

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF APRIL, 2002, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLLCALL**

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**

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

**C. PLEDGE OF ALLEGIANCE**

Mr. Donald Moore, a ninth grade student at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATIONS**

1. Outstanding Volunteer and Employee Service Awards

Mr. Kennedy and the other Board members presented Outstanding Service Awards to the following: Volunteers and Employees - **Allen** Atkinson, Janet Crowther, Brett Charbeneau, Crystal Clay, **Jenny Payne**, Barry **Trott**, **Roslyn Billups**, Buster **Canaday**, Tony Conyers, Don Davis, in absentia, Greg **Dohrman**, in absentia, **Larry** Foster, Willie Howlett, Rose King, Ken Middlebrook, Linda **Odell**, Genevieve Owens, Bill Porter, and Rona **Vrooman**; Volunteer Teams - Family Mediation Program members: Diane Gilbert, in absentia, Daryl Parks, Eileen **Rodden**, Andrea Trotter, and Donald **Vaden**; the Junior Woman's Club of **Williamsburg** and Dr. **Hardin** Boyer; and Success and Achievement through Mentoring members: Ed and Barbara Anderson, Linda Tompkins, and Richard and Sandra Reid; Employee Volunteer **Teams** - Kevin Floyd, Audra **Jeppson**, Reverend Margaret Kutz, Iris Street, Dr. Barbara B. Richardson, Caroline **Rhodes**, Carol **Schenk**, and Reverend Robert Whitehead; and Roslyn **Billups**, Evangelina Bishop-Crump. Marlene **Blakely**, Anthony Conyers, Renee **Dallman**, Kevin Floyd, in absentia, Doris Heath, in absentia, Diane Jackson, Howard Mason, Windy **McIlvain**, Kelly Morton, Ronnie Nowak, Valerie **Overton**, Tom **Pennington**, Caroline Rhodes, Vicki **Sprigg**, Barbara Watson, Arthur **Mallory**, Jay Harrison, and representing the All-Together Group: Buzz Schmidt and Dr. Baker; Volunteers - **Arlyne Derringe**, Susan **Gootzait**, Henry J. Lewis, in absentia, Nancy **Rivolta**, in absentia, and 1st Sergeant Jerry L. Bristow.

## E. PUBLIC COMMENT

1. Ms. Elizabeth Level, Regional Representative for Senator George Allen, extended an invitation to all citizens to provide input, comments, feedback, and suggestions for Senator **Allen** to her at ~~the~~ James City County Library the third Thursday of each month from 11 a.m. to 1 p.m.

2. Mr. Richard **Bradshaw**, James City County's Commissioner of the Revenue, reminded citizens, businesses, and manufacturers of upcoming tax filing deadlines, deadlines for citizens to apply for the Tax Relief program; and offered the assistance of ~~the~~ Commissioner of ~~the~~ Revenue's office staff in preparing the State tax **forms**.

3. Ms. Penny Pulley, 20 Mile Course, read a **letter** addressed to the **Williamsburg-James** City County School Board regarding the establishment of ~~the~~ Education Forum and invited the Board to attend the forum.

4. Mr. Ed Oyer, 139 Indian Circle, voiced concern that ~~the~~ Grove Interchange did not alleviate the Busch Gardens congestion on Route 60 E.

Mr. Kennedy recognized Don Hunt, member of the Planning Commission, in the audience.

## F. CONSENT CALENDAR

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

Mr. Harrison made a motion to adopt the items on the Consent Calendar.

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

1. Minutes

a. February 26, 2002. Work Session

b. March 26, 2002. Work Session

c. March 26, 2002. Regular Meeting

## G. PUBLIC HEARINGS

1. Case No. AFD-1-98. Barrett's Ferry AFD-2002 Renewal

Mr. David Anderson, Planner, stated that Mr. **Baxter** Bell has applied to renew the four-year term of **Barrett's** Ferry Agricultural and Forestal District of approximately 210 acres, zoned A-I, General Agricultural, located at 1671 John Tyler Highway, further identified as Parcel No. (1-3) on the James City County Real Estate **Tax** Map No. (43-2).

Staff found that the renewal of the Agricultural and Forestal District to be consistent with the **surrounding** zoning and development and consistent with ~~the~~ Comprehensive Plan

The Agricultural and Forestal District Advisory Committee voted 8-0 to recommend approval of the renewal at its meeting on February 21, 2002.

The Planning Commission voted 7-0 to recommend approval of the renewal at its meeting on March 4, 2002.

Staff recommended the Board approve the continuance of the Barrett's Ferry Agricultural and Forestal District for a period of four years with conditions.

Mr. Harrison requested a brief explanation of the Agricultural and Forestal District and the benefits of the District.

Mr. Anderson stated that the District is a voluntary program wherein the landowner offers not to develop their land **for** a set term and as an incentive, receives a **tax** break on the land within the District.

Mr. Kennedy opened **the** public hearing.

As no one wished to speak, Mr. **Kennedy** closed the public hearing.

Mr. Harrison made a motion to adopt the ordinance.

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

ORDINANCE NO. \_\_\_\_\_

**BARRETT'S FERRY AGRICULTURAL AND FORESTAL DISTRICT (AFD-1-98)**

2002 RENEWAL

WHEREAS, the owner of the property comprising ~~the~~ existing 210.49-acre Barrett's Ferry Agricultural and Forestal District has requested to renew the District for a period of four **years**; and

WHEREAS, James City County has completed a review of the **Barrett's Ferry** Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.24314 of the Code of **Virginia**, property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on the continuation of the Barren's Ferry Agricultural and Forestal District: and

WHEREAS, **the** Agricultural and Forestal District Advisory Committee at its February 21, 2002, meeting recommended approval of the application; and

WHEREAS, the Planning Commission, following its public hearing on March 4, 2002, **recommended** approval of the application.

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

1. The Barren's **Ferry** Agricultural and Forestal District is hereby continued for a period of four years beginning the 28th day of April **2002**, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. **seq.**

2. That the District shall include the following parcels:

**(43-2)(1-3)**                      Baxter Bell                      210.49 acres

provided, however, that all land within 50 feet of ~~the~~ existing right-of-way on the south side of Route 5, John Tyler Highway, shall be excluded from the District, and that all land within 25 feet of ~~the~~ existing right-of-way on the **north** side of Route 5, John Tyler Highway, be excluded from ~~the~~ District.

3. That pursuant to the Virginia **Code**, Section 15.2-4312, as amended, the Board of Supervisors requires that no parcel in ~~the~~ **Barrett's Ferry** Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically ~~the~~ following restrictions shall apply.
  - a. The subdivision of land is limited to 25 acres or more, except where ~~the~~ Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided: a) the **subdivision does** not result in ~~the~~ total acreage of the District to drop below **200 acres**; and, b) the **subdivision does** not result in a remnant parcel of less than 25 acres.
  - b. No land within the Barrett's **Ferry** Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District.
  - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State **Code** Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with ~~the~~ County's policies and ordinances regulating such facilities.

2. Case No. **AFD-12-86. Gospel Spreading Church AFD – Mikula Withdrawal**

Ms. **Jill Schmidle**, Senior Planner, stated that Mr. Thomas **Mikula** and Mrs. **Elva Mikula** have applied to withdrawal approximately 22.97 acres from the existing Gospel Spreading Church Agricultural and Forestal District, zoned R-8, Rural Residential, located at 2258 and 2264 Lake Powell Road, **further** identified as Parcel Nos. (1-40) and (1-39) on the James City County Real Estate Tax Map No. (48-3).

Staff found the withdrawal application meets all three criteria for the adopted Board policy regarding the withdrawal of lands from Agricultural and Forestal Districts that are inside the Primary Service Area.

**The Agricultural and Forestal District Advisory Committee voted 8-0 to approve the withdrawal at its meeting on February 21, 2002.**

**The Planning Commission voted 7-0 to approve the withdrawal at its meeting on March 4, 2002.**

Staff recommended the Board approve the withdrawal request.

Mr. Kennedy opened the public hearing.

**As** no one wished to speak, Mr. Kennedy closed the public hearing.

Mr. **McGlennon** made a motion to approve the Ordinance authorizing the withdrawal.

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

**ORDINANCE NO. \_\_\_\_\_**

**GOSPEL SPREADING CHURCH AGRICULTURAL AND FORESTAL DISTRICT**

**(AFD-12-86) MIKULA WITHDRAWAL**

WHEREAS, a request to withdraw approximately **±22.97** acres owned now or formerly by Thomas and Elva **Mikula**, identified as Parcel Nos. **(1-40)** and **(1-39)** on James City County Real Estate **Tax** Map No. **(48-3)** has been filed with the James City County Board of Supervisors; and

WHEREAS, the Agricultural and Forestal District Advisory Committee, **at its February 21, 2002, meeting,** recommended the property be withdrawn by a vote of **8-0**; and

WHEREAS, in accordance with Section **15.2-4314** of the Code of Virginia, a public hearing was advertised and held by the Planning Commission and at its **March 4, 2002,** meeting recommended the property be withdrawn by a vote of **7** to **0**; and

WHEREAS, in accordance with Section **15.2-4314** of the Code of Virginia, a public hearing was advertised and held by the Board of Supervisors of James City County, Virginia; and

WHEREAS, the Board finds that the withdrawal request meets the criteria set forth in the Board of Supervisors' Withdrawal Policy for Agricultural and Forestal District Parcels Within the Primary Service Area, dated September 24, **1996**.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby removes that **±22.97** acres owned now or formerly by Thomas and Elva **Mikula**, as referenced herein from the **994.91-acre** Gospel Spreading Church Agricultural and Forestal District.

3. Case No. SUP-1-02. VoiceStream Wireless Extension

Ms. Jill Schmidle, Senior Planner, stated that Ambre Blatter, VoiceStream Wireless, has applied on behalf of Jonathan C. Kinney for a special use permit to extend an existing 190-foot telecommunications tower twenty feet to allow for the co-location on the existing Alltell tower on 196 acres zoned A-1, General Agricultural, located at 10039 Old Stage Road, further identified as Parcel No. (1-10) on the James City County Real Estate Tax Map No. (4-1).

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

The Planning Commission voted 7-0 to approve the proposal with conditions at its meeting on March 4, 2002.

Staff recommended approval of the resolution with the listed conditions.

Mr. McGlennon inquired if the Board could provide guidance regarding the type of lighting on the tower, and inquired how much taller the radio antenna would be above the tower structure.

Ms. Schmidle stated that the FAA regulates the tower lighting and that the radio antenna would extend an additional four feet above the tower structure.

Mr. Kennedy opened the public hearing.

As no one wished to speak, Mr. Kennedy closed the public hearing.

Mr. Goodson made a motion to approve the resolution.

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

## RESOLUTION

### CASE NO. SUP-1-02. VOICESTREAM WIRELESS EXTENSION

- 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, Ms. Ambre Blatter has applied on behalf of Jonathan C. Kinney, Trustee, for a special use permit to extend an existing 190-foot telecommunications tower twenty feet, for an overall height of 210 feet, plus radio equipment cabinets located at 10039 Old Stage Road; and
- WHEREAS, the proposed extension is shown on the plan prepared by GEM Engineering Company titled "VoiceStream Wireless - ATC/Norge," dated January 15, 2002; and
- WHEREAS, the property is located on land zoned A-1, General Agricultural District, and can be further identified as Parcel No. (1-10) on James City County Real Estate Tax Map No. (4-1); and
- WHEREAS, the Planning Commission, following its public hearing on March 4, 2002, voted 7-0 to approve this 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-1-02 as described herein with the following conditions:

1. **All** towers shall be designed and constructed for at least three users and shall be certified to that effect by an engineering report prior to final site plan approval.
2. The tower shall meet or exceed the structural requirements as set out in the most current version of "Structural Standards for Steel Antenna Towers and **Antenna Supporting Structures**," published by the Electronic **Industries** Association. A report certifying that these structural requirements will be met shall be submitted prior to preliminary site plan approval.
3. A statement from a registered engineer that **NIER** (nonionizing electromagnetic radiation) emitted from any equipment on or services the facility ~~does~~ not result in a ground level **exposure** at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute shall be submitted prior to preliminary site plan approval.
4. Following construction of the facility, certification by the manufacturer or an engineering report by a Virginia-registered structural engineer, shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the structure, including number and type of antennas which could be accommodated, and demonstrating to the satisfaction of the building official that all structural requirements and other safety considerations set forth in the BOCA Basic Building Code and Section **222(D)** of the standards adopted by the Electronics Industries Association, or any amendment thereof, have been met.
5. The applicant shall allow other users to locate on the tower and site, and shall provide the County, upon request, verifiable evidence of having made good-faith efforts to allow such locations. To this end, the applicant agrees to execute a letter of intent prior to **final** site plan approval stating that the applicant will make every reasonable **effort** to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site.
6. Maximum height of all towers shall not exceed 210 feet, plus radio antenna equipment.
7. The tower shall have a finish that is grey in color. Lighting, beacons, and other similar devices shall be prohibited unless **required** by ~~the~~ FCC or FAA. When required by the FCC or FAA, a red beacon light or lights of low-medium intensity shall be used rather than a white strobe light. Should the regulations and requirements of this subsection conflict with any regulation or requirement by the FCC or FAA, then the regulations of the FCC and FAA shall govern. At the time of site plan review, a copy of the FAA **and/or** FCC findings shall be made available to the County.
8. No advertising material or signs shall be placed on the tower.

9. Prior to installation of equipment other than that of the applicant's, an intermodulation study prepared by a licensed engineer shall be submitted to, and approved by, the Planning Director or his designee, indicating that no interference with County-operated emergency communications equipment **will** take place.
10. If the use of the tower, or portions of the tower above the level of the uppermost equipment ceases, and the tower or said portion remains unused as a wireless communications facility **or** unused as a facility that supports public safety antenna for a period of six months, the tower **or** unused portion and associated and unused accessories shall be removed from the property by its owners. The applicant shall post a surety, performance bond or cash equivalent in an amount **sufficient** to guarantee removal of any unused facility or part thereof prior to final site plan approval.
11. **Prior** to final site plan approval and prior to leasing space on the tower to additional users, the applicant **shall** offer a lease option and negotiate in good faith with the County to install public communications equipment on the tower. Evidence of good faith negotiations shall include, but not **be limited** to, documented and executed lease agreements for similar agreements for public use on a privately owned tower. The County shall, within a reasonable time period, make a final **determination** regarding its **desire** to locate on the tower and shall notify the applicant of its intentions.
12. A permanent Certificate of Occupancy shall be obtained within one year of approval of this special use permit, or the permit shall become void
13. The tower shall be freestanding and shall not use **guylines** for support.
14. Any supporting structures, such as equipment sheds and huts, shall be of a similar design and material **and/or** color to that generally used on a single-family residence and shall be approved by the Director of Planning. A gable or shed roof shall be used on all equipment sheds and huts as determined by the Director of Planning prior to final site plan approval.
15. There shall be a future lease area to accommodate one additional tower and supporting equipment as generally depicted **on** the site plan prepared by the **Timmons** Group titled "360° Communications - Norge Site," dated March 24, 1997, and site plan prepared by GEM Engineering Company titled "**VoiceStream Wireless - ATC/Norge**," dated January 15, 2002. Such lease area shall remain free of all strictures until such time a second tower is constructed and the additional tower shall be subject to an administrative approval only. **Said tower** shall meet all requirements of this special use permit.
16. The fencing used to enclose the lease area shall be vinyl-coated and shall be dark green or black in color and shall be reviewed and approved by the Director of Planning prior to final site plan approval.
17. Existing trees in the ravines of the parcel and along the parcel's Interstate 64 frontage shall be retained for screening purposes and shall not be timbered while a tower or towers remain on the property. These areas are identified as Areas 1 and 3 on the map entitled "HDWD MGMT AREA," prepared by Chesapeake Forest Products, dated February 1970.



18. This special use permit is not severable. Invalidation of any word phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Case No. SUP-3-02. Truswood Waterline Extension

Mr. Christopher Johnson, Senior Planner, stated that Kevin **Rhind**, **Truswood Properties, LLC**, and Mark **Rinaldi**, **LandMark Design Group**, have applied on behalf of the James City County Industrial Development Authority, **Williamsburg Developments, Inc.**, **BASF, Corp.**, and **Truswood Properties, LLC.**, for a special use permit to allow for the construction of a 16-inch waterline between the James River Commerce Center and the **Truswood** property, located from Endeavor Drive, across BASF property, to ~~the~~ **Truswood** site, further identified as Parcel Nos. (1-3), **(1-4)**, **(1-5A)**, (1-17) and **(1-45)** on James City County **Real Estate** Tax Maps Nos. (594) and (59-2).

Staff found the proposal, with conditions, would not impact surrounding **development** and is consistent with the Comprehensive Plan

The Planning Commission voted 6-0 to recommend approval of the project at its meeting on March 4, 2002.

Staff recommended approval of the application.

Mr. **Kennedy** opened the public hearing.

1. Mr. Mark **Rinaldi**, Senior **Planner** with **LandMark Design Group** and representing the applicant, stated that the applicant agrees with and accepts the conditions presented by the staff and requested approval of the application.

2. Mr. Sterling Nichols, Chairman of the County's Industrial Development Authority, requested the Board approve the proposal and stated the proposal will benefit the commerce park and the development of a second **shell** building thereby attracting industries to the site.

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).

RESOLUTIONCASE NO. SUP-3-02. TRUSWOOD WATERLINE EXTENSION

- 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, the applicant **has** requested a special use permit to allow for the construction of a 16-inch waterline to be constructed between the James River Commerce Center, through a portion of the BASF property, to the Truswood properties; and
- WHEREAS, the general alignment is shown on that certain plan entitled, "Conceptual Corridor **Alignment 16"** Water Transmission Main Extension," prepared by **LandMark** Design Group and dated February 5, 2002; and
- WHEREAS, the James River Commerce Center is currently zoned **M-1, Limited Business/Industrial**, and the BASF and **Truswood** properties are zoned M-2, General Industrial; and
- WHEREAS, the James River Commerce Center is designated for Mixed Use while the BASF and **Truswood properties** are designated for General Industry on the 1997 Comprehensive Plan Land Use Map; and
- WHEREAS, the properties in which the waterline extension would be located are **(59-4)(1-3), (59-4) (1-4), (59-4)(1-5A), (59-2)(1-17) and (59-2)(1-45)**; and
- WHEREAS, on March 4, 2002, the Planning Commission recommended approval of the application by a vote of 6-0, with one abstention.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, **Virginia**, does hereby approve the issuance of SUP-3-02 as described herein with the following conditions:

1. Archaeological studies shall be performed in accordance with the James City County Archaeological Policy for all land disturbed within the "Proposed 16" water transmission main extension corridor," as identified on the Master Plan entitled "Conceptual Corridor Alignment - 16 water transmission main extension," prepared by **LandMark** Design Group and dated February 5, 2002.
2. Natural resource studies shall be performed in accordance with the James City County Natural Resource Policy for all land disturbed within the "Proposed 16" water transmission main extension corridor," as identified on the Master Plan entitled "Conceptual Corridor Alignment - 16" water transmission main extension." prepared by **LandMark** Design Group and dated February 5, 2002.
3. The location of any Resource Protection Area (RPA), RPA buffer, steep slope (**i.e.**, slopes greater than 25 percent in grade) **and/or** wetland shall be identified by the developer and shall be indicated on any site plan or development plan which is submitted to James City County for approval. The identification must be approved by the James City County Environmental Division prior to the issuance of preliminary site plan approval.

4. For all portions of the construction easement that have been cleared, but that do not need to remain clear after construction, as determined by the Planning Director, tree seedlings shall be planted in accordance with the Virginia Department of Forestry guidelines and shall be shown on a reforestation plan to be approved by the Director of Planning. This reforestation plan shall be submitted within one year of clearing the easement. The reforestation of this easement shall be completed, as determined by the Director of Planning, within two years of clearing the easement. It shall be the responsibility of the developer to provide surety prior to final site plan approval for the pipeline construction guaranteeing implementation of the reforestation plan and to secure the necessary means to plant on the construction easement after the easement reverts back to the property owner.
5. The final location of the pipeline shall be approved by the Director of Planning. However, the final location of the pipeline and all construction related activity shall avoid previously undisturbed areas of the RPA and the RPA buffer. Should the pipeline alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer, the pipeline shall be bored underground to avoid any aboveground disturbance. Previously uncleared portions of the RPA and RPA buffer shall remain generally undisturbed, except as determined by the Environmental Director.
6. Any crossing of the BASF sanitary sewer line and/or pump station, shall be reviewed and approved by the James City Service Authority.
7. Prior to the issuance of preliminary site plan approval, an agreement and plan, including implementation time lines, must be reviewed and approved by the James City Service Authority on how the two Truswood properties, Tax Map IDs: (59-4)(1-4) and (59-4)(1-5A), will be served with public sewer.
8. The project shall comply with all Virginia Erosion and Sediment Control Regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook, as amended.
9. All required permits and easements, including necessary approvals from the Newport News Water Works, shall be obtained prior to the start of construction, as defined in the James City County Zoning Ordinance.
10. Construction, operation, and maintenance shall comply with all local, State, and Federal requirements, including all Newport News Water Works requirements.
11. A Land Disturbing Permit shall be obtained by the developer within 24 months of the date of this SUP or the permit shall be void.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

5. Case No. SUP-18-01. Waltrip Communications Tower (deferred from March 12, 2002)

Mr. Christopher Johnson, Senior Planner, stated that the applicant revised the application after the Board deferred the case on March 12. Due to the change in the proposal and that staff still finds the proposed

tower not to be consistent or compatible with existing surrounding **structures** and zoning; not to be consistent with the Comprehensive Plan, and **does** not meet the County's "Performance Standards for Wireless Communications Facilities," staff recommended the application be remanded back to the Planning Commission for consideration

Mr. **Kennedy** opened the public hearing.

Mr. **Goodson** stated that several citizens wanted to speak to this issue and recommended they provide input to the Board when the case comes back before the Board.

Mr. **Goodson** made a motion to remand the case back to the Planning Commission

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

6. Case No. SUP-5-02. Lafayette High School Temporary Classroom Trailers  
Case No. SUP-6-02. Jamestown High School Temporary Classroom Trailers  
Case No. SUP-7-02. Toano Middle School Temporary Classroom Trailers  
Case No. SUP-8-02. Clara Byrd Baker Elementary School Temporary Classroom Trailers  
Case No. SUP-9-02. J. Montague Elementary School Temporary Classroom Trailers

Mr. Christopher Johnson requested the Board hear the five cases together so that the Board would get only one staff report.

Mr. Brown requested that ~~the~~ cases be presented in bulk by the staff, but that the Board consider each application individually.

Mr. Christopher Johnson, Senior Planner, stated that the Schools have submitted a **letter to withdraw** Case No. SUP-7-02. Toano Middle School Temporary Classroom Trailers, and Case No. SUP-8-02. Clara Byrd Baker Elementary School Temporary Classroom Trailers which extended the time limit on existing classroom trailers. Without Board objection Mr. Johnson presented the remaining three cases for **Board** consideration.

Mr. Johnson stated that Michael E. **Thornton**, on behalf of the Wiamsburg-James City County Public Schools, has applied for three special use permits to allow the placement of one new double trailer at Lafayette High School for temporary classrooms, one new double trailer at Jamestown High School for temporary classrooms, and a double **trailer** with associated handicapped accessible ramps at D. J. Montague Elementary School for a temporary **classroom** in accordance with Section 24-109 of the Zoning Ordinance of James City County.

Staff found the proposal to be consistent with surrounding zoning and development and consistent with the Comprehensive Plan.

Staff recommended approval of the three proposals with the condition that the permit shall be valid until July 1, 2006.

Mr. **Kennedy** opened the public hearing.

1. Mr. Michael E. Thornton, applicant, stated that he would answer any questions the Board may have regarding the applications.

Mr. Brown inquired about the annual rental ~~or~~ lease fee associated with each double trailer.

Mr. **Thornton** stated that the cost ranges from \$900 to \$1,100 per ~~month/per~~ double trailer

Mr. Brown inquired about ~~the~~ installation costs associated with placing ~~the~~ trailers on site and associated costs for getting the trailers equipped with utilities and supplies.

Mr. **Thornton** stated that the estimated cost would be about \$175,000 to \$195,000.

Mr. Brown inquired about the financial contribution of ~~the~~ agency running the day care **centers** in the Schools.

Mr. **Thornton** stated that the agency does not make cash contributions.

Mr. **McGlennon** inquired how many classrooms would be added to the high schools with the addition of the double trailers.

Mr. **Thornton** stated that the high schools would gain two additional classrooms each.

Mr. **Kennedy** inquired if the need for the additional temporary trailers is driven by curriculum needs ~~or~~ by enrollment increases.

Mr. **Thornton** stated that he does not have information regarding that question and would be willing to obtain the information and relay it back to the Board.

Mr. **Goodson** inquired if a teacher would be assigned to a room in the temporary trailer, ~~or~~ if ~~the~~ classrooms would be utilized by rotating classes.

Mr. **Thomton** stated that he does not have **information** regarding that question and would be willing to obtain the information ~~and~~ relay it back to the Board.

Mr. Harrison stated that he thought the trailer requests were based on program needs, such as **AVID** moving to the high schools, more so than enrollment.

Mr. Kennedy and Mr. **McGlennon** requested clarification regarding the temporary trailers use as accommodation for curriculum needs due to additional programs being offered, or due to more class space needed to accommodate the enrollment in expanding classes.

2. Mr. Tony Dion, 102 **Fairmont** Drive, stated that ~~the~~ additional classrooms are being requested for accommodation of programs, stated concern that taxpayers are contributing towards day care, a program that is not a part of the Schools' mission statement, inquired how many **trailers** would be needed if the minimum class size of many classes were moved from 12 to 15 students, and thanked the Board for its questions addressed to the Schools regarding a thud secondary facility.

3. Ms. Penny Pulley, 20 Mile Course, requested clarification regarding the AVID program

Mr. Harrison stated that the AVID program is offered to students needing management skills to allocate their time and resources wisely in **order** to be successful in school.

Mr. **McGlennon** stated that several Commonwealth of Virginia schools have implemented the AVID program.

Ms. **Pulley** inquired if the AVID program is contributing to the need for additional classrooms.

Mr. **Thornton** stated that the Schools rely on instructional experts to guide them in space needs.

Mr. Kennedy inquired about the removal of trailers from the elementary school and if the desks, supplies, etc. could be reused in these proposed trailers.

Mr. **Thornton** stated that they would be reused.

The Board and applicant held a brief discussion regarding the hookups of utilities and other **fixtures** associated with the placement of trailers at the sites.

Mr. **Kennedy** closed the public hearing.

The Board and applicant discussed the impact of the **daycare** centers in the high schools, the impact of a deferral of the cases for two weeks on the School's deadlines, and outlining specific questions in writing to the Schools for consideration prior to the case coming back before the Board.

Mr. Kennedy deferred the cases to April 23, 2002.

#### **H. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, showed the Board a drawing provided by the Virginia Department of Transportation (VDOT) on the Grove interchange.

#### **I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that the proposed Budget for **FY2003/2004** is available to citizens at the County Complex and on-line.

Mr. **Wanner** stated that on April 23, 2002, at 7 p.m. the Board will hold a public hearing on the proposed Budget, on April 30, May 2, and May 8, at 7 p. m., the Board will hold Budget Work Sessions, and it is anticipated that the Board **will** adopt the Budget at its meeting on May 14, 2002.

Mr. Wanner recommended the Board go into closed session **pursuant** to Section 2.2-3711 (A) (1) of the Code of Virginia to **consider** appointment of individuals to County Boards **and/or** Commissions.

#### **J. BOARD REQUESTS AND DIRECTIVES - None**

#### **K. CLOSED SESSION**

Mr. Harrison made a motion to go into closed session pursuant to Section 2.2-3711 (A) (1) of the Code of **Virginia** to consider appointment of individuals to County Boards **and/or** Commissions.

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

-15-

Mr. Kennedy convened the Board into closed session at **8:39 p.m.**

At **8:41 p.m.** Mr. Kennedy reconvened the Board into open session.

Mr. **McGlennon** made a motion to adopt the Closed Session **resolution**.

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

## 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 c 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)**, appointment of individuals to County boards **and/or** commissions.

Mr. **McGlennon** made a motion to appoint Peggy **Boarman** to an unexpired term on the Clean County Commission, term to expire on July 10, 2004; and to approve the **appointments** of Julie **Leverenz** and **Lynne** Fiyaw-Boca to the Stormwater Management Advisory Committee.

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

## L. **ADJOURNMENT**

Mr. Kennedy requested a motion to adjourn until 4 p.m. on April 23, 2002.

Mr. Harrison made a motion to adjourn.

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

Mr. Kennedy adjourned the Board at 8:43 p.m.

A handwritten signature in black ink, appearing to read "Sanford B. Wanner", written over a horizontal line.

Sanford B. Wanner  
Clerk to the Board

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APR 9 2002

ORDINANCE NO. 193A-1BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA**BARRETT'S FERRY AGRICULTURAL AND FORESTAL DISTRICT (AFD-1-98)****2002 RENEWAL**

**WHEREAS**, the owner of the property comprising ~~the~~ existing **210.49-acre** Barrett's **Ferry** Agricultural and Forestal District **has** requested to renew the District for a period of four years; and

**WHEREAS**, James City County **has** completed a review of the Barrett's Ferry Agricultural and Forestal District; and

**WHEREAS**, in accordance with Section **15.2-4314** of ~~the~~ Code of **Virginia**, property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on ~~the~~ continuation of ~~the~~ Barrett's Ferry Agricultural **and Forestal** District; and

**WHEREAS**, the **Agricultural** and Forestal District Advisory Committee at its **February 21, 2002**, meeting recommended approval of ~~the~~ application; and

**WHEREAS**, the Planning Commission, following its public hearing on March 4, **2002**, **recommended** approval of ~~the~~ application

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

1. **The** Barrett's Ferry Agricultural and Forestal District is hereby continued for a period of four years beginning the 28th day of April **2002**, in accordance with the provisions of ~~the~~ **Virginia** Agricultural and Forestal District Act, Virginia Code Section **15.2-4300** et. seq.

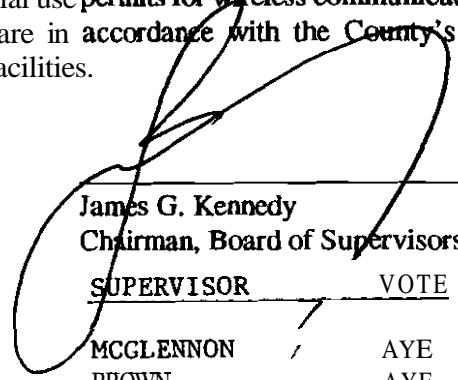
2. **That** the District shall include the following parcels:

(43-2)(1-3)                      **Baxter Bell**                      **210.49 acres**

provided, however, that all land within **50** feet of the existing right-of-way on the south side of Route **5**, John Tyler Highway, shall be excluded from the District, and that all land within **25** feet of the existing right-of-way on ~~the~~ north side of Route 5, John Tyler Highway, be excluded from ~~the~~ District.

3. That pursuant to the Virginia **Code**, Section **15.2-4312**, as amended, ~~the~~ Board of Supervisors requires that no parcel in the Barrett's Ferry Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically the following restrictions shall apply.


- a. The subdivision of land is limited to 25 acres **or** more, except where the Board of **Supervisors authorizes** smaller lots to be created f a residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided f a **the** siting of communications towers **and** related equipment, provided. a) the subdivision does not result in the total acreage of the District to drop below 200 acres; **and**, b) **the** subdivision does not result in a remnant parcel of less than 25 acres.
- b. No land within the **Barrett's** Ferry Agricultural and Forestal District may be **rezoned and** no application for such rezoning shall be **filed** earlier than six months prior to **the** expiration of the District.
- c. No special use **permit** shall be issued except f a agricultural, forestal, or **other** activities **and uses** consistent with ~~the~~ State Code Section **15.2-4301 et. seq.** which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use **permits for wireless communications facilities** on AFD properties which are in **accordance with the County's policies and** ordinances regulating such facilities.



James G. Kennedy  
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON /	AYE
BROWN	AYE
GOODSON	AYE
HARRISON	AYE
KENNEDY	AYE

ATTEST:

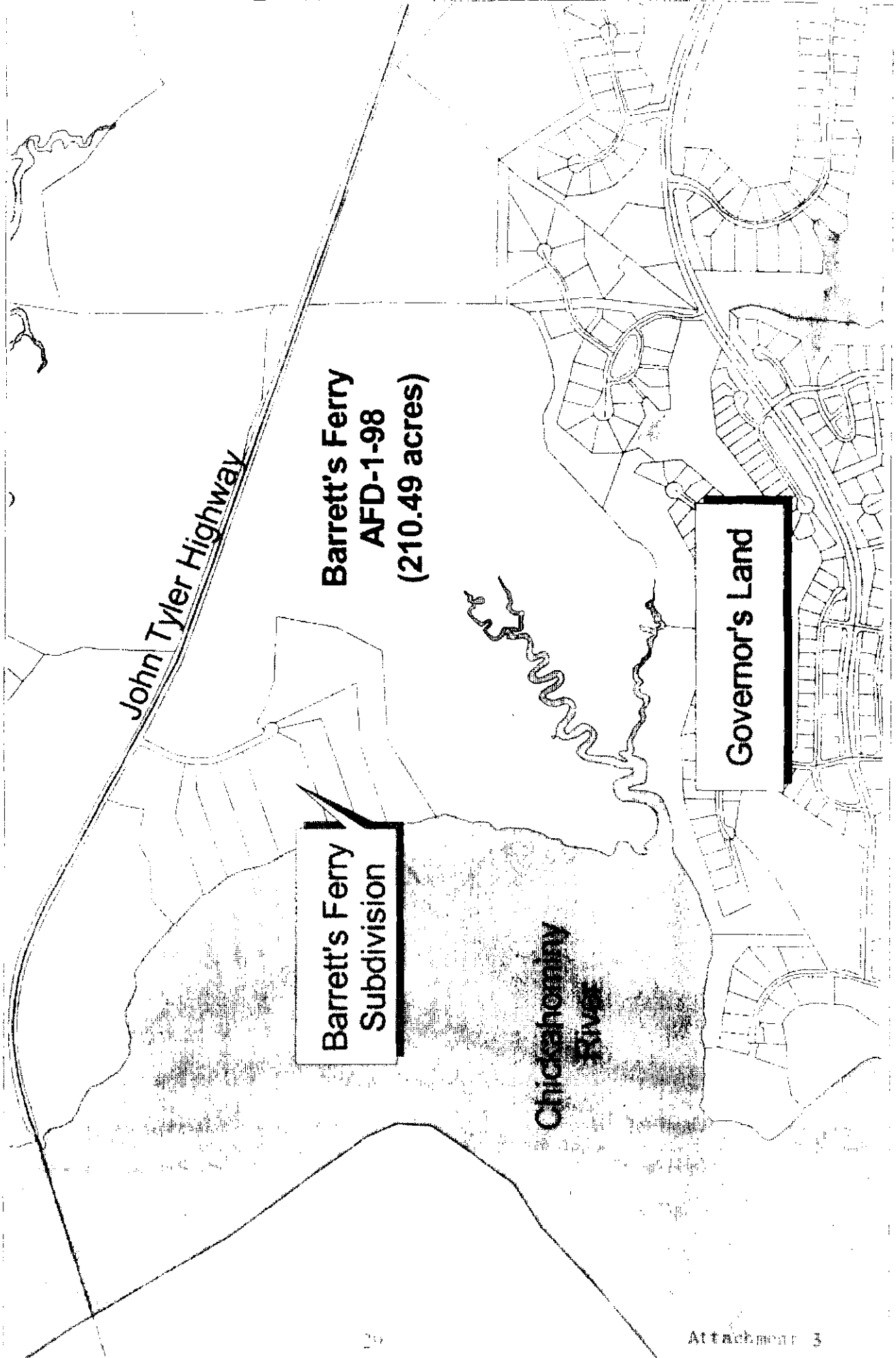
  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, **Virginia**, this 9th day of April, 2002.

afd1-98.ord

# Case number: AFD-1-98 Barrett's Ferry AFD - 2002 Renewal

700 0 700 1400 Feet



ADOPTED

APR 9 2002

ORDINANCE NO. 173A-13

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

GOSPEL SPREADING CHURCH AGRICULTURAL AND FORESTAL DISTRICT

(AFD-12-86) MIKULA WITHDRAWAL

WHEREAS, a request to withdraw approximately ~~±~~**22.97** acres owned now ~~a~~ **formerly** by **Thomas and Elva Mikula**, identified as Parcel ~~Nos.~~ (I-40) and **(1-39)** on James City County Real Estate Tax Map No. **(48-3)** has been filed with the James City County Board of Supervisors; and

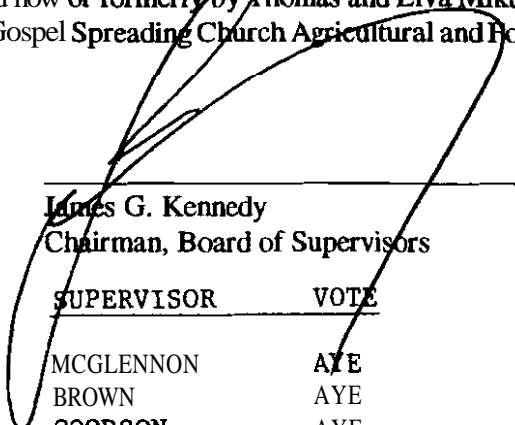
WHEREAS, the Agricultural and Forestal District Advisory Committee, at its **February 21, 2002**, meeting, recommended the property be withdrawn by a vote of **8-0**; and

WHEREAS, in accordance with Section **15.2-4314** of ~~the~~ Code of Virginia, a public hearing was advertised and held by ~~the~~ Planning **Commission** and at its **March 4, 2002**, meeting recommended ~~the~~ property be withdrawn by a vote of **7 to 0**; and

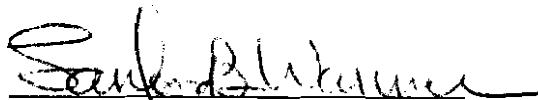
WHEREAS, in accordance with Section **15.2-4314** of ~~the~~ Code of Virginia, a public hearing was advertised and held by the Board of Supervisors of James City County, Virginia; and

WHEREAS, the Board ~~finds~~ that the withdrawal request meets ~~the~~ criteria set forth in the Board of Supervisors' Withdrawal Policy for Agricultural and **Forestal** District **Parcels Within the Primary Service Area**. dated September **24, 1996**.

NOW, THEREFORE, BE IT RESOLVED that the Board of **Supervisors of James City County, Virginia**, hereby removes that ~~±~~**22.97** acres owned now ~~or formerly~~ by **Thomas and Elva Mikula**, as referenced herein from the 994.91-acre Gospel **Spreading Church Agricultural and Forestal** District.

  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

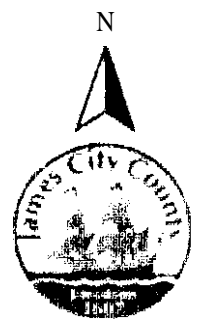
  
**Sanford B. Wanner**  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON	<b>AYE</b>
BROWN	AYE
<b>GOODSON</b>	AYE
HARRISON	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, **this 9th** day of April, **2002**.



Case No. AFD -12-86  
Gospel **Spreading** Church - Mikula Withdrawal



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