

Meeting of the Riverfront Public/Private Partnership Committee
September 13, 2007
Council Chambers

(This is a transcription made by a private citizen from a digital voice recording of the event.)

Lee Garrison: We'll go ahead and get started here. The, the committee members I know are here and are scattered throughout along with the visitors that we do have so, um, I was just, um, call the meeting to order. Mary Ann may be able to make it; she may not be able to make it so I'm just going to step in as Vice-Chair and get this meeting rolling. The approval of the minutes, I'd like to hear approval of the minutes. Do I hear a motion?

So moved

Lee Garrison: moved by Bill Lloyd, do I hear a second? Second by Betty Green. All in favor - will the committee members vote? All in favor, aye. Aye. Signify by saying No if you don't agree. Hear that. The minutes are approved. Alright the, just to give y'all a quick overview of the agenda we'll go over the Riverfront Development District and then at that point in time when that's done we'll probably spend about 30 minutes on that item and then, ah, anybody that doesn't want to stick around for our regular meeting; we'll have subcommittee reports and project updates and the grants, grants and various things like that we're working on the Riverfront ah, you're more than welcome to leave if you don't want to stay. Just to give you a brief, ah, update of how the, ah, new riverfront development district proposal for the zoning classification is gonna work of course the process will go a little at a time. The City Council appointed a Riverfront Public-Private Partnership Committee years ago and that's this committee here we like I say normally don't have such a lovely crowd, but ah, lot of interest obviously when it comes down to zoning the riverfront so, um, we thought it would be best, the City Council and the Mayor did, to start off the, um, development and regulations in this, uh, committee and then send up, uh, the staff's draft, uh, for this ordinance along with any and all, ah, written comments or suggestions, ah, to the ordinance. It will then go to planning commission. They will hear it at their meeting Monday for the first time and They don't plan to make a decision then. I just want to let everybody's anxiety settle a little bit, um, it is not the intention of the City Council to rush this through the planning commission or any process before we get it so I know they'll hear it, I think, Robert what time? (4:00) 4:00; they're starting early so that They can um, take comments and, uh, go over it, but we're hoping to, the staff will have the original draft. Bob drafted along with all of the written comments and suggestions and, ah, in a compiled report for the planning commission to look at so basically, you know, we'll end up having the draft and also all of the input from the community the planning commission will have all of that on Monday night. They'll also take comments from the public, but their first order of business will be to, ah, listen to the City Attorney's report so that They can also have the information that we've all had as far as a preliminarily trying to understand why we're changing, ah, the current ordinance so Bob will do that on Monday at 4:00 and then I think they'll as time allows they'll allow comments and then I'm sure they'll table it until October and until They can come up it may be November until They

can up with what They feel like is a good report to send up to the City Council. So that's kinda how it's gonna work. And, ah, so, without further ado, I do want to introduce Bob Ennis who will briefly go over ah the regulations one more time we did make one change based on talking with utility companies and then, ah, he does have a few comments on and then after that what we're gonna do we've already received a lot of written comments and suggestions through email through packages mailed to the city staff with hopefully everybody either sent them to the office of the city attorney attention Bob or to the planning department attention John McConnell or Bill Snowden and if you haven't please do so ASAP because today was at the end of the day was kind of a cut-off so we could gather all the information and get it to the planning commission of course like you said if you've not been able to get it by the the Planning Commission will be taking comments ah during their deliberations as well. This is to try to kick off and consolidate them as much as we could so,

[4:50]

I will say this: I did receive a few emails today, ah, I know several fellow council members did the mayor did and staff did and ah, lot of them, some of it was, ah, I just have to say frank just false, misleading ah comments and, ah, Bob's gonna try to clarify some of that so that we can all be **fact-driven** (emphasis his). This is going to be a fact driven situation. If people are going to try to defeat this or try to do things that aren't going to be what we think are fact driven I'm not going to take them into account and I'm sure my colleagues aren't so, um, we're going to try to make sure this process is fair, open I think we've been that way since day one and we're gonna be that way as we move through the process so we really would appreciate everybody keeping their comments to what the facts are as far as what Bob has drafted and not, ah, things that are not factual. Thank you.

Bob Ennis: Thank you Lee and good afternoon everybody. I'll be very quick; I don't want to go over the same ground. I just want to say that, ah, the draft we're sending to the Planning Commission is the draft I presented in our last meeting with one exception um, I had a communication with Alabama Power Company raising the issue of routine utility service to a customer in the riverfront zone and whether or not They would be a developer under those circumstances um after a long conversation with Mr. Glover the power company and we agreed that routine power, routine power service, routine utility service to a customer in the zone ah would not make them be a developer and have them go through the uh, would not make the utility go through the approval process as long as it's routine. Any type of transmission stations, above-ground pipeyards or things of that nature would be major development and ah, that's the slight change in the definition of developer and that's the only change we've made. Ah we have received many other comments and we have not made any changes to the draft that would be up the the planning commission to receive all those comments and sort through that.

Ah, Lee mentioned the emails that we have received, particularly the ones today that ah, was sent to me and several other people. Um, uh, one of the comments in that email said that the new plan is a big step backward and I just wanted to go of course I disagree strongly with that statement uh and I just wanted to go back over what the current regulations are and what the problems are to show you that this is not a big step backwards. This ordinance in fact improves the process

improves the ability of the planning commission to protect the riverfront. Um, as you recall the current ordinance had permitted uses. The proposal does not have any permitted uses. There is no use permitted as of right; all uses must go through the approval process. (7:58) So, this is not a big step backwards in fact it's an improvement because there are no permitted uses. The existing ordinance allows permitted uses which we think, uh, is, is vague and archaic. Again the existing ordinance would allow as a special exception a bar, tavern, restaurant, hotel, townhouse garden homes and apartments um without any planning commission or council approval. The new ordinance does not allow that. We think that's an improvement. These types of ? could suddenly appear on the riverfront area without city council or planning commission approval. The new ordinance does not allow that so um, um, we other problems was ah the city council does not have the authority to make ?final decision the riverfront; the new ordinance gives them final decision, um the other ordinance is not clear on subdivisions and covenants; the new ordinance is. Um, another comment that was made in this email is that the new ordinance is woefully short on environmental protection. In the first place, the existing ordinance, ah, really had nothing to do with the environmental testing. You'll notice the proposal, it requires a Phase I and Phase II environmental testing as, as a preliminary requirement and in addition to that U.S. Army Corp of Engineers and Alabama Department of NPDS permit's required as well, none of which are addressed in the current ordinance so ah, this comment in this email this ordinance is short on environmental protections is in my opinion wrong. So if you'll notice that ah in the existing ordinance there are no prohibited uses; in the proposed ordinance there's a long list of uses that are prohibited which means if you're a developer you're gonna do just don't even bother coming to us because it's not going to be approved so I don't see how the existing ordinance the proposed one will be a step backwards when it prohibits uses that the existing ordinance does not. And there are other provisions of the new ordinance one of them in the existing ordinance you can waive certain requirements, in the new ordinance you cannot waive any requirements. Again, improvements on the ordinance so I think this comment is really very misleading and inflammatory. Another inflammatory comment in the email is that it, it would allow large mall developments, extended stay motels, multi residential developments, tattoo parlors, drive-through restaurants, wholesale box stores. Ah, it would not be allowed; there are no permitted uses; all uses have to go through the planning commission and the city council there are no permitted uses. So everything has to go through the process so that's very misleading. Don't be misled by this email and that statement. Also it says there are very few design guidelines and very little in the way of public notification and I really take offense at that. Ah, there are extensive guidelines in the ordinance and we're asking for more and I noticed today I got, we got some more design guidelines and that's very good. Um, and there is very little in the way of public notification. That's just simply wrong. The ordinance is literally full of what we call due process requirements where the public is notified and heard at every stage of the process. There are major public hearings before the Planning Commission and there are major public hearings before the city council all require (?) notice so this statement in there that there is very little in the way of public notification is ah very misleading and in my view irresponsible. Um, I want to clarify those two issues on ah the developer. So those are the only two changes I made to the word "developer." We'll be looking at changes in the comments that are suggested ah, we've already got ah numerous ones and we'll be filtering those and ? this ordinance as this process goes forward, so

Lee...

Lee Garrison: Bob thanks for some clarification there. We'll first start out with ah Doug Phillips. If everybody will try to keep their comments down to ah three minutes we've got several several people so if you'll keep them down to about three minutes of course we're taking written comments we've been taking written comments and we hope some people have brought some more written comments if so please ah turn them in to Robin. Is that ok Robin? She's over there in The corner um, and then of course if you haven't prepared in writing yet ah we're going to do our best to take The take some good minutes to to to put this in The report to The planning commission um and of course you're more than welcome to come to The planning commission and city council down The road so ah, we'll first start off with Doug Phillips. Is Doug here? Y'all if anybody wants to talk please if you could come I guess and just sign up over here where I am and talk to Marsha (?)

Doug Phillips: Alright thank you Lee. Um, I think I can get this in 3 minutes. I've been asked to speak on behalf of ah, several of The neighborhoods um, around The Northridge area who first noticed that we were even having plans for a Riverfront Ordinance because of some surprise developments in their neighborhoods. You probably understand that. And, uh, we have met several times and um, um, in The interest of time today I'm going to walk you through The 101 concerns that we have, but in general The sentiment of our multiple neighborhoods is that there are so many issues and so many subjects that have yet to be thrashed out that we really are just asking The city to kinda slow down a bit and work with us as we go over some of these. And our group understands that The city has put in a good faith effort and has a very sincere intent to try to do The right thing by The river. It's just that time is changing rapidly and there's so many issues that, ah, need to be kind of thoroughly considered and our group has looked at other communities that are doing comprehensive planning and progressive planning for sustainable futures and there's a lot that we think we could learn from exploring some of The other possibilities. And that's not to take away from The efforts of The city and The other In The legal division who have put a lot of thought in this but um, we appreciate The good faith of The city council in inviting our neighborhoods' input and we are offering that in writing and anybody who would like to see The multiple pages of document that we have prepared might want to touch base with Chris Thigpen over here. Chris will you hold your hand up. I think y'all know I do The Discovering Alabama TV show and I have a film crew in The field so I won't be hanging around 'til The end, but Chris can coordinate with you. I want to invite you to read The entire document because I think it will have a whole lot of information that will be useful as we go forward. As They say. And, uh, I do thank The City for their hard work. We want to be cooperative with you as we think this thing through. Thank you very much.

Lee Garrison: Thank you Doug for being here and, uh, your comments. Next is uh Bill Buchanan. If you could just kinda when you give your name and what we normally do like name and address you know just so we can have it for The record and I guess what neighborhood (unintelligible) whatever you'd like to say.

Bill Buchanan: Ok. My name is Bill Buchanan. I live in Lauderhill which is one of The subdivisions that will be effected by The ... development. There are a lot of people in The audience here today that are homeowners in that area that are effected and have numerous concerns on this development among which light pollution and traffic problems have already congested roads and real environmental concerns especially as reported by The environmental protection agency. Past mayors and city councils have ... protected Tuscaloosa's natural resources with projects such as Snow Hinton Park and also Lake Tuscaloosa ... source of fresh water and recreation and drinking which allowed our area to avoid The restrictions during this drought such as those in Birmingham and other cities have experienced. It is our hope that this mayor, council and zoning agencies will be as careful and considerate in its concern with The environment as your predecessors. We only have one shot at preserving The river. Ah, we do not appreciate Thank you.

Lee Garrison: Thank yo Bill. ... Ah. Chris. Chris Thigpen. State your name and address for The record and who you represent, if anybody ...

Chris Thigpen: Chris Thigpen. I live in Woodridge and I'm here on behalf of The Woodridge Homeowners' Association. Um, I want to thank The ah mayor and The legal staff for taking this direction with regard to our riverfront. Um, it is The right direction and I think with a few more things in place, uh, restrictions, guidelines, we can probably come to a workable document and it's certainly a good start. Um, I think The goal of The city is The same as our goal which is to protect The river and our riverfront. Um, The City outlined that pretty well in The beginning of The document and, uh, we agree with that. Um, we have, we have made different comments, um and like Dr. Phillips said Bunny Cox too or anybody in Woodridge or The North Tuscaloosa Homeowners, home, home alliance can get you a copy of that and I think a copy has been give to all The members of this particular committee and certainly we will get a copy to um The planning commission as well. That's all. I mean comments. I appreciate The time and thank you for all your hard work.

Lee Garrison: Thank yo Chris. And I know I did receive and Bob received Woodridge's packet ... a lot of time and effort put into it and we'll definitely take it into consideration. We appreciate everybody's concise and consolidated report because that is a lot easier to follow than just random comments ... written down we like to try to get everything we can to make a decision it's easier to do in writing with so many comments so thank you Chris for doing that and your leadership in The neighborhood. David Parker? David.

David Parker: David Parker. 42 Riverdale Drive. And I want to make y'all aware of something that I was not aware of until The last week that, uh, I think ... We're trying to do, ah roads that join The Black Warrior River from Capitol Park on this side up to The bridge and back down Rice Mine Road down Northport were designated The, um, Black Warrior River Scenic Byway um, subsequent to The last meeting of this committee was presented this draft um, there's a lot of details about it ah but The big right now it's designated scenic byway. There's a national scenic byway program enable our corridor to be designated a national scenic byway program would of

opened The door to federal funds and federal grants that The city and planning commission can use to help develop Issues and projects along that roadway. Um, there's a requirement that I think that uh bear looking into for it to be designated a national scenic byway ah we have to protect The Qualities of The corridor this allowed it to be designated as such and uh I think we have a great opportunity to merge The two events together I think At The same time and give The city a great opportunity to you know step back and look at The requirements of that program try to merge them into um a stronger riverfront development plan and ah, it'll benefit The whole riverfront . Thank you.

Lee Garrison: David. Alright. Mr. Jim Zenah.

Jim Zenah: I'm Jim Zenah. I live at ah The Yacht Club but I'm a long-time resident of this are and I think (mumble). I have a few comments. Number One I would like to see more time put into this. I don't believe; I'm very pleased to see The turn-out we have, but I don't believe a lot of people in The city know this is going on at this time and should. Ah, secondly, I would like to see The riverfront steering committee have more of an opportunity than it's had to ask questions and clarify what's going on in this ordinance. We have not had much time and uh, I would also like for it to have The chance to come together as a group discussion. Um, as for specific things: one, there's no mention of any vision for The riverfront in this proposed new ordinance; there's no guidance as to what we're trying to accomplish. The last, uh, The last riverfront ordinance was done before The master plan was put together. This was done after and neither one make any reference to our master plan or what was set out in it. Are we setting aside The master plan? (Mumble) Ah, number two, much of The riverfront, it's The scope of The master plan from Oliver Dam to Bryant Bridge to The existing riverfront development district as I recall I think that was between The Fennell Bridge and The, uh, Thomas bridge and The ah, meanwhile, outside of those areas there is existing city zoning that (Mumble) and all sorts of other things. I think The ordinance should address what happens within The scope here and whether Coal yard and heavy industry on The river that zone. Ah, specific actions: in The new standards - so called in this - ah there is no mention of height limits. Ah The only one was eight stories high and it was with a rubber yard stick. If you wanted to have 40 or 50 foot stories building arbitrary height. I believe there ought to be an absolute height limit and my personal view is it should be within The tree line. Number two, there is no, um, no preference stated for campus-like development as opposed to acres of parking lot or big boxes or The like and again I think we ought to be conceptually we talk about Smart Codes for zoning in this city and smart codes are For saying what kind of character are we trying to achieve. And I think we should acknowledge that character is wanting um, so height limit, master plan. We have fourteen areas. I believe we should take into consideration what is permitted in fourteen areas. Um, The consensus of The community is The desire for a pedestrian walkway. I believe there ought to be a standard for pedestrian walkway so that it looks The same and has The same lighting all The way up and down as it passes through a development area it should be a requirement or a zoning that that that that be adhered to in The way it's built. Ah, setbacks should be called out. There are no setbacks here. Ah, setbacks from The river setbacks from The ah Jack Warner parkway. Ah, there's some loose language about what The scope of The riverfront district is - something reasonably close to

The river or something like that. Um, that won't stand up in court, Uh, and uh parking standards I think we see The need for those here and and The um existing draft calls for power company standards and again I think it would be very wise to have an aesthetic standard for something that speaks to "this is The riverwalk; this is The riverfront all over The area." and um I would like to see that in The plan. I recognize The purpose of The plan is to give wide latitude to policy makers. My fear is and I can cite concrete examples of this is that when a smart developer takes you to federal court and we've got That The judge will say, "show me your law. We're a nation of laws and not of men." And, uh, when we show this kind of law you will have a federal judge supervising The riverfront development to a standard you really don't like and I can point ... Thank you very much.

Lee Garrison: I just want to make a few quick comments There. Jim I appreciate you speaking just two of them one is it is The intention of The City Council and I don't want to speak for The City Council who have given me some authority to speak on this issue is to when we come up with an ordinance to adopt to then take in The areas ah that are not currently zoned RD and zone them RD, The ones that are in The city limit, so that's been The stated

Jim Zenah: So The scope would be ?

Lee Garrison: Correct. Anywhere we have zoning power would be zoned RD anything that abuts The river within The city limits which is not The case now one of The main reasons why we're here actually ah, to eliminate The kind of situation you're talking about and then the others I will say the council did adopt that they heard from committee they adopted and the public projects are being implemented. Riverwalk is in, has two stages right now one in engineering one in construction we finished three other phases we working on the project crossing Tuscaloosa river the amphitheater and river market so if you look at that master plan the city is implementing the master plan on the public side Now we can't control what somebody does with their private property as far as development that's the reason why we're trying to come up with a good private development so I just wanted to clarify those two situations so if anybody has any questions about that later you can ask ...

Bob Ennis: Before you ... You said something about a federal judge having ... over the river um we um this ordinance is a law it it does not and because it's law very specific ... sort of stuff um a federal judge would only invalidate this ordinance to the extent that it constitute a takings in other words it it regulates peoples private property to such an extent that they do not have any beneficial economic use of it and then it would be unconstitutional. I don't think this ordinance goes near that far. You can push it that far and I wouldn't support it if it went that far but this ordinance does not go that far and so saying that a federal judge can take over the riverfront is a realistic prospect ... ordinance in its current posture.

Lee Garrison: Laurie Johns

Laurie Johns: Thank you Lee. Councilman Lundell. I'm the person that sent out the ah,

“misleading” email this morning. How many of you got it? Were you misled by it?

Audience Member: I don't know I came here to find out what's going on.

Laurie Johns: Good. Thank you. Um, I had some prepared remarks, but, um, considering what's gone before I'm gonna kind of wing it here. I'd like to thank Jim Zenah for his remarks which um (audience requested speaker move to microphone) I want to thank Jim Zenah for his remarks which essentially covered everything which was in my prepared remarks plus more and, um, also makes me feel more than a bit justified for the communication that was sent earlier today. Um, it's never my intention to mislead. I have sent out a follow-up email when I found out that my message was being taken that way promising that I would find out what information I presented that was, I prefer to use the term, mistaken. And I have had that pointed out to me. I disagree with what they have to say. Um, no permitted uses. That's not what I was referring to. You compare what we have now there is a list of ah, prohibited uses. You make a little table and you compare the new ordinance to the old ordinance and check what's included in the new ordinance against what was on the old ordinance and there's some things left out. Now, if I am mistaken in, um, understanding that then I need to be corrected. The items that were listed were what was left out. I'll be specific: uses that are prohibited in the current ordinance but which would be allowed by this one - and I say allowed, not in the sense that ... pointed out, nothing is allowed, but what would be allowed to be considered as an exception I suppose - are an extended stay motel, greenhouse or plant nursery, um, I put down put-put - I doubt they said that - but other outdoor amusement, multi floor dwellings not having ground floor commercial or office use, nursing home, personal care home for adults, restaurants with a drive through or carhop service, tattoo parlors, vehicle-mounted or tent-sheltered food sales or other retailing or wholesale stores. Maybe they, it was just an oversight that those did not get included on the, um permitted list. Um, standards and guidelines. We've got design standards and guidelines that are in here. They say, um, “these standards and guidelines are recommended but not necessarily mandatory.” Therefore it means nothing. It means that everything is being left up to the discretion of the deciding body. I, um, would like to point out just a few things. This committee heard back in 2006 from, um, the man, I think his name was Bowen, um, from Chattanooga who was basically the architect of Chattanooga's riverfront development and, um, since, and also I know that several members of this committee as well as the Chamber of Commerce have traveled to Chattanooga to review what They have done and so as it seems that Chattanooga is somewhat of a standard for us I took a look at what They do. They have a 50-something page publication with standards that are mandatory and guidelines that are suggested that helps their review committee which, by the way, They have a review committee consisting of architects, landscape architects, contractors, Realtors and some other people - you can check it out if you want to see the, um, makeup of their review committee. But this helps guide that committee - the decision makers in Chattanooga - about what They will and will not approve on their riverfront. It, the very first page starts out talking about the vision that through a public visioning process They have arrived at for Chattanooga. They have a, Jim, I believe you mentioned that we're, we're not working towards a goal here. We have not decided what we want our riverfront to look like. We've done that for several different parts of town in specific plans that have been created but we haven't done that

for this most-important asset of Tuscaloosa. We need to do that obviously before we can create a set of standards, but we haven't decided what we want and what we don't want with any specificity. I am, I could go on, I have examples as to what Portland, Oregon has done as far as set-backs from the river. They have, um, seen it appropriate to advise exactly how many trees should be maintained per feet of riverfront, shrubs, groundcover, these sorts of things because They have acknowledged that the most important thing is protecting the waterway itself. Our ordinance, in terms of trees, it says that your plan must identify all trees of a ten-inch caliper or greater and state whether or not They will be removed. I ask you, wh - why make them go through that exercise if it's that discretionary? I propose that we need something that is more protective of the riverfront. Um, I did not set out to offend you Councilman Garrison, or the Mayor and I understand he's upset with my communication this morning as well. Um, I fully believe that Walt Maddox is a green person as he has stated in his response. He has done some fabulous things for this city and what I intended to say in my prepared remarks was that this ordinance provides us a good framework with which to embellish. We need more to it. Take a look at Portland. Take a look at Chattanooga. Take a look at other places. It's just not finished. Thank you.

(Audience applause)

Lee Garrison: Ok. There's no one else on the list. Would anybody else like to make any comments? Mr. Fitts.

Lewis Fitts: