

**RESOLUTION TO WITHDRAW AFFIRMATIVE DEFENSES IN THE MATTER OF
CHARLES AND MARYGAY CROSS, ET. AL., PLAINTIFFS-PETITIONERS VS. THE TOWN
COUNCIL OF THE TOWN OF WARRENTON AND THE TOWN OF WARRENTON,
DEFENDANTS**

WHEREAS on March 16, 2023, the above named petitioners filed a Petition for Review and Complaint in Fauquier County Circuit Court ("Petition") appealing the decision of the Warrenton Town Council on January 14, 2023, to issue Special Use Permit 22-03 ("SUP 22-03") to Amazon Data Services, Inc. ("Amazon");

WHEREAS Plaintiffs-Petitioners Kevin and Amy Hampton reside at 90 Dorset Lane, Warrenton VA, located approximately 400 feet of the Amazon property;

WHEREAS Plaintiff-Petitioner Chrystal Mehl resides at 92 Dorset Lane, Warrenton, VA, located approximately 400 feet of the Amazon property;

WHEREAS Plaintiff-Petitioner The Lauren-Donahoo-Hatchell Trust owns a single family residence at 525 Colony Court, within approximately 825 feet of the Amazon property, occupied by Lauren-Donahoo-Hatchell;

WHEREAS Plaintiffs-Petitioners Ms. Claudia Delores Sandoval González and Mr. Carlos Ivan Lemus Bojórquez own and reside at a single-family home nearby and to the northwest of the Amazon property that is commonly known as 23 Pepper Tree Court, Warrenton, Virginia 20186 (the "Bojórquez-Sandoval González Home"), just across Blackwell Road from the Property, an area that will be directly impacted by the Data Center's expected traffic, and will also suffer from impacts to viewshed, increased light and constant noise.

WHEREAS on April 10, 2023, the Town filed a Motion Craving Oyer and Demurrer to the Petition, alone contesting the standing of the Petitioner-Plaintiffs;

WHEREAS it is unclear whether the referenced residents were properly noticed;

WHEREAS on April 12, 2023, Amazon filed an unopposed motion for leave to intervene, granted by order on April 14, 2023;

WHEREAS on May 5, 2023, Amazon filed a Motion Craving Oyer, Demurrer, and Plea in Bar;

WHEREAS on June 7, 2023, CFFC filed an amended petition, which states that when the Council initiated a text amendment on April 13, 2021, to include data centers as a Special Use Permit, ("The Data Center Resolution"), the resolution failed to state a public purpose as mandated by VA. Code § 15.2-2286(A)(7);

WHEREAS on August 10, 2021, the Town Council adopted the Data Center Zoning Amendment pursuant to the Data Center Resolution;

WHEREAS the Data Center Resolution was not "properly initiated" under VA. Code § 15.2-2286(A)(7), rendering the Resolution *void ab initio*;

WHEREAS at a December 13, 2023, hearing, the defendant's attorney admitted that if there were a defect in the initiating resolution, it would have been void *ab initio*,

WHEREAS at the same hearing, the court found that the Plaintiffs-Petitioners' petition had been timely filed;

WHEREAS at the same hearing, the court found that the "Plaintiffs do enjoy standing" and denied the Town's demurrer contesting the sufficiency of standing;

WHEREAS once determined that the initiating resolution was *void ab initio*, the Town Council would have had no authority to issue a special use permit to Amazon;

THEREFORE BE IT RESOLVED that in the interest of the public, and to further avoid the unnecessary expenditure of public resources, the Town Council hereby directs the Town Attorney to determine the appropriateness of continuing to assert the Town's affirmative defenses contesting the standing of the above-named Plaintiffs-Petitioners and the timeliness

and validity of the initiating resolution pursuant to Code §15.2-2286(A)(7), and if deemed proper, to withdraw those defenses.