

## RESOLUTION

### GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 5140200005

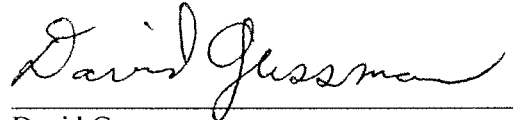
WHEREAS, **Bhupindar and Guni Rekhi**, (the “Applicants”) appeared before the Chesapeake Bay Board of James City County (the “Board”) on **September 10, 2008** to request an exception to the use of the Resource Protection Area (the “RPA”) on a parcel of property identified as JCC RE Tax Parcel No. **5140200005** and further identified as **119 Andrew Lindsey, Kingsmill** (the “Property”) as set forth in the application **CBE-08-034 for approximately 165 sqft of encroachment into the Resource Protection Area (RPA) buffer associated with the construction of a segmental block retaining 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:

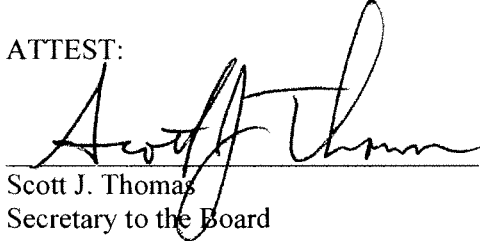
1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The 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:
  - **A revised RPA mitigation plan shall be submitted to the Division incorporating all administrative and Board required RPA mitigation plantings. This plan shall be submitted to the Division for review and approval within 30 days, following Board approval.**

- Full implementation of the mitigation plan shall be guaranteed through the provisions of the 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 form of surety satisfactory to the County Attorney.
- The size of the native trees shall be 1"-1 ½" caliper, 6"-7' tall and shrubs planted shall be a minimum of 3-5 gallon container size (18" to 36" tall). All vegetation shall be native species approved by the Environmental Division.
- The retaining wall design, specifications, and location must meet the approval of all other regulatory agencies that may have jurisdiction, including a James City County Building Permit.
- This approval shall become null and void if construction has not begun by September 10, 2009. An extension can be requested in writing at least 2 weeks prior to the expiration date



David Gussman  
Vice Chair, Chesapeake Bay Board

ATTEST:



Scott J. Thomas  
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this **10th day of September, 2008.**

GrantExcTemp.res