

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Crownsville, Maryland 21401
Conference Room 1100A
September 2, 1998

AGENDA

SUBCOMMITTEES

9:30a.m. - 11:30 a.m. SPECIAL SUBCOMMITTEE

Hyatt Regency Resort - Cambridge

11:30 a.m. - 12:00 p.m. Project Subcommittee

Members:

Elkneck State Park Shore Erosion Control - Cecil County/DNR
Tawes Parking Lot Storm Drain Outfall/DNR

Susan McConville, Planner
Lisa Hoerger, Planner

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

PLENARY MEETING

1:00 p.m. - 1:05 p.m. Approval of Minutes
of August 5, 1998

John C. North, II, Chair

PROGRAM AMENDMENTS and REFINEMENTS

1:05 p.m. - 2:00 p.m. Hyatt Regency Resort Cambridge
Growth Allocation Concept Approval

Ren Serey, Executive Director

PROJECT EVALUATION

2:00 p.m. - 2:15 p.m. Cecil County/ DNR VOTE Elk Neck State Park
Shore Erosion Control

Susan McConville, Planner

2:15 p.m. - 2:25 p.m. Annapolis/DNR Vote Tawes Parking Lot

Lisa Hoerger, Planner

2:25 p.m. - 3:00 p.m. Bay Grasses: Status and Trends

Tom Parham, DNR, Resource
Assessment Service

3:00 p.m. - 3:15 p.m. OLD BUSINESS
NEW BUSINESS

John C. North, II, Chairman

WORKGROUP MEETING

Forest Interior Dwelling Birds

Chesapeake Bay Critical Area Commission
 Department of Housing and Community Development
 People's Resource Center
 Crownsville, Maryland 21401
 August 5, 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:

Barker, Philip, Harford County	Pinto, Robert, Somerset County
Joseph Jackson, Worcester County	Robinson, Edward, Eastern Shore MAL
Castleberry, William DBED	Rogers, Dr. Sarah Taylor-DNR
Cooksey, David, Charles County	Corkran, William, Talbot County
Wilde, Jinhee K., Western Shore MAL	Williams, Roger, Kent Co.
Evans, Diane, A.A. County	
Conway-Appel, Sherry for Wynkoop, Samuel, P.G. Co.	
Setzer, Gary for Hearn, J.L., Md. Dept. of Environ.	
Langner, Kathryn, Cecil Co.	Duket, Larry, Md. Dept of Planning

The Minutes of July 1, 1998 were amended to reflect David Cooksey, Charles County, recusing himself from the vote on the issue for the Smallwood State Park Land Unit Plan in Charles County in July as his firm handled the application.

Larry Duket, Maryland Office of Planning gave a special presentation on the 1992 Planning Act. He said that the 2020 Act, proposed by Governor Schaefer, was essentially a state **top down approach** to land use planning that would require all jurisdictions to downzone land to one dwelling unit per 20 acres. It was, he said, the State's biggest move toward centralized planning. The Bill was seen as a power grab and failed. It was sent to a summer study group. At the direction of the General Assembly, the 2020 sensitive areas issue was to be examined. When everybody got together, instead of dealing with just the sensitive areas, they discussed all aspects of land use and what resulted was the Economic Growth and Resource Protection and Planning Act of 1992. The Act had seven visions for the future that were given to both State agencies and to local governments for a **bottom up approach**. Comprehensive plans were developed around the seven visions and a new sensitive areas element was incorporated. The law states that there are 4 types of sensitive areas: steams and buffers, 100 year floodplains, steep slopes and habitat of threatened and endangered species. Other elements of the seven visions were issues of regulatory streamlining, innovation and flexibility. Again, these were not defined in the law and there were no sanctions for non-compliance except for the sensitive areas element. Most local governments and many small towns adopted the new plans and sensitive areas elements. However, St. Mary's County has raised the constitutional issue of "due process". There is in the Statute a passive voice that says "these standards shall be applied" and not "who" shall apply them. St. Mary's has declined to apply them. The State Planning Commission's Attorney General agrees with St. Mary's County. There now exists the problem of either beginning the AELR process for regulatory standards vs the jurisdictions adopting policy governing standards for sensitive areas. The end result is that some of the jurisdictions and counties have adopted the Act and implemented the standards and many did not. A six year up date to the Governor on the results of this Act is due and a decision on whether to continue with a regulatory approach is the question. Mr. Duket stated that the Critical Area model remains the most effective approach for land growth management, assuming the State should be involved with these issues.

Calvert County's request to change the Critical Area overlay designation of the Suder property from Resource Conservation Area (RCA) to Limited Development Area (LDA) was presented by Dawnn McCleary, Planner, CBCAC for concurrence with the Chairman's determination of Refinement. During the original establishment of the overlays, the map used was out of date and did not show lots in an R-1 area of Brooms Island which had previously been recorded. The lots in questions should have been mapped LDA. The Commission supported the Chairman's determination of Refinement.

Proposed construction by the Department of Natural Resources for a handicapped access path for Greenwell State Park in St. Mary's County was presented for Vote by Tracy Batchelder, Planner, CBCAC. The path would allow the disabled to access the existing pier, the handicapped path along the shoreline, and the Cottage. Currently, there is no means for the handicapped to access this area. Additionally, a 60' long by 15' wide parking pad is proposed for construction next to the Cottage to provide access to the Greenwell Foundation's office. Ms. Batchelder stated that this proposed handicapped access is based on recommendations made within the Greenwell State Park Master Plan approved by the Critical Area Commission in June, 1994. She described the technical details of the proposal. There are no habitat protection areas on the site. No MDE permits are required for the project as less than 5,000 square feet will be disturbed by the construction and location of the path parking pad. No forest clearing is involved; 2:1 mitigation will be provided for disturbance within the Buffer. Kay Langner moved to approve the Greenwell State Park handicapped access area as proposed. The motion was seconded by Bob Pinto and carried unanimously.

The proposed easement to SMECO by the Maryland Department of Natural Resources for construction of an underground electric line at Greenwell State Park in St. Mary's County was presented for Vote by Tracy Batchelder. The proposed easement will be 59 feet in length. It will be located outside the 100 foot Buffer. There are no habitat protection areas on this site. No MDE permits are necessary. Kay Langner moved to approve the easement for the underground electric line at Greenwell State Park as proposed. The motion was seconded by Bob Pinto and carried unanimously.

The proposed revisions to the Improvements to Maryland Route 18 and Cox Creek Bridge Replacement by the State Highway Administration in Queen Anne's County were presented for Vote by Greg Schaner, Planner, CBCAC. He told the Commission that on May 6, 1998 the Commission voted to approve this request for improvements and replacement with conditions, but the State Highway Administration has since revised the approved project to include 1,100 feet of sidewalks. Although the new sidewalks will add only 0.039 acres of impervious surfaces in the Critical Area, any structural revisions to an approved project must be reviewed and approved by the Commission. Mr. Schaner described the technical details of the project. Most of the conditions are relating to mitigation and a condition dealing with instream construction restrictions and wetlands permits has been added. Since May, there has been approval for the sediment and erosion control plan. Kay Langner moved to approve the MD Route 18 Improvements and Cox Creek Bridge Replacement Proposed Revisions with conditions as proposed. The motion was seconded by David Cooksey and carried unanimously.

OLD BUSINESS

Marianne Mason, Esquire, Assistant Attorney General and Commission Counsel told the Commission that the Court of Special Appeals has issued a decision in the case of Citrano vs. North. This case involved a variance for a free standing deck in the 100 foot Buffer. The Court of Special Appeals affirmed the Anne Arundel Circuit Court's denial of that variance. She said that it is not known whether this will end this case or if it will be appealed further.

In the Circuit Court for Anne Arundel County, an appeal was argued in the Belvoir farms case for a variance for more boat slips in a community marina than the law allows. The decision is pending.

In Dorchester County, two Appeals Memoranda were filed for buffer variance cases. One involved a variance for a house to be built in the Buffer, and one for a variance for a shed in the Buffer.

Dawnn McCleary, Planner, CBCAC reported that the Ravens stadium's opening day will be August 8th. She said that the project is finished and the bioretention is in place. The Commission members and staff have been invited to tour the stadium.

NEW BUSINESS

Chairman North told the Commission members, for the benefit of those not in attendance at the subcommittee meeting that morning, that the Hyatt project (Chesapeake Bay Resort) was discussed in detail and at length. He said that representatives from the Hyatt Corporation, engineers, attorneys and support staff were also in attendance and that it was his impression from the members in attendance that the project looks most attractive and has tremendous socio-economic promise for the County of Dorchester, the City of Cambridge and for the State of Maryland as a whole. He said that the Commission staff have worked closely with the Hyatt staff and have met repeatedly on site, in Easton, and in Annapolis and there has been a remarkable amount of cooperation back and forth. Another meeting of the subcommittee will be held on August 19th at 9:00 a.m at the Commission offices.

There being no further business the meeting adjourned.

Minutes submitted by

Peggy Mickler, Commission Coordinator

Motion:
Grubbe will be recessed from deliberations, her firm represents
Clark Construction

CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT
September 2, 1998

Sub. Recommendation for approval as presented incl. all conditions

- APPLICANT:** Department of General Services / City of Cambridge
- PROPOSAL:** Hyatt Regency - Chesapeake Bay Resort *B.C. motion*
- JURISDICTION:** City of Cambridge *(JCN: iterates motion)*
- COMMISSION ACTION:** Conceptual Approval for Growth Allocation *sr. Mr. Pinto carried*
- STAFF:** Ren Serey
- APPLICABLE LAW/ REGULATIONS:** Natural Resources Article 8-1809(j)
COMAR 27.01 *(reusal)*
- STAFF RECOMMENDATION:** Pending Special Subcommittee Meeting *22 -*
- DISCUSSION:** *1 recessed*

General Description

The Maryland Department of General Services (DGS) is coordinating the sale of Eastern Shore Hospital Center property in Cambridge to a private development team consisting of the Hyatt Corporation, Quadrangle Development Corporation, and Clark Enterprises. The development team intends to purchase the property for the purpose of developing a major waterfront resort known as the Hyatt Regency - Chesapeake Bay Resort. The State is offering considerable financial assistance to the project in the form of direct grants or loans amounting to \$2 million. The property is located on the banks of the Choptank River within the corporate limits of the City of Cambridge. The property encompasses approximately 342 acres of land, most of which is within the Critical Area.

The proposed resort will include a 500-room hotel and conference center, a 480 slip marina, an 18-hole golf course, a European health spa, 350 new residential dwellings, and three restaurants. The resort will also include a new entrance road and several new private streets, and an extensive system of trails and walkways. The property is currently developed with a hospital and several surrounding institutional buildings, and contains a significant amount of farmland and open space. The DGS is in the process of purchasing land elsewhere in the City for the purpose of constructing a new hospital building. Development of the site will require the City to use a portion of its Growth Allocation. Although the City designated the property as Limited Development Area (LDA) in 1988, local designations do not control for State properties and the LDA designation is not appropriate for the site. The riverfront section, where the main hospital

complex exists, should have been designated Intensely Developed Area (IDA). The majority of this portion can be redeveloped without Growth Allocation. The remaining sections are primarily open spaces and farmland. These areas should have been designated as Resource Conservation Area (RCA) and will need Growth Allocation, probably to IDA, in order to accommodate the development plan.

Critical Area Commission Review - Special Subcommittee

A conceptual plan has been proposed for the Hyatt Regency resort showing the general layout of the various features of the project. At its August meeting, Chairman North convened a Special Subcommittee of Commission members to consider the site plan for conceptual approval by the full Commission. The development team is requesting that conceptual approval be granted at the earliest possible time because of contractual time constraints in the agreement of sale with the Department of General Services.

The Special Subcommittee met with the development team in Annapolis on August 19th to discuss recommended actions to be taken to minimize impacts within the Critical Area. The issues discussed at the meeting can be grouped into four general categories: (1) stormwater management for the golf course and new development; (2) application of Buffer Exemption Area (BEA) policy for the golf course; (3) minimization of Buffer impacts and adoption of a Buffer Management Plan; and (4) design and use of the recreational walkway. **The Special Subcommittee, under appointed Chairman William H. Corkran, Jr., will meet prior to the full Commission meeting at 9:30 am to further consider the proposed project and to prepare recommendations for the Commission.**

Conceptual Approval

Following the morning meeting of the Special Subcommittee, the Commission will consider granting conceptual approval for Growth Allocation for the proposed resort project. If the project moves forward following conceptual approval, the Commission staff, and possibly the full Commission, will provide comment and coordinate with the City of Cambridge at the site plan stage.

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D.B. moved that sub. accept rept

B.M. Sec. sub. accepts rept. — passed

Report of the Special Subcommittee of the Chesapeake Bay Critical Area Commission

September 2, 1998

Chesapeake Bay Resort - Cambridge Hyatt

A. Heron Rookery and Waterfowl Staging and Concentration Area

1 - Adopt DNR recommendations as per Attachment 1.

2 - Adopt 6-foot wide trail in the Heron Point area.

3 - Developer shall work with Critical Area and DNR staff to select appropriate material.

B. Urban Nutrient Management Plan and Integrated Pest Management Plan for Golf Course

1 - Developer shall develop an Urban Nutrient Management Plan and Integrated Pest Management Plan for the golf course. The plans developed by Queenstown Golf Links and alternative innovative management practices developed for use by golf courses shall be used as a model.

C. Cart and Pedestrian Path Location, Width, Material

1 - The pedestrian path system in the Buffer shall be accessible to the general public.

2 - As a general standard throughout the project, cart and pedestrian pathways shall be 8-foot wide. Pathway width may vary throughout the project from 6-feet to 10-feet. Special consideration shall be given for minimizing Buffer impacts. Design of the pathway system shall be coordinated with and approved by Critical Area staff.

D. Buffer Management Plan

1 - A comprehensive Buffer Management Plan shall be developed with Critical Area Commission staff and approved by the Critical Area Commission according to standard practice. The Plan shall include: location of managed areas, planting plans, specimen trees to be saved, bonding, and maintenance plan and specifications.

E. Stormwater Management Plan

1 - Adopt MDE recommendations as per Attachment 2.

2 - Developer shall not use existing natural wetlands to obtain credit for stormwater

quality treatment.

3 - Developer shall comply with the 10% Rule on IDA land.

F Tidal Wetlands Map Change

1 - The Critical Area Commission's concept approval is based on the location of the Critical Area line on the document entitled "Conceptual Plan - August 1998" and identified as "Chesapeake Bay Critical Area Boundary as Field Verified." It is expressly understood that should the Critical Area line as finally verified by MDE differ from the "Chesapeake Bay Critical Area Boundary as Field Verified" identified on the August 1998 Conceptual Plan then the project shall be resubmitted to the Critical Area Commission.

G. Final Site Plan Approval

1 - Critical Area staff shall review and report on the final site plan to ensure compliance with all conditions attached to the conceptual approval.

H. Buffer Exemption Areas

1 - Three areas are to be designated: Single Family Residential Section One, Hole # 17 (both sides of Shoal Creek), Hole # 18 and Hotel Site in accordance with Attachment 3.

2 - The Critical Area Commission will consider the mapped BEA areas as identified in # 1 for approval if presented by the City of Cambridge.

3 - Developer shall provide mitigation for all Buffer impacts in accordance with the Critical Area Commission's BEA Policy.

I. Growth Allocation

1 - Developer shall work with the Critical Area Commission staff, City of Cambridge, and Dorchester County to determine appropriate Critical Area designations for the site for the purposes of awarding growth allocation.

Attachment 1

September 2, 1998

Grand Hyatt Resort in Cambridge

The following conditions are proposed by the Department of Natural Resources for incorporation into concept approval by the Critical Area Commission for the Grand Hyatt Resort in Cambridge:

Golf Course Design

1. The realigned Hole #17 will be placed in the location shown to DNR staff (Schwaab and Smith) at the June 4, 1998 site meeting, e.g. on what is currently mowed lawn adjacent to the existing water tower and the easternmost group of trees along the unnamed tributary to Shoal Creek east of the existing heron colony.
2. A permanent hedge will be planted along the cart path between Hole #17 and the "T" for Hole #18 and left to grow to a ~~maximum~~ ^{minimum} height of 8 feet using woody evergreen species.
3. A walking trail will be allowed through Heron Point Woods provided it is not used during the Great Blue Heron nesting season (February 15 - July 31). Additionally, the trail shall be constructed of a rough porous material and shall follow the existing trail around the northern, western and southern edges of Heron Point Woods to the existing meadow area, where it will run north through the meadow area and connect back with the existing trail on the north side of the woods. The meadow area shall be planted in native forest species to further visually screen the trail from the heron nesting area and discourage off-path movement.

Construction

4. All clearing, earth moving and other landscaping or development activities for Hole #17, the "T" for Hole #18, the cart path between Hole #17 and #18, and adjacent areas shall occur outside of the Great Blue Heron nesting season (February 15 - July 31).
5. Construction of the bridge ^{and utility line replacement} across Shoal Creek shall be conducted during the period August 1 through November 30 to minimize disturbance to Canada Geese in the waterfowl staging and concentration area and to heron during their nesting season.

Post Construction

6. Golf course/conference center operators will exclude all people from Heron Point Woods during the heron nesting period (February 15 - July 31).
7. Golf course rules will state that no one is allowed to retrieve golf balls or equipment in the woods adjacent to the green at Hole #17 and #18, or in the Heron Point Woods. This will be indicated with placement of appropriate signage and enforced by course marshals.

8. The Department of Natural Resources will be given access to Heron Point annually to monitor the heron rookery during their breeding season and to count heron nests.

9. Heron Point Woods shall be designated as a conservation ^{area} ~~zone~~ where no logging or above grade construction is permitted. The developer shall coordinate with the local government to develop appropriate regulations in this regard.

Attachment 2

Maryland Department of the Environment
Water Management Administration
Wetlands and Waterways Program
2500 Broening Highway
Baltimore, Maryland 21224

September 1, 1998

MEMORANDUM

TO: Ren Serey
FROM: Gary Setzer
SUBJ: Hyatt Regency Chesapeake Bay Resort

As we discussed over the telephone, the Maryland Department of the Environment recommends that the following condition be included in the Subcommittee's report:

The proposed development, to the extent possible, shall pre-treat stormwater runoff prior to discharging into the waters of the State. The Commission and the Maryland Department of the Environment shall work with the Development Team to ensure that proper pre-treatment, in the form of stormwater best management practices, is incorporated into the construction plans. Possible management measures may include open channel swales, bio-retention structures, pocket wetland marshes, sand filters, etc. These and other techniques may be incorporated into a water quality management plan to ensure that stormwater discharges meet State water quality standards.

Chesapeake Bay Critical Area Commission

STAFF REPORT September 2, 1998

APPLICANT: MD Department of Natural Resources; Forest Service and Shore Erosion Control

PROPOSAL: Elk Neck State Park - Shore Erosion Control

JURISDICTION: Cecil County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Susan McConville

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05.05 Shore Erosion Protection Works

DISCUSSION:

The Maryland Department of Natural Resources (DNR) Forest Service and Shore Erosion Control proposes to construct 2,647 linear feet of stone revetment within an average 24 feet channelward of the mean high water line along the western shore of Elk Neck State Park at Rocky Point in Cecil County. The entire project lies within the 100-foot Buffer of the Critical Area on State-owned lands. The project includes shore erosion control work exclusively. The stone revetment will be constructed with fill and the graded and disturbed areas will be restored.

The project to be conducted by the DNR Shore Erosion Control Program involves no increase of impervious area, less than five acres of total disturbed area, and less than 5000 square feet of disturbed area for access roads. The following areas of disturbance are proposed:

- Total site area = 3,465 acres
- Total disturbed area = 1.09 acres
- Total cut = 3520 cubic yards
- Total fill = 9595 cubic yards

The Wildlife and Heritage Division of DNR have indicated there are no records for the presence of Federal or State rare, threatened or endangered species. No other impacts to Habitat Protection Areas are proposed.

The Maryland Historical Trust had no concerns and requested that if archaeological material is uncovered that their office would be notified and given an opportunity to visit the site to evaluate the material.

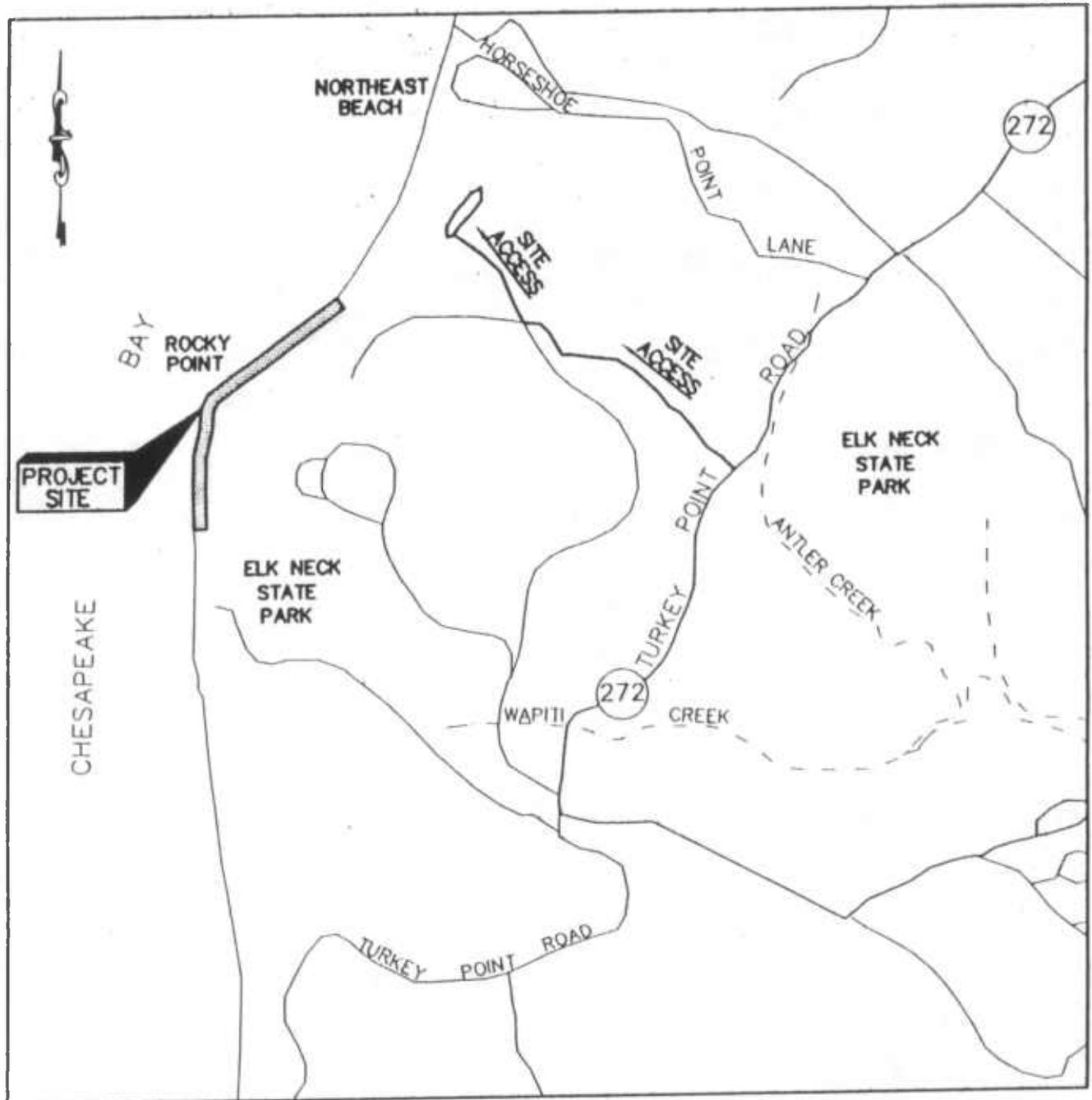
The following permits and documents have been secured by the applicant:

- Maryland Department of the Environment (MDE)
 - Stormwater Management (waiver)
 - Sediment and erosion control plan
 - Tidal wetlands permits
 - Water Quality Certification

- Army Corp of Engineers (ACOE)
 - Tidal wetlands Permit (404)

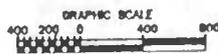
The contract requires that all trees will be protected to the greatest extent possible. Trees necessary for the construction of an access road and revetment will be removed. Stumps and root systems will be left in place at the fill-bank interface. The remaining bank vegetation is to be left undisturbed. The disturbed area will be stabilized and reseeded within 14 days after the completion of the fill grading and top soiling operations. The anticipated time line for the project is 360 days, to be started November 1998 and completed November 1999.

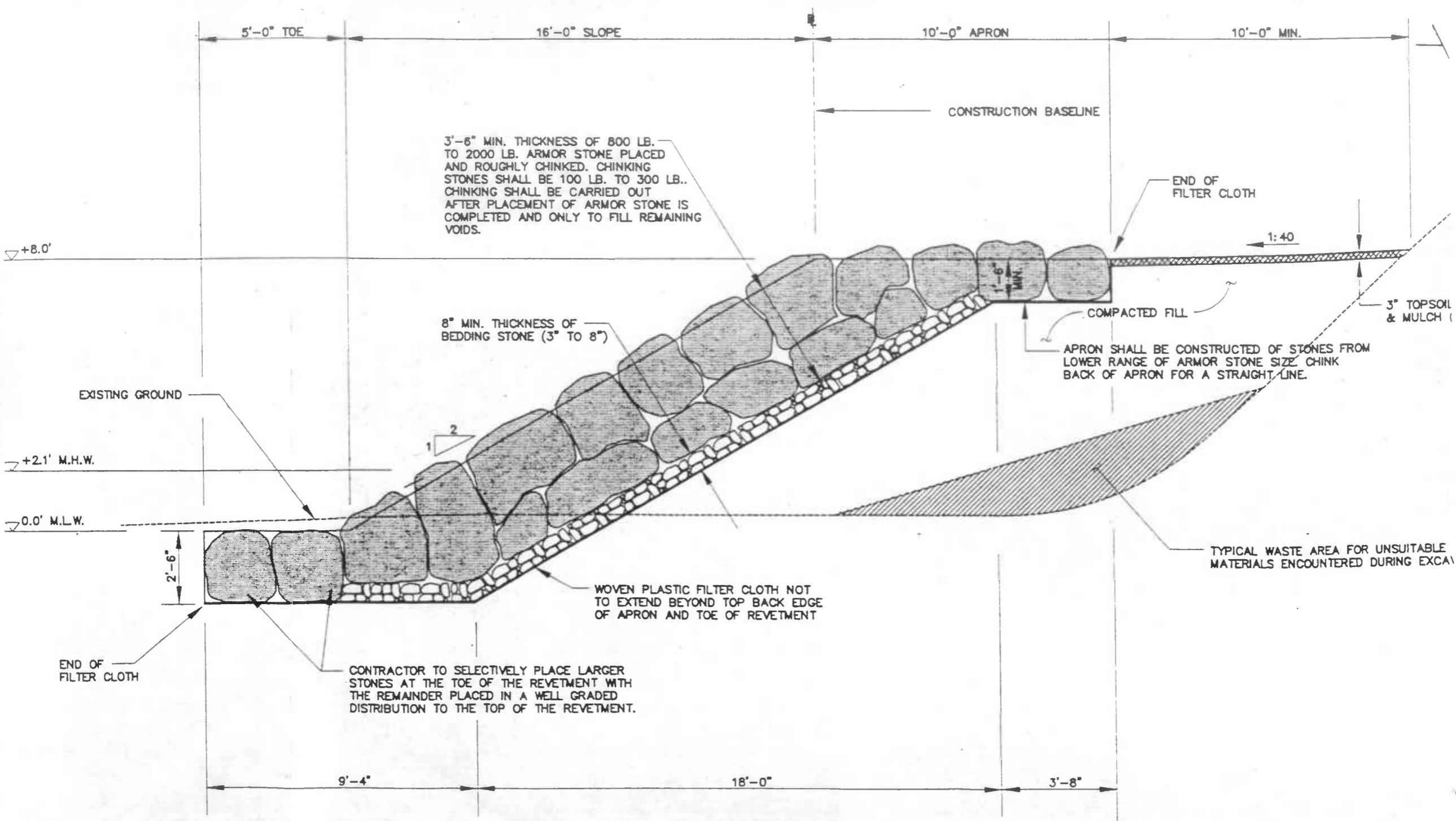
The approval request is consistent with COMAR 27.02.05.05, the Commission's regulations for Shore Erosion Protection Works on State-owned lands in the Critical Area.



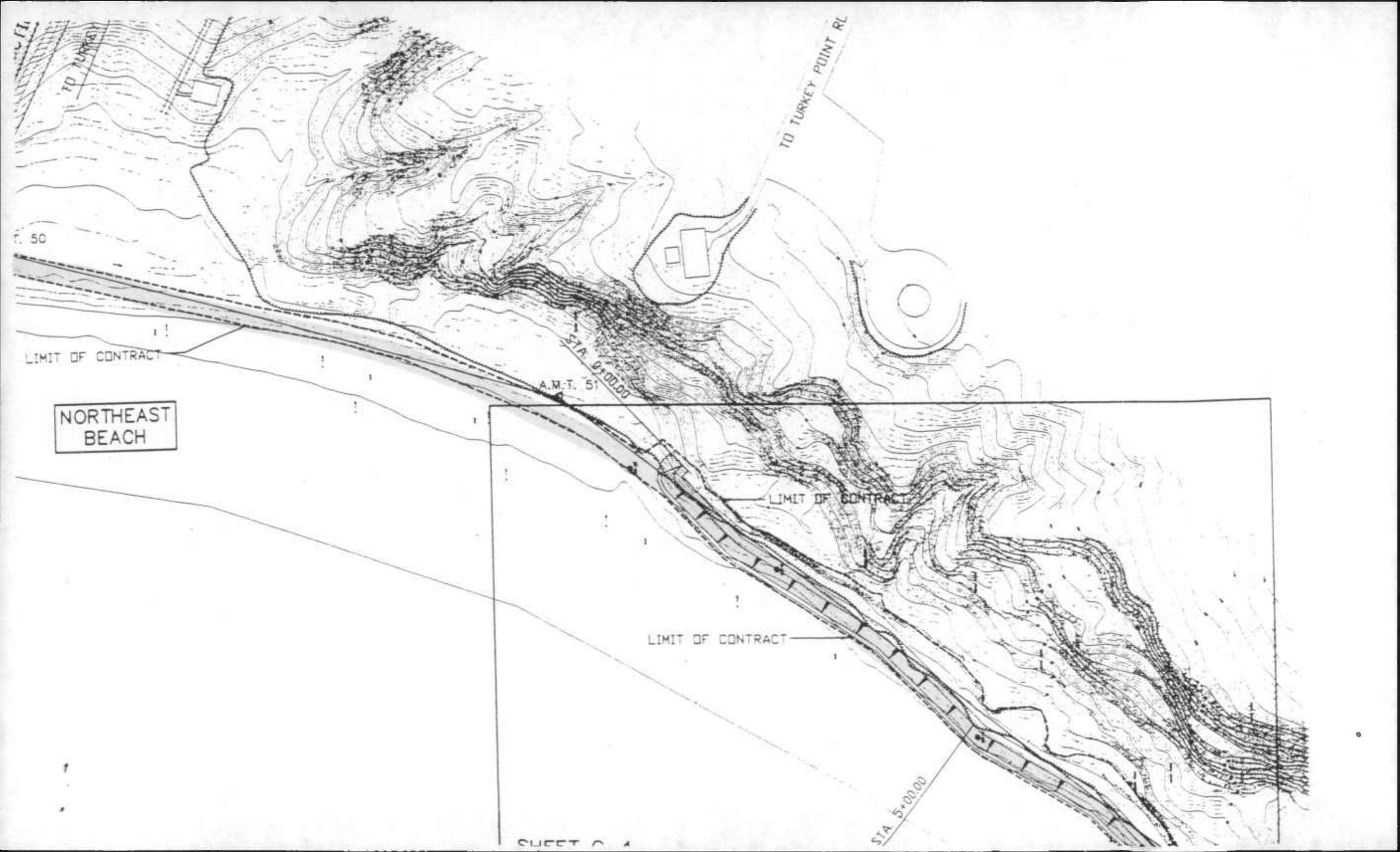
LOCATION MAP

SCALE: 1" = 1000'





TYPICAL REVETMENT SECTION



LIMIT OF CONTRACT

NORTHEAST
BEACH

A.M.T. 51

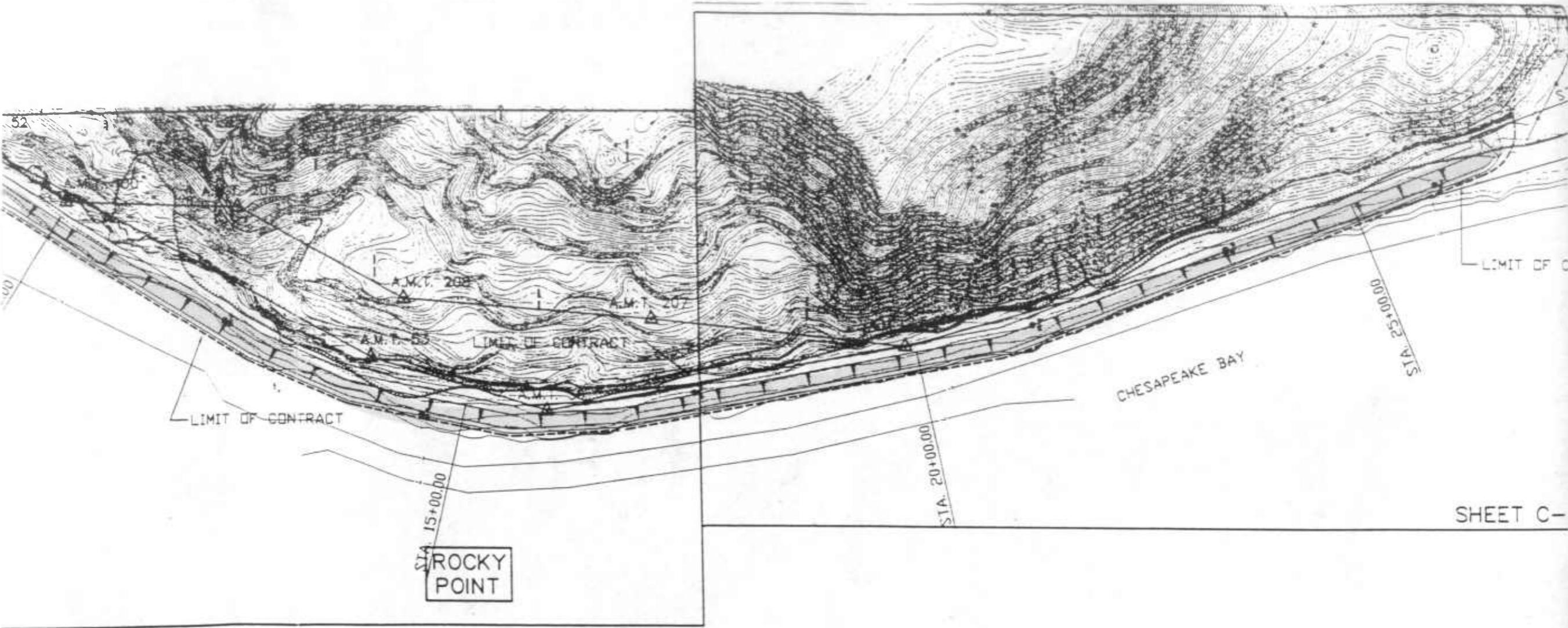
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LIMIT OF CONTRACT

LIMIT OF CONTRACT

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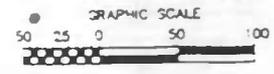
SHEET 2



SHEET C-

CONSTRUCTION ACCESS PLAN

SCALE: 1" = 100'



2 Conditions approval

*D. B. - approval c-2c.
B. H. - sec. @/u*

Chesapeake Bay Critical Area Commission

STAFF REPORT September 2, 1998

APPLICANT: Department of Natural Resources, Maryland Department of the Environment, Department of General Services, State Highway Administration

PROPOSAL: College Creek Demonstration Project, Phase II Stormdrain Outfall Repair

JURISDICTION: City of Annapolis

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Lisa Hoerger

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands

DISCUSSION:

At its July meeting, the Commission approved the College Creek Demonstration Project which consisted of a cooperative effort among the Departments of Natural Resources, Environment, General Services and the State Highway Administration to create two bioretention areas in the parking lot of the Tawes building in Annapolis.

Phase II of the demonstration project includes repairing an existing outfall located in the Buffer to College Creek. The area at the site of the outfall has eroded. The proposal involves utilizing the existing, deteriorated concrete apron at the base of the outfall, additional stone to stabilize the area and a series of three step pools to prevent further erosion from occurring.

Since the project site is located at the base of a slope, the staging area will be on the parking lot just above the outfall. At that time of this report, no new disturbance to the Buffer was anticipated. However, if new disturbance will occur as a result of construction, mitigation at a 1:1 ratio will occur with native Buffer plantings. There are no other known Habitat Protection Areas at this site.

All necessary sediment and erosion control measures will be taken. They include a stabilized construction entrance, blaze orange fence and silt fence.