

PLAN COMMISSION MINUTES
City of Geneva
109 James Street - City Council Chambers

January 24, 2019 – Meeting #1204

Chairman Stocking called the meeting of the Geneva Plan Commission to order at 7:00 p.m. Roll call followed:

Present: Chairman Stocking; Commissioners Mead, Evans, Leidig, Slifka, Stevenson

Absent: Commissioners Case, Dziadus, Kosirog

Staff Present: City Planner Paul Evans

Public Present: Mr. Justin Heinz, Tri-City Land Management, LLC, 77 N. First Street, Geneva; Court Reporter Joanne Ely with Planet Depos; Recording Secretary Celeste Weilandt

Approval of the Agenda

Commissioner Evans made a motion to approve the agenda. Second by Commissioner Mead. Motion carried by voice vote of 6-0.

Approval of Minutes of December 27, 2018

Minutes of the December 27, 2018 meeting were approved on motion by Commissioner Evans Second by Commissioner Slifka. Motion passed by voice vote of 6-0.

Public Hearing

Chairman Stocking swore in applicant, Mr. Justin Heinz. Contents of the Plan Commission file were read into the record by City Planner Paul Evans. The following public hearing was opened by the chairman:

A. Zoning Ordinance Text Amendment – A request to amend Section 11-6D-2 to expand the list of permitted uses in the B3 Business District to include “Health or Fitness Clubs.” Applicant: Justin Heinz, Tri-City Land Management, LLC

Applicant, Mr. Justin Heinz with Tri-City Land Management, LLC, summarized his request involved the space above 207 S. Third Street, just above the Olivia Restaurant. The space was previously occupied by Strut, a clothing store, and a hair salon. Peak Fitness in St. Charles approached him about opening a yoga studio in the space. However, current zoning in Geneva did not permit the use in the space as B-3, but B-2 did allow health and fitness clubs. He was seeking a text amendment to allow the fitness club into the space.

Asked how parking would be addressed, Mr. Heinz said he was told the classes would be small with 5 individuals to a class. However, he could not confirm that number because the studio owner was not present. Mr. Heinz pointed out another issue which affected the number of persons allowed in the studio was sprinklers. If the studio owner went over a certain amount of persons, he would be required to sprinker the property and he did not want to install sprinklers. Therefore, Mr. Heinz said a clause was written into the lease to that affect and if sprinklers had to be installed then the lease would become void. He did not know the occupancy limit for the space.

Per Commissioner Evans’s question on whether this change could potentially be opening up other issues in the B-3 zoning, Planner Evans explained that generally B-3 was zoned for first-floor

retail businesses, some of non-retail business were grandfathered in, but there were also non-retail uses approved above and below the first floor. Because staff confirmed the space in question was considered a second floor, the applicant, Mr. Heinz asked if he could amend his request to the second floor only, if it was fine with the commission. He would write the text into the tenant's lease.

Commissioners appeared fine with the request given that the building was unique and did not necessarily have a street level. Commissioner Slifka also noted the use was not permitted as a special use in B-3 either, which staff confirmed was the reason for the text amendment.

Commissioners had concern about the intensity of the use and whether its intensity could affect nearby tenants with noise or shaking, etc. Mr. Heinz concurred. Commissioner Mead felt limiting the type of use to a lighter use made sense. Commissioner Evans explained that a special use could limit it. Commissioners and staff discussed among themselves 1) whether there were any structural requirements necessary, 2) the definition of Health and Fitness Clubs was a broad term, and 3) applying a special use allowed the commission to be more selective. Commissioner Leidig did not support the health and fitness use.

After discussing the concern of noise possibly impacting nearby tenants and what the applicant was actually seeking, Commissioner Evans suggested limiting the use to the four uses being requested: yoga, ballet bar, core conditioning and flexibility training as long as there was no issue with the tenant below. Commissioner Leidig supported that as long as there was no impact. Mr. Heinz explained that there were clauses in the applicant's lease to protect the other tenants.

Conversation then moved to whether a special use could be considered tonight, wherein Planner Evans explained that tonight's hearing was for a text amendment but if the commissioners wanted a special use, it would require the applicant to file a special use application and Mr. Heinz and the tenant would have to return for another hearing. Mr. Heinz voiced concern not knowing a special use was an option and confirmed with Planner Evans that he could have requested a special use prior, wherein Planner Evans explained that he (Mr. Heinz) came in seeking a permitted use.

Planner Evans proceeded to summarize the difference between a special use request and a permitted use request and the length of time needed if a special use application was filed instead. Commissioner Mead asked fellow commissioners if there were any implications if the commission limited the application to the four uses mentioned above, wherein noise was mentioned as an issue. Dialog then followed on the definitions for the four individual uses: yoga, ballet bar, low impact cardio, and flexibility training.

Mr. Heinz explained that commercial leases usually included a clause for the "right to quiet enjoyment" and if he, as a landlord, allowed someone to go into a space with an allowed use and that use caused disturbances to nearby tenants, those tenants could come to him stating he violated/breached their right to quiet enjoyment because he allowed the use to go in next-door. In this case, Mr. Heinz stated that as long as the added language of "low impact" and a limit to the four types of exercise were stated, it minimized the risk for that to happen. He also believed the lower tenant would monitor the newer tenant if there was a noise issue.

Conversation was raised on how long it would take for this case to be approved as a special use which Planner Evans explained in more detail. Further dialog followed. Planner Evans also described some of the changes that were being reviewed in the City's zoning ordinance as it pertained to a new district where fitness clubs were being defined as Personal Services.

Upon hearing staff's explanation of the zoning changes to come – whether approved or not - Commissioner Evans believed the commission should approve tonight the use by right with the low-impact language in order for the tenant to start the business and to not have Mr. Heinz go through the

special use process when such uses were going to be reviewed by this commission in a couple of months. [Detailed explanation followed by Planner Evans and Commissioner Evans regarding the comprehensive review that was taking with the City's downtown zoning ordinance and matching it to the City's Downtown master plan.]

Commissioner Mead made a motion to close the public hearing. Second by Commissioner Stevenson. Roll call:

Aye: Evans, Leidig, Mead, Slifka, Stevenson, Stocking

Nay: None

MOTION PASSED. VOTE: 6-0

Commissioner Mead made a motion to approve a zoning ordinance text amendment to Section 11-6D-2 to expand the list of permitted uses in the B-3 Business District to include Low Impact Exercise uses to include Yoga, Ballet Barre, Core Conditioning and Flexibility Training and be limited to spaces not on the first floor level, subject to the analysis contained in staff's report. Second by Commissioner Evans. Roll call.

Aye: Mead, Evans, Leidig, Slifka, Stevenson, Stocking

Nay: None

MOTION PASSED. VOTE: 6-0

Public Comment – None.

Other Business

Planner Evans reported that currently there were no applications scheduled for the next meeting on February 14, 2019. Other updates included the Oberweis proposal and the Hamilton Place (Cetron Place) project. Regarding the charette, Planner Evans reported that five proposals were received. A recommendation will be determined in February. Planner Evans elaborated on the work that takes place with this kind of charette. He also encouraged commissioners to attend the upcoming zoning ordinance meetings.

Adjournment

Meeting was adjourned at 7:55 p.m. on motion by Commissioner Evans, second by Commissioner Leidig. Motion carried unanimously by voice vote of 6-0.