

VIRGINIA:

IN THE CIRCUIT COURT FOR PRINCE WILLIAM COUNTY

KATY BURKE, et al.,)	
)	
Petitioners,)	
)	
v.)	<u>Case No. CL24-334</u>
)	
BOARD OF COUNTY SUPERVISORS,)	
PRINCE WILLIAM COUNTY, et al.,)	
)	
Respondents.)	
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FINAL ORDER

THIS MATTER is before the Court on the Demurrers filed by Respondents, Board of County Supervisors of Prince William County; H&H Capital Acquisitions, LLC; GW Acquisition Co., LLC; and GW Acquisition Co., I, LLC (collectively, the “**Demurrers**”) to the Petition to Overturn Action by Board of Supervisors (the “**Petition**”); and

IT APPEARING to the Court based on the pleadings (including the Legislative Record filed with the Court and attached to the Complaint pursuant to the Consent Order Granting Motion Craving Oyer dated January 26, 2024), memoranda, and arguments of counsel in court on October 31, 2024, that for the reasons stated on the record on October 31, 2024, which are attached hereto and incorporated herein by reference, the entry of this Order is just and proper in all respects, it is hereby

ORDERED, ADJUDGED, and DECREED that the Demurrers are SUSTAINED as to all Counts in the Petition and all Counts are DISMISSED WITH PREJUDICE.

THIS ORDER IS FINAL.

ENTERED November 19, 2024



Hon. Tracy C. Hudson, Judge
Prince William Circuit Court

WE ASK FOR THIS provided exception is taken to any portion of the Court's ruling suggesting that (i) the notices did not comply with either state law or any lawful provision of the County's ordinances, (ii) the County may enact notice requirements stricter than those imposed by state law, (iii) that all of Petitioners' notice claims are not barred because of their actual notice of or active participation in the public hearing as pled in the Petition, and (iv) any other adverse ruling or failure to rule on any argument presented by the Respondents in their pleadings, briefs, or at oral argument, all for the reasons stated in the pleadings, briefs, and in oral argument.

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CLERK OF DISTRICT COURT

ST. J.

TC#

SEEN AND AGREED provided exception is taken to any portion of the Court's ruling which determined that the Board's approval of the Rezoning violated or failed to satisfy any requirement of state law or local ordinance, as well as the Court's failure to rule on any arguments presented by Defendants in the pleadings, briefs, or at oral argument.



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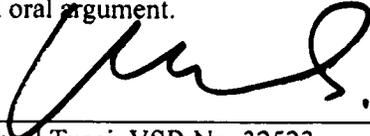
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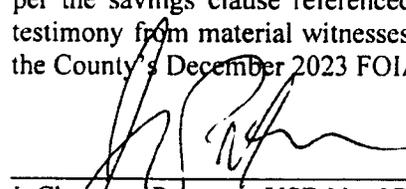
*Counsel for the Board of County Supervisors
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SEEN AND AGREED, provided that exception is taken to any portion of the Court's ruling that determined or suggested that (i) the notices given failed to comply with state law or any lawful provision of local ordinance; (ii) the County may enact notice requirements that are stricter than those imposed by state law; (iii) the Petitioners claims were not barred by their actual notice of or active participation in the public hearing complained of in the Petition, and (iv) any other adverse ruling or failure to rule on any argument presented by the Respondents in their pleadings, briefs, or at oral argument.



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SEEN AND OBJECTED TO for all the reasons stated in the Petition filed herein, the Consolidated Opposition filed by Plaintiffs responding to the Demurrers, and all arguments raised by Counsel at the hearing of this matter on October 31, 2024, including *inter alia* (i) the failure of the County to properly notice its public hearing per state law and local ordinance, (ii) the failure by the County to comply with its own Zoning Ordinance in approving the Rezoning at issue, (iii) the failure by the County to re-advertise or resubmit the application to the Planning Commission upon a material amendment of the proffers, and (iv) the failure by the County to require a Special Use Permit for a data center use outside the Data Center Opportunity Zone. In addition, as a basis for appeal, the Petitioners object to the findings of fact made by the Court regarding "the submission of notice" per the savings clause referenced in Virginia Code 15.2-2204, *inter alia*, without any sworn testimony from material witnesses and in apparent reliance on hearsay evidence, as produced in the County's December 2023 FOIA response.



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