



## MINUTES

**Carbondale Planning Commission**  
**Wednesday, August 15, 2018**  
**Room 108, 6:00 p.m.**  
**City Hall/Civic Center**

Ms. Litecky called the meeting to order at 6:00 p.m.

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**Members Present:** Miller, Le Beau, Sheffer, Hamilton, Henson, Burnside, Love, Litecky, and Bradshaw (ex-officio)

**Members Absent:** Lilly

**Staff Present:** Taylor and Brightharp

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### **1. Approval of Minutes:**

Mr. Sheffer moved, seconded by Mr. Love, to approve the minutes for June 20, 2018.

The motion to approve the minutes passed with a unanimous voice vote.

### **2. Citizen Comments or Questions**

There were none

### **3. Report of Officers, Committees, Communications**

There were none

### **4. Public Hearings**

**PC 19-02 6:02 pm,** - Olivia Jones-Martin is requesting a Special Use Permit for a Day Care Home I, located within an R-1-15, Low Density Residential, District at 1545 East Gary Drive.

Ms. Litecky declared Public Hearing PC 19-02 open and asked Mr. Taylor to read the legal notice.

Travis Taylor, Senior Planner for the City of Carbondale, read the legal notice.

Ms. Litecky asked Ms. Brightharp to present the staff report.

Ms. Brightharp was sworn in and read parts A and B of the staff report.

Ms. Litecky asked if there were any questions of staff.

Mr. Sheffer ask if all the calls and letters were in opposition. Ms. Brightharp responded that there was one letter of concern about the play equipment and the rest were in opposition.

Ms. Litecky asked if the applicant was present and wished to speak.

Olivia Jones-Martin, of 1545 E, Gary Dr. Carbondale, came forward to speak about the daycare she wishes to open at her home. The daycare is to provide income for herself. She previously received a letter about putting equipment out but it wasn't for the daycare yet, as she fosters children and watches her grandchildren. She then notified the City

Ms. Litecky asked if there were any questions of the applicant.

There were none.

Ms. Litecky asked if anyone wished to speak in favor.

Mr. Burke A. Cawthon, of 1540 E. Gary Dr. Carbondale, came forward to speak. He was not opposed and came to find out more information. Mr. Cawthon lives across the street from where Ms. Jones-Martin wants to open up the day care and finds no danger with her property as it has a fence in backyard for the children. He finds that the daycare would help the people in the community.

Ms. Litecky asked if there were any questions.

Mr. Sheffer asked which house Mr. Cawthon lives in. It was clarified that his house was the house across the street and to the left according to the picture of property facing north.

Ms. Litecky asked Mr. Taylor to read the letters in opposition.

Mr. Taylor read six letters in opposition from Bruce and Sandy Pain of 809 S. Drury Carbondale, Linaya Germann of 813 S. Drury Carbondale, Laura Germann of 1547 E. Grand Carbondale, Michael McNerney of 825 S. Drury Ave. Carbondale, Kirk and Jocelyn Kerney of 1535 E. Gary Dr. Carbondale, Ron and Joyce Germann of 1554 E. Gary Dr. Carbondale.

Ms. Litecky asked if anyone wished to speak in opposition.

Ms. Marilyn Hogan, of 819 S. Drury Carbondale, came forward to speak in opposition. Mrs. Hogan lives in the neighborhood and states that the property doesn't look nice. She stated that she is also concerned about the property values if she decides to sell, she doesn't

think anyone would like to look at it. Ms. Hogan agrees with the letters that were read earlier, and believes that most of the neighbors do too.

Ms. Litecky asked if there were any questions.

There were none.

Mr. Ron Germann, of 1554 E. Gary Dr. Carbondale, came forward to speak. Mr. Germann reiterated what he wrote in his letter to Mr. Taylor. Mr. Germann stated that he remained in Carbondale after his retirement and is concerned about the noise the daycare will bring. Mr. Germann talked with Ms. Jones-Martin previously and said she had no job and no income when she made the application and now she currently has a full time job and can only have the daycare hours in the evening. When the toys and equipment in the backyard appeared, Mr. Germann and some other neighbors expressed concern and requested code enforcement to see what was happening. Mr. Germann stated that he was told by Mr. Taylor that there was no intention for a daycare center and that the toys were for foster children. Mr. Germann also stated that the only person that is in favor of the daycare in the neighborhood had recently put their house up for sale.

Ms. Litecky asked if there were any questions.

Mr. Burnside asked if Mr. Germann would be opposed with the toys and equipment that Ms. Jones-Martin has if she had multiple foster children, which would not be a business.

Mr. Germann said that he wouldn't have a problem with that as there wouldn't be traffic back and forth on the narrow streets.

Mr. Henson asked Mr. Germann how many more cars he expects to be on the street.

Mr. Germann replies he doesn't know, about 6 to 8.

Ms. Laura Germann, of 1547 E. Grand Carbondale, came forward to speak. Ms. Germann wanted to reiterate her letter that was read earlier and if this business was approved, what/would to stop another small business from coming into the neighborhood. She also expressed concern over the increased evening traffic in the area. Ms. Germann also clarified that foster children and children that are only at Mr. Jones-Martin house for a few hours are two different things.

Mr. Sheffer clarified that with the special use permit, you can control and put restrictions on the permit. Mr. Burnside clarified that it would be 6 children for the permit including any foster children that are in the house.

Ms. Carroll Buitrogo-Long, of 1527 E. Gary Carbondale, came forward to speak. Ms. Buitrogo-Long is not opposing the daycare, she just is more concerned about the traffic

and all of the play equipment in the yard. Ms. Buitrogo-Long also expressed concern if that area is a good environment for a daycare and foster children.

Ms. Litecky asked if there were any questions.

There were none.

Mr. Mike McNerney, of 819 S. Dury Carbondale, came forward to speak. Mr. McNerney also expressed concern about the additional traffic and parking in the neighborhood.

Mr. Sheffer suggested additional parking in the special use permit to help with the parking issue.

Ms. Litecky asked if there were any questions.

There were none.

Ms. Hogan came forward again to address the additional parking issues as she has some knowledge about parking. Ms. Hogan stated that Ms. Jones-Martin needs to put in a culvert and pave the area for the additional parking. Ms. Hogan also stated that the fence in Ms. Jones-Martin's yard doesn't go all around the yard and is a safety issue.

Ms. Litecky asked staff about the additional parking. Ms. Brightharp answered that the parking issue was addressed in the staff report analysis when discussing a previous case. Ms. Jones-Martin can only have 4 children because of insurance purposes, short-term parking is available for 2 additional cars in the driveway and on street parking as shown in pictures in exhibit B. Mr. Taylor also talked about expanding and paving the driveway if needed.

Ms. Litecky asked if there were any questions.

There were none.

Ms. Sarah Heyer, of 1442 E. Gary Dr Carbondale, came forward to speak. Ms. Heyer stated that maybe some of the neighbors are nervous about the daycare because of some recent brake-ins to cars and garages. Also there are some cars that drive fast on that road and it is a safety concern for the children.

Ms. Litecky asked if there were any questions.

There were none.

Mr. Germann returned to ask if Ms. Jones-Martin would have to have any additional lighting on the outside of the house because of the late hours she will be watching the children.

Mr. Taylor said that the city code does not require additional lighting and that there is a regulation on outdoor play which Ms. Brightharp conformed is from 8am to dusk. Mr. Miller asked why Mr. Germann thought the daycare was a concern for retirees. Mr. Germann stated the increase in noise and traffic. Also parking on the street would be an issue because you would have to zig-zag in-between the parked cars. Mr. Henson asked if No Parking signs would help with the zig-zag in-between cars. Mr. Germann said that would best be answered by going around the neighborhood and asking.

Ms. Litecky asked if anyone else wished to speak in opposition.

There were none.

Ms. Litecky asked Ms. Brightharp to read the analysis.

Ms. Brightharp read Parts C of the staff report for PC 19-02, with a recommendation of approval.

Ms. Litecky asked if the Commissioners had questions for staff.

Mr. Sheffer asked if the Commission could take into consideration 2 conditions, 3 extra parking spots and a privacy fence before the final vote. Mr. Taylor said there could be a discussion before to address the concerns.

Mr. Miller asked if there was a traffic count on Gary road as well as Giant City Road. Ms. Brightharp responded that there was not. Mr. Miller also asked to clarify how many cars can fit in the driveway. Ms. Brightharp said that the driveway can accommodate a total of 4 cars.

Ms. Litecky asked if there were questions from anyone to anyone.

Dr. Hamilton asked if Ms. Jones-Martin obtained her daycare license yet at this time. Ms. Jones-Martin responded that she had to wait on the zoning before turning in her application for her license. Dr. Hamilton then asked with her full time job, who would watch the children. Ms. Jones-Martin responded that the daycare was just for after school care and she will be the only provider. Dr. Hamilton asked what happens if she is ill, does she have anyone to help her. Ms. Jones-Martin responded that there will be no one to help her, she will contact the parents, if needed, to cancel their appointments.

Dr. Hamilton asked Mr. Taylor about the police activity in the neighborhood. Mr. Taylor responded that he was unaware of the activity reports at this time for that area.

Mr. Love asked if all of the yard is fenced in. Ms. Jones-Martin responded that the house on the left and behind has a fence the way around and the area where the kids will play is fenced. Mr. Sheffer stated that when he went out there, he just saw a chain link fence around the play area. Mr. LeBeau asked how long Ms. Jones-Martin has lived in the neighborhood. Ms. Jones-Martin responded 2 years. Dr. Hamilton asked about the height of the fence for the play area. Ms. Jones-Martin wasn't sure. Mr. Sheffer said about 3 feet tall. Dr. Hamilton asked what age of kids for the daycare.

Ms. Germann asked if there can be a restriction to the maximum total of children at the daycare to 4. Mr. Sheffer said that yes in the special use permit there can be. Ms. Germann asked who the license provider for the daycare is going to be, the owner of the daycare or an employee. Mr. Love said most likely the homeowner. Ms. Germann asked where Ms. Jones-Martin worked to see who would take care of the children during the daytime hours because of her full-time job. Ms. Jones-Martin said she didn't work during the summer because she works for the school district. Mr. Henson asked if there is any signage for kids "at play"/ "go slow". Ms. Germann replied no and they requested some because of cars speeding and nothing had been done. Mr. Henson asked anyone in the audience if they were interested in any signage and it was a unanimous yes. Mr. Love asked if the City installed the signs and Mr. Taylor replied correct.

Ms. Dalora Bell, of 1006 W Sycamore Carbondale, came forward to ask if every citizen has to go through this process or is it just this neighborhood. Mr. Taylor responded that it is anyone in the district. Ms. Bell stated that there are more home daycares permitted than one in the last 10 years. Mr. Taylor responded that if there were the City was unaware of it. Ms. Bell asked Mr. Henson to clarify his statement "if this does go through." Mr. Henson responded that they haven't voted, so nothing has been decided.

Mr. Germann returned to ask if there was a height requirement for fencing. Mr. Taylor stated that there is no height requirements for fencing. Mr. Miller said that is a licensing issue not a permit issue. Mr. Sheffer offered a privacy fence around play area so neighbors can't see play equipment as a condition of the permit.

Mr. Henson asked Ms. Jones-Martin if she has the desire to put up a fence or extra parking, if required. Ms. Jones-Martin responded yes, she can also put her car into the garage so she can have more parking.

Dr. Hamilton asked if the appearance of the play equipment is not acceptable to the other homeowners. Ms. Jones-Martin responded that the equipment is just out in the yard so she can take inventory of what she has. Ms. Jones-Martin also stated that there will not be as many toys in the yard if she gets the daycare. Dr. Hamilton asked if Ms. Jones-Martin has

gotten together with the homeowners in the neighborhood to come to a compromise. Ms. Jones-Martin said that no, no one has welcomed her to the neighborhood. Dr. Hamilton asked if there was a HOA in the area and Ms. Jones-Martin replied no.

Mr. Chris Germann, of 1813 Dury Carbondale, asked to clarify how far the fencing has to be from the street. Ms. Brightharp and Mr. Sheffer clarified that Ms. Jones-Martin is in compliance with her fencing. Mr. Germann asked to clarify how far away any structure needs to be from the property line. Mr. Taylor answered Mr. Germann's question.

Mr. LeBeau asked what the distance restriction for registered sex offenders was. Mr. Taylor answered that he is unaware. Mr. Love and Mr. Burnside said that that issue will be handled by the state. Ms. Litecky stated that the state also has requirements for fencing.

Ms. Litecky declared PC 19-02 closed and asked for a motion on the findings of fact.

Mr. Sheffer moved that the Commission accept as findings of fact Parts A and B of the staff report for PC 19-02, the applicant was present, and one spoke who was in favor/neutral and seven in opposition and six letters in opposition and zero letters in support, seconded by Mr. Love.

Mr. Sheffer asked to have a discussion before voting to agree to three terms to add to the permit. The terms are two more parking spaces, a privacy fence and drive slow sign for children. Mr. Taylor asked to clarify number one, more parking. Mr. Sheffer said besides the driveway add two more parking spaces in the yard so there is no on-street parking. Add a privacy fence so everything is protected and it looks nice. And have the City put up slow children at play signs up. Ms. Litecky asked if the city can do the signs. Mr. Taylor said that we have to put in recommendation for the signs but it's not needed for the special use permit.

Mr. Henson, Mr. Love, Mr. Burnside, and Mr. Miller all disagree with Mr. Sheffer's terms. Mr. Miller disagrees with the added parking for three reasons. The first is it is an undo expense, the second it will change the look of the property, and lastly he thinks that there is ample parking at Ms. Jones-Martin's house already and the parents dropping their children off will only be there for 10 to 15 minutes. Mr. Sheffer said that it will be easy to add more parking to make everyone happy. Mr. Love stated that parents dropping off their children are not going to be speeding down the road. Mr. Burnside just wants to reiterate what Mr. Love said and if you put in an asphalt driveway in the yard it would decrease the property values. Mr. LeBeau stated that he doesn't like special use permits for nonresidential uses within residential districts. Dr. Hamilton stated that it's not easy or simple to get a special use permit in a residential neighborhood. Mr. Henson is against additional parking and the fence Ms. Jones-Martin has now meets code, so she should not have to purchase a new one.

The motion to vote on the seven criteria separately by Mr. Henson and was seconded by Dr. Hamilton. There was a discussion about voting separately.

Roll Call Vote:

Yes – 4 (Sheffer, Hamilton, Henson, Litecky)

No – 4 (Miller, LeBeau, Burnside, Love)

Mr. Taylor stated did not pass.

The motion to vote on the seven criteria all as one by Mr. Henson and was seconded by Mr. Love. There was further discussion about the voting.

Roll Call Vote:

Yes – 5 (Miller, LeBeau, Hamilton, Burnside, Love)

No – 3 (Sheffer, Henson, Litecky)

Mr. Taylor stated that the motion to vote all as one has approved.

The motion to vote that all have been meet by Mr. Love and was seconded by Dr. Burnside.

Roll Call Vote:

Yes – 4 (Miller, Henson, Burnside, Love)

No – 4 (LeBeau, Sheffer, Hamilton, Litecky)

Mr. Taylor stated that all the criteria have been meet has failed.

The motion to vote approve PC 19-02 by Mr. Henson and was seconded by Dr. Burnside. There was further discussion about the voting.

Roll Call Vote:

Yes – 4 (Miller, Henson, Burnside, Love)

No – 4 (LeBeau, Sheffer, Hamilton, Litecky)

Mr. Taylor stated that the item would move forward with no recommendation of PC 19-02 and that the item would be on the City Council agenda for discussion at their meeting on August 28, 2018.

**PC 19-03 8:00pm**, Sailiata, LLC has proposed a text amendment to Title 15-2.29 of the Carbondale Revised Code, commonly referred to as the Nonresidential Districts Use Table, relative to allowing general retail, in the PAR, Professional Administrative Office, Residential, zoning district.

Ms. Litecky declared Public Hearing PC 19-03 open and asked Mr. Taylor to read the legal notice.

Travis Taylor, Senior Planner for the City of Carbondale, read the legal notice.

Ms. Litecky asked Mr. Taylor to present the staff report.

Ms. Litecky asked if there were any questions of staff.

There were none.

Ms. Litecky asked if the applicant was present and wished to speak.

Ms. Sarah Heyer of 1442 E Gary Dr. Carbondale, came forward to speak about the bookstore. Ms. Heyer stated that when directed to put an “S” or a “P” on exhibit B she put a “P” but thinks an “S” is more suitable for the neighborhood. She also stated that her friends are happy to have a bookstore come to the neighborhood.

Ms. Litecky asked if there were any questions of the applicant.

There were none.

Ms. Litecky asked if anyone wished to speak in favor.

Ms. Christy Christensen of 1807 W. Walnut, Carbondale, came forward to speak. Ms. Christensen stated that a bookstore would be good use for the house and a positive use for the land. Ms. Christensen thinks that it will be a good place for families to visit. She also said that there are a lot of people behind the bookstore for different reasons and thinks that a gift shop will not be a problem because a lot of the business will be done over the internet with book sales.

Mr. Neil Hughes of 615 W. Elm, Carbondale, came forward to speak. Mr. Hughes said that this is an amazing project that is a not for profit community based bookstore. Mr. Hughes stated that the retail is just for a small bookstore, it’s not like a big retailer and going to cause an issue. Mr. Hughes thinks the bookstore will be a good addition to the community.

Ms. Damaris Mitenberger of 804 W. Main, Carbondale, came forward to speak. Ms. Mitenberger stated that she there has not be a lot of new business coming to the area. Ms. Mitenberger stated that she is in favor of the bookstore and thinks it will be a positive addition to the neighborhood.

Ms. Leslie Lloyd of 712 W. Elm St., Carbondale, came forward to speak. Ms. Lloyd stated that the community and faculty at SIUC like the idea and are excited about the bookstore. Ms. Lloyd stated that she did have a home business, but it became too big after retirement her so she opened an office in the building where the bookstore will be locate at. She has also helped restore her office to the original look of the building. Ms. Lloyd also stated that

as a tenant, the landlords have been very good to her.

Ms. Delora Bell of 1006 W. Sycamore St., Carbondale, came forward to speak. Ms. Bell is in favor of the business and reiterated what the other speakers have said.

Melissa Burkel of 1231 W. Short Dr., Carbondale, came forward to speak. Ms. Burkel stated that she is excited about the children's reading room and plans to take her family to the bookstore. Ms. Burkel stated that it will provide for the community and it should have no negative effect. She also stated that it will be a great addition to the community.

Mr. Thomas Deckinkeller of 194 1C S Illinois Ave Carbondale, came forward to speak. Mr. Deckinkeller said that as someone who worked on the programing for Sailiata, LLC they provided a positive work environment. Mr. Deckinkeller also stated that this bookstore could be an attraction/ reinvention that the City needs.

Mr. Sheffer asked if the applicate needed to change to a special use permit and not change the code. Mr. Taylor stated that the applicant came into the office to discuss different options. It was decided to move forward as a permitted use as discussed with City staff and applicant but then the applicant question later about changing to special use. City legal department said that it will still be allowed to change to special use. There was then discussion among the commissioners about whether the PC case should be heard as a text amendment permitted use or text amendment special use. Ms. Litecky stressed that they needed to focus on the text amendment on retail use in this district and not on the bookstore itself.

Ms. Litecky asked if anyone wished to speak in opposition.

Donald Monty of 418 S. Giant City Road, Carbondale, came forward to speak. Mr. Monty stated that it's important to look at the statement of intent for this zoning district. Mr. Monty then discussed what is and is not allowed in the zoning area. Mr. Monty stated that the applicant is not asking for a bookstore, but is asking for a text change for the category of retail general/otherwise listed. Mr. Monty said the problem with the category of use is too broad and can allow other business to come in. Mr. Monty stated if the desire is bookstore then have the amendment request denied and apply for a text amendment to allow bookstore as a special use in PAR. Mr. Monty said that from a public policy perspective, it would be bad to amend the City code in this manner and the amendment is out of place and a something new comeback through. Mr. Monty stated that he has a problem with the public notifications for text amendments and would like more people to know that there is a text change in a zoning area.

Mr. Sheffer asked if the meeting needed to proceed or if the applicant should come back with a text amendment for special use. Ms. Litecky asked if it was possible to withdraw application right now and staff answered yes. There was further discussion about whether to proceed or not.

Mr. Navreet Kang of 613 S. Terrance Dr., Carbondale, came forward to speak. Mr. Kang

agrees with Mr. Monty and thinks that applicant should go back to the staff for a special use permit to pick certain retail uses for the business. Mr. Kang also stated that there are a lot of vacant properties and is always looking for ways to bring in businesses to the community.

Mr. Sheffer stated that there was a lot of retail space available in the area. Dr. Hamilton stated that he agrees with Mr. Monty and wants to have a bookstore as a special use permit in a specific area and not a go the way of a text amendment. Ms. Bradshaw asked Mr. Taylor what was the building coded as. Mr. Taylor replied that TESSI, without reviewing, was estimated as a music studio and the other offices were offices that were permitted. Ms. Bradshaw asked how the applicant is directed to request a text amendment. Mr. Taylor answered that the applicant came forward with an idea and the staff advised them in which category to choose. Ms. Bradshaw asked if multiple business in one building, what would be the dominate code to put the building under. Mr. Taylor answered that each use fall under a different category.

Ms. Litecky asked Mr. Taylor to read the staff analysis.

Mr. Taylor read Parts C and D of the staff report for PC 19-03, with a recommendation of approval.

Ms. Litecky asked if the Commissioners had questions for staff.

Mr. Love asked to clarify exhibits B and C or C and D. Mr. Taylor answered there was an error and it should be C and D. Dr. Burnside clarified they're only talking about the text amendment and to change the code to have a bookstore. Dr. Burnside suggested to change the text of the code that includes bookstore if not approved. Dr. Burnside also suggested that the City needs to investigate what is allowed in a particular zone then make an amendment so it's clear about what is and is not permitted. Dr. Burnside stated that Mr. Monty's suggestion is to update the code instead of allowing permitted use which may open the door for something undesirable.

Ms. Litecky asked if there were questions from anyone to anyone.

Ms. Lloyd expressed concern about the applicant maybe being misguided during the application process. She also stated that maybe this process will discourage other small business owners and not for profit because it doesn't seem efficient and would like to see the process more efficient.

Mr. Deckinkeller stated that it would make sense to have a general purpose retail in this PAR district.

Mr. Hughes asked between changing the text or having the City investigate, is it better to go with the first option.

Dr. Burnside answered that if it was him, that yes, he would go with the first option.

Mr. Henson asked Mr. Taylor if they can amend the text to allow special use or is it just permitted use. Mr. Taylor responded that he clarified with the legal department to make it a special use.

Ms. Heyer stated that if commission is prepared to make this a special use, okay, but she's prepared to withdraw and rewrite it, and bring it back to the next meeting. Ms. Heyer asked for advice on which to choose. Mr. Henson stated to Ms. Lloyd that two months the commission was requested to look at the information and no one was interested and would like to apologize to the applicator for the delay. Mr. Henson also said that withdrawal would be a good way to go.

Ms. Heyer requests to withdraw her application for PC 19-03.

Ms. Litecky declared PC 19-03 closed.

## **5. Old Business**

There was none.

## **6. New Business**

A. City Council Agenda from June 26, 2018, July 24, 2018 and August 14, 2018.

Ms. Bradshaw reviewed the City Council meetings as they related to Planning.

## **7. Adjournment**

Ms. Litecky adjourned the meeting at 9:16 p.m.