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LAND USE COMMISSION
STATE OF HAWAII
PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

2019 JAN 22 A 7:16

January 18, 2019

Mr. Daniel Orodener
Executive Officer
Land Use Commission
235 South Beretania Street, Suite 406
Honolulu, Hawaii 96814

Dear Mr. Orodener:

Subject: Docket No. DR18-63
Petition for Declaratory Order to Designate Important
Agricultural Lands in Kahuku, Oahu
Malaekahana Hui West, LLC
Tax Map Key: 5-6-006:018
Total Area: 230.33 acres

Thank you for the opportunity to comment on this important petition. The Department of Agriculture (DOA) expresses its appreciation to the Petitioner for their interest in and effort to identify potential Important Agricultural Lands (IAL) (petition area). We note that the Petitioner is not seeking a reclassification of land pursuant to Section 205-45(b), Hawaii Revised Statutes (HRS) in conjunction with this petition to designate IAL. The Petitioner is also voluntarily waiving all rights to claim any credits due pursuant to Section 205-45(h), HRS (Petition, p. 22). This is the eighth IAL petition involving agricultural lands on the island of Oahu and the seventeenth IAL petition statewide. Over 134,330 acres of agricultural land throughout the State have been designated by the Land Use Commission since 2009. Oahu has 12,583 acres (9 percent) of the total statewide acreage designated as IAL.

Summary of findings and conclusion:

The Department supports the Petitioner's request for IAL designation as it meets seven of the eight IAL identification criteria (Section 205-44, HRS), particularly the criteria for current agricultural production (criterion 1), soil qualities (criteria 2 & 3), and available irrigation (criterion 4).

In the following, we provide responses to the Petitioner's statements as to how the petition area meets the eight criteria for identifying IAL.



Criterion 1.
Land Currently Used for Agricultural Production

According to the petition, approximately 60 percent (138.2 acres) of the petition area is actively involved and/or utilized for cultivation and growth of diversified agriculture (Petition, p. 7). To support this claim, the Agricultural Land Assessment (ALA) found in Exhibit D of the petition, cites that 139.55 acres within the petition area is currently leased to five tenant farmers (see ALA, Figure 2; p. 4). All five tenants have been farming within the petition area for over 12 years, and the Petitioner intends to continue leasing the area to farmers for the foreseeable future. (ALA, p. 4).

According to the ALA, the majority of the petition area is dedicated to agricultural uses with the City's Real Property Assessment Division (ALA, p. 6). This demonstrates commitment to active agricultural production for the duration of the dedication. DOA staff confirms that TMK 5-6-006:018 has a City tax dedication through 2020 (Real Property Tax Assessment Division, Department of Budget and Fiscal Service, 2019 Dedicated Agricultural List). There might be a potential discrepancy with the expiration date of the City tax dedication from the 2019 Dedicated Agricultural List (listed as expiring in 2020 for TMK 5-6-006:0180001) and the ALA's claim that the dedication will expire February 2024 (ALA, p. 6). The Department notes, however, that regardless of when the dedication expires, the Petitioner states that it intends to renew the dedication (ALA, p. 6).

The petition area also has a restrictive covenant for the protection and preservation of agricultural production for at least 10 years (beginning in 2014) (ALA, p. 6). Other than a Land Court Document number, no other information was provided about this restrictive covenant, and the Petitioner may want to provide additional information about this restrictive covenant before or during the hearing.

The petition area not in agricultural use (approximately 92.13 acres) consists of land stewardship, soil conservation, and drainage areas (ALA, p. 6).

DOA finding on Criterion 1: This criterion is satisfactorily met.

Criterion 2.
Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops

According to the Land Study Bureau's Detailed Land Classification (LSB) for the Island of Oahu, 12.82 acres (5.6%) of the petition area is rated "A", 162.94 acres (70.7%) is rated "B", 1.02 acres (0.4%) is rated "C", 8.24 acres (3.6%) is rated "D", 41.24 acres (17.9%) is rated "E", and 4.08 acres (1.8%) is unclassified (ALA, p. 9). Additional

research by Department staff indicates that the majority of "B" rated lands in the petition area would fall to a rating of "C" and "D" if unirrigated.

DOA finding on Criterion 2: This criterion is satisfactorily met.

Criterion 3.

Lands identified under agricultural productivity ratings 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

According to the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system, the petition area is comprised of 169.77 acres (73.7%) in "Prime", 0.0 acres (0.0%) in "Unique", 21.44 acres (9.3%) in "Other Important", and 39.12 acres (17.0%) not classified according to ALISH (see ALA, p.11). The lands in the petition area that are not in ALISH generally overlap the lands designated as "E" by the LSB.

DOA finding on Criterion 3: This criterion is satisfactorily met.

Criterion 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 mentions that traditional accounts and conditions indicate considerable agricultural use in the Kahuku region, and that the Malaekahana region was associated with agricultural terraces along the Kaukanala'au Stream (Petition, p. 13). However, the petition does not provide evidence or information further showing such uses took place specifically within the petition area. The petition also mentions that the parts of the petition area have been cultivated by taro in the past, but does not provide a map of where taro was or is currently cultivated (Petition, p. 13). Department staff did see dryland taro being grown on some fields during the site visit to the petition area.

DOA finding on Criterion 4: No specific evidence was provided within the petition that the petition area was associated with traditional native Hawaiian agricultural uses or unique agricultural crops and uses.

Criterion 5.

Lands with sufficient quantities of water to support viable agricultural production

Much of the petition area is irrigated by water supplied from four wells located on Petitioner's land (Petition, p. 11). The wells and Commission of Water Resource Management (CWRM) permits are for irrigation and domestic use on Petitioner's entire Malaekahana Hui West property, and includes irrigation for the Remainder Lands. The

million gallons per day (mgd) allocations are based on a moving average basis. The past usage rates are from the last two fiscal years (ALA, p. 13).

Well No.	Water Use Permit	Daily allowance (mgd)	Past usage (mgd)	On petition area?
3957-01/03	780	1.244	.215-.314	yes
4057-07	782	.300	.228-.284	yes
4057-06	781	.670	.001-.005	no
Totals		2.214	.444-.603	

(ALA, p. 13). From the ALA, all four wells appear to service areas within the petition area (see ALA, Figure 7 "Water Resources and Agricultural Infrastructure"). Past usage rates of .444 to .603 mgd (average .524 mgd) for the Malaekahana Hui West property, roughly average out to 2,100 gallons per acre per day (gpac) being used on lands in active agriculture (assuming half of the Remainder Lands are in active agriculture).

The petition area also receives an average of 46 to 56 inches of rain annually (ALA, p. 13).

DOA finding on Criterion 5: This criterion is satisfactorily met. From the information provided by the ALA, it appears that there is sufficient water to irrigate all the lands within the petition area that are identified in active agriculture.

Criterion 6.

Land whose designation as Important Agricultural Lands is consistent with general, development, and community plans of the County

The petition area is within the Koolau Loa Sustainable Communities Plan (ALA, Figure 9). The adopted Koolau Loa Sustainable Communities plan (1999), as well as the draft Koolau Loa Sustainable Communities Plan (2012) designates the large majority of the petition area as "Agricultural" with small portions designated as "Preservation" and "Military". The petition area is not within the plan's community growth boundary (Petition, p. 17).

Furthermore, the proposed designation of the petition area as IAL is consistent with:

- a. the objectives and policies relating to agriculture in the existing and the draft General Plan (2002 and 2018, respectively);
- b. the policies relating to agriculture in the existing and draft Koolau Loa Sustainable Communities Plan (1999 and 2012, respectively);
- c. the current zoning that is AG-1 (Restricted Agricultural); and
- d. the draft maps of potential IAL developed by the City Department of Planning and Permitting (August, 2018)

DOA finding on Criterion 6: This criterion is satisfactorily met.

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Criterion 7.

Land that contributes to maintaining a critical land mass important to agricultural operating productivity

The petition area is 230.33 contiguous acres of agricultural land. According to the Petition, the petition area has a long history of agricultural use and significance in the region.

DOA finding on Criterion 7: This criterion is satisfactorily met.

Criterion 8.

Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power

Besides the irrigation infrastructure described above, the petition area also contains agricultural roads capable of supporting farming equipment, electrical service, storage facilities and other infrastructure necessary to sustain agricultural activities on the Petitioner's land.

DOA finding on Criterion 8: This criterion is satisfactorily met.

CONCLUSION

The Department of Agriculture supports the Petitioner's request to have the entire petition area of 230.33 acres designated as IAL. We believe the petition satisfactorily addresses seven of the eight IAL identification criteria. In reaching this conclusion, the Department notes the strong evidence of active agricultural use within the petition area, abundant irrigation, and relatively high LSB and ALISH ratings.

Sincerely,



for Denise L. Albano, Chairperson
Board of Agriculture

c: Office of Planning
City Department of Planning and Permitting