



Judge says Wal-Mart can be built at Northcross Mall

Responsible Growth for Northcross neighborhood group says it will consider appeal.

By [Katie Humphrey and Sarah Coppola](#)

AMERICAN-STATESMAN STAFF

Saturday, December 22, 2007

A judge has ruled that a Wal-Mart Supercenter can be built at Northcross Mall, despite the objections of some neighbors.

A group of residents called Responsible Growth for Northcross tried to stop the North Austin store by suing the City of Austin and Lincoln Property Co., arguing that the store plans proposed by Lincoln and approved by the city violate city rules.

State District Judge Orlinda Naranjo sided with the city and Lincoln in her ruling Friday, saying it was fine for the city to approve a second site plan for the store without holding a public hearing about a possible garden center at the new Wal-Mart.

Responsible Growth wanted Naranjo to void the city-approved site plan, which could have compelled Lincoln to start from scratch and submit a new plan under new approval rules for big stores. Those rules would include holding a public hearing, which was not required when the current plan was approved.

Lincoln has begun renovating the east side of the mall, and it has said it wouldn't demolish the west end — where the Wal-Mart would go — until the lawsuit was resolved. Naranjo's ruling could clear the way for that work to begin.

"It is a victory for the integrity of the process," Casey Dobson, the lawyer representing the city, said Friday.

Lisa Elledge, senior public affairs manager for Wal-Mart, said the company was pleased with the ruling because it made it clear that the city and Lincoln complied with the site plan approval process.

During the trial, lawyers for Responsible Growth argued that the store plans did not include adequate measures to save old trees on the land, curtail flooding onto nearby roads or prevent traffic from the store from spilling into neighborhood streets.

They also said that, under city rules, the city should have required a special permit and public hearing on the store because it will include a garden center.

Lawyers for the city and Lincoln said that the firm hasn't committed to including a garden center and that the store fully complies with city rules about tree preservation, drainage and traffic. The project will reduce paved surfaces on the land to prevent flooding and will add water-quality measures that don't exist there now, they argued.

In the letter to attorneys announcing her ruling, Naranjo wrote that the city ordinance requiring a public hearing and conditional use permit before the construction of a garden center does not apply in this case because it is not a stand-alone garden center. Under the city's interpretation of the ordinance, a 5,000-square-foot stand-alone garden center would require a conditional use permit, but a 20,000-square-foot garden center that is considered an accessory to another store does not, she said.

"Even though the Court may not agree with the results of the City's interpretation of the ordinance, it is for the City Council, not this Court, to change the ordinance," she wrote.

Responsible Growth attorney Brad Rockwell said the next few weeks will be spent determining the language of the final order and asking the judge for clarification.

Responsible Growth plans to meet in January to discuss options, including whether to appeal, Rockwell said.

The Allandale Neighborhood Association sued the city and Lincoln in a separate lawsuit over the garden center issue. The neighborhood lost that case but has said it plans to appeal, even though doing so will sap its funds.



Courtesy of JBG Goodwin