

PLANNING COMMISSION

Planning Department  
County of Hawaii  
Hilo, Hawaii

Application for VARIANCE )  
by )  
THE NATURE CONSERVANCY )  
from )  
SURVEYING AND STAKING )  
REQUIREMENTS )  
in )  
Maulua Nui, North Hilo, Hawaii )  
\_\_\_\_\_ )

VARIANCE NO. 546

VARIANCE PERMIT

The County of Hawaii Planning Commission at a duly held public hearing on September 28, 1978, considered the application of THE NATURE CONSERVANCY for a variance from Chapter 9 (Subdivision Control Code), Article 2, Section 4.08 of the Hawaii County Code, as amended; more specifically, to waive the surveying and staking requirement for the interior boundary between proposed lots 2 and 3 of a three-lot subdivision in the mauka portion of the ahupua'a of Maulua Nui, North Hilo, Hawaii, Tax Map Key 3-7-01:1 and 3-4-02:4.

The Commission has found:

That there are special and unusual circumstances applying to the subject property and the proposed use which do not generally apply to surrounding properties or improvements. The purpose of the subject request is to waive surveying and staking requirements for an interior boundary line between two lots of a proposed three-lot subdivision. The approval of the proposed subdivision will facilitate acquisition of the subject area by The Nature Conservancy 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 bogs, streams and other waterways. In addition, the forest area provides habitat for 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. Based on the environmental importance of this area in terms of vegetation, physical features and habitat, as well as the area's potential 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.

The property line involved in the subject request is in the midst of the forest reserve area and is greater than three miles in length. There are also numerous streams, bogs and gullies in the area. In order to survey and stake the subject property line, it would be necessary to cut through the forest and survey through the bog areas. The physical features of the area make surveying extraordinarily difficult and are determined to be unusual circumstances not generally found in most areas which are subdivided. In addition, the actual work required to survey the subject property line would necessitate disruption of the forest area to such a degree that it 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 impacts resulting from the work necessary to survey and stake the subject property line would not be consistent with the plans for preservation of the area.

Further, upon acquisition of the proposed lots the petitioner intends to consolidate them. The purpose of the surveying and staking requirement is to assure that property lines are correctly located for any lots which are created. Such location of property lines is necessary for lands which are to be developed and for which title is to be transferred. In this particular case, the purpose of the proposed subdivision is to facilitate acquisition of the property. Once acquisition is accomplished, the property will be consolidated and a major portion of an ahupua'a will be protected. Given the purpose of the proposed subdivision for the intended use, it is determined that the approval of the subject request will not be violative of the Subdivision Control Code nor be contrary to the purpose and intent of the surveying and staking requirement.

Approval of the subject request will also not be contrary to the General Plan 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 waiving of the surveying and staking requirement is in keeping with the General Plan and State Land Use Law considerations for protecting this environmentally important area.

Therefore, the Commission hereby grants to the applicant a variance to waive the surveying and staking requirement for the interior boundary between proposed lots 2 and 3 of a three-lot subdivision pursuant to the authority vested in it by Article 1, Section 7 of the Subdivision Control Code (Chapter 9), of the Hawaii County Code, as amended; subject to the condition that all conditions stipulated in Variance Permit No. 537 shall be complied with.

Should the foregoing condition 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 September 28, 1978.

Dated at Hilo, Hawaii, this 10th day of January, 1979.



William F. Mielcke  
Chairman, Planning Commission

APPROVED as to  
FORM and LEGALITY

*Roxanna Garcia*

CORPORATION COUNSEL  
COUNTY OF HAWAII

Date DEC 13 1978

ASSISTANT