

**RESOLUTION**

**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 3720300261**

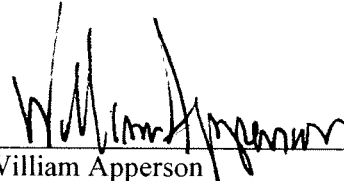
WHEREAS, **Harold & Nancy Cherry**, (the “Applicants”) have appeared before the Chesapeake Bay Board of James City County (the “Board”) on **November 13, 2008** to request an exception to the use of the Resource Protection Area (the “RPA”) on a parcel of property identified as JCC RE Tax Parcel No. **3720300261** and further identified as **107 Little Aston, Fords Colony** (the “Property”) as set forth in the application **CBE-09-40 for a 45 linear foot, stacked stone landscape wall**; 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:

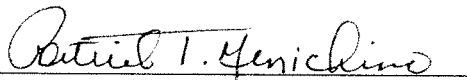
1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The 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:
  - **Full implementation of the modified RPA Mitigation Plan submitted with the Seansative Area Activity Application for this exception, must be completed prior to the issuance of the final certificate of occupancy.**
  - **The size of the trees planted shall be a minimum of 1-1/2 inch caliper (six to eight feet tall) and the shrubs shall be 3 gallon size. All vegetation shall be native species approved by the Environmental Division.**
  - **A 3 to 4 inch deep mulch bed will be installed around any individual or group RPA mitigation plantings, as shown on the RPA Mitigation Plan.**

- Implementation of the RPA Mitigation Plan shall be guaranteed through the provision of the Chesapeake Bay Preservation Ordinance contained in Sections 23-10(3)d and 23-17(c) where installation of the plant material is required prior to the certificate of occupancy or through a surety instrument satisfactory to the County Attorney.



William Apperson  
Chair, Chesapeake Bay Board

ATTEST:



Patrick T. Menichino  
Compliance Specialist

Adopted by the Chesapeake Bay Board of James City County, Virginia, this **13th** day of **November, 2008**.

GrantExcTemp.res