

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

APPLICATION FOR VARIANCE	)	
by	)	VARIANCE NO. 537
THE NATURE CONSERVANCY	)	
from	)	
ROADWAY IMPROVEMENT	)	
REQUIREMENTS	)	
in	)	
MAULUA NUI, NORTH HILO, HAWAII)	)	

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VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on June 29, 1978, considered the application of The Nature Conservancy for a variance from Article 2, Section 4.03B of Chapter 9 (Subdivision Control Code) of the Hawaii County Code, as amended; more specifically, to allow no roadway improvements to be made for a proposed 3-lot subdivision in Maulua Nui, North Hilo, Hawaii, Tax Map Keys 3-7-01:1 and 3-4-02:4.

The Commission has found:

That there are special and unusual circumstances applying to the proposed use which do not generally apply to surrounding properties or improvements. The purpose of this request is to allow the retention of the existing unimproved roads and easements serving the proposed subdivision. The approval of this subdivision will allow The Nature Conservancy to proceed with the acquisition of the Forest Reserve area for the purposes of conservation and the study of natural areas and their significance.

The subject area is the site of important biological and physical features including significant stands of mixed Koa-Ohia forests, Ohia die-back areas, as well as systems of streams, bogs and other waterways. In addition, the forested areas are the habitat of several endangered species of birds including members of the Hawaiian Creeper

family. The Nature Conservancy is proposing to acquire the Forest Reserve Area in order to preserve and study these biological and physical features and habitat area. Some of the scientific investigations proposed for this area include the study of Ohia decline, Koa reforestation, and the establishment of a benchmark watershed area.

Based on the environmental importance of this area in terms of vegetation, physical features, and habitat, as well as the potential of this area for scientific research, it is determined that there are special circumstances applying to the purpose and intent of the proposed subdivision and use which do not generally apply to other properties and uses.

Although these special circumstances do not deprive the owners or petitioner of substantial property rights, it is determined that the strict and literal enforcement of the roadway improvement requirements would interfere with the best use of the subject property which is to preserve the area in its natural state and to conduct scientific studies of that environment. Success of the petitioner's preservation efforts of this area depends upon the minimization of outside impact on the environment. The construction of County Standard roadways to this area would therefore not be in keeping with the plans for the preservation of this area. The proposed unimproved roads and easements to the subject area are therefore determined to be consistent with this intended use.

Approval of the subject request will not be contrary to the General Plan, the Subdivision Control Code or the State Land Use Law. The County General Plan's Natural Resource Element calls for the protection of "Areas necessary for the protection and propagation of specified endangered native wildlife, and conservation of natural ecosystems of endemic plants, fish and wildlife." The State Land Use Law also includes within the Conservation District lands necessary for the conservation, preservation and enhancement of sites with unique ecological significance. In this particular case, the provision of minimal improvements is in keeping with the General Plan and State Land Use Law considerations for

protecting this environmentally important area.

Based on the above, it is determined that the granting of this variance request would promote the public welfare and would not be contrary to the purpose and intent of the Subdivision Control Code.

Therefore, the Commission hereby grants to the applicant a variance to allow no roadway improvements to be made for a proposed 3-lot subdivision, pursuant to the authority vested in it by Article 1, Section 5 of the Subdivision Control Code, subject to the following conditions:

1. That the petitioner or its authorized representative shall secure final subdivision approval within one (1) year from the effective date of the Variance Permit.

[2. That the petitioner shall consolidate proposed lots two and three upon completion of acquiring ownership of them.]

[3. That the petitioner shall submit a progress report to the Planning Director within thirty (30) days of the anniversary date of the effective date of the Variance Permit. The progress report shall include, but not be limited to, the status of the acquisition program, scientific research programs planned or being conducted within the area, and a general account of traffic into the area.]

[4.] 2. That all other applicable rules, regulations, and requirements shall be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void by the Planning Commission.

The effective date of this permit shall be from June 29, 1978.

Dated at Hilo, Hawaii, this 13th day of July, 1979.

/s/ William F. Mielcke

Chairman, Planning Commission