

The Sun

Court hears Rouse Co., opponents in N. Laurel mixed-use zoning case; A ruling is not expected for several weeks

by Edward Lee SUN STAFF

September 17, 1999 Page(s): 3C
Edition: HOWARD
Section: LOCAL
Length: 627 words
Record Number: 9909180466

And the wait goes on.

Sixteen months after the Howard County Zoning Board gave the Rouse Co. a green light to build a community of homes and businesses in North Laurel, and nine months after opponents filed a lawsuit to block the development, both parties went to Circuit Court yesterday.

Judge Diane O. Leasure is not expected to issue a ruling on arguments posed by an attorney for the opponents for at least several weeks, but they said they are more than willing to wait for what they hope is a favorable decision.

"We're optimistic," said Gregory K. Fries, who chairs the Southern Howard Land Use Committee, which is one of the petitioners. "I think we have a very solid legal case."

The committee is trying to prevent Rouse from building a mixed-use development of 1,145 apartments, townhouses and single-family homes, 1.2 million square feet of employment space and 183 acres of open space on 517 acres. The land straddles Interstate 95 and is bounded by Route 216 to the south and Gorman Road to the north.

The Columbia development giant successfully persuaded the Zoning Board in June 1998 to rezone the proposed Key property from planned employment center to mixed use and to approve a preliminary development plan.

But Thomas E. Dernoga, an attorney representing the committee, Fries and resident Judith Haxton, told Leasure the board approved the project based on several faulty assumptions.

The board, which consists of County Council members, agreed with Rouse that rezoning the Key property to mixed use would meet housing goals outlined in the 1990 General Plan, Dernoga said.

But Dernoga said failure to meet the General Plan goal does not mean the board had erred in not rezoning the site during the 1993 comprehensive rezoning process.

"The General Plan is a guide to development," he said. "Failure to implement the General Plan is not a basis for a mistake."

Dernoga said the board also incorrectly assumed it should rezone the Key property because five other sites slated for mixed-use plans have not been developed.

"There is a strong presumption that the 1993 comprehensive rezoning was correct," he said. "Where is the evidence that PEC [planned employment center] is a mistake for this property?"

Todd Brown, an attorney representing Rouse, said the board agreed that granting the rezoning would be more compatible with the surrounding area than a PEC development and would correct the mistake of not initially assigning the area as a mixed-use zone.

"It is residential development that this property is virtually surrounded by," he said. "When an error is shown by substantial evidence, it's appropriate to make a change based on that mistake."

Deputy County Solicitor Paul Johnson, who represents the Zoning Board, said the PEC zoning was considered a mistake because the board had incorrectly assumed that the housing goals of the General Plan would be met by the five mixed-use sites.

"It was clear that the board attempted to implement the MXD [mixed use] goals of the General Plan," he said. "It was just as clear that they decided to implement that goal with this decision" to rezone Key.

After the hearing, Brown declined to comment and Johnson could not be reached for comment.

Fries said his group is hopeful that it will win, but he also said they would take an unfavorable ruling to the Court of Special Appeals.

"We are prepared to go well beyond the Circuit Court on this," he said. "We might be in this for a while."