Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico held in the County Administration Building in the Government Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. September 12, 2013, Display Notice having been published in the Richmond Times-Dispatch on August 26, 2013 and September 3, 2013.

Members Present: Mrs. Bonnie-Leigh Jones, C.P.C., Chairman (Tuckahoe)
Mr. Eric Leabough, C.P.C., Vice-Chairman (Varina)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Tommy Branin (Three Chopt)
Mr. Robert H. Witte, Jr. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP, Director of Planning, Secretary
Mr. Richard W. Glover, Board of Supervisors’ Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning,
Mr. James P. Strauss, PLA, Principal Planner
Ms. Leslie News, PLA, Principal Planner
Mr. Seth Humphreys, County Planner
Mr. Benjamin Sehl, County Planner
Mr. Livingston Lewis, County Planner
Mr. Seth Humphreys, County Planner
Mr. Gary McLaren, Executive Director, Economic Development
Mr. Mike Jennings, Assistant Director, Public Works
Mr. John Cejka, Traffic Engineer, Public Works
Ms. Sharon Smidler, Asst. Traffic Engineer
Mr. Steven Bandura, Public Works
Ms. Sylvia Ray, Recording Secretary

Mr. Richard W. Glover, the Board of Supervisors’ representative, abstains on all cases unless otherwise noted.

Mrs. Jones - I’d like to call this meeting of the Planning Commission to order. Thank you very much for being here with us tonight. This is our Rezoning meeting, and we welcome all of you. I’d ask that you mute or turn off your cell phone so that they do not disturb the proceedings. And while you do that, please rise and pledge allegiance to the flag.

Again, we welcome you. Thank you for taking time to be here with us tonight. Do we have anyone here from the media? Not this evening? Okay. At this point, I’ll recognize that all of our commissioners are in attendance. Also, Mr. Glover, the Brookland representative to the Board of Supervisors is with us this year. Welcome, Mr. Glover.

Mr. Glover - Thank you.

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Mrs. Jones - And thank you to all the commissioners. I'm going to turn the meeting over at this point to our secretary, Mr. Emerson.

Mr. Emerson - Thank you, Madam Chair. First on your agenda tonight are the requests for withdrawals and deferrals. Those will be presented by Mr. Jim. Strauss.

Mr. Strauss - Thank you, Mr. Secretary.

Mrs. Jones - Good evening, Mr. Strauss.

Mr. Strauss - Good evening, members of the Commission. We have one withdrawal of a case this evening. It's in the Varina District. It's on page four of the agenda. It's case C-28C-12, J & B Realty. The case has been withdrawn by the applicant, and no action by the Commission is needed.

(Deferred from the June 13, 2013 Meeting)

C-28C-12 Brian C. Mitchell for J & B Realty: Request to conditionally rezone from A-1 Agricultural District to M-2C General Industrial District (Conditional) Parcel 843-701-2778 containing approximately 24.4 acres located along the south line of Portugee Road approximately 2,300' east of its intersection with Memorial Drive. The applicant proposes a contractor's equipment storage yard, office, and maintenance facility. The uses will be controlled by zoning ordinance regulations and proffered conditions. The 2026 Comprehensive Plan recommends Office and Environmental Protection Area.

Mrs. Jones - All right.

Mr. Strauss - Moving on to deferrals, the first request for deferral this evening is on page four of the agenda. It is in the Brookland District. It is case REZ2013-00002, Yunus Vohra. The applicant has requested a deferral to the November 14, 2013 meeting.

REZ2013-00002 Cameron Palmore for Yunus Vohra: Request to conditionally rezone from A-1 Agricultural District and R-2A One-Family Residence District to R-2AC One-Family Residence District (Conditional) Parcels 764-760-9037, 764-760-8515, 765-760-1906, and 765-760-0929 containing 5.14 acres, located on the south line of Hungary Road at its intersection with Hastings Mill Drive. The applicant proposes a single-family residential development. The R-2A district allows a minimum lot size of 13,500 square feet and a maximum gross density of 3.22 units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The 2026 Comprehensive Plan recommends Suburban Residential 2. Density should not exceed 3.4 units per acre.
Mrs. Jones - Is anyone in attendance tonight in opposition to the deferral of case REZ2013-00002, Cameron Palmore for Yunus Vohra? There is no opposition.

Mr. Witte - Madam Chair, I move for deferral of case REZ2013-00002, Cameron Palmore for Yunus Vohra, at the request of the applicant, to the November 14, 2013, meeting at 7 p.m.

Mr. Leabough - Second.

Mrs. Jones - Motion by Mr. Witte, second by Mr. Leabough. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

At the request of the applicant, the Planning Commission deferred REZ2013-00002, Cameron Palmore for Yunus Vohra, to its meeting on November 14, 2013.

Mr. Strauss - The second case for deferral this evening is in the Three Chopt District, page five of the agenda. It is case REZ2013-00015. This is Kain Road Incorporated. The applicant is requesting deferral to the November 14, 2013, meeting.

REZ2013-00015 dAb Engineering Services for Kain Road, Inc.: Request to conditionally rezone from A-1 Agricultural District to R-3C One-Family Residence District (Conditional) Parcel 738-767-2794 containing 7.45 acres located on the north line of Kain Road approximately 1,100' west of its intersection with Pouncey Tract Road (State Route 271). The applicant proposes a single-family residential development not to exceed 18 units. The R-3 district allows a minimum lot size of 11,000 square feet and a maximum gross density of 3.96 units per acre. The use will be controlled by proffered conditions and zoning ordinance regulations. The 2026 Comprehensive Plan recommends Suburban Mixed-Use.

Mrs. Jones - Is there anyone tonight who is in opposition to the deferral of the case, REZ2013-00015, dAb Engineering Services for Kain Road, Inc.? There is no opposition.

Mr. Branin - Madam Chair, I'd like to move that REZ2013-00015, dAb Engineering Services for Kain Road, Inc., be deferred to the November 14, 2013, meeting per the applicant's request.

Mr. Archer - Second.

Mrs. Jones - Motion by Mr. Branin, second by Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion passes.
At the request of the applicant, the Planning Commission deferred REZ2013-00015, dAb Engineering Services for Kain Road, Inc., to its meeting on November 14, 2013.

Mr. Strauss - That concludes the cases for deferral that staff is aware of at this time.

Mrs. Jones - Are there any other deferrals by the Commission?

Mr. Emerson - Madam Chair, that takes us to the next item on the agenda, which are Requests for Expedited Items. There are none this evening. That takes us to the cases to be heard. The first item appears on page one of your agenda.

**PLAN OF DEVELOPMENT AND MASTER PLAN**

POD2013-00259
Lumber Liquidators East Coast Distribution Center - White Oak Technology Park

Timmons Group for Economic Development Authority of Henrico County and Johnson Development Associates, Inc.: Request for approval of a plan of development and master plan, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story, 995,792 square foot warehouse/distribution building, including 17,000 square feet of office space, and a future 300,000 square foot expansion. The 124.61-acre site is located at the southeast terminus of White Oak Creek Drive, on part of parcel 851-705-6413. The zoning is M-2, General Industrial District. County water and sewer. (Varina)

Mrs. Jones - Hello, Mr. Greulich. I need to ask if there is anyone with us tonight in opposition to this plan of development and master plan for Lumber Liquidators. All right, I had a feeling.

Mr. Glover - Madam Chairman, I'd like to make sure you know that I do not vote on zoning cases since they will be coming to the Board of Supervisors, and at that time I will cast a vote.

Mrs. Jones - That is certainly noted for the record. Thank you. This is a plan of development and master plan. For those of you who are in opposition, I'd like our secretary to just review the rules by which we hear opposition at the Planning Commission.
Mr. Emerson - Yes, ma'am. As you know, the Commission does have rules that they follow in regards to public hearings, and they are as follows: The applicant is allowed 10 minutes to present the request, and time may be reserved for responses to testimony. Opposition is allowed 10 minutes to present its concerns, and that is cumulative. Commission questions do not count into the time limits, and the Commission may waive the limits for either party at its discretion.

Mrs. Jones - All right. So, with those guidelines in mind, Mr. Greulich, go ahead and present the staff report. Thank you.

Mr. Greulich - The proposed Lumber Liquidators Distribution facility is located within the White Oak Technology Park on a development site that is north of Technology Boulevard and adjacent to Elko Road.

The Park is owned and managed by the Henrico County Economic Development Authority. The Park encompasses 2,200 acres of land formerly known as the Elko Tract. The M-2 General Industrial zoning of the subject parcel has been in place since 1960.

To aid in the development of an attractive and well-designed park, covenants and restrictions creating the White Oak Technology Park Design Review Board (DRB) were recorded in September of 1996, which contain design guidelines. Accordingly, the proposed development is also subject to review and approval by the DRB, and that review has been ongoing throughout the process.

The proposal includes approximately 97 acres, as well as an additional 27 acres for future expansion of this facility. The applicant indicates the timeline for future expansion of the facility is unknown.

The proposed development includes extension and connection of the existing White Oak Creek Drive to Elko Road, as well as construction of a new east/west access road for future development sites within the park.

The distribution center is a one-story, 40-foot-high, approximately one-million-square-foot warehouse building, including 17,000 square feet of office. The building will be constructed of concrete tilt-up wall panels with some glass features for the office area. There is also a future 300,000 square foot expansion proposed with the master plan. There are 196 possible dock positions, 452 trailer parking spaces, and 246 automobile parking spaces.

The DRB has been working with the applicant to revise the building colors to a darker gray color and to provide enhancements to the façade along White Oak Creek Drive. A condition has been added to the addendum to require incorporation of any additional DRB requirements to the architectural plans.
The developer is required, per park covenants, to provide a 75-foot buffer along Elko Road. This is in excess of the 50-foot buffer required per the County ordinance. Their proposed buffer—which is a minimum of 88 feet to 105 feet or greater—exceeds this requirement. In addition, right of way dedication for the future widening of Elko Road is provided, and the existing woods to remain within the right of way will add to the depth of the buffer until such time that the road is improved.

The applicant has committed to adding additional evergreen plantings within this buffer to supplement the existing vegetation. Provision of additional layers of evergreen plantings will also be added around the BMP between the buffer and the facility as needed. The extent of the plantings will be determined at a later date.

Condition #9 amended has been added in your addendum to require the landscaping to come back to the Commission for further evaluation once the clearing has occurred. Fountains are being provided in all the BMPs. Additionally, 50-foot landscape buffers are required along the park roads, and 30-foot landscape buffers are required along the internal property line, which would be back here.

Light pole heights are limited to 30 feet within the park. The lighting plans are not included in this request, and will also be required to come back to the Commission per Condition #11 amended in the addendum.

Additional DRB concerns revolve around improving the ceremonial entrance to the site and the provision of additional berming and landscaping. Landscape islands at this entrance will be increased and enhanced, and a feature will be provided. Bering and enhanced landscaping will be provided along White Oak Creek Drive in this location to screen views to the loading docks from White Oak Creek Drive.

A community meeting was held on Tuesday, September 10, at the Antioch Community Center on Elko Road. It was attended by approximately 20 citizens from adjacent properties, the staff, the developer and his engineer, and the Varina Planning Commissioner. It lasted for approximately two hours and the citizens raised several issues, primarily focusing on traffic and noise.

The traffic concerns revolved around provision of access to Elko Road and the current state of this road in terms of the posted speed limit and its driving conditions from a safety perspective. They also commented on the need to extend White Oak Creek Road to Elko Road and why this could not be achieved in an alternative location.

The concerns regarding noise stem from the expectation of back-up alarms and unloading sounds as tractor-trailers maneuver around the truck courts. A concern
was raised about the hours of operation and the potential that truck traffic would occur 24 hours a day.

Staff, the developer, and their engineer attempted to address these questions and committed to providing further answers tonight.

Access to this facility is provided from White Oak Creek Drive and is separated into two main access points—a gated controlled access for delivery trucks and main access for employees and visitors. Through conditions of the POD approval, trucks from this facility are prohibited to access Elko Road. The developer must route all of their construction and tractor-trailer traffic south towards Technology Boulevard. The developer has also committed to the installation of signs requiring that construction and truck traffic turns south. Further, all trucks that exit the site are required to pass the proposed guard station. Truckers will be verbally advised of the restriction as their payloads are checked. The engineer has also been requested to examine designing the curb radius at the exit points so that it is not physically possible for trucks to maneuver and turn towards Elko Road without damaging their rigs and payload.

The applicant is required to provide a number for citizens to call if they wish to comment on its application or have any complaints that need to be addressed, so that issues which may arise can be addressed expeditiously.

The extension of White Oak Creek Drive is required for safety reasons. Public Works’ policy requires that there be two public roads as points of access for industrial buildings greater than 500,000 square feet. As a result, it was determined that another public road connection was required. This connection will be open for emergency vehicles as well as for general use other than trucks associated with this facility.

Citizens asked if it were possible to develop an alternate access to Technology Boulevard. Due to environmental constraints there is no other feasible opportunity to develop an alternate route in that direction. As you can see, what’s in green are areas of wetlands. Additionally, it was asked if access to Elko Tract Road could be provided, but there is state-owned property between the EDA property and Elko Tract Road.

The current alignment of White Oak Creek Drive and the location of the intersection have been reviewed by both County and VDOT Traffic engineers. They have taken into account the current sight distances in an effort to maximize safety.

Improvements to Elko Road are also required at this intersection. The developer is required to build a left turn lane for traffic going north on Elko and then turning west onto the proposed White Oak Creek Drive. These improvements are approximately 400 feet in length. The developer is also required to build a right
turn lane for traffic going south on Elko Road, and then turning west onto the proposed White Oak Creek Drive. These improvements are also approximately 400 feet in length. Further, the County has contacted VDOT about the current proposed speed limit and will coordinate with them on the ability to adjust it.

In regard to noise, the applicant may expand on this discussion, but during the design phase the site was adjusted to place the majority of the tractor-trailer parking on the side of the building away from the residents. It was originally proposed here, but then it was moved to the other side.

The developer also committed to discussing the hours of operation with the future owner of the property. They will also look at measures to reduce the back-up noise provided that it still meets OSHA requirements for safety.

The proposed development is also subject to review and approval by the White Oak Technology Park Development Review Board (DRB), as well as this Commission. Any additional required improvements to the site required by the DRB will be incorporated into this approval per Condition #51 in your agenda.

Before I conclude, I wanted to touch on some general aspects of the process. The proposed use and development of the property meet all aspects of the Zoning Ordinance. The Planning Commission and staff review the proposed plans to ensure that they meet the requirements of the code and County design policies. This is done with an eye towards improving the design of the site as much as possible in response to individual site and quality development considerations.

The Design Review Board has also reviewed the plans for conformance with the private park design guidelines. In direct response to staff, DRB, and Commissioner comments, several design changes have occurred between what was preliminarily submitted and what is before the Planning Commission to review today.

With that said, staff recommends approval of the plans, subject to the standard conditions for developments of this type, the annotations on the plans, the additional conditions as listed in the agenda, and the additional Condition #51 in the addendum.

With us tonight in addition to staff, Traffic, Engineering, and VDOT representatives, are the applicant, Johnson Development Associates, and the engineer, Timmons Group, who are prepared to address the Commission. I'd be happy to answer any questions.

Mrs. Jones - Questions for Mr. Greulich? All right, sir, don’t go far.
Mr. Archer - I have one, Madam Chair. Mr. Greulich, you indicated in talking about the traffic pattern, and looking at what's here, and listening to your remarks that there are no other patterns that can be established for routing traffic? I'm just asking. I understand that wetlands would have to be crossed, and some properties are owned by someone other than the developer.

Mr. Greulich - That is correct.

Mr. Archer - Does that pretty much preclude any changes to the traffic pattern?

Mr. Greulich - If I may, I'd like to defer to the traffic engineer on that.

Mr. Archer - Sure, that would be fine.

Mrs. Jones - All right, thank you.

Mr. Jennings - Good evening, Mr. Archer. Mike Jennings, Assistant Director of Public Works. Mr. Archer, with the design of this road there were several things taken into consideration, including environmental issues and traffic engineering standards. This road was looked at environmentally. When you look at designing a road, you look to minimize impacts to the U.S. waters and all of our water resource areas, and our Chesapeake Bay Preservation areas within the entire site. There is also an RPA, a Resource Protection Area buffer, which is 100 feet off of the perennial stream that runs through this property that you need to stay out of. So White Oak Creek Drive was designed to cross the existing wetlands with the least amount of impact to the wetlands. So, when the master plan was laid out, those environmental factors were taken into consideration.

Traffic engineering-wise, we looked at an entrance onto a public street that meets access management standards, for VDOT or Henrico County—in this case it would be VDOT—on that road, which is a space of about 1,320 feet. We also make sure it has adequate sight distance. They looked at several locations along Elko Road. I know the request from the citizens was to move it closer to Elko Tract Road, which would be to the north-northwest. The way it currently is horizontally and vertically, you can't get adequate sight distance through that section. So with Traffic Engineering standards and environmental standards, this needs to be the location of that road.

Mr. Archer - Okay. I was just wondering because Mr. Greulich indicated that the two major objections were traffic and noise. And looking at the way the map is drawn, I was just wondering if there was a way to move it away from the most populated area toward, I guess the south, which seems to be less populated. But if not, then I understand. I just wanted to be sure that that had been looked at.
Mr. Jennings - The overall master plan does have a connection further to the south in the future, but that area is not being developed now. And it would be out of what’s being developed currently.

Mr. Archer - Okay. Thank you for your time.

Mrs. Jones - Mr. Leabough, how would you like to proceed?

Mr. Leabough - I’d like to hear from the applicant first, and then we’ll hear from opposition, and then give the applicant a chance to address any concerns raised.

Mrs. Jones - Certainly.

Mr. Hostetler - Thank you. My name is Steve Hostetler. I’m with Timmons Group. I have to tell you, Mr. Greulich really did a very thorough job in his explanation of the site plan. He pretty much covered all of my points.

I do want to maybe give a little bit of a backdrop. He mentioned that there has been some back and forth on the site concept design from the original concept. That was done very intentionally, as he mentioned, trying to move—the bulk—the receiving side of the building is the larger. And moving that farther away from the residents and moving that single point of access—you might have noticed this connection up here, on the top. That is an emergency-only connection. The only people that would use that gate would be the fire department if they ever need to get in. The operation generally has vehicles—if they’re being loaded for shipping, they would come out and come back around and out through this single point of access. Our primary activity point is south of the facility.

A concern was also mentioned about trucks from this facility going out to Elko Road. As he said, that will be signed not to allow that, and the guardhouse will also instruct them to head south to Technology Boulevard.

We have worked pretty extensively, as he mentioned. We’re exceeding the minimum required buffers by a good amount. The 88-feet buffer is the minimum dimension that we have along this pond, and we’re up to, and we’re up to 150 feet in places. This is a natural undisturbed buffered. And that’s measured from the right-of-way dedication that we’re required to do along Elko Road. Okay? Right now that is just a prescriptive right-of-way, so we’ll actually be dedicating the land. And in this fairly sharp curve we’re actually coming into our property and dedicating more that will allow VDOT—if and when they ever have more money—to improve the road. So everything we’ve been doing is measured off of that. So in that area there will actually be about another 50 feet of trees that we’re not even counting when I tell you, say, 120 feet in that area. I just wanted to make that point clear.
Staff has been very consistent, shall we say. I could show you the hurt on my arm from all the tweaking that we’ve been doing trying to, again, accommodate that concern and maximize that buffer. So that is the concession or the working towards really minimizing both the view aspect and the noise aspect, trying to get everything as set back and away as we can.

Mrs. Jones - Let me just ask quickly, Mr. Hostetler. Would you like to retain some time to respond?

Mr. Hostetler - Most certainly.

Mrs. Jones - A couple minutes?

Mr. Hostetler - Yes. Yes, please.

Mrs. Jones - Okay. We’ll note that. You have a couple of minutes to go in your presentation.

Mr. Hostetler - As I said, really a lot of our points were covered. I was going to touch on kind of how we arrived at the layout and how from a site design standpoint we’ve maximized—again, trying to move the activity away, maximize the buffers, and be as good of a neighbor as a facility this large can be. We have worked diligently to do that. Mr. Jennings spoke to the road widening. We are following the alignment that was set initially with the Bank of America plan. We’re following all of the guidelines. It will be improved through the turn lanes. The lanes will be widened, designed to safety standards, you know, current design standards.

As far as the building architecture, I think you’ve seen what we’ve proposed is very similar to what’s in the balance of the Technology Park, but we’re still working with the DRB on the colors and some of the aesthetic items. We’ve agreed to come together on that.

Landscaping. We’ve presented a conceptual plan. We know we need to punch up that one area to the south. That’s a point with the DRB that we’re still working on, but we’ve agreed to that. The supplemental screening was the other really salient point.

One other item that came up in discussion at meeting that I’ll just touch on here is related to stormwater management. When I first walked the site looking for the outfall to the north, it took me a while to find one because there really isn’t one. It’s inadequate for its current condition. So working with Public Works, what we’ve done is all of the post-development water, basically the water—everything that’s on this side of the building that’s being treated and managed here will be piped back to this system. It may eventually converge back in the same—we’re in the same drainage basin. But, that will take away an area from this existing poor

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drainage condition; it will help the existing condition with this development. I just wanted to make sure to point that out as well.

Mr. Leabough - Just one quick question, Mr. Hostetler. I know a question was raised at the community meeting on Tuesday night regarding the ability to sort of make the building longer and shrink it.

Mr. Hostetler - That is something that from a—and I may have to ask Mr. Rhea from Johnson Development if I don’t quite hit this right. But there are certain standard building dimensions in the warehouse trade, as I understand it, for pallet spacing, and kind of the functionality drives the width of the building. And so if this is going to be a saleable facility—i.e., if at some point in the future they decide to sell it to somebody else, it’s not some funky shape that nobody else can use. This makes it a very valuable and standard—kind of a standard commodity. Did I hit that right? I kind of fumbled through that a little bit.

Mrs. Jones - if you want to make a comment, I’m sorry, you’re going to have to—these are recorded proceedings. So if you would identify yourself and talk into the microphone.

Mr. Rhea - Copeland Rhea, Johnson Development. The other aspect is the current operation that’s in the building needs the current dimensions of the building. So if the building is elongated, the current operation that they’re going to have in the building won’t work from just their daily operations.

Mrs. Jones - May I ask a quick question?

Mr. Leabough - Yes, you may.

Mrs. Jones - May I ask a quick question, Mr. Hostetler? Just to confirm here. I see the truck entry. Show me the truck exit.

Mr. Hostetler - They enter right here, and there’s a median, and they exit on the outside of that.

Mrs. Jones - Just so I understand. They will come on in. This is where the bulk of the loading will take place?

Mr. Hostetler - This is where all of the trucks enter the site and exit the site. There is a guardhouse right here, and their operation is such that they monitor all of the trucks as they come in and as they go out.

Mrs. Jones - What will occur on the truck parking and loading side that is closest to the residences?
Mr. Hostetler - My understanding is that is a shipping operation. In other words, the shipping containers and such will come in on the south side of the building, and will be unloaded into the facility. They'll be kind of moved around. And then the trucks that make the runs to the individual stores carrying a variety of the material will be loaded on this side. They'll back up empty, be loaded, and then exit out this way.

Mrs. Jones - Okay. So they back in, pull out, come around and out. Everybody goes in and out through the gatehouse.

Mr. Hostetler - Single point of control. Single point of activity for trucks.

Mrs. Jones - And the signage for prohibiting truck traffic on Elko Road, where does that begin?

Mr. Hostetler - That will be right at this exit right here. In other words, as you're leaving you will be—after the guard tells you don't turn right, they'll be a sign that says don't turn right, you know, no right turn allowed.

Mr. Leabough - And a physical element that will prevent trucks from turning right as well. Or that's something you're looking into.

Mr. Hostetler - That is something we could do. I'm not sure that that's the ideal. I'm not sure that you want to use damage to equipment as the deterrent, but that is certainly something that we could do if that became critical. The way that I understand the way that their operation is run, it's a pretty tight ship. If carriers aren't doing what they're told to do from this facility, they won't be their carriers. That's kind of the way it's been explained to me.

Mr. Leabough - Another question that came up as well and a concern that I had relating to not only truck traffic after the building is built, but construction traffic as well. I know it was mentioned that they can only access the property from Technology Boulevard.

Mr. Hostetler - Yes.

Mr. Leabough - They cannot exit onto Elko Road.

Mr. Hostetler - Yes, sir. All that has been put into our construction plans. Those requirements, I think they're even part of this case.

Mr. Leabough - They're conditions, yes. One other quick question. No, I'll save it for later. Thank you, Mr. Hostetler.
Mrs. Jones - All right. Any other questions for the applicant? Stay close. Thank you. All right.

Mr. Leabough - I’d like to ask Mr. Jennings—or I believe we have a representative from VDOT here. There was a concern or a question that was raised relating to trucks ducking the scales on Route 60. If I’m not mistaken, if a truck wanted to do that—correct me if I’m wrong—there is another way to exit the park. I guess it’s Elko Tract Road. They could exit from there?

Mr. Jennings - Yes, sir. Currently, if those portable or temporary scales up on Williamsburg Road are in operation, they could go down to Elko Tract Road and cut through there, from Technology Boulevard over to Elko Road. Or I guess if they’re coming from the south, they could take Portugee Road over.

Mr. Leabough - So, this connection, White Oak Creek Drive, doesn’t give them a new opportunity to do that. That opportunity exists today if they were to choose to do that.

Mr. Jennings - Yes, sir.

Mr. Leabough - Okay. You may or may not know the answer to this question. If the residents are noticing that trucks are starting to do that, who do they contact?

Mr. Jennings - If it’s on Elko Road or—

Mr. Leabough - Elko Road.

Mr. Jennings - Elko Road? Then they would need to work with VDOT and we could work with them. They’d go through me, obviously, or John Cejka, the County traffic engineer. And we could work with VDOT to do the proper studies and to see if a truck restriction is warranted. I’m not sure of their process. I know that in our process it has to be approved by the Board of Supervisors. I’m not sure if VDOT—I don’t know if Robert Butler knows that process. No. Unfortunately, he doesn’t. But we would work with VDOT to get a truck restriction in place if there’s a problem.

Mr. Leabough - Okay, thank you.

Mrs. Jones - The opposition, this is your time. We’re happy to hear what you have to say. You have 10 minutes. We would ask that whoever would like to talk, that is fine, but just to please not repeat points that others have made. What we’d like to do is to hear your concerns so that we can get those answered tonight insofar as we can. So anyone who would like to come forward. Sir, come
on. If you wouldn't mind—again, I say these are recorded proceedings, so please state your name for the record.

Mr. Scott - Good evening. Tom Scott with Bank of America. We are the closest corporate neighbor to the proposed new distribution center. It appears that the volume of tractor-trailers will be routed past our location, which is to the south there on White Oak Creek Drive. So we have a technology center that was completed just under two years ago. We have employees that are in and out of that site all day long. So we have concerns about the volume of tractor-trailer traffic. It is a two-lane road, and this is the only way in and out for our associates, as well as from this presentation here this evening, the only way in and out for the tractor-trailer traffic as well. As a company, we're concerned for the safety of our employees who are working there each day. And plus the critical nature of this facility.

I think one of our strongest concerns as we looked at the technology park, one of the things we did was look at the risk factor. So we have to continue to analyze the risks that are potentially there as far as the contents that are on these trucks. Are they combustible? Are there hazardous materials? Because of the critical nature of our facility there, we have concerns about this particular risk. As we were originally looking at this site, we were under the impression that it would be a technology park. We're not really clear on why a distribution center. Although we support the company, I think it's just unclear in our minds as to the future vision of the technology park as other types of businesses are coming in to the location.

And so I just wanted to share and represent Bank of America and just state that we do have concerns. Number one is about the volume of tractor-trailers that are obviously coming down the two-lane road right past our facility, our newly built facility, the potential hazardous materials, and then of course, the usage itself being a non-technology type of application out there in that tract. Thank you.

Mrs. Jones - All right, thank you. Would someone else like to come forward?

Mr. Davis - I'm Mark Davis. I live at 6425 Elko Road. I'm one of the residents a little further down the road than my neighbors. I'll just list out my concerns and give some remarks related to those.

I think the Henrico Planning Department did a nice job explaining about the traffic, but I don't think they understand the concern from the residents, especially those residents who are straight across from this intersection. Whether it's vehicle traffic or—in our view, they will be able to control their own trucks. That is certainly so and I believe Lumber Liquidators will do that. What they can't control is anybody who is going to use the technology park, any trucks that are making deliveries to anybody else in there. If they elect to come down that road, yes, we
can call and complain to the Traffic Department. We can call and talk to the County about various things. But that intersection there has a hill at either end. And so you only have a few seconds if you’re coming up over one of those hills going either direction to make a decision about slowing down. And for the residents trying to get out of the driveways, I think it’s just—and there will be suited exit points for that.

As to the comments from Tony about wetlands’ mitigation, that’s something I do for a living. You certainly could mitigate the wetlands down there. Yes, it’s not ideal, but you’re building a million-square-foot warehouse already, which is going to have a huge impact, the stormwater management. The stormwater, recharging the aquifers. Many of the residents along there live on wells. The stormwater ponds are supposed to be clay lined. I understand that because you don’t want contaminants infiltrating the stormwater recharge aquifer underneath. But you’re going to take a million-plus square footage out of recharge for that aquifer in that area. So you’re playing either side, which I certainly understand from the Planning Department to be concerned about. But I think that road that they’re cutting down, cutting it back across to Technology Boulevard could be done. Is it going to be easy; is it going to be cost-effective? I don’t know. But for the residents who are directly across from there, I think that might be a way to alleviate. It might also alleviate evidently their neighbor’s concern about all these trucks coming down if you change the route. I’m not saying you should or shouldn’t, but for those who live along Elko Road, there’s a real concern about the additional traffic level.

Noise. They’re installing nice buffers. I live further down there. I’m about 1,000 feet through heavy woods from the closest industrial in this park. At night I can hear trucks backing up. I can hear vehicles coupling their cars to the trailers. So, a 150 feet of buffer sounds great. Maybe if it’s a properly engineered design, maybe it will certainly reduce the noise. But some of these neighbors live less than 50 feet from Elko Road. So I’m not so sure that without further review on the buffer side, the buffer is adequate.

I think this is a huge change to the rural area. All of us knew the industrial park was there. When I bought my property 10 years ago—my neighbors have been here a lot longer than I have—I knew that there was an industrial park. But my understanding of that—of course real estate people don’t always tell you the full truth when they’re selling you a piece of property—was that there was a larger buffer intended along Elko Road than what evidently has come out in these meetings that we’ve learned about. And that the park was intended for technology. To me, technology is not a huge distribution warehouse. It’s people like Bank of America. It’s people manufacturing small light business things. This is a huge building you’re putting in. I think it’s just not well suited for this rural area. For those of us who live on Elko Road, it will completely change our rural setting. And I don’t think we’re opposed to Lumber Liquidators coming to our
County; what we’re really concerned about is traffic, and the noise that they’re
going to bring with them, and the potential risk to us as neighbors.

I appreciate your time.

Mrs. Jones - Questions for Mr. Davis? All right. Hello, Ms. Hamilton.

Ms. Hamilton - Hi. I’m glad you remembered my name. It’s Karen Hamilton for the record. And no, I don’t live out there, but I’ve grown up in Henrico County. And I appreciate that there are rural areas because I used to live in one—until you devastated Short Pump.

The point I want to make is it looks like there probably are trees now where they plan to put this, which brings me to the Western Hemisphere Convention, which is always violated in Henrico County. The Western Hemisphere Convention says that we need to leave trees and space for birds that are migrating. This is an international treaty. This is constitutional law, so you violate the Constitution as well international law when you violate the Western Hemisphere Convention.

You also have no regard for the Federal Migratory Bird Treaty Act because it says that birds are protected during nesting season. And you, as Henrico County, issue permits with a time period on them. You have the ability to control when a building is built, although something of this nature would take probably a long period of time and there would be no point at which this wouldn’t interrupt a nesting season. If you started this in October, it would still continue on into nesting season. It’s still going to interrupt their nesting season.

Millions upon millions of birds die every year slamming into windows of buildings. This is a rural area. There are birds, I’m sure, that are used to being out there, and then suddenly there’s going to be this great big building, and smack into the window. I was down at the City of Richmond Library recently and saw on the windowsill, this large, large windowsill they have, dead birds out there, which is a tragedy.

And finally, the thing is that we also had the Ramsar Conventions, which are the wetlands treaties that this gentleman mentioned. There is no way that you can mitigate that. He’s right. You have a lot of square footage of roof, and it is going to destroy the wetlands out there, as well as the well water for those people.

What’s interesting about Henrico County and water is that you care if it’s somebody rich in the West End. Like when the fish kill happened a year or two ago in western Henrico County and all the residents were concerned about 1,000, maybe 1,100 fish that died. Oh wow! Henrico County reacted because a lot of rich people called you. You know, these people probably don’t have that kind of money. But you care about those people off River Road.
Likewise, you know, there have been other incidents where—there was a group, Colony Bluff neighborhood off River Road. They wanted their road cut off because there was access from Patterson and Pump. Oh, they’re rich, so they cut that off. But these people? They don’t have money like that.

This is discrimination.

Mrs. Jones - Thank you, Ms. Hamilton. Would someone else like to speak to the case?

Ms. Barker - Good afternoon. My name is Gina Barker, and I’m a resident of Elko Road. I just wanted to give the Board a little bit of history. One thing I haven’t heard touched on tonight is that the Elko community supported the Technology Boulevard Park because as citizens, we were assured that Elko Road would not be comprised nor would it ever be a form of public access to Technology Boulevard. I still continue to have traffic concerns with that access road. It is a national bicyclist route, and I have not heard that addressed tonight. And I do know that the traffic board or the gods of traffic control have been looking at this from a very statistic and objective approach, and I respect that. But I’m a resident there, and I know that subjectively there is a dangerous road as it is traveled today. It’s very difficult to get out of my driveway in the mornings. I’m competing with school buses. I have a middle school that is less than a half a mile down the road from what will be this new access road. In addition to that, there is hopefully a high school that’s going to be coming in the area as well, adding more traffic to this location.

One thing that I don’t understand is with this industrial park—as you already know, Eastern Henrico is heavily populated with other industrial parks. But I couldn’t find any of them that had a public access road to a residential road or to a secondary road. I understand the need for an access road. And I think that if we work a little bit harder or for a secondary access road—I think that if we work a little bit harder, maybe we could get a variance with the state. I thought that was something we were going to research or was going to be researched where we could cross state property. And that would run straight across. Do you know what I’m talking about, Mr. Leabough?

Mr. Leabough - Yes. I don’t think we mentioned that we would get a variance. I think we mentioned that—

Ms. Barker - I thought the other night we had talked about exiting—and I don’t know, ladies and gentlemen, if you’re able to see the computer here. There was supposed to be a road that was going to go straight across here. And yes, it would go across state property, but I thought that was a point of discussion the other night was to check on a variance as an option. I don’t know. Another
option would be, why could we not just turn around right here and come back out to Technology Boulevard.

I know that everyone is being very diligent about controlling the traffic that comes out of Lumber Liquidators, but you cannot control the behaviors of other drivers, whether it be the employees or the trucks that are coming in. These trucks will be traveling 64 westbound. They will be getting off on Exit 205. They will come down Elko Road. They will try to circumvent the scales. And that’s not a behavior that Lumber Liquidators can control. It can be controlled if you don’t put this access road here.

I think I’ve hit the key points on behalf of my fellow residents, but I would like to say that all of the residents that live directly across the street, I would say that the majority of them are here tonight. So while I only stand as one, I’m representing many. Thank you.

Mrs. Jones - All right. Questions for Ms. Barker? Thank you very much. Mr. Leabough, would you like to have the applicant respond or how should we proceed?

Mr. Leabough - First, I’d like Mr. Jennings or the representative from VDOT to come up to answer the concerns related to traffic. I think they’ve been addressed, but if you could. One question was from the gentleman, Mr. Scott, from Bank of America related to safety concerns on White Oak Creek Drive, which I don’t think was addressed previously.

Mr. Jennings - Safety concerns on White Oak Creek Drive?

Mr. Leabough - He mentioned the truck traffic that would be accessing White Oak Creek Drive to access the facility passing the Bank of America site. I don’t think that was addressed earlier in the presentation.

Mr. Jennings - Right. There is going to minimum truck traffic coming out of this facility. I know it’s a very large facility, but the developer has told our traffic engineer that there are only 100 to 150 trucks per day, which means a total of 200 to 300 trips over the entire day, which is not a huge traffic generation. White Oak Creek Drive is a 40-foot wide industrial road which can handle that truck traffic.

Mr. Leabough - I think that’s it. The other concerns, again, I think were addressed, but the connection to Elko Road, why it’s needed. There were conversations the other night relating to whether or not the road could be moved to—I guess is it the south? Cross over the state property, which I think we indicated that seeking approval or whatever would be needed is not something under the purview of the developer to do, and that couldn’t happen between
Tuesday and tonight. There are all sorts of processes that would need to take place. I think that’s it in terms of traffic.

Mrs. Jones - I have something. Mr. Jennings, this is a traffic question I have. It was mentioned that traffic on Elko Road, there are hills, are at least some elevation changes at that intersection, both ways. Obviously, at that intersection you’ve done a big analysis, I’m sure, of sight distance and this kind of thing. Can you just go over why there are no concerns about that elevation change and people coming over a hill and being confronted with a number of vehicles that would be a hazardous situation for them?

Mr. Jennings - Yes ma’am. I actually went out in the field today, and sat at that entrance, and looked to the right. I am familiar with the hill they’re talking about. It’s 582 feet down to that hill where you can see a vehicle coming. The required sight distance is 519 feet, so there is adequate sight distance looking that direction. And yes, current Elko Road does have some horizontal and vertical curves along it. And I know VDOT has some curve advisory plates in some locations. But at this location, they can provide adequate sight distance getting out on Elko Road.

One other thing just to throw out there. I did perform an accident update through this section to look to see what’s happening. Over the last five years there have been eight accidents through this section. Five of them were vehicles hitting deer, so. I know trucks were an issue. There have been a couple that involved sideswipes with a large—as a matter of fact, there’s one sideswipe with a large truck, and there was one truck that dropped a log off of it. So there have been eight accidents in this section over the last five years. But as I said, 62 and 1/2 percent of them are vehicles hitting deer.

Mrs. Jones - But this is without the addition of this intersection.

Mr. Jennings - Correct. With this all the trucks—what’s expected truck trip generation for this facility is 200 to 300 trucks per day all going up Technology Boulevard. They’re expecting approximately 600 vehicle trips per day from the employees, three shifts of employees of 100 each. With that, the majority of the traffic is going to be going onto Technology Boulevard towards Interstate 295.

Mrs. Jones - With rescue/fire needing to have this access to the side of the building, which is closest to Elko Road, is there any reason that that access from Elko could have some kind of a restriction on it?

Mr. Jennings - Our County policy is that a second full point of access is needed on a facility of this size for the health, safety, and welfare of our traveling public and our citizens. As you know, we look at whether it’s residential, retail, or industrial. In this case, when it gets over 500,000 square feet of...
industrial, we require a second full point of access. This does help out with response from fire, emergency, police, but also for the people working there and anybody else that needs to use that road has the ability to get in and out of the road also if there was an accident at White Oak Creek Drive and Technology Boulevard that blocked up the entire development. They wouldn't be able to get in and out of there.

Mrs. Jones - So it must be a full access.

Mr. Jennings - Yes. We require a full access public street that's open all the time. That's our policy.

Mrs. Jones - Just thought I'd ask.

Mr. Witte - Mr. Jennings, it seems like the majority of the complaints would come from the truck traffic on Elko Road. Would it be feasible—much to the dismay of Bank of America—to have the primary truck route come off of Technology Boulevard to White Oak Creek Drive?

Mr. Jennings - That is the primary truck route.

Mr. Witte - Then what's with the 300 trips a day on Elko Road?

Mr. Jennings - That's Elko Road for that?

Mr. Witte - I think maybe I misunderstood.

Mr. Leabough - I think you're referring to the employee traffic.

Mr. Jennings - Oh, the employee traffic, right.

Mr. Witte - Oh, that's just the employees.

Mr. Jennings - The 200 to 300 trucks that are going in and out of the facility, they have to go over to Technology Boulevard. I'm sorry if I wasn't clear.

Mr. Witte - No. I misunderstood. Thank you.

Mr. Leabough - The other question that was raised related to stormwater management, concerns related to that. And maybe the engineer is probably better—

Mr. Jennings - Yes. Steve Bandura will answer that question.

Mr. Leabough - Okay.
Mr. Bandura - Mr. Leabough, I'm Steve Bandura, staff engineer with
Public Works.

Mr. Leabough - Yes. There was a question that Mr. Davis raised
relating to stormwater management. Are you able to respond to the question
related to whether these stormwater ponds are adequate for this size facility?

Mr. Bandura - The calculations are still preliminary at this point.
We've been working with the engineer, and they're close to being sized like they
are. He did say they do have a clay liner, a one-foot thick clay liner. They did take
water that went towards the residents to the other side of the building and are
dumping it into the creek there. They have to provide adequate channel capacity
for erosion and velocity. So the environment will be protected with that, as our
normal requirements for outfall channels.

Mrs. Jones - Is there a potential for interference with well water?

Mr. Bandura - I'm not qualified to answer that question. In Public
Works we don't really deal with groundwater aquifers. That might be better
addressed by the Health Department.

Mrs. Jones - Okay.

Mr. Leabough - The other traffic question that was raised related to
bicyclists on Elko Road and that road being designated as a historic bike route.
Forgive me if I get the term incorrect.

Mr. Jennings - Yes. Elko Road is part of the Bike Centennial 1976
bike route across from the Mississippi River all the way to Virginia Beach. There
are basically 573 miles in Virginia that are part of U.S. Bike Route 76. This was
designated—it started in 1976, and the entire bike route was approved in 1982.
So yes, it is a bike route that was established years ago.

One of the things I wanted to also point out is in my accident update there were
no reported accidents involving bicycles.

Mr. Leabough - Okay.

Mrs. Jones - Is there a shoulder for bicycles at all?

Mr. Jennings - No, ma'am. It's a typical situation where bikes share
the road.

Mr. Leabough - Mr. McLaren, you're here. Oh, go ahead; I'm sorry.
Mrs. Jones - Are there any other questions? We keep bringing you up and back, and up and back. I'm sorry, Mr. Jennings. Any other traffic-related questions? Okay. Thank you.

Mr. Leabough - Mr. McLaren, do you mind addressing the question that Mr. Scott posed related to the vision for the park? Let me point out that's not a part of the request, but the question was raised. We're not making a decision regarding that, but the question was posed so maybe you could address that.

Mr. McLaren - The second user in the park was Hewlett-Packard, which has well over a million square feet in five different buildings out there. They basically have distribution warehouse operations. That was built in the early to mid 1990s. So that use has been in the park for a very long time, so this is nothing new in my mind.

In talking about the size of the building, the first facility, Qimonda, and the reason the park was dedicated initially, was actually 1.2 million square feet of space. So, the size of the building really is not much different than what you have out there already. Admittedly, the Bank of America facility as it currently exists is 400,000 square feet. But the other facilities are very large. The distribution use is an existing use there.

We do not intend to turn this entire park into a distribution park. We do still intend to have a technology orientation to it, and we're working with prospects to that end right now.

Does that answer your question, sir?

Mr. Leabough - Yes, I guess.

Mr. Witte - Excuse me. Is the park restricted to limit any type of biohazards, flammable liquids, or testing facilities? Any laboratories?

Mr. McLaren - There are certain uses allowed under the M-2 zoning by right. But then there are restrictive covenants in place that restrict a long list of uses within the park, to be very honest with you.

Mr. Leabough - So is this an allowed use, Mr. McLaren?

Mr. McLaren - Yes, it is.

Mr. Witte - Okay, thank you.

Mrs. Jones - Would there be hazardous materials on these trucks?
Mr. McLaren - You’ll have to ask the operator that. All I can tell you is I’ve been in Lumber Liquidators stores, and there is basically flooring and materials to put down flooring in those stores. So I assume that’s what will be on these trucks, but I’m not an expert on exactly what will be on the trucks.

Mrs. Jones - But they do meet all the requirements of the park. Okay. Any other questions for Mr. McLaren? Thank you for being here.

I have a question for the engineer.

Mr. Leabough - Yes, I think we have a couple. Mr. Hostetler, do you mind coming back up?

Mr. Hostetler - Yes, ma’am.

Mrs. Jones - Can you answer my questions about the wells? This is my question. How will this development potentially affect well water for the very-close-by residents?

Mr. Hostetler - In terms of—let me describe the way that the stormwater management system is set up to operate, which is all of the runoff from the parking lots and the building—which, you know, this building, just for frame of reference, is about 23 acres of roof—are drained to these ponds. Those ponds are cleaned up—you know, allowed to settle. We have fringe wetland plantings and it will clean up the stormwater before it is released to the downstream area.

The reason I may be struggling a little bit with the question is because I can’t give you a definitive answer relative to if the area that is being treated and piped away, which is about—help me out. Is it 10 acres or 12 acres? Whether that would have an effect on the recharge of those wells, I can’t—I don’t know if that’s significant enough of an area to make a difference in the recharge. So the answer to that I really am not qualified to tell you that. In terms of the quality, I will tell you that yes, we are protecting the quality because the water that interacts with our development isn’t going to get there, because we’ve lined the ponds and we’re taking it the other direction. So it’s kind of a half answer.

Mrs. Jones - This wasn’t my question; it was one of the citizen’s questions.

Mr. Hostetler - Yes, okay.

Mr. Branin - Mr. Hostetler, basically what you’re saying is these detention ponds are going to hold, and then you’re going to pipe it out and put the settled, clean water into a stream.
Mr. Hostetler - Yes, sir.

Mr. Branin - So, in essence, you are reducing the ground surface water because you are detaining and piping, as opposed to detaining and returning.

Mr. Hostetler - Correct.

Mr. Branin - So, could I answer your question for you?

Mr. Hostetler - Well—

Mr. Branin - You are changing it. It's not tough.

Mr. Hostetler - No. It is from the standpoint of if I'm going to put my stamp on it and say in terms of the water balance, you are correct. We are taking the water away from that particular surface area.

Mr. Branin - No one is asking you for the water quality.

Mr. Hostetler - Okay.

Mr. Branin - They're basically talking about quantity and returning your surface water back into the soil. But what you're saying is you're piping it out.

Mr. Hostetler - Yes, sir, that's what I'm saying.

Mr. Branin - So, no one, again, is questioning quality. We're looking at—

Mr. Hostetler - I just heard impact on wells, so that's why.

Mr. Branin - They're not asking about the quality in their wells; they're asking if their wells are going to go dry. You don't know.

Mr. Hostetler - I would say the answer to that would be no, but I can't guarantee that because anything could happen.

Mr. Glover - I have to say something. I don't know that I've ever sat in a Plan of Development meeting that an engineer didn't know the answer to a simple question of do you rehydrate the waters of the ground. Do you put water back in the ground or do you run it away from the house? Are you an engineer?

Mr. Hostetler - Yes, sir.
Mr. Glover - From where?

Mr. Hostetler - The Timmons Group.

Mr. Glover - Pardon me?

Mr. Hostetler - Timmons Group.

Mr. Glover - Where did you go to school?

Mr. Hostetler - Virginia Tech.

Mr. Glover - Well, Virginia Tech engineers know whether you rehydrate the water or not.

Mr. Hostetler - Yes, sir.

Mr. Glover - Don't "sir" me because, you know what, I'm telling you, you stand there not knowing the answer to a simple question. And I'm not sure that I appreciate you not answering these people's questions. If you don't know the answer, do you have anybody here that can answer? I don't usually get involved in cases here, but I have never heard an engineer come before us before and not have some idea of what he was talking about. But I haven't heard you say anything that you know what you're talking about. You may not like what I'm saying, but you're going to have to accept it.

Mr. Hostetler - Yes, sir, I'm accepting it.

Mr. Glover - Thank you. Now, do you have an answer to the question?

Mr. Hostetler - The answer to the question is the stormwater from the front of the facility is being piped to the rear, to the creek along the south side. Therefore, no, it is not recharging the same acreage that it is currently falling on. Will it recharge further downstream? Yes, sir. But not in the same exact location that it is now. That was the point I was trying to clarify.

Mr. Glover - You weren't doing real well, but I'm going to ask you another question. Okay? Does the water from across Elko Road where they live, is it flowing towards this development or away from it?

Mr. Hostetler - There's a portion at the upper end—

Mr. Glover - Answer my question. Does the water across Elko Road flow towards this development or away from it?
Mr. Hostetler - It flows away from it. There's a portion up here that flows across, and then it goes back out down here.

Mr. Leabough - Let me throw this in here because this is something that was raised, the drainage concerns along Elko. Part of the reason that you all decided to pump it away was for the very reason that you already have flooding issues along Elko now.

Mr. Hostetler - Yes, sir.

Mr. Leabough - That was something that was raised during the community meeting that other night, which is the reason why you all are pumping it away instead of recharging the exact same area. Am I correct on that?

Mr. Hostetler - Yes, sir.

Mrs. Jones - So that would not, then, have an effect on the wells. We come back to that.

Mr. Hostetler - That's a surface water question versus a groundwater recharge question. It will help with the current drainage problem. In a heavy rain, all the water runs to the bottom of the hill. It has a difficult time getting across Elko Road. This will help that situation.

Mr. Witte - So, we still don't know if it's going to affect the wells. Bottom line. It's just a yes or a no.

Mr. Davis - [Speaking off microphone.] Madam Chairperson, not that I want to--

Mr. Branin - Sir, not to be rude to you, but you can't sit in the audience and speak. You can request to come up, say your name for the record again, because this is recorded.

Mr. Leabough - Mrs. Jones, you have a question?

Mrs. Jones - No. I was going to say finish your comment.

Mr. Hostetler - I will say the magnitude of the area that we are diverting should not impact these wells in terms of the quality or quantity of the water.

Mr. Glover - It took a long time to get that, you know?

Mr. Hostetler - I guess I'm slow.
Mrs. Jones - All right.

Mr. Glover - You're in a fast group here, though.

Mrs. Jones - Do you have another question?

Mr. Leabough - Are you good, Mr. Davis, or do you still—

Mr. Davis - [Speaking off microphone.] I'd like to just make a comment to the gentleman.

Mrs. Jones - All right. If you would like to come up and make a comment in response to that point.

Mr. Davis - Mark Davis. My question is in regards to the fact that you are creating a huge impervious surface area by the construction of the building and the parking lots. I understand why they are draining the water to a clay-lined stormwater basin because they're concerned about water quality. With that amount of runoff coefficient of the surface, in a pretty good rainstorm, probably several million gallons of water. My concern is that because you're creating such a large impervious surface area you're going to affect the recharge rate of the aquifer underneath of this. Without an engineering study—without some underground studies of water flow and the characteristics of that area, it would be very difficult for the gentleman to answer that question. The question is, has the engineering group looked at that, and were they aware that a number of the people along this road are not on public water, they're on wells. Groundwater is a big issue in Virginia in the coming years. I would hate for these people to end up with a cost either to drill their wells deeper or to have to go on public water because of a project in which that consideration wasn't taken into account. Thank you.

Mr. Glover - Did I hear you say—not you, sir; I'm sorry. The engineer. What kind of bottom do you have in the stormwater ponds?

Mr. Hostetler - It's a one-foot-thick clay liner.

Mr. Glover - Why wouldn't you allow it to recharge the ground?

Mr. Hostetler - The concern is because you're settling out the contaminants. You don't want to inject that back into the ground.

Mr. Glover - I understand that, yes. The little fish down in the Chesapeake Bay, they'll swim better, won't they? That's all.

Mrs. Jones - Okay. All right. Are there further questions for Mr. Hostetler? Just a moment. I do have something that maybe you could refer
me to someone else. Just refresh my memory. Are hours of construction restricted on this? No? Okay. Just wanted to refresh my memory from a while ago. And secondly, hours of operation of the distribution center. Do you know that?

Mr. Hostetler - It would be a three-shift, 24-hour operation.

Mrs. Jones - Okay.

Mr. Branin - Can I hear from the owner?

Mr. Rhea - I'm Copeland Rhea, with Johnson Development. I'd like to clarify that I'm not the owner, but we represent him for the development.

Mr. Branin - That's fine. This obviously is being looked at as a fast track. If it wasn't, you wouldn't be at a zoning meeting; you'd be waiting until the end of the month for POD. So this is a fast-track project.

Mr. Rhea - Correct.

Mr. Branin - If this project does get approved—it could be deferred, who knows. But if it does get approved, when are you planning to start?

Mr. Rhea - Well, our hope would be that we would go out to the site next week, and start flagging the property for development, and start site work within two weeks.

Mr. Branin - And you can get through the whole permit process in two weeks.

Mr. Rhea - I'll defer that to Timmons, our engineer, but we have everything in line where that permit will be ready to go.

Mr. Branin - Okay. Why so fast?

Mr. Rhea - Because our client has operational deadlines that they have to meet next June, the end of June. They're moving out of a couple of other facilities in other areas and consolidating it to this one building. We've been told that that's the delivery deadline, June 30th.

Mr. Branin - Okay.

Mr. Leabough - I have a question. I'm not sure if we got an answer to the question about the materials being hauled on the trucks. I think Mr. McLaren did his best to attempt to address the question, but it's really a question for you. What materials are going to be on the trucks?
Mr. Rhea - I'm not precisely sure what materials beyond what they distribute to their stores would be in the facility. I don't think any. I know for a fact they're not hauling any tankers or anything like that to the facility. It would only be products that they sell in their stores.

Mr. Leabough - And what are those?

Mr. Rhea - Flooring. Materials that have to do with putting down the floor, covering the floor, etcetera. It's all related to flooring and tools.

Mrs. Jones - Other questions for Mr. Rhea?

Mr. Branin - Yes, I have one left. You're planning to begin possibly this month, at the end of September. When are you looking at completion of excavation and building?

Mr. Rhea - The complete project would be finished by next June.

Mr. Branin - By June, okay. One person had a question in regards to nesting and so forth. That's what I'm trying to figure out. If it was staged and moving along or if all of the trees would be down at one time.

Mr. Rhea - The way that the site is configured, we have to clear the entire site right away to balance the site and the dirt on the site to build up our pad and our truck courts, etcetera. So the thought would be, you would clear right away.

Mr. Branin - September. By mid-October—

Mr. Rhea - Correct.

Mr. Branin - —it would be completely cleared.

Mr. Rhea - Correct.

Mr. Branin - Okay, that's it. I have no more. Thank you.

Mr. Leabough - One other question related to the comments that were raised, the concerns raised by the DRB. I know that we're not addressing here with the documents that we have before us, but you all are willing to address the concerns that the DRB raised?

Mr. Rhea - Yes, we are.
Mr. Leabough - Related to the ceremonial entrance, the color of the building, the architectural feature, the berming, additional landscaping—so on and so forth—all the concerns that Mr. Greulich brought up.

Mr. Rhea - Yes, correct. There were four concerns that were raised by the DRB, and we're prepared to address each and every one of them.

Mr. Leabough - Okay.

Mrs. Jones - We had several additional questions. Shall we entertain those? All right, thank you. What would you like?

Mr. Leabough - Two to three minutes?

Mrs. Jones - Two additional minutes for you all to please come on up and state your concerns.

Mr. Leabough - And we want to ask that they be different concerns than those that have already been raised.

Mr. Branin - Would you restate that so we can all hear?

Mr. Leabough - Yes, I'm sorry. We're asking that if you're going to come to the podium to speak that you raise concerns that have not previously been raised by other speakers.

Mr. Barker - Yes, sir. My name is Sid Barker. I live on Elko Road. One thing is I have a well that's 40-feet deep. It probably has like 12 or 15 feet of water in it. That's a question that was asked earlier.

The other thing is, I asked the other night about a block wall going the whole length of the building to keep noise out. I have two young kids. And I don't want to listen—oh, something else. I'm sorry. Both sides of the building have 90 bay doors, 90 per side. I don't know if you all know that or not. That's 90 trucks, tractor-trailers that will be backed up, three shifts per day. I don't know how many they're going to run through there because they say it's 400-and-some-odd in the parking lot. And if they have 400-and-some-odd people in the parking lot waiting to be loaded, they're going to be rolling trucks. It's not going to be a small operation. I have no problem with its coming if that's the way it's going to be, but there are a lot of questions that need to be asked.

And the other thing is—I know you say don't address it—they're telling me that the trucks are going to be coming out of Newport News and Norfolk. They're going to be coming up Interstate 64 westbound. They're going to get off on exit 205. They're going to run right over to Route 60, run right up to the top of the hill, turn left on Elko Road. They're not going to turn on Elko Tract Road. They're
going to be turning on the new road that’s proposed. And there’s not enough room. If you look down—come down the road tomorrow. They don’t have a ditch; we have boulders that VDOT put out there. We don’t have a runoff. We don’t have a ditch. We have reflectors on both sides of the road to let people know not to come off the shoulder because you’ll have an accident. VDOT says we don’t have enough accidents? I own a 24-hour towing service, and I’ve been to a lot of accidents on Elko Road.

That’s all I have to say. Thank you.

Mr. Everhart - My name is Mike Everhart and I live further down on Elko Road. One of my questions is with these retaining ponds, stormwater ponds. A week before last we had three and half inches of rain in about two hours’ time. If these stormwater ponds are full of water and we get three and a half inches of rain like we did the other week, where is all that water going to go? Are the pumps big enough and large enough to handle all the water possibilities that could come into these stormwater ponds? I’m not speaking on an average day. These rains don’t happen every day, but they do happen. Just like the gentleman before me told you, we have a terrible, terrible, terrific problem with water down in our area already. Nobody wants to listen to these people that live in this area. I think you’re exactly right when you told me this was rushed because I only got a notice of this project two weeks ago. I wonder if the people in the West End receive the same type of courtesy.

Mr. Glover - Yes, sir, they do.

Mr. Branin - Yes, sir, they do. I work with the Three Chopt District, and I’m absolutely certain it’s consistent across the County. There is no deviation.

Mr. Everhart - I’m surprised that we only received two weeks’ notice that this building—as large as this project is we only received two weeks’ notice.

As far as the gentleman that says he was down there today looking at the traffic flow, what time was he there? I mean, was he there at 10:00 in the morning when everybody’s at work, and everybody’s at school, and all the traffic has slowed down? Come on down there and stay a whole day. Watch the motorcycles running down that road at 80 or 90 miles an hour. Don’t say the people are not concerned because I’ve contacted the Henrico Police about the speeders and all the traffic on that road. They sent a man down there; he sat for about an hour here a few weeks ago—a week or so ago. But that was after a man was nearly killed in front of my house from a guy coming around that curve and run right dead into the side of the driver’s door. He put the man in the hospital for about four weeks.
Mrs. Jones - Because of time could you finalize any other comments you have?

Mr. Everhart - I’ll finalize, but I wish you would listen to what these people’s concerns are. There are other concerns that these people didn’t have time to bring before the Commission. I really don’t think it’s fair, but it’s your procedure.

Ms. Barker: Madam Chair, I’d like to ask a question, please.

Mrs. Jones - All right, just a moment, please. Okay, you have to decide. Would you like to—

Mr. Leabough - Yes, we have to. I mean, they’re saying the same thing over and over.

Mrs. Jones - We will take a moment to have your question, and we will get an answer. But we just need to—

Ms. Barker - My question is more along process. In the event the Commission is looking at approving the plans, is there any way that you can do a provisional approval where we continue to work together on the access road? I hear that being the biggest concern for my neighbors. I didn’t know if you have to give this a complete thumbs-up tonight or a complete thumbs-down or can you approve the plan at 90 percent, less the access road. How does your approval work on this?

Mr. Emerson - I think in this case the road would be approved tonight, the connection. A decision would be on that. That’s necessary based on the health, safety, and welfare, and the size of this building. So that connection is necessary and that decision would be made tonight.

Ms. Barker - So it’s all-inclusive.

Mr. Emerson - Yes, ma’am.

Mrs. Jones - Landscaping, lighting, and architectural are not part of this approval; they come back.

Mr. Emerson - Well architectural come back to the Director of Planning.

Mr. Leabough - Yes, to the Director of Planning.

Mrs. Jones - One more?
Mr. Leabough - This is the last one. We have to cut it off.

Mrs. Jones - Okay. I'm deferring to the commissioner from your district.

Mr. Barker - Good evening, ladies and gentleman. My name is Stuart Barker. I am a property owner on Elko Road. I don't really have a question; I'd like to make a statement. Just bear with me a minute because I've been stationed overseas and I'm just trying to get caught up on this project.

From what I understand, from this moment forward, nine months to completion of this project. That's fast-tracking. I mean, from all the questions that we have raised tonight, in nine months this project will start and finish. During the construction part of this, how much bulldozing, clearing of trees and everything is going to take place for the residents that live there now? That's a lot of building in a short amount of time. Nine months is not a lot of time, especially in the winter months. All the mud, all the runoff. Those collection ponds are not going to be established during the winter months when this construction is taking place. What happens if all that construction is taking place, and all the snow and all the runoff, what about the time before then? I think there is a lot more we need to take into consideration than rubber stamping this and sending it forward with nine months. That's not a lot of time especially with the winter months coming up. Thank you, ladies and gentlemen.

Mrs. Jones - I think it would be helpful for us to have that clarified. Mr. Hostetler, I think you're back up again. I will note for whatever it's worth that we do have many citizen groups coming in here that are happy when a project will be put into a shorter period of time because it just eliminates a lot of the hassle being dragged through. Construction is construction; we understand that. Mr. Hostetler, if you could address this?

Mr. Leabough - Two questions. One question this gentleman raised regarding the stormwater runoff during construction. The other related to a block wall to address the noise concerns. So if you could answer both of those questions.

Mr. Hostetler - As far as the stormwater ponds, what I heard were two questions. Related to post-development once the facility is up and running. These are designed to accommodate the 100-year storm. We design everything to contain that within our facility. So that will be managed. Even the very extreme storm events will be contained on those ponds.

As far as the construction question, we're required by the conditions of our E and S plan, the permit that we'll get from the County, to put in the perimeter controls and maintain the perimeter controls as the first step before we can even clear or begin grading. So, the concern that the ponds won't be established until later,
they have to be established first. So, as we move forward what you'll see is the perimeter cleared to get these measures in place. And then the larger excavation starts. So that is mandated.

Mr. Leabough - And the noise concerns? Someone raised a question about the opportunity to construct a wall.

Mr. Hostetler - We have not at this point contemplated putting a sound wall type of a piece in.

Mr. Emerson - Have you considered any operational procedures for noise reduction, such as certain times of the day?

Mr. Hostetler - I'm going to have to defer to Mr. Rhea on that.

Mr. Rhea - I'm assuming that you're referring to the actual operation of the facility.

Mr. Emerson - Correct, correct. Not the construction phase, but when it's operational. It's understood that construction is disturbing, but it's a short time frame. The operation will be there for a long time.

Mr. Rhea - Sure. The question was raised the other night during the community meeting about two things. One, the noise from the trucks that are reversing, their reverse indicator. And two, about the operation and the operation of the entire building.

First, we said that we would look at and talk to the user to see if there's anything that could be done about both of those. As far as the reverse indicators are concerned, it's an OSHA regulation to have the reverse indicators on your truck. And it has to be loud enough around the surrounding areas. I can go into further detail on that; I researched it for a long time today.

And then as far as the operation is concerned, it will be a 24-hour operation as far as their business is concerned. They can't start and stop their business for a one-shift operation or a two-shift operation. It's not the way that they're designed.

Mrs. Jones - The block wall?

Mr. Leabough - It's the question—yes, the block wall. But the question that I asked—I've heard about it. I'm not an engineer and I'm not an expert on it, but the question that I asked was, were the backup alarms, if you will, that adjust to the noise level in the area. Is that allowed by OSHA?

Mr. Rhea - What the OSHA regulation states is that it has to be louder than any of the surrounding area.
Mr. Leabough - I'm going to look at Mr. Glover and say—yes or no.
Mr. Rhea - No, there's not. To my knowledge there's not.
Mr. Glover - Good job.
Mr. Leabough - And the block wall.
Mr. Rhea - Well, I don't really think putting up a block wall would do anything other than what's already there, which is a wall, a building. I don't think that it's going to deter any of the noise. If anything it pushes the noise up and over, and it encapsulates the noise before it spreads out. So, to answer your question, no, that hasn't been contemplated as a part of the development.
Mr. Leabough - So, am I hearing that you think that the wall will make the situation worse—
Mr. Rhea - Yes.
Mr. Leabough - —or better?
Mr. Rhea - Worse.
Mr. Leabough - Because of the echo?
Mr. Rhea - Because it will echo off of both sides.
Mr. Emerson - It's going to bounce back and forth if you do that.
Mr. Leabough - object and back over?
Mr. Rhea - Correct.
Mr. Leabough - Okay.
Mrs. Jones - Other questions? All right. Mr. Leabough?
Mr. Archer - Madam Chair, before Mr. Leabough gets ready to sort of decide which direction we're going in, I think it might be helpful if we sort of move away from assuming that the audience or the public knows what our allowances and our limitations are. And I'll entertain any help from anybody who is more knowledgeable than I am, which includes most of the people in here.
The difference between plans of development and zoning cases—and you’ll remember that in the beginning when Mr. Greulich made his remarks, he indicated that this plan meets all the aspects of the zoning requirements. What we’re charged to do here—and what we’re trying to do, why we ask all these questions and bring experts in here to answer these questions—is once a zoning case has been established, whatever can be built within that zoning we do our best to try to make it the very best that we can make it. But we have to stay within the tolerance of the allowances of the zoning case. We look at all of the ordinances, and rules, and policies, and guidelines. We can’t be arbitrary and we can’t be capricious when we make these decisions. Sometimes we make decisions people love, and sometimes we make decisions that people hate. And it’s not so much us making the decision as it is us following the guidelines that we’re given.

I just thought I’d mention that because you folks don’t come in here every day. Sometimes people come more often than others, but some of you are probably here for the first time. So I just thought I would explain that so that you would know what limitations we’re working within and what allowances we’re allowed to make. I thought I would say that before we vote so you wouldn’t think I was just throwing it out arbitrarily.

Thank you, Madam Chair.

Mrs. Jones - Thank you, Mr. Archer.

Mr. Emerson - Madam Chair, I might add to that, again, the property has been zoned industrial for over 40 years. As Mr. Archer said, in this case staff has reviewed this project, and it does meet the criteria of the Zoning Ordinance. This is an administrative action by this Board. And if it meets the ordinance then you are essentially compelled to approve this project. And you do have a positive staff recommendation.

Mr. Leabough - With that, I would mention that, Mr. Archer, I appreciate that explanation. I think we’ve tried to convey that, but we did not do it as eloquently as you have, so we appreciate that.

One of the things that I’ll mention is that this is a very large project, and we all acknowledge that. That’s why we’ve given it the time and attention that we have. I will note that I do not live in this area, but I do live in the Varina District. When I look at cases, I try to put myself in the residents’ shoes. I think I mentioned to you all that I was faced with, a similar situation with truck traffic and some of the same concerns. It was a landfill, believe it our not. I’ll trade you all day long. But my concern centered around traffic. I live up between Darbytown Road and Route 5. There is a large volume of truck traffic, I think about 300 trips per day of tractors and dump trucks, so on and so forth, and vehicular traffic with
employees. So when the package for this project came to me, I tried to do my best to put myself in the residents’ shoes.

A one million-square-foot distribution facility is a large project. But one of the things that we have to look at, as Mr. Archer said, is the zoning that’s in place. This site is zoned for the use. But one of the things that we can do is work with the developer and work with the community to try to make the best possible site that we can, make the best possible development that we can. I think although some questions I don’t think were answered as good as they could have been, I think the developer has done a good job, and the engineer has done a good job of working with us. Could they have done more? Yes, they can. And that’s why I have requested that the landscaping and lighting plan come back to us so that we can work on refining this project.

Noise, traffic, and screening. One of the things I think Mr. Hostetler pointed out is that there is, today, an additional buffer than what would be in place in the event that Elko Road would be widened. I think it’s about 50 extra feet that you get in addition to the 90 to 150 feet that you get with the POD.

The other thing that I will point out is that, staff—one of the things that we sort of take for granted—and the public never sees this—is that staff works on these things for months and months and months. There is a lot of back and forth. I know I probably didn’t sleep much over the last four days. I was very impacted by the emotion and the concerns that we had at the community meeting on Tuesday night. I talked to several staff people who were concerned. This is a large project, so we really do try out best to make sure we have the best possible development for our community.

With that I will move that we approve POD2013-00259, Lumber Liquidators East Coast Distribution Center in the White Oak Tech Park, subject to standard conditions for developments of this type, annotations on the plans, and conditions #9 and #11 amended, and conditions #29 through #50 as noted in the staff report and the addendum.

Mr. Witte - Second.
Mrs. Jones - I have a motion by Mr. Leabough, second by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved POD2013-00259, Lumber Liquidators East Coast Distribution Center, subject to the annotations on the plans, the standard conditions attached to these minutes for developments of this type, and the following additional conditions:
9. **AMENDED** - A detailed landscaping plan shall be submitted to the Department of Planning for review and Planning Commission approval prior to the issuance of any occupancy permits.

11. **AMENDED** - Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams, and fixture specifications and mounting height details shall be submitted for Department of Planning review and Planning Commission approval.

29. The right-of-way for widening of Elko Road (State Route 156) as shown on approved plans shall be dedicated to the County prior to any occupancy permits being issued. The right-of-way dedication plat and any other required information shall be submitted to the County Real Property Agent at least sixty (60) days prior to requesting occupancy permits.

30. The entrances and drainage facilities on Elko Road (State Route 156) shall be approved by the Virginia Department of Transportation and the County.

31. A subdivision plat for the extension of White Oak Creek Drive shall be recorded before any occupancy permits are issued.

32. A subdivision plat for “Road A” shall be recorded, or a bond shall be posted, before any occupancy permits are issued.

33. All temporary easements, easements for drainage and utilities, and other easements necessary for the road construction, shall be recorded by separate plats.

34. Prior to issuance of a certificate of occupancy for any building in this development, the engineer of record shall certify that the site has been graded in accordance with the approved grading plans.

35. Details for the gate and locking device at the emergency access driveway shall be submitted for review by the Traffic Engineer, Police and approved by the County Fire Marshall. The owner or owner’s contractor shall contact the County Fire Marshall prior to completion of the fence installation to test and inspect the operations of the gates. Evidence of the Fire Marshall’s approval shall be provided to the Department of Planning by the owner prior to issuance of occupancy permits.

36. Outside storage shall not be permitted except as shown on the approved plan.

37. In order to maintain the effectiveness of the County’s public safety radio communications system within buildings, the owner will install radio equipment that will allow for adequate radio coverage within the building, unless waived by the Director of Planning. Compliance with the County’s emergency communication system shall be certified to the County by a communications consultant within ninety (90) days of obtaining a certificate of occupancy. The County will be permitted to perform communications testing in the building at anytime.

38. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico
County maintained right-of-way. The elevations will be set by Henrico County.

39. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Virginia Department of Transportation maintained right-of-way. The elevations will be set by the contractor and approved by the Virginia Department of Transportation.

40. The owners shall not begin clearing of the site until the following conditions have been met:

(a) The site engineer shall conspicuously illustrate on the plan of development or subdivision construction plan and the Erosion and Sediment Control Plan, the limits of the areas to be cleared and the methods of protecting the required buffer areas. The location of utility lines, drainage structures and easements shall be shown.

(b) After the Erosion and Sediment Control Plan has been approved but prior to any clearing or grading operations of the site, the owner shall have the limits of clearing delineated with approved methods such as flagging, silt fencing or temporary fencing.

(c) The site engineer shall certify in writing to the owner that the limits of clearing have been staked in accordance with the approved plans. A copy of this letter shall be sent to the Department of Planning and the Department of Public Works.

(d) The owner shall be responsible for the protection of the buffer areas and for replanting and/or supplemental planting and other necessary improvements to the buffer as may be appropriate or required to correct problems. The details shall be included on the landscape plans for approval.

41. The conceptual master plan, as submitted with this application, is for planning and information purposes only. All subsequent detailed plans of development and construction needed to implement this conceptual plan may be administratively reviewed and approved and shall be subject to all regulations in effect at the time such subsequent plans are submitted for review/approval.

42. The location of all existing and proposed utility and mechanical equipment (including HVAC units, electric meters, junctions and accessory boxes, transformers, and generators) shall be identified on the landscape plan. All building mounted equipment shall be painted to match the building, and all equipment shall be screened by such measures as determined appropriate by the Director of Planning or the Planning Commission at the time of plan approval.

43. Except for junction boxes, meters, and existing overhead utility lines, and for technical or environmental reasons, all utility lines shall be underground.

44. A construction staging plan which includes details for traffic control, fire protection, stockpile locations, construction fencing, and hours of

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construction shall be submitted for County review and prior to approval of any final construction plans.

45. No construction traffic shall use Elko Road (State Route 156), Portugee Road east of Technology Boulevard, or Elko Tract Road (State Route 380).

46. No tractor trailers shall use Elko Road, Portugee Road east of Technology Boulevard, or Elko Tract Road.

47. The existing emergency access road connecting the terminus of White Oak Creek Drive to Elko Road, shall remain accessible throughout construction of the site.

48. The developer shall provide a telephone number for citizens concerns during any construction activity on site in order to respond to citizen concerns and complaints as expeditiously as possible.

49. The development and operations conducted on the property shall comply with the restrictive covenants applicable to White Oak Technology Park.

50. The proposed development is subject to Final Development Review Board (DRB) approval. Any required changes by the DRB must be reflected in the POD and any subsequent plans.

51. The proposed architectural elevations are subject to final approval by the Development Review Board (DRB) and the Director of Planning. Any required changes by the DRB must be reflected in the architectural elevations and any subsequent drawings.

Mrs. Jones - We will take a five-minute break.

THE PLANNING COMMISSION RECONVENED

REZ2013-00012 Andrew M. Condlin or Jennifer D. Mullen for Welwood, LLC: Request to conditionally rezone from A-1 Agricultural District and R-2AC One-Family Residence District (Conditional) to R-2AC One-Family Residence District (Conditional) Parcels 736-769-4930, 736-769-7088, and 737-769-0243 containing 16.61 acres located between the southwest terminus of Porsche Drive and the northeast line of Kain Road approximately 200’ west of its intersection with N. Gayton Road. The applicant proposes a single-family residential development not to exceed two units per acre. The R-2A district allows a minimum lot size of 13,500 square feet and a maximum gross density of 3.22 units per acre. The use will be controlled by proffered conditions and zoning ordinance regulations. The 2026 Comprehensive Plan recommends Suburban Residential 1, density should not exceed 2.4 units per acre.

Mrs. Jones - Is anyone with us this evening in opposition to REZ2013-00012, Welwood LLC? We have two folks in opposition. You did hear the way in which the Commission hears opposition, so we’ll get to you in just a moment. Thank you.

Mr. Sehl, good evening.
Mr. Sehl - Thank you, Madam Chair, members of the Commission.

This request would allow for the development of property previously rezoned and approved as Section 2 of the adjacent Bentley subdivision, as well as additional property allowing access to Kain Road. This connection, which would be made through the extension of Porsche Drive, has been contemplated as part of the Bentley development since its original approval.

The subject site is currently zoned R-2AC and A-1, with the R-2AC portion rezoned as part of C-3C-05 in conjunction with adjacent property that has since been developed as Bentley. Other properties are generally zoned A-1 and developed as single-family homes. Henrico County also owns several properties in the vicinity of the site, which is just west of the recently completed North Gayton Road extension, located here.

The applicant has proffered to develop the subject properties with a maximum residential density of 2.0 units per acre. This is the same maximum density allowed in Bentley and would be consistent with the site’s 2026 Comprehensive Plan recommendation of Suburban Residential 1, which recommends a maximum density of 2.4 units per acre.

In addition to the proffered maximum density, the applicant has submitted a number of other proffers that would regulate development of the subject site. These proffers were recently revised and distributed to you this evening. Major aspects of the proffers include:

- A minimum finished floor area of 2,800 square feet, with an average floor area of 3,100 square feet;
- All homes would have a two-car garage, of which 75 percent will be side or rear loaded;
- Homes would be constructed of brick, stone, or HardiePlank, and at least 50 percent of the homes would have a minimum of 50 percent brick or stone on the front elevation;
- A twenty-five-foot landscaped buffer would be provided along Kain Road and would be planted to a Transitional Buffer 25 equivalent; and
- Sidewalk would be provided on Kain Road and Porsche drive to continue an existing sidewalk within the subdivision.

The revised proffers distributed to you this evening provide for a level of quality generally consistent with the proffers accepted in Bentley, although staff does note that lot widths in the proposed subdivision have been proffered to be a minimum of 85 feet in width, whereas 90 percent of lots in C-3C-05 were required to be 90 feet in width.
Additionally, staff notes that access was a major point of consideration during the original rezoning case for Bentley, with stub roads being required to the south, east and west. This request would complete the connection to the south, and development of the church property to the east is no longer anticipated. Therefore, those connections are no longer necessary; however, the applicant is encouraged to provide the stub road originally planned to the west. This additional access point would provide future connectivity to several parcels located to the west that do not currently have road frontage or would otherwise be limited to Pouncey Tract Road access.

Overall, staff believes this request is consistent with the comprehensive plan, as well as generally consistent with the quality of development in Bentley. And if the applicant could address staff's concerns regarding the provision of access to the west, staff could fully support this request. This concludes my presentation, and I would note that time limits would need to be waived on the proffers, as they were received today.

I'd be happy to answer any questions you might have at this time.

Mrs. Jones - All right. Do we have questions for Mr. Sehl?

Mr. Branin - I have none for Mr. Sehl. If no one else, I'd like to hear from opposition first and then the applicant.

Mrs. Jones - Okay. Any further questions for Mr. Sehl? Okay. Thank you. Would anyone who would like to speak to this case come forward. We do have ten minutes allotted. I appreciate your making sure everyone has enough time. Thank you.

Ms. Hamilton - Again, for the record, my name is Karen Hamilton. I'm from Short Pump. I'm against the Bentley 2.

Mr. Branin - Good evening, Ms. Hamilton. How are you?

Ms. Hamilton - Fine. You’re interrupting me.

Mr. Branin - Yes ma’am.

Ms. Hamilton - I'm against the Bentley 2.

Mr. Branin - I just wanted to make one comment before you started. If you noticed on the last case that you opposed I got clarification of when the clearing would be done to help.

Ms. Hamilton - I did notice that, actually.
Mr. Branin - I just thought I'd—

Ms. Hamilton - You're still interrupting. Okay. So I'm against this development. This is unconstitutional for many reasons. The Constitution requires you to hold international treaties in the highest regard. This violates the Western Hemisphere Convention, the Ramsar Treaty which protects wetlands, the Migratory Bird Treaty, and the Endangered Species Act.

Henrico has been intentionally subverting these treaties by submitting large developments in pieces to the Department of Environmental Quality and the U.S. Corp of Army of Engineers to hide the cumulative impact to the earth. Henrico committed fraud when you built the Gayton Road extension, which you claimed was to alleviate traffic congestion. Because you already had been discussing Bentley Section 2 as well as the Breeden Company Development on Bacova.

Henrico must not sell any portion of land to the developers of Bentley. You were very clever to only condemn Emily Leake-Waller's land where her house sat because you knew you wanted to sell a portion of her land to developers. It is sad that Andy Condlin was the lawyer for Ms. Leake-Waller because the only way that his clients, Breeden Company and Welwood LLC could benefit was for Emily to lose. This is discrimination against those of us on Kain Road because Mr. Tommy Branin promised the homeowners in Bentley 1 that the construction traffic will not come through their neighborhood. Mr. Branin promised a barricade that will prevent construction trucks on their roads. The construction traffic is to come through Kain Road only because Mr. Branin cares about the rich people in Bentley.

You have favored the rich and discriminated against the poor for years. You have allowed the rich Colony Bluff subdivision to close Pump Road completely so traffic could not go to River Road from Pump and Patterson. You allow some neighborhoods to have traffic-calming speed bumps. You have allowed developers to make streets too narrow for fire trucks to access easily. You allow cul-de-sacs which benefit the developers who can then charge more for houses. Kain Road cannot handle more traffic. I don't want Kain Road widened. You cannot mitigate the impact to our wells and the wetlands from these developments. Ms. Kay Cole will tell you her well is only three feet from the road you're proposing here for Bentley.

Henrico committed fraud by creating the Comprehensive Plan because it cost taxpayers over $600,000. And Henrico was already planning more development when you voted for the comprehensive plan.

The Bentley 2 development violates the Constitution which protects freedom of religion. Here's a conundrum for you. On the one hand, you cannot discriminate against the landowners by asking what religions they practice. On the other
hand, most religions require that their members uphold all laws. But you don’t inform them of the laws, and you don’t uphold the laws, which are the Western Hemisphere Convention, the Ramsar Treaty, the Migratory Bird Treaty, and the Endangered Species Act. So it’s a violation of freedom of religion for you not to tell the developers about these treaties.

Henrico County submits plans for landowners and developers to the environmental departments, and as such—

Mr. Emerson - Ms. Hamilton, could you please keep your comments directly to the development in question?

Ms. Hamilton - I am.

Mr. Emerson - We understand your points regarding these—

Ms. Hamilton - That’s a new one. I hadn’t said that one before.

Mr. Emerson - I would like to hear directly about your concerns with this development.

Ms. Hamilton - I am getting to that. To me it’s all concern. I’m concerned about the planet, so to me it is related, Mr. Emerson.

Henrico County submits plans for landowners and developers to the environmental departments, and as such, you are the go-between. Henrico is the last and probably only chance for people to learn about the constitutionally protected laws such as these treaties. Especially today when there are so many foreign investors and foreign-speaking residents, these laws must be communicated to everyone.

Henrico County interferes with environmental studies because you walked with Roger Harris with the Department of Environmental Quality when he was supposed to be looking for wildlife for the Gayton Road project. The presence of Henrico workers and developers obviously scared away the birds and the animals. A proper environmental study is done quietly without sudden movement and not by a crowd. I had a petition against a previous development, and it didn’t work. But it should have.

Mr. Emerson - Again, your comments on this development, ma’am.

Ms. Hamilton - No, okay, I am. The reason I did not get a petition up against this development was about, a) you didn’t pay attention to all my other petitions, and b) because you are just biased against us. I got a petition last time. It had—
Mr. Emerson - Ms. Hamilton, again—

Ms. Hamilton - No, let me finish. These are related. I'm trying to make a point. I'm trying to make a point. Please stop interrupting me.

Mr. Leabough - Ma'am? Ma'am?

Ms. Hamilton - This is my freedom of speech.

Mr. Leabough - He's asked you to make sure your comments are related to the case.

Ms. Hamilton - They are, they are. I'm telling you why I don't have a petition tonight.

Mr. Leabough - I'm struggling. I'm struggling.

Ms. Hamilton - And that is because you—I recently saw on the news where you only require 75 percent signatures for a petition. I had more than 75 percent signatures against the Breeden Development, and you ignored my petition, and you did it anyway. That's discrimination that you allow some people with a petition—so that's discrimination.

So this all about discrimination. You care about the rich. This is going to affect our wetlands and our well water. You're trying to create an exclusive, expensive Short Pump, which is discrimination. You've brought crime to Short Pump. You have encouraged blight.

Mr. Glover - Madam Chairman, could you make sure we get to the case?

Ms. Hamilton - This is the case.

Mr. Glover - And if not, we can have the person removed.

Ms. Hamilton - This is the case.

Mr. Glover - If we don't get to the case, we're going to have you removed.

Ms. Hamilton - This development is discriminating against the poor. You want this to be a—this is a rich development. It's a rich developer. You only care about their money; you don't care about us, and our well water, and our wetlands. And that's the point I'm trying to make.

Mr. Glover - Mr. Secretary, can we get to the point?
Mrs. Jones - Is there anyone else who would like to make a comment? There are three minutes left.

Ms. Cole - My name is Kay Cole. I live 12380 Kain Road.

Mr. Branin - Good evening, Ms. Cole. How are you?

Ms. Cole - I'm fine. The property that this road is going to come by is directly butted up against my property. When I first bought the house, the man who owned the house had put the well on Bowles' property, which is where this development is going to go. So they had to do a new well. I had gone out there and planted stuff. And I'd go out there and it was dug up and thrown in the woods. So there's a well, and then there's my well. My well is three feet from the line of where this road is going to go.

When it rains, the water pours into and it's over my shoe when I walk outside. I don't know what this is going to cause me to have. There are wetlands running all the way through my property almost all the way up to the road that goes back to the house that the County now owns.

Mrs. Jones - Ms. Cole? I'm sorry. Could you just show me where your home is? Maybe Ben can help you.

Ms. Cole - Oh, oh, I see it. It's right there.

Mrs. Jones - Okay, thank you for clarifying that.

Ms. Cole - And my well is between the house and where that red line is. And the well is up on a hill. My house is further down. The fellow that I go with says I live in a swamp. I don't want to live in a bigger swamp.

Mrs. Jones - You live in a swamp now.

Ms. Cole - That's what he says, that I live in a swamp. When they put the fire hydrant across the road from where this place is coming, they would turn it on, run it twenty-four hours a day. I could walk outside and the water would be up to my knee. I called the County; they would come out and turn it off at night because I could hear from my bedroom window. I really don't know what this is going to cause, but I'm somewhat nervous about what they're doing.

Mr. Branin - Ms. Cole, have you ever thought about connecting to County water?
Ms. Cole - When I was working, the man that I worked for said women didn’t deserve retirement, so I live totally on Social Security. I don’t need another bill. I like having a well because I don’t have a water bill.

Mr. Branin - I just was wondering if you were ever interested in connecting.

Ms. Cole - Not really. I wish you’d leave what I have that works alone so it will work. That’s all I have to say.

Mr. Branin - Thank you, ma’am.

Ms. Cole - Right now, the opossums come up and look in the window. I mean, we have lots. We have foxes, we have possums—we have a little bit of everything out there. I like the trees. When I lived in town, I got mugged three times. One was a peeping Tom. Mugged, black-eyed, and the whole nine yards. I moved out there for safety reasons. I don’t need another bunch of people living around me that are going to do God knows what. Somebody recently said I was in a nursing home and couldn’t handle my own affairs. I finally got them arm-wrestled away from making them think I did that. So who knows how long I’ll live. Might be—

Mr. Branin - Hopefully a long time, Ms. Cole.

Ms. Cole - I hope.

Mr. Branin - All right. Let me get the applicant down to address your concerns with the well. Thank you.

Ms. Mullen - Good evening. Jennifer Mullen with Roth Doner Jackson. I’m here on behalf of Welwood I, the applicant of the rezoning before you. Members of the Planning Commission, Madam Chair, thank you for your time tonight. I’d be happy to address Ms. Coles’ comment first.

We have, and will continue to commit to work with her on a landscape plan along her portion of the property, as well as work with her on—sorry.

Mr. Branin - Do you have another rendering that will show the connectivity of the road to Kain Road?

Ms. Mullen - This was the original one.

Mr. Branin - Okay. You don’t show it there as well.

Ms. Mullen - One moment, please.
Mr. Witte - That's close.

Ms. Mullen - Sorry. I'm having trouble with the mouse; sorry. There you go.

Mr. Branin - Do you know what the distance is between the road and the property line?

Ms. Mullen - I'll defer to Mr. Grier.

Mr. Branin - Pardon?

Mr. Grier - [Speaking off microphone.] Approximately thirty feet.

Mr. Branin - I'm sorry, sir. I can't recognize you unless you are at—and say who you are.

Mr. Grier - [Speaking off microphone.] I'm John Grier with—

Mrs. Jones - No.

Mr. Branin - You have to come down to the microphone, sir.

Mrs. Jones - It's not that easy.

Mr. Branin - Not that easy, yes. It's absolutely not that easy. You're in the hot seat now. Please come down.

Mr. Grier - Good evening. I'm John Grier with Welwood I. Our intention is to have twenty-five to thirty feet from the edge of the property line in which we could include a buffer to separate the road from her property line, work with her on the details of that plan as we go through the plan of development process.

Mr. Emerson - Do you know how far that would place you from her well?

Mr. Grier - I don't. I don't know where her well is located on the site.

Mr. Branin - She just showed us. If you look at the property line that you have drawn, Ms. Cole said that it's between her house and the property line, which I guess would be right where her driveway is.

Ms. Cole - [Speaking off microphone.] It's on the other side of the driveway.
Mr. Branin - On his property line side of the driveway. So it's on the line.

Mr. Emerson - So you'd be less than fifty feet.

Mr. Grier - Yes. I think we've discussed internally the idea that if she's willing to have a public connection, we'd be happy to provide that. If there is an impact on the well, we can look at replacing that well subject to, of course, the County allowing that.

Mr. Branin - What Ms. Cole doesn't know is if she said "yes, I would love to have connectivity but I just don't want to pay for that connection," I was going to bring that to you and ask you to do that. But she's saying she does not like the connection. So her concern is my concern now in regards to that. If there would be a means of digging another well in another spot on her property, then we would want to look at that. We would also want an engineer—this is, of course, zoning; we're going to go to POD. We would also want an engineer to do a study on the effect on the well with it being so close—with rehydration and so forth.

Mr. Grier - I think our key is to do no harm. So if we're not having an impact on the well, we'll look at it and we'll see what we need to do. Do we need to replace it, move it—whatever. We'll work through that as we go through the construction plans.

Mr. Emerson - Do you know the state requirement for separation distance?

Mr. Grier - I don't.

Mr. Emerson - I think it's fifty feet.

Mr. Grier - From the property line?

Mr. Emerson - No. Either from a foundation or from a structure or from a road.

Mr. Branin - And a road would be considered—what was the distance you said?

Mr. Grier - Well, it's twenty-five to thirty feet from the road to the property line.

Mr. Emerson - You might want to check with the Health Department on that separation distance.
Mr. Grier - The bottom line is we have no problem working with her to get the well replaced, if need be, if, indeed, the County will allow that replacement.

Mr. Branin - Okay, that's one. Don't go anywhere. That was Ms. Cole's concern which, as I said, is now my concern. The other was staff's concern in regards to connectivity. In this area on Kain Road we've had in the past some neighborhoods that were put in that didn't have the connectivity. And I pledged that we wouldn't make that mistake again in this area. Connectivity. I need some assurance that we're going to be able to put that possible road connection to the west. I know we aren't showing it, and the layout's fine, and in our community meeting the community was happy with what was going in with some questions and concerns. But overall, they weren't that displeased. Connectivity to the west is going to be vital. How would you address that?

Ms. Mullen - We will work with staff to provide an additional proffer so that we will reserve a portion of our property to provide that connection to the west. And that proffer will be in staff's hands in the next couple of days so we can work through that language before the Board of Supervisors.

Mr. Branin - What's the timeline that you're looking at on this to start?

Mr. Grier - Well, sir, we need to think through the next steps—construction drawings, POD approval, development of covenants. We would look to hopefully be prepared to start the project in the late spring, early summer of next year if all goes well.

Mr. Branin - So you're looking at spring 2014.

Mr. Grier - Yes.

Mr. Branin - Okay. Sir, connectivity, I was good with this after our community meeting. The well does scare me. And the reason why is the state regulation. So for me to approve the conceptual now, even with the addition of the language—your road may have to move. You may lose one or two lots to accommodate state regs. Okay? So I think it would be prudent for me to defer this out one month—I'll take the deferral—just so we can get that addressed. I can't approve a conceptual when it doesn't meet state specifications. Does that make sense? I know it doesn't make you happy, but does it make sense?

Mr. Grier - Absolutely.

Mr. Branin - Okay.
Mrs. Jones - May I ask a very quick question? I would like to just confirm. I'm trying to speed read through this very small print. This will be part of the Bentley subdivision?

Ms. Mullen - No ma'am. This is designed with the proffers that are consistent with and go above and beyond the existing Bentley proffers. So it will be compatible with it, but it is not part of the Bentley subdivision.

Mr. Branin - In the community meeting that we had and the Bentley people that came in, their biggest concern was compatibility, consistency, square footage, and architectural features. This mirrors all of those specifications so they're conducive. But it's two separate homeowners associations, and it's two separate subdivisions.

Mrs. Jones - I must have misread then. I thought that the plan was to try to integrate them.

Mr. Emerson - Staff would prefer that HOAs be integrated. It's my understanding the existing Bentley HOA is not necessarily open to that. I have suggested to my staff that they have the Community Revitalization staff contact them. They work with HOAs to help them understand the benefit of combining these two HOAs. But that's a private matter. We really can't force that to happen.

Mrs. Jones - I agree. I just wanted to bring it up because it does answer some general concerns. There is usually a lot of benefit to the commonalities of the large HOA, but that's not—

Mr. Branin - Absolutely. Larger HOA; healthier HOA.

Mrs. Jones - I just want to make sure that that issue is at least investigated to the fullest.

Mr. Branin - Okay. So, you understand where we're going? We have a couple of things we need to look at. I'm sure you'll be with staff right away.

Ms. Mullen - Yes sir.

Mr. Branin - Okay. And if we can get it resolved then we could consider moving it up, but let's get the concerns nailed down. Okay? Madam Chair, I'd like to move that REZ2013-00012, Andrew M. Condlin or Jennifer D. Mullen for Welwood LLC, be deferred to the October 10, 2013, meeting per Commissioner's request.

Mr. Archer - Second.
Mrs. Jones - Motion by Mr. Branin, second by Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

Per Commissioner's request, the Planning Commission deferred REZ2013-00012, Andrew M. Condlin or Jennifer D. Mullen for Welwood LLC, to it's meeting on October 10, 2013.

Mr. Emerson - Madam Chair, that takes us to the final item on your agenda prior to adjournment, which is the approval of your minutes from the August 15, 2013, meeting. You do have an errata sheet where staff received corrections from the Commission. Those have been included.

Mrs. Jones - Do I have additional corrections or additions to the minutes?

Mr. Archer - No ma'am.

Mrs. Jones - I'll entertain a motion.

Mr. Branin - Move for approval of minutes with the inclusion of the errata sheet.

Mr. Leabough - Second.

Mrs. Jones - Motion by Mr. Branin, second by Mr. Leabough. All in favor say aye. All opposed say no. The ayes have it; the minutes are adopted.

Is there anything further for the Commission, Mr. Secretary?

Mr. Emerson - I have nothing further for the Commission tonight.

Mrs. Jones - Anyone else have business for the Commission?

Mr. Leabough - I'd like to again thank staff. I'm not sure if I mentioned Public Works staff as well for their hard work on the Lumber Liquidators' case. I'm sure you all poured a lot of hours into the effort. So I specifically mentioned Planning staff, please charge it to my head and not my heart.

Mrs. Jones - We know. A lot of hours go into a case like that, absolutely, by everybody.

All right. Anything further?

Mr. Emerson - Nothing further.

Mr. Witte - No ma'am.
Mrs. Jones - Motion for adjournment?

Mr. Archer - Move for adjournment.

Mrs. Jones - Second?

Mr. Branin - Yes, give me a second.

Mrs. Jones - Meeting is adjourned.

Mr. R. Joseph Emerson, Secretary

Mrs. Bonnie-Leigh Jones, Chairman