

Nicklas, Bill

From: Nicklas, Bill
Sent: Thursday, May 9, 2019 2:50 PM
To: Amy Doll - DeKalb Park District (adoll@dekalbparkdistrict.com)
Cc: Dean Frieders (dean@frieders.com)
Subject: Cornerstone Developmental Fee Obligation

Good afternoon, Amy,

I took some time today to try to get my arms around the question you posed last night, namely, does the Cornerstone development owe impact fees to the Park District? Thank you for bringing this to my attention. I spoke with Dean, and I found and reviewed the following:

- The Cornerstone preliminary development agreement (February 27, 2017);
- The Cornerstone final development agreement (November 2018);
- The City's Unified Development Ordinance (UDO), Article 8.2, "Dedication of Public Park Sites and Cash Contributions in Lieu of Park Sites;"
- The City's Unified Development Ordinance (UDO), Article 15, "Subdivision of Land;" and
- The correspondence you shared involving the City staff and Mr. Pappas's attorney on the topic.

I should mention that I have some history with the City's UDO. When I was hired in October, 1992 for my initial run as DeKalb city manager, the City Council was on the verge of adopting the first unified development ordinance but withheld their approval until the new city manager could review it and engage stakeholders, including other taxing bodies and developers, in that review process. I did not make my recommendations until January 1993. Up until that time, there had never been impact fees in DeKalb although many surrounding communities had adopted them (including Sycamore), and local residential growth was creating fiscal tensions for local taxing bodies. As a result, I was immersed in the topic of impact fees and I was determined to refine our UDO draft to reflect best practice and withstand legal challenge from developers or other sources. The fundamental focus of impact fees then and now, is to exact fees from residential subdivision development to offset additional operating costs created by such subdivisions—costs which would not otherwise be offset by property taxes or use fees. In the case of Park Districts and School Districts, the option of land donation at defined prices per acre is typically offered because the immediate and future needs of the residents of the new subdivisions may demand additional facilities. The UDO language on these points has not changed in 25 years.

Flash forward. After considering all the relevant documents, I believe some confusion was created by the city staff around the import of "final plats" that steered the discussion of the Cornerstone obligation into an interpretive thicket that was a disservice to all concerned. In DeKalb's UDO, final plats are triggers for the timing of the payment of impact fees, but not the reason for the payment of impact fees. Additionally, Park impact fees are tied to "major or minor" residential subdivisions, and not long-existing commercial downtown properties which are being razed for redevelopment.

We can discuss at your convenience, but in my humble opinion the city's impact fee codes do not apply to commercial redevelopment such as Cornerstone, Plaza DeKalb, the proposed Mooney property, or—if it ever comes to pass—the Shodeen redevelopment area on West Lincoln Highway. I am sorry that city confusion raised other expectations which have to be addressed after the fact.

Bill