

Weber County General Plan or Text Amendment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted <i>April 27, 2011</i>	Received By (Office Use) <i>[Signature]</i>	Added to Map (Office Use) <i>ZO 2011-01</i>
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Property Owner Contact Information

Name of Property Owner(s) <i>Fred Smullin</i>		Mailing Address of Property Owner(s) <i>955 South 9275 EAST Huntsville, UT 84317</i>
Phone <i>801-391-0386</i>	Fax	
Email Address <i>FSMULLIN@FREDSMULLIN.COM</i>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Ordinance Proposal

Ordinance to be Amended
SEE ATTACHED

Describing the amendment and/or proposed changes to the ordinance:
SEE ATTACHED

Ordinance Proposal (continued...)

Applicant Affidavit

I (We), Fred Smullin, depose and say that I (we) am (are) the interested member(s) of this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.


(Signature)

(Signature)

Subscribed and sworn to me this _____ day of _____, 20 _____,

(Notary)



Weber County

Weber County Planning Division
www.co.weber.ut.us/planning
2380 Washington Blvd., Suite 240
Ogden, Utah 84401-1473
Voice: (801) 399-8791
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General Plan, Rezoning & Text Amendments

The Weber County General Plan's sets the direction for land use in unincorporated Weber County. This is done through the adoption of goals and policies. State law requires that a variety of County actions be consistent with the general plan. The General Plan is implemented by various means including zoning and subdivision ordinances. The General Plan may necessitate rezoning of property. It is County Policy that rezoning of property be consistent with the County's General Plans. The purpose of zoning regulations is to promote the general welfare, safety, health, convenience, and economic prosperity of the County.

General Plans: This application describes the legislative process by which applications to amend or add new language to the General Plan are considered. If a land use application is not in conformance with the General Plan, an amendment to the General Plan may be required.

Rezoning of property (Zoning Map Amendments): This application describes the legislative process by which applicants can petition to change zoning on a property.

Text Amendments: This application describes the legislative means by which applicants can petition to add, change, or delete language in the Weber County Zoning or Subdivision Ordinance.

A pre-application meeting is required prior to application submittal; please call (801) 399-8791 to make an appointment. Date of pre-application review meeting: emails/calls w/ Sean Time: _____

- Staff member assigned to process application: _____

APPLICATION DEADLINE: Thirty (30) days prior to the applicable Planning Commission meeting

The Western Weber County Township Planning Commission holds their meetings on the 2nd Tuesday of the month.

The Ogden Valley Township Planning Commission holds their meetings on the 4th Tuesday of the month.

Application Submittal Checklist

The Planning Division will only accept complete applications with supporting documents as outlined below. Submitting an application does not guarantee that your application will be placed on the next Planning Commission agenda.

The following is required as part of the application form submittal:

- Complete Application Form
- A non-refundable fee made payable to Weber County (See *Fee Schedule*)
- Obtain signature of the owner(s) on the application and any authorized representatives
- All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF files of the respective plans.
- The application shall also be accompanied with the following information:
 - A. A Concept Development Plan meeting the requirements listed in the Weber County Zoning Ordinance Chapter 35-5.
 - B. Feasibility letters from the appropriate state or county agencies for water and wastewater.



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- C. Narrative from the project engineer explaining the feasibility for mitigation of storm water run-off.
- D. The applicant shall provide a narrative addressing the following information:
 1. How is the change in compliance with the General Plan?
 2. Why should the present zoning be changed to allow this proposal?
 3. How is the change in the public interest?
 4. What conditions and circumstances have taken place in the general area since the General Plan was adopted to warrant such a change?
 5. How does this proposal promote the health, safety and welfare of the inhabitants of Weber County?
 6. A narrative describing the project vision.

Destination and Recreation Resort Zones have additional approval criteria as listed in the Weber County Zoning Ordinance Chapter 44:

- A. Due to the anticipated scale and potential impact of a Destination and Recreation Resort on Weber County and other surrounding areas, additional information, shall be required to accompany any application submitted for consideration of a Destination and Recreation Resort Zone approval. The additional information shall consist of the following:
 1. Concept Development Plan showing sensitive land areas as described/mapped in the Weber County Zoning Ordinance Chapter 43, Ogden Valley Sensitive Lands Overlay Districts
 2. Traffic Impact Analysis
 3. Cost Benefit Analysis
 4. Recreation Facilities Plan
 5. Seasonal Workforce Housing Plan
 6. Emergency Services Plan including a Letter of Feasibility from the Weber Fire District and Weber County Sheriff's Office
 7. Letter of Feasibility from the electrical power provider
 8. Density calculation table showing proposed density calculations
 9. Thematic renderings demonstrating the general vision and character of the proposed development

Other Weber County Zoning Ordinance chapter requirements may apply as determined in the pre application meeting.

Fee Schedule

Property Zoning _____	Fee Required <u>\$200</u>	
• <u>Changing text in Ordinances</u>		<u>\$300</u>
• <u>Rezone a tract of land that is 100 acres or more</u> in any Forest, Shoreline, Agricultural, or Residential zone		\$1,000
• <u>Rezone a tract of land 5 acres, but less than 100 acres</u> in any Forest, Shoreline, Agricultural, or Residential zone		\$500
• <u>Rezone a tract of land 5 acres or less</u> in any Forest, Shoreline, Agricultural, or Residential zone		\$225
• <u>Rezone a tract of land</u> to a Mobile Home Park, Gravel, Commercial, or Manufacturing zone		\$500

Approval Criteria



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Staff will review your application using the requirements of the Weber County Zoning Ordinance 35-3 as follows:

To promote compatibility and stability in zoning and appropriate development of property within Weber County, no application for rezoning shall be approved unless it is demonstrated that the proposed rezoning promotes the health, safety, and welfare of Weber County and the purposes of this Ordinance.

The Planning Commission and the County Commission will consider whether the application should be approved or disapproved based upon the merits and compatibility of the proposed project with the General Plan, surrounding land uses, and impacts on the surrounding area. The Commissions will consider whether the proposed development, and in turn the application-for rezoning, is needed to provide a service or convenience brought about by changing conditions and which therefore promotes the public welfare. The County Commission may require changes in the Concept Plan in order to achieve compatibility and may impose any conditions to lessen or eliminate adverse impacts.

Destination and Recreation Resort Zone have additional approval criteria:

- A. The proposed Resort can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands as identified in Chapter 43, Ogden Valley Sensitive Lands Overlay District, of the Weber County Zoning Ordinance.
- B. A professional and empirical study has provided substantial evidence determining that the proposed Resort is viable and contributes to the surrounding community's economic well being.
- C. A professional and empirical study has provided substantial evidence determining that proposed traffic mitigation plans will prevent transportation corridors, serving the Resort, from diminishing below an acceptable Level of Service.
- D. The natural and developed recreational amenities, provided by the Resort, shall constitute a primary attraction and provide an exceptional recreational experience by enhancing quality public recreational opportunities.
- E. The proposed Resort's Seasonal Workforce Housing Plan will provide a socially, economically, and environmentally responsible development.
- F. The proposed Resort can demonstrate that public safety services are and/or will be feasible and available to serve the project in a manner that is acceptable to the County Commission.

For Your Information

An application for a rezoning expires eighteen (18) months after submittal, if not acted upon, provided however, that the Director may extend the application for six (6) months for just cause.

This application can be filled out online at the following Planning Division web site: www.co.weber.ut.us/planning
Copies of the applicable Weber County Zoning Ordinances and other helpful information are also available at this web site.

[In order to make changes in the zoning ordinance, these five criteria need to be addressed:]

1. How is the change in compliance with the General Plan?
2. Why should the present zoning be changed to allow this proposal?
3. How is the change in the public interest?
4. What conditions and circumstances have taken place in the general area since the General Plan was adopted to warrant such a change?
5. How does this proposal promote the health, safety and welfare of the inhabitants of Weber County?

This is a proposal to add "Therapeutic School" (TS) as a conditional use listed in the Weber County zoning ordinance for zones AV-3, CV-2, FR-3, F-5, FV-10, and F-40. In our requested change to the zoning ordinance, we propose that the definition of a school be changed to, "A public elementary or secondary school, charter, seminary, parochial school, or private educational institution having a curriculum similar to that ordinarily given in grades one through twelve in the public school system. The term "education institution" for the purpose of this Ordinance does not include post high school educational facilities. No overnight or sleeping accommodations, daytime only care and instruction. This does not include a therapeutic school." Therapeutic Schools will have a distinct definition and zoning as proposed.

We recommend and request that the following changes be made to Weber County Zoning Ordinance 1-6 (Definitions). These changes are taken verbatim from the Utah County Land Use Ordinance 2-2(B)(86) and H.B. 412, recently passed by the Utah House and Senate. Changes are necessary to bring Weber County's zoning ordinance into conformity with the state's land use definitions.

The concept of a therapeutic school was neither well defined nor prevalent when the Ogden Valley General Plan and zoning ordinances were written and thus their use in the Ogden Valley was not foreseen, and as a result, not included in the plan or ordinances.

Recent applications by Green Valley Academy, a therapeutic school, to establish a presence in the Ogden Valley has tested the current zoning ordinances in both definition and permitted uses. These tests have triggered considerable concern within the Ogden Valley community on a number of topics. The conflicts between these competing interests have identified a gap in the Ogden Valley zoning. The conflicts also validate that creative uses of the Ogden Valley will outpace zoning reviews and general plan updates. Ogden Valley zoning ordinances are living documents that the need continuous dialog and revision as new uses surface. The proposed changes submitted represent the efforts of concerned members of the Ogden Valley to seek creative and equitable solutions to therapeutic school commercial enterprises that will allow them to exist as well as minimize adverse impact to the existing Ogden Valley communities.

1. How is the change in compliance with the General Plan?

ADDING definitions for "Therapeutic School" as well as conditions for their use is consistent with the General Plan. These additions are intended to support the General Plan vision of creative zoning solutions that protect private property rights while ensuring that development is compatible with the Valley's rural character.

Section 3.01 of the General Plan discusses the need to preserve and protect the Valley's environment to include air and water. Therapeutic Schools currently have no definition within the Ogden Valley Zoning. These facilities have no cap on the number of residents per acre thus opening the door for high density 24/7 residential living as schools in zones originally intended for low density living. Also, there is no historical data to quantify the impact of these facilities on ground water reservoirs and ground water contamination. The additions proposed are intended to ensure that the natural resources of the Valley are preserved and protected.

Section 3.02 of the General Plan discusses the Valley's rural atmosphere and rural lifestyle. The section requires that development be compatible with the Valley's rural character and natural setting. Among the objectives is the identification of acceptable locations for commercial development as well as providing flexible zoning ordinances for creative solutions to development conflicts. The additions proposed are submitted with that spirit.

Allowing Therapeutic Schools to be equal to public schools and a permitted use within current zoning introduces high density housing into low density communities whose property owners bought land expecting rural low density family housing. This presents a conflict between commercial interests and private communities that needs a creative solution to reduce further conflict in the Ogden Valley communities and give these commercial interests a clear path to review and approval thus avoiding lengthy legal conflicts with the community.

Section 3.02 of the General Plan also encourages concurrency measures for development and infrastructure so that development does not proceed without adequate infrastructure. Therapeutic Schools have no cap on their population and there is no data to determine the impact on the Valley infrastructure and whether the existing infrastructure and emergency services is adequate to sustain the influx of this industry. Allowing these facilities to qualify as schools and thus permitted use in current zones opens the door for rapid growth that could potentially exceed the infrastructure and diminish resources to current Valley residents and increase Weber County costs.

In summary, we feel that the proposed zoning changes support the General Plan vision statements while addressing an issue that has been causing both the Ogden Valley residents and Weber County commissions a great deal of concern and conflict by an industry that was not envisioned when the General Plan and zoning ordinances were written.

2. Why should the present zoning be changed to allow this proposal?

Therapeutic Schools were not prevalent and thus their use was not foreseen, and thus not addressed, when the General Plan and zoning ordinances were written. Green Valley Academy's applications have exposed the fact that their use is not currently addressed adequately in the Ogden Valley zoning. Conflicts on interpretations of existing zoning language, in particular the definition of a school and private school, do not specifically allow nor deny residential facilities that offer curriculum similar to public schools. Nor does the zoning address the therapeutic aspect of a Therapeutic School and the types of client diagnoses permitted in these facilities.

Currently, these residential facilities are attempting to qualify themselves as school-like facilities; a use that was never envisioned in the General Plan or zoning. Drawing this parallel has permitted them to attempt to establish residence in rural low density AV-3 zoning most prevalent in the Valley. The parallel being drawn threatens to disrupt the lives and potentially property values of taxpaying Valley residents. These attempts have consumed a great amount of Weber County resources, taking them away from other priorities and thus impacting the responsiveness of Weber County to its citizens.

The resulting conflicts from this gap in zoning definition have led to considerable community concern and legal proceedings at the expense of the petitioner, communities impacted, and Weber County. As a result of these gaps, Weber County is potentially vulnerable to lawsuits under the federal Fair Housing Act as well as lawsuits by concerned taxpaying citizens who feel that their property ownership rights have been violated. It is in Weber County's best interest to specifically address these facilities in Ogden Valley Zoning.

It should be recognized that Therapeutic Schools such as Green Valley Academy are commercial enterprises. They have brick and mortar presence and "store fronts" that generate traffic, consume resources, generate larger volumes of waste, and introduce long term temporary residents to the Valley. The General Plan calls for "commercial nodes" to be established within the Valley. It is evident from this vision that commerce within the Valley would be generated in small clusters rather than a large

commercial district. A review of current zoning reveals that CV-2 zones are indeed scattered across the Valley either as single plots for a single enterprise, or larger zones encompassing a small number of geographically co-located enterprises.

It is our belief that the vision of the General Plan should be upheld and applied to Therapeutic Schools in recognition of their private, commercial, for-profit therapeutic and educational mission. If the therapeutic and educational aspects of the Therapeutic Schools are put aside, their use is essentially equivalent to hotels, motels, inns, boarding houses. These enterprises would be required to apply for or obtain property in a CV-2 zone in order to operate in the Valley. Throw in the therapeutic component and remove the residence component and Therapeutic Schools would be similar to a clinic or medical office that must be in a CV-1 or CV-2 zone. Finally, focus on just the educational institution and the Ogden Valley commercial zoning specifies that it is a permitted use in a CV-2 zone.

We understand that the General Plan vision for commercial nodes has limited availability of CV-2 properties that are attractive to this industry. Thus, these proposed changes to the zoning incorporate conditional uses within residential zones that are currently accommodating residential facilities for persons with disabilities. These proposed changes also give consideration to the higher density of residents proposed for therapeutic schools by means of a formula derived from current AV-3 zoning requirements of 5 acres per 8 full-time residents for troubled teen residential facilities. The purpose of this formula is to preserve open space as well as mitigate potential impact to ground water resources as called for in the General Plan. This minimum acreage is currently required to operate the residential facilities for troubled youth and we feel that it reflects research previously done by planners to establish an appropriate density level in the valley that should continue to be leveraged for therapeutic schools until more impact studies can be done.

We feel, in the long term, that it is in the best interest of Weber County, the citizens of Ogden Valley, and for future Therapeutic School petitioners to evaluate ways that will equitably require Therapeutic Schools to operate in CV-2 zoning and provide avenues for them to obtain that zoning. Since Therapeutic Schools are a hybrid of residential, therapeutic medical, and educational commercial enterprises covered under CV-2 zoning, it only makes sense that they should be required to operate in those zones. The added benefit of CV-2 zoning for Therapeutic Schools is that the General Plan vision of commercial nodes fits the desires of Therapeutic Schools to acquire Ogden Valley property, basically anywhere in the valley as long as it qualifies for CV-2 zoning, either currently or approved rezoning by Weber County. These changes to the Zoning Ordinance most likely would be upheld as being compliant with the Fair Housing Act since no discrimination would be made against a disabled class and it can be easily shown that current zoning has always accommodated those industries that are combined under the Therapeutic Schools hybrid commercial industry.

3. How is the change in the public interest?

The proposed changes are absolutely in the public interest. Ogden Valley taxpayers are shareholders in the rural atmosphere and lifestyle documented in the General Plan. The General Plan vision includes the objective, "creative zoning solutions that protect private property rights while ensuring that development is compatible with the Valley's rural character." This statement is a rallying cry for all parties involved to have dialog and develop creative solutions to new uses in the Valley.

New unplanned uses attempting to identify how to fit within current Ogden Valley zoning have the potential to adversely impact Valley stakeholders. Thus it is prudent that they be carefully evaluated and planned accordingly. Ogden Valley residents, while concerned about the unknowns that the Therapeutic School industry presents, are not attempting to close the door on these facilities entering the Valley community. To do so would be in violation of the federal Fair Housing Act. Green Valley Academy represents the first Therapeutic School to attempt to establish residence in the Ogden Valley. While similar facilities exist in other Utah counties, they should be considered unique in their implementation and impact as all counties do not have the same challenges as those present in the Ogden Valley.

Therefore, comparable facilities do not exist in the valley by which to judge impacts to Valley resources, emergency services, commerce, and residents.

It is in the public's interest to introduce zoning conditional uses to limit the number of residents per facility and acreage that Therapeutic Schools must have in order to equitably fit within Ogden Valley communities. Weber County's allowance of Therapeutic Schools to be equitable to public schools as defined in the current AV-3 zoning inadvertently grants Therapeutic Schools the ability to house an unlimited number of residents in an unlimited number of facilities since no cap is specifically identified. This gap in zoning is a potential threat to the low density, rural atmosphere envisioned in the General Plan and enjoyed by current Valley residents.

It is in the public's best interest to creatively and equitably create a specific use definition for Therapeutic Schools in order to adequately accommodate them in compliance with the Fair Housing Act as well as balance the rights of existing private property owners in the community who are stakeholders in preserving the rural character and lifestyle as called out in the General Plan.

It is in the public's best interest to see their tax dollars spent wisely. All of the energy expended resolving conflicts between these interests consumes valuable Weber County resources in a time of budget shortfalls as well as delaying other Weber County initiatives because staff is consumed by them. All parties concerned will benefit from clearly defined zoning and uses that reduces ambiguity and provides all a clear path to review and approval of these specialized facilities.

Likewise, Weber County has budgeted tax dollars from Ogden Valley residents to provide resources to the Ogden Valley such as infrastructure, police protection, and emergency services. The potential for Therapeutic Schools to proliferate as schools in existing zoning with no caps on residents or density is a very real threat to overwhelm county infrastructure and services requiring capital investments by the county and potential tax increases to Valley residents to meet the needs introduced by Therapeutic Schools. Therefore, it is in the public interest to ensure the growth is harmonious with the Ogden Valley infrastructure and services growth.

Concerned Ogden Valley residents have taken proposed Ogden Valley zoning ordinances originally drafted by Green Valley Academy petitioners as part of their first application and solicited community input via web sites and e-mail mailing lists on how to best adapt them to Ogden Valley zoning. The resulting changes submitted under this application are the evolution of that community collaboration confirming that the public interest is represented in these requested changes.

4. What conditions and circumstances have taken place in the general area since the General Plan was adopted to warrant such a change?

Two application submissions by the Green Valley Academy petitioners have brought the current zoning issues to light. As mentioned earlier, the Therapeutic School industry was not prevalent at the time the General Plan and Ogden Valley Zoning was created. Thus the industry was not considered when writing the zoning. While residential facilities for troubled youth were included in the Ogden Valley zoning, they are not considered the same as a commercial Therapeutic School.

The Ogden Valley represents a pristine, rural atmosphere with accessibility to recreational venues that many residents find solace in and even enjoy therapeutic benefits compared to the rush and sprawl commonly found in urban environments. These qualities are highly attractive to the Therapeutic School industry as a means of increasing perceived value in the eyes of their clients. Therapeutic Schools such as Green Valley Academy are able to use the promise of a pristine, scenic location, with easy access to world class recreation to increase their prices and recruit contracts with highly lucrative clients. These clients send their children from around the country to be admitted to their facility for treatment and behavioral modification. Based on admissions by similar schools formerly owned by the Green Valley Academy petitioners, it is fair to say that the vast majority of resident patients will be from outside of Utah.

As mentioned earlier, Green Valley Academy is the first Therapeutic School to attempt to establish operations within the Ogden Valley. The lack of clear zoning definition for Therapeutic Schools in the current Ogden Valley zoning has forced the petitioners to attempt to find the “best fit” that will allow them to operate in the Ogden Valley zoning. It is a fundamental business model to seek the least expensive option when starting a new business. This applies to zoning. It is far cheaper for the petitioners to find a “best fit” in current zoning, than to incur the cost and time of applying for rezoning. Allowing Therapeutic Schools to draw parallels to schools in current AV-3 zoning prevalent throughout the Valley is not reflective of all components encompassed in their hybrid business model of residence, therapy, and education, all of which are covered under CV-2 zoning. It also places no caps on the number of residents and facility density. No consideration of impact to infrastructure, emergency services, and community safety is made when this parallel is drawn.

The Therapeutic School industry is highly lucrative. Its proliferation has introduced zoning and permitted use challenges to communities nationwide. Thus, the challenges experienced by Ogden Valley residents and Weber County have been experienced by other Utah counties as well as communities nationwide. All those with Therapeutic Schools have eventually performed similar planning and added definitions to adequately and equitably accommodate this new use.

Utah has a disproportionate number of residential treatment programs when compared to other states. Thus the potential for other Therapeutic Schools to leverage the same path blazed by the Green Valley Academy petitioners in Ogden Valley is quite real. It is important for Weber County to address the Therapeutic School industry with updated zoning and uses so that the rural community vision of the Ogden Valley General Plan can be realized, valuable Ogden Valley resources conserved, and violations of the federal Fair Housing Act avoided.

5. How does this proposal promote the health, safety and welfare of the inhabitants of Weber County?

This proposal is designed to adequately address and promote the health, safety, and welfare of the Ogden Valley inhabitants in Weber County now and in the future.

HEALTH – The General Plan recognizes the importance of conserving water consumption as well as protecting the vital and limited water resources that residents depend on. Growth and residential density are recognized as critical factors in ensuring that these water resources will remain protected and able to meet the demands of the inhabitants. If Therapeutic Schools are allowed to establish businesses in the Valley under existing AV-3 zoning as schools with no caps on residents and housing density, they pose a potential threat to the underground water resources if they are not part of a community water and waste treatment system.

Since Therapeutic Schools do not yet exist in the Valley, there is not sufficient data to determine if they can successfully operate and protect vital water resources in their community using septic or on-site wastewater handling systems. Plus, open, on-site, waste handling presents a number of potential health issues in residential areas if flooding occurs as well as the odor that would permeate the area. The zoning changes are intended to equitably address this issue by encouraging participation in community water and waste systems. If those services are not available at the desired location, then a greater amount of acreage is required to accommodate on-site waste handling. Future data may influence the recommendations in this proposal either in favor of the petitioners in terms of higher occupancies allowed, or in the favor of Valley residents by further restricting their capacity to protect Valley resources.

SAFETY – A number of factors affect the safety of a community which planners normally take into account to include; Density, traffic, lighting, noise, waste generation, water consumption, storm run-off, wildlife habitat impact, types of dwellings, and more. The chief considerations incorporated into these proposed changes are to address density, traffic, lighting, waste generation, water consumption, and storm run-off. The road that the current GVA application resides on is one of the heaviest used recreation corridors in the valley. Without adequate pull outs, the frequency of GVA staff and students entering and exiting the facility have the potential to increase traffic accidents, potentially fatal as vehicles travel at

relatively high rates of speed. If sufficient pull outs cannot be accommodated, will speed limits have to be reduced? Will that impose more burden on public safety to enforce? Will the potential of increased accidents impose more burden on first responders? These all have to be taken into consideration under a conditional use permit.

While Weber County Planning cannot guarantee the safety of its residents through planning and zoning, it can recognize that some industries post a potential safety impact to the community. For example, an refining plant would pose a potential threat from potential fire, explosions, and potential health risks of exhaust fumes to surrounding homes and facilities. So, adequate spacing must be planned.

Likewise, it must be recognized that clients of Therapeutic Schools are their first and foremost for behavioral therapy. That therapy is an integral part of their daily lives while at the Therapeutic School. The reasons that clients are admitted to the Therapeutic School will vary greatly, but the common denominator is that they have a treatable behavioral problem that public schools as well as parents or legal custodians are unable to rectify. Some Therapeutic Schools are lock down facilities that operate much like an incarceration facility and then there are those who do not lock their residents within the facility. Green Valley Academy is proposed as a facility that IS NOT locked down. Students are heavily supervised the entire day. But, at any time, students are able to choose to defy authority and "escape" from the facility and thus into the community.

The Green Valley Academy petitioners have assured the community that students will be strictly monitored and controlled. But, data shows that while this may be the goal, escapes do happen from Therapeutic Schools. Most recently, in February 2011, Lee Kravath, a 15 year old autistic child functioning as a six year old, decided he didn't like his residential treatment program in Ogden, Utah. He went to the bus station and asked how much it cost to get a ticket to Phoenix, Arizona and then pan handled until he obtained enough money to buy a ticket. He was later found safe in Phoenix. In June 2009, four teens escaped from the Provo Canyon School, a treatment center for troubled youth. In June 2007, three teenage boys overpowered a security guard at the Cedar Ridge Academy in Roosevelt, Utah. According to the Deseret Morning News, they took his keys, took his wallet and also made him give them the alarm code to the facility. They departed in the guard's Jeep. Authorities were contacted after another teen in the center called off-duty [Cedar Ridge] staff and alerted them to the incident. Deputies and Roosevelt caught up to the escapees about three miles from the facility and were taken into custody without incident.

Would it not seem prudent to consider these factors when planning design requirements? For example, would it be prudent to specify certain types of property fencing if the Therapeutic School is within (n) feet of residences to at least give residents bordering the facility some increased sense of security? Maybe require privacy fencing (n) feet high on three sides?

These schools are, in essence, legal guardians of their clients while they are in complete control of their client's daily lives, health, and welfare. Therefore they are compelled to invoke police and emergency services when events occur that warrant them. The Ogden Valley is very limited in these resources. Sheriff Deputies are a limited resource. An ambulance ride to Ogden is approximately 20-30 minutes one-way. When these resources are consumed by residents of a Therapeutic School, they are unavailable to Valley residents thereby jeopardizing their safety and health in time of crises.

The conditions suggested under this zoning change application seek to acknowledge and address these facts by limiting the population of a Therapeutic School as well as zones in which they can operate.

WELFARE – Merriam-Webster defines welfare as: "the state of doing well especially in respect to good fortune, happiness, well-being, or prosperity." The proposed zoning additions are designed to provide creative and equitable zoning solutions that protect private property rights while ensuring that development is compatible with the Valley's rural character. These solutions contribute to the happiness, well-being, and prosperity of all inhabitants.

The proposed zoning changes also support the General Plan vision of promoting growth within the constraints of Ogden Valley infrastructure and emergency services furthering the well-being and happiness of residents while enabling a path to prosperity and good fortune for commercial enterprises wanting to co-exist in the Ogden Valley.

The changes proposed also address the General Plan vision of promoting conservation of limited ground water resources and community well-being through responsible review and approval of commercial enterprises such as TSs like Green Valley Academy.

Finally, these changes will help maintain the Ogden Valley rural atmosphere and lifestyle as envisioned in the General Plan ensuring that current and future generations will be able to co-exist harmoniously in the Ogden Valley.

CHAPTER 1

GENERAL PROVISIONS

1-6 Definitions

PRIVATE EDUCATIONAL INSTITUTION HAVING AN ACADEMIC CURRICULUM SIMILAR TO THAT ORDINARY GIVEN IN PUBLIC SCHOOLS

Private training schools and other private schools which are instructional in nature, including laboratory and shop instruction with the use of demonstration vehicles, products or models incidental to such instruction, but not including the repair, maintenance or manufacture of vehicles, goods or merchandise, not providing direct services other than instruction to the general public. No overnight or sleeping accommodations, daytime only care and instruction. This does not include a therapeutic school.

SCHOOL

A public elementary or secondary school, charter, seminary, parochial school, or private educational institution having a curriculum similar to that ordinarily given in grades one through twelve in the public school system. The term "education institution" for the purpose of this Ordinance does not include post high school educational facilities. No overnight or sleeping accommodations, daytime only care and instruction. This does not include a therapeutic school.

THERAPEUTIC SCHOOL

A residential group living facility or residential treatment facility

- a. for four or more individuals who are not related to:
 - i. the owner of the facility; or
 - ii. the primary service provider of the facility;
- b. that serves students who have a history of failing to function;
 - i. at home;
 - ii. in a public school; or
 - iii. in a nonresidential private school; and
- c. that offers;
 - i. room and board; and
 - ii. an academic education integrated with;
 1. specialized structure and supervision; or
 2. services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

CHAPTER 23

SUPPLEMENTARY AND QUALIFYING REGULATIONS

23-28. THERAPEUTIC SCHOOL – Facility Requirements

1. A Therapeutic School Shall:
 - A. Be operated by qualified licensed professionals certified by the Utah Department of Human Services Office of Licensing;
 - B. Be occupied on a 24 hour basis by no more than thirty-six (36) qualified youth in a family structure type arrangement, which does not imply qualifications for single family dwellings.
 - C. Not be used as a drug or alcohol treatment rehabilitation facility.
2. The structures at the school shall not be used as a lock-down facility for the incarceration of the youth it houses.
3. The school shall be permanently staffed by qualified licensed staff who will serve the youth who reside therein. Their duties will be as follows:
 - A. To supervise the orderly function of the school;
 - B. To assist in meal preparation for the youth who occupy the school;
 - C. To assign the duties, chores, and other tasks to each of the youth;
 - D. Supervise the preparation of homework and studies each of the youth is required to complete for their education in the accredited, on-site school;
 - E. To immediately report to local authorities and the appropriate State Agencies as required by the State of Utah licensing standards any difficulties, problems, breaches of the peace, or violations of law engaged in by any staff or the youth under their care;
 - F. To also report the same conduct to the organization who employs them directly.
4. The school and staff must meet the standards of the Department of Human Services and obtain all licenses, permits, or clearance required by the State of Utah before undertaking their duties and/or operation.
5. In the event that school staff terminates their employment without first training suitable replacements, the school must replace them with trained staff within 60 days or the school must cease operating.
6. In all instances, the program must adhere to State of Utah licensing standards related to staff to student ratios.

7. Emotionally Disabled youth who qualify for placement in the school shall:
 - A. All be of the same gender within sleeping/living areas of the school;
 - B. Be no less than 13 years of age and no more than 17.9 years of age;
 - C. House adolescents whose respective ages span no more than four years. For instance, if the school houses adolescents 14 years of age, the oldest adolescent in the school can be no more than 17.9 years of age;
 - D. Attend on-site accredited schooling;
 - E. Meet the requirements of emotionally disabled as diagnosed by a licensed professional;
 - F. Be placed at the school only on a strictly voluntary basis and not a part of or in lieu of, confinement, rehabilitation, or treatment in a correctional facility;
 - G. Not be individuals who are considered violent; nor with such severe psychiatric problems that they present a danger to themselves or others. Or individuals whose tenancy therein would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others;
 - H. Not be any individual with a drug conviction or who have been convicted of a criminal act.
 - I. Not be any individual being treated for alcoholism or drug dependency;
 - J. Not be charged or convicted of any violent felony offense as defined by Utah State Code 76-3-203.5 e.g., sexual offense, arson, or aggravated assault.
8. No Therapeutic School shall occupy a lot in a recorded subdivision of four or more lots, including all subdivision phases.
9. The facility shall meet all applicable building, safety, zoning and health codes and ordinances applicable to similar dwellings.
10. The school's architectural style and landscaping improvements, as required in Chapter 18C, shall be compatible with the surrounding neighborhood, e.g., main structures within a 1,320 foot radius.
11. Site development standards of main structures for a Therapeutic School:
 - A. Minimum lot area
 1. Five acres per 8 residents similar to what is defined for residential facilities for troubled youth in Chapter 5B-4, Agricultural Valley Zone AV-3
 - B. Minimum yard setbacks
 1. Comply with setback requirements of applicable zoning
 2. Lot Coverage: In support of the Ogden Valley General plan call for open space preservation, no building or group of buildings with their accessory

buildings shall cover more than 40% of the lot area similar to that defined in Chapter 14-4, Multiple Family Residential Zone R-3

3. Open Green Space: At least 40% similar to that defined in Chapter 14-4, Multiple Family Residential Zone R-3
 4. Spacing five miles of another Therapeutic School or Residential Treatment Center similar to the requirements for residential facilities for troubled youth
12. A minimum of twenty off street parking spaces plus one off street parking space for each staff member on shift at peak hours shall be provided.
 13. A Therapeutic School may have additional structures, which shall comply with all zoning requirements, for the instruction, housing, maintenance, and storage needs associated with this use. Such structures may include classrooms, administrative offices, recreational facilities, dormitory / congregate housing facilities, garages or barns as accessory in conjunction to this use.
 14. The school shall meet all applicable building, safety, zoning, and health codes and ordinances applicable to similar uses and structures.
 15. The land use permit, and any other license granted in accordance with the provisions of this ordinance, is non transferable and terminates if the structure or parcel is devoted to a use other than as a Therapeutic School or if the structure or parcel fails to comply with the County's building, safety, and health codes or the requirements of this ordinance.
 16. The school must be licensed by the County's Business Licensing Division with the original license and any renewals thereof are subject to the inspection of Weber County.
 17. The Therapeutic School and faculty must be approved by the Utah State Department of Social Services Office of Licensing which provides, at a minimum, annual site reviews following initial approval and be:
 - A. Licensed or certified by the department of human services under title 62A, chapter 2, of the Utah code, licensure of programs and facilities; or
 - B. Licensed or certified by the department of health under title 26, chapter 21, of the Utah code health care facility licensing and inspection act.
 18. The applicant shall submit a plan of operations for treatment, including a safety plan which addresses the safety of the clients, the employee staff, the surrounding neighborhood, and the community as a whole.
 19. The Therapeutic School shall submit a contingency plan to provide power, water, and food to its staff and residents for at least 72 hours in the event that service to the facility is disrupted by natural (e.g. weather or earthquake) or man-made events (e.g. infrastructure failure, accidents, etc.) outside the control of the Therapeutic School.

AGRICULTURAL VALLEY ZONE AV-3

5-B4 Conditional Uses

Conditional Use - Therapeutic School meeting the requirements of Chapter 23-28 of this Ordinance.

COMMERCIAL VALLEY ZONE CV-2

18-B5 Uses

Conditional Use - Therapeutic School meeting the requirements of Chapter 23-28 of this Ordinance.

FOREST RESIDENTIAL ZONE FR-3

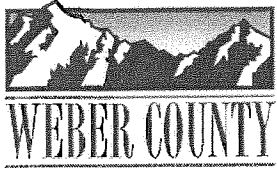
15-3 Conditional Uses

Conditional Use - Therapeutic School meeting the requirements of Chapter 23-28 of this Ordinance.

FOREST ZONES F-5, F-10, F-40

8-3 Conditional Uses

Conditional Use - Therapeutic School meeting the requirements of Chapter 23-28 of this Ordinance.



Weber County Public Works Department Official Receipt

Receipt Date 27-APR-2011

10:40:43 AM

Description ZONING PETITION

From Client FRED SMULLIN

CURRENCY 300

Total Received: 300

Empl Id / Receipt Nbr: AM - 20876

Signature

*** Please Retain This Receipt For Your Personal Records ***