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## You can't get there \_\_from here

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### CHESAPEAKE - BY John Hopkins THE VIRGINIAN-PILOT

**CHESAPEAKE** - A legal squabble between the city and a landowner near Dominion Commons off Dominion Boulevard could snag a new retail project that includes a Wal-Mart Supercenter and two new roadways under construction.

The landowner, **Chesapeake** Development of Hampton Roads , is arguing in court that developers are using odd-shaped, narrow pieces of land called "spite strips," to essentially land-lock CDHR **property** and block access to new roads being built in the area. The term "spite strips" refers to actions of **property** owners to limit another landowner's access.

In a lawsuit against the city in **Chesapeake** Circuit Court, CDHR argues that city officials have failed to enforce a city ordinance that makes a "spite wall or strip" illegal.

The strips of land block CDHR from access to Cahoon and Grassfield parkways, two roads under construction.

"That's what this case is all about ," said William C. Bischoff, the attorney for the landowner .



"We're trying to get access to those two roads."

Without the access, CDHR won't be able to develop about 50 acres of prime land, Bischoff said. Robert D. Zirpoli is president of CDHR Inc., according to the Virginia State Corporation Commission; Andrew Goldrich and Robert D. Jones are listed as vice presidents.

John E. Clarkson, a retired Norfolk judge presiding over the case, will decide in the near future whether CDHR can proceed with its case. The city has asked for a demur or that the case be dismissed. "It appears to the city that it is really a private land **dispute**," said Ronald S. Hallman, city attorney. "That is basically one of the reasons we are demurring to this."

The City Council approved the rezoning plans for the area in late 2003.

Bischoff argues that the council did not know it was creating the strips when it signed off on general plans for the project.

City code states that: "No plat shall be approved for recordation which reserves a narrow strip of land around or along any or all sides of the **property** which is commonly known as a spite wall or strip."

The city argues in court that CDHR had 30 days after the council's action to challenge the rezonings, including the road alignments. The landowner's window to challenge the action "has long expired," the city states.

The city, in its attempt to get the case dismissed, further argues that the landowner purchased the **property** after the council approved plans for the project.

Bischoff said city officials should have insisted that the two new roads be aligned in a manner so that the "spite strips" would not exist. "The existence of the subject spite strips can easily be prevented by realignment of the proposed Cahoon Parkway and Grassfield Parkway as CDHR has agreed to dedicate the land sufficient for such a realignment, at no cost to the city," CDHR states in its motion for judgment.

However, any realignment of the two roads now would be difficult because construction of the two parkways is more than 50 percent complete.

Wal-Mart, concerned that the court case could jeopardize its multi million dollar plans at Dominion Commons, has been granted permission to intervene in the squabble. The Wal-Mart Supercenter,

which is expected to open early in 2006, already is taking form.

During a hearing this week, Clarkson said the land matter appeared to be one that could be resolved with ease.

"It just seems like a simple problem that intelligent people can work out," Clarkson said during the hearing. "I'm just mystified by this kind of case," he later said. "It seems so simple to me, but it's not."

Although the lawsuit names the city, landowners with **properties** adjacent to CDHR complicate the issue. In addition to Dominion Commons, Cahoon **Properties** and Eagle Pointe play a role in CDHR's access to the new roads, Bischoff said. They own the various strips of land in question. Wallace Cahoon, one of the major **property** owners, could not be reached Friday for comment. Cahoon Parkway is about 50 percent complete, said Harry Kenyon, a spokesman for public works. When finished, the street will connect with Cedar Road just east of the intersection of Dominion at Cedar, running into Grassfield Parkway.

Grassfield Parkway, which Kenyon said is about 60 percent complete, will connect to Dominion Boulevard and Cahoon Parkway.

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