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DOUG CROFTS, WEBER COUNTY RECORDER
22-MAY-06 1111 AM FEE \$1.00 DEP KKA
REC FOR: WEBER COUNTY PLANNING

Weber County Board Of Adjustment

Notice Of Decision

Name: Great Salt Lake Minerals Corporation (GSL)
C/O Jason Bagley
765 N. 10500 W.
P.O. Box 1190
Ogden, UT 84402

Date: December 16, 2005

Parcel Number: 10-032-0005

Board of Adjustment Case Number: 10-05

You are hereby notified that your request for a Landscape Variance at 765 N. 10500 W. was heard by the Weber County Board of Adjustment in a public hearing held on Thursday December 15, 2005, after due notice to the general public and specifically to adjacent property owners.

The Board of Adjustment has given consideration to your appeal relative to the merit, circumstances, and conditions affecting said property and hereby renders the following decision:

Your appeal to the Board of Adjustment is:

Granted subject to conditions as noted in the minutes

Reason for Decision:

Motion: Gage Froerer moved to approve BOA 10-05 by Great Salt Lake Minerals Corporation for a Landscape Variance. The motion passed unanimously.

The approval of a Board of Adjustment Case is issued to the owner of the land as signed on the application and is valid for a period of time not longer than 18 months from the date of the Board decision or until an ordinance amendment changes the conditions upon which the decision was made. The issuance of a building permit for development stated in the Board of Adjustment case application constitutes full use of the variance or other benefit applied for.

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3. Board of Adjustment BOA #10-05 by GSL Minerals for a variance on landscaping

Staff presented the following report:

The petitioner's (Great Salt Lake Minerals Corp., GSL) is requesting approval of a Landscape Variance for a project located at approximately 785 N. 10500 W. This variance would be from the requirements of Chapter 36-4(3) of the Weber County Zoning Ordinance. The project lies in an M-3 Zone and will be built as a new magnesium chloride facility at the existing GSL plant site.

The building site is located at least 2,000 feet from the nearest property line and there are no public access roads. Any visitors to the site would require an escort to be admitted. The location of the new building will be next to railroad tracks and the present salt operation which would make the maintenance of landscaping impractical. Due to the manufacturing process, salt and chemicals abound in the air and soil, making it difficult for any plants to grow. The existing GSL facility has no other landscaping and the surrounding area is desolate except for some native sagebrush and weeds.

The petitioner's project is surrounded by GSL land and the nearest neighbors are Western Zirconium located approximately two miles south and Randy Marrott who owns land about ¼ mile east of the building site. GSL has contacted these neighbors and both agree with the request for a landscape variance.

Chapter 29-3.3 of the Weber County Zoning Ordinance states that one of the powers of the Board of Adjustment is: "To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided, that the spirit of this Ordinance shall be preserved and substantial justice done.

Staff Recommendations:

Based on location, type of industry, and other reasons stated above, a variance will not be contrary to the public interest. Staff recommends approval of a landscape variance.

Duncan Murray asked what is the normal requirements without a variance, is there a certain percentage of the overall land surface area. Staff said 10% in any zone, staff showed pictures of the site. Duncan Murray asked staff or legal counsel if we have any precedence at all for this board for approving any similar landscape variance before today. Staff said no.

Jason Bagley, Petitioner, 3024 N. 100 W. North Ogden, Utah, said he did not have to much to add to this, they are far enough away they feel like any landscaping is going to be impractical to maintain, and ask the Board to consider granting them this variance.

Duncan Murray said with the land area that the petitioner has, they do not have a need to use all of their space to store materials or equipment or anything along those lines.

Mr. Bagley said they have a lot of extra space, they currently do not have landscaping.

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Duncan Murray said is it basically salt flat type area as far as the type of soil.

Mr. Bagley said it is tough to make stuff grow on that site.

Jeffery Burton asked what is the variance that would be granted?

Staff said the Board would not be requiring any landscaping yet. The Ordinance requires 10% landscaping and the Board may be varying that requirement.

Jeffery Burton said the ordinance specifies so many trees, so many bushes. The variance could be there is no requirement that the petitioner put the trees of the certain caliper and the bushes, but the petitioner would just use the natural vegetation that is there and call it landscaping.

Duncan Murray said the petitioner is requesting that some or all of those requirements be waived. He asked if there is anyone opposed to this petition, anyone else in favor, anyone from the public. Appearing to be no other public comment, they will discuss this as a Board. The one concern that Duncan has is the variance, generally if the frontage variance is 100 feet, normally they take a foot or two of the requirement and call it good, like 99 or 98 feet and call it good. Mr. Duncan's concern was they are going from a full requirement to no requirement as compared to a slight reduction. What is landscaping he like the comment in certain areas zero-scaping is landscaping which is more of a natural rock natural environment open space, in some senses, landscaping is an area with no building no storage. If they keep the same 10% requirement but rather than having trees that are not going to grow in the alkaline soil, have a requirement perhaps that it remain in its natural condition, that no buildings, rights-of-way, easement or structures, or storage happen in those areas and basically remain open space in its natural condition. Maybe that is something the Board could entertain with legal council's help, is that an option we could legally consider, do we have that authority.

Ms. Hurtado said she thinks that it is a good idea in a case like this, because it is hard to distinguish manufacturing zones if you don't make that recognition, that you do expect 10% to be undisturbed and to be left as open space so that you do have natural vegetation and so that they don't use it for storage purposes.

Duncan Murray said so that recommendation would be appropriate. What if the Board put an additional condition, that if there ever was an adjacent business that a buffer be considered at that time.

Ms. Hurtado said generally that is not appropriate because the variance would be recorded with the land and we wouldn't have the ability to go back but what would happen in the future is if they were to further develop, landscaping could be addressed and if there is further expansion of the use, and at that time they had adjacent property owners you could consider additional landscaping it at that time.

Gage Froerer asked if there is a certain parcel within another parcel or is it all one big parcel and you want to build a building on the whole thing. Staff said this is for a new building that is going to be built at the existing plant site. There are existing buildings surrounding this new building that is going to be put in. Gage Froerer in computing the 10%, and when this is built out and all of the manufacturing buildings are there, the petitioner will have at least 10% of the total land remain open for landscaping, is that what we are talking about or do we say for every building you have to have 10% right around the building.

Staff said it is as Mr. Froerer stated first, it is 10% of the whole area will need to be landscape, say all of these buildings keep being added, at the end you need to leave 10% of that lot in landscaping. Gage Froerer asked what acreage is specifically before us with this petition, and how many acres are we dealing with here?

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Mr. Bagley said the area of the building is 100' by 100' and they probably own 100 acres out there. The Petitioner's request would be whatever restrictions the Board imposes would be on that parcel where they are planning to build that building. They have a lot of other buildings and storage facilities.

Duncan Murray's question for legal council, is normally we are dealing with a specific parcel number and with a specific number of acres, how do we clarify what this variance, assuming it is granted, deals with?

Ms. Hurtado said it should be the same, the site plan generally deals with the specific site plan, it is not based on ownership, it is based on the area shown on the site plan.

Duncan Murray asked what is the current situation on open space, those buildings have been out there for a number of years. Has that requirement been place since GSL has been in business the 10%? He does not remember seeing landscaping out there, he has been out to that site a number of times is there any landscaping there now.

Mr. Bagley said there is no landscaping. There is a lot of open space the 10% would not be a very hard requirement for the petitioner to meet.

Gage Froerer said if we were going to operate under the ordinance and they have 100 acres and they are building this 100 something building, ok 10% of the site plan has to be landscaped, so you have to have a little spot somewhere on this 100 acres that has a certain size caliper tree, thats what you would do if weren't here today?

Staff said not typically where the new buildings are going or where the buildings are, we have several projects at the Weber Industrial Park that have several buildings, but the back portion of the lot is vacant and unused, so we look at where the buildings are and at least 10% of that area is landscaped.

Gage Froerer said he would hate to put somebody in a position where you want to expand the size of the building but you can't because you have the 10% locked up that is just dirt.

Ms. Hurtado said they could revise their site plan, they would come in and add raw ground into their site plan to accommodate for that additional usage.

Duncan Murray said any motion made should include any further expansion should be looked at again at that time, then they could easily re-adjust the 10%.

MOTION: Gage Froerer made a motion to approve BOA case #10-05 requested by GSL Mineral and Chemical with the understanding that because of the location, the geographic nature, and of the existing soils that it is impractical to enforce the existing ordinance in the terms of the 10% landscaping and with that, the board require as part of the motion that the 10% requirement be converted to open space around and showing on the existing site plan and that any future expansion to that site plan/building would have to come back to the board of adjustment. Include the basic A,B,C,D of Ordinance 29/-12 and the additional findings. Jeffry Burton seconded the motion. A vote was taken and Chair Murray said the motion carried by a unanimous vote.

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DESCRIPTION OF PROPERTY SERIAL NUMBER 10 -032 - 0005 EN 2181246 PG 5 OF 5
TAXING UNIT

OWNER GREAT SALT LAKE MINERALS & P O BOX 1190 302
CHEMICAL CORPORATION OGDEN UT
84402

DESCRIPTION OF PROPERTY 1980 R/P ACRES; 24.46

THE WEST 1/2 OF THE NORTHEAST QUARTER, THE NORTHWEST QUARTER OF SOUTHEAST QUARTER, THE NORTHEAST QUARTER OF SOUTHWEST QUARTER, THE EAST 1/2 OF THE NORTHWEST QUARTER AND LOTS 1 TO 3, SECTION 7, TOWNSHIP 6 NORTH, RANGE 3 WEST, SALT LAKE MERIDIAN, U.S. SURVEY.

EXCEPTING THEREFROM THE TWO PORTIONS OF LAND COVERED IN THE ABOVE DESCRIBED PROPERTY AS FOLLOWS: BEGINNING 1327 FEET NORTH AND 779 FEET WEST OF THE SOUTH QUARTER CORNER OF SAID SECTION 7, AND RUNNING THENCE NORTH 89D42' WEST 66 FEET; THENCE NORTH 1691.66 FEET; THENCE WEST 377 FEET; THENCE NORTH 1000 FEET; THENCE EAST 377 FEET; THENCE NORTH 460.34 FEET; THENCE EAST 66 FEET; THENCE SOUTH 460.34 FEET; THENCE EAST 557 FEET; THENCE SOUTH 1000 FEET; THENCE WEST 557 FEET; THENCE SOUTH 1692 FEET TO BEGINNING.

ALSO: BEGINNING AT A POINT 619 FEET SOUTH AND 1173 FEET WEST OF NORTH QUARTER CORNER OF SAID SECTION 7; THENCE SOUTH 480 FEET; THENCE WEST 280 FEET; THENCE NORTH 480 FEET; THENCE EAST 280 FEET TO BEGINNING.

TOGETHER WITH 104 FOOT RIGHT-OF-WAY (948-537) CONTAINING 331.65 ACRES, M/L NET.

EXCEPT COUNTY ROADS 400 NORTH AND 9350 WEST ST (22-9 ORIGINAL PLATS).

SUBJECT TO A PERPETUAL RIGHT-OF-WAY & EASEMENT FOR RAILROAD AND APPURTENANT TRANSPORTATION PURPOSES (1364-1762)

COMMENTS;

For Tax purposes only