

# Split Decision For Wal-Mart? *May Straddle Border*

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Approved by the Board of Supervisors last week, the county's big box ordinance may be put to the test sooner rather than later.

The big box ordinance requires retail establishments of more than 75,000 square feet to obtain a special use permit, meaning the developer must meet criteria set by the county on issues such as traffic, lighting and landscaping. Smaller retail establishments in commercial zones need only receive administrative approval via a site plan.

In a Feb. 12 letter to zoning administrator Carolyn Bowen, Wal-Mart attorney Meade Fallon requested

The Wal-Mart logo is displayed in white text on a dark rectangular background.

clarification of the ordinance and how it applies to buildings that are located only partially in the county.

"One of the options under consideration is a retail facility located partially in Wasco County and partially in the Town of Warrenton with the town, county line bisecting the building," Fallon wrote of his client's study of locating in the county.

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Fallon posed the question — If a retail establishment was built straddling the boundary of Warrenton and the county and if less than 75,000 square feet of the building was on the county's side of the boundary, would the retailer be required to obtain a special use permit from the county?

Ms. Bowen said Tuesday that she has not yet finalized an interpretation to the question, but hopes to do so by next week.

The Town of Warrenton is developing its own big box ordinance, town manager John Anzivino said. Currently at the Planning Commission level, the ordinance will require stores of more than 60,000 square feet to meet added objectives.

Fallon refused to comment on the letter last week, but has previously said that Wal-Mart is continuing to review its options. The retailer has not filed a site plan.

In a follow-up letter to Ms. Bowen, Fallon cited relevant case law citations from Territorial Jurisdiction.

"The general rule ... is that absent language delegating extraterritorial zoning power to a municipality, its zoning authority only applies within its territorial limits," Fallon wrote. "A complete review of the Virginia Zoning Law and the Fauquier County Zoning Ordinance leads me to believe that a special exception would not be required for a retail facility located partially in Fauquier County if the square footage in the county is less than 75,000 square feet."

Speculation continues to circulate about the retailer's intention to buy and build on property owned by Walter and Arabel Arrington just south of Warrenton on U.S. 29. About 7 acres of the property is zoned for commercial use in the town and approximately 35 acres is highway commercial in the county, according to zoning maps.

The Town of Warrenton is required to provide water and sewer service to all buildings in the town, Anzivino said.

"If it straddles the boundary, that poses some interesting issues," Anzivino said, noting that town attorney Henry Day is researching the subject.

He said that utility lines are currently in place in the area of the Arrington farm, but that the unincorporated area in question is not targeted for immediate service by the town.