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To: Daniel Orodener, Executive Officer
State Land Use Commission

From: *Leo R. Asuncion* Leo R. Asuncion, Director *Leo R. Asuncion*

Subject: DR18-61 Hartung Brothers Hawaii, LLC
Petition for Declaratory Order to Designate Important Agricultural Lands

The Office of Planning (OP) appreciates Hartung Brothers Hawaii, LLC's (Petitioner) voluntary participation in the process for the designation of important agricultural lands (IAL). The designation of the most productive agricultural lands in Hawaii will help to realize the goals of sustainability and food security for the State of Hawaii.

Having reviewed the Petition and evaluated all available information pursuant to applicable IAL law, OP recommends that the Land Use Commission (Commission) approve the designation of all 462.967 acres in the Petition Area as IAL. The following is provided in support of this recommendation.

Applicable Law. The State law for IAL is found at Hawaii Revised Statutes (HRS) §§ 205-41 through 205-44. Lands being considered for IAL designation must meet the definition of IAL pursuant to HRS § 205-42(a), which provides that IAL lands:

- (1) Are capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology;
- (2) Contribute to the State's economic base and produce agricultural commodities for export or local consumption; or
- (3) Are needed to promote the expansion of agricultural activities and income for the future, even if currently not in production.

HRS § 205-44(c) lists eight standards and criteria for the identification of IAL which were assessed as part of OP's review. OP recognizes that lands identified as IAL need not meet every standard and criteria listed, but that "the designation of important agricultural lands shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in article XI, section 3, of the Hawaii Constitution and the objectives,

policies, standards, and criteria for important agricultural lands in sections 205-42 and 205-43.”
HRS § 205-44(a).

Summary of key elements of the Petition. The Petitioner is requesting that the LUC issue a declaratory order designating 462.967 acres of land at Kunia, Oahu (Petition Area) as IAL. The Petitioner represents that if the Petition is approved, it is waiving all rights to any credits that may be earned under HRS § 205-45(h). Also, if this Petition is approved by the Commission, the Petition Area would constitute a voluntary designation of a majority (54.6% of the 848.627 acres) of Petitioner’s land holdings on Oahu within the State Agricultural District, such that further involuntary IAL designation of Petitioner’s land holdings would be precluded, as provided for in HRS § 205-49(a)(3)¹.

Basis of review and comments. OP’s review is based on the Petition, Petition exhibits, and public data available on the proposed lands.

Assessment of Petition lands. The following assesses the proposed IAL areas relative to the eight standards and criteria for the identification of IAL established in HRS § 205-44(c).

1. HRS §205-44(c)(1) - Land currently used for agricultural production. The Petition Area meets this criterion. According to the Petitioner, all of the Petition Area is currently in active agricultural production. Table 1 below summarizes the current uses as provided by the Petition.

Agricultural Use	Acres	Percent
Crop Production	302	65%
Other (agricultural infrastructure, soil conservation, gulch)	161	35%
Total:	462.967	100%

Crop production is on a year-round basis with 97% of the fields planted with seed corn and the remaining 3% planted in sorghum. Approximately one-half of the fields in the Petition Area is planted at a time, with one crop per year in any particular field.

¹ HRS § 205-49(a)(3) states in part, “...if the majority of landowners’ landholdings is already designated as important agricultural lands, excluding lands held in the conservation district, pursuant to section 205-45 or any other provision of this part, the commission shall not designate any additional lands of that landowner as important agricultural lands except by a petition pursuant to section 205-45.”

The balance of the Petition Area consists of water infrastructure, roads, soil conservation measures, and gulch land.

The Petition Area has been in agricultural production since the late nineteenth century, including sugarcane from 1897 to 1995, and pineapple from the mid-1990s to 2008. From 2008 to 2017 the Petition Area has been used for seed corn research, development, and production of seed corn. Since 2017 the area has primarily been used for seed corn and production as described above.

2. HRS §205-44(c)(2) - Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops. The Petition Area meets this criterion. Based on the Land Study Bureau (LSB) ratings, the soil productivity ratings of the Petition Area are generally favorable for agricultural production with about 75% rated "A" or "B". Approximately 25% is rated "C", "D", and "E". Table 2 below summarizes the productivity ratings of the Petition Area.

TABLE 2		
Productivity Rating	Total IAL	
	Acres	% of IAL
A (Very good)	284.672	61.5%
B (Good)	61.906	13.4%
C (Fair)	56.490	12.2%
D (Poor)	24.295	5.2%
E (Very Poor)	35.604	7.7%
Unclassified	0.00	0.0%
Total:	462.967	100%

The lower quality rated lands are generally consistent with steeper land slope ratings. Steep slope gradients typically hinder machinery and labor operations due to geographic features such as ravines, gulches and steep terrain as well as soil quality.

3. HRS §205-44(c)(3), Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system adopted by the board of agriculture on January 28, 1977. The Petition Area meets this criterion. The table below summarizes the ALISH system classifications for the Petition Area. The majority of the property, 66.8%, is rated "Prime", 0.5% is rated "Unique", and 29.0% is rated as "Other" Important Agricultural Lands. The remaining 3.7% lands "Not in ALISH" includes essential elements for active agricultural operations, such as drainageways, water system infrastructure, roadways, and areas for soil conservation.

TABLE 3		
ALISH Rating	Acres	% of IAL
Prime	309.308	66.8%
Unique	2.449	0.5%
Other	134.210	29.0%
Not in ALISH	17.000	3.7%
Total:	462.967	100%

4. HRS §205-44(c)(4), Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production. The Petition Area does not meet this criterion. Although the Petition Area has been in active crop production both under Petitioner's ownership and prior ownership since 1877, the Petition lands are not considered unique agricultural lands under this criterion. The Petition Area has not been associated with traditional native Hawaiian agricultural uses or unique agricultural crops and uses.
5. HRS §205-44(c)(5), Land with sufficient quantities of water to support viable agricultural production. The Petition Area meets this criterion. The majority of the Petition Area is irrigated by a plantation-era onsite irrigation system based on 3 reservoirs. Petitioner has a water use permit (WUP No. 828), issued in 2008 by the State Commission on Water Resource Management, that allows withdrawal of 0.59 million gallons per day (mgd) of water on a twelve-month moving average basis from the Waiahole Ditch.

The Petition Area is also naturally irrigated by rainfall. The Petition Area receives a mean annual rainfall of approximately 30 to 40 inches of rain according to the online *Rainfall Atlas of Hawaii*.

6. HRS §205-44(c)(6), Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county. The Petition Area meets this criterion. The Petition Area is appropriately and entirely within the State Land Use Agricultural District, and is consistent with the City and County of Honolulu's (City) General Plan. The majority of the Petition Area is located in the Central Oahu Sustainable Communities Plan region, with the southern, remainder portion located in the Ewa Development Plan. All of the Petition Area is located outside of the Community and Urban Growth Boundaries of the plans. All of the Petition Area is zoned AG-1 Restricted Agricultural under the City's Land Use Ordinance.
7. HRS §205-44(c)(7), Land that contributes to maintaining a critical land mass important to agricultural operating productivity. The Petition Area appears to meet this criterion. The

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Petition Area is generally contiguous over approximately 463 acres. The property is contiguous with the Monsanto designated IAL (DR17-59) to the south. Approximately 65% of the land is currently in crop production, with 35% for "other" that includes agricultural infrastructure, soil conservation, and gulches.

8. HRS §205-44(c)(8), Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power. The Petition Area meets this criterion with respect to the ongoing availability of water for irrigation and applicable utilities. Kunia Road is the major adjacent accessway with proximity to roads, major markets and harbors.

Summary and Recommendation

Based on the above analysis that includes review of all available information and Petitioner's representations, and weighing the IAL standards and criteria, OP recommends that the Commission approve Petitioner's proposed IAL in its entirety. OP further recommends that a condition of approval be imposed waiving any and all rights to credits under HRS § 205-45(h), as represented by the Petitioner.

Particular areas of the Petition Area are considered less productive agricultural lands due to steep land slopes consisting of ravines, gulches and areas of poor soil qualities as indicated by ALISH and LSB (Tables 2 and 3). However, based on the presence of active crop production, as well as the availability of sufficient water supplies, OP believes the Property meets most of the IAL criteria. Also, consistent with the meaning of "IAL" under HRS § 205-42(a)(2), the Petitioner's current active crops produce agricultural commodities for export and therefore contributes to the State's economic base.

The Petition Area constitutes approximately 54.6% of the all the land owned by the Petitioner that lies within the State Agricultural Land Use District. Thus, under HRS § 205-49(a)(3), the Commission is barred from designating any additional land owned by the Petitioner that may be identified by the City for designation as IAL under Section 205-49, HRS.

Thank you for the opportunity to comment on the Petition. If you have any questions, please contact Tomas Oberding of our Land Use Division at 587-2885.

cc: Department of Agriculture
Department of Planning and Permitting, City and County of Honolulu