

August 27, 2018

Councilman David Marks
5th District

David,

I was shocked to see that you introduced Bill 63-18 to allow a construction or contractor's storage yard and rubbish sorting operation in DR, since this is so contrary to the existing Zoning and your long-standing history of protection of residential property. I was particularly bothered by the stipulation in the bill that storage and sorting of building dismantling debris on the property shall not be considered a "recycle operation".

I quickly realized that this bill is intended to apply directly to the old 84 Lumber property on Wever/Fitch which you downzoned in 2016 and that the mention of 4 acres and 4 years is intended to help ensure that it does not apply to other violations around the county. You apparently intend to undo the impact your downzoning in 2016 from ML IM to DR3.5.

However, this Bill would allow intense uses at this property that were not even allowed under the previous ML IM zoning. Further, you cannot be sure that it would not unintentionally apply to other properties where residents have been fighting just such illegal uses for a long time.

As I have argued multiple times in work sessions, I believe that any bill applying to a single property is a violation of the Maryland Constitution. I ask that you get a written position from Tom (either) on this.

In examining the background for this bill, I'm certain that you were convinced to introduce this legislation by someone who did not tell you everything.

Prior to your downzoning in 2016, Code Enforcement had already ordered them to "cease recycling, sorting, storage of discarded materials and scrapping in a ML zone". In an attempt to legitimize this use, the property owner then filed a zoning case 2016-0328-SPHA seeking a determination "if the sorting of material from a construction site by the tenant, a general contractor, can be done onsite, outside of the building, prior to hauling the material to a recycling center" and seeking a set-back variance. This sorting included asbestos according to their testimony.

On August 24, 2016, while it was still ML IL, the hearing officer denied the 100 ft set-back variance and the Petition concerning the sorting of material was "DISMISSED as moot". This was on the advice of the zoning review office which stated "a contractors storage yard is not permitted", "[the office] does not permit someone to sort materials outside of a structure", and that "all of the uses allowed in the [ML] zone must be conducted entirely within an enclosed building".

As you can see, it was already established that everything Bill 63-18 would allow on this property, was already judged as not allowed even when it was ML. Further, anything allowed under the previous ML IM would be "grandfathered" under the new DR, so no legislation is needed to allow it.

Regarding the covenant (Liber 6393, Folio 97) prohibiting residential use on this parcel, which I suspect someone brought to your attention, note that the same covenant prohibits:

- Obnoxious odors
- Junk yards
- Dumping of garbage, sewage, offal, or refuse

Passage of this bill would simply require the neighbors to undertake an expensive legal battle to protect their properties by arguing that these covenants would still apply.

Please withdrawn this bill, and continue your history of protecting residential properties. I am available at your convenience to discuss this matter.

Regards,

A handwritten signature in blue ink that reads "Mike Pierce". The signature is written in a cursive, slightly slanted style.

Mike Pierce