



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Work session discussion on a proposed text amendment to the Weber County Zoning Ordinance by amending the definition of “school”, adding the definition of “Therapeutic School”, establishing facility requirements, and to include “Therapeutic School” as a conditional use in the F-5, F-10, F-40, AV-3, FR-3, and CV-2 zones.

Agenda Date: Tuesday, August 02, 2011

Applicant: Fred Smullin

File Number: Zoning Ordinance 2011-1

Property Information

Approximate Address: N/A

Project Area: N/A

Zoning: Multiple Zones

Existing Land Use: N/A

Proposed Land Use: N/A

Parcel ID: N/A

Township, Range, Section: N/A

Adjacent Land Use

North: N/A	South: N/A
East: N/A	West: N/A

Staff Information

Report Presenter: Ben Hatfield
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Report Reviewer: RS

Applicable Ordinances

- Weber County Zoning Ordinance chapter 1 General Provision (Definitions)
- Weber County Zoning Ordinance chapter 5B Agricultural Valley Zone 3 (AV-3)
- Weber County Zoning Ordinance chapter 8 Forest Zones (F-5, F-10, F-40)
- Weber County Zoning Ordinance chapter 15 Forest Residential Zone (FR-3)
- Weber County Zoning Ordinance chapter 18B Commercial Valley 2 (CV-2)
- Weber County Zoning Ordinance chapter 23 Supplementary and Qualifying Regulations

Background

The petitioners are requesting a text amendment to the Weber County Zoning Ordinance by amending the definition of “school”, adding the definition of “Therapeutic School”, establishing facility requirements, and to include “Therapeutic School” as a conditional use in the F-5, F-10, F-40, AV-3, FR-3, and CV-2 zones.

On June 28, 2011 the Ogden Valley Planning Commission discussed questions about the legality of the use in how it relates to Utah State Code and the Federal Fair Housing Act. A brief discussion was had regarding definitions.

The proposed amendment is summarized into three components. First, amendments to definitions found in chapter 1 General Provisions. Second, is a proposal of what zones are appropriate for the proposed use and whether it should be a permitted or conditional use in that particular zone. Finally, facility requirements to be amended in chapter 23 Supplementary and Qualifying Regulations.

The Planning Commission agreed that this petition should be discussed in those three parts. For the August 2, 2011 work session staff suggests that a discussion be had regarding definitions and if time allows an introduction on the type of use, i.e. permitted or conditional. As well as which zones are appropriate for the use and findings for why.

Summary of Planning Commission Considerations

An overall question is, does Weber County need additional standards beyond the Utah State Code? For example, why not consider allowing the state standards to be combined with Weber County's conditional use standards in specific zoning locations?

The petitioner is requesting (exhibit A-1) 3 definition changes to be made. Staff has identified policy questions for what is proposed followed by suggested direction or answers for the policy question.

The definition of schools:

- Does the definition closely follow state code for therapeutic schools?
Yes, the proposed definition matches what is in State Code. Staff suggests that since Therapeutic Schools are defined in State Code, there is not the need to repeat the definition in the zoning ordinance. This would be similar to what is done with other definitions.
- Should there be overnight accommodations at public or private schools?
In the current "school" definition overnight accommodations are allowed. Potential seminaries and boarding schools would qualify, under the current definition, to have overnight accommodations. On occasion over night activities are held which could be prohibited under this proposal.

One potential alternative is to create uses and definitions for "private schools" and subsequently "private boarding school" and "private non-boarding school".
- Should there be a definition for "Private Education Institutions" beyond High School?
In the petition the applicant requests to define "Private Education Institutions". The definition seems to go beyond the scope currently viewed for schools by the zoning ordinance. The definition "Private Education Institutions having academic curriculum similar to that ordinary given in public school" appears to be beyond High School. Staff suggests not including this new definition.
- Should the school definition be changed? Does the definition closely follow the definition in state code?
The land use portion of State Code does not define "School" however; it does define "Educational facility". This definition of "Educational facility" differs greatly from the definition of "school" found in the Zoning Ordinance.

Zones:

Important principles to remember about the difference between zones are:

- What is the purpose and intent of the zone? This is typically an overview of what would occur in the zone, but not very detailed or regulated.
- What are the listed allowed uses both permitted and conditional? This is an indication of what land uses are found in the zone. Often, this list of uses shows the intensity, degree, concentration, or compatibility of a land use. The list of uses may also regulate and provide requirements for a land use. There is a tendency to write in a regulation with a definition. However that practice is not desired and requirements should be listed with the use in each zone, as they could vary for each zone.

Should a Therapeutic School be listed as a permit use or a conditional use? Permitted uses are in nature straight forward. If there is a requirement then meet it. Conditional uses allow to mitigate between any potential negative impacts.

What zones (exhibit A-5 and A-6) are to allow therapeutic schools? And why are these zones appropriate for this use?

- Agricultural AV-3
- Commercial Valley CV-2
- Forest Residential FR-3

- Forest Zones F-5, F-10, F-40

Staff agrees that the CV-2, AV-3, F-5, F-10, F-40 zones would be appropriate for this proposed use.

Staff disagrees that the use should be proposed in the FR-3 zone. This zone does have a higher density per area than other zones in Ogden Valley. However, it usually has only been allowed in conjunction with a resort or Master Plan. This zone is not prevalent in Ogden Valley, and has such small minimum area for lots that it would be difficult to place a Therapeutic School and its proposed requirements on any of the existing FR-3 properties.

Staff suggests that this use be proposed in the FV-3 zone as it has many similar uses for group living arrangements. It would be disparate and contradictory to not allow the use in the FV-3 zone but to include it in the AV-3 and F-5 zones which typically border the FV-3 zone on either side throughout the Ogden Valley as shown in exhibit E.

Questions for future work sessions:

Therapeutic School – Facility Requirements:

The proposal (exhibit A-2, A-3, and A-4) blends both state and other agency requirements. Requirements listed for chapter 23-28 requirement numbers 1, 2, 3, 4, 5, 6, 7, 9, 14, 15, 16, 17, 18, of the proposal have some functions and responsibilities of the state. The following policy questions are a beginning point to start the discussion on what should be included in the requirements of the Weber County Zoning Ordinance:

23-28-1:

- Can density be limited? Why no more than 36 students? Should reasonable accommodation be allowed?

23-28-2:

- Does a Therapeutic School really incarcerate their students? Is a better term more appropriate? Can there be a limit to whether a facility is locked-down or not?

23-28-7:

- Is “Emotionally Disabled youth” the right term for these students? Can students be limited based on convictions or not?

23-28-8:

- Should this type of a facility be located in any existing subdivision? As any division of land is a subdivision this requirement would be difficult to comply with.
- As recommended by the petitioner, therapeutic schools would not be allowed in subdivisions of four or more lots, is there a basis for this standard? This requirement, likely, comes from the requirements currently in place for facilities for troubled youth. Staff suggests not including it.

23-28-10:

- Should therapeutic schools meet the same standards of chapter 18C Ogden Valley Architectural, Landscape and Screening Standards?
- The petitioner is stating that the buildings should be compatible with the surrounding neighborhood, main structures within 1320 foot radius. What is the 1320 foot radius based on?

23-28-11:

- What should be the minimum lot area? Why have special area requirements for this use and not other like uses in the zone? The proposed equation is not consistent with the Zoning Ordinance (8 Students / 5 acres in the AV-3 zone)?
- What are the minimum yard setbacks? Once again what are they and why are they different from other uses in the zone? This may need to just be reworded.

- Why should there be minimum or maximum lot coverage? Would this occur with the larger needed area for parking and septic drain fields? Why is this compared to the R-3 Zone? Ogden Valley does not have any area zoned R-3.
- Why require Open Space (green) requirements?
- Spacing from other therapeutic schools? If there is a spacing requirement what is the justification? Is that legally possible?

23-28-12:

- Parking Standards? How many spaces will be required? Why regulate this differently than other educational facilities?

23-28-13:

- What should be the accessory buildings standards regarding height, size, use, style, coverage and quantity? This would tie into lot coverage standards.

23-28-17:

- This should say the Utah State Department of Human Services, Office of Licensing.

23-28-18:

- What are the parameters of the “safety plan” and what does it detail?

23-28-19:

- A contingency plan for power and water would be a unique requirement. However, this may be a reason for a conditional use in some areas, as some infrastructure can vary throughout the county.

Staff Recommendation

Staff recommends that the Planning Commission give direction on these policy questions so that a proposed ordinance can be drafted and presented at a public hearing.

Exhibits

- A. Application and the proposed ordinance amendment
- B. Definitions from Utah State Code
- C. Zoning map of Ogden Valley