
In the
Supreme Court of Virginia

Record No. _____

GW ACQUISITION CO., LLC and GW ACQUISITION CO. I, LLC,
Petitioners – Defendants,

v.

OAK VALLEY HOMEOWNERS ASSOCIATION, INC., *et al.*,
Respondents – Plaintiffs.

PETITION FOR APPEAL

From the Court of Appeals of Virginia
Record Nos. 1584-25-4, 1590-25-4, and 1592-25-4

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INTRODUCTION

This case involves the Court of Appeals’ unprecedented nullification of three Prince William County zoning amendments that would have brought tens of billions of dollars in investment—and thousands of jobs—to Virginia. In a decision resolving two sets of cases, the Court of Appeals rejected the rezonings by mistakenly finding violations of highly technical notice provisions that harmed no one. See *Board of County Supervisors of Prince William County v. Oak Valley Homeowners Association, Inc.*, Record Nos. 1584-25-4, 1590-25-4, and 1592-25-4 (“*Oak Valley II*”); *Burke v. Board of County Supervisors of Prince William County*, Record No. 2025-24-4. Petitioners GW Acquisition Co., LLC, and GW Acquisition Co. I, LLC (collectively, “GWA”) respectfully submit this Petition for Appeal pursuant to Rule 5:17 and ask this Court to grant review and reverse the Court of Appeals’ decision in *Oak Valley II*. Petitioners are filing a separate petition for review seeking reversal in *Burke*.¹

For nearly a decade, Prince William County has been working to draw technology investment into the Commonwealth. In 2022, the County officially unveiled amendments to its Comprehensive Plan authorizing the development of a new technology corridor in northern Virginia called the “Digital Gateway.” Public

¹ The Court of Appeals addressed both *Oak Valley II* and *Burke* in one opinion, but it did not formally order the two cases combined.

engagement was substantial. After a 2-day, 14-hour hearing at which 240 members of the public presented, the Prince William County Board of Supervisors (the “Board”) approved the amendments. Several individuals—including all but one of the *Oak Valley II* Plaintiffs here—unsuccessfully sued to overturn that decision. That pattern repeated itself in 2023, when two developers sought rezoning approvals to construct data centers in the Digital Gateway. After a marathon, 27-hour public hearing—during which several Plaintiffs presented, and Plaintiffs’ lawyer supplied participants questions and commentary—the Board again approved the rezonings. Once more, Plaintiffs sought to undo that legislative process through litigation.

This time the Circuit Court and Court of Appeals agreed, unwinding a decade’s worth of investment in the Digital Gateway. As relevant here, the Court of Appeals held that (1) the County had not properly noticed the hearing because “draft ordinances” were not available at the Clerk’s office when the County first ran the advertisements; (2) the County’s final advertised notice failed a County notice requirement that the General Assembly had removed from the Code just six-months prior; and (3) the waiver provision in Code § 15.2-2204(B)—which prohibits individuals from challenging defects in written notice when the individual has received actual notice of, or actively participated in, the relevant hearing—applied only to mailed notices, not advertised notices.

This Court should grant review for several reasons.

First, this case has enormous economic implications for the Commonwealth. The Digital Gateway is estimated to bring \$40 to 50 billion in private investment to Prince William County, millions in annual tax revenue, and thousands of high-paying, permanent technology jobs.² Local officials have spent years evaluating the costs and benefits of this development, including its impact on surrounding communities.³ And they have made a considered legislative judgment that the project should move forward. Developers like GWA have invested millions in reliance on those decisions. The decisions should be upheld, but if all the substantial effort and investment is to be erased in a pen stroke, it should only be with this Court’s approval.

Second, the Court of Appeals’ decision is both wrong and inconsistent with

² See R.35640; Prince William County, *Written Analysis Narrative and Suggested Plan Policies PW Digital Gateway Corridor CPA #2021-00004* at 7-8 (Apr. 8, 2022), <https://egcss.pwcgov.org/SelfService#/plan/3ab68e66-cf4d-4240-84df-15aa8a9f2453?tab=attachments> (choose first Attachment, “Uploaded: 04/21/2022”) (“*PWC Written Analysis*”) (estimating in 2022 that the Digital Gateway would bring \$30 billion in private investment to Prince William County). In fact, existing data centers generated \$293.7 million in tax revenue for Prince William County in 2024 alone. Prince William County, *Data Center Industry | Tax Revenue Report 2, 25* (2024), <https://www.pwcva.gov/assets/2025-06/Prince%20William%20County%202024%20Data%20Center%20Revenue%20Report.pdf> (“*PWC Tax Revenue Report*”).

³ See, e.g., Prince William County, *Virginia Data Center Fiscal Impact Analysis* (July 7, 2022), https://www.pwcva.gov/assets/2022-07/Data%20Center%20Fiscal%20Impact%20Analysis_6.30.22_lock.pdf (“*PWC Fiscal Impact Analysis*”).

this Court’s longstanding precedent. It imposes a non-existent statutory obligation on localities to produce an undefined set of documents on the very first day the County provides public notice of a hearing. It permits localities to interfere with the General Assembly’s carefully-calibrated timing requirements for public notices. It artificially limits the waiver provision to defects in mailed (but not advertised) notices—meaning plaintiffs who have actual notice of, or who personally participate in, the proceedings can use notice defects to unwind legislative decisions they oppose—in violation of this Court’s decision in *Norfolk 102, LLC v. City of Norfolk*, 285 Va. 340 (2013), and in conflict with *Drewry v. Board of Supervisors of Surry County*, 84 Va. App. 479 (2025). And it fails to properly apply Virginia law’s requirement that a valid plaintiff must prove non-speculative, non-conclusory, particularized harm to establish standing.

Third, the decision below leaves localities and developers without a clear rule to follow in an area where technical foot-faults can have massive economic consequences, as here. For example, the Court of Appeals faulted the County for failing to make “draft ordinances” available upon publication of the first advertisement. But it did not explain *what* an “ordinance” is in the context of a request to amend the County’s zoning map, or why making available the text of the “amendments” was insufficient. Localities looking to comply with this new-found requirement that “ordinances” must be immediately available—even when only

“amendments” are at issue—are left with no guidance as to what specifically they must provide.

The Court should grant the petition and reverse the judgment below.

ASSIGNMENTS OF ERROR

1. The Court of Appeals erred in concluding that the County’s newspaper notices did not comply with the availability-of-documents requirement in Code § 15.2-2204(A) and Prince William County Zoning Ordinance (“PWCZO”) § 32-700.60.⁴
2. The Court of Appeals erred in concluding that the County’s newspaper notices did not comply with the 5-day rule in PWCZO § 32-700.60(1).⁵
3. The Court of Appeals erred in concluding that Plaintiffs’ claims were not waived under Code § 15.2-2204(B) and *Norfolk 102, LLC v. City of Norfolk*, 285 Va. 340 (2013).⁶
4. The Court of Appeals erred in concluding that Plaintiffs had established standing to challenge the Digital Gateway North and Digital Gateway South rezonings.⁷

⁴ Error preserved at R.74313-34; 72440-50; 72479-501; 72654-93; 72707-10; 77894-935; 77948-71; 78543-90; 78601-07; 74922-5005; 75217-98; 75299-321; 75344-61; 75391-400; 75431-35; 75457-61; 75464-73; 75476-80; 75369-75; 75449-55; Court of Appeals of Virginia (“CAV”) Opening Br. 22-36; CAV Reply Br. 1-7.

⁵ Error preserved at R.74313-34; 72440-50; 72479-501; 72654-93; 72707-10; 77894-77935; 77948-71; 78543-90; 78601-07; 74922-5005; 75217-98; 75299-321; 75344-61; 75391-400; 75431-35; 75457-61; 75464-73; 75476-80; 75369-75; 75449-55; CAV Opening Br. 27-31; CAV Reply Br. 1-7.

⁶ Error preserved at R.74313-34; 72440-50; 72479-501; 72654-93; 72707-10; 77894-935; 77948-71; 78543-90; 78601-07; 74922-5005; 75217-98; 75299-321; 75344-61; 75391-400; 75431-35; 75457-61; 75464-73; 75476-80; 75369-75; 75449-55; CAV Opening Br. 38-56; CAV Reply Br. 8-17.

⁷ Error preserved at R.74313-34; 72440-50; 72479-501; 72654-93; 72707-10; 77894-935; 77948-71; 78543-90; 78601-07; 74922-5005; 75217-98; 75299-321;

FACTUAL AND PROCEDURAL BACKGROUND

A. The Digital Gateway Rezonings

Prince William County amended its zoning ordinance nearly a decade ago to allow for the construction of data centers in the County. *See Oak Valley Homeowners Ass’n v. Prince William Cnty. Bd. of Supervisors*, 85 Va. App. 382, 386 (2025) (“*Oak Valley I*”). Over the years, the County has commissioned several studies to assess the economic impact of these developments. *See, e.g., PWC Fiscal Impact Analysis, supra*, at 2, 25. These studies report that data centers contribute millions in new revenue to the County, create thousands of new, high-paying technology jobs as well as construction-related employment, and require few public resources in return. *See PWC Written Analysis, supra*, at 3-4, 8, 15-16. In 2024, for example, data centers generated \$293.7 million in tax revenue for Prince William County alone. *PWC Tax Revenue Report*.

In July 2022, the Board released a draft of an amendment to its Comprehensive Plan to create the “Digital Gateway,” a data center development. *Oak Valley I*, 85 Va. App. at 386-87. In November 2022, the Board adopted this Comprehensive Plan Amendment (“CPA”) after months of analysis and a 14-hour public hearing where over 200 community members spoke for and against the CPA.

75344-61; 75391-400; 75431-35; 75457-61; 75464-73; 75476-80; 75369-75; 75449-55; CAV Opening Br. 56-70; CAV Reply Br. 17-20.

Id.

The Oak Valley Homeowners Association (“HOA”) opposed the Board’s decision. It established a “Legal Committee”—consisting of its president Mac Haddow, Chris Wall, and two others—to oppose the Digital Gateway. R.77159:7-77163:12; 83551:12-83552:15. The Legal Committee immediately began recruiting potential plaintiffs for a lawsuit to challenge the CPA. Plaintiffs hired two attorneys, Craig Blakeley and Kathleen McDermott, to represent them, including in any subsequent litigation challenging related Digital Gateway approvals. R.83448.

That first lawsuit ultimately failed. Unable to argue that the Board failed to give proper notice, Plaintiffs claimed instead that the Board “failed to listen to and consider the comments made at the public hearing.” *Oak Valley I*, 85 Va. App. at 399. The Circuit Court rejected that claim, and the Court of Appeals affirmed, holding that Plaintiffs’ claimed requirement “cannot be found in the text of the statute, cannot be squared with controlling precedent, and would be impractical to administer.” *Id.* at 394. This Court refused Plaintiffs’ petition for appeal. *See Oak Valley Homeowners Ass’n v. Prince William Cnty. Bd. of Supervisors*, No. 250772 (Va. Dec. 23, 2025) (order).

In the meantime, in 2022, GWA and H&H Capital Acquisitions, LLC had submitted three separate applications to the Board seeking to amend the County’s zoning map to authorize the construction of three data center complexes in the

Digital Gateway. Both applicants offered dozens of conditions to mitigate potential impacts of their respective developments on surrounding communities. These conditions—known as “proffers”—established noise limits, limited building height, restricted the allowable hours of construction, preserved tree buffers and established new ones, required efforts to minimize dirt and debris caused by construction, and limited the routes on which construction vehicles could travel. R.82884-947; 82963-3025; 83034-76. In total, the three rezonings represented between \$40 and 50 billion in economic investment to Prince William County. R.35640.

In November 2023, the Board scheduled a hearing on all three rezonings for December 12, 2023. The County then began efforts to notify the public of the hearing. On November 20, a County clerk submitted a request to *The Washington Post*, directing the *Post* to publish two advertisements on November 28 and December 5. R.79011-14. But the *Post* failed to publish the ads as initially requested, and later agreed to publish three ads instead: one on Saturday, December 2; one on Tuesday, December 5 (as originally requested); and one on Saturday, December 9. R.79007-10; 77055:17-77058:4; 77059:1-15. In addition to these advertisements, the Board mailed notices to nearby property owners and posted hundreds of signs at regular intervals on the main roads bordering the land subject to the rezonings. R.77581:7-77582:11; 81141; 81142; 81234; 78048:4-78049:2.

The advertisements mirrored the language of the approvals ultimately passed

by the Board. Each said that the requested amendments would rezone “agricultural” areas to “planned business” areas to allow for construction of “data centers” and identified, among other things, the relevant parcels and acreage. R.79011-14 (capitalization altered). The advertisements also stated that “[a]ll meeting materials” would be “posted online when the agenda is published” and that “a copy of all staff reports, proposed resolutions and ordinances, and other documentation” would be available for public review in the Board’s Clerk’s office. R.79014. All of the referenced materials were fully available on December 7, both online and at the Clerk’s office, when the agenda was published and the meeting materials were distributed to members of the Board. R.77143:6-19; 77154:18-21. The rezoning applications and related proffers were also available both online and at the County’s planning office throughout the public review process, including when the notices were first published on December 2. R.77147:11-77148:7.

Plaintiffs prepared extensively for the hearing. They circulated emails and discussed plans to file a second lawsuit if the rezonings were successful. R.83835-36; 83831-32; 83839. Members of the Legal Committee also met with a Board Supervisor Weir on several occasions. R.83586:8-12. And one of them (Wall) even drafted questions for Weir to ask during the hearing. R.83831-32; 83590:9-83591:1.

The hearing took place on December 12, 2023, as scheduled, but extended overnight and into December 13. R.75324-25. In total, it lasted more than 27 hours,

with 17 hours of public testimony. *See* R.81121 (video recording of hearing). During this two-day hearing, the Legal Committee set up a “war room” in the County building where the hearing was taking place to strategize. McDermott, the Plaintiffs’ lawyer, watched and listened to a live stream of the hearing while she exchanged strategy emails and texts with members of the on-site Legal Committee. R.83448-50. The Legal Committee later held a “debrief” session with two members of the Board following the hearing to “assist Craig [Blakeley] and Kathleen [McDermott]” with future litigation. R.83819.

At the conclusion of this marathon hearing, the Board approved each of the three rezonings by 4-3 vote, with one member abstaining. R.3419-20.

B. This Litigation

Unable to defeat the rezonings during the legislative process, Plaintiffs filed this action under Code §§ 15.2-2285 and 15.2-2204 on January 12, 2024. R.6-95. The operative Amended Complaint, filed on February 2, 2024, contained seven counts. R.1601-90. Count I alleged that the zoning decisions were void *ab initio* due to the County’s alleged failure to comply with the notice provisions in Code § 15.2-2204(A) and PWCZO § 32-700.60(1). R.1641-44. The other six counts challenged the substance of the Board’s approval of the rezonings. R.1644-81.

After denying Defendants’ demurrer in relevant part, the Circuit Court held a 5-day bench trial on Count I. R.75326. On August 7, 2025, the Circuit Court found

that seven Plaintiffs had waived their right to challenge any notice defect under Code § 15.2-2204(B) because they had either actively participated in the hearing or had concededly received actual notice of it. R.75336 & n.10. But the court held that three Plaintiffs—Ian Mirkes, Jose Medina, and Michael Donegan—had not so waived and ruled in their favor. R.75341.

As relevant here, the Circuit Court held that the County’s advertisements violated Code § 15.2-2204(A) and PWCZO § 32-700.60(1) because the December 2 and 5 advertisements were not spaced six days apart, holding that the December 9 notice could not be considered because it was not “second” in time. R.75330-33. It further held that the County had violated the incorporation-by-reference provision of Code § 15.2-2204(A) because it had not made available to the public all materials referenced in the advertisements (which included yet-to-be-drafted staff reports) when the first advertisement was published on December 2—a Saturday. R.75333-36. The Circuit Court thus entered a Final Order declaring the three rezonings void *ab initio*. R.75322.

Defendants timely appealed to the Court of Appeals, which held argument on February 24, 2026 and issued its decision on March 31, 2026, affirming the Circuit Court’s judgment, albeit on substantially different grounds.

First, the Court of Appeals held that at least one Plaintiff had standing to challenge each of the three rezonings. Op.19-24. For each of GWA’s two rezonings,

exactly one Plaintiff had standing: Stephanie Chartrand as to Digital Gateway South (“DGS”), Op.22-23, and Medina as to Digital Gateway North (“DGN”), Op.23-24.

Second, the Court of Appeals held that the Board’s advertisements were deficient under Code § 15.2-2204(A) and PWCZO § 32-700.60. Op.31-38. Specifically, the Court held that the Board’s December 2 and 5 advertisements violated Code § 15.2-2204(A) and PWCZO § 32-700.60(1)’s “where to review requirement,” Op.33, and the December 9 advertisement violated PWCZO § 32-700.60(1)’s “not-less-than-five-days-after requirement,” Op.38.

Third, the Court of Appeals determined that the advertising deficiencies it had identified were “not excused by actual notice under Code § 15.2-2204(B).” Op.40. According to the Court of Appeals—and contrary to the ruling of the Circuit Court—Code § 15.2-2204(B)’s actual-notice waiver does not apply to claims under Code § 15.2-2204(A). Op.40-41. In so holding, the Court of Appeals rejected Appellants’ invocation of *Norfolk* and *Drewry*, each of which had applied Code § 15.2-2204(B)’s waiver provision to claimed violations of both Code § 15.2-2204(A) and (B). Op.46-47.

STANDARD OF REVIEW

“Issues of statutory interpretation are pure questions of law that [this Court] review[s] de novo.” *Wakole v. Barber*, 283 Va. 488, 495 (2012). It also “review[s] de novo ‘the application of law to undisputed facts.’” *Wood v. Martin*, 299 Va. 238,

244 n.1 (2020). This Court will set aside a judgment where “it appears from the evidence that such judgment is plainly wrong or without evidence to support it.” Code § 8.01-680; *Callison v. Glick*, 297 Va. 275, 287-88 (2019) (citing this standard with respect to “factual findings”).

ARGUMENT

The Court of Appeals’ decision rests on four key errors—each of which has important implications for localities across the Commonwealth. *First*, it requires localities to make “draft ordinances” immediately available upon advertising a public hearing, even though Code § 15.2-2204(A) neither contains an immediate availability requirement nor requires “ordinances” to be available when “amendments” are at issue. *Second*, it permits localities to impose advertising requirements even where they lack authority to do so and the requirements conflict with the Code. *Third*, it misinterprets Code § 15.2-2204(B) and *Norfolk 102, LLC v. City of Norfolk*, 285 Va. 340 (2013)—and conflicts with *Drewry v. Board of Supervisors of Surry County*, 84 Va. App. 479 (2025)—in holding that challenges to advertised written notices cannot be waived, thereby dramatically expanding the number of plaintiffs who can challenge localities’ land-use decisions. And *fourth*, it misapplies the particularized harm analysis and erroneously finds that a Plaintiff had standing to challenge DGS and DGN.

On each issue, the Court of Appeals incorrectly applied Virginia law,

ultimately rejecting the rezonings on technical notice grounds based on the claims of Plaintiffs who were fully aware of the proposed rezonings and suffered no harm whatsoever from any notice defect. As a result, the Court of Appeals vetoed a long-planned project set to provide massive economic benefits to the Commonwealth.

This Court should grant review and reverse.

I. THIS COURT SHOULD REVIEW THE COURT OF APPEALS' ERRONEOUS HOLDING THAT THE COUNTY'S ADVERTISING WAS DEFICIENT (AE 1 & 2)

A. The Court Of Appeals Erred In Voiding The Rezoning For Failure To Comply With The Availability-Of-Documents Requirement (AE 1)

The Court of Appeals erred in voiding the rezoning applications on the grounds that the County failed to make certain materials immediately available for public review on December 2—a Saturday—rather than on December 7 when the materials were sent to the Board. Both this error and the confusion it will create warrant this Court's review.

At the time of the Board's hearing, Code § 15.2-2204(A) prohibited a locality from "adopt[ing] any plan, ordinance or amendment thereof until notice of intention to do so ha[d] been published once a week for two successive weeks . . . with the first notice appearing no more than 14 days before the intended adoption." Code § 15.2-2204(A). As used in the statute, "two successive weeks" meant that "such notice shall be published at least twice in [the] newspaper, with not less than six days

elapsing between the first and second publication.” *Id.* Additionally, Code § 15.2-2204(A) specified that “[p]lans or ordinances, or amendments thereof . . . need not be advertised in full, but may be advertised by reference,” and “[e]very such advertisement shall identify the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.” *Id.*⁸

The County’s December 2, 5, and 9 newspaper notices advertising the Board’s December 12 hearing on the proposed zoning amendments complied with these requirements. The three notices occurred in the two weeks preceding the hearing, and they advertised the hearing “at least twice,” with “not less than six days elapsing” between the minimum two required notices (the December 2 and 9 notices). Each notice specified the nature of the proposed rezonings and identified the places within the County where additional materials relevant to them could be examined: “All meeting materials are posted online when the agenda is published, and a copy of all staff reports, proposed resolutions and ordinances and other documentation will be available for review by the public in the office of the Clerk of the Board” R.79012-14.

⁸ The version of PWCZO § 32-700.60 in effect at the time of the Board’s hearing also required that notices “be published once a week for two successive weeks,” and it similarly specified that the notices may advertise “amendments . . . in full” or “by reference, provided that the place where copies of such amendments . . . may be viewed shall be included in the notice.” PWCZO § 32-700.60. The County met these parallel requirements for the same reasons discussed above.

Although the County provided newspaper notices beyond the minimum two required by Code § 15.2-2204(A) before approving the rezonings, the Court of Appeals found the County’s advertising deficient. Specifically, the Court of Appeals disregarded the County’s December 2 and 5 notices entirely, reasoning that those notices “violated the where-to-review requirement” because (1) “the Board did not make the draft ordinances available in its clerk’s office until December 7,” and (2) the information available throughout the advertising process did not “suffice[]” to satisfy the “where-to-review requirement.” Op.33-35.

This was error on both points: Code § 15.2-2204(A) did not require the County to make *any* materials available prior to December 7, and in any event, the information required by the statute was available throughout the advertising period.

First, although Code § 15.2-2204(A) requires advertisements to “identify . . . *where* copies of the proposed plans, ordinances or amendments may be examined,” it creates no requirement as to *when* the County must make the relevant documents available. Code § 15.2-2204(A) (emphasis added). Instead, the timing requirement is established by a separate statute—the Virginia Freedom of Information Act (“VFOIA”)—which requires that “all materials furnished to members of a public body for a meeting shall be made available for public inspection *at the same time such documents are furnished to the members of the public body.*” Code § 2.2-3707(G) (emphasis added). Here, the County satisfied VFOIA’s timing requirement

by making all the materials referenced in the advertisements available for public examination on December 7—when they were also provided to the Board members themselves.

The Court of Appeals’ holding that Code § 15.2-2204(A) contains a non-textual, implicit timing requirement is mistaken. Other Code provisions demonstrate that when the General Assembly wants to impose a timing requirement, it does so expressly. For example, within the same title, Code § 15.2-107 requires that for ordinances imposing or increasing levies and fees, “the complete ordinance . . . shall be available for examination by the public *no later than the time of the first publication.*” Code § 15.2-107 (emphasis added). Likewise (and as noted), VFOIA contains an express timing rule requiring public hearing materials to be made available for public examination “*at the same time* such documents are furnished to the members of the public body.” Code § 2.2-3707(G) (emphasis added).

Unlike these other statutes, Code § 15.2-2204(A) does not require that the requisite materials be made available “no later than” a specific time, or “at the same time” as some other event. Instead, it requires only that a locality identify the location *where* materials may be examined. Absent any specified timing requirement in Code § 15.2-2204(A), the County was required to follow only VFOIA’s default timing rule applicable to all public proceedings—which it unquestionably did.

The Court of Appeals’ attempts to identify a timing requirement in Code § 15.2-2204(A) were unavailing. The Court first reasoned that the statute’s requirement that the County identify where certain documents ““may be examined”” means that those documents “must be available when the ad runs.” Op.34. But “may” does not impose an immediate timing requirement; it merely instructs the County to identify where it might be “possib[le]” for the public to examine the relevant documents at some point. *See May, Merriam-Webster* (defining “may” as “used to indicate possibility or probability”), <https://www.merriam-webster.com/dictionary/may> (last visited Apr. 28, 2026).

The Court of Appeals then reasoned that a notice advertising a plan, ordinance, or amendment ““in full”” would necessarily do so on the date of the first advertisement, and “the option to publish by reference” should not “excuse[] the locality from having the text in hand when the ad appears.” Op.34-35. But nothing in Code § 15.2-2204(A) suggests that the General Assembly intended to subject advertisements “by reference” to a timing requirement. On the contrary, the General Assembly’s lack of timing specification in Code § 15.2-2204(A) reflects its considered judgment that notifying the public of proposed rezonings and granting it access to a fuller set of materials at the same time those materials are provided to the decisionmakers is more than sufficient to ensure that “property owners who are closest to the land involved” are afforded “an opportunity to be heard by the Board.”

Lawrence Transfer & Storage Corp. v. Bd. of Zoning Appeals of Augusta Cnty., 229 Va. 568, 571 (1985). If the General Assembly had wanted to create an exception to VFOIA’s default timing rule for land-use public hearings, it would have said so expressly, as it has in other statutes.⁹

Unable to locate a timing requirement in the text of Code § 15.2-2204(A), the Court of Appeals resorted to policy justifications. In the Court’s view, a timing rule beyond VFOIA’s default rule is needed because otherwise, “a board chair could wait until the day before the public meeting to make a proposed zoning ordinance or amendment available to other board members and the public.” Op.37. But that scenario is improbable in the extreme—a board chair’s vote does not count any more than that of other board members, and keeping documents from board members who must act on them would simply delay the board’s decision-making. Even assuming that the logic held water, such policy concerns are the domain of the General Assembly, not the Court of Appeals.

Second, even assuming the Court of Appeals was right that Code § 15.2-2204(A) requires “proposed plans, ordinances, or amendments” to be available as

⁹ The Court of Appeals’ recitation of legislative history lends further credence to this argument. Op.36-37. When the General Assembly deleted the descriptive summary requirement in Code § 15.2-2204(A), it did not add any requirement specifying when documents must be made available under the statute. The General Assembly’s amendment to Code § 15.2-2285(C) likewise stated only that documentation must be “made available for examination pursuant to subsection A of § 15.2-2204”—without specifying when.

soon as the first advertisement appears, the Court erred in failing to recognize that the “amendments” at issue here *were* available throughout the advertising period.

Throughout its analysis of the “where-to-review requirement,” the Court of Appeals faulted the County for not making “draft ordinances” available on December 2. Op.33. But this failed to recognize that the statute allows a locality to make “proposed plans, ordinances *or* amendments” available “in full” or “by reference.” Code § 15.2-2204(A) (emphasis added). The General Assembly’s use of the disjunctive “or” makes clear that ordinances do not have to be available in all instances, and where an amendment is at issue, a locality may make only the amendment available for public review.

Here, the rezonings implicated “[a]mendment[s]” to the zoning map changing certain areas from “A-1, Agricultural Zoning District, to PBD, Planned Business District.” R.79013; *see Wilhelm v. Morgan*, 208 Va. 398, 399 (1967) (describing amendment as “direct[ing] that ‘the Zoning Maps shall be changed in this respect’”); Prince William Planning Office, *Rezoning & Proffer Amendments: What is “Rezoning”?* (“A rezoning is a change to the County zoning map.”), <https://www.pwcva.gov/department/planning-office/rezonings-proffer-amendments> (last visited Apr. 28, 2026) (“*Rezoning & Proffer Amendments*”). There is little clarity around what constitutes the “text” of a zoning map amendment, or what information must be made available to advertise such an amendment. But anything

that would arguably need to be made available to advertise such amendments was available to the public throughout the notice period.

For starters, the Board’s notices advertised the proposed changes to the zoning map in detail, informing the public about the requested changes, the proposed uses, the proposed densities and maximum gross floor area, the proposed maximum floor area ratio, the approximate acreage subject to each proposed amendment, a description of the general boundaries of each subject property using recognizable landmarks, the tax map parcel numbers of the properties subject to each proposed amendment, and information related to the applicable parts of the CPA. R.79012-14. This information more than sufficed to advertise the proposed amendments to the zoning maps in a manner that would put the public on notice as to the proposed changes. Indeed, the rezoning approvals ultimately passed by the Board mirrored the text of the advertisements almost word-for-word. R.82882-3244. Accordingly, the advertisements here could be considered “in full” advertisements, and the County was not required to make any further information available by reference.

To the extent that the developers’ proposed proffers needed to be available (as the Court of Appeals suggested, Op.35 n.24), they were also available for public examination during the advertising period. The developers’ rezoning applications—including the proposed proffers—were available online (*i.e.*, one of the two places where the advertisement directed the public to review incorporated materials) after

they were submitted to the County. R.16022-26 (County email forwarded to Plaintiffs in 2022, noting that developers’ rezoning applications were available online and resubmittals would be too); *Rezoning & Proffer Amendments, supra* (“proffer statements are reviewed as part of the rezoning application”). Had someone requested those materials from the Clerk’s office (as directed in the advertisement), the Clerk would have directed them to these online materials. R.77072:9-77076:16; 77147:6-77149:15. Thus, to the extent the Court of Appeals faulted the County for not making the developers’ proposed proffers available during the advertising period, Op.35 & n.24, that was error. At minimum, the County satisfied Code § 15.2-2204(A)’s “where-to-review requirement” by incorporating and making available all potentially relevant documents “by reference.”

The Court of Appeals’ decision is not only wrong, it is confusing. It faults the County for failing to make “draft ordinances” immediately available, but it never once explains why they needed to be made available where only zoning map amendments were at issue. Nor does it explain what must be made available to advertise such amendments, and why it *was* available on December 7 and not December 2. Absent this Court’s review, localities will likewise be left guessing and susceptible to the risk of opportunistic 11th hour lawsuits like this one.

B. The Court Of Appeals Erred In Voiding The Rezoning For Failure To Comply With The County’s 5-Day Rule (AE 2)

The Court of Appeals separately erred in disregarding the County’s December

9 notice as noncompliant with PWCZO § 32-700.60's 5-day rule. In so doing, the Court of Appeals granted localities free license to interject additional timing requirements into a highly reticulated scheme created by (and repeatedly amended by) the General Assembly. This error also warrants this Court's review.

The version of PWCZO § 32-700.60 in effect at the time of the Board's hearing imposed some requirements that matched those of Code § 15.2-2204(A). *See supra* at 15 n.8. But it additionally required that the Board's hearing be held "not less than five days nor more than 21 days after the second advertisement shall have appeared." PWCZO § 32-700.60(1) (emphasis added). The Court of Appeals deemed the County's December 9 advertisement "defective because it ran only three days before the December 12 hearing." Op.38. That was wrong: PWCZO § 32-700.60's 5-day requirement is unenforceable because the County had no authority to enact this requirement in the first place, and the requirement conflicted with the version of Code § 15.2-2204(A) then in effect and thus was preempted.

As an initial matter, the County did comply with PWCZO § 32-700.60's 5-day rule. Because the Court of Appeals erroneously disregarded the County's December 5 advertisement, *see supra* at 11, it failed to recognize that the Board's hearing was held "not less than five days" after that "second advertisement" published on December 5. PWCZO § 32-700.60.

In any event, PWCZO § 32-700.60's 5-day requirement is unenforceable

because the County had no authority to enact it. The *Dillon* Rule—which controls this Court’s “determination of the powers of local governing bodies”—provides that “[m]unicipalities have only those powers that are (1) expressly granted by the General Assembly, (2) ‘necessarily or fairly implied’ from those express powers, and (3) ‘essential to the declared objects and purposes’ of the municipality.” *Bragg Hill Corp. v. City of Fredericksburg*, 297 Va. 566, 578 (2019). “Any act of a municipality that is beyond such powers is invalid.” *Id.* “If there is a reasonable doubt whether legislative power exists, the doubt must be resolved against the local governing body.” *Bd. of Supervisors of Powhatan Cnty. v. Reed’s Landing Corp.*, 250 Va. 397, 400 (1995).

No express or implied grant of authority supports PWCZO’s 32-700.60’s 5-day requirement. Code § 15.2-2204 is not such an enabling authority: it does not give localities discretion to adopt advertising requirements that suit their individual needs. Instead, it is a law of general character that contains statewide notice requirements for all land use hearings. *City of Alexandria v. Potomac Greens Assocs. P’ship*, 245 Va. 371, 378 (1993) (discussing predecessor statute to Code § 15.2-2204). It makes little sense to think that by establishing such statewide notice requirements, and specifying the timing of the notices, the General Assembly implicitly authorized individual counties to impose their own additional timing requirements different from the statewide mandates.

Code § 15.2-2204 thus differs from Code § 15.2-2286, which expressly delineates a variety of matters zoning ordinances may include. And while Code § 15.2-2205 lets localities provide additional *forms* of notice “by direct mail or any other means,” it does not grant discretion to regulate the timing of published notices. The County thus had no authority to add timing requirements beyond those enacted by the Commonwealth in Code § 15.2-2204(A). The Court of Appeals erred in nevertheless requiring the County to abide by its unlawfully enacted requirements.

Even if the General Assembly had granted counties some general authority to impose their own timing requirements for published notices, PWCZO § 32-700.60’s 5-day rule would not be authorized because it conflicts with Code § 15.2-2204(A)’s complex and specific scheme regulating such timing. This Court has long made clear that “an ordinance that conflicts with a state law of general character and state-wide application is invalid.” *Potomac Greens*, 245 Va. at 378; *Hanbury v. Commonwealth*, 203 Va. 182, 185 (1961).

PWCZO § 32-700.60 fits that description. In Code § 15.2-2204, the General Assembly created a complete and comprehensive scheme to govern the timing of public notices. That scheme balances the public’s need for notice with the practicalities and burdens imposed on local governments. PWCZO § 32-700.60’s 5-day rule, even if technically supplemental to the statewide rules, necessarily undermines the General Assembly’s judgment as to how to balance those competing

objectives. *See Res. Conservation Mgmt., Inc. v. Bd. of Supervisors of Prince William Cnty.*, 238 Va. 15, 21-23 (1989).

The conflict is especially stark here because the General Assembly deliberately *rejected* a 5-day rule identical to the one imposed by the County. While prior versions of Code § 15.2-2204(A) had contained the same 5-day requirement as PWCZO § 32-700.60, Code § 15.2-2204 (2022), in 2023, the General Assembly eliminated that requirement after a thorough review of such timing requirements throughout the Code, Code § 15.2-2204(A) (2023). Indeed, in 2022, the General Assembly convened a working group to review public notice requirements throughout the Code, including for “uniformity and efficiency.” SB 417 (Va. 2022); HB 1131 (Va. 2022). The group particularly reviewed the frequency and timing of “publishing notices in newspapers.” *Id.* Following that review, on July 1, 2023, the General Assembly removed the 5-day requirement from the Code, evincing its policy judgment that a 14-day advertising period for two notices was appropriate. *Compare* Code § 15.2-2204(A) (2022), *with* Code § 15.2-2204(A) (2023). PWCZO § 32-700.60’s retention of the 5-day requirement thus directly conflicts with the General Assembly’s policy judgment that no such requirement should apply.¹⁰

¹⁰ Since 2023, the General Assembly has further revised the notice scheme by expanding the 14-day advertisement period to 28 days and reinstating the 5-day requirement. Code § 15.2-2204(A) (2025). Meanwhile, the County revised PWCZO § 32-700.60(1) to make clear that notice “shall be published in accordance with VA Code § 15.2-2204.A,” thereby eliminating any potential conflicts. These

Despite recognizing that the General Assembly had expressly rejected the 5-day requirement imposed by PWCZO § 32-700.60, Op.27-30, the Court of Appeals applied that requirement because, in its view, the statute and the ordinance could “coexist,” Op.38. But the Court of Appeals failed to consider whether the County had authority to enact PWCZO § 32-700.60 in the first place. It also failed to explain why the 5-day requirement does not conflict with the General Assembly’s policy judgment that such a requirement is unnecessary. The Court of Appeals’ decision thus grants localities sweeping power to enact and enforce requirements that conflict with and are inconsistent with the Code. This Court’s review is warranted to correct that holding and clarify the scope of local authority.

II. THIS COURT SHOULD REVIEW AND CLARIFY THE SCOPE OF CODE § 15.2-2204(B)’S WAIVER RULE (AE 3)

As a matter of common sense, a plaintiff with actual notice of rezoning proceedings is not harmed by a county’s failure to advertise the proceedings in a newspaper. Allowing such a plaintiff to challenge a rezoning based on advertising defects invites opportunistic litigation by non-victims that threatens massive disruption to Virginia’s land-use policy and economic development.

The General Assembly has recognized this problem by barring unharmed plaintiffs from challenging technical notice defects. Code § 15.2-2204(B) states that

later amendments do not apply to this case, which turns on the notice requirements that existed at the time of the Board’s hearing.

“[a] party’s actual notice of, or active participation in, the proceedings for which the written notice provided *by this section* is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required *by this section*.” Code § 15.2-2204(B) (emphasis added). By its terms, the references to “this section” cover all of Code § 15.2-2204, including the written advertisement notices discussed in Code § 15.2-2204(A) and challenged by Plaintiffs here.

The Court of Appeals held that Code § 15.2-2204(B)’s waiver provision does not apply to advertisement-notice claims under Code § 15.2-2204(A), and instead covers only personal mailed-notice claims under Code § 15.2-2204(B). Op.40-51. That ruling disregards the statutory text and this Court’s precedent.

In 2013, this Court held in *Norfolk* that Code § 15.2-2204(B)’s waiver rule applies to notice challenges under any provision of Code § 15.2-2204, as a whole. *Norfolk* involved challenges to both Code § 15.2-2204(A)’s advertising requirements and Code § 15.2-2204(B)’s personal notice requirements. *See* 285 Va. at 356-57. This Court reasoned that “Code §§ 15.2-2204(A) and (B) contain certain advertising and written notice requirements,” but because the challengers “had actual notice and actively participated in” a challenged hearing, they “waiv[ed] *any* challenge to the notice based on the statutory *provisions*.” *Id.* (emphasis added). This Court’s reference to “provisions”—plural—plainly referred to Code §§ 15.2-

2204(A) and (B). *Id.* And when this Court said “the circuit court did not err in determining that *any* statutory notice . . . under Code § 15.2-2204 was waived by actual notice and active participation,” its reference to the entirety of Section 15.2-2204 was deliberate—mirroring the statutory text’s reference to “notice required by this *section*,” not “subsection.” *Id.* at 357 (quoting Code § 15.2-2204(B)).

Norfolk’s holding makes sense. The waiver provision refers to “the written notice required by *this section*,” not this subsection. Code § 15.2-2204(B) (emphasis added). And it would make little sense to limit the waiver provision to subsection (B) alone, because subsection (B) expressly builds on subsection (A). *See* Code § 15.2-2204(B) (noting, for example, specific items that advertisements must include). The waiver provision also plays a vital role in safeguarding against claims from individuals who (like Plaintiffs here) suffered no cognizable harm from any notice defects. That principle applies equally to the landowners most impacted by a project who are entitled to personal mailed notice from the County under Code § 15.2-2204(B) and members of the general public entitled to general published notice under Code § 15.2-2204(A). If the County technically erred in advertising a public hearing, but all impacted parties nevertheless received notice and/or actively participated in the hearing, there is no sensible reason for undoing the legislative judgment coming out of that hearing. *See Bradley & Co. v. City of Richmond*, 110 Va. 521, 523 (1910) (holding that a party “not prejudiced by the alleged [notice]

failure” cannot complain about it.), *aff’d*, 227 U.S. 477 (1913).¹¹

Notably, the General Assembly has fully acquiesced in *Norfolk*’s construction of Code § 15.2-2204(B). Since *Norfolk* was decided, the General Assembly has amended this Section of the Code *six* times. *See* 2013 Va. Acts ch. 213; 2020 Va. Acts ch. 761; 2022 Va. Acts ch. 478; 2023 Va. Acts ch. 507, 2024 Va. Acts ch. 242; 2025 Va. Acts ch. 171. And while those six amendments altered various notice requirements, the General Assembly has never amended the waiver provision to remove the term “section” (which Plaintiffs argue was a mere drafting error, CAV Response Br. 7) nor otherwise limited the waiver provision to notice challenges under Code § 15.2-2204(B). *Id.* This “acquiescence” in *Norfolk*’s interpretation “is deemed to be approval.” *Barson v. Commonwealth*, 284 Va. 67, 74 (2012); *see Daniels v. Warden of Red Onion State Prison*, 266 Va. 399, 402 (2003) (per curiam).

Until this case, the Court of Appeals had faithfully followed *Norfolk*. In *Drewry*, the plaintiff “contended that the public advertisements for [two rezoning hearings] were insufficient under Code § 15.2-2204(A).” 84 Va. App. at 487. Citing

¹¹ The Court of Appeals worried that “a resident’s actual notice or participation at the board hearing” might “waive . . . deficiencies,” up to and including “a failure to advertise at all.” Op.48-49. But it is not the *deficiencies* that are waived; it is “the right of the party to challenge the validity of the proceeding” based on those deficiencies. Code § 15.2-2204(B). If any members of the public *are* harmed by the notice defects (and if the County published no notice at all, odds are someone would be), those persons have every right to bring a notice-based challenge. This is no different than the rule that individuals who lack standing cannot challenge land-use determinations—no matter the strength of their opposition to the project.

Norfolk, the Court of Appeals affirmed demurrer on the grounds that Code § 15.2-2204(B) applied to waive the plaintiff’s claims because he had participated in the challenged hearings. *Id.* at 490-91. Among other things, the Court noted that “[t]he General Assembly has amended Code § 15.2-2204 several times since the events of this case [and *Norfolk*] but has not amended the waiver provision.” *Id.* at 490 n.5. The direct conflict between this case and *Drewry* warrants this Court’s review.

The Court of Appeals wrongly discounted *Norfolk* and *Drewry* as not involving the same notice challenges under Code § 15.2-2204(A). Op.46-48. That too was error. As the Circuit Court in *Norfolk* noted, the challengers raised a “violat[ion of] the . . . notice provisions of Virginia Code § 15.2-2204(A).” *City of Norfolk v. Norfolk 102 LLC*, Nos. CL09-5362, et al., 2011 WL 6257998, at *10 (Va. Cir. Ct. Dec. 14, 2011). Those same challengers later argued in this Court that “the manner in which the agenda was . . . *advertised* . . . demonstrates violations of Code § 15.2-2204.” *Norfolk* Opening Br. 21, 2012 WL 8899089 (emphasis added). Indeed, this Court had no reason to discuss Code § 15.2-2204(A)’s “advertising . . . requirements” absent a challenge under that provision. *Norfolk*, 285 Va. at 356.

Drewry too involved a challenge to the availability-of-documents requirement under Code § 15.2-2204(A). 84 Va. App. at 487. And while it may not have addressed a *timing* challenge under Code § 15.2-2204(A), there is no reason to apply the waiver rule to some challenges to advertised notices and not others. Regardless,

even if that were the rule (and it is not), the Court of Appeals misapplied it here. Plaintiffs in this case raise *both* an availability-of-documents challenge *and* a timing challenge under Code § 15.2-2204(A). The Court of Appeals did not find either set of claims waived—even as to Plaintiffs who affirmatively agreed that they had personally participated in the hearing.¹²

The Court of Appeals relied on the absence of any Code § 15.2-2204(B) waiver in *Glazebrook v. Board of Supervisors of Spotsylvania County*, 266 Va. 550 (2003), *Gas Mart Corp. v. Board of Supervisors of Loudoun County*, 269 Va. 334 (2005), and *Rebh v. County Board of Arlington County*, 80 Va. App. 754 (2024), in support of its view that the waiver provision does not apply to Code § 15.2-2204(A). But none of those decisions grappled with that question. Nothing suggests the parties in *Gas Mart* and *Rebh* even raised the waiver provision. And although the Court of Appeals noted that the *Glazebrook* parties did contest this issue “on brief,” Op.45, this Court declined to resolve it, likely because the issue was not dispositive given that only “*one* of the challengers” allegedly had actual notice, whereas the other did not, Op.45 n.30 (emphasis added).

Properly applied to this case, the waiver provision disposes of all of Plaintiffs’

¹² The Court of Appeals further justified its misreading of *Drewry* and *Norfolk* by invoking the principle that “a locality’s failure to follow statutory requirements when enacting a zoning ordinance renders the ordinance void ab initio.” Op.49. But that rule is no help, because the merits of a successful challenge say nothing about who is authorized to bring it under Code § 15.2-2204(B)’s waiver rule.

notice claims. Because of its legal error, the Court of Appeals did not reach this issue. But for seven of ten Plaintiffs who the Circuit Court found had standing, this is not even in dispute. The Circuit Court found that Chartrand, Wall, and the HOA had actively participated in the hearing, and “Counsel for Plaintiff conceded” that four other Plaintiffs had actual notice. R.75336 n.10. Because Chartrand “is the only plaintiff with standing” to challenge Digital Gateway South, Op.23 n.12, a correct application of the waiver provision independently defeats Plaintiffs’ challenge to that rezoning.

The remaining three Plaintiffs—Medina, Mirkes, and Donegan—also waived their claims. All three received ample personal notice of the hearing, including from the Legal Committee that recruited them to challenge the CPA and subsequent rezonings. *See* Court of Appeals of Virginia (“CAV”) Opening Br. 43-47. The same counsel represented all three in the CPA litigation and this litigation, and Plaintiffs stipulated that their counsel had actual notice of the hearing. *Id.* at 46-47; R.83448. Finally, each actively participated in the hearing through that same counsel. CAV Opening Br. at 48-52. Any assertion that they lacked notice blinks reality.

The upshot of the Court of Appeals’ misinterpretation of Code § 15.2-2204(B) was to allow a set of plaintiffs who were fully aware of the hearing, long planned to challenge it, and actively participated in it through their counsel, to nullify the hearing’s result based on technical notice defects that caused them no harm. If

allowed to stand, that interpretation will encourage opportunistic litigation and undermine legislative decisions reached by elected county officials. This Court should resolve any confusion over Code § 15.2-2204(B) and make clear that alleged notice violations cannot be challenged by plaintiffs who were fully aware of the rezoning proceedings at issue—just as the General Assembly intended.

III. THIS COURT SHOULD REVIEW AND CLARIFY THE EVIDENCE NEEDED TO PROVE STANDING AT TRIAL (AE 4)

The Court of Appeals also erroneously analyzed standing’s particularized harm requirement, thus incorrectly concluding that Chartrand had standing to challenge DGS and Medina to challenge DGN. This Court has not articulated what quantum of evidence is necessary to satisfy the “proof of standing” requirement beyond the demurrer stage. *See Morgan v. Bd. of Supervisors of Hanover Cnty.*, 302 Va. 46, 68 n.12 (2023). That question now warrants this Court’s review.

This Court has made clear that (1) “allegations as to possible harms” cannot be “conclusory,” (2) a plaintiff must plead and prove that a defendant’s “*particular* use of the property would produce such harms,” and (3) the harm analysis must consider “the conditions imposed by the permit” and whether such conditions are “inadequa[te].” *Friends of the Rappahannock v. Caroline Cnty. Bd. of Supervisors*, 286 Va. 38, 49 (2013). Here, the Court of Appeals allowed unsupported testimony from Chartrand and Medina of their subjective “concerns” and “fear[s]” to suffice at trial as proof of particularized harm. Op.22-24. In doing so, the Court of Appeals

ignored testimony from both plaintiffs confirming that their “concerns” and “fear[s]” were conclusory, speculative opinions about data centers generally and were not based on the specific DGS and DGN rezonings and respective proffers. *See* R.77434:9-77439:5 (Chartrand); 77415:1-77426:2 (Medina).

Standing is a threshold issue that arises in every case. The Court of Appeals’ analysis reflected confusion about how standing must be analyzed after a trial. This Court should clarify the standard governing the evidence required to prove particularized harm at trial in order to establish standing. In doing so, it should confirm that plaintiffs who assert only speculative harms not directly connected to the challenged action are not entitled to litigate their claims.

CONCLUSION

This Petition for Appeal in *Oak Valley II*, as well as the Petition for Appeal in *Burke*, should be granted, and the decision of the Court of Appeals as to both cases should be reversed.

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Respectfully submitted,

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LLC and GW Acquisition Co. I, LLC*

CERTIFICATE OF SERVICE

I certify that the foregoing complies with the requirements of the Rules, and I further certify as follows:

1. This Petition for Appeal complies with the requirements of Rule 5:17.
2. The Parties to this action are as follows:
 - a. Petitioners/Defendants GW Acquisition Co. and GW Acquisition Co. I, LLC;
 - b. Defendant H&H Capital Acquisitions, LLC;
 - c. Defendant Prince William County Board of County Supervisors;
and
 - d. Respondents/Plaintiffs: (i) Oak Valley Homeowners Association, Inc.; (ii) Ian C. Mirkes; (iii) Gabrielle J. Pyle; (iv) Michael Donegan; (v) Christopher D. Wall; (vi) Jeffrey Delyle Jensen; (vii) Cameron Rohrer; (viii) John B. Bradshaw; (ix) Stephanie C. Chartrand; (x) John C. Hermansen, Trustee of the John C. Hermansen Revocable Living Trust; (xi) Jose R. Medina, Trustee of the Medina Living Trust; and (xii) Roger A. Yackel.
3. Counsel for Petitioners/Defendants GW Acquisition Co. and GW Acquisition Co. I, LLC are:

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7. I certify that on April 30, 2026, I caused the foregoing brief to be sent via email to the above counsel of record.

8. I also certify that on April 30, 2026, I caused the foregoing brief to be sent via email to:

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Counsel for Appellants in *Burke et al. v. Board of County Supervisors, Prince William County et al.* (Record No. 2025-24-4)

9. On April 30, 2026, I caused the foregoing brief to be filed and served electronically in the Clerk's Office of the Court of Appeals of Virginia pursuant to the Rules of the Supreme Court of Virginia and the VACES Guidelines.

10. Pursuant to Rule 5:17(j), counsel for the Petitioners desires to state to a panel of Justices of this Court the reasons why this Petition for Appeal should be granted.

/s/ Robert W. Loftin

Robert W. Loftin