

DEPARTMENT OF PLANNING

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DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

Date: December 15, 2021

To: Dan Orodener, Executive Officer
State of Hawai'i Land Use Commission

From: Jodi Higuchi Sayegusa, Deputy Director
County of Kaua'i Planning Department



Subject: Docket No. DR 21-76
Petition for Declaratory Order to Designation Important Agricultural
Lands Petition dated December 2, 2021

Petitioner: Kekaha Agriculture Association

Locations: Portions of Kekaha, Kaua'i, Hawai'i

TMK: (4) 1-2-002:001 (portion)

Acreage: Parcel's total acreage (per County of Kaua'i Real Property Tax): 12,996.766 acres

Acreage comprising "Kekaha Ag Lands" (per petition): 12,762.26 acres

- o Proposed for IAL Designation: 12,123 acres
- o Remainder Land: 639 acres

Pursuant to Article XI, Section 3 of the Hawaii Constitution, Hawaii Revised Statutes (HRS) §§205-41 through 205-45, and Hawai'i Administrative Rules §§15-15-120 and 15-15-121, and having reviewed the available information and the Petitioner's representations, the County of Kaua'i Planning Department submits its comments in **support** of the Petition for designation of the subject lands as Important Agricultural Lands (IAL).

The Petitioner proposes 12,123 acres of its lands for designation as IAL. The Petitioner actively uses the petition area for agricultural purposes and intends to take advantage of incentives offered in connection with the ownership and use of IAL. The Planning Department acknowledges that the Petitioner has voluntarily waived its rights to assert, claim, or exercise the 85/15 reclassification incentive under HRS §20-4.5(h). (page 20-21 of petition).

Consistency with County's IAL Study/Statutory Criteria:

Approximately 6,440 acres of the 12,123 acre-Petition Area would meet the criteria that was developed for IAL under the County of Kaua'i IAL Study (August 2015) (see

attached Exhibit A). The Kaua'i IAL Study provided for a "threshold" score of 28 as a guide for identifying candidate agricultural lands for a *County-led designation process*. The County's scoring system created subcriteria for the 8 criteria established under HRS §205-44. The score of 28 indicated that all 8 criteria were met to some extent by meeting at least one subcriteria under each criterion. The approximately 6,440 acres, therefore, would meet the threshold score of 28 and would qualify for County-led designation.

The remaining portions of the 12,123 acres that did not score 28 or higher are still eligible for IAL designation under the voluntary landowner-initiated process. Under HRS §205-44, agricultural lands that meet *any of the eight* criteria of IAL would be given consideration provided that its designation meets the purposes of the State Constitution and objectives and policies provided in HRS §205-42 and §205-43. Portions not included as qualifying under the County's IAL Study still meet at least one of the eight criteria. For instance, a snapshot of a portion of land located along the steep slopes between Kokee Road and Waimea Canyon Drive (in the vicinity of Wai Aka Ridge) to some extent met Criteria #5, "Land with sufficient quantities of water to support viable agricultural production." Also, a snapshot of a portion of land within the County Open District located mauka of lands that qualified for County-led designation between Wailau Valley and Kuapa'a Valley also met Criteria #5 to some extent.

Overall, the designation of the subject lands as IAL supports several priorities identified in the Kaua'i IAL Study. The Kaua'i IAL Study provides a discussion of the mapping analysis conducted by the University of Hawai'i to identify lands with the potential for increasing food self-sufficiency and energy security on Kaua'i (see IAL Study pages 24 to 40). The lands that qualified for the County-led designation process scored highly for food crop production. The remaining lands that do not rate highly for food crop production still shows potential for the development of energy crops.

Consistency with General Plan, Community Plan, or Zoning Considerations:

The 2018 Kaua'i County General Plan emphasized that agriculture is "an important element in Kaua'i's identity as a rural place, and . . . represents our greatest opportunity for economic diversification and food self-sufficiency." To that end, among the permitting and code change recommendations detailed in the General Plan included policies to "[s]upport landowner and farmer-initiated designations of important agricultural lands that at least meet criterion number five of Act 183 (SLH 2005), "land with sufficient quantities of water to support viable agricultural production"" and "[u]se IAL maps and tools when reviewing landowner/farmer-initiated petitions for the designation of IAL or for evaluating priority lands for IAL designation proposed by the State or County." Accordingly, the County supports the Petition pursuant to the analysis regarding the IAL Study.

The Petition Area contain lands that are designated as both Agricultural and Natural under the 2018 General Plan's (GP) and 2020 West Kaua'i Community Plan's (WKCP)

future land use maps. The GP and WKCP Agricultural designation includes lands that would qualify for IAL designation whose preservation “contributes to self-sufficiency and helps preserve Kaua‘i’s rural character and lifestyle.” In addition, including the Natural designated lands as IAL is not inconsistent with GP and WKCP policies particularly where those portions are not heavily cultivated but used for the cultivation of energy crops, at most. Thus, designation of the Petition Area as IAL comports with GP and WKCP policies.

Finally, the Petition Area contains lands in both the Agricultural and Open County Zoning Districts (see Exhibit B). Under Kaua‘i County Code (KCC) §8-8.1, the establishment of the County Agriculture District prioritized the protection of “existing and potential agriculture . . . while providing the opportunity for a wider range of the population to become involved in agriculture . . .” as well as the following purposes:

- (a) To protect the agriculture potential of lands within the County of Kaua‘i to insure a resource base adequate to meet the needs and activities of the present and future;
- (b) To assure a reasonable relationship between the availability of agriculture lands for various agriculture uses and the feasibility of those uses;
- (c) To limit and control the dispersal of residential and urban use within agriculture lands.

IAL designation of the County Agricultural-zoned lands in the Petition Area will certainly support the above policies. Particularly, IAL designation will further protect agriculture potential to meet Kaua‘i’s needs of the present and future, and limit the dispersal of residential and urban use within agricultural lands.

Under KCC§ 8-9.1, the Open District was “established and regulated to create and maintain an adequate and functional amount of predominantly open land to provide for the recreational and aesthetic needs of the community or to provide for the effective functioning of land, air, water, plant and animal systems or communities.” Designation of Open-Zoned lands as IAL may further support the purposes of the Open Zoning District where these areas are not heavily cultivated.

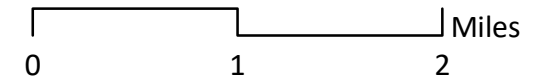
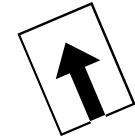
Thank you for your consideration of our comments. Please contact myself at jhiguchi@kauai.gov or Marie Williams at mwilliams@kauai.gov with any questions.

Enclosures



CC: Office of Planning, Sustainable Development

Exhibit A

**Map Showing Portion of
Subject Parcel (4) 1-2-002:001
DR 21-76 Petition for
Designation of IAL by
Kekaha Agricultural Association**



Legend

- State Highway (2015 CoK)
-  Lands that meet the criteria for IAL*
(approx 6,440 acres)
-  Portion of (4) 1-2-002:001 (2021 CoK)
12,123 acres












*Agricultural Lands which meet the eight criteria of Hawaii Revised Statutes Part III Important Agricultural Lands. Refer to the Kauai IAL Study (August 2015) for more information about the development of scoring mechanism and geographic data.

Exhibit B

Petition Area

County of Kauai Zoning & Land Area

Zone	Acres	% of Total
 Agriculture	8,343	~67%
 Open	4,031	~32%
 Conservation	16	<1%
 Industrial-General	5	<1%
 Residential-4	1	<1%
 Residential-6	0.5	<1%
 Residential-10	0.5	<1%
 Residential-10/ST-P	0.1	<1%
 No Zoning	5	<1%
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		12,402
		<i>Total Acres</i>



0 0.75 1.5 3 Miles

Earthstar Geographics