

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NOS. 513010004 and 513010005

WHEREAS, **Vanasse, Hangen, Brustlin, Inc.** (the "Applicant") on behalf of **Busch Properties, Inc.** (the "Owner") has appeared before the Chesapeake Bay Board of James City County (the "Board") on **April 9, 2008** to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. **513010004** and **513010005** and further identified as the proposed **Kingsmill-Spencer's Grant Subdivision** and **210 Wareham's Pond Road** (the "Property") as set forth in the application **CBE-07-107** for the purpose of **clearing and grading approximately 29,000 square feet within RPA buffer along with the construction of 1213 linear feet of backshore armor stone revetment within the RPA buffer**; and

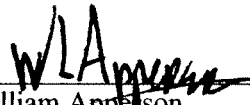
WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

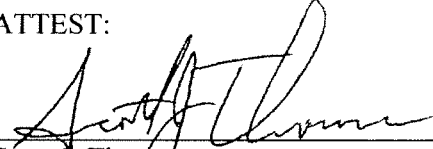
1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code, and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
 - **The applicant must obtain all other permits necessary and required by other agencies, including a James City County Land Disturbance Permit, prior to the required preconstruction meeting to be held on-site.**
 - **The limits of clearing and construction and areas to be protected along the backshore shall be clearly identified and flagged in the field prior to the preconstruction meeting. A turbidity curtain will be installed prior to the preconstruction meeting for this project.**

- **Surety for the implementation of the RPA Mitigation Planting Plan shall be provided in a form satisfactory to the County Attorney, pursuant to sections 23-10(3)(d) and 23-17(c) of the James City County Code prior to the preconstruction meeting. The surety shall be held for one full year following the initial installation and inspection of the plant material. All plant material must be alive and thriving as determined by the Environmental Division at the time of the one year anniversary inspection. If during the anniversary inspection plant material is determined to be dead, diseased or missing, the surety will be held until all planting material required by the plan is installed and thriving.**
- **The RPA Mitigation Planting Plan shall be amended to include planting of seedlings of deep-rooted tree species at the rate of 110 trees per acre in the areas designated as Zone III (Upper Bank Slope).**
- **All mitigation plantings proposed shall be reviewed by County staff prior to installation and may be modified by staff, as deemed necessary to achieve a satisfactory result.**
- **All canopy trees and understory trees proposed for installation shall be a minimum 6'-7' in height or 1" caliper. All shrubs shall be 3-5 gallon container size, and 18" to 36" in size.**
- **The applicant shall arrange for weekly project inspections to be performed by a qualified independent professional. The weekly inspection reports shall be submitted to the Environmental Division (Division) to insure that the project is being constructed in accordance with the approved plan, project specifications, Chesapeake Bay Board and Wetlands Board permit conditions, and in compliance with specifications and requirements of the Division, Virginia Marine Resources Commission (VMRC), and Virginia Institute of Marine Science (VIMS). These reports will be submitted directly to the Division within 48 hrs following each inspection. The applicant must provide the name of the person or firm, who will perform said inspections, prior to the preconstruction meeting.**
- **The permit shall expire April 9, 2009. If an extension of this permit is needed, a written request shall be submitted to the Division no later than two weeks prior to the expiration date.**
- **The applicant must receive approval from the County Engineer for any proposed activity within conservation easements located on the property. The applicant must also resolve any property line and conservation easement conflicts or issues with the County Engineer.**
- **The exception shall not conflict with the provisions of the approved plan for development for Kingsmill-Spencer's Grant, County Plan No. SP-53-05.**

- RPA signs shall be installed by the applicant along the landward extent of the RPA buffer as directed by staff.



William Apperson
Chairman, Chesapeake Bay Board

ATTEST:


Scott J. Thomas
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 9th day of April, 2008.

GrantExcTemp.res