



City of Aurora

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Legistar History Report

File Number: 18-0317

File ID: 18-0317 **Type:** P&D Resolution **Status:** Agenda Ready

Version: 3 **General Ledger #:** **In Control:** Planning & Development Committee

File Created: 04/06/2018

File Name: Scientel Solutions, LLC / 245 N Eola Rd / Final Plan **Final Action:**

Title: A Planning and Development Committee Resolution Approving a Final Plan on Lot 2 of Scientel Solutions Subdivision located at 245 N. Eola Road being east of N. Eola Road and south of Diehl Road

Notes:

Agenda Date: 05/24/2018

Agenda Number:

Sponsors:

Enactment Date:

Attachments: Exhibit "A-1" Final Plan - 2018-04-24 - 2018.014.pdf, Exhibit "A-2" Landscape Plan - 2018-05-07 - 2018.014.pdf, Exhibit "A-3" Building and Signage Elevations - 2018-04-25 - 2018.014.pdf, Fire Access Plan - 2018-04-24 - 2018.014.pdf, Landscape Material Worksheet.pdf, Appealable Sheet - Final Plan - 2018-05-17 - 2018.014.pdf, Engineering Review Memo - 2018-04-23 2018.014.pdf, Property Research Sheet #70246 - 2018-01-24 - 2018.014.pdf, Land Use Petition and Supporting Documents - 2018-04-05 - 2018.014.pdf, Plat of Survey - 2018-04-05 - 2018.014.pdf, Address Plat - 2018-04-05 - 2018.014.pdf, Legistar History Report (Final Plan) - 2018-05-03 - 2018.014.pdf

Enactment Number:

Planning Case #: NA08/1-18.014-Fsd/Fpn/R

Hearing Date:

Drafter: tvacek@aurora-il.org

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	04/10/2018	referred to	Planning Council			
	Action Text:	This Petition was referred to to the DST Staff Council (Planning Council)					
1	Planning Council	04/17/2018					
	Notes:	<i>Representatives Present: David Burroughs, Roxanna Hoffman, Alex Lopez and Richard Williams</i>					

I'm Dave Burroughs with Engineering Enterprises.

I'm Roxanna Hoffman, the Project Manager with Scientel Solutions.

I'm Alex Lopez with Cordogan Clark Architects.

I'm Richard Williams with Griffin Williams, Attorney in Geneva.

Mr. Burroughs said so this is the Final Plan. We were in last year for Preliminary Plans on the whole property. So this is just final for Lot 2, which is going to be the Scientel Solutions headquarters, which is in the back. We are proposing to construct the access off of Eola Road as shown and stubbing a road to the north and then the detention basin. The detention basin has been modified so that we did away with the walls that we previously had in there and the fence around it. We were able to get the slope in there, so that simplified that. We did that by reducing the volume that we're providing and in lieu of that we are providing some porous pavers, which you can see on the west and north side of the building. As you recall, the sanitary is coming from the off-sites, so we are working with those property owners with getting the easements for that, so that's all in progress. As some of you may recall on the overall Preliminary Plan that was done for Northgate, or whatever it was called before, there was a recapture agreement in there so we are working through those adjacent property owners on recapture costs for the sanitary and the water. We've had good conversations so far, so that's all moving forward. Maybe Roxanna if you want to talk about the building and the tower location. We worked around the setback issues for the tower that were based on the constrictions or conditions that were put on the Preliminary Plan, so we've got it in place now so it meets all those requirements of 75 feet from the property line.

Ms. Hoffman said as far as the tower goes, we worked through the setbacks. I'm assuming that's going to get analyzed in more detail through the tower permit application. We actually submitted a package into John Curley last Friday. We aware that approval is not going to come through until this gets settled, but we wanted to give him enough time to start looking because that's a pretty condensed package as well to give him a chance to start looking through that. Then Alex can collaborate on that.

Mr. Burroughs said one quick little thing while that's downloading, EPA permit applications, Mike I've got those signed by the owner, so we will be submitting those to the city and to you guys tomorrow.

Mr. Lopez said it is a 2 story office building, 16,000 square feet roughly plus or minus, obviously meeting all of the setbacks and all of the parking requirements. The building is mostly glass and brick. Again, we've got a little bit of glazing, a little bit of metal panel at this point and a lot of brick. Like I said, a 2 story office building roughly 30 feet in height. The elevator and stairs and everything meets codes. If you have any questions I can answer them. It is pretty standard.

Mr. Williams said I'll just remind everybody that the city approved the Northbridge Subdivision as a Planned Unit Development in 2010 in coordination with 2 other property owners. Our Preliminary Plat and Plan is slightly amended, but is in substantial conformance as previously approved and very consistent with the overall intent of the approved plan from 2010. We worked hard with staff to accomplish that and I think we are proud of what we're presenting here to you today.

Mr. Sieben said Tracey Vacek will be the Planner taking this through.

Mrs. Vacek said I started my review, so I will be getting comments out this week. Once we get comments out, we'll send it for hearing.

Mr. Burroughs said we did get comments back on fire access and I need to get those resubmitted back in probably tomorrow. There were just a couple of comments on that. We'll get that back to you.

Mr. Beneke said there just were a couple of things. The FDC needed to go around the horn on that face. It actually faces toward Eola. Then just put some dimensions on the Fire Plan on the north and

east drives. We looked at that again this morning. I think that was all we had.

Mrs. Vacek said as far as permitting for the tower, obviously, there was a condition put on Preliminary that we will not sign off on that until we have all the easements in place.

Mr. Williams said we are working on that now.

Mr. Feltman said how far along are you on that?

Mr. Burroughs said we've had positive response back from everybody. Like I said, we are working on the recapture costs for a couple of the adjacent property owners so they understand what they are in for. ComEd asked for just some basic information on wetlands and some other stuff through their property, so we are responding to those folks.

Mr. Williams said the Annexation Agreement obligates our neighbor to the north and neighbor to the south to provide easements for water, sewer, ingress and egress and things of that nature. So there is already the contractual commitment to do that. We're just in the process of getting the Plats of Easement executed.

Mr. Sieben said Mike do you have any comments?

Mr. Frankino said Dave actually addressed one of them and that the IEPA application, so owner, you, city and then get them to us for signature, and plans obviously.

Mr. Feltman said and you are getting the water?

Mr. Burroughs said yes as well. I'll get you both at the same time.

Mr. Sieben said does Scientel have any other comments at this time?

Mr. Williams said no.

Mr. Lopez said I do have a quick question. At what point would we be able to begin construction, apply for permits?

Mr. Sieben said you can apply for permits at your own risk anytime. They cannot be signed off, obviously, until City Council approval.

Mr. Lopez said we'll start that process.

Mr. Sieben said we do have another interested party here that would have 3 minutes to comments on the record. If you could introduce yourselves.

I'm David Silverman with Ancel Glink in Chicago. We represent CyrusOne.

I'm Kevin Desharnais with Troutman Sanders also representing CyrusOne.

Mr. Silverman said yesterday I did address a few questions to Tracey. I realize this probably was on short notice, so we did not get answers, so really what I'm going to do is just ask my questions now. Based upon my understanding of who is assembled here, I might be able to get some answers on these, which are relevant to our concerns with Scientel's project. Scientel's original tower was approved by City Council on January 9th. Based on the revised Final Plan and Plat, the tower is located 89 feet south and 170.7 feet from the northwest property corner. We're wondering why that wouldn't have triggered, and this is a zoning question I suppose, why that wouldn't have triggered a major change to the approved Planned Development under Section 10.7-9 of your Zoning Ordinance.

Mr. Sieben said out intent here would not be to get into a question and answer session. We are

reviewing that with our attorney. So if you want to go ahead and continue your comments.

Mr. Silverman said that's fine. So I'll just put these questions out and then they will at least be a part of the record and if someone could get back to us that would be terrific. Further, the revised Final Plan and Plat, which was approved subsequent to CyrusOne beginning construction, which has now constructed its tower, the new location of the towers would not be 1,087 feet from our tower that's going up. That's 116 feet closer than what was originally proposed and approved in the Preliminary Plan, which is a further 9% reduction. The setback between Scientel's tower and our tower based on the respective heights is 2,500 feet under your Telecommunications Ordinance. So this 1,087 foot distance is significantly shorter than what is otherwise required under your code and it is a 56% reduction in the setback between the 2 towers. So now that our tower is going up and it is a matter of fact that it is going up, you should start seeing vertical construction starting tomorrow now that structural steel is on-site. Why wouldn't that have triggered a variation between Scientel's tower and our tower? Does the 56% setback exceed the 50% limitation on setback reductions you allow yourself under your code? Those are our comments. If we could get answers to those it would be terrific and we thank you for your time this morning.

1	Planning Council	04/24/2018	Forwarded	Planning Commission	05/02/2018	Pass
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Action Text: A motion was made by Mrs. Vacek, seconded by Mrs. Morgan, that this agenda item be Forwarded to the Planning Commission, on the agenda for 5/2/2018. The motion carried by voice vote.

Notes: *Representatives Present: Richard Williams, David Burroughs, Roxana Hoffman and Alex Lopez*

Mrs. Vacek said I did receive a resubmittal this morning, so I'm assuming that they are addressing my comments. I know Engineering had some comments also.

Mr. Burroughs said we got the Engineering comments yesterday afternoon. I took a look through them and I was just talking to Souts and those are all fairly straightforward.

Mr. Feltman said, obviously, the biggest thing with this is the off-site easements. Where do you guys stand with that?

Mr. Burroughs said we are in conversations with all of them. We are trying to set up a meeting, actually, with Cibulskis to kind of go over some of their questions that they had. ComEd is comfortable with it. It has to go through their legal process, so it is working its way through their system.

Mr. Feltman said one other thing too, just as a suggestion, maybe the sanitary can move into the ComEd right-of-way. You are already dealing with ComEd already.

Mr. Burroughs said well it's not just not the sanitary. It is half of the roadway. It is that kind of stuff too, so there are other easements.

Mr. Williams said they want the sanitary.

Mr. Burroughs said they are fine with that one.

Mr. Williams said they quite don't grasp their obligations under the Annexation Agreement, so we are trying to set up a meeting with them to talk about that.

Mr. Feltman said and you are in conversations with John Philipchuck I'm assuming?

Mr. Williams said well I'm trying. Craig Cobine is involved too. I'm not sure who his partner is.

Mrs. Vacek said we are actually going to move this forward to the May 2nd Planning Commission conditioned on addressing Engineering and Planning staff's comments and on the condition of obtaining the off-site easements. I do make a motion to move this forward. Mrs. Morgan seconded the motion. The motion carried unanimously.

Mr. Cross said I just had some dimension clarifications.

Mr. Burroughs said those are addressed.

2 Planning Commission 05/02/2018 Held in Planning Commission Pass

Action Text: A motion was made by Mrs. Cole, seconded by Mrs. Head, that this agenda item be continued to the May 16, 2018 Planning Commission meeting. The motion carried.

Notes: *Mrs. Vacek said at the request of the Petitioner, they are asking to continue this to the May 16th Planning Commission.*

MOTION TO CONTINUE TO MAY 16, 2018 WAS MADE BY: Mrs. Cole

MOTION SECONDED BY: Mrs. Head

AYES: Mrs. Anderson, Mr. Bergeron, Mr. Chambers, Mrs. Cole, Mr. Divine, Mrs. Duncan, Mrs. Head, Mrs. Owusu-Safo, Mr. Pilmer, Mr. Reynolds

NAYS: None

Aye: 10 At Large Bergeron, At Large Cole, At Large Pilmer, Aurora Twnshp Representative Reynolds, At Large Anderson, Fox Metro Representative Divine, SD 204 Representative Duncan, Fox Valley Park District Representative Chambers, At Large Owusu-Safo and SD 129 Representative Head

2 Planning Commission 05/16/2018 05/24/2018

Action Text: A motion was made by Mr. Chambers, seconded by Mrs. Anderson, that this agenda item be Forwarded to the Planning & Development Committee, on the agenda for 5/24/2018. The motion carried.

Notes: *See Attachment for Items 18-0316 and 18-0317.*

2 Planning Commission 05/16/2018 Forwarded Planning & Development Committee Pass

Action Text: A motion was made by Mr. Chambers, seconded by Mrs. Anderson, that this agenda item be Forwarded to the Planning & Development Committee. The motion carried.

Notes: *See Attachment for Items 18-0316 and 18-0317.*

Aye: 9 At Large Cameron, At Large Cole, At Large Pilmer, Aurora Twnshp Representative Reynolds, At Large Anderson, At Large Truax, Fox Valley Park District Representative Chambers, At Large Owusu-Safo and SD 129 Representative Head

18-0316 A Planning and Development Committee Resolution approving a Revision to the Final Plat subdividing Lot 6 of Diehl Industrial Park Assessment Plat No. 2 located at 245 N. Eola Road and establishing Lots 1 and 2 of Scientel Solutions Subdivision (Scientel Solutions, LLC – 18-0316 / NA08/1-18.014-Fsd/Fpn/R – TV – Ward 10)

18-0317 A Planning and Development Committee Resolution approving a Final Plan for Lot 2 of Scientel Solutions Subdivision located at 245 N. Eola Road for an Office and Communications Facility (4211) Use (Scientel Solutions, LLC – 18-0317 / NA08/1-18.014-Fsd/Fpn/R – TV – Ward 10)

2 If not, we'll move on to our first
3 item, which is a Planning and Development Committee
4 resolution approving a revision to the final plat
5 subdividing Lot 6 of Diehl Industrial Park
6 Assessment Plat No. 2 located at 245 North
7 Eola Road, and establishing Lots 1 and 2 of Scientel
8 Solutions Subdivision. Scientel Solutions, LLC, in
9 Ward 10.

10 MS. VACEK: I'm sorry. Can you also read the
11 second one?

12 CHAIRWOMAN TRUAX: Second one is related.

13 It's a Planning and Development
14 Committee resolution approving a final plan on Lot 2
15 of Scientel Solutions subdivision located at
16 245 North Eola Road, being east of North Eola Road
17 and south of Diehl Road, by Scientel Solutions, LLC,
18 also in Ward 10.

19 MS. VACEK: I'm going to go ahead and talk
20 about both of them and then I'll turn it over to the
21 petitioner. He can get into a little bit more of
22 the details. Okay?

23 The subject property is currently
24 vacant land with B-2 general retail zoning, which is

13

1 part of the Eola Ventures special use plan
2 development.

3 In January of this year, you may
4 recall, they did come -- and actually it was
5 probably a little last year too, they did come in
6 and get approval for a special use plan development
7 revision, a revision to their preliminary plan and
8 plat and a special use for 190-foot communication
9 facility on the subject property.

10 The petitioner is requesting approval
11 of a final plat revision. The details of the
12 request include a two lot subdivision, Lot 1 would
13 contain one acre and would be developed for future
14 retail uses, and then Lot 2, which contains
15 1.6 acres, would be developed as an office building
16 with accessory communication facility and on-site
17 detention.

18 Concurrently with this proposal, the
19 petitioner is requesting approval of the final plan
20 for Lot 2, Scientel Solution Subdivision. The
21 details of the request include a construction of a
22 16,032 square foot two-story office building along

23 with the associated 55 space parking lot, which will
24 house the headquarters of Scientel Solution, LLC.

14

1 This company is planning to relocate from Lisle.

2 The proposal also includes the
3 installation of 190-foot lattice style communication
4 facility, which will be accessory to the Scientel
5 Solution headquarter building.

6 On site water management facility is
7 being constructed along the west portion of Lot 2
8 adjacent to the internal road and then a full
9 landscape plan is being proposed throughout Lot 2
10 and the final plan also includes building and
11 signage elevations, which I'll allow Scientel to
12 actually talk a little bit more in detail of.

13 MR. SIEBEN: Can I just clarify?

14 Tracy said 190. I believe it's 195.

15 MS. VACEK: Did I say 190? I apologize. It's
16 195.

17 MR. SIEBEN: Just for the record.

18 CHAIRWOMAN TRUAX: Thank you.

19 Are there questions for staff?

20 Would the petitioner like to come
21 forward?

22 MR. WILLIAMS: Good evening.

23 My name is Richard Williams. I'm an
24 attorney with Griffin Williams in Geneva, Illinois.

15

1 I represent Scientel Solutions, the petitioner in
2 this matter.

3 With me tonight we have Nelson
4 Santos, who is the president of Scientel Solutions.
5 We have Mike Cataletto, who is vice president of our
6 engineering department. We have Roxanna Hoffman,
7 our project manager. We have Mike Konopka, one of
8 our architects with Cordogan, Clark. And we have
9 David Burroughs, engineer -- our engineer with
10 Engineering Enterprises.

11 We were introduced to you at our
12 public hearing in September of 2017. We're excited
13 about the progress we've made and we're excited to
14 be moving to Aurora and calling Aurora our home.

15 Scientel Solutions is a growing
16 wireless communications company and network provider
17 currently based in Lombard, Illinois. We will be
18 moving our facility, our headquarters to the City of
19 Aurora.

20 We presently have over 60 employees
21 in eight locations throughout the United States,
22 including Canada. We have offices in New Jersey,

23 Texas, Hawaii, and Toronto.

24 Our core customer is public safety

16

1 users, cities, municipalities, counties. We
2 represent municipalities throughout the United
3 States. We do have a fair number of private and
4 Fortune 500 companies that are in our customer base.

5 Our plan is to, as I said before, to
6 move our headquarters here to Aurora. We'd be
7 bringing over 30 high paying jobs immediately and
8 we'll be growing to at least 50 within a few years
9 of us establishing our home here in Aurora.

10 These are high tech well-paying jobs.
11 Our estimated average salary will be approximately
12 \$90,000.

13 Towards that end, as Tracey
14 mentioned, we're planning on improving a 2.6-acre
15 parcel, that we now own, which is located east of
16 Eola and generally south of Diehl.

17 As Tracey indicated, this is part of
18 a larger 14-acre parcel that the City approved known
19 as the North Bridge Development in 2010.

20 Since that development was approved
21 in 2010, there has not been any activity on the
22 site. We will be the first to develop. We will be

23 extending utilities to the site and Dave Burroughs
24 will be talking about that momentarily.

17

1 As Tracey also mentioned, our lot on
2 Eola Road will be for future retail, that's almost
3 one acre in size, and toward the rear of the
4 property will be Scientel Solutions offices and
5 integrated tower.

6 You'll see in a moment our final plan
7 to fix our 16,000 square foot office building with
8 our integrated network operating center, our
9 190-foot telecommunications tower, and on-site storm
10 water detention.

11 As Dave Burroughs will be mentioning
12 in a moment, we will be constructing numerous public
13 improvements to the property, including the
14 extension of a 12-inch sanitary sewer line from
15 Metea Valley High School to the property, extending
16 a loop water main to service the property and other
17 properties in the North Bridge development. We will
18 be constructing access off Eola Road and an internal
19 road network, which will allow the property to the
20 north and the property to the south to develop.

21 As I mentioned before, we're
22 primarily a public safety network company. 24 of

23 the 28 antenna that are planned on our tower will be
24 dedicated to public safety uses. Only four will be

18

1 for our private corporate clients.

2 In all we're investing over
3 \$8 million in the City and the site. We estimate
4 that our project will generate over \$170,000 per
5 year in real estate taxes and once the retail site
6 develops, we anticipate that the sales tax to the
7 City will be approximately \$75,000 per year.

8 I'm going to turn it over to Mike to
9 talk about our elevations.

10 MR. KONOPKA: Good evening.

11 I'm Mike Konopka with Cordogan, Clark
12 and Associates. We're located here in Aurora on
13 960 Ridgeway. Some of you know who I am.

14 Anyway, we're the lead architects for
15 Scientel Solutions. And some of the things that
16 have occurred over the last couple of years with
17 Scientel Solutions was the size and the scope of the
18 project. It -- I don't know if anybody knows the
19 history of it, but when we first started this
20 project, it was smaller in scale, it was a 8,000
21 single-story building with limited office space and
22 a warehouse. And the discussion with the Scientel

23 Solutions, especially Nelson Santos, the concept and
24 the program changed a little bit.

19

1 Currently they're located in Lombard,
2 Illinois and they lease space, and so there was a
3 good discussion about the potential of what the site
4 is for building and maximizing the building site.
5 So we went -- we went with that and I think it was a
6 good step in the direction and a commitment on their
7 part to commit to Aurora and not only bring their
8 present employees but be able to expand for
9 basically double the size that they are in Lombard.

10 So, anyway, what we did was developed
11 a few things with the company. It's been mentioned
12 before, it is a two-story, just a little bit over
13 16,000 square foot facility for them, and it
14 basically houses their operations to go ahead and
15 serve their clientele.

16 You know, it's strictly office space.
17 There's nothing, you know, magical about it. You
18 know, they have portions of their business just like
19 anybody else does. They have accounting, they have
20 executive offices, and whatnot. But, anyway, I
21 think it was a big step in that direction.

22 I can see that the elevations are up.

23 Potentially what we're looking at was
24 the use of a brick building, some good window sizing

20

1 to allow for some natural light and also to protect
2 ourselves against the heat gain on the building from
3 the south.

4 So the materials would be brick.
5 We're looking at a metal siding, sort of like
6 Alucobond type of material and some glazing. And so
7 this is what it is.

8 We think it's a pretty good piece of
9 architecture. I hope everybody else does as well.

10 So, anyway, as you know, you saw it
11 on the site plan. The building is basically located
12 in the back of the site and the tower is adjacent to
13 the building for the potential feeds from the tower
14 directly into the building.

15 Are there any questions?

16 CHAIRWOMAN TRUAX: I guess not.

17 Thank you.

18 MR. KONOPKA: I think Dave is next and he'll
19 talk to you about the site and some of the
20 utilities.

21 MR. BURROUGHS: Thank you, Mike.

22 Dave Burroughs with Engineering

23 Enterprises, and we did the site engineering.

24 There's been a couple of minor little

21

1 changes from the preliminary plan. We had to move
2 the tower to -- one of the stipulations in the
3 preliminary plan approval was setback from the
4 property line, so the tower shifted ever so slightly
5 to accommodate that and the building, which, as Mike
6 said, was a little smaller footprint before now has
7 grown a little bit and shaped differently as is wont
8 to do.

9 We are bringing sanitary sewer from
10 Metea Valley High School, so that's coming up
11 offsite and we're also looping the water main
12 underneath Eola Road.

13 The road structure is basically
14 following what was previously approved on the North
15 Bridge Subdivision, so we're providing a stub to the
16 north for that future extension all the way out to
17 Diehl Road eventually. And then also access for the
18 south property owner so he has access to the road
19 network as well.

20 And then detention is on site. It's
21 in the middle between the Scientel Solutions
22 headquarters and Lot 1, so it's conveniently located

23 in the middle.

24 And that's basically it from the

22

1 engineering standpoint.

2 CHAIRWOMAN TRUAX: Okay.

3 Any questions?

4 COMMISSIONER OWUSU-SAFO: Just, is that
5 permeable pavers that you show?

6 MR. BURROUGHS: Yes.

7 As you may be aware in the City of
8 Aurora, when you can't quite meet the detention
9 requirements, you can do what's called best
10 management practices and get credit for that.

11 So we did that, we're adding some
12 permeable pavers to take credit for that.

13 CHAIRWOMAN TRUAX: Thank you.

14 MR. WILLIAMS: You heard comments from our
15 neighbor to the west, CyrusOne, and their
16 consultants and you received a copy of a letter from
17 Mr. Silverman. Essentially, Mr. Silverman
18 summarizes what he says in his letter.

19 There's a few things that we'd like
20 to say in response to what you've heard from the
21 good folks who spoke a few minutes ago.

22 First, I think you should know, if

23 you don't already, that CyrusOne is suing Scientel
24 and the City of Aurora in Federal Court over this

23

1 project.

2 So, regardless of what you've been
3 told here tonight, their issues will be before a
4 Federal Court judge and so I respectfully suggest to
5 you commissioners that there will be somebody in the
6 court system addressing these issues. You shouldn't
7 feel compelled to have to address these concerns
8 from the objectors here tonight.

9 They will be addressed either in
10 favor of CyrusOne or against CyrusOne and all
11 parties will have their day in court.

12 Rest assured, there's a lot of
13 lawyers involved and a lot of paper being wasted and
14 a lot of money being wasted right now.

15 Essentially, CyrusOne has three
16 complaints, none of which we respectfully suggest
17 are accurate.

18 First they claim that the fact that
19 our proposed tower location differs slightly from
20 what the Plan Commission considered in September and
21 that our variance on the setback of both towers
22 closer to theirs and it showed when we were before

23 you in September requires a need for a new public
24 hearing. We disagree with that.

24

1 As you know, towers concentrate in
2 high tech area. This area is no different. This is
3 a high tech area of the City. We're all attracted
4 to this area by fiber along 88 as well as the City's
5 investment in the fiberoptic network.

6 I should note to you as well that the
7 City's fiberoptic network is less than 5 percent
8 utilized. So you're going to get more and more
9 people coming forward wanting to take advantage of
10 the significant investment that the City has put --
11 and the foresight that the City has put into this
12 area and to technologies.

13 The City's telecommunications
14 ordinance was not designed to keep towers out of the
15 area but to avoid a proliferation of tower
16 throughout the City.

17 It actually was preferable, and this
18 was discussed before the Plan Commission back in
19 September and also before the City Council, that you
20 actually want to concentrate towers in certain
21 areas. Staff has fully vetted this and they're
22 comfortable with our tower and we're comfortable

23 with our tower.

24 But our approvals from the City when

25

1 we first presented to the Plan Commission at the
2 September 20th, 2017, public hearing requires us to
3 have a setback -- minimum setback of 75 feet from
4 the property line. Our proposed plan meets that
5 75-foot setback.

6 We did seek relief and we were
7 granted an exception from the 2500-foot setback
8 requirement between towers, which is provided in the
9 City's telecommunication ordinance. However, there
10 was no specific setback minimum for us from other
11 towers, including the CyrusOne tower, that was set
12 forth in our approval. In fact, our approvals from
13 the City specifically noted and contemplated that
14 our tower location could move.

15 We're over a thousand feet away from
16 the proposed and yet unbuilt CyrusOne tower. Based
17 on the approvals, we could be much closer to the
18 CyrusOne tower than we are but we're not. We pushed
19 our tower to the far eastern end of our property.
20 We could be all the way to the west as long as we're
21 75 feet from the property line. We're not doing
22 that.

23 What CyrusOne does not inform you,
24 and you may not recall, is that in March of 2017

26

1 CyrusOne sought and approved -- received approval of
2 its tower that they claim is being built, and it
3 might be, I haven't seen it yet, but that is -- it's
4 only 646 feet from their closest tower, which is
5 well less than the 1083 feet setback distance that
6 Mr. Silverman addressed.

7 They clearly didn't have an issue
8 with being 646 feet from their nearest neighbor, we
9 don't think they should have an issue for being over
10 1,000 feet from us.

11 Our tower location is consistent with
12 the approvals recommended by this Commission and
13 granted by the City Council and we're not required
14 to proceed -- sorry -- with another public hearing
15 because our plan changed slightly. That's
16 contemplated as you well know when you go from a
17 preliminary plan to a final plan. Staff and legal
18 counsel agree with our position.

19 The second complaint that they had
20 was that there's a major change to this plan
21 development for this area under the zoning ordinance
22 and this required a new public hearing. We disagree

23 with that as well.

24 Section 10.7-9 of the City Zoning

27

1 Ordinance defines a major change to a plan
2 development as follows: A major change shall be a
3 change which substantially alters proposed uses,
4 including open spaces, or the percentages of the
5 maximum or minimum percentage limitations for each
6 use, projected densities for residential uses, or
7 the maximum or minimum limitations for such
8 densities, or the intent and purpose of the plan
9 description, or the approved preliminary plan from
10 the area covered by such final plan.

11 Our requested approvals are fully
12 consistent with the approvals that were set forth
13 for this development back in 2010. We are not
14 asking for any additional uses. We're not asking
15 for uses that are otherwise permitted. We're not
16 increasing densities.

17 In fact, our use is less dense than
18 the hotel site that was originally contemplated when
19 this property was planned in 2010. We're not
20 varying from the intent of the plan description. In
21 fact, we're honoring it.

22 When we first met with the City

23 almost two years ago, the City's planning staff made
24 it clear that we needed to stay within the confines

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1 of the 2010 plan description and we have done so.

2 Staff does not consider this a major
3 change, nor do we.

4 Third, the complaint from CyrusOne is
5 that our tower footprint is wider at the base and
6 will interfere with its line of sight to the
7 CyrusOne tower and the CME in Chicago. These
8 complaints are without merit. We've heard
9 \$1.2 quadrillion and huge, huge dollar amounts and,
10 you know, that's all fine but it's really not an
11 issue.

12 Our tower footprint has actually been
13 reduced from 45 feet to 27 feet. So that's
14 incorrect.

15 We've also fully evaluated with the
16 City the claim of interference, both the line of
17 site, which is directional to their facility in
18 Chicago and the radio frequency analysis. It's
19 clear that we do not interfere with them.

20 And there's a forum for them to
21 address this. It's called the Federal
22 Communications Commission.

23 And they have the right to pursue the
24 remedies in Federal Court and they should do that,

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1 but this issue came up before the City Council, the
2 City hired a telecommunications lawyer, who
3 specifically said, it violates Federal law to
4 consider radio frequency issues in a zoning matter.
5 Simply put, it's not something that this Commission
6 or the City really is authorized to consider.

7 Second and more importantly, we won't
8 interfere. Contrary to their claim, we don't want
9 to be bad neighbors. We've met with CyrusOne and
10 tried to work with them. They're not interested in
11 what we're telling them and that's unfortunate.

12 But there's some facts that I think
13 you should note that support our position. First is
14 to consider the backdrop of towers in which our
15 tower is going. This is what we're going to be
16 against, 220-foot tall ComEd high frequency towers.
17 We're not concerned about the ComEd towers. They
18 weren't concerned about the ComEd towers when they
19 sought approval for their tower. We don't believe
20 that they should be concerned about ours.

21 We've done studies. We reviewed the
22 science. We simply don't interfere.

23 Something else to consider, even if
24 you took what they said is correct and they -- we

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1 would have some sort of line of sight interference,
2 which we don't, our tower is only 195 feet; their
3 tower is 350 feet. That's 165 feet of free board
4 above our tower. It would be impossible to have
5 interference and they know that.

6 Something else that you should
7 consider, the site is owned B-2. The original plan
8 description or plan -- preliminary plan, excuse me,
9 showed a hotel office there or hotel complex.
10 There's no height restriction with B-2. You can put
11 a 20-story, 200-foot tall hotel there and there
12 would be nothing they could do about it. That would
13 be something that I would be concerned about if I
14 were CyrusOne, not our tower.

15 The logical implications of what
16 CyrusOne is arguing is that they somehow have a
17 property right 360 degrees around their unbuilt
18 tower which says nobody can build anything in that
19 entire 360-degree circumference that could
20 potentially block us. That life doesn't exist.

21 That's what the FCC is for and that's
22 what the Federal Court case is about and they should

23 pursue that remedy in the Federal Court case and not
24 involve the City of Aurora and you fine people in

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1 that dispute.

2 This Honorable Commission held a
3 public hearing on September 20th, 2017, CyrusOne had
4 an opportunity to attend, to cross-examine, to
5 present evidence. Their role was limited in that
6 meeting by their own choice. The Commission
7 recommended approval of our plan and we respectfully
8 suggest that it would be appropriate to do so
9 tonight.

10 Thank you.

11 CHAIRWOMAN TRUAX: Thank you for your comments.

12 Questions for petitioners?

13 If not, we have time for a
14 recommendation.

15 MS. VACEK: I'm going to first do the
16 recommendation for the final plat and then I'll have
17 you vote and then we'll do the recommendation for
18 the final plan.

19 CHAIRWOMAN TRUAX: Okay.

20 MS. VACEK: Staff would recommend approval of
21 the Planning and Development Committee resolution
22 approving a revision to the final plats of dividing

23 Lot 6 of Diehl Industrial Park Assessment Plat
24 No. 2, located at 245 North Eola Road and

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1 establishing Lot 1 and 2 of the Scientel Solutions
2 subdivision.

3 CHAIRWOMAN TRUAX: Okay. You've heard the
4 staff recommendation. What's the wish of the
5 commission?

6 COMMISSIONER COLE: Move for approval.

7 COMMISSIONER CHAMBERS: Second.

8 CHAIRWOMAN TRUAX: It's been moved and
9 seconded.

10 Would you call the roll, please.

11 MR. BROADWELL: Mrs. Anderson.

12 COMMISSIONER ANDERSON: Yes.

13 MR. BROADWELL: Mr. Cameron.

14 COMMISSIONER CAMERON: Yes.

15 MR. BROADWELL: Mr. Chambers.

16 COMMISSIONER CHAMBERS: Yes.

17 MR. BROADWELL: Mrs. Cole.

18 COMMISSIONER COLE: Yes.

19 MR. BROADWELL: Mrs. Head.

20 COMMISSIONER HEAD: Yes.

21 MR. BROADWELL: Mrs. Owusu-Safo.

22 COMMISSIONER OWUSU-SAFO: Yes.

23 MR. BROADWELL: Mr. Pilmer.

24 COMMISSIONER PILMER: Yes.

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1 MR. BROADWELL: Mr. Reynolds.

2 COMMISSIONER REYNOLDS: Yes.

3 CHAIRWOMAN TRUAX: Motion carries.

4 Do we have a recommendation for the
5 final plan?

6 MS. VACEK: Staff would recommend conditional
7 approval of the Planning and Development Committee
8 resolution approving the final plan on Lot 2 of
9 Scientel Solution subdivision located at 245 North
10 Eola Road with the following conditions: No. 1,
11 That the document be revised to incorporate the
12 engineering staff comments included in the memo
13 dated April 23rd of 2018 prior to building permit
14 issuance which shall be contingent upon final
15 engineering approval; and, No. 2, That all on- and
16 off-site easements necessary for the construction be
17 acquired and recorded upon receipt.

18 CHAIRWOMAN TRUAX: Okay. For the staff
19 recommendation, what's the wish of the Commission?

20 COMMISSIONER CHAMBERS: Move for approval --

21 COMMISSIONER ANDERSON: Second.

22 COMMISSIONER CHAMBERS: -- with the conditions

23 that the staff listed.

24 MR. SIEBEN: Who seconded?

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1 COMMISSIONER ANDERSON: I did.

2 MR. BROADWELL: Mrs. Anderson.

3 COMMISSIONER ANDERSON: Yes.

4 MR. BROADWELL: Mr. Cameron.

5 COMMISSIONER CAMERON: Yes.

6 MR. BROADWELL: Mr. Chambers.

7 COMMISSIONER CHAMBERS: Yes.

8 MR. BROADWELL: Mrs. Cole.

9 COMMISSIONER COLE: Yes.

10 MR. BROADWELL: Mrs. Head.

11 COMMISSIONER HEAD: Yes.

12 MR. BROADWELL: Mrs. Owusu-Safo.

13 COMMISSIONER OWUSU-SAFO: Yes.

14 MR. BROADWELL: Mr. Pilmer.

15 COMMISSIONER PILMER: Yes.

16 MR. BROADWELL: Mr. Reynolds.

17 COMMISSIONER REYNOLDS: Yes.

18 CHAIRWOMAN TRUAX: Motion carries.

19 Tracey, can you tell us where this
20 will go?

21 MS. VACEK: This next will be heard at the
22 Planning and Development Committee on May 24th --

23 I'm sorry -- May 24th here at City Hall, 4:00 p.m.,
24 in the 5th floor conference room.

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1 CHAIRWOMAN TRUAX: Okay. Thank you.

2 Good luck with the projects.