

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/](http://www.dnr.state.md.us/criticalarea/)

November 20, 2008

Mr. George Allen Hayden, Sr., Chair  
St. Mary's County Board of Appeals  
Department of Land Use & Growth Management  
PO Box 653, Leonardtown, MD 20650

Re: Variance Application #04-0876, Konecny  
27215 Cat Creek Road, Mechanicsville

Dear Mr. Hayden:

I am writing to provide you and your Board with additional comments regarding the above-referenced variance to be heard this evening. I had planned to attend tonight's hearing as you requested, but due to certain circumstances my plans changed. Please accept the following comments on the revised submittal our office received on November 14, 2008 in my stead.

Our office reviewed the revised site plan and the accompanying geotechnical report. Additionally, we conferred with staff from the St. Mary's County Department of Public Works (DPW) and with our Science Advisor, Ms. LeeAnne Chandler. In general, we would like to support the comments and advice offered this evening by DPW. Our office does not have the specific site knowledge or technical knowledge offered by DPW. Our Science Advisor did offer the following suggestions regarding the site design for your consideration:

1. As suggested by DPW to us by phone, the driveway runoff will likely be absorbed by the surrounding soil. To assist with this infiltration and to ensure the infiltration is spread through the site, the Board may want to require a narrow gravel infiltration trench along the outer edge of the driveway on the downslope side. This trench will also help to prevent runoff from concentration and potentially causing gullies or other erosion on the property.
2. Based on our discussion with DPW we agree that the proposed dry well/sand filter may be overdesigned for the site. It may be more suitable to have smaller practices located at each downspout. For example, there could be a mixture of small rain gardens and rain barrels around the dwelling. Rainwater collected in a rain barrel could be discharged by spreading it across the site and through the Buffer. The forested Buffer will provide

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significant water quality benefits to runoff. These practices would also be in line with the new proposed state stormwater management regulations which focus on providing small practices that reduce the volume of runoff discharging from a site.

3. We have concerns about the proposed outlet pipe from the sandfilter. Typically, practices which pipe stormwater increase the discharge velocity which could have negative downstream consequences such as increased erosion. Additionally, the pipe installation would create greater disturbance in the Buffer which should be protected to the extent possible. However, we would defer to DPW for specific advice regarding this practice.

In general, we think the proposed stormwater management practices are an improvement to the previous plan. There could be minor adjustments which may further improve the plan and assist the Board in determining that the proposed project meets the variance standards. This office would defer to the Department of Public Works for specific advice regarding this property. Thank you again for the opportunity to comment. I hope this information is useful to the Board during its deliberations.

Sincerely,



Kate Charbonneau  
Regional Program Chief

Cc: Yvonne Chaillet, Zoning Administrator  
Jenn Ballard, Environmental Planner

Martin O'Malley  
Governor

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Lt. Governor



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July 15, 2008

Ms. Yvonne Chaillet  
St. Mary's County Government  
Department of Land Use and Growth Management  
P O Box 653  
Leonardtown, Maryland 20650

**Re: 04-0876, Riverwood Farms Variance**

Dear Ms. Chaillet:

Thank you for providing information on the above-referenced variance application. The 1.73 acres lot is designated as a Limited Developed Area (LDA) and is completely within the Critical Area Buffer. The lot is undeveloped and forested. There are steep slopes on the site. The applicant is requesting a variance to allow construction of a house, SRA, walkway, driveway and associated utilities within the Buffer.

Providing the lot is properly grandfathered, this office does not oppose a variance; however, we recommend that the project minimize impacts to water quality and habitat by placing the structures as close to the road as practicable, minimizing driveway length and width, and centralizing the limits of disturbance to minimize removal of existing trees and other vegetation. In addition, the following comments apply to the proposal.

1. Our records indicate that this site is in the proximity of sensitive species Project Review Areas for State and federal species as well as within forest interior dwelling species (FIDS) habitat. The State Sensitive Species Project Review Areas are Habitat Protection Areas and must meet additional requirements under the County Critical Area Program. Please contact the Wildlife and Heritage Service of DNR at (410)260-8573 to determine whether this site requires additional conservation measures. Please submit a copy of a letter from Wildlife and Heritage Service of DNR regarding the proposal for this site.
2. For proposed development activity within FIDS habitat the FIDS development requirements must be addressed by completing the worksheet in the appendix of the

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Letter to Yvonne Chaillet  
July 15, 2008  
Page 2 of 2

FIDS manual. FIDs mitigation should be provided for in a manner that meets the FIDS mitigation guidelines prior to approval of the development.

3. The new development should include stormwater management design elements which increase benefits to water quality from the stormwater leaving the site.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3479.

Sincerely,



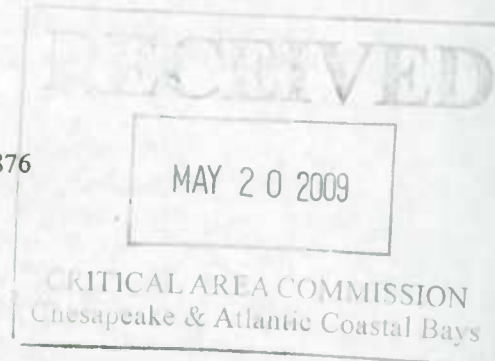
Marshall Johnson  
Natural Resource Planner

cc: SM 400-08

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of the application of Golden West Construction, Inc. for reconsideration of approved variance from Section 71.7 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to disturb steep slopes and from Section 71.8.3 to clear in the Critical Area Buffer and to place lot coverage in the Critical Area Buffer to construct a single-family dwelling and appurtenances.

Case No. VAAP #04-0876  
Konecny



ORDER

**WHEREAS**, Application VAAP #04-0876 – Konecny was duly filed with the St. Mary's County Board of Appeals (the "Board") by Golden West Construction (the "Applicant"), on or about February 25, 2008; and

**WHEREAS**, the Applicant seeks reconsideration of an approved Variance from Section 71.1 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01), as amended, (the "Ordinance"), to disturb steep slopes and from Section 71.8.3 to clear in the Critical Area Buffer and to place lot coverage in the Critical Area Buffer to construct a single-family dwelling and appurtenances. The property contains 1.93 acres; is zoned Residential Neighborhood Conservation District (RNC), Limited Development Area (LDA) Overlay District; and is located at 27215 Cat Creek Road, Mechanicsville, Maryland; Tax Map 14, Grid 5, Lot 500-26 (the "Property"); and

**WHEREAS**, after due notice, a public hearing was conducted by the Board on Thursday, April 9, 2009 in Main Meeting Room, Chesapeake Building, 41770 Baldrige Street, of the Governmental Center in Leonardtown, Maryland, at 6:30 p.m., and all persons desiring to be heard were heard, documentary evidence received, and the proceedings electronically recorded.

**NOW, THEREFORE**, having reviewed the testimony and evidence presented at the hearing, the following facts, findings, and decision of the Board are noted:

**FACTS**

The Board of Appeals granted variance approval on December 11, 2008 to disturb the Critical Area Buffer, which is expanded for steep slopes and highly erodible soils, and to disturb the steep slopes. As a condition of approval the Board required the Applicant to revise his site plan to show a reduction in the limits of disturbance based on feedback from Daryl Calvano, Director of Environmental Health. In response to a question from staff regarding the future septic reserve area (SRA), Mr. Calvano has since revised his statement and said that the initial and future SRA must be cleared and graded due to the gradient of the slopes and the highly erodible soils. He explained that he didn't fully understand the nature of the property when he initially responded to staff. The requirement to grade for both the initial and future SRA is a regulation of the Maryland Department of Health. The grading is necessary to prevent sewage from seeping through the septic reserve areas, which can result on properties with steep slopes.

The site plan showing the initial and future septic reserve areas will be cleared and graded prior to installation of the septic tank and prior to constructing the house and its amenities should be considered. Although the future SRA will be graded, it can be re-planted with trees and shrubs as part of the required 3:1 mitigation.

The subject property (Property) is a grandfathered lot because the Riverwood Farm subdivision was recorded in 1959 prior to the adoption of the Maryland Critical Area regulations in December 1985. The Property had a Boundary Line Adjustment (BLAP) recorded June 11, 2008 to correct an illegal subdivision by deed to move the property line between lot 25 and lot 26, which bisected an existing house on lot 25. The BLAP does not affect the Applicant's need for a variance. The Property is an unimproved wooded lot that will be served by a well and septic system.

The Property is located on Cat Creek and is constrained by the expanded Critical Area Buffer (Buffer) due to steep slopes, highly erodible soils, wetlands and streams. The northeast side of the Property, where the two streams on the Property converge, is constrained by tidally-influenced nontidal wetlands and the 100-year floodplain. The floodplain is in Zone AE with a base flood elevation of six feet (6') according to FIRM (Flood Insurance Rate Map) Panel #92E.

The Property contains no manmade structures or surfaces. The Applicant proposes to place a single-family dwelling with attached garage, driveway, walkway, well and septic system in the Buffer. The total lot coverage proposed in the Buffer is 2,809 square feet, or four (4) percent of the fastland (buildable area) of the Property, which is 71,030 square feet. The Property's fastland was calculated by subtracting the 4,328 square feet of tidal wetland from the total lot area of 75,358 square feet. The lot coverage limit for the Property is 15 percent or 10,655 square feet.

The existing vegetative cover on the Property is approximately 69,079 square feet or 97.3 percent of the Property. The Applicant proposes to remove 11,487 square feet or 16.7 percent of the existing forest vegetation on the Property.

The existing soil type on the Property is Evesboro Westphalia Complex (EwE2) which is highly erodible according to the 1978 United States Department of Agriculture's Soil Survey of St. Mary's County.

The Applicant had a geotechnical evaluation done by Bob Taylor Engineering, Inc. to determine the degree of soil density at varying depths and to determine slope stability. The results of the study indicated that favorable conditions exist for construction on the Property. A copy of the full report is on file with the Department of Land Use and Growth Management.

The site plan was approved by the Health Department on September 17, 2007 and by the Soil Conservation District on July 16, 2007.

The Board received comments from the Maryland Critical Area Commission (Commission) on July 15, 2008. Commission staff supports the variances provided that the project minimizes impacts to water quality and habitat by placing structures as close to Cat Creek Road as possible; minimizes driveway length and width; minimizes the limits of disturbance; and provides for stormwater management that will increase benefits to water quality of storm water leaving the site.

If the variances are granted, the Applicant must comply with Section 24.8 of the Ordinance pertaining to lapse of variance. Variances shall lapse one year from the date of the grant of the variances by the Board of Appeals.

#### FINDINGS

The Board addresses the Special Standards for Granting Variances, which are set forth in Section 24.4 of the Ordinance, finding as follows:

- a. *That special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in unwarranted hardship;*

The entire Property is constrained by the Critical Area Buffer which has been expanded for on-site wetlands, two streams, steep slopes and highly erodible soils. For this reason, the Board finds that a strict enforcement of the Critical Area provisions of this Ordinance will result in unwarranted hardship because the Applicant would be prohibited from constructing a dwelling on a grandfathered lot that is zoned for residential use.

- b. *That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County;*

The Board finds that strict interpretation of the Critical Area provisions of this Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. Other property owners in the LDA, whose properties are grandfathered and constrained by the expanded Critical Area Buffer due to the environmental features of their properties, have been granted variances to develop their properties. The Applicant is not asking for anything more. The requests to disturb steep slopes and the Critical Area Buffer are the minimum necessary to develop the property with a single-family dwelling.

- c. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area of St. Mary's County;*

Other property owners in the LDA, whose properties are constrained by environmental features and the expanded Critical Area Buffer, can obtain variances when the result of these constraints is that development is prohibited. The proposed septic drainfields are located as close to Cat Creek Road as possible and the house is proposed on the only flat portion of the Property, thus avoiding the majority of slopes with a gradient greater than 25 percent.

For these reasons, the Board finds that granting these variances would not confer any special privilege upon this Applicant that would be denied by the critical Area provisions of this Ordinance to other lands or structures.

- d. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;*

The variance request is based on the topographical constraints and environmental features of the Property and the Critical Area Buffer.

The Board finds that the variance request is not based upon conditions or circumstances that are the result of actions by the Applicants.

- e. *The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program;*

The Applicant must implement erosion and sediment control measures during construction and must mitigate at a ratio of three to one (3:1) for clearing woodland and other vegetation in accordance with Section 24.4.2.b of the Ordinance, which requires 3:1 mitigation per square foot of the variance granted.

The Applicant had a geotechnical evaluation done to determine the degree of soil density at varying depths and to determine slope stability. It was found that the soil conditions were suitable for the proposed development with a recommendation for specific footings and the foundation.

The Department of Public Works & Transportation reviewed the proposed project for stormwater management and proper location and construction of the proposed drywells. The use of drywells and the reforestation of the Property will assist in increasing stormwater absorption and decreasing negative effects of possible stormwater runoff.

For these reasons, the Board finds that the granting of the variances to disturb steep slopes and the Critical Area Buffer will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variances will be in harmony with the general spirit and intent of the Critical Area program.

f. *The variance is the minimum necessary to achieve a reasonable use of the land or structures;*

The Property is entirely constrained by the Critical Area Buffer which has been expanded for wetlands, two streams, steep slopes, and highly erodible soils. Although a considerable amount of land will be disturbed (more than 11,000 square feet), it is the minimum necessary to construct a modest-sized house, driveway and septic system. The total lot coverage will be less than 3,000 square feet, which is four percent of the fastland (total acreage minus tidal wetlands) which is 71,030 square feet. Maryland Health Department regulations require the Applicant to grade both the initial and future septic reserve areas due to the grade of the slopes. However, the area set aside for the future SRA can be planted in trees and shrubs following construction, which will minimize the permanent disturbance to the Property.

For these reasons, the Board finds that the variances are the minimum necessary to achieve a reasonable use of the land.

**DECISION**

**NOW, THEREFORE, BE IT ORDERED**, that, having made a finding that the standards for Variance in the Critical Area and the objectives of Section 71.7 and Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the request to disturb steep slopes and the variance request to clear vegetation and add lot coverage in the Critical Area Buffer is **approved**, subject to the following conditions:

1. The Applicant shall adhere to the Critical Area Planting Agreement for mitigation at a ratio of three to one (3:1) per square foot of the variance granted; and
2. The Applicant shall provide a buffer management plan to the Department of Land Use and Growth Management for review and approval by the Environmental Planner.

This Date: May 14, 2009

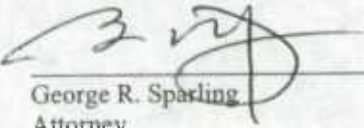
  
 \_\_\_\_\_  
 Howard Thompson  
 Chairman

Those voting in favor of the request:

Mr. Thompson, Mr. Payne, Mr. Edmonds, Mr. Miedzinski and Ms. Neale

Those voting against the requested variance:

Approved as to form and legal sufficiency:

  
 \_\_\_\_\_  
 George R. Sparling  
 Attorney



## ST. MARY'S COUNTY BOARD OF APPEALS

**RECEIVED**

DEC 16 2008

CRITICAL AREA COMMISSION

In the Matter of the application of Golden West Construction, Inc. for a variance from Section 71.7 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to disturb steep slopes and variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to clear in the Critical Area Buffer and to place impervious surface in the Critical Area Buffer to construct a single-family dwelling and appurtenances.

Case No. VAAP #04-0876  
Konecny (Golden West Construction)

**ORDER**

**WHEREAS**, Application VAAP #04-0876 – Konecny (Golden West Construction) was duly filed with the St. Mary's County Board of Appeals (the "Board") by Golden West Construction (the "Applicant"), on or about January 30, 2008; and

**WHEREAS**, the Applicant seeks a Variance from Section 71.7 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01), as amended, (the "Ordinance"), to disturb steep slopes and Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01), as amended, (the "Ordinance"), to clear in the Critical Area Buffer and to place impervious surface in the Critical Area Buffer to construct a single-family dwelling and appurtenances. The property contains 1.93 acres; is zoned Rural Preservation District (RPD), Limited Development Area (LDA) Overlay District; and is located at 27215 Cat Creek Road, Mechanicsville, Maryland; Tax Map 14, Block 5, Lot 500-26, Riverwood Farms Subdivision (the "Property"); and

**WHEREAS**, after due notice, a public hearing was conducted by the Board on Thursday, September 25, 2008 and November 20, 2008 in Room 14 of the Governmental Center in Leonardtown, Maryland, at 6:30 p.m., and all persons desiring to be heard were heard, documentary evidence received, and the proceedings electronically recorded.

**NOW, THEREFORE**, having reviewed the testimony and evidence presented at the hearing, the following facts, findings, and decision of the Board are noted:

**FACTS**

The subject property (Property) is a grandfathered lot because the Riverwood Farm subdivision was recorded in 1959 prior to the adoption of the Maryland Critical Area regulations in December, 1985. The Property had a Boundary Line Adjustment (BLAP) recorded June 11<sup>th</sup> 2008 to correct an illegal subdivision by deed to move the property line between lot 25 and 26 which bisected an existing house on lot 25. The BLAP does not affect the Applicant's need for a variance. The Property is an unimproved wooded lot that will be served by a well and septic system.

The Property is located on Cat Creek and is constrained by the expanded Critical Area Buffer (Buffer) due to steep slopes, highly erodible soils, wetlands and streams. The northeast side of the Property where the two streams on the Property converge is constrained by tidally influenced wetlands and the 100-year floodplain, Zone AE with a base flood elevation of six feet (6') according to FIRM (Flood Insurance Rate Map) Panel #92E.

The Property contains no manmade structures or surfaces. The Applicant proposes to place a single-family dwelling with attached garage, driveway, walkway, well and septic system in the Buffer. The total lot coverage proposed on the lot and in the Buffer is 2,809 square feet, or 4 percent of the fastland of the lot, which is 71,030 square feet. The Property's fast land was calculated by subtracting the 4,328 square feet of tidal wetland from the total lot area of 75,358 square feet. The lot coverage limit for the Property is 15 percent or 10,655 square feet.

The existing vegetative cover on the Property is approximately 69,079 square feet or 97.3 percent of the Property. The Applicant proposes to remove 11,487 square feet or 16.7 percent of the existing forest vegetation on the Property.

The existing soil type on the Property is Evesboro Westphalia Complex (ExE2) which is highly erodible according to the 1978 United States Department of Agriculture's Soil Survey of St. Mary's County.

The site plan was approved by the Health Department on September 17, 2007 and by the Soil Conservation District on July 16, 2007.

The Board received comments from the Maryland Critical Area Commission (Commission) on July 15, 2008. Commission staff supports the variance provided that the project minimizes impact to water quality and habitat by placing structures as close to Cat Creek Road as possible, minimize driveway length and width, minimizes the limits of disturbance and provides for storm water management that will increase benefits to water quality of storm water leaving the site. As this site is within the Forest Interior Dwelling Species (FIDS) review area, the proposed project must be reviewed by Department of Natural Resources (DNR) Wildlife and Heritage Service to determine if additional conservation measures will be required in accordance with Section 71.8.4 of the Ordinance and in accordance with COMAP 27.01.09.04.

The Board received a Soil Investigation and Slope Stability Report which contained Boring Location Plan, Record of Soil Exploration, Laboratory Test Results, and Profile date 11/5/08 from Bob Taylor Engineering, Inc. on November 12, 2008.

The Applicant must comply with Section 24.8 of the Ordinance pertaining to lapse of variance. Variances shall lapse one year from the date of the grant of the variance by the Board of Appeals.

#### FINDINGS

The Board addresses the Special Standards for Granting Variances, which are set forth in Section 71.8.3 of the Ordinance, finding as follows:

- a. That special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in unwarranted hardship;*

The entire Property is constrained by the Expanded Buffer due to on site wetlands, streams, steep slopes and the presence of highly erodible soils. For this reasons, the Board finds that a strict enforcement of the Critical Area provisions of this Ordinance will result in unwarranted hardship because the Applicant would be prohibited from constructing a dwelling on a grandfathered lot that is zoned for Residential use.

The Board finds that the Applicant has met this standard.

- b. That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County;*

The Board finds that strict interpretation of the Critical Area provisions of this Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. Other property owners in the LDA who are constrained by the expanded Buffer have been granted variances in the past to construct single family dwellings and appurtenances in order to have use of their residential properties.

The Board finds that the Applicant has met this standard.

- c. The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area of St. Mary's County;*

Other property owners in the LDA have been granted variances and have been issued permits to build dwellings in the Buffer as long as maximum compliance with the Critical Area

regulations is attempted. However, the limits of disturbance must be the minimum necessary. As the proposed dwelling and septic drain field are located as close to Cat Creek Road as allowable while avoiding the majority of slopes with a gradient greater than 25 percent, the Board finds that granting this variance would not confer any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures.

The Board finds that the Applicant has met this standard.

- d. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;*

The variance request is based on the topographical constraints and environmental features of the Property and the Critical Area Buffer.

The Board finds that the variance request is not based upon conditions or circumstances that are the result of actions by the Applicants.

- e. *The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program;*

The Applicants must implement erosion and sediment control measures during construction and they must mitigate for vegetation removal.

A Critical Area Planting Agreement and Buffer Management Plan will be necessary to alleviate any impacts to water quality due to clearing vegetation and the placement of impervious surface in the Buffer. The required plantings will assist in maintaining the functions of the Buffer. The Planting Agreement requires mitigation in native plant species at a ratio of three to one (3:1) per square foot of the variance granted in accordance with Section 24.4.2.b of the Ordinance.

The Department of Public Works (DPW) will review the file for storm water management and proper location and construction of the proposed drywells.

The Board finds that the Applicant has met this standard subject to minimizing the proposed limits of disturbance, and requiring the proposed construction be reviewed by DPW for proper placement of sand filters.

- f. *The variance is the minimum necessary to achieve a reasonable use of the land or structures;*

The Applicants are asking for a reasonably sized single-family dwelling and the lot coverage proposed is well within the 15 percent limit of the Property and proposed clearing is less than 30% clearing limit of the property. The Board does not find that the proposed improvements are an excessive use of the land.

The Board finds that the Applicant has met this standard.

#### DECISION

**NOW, THEREFORE, BE IT ORDERED**, that, having made a finding that the standards for Variance in the critical Area and the objectives of Section 71.7 and Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the request to disturb steep slopes and to clear vegetation and add impervious surface in the Critical Area Buffer is **approved** subject to the following conditions:

1. The Applicant shall adhere to the Critical Area Planting Agreement for mitigation at a ratio of three to one (3:1) per square foot of the variance granted; and
2. The Applicant shall provide a buffer management plan to the Department of Land Use and Growth Management for review and approval by the Environmental Planner; and
3. The Applicant shall obtain review by the Department of Natural Resources (DNR) Wildlife and Heritage Service to determine if additional conservation measures will be required due to the location of the Property within a Forest Interior Dwelling Species (FIDS) habitat protection area, and comply with any such requirements.
4. The Applicant shall revise the site plan to show the reduced limits of disturbance and submit a copy to the Department of Land Use and Growth Management.

This Date: December 11, 2008


  
George Alan Hayden  
Chairman

Those voting in favor of the request:

Mr. Delahay, Mr. Edmonds, Mr. Hayden, Mr. Payne  
and Ms. Neale

Those voting against the requested variance:

Approved as to form and legal sufficiency:

  
George R. Sparling  
Attorney

**ST. MARY'S COUNTY GOVERNMENT  
DEPARTMENT OF LAND USE  
AND GROWTH MANAGEMENT**

*Denis D. Canavan, Director*

*Phillip J. Shire, Deputy Director*



Francis Jack Russell, President  
Kenneth R. Dement, Commissioner  
Lawrence D. Jarboe, Commissioner  
Thomas A. Mattingly, Sr., Commissioner  
Daniel H. Raley, Commissioner

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**MEMORANDUM**

**Date:** September 17, 2008  
**To:** Board of Appeals  
**From:** Jenn Ballard, Environmental Planner  
Yvonne Chaillet, Zoning Administrator  
**Subject:** VAAP # 04-0876, Konecny –  
Board of Appeals Hearing of September 25, 2008

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**DEVELOPMENT DATA**

**Request:** Variance from Section 71.7 of the Comprehensive Zoning Ordinance to disturb steep slopes; variance from Section 71.8.3 of the Comprehensive Zoning Ordinance to clear in the Critical Area Buffer and to place impervious surface in the Critical Area Buffer to construct a single-family dwelling and appurtenances

**Owner:** Golden West Construction, Inc.

**Location:** 27215 Cat Creek Road, Mechanicsville, Maryland

**Tax Map:** 14 **Grid:** 5 **Lot:** 500-26 Riverwood Farms Subdivision **Election Dist:** 6

**Acreage:** 1.93 acres

**Zoning:** Residential Neighborhood Conservation District (RNC), Limited Development Area (LDA) Overlay

**NOTIFICATION:** The property and variance request were advertised in *The Enterprise* on September 10, 2008 and September 17, 2008.

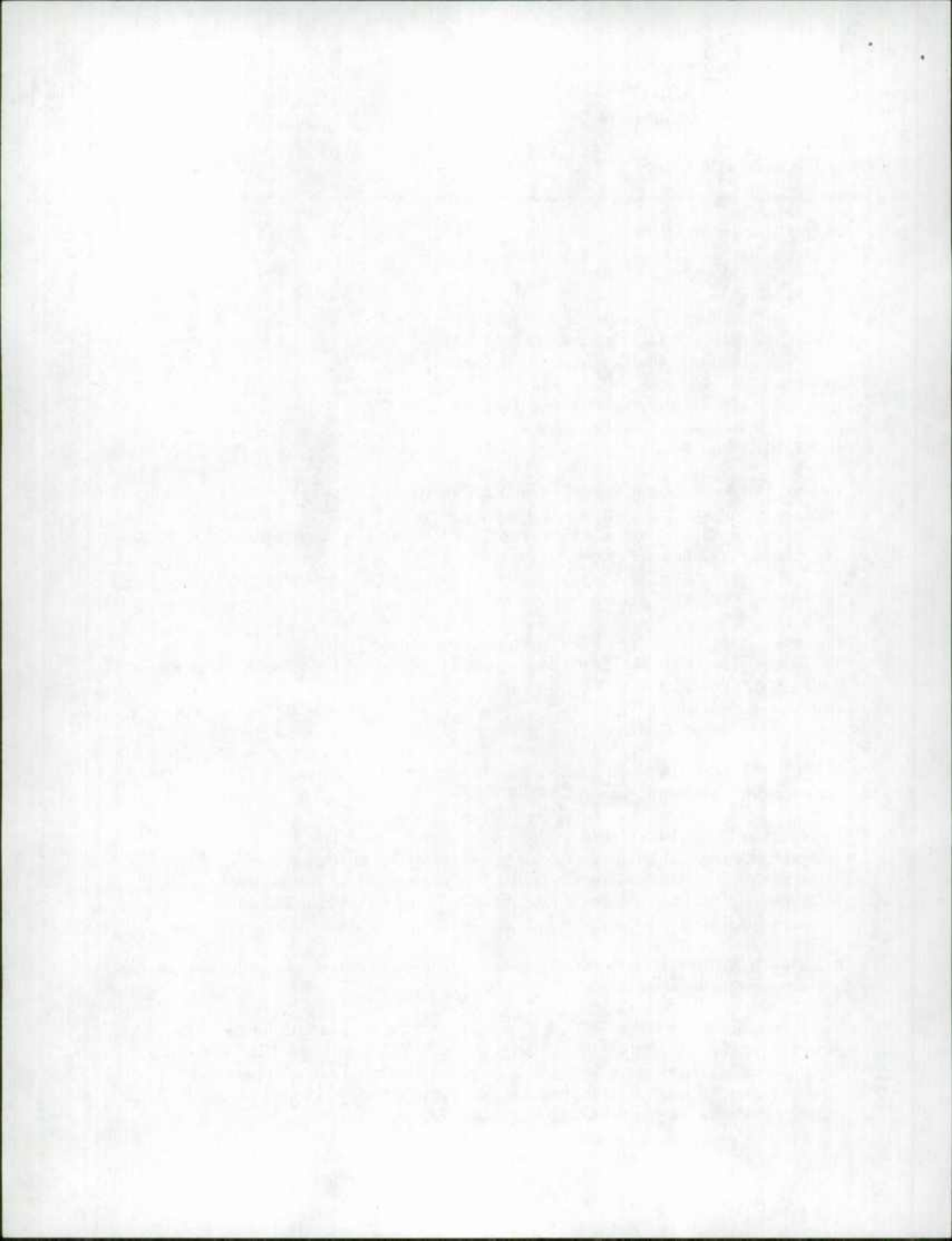
**APPLICABLE REGULATIONS**

**St. Mary's County Comprehensive Zoning Ordinance (Ordinance)**

1. Section 24.4. Specific standards for Granting Variances in the Critical Area
2. Section 71.7. Steep Slopes and Erodible Soils Resource Protection Standards
3. Section 71.8.3. The 100-Foot Critical Area Buffer

**RECOMMENDED MOTION:** Staff recommends the following motion (with modifications and additions following discussion):

“In the matter of VAAP #04-0876, having made a finding that the standards for granting a variance in the Critical Area and the objectives of Section 71.7 and Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to **approve** the variance request to disturb steep slopes and to clear vegetation and add impervious surface in the Critical Area Buffer, subject to the following conditions:



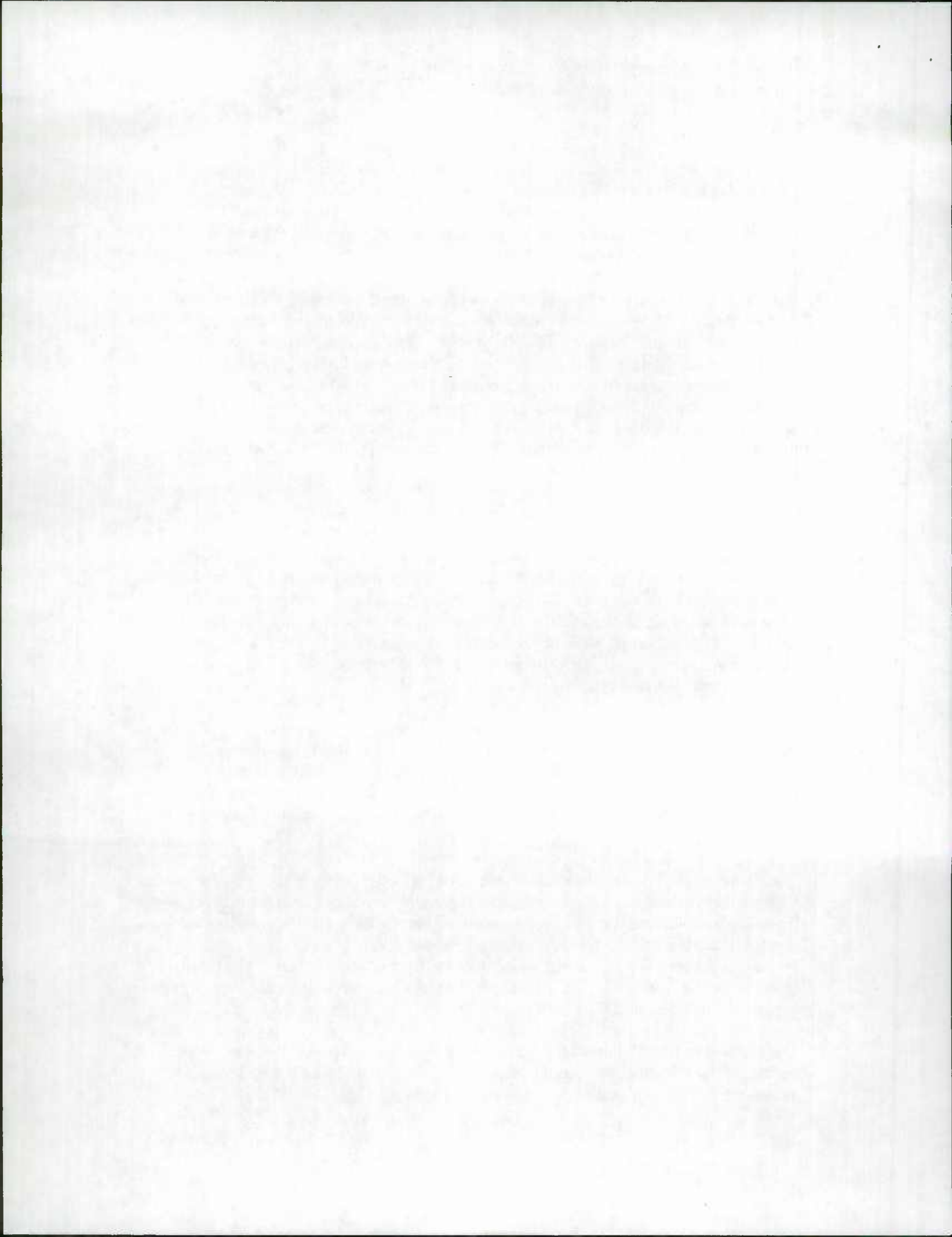
1. The Applicant shall adhere to the Critical Area Planting Agreement for mitigation at a ratio of three to one (1:1) per square foot of the variance granted; and
2. The Applicant shall provide a buffer management plan to the Department of Land Use and Growth Management for review and approval by the Environmental Planner; and
3. The Applicant shall construct the driveway using a pervious pavement system to assist in managing storm water runoff; and
4. All walkways shall consist of either mulch or a pervious pavement system; and
5. The Applicant shall work with a Geotechnical Engineer to determine the proper placement of the drywells in the Evesboro Westphalia soils. The Applicant shall provide a Geotechnical evaluation of the Property to the Department of Public Works & Transportation for their review and approval; and
6. The Applicant shall obtain review by Department of Natural Resources (DNR) Wildlife and Heritage Service to determine if additional conservation measures will be required due to the location of the Property within a Forest Interior Dwelling Species (FIDS) habitat protection area.”

#### STAFF COMMENTS

1. The subject property (Property) is a grandfathered lot because the Riverwood Farm subdivision was recorded in 1959 prior to the adoption of the Maryland Critical Area regulations in December 1985. The Property had a Boundary Line Adjustment (BLAP) recorded June 11, 2008 to correct an illegal subdivision by deed to move the property line between lot 25 and lot 26, which bisected an existing house on lot 25. The BLAP does not affect the Applicant's need for a variance. The Property is an unimproved wooded lot that will be served by a well and septic system.

The Property is located on Cat Creek and is constrained by the expanded Critical Area Buffer (Buffer) due to steep slopes, highly erodible soils, wetlands and streams. The northeast side of the Property where the two streams on the Property converge is constrained by tidally influenced wetlands and the 100-year floodplain, Zone AE with a base flood elevation of six feet (6') according to FIRM (Flood Insurance Rate Map) Panel #92E.

2. The Property contains no manmade structures or surfaces. The Applicant proposes to place a single-family dwelling with attached garage, driveway, walkway, well and septic system in the Buffer. The total lot coverage proposed in the Buffer is 2,809 square feet, or four (4) percent of the fastland (buildable area) of the Property, which is 71,030 square feet. The Property's fastland was calculated by subtracting the 4,328 square feet of tidal wetland from the total lot area of 75,358 square feet. The lot coverage limit for the Property is 15 percent or 10,655 square feet.
3. The existing vegetative cover on the Property is approximately 69,079 square feet or 97.3 percent of the Property. The Applicant proposes to remove 11,487 square feet or 16.7 percent of the existing forest vegetation on the Property.
4. The existing soil type on the Property is Evesboro Westphalia Complex (Ewe2) which is





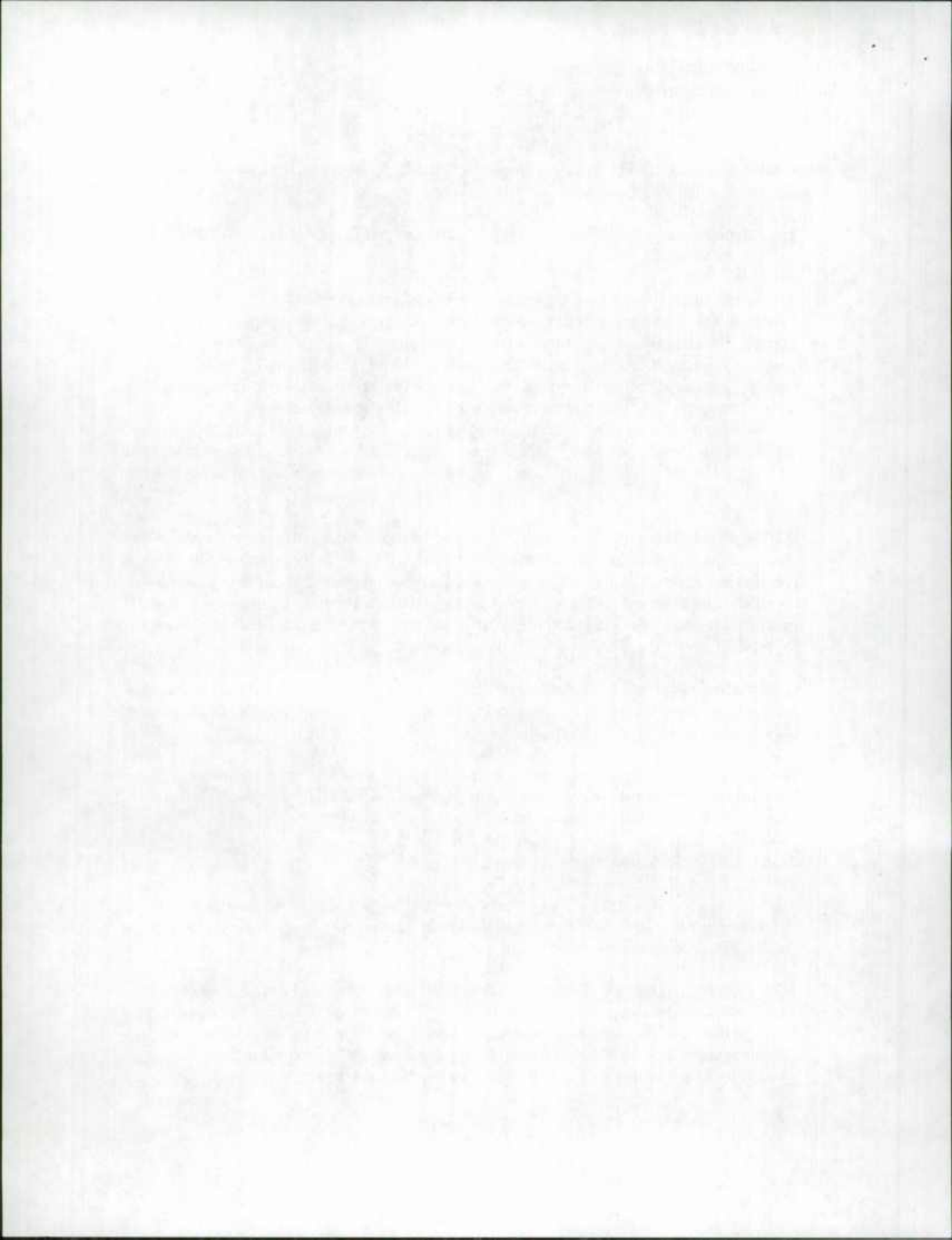
highly erodible according to the 1978 United States Department of Agriculture's Soil Survey of St. Mary's County.

5. The site plan was approved by the Health Department on September 17, 2007 and by the Soil Conservation District on July 16, 2007.
6. Staff received comments from the Maryland Critical Area Commission (Commission) on July 15, 2008. Commission staff supports the variance provided that the project minimizes impacts to water quality and habitat by placing structures as close to Cat Creek Road as possible, minimizes driveway length and width, minimizes the limits of disturbance and provides for storm water management that will increase benefits to water quality of storm water leaving the site. As this site is within the Forest Interior Dwelling Species (FIDS) review area, the proposed project must be reviewed by Department of Natural Resources (DNR) Wildlife and Heritage Service to determine if additional conservation measures will be required in accordance with Section 71.8.4 of the Ordinance and in accordance with COMAR 27.01.09.04.
7. Staff supports the request for a variance to allow the Applicants to disturb steep slopes and clear woodland vegetation in the Buffer to construct a single-family dwelling. Mitigation is required at a ratio of 3:1 per square foot of the variance granted. This support is contingent on review and approval of a geotechnical evaluation of the Property by the Department of Public Works and review and comments by the Maryland Department of Natural Resources for Forest Interior Dwelling Species (FIDS) Habitat.
8. If the variance is granted, the Applicant must comply with Section 24.8 of the Ordinance pertaining to lapse of variance. Variances shall lapse one year from the date of the grant of the variance by the Board of Appeals.
9. The Applicant's surveyor has provided staff with a letter of intent that addresses the standards for granting a variance in the Critical Area. Staff's analysis of the Applicant's compliance with the standards is provided below:

#### **CRITICAL AREA STANDARDS**

- a. *That special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in unwarranted hardship.*

Staff Analysis: The entire Property is constrained by the Expanded Buffer due to on site wetlands, streams, steep slopes and the presence of highly erodible soils. For this reason, staff finds that a strict enforcement of the Critical Area provisions of this Ordinance will result in unwarranted hardship because the Applicant would be prohibited from constructing a dwelling on a grandfathered lot that is zoned for Residential use.



Staff finds that the Applicant has met this standard subject to review an approval of a geotechnical evaluation by the Department of Public Works and subject to review by Department of Natural Resources (DNR) Wildlife and Heritage Service.

- b. *That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County.*

Staff Analysis: Staff finds that strict interpretation of the Critical Area provisions of this Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. Other property owners in the LDA who are constrained by the expanded Buffer have been granted variances in the past to construct single family dwellings and appurtenances in order to have use of their residential properties.

Staff finds that the Applicant has met this standard subject to review an approval of a geotechnical evaluation by the Department of Public Works and subject to review by Department of Natural Resources (DNR) Wildlife and Heritage Service.

- c. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area of St. Mary's County.*

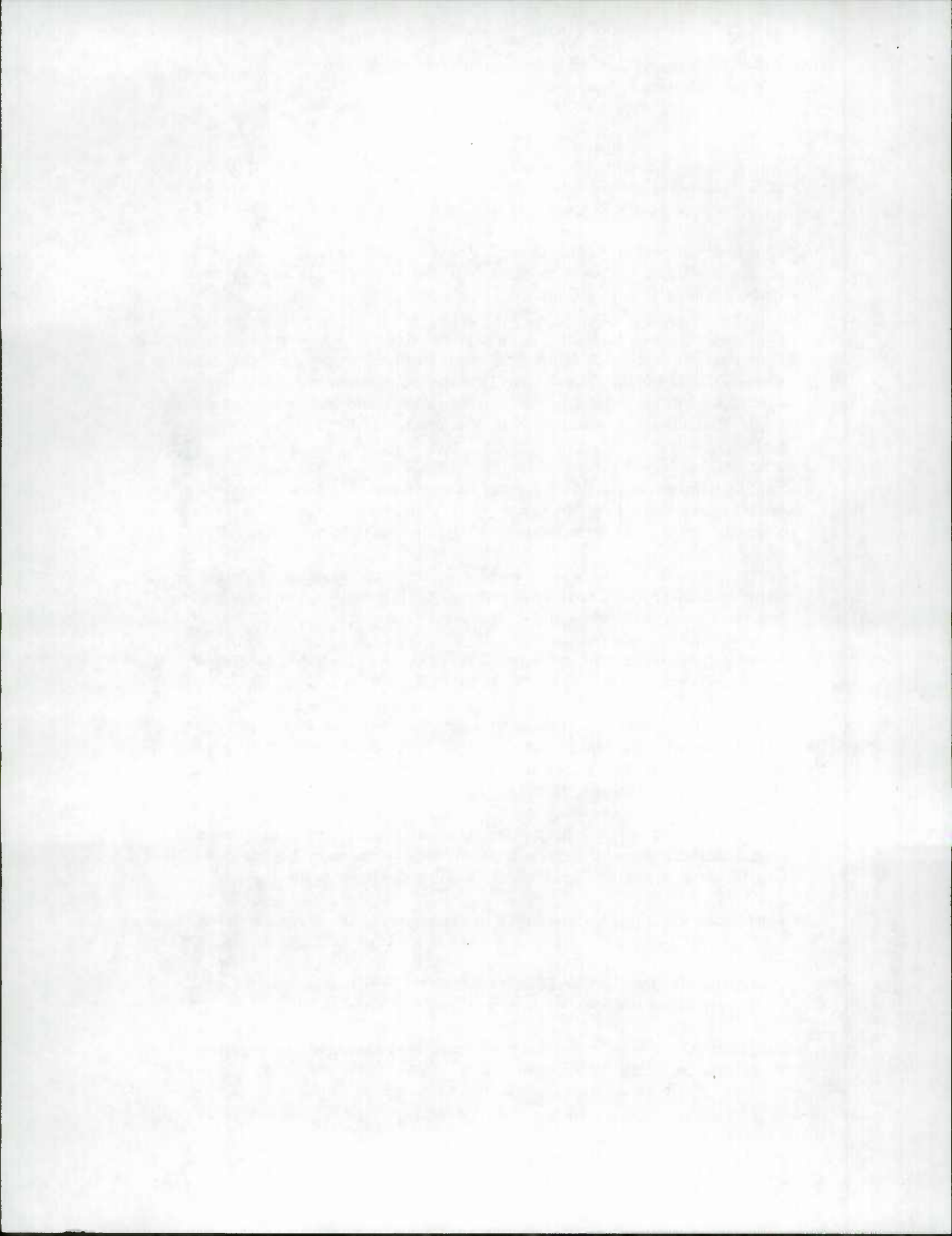
Staff Analysis: Other property owners in the LDA have been granted variances and have been issued permits to build dwellings in the Buffer as long as maximum conformance to Critical Area regulations is attempted. As the proposed dwelling and septic drain field are located as close to Cat Creek road as allowable while avoiding the majority of slopes with a gradient greater than 25 percent staff finds that granting this variance would not confer any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures.

Staff finds that the Applicant has met this standard, subject to review an approval of a geotechnical evaluation by the Department of Public Works and subject to review by Department of Natural Resources (DNR) Wildlife and Heritage Service.

- d. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant.*

Staff Analysis: The variance request is based on the topographical constrains and environmental features of the Property and the Critical Area Buffer.

Staff finds that the variance request is not based upon conditions or circumstances that are the result of actions by the Applicants.



- e. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program.*

Staff Analysis: The Applicant must implement erosion and sediment control measures during construction and must mitigate for vegetation removal.

A Critical Area Planting Agreement and Buffer Management Plan will be necessary to alleviate any impacts to water quality due to clearing vegetation and the placement of impervious surface in the Buffer. The required plantings will assist in maintaining the functions of the Buffer. The Planting Agreement requires mitigation in native plant species at a ratio of three to one (3:1) per square foot of the variances granted in accordance with Section 24.4.2.b of the Ordinance.

The Department of Public Works (DPW) will review the proposed project for storm water management and proper location and construction of the proposed drywells. Additionally, the Applicant will be required to construct the driveway using a pervious paving system to assist in increasing storm water absorption and decreasing negative effects of possible storm water runoff.

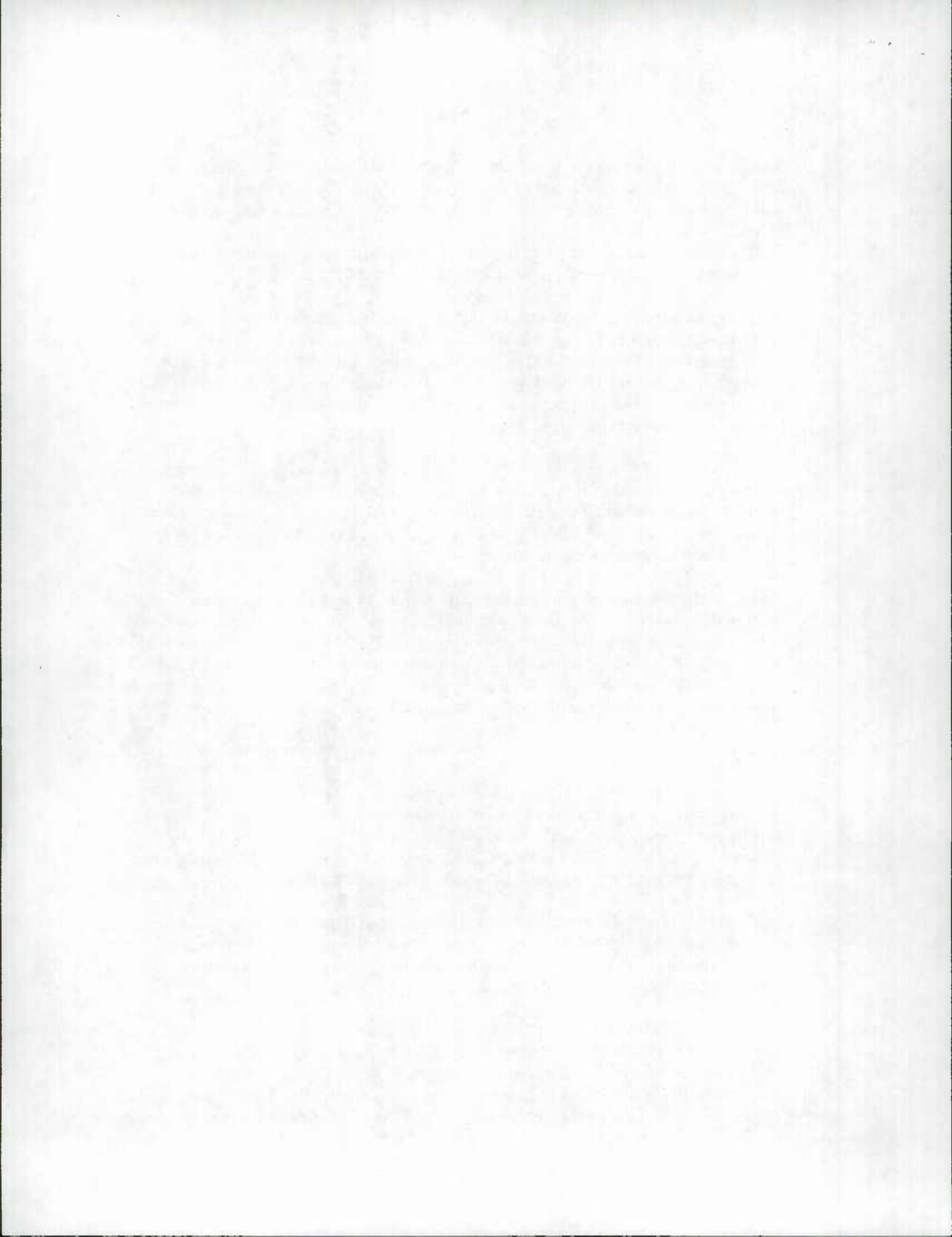
Staff finds that the Applicant has met this standard, subject to minimizing the proposed limits of disturbance, constructing the proposed driveway with a pervious paving system and requiring the proposed construction to be reviewed by DPW for proper placement of the drywells. Additionally, a geotechnical evaluation must be submitted to the Department of Public Works and Transportation for review, and the Applicant must provide comments from the Maryland Department of Natural Resources for FIDS habitat.

- f. *The variance is the minimum necessary to achieve a reasonable use of the land or structures.*

Staff Analysis: The Applicant is asking for a reasonably sized single-family dwelling and the lot coverage proposed is well within the 15 percent limit of the Property, and the proposed clearing is less than the 30 percent clearing limit of the Property. Staff does not find that the proposed improvements are an excessive use of the land.

Staff finds that the Applicant has met this standard, subject to providing information on why they cannot reduce the limits of disturbance; constructing the proposed driveway with a pervious paving system; and review and approval of a geotechnical evaluation by the Department of Public Works and Transportation.

**VI. STAFF RECOMMENDATION:** Staff recommends acceptance of the findings of this staff report and **approval** of the request to disturb steep slopes and clear woodland in the Buffer and place impervious surface in the Buffer, subject to adherence to the Critical Area Planting Agreement and Buffer Management Plan; construction of the driveway using a pervious pavement system; and review by the Department of Public Works for storm water management and review and approval of a geotechnical evaluation by the Department of Public Works.

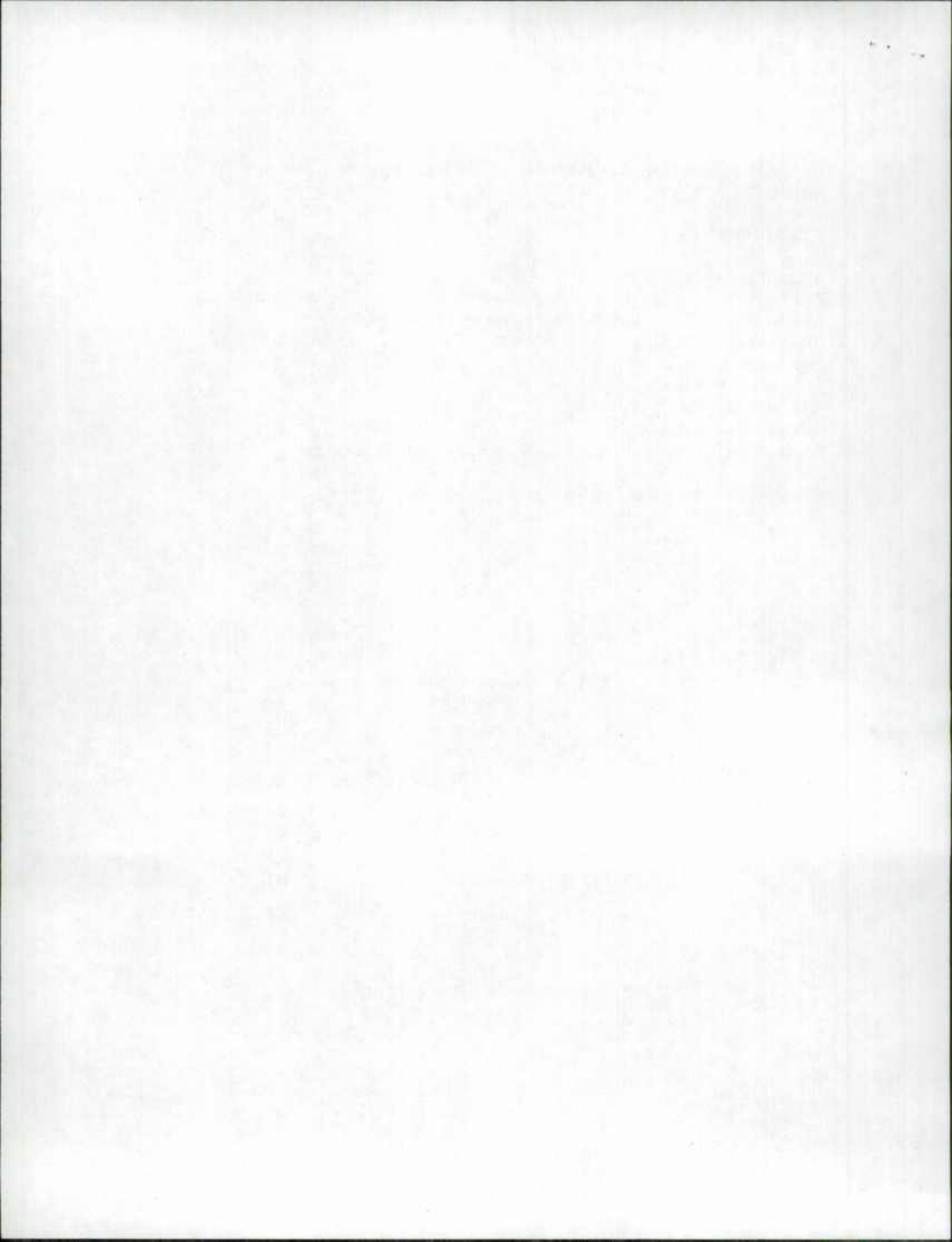


Additionally, the Applicant must provide staff with comments from DNR on FIDS habitat protection.

## **VII. ATTACHMENTS**

- Attachment #1- Letter of Intent
- Attachment #2- Critical Area Comments
- Attachment #3- Critical Area Planting Agreement
- Attachment #4- GIS Map
- Attachment #5- Location Map
- Attachment #6- Site Plan
- Attachment #7- Floodplain Panel
- Attachment #8- Soil Survey
- Attachment #9- Letter dated July 2, 2008 from the Health Department

Variance Application Date: January 30, 2008





400-08

SOIL INVESTIGATION AND  
SLOPE STABILITY REPORT  
**LOT 26, BLOCK 5**  
**RIVERWOOD FARMS SUBDIVISION**  
6<sup>TH</sup> ELECTION DISTRICT  
ST. MARY'S COUNTY, MARYLAND

REPORT TO  
KAREL KONECNY  
2855 PRISM COURT  
LUSBY, MARYLAND 20657

REPORT BY  
BOB TAYLOR ENGINEERING, INC.  
22688 THREE NOTCH ROAD  
LEXINGTON PARK, MARYLAND  
20653

NOVEMBER 05, 2008

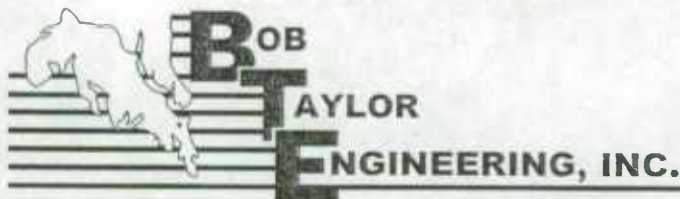
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St. Mary's County  
Land Use & Growth Management

## TABLE OF CONTENTS

	PAGE(S)
SOILS INVESTIGATION .....	1 - 5
APPENDIX A BORING LOCATION PLAN .....	7
APPENDIX B RECORD OF SOIL EXPLORATION .....	9 - 11
APPENDIX C LABORATORY TEST RESULTS .....	13 - 17
APPENDIX D PROFILE DATED 11/11/08 .....	19



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Geotechnical Services • Materials Testing

Robert F. Taylor, P.E., President

## SOILS INVESTIGATION AND SLOPE STABILITY REPORT

(Page One of Five)

CLIENT: Karel Konecny

PROJECT: Lot 26, Block 5  
Riverwood Farms Subdivision

JOB NUMBER: 08-438

DATE OF REPORT: 11/05/08

INSPECTION DATES: 10/21/08 and 10/24/08

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TYPE(S) OF INSPECTION: Soil Borings, Classification of Soils and Slope Stability Analysis

A total of three (3) soil borings labeled B-1, B-2 and B-3 were performed for Karel Konecny, Lot 26, Block 5 Riverwood Farms Subdivision, located in St. Mary's County, Maryland. The purpose of this testing was to obtain data to perform a stability analysis of the existing slope for the construction of the proposed residential home. Soil borings labeled B-1 and B-2 were performed using a SIMCO truck mounted drill rig to an approximate depth of thirty-five feet (35') and fifteen feet (15') respectively, below existing grade. Soil boring labeled B-3 was drilled using a hand held auger to an approximate depth of three feet (3') below existing grade.

During the soils exploration for soil borings labeled B-1 and B-2, split spoon sampling tests per ASTM D-1586 were conducted to determine the degree of soil density at varying depths. Within soil boring labeled B-3, modified friction cone tests were performed to determine the degree of soil density at varying depths. The results of the split spoon sampling tests and the modified friction cone tests within the moist tan elastic silt indicated the existence of a firm soil condition. The moist tan sandy silt exhibited a firm soil condition. The moist tan/yellow poorly graded sand with silt and the moist silty sand indicated a firm soil condition. The wet dark gray silty sand exhibited a firm soil condition. The boring locations are shown on Appendix A Boring Location Plan.

During the excavation, groundwater was not encountered with soil borings labeled B-1 and B-2. However, groundwater was encountered within soil boring labeled B-3. After completion of the excavation, the soil borings were re-examined. The soil borings labeled B-1 and B-2 were dry and the cave-in depths were at twenty-seven feet and seven inches (27' 7") and twelve feet and eight inches (12' 8") respectively. Upon completion, the water level for soil boring labeled B-3 was at an approximate depth of two feet (2') and the cave-in depth was at two feet and six inches (2' 6").

Beneath the surface stratum, random soil samples were obtained from each strata encountered during the investigation and returned to the laboratory for further analyses. The description of the soil is based upon the information from the Unified Soil Classification System (ASTM Designation D-2487). Descriptions of the various soils encountered and the results of the split spoon sampling tests and the friction cone tests are included in APPENDIX B RECORD OF SOIL EXPLORATION.

## SOILS INVESTIGATION AND SLOPE STABILITY REPORT

(Page Two of Five)

CLIENT: Karel Konecny

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Riverwood Farms Subdivision

JOB NUMBER: 08-438

DATE OF REPORT: 11/05/08

INSPECTION DATES: 10/21/08 and 10/24/08

The results of the laboratory analysis analyses per ASTM C-136 and per ASTM D-2487 are included with this report as APPENDIX C LABORATORY TESTING RESULTS and shown below.

Sample Location	Depth	Visual Classifications	Laboratory Classifications	Natural Moisture Content
B-1	1' - 8'	Elastic Silt	MH	N/A
	8' - 12'	Silty Sand	SM	N/A
	12' - 32'	Poorly Graded Sand with Silt	SP-SM	12.19%
	32' - 35'	Silty Sand	SM	22.31%
B-2	1' - 4'	Elastic Silt	MH	22.20%
	4' - 15'	Sandy Silt	ML	24.35%
B-3	1' - 3'	Silty Sand	SM	21.57%

The slope stability analysis was based upon the results of the soil borings and the soil laboratory testing. A graphic plot of a selected cross-section through the subject slope is enclosed as APPENDIX D PROFILE DATED 11/05/08. The results of this study indicate that favorable conditions do exist for construction at this site. The proposed residence should be designed and constructed with a basement having continuous reinforced wall footings with slab on grade foundation.

### RECOMENDATIONS:

Based on the analyses of the soil borings and the results of the laboratory analyses, Bob Taylor Engineering, Inc. recommends the following to assist in the design and construction phases of this project:

1. The building may be supported on a foundation of conventional footings bearing on the approved virgin soil with a 2,000 psf soil bearing capacity.

## SOILS INVESTIGATION AND SLOPE STABILITY REPORT

(Page Three of Five)

CLIENT: Karel Konecny

PROJECT: Lot 26, Block 5  
Riverwood Farms Subdivision

JOB NUMBER: 08-438

DATE OF REPORT: 11/05/08

INSPECTION DATES: 10/21/08 and 10/24/08

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### RECOMENDATIONS:

2. On the western side, or walk-out side of the basement, the footings should be stepped down so that they bear on an approved virgin soil at a depth of four feet (4') below the original ground surface at the face of the slope.
3. All other footings should be placed upon a controlled fill or virgin ground so as not to be exposed to freezing and thawing at a minimum depth of thirty inches (30") below finished existing grade. Footings should be designed with steel reinforcement for a bearing of 2,000 psf (pounds per square foot).
4. Site grading should provide positive drainage at all times during the excavation and backfilling phases. Exterior areas around the residence must be graded so that surface runoff is drained away from the residence, with limited disturbance to the existing established vegetation.
5. At the above specified site, the basement walls of the proposed residence which will directly face the soil should be designed with steel reinforcement to resist lateral earth pressures.
6. During excavation for the basement, the more sandy soils may be stockpiled and used as the backfill directly against these walls. With this material, an equivalent fluid pressure of 35 psf may be used as the horizontal component of the active pressure for design of the basement walls.
7. A drainage system should be provided near or at the base of the basement walls to collect and remove subsurface water and prevent a build-up of excessive hydrostatic pressure on the walls.

## SOILS INVESTIGATION AND SLOPE STABILITY REPORT

(Page Four of Five)

CLIENT: Karel Konecny

PROJECT: Lot 26, Block 5  
Riverwood Farms Subdivision

JOB NUMBER: 08-438

DATE OF REPORT: 11/05/08

INSPECTION DATES: 10/21/08 and 10/24/08

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### RECOMENDATIONS: (Continued)

8. Considering the comparatively steep configuration of the adjacent slopes, Bob Taylor Engineering, Inc. recommends that the subsurface water from the building (i.e., from the roof, footing drains, sump pump, etc.) be discharged at a distance of at least ten feet (10') from the exterior of the residence onto the existing vegetative slope or into a dry well modified as a sand filter.
9. Since these on site soils are erodible in nature, a concentration of water at the base of the drywell may contribute to a slope erodible soil condition. Therefore, Bob Taylor Engineering, Inc. recommends installing a relief pipe within the base of the drywell to exit onto the slope with a discharge opening at the toe of the slope. To help lower the velocity of the outfall, a rip-rap spillway may be installed.
10. Since an elastic silt (MH) soil was found beneath the surface strata, Bob Taylor Engineering, Inc. does not recommend the use of a porous pavement within this proposed driveway area.

This report has been prepared in accordance with generally accepted soils and foundation engineering practices for the exclusive use of Karel Konecny for specific application to the proposed residence for Lot 26, Block 5 Riverwood Farms Subdivision, St. Mary's County, Maryland. No other warranty, expressed or implied, is made. The conclusions are based upon design information furnished and the data obtained from the previously described subsurface exploration program as well as from previous experiences.

These recommendations were developed from the subsurface conditions only at the specified locations and particular times designated on the logs furnished within this report. Differences in soil conditions may occur within the boundaries of this site. A change in the soil conditions at the specified soil boring locations may emerge with

**SOILS INVESTIGATION AND SLOPE STABILITY REPORT**

(Page Five of Five)

CLIENT: Karel Konecny

PROJECT: Lot 26, Block 5  
Riverwood Farms Subdivision

JOB NUMBER: 08-438

DATE OF REPORT: 11/05/08

INSPECTION DATES: 10/21/08 and 10/24/08

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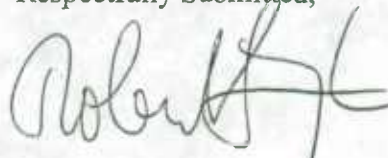
the passage of time. My company is not responsible for the conclusions, opinions, or recommendations made by others based upon this data.

During construction, should the conditions of the soil diverge from the contents of this report, please contact Bob Taylor Engineering, Inc. as soon as possible. In the event that changes are made in the design or location of the proposed residence, proposed grading configuration, or limits of clearing, the recommendations presented in this report shall not be considered valid unless the changes are reviewed by my company and conclusions of this report modified or verified in writing.

Soil boring samples will be stored at our Lexington Park office for a period of thirty days from the date of this report. Should you desire the samples to be stored for a longer duration, written notice must be given to this office prior to December 05, 2008.

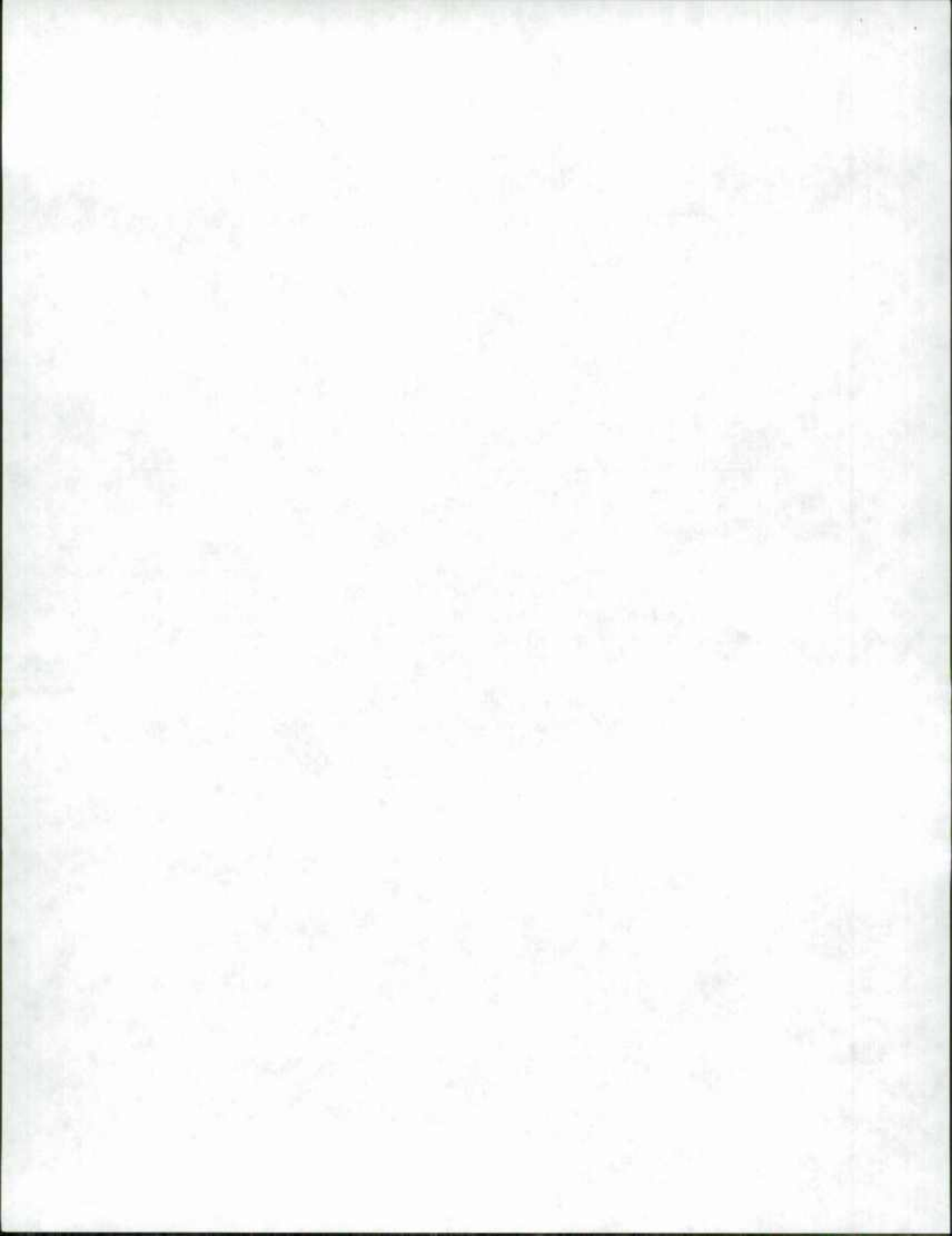
Thank you for allowing Bob Taylor Engineering, Inc. to be of service to you. Should you have any questions, please don't hesitate to call.

Respectfully Submitted,



Robert F. Taylor, P.E.  
President



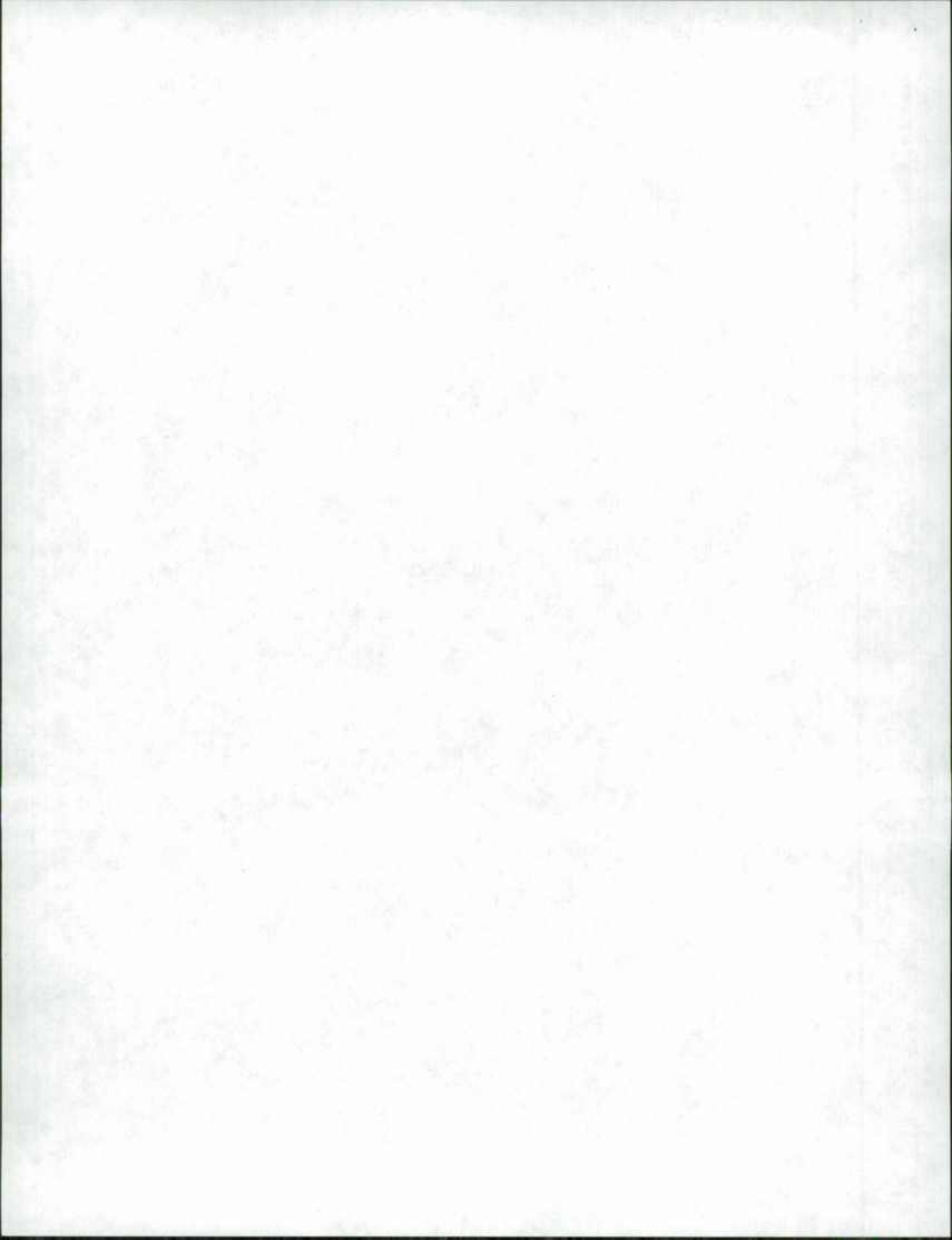




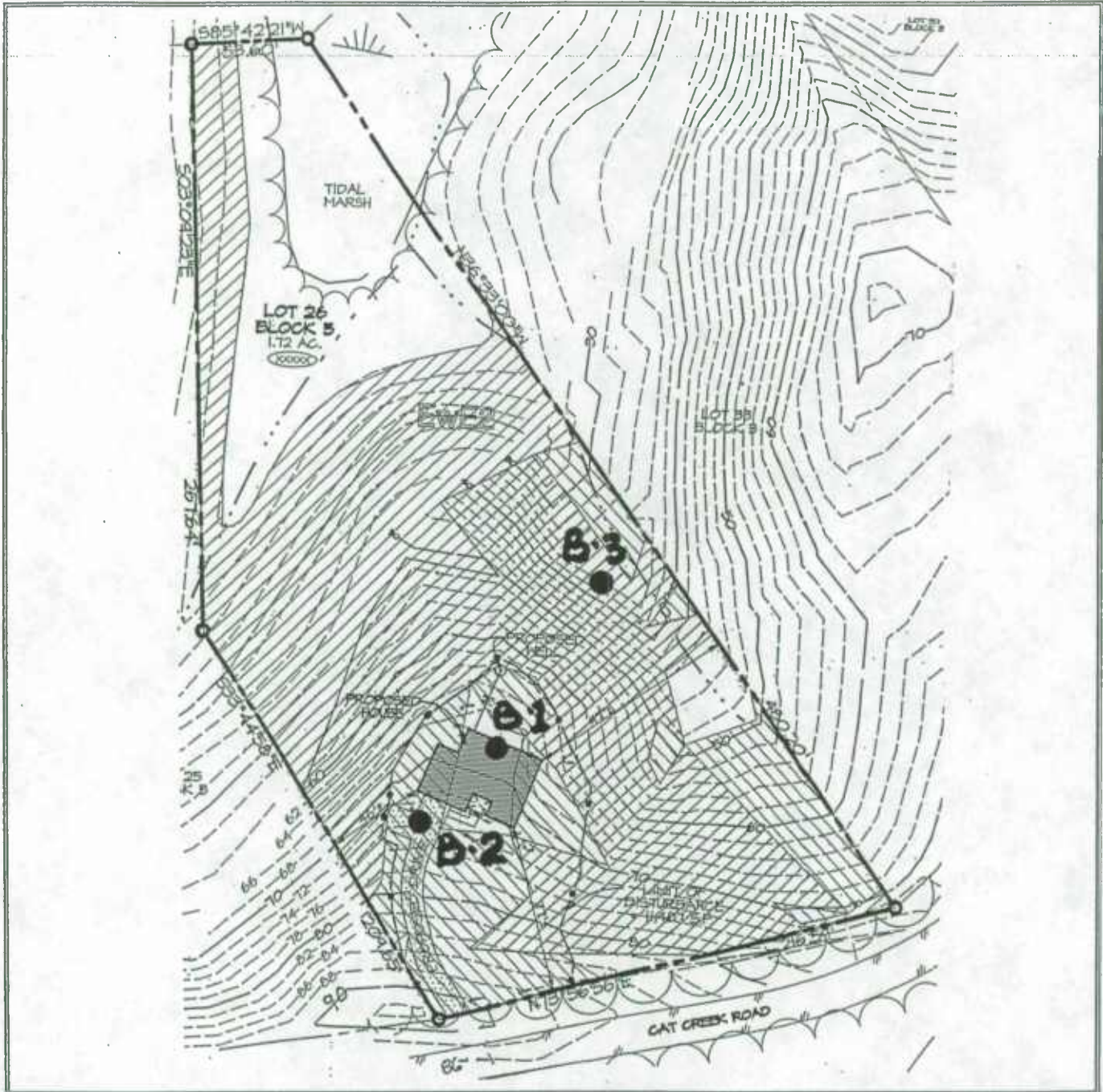
APPENDIX A  
BORING LOCATION PLAN

SOIL INVESTIGATION AND  
SLOPE STABILITY REPORT  
**LOT 26, BLOCK 5**  
**RIVERWOOD FARMS SUBDIVISION**  
6<sup>TH</sup> ELECTION DISTRICT  
ST. MARY'S COUNTY, MARYLAND

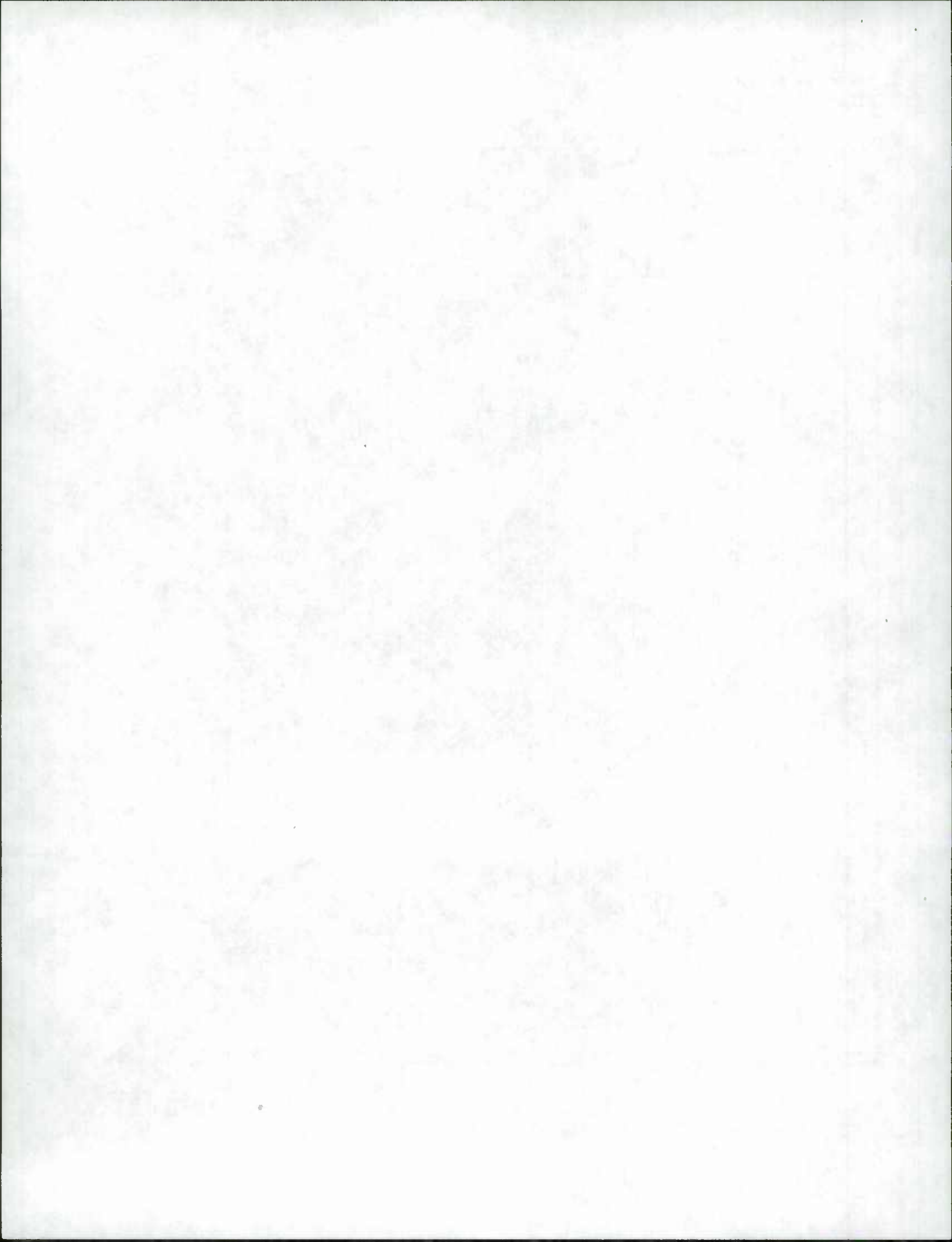
REPORT TO  
KAREL KONECNY  
2855 PRISM COURT  
LUSBY, MARYLAND 20657



**BORING LOCATION PLAN**



Lot 26, Block 5  
 Riverwood Farms Subdivision

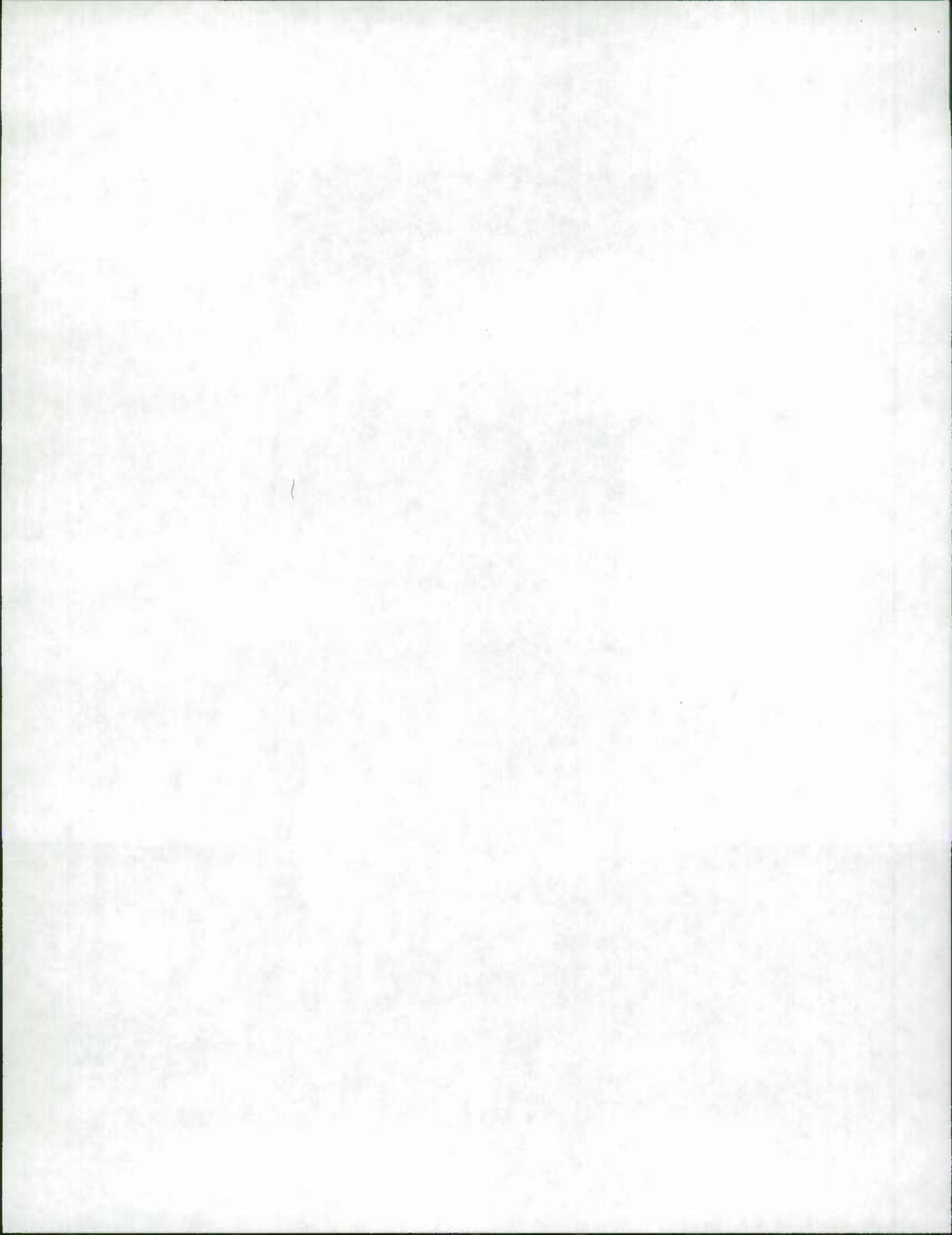


APPENDIX B

RECORD OF SOIL EXPLORATION

SOIL INVESTIGATION AND  
SLOPE STABILITY REPORT  
**LOT 26, BLOCK 5**  
**RIVERWOOD FARMS SUBDIVISION**  
6<sup>TH</sup> ELECTION DISTRICT  
ST. MARY'S COUNTY, MARYLAND

REPORT TO  
KAREL KONECNY  
2855 PRISM COURT  
LUSBY, MARYLAND 20657



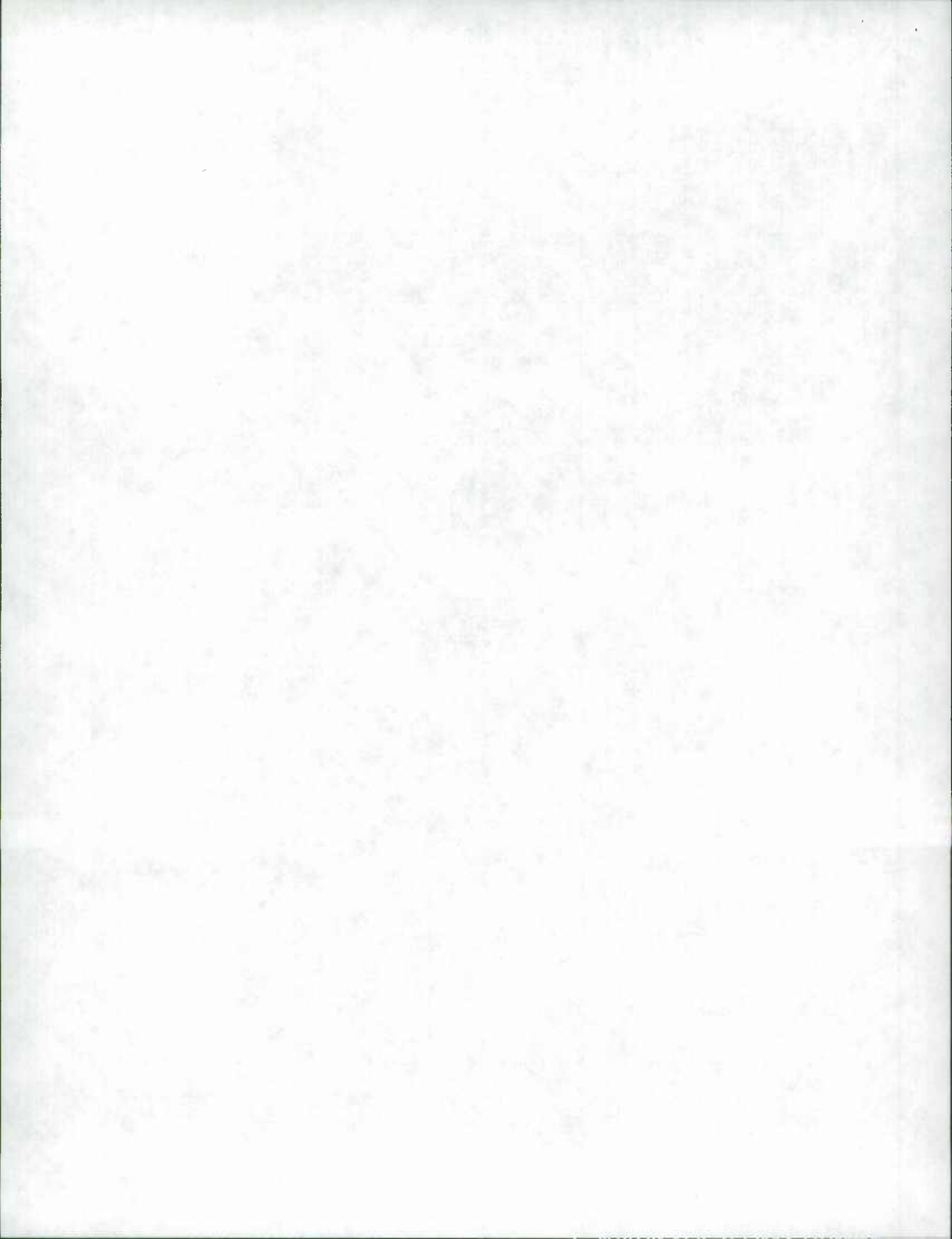
# BOB TAYLOR ENGINEERING, INC.

22688 Three Notch Road  
Lexington Park, Maryland 20653  
Phone (301) 862-4300 / (301) 932-5575  
Fax (301) 862-5764

<b>Job No.:</b> 08-438	<b>Boring No.:</b> B-1
<b>Client:</b> Karel Konecny	
<b>Project:</b> Lot 26, Block 5 Riverwood Farms Subdivision	

RECORD OF SOIL EXPLORATION			
Boring & Sample Notes	Recovery Length	Depth (Feet)	Soil Description
Split Spoon Count/6" (0 - 2') 4-5-7	9"	0.0	Topsoil/Loam/Rootmat
Split Spoon Count/6" (2' - 4') 3-2-2	6"	2.0	Moist Tan Elastic Silt (MH) [Exhibited Firm Soil Strength]
Split Spoon Count/6" (4' - 6') 4-7-10	7"	4.0	
Split Spoon Count/6" (6' - 8') 2-2-6	10"	6.0	
Split Spoon Count/6" (8' - 10') 2-2-5-7	4"	8.0	
		10.0	
		12.0	Moist Tan Silty Sand (SM) [Exhibited Firm Soil Strength]
Split Spoon Count/6" (13' - 15') 3-3-5	11"	14.0	
		16.0	
Split Spoon Count/6" (18' - 20') 3-3-4	18"	18.0	
		20.0	
		22.0	Moist Tan/Yellow Poorly Graded Sand with Silt (SP-SM) [Exhibited Firm Soil Strength]
Split Spoon Count/6" (23' - 25') 3-4-5	16"	24.0	
		26.0	
Split Spoon Count/6" (28' - 30') 4-6-7	17"	28.0	
		30.0	
		32.0	Moist Brown Silty Sand (SM) [Exhibited Firm Soil Strength]
Split Spoon Count/6" (33' - 35') 4-5-7	16"	34.0	
End of Boring @ 35'			

Date Performed: 10/21/08		Boring Number: B-1	PRESENT ON SITE
Start: 12:30 p.m.	Finish: 4:00 p.m.	Weather: Partly Cloudy / 70°F	Chief Driller: A. Greene
Surface Elevation:		Terminating Elevation:	Assistant 1: D. Baker
Ground Water @ None		Water Level After 24 Hours:	Assistant 2: R. Simmons
Cave-in Depth After 24 Hours @ 27' 7"			Assistant 3: B. Taylor





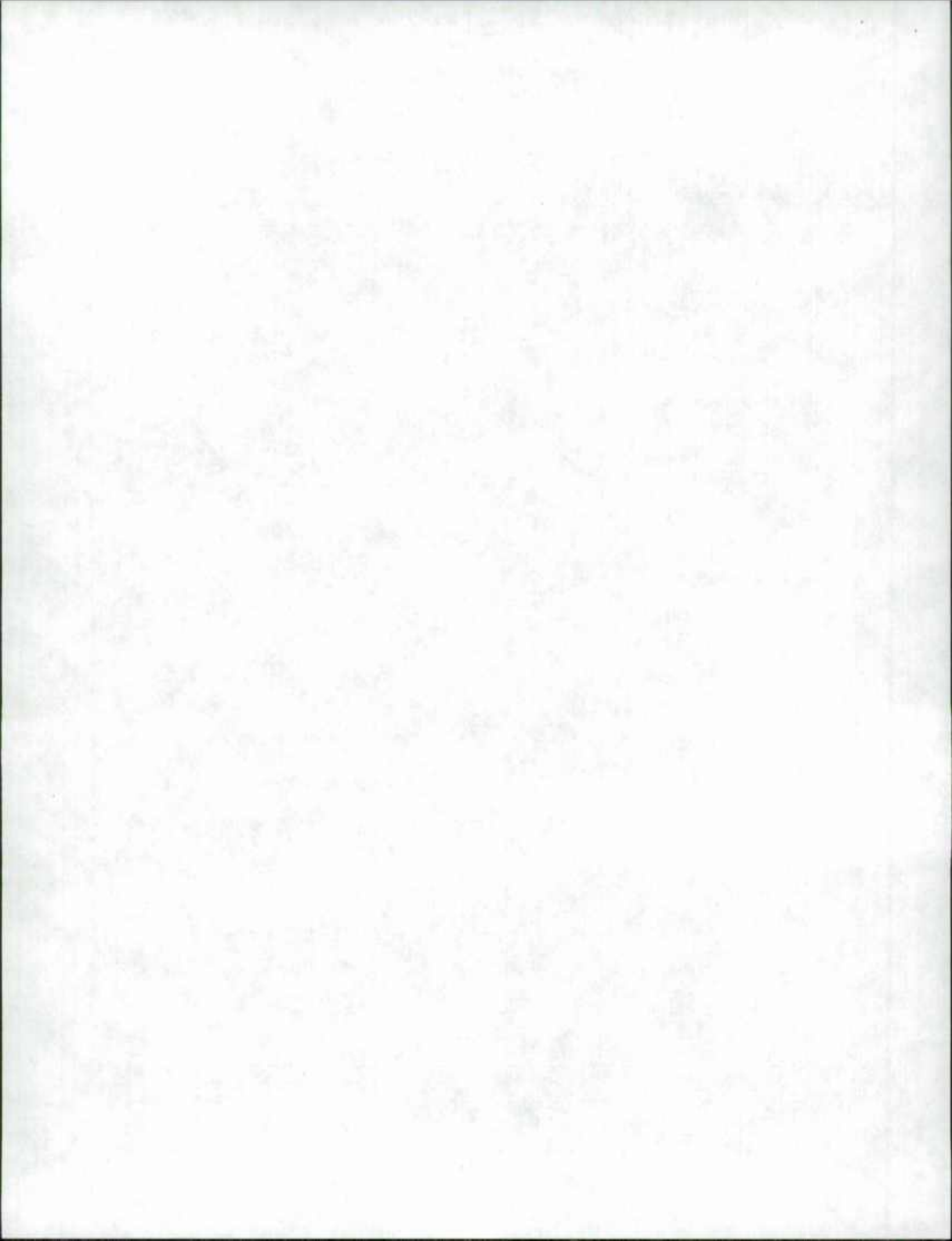
**BOB TAYLOR ENGINEERING, INC.**

22688 Three Notch Road  
Lexington Park, Maryland 20653  
Phone (301) 862-4300 / (301) 932-5575  
Fax (301) 862-5764

<b>Job No:</b> 08-438	<b>Boring No.</b> B-2
<b>Client:</b> Karel Konecny	
<b>Project:</b> Lot 26, Block 5 Riverwood Farms Subdivision	

RECORD OF SOIL EXPLORATION			
Boring & Sample Notes	Recovery Length	Depth (Feet)	Soil Description
Split Spoon Count/6" (0 - 2') 4-5-7	8"	0.0	Topsoil/Loam/Rootmat
		1.0	
Split Spoon Count/6" (2' - 4') 5-7-8	8"	2.0	Moist Tan Elastic Silt (MH) [Exhibited Firm Soil Strength]
		3.0	
		4.0	
Split Spoon Count/6" (4' - 6') 5-7-9	6"	5.0	Moist Tan Sandy Silt (ML) [Exhibited Firm Soil Strength]
		6.0	
		7.0	
Split Spoon Count/6" (6' - 8') 5-6-6	7"	8.0	
		9.0	
		10.0	
Split Spoon Count/6" (8' - 10') 5-5-7	14"	11.0	
		12.0	
		13.0	
Split Spoon Count/6" (13' - 15') 5-6-8	15"	14.0	
		15.0	
		End of Boring @ 15'	

Date Performed: 10/21/08	Boring Number: B-2	PRESENT ON SITE
Start: 4:30 p.m.    Finish: 4:45 p.m.	Weather: Partly Cloudy / 70°F	Chief Driller: A. Greene
Surface Elevation:	Terminating Elevation:	Assistant 1: D. Baker
Ground Water @ None	Water Level After 24 Hours:	Assistant 2: R. Simmons
Cave-in Depth After 24 Hours @ 12' 8"		Assistant 3: B. Taylor



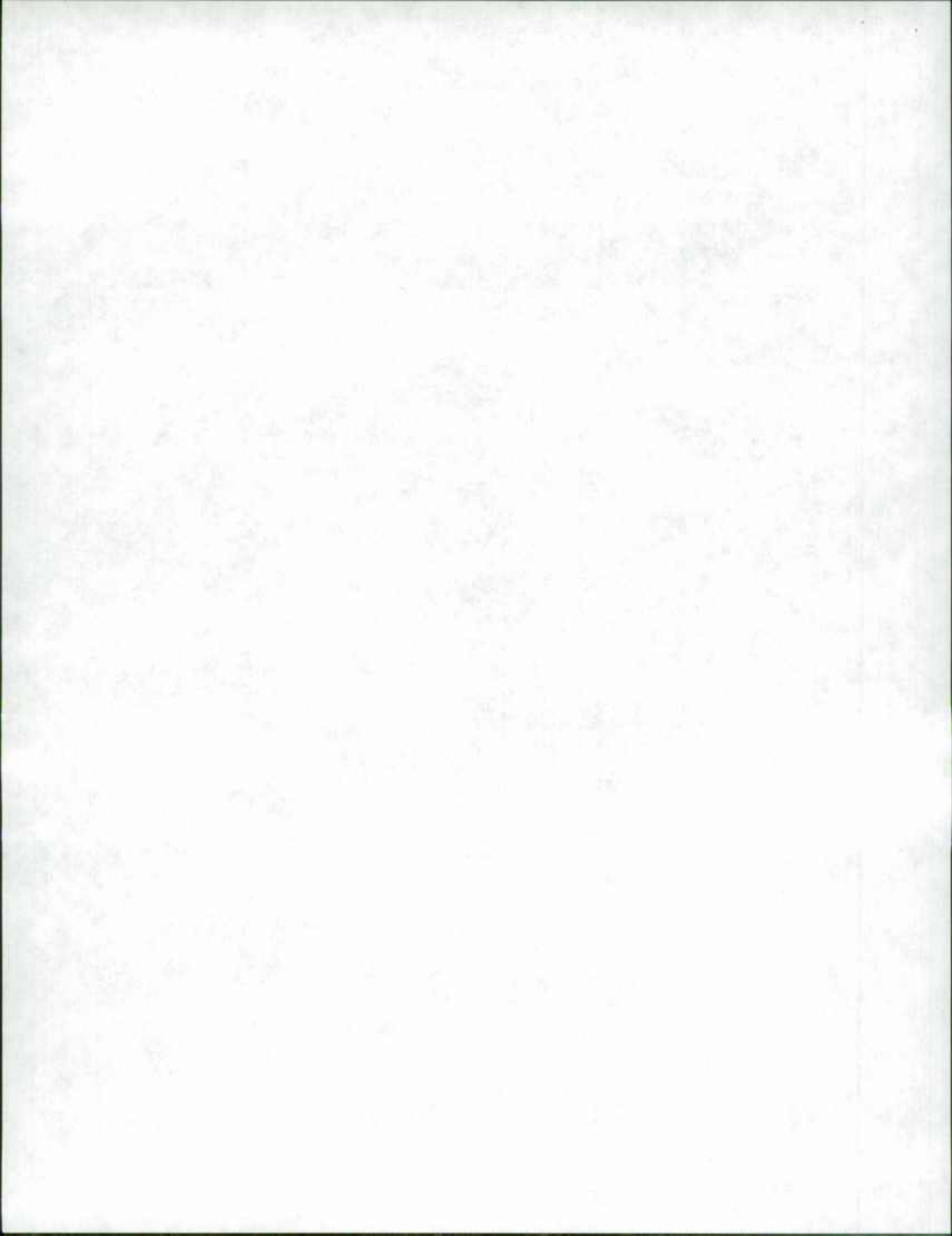
**BOB TAYLOR ENGINEERING, INC.**

22688 Three Notch Road  
Lexington Park, Maryland 20653  
Phone (301) 862-4300 / (301) 932-5575  
Fax (301) 862-5764

<b>Job No: 08-438</b>	<b>Boring No. B-3</b>
<b>Client: Karel Konecny</b>	
<b>Project: Lot 26, Block 5</b>	
<b>Riverwood Farms Subdivision</b>	

RECORD OF SOIL EXPLORATION			
Boring & Sample Notes	Recovery Length	Depth (Feet)	Soil Description
<b>Modified Friction Cone Test/6"</b> 1-4		0.0	
		0.5	
<b>Modified Friction Cone Test/6"</b> 7-8		1.0	Topsoil/Loam/Rootmat [Exhibited Firm Soil Strength]
		1.5	
<b>Modified Friction Cone Test/6"</b> 4-5		2.0	Wet Dark Gray Silty Sand (SM) [Exhibited Firm Soil Strength]
		2.5	
<b>End of Boring @ 3'</b>		3.0	
		3.5	
		4.0	
		4.5	
	5.0		

Date Performed: 10/24/08	Boring Number: B-3	PRESENT ON SITE
Start: 12:20 p.m.	Finish: 12:30 p.m.	Weather: Partly Cloudy / 60°F
Surface Elevation:	Terminating Elevation:	Chief Driller: A. Greene
Ground Water @ 2' 0"	Water Level After Drilling: 2' 0"	Assistant 1: D. Baker
Cave-in Depth After Drilling @ 2' 6"		Assistant 2: R. Simmons
		Assistant 3:

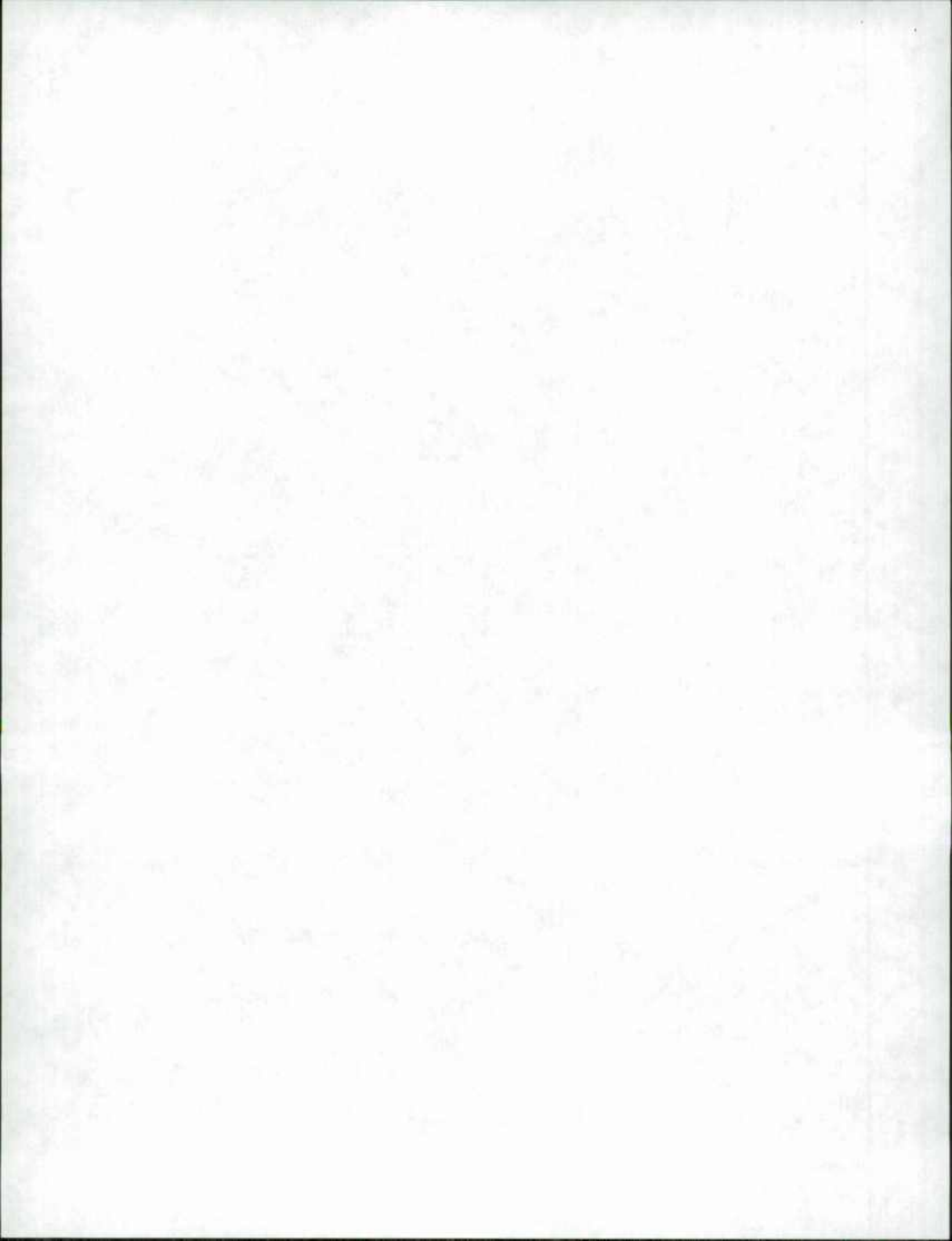


APPENDIX C

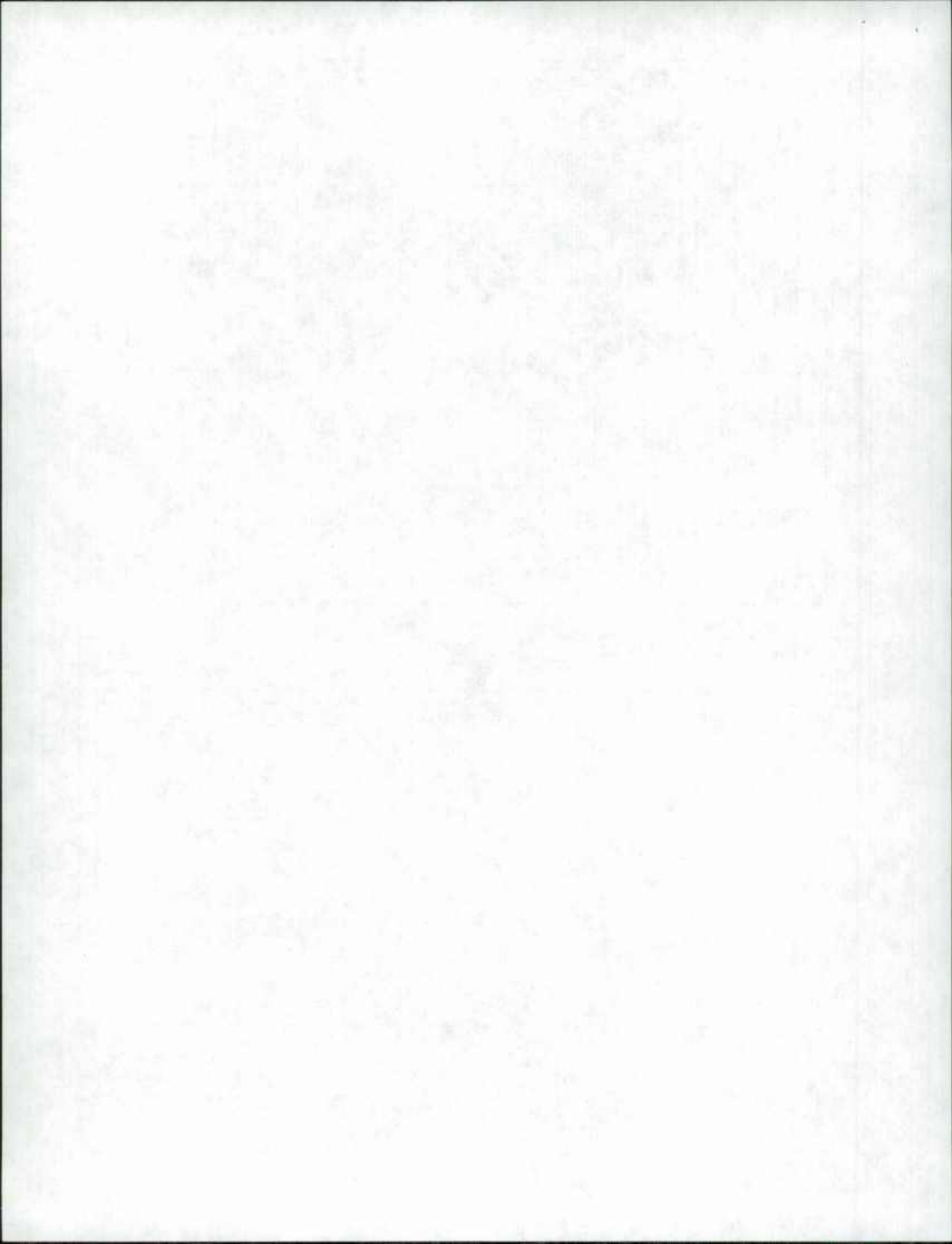
LABORATORY TEST RESULTS

SOIL INVESTIGATION AND  
SLOPE STABILITY REPORT  
**LOT 26, BLOCK 5**  
**RIVERWOOD FARMS SUBDIVISION**  
6<sup>TH</sup> ELECTION DISTRICT  
ST. MARY'S COUNTY, MARYLAND

REPORT TO  
KAREL KONECNY  
2855 PRISM COURT  
LUSBY, MARYLAND 20657

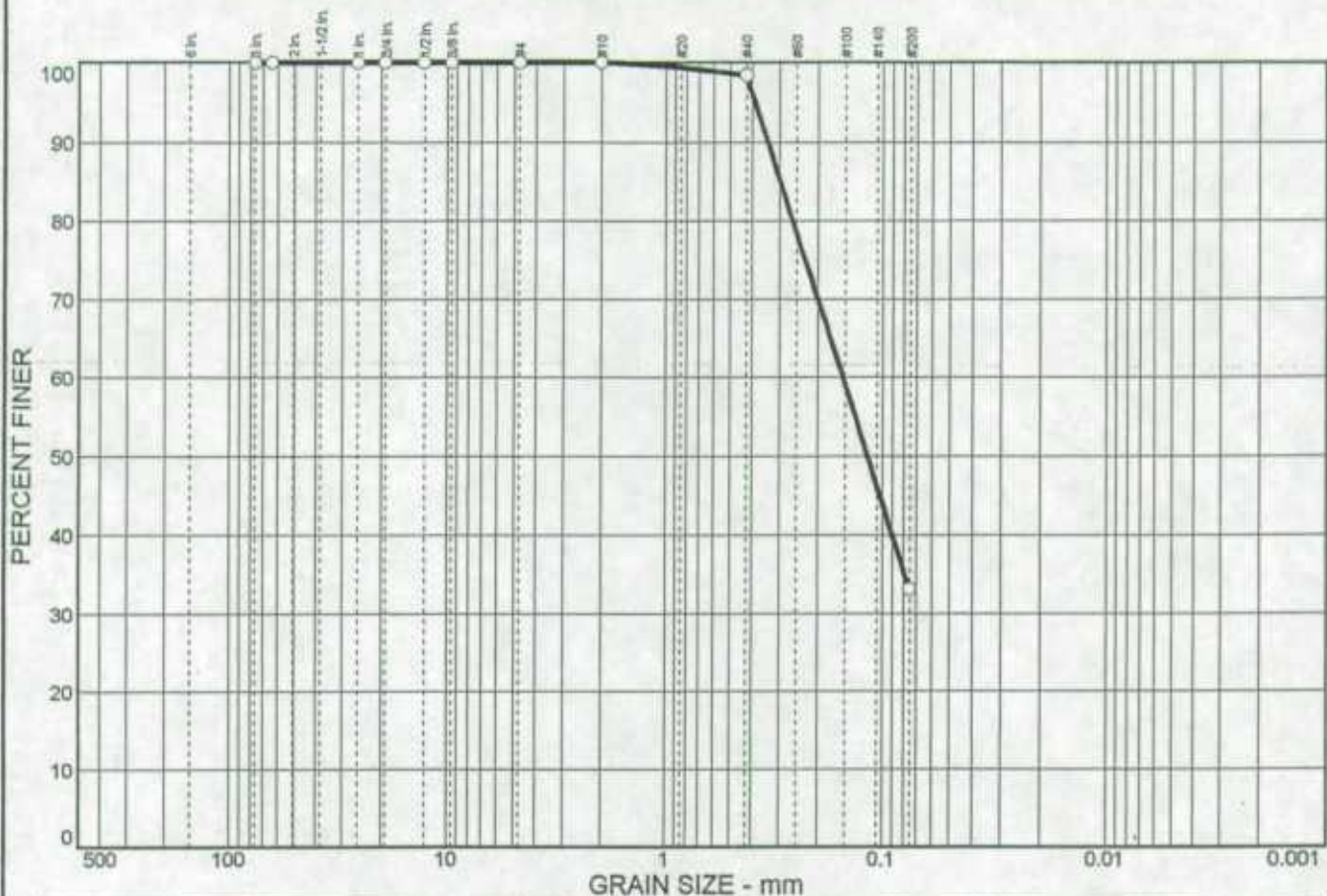








# PARTICLE SIZE DISTRIBUTION TEST REPORT



% COBBLES	% GRAVEL		% SAND			% FINES	
	CRS.	FINE	CRS.	MEDIUM	FINE	SILT	CLAY
0.0	0.0	0.0	0.0	1.6	65.3	33.1	

SIEVE SIZE	PERCENT FINER	SPEC.* PERCENT	PASS? (X=NO)
3	100.0		
2.5	100.0		
1	100.0		
3/4	100.0		
1/2	100.0		
3/8	100.0		
#4	100.0		
#10	100.0		
#40	98.4		
#200	33.1		

**Soil Description**

Silty sand

**Atterberg Limits**

PL=                      LL=                      PI=

**Coefficients**

D<sub>85</sub>= 0.297              D<sub>60</sub>= 0.153              D<sub>50</sub>= 0.117

D<sub>30</sub>=                      D<sub>15</sub>=                      D<sub>10</sub>=

C<sub>u</sub>=                      C<sub>c</sub>=

**Classification**

USCS= SM                      AASHTO= A-2-4(0)

**Remarks**

NATURAL MOISTURE 22.31%

\* (no specification provided)

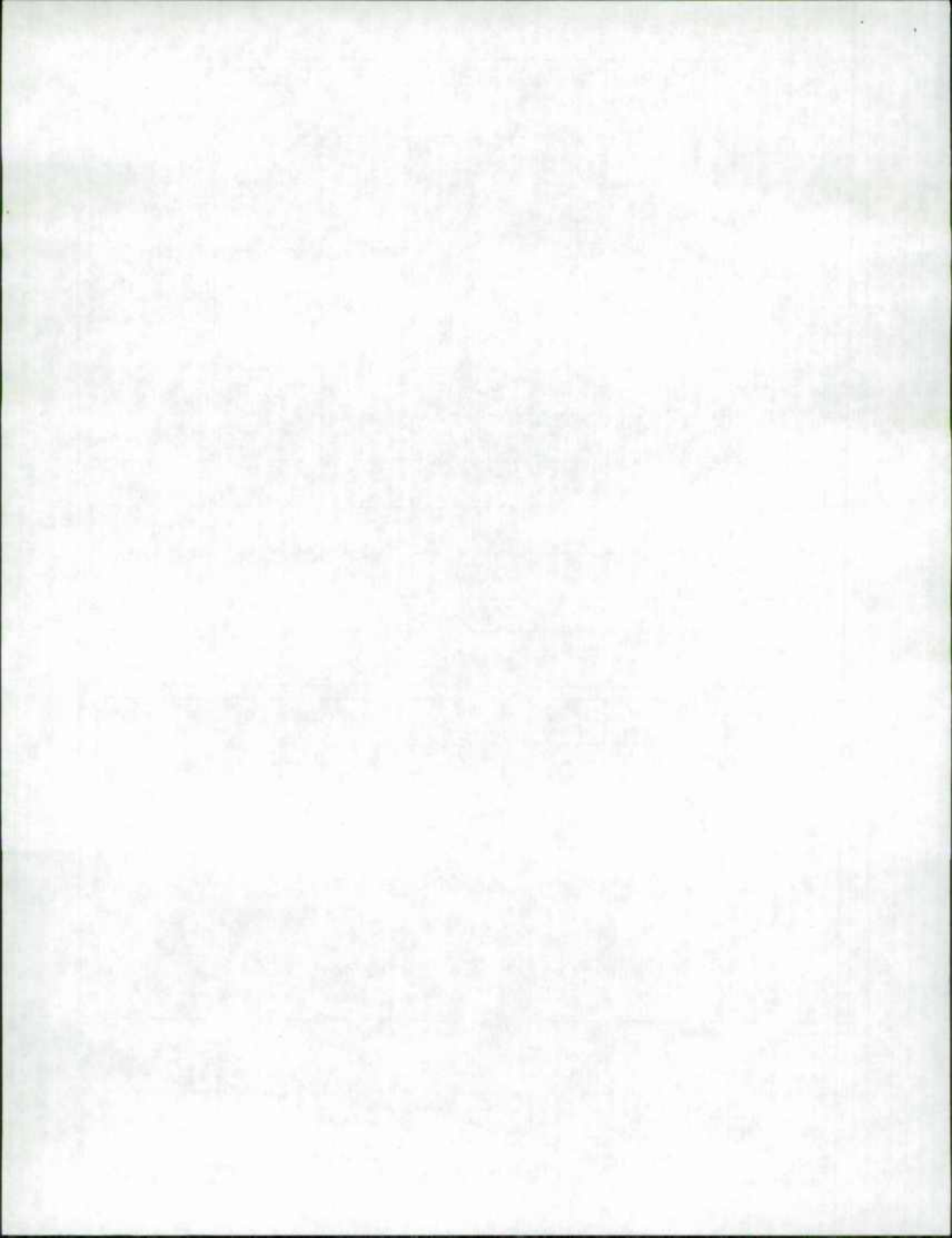
Sample No.: 02                      Source of Sample:                      Date: 10-31-08

Location: B-1                      Elev./Depth: 33'-35'

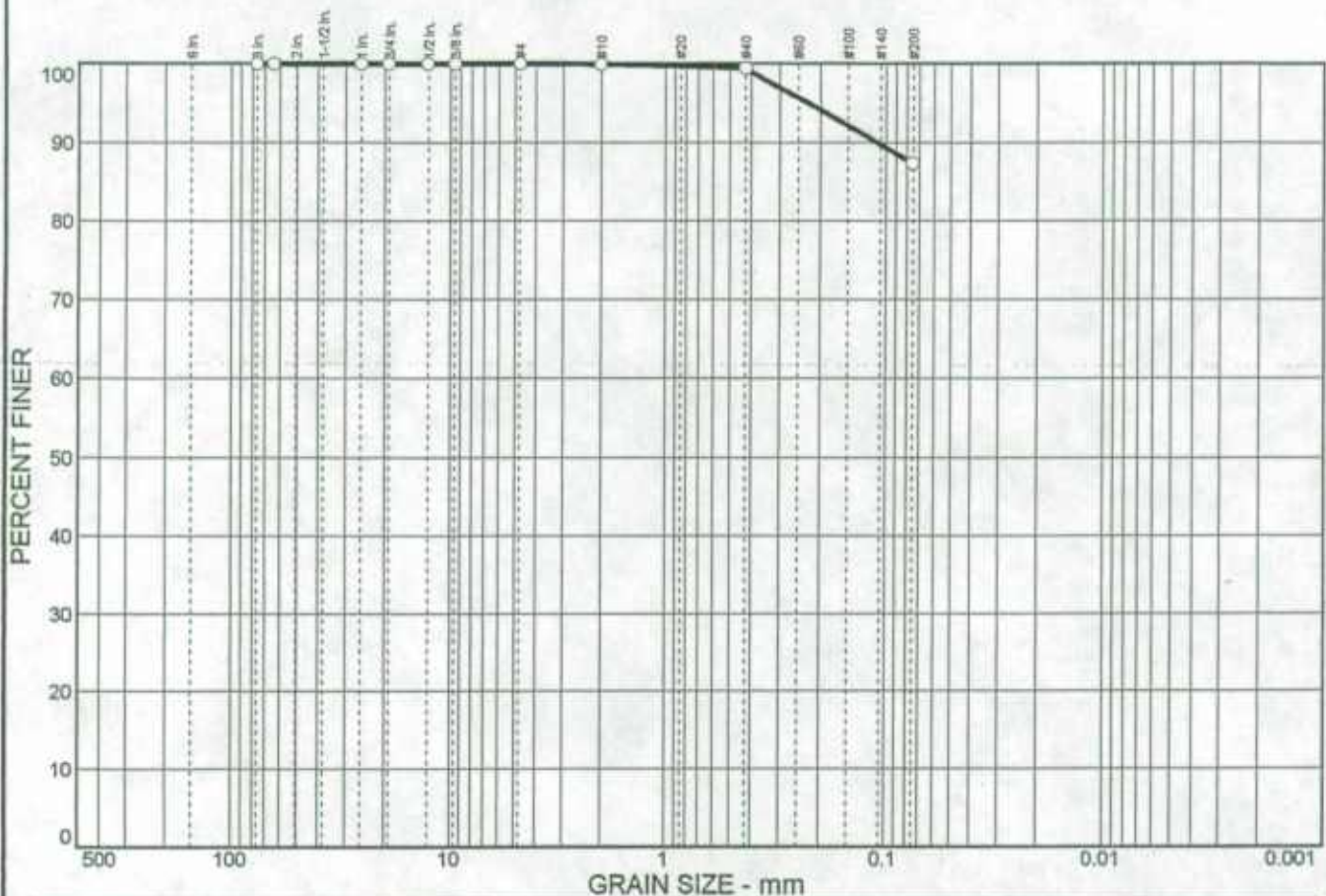
**BOB  
TAYLOR  
ENGINEERING, INC.**

Client: KAREL KONECNY  
Project: LOT 26, BLOCK 5  
RIVER WOOD FARMS SUBDIVISION  
Project No: 08-438

Page



# PARTICLE SIZE DISTRIBUTION TEST REPORT



% COBBLES	% GRAVEL		% SAND			% FINES	
	CRS.	FINE	CRS.	MEDIUM	FINE	SILT	CLAY
0.0	0.0	0.0	0.1	0.5	12.1	87.3	

SIEVE SIZE	PERCENT FINER	SPEC.* PERCENT	PASS? (X=NO)
3	100.0		
2.5	100.0		
1	100.0		
3/4	100.0		
1/2	100.0		
3/8	100.0		
#4	100.0		
#10	99.9		
#40	99.4		
#200	87.3		

**Soil Description**

Elastic silt

**Atterberg Limits**

PL= 33      LL= 56      PI= 23

**Coefficients**

D<sub>85</sub>=      D<sub>60</sub>=      D<sub>50</sub>=  
D<sub>30</sub>=      D<sub>15</sub>=      D<sub>10</sub>=  
C<sub>u</sub>=      C<sub>c</sub>=

**Classification**

USCS= MH      AASHTO= A-7-5(24)

**Remarks**

NATURAL MOISTURE 22.20%

\* (no specification provided)

Sample No.: 03  
 Location: B-2

Source of Sample:

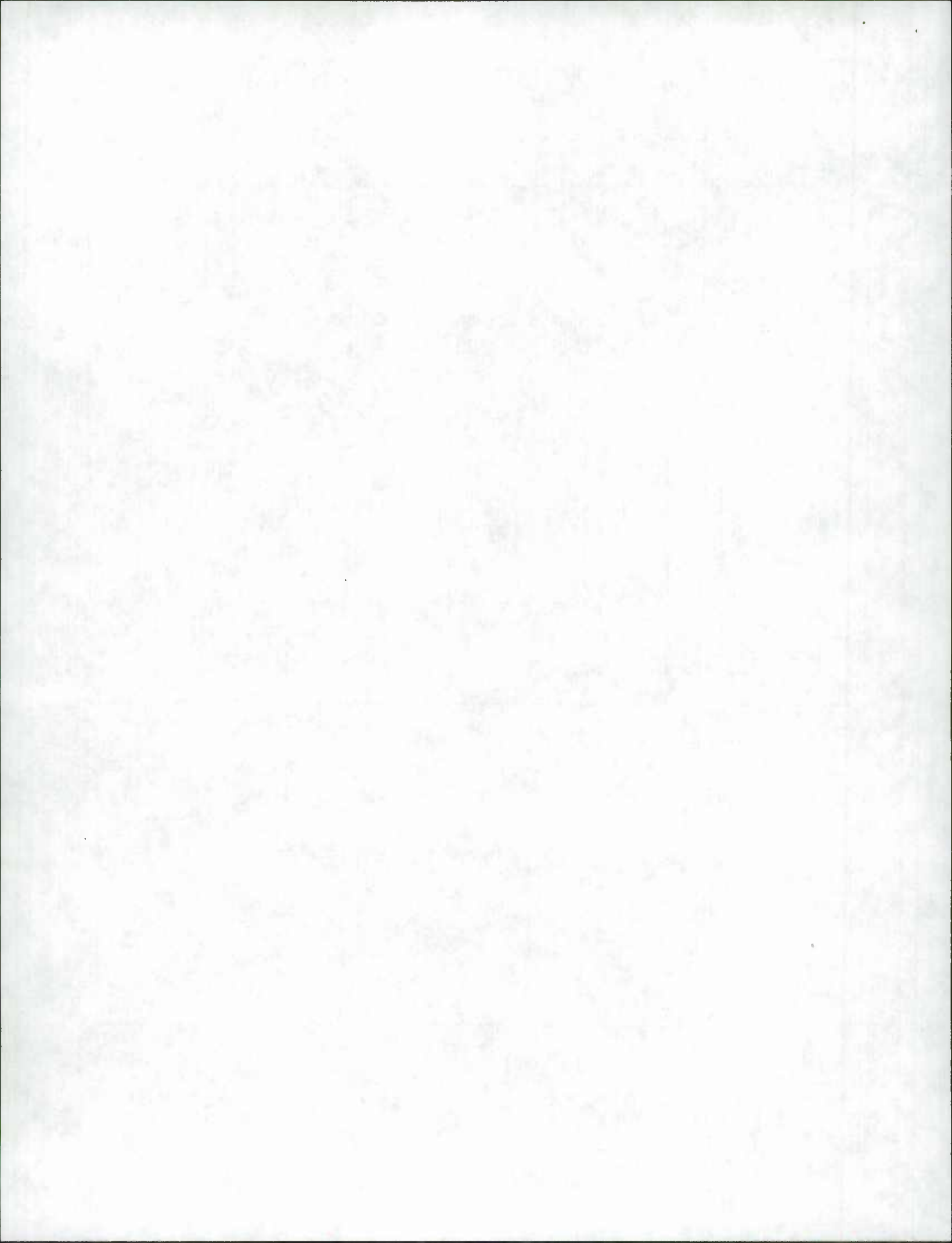
Date: 10-31-08  
 Elev./Depth: 8'-10'

**BOB  
 TAYLOR  
 ENGINEERING, INC.**

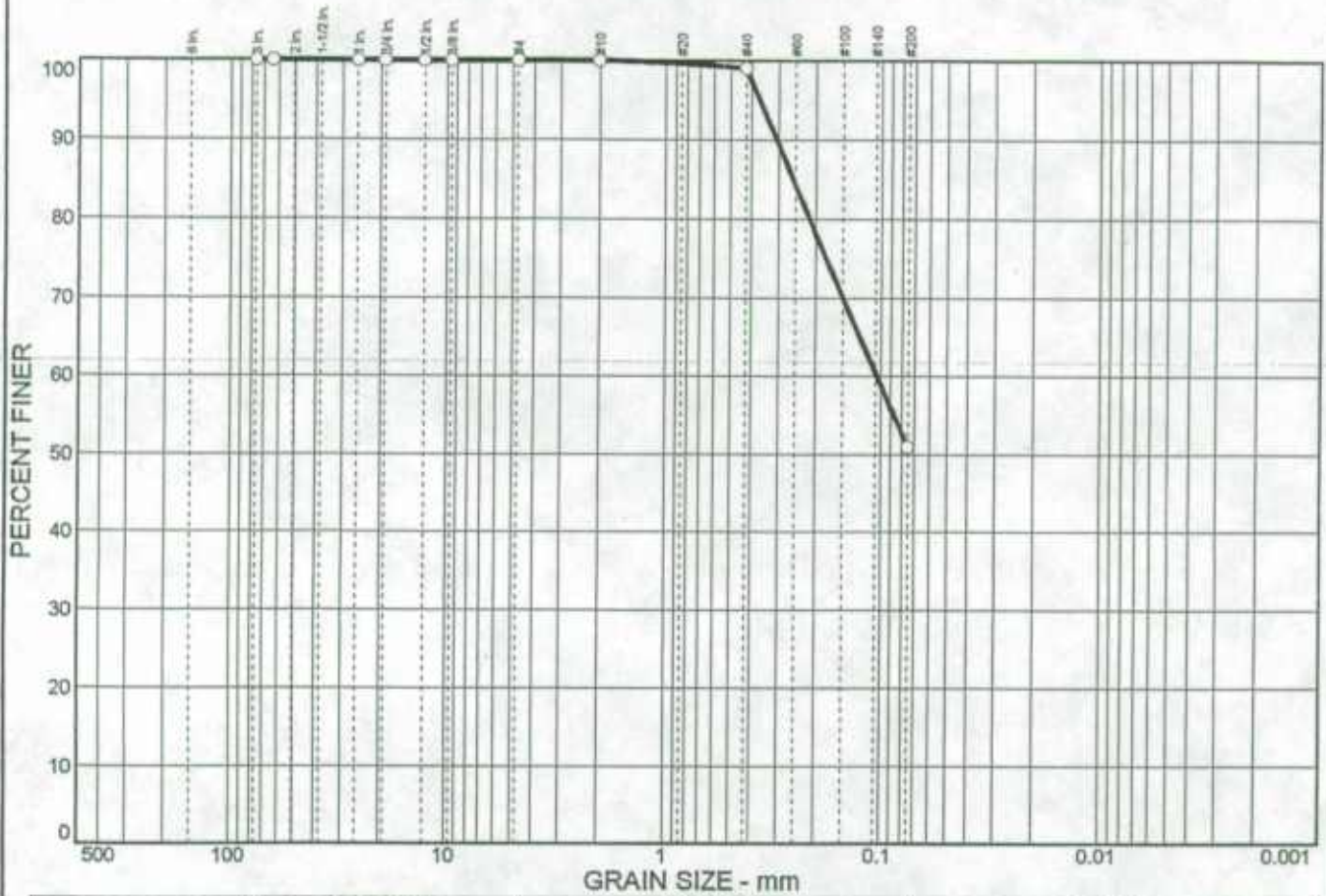
Client: KAREL KONECNY  
 Project: LOT 26, BLOCK 5  
 RIVERWOOD FARMS SUBDIVISION

Project No: 08-438

Page



# PARTICLE SIZE DISTRIBUTION TEST REPORT



% COBBLES	% GRAVEL		% SAND			% FINES	
	CRS.	FINE	CRS.	MEDIUM	FINE	SILT	CLAY
0.0	0.0	0.0	0.0	0.9	48.2	50.9	

SIEVE SIZE	PERCENT FINER	SPEC.* PERCENT	PASS? (X=NO)
3	100.0		
2.5	100.0		
1	100.0		
3/4	100.0		
1/2	100.0		
3/8	100.0		
#4	100.0		
#10	100.0		
#40	99.1		
#200	50.9		

**Soil Description**

Sandy silt

**Atterberg Limits**

PL=                      LL=                      PI=

**Coefficients**

D<sub>85</sub>= 0.255              D<sub>60</sub>= 0.104              D<sub>50</sub>=

D<sub>30</sub>=                      D<sub>15</sub>=                      D<sub>10</sub>=

C<sub>u</sub>=                      C<sub>c</sub>=

**Classification**

USCS= ML                      AASHTO= A-4(0)

**Remarks**

NATURAL MOISTURE 24.35%

\* (no specification provided)

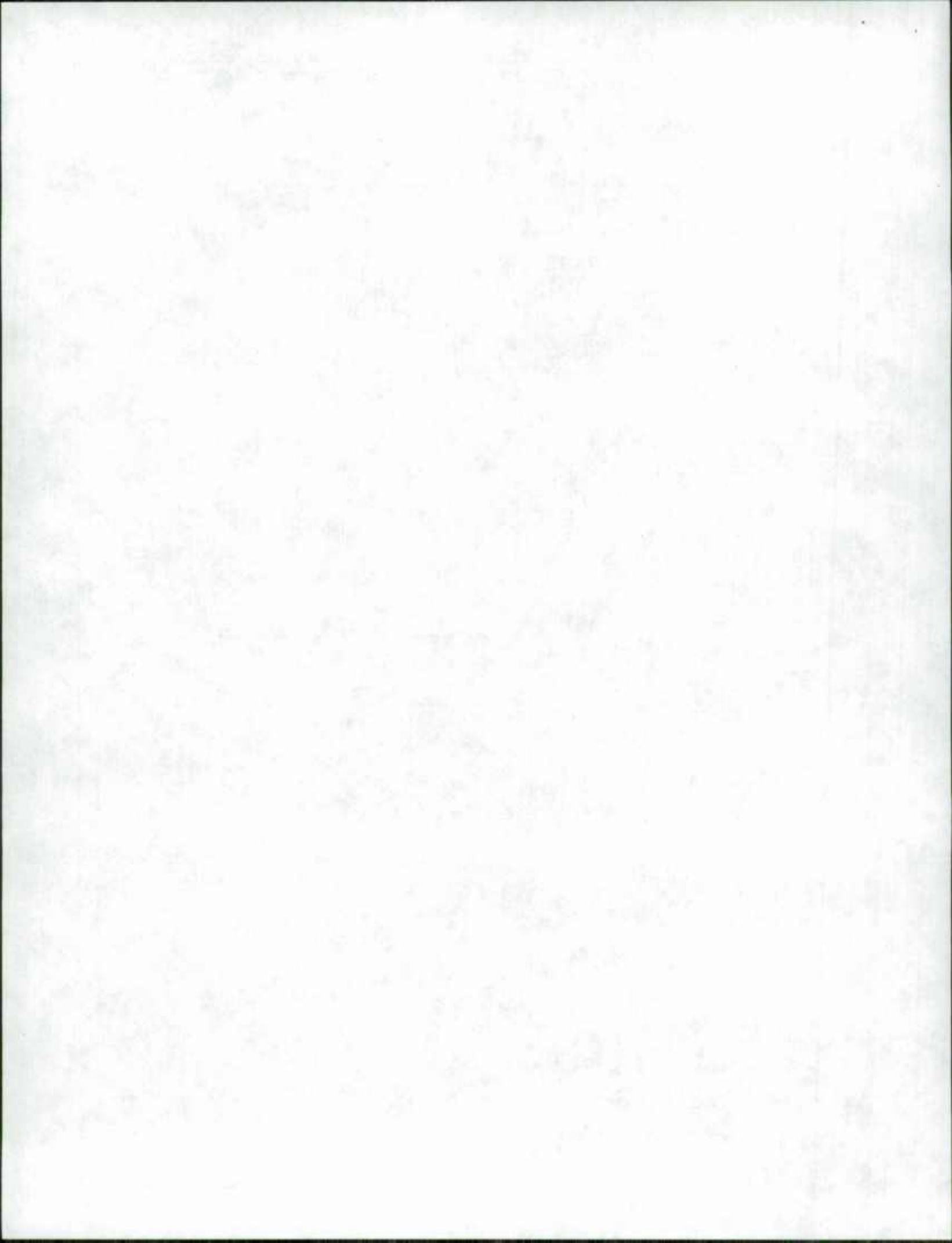
Sample No.: 04  
Location: B-2

Source of Sample:

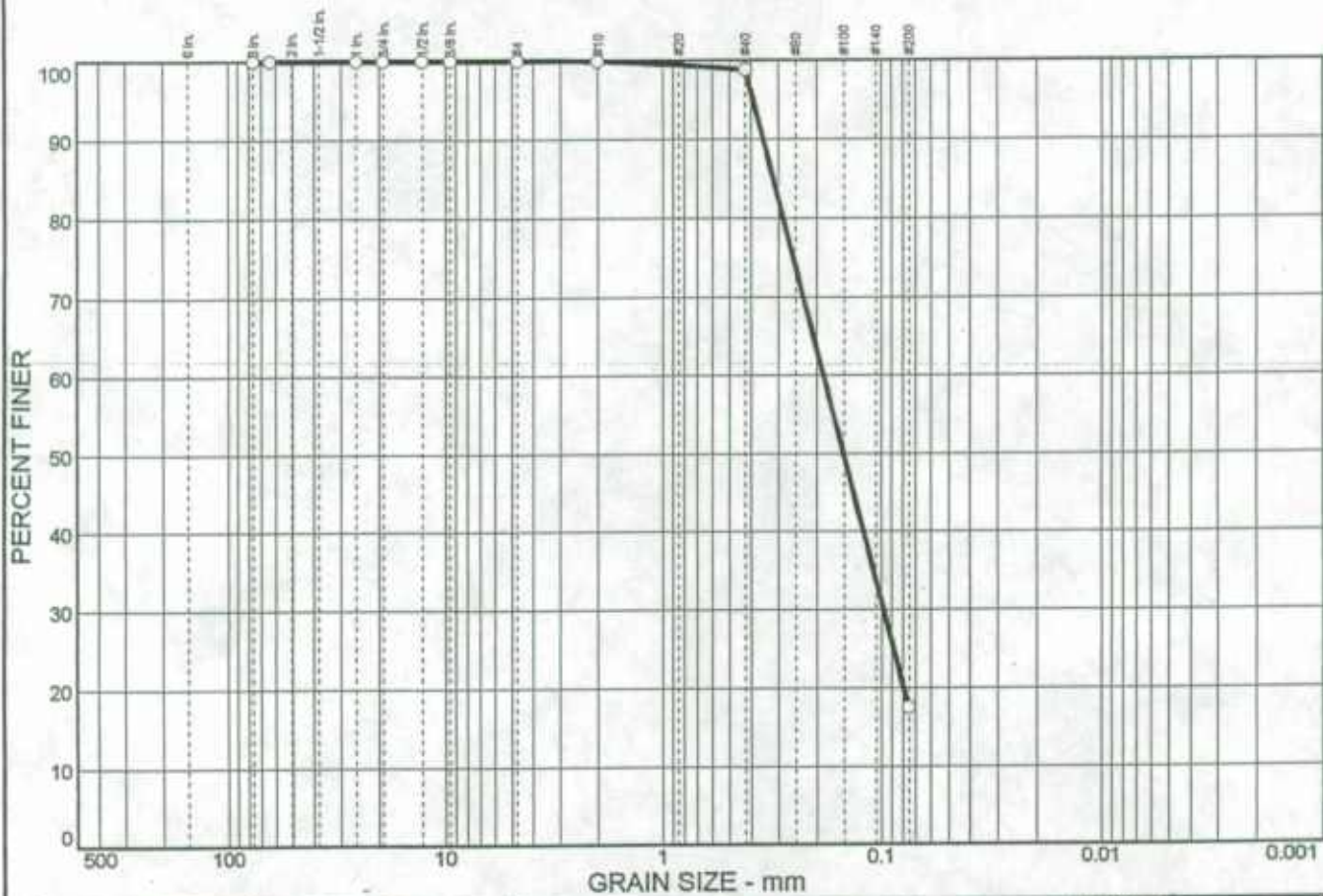
Date: 10-31-08  
Elev./Depth: 13'-15'

**BOB  
TAYLOR  
ENGINEERING, INC.**

Client: KAREL KONECNY  
Project: LOT 26, BLOCK 5  
RIVERWOOD FARMS SUBDIVISION  
Project No: 08-438



# PARTICLE SIZE DISTRIBUTION TEST REPORT



% COBBLES	% GRAVEL		% SAND			% FINES	
	CRS.	FINE	CRS.	MEDIUM	FINE	SILT	CLAY
0.0	0.0	0.0	0.1	1.1	81.3	17.5	

SIEVE SIZE	PERCENT FINER	SPEC.* PERCENT	PASS? (X=NO)
3	100.0		
2.5	100.0		
1	100.0		
3/4	100.0		
1/2	100.0		
3/8	100.0		
#4	100.0		
#10	99.9		
#40	98.8		
#200	17.5		

**Soil Description**

Silty sand

**Atterberg Limits**

PL=                      LL=                      PI=

**Coefficients**

D<sub>85</sub>= 0.316              D<sub>60</sub>= 0.185              D<sub>50</sub>= 0.150  
D<sub>30</sub>= 0.0978              D<sub>15</sub>=                      D<sub>10</sub>=  
C<sub>u</sub>=                              C<sub>c</sub>=

**Classification**

USCS= SM                      AASHTO= A-2-4(0)

**Remarks**

NATURAL MOISTURE 21.57%

\* (no specification provided)

Sample No.: 05  
 Location: B-3

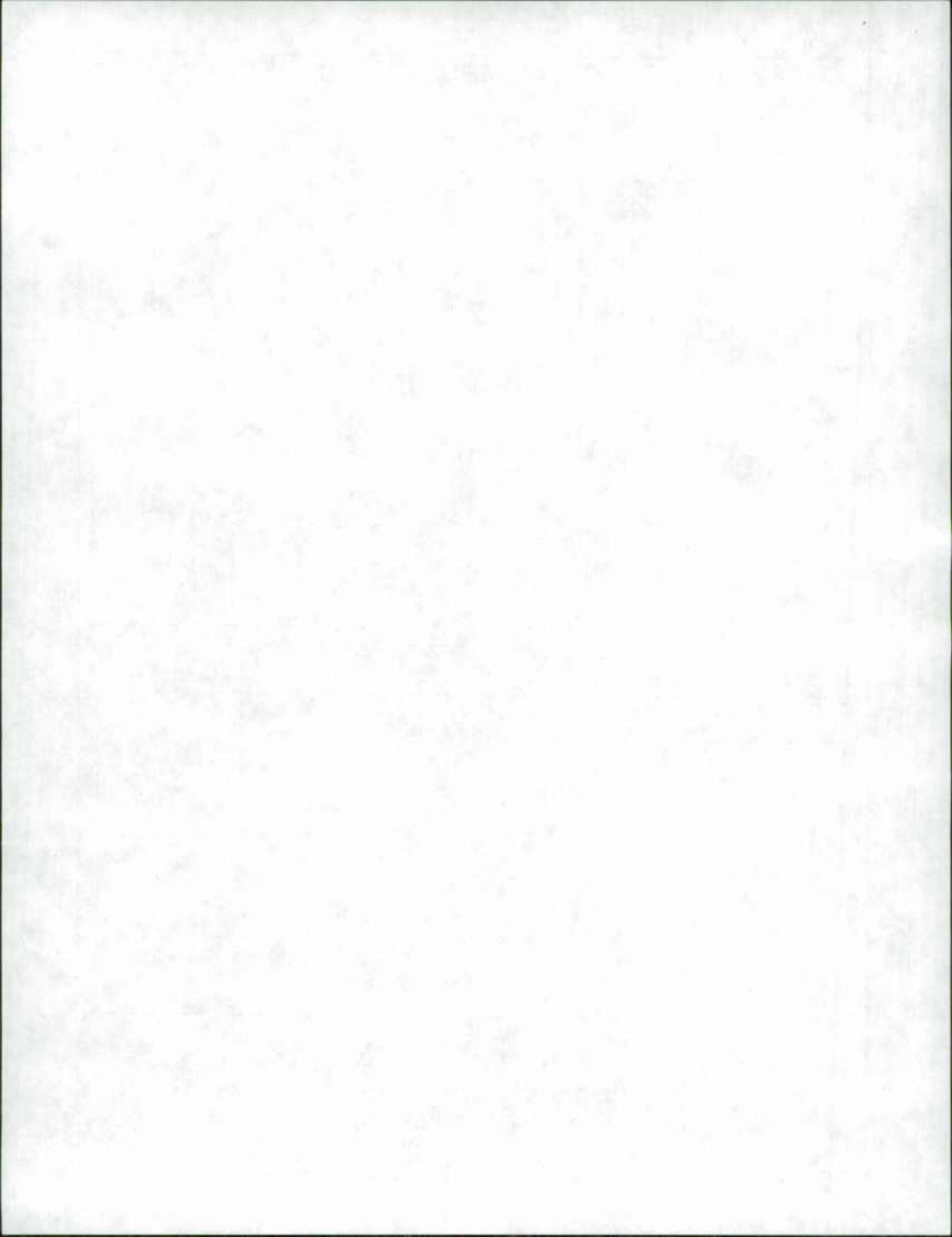
Source of Sample:

Date: 10-31-08  
 Elev./Depth: 1.5'-3'

**BOB  
 TAYLOR  
 ENGINEERING, INC.**

Client: KAREL KONECNY  
 Project: LOT 26, BLOCK 5  
 RIVERWOOD FARMS SUBDIVISION  
 Project No: 08-438

Page



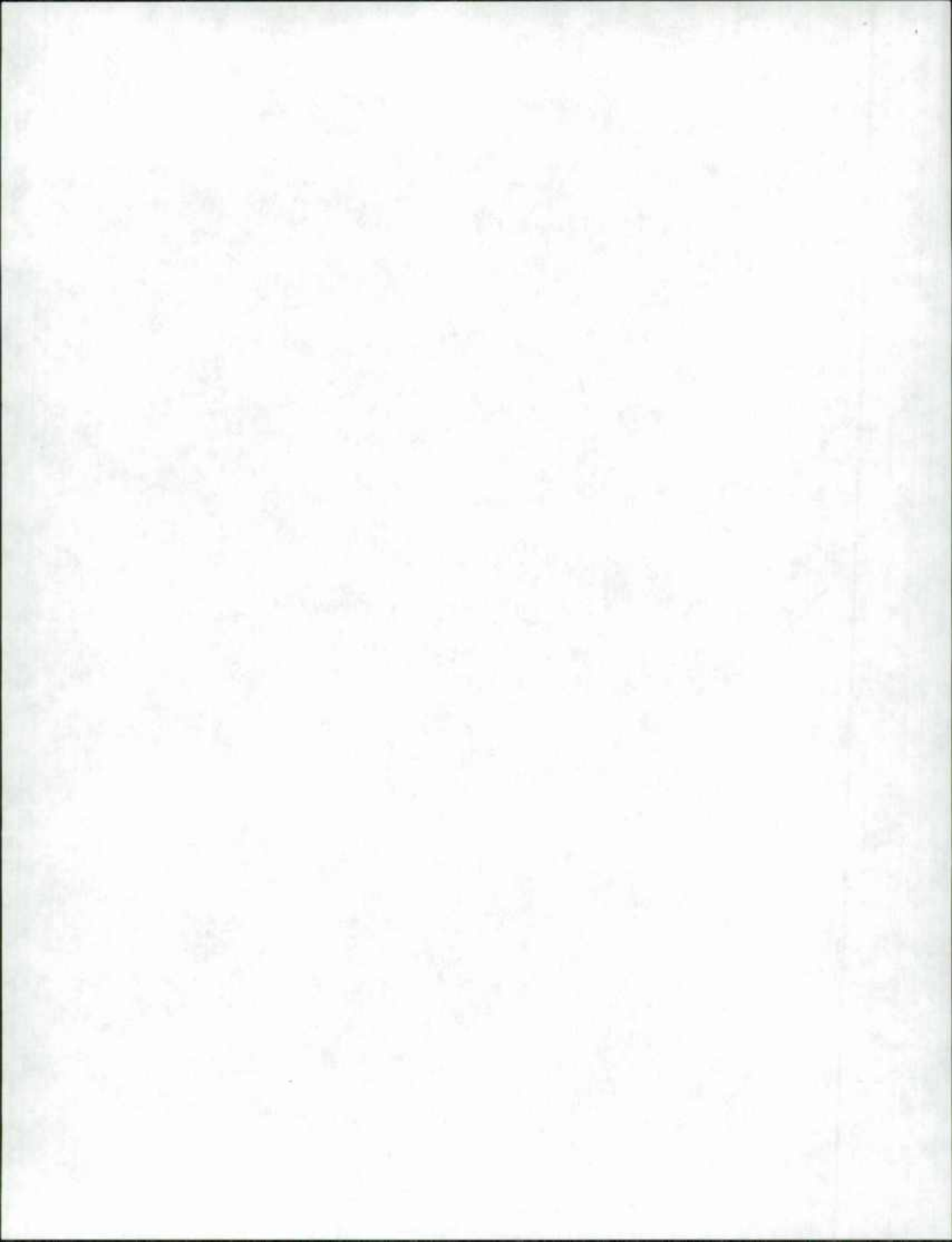


APPENDIX D

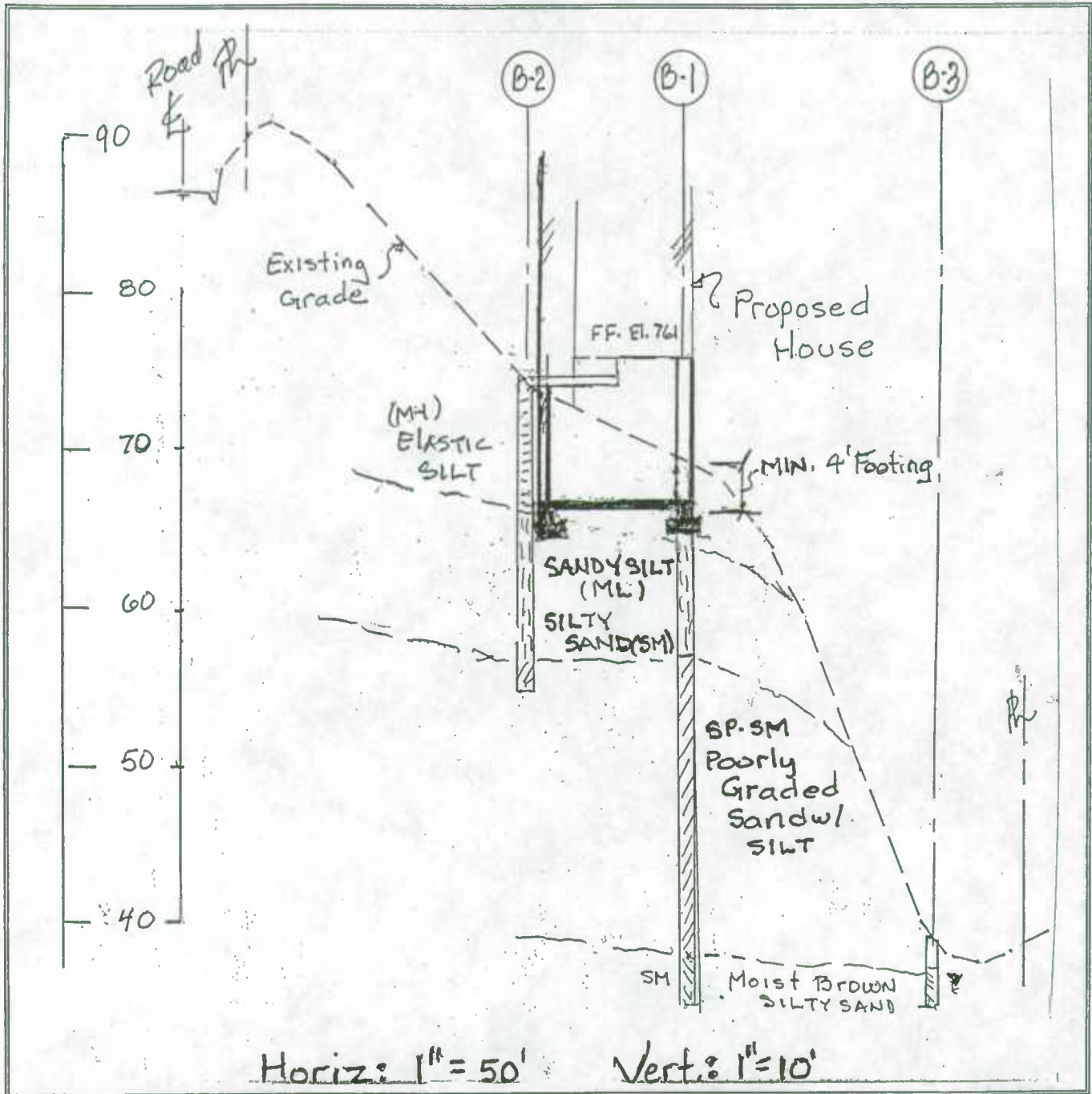
PROFILE DATED 11/05/08

SOIL INVESTIGATION AND  
SLOPE STABILITY REPORT  
**LOT 26, BLOCK 5**  
**RIVERWOOD FARMS SUBDIVISION**  
6<sup>TH</sup> ELECTION DISTRICT  
ST. MARY'S COUNTY, MARYLAND

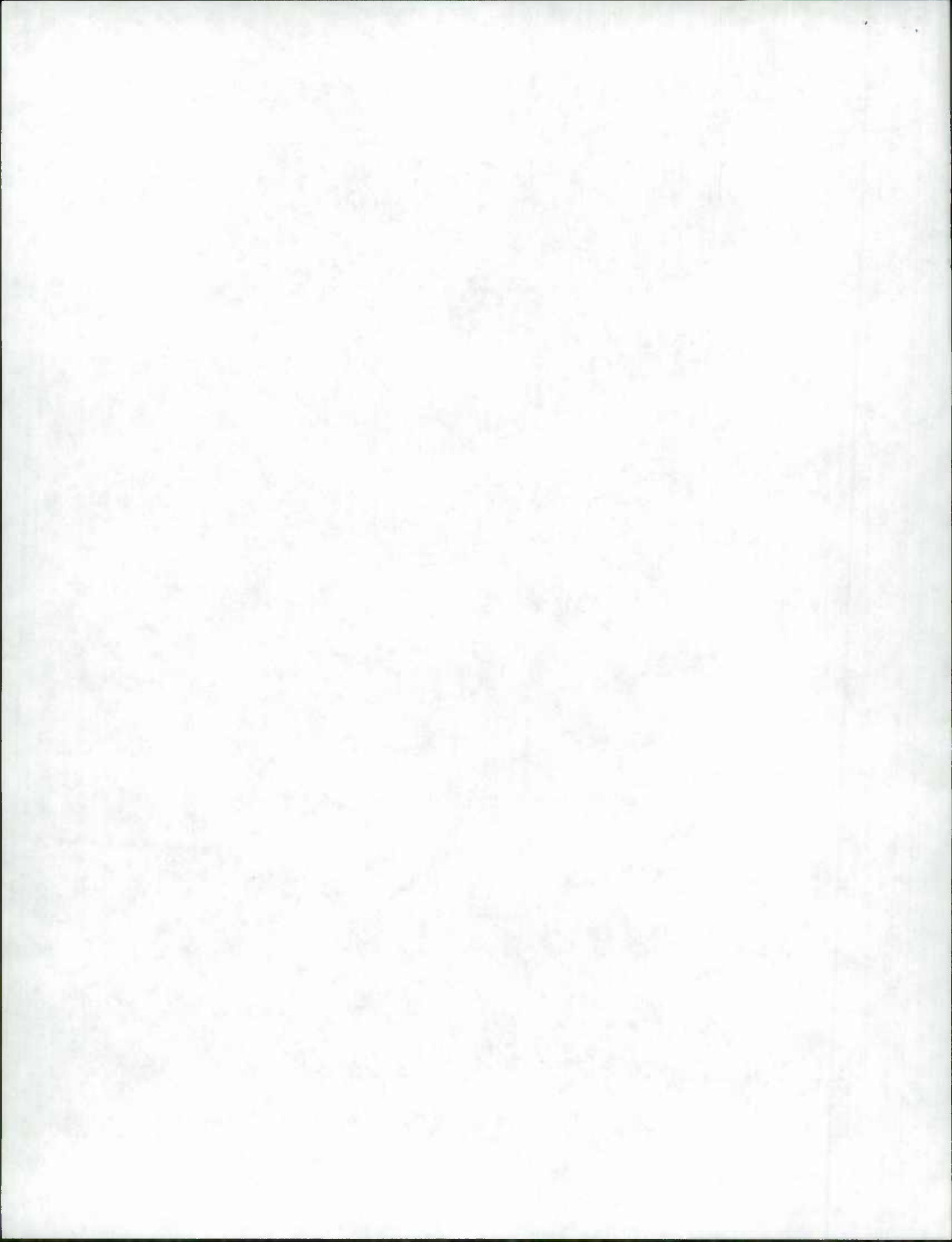
REPORT TO  
KAREL KONECNY  
2855 PRISM COURT  
LUSBY, MARYLAND 20657



PROFILE DATED 11/05/08



Lot 26, Block 5  
 Riverwood Farms Subdivision





LITTLE SILENCES REST, INC.

41650 Court House Drive, Suite 101 • P.O. Box 2340 • Leonardtown, MD 20650 • 301-475-2236 • FAX 301-475-3720

January 25, 2008

Variance to Buffer & Steep Slopes

TO: Dennis D. Canavan, Director  
St. Mary's County Government  
Department of Land Use and Growth Management

RE: LOT 26, RIVERWOOD FARMS  
LUGM # 04-0876  
VARIANCE REQUEST

Dear Mr. Canavan,

On behalf of the owner of the above referenced site we are requesting an administrative variance from Section 71.83 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to allow for construction of new impervious surface and disturbance within the expanded critical area buffer. It is the desire of the owner to construct a single-family residence with a garage, porch, walks, and drive making a total of 2809 square foot of impervious surface. The dwelling would be served by an individual drilled well and septic system.

For your consideration of our request I would offer the following information to address the standards for variance.

- a. *That special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the critical area provisions of this ordinance would result in an unwanted hardship.*

This lot contains 1.72 acres of land of which approximately 80% is composed of highly erodible soils as outlined in the resource protection standards section 71.71, which creates an expanded critical areas buffer which covers the entire lot. Strict enforcement of these standards would prohibit any construction on this lot, resulting in unwanted hardship.

- b. *That strict interpretation of the critical area provisions of this ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the critical areas of St. Mary's County.*

The property was recorded as part of Riverwood Farms Subdivision long before the adoption of the critical area regulations. The strict interpretation of the critical area provisions of the ordinance would prohibit the applicant from constructing a single family dwelling, a right commonly enjoyed by other property owners in the LDA.

- c. *The granting of a variance will not confer upon an applicant any special privileges that would be denied by the critical areas provisions of this ordinance to other lands or structures within the critical area of St. Mary's County.*

The property is a recorded lot in an older community constrained by topographical conditions and the critical area provisions. Other property owners under similar circumstances have or would have the opportunity to file for a variance and seek relief from the regulations.

- d. *The variance is not based upon conditions or circumstances that are a result of actions by the applicant.*

This request for a variance is a result of the adoption of critical area regulations after the recording of this lot and is not a result of actions by the applicant.

- e. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the critical area, and that the granting of a variance will be in harmony with the general spirit and intent of the critical area program.*

The limit of disturbance has been minimized as much as possible and rooftop disconnects have been provided to improve water quality and prevent erosion. Sediment and erosion control will be provided in accordance with the St. Mary's Soil Conservation requirements.

The applicant understands that a planting agreement will be required to alleviate any impacts to water quality. This required mitigation will be provided to assure no adverse effect on water quality and to be in harmony with the general spirit and intent of the critical areas program.

- f. *The variance is the minimum necessary to achieve a reasonable use of land or structure.*

The request is to construction a reasonable house size, and the disturbed area has been minimized as much as possible allowing for the septic, well, and driveway.

I would like to thank you for your time to consider our request and I remain available to answer any questions or provide addition information should you require it.



William P. Higgs  
Professional Surveyor  
Little Silences Rest, Inc.

## Johnson, Marshall

---

**From:** Yvonne Chaillet [Yvonne.Chaillet@co.saint-marys.md.us]  
**Sent:** Friday, September 26, 2008 9:18 AM  
**To:** Johnson, Marshall  
**Subject:** Permit #04-0876, Konecny

Marshall,

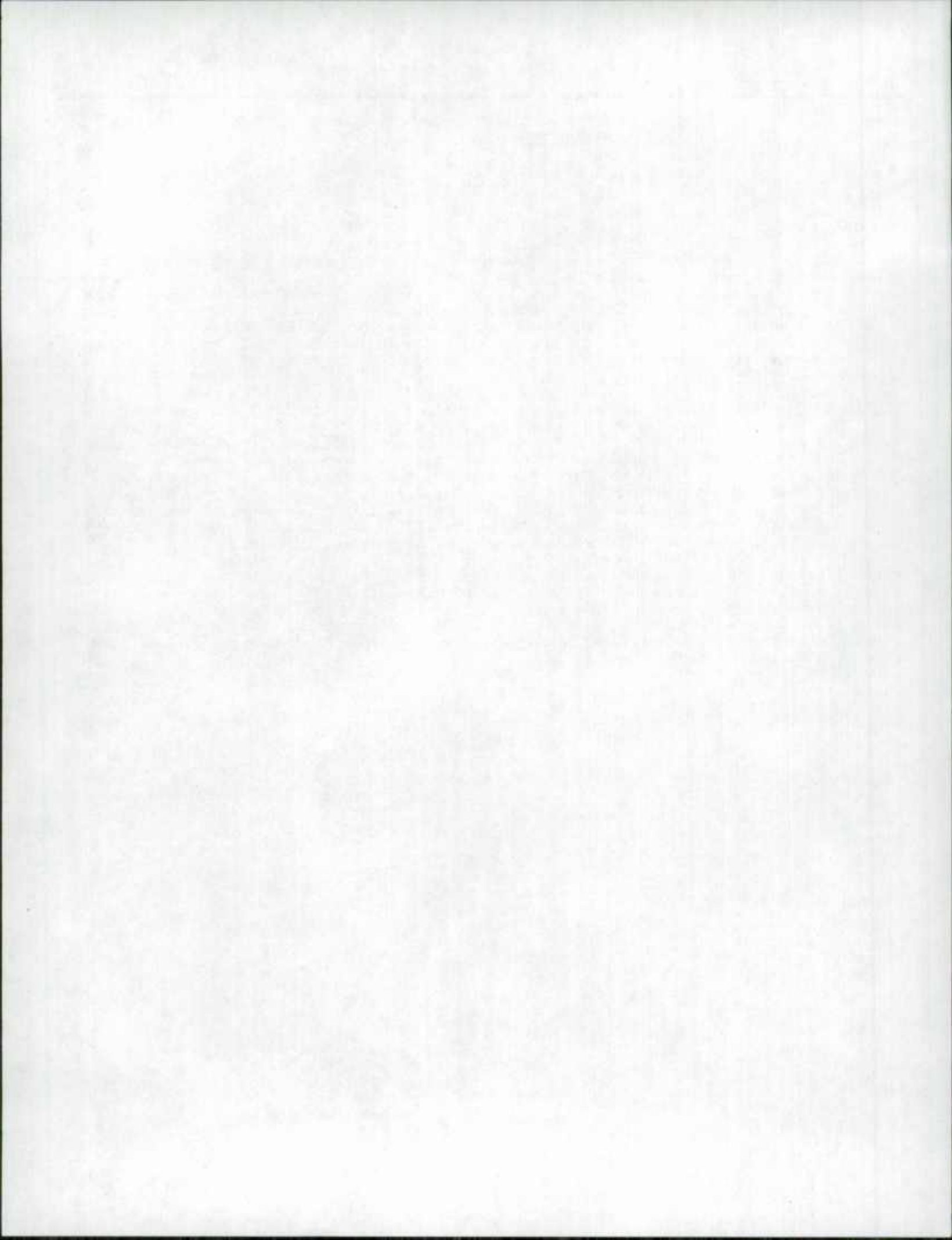
The Board of Appeals heard two variance requests last night on the subject permit: to disturb steep slopes and place lot coverage in the Buffer. None of the 5 Board members wanted to grant the variances because of the steep slopes and highly erodible soils and the fact that the owner was planning to clear and disturb more than 11,000 square feet to construct a well and septic system, house, garage, deck, driveway, and walkways. However, the lot is a recorded lot and is grandfathered, and we cannot deny the right to develop. Perhaps at some point in time, the County will recognize that some of these lots are just unbuildable.

The Board continued the public hearing until November 20, 2008. The Board requested that staff contact our Department of Public Works (DPW) and the Critical Area Commission and request that representatives from these two agencies attend the hearing and address the Board and, or respond to questions. In the meantime, the property owner must have a geotechnical evaluation done and have that engineer address the Board as well. The evaluation was not yet done as DPW recommended because of the cost involved. The owner wanted to wait for the Board's decision. Staff had conditioned approval of the variances on obtaining the technical evaluation. Following last night's hearing, the owner must now hire a Geotechnical Engineer before going back to the Board of Appeals.

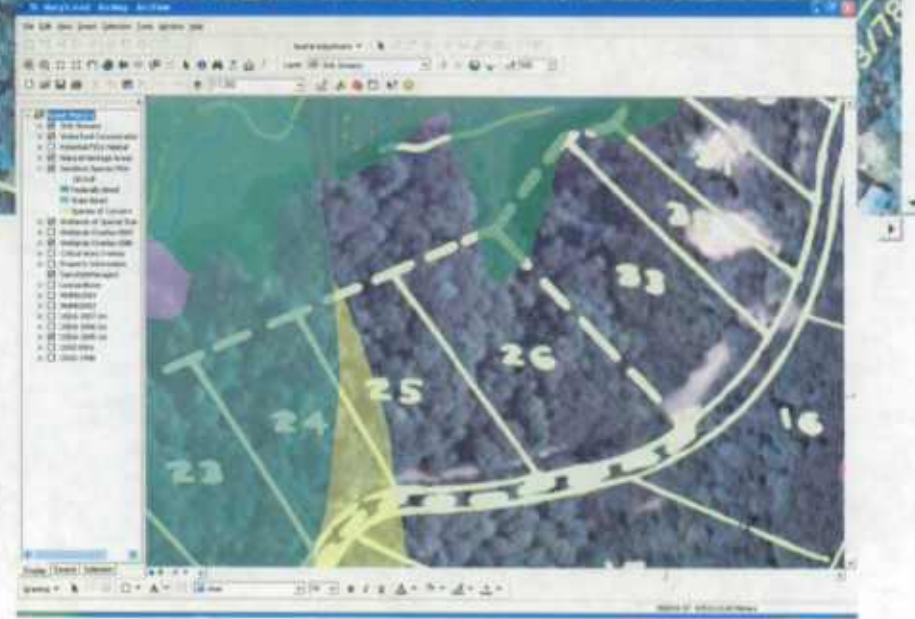
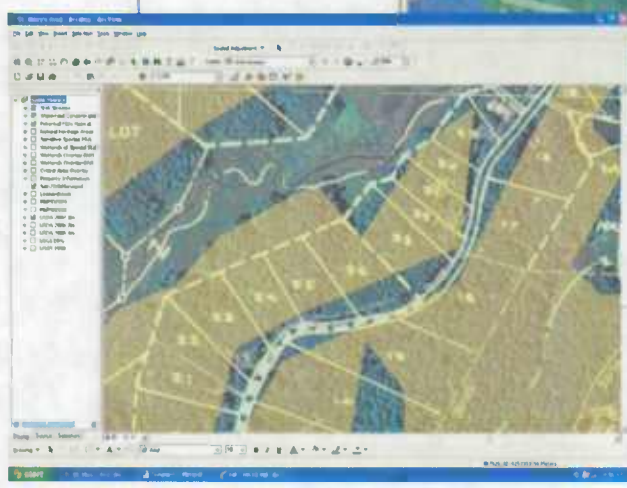
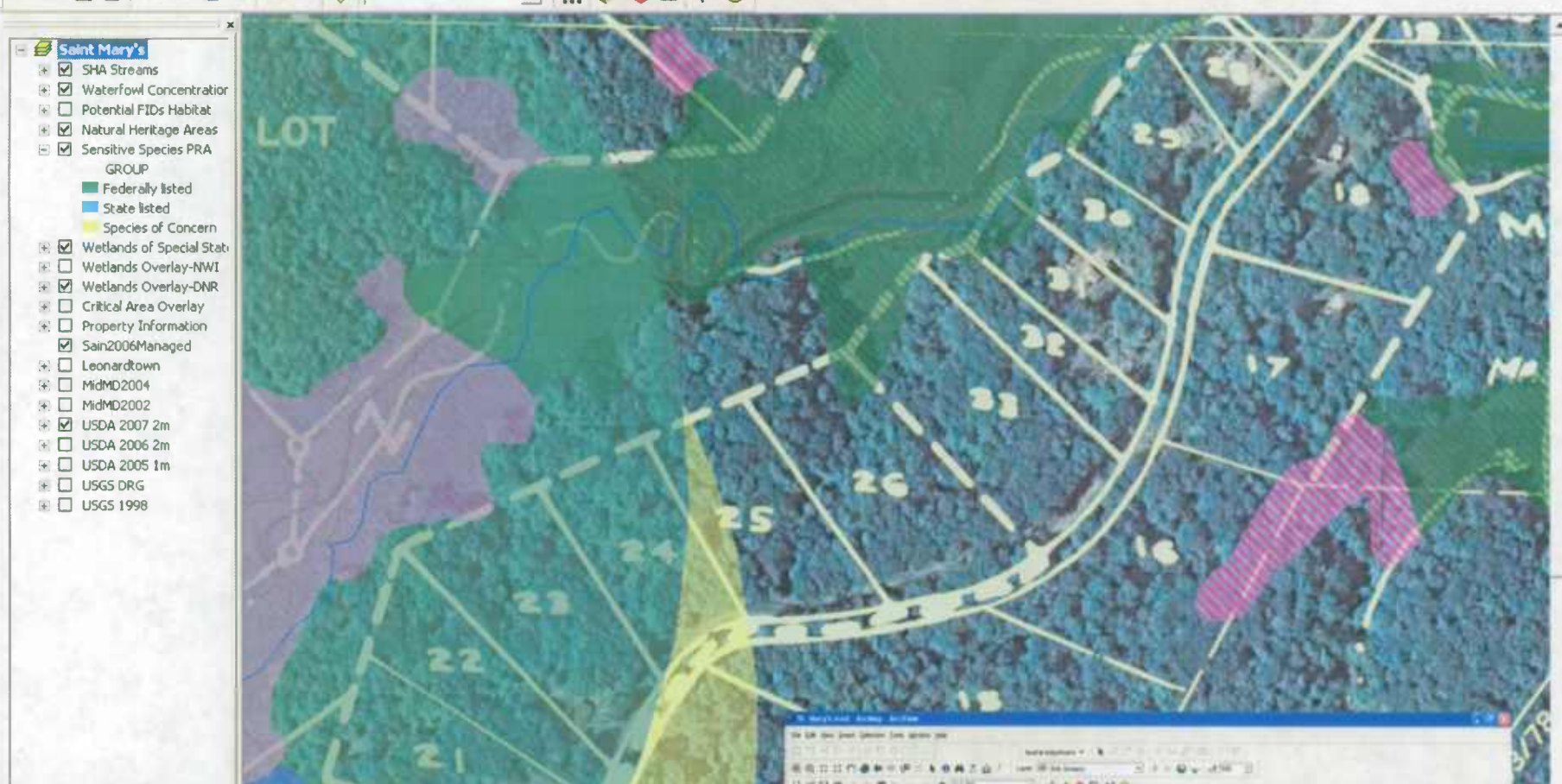
Can you plan to attend the November 20, 2008 Board of Appeals hearing? The hearing starts at 6:30 p.m. and I can schedule this case first that night. I will have done my staff report the week before, which I can send you in advance, and you should have the technical evaluation to review well in advance of the hearing. Although the Board has the Commission's written comments, the Board wants someone from the Commission present and able to answer questions.

Thank you.

Yvonne







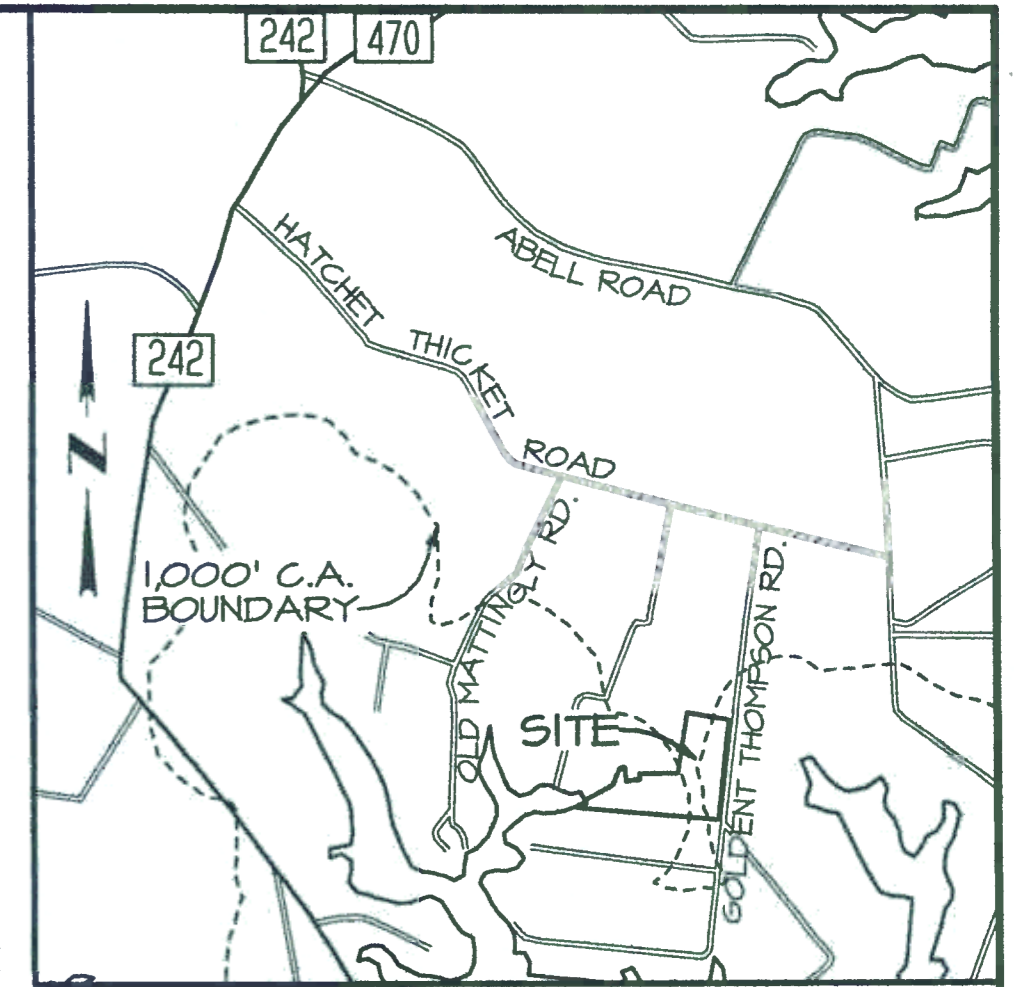
**CRITICAL AREA CALCULATIONS**

**LOT 500-1A**

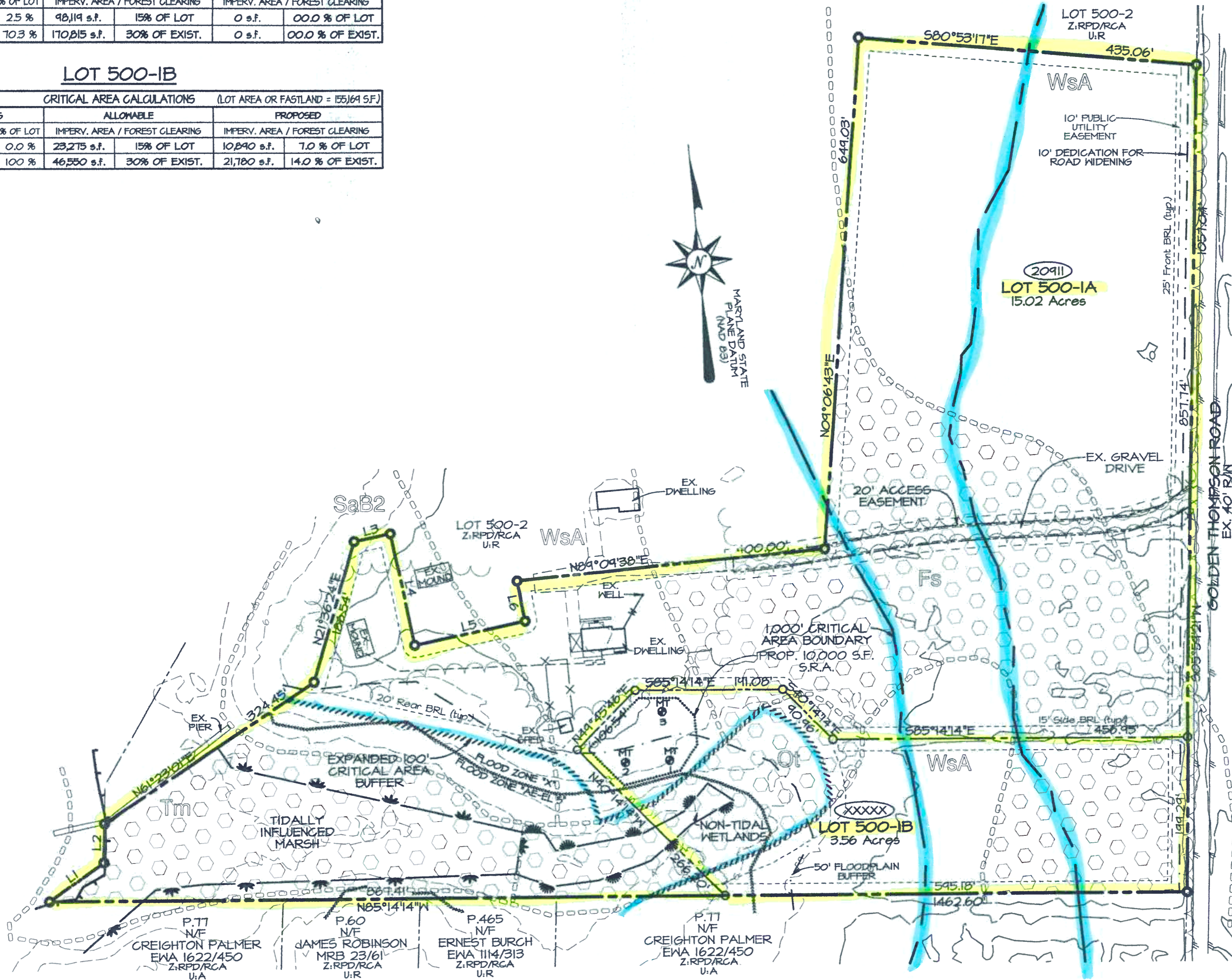
CRITICAL AREA CALCULATIONS (LOT AREA OR FASTLAND = 654,300 SF.)						
AREA TYPE	EXISTING		ALLOWABLE		PROPOSED	
	AREA	% OF LOT	IMPERV. AREA / FOREST CLEARING	IMPERV. AREA / FOREST CLEARING	IMPERV. AREA / FOREST CLEARING	IMPERV. AREA / FOREST CLEARING
IMPERVIOUS	16,557 s.f.	2.5 %	98,119 s.f.	15% OF LOT	0 s.f.	00.0 % OF LOT
FOREST	564,384 s.f.	70.3 %	170,815 s.f.	30% OF EXIST.	0 s.f.	00.0 % OF EXIST.

**LOT 500-1B**

CRITICAL AREA CALCULATIONS (LOT AREA OR FASTLAND = 155,169 SF.)						
AREA TYPE	EXISTING		ALLOWABLE		PROPOSED	
	AREA	% OF LOT	IMPERV. AREA / FOREST CLEARING	IMPERV. AREA / FOREST CLEARING	IMPERV. AREA / FOREST CLEARING	IMPERV. AREA / FOREST CLEARING
IMPERVIOUS	0 s.f.	0.0 %	23,275 s.f.	15% OF LOT	10,840 s.f.	7.0 % OF LOT
FOREST	155,169 s.f.	100 %	46,550 s.f.	30% OF EXIST.	21,780 s.f.	14.0 % OF EXIST.

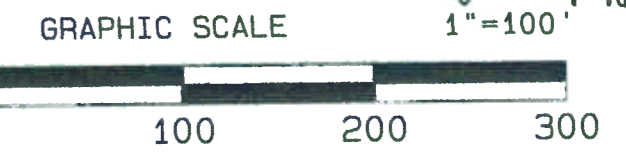


**VICINITY MAP**  
SCALE: 1" = 2000'



**COURSE DATA**

LINE	BEARING	DISTANCE
L1	N59°45'40"E	86.00'
L2	N06°15'46"E	44.50'
L3	N83°06'24"E	47.54'
L4	S06°53'28"E	146.00'
L5	N83°06'24"E	145.00'
L6	N06°53'13"W	52.90'



**LEGEND**

- PROPERTY LINE
- ACCESS/UTILITY EASMT.
- MOUND TEST
- TIDAL MARSH
- NON-TIDAL WETLANDS
- WETLANDS BUFFER
- 100' YEAR FLOODPLAIN
- 50' FLOODPLAIN BUFFER
- 100' C.A. BUFFER
- 1000' C.A. BOUNDARY
- PROPOSED S.R.A.
- SOILS TYPE DIVISION LINE
- LIMIT OF EXISTING FOREST
- 2' CONTOUR (LIDAR)
- 10' CONTOUR (LIDAR)
- HIGHLY ERODIBLE SOIL TYPES
- HYDRIC SOIL TYPES
- STEEP SLOPES (25% - +)
- STEEP SLOPES (15% - 25%)

<b>ST. MARY'S COUNTY HEALTH DEPARTMENT APPROVAL</b>		<b>ST. MARY'S COUNTY DEPT. OF LAND USE &amp; GROWTH MANAGEMENT (LUGM)</b>	
SANITARIAN	DATE	DIRECTOR	DATE
ENVIRONMENTAL HEALTH DIRECTOR	DATE	CHAIRMAN	DATE

**LSR**  
LITTLE SILENCES REST, INC.

41650 COURT HOUSE DRIVE - SUITE 101 - P.O. BOX 2340  
LEONARDTOWN, MD 20650  
PHONE: (301) 475-2236 - FAX: (301) 475-3720

DATE	06/11/08	MINOR SUBDIVISION PRELIMINARY PLAN <b>RESUBDIVISION OF LOT 500-1 CHERRY GROVE SUBDIVISION</b>  SEVENTH ELECTION DISTRICT ST. MARY'S COUNTY, MARYLAND FOR: CYNTHIA MARIE AREVALO <b>ZONING NUMBER: 08-110-</b>
JOB#	0052-08	
FOLDER	M46B18	
SCALE	1" = 100'	
DRAWN	KB	
CHECKED	WPH	
REVISIONS		
Sheet 2 of 2		