

**Genola Town
Planning Commission Meeting Minutes
March 4, 2021**

Planning Commission Present: Chair John Rosenberger, Commissioners: Avery Fitzgerald, Thad Rowley, Calvin Ewell, Tami Balzly, and Brad Dinkel

Staff Present: City Recorder Lucinda Thomas, City Attorney Josh Nielsen

Public Present: Mike Fowers, Robert Fillerup, Lisa Fowers, Everett Kester, Jun Khaysavang, Dick York, Jake Thompson, Scott Argyle, Chris Wilson, Adam Hensta, Sam Hensta, Rose Draper, Jeanette Parker, Wayne J. Parker, Beth Coleman, Randall Ercanbrack, Rachel Ercanbrack, Kevin Brown

7:00 p.m. PLANNING COMMISSION MEETING:

1. Chairperson Rosenberger called the meeting to order at 7:03pm.

- a. Opening prayer was given by Commissioner Rowley
- b. Pledge of allegiance led by Chairperson Rosenberger
- d. Public Forum – no comments

AGENDA ITEMS:

2. Approval of the Planning Commission meeting minutes from February 4, 2021.

Chairperson Rosenberger made a **Motion** to approve the Planning Commission meeting minutes from February 4, 2021. Commissioner Ewell **Seconded** and the motion **Passed** all in favor.

2. Planning Commission Chairman Report:

Chairperson Rosenberger reported to the commission concerning the road issue at the Goshen Gap – he let the commission know that they may be looking at our future roads but that currently the town must work with UDOT first as they own the road on many of the Town's current road issues.

4. Public Hearing: The purpose of this hearing is to consider a proposed zone change petition from A-1 Agricultural Zone to the I-3 Heavy Industrial Zone for the property owned by S.L. Nerdherder L.C. & R.S.II No. 4 located at approximately 3000 N Lake Road Genola Parcel #29.005.0035.

Chairperson Rosenberger **Motioned** to open a Public Hearing Commissioner Fitzgerald **Seconded** the motion the motion **Passed** all in favor.

Each person was allowed three minutes to have their opinion heard.
Randall Ercanbrack – He owns property next to the proposed gravel pit and is adamantly opposed as he feels that it would be detrimental to his orchard. He

worries that the value of his property may change. Last year when they pulled gravel out of the gravel pit he had problems with mites in his orchards. He feels like Genola is an incredibly beautiful community and putting gravel pits near each of its entrances doesn't make sense. He stated that his son Dr. Britton Ercanbrack also opposed however he was unable to be present because he had to take care of a patient.

Sam Hestra – When they started hauling a lot of gravel out of there a couple of years ago, there was a lot of noise, dust, and stress. It also tore up the road and that is not something that he wants next to his home. The last time that the pit was running they were told that they wouldn't be running late at night but they were still hauling out of there at 11pm and running a jake brake and shaking his house. He worries that it may not even be legal as he feels like it is closer than ½ mile to the nearest house.

Kevin Brown – His property actually borders the actual zoning change. He knows regarding the Brownfield residence that the county actually came in and forced them to reclaim the ground, which will require him to reseed the land to keep the dust down. He was out there, and the trucks are large. One day while he was out there he saw a truck meet up with a school bus around the corner; to allow the school bus to pass, the truck had to back up. He feels that our roads aren't designed for this and is worried that it would create a dangerous accident spot with possible high-speed collisions. He mentioned that people move to Genola to enjoy a quiet beautiful place with lots of wildlife and the stars at night. With Heavy Industrial that will equal lots of noise, lights, and possible loss of wildlife. He fully objects to any heavy industrial zone not just this one.

Rachel Ercanbrack – She can't think of anything more horrible than putting heavy industrial out there. When her children bring their friends out here to Genola this is where people want to come. They can't believe how beautiful and country it is but with lots of amenities close by. She believes that heavy industrial zones will hurt the town as a whole when it comes to future development. She asked the commission what kind of town do we want to be. She believes that there are several other moms who would echo her feelings about this. She has lived all over during her husbands schooling, she said she could tell when the towns protected their communities and they were beautiful and peaceful, instead of others where stuff slipped in.

Chairperson Rosenberger **Motioned** to close the public hearing Commissioner Fitzgerald **Seconded** the motion **Passed** all in favor

5. Discussion and Possible action regarding a proposed Rezone from A-1 Agricultural Zone to the I-3 Heavy Industrial Zone for the property owned by S.L. Nerdherder L.C. & R.S.II No. 4 located at approximately 3000 N Lake Road Genola Parcel #29.005.0035

Mike Fowers got up and stated that he was sorry to Randall Ercanbrack and his other neighbors for the nuisance that he has caused, Chairman Rosenberger reminded Mr. Fowers that he needed to address the Commission not the public. Mr. Fowers read the history of the pit, how it came to be, got a lease on it, started mining it and got a little

99 gravel out of it. He continued talking about how the Town then red tagged it as it was
100 incorrectly zoned. He appealed the red tag but they determined that he was
101 grandfathered in but would be limited to 1160 tons a year. He wants to do the same
102 thing that many of his surrounding neighbors want to do and that is to eventually build a
103 subdivision but to do that they will have to remove some of the gravel out of it. He read
104 some of the history of the gravel pit and what it has been used for in the past. He
105 stated that he is trying to make his property legal for what he feels has already been
106 going on for the last 100 years. Chairperson Rosenberger interrupted him and told him
107 that it was no longer necessary to keep going over the history of the property. City
108 Attorney Josh Nielsen then clarified that what Mr. Fowers was reading were the notes
109 from the appeal authority hearing from two years ago. The appeals authority granted
110 him a grandfathering for about 1160 tons or about 50 truck loads of gravel a year and
111 that anything more than that would require a zone change.

112 Robert Fillerup then got up, he is the attorney for the Nerdherders and Mike Fowers
113 trucking company. He addressed that the problem is that this parcel is split between
114 the Town of Genola and Utah County Property lines. He felt like the complaints that
115 were heard during the public hearing doesn't clarify what happens from the north side of
116 the pit which is County Land. There is nothing in the general plan that prohibits a
117 Gravel pit. He felt like the current ordinance is pretty vague and stated that the mining
118 ordinance hasn't been adopted yet so it wouldn't apply to this application. He
119 mentioned that there is state statute that states that the city can't deny something just
120 because a lot of the citizens don't like it. Chairman Rosenberger stated he was
121 concerned that this parcel might touch other parcels that are zoned R-1 and per our
122 ordinance it is not allowed to have any I-3 zone touching an R-1 zone. City Attorney
123 Josh Nielsen brought up that the next step is to determine if any of the adjacent
124 properties are already zoned to R-1. Commissioner Brad Dinkel also brought up that if
125 this gets changed to an I-3 zone there would long term repercussions to the adjacent
126 properties that would never be able to be changed to R-1 which would affect the future
127 development of the town. Mr. Fillerup questioned how a property could have been
128 zoned R-1 where the gravel pit was already in existence. It was explained that the
129 gravel pit was never zoned I-3 it was just grandfathered in, which is why other
130 properties have been able to be zoned R-1. It was determined that they will table this
131 till the next meeting so that they can research the current zoning for the adjacent
132 properties.

133 Chairman Rosenberger made a **Motion** to table until the next meeting. Commissioner
134 Fitzgerald **Seconded** and the Motion **Passed** all in favor.

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136 6. **Discussion and possible action on a continuation regarding a proposed rezone**
137 **from A-1 Agricultural Zone to R-1 Residential for property owned by TKW**
138 **Holdings LLC and located at approximately 735 W 2400 N. Genola Parcel #**
139 **29.016.0056 and 29.016.0057**

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141 Scott Argyle a representative of TKW got up and mentioned that this requested zone
142 change is the original zone change not the new one that was just submitted. He
143 brought up that 2 years ago there was a fifth parcel that was rezoned independently
144 that was part of the original piece. Josh Nielsen stated that his recollection was that the
145 other parcel had already been divided before the subdivision ordinance took place in

1975 so that rezone was allowed to go through. Mr. Argyle questioned the need to have another notice taken out. City Recorder Lucinda Thomas stated that because of state law we are required to post with all parcels at the same time. The original application only had 2 parcels and now they need to include all 4 parcels. The city will not process partial parcels rezone – and since the city does not recognize all 4 parcels as separate, they all must be done at the same time. This will require another application, re-notice it and have another public hearing to comply with state law. They have talked with City Attorney Josh Nielsen and they want to leave a portion of the TKW holdings land to equal 2.25 acres that will be known as parcel A so that in the future the little lot that is 100x100 could be combined to equal a 2.5-acre lot and it could happen for the future. Chairman Rosenberger stated that he would like to have the subdivision work done at the same time as the rezone so that it could be done all at once. They are now going to deny this current application and then move on with a new application from here. City Recorder Lucinda Thomas stated that if they deny this application that they will not be able to come back because the rules state that they cannot come back for a year. Josh Nielsen stated that they could because they would be expanding the area to be rezoned, it will be considered different. Commissioner Balzly brought up a concern that they are still going to be leaving a non-conforming lot with the thought that it will eventually bring in the 100x100 lot but that they currently do not own and would not be able to guarantee what would happen with the land. He expressed concern that they are trying to leave a non-conforming lot. Commissioner Brad Dinkel brought up that this is just on the zoning and not the subdivision. Commissioner Fitzgerald **Motioned** to Deny the rezone, Commissioner Balzly **Seconded** and the motion **Passed** all in favor.

After the motion passed Jeannette Parker who is the property owner of the 100x100 lot in question asked what she can do with her property legally. The commission stated that she can live there, and they will not kick her out of her house, but they won't let her rebuild the home. She continued to ask about the rezone and they did tell her that her lot will need to be a part of the new rezone. TKW holdings did say that they would have their legal counsel get in touch with her. Josh Nielsen stated that if she rezones to a R-1 then it would allow her to then buy the remaining parcel.

7. **Discussion and possible action regarding a site plan for a Hay Barn and Enclosed Barn on property owned by Erik Olesen located at 139 E 400 S Parcel #29.035.0176**

The Commission went through the checklist – the original site plan that was submitted showed the buildings being built in the easements. Mr. Olesen then showed an updated site plan which showed the buildings no longer being put in the easements. Commissioner Balzly **Motioned** to approve the Site Plan and Commissioner Rowley **Seconded** the motion **Passed** all in favor.

8. **Discussion and possible action regarding a site plan for a Shed Addition on property owned by Everett J Kester located at 126 E 400 N parcel #44.209.0004**

The Commission went through the checklist and it met all requirements except that the scale needed to be added to the site plan. Commissioner Rowley made a **Motion** to approve the Site plan with the contingency that he adds the scale to the site plan. Commissioner Fitzgerald **Seconded** and the motion **Passed** all in favor.

9. **Discussion and possible action regarding a Vicinity Plan for a proposed subdivision at approximately 550 S Main Street for a parcel #38:215:0001 owned by Beth and Craig Coleman.**

The Commission went through the checklist and found that the Vicinity Plan met all the requirements.

Commissioner Fitzgerald **Motioned** to Approve the Vicinity Plan Commissioner Rowley **Seconded** the motion and the motion **Passed** all in Favor.

10. **Discussion and possible action regarding a site plan for a new home site plan on property owned by Brandon and Sara Stevenson located at approximately 618 N 470 E Parcel#39.284.0012**

The Commission went through the Site plan and it met all the requirements with a contingency that all homes written in that are within 200 ft within the property.

Commissioner Rowley **Motioned** to Approve the Site plan with the Contingencies. Commissioner Dinkel **Seconded** the Motion and it **Passed** all in favor.

11. **Discussion and possible action regarding a site plan for a new home on property owned by Lorin Barlow located in the Valley View Subdivision lot 3 Plat A Parcel # 54.216.0003**

The Commission went through the checklist and found that the site plan met all requirements. Chairperson Rosenberger made a **Motion** to approve the site plan; Commissioner Ewell **Seconded** and the motion **Passed** all in favor.

12. **Discussion and possible action regarding truck tract-out pad requirements for new developments and/or construction**

Chairman Rosenberger brought up that currently you can hardly see the road in the new Genola Farms subdivision which is a brand-new road and he is worried about the roads being ruined. Chairman Rosenberger would like to see as part of the requirements for a building permit that every permit is required to supply a tract-out pad to help eliminate the mud and debris being brought onto the road. He mentioned that with this construction experience this is required for all his job sites associated with his full-time employment. Commissioner Fitzgerald mentioned that a tract out pad only works if they drive fast enough. Chairman Rosenberger would like everyone to go over to 470 E to see the issue firsthand. Commissioner Fitzgerald mentioned that he would like to see that instead of requiring a tract out pad that may or may not work but instead just require them to keep the road clean. City Recorder Lucinda Thomas brought up

the point that there are too many farmers that bring out mud as well. The biggest issue is that we need to protect the roads since the city will be responsible to fix the road. Commissioner Fitzgerald would instead like to see these changes become part of the development standards include keeping the roads cleaned. City Attorney Nielsen stated that this could be done; it could be enforced by the City Enforcement; and they could then be able to red-tag or fine a construction site until they get it cleaned up. Commissioner Fitzgerald was concerned about the farmers and knowing that they will bring mud out onto the road. Mr. Nielsen said the farmers would be exempt from this because this get put into the development standards and the farmers would not be actively developing their land. Mr. Nielsen said that he will write an amendment to the development standards to keep the roads clean. He asked the commission if and when someone is in violation how far they would expect them to clean the road. Commissioner Fitzgerald mentioned a rough estimate of 500 feet. They are also wanting to protect property owners who it wasn't their fault, but the neighbors are dragging the mud and rocks in from of their property. Commissioner Ewell brought up that he has had some of the mud and dirt brought in to his property which is ¼ mile away. The consensus is that 1500 feet seemed to be a good number that would be required to be cleaned from the property line. Commissioner Rosenberger instructed Mr. Nielsen to get that drafted up and ready to go for the next meeting.

13. Discussion and possible action on a draft of the mining ordinance

City Attorney Nielsen handed out the newest draft of the ordinance and stated that he has added all the changes into it. He would like the commission to go over all these changes so that it is ready to go for a public hearing next month. He asked the commission about a noise standard and what would be reasonable. He also talked about the Dust Mitigation plan which would be part of the conditional use permit application will include: noting any orchards within 1000 feet, they need upwind and downwind particulate dust monitors, they would need to hire their own third party auditor to monitor the particulate dust levels, operations would have to be shut down if dust is crossing property lines. Establishing a hotline for community members to report visible dust problems, this would be required to paid for and operated by the applicant. They would require speed limits and requiring the use the water sweepers at the end of each day. The commission would rather have 10 MPH wind speed as the limit instead of 25 for the cap before operations would have to be shut down. There was a section added for the violations of the dust mitigation plan. Which would eventually end-up with canceling their conditional use permit. Josh asked that one of the Commissioners email him with the clarification of what they consider to be a hot batch plant, and how they would like it worded – they mentioned that they don't want any aggregate mixing. With regards to the noise needs to be no more than 75 decibels at the edge of the property/fence line. Commissioner Fitzgerald expressed his concern that it might need to be too loud. It was determined to go ahead and lower the decibel level to 35. The commission would like to keep it away from residential and away from homes that might be on an A-1 lot. Chairperson Rosenberger felt like the ordinance and the way it is with the adjustments recommended will be ready for a public hearing. Commissioner Balzly brought up a discussion regarding how far away production needs to be away from any agricultural zoned land, specifically orchards. Due to the difficult

286 nature of defining exactly what an orchard is it was discussed about changing the
287 distance from Agriculture zoned land. Chairperson Rosenberger and City Attorney
288 Nielsen brought up points to make sure that we are not making the ordinance so
289 restrictive that it then can become challenged in court. Commissioner Dinkel brought
290 up the point that the other restrictions that are in place should automatically detour them
291 from coming but if they still do, these restrictions should cover the impact to the
292 orchards and other agricultural land. Chairperson Rosenberger wants to leave the
293 distance as it is and if a couple of months down the road it needs to be revisited then
294 can later, since this ordinance needs to be put in place and they have already worked
295 on it for a year. It was determined to up the distance to 1000 feet. City Attorney
296 Nielsen said that he would make the changes and have it ready for a public hearing
297 next month.

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299 **14. Discussion and possible action regarding a possible non-conforming lot**
300 **amendment**

301 City Attorney Nielsen drafted up a proposed amendment. There are three issues
302 involved legal non-conforming lots, uses, and structures. He questioned whether this
303 was actually something that the commission actually wants to do. They are looking at
304 changing for additions and enlargements or for buildings that in need of restorations
305 because of damages or age. It was determined that as long as the resident wasn't
306 going to make the situation worse that we would go ahead and start allowing it with this
307 proposed amendment. The entire commission agreed that this amendment would work
308 and they would like to have the non-conforming lot amendment ready to go for a public
309 hearing next month. This only applies to structures that are built on legal non-
310 conforming lots.

311 For a legal non-conforming structure – you can fix it but it has to be built up to code.

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313 **15. Discussion and possible action with Calvin Ewell on the Goshen Gap intersection**
314 **of 400 N. State road**

315 Because this road is not a city road but instead owned by the State we have to wait for
316 the city council to work with UDOT.

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319 Minutes prepared by Deputy Clerk Nicole Preston

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322 Approved on:

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Lucinda Thomas, City Recorder