



VILLAGE OF FOX POINT

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February 23, 2017

TO: Village of Fox Point
FR: Scott A. Botcher, Village Manager
RE: Pre-petition Conference

As indicated in the Village Attorney's memo dated February 29, 2016 <http://villageoffoxpoint.com/DocumentCenter/Home/View/674> , a Pre-petition conference is the first step in the review of the Dunwood Crossing proposal. **The Pre-petition conference in front of the Plan Commission is scheduled for March 6, 2017 starting at 4:30pm at Village Hall.**

As mentioned in my memo dated February 22, 2017, the Village does not have much, if any, experience with Pre-petition conferences, so I felt it appropriate to make clear what the conference is and is not so as to manage expectations prior to the meeting.

The Pre-petition conference is a conceptual review mandated as the first step when a potential applicant seeks to rezone their property for planned development. Required by ordinance, the Plan Commission role at this stage is comprised largely of listening to the applicant and limiting comment to the most basic compliance or procedure-related issues.

Most importantly, the Plan Commission should not as a body nor should its members individually pre-judge any application at this stage. It is important that the Plan Commission not show bias, perceived or otherwise, at the conceptual review stage. Just as a judge does not tell the litigants what their claims or defenses should be, the Plan Commission should not advise the applicant about changes they should make to their proposal at the Pre-petition conference. This discussion is conceptual and introductory in nature.

Eventually, the Plan Commission must make findings based on the facts presented, based on Section 745-21(E) of the Village Code. I think it is fair for any member to say things like "I will be closely considering the standards of the ordinance if and when an application is received." I also think it is fair to say something like "I am particularly interested in seeing in the application how you plan to address section XX of the ordinance."

That being said, I think it inappropriate to say at the Pre-petition conference things like “this is too much development for this parcel,” or “this is not consistent with the residential character of the Village,” or “this will be great for the Village” or “our tax base really needs this” or similar statements that pre-judge issues they will be asked to rule upon when the application is reviewed in far more detail at a later stage.

The Plan Commission (and Village Board) will ensure there is a level playing field for all parties as the issue is considered. Ultimately, the Plan Commission will respond and recommend on the relevant issues (ultimately, by communication to the Village Board), but the conceptual review stage is not the time for this deliberation.

Finally, remember that the Commissioners’ words matter. Members of the Plan Commission will be cautious not to say something that could be interpreted to reflect bias at the Pre-petition stage. As stated above, the Plan Commission role at this stage is comprised largely of listening to the applicant and limiting comment to the most basic compliance or procedure-related issues.

I hope this memo clarifies what and what not to expect at the March 6th Pre-petition conference. As always, feel free to contact me if you have any questions.

Best wishes.