

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Crownsville, Maryland 21401
Conference Room 1100A
April 1, 1998

AGENDA

SUBCOMMITTEES

9:30a.m. - 10:30 a.m. Project Evaluation

Members: Langner, Bourdon, Giese, Goodman, Corkran, Foor, Blake, Cooksey, Hearn, Deitz, Castleberry, Graves, Wilde

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|---|-----------------------------------|
| MPA CSX/Cox Creek Storm Drain Project Anne Arundel County | Lisa Hoerger, Environ. Specialist |
| DNR Smallwood St. Park Land Unit Plan Charles County | LeeAnne Chandler, Planner |
| SHA Maryland Route 18, Improvements Cox Creek Bridge Replacement-Queen Anne's County | Greg Schaner, Planner |
| STORM Drain outfall for Streetscape Princess Anne | Tracey Greene, Circuit Rider |
| MAA Martin State Airport, Midfield Development | Susan McConville, Planner |

11:00 a.m. - 12:00 p.m. Program Implementation

Members: Whitson, Evans, Moxley, Robinson, Myers, Barker, Williams, Wynkoop, Foor, Pinto, Johnson, Lawrence, Taylor-Rogers, Duket

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| Wicomico County Buffer Variance Issue | Ren Serey, Executive Director |
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Panel - Chesapeake Beach

Members: Whitson, Cooksey, Bourdon, Foor, Duket

12:00 p.m. - 1:00 p.m. - LUNCH

PLENARY MEETING

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| 1:00 p.m. - 1:05 p.m. | Approval of Minutes of March 4, 1998 | John C. North, II, Chair |
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PROGRAM AMENDMENTS and REFINEMENTS

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|-----------------------|--|--|
| 1:05 p.m. - 1:15 p.m. | REFINEMENT: Talbot County Spurry Growth Allocation | Greg Schaner, Planner |
| 1:15 p.m. - 1:25 p.m. | REFINEMENT: St. Mary's County Growth Allocation Text Amendment to Zoning Ordinance | Mary Owens, Chief Pgm. Implementation |
| 1:25 p.m. - 1:40 p.m. | VOTE Guidance to Queen Anne's County Transfer Development Rights Program | Ren Serey, Exe. Director |

PROJECT EVALUATION

1:40 p.m - 2:00 p.m.

~~VOTE Maryland Port Admin.
Storm Drain Project~~

~~Lisa Hoerger, Envir.Specialist~~

2:00 p.m. - 2:20 p.m.

~~VOTE - Md. DNR
Smallwood State Park, Land Unit
Charles County~~

~~LeeAnne Chandler, Planner~~

2:20 p.m. - 2:30 p.m.

VOTE Stormdrain Outfall for Streetscape
Princess Anne

Tracey Greene, Crt. Rider

2:30 p.m. - 2:40 p.m.

~~VOTE Maryland Aviation Administration
Martin State Airport Midfield Development~~

~~Susan McConville, Planner~~

2:40p.m. - 3:00 p.m.

Old Business

John C. North, II, Chairman

New Business

Next Commission Meeting May 6, 1998 Anne Arundel County, Crownsville

Chesapeake Bay Critical Area Commission
 Department of Housing and Community Development
 People's Resource Center
 Crownsville, Maryland 21401
 March 4, 1998

The Chesapeake Bay Critical Area Commission met at the Department of Housing and Community Development, Crownsville, Maryland. The meeting was called to order by Chairman John C. North, II with the following Members in attendance:

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| Barker, Philip, Harford County | Pinto, Robert, Somerset County |
| Blake, Russell, Worcester County | Robinson, Edward, Kent County |
| Bourdon, Dave, Calvert County | Eastern Shore MAL |
| Castleberry, William DBED | Rogers, Dr. Sarah Taylor-DNR |
| Cooksey, David, Charles County | Whitson, Michael, St. Mary's |
| Corkran, William, Talbot County | Wilde, Jinhee K., Western Shore MAL |
| Deitz, Mary, MDOT | Williams, Roger, Kent Co. |
| Evans, Diane, A.A. County | Wynkoop, Samuel, P.G. Co. |
| Dr. Foor, James C., Queen Anne's Co. | |
| Giese, William, Jr., Dorchester Co. | |
| Graves, Charles, C., Baltimore City | |
| Hearn, J.L., Md. Dept. of Environ. | |
| Johnson, Samuel Q., Wicomico Co. | |
| Langner, Kathryn, Cecil Co. | |
| Lawrence, Louise, Md. Dept. Of Agri. | |
| Shephard, Bryan for Moxley, Stephen, Baltimore Co. | |

The Minutes of February 4, 1998 were approved as read.

Susan McConville, Planner, CBCAC presented for Concurrence with the Chairman's determination of REFINEMENT the proposed corrections for the Mapping Mistake in Chesapeake City, Cecil County. The Town contends that the LDA designation was not consistent with the LDA mapping standards outlined in the Criteria and used by the Town. The request for a correction of the mapping mistake would result in the change of 76.84 acres of land designated as LDA to IDA. The changes and the effect of the changes on the use of land and water in the Critical Area are consistent with what is currently allowed by the Critical Area Program. Ms. McConville described the required features on December 1, 1985 of the mapped IDA areas and outlined the reasons for proposing that there were mistakes in the original mapping. The Commission supported the Chairman's determination for Refinement.

LeeAnne Chandler, Planner, CBCAC presented for Concurrence with the Chairman's determination of REFINEMENT several Charles County Zoning Ordinance Text Amendments that affect the County's Critical Area Program and the addition of New Buffer Exemption Areas. The amendments incorporate changes to impervious surface regulations required by Senate Bill 657; clarify language regarding growth allocation procedures; and, add several Buffer Exemption Areas that were missed on earlier mapping efforts. Pat Haddon, Charles County Planning Department provided information on the lots affected by the change. The Commission supported the Chairman's determination of Refinement.

Ms. McConville presented for VOTE the Phase I construction and development activities, entrance road and site work, of the approved Master Plan at North Point State Park in Baltimore County, proposed by the Department of Natural Resources. She said that no new development is proposed in the Buffer and described the work to be done: 1) an existing Haul Road will be renamed Bay Shore Road and improved through asphalt surface and base course improvements and widened to a 22' asphalt overlay with 8' seeded shoulders. Some trees will be removed to accommodate the widening. 2) Gravel parking lots will be constructed. 3) Trails will be constructed and generally run parallel to the existing road. Some trees will be removed but will be located to avoid specimen trees and other sensitive areas. 4) Two stormwater management ponds will be constructed. 5) Utilities will be installed. MDE has been reviewing the plans for stormwater management for this project and approvals are expected to be issued; no mitigation is required for the non-tidal wetland buffer impacts to the 25-foot non-tidal wetland buffer; the reforestation requirement, 2.1 acres will be met on site through replanting and natural regeneration; there are no known threatened or endangered plant or animal species that will be affected by the activities under Phase I. John Wilson, DNR, updated the Commission on the progress at North Point State Park since 1991 when the Master Plan was approved, and subsequently approved by the Secretary of DNR in 1993. He said that this area in the Southeast section of Baltimore County, open space, 1,310 acres acquired in 1987 has diversity of habitat, six miles of shoreline, tidal and non-tidal wetlands, and forested areas and has played an important part in the State's history, was involved in the war of 1812 - the battle of North Point when the British attacked Baltimore and the site of the Bayshore Amusement Park in the early 19th century. He stated that the goals of the plan were to provide protection, enhancement and interpretation of the cultural and natural resources on this property while still providing limited public access to the Bay. Many representatives of the Park were available to answer any questions. The Chairman of the North Point State Park Citizens Committee, Janet Wood, spoke in favor of Phase I; a resident of the Community, Pearl Gentling, spoke in favor of the project; Lyn Jordan, representing Friends of North Point State Park and Black Marsh Wildlands voiced a few reservations about the proposed project: placement of roads to preserve canopy, that they needed more time to review the final plans or Critical Area studies for impact to habitat, and the engineering concerns for parking lot design for stormwater management.

Kay Langner moved to approve the entrance road and site work at the North Point State Park with the condition that all state and federal comments are received. The motion was seconded by Dave Bourdon and carried unanimously.

Greg Schaner, Planner, CBCAC presented for VOTE the State Highway Administration proposal for improvements to U.S. 301/MD 291 Interchange and Service Road in Kent County. Mr. Schaner described the technical aspects of the project proposal. He said that the majority of the project will involve improvements to the existing road surfaces with 0.08 acres of new impervious surface within the Critical Area. There will be minor impacts into the 100-foot Buffer for the Chester River mitigated at 3:1. There are no wetland or forest impacts. A sediment and erosion control plan will be obtained, and best management practices will be used. Kay Langner moved for approval of the highway improvements at route US 301/MD 291 with the following conditions: 1) provide the Critical Area Commission staff with planting plans for 3:1 Buffer mitigation. 2) issuance of an approved sediment and erosion control plan as required. The motion was seconded Jinhee Wilde and carried unanimously.

OLD BUSINESS

Marianne Mason, Esquire, Assistant Attorney General, DNR and Commission Counsel updated the Commission on legal affairs. She said that the Citrano case now pending in the Court of Special Appeals,

regards a deck in the 100-foot Buffer. The Court has dismissed Mr. Citrano's case but he has petitioned for reinstatement which is still pending.

In the Circuit Court, an argument is set next Friday in Wicomico County. The case involves Mr. and Mrs. Kelly who received a variance from the Wicomico Board of Appeals for a pool. Because neither the Kellys nor the Board of Appeals responded to the Appeal of the Commission, Ms. Mason filed a motion with the Court asking the Court to declare them in default and to declare that because the Commission are the only parties, we win! She is still waiting to hear from the Court. Another Appeal was filed in Dorchester County from another variance that the Dorchester Board of Appeals granted again without any findings. This variance involved permission to build a house and other structures on a lot that is not really a lot, just a residue lot and the Board just grant the variance and told the developer that he could see the Commission in Court and so he will.

In St. Mary's County, the Commission Staff and Ms. Mason have been working informally with the County staff and the County attorney on a proposal from a homeowner who had purchased some property that was subject to a Consent Order which was entered into amongst three parties: the property owner, the Commission and the County in 1993. By the Consent Order, the Court in 1993 in St. Mary's settled a case that the Commission had brought challenging a variance and basically allowed the homeowner to build a house and a garage that intruded partially into the 100 foot buffer. The person came back to the County and asked to do more excavating, over 1000 square feet for a walk out basement and associated grading. The County issued a building permit. All work was to be done in the 100-foot buffer contemplated by the 1993 Consent Order. Against Critical Area staff advice, the County issued a building permit. The Commission went to Court two weeks ago and got a temporary Restraining Order against both the County and the homeowner ordering construction to stop pending a final hearing on permanent relief. That hearing will be held on March 9th.

NEW BUSINESS

Chairman North updated the Commission on the Whitbread race and activities which have a stopover in Baltimore and Annapolis in late April and early May. He said that the Living Classrooms of America's entry, "Chessie" is doing extraordinarily well, having good and bad moments. Chairman North is hopeful of arranging a waterborne tour of the harbor during that time to interested Commission members. When details are finalized, Commission members will be notified. The President of the United States chose the Living Classrooms Foundation site to announce that there would be federal funding, some \$30 million dollars for a variety of clean up the water programs. The Chesapeake Bay has been very much in the media recently and will be even more so in April and May.

There being no further business, the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Secretary

CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT
April 1, 1998

Concurrence

APPLICANT: Talbot County

PROPOSAL: Growth Allocation Refinement - Spurry Subdivision
(RCA to LDA)

COMMISSION ACTION: Concurrence

STAFF RECOMMENDATION: Approval

STAFF: Greg Schaner

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article §8-1808.1

DISCUSSION:

The County Council of Talbot County approved a legislative bill on December 9, 1997 to reclassify 15.863 acres of RCA land to LDA. The County submitted a formal growth allocation request on February 13, 1998 to the Critical Area Commission staff for review and approval by the Commission. The growth allocation subdivision will include seven (7) lots (average lot size 2.25 acres), a 40-foot private road, and required septic reserve areas for each lot. The County is requesting 15.863 acres of growth allocation to increase the allowable density on this property and reclassify the property from RCA (Resource Conservation District) to LDA (Village Center District). The County will have 2300.1 acres of growth allocation remaining out of an original total of 2554 acres. The Chairman of the Critical Area Commission has determined that this mapping change is a refinement to the County's Critical Area Program and seeks concurrence with that determination.

The following is an outline of the pertinent Critical Area issues associated with this growth allocation request:

LDA Adjacency/Growth Allocation Requirements

The County has determined that the subdivision meets its Critical Area adjacency requirements (i.e., 25 percent of property must be adjacent to other LDA lands) because of the property's connection to the Village of Sherwood, which is also zoned LDA (Village Center District). The County Council determined that the growth allocation would be an appropriate extension of the Village of Sherwood and that the request

complies with all of the County's Critical Area growth allocation requirements [Section 19.14(c)(iv)]. It should be noted that the County considers Village Center District development to be the first priority of growth allocation subdivisions [Section 19.14(c)(iv)[q]].

Critical Area Buffer

This subdivision contains two (2) lots, Lots 3 and 4, which are adjacent to tidal waters (Lambdin's Cove). The site plan (see enclosed) has included the appropriate Critical Area Buffer. Lot 3 contains existing development within the Buffer. Lot 4 contains an expanded Buffer to protect nontidal wetlands. Afforestation plantings on Lots 3 and 4 will be provided to enhance the water quality and habitat functions of the Buffer.

15 % Afforestation

The applicant is required to provide a forest cover of 15 percent of the property (i.e., 2.38 acres). The site plan indicates the suggested location of the afforestation plantings. The location of the plantings will enhance the protection of the nontidal wetlands and the shoreline, and will expand existing forest vegetation on abutting properties. The site plan meets the County's 15 percent afforestation requirement.

Reforestation

All new development will occur on land that was previously used for agriculture. The proposed development involves no clearing of existing forest vegetation and therefore no reforestation is required.

Habitat Protection Areas

An August 1997 review of the proposed subdivision by the Department of Natural Resources' Wildlife & Heritage Division determined that there are no State rare, threatened, or endangered plants or animals within the project site. However, the open waters of Lambdin's Cove are known historic waterfowl concentration areas. The DNR review advised the property owner that if any future water-dependent facilities are proposed, a review by the Wildlife & Heritage Division must be conducted. In response, the site plan contains a plat note alerting future developers to this requirement.

Impervious Surface Limits

Each lot will be limited to 15 percent imperviousness. The site plan contains a table describing the impervious surface limits for each lot.

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STAFF REPORT
April 1, 1998

Concurrence

APPLICANT: St. Mary's County

PROPOSAL: Growth Allocation Text Amendment to the St. Mary's County Zoning Ordinance

JURISDICTION: St. Mary's County

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval

STAFF: Mary Owens

APPLICABLE LAW: COMAR 27.01.02.06, Location and Extent of Future Intensely Developed Developed and Limited Development Areas

Annotated Code of Maryland 8-1808.1, Growth Allocation in Resource Conservation Areas

DISCUSSION:

St. Mary's County is requesting approval of a text change to Section 38.2.18c(1) of the St. Mary's County Zoning Ordinance which addresses the award of growth allocation for projects involving the subdivision of land to create a single lot. Currently this section states that, "The property to be subdivided includes not less than six (6) acres." County staff implementing the Critical Area Program have found that this provision has been problematic for some growth allocation projects, and that this requirement does not necessarily support the location of new development in or near developed areas or the concept of clustering.

Last April, the Critical Area Commission approved the use of growth allocation for the Lacey property which involved less than six (6) acres, subject to an amendment to the County's Critical Area Program to remove this requirement. Subsequently, both the Planning Commission and the County Commissioners held public hearings on this change and on February 3, 1998, the Board of County Commissioners approved it.

This project is consistent with the Critical Area Criteria and the Commission's policy on growth allocation which does not include a minimum parent parcel size for growth allocation requests.

this manner.

c. Single Lot Subdivision Category

The final twenty (20) percent of growth allocation awarded each year will be distributed to single-lot residential subdivisions in the RCA. The intent of this provision is to provide a relatively simple process by which property owners with not less than six (6) acres in the RCA can create and sell one additional single lot than is currently provided for. Growth allocation under this provision shall be by lottery for any annual cycle in which the number of applications exceeds the available acreage to be awarded.

(1) Eligibility Requirements

For each application, it shall be required that:

*This provision
to be deleted.*

- (a) The property to be subdivided includes not less than six (6) acres;
- (b) Only one new lot in addition to what is currently allowed is proposed;
- (c) Area of site disturbance for development is limited to a 20,000 square feet development envelope;
- (d) Proposed development meets all other criteria of the county's Critical Area program;
- (e) Any portion of the original parcel retained for agricultural use will develop a soil conservation and water quality plan; and
- (f) The parcel of record from which the lot is to be subdivided was created prior to December 1, 1985.
- (g) Individual property owners receiving a growth allocation under this provision shall be ineligible for future allocation hereunder, but shall be eligible to submit applications under the design competition and minor subdivision provisions.

(2) Submission Requirements

- (a) An Environmental Report may be required depending on the sensitive features present on the site.
- (b) The following must be submitted for consideration for growth allocation.

Chesapeake Bay Critical Area Commission

STAFF REPORT

APRIL 1, 1998

APPLICANT: Queen Anne's County

PROPOSAL: Possible Amendment to Existing Transfer Development Rights Program

JURISDICTION: Queen Anne's County

COMMISSION ACTION: Provide Guidance to County

SUBCOMMITTEE RECOMMENDATION: Advise the County that its Transfer Development Rights program is not required to provide for a minimum of eight acres of upland for each 20 acres set aside when a development right is created.

STAFF: Ren Serey

APPLICABLE LAW/REGULATIONS: COMAR 27.01.02.05 (Resource Conservation Area provisions); NR Article 8-1808.1 (d) (Development in the Resource Conservation Area; one dwelling unit per 20 acres).

DISCUSSION:

Transfer Development Rights (TDRs) are a mechanism by which local governments encourage protection of certain types of land or resources. Typically, a county will offer owners of identified land (the sending area) the opportunity to sell development rights to a developer or to the county itself. The development rights then may be used elsewhere in the county (the receiving area), possibly within a designated growth area or to promote some other local goal or program. In some cases, a jurisdiction will downzone an area designated to receive TDRs so that the development rights brought in will not increase density beyond the original level. Other TDR programs provide that existing density levels can increase only through use of the purchased rights.

Queen Anne's County

In December, 1995, the Commission approved a TDR program as part of Queen Anne's County's comprehensive four-year review. The County program allows RCA land to generate TDRs provided that at least 20 acres are set aside for each development right. The development rights are used elsewhere within the RCA, thus maintaining an overall RCA density in the Critical Area of one dwelling unit per 20 acres. Under the County program, private tidal wetlands¹ can be included in the calculation of development rights if the parcel generating the TDRs has at least eight acres of upland for each development right created.

The County asked the Commission whether other alternatives were possible for calculating TDRs and to allow the County to amend its program if the Commission decided that the eight-acre upland minimum was not required.

The Criteria

The Critical Area Criteria encourage local governments to use TDRs within the Resource Conservation Area (RCA). COMAR 27.01.02.05 C (4) states that:

"Land within the resource conservation area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres. Within this limit of overall density, minimum lot sizes may be determined by the local jurisdiction. Local jurisdictions are encouraged to consider such mechanisms as cluster development, transfer of development rights, maximum lot size provisions, and/or additional means to maintain the land area necessary to support the protective uses."

The Criteria contain no other reference to TDRs and no specific guidance on the minimum requirements of a local TDR program or its operation. However, the mandatory Criteria policies for the RCA in general are helpful in describing factors local governments should consider in setting up a TDR program to protect RCA resources. These policies are set out at COMAR 27.01.02.05 B:

- I. Conserve, protect, and enhance the overall ecological values of the Critical Area, its biological productivity, and its diversity;
- II. Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitats in order to sustain populations of those species;

¹ Private tidal wetlands are private property. They are tidally-influenced in terms of vegetation, soils and hydrology, but are located above the mean high water line; wetlands below mean high water are State wetlands. Both categories are distinct from nontidal wetlands, which are not influenced by the tide and are privately owned unless located on government lands such as parks or rights-of-way.

- III. Conserve the land and water resource base that is necessary to maintain and support land uses such as agriculture, forestry, fisheries activities, and aquaculture; and
- IV. Conserve the existing developed woodlands and forests for the water quality benefits that they provide.

The Critical Area Act

The eight-acre upland provision is set out in an amendment to the Critical Area Act. In 1986, the General Assembly amended the Act at Section 8-1808.1(d). The amendment provides as follows:

Calculation of 1-in-20 acre density of development.-- In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the resource conservation area, a local jurisdiction may permit the area of any private wetlands located on the property to be included, under the following conditions:

- (1) The density of development on the upland portion of the parcel may not exceed 1 dwelling unit per 8 acres; and
- (2) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps.

A Change in Position

Staff has recommended to the Program Subcommittee, and the subcommittee has agreed, that the Commission should change its position regarding the TDR element of Queen Anne's County's Critical Area Program. There are several reasons for this change including the following:

- When Queen Anne's County submitted its TDR program for Commission approval, staff mistakenly believed that the eight-acre requirement also controlled development undertaken through TDRs. In the intervening years, staff has realized that such an interpretation is not required by the Act or Criteria, or consistent with the goals of the Critical Area program.
- There are no minimum requirements regarding TDRs in the Critical Area Act and Criteria. The eight-acre provision in the Act applies solely to traditional development within the RCA, where density, absent other factors, is limited to one dwelling unit per 20 acres. The Act is silent on transfer development rights. TDRs, like grandfathered lots and intrafamily transfers, are not a traditional form of development in the RCA. Rather, they are a tool which the Criteria specifically encourage local governments to employ in order to further the resource-protection policies of COMAR 27.01.02.05 B.

Chesapeake Bay Critical Area Commission

STAFF REPORT

April 1, 1998

APPLICANT: Town of Princess Anne

PROPOSAL: Storm Drain Rehabilitation Project - proposed wetpond and outfall in Buffer to protect Federally endangered marsh plant

JURISDICTION: Town of Princess Anne

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Susan McConville

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02, Development in the Critical Area Resulting From State and Local Agency Programs; Chapter 06, Conditional Approval of State or Local Agency Programs in the Critical Area ; .01 Criteria

DISCUSSION

In September of 1997, the Town of Princess Anne received a letter of certification from Commission staff that the proposed street scape and storm drain rehabilitation project for the Town was consistent with the Town's Critical Area program. During the design of the storm drain and outfall, the Town had worked with DNR's Wildlife and Heritage Program staff to locate the storm drain outfall such that it would not impact the globally-endangered species that is located in the tidal wetland in the project area.

Two alternative sites for a direct outfall into tidal waters were recommended that would provide adequate protection for the endangered species habitat. However, in February of 1998, at a meeting on the site with Town staff and representatives of DNR- Wildlife and Heritage Program, MDE, the Army Corps of Engineers, and the US Fish and Wildlife, the issue of the potential adverse impacts of a direct outfall on the endangered species population was reexamined.

The State and federal agencies reviewing the project concluded that a direct outfall into the Manokin River would not be permitted because of adverse impacts to the habitat and that an alternative was needed that would result in an improvement of outfall water quality. The

alternative that was agreed upon by the resource agencies was that of a natural treatment system, a vegetated wetpond, which would filter runoff pollutants and could be utilized in conjunction with the storm drain outfall. The resource agencies recommended that the outfall and wetpond be located adjacent to Front Street. This recommended area is in the 100-foot Buffer to the Manokin River in the Town's Manokin Park. This location was determined to be the most suitable for the following reasons:

1. The location is far enough upstream to prevent adverse impacts to the endangered species;
2. The design and use of the BMP will protect water quality;
3. The proposed location of the outfall and wetpond is on Town owned land;
4. The area of Town owned land available in Manokin Park is large enough to support the outfall and wetpond concept;
5. The site location and slope meets the needs of the storm drain rehabilitation project and outfall.
6. There are no alternative sites that meet the needs of the storm drain rehabilitation project, water quality treatment, and endangered species habitat protection.

With the addition of the BMP for water quality, the proposed street scape and storm drain retrofit is not expected to have short-term or long-term adverse impacts to the identified endangered species habitat. In addition, because the new proposal will result in an improvement of existing outfall water quality, the project is expected to improve aquatic and tidal marsh water quality conditions downstream. The placement of the wetpond at this location will help minimize future adverse impacts when the proposed system is in need of repair or expansion as the town grows.

The wetpond proposal includes the planting of 7,800 herbaceous plants, 110 shrubs and 7 trees. All of the plantings will occur within the 100-foot Buffer. The trees will assist in removing nutrients from storm water runoff, both surface and subterranean, and the other plantings will protect wildlife inhabitants while also improving water quality.

Commission staff bring this project for the Commission's review and consideration under COMAR 27.02.06. Under the criteria of this chapter, if development is proposed to be undertaken or caused in the Critical Area by State or local agency actions and this development is prohibited from occurring by the criteria in this subtitle, the agency proposing the development may seek conditional approval for the project or program from the Commission.

In order to qualify for consideration by the Commission for conditional approval, the proposing local agency must show that the project or program has the following characteristics:

(1) That there exist special features of a site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program for being implemented;

- The impacts in the 100' Buffer are proposed to protect habitat of a federally endangered species. Three alternative sites were explored as locations for a water quality BMP. All feasible alternative sites would have resulted in impacts in the Buffer. The project will not be approved by all State and federal agencies unless the Town adequately addresses

the water quality issue.

(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;

- No new areas of impervious surfaces are proposed with the street scape and storm drain rehabilitation project. The storm drain rehabilitation is proposed to address an existing stormwater management problem. The new proposal to include a water quality BMP will result in an improvement of existing water quality and prevent adverse impacts on the existing federally endangered species habitat in the tidal marsh.

(3) That the project or program is otherwise in conformance with this subtitle.

- The proposed alternative is supported by all other State and federal agencies. Except for the proposed disturbance to the 100-foot Buffer, the project is otherwise in conformance with the state criteria and the Town's Critical Area Program.

The Commission must find that the conditional approval request contains the following:

(1) That a literal enforcement of the provision of this subtitle would prevent the conduct of an authorized State or local agency program or project;

- A direct outfall from the storm drain system into the Manokin river will not be permitted by the State and federal agencies reviewing this project. The Town is required to include a BMP to address water quality. The proposed wetpond, although requiring impacts in the Buffer, does provide for protection of the endangered species habitat, serve water quality functions, and will provide for additional plantings, trees, and grasses that may not be associated with other types of BMP's.

(2) There is a process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or, if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05; and

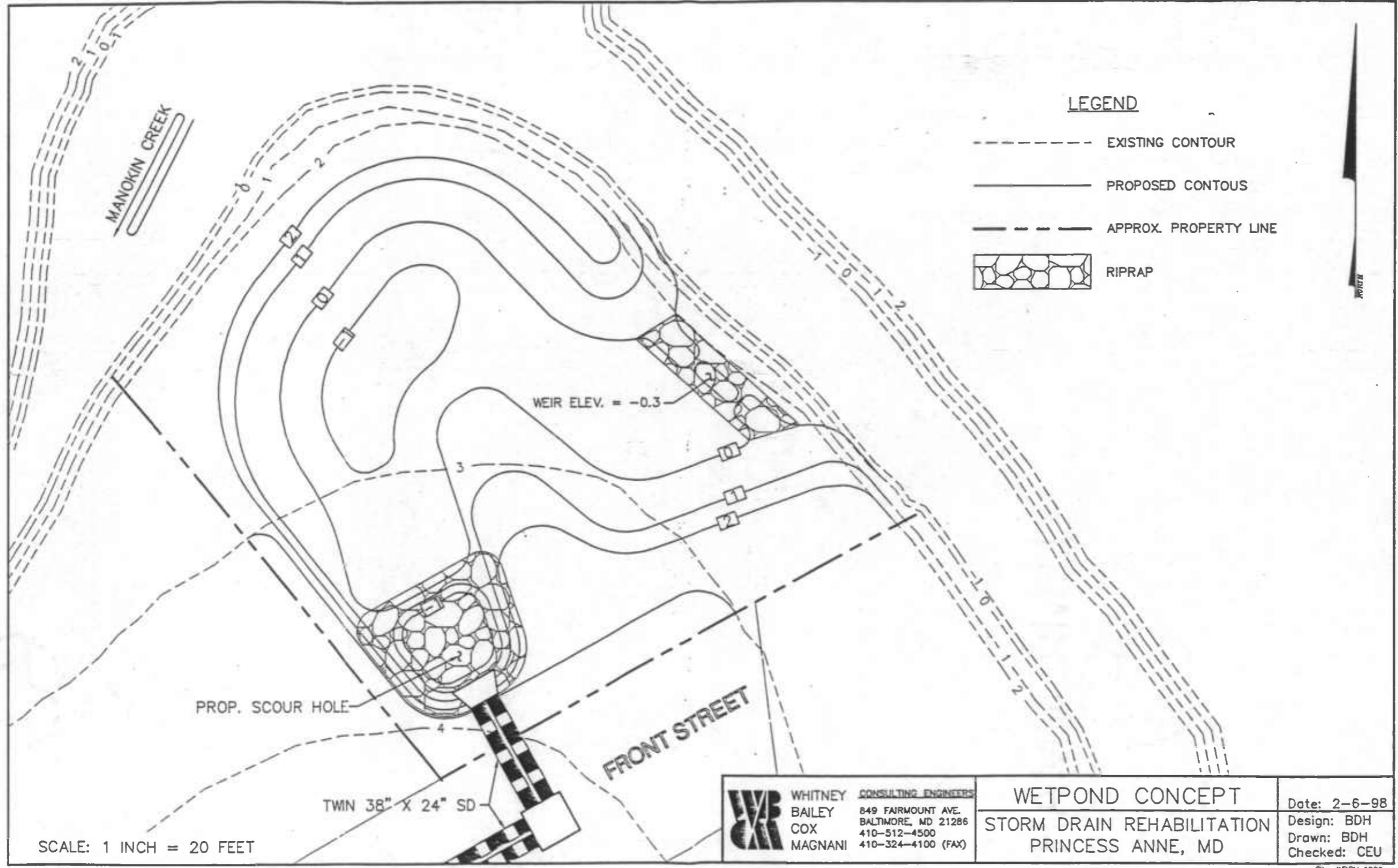
- As previously stated, the project was determined to be consistent with the Town's Critical Area program under COMAR 27.02.02. The newly proposed impacts in the Buffer are not consistent with the Town's program, however, all disturbance will be minimize and will result in improved water quality and habitat protection benefits.

(3) Measures proposed to mitigate any adverse effects of the project or program on an approved local Critical Area program or, if on State-owned lands, on the criteria set forth in COMAR 27.02.05.

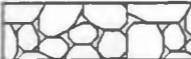
- The additional plantings proposed within the Buffer will result in increased water quality benefits and improved habitat protection.

The conditional approval request is consistent with COMAR 27.02.06, the Commission's regulations for Conditional Approval of State or Local Agency Programs in the Critical Area.

Revised 2/20/98



LEGEND

- EXISTING CONTOUR
- PROPOSED CONTOUR
- - - - - APPROX. PROPERTY LINE
-  RIPRAP

WEIR ELEV. = -0.3

PROP. SCOUR HOLE

FRONT STREET

TWIN 38" X 24" SD

SCALE: 1 INCH = 20 FEET

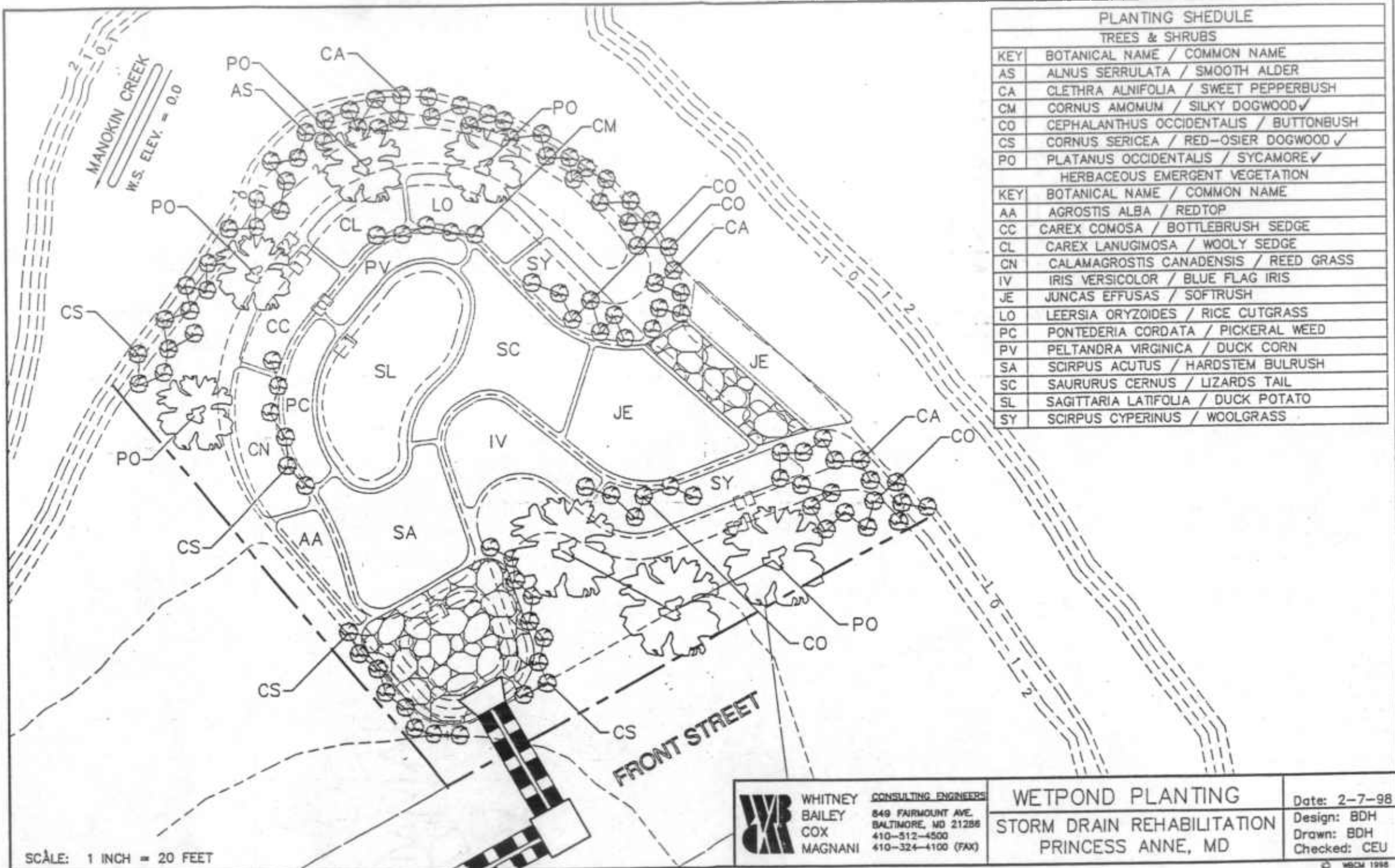


WHITNEY CONSULTING ENGINEERS
 BAILEY 849 FAIRMOUNT AVE.
 COX BALTIMORE, MD 21286
 MAGNANI 410-512-4500
 410-324-4100 (FAX)

WETPOND CONCEPT
STORM DRAIN REHABILITATION
PRINCESS ANNE, MD

Date: 2-6-98
 Design: BDH
 Drawn: BDH
 Checked: CEU

Revised 2/20/98



| PLANTING SCHEDULE | |
|--------------------------------|--|
| TREES & SHRUBS | |
| KEY | BOTANICAL NAME / COMMON NAME |
| AS | ALNUS SERRULATA / SMOOTH ALDER |
| CA | CLETHRA ALNIFOLIA / SWEET PEPPERBUSH |
| CM | CORNUS AMOMUM / SILKY DOGWOOD ✓ |
| CO | CEPHALANTHUS OCCIDENTALIS / BUTTONBUSH |
| CS | CORNUS SERICEA / RED-OSIER DOGWOOD ✓ |
| PO | PLATANUS OCCIDENTALIS / SYCAMORE ✓ |
| HERBACEOUS EMERGENT VEGETATION | |
| KEY | BOTANICAL NAME / COMMON NAME |
| AA | AGROSTIS ALBA / REDTOP |
| CC | CAREX COMOSA / BOTTLEBRUSH SEDGE |
| CL | CAREX LANUGIMOSA / WOOLY SEDGE |
| CN | CALAMAGROSTIS CANADENSIS / REED GRASS |
| IV | IRIS VERSICOLOR / BLUE FLAG IRIS |
| JE | JUNCAS EFFUSAS / SOFTTRUSH |
| LO | LEERSIA ORYZOIDES / RICE CUTGRASS |
| PC | PONTERERIA CORDATA / PICKERAL WEED |
| PV | PELTANDRA VIRGINICA / DUCK CORN |
| SA | SCIRPUS ACUTUS / HARDSTEM BULRUSH |
| SC | SAURURUS CERNUS / LIZARDS TAIL |
| SL | SAGITTARIA LATIFOLIA / DUCK POTATO |
| SY | SCIRPUS CYPERINUS / WOOLGRASS |

SCALE: 1 INCH = 20 FEET

WR WHITNEY BAILEY COX MAGNANI CONSULTING ENGINEERS
 849 FAIRMOUNT AVE. BALTIMORE, MD 21286
 410-512-4500 410-324-4100 (FAX)

WETPOND PLANTING
STORM DRAIN REHABILITATION
 PRINCESS ANNE, MD

Date: 2-7-98
 Design: BDH
 Drawn: BDH
 Checked: CEU