



## 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, June 28, 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

<b>North:</b> N/A	<b>South:</b> N/A
<b>East:</b> N/A	<b>West:</b> N/A

#### Staff Information

**Report Presenter:** Ben Hatfield  
 bhatfield@co.weber.ut.us  
 801-399-8766

**Report Reviewer:** SW

### 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 May 24, 2011 the Ogden Valley Planning Commission first reviewed the request and was able to hear from the applicant about the proposal. It was again expressed that with recent changes in Utah State Code that there are differences in definitions between Utah State Code and Weber County Ordinances concerning schools and therapeutic schools. The petitioner’s original proposal has again been included as exhibit A.

Schools have long been classified as an institutional use. Staff suggests that regardless of the zone a public school, private educational institution, or therapeutic school is located they are an institutional use.

## Summary of Planning Commission Considerations

In reviewing the application staff has identified some policy issues that will need to be addressed with the petition. Staff recommends reviewing the following items prior to addressing the details of the petition, so that the Planning Commission and public can be well informed about the law concerning the proposed use:

- What does Utah State Code say about the use?

Exhibit B contains copies of relevant definitions from Weber County Zoning Ordinances and Utah State Code for School, Boarding School, Residential Treatment, and Therapeutic School. The proposed definition for Therapeutic School matches the definition in Utah State Code.

- What are the implications of the Federal Fair Housing Act?

Staff has provided in exhibit C information which the Planning Commission may find helpful from the "Utah's Land Use Training Handbook" regarding Disabled Residents. This training handbook is a good reference in establishing the parameters of land use concerning disabled housing. Direction is given to local officials to make reasonable accommodation for the needs of disabled residents.

- What are some of the legal concerns found in the petition? (Can we really prevent/ govern that?)

Within exhibit D information from "A Utah Citizen's Guide to Land Use Regulation" regarding the Federal and State Fair Housing Act and Group Homes is provided. Additional direction regarding reasonable accommodation is given. An example of Case Law is explained, noting the struggle with compliance to the act and the inevitable concerns from citizens.

### Summary of Planning Commission Considerations (Policy Questions):

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 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:

- Should the school definition be changed? Does the definition closely follow the definition in state code?  
State Code does not define "School" however; it does define "Educational facility". This definition differs greatly from the Zoning Ordinance.
- Does the definition closely follow state code for therapeutic schools?  
Yes, the proposed definition matches what is in State Code.
- 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. The Weber School District may want to make a recommendation concerning this. On occasion over night activities are held which could be prohibited under this proposal.
- Should there be a definition for Private Education Institutions beyond High School?  
The definition Private Education Institutions having academic curriculum similar to that ordinary given in public school appears to be beyond High School.

Zones:

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 is 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 lots that it would be difficult to place a Therapeutic School and its proposed requirements on 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 to not allow the use in the FV-3 zone but to include it in the AV-3 and F-5 zones which typically boarder the FV-3 zone on either side throughout the Ogden Valley as shown in exhibit E.

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. Disabled Residents - Utah’s Land Use Training Handbook
- D. Group Homes - A Utah Citizen’s Guide to Land Use Regulation
- E. Zoning map of Ogden Valley