

**COMBINED MEETING OF DANIEL PLANNING COMMISSION AND TOWN COUNCIL  
WEDNESDAY, APRIL 19, 2017 AT 6:00 PM  
WASATCH COUNTY SERVICES BUILDING, ROOM 126  
55 SOUTH 500 EAST, HEBER CITY, UTAH**

**MINUTES**

A quorum is present: Chairman Bunker, Commissioners Binkerd, Skinner, Grose, Norris, and Rawlings. Commissioner Weight was excused. Secretary Keary Stephens was present to record the minutes.

Members of the Town Council present: Mayor Turner, Council members Glodowski, Bateman, and Blotter. Clerk Lynne Shindurling was present to record part of the meeting.

Members of the public present, for at least part of the meeting, were: Shelly Bunker, Mark and Jamie and Justin McAllister, Brent Waterman, Stephanie and Jim Woolstenhulme, Rick Baker, Rick Walsh, Shawn Marsing, Ryan Webb, Misty Giles, the Danson family, Kent Bethers, Robert Armstrong, Riley Clark, Jesse Mair, Tommy Stout, Todd Wall, Scott Binkerd, Debbie Walsh, Chelsea Cottrell, Todd and Tricia Steiner, Kristine Bethers, Tim Bethers, Lou Giles, Mason McAllister, and Ryan Taylor of GDA Engineers.

A work meeting for the Commission and Council was called to order at 6:18 PM by Chairman Bunker.

**1) WORK MEETING FOR FIRST HOUR DISCUSSION REVISION OF CODE 8.25**

Council member Blotter had taken excerpts from a publication from the SBA Office of Advocacy in Washington, D.C., entitled "Home-Based Business and Government Regulation" dated February 2004. He organized the material into various sections.

At the last meeting concerning the code, the Purpose was defined as follows: "To provide opportunity for the primary resident to operate a limited small business within the residence and property boundaries. The business shall preserve the residential, rural, and farming environment."

Council member Blotter had presented from the SBA document the following language which the Boards discussed and settled on:

**General**

1. The small business must not detract from the residential agricultural surroundings and zoning and must follow the goals of the general plan.

## Codes

1. A small business must follow all local building, fire, and health codes.

## Environment

1. The residential character of the dwelling must be maintained and the small business must be secondary and incidental to the residential use.
2. Outside storage of materials or product associated with the small business is prohibited but can be stored indoors.

There was much discussion about the agricultural nature of Daniel as addressed in the General Plan. Fencing enclosures were considered to “hide” materials and products, but were dismissed for the time being. In the commercial zone in Daniel a 6’ fence is required, and the maximum fence in all zones is also 6’.

3. Outdoor business displays are not allowed.

Discussion here clarified these displays are meant to attract attention to the business by unusual means besides just advertising this is where the business is located.

In closing, Council member Blotter reviewed the rest of the document he produced, which will be disseminated to all Commissioners and Council members before the subject is visited again on May 17<sup>th</sup> at the next Planning meeting.

## 2) PUBLIC COMMENT CONCERNING ANY ISSUE NOT ON THE AGENDA

No comments were made.

## 3) PUBLIC HEARING REGARDING APPLICATION FOR A ZONE CHANGE FROM RA-5 TO COMMERCIAL FOR PROPERTY OWNED BY MARK AND JAMIE McALLISTER, 2850 SOUTH HIGHWAY 40

***Commissioner Skinner moved to open the public hearing, which was seconded by Commissioner Rawlings. The vote was unanimous and the Public Hearing was opened.***

Planning Director Bunker produced a map of the Highway 40 area and pinpointed the property in question.

Lou Giles asked if a survey map was available. He wants to know how many trucks may be parked on the property at any one time. If the rezone is approved, he asks if the owner would have to come back before the Council and Commission to approve any future changes in use of the property through the Public Hearing process.

Stephanie Woolstenhulme mentioned she abuts the property on which the rezone application is made. She read from a multipage document giving the history of previous owners and use of the property in question. She did not approve of the use of the property while owned by BT Oil (Travis Nafziger). She

had complained on numerous occasions about dust, lights during the night, noise, and continued use afforded the property. She had on two occasions submitted pictures of alleged violations “and nothing changed.” She did acknowledge the new owner, Mark McAllister, has made improvements on the property, but is concerned about the proposed use as a truck shop. If the rezone occurs, she thinks the door is now open for all sorts of commercial use, one of which is rumor of a truck stop established thereon. She stated access into the property off the highway would also change. She mentioned talk of storage units being built and Armstrong Drilling acquiring additional highway property nearby and relocating his drilling business there. She stated when she was initially approached about becoming part of Daniel Town, it was on the premise that it was to keep the land rural agricultural and prohibit commercial development.

Mrs. Woolstenhulme then quoted a statement of former Mayor Mike Duggin published in The Wasatch Wave from March 28, 2012 as: “The primary reason for going to the trouble of incorporating and running our town in 2006 was to maintain a rural atmosphere. Most of us chose to live in the country on purpose.” She grew up in Daniel, her family having established here in 1942, and asks that the Council deny the rezone application.

Tommy Stout then stated rumor has it there will be a right-of-way onto Mill Road from the McAllister property. He asked what the future holds in that regard. He is concerned with a right-of-way and, with so many children in the vicinity, that safety will be a big factor should 3000 South become a major avenue for traffic wanting to go down to Provo.

Scott Binkerd stated he moved to Daniel in the RA-5 zone for quality of life. He feels rezoning to commercial would be breaking the trust of the people who have been here for decades. He feels commercial rezoning on one parcel will set precedent for others along Highway 40. He is already concerned by truck traffic in the area and public safety. He would like the Council to deny the request.

Kristine Bethers is also concerned about the public safety issue with trucks in the area and has experienced many en route to the gravel pit. Her dog has been put in jeopardy and she is concerned for safety of the children.

Chelsea Cottrell also has a public safety concern in the area of Mill Road and 3000 South with the new development of Heber Meadows and the elementary school not far away.

Mayor Turner stated his concern that some of the comments are based on rumor of a right-of-way and/or truck stop in the area and not on the specific rezone application on the table.

Commissioner Binkerd replied the comments stem from the idea that rezone to commercial will bring about some of the changes mentioned beyond Mr. McAllister’s proposed use of the property, as no one knows what will happen once the door is opened.

Shawn Marsing, as a new resident in Heber Meadows, expressed he took a position as a teacher at the high school and moved his family to Daniel because of its rural atmosphere and opposed the rezone of the property in question, asks what will happen if Mr. McAllister should sell the property and another commercial business takes its place.

Mark McAllister spoke to clarify some of the issues. His property has no access onto Mill Road or 3000 South, thus there would be no truck traffic coming from the west to his property. He mentioned the

annexation of Heber City from the One Stop on the east side of Highway 40 to Country Meadows trailer park and on the west side is commercial up to the Heber Meadows housing development. He is operating on a continued use attached to the property and would like to rezone to commercial as he perceives that is how the property is being used.

Jim Woolstenhulme stated the property was not grandfathered into a commercial zone. It is still in the RA-5 zoning for residential use. Mr. McAllister stated his business is being operated on a continued use.

Rick Walsh, who lives in Country Estates across the highway from the subject property, is concerned if a mechanic shop is run from there, used oil and grease will accumulate and become an eyesore for neighbors and a potential hazard to the groundwater. He currently hears trucks use their Jake brake from a distance and is most concerned about the cleanliness of a mechanic's shop.

Debbie Walsh asked if Mr. McAllister intends to blacktop the property around his building as she has asthma and the dust is very bothersome to her. She wonders what his hours of operation are going to be. Mr. McAllister mentioned blacktopping is cost prohibitive, but he is taking measures to create a hard surface and control the dust. Jamie McAllister mentioned during the improvement stage, more dust may be created to eventually improve the overall condition of the parking lot. Mark mentioned he has five trucks and the continued use allows for seven. He states he is following all rules and regulations for storage of oil and the like.

Jim Woolstenhulme asked Mr. McAllister if he lived in one of the neighboring homes, would he want this business next door to him, further stated it's noisy at night. He did say Mr. McAllister has been a good neighbor so far but is afraid this will encourage rezone of other properties within Daniel. Mr. McAllister stated he wants to rezone because he feels a commercial business is now being operated in the RA-5, wants to be in the right zone for its use.

Robert Armstrong asked what the hours of operation are going to be for the truck shop. There is nothing in the code as far as hours to be open. Mr. McAllister stated he wants to open a shop so he is not available 24/7. He has not determined the exact hours yet, but there will be stated hours of operation. A truck in an emergency situation can always bend those a bit.

Tricia Steiner asked even though there will be posted hours of operation, trucks may be coming and going all night long, which was affirmed by Mr. McAllister. She is concerned about the parked trucks leaving in the middle of the night. Mark stated he is currently allowing crude oil trucks to park there which arrive and leave at all hours, but the mechanic side of the business will be more regulated.

Lou Giles asked Mr. McAllister how many trucks are currently allowed on the property under the continued use. Mark stated seven.

Council member Glodowski asked if the trucks that are simply using the property for parking have nothing to do with the McAllister operation. Mr. McAllister is leasing them space for parking only. Jim Woolstenhulme said if trucks are paying to park there it is already being operated as a commercial business. Jamie McAllister stated they are doing so under the continued use of the property and have fewer trucks using the property than the previous owner. Mr. Glodowski asked what type of vegetation exists between the McAllister property and the highway. Mark replied it is a dirt berm.

Misty Giles asked if, under the continued use, taking payment for leased space is technically illegal. Mark stated since it was occurring when he bought the property, he assumed it was allowed under the continued use. He did not question it at the time.

Todd Steiner asked if the Town should be collecting a tax from revenues generated by those leasing space on the McAllister property. Planner Bunker stated the property is already being taxed by the county as a commercial endeavor even though it is located in the RA-5 zone. Daniel does receive a percentage of property taxes collected. Sales tax does not come into play here. For retail operations the State collects sales tax and divvies a portion back to all municipalities located within a certain area.

Council member Glodowski again mentioned the property south of Mill road heading toward the highway north of Heber Meadows within Heber City is zoned commercial and will eventually be built out.

Rick Baker, a resident of Country Estates Trailer Park, asked if the zone change to commercial would affect them. Planner Bunker stated the Daniel zoning would not affect them, as it is across the street, but Heber City had annexed up to the trailer park on the east side of the highway and may eventually annex further south, thereby eliminating the trailer park.

Stephanie Woolstenhulme once again stated she joined Daniel Town's incorporation to keep the properties west of the highway from commercial growth. Council member Glodowski stated "at best we're going to slow it down." She stated it's in the Council's hands.

Planner Bunker stated a hard part of Planning in any municipality is balancing the rights of all property owners. Public Hearings are held so all concerned can state their thoughts. In the end not all persons will be happy with the outcome.

Tommy Stout said that is why planning exists and feels like generates the same. Commercial in the middle of residential means like is going to follow, as the door is now open. He too is concerned with truck traffic and so many children in this area of Daniel. Planner Bunker mentioned the General Plan spells out that the commercial zone will be along the highway corridor, as it will not affect as many in the residential zone.

Todd Steiner asked if there is a monitoring well near the property in question with the inherent products such as grease and oil possible hitting the ground. Planner Bunker stated the McAllisters drink the water from the well on site. He stated the EPA monitors water valley-wide under strict regulations.

Commissioner Rawlings mentioned the Town of Daniel will be the recipient of dirty water throughout the irrigation system as the new treatment plant north of Heber becomes operational.

Council member Glodowski asked Mr. McAllister what he plans to do on containment of used oil. Mark said he has not addressed that on the new property yet, but currently he uses a waste oil burner to dispose of product. Antifreeze is recycled. He follows all rules and regulations that are in place. As questions continued on this subject, Council member Bateman reassured those in attendance that the operations on the property will have to meet all codes for containment and disposal in order to continue his trucking operations and asked the public to focus on rezone of the property.

Jesse Mair asked if the Council will request Mr. McAllister to improve the property such as plant trees to keep the noise down, and if the rezone is granted but he requests further changes to the business, will

he come back before the Council before doing such. Director Bunker answered if the business continues as it has been operating, no further restrictions are made. If and when he wants to change the use or increase his operations, he must come back before the Council. An example of this would be an increase in the number of trucks allowed on the property.

Misty Giles stated to her understanding, BT Oil had more than the approved number of trucks there, pictures were taken, and no action by the Town took place. How is the Council going to regulate the McAllister operation? Planner Bunker stated he did go to the property following the previous complaints and he observed no violations, other than a short-term parking of a truck over a Thanksgiving weekend.

Jesse Mair asked if the property is rezoned, does the seven-truck limit still exist. Planner Bunker stated it is still a continued use even in the commercial zone and the number of seven trucks would remain. He mentioned he was in a meeting with the previous owner and attorney Kraig Powell and took the letter of uses at face value and allowed the same to remain attached to the property.

Commissioner Binkerd stated a question had been asked a couple of times and was not answered, which was if the zoning changes to commercial and the owner wants to change the use, would another Public Hearing be held before its use was changed. Planner Bunker stated the listed uses in the Daniel Code under commercial uses would be allowed in the zone once changed. Conditional uses are located in a different part of the code and a Public Hearing is held.

Director Bunker cited the website [www.danielutah.org](http://www.danielutah.org) for those interested to review the existing code and ordinances. He then asked to close the Public Hearing.

***Commissioner Binkerd moved to close the Public Hearing, which was seconded by Commissioner Grose. The vote to close the hearing was unanimous and the hearing closed.***

Director Bunker stated no decision would be made by the Commission at this time. He would like to have questions asked at this hearing discussed by the Planning Commission and all aspects considered before they make a recommendation on rezone to the Town Council. The matter will be addressed at the next Planning meeting on May 17<sup>th</sup> where the Commission could come forth with a recommendation. It may take several meetings for this to occur. After receipt of the recommendation from the Planning Commission, the Council will then make the final decision on the rezone of the property.

#### **4) STORM HAVEN WATER**

Ryan Taylor presented a graph and analysis detailing the water connections for Storm Haven. At this time any more than 3 connections is not wise. There are two homes with existing meters which will be connecting to the system soon so Mr. Taylor recommends not allowing any new building requiring new connections until the system can be upgraded with a new well and storage tank. If a new property owner was willing to pay an impact fee or contribute using a structured fee toward the improvements, that could be allowed. The estimate for drilling a new well is \$250,000. A 500,000 gallon tank is estimated to cost \$1.3 million.

Commissioner Binkerd asked if having a moratorium in place would prohibit the issuing of building permits in the area. Planner Bunker clarified a building permit could be applied for, but the

Town would not issue an intent-to-serve letter agreeing to provide water service. The owner would be forced to find another water source to continue with the process. No new service is allowed to hook into the existing sewer system (community septic) as per State regulations, requiring an individual septic system.

Lou Giles asked if there is a secondary water system available in Storm Haven. Mr. Taylor stated Daniel Irrigation does supply irrigation water to some of the properties if they own shares, but lines do not run to all properties in Storm Haven. Property owners have the option to purchase DIC shares to increase water availability, but the layout of the homes can make it impossible to run the irrigation lines to particular homes even if water shares are obtained.

Director Bunker asked for a recommendation from the Planning Commission to the Town Council.

***Commissioner Norris moved to recommend to the Council a moratorium on the system. Commissioner Rawlings seconded it. Vote was unanimous. Motion carried.***

Discussion: Need to add 1 year to come back and visit it again. If CDBG grant monies are not forthcoming, do we want to look at a structured impact fee.

***Commissioner Norris moved to add a time frame of 1 year to the moratorium. Commissioner Rawlings' second stands. Vote for a recommendation to Council was 3-1 Commissioner Bunker was the opposition. Motion carried.***

Director Bunker asked if someone were to pay a structured fee, is there a means to repay those monies. Mr. Taylor stated reimbursement agreements can be made.

Lou Giles asked if the water right for the well would have to be increased to produce more water from the well. Mr. Taylor stated 60 acre-feet is sufficient to provide what is needed now, but State code would have to be followed upon the drilling of a new well.

***Council member Bateman moved to have a moratorium in place for one year with an enhanced fee for upgrade from an entity or person to improve the system, which was seconded by Council member Glodowski. After discussion, the vote was taken as follows: "Aye" from Mayor Turner, Council members Bateman and Glodowski, with a "nay" vote from Council member Bunker.***

Commissioner Norris reported that a leak in the vault at 3000 South just west of Daniels Road was repaired. He also stated trees had been trimmed near the Daniel Municipal Water pumphouse.

## **5) GRANT BAIRD-NEW RESIDENTIAL BUILDING PERMIT**

***Commissioner Rawlings moved to approve plans based on the structural stipulations details. Commissioner Skinner Seconded. Vote was unanimous. Motion carried.***

## **6) PLANNER REPORT**

Excavation on 3000 S 174 E for gas line.

Highway 40 Agreement is coming up again.

Midway is asking for valley-wide cooperation in an Art Center.

Violation on Greener and Greener, they are moving.

**7) APPROVAL OF MINUTES OF MARCH 15, 2017**

***Commissioner Rawlings moved to accept the minutes of March 15, 2017. Commissioner Binkerd seconded the motion. Vote was unanimous. Motion carried.***

**8) ADJOURN**

***Commissioner Binkerd moved to adjourn the meeting. Commissioner Grose seconded it. Vote was unanimous. Motion carried.***

Meeting was adjourned at 9:10 PM

Keary Stephens, Secretary

Lynne Shindurling, Town Clerk

Approved 5-17-2017