

Development OK'd at Crofton Walmart site

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Crofton residents have been dealt a blow to their legal efforts to block a commercial development — once pegged as a Walmart Supercenter — in their community.

Anne Arundel Circuit Court Judge Ronald A. Silkworth upheld a wetlands permit issued for the property along Route 3. Opponents of the project already are planning an appeal.

The project — pushed by developer Bill Berkshire and his company, 1691 Limited Partnership — has been in the works since the beginning of the decade.

“This decision by the Circuit Court vindicates the (contention of the) Maryland Department of the Environment and 1691 that all of the rules, regulations and laws were followed,” said Charles R. Schaller Jr., an Annapolis attorney who represents Berkshire and 1691.

Berkshire, who also owns the Crofton Country Club, initially planned to build a Walmart on 20 acres at 1296 Route 3 South in Crofton.

But as fights between Berkshire and nearby residents continued over the years, Wal-Mart Stores Inc. pulled out in 2007 because of uncertainty about getting all the necessary permits.

By 2009, Berkshire said he was in talks with local and national retailers as well as home builders. He wouldn't say whether he was aiming for a strip mall or freestanding businesses.

After the Maryland Department of the Environment approved plans for how the project would handle sensitive wetlands and issued a permit in 2009, a group of homeowners appealed.

But a state administrative judge upheld the permit, as did a top official at MDE known legally as a “final decision maker.”

Silkworth's ruling from last week also upheld the permit.

Schaller wouldn't say what Berkshire's next step would be and wouldn't reveal what tenants might be brought in for the property.

Schaller did say, however, that the Circuit Court decision gives Berkshire a greater amount of comfort in getting grading and building permits from the county.

While the legal fight over the wetlands permit never precluded Berkshire from beginning construction on the site, it made it riskier to proceed, Schaller said.

G. Macy Nelson, a Towson attorney who represents the homeowners, said his clients plan to appeal.

Nelson said the appeal will focus on whether Berkshire and 1691 truly considered “practicable alternatives” that would have harmed the wetlands less, such as building a parking garage or a two-story store.

“What this case really boils down to is this: Can a developer say, ‘I want this design because it’s the most profitable design and I can be permitted to impact the natural resource to have this design,’” Nelson said.

Nelson said his clients aren’t anti-development. Rather, they want to make sure any development adequately considers the environment and minimizes harm.

The appeal was brought by more than 20 nearby residents, as well as Crofton Towne Property Regime 5 and the Patuxent Riverkeeper.