

MINUTES OF THE SPECIAL DRAPER CITY COUNCIL MEETING HELD ON WEDNESDAY, SEPTEMBER 12, 2018, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH

PRESENT: Mayor Troy K. Walker, and Councilmembers Mike Green, Tasha Lowery, Alan Summerhays, Marsha Vawdrey, and Michele Weeks

STAFF PRESENT: David Dobbins, City Manager; Mike Barker, City Attorney; Rachelle Conner, City Recorder; Scott Cooley, City Engineer; John Eining, Police Chief; Russ Fox, Assistant City Manager; and Christina Oliver, Community Development Director

Special Meeting

1.0 Call to Order

1.1 Mayor Walker called the meeting to order.

2.0 Public Hearing: Geneva Rock Products Applications, on the request of Dave Kallas, representing Geneva Rock Products, for a Text Amendment to Draper City Municipal Code Section 9-13-080 in Order to Allow Basic Industry and Mineral Extraction as Permitted Uses Within the M2 Zone, to Amend the Land Use Map from Residential Low/Medium Density to Industrial/Manufacturing, and to Amend the Zoning Map from A5 (Agricultural, 5-acre Lot Minimums) to M2 (Major Manufacturing) with a Development Agreement Guaranteeing a Conservation Easement on a Portion of the Applicant's Property

2.1 Mayor Walker explained the rules and processes for the meeting.

2.2 Dan Boles, Planner, reviewed the history of the Geneva rezone and the historical operation areas. The applicant is requesting to rezone approximately 72.97 acres to Industrial Manufacturing, and they are proposing to place 78.39 acres of property into a conservation easement. They are also requesting a text amendment to make their use a permitted use, a land use amendment, and approval of a development agreement.

Mr. Boles then reviewed several components of the development agreement which included:

- Excavation of the property is allowed, per the defined buildout. Build out is defined as the final grading shown on the build out plan, Exhibit B, in the development agreement. This plan may be found in the exhibits of the staff report.
- The conservation easement shall be dedicated within 120 days of the development agreement approval.
- The agreement would not become effective until 35 days have passed after the latter of the development agreement execution, the effective date of the text amendment,

the effective date of the zoning map amendment, or the issuance of a permit, as may be required.

- The term of the agreement is until build out.
- Development within the easement area is prohibited, including residential, commercial, retail, office, or industrial uses.
- An access road to the conservation easement and a parking area would be provided and constructed by the Applicant, as shown in Exhibit B of the agreement.
- The Applicant would be allowed temporary closures of the access road into the conservation easement area for a time reasonably necessary for maintenance, fire safety, dust suppression activities, or to keep the access road from becoming dedicated to the public by virtue of usage. Coordination for such closures are required with the City and include a 72 hour notice, when possible.
- The property would be vested under the existing Draper City Municipal Code and not subject to any new regulations, unless agreed to by the Applicant. The exception would be updates or amendments to the International Building Code or other nationally or statewide construction/safety organization or State/Federal governments.
- The agreement sets a process for using consultants to review applications, if needed, and is contrary to the zoning code process. It also allows the Applicant to be included in the selection of the consultant.
- The agreement calls for mediation and arbitration for any applications that are denied, rather than following the City's standard appeal process.

The Planning Commission recommended approval of the text amendment and denial of the rezone and land use amendment.

- 2.3 Dave Kallas, applicant, expressed appreciation to the City Council for their consideration and time. He stated they have made a few changes to their original application that they want to go over with the City Council. They are asking for a Land Use Amendment in order for the General Plan to fit with the rezone request. They are also asking for the gravel pit to be a permitted use rather than a conditional use. The gravel industry has many rules and regulations they have to meet, and it would make it difficult for cities to enforce any conditions placed on the use. The State has many enforcement tools in place to monitor this use. Geneva is also asking for approval of a development agreement. He displayed an aerial map of the Geneva property. He showed the areas that are permitted, non-conforming and the areas that are in Utah County. The original rezone request for was for 141 acres, and due to the concern expressed by the residents, the acreage was reduced. This request went to the Planning Commission in 2015, and they forwarded a positive recommendation for approval to the City Council, and the staff also recommended approval. The application was withdrawn prior to going to City Council due to the continued concerns of the residents. Geneva worked through some of the concerns, and submitted a new application that went to the Planning Commission. He stated there were still many concerns, so Geneva is proposing more changes. Mr. Kallas explained they are reducing the area they would like rezoned to 18.5 acres, and the rest of the property would remain as is. The new proposal is a 95 percent reduction of mineral extractions from the original request, and it is also an 85 percent reduction of the surface area affected. The mining operation will not go any closer

to the homes than is currently taking place, and it addresses the height concerns. This proposal also eliminates the high wall area that affects Lehi. Geneva has identified 22 acres in their currently permitted property that they will re-seed prior to starting the mining in the new area. This will reduce the total exposed area and has a net reduction of four acres. Mr. Kallas explained he thinks they can do this within the next four to five years unless there is a recession. He displayed a map showing the changes from the original proposal to what is being requested today.

- 2.4 Mayor Walker indicated this application is substantially different from what is currently on file. This has raised some concerns with the City as to whether they should even be hearing this new proposal this evening.
- 2.5 Mayor Walker called for a brief recess to discuss this with the City's legal counsel.
- 2.6 *The meeting recessed at 6:31 p.m. and resumed at 6:37 p.m.*
- 2.7 Mayor Walker indicated he spoke with the City Attorney, and they have two options to present to the City Council. The first is to have Geneva present the original application this evening, and the City Council can take action on that proposal. Otherwise, Geneva can withdraw their original application and start over with the process for a new application.
- 2.8 Bruce Baird, attorney for applicant, noted there is one more big change to the proposal and asked if they would just present that this evening as well since everyone is already in attendance. There is approximately five minutes left in the presentation. Mayor Walker advised the City Council will not take action tonight on this proposal.

Mr. Baird noted he understands that; however, the applicant would like to just go through the complete proposal while everyone was there to hear it.
- 2.9 Christina Oliver, Community Development Director, cautioned that anything that is presented tonight might change before going to the Planning Commission, so it might be misrepresented tonight. Mr. Baird stated he completely understands that.
- 2.10 Mike Barker, Attorney, noted it is up to the City Council to decide whether or not to let the applicant continue.
- 2.11 Councilmember Lowery, Councilmember Weeks, and Councilmember Green were not in favor of hearing the rest of the presentation.
- 2.12 Mr. Baird advised Geneva would like to withdraw their application and start back through the process.
- 2.13 Councilmember Weeks asked whether the applicant needed three Council votes in order to withdraw. Mr. Barker stated the applicant is entitled to withdraw their application at any time.

Councilmember Weeks then asked if there is a time restriction on when they can submit a new application. Mr. Barker responded no, because there was no final action taken on this request.

3.0 Adjournment

3.1 Councilmember Green moved to adjourn the meeting. Councilmember Lowery seconded the motion.

3.2 A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

3.3 The meeting adjourned at 6:41 p.m.