

JAN 19 2007

A BILL FOR AN ACT

RELATING TO SHORELINE SETBACKS AND HISTORIC AND CULTURAL SITES
IN THE DISTRICT OF KOOLAULOA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the protection and
2 preservation of Hawaii's historic and cultural heritage is of
3 paramount importance. The legislature established the historic
4 preservation program for the purpose of conserving Hawaii's
5 unique heritage. Several cultural sites have been destroyed or
6 threatened by recent developments, including the Wal-Mart in
7 downtown Honolulu and the current proposed expansion of the
8 Turtle Bay Resort located in the ahupuaa of Hana Kaeo.

9 There are several sites listed on the Hawaii register of
10 historic places and the national register of historic places
11 located in the proposed Turtle Bay Resort expansion area,
12 including the Kahuku habitation area, the Kawela bay
13 archaeological area, the Kahuku point archaeological area, and
14 Punahoolapa marsh. Several burials have been found and
15 relocated since the development of the existing hotel began
16 prior to the enactment of new standards for inadvertent
17 discoveries and the establishment of the burial councils in



1 1990. Given the location, which includes jocular sand dunes,
2 more cultural sites are expected to be found. Recent advances
3 in technology have made it much easier to detect hidden cultural
4 sites, including burial sites.

5 Oaktree Capital Management, LLC, the current owner of
6 Turtle Bay Resort and developer of the planned expansion was
7 recently urged by the state historic preservation division to
8 revise the layout of its plan, including a shoreline setback of
9 an additional five hundred to six hundred fifty feet from the
10 currently required one hundred foot setback, so as not to
11 disturb burial sites. This recommendation was based on a
12 revised mitigation plan submitted by the developer, which led
13 the division to conclude that there is a high probability that
14 numerous as yet undiscovered subsurface burials, in addition to
15 the twenty-four known individuals in nine burial features, are
16 located in the areas to be developed. According to the letter
17 sent to the developer from the state historic preservation
18 division, "[a]lmost all of these burials (twenty-one of twenty-
19 four individuals, and seventeen of nineteen burial features) are
20 located in Jaucas sand deposits, within approximately 100-150
21 meters of the shoreline."



1 Given this new information, the legislature further finds
2 that a new cultural and historical assessment of the proposed
3 development site must be conducted before any more development
4 can go forward. Such a review would ensure the preservation of
5 the cultural sites known and believed to be in the area, relieve
6 community concerns over the possible desecration of cultural and
7 burial sites, and would prevent the developer from being
8 inconvenienced by frequent and expensive halts in construction
9 or being subject to penalties under sections 6E-11.5, and
10 6E-11.6, Hawaii Revised Statutes.

11 The purpose of this Act is to ensure that any further
12 development between Kawela stream and Marconi road fully
13 respects and preserves any possible cultural and historic sites.

14 SECTION 2. Any development makai of Kamehameha highway
15 between Kawela stream and Marconi road, in the ahu puaas of
16 Opana, Hana Kaeo, and Kahuku on the Island of Oahu shall:

- 17 (1) Be strongly encouraged to maintain a minimum shoreline
18 setback of seven hundred fifty feet;
- 19 (2) Be required to conduct a new comprehensive historic
20 and cultural preservation assessment, under the
21 supervision of the department of land and natural



1 resources pursuant to section 6E-10, Hawaii Revised
2 Statutes, including:

3 (A) The identification of burial sites pursuant to
4 section 6E-43, Hawaii Revised Statutes, using the
5 most up-to-date technology available, and

6 (B) The evaluation of whether additional sites should
7 be added to the Hawaii register of historic
8 places, pursuant to section 6E-5.5, Hawaii
9 Revised Statutes; and

10 (3) Comply with all other recommendations of the Oahu
11 burial council, the historic preservation division and
12 any other interested agency of the department of land
13 and natural resources.

14 SECTION 3. This Act shall take effect upon its approval.

15
INTRODUCED BY:

Russell Kolb B/R



Report Title:

Koolauloa; Shoreline Setbacks; Historic and Cultural Assessments

Description:

Requires a new historic and cultural assessment and a minimum shoreline setback of seven hundred fifty feet for any development makai of Kamehameha highway between Kawela stream and Marconi road in the Koolauloa district on Oahu.

