



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 23, 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
bhatfield@co.weber.ut.us
801-399-8766

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 August 2, 2011 the Ogden Valley Planning Commission held a work session to discuss the proposed amendment. The following direction was given:

- The definition of school would remain the same. Consideration of including “consecutive stays not to exceed 2 nights”.
 - 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.
- A definition for a Therapeutic School was suggested as:
 - Therapeutic school - A residential group living facility for four or more individuals that are not related to the owner of the facility, or the primary service provider of the facility, that serves students who have a

history of failing to function at home, in a public school, or in a nonresidential private school and that offers room and board and an academic education integrated with specialized structure and supervision, or services or treatment related to a disability, emotional development, behavior development, familial development, or social development.

- It was determined that any additional definition of “Private Educational Institution” was not needed.
- The use of a “Therapeutic School” should be added as a conditional use to the following zones:
 - AV-3, FV-3, F-5, F-10, and F-40 zones
 - The FR-3 and the CV-2 zones as the use would not be compatible with high density housing in the FR-3 zone, nor the commercial uses and commercial centers of the CV-2.
- A discussion about maximum number of students was had, with an understanding that the site constraints for a proposed site would likely limit the maximum number of students. These site constraints were;
 - the area of land available
 - the size of septic system needed (if applicable)
 - the area of land needed for parking
 - the area of land needed to meet the landscaping requirement

Summary of Planning Commission Considerations

Staff in reviewing the proposal has classified the facility requirements into two categories. Proposed requirement numbers 2, 3, 4, 5, 6, 7, 9, 13, 14, 15, 16, 17, 18, and 19 are requirements covered by state requirements or are covered by other portions of the zoning ordinance. These portions of proposed facility requirements are not land use decisions. The second group, 1, 8, 10, 11, and 12 are requirements that are land use decisions. Staff’s comments have been included for those in red.

23-28. THERAPEUTIC SCHOOL – Facility Requirements

Proposed facility requirements covered by state requirements or other zoning ordinances.

Staff suggests that these requirements not be included in the Zoning Ordinance

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.
9. The facility shall meet all applicable building, safety, zoning and health codes and ordinances applicable to similar dwellings.
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.

Proposed facility requirements which are land use decisions

8. No Therapeutic School shall occupy a lot in a recorded subdivision of four or more lots, including all subdivision phases.
- What is the basis for this standard? This requirement, likely, comes from the requirements currently in place for facilities for troubled youth. Staff suggests not including it.
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.

- As an institutional use, standards for chapter 18C would apply. What is the basis for going beyond the requirements of chapter 18C Ogden Valley Architectural, Landscape and Screening Standards?
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.
- What is the basis of limiting the maximum number of students to a school? For example, why no more than 36 students? Should reasonable accommodation be allowed based on the physical constraints of a site?
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
- 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)?
- 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
- 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?
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.
 - Is the parking standards found in chapter 24 sufficient?

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