



*Promoting and protecting the natural resources, rural economy,
history and beauty of the Virginia Piedmont*

March 16, 2023

Rob Walton, Director of Community Development

c/o Town of Warrenton Community Development Department, 21 Main Street, Warrenton, VA
20186

Re: SUP 2022-03 Recent Site Activity

Dear Mr. Walton,

The Piedmont Environmental Council respectfully submits these comments regarding recent activity at the Amazon Data Center site on Blackwell Road. The tree cutting, and construction activity that is clearly visible on the site and has been reported by the press and community members warrants an adequate explanation that we believe the Town has failed to provide.

We are disappointed that after a much-contested SUP approval process with clearly-documented omissions and enormous community pushback, the very SUP conditions and procedures put in place to protect the public and the environment are being undermined and potentially violated.

While our partners and the community have already commented at-length about these violations, we would like to reiterate the following apparent violations in the hopes of receiving an adequate explanation and that appropriate enforcement action may be taken.

Tree Cutting Activity:

A delineation of major trees on site is a required item for SUP applications. A tree preservation plan dated April 5, 2022 was initially submitted in September 2022, but the Applicant indicated that it would need to be updated to reflect Dominion plans to provide energy to the site from an off-site substation. Amazon failed to provide an updated tree preservation plan before the December 20 Planning Commission public hearing and failed to do so again before the January 10 and February 14 Town Council public hearings.

We believe the obvious and well-documented tree cutting on the Amazon site is in conflict with the intent of site plan review, and the tree delineation requirements required for the SUP approval.

The purpose of a tree preservation plan is to inform any tree cutting on site and would therefore be submitted *before* any clearing commences. Further, the clearing that has already occurred even exceeds the clearing indicated on the previously submitted tree preservation plan submitted in September. The Town has only offered the following as a response to community inquiries.

“A tree preservation plan is required as part of the site plan. The limits of clearing are flagged on-site now. If the property owner removes trees outside the limits of clearing then those areas will have to be remediated as part of the site plan approval to show new tree plantings.”

However, we question if the limits of clearing flagged reflect the intent of what was approved. Public discussion of the application cited an updated tree conservation plan that would reflect the substation being moved off-site but this appears to have never been produced.

The Town has confirmed that a land disturbance permit has yet to be issued and claims that *“there is no bare soil or evidence of disturbance caused by the tree-clearing operation.”*

Although the need for a land disturbance permit to commence tree clearing continues to be contested, the extent and scale of clearing, use of skidders for hauling and/or consolidating felled trees and the lack of silt fencing on site could result in erosion and sediment impacts whether or not a land disturbance permit is required.

Recent correspondence with DEQ also revealed that tree cutting on site was in response to a restriction on tree felling established at the end of 2022 and coming into effect on April 1st for the preservation of northern long-eared bats that have been moved to the endangered species list. Whether such preemptive clearing is permitted under State and Federal Law is questionable, and the legality of such an action deserves further explanation.

SUP Conditions:

Contractors are clearly accessing the site from Route 29 despite SUP condition 12 explicitly prohibiting access from Routes 17 and 29. This condition was presumably written to protect a major, high-speed thoroughfare from the impacts to traffic and safety that can result from slow-moving construction traffic. When asked by residents, the Town has only offered the following responses to inquiries regarding this violation:

“The access from Lee Hwy is pre-existing with no evidence of tracking mud on the road to trigger ENS concerns... The Town holds the responsibility of enforcement and has done so.”

Tree cutting activity on site also violates Condition 19 which requires that the Applicant “provide a tree preservation plan at time of Site Plan that seeks to minimize land disturbance and

maximize on-site vegetation.” While it is true that the Applicant may intend to submit a revised tree conservation plan at time of site plan, the intent of the condition is to ensure that tree cutting on site adheres to a plan and minimizes environmental impact. We have no demonstration of the Applicant’s adherence to that condition.

Under SUP condition 25, the Town is afforded the authority to exercise enforcement action for noncompliance with conditions, including the revocation of the Special Use Permit. We ask that the Town take enforcement action for condition 12 and condition 19 or explain why they are not enforcing these conditions.

At the very least, we believe this site activity deserves a better explanation than the community has received so far. In the interest of transparency and proper procedure, we request, and believe the residents are owed, a detailed response on apparent violations and how the Town plans to uphold SUP conditions and permitting procedures in letter and in spirit. Thank you for taking the time to hear our concerns.

Sincerely,

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