

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 5040200012

WHEREAS, **Ms. Cary Flannery**, on behalf of **Mary and Larry Pope**, (the "Owners") has appeared before the Chesapeake Bay Board of James City County (the "Board") on **October 14, 2009** to request an exception to the use of the Resource Protection Area ("RPA") on a parcel of property identified as JCC RE Tax Parcel No. **5040200012** and further identified as **12 Mile Course, in the Kingsmill Subdivision** (the "Property") as set forth in the application **CBE-10-022** for **encroachment into the RPA buffer associated with the construction of brick retaining walls totaling 300 LF, a 15' x 20' sand set brick paver patio, and placement of approximately 3,000 sqft of sand fill/backfill**; and

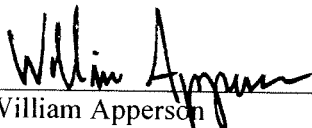
WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

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.**

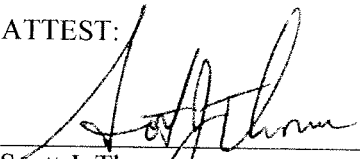
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- The mitigation trees shall be a minimum of 1 1/2" in caliper and 6'-8' tall and mitigation shrubs shall be 3 gallon size. All vegetation shall be native species approved by the Environmental Division.
- Full implementation of the RPA Mitigation Plan submitted with the WQIA 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 and all improvements including the required mitigation plantings are not completed by October 14, 2010.
- Written request for an extension to this exception shall be submitted to the Environmental Division on later than 2 weeks prior to the expiration date.



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 14th day of October 2009.

GrantExcTemp.res

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