

FOR RELEASE - April 25, 2006

Small Group of Virginians Defeat World's Largest Retailer

In February 2005, a small group of concerned citizens from Front Royal, Virginia hired a small Richmond law firm and took on the world's largest retailer and largest employer in the United States. Last week, they won.

The story began in 2002, when Wal-Mart contracted to purchase 121 acres of picturesque farmland in the Shenandoah Valley between the North and South Forks of the Shenandoah River. Wal-Mart soon applied to the Town Council of Front Royal for a rezoning from low-density residential to commercial and a special permit to allow construction of a 184,000-foot retail store.

The Town Council scheduled a public hearing for June 9, 2003, on the Wal-Mart matters. Only three of six council members were present at the hearing; the three other members were absent having recused themselves, two citing conflicts of interest as the reasons for their recusals. The Front Royal Town Charter requires four members to constitute a quorum and convene a meeting. Nevertheless, the three members conducted a public meeting where, among other things, they scheduled a special meeting the following day to consider the Wal-Mart matters. On June 10, 2003, the same three councilmen voted to approved the zoning applications. At a subsequent meeting, the Wal-Mart applications were approved.

While Wal-Mart was poised to complete its purchase of the farmland and proceed with its construction plans, local concerned citizens formed a group known as Save Our Gateway and hired the attorneys of Strother Law Offices, PLC to represent them. The members of Save Our Gateway were concerned about the negative effects the Wal-Mart Supercenter would have on the Shenandoah River and Chesapeake Bay watershed, the local traffic volumes, and the unique aesthetic value of the rural, natural gateway. The citizens also were troubled by the way the Wal-Mart matters were approved by their local representative governing body without a quorum.

Save Our Gateway challenged the actions of the Town Council in the Circuit Court of Warren County. The court applied the Virginia Conflicts of Interest Act to the facts and ruled against the group, holding the three councilmen constituted a quorum and the approval of the Wal-Mart applications were valid.

The citizens of Front Royal, confident that they were correct, were not discouraged. Through their attorneys at Strother Law Offices, they petitioned the Supreme Court of Virginia and were awarded an appeal.

As a result of the local opposition and legal action brought by Save Our Gateway, Wal-Mart abandoned its plans for a store on the site. However, the property owners wanted their farm to remain zoned commercial creating a strong possibility that another "big

box” retailer could buy the property and locate there. The property owners retained one of the largest law firms in Virginia to represent them in the state’s Supreme Court.

On Friday, April 21, 2006, the Virginia Supreme Court reversed the circuit court and ruled in favor of Save Our Gateway. Recognizing that this was a case of first impression in the state, the Court held “that the physical presence of a majority of the members is necessary in order that a valid meeting of a governing body may be convened and that their continuing presence is necessary in order that the governing body may exercise the powers conferred upon it by law, except that a number less than a quorum may adjourn the meeting to a later time.”

Senior Justice Charles S. Russell authored the opinion, writing, “In our system of representative government, the voters must of necessity rely on their elected legislative representatives to protect their interests, to defend their freedoms, to advocate their views and to keep them informed.”

Reacting to the news, Philip Carter Strother, lead counsel for Save Our Gateways, said, “We are extremely pleased. This victory is a testament to the will and determination of a few ordinary citizens who took a stand for what they believed was right. The Court’s decision not only allows for the preservation of 121 acres of pristine farmland and open space but also establishes an important precedent that strengthens our representative form of government.”