

**PLANNING AND ZONING COMMISSION MINUTES**  
**City of Geneva**  
**109 James Street - City Council Chambers**

**May 27, 2021 – Meeting #25**

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Chairman Stocking called the meeting of the Geneva Planning and Zoning Commission to order at 7:00 p.m. He read a statement regarding the proceedings for the remote and in-person meeting and reviewed the parameters the Planning and Zoning Commission would follow, particularly as it pertains to Agenda Item 5 (frequency emissions). City Attorney Scott Fintzen explained the details of a federal/state law pertaining to that matter.

Roll call followed:

Present: Chairman Stocking; Commissioners Evans\*, Holomon, Matyskiel\*, Mead, Slifka

Staff Present Community Development Director David DeGroot and City Planner Chayton True; City Attorney Scott Fintzen

Also Present: Applicant Bill Bush, 501 E. State Street, Geneva; Applicant Doug Dolan with Dolan Realty, LLC; Mr. Ben Evans from CityScape; Rodney Nelson, Robert Wagner, Dale and Karen Rathunde, Bruce Aiello, Jim and Helen Wilbur, Joellen and Joe O'Brien, Julie Landrum, Kevin and Emily McCafferty, Janice Mohan, Sean Calloway Court Reporter Melissa Shimer with Planet Depos and Recording Secretary Celeste Weilandt\*

(\* Remote)

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**Approval of the Agenda**

**Motion by Commissioner Slifka, second by Commissioner Mead to approve the agenda as presented. Motion carried by voice vote of 6-0.**

**Approval of May 13, 2021 Minutes**

**Motion by Commissioner Mead, second by Commissioner Slifka to approve the May 13, 2021 minutes, as presented. Motion passed by voice vote of 6-0.**

**Public Hearing**

**A. Zoning Ordinance Text Amendments** – A text amendment to Section 11-6E-2 (Permitted Uses) to add “drugs and cosmetics store” to the list of permitted uses in the B3E Business District and a text amendment to Section 11-12-4 (Permitted Signs in Zoning Districts) to allow electronic message board signs in the B3 Business District. Location: East State Street between Kane Street and Harrison Street. Applicant: Bill Bush of Geneva Pharmacy, LLC

City Planner Chayton True relayed that a couple of items were added for the record: 1) an updated staff analysis and 2) updated sign renderings of the pharmacy project. He recalled the commission had concerns about the text as proposed, the drug and cosmetic store as a permitted use versus a special use, and general concerns about a larger scale development overtaking the specific area where smaller businesses and residential homes existed. Lastly, there was concern about the frequency of the signs occurring along this portion of the east State Street Corridor. Per staff's research he read his staff report on what the commission should consider as it pertains to the use being permitted or a special use, repurposing single-family homes, lot consolidation and land uses. In

summary, the inclusion of drugs and cosmetic stores to the B3 district would not generate an adverse impact on surrounding uses or character of the commercial corridor.

As for the commission's concern about the frequency of message board signs along this portion of the east side corridor, Planner True noted there were 12 zoning lots formed between the 18 parcels in the B3E district and fronting east State Street, with each zoning lot allowed to have one free-standing sign not exceeding 10 feet in height. Meaning 12 electronic message boards could be incorporated into existing or new free standing signs in the district.

Per Planner True, the commission had three options as it pertained to the text amendment: 1) disapprove as presented; 2) approve; or 3) approve with revisions. The commissioners appeared open to Option 3 with a revision focusing on limiting the number of electronic message board signs in the district. Staff believed such signs could be allowed on zoning lots which meet a certain criteria such as a minimum street frontage along East State Street. (See Table 1 in staff's report.) An example followed.

Commissioner Mead supported Option 3 with staff's suggestion to have a minimum street frontage on State Street (page 8 of staff's report). Dialog among commissioners centered on determining the actual street frontage and clarification of the types of signage that businesses would be allowed to have. Commissioner Holomon voiced concern that some of those businesses on State Street would not feel they were treated fairly if there was a delineation. Dialog followed on making a decision as to the street frontage first.

Responding to a commissioner question, applicant Mr. Bush confirmed he would remove the existing pylon size to allow KDOT's road improvements and then he would install a monument sign closer to the building.

Commissioner Mead questioned whether the discussion should focus on monument signs and whether they should include or not include the electronic aspect of the signage in the B3 district. Ask if staff knew how many signs were currently not to code, Planner True could not confirm that number but explained that he has seen more low profile monument signs except for Gen-Hoe. Commissioners provided supportive comments regarding monument signs, given their scale versus a pylon sign.

Applicant Bill Bush, 501 E. State Street, appreciated staff's research and believed he presented his case for the drugs and cosmetic store as an improved use with no additional information to provide to the commissioners. Personally, he favored monument signage, believing it tied in better to the look of the building.

Per questions, should the drive-through special use not be approved, Mr. Bush explained that it was an important part of his business and many patrons supported and appreciated having a drive-through for its convenience. A building permit was submitted by the applicant for a driveway but not for the special use for the drive-through pending the outcome of the approved use. Mr. Bush believed he provided various options for his patrons to exit from different locations of his property yet allow them to get back safely to State Street .

Commissioner Mead was supportive of the use of a drugs and cosmetic store as a permitted use (as submitted) because the use being requested was more consistent with the updated comprehensive plan. Chairman Stocking also supported same.

Chairman Stocking opened up the hearing for public comment.

Resident, Mr. Rodney Nelson, asked that future TIF project information come forward to the public. He spoke about the documentation (zoning ordinance, zoning map and comprehensive plan) he

considers for such projects and the fact that there is much consistency in the B3E language and applying such zoning rules allows the public trust in the process. He pointed out in various aspects of the comprehensive plan where “specialty retail” is mentioned but clarified it was not included in the B3E verbiage as a mistake. Instead it was a recognition of the uniqueness of the older part of town where no uniformities existed. Further comments were shared. Mr. Nelson referenced the City’s Land Use Plan and voiced safety concerns for his neighborhood due to the narrowness of State Street at the site under discussion and recommended to not permit the signage.

**Commissioner Mead made a motion to close the public hearing, second by Commissioner Evans. Roll call:**

**Aye: Evans, Holomon, Matyskiel, Mead, Slifka, Stocking**

**Nay: None**

**MOTION PASSED. VOTE: 6-0**

Discussion focused on the fact that the signs that were being considered would be with a fixed message and not a scrolling message that could change every five minutes to avoid driver distraction. Discussion was then raised on determining a street frontage limitation, wherein commissioners agreed that electronic signs should be restricted to monument signs with 80-foot street frontage, thereby creating an incentive to get away from the pylon signs, with the overall effect being positive.

Adding to the comments, Director DeGroot stated that monument signs are not defined in the zoning ordinance and suggested an amendment to a motion.

**Commissioner Mead made a motion to request a text amendment to Section 11-60-2 *Permitted Uses* to add “Drugs and Cosmetic Stores” to the list of permitted uses in the B3E Business District, subject to staff’s Findings of Fact. Second by Commissioner Slifka. Roll call:**

**Aye: Evans, Holomon, Matyskiel, Mead, Slifka, Stocking**

**Nay: None**

**MOTION PASSED. VOTE: 6-0**

**Commissioner Mead made a motion to request a text amendment to Section 11-12-4 *Permitted Signs in Zoning Districts* to allow electronic message board signs on freestanding signs in the B3E Business District that conform with the East State Street Design Guidelines, subject to staff’s Findings of Fact, and further limiting the signs to zoned lots with a minimum of 80 feet of street frontage along East State Street. Second by Commissioner Slifka. Roll call:**

**Aye: Evans, Holomon, Matyskiel, Mead, Slifka, Stocking**

**Nay: None**

**MOTION PASSED. VOTE: 6-0**

**B. Verizon Wireless Tower – A Special use to allow a concealed personal service wireless communication tower in the B5 Business District. *Location:* 1749 S. Randall Road. *Applicant:* Dolan Realty Advisors, LLC.**

Planner Chayton True read the contents of the Planning and Zoning File.

Mr. Doug Dolan with Dolan Realty, LLC was sworn in by Chairman Stocking.

Mr. Dolan, 450 Summerset Avenue, St. Louis, Missouri, presented a PowerPoint for a proposed stealth communications tower. He explained that his company gets involved once Verizon Wireless engineers determine a certain area is in need of a new cell site due to more network capacity needed. The new cell site will improve connection to the area and the Verizon network in Geneva as there is a heavy reliance on cell phones versus landlines. Information regarding radio frequency safety followed.

Mr. Dolan stated that after working with a telecom consultant, it was determined to install a stealth pole with all wires internal to protect the integrity of the carrier. The plan was legally in compliance with the City's zoning code. Mr. Dolan explained the red balloon test that was held, depicting various photographs. He relayed that the telecommunications pole will be less than 3 feet wide and painted a dark gray. It will accommodate four carriers and provide reliable wireless service to businesses, residents and visitors.

Mr. Dolan shared that due to the many public comments received regarding appearance, property values, health concerns and noise generated (an emergency generator will be on site), he, along with Verizon Wireless, agreed to work with the property owner to replace any dead trees. Per Mr. Dolan, the applicant and Verizon have also agreed to accept the condition under the special use permit approval to reduce the 100 feet single tower height to an 85-foot pine tree concealed pole.

Commissioner Mead confirmed with staff what type of tower was allowed versus what was being proposed, and the fact that the applicant would replace dead trees along the buffer between the residents and the parking lot. He proceeded to ask the applicant a number of questions. Mr. Dolan explained the pole was 27 inches in diameter at the top and about 3 feet at the base. The land owner was the owner of the shopping center and his company was the developer of the property, while Verizon was the tenant of tower. Additional carriers of the tower would become co-tenants under the lease. When the lease expires, the developer will return the parking lot to the condition it was in. Due to changing technology, if the site was not used, Verizon would terminate the lease, followed by the developer terminating the lease and restoring the site.

Commissioner Mead briefly commented on Dolan Realty's background as a mobile communications site selection company based just outside St. Louis. He voiced concern about staff's comments related to the recommendation coming forward but only an affidavit from a Verizon radio frequency engineer communicated that the technology was needed versus a City requirement that a developer go through a list of preferred designs and sites to be considered and how the decision for the proposed site was reached.

Mr. Dolan explained the easiest path was to co-locate on an existing tower, followed by the next best option which was to lease land from the city, and, as a last option, by a private commercial property owner. Six other sites were considered, as referenced in his company's report. Responding to Mead's questions regarding small cell facilities, Mr. Dolan explained that such towers were shorter and more sites were needed for them versus installing one tower, i.e., 30 to 50 small cells (in public right of ways) to replicate the proposed tower. If additional carriers were added, Commissioner Mead asked if there was a mechanism to lease additional parking spaces from the landlord or what would be done, wherein Mr. Dolan stated the landlord had leased a larger area to him but for now he would be leasing 3 spaces. Additional questions followed regarding current permitted use sites; why was the Capacity Utilization graph in the CityScape report letter -- typically provided to municipalities -- not included in the commissioners' packets; and why was the National Environmental Policy Act report not completed (as referenced in CityScape's letter) since CityScape recommended that if this proposal moved forward, that it be added as a condition to the approval. Mr. Dolan confirmed that he did have such report and would furnish it. Commissioner Mead would support the report as long as the report was acceptable by City staff.

Additional commissioner questions centered on whether there was a report on 911 calls from the City wherein Director DeGroot indicated the department did not have such information. Commissioner Evans asked if documentation existed for those residents complaining about poor service wherein Mr. Dolan shared that the network engineers indicated that the area under discussion, without a new cell site, would begin to experience dropped calls and have less capacity not only for this area but in nearby areas.

Hearing no other comments, Chairman Stocking opened up the meeting to public comment.

Mr. Robert Wagner, 1911 Crystal Tree Court, a 25-year resident, addressed Standard Nos. 1 and 5 and voiced concern about seeing an 85-ft. pine tree or stealth tower located to the west. He submitted a copy of a petition with over 220 resident signatures who did not support the tower. He further referenced pictures that deceived the height of the balloon, gave different perspectives of the balloon test, and stated the tower would be out of character for the zoning district which was why the applicant was seeking a special use. He voiced concern about additional competitors besides the current four and he believed other options existed, as stated by CityScape. He submitted his written comments to Chairman Stocking.

Mr. Dale Rathunde, a Crystal Tree Court resident, shared his comments which included whether the commissioners read the public comments that were submitted on-line, stating that one hundred percent of the homes on or adjacent to Bent Tree were opposed to the tower as were those residents on Eldorado Drive, Crystal Tree Court and probably all the homes within 500 feet. Mr. Rathundy compared staff's comments about the tower being a minor visual impact as compared to the minor visual impacts he quoted, which were fixable, and wherein the impact of the tower was not the same and was a major impact to the residents. He voiced concern about the public perceiving health risks which could result in reduced property values. He asked Mr. Dolan if Verizon used a tool to measure signal strength within homes or just used propagation maps. Mr. Rathundy further spoke about wireless communications in general and that the applicant provided no evidence of a capacity utilization graph, no proof of dropped calls, service outages, or proof of complaints, and the City has not demonstrated that the site is essential. He stated that small cell towers are more environmental-friendly and the more installed, the less calls are dropped. He relayed that the City has not received any information on Verizon as to why the other options were not submitted. He asked Mr. Dolan why his company would push for a 4G network when a 5G network is being installed and there was no significant population growth in Geneva. He asked the commissioners to not support the proposal.

Applicant, Mr. Dolan noted the certified affidavit of the chief engineer explained why the cell site was needed, i.e., service will begin to degrade in Geneva and more capacity was needed.

Mr. Jim Wilbur, 1916 Crystal Tree Court, discussed the significant investment he and his wife put into their home recently and the concern about diminished property value. He cited staff's comments about the tall tower structure, the fact that cell towers, electrical towers, etc. are not attractive and their affect on the sale of properties in a negative way. He cited a study that discusses same. Mr. Wilbur noted in the same study a tower can increase in height another 20 feet without the city's approval or hearing. He asked the commission to not recommend approval of the tower.

Mr. Dolan responded that he agreed with staff's comments that the cell tower will have a minor visual impact and that the residents on Crystal Tree Court will be the closest to the tower. However, he responded the site was the best site and after considering the comments from Crystal Tree Court residents and reading staff's report, Verizon would reduce the tower by 15 feet to address their concerns. The application met the City's ordinance.

Ms. Helen Wilbur, a Crystal Tree Court, stated that where the balloon was launched it was not where the tower would be installed. She submitted her own photograph of the balloon to the Chairman. She appreciated Mr. Dolan's company working with the owner to improve the berm but said the berm has not been cleaned up in three years. Ms. Wilbur inquired if the RF Emissions report will ever be submitted and who oversaw that, wherein the City Attorney noted the federal government did not allow any discussion of that topic.

Chairman Stocking invited those listening remotely to speak.

(Being 10:00 p.m. Chairman Stocking asked for consensus from the commissioners to continue the meeting with public comment. Consensus received.)

A resident who opposed the tower asked Mr. Dolan if he was asked by Verizon to “pick this problem”. He asked Mr. Dolan if another site was chosen or if he could co-locate to another tower would he get paid, wherein Mr. Dolan stated Verizon initiated the project and he would get paid either way. This resident believed the City should be looking at other sites, pointing out that 5G technology was coming and the 4G technology that was being pushed on the City was going away. He asked the commissioners to step back, consider what the problems were, and look to other options, noting Mr. Dolan was a businessman, commissioned by Verizon. The engineers from Verizon were the experts.

Again, Mr. Dolan repeated that he had the best site and least intrusive site to solve the capacity problem for the area and a chief engineer who signed a sworn affidavit stating so.

Mr. Kevin McCafferty, 2089 Eldorado, discussed the balloon in contrast to the tree line (slide 9), stating the applicant said the balloon was another 20 feet below the 100 feet.

Mr. Doug \_\_\_ said the applicant stated the site was the best place for Verizon, but just because it was the best place it was not the only place.

Ms. Emily McCafferty asked Mr. Dolan why the Wal-Mart parking lot was not considered, wherein Mr. Dolan explained the Verizon engineer said the proposed site was the least intrusive site in the area and the landlord was willing to work with the company. And, due to resident concerns, the height was being reduced to 85 feet to comply with the ordinance. Ms. McCafferty asked the commission to explore the matter more.

Mr. Dale Rathunde returned and stated Verizon provided the pictures of what the tower would look like (rendering of the tower) on the City’s web site but pointed out that the applicant is only going to show those pictures that reflect positively when really none of the balloon tests showed, with accuracy, the correct height. Mr. Dolan explained how the balloon was moved to fly over directly near the proposed site. Mr. Rathunde then shared a public comment that came in regarding Geneva’s ordinance as it requires accommodation of a new tower to support co-location. Apparently, he said CityScape indicated the ground space for the future co-locaters would have to expand beyond Verizon’s initial footprint provided in the plans submitted to the City. Further comments followed as to whether the current cell towers were fully populated with the maximum number of sectors and antennas. Mr. Rathunde believed there was plenty of space to be used on the existing tower. He reiterated the residents were against the tower, it did not conform with the Randall Road corridor or the comprehensive plan, had a weak justification, diminished property values, and the applicant did not provide all the required documents to staff.

Mr. Wagner, 1911 Crystal Tree Court, returned and recalled when the applicant said the Wal-Mart area was not the least intrusive area and his following comment was about Crystal Creek Court residents. Mr. Wagner reminded the commissioners that they had a petition signed by 200 residents that were not on Crystal Tree Court and that it was not a Crystal Tree Court issue; it was an Eagle Brook Park community issue – referencing a photograph. He also referred the commissioners to the CityScape document which discussed alternatives and the applicant did not provide that information

Ms. Janice Mohan, 1913 Crystal Tree Court, spoke about the nearby park and the fact that the mono-pole will change the context of the park for those who live in the area and visitors. She asked the council to not allow the tower and recommended using other alternatives. The residents put the money into the park; not Verizon.

Mr. Sean Calloway, 2061 Arrowhead Court, discussed the reason why he did not purchase a home on the north side of the subdivision due to the existing tower. He sympathized with his neighbors' concerns.

Resident, Mr. Brian Zaskes, asked whether Mr. Dolan proposed other locations wherein Mr. Dolan confirmed six additional sites were considered within the circular zone. Mr. Zaskes pointed out there was only one document proposed with one site and the proposed site appeared to be benefiting Verizon Wireless and Mr. Dolan. There needed to be another way.

Mr. Sean Calloway returned and recalled Mr. Dolan's earlier comment that if there was to be no single tower then having 30 to 40 smaller cells should be the answer.

Mr. Ben Evans from CityScape, referred to the resident who discussed capacity and the F1 existing site. Mr. Evans explained the challenges of adding channels to an existing site stating it was not the way to add capacity.

Mr. Dale Rathunde returned and stated to the commissioners that Mr. Dolan has only addressed co-location and no investigation of the other technology (rooftop base stations or small cells).

Commissioner Mead appreciated Mr. Dolan discussing the alternative tower as a lower tower but the ongoing reference to an affidavit provided by an RF engineer (Jessie McDaniel) at Verizon did not provide much information, from his perspective. He wanted to see more information and pointed out that staff did not even receive the documentation that was requested. He extended the option to Mr. Dolan: either the commission takes a vote or the applicant returns with more information. Chairman Stocking concurred and believed that after three hours of testimony the applicant would have provided more information, but did not.

Mr. Dolan added that part of the RF engineer's testimony/report was in the submitted application as an attachment. And as far as why alternative structures were not considered, Mr. Dolan added that in having discussions with Verizon it decided to modify the tower to a pine tree cell tower. However, Commissioner Mead relayed he was interested in reviewing information as to what led to the decision of the proposed site, what new sites were considered, why did they not work, was it not cost-effective, etc. Other commissioners agreed, noting staff's report stated there was a lack of information provided.

Mr. Dolan supported a continuation of the public hearing in order to meet with staff and CityScape consultants to ensure the application is complete.

**Motion by Commissioner Mead to continue the public hearing to June 10, 2021, second by Commissioner Holomon. Roll call:**

**Aye: Evans, Holomon, Matyskiel, Mead, Slifka, Stocking**  
**Nay: None**

**MOTION PASSED. VOTE: 6-0**

**Public Comment** – None

**Other Business**

Planner True provided upcoming applications: the Malone Funeral Home, the semi-truck repair business at the northwest corner of Old Kirk Road and Reed Road, and variations for a replacement deck (in July). No updates on the former Mill Race Inn site or the east side Dunkin Donuts site.

**Adjournment**

**Motion by Commissioner Evans, second by Commissioner Mead to adjourn the meeting at 10:56 p.m. Motion carried by voice vote of 6-0.**