

November 18, 2018

Dear Fellow East Siders:

I hope you survived our first snow storm. I had an adventure returning home from City Hall, when even Olney Street proved impassable for many cars. This week's letter discusses the City Council's consideration of the Hope Point Tower project.

The Hope Point Tower project was submitted in April to the City Council for a requested zoning change. It was first reviewed by the City Plan Commission, whose responsibility is to determine whether the requested change was consistent with the City's comprehensive plan, a finding that State law requires in order for a requested zoning change to be legally valid. The City Plan Commission considered the requested zoning change to be inconsistent with the comprehensive plan, and on that basis recommended that the City Council not approve. The Ordinance Committee held a public hearing on July 18, and voted to recommend that the City Council deny the petition. However, when the City Council met on September 6, a majority voted to send the matter back to committee for a second public hearing as the developer had not attended the first one. I, along with Councilwoman LaFortune, voted against this measure because in my experience developers always attend hearings at which they are requesting valuable zoning relief, and giving this developer "two bites at the apple" would set a bad precedent. The Ordinance Committee held a second public hearing on October 22, and at a meeting on November 8, voted in favor of approval. The matter then went to the full City Council last Thursday, November 15.

In preparation for that meeting, I researched the developer's eligibility for tax relief. I learned that the developer will qualify for a 20-year tax stabilization agreement ("TSA"), which will save it \$81 million in property taxes over that period. The TSA will be awarded by the I-195 Commission without input from the City Council. The developer estimated that the final project would yield between 62 and 85 jobs with an average salary of less than \$35,000, hardly worth the \$1 million per job that the \$81 million tax credit would generate. Based on this information, Councilwoman LaFortune proposed an amendment to the zoning change to require the developer to meet certain conditions to obtain approval, including setting aside \$50,000 per year to maintain the adjacent City park and either provide 15% low-to-moderate income housing units or \$100,000 contributed to an affordable housing fund for the shortfall between the number of such units provided and 15% of the total. Given the developer's preference for luxury apartments, this likely would result in no affordable units being built, but instead a \$15,000 charge per luxury unit to be contributed to an affordable housing fund. Given that these units are likely to have valuations well above \$500,000 each, this would be an additional cost of 3% or less. Unfortunately, the City Council voted down this amendment.

We then moved to discussion of the project as proposed. I was concerned about whether it complied with the comprehensive plan, given the fact that the Planning Commission had found it had not, and the language in the ordinance supplied by the developer's attorney was not persuasive when I read it. For that reason, I asked the Chair of the Ordinance Committee to explain specifically how the project met the legal requirement of complying with the City's comprehensive plan. The Chair, who had spoken up moments ago to cut off debate on the amendment, said his voice did not allow him to answer my question, and proposed that the project's lobbyist answer it instead. I asked if anyone else on the committee could explain the basis for meeting this requirement, and nobody did. I consider it legislative malpractice for City Council members to vote to approve a zoning change that must comply with the comprehensive plan without being able to state why they believe their vote met this requirement. The City Council nonetheless gave the zoning change initial passage that night. (All ordinances must be passed twice at separate meetings, perhaps because we are a unicameral legislative body.)

In the ordinary course, the City Council would consider the matter for second passage at its next regularly scheduled meeting on December 6. Not content with this schedule, the developer recruited the measure's supporters to schedule a special meeting for a second vote on this Tuesday, November 20. There is no need to speed up the vote in this way, but the timing of this measure has been problematic at earlier stages. First, there was the unprecedented decision to "slow down" the process by not holding a vote after the first public hearing, and then holding a second public hearing for the stated reason that the developer wanted the chance to speak after having missed the first one. Then, the Ordinance Committee did not vote the night of the second hearing as it usually does, but instead waited until the Thursday after the election, perhaps because some of the Ordinance Committee members who changed their vote that night had previously announced their opposition to the zoning change during their re-election campaigns. This sequence of slowing down and then speeding up the City Council's review is not only unusual, but also detrimental to the public's perception of the integrity of the legislative process. While it is true that there is an element of "sausage making" in most legislation, the twists and turns this measure has taken make for particularly rancid sausage.

If (as expected) the City Council gives second passage to the zoning change on Tuesday, it will go to the Mayor to either sign or veto.

Sincerely,


