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Commercial zoning denied

Board quickly turns down request on land at Routes 100 and 103

by a sun reporter

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The hearings consumed 13 hours over three nights, involved three lawyers, numerous expert witnesses, testimony by nearly a dozen residents and so many documents that they filled three boxes just for one side and required a dolly to be wheeled into the room.

Faced with this mass of evidence, the Zoning Board devoted 22 minutes before rendering a decision.

Those 22 minutes, though, were not spent deliberating. They were taken by four brief speeches, one by each board member, explaining how and why he was to vote.

The tally, taken at 1:28 a.m. Thursday, was 3-1 to deny rezoning for commercial development of almost 28 acres at Routes 100 and 103 in Elkridge.

The issue was not unfamiliar to the board members, who also sit as the County Council, and who approved rezoning for the property last year, only to see that decision thrown into limbo by a referendum challenging all rezoning that emerged from what is commonly referred to as Comp Lite.

Nonetheless, the swiftness in reaching their decision was stunning.

"I think they felt they already knew the case," said William E. Erskine, one of two attorneys on the losing side. "I disagree, but I respect their decision."

The board denied a petition by Nancy Cavey, the administrator of the estate of her parents, Carroll and Ruth Braun, to rezone 14 acres from residential to planned office research (POR) and 13.5 acres to community center transition (CCT).

Cavey said she envisioned residential and commercial uses on the property. Residents of nearby neighborhoods objected to commercial development, claiming, in part, that it would change the character of the area, harm property values and produce traffic congestion.

"I don't believe that area should be commercial," said Maria Alvarez. " ... It will bring our property values down."

She and other residents also said they feared what would follow. "Once it starts, it never ends," Alvarez said.

The board majority dismissed the contention that the impact on Howard County of the nation's military base realignment was grounds to approve the rezoning.

That issue, more than any other, dominated the hearings as Cavey's attorney sought to convince the board that it would risk the county's economic health by denying the petition.

The realignment is projected to bring 5,300 jobs to Fort Meade and the surrounding area. Up to 15,000 additional defense-related, service and retail jobs are expected to be created.

To approve the rezoning, thus freeing the property from the handcuffs of the referendum, the Zoning Board was legally constrained to conclude that the character of the neighborhood had substantially changed, making existing zoning for the property no longer viable, or that the County Council erred in not rezoning the land in 2004 as sought.

The board said the evidence on both points was unconvincing. Board member Charles C. Feaga voted for the rezoning, saying, "I think we can find change and mistake."

The construction of Route 100, which bisects the Cavey property, "really did change the earth," Feaga said. He also said the county desperately needs land for commercial purposes and that "it makes sense" to rezone the property.

Board members Christopher J. Merdon, Guy Guzzone and Ken Ulman voted to deny the rezoning. Newly installed Councilman Calvin Ball was unable to participate in the hearings.

The vote surprised both sides.

To win, Erskine said, "we needed a sweep," meaning convincing all four board members to back the rezoning. "As soon as I heard the chairman [Guzzone] say how he intended to vote, I knew it was over."

Katherine L. Taylor, an attorney retained by opponents, said, "I was not surprised the board voted not to approve the rezoning. I am surprised at the make-up of the vote."

She had anticipated Merdon would vote to grant the rezoning, because he has advocated commercial development on the Cavey property.

The board's action effectively ends the case.

Although Cavey can contest the board's decision by filing a lawsuit in Circuit Court, Erskine said he would not recommend that to his client because the courts are reluctant to overturn such zoning decisions.

Her only hope of obtaining the zoning now is if the Comp Lite referendum is defeated in November's general election.



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