



Tuscaloosa Neighborhoods Together, Inc.

P.O. Box 861853

Tuscaloosa, AL 35486-0016

<http://www.tuscaloosaneighborhoods.org>

ContactTNT@tuscaloosaneighborhoods.org

September 20, 2007

Honorable Walter Maddox
City Hall
2201 University Blvd
Tuscaloosa, Alabama 35401

RE: Riverfront Development District Draft Ordinance

Dear Mayor Maddox:

I am writing you on behalf of Tuscaloosa Neighborhoods Together as well as myself to provide our comments and suggestions regarding the draft ordinance for the Riverfront Development District.

I. No Comprehensive Plan for the Riverfront

This ordinance is vague because we don't know where we're going. If we had a plan, a vision, we would be able to be much more specific in our ordinance. This would help everyone. It would help the public because, presumably, the public would have been involved in creating the vision and would therefore be much more likely to feel good about and be supportive of development when it does happen. It would help developers have a better idea at the outset of what kind of project is likely to be approved. The proposed ordinance as drafted requires a developer to make a considerable investment in time and money in order to get to the application stage. This might be money not well spent if it turns out the project will not be approved. Predictability is generally a good thing. (*Tuscaloosa Neighborhoods Together is not opposed to development. We are in favor of good, thoughtful and responsible development, so our interest and those of the development community can sometimes be one-in-the-same.*)

We understand that this ordinance is going forward now and the decision has been made that the process will not be halted for the time it would take to develop a good comprehensive plan. We suggest therefore that the City immediately commission a Riverfront Development plan and commit **now** to make substantive changes to this ordinance, when the plan is completed.

September 20, 2007

Page 2

Additionally, we are concerned about applying one zone with one, albeit variable, set of guidelines to the entire stretch of riverfront. What is appropriate development in one area is not necessarily appropriate in another even though they are both on the riverfront. In all the cities whose ordinances were reviewed, none were found that treated their entire waterfront with one ordinance. They may be there; they just weren't found. Different areas of riverfronts are generally treated with different plans and standards. This is something that should be considered here.

II. Lack of specific design standards for buildings, landscape or environmental preservation.

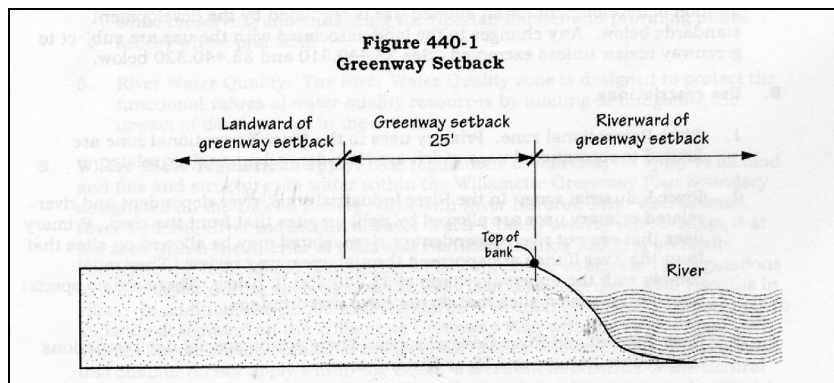
Insofar as the buildings and landscape design standards are concerned, as stated above, we recognize that it is impossible to state a set of standards because we don't know what we're shooting for. Assuming, however, that we move forward with the planning that needs to be done, we will need to adopt such standards in the near future.

Attached hereto as Exhibit "A" is a copy of Chattanooga's North Shore Design Guidelines as an example of how another city with proven success on their riverfront handles project approvals. This is a public document available for everyone - developers and the public - and it gives a solid sense of what is to be expected in development on Chattanooga's North Shore. Once Tuscaloosa has drawn up a plan for its riverfront, we encourage the adoption of a similar set of design standards. The Chattanooga document may also be found online at: [http://www.chcrpa.org/Divisions_and_Functions/Design_Studio/Projects/North%20Shore%20Design%20Guidelines%20\(Adopted%2005-15-07\)_final_web.pdf](http://www.chcrpa.org/Divisions_and_Functions/Design_Studio/Projects/North%20Shore%20Design%20Guidelines%20(Adopted%2005-15-07)_final_web.pdf).

In the meantime, however, there are some specifics that might help us avoid undesirable development:

-Keep the square footage limitation on retail that is currently in effect and expand it to cover the entire new district. Retail is allowed in the new ordinance, but it repeals the limitation of retail stores to **ten thousand (10,000) square feet in area**. (§ 24-84 of the current Article VI.) Without such a limitation on the square footage of a retail business, the only bar to big box stores on the riverfront is the discretion of the deciding body. While we may be assured that the current elected members would not allow such a use, how can we be guaranteed that some future Council also will not? A written ordinance will give us that guarantee.

-Go ahead and adopt standards and requirements that preserve and protect that portion of the riverbank between the edge of the water itself and the front edge of development. See, for example, the Portland, Oregon ordinance attached hereto as Exhibit "B." Here is a diagram from that ordinance for illustration of how to determine that setback:



-Another item of potential use to us in that Portland ordinance (Exhibit “B”) is the treatment of trees, shrubs and groundcover. See § 33.440.230. For example it requires a minimum of one tree for every 20' of river frontage and the use of strictly native plants. These and other landscaping requirements address important environmental considerations which are beyond the scope of this correspondence, but which should certainly be included in our ordinance.

-We should not allow the “mitigation” of sensitive wetlands along the riverbanks. These wetlands serve an important purpose that benefits not only the river, but this city as well. They contribute to pollutant filtration as well as flood control. Rather than allow them to be filled in and replaced elsewhere (mitigation), we should require that they be incorporated into the development itself (for which there is precedent at the entrance to the Mercedes Plant) or not allow development of the wetland property.

-In the development that does take place on the riverfront we should require **zero outfall** rather than accelerated runoff created by paving and other impervious surfaces. There is also precedent for this in Tuscaloosa. Commissioner Steve Rumsey’s company has done a project in the University area that achieves this goal through an innovative engineering approach involving a gravel bed and permeable paving technology. There may be other such projects existing here and I am sure Chad Christian at TDOT would know about them.

-We should consult an erosion control specialist for other advice about what to include in the ordinance **now** to protect the resource.

We should not settle for a set of **minimum** standards. This is our one and only river. For it we should set the highest standards.

III. What happens to the Downtown/Riverfront Overlay District?

The draft ordinance is very specific with regard to the following amendments and repeals:

- Title of Article VI of Cpt. 24 is amended to take out the reference to Riverfront
- §§ 24-83 through 24-87 of Art. VI, Cpt. 24 are repealed. Those are those

portions of the Article that refer to the Riverfront. The remainder of the Article is on Institutional District Regulations

- § 24-91(1) is repealed: no Zoning Bd. Of Adjustments authority to authorize active recreational uses in the riverfront
- § 24-91(3) is amended to prohibit ZBA from approving bed and breakfasts in the riverfront district
- § 24-91(13.5) is repealed: no ZBA approval of hotels in the riverfront district.
- New ordinance 7075 is amended to prevent a Land Development Permit from being issued on riverfront property until City Council has granted final approval.

There, the certainty ends. Varying degrees of ambiguity arise in the following:

What happens to the current Article XVII, Downtown/Riverfront (D/R) Overlay District? The purpose of creating a new ordinance is supposedly to streamline the process and consolidate the applicability of ordinances to the Riverfront, however, the draft is mute on whether or not the current provisions are being replaced by the new ordinance or somehow added to the current ordinance. We were told by someone in the City Attorney's office that the designation of the proposed ordinance as Article **XVII** of Chapter 24 is a mistake; that it is supposed to be Article **XVIII**, however this had not been corrected in the draft ordinance handed out to the Planning and Zoning Commissioners at their meeting on September 17, 2007.

- A. Assuming that the draft is supposed to create a new Article XVIII, there is still no language in the proposed ordinance stating that Article XVII is repealed or amended so as not to apply to the riverfront. Without such specific language, the Overlay District **will continue to apply to the riverfront**. This will result in inconsistent standards being applied to the riverfront - a result contrary to the stated purpose for drafting this new ordinance in the first place.
- B. If this new ordinance is NOT supposed to create a new Article XVIII, but amends the existing Article XVII, then there needs to be specific language stating so. The following Sections of the existing Article XVII are in question because they have been re-written: §§ 24-225 through 24-229. Existing Article XVII, §§ 24-230 through 24-234 with their attendant design standards and guidelines as well as approval procedures have not been addressed. If they are left unamended or un-repealed there will be an obvious conflict with the new ordinance.

IV. Process

A. Public Participation

We were recently called to task for suggesting that the new ordinance does not offer enough in the way of public involvement. We stand by that position. Increased public involvement opportunity is a win-win situation. It offers the public the opportunity to have input and, importantly, to develop a sense of ownership in a project. It offers the developer a chance to

September 20, 2007

Page 5

avoid costly delays addressing complaints of neighbors and other citizens. Perhaps most importantly, it allows the City to set up a process that builds trust - which is sorely lacking at the current time.

The proposed ordinance sets out a six-phase procedure. The first public notice occurs in Phase Three. There is no public notification or involvement in Phases One or Two. The public notice that will occur in the subsequent phases is presumably the same as that currently in effect since the proposed ordinance reads, "The Zoning Officer shall insure that notice of such meeting is given in accordance with applicable law." See § 24-228(d). Publication and notification is required for the hearing at City Council which is Phase Five. This is all in accordance with current law which is a minimum requirement. Surely you have heard the complaints from people about not knowing about projects until it was too late. Give folks a more meaningful chance to participate.

Contrast our public notification/involvement plan with Portland, Oregon's procedure wherein there is notice mailed to all property owners within a certain number of feet of the subject property at the FIRST STAGE of the process: upon receipt of an application for a new project. (See Exhibit "C," titled, "Chapter 33.730. Quasi-Judicial Procedures. Relevant portions have been marked with arrows.)

Please also take a look at Portland's "Neighborhood Contact Requirement." (Exhibit "C", Section 33.730.045) The stated purpose of this is as follows: "The neighborhood contact requirement provides a setting for an applicant and neighborhood residents to discuss a proposal in an informal manner. By sharing information and concerns early in the quasi-judicial process, all involved have the opportunity to identify ways to improve a proposal, and to resolve conflicts before the proposal has progressed far into the quasi-judicial process." This document is also available online at <http://www.portlandonline.com/shared/cfm/image.cfm?id=53468> and specifically within that document see §§ 33.730.020C, 33.730.025C, 33.730.030, 33.730.031 and 33.730.045.

B. One-size-fits-all process

It might also be of interest to look at the different types of procedures used by Portland, Oregon outlined in Exhibit "C." They have several different procedures with varying degrees of stringency depending on the kind of project proposed. A system like this might be perceived by developers as more fair because the degree of difficulty in obtaining approval would presumably be in proportion with the degree of complexity and size of the project.

If we can be of any assistance, please call on us; we are at your service.

Sincerely,

Ken King
The Glen Neighborhood Association &
Tuscaloosa Neighborhoods Together