

**Daniel Town Council Meeting**  
**Monday, January 6, 2025, at 6:00 PM**  
**Wasatch County Services Building, Conference Room B,**  
**55 South 500 East, Heber City, Utah**

Quorum Present: Mayor Kohler, Council Members Gary Walton, Eric Bennett, Robyn Pearson. Council Member Jon Blotter was excused. Also present were Planner Eric Bunker, Treasurer Sherri Price and Clerk/Recorder Kim Crittenden. The meeting was called to order at 6:00 PM.

Members of the Public: Gary Weight, Drew Reilly, A.J. Reilly, Rowdy Thompson, Megan Phillips, Melanie North, Bill King, Chip Polvoorde

**1) Public Comment (please limit to 2 minutes per person)** There was none.

**2) Public Hearing for Small Subdivision Application from Geneva Rock for Parcel #09-6276**

**Council Member Bennett made a motion to open the public hearing. The motion was seconded by Council Member Pearson. The vote was Walton yes, Kohler yes, Bennett yes and Pearson yes. The motion passed.**

Bill King with Geneva Rock said he was present to support the application and answer any questions. He mentioned they're looking at dividing the property into two parcels, one of 72 acres and one of 13 acres. A portion of it was recently approved for annexation into the Town of Daniel. Mayor Kohler inquired where access to the subdivision would be. Mr. King stated on the west side of the property tying into Airport Road. Geneva is currently working with Wasatch County on the access point. This must be within the current plans of Wasatch County as well. If access cannot be granted there, they plan to go west but through Heber City rather than the county. A third option would be all the way south across the property to access 3000 South.

The Mayor invited the public to ask any questions they may have. There being none, the Mayor asked for a motion.

**Council Member Bennett made a motion to close the public hearing, which was seconded by Council Member Walton. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

**3) Possible Action for Small Subdivision Application from Geneva Rock for Parcel #09-6276.**

Mayor Kohler stated the matter was heard before the Planning Commission and the Planning Staff made a recommendation to continue the matter on the agenda until (1) the Town has a signed affidavit from the controlling owner; (2) the annexation is complete with the State Lt. Governor's Office; (3) the area is recorded within the Town boundaries at the Wasatch County Recorder's Office; and (4) the Planning Commission has a recommendation for the Town Council.

Council Member Pearson asked what the affidavit from the controlling owner was to contain. Planner Bunker stated it is to contain his willingness to sell, conclusive access to the property. Council Member Pearson stated he would like to know the access point that is decided upon.

**Council Member Bennett made a motion to follow the Planning Staff's recommendation to continue the matter. Council Member Pearson seconded the motion. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

**4) Public Hearing for Conditional Use Permit Application for Geneva Rock Parcel #09-6276.**

**Council Member Bennett made a motion to open the public hearing, which was seconded by Council Member Walton. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

Bill King once again came before the Council stating they had been in meetings with the Planning and Zoning Staff. Their intent is to operate a concrete batch plant in the Industrial zone that is permitted under the Town Code.

Council Member Pearson asked the Planning Commission Chair, Gary Weight, what discussions had taken place there and what they recommended. Mr. Weight

stated there were conditional use requirements to be met by Geneva, and the Commission had not met since that time. There was no decision made and the matter was continued by the Commission. Mr. Weight stated the public could still make their comments, and the conditions for the conditional use permit would be placed on Geneva at a later time. He further stated the conditions would be similar to what was placed on CMC, but they're still exploring other things. Geneva had reviewed the conditions placed on CMC to start with, and asked how can they improve upon what was required of CMC to potentially be granted the Conditional Use Permit.

Council Member Walton asked if Geneva had discussed the amount of water that would be necessary to run the batch plant. Mr. King answered in working with the Planning Staff, they indicated Daniel has an adequate amount of water to supply to the batch plant. Mr. Weight stated Planning does not deal with water issues, so they have asked no questions regarding that aspect of the operation.

Geneva personnel indicated that in full production, they estimate 35 acre-feet when fully built out. That is what they would submit to Daniel when tying into the waterline. They do have Daniel Irrigation shares that are coming with the purchase of the property that will be turned over to the Town when negotiations are completed. In addition to what comes with the property, Geneva will have to find approximately 10 additional shares to turn over to Daniel. They feel the shares that come with the property will be enough to operate the plant, but they would rather have more turned over to Daniel at the outset as they begin their operations.

Council Member Pearson inquired about the amount of aggregate that will be brought up from Utah County per day to operate the plant. They estimate eight to ten trucks each day of double bellies. And they have been told not to use Southfield Road, so the traffic pattern for trucks still needs to be worked out and added as a condition for the permit. Geneva intends to follow what the Town recommends there. Mr. Pearson is concerned about the amount of aggregate brought to Daniel from other counties when there is an ample amount here in Wasatch County. He wants a bold statement from Geneva that they will not use any roads within Daniel to bring product to the batch plant. Mr. King stated Geneva will follow the route placed as a condition for the permit from Daniel

Town and will not deviate from that. When using a third party for product, Geneva will make sure they stay on the correct roads.

Chip Polvoorde stated his concern that the conditions placed on Geneva to obtain the Conditional Use permit be good conditions because he doesn't think the conditions placed on CMC are adequate in that the berm is lower and the trees are not sufficient to block noise and dust. He's also concerned about the hours of operation granted to Geneva by the Town.

Council Member Pearson asked if Geneva will also be crushing on site or only producing concrete at the batch plant. Mr. King advised they will be crushing on occasion and selling recycled concrete. They use a water truck to keep the dust down, and the crusher must be certified by the State for dust mitigation. He stated they want to become a part of the community and follow the conditions placed on them in the permit.

Council Member Walton asked Planner Bunker about the 35 acre-feet per year and if any study had been done to determine if Daniel can provide that much water. Mr. Bunker stated they look at annual consumption and demand and can move water rights within the system to provide adequate water to customers. Daniel Town has the capacity but not the water. Mr. Pearson stated he would like to see the water study performed by Ryan Taylor for specifics on Daniel's ability to provide the requested amount of water.

Mr. Walton asked Planner Bunker if the State Division of Drinking Water was aware of the extension of the waterline to CMC to begin operation of their plant and approved that use. Mr. Bunker stated they don't sell any water, but Daniel holds the rights to the water. The State owns the water but weighs in on the use of the water within a municipality. Mr. Walton disagreed with part of the statement in that there are springs within Daniel providing a good amount of water to the Town, realizing consumption has gone up with the growth taking place in Wasatch County.

Mr. Walton inquired about the use of water by Geneva for washing out the trucks and dust mitigation on the property. Mr. King stated they will recycle the water and have a containment pond holding a small amount of water each day. As far as pumping water for the operation, Mr. King said Daniel will make up the cost by

controlling or increasing the water rates as necessary to make it feasible from the Town's standpoint. They will dedicate over the amount of water shares the Town demands at the beginning of operation, and the Town will be obligated to provide the water that is agreed upon.

Mr. Reilly commented he's looking at #9 on the General Plan, and he doesn't want to over tax the natural resources and degrade the clean air.

The Mayor then called for a motion to end the public hearing.

**Council Member Pearson made a motion to come out of the public hearing. Council Member Walton seconded the motion. The vote was Walton yes, Kohler yes, Bennett yes, and Pearson yes. The motion passed.**

#### **5) Possible Action for Conditional Use Application for Geneva Rock Parcel #09-6276**

Mayor Kohler read a letter containing a recommendation from the Planning Staff dated January 6, 2025 regarding the Conditional Use Permit. They recommended the item be continued on the agenda until the Town has a signed affidavit from the controlling owner, the annexation is complete with the State Lt. Governor's Office, the area is recorded within the Town boundaries with Wasatch County Recorder's Office. The recommendation from the Planning Commission is that the Council list and agree to the conditions on the Conditional Use Permit. The Mayor then asked for a motion on possible action.

**Council Member Pearson made a motion to continue item 5 until the items from the Planning Staff have been met. The motion was seconded by Council Member Bennett. The vote was Walton yes, Kohler yes, Bennett, and Pearson yes. The motion passed.**

#### **6) Public Hearing for Houston Zone Change Application for Parcel #20-4498**

**Council Member Bennett made a motion to open the public hearing. The motion was seconded by Council Member Walton. The vote was Walton yes, Kohler yes, Bennett yes, and Pearson yes. The motion passed.**

Rowdy Thompson stated the application is to turn the Houston property into a commercial zone, which it is in the Commercial zone of the Daniel Plan. There is going to be a light at approximately mile marker 20, working with UDOT and Planner Bunker, with the caveat it can go 250 feet either north or south. But there are two municipalities involved along with Daniel. They are in need of a commercial access off of Highway 40, but those involved want to work with Daniel to pinpoint the best location for the access. UDOT would rather position the light to benefit all and not have to make an access to the north in the meantime.

Council Member Pearson stated safety is the number one factor, and UDOT will want the light to be in the safest location, regardless of what the Town wants. The T-posts are painted for a visualization of where they are looking at mile marker 20. The semaphore will make a new road into Daniel and will potentially hook into Mill Road.

Council Member Walton inquired about the two residential lots on Highway 40 and asked if there was road dedication there. Planner Bunker stated there was and the two lots still have the required five acres.

**With no further comments, Council Member Bennett moved to come out of the public hearing. The motion was seconded by Council Member Walton. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

#### **7) Possible Action for Houston Zone Change Application for Parcel #20-4498**

Mayor Kohler read a letter from the Planning Staff dated January 6, 2025, recommending the zoning be changed from RA-5 to commercial.

**Council Member Pearson made a motion to change the Houston parcel from RA-5 to commercial. The motion was seconded by Council Member Walton. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

#### **8) Public Hearing for Drew Reilly Zone Change Application for Parcel #20-4384**

**Council Member Bennett made a motion to open the public hearing, which was seconded by Council Member Walton. The vote was Walton yes, Kohler yes, Bennett, Pearson yes. The motion passed.**

A.J. Reilly identified himself as an owner of the property in question, and stated they are requesting a zone change from P-160 to RA-5 because of significant challenges on the property as it is zoned, rights they don't have owning a lot in P-160 as opposed to an RA-5 classification. There are multiple advantages to being in an RA-5 zone. He states the parcel is five acres located between Big Hollow and Cobble Creek. The neighbors are all in an RA-5 zone. He realizes the Planning Commission voted against a zone change, and he would like to explain why their lot should be rezoned.

He commented statements made against a zone change were things like it needs to protect the natural resources. The slope was referenced as needing to preserve the slope and preserve the look of the Town. Terms such as "future precedent" and "open up a can of worms" were used often. The Reillys feel those terms aren't supported by the General Plan. They are not asking for a subdivision or to build on that hill. They are wanting a zone change so they can use their property in exactly the same way as their neighbors.

They feel the intent of the General Plan was not used to deny the zone change. In item 2 of the General Plan it states "coordinate a harmonious development." It's a balance of property rights and being able to use your property in conjunction with the plan. Mr. Reilly states they have a five-acre parcel with a home on it that has access. It conforms with other RA-5 parcels more than it does P-160. He states the Town is worried about what other residents in Daniel will do if they grant the parcel an RA-5 designation. He states a precedent has already been set with the zone changes already approved in Daniel. He feels some of the previous changes made by the Town go completely against what the General Plan says.

The Reillys have been asked if, before purchasing the lot, they performed due diligence. Their reply was of course they did. They were aware that Welch had already gone before the Planning Commission asking for a rezone, which he said had been approved but the paperwork had not been completed. In a meeting with city officials, he said their investment was well over a million dollars and was going to involve a future road. One of their first questions was are they building a

road to nowhere, or are they going to be able to get the property rezoned. He says they were told by officials no problem, and that they would be able to get the zone change accomplished.

Council Member Pearson began to ask, "When you say city official –"

Mr. Reilly continued, "I believe Mr. Bunker." We asked if we would be able to get the rezone done.

Council Member Pearson said you obviously knew he had no authority whatsoever to give you a green light to do anything. What you may have heard or interpreted had zero value. Mr. Reilly agreed.

Mr. Pearson asked how long they had owned the lot in question. Mr. Reilly replied going on five years. He agreed that they knew the lot's current zoning and the process to change the zone going in. The Reillys invested money on the property zoned P-160. They feel, in reading the Town Code and General Plan, their property fits within the parameters meeting an RA-5 designation. Mr. Reilly said there is building code in place specifically to protect the slope on the property. They feel the General Plan supports an RA-5 designation allowing them to use their property with the same rights as other property owners.

Council Member Bennett asked Mr. Reilly if he knew at what point the 37-acre parcel was subdivided into the two lots the Reillys own, one being five acres and the other 32 acres. Mr. Reilly didn't know the exact date but was aware the land was divided into two lots that were recorded appropriately. They purchased both parcels, but purchased them separately, and they currently have different ownership as against each other.

Mr. Bennett stated he was in the Planning Commission meeting when the issue of the slope was brought up, and for good reason. Mr. Reilly said they were unaware of the provisions applicable to the slope at the time of purchase that may be contained in the code or General Plan. They simply were purchasing five acres with a home and access, not requesting to build anything at the time. But if the property were zoned RA-5, they would have the same rights to build a barn, other ancillary outbuildings. In a P-160 zone they cannot do that.



Mr. Reilly wants to know why the slope is relevant to the rezone. Council Member Bennett answered if a number of lots contained a flat part and a slope on each lot, everyone would build on the flat. Mr. Reilly reminds the Council he is talking about the five-acre parcel, not the larger piece where the slope is found.

Mayor Kohler said he's heard contradictory statements made by Mr. Reilly in this discussion. He said he's not going to build on the property, and then saying we want to build a barn, etc. The Mayor asked what are you going to do on the property?

Mr. Reilly said they were looking at building another primary residence, but not on the slope. They would like to renovate the ancillary building, enhance the property just as the General Plan lays it out for an RA-5 zone.

Council Member Bennett asked how they are using the property. Mr. Reilly stated as a primary residence. Mr. Bennett said on the vrbo website, the property is shown as being 70% booked out. He continued saying the Reillys say this is a primary residence, but yet live in Utah County, contradictory statements. Mr. Reilly said the majority of the people using the residence are friends and family.

Mayor Kohler stated in the last meeting Mr. Reilly said the home is in the vrbo, that he brought it up. Mr. Reilly said they are following the guidelines in the code regarding 30-day rentals.

Mr. Weight said this is a public hearing, and asked if we're going to hear from the public or if he is going to continue talking. He said even a 30-day rental requires a business license, asked Mr. Reilly if he had one. Mr. Reilly said he'd have to check and get back to him.

Drew Reilly said in previous meetings with the Town, Teri Welch came before the Planning Commission and got everything approved for a rezone. But during the process, the Reillys came in and purchased the property with the intention of picking up where the previous owner left off. Mr. Reilly said when he goes to the property with his kids, Jack Rose drives through the middle of it, on an established easement. Mr. Reilly feels unsafe on his property with the Roses driving through it.

Drew Reilly said when neighbors are complaining about noise coming from the property, he is the noise. Council Member Bennett said, no, it is not. You have 40 people in there, attending weddings and such. Mr. Bennett said he has screen shots of the activity on the website, the reviews and occupancy rates. Mr. Reilly commented his friends and family use the property, retreats and weddings. He asked if there is a noise ordinance in the city code. The Town's response was no. Mr. Reilly said so why are we talking about noise from the property when it's not even in the code.

Council Member Bennett stated the road in the easement going through the property to provide access to the Rose property could be moved whether the property is rezoned or not. Drew Reilly said that is incorrect in that any alterations to the property, including the road or enhancing the property in any way, cannot be done under the P-160 designation. He said he was asked to list every single thing they plan to do on the property and it will be treated as a special review. He doesn't think that is fair either. He wants it to be treated as an RA-5 property, the same way all other RA-5 properties are being used. Mr. Bennett stated he wonders why it was P-160 in the first place; there has to be a reason for that. Not knowing the reason specifically, it may still be a valid reason.

Looking at the time when the property was divided, Council Member Walton stated it was a legal subdivision done by the County many years ago, and the P-160 was created then. Mr. Reilly said we're not talking about the 32-acre piece, only the five acres for rezone. Council Member Bennett said, "But one affects the other."

Gary Weight then read #5 in the General Plan dealing with the geologic hazards and environmental conditions on the land itself. The Planning Commission determined the property contained these issues, and that was a reason for the recommendation of denying the zone change. He said this property is not the same as the one next to it that is zoned RA-5. Mr. Weight said that is the reason for the P-160 zone there, and it is within the General Plan. Mr. Reilly said in either zone it would be protected by the General Plan and the RA-5 zone designation would not affect anything. Mr. Weight disagreed stating the topography is considered in the P-160 zone designation. It is in the wildfire interface zone.

Council Member Bennett asked Planner Bunker what other issues the Council should be looking at in considering a zone change. Mr. Bunker stated the flood plain, the debris flow. Mr. Bennett asked if the road through the property could be moved without a zone change. Mr. Bunker said the decision lies with the Council to vacate a road and put in another. He said the road was there when Daniel incorporated. Council Member Walton added the County approved placement of the easement 45-50 years ago when the subdivision was made and homes built.

Council Member Pearson asked for records referred to by the Reillys referencing that Welches were on the brink of a zone change when they purchased the property. Mr. Bunker said "brink" is an opinion and he doesn't feel it was that close. Mr. Pearson said he'd like to see the records in existence that made the Reillys think that a rezone was imminent.

Drew Reilly said the Welches produced documents they had in 2017 when the property was zoned P-160 by the County without giving proper notice to the property owners nearby. Mr. Weight said there was never a vote taken, so saying it was imminent is pushing things.

Mr. Weight disagreed with representations made by the Reillys of events in previous meetings, and said the Planning Commission made a recommendation against a rezone and sticks with that decision.

Jason Beveridge said his biggest issue is integrity because he has had discussions with the Reillys who are operating an Airbnb, documents stating large group events, weddings, we'll do it all. Where Mr. Reilly says his sister got married there, Mr. Beveridge says it's being advertised to the public for these events, not just family.

Mayor Kohler called for a motion.

**Council Member Pearson moved to close the public hearing. The motion was seconded by Council member Walton. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

**9) Possible Action for Drew Reilly Zone Change Application for Parcel #20-4384**

Mayor Kohler read the letter from the Planning Staff, dated January 6, 2025, which includes both parcels, but said he's only talking about parcel #20-4384 at this time. The letter contained code regarding Title 8.01.06 and 8.02.03. The Mayor called for a motion.

**Council Member Walton made a motion to accept the recommendation of the Planning Staff for denial of the rezoning of Parcel #20-4384 pursuant to the list enumerated in their letter to the Council. Council Member Pearson seconded the motion. The vote was Walton yes, Kohler yes. Council Member Bennett asked a question of Planner Bunker before voting.**

Mr. Bennett asked how the flood plain issue factors into the zoning of a particular parcel of land. Mr. Bunker answered because of the density, the possibility of damage, loss of property, loss of life. That's why it's a preservation zone.

**Council Member Bennett voted yes, Pearson yes. The motion passed.**

#### **10) Public Hearing for Drew Reilly Zone Change Application for Parcel #20-4385**

**Council Member Bennett made a motion to open the public hearing. Member Walton seconded the motion. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

A.J. Reilly stated they went before the Planning Commission and received a negative recommendation on the zone change. He apologized to Gary Weight on any misrepresentations he may have thought were made. Drew and A.J. Reilly listened to the Planning Commission meeting recording and took careful notes. His take from the meeting was that there would be negotiations on moving forward on the 32-acre parcel. They had talked about a single home to be used as a sort of family compound. There was talk of multiple homes for members of the Reilly family. There was talk of building ancillary sporting buildings. The Reillys have not decided on a plan. Mr. Reilly said where it is currently zoned P-160, it is a useless piece of land where no buildings can be built. He said city officials think something should be able to be built there, but are not willing to go into specifics because of this "future precedent" and "open a can of worms" as stated on the five-acre parcel. He requests a zone change to RA-5 so they can build on it.

If they were allowed to build on it, they would do so in a way that would protect the hillside. There is a river there, it is in a flood zone, but there is a lot of land which could be built upon if zoned as RA-5. He asks what can we do so we can build something on this land? That's what we're here for. In the Planning Commission it was stated there was between five and seven acres on the flat.

Drew Reilly stated the Daniel Code does not contain language dealing with how a home is to be laid out on a five-acre parcel. There is nothing stating how many acres can be on a hillside and how many on flat ground. If it assumes five acres on the flat, then the code should state that. Since it is not in the code, a decision can't be made on something that doesn't exist. According to the meeting minutes he has read, that shouldn't have even been talked about because it is not stated that way in the code.

Gary Weight stated he feels that things are being misrepresented again. The discussion is if it is changed to RA-5 and it's 32 acres, it could then be subdivided into six lots and the hillside becomes RA-5, which is what the Town is trying to protect. Mr. Weight said he asked how many acres are on the flat trying to come up with options for the land, but he is not willing to rezone the entire parcel RA-5, leaving the hillside unprotected. A.J. Reilly said he doesn't think it's fair to simply say leave it at P-160 with no possibility of building even on the flat land.

Council Member Pearson stated he wants to confirm that the Reillys had their eyes wide open when purchasing the property that it was zoned P-160 and were aware of what could happen in that zone. A.J. Reilly said that's correct. Mr. Pearson said the Reillys bought it with the hope they could convince the Town to change the zone to RA-5. He feels at this point the Reillys should go back to the Planning Commission and ask what are the options? Can part of the property have a zone change but not in its entirety?

Council Member Walton asked if the Reillys understand what the process is and what they've gone through to this point. They appear to be coming before the Council saying the Planning Commission was biased against them and were wrong in their recommendation to deny a zone change. He asked if the Reillys felt like that was something they should be doing in coming before the Town Council.

Drew Reilly stated the process was they went to the Planning Commission and then the city council to make a decision based on Planning's recommendation. He further stated in the letter before the Council, the Planning Commission recommended that the 32-acre parcel not get rezoned because a separate parcel, owned by a separate owner of record – one parcel is owned by Anthony Reilly; this house is owned by a separate owner that has complaints against it for nightly rentals. The Council is looking at a recommendation on a different property. The Council has to make its decision, after which the Reillys file a lawsuit and then go to the Board of Appeals.

Mr. Reilly stated just because the Council approves a rezone to RA-5, that doesn't mean they can build five mansions on it. The code protects the hillside, has slope restrictions. The city is still protected against what the Reillys can do. He stated the Council is not making a decision on how the property is going to be used; they're making a decision on the rezone.

With no other comments, the Mayor called for a motion.

**Council Member Pearson moved to close the public hearing, which was seconded by Council Member Bennett. The vote was Walton yes, Kohler yes, Bennett yes, and Pearson yes. The motion passed.**

#### **11) Possible Action for Drew Reilly Zone Change Application for Parcel #20-4385**

Mayor Kohler referred to the January 6, 2025 letter from the Planning Staff referenced in the discussion on Parcel #20-4384, and called for a motion.

**Council Member Walton made a motion to accept the Planning Staff's recommendation on Parcel 20-4385 to deny a zone change from P-160 to RA-5 for the reasons read into the record concerning Parcel 20-4384.**

Council Member Bennett asked for a change in the language referenced in the letter since the Parcel 20-4385 has no short-term rental taking place. He asks that the motion be limited to a denial of the zone change.

**Council Member Walton restated the motion to be that the zone change of Parcel #4385 from P-160 to RA-5 be denied. The motion was seconded**

**by Council Member Bennett. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

## **12) Melanie North/Megan Phillips Lot of Record Application**

Megan Phillips said they are applying for a nonconforming lot of record determination. Either the Planner, the Planning Commission, or the Town Council determine one of three things: that the lot was created prior to the enactment of zoning and has not decreased in size since the creation of the lot, or the lot was created under the standards at the time of its creation, or there is an official document stating it is a lot of record.

Ms. Phillips stated the lot was purchased by Melanie North in 1986. They have produced deeds and transfer documents back to 1943. The lot in question was created in 1976. Also produced is the code from 1976 and the requirements for an RA-1 lot being a size of one acre for building a single family dwelling.

Council Member Bennett asked if the Health Department has looked at the lot with a septic system in mind. Ms. Phillips said she had a perc test done and all she needs is a water right. She was told this is a part of the building application. Council Member Pearson said the applicants are combining two septic systems now and wonders if the Health Department has signed off on having two systems on the two lots. They have to show proof in the form of a will serve letter. Ms. Phillips believes this is part of the building permit process.

Council Member Pearson said the Town needs to have proof from the Health Department that the two systems can perc. If this was already a lot of record, there would be documentation addressing these issues, but because it isn't a lot of record, more questions remain needing answers from the applicants. Gary Weight stated once it is determined to be a lot of record, these items are addressed in the permitting process. There is nothing in the code at present relating to how these lots can be used.

Council Member Bennett stated the applicants have produced many documents in an effort to come to a determination as a lot or record, but since the Planning Commission has not come to that conclusion, the Planning Commission did not make a recommendation to the Council.

Ms. Phillips thinks it meets the second choice in her opening statement, that being it was created using the standards in place at the time of its creation. Her belief is they only have to meet one of the three, and it meets that requirement. Records from 1972 show it met the RA-1 zone acreage requirement, as the lot is listed as 1.2 acres. She believes it is a lot of record by deed, and deeds produced by the applicants show the same.

Council Member Walton stated that the RA-1 designation became RA-5, and a one-acre piece would have had to be revisited by the County to be an acceptable variance as they looked at properties using septic systems.

Council Member Pearson asked if all of the lots of record were accepted by the Town of Daniel when it became a town. The answer is no, leading to the conclusion that there are multiple lots within Daniel with lots of record within Wasatch County that Daniel has chosen not to recognize as such.

Drew Reilly commented that when he started this process, he asked the same question. He doesn't believe it's fair to hold a landowner accountable to prove they have a lot of record when the city is not providing the grounds on which to verify it. They're told to come back and prove it. Council Member Walton stated there have been lots created back in the '60s, '70s, that went through the process with the County after Daniel Town existed, and records existed in the County showing the lots were in fact lots of record with the County. Daniel did honor those lots at the time. An example was mentioned as the Plummer Subdivision on Mill Road. In their research for the lot in question, the Ms. North found the Plummer Subdivision was recorded in 2014, but Daniel was incorporated in 2006. She is frustrated with the process she's going through, when at the same time she sees commercial businesses being approved. Her understanding was Daniel was created to take care of its residents. She asks what are we trying to build in the Town of Daniel? She thought we were building a community where our families could live by us.

Council Member Walton again asked if there is a lot of record on this lot at the County offices. Megan Phillips stated a lot of record at the time in 1972 is a deed, and she has produced a deed.



Planner Bunker stated the job of the Planning Commission is to enforce the code. The Council is legislative, providing a different function. The applicants have produced many documents kept at the County offices, but there is not one entitled Lot of Record Certificate. He mentioned prior Town Councils have honored a lot of record certificate recorded at the County. He also clarified that subdivisions are different. If a subdivision was recorded and accepted at the County at the time of its creation, it was recorded there as such. So, therefore, all the lots within the subdivision are buildable. If this instance had been recorded as a subdivision, the conversation would be different because a subdivision had already gone through the process of creating lots. The Daniel Code speaks to that as well.

Mr. Bunker directed the Council to the documents the applicants produced. He is referring to page 36. It is a section of the code provided by the applicants. The highlighted section is entitled Area Requirements and speaks of one-acre parcels. The next paragraph speaks to width requirements and requires 200 feet frontage on a County road. Mr. Bunker further stated the Planning Commission had no authority to give a recommendation based on the documents provided. He stated the bigger question is what is the Town going to do with these parcels that are not lots. In conversation with the County Attorneys, they stated Daniel is under no obligation to honor certificates found in the County records. Daniel can make their own decisions on these parcels.

Council Member Pearson stated other parcels in Daniel have been denied building permits because there was no certificate. He asked Planner Bunker if he can estimate how many prerecorded lots are in Daniel in similar circumstances. Mr. Bunker said he would guess more than 25. He further stated if you want to divide an acre off of your property now and do it legally, the County will issue a new parcel number and it is legal.

Ms. North commented it can't be traced back to 1976 when her situation happened. Mr. Bunker agreed. Council Member Bennett clarified Ms. North did not subdivide originally but bought two separate lots. She stated that is correct. The initial purchase was in 1972 and the second purchase was in 1976.

Planner Bunker stated the biggest concern of Planning in making a decision on this lot was there is only 148 feet of frontage when 200 feet is required for a building

lot. Ms. North stated she built her house in 1986 with less than the 200 feet of frontage.

Gary Weight brought up the fact the county requires 100 feet between septic systems. The Town needs to come up with a solution, after looking at numerous lots in the Town with different parameters. A plan needs to be formulated to be fair to everyone.

Realizing this process has already gone on for some time, Mayor Kohler asked the North/Phillips applicants to be patient and allow further discussion within the Planning Commission and Town Council to come up with a plan. He asks for more time to review the information provided by the applicants. Planner Bunker brought up the fact there are other factors to be considered on all the one-acre lots, such as setbacks required on five-acre lots that apply here, septic tank requirements, and many other issues that arise in these types of situations. Variances have to be applied for and approved.

Mayor Kohler called for a motion on agenda item #12.

**Council Member Bennett made a motion to continue the application for six months or until the Town comes up with a long-term written plan on how to deal with nonconforming lots of record. The motion was seconded by Council Member Walton. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

**Mayor Kohler stated that takes care of agenda item #13 as well.**

#### **14) Business Licenses**

Mayor Kohler state there are three applications for new businesses in Daniel which come with a recommendation from the Planning Commission to accept all three businesses. The first is Spence Transportation. Mayor Kohler read a letter from Spence Christison. Second is Holzer Performance. Mayor Kohler read a letter from them regarding their business plan. Though it is an auto repair shop, they're doing business out of the Witt commercial buildings located on Mill Road. It is not a home-based business. The third is Kyune LLC, Tyson Munford, who performs engineering, architectural, and drafting work. Planner Bunker requested that a

copy of the letter from Spence Transportation be filed with their license application for future reference if the business plan changes.

**Council Member Pearson moved to approve the business licenses presented here. Council Member Walton seconded the motion. The vote was Walton yes, Kohler yes, Bennett yes, and Pearson yes. The motion passed.**

### **15) Council Reports**

Mayor Kohler asked to start with Mr. Pearson. Council Member Pearson stated on January 15<sup>th</sup> is the Interlocal meeting, which includes the first 2025 meeting of the County Weed Board of which he is a member. He will report on this at a later time. No other council members had reports to make.

### **16) Planner Report/Updates**

Planner Bunker pointed out complaints listed at the bottom of his report against CMC and JKT. Mayor Kohler mentioned he had spoken with Todd Cusick, who asked to be placed on the agenda in February or March. Mr. Bunker said the JKT property had sold to Hadco Construction. Mayor Kohler requested a contact for the new company. Council Member Walton asked that the new contact be made aware that the prior owner was in violation of Town Code with what was happening on the property. The Geneva annexation has not been completed yet.

Drew Reilly stated the home on Cobble Creek Lane is owned by his brother; Drew lives in Vineyard. He doesn't live in that home because of safety concerns for his family with the Roses and their guests driving through their yard on the road. The complaints he has heard of are Reillys' friends, companies, employees, wedding guests. Council Member Pearson reiterated the fact the Reillys have no business license, and yet advertise the home for rent. There is a discrepancy between how the home is being used now and Drew Reilly's wanting to move there full time with his family.

### **17) Storm Haven and Daniel Water System Report/Update.**

Mr. Bunker had nothing to report.

### **18) Recorder's Office: Warrants approval, Announcements, etc.**

The clerk stated she had not received the State Department of Finance invoice for a bond payment due in January. The warrants may need to be amended. Jones and DeMille invoices are confusing and she has spoken with them to do invoicing once a month so the invoices can be paid.

**Council Member Pearson moved to approve the warrants. Council Member Walton seconded the motion. The vote was Walton yes, Kohler yes, Bennett yes, and Pearson yes. The motion passed.**

### **19) Approval of Meeting Minutes for December 2, 2024**

Mayor Kohler called for a motion to continue approval of the December minutes.

**Council Member Pearson moved to postpone the approval of December minutes to the February meeting. The motion was seconded by Council Member Walton. The vote was Walton yes, Kohler yes, Bennett yes, and Pearson yes. The motion passed.**

### **20) Possible Closed Session as Permitted by UCA 52-4-205. No closed session.**

Planner Bunker wanted to mention the contract with Jones & DeMille was updated for use of the ARPA funds, if any, in the Storm Haven system dealing with lead and copper in the waterlines. The contract estimates an expense of \$30,000. The ARPA funds must be spent by December 31, 2026. Mr. Bunker stated there is approximately \$11,065 left to spend on water-related issues.

### **21) Adjourn**

**Council Member Pearson moved to adjourn the meeting, which was seconded by Council Member Bennett. The vote was Walton yes, Kohler yes, Bennett yes, Pearson yes. The motion passed.**

The meeting was adjourned at 9:32 PM.

Submitted by Lynne Shindurling  
Deputy Clerk/Recorder

APPROVED April 7, 2025