

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

January 14, 2003

7:00 P.M.

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A. ROLL CALL	
B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE – Terrell Johnson, Paul Haynes, and Marcus Pulver, representatives of the Beyond the Bell Program at the James River Elementary School	
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K. ADJOURNMENT	

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF DECEMBER, 2002, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. MOMENT OF SILENCE

Mr. Kennedy requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Mr. Ed Oyer led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Steven Hicks, Resident Engineer for the Virginia Department of Transportation (VDOT), stated that Mr. Harrison's request for a meeting with a VDOT representative will be scheduled, that traffic engineers will continue to monitor the traffic patterns at the intersection of Route 199 and Mounts Bay Road and that the Route 199 Jamestown Corridor Improvement Plan will be addressing the intersection as well; that traffic engineers are scheduled to review the intersection of Route 60 and Route 199 traffic patterns for better levels of service at the intersection; that the historical markers along Route 60 East, westbound lanes, are being made legible; and that the drainage issues raised at the last Board meeting are being addressed.

E. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated he has been chosen as the spokesman for the neighborhood Block Captains and reviewed some issues discussed at the Block Captains' meeting, and that the increasing cost of Cox cable exceeds his increased Social Security benefits.

F. PRESENTATIONS

1. 2002 Chairman's Awards

Mr. Kennedy presented the 2002 Chairman's Awards to Eric Peterson, Investigator James City County Police; the James City-Bruton Volunteer Fire Department; and Richard Lee, Video Engineer, for outstanding public service to the County and its citizens.

2. Cox Communications – Thom Privette

Mr. Thom Privette, Cox Communications, congratulated Richard Lee on receiving a Chairman's Award and for his work in providing successful local community programming.

Mr. Privette stated that over the past five years, Cox Communications has invested substantial fiscal resources to upgrade service for enhanced cable to the citizens of the County and that the increasing bills to Cox customers is largely due to the need to offer competitive cable programming and that the costs to secure programming has been increasing at a high rate.

Mr. Privette stated that Cox has been in negotiations with broadcasters to reach a fair agreement in consideration of bandwidths when aligning the programs and therefore customers will be seeing a change in the schedule lineup as of January 1, 2003.

Mr. Privette stated that after considering the results from a survey of 200 County Cox subscribers the Richmond channels WRIC and WTVR will be dropped and several channels will be relocated in the lineup.

Mr. Privette also stated that as part of Cox's enhanced service, Entertainment-On-Demand will be offered to customers above the Pay-Per-View and Sports packages already offered by Cox.

The Board addressed concerns to Mr. Privette about the increasing costs to subscribers with decreasing programming for basic services and unsatisfactory level of customer service.

Mr. McGlennon stated that Cox subscribers have seen an improvement in the service delivery and inquired about the increased cost of acquiring programming and how much of the increasing service fees to subscribers are related to programming costs and how much to other factors.

Mr. Privette stated that sports programming heavily impact the subscription fees and that programming acquisition accounts for about 25 percent of the cost structure and the increasing infrastructure costs are also reflected in the billings.

Mr. McGlennon stated that deluxe digital service to customers has increased 14 percent this year and that standard digital service has increase by 19 percent this year. Mr. McGlennon inquired as to how much of the rate increases can be attributed to programming vs. their cost.

Mr. Kennedy inquired about how much of the Cox cable television service revenue is utilized to subsidize the Cox internet and Cox telephone service.

Mr. Privette stated that the cable, internet, and telephone services are priced as stand-alone cost centers and one does not subsidize the other at the local level.

Mr. Brown stated that since 1999 there has not been a change in cable service yet the billing for the service has increased 32 percent and requested clarification on the usurious rate of increase for service that has not changed over three years.

Mr. Privette stated that the competition of Direct Broadcast is impacting Cox's customer base and Cox prices services as competitive as possible while providing local service, quality employees, and community programs.

Mr. Brown inquired how dropping two Richmond local channels is providing local community programs and why Cox feels justified in removing them from the lineup.

Mr. Privette stated that in the survey of 200 County subscribers it was demonstrated that the two channels are not heavily viewed and that Cox will still be providing Richmond local programming with WRVA.

Mr. McGlennon requested verification that the two Richmond channels were going to be replaced with Univision and a marketing channel; stated that many tiers of service are seeing increases with double fee impacts, such as Cox's service fees to install or move wiring which has a transaction fee, a per-hour service charge, installation one-time-charge, and a pre-wired fee.

Mr. Privette provided an overview of how the installation, transaction, and per-hour charges are assessed.

Mr. McGlennon stated that the County citizens paid significantly for pre-paid services and inquired about why the County is not seeing recognition of pre-payment by the shifting costs to installation fees.

Mr. Privette stated that Federal Regulation of the services had held installation fees artificially low and since deregulation those costs are reflecting the actual cost to provide the service. The training costs, health insurance premiums, and every other aspect of business is looked at to see that Cox does not undertake cost increases frivolously or without looking at the impacts of those increased on the customer base or relations with the County. Mr. Privette stated that Cox customers are moving to Direct TV and Cox needs to remain competitive to provide video service to the County.

The Board noted that analog programs are being shifted to digital service and inquired if the remainder of analog programming will be shifting as well.

Mr. Privette stated that as technology advances, many analog programming will move to digital.

Mr. Kennedy stated concern that since deregulation, cable rates have increased 45 percent, cable providers are dropping local programming and replacing it with shopping networks, imposing additional equipment costs for converter and digital boxes to get service, and that the cost of services are increasing by the level of service is decreasing.

Mr. Goodson requested that Cox reconsider the removal of the two Richmond channels.

Mr. McGlennon recognized the members of the Cable Advisory Committee in the audience and recommended that the Board send a letter to its congressional representative with a copy to U. S. Senator McCain to encourage readdress of the service provisions.

G. CONSENT CALENDAR

Mr. Kennedy asked if a member wished to pull an item from the Consent Calendar.

Mr. McGlennon made a motion to adopt the items on the Consent Calendar including the amended minutes.

On a roll call, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5). NAY: (0).

1. Minutes

a. October 28, 2002, Joint Meeting

- b. November 26, 2002, Work Session
- c. November 26, 2002, Regular Meeting

2. Award of Contract – Phase III of the District Park Sports Complex

RESOLUTION

AWARD OF CONTRACT – PHASE III OF THE DISTRICT PARK SPORTS COMPLEX

WHEREAS, bids have been received for construction of four T- Ball fields, one baseball field, and additional parking at the District Park Sports Complex; and

WHEREAS, staff has reviewed all bids and determined that E. V. Williams, Inc., is the low bidder and qualified to complete project; and

WHEREAS, the bid is within the Capital Improvement Budget allocated for the District Park Sports Complex.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the necessary contract documents for award of bid to E. V. Williams, Inc., the lowest responsive bidder, in the amount of \$722,025.

3. General Obligation Public Improvement Refunding Bond

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

\$3,180,200 GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BOND,

SERIES 2002B, OF THE COUNTY OF JAMES CITY, VIRGINIA

AND PROVIDING FOR THE FORM, DETAILS, AND PAYMENT THEREOF

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum principal amount of \$52,100,000 was approved by the qualified voters of the County in three referenda at a special election held on March 1, 1994, to finance a school construction program, library improvements, and park and recreation improvements (together the "Improvements"). On August 3, 1994, the County issued its \$9,500,000 General Obligation Public Improvement Bonds, Series of 1994 (the "1994 Bonds") to finance a portion of the costs of the Improvements. On December 5, 1995, the County issued its \$35,000,000 General Obligation Public Improvement Bonds, Series 1995 (the "1995 Bonds") to finance a portion of the costs of the Improvements; and

WHEREAS, on November 20, 2002, the County its \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002 (the "2002A Bond") to refund the Bonds maturing on December 15. The County's Board of Supervisors (the "Board") determines that it is in the best interests of the County to take advantage of lower interest rates now prevalent in the capital markets and to issue and sell general obligation public improvement refunding bonds to refinance the 1995 Bonds maturing on December 15, 2015. The Board has received a proposal from SunTrust

Bank (the "Bank") to purchase such refunding bonds on substantially the terms set forth in Proposed Terms and Conditions (the "Proposal") delivered by the Bank to the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia,

Section 1. Authorization, Issuance and Sale. There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation public improvement refunding bonds of the County in the principal amount of \$3,180,200 to refund the 1995 Bonds maturing on December 15, 2015 (the "1995 Refunded Bonds") and to pay the costs incurred in connection with issuing such refunding bonds. The Board hereby elects to issue such refunding bonds under the provisions of the Act.

Section 2. Bond Details. Such refunding bonds shall be issued as a single bond designated "General Obligation Public Improvement Refunding Bond, Series 2002B" (the "Bond"), shall be dated the date of its issuance (the "Issuance Date"), which shall be no later than December 31, 2002, shall be in registered form, registered initially in the name of the Bank, shall be in the principal amount of \$3,180,200, and shall be numbered RB-1. Interest on the Bond shall accrue at the rate per year of 3.75% and shall be payable on each June 15 and December 15, commencing June 15, 2003. Interest shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Bond shall mature on December 15, 2015. Principal installments of the Bond shall be payable on December 15 in the years and the principal amounts set forth below:

<u>December 15</u>	<u>Principal Installment Payable</u>
2003	\$ 19,600
2004	19,600
2005	20,400
2006	21,100
2007	21,900
2008	22,700
2009	23,600
2010	24,500
2011	25,400
2012	26,300
2013	27,300
2014	28,400
2015	2,899,400

If not earlier paid, the aggregate principal amount outstanding under the Bond, together with all accrued and unpaid interest thereon, shall be due and payable on December 15, 2015.

The Board authorizes the issuance and sale of the Bond to the Bank on the terms set forth above, consistent with the Proposal, which Proposal is hereby accepted by the Board. The Bank shall purchase the Bond from the County for the purchase price of \$3,180,200.

The County Administrator is hereby designated as the Registrar for the Bond (the "Registrar"). Principal and interest shall be payable by check or draft mailed to the registered owner at its address as it appears on the registration books kept by the Registrar as of the close of business on the day preceding the principal or interest payment date. A "Business Day" is any day other than a Saturday, Sunday, legal holiday or other date on which banking institutions are authorized or obligated by law to close in the Commonwealth of Virginia. In case any principal or interest payment date is not a Business Day, then payment of principal and interest need not be made on such date, but may be made on the next succeeding Business Day, and if made on such next succeeding Business Day no additional interest shall accrue for the period after such principal or interest payment date. Principal and interest on the Bond shall be payable in lawful money of the United States of America.

Section 3. Prepayment Provisions. The Bond is subject to prepayment at the option of the County in whole or in part at any time or from time to time on or after December 15, 2008 at a prepayment price of 100% of the principal amount to be prepaid plus accrued interest to the prepayment date. Any such prepayment shall be applied to the principal installments due on the Bond in inverse chronological order.

The County shall cause notice of each prepayment to be sent to the registered owner by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the prepayment date.

Section 4. Preparation and Delivery; Execution and Authentication. The Chairman or Vice Chairman and the Clerk or Deputy Clerk of the Board are authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver the Bond to the Bank upon payment therefor.

The Bond shall be signed by the manual signature of the Chairman or Vice Chairman of the Board and the County's seal shall be affixed thereto and attested to by the manual signature of the Clerk or Deputy Clerk of the Board.

Section 5. Bond Form. The Bond shall be in substantially the form set forth in Exhibit A attached hereto.

Section 6. Pledge of Full Faith and Credit. The full faith and credit of the County are irrevocably pledged for the payment of principal of and interest on the Bond. Unless other funds are lawfully available and appropriated for timely payment of the Bond, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of and interest on the Bond, as the same become due.

Section 7. Registration, Transfer and Owner of Bond. The Registrar shall maintain registration books for the registration of the Bond. Upon surrender of the Bond at the designated office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute a new Bond having an equal principal amount, of the same form

and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or its duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

Section 8. Refunding; Escrow Agreement. The Board hereby irrevocably calls for the optional redemption of the 1995 Refunded Bonds on December 15, 2005 (the "Redemption Date") at a redemption price equal to 102% of the principal amount of the 1995 Refunded Bonds plus accrued interest to the Redemption Date.

To facilitate the defeasance of the 1995 Refunded Bonds and the payment of the principal of, premium and interest on the 1995 Refunded Bonds from the Issuance Date through the Redemption Date, the Board hereby authorizes the use of the Escrow Agreement dated the Issuance Date (the "Escrow Agreement") between the County and SunTrust Bank, as escrow agent (the "Escrow Agent"). The substantially final form of the Escrow Agreement has been made available to the Board prior to the adoption of this Resolution. The Escrow Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Escrow Agreement to reflect the final terms of the Bond or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the Chairman or the Vice Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Escrow Agreement. The Board hereby authorizes the Chairman or the Vice Chairman of the Board to execute and deliver the Escrow Agreement on behalf of the County.

Section 9. Arbitrage Covenants.

- (a) No Composite Issue. The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bond within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code").
- (b) No Arbitrage Bonds. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or otherwise cause interest on the Bond to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bond, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bond from being

includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 10. Non-Arbitrage Certificate and Elections. Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bond in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bond.

Section 11. Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bond to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bond from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bond is not and will not be “federally guaranteed,” as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bond is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

Section 12. Bank Qualification. The Bond is hereby designated as a qualified tax-exempt obligation under Section 265(b)(3)(B) of the Code for the purpose of facilitating its sale to a financial institution. The County has not and will not designate more than \$10,000,000 of obligations, including the Bond, as qualified tax-exempt obligations in calendar year 2002. The County has not issued more than \$10,000,000 of tax-exempt obligations in calendar year 2002, including the 2002A Bond and the Bond. Neither the County, its industrial development authority nor any other entity which issues obligations on behalf of the County (together, the “County Entities”) has issued any “private activity bonds” which are “qualified 501(c)(3) bonds,” within the meaning of Sections 141 and 145 of the Code during calendar year 2002. Barring circumstances unforeseen as of the date of delivery of the Bond, the County Entities will not issue tax-exempt obligations if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the County Entities in calendar year 2002, result in the County Entities having issued a total of more than \$10,000,000 of tax-exempt obligations in calendar

year 2002, including the Bond but not including any private activity bonds other than qualified 501(c)(3) bonds. The County has no reason to believe that it will issue such tax-exempt obligations in 2002 in an aggregate amount that will exceed such \$10,000,000 limit; ***provided***, that if the County receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth above in this paragraph is not required for the Bond to be a qualified tax-exempt obligation, the County need not comply with such covenant.

Section 13. Discharge upon Payment of Bond. The Bond may be defeased, as permitted by the Act. Any defeasance of the Bond, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bond or release the County from its obligations to pay the principal of and interest on the Bond as contemplated herein until the date the Bond is paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 9 and 11 until the date the Bond is paid in full.

Section 14. Other Actions. All other actions of the Supervisors, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bond and the refunding of the 1995 Refunded Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bond.

Section 15. Limitation of Liability of Officials of the County. No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a Supervisor, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No Supervisor, officer, employee, or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.

Section 16. Contract with Registered Owner. The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bond for so long as the Bond is outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bond.

Each year, within thirty (30) days of such document becoming available, the County shall send to the registered owner of the Bond a copy of the County's Comprehensive Annual Financial Report.

Section 17. Repeal of Conflicting Resolutions. All resolutions or parts of resolutions in conflict herewith are repealed.

Section 18. Effective Date. This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized

and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the County of James City, Virginia.

4. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Ifigenia Theodor

RESOLUTION

RIVERVIEW PLANTATION WATER RATES

WHEREAS, the Riverview Plantation neighborhood is provided water by Tidewater Water Company; and

WHEREAS, investments in the water system and ongoing maintenance of the system infrastructure have been minimal and inadequate; and

WHEREAS, the owner has filed a notice with the State Corporation Commission with the intent to increase the water rates of customers served by the Riverview Plantation water system; and

WHEREAS, this is the second time in recent years that the rates to customers have been increased without improvements to service; and

WHEREAS, the Board of Supervisors of James City County went on record opposing the last rate increase.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, directs its Chairman to forward correspondence to the State Corporation Commission opposing the rate increase proposed by Tidewater Water Company.

H. PUBLIC HEARINGS

1. Abandonment of Right-of-Way for Old Longhill Gate Entrance to Longhill Gate

Mr. Bernard M. Farmer, Jr., Capital Projects Administrator, stated that as part of an agreement with Longhill Gate Investment Company, L.L.C, the entrance to Longhill Gate was relocated to align with Warhill Trail to improve traffic flow, and the County agreed that Longhill Gate Investment Company, L.L.C., would receive the real property where the old entrance was located.

Staff recommended the Board adopt the resolution authorizing the abandonment of the right-of-way for the old Longhill Gate entrance that is no longer needed due to the relocation of the entrance.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. McGlennon made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

RESOLUTION

ABANDONMENT OF RIGHT-OF-WAY FOR OLD ENTRANCE TO LONGHILL GATE

WHEREAS, on October 27, 1998, the County entered into an Agreement with The Longhill Gate Investment Company, L.L.C. to relocate the entrance to Longhill Gate so that it would be aligned with the new entrance to the District Park Sports Complex, Warhill Trail; and

WHEREAS, in exchange for new right-of-way for the realigned entrance to Longhill Gate, the County agreed to abandon, vacate, or otherwise convey the old right-of-way to Longhill Gate; and

WHEREAS, Longhill Gate Investment Company, L.L.C. conveyed the new right-of-way to the County and the new entrance to Longhill Gate has been constructed and been aligned with Warhill Trail, the entrance to the District Park Sports Complex; and

WHEREAS, the County posted notice of abandonment in three places along the old right-of-way for the entrance to Longhill Gate more than 30 days prior to the December 10, 2002, public hearing, posted notice of abandonment at the front door of the courthouse three days prior to the first day of the regular term of the Circuit Court, advertised for a public hearing to consider abandonment in two issues of the Virginia Gazette, a newspaper having general circulation in the County, and on November 20, 2002, the County sent notice to the Commonwealth Transportation Board of its intention to consider abandonment of the right-of-way for the old Longhill Gate entrance; and

WHEREAS, the Board of Supervisors following a public hearing is of the opinion that it is in the public interest to abandon the right-of-way for the old Longhill Gate entrance as shown on the plat entitled "PLAT OF RIGHT-OF-WAY ABANDONMENT & VACATION" dated September 6, 2002, by Mitchell-Wilson Associates, P.C.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby finds that:

1. The right-of-way for the old Longhill Gate right-of-way is located in a residence district as defined by Virginia Code Section 46.2-100; and
2. Continued operation of a public road on the right-of-way for the old entrance to Longhill Gate would constitute a threat to public safety and welfare; and
3. An alternative route for public use is readily available after the right-of-way for the old entrance to Longhill Gate is abandoned; and
4. The right-of-way for the old entrance to Longhill Gate does not have historic value; and
5. The new realigned entrance to Longhill Gate serves the same citizens as the right-of-way for the old entrance to Longhill Gate; and
6. The right-of-way for the old entrance to Longhill Gate is being abandoned only to the extent that it no longer serves a public need due to new alterations to the Longhill Gate entrance.

BE IT FURTHER ORDERED AND RESOLVED that the Board of Supervisors of James City County, Virginia, hereby declares the right-of-way for the old entrance to Longhill Gate is abandoned.

2. Case No. SUP-17-02. 112 Smokehouse Lane Accessory Apartment

Mr. David Anderson, Planner, stated that Mr. Vance Elkins applied for a special use permit (SUP) for an accessory apartment on .524 acres, zoned R-1, Limited Residential District, at 112 Smokehouse Lane, further identified as Parcel No. (7-40) on the James City County Real Estate Tax Map No. (47-3).

Staff found the proposed use compatible with the surrounding residential properties and consistent with the Comprehensive Plan.

The Planning Commission, at its meeting on November 4, 2002, voted 4-3 for approval of the SUP.

Staff recommended approval of the SUP with conditions.

Mr. McGlennon inquired about the County Attorney's reservation regarding the time limit condition in the SUP.

Mr. Morton stated that it is not appropriate to have a condition that placed a time limit as part of a land-use designation.

Mr. McGlennon inquired if there had been other instances where a condition was included that required the owner to occupy the house.

Mr. Anderson stated that the condition has not been in other cases.

Mr. Goodson inquired as to why a SUP is needed for the accessory apartment.

Mr. Anderson stated that in the guidelines for land uses, an accessory apartment in an R-1, Limited Residential District requires a SUP.

Mr. Marvin Sowers, Director of Planning, stated that due to the kitchen in the accessory apartment, a SUP is required.

Mr. Anderson stated that only one person is permitted to occupy an accessory apartment.

Mr. Morton stated that without the observation and input from neighbors the item is not easily enforceable.

Mr. McGlennon inquired if through covenants this type of addition could be prohibited.

Mr. Anderson stated that covenants could prohibit such additions.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vance Elkins, applicant, stated that as outlined in the Comprehensive Plan, he is requesting the Board approve his application for a SUP for an accessory apartment that meets HUD standards so a potential HUD recipient could move into the site, stated that he has listened to the objections of his neighbors,

and he finds his request to be in keeping with all County and Planning Commission requirements therefore requests the Board approve the SUP.

Mr. Harrison inquired if the possible tenant's HUD certificate has expired.

Mr. Elkins stated that the certificate was about to expire, but the individual found housing out of the County prior to the expiration.

2. Ms. Ann Lambert, 115 Gatehouse Boulevard, stated that the neighborhood is peaceful, that the single-family homes are not intended to be apartments, and requested the Board deny the request.

3. Mr. Mike Hansen, 113 Smokehouse Lane, stated opposition to the permit, stated concern that the SUP would set a precedent for other accessory apartments, and requested the Board protect neighborhoods that do not have Homeowner Associations and covenants.

4. Mr. David Dudley, 102 Smokehouse Lane, requested the Board deny the SUP application that would lower the property values, change the character of the neighborhoods, and stated that a petition has been signed by neighbors in opposition to the application. Mr. Dudley requested those in opposition to the issuance of the SUP to stand.

Members of the audience opposed to the SUP stood.

5. Mr. Jim Connolly, 6 Guesthouse Court, stated concern about the impact the approval of the SUP application would have on the character of the neighborhood.

6. Mr. David Volz, 4724 Williamsburg Glade, stated that the surrounding neighborhoods are concerned about the impact the proposed SUP application would have on their neighborhoods, and recommended that perhaps the Comprehensive Plan should be reviewed to protect neighborhoods.

7. Ms. Kim Morton, 2 Guesthouse Court, stated that the neighbors are not concerned about HUD tenants but rather they are concerned about the neighbors being responsible for enforcing the SUP conditions and that they are not prepared to police the permit, and requested the Board deny the permit and allow the neighborhood to remain single-family dwellings.

8. Mr. Kevin Cooke, 110 Smokehouse Lane, stated that he has worked hard for his vehicles, home, and family and is concerned only with preserving the character of the neighborhood.

9. Ms. Karen Little, 118 Smokehouse Lane, stated concern for the preservation of subdivisions with modest homes and affordable neighborhoods, and requested the Board not take affordable homes off the market for apartments.

As no one else wished to speak, Mr. Kennedy closed the Public Hearing.

The Board held a discussion regarding the short history the applicant has in the neighborhood, difficult to enforce conditions in the SUP, and desire to preserve affordable neighborhoods and not see them become apartments.

Mr. McGlennon made a motion to deny the application.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

Mr. Kennedy recessed the Board for a brief break at 8:40 p.m.

Mr. Kennedy reconvened the Board at 8:50 p.m.

3. Case No. SUP-18-02. Wellspring United Methodist Church Adult Day Care Center

Mr. Christopher M. Johnson, Planner, stated that Linda Tompkins has applied on behalf of Wellspring United Methodist Church, for a special use permit (SUP) for an adult day care center out of the Wellspring United Methodist Church located on approximately six acres zone R-2, General Residential, at 4871 Longhill Road, further identified as Parcel No. (1-31) on the James City County Real Estate Tax Map No. (32-4).

Staff found the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan.

At its meeting on November 4, 2002, the Planning Commission unanimously recommended approval of the application.

Staff recommended the Board approve the application with conditions.

Mr. Harrison inquired if the enrollment capacity was adequate to accommodate future expansion of the Center.

Mr. Johnson stated that the applicant is expecting to enroll 30 people, so the capacity of 36 would allow for the program to grow.

Mr. Harrison inquired if the structure permitted expansion of the Center.

Mr. Johnson stated that the Center has more than adequate space to expand above the 30 adults.

Mr. Kennedy opened the Public Hearing.

1. Rev. Margaret Kutz, 109 Lexington Drive, stated that the Center offers a ministry and partnership opportunity to provide educational space and meet the needs of the community in adult day care and hopes it will become a model for other groups to follow.

2. Ms. Lynne Warner, 3837 Cluster Way, stated that she will run the Center, which will be a place for seniors to visit while their caregivers tend to errands or other activities.

As no one else wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Harrison stated support for the assistance the Center will give to citizens.

Mr. Harrison made a motion to adopt the resolution.

Mr. McGlennon stated support for the partnership initiative to address the needs of the County's citizens.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

RESOLUTION

CASE NO. SUP-18-02. WELLSRING UNITED METHODIST CHURCH

ADULT DAY CARE CENTER

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Adult day care centers are a specially permitted use in the R-2, General Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 4, 2002, recommended approval of Case No. SUP-18-02 by a vote of 7-0 to permit the operation of an adult day care center out of the existing church building at 4871 Longhill Road and further identified as Parcel No. (1-31) on James City County Real Estate Tax Map No. (32-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-18-02 as described herein with the following conditions:

1. This special use permit shall be valid only for the operation of an adult day care center, as defined by the zoning ordinance, within the existing church building, limited to the hours of operation of 7:00 a.m. - 6:00 p.m., and limited to an enrollment capacity of 36 adults maximum.
2. Operation of the adult day care center shall comply with all State and local codes, requirements and regulations.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
4. Case No. ZO-3-02. Chapter 24 Zoning Ordinance Amendment: Planning Commission Case Review Period

Mr. Marvin Sowers, Planning Director, stated that under the current 90-day review period for rezoning, special use permit (SUP) cases, and ordinance amendments the number of monthly meetings the Planning Commission has to defer a specific case varies from month to month. The Commission recommended the review period be changed to 100 days to allow for each case to have three meetings for which the Planning Commission can consider a case.

Mr. Sowers stated that the Commission spoke with local attorneys, local engineering and planning firms, and the Peninsula Home Builders Association to get their opinion about the proposed change and received feedback that indicated they did not see a problem with the amendment.

At its meeting on November 4, 2002, the Planning Commission recommended approval of the Ordinance by a vote of 7-0.

Staff recommended approval of the amendment to Section 24-13 of the Zoning Ordinance increasing the Planning Commission's review period from 90 to 100 days.

Mr. Morton stated that the County was the initiator that took the provision for longer review periods to the State and met with no oppositions at that time.

Mr. Brown commented that by practice he could not support administrative delays, but did see justification in the equity of this consideration and would support this extension, however he cautioned against this action taking a precedent for other administrative delays.

Mr. Kennedy opened the Public Hearing.

1. Mr. Charlie Crawford, owner of Charlie's Antiques in Toano, stated concern regarding the proposal and requested the County first address the need to develop a guide or program to assist new applicants through the review process so there are less failures of new applications, then move forward with the administrative delay policy.

As no one else wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. McGlennon made a motion to adopt the Ordinance.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

5. Case No. AFD-6-86. Cranston's Pond Agricultural and Forestal District – Marston Addition

Mr. David Anderson, Planner, stated that during the 1998 renewal period for the Cranston's Pond Agricultural and Forestal District, the property owner, Mr. George Marston chose not to renew a 14-acre parcel zoned R-1, Limited Residential, and located approximately 1,000 feet from the end of Bush Springs Road, further identified as Parcel No. (1-34) on the James City County Real Estate Tax Map No. (22-2) in the Agricultural and Forestal District (AFD).

Mr. Marston now wishes to place the property back into the AFD.

At its meeting on October 23, 2002, the Agricultural and Forestal District Advisory Committee voted 6-0 to recommend approval of the addition.

At its meeting on November 4, 2002, the Planning Commission voted 7-0 to recommend approval of the addition.

Staff recommended the Board approve the Marston addition in to the Cranston's Pond AFD subject to the conditions of the existing Cranston's Pond AFD.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution for the Marston addition.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

6. Case No. AFD-9-86. Gordon Creek Agricultural and Forestal District – Kane Addition

Mr. David Anderson, Planner, stated that during the 2002 renewal period of the Gordon Creek Agricultural and Forestal District (AFD), Mr. William Kane inadvertently withdrew 164.33 acres zoned A-1, General Agricultural, and R-6, Low-Density Residential, identified as Parcel Nos. (1-3), (1-7), (1-7), (1-1), and (1-2) on the James City County Real Estate Tax Map Nos. (29-4), (30-3), (35-2), (36-1), and (36-1) respectively, from the AFD. Upon realizing this mistake, Mr. Kane contacted the County and requested the addition of his property back into the AFD.

At its meeting on October 23, 2002, the AFD Advisory Committee voted 6-0 to recommend approval of the addition.

At its meeting on November 4, 2002, the Planning Commission voted 7-0 to recommend approval of the addition.

Staff recommended the Board approve the Kane addition into the Gordon Creek AFD subject to the conditions of the existing Gordon Creek District.

The Board and staff discussed the renewal notification papers for AFDs and need to review the documents to avoid such mistakes in the future.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

I. PUBLIC COMMENT

1. Mr. Richard Locke, 108 Clara Croker, stated that the County subscribers to Cox that are unhappy with the service or quality of signal levels are not powerless to get Cox's standards up to FCC regulatory levels and recommended the County and citizens should review the FCC regulations and take action through the FCC of enforcing the regulations.

2. Mr. Ed Oyer, 139 Indian Circle, stated that the focus for a new high school facility should not be on sports but rather on trade skills so graduates can be successful in finding a job.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that the Board recess for a James City Service Authority Board of Directors meeting then reconvene to Open Session to go into Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the acquisition of a parcel of property for public use, then recess the Board until 4 p.m. on January 2, 2003, for a Public Hearing prior to the Organizational Meeting.

K. BOARD REQUESTS AND DIRECTIVES

The Board wished all happy holidays.

Mr. Kennedy thanked the Board and staff in supporting him as Chairman this year and stated that it was a good year and that it was a good experience.

Mr. Harrison requested citizens and staff remember those who will be away from their homes over the holidays as they protect our freedom.

Mr. Harrison commented that the Golden Corral located on By-Pass Road will be offering a free Christmas dinner on December 24 from noon to 2 p.m.

Mr. Kennedy recessed the Board at 9:23 p.m. for a JCSA Board of Directors meeting.

Mr. Kennedy reconvened the Board into Open Session at 9:26 p.m.

L. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the acquisition of a parcel of property for public use.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

Mr. Kennedy convened the Board into Closed Session at 9:27 p.m.

Mr. Kennedy reconvened the Board into Open Session at 9:36 p.m.

Mr. Harrison made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed or considered by the Board as were identified in the

motion and Section 2.1-344(A)(3) to consider the acquisition of a parcel of property for public use.

M. ADJOURNMENT

Mr. Goodson made a motion to adjourn until 4 p.m. on January 2, 2003.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY:
(0).

Mr. Kennedy adjourned the Board at 9:37 p.m. until 4 p.m. on January 2, 2003.

Sanford B. Wanner
Clerk to the Board

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AT AN ORGANIZATION MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 2ND DAY OF JANUARY, 2003, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PUBLIC COMMENT - None

C. PUBLIC HEARINGS

1. Lease Agreement – James City-Bruton Volunteer Fire Department

Chief Richard M. Miller, Fire Department, stated that the existing lease of the County-owned property for use by the James City-Bruton Volunteer Fire Department expires in 2005. The volunteers requested an early renewal of the lease in order to invest in building improvement and enhancements.

Staff recommended approval of the resolution authorizing the County Administrator to execute the lease agreement.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak to this matter, Mr. Kennedy closed the Public Hearing.

Mr. Brown made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

RESOLUTION

LEASE AGREEMENT JAMES CITY-BRUTON VOLUNTEER FIRE DEPARTMENT

WHEREAS, the Board of Supervisors of James City County has been requested to approve a lease agreement between the County of James City and the James City-Bruton Volunteer Fire Department, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a lease agreement between James City County and the James City-Bruton Volunteer Fire Department, Inc.

2. Ordinance – Outdoor Water Use

Mr. Larry M. Foster, General Manager of the James City Service Authority, stated that Governor Warner has lifted his Executive Order 33 on water restrictions.

Mr. Foster stated that on November 12, 2002, the Board of Supervisors approved an Emergency Ordinance repealing Ordinance No. 196A-1 and recommended the Board adopt the Ordinance to repeal Ordinance No. 196A-1 as it has been duly advertised.

Mr. McGlennon inquired as to when staff will be presenting the Board with the recommended rate changes.

Mr. Foster stated that staff anticipates bringing forward an Ordinance to the Board at its meeting on February 25, 2003.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak to this matter, Mr. Kennedy closed the Public Hearing.

Mr. Goodson made a motion to adopt the Ordinance.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

D. ORGANIZATIONAL MEETING

Mr. Kennedy requested nominations for Chairman 2003.

Mr. Goodson nominated Mr. Harrison for Chairman 2003.

As there were no other nominations, Mr. Goodson made a motion to elect Mr. Harrison as Chairman for 2003.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

Mr. Harrison requested nominations for Vice Chairman.

Mr. Brown made a motion to elect Mr. Goodson as Vice Chairman.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

Mr. McGlennon made a motion to adopt the Organizational Meeting of the Board of Supervisors Resolution and the Board of Supervisors calendar as amended.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

RESOLUTION

ORGANIZATIONAL MEETING OF THE BOARD OF SUPERVISORS

WHEREAS, the Board of Supervisors of James City County, Virginia, is required by State law to organize at the first meeting in January.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following rules shall apply for the Year 2003:

1. Regular meetings of the Board shall be held as shown on the attached 2003 calendar, in the Board Room of the James City County Government Center. The meeting time shall be 7:00 p.m.

Work session meetings of the Board shall be held at 4:00 p.m., Tuesday before the second regular meeting in the Board Room of the James City County Government Center.
2. The Board shall for parliamentary purposes follow Robert's Rules of Order and more specifically those provisions which pertain to the conduct of Business in Boards, Newly Revised, 1981 at p. 404 as follows; provided, however, the Board may amend by Resolution the Rules as it deems appropriate. The following rules shall apply:
 - a. Members are not required to obtain the floor before making motions or speaking, which they can do while seated.
 - b. Motions need not be seconded.
 - c. There is no limit to the number of times a member can speak to a question, and motions to close or limit debate generally should not be entertained.
 - d. Informal discussion of a subject is permitted while no motion is pending.
 - e. The Chairman can speak in discussion without leaving the chair; and can make motions and votes on all questions.
3. In addition, the Board agrees to the following:

- a. A motion to rescind shall not be in order in a land use decision involving a rezoning or a special use permit. A motion to reconsider such a decision must be made at the same meeting the decision is made by the Board.
- b. Should it be necessary to cancel an advertised Board of Supervisors meeting due to weather or other conditions, the meeting shall be continued forty-eight hours to the same time and place.

Mr. Morton recommended the request that the Board carry out the annual organization of the James City County Transit Company Stockholders and elect its Board of Directors, President, and Secretary/Treasurer for the year of 2003.

Mr. Harrison asked for nominations for the James City County Transit Company President.

Mr. Kennedy made a motion to elect Mr. McGlennon as the Transit President, and Mr. Conyers as Secretary.

There being no other nominations, on a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

Mr. Harrison recessed the Board for the organizational meeting of the James City County Transit Company and Stockholders at 4:08 p.m.

Mr. Harrison reconvened the Board at 4:10 p.m.

The Board and staff held a discussion concerning member's appointments to Boards and Commissions.

Mr. Kennedy made a motion to appoint the Board members to the following Boards and Commissions:

Agricultural and Forestal District Advisory Committee	James G. Kennedy
Community Action Agency Board of Directors	Michael J. Brown/Anthony Conyers, Jr., Alternate Bruce C. Goodson/George Drummond, Alternate Jay T. Harrison, Sr./Walter Taylor, Alternate James G. Kennedy/John Filichko, Alternate
Community Services Coalition Board of Directors	Jay T. Harrison, Sr.
Farmers Advisory Committee	James G. Kennedy
Hampton Roads Planning District Commission	Bruce C. Goodson Sanford B. Wanner, Executive Committee
High Growth Coalition	John J. McGlennon Bruce Goodson, Alternate
Historical Commission	Michael J. Brown

Industrial Development Authority Liaison	Michael J. Brown
Local Emergency Preparedness	James G. Kennedy
Peninsula Alliance for Economic Development	Jay T. Harrison, Sr.
Peninsula Chamber of Commerce	Bruce C. Goodson
Regional Issues Committee	Jay T. Harrison, Sr.
School Liaison Subcommittee	Jay T. Harrison, Sr., and James G. Kennedy John J. McGlennon, Alternate
Transportation Improvement District Commission	Jay T. Harrison, Sr. James G. Kennedy Michael J. Brown Bruce C. Goodson John J. McGlennon
Virginia Peninsula Regional Jail Authority	Bruce C. Goodson
Williamsburg Area Chamber of Commerce	John J. McGlennon
Williamsburg Area Civic and Cultural Center, Inc.	Michael J. Brown
Williamsburg Area Medical Assistance Corp.	Michael J. Brown
Williamsburg Land Conservancy	John J. McGlennon
Workforce Investment	Jay T. Harrison, Sr. Bruce C. Goodson, Alternate

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

E. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended the Board recess for a Board of Directors, James City Service Authority, Organizational Meeting, following which the Board reconvene into Open Session to go into Closed Session pursuant to Section 2.2-3711 (A) (1) of the Code of Virginia to consider the appointment of individuals to County boards and/or commissions.

F. BOARD REQUESTS AND DIRECTIVES – None

Mr. Harrison recessed the Board at 4:30 p.m.

Mr. Harrison reconvened the Board at 4:32 p.m.

G. CLOSED SESSION

At 4:32 p.m., Mr. Kennedy made a motion to go into Closed Session pursuant to Section 2.2-3711 (A) (1) of the code of Virginia to consider the appointment of individuals to County boards and/or commissions.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

At 4:44 p.m., Mr. Harrison reconvened the Board into Open Session.

Mr. McGlennon made a motion to adopt the Closed Session Resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions.

Mr. Goodson made a motion to appoint Bernard H. Ngo to an unexpired term on the Industrial Development Authority, term to expire on July 22, 2006.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

H. ADJOURNMENT

Mr. McGlennon made a motion to adjourn until 7 p.m. on January 14.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY:
(0).

The Board adjourned at 4:46 p.m.

Sanford B. Wanner
Clerk to the Board

010203bsorg.min

MEMORANDUM

DATE: January 14, 2003
TO: The Board of Supervisors
FROM: Jody Puckett, Communications Director
SUBJECT: Contract Award – Board Room Audiovisual Equipment and Installation

A Request for Proposal (RFP) was solicited from qualified and experienced firms to install audiovisual equipment for the Building F Board Room. The work under this contract will involve the purchase, installation, and wiring of equipment that will include digital equipment to broadcast live meetings, display presentations for Board Room and television audience, and provide in-house and television audio from the facility. Meetings will be recorded for playback as well.

Three firms responded to this RFP, of which one was engaged in individual follow-up discussion. Evaluation criteria consisted of expertise relative to the project including past performance, depth of response, firm's financial responsibility, work schedule, and cost. The Whitlock Group, located in Richmond, Virginia, was deemed to be the first choice. The firm is fully qualified, responsible, and suitable to provide the required services.

The cost for this contract is \$458,103, which is lower than the budget estimate of \$542,300.

Staff recommends adoption of the attached resolution authorizing award of the Board Room Audiovisual Equipment and Installation contract to the Whitlock Group.

Jody Puckett

CONCUR:

Carol M. Luckam

JP/tlc
avequip.mem

Attachment

RESOLUTION

CONTRACT AWARD – BOARD ROOM AUDIOVISUAL EQUIPMENT AND INSTALLATION

WHEREAS, the request for proposal has been advertised and evaluated for the board room audiovisual equipment and installation contract; and

WHEREAS, three firms submitted proposals, with The Whitlock Group being determined to be the best qualified and responsive to provide the required services; and

WHEREAS, the Capital Budget contains funding for these improvements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the Board Room Audiovisual Equipment and Installation contract to The Whitlock Group in the amount of \$458,103.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of
January, 2003.

avequip.res

MEMORANDUM

DATE: January 14, 2003
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Resolution of Recognition, Dr. J. Blaine Blayton

Dr. J. Blaine Blayton, physician and community leader, died December 15, 2002. Dr. Blayton was the first African-American doctor to set up practice in the Williamsburg area and the first to build and operate a hospital for African-Americans. Additionally, Dr. Blayton was a civic leader raising money for the construction of Williamsburg Community Hospital and Quarterpath Park. He served on the James City County School Board, served as the Director of Health and Safety for the Boy Scouts, served on the Virginia State Board of Medical Examiners, and was a life member of the National Association for the Advancement of Colored People.

Staff recommends the adoption of the attached resolution honoring Dr. Blayton. The adopted resolution will be presented to Dr. Blayton's family at the memorial service to be held February 8.

William C. Porter, Jr.

WCP/adw
blayton.mem

Attachment

RESOLUTION OF RECOGNITION

DR. J. BLAINE BLAYTON

- WHEREAS, Dr. James Blaine Blayton was born in Oklahoma before it became a State and earned both undergraduate and medical degrees from Howard University; and
- WHEREAS, Dr. Blayton moved his medical practice from Newport News to the Greater Williamsburg Area in the midst of the depression and was a resident of the area for more than 70 years; and
- WHEREAS, Dr. Blayton was a pioneer as a physician and a civic activist throughout his distinguished career; and
- WHEREAS, he established the first medical practice, medical clinic, and hospital for African-Americans in the Williamsburg area; and
- WHEREAS, his community leadership helped in the establishment of Quarterpath Park and Williamsburg Community Hospital as well as helped guide the community through the integration of the public schools and other areas of community life; and
- WHEREAS, Dr. Blayton was the first African-American to serve on the James City County School Board and to serve on the Virginia State Board of Medical Examiners; and
- WHEREAS, his pioneering efforts had a significant impact on the quality of life of our community and resulted in the Williamsburg Community Health Foundation selecting him as one of three original Health Care Heroes; and
- WHEREAS, Dr. James Blaine Blayton passed away on December 15, 2002, at the age of 97 after a lifetime of service to mankind.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, expresses its condolences to the Blayton family on behalf of a grateful community and adds its voice to those who honor and acknowledge Dr. James Blaine Blayton as a true pioneer, gentleman, and Health Care Hero.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of January, 2003.

blayton.res

MEMORANDUM

DATE: January 14, 2003
TO: The Board of Supervisors
FROM: Diana F. Hutchens, Director of Social Services
SUBJECT: Colonial Area Family and Intimate Partner Violence Fatality Review Team

The Colonial Area Council on Domestic Violence is in the process of establishing a regional Family and Intimate Partner Violence Fatality Review Team pursuant to Section 32.1-283.3 of the Code of Virginia.

The purpose of the family and intimate partner violence fatality review is to take a thoughtful, nonjudgmental look at the events leading up to a family violence fatality. These reviews are also an important tool for the identification of service gaps in a system's response to family violence. They also serve to identify critical points of intervention and provide a forum for increasing communication and collaboration among those who respond to such fatalities. The Team will operate under the assumption that all persons and agencies involved care deeply about preventing violence within the family and operate in good faith, using the best judgment and information available.

The Colonial Area Council on Domestic Violence has requested support from agencies that are a part of the community response to domestic violence in our community. The Council has requested representation by the James City County Chief of Police, the Director of Social Services, and the Director of Colonial Community Corrections or their designees. These County representatives are in support of this initiative and have agreed to serve on the Team.

Staff recommends approval of the attached resolution.

Diana F. Hutchens

CONCUR:

Anthony Conyers, Jr.

DFH/gs
violencerev.mem

Attachment

RESOLUTION

COLONIAL AREA FAMILY AND INTIMATE PARTNER VIOLENCE

FATALITY REVIEW TEAM

WHEREAS, family and intimate partner violence has destructive consequences upon individuals and families within our area; and

WHEREAS, the General Assembly enacted Section 32.1-283.3 of the Code of Virginia, 1950, as amended, to permit localities to establish a family violence fatality review team to examine fatal family violence incidents; and

WHEREAS, the Colonial Area Council on Domestic Violence is establishing a regional Family and Intimate Partner Violence Fatality Review Team.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that James City County joins the Colonial Area Family and Intimate Partner Violence Fatality Review Team and pursuant to Virginia Code Section 32.1-283.3, the Chief of Police and the Director of Social Services, or their designee, be and hereby are appointed to the Colonial Area Family and Intimate Partner Violence Fatality Review Team.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of January, 2003.

violrevteam.res

MEMORANDUM

DATE: January 14, 2003
TO: The Board of Supervisors
FROM: John E. McDonald, Manager, Financial and Management Services
SUBJECT: Pre-Budget Public Hearing - FY 2004 Budget

The purpose of this public hearing is to invite comments and suggestions from citizens for the County budget for the fiscal year beginning July 1, 2003, and ending June 30, 2004 (FY 2004). The FY 2004 budget was adopted by the Board for planning purposes last year as part of the County's biennial budget process. The comments and suggestions made at this pre-budget public hearing will help guide us in making any adjustments to the adopted FY 2004 budget and preparing a budget proposal for the Board's review in April. We are not asking that the Board take any action at this time.

John E. McDonald

JEM/gs
pubhrrng04.mem

**SPECIAL USE PERMIT-20-02. Nationwide Transmission Auto Sales
Staff Report for January 14, 2003, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Building C Board Room; County Government Complex
Planning Commission: December 2, 2002 - 7:00 p.m.
Board of Supervisors: January 14, 2003 - 7:00 p.m.

SUMMARY FACTS

Applicant: Henry Gregory

Land Owner: JL HC, LLC of Virginia

Proposed Use: Allow for the sale of cars from the parking lot of the existing Nationwide Transmission business

Location: 7211 Merrimac Trail; Roberts District

Tax Map and Parcel No.: (41-4)(1-7A)

Primary Service Area: Inside

Parcel Size: 0.50 acres

Existing Zoning: B-1, General Business

Comprehensive Plan: Community Commercial

Surrounding Zoning: North, South, and West: B-1, General Business
East (directly across Merrimac Trail and South): B-1, General Business
East (across Merrimac Trail and heading north): R-2, General Residential

Staff Contact: David Anderson - Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal to be compatible with the surrounding zoning and development, and consistent with the Community Commercial designation of the Comprehensive Plan. The proposed conditions will mitigate any adverse impacts of this operation. At the December 2, 2002, public hearing, the Planning Commission voted 7-0 to recommend approval of the application.

Project Description

Mr. Henry Gregory, owner and operator of Nationwide Transmission, has applied for a special use permit to allow for the sale of cars from the parking lot of his transmission business located at 7211 Merrimac Trail. No new construction is proposed in conjunction with this proposal. Car sales will be a secondary use while the transmission business will remain the primary use of the property. A maximum of 20 cars are proposed to be displayed for sale at any given time.

Physical Features

The property fronts on Merrimac Trail and access is limited to a single entrance/exit. The Nationwide Transmission Business occupies a 4,000-square foot single-story building. Adjacent to the building is a large fenced in area for storage related to the transmission business. The site has a large paved area for parking that will accommodate the proposed maximum of 20 cars for sale. The cars for sale will be located at the corner of the parking lot opposite the building (see attached physical survey of site).

Surrounding Zoning and Development

Neighboring the site on either side and to the rear is property zoned B-1, General Business, as is the property directly across Merrimac Trail and to the south. Property across Merrimac Trail and to the north is zoned R-2, General Residential, consisting of single-family homes in the James Terrace subdivision. Staff believes the car sales operation is consistent with the surrounding B-1 zoning and compatible with the R-2 zoning, given the small scale of the proposed use and nature of the existing uses. The car sales operation will not substantially change the character of the property and will result in a minimal amount of additional traffic. To minimize any negative impacts to the residents of James Terrace, staff has added conditions to the special use permit which call for additional landscaping on the property, exterior improvements to the building and a new fence - all of which should result in a visually more attractive business. Staff has also added conditions prohibiting any additional lighting of the vehicles, flags, banners, bull horns, and any other potentially visually or audibly negative means for advertising the car sales operation. The conditions limit advertisement to an additional sign below the existing pole mounted sign advertising the transmission business and windshield signs for the vehicles to be sold.

Comprehensive Plan Designation

This site is designated Community Commercial in the Comprehensive Plan. General business activities, located within the PSA and usually having a moderate impact on nearby development, are designated Community Commercial. Staff feels that this proposal has a minimal impact on nearby development and thus fits within the character of the Community Commercial designation in the Comprehensive Plan.

Although not a Community Character Corridor, Route 143 is an important entry point into the County and Williamsburg. As such, the adjoining land uses play an important part in visitors and citizens perceptions of the community. Most of the developments in the City and County were constructed prior to the current landscaping requirements. Both private and public landscaping (street trees) and beautification efforts have significantly improved the visual quality of this portion of Route 143 within the City. The applicant is proposing several improvements to the site, including replacing an existing wooden fence which is in a state of disrepair and brick facing the building. Staff is also recommending a condition requiring street trees and other landscaping to improve the appearance of the site and the corridor. As noted above, conditions addressing advertising have also been included. These conditions are consistent with a strategy in the Comprehensive Plan which states, "encouraging beautification of existing development to improve the overall visual quality of the County."

RECOMMENDATION

Staff finds this proposal to be compatible with the surrounding zoning and development, due to the minimal amount of potential traffic generated and the mitigation of any potential adverse impacts of the car sales operation through the attached conditions. Staff also finds that this proposal is consistent with the Comprehensive Plan and recommends the Board of Supervisors approve this special use permit application with the attached conditions. At the December 2, 2002, public hearing, the Planning Commission voted 7-0 to recommend approval of the application.

1. If the front of the building is to be brick faced as the applicant has proposed, the brick shall be of a natural brick color and the siding on the remainder of the building shall be of a compatible color as approved by the Planning Director.
2. The existing building face sign (under the current Nationwide Transmission building face sign) shall be removed. If the front of the building is not to be brick faced, the siding in that location shall be repaired.
3. A new fence shall be erected to replace the existing fence that screens the storage area. The new fence shall be wooden, a natural wood color, a design and height to screen the storage area from Route 143, and shall be approved by the Planning Director.
4. A landscape area, to be approved by the County landscape planner, shall be planted adjacent to the right-of-way and shall consist at a minimum of three deciduous shade trees and 12 shrubs.
5. Except as provided for in Condition No. 6, freestanding signage to advertise the car sales shall be limited to one pole mounted sign located on the existing freestanding sign pole below the existing sign advertising the transmission business. Any new freestanding sign to replace the existing freestanding pole sign shall be approved by the Planning Director.
6. Additional advertising for the car sales shall be limited to windshield displays in the vehicles to be sold. No banners, additional lighting, bull horns, loudspeakers, open hoods, or any additional means of advertising the cars to be sold shall be utilized.
7. With the exception of one American flag and one State of Virginia flag, not to exceed 12 square feet each; no flags shall be permitted.
8. The car sales operation shall be limited to the hours between 8 a.m. to 8 p.m., Monday through Saturday.
9. The cars for sale shall be parked in the existing paved parking area on the property.
10. A maximum of 20 cars may be displayed at a time.
11. The car sales operation shall commence within 18 months, or the permit shall become void.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

David Anderson

CONCUR:

O. Marvin Sowers, Jr.

DA/gs
nationwide.wpd

Attachments:

1. Minutes from the December 2, 2002, Planning Commission
2. Site Location Map
3. Physical Survey of Site
4. Resolution

RESOLUTION

NATIONWIDE TRANSMISSION AUTO SALES (SUP-20-02)

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Mr. Henry Gregory, owner and operator of Nationwide Transmission, has applied for a special use permit to allow for the sale of cars from the parking lot of his transmission business located at 7211 Merrimac Trail; and

WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as Parcel No. (1-7A) on James City County Real Estate Tax Map No. (41-4); and

WHEREAS, the Planning Commission, following its public hearing on December 2, 2002, recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-20-02 as described herein with the following conditions:

1. If the front of the building is to be brick faced as the applicant has proposed, the brick shall be of a natural brick color and the siding on the remainder of the building shall be of a compatible color as approved by the Planning Director.
2. The existing building face sign (under the current Nationwide Transmission building face sign) shall be removed. If the front of the building is not to be brick faced, the siding in that location shall be repaired.
3. A new fence shall be erected to replace the existing fence that screens the storage area. The new fence shall be wooden, a natural wood color, a design and height to screen the storage area from Route 143, and shall be approved by the Planning Director.
4. A landscape area, to be approved by the County Landscape Planner, shall be planted adjacent to the right-of-way and shall consist at a minimum of three deciduous shade trees and 12 shrubs.
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9. The cars for sale shall be parked in the existing paved parking area on the property.
10. A maximum of 20 cars may be displayed at a time.
11. The car sales operation shall commence within 18 months, or the permit shall become void.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

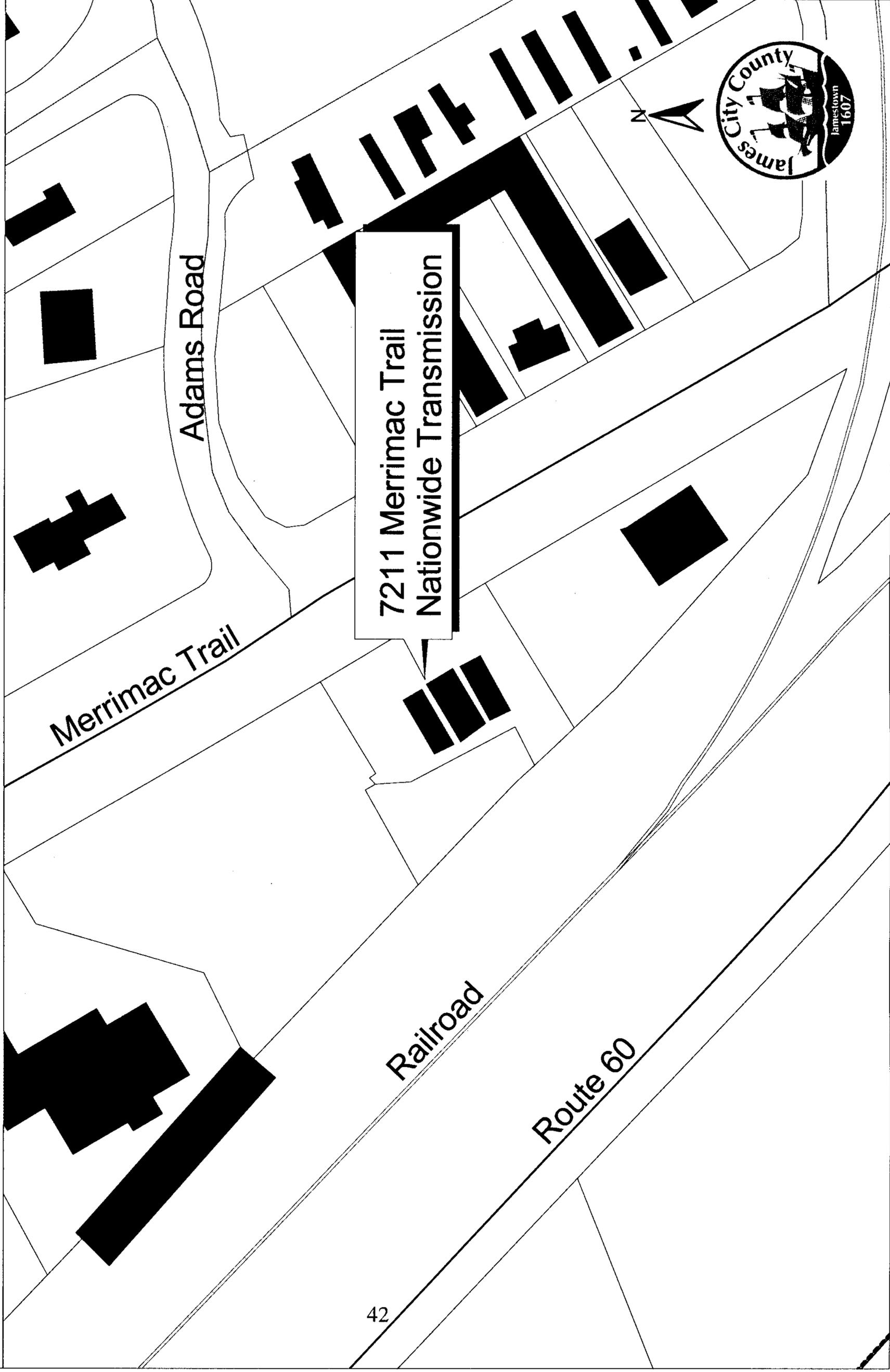
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of January, 2003.

sup20-02.res

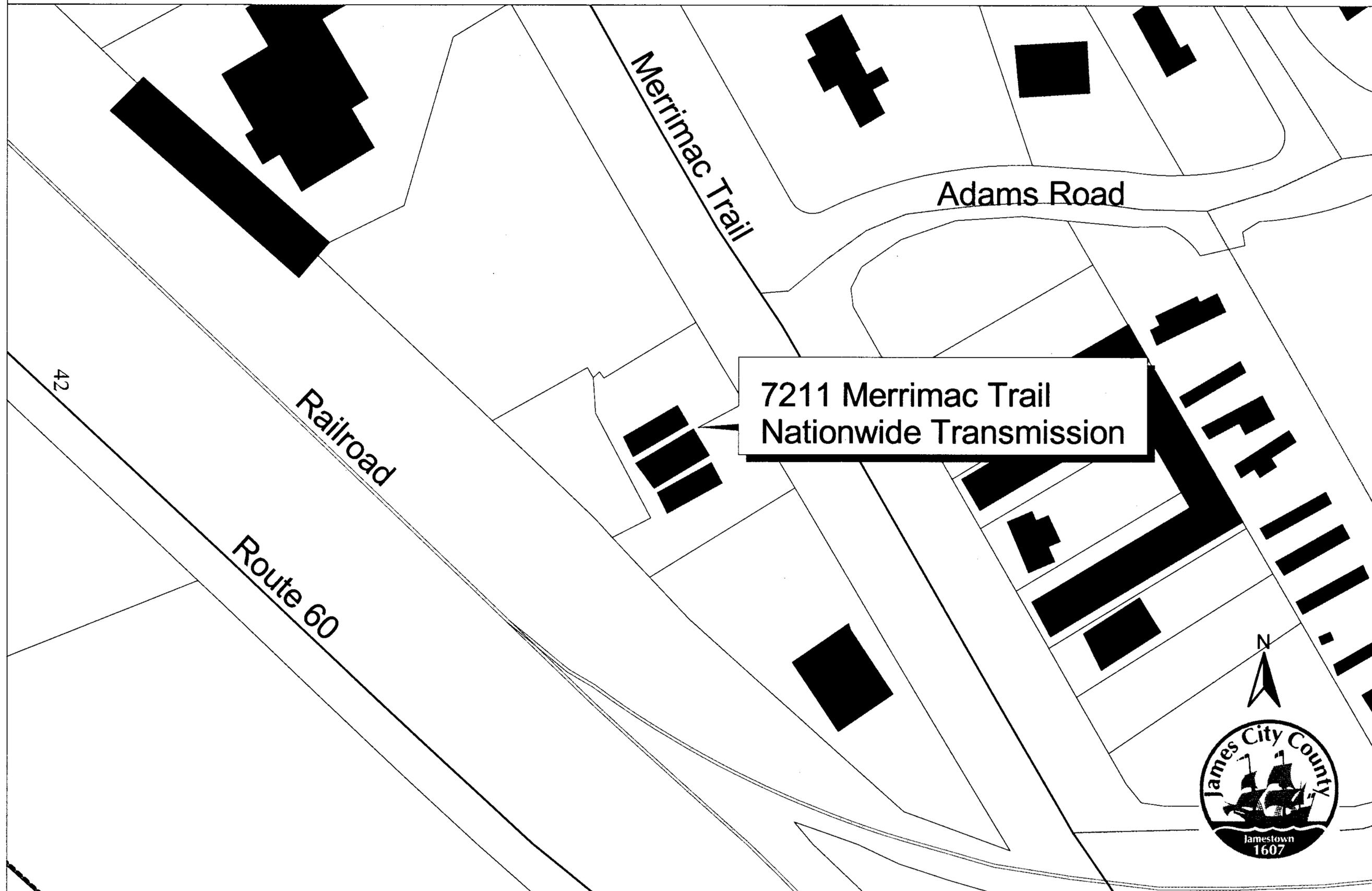
Case Number: SUP-20-02

Case Title: Nationwide Transmission and Auto Sales



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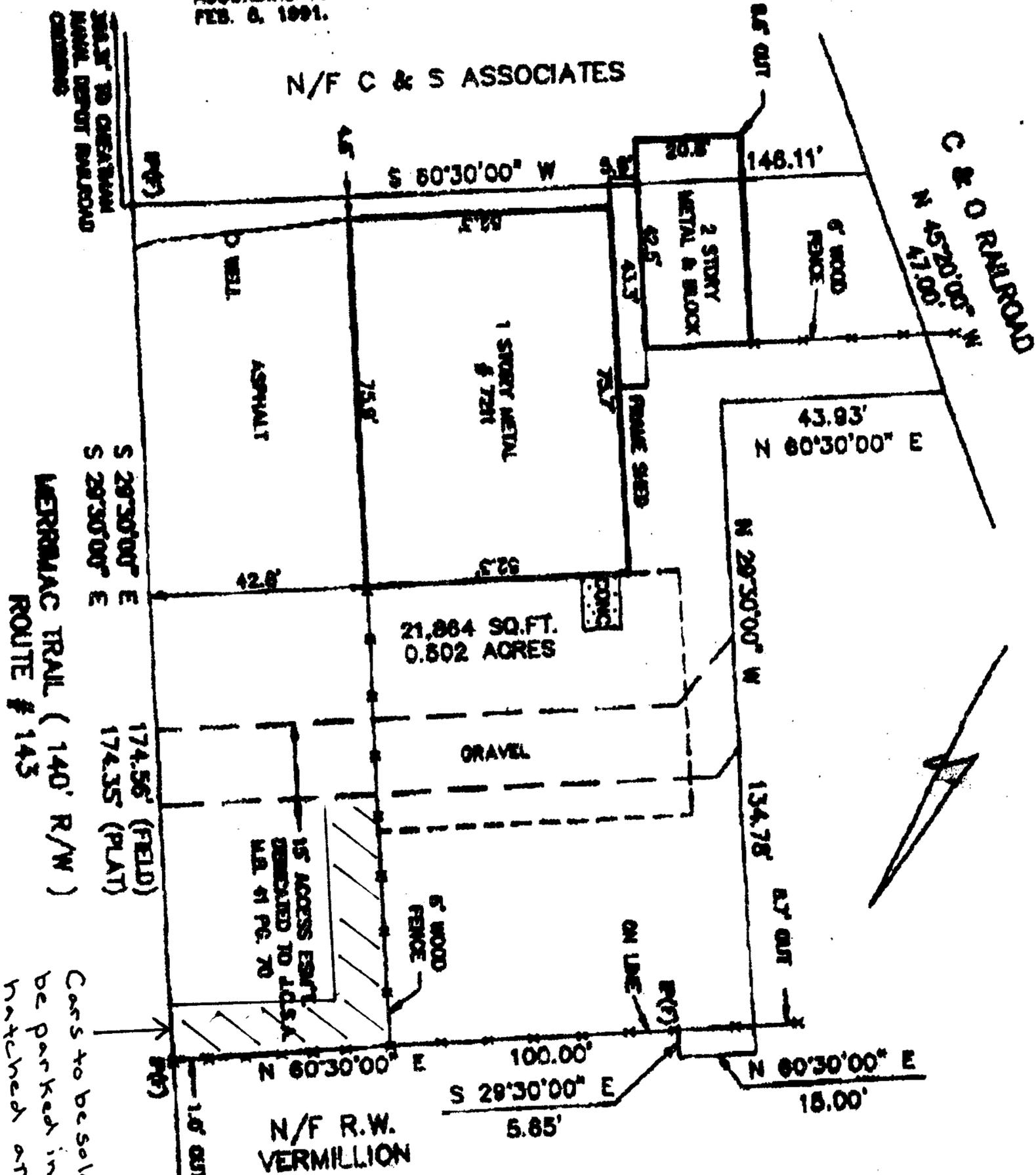


THIS IS TO CERTIFY THAT I, ON 6-5-97, SURVEYED THE PROPERTY SHOWN HEREON, AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE AS SHOWN HEREON. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

SIGNED: *[Signature]*

NOTE: THE PROPERTY SHOWN HEREON APPEARS TO LIE IN "C" FLOOD ZONE ACCORDING TO F.E.M.A. MAP PANEL NO. 510201-00508, REVISED FEB. 8, 1991.

N/F C & S ASSOCIATES



Cars to be sold will be parked in the hatched area

PHYSICAL SURVEY OF
 7211 MERRIMAC TRAIL
 AS SHOWN ON PLAT TO ACCOMPANY A
 BOUNDARY LINE ADJUSTMENT BETWEEN THE PROPERTIES OF
 CHARLES E. MORRELL AND JAMES CITY COUNTY BOARD OF SUPERVISORS
 ROBERTS DISTRICT
 JAMES CITY COUNTY VIRGINIA

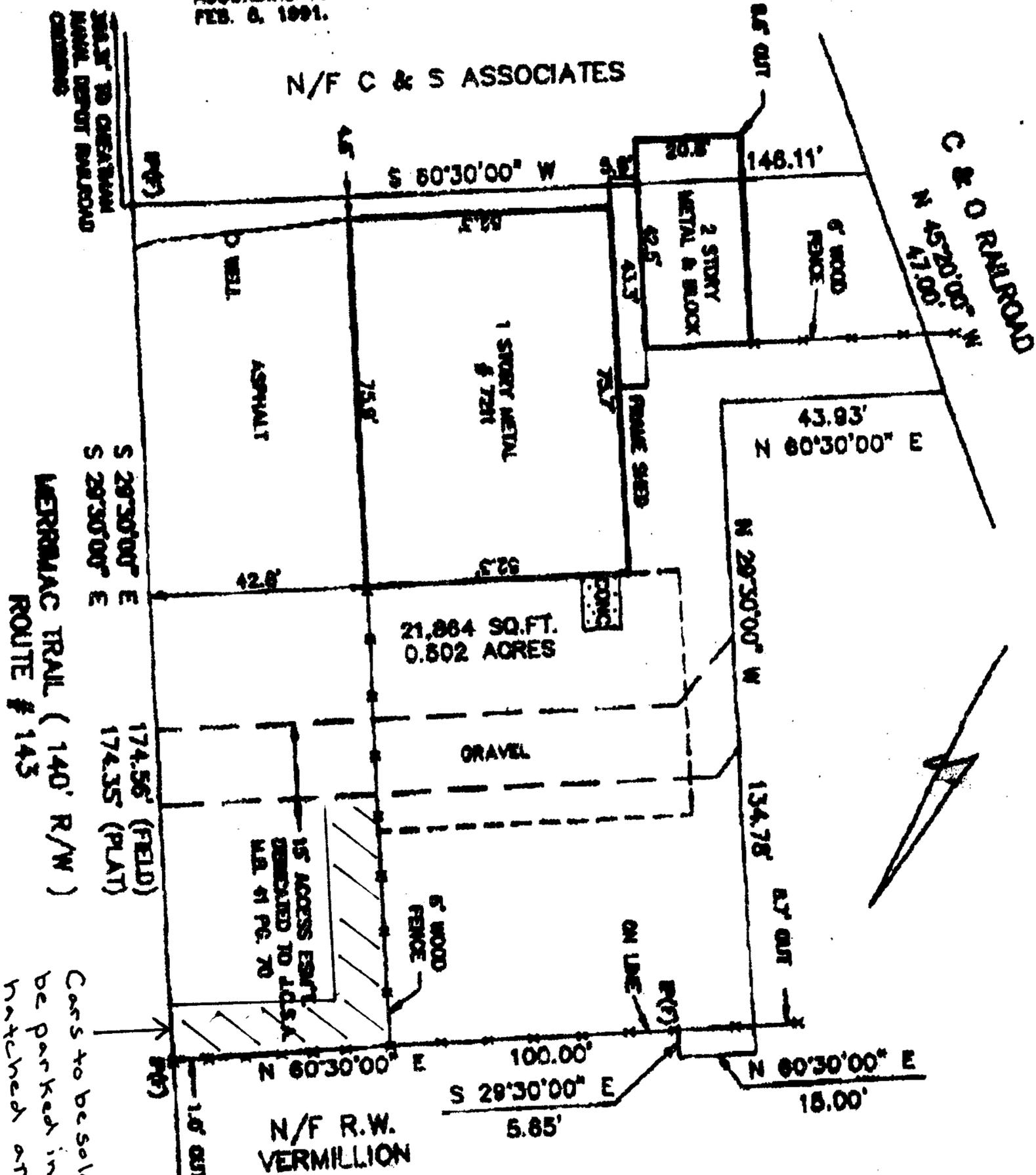
line purpose of this species is to be used in the sale of cars from the property. No new construction is proposed in conjunction with this proposal - car sales will be a secondary use while the transmission business will remain the primary use. A maximum of 20 cars are proposed to be displayed for sale at any given time.

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UNAPPROVED MINUTES TO THE DECEMBER 2, 2002, PLANNING COMMISSION MEETING

CASE NO. SUP-20-02 NATIONWIDE TRANSMISSION AUTO SALES

Mr. David Anderson presented the staff report. He stated that Mr. Henry Gregory, owner and operator of Nationwide Transmission, has applied for a special use permit to allow for the sale of cars from the parking lot of his transmission business located at 7211 Merrimac Trail. No new construction is proposed. Car sales will be a secondary use while the transmission business will remain the primary use of the property. A maximum of 20 cars are proposed to be displayed for sale at any given time. Staff finds this proposal to be compatible with the surrounding zoning and development, due to the minimal amount of potential traffic generated and the mitigation of any potential adverse impacts of the car sales operation through the attached conditions. Staff also finds that this proposal is consistent with the Comprehensive Plan and recommends the Planning Commission approve this special use permit application with conditions.

Mr. Wilford Kale had questions about new construction and about condition number six. He was concerned about flags not being permitted, since that would include the American flag.

A discussion ensued about the issue, with Mr. Leo Rogers providing legal guidance.

Both Mr. Wilford Kale and Mr. Joseph McCleary concluded condition number six should have the word "flags" deleted from it, since it was a freedom of speech issue.

Mr. Joe Poole, III, opened up the public hearing.

Mr. Henry Gregory, the applicant, explained that he expects this to be a low key operation, and has the added bonus of getting the business site fixed up. He also noted with the down economy, he needs another way to bring in business.

Mr. Joseph McCleary asked Mr. Gregory what the timeframe would be in regards to fixing the fence and the building.

Mr. Henry Gregory replied 60 days.

There being no further questions, Mr. Joe Poole, III closed the public hearing.

Mr. Joseph McCleary recommended approval with the adjustment of condition number six, deleting the word "flags".

Mrs. Peggy Wildman seconded.

In a roll call vote, motion passed (5-0). AYE: Wildman, McCleary, Kale, Billups, Poole (5); NAY: (0).