

**SPECIAL COMMITTEE ON RIVERFRONT ACTIVITIES
AND BASEBALL**

**September 4, 2007
Aldermen Lopez, Gatsas,
Smith, DeVries, Roy,**

**5:30 PM
NH Primary Room
City Hall (3rd Floor)**

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Gatsas, Smith, DeVries, Roy

Messrs: B. Duval and K. Cook

Chairman Lopez addressed item 3 of the agenda:

3. Confirmation vote on the Riverfront Development Condo project for the Planning Board.
(*Note: material to be distributed prior to meeting.*)

Chairman Lopez stated we'll give a couple of minutes for the Board to receive some documentation from the Line Drive Lofts project. I'll give you a couple of minutes to read it and then we'll go into any questions before we do anything. I know it's a late hour. I contacted the Union Leader a couple of hours ago and I told them the best thing to do was to submit it to the Committee. I gave a copy to the Assessors Office, Dave Cornell, in reference to a document that indicates \$50,563,000. At this time I'll open it up to any questions that the Committee members have.

Alderman DeVries stated I had put together, because I've been following this since our last meeting. This has been in front of the Planning Board, as it has been in front of this Committee. There were a list of things that the Planning Board requested earlier in the summer at their meeting, back July 12th, that specifically asked for the proposed development to come back and receive permission from this Board for the construction easements and some of the other needs that they had and report back to them in September. This evening being the only meeting of our full Board of Mayor and Aldermen, is the reason that we've called for this,

because this is the only opportunity as a Board that we have to weigh in on this before the September meeting. I've put together, for the use of this Board, a list of the items that were noted back July 12th, per the Planning Board, that were needed for permission to be obtained from our Board. I haven't seen any plan revisions presented to me, and in conversations with fellow Aldermen, I don't think anybody else has seen any plan revisions, nor have we had any indication that anything is extensively changing from the plan that has previously been presented to either the Planning Board or the Board of Mayor and Aldermen. So, I think these particular ten issues are still an issue today as they were the last time we took a vote. I think we need to clarify our previous vote, with detail, that we are not going to be granting these particular items on the plan as previously presented to us. That does not preclude another plan revision from coming forward. It only says that in the plan that has been previously presented to this Board and has been presented to date to the Planning Boards, we as a body are not going to be extending these particular rights. And, I would make a motion that we fulfill the requests of the Planning Board and give them this detail.

Chairman Lopez stated let me ask you a question: These are the questions that the Planning Board said they wanted answered before they'd do anything?

Alderman DeVries responded they on July 12th indicated to the developer that they needed to come back to this Board, being the Board of Mayor and Aldermen, and receive permission for these particular items, and to report back to the Planning Board with permission in hand for their September meeting.

Chairman Lopez stated now the representative from Line Drive...do you want to take the microphone, please and identify yourself?

Mr. Bob Duval stated thank you, Mr. Chairman. My name is Bob Duval. I'm an engineer representing the applicant.

Chairman Lopez stated I don't want to go into a long dissertation, but do you have a copy of the questions?

Mr. Duval responded no, I do not.

Chairman Lopez stated the major thing is there are questions, we understand, that the Planning Board wants you to answer. And if it comes back to this Board, to the full Board of Mayor and Aldermen, are you going to address those to this Board or are you going to go directly to the Planning Board?

Mr. Duval responded following the last Planning Board meeting, we immediately started reworking the plans to see if we could trim down on the number of things that we needed from the City. We've worked on that, and at the same time we want to work with the various Committee members so that they understand the plan, that they understand exactly what we're asking for. And I'd like to get all that taken care of and a new presentation made to this Board, hopefully with a positive recommendation from the full Board before we go back definitively to the Planning Board. And, we've already asked for an extension of another 60 days to the Planning Board to give us more time to do this. It was a little ambitious to try to do all of this for the September meeting. We now realize that we need about 60 more days to make some headway against this.

Alderman DeVries stated if I might, because I guess I'm a little bit concerned that this could continue to be extended on for additional periods of time. I think that this body would like to see build-out on that lot, and I think recent discussions we've had and newspaper articles should indicate that we're absolutely interested in having build-out of that lot. My concerns were specific, and the first time I saw the plans, I went right down this road with you. I had specific concerns for the Fire Department, for the boat launch access, even as it was presented on the plan. I had concerns that I brought up with you. I didn't really think that our rescue, which is a full-size, tractor /trailer-size truck with a boat in tow behind, it could maneuver all of the turns there. In fact, I think we were looking to block the only access during the construction period to that very critical boat launch for the Fire Department. If anybody upstream is in the water, that's their only point of rescue. That is one of many issues that I think this Board has already elaborated on and gone into in detail. I think we're starting to languish without direction, and I'm trying to get us focused and in direction. I'm hoping that you don't stay out 60 days before you come back with all of your updated proposals to the Planning Board. I would hope that you can move this along quicker to meet our needs as a City and also meet the needs of your development, and come back with a proposal. And that's why I said our clarification on the vote today is only for the plan that was previously presented. If you are in fact coming back to the Planning Board with something updated, that would be fine if it's not going to conflict with any of the existing development that is already in place, i.e. the baseball stadium. So, I don't know; I just think we're languishing without direction here, and I'm hoping we can get some direction back in on this project and move it along.

Chairman Lopez stated I think what's happening here is - and if anyone disagrees with me, fine, jump in - we've taken a vote and the full Board has taken a vote. I think the point being that we have received nothing, other than the questions that the Alderman has provided. The only communication we have received is what we got today from you. So at this stage of the game, I think without having any type of presentation at a later date, I think the vote stands, unless there's a Committee member who wants to change their position. Until we receive a new document that transfers into new conversation, if that's the case, your intention to do. We will also, let me just point out, as you're well aware of, the Planning Board has a fiduciary responsibility. We have no right to tell them what to do. They can make a decision just like the Zoning Board made a decision. If this goes on, and I think that the Alderman...prolonged and prolonged...and maybe go before the Planning Board and they make a decision based on whatever merit they want to do, that's their prerogative. But as far as this Board is concerned, at the present time, if there's a unanimous vote of this Committee, and the Board of Mayor and Aldermen voted on it, they were not in favor of it.

Mr. Duval stated I understand Mr. Chairman. I'd just like to point out that even though there's been no new submissions back to this Board, we on our side have been working very hard. This client is motivated to get this thing done as quickly as possible. We're trying very hard to reduce the impacts of this project so that it makes it easier for this Board to reconsider its position, and the full Board, and make this a win-win for everybody. So, we also are under even stronger motivation than your Board to get this done quickly, and we're working on that.

Alderman DeVries stated and I appreciate that. Thank you very much. I do know that that presentation you're hoping to make belongs in front of the Planning Board, and they're going to recognize whether or not you are in compliance with the specific items that have been laid out at a prior Planning Board meeting. They asked you to come back to this Board specifically for these items, and that's why I'm asking to clarify the prior vote that we took, which was very generic and gave no detail, and really didn't allow the Planning Board enough specificity in that these items be adopted, that the plan as presented to the Board of Mayor and Aldermen and the Planning Board to date does not meet these specific requirements and we are not granting these requirements on the previously presented plan.

Ms Kate Cook, Manager of Line Drive Lofts, LLC, stated a lot of these issues have already been addressed with us internally but what we're waiting to do is before we come back and say 'Number two is this and number six is this' what we're trying to do is get you together an answer for every single one of them. So we're almost at that point, and as the letter said that I submitted to you guys earlier through the City, what I'm requesting is instead of voting or re-voting, we are just simply asking for the chance to give you a presentation, not only on the project as a whole, but your answers to these ten questions. So, you're voting on the old plan, but that's changed so much. So what we're doing today is asking you to have a special meeting to have the ability to answer these questions so that when you do vote, you're questions are actually answered. And I know we're so pressed for time today, that's why we're requesting the special meeting.

Alderman Roy stated I've been lucky enough to sit through some of the meetings and watch them on TV. This is less about the developer and more about, I don't want to say the inconsistency of our message, but the lack of clear message. I think you guys received a clear message that these were the problems, this is what you needed to correct, and that's what you're working towards. But I don't believe we sent that message to the Planning Board that these were the reasons why, and personally I think this may help you, because if you address these, then you're going ahead and hitting on the points that have been factors to this Board. So I would look to agree with Alderman DeVries. Let's clarify this, get it out there, make sure everyone knows what the concerns are and then you can address them, your engineer can address them, and then the Planning Board knows where everyone stands. And that's just clarity to me. I don't mind that at all.

Ms. Cook asked are you asking that we address these tonight with you or in a special meeting?

Alderman Roy responded no, either a special meeting or a future Planning Board meeting. Again, somewhat being familiar with the development process, I'm not putting a timetable up there. I just like that it's clear so you know what you're technically paying your engineer to clear up and that the Planning Board knows what our message was when we sent it to them.

Ms. Cook stated yes, and I totally respect that you guys want to send the Planning Board a message. This is a big part of the reason why we did ask for the extension, a long extension into November. And I know you guys are really concerned about the time before we get this developed, but I also want to remind you that one of the conditions for our zoning approval is that we actually can't start construction until after the all-star game, because that was a big fear of everyone. We really want to push this through to get it approved, but I really want to take the time to make sure that everybody's concerns are addressed. With one

of those being the all-star game, we do have a little bit of time to address all these concerns, so I would rather not rush to do anything in fifteen minutes. I would really rather take the time to answer everyone's questions.

Chairman Lopez stated I think you'll have that opportunity on a certain day, but I think again, I go back, the original was unanimous against this project. Being that we have not received anything from the developer other than what we received today, leaves the question of whether you're going to change the development or answer the Planning Board's question. So until such a time that communication is brought into the channel, the channel meaning given to the City Clerk and City Solicitor, as to the direction we're going to go, that's a new action. I must impress upon you that our vote, unless someone wants to change it, was unanimous and I have to stick by that with the Board of Mayor and Aldermen. Now if new evidence comes forward, that's a whole new situation.

Ms. Cook stated we totally understand that, and as Betsi said earlier, you took a vote on the old plan. All we're really doing now, and I know we haven't brought anything new yet to you on changes of the plan, that's because we're not 100% complete on our changes. Like I said earlier, we want to be 100% clear on our answers so I guess we're just asking you guys for a little bit more time to let Bob kind of answer the last of these questions and meet with you guys again. So I'm just wondering, is it possible to set up a special meeting with you guys?

Alderman DeVries stated if I might, Mr. Chairman, I can only say again, I think your presentation is to the Planning Board, not to this Board. These are items that you would have to come back to us for approval. If you're changing your plan, you need to change that first with the Planning Board. That's the body you're in front of now. These are only the items that we would be addressing. I do not think that we need to have a special meeting or that we need to delay this any further. I think we need to give the direction that unless you're going back to the Planning Board with a new set of plans, we have issues with these ten items. And we're not going to be approving these ten items as previously presented to us on your old plan.

On motion of Alderman DeVries, duly seconded by Alderman Roy, it was voted that this Committee clarify and give specificity to its vote.

Alderman Gatsas stated clarification from the City Solicitor...Tom, are we putting stipulations on a project that we don't know if these stipulations are even going to be at the Planning Board approval and does that put the City at some risk? They're stipulations that we're not going to meet, that we're saying that we won't give the developer.

Mr. Tom Clark, City Solicitor, stated first of all, I haven't seen any of this stuff that's been handed out tonight. Secondly, this Committee and the Board, as I've advised you before, advising the Planning Board whether you are in favor or against a project, it's not binding on the Planning Board.

Alderman Gatsas stated my question is this, Tom: Let's assume that today we take a vote on these items, and we say that these are the items that must be met for Planning Board approval, and for some reason that...let me finish please...and the project goes to the Planning Board and they say that these items haven't been met, so your project doesn't have the merit of Planning Board approval, and another project comes in six months from now and we allow six of the ten items to happen. Are we in jeopardy?

Mr. Clark responded I would say no. I think that you're giving advice to the Planning Board and that's it. The Planning Board makes its own decision.

Alderman Gatsas stated but if we told the Planning Board, you need all ten, and the next project comes in and says you only need five...

Mr. Clark stated each project needs to stand on its own facts.

Chairman Lopez stated the way I understand is, and developer, you can correct me if I'm wrong, even though the Planning Board is saying, these ten items belong on the City side, you could wipe those ten items out, let's say for sake of argument. Then this Board would have no authority to approve any of these items or put a stipulation on any of these items. Do you agree with that statement? If you had to come back to us and say, there's only three items that we need out of the ten, that would be our decision to make. Or you could come back to this Board and say we don't need any of the items, and then you deal directly with the Planning Board.

Mr. Duval stated let me answer that question with a question: Am I to understand that this is guidance that this Board is seeking to give to the Planning Board? And let's say that we are able, for the sake of the argument, to accommodate nine of the ten, but we end up needing to have a couple of bushes on City property. So we would come back to this Board and say, look, we couldn't comply literally with number seven but there's a couple of small plantings that we want to have on City property, is the project otherwise all right? I'm assuming that this Board would say, yes, you've met the spirit of our guidance.

Alderman DeVries stated and I think we were very clear that we said it was only for the plan as previously presented to us. If you're going to meet nine of the ten, you're going to be presenting a new plan and it's going to be starting everything from zero again.

Chairman Lopez stated well I think it's very clear where the Committee and the Board of Mayor and Aldermen stand. The burden of proof comes upon the developer to the Planning Board, and if they need our assistance as a Committee, please contact us through the City Clerk and we'll go from there.

Mr. Duval stated thank you, Mr. Chairman.

There being no further business, on motion of Alderman DeVries, duly seconded by Alderman Smith, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee