

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

November 25, 2008

Ms. Amy Moore
Town of Queenstown
P.O. Box 4
Queenstown, Maryland 21658

**RE: James Urquhart Buffer Management Plan
220 Old Wharf Lane
Queenstown, Maryland
QT 79-08**

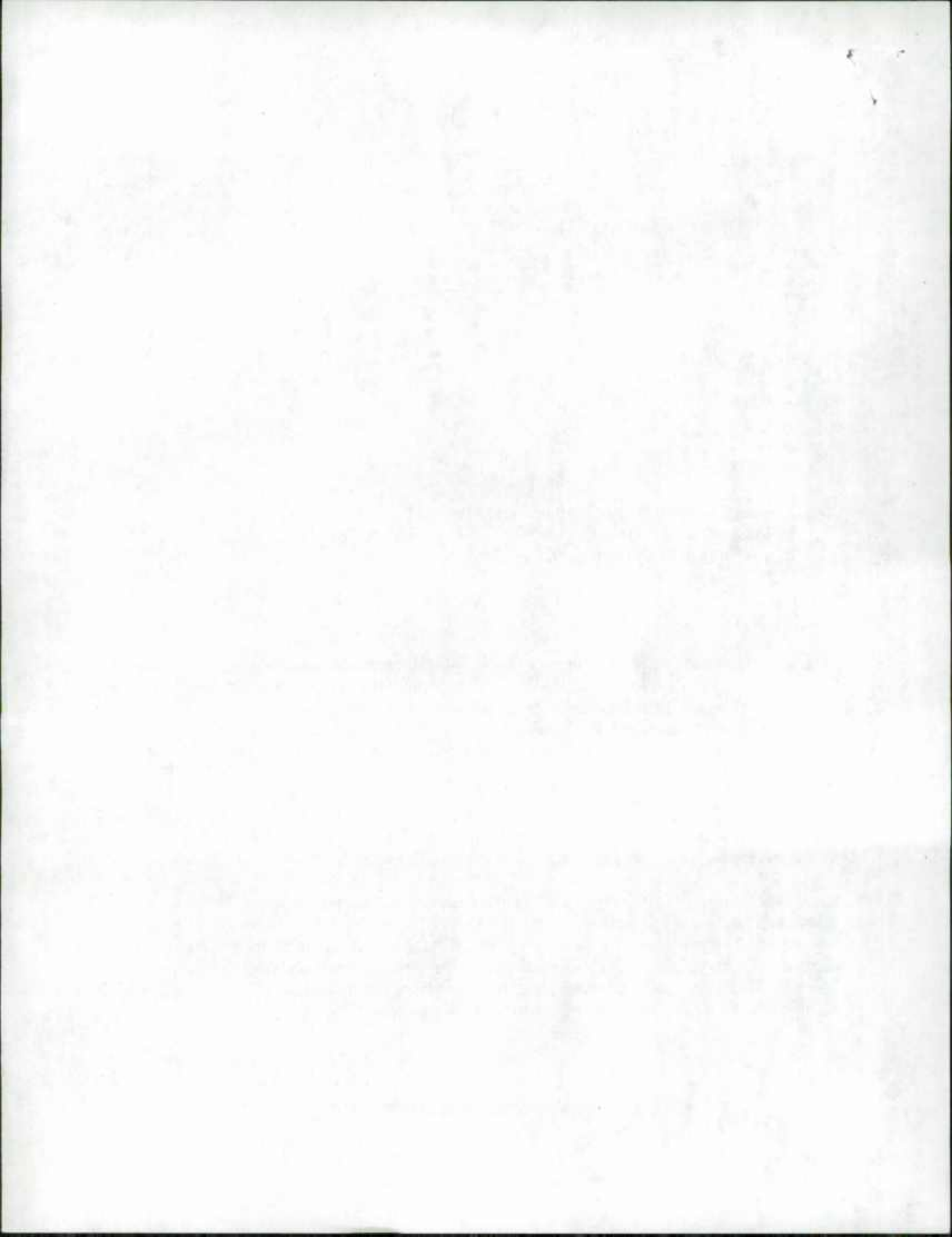
Dear Ms. Moore:

I am writing to follow up on the referenced Buffer Management Plan following my site visit to the property on Tuesday, August 12, 2008. Following lengthy discussion about the prior Buffer Management Plans, existing vegetation, proposed vegetation, maintenance, and the confusion about the various development activities on the property, I believe that the issues of concern were satisfactorily resolved. The following summarizes the agreements reached during the site visit.

The attached Buffer Management Plan will supersede all other Buffer Management Plans and/or landscape plans that have been prepared for this property, including the "O'Brien Buffer Management Plan," the "Brickman Plan," and the "Walsh Landscape Architecture Plan."

Based on my inspection of the property, the dry-stack wall and the portion of the deck west of the house, that were constructed within the 100-foot Buffer, have been removed. The stone steps (approximately 4' wide by 20' long) that provide access to the pier are in place, are permitted to remain, and the area around them has been stabilized and restored with native grasses and perennials. Mitigation and restoration plantings in accordance with the attached Buffer Management Plan have been planted or will be planted by May 31, 2009.





Ms. Moore
November 25, 2008
Page 2

Based on my conversation with you, it is my understanding that the pier was constructed with all of the required authorizations and was placed on the southern side of the property in accordance with recommendations from the Maryland Department of the Environment.

As you are aware, it is often difficult to ensure that the 100-foot Buffer maintains its habitat and water quality functions when the adjacent land is developed for residential use. This situation becomes even more difficult when surrounding properties on which development pre-dated the implementation of the Critical Area Program are able to maintain a manicured lawn within the 100-foot Buffer. As we have discussed, regardless of whether a property was developed before or after implementation of the Critical Area Program, clearing, cutting, bush-hogging, and removal of vegetation within the 100-foot Buffer is prohibited. The exceptions are mowing an existing lawn or activities implemented in accordance with an approved Buffer Management Plan.

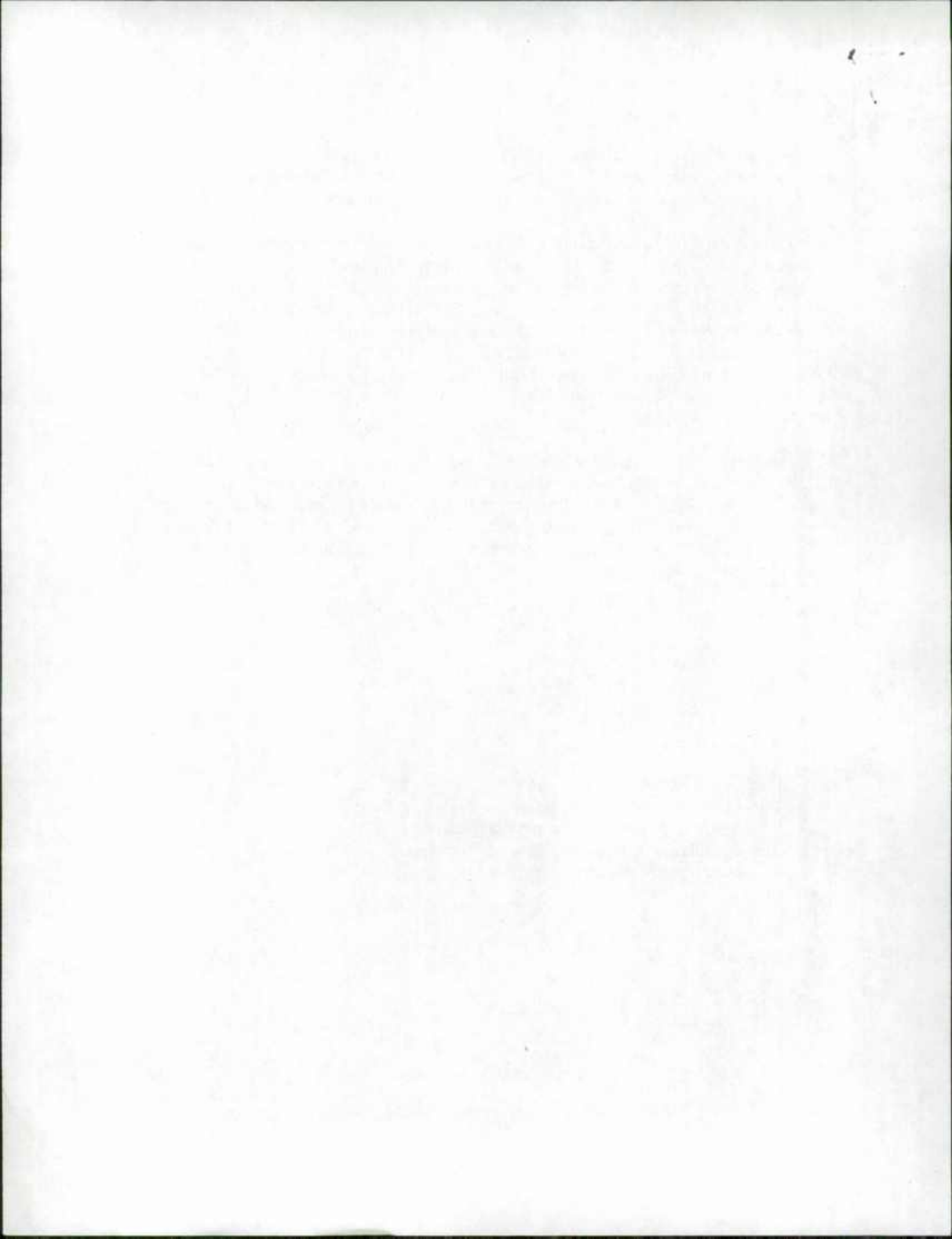
During the site visit, I discussed with the Urquharts that any activities that are not specifically addressed in the attached Buffer Management Plan will require an amendment to the Plan and potentially a more detailed design. I believe that they understand the scope and intent of the plan as proposed. This letter authorizes the Urquharts to move forward with the implementation of the Buffer Management Plan as described. If you have any questions or need any additional information, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens
Education and Conservation Coordinator

cc: Marianne Dise, OAG
Tony Gorski, Gorski and Associates
Joseph Miller, Queenstown Planning Commission
Don Regenhardt, Queenstown Planning Commission
James Urquhart, Applicant



**Buffer Management Plan
220 Old Wharf Lane
Queenstown, Maryland**

This Buffer Management Plan supersedes all other Buffer Management Plans, landscape plans, or site plans for the property identified as 220 Old Wharf Lane.

Existing Trees and Shrubs

1. All existing trees and shrubs on the property as of August 12, 2008 shall remain, except the owners have indicated that they may desire to remove two existing non-native evergreen trees in the 100-foot Buffer, one near the northern property line, and the other near the southern property line. If these 6' – 8' trees are removed, they will be replaced with two trees (native species) of approximately the same size in approximately the same locations.
2. Dead limbs and branches can be removed from existing trees and shrubs using hand tools.
3. Pruning of trees and shrubs is permitted, but cannot exceed 10 percent of the existing canopy (for trees) and overall vegetative structure (for shrubs) at any one time. (For example, on a 30" shrub, no more than 3" should be pruned.) All pruning will be done with hand tools.
4. A natural meadow area, consisting of native grasses and perennial wildflowers in a mulched bed and approximately 1,200 square feet in size has been planted adjacent to the two patios on the water side of the house west of the house and shall be maintained as a meadow area. This area will be maintained by hand weeding and mulching, and it is anticipated that the grasses and wildflowers will eventually fill in and provide excellent warm season grass/meadow habitat.

Required Planting

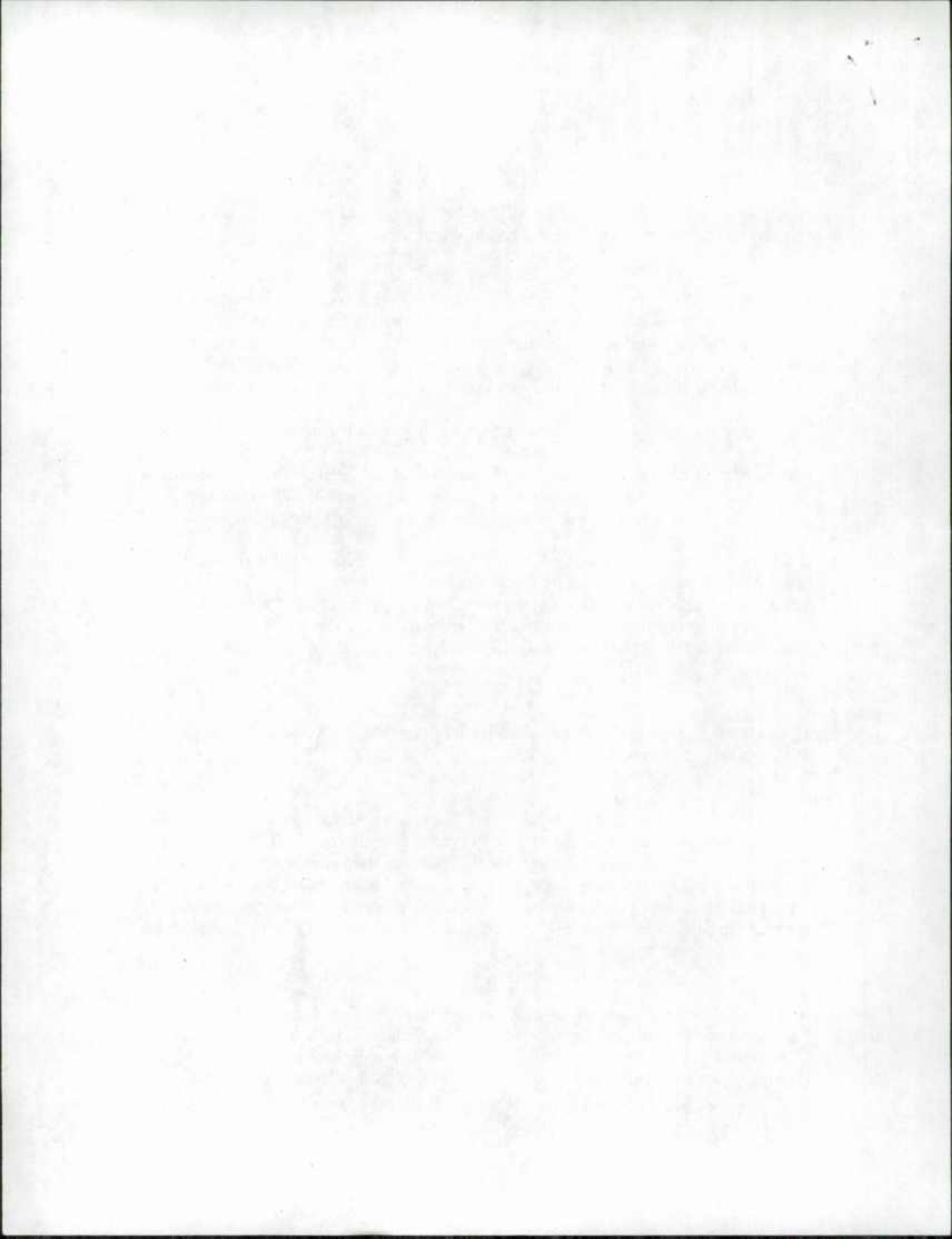
5. Three (3) new canopy trees (native species) will be planted in the 100-foot Buffer on the northern side of the property.

Optional Planting

6. Additional trees, shrubs, grasses, wildflowers, etc, may be planted by the property owners at their discretion and without further modification to or amendment of this Buffer Management Plan as long as there is no grading, excavation, or modification of existing topography. Site preparation work associated with any planting, including digging holes or roto-tilling the soil is permitted; however, no soil disturbance should take place until the plants are on the site and ready to be installed. Areas of disturbed soil should be mulched or stabilized as may be necessary to prevent erosion.

Mowing

7. An historically mowed lawn area, generally consisting of turf grass and approximately 1,500 square feet in area exists adjacent to the pier on the southern side of the property and extends to the stone stairs. This area is maintained as a lawn area and mowed regularly during the growing season. No fertilizers, pesticides, or herbicides are applied in this area. Regular



mowing of this area may continue, and no fertilizers, herbicides, or pesticides will be applied unless this Plan is officially amended.

- 8. Extending from the historically mowed lawn area is a mowed path, generally consisting of turf grass (with some gravel and shell remnants from a prior access) and approximately 5' wide extending along the shoreline. This 5' wide path will be mowed regularly during the growing season to provide access to the planted/naturalized slope in the northern and central portion of the Buffer. Regular mowing of this area may continue, and no fertilizers, herbicides, or pesticides will be applied unless this Plan is officially amended. This area may be mulched.

Property Owners

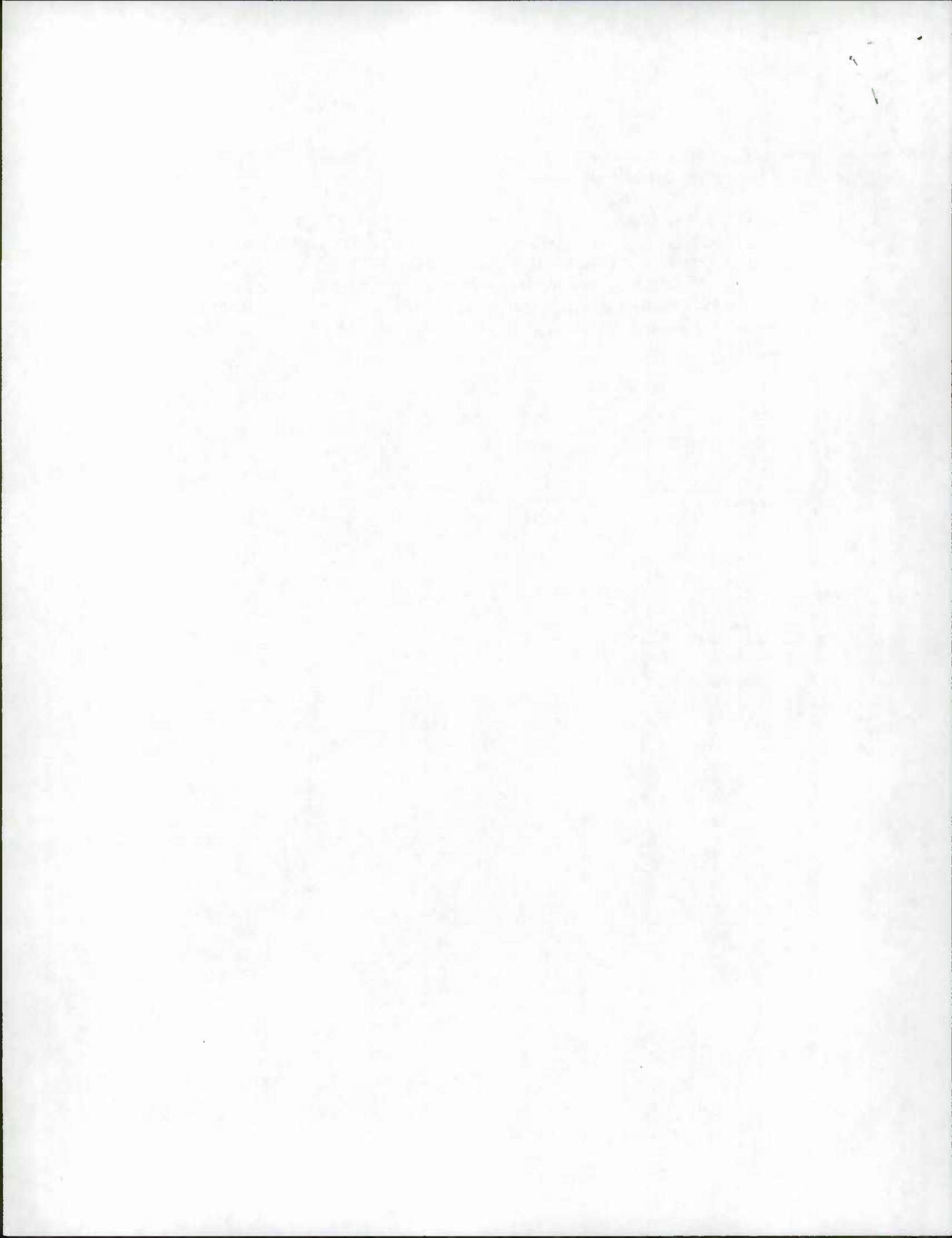
Date

Mary B. Owens

Critical Area Commission

11/25/08

Date



November 6, 2001 *revised 11-20-01 per Roby Hurley comments*
Critical Area: Non Buffer Forest Management Plan

Property Owner: Morgan E. O'Brien, et al.
Owner Address: 5 Eagle Ridge Ct., Bethesda, Maryland 20817
Project Address: 210 Old Wharf Lane, Queenstown, Maryland 21658
Project Contact: c/o Herb Haschen, Environmental Land Improvements, Inc.
410-820-7451

Tax Map 51A, Grid 14, Parcel 26, Lots 2 and 4

Parcel Size (both lots total, excluding portion of Lot 4 within shore buffer) 2.5 acres

Existing Forest On-Site: 2.0 acres- 80%

Proposed Forest Clearing: Selective removal only, of *Morus alba* (white mulberry), damaged or diseased Black Locust, select red maple saplings crowding healthier specimens, occasional red cedar crowding other healthy species, trees crowding existing barn structure, and miscellaneous wild grape, briar and other invasive vine growth cluttering existing trees. Select clearing to be performed with hand cutting, light tractor to pull felled trees to clear areas for chipping or loading for disposal, and bush hog if practical for invasive vine areas, to be followed with hand removal of any remaining vines. Estimated that 20 weed or invasive species trees, and 40 diseased, damaged or crowded trees will be removed via outlined methods. Less than 20% of the existing trees on site will be cleared, so mitigation should equal 1:1 for clearing of invasive species trees, and less, or nothing for removal of damaged or crowded trees.

Purpose for Clearing: To remove undesirable species, cluttered growth conditions and smothering vines, resulting in a reasonable building site for permitted single family home, garage and normal related accessory features on each lot.

Mitigation: Plant 20 native oak, maple, green ash, ¾ caliper bare root, container or B&B stock in areas outlined on plan. This will infill unforested voids and provide future canopy coverage in these areas.

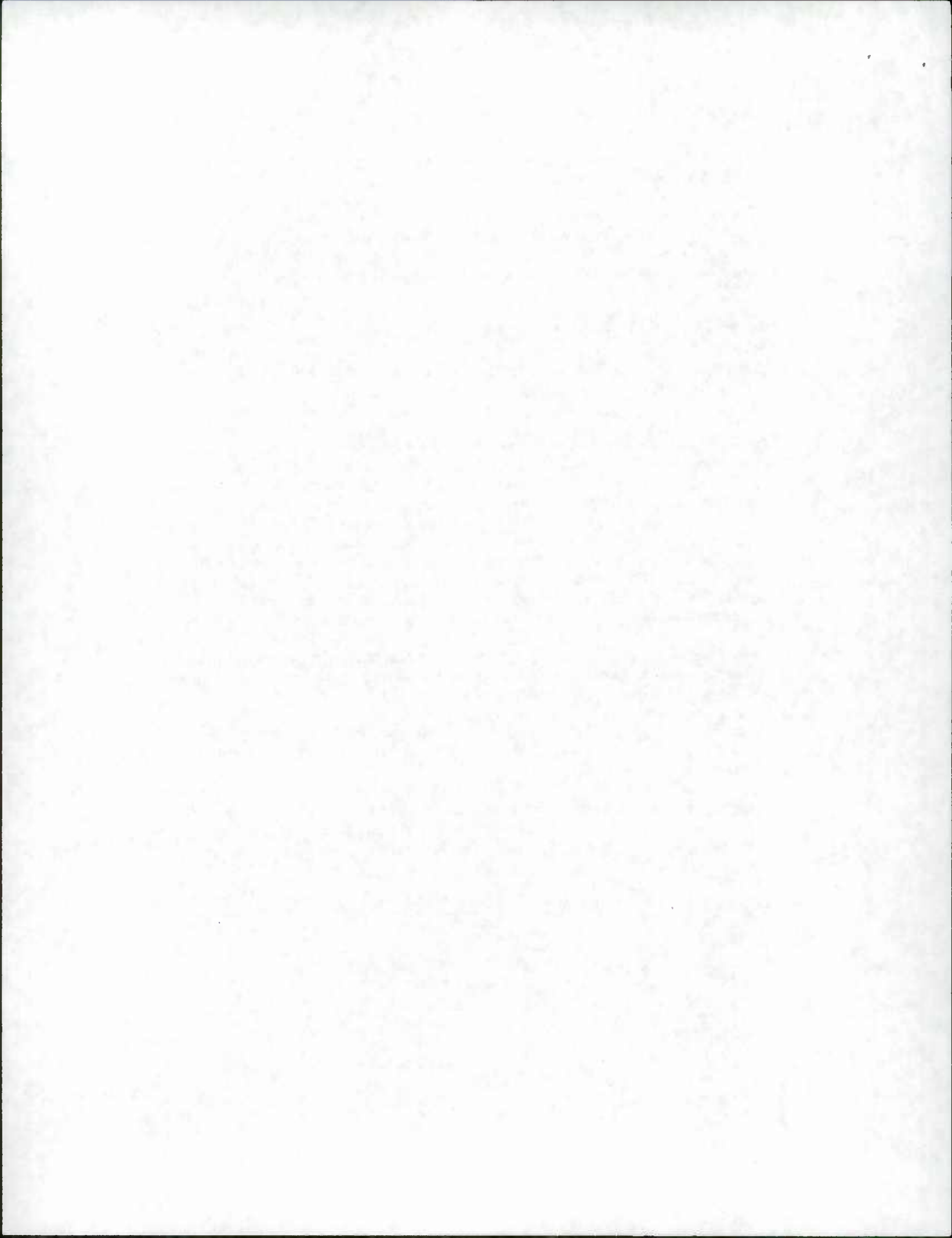
I certify these statements to be true and accurate and that all trees to be selectively removed are located on my property. I hereby grant local officials with jurisdiction over these matters permission to enter my property for review and inspection of this Critical Area Forest Management Plan.

Applicant Signature: 

Date: 11-26-01

This Critical Area Forest management Plan is approved as of _____

By: _____



Proposed Project and Justification: Shoreline stabilization- removal of trees and larger shrubs within 150' frontage x 50' landward of shoreline for loader access to construct wetland planting terrace for shore stabilization and to encourage shoreline vegetation (grass) growth by increasing available sunlight to north facing shoreline. This work will be performed with light equipment, hand removal and stump removal with front end loader. For remaining buffer area, approximately 8000 sq. ft., remove existing invasive *Morus alba* (White Mulberry) trees, damaged and diseased black locust, and existing green brier and other unidentified vines. The mulberry trees crowd and shade out other limited species, oak, maple. This work will be performed with hand labor, and small tractor to pull out felled trees. Herbicide application should not be necessary in full-ground plain to be covered as necessary with chips to prevent invasives from re-establishing. We estimate 20 max. total trees and damaged stems will be removed or pruned to healthy condition.

Long Term Management Plans for Shore Buffer Area: Maintain invasive species encroachment and re-seeding, allow remaining native species, existing and future seedling to replenish naturally. Maintain clear shoreline for maximum sunlight penetration.

Calculation of Mitigation

The following three step process is used to compute the amount of mitigation needed for impacts to the Buffer. For the purposes of this Buffer Management Plan, mitigation is defined as plantings or similar offsets which will help to negate the effect of the Buffer disturbance. To determine the amount of mitigation for your Buffer disturbance you need to determine the following:

1. Amount of buffer disturbed for clearing, grading, and placement of new structures, etc.;
2. Mitigation ratio for the type of Buffer impact;
3. Mitigation amount calculated by multiplying the area disturbed by the mitigation ratio.

Step 1 Amount of buffer disturbance

There are two ways to calculate the amount of disturbance in the Buffer. Buffer disturbance is based on either the area disturbed or the number of individual trees that will be cut. It is recommended that when an area to be disturbed more closely resembles a natural forest (i.e. canopy cover with multi-layer understory) or when structures or other impervious surfaces are placed within the Buffer or a BEA, even if no trees are cleared, you should quantify the disturbance amount in *area cleared*. On the other hand, if your site more closely resembles a park setting (i.e., scattered trees with little or no understory), it is recommended that you count the *number of trees removed*.

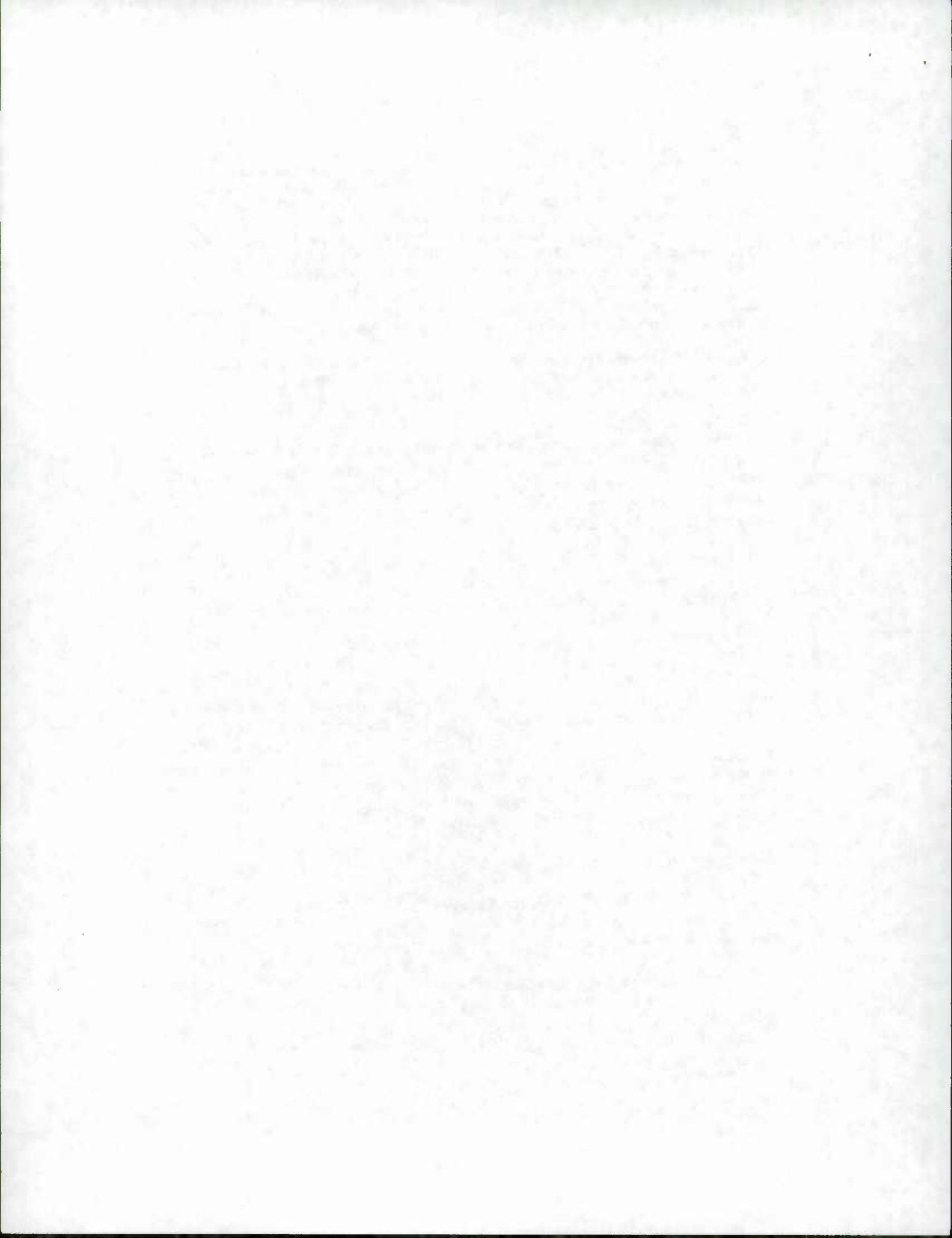
AREA OF BUFFER CLEARED OR DISTURBED: ___ SQUARE FEET

- or -

NUMBER OF TREES CLEARED: 20 # OF TREES

Step 2 Mitigation Ratios

Different types of Buffer management activities require different mitigation ratios. Higher ratios are used for activities that have a greater impact upon the buffer. The purpose of the mitigation is to improve the Buffer functions where possible. The table below provides the mitigation ratio for different types of Buffer management activities.



Plant Spacings and Mitigation Credits for Various Size Trees and Shrubs*

Credit Square Feet	Plant Size	Plant Spacing
100 sq ft	1 tree (2-inch caliper)	10 foot center
400 sq ft	1 tree (minimum: 2-inch caliper and either balled and burlapped or container grown) and understory vegetation (minimum: 2 small trees or 3 shrubs)	tree- 20 foot center understory - 10 foot center
50 sq ft	1 tree (seedlings)	7 foot center
50 sq ft	1 shrub	3-7 foot center

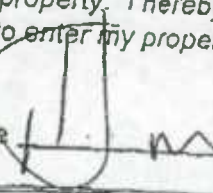
*Although the Critical Area Commission recognizes natural regeneration as a method for mitigation, not all jurisdictions authorize natural regeneration. If your jurisdiction allows natural regeneration as a method for mitigation Buffer impacts, consult with the appropriate contact to determine the area to be managed for natural growth.

Schematic Drawing

Please attach a schematic drawing to scale identifying areas of impact to the Buffer, indicate on plan existing trees and shrubs if possible, and the proposed location for replanting within the Buffer. Show the location of the Critical Area buffer. Indicate on the drawing the specific types of vegetation which will be removed and the specific types and amount of vegetation which will be used for mitigation.

I certify these statements to be true and accurate and that any trees to be removed are on my property. I hereby grant County/Local Jurisdiction officials permission to enter my property for inspections of this Buffer Management Plan.

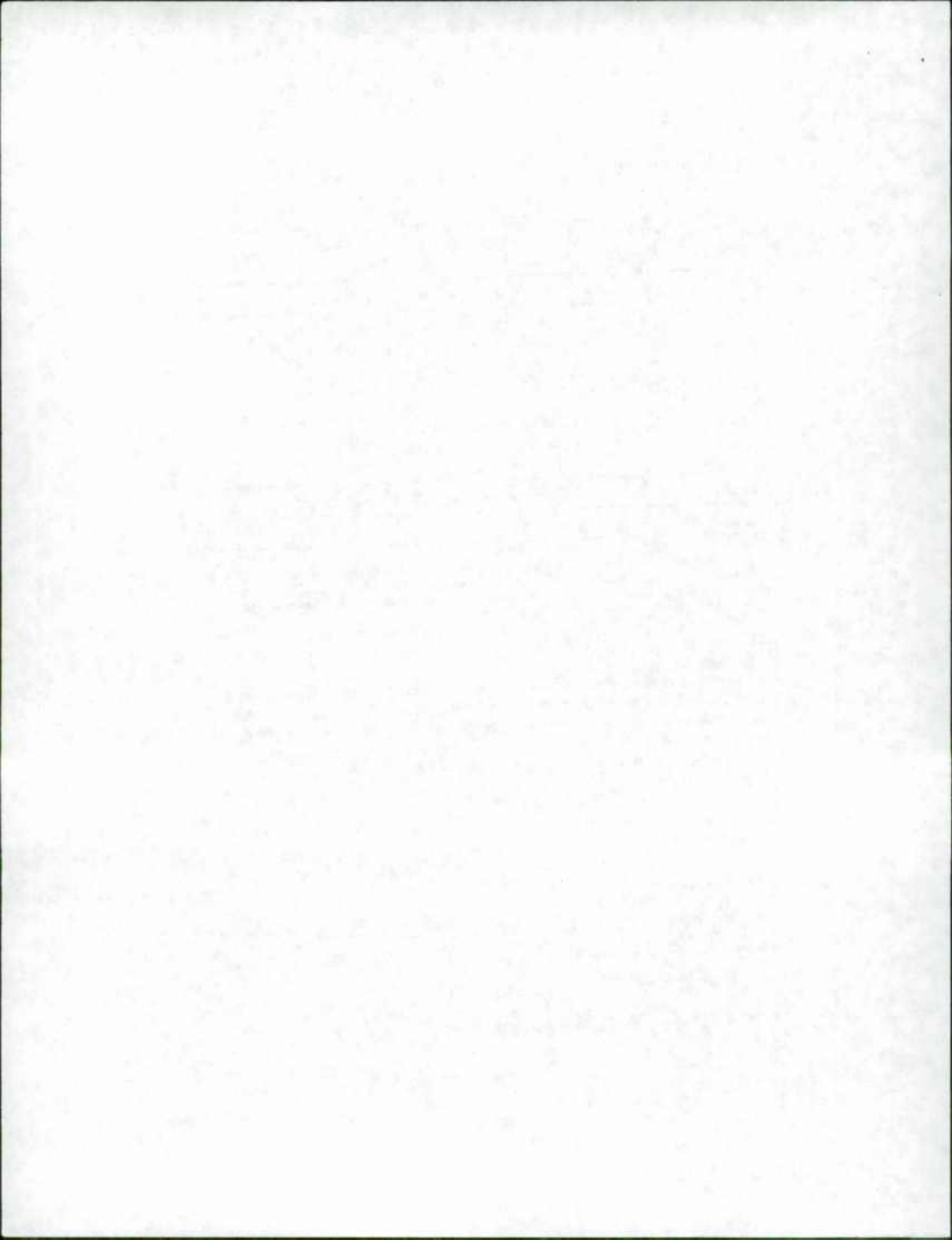
Applicant Signature



Date 11-26-01

Approval Information: FOR OFFICE USE ONLY

This Buffer Management plan is approved as of _____



November 6, 2001 *revised 11-20-01 per Roby Hurley comments*
Critical Area: Non Buffer Forest Management Plan

Property Owner: Morgan E. O'Brien, etal.
Owner Address: 5 Eagle Ridge Ct., Bethesda, Maryland 20817
Project Address: 210 Old Wharf Lane, Queenstown, Maryland 21658
Project Contact: c/o Herb Haschen, Environmental Land Improvements, Inc.
410-820-7451

Tax Map 51A, Grid 14, Parcel 26, Lots 2 and 4

Parcel Size (both lots total, excluding portion of Lot 4 within shore buffer) 2.5 acres

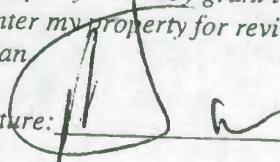
Existing Forest On-Site: 2.0 acres- 80%

Proposed Forest Clearing: Selective removal only, of *Morus alba* (white mulberry), damaged or diseased Black Locust, select red maple saplings crowding healthier specimens, occasional red cedar crowding other healthy species, trees crowding existing barn structure, and miscellaneous wild grape, brier and other invasive vine growth cluttering existing trees. Select clearing to be performed with hand cutting, light tractor to pull felled trees to clear areas for chipping or loading for disposal, and bush hog if practical for invasive vine areas, to be followed with hand removal of any remaining vines. Estimated that 24 weed or invasive species trees, and 40 diseased, damaged or crowded trees will be removed via outlined methods. Less than 20% of the existing trees on site will be cleared, so mitigation should equal 1:1 for clearing of invasive species trees, and less, or nothing for removal of damaged or crowded trees.

Purpose for Clearing: To remove undesirable species, cluttered growth conditions and smothering vines, resulting in a reasonable building site for permitted single family home, garage and normal related accessory features on each lot.

Mitigation: Plant 24 native oak, maple, green ash, 3/4 caliper bare root, container or B&B stock in areas outlined on plan. This will infill unforested voids and provide future canopy coverage in these areas.

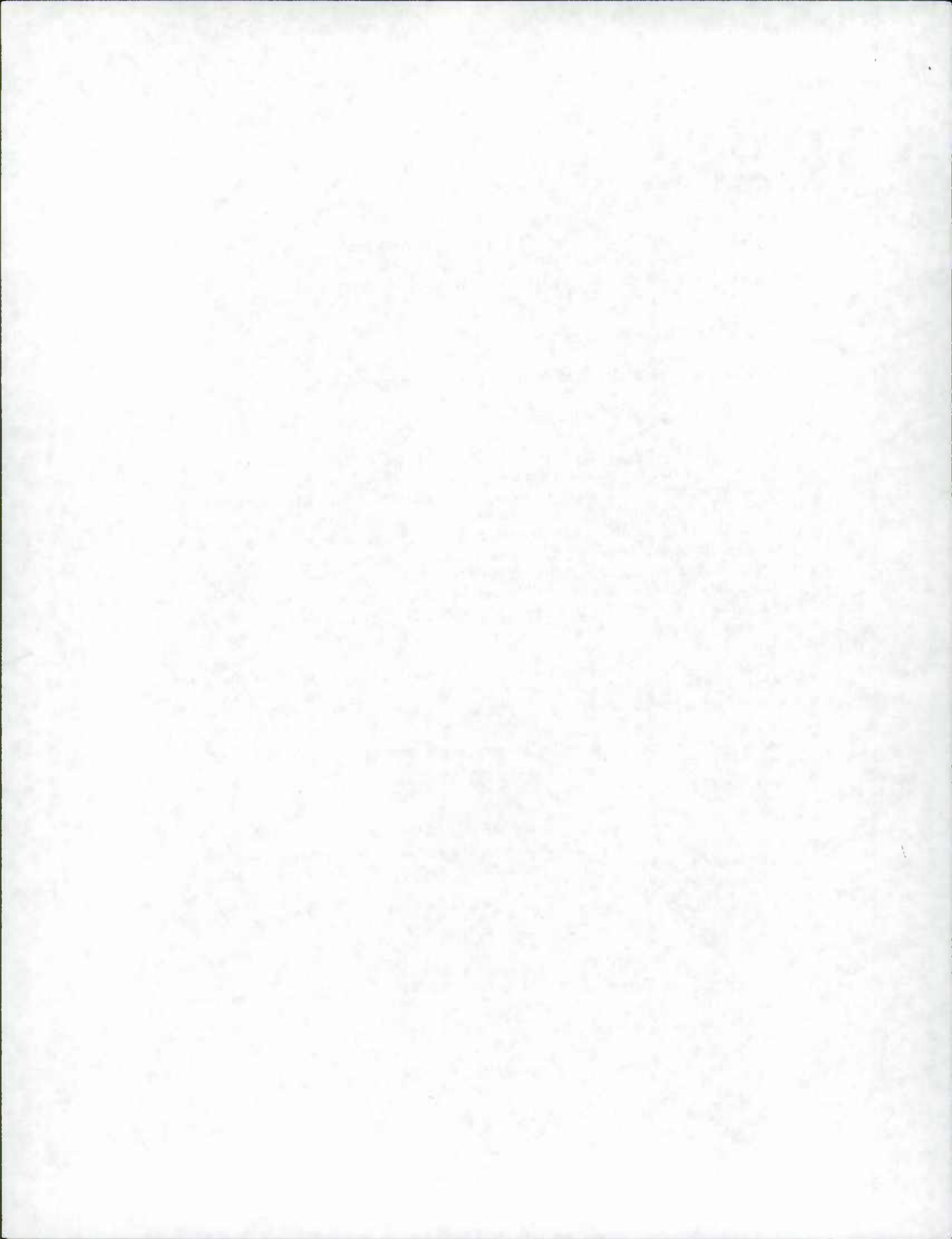
I certify these statements to be true and accurate and that all trees to be selectively removed are located on my property. I hereby grant local officials with jurisdiction over these matters permission to enter my property for review and inspection of this Critical Area Forest Management Plan

Applicant Signature:  _____

Date: 3-26-02

This Critical Area Forest management Plan is approved as of _____

By: _____



Type of Buffer Disturbance	Mitigation Ratio
New development/redevelopment (non-BEA)	3:1
New development/redevelopment (BEA)	2:1
Shore erosion control	1:1
Shore access	2:1
Other	-

*Please consult with the local government's Critical Area Planner if the purpose of your Buffer disturbance is in the *Other* category.

Mitigation Ratio = 1:1 (From the above table)

Step 3 Mitigation Amount

Mitigation Amount = (Sq. ft. or # of trees) X (mitigation ratio) = 20 Sq. ft. or # trees

Buffer Planting Plan

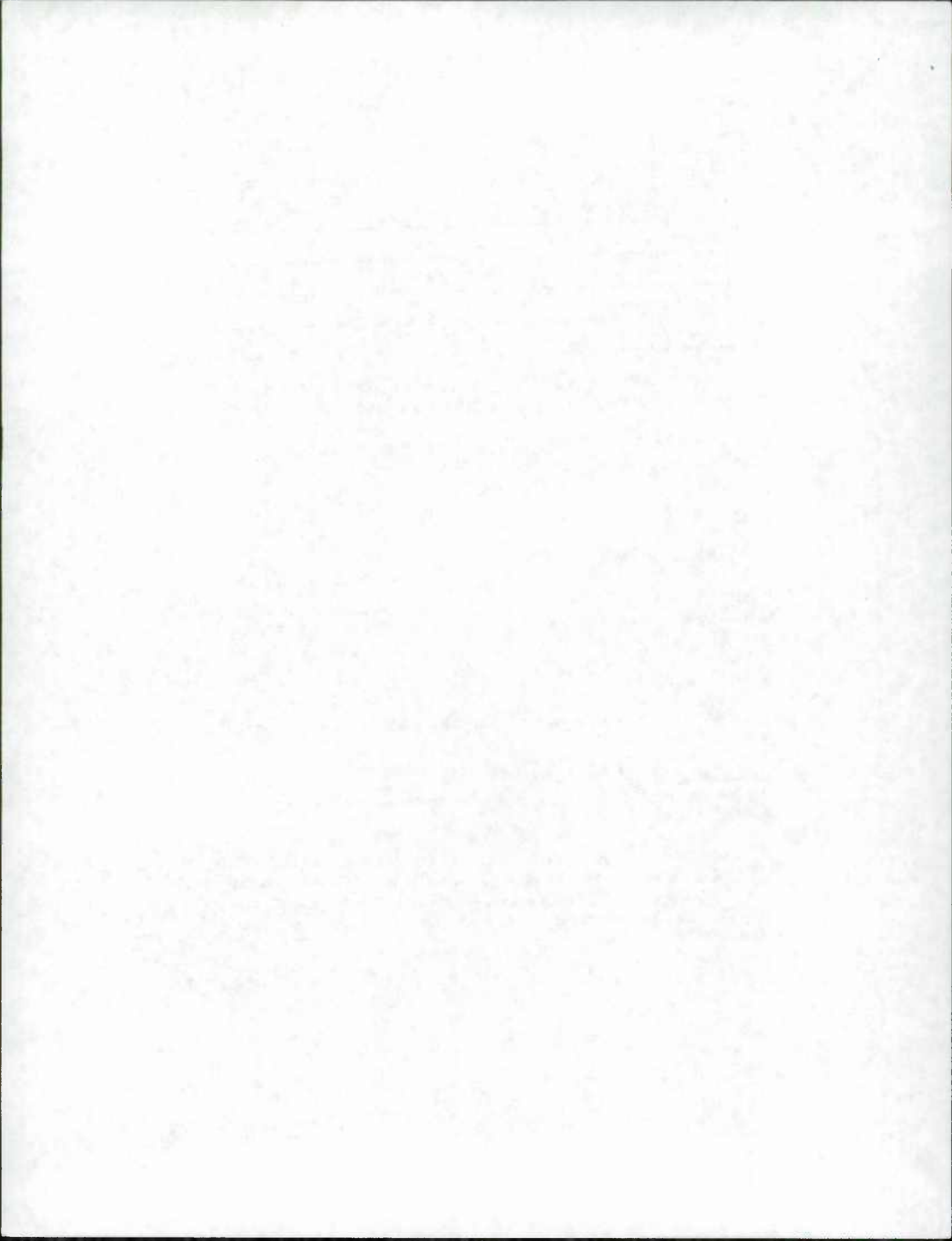
This section is to help you provide more specific details on your mitigation location and plantings.

Planting Location

All mitigation should be located within the Critical Area in the following order of preference:

- 1-On-site within the Buffer — NOT POSSIBLE, NO AREAS REMAINING
- 2-On-site adjacent to existing Buffer — NOT POSSIBLE, NO AREAS AVAILABLE
- 3-On-site within the Critical Area — ~~PROPOSED PLANTINGS~~
- N/A 4-Off-site (follow order of preference 1-3 above) ON BALANCE OF
- N/A 5-Fee-in-lieu payment LOT 4 AND LOT 2.

revised 11.20.01



0190.5mN
1348.8mE

43

MAP-43-P.31

CLARENCE W. HILLEN
TOP 38/47E
322.60 A.
P. 1

P. 55

P. 65

P. 68

P. 74

P. 39

1/3 P. 11

P. 11

CREEK

JOHN L. CARROLL, ETAL
MWD 203/20
258.80 A.
P. 24

QUEENSTOWN

SALTHOUSE COVE

NETO GANDER
MWD 258/25
80.77 A.
P. 47

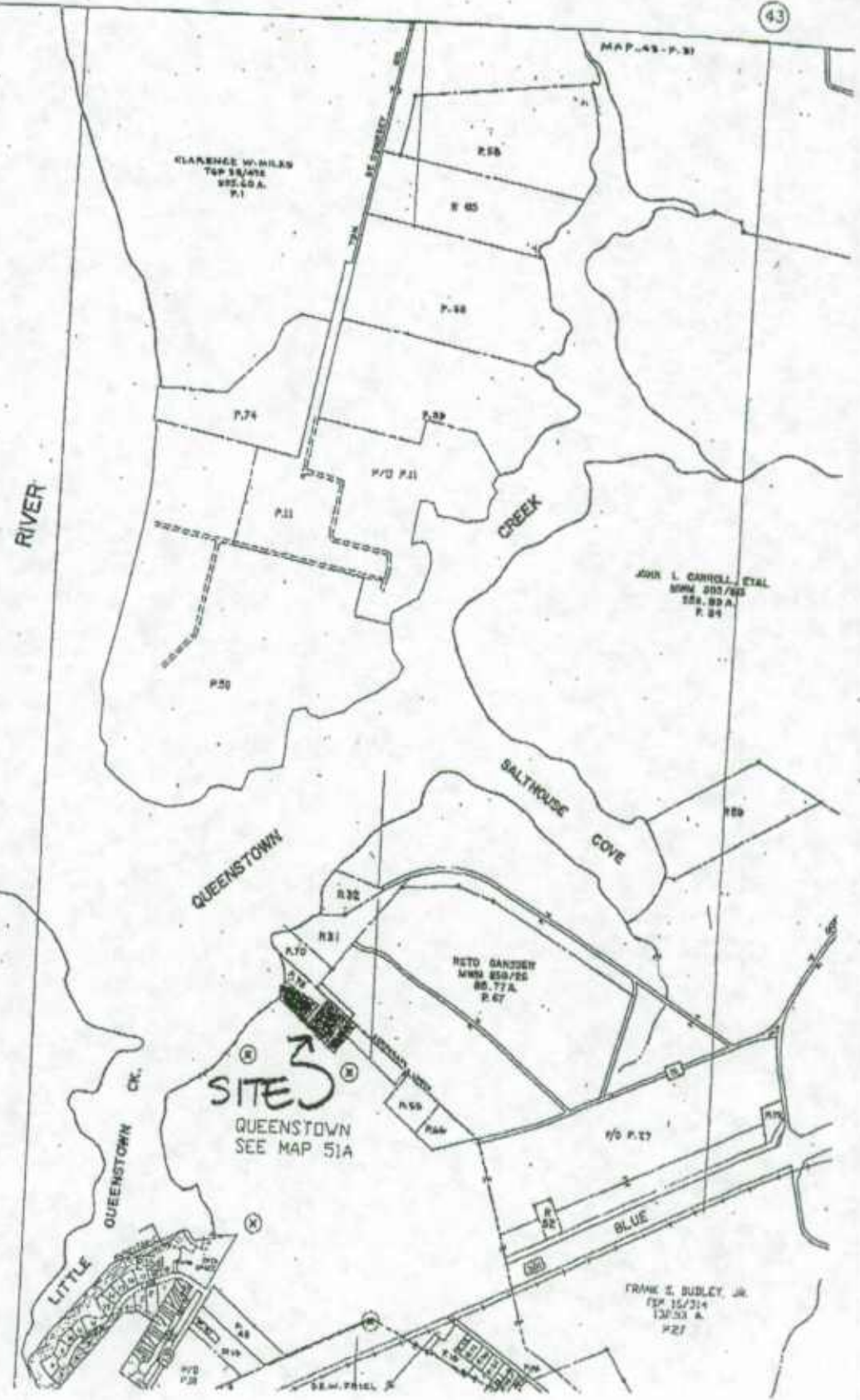
SITE 3
↑
QUEENSTOWN
SEE MAP 51A

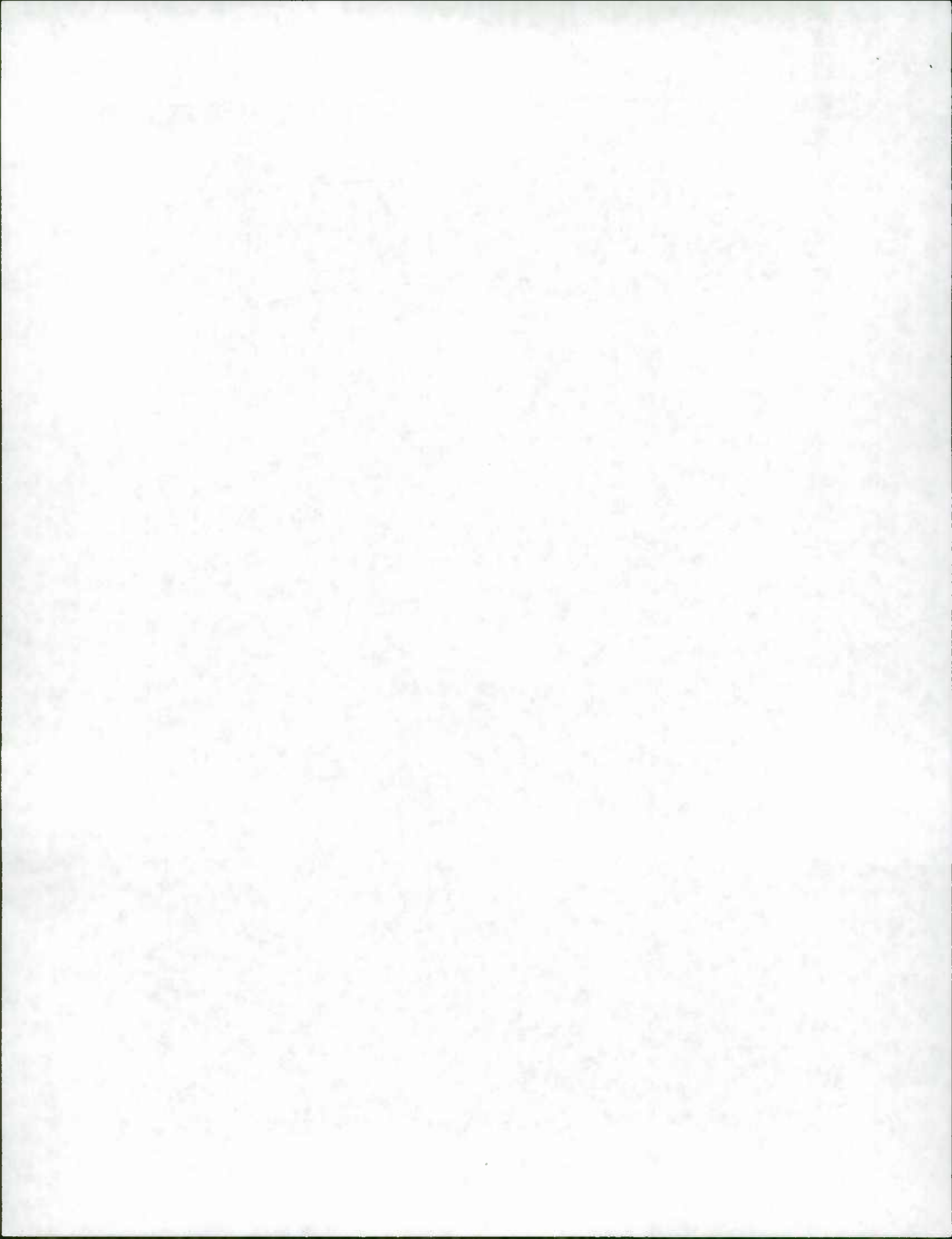
WASHINGTON BRICK (TERRA COSTA, DC)
DWS 14/03
735.87 A.
P. 10

LITTLE
QUEENSTOWN CK.

FRANK S. DUDLEY, JR.
TOP 15/214
137.53 A.
P. 21

BLUE





0190.5mN
1349.6mE

43

MAP 43-P. 51

CLARENCE W. HILES
TSP 23/074
272.60 A.
P. 1

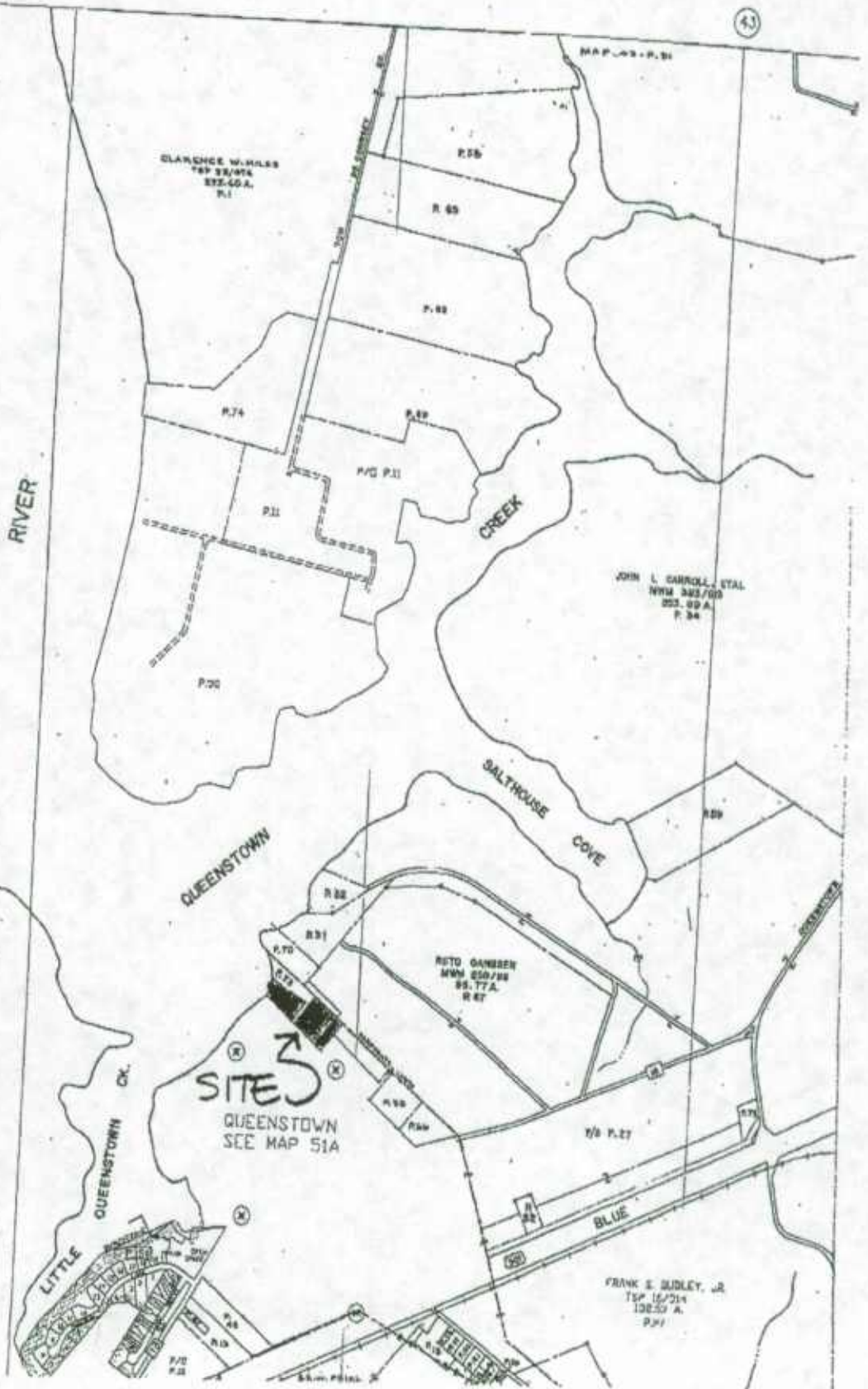
JOHN L. GARROLL, ETAL
NWM 382/003
253.00 A.
P. 34

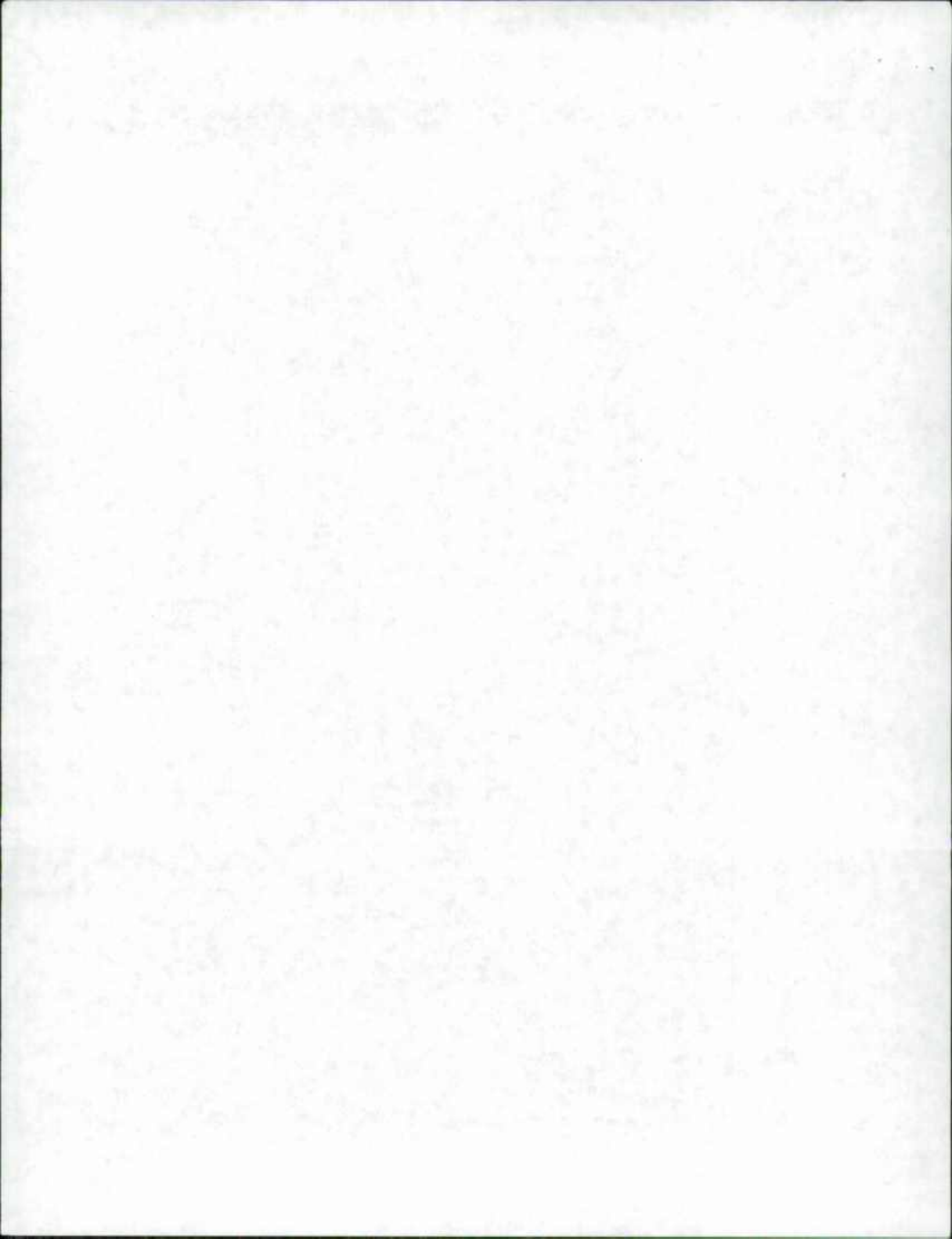
RETO GANSEN
NWM 250/04
95.77 A.
R. 27

SITES
↑
QUEENSTOWN
SEE MAP 51A

FRANK E. SIDLEY, JR.
TSP 16/214
108.50 A.
P. 11

WASHINGTON BRICK & TERRA COTTA CO.
DWC 39/154
785.87 A.
P. 12





**Critical Area Commission
Chesapeake and Atlantic Coastal bays
1804 West Street, Suite 100
Annapolis, Maryland 21401
(410) 260-3480**

MEMORANDUM

TO: Drew Vetter, Governor's Office

FROM: Mary Owens, Critical Area Commission

SUBJECT: Mitigation Calculations

DATE: October 21, 2008

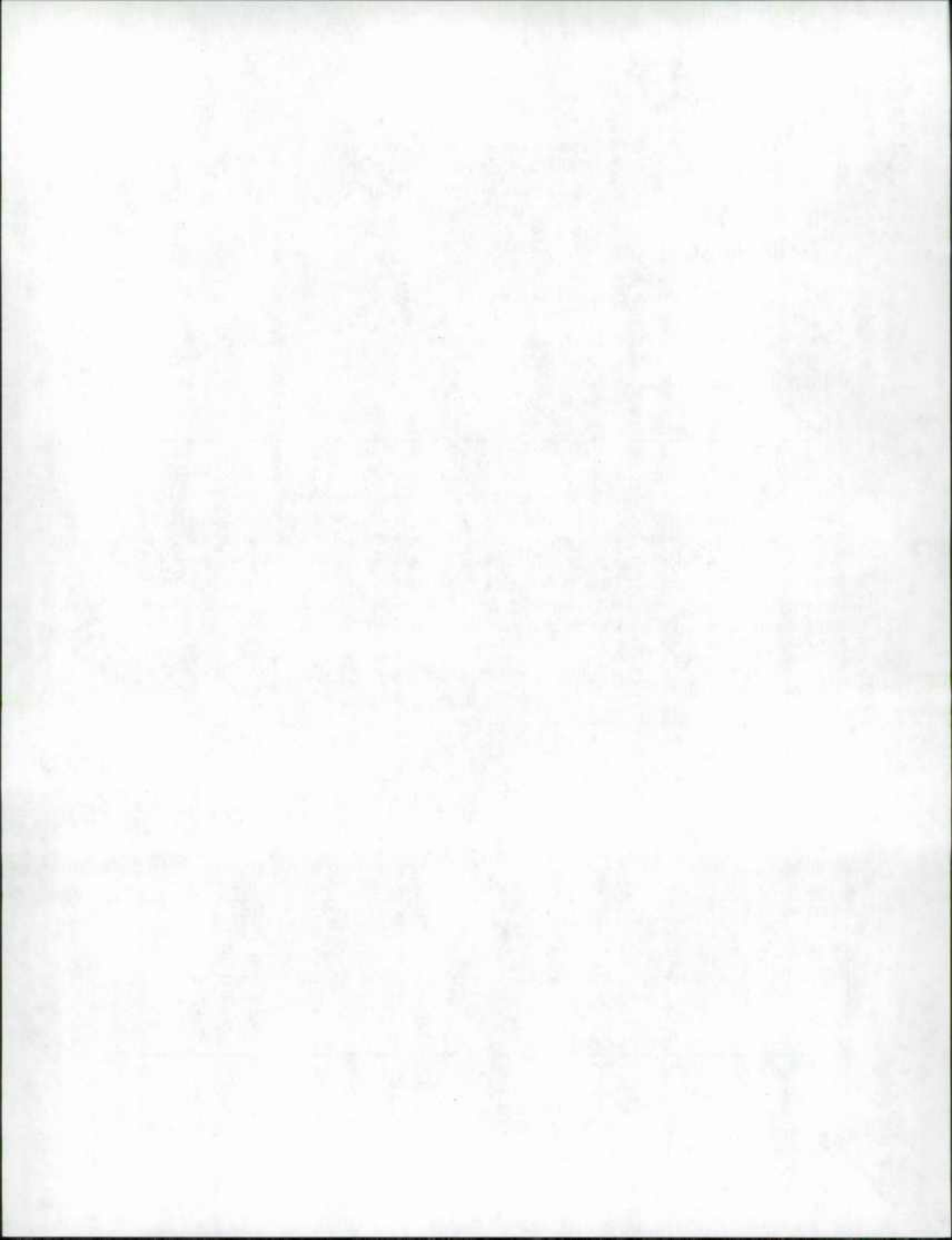
As a follow up to our conversation earlier this week, I have reviewed the file again and prepared a table indicating how we would determine planting requirements for Buffer activities and development on a typical site like 220 Old Wharf Road. The mitigation ratios are based on the Criteria and are typical of the way most jurisdictions implement their Critical Area programs. Although it is my understanding that the tree and shrub planting requirements associated with the original Buffer Management Plans were implemented, there is documentation indicating that mowing of additional areas was taking place. The disturbance of natural vegetation, including shrubs, grasses, and meadow vegetation is prohibited in the Buffer.

Activity	Square Footage	Mitigation Ratio	Total
Unauthorized Activity in the Buffer	168	3:1	504
Mitigation for Stone Steps in the Buffer	80	3:1	240
Removal of 2 Trees Damaged By Storm	200	1:1	200
Removal of Invasive, Non-Native Species	1200	1:1	1200
Mowing Lawn Area	1500	1:1 or reduce mowing to 2 per year	1500
TOTAL			3644

As we discussed the proposed Buffer Management Plan includes the following mitigation:

Plant 3 trees at 100 SF	300 SF
Credit for natural meadow area (already planted)	1200 SF

TOTAL **1800 SF**



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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June 10, 2008

Ms. Amy Moore
Town of Queenstown
P.O. Box 4
Queenstown, Maryland 21658

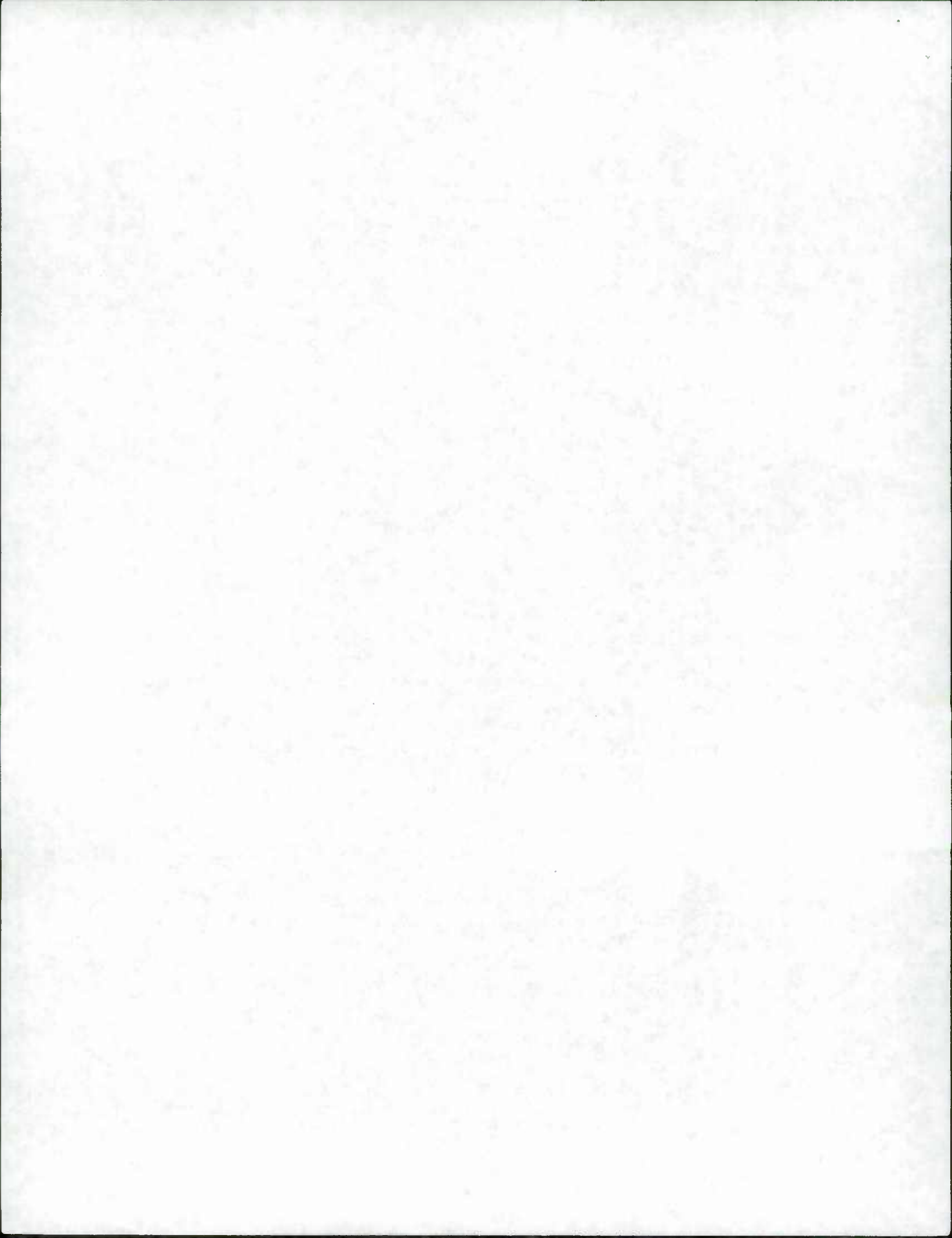
**RE: James Urquhart Buffer Management Plan
QT 79-08**

Dear Ms. Moore:

I am writing to follow up on our recent telephone conversation regarding the referenced project. As we discussed, the Critical Area Commission is continuing to work with the Urquharts to prepare and implement an updated Buffer Management Plan. The updated Buffer Management Plan has not been finalized for the entire Buffer; however, the Urquharts would like to proceed with a portion of the Plan. The Urquharts propose moving forward with site preparation and planting of an area not to exceed 1,200 square feet adjacent to the two patios on the water side of the house. Commission staff believes that the design for this portion of the Plan is acceptable and that moving forward would begin to improve and enhance the functions of the Buffer while the design of the rest of the Buffer Management Plan is refined and finalized.

The site preparation will consist of removing dead or diseased plant material, applying herbicide if necessary to kill weeds, rototilling the soil, and incorporating soil amendments as may be necessary to improve the soil composition. The planting will involve installing plants in some areas, seeding other areas, and applying mulch to areas of exposed soil. Silt fence that was installed as part of the original project is still in place and should be adequate to contain any sediment resulting from a severe storm.





Ms. Moore
June 10, 2008
Page 2

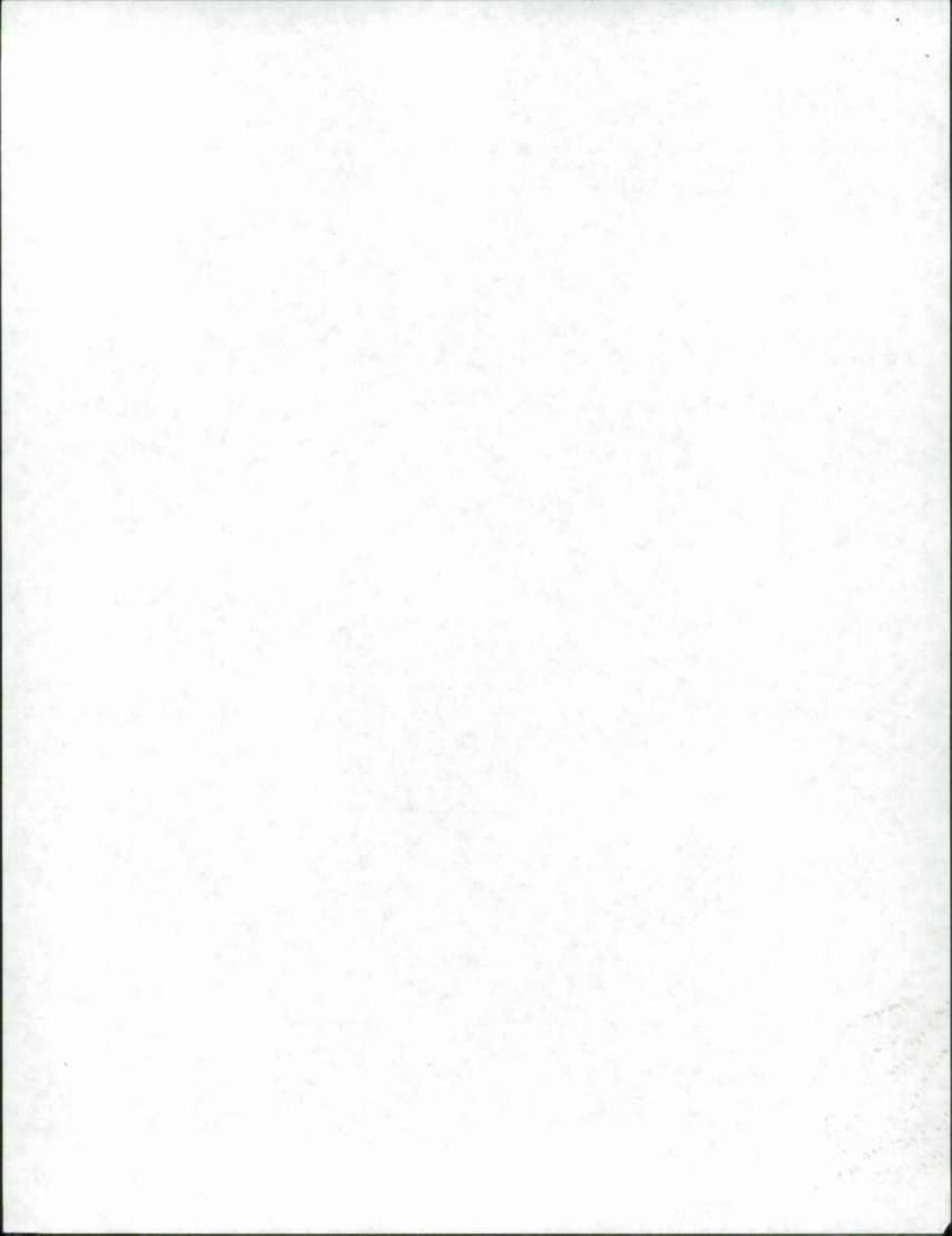
This letter authorizes the Urquharts to move forward with the implementation of the Buffer Management Plan as described. If you have any questions or need any additional information, please call me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary R. Owens".

Mary R. Owens
Education and Conservation Coordinator

cc: Tony Gorski, Gorski and Associates
Ben Wechsler, Linowes and Blocher



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CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401
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www.dnr.state.md.us/criticalarea/

February 25, 2008

Amy Moore
Town of Queenstown
7013 Main Street
P. O. Box 4
Queenstown, MD 21658

RE: Urquhart Buffer Management Plan, Old Wharf Lane

Dear Ms. Moore,

Critical Area Commission staff has met with Mr. Urquhart and his representatives to discuss a Buffer Management Plan (BMP) for Mr. Urquhart's property on Old Wharf Lane. I am providing this letter to inform you that we are working diligently with them to develop a plan that is acceptable to this office and will resolve Critical Area issues related to the Buffer on the site. We have discussed the current BMP submittal and hope to have an approved version completed within the next few weeks. Please contact me if you have any questions at (410) 260-3479.

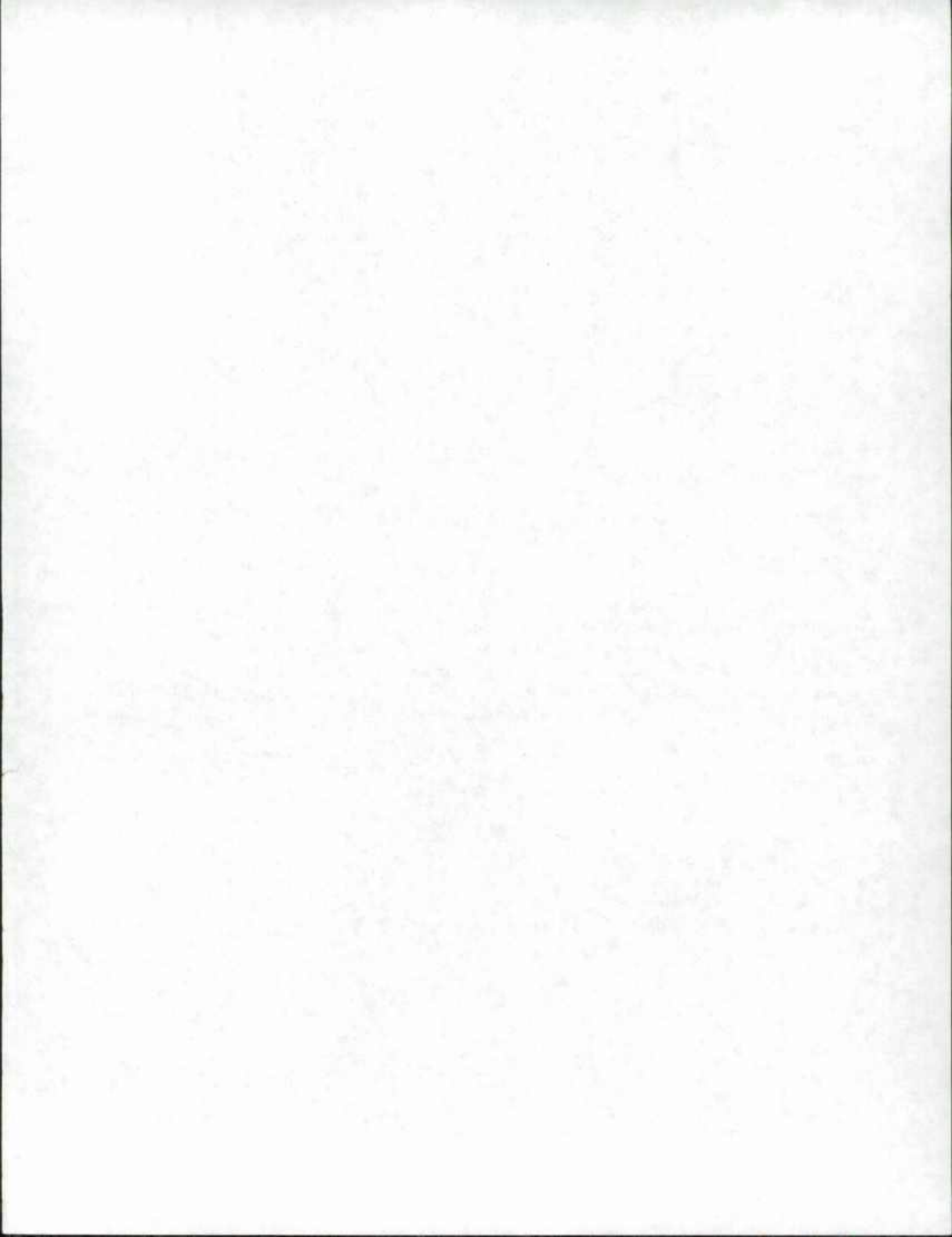
Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson
Natural Resources Planner

cc: Benjamin S. Wechsler, Linowes and Blocher, LLP
Anthony G. Gorski, Gorski & Associates LLC





Critical Area Buffer Management Plan

220 Old Wharf Lane
Queenstown, Maryland 21658
Tax Map 51A, Parcel 26, Lot 4

RECEIVED

FEB 15 2008

CRITICAL AREA COMMISSION

This Critical Area Buffer Management Plan ("BMP") pertains to the establishment, restoration and maintenance of the 100-foot critical area buffer (the "Buffer") for 220 Old Wharf Lane, Queenstown, Maryland 21658 (the "Property"), and is entered into this ___th day of February, 2008.

This BMP supercedes and supplants all prior BMPs for the Property, and addresses and resolves ongoing confusion and disputes regarding the establishment, restoration, and maintenance of the Buffer, including but not limited to:

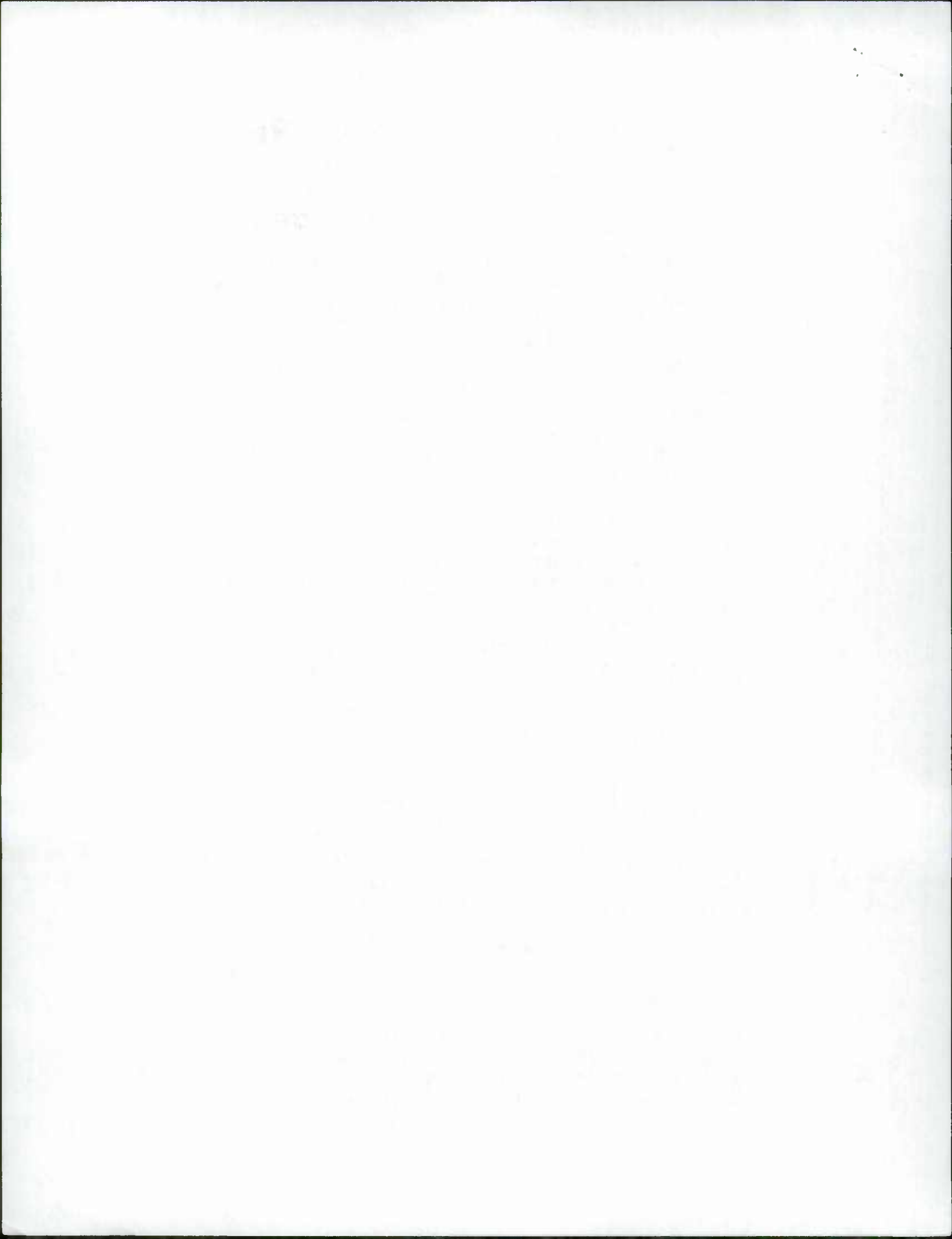
- (1) The BMP dated November 26, 2001 entered into with Mr. Morgan E. O'Brien, *et al.* (Exhibit A);
- (2) A February 7, 2002 memorandum from Mr. Roby Hurley seeking to modify the BMP (Exhibit B);
- (3) A March 26, 2002 memorandum pertaining to a "Non-Buffer Forest Management Plan" (Exhibit C);
- (4) A January 24, 2005 letter authored by Mr. Hurley pertaining to the Property (Exhibit D);
- (5) A September 15, 2005 document referred to as the "Brickman Group Landscape Enhancements Plan" (Exhibit E);
- (6) A Memorandum dated October 18, 2007 purporting to cite the current owners for certain violations of restrictions in the Buffer (Exhibit F); and
- (7) A draft Buffer Management Plan dated November 15, 2007 (Exhibit G)

Scope and Proposed Project

This BMP pertains to the 100-foot critical area buffer, measured as 100-feet landward from mean high water, and depicted in the "Phase One Planting Plan" attached hereto as **Exhibit H**. It does not bind the Property owners with regard to the establishment or bonding of the plantings depicted outside of the Buffer (the "Upland Area"). Further, this BMP only pertains to the Property. To the extent that **Exhibits A through G** pertain to planting or maintenance obligation on properties outside of the Property, these obligations remain in full force and effect.

The "Project" shall consist of the restoration and establishment of the Buffer consistent with this document, and in particular with the Planting Plan enclosed as **Exhibit H**, which is incorporated herein by reference.

The Buffer has had a history of disturbance prior to the current ownership of the Property. As a result of historic disturbances, the current site conditions are significantly degraded, and are affected by the extensive recruitment of nonnative vegetation into the previously disturbed areas. Given the historic disturbance regime, this BMP is designed to continue the owners' efforts to



restore the functionality of the buffer, as well provide riparian access, suppress existing and newly-recruited non-native vegetation, and to establish a succession regime to eventually replace existing sources of non-native recruitment.

Finally, this Property has been subject to a series of BMPs, and the current owners contest the legitimacy of the alleged buffer violations contained in the October 18, 2007 memorandum. In order to provide a prospective resolution of all prior disputes relating to the buffer, and to address the confusion arising out of multiple past BMPs and amendments thereto as they pertain to the Property, this new BMP replaces all prior BMPs as applicable to the Property, and serves as mitigation for all disputed buffer violations which may have occurred on the Property.

Buffer Plantings and Maintenance

Planting within the buffer shall be consistent with the Planting Plan enclosed as Exhibit H. Plantings shall be completed within one year of the execution of this BMP. All new or replacement plantings shall be with native vegetation. There shall be no obligation to remove existing non-native vegetation, though suppression of non-native vegetation not reflected on **Exhibit H** shall be permitted as provided below.

Existence of Pier and Stone Steps

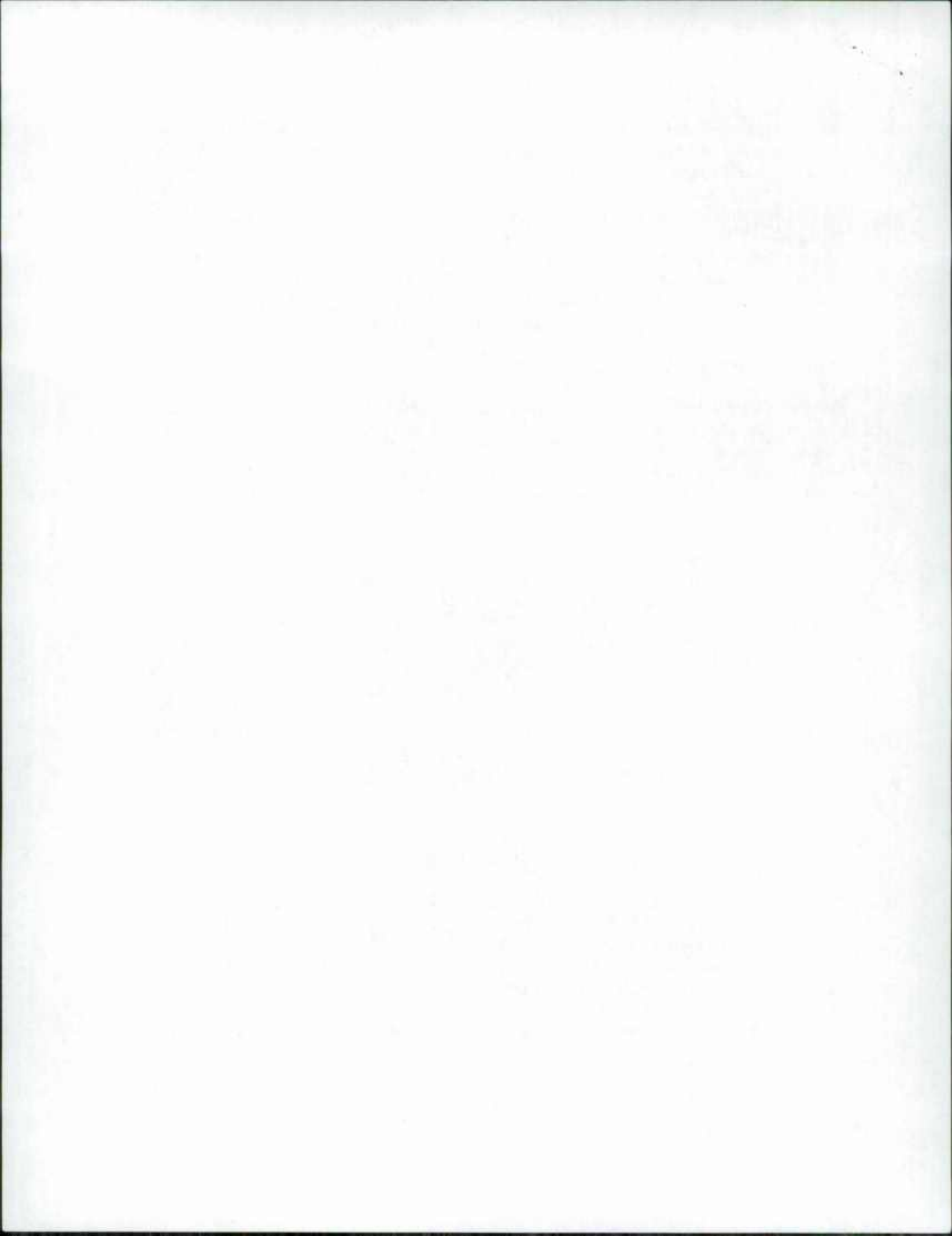
Pursuant to required permits issued by the Army Corps of Engineers, the Maryland Department of Environment, and Queenstown, the Property currently is improved with a pier. This BMP recognizes the existence of the pier, and that the pier as constructed on the date of this BMP is not a violation of either the State Critical Area Law or the approved Critical Area Program administered by Queenstown.

The Buffer also contains ten stone steps, as depicted on **Exhibit H**, and of similar dimension to the ten stone steps located in the buffer depicted in **Exhibit E**. These stone steps are intended to provide the Property owners riparian access to the pier without the need for additional earth disturbance, and associated sedimentation, erosion, or other deleterious environmental consequences which may arise from providing riparian access across unique topographical features extant on the Property.

No New Impervious Surfaces Permitted in Buffer

With the exception of the existing site conditions which may constitute impervious surfaces, (namely the existing stone stairs) no new impervious surface may be located within the Buffer without prior express written approval from the Critical Area Commission and Queenstown. Such written approval shall not be unreasonably withheld, but nothing herein shall discharge the Property Owners from applying for any variance required by either Queenstown or the Critical Area Commission for such impacts. Furthermore, nothing herein shall modify, change, relieve or otherwise alter any provisions or exceptions to the critical area program relating to water-dependent uses.

Maintenance of Beach Area



As reflected in **Exhibit H**, the Property contains an existing, natural sand beach that is partially state property (that portion below Mean High Water ("MWH")), and partially privately owned (the portion above MHW) (the "Beach Area"). No additional planting shall be required in this area, and no disturbance to existing or naturally-recruited native vegetation shall be permitted in this area. However, the Property owner shall be permitted to hand-weed non-native volunteer vegetation that has recruited to this area, including non-native grasses, mulberries, or other similar vegetation. The Beach Area is unsuitable for the establishment and maintenance of a vegetative buffer beyond that which may be established naturally, and maximum habitat value is accomplished through the maintenance of this area in its natural state and permitting the regrowth of native vegetation.

Riparian Access Areas / Native Grass Mix

Depicted on **Exhibit H** is a "Riparian Access Area" which is located from the base of the stone stairs to the pier, and along a 8-foot access path parallel to the Beach Area. Located within this area is an existing walnut tree and an existing maple tree. Immediately to the southwest of this area is an existing mulberry tree. In order to accomplish dual goals of providing riparian access and the suppression of highly-aggressive non-native mulberry recruitment, the Riparian Access Area may be regularly mowed. Regular mowing beyond the Riparian Access Area shall not be permitted.

Maintenance Regime for Day Lilly and Native Vegetation Strip / Mulch

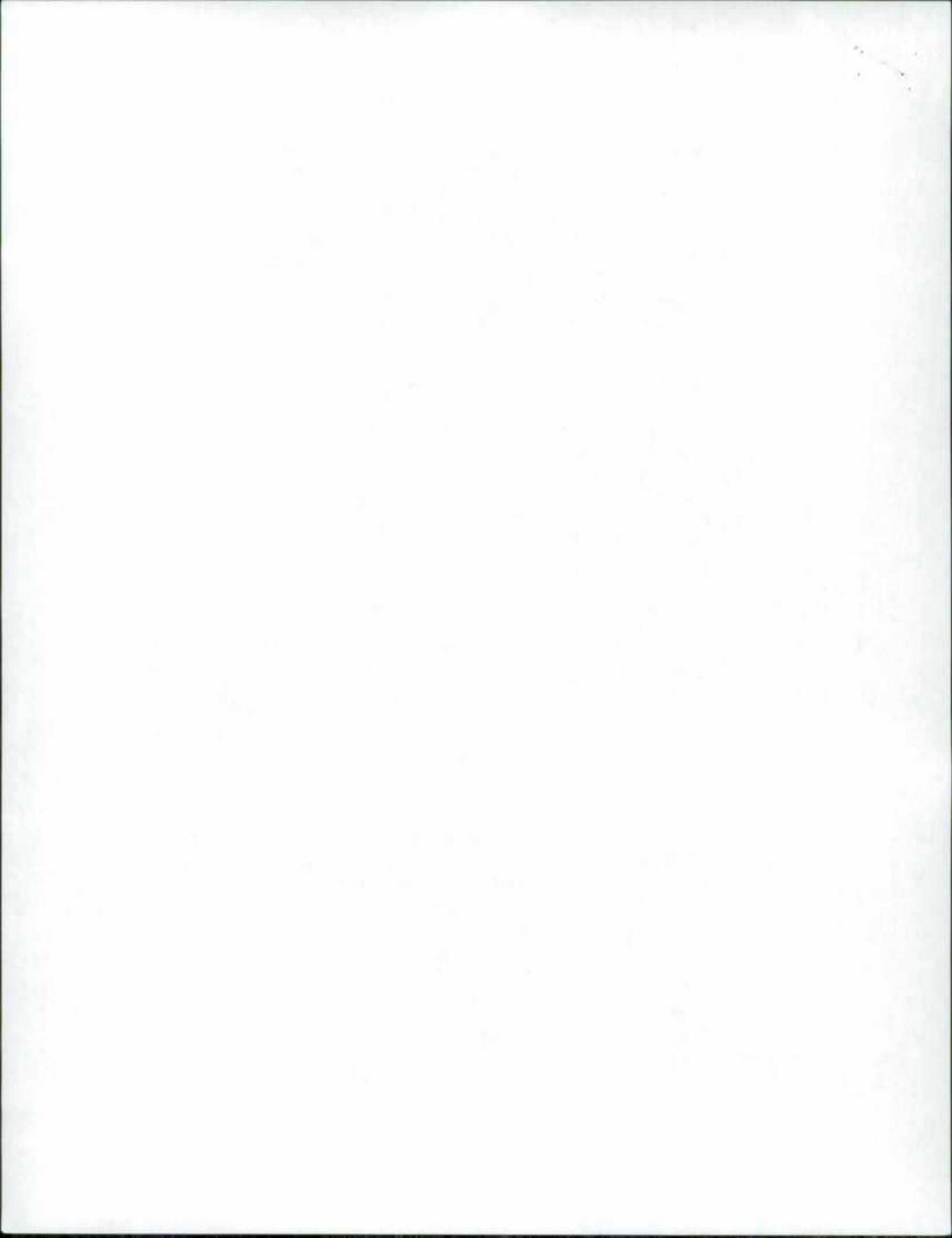
As depicted on **Exhibit H**, between the Beach Area and the slope exists an area currently supporting daylilies and native vegetation. This area shall not be disturbed and is intended to naturally regenerate. To the extent needed to suppress invasive non-native vegetation (and in particular to prevent the establishment of mulberry recruits) mowing of this area may be permitted thrice annually, between the months of April and November. During all other months, non-native vegetation may be removed through hand-pulling.

Maintenance Regime for Hillside Area

The Buffer contains a sloped area, depicted in pink on the attached **Exhibit H** (the "Hillside Area"). This portion of the buffer shall be replanted and enhanced as noted on **Exhibit H**. Without prior written authorization, this area shall not be mowed, though selective hand-pulling and pruning of invasive non-native species shall be permitted, as will the replacement planting of any vegetation that has perished.

Maintenance Regime for Upper Patio Area

Landward of the Hillside Area and extending to the limits of Buffer is an area referred to herein as the "Upper Patio Area", which is noted in blue on the attached **Exhibit H**. Planting of this area shall be in accordance with that shown on **Exhibit H**. Property owners shall be permitted to maintain a 5' wide mulched path through this area in order to maintain plantings in both the



Upper Patio Area as well as the Hillside Area in a fashion that reduces the tendency to trample or injure existing vegetation

Succession Planting at Terminus of Old Wharf Lane

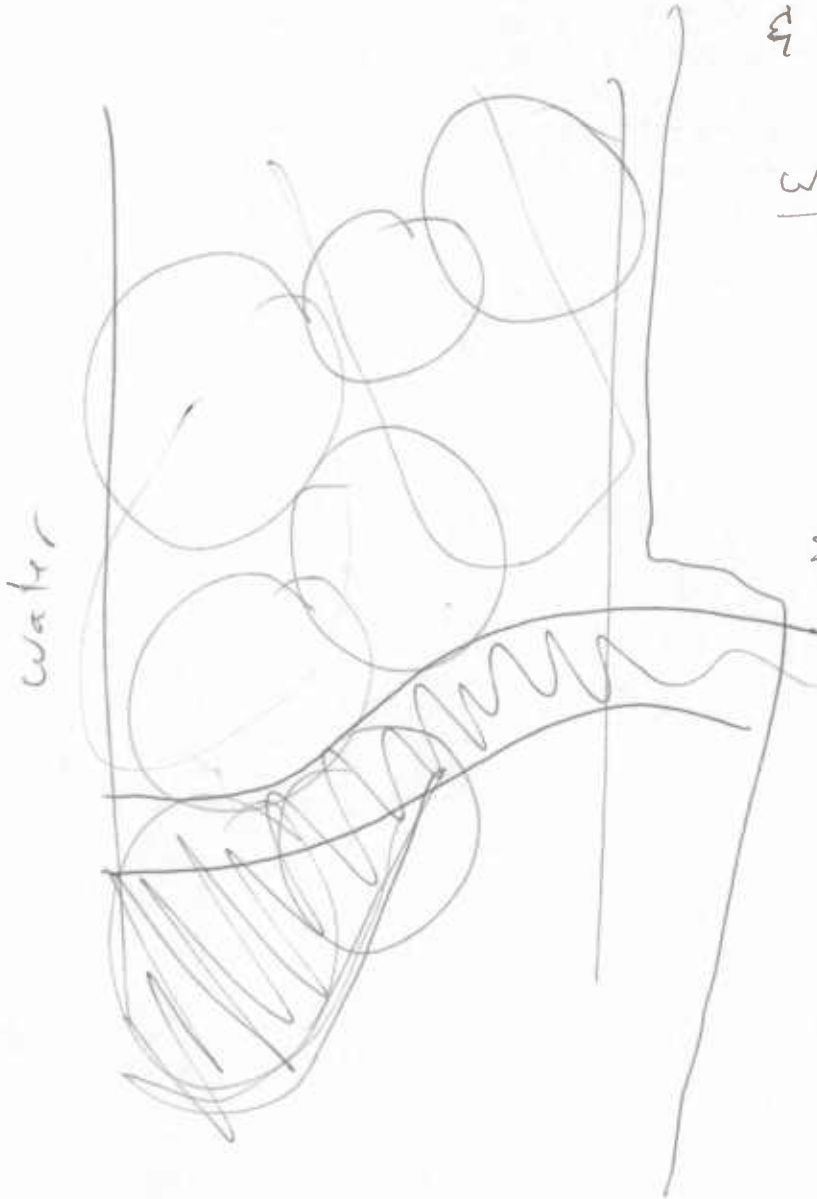
The southwest corner of the Property abuts the end of an existing Queenstown Right of Way, and containing an existing large mulberry tree. While the mulberry tree provides both shade and certain aesthetic value, its eventual removal would be beneficial to the overall ecological health of the Buffer as it would reduce the prevalence of new non-native recruitment into this area. In order to facilitate the eventual regeneration of this area to a natural state, the Property owners shall be required to replant this area with native vegetation which will provide for vegetative succession. Planting of this area shall be in accordance with the plan depicted in **Exhibit H**.

we need a planting
Schedule -

→ we've reviewed info!

→ calculate area of Buffer
~ 16000 sf.

& # of 400 sf plants units.



we get:

- 40 canopy (30 ok)
- 40 understory
- 60 shrubs

IT appears that there are #
of each.

A regular meeting of the Queenstown Commissioners was held on Tuesday, May 25, 2004 at 7:00 p.m. Commissioner's Winfield H. Miller, John W. S. Foster, III and Mitchell A. Keiler were present. Also present were Roby Hurley, George Frigon, Marjorie Lantz, Suzie Cusimano, Pat Bowell, Jill Shaffer, Jack Shaum of the Bay Times, Tommy Davis, Diane Lewis, Carlton Austin, John Wilkes, Erno Bernheisel, Eugenie Fitzgerald, John Fitzgerald, Pete Robertson and Randy Jenkins.

The Assistant Town Clerk read the election results for the election held on May 17, 2004.

Mitch Keiler	132 Votes
Tom Willis	75 Votes
Disqualified Votes	<u>3 Votes</u>
 Total Votes Cast	 210 Votes

The Oath of Office was read by Mitchell A. Keiler and notarized by Jill Shaffer.

A Public Hearing was held at 7:10 p.m. on the Critical Area Mapping Amendment. The Town of Queenstown is requesting a mapping amendment to rectify a mapping mistake that involved the designation of 11 parcels of land as a Limited Development Area (LDA) when they should have been designated as an Intensely Developed Area (IDA). The properties are privately owned and include one commercial, eight residential and two institutional. There are two subject areas. One area is the Del Rhodes and Melvin Avenue section adjacent to town Center/IDA and bounded by the 1000 ft. Critical Area line. The other area is the Steamboat and Maryland Avenue section also adjacent to Town Center/IDA and bounded by the 1000 ft. Critical Area line. It has become apparent that these properties were designated LDA even though they met the criteria for IDA designation.

The Town determined that the Critical Area overlay zoning for the two sites were classified as a LDA in 1989, when the Town first passed its Critical Area Protection Program. The land classifications were based upon land uses established on or before December 1, 1985, which is the point of reference for determining whether such a classification was a "mistake".

The Criteria further explain that IDA's are those areas where residential, commercial, institutional, and/or industrial, developed land uses predominant, and where relatively little natural habitat occurs. These areas shall have at least one of the following features:

- (1) Housing density equal to or greater than four dwelling units per acre;
- (2) Industrial, institutional or commercial uses are concentrated in the area; or
- (3) Public sewer and water collection and distribution systems are currently serving the area and housing density is greater than three dwelling units per acre.

1. In 1985, the area in question was characterized by intense residential development. Generally, development was concentrated in the center of Town, and the subject areas are approximately in and adjacent to the center of Town. The designation of these

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 Frank W. Dawson, III

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 William M. Giese, Jr.

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 Mayor, Ocean City

properties as LDA was inconsistent with the mapping methodology used within the corporate limits of the Town and within other municipalities within the Critical Area. It is believed that the mistake occurred because the property was not thoroughly evaluated and was hastily included in the partially adjoining residential area. The properties sizes and uses are somewhat difficult to determine due to the following: they are not easily observed from the major streets, some lots appear to be part of neighboring lots based on the appearance of some structures and the varying sizes of the lots give a false impression of the amount of impervious surfaces. The best example of this visual uncertainty is the Hospice property. Although one of the larger lots down town, until the actual impervious surface was calculated one would never suspect that coverage is nearly 70%.

2. The properties are adjacent to the Town Center IDA district across Main Street. The areas were developed in mid 1800 up to mid 1900 and are typical of the Eastern Shore town centers built in that era.
3. At the time of original mapping, there is further evidence of a mistake in the lack of consideration of gravel as impervious surfaces. Many of the drives and parking areas are constructed of gravel.

In conclusion, the information presented shows that the subject property met the mapping standards for IDA and should have been mapped IDA and that a mistake was made in evaluating the use of the subject properties at the time of initial mapping.

There has been a positive recommendation from the Queenstown Planning Commission.

Open for public comment:

Erno Bernheisel-What was driving interest

Commissioners-Hospice

John Wilkes-Looks like to facilitate Bank to expand

Erno Bernheisel-Will we have to use growth allocation?

Roby Hurley-No, That's why it is called a mistake

Carlton Austin-How would this affect church and parking lot?

Roby Hurley-Would not have any affect on church

John Wilkes-In favor of change

Erno Bernheisel-What implications to Queenstown Harbor

Roby Hurley-none

Tommy Davis-Worked on Hospice originally in 1996. See as positive. Hospice would like to see corrected.

Erno Bernheisel-more impervious is bad

Mitch Keiler-more control over water quality from site

John Wilkes-have all errors been rectified?

Roby Hurley-only if any new development. He should have caught the mistake.

Mitch Keiler-Parcel 75, 76 & 77-parcel 75 & 76 developed in 1950, parcel 77 developed in 1934. Were property owners notified?

Roby Hurley-yes.

Commissioner Foster motioned to close the Public Hearing. President Miller seconded.

Commissioner Foster motioned to accept the Critical Area Mapping Amendment changes. President Miller seconded, with all in favor.

Honorable James N. Mathias
Worcester County/Coastal Bay

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Honorable Joseph A. Jackson, III
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George Frigon, the Town Engineer, discussed the WBAL story discussed on television. President Miller informed the Town responded. George has reviewed the tape from the WBAL story. President Miller is alarmed about the report. We are getting an independent company to take samples. The tests have not come back yet. Randy Jenkins asked the Commissioners to look into role played by County Commissioner Koval in the WBAL new story. Pete Robertson discussed PVC line connecting to sewer plant has enormous sag. Commissioner Foster will conduct a tour of the sewer plant on Saturday for anyone wishing to participate. George Frigon would like to increase the water permit to 90,000 gpd. He will work on permit increase.

The Commissioners held an open discussion for anyone present who wished to speak on issues of interest to them. Pat Howell discussed safety issue on boats at Town docks. The Commissioners discussed possible signage, etc. Informed the Assistant Town Clerk to send out the Dock contracts as is.

President Miller motioned to accept the minutes from the 5-11-04 meeting. Seconded by Commissioner Foster.

The Assistant Town Clerk informed The American Legion Auxiliary is asking every elected and appointed official at the local, state and national level to wear a poppy on the observance of Memorial Day, Monday, May 31st. President Miller asked that all flags be put up for Memorial Day.

The Assistant Town Clerk informed we have signed up for phragmites spraying for the Fall of 2004. The Commissioners informed to call the County to start spraying for mosquitoes.

The Assistant Town Clerk informed a budget work session has been scheduled for Tuesday, June 1st at 7:00 p.m.. A Hearing has been scheduled for June 22nd at 7:00 p.m. before a regular meeting.

The Assistant Town Clerk informed a variance hearing has been scheduled for Monday, June 21st at 7:00 p.m. for Mr. & Mrs. Charles Perkins for relief from the side yard setback for a shed.

The Commissioners signed the Queenstown Bank signature cards.

The Assistant Town Clerk informed the Town will be eligible for a \$2500 grant from DNR for trash at the dock. However, the grant is for 55-gallon trash receptacles only. They do not want to pay for dumpsters, as they want to limit the amount of household trash being disposed of at public landings. If you want to use a dumpster, we must submit a letter to DNR explaining why we would need the dumpster verses using 55-gallon containers. Our trash grant at the dock has run \$1922 per year for collection

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Caroline County

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116 Washington Avenue
Mayor of Chester town

Honorable Margo G. Bailey
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VACANT
Eastern Shore Member At Large

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2501 Love Point Road
Earl L. Chambers, Jr.
QueenAnne's County

William J. Rice
29750 Revells Neck Road
Westover, MD 21871
Home: 410-651-9654
Somerset County

during the months of March through December. The Commissioners informed to send a letter to DNR requesting to use the dumpster instead of 55-gallon containers.

OLD BUSINESS:

Channel Markers:	Pending
Piers:	Went back to Planning Commission
Queenstown Village:	Sent a letter to Joe Downey with
May 31 st deadline and also told him to clean up his yard.	
Stormwater Management Ordinance:	Pending
Water and Sewer Ordinance:	Pending
Queenstown Harbor Impervious Surface:	Roby Hurley, Circuit Rider,
informed Mr. Palmer Wilson had to sign a contract that he was not in violation	
before he sold his property- He was told to apply for a variance, Critical Area	
would not contest, but he never applied for a variance. (violation runs with land	
and still exists) Mike Savage, Town Zoning Administrator and Building	
Inspector, sent a letter to Palmer Wilson. Roby Hurley will notify the new owners	
of Palmer Wilson's property to let them know there was a violation.	
Commissioners would like the Homeowners Board to come to a meeting on land	
acquisition.	

Roby Hurley, Circuit Rider, discussed the Bowlingly lots. There are two tree issues, the buffer and the upland trees. The buffer is completed and a memo issued. The upland trees are not completed and no occupancy permit will be issued until planted. Mr. Urquhart will submit by June 17th to Roby Hurley.

PRESIDENTS COMMENTS:

President Miller discussed Randy Jenkins letter to Channel 11. President Miller will draw up a letter from the Town Commissioners for the County Commissioners to honor the request from Randy Jenkins to investigate the role of Commissioner Koval in the Channel 11 tape and produce the e-mail he received.

PLANNING:

President Miller motioned to appoint Suzanne Cusimano to the Planning Commission. Commissioner Keiler seconded with all in favor.

Commissioner Foster discussed set back for sheds and the Board of Appeals decisions

PUBLIC WORKS:

Commissioner Keiler will look into a Ethics Code for the Town of Queenstown.

Resolution #04-01 Wastewater Allocation Status was introduced and passed. A copy of which is attached.

Upper Eastern Shore

VACANT

Calvert County

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Charles County Commissioner

Charles County

Honorable Daniel W. Mayer

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Leonardtown, Maryland 20650
23115 Leonard hall Drive
Governmental Center

St. Mary's County Commissioner
County

St.Mary's

Honorable Thomas F. McKay

FROM THE DESK OF
PETER G. ROBERTSON

March 27, 2008

Office of The Attorney General
200 Saint Paul Place
Baltimore, Maryland 21202

RECEIVED

APR 2 - 2008

DNR - LEGAL DIVISION

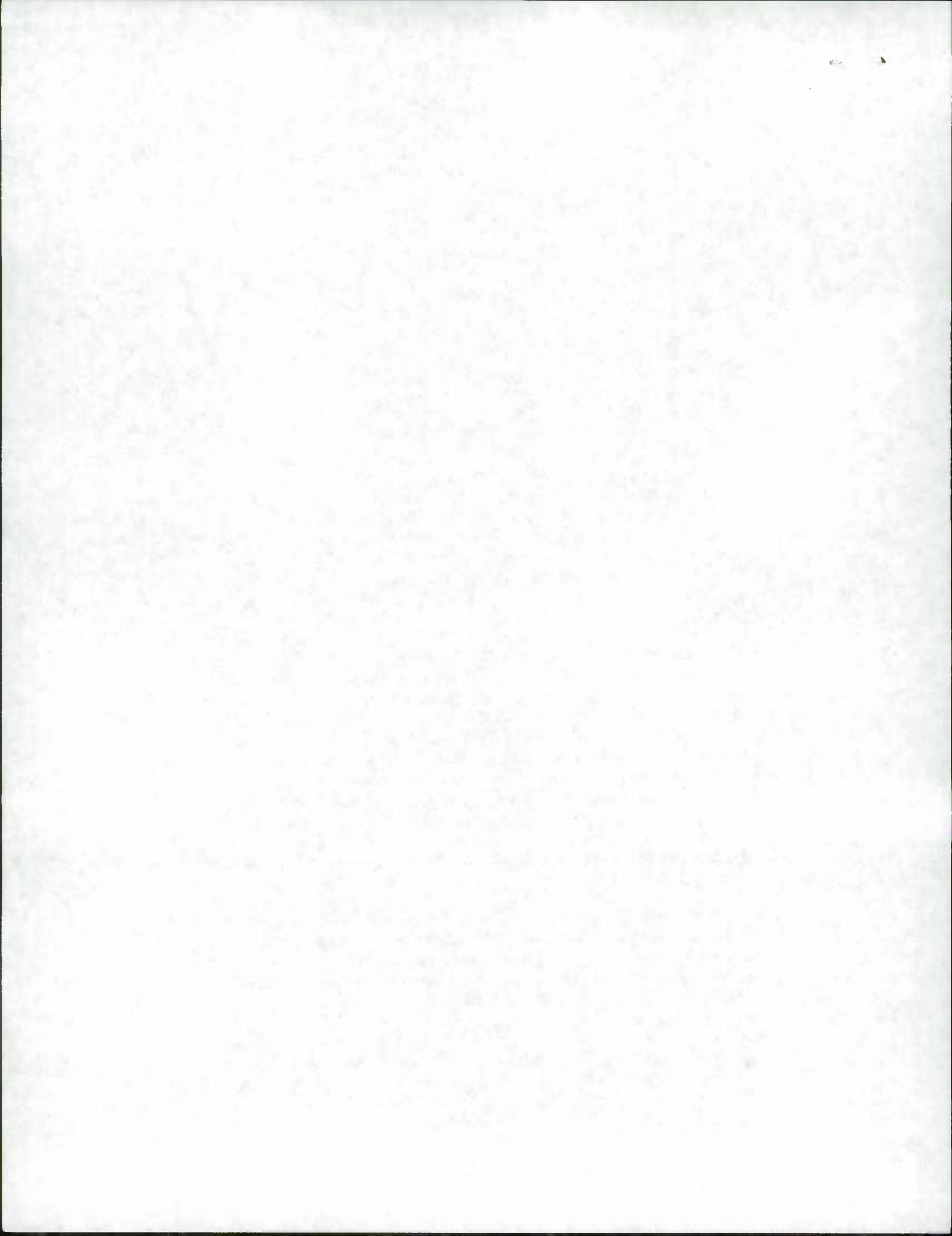
Dear Sir/ Madam:

I am one of three Commissioners for the Town of Queenstown. I am seeking guidance independent of my Board and Town attorney on a Critical Area matter that involves residents of the Town, our Town Planning Commission, the State's Circuit Rider for the Critical Area Commission, the staff of the Critical Area Commission (CAC), and perhaps existing and former Town Commissioners. This letter was prompted by a disturbing call I received yesterday from another constituent that I'll detail later in this letter.

The matter centers around allegations made formally by the State's Circuit Rider regarding buffer violations on a waterfront owner's property that may have been instigated initially by either an existing or former Town Commissioner and then carried further by a member of the Town's Planning Commission who has a vested interest in this matter. Both our Attorney, our Zoning Administrator, and a member of the Critical Area Commission staff, say the allegations are without merit. Yet the matter continues to fester because certain people appear to have a vested interest in keeping the public stirred up by circulating misinformation that causes considerable financial and emotional harm to the effected property owner even though our Attorney and our independent Zoning Administrator have stated publicly the property owner has followed and abided by all applicable laws, procedures, and Codes save one.

The one shortcoming being the property owner failed to amend his existing Buffer Management Plan (BMP) after the State and Corps of Engineers required the owner to relocate a proposed pier from one side of the property to the other, thereby necessitating a change in riparian access through the property's 100 foot buffer. Revising the BMP to correct this oversight began back in November 2007 and continues to this day.

It appears the relocation of this pier has been the genesis of much of the invective against the property owner, and the mechanism by which an adjoining prop-



FROM THE DESK OF
PETER ROBERTSON

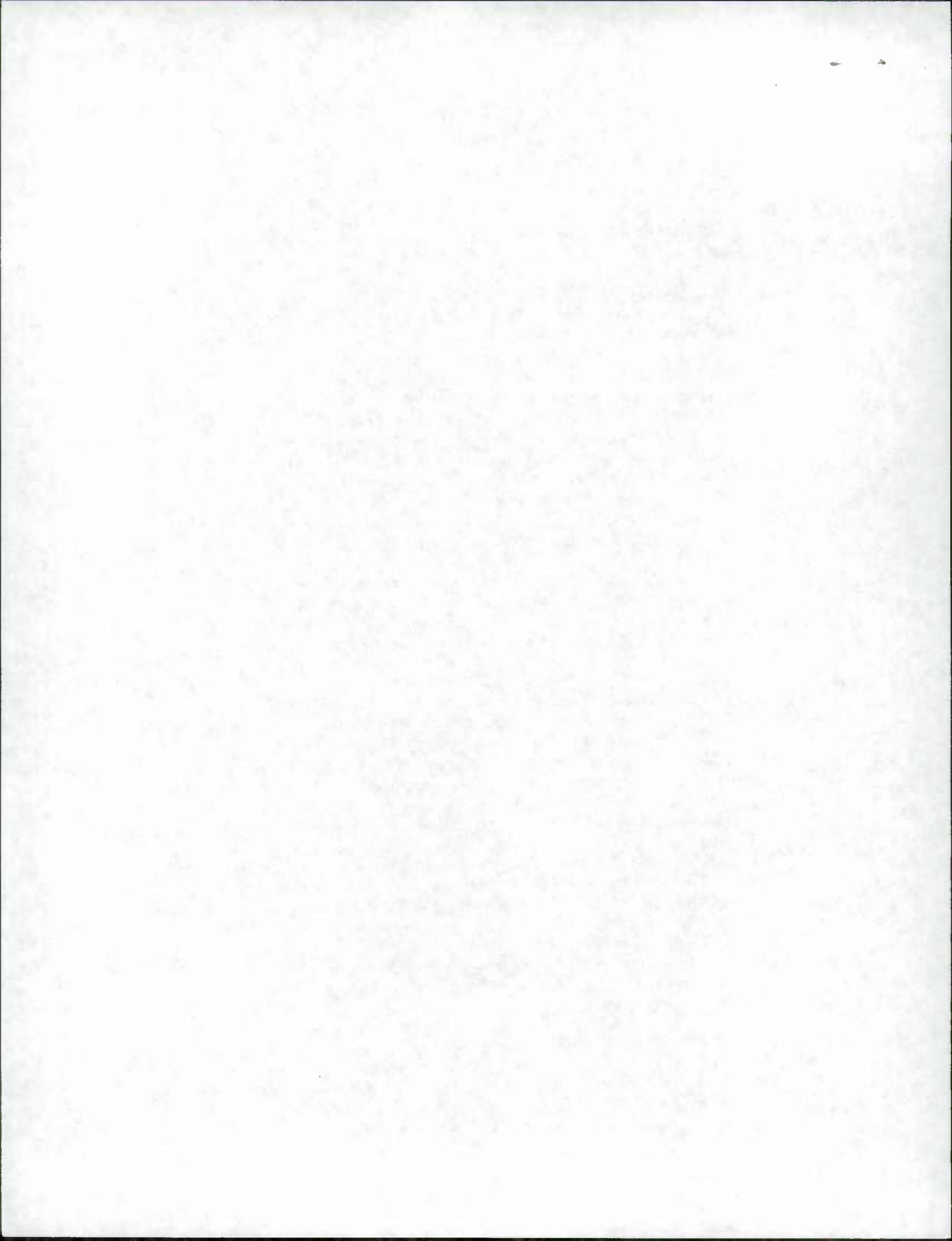
erty owner has hidden his effort to block the proposed construction of a permitted addition that allegedly may block his view of the water.,

The owner, his attorney, and the Town's attorney met with CAC staff on 8 January 2008 to discuss all the alleged violations and receive guidance on filing a revised BMP since it was apparent to all the goal line for achieving a satisfactory BMP at the time seemed to be a never ending moving target. As I understand it, a revised BMP following the guidelines of CAC staff was submitted to the CAC in early February for which the Town received two notices from the CAC stating that fact. The latest notice was dated 25 February 2008. As of this date (27 March 2008), neither the Town Commissioners, Town Planning Commission, nor the property owner has received a determination of fact or approval from the CAC. Therefore, the allegation of buffer violations still remains pending in front of the Town's Planning Commission, the property owner remains in limbo as to what he needs to do to get an approved BMP, and the public remains stirred up by what I am led to believe are false perceptions or misrepresentations.

Up to this moment, I have maintained an arms-length approach in dealing with this matter because our Planning Commission has jurisdiction, has the authority to prosecute violations in the buffer, and has this matter still before them. It should also be noted for the record that I personally have no vested interest in this matter.

However, I am concerned the State's Circuit Rider may have exceeded his authority by trying to link the siting of the pier, the construction of a permitted pool, and the permit to construct an addition on the house with a violation of the existing BMP. There is even evidence to suggest the approved BMP furnished by him to the Town had been altered because it is materially different from the one on file with the CAC and with the owner. According to the Town's attorney, the CAC acknowledged the differences, but no one wants seemingly to take on the more disturbing issue of apparent or perceived tampering of a public document. There is also evidence to suggest the Circuit Rider drafted a letter for the CAC's signature that purportedly was a response from the Town requesting CAC involvement in the prosecution of these violations. The Town's attorney was quick to state the Town had never made such a request. I, too, have attested to that fact as a Commissioner. The letter, therefore, was never sent to the Town. There is even evidence to suggest the Circuit Rider may have been directly involved in a Building Permit appeal lodged against the Town for issuing a permit to construct an addition to the resident's home.

As stated at the beginning of this letter, this letter was prompted by a call I received yesterday by another resident who witnessed a teenage boy and two teenage girls yelling profanities and other obscenities in the direction of the owners who were not home at the time, throwing debris up on the owner's pier, and tres-



FROM THE DESK OF
PETER ROBERTSON

passing on the owner's property thereby upsetting the caller's young children who were playing out in the caller's yard at the time. I am told the County Sheriff's Department met with the caller today after I recommended to the caller that such incidents should be reported directly to the police.

I have also received comment from other residents who've said they have heard how spiteful, mean, and terrible these owners are because they located their pier to prevent the public's access to the beach and showed flagrant disregard for the Town's rules and traditions. When I explain the facts as I understand them to be, they say "Why don't you speak out to clarify or correct the record", for which I respond I can't do anything until the unresolved issue of the BMP has been addressed by the Town Planning Commission.

By writing this letter, I am hoping you will investigate this matter, and render an independent opinion in a timely fashion because the owners are being harmed and deprived of the rightful enjoyment of their property, and the public has a right to know the truth from an independent third party.

If you wish clarification or additional information regarding this matter, may I suggest you contact the owners of the property first. They have all the information and PIA requested documents on hand. Their home telephone number is 410-827-4960. You may also contact me at the numbers listed on this letterhead.

Thank you in advance for investigating this matter and, hopefully, rendering an independent opinion for public consumption.

Respectfully,



Peter G. Robertson, Ph.D., P.E.

VIA CERTIFIED MAIL

November 12, 2008

Mary R. Owens
Educator and Conservation Coordinator
Critical Area Commission
1804 West St., Suite 100
Annapolis, MD 21401

RE: 220 Old Wharf Lane Queenstown, MD 21658
Draft BMP & Draft Letter to Town

Mary,

We are appreciative of your site visit of August 12th 2008 and effort to clear any confusion which remains with the Town regarding the status of our property.

From our review of the draft BMP and proposed letter, while there are some minor issues to note there is one primary item that needs to be addressed. The draft BMP (item #5) as presented is mischaracterized as "Required".

During the visit on August 12th it was discussed and demonstrated that the grass meadow we planted was designed between April and August of 2007 on an entirely voluntary and collaborative basis between ourselves and a professional landscape designer (Walsh Landscape Architects). The design featured native grasses and shrubs to replace an area that was previously all lawn grass. There were no trees or shrubs that required removal nor was there any modification to the topography required. It was a simple plan to enhance our property while remaining sensitive to the bay.

As discussed onsite Aug. 12th, the act of planting in the buffer (whether 1 tree or 1000 trees) does not require a BMP or pre-approval by the CAC. You also confirmed that tilling and turning of the soil for the purpose of planting is allowed and also requires no pre-approval or authorization by CAC. The act of installing the meadow itself is not a violation of CAC Law and does not represent a "Required" planting. As you know from the site visit of Aug. 12th the meadow "exists" and is fully planted.

For these reasons please redirect paragraph (#5) to fall under the heading "Existing Trees and Shrubs" or strike the paragraph altogether (as it is already technically addressed under the first sentence of draft BMP item # 1).

We appreciate your attention to correcting and finalizing the draft BMP and letter so that we can all move forward.

Kindest Regards,


Jim Urquhart

cc: Margaret McHale, CAC Chairperson

RECEIVED

NOV 13 2008

CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bay

BOOK 2 / VOM

September 11, 2008

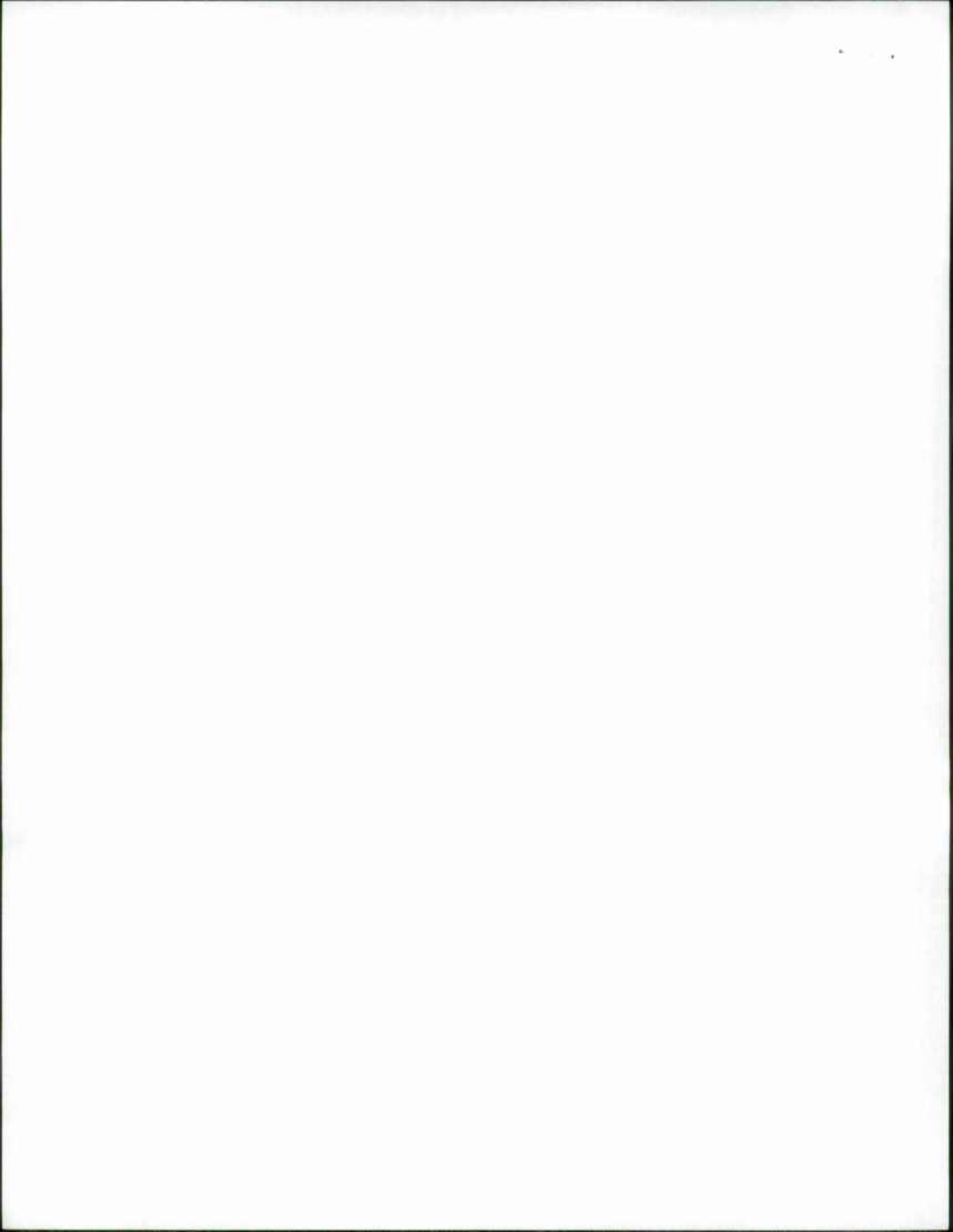
Ms Mary Owens
Critical Area Commission

Mary,

We have some comments and areas of clarification on the bmp and your letter to Town (attached). Some of the comments are intended to clarify facts from the misinformation that Town and Roby Hurley provided. We were engaged in planting the property, the landscaper (Hobson) had all the plants, when the town came out and stopped us (see email letter dated Sept. 25, 2007 from Amy Moore to Roby stating "it looks like they are doing some planting"). It is that simple...it was a game that Roby / Amy Moore/ and certain others from town are engaged in to harass us and control our property. The facts have become evident to all who objectively review them.....yet, for some reason no one will acknowledge the injustice. It is Town who seems to be most confused by Critical Area law and who seems to only want to use the Law for harassment and targeting efforts. The disheartening thing to us is that the State, when confronted with the overwhelming evidence, hasn't done more to support the well intentioned homeowner who was enhancing the Buffer and the Bay.

There are no issues (with the exception of the Leech and Borenstein properties) as per the onsite meeting on our Property in August 2008. We have never removed a tree or shrub and we are and were always in full compliance (and in fact far exceeded) the planting requirement of the prior owner (who formed a bmp with critical area so the property could be developed as we have done). We have always been good stewards of this property and the buffer -- we were voluntarily adding more plantings to enhance the buffers value (which we understand the CAC encourages). We believe the Town should be reminded of this fact.

As it turns out, it is the Leech's property that was the one that never complied and never mitigated.....And Yaakov Borenstein's property was subdivided, and developed in 1988, after the critical area program was formed (see tax records) and still has an outstanding and reported critical area violation. The fact that there are CAC violations by neighboring property Owners should also be highlighted in any correspondence to Town.



September 11, 2008

Ms Mary Owens
Critical Area Commission

And we want to remind you for what seems to us (and probably you) to be the thousandth time ---- ON A TOTALLY VOLUNTARY BASIS, we hired professional landscape designers and landscape installation contractors for the sole purpose of adding plants to our property. We never removed or disturbed a Native Tree, Shrub or Bush. We are so passionate and upset about this entire injustice to our reputation because:

1. It is not factual;
2. We do care about the Bay;
3. We hired professionals to design and perform all the work;
4. We were voluntarily spending our hard earned money to enhance the buffer; and

5 this property is far more beneficial to the bay than it probably has been in the past 50 years and is far more sensitive for the Bay than the efforts provided by neighboring property owners.

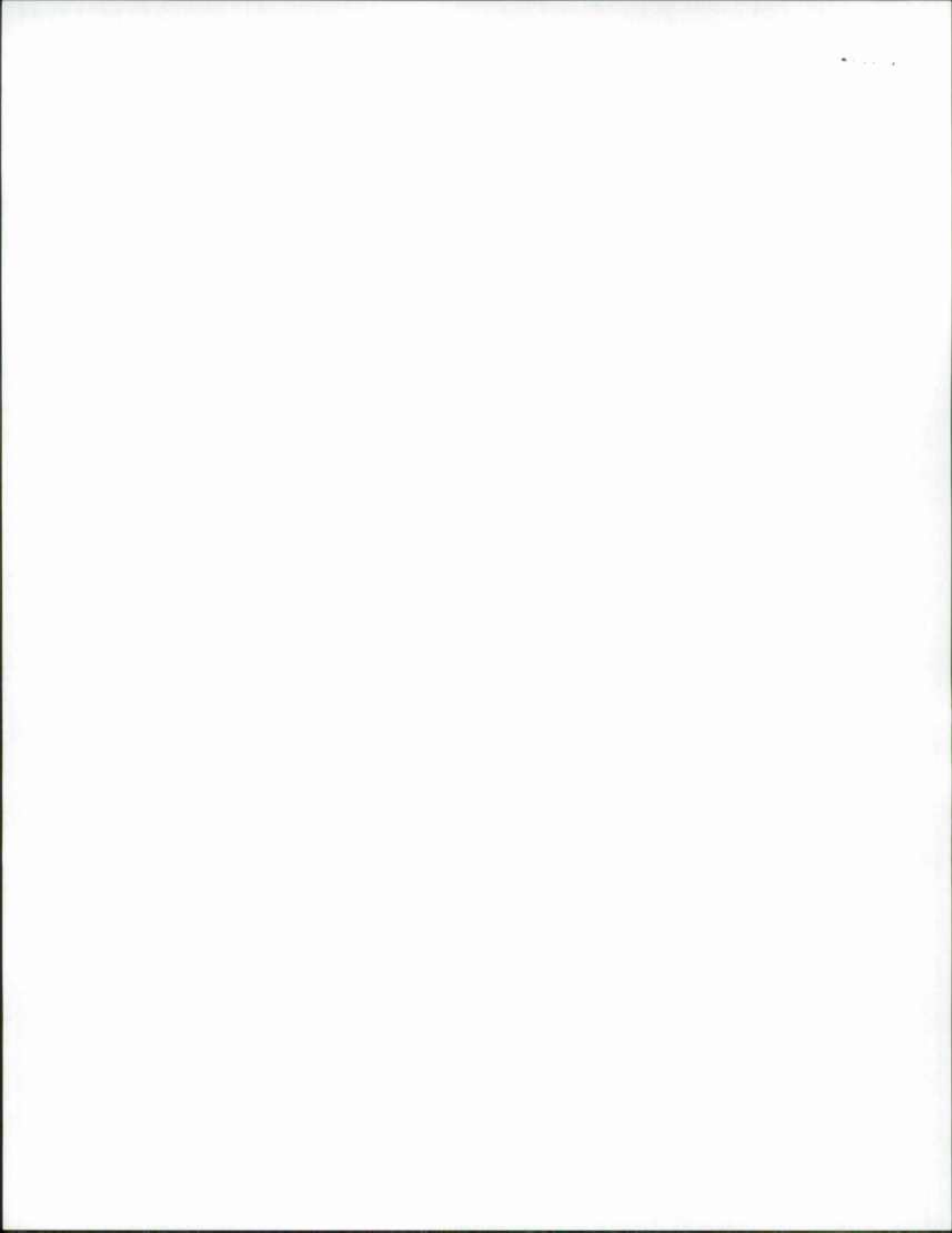
If your law continues to treat a well intentioned homeowner as a villain it is highly unlikely that others will ever join in to do the right thing and VOLUNTARILY plant and improve their properties and contribute to improving the health of our Bay. If our experience is the norm, the CAC law has failed miserably and the taxpayers of this State deserve better.

We are available to discuss our suggested changes to the letter and bmp and why we feel they are helpful. Let me know after you have had opportunity to review.

Regards,

James and Christina Urquhart

Cc: Drew Vetter, Office of the Governor



LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

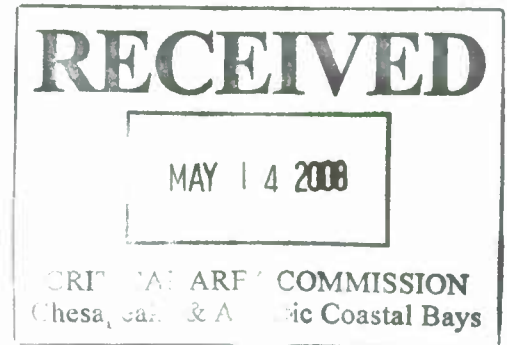
Benjamin S. Wechsler
bwechsler@linowes-law.com
410-268-0881

May 13, 2008

VIA FACSIMILE AND FIRST CLASS MAIL

Ms. Mary Owens
Critical Area Commission
1804 West Street, #100
Annapolis, MD 21401

Re: Urquhart Residence



Dear Ms. Owens:

When we spoke last, you asked us to provide you with documentation regarding the alleged buffer violations at the Urquhart Property in Queenstown. As we discussed, there are two components of the mitigation analysis: (1) the recent disturbance in the buffer, and (2) whether mitigation planting required by the existing BMP has been completed.

The Urquharts are anxious to resolve these issues so that they can proceed with replanting efforts prior to onset of the summer. With the exception of the retaining wall (a contractor error) the Urquharts have only undertaken work for which they believed they had received prior approval.

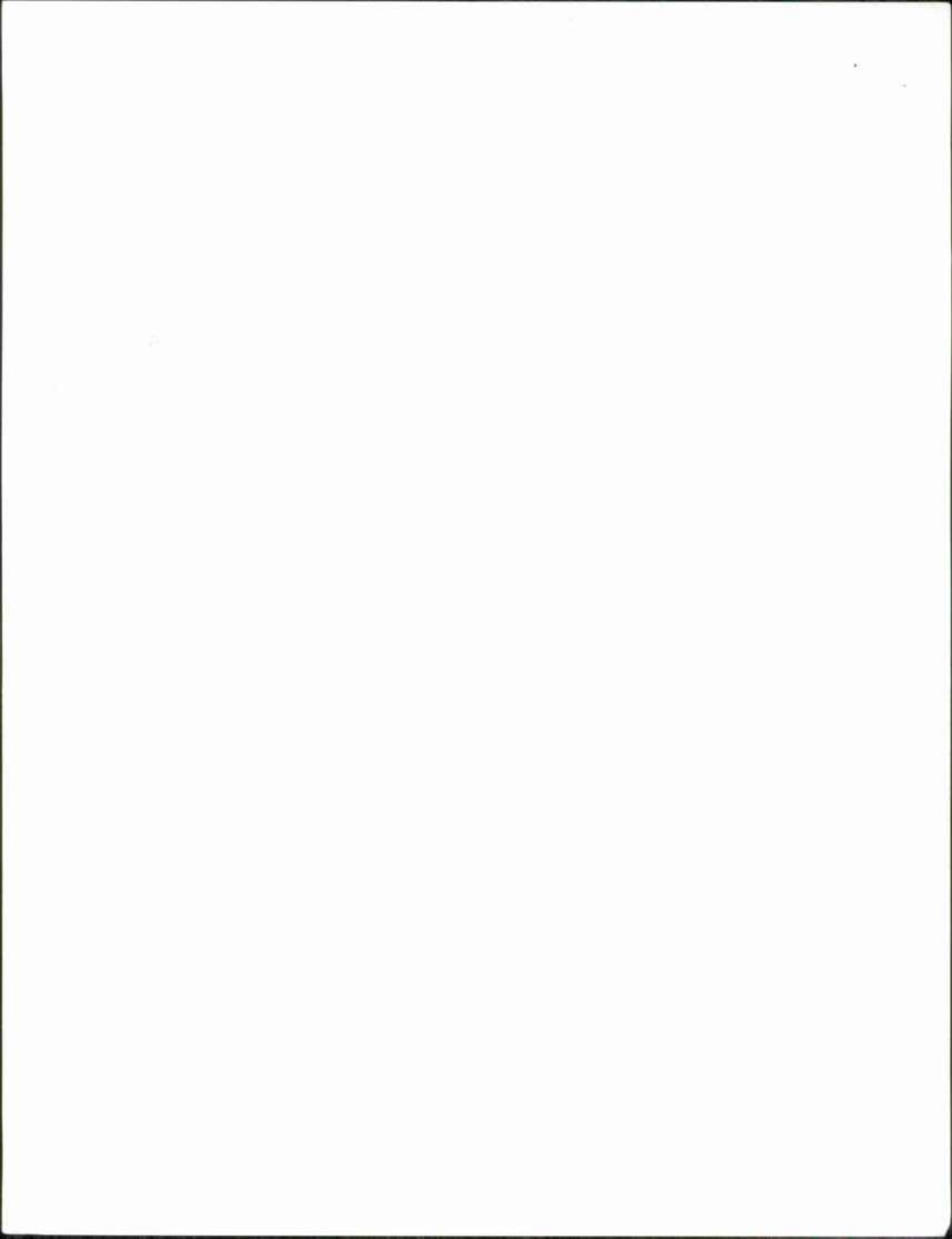
Documentation Regarding Recent Disturbance

Attached as Exhibit A is a photograph of the area in which the dry-stack retaining wall was installed. The wall itself was a semi-circle arched wall about 16 feet long by 1 foot wide. Including soil that was disturbed around the wall, approximately 75 square feet were impacted. The wall was removed immediately, and has been mulched.

Attached as Exhibit B are photographs of the area in which the upper patio encroached into the buffer. Regardless, the maximum violation in this area is no more than 16 square feet (approximately one foot by sixteen feet). The allegedly offending portion of the patio was removed immediately after the Urquharts were informed of encroachment into the buffer.

Attached as Exhibit C are photographs of the steps. These steps (including associated soil disturbance) covers an area of approximately 72 square feet.

Thus, the total disturbed area, generously calculated, is 163 square feet (75 + 16 + 72), for which either 2:1 or 3:1 mitigation is appropriate, per prior CAC worksheets completed for this site.



Ms. Mary Owens
May 13, 2008
Page 2

O'Brien Replanting Requirements

The Critical Area Commission has verified, on two occasions, that the mitigation required under the First and Second O'Brien BMPs was completed to the Commission's satisfaction. Mr. Hurley's January 24, 2005 letter (attached as Exhibit D) indicates that " planting requirements have been met. The completion of mitigation planting was reconfirmed in an October 18, 2007 memorandum (Exhibit E). The mitigation was completed to the Commission's satisfaction, with the potential exception of the replanting required on Mr. Leech's property. None of the required mitigation plantings have been disturbed by the Urquharts, and further mitigation under the O'Brien plan should not be required.

As I indicated last week, we are interested in inspecting the Commission's file on this Property, including any photographs or contemporaneous notes taken during any inspection of the property. After we have reviewed this file, and if you feel it is needed, we would be willing to sit down and discuss finalizing the BMP based upon the mitigation-requirements set forth above.

Very truly yours,

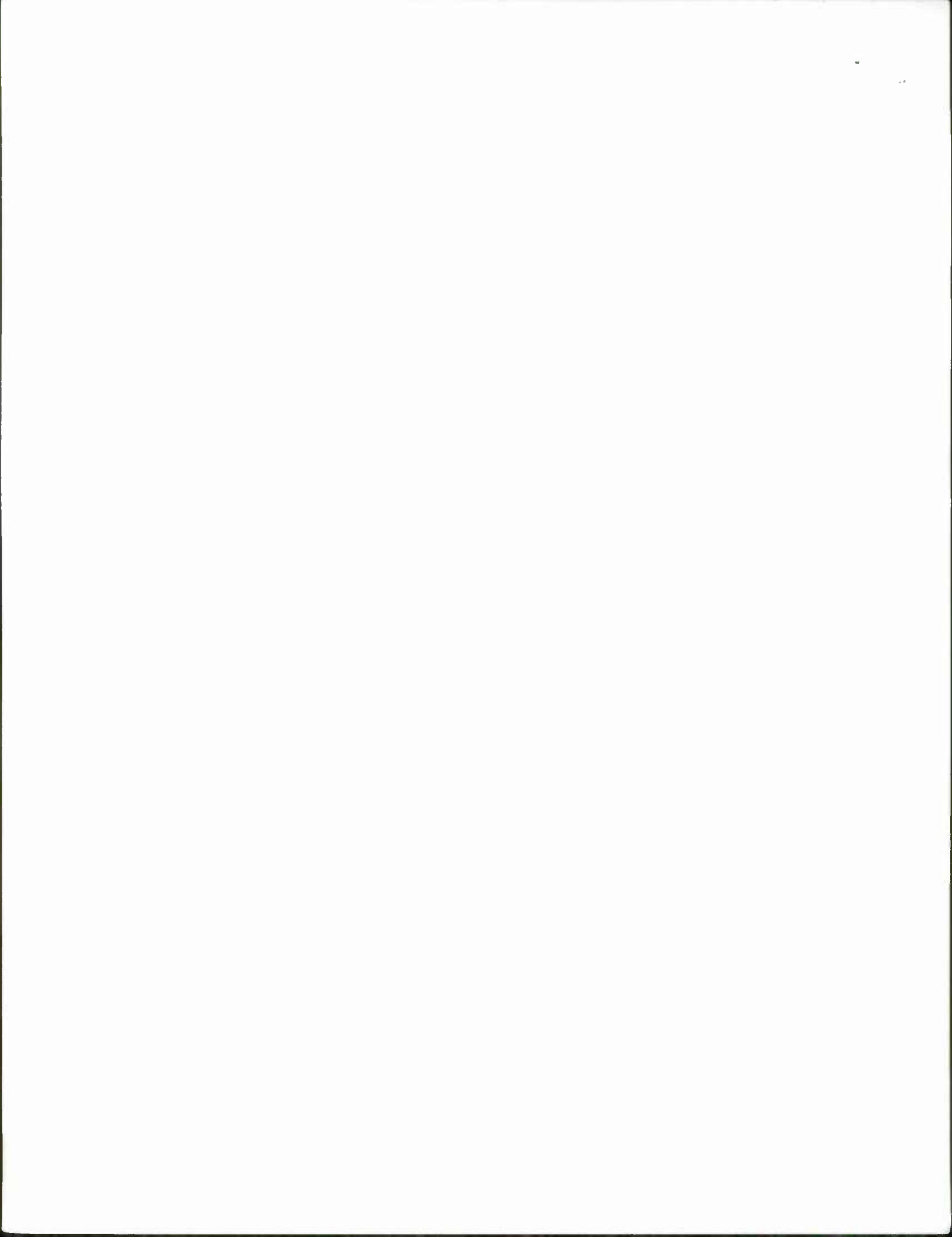
LINOWES AND BLOCHER LLP



Benjamin S. Wechsler

Enclosures

cc: James Urquhart
Christina Urquhart





Maryland Department of Planning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

The September 15, 2004 Brickman Group Landscape Enhancements Plan specifically states “- No future disturbance will be permitted in the 100’ Buffer area once native plant material is complete.” And “Non- native, invasive species shall be removed ...”

The Town was sympathetic to the Urquhart’s desire for an occupancy permit and as such the permit was granted with the conditions stated above in my letter.

At some point in the recent past a dock was constructed as well as access thru the Buffer in a location opposite of the one depicted on the Brickman Plan.

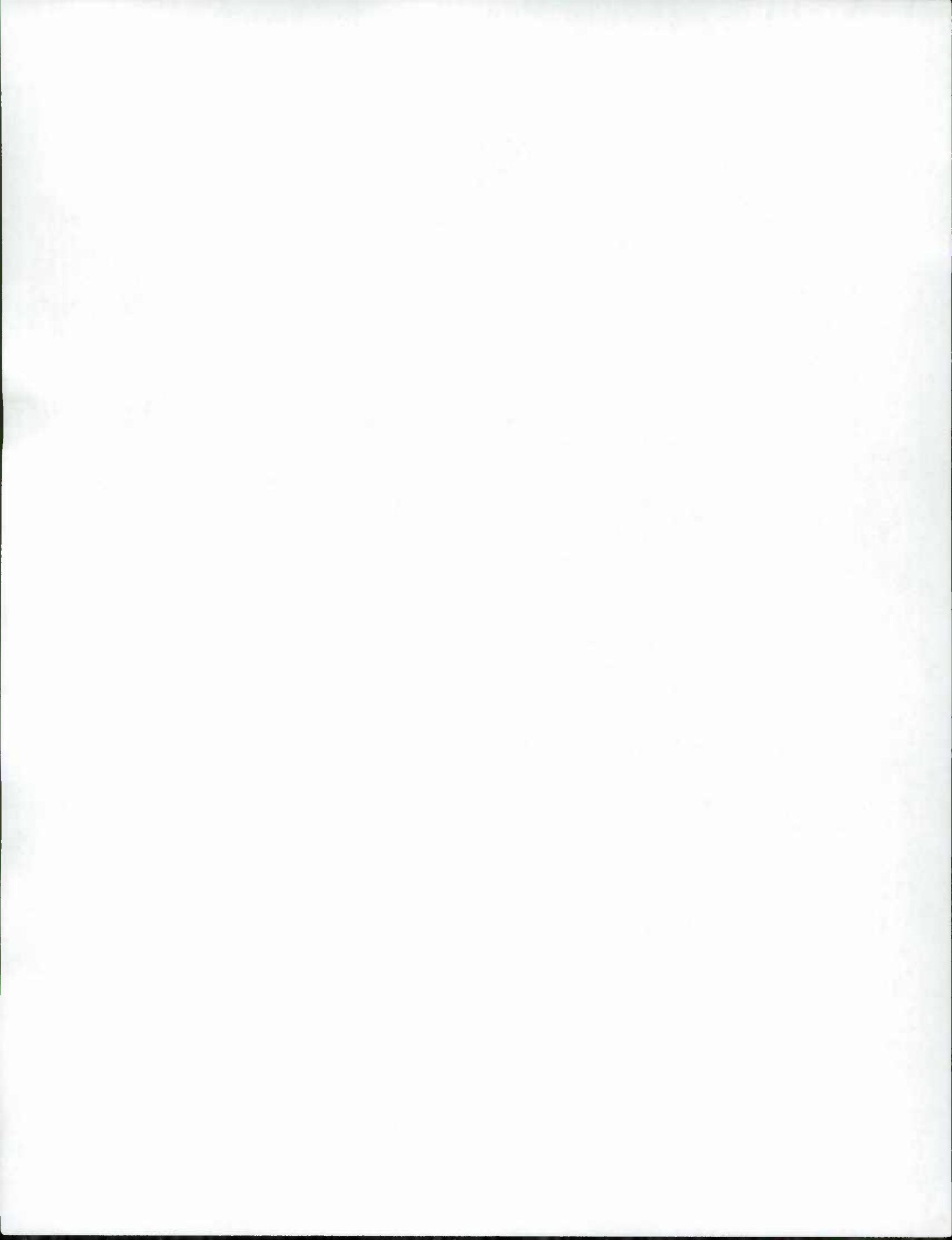
In summary, in violation of the original Buffer Management Plan and relevant plans and letter, the following activities have occurred: ongoing non native species, lawn grass, removal of original Buffer plantings, dock and access construction and installation of structures in the Buffer.

Relevant Zoning Ordinance citations are as follows: Section 16 D.7 and 8. (Forest and woodland Protection); Section 6 A. (Violations); Section 16 J. (100 Foot Buffer).

At a minimum I recommend the following corrective measures’:

- Removal of all structures in the Buffer.
- Provide a site plant that identifies all the original required plantings both Buffer and upland. Identify if the plantings exist or are proposed.
- Provide a detailed plan showing a fully naturally vegetated Buffer with no lawn grass or other non native species. Exception will be allowed for riparian access and this should be identified.
- Provide the Buffer Management Plan form (a special form exists for violations) with identification and area calculation of the disturbed area adjacent to the patio, calculation of 3:1 mitigation and identification of mitigation area.
- Provide a site plant that identifies location of mitigation planting area.

Thank you for the opportunity to be of assistance and if I can help further please do not hesitate to call.





LAC

Maryland Department of Planning

Robert L. Ehrlich, Jr.
Governor

Audrey E. Scott
Secretary

Michael S. Steele
Lt. Governor

Florence E. Burian
Deputy Secretary

January 26, 2005

RECEIVED

JAN 28 2005

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Ms. Amy Moore
Town of Queenstown
100 Del Rhodes Avenue
Queenstown MD 21658

RE: Urquhart Lot Plantings

Dear Amy:

On December 17, 2004, I inspected the most recent plantings done by The Brickman Group on the Urquhart lot. The purpose of the inspection was to determine if 28 trees (or functional equivalent) in the 100 foot Buffer and 24 trees in the upland area had been planted. In addition, other maintenance requirements, as outlined in my letter of September 1, 2004, needed to be met prior to issuance of an occupancy permit. Following receipt of a marked-up site plan highlighting as-planted species from Tim Bonner of Brickman, I was able to make a determination. **The minimal planting requirements have been met, however, some additional maintenance needs must be met prior to approval of future activities or permits such as dock or Buffer Management Plans (BMP).**

The Buffer planting was accomplished by planting the functional equivalent of 29.5 trees made up of the following: 23 Bayberry, 19 Viburnum, 1 Maple, 1 Redbud, 4 Holly, 3 Itea, 2 Serviceberry and 21 Clethra. The upland requirement was met by planting the equivalent of 25.5 trees made up of the following: 3 Redbud, 11 Black Pine, 3 Maple, 4 Sycamore, 4 Birch and 5 Spruce.


I am, however, concerned about planting of non-native species in the Buffer, such as lawn grass, Norway Spruce, Sea Green Juniper, Carpet Roses and Miscanthus. These plantings must be removed. **It is important to remember that no further disturbance to the Buffer will be permitted, including mowing. The exceptions are for tree and shrub planting and maintenance and removal of non-native vegetation.** Continued suppression of the non-native white mulberry will be necessary. Also cutting of both existing native volunteer and planted species is not permitted.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5800 S. UNIVERSITY AVENUE
CHICAGO, ILLINOIS 60637
TEL: 773-936-3700

I also have concerns with a small diameter PVC pipe that outfalls in the middle of the Buffer Slope. This was not on the BMP and may cause erosion if allowed to exist. Depending on its function and volume it should be re-plumbed to outfall in a non-erosive location. A large stormwater pipe has been installed along the road and outfalls into a wetland in the Buffer. This also was not on the BMP and the Town's Public Works Department may have some concerns..

If you have questions, please feel free to call.

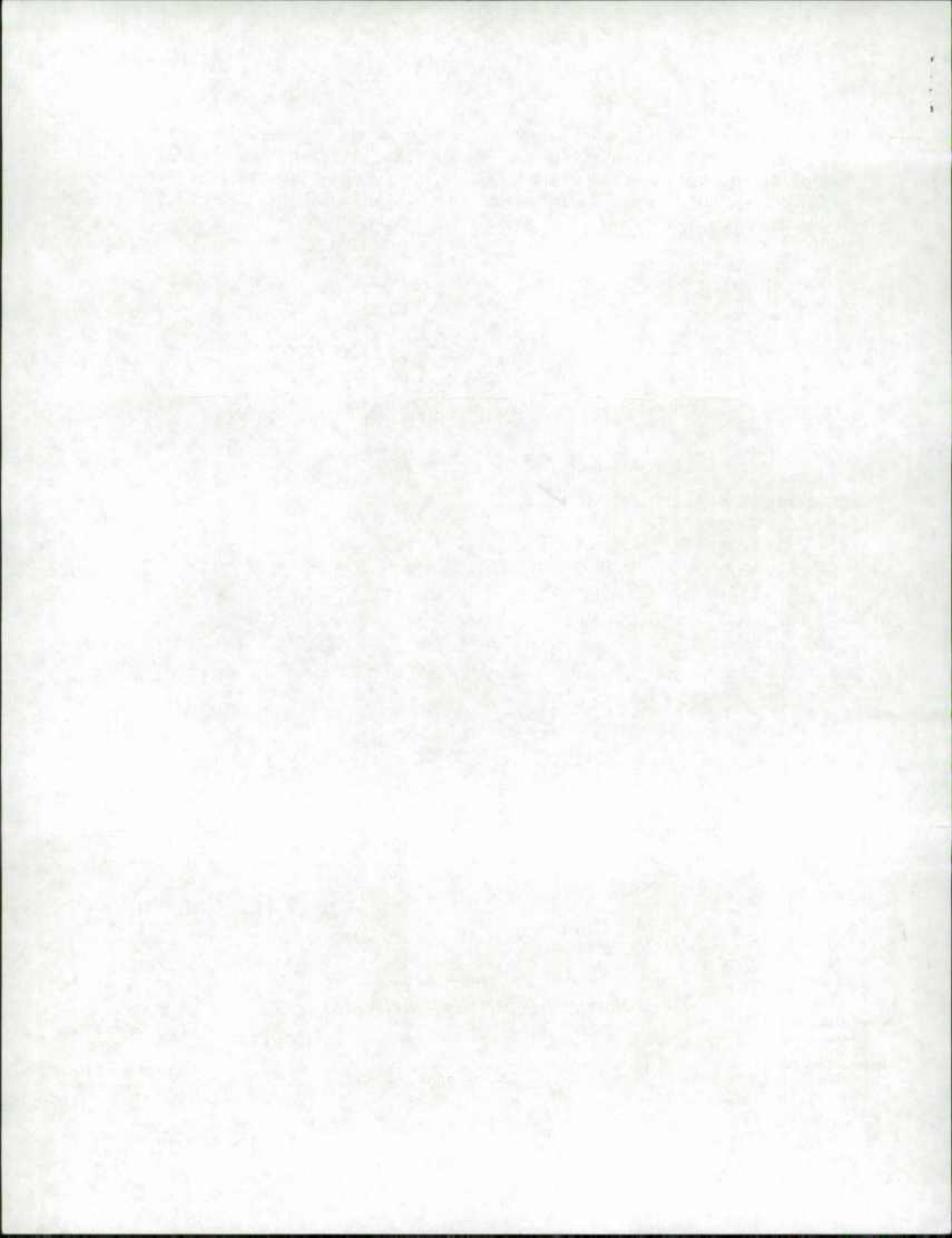
Sincerely,



Roby Hurley
Critical Area Planner

RH:la

CC: Lee Anne Chandler, CBCAC ✓
Jim Urquhart
Tim Bonner, The Brickman Group
Laurie Shoemaker, The Brickman Group



FAX/ MEMORANDUM

TO: Chairman Regenhardt and Queenstown Planning Commission

CC: Amy Moore, Marshall Johnson, LeeAnne Chandler

FROM: Roby Hurley, Circuit Rider Planner, Maryland Department of Planning

DATE: October 18, 2007

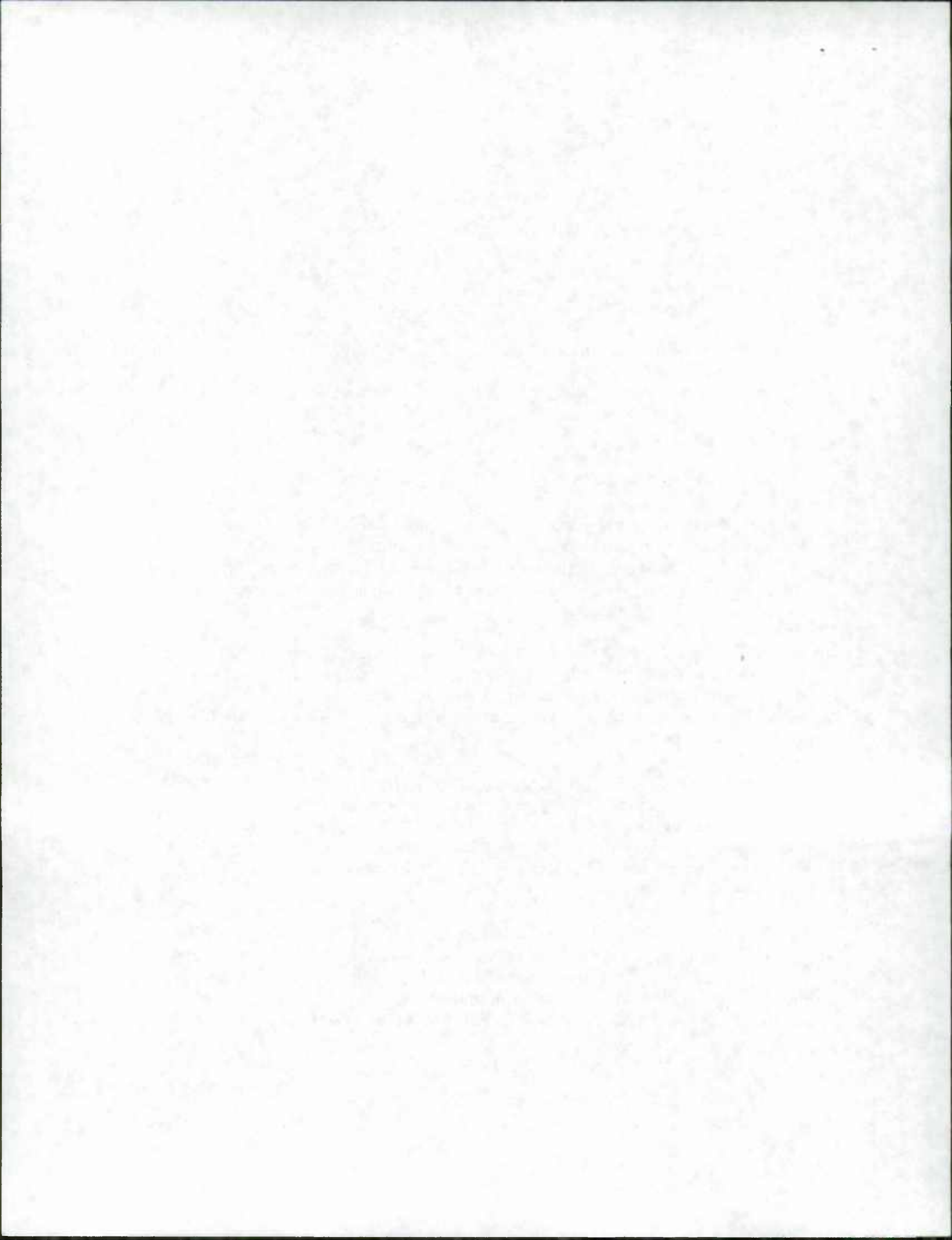
RE: Urquhart Buffer Violation

I am providing this memo as an analysis of the activities that have occurred on the Urquhart Lot as well as providing consultation on relevant zoning standards. SECTION 16 ADDITIONAL CRITICAL AREA PROTECTIONS, D.7. Enforcement. Unauthorized clearing, cutting, or removal of vegetation states that The Planning Commission is granted authority in enforcement cases.

Amy Moore requested that I look at the Urquhart site for possible activities in the 100' Critical Area Buffer. On September 28, from the Town right of way I observed structures and lawn grass in the Buffer. On October 10, 2007 I participated in a site visit with Marshall Johnson and LeeAnne Chandler of the Critical Area Commission. Mr. Urquhart and contractors were in attendance.

Mean High Tide and the 100 ft. Buffer were located and marked. A half moon portion of a patio (> 100 sq ft.) and a linear dry stack landscape wall were located within the Buffer. Also a large area adjacent to the patio was disturbed bare soil, apparently tilled. A silt fence was located at the top of the steepest part of the slope and below the bare soil area. Also located in the Buffer was a stone staircase leading down the steepest part of the slope to the dock.

In reference to the activities described above I refer you to my January 24, 2005 letter and the September 15, 2004 Brickman Group Landscape Enhancements Plan. The letter includes the following quotes: **"The minimal planting requirements have been met however some additional maintenance needs must be met prior to approval of future activities or permits such as dock or Buffer management Plans (BMP)."**



"I am however concerned about planting of non native species in the Buffer, such as lawn grass, Norway Spruce, Sea Green Juniper, Carpet Roses and Miscanthus. These plantings must be removed. **It is important to remember that no further disturbance to the buffer will be permitted, including mowing.**"

The September 15, 2004 Brickman Group Landscape Enhancements Plan specifically states "- No future disturbance will be permitted in the 100' Buffer area once native plant material is complete." And "Non- native, invasive species shall be removed ..."

The Town was sympathetic to the Urquhart's desire for an occupancy permit and as such the permit was granted with the conditions stated above in my letter.

At some point in the recent past a dock was constructed as well as access thru the Buffer in a location opposite of the one depicted on the Brickman Plan.

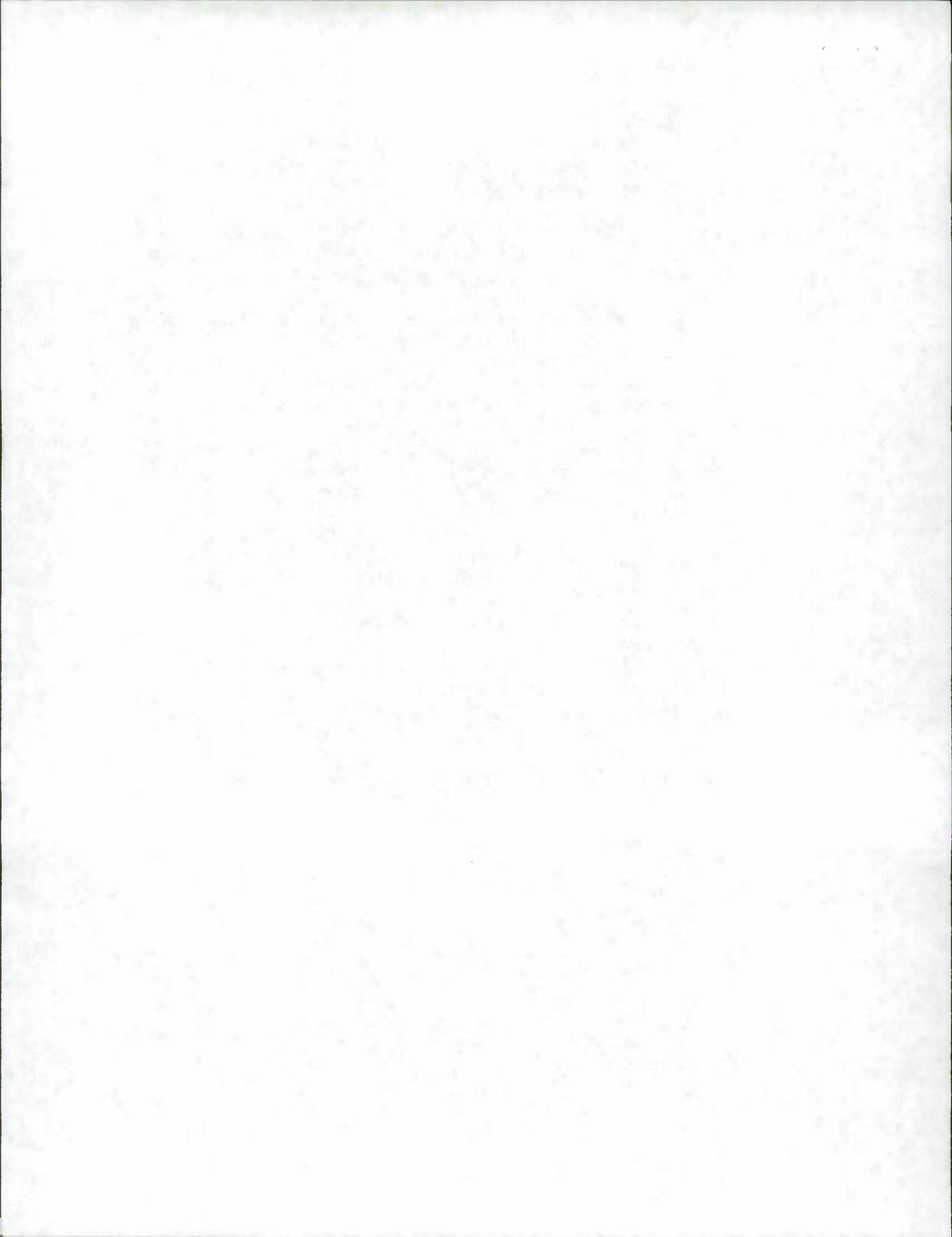
In summary, in violation of the original Buffer Management Plan and relevant plans and letter, the following activities have occurred: ongoing non native species, lawn grass, removal of original Buffer plantings, dock and access construction and installation of structures in the Buffer.

Relevant Zoning Ordinance citations are as follows: Section 16 D.7 and 8. (Forest and woodland Protection); Section 6 A. (Violations); Section 16 J. (100 Foot Buffer).

At a minimum I recommend the following corrective measures':

- Removal of all structures in the Buffer.
- Provide a site plant that identifies all the original required plantings both Buffer and upland. Identify if the plantings exist or are proposed.
- Provide a detailed plan showing a fully naturally vegetated Buffer with no lawn grass or other non native species. Exception will be allowed for riparian access and this should be identified.
- Provide the Buffer Management Plan form (a special form exists for violations) with identification and area calculation of the disturbed area adjacent to the patio, calculation of 3:1 mitigation and identification of mitigation area.
- Provide a site plant that identifies location of mitigation planting area.

Thank you for the opportunity to be of assistance and if I can help further please do not hesitate to call.



LINOWES
AND **BLOCHER LLP**
ATTORNEYS AT LAW

Benjamin S. Wechsler
410.268.0881
bwechsler@linowes-law.com

March 5, 2008

Ms. Mary Owens
Mr. Marshall Johnson
Critical Area Commission
1804 West Street, Suite 100
Annapolis, MD 21401

Re: James and Christina Urquhart
220 Old Wharf Road, Queenstown
Buffer Management Plan

*17,000 sq ft
steps
16,000 sq ft
stairs - do I show on plan
6 feet wide
16x12 = 192*

Dear Ms. Owens and Mr. Johnson:

Thank you for taking the time to meet on Monday, February 25 to discuss the draft BMP for the Urquhart property at 220 Old Wharf Lane, in Queenstown. I appreciate the opportunity to submit additional materials for your consideration.

At our meeting, you indicated your desire to limit riparian access to a 6-foot riparian access path, with perhaps a gradual widening near the entrance to the pier. I have discussed this issue with the Urquharts, and it is of great concern.

As you know, the Urquhart property historically was part of the Bolingly (aka "Bowlingly") estate, dating to the early 1700s. By deed, it remains under permanent restrictive covenant of the National Trust for Historic Preservation (NTHP). Building plans, landscaping plans, and any other issue related to this property require NTHP approval. The Urquharts' have complied with this NTHP requirement and accordingly, the NTHP had already reviewed and approved the landscaping plan which the Urquharts have been trying to implement since Sept 2007. As a result, the nearly complete restriction of the historically mowed area may require NTHP approval.



1. The first part of the document is a list of names.

2. The second part of the document is a list of names.

Ms. Mary Owens
Critical Area Commission
March 5, 2008
Page 2

The aerial photography and historic maps we have reviewed suggests that the waterfront area has been historically cleared for a period of 150 years or more, first as part of Bolingly, and later as part of Bolingly's era as a working commercial waterfront. During the war of 1812 parts of the property were captured and occupied by British forces. In the 1900's, Bolingly was transformed into a Hotel/resort destination, and the beach area was improved by bath houses as to serve needs of Bowlingly guests.

The area along the water was also used as an access road from what is now Old Wharf Lane to the James Smith Oyster Packing House, located on the point just to the northeast of the Urquhart residence and shown in the attached photographs. Remnants of this Oyster House still remain. At some point in the early part of last century, a railroad line also appears to have transected this area. As an aside, it appears even that portions of a silent movie called "The Whip" was filmed on the Urquhart waterfront, replete with a staged train-wreck along the waterfront.

Attached hereto are historic photographs depicting the Queenstown Wharf (just to the South of the Urquhart property) as well as photographs of the historic access road running along the waterfront to the oyster house. References to this road are picked up on a number of more contemporary maps showing a spur from Old Wharf Lane towards the oyster house. The spur continues to be shown on county tax maps (copy attached). The entirety of the access road is still shown on NOAA navigational maps (copy attached). While the road has been abandoned, it was never revegetated.

Available aerial photography of the property and existing site conditions are reflective of historic uses and mowing. A 1992 aerial photograph shows a substantially cleared waterfront area. The Urquharts' photographs from 2003 show a regularly mowed area. The 2001 photography accompanying the O'Brien BMP are in accord. I also note that the entirety of the parcel historically comprising the Bolingly waterfront (Calderon, Town, Urquhart, and Borenstein properties), with the exception of the Urquhart property, has been allowed to be maintained consistent with its historic uses and remains almost entirely mowed.

The several previous iterations of BMPs for this property recognize these historic uses, and we believe it would be appropriate to maintain this landscaping in the Urquhart BMP. The 2001 approved BMP appears to have allowed maintenance consistent with historic uses. The approved September 2004 BMP (the "Brickman Plan") also shows the historically mowed turf area. The Brickman Plan was reflective of the site conditions that existed at the location prior even to occupancy by the Urquharts.

1. The first part of the document is a list of names.

2. The second part of the document is a list of names.

Ms. Mary Owens
Critical Area Commission
March 5, 2008
Page 3

The BMP submitted by the Urquharts voluntarily reduces the regularly mowed waterfront area far beyond what should be required, or was required under the previous BMP. Some additional mowing (2-3 times a year) outside of the regularly mowed area has also been outlined as the means to suppress regeneration of invasive mulberry and briars. To further limit the proposed regular mowing area to a 6-foot riparian access corridor is unreasonable, unnecessary, and is inconsistent with over a century of use of the working waterfront, the character of the National Historic Trust property, and the use enjoyed by virtually every other waterfront property owner in Queenstown. We would ask that you carefully consider these items when reviewing the BMP submitted by the Urquharts.

Equity also demands careful consideration of the "buffers" maintained by other property owners, including the property owners immediately adjacent to the Urquhart property. Will the Commission ask Queenstown to cease mowing their property which abuts the Urquharts to the southwest? Will it require the Leeches to fulfill their uncompleted planting obligations under the approved 2001 "O'Brien" BMP for 210 Old Wharf Lane? Will it ask the Borensteins to restore a functional buffer in the area between the Urquhart property and the historic oyster house?

The Urquharts have made extensive efforts to develop a BMP that exceeds each of the requirements imposed by prior BMPs for this Property. They were voluntarily engaged in extensive planting consistent with the Brickman plan before their efforts to legally improve their property became entangled with local politics and personalities. Further, Mr. Hurley's extensive involvement with Mr. Leech and other disgruntled individuals within Queenstown was the direct and proximate cause of this entire situation. The Urquharts remain committed to restoring the functionality of the buffer far beyond what any previous BMPs required, but are unable to commit to a BMP that would essentially deprive them of access to the water, and place upon them obligations at variance with that required of every other property owner in Queenstown, and their obligations to the National Historic Trust.

Further, please register our objection to further reworking the detailed site plan prepared by the Urquharts' landscape architect. While we anticipated some refinement of the plan after our meeting, the issues raised at our meeting appear to go beyond what is reasonable or necessary. In your review, please be mindful of the extensive efforts made by the Urquharts in resolving

112

112

Ms. Mary Owens
Critical Area Commission
March 5, 2008
Page 4

these issues, and their continuing willingness to cooperatively develop a new BMP which will give needed clarity for all parties involved without penalizing the Urquharts for the political ill-will that was successfully generated at least in part by Mr. Hurley's actions on behalf of the Commission.

Very truly yours,

Linowes and Blocher LLP



Benjamin S. Wechsler

BSW:kee

cc: James and Christina Urquhart (*by First Class Mail*)
Mr. Richard Hall, Secretary,
Maryland Department of Planning (*by First Class Mail*)
Mr. Matt Power, Deputy Secretary,
Maryland Department of Planning (*by First Class Mail*)

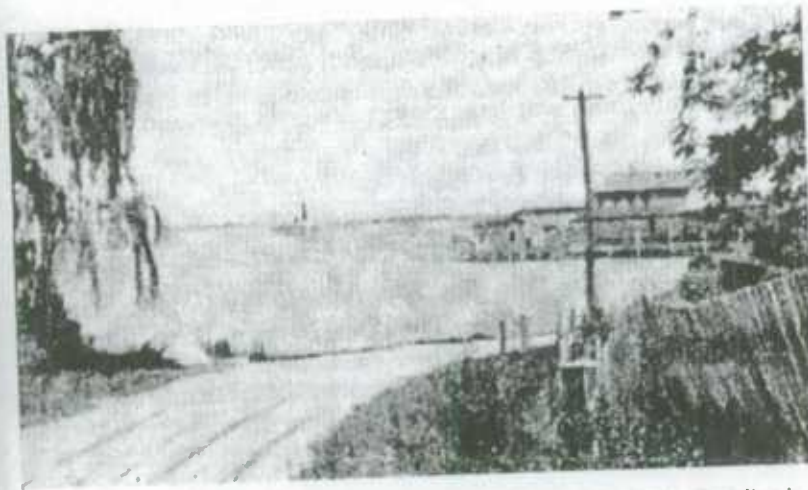
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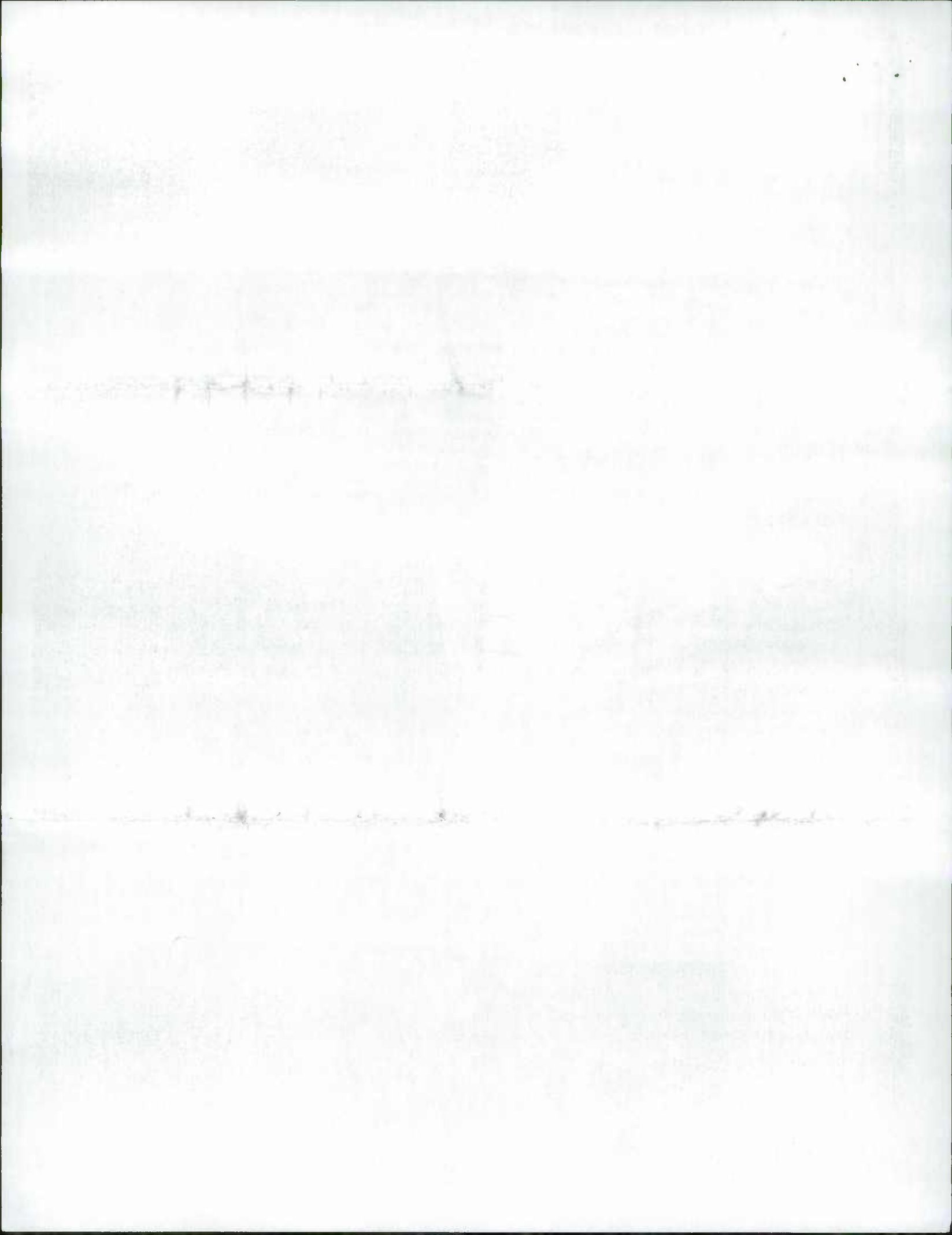
Canneries

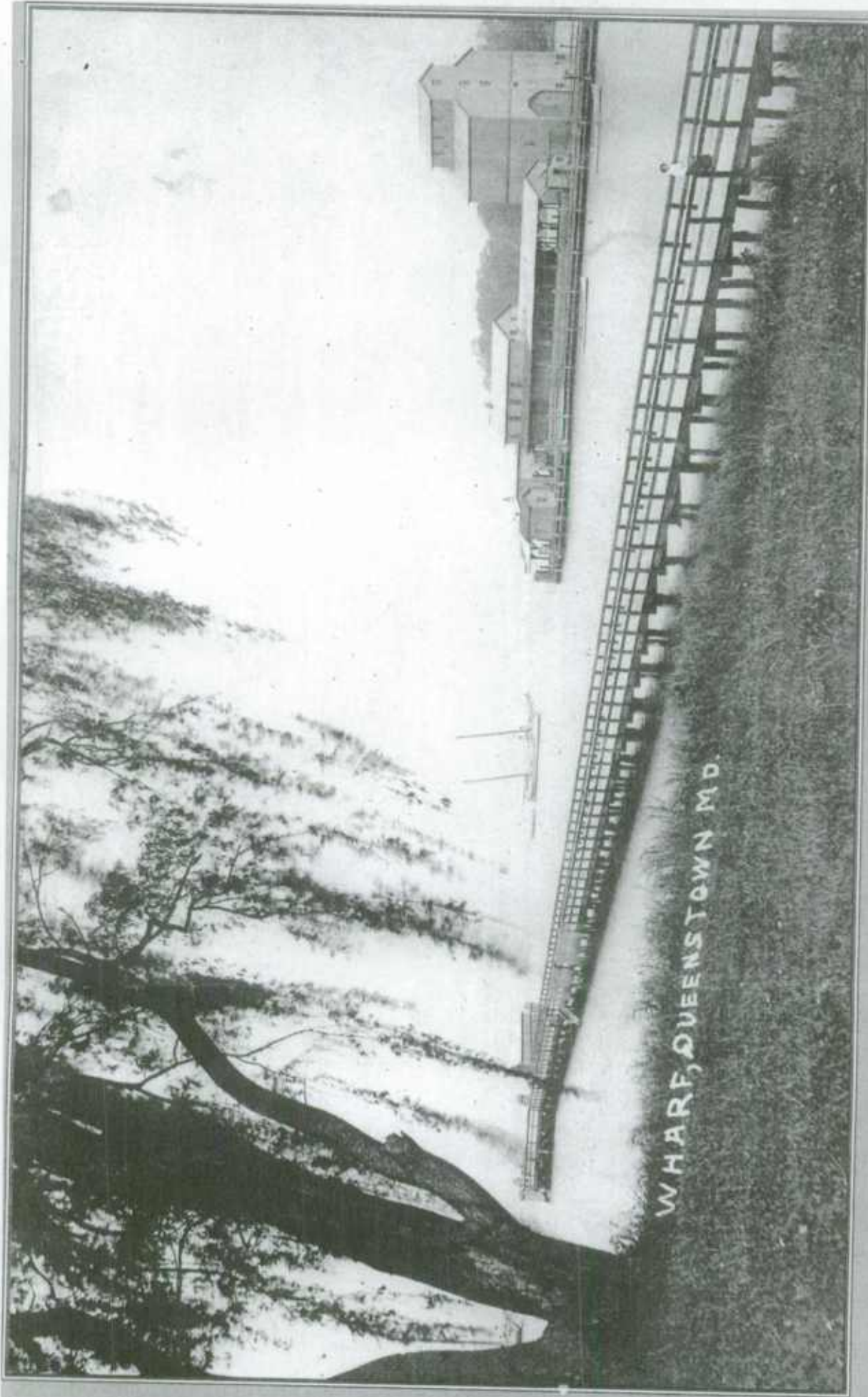
The first tomato cannery to be built at Queenstown was completed in August 1899 by George Lane, contractor for J. A. Wright, who had come from Seaford, Delaware, and purchased a site from The Queen Anne Railroad Company. In 1902 another tomato cannery (51) was built along the edge of the Queenstown Creek near The Queen Anne Railroad Company pier (52) for S. Edward Kirby of Harford County, Maryland. It employed about seventy-five persons canning tomatoes, but it was a very light season. Neither of these canneries continued long because J. Louis Rhodes and S. E. W. Friel met in March 1908 with a group of farmers who were interested in starting a cannery in Queenstown. The meeting was well attended and the two men were assured of enough acreage to make it a worthwhile project. Although they were to start construction as soon as weather would permit, apparently this project never did materialize.

Finally a tomato cannery (16) was built in 1917 by S. E. W. Friel and his partner Bernard I. Reynolds, trading as Friel and Reynolds. They had a record pack in 1918 and immediately planned an addition to the then existing plant. In those days, labor was imported from the city to help with the canning. One of the bosses who arranged for the imported summer laborers was Martin Wagner. A news item in the local newspaper said that a large number of Bohemians had arrived in August 1918 to work in the cannery of Friel and Reynolds. Mr. Reynolds left the firm in 1922 to take a

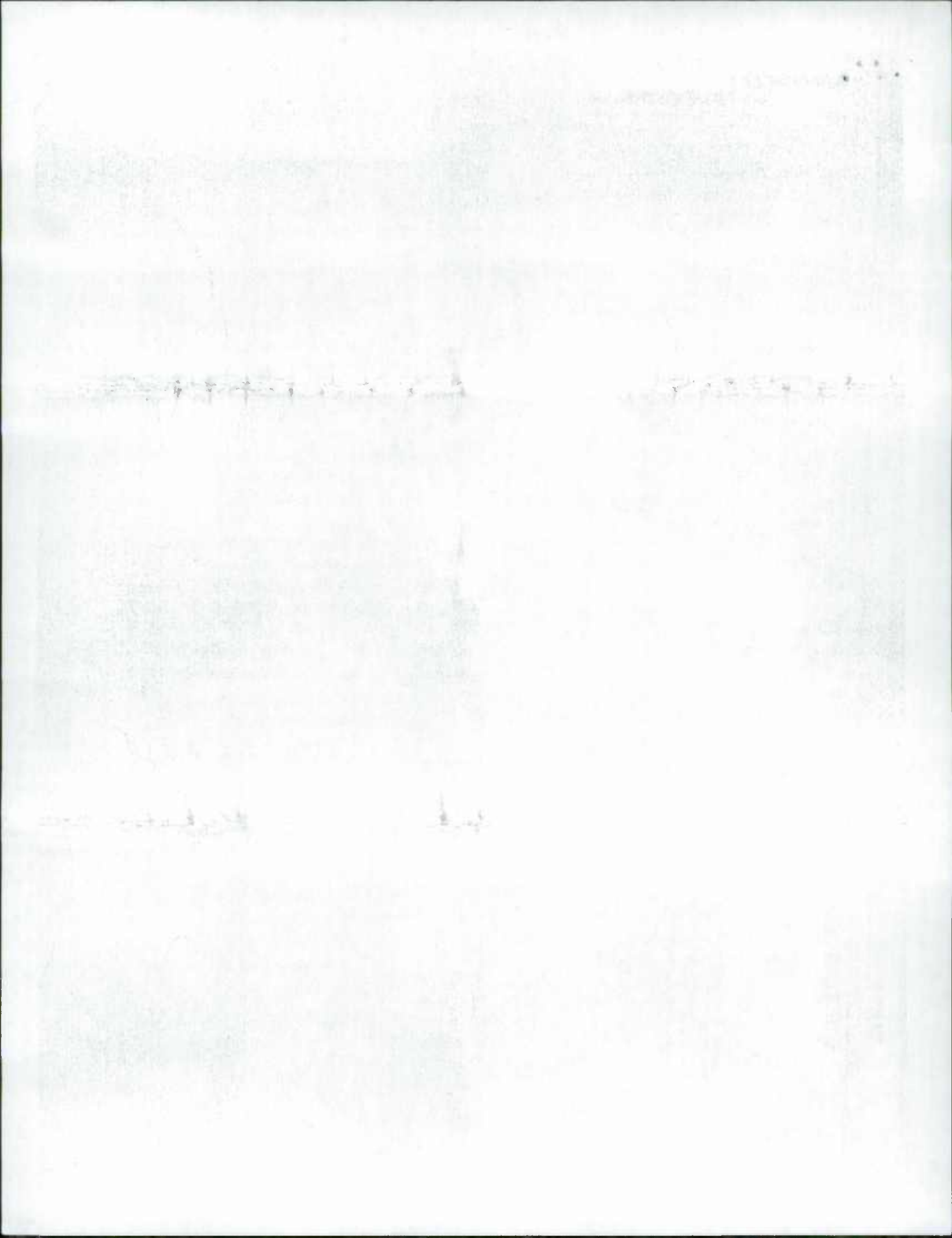


Approach to the Railroad Pier—Ca 1900. Northeast side of Bolingly. Building is a cannery. Photo: Author's collection.





The harbor of Queenstown was an integral part of the local economy in the late 1800s and early 1900s. Pictured here are the Old Steamboat Wharf on the left and the railroad pier and grain elevator on the right. Travelers using steamers and ferry boats had service from Baltimore to Queenstown where they could take advantage of the railroad system to travel to various areas throughout the Eastern Shore. The ability to ship local farm produce also added to the economy. In 1902, the railroad terminus was moved to Love Point and by early 1929, the Chester River was without boat service.



**WATERFRONT AND
OYSTER PACKING PLANT
QUEENSTOWN, MD.**

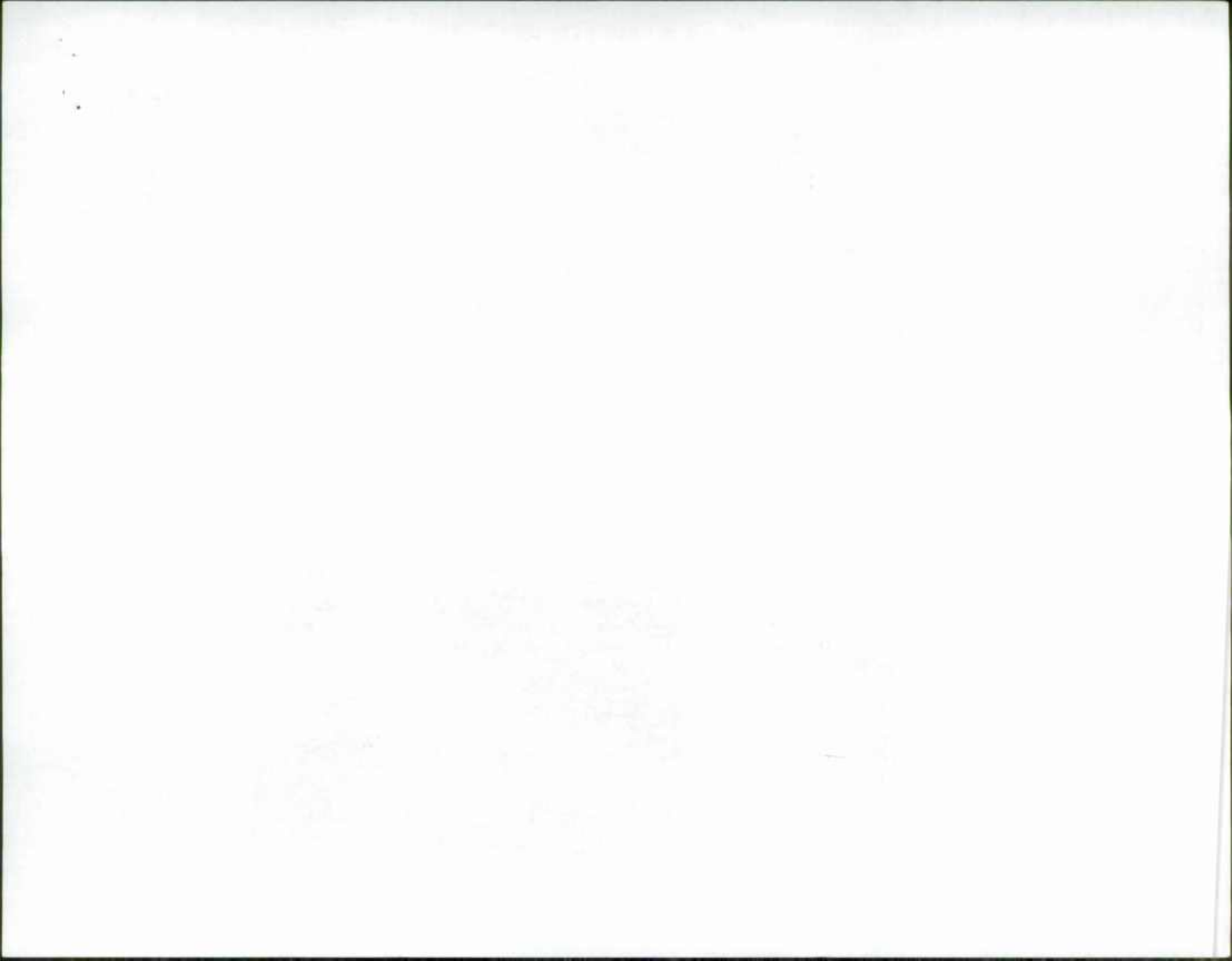


In 1928, James Smith's oyster packing house was established near the Queen Anne's railroad pier in Queenstown. Before it closed in 1940, the plant, and oyster industry in general, were recognized as a vital part of the local economy.

Handwritten text, possibly a signature or name, oriented vertically.

2003 photo
of upstream
water front





51 A LEFT

MAP 51 - P.73

50' R/W

P.1

P.2

(P.167)

OLD

WA

P.4

P.189

AVENUE

STOWN CREEK

STEAMBOAT

P.23

P. 4

P. 4

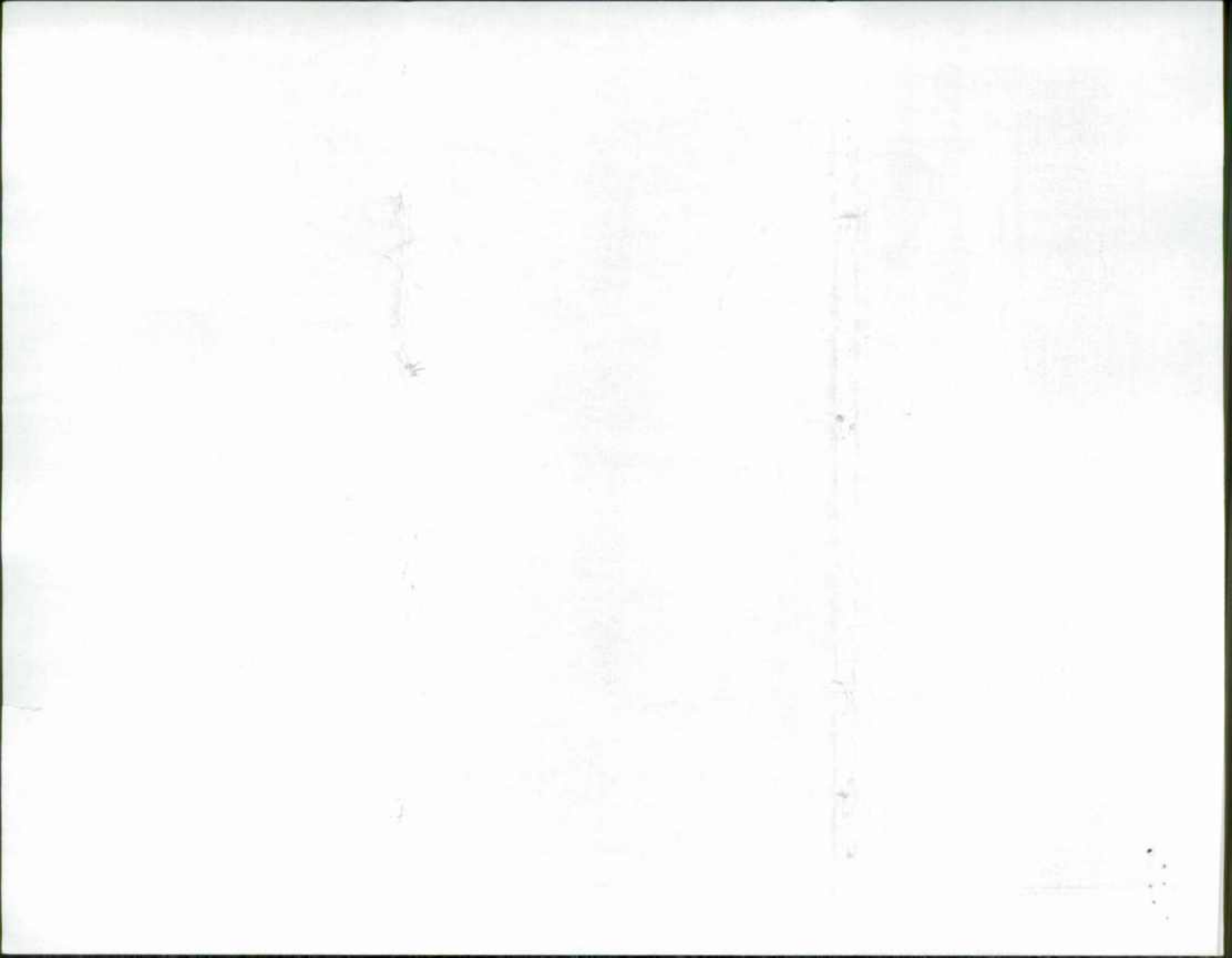
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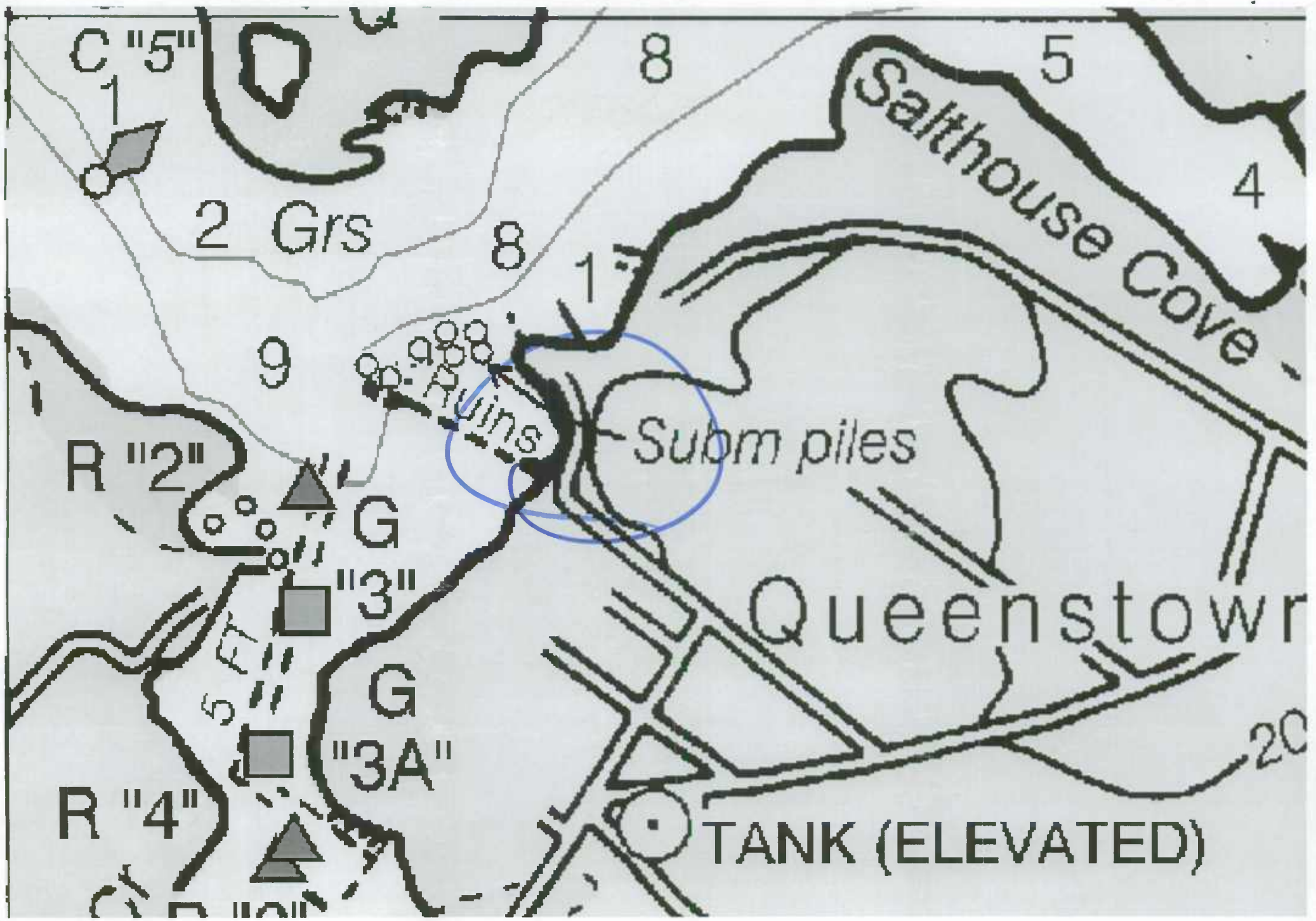
P.

P. 156

P.53

252





1872

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LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

Benjamin S. Wechsler
410.268.0881
bwechsler@linowes-law.com

February 15, 2008

Via Hand Delivery

Ms. Mary Owens
Critical Area Commission
1804 West Street, Suite 100
Annapolis, MD 21401

RECEIVED

FEB 15 2008

CRITICAL AREA COMMISSION

Re: 220 Old Wharf Road, Queenstown
Buffer Management Plan

Dear Ms. Owens:

Enclosed please find two documents in support of the Buffer Management Plan for 220 Old Wharf Road in Queenstown. As we discussed previously, our hope is that this BMP will supplant all previous BMPs. The confusion generated over the buffer obligations on this property is profound, and we hope that you will work with us to develop a "new" BMP that will not only enhance the buffer, but also help ease confusion and provide guidance to the owners, the Commission, and to the citizens of Queenstown regarding what will and will not be permitted in the buffer. By way of example, there are continuing allegations that the construction of a pier on the property (pursuant to valid ACOE, MDE, and Town permits) resulted in a Critical Area violation. I would like for the new BMP to clearly spell out existing site conditions and proposed replanting and maintenance obligations in order to avoid any such confusion in the future.

The first document is a narrative section that highlights the owners' proposed planting, restoration, and maintenance obligations. It addresses the ongoing suppression of non-native vegetation, riparian access, and the responsibilities to remove and replace any plantings that have perished (part of the October 17 "violation" letter stemmed from soil disturbance relating to the Urquharts' attempt to replace dead vegetation). The second document is a color planting plan, updated per your and Mr. Johnson's comments at our meeting. It has incorporated the requested topographical underlay. You will see several hand-notations relating to additional plantings that we have proposed subsequent to printing of the plan. We propose to incorporate these hand-notations into the "final" planting plan once we have your and your staff's concurrence.

Please let me know at your earliest convenience whether we could schedule a brief meeting during the week of February 18 to discuss and hopefully finalize this BMP. Wednesday afternoon or any time Thursday currently are best for me, though I can make myself available

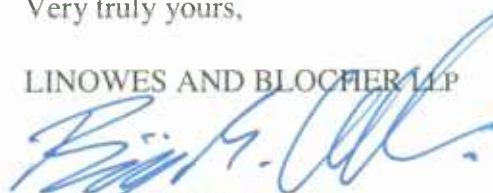
Ms. Mary Owens
Critical Area Commission
February 15, 2008
Page 2

any time with the exception of Wednesday morning. Our hope would be to finalize the BMP before February 26, at which time I understand a contingent of townpersons intend to make a presentation to the Queenstown Commissioners regarding this property.

Again, thank you for your time and attention to this matter, and please let me know when a good time to meet would be.

Very truly yours,

LINOWES AND BLOCHER LLP



Benjamin S. Wechsler

BSW:kee

cc: James and Christina Urquhart (*w/o enclosures*) (*by First Class Mail*)
Mr. Richard Hall, Secretary,
Maryland Department of Planning (*w/o enclosures*) (*by First Class Mail*)
Anthony Gorski, Esq. (*w/o enclosures*) (*by First Class Mail*)

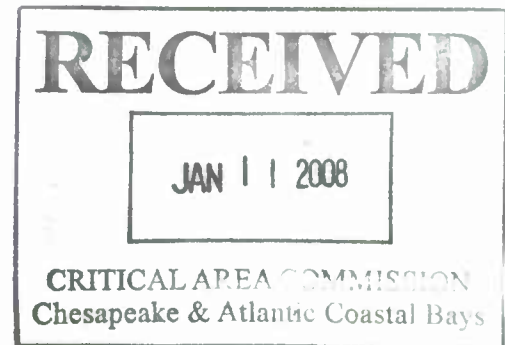
LINOWES
AND | BLOCHER LLP
ATTORNEYS AT LAW

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January 10, 2008

Ms. Mary Owens
Critical Area Commission
1804 West Street, Suite 100
Annapolis, MD 21401

Re: James and Christina Urquhart
Old Wharf Lane, Queenstown



Dear Ms. Owens:

Thank you for taking the time to meet with Mr. Urquhart and me Tuesday morning, January 8, 2008 regarding the James and Christina Urquhart's Queenstown property, and their ongoing efforts to address replanting in the 100-foot critical area buffer. We appreciated your helpful suggestions, and look forward to working with the Critical Area Commission staff to quickly resolve outstanding buffer issues in advance of this year's planting season. The Urquharts would like to be in a position to begin replanting by early March or as soon thereafter as the weather permits, and thus we would ask for your maximum cooperation in finalizing this matter by February 28.

Site History, the Existing Buffer Management Plan, and Response to the Alleged Critical Area Violation

At the risk of repeating our conversation, I think a brief review of the history of the site and particularly the buffer may help clarify some of the confusion and misunderstandings that have contributed to this matter.

As we collectively acknowledged at our meeting, confusion over buffer obligations date back to the "original" Buffer Management Plan ("BMP") submitted by previous owners (O'Brien) in 2001 and 2002. It is our understanding that the previous owners entered into a BMP requiring the planting of 20 trees, entirely outside the buffer. The approved BMP noted that the lot was nearly covered with invasive mulberry, that on-site mitigation within the buffer was "not possible" and that all mitigation would be split evenly between Lots 4 and 2. Lot 2 is owned by the Urquharts, and Lot 4 is owned by Mr. Geoff Leech, a next-door neighbor and a Queenstown Planning Commissioner. This mitigation was never performed on the Leech property but was somehow allowed to shift to the Urquhart lot.

In a February 7, 2002 memorandum (following a site inspection), Mr. Roby Hurley noted that non-native vegetation had been cleared in both the buffer and in adjoining upland areas and that

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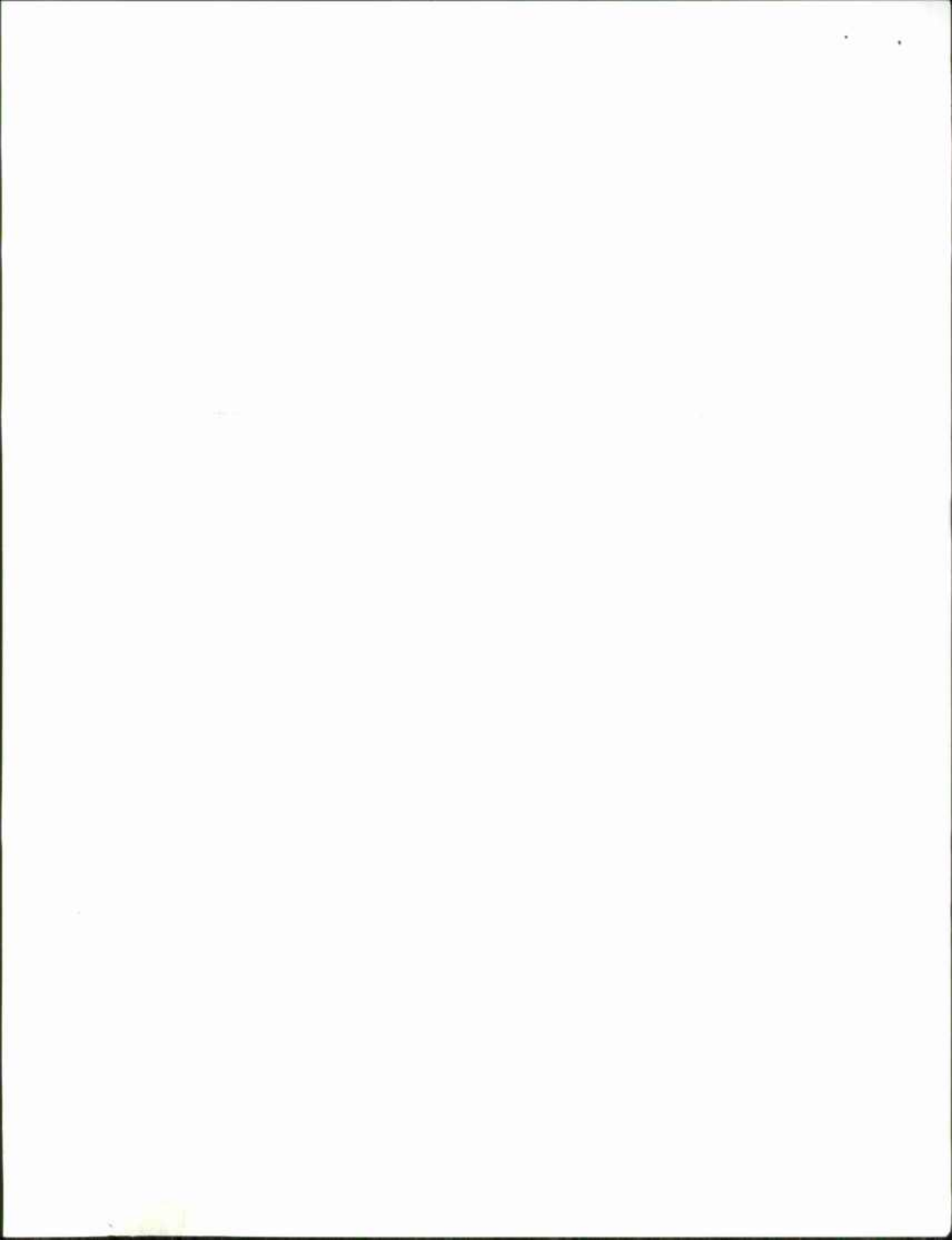
Ms. Mary Owens
Critical Area Commission
January 9, 2008
Page 2

the "site looks almost fully cleared" and that "the reason for this is the prevalence of non native invasive species." At that time, Mr. Hurley, on behalf of the CAC, recommended that a site plan be developed showing "where the 20 trees will be planted in the Buffer" and "and that "removal of non-native and invasive species maintenance is acceptable." Even by February 7, 2002 the total amount of planting required under the BMP had grown from 20 trees overall, to 20 trees in the Buffer with an additional 20 trees outside the Buffer. On March 26, 2002, the BMP was amended to require planting of 24 new trees within the upland portions of Lots 2 and 4 (currently Urquhart and Leech properties). Separately, it appears that the required number of trees in the Buffer had grown to 28 new trees. The files we have inspected are unclear regarding why the BMP was amended.

What is clear is that by the time the Urquharts acquired the property in the summer of 2003, the property had been almost entirely cleared, and that the existing BMP had been amended to include the 28 buffer and 24 upland trees. Some or all of these plantings may have been done by the previous owner -- as had been required under the BMP. In light of the lot improvements (construction of the house) the Urquharts hired a professional landscape contractor who worked directly with Mr. Hurley to develop a landscape plan dated September 15, 2004 and referred to as "Brickman Plan." This plan was accepted by the CAC as reflective of the Urquharts' buffer replanting obligations under the previously approved BMP. The Brickman Plan reflected the 28/24 tree mitigation, showed an anticipated pier on the northern end of the property, depicted areas of historically mowed turf, and referenced a number of pavers providing riparian access down a sloped portion of the property. A January 24, 2005 letter confirmed that the required replanting had been completed under the BMP, though the CAC sought to retain jurisdiction to enforce "additional maintenance needs." Urquhart was specifically granted the right (in writing) for future buffer disturbance "...for tree and shrub planting and maintenance and removal of non-native vegetation." Further as we discussed at our meeting, the approved Brickman plan anticipated total planting of up to 64 trees in Buffer and 127.5 trees in the upland -- far beyond the plantings that were required under the BMP.¹

Subsequent to the Brickman Plan, the Urquharts received permission from the Maryland Department of Environment, the Army Corps of Engineers, and the Town of Queenstown to construct a pier. MDE required that the pier be sited on the southern portion of the property in

¹ As we discussed, Queenstown's copy of the Brickman Plan (which has served as the Urquharts' BMP) has been modified from the original that both Urquhart and CAC still have on file; and that this altered plan has been the source of accusations that the Urquharts have been in violation of the Buffer and were never in compliance with the Buffer requirements --- accusations that are entirely false and have created much animosity and emotional harm to the Urquharts' reputation in Queenstown. We continue to investigate the source of these changes.



Ms. Mary Owens
Critical Area Commission
January 9, 2008
Page 3

order to accommodate harbor-line restrictions and adjoining property owners' navigational needs. As we explained today (and confirmed by the town attorney Mr. Gorski), every permit for this pier was applied for, and received, in advance of construction and the pier was constructed in accordance with the permits. Further, it was confirmed that construction of this pier is *not* a violation of the Urquhart BMP as Mr. Hurley has wrongfully cited to the Queenstown Planning Commission.

Following construction of the pier, the Urquharts proceeded with their landscaping plan. Due to the MDE required relocated pier, and in anticipation of other planned site improvements (all outside of the Buffer) and other minor modifications to the Brickman Plan were reflected in a landscape plan prepared by Walsh & Associates mainly to address the new planting plan outside of the Buffer. Inside the Buffer, the use of the originally approved 10 stepping stones was maintained but relocated to provide riparian access to the MDE relocated dock. A dry-stacked stone wall was added to control drainage from adjoining property. No replanting of dead vegetation was undertaken as Urquharts' landscaper was stopped at the point of plant installation just after the soil had been lightly tilled to remove non-native lawn grass. Contrary to Mr. Hurley's written statement, not a single living Tree, Bush, or native plant has been removed from any portion of the Buffer at any time since occupancy. There has been loss of native plantings due to weather conditions including drought, wind and lightning but no live plantings have otherwise been removed. The Urquharts believed that all this work was undertaken in accordance with the approved Brickman Plan that served as their BMP.

On October 18, 2007, despite the Urquharts' efforts to comply with the BMP, the Critical Area Commission informed them of five "Buffer Violations." For purposes of clarifying our position, each is addressed in turn.

- Alleged Violation: Observations of structures and lawn grass in the buffer.

Response: The lawn grass was fully depicted in the Brickman Plan as "historically mowed turf." No additional planting of lawn grass (either seeding or sod) was undertaken by the Urquharts at any time. The amount of mowed area has not been increased by the Urquharts, and in fact is far less than that permitted in virtually all the waterfront properties in Queenstown. The offending "structures" were not detailed in the violation letter, but presumably consisted of (a) the fully-permitted pier (already addressed above as not a violation), (b) the relocated stone steps that had been reflected in the Brickman Plan, and (c) a small dry stacked stone wall that was constructed in order to address drainage and stormwater management concerns originating on an adjoining property and (d) a section of a patio (less than 15 sq feet – see below "half-moon

1920

Ms. Mary Owens
Critical Area Commission
January 9, 2008
Page 4

portion of patio") was installed in error touching the buffer (although the patio is almost entirely outside the buffer). The dry stacked stone wall was immediately removed by Urquhart, as was the minimal portion of the upper patio that touched the Buffer, as soon as he was notified of the contractor installation error. Mr. Hurley was made aware, in writing, that these structures were removed **prior to** his "violation" letter to the Town and Planning Commission yet he made no mention of this in his letter to Town.

Alleged Violation: "A half-moon portion of a patio . . . [was] located within the Buffer".

Response: This encroachment was not shown on the plans, and appears to have been caused by either contractor error, or a faulty survey delineating the MHW line. The patio was immediately and voluntarily modified in order to conform to the assumed 100-foot buffer line, and the Urquharts will conform all future plans to this buffer line.

- Alleged Violation: "A large area adjacent to the patio was disturbed bare soil, apparently tilled."

Response: The soil disturbance had been undertaken for the sole purpose of replacing buffer plantings that had died and enhancing native buffer plantings. **This replanting was explicitly permitted in the "approved" Brickman Plan**, which provided that no disturbance would be permitted "once installation of native plant material is complete." Neither the BMP nor the Brickman Plan requires CAC consultation every time the property owner seeks to replace dead vegetation, and in fact it would be extraordinarily cumbersome and wasteful to adopt such a requirement.

- Alleged Violation: "At some point in the recent past a dock was constructed as well as access thru the Buffer in a location opposite of the one depicted on the Brickman Plan."

Response: As noted, the pier was fully permitted by MDE, ACOE and Quecnstown, and was constructed according to plans. The pier could not be located as originally anticipated based upon MDE regulations, and the legitimate navigational needs by neighboring riparian property owners.

- Alleged Violation: Concern about "planting of non-native species in the Buffer, such as lawn grass, Norway Spruce, Sea Green Juniper, Carpet Roses and Miscanthus. These

Ms. Mary Owens
Critical Area Commission
January 9, 2008
Page 5

plantings must be removed." Further the violation letter opines that the presence of "ongoing non native species" constitutes a buffer violation.

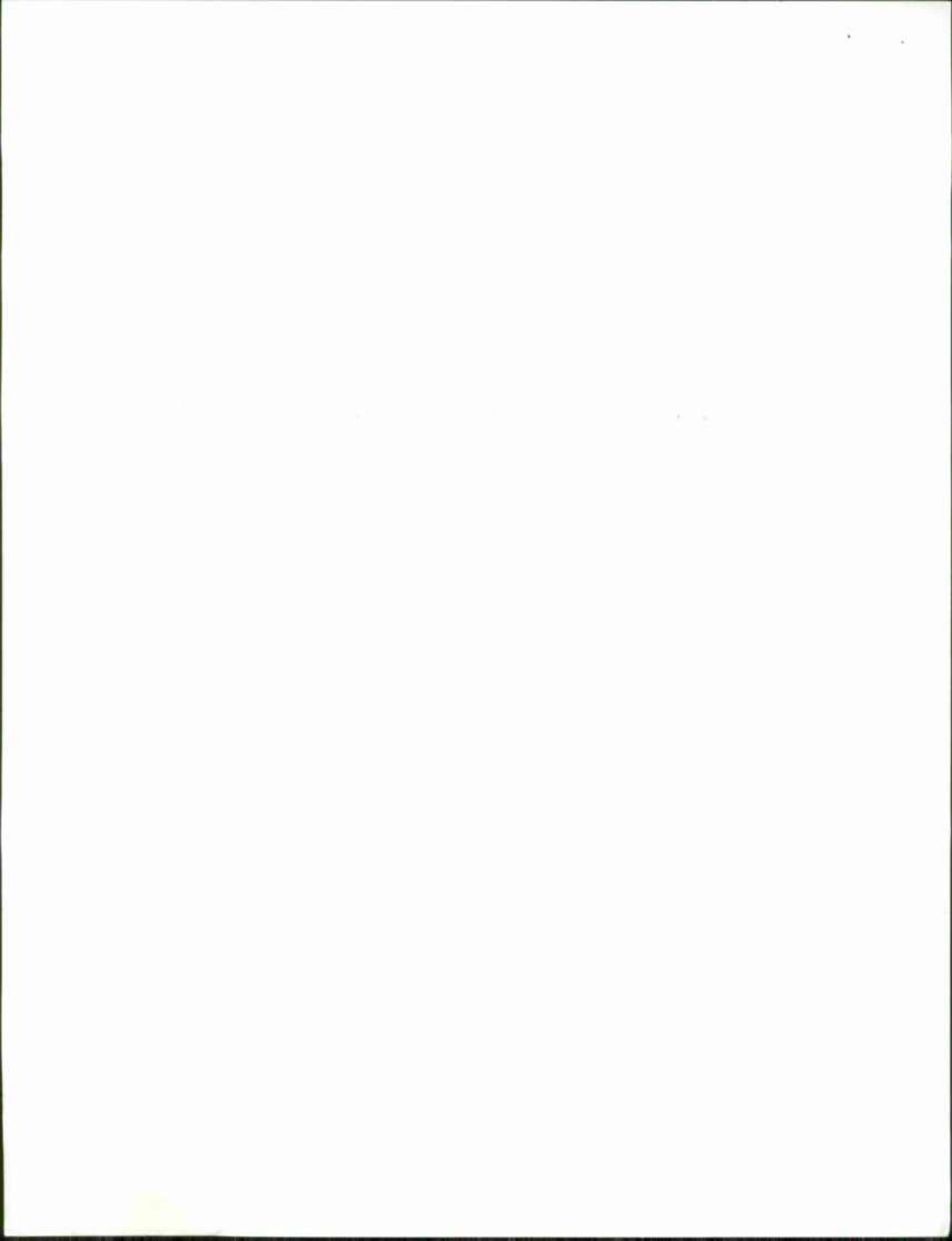
Response: The approved Brickman Plan detailed *extensive* non-native plantings and existing areas of lawn grass. It appears that the alleged BMP "violation" is the non-removal of planting that was explicitly approved as part of the BMP. A number of the mature trees on the existing property are non-native, which is not surprising given the several centuries of human habitation and habitat alteration in this portion of Queenstown. It is unclear what the property owners' obligations were regarding non-native plants (both planted and volunteers), much less the parameters of any alleged violation.

As I hope we fully expressed at our meeting, the Urquharts believe firmly that the alleged "buffer violations" raised by the CAC represent at best a reasonable misunderstanding regarding the scope and intent of the Brickman Plan and the applicability of the several prior BMPs. One could easily conclude, based on the extensive behind-the-scenes political machinations and apparent coordination of parallel proceedings in different jurisdictions, that this "violation" in fact is part of an effort to slander the Urquharts reputation and title, and to delay the improvement of their property consistent with applicable zoning and critical area overlays. Regardless of motive, the many BMPs and the recently-alleged buffer violation have been time consuming, distracting, and expensive.

The Path Forward

As we discussed, the most sensible approach may be to enter into a new BMP that replaces and supercedes all previous BMPs. While the Urquharts do not believe there has been anything more serious than a *de minimis* violation of the existing BMP. It is clear to all involved that the many different BMPs dating back to well before the Urquharts' ownership has caused a great deal of confusion for all involved, including the local Critical Area program staff. As we discussed at length, it would seem to be in our mutual interest for the Urquharts to prepare a new landscaping plan based upon those prepared previously by Walsh Landscape Architecture, and to use this revised plan as a starting point for the BMP. You indicated that the plan should include details regarding topography, all new hardscaping, and a separate page with a chart breaking down the additional plantings.

With regard to new or replacement plantings that may be required, we agreed to explore the use of native cultivars in order to meet replanting requirements. I was not under the impression that the CAC would require the removal of non-native buffer vegetation (including mature shade



Ms. Mary Owens
Critical Area Commission
January 9, 2008
Page 6

trces) that may have existed or been planted on the property (Note: the Walsh plan being implemented had depicted the removal and replacment into the non-buffer portion of Urquhart property of the non-native plantings installed under the Brickman plan).

With regard to riparian access, you agreed that the Urquharts shall be permitted access through the buffer to their pier and beach, and that we would work to develop a plan that retains or restores buffer functionality while accommodating legally-recognized riparian access.

With regard to invasive species, we discussed at length that the BMP will need to control the recruitment of invasive non-native mulberry (*Morus spp.*) originating from the several mature trees on and surrounding the Urquhart property. This control may consist of a combination of mulching, periodic mowing or brush-hogging of recruitment areas, hand-weeding, or herbicidal spraying. We anticipate that this component of invasive control may need to be staged in order to achieve control over the long term. Ideally, the Urquharts would retain some flexibility over implementation of control techniques in order to maximize efficiency.

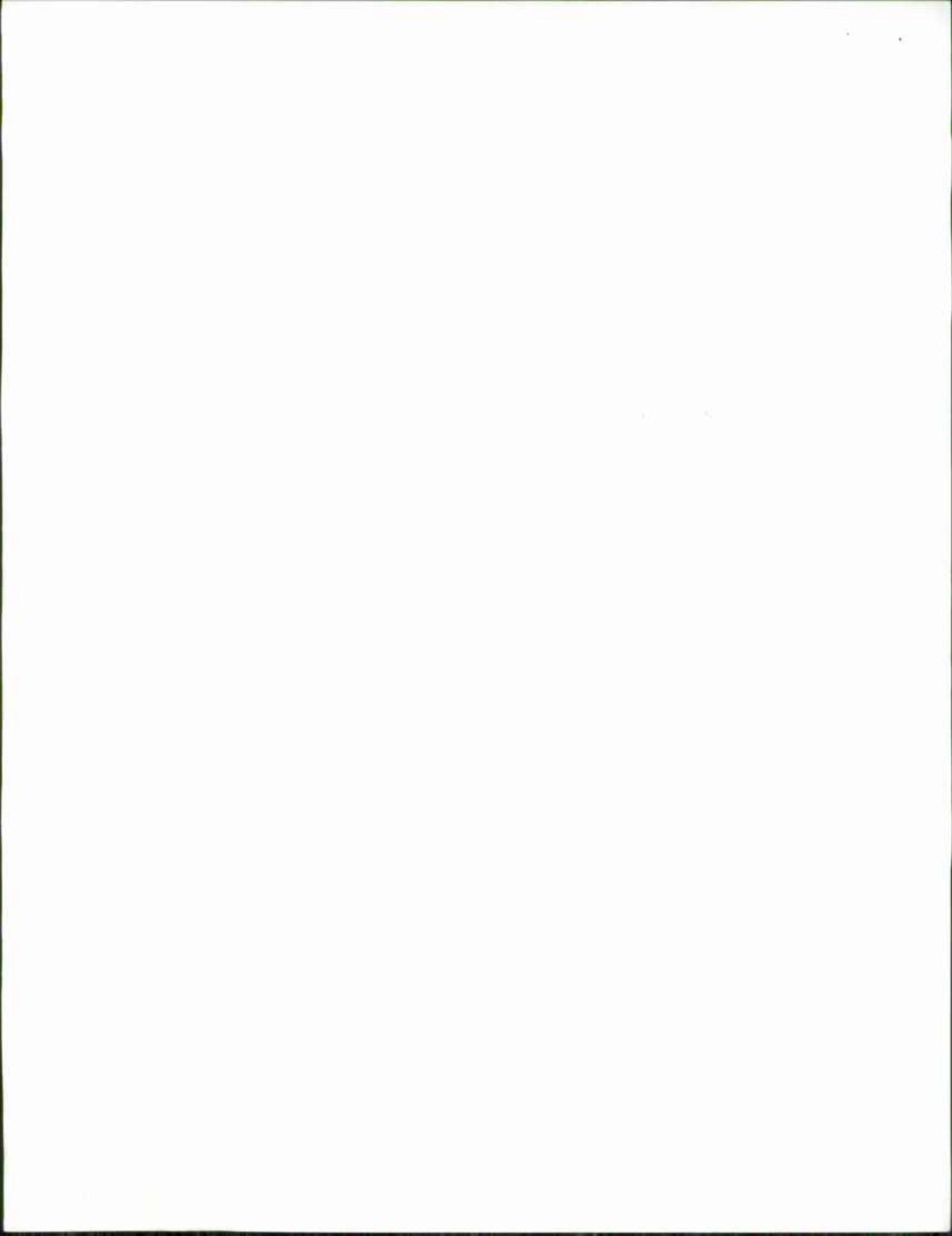
The buffer also contains existing stormwater discharge from a neighboring property owner in the vicinity of the now-removed dry stacked stone wall. In order to prevent future crosion and scouring during weather events, we anticipate that the BMP will need to incorporate certain berming, bio-infiltration or other passive stormwater control in this area.

The BMP may set forth a mowing and pruning schedule, as well as identification of existing natural areas which should not be disturbed or be subject to mowing/pruning, such as the daylily bed near the waterfront.

Finally, regular mowing of historically mowed portions of the lower buffer will be permitted within defined areas comparable to that depicted by the originally approved Brickman plan as part of the historical riparian access without the need for any additional disturbance beyond the regular mowing.

Miscellaneous

We discussed the Critical Area Commission's position with regard to impervious surface calculations. As I indicated, the Urquhart property has received intense review regarding the calculation of impervious surfaces. Enclosed as Exhibit A is the impervious surface calculation performed in accordance with Queenstown's practice over the past 8 to 10 years. As you will note, Queenstown provides a partial credit for stone driveways, and we agreed that this



Ms. Mary Owens
Critical Area Commission
January 9, 2008
Page 7

calculation would be applicable to the Urquhart property and current permits for garage addition and shed.

Scheduling is a concern for the Urquharts. Repeated suggestions have been made that the Urquharts have been tardy or unresponsive in addressing the alleged buffer violations, and they are eager to avoid any such further inferences. The Urquharts made repeated efforts to address the buffer concerns in a timely and efficient manner this past fall but were met with resistance from Mr. Hurely which is what ultimately resulted in the Urquharts requesting Hurley's removal from this matter and transfer to your attention. This matter, including the treatment they have received by certain state employees, has caused the Urquharts grave reputational harm, and they are eager to finalize the buffer issues and begin replanting as soon as feasible in the spring growing season. To this end, the Urquharts will endeavor to provide you with revised site plans in support of the new BMP by the first of February, and we foresee finalizing the BMP (including the accompanying narrative elements) by the first of March. Please confirm to me that this schedule is acceptable in writing.

Again, thank you for meeting with us, and I look forward to bringing this to a rapid resolution early this year.

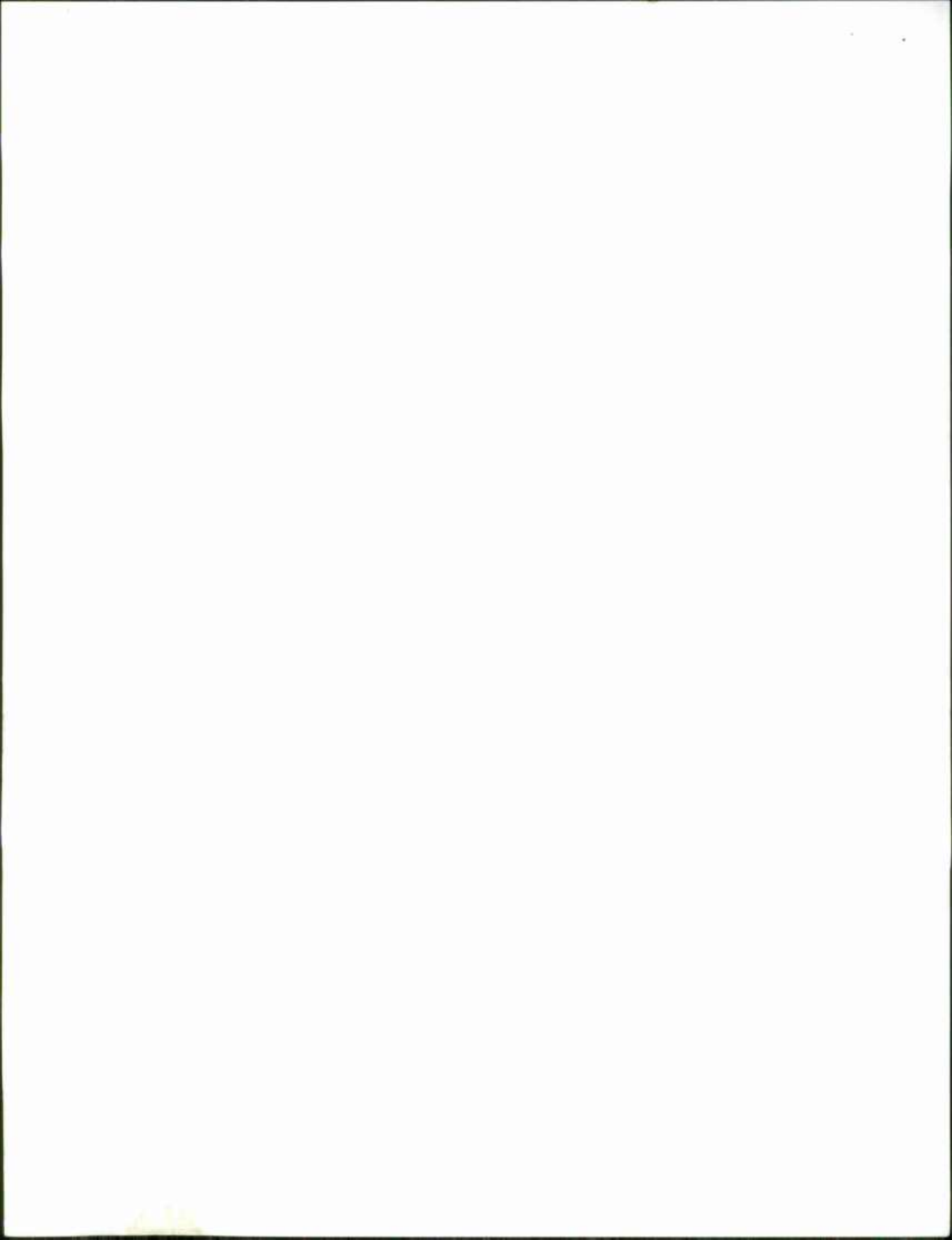
Very truly yours,

LINOWES AND BLOCHER LLP


Benjamin S. Wechsler

BSW:lbr

cc: Ms. Lee Anne Chandler
Mr. Marshall Johnson
Anthony Gorski, Esq.



Amy Moore

From: Amy Moore [qtowncom@crosslink.net]
Sent: Friday, November 30, 2007 2:19 PM
To: GEOFF LEECH (gleech@hotmail.com); Roby Hurley (robby@dmv.com)
Subject: Urquhart Impervious Surface Calculations
Attachments: Urquhart Imp Surface Certified Calcs

Attached is the certified plat plan of the Urquhart property and Mike's Impervious Surface Limitations worksheet. He said he has triple checked the numbers. If they are indeed correct, as it appears, the Urquhart's are within the 15% allotted for their property. I am also going to forward a copy of this to Karen Zellers via mail, as I do not have an email address for her.

To date I still have not received a revised Buffer Management Plan.

Amy Moore
Town Clerk
Town of Queenstown
410-827-7646



IMPERVIOUS SURFACE LIMITATIONS

	Existing	New
House	<u>2479</u> sq.ft.	<u>1744</u> sq.ft. Addition
Detached/Attached Garage	_____ sq.ft.	_____ sq.ft.
Paved <u>Driveways</u> /Sidewalks	(front walk) <u>120</u> sq.ft.	<u>1764</u> sq.ft.
Paved Patios/Decks	_____ sq.ft.	<u>987</u> sq.ft.
Outbuildings	_____ sq.ft.	<u>1008</u> sq.ft.
Swimming Pools	_____ sq.ft.	<u>800</u> sq.ft.
Other Impervious Surfaces	_____ sq.ft.	_____ sq.ft.
<hr/>		
Total Impervious Surfaces	<u>2599</u> sq.ft.	<u>6303</u> sq.ft. = <u>8902</u> sq.ft.

Total Impervious Surface allowed on the Lot 15 % or 9405.6 sq.ft. minus ↓ equals
 ~No impervious surface limit in IDA
 ~15% impervious surface limitation in LDA/RCA, except: 503.6 sq ft left

- A parcel or lot one-half acre (1/2) or less in was a lot of record on or before December 1, 1985 impervious surfaces on the lot are limited to 25 percent of the parcel or lot
- A parcel or lot 8,000 sq. ft. or less in size was a lot of record on or before December 1, 1985 impervious surfaces on the lot are limited to 25 percent of parcel or lot plus 500 sq ft. Must meet 14-138(d)(8), I ii, and iii are met.
- A parcel or lot 8,000 sq.ft. but less than or equal to 21,780 sq. ft. was a lot of record on or before December 1, 1985 impervious surfaces on the lot are limited to 31.25 percent. Must meet 14-138(d)(8), I ii, and iii are met.
- A parcel or lot 21,780 sq. ft. but less than or equal to 36,300 was a lot of record on or before December 1, 1985 impervious surfaces on the lot are limited to 5,445 sq. ft. Must meet 14-138(d)(8), I ii, and iii are met.

Compliance with 14-138(d)I, ii, & iii
 1. Did applicant minimize new impervious surfaces on the parcel or lot? _____
 2. Did applicant minimize stormwater quality impact through site design and/or use of best management practices agreed on by County & the Critical Area Commission? _____

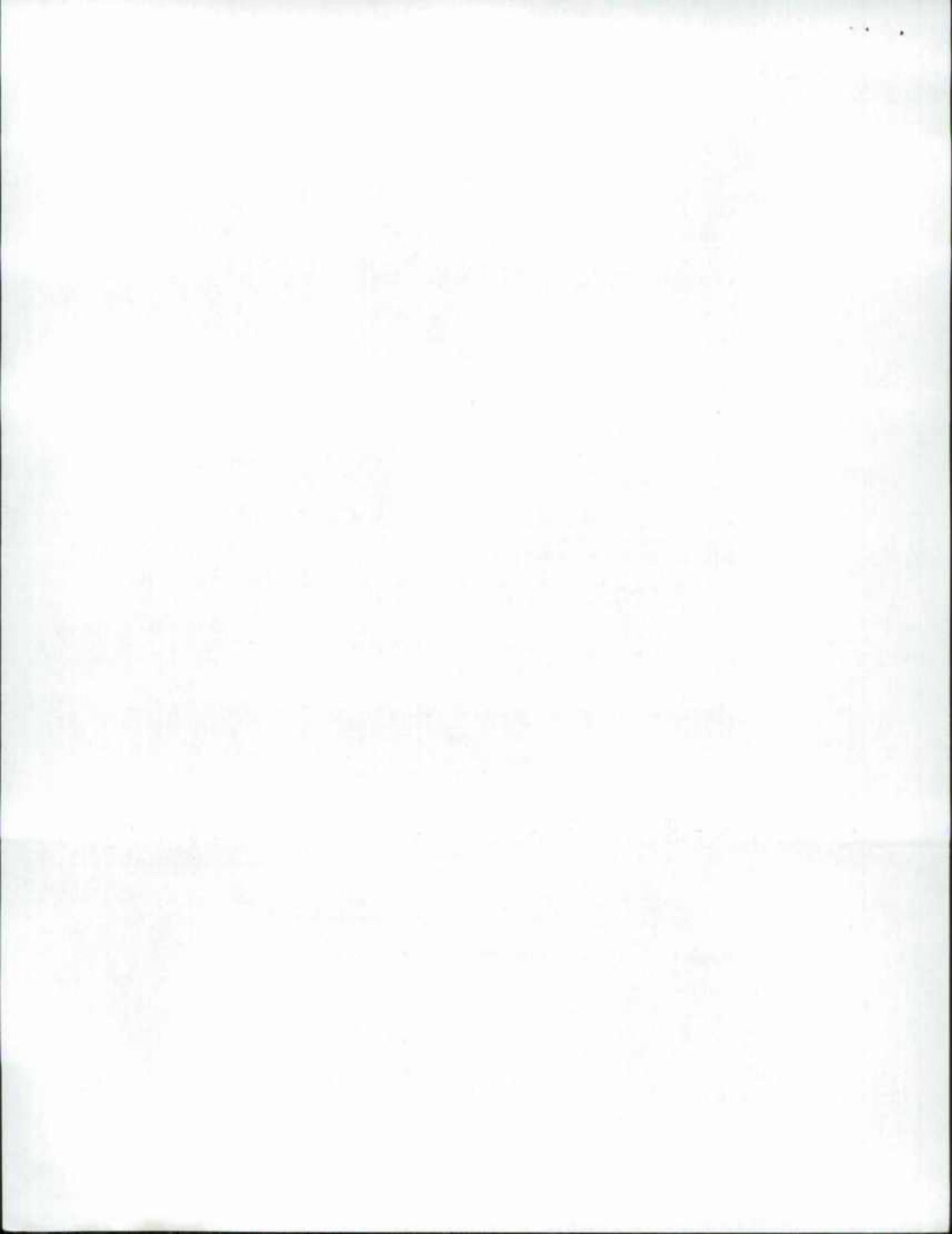
3. Mitigation requirements=I.S. _____ sq.ft.X2= _____ /43,560sq.ft.X70= _____ 4'-6' native trees. Note: All trees to be planted must be container grown. No bare root stock will be accepted.

Is Impervious Surface on lot equal to or less than amount listed above? yes no

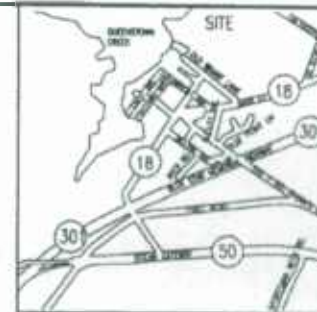
Comments: Driveway was taken at 60% impervious as has been the standard practice in town for 7-8 years, versus QT Harbors which were considered porous.

[Handwritten Signature]
 Clerk Signature
 Zoning Administrator
 Town of Queenstown.

11-29-07
 Date



- GENERAL SITE DATA:
1. ALL BEARINGS ROTATED TO THE MARYLAND STATE PLAN DATUM.
 2. PROPERTY ZONED: R-1
 3. PREMISE ADDRESS: 220 OLD WHARF LANE, QUEENSTOWN, MD 21858
 4. DEED REFERENCE: LIBER: S.M. 1109, FOLIO 39
 5. PLAT REFERENCE: PLAT BOOK: M.L.M. 276, PLAT 642 (PERMANENT REFERENCE: 137183)
 6. TAX MAP 51A, GRID 14, PARCEL 26, LOT 4 EXISTING AND PROPOSED USE OF SITE OR STRUCTURE(S), RESIDENTIAL
 7. TOTAL OVERALL PROJECT AREA: 1.43949 ACRES OR 62,704 S.F.
 8. ELEVATIONS SHOWN HEREON BASED ON NGVD 88 DATUM, MEAN HIGH WATER (MHW) ESTABLISHED IN FIELD OCT 2007



VICINITY MAP
N.T.S.

MATTHEW E. JOYCE, P.E., L.S.

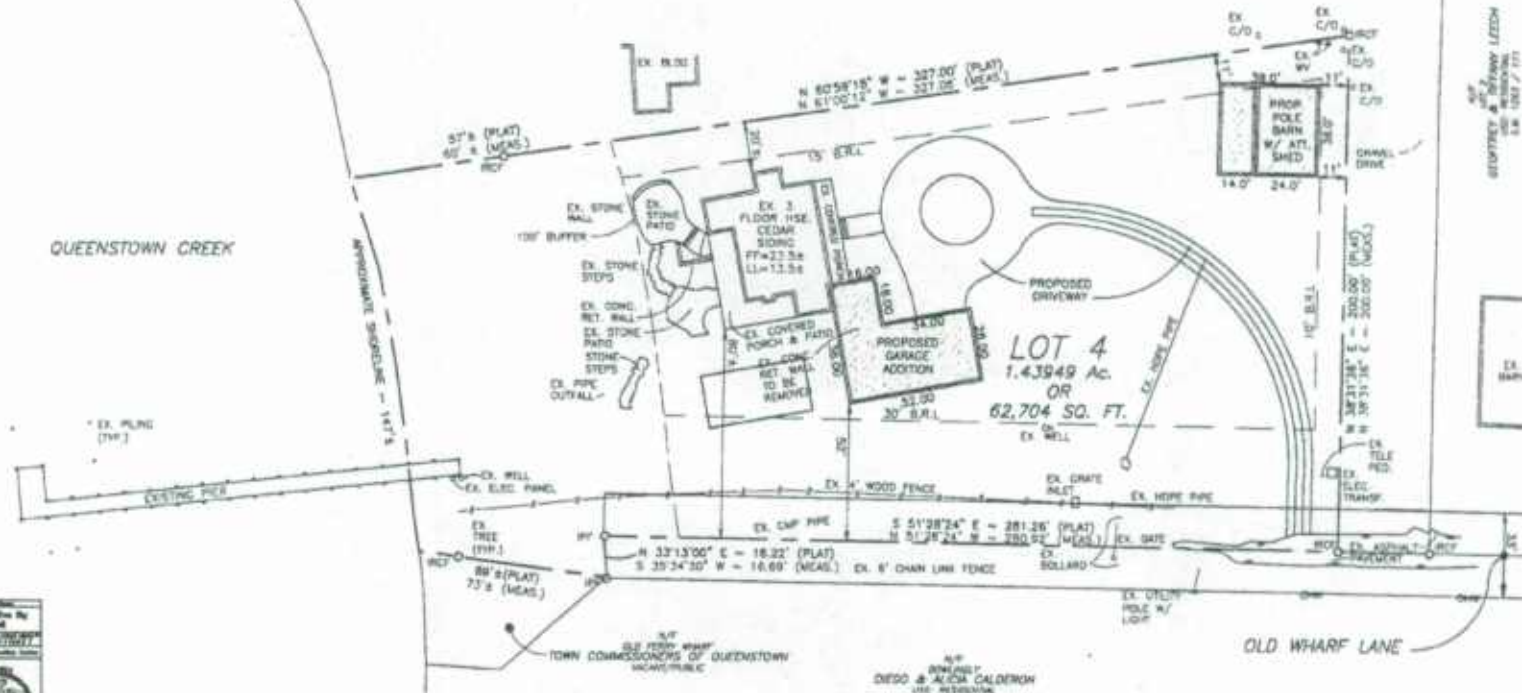
M.E. JOYCE & ASSOCIATES LLC
CIVIL ENGINEERING
& LAND SURVEYING

P.O. BOX 588
QUEENSTOWN, MD 21858
TEL: (410) 386-0844
FAX: (410) 448-0849

JOB NO.	1001004
SCALE	1"=30'
SHEET	1 OF 1
DATE	15 SEPT 2007
DESIGNER	MEJ
DRAWN	MEJ
CHECKED	MEJ
APPROVED	MEJ
OWNER	OTHERS
REVISIONS	10/24/07 MARK SITE IMPROVEMENTS PER FIELD OWNERS



N/T
LOT 3
(131 OLD WHARF COVE LANE)
YAAKOV & LINDA BORENSTEIN
USE: RESIDENTIAL
M.M. 410 / 302



EC-1

PROPERTY DESCRIPTION
JAMES R. & CHRISTINA H. URQUHART
LIBER FOLIO 94 802/099
TAX MAP 51A, PARCEL 26
220 OLD WHARF LANE
QUEENSTOWN, MD 21858

EXISTING CONDITIONS PLAN
URQUHART PROPERTY
LOT 4
PLAT NO. 6703
ELECTION DISTRICT NUMBER 5
GREEN ANNES COUNTY, MARYLAND





A couple of weeks ago, Don Regenhardt asked me if the Urquhart's were doing any improvements, as someone had advised him of some activity taking place. I was not aware of anything, other than a pool permit application that at the time was being processed. On Friday 9/28/07, Roby went to the Urquhart property to view the activity in the buffer. (The Urquhart's have a buffer management plan (BMP) on file in the office.) Roby informed me that there were "major violations" in the buffer and that Mike Savage needed to be contacted, and that Mike should issue an immediate stop-work order. He also recommended that the permit for the pool, which was approved, not be issued until the matter is resolved and the pool site should be verified prior to the issuing of the permit. While it appeared to be out of the buffer, it should be checked.

Roby called Mike and discussed the matter with him. Mike indicated he would contact the Urquhart's by phone and advise, which he verified this morning that he did. He left a message as no one was home.

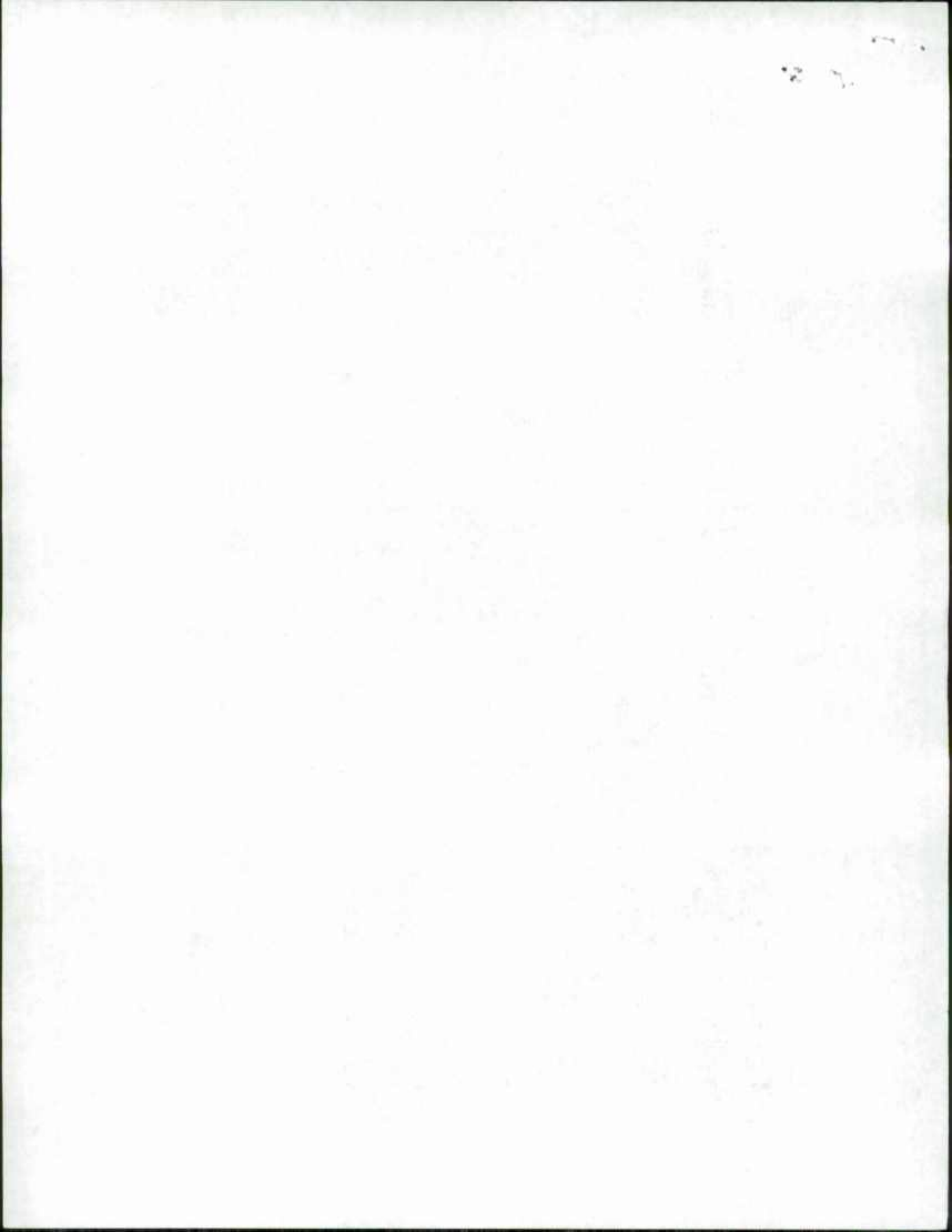
Mrs. Urquhart came to the office yesterday for her pool permit. Shosh informed her that the permit could not be issued as a stop-work order had been issued on the buffer work. Mrs. Urquhart became very upset and belligerent. She called Pete yesterday evening about this issue, and unfortunately, I had not informed the Commissioners of what had transpired, so he was also unaware of the situation.

This morning I contacted Mike Savage and Roby Hurley to find out if they had spoken to anyone since Friday regarding this matter. Roby had not, and Mike verified having called and left a message with Mr. Urquhart.

Andy Hopkins, landscaping contract for the Urquhart's, called Mitch to discuss the matter. Mitch was unaware of the problem, but advised Mr. Hopkins to contact me at the Town Office. Mitch called and spoke with Shosh this morning, informing of his conversation with Mr. Hopkins and asking if a permit had been issued.

Mr. Hopkins stopped in this morning. I happened to be on the phone with Roby at the time, so they spoke. Roby advised Mr. Hopkin's of where there were violations. Mr. Hopkins admitted that there were variations to the BMP, which included large stone steps and a stone retention wall, neither of which were on the original BMP. Roby advised Mr. Hopkins to file an amended BMP to the Town Office. A copy of the application was given to Mr. Hopkins this morning.

Mr. Hopkins had scheduled today to pour concrete under the covered, second floor decking, as it currently is stone, and that is going to be a patio area. Because this would not add to the impervious surface, Mr. Hopkins didn't think a permit was necessary. I called and spoke with Mike Savage while Mr. Hopkins was here. Mike gave the OK to pour the concrete, but to fill out a permit. That is when Mr. Hopkins advised that they have already installed a flagstone patio,



which they did not obtain a permit for. He will fill out a permit application and indicate both patio areas on the application.

I have put a call into Mr. and Mrs. Urquhart so that I can explain (1) how this issue came about and (2) how it is being handled. I left a message and am waiting for a return call.

I will keep you informed as things progress.

Amy

Amy

Sounds like the right way to handle it. As for pouring the concrete, I agree with Mike, even if it does not add to the impervious surface, it is a permanent structure and does need a permit so getting the application filed was the right thing to do. I think you are safe holding the issuance of the pool permit pending compliance. A retaining wall and steps are not small modifications to the BMP. Do we know if the flagstone is in the buffer?

Tony

Mr. Urquhart returned my call today and I advised him where things stood with his BMP, the violations, and the pool permit. He admitted that some things were changed, "for the better", in the BMP, but thought a phone call would have sufficed. I advised that Mike did call him, but he maintains he never received Mike's message. He was pleased that Hopkins was speaking with Roby and we were working to get the matter resolved. He thought that Hopkins would know if a permit was needed or not. He was not aware that a permit was needed for patios. I called Mike to find out if the pool permit could be released as the BMP matter was being resolved. Mike said that I could release it, which I did. Mr. Urquhart picked the permit up today.

Pete advised yesterday that he has received a couple calls from contractors who will be doing work for the Urquhart's on a proposed addition/garage (which they have not applied for as of yet). Pete suggested that the contractors meet with Roby and Mike so that all parties would know what can and can't be done, and any problems that arise could be addressed before hand. I relayed this suggestion to Mr. Urquhart, who was receptive to the idea. He did indicate that they are months away from applying for any permits for the garage/addition.

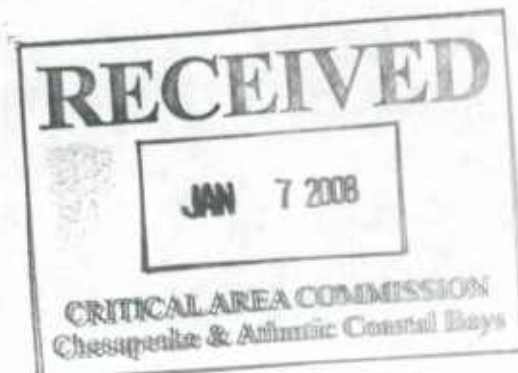
Amy

Amy

The problem is that the phone call should have come before we did the work, not after. I hate it when people act as though gov't is being unreasonable when the problem was caused by them not checking the requirements before doing work. How do you not know that when you change a plan previously reviewed by the regulators that you need to get the changes reviewed? He is right, Hopkins should have known that the permit was required, but that is not the Town's problem.

Tony

5.16 Add'l.
D. 7.



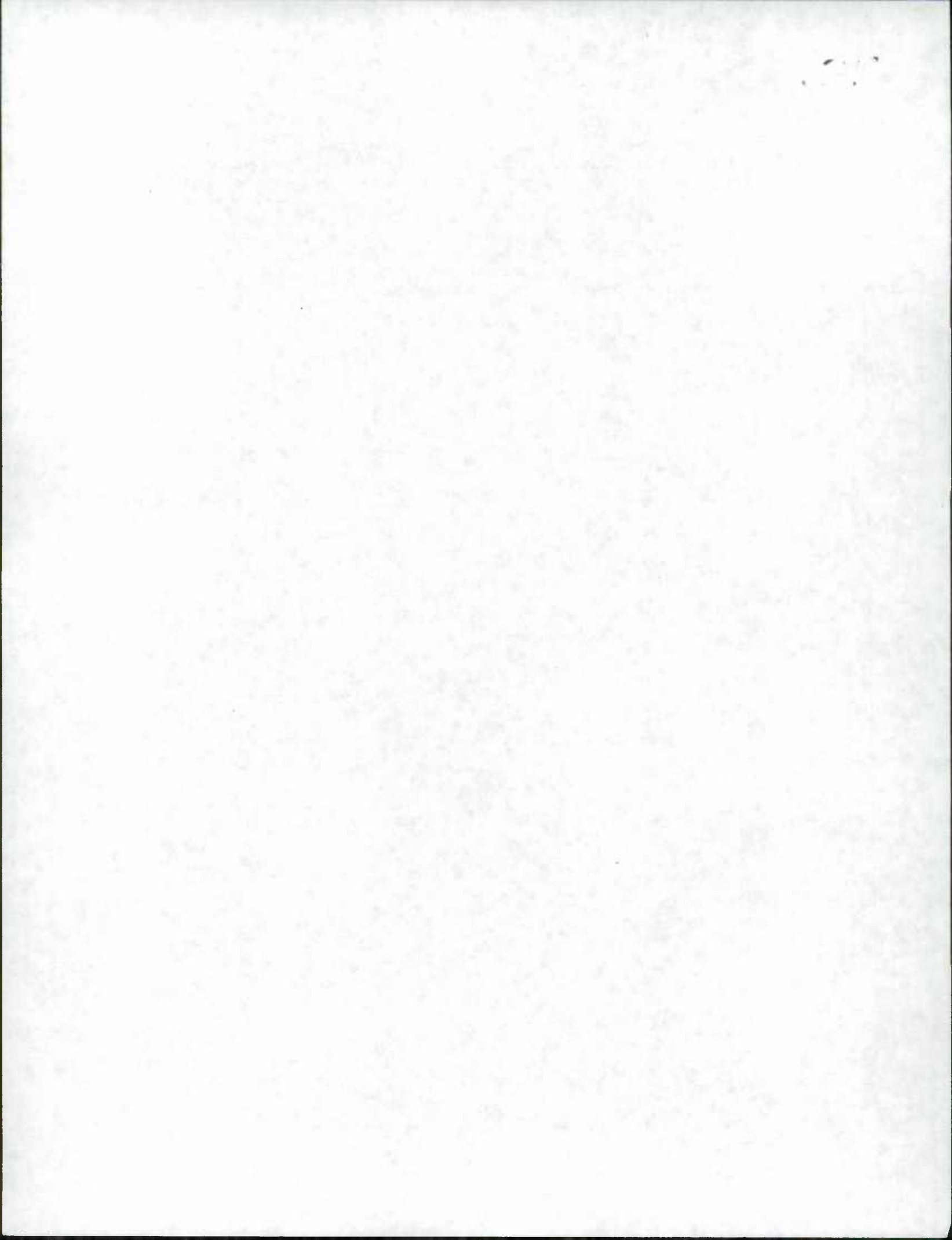
REC 517
300

To add fuel to the fire, John Foster called today about the Urquhart's. He heard it through the grapevine that the Town put a stop-work order on them and was holding up their pool permit.

Shosh informed him that their contractor, Hopkins, was working with the Town to rectify the problem. When he found out that the permit had been released, he went ballistic on the phone with Shosh. He said the permit should not have been released; that they should not be doing work without a permit. I would like to clarify that the Urquhart's did have a permit to do work in the buffer, they just delineated from it. They did apply for a pool permit. They did not have a permit for patios; however, that was not reason enough to hold up the pool permit. Per Mike, the pool permit was held up as a way to get them moving on the BMP.

John was asking if the Town has ordered that the fence be moved, when it will be moved, etc. Look for more of this on Tuesday night.

Amy



Dear All,

You will find attached Roby Hurley's note and attachments. I delayed forwarding it until after I had an opportunity to discuss it with the town attorney. At last night's Commissioners Meeting I talked with both Mr Gorski and Mr. Urquhart.

The first para. in Roby's memo to the Planning Commission refers to the zoning ordinance section that states that the Planning Commission "is granted authority in enforcement cases." This function seemed outside the bounds of what I think of as our responsibility, so I checked the ordinance, and Roby is correct.

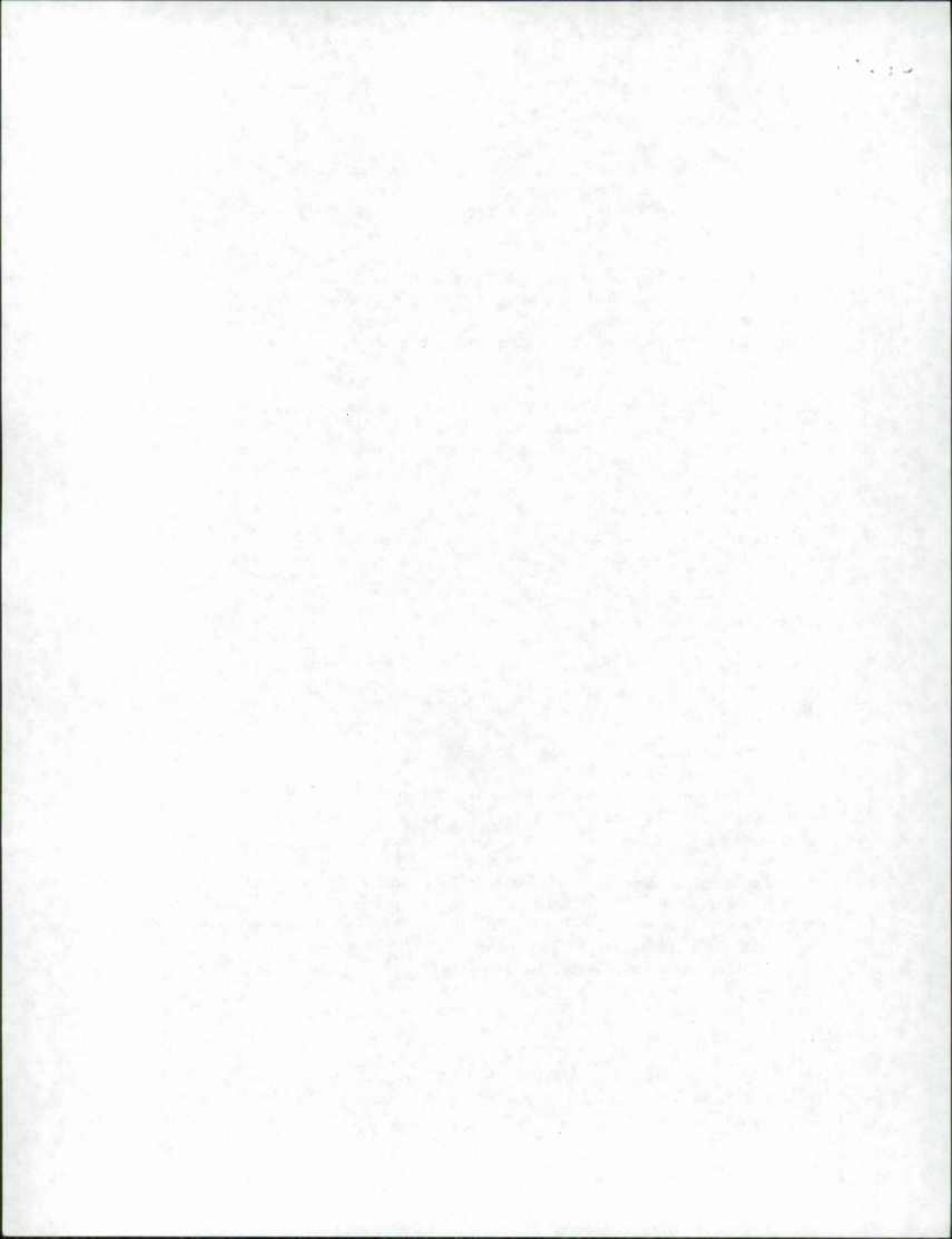
At last night's Commissioners meeting Commissioner Robertson stated that he objected to the Planning Commission having this authority. If the Commissioners pass a resolution directing the Planning Commission to defer action while they ammend the ordinance, we'll regroup. If not, I submit the following approach for your consideration.

I outlined this approach to the town attorney, and he agreed that it is a reasonable way to proceed.

1. Planning Commission consult with the Critical Area Commission staff to see what action has been taken in similar circumstances.
2. Invite Mr. Urquhart to attend a PC meeting to provide any information he feels is relevant - to include his Buffer Management Plan (BMP) resulting from the MDP visit to his property on October 10, 2007. Other attendees should be: Mr. Hurley and the town attorney. I believe it is desirable for the Town Commissioners to be present, as well.
3. Planning Commission determine enforcement action. (These words have an onerous sound, but the action could be to implement the new BMP by a specific date.)

I checked with Mr. Hurley to be sure Mr. Urquhart had received notice of the violation, and he had. I then outlined the general approach described above to Mr. Urquhart, and we had a discussion in which he described the sequence of events from his point of view. From his description of events I believe it would be desirable for the owner of the Urquhart's landscaping company to appear at the meeting. (A week or so ago, the landscaper called me to describe the sequence of events that led to the violation notice and his role in them.)

In our discussion last night Mr. Urquhart asked that he be allowed to proceed with implementing his BMP before the planting season ends. That



sounds like a reasonable request and by cc of this note I request Mr. Hurley to advise us how to make that happen. (My assumption is that it requires MDP approval of the new BMP.)

Sincerely,

Don

Personally I wouldn't say that enforcement is 'onerous' as it happens all the time with critical area issues. But, that aside, I think that allowing Mr. Urquhart to get his plantings in before the end of the planting season is very desirable. I would caution that it would be very helpful if Roby could somehow determine with certainty which plantings went into the ground *after the violation notification and which ones were there before the homeowner was notified of the violation. Perhaps Roby already has a photograph of the 'before' conditions? If he does, then that would probably suffice.

Joe

Don

As we discussed, I concur with this course of action. At the request of the Town Commissioners, I am reviewing the possibility of making the enforcement change and will report to them on this.

You are correct that the new BMP must be approved before any action can be taken to implement it.

Tony

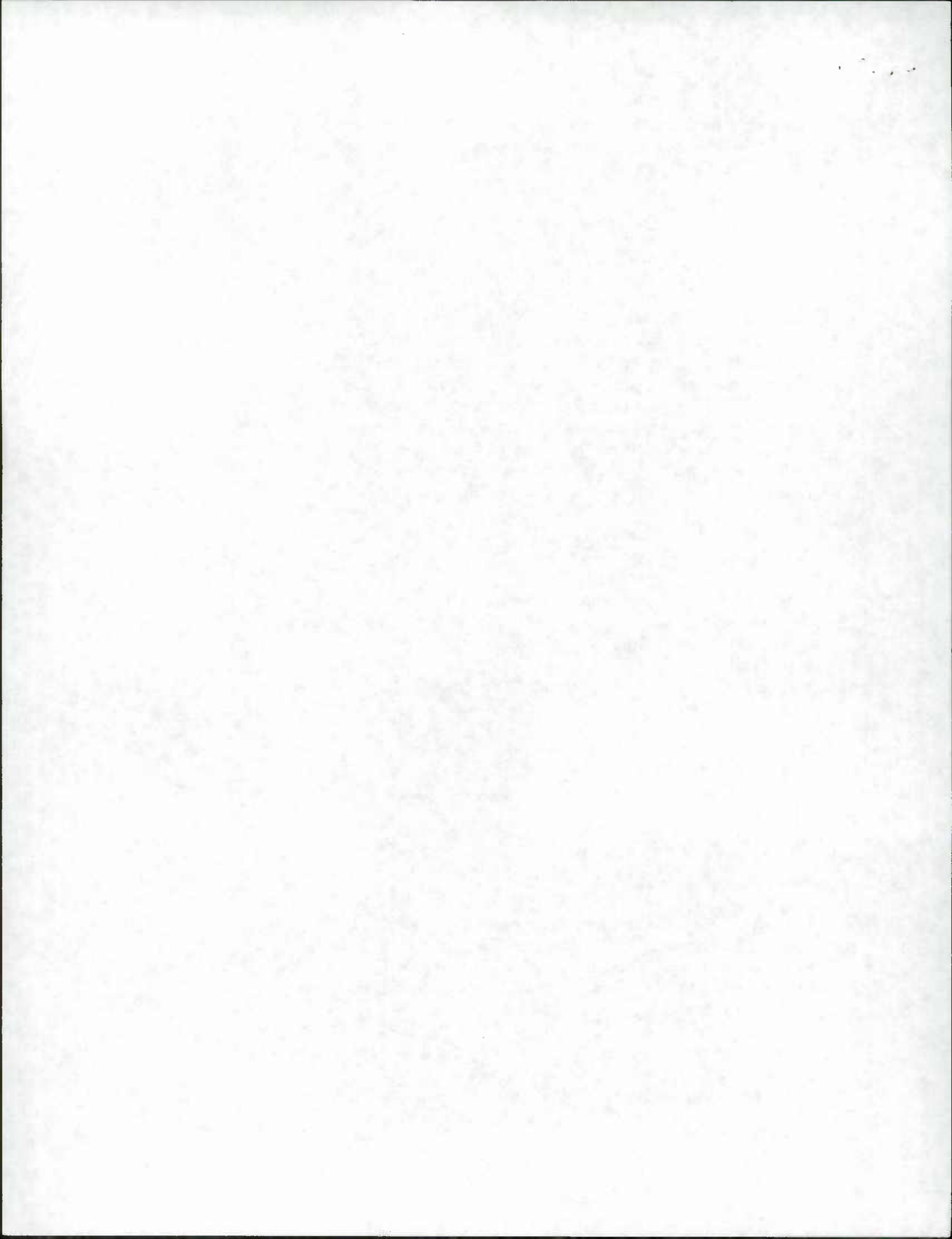
Anthony G. Gorski, Esquire

Hi Don and all,

Your proposed approach seems very reasonable.

Why are the Town Commissioners so upset with the roles and responsibilities currently outlined in the zoning ordinance? It seems to me that the Planning Commission would be willing to work with Town Commissioners to find a satisfying solution without requiring changes to the zoning ordinance.

The rapid development of events facilitated by the Town Commissioners and Tony Gorski raises concerns about how easily Town Commissioners are able to usurp responsibilities of the Planning Commission. My concern

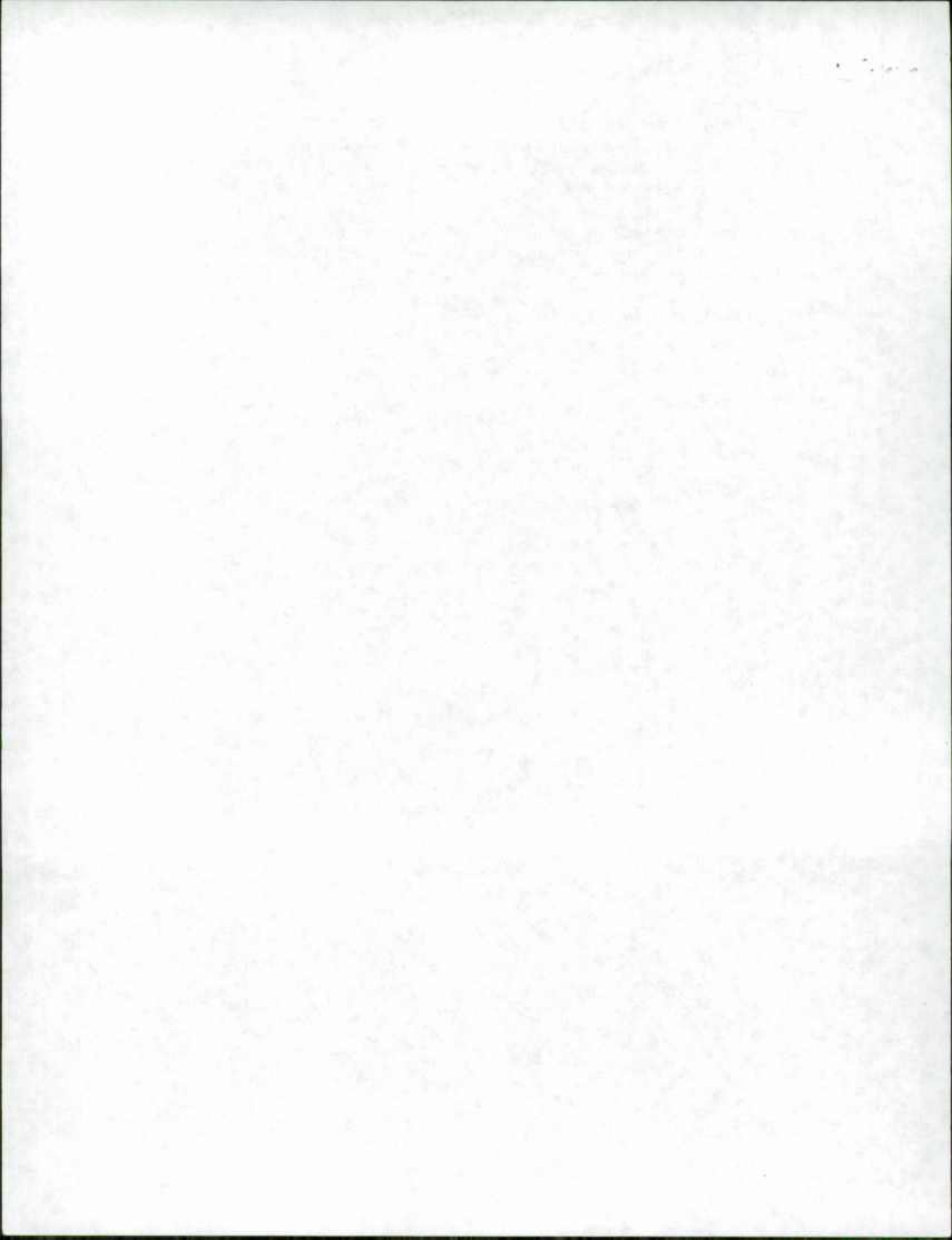


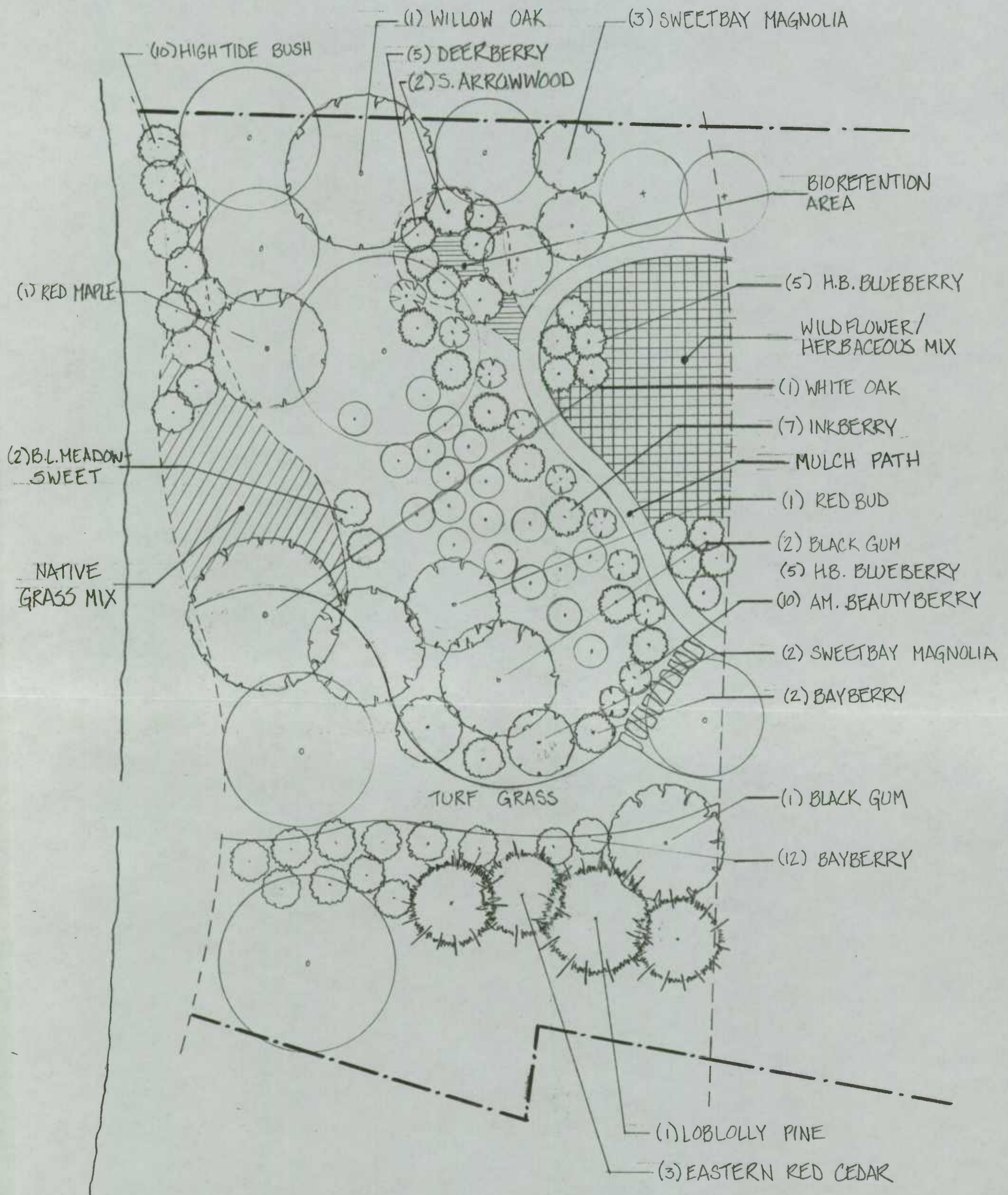
is not so much in regards to this particular situation (I really do not have a strong desire to be an enforcer), but more for the precedent this action sets. Is it right that the Town Commissioners can so quickly redirect roles and responsibilities?

Also, don't the issues that have arisen in regards to the Urquhart property demonstrate why the planning commission should be informed of building permit applications?

Many thanks for everyone's thoughts and effort.

Kathy

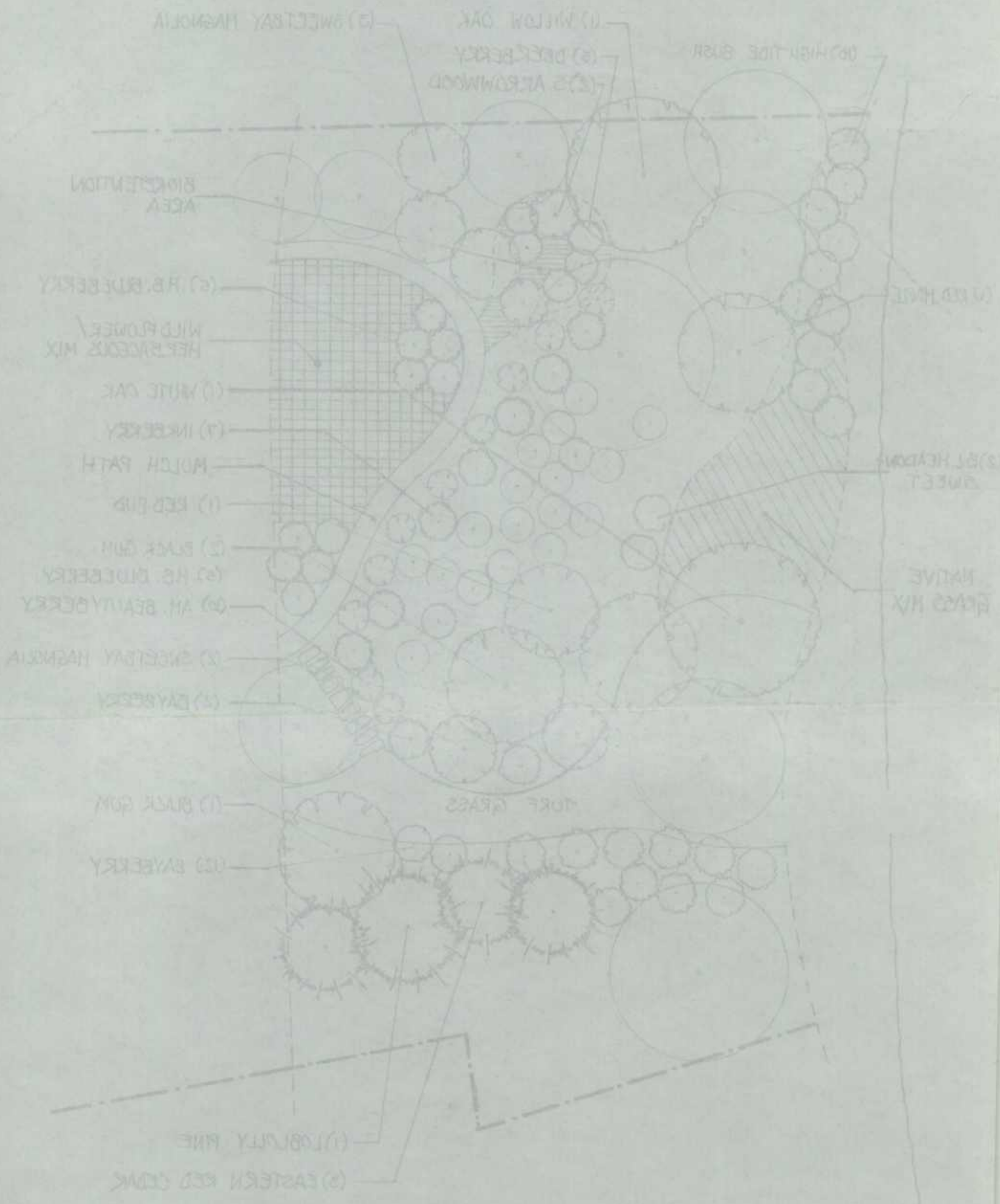




URQUHART BUFFER MANAGEMENT PLAN
SCALE: 1/16" = 1'-0"

URQUHART BUFFER MANAGEMENT PLAN

SCALE: 1/4" = 1'-0"



(1) PROPERTY LINE
(2) EASTERN RED CEDAR

(1) BURNING BERRY
(2) BURNING BERRY

(1) BLACK GUM
(2) BURNING BERRY

(1) DAY BERRY
(2) SWEETBAY HASKLIA

(1) AM. BURNING BERRY
(2) AM. BURNING BERRY

(1) BLACK GUM
(2) BURNING BERRY

(1) RED BUD
(2) IN BERRY

(1) WILD FLOWER
(2) HERBACEOUS MIX

(1) RED BUD BERRY
(2) WILLOW OAK

(1) SWEETBAY HASKLIA
(2) WILLOW OAK

(1) HIGH TIDE GRASS
(2) DECK BERRY
(3) SWEETBAY HASKLIA

(1) RED BUD

(1) SWEETBAY HASKLIA
(2) HIGH TIDE GRASS

(1) NATIVE
(2) GRASS MIX

**Buffer Management Plan
220 Old Wharf Lane
Queenstown, Maryland**

This Buffer Management Plan supersedes all other Buffer Management Plans, landscape plans, or site plans for the property identified as 220 Old Wharf Lane.

Existing Trees and Shrubs

1. All existing trees and shrubs on the property as of August 12, 2008 shall remain, except the owners have indicated that they may desire to remove two existing non-native evergreen trees in the 100-foot Buffer, one near the northern property line, and the other near the southern property line. If these 6' – 8' trees are removed, they will be replaced with two trees (native species) of approximately the same size in approximately the same locations.
2. Dead limbs and branches can be removed from existing trees and shrubs using hand tools.
3. Pruning of trees and shrubs is permitted, but cannot exceed 10 percent of the existing canopy (for trees) and overall vegetative structure (for shrubs) at any one time. (For example, on a 30" shrub, no more than 3" should be pruned.) All pruning will be done with hand tools.

Required Planting

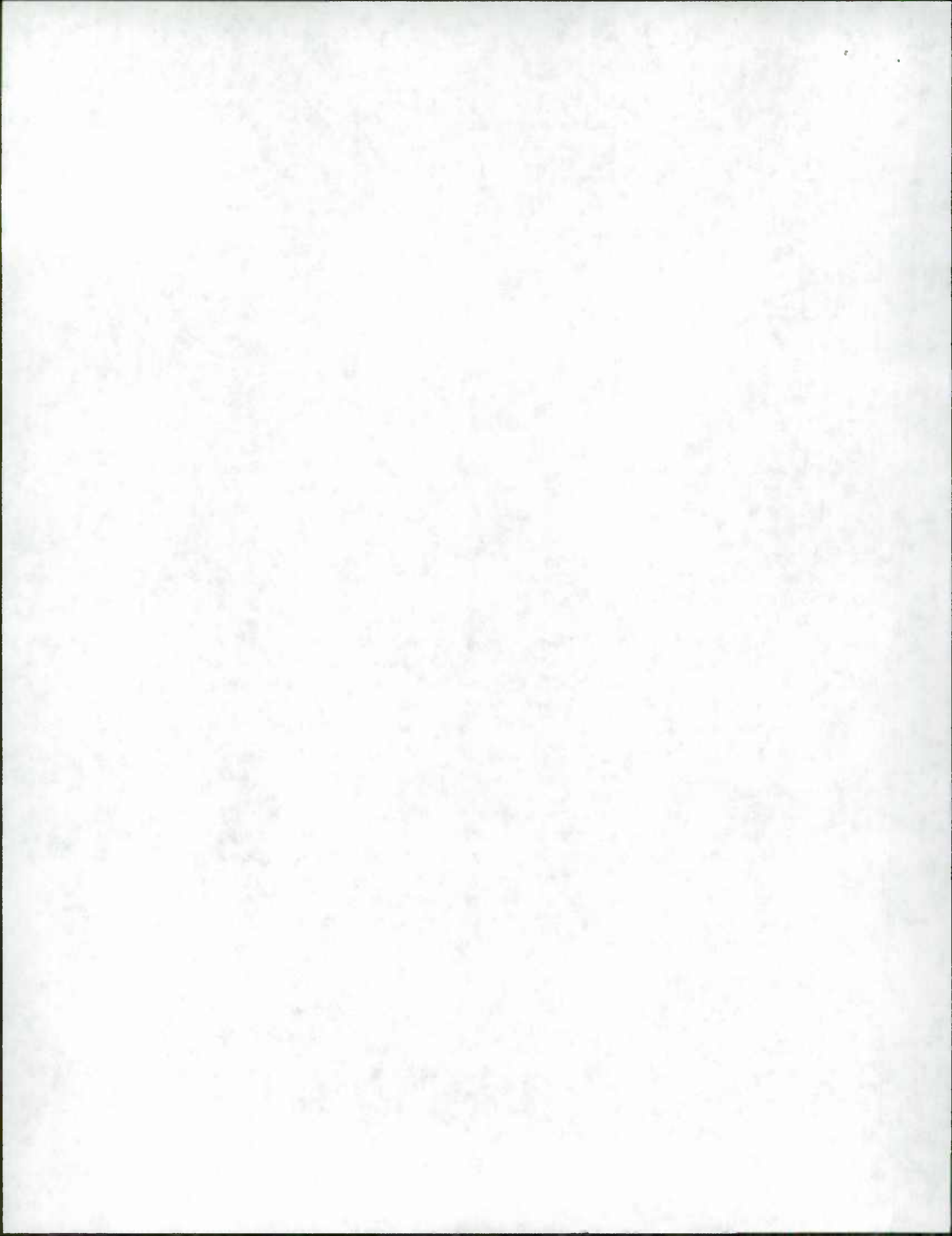
4. Three (3) new canopy trees (native species) will be planted in the 100-foot Buffer on the northern side of the property.
5. A natural meadow area, consisting of native grasses and perennial wildflowers in a mulched bed and approximately 1,200 square feet in size has been planted adjacent to the two patios on the water side of the house west of the house and shall be maintained as a meadow area. This area will be maintained by hand weeding and mulching, and it is anticipated that the grasses and wildflowers will eventually fill in and provide excellent warm season grass/meadow habitat.

Optional Planting

6. Additional trees, shrubs, grasses, wildflowers, etc, may be planted by the property owners at their discretion and without further modification to or amendment of this Buffer Management Plan as long as there is no grading, excavation, or modification of existing topography. Site preparation work associated with any planting, including digging holes or roto-tilling the soil is permitted; however, no soil disturbance should take place until the plants are on the site and ready to be installed. Areas of disturbed soil should be mulched or stabilized as may be necessary to prevent erosion.

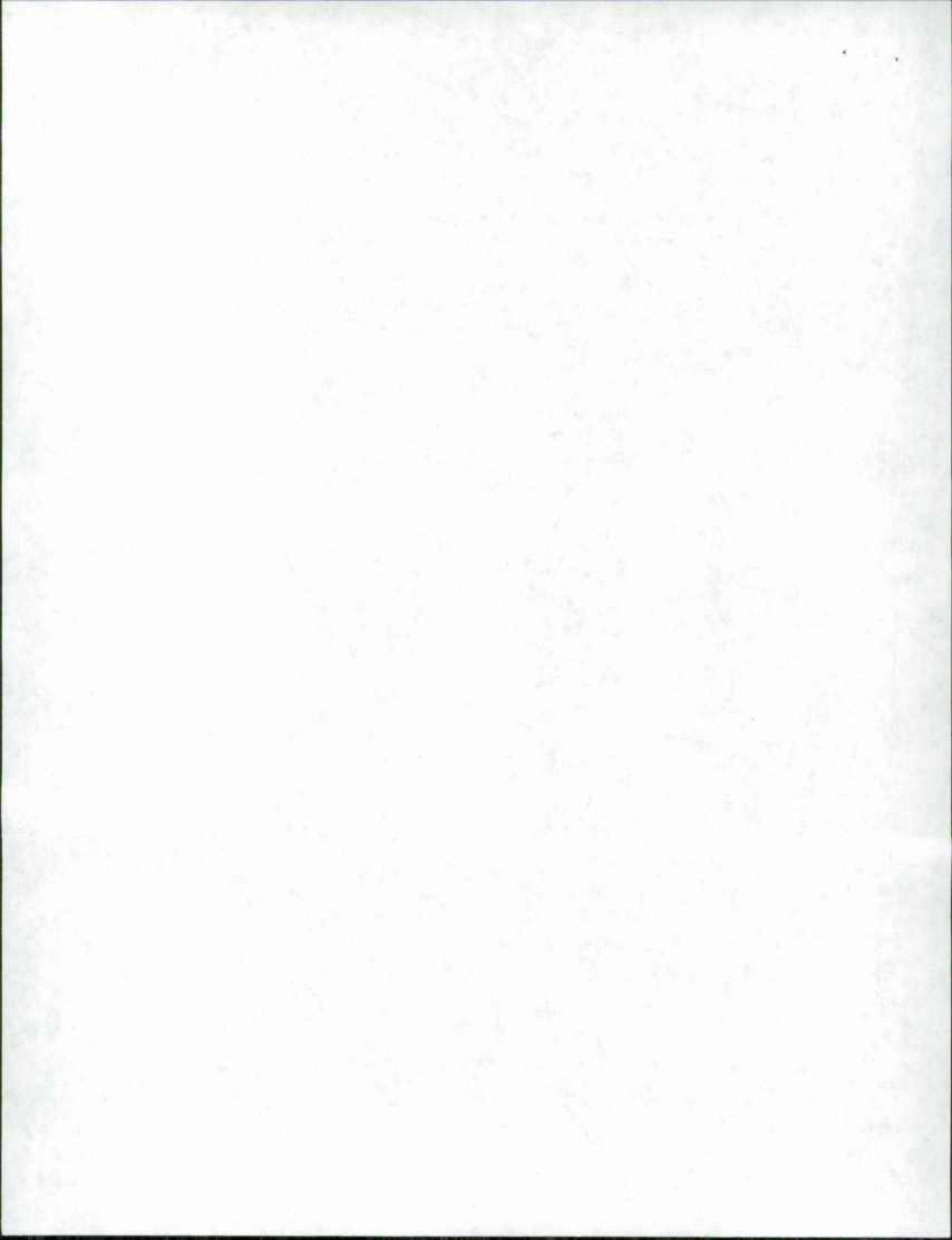
Mowing

7. An historically mowed lawn area, generally consisting of turf grass and approximately 1,500 square feet in area exists adjacent to the pier on the southern side of the property and extends to the stone stairs. This area is maintained as a lawn area and mowed regularly during the growing season. No fertilizers, pesticides, or herbicides are applied in this area. Regular



mowing of this area may continue, and no fertilizers, herbicides, or pesticides will be applied unless this Plan is officially amended.

8. Extending from the historically mowed lawn area is a mowed path, generally consisting of turf grass (with some gravel and shell remnants from a prior access) and approximately 5' wide extending along the shoreline. This 5' wide path will be mowed regularly during the growing season to provide access to the planted/naturalized slope in the northern and central portion of the Buffer. Regular mowing of this area may continue, and no fertilizers, herbicides, or pesticides will be applied unless this Plan is officially amended. This area may be mulched.
9. Adjacent to the historically mowed lawn area and parallel to the shoreline is a natural meadow area, approximately 500 square feet and roughly triangular in shape. This area is naturalizing with native grasses and wildflowers. This area may be mowed two times per year, once in the spring prior to April 15 and once in the fall after September 15.



October 10, 2008

Ms. Amy Moore
Town of Queenstown
P.O. Box 4
Queenstown, Maryland 21658

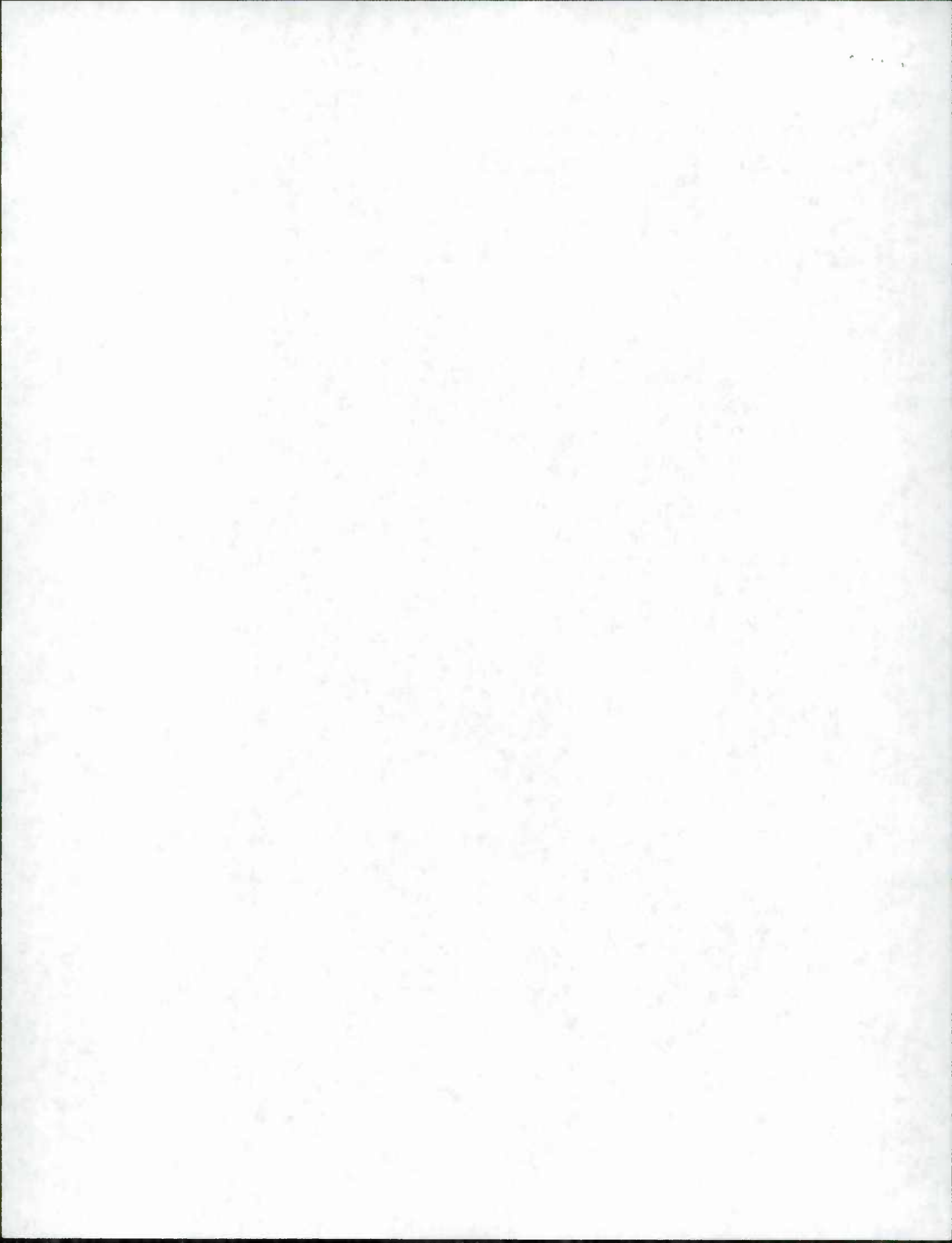
**RE: James Urquhart Buffer Management Plan
220 Old Wharf Lane
Queenstown, Maryland
QT 79-08**

Dear Ms. Moore:

I am writing to follow up on the referenced Buffer Management Plan following my site visit to the property on Tuesday, August 12, 2008. I met with Mr. and Mrs. Urquhart, the current owners of the property, and Drew Vetter from the Governor's Office was also present. Following lengthy discussion about the prior Buffer Management Plans, existing vegetation, proposed vegetation, maintenance, and the confusion about the various development activities on the property, I believe that the issues of concern were satisfactorily resolved. The following summarizes the agreements reached during the site visit.

The attached Buffer Management Plan will supersede all other Buffer Management Plans and/or landscape plans that have been prepared for this property, including the "O'Brien Buffer Management Plan," the "Brickman Plan," and the "Walsh Landscape Architecture Plan."

Based on my inspection of the property, the dry-stack wall and the portion of the deck west of the house, that were constructed within the 100-foot Buffer, have been removed. The stone steps (approximately 4' wide by 20' long) that provide access to the pier are in place, are permitted to remain, and the area around them has been stabilized and restored with native grasses and perennials. Mitigation and restoration plantings in accordance with the attached Buffer Management Plan have been planted or will be planted by November 30, 2008.



Ms. Moore
October 10, 2008
Page 2

Based on my conversation with you, it is my understanding that the pier was constructed with all of the required authorizations and was placed on the southern side of the property in accordance with recommendations from the Maryland Department of the Environment.

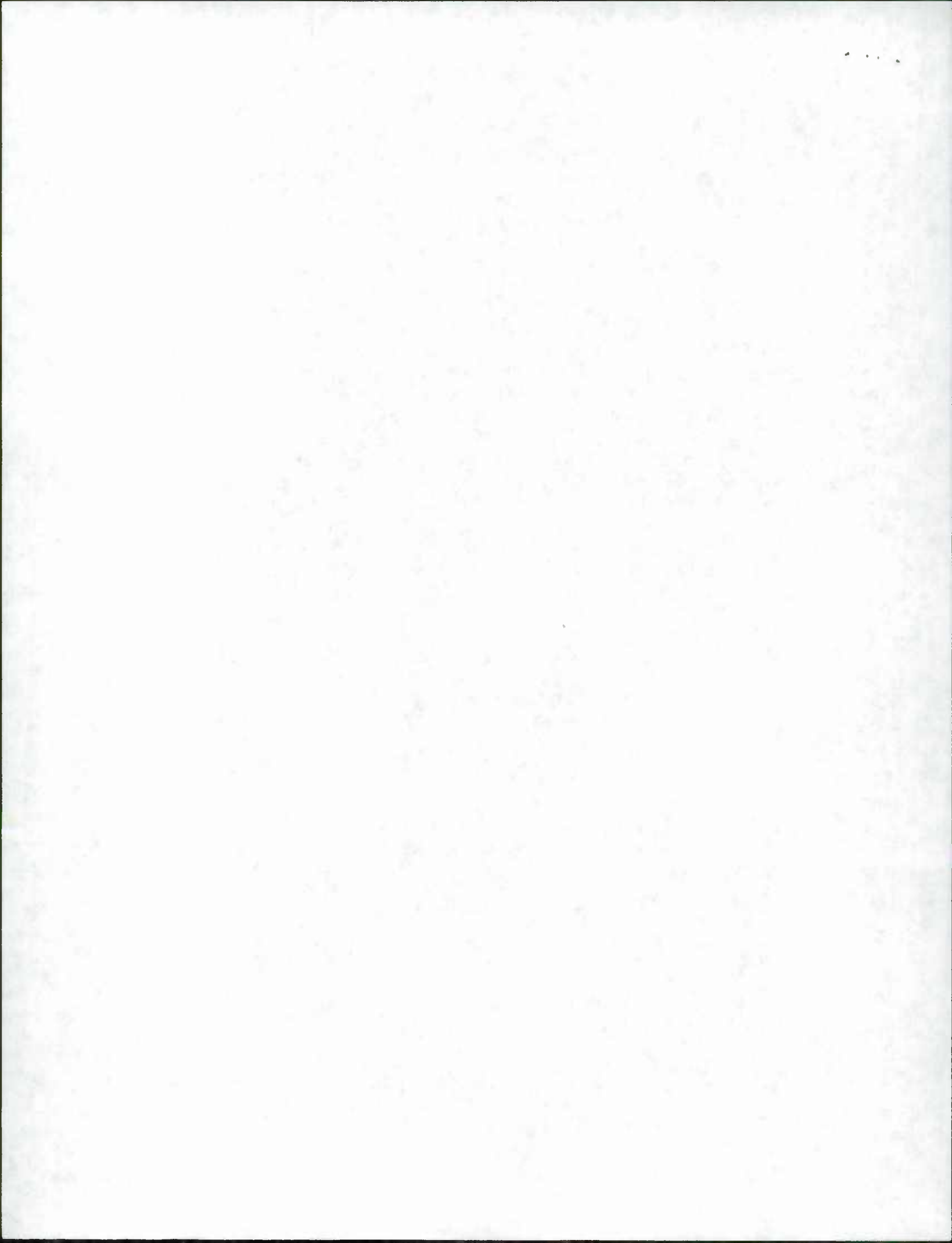
As you are aware, it is often difficult to ensure that the 100-foot Buffer maintains its habitat and water quality functions when the adjacent land is developed for residential use. This situation becomes even more difficult when surrounding properties on which development pre-dated the implementation of the Critical Area Program are able to maintain a manicured lawn within the 100-foot Buffer. As we have discussed, regardless of whether a property was developed before or after implementation of the Critical Area Program, clearing, cutting, bush-hogging, and removal of vegetation within the 100-foot Buffer is prohibited. The exceptions are mowing an existing lawn or activities implemented in accordance with an approved Buffer Management Plan.

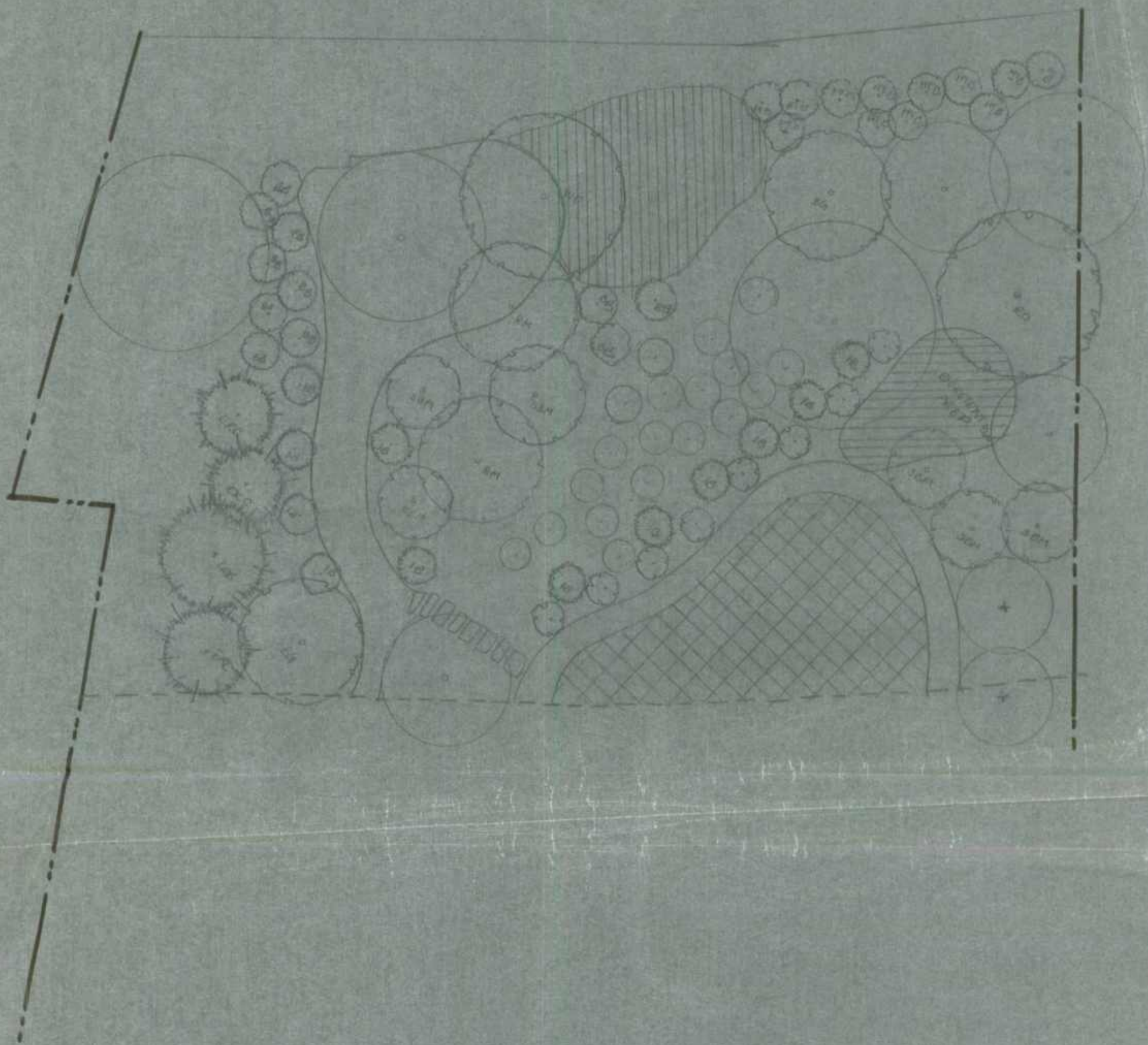
During the site visit, I discussed with the Urquharts that any activities that are not specifically addressed in the attached Buffer Management Plan will require an amendment to the Plan and potentially a more detailed design. I believe that they understand the scope and intent of the plan as proposed. This letter authorizes the Urquharts to move forward with the implementation of the Buffer Management Plan as described. If you have any questions or need any additional information, please call me at (410) 260-3480.

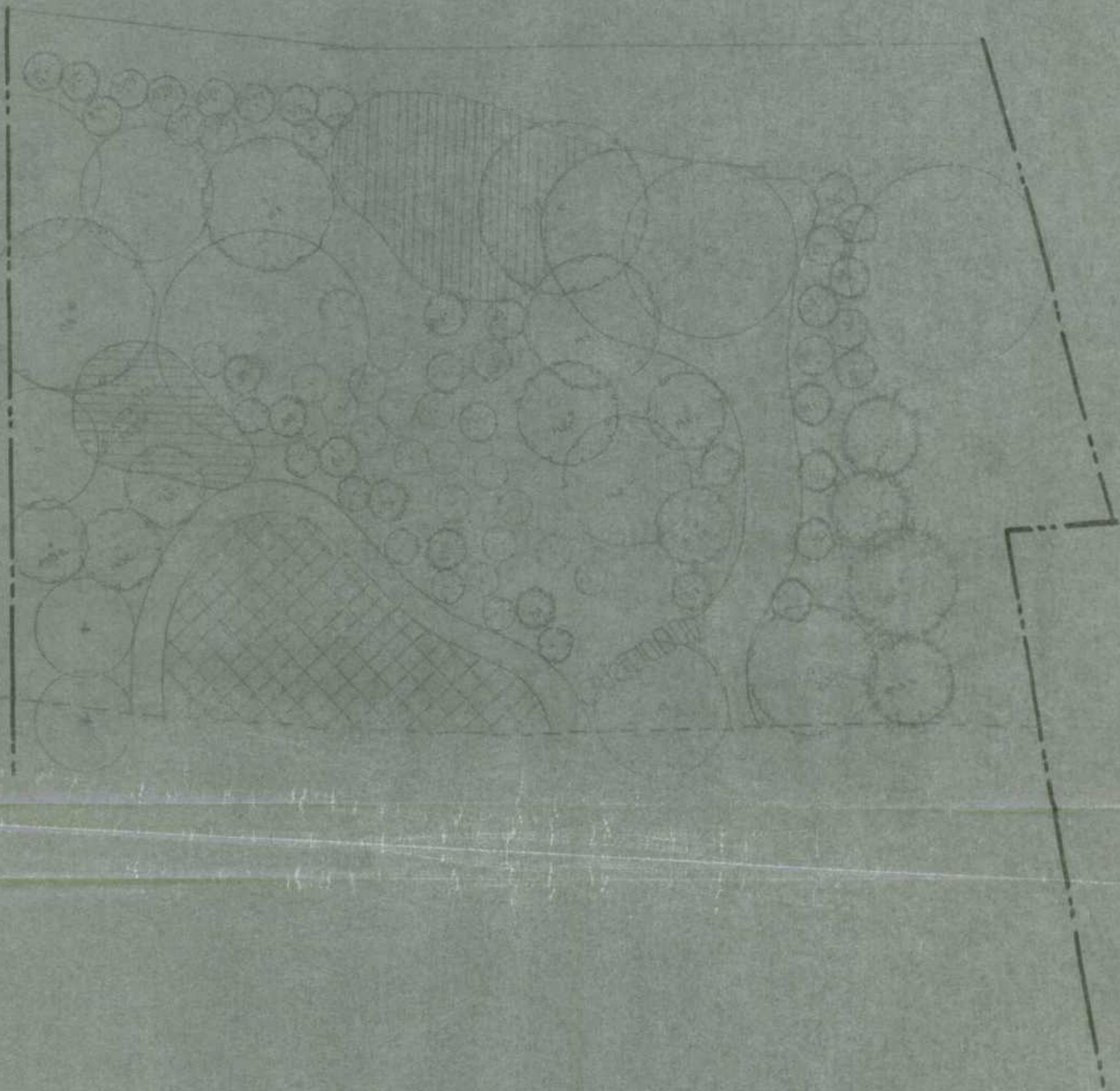
Sincerely,

Mary R. Owens
Education and Conservation Coordinator

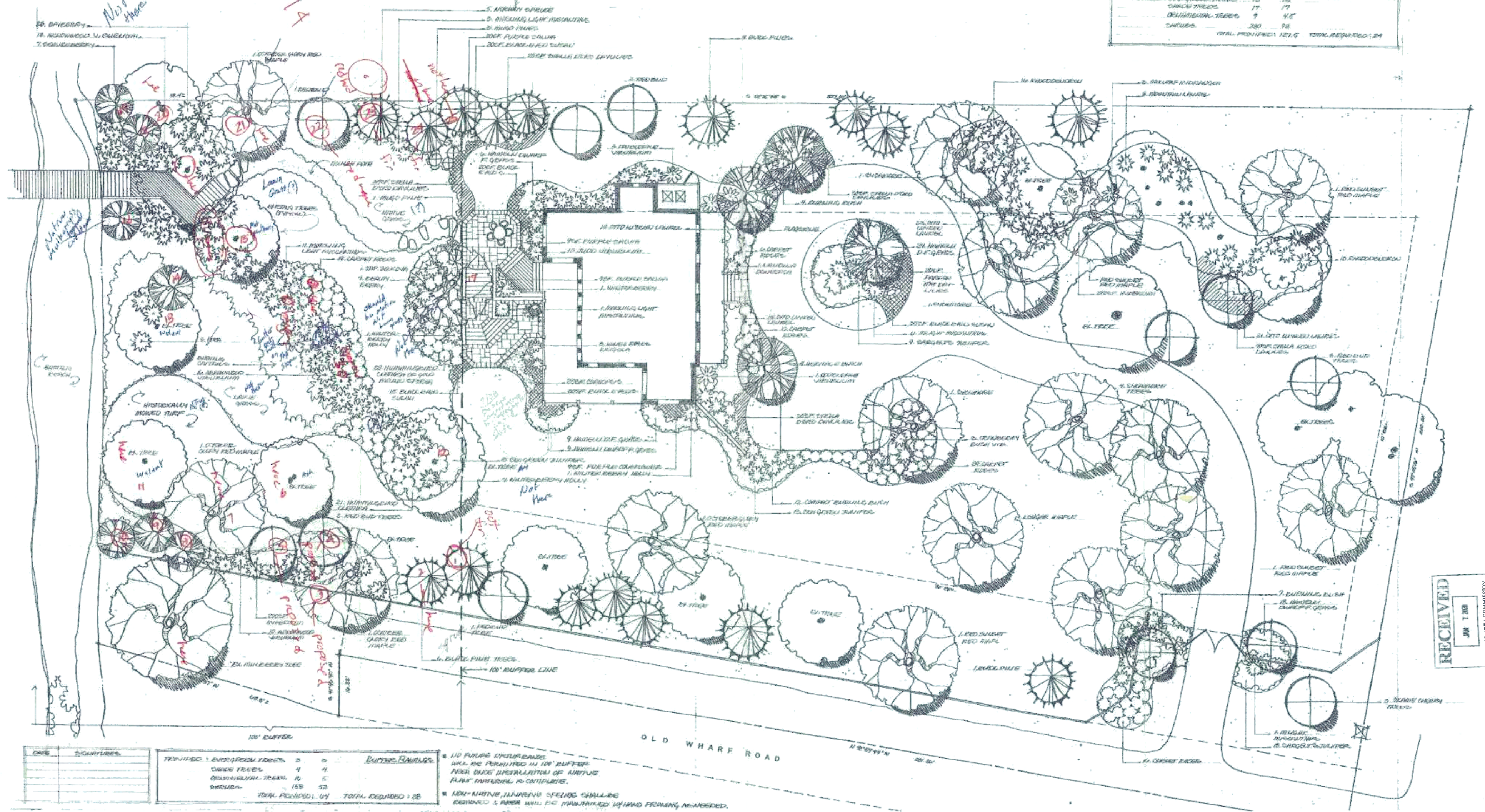
cc: Marianne Dise, OAG
Tony Gorski, Gorski and Associates
Joseph Miller, Queenstown Planning Commission
Don Regenhardt, Queenstown Planning Commission







PROVIDED		UPWARD PLANNING	
EVERGREEN TREES	18	18	
SHADE TREES	17	17	
ORNAMENTAL TREES	9	45	
SHRUBS	280	95	
TOTAL PROVIDED: 1215		TOTAL REQUIRED: 29	



DATE	SIGNATURES

PROVIDED		UPWARD PLANNING	
EVERGREEN TREES	2	2	
SHADE TREES	4	4	
ORNAMENTAL TREES	10	5	
SHRUBS	155	53	
TOTAL PROVIDED: 171		TOTAL REQUIRED: 28	

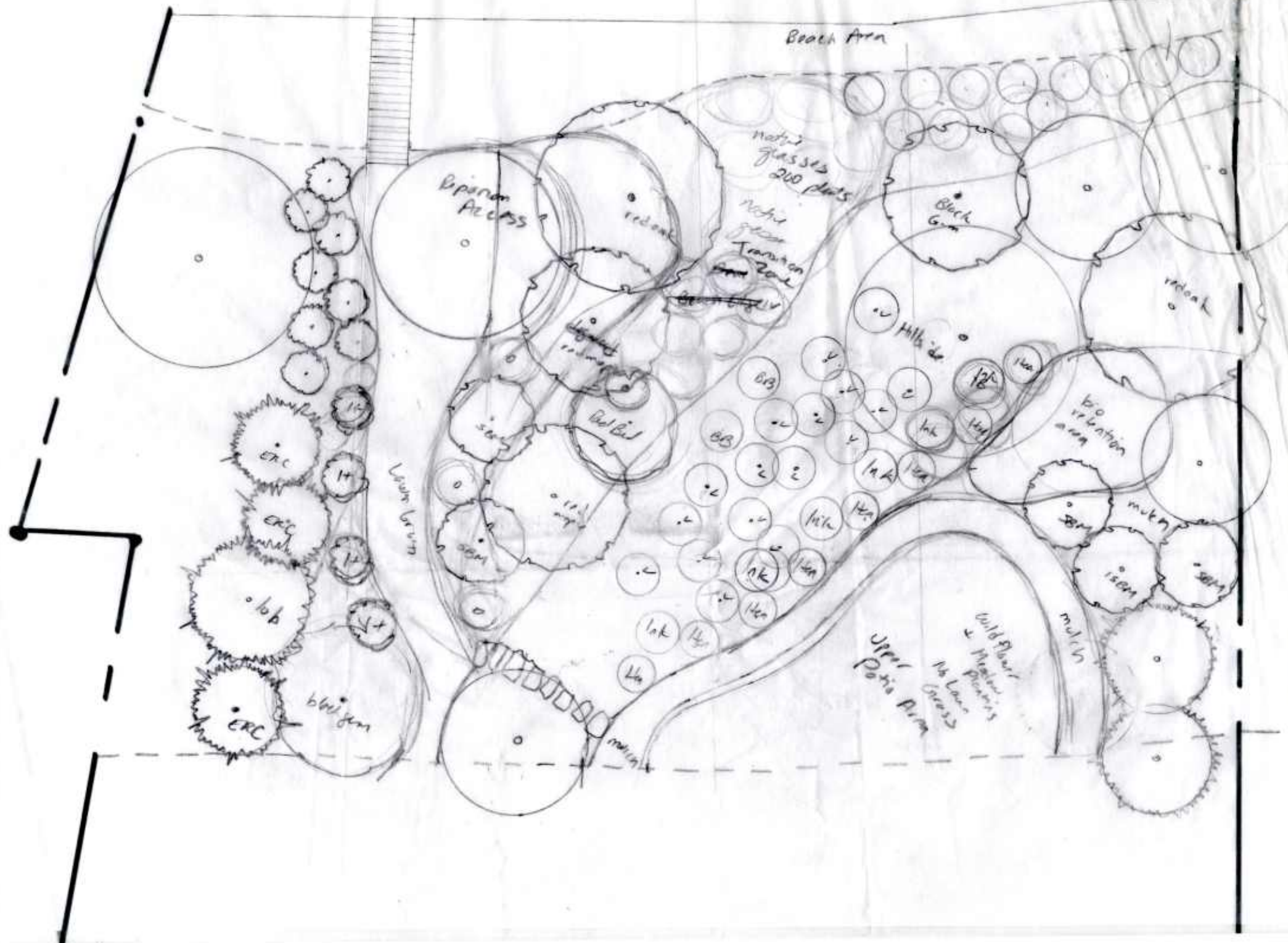
NO FUTURE DISTURBANCE WILL BE PERMITTED IN 100' BUFFER NEAR EXISTING INSTALLATION OF NATIVE PLANT MATERIAL TO CONTIGUOUS.

NON-NATIVE, INVASIVE SPECIES SHALL BE REMOVED & AREA WILL BE MAINTAINED UPWARD PLANNING AS NEEDED.

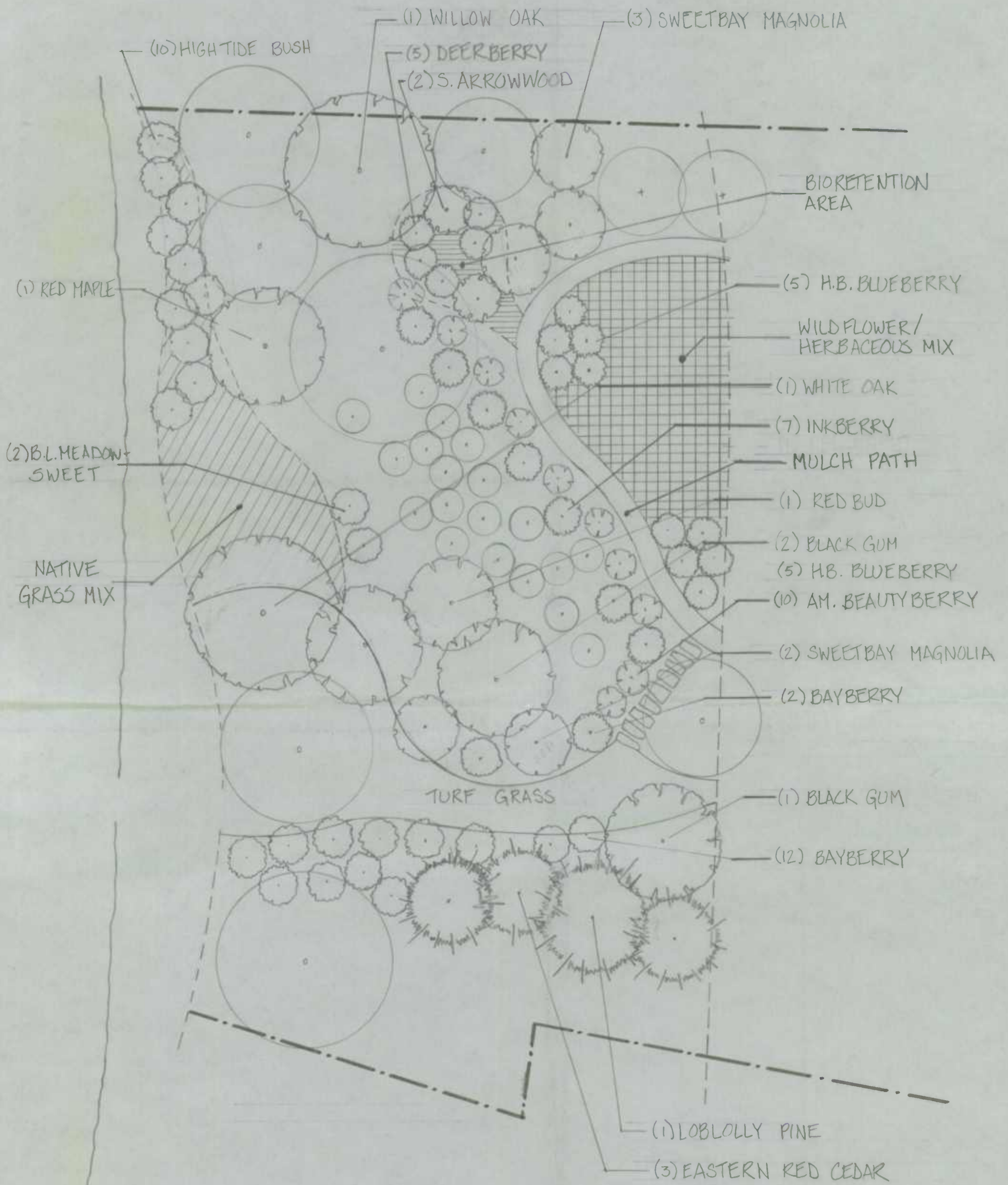
RECEIVED
JAN 1 2008
CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

magical
2015

the line
rethink

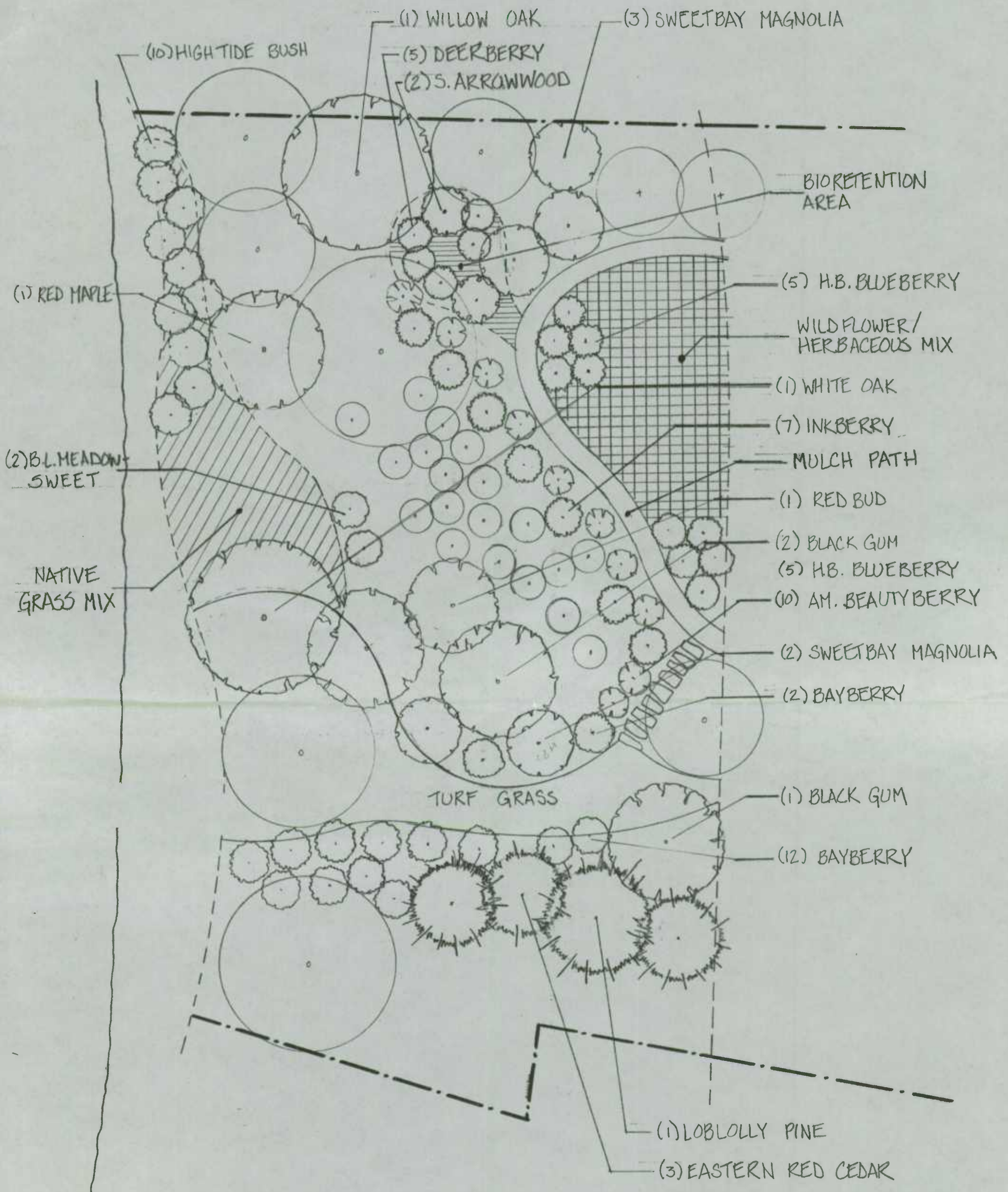






URQUHART BUFFER MANAGEMENT PLAN

SCALE: 1/16" = 1'-0"

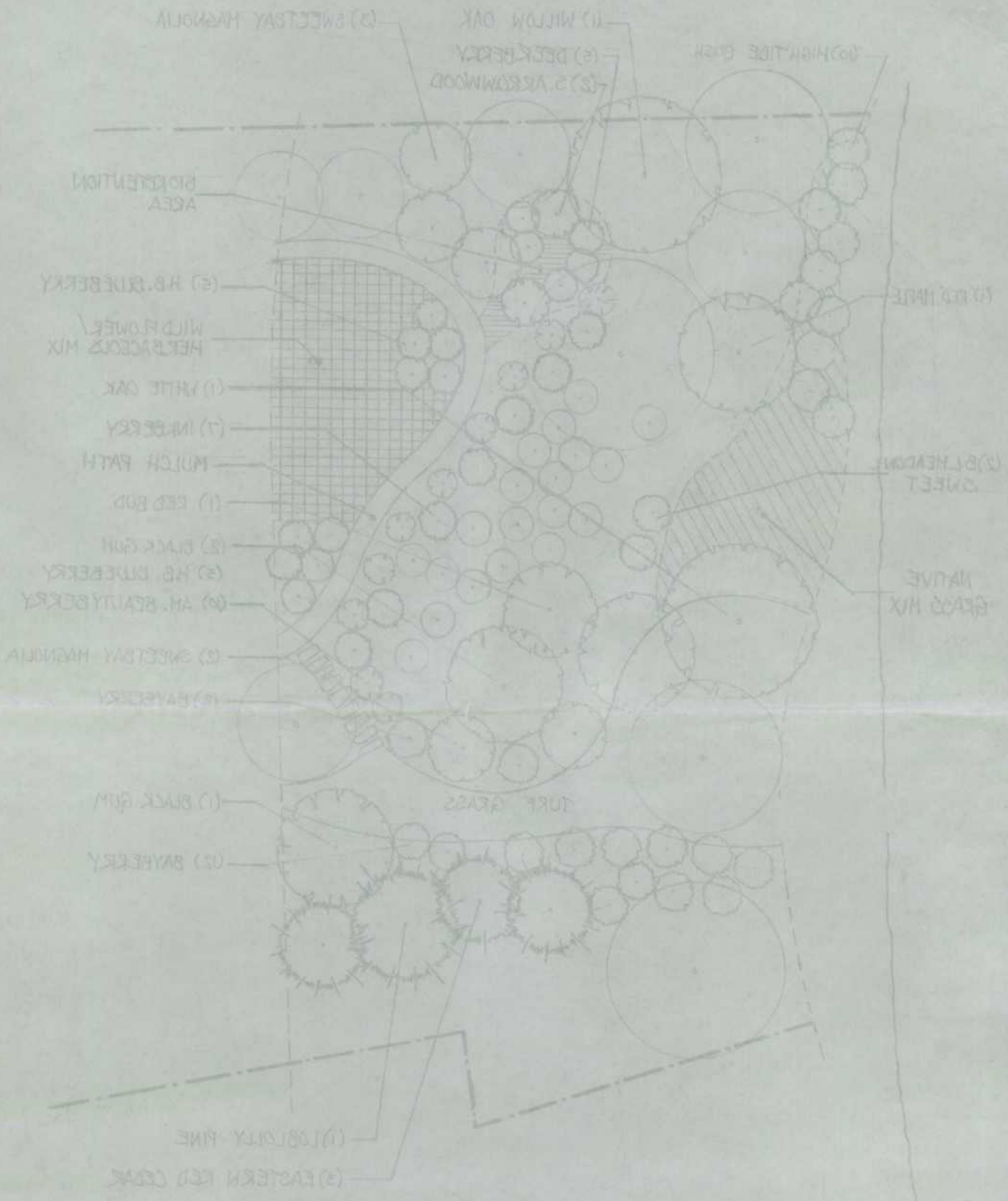


URQUHART BUFFER MANAGEMENT PLAN

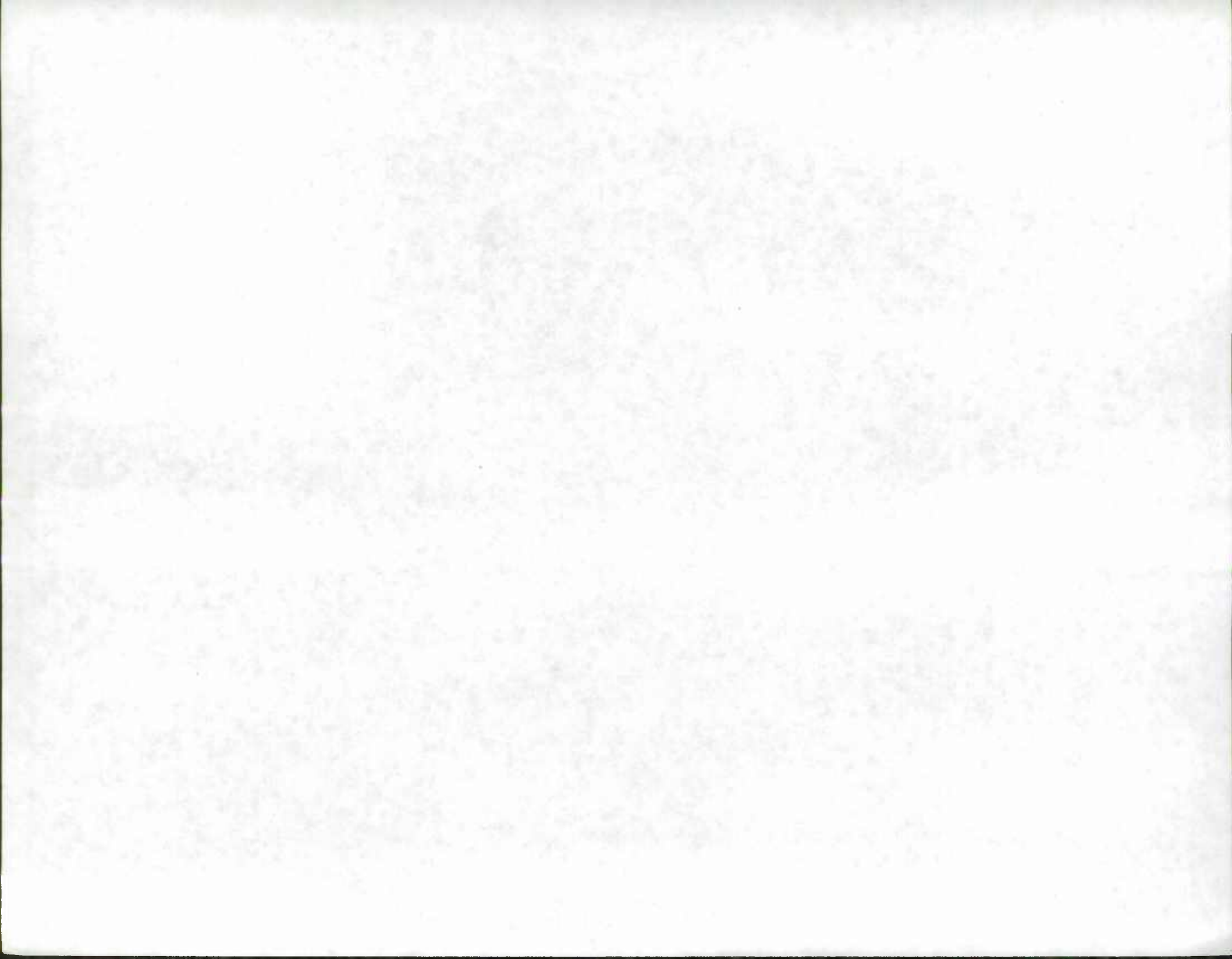
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URQUHART BUFFER MANAGEMENT PLAN

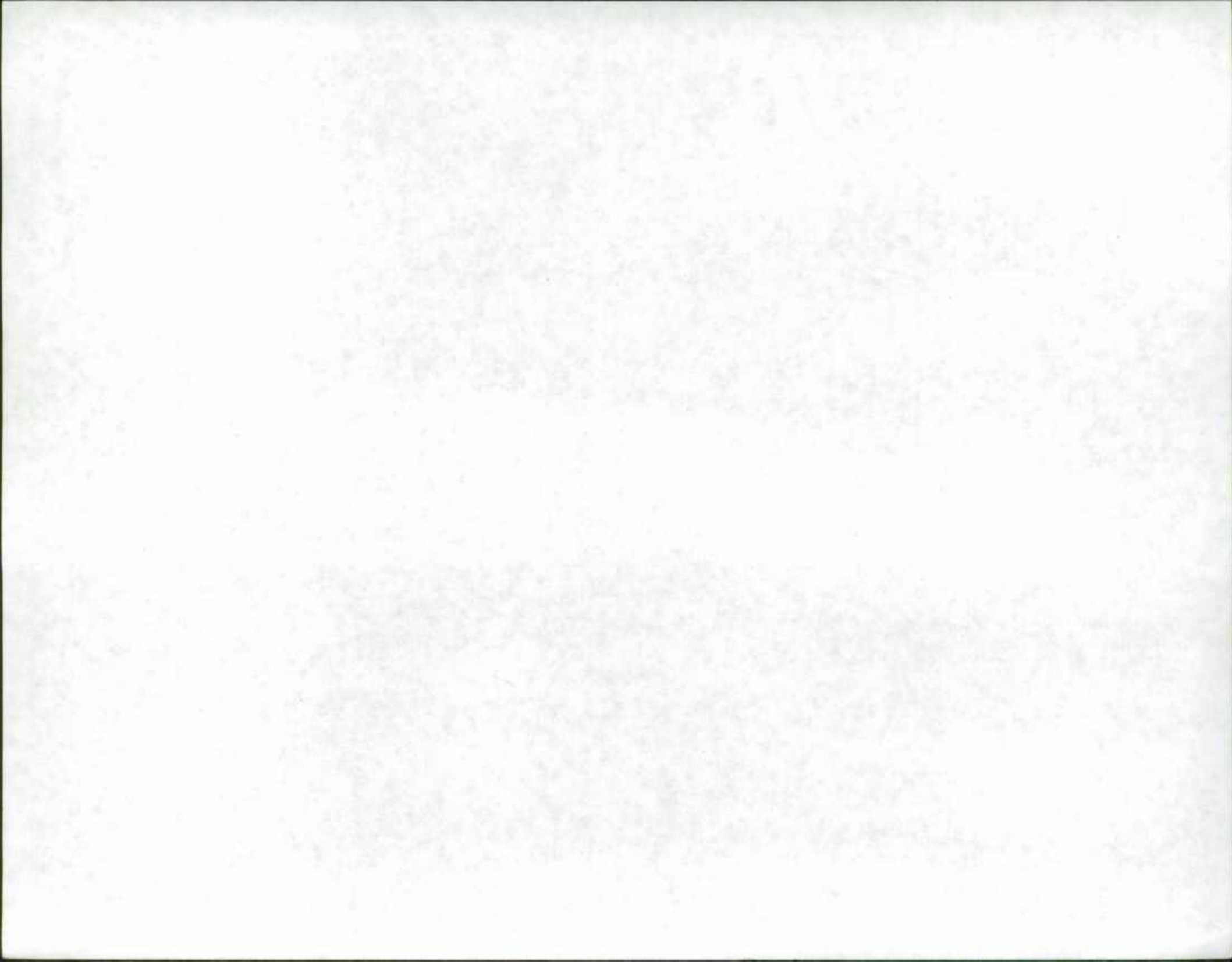
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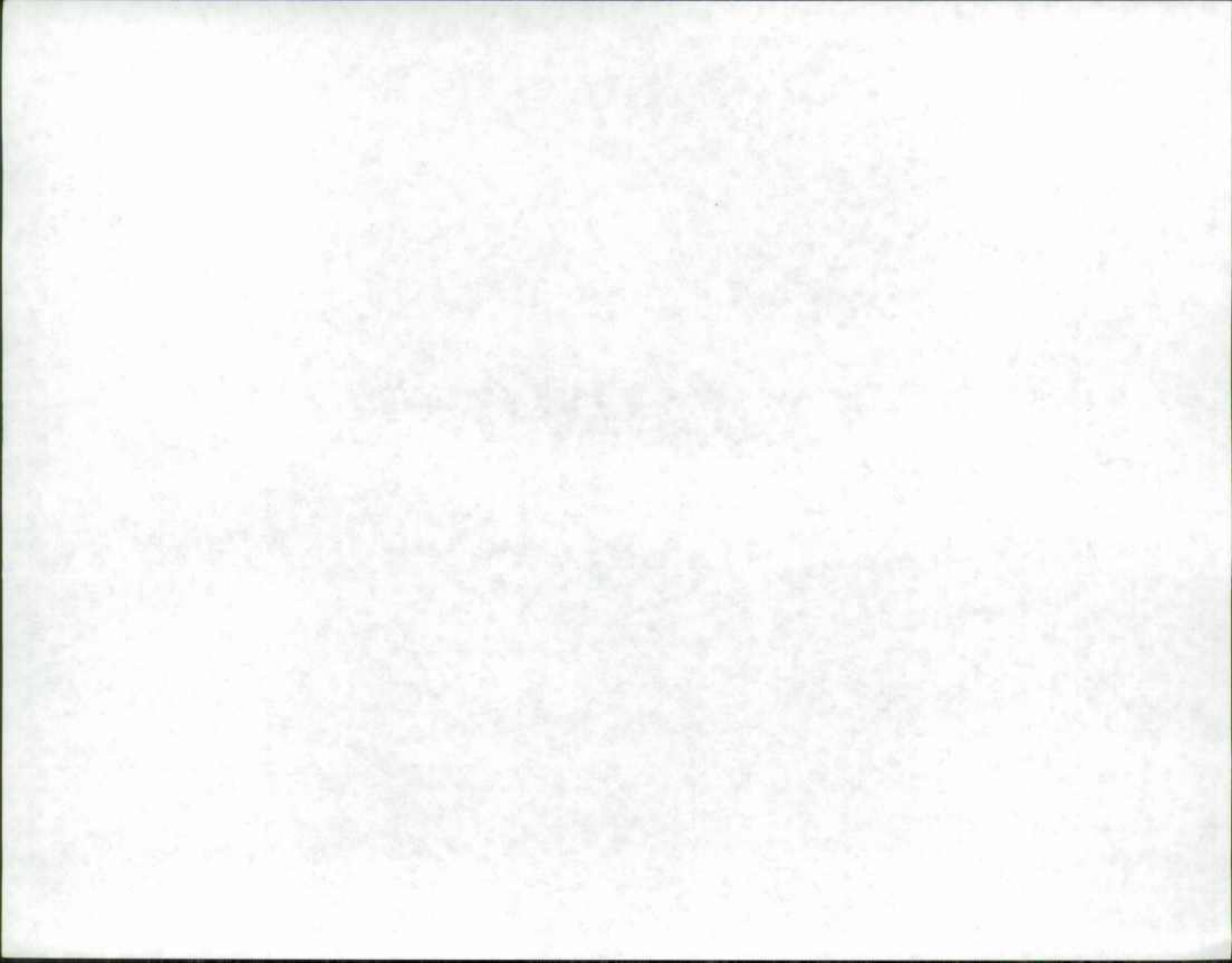




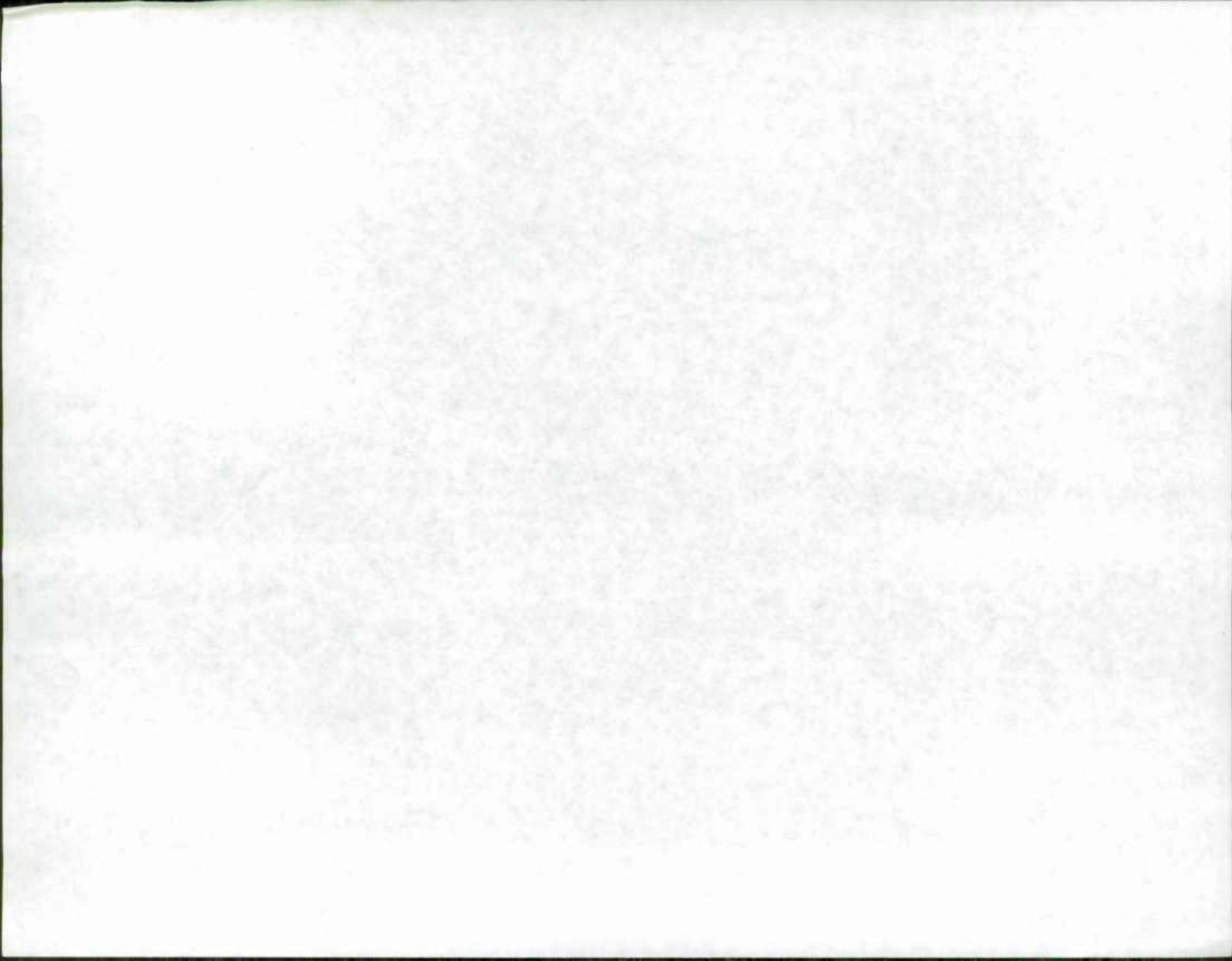




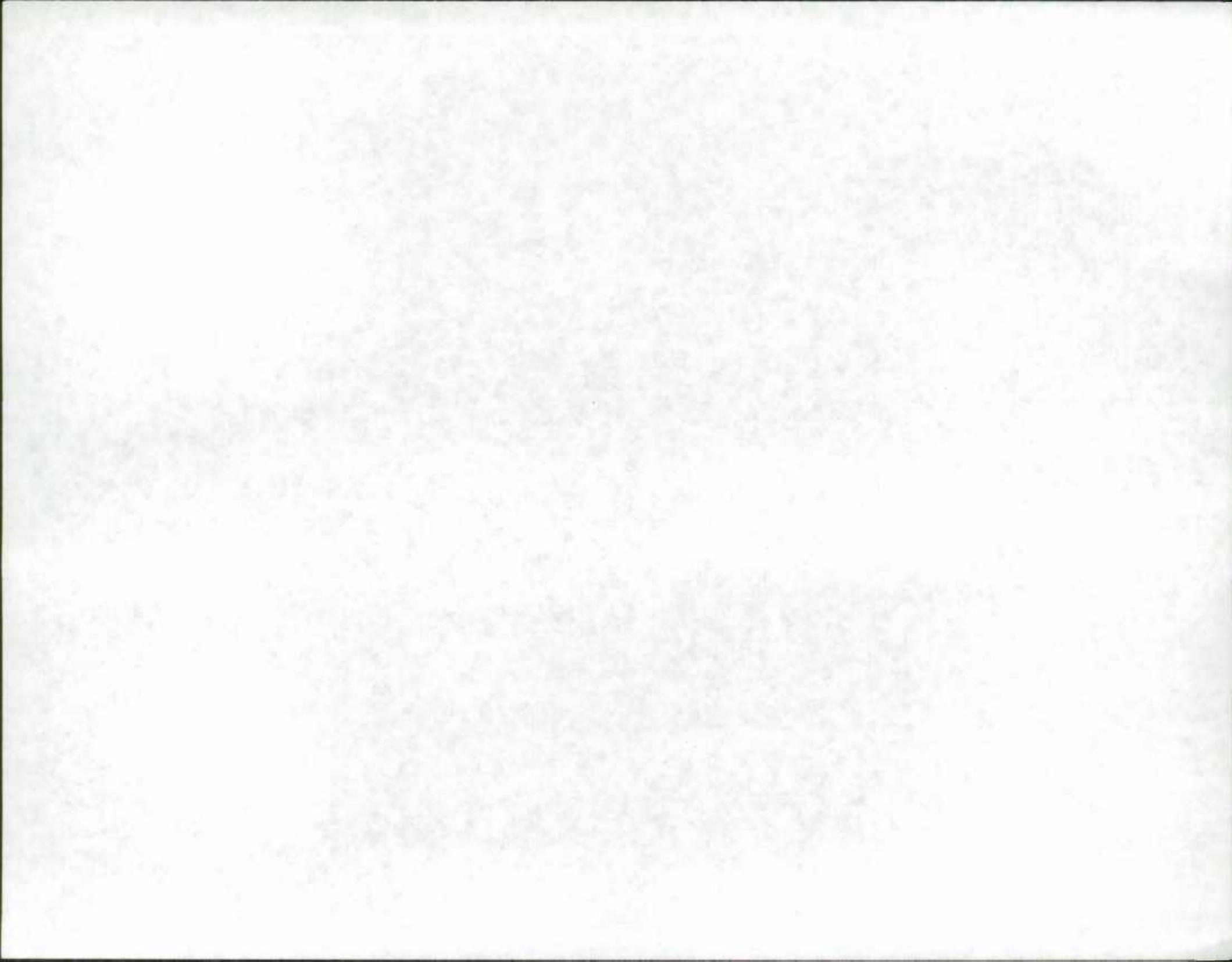




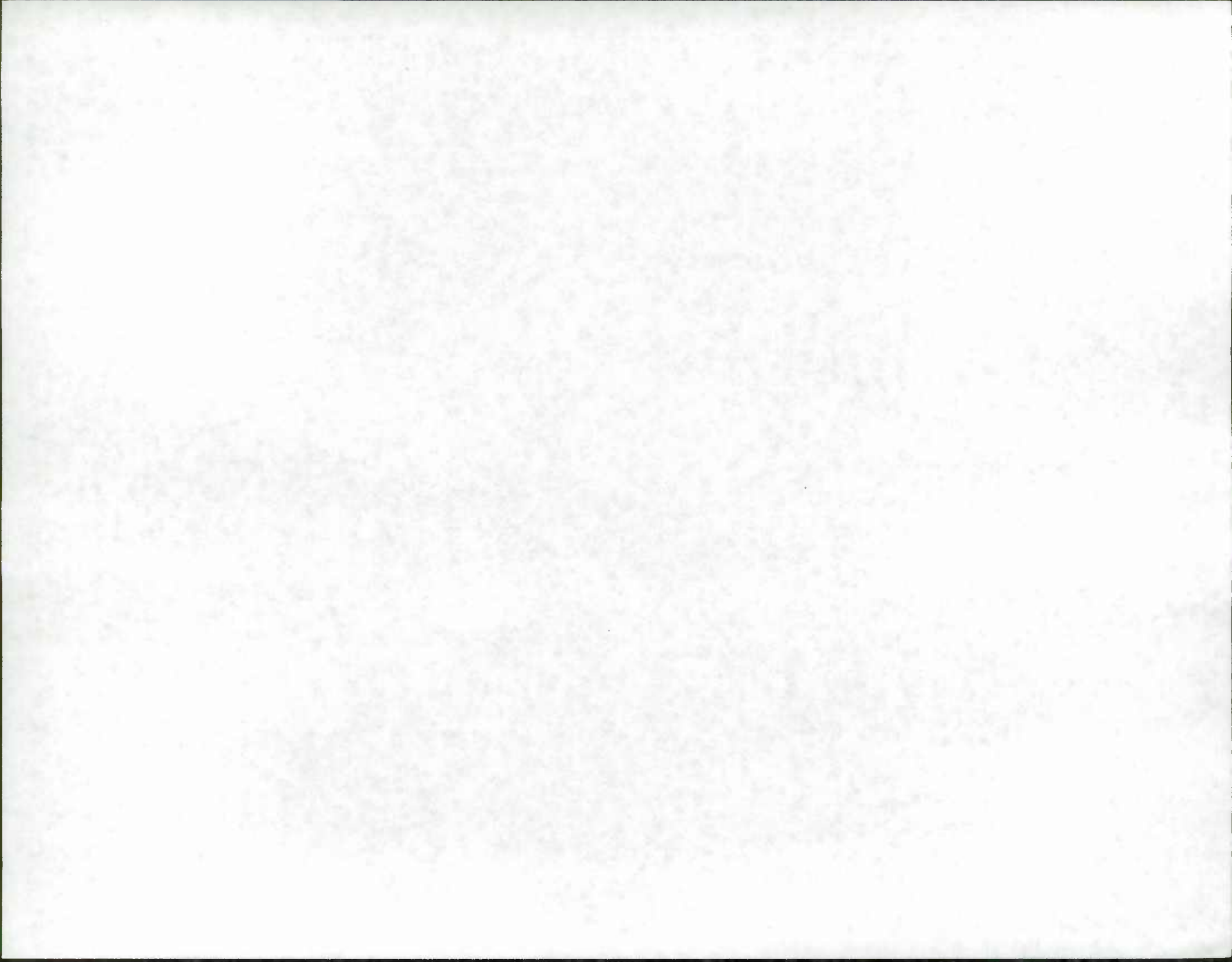




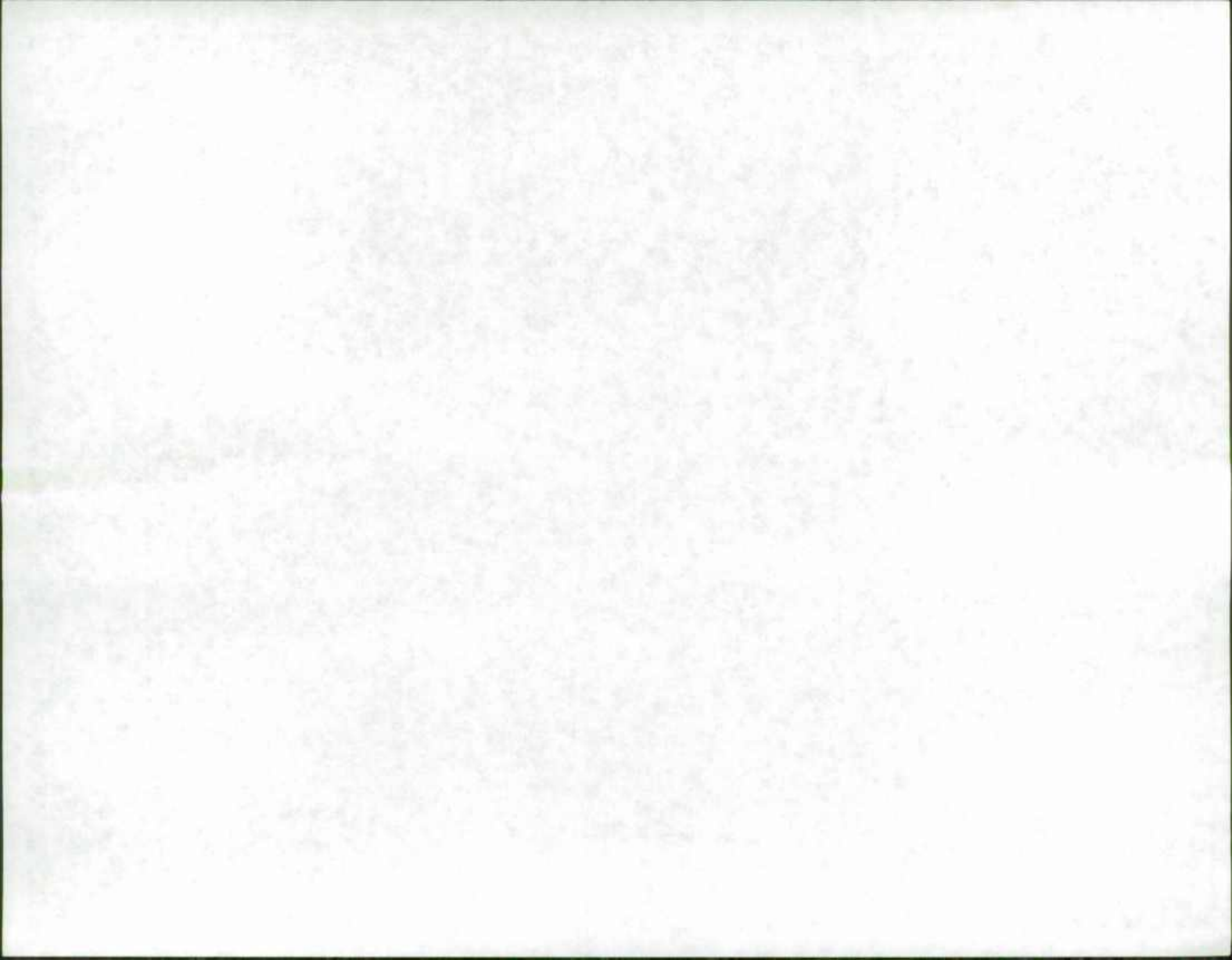




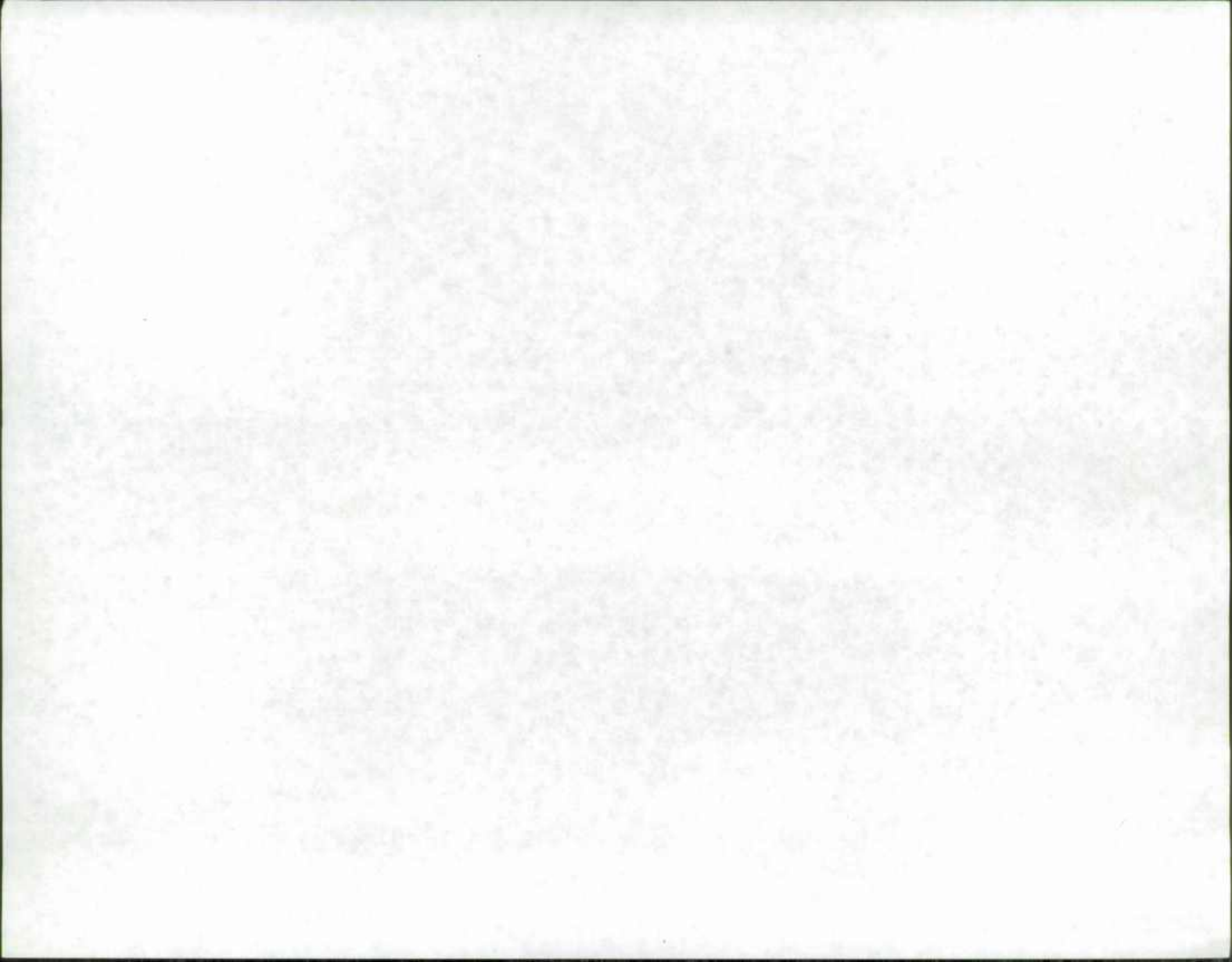




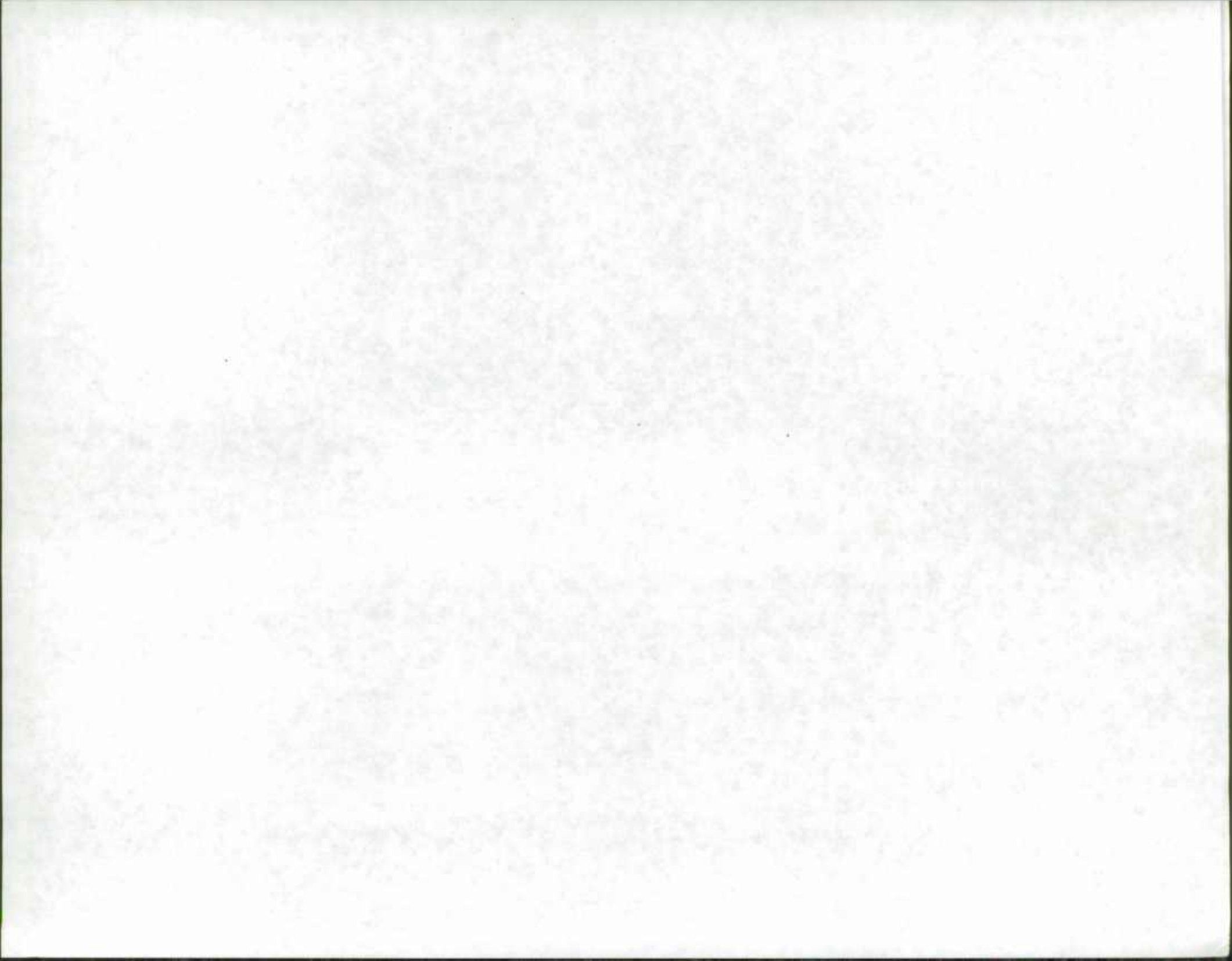




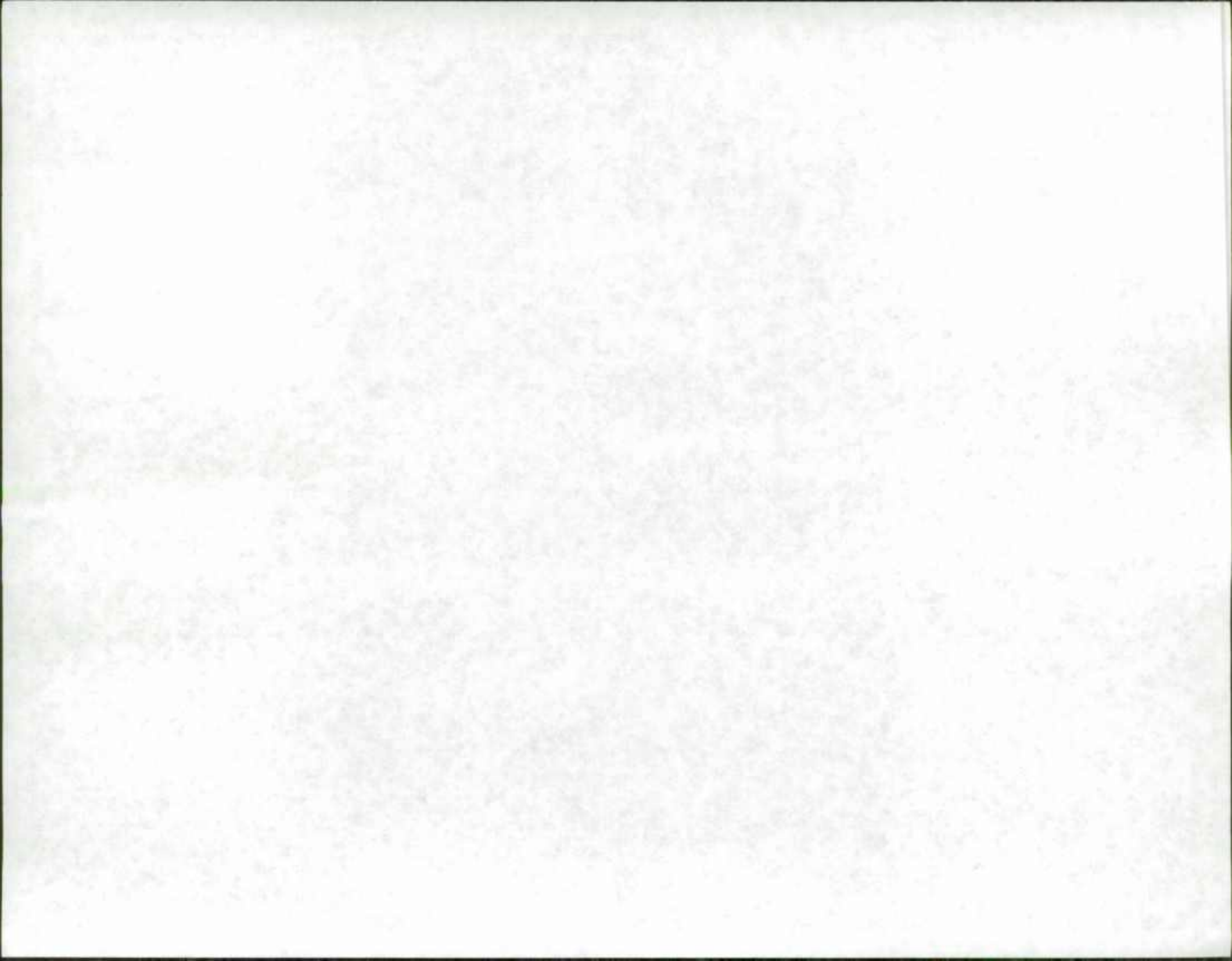




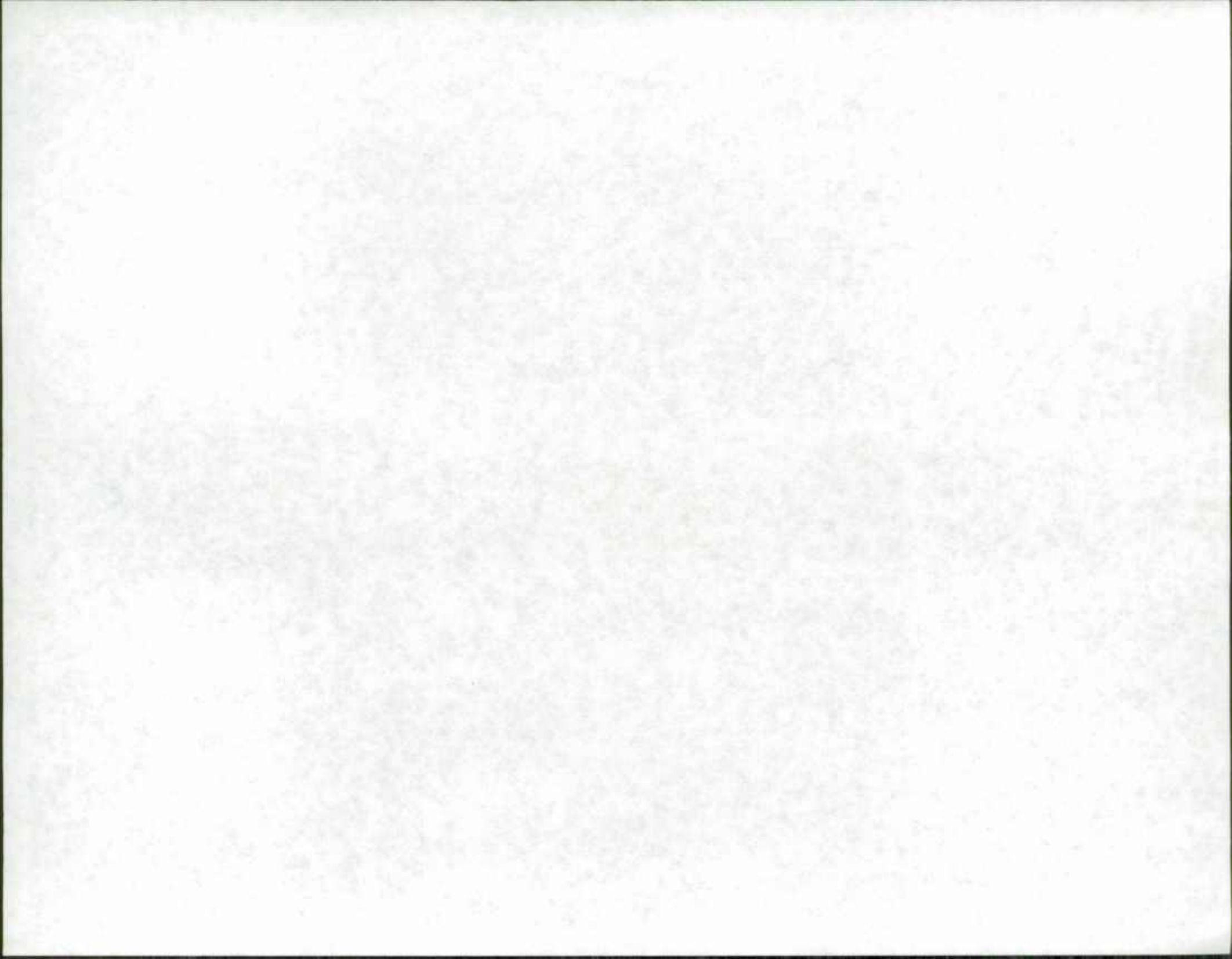




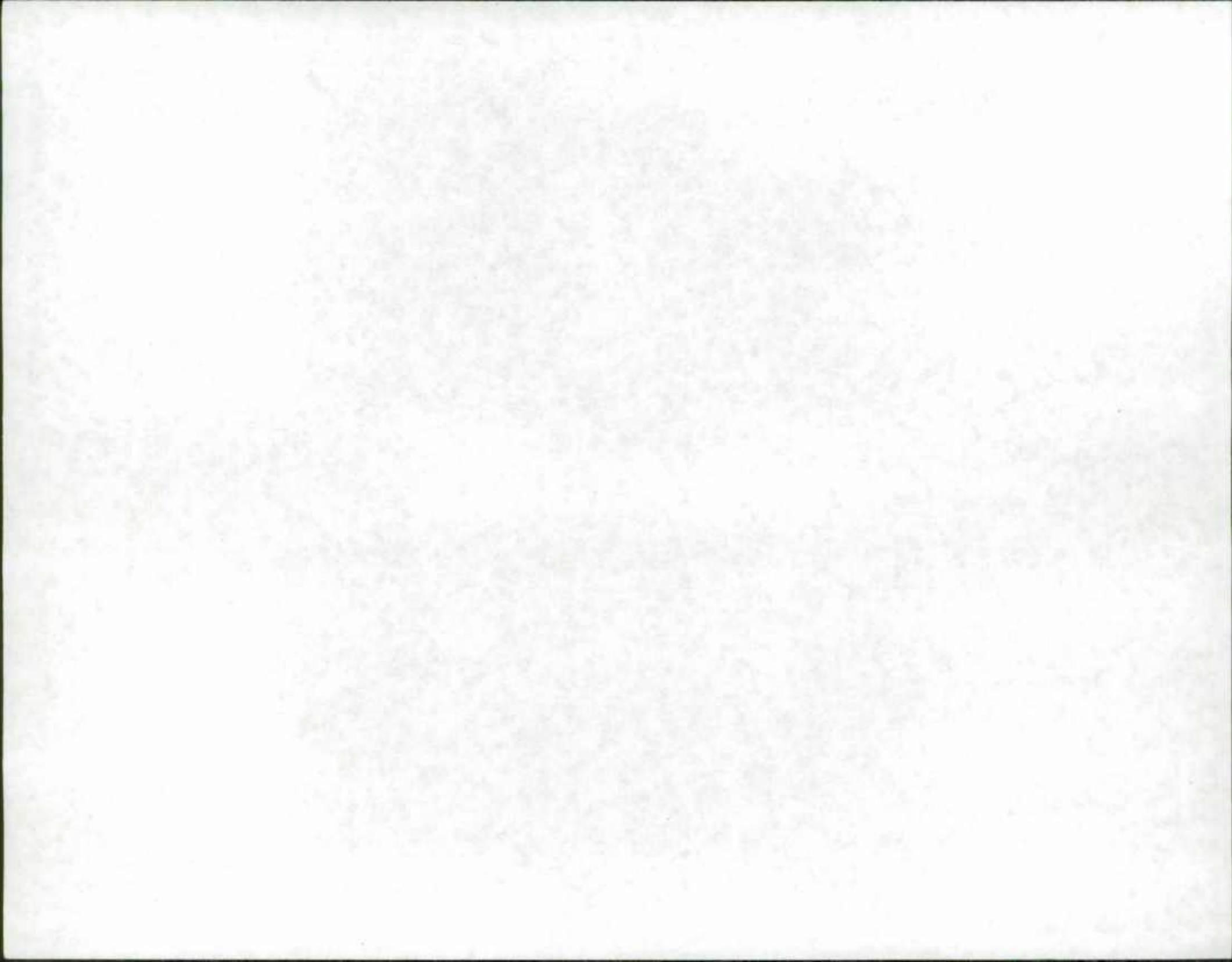




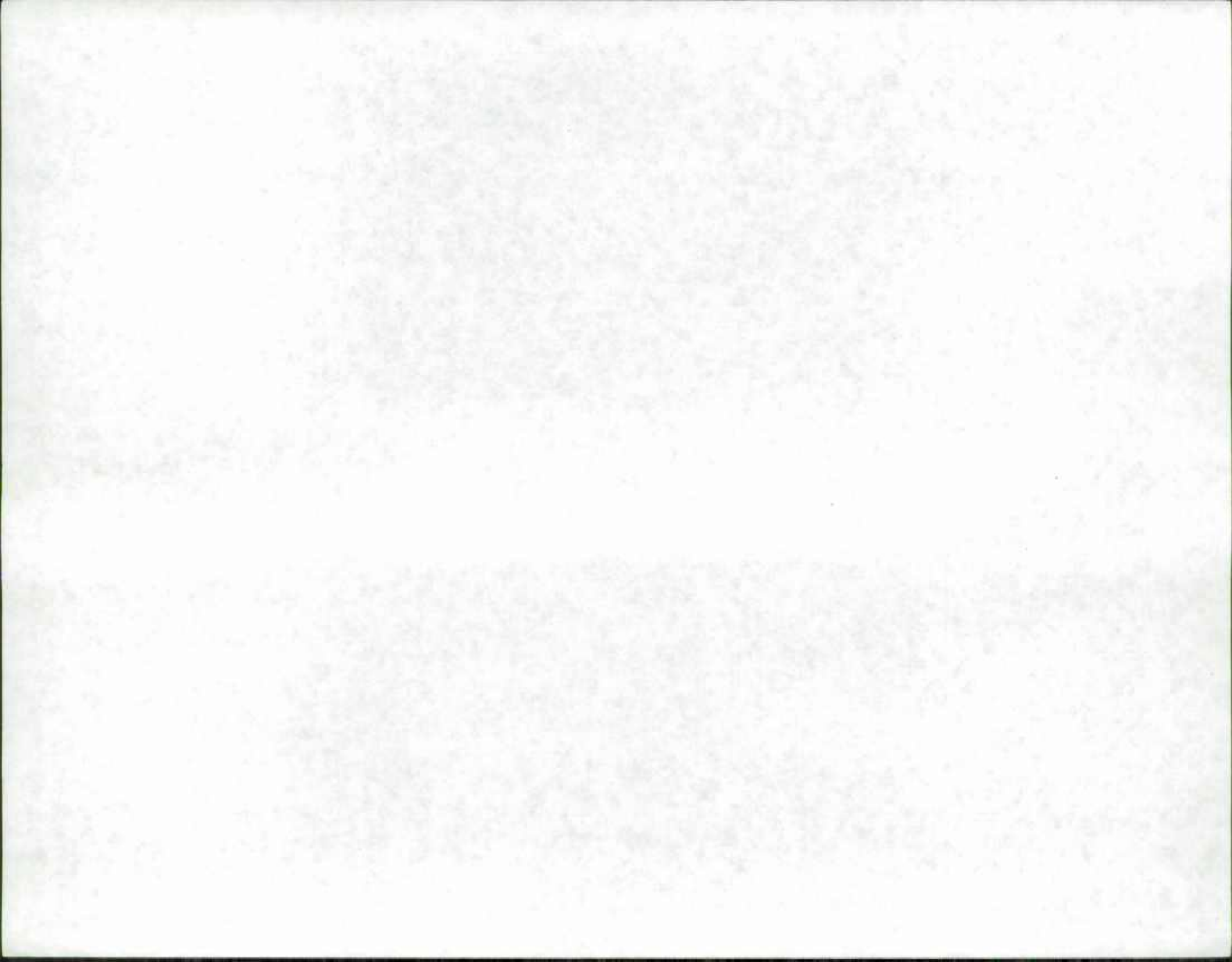




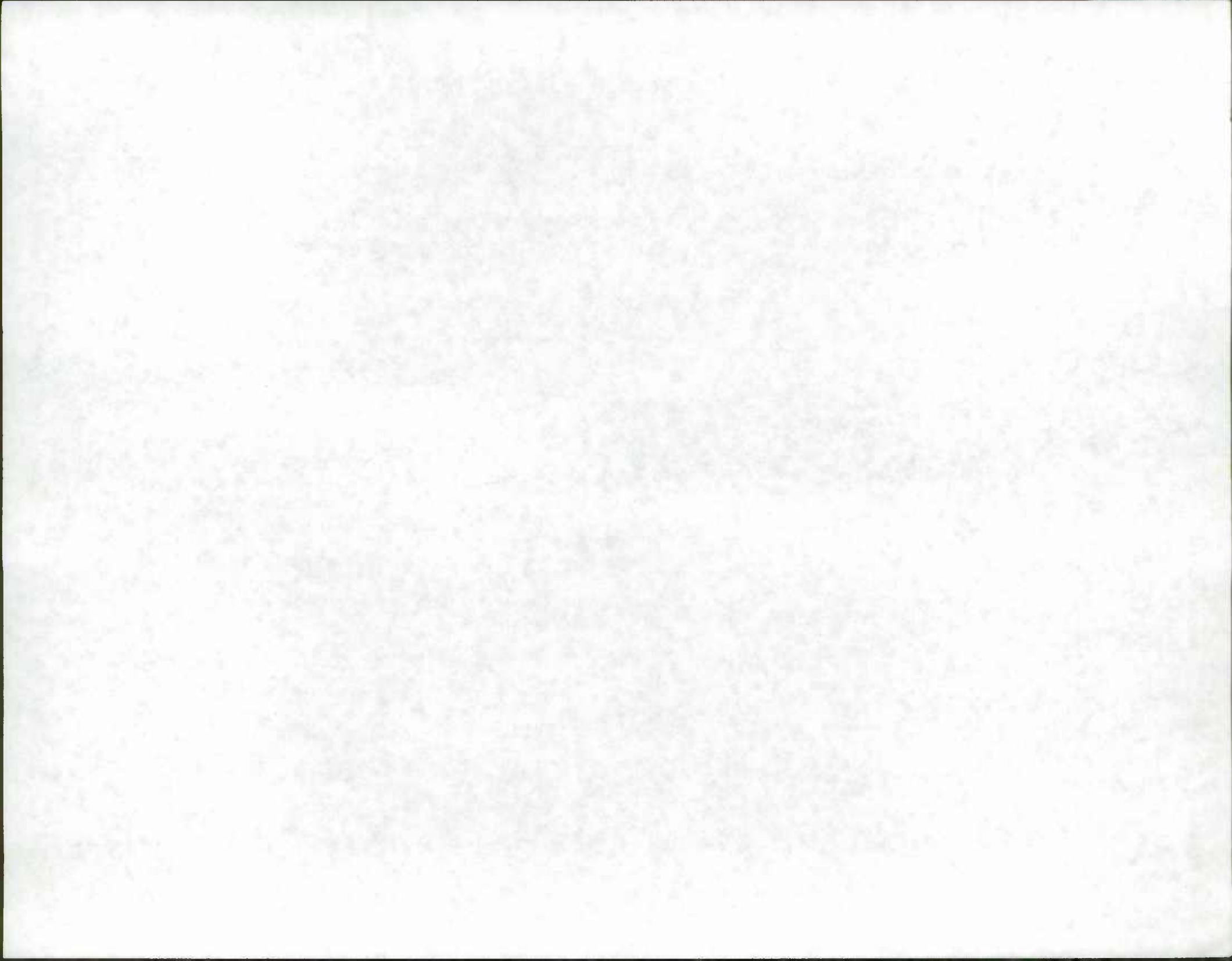




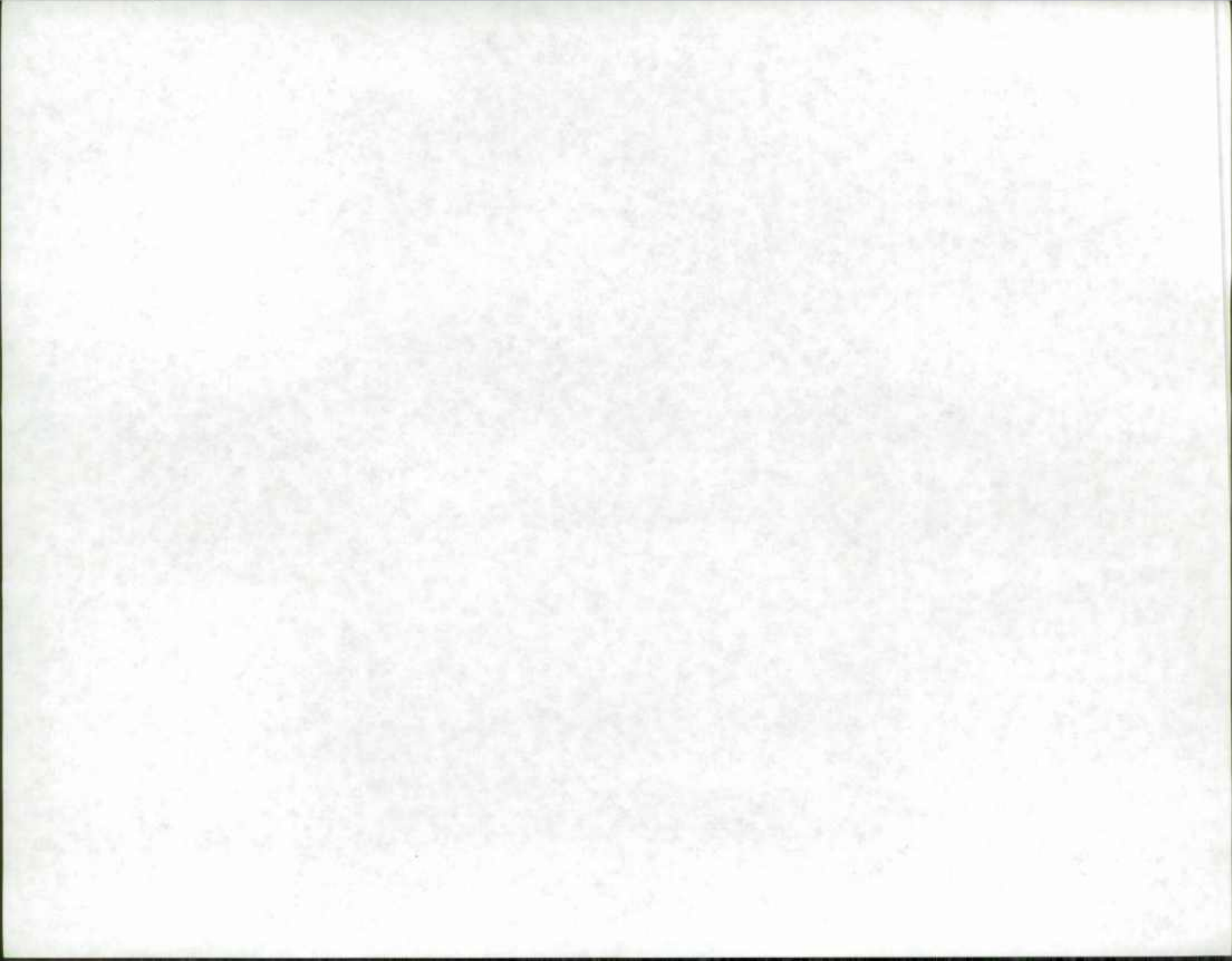




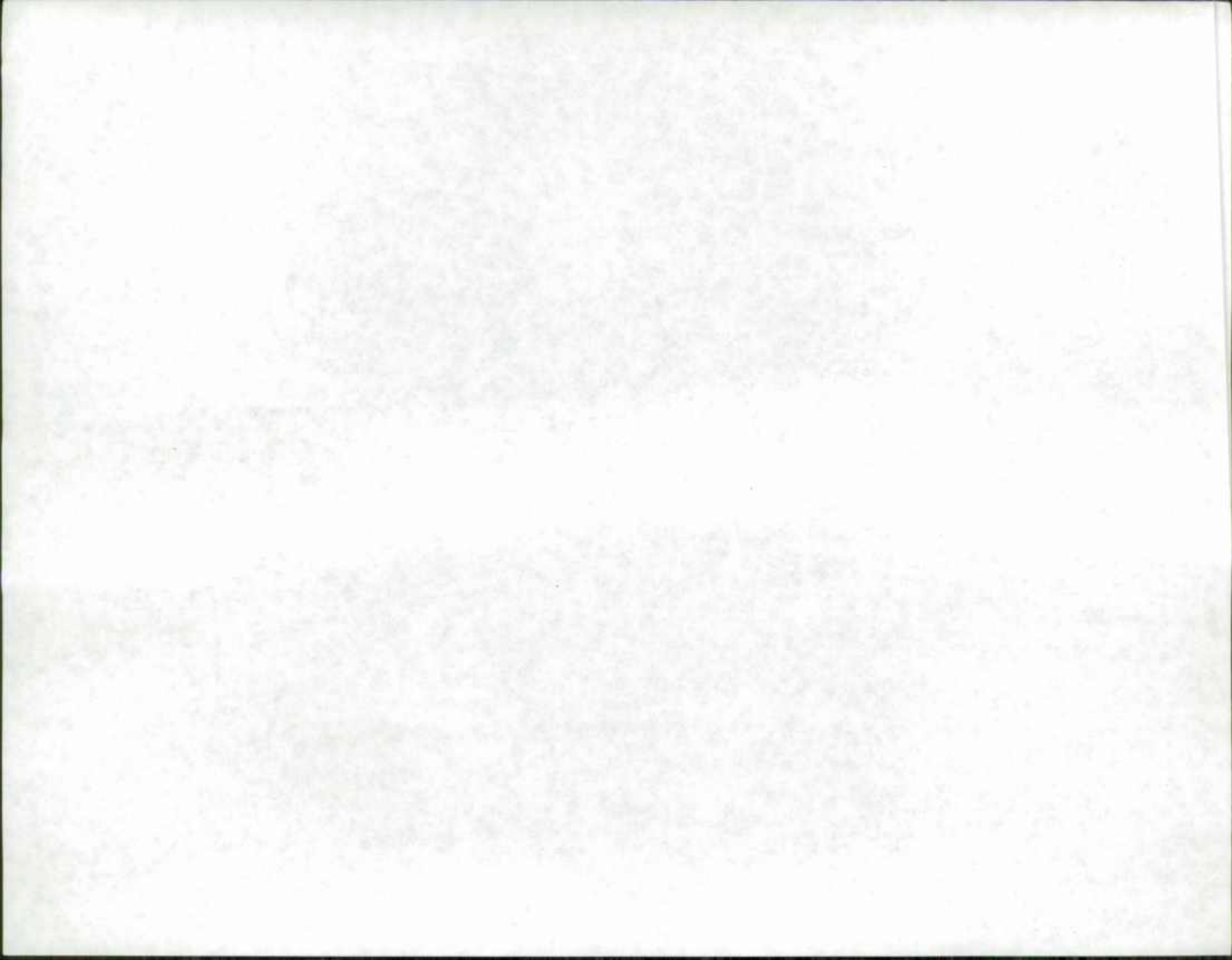




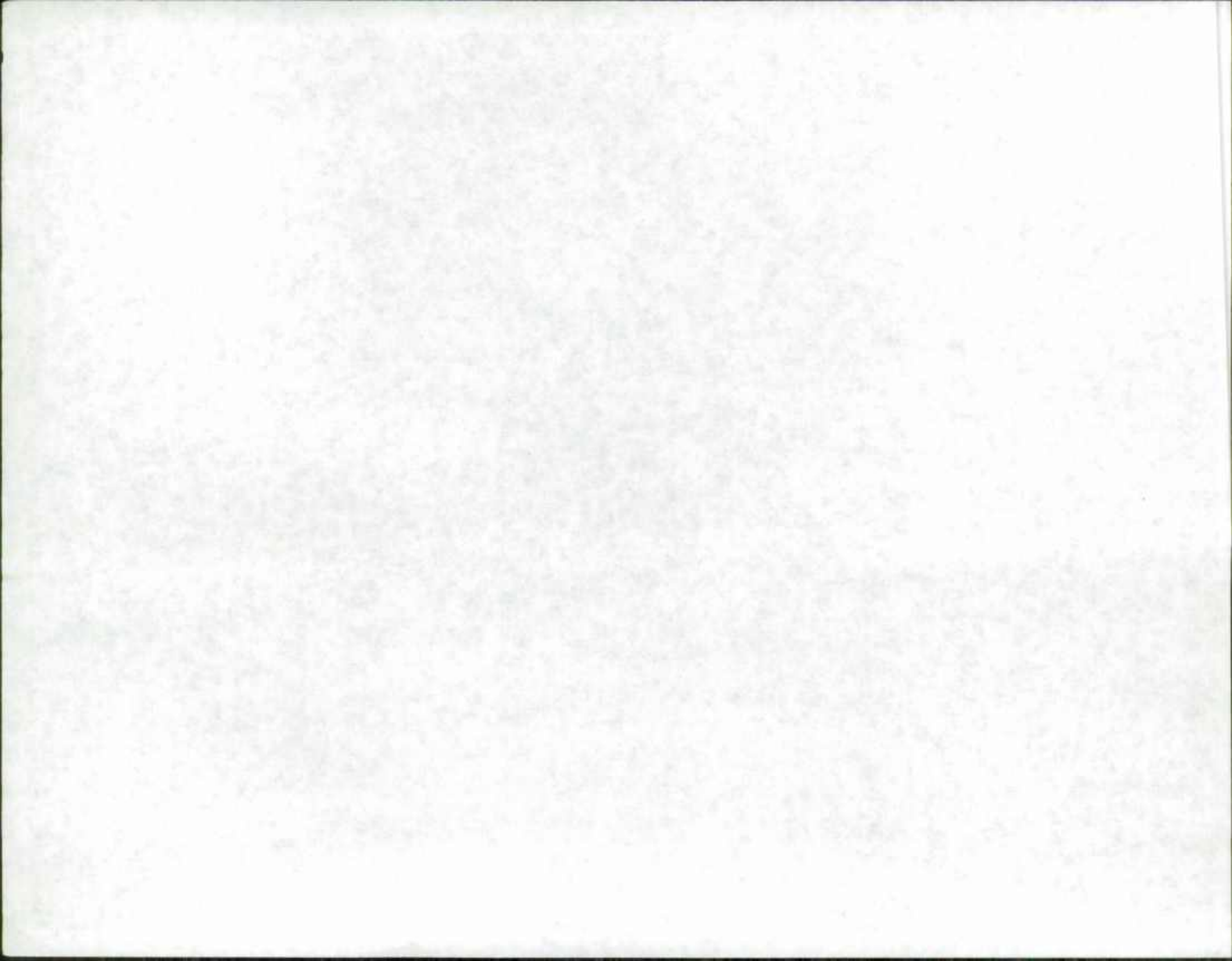




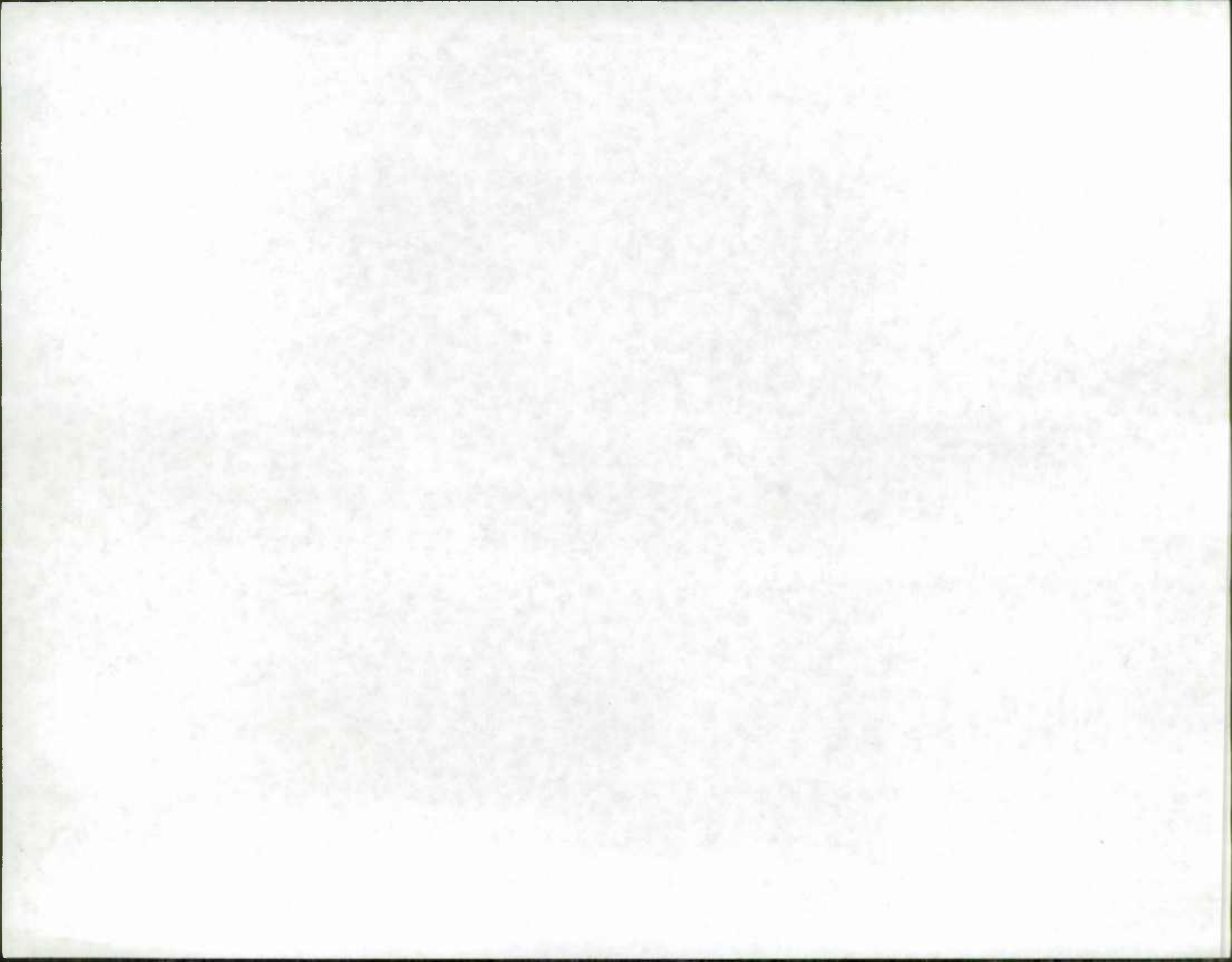


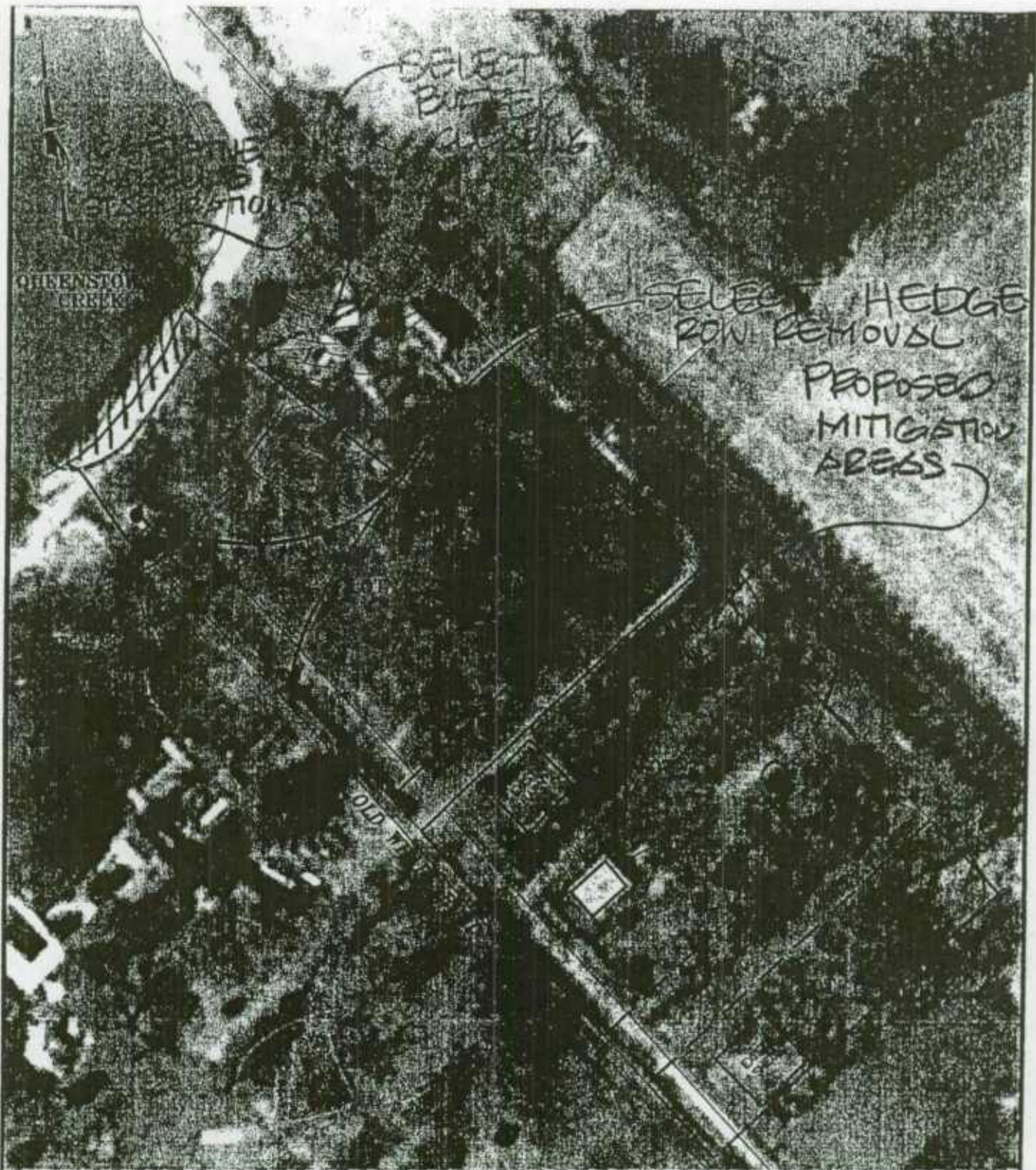












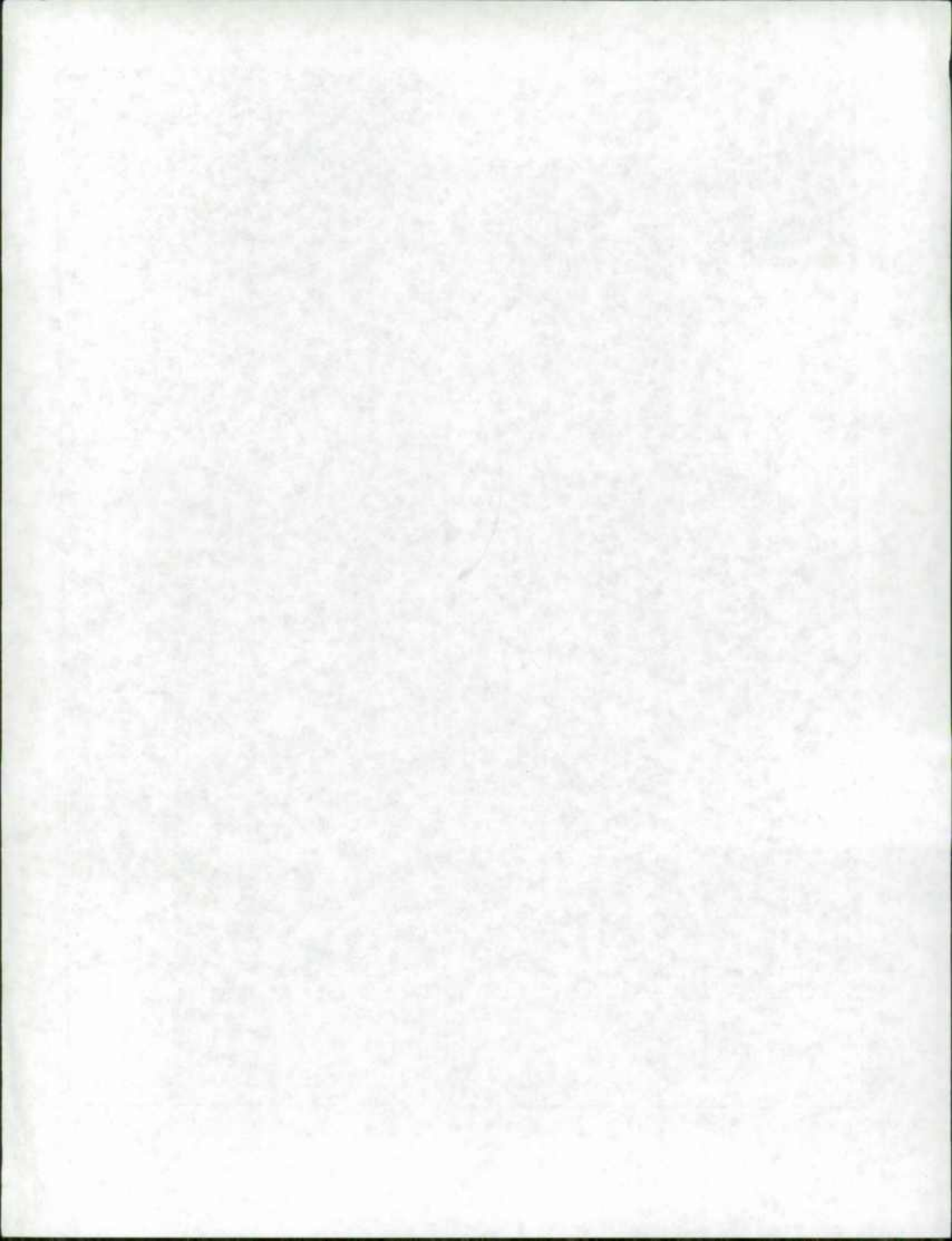
FILE No. A931
 SHEET No. 1 OF 2

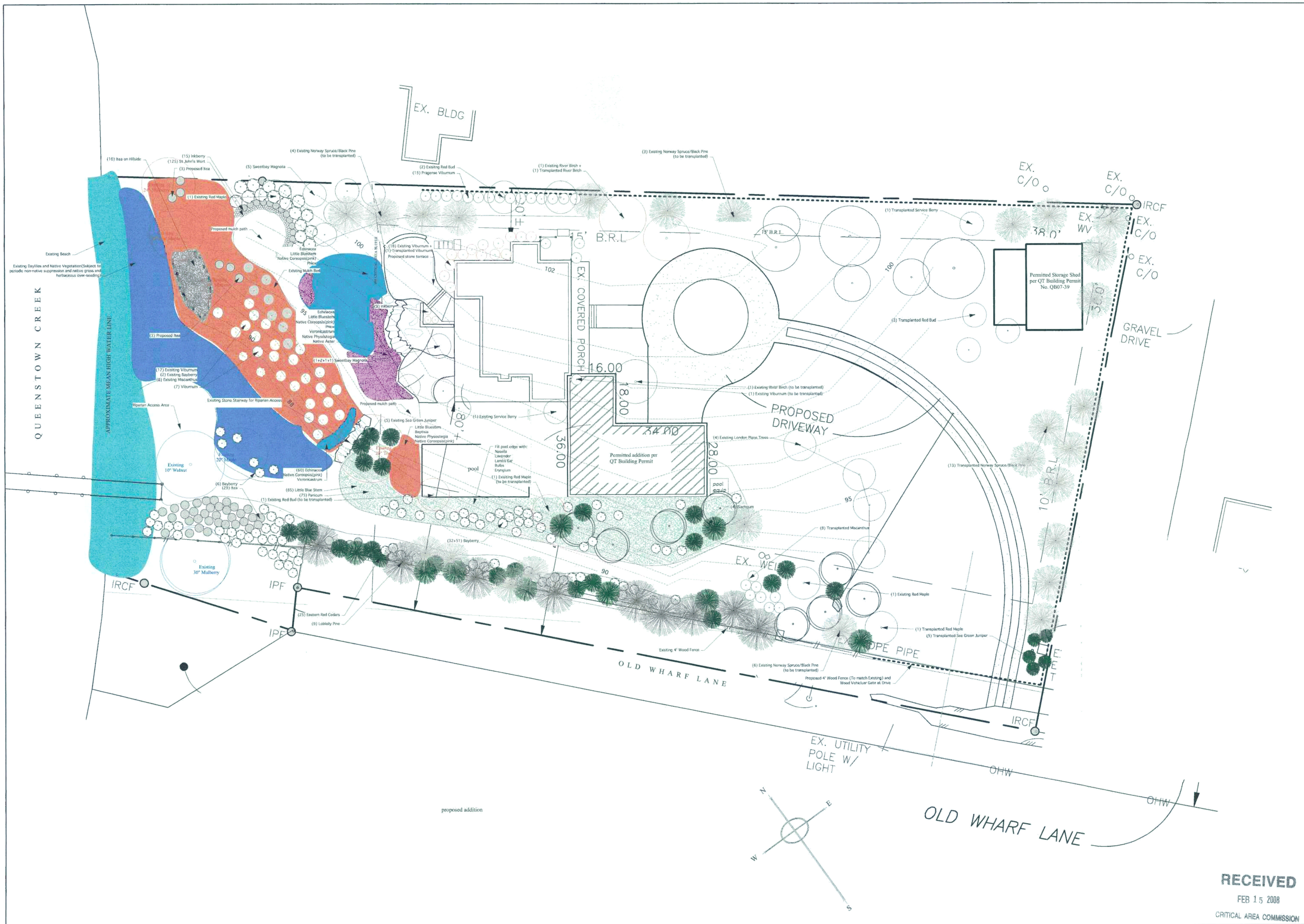
CRITICAL AREA BUFFER MANAGEMENT PLAN
 FOR THE LANDS OF
O'BRIEN
 IN THE TOWN OF QUEENSTOWN
 QUEEN ANNE'S COUNTY, MARYLAND
 TAX MAP 51-A GRID: 262 PARCEL 26

DATE: 11-7-01
 SCALE: 1" = 100'
 JOB NO.: 010607
 DRAWN BY: W. BARNHART
 DWR NAME: GLOBETVSKI
 APPROVED: B. STARR

Lane Engineering, Inc.
 Civil Engineers - Land Planning - Land Surveyors

E-mail: mail@lane.com
 408 N. Washington St., Fuzon, MD 21061 (410) 822-5000 Fax (410) 822-2524
 15 West Poplar St., Cambridge, MD 21613 (410) 321-0818 Fax (410) 478-6642
 1148 West Holly St., Centreville, MD 21617 (410) 758-2065 Fax (410) 758-4422





WALSH LANDSCAPE ARCHITECTURE
 3322 WALSH ROAD, SUITE 210
 ANNAPOLIS, MARYLAND 21403
 443.249.3350 walshla.com

220 OLD WHARF LANE
 QUEENSTOWN, MARYLAND 21658

DRAWN BY: JPW
 PROJECT #: 2702
 SCALE: 1" = 16'-0"
 REVISIONS:

These drawings and specifications and the ideas represented hereby are and shall remain the property of the Landscape Architect. No part thereof shall be copied or used in connection with any work or project or by any other person for any purpose other than for the specific project for which they have been prepared and developed without the written consent of the Landscape Architect.

**For Approval Only
 Not for Construction**

PHASE ONE
 PLANTING PLAN

LP1.0

15 FEBRUARY 2008

RECEIVED
 FEB 15 2008
 CRITICAL AREA COMMISSION