

When Recorded, Please Mail To:

Konni Thompson, Clerk/Recorder
Oakley Town
P.O. Box 282
Oakley, Utah 84055

Conditional Use Permit FOR SNOW MOUNTAIN ACADEMY

Whereas, Snow Mountain L.C., a Utah Limited Liability Company, as owners (herein the "Owners") of Snow Mountain Academy are proposing to construct and operate a private, secondary education boarding school located in the Town of Oakley (herein the "Town"), to be known as Snow Mountain Academy (herein the "School" or "Proposed Land Use"), and

Whereas, the Owners own a certain parcel of real property located within the Town of Oakley upon which the proposed School is to be located, which property is more accurately described as follows:

OT-35
A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH RANGE 6 EAST, SALT LAKE BASE AND MERIDIAN, AND DESCRIBED AS: BEGINNING AT A POINT THAT IS 491 FEET SOUTH 1 DEGREES 32 MINUTES WEST OF A POINT THAT IS 5.94 CHAINS WEST AND 8.34 CHAINS WEST OF A POINT THAT IS 1320 FEET SOUTH FROM THE NORTHEAST CORNER OF THE ABOVE DESCRIBED SECTION 20, AND RUNNING THENCE SOUTH 1 DEGREES 32 MINUTES WEST 2150 FEET TO THE LINE BETWEEN THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE WEST 340 FEET; THENCE NORTH 0 DEGREES 50 MINUTES EAST 2029 FEET; THENCE NORTH 70 DEGREES 40 MINUTES EAST 407 FEET TO THE POINT OF BEGINNING, CONTAINING 17.21 ACRES; MORE OR LESS AND EXCEPTING A 0.849 ACRE PARCEL IN FEE FOR A ROADWAY KNOWN AS PROJECT NO. RS-0183(1), AND EXCEPTING ANY OTHER EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY CURRENTLY OF RECORD, and

Whereas, the Proposed Land Use requires a Conditional Use Permit from Oakley Town in order to operate pursuant to current development and zoning regulations of Oakley Town, and

Whereas, the current zoning of this parcel of land is RR-5, or better described as Rural Residential with a housing density of one home per 5 acres, and

Whereas, Appendix A of the Land Management and Development Code of the Town allows for a land use of this type within the RR-5 zone as a conditional use, and

Whereas, the proposed land use complies with the current Oakley Town General Plan Goals and objectives, namely section 2.0, the Overall Town Vision or Goal that states:

"The Oakley town general plan will guide future development for organized growth, industry, business and employment opportunities and will ensure that there will be adequate public facilities and services. Most importantly, the impacts of growth will be handled in a way that seeks as its prime goal, to preserve the Oakley rural agricultural quality of life, preservation of its natural resources and enhancement of its community pride and values. The plan will also provide to the best of its ability that the very people that have invested their time, sweat and money to make Oakley a choice place to live, will not have to carry the growth burdens or pay for the impacts of new growth",

and section 4.0, Basic Public Services, which states:

[To] "Promote and encourage expansion and development of public service facilities and infrastructure within the Oakley area that will support first the existing residents and businesses safely, and secondly the planned growth of the community. Also, to encourage future patterns of development and land use that reduce the infrastructure construction cost and operation and make efficient use of existing or planned facilities",

and section 5.0, Land Use Element, which states;

00651614 Bk01519 Pg00257-00965

ALAN SPRIGGS, SUMMIT CO RECORDER
2003 MAR 19 08:32 AM FEE \$.00 BY DMG
REQUEST: OAKLEY TOWN

[To] "Encourage center of town outward development with a responsive growth management program that preserves the rural agricultural setting and sensitive lands of the town as well as providing a diverse mix of commercial, residential housing and some minor light industrial uses with agricultural land uses taking the highest preservation priority",

and section 6.0, Economic Goals, which states;

[To] "Promote new business and light manufacturing or industrial uses and provide opportunities for the preservation and enhancement of sustainable agricultural and other small business operations in the town", and further, the associated Objectives and Policies derived from these Goals are complied with, and

Whereas, the Owners have made every effort to locate the school in an area of very low density housing close to the center of Town and on soil conducive to this type of Land Use. Further, the School is located on a street where traffic safety concerns are minimized and the School can be more readily serviced with public services, namely water, sewer, power, telephone and gas, thus minimizing the impacts and costs on public infrastructure, and

Whereas, the School agrees to pay for its fair share of the impacts the School will impose on the Town infrastructure and public facilities as per current Town Codes and Regulations, and

Whereas, in accordance with Section 1.14 of the current Land Management and Development Code (herein the "Land Code") of the Town, which states that each zone district is an attempt to segregate predominant land uses within identified residential, commercial, agricultural, and similar districts, there will be proposals that are generally compatible in land use with other permitted uses in the zone, and

Whereas, if the proposed land use is properly and carefully planned, these uses, which are different from the predominant use, or more intensive than permitted uses in the same zone, may become compatible and appropriate for the zone in question—for example, the location and nature of the proposed use, the character of surrounding development, traffic capacities of adjacent and feeder streets, environmental factors such as drainage, erosion, and soil stability, all may dictate circumstances where a more intensive use may or may not be appropriate for the zone, and

Whereas, the conditional use procedure is intended to provide greater flexibility in land uses while at the same time, preserving neighborhood character and assuring compatibility between the conditional uses, the uses on adjoining properties, and the Town at large, and

Whereas, development of conditional uses will be subject to review by the Community Development Director or Staff, Planning Commission and Town Council, and may be allowed subject to conditions imposed for the purpose of preserving the character of the zone district, and mitigating potential adverse effects of the conditional use, and

Whereas, the Town Planning Commission and Town Council, after conducting public hearings and receiving public comment have determined that the proposed land use may be allowed in the proposed location and zoning district provided that certain conditions are imposed upon the project to assure compatibility within the zone district and community as a whole,

Now Therefore, The Town hereby grants a conditional use permit for the construction and operation of the Snow Mountain Academy, a Private Secondary Educational Boarding School located in Oakley, Utah, subject to the following conditions:

1. The School will be a private secondary education institution that is expected to board approximately 98 coed students in grades 9-12 and will have approximately 67 employees.
2. There will be a resident supervisory adult per boarding student ratio of approximately .0833 (i.e., approximately one resident supervisory adult per 12 boarding students) maintained at approximately this level or above at all times.
3. The School will be fully accredited by the Utah Department of Education and the Northwest Association for Schools and Colleges in accordance with time constraints applied by these entities. The curriculum is designed to meet the needs of college bound students. It will always maintain and foster high community values and standards. The School will be structured so as to foster a high degree of discipline and promote good community relations as well as provide students with rich opportunities for community service and pride.
4. The School will only accept students that have been thoroughly assessed educationally, emotionally, and physically to determine if the School program is in line with their personal needs.
5. The School will provide a total experiential growth curriculum, and will use proven hands-on learning methods to promote and improve the academic as well as the physical and emotional well being of the students.
6. The School will not accept students who have been convicted of a felony or those who have been charged with a felony and are awaiting judgment, or who have sexual problems, or moderate or severe psychological or psychiatric problems that pose a threat to the public, employees, or the community. The School is required

00651614 Bk01519 Pg00959

by the State of Utah, Department of Licensing, to operate under Utah Code Ann. § 62A-2-101(19), but is not designed or intended to take the place of a secure treatment facility as defined by Utah Code Ann. § 62A-2-101(21), and will not include acute hospitalization, correction, or detention. The Town will not be involved in the student selection process but does reserve the right to bring in an independent, qualified, mutually agreed upon third party evaluator to verify compliance with admission guidelines.

7. The School will provide day-student scholarships for students living in the Town.

The day-student scholarship population at the School will not exceed 10% of the boarding student population. This population is in addition to the boarding student population in paragraph 1 above. The Town Council will develop its own selection criteria for scholarship distribution. The School reserves the right to approve a scholarship placement and each day-student scholarship recipient must continue to meet the same criteria as other students at the School.

8. Students will not be allowed to have their own cars or provide their own transportation to any School or non-School event at any time.

9. All School sponsored off-campus activities will take place under staff supervision of not more than approximately 12 students for each staff supervisor.

10. Students who have not achieved upper form status and do not have in their possession proper school identification may not leave the campus unsupervised at any time.

11. A construction-phasing plan will be developed by the School showing all construction phases of the project and estimated time frame for each construction

00651614 Bk01519 Pg00960

phase to be agreed upon by the Town Council. Resident and nonresident employees and student quantity estimates for each phase will be provided.

12. If required by the Town Council, a sewer line will be extended to the project as per the Town's engineering standards and be of a capacity sufficient to meet the needs of the project in accordance with the current Oakley Town Fee and Rate Ordinance (herein the "Fee Ordinance"). Placement will be as determined by the Town Council for the best use of the Town. This extension if required will be installed at the sole cost of the School and installation and servicing shall comply with current applicable Town Ordinance(s).

13. Water and Sewer impacts on the Town will be determined by multiplying the number of boarding users by 75 gallons per day per person and day only users by 20 gallons per day per person (State of Utah - Rules for Public Drinking Water Systems; part 2, Design and Construction Standards for Systems). This daily total multiplied by 30 will give an average monthly use for the project. Dividing this monthly figure by 10,000 will result in a total residential equivalent for the project and this residential equivalent will be used in calculating impact fees and other fees as per the current Fee Ordinance. Fees will be due upon application for a building permit. Any future expansions of the School will be evaluated at that time for additional impact fees that will be required using this same methodology.

14. All outside watering or irrigation is to be supplied by a secondary pressurized irrigation system utilizing water other than Town domestic water.

15. No construction will be allowed in the river bottom portion of the property without first conducting an environmental analysis as per Chapter 10 of the Land Code, as applicable for the type of project.

16. All right to farm provisions of the Land Code must be complied with. All fencing must be compatible with neighboring farm/ranching operations as well as irrigation access rights preserved and rights of adjacent farming operation to pursue their work all hours of the day. No property or agricultural stock interference by students will be allowed.
17. The School will present an acceptable landscaping plan to the Town Planning Commission for approval.
18. The fire district must approve all structural plans, including access and parking for compliance with all applicable safety codes and regulations for this type of facility.
19. The Planning Commission and/or technical review committee to assure compatibility in the adjoining neighborhood and community must approve all structural mass and external architecture.
20. No chain link fences will be allowed in the development.
21. An outside lighting plan will be presented and approved by the Town Planning Commission.
22. The School will not receive any tax waivers or tax incentives or enticements of any kind and, further, it will not be converted to a nonprofit status at any time without the Town Council approval.
23. This conditional use permit will be recorded with the property and will be binding and enforceable on it and it shall inure to the benefit of the parties to it and their respective heirs, legal representatives, successors, and assigns and all future owners of the property.

00651614 BK01519 Pg00962

24. Failure to comply with the terms and conditions of this permit may result in suspension or revocation of this permit and/or business license as well as any other administrative and/or legal measures available to the Town. In the event of an alleged violation of the terms and conditions of this permit by Snow Mountain Academy, the Town shall serve written notice on the School containing specific information with respect to the date and specific nature of the alleged violation. The notice shall give the School thirty (30) days within which to respond. Within that 30-day time period, the School shall submit a written response either contesting the allegation or specifically identifying what has been done to cure the violation or what reasonable steps have been taken to prevent the violation from occurring in the future. After receiving the School's response, if the Town determines that the alleged violation merits further consideration, the Town Council shall give the School written notice of its proposed action. The school shall thereafter have twenty (20) days within which to appeal and shall be entitled to a hearing on the allegations before the Town Council. If no appeal is filed or hearing requested, the Town Council may proceed with the proposed course of action. After a final decision by the Town Council following an appeal and hearing which results in suspension, revocation or modification of the terms and conditions of this permit, the School shall have thirty (30) days within which to appeal that decision to the Third District Court for Summit County, State of Utah. The District Court's review shall be limited to the record provided by the Town Council, and the court shall determine only whether the decision is arbitrary, capricious or illegal. During the pendency of any such appeal, the School shall be

entitled to continue to operate under this Conditional Use Permit unless the District Court orders otherwise.

25. The School shall maintain in effect at all times a policy of liability insurance to protect the general public from any damages, claims and losses suffered as a result of the negligent acts of the School, its employees, students or patrons.
26. Any future amendments hereto must be approved by the Town Council, the Planning Commission, and the School.
27. The School will comply with all other applicable State, local and Town ordinances.
28. Owner, on behalf of Owner and School accepts and agrees to comply with the terms and conditions of this Conditional Use Permit.

This Conditional Use Permit is hereby approved after public hearings before the Planning Commission and Town Council were held and properly noticed to the residents of the Town as per Section 1.6 of the current Town Land Management and Development Code.

Planning Commission approval on 2-27, 2003.

Gerald E Young
Chair

Leacia Shuel
Attest: Secretary

City Council Approval on March 16, 2003.

[Signature]
Mayor

Lenni Thompson
Attest: Clerk/Recorder

Approved and Accepted on March 16, 2003, by Snow Mountain L.C.

[Signature]
By
[Signature]
Its

00651614 Bk01519 Pe00964

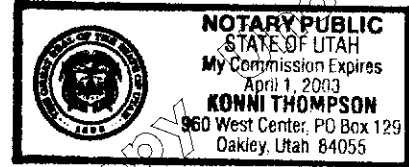
STATE OF UTAH

ss.

County of Summit

SUBSCRIBED, SWORN to, and ACKNOWLEDGED before me this 29th day of February, 2003, by Cerald Young, Chair, and Tracie Lewelyn, Secretary of the Oakley City Planning Commission.

Konni Thompson
NOTARY PUBLIC for the State of Utah (Notary Seal)



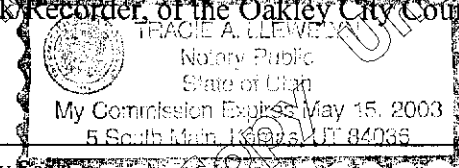
STATE OF UTAH

ss.

County of Summit

SUBSCRIBED, SWORN to, and ACKNOWLEDGED before me this 16th day of March, 2003, by Paul D. Woodstenhulme, Mayor, and Konni Thompson, Clerk/Recorder, of the Oakley City Council.

Tracie A. Lewelyn
NOTARY PUBLIC for the State of Utah (Notary Seal)



STATE OF UTAH

ss.

County of Summit

SUBSCRIBED, SWORN to, and ACKNOWLEDGED before me this 16th day of March, 2003, by St. Lorin Broadbent of Snow Mountain L.C.

Tracie A. Lewelyn
NOTARY PUBLIC for the State of Utah (Notary Seal)

