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Builder contests decision

Hazel Land Cos. sues Spotsylvania over rejection of rezoning request to allow construction of a 400-unit apartment complex at Lee's Hill.



By **GEORGE WHITEHURST**

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Hazel Land Cos. is seeking a court order to permit it to develop an apartment complex in eastern Spotsylvania County's Lee Hill area.

In a lawsuit filed last week in Circuit Court, Hazel complains that the Spotsylvania Board of Supervisors demanded "illegal impact fees" in exchange for the rezoning needed to allow construction of Lee's Hill Town Center.

The lawsuit asks the court to declare as "reasonable" Hazel's plans to build 400 apartments and some commercial buildings on 16.9 acres of land off U.S. 1. The land is between Gallahan's Home Furnishings store and the former Capital One offices.

Last month, the supervisors unanimously refused to rezone the property from industrial use to residential use. The lawsuit labels that decision "unreasonable, arbitrary and capricious, discriminatory, confiscatory."

Stephen Norair, Hazel's general counsel, declined yesterday to discuss the suit, as did Spotsylvania County Attorney Mark Taylor.

Hazel pitched the planned Lee's Hill Town Center as a "complete mixed-use community" that included the apartments and a variety of retail shops, professional offices, hotels, restaurants and recreational facilities.

The company offered several proffers to win the new zoning, including \$2.5 million in cash. Hazel also offered \$90,000 to build a FREDericksburg Regional Transit bus stop, plus another \$90,000 toward FRED's operating budget.

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Proffers are carefully negotiated packages of cash and infrastructure improvements designed to compensate localities for the costs of new development.

In its lawsuit, Hazel contends that Spotsylvania's proffer program violates state law.

The Lee Hill Town Center's design included walking paths and sidewalks to encourage people to shop on foot and, if possible, walk to work.

Those features were enough to persuade the Planning Commission to recommend the rezoning.

But several supervisors complained that the proffers were stingy, especially compared to the \$52 million package offered by Tricord Inc. to win rezoning of its planned New Post community. The Planning Commission hasn't yet voted on the New Post project.

Supervisor Vince Onorato, in whose district Hazel's property falls, led the charge against the rezoning, complaining that the company's proffer package was inadequate and did nothing to relieve traffic congestion in the Lee Hill District.

Onorato declined to discuss specifics of the lawsuit yesterday, but appeared to have no regrets about his decision.

"I was elected to office to safeguard the best interests of the citizens of the county," he said.

Board Chairman Bob Hagan was equally tight-lipped, though he expressed "confidence" in the county's position.

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