

## RESOLUTION

### GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 5040300025

WHEREAS, Michael Suttle, (the "Applicant") and/or his agent has appeared before the Chesapeake Bay Board of James City County (the "Board") on May 11, 2011 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. 5040300025 and further identified as 25 Whittaker's Mill in the Kingsmill subdivision (the "Property") as set forth in the application CBE-11-100 for the purpose of constructing a retaining wall approximately 40 1/2 feet long and 4 1/2 feet in high on the western end of the property, within the 50ft RPA buffer; and

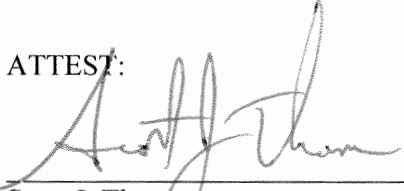
WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

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:
  - 1) **The applicant must obtain all other necessary federal, state, and local permits as required for the project.**
  - 2) **A pre-construction meeting must be held on-site prior to the commencement of work.**

- 3) All mitigation plantings shall meet James City County standards of 1" caliper for the canopy and understory trees and three gallon size for the shrubs.
- 4) County staff reserves the right to require erosion and sediment controls if field conditions warrant their use.
- 5) Full implementation of the proposed mitigation measures 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) which is providing a form of surety satisfactory to the County Attorney.
- 6) This exception request approval shall become null and void if construction has not begun by May 11, 2012 and all improvements including the required mitigation plantings are not completed by that expiration date.
- 7) Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection (formerly Environmental) Division no later than 2 weeks prior to the expiration date.

ATTEST:

  
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Scott J. Thomas  
Secretary to the Board

  
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David Gussman

Chair, Chesapeake Bay Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 11th day of May 2011.