Creek Ranch and two other proposed developments in the valley, but those facilities will be available for balancing their system operation on a daily basis. The tank itself and the installation of the tank will not be detrimental to the environment. The vegetation that is disturbed during construction will be restored. The tank that was heard earlier is technically feasible as determined by the geotechnical consultant that they employed as well as the County Engineer. The proposed use does conform with State Law and County Ordinances. The proposal is supported by staff and heard earlier in a staff report. The impacts associated with the tank will be substantially mitigated as mentioned earlier, with the exception of the hatch area that would be used to access the tank for inspection purposes and a vent which their engineering firm will describe later. The tank will be completely buried. They need approval in order to move forward to obtain the necessary permits to demonstrate to this body, that the project that previously received preliminary approval for, is qualified for final approval.

Tyler Neilson, Gardner Engineer, representing Bison Creek Ranch LLC, stated that he couldn't add much more than what was previously stated other than what has to be done through the construction phase to get this tank built. The line labeled EG, is the existing ground as it sits right now. There's kind of a knoll up on the hill. The line just under will be the finished grade on the hillside once the tank is built. It will take less than a couple of feet off of the knoll. It will pretty much be returned back to it's natural state and as staff stated, the only thing that will be sticking up above ground level is the hatch area and a vent as required by DEQ. During construction in order to build the tank, they'll have to cut into the hill to be able to get in there and perform what needs to be done, and then they will put everything back and reseed. Hopefully, in a few years the only people who can see the hatch will know that the tank is there.

Commissioner Graves asked if the slopes would be back as they currently are on the sides? Mr. Neilson replied yes, when it's restored they'll match the existing slope on both sides.

Commissioner Rounkles presented pictures of the knob and indicated he has some suggestions. On this knob, it is a point that goes up, and if you added a tank, no one would know and he does agree with that. It seems that the soil removed could be dispersed on the east side instead of the west side. Couldn't it be as easy to have the road on the back side, instead of the front side of the valley view? If you're coming along Hwy 39, the scenic view, and you're looking up, you're going to see all of this work that is being done, but not if it was set on the opposite side. Mr. Neilson clarified on the pictures what Commissioner Rounkles meant. Commissioner Rounkles stated that the cuts into that hillside would be detrimental across the valley. Mr. Neilson replied that they could certainly look into that to see if that is a viable option. He didn't personally design this, his firm did. He believes that they looked at that alternative, but he is not opposed to taking another look at it.

Commissioner Rounkles stated that it would go completely around the whole knob, and it's steeper to one side than the other side. It would make more sense. Right now, there's no vegetation other than sage brush. In any shape and form if they are going to have these tanks, they need to make sure that it's less visible and when you look up you can't even see it. Hawkin's Creek was a good example of that. Mr. Neilson stated that they want to commit, they could move the road around to the north side.

Chair Cooper stated that as long as it works for the structural design and access to it, the minimal cut is what they are after.

Monette Hurtado, Legal Counsel, stated that with a long agenda, they should impose a time restriction. Chair Cooper stated that they have been allowing three minutes, so they will stick with that.

Brent Marchant stated that his concern is not the water tank as much as the road. Why not put the road on the top. This doesn't just affect his back yard, it's all the houses and there are a lot of them. He has pictures of different views of that hill. He would recommend not coming around the backside, otherwise the people to the north will see that cut. The beauty of that hill is that it is a beautiful view, that's why he bought the house. His recommendation is to come up the hill, to come up that long slope, the access to that is graveled and it will erode and be an eyesore. Commissioner Rounkles asked where the point of access will be to check the vent and the water tank? Mr. Merchant replied that over on the north on the west slope, it's a gradual slope there, and they will come up that slope.

Susan Marchant stated that this is their project, not hers. She would appreciate that the view would be taken care of from Bison Creek's standpoint and not hers, because their backside is her front view. The last time she talked to Barry Swartz, they said they were going to have eighteen inches exposed and she understands now that it has been changed. Commissioner Rounkles stated that it has been changed and it will be completely covered other than an access point and a vent and that's acceptable. Water tanks are a conditional use and this body has the power to see that they take care of any erosion that would happen.

Lynn Turner, East Huntsville, asked why they don't keep the water tank on the southwest side and not disturb the hill that faces north. He lives directly north of the tank. The hill rolls gently off into another knoll. If you've been up there and looked at it, it has the main knoll and then as it goes toward Snowbasin, it drops down to another one before it gets to the canal. Why don't they leave the hill as is so they don't have to look at it. Maybe they could drop it on the other side and then slope it up. They don't have to look at the top of the tank, or their shiny access point or vent. It's all going to be aluminum or stainless which is going to be shining in the sun. He believes they could do a better location job and they wouldn't have to be impacted by it.

Dave Goode stated that he missed the last meeting when the Bison Creek Preliminary Plan got approved. He was appalled that information was withheld from the commissioners, and he knows that they are doing a nice job getting this done. Monette Hurtado, Legal Counsel, stated to Mr. Goode that he is going to have to address this petition, they are not talking about the subdivision. Mr. Goode replied that he was talking about the water tower which feeds the subdivision. He and his wife Dawn, on behalf of the Valley Citizens for Responsible Growth, filed an appeal yesterday, and staff was the recipient of it. The density calculations were absolutely wrong by the ordinance which regulates that.

Monette Hurtado stated that Dave Goode is not addressing the water reservoir and he is talking about the appeal which is inappropriate. Mr. Goode replied that he was talking about the water that is feeding this tank. Staff responded that he was not talking about the petition. Commissioner Rounkles responded that maybe if we let him speak they could find out. Monette Hurtado responded that the planning commission has no power to address an appeal. Mr. Goode stated to Legal Counsel that this is a public meeting and that he would speak.

Staff stated to Chair Cooper that he should not let the meeting get out of control, and reminded him that they do have security if things get out of hand. Chair Cooper replied that he wouldn't let it get out of control, but Mr. Goode has a minute and a half to state what he needed to state.

Mr. Goode stated that he would ask the planning commissioner that made a motion to return the item to the table to repeal their decision, it's proper, it can be done for the preliminary approval. With the preliminary approval they would not be talking about this water tank. He has a complaint about the water tank. It states in the General Plan and in the Ordinances, "*no development on slopes in F-5 greater than 30%.*" This is all on 30% and 40% land. They are respecting setbacks, as if it's a building. Why are they allowing development on it? It doesn't belong there. It states specifically, "no development." It doesn't state, "no house development," and it's not proper. The whole development in the wetlands is not proper. We're taking this bit by bit in pieces, and they will readdress the sewer at that time. If they are going to be pumping water out of Huntsville to feed Eden, that seriously has to be considered. They have live springs coming out of their property, and there are live springs all over the proposed property. If they are going to be drilling wells to feed the water to Eden, it's not good.

Leon Fielding, East Huntsville, stated that he had a couple of concerns besides what has been presented. He wonders whether they have confirmation from Eden Water that they are going to give them full supply for this water tank and for the subdivision. He keeps hearing that they are going to get water, but there's a difference of going to and having water. He also understands that they are asking for the possibility of another water source, such as drilling a well. Where is this well going to be drilled? If it's going to be drilled in the area that he has heard of, and they will not come forth and brief the community on what's going on, they will be at a total loss. Now, if the well is going to be drilled where he has heard, why are they going to drill a well on the west end of the development and pump it three miles to the water tank? It doesn't make sense. The road is going up there, and what are they going to do with the water that comes down? This is a very mild year, with only 69% snow pack so far this year. There's a lot of water that drains off of there. There is also some heavy soil there that is inundated with wet contaminants until the end of July and into August. He knows this because he has herded cows on that ground. How are they going to sanitize that tank? If they drill a well, he would ask for a large bond within a five-month period of all the wells or close to where they drill that will subsidize those wells if the water table in their wells subside to any degree.

Robin Roberts, East Huntsville, stated that her questions are regarding Zoning Ordinance 22C-5 which has to do with the conditional use. There are five conditions that need to be met to base the issuance of that. She does not see where this is going to contribute to the general well being of the community. When bringing the water over is just going to help the subdivision, she does not see how that is going to help the rest of the community on their side of the valley. How are the visual impacts going to contribute to the well being of their side of the valley?

Chair Cooper closed the issue to public comment.

Chair Cooper stated that they have a few questions that either the petitioner or staff should address. He asked if the 30% slope is an issue as a resident questioned? Staff responded that it's because it's a public utility substation. Chair Cooper stated that the petitioner could address the gentleman's issue of potentially putting the tank on the lower knoll, it's a little closer to the canal, they could still have enough elevation to have the pressure they need. If this is or not an option, the petitioner could address that. Tyler Neilson responded that obviously, they want to take it as high as possible to allow for the best pressure to serve the residences of the community. That's why the location of the tank, putting it down lower would probably put them out somewhere around 10 to 15 lots, without having enough pressure. Putting it as high as possible is the best alternative for them.

Commissioner Banks asked if they could mount it on that knoll? Mr. Neilson said certainly, it is now. They could incorporate it into that knoll and still obtain the pressure that they need for the homes.

Commissioner Allen asked what is the elevation of this tank, from the bottom of this tank to the highest level lot? Mr. Neilson stated that they didn't have any elevations listed. They already have a problem with three lots that will not have enough pressure so they are going to have to supplement pressure by some kind of a booster station or individual boosters for those homes. Putting the tank lower would make that problem a lot broader and more homes would be affected.

Commissioner Rounkles asked where the booster station would be and if there is a noise problem? Mr. Neilson replied that if they might have a single booster station, it is still in the discussion stage. It could be located next to the tank and provide the necessary pressure for those homes. Or they could have individual booster stations. Commissioner Rounkles stated that right now they are here asking for a conditional use and said that the only thing that is going to be seen is the vent and the cover and now it comes out that there might be a booster station. Mr. Neilson stated that they could put booster stations underground in vaults, and they would be completely covered.

Chair Cooper stated that he and Commissioner Banks are familiar with booster stations and they have dealt with them. They know they aren't very large and they know that they can be buried. Wouldn't that mitigate in Greenhills? They could pick up 15 lots pretty easily and wouldn't have any pressure problems. That makes more sense to him because the Division of Drinking Water doesn't like you to put individual water pressure stations in homes. They actually frown on it and make the water system approve it because of back flow issues, but they don't have a lot of problems with a booster station that is managed by the water utility. On the tank if you had to disturb less soil, and you had to do less construction, and you had to put a booster station in with it, it may cost the same. This is something that you could look at. He has been on that knoll and tried to visualize what Mr. Turner was talking about and he knows that there is a knoll there and it does gradually go to the canal. It may be something that would protect the hill. A lot of that vegetation is sage brush and you could reseed the grasses, but you'll never get the sage brush back. So that's one of the concerns about how much area you have to disturb to put the access to the tank.

Commissioner Runkles asked where Eden Water ties into that and also asked about the well issue? Mr. Neilson replied that currently, Eden Waterworks' line dead ends it on the Heritage Knoll Subdivision. They have to go back to Heritage Knoll and lay a pipeline to this project. The well site would be just inside the main road, probably about 600 feet of the project, off of Highway 39. Then the well water would need to be boosted up to the tank.

Commissioner Graves asked if that was due south of the proposed tank location? Mr. Neilson replied south and west.

Chair Cooper clarified that the proposed well would provide water for the subdivision and will it be dedicated to Eden Waterworks. Mr. Neilson replied yes, it will be dedicated to Eden Waterworks. Chair Cooper clarified that they don't have to purchase any water rights from Eden and have them supplement it, that they are going to provide all the water? Mr. Neilson replied that all the water will be provided and it's already been purchased through Weber Basin. They have their well permit in the works, and that takes some time.

Mr. Neilson stated that they had a guy come up and help us locate where they thought water was. There are two places on the site that he said were likely spots to find a good source. Once the best site is found, they will have a small well house.

Commissioner Runkles stated that as previously stated by Mr. Fielding, there should be a bond or some kind of financial guarantee to protect the people in the surrounding area if all of sudden their wells go dry. Chair Cooper responded by saying they are back to what they talked about earlier regarding the Division of Water Rights, Environmental Quality, and Division of Drinking Water. If the Division of Water Rights states that there is water there, and what the local residents can do, and they have done it at Greenhills when they have had their wells drilled, you protest. The Division of Water Rights takes that under consideration and they either agree with you or they don't. Ninety percent of the time they don't because they say there's enough water there for the whole world, but the bottom line is, they'll be able to do that. There is no bonding mechanism and he does not know if you can go back on the Division of Water Rights, but they're the agency that decides where the water is and there is a mechanism to protest their well if people feel that they're going to be impacted.

Mr. Neilson stated that many of the wells the gentleman was talking about are shallow wells, 100 feet. The well that they are looking to dig is 1,000 plus feet deep. If that gives anybody comfort.

Commissioner Banks clarified that the reservoir they are building is strictly for this development, it's not for any future growth anywhere else? Mr. Neilson replied that is correct. Commissioner Banks stated that Eden Waterworks will take the system over and maintain it for this development, that's the agreement. You have to have a body politic that maintains the water system. He is assuming that Eden Waterworks will agree to do that once the infrastructure has been put in. Chair Cooper stated that Eden can then expand and use the tank to supplement and get the water over to the other side. Mr. Neilson replied that there is the capacity built in for future hookups.

Commissioner Banks asked if they were to drill their own well, wouldn't they need Eden Waterworks or would they be their own water system? Mr. Neilson replied that is a route to take, but that is not what they elected to do.

Barry Swartz asked if they could address that issue just to be certain that they have the correct information. Eden Waterworks will provide this service for Bison Creek Ranch and has indicated a willingness to provide service for other proposed developments in that area. They do not have an alternate fall-back plan to establish a water company for Bison Creek Ranch. Their direction is to continue to work with Eden Waterworks to help fund the expansion of their system, and to turn over the ownership and operation of that infrastructure when it's in place. They will own and operate the pipe that's installed, the tank, the well, and the booster facilities that are part of the infrastructure within Bison Creek Ranch as they would any additional infrastructure that might serve the other proposed developments in the area or future growth. Chair Cooper stated for clarification, if Eden Waterworks were to say they were going to provide this for them, they would be in here petitioning not Mr. Swartz. This developer will put the infrastructure in and then Eden Waterworks will accept it? Mr. Swartz replied that is correct. Chair Cooper stated that will happen for each subdivision, whether they have excess capacity or not. Somebody is going to have to step up, whether it is Eden Waterworks or another individual, and convince the Division of Water Rights, the County, or whoever, that the water will be available. Mr. Swartz replied that is correct. Eden Waterworks would have requirements of other developments just like they have put forth for Bison Creek and the other two proposed projects for that general area.

Chair Cooper stated that petitioner didn't address the biggest issue of all which was the slopes. The engineer did say they could look at it. If you cut the slope the way that they have shown it, it's circumventing the whole knoll. It is predominantly sage brush, and it hasn't been burned off, it's the knoll, and some in Greenhills, which is habitat for certain species, the minimal disruption of that sagebrush should be looked at and that access would disturb a lot of that and they plan to re-vegetate the cuts with native grass, but that is not what's on that hill currently. Is there a way that they can access this issue and some of the issues from the Greenhill residents as far as the views to the lower valley? Could they access from the north east, and minimize who they will impact? Barry Swartz stated that he believes they can do it. Obviously, they hadn't looked at another access alignment, but their Land Planner and Engineers seem to think that they can. Their commitment will be to find another way up there that will minimize visibility and not wrap around the hill.

Chair Cooper stated that he doesn't know how it costs out, but if you could go to a lower knoll, and if they are going to put in a lift station potentially anyway, the cost may weigh out if they are going to have to move a lot of soil and then replace it. Barry Swartz stated that the real difficulty with that lower bench is it steps up from west to east. As he recalls, the results of the geotechnical drilling that was done on the site indicated that the upper level was more feasible than the lower. As he recalled, there was more consolidated rock on that lower bench than they found in the test holes at the top of the knoll.

Chair Cooper clarified that it is harder to remove the consolidated rocks or would it be better to put a tank on that for stability? Barry Swartz replied that it involved more sophisticated construction and excavation techniques and the rock would have to be hammered out or blasted as opposed to just hammering or otherwise excavating the rock from the top of the knoll.

Commissioner Rounkles stated that looking at the knoll and the feelings about the sagebrush, it's as if you dig a hole of this size, the dirt that is going to come off and is going to be detrimental to a larger surrounding than the hole itself.

Chair Cooper stated that unless they're going to strip the whole hill, they're going to access it from one end and they'll go in with trucks so he does not think they'll have to destroy the whole knoll.

Commissioner Rounkles stated that when you dig the hole, you have to put that material somewhere. So that material has to be hauled out or stationed, otherwise the area surrounding this is going to be smashed, and then they have to pull that dirt off. That is another concern, that is the impact that they are all here to try to address for everyone, not just for people of Bison Creek.

Chair Cooper asked Mr. Swartz if he could address what the construction involves for the cuts to the hillside so they could visualize what is proposed. Are they going to come in from the west, cut an area the width of the tank, level it out, put in the forms, pour the concrete, and then back out? Or is it going to spill over and take the sagebrush out anyway? Barry Swartz replied that he could address it generally, but they don't have a contractor on board yet. They haven't walked through all of the construction techniques, but his belief is since they don't have a contractor, is that they can strip the soil out and relocate it, and store it temporarily until the tank has been constructed. They can store the soil in a place where it won't cause any damage to the vegetation that can't be restored in an appropriate manner. Then they will bring the soil back and use it, which will be the native material to fill around the tank. This is the general idea. The other thing that he wanted to add about preserving the sagebrush is that the Bureau of Land Management years ago perfected some construction techniques. They're used on linear projects, particularly in Wyoming, where the top soil, granted there won't be a lot on this property, along with the vegetation is stripped and replaced after the soils been returned to the excavated area. There are a lot of examples of great successes in Southwest Wyoming by doing that type of thing. When you bring the sagebrush back with the topsoil that's been stripped off, the sagebrush will reestablish itself.

Commissioner Rounkles clarified what Mr. Swartz said in that when he starts the project they pull the sagebrush, and preserve it? Mr. Swartz replied that you strip the sagebrush along with the soil, and stockpile the top soil separate from the soil material. Then when the excavation is backfilled, the subsoils go back into the excavation first, and then the top soil with the sagebrush that is still in the topsoil, goes back onto that. That is part of the re-vegetation process. That's what they would do. Commissioner Rounkles stated that's what the people have shown tonight, if they were destroying the view that the residents have, it would be to the developer's benefit to look at other alternatives. The other thing that was brought up was that the tank would be shiny and reflective. Maybe the pipes could be painted with flat paints or nonreflective materials used. Mr. Swartz replied that their plan is to use nonreflective materials. Commissioner Rounkles asked how high would the vent be because it was a concern of the people? Mr. Swartz replied that there is a design standard that has to be met with the vent. All he can do is speculate at this point that it might be 18 - 24 inches. Commissioner Rounkles asked so it's not six feet? Commissioner Banks stated that he has some tanks that are six feet. Chair Cooper stated that Greenhills is six feet, but it's a nonreflective color. Commissioner Rounkles stated that he is familiar with that, but he is bringing that up because it was a concern, so if they could use materials and paints that would camouflage and blend in, that would be a plus.

Chair Cooper stated the only question he has when they talk about placing conditions on a conditional use permit, the citizens are concerned about the knoll, but if you stuck a tank somewhere else, and then imported fill to make that tank disappear, sometimes they look like a volcano and don't look natural. So they struggle to make these things fit into the natural environment. Chair Cooper asked Legal Counsel if they recommend approval and there is a feasibility to put it in the lower knoll even with a pump station, if they approve it without that, they can't require it, but by the same token, if that's what they would prefer, how can they make conditions on things that are feasible? Monette Hurtado replied that you don't get to pick that specific site, they can't say they don't want it in a particular location. What they can do is look at the site that a developer has offered and minimize any concerns as much as possible. Chair Cooper stated that when they are talking about a site difference, it is from here to those doors. They are not moving it out of the subdivision, it's just lower down the slope. You stand on the one knoll, it's like walking down a gentle slope and then it drops off substantially off the canal. They are talking about moving it 100 - 200 feet to the west. It's in the same geologic structure. Like he said, it's got some hard rock in there and it's an issue. If they potentially are going to put in a lift station anyway, it's not like they are being unreasonable. Ms. Hurtado stated that they could put conditions to minimize it to the greatest extent possible. Usually those have to deal with things such as road design, or whether you're going to have your access for a private right of way, setbacks, and landscaping.

Commissioner Graves stated that he didn't think that they should do their engineering for them. He believes they should come up with their own engineering taking all those concerns and considerations stated by the Planning Commission members and neighbors. Monette Hurtado said this is a conditional use, and as she has pointed out before, they don't get to take in public outcry for something that is a conditional use. They are acting as a quasi-judicial body. An individual has come in under the existing ordinances and said, "I can meet those requirements." And under a conditional use, they have some discretion to add additional conditions to minimize that impact, but to say, he hasn't done his engineering is not in their powers. Not only has he done his engineering, but the Weber County Engineer is here tonight and he's had an opportunity to review this proposal. She believes that there aren't any concerns with this site. They are only thinking there is because from an aesthetic standpoint, the neighbors would like it in a different location. But engineering wise, it meets the current requirements, so they have to keep that in mind.

Chair Cooper stated in the five steps listed as how they need to rule in a conditional use, one of the audience members mentioned that the proposed use will not lead to deterioration of the environment or ecology. When he was talking about the sagebrush, it would definitely do that. He is not an expert, but he does believe that if you remove sagebrush the ecology will be impacted if you can't replace the sagebrush. The developer said that he could possibly do that so they wouldn't investigate the issue right now. He wouldn't have come up with that option for them, so they may have just saved the environment, this is why they have to ask some of these questions. Monette Hurtado responded that this is why they have to put those additional conditions on there to say they want the developer to minimize this impact and this is how they want them to do it. That is an appropriate condition. Chair Cooper asked how they formulate this, they don't want to be argumentative if they said they would like the developer to re-look at the road alignment. Monette Hurtado replied that they can actually mandate that they come back showing what the alternative would be for their private access. They would have the engineering office review that and say, "yes, that's feasible, and it appears to have less impact." That's an appropriate condition.

Chair Cooper clarified that they should not table the issue, but put a condition. Monette Hurtado replied that is correct. A condition means that you can add things to minimize the impact. A condition is something that has more to do with the aesthetics than it does with the technical requirement. In this case, from an aesthetics standpoint, they may be able to realign where they have their private access. The Planning Commission's comment would be, they want it to have the least visual impact, and they want the developer to investigate another option, then they will have it reviewed by staff and also the County Engineer and see if it is a feasible way to approach the maintenance. They have to make those conditions specific enough that staff would know what they are supposed to look for, what they have to do in order to get this conditional use permit. They can't add a technical requirement because it isn't something that the State would require.

Chair Cooper stated that based on the questions they have asked, they have to think about this, and tabling is an option, but also these conditions that legal counsel has mentioned that they can add, they will probably accomplish as much as a table, as long as they put specific conditions in a motion.

Commissioner Rounkles stated that the problem with that is maybe the conditions aren't what they like, and because you gave approval with conditions, then there would be no turning back. Where maybe a table is giving them additional time to investigate. The other problem is where they were going to come up from the road, along their road, up to the tank. They have questions about going under the canal. The problem is, they put conditions on the last preliminary approval. Monette Hurtado responded that he is confusing two things again. This is not a preliminary approval item, it is a conditional use approval. Commissioner Rounkles responded that Legal Counsel is missing what he is saying and that she should listen to what he has to say because she didn't let him finish. He is not confused here at all, they are talking about the water tank, are we not? Monette Hurtado replied yes, this is a conditional use permit, where the Planning Commission grants final approval.

Commissioner Rounkles said they listened tonight where those waterlines and where that well would be located. The point that he was making was when they made the preliminary approval of Bison Creek, there were two or three stipulations, one was that they were going to wait until the Army Corps. letter came back in. Once the Corps. had reevaluated the delineations of these wetlands, this was where maybe some changes were going to have to be done, and they were going to have to come back in for another preliminary approval. The other stipulation was where the creeks were, whether they were creeks or whether they weren't. In doing that, that would make a stipulation of where the setback would be. So what he is getting at is they could be a little too far ahead of themselves, wherein this case to go ahead and give an approval of a water tank, it probably should be tabled.

Chair Cooper stated that is their prerogative, but he just wanted to make one comment, regarding the issue that Commissioner Rounkles made that as far as the wetlands issue, he is right, the Corps. did say they needed to evaluate it at a certain time of the year. The issue he talked about regarding setbacks, the engineer has a letter that addresses every setback as far as his opinion. That is not an issue to base tabling the project because the engineer has already made those determinations. Just like when they talk about DEQ or any other professional agency, when an engineer makes a determination like this, he puts it in writing, and he spells out why, and that's as far as they can question. They are at a point now, that they have the option as a planning commissioner to table, deny or approve the conditional use agenda item.

Monette Hurtado stated that she needed to clarify, there seems to be confusion because it is for a public utility which is a conditional use. It doesn't matter whether this subdivision goes ahead or not. They could actually provide the water service for anyone, if they wanted to build it, and give it to the entity which would be the water district. It's not contingent on the subdivision being approved. The water system could go ahead with or without this subdivision.

Commissioner Rounkles believed that where they were going to bring the alignment of the road along where he believes is a creek. When they discussed it with the County Engineer, and it's not that he disagrees with him, but in this case, it's an opinion. That's where he had a problem and wanted to discuss that with the Engineer. In this case, the USGS Maps say that it is a stream. That's where he has his problem. Monette Hurtado stated that these are issues addressing the subdivision again, not the water tank. Commissioner Rounkles stated that they are going to put the well down in the corner, and bring the water all the way up to that. It is an issue with this water tank.

Commissioner Graves stated that he wasn't ready for a motion but there is something that he wanted to mention concerning the sagebrush. In looking at the proposed mixture, he reads that it's all grasses, few wild flowers, and it's not uncommon to add a sagebrush element to the seeding material. He realizes that it's going to take a long time, but at least it's some kind of backup to hoping that once you scrape that sagebrush all off the topsoil, disrupt all that root system, then drag it back in and hope that it retakes. At least if there is some seed element in the new seeding mix, you've got to hope that at some point, you'll get some sagebrush back. It's not listed in what they specifically proposed, but as part of the permit conditions he recommends that it be added.

Chair Cooper stated that based on the discussion so far, the proposed conditions could be the following:

1. Condition of location of the access in the most visually acceptable location that would cause the least visual impact to the lower valley and Greenhills because of potential growth to the north.
2. Evaluate if they're going to potentially lift any way to look at the lower bench.
3. Amendment of the seed mix. Remove and returning the sagebrush.
4. Stripping and stockpiling and to minimize the destruction of existing sagebrush by taking the soils out and stockpiling and removing it back to the site.
5. Erosion Control on the access road.
6. Engineering to review different access options and look at possible erosion mitigation techniques.
7. Stand pipe, have stand pipe of a nonreflective material and as camouflaged as possible.

**MOTION:** Commissioner Allen moved to deny Conditional Use Permit CUP #31-06 for the Construction and Operation of a Waste Water Treatment Facility located at approximately 8150 E. Hwy 39 based on two items; 1) the lack of objective evidence of Eden Waterworks' acceptance of any of the tank activity such as the lines, etc., and 2) the lack of any planned or presented mitigation of the visual impacts from all the surrounding directions. Chair Cooper stated motion died for lack of second.

**MOTION:** Commissioner Rounkles moved to table Conditional Use Permit CUP #31-06 for the Construction and Operation of a Waste Water Treatment Facility located at approximately 8150 E. Hwy 39 based on the following items: 1) To make sure that it's clear of how the water was going to work. 2) To bring in a couple of options of this road besides the one they have indicated and try to satisfy all of the people for visual impacts of this access. 3) To include sagebrush seed to make this area look as natural as possible. 4) To have silt fences to mitigate the destruction of the sagebrush and natural surrounding as much as possible. 5) To remove the top soil and bring it back and to leave the natural sagebrush in it and hope that some of that would reseed. 6) To have erosion control so when cuts are made all the way around including the access point to the tank. 7) To camouflage the vent pipes and that all other mechanisms have a nonreflective surface to lesson visual impact.

**DISCUSSION:** There was a brief discussion as to how the motion needed to be stipulated and addressed. Commissioner Rounkles said he would like the issue tabled so they can redesign the road and so the developer can provide some explanation of how the construction will occur to minimize damage to the hill and to the existing vegetation. The developer could also come back with a plan to remove and return the sagebrush using mixes. Also, they would like to have a visual of how it will look once completed, including the pipe. Chair Cooper stated the motion died for lack of second.

**MOTION:** Commissioner Allen moved to table the motion and request the petitioner to come back with objective evidence of Eden Waterworks' acceptance of the water system and the piping with more detail to it so they can see exactly how it's going to affect the overall land and the surrounding landowners. Also, that the petitioner come back with at least three different options for how they can locate the tank in that area if they have to locate it in that area, or a possible other location for the tank. Commissioner Rounkles seconded the motion. A vote was taken and Chair Cooper said the motion carried by a 4-2 vote.

**B. Conditional Use Permit CUP #04-07 Site Plan Approval for a Culinary Water Reservoir located at approximately 7500 E. 900 S.**

Staff presented the following report:

The petitioner is requesting site plan approval for a Culinary Water Reservoir located at approximately 8150 E. Hwy 39. The project lies in a Forest Valley (FV-3) Zone, which lists "Public Utility Substation" as a conditional use. The project is proposed as a reinforced concrete 150,000 gallon culinary water tank, 53.5 feet in diameter, and 9.5 feet tall which will be served by a 12 foot wide access road with 8 inches of compacted road base. It will be built on a hill with an elevation of approximately 5283' and cut into the hillside. The tank will be completely buried when it is finished, and will have up to 5 feet of fill above existing grade in some spots. However, the fill is gradual and will not look out of place. It is proposed that the tank will become part of the Eden Waterworks Company. There is no minimum lot area for a public utility substation, but it must meet the same setbacks required for dwellings in the same zone. The front yard setback for this project will be 30 ft., sides 20 ft., and the rear yard may be reduced to 20 ft. in a forest zone for a public utility substation according to Chapter 26 (Public Utility) of the Zoning Ordinance.

A landscape plan has been submitted which will help to conceal the cut made in the hillside. This plan includes hydro-seeding native grasses within the disturbed area, and maintaining existing vegetation. All improvements must be installed or a financial guarantee will be required for all landscaping and other site improvements before a final building permit will be issued.

A geotechnical report has been submitted with the project which stated "The subject site is suitable for the proposed construction provided the recommendations presented in this report are followed." The Weber County Engineers office has reviewed the site plan and the geotechnical report for this project and have no concerns, except that the recommendations in the report are followed and that the grades of the access road be kept at 20% or below. A construct/operating permit from the State must be obtained before any construction begins and before final approval is given for the Trappers Crossing Subdivision. Any major changes that affect the proposed site plan or water tank location will be required to come back to the Planning Commission for approval.

Weber County Zoning Ordinance States: "The purpose and intent of Conditional Uses is to allow in certain areas, compatible integration of such uses as special exceptions but which are related to the permitted uses of the zone, but which may be suitable and desirable only in certain locations in that particular zone due to conditions and circumstances peculiar to that location and/or only if such uses as designed, laid out and constructed on the proposed site in a particular manner."

Weber County Zoning Ordinance further states: **22C-5. Basis for Issuance of Conditional Use Permit.** The Planning Commission shall not authorize a Conditional Use Permit unless evidence is presented to establish:

1. That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community, and
2. That such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings and structures when considering traffic generation, parking, building design and location, landscaping and signs, and
3. That the proposed use will comply with the regulations and conditions specified in this Ordinance for such use, and
4. That the proposed use conforms to the goals, policies and governing principles and land use of the General Plan for Weber County
5. That the proposed use will not lead to the deterioration of the environment or ecology of the general area, nor will produce conditions or emit pollutants of such a type or of such a quantity so as to detrimentally effect, to any appreciable degree, public and private properties including the operation of existing uses thereon, in the immediate vicinity of the community or area as a whole.

**Conditions for Approval:**

1. Requirements and recommendations of the Weber County Engineers Office.
2. Requirements and recommendations of the Weber County Building Inspector.
3. Requirements and recommendations of the Weber County Fire District.
4. Requirements and Recommendations of the Utah State Department of Environmental Quality Division of Drinking Water, including a construct/operating permit before any construction and before final approval of the Trappers Crossing Subdivision.

**Staff Recommendations:**

Staff recommends approval subject to staff and other agency comments and recommendations.

Weber County Zoning Ordinance states "The Planning Commission may deny or permit a Conditional Use to be located within any zone in which the particular Conditional Use is permitted by the use regulations of that zone. In authorizing any Conditional Use, **the Planning Commission shall impose such requirements and conditions necessary for the protection of adjacent properties and the public welfare.**" Any variance from the Weber County Zoning Ordinance will require a petition, and granting of a variance from the Board of Adjustment.

The Planning Commission can approve the proposed Conditional Use Permit subject to staff and other agency comments. The Planning Commission can deny the proposed application. The Planning Commission can table this item if additional information is needed. The decision of the Planning Commission may be appealed to the County Commission by filing such appeal within 15 days after the date of the decision of the Planning Commission.

Commissioner Allen asked if this was over by the old Trapper's Loop Road and if it was a dirt road? Staff replied yes, that is correct and that it is a dirt road currently and is what they would use as the subdivision road. They will pave the road and bring it up to county standards.

Commissioner Rounkles asked when they do the seeding to re-vegetate, how do they get the seeds to start, do they rely on the rain, or will they water it. Commissioner Banks replied that they hydro-seed in the late fall.

Commissioner Allen asked if the tank is basically located in the southwest corner of that parcel and what the round item was in the corner? Staff replied yes, that is correct and that round item is a cul-de-sac in the subdivision.

William Benson, Petitioner, stated that the road will be on the backside and the only thing visible on the backside is rangeland so it will be out of the public's view completely.

In answer to a question by Commissioner Rounkles, William Bensen said his development will tie into Bison's Creek's water tank. Commissioner Rounkles asked how many homes are proposed in this subdivision? Mr. Benson replied that they currently have a "will serve" letter from Eden Water if it was determined whether the well of Bison Creek would suffice for the three developments. If not, they already have more water rights than they need, plus a current well permit to drill. So it just really depends on what happens, whether they need to drill another well on their property. The system will be looped in and it will be all tied back together to Eden Water. There are 26 homes and they will also have agricultural preserve below the development.

Chair Cooper clarified that this development is actually on the west side of the old road with the tank and he asked if it is going to look like a mound? If the development occurred on property that is not the developers, would they be able to see this tank in the future, and is he still planning on making it not visible? Mr. Benson replied that you would go up almost a half mile. There's a knoll on his property that would be on the southwest side that comes up and the tank would be located at that point. They are on the east side of the old road, but it's on the west side of his property, and again the access road would be behind that and the public would not see it because it is all rangeland behind there. The small hill there is already mounded and they will put it back to that point. They do have some homes right below there for aesthetic purposes and they want to return the disturbed ground to its native vegetation. The people who are building homes there are buying a lot and they don't want to look at a blighted area. Behind the hill it drops off and the grade is too steep to develop there and to the west there is alfalfa owned by Sinclair Oil. Commissioner Banks asked if they bought that from the church? Mr. Benson replied that is correct.

Reed Fielding, who resides directly south of the tank, stated that his concern was that there is no drainage for this. If you put all those homes up there, with all the asphalt, and concrete, where's all the drainage water going to go from the subdivision and from the tank? It absorbs property where the water now seeps into the ground, it takes up property. As of right now, they have had a very mild winter and the subdivision below him, which is Valley Lake Estates has no storm drains and their homes are flooded right now. The footprint of this proposed tank would increase the runoff as well from the asphalt and the roads when they are constructed.

Chair Cooper responded that they have already approved the subdivision, and engineering will address the runoff, but if they are going to put a condition on the tank, that's what they want Mr. Fielding or other property owners to tell them what they believe the conditions should be.

Commissioner Banks asked Mr. Fielding if he is below or above the canal? Reed Fielding replied that he is below the canal. Commissioner Banks responded that the canal would catch runoff. Reed Fielding stated that the canal is going to be piped this spring and then the canal will no longer absorb that water.

Brett Roberts, East Huntsville, stated that they run the range ground that Mr. Benson referred to and they believe this proposal will affect them if the ground above is ever developed. He would like to ask that they minimize the impacts from the bottom and the top just like any other tank. He recommends they minimize the impacts from the lower side or both sides. He stated that as far as the roads, the tank will be buried, the ground is going to be sloped on all sides, not just one side and it will be exposed. If you looked right on top and use a topographical map, they're building it on the edge of a sharp steep hill. When they do it, he would like to make sure the loose fill is taken care of, even though it is on their property. It is something that he will look at or other people will look at in the future.

Robin Roberts stated that just a followup to what Brett said, one of the concerns is that the road is going come around the backside, and she would like to ensure they have a mitigation plan for view impact.

William Benson reassured all of adjacent property owners. He worked with the Ogden Valley Pathways and he has extensive trails, even on the backside. As far as the vent, that will be nonreflective, and they will try to keep it as low as they can. They will try to mitigate any of the cuts on that backside so it is aesthetically pleasing. They are going to spend a lot of money on trails and they want people to enjoy the view and not see blight.

Chair Cooper asked that in trying to visualize this as stated before, if there was a steep slope and if a developer in the future looks down, will it look like a bump? Mr. Benson stated on the backside it's on a steep slope, but they are coming off of a side where it's not really that steep and coming back around to it. They will revegetate and maybe even plant some trees or whatever to put it back to it's natural state. It would have to be way back because again, the slope is steep.

Commissioner Allen asked what is the fill over the top of the tank, it looks like a one foot cover over the top of it? Mr. Benson replied that it's just soil from the area and it's the existing grass on the property.

Commissioner Rounkles stated that they have pretty much addressed the problems they have had; the roads, the visual impact from afar, the birthday cake look, the vents. This is a different scenario from other tanks and they have satisfied the neighbors.

**MOTION:** Commissioner Rounkles moved to approve Conditional Use Permit CUP #04-07 Site Plan Approval for a Culinary Water Reservoir located at approximately 7500 E. 900 S., subject to staff and other agency regulations. Commissioner Banks seconded the motion. A vote was taken and Chair Cooper said the motion carried with all members present voting aye.

**C. Ward Acres Phase 3, 3150 E. 4100 S., 5 Lots - Final Approval**

Staff presented the following report:

**Findings of Fact:**

The applicant is requesting final approval of the Ward Acres Subdivision Phase 3 located at approximately 3150 East and 4100 North. The proposed subdivision will occupy 18.37 acres and will consist of 5 lots and approximately 300 feet of road improvements. It falls within the Agricultural Valley -3 (AV-3) Zone which requires a minimum lot size of 3 acres and a minimum lot width of 150 feet.

The proposed roadway will be dedicated as a public road and will continue southerly off of the previously dedicated road in Ward Acres Subdivision Phase 2 where it will terminate with a fully improved turn-around until future development occurs. When the

remaining 15.64 acre parcel begins to develop a road will be required to connect to the proposed road and provide access to 3300 East Street.

The Weber County Engineer’s Office has had an opportunity to review the proposed final plat and feels that all comments can be adequately addressed prior to final approval at the County Commission.

**Culinary Water** will be provided by the Liberty Pipeline Company.

**Waste Water Treatment** will be provided by individual septic systems.

Trails conforming to the **Weber County Pathways Ordinance** have not been shown on the final plat and will need to be added. Ogden Valley Pathways has requested a trail easement to be located along 4100 North Street and along the East side of the proposed road. Staff recommends that a “Sidepath” be located and constructed within the right-of-way at this time. Future development of the remaining parcel will be able to extend this “Sidepath” and provide trial access to 3300 North Street.

The **Weber Fire District** will be requiring 4 new fire hydrants.

All students are eligible for bussing from designated bus stops along 3300 East Street.

**Conformance to General Plan:**

The subdivision conforms to the current General Plan by meeting the requirements for the Zone in which it is located.

**Conditions for Approval:**

1. Requirements and recommendations of the Weber County Engineers Office.
2. Requirements and recommendations of the Weber Fire District.
3. Requirements and recommendations of the Weber County Surveyor.
4. Requirements and recommendations of the Weber-Morgan Health Department.
5. Requirements and recommendations of the Ogden Valley Pathways.
6. Requirements and recommendations of the culinary water provider.

**Staff Recommendations:**

Staff recommends final approval subject to staff and other agency comments and recommendations. This recommendation is based on future development providing public road access to 3300 East Street, the construction of the “Sidepath” along 3150 East and that a pathway easement being located along 4100 North.

Commissioner Banks said that he thought they required a comment in Phase 1 and 2 that they would continue that road out to 5300. Staff replied that he was not aware of that and that Phase 1 was done a long time ago. They need to make sure that as part of their motion to reemphasize that it does.

Chair Cooper clarified that if Commissioner Banks is correct, it is in the minutes and it will be adhered to. But if not, staff is recommending that they make a provision in the motion for such road stub? Would they say, “in accordance with staff comments,” and that would cover it? Staff replied that right now for the amount lots on the extension of Bailey Acres Road, it may not be appropriate to ask for the remaining 1000 feet of road improvements at this time, so staff recommends that for final approval it should be included on the final plat. More or less it would be a notice that in the event some other buyer comes in and purchases the remaining parcel in the future, they would be aware that there is the intention that a road will go through the remaining approximate 16 acres that connect into 3300 East.

Commissioner Rounkles asked if it will come off of the cul-de-sac that’s going to be there, and then go over to 3300 E? Where the cul-de-sac is now, the future road would come off of that, is that what they are saying? Staff replied yes, when this was presented with the preliminary plat, that preliminary plat had a future road listed. It showed that entire future road in a lighter gray. They would like to make sure that it is maintained on the final plat. It’s not on this plat, and so if they were to recommend approval, staff suggests that any motion be subject to including that feature on the final plat or the final phase.

In response to a comment by Commissioner Allen, staff replied that the design that was presented at preliminary approval was for a permanent turnaround. The stub will come in and continue through the remaining parcel and connect to 3300 East. They want to address the fact that there is a need for this and they want it to go in the next phase.

Commissioner Banks stated that he was asked to ask this question by some of the homeowners, which is if it is possible that they could have back access for all their construction work versus coming through the Bailey Subdivision? Staff replied that was very appropriate, and their engineer monitors that as the improvements are put in. They believe that is appropriate, they have done that in other subdivisions, and they don't see that there would be a problem.

Chair Cooper asked that there be a condition that they would prefer that to be used now, not in the future as a construction road? Would they have to state that as a condition? Staff replied yes, they would and their engineers could monitor that.

Chair Cooper asked Mr. Ward how he feels about staff's comments that the road needs to be eventually improved to 3300 East, and how he would feel if they put a stipulation that it's used for construction to take some of the pressure off of Bailey. Can he create an access there now?

Anthony Ward, 3184 E 4100 N., Liberty, responded that they probably could. He doesn't know if they want to put gravel on it, because it is farmland.

Chair Cooper stated it's an access for heavy equipment and they don't know what they would do if it got wet, if they don't have something that could handle it. He does not know how that would be monitored if it was a condition of approval. Maybe the County Engineer would have to address it. Curtis Christensen, County Engineer, replied that Mr. Ward will have to coordinate his agricultural action with any access in there. The access that they are looking at is for the construction of a new roadway. That does not have to be a long term access. Most of that can be done in a very short time, within a couple of weeks actually, once they get going. With that, they can work with his contractor. They have a financial guarantee and if there are some problems, then they have some access to that as well.

Anthony Ward stated that he could address the one thing that was asked. The new road is on the subdivision plat. It doesn't show it on the photo here, but it's on the actual plat. Phase 1 goes back twenty, twenty-five years and was developed by his dad.

Mark Hammond stated the thing he's concerned about is they are just trying to make sure the flow in the valley is continuous as other resort areas would. Since a couple of the developers are also developing in the area, he is sure they're going to build some really nice homes. A lot of Ogden Valley is starting to look like anywhere USA instead of maximizing the value in Ogden Valley by adopting some zoning ordinances. So that when we look out in the valley, we see some nice resort-looking homes, rather than homes that could be built anywhere in the USA.

Monette Hurtado responded that our zoning ordinances don't address the aesthetic appearance of individual homes. Mark Hammond stated that maybe they should incorporate this in an ordinance at some point in the future if that could be done or if there is a venue to do that.

Chair Cooper responded that as far ordinances, they are trying to get ordinances adopted as far as cluster developments and other various items of concern in the valley, and meet the General Plan, and hopefully maintain open space. But as far as the aesthetics of the homes, that may be something if the public feels strong enough about it they could look at in the future.

Anthony Ward showed where the lots and new road would be located.

Brandon Fuller, 6972 North Fork Road, stated that the owner runs cows and calves on that 15 acres. It's a perfect field, it's irrigated. He has good friends in the Bailey Acres Subdivision and he is not trying to add construction access through their subdivision. He does understand their concerns. He does know that the valley's concern is agricultural aspects, and he believes it would be odd to have cattle fenced off, accessing that point on both sides when right now, it's set up the most logical way. He believes it is odd that they would recommend having a gravel road and then fencing both sides and having gates. It would be his recommendation from a valley citizen to keep that agricultural use as it is, keep the cows and calves in there.

**MOTION:** Commissioner Graves moved to recommend to the County Commission final approval of Ward Acres Phase 3, 3150 E. 4100 S., 5 Lots, subject to all staff and agency comments. Commissioner Banks seconded the motion. A vote was taken and Chair Cooper said the motion carried with all members present voting aye.

**1. Approval of the September 5, 2006 and January 23, 2007 meeting minutes**

**MOTION:** Commissioner Banks made the motion to approve the September 5, 2006 and January 23, 2007 meeting minutes. Commissioner Allen seconded the motion. A vote was taken and Chair Cooper said the motion carried with all members present voting aye.

**2. Conditional Use Permit CUP #31-06 for the Construction and Operation of a Waste Water Treatment Facility located at approximately 8150 E. Hwy 39**

Staff presented the following report:

The petitioner is requesting approval to construct and operate a (membrane bio-reactor) waste water treatment facility located at approximately 8150 E. Hwy 39. The project has been proposed as a regional sewer treatment facility that can accommodate up to 700 connections at full capacity. The project lies on a 1.077 acre parcel within the Agricultural Valley (AV-3) Zone which conditionally allows such a waste water treatment facility. The intent of the conditional use is to provide improved water quality and sanitary sewer services to three proposed and other existing and future developments located within the East Huntsville area.

The building resembles an agricultural barn that currently exists on the property and will be constructed of a wood or hardi-plank "Board & Batten" exterior (light brown), accented with decorative doors and windows, and a metal roof. The building must meet the 35' height limit unless an exception is used for equipment for the operation and maintenance of the building. The Ogden Valley Architectural, Landscape and Screening Design Standards do apply to this project, therefore, evergreen trees will need to be incorporated into the landscape in order to provide year round structure and enhance screening and buffering. With this change the Ordinance will be satisfied due to adequate landscaping (natural and installed) and the fact that the building materials are predominantly natural, muted earth tone colors. The Design Review and Ogden Valley Lighting Ordinances also apply to this project and must be met.

The Weber County Engineer's Office, Weber Fire District, Weber County Building Inspection and Weber County Environmental Health Department have reviewed the proposal and have responded with no significant concerns. The State of Utah Department of Environmental Quality has been working closely with the petitioner through the review process and has issued a preliminary feasibility letter.

**Questions to ask:**

1. Is there potential for excessive noise or smells, and if so, how will these be mitigated?
2. What chemicals will be stored and where will they be kept? Are there standards for this?

**Conformance to General Plan:**

Conforms to the General Plan by meeting the requirements of the Ogden Valley Architectural, Landscape and Screening Design Standard as well as the Design Review and Lighting Ordinances.

**Conditions for Approval:**

1. Requirements and recommendations of the Weber County Engineers Office.
2. Requirements and recommendations of the Weber County Fire District.
3. Requirements of the Weber County Health Department.
4. Requirements of the Weber County Building Inspection Department.
5. Requirements and recommendations of the State of Utah Department of Environmental Quality.

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**Staff Recommendations:**

Staff recommends approval subject to staff and other agency comments and requirements.

Several property owners opposed this item expressing their concerns based upon noise, odor, location, traffic, and water.

Chair Louis asked Mr. Swartz to address the key issues such as the location, traffic, noise, and odor. Barry Swartz stated that he brought Brad Rasmussen to answer the technical questions and to respond to the issues.

Brad Rasmussen, Aqua Engineering, addressed the issues of noise; the decibel in the facility would be 33 decibels, 43 in an office setting. The traffic answer was; 1 hour once a day, twice a week. The odor issue; it contains inside scrubbers in the building, there will be no raw sewage in the facility, the pond would be lined and the water has to go through facility. The water issue; it was much cleaner than the ground water that is there now. The location issue; the pumps can be located almost anywhere. Certainly this site wasn't picked so they could gravity feed out of this development.

Chair Louis stated that he's answered most of the questions that they had and specifically, a lot that the audience asked about which were the main issues of emergency storage, odor, and traffic.

Commissioner Rounkles asked when Mr. Swartz submitted his plan to the Department of Environmental Quality, it did say in their letter back to him that originally Mr. Rasmussen was hired to do a treatment facility at this particular development location. Was DEQ aware that it was going to be for 700 homes? Brad Rasmussen replied that he didn't know exactly where they are because he was told to design a treatment plant and here's the capacity. Yes, the original plan was just for this development, but the request was to make it larger. All he knew was right now, there's 200 homes that are slated to connect to it right now. They wanted to make sure that they could cover the 200 homes now, and build the plant so that they could actually accommodate the 750 homes.

Commissioner Rounkles asked if it was cost prohibitive for them to put in a smaller membrane system? Is that why they want to tie all the developments in is it because it is better or is it because it is cheaper for the developers? Brad Rasmussen replied that he would say for this development, it's a lot more expensive because he's got to build it to support everything that the County is asking initially as opposed to just taking care of this one development. They would have to have guys running around, they have to do their billing, and make sure all those individual plants are functioning correctly. The more that connects saves the home owners who are paying the monthly service fee long term.

Commissioner Banks asked what will happen if they exceed the 750 connections, do they have room for expansion or would they have to put another plant somewhere else? Brad Rasmussen replied that this plant would not have a lot of room for expansion. He is designing for 750 connections.

Curtis Christensen stated that they did not address the conditional use specifically. They did talk about where the water is being discharged. In short, the discussion was very positive. DWR felt like all their needs could be met and the developer would do what was required.

Chair Cooper stated that they are being asked to approve a design for 750 lots. Bison Creek's build out is 150 lots. Wouldn't it be prudent to stand back and look at this new technology after approval of the proposed developments and not approve new projects until a study is done? He would like to open this for discussion. There may not be future growth there. They could approve it for the Bison Creek Subdivision 150 lots, with the recommendation to the County Commission that they approve those that are already in the pipeline and then they can indicate they are concerned with the 750 lots.

Monette Hurtado responded that she would have to disagree. The conditional use is for a plant that can service 750. The way the Planning Commission can stop applications, is if they are concerned about technology, they actually have to adopt a moratorium. A moratorium is an official act to put everyone on notice not to expend money or time until the County or State is comfortable with the technology.

Commissioner Rounkles asked Legal Counsel that by approving a sewer system of this sort, does that change the density? Monette Hurtado replied that density is based on your estimated build out and they have no way of knowing that, and it doesn't change zoning.

Commissioner Allen stated that he didn't think that they need 20 plants scattered around the valley. In order for anybody else to hook onto this, further engineering would need to be done such as how the lines going to go, how they're going to interface with either roads, creeks or existing ditches, etc. That information is not required at this point. They give the approval, and the developer still has to answer the questions when they come up. Their approval is based on the technology that's provided.

Commissioner Banks stated that he would like to see this sewer go right to Ski Lake. It's a facility that is already there, but they can't.

**MOTION:** Commissioner Allen moved to approve Conditional Use Permit CUP #31-06 for the Construction and Operation of a Waste Water Treatment Facility located at approximately 8150 E. Hwy 39 to support of up to 225 connections, and that it is moved to the interior of the development. The motion is subject to staff and all other agency recommendations. Commissioner Banks seconded the motion. A vote was taken and Chair Cooper said the motion carried with all members present voting aye.

**3. Discussion - Zoning Petition Z.P. 01-07 to Amend Chapter 42 to redefine specifications and application procedure**

Staff stated that this is an accessory apartment ordinance. When they put this ordinance through, they had some requirements for size limits, 400 sq. ft. with a maximum size of 800 sq. ft., no more than 25% of the home. When they went to the County Commission, they took it out, but they now realize they shouldn't have, and they have asked them to put it back in.

Chair Cooper stated that they approved this. Staff clarified that the planning commission approved this with the size requirement. This is a discussion item only, it's not an action item.

Staff said there is one other change, that the apartment is defined and clearly stated that it is connected to the house, that it had to be at least 20 feet wide and open up to livable space, because people were trying to open them up to closets, or garages that were not livable spaces and that just clarifies that.

4. **Discussion - Zoning Petition Z.P. 02-07 to Amend Chapter 1 Definitions regarding height and bulk of buildings and other structures, the percentage of lot which may be occupied, size of lots, courts and other open spaces, the density and distribution of population, and other minor changes**

Staff stated this is a discussion item only, it's not an action item. This is the definition section.

5. **Adjourn**

THERE BEING NO FURTHER BUSINESS, the meeting was adjourned at 10:00 p.m.

Respectfully Submitted,

Kary Serrano, Secretary  
Weber County Planning Commission