

RESOLUTION

GRANTING AN EXTENSION OF AN EXCEPTION ON JCC RE TAX PARCEL NOS. 4730100002, 4730100003 and 4730100005

WHEREAS, Mr. Charlie Martino, Operations Manager, on behalf of Cooke's Garden Center, (the "Applicant") has requested an extension of the exception granted by the Chesapeake Bay Board of James City County (the "Board") on August 11, 2010 and previously extended for 1 year on July 13, 2011. The exception request is for encroachment into the Resource Protection Area (RPA), on property identified as JCC RE Tax Parcel Nos. 4730100002, 4730100003 and 4730100005 and further identified as 229 Sandy Bay Road, and 1820 and 1826 Jamestown Road (the "Property") as set forth in the application CBE-10-038 for 6,273 square feet of RPA buffer impacts associated with walkways, display and storage of nursery container stock, and a portion of the stormwater management facility for this retail plant and garden supply sales operation and;

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

NOW, THEREFORE, having conducted a public hearing on August 11, 2010, and pursuant to the extension granted on July 13, 2011 and the current request for an additional extension, 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 extension 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 necessary federal, state and local permits as required for the project**
 - **He removal of 8,364 square feet of RPA buffer impacts caused by the existing gravel**

- Full implementation of the mitigation measures submitted with the WQIA and site plan plus 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.
- This exception request approval shall become null and void if construction has not begun by August 11, 2014. *JSG AT*
- Written requests for an extension to this exception must be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Scott J. Thomas

 Scott J. Thomas
 Director, Engineering and Resource Protection

David S. Gussman

 David Gussman
 Chair, Chesapeake Bay Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of August 2012 .

THE FORGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 8th DAY OF August 2012 IN THE COMMONWEALTH OF VIRGINIA IN THE COUNTY OF JAMES CITY.

Melanie J. Davis

 NOTARY PUBLIC

7014335

 REGISTRATION

MY COMMISSION EXPIRES 12/31/14 .

MELANIE J. DAVIS NOTARY PUBLIC REG. #7014335 COMMONWEALTH OF VIRGINIA MY COMMISSION EXPIRES DEC. 31, 2014
