

Exhibit A

Ogden Valley Township

January 25, 2011

3-5. DR 2010-09 Consideration and action on a request for Design Review approval of the Green Valley Academy a private Educational Institution located at approximately 9091 E 100 S on 8 acres (Green Valley Academy, Applicant; Jared Balmer, Agent)

No ex parte communication was declared.

The applicant is requesting approval of a site plan for the Green Valley Academy on property located at 9091 East 100 South on Highway 39 east of Huntsville. This 8 acre property is located in the Agricultural Valley-3 (AV-3) zone which requires a minimum lot area of 3 acres and a minimum lot width of 150 feet. The AV-3 zone lists a private education institution having a curriculum similar to that ordinarily given in public schools as a permitted use.

Ben Hatfield presented a staff report (the report in its entirety is on file in the Planning Division Office).

Staff recommends approval of the site plan for the Green Valley Academy subject to staff and other review agency requirements. This recommendation is based on the project being in compliance with applicable County Ordinances.

Commissioner Parson asked if there was any consideration given to a cultured stone or a less intrusive light than what is proposed for less impact to the surrounding homes.

Commissioner Warburton asked if this is the same business that petitioned them as Green Valley Treatment Center to amend the zoning ordinance to allow a treatment academy. Ben Hatfield said there was an applicant that had a zoning petition before the Planning Commission for a residential treatment facility. To clarify for Commissioner Howell, Mr. Hatfield indicated that no ordinance amendments are needed for this application. Commissioner Warburton said there are certain applications that are handled administratively and do not come before the Planning Commission so she questioned why this application was brought to the Planning Commission. Mr. Hatfield indicated that the Planning Commission reviews Design Review applications for buildings larger than 10,000 sq. ft.

Commissioner Warburton indicated that she believes that the proposal is for a treatment center. Staff reminded the members that they have an application for a private education institution, which is a permitted use in the AV-3 Zone. Staff has reviewed the criteria for the proposed application and has recommended approval to the Planning Commission.

Commissioner Howell asked if it is a private center for disturbed boys. Chair Siegel indicated to all that they are not determining what the use is, they are only looking at a design for a facility that is permitted in the AV-3 Zone.

Bruce Baird, Counsel for the Applicant, indicated that staff has determined that they are a private education institution. They will comply with every State requirement and those in the county code. There is no basis for the Planning Commission to deny their application. None of the issues he has heard raise has any merit. The only question is if one of their neighbors would be willing to share the access with them. They are entitled to a decision tonight as the only issue before them is site plan review under Weber County Zoning Ordinance Chapter 36-4 and they are 100% compliant. They would like to have a decision tonight rather than a table.

Commissioner Parson asked Nate Reeve, Reeve and Associates, to explain the height of the berm. Mr. Reeve indicated that they propose to have a 3 ft. landscaped berm within the property along the state road frontage. It does not impede any sight triangles. All of the plans as well as the traffic study variance requested fee and application has been submitted to UDOT for their review. They have a letter from the county indicating they have everything needed for review. The landscaped berm is contained on the front of the property going down the sides is their retention basin for storm drainage. They have also installed a smaller berm on another portion of the property to catch storm drainage. A new 3-rail picket fence is proposed to go from SR-39 to the back of the property line and they will work with property owners to ensure it is something that meets their desires.

Nate Reeve indicated that they have spoken with Christina Granath and they understand that there is an existing well on her property. There has been a lot of discussion with the adjacent property owners regarding the property boundary lines. Approximately one year ago, they did a boundary survey for the Granath Estates and determined at that time for them that the property line followed the fence. An independent surveyor before they were involved with the project did a survey of the Green Valley proposed project and determined that the fence line is the property line also. This is a private issue but they are willing to work with the property owners.

They will be happy to comply with every requirement. They can lower the lights. He believes any comment he has heard raised in opposition have no merit. He believes they are 100% compliant under 36-4. They deserve action tonight.

Bruce Baird indicated that the code actually does not provide for public comment on a design review. The Planning Commission could entertain it if staff agrees with it. This is not a public hearing, it is simply a presentation and consideration of those very limited criteria.

Chair Siegel indicated that they would entertain public comment regarding the Design Review; where the buildings would be located, the layout of the property, landscaping, etc. They rely on the professionals for water, sewer, and engineering requirements.

Ron Gleason, a Greenhills Subdivision resident, referred to Zoning Ordinance 36-6. When you look at the purpose and intent of the ordinance, it is the AV-3 intent they are looking at and the Design Review does not apply. The Planning Commission should look at the general objectives of the ordinance, the purpose and intent of the ordinance. The proposed school does not meet the general objectives of the ordinance. They should look at process; staff said that the Planning Commission should approve this based upon the other agencies doing their job. He is asking that they receive all the agency recommendations before they approve the application because they are the only approving body.

Richard Wood, who owns 80 acres on 9000 E where the applicant indicates their well would be located and he believes his granddaddy well will be impacted. Weber Basin told him that for such a proposed facility it would take 365 gallons per year to operate. He knows that the water will be depleted and if his well ever goes dry, he will sue. He was told he could not have two homes on his property, but now the County is going to allow three on one lot.

Loni Verhaal indicated that she believes that the percolation test was not done on the correct property. Her family is not in agreement with signing over the 16 ft. gap in the deed over to the Green Valley Academy. She believes those are things that need to be considered. The fence lines are in question and she believes the percolation test submitted was for a different property. She urged the Planning Commission to table or deny this application.

Vince Rampton, Attorney representing Chris L. Johnson, Susan D. Johnson, Christina Renaas, and Loni Verhaal. They are concerned that any decision made by the Planning Commission that the building will be a school or a treatment facility is a foregone conclusion. He agrees with Commissioner Warburton in that this question should be determined.

Angie Illum, an Ogden resident, indicated that she has a 15 year old son that is receiving treatment in a similar facility but had a big challenge finding a facility that was not in disrepair. She believes that that the Planning Commission should not believe that the proposed facility would be a beautiful facility and stay that way. The kids have severe issues and may not comprehend what is required to maintain a facility. One cannot assume that they would treat the facility like their home.

Brett Wile, an adjacent resident to the Granath property, urged the Planning Commissioners to ensure that they address and solve the property line issue. He operates two facilities in California and he believes that this proposal is not a school; it is a treatment facility. He believes the Ogden Valley does not have the resources to handle such a facility. They do not have the fire protection resources to take care of such a facility.

Steve Clarke, Eden, asked the appeal process for determining whether staff made the right decision that the application classification request is for a school.

Greg Anderson agreed with many of the comments made tonight. People will not be going to the proposal for academic reasons.

Lisa Arbogast raised the issue of process and the question of whether or not it is a school. She works for the State Office of Education with Children with Disabilities and knows the proposed facility is not considered a school; however, such facilities offer some educational programs. This facility has not been received accreditation by North West Education who will not review until staff is hired and buildings built.

Bob Berrett stated that he is appalled by the design and believes it does not conform to the community.

Kevin McGill lives less than a mile from where the school is proposed. He questions whether this is a school and believes the established ordinances were not created with such a proposal in mind. The applicant has the responsibility to prove whether they are a school.

Christina Granath indicated that she is the closest neighbor and believes her quality of life should come into play. She believes there should be a buffer between her property and the property in question. She chose to live in the valley but did not choose to live next door to such a large commercial proposal.

Bruce Baird said he believes that staff is right in their decision that their proposal qualifies as a school. His clients will not let the property fall into disrepair. By definition, a permitted use meets the intent of the zoning. They will have a fire tank for fire suppression. They have complied with all site design criteria and he believes there are no open questions.

Nate Reeve indicated that they have verified that the percolation test was done on the right property. They have verified that the percolation test was done on the right parcel. Their intent is not to upset neighbors and believes the 16 ft. gap does not compromise the design or the property boundary line.

Commissioner Banks indicated that he does not like the proposed design.

In answer to a comment by Chair Siegel, Chris Allred said the motion to table should only be based on any problem with the site plan that is before them. They need to comply with the professional agency reviews.

MOTION: Commissioner Howell said there have been issues raised and he believes they should be further investigated such as the property line dispute and the property description. He moved to table the Design Review DR 2010-09 until the questions have been addressed. Commissioner Banks seconded the motion

Commissioner Banks indicated that he believes that they believe they have been blind sighted.

Commissioner Parson referred to the comment from a property owner who indicated that this boundary dispute was affecting the others down the line. Nate Reeve indicated that it is simply a dispute on that one property line. It does not propagate down the section line. The boundary as detailed is the fence. The fence line has been used as the boundary for many years and there is documentation to that effect.

Commissioner Warburton indicated that she believes this is a tragedy. She believes there is a place for this type of facility. The ordinances are law, the ordinances are in place, and they allow for a school. The fact is that the description of this particular use is not included in the State Code or County's definitions. She knows that if she as a Planning Commissioner votes against a permitted use, she can personally be sued as well as any other Planning Commissioner.

Commissioner Howell withdrew his motion as he believed Mr. Reeve answered his question.

Chris Allred indicated that what is before them is a site plan review. They have very limited authority to do "more." They are constrained to the regulations that govern. They are determining whether the application meets the standards for a site plan review. Commissioner Parson indicated that is one reason why they have to include all staff and other agency recommendations in their motion. Commissioner Banks stated that a property owner has to ultimately prove that his well has been affected. Commissioner Banks indicated that he believes he has been lied to by the applicant.

MOTION: Commissioner Parson moved to approve DR 2010-09 a request for Design Review approval of the Green Valley Academy a private Educational Institution located at approximately 9091 E 100 S on 8 acres (Green Valley Academy, Applicant; Jared Balmer, Agent) with the change in the lighting so that it would be as less intrusive as possible such as turning off the lights at 9:00 p.m. as stated. The motion is subject to all staff and other agency recommendations. Commissioner Graves seconded the motion. A vote was taken and Chair Siegel indicated the motion carried (5-2) with Commissioner Allen and Commissioner Banks voting nay and Commissioners Howell, Graves, Parson, Warburton, and Chair Siegel voting aye.

Commissioner Parson moved to have Agenda Items 3-4 to be heard as the first Item on the work session agenda. Commissioner Banks seconded the motion. Chair Siegel indicated that the motion carried unanimously.

7. The meeting was adjourned at 9:02 p.m. Respectfully Submitted, Sherri Sillitoe, Secretary