R E S O L U T I O N

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NOS. 4740100011 AND 474010001
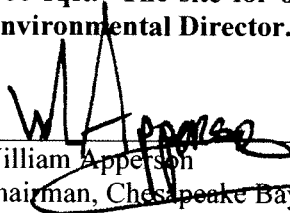
WHEREAS, **Vernon Geddy, Geddy, Harris, Franck & Hickman, L.L.P., Attorneys at Law,** (the "Applicant") on behalf of **Lyman R. Hall, Jr,** (the "Owner") has appeared before the Chesapeake Bay Board of James City County (the "Board") on **January 9, 2008** to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel Nos. **4740100011** and **474010001** and further identified as **205 Neck O'Land Road,** (the "Property") as set forth in the application **CBE-07-112 for approximately 8400 sqft of encroachment into the Resource Protection Area (RPA) buffer for driveway crossing alternative 1 for the project known as McFarlin Park BLE and Minor Subdivision**; 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 and will be implemented into the associated plan of development (S-060-07) for the project to prevent this exception request from causing degradation of water quality:

   - **Use of a coastal plains seed mix within the disturbed area of the driveway for areas outside of all wetland areas; and**

   - **Use of a wetland seed mix within the disturbed area of the driveway within the wetland areas; and**

- Placement of orange safety fence around the limits of disturbance within the RPA and wetland systems.

- The plan of development (S-060-07) for the project, must receive final approval by the Environmental Division.

- This exception does not confer any property rights, nor does it confer any type of plan approval.

- Any offsite easements and/or additional permits that may be required for this development must be obtained and evidence of such presented to the Environmental Division prior to issuance of a land disturbing permit and/or final plan approval.

- This exception request approval shall become null and void if construction has not begun by January 9, 2009.

- Any changes to the plan of development that would cause any deviation from the items listed in the WQIA, either in the form of increased impacts to components of the RPA or omission of mitigation requirements from the submitted plan of development must be reviewed and approved by the Board.

- The width of the driveway will be 14 feet within a 25 foot easement and the utility connections within the RPA will be under the driveway.

- There shall be off site plantings or a fee in lieu of plant mitigation for the 9700 sqft of impervious surface in the RPA. The mitigation planting requirement is 1 canopy tree, 2 understory trees and 3 shrubs per 400 sqft. The fee in lieu of rate is $500 per 400 sqft. The site for off-site mitigation plantings shall be approved by the Environmental Director.

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 __9__ day of __January_____, 2008.

GrantExcTemp.res