



MINUTES

Carbondale Planning Commission
Wednesday, October 3, 2018
Room 108, 6:00 p.m.
City Hall/Civic Center

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

Members Present: Miller, LeBeau, Sheffer, Hamilton, Henson, Burnside, Love, Lilly, Litecky and Bradshaw (ex-officio)

Members Absent: None

Staff Present: Taylor

1. Approval of Minutes:

Mr. Love moved, seconded by Dr. LeBeau, to approve the minutes for September 19, 2018.

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

2. Citizen Comments or Questions

Jerrell Hendricks asked that the Commission not limit the public speaking time to 4 minutes. Ms. Litecky stated that there will be no limit.

3. Report of Officers, Committees, Communications

There were none.

4. Public Hearings

PC 19-04 6:02 pm, - Brightfields Development, LLC, is requesting a Special Use Permit for the development of a solar array in the AG, General Agriculture, and GI, General Industrial, zoning districts for property located at 1555 North Marion Street.

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

Dan Voss, 10 Hancock Ave. Lexington Massachusetts, came forward to speak. Mr. Voss gave a presentation on the background on the company, Brightfields and that the company

plans to turn the land into a solar array. Mr. Voss stated that Brightfields received a Special Use Permit from the City Council three years ago but it has since expired. Mr. Voss stated that the project will not disturb any impacted soil during the panel placement or operations. Mr. Voss went into detail on the background of the site where Brightfields wishes to develop the solar array. Mr. Voss stated that when Brightfields acquired the Special Use Permit three years ago, there was scientific research to prove that the site was safe and that the health risks were being appropriately addressed. Mr. Voss then explained how the solar array works. Mr. Voss then explained that Brightfields will be working closely with the City and the EPA to insure that the contractors that they hire will be safe and the community surrounding the site is safe as well. Mr. Voss said that in a letter from the EPA, the site will not pose a renewed risk and is an ideal use for the site. Mr. Voss stated that the EPA will have to sign off on the design of the solar array. He further explained how the solar array will meet all of the seven criteria that will be voted on the Commission.

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

Mr. Sheffer asked if the concrete pads conform to the 900lb limit that is in place on the site.

Mr. Voss answered that yes, the racks and concrete pads they place will be within the margin of error. Mr. Voss also stated that this system has been developed for this type of problems.

Mr. Sheffer asked if Brightfields is building any buildings. Mr. Voss answered no, just an information kiosk and a parking lot. Mr. Sheffer asked about Ameren upgrading the power lines and is the dirt being disturbed if they needed to upgrade.

Mr. Voss answered that Brightfields will have to study the process and then hopefully work will be done offsite. If there is onsite work, it will be done in a way that the soil will not be disturbed.

Mr. Miller asked if the site is still considered a brownfield.

Mr. Voss stated yes this site is still a brownfield site. Mr. Miller asked how long the contract was. Mr. Voss answered that the Renewable Energy Credit Contract is for 15 years and power agreement is for 25 years. Mr. Miller asked how long the contract with Beazer is. Mr. Voss answered 25 years with the option to extend if there is still life left in the solar panels.

Mr. Sheffer asked if there is an insurance policy to clean everything up if Brightfields left before the 25 years were up. Mr. Voss stated that is correct.

Ms. Lilly is concerned that only putting twelve inches of dirt on top the creosote pond then adding then solar panels on top is not safe enough. Ms. Lilly also asked if Brightfields has been around to talk to the community that has concerns about the site.

Mr. Voss stated that there will be a geotechnical process where they insure the ground holding capacity over the lagoon to make sure it is structurally sound to hold the solar panels and that test has to be completed before work can start.

Dr. Hamilton asked to explain option “B”—putting gravel down on the site so the site can distribute the weight for the solar panels better.

Mr. Voss answered that when you put the gravel down then the trays, you don’t have as much pressure on individual footings. Dr. Hamilton asked when plan “B” was the best option. Mr. Voss said after they get the geotechnical tests back and then submit the final designs to the EPA for their approval.

Dr. Burnside asked if Mr. Voss has ever personally dealt with creosote.

Mr. Voss answered no. Dr. Burnside asked how much pushback has Brightfields got from other communities that are around the other sites. Mr. Voss stated that there is rarely linkage with the solar site and health risks. Dr. Burnside asked how many other neighborhoods have stopped their development. Mr. Voss answered that to his recollection where the company, there hasn’t been pushback to stop development. Dr. Burnside asked what the characteristics of the other communities are where similar projects have been. Mr. Voss answered that characteristics are site to site.

Ms. Lilly asked if Brightfields has looked into different sites to put the solar fields.

Mr. Voss answered that they work with the owners of contaminated sites. Mr. Voss stated that in using brownfields sites it is a better way to create clean energy instead of consuming farmland to create clean energy. Ms. Lilly asked if there is going to be any restitution for the community members in the area or was the site chosen because of the African American Community. Mr. Voss stated that the site was not chosen because of the African American Community, they look at all brownfield sites.

Mr. Sheffer asked if there was an incentive from the government to use brownfields instead of farm land for the solar fields.

Mr. Voss stated that there is a credit if built on a brownfield. Mr. Voss stated that one of the good things about the site in Carbondale is that it is by a substation, it has roads and the ground cover is already in place.

Mr. Sheffer asked about the safety issue of the site.

Mr. Voss answered that they are relying on the remediation that the EPA has approved.

Dr. Burnside asked if Brightfields is a business for profit. Mr. Voss confirmed. Dr. Burnside asked that Brightfields is willing to spend more money to build on a brownfield than somewhere else. Mr. Voss stated Brightfields is investing a lot more time and energy to earn the same profit that people who are doing a large utility scale project are doing.

Mr. Henson asked Mr. Voss to explain more of his background with similar projects in Australia. Mr. Voss described his background work in Australia. Mr. Henson asked to estimate the percentage of the projects that were used as community development. Mr. Voss stated 1.5 billion dollars so probably in the multimillions over the period of the project. Mr. Henson asked to clarify the length of the contract with Beazer. Mr. Voss stated that there was a minimum of 15 years with the project lease renew at 25 years. Mr. Henson asked if Beazer would own the land after the lease is up. Mr. Voss responded that yes Beazer will continue to be responsible for the site and the annual testing and reporting it to the EPA. Mr. Voss stated that the liability has not changed due to the solar project. Mr. Henson asked who would be the owner solar equipment. Mr. Voss stated that it would be Carbondale Solar. Mr. Henson asked if Brightfields does not extend the lease after 25 years, will you remove the equipment. Mr. Voss stated that the solar panels will be removed. Mr. Henson asked to clarify the taxes being produced and in lieu of taxes. Staff replied that there will be an economic redevelopment agreement. Mr. Voss answered that there will be taxes paid similar to a property tax. Mr. Henson asked if Brightfields is dependant on brownfields funds. Mr. Voss stated that the funding sources for the project are the capital partners and Brightfields would be paying back the partners the revenues from the rec sales and the power sales. Mr. Henson asked if Beazer, Brightfields, or City of Carbondale received money from the USEPA Brightfields Grant. Mr. Voss responded he doesn't believe so, and Mr. Taylor responded that to his understanding the City has not. Mr. Henson asked if they explored getting the grant. Mr. Voss stated that Brightfields has looked into all possibilities for grants, but he can't answer the question for certain. Mr. Henson asked who the stakeholders where in the project. Mr. Voss stated that was a broad term to cover the City, land owners, and capital partners. Mr. Henson asked if Mr. Voss considered the citizens for the Northeast side of the City stakeholders. Mr. Voss answered yes. Mr. Henson asked where Rec Credit funding come from. Mr. Voss answered that the State of Illinois has a Renewable Portfolio Standard to shift away from fossil fuels to renewal energy, and the only way to get the companies away is a Credit off of your power bill. Mr. Henson asked if the Brownfield auctions can be for community solar or are they separate. Mr. Voss answered no, they are separate and it's disallowed as a part of the Brownfield auction. Mr. Henson asked what kind of cover was used to cover the creosote lagoon. Mr. Voss stated that a soil cover was used. Mr. Henson asked if there was soil testing done on the barrow pit.

Mike Slenska of Beazer came forward to speak. He could not say for sure what testing was done as the tests were done before he came to the project. Mr. Slenska stated that there was some testing done, enough done to assure the USEPA, the safety to use as barrow material and it was part of the property that was never used as production. Mr. Henson asked if that all contamination remained in the processing part of Kopper's. Mr. Slenska answered that's a fare statement to make for the borrow area. Mr. Henson asked to clarify the contamination of Kopper's Plant remained in the boundaries of what Beazer now owns. Mr. Slenska stated that with the exception of some if the stream sediments in Piles Fork, Glade Creek, and Crab Orchard Creek. Mr. Henson asked what the distance the testing was done. Mr. Slenska stated that they did testing several thousand feet down from the property, down to Dillinger Road Bridge about a mile and a half away. Mr. Henson asked if that creek flowed past the

property on the north side that is now the barrow pit. Mr. Slenska stated that Glade Creek circle the Western side then goes to the north and connects to Piles Fork on the Southeastern part of the site then it connects with Crab Orchard Creek. Mr. Henson asked if Mr. Slenska heard about the cattle deaths on the Northern property. Mr. Slenska stated that he has heard of them. Mr. Henson asked how the CAMU system worked. Mr. Slenska stated that the EPA allows you to consolidate hazardous material into one location. Mr. Slenska stated that the area was a double liner system with leaching collection and the material is placed inside and a liner cover system is placed over the top. Mr. Henson asked to clarify what the leaching collection was. Mr. Slenska stated it's a system to monitor and remove moisture from the system. Mr. Henson asked if the water from the system was contaminated. Mr. Slenska stated that yes, it would be impacted. Mr. Henson asked if there are sump pumps in the CAMU. Mr. Slenska stated that there are two leaching collection systems in the secondary, on the bottom, and one in the primary. Mr. Henson asked to clarify where the water goes when it's removed from the leaching system. Mr. Slenska stated that the water is treated on site then discharged to the City's treatment system for further treatment. Mr. Henson asked how the water was transferred from the site to the City. Mr. Slenska answered it's pumped into a portable tank and transferred to the City. Mr. Henson asked where the current storm water runs off into. Mr. Slenska stated there are three sites for storm water runoff one by north Marion St, one by the CAMU and one the large pond and experience very little collection due to the flat nature of the land and the vegetation. Mr. Henson asked if any of the outfalls end up in Crab Orchard. Mr. Slenska responded probably all would end up in Crab Orchard. Mr. Henson asked why Beazer is not compliant with the testing in the Water Act. Mr. Slenska responded that in the most recent testing with the Illinois EPA, they lowered the Zinc standard, and every now and then will have an exceedance of the Zinc standard. Mr. Henson asked if anyone from the EPA was present. There was no one present. Mr. Henson asked if Beazer, Brightfields, or the City requested the EPA to be present. Mr. Slenska stated no, Mr. Voss stated no, Staff stated no.

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

Donald Monty, of 418 S Giant City Rd, came forward to speak. Mr. Monty is familiar with the site as he lived close by. Mr. Monty was employed with the City of Carbondale to revue to remediation of the site when it closed. Mr. Monty stated that the remediation plans were clear to keep the contamination on site and the contaminants will not be further released into the environment. Mr. Monty stated that there was concern when Brightfields came for a Special Use Permit the three years ago, so there was further testing done and results were the contamination was be correctly addressed. Mr. Monty stated that a solar project is an ideal solution for the property.

Ms. Litecky asked if any Commissioners had any questions.

Mr. Henson asked who the contractors who did the City's testing work were.

Mr. Monty answered he could not recall but the City could go back into the records and find out. Mr. Henson asked how Arcadis was involved. Mr. Monty stated that Arcadis was

hired by Beazer to do their own studies on the soil.

Mr. Burnside asked why the tax revenue was not a part of the special permit in 2015.

Mr. Monty answered that it was unknown at that time if there would be money and how it could be used, so when the information became available, the City would hold a discussion to best determine how that money should be used, it was not included as a Special Use condition.

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

Deborah of Woods of 305 E. Jackson St, came forward to express her concerns about how often the testing is done on the soil. Ms. Woods was also concerned about the lack of information about the Tax revenue. She also express concern over how long it will take to get the test results back to know if you need to go to plan "B".

Marilyn Tipton of 310 E. Burke St., came forward to express concern about the health risks that has happened in the neighborhood. She also stated the tax money the project makes could be provided by the City in some other way. Ms. Tipton stressed the Commission not to approve this Special Use Permit.

Brian Klubek of 2234 Clay St. of Murphysboro, professor of microbiology at SIUCU came forward to speak about the inaccuracies in the soil testing done around the site/ neighborhood.

Dr. Dora Weaver of 196 Apple Lane, a Commissioner on the Human Relations Commission, stated that 21 community members forward the meeting looking for help from their commission. Ms. Weaver also agrees with the statements that Ms. Tipton made.

Jane Cogie of 1010 S. Oakland, came forward to speak as a concerned citizen and also for the Shawnee Group Sierra Club. Ms. Cogie stated that the Sierra Club generally supports solar but has expressed concerns about the water runoff and the use of heavy machinery could disrupt the soil. She also stated that there could be stipulations if Brightfields does get the special use permit like get another soil test done and use the tax revenue for improvements for the north-east side.

Rodney Morris of 521 E. Knight St., presented the Commission with a petition with 111 signatures opposing the approval of the Special Use Permit. Mr. Morris stated he's for solar just not in the area where Brightfields wants to put the solar array. Mr. Morris reiterated the concern about the testing done on the soils. Mr. Morris thinks that Beazer or the City should test the soil again. Mr. Morris read an old newspaper clipping from 2013 containing information about the first Special Use Permit Brightfields received. Mr. Morris stated that he got a call from the EPA in 2016 but never heard back from them. R. Morris expressed concern over the removal of the water from the CAMU systems and redistribution back into Carbondale water. Mr. Morris stated that Willie McCutchen of Environmental Racism Council wrote a letter to the EPA expressing concern that

Brightfields is targeting the predominately African American Community and thinks putting a solar field will affect the health of the community. Mr. Morris stressed the Commission not to approve this Special Use Permit.

Catherine Field of 610 S. Tower Rd., stated that there should be no use for the land, it could be left alone. She also reiterated the health concerns that have been brought up by others. Ms. Field urges the Commission to vote no on the Special Use Permit.

Pepper Holder of 410 E. James and Thelma Walker Ave, came forward to speak about the airborne contaminants and the ash that came from Kropper's. He stated that the ash can be seen all the way to Save-A-Lot, and wonder how deep it contaminated the soil. Mr. Holder express concern over the clusters of cancer in families that live close to the property. Mr. Holder stated that Ameren is out at the property disturbing the soil. Mr. Holder also express concern about the gravel to be brought onto the site and if the workers used would be local. Mr. Holder asked to clarify the role of the Commission. Ms. Litkey answered the Commission advises the City Council and the City Council makes the final decision. Mr. Holder express concern about what would happen to the land after the 25 year lease was up. Mr. Holder stated that there needs to be repair and progress to the community.

Ella Lacey of 847 West Lake Road, came forward to express her concerns and also speak about the responsibility of city leaders with the cases they must hear. Ms. Lacey spoke about the past leaders and what their actions have caused for the future of the northeast side of Carbondale. She stressed that if the past leaders would have taken more action to protect the citizens once health concerns were raised then the damage to that area of the City would have not been so great. Ms. Lacey linked many of these issues to the lack of care of the City leaders for the African American community of Carbondale. She also stated that if they had done things differently there could have been scholarships available for African American students from that part of the community and this could also contribute to the decline of enrollment at Southern Illinois University. Ms. Lacey shared that even though Kopper's Wood Plant was open from 1902-1991 and was one of the largest in the area at the time, it is interesting that there is no mention of the plant in the written history of Carbondale, in the History of Carbondale Here and Now written in the 2017 city budget. Ms. Lacey hoped that with all of the information the Planning Commission was hearing they would deny the special use permit.

Nick Smaligo of 307 East Birch Street, stated that he found Mr. Voss' previous employment interesting, but he feels that Brightfields as a company has different motives for the land in question. Mr. Smaligo stated that he feels that the City of Carbondale and Brightfields want to use the land to make money off of others misfortune and suffering by putting in the solar farm. Mr. Smaligo also stated that he does not feel that solar energy is not going to help our community or the environment as a whole. He feels that the City should not have control or a say of what goes on this land because of the history of the land and he went on to read a portion of an essay called Management of Negro Laborers in a Southern Industrial Plant by William S. Stuart from 1932. Mr. Smaligo also read from another source titled Environment Neoliberalism, the War on Poverty; a Case Study of

Carbondale, Illinois by Gregory Carter. Mr. Smaligo went on to express what these writings show us about the history of Carbondale and the segregation of the African American community located in the northeast side of the city. Mr. Smaligo asked that the Planning Commission not move forward with the special use permit and the City of Carbondale possibly not do anything with the property.

Karen Knodt of 5664 Country Club Road and the pastor First Christian Church at 306 West Monroe Street, came forward to state that the City of Carbondale needs to be a community that works together. Ms. Knodt stated that she wished in the time that Brightfields had owned the property and had received the special use permit in the past that they would have done more community outreach and community building about the proposal so that the residents would have more time to understand what is happening in their community. Ms. Knodt also wanted more explanation on what the City's role was/is in all of these properties, and she gave an example of when the Murphysboro Wal-Mart was brought into the area. Ms. Knodt went on to address the Planning Departments breakdown of the seven criteria and how she did not agree with some of the City's analysis with the effects on the community.

Charlie Howe of 47 Dart Drive, stated that he used to work for the railroad and had to work with the dangerous chemicals so he knows how bad these can burn, how poisonous it can be and why there are now laws against the use of these types of chemicals. Mr. Howe stated that he wants more testing on all the land in the City of Carbondale not just the northeast area. He also wanted to know the extent of the contamination and for the City to get it cleaned up. Mr. Howe also stated that parts of the land could be used for solar panels but not all of it until all contaminants are cleaned up. Mr. Howe went on to discuss what would happen with the funds that would be made from this project and what should be done with the funds for that community. Mr. Howe also stated that laws need to be in place so this will not happen again and we need to have safer standards.

Scott Martin of 2031 Cochran Road in Murphysboro, stated that he used to work as a conservationist and worked in parts of Carbondale over the years. Mr. Martin also stated that he agrees that more soil samples need to be taken and tested before anything is placed on the land. Mr. Martin also talked about the amount of information that was given out and that it was a lot to go through, even for someone that knows how to read soil samples and maps of contaminated lands. Mr. Martin spoke about a Carbondale resident that had once asked him to test the land in the northeast area of the City and how he had tried to assist her in finding someone to take some samples and do testing of the well water on the land because of concerns of contamination. Mr. Martin also spoke about programs through the USDA, what they look for in those programs and he read a report from the EPA about fair treatment.

Kevan Self of 605 West Freeman Street, spoke about the health risk that was listed in Mr. Voss' report at the beginning of the meeting. Mr. Self-wanted to know why this was still under consideration if there is any risk of safety and the health of the surrounding community. Mr. Self also spoke about the layout of the site and the substation that is on the edge of the contaminated area. He was also concerned about some uncertainties in the

different samples that need to be taken. Mr. Self-stated that even though he does not live in that part of the city he still feels like this should not move forward for the safety and unity of the community. Mr. Self-went on to express his concerns with the seven criteria and the issues that he felt with each of staff's analysis.

Sheila Brown of 210 East Birch Street, stated that she grew up next to the site and her family was effected by the Kopper's Wood Plant. Ms. Brown stated that her father asked the City Council many times to not put anything on the site and to get the contamination cleaned up. She stated that she no longer lives in that area of the city but she is still worried about how contaminates might affect the residents of Carbondale. Ms. Brown stated that she lost many family and friends to cancer at a young age due to the effects of these contaminates.

Thomas Finkenkeller of 1941 South Illinois Avenue, came forward to talk about sustainable energy and the solar energy that Brightfields is wanting to use. Mr. Finkenkeller, read a from an energy report written by Chris Dedecker, which discussed the negative effects of solar panels and solar energy. The report gave information on the environmental impact of PV solar energy, the energy that gives off versus the gases that it releases and the cost of solar energy, especially compared to the use of fossil fuels.

During Mr. Finkenkeller's report, Ms. Litecky asked for clarification regarding the results of the report and its relevance to PC 19-04. Mr. Henson stated that he was upset about the community members being interrupted when they are speaking, the idea that time caps should be placed on residents comments and he would like to have the mayor called into the meeting because of comments that were made to the media about PC 19-04. Ms. Litecky asked Mr. Snyder, City Attorney to step forward to address Mr. Henson's request. Mr. Snyder stated that the portion of the meeting in which it states that it is open for questions from anyone to anyone, is only for those that are present at the meeting and the mayor cannot be forced to come into the meeting on such short notice. Mr. Henson stated that they could make a request and take a ten minute break to call the mayor to ask him to come in. Ms. Litecky stated that they would let Mr. Finkenkeller finish his report and then take a break.

Mr. Finkenkeller went on to give the rest of the information in the report which includes the effects that the solar energy and solar panels.

Mr. Elius Reed of 2012 South Illinois Avenue, stepped forward and provided a brief summary of the Kopper's site and the recent meetings regarding the contamination and the proposed solar project. Mr. Reed ended his statement by suggesting that the solar project be located on another site near the Kopper's site but not within the contaminated area.

Ms. Margaret Nesbitt of 216 East James and Thelma Walker, came forward to commend the Planning Commission to take the time to listen to every individual who wished to speak. Ms. Nesbitt asked the Planning Commission to consider the future generations when making their decision about this Special Use Permit.

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

Mr. Taylor read Parts C and D of the staff report for PC 19-04, with a recommendation of approval.

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

There were none

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

Mr. Elius Reed came forward and asked Mr. Dan Voss if he knew what the estimated revenue to the City of Carbondale would be. Mr. Voss responded that the specific number is currently unknown. Mr. Reed then asked if the City of Carbondale gave approval to the owner to construct a hazard waste site at the subject property. Ms. Litecky asked if Mr. Don Monty would mind coming forward to answer the question as he was with the City at that time. Mr. Monty stated that he was unsure, but did state that it would seem that the US EPA would override any local decisions.

Mr. Henson then asked Mr. Snyder if the City could implement more stringent requirements than the federal government. Mr. Snyder stated that this would depend on the situation, but it is unlikely that the City would be able to be more stringent than the US EPA's regulation.

Dr. LeBeau then asked Mr. Henson a question. Dr. LeBeau asked Mr. Henson to clarify his earlier statement that the Mayor had been quoted as stating that this request was a done deal. Mr. Henson stated that he had heard this from citizens within the audience during the break. Dr. LeBeau stated that, as his neighbor, he had personally spoken to the Mayor and his understanding is that the Mayor could go either way. Dr. LeBeau and Mr. Henson asked if the attorney had been able to reach out to the Mayor as previously requested. Mr. Snyder stated that he was unable to reach the Mayor or anyone who would be able to do the same. Ms. Litecky stated that the City Council will be able to make its own decision and currently we are restricted to questions to people currently within the room.

Ms. Marilyn Tipton came forward to ask how many Special Use Permits have been approved within the last 10 years in situations where residents have been vocal about not wanting the use in their neighborhood. Mr. Sheffer stated that, while he cannot speak to the last 10 years, there was a recent Special Use Permit which was approved when the neighbors did come out in opposition. Ms. Tipton then asked for clarification regarding the City Staff's report and its role in the decision making process.

Mr. Morris came forward for further clarification regarding staff's recommendation and the Planning Commission's role. Mr. Morris stated that he believes this decision was made prior to the meeting tonight. Mr. Morris then asked Mr. Voss if brightfields would be receiving any tax incentives for the development. Mr. Voss stated that he will receive a 30% credit for the renewable energy and they are currently exploring other incentives with

the City. Mr. Morris then asked if additional remediation is still needed on the site. Mr. Slenska came forward and stated that further remediation is required for ecological reasons, the North American Shrew. Mr. Morris asked if the site still has contamination. Mr. Slenska stated that contaminated material will continue to remain on site as approved by the EPA.

Mr. Henson then had a question as a follow up to Ms. Tipton's question regarding previously issued Special Use Permits. Mr. Henson stated that he would like to know from each Commissioner how race relations played into the Commission's vote on the Special Use Permit. Ms. Litecky asked if the City Attorney would address this question and its relevance to the current request. Mr. Snyder stated that this previous Special Use Permit in question is not relevant to the current matter. Mr. Snyder further provided clarification regarding what is legally to be considered and voted on this evening. The previous history and social injustice issues surrounding the property is a matter to be considered in a different forum.

Ms. Tipton asked for clarification regarding the criteria to be considered for this Special Use Permit.

Dr. M. Stalls residing at 407 North Robert A Stalls, came forward to ask for further clarification regarding the special use criteria. Ms. Stalls asked if the item regarding the neighborhood may consider the social injustices surrounding the site. Mr. Snyder clarified that case law has not supported municipal decisions based on items which do not focus on the land use of the property.

Mr. Holder asked for further clarification regarding the City's mile and on-half zoning jurisdiction. Mr. Taylor stated that the zoning jurisdiction is a right afforded to the City based on its Home Rule Status. Mr. Holder asked if the staff report submitted was approved by other administrators within the City. Mr. Taylor stated that the comments and opinions within the staff report are only his and do not represent the opinions of anyone else within the City of Carbondale. Once written and proof read for grammatical errors, the report is submitted directly to Planning Commission Members.

Mr. Smaligo asked if when a law is unjust is it right to break it. Ms. Litecky stated that she personally would not like to answer that question. When posed to remainder of the Commission, no verbal answers were provided. Mr. Smaligo then further clarified his question. Dr. Burnside stated that if there are issues with the law, there are avenues to address those issues. As long as the law is in place, there will be consequences to breaking those laws. The property channels must be followed if it is found that these laws are unjust. Mr. Smaligo asked what should be done if there are no proper channels for seeking change. Mr. Smaligo and the Commissioners continued to discuss from what is the City deriving its authority of the subject property.

Dr. Stalls asked what the City's responsibility is to the citizens in the northeast around the brightfields proposed project site. The Commissioners respond that it is the

Ms. Nesbitt asked for additional information regards City staff and their report's role at these meetings. Mr. Taylor clarified his position and his report's role as advisory to the Planning Commission. Ms. Nesbitt asked if Mr. Taylor had talked to citizens in generating his report. Mr. Taylor specified that staff's report is only the opinion of staff and the public hearing serves as the opportunity to hear from citizens. Ms. Nesbitt asked if Commission had seen his report before the meeting. Mr. Taylor stated that the report was provided to Commissioners prior to the meeting. Ms. Nesbitt then stated that she believes that it was already a set-up provided that Commissioners were provided information from City staff. Commissioners then provided more clarification on the process. Ms. Nesbitt stated that the criteria being considered do not fit this situation as the people in the northeast have been abused unlike any other area in Carbondale.

Mr. Holder come forward to have a discussion regarding City zoning and maintaining Carbondale's Home Rule status. Mr. Snyder and Mr. Sheffer provided clarification for Mr. Holder.

Ms. Litecky declared PC 19-04 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 19-04, the applicant was present, and one spoke in favor, and eighteen in opposition, seconded by Mr. Love.

Mr. Sheffer moved that the proposed special use will permit and encourage an environment of sustained desirability and stability, and that it will be in harmony with the character of the surrounding neighborhood, seconded by Mr. Love.

Roll Call Vote:

Yes – 1 (Litecky)

No – 8 (Miller, LeBeau, Sheffer, Hamilton, Henson, Burnside, Love, Lilly)

Mr. Sheffer moved that the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare, seconded by Mr. Love.

Roll Call Vote:

Yes – 1 (Litecky)

No – 8 (Miller, LeBeau, Sheffer, Hamilton, Henson, Burnside, Love, Lilly)

Mr. Sheffer moved that the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property value within the neighborhood, seconded by Mr. Love.

Roll Call Vote:

Yes – 5 (Miller, LeBeau, Sheffer, Love, Litecky)
No – 4 (Hamilton, Henson, Burnside, Lilly)

Mr. Sheffer moved that the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district, seconded by Mr. Love.

Roll Call Vote:

Yes – 7 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Litecky)
No – 2 (Henson, Lilly)

Mr. Sheffer moved that adequate utilities, access roads, drainage and other necessary facilities have been or are being provided, seconded by Mr. Love.

Roll Call Vote:

Yes – 5 (Miller, LeBeau, Sheffer, Hamilton, Litecky)
No – 3 (Burnside, Love, Lilly)
Abstain-1 (Henson)

Mr. Sheffer moved that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets, seconded by Mr. Love.

Roll Call Vote:

Yes – 8 (Miller, LeBeau, Sheffer, Hamilton, Henson, Burnside, Love, Litecky)
No – 1 (Lilly)

Mr. Sheffer moved that the special use will be located in a district where such use may be permitted, and shall conform to all requirements of this Chapter, seconded by Mr. Love.

Roll Call Vote:

Yes – 9 (Miller, LeBeau, Sheffer, Hamilton, Henson, Burnside, Love, Lilly, Litecky)
No – 0

Mr. Sheffer moved that the Commission recommend approval of the special use permit and send PC 19-04 to City Council, seconded by Mr. Love.

Roll Call Vote:

Yes – 1 (Litecky)

No – 8 (Miller, LeBeau, Sheffer, Hamilton, Henson, Burnside, Love, Lilly)

Mr. Taylor stated that the item would move forward with recommendation for denial with and that the item would be on the City Council agenda for discussion at their meeting on October 9th 2018.

5. Old Business

There was none.

6. New Business

A. City Council Agenda from September 11, 2018.

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

B. Approve 2019 Planning Commission Meeting Schedule

Mr. Sheffer noted that the meeting schedule was missing from the packet.

Mr. Taylor apologized for the oversight and noted that this item will be considered at a future meeting.

6. Adjournment

Ms. Litecky adjourned the meeting at 12:30 p.m.