



MINUTES

Carbondale Planning Commission Wednesday, September 15, 2021 6:00 p.m. Webinar Meeting

Ms. Litecky called the meeting to order at 6:02 p.m.

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

Members Absent: Henson

Staff Present: Lenzini and Brightharp

1. Approval of Minutes:

No minutes this week. All past minutes will be read at the next meeting in October.

2. Citizen Comments or Questions

There were none.

3. Report of Officers, Committees, Communications

There were none.

4. Public Hearings

PC # 22-02: The City of Carbondale has proposed a text amendment to Title 15 of the Carbondale Revised Code relative to cannabis infuser organization, cannabis processing organizations, and cannabis transporting organizations.

Ms. Litecky declared Public Hearing PC 22-02 open and asked Megan Brightharp to read the legal notice.

Megan Brightharp, Community Development Senior Planner for the City of Carbondale, read the legal notice.

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

Ms. Brightharp read part A of the staff report.

Ms. Litecky asked if there were any questions of staff. Mr. Sheffer stated he did.

Mr. Sheffer stated that before the analysis is read he wanted to make everyone is aware that he is against the wording in the second paragraph that states transportation organizations are being proposed in residential and rural areas as special use in AG. He is not in favor and stated that we're not proposing this in residential areas. Ms. Litecky stated that Part B has not been read yet. Mr. Sheffer wants that part stricken before it is read. Ms. Litecky agreed with Mr. Sheffer that the reading needs an explanation.

The applicant is present, and will answer any questions the Commission has.

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

Megan Brightharp asked if the question is to remove it from the analysis.

Ms. Litecky stated yes, Part B. Mr. Sheffer wants to ensure that the proposal is not saying that it can go in a residential area. Ms. Brightharp stated that the proposal in terms of residential only by special use in the AG district. Mr. Sheffer wants clarity on if you can have it in a residential area by special use. Ms. Brightharp stated yes, only in AG district. Mr. Sheffer wants to be clear that it will not be in any other districts since AG can be anything. Ms. Brightharp stated that it will only be permitted in the AG district out of all the residential districts but only by special use. Ms. Litecky agreed with Mr. Sheffer that how it is written in Part B the second paragraph is not clear. Ms. Brightharp explained both residential and rural districts are written together on the Use Table. The Rural district, the AG district, is the only district that has them as a district that would have been permitted by special use. Mr. Lenzini clarified the standard heading in the title is Residential and Rural Districts that is why Ms. Brightharp has that in the narrative. He stated that the only district that it is being allowed in is the AG district. Ms. Brightharp stated we are not saying that we want people to be able to grow cannabis in R-1 and R-2. She stated that it is just what the heading of the Use Table is called. Mr. Sheffer stated that it is still not clear. He wants to ensure the wording is not taken out of context when it goes before the Council.

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

There were none.

Ms. Litecky asked if anyone including the public wanted to speak in favor.

No one spoke in favor.

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

No one spoke in opposition.

Ms. Brightharp read Part B & C of the staff report for PC 22-02, with a recommendation of approval.

Ms. Litecky invited anyone to ask anyone a question.

There were none.

Ms. Litecky declared PC 22-02 closed and asked for a motion on the findings of fact.

Mr. Sheffer moved that the Commission accept as findings of fact Part A & B of the staff report for PC 22-02, the applicant was present, zero spoke in favor, zero spoke in opposition, and zero letters/emails were read in opposition or support, and seconded by Mr. LeBeau.

Roll Call Vote:

Yes – 7 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Lilly, Litecky)

No- 0

Abstained- (Love)

Mr. Sheffer moved that the Commission recommend approval of the PC 22-02, seconded by Mr. LeBeau.

Roll Call Vote:

Yes – 7 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Lilly, Litecky)

No- 0

Abstained- (Love)

PC # 22-03: Lakeland Hills, LLC is requesting to rezone an area zoned as an R-1-12, Low Density Residential, district to an AG, General Agriculture, district with the intention to consolidate these parcels and several other contiguous parcels into larger parcels and sell them.

Ms. Litecky declared Public Hearing PC 22-03 open and asked Megan Brightharp to read the legal notice.

Megan Brightharp, Community Development Senior Planner for the City of Carbondale, read the legal notice.

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

Ms. Brightharp read Part A of the staff report.

Ms. Litecky asked if there were any questions of staff. Mr. LeBeau asked Ms. Brightharp if she knew the date Exhibit A photo was taken. Ms. Brightharp stated she believed the

aerial photo came between 2018 and now. Mr. LeBeau stated in future the photos will the actual date the imagery was taken so another photo can't slip in at another time.

Ms. Litecky asked if the applicant was present and wished to speak. Mr. Scott Chapman is present and spoke on behalf of Lakeland Hills, LLC. He stated that he was retired and that the project was no longer economically feasible for him to finish the subdivision.

The applicant is present, and will answer any questions the commission has.

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

There were none.

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

No one spoke in favor.

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

No one spoke in opposition.

Ms. Brightharp read Part C of the staff report for PC 22-03, with recommendation of approval with conditions:

Ms. Litecky asked if the Commission or public had questions for staff.

Patrick Deewyer, a resident whose property backs up to the property in question, asked if and when this change occurs what impact it will have on the development of the property behind his house and the property value. Ms. Brightharp stated she didn't think that zoning itself would have an effect on the property value. She stated more so the land use that it shows in. Ms. Litecky asked Ms. Brightharp if rezoning required a certain size lot. Ms. Brightharp responded that the lot has to be a minimum of five acres. Mr. Lenzini stated that one advantage is that you are only allowed to build one residential structure on each agricultural lot. Agricultural lots will be more stable, the houses will be more spread out. With increase setbacks that are required in AG, you will have a less dense populated area. Low traffic and noise will be an advantage also. Mr. Deewyer asked if there are anything that claims that it won't be sold to low income, or are there any parameters to what lots will be sold as. Ms. Brightharp stated if the intention is to consolidate those lots it would not be individual lots for homes. One lot at five acres and the other at seven. Ms. Brightharp stated she didn't see anyone wanting to develop low income housing on five acres of land. Ms. Albert, resident, asked commission about regulations on AG, and what acceptable use would be. Do residents need to be concern about pesticides, chemical sprays, and livestock? Mr. Lenzini stated that there is a limited amount of livestock possibly in there. He can't see anyone farming such a small patch of ground. He stated he could see a hobby farm and maybe a few horses. There are some uses such contract construction services that could go in there but they would need a special use permit. Ms.

Brightharp addressed Mr. Deewyer's previous question about low income houses. She stated in terms of household living in AG district is very specific on single family dwellings. The concern about multi-family housing would not be permitted there by right or special use. Ms. Brightharp stated in past cases for this property concerns were raised about mobile homes. She reiterated that single-wides are only permitted in mobile home parks, which is not the case here. Double-wides are considered single family homes whether or not the applicant get approval to rezone. Should somebody buy in this subdivision their existing neighborhood covenant prohibits mobile homes. Ms. Litecky asked if a double wide was put there it would have to be anchored down and skirted. Ms. Brightharp stated yes. Our building code will cover that. Mr. Lenzini, also stated double-wides have to have building blocks around them.

Ms. Albert asked if the new map will include the AG district and the RMH district west that is wooded area. She also wanted to know will someone be able to buy and cut down all the trees. Ms. Brightharp responded yes. The applicant owns all of that property.

Ms. Litecky declared PC 22-03 closed and asked for a motion on the finding of facts.

Mr. Sheffer moved the Commission accept as findings of fact Part A, B, & C of the staff report for PC 22-03, the applicant was present, zero spoke in favor or opposition, and zero letters/emails were read in opposition or support, and seconded by Ms. Lilly.

Roll Call Vote:

Yes- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Lilly, Litecky)

No- 0

Mr. Sheffer moved that the Commission recommend approval of the PC 22-03, seconded by Mr. LeBeau. Mr. Love asked to add to conditions listed in the report under Part B. Ms. Brightharp stated that with those conditions PC 22-03, would not go before the Council on September 28th until after the subdivision review. Mr. Sheffer asked Mr. Love if he was suggesting that the applicant submit a plan on what he will use the lots for. Mr. Love stated yes. Mr. Sheffer stated he thought that was already in the clause that the City asked for. Mr. Love removed his friendly amendment. Mr. Sheffer stated Part D will be added so there has to be a plan put in on how the applicant plans on selling it.

Roll Call Vote:

Yes- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Lilly, Litecky)

No- 0

Ms. Litecky asked Mr. Lenzini when will the case go before City Council. Mr. Lenzini stated it will depend on Ms. Brightharp's work load. Ms. Brightharp stated that the date given in the staff report for the applicant to present case is October 6th. She will find out Council dates for October and will update the applicant and Commission as it pertains to this case.

PC# 22-04: RD MGMT, LLC is requesting to rezone 1300 East Walnut Street from a BPL, Planned Business, District to a PUD, Planned Unit Development, District and are requesting a Special Use Permit in order to develop a Group Home II on behalf of NeuroRestorative Rehabilitation Institute.

Ms. Litecky declared Public Hearing PC 22-04, open and asked Megan Brightharp to read the legal notice.

Megan Brightharp, Community Development Senior Planner for the City of Carbondale, to read the legal notice.

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

Ms. Brightharp read Part A of the staff report.

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

Mr. Hamilton asked are we voting on the whole package of rezoning plus special use, or will it be parceled as two different parcels. Mr. Sheffer stated that there are two ways in which the Commission has to handle that. He doesn't recall having to vote on both at the same time. Ms. Brightharp stated they will have to rezone, but they are asking for a special use permit that is conditional upon whether or not we grant the rezoning. Ms. Litecky asked if Mr. Hamilton and Mr. Sheffer were both asking if we can do that in one session. Mr. Hamilton stated yes. Mr. Sheffer stated meeting has to be done one way for a zoning change and a different set of questions are asked and motions if for special use form. You can't do the special use form unless you get zoning first. Ms. Litecky asked if one has to send out extra notices for special use since they both have notices. Ms. Litecky asked Mr. Lenzini is this a question for the City Attorney. Mr. Lenzini, suggested that the zoning change be taken to the Council first and come back to special use. He stated Mr. Doherty can be of assistance.

Ms. Brightharp stated in case 19-09, we rezoned and gave them a special use permit. Ms. Litecky asked about that. Ms. Brightharp answered Carbondale Self Storage rezoned from a PA to an R-3 and requested an SUP for self-storage operation. They needed a special use permit. Ms. Brightharp stated they were in the same situation in that they were buying the property from the City, and the sale was contingent upon the rezoning and special use permit. Mr. Sheffer stated he understood that part but stated to follow the rules to make a motion there are steps for one and for the other. He stated that they be done separately. Ms. Litecky asked Mr. Doherty to weigh in on the topic. Mr. Doherty stated that the property would need to be rezoned and have that approved. Then follow with a request for special use. Mr. Doherty stated you can't grant or approve special use for something that is not zoned for that special use. It adds an extra step for the applicant, but it is the logical way to go. Ms. Litecky asked Mr. Doherty if he is saying that we can't vote on both tonight. Mr. Doherty stated he was giving his opinion on the matter. Ms. Litecky asked how the other Commissioners felt. The majority agreed to do one and come back later and do the other. Mr. Lenzini stated City Attorney Jamie Snyder said if a

public notice was put out with both zoning change and special use change, then the zoning change can be voted on then the special use. Ms. Litecky asked Ms. Brightharp if that was how the notices were sent out. Ms. Brightharp responded yes. Mr. Sheffer wanted clarity on how zoning and special use permit will be done. Ms. Litecky responded yes we will do what the City Attorney advised. She stated they will do the rezoning first.

Ms. Litecky asked if the applicant was present and wished to speak. Mr. Williamson is present and spoke on behalf of NeuroRestorative. Ms. Litecky asked Mr. Williamson if the property will be leased or bought. Mr. Williamson stated the property is leased from RD Management. Mr. Hamilton asked Mr. Williamson if the new facility is replacing other buildings in disrepair. Mr. Williamson stated yes, the facility on East Campus Drive will close and will be sold. Ms. Lilly asked if NeuroRestorative vandalized the property at the HS last year. Mr. Lenzini stated no, she may be referring to the incident with Rebound students. Ms. Lilly stated it was NeuroRestorative that came into the field house and destroyed both baseball and football. Mr. Williamson stated he has been Development Manager for a year and isn't aware of that incident happening last year. He will do some research.

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

There were none.

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

There were none.

Ms. Brightharp read Part B & C of the staff report for PC 22-04, with recommendation of approval.

Ms. Litecky asked if Commissioners had questions for staff.

Mr. Hamilton stated Part C deals with special use and not zoning change. Ms. Litecky agreed. Mr. Sheffer recommended adding Part A, B, C, D, and call the additional analysis Part E. Ms. Litecky asked the Commissioners were they in favor of that. All were in favor. Ms. Litecky stated that they will deal with Part D rezoning only. Mr. Love wanted clarity on the additional analysis.

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

There were none.

Ms. Litecky declared the PC 22-04 closed and asked for a motion on the finding of facts.

Mr. Sheffer moved that the Commission accept as findings of fact Part A & E of the staff report for PC 22-04, a representative was present, zero spoke in favor or opposition, and zero letters/emails in favor or opposition, and seconded by Mr. Love.

Roll Call Vote:

Yes- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Lilly, Litecky)

No- 0

Mr. Sheffer moved that the Commission recommend approval of the PC 22-04, seconded by Mr. LeBeau.

Roll Call Vote:

Yes- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Litecky)

No- 1 (Lilly)

Ms. Brightharp read Part C of the staff report for PC 22-04, with recommendation of approval.

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

Mr. Burnside asked if the Group Home will be 800 feet apart. Ms. Brightharp responded yes. They have the capacity to be 800 feet apart. Mr. Burnside stated they have the capacity or will they be 800 feet apart. Ms. Brightharp stated that she don't have their building plans yet, only the proposed plan. Based on the measurements we've done on the existing Group Home and the subject property, they are within the limitations.

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

Mr. Hamilton asked Ms. Litecky if the City has any information from the police department that any NeuroRestorative facilities have been a problem. Ms. Litecky stated when the company was DCS they had a disturbance every once in a while. Mr. Sheffer stated he hasn't witnessed a disturbance in his neighborhood other than traffic. Mr. Hamilton asked what are the risks with the property being near the HS would be. Mr. Burnside asked if anyone knew of problems at the property near the HS. Mrs. Madison stated there were issues. She said staff may be present, but they can't handle certain issues that arise. Mr. Williamson stated that they have four buildings next to the HS which are older population. Staff work with a challenging group of people but they do their best to manage them safely by staying in communication with city partners and neighbors that may have concerns. Mr. LeBeau asked Mr. Williamson how old were the residents that live near the properties facilitating the older populations. Mr. Williamson responded forty to seventy years old. Mr. Burnside asked Mr. Williamson what age group of people will reside at the property in question. Mr. Williamson stated twenty-one or older.

Ms. Litecky asked if the applicant was present and wished to speak. Mr. Williamson stated if granted NeuroRestorative will move and the current East Campus Drive location will be sold.

The representative is present, and will answer any questions the commission has.

Ms. Litecky asked if there were any questions for the representative.

There were none.

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

No one spoke in favor.

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

Mrs. Madison spoke unfavorably to NeuroRestorative moving to the HS area. She does not think the move will benefit the community or taxpayers. She asked how long has NeuroRestorative been at the current location.

Ms. Litecky declared PC 22-04 closed and asked for a motion on the findings of fact.

Mr. Sheffer moved that the Commission accept the findings of fact Part A, B C & D of the staff report for PC 22-04, the applicant and zero spoke in favor, one spoke in opposition, zero letters/emails in opposition or support, and seconded by Mr. LeBeau.

Roll Call Vote:

Yes- 6 (Miller, LeBeau, Sheffer, Hamilton, Love, Litecky)

No- 1 (Lilly)

Abstained (Burnside)

Mr. Sheffer moved that the Commission consider all seven criteria as one, and seconded by Mr. LeBeau.

Roll Call Vote:

Yes-4 (LeBeau, Sheffer, Hamilton, Litecky)

No- 4 (Miller, Burnside, Love, Lilly)

Mr. Sheffer moved that the Commissioners consider each criteria separately, and seconded by Mr. Miller.

Roll Call Vote:

Yes-6 (Miller, LeBeau, Sheffer, Burnside, Love, Litecky)

No- 2 (Hamilton, Lilly)

Mr. Sheffer made a motion that the applicant has met criteria one, that the proposed special use permit will encourage an environment of sustained desirability and stability, and that it will be in harmony with the character of the surrounding neighborhood, and seconded by Mr. Miller.

Roll Call Vote:

Yes- 5 (LeBeau, Sheffer, Hamilton, Love, Litecky)

No- 3 (Miller, Burnside, Lilly)

Mr. Sheffer made a motion that the applicant has met criteria two, that the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety or general welfare, and seconded by Mr. Miller.

Roll Call Vote:

Yes- 3 (Sheffer, Hamilton, Litecky)

No- 5 (Miller, LeBeau, Burnside, Love, Lilly)

Mr. Sheffer made a motion that the applicant has met criteria three, 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 or substantially diminish and impair property value within the neighborhood, seconded by Mr. Miller.

Roll Call Vote:

Yes- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Lilly, Litecky)

No- 0

Mr. Sheffer made a motion that the applicant has met criteria four, 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, and seconded by Mr. Love.

Roll Call Vote:

Yes- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Lilly, Litecky)

No- 0

Mr. Sheffer made a motion that the applicant has met criteria five, adequate utilities, access roads and other necessary facilities have been or are being provided, and seconded by Mr. Love.

Roll Call Vote:

Yes- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Lilly, Litecky)

No- 0

Mr. Sheffer made a motion that the applicant has met criteria six, adequate measures access have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets, and seconded by Mr. Love.

Roll Call Vote:

Yes- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Lilly, Litecky)

No- 0

Mr. Sheffer made a motion that the applicant has met criteria seven, the special use will be located in a district where such use may be permitted, and shall conform to all requirements of this Chapter, and seconded by Mr. Love.

Roll Call Vote:

Yes -6 (Miller, LeBeau, Sheffer, Hamilton, Love, Litecky)

No- 2 (Burnside, Lilly)

Mr. Sheffer moved that the Commission recommend approval of a special use permit for PC 22-04, and seconded by Mr. Love.

Roll Call Vote:

Yes- 0

No- 8 (Miller, LeBeau, Sheffer, Hamilton, Burnside, Love, Lilly, Litecky)

5. Old Business

There was none.

6. New Business

Mr. Doherty went over council items pertaining to Planning.

7. Adjournment

Ms. Litecky adjourned the meeting at 8:32 p.m., and seconded by Mr. Sheffer.