

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 4321400010

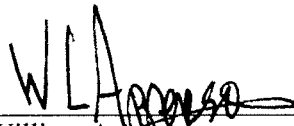
WHEREAS, *Colgate & Larry Kittelberger*, (the "Applicant") have appeared before the Chesapeake Bay Board of James City County (the "Board") on *March 11, 2009* to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. *4321400010* and further identified as *1812 Cypress Isle, Governor's Land* (the "Property") as set forth in the application *CBE-09-061* for the purpose of *constructing two (2) brick paver walkways totalling 195 linear feet*; 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:

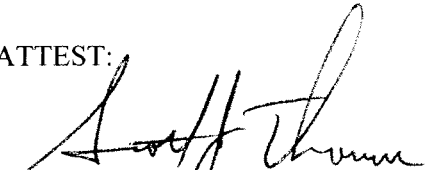
1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The 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 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 brick paver walkways shall not be installed upon the sand beach area or within the area identified on the plan as shoreline maintenance easement. The applicant shall obtain additional approvals from 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 March 11, 2010. An extension can be requested in writing at least 2 weeks prior to the expiration date.*
- *All recommendations adopted by the Board must be incorporated into the site plans for the project, which then must be approved by the Environmental Division before construction can begin.*



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 11th day of March 2009.

GrantExcTemp.res

MAR 11 2009