

Appeals court rules for shopping center

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HAMILTON -- After more than two years of opposition from the township and residents, an appellate court has cleared the way for a shopping center on Klockner Road.

The court upheld a lower court ruling, which overturned the township planning board's denial of the application by North Plainfield-based Levin Management to build a 201,000-square-foot shopping center near Klockner Road and Nottingham Way.

The center is proposed to include an 82,000-square-foot ShopRite, a 300-seat restaurant and other retail stores.

The application has been in the works since 2004 and was bitterly fought by residents who worried about traffic along Klockner Road and its effect on a nearby elementary school.

Reached yesterday, a spokesman for Levin said the company is eager to build on the site and will begin the planning process as soon as possible.

"We are gratified by the decision," said spokesman David Silver. "It's the outcome we had hoped for. We now hope we can work with the town to create the best project we can."

The board initially denied the application in May 2004 after several hours of hearings where neighbors lashed out at the developer for insisting that entrances to the center be placed along Klockner Road, rather than on busier Nottingham Way.

The property is adjacent to another center owned by Kramont Realty that has been largely vacant for several years. Residents argued that Levin should negotiate with Kramont to buy and revitalize that property.

Sources told The Times last year that negotiations between the two companies had begun, but never resulted in an agreement.

Mayor Glen Gilmore, who was chastised by Superior Court Judge Linda Feinberg for speaking out against the project during the hearing, weighed in again yesterday urging the planning board to petition the case to the Supreme Court.

"Allowing cars from this center to exit onto Klockner Road near an elementary school and a church is a tragedy waiting to happen," Gilmore said in a statement.

Local open space advocacy group Save Hamilton Open Space was also part of the suit filed by the planning board after Feinberg's decision.

President Rocky Swingle, who lives in the neighborhood across Klockner Road from the property, said the court's decision did not sit well with he and his neighbors. While his organization could appeal to the Supreme Court, they had not decided if they would, Swingle said.

"We are not ruling that out but we haven't yet read the decision. We'll read it and figure out what to do next."

In upholding Feinberg's ruling, the three-judge appellate panel agreed that portions of the original planning board decision were "arbitrary and capricious."

On the issue of traffic created along Klockner Road and in the surrounding neighborhood, the court ruled that the board should not have used that as a reason to deny the project.

