

## RESOLUTION

### GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 3841770006

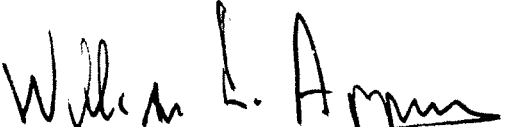
WHEREAS, **Performance Contracting**, (the "Applicant") appeared before the Chesapeake Bay Board of James City County (the "Board") on **July 8, 2009** to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. **3841770006** and further identified as **3633 Bridgewater Drive, Mill Creek Landing Subdivision** (the "Property") as set forth in the application **CBE-09-0092 for encroachment into the Resource Protection Area (RPA) buffer associated with the construction of a segmental stone block retaining wall 90 LF in length, and the placement of approximately 1000 SF of fill/backfill;** and

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

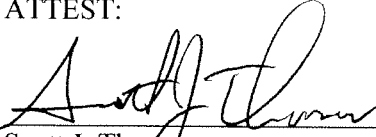
NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

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 required from agencies that may have regulatory authority over the proposed activities, including a James City County building permit if required.**

- The plan should be revised to require the installation of filter cloth behind the wall and all stone backfill material shall be washed number 57 stone.
- The RPA mitigation plan should be revised to include the installation of (2) native trees as replacement for the (1) 18" tree proposed for removal.
- The (30) mitigation shrubs proposed shall be a minimum 3-5 gallon size and 15"-18" tall. The species of the shrubs shall be approved by the Environmental Division prior to installation.
- Full implementation of the revised RPA Mitigation Plan and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c), a form of surety satisfactory to the County Attorney.
- This exception request approval shall become null and void if construction has not begun by July 8, 2010.

  
William Apperson  
Chair, Chesapeake Bay Board

ATTEST:

  
Scott J. Thomas  
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of July, 2009.

GrantExcTemp.res