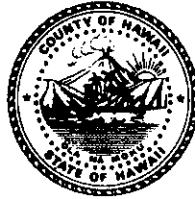


COUNTY OF HAWAII



STATE OF HAWAII

ORDINANCE NO. 08 58 BILL NO. 235
(DRAFT 4)

AN ORDINANCE AMENDING ORDINANCE NO. 96-7 BY AMENDING THE PORTION OF CONDITION M.4 RELATING TO THE CONSTRUCTION OF A BARRICADE OR BREAKAWAY GATE TO PREVENT THE USE OF HALEKI'I STREET AS A VEHICULAR THOROUGHFARE PRIOR TO THE OPENING OF THE ENTIRE MAMALAHOA BYPASS. ORDINANCE NO. 96-7 RECLASSIFIED LANDS FROM UNPLANNED (U) TO AGRICULTURAL 1-ACRE (A-1a) AT HONUAINO 3RD AND 4TH, HOKUKANO 1ST AND 2ND, HALEKI'I, KEEKEE 1ST AND 2ND, ILIKAHI, KANAKAU 1ST AND 2ND, KALUKALU 1ST, 2ND AND 3RD, AND ONOULI 1ST, NORTH AND SOUTH KONA, HAWAII, COVERED BY TAX MAP KEY: 7-9-12:4 & 11; 8-1-4:3, 7, 65 & 68; 8-1-27:16, 20, 21, 27-43; 8-1-28:9, 10, 19-28, 30, 44-47; 8-1-30:1-3, 5-9, 12-53; 8-1-32:1-54; 8-1-33:1-20; 8-1-34:1-25 (formerly 7-9-12: PORTION OF 3, 4 & 11 AND 8-1-4: PORTION OF 3), AND INCLUDED A CONDITION M.4 STATING THAT A BARRICADE OR BREAKAWAY GATE MEETING WITH THE REQUIREMENTS OF THE DEPARTMENT OF PUBLIC WORKS, SHALL BE INSTALLED BY THE APPLICANT AS PART OF THE REQUIRED HALEKI'I STREET IMPROVEMENTS, THE PURPOSE OF THIS CONDITION BEING TO PREVENT THE USE OF HALEKI'I STREET AS A VEHICULAR THOROUGHFARE BETWEEN THE EXISTING MAMALAHOA HIGHWAY AND A PORTION OF THE MAMALAHOA HIGHWAY BYPASS UNTIL THE ENTIRE PROPOSED MAMALAHOA HIGHWAY BYPASS BETWEEN THE APPROXIMATE VICINITY OF KEAUHOU AND CAPTAIN COOK HAS BEEN COMPLETED AND OPENED FOR GENERAL PUBLIC USE.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. The purpose of this bill is to amend Section 3, Condition M.4 of Ordinance No. 96-7, which provided that a barricade or breakaway gate should be provided on Haleki'i Street as a vehicular thoroughfare until the Māmalahoa Highway Bypass from Nāpō'opo'o to Keauhou is open to public travel.

SECTION 2. Section 3, Condition M of Ordinance No. 96-7 is amended as follows:

M. Roadway improvements and access(es) to the subject property, including all plans and construction, shall meet with the approval of the Department of Public Works. Prior to the issuance of Final Subdivision Approval for any portion of the subject property, the applicant shall:

1. construct the channelization and signalization of the Mamalahoa Highway-Haleki'i Street intersection;
2. determine the final right-of-way alignment of the entire Mamalahoa Highway Bypass between the approximate vicinity of Keauhou and Captain Cook, including its intersection areas and its acquired ownership or control. The applicant shall provide the Planning Director with a metes and bounds description of each road right-of-way segment involved and evidence of its ownership or control as deemed necessary by the Planning Director. In lieu of the applicant obtaining or acquiring ownership or control of any segment of the Mamalahoa Highway Bypass, the requirement shall be deemed fulfilled upon the county's formal initiation of condemnation action(s) for such segments and an agreement has been entered into between the applicant and the county providing for the applicant's reimbursement to the county for the acquisition of the lands condemned;
3. construct the Mamalahoa Highway Bypass in its entirety between the approximate vicinity of Keauhou and Captain Cook, consisting of two lanes with sufficient right-of-way for a total of four lanes, provided further, that the section of the Mamalahoa Highway Bypass between Keauhou and Haleki'i shall be completed and available for public use prior to the occupancy of any dwelling unit within the entire project area;
4. construct the extension of Haleki'i Street through the subject property as generally reflected in Exhibit "B", which phasing of improvements shall be approved by the Department of Public Works. ~~[If, before the completion and opening of the entire Mamalahoa Highway Bypass, a portion of said bypass is completed and opened, and said portion provides~~

~~a connection to Haleki'i Street, a barricade or breakaway gate meeting with the requirements of the Department of Public Works, shall be installed by the applicant as part of the required Haleki'i Street improvements. The purpose of this condition is to prevent the use of Haleki'i Street as a vehicular thoroughfare between the existing Mamalahoa Highway and a portion of the Mamalahoa Highway Bypass until the entire proposed Mamalahoa Highway Bypass between the approximate vicinity of Keauhou and Captain Cook has been completed and opened for general public use; and]~~ The use of Haleki'i Street as a public vehicular thoroughfare between the Māmalahoa Highway and the existing, northern section of the Māmalahoa Highway Bypass prior to the opening of the entire Māmalahoa Highway Bypass shall not be allowed prior to the enactment of an ordinance establishing interim controls and mitigation measures and the completion of all mitigations as stated in Conditions M.4 a and b, even for test or temporary situations;

a. The effectiveness of the amendment to the portion of Condition M.4 relating to the construction of a barricade or breakaway gate to prevent the use of Haleki'i Street as a vehicular thoroughfare prior to the opening of the entire Māmalahoa Highway Bypass, shall be subject to the completion and implementation of the following mitigative measures by the appropriate departments of the County of Hawai'i. The mitigation measures applicable to Haleki'i Street shall be in accordance with appropriate engineering standards, specifications and recommendations, as follows:

- (1) Install three (3) speed humps above Mamao Street and three (3) speed humps below Muli Street;
- (2) Construct raised or textured intersections with traffic circle at the Mamao Street/Haleki'i Street intersection and at the Muli Street/Haleki'i Street intersections;

- (3) Install 3-dimensional speed humps on Haleki'i Street between Mamao Street and Muli Street;
- (4) Install speed limit Smart Signs in commercial and residential sections of Haleki'i Street;
- (5) Install pedestrian signal and mid-block crosswalk above Mamao Street near Third Circuit Court building;
- (6) Install pedestrian signal and mid-block crosswalk on Haleki'i Street near Muli Street and the Clarence Lum Won Park;
- (7) Roughen the asphalt on Manawa Street, Haleki'i Street, and Nape Street;
- (8) Lengthen right and left turn Storage Lanes at the Haleki'i Street and Māmalahoa Highway signalized intersection;
- (9) Restrict vehicles with three or more tons gross vehicle weight in residential sections of Haleki'i Street, Nape Street, and Manawa Street; and
- (10) Adjust signal timing and upgrade system at Haleki'i Street – Māmalahoa Highway intersection.

b. The effectiveness of the amendment to the portion of Condition M.4 relating to the construction of a barricade or breakaway gate to prevent the use of Haleki'i Street as a vehicular thoroughfare prior to the opening of the entire Māmalahoa Highway Bypass, shall be subject to the completion and implementation of the following mitigative measures by the appropriate departments of the County of Hawai'i. The mitigation measures applicable to Ali'i Drive shall be in accordance with appropriate engineering standards, specifications and recommendations, as follows:

- (1) Adjust signal timing and upgrade signal systems to improve efficiency at Kuakini Highway-King Kamehameha III Road intersection and the Ali'i Drive-King Kamehameha III Road intersection, as appropriate;

- (2) Stripe left turn pockets and refuge lanes on Ali'i Drive at driveways and intersections between King Kamehameha III Road and the northwestern end of the Māmalahoa Highway Bypass;
- (3) Convert Ali'i Drive-Kaleiopapa Street intersection to a three-way stop and clear vegetation to improve sight distance, with a special duty police officer during any hours that the Haleki'i Street Extension is open to the Māmalahoa Highway. The three-way stop shall be replaced with a traffic signal light:
 - A. prior to the full opening of the Māmalahoa Highway Bypass to Nāpō'opo'o; or
 - B. if the usage of Haleki'i Street Extension to the Māmalahoa Highway by the general public is permitted for more than the three-hour period authorized by Condition M.4.c.
- (4) Convert the Royal Poinciana Drive -Ali'i Drive intersection and the Lunapule Road - Ali'i Drive intersection to a three-way stop as soon as practicable;
- (5) Construct eight-foot bike and walking path on the makai shoulder of Ali'i Drive between King Kamehameha III Road and Kaleiopapa Street; and
- (6) Install speed limit SMART signs on Ali'i Drive between Lunapule Road and King Kamehameha III Road to assist in speed enforcement.

c. Commencement: Opening of Haleki'i Street as a public vehicular thoroughfare between the Māmalahoa Highway and the existing, northern section of the Māmalahoa Highway Bypass shall not be allowed until all mitigation measures outlined in Conditions M.4.a.(1-10) and M.4.b.(1-6) above have been completed and implemented. Upon opening Haleki'i Street for use by the general public driving eastbound from the Māmalahoa Highway Bypass, such general public traffic will only be allowed in a southbound direction on the Māmalahoa Highway Bypass to the Haleki'i Street Extension, and then eastbound on the Haleki'i Street Extension onto Haleki'i Street to the Māmalahoa Highway, Monday through

Friday between the hours of 3:30 p.m. and 6:30 p.m. (except holidays);

- d. Neither the applicant, Oceanside 1250 (Hokuli'a) nor any of its contractors or subcontractors shall use Haleki'i Street for any of its construction vehicles and shall instead use King Kamehameha III Road as the ingress and egress for all construction vehicles to the Hokuli'a project or shall build a temporary connector road from Māmalahoa Highway to the Māmalahoa Highway Bypass for construction vehicles;
- e. Within three years from the effective date of this amendment, the County of Hawai'i shall:
 - (1) Install permanent, three-way signal lights at the intersections of Royal Poinciana Drive – Ali'i Drive, Lunapule Road – Ali'i Drive, and Hualālai Road – Ali'i Drive;
 - (2) Construct a pedestrian path mauka of Ali'i Drive between King Kamehameha III Road and the northwestern end of the Māmalahoa Highway Bypass; and
 - (3) Resolve bike, pedestrian, and right-of-way encroachments on Ali'i Drive between Kailua-Kona and Keauhou.
- f. Test period. Upon the opening of Haleki'i Street for use by the general public as a public vehicular thoroughfare between the Māmalahoa Highway Bypass and the Māmalahoa Highway, a 180-day test period shall commence. After the first sixty (60) days have elapsed within the 180-day test period, the Director of Public Works shall submit a report to the County Council evaluating the

effectiveness of the mitigation measures and provide recommendations for additional mitigation deemed necessary as the result of the test. The County Council shall take appropriate action in determining the continued use of Haleki'i Street Extension as a public vehicle thoroughfare; and

g. Sunset provisions. The amendment to Ordinance No. 96-7, amending the portion of Condition M.4 relating to the construction of a barricade or breakaway gate to prevent the use of Haleki'i Street as a vehicular thoroughfare prior to the opening of the entire Māmalahoa Highway Bypass shall sunset upon the occurrence of either of the following:

- (1) Mitigation measures outlined in Conditions M.4.a.(1-10) and M.4.b.(1-6) above have not been completed and fully implemented within twelve (12) months from the effective date of this ordinance; or,
- (2) Prior to the expiration of the twelve-month period, the County Council determines that opening of Haleki'i Street Extension for use by the general public prior to completion of the entire Māmalahoa Bypass has proven not to be in the best interest of, and for the public good.

In the event of sunset, amendments to the portion of Condition M.4 of Ordinance No. 96-7 relating to the construction of a barricade or breakaway gate to prevent the use of Haleki'i Street as a vehicular thoroughfare prior to the opening of the entire Māmalahoa Bypass, shall be null and void and the original provisions of Condition M.1 through M.5 of Ordinance No. 96-7 shall control and remain in full force and effect.

5. provide roadway stub-outs, generally shown in Exhibit "B", to provide future connections between the subject property and the adjacent properties to the north and south; provided that such stubouts shall be constructed in accordance with the construction phasing as approved by the Department of Public Works.

The applicant shall construct the Mamalahoa Highway Bypass to standards set forth by the Department of Public Works for Alii Highway with such modifications as may be deemed necessary by the Department of Public Works. The applicant shall provide a landscape buffer along highway sections within five hundred feet of existing dwellings, as required by the chief engineer, to reduce the impacts of noise and light on the residents therein and to generally beautify the highway appearance in such locations; provided that the applicant shall enter into a reimbursement agreement with the County which sets forth the terms and conditions of reimbursement for costs incurred for the construction, land acquisition and design of the Mamalahoa Highway Bypass out of funds paid to the state and/or county by other developers or landowners whom the county may determine as benefiting from the Mamalahoa Highway Bypass and which funds are available to the county for such purpose; and provided further, that the total amount of reimbursement due to the applicant shall not exceed the total cost of land acquisition, design and construction of the Mamalahoa Highway Bypass incurred by the applicant, less the pro rata portion attributed to the subject property;"

SECTION 3. Material to be deleted is bracketed and struck through. New material is underscored. In printing this ordinance, the brackets, bracketed material, and underscoring need not be included.

SECTION 4. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Brenda J. Ford
COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: April 9, 2008
Date of 1st Reading: April 9, 2008
Date of 2nd Reading: April 22, 2008
Effective Date: May 8, 2008

REFERENCE: Comm: 997.25

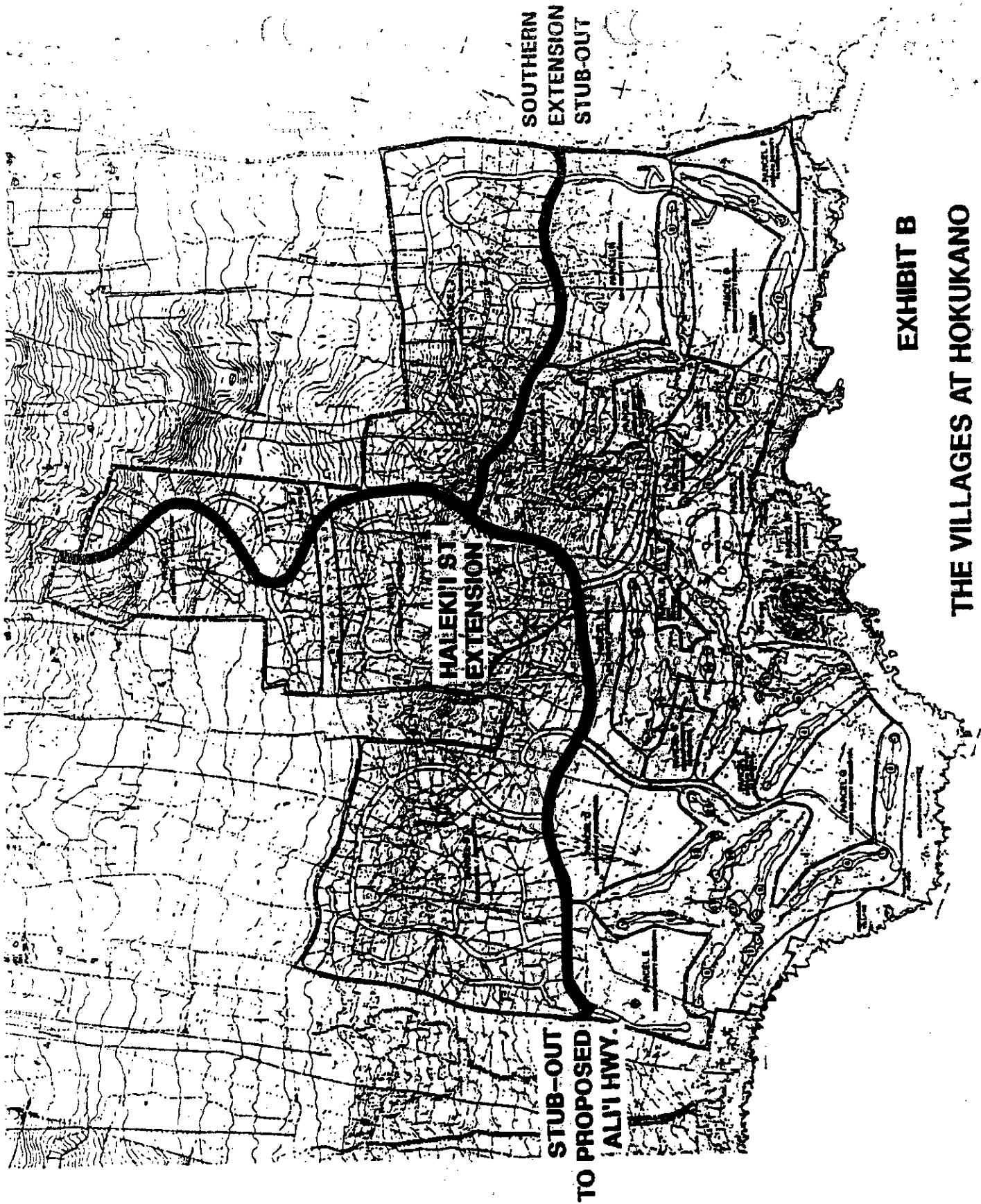


EXHIBIT B
THE VILLAGES AT HOKUKANO

FOR REFERENCE ONLY

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Kona, Hawai'i

(Draft 3)

RECEIVED

Introduced By: Brenda Ford
Date Introduced: April 9, 2008
First Reading: April 9, 2008
Published: N/A

REMARKS

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda		X		
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

(Draft 4)

Second Reading: April 22, 2008
To Mayor: April 30, 2008
Returned: May 9, 2008
Effective: May 8, 2008
Published: May 15, 2008

REMARKS

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa		X		
Hoffmann	X			
Ikeda		X		
Jacobson	X			
Naeole			X	
Pilago	X			
Yagong	X			
Yoshimoto			X	
	5	2	2	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 5/2/08

[Signature]
COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Approved Disapproved this 8th day

of May, 20 08
[Signature]
MAYOR, COUNTY OF HAWAII

Bill No.: 235 (Draft 4)
Reference: C-997.25/FJC-7
Ord No.: 08 58