

Press Release



For Immediate Release

Contact: Rob Nieweg, National Trust for Historic Preservation, 202-588-6107
Bob Rosenbaum, Arnold and Porter, 202-942-5862, 301-802-1482

NATIONAL PARK ADVOCATES AND LOCAL RESIDENTS FILE LEGAL CHALLENGE TO “WILDERNESS WAL-MART” APPROVAL

Proposed Big-Box Development Incompatible with Historic Character of Battlefield

Washington, DC (September 23, 2009) – Residents of Orange and Spotsylvania Counties joined with the National Trust for Historic Preservation and Friends of Wilderness Battlefield today in filing a legal challenge against a proposed big-box development on the Wilderness Battlefield. The huge 240,000-square foot commercial development would harm the historic battlefield and encroach upon the Fredericksburg & Spotsylvania National Military Park.

The challenge filed today asserts that the County Board of Supervisors failed to gather and consider important information about negative effects on the County, its citizens and its historic resources. The County has responsibilities to protect those historic resources under Virginia law and under the County’s own Comprehensive Plan for development. Yet the Board brushed aside the concerns, objections and offers of assistance from the Governor and the Speaker of the House of Delegates of the Commonwealth of Virginia, the National Park Service, the Virginia Department of Historic Resources, 250 Civil War experts, and others. “Even in the face of widespread opposition,” the complaint asserts, “the Board failed to obtain critical information about the historic importance of the Wal-Mart site and the impact of approving the special use permit on the National Military Park.”

The challenge was filed with the Circuit Court of Orange County. In addition to the non-profit National Trust for Historic Preservation and Friends of Wilderness Battlefield, six residents who live in close proximity to the proposed Wal-Mart superstore site have joined the lawsuit as plaintiffs.

“We have joined with concerned local residents to file this lawsuit challenging Orange County’s approval of Wal-Mart’s over-sized and inappropriate commercial development in order to protect the Wilderness Battlefield, National Park, and the citizens of Orange County,” said Richard Moe, president of the National Trust for Historic Preservation, which owns 2,700 acres and James Madison’s Montpelier in Orange County, Virginia. “It’s our obligation to challenge big-box development on this vulnerable site, which would compound earlier land-use planning missteps and eventually would radically urbanize the rural gateway to the National Park.”

The site of the proposed Wal-Mart superstore, along with 100,000 square feet of additional commercial development, stands on unprotected land within the historic boundaries of the Wilderness Battlefield and is immediately adjacent to the Fredericksburg & Spotsylvania National Military Park, which was established by Congress in 1927. In a split vote, the Orange County Board of Supervisors voted to approve a special use permit allowing Wal-Mart’s 240,000-square foot project to proceed on August 25, 2009.

“A nationally significant and highly vulnerable historic site is at great risk,” noted Zann Nelson, president of Friends of Wilderness Battlefield. “The local government’s approval of this special use permit poses real and

irreversible threats to the historic place. The Wal-Mart project would irrevocably harm the battlefield and seriously undermine the visitor's experience of the National Park."

"This lawsuit asserts that the Board of Supervisors was determined to approve the extensive Wal-Mart development on Wilderness Battlefield -- a national icon for a battle in which 30,000 Americans were casualties -- at whatever cost or damage to the battlefield or to the National Park," said plaintiffs' counsel Robert Rosenbaum of the law firm of Arnold & Porter. "The Board therefore failed to gather and weigh properly all the facts and independent expert views that any reasonable person would consider when voting on such a development under those circumstances."

"The National Trust and its partners in the Wilderness Battlefield Coalition stand ready to assist Wal-Mart to find an alternative location away from the battlefield and National Park," Richard Moe added. "We do not oppose Wal-Mart or other large scale retail operations in Orange County, and we certainly acknowledge the benefits these stores may offer to the public. Wal-Mart can serve residents of Orange County *and* resolve this controversy by reconsidering and relocating its superstore center away from the battlefield and National Park."

Moe also noted that Virginia Governor Tim Kaine and Speaker of the House of Delegates Bill Howell have offered the technical support of the Commonwealth to help identify an alternative site.

Wal-Mart's proposal has generated considerable opposition both locally and throughout the nation. In addition to the July 13, 2009 letter and offer of help from Governor Kaine and Speaker Howell, the proposal has been denounced by many of the nation's top historians, including Pulitzer Prize-winning authors James McPherson and David McCullough, as well as renowned filmmaker Ken Burns. Others who have spoken out against the proposal include Academy Award-winning actors Richard Dreyfuss and Robert Duvall, as well as Senator Jim Webb (D-VA) and U.S. Congressmen Ted Poe (R-TX) and Peter Welch (D-VT).

The National Trust for Historic Preservation and Friends of Wilderness Battlefield are members of the Wilderness Battlefield Coalition, an alliance of national, regional and local organizations with an abiding interest in the preservation of the historic Wilderness Battlefield in Orange and Spotsylvania counties, Virginia.

ADDITIONAL BACKGROUND ON THE LAWSUIT

Early in the process, a majority of the Board expressed its support for the Wal-Mart project due to the supposed economic benefits of the project to the County. The Board then tolerated no dissent from its staff, at one point firing the County Administrator for even suggesting that a different location farther from the battlefield be explored for the development. The Board then relied on the applicant's economic analysis—with no independent review—despite the fact that the analysis only considered positive, and not negative, factors in the analysis. For example, the Board had asked Wal-Mart to pay almost \$800,000 over five years for additional costs to the County of providing police services to the store, but later dropped that requirement.

The County has responsibilities to protect its historic resources under Virginia law and under the County's own Comprehensive Plan for development. However, the Board failed to comply either with the state law requirement that local zoning ordinances be designed to "protect against destruction or encroachment of historic areas," or the County's own Comprehensive Plan's approach of first considering and adopting a comprehensive "battlefield resource protection plan for Civil War sites."

Furthermore, the Board failed to adequately explore the impact of the development on the neighboring National Park by declining to engage the National Park Service on the issue. Concerning impacts on historic resources, the Board relied almost entirely on a report undertaken for the developer—a report which did not address the impact of the development on the adjacent National Park and failed to adequately consider historical sources about the events on and near the site itself.

For more information, visit: www.wildernesswalmart.com

###