

# Rezoning lawsuit is being planned

*Foes preparing a new challenge to 'Comp Lite'*

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Opponents are preparing to file suit over 'Comp Lite'

Less than two months after the issue was seemingly put to rest, a new challenge to the county's rezoning procedure last year, commonly referred to as "Comp Lite," is being planned.

This time, though, opponents will ask the Circuit Court to rule on the legality of the process, claiming that the county violated its own regulations and thus all rezoning for the properties included in the legislation should be voided.

A date for filing the lawsuit has not been determined, but attorney Katherine L. Taylor said it will be "sooner than later." It will name the county and County Council as defendants, she said.

The Department of Planning and Zoning might be named in the lawsuit, as well, because it enforces zoning laws, Taylor said.

The lawsuit is expected to raise two fundamental issues:

- Was there legal standing for Comp Lite, which took about a year to complete and occurred after the county, the year before, completed its comprehensive rezoning process, which is generally done once every 10 years?
- Did the county act illegally by adding properties throughout the Comp Lite deliberations because many had not been considered during the broader comprehensive rezoning process and could not be considered a "continuation" of the rezoning process?

Paul T. Johnson, deputy county solicitor, said he could not comment without seeing the lawsuit. But the county has consistently said that Comp Lite was a continuance of the rezoning process and, thus, legal.

Opponents, however, have argued that the county lacks authority to extend the once-a-decade process, and, further, that Comp Lite was illegal because it was not "comprehensive," or countywide, as required.

Taylor declined to identify her clients, but she said the lawsuit will be filed on behalf of "a number of residents who believe they are aggrieved by the decisions made in Comp Lite."

The lawsuit comes after a failed effort by opponents to make Comp Lite the subject of a voter referendum in the November general election. That measure was invalidated when the state Court of Special Appeals ruled in late June that the ballot's wording was grossly

insufficient by providing the public with too little information about what the measure would do.

An appeal of that ruling failed when the Court of Appeals, Maryland's highest court, declined to accept the case.

The changes included in Comp Lite were thrown into limbo while the case worked through the courts.

The County Council approved the Comp Lite legislation, which contained 38 map amendments and 49 pages of text amendments. Only Council Chairman Christopher J. Merdon voted against the measure. The legislation became effective July 28, according to the county's Office of Law.

David A. Carney, an attorney who represented a client whose property was one of the most contentious rezoning cases approved in Comp Lite, said he believes a lawsuit will fail.

"It'll be a tough battle for them," he said. "There really isn't any precedent for the case."

Carney also said the lawsuit, regardless of the outcome, would be largely moot because most of the properties included in the legislation succeeded in winning reclassification through a series of individual rezoning petitions approved by the Zoning Board while Comp Lite was in limbo, he said.

The five members of the County Council make up the Zoning Board.

The most substantive properties still tied to Comp Lite, Carney said, are numerous properties along the U.S. 40 corridor and that of his client, Nancy Cavey, who sought rezoning of 27.5 acres from residential to planned office research and community center transition.

The Zoning Board denied piecemeal rezoning of the Cavey property, at Routes 100 and 103 because of strong public opposition. But this month, the board said in its formal written decision and order that the matter was now moot - and the rezoning of Cavey's property approved - because the courts had invalidated the referendum against Comp Lite.

Even the board's decision and order provoked strong public reaction because it failed to articulate the reasons why the Zoning Board voted to deny Cavey's petition for piecemeal rezoning.

"It strikes me as something not right about that," said Kevin Campbell, a nearby homeowner who opposed the rezoning. "They simply dismissed the case - pretending that it didn't happen."

Specifying why the board rejected Cavey's rezoning, Campbell said, could be useful in the future if site development plans for the property ever reach the Planning Board.

Taylor, the attorney, said the Zoning Board decision to dismiss the case is "very disappointing, having waited [for the decision and order] for four months. They decided not to give the people involved the benefit of a written, substantive decision that addresses the merits. ... If the board believed that the existence of Comp Lite would have somehow rendered the [Cavey] zoning petition moot, they should not have accepted it in the first place."

Carney dismissed the criticism as groundless. "The decision found that the case was moot because Comp Lite [has precedence]," he said. "... The residents are just complaining because they didn't get their way."

The decision to challenge the validity of Comp Lite, though, throws the Cavey case into question again.

The lawsuit, Taylor said, will allege that process violated the county's regulations because it "was not comprehensive. From both a legislative and zoning point of view, I believe it would be invalid."