



November 11, 2018

Dear Fellow East Siders:

This Veterans' Day weekend allows us to honor the memory of our fellow citizens who have defended our country over years, which is the best way to remember a day otherwise known for marking the 100th anniversary of the armistice that ended the first world war, which proved to be an object lesson in the initial failure of diplomacy to avoid a pointless war, the brutality and horror of new battlefield tactics, and a failure of diplomacy to establish any kind of stable peace. This week's ward letter discusses the Nicholson Estate subdivision, the Hope Point tower project and the smoking ban ordinance.

The Nicholson Estate at 288 Blackstone Boulevard consists of a mansion sitting on 3 acres of ground. A developer proposes to raze the mansion and subdivide the property into 10 lots. You can click here to view the [Current Conditions](#) and [Proposed Project](#). The developer and builder met with residents last week, and answered questions. The builder is completing a development on Balton Road that neighbors have criticized because of the arrangement of houses close to the road on lots that seem too small. The developer claims that the proposed project will be less crowded due to the larger size of the house lots (most in excess of 10,000 square feet), but offered no promises about the actual design of the houses, as each person who purchases a lot can make an individual decision. The developer said the large house is not marketable, due to its poor condition, and the floor plan is not amenable to preservation as condos (which itself would require separate approval). Given that the property is not in a local preservation district, there appears to be no clear source of local regulation to prevent the subdivision from being approved in its current form, but the developer agreed to look into a proposal by one neighbor to rearrange the houses to front on an internal road, with their back yards facing the external wall. The City Plan Commission had been scheduled to review the project on November 13, but now it appears that the matter will be continued to the Commission's December 18 meeting.

At its meeting this past Thursday, the City Council's Ordinance Committee voted to recommend approval of the Hope Point Tower project. Given the fact that the same committee previously had voted to recommend against approval, and that the recent supplemental public hearing provided no significant additional information, one can question the policy reason for some Committee members to switch their votes. For that matter, the decision to hold a second public hearing itself set a bad precedent, as it was held based on the developer's claim that he had not received an appropriate invitation to the first hearing. Prior to this one, developers always attended these hearings without a formal invitation, as they understood the need to demonstrate interest in receiving City Council approval for their application. By holding a second hearing for this particular project, the City Council effectively established a new procedure whereby all developers will have an incentive to stay away from the public hearing, learn what was said at it, and then request a second hearing if they are not pleased with the outcome of the first one. (At this point, even if the City Council invites the developer to the first hearing, we can anticipate new objections, such as the invitation did not provide sufficient notice, was not properly worded, etc.) More generally, from my review of the second hearing record (and Councilman Principe's cogently stated objections) there does not appear to be a clear reason for taking a comprehensive plan and zoning code that was developed over years, and throwing them aside for a single project. The City Council will review the proposed zoning change at its November 15 meeting.

Last June, the City Council approved an ordinance imposing a smoking ban in Kennedy Plaza. While ostensibly promoted for health reasons, the main proponent was the business community, which believed that the smoking ban would serve to reduce the number of homeless people who populate the plaza, thereby making the area more acceptable to the business people who work nearby. I voted in favor of the smoking ban, which the Mayor vetoed. When the City Council considered a vote to override a veto, I offered a compromise; namely, to limit the duration of the smoking ban to change the culture in the Kennedy Plaza neighborhood, but to end it on a date certain

because it appeared to criminalize poverty. I discussed this compromise with Mr. Paolino, and we reached a handshake agreement that he would support a time limitation of October 1, 2018 if I voted to override the veto. I voted to override, and introduced legislation to “sunset” the smoking ban as of October 1, 2018. When the Ordinance Committee rejected this compromise based on a stated need for “data,” I asked Mr. Paolino to write a letter explaining his support of the “sunset” without data, as he previously had agreed. When he denied my request, I wrote Mr. Paolino a [letter](#) urging him to keep his word, given the damage that the City suffers when business people fail to keep their word. He sent a [reply](#) that essentially accepted the fact of a handshake agreement he had not honored, but which offered reasons (based on the actions of other people) for why he believed he was justified in not honoring the agreement he reached. I do not find that position to be particularly responsive or convincing, but nonetheless I see an opportunity. Currently there is a stalemate between business owners who support having a smoking ban on the books, and an administration that is unwilling to enforce it vigorously. It therefore seems worthwhile to consider a temporary smoking ban that is more actively enforced. This would not be a complete victory for either side, but it could be both a reasonable compromise and an improvement for both sides over the status quo.

Sincerely,


