

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCE
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii

180-Day Exp. Date: May 8, 2011

April 8, 2011

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Conservation District Use Application (CDUA) OA-3272
Single Family Residence & Lot Setback Variance

APPLICANT: Wendla L. Liljestrand

LANDOWNER: Wendla L. Liljestrand Trust

LOCATION: Tantalus, Honolulu, O`ahu

TMKs: (1) 2-5-017:006 (residence) and 018 (grading only)

AREA OF PARCEL: 11,169 ft²

AREA OF USE: 3492 ft²

SUBZONE: Resource

DESCRIPTION OF AREA AND PROPOSED USE

The proposed project site consists of two contiguous parcels located along the heavily wooded area of Round Top Drive and Tantalus Drive. Parcel 006 fronts Tantalus Drive and is on the northwest side of parcel 018. What appears to be an abandoned road bisects parcel 018. Lots to the north, northeast and southwest contain single-family dwellings. Parcel 006 lies entirely within the Resource subzone of the Conservation District, while Parcel 018 lies within the Resource and Limited subzone of the Conservation District.

Exhibit 1 shows the parcels and subzones.

The applicant is proposing to build a 3492 square-foot two-story single family residence on parcel 006, and to conduct grading on both the subject parcel and the neighboring

parcel, also owned by the applicant. The project area will be entirely within the Resource Subzone.

The residence will be terraced into the hillside, with the second story partially cantilevered over the slope. The ground floor will contain the garage, an artist's studio, and lanai; the second floor will contain two bedrooms, a great room, an office, and one kitchen. Associated structures are limited to two 10,000 gallon water tanks. The project calls for 2848 feet of paving to accommodate the driveway and large parking area.

Exhibits 2-5 show the site plans for the proposal.

Primary access to the subject area is from Round Top Drive, a two-lane asphalt road with no shoulders owned and maintained by the City & County of Honolulu. Electricity may be provided via overhead lines. Telephone and cable services are available. The subject property does not have municipal water or sewer services.

The parcel contains a 35% slope, and the proposal will require 1203 cubic yards of cut and 632 cubic yards of fill. The ridgeline will be leveled to a finished grade of 1393.5'. An earlier proposal required minimal grading, but the resulting residence would have rested on a higher elevation and had greater visual impacts.

The existing vegetation consists of a variety of mature trees, including the invasive umbrella tree (*schefflera spp*), naturalized fruit trees such as avocado and mango, and the endemic koa (*Acacia koa*). No federally listed plant or animal species or significant habitats are known to exist on the property.

The proposal mentions that there will be 5729 square feet of landscaped areas, that seven trees will be removed to build the structure, and that other trees will be pruned to provide better views. No landscaping plans were submitted with the application.

There are no known archaeological, cultural, or recreation resources in the immediate area.

The Board of Land and Natural Resources approved a CDUP OA-3272 for a residence on the parcel in 2006; however, the structure was never built and the construction deadlines in the permit expired. The approved CDUP granted a Lot Setback Variance in order to create a single family residence located on both parcels through a joint lot development.

The design of the current proposed residence is similar to the previous design. Significant changes are summarized below:

- The applicant has obtained a more detailed topographic map, and has made some design element changes so that the residence now would rest entirely on one lot. The setback on the Manoa-side of the lot would be five feet, and so a Lot Setback Variance would again be needed for this application;

- The previous driveway gained 70 vertical feet in elevation. The current proposed driveway rises 40 vertical feet; the garage and parking court will now be cut into the slope rather than sitting on the ridge top;
- A parking court adjacent to the garage has been added; and
- The new proposed residence involves more cut, and rests lower on the ridge. The rooftop is now at the 1394-foot elevation, down from the 1421-foot elevation.

SUMMARY OF COMMENTS

The application was referred to the following agencies for their review and comment: the **State**: Department of Health; Office of Hawaiian Affairs; Office of Environmental Quality Control; Department of Land and Natural Resources Divisions of: Conservation and Resource Enforcement, Engineering, Forestry and Wildlife, Oahu District Land Office, Historic Preservation; and the **City and County of Honolulu**: Department of Planning & Permitting; the Makiki/Punchbowl/Tantalus Neighborhood Board and the Tantalus Community Association.

In addition, the application and Environmental Assessment were available for review at the Hawai'i State Library.

Responses were received and have been summarized from the following agencies:

DLNR – Land Division

No comments

DLNR – Forestry

No comments

DLNR – Conservation and Resource Enforcement

No comments

DLNR –Historic Preservation Division

The vicinity is not known for traditional cultural practices, and there are no known historic resources in the area. The area is part of an early 20th Century rural subdivision. A cartographic error shows that the historic Wilder Home is on these tax map key parcels; the Division is in the process of correcting this designation.

The Division has determined that the project will not affect historic resources.

State Department of Health

The Department has no objection to the proposal, and will allow construction of one treatment individual wastewater system to service up to five bedrooms. In addition, the project must comply with all applicable provisions of HAR Chapter 11-62, *Wastewater Systems*.

Office of Hawaiian Affairs

The Office applauds the applicants commitment to re-vegetation areas with native plant species, and feels that any *koa* removed should be replanted elsewhere on the property.

The applicant should also be aware that if human skeletal remains are found during construction then work must stop and the appropriate agencies notified.

Office of Conservation and Coastal Lands (OCCL)

OCCL requested that the applicant submit a more detailed landscaping plan with the final Environmental Assessment. OCCL noted that we are generally supportive of landowners who remove invasive species, but when endemic trees such as *koa* are removed we like to see each replaced with an appropriate Native tree. We also noted that State environmental regulations discourage the introduction of alien invasive species in the Conservation District.

Applicant's Response

The applicant removed potentially invasive species from the landscaping plans, and identified proposed replacement plantings for native species that would be dislocated.

ANALYSIS

After reviewing the application, the Department notified the applicant on November 12, 2010 that:

1. The proposed use was an identified land use in the Resource Subzone of the Conservation District, pursuant to §13-5-24, Hawaii Administrative Rules (HAR), R-8, SINGLE FAMILY RESIDENCE, (D-1), *A single family residence that conforms to design standards as outlined in this chapter.*
2. Pursuant to §13-5-40 of the HAR, a Public Hearing would not be required;
3. In conformance with Chapter 343, Hawai'i Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a finding of no significant impact to the environment (FONSI) is anticipated for the proposed project;
4. By documentation dated June 30, 2005, the City and County of Honolulu has determined that the proposed project is not within the Special Management Area.

In addition, a FONSI to the environment was published in the January 23, 2011 *Environmental Notice*.

ANALYSIS

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30, HAR.

1. *The proposed land use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare.

The project is considered an identified land use in the subject area of the Conservation District; as such, it is subject to the regulatory process established in Chapter 183C, HRS and detailed further in Chapter 13-5, HAR. Single Family residences have been an established use on Tantalus for over a century. All proposed improvements shall be constructed in the Resource subzone of the Conservation District.

2. *The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur.*

The objective of the Resource subzone is to develop, with proper management, areas to ensure sustained use of the natural resources of those areas. A Single Family Residence is an identified land use pursuant to HAR, §13-5-24, R-8, SINGLE FAMILY RESIDENCE, (D-1) *A single family residence that conforms to design standards as outlined in Chapter 13-5, HAR.* Because the project area is within an established neighborhood and shall conform to design standards set forth in 13-5, HAR, Staff believes the proposed land use is consistent with the objectives of the subzone.

3. *The proposed land use complies with provisions and guidelines contained in Chapter 205, HRS, entitled "Coastal Zone Management," where applicable.*

The project site is not located within the Special Management Area. Staff believes the proposed project complies with provisions and guidelines contained in Chapter 205, HRS regarding Coastal Zone Management.

4. *The proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community, or region.*

Staff believes the proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community or region.

There may be short-term adverse effects on the surrounding area associated with construction activities such as potential noise and air quality.

5. *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding area, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

Staff is of the opinion that the proposed project will be compatible with the locality and surrounding areas and is appropriate to the physical conditions and capability of the specified parcels. The applicant notes that the Tantalus area has contained residences for over 100 years.

Staff believes that the proposed residence will not be visible to the public along trails or along Round Top Drive nor will the proposed house impact other residents' views in the vicinity. The applicant wishes to retain all existing mature tree growth.

It is not anticipated that the proposed residence will be visible from the public trails. The house will be screened by the existing trees and vegetation that are along the rear of the property (Manoa side). It is anticipated that the house will not be visible from Round Top Drive nor will the proposed house impact other residents' views in the vicinity.

Staff does note that the proposal calls for over 1200 cubic yards of cut, which is significantly more than the original proposal. This is in an area of high rainfall, and erosion management will be an important component of any set of Best Management Practices.

6. *The existing physical and environmental aspect of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, which ever is applicable.*

The existing physical environment of the area is a steep and wooded area surrounding the proposed SFR. Although a structure will exist where no structure existed before, the applicant will take appropriate steps to mitigate potential impacts to enhance the subject parcel. The proposed project is intended to blend visually with the hillside and it is believed there shall be no view impacts to the public or the neighbors.

The deeds for the lots describe "view easements" which relate to maintaining scenic views of the valley and mutual setback easements with the adjacent property located on 2-5-017:012 & 007 which prohibits the construction of any residence within 20 feet of the boundary line. Staff notes it is the landowner's responsibility to observe and abide by the deed restrictions.

7. *Subdivision of the land will not be utilized to increase the intensity of land uses in the Conservation District.*

No subdivision of land is proposed for this project.

The applicant had originally considered consolidating the two parcels. However an abandoned road leading to State land bisects parcel 018 and this road noted as TMK (1) 2-5-017:015 has various unlisted owners. Rather than consolidating the parcels, the applicant is requesting a deviation from the requirements for a SFR regarding a minimum 15-foot setbacks from the lot's boundaries. According to the applicant, the deviation will significantly reduce the amount of cut and fill and the need to grade.

OCCL notes that site characteristics and lot shape may be a factor in adjusting minimum setbacks when so determined by the Board. This variance should not impact the neighboring residents nor the general public's view planes as the SFR is setback 87 ft from Round Top Drive, 25 ft and 15 ft from the side lot boundaries and 71 ft from the rear. In addition, the applicant wishes to retain all mature tree growth.

8. *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Other than potential short-term nuisances and safety issues associated with construction there are no materially detrimental public health, safety or welfare concerns foreseen for this project.

DISCUSSION:

Based upon the above analysis, staff feels that the proposal is consistent with the State's Conservation Criteria.

The applicant will need a Setback Variance for the proposal in order to comply with the Single Family Residential Standards contained in HAR §13-5. The applicant owns the neighboring lot that would be affected by the shortened setback on the Manoa-side of the parcel. The applicant states that the shortened setback will allow them to accommodate a design that is an improvement on the previous permit, in that the new design will be less visible from outside the parcel, and will rest on one parcel rather than two. However, the shortened setback, along with the steep topography and the amount of land in the Limited Subzone, will constrict future development on the back parcel.

OCCL is comfortable recommending that the Board grant the variance.

Staff notes that final construction plans should include best management practices, which shall be implemented during the construction phase to mitigate potential erosion and runoff. Erosion management protocols in particular must be strictly followed in order to keep soils on the site.

RECOMMENDATION

Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this application for a Single Family Residence as described in CDUA OA-3572 located at Tantalus, Honolulu, island of Oahu, TMK: (1) 2-5-017:006 & 018 subject to the following conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall comply with all applicable Department of Health administrative rules;
- 4) The single-family dwelling shall not be used for rental or any other commercial purposes unless approved by the Board;
- 5) All mitigation measures set forth in the application materials, and in the final environmental assessment for this project are hereby incorporated as conditions of the permit;
- 6) The applicant shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
- 7) Any work done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;

- 8) Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Erosion management procedures should be part of the Best Management Practices included with the Construction Plans. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
- 9) The applicant shall provide documentation (i.e. book/page document number) that this approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
- 10) The applicant will minimize visual impacts using appropriate lighting, house color and landscaping. Existing trees shall be maintained to screen the structure from the surrounding lands. No mature trees shall be removed without the approval of the Department;
- 11) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 12) Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
- 13) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 14) Potable water supply and sanitation facilities shall have the approval of the appropriate agencies;
- 15) Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the polluted run-off, interference, nuisance, harm, or hazard;
- 16) During construction, appropriate mitigation measures and best management practices shall be implemented to minimize impacts to the off-site roadways, utilities, and public facilities;

- 17) Cleared areas shall be re-vegetated within thirty days of the completion of construction;
- 18) Obstruction of public roads, trails, and pathways shall be minimized. If obstruction is unavoidable, the applicant shall provide roads, trails, or pathways acceptable to the department;
- 19) The single-family residence shall conform to the single-family residential standards included as Exhibit 4 of the Hawai'i Administrative Rules, Title 13-5, with the exception of the setback on the Manoa-side of the parcel;
- 20) Other terms and conditions as may be prescribed by the Chairperson; and
- 21) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Respectfully submitted,

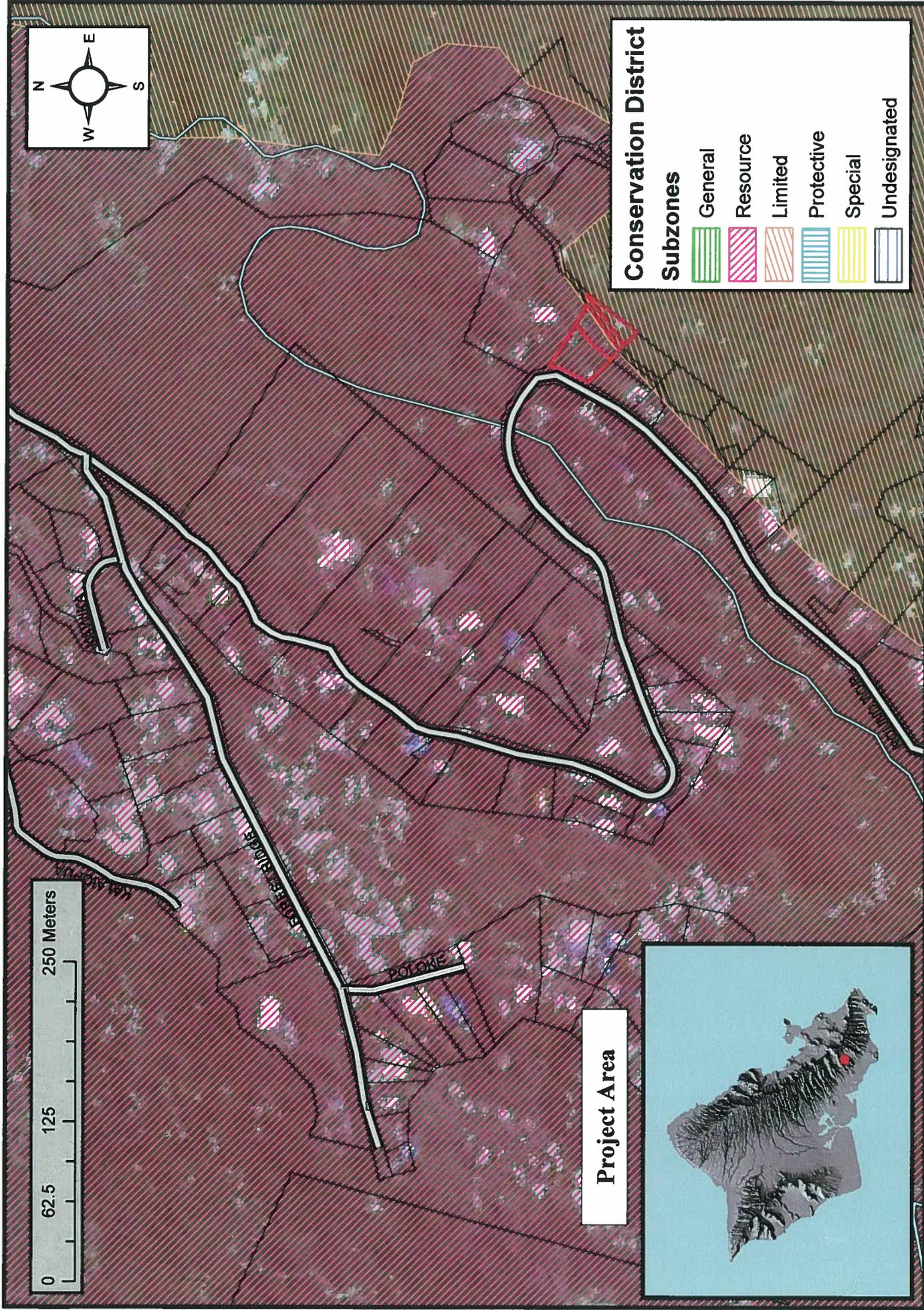


Michael Cain, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



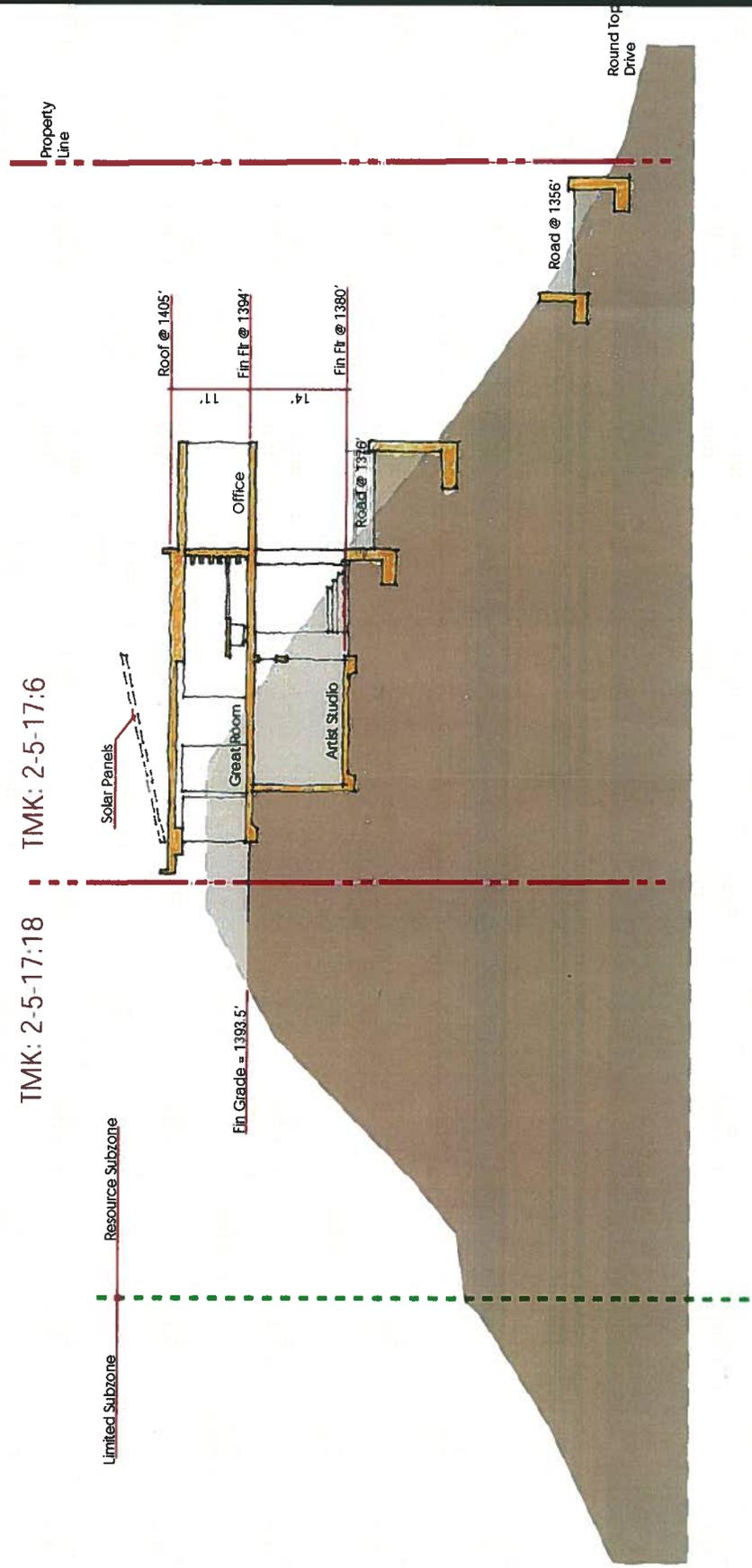
William J. Aila, Chairperson
Board of Land and Natural Resources



Site
Section

Date: July 28, 2010
Scale: 1/8" = 1'-0"
Revisions:

Sheet Number:
DLNR - 8



TMK: 2-5-17:18
TMK: 2-5-17:6

Limited Subzone
Resource Subzone

EXHIBIT 2

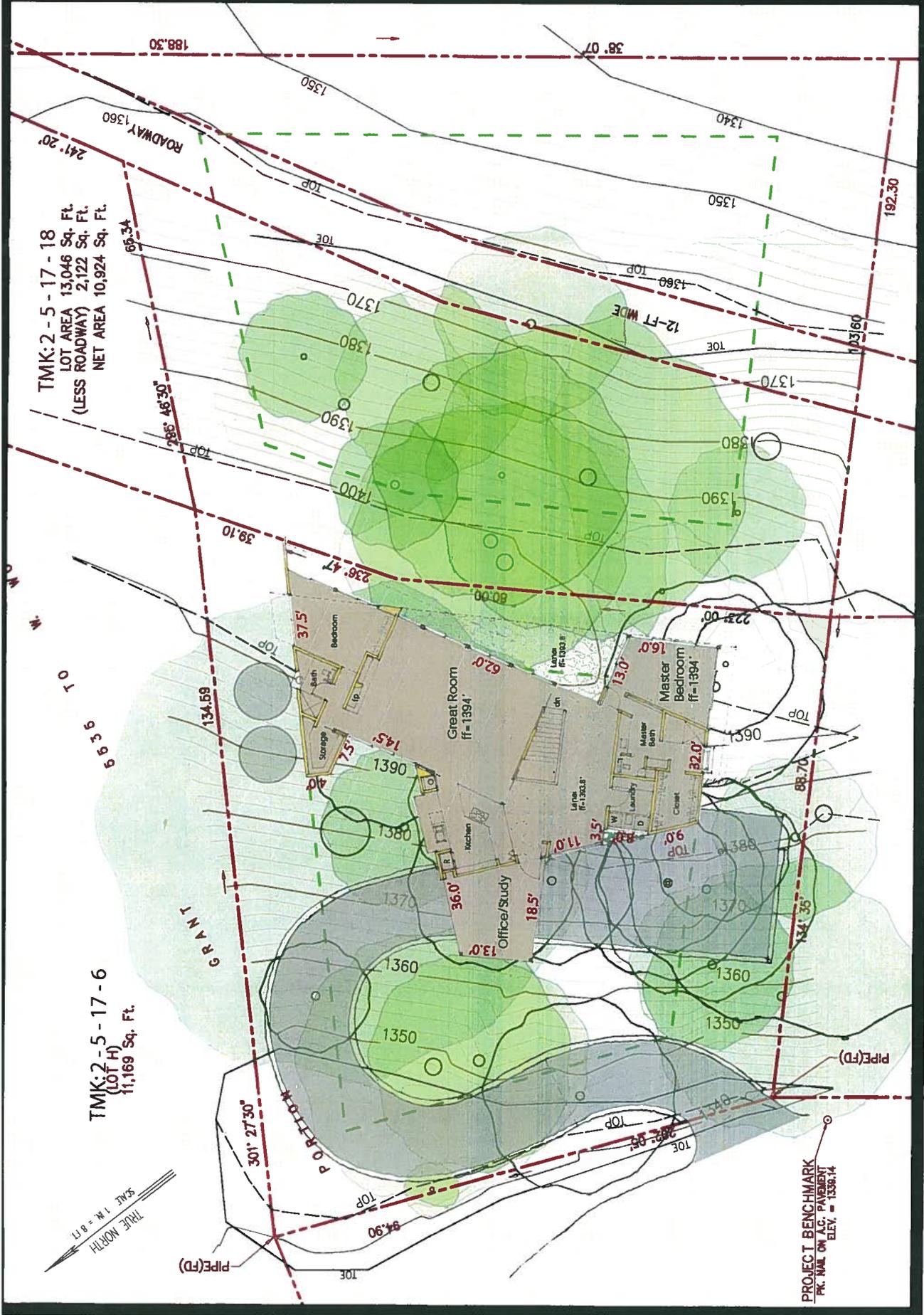


3999
Round Top
Residence

Upper
Level
Floor Plan

Date: Sept 22, 2010
Scale: 1/8" = 1'-0"
Revisions:

Sheet Number:
DLNR - 5



TMK: 2-5-17-18
LOT AREA 13,046 Sq. Ft.
(LESS ROADWAY) 2,122 Sq. Ft.
NET AREA 10,924 Sq. Ft.

TMK: 2-5-17-6
(LOT H)
11,169 Sq. Ft.

EXHIBIT 5