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Fort Mill bypass at center of lawsuit

By Charles D. Perry · & 2008 The Herald

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FORT MILL -- A developer is suing York County and the town of Fort Mill over their handling of a road project originally designed to cut through a planned subdivision.

County officials hope the dispute can be resolved in the coming months.

At issue is the route of the Fort Mill southern bypass, part of the county's 2003 "Pennies for Progress" road-building program, paid for with a 1-cent sales tax.

Kimbrell Fort Mill LP, the developer, claims it didn't know about the bypass when it bought the land for the subdivision in 2005, according to the lawsuit, which was filed earlier this month in federal court. The developer agreed to sell the subdivision to a builder that same year.

Fort Mill gave final approval to Kimbrell Crossing in April 2006. But, according to the lawsuit, it wasn't until October of that year that county officials realized the bypass route went directly through the subdivision.

When the buyer learned of the problem, the company pulled out of the deal.

County officials considered buying the land but said it would be too expensive, so they began redrawing the road around the subdivision.

Kimbrell reached an agreement with another buyer in August 2007, but that deal was contingent upon the bypass not disrupting the subdivision, according to the lawsuit.

To date, the deal has not been completed because the road hasn't been finalized.

County Manager Jim Baker told The Herald this week that the county knows about the developer's lawsuit, but the company's attorney told him the document was filed as a precaution and because of a legal deadline.

"We aren't really anticipating that that's going to be a major issue," Baker said. "It's not like we're not speaking to one another."

Dan Ballou, Kimbrell's attorney, declined to comment on the case.

The county has been working closely with the Fort Mill school district on the design of the road, Baker said, because several schools will be affected by its route.

He hopes a final route will be chosen within the next two months.

"It's not that we're not sympathetic," Baker said. "We realize that we're complicating their lives by not being able to give them a definitive answer."

In the lawsuit, Kimbrell alleges that the company will be financially hurt, regardless of what the county does.

"Whether the County ultimately chooses an alignment of the Bypass that crosses the Subdivision or not, the Property has been rendered unmarketable and all economically viable value in it has been destroyed," the document states.

The lawsuit asks that York County and Fort Mill pay for various costs, including attorney's fees, but it doesn't list a specific amount.

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