

Chesapeake Bay Critical Area Commission
Eastport Yacht Club
First Street
Annapolis, Maryland
December 2, 1998

AGENDA

- :00 p.m. - 1:05 p.m. Approval of Minutes of November 4, 1998 John C. North, II, Chair
- PROGRAM AMENDMENTS and REFINEMENTS
- :05 p.m. - 1:15 p.m. Refinement Dorchester County James Dickson Marina Mapping Mistake Implementation Mary Owens, Chief, Pgm.
- PROJECT EVALUATION
- :15 p.m. - 1:30 p.m. INFO Baltimore County DNR/Hart Miller Island Habitat Restoration of the South Cell Susan McConville, Planner Lisa Hoerger, Enviro. Specialist
- :30 p.m. - 1:45 p.m. VOTE Calvert County, SHA MD 765 Extension Lee Anne Chandler, Planner
- :45 p.m. - 2:00 p.m. VOTE Queen Anne's County DNR/Wye Island NRMA Park Improvements Susan McConville, Planner
- :00 p.m. - 2:15 p.m. VOTE Somerset County - DNR Deal Island, Wildlife Management Area Boat Ramp Replacement Susan McConville, Planner
- :15 p.m. - 2:30 p.m. VOTE Queen Anne's County DNR/Matapeake St. Park County Improvements Under Lease Agreement Susan McConville, Planner
- :30 p.m. - 2:45 p.m. Old Business John C. North, II, Chairman
New Business

Chesapeake Bay Critical Area Commission
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First Street
Annapolis, Maryland
December 2, 1998

SUBCOMMITTEES

Continental Breakfast

9:30 a.m. - 10:30 A.M. Program Implementation

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

Update on City of Annapolis Comprehensive Review
Buffer Exemption Area Policy Discussion

10:30a.m. - 12:00 a.m. Project Evaluation

Members: Langner, Bourdon, Giese, Goodman, Corkran, Foor, Blake, Cooksey, Hearn, Van Luven

Anne Arundel County/MPA-CSX Cox Creek Dredged Material Containment Facility for INFO	Lisa Hoerger, Enviro. Spec.
Calvert County/SHA MD 765 Extension	LeeAnne Chandler, Planner
Somerset County/DNR-Deal Island-WMA Boat Ramp Replacement	Susan McConville, Planner
Queen Anne's County/DNR-Matapeake St. Park County Improvements Under Lease Agreement	Susan McConville, Planner
Queen Anne's /DNR-Wye Island NRMA Park Improvements	Susan McConville, Planner

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

LUNCH

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

1
approved

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:

- | | |
|---|---|
| Robinson, Edward, Kent County/Eastern Shore MAL | |
| Rogers, Dr. Sarah Taylor-DNR | Myers, Andrew, Caroline Co. |
| Cooksey, David, Charles County | Goodman, Robert, DHCD |
| Corkran, William, Talbot County | Wilde, Jinhee K., Western Shore MAL |
| VanLuven, Heidi, MDOT | Duket, Larry, Md. Office Of Plng. |
| Evans, Diane, A.A. County | Appel, Sherry for Wynkoop, Samuel, P.G. Co. |
| Lawrence, Louise, Md. Dept of Agri. | Dr. Foor, James C., Queen Anne's Co. |
| Giese, William, Jr., Dorchester Co. | Johnson, Samuel Q., Wicomico Co. |
| Langner, Kathryn, Cecil Co. | Hearn, J.L., Md. Dept. of Environ. |

The Minutes of September 2, 1998 were approved as read.

Chairman North presented a Certificate of Appreciation to Greg Schaner, Planner, CBCAC in recognition of his outstanding dedication to the Commission. Greg is leaving the Commission and he will be greatly missed.

Dr. Sarah Taylor-Rogers introduced Josh Sandt, Deputy Director of the Forest, Wildlife and Heritage Program at DNR who gave a special presentation on the "Conservation Reserve Enhancement Program". Mr. Sandt said that Maryland was the first state to take advantage of this program designed to put 100,000 acres of areas within 1000 feet of the water which will be in some type of permanent cover through either a contract or a permanent easement. The goal is 70,000 acres of riparian lands, 20,000 acres of highly erodible land and 10,000 of restored wetlands by the year 2002. There is \$200,000 million to accomplish this. He gave a history of the Conservations Programs, stating that the Soil Bank Act of 1956 was the start of conservation programs. He said that the emphasis at that time was the same as today, on highly erodible soils. In 1985 the Food Security Act was the beginning of the conservation reserve program as we know it today and evolved because of concerns about overuse of the land - nutrient management and the desire to protect highly erodible lands. Wildlife and esthetic value were also introduced into the program as secondary concerns. Following the '85 Act was the '96 Act when wildlife was brought up to a primary concern increasing the value of the Program. Mr. Sandt said that over the last 15 years only 20,000 acres have been put into conservation programs in this state because of economic competition and because there is mistrust of government programs by landowners. A lot of landowners are leery of these programs because of the regulations that accompany them or because of their pride. They consider it a handout; hence, the Enhancement Program in the Food Security Act evolved which takes highly erodible lands out of agricultural and places them into vegetative covers which provides more money to the landowner than sowing crop. The resultant concern regarding this Program is the future value of the lands, especially in the Critical Area, how the use of the land will be treated after entering this Program. This issue is discussed in the following presentation.

Ren Serey, Executive Director, CBCAC presented for VOTE the Conservation Reserve Enhancement Program's interpretation of the Critical Area Act and Criteria for consistency with this Program.. Mr. Serey said that once a landowner has entered into a contract for the Conservation Program with land in the Critical Area, the concern regarding the status of the land once the contract period is up, becomes how the use of the land is affected by the Criteria. He disseminated a staff report detailing staff recommendations for recognizing enrollment in the Program so as to be compatible with the provisions of the Critical Area Act and Criteria. Those conditions are as follow:

A Soil Conservation and Water Quality Plan must be developed for land in the Critical Area in order to enroll riparian buffers under CREP.

The Soil Conservation and Water Quality Plan for the land enrolled must indicate that riparian buffers are being planted as an agricultural Best Management Practice under CREP.

If riparian buffers planted under CREP are removed in order to return the land to agricultural production, the Soil Conservation and Water Quality Plan must be amended accordingly.

Riparian buffers planted under CREP shall not be removed for purposes other than to return the land to agricultural production, i.e., for purposes of residential, commercial, industrial, institutional or recreational development, except in conformance with the Critical Area Act, Criteria and the local Critical Area Program.

Sarah Taylor-Rogers moved for the approval of the interpretation with respect to the Critical Area Act and Criteria regarding the consistency of the Conservation Reserve Enhancement Program and the conditions stated in the staff report (and listed above). The motion was seconded by Bill Corkran and carried unanimously.

Greg Schaner, Planner, CBCAC presented for concurrence with the Chairman's determination of Refinement, Queen Anne's County's request for correction of mapping mistakes to reclassify Parcels 732,73,41,776 mapped IDA instead of RCA; and parcels 70,71,72,73,74,75,76,77,776,653, and 626 mapped RCA instead of IDA. These mistakes were made in the conversion from the original 1989 Critical Area maps to the amended 1996 version. The mapping errors occurred as a result of Geographical Information System (GIS) complications during the transfer of data into the County's new GIS software. The Commission supported the Chairman's determination of Refinement.

Mr. Schaner presented for concurrence with the Chairman's determination of Refinement a mapping change request for Queen Anne's County's Program. A conceptual approval for growth allocation request to reclassify 2.34 acres of LDA land as IDA for the Friendly Food Store has been given by the County Commissioners. Mr. Schaner described the request in detail stating that the Commission approved Chester's Growth Sub-Area and growth allocation pre-mapping process on October 1, 1997. He said that Commission staff have recommended the following condition of approval for this program refinement: 1) The applicant is required to submit information pertaining to compliance with the 10 percent rule to the Critical Area Commission for review and approval. 2) The applicant is required to provide reforestation on-site to the maximum extent practicable and native species should be used for all mitigation. The Commission supported the Chairman's determination.

Mr. Schaner presented for concurrence with the Chairman's determination of Refinement, for a mapping change to Queen Anne's County Program. A conceptual approval for growth allocation to reclassify 1.953 acres of LDA land as IDA to facilitate a proposed 1,872 square foot addition to an existing car wash and

to expand parking for the Gateway Self Storage. The Commission approved Chester's Growth Sub-Area and growth allocation pre-mapping process on October 1, 1997. He said the Commission staff has recommended approval based on the condition that "the applicant be required to submit information pertaining to compliance with the 10 percent rule to the Critical Area Commission for review and approval prior to the issuance of any building or grading permits". The Commission supported the Chairman's determination.

Mr. Schaner presented for VOTE the revisions to the Critical Area Program for the City of Cambridge's Comprehensive Review Amendments. The City Planning Commission recommended approval of all of the submitted program changes on October 7, 1997. The City Council approved the changes on September 28, 1998. A public meeting on September 28, 1998 was held in Cambridge to provide a forum for public discussion and attended by a panel of Critical Area members appointed by the Chairman. The proposed revisions will primarily affect the City's Zoning Ordinance and Critical Area Program, but minor changes are also proposed in the Waterways Ordinance, Subdivision Ordinance, and the Stormwater Management Ordinance, involving regulatory language. The City will also adopt a new Critical Area Program which was developed using a refined version of the generic Program. The Critical Area maps have been modified to reflect changes. The Resource Inventory reflects updated habitat information. The City has only 178.85 acres of growth allocation remaining and it is expected that if the Cambridge Hyatt project develops, the City will need to deplete its remaining growth allocation reserve and possibly request additional acreage from the County. No sound for MOTION or Second. Carried Unanimously. Ask Roby.

Mary Owens, Chief, Program Implementation, CBCAC presented for concurrence with the Chairman's determination of Refinement, a growth allocation request for 4.05 acres to change the Critical Area overlay designation of a portion of the Tudor Hall Village project site from LDA to IDA in the Town of Leonardtown. Ms. Owens described the technical details of the project for a hotel and conference center with related parking areas. There are no known threatened or endangered species on the site; the site is located close to the 100-foot Buffer and although sensitive areas are nearby, they are not within the boundaries of the development envelope. The applicant's engineer is working with the Town on stormwater management and the 10% Rule calculations which will be submitted as the design is developed. The engineer is also evaluating other best management practices that may be used for stormwater management. Landscaping and the establishment of permeable areas with vegetation will be addressed during design development. The Commission supported the Chairman's determination of Refinement.

Mr. Schaner presented for VOTE the University of Maryland's Center for Environmental Science's (CES) proposal to construct an aquaculture and greenhouse facility at the Horn Point Laboratory outside Cambridge in Dorchester County. The two-story, 37,500 square foot facility is located within the Critical Area on land that is considered non-intensely developed. He stated that CES is seeking conceptual approval of the laboratory at this time by the various resource agencies which will help to secure funding in the State budget. Compliance with the Critical Area Program is a prerequisite for State funding. The facility will not be constructed until 2002. A site plan of the footprint of the building has been submitted and indicates no impacts to habitat protection areas, including the 100-foot Buffer; there are no records of threatened or endangered species; any trees removed will be replaced on site; there will be no buffer impacts; and, storm water management as well as sediment & erosion control plans will be developed after the engineering contract has been awarded. The following conditions are suggested for approval:

- 1) Any significant structural or locational changes to the current design will invalidate this conceptual approval unless reviewed and approved by the Commission. Final approval is required prior to construction.
- 2) Stormwater management plans will be developed and submitted for Commission review for final project approval. Stormwater management and sediment & erosion control plans receive MDE approval prior to

Commission review. Any proposed impacts to the nontidal wetlands or the 25-foot buffer must be authorized by MDE prior to the Commission's review.

3) All forest impacts and associated mitigation are detailed on the final site plan for Commission approval. Dr. Foor moved for conceptual approval of the Horn Point Laboratory - Aquaculture and Restoration Ecology Laboratory proposal for construction with the three conditions as noted above. The motion was seconded by Sarah Taylor Rogers and carried unanimously.

Lee Anne Chandler, Planner, CBCAC presented for VOTE the shore erosion control project proposed by the Department of Housing and Community Development at the Jefferson Patterson Park and Museum (JPPM) along the Patuxent River in Calvert County. She said that the project will consist of a series of sills and breakwaters to protect a total of 6,070 feet of shoreline. She described the technical details of the project. Tree clearing will be minimized and no excavation will be permitted due to the archeological resources at this site. Recommended conditions for approval of this project are as follow:

1. All trees cleared during construction of this project will be replaced at not less than a 1 to 1 ratio.
2. Final MDE and ACOE permit approvals will be acquired prior to initiating construction.

Dr. Foor moved to approve the Department of Housing and Community Development's proposed shore erosion control project at the Jefferson Patterson Park Museum with the conditions as listed above. The motion was seconded by Bob Goodman and carried unanimously.

Susan McConville, Planner, CBCAC presented for VOTE the Department of Natural Resource's Maryland Food Authority's proposal to rehabilitate and replace an existing timber bulkhead for the Maryland Food Authority Facility in Rock Hall, Kent County. She described the technical details of the project and gave a site description. No clearing is required as the site is fully developed and impervious; there is no existing vegetation and there will be no land disturbance. The applicant has applied for a Stormwater Management waiver as the site is 100% impervious and the 10% calculations require .07 lbs of phosphorus be removed which will be met onsite with tree plantings. MDE and Tidal Wetlands issued a permit for the proposed dredging and placement of the dredge spoil. DNR has requested that MDE change the permit so that the dredged material can be used as a portion of the backfill which MDE has approved and has out on public notice with the Army Corps. It is recommended that this be approved with the condition that all approvals are received for the change in permit. Dr. Foor moved for approval of the MD Food Center Authority's proposed project with the condition that all permits are approved by the Army Corps of Engineers for the dredging and bulkhead replacement and timberwalk over back fill areas, pier replacement in Rock Hall Maryland. The motion was seconded by Jinhee Wilde and carried unanimously.

Ms. McConville presented for VOTE the proposal by Maryland Department of Transportation, State Highway Administration to replace Bridge No. 147 on Peninsula Expressway over Bear Creek in Baltimore County. The entire project lies within the Critical Area. Under an original project proposal, all necessary approvals from MDE and the Corps have been received and involved no impacts to HPAs, no increase in impervious surface and no clearing of natural vegetation. Commission Staff approved the original proposal under the General Approval provisions of the existing MOU between MDOT and the CAC with the condition that if any changes were proposed that resulted in a change in impacts to HPAs or the Buffer the project would have to be resubmitted. Under the original contract the bridge would be removed piecemeal now, however, it has become necessary to remove the bridge in its entirety and to install a temporary pier for construction material access to the bridge. The pier is proposed in lieu of dredging which would be required for the barge to reach the shoreline. A temporary road is now needed to cross the Buffer from an existing road that parallels the shoreline. All permits were approved under the original proposal. No impervious area is proposed. Once the construction of the Bridge is completed, the disturbed area in the Buffer will be restored to its original condition. SHA has

requested a stormwater quantity waiver from MDE for stormwater runoff because less than 5,000 square feet of disturbance is proposed. This project is recommended by staff for approval on the condition that the modification to the existing wetland permit is approved by MDE. Dr. Foor moved to approve the Bridge No. 147 replacement over Bear Creek in Baltimore County proposed by the State Highway Administration on the condition that approved permit modification is received from MDE. The motion was seconded by Heidi VanLuven and carried unanimously.

Lisa Hoerger, Environmental Specialist, CBCAC presented for VOTE the proposal by the Department of Natural Resources a shore erosion control project to construct a stone revetment at Sandy Point State Park in Anne Arundel County. She said that in February the Commission approved the repair and construction of five existing revetments and groins at the Park and since then, another section of shoreline has eroded. The Shore Erosion Division is seeking approval for a new revetment. She described the technical details of the project and told the Commission that the Tidal Wetlands Division of DNR has given assurance that they will recommend approval to the Board of Public Works. There are no known threatened or endangered species affected by this proposed construction. Tom Brower, Shore Erosion Control Division, DNR was on hand to answer any questions. Dr. Foor moved to approve the construction of the stone revetment in Sandy Point State Park as presented. The motion was seconded by Bill Giese and carried unanimously.

Mary Owens presented for VOTE the Department of Natural Resource's proposal to construct a residential swimming pool at Knock's Folly, in Kent County. She described the technical details of the project stating that the site for the pool is outside the Buffer and the property is listed on the Maryland Register of Historic Places and is part of DNR's Curatorship Program. The location of the pool and proposed screening have received concept approval for the Maryland Historic Trust. There are no known threatened or endangered species affected by the project. The Historic Trust will grant final approval upon receipt of information regarding specifications for the pool, fence, replacement shed and details about the landscape plantings. Dr. Foor moved to approve the residential swimming pool at Knock's Folly based upon the condition that Mr. Mullin shall obtain final approval from the Maryland Historic Trust before starting any construction.

OLD BUSINESS

Ren Serey, Executive Director, CBCAC gave a special report on the Chesapeake Bay Resort in Cambridge. He referred to a handout entitled "Report of the Special Subcommittee of the Chesapeake Bay Critical Area Commission" "Chesapeake Bay Resort- Cambridge Hyatt", approved on September 2, 1998 by the Commission. Mr. Serey directed their attention to Hole #14, #17 and #18 of the Golf Course, designated by the Commission as Buffer Exempt Areas which allows for certain disturbances such as tees and greens. The tees were proposed on fill material that was going to be located within the non-tidal wetlands buffer, outside the Critical Area 100-foot buffer. After the Commission approval at the September 2nd meeting, the resource agencies (MDE, the Corps of Engineers, etc.) were discussing all of the proposed fill areas on site and had some significant problems with the fill on #14 for those tees. Therefore, the proposal is to now locate the tees for Hole #14 on elevated wooden platforms, two each 1,200 square feet, proposed to be located in the Critical Area Buffer. There will be turf material on these structures. That area of the buffer also has some disturbance in it, and it was not necessary to discuss it previously as there was no new development proposed for it. A fourth buffer exemption area is recommended by the Commission staff allowing those structures to be built within the Buffer. Roby Hurley, Circuit Rider, CBCAC described the structures. Bill Corkran moved to approve the recommendation of the Staff. The motion was seconded by Dr. Foor and carried unanimously.

NEW BUSINESS

Marianne Mason, Esquire, Commission Counsel and Assistant Attorney General, DNR updated the Commission on Legal Affairs. In the Maryland Court of Appeals last month the Court had accepted review of the White vs. North case which started out about 2 ½ years ago involving a swimming pool in the Buffer in Anne Arundel County. It has worked its way up four levels of review and will be heard by the State's highest court. The petitioners filed their brief last month and the Commission's is due in two weeks. The law suit seeks to have the Court declare that the variance provision, the Critical Area Statute, to be unconstitutional and considered a "taking" as it denies this person any reasonable use to put in a swimming pool. This will be argued next month, the first week in December.

Ms. Mason and Judge North have asked the Court of Special Appeals to "Report" (or Publish) the Citrano case, which involves a free standing deck in the Buffer. A Published or Reported case can be used as precedent and an Unreported case cannot. The Court of Special Appeals granted the request and reported it. The Court dealt with the issue of what is water-dependent. We don't have anything, except for the Citrano case, that addresses this issue.

A favorable decision was received from the Circuit Court of Anne Arundel County in the Commission's Appeal for the granting of a variance for more slips than the law allows at Belvoir Farms. The Board of Appeals ended up granting the variance and the Commission appealed to Circuit Court and got the variance overturned. The Belvoir Farms is appealing to the Court of Special Appeals.

In the Circuit Court for Calvert County, the Commission filed an appeal of a variance for a road in a new subdivision that would go along steep slopes. Evidence at the hearing showed an alternative route that would not disturb the steep slopes.

In an administrative proceeding in the City of Annapolis involving new homes on new lots in the Buffer found the Commission testifying at a Planning Commission Hearing on the approval of the subdivision plat. The Planning Commission approved the plat. The hearing on that is in two weeks and it will be appealed by the Commission.

The Talbot County Board of Appeals issued a written decision in a case that has been up and down several times involving a variance for a brick walkway in the Buffer. After the second hearing, the Board took about three months to write its decision, granting variance. The Commission will be going back to court for this..

There being no further business, the meeting adjourned.

Minutes submitted by: Peggy Mickler, Commission Secretary

Chesapeake Bay Critical Area Commission

STAFF REPORT

December 2, 1998

APPLICANT: DNR and Baltimore County

PROPOSAL: Habitat restoration of the South Cell at Hart Miller Island

JURISDICTION: Baltimore County

COMMISSION ACTION: Information Briefing Only

STAFF: Susan McConville

**APPLICABLE LAW/
REGULATIONS:** N/A

DISCUSSION:

The purpose of this project is to convert the South Cell at Hat Miller Island, where the deposit of dredge material ceased in 1990, to an environment that would support a variety of animal, aquatic, and avian habitats. Three alternative restoration options were identified through an interagency and interdisciplinary study team; 1) No Action Alternative, 2) the Wetland/Shorebird Alternative and 3) the Upland/Songbird Alternative. (See attached table for Evaluation and Comparison of Alternatives.) Through extensive evaluation and public input, the Wetland/Shorebird Alternative was selected as the basis for a more detailed analysis and design. This alternative will minimize excavation costs by the incorporation of the existing canals and borrow pits in to the restoration design as ponding areas. Restoration of the South Cell will consist of approximately 20 acres of ponding area (5 acres in the pond and 15 acres in the borrow pits), 200 acres of mudflats/wetlands, and 80 acres of upland habitat.

Project Design Summary:

- 5 acres of open water surrounding a 1 acre upland island and 174+ acres of mudflats/wetlands.
- Side slopes graded at a maximum 4:1 side slope
- Water level is controlled between elevation 18 feet above mean low water (MLW) and approximately elevation 20 MLW.
- The bottom of the pond was set at elevation 12 feet MLW to establish a minimum 6-foot depth in the pond.
- Spillway Number 3 consists of weir boards that control the water level and 3-36" RCP outlet pipes to convey water to the bay.
- A 48" diameter pipe is proposed to connect the pond with the existing spillway.
- Inlet canals are proposed to help concentrate water as the ebb and flow cycles occur over the mudflats/wetlands. These canals range in depth from 4 feet at the pond to zero feet

near the outer edge of the mudflats/wetlands.

- The location of the pond was selected primarily based on the geologic condition of the site as revealed by the 10 soil borings drilled throughout the site. Soil Boring Number 3 recorded a groundwater depth of 7.0 feet (corresponding to elevation 11.5 feet MLW) and a caved depth of 10.0 feet (corresponding to elevation 8.5 feet MLW)
- The existing borrow pits will be regraded, converted into a 15-acre pond, and hydrologically connected to Spillway NO. 5, which has an invert elevation to 16.0 feet MLW. The water surface elevation in the borrow pits will be maintained at elevation 16.0 feet MLW. (See attached Site Plan)

Restoration Planting Plan

The habitat restoration project will include vegetative plantings to provide greater diversity in habitat types. All plants used will be considered native to Maryland.

Wetland Plants

Approximately 44 acres of the 200 acres of wetland/mudflat habitat will be planted with wetland species. Based on spacing of approximately 3 foot centers, a total of 65,000 plants would be required. All plant species must be tolerant of salinity. The final selection of species will be based on the pilot study that will be conducted. The soils will be chisel plowed or ripped to reduce compaction. No liming will be required. Organic matter will be added to increase organic matter content to > 5%.

Upland Grass

The entire 80 acres of uplands will be planted in grasses. The final selection of species or mixtures of species, as well as seeding rates will be based on the pilot study.

Upland Shrubs

Approximately 5% of the upland areas (6 acres) will be planted with shrubs. Bare root stock will be used for species that are available in this form. Otherwise, container specimens three to four foot in height will be planted. Shrubs will be planted on 10 foot centers for a total of 2600 plants. (See attached Planting Plan.)

Other

Pumping System

The water will be used to provide a source of water and water surface control in the pond, periodically flood the mudflats areas, and circulate water through the borrow pits. The pumping station will include four submersible water supply pumps, concrete wet well and valve vault, bay water intake piping, concrete flow control chamber and discharge piping to the pond and borrow pits.

Excavated Materials

All excavated materials will be used within the South Cell, either placed within the upland areas create or into the existing borrow areas along the northwestern edge of the cell. The gross quantity of cut is approximately 200,000 cubic yards (cy) and the gross quantity of fill is approximately 200,000 cy, resulting in a net balance of material.

Pond Bottom Preparation

During this study, it was assumed that ongoing long-term consolidation of the onsite materials will not affect the integrity of the proposed pond bottom because the water that will be contained in the pond will weigh less than the existing soil within the proposed pond location. The physical characteristics of the onsite soils was determined to be suitable for holding pond water without need for a significant amount of compaction or geotextile liner. A pond liner was also deemed to be unnecessary to prevent leaching of heavy metals into the pond water because the soil characteristics as well as the proposed hydraulic design are not conducive to mobilizing metal cations from the soil.

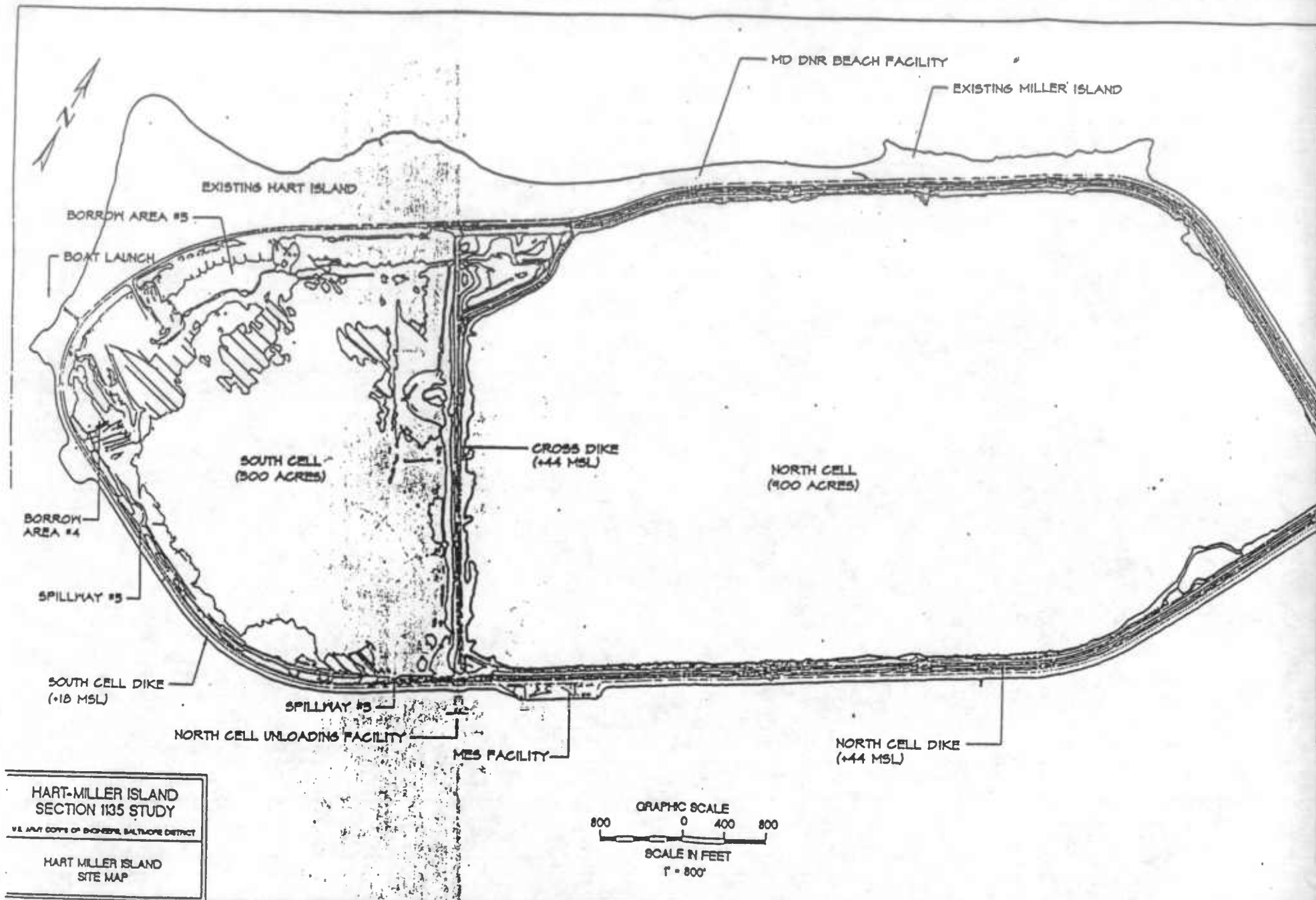


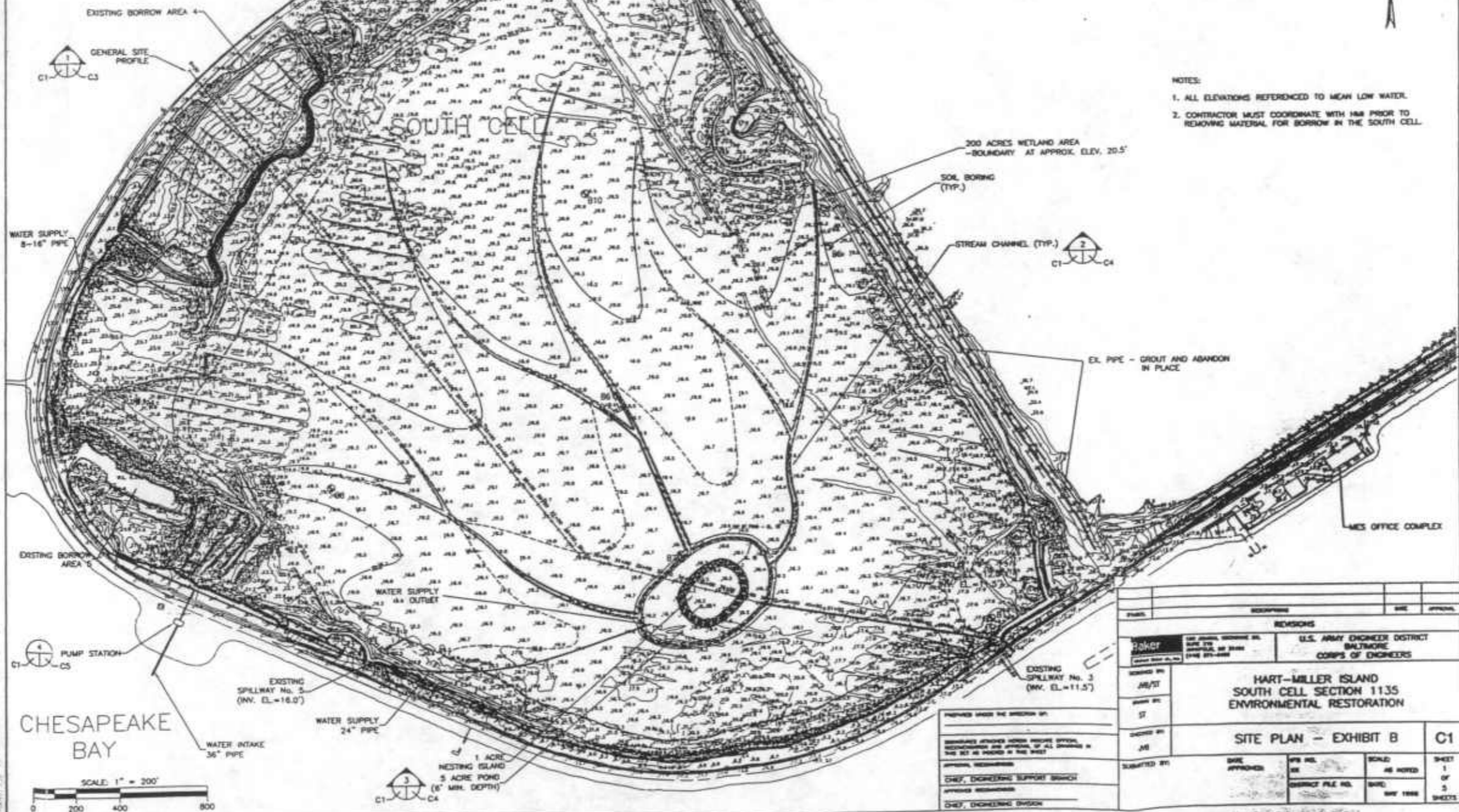
Figure 2: Hart-Miller Island Dredge Disposal Area. From USCOE 1997

Evaluation and Comparison of the Three Final Alternative Designs

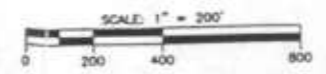
Evaluation Factor	Songbird Alternative Design	Shorebird Concept - Alternative Design/Recommended Plan	No Action
Habitat Created	<ul style="list-style-type: none"> • 34 acres of mudflats/wetlands with no water control • 260 acres of uplands with grass/shrubs for songbirds • 5 acres of open water (1 pond) • 1 nesting island for Least Terns 	<ul style="list-style-type: none"> • 200 acres of mudflats/wetlands with controlled water supply • 80 acres of uplands with grass/shrubs for songbirds • 20 acres of open water (one 5-acre & one 15-acre pond) • 1 nesting island for Least Terns 	None
Scarcity and Significance of Habitat Created	<ul style="list-style-type: none"> • Adds 34 acres of wetland/shorebird habitat to the Chesapeake Bay, however it is expected that the quality of the habitat will decline over time due to no water control. • Adds 260 acres of upland/songbird habitat. Would require 10-20 years to mature into highly productive habitat. • Adds 1-acre island for nesting tern habitat which would accommodate a large number of nests. • Provides minimal habitat for wintering ducks and waders. 	<ul style="list-style-type: none"> • Creates wetland/shorebird habitat specifically designed and managed for shorebirds. Would provide a 15% increase in this habitat type within the State, and with a higher quality of habitat because of the large size of the site and the ability to manage the water • Adds 80 acres of shrubland/songbird habitat to the upper Chesapeake Bay region. • Adds 1-acre island for nesting tern habitat which would accommodate a large number of nests. • Provides significant habitat for wintering ducks and wading birds. 	This concept does not provide scarce or significant habitat.
Total Cost	Estimated first costs of \$2.7 million: <ul style="list-style-type: none"> • 75% Federal share=\$2.0 million • 25% Non-Federal share = \$0.7 million 	Estimated first costs of \$5.4 million: <ul style="list-style-type: none"> • 75% Federal share=\$4.0 million • 25% Non-Federal share = \$1.4 million 	No construction costs are associated with this feature
Annual operation and maintenance costs	Estimated cost of \$23,000 per year for maintenance of nature trails and <i>Phragmites</i> control	Estimated costs of \$77,400 per year for maintenance of nature trails and vegetation in wetlands, operation of a pump station, and <i>Phragmites</i> control.	\$40,000 per year to control <i>Phragmites</i> regrowth.
Nuisance Control and Risks	<ul style="list-style-type: none"> • <i>Phragmites</i> regrowth is controlled via vegetative competition, spot control measures, and annual inundation of wetland/mudflat areas • Does not include measures to control mosquito populations, to reduce the risks of fish kills or avian disease, or to improve water quality 	<ul style="list-style-type: none"> • <i>Phragmites</i> regrowth is controlled via vegetative competition, spot control measures, and annual inundation of wetland/mudflat areas • Use of pumps allow water levels to be managed to control mosquito populations; to reduce the risks of fish kills, avian disease, and to improve water quality. 	<ul style="list-style-type: none"> • <i>Phragmites</i> growth is controlled through a continuous burn and spray cycle. • Does not include measures to control mosquito populations or avian diseases.
Opportunities	<ul style="list-style-type: none"> • Provides significant opportunity to create upland/songbird habitat; however, songbird habitat does not have to be located adjacent to the Bay. There are other programs and locations where songbird habitat can be and is already created. • Provides minimal opportunity to create wetland/shorebird habitat • Island location limits human disturbance, which is beneficial to wildlife, particularly nesting terns • Rare opportunity to create habitat for threatened species by constructing nesting island. 	<ul style="list-style-type: none"> • Its location provides the rare opportunity to create large amounts of wetland/shorebird habitat, which must be located adjacent to the Bay. • Also provides opportunity to create upland/songbird habitat • Island location limits human disturbance. The distance from disturbance is beneficial to wildlife, particularly shorebirds and nesting terns. • Rare opportunity to create habitat for threatened species by constructing nesting islands • More responsive to the Governor's Wetland Initiative. 	If no action is taken, then there is a loss of the opportunity to create valuable wildlife habitat

HART ISLAND

NORTH CELL



- NOTES:
1. ALL ELEVATIONS REFERENCED TO MEAN LOW WATER.
 2. CONTRACTOR MUST COORDINATE WITH H&M PRIOR TO REMOVING MATERIAL FOR BORROW IN THE SOUTH CELL.



DESIGNED BY	REVISIONS	DATE	APPROVAL
DRIVEN BY	U.S. ARMY ENGINEER DISTRICT BALTIMORE CORPS OF ENGINEERS		
CHECKED BY	HART-MILLER ISLAND SOUTH CELL SECTION 1135 ENVIRONMENTAL RESTORATION		
SUBMITTED BY	SITE PLAN - EXHIBIT B		C1
DATE APPROVED	DATE	SCALE	SHEET
		AS NOTED	1
		DATE	OF
		NOV 1988	5
			SHEETS

PREPARED UNDER THE DIRECTION OF:

RECOMMENDED APPROVALS:

APPROVAL: _____

CHEF, ENGINEERING SUPPORT BRANCH

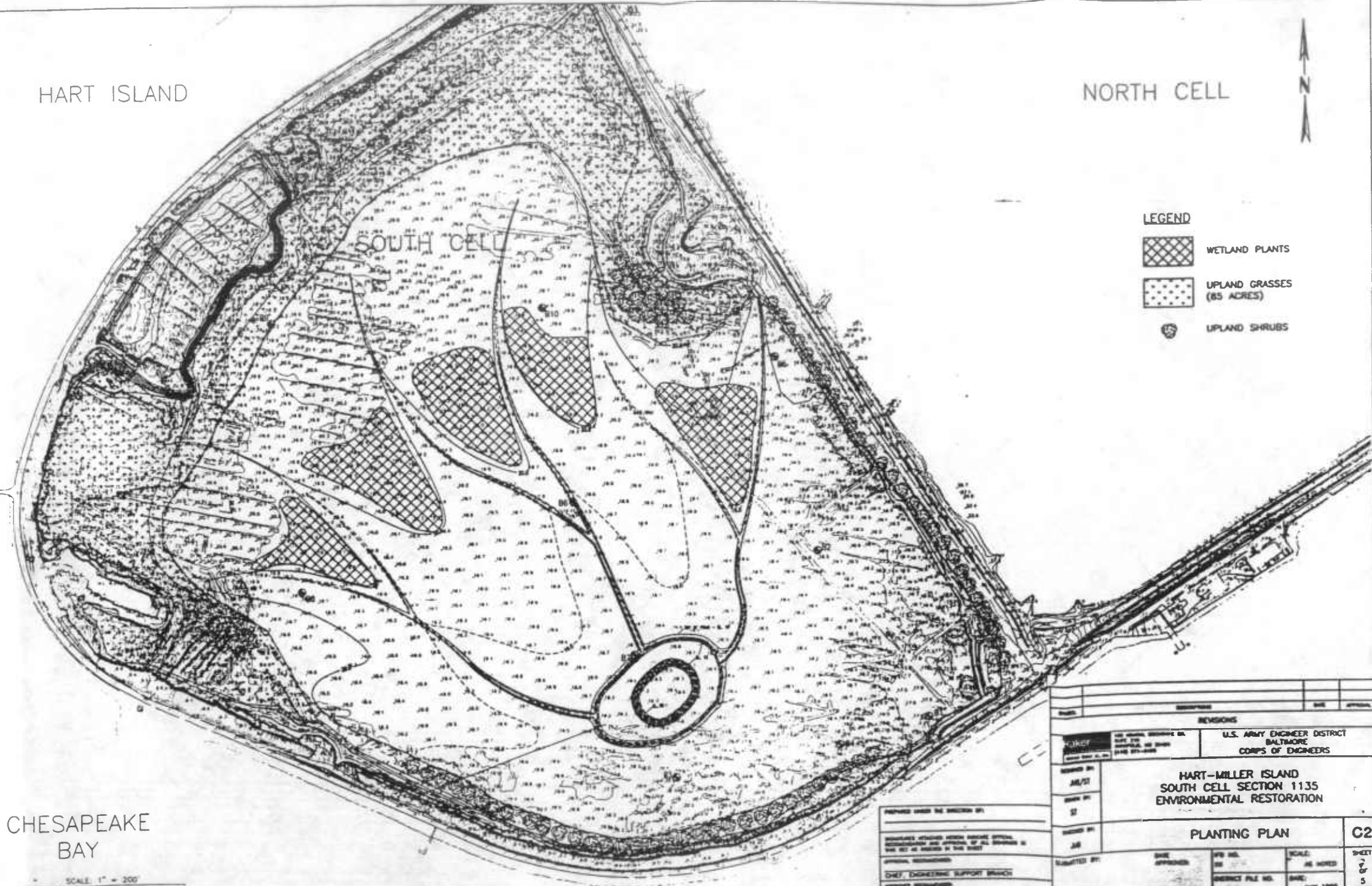
APPROVAL: _____

CHEF, ENGINEERING DIVISION




HART ISLAND

NORTH CELL

SOUTH CELL



LEGEND

-  WETLAND PLANTS
-  UPLAND GRASSES (85 ACRES)
-  UPLAND SHRUBS

CHESAPEAKE BAY



DESIGNED BY JAN/51		U.S. ARMY ENGINEER DISTRICT BALTIMORE CORPS OF ENGINEERS	
DRAWN BY SI		HART-MILLER ISLAND SOUTH CELL SECTION 1135 ENVIRONMENTAL RESTORATION	
CHECKED BY JAB		PLANTING PLAN	
SUBMITTED BY		DATE APPROVED	SCALE AS NOTED
APPROVED BY CHIEF ENGINEERING SUPPORT BRANCH		PROJECT FILE NO.	SHEET 5
APPROVED BY CHIEF ENGINEERING DIVISION		DATE MAY 1986	SHEETS 5

MEMORANDUM
December 2, 1998

TO: Project Subcommittee Members

SUBJECT: Update of Proposed Mitigation for the CSX/Cox Creek Stormdrain Project and Information on the Proposed Renovation of the Facility

STAFF: Lisa Hoerger

The Maryland Environmental Service (MES), representing the Maryland Port Administration (MPA), will be updating the subcommittee on the proposed mitigation plans to address the clearing and disturbance both inside and outside the Buffer for the stormdrain project.

As you may recall, this project involved rerouting an existing stormdrain system in order to facilitate the dewatering of the containment cells. The Commission required that the first half inch of stormwater be treated. Due to site constraints, the stormwater was allowed to discharge into a nontidal wetland and disturb the 100-foot Buffer. Since this was the only feasible alternative on site, the Commission gave this project conditional approval. A condition of the conditional approval was that MPA and MES provide the Commission with the final figures and location of the mitigation.

Since the Commission approved this project in May, the adjacent property owner, Millennium Inorganic Chemicals, has cleared in the Buffer on MPA property. Staff have advised the MPA that it is responsible for mitigation. The subcommittee will also be briefed on this incident by MES and Commission staff.

The mitigation update will be followed by a brief presentation by MES of the proposed renovations to the facility. Given the scale of this project, staff agreed to allow MES and MPA to provide the subcommittee with an informational briefing of the project. This time has been set aside to allow the members of the subcommittee to hear the next phase of the renovation project and to ask questions or raise concerns about any issues. Of particular interest will be the mitigation issues. They include the following questions:

- 1) Whether mitigation should be required for clearing and/or disturbance inside the cell that is not within the Buffer and the Army Corps of Engineers is not considering jurisdictional wetlands?
- 2) Whether upland tidal wetland creation or nontidal wetland creation is appropriate to mitigate for tidal wetland and shallow water habitat disturbance?

Commission staff have arranged for representatives from MDE and DNR to be available to the subcommittee during this presentation to address concerns and/or provide their agencies' perspectives on this project and the proposed mitigation package.

If you have any questions, or would like to speak to me directly regarding this agenda item, please do not hesitate to call me at (410) 260-7032.

Chesapeake Bay Critical Area Commission

STAFF REPORT December 2, 1998

APPLICANT: Maryland Department of Transportation, State Highway Administration

PROPOSAL: MD 765 Extension

JURISDICTION: Calvert County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with conditions

STAFF: LeeAnne Chandler

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05.03 - State Agency Actions Resulting in Development on State-Owned Lands

DISCUSSION:

The State Highway Administration is proposing to extend MD 765 in Calvert County from approximately 700 feet south of Spinnaker Way to approximately 750 feet north of Newtown Road, a distance of 0.5 miles. This project will connect two discontinuous segments of existing MD 765 and will provide access to a new shopping center. The project proposes construction of a two-lane roadway parallel to MD 2/4 with a slip ramp connection from MD 765 to northbound MD 2/4 and a 5-foot sidewalk on the northbound side of MD 765. The project includes adjustments to the northbound roadway of existing MD 2/4 through construction of a 12-foot acceleration lane with a 4-foot shoulder to accommodate the proposed slip ramp. Access from MD 2/4 will be denied to both Spinnaker Way and Newtown Road. Both roadways will be modified to tie into MD 765 extended.

This project is located in the vicinity of three unnamed tributaries, which flow into Back Creek, a tributary to the Patuxent River. Approximately 80% of the project lies within the Critical Area in an area of intense development. Land use in the vicinity of the project consists of governmental, residential, commercial and State road development. The Solomons Annex of the Patuxent River Naval Air Station is located on the west side of MD 2/4 immediately across from the project area.

Due to the presence of a tributary stream in the immediate project area, impacts to the 100-foot Buffer total 1.56 acres (68,000 square feet). This includes approximately 19,000 square feet of new impervious surface in the Buffer. The physical constraints of the site include numerous areas of non-tidal wetlands, the aforementioned tributary stream, the existing location and size of MD 2/4 and the presence of sewer, water, gas and electric lines. Due to these constraints, it is not possible to further reduce impacts in the 100-foot Buffer. Mitigation for all disturbance will be provided at a ratio of 3:1. The total required mitigation is 4.68 acres. Detailed plans for this mitigation will be presented for review.

Approximately 570 square feet of permanent wetland impact, and 16,690 square feet of permanent wetland buffer impacts will occur as a result of construction of this project. Approximately 220 linear feet of tributary stream within the project area will actually be relocated 20 feet to the east. (This stream has been relocated once before during the construction of MD 2/4.) To mitigate this impact, woody vegetation will be planted adjacent to the relocated stream to provide a riparian buffer. This unnamed tributary to Back Creek is a Use I stream. Instream work is prohibited in Use I streams during the period of March 1 through June 15, inclusive, during any year. This will be a condition of the MDE Non-tidal Wetland Permit. No other habitat protection areas will be affected by this project.

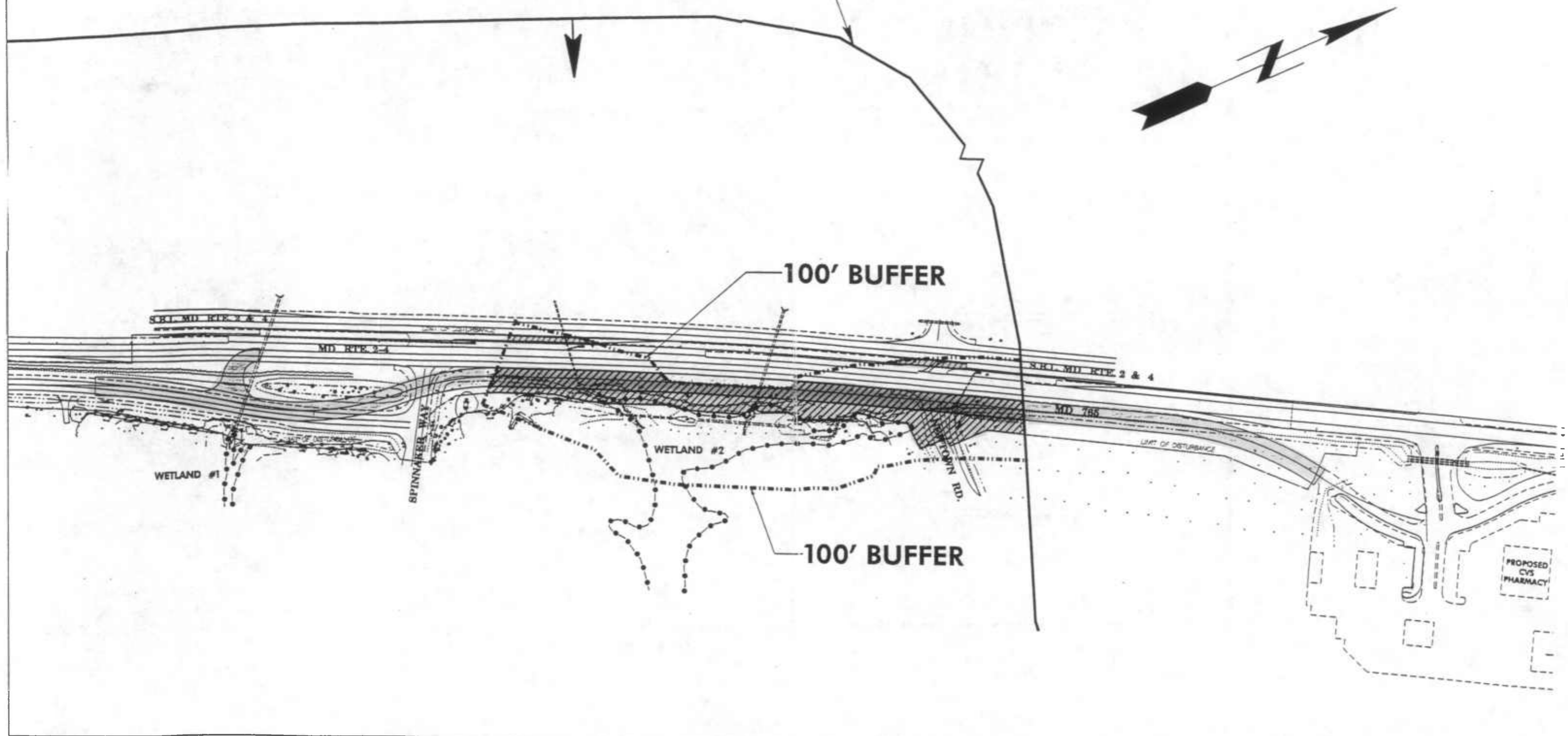
Stormwater management is based upon a limited site area consisting of the immediate drainage area containing the site improvements. The net increase of impervious surface within this limited area is 1.26 acres. In order to meet the Critical Area requirements for water quality, two sand filters with a grass cover crop will be located immediately north and south of the proposed MD 765 slip ramp. These sand filters have been designed in accordance with the most recent MDE Stormwater Management Guidelines. Sedimentation basins have been provided as a pre-treatment measure. The storage volume within the sand filter bed compartment has been designed for treatment of 1 1/2" of stormwater per impervious acre of runoff draining to the facility. The sand filters will treat runoff from a portion of existing MD 2/4 in order to offset the new impervious areas which cannot physically reach the facility. The sand filters will provide removal of 14.4 pounds of phosphorus, exceeding the 10% phosphorus reduction requirement of 13.5 pounds.




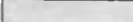
Information has been forwarded to Calvert County for review and comments.

Commission staff recommends approval of this project as proposed with the following conditions:

- Final approval of all permits by MDE.
- Mitigation in the form of native plantings at a 3:1 ratio for all disturbance within the 100-foot Buffer.

CRITICAL AREA BOUNDARY

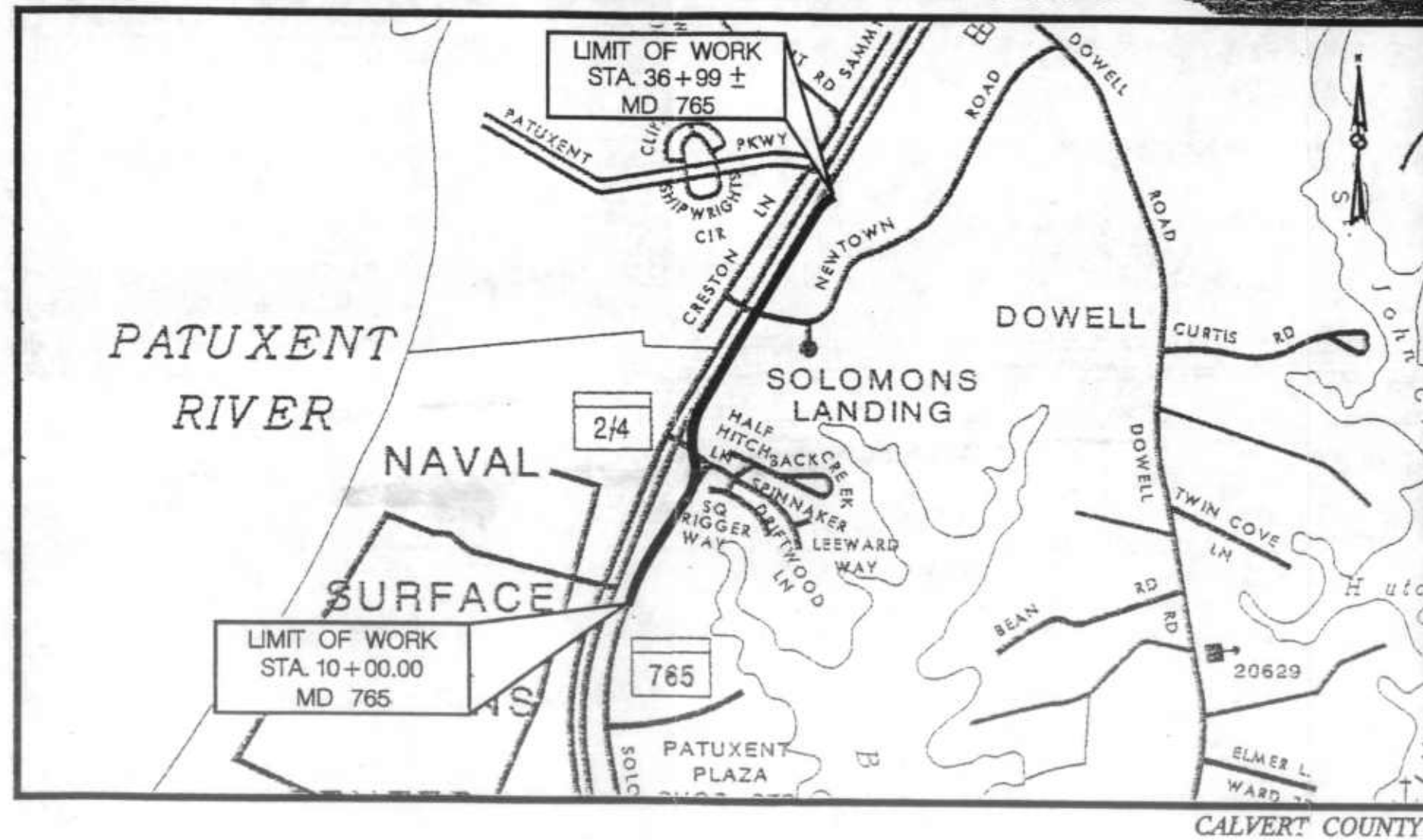


-  ROADWAY WORK
-  BUFFER IMPACT = 68000 SQ. FT.
-  AREA OF INTENSE DEVELOPMENT
-  PERMANENT IMPACT = 19,000 SQ. FT.
-  TEMPORARY IMPACT = 49,000 SQ. FT.

SCALE : 1" = 100'

MD 765 CALVERT COUNTY

MD 765 EXTENDED: SOUTH OF SPINNAKER WAY TO NORTH OF NEWTOWN ROAD



MILEAGE: 0.4 miles

*D. Baudon - approval conditions
trees - permits*

*B. Goodman sec
cfa*

Chesapeake Bay Critical Area Commission

**STAFF REPORT
December 2, 1998**

APPLICANT: Department of Natural Resources

PROPOSAL: Wye Island Natural Resources Management Area (NRMA)
Proposed Picnic Pavilion with Restrooms

JURISDICTION: Queen Anne's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Susan McConville

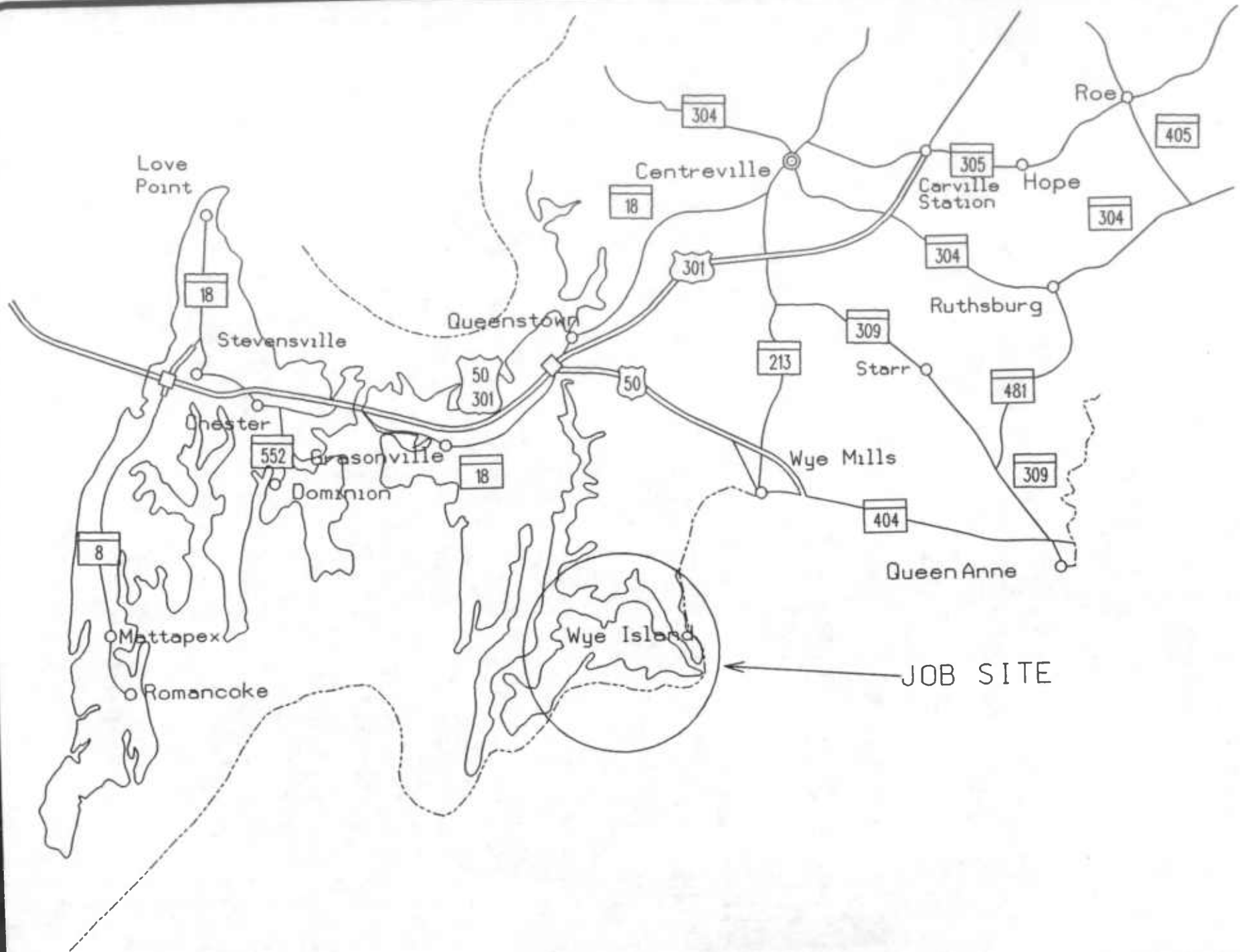
**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05

DISCUSSION

The Department of Natural Resources (DNR) proposed to construct an 1800 square foot picnic pavilion with two bathrooms and an associated 20,160 square foot septic reserve area. The proposed site is completely within the Critical Area on the Wye Island NRMA. The property is considered non-intensely developed. The construction does not affect any Habitat Protection Areas (HPA), including the 100-foot Buffer. DNR has indicated that a few trees may need to be removed or transplanted. The number of trees to be cleared and proposed planting area will be presented at the December 2nd meeting. A stormwater management waiver and a sediment and erosion control plan have been submitted to MDE and a response is expected prior to the December 2nd meeting.

Recommendation: Commission staff recommend approval of the proposed project with the following conditions:

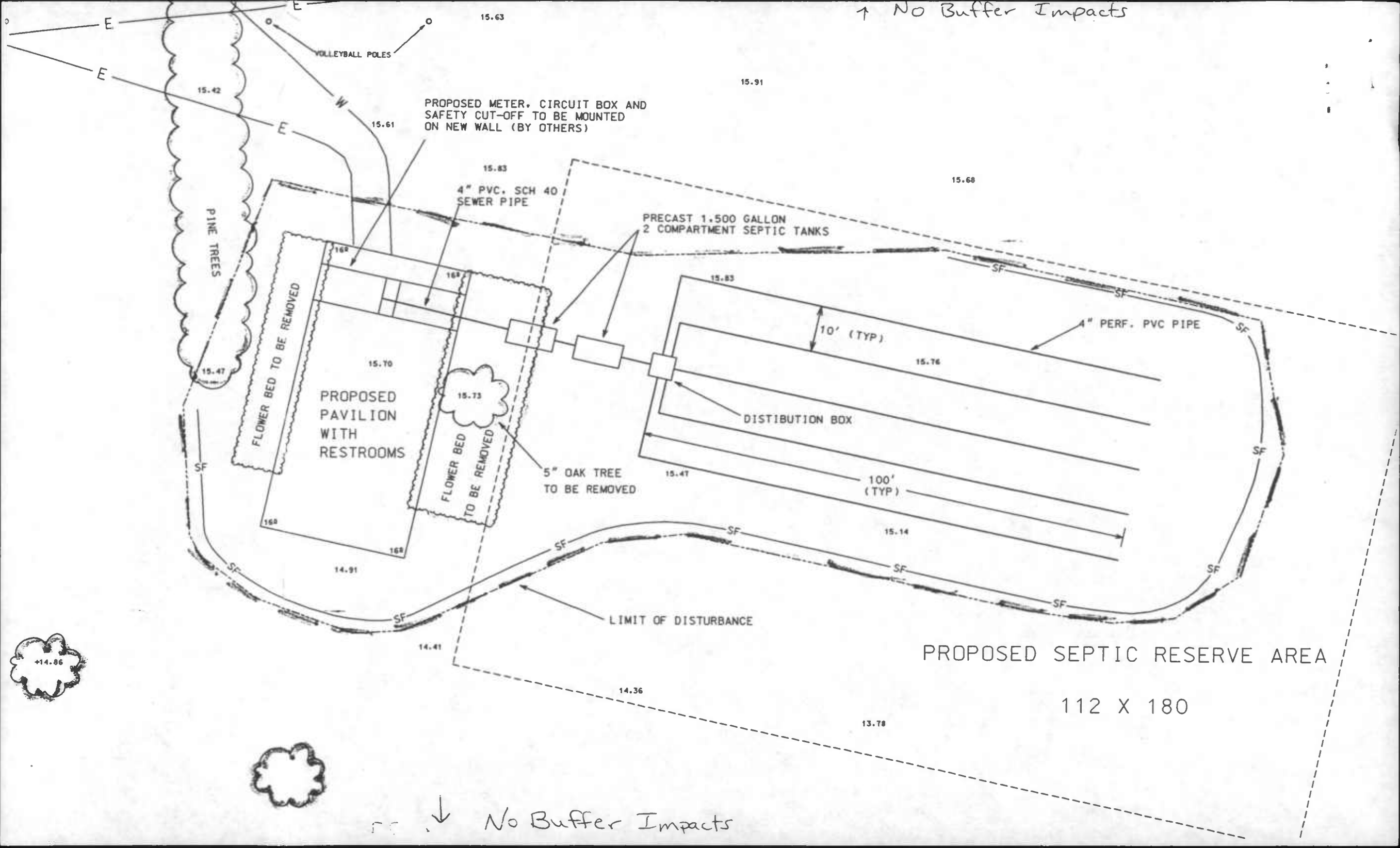
- (1) Any trees that are removed during any phase of construction for this project must be replaced on site at a 1:1 ratio.
- (2) The applicant must obtain final MDE waiver for stormwater management, or an approved plan prior to construction. The applicant must also obtain approval for the sediment and erosion control plan prior to construction.



VICINITY MAP

NO SCALE

↑ No Buffer Impacts



PROPOSED METER, CIRCUIT BOX AND SAFETY CUT-OFF TO BE MOUNTED ON NEW WALL (BY OTHERS)

4" PVC, SCH 40 SEWER PIPE

PRECAST 1,500 GALLON 2 COMPARTMENT SEPTIC TANKS

DISTRIBUTION BOX

1" PERF. PVC PIPE

10' (TYP)

100' (TYP)

5" OAK TREE TO BE REMOVED

LIMIT OF DISTURBANCE

PROPOSED SEPTIC RESERVE AREA

112 X 180

↓ No Buffer Impacts



Chesapeake Bay Critical Area Commission

STAFF REPORT

December 2, 1998

APPLICANT: Department of Natural Resources

PROPOSAL: Deal Island Wildlife Management Area - South boat ramp. Replacement of existing timber boat ramp with pre-cast, concrete beam ram and installation of timber retaining walls to stabilize adjacent banks.

JURISDICTION: Somerset County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Susan McConville

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05

DISCUSSION

The Department of Natural Resources (DNR) proposes to remove an existing 25 by 12 foot long timber boat ramp and replace it with a 25 by 12 foot long pre-cast concrete beam boat ramp. In addition, timber retaining walls will be installed along approximately 140 linear feet of shoreline. The purpose of the project includes erosion control.

The site is considered non-intensely developed. No forest clearing is proposed. No impacts to marsh vegetation is proposed. No new -impervious surface area is proposed. The Construction access will be via an existing gravel road.

The total area of disturbance in the Critical Area is 0.026 acres or 1120 square feet. The proposed disturbance is less than 5,000 square feet and therefore it does not require an Erosion and Sediment Control Plan approval from MDE.

MDE Tidal wetlands permit has been received. The project qualifies for federal authorization under the Maryland and State Programmatic General Permit (MDSPGP) with the associated conditions enclosed with the tidal wetlands license.

DN PIPE
V = +1.38

RT
A

USED TIMBER RETAINING WALL

CONCRETE BEAM RAMP

WOODEN BOAT RAMP

RETAINING WALL

EXISTING
STONE
FILL

GATE
POST

GRAVEL
ROAD

CONSTRUCTION
ACCESS

APPROX. EDGE OF MARSH

APPROXIMATE SHORELINE LOCATION

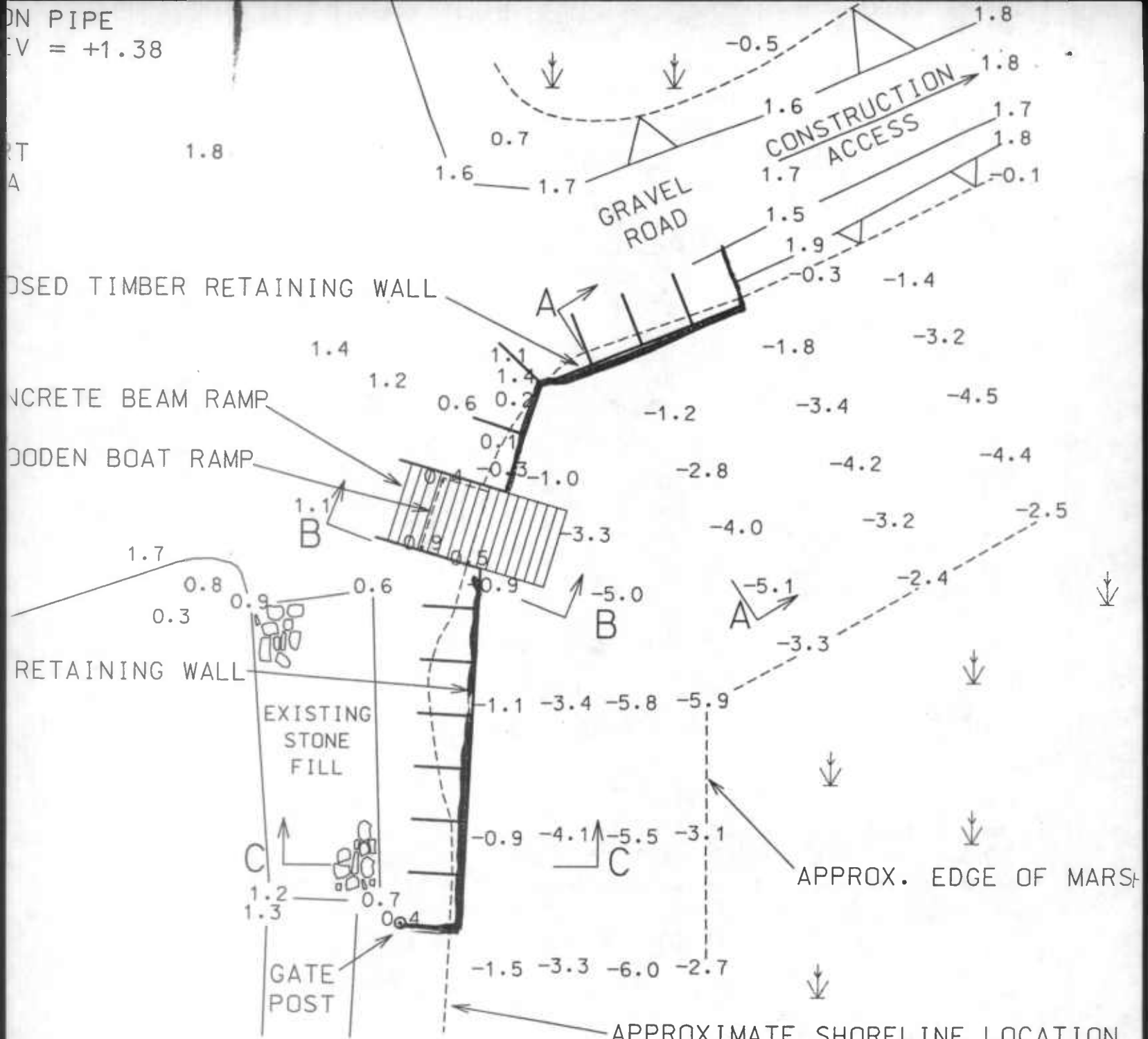
BOAT RAMP REPLACEMENT
AND RETAINING WALL INSTALLATION
SCALE: 1" = 20'

isions

DEAL ISLAND WMA

BOAT RAMP REPLACEMENT
AND RETAINING WALL
SOMERSFT COUNTY, MD

Project Number:
Date: October 199
Drawing Number:



Spm. - tech. details
D. Boudin - Approval
Wynkoop. Sec.
Wes Johnson - Q.A.Co.
ajm
P+R

Chesapeake Bay Critical Area Commission

**STAFF REPORT
December 2, 1998**

APPLICANT: Department of Natural Resources

PROPOSAL: Matapeake State Park - county Improvements Under Lease Agreement

JURISDICTION: Department of Natural Resources / Queen Anne's County Parks and Recreation Department

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Susan McConville

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05

DISCUSSION

The Department of Natural Resources (DNR) plans to lease 20.5 acres of land within Matapeake State Park to the Queen Anne's County Parks and Recreation Department. The State will retain 8.5 acres including the marina basin, harbor, and storage buildings for use by the DNR Police. The areas affected by the lease include the former Chesapeake Bay model, parking areas, a historic building (the former Ferry Depot), beach and picnic areas, shooting range, trail system, and access roads. Critical Area Commission review is necessary because the improvements proposed by the County Parks and Recreation Department occur within the Critical Area on State-owned land.

Proposed Improvements under the Park Master Plan

The County is proposing the following improvements and renovations on the property under the Park Master Plan:

Expanded Parking

The County proposes to expand parking at the southern end of the property adjacent to an existing picnic area and public boat ramp. The site plan includes two additional expansion areas which will together provide parking for an additional 20 cars. The County has indicated that no trees will be removed in association with the proposed expansion. All development will occur outside the 100-foot Buffer and no habitat protection areas will be impacted.

Picnic Area

Two 1800 square foot picnic pavilions will be constructed within the existing picnic area. The site contains an existing opening in the forest thereby eliminating the need to remove trees. All development will occur outside the 100-foot Buffer and no habitat protection areas will be impacted.

Hiking Trails

The County will add 1.5 to 2.0 miles of soft trails throughout the property. Trails will consist of natural materials and no forest vegetation will be removed in the establishment of the trail system. The trail system will intrude into the Buffer in two separate places to provide access to the shoreline.

Access Road

A new road is proposed to access parking adjacent to the historic Ferry Depot building and bunker. The road will traverse an existing cleared area and will cross an existing forest hedgerow at one point. The County has indicated that any trees which are removed will be replaced at a 1:1 ratio consistent with County requirements. No other impacts are proposed in association with the road.

Parking Expansion and Historic Building Renovation

The County proposed to expand the existing parking lot adjacent to the historic Ferry Depot by 20 feet. The extra parking will accommodate the expected future increase in parking after the building is renovated. No forest or habitat protection area impacts will result. The County will be restoring the historic building. The renovation plans do not proposed any expansions and the existing footprint will be used.

New Equipment Bunker

The County proposes to build a new 500 square foot equipment bunker for the existing tower. The new structure will not cause any Habitat Protection Area or forest impacts.

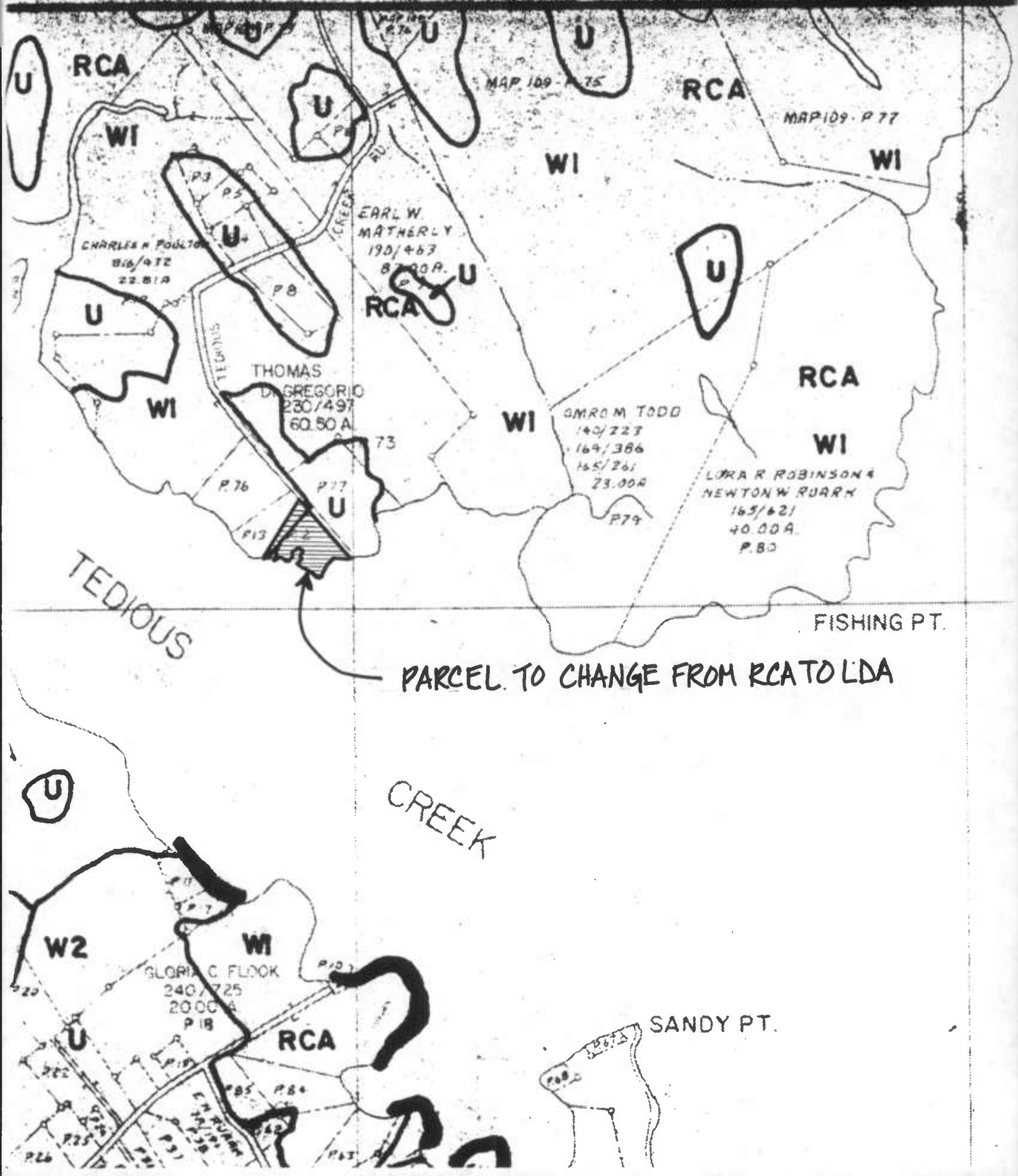
Buffer Maintenance

The County proposes to remove 5-6 dead or dying trees within the 100-foot Buffer. All trees removed will be replaced within the 100-foot Buffer on the property as required by the County and State.

DNR will draw up the final lease agreement for the property after Commission approval has been received. Once the Park Master Plan and Lease agreement is approved, the County will need to obtain the necessary sediment and erosion control permits and stormwater management plans for proposed development. All development actions proposed must be consistent with the County's approved Critical Area Program.

AREA EXEMPTION AREAS
CAL AREAS BOUNDARY

LDA LIMITED DEVELOPMENT
LDA (USING GROWTH ALLOC
IDA INTENSELY DEVELOPED



CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT
December 2, 1998

Concurrence

APPLICANT: Dorchester County

PROPOSAL: Mapping Mistake at James Dickson Marina

JURISDICTION: Dorchester County

COMMISSION ACTION: Concurrence with Chairman's Determination

RECOMMENDATION: Approval

STAFF: Mary Owens

**APPLICABLE LAW/
REGULATIONS:** Annotated Code of Maryland §8-1809, Approval and Adoption of Program

DISCUSSION:

The staff of Dorchester County have identified a mapping mistake on a 1.37 acre property identified as Parcel 2 on Tax Map 113. The property is zoned M-A-R, Maritime Agricultural Residential, and has historically been used as a marina for boat building, mooring, and storage since the 1970s. At the time of original mapping, Dorchester County designated most commercial marina properties as Limited Development Areas, and this property was erroneously designated as a Resource Conservation Area. County staff believe that the mapping mistake was probably due to an oversight.

The County is seeking a correction of this mistake to change the classification of this property from RCA to LDA. The County Commissioners approved the change subsequent to a public hearing held on November 10, 1998.