

## **Testimony of Steven McKay (3810 Shakespeare Way, Monrovia) in Opposition to Bill 17-21 on Permitted Uses in MXD**

Council President Otis, Vice President Keegan-Ayer and Council members, I am here to voice my opposition to this bill that would add warehousing, wholesaling and distribution centers to the MXD zone. You have received a letter from the Smarter Growth Alliance for Frederick County. I signed that letter and I stand behind every word and argument.

Back on December 27<sup>th</sup>, I wrote to each of you about this bill and asked whether residents within and adjoining each MXD had been advised of this potential change. Rest assured, this bill does affect zoning, and it does so in a very direct and a very sloppy way. Not one of you responded to me but, fortunately, County Executive Gardner did. She informed me that Staff would look into ways to notify impacted residents. Since then, I understand that this occurred. It was the right thing to do, but it should have been done long before. Each and every one of those residents in Jefferson Tech Park, the Urbana Northern MXD, and all of the MXDs, as well as the adjoining property owners should have been properly notified about this bill. They should have had the opportunity to evaluate this proposal and to be here tonight, but you tried to take that away from them, and that was so wrong.

So when is a binding contract, not a binding contract? Apparently, with this bill, a DRRA can be changed without being changed! The entire point of these DRRAs – which I'm not a fan of – was to freeze the zoning and far too many other regulations, fees, and ordinances. Then along comes your bill which says that we'll change this key part of a DRRA – the permitted uses – but don't worry, you won't amend the DRRA. You are violating the very essence of what that contract was supposed to represent. Again, I don't like these contracts and I think they were horrible examples of public policy, but a deal is a deal. Jefferson Tech Park signed that deal, after extensive due diligence ... oh who am I kidding, they wrote the contract ... and now they want to make this change, without actually changing the contract. This is absurd, and it's illegal.

Frederick County's ability to write these DRRA contracts is based on State law. That State law dictates essential components of a DRRA, including: permitted uses, the density and intensity of the property, and a statement that the proposed development is consistent with the comprehensive plan. State law also proscribes a process for amending a DRRA, which includes a public hearing with the Planning Commission, who then determines whether the proposed changes are consistent with the Comprehensive Plan. Under this bill, you propose to change those proscribed essential elements of the DRRA, without submitting the changed document to review by the Planning Commission. You're proposing to change the DRRA without calling it a change, and that is both illogical on its face, and is most certainly an attempt to circumvent State law, if not clearly violating it.

There may be good reasons to consider incorporating these new uses into MXDs. I don't think so, but I'm fine with having the discussion. However, you have to do it right. You have to follow the proper procedures for a zoning change, ensure that residents are properly notified, and then you must submit the DRRA for corresponding amendments. I'm tired of seeing the rules bent and abused to suit these moneyed interests. I'm sick of it. You owe it to the people that

voted for you to uphold the law, and to ensure that rules are applied to everyone equally. This bill doesn't do that and you should vote NO.