



MINUTES

**Carbondale Planning Commission
Wednesday, March 21, 2018
Room 108, 6:00 p.m.
City Hall/Civic Center**

Ms. Litecky called the meeting to order at 6:03 p.m.

Members Present: LeBeau, Hamilton, Henson, Burnside, and Litecky

Members Absent: Miller, Sheffer, Love, Lilly, and Bradshaw (ex-officio)

Staff Present: Taylor and Lawrence

1. Approval of Minutes:

Dr. Hamilton moved, seconded by Dr. LeBeau, to approve the minutes for January 10, 2018 and February 7, 2018.

The motion to approve the minutes passed with a unanimous voice vote. Mr. Henson abstained from the vote.

2. Citizen Comments or Questions

There were none

3. Report of Officers, Committees, Communications

A. Neighborhood Outreach Committee-Mr. Taylor stated that the committee had met and what had been discussed at the meeting. He stated that another meeting will be taking place in April and after these meetings the committee would be bringing their ideas and discussion to the Planning Commission. He also stated that staff is in the process of drafting a potential text amendment to bring to the Planning Commission.

4. Public Hearings

PC 18-12, 6:07 pm- Zack Rakers is requesting a Special Use Permit for a Home Occupation in an R-1-8, Low Density Residential, District in order to repair and sell appliances from the garage at his residence, at 1029 West Willow Street.

Ms. Litecky declared Public Hearing PC 18-12 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. Lawrence to present the staff report.

Sarah Lawrence, Planner for the City of Carbondale, was sworn in and read parts A and B of the staff report.

Mr. Henson stated that he knows the applicants personally and would be abstaining from discussion and voting.

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.

Zack Rakers came forward to speak about the letter that he wrote for the Commission and that he only sells/buys through swap sites. Mr. Rakers stated that he does not feel like he is bothering anyone in his neighborhood and his neighbor feels the same way. He also stated that he does not have a license but he is not replacing any Freon in any of the refrigerator units that he fixes. Mr. Rakers stated that he does claim sales on his income taxes but does not pay sales taxes.

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

Dr. LeBeau asked if there were many children in Mr. Rakers neighborhood. Mr. Rakers stated that there were a few in his neighborhood. Dr. LeBeau asked what would happen if a small child crawled into one of the refrigerators or freezers in Mr. Rakers driveway and possibly suffocated. Dr. LeBeau asked if Mr. Rakers thought it was safe to be storing his appliances out in the open where something like this might happen. Mr. Rakers stated that he had never thought of something like that happening and he does not often store appliances in his driveway but he felt like this was an extreme scenario.

Dr. Hamilton asked how many appliances Mr. Rakers services in a month's time. Mr. Rakers stated anywhere between 15 to 20, ranging from refrigerators to microwaves. Dr. Hamilton then asked Mr. Rakers how he purchases and sells appliances. Mr. Rakers stated that he conducts his business through swap sites such as Facebook and he does not give out his address until a sale is made for someone to drop off or pick up appliances. Dr. Hamilton also asked Mr. Rakers how many appliances he keeps in his garage at most times. Mr. Rakers stated anywhere between 10 to 15 appliances at a time.

Dr. Burnside asked Mr. Rakers if he had any other storage facility besides his garage. Mr. Rakers stated that he does not. Dr. Burnside then asked Mr. Rakers why he continued to conduct business after he received a cease and desist letter from the City of Carbondale about running the business out of his garage at his residence. Mr. Rakers stated that he

slowed down his business but did continue to buy and sell. There was then discussion about the cease and desist letter and Mr. Rakers trying to determine what is an actual business and what is not.

Ms. Litecky asked Mr. Rakers if he collects sales tax from his sales of appliances. Mr. Rakers stated that he does not pay sales tax at the time of the sale but he claims them on his income taxes. Ms. Litecky stated that Mr. Rakers is required to collect sales tax and he is in violation by not collecting it. Mr. Rakers asked if all sales on swap sites must pay sales tax and Ms. Litecky stated that technically everyone should. Mr. Rakers then expressed his thoughts on people selling things online or out of their homes that do not collect sales tax and that his house is not a business, his sales are conducted online. Ms. Litecky asked if all of his payments were received online or if people paid him in person when they picked up items from his home. Mr. Rakers stated that people pay him when they pick up the items and he felt that would happen with any swap site purchase. Ms. Litecky stated that Mr. Rakers was not just selling/buying things off of a swap site but conducting an ongoing business.

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

Mr. Taylor stated that Planning had received one letter of support and he then read the letter into the record. It was a letter from Dan Seiters at 1033 West Willow Street. The letter stated that Mr. Seiters was a long standing resident of the community and has no issues with the business that Mr. Rakers has been conducting out of his residence.

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

Mr. Taylor stated that Planning had received one letter in opposition and he then read the letter into the record. It was a letter from Marcus Odom at 1031 West Willow Street. The letter stated that Mr. Odom rents the property at 1031 West Willow out to a family and that he has been concerned about all of the appliances outside of 1029 West Willow, when he has done drive by inspections of his rental property. Mr. Odom stated that he feels Mr. Rakers' conducting a business out of his home has caused an eye sore in the neighborhood and is bringing down the value of the surrounding homes.

Milton Maxwell of 1490 Bradford Lane, owner of a rental located at 1022 West Willow Street came forward to state his concerns about the special use permit because he feels it would have an adverse effect on the property values of the homes in that neighborhood and cause an increase in traffic in that area. Mr. Maxwell stated that he has put a large sum of money into his rental unit in that neighborhood and would hate to see the values decrease due to Mr. Rakers business in a residential community.

Darryl Cox of 1019 West Willow Street stated that his concerns are for his grandchildren that are at his residence and the increase in traffic that has happened since Mr. Rakers has started conducting sales out of his residence. Mr. Cox stated that he chose to live at that location due to low traffic in the area but since it has recently increased it has him very

concerned for his grandchildren's safety. Mr. Cox also stated that there were many others in the neighborhood that were concerned with Mr. Rakers' business in his home but not everyone around the community received a letter about the meeting. Mr. Cox also went on to speak about a case in Minnesota that he had read about that was similar to the request that was happening in his own neighborhood and that it caused a decrease in values of homes for that case.

Dr. LeBeau asked Mr. Cox what the crime rate was like in his neighborhood currently. Mr. Cox stated that last year there were two cars broken into but in the past thirty years it has been a quiet neighborhood to live in.

Crawford Wilson of 647 North 2nd Street in Murphysboro, stated that he used to live at 1010 West Willow Street stated that he and his family lived in that neighborhood for almost thirty years before moving late last year. Mr. Wilson stated that he had a few concerns with the special use permit Mr. Rakers was requesting, first that he is currently remodeling the home at 1010 West Willow and would be putting it on the market, he would like to get fair market value for the home. Mr. Wilson was very concerned about allowing a business in a residential neighborhood and would that make it easier for others to want to do businesses out of their home. Mr. Wilson also stated that Mr. Rakers' storing of the appliances outside of his home was an eyesore to the neighborhood and those trying to enjoy the outdoors of their own homes.

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

Ms. Lawrence read Parts C and D of the staff report for PC 18-12, with a recommendation of denial.

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

Dr. LeBeau asked staff why everyone in the community around Mr. Rakers was not informed about the public hearing. Mr. Taylor stated that the City staff is only required to notify those parcels that are located within 250 feet of the subject property. It was stated that twenty notices were sent out to those around Mr. Rakers residence. Mr. Taylor stated that the distance of 250 feet was set by City Council for residential zoning districts. Dr. LeBeau also questioned how long a property must be posted before the public hearing takes place and if Mr. Rakers yard was posted. Mr. Taylor stated that it is posted one week before the hearing and that the sign was located in Mr. Rakers yard. There was then discussion about posting the properties in the future to make sure that the sign is clearly seen by everyone. Mr. Taylor also stated that anyone who wished to be added to a neighborhood notification list could contact him and they would then be notified of any public hearing that takes place within the City of Carbondale.

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

Dr. Hamilton asked Mr. Rakers if he had looked at another location for his business outside of his home and his neighborhood. Mr. Rakers stated that he had but he felt it would be counterproductive to what he was doing with this side business that he was running because he would then have to pay workers and rental on a building. Mr. Rakers also stated that he was told by City staff that he could sell the appliances that he had in his garage after he was issued the cease and desist letter. Mr. Rakers also stated that anything that he stores outside of his garage was anything that someone was coming to pick up. Ms. Litecky asked if Mr. Rakers had looked into a place like A-1 Storage to run his business out of a storage unit. Mr. Rakers stated that he had not looked into it. Dr. Hamilton asked Mr. Taylor if that would be permitted by the City to sell items like appliances out of a storage unit facility. Mr. Taylor stated that he would have to consult with the City legal department to verify if that was a possibility.

Dr. Burnside asked Mr. Cox how much of an increase in traffic has he noticed since Mr. Rakers has started repairing/selling appliances out of his home. Mr. Cox stated that it was about a 25-30% increase in vehicles going to Mr. Rakers home for drop-off/pickup of appliances. Mr. Cox spoke about the safety of his grandchildren with the increase in the traffic going to Mr. Rakers home.

Ms. Litecky declared PC 18-12 closed and asked for a motion on the findings of fact.

Dr. Burnside moved that the Commission accept as findings of fact Part A and B of the staff report for PC 18-12, the applicant was present, one letter in favor and one letter in opposition were presented, no one spoke in favor and three spoke in opposition, seconded by Dr. LeBeau.

The motion was passed with a unanimous voice vote.

Dr. Hamilton moved to vote on the seven criteria individually, seconded by Dr. LeBeau.

Roll Call Vote:

Yes – 4 (LeBeau, Hamilton, Burnside, Litecky)

No – 0

Abstain-1 (Henson)

Dr. Hamilton 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 Dr. Burnside.

Roll Call Vote:

Yes – 0

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

Abstain-1 (Henson)

Dr. Hamilton 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 Dr. Burnside.

Roll Call Vote:

Yes – 0

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

Abstain-1 (Henson)

Dr. Hamilton 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 Dr. Burnside.

Roll Call Vote:

Yes – 0

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

Abstain-1 (Henson)

Dr. Hamilton 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 Dr. LeBeau.

Roll Call Vote:

Yes – 2 (Hamilton and Litecky)

No – 2 (LeBeau and Burnside)

Abstain-1 (Henson)

Dr. Hamilton moved that adequate utilities, access roads, drainage and other necessary facilities have been or are being provided, seconded by Dr. LeBeau.

Roll Call Vote:

Yes – 1 (LeBeau)

No – 2 (Hamilton and Litecky)

Abstain-2 (Henson and Burnside)

Dr. Hamilton 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 Dr. LeBeau.

Roll Call Vote:

Yes – 0
No – 3 (LeBeau, Hamilton, Litecky)
Abstain-2 (Henson and Burnside)

Dr. Hamilton 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 Dr. LeBeau.

Roll Call Vote:

Yes – 3 (Hamilton, Burnside, Litecky)
No – 1 (LeBeau)
Abstain-1 (Henson)

Dr. Hamilton moved that the Commission recommend approval of the special use permit and send PC 18-12 to City Council, seconded by Dr. LeBeau.

Roll Call Vote:

Yes – 0
No – 4 (LeBeau, Hamilton, Burnside, Litecky)
Abstain-1 (Henson)

Mr. Taylor stated that the item would move forward with recommendation for denial of PC 18-12 and that the item would be on the City Council agenda for discussion at their meeting on April 10, 2018.

5. Old Business

There was none.

6. New Business

A. City Council Agenda from February 13, 2018, February 27, 2018, and March 13, 2018.

Mr. Taylor reviewed the City Council meetings as they related to Planning.

7. Adjournment

Ms. Litecky adjourned the meeting at 7:10 p.m.

