

LAND USE COMMISSION
STATE OF HAWAII

2019 JAN 24 P 3:30

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of

ROBINSON KUNIA LAND LLC,
a Hawaii limited liability company

For Declaratory Order to Designate Important
Agricultural Lands for approximately 1,239.20 acres
at Kunia, O'ahu; TMK (1) 9-4-003-001 (por.) and -
004, (1) 9-4-004-002 (por.), -003, -004 (por.), -007,
008, -010, -011, -012, -018 and -019 (por.)

DOCKET NO. DR18-64

PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER AND
CERTIFICATE OF SERVICE

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

Petitioner ROBINSON KUNIA LAND LLC, a Hawaii limited liability company ("Petitioner"), filed a Petition For Declaratory Order To Designate Important Agricultural Lands ("Petition") on November 28, 2018, pursuant to §§ 205-44 and -45 of the Hawai'i Revised Statutes ("HRS") and §§ 15-15-98, -99, -120 and -121 of the Hawai'i Administrative Rules ("HAR"), to designate as Important Agricultural Lands ("IAL") approximately 1,239 acres of land situated at Kunia, O'ahu, consisting of Tax Map Key Nos. (1) 9-4-003-001 (por.) and -004, (1) 9-4-004-002 (por.), -003, -004 (por.), -007, -008, -010, -011, -012, -018 and -019 (por.) (the "Petition Area").

The Land Use Commission of the State of Hawai‘i (“Commission”), having heard and examined the testimony, evidence and argument of counsel presented during the hearings, along with the pleadings filed herein, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On November 28, 2018, Petitioner filed the Petition, Verification, and Exhibits "A" through "E", and Certificate of Service with the Commission, and submitted the \$1,000 application fee and electronic copy of the Petition, Verification, and Exhibits to the Commission.

2. On November 28, 2018, the Commission mailed requests for comments on the Petition to the State of Hawai‘i Office of Planning ("OP"), the State of Hawai‘i Department of Agriculture ("DOA"), and to the City and County of Honolulu (the "County") Department of Planning and Permitting.

3. On December 31, 2018, the Commission mailed its Notice of Land Use Commission Meeting and Agenda for its January 9, 2019, site visit.

4. On January 9, 2019, the Commission conducted a site visit to view the Petition Area.

5. On December 26, 2018, OP filed comments in support of the Petition.

6. By letter dated December 19, 2018, DOA filed comments strongly supporting Petitioner’s request on December 24, 2018.

7. On January 8, 2019, the County filed its recommendation that the commission withhold its decision until the Honolulu City Council transmits its recommendations on proposed IAL designations.

8. On January 16, 2019, Petitioner filed a response to the written comments of OP, DOA and the County.
9. On January 22, 2019, the Commission received copies of Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.
10. On January 24, 2019, the Commission held a meeting on the Petition in Honolulu, Hawai'i.
11. Stephen K.C. Mau, Esq. appeared on behalf of Petitioner.
12. Eugene Takahashi and Dina Wong appeared on behalf of the County.
13. Dawn T. Apuna, Esq., Rodney Funakoshi and Lorene Maki appeared on behalf of OP.
13. Earl Yamamoto appeared on behalf of DOA.
15. At the meeting, the Commission admitted into evidence Petitioner's Petition, including Exhibits A through E, the written comments on the Petition from OP, the DOA, and the DPP; the written comments of Petitioner to the written comments from OP, the DOA and the DPP and the hardcopy of Petitioner's PowerPoint slide presentation.
16. At the meeting, Petitioner called Tom Fee of Helber, Hastert and Fee, and Kehau Wall of Robinson Kunia Land LLC as witnesses. Mr. Fee was qualified as an expert in land planning.
17. OP called Rodney Funakoshi as a witness.
18. Earl Yamamoto testified on behalf of DOA.
19. Eugene Takahashi and Dina Wong provided comments and responded to questions on behalf of the County.
20. OP supported the designation of the Petition Area as IAL.

21. DOA supported the designation of the Petition Area as IAL.

22. The County requested deferral but also said that there were no inaccuracies in the testimony of Petitioner’s expert witness Thomas Fee.

23. Following the receipt of testimony and Petitioner's case-in-chief, and upon due deliberation, Commissioner Aczon made a motion to approve the Petition in its entirety, which motion was seconded by Commissioner Mahi. There being a vote tally of seven ayes, and one excused, the motion carried.

DESCRIPTION OF THE PETITION AREA

24. Petitioner is the fee simple owner of fourteen (14) contiguous parcels of land located in Kunia, Oah’u, identified by Tax Map Keys (1) 9-2-001-002, 9-4-002-052, 9-4-003-001, 9-4-003-004, 9-4-004-002, -003, -004, -007, -008, -010, -011, -012, -018, and -019, and three (3) parcels of land in Mililani, Oahu, identified by Tax Map Keys (1) 9-4-003-003, 9-4-110-057 and -058, consisting of approximately 2,440.35 acres (collectively, “Petitioner’s Land”). This is shown on the Exhibit “A” map.

25. The table below shows the approximate area of each parcel of Petitioner’s Land, the area of each parcel designated IAL as part of the Petition Area, and the area of each parcel that is not proposed to be designated IAL at this time:

Tax Map Key Parcel No.	Total Acres (“Petitioner’s Land”)	IAL Acres (“Petition Area”)	Non-IAL Acres (Remainder Land)
9-2-1:2	1.27	0	1.27
9-4-2:52*	161.02	0	161.02
9-4-3:1	881.68	448.12	433.56
9-4-3:3	39.59	0	39.59
9-4-3:4	7.98	7.98	0
9-4-4:2	14.83	6.49	8.34
9-4-4:3	4.00	4.00	0
9-4-4:4	564.68	54.66	510.02
9-4-4:7	14.45	14.45	0
9-4-4:8	1.15	1.15	0

Tax Map Key Parcel No.	Total Acres ("Petitioner's Land")	IAL Acres ("Petition Area")	Non-IAL Acres (Remainder Land)
9-4-4:10	106.00	106.00	0
9-4-4:11	46.00	46.00	0
9-4-4:12	535.00	535.00	0
9-4-4:18	2.22	2.22	0
9-4-4:19	60.02	13.13	46.89
9-4-110:57	0.42	0	0.42
9-4-110:58	0.04	0	0.04
Total	2,440.35	1,239.20	1,201.15
Percentage of Total	100%	50.8%	49.2%

* Note: TMK: 9-4-2:52 is in the State Urban District. Remaining Land is in State Agricultural District.
Source: City and County of Honolulu, Real Property Assessment Division

26. The Petition Area, owned by Petitioner, consists of approximately 1,239 acres, which is approximately 50.8 % of Petitioner's Land.

27. All of the Petition Area is currently in agricultural use or uses accessory or supportive of agriculture.

28. Approximately 686.11 acres, or 55.4 percent of the Petition Area, is in active crop production. Crops planted on the Petition Area include but are not limited to bananas, corn, tomatoes, bell peppers, won bok, and watermelon. Approximately 209.84 acres (16.9 percent) of the Petition Area are utilized for pasture use with approximately 50 head of cattle currently utilizing the pasture lands.

29. The balance of the Petition Area (approximately 343.25 acres, or 27.7 percent) consists of agricultural support (such as portions of the Waiāhole Ditch, water reservoir, vegetable processing, equipment storage), soil conservation measures, and gulch land. All of this area is important to, and used in relation to, the agricultural uses on the Petition Area.

30. The Petition Area has historically been in sugar cane or pineapple cultivation. In 1897, the O'ahu Sugar Company established the sugar plantation on the dry, southwestern side of O'ahu. The Waiāhole Ditch System was constructed to transport surface water from the

windward side of the Ko‘olau Range and a portion of the Waiāhole Ditch extends through the central portion of the Petition Area. Prior to 1967, the area of the Petition Area north of the Waiāhole Ditch was cultivated in pineapple by Libby, McNeill & Libby. After 1967, the Petition Area was used for sugar cane cultivation. After O‘ahu Sugar Company operations ceased in 1995, Waikele Farms has been utilizing the Petition Area for vegetable production.

31. The literature review identified no traditional cultural properties on Petitioner’s Land. The historic Waiāhole Ditch (SIHP 50-80-09-2268) crosses a portion of the Petition Area, but remains in active use, and should not be impacted by the IAL designation. None of the cultural consultants contacted for the report submitted by Petitioner in connection with the Petition identified any archaeological sites or ongoing cultural practices on or near the Petition Area.

DESCRIPTION OF REQUEST

32. Petitioner asks that the Commission designate the Petition Area as IAL pursuant to HRS §§ 205-44 and -45 and HAR §§ 15-15-98, -99, -120, and -121.

33. Petitioner is not seeking a reclassification of land pursuant to HRS § 205-45(b) in conjunction with its Petition.

34. Petitioner represents that it is voluntarily waiving any and all right to assert, claim, or exercise any credits pursuant to HRS § 205-45(h), effective as of the date of its Petition, that may be earned by Petitioner. Petitioner has represented that this waiver is limited to the use of credits for the sole purpose of reclassifying other lands that are not the subject of the Petition pursuant to HRS §205-45(h), effective as of the date of its Petition. The waiver shall not apply to any other rights, credits, incentives, entitlements, or privileges that Petitioner may possess now or in the future, whether known or unknown.

CONFORMANCE WITH THE OBJECTIVES FOR THE IDENTIFICATION OF IMPORTANT AGRICULTURAL LANDS

35. HRS § 205-42 sets forth the objectives for identifying IAL, including contribution to the State's economic base and production of agricultural commodities for export or local consumption, and to support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities.

36. The Petition Area includes uses that constitute "agricultural production" under HRS § 205-44. The use of the Petition Area for crops including but not limited to bananas, corn, tomatoes, bell peppers, won bok, and watermelon, for pasture use with approximately 50 head of cattle currently utilizing the pasture lands, and for agricultural support (such as portions of the Waiāhole Ditch, water reservoir, vegetable processing, equipment storage), soil conservation measures, and gulch land constitute use for "agricultural production" under HRS § 205-44. This use includes use for "crops" under HRS §§ 205-2(d)(1) and 205-4.5(a)(1).

CONFORMANCE WITH THE STANDARDS AND CRITERIA FOR THE IDENTIFICATION OF IMPORTANT AGRICULTURAL LANDS

37. HRS § 205-42 sets forth the objectives for identifying IAL. Lands identified as IAL do not need to meet every criterion listed in HRS § 205-44(c). Rather, lands meeting any criterion in HRS § 205-44(c) shall be given initial consideration. The IAL designation is to be made "by weighing the standards and criteria with each other" to meet the constitutionally mandated purposes in Article XI, Section 3 of the Constitution of the State of Hawai'i and the objectives and policies for IAL identified in HRS §§ 205-42 and -43.

38. Lands currently used for agricultural production: HRS § 205-44(c)(1) and HAR § 15-15-120(c)(1).

The Petition Area is comprised of lands currently in agricultural use or uses accessory to or supportive of agriculture. Approximately 686.11 acres, or 55.4 percent, of the Petition Area is

in active crop production with crops planted on the Petition Area including but not limited to bananas, corn, tomatoes, bell peppers, won bok, and watermelon. Approximately 209.84 acres (16.9 percent) of the Petition Area are utilized for pasture use with approximately 50 head of cattle currently utilizing the pasture lands. The balance of the Petition Area (approximately 343.25 acres, or 27.7 percent) consists of agricultural support (such as portions of the Waiāhole Ditch, water reservoir, vegetable processing, equipment storage), soil conservation measures, and gulch land. All of this area is important to, and used in relation to, the agricultural uses on the Petition Area. OP and DOA concluded in their respective comments that the Petition Area meets this criterion.

- 39. Land with soil qualities and growing conditions that support agricultural production for food, fiber or fuel, and energy: HRS § 205-44(c)(2) and HAR § 15-15-120(c)(2).

The Detailed Land Classification System and Agricultural Land Productivity Ratings by the Land Study Bureau (“LSB”), University of Hawai’i, are based on a five-class productivity rating system using the letters A, B, C, D, and E, with A representing the class of highest productivity and E the lowest. Approximately 56.2 percent of the Petition Area is rated A or B; approximately 50.0 percent is rated A, and approximately 6.2 percent is rated B. The remaining approximately 43.8 percent of the Petition Area is rated C, D, E or Unclassified. OP and DOA concluded in their respective comments that the Petition Area meets this criterion.

40. The soil productivity ratings on the Petition Area are high, and the area has been and continues to be used for active agriculture.

41. The following table summarizes the LSB productivity rating of the Petition Area:

LSB Productivity Rating	Acres	Percent
A	619.12	50.0%

B	76.85	6.2%
C	35.99	2.9%
D	83.69	6.7%
E	418.72	33.8%
Unclassified	4.83	0.4%
Total	1,239.20	100%

Source: Land Study Bureau

42. Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawai'i ("ALISH") system adopted by the Board of Agriculture on January 28, 1977: HRS § 205-44(c)(3) and HAR § 15-15-120(c)(3).

The Agricultural Lands of Importance to the State of Hawai'i ("ALISH") classification system was developed in 1977 by the State Department of Agriculture. The system was primarily, but not exclusively, based on the soil characteristics of lands and existing cultivation. There are three classes of land under the ALISH system: Prime, Unique, and Other. Approximately 63.3 percent of the Petition Area is classified under the ALISH system: 61.7 percent is classified as Prime, 0.3 percent is classified as Unique, and 1.3 percent is classified as Other. OP and DOA concluded in their respective comments that the Petition Area meets this criterion.

43. The following table summarizes the ALISH classifications for the Petition Area:

ALISH Classification	Acres	Percent
Prime	764.06	61.7%
Unique	4.09	0.3%
Other	15.86	1.3%
Unclassified	455.19	36.7%
Total	1,239.20	100%

Source: Hawai'i State Department of Agriculture

44. The balance of the Petition Area is not classified under the ALISH system but includes essential elements for active agricultural operations, such as gulches, streams and drainageways, water system infrastructure, roadways, and areas for soil conservation.

45. 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: HRS §205-44(c)(4) and HAR §15-15-120(c)(4).

Based on available information, the Petition Area has historically been in sugar cane or pineapple cultivation. Since O‘ahu Sugar Company operations ceased in 1995, the Petition Area has been utilized for vegetable production, including but not limited to bananas, corn, tomatoes, bell peppers, won bok, and watermelon. The Petition Area is suitable for unique agricultural crops and uses.

46. Land with sufficient quantities of water to support viable agricultural production: HRS § 205-44(c)(5) and HAR § 15-15-120(c)(5).

The Petition Area has sufficient quantities of water, water-related infrastructure, and other agricultural-related infrastructure to support viable production. Petitioner is permitted to withdraw Waiāhole Ditch water pursuant to Ground Water Use Permit No. 804, issued by the Commission on Water Resources Management (CWRM), State of Hawai‘i, on February 22, 2007. The permit allows the withdrawal of 2.39 million gallons per day (MGD) of water on a 12-month moving average for the land. The Robinson No. 1 well (Well No. 2602-03) is located just north of the Waiāhole Ditch to the east of Poliwai Gulch. The permit, dated June 21, 2007, allows the withdrawal of 100,000 gallons per day of water for agricultural use. The well was completed in April 2011. Waikele Well No. 2 was approved by the CWRM on January 5, 2017 for TMK: 9-4-012:002, which is adjacent to the Petition Area. A withdrawal of 609,000 gallons per day of water on a 12-month moving average is approved. A water reservoir is located near the northern portion of the Petition Area (TMK: 9-4-4:7). There is another water reservoir adjacent to Kunia Road (TMK: 9-4-4:4) which is outside of the proposed IAL area. The Petition Area also has access to R-1 water from Schofield Barracks WWTP. In addition to water from

the Waiāhole Ditch system and the wells, the Petition Area receives a mean annual rainfall of approximately 30 to 35 inches annually. OP and DOA concluded in their respective comments that the Petition Area meets this criterion.

47. Land whose designation as IAL is consistent with general, development, and community plans of the county: HRS § 205-44(c)(6) and HAR § 15-15-120(c)(6).

Designation of the Petition Area as IAL is consistent with State and County plans and classifications.

48. All of the Petition Area is within the State Agricultural Land Use District. HRS § 205-2(d) specifies that lands within the State Agricultural District shall include (among other things): 1) activities or uses as characterized by the cultivation of crops, crops for bioenergy, orchards, forage, and forestry; and 2) farming activities or uses related to animal husbandry and game and fish propagation. Current and planned uses on the Petition Area are consistent with these uses.

49. The designation of the Petition Area as IAL is consistent with the objectives and policies of the General Plan for the City and County of Honolulu (2002). Under the “Economic Activity” section is an objective and several policies to maintain the viability of agriculture on O‘ahu. The designation of the Property as IAL is consistent with this objective and these policies, in that the designation of the Property as IAL will: 1) contribute toward the continuation of agriculture as an important source of income and employment; 2) help to ensure sufficient agricultural land in ‘Ewa and Central O‘ahu to encourage the continuation of agriculture in these areas; and 3) encourage more intensive use of productive agricultural land.

50. As of September 2018, the City and County of Honolulu is in the process of updating the General Plan. The designation of the Petition Area as IAL is consistent with the objective and policies in the City and County of Honolulu Department of Planning and

Permitting (“DPP”)’s Second Public Review Draft of the General Plan (“Draft General Plan”) as it includes an objective and several policies to ensure the long-term viability and continued productivity of agriculture on O‘ahu. The designation of the Property as IAL is consistent with this objective and these policies in that the designation of the Property as IAL will: 1) help to ensure the continuation of agriculture as an important component of O‘ahu’s economy; 2) encourage active use of high quality agricultural land for agricultural purposes; 3) preserve agricultural land with high productivity potential for agricultural production; 4) contribute toward lessening the urbanization of high-value agricultural land located outside the City’s growth boundaries; and 5) encourage investment to improve and expand agricultural infrastructure, such as irrigation systems, agricultural processing centers, and distribution networks.

51. The City and County of Honolulu’s Development Plans and Sustainable Communities Plan are policy documents intended to guide the County’s land use approvals, infrastructure improvements, and private sector investment decisions for the enhancement and improvement of life on O‘ahu. The Island of O‘ahu is organized into eight regions. The Petition Area is located within the Central O‘ahu Sustainable Communities Plan (Central O‘ahu SCP) region, with the ‘Ewa Development Plan (‘Ewa DP) region located to the southwest. The designation of the Property as IAL is consistent with the ‘Ewa DP and the Central O‘ahu SCP.

52. The City and County of Honolulu is currently in the process of updating the 2002 Central O‘ahu SCP. In the Central O‘ahu SCP Proposed Revised Plan (2016), the maps continue to designate the area of the Petition Area that is within the Central O‘ahu SCP area as “Agricultural Areas” and “Preservation Areas.” The designation of the Petition Area as IAL would support both the 2002 SCP and the 2016 SCP Proposed Revised Plan’s policy of

preservation of "prime and unique agricultural lands for use in diversified agriculture..." It will also support the current and proposed plan policies of: 1) retaining natural gulches and drainageways; and 2) protecting greenways and open space.

53. As to County Zoning, the Petition Area is zoned AG-1 Restricted Agricultural District (AG-1). Revised Ordinances of Honolulu (ROH) § 21-3.50(b), provides that the intent of the AG-1 District is to "conserve and protect important agricultural lands for the performance of agricultural functions by permitting only those uses which perpetuate the retention of these lands in the production of food, feed, forage, fiber crops, and horticultural plants." Current and future uses of the Petition Area are consistent with this intent.

54. In July 2012, the City and County of Honolulu DPP initiated the City's Important Agricultural Land Study ("Study") to identify the City's candidate lands for IAL designation. The Study consists of two phases.

55. DPP completed Phase I in April 2014 and began Phase II of the Study after that with public meetings held as recently as November 2017. In Phase II, DPP has produced draft maps of proposed IAL lands on O'ahu based on the City's top three priority criteria: (i) land currently used for agricultural production, (ii) land with soil qualities and growing conditions suitable for agricultural production, and (iii) land with sufficient quantities of water to support viable agricultural production. Designation of the Petition Area as IAL is consistent with the City's proposed IAL lands.

56. OP and DOA concluded in their respective comments that the Petition Area meets this criterion.

57. Land that contributes to maintaining a critical land mass important to agricultural operating productivity: HRS § 205-44(c)(7) and HAR § 15-15-120(c)(7).

Petitioner seeks to designate as IAL approximately 1239 acres of contiguous land, which in and of itself contributes to maintaining a critical land mass important for agricultural productivity. OP concluded in its comments that the Petition Area appears to meet this criterion. DOA concluded in its comments that the Petition Area meets this criterion.

58. Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water or power: HRS § 205-44(c)(8) and HAR § 15-15-120(c)(8).

In addition to the water resources infrastructure, the Petition Area contains agricultural roads between and within fields, and has access to Kunia Road which is capable of supporting farming equipment and direct road transportation to/from markets. The Petition Area also has fences, gates, berms and windbreaks to improve agricultural productivity and protect the environment. OP and DOA concluded in their respective comments that the Petition Area meets this criterion.

59. The current or planned agricultural use of the area sought to be designated as IAL. The Petition Area is currently in agricultural use or uses accessory to or supportive of agriculture. Approximately 686.11 acres, or 55.4 percent of the Petition Area, is in active crop production with crops planted on the Petition Area including but not limited to bananas, corn, tomatoes, bell peppers, won bok, and watermelon. Approximately 209.84 acres (16.9 percent) of the Petition Area are utilized for pasture use with approximately 50 head of cattle currently utilizing the pasture lands.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the Petition pursuant to HRS §§ 91-8, 205-44 and 205-45, and HAR § 15-15-98.
2. Pursuant to HRS § 205-44(a), the Commission has the authority to designate

lands as IAL as long as any of the standards and criteria in HRS § 205-44(c) are met.

3. The Petition Area is currently used for agricultural production in accordance with HRS § 205-44(c)(1) and HAR § 15-15-120(c)(1).

4. The Petition Area has soil qualities and growing conditions that support agricultural production in accordance with HRS § 205-44(c)(2) and HAR § 15-15-120(c)(2).

5. A majority (61.7% percent) of the Petition Area consists of prime agricultural lands identified under agricultural productivity rating systems, such as the ALISH system, in accordance with HRS § 205-44(c)(3) and HAR § 15-15-120(c)(3).

6. The Petition Area is not associated with traditional Native Hawaiian agricultural uses or unique agricultural crops and uses, and therefore does not satisfy HRS § 205-44(c)(4) or and HAR § 15-15-120(c)(4).

7. The Petition Area has sufficient quantities of water to support viable agricultural production in accordance with HRS § 205-44(c)(5) and HAR § 15-15-120(c)(5).

8. Designation of the Petition Area as IAL is consistent with the General Plan for the City and County of Honolulu, the Central O'ahu Sustainable Communities Plan, and the 'Ewa Development Plan in accordance with HRS § 205-44(c)(6) and HAR § 15-15-120(c)(6).

9. The Petition Area contributes to maintaining a critical land mass that is important to agricultural operating productivity in accordance with HRS § 205-44(c)(7) and HAR § 15-15-120(c)(7).

10. The Petition Area is near support infrastructure conducive to agricultural productivity, such as transportation to markets, water or power in accordance with HRS § 205-44(c)(8) and HAR § 15-15-120(c)(8).

11. The designation of the Petition Area as IAL generally meets the purposes of

Article XI, Section 3, of the Constitution of the State of Hawai'i by conserving and protecting agricultural lands, promoting diversified agriculture, increasing agricultural self-sufficiency, and assuring the availability of agriculturally suitable lands.

12. The designation of the Petition Area as IAL meets the objectives of HRS § 205-42(a)(1) because the Petition Area is capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology.

13. The designation of the Petition Area as IAL meets the objectives of HRS § 205-42(a)(2) because the Petition Area contributes to the State's economic base and produces agricultural commodities for export or local consumption.

14. The designation of the Petition Area as IAL meets the objectives of HRS § 205-42(b) by contributing to the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural sufficiency for current and future generations.

15. The designation of the Petition Area as IAL furthers the policies of HRS § 205-43(1) by promoting the retention of IAL in blocks of contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management.

16. The designation of the Petition Area as IAL furthers the policies of HRS § 205-43(2) by discouraging the fragmentation of important agricultural lands and the conversion of these land to nonagricultural uses.

17. The designation of the Petition Area as IAL furthers the policies of HRS § 205-43(8) by promoting the maintenance of essential agricultural infrastructure systems, including irrigation systems.

18. The Petition Area meets the requirements of HRS §§ 205-44 and -45 for

designation as IAL.

19. Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

DECISION AND ORDER

This Commission, having duly considered the Petition, the oral and/or written testimony of the Petitioner, DOA, OP and DPP, and a motion having been made at a meeting on January 24, 2019, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by HRS §§ 205-44 and -45 and HAR §§ 15-15-98 and 99, and there being good cause for the motion,

HEREBY ORDERS that the Petition Area, consisting of approximately 1,239 acres of land situated at Kunia, O'ahu, consisting of Tax Map Key Nos. (1) 9-4-003-001 (por.) and -004, (1) 9-4-004-002 (por.), -003, -004 (por.), -007, -008, -010, -011, -012, -018 and -019 (por.), as shown on Exhibit "A" attached hereto and incorporated by reference herein, shall be and is hereby designated as IAL as governed by HRS chapter 205.

IT IS FURTHER ORDERED that the designation of the Petition Area as IAL shall be subject to the following conditions:

1. Petitioner shall comply with the representations made to the Commission with respect to not claiming any credits described in HRS § 205-45(h) with respect to the Petition Area.

2. Within seven days of the issuance of the Commission's Decision and Order, Petitioner shall record it with the Bureau of Conveyances of the State of Hawai'i.

ADOPTION OF ORDER

This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Dated at Honolulu, Hawai'i, this ____th day of _____, 2019, per the motion on _____, 2019.

APPROVED AS TO FORM

LAND USE COMMISSION STATE OF HAWAII

Deputy Attorney General

By _____
Chairperson and Commissioner

Filed and effective on:

Certified by:

DANIEL E. ORODENKER
Executive Officer

**Agricultural Land Assessment for Robinson Kunia Land LLC's
Proposed Important Agricultural Land**

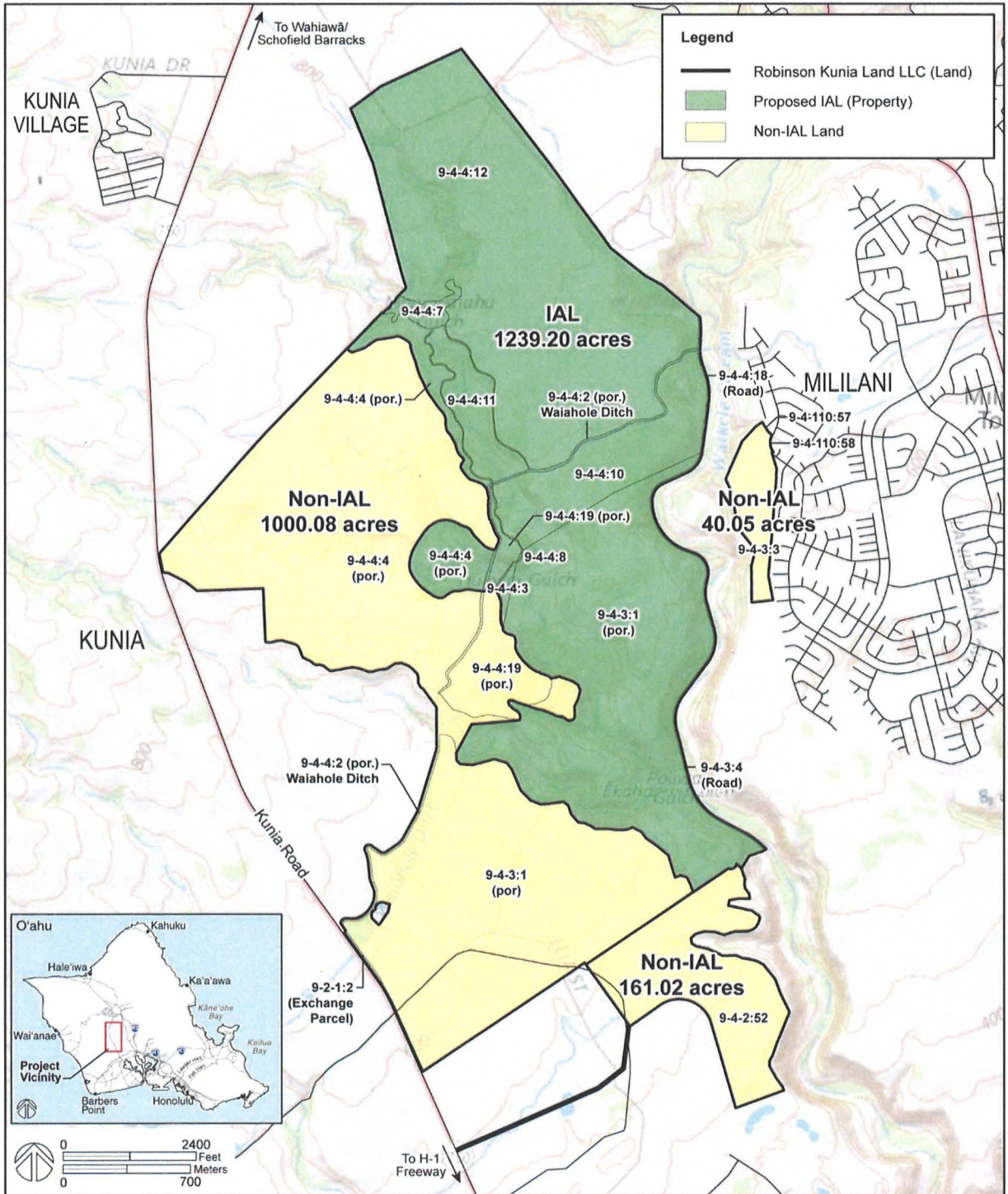


Figure 1: TMK Parcels and IAL Lands
Robinson Kunia Land LLC | Kunia, O'ahu

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008, -010, -011, -012, -018 and -019 (por.)

DOCKET NO. DR18-64

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the Findings of Fact, Conclusions of Law and Decision and Order was served on the following parties, by depositing a copy with the U.S. Postal Service, postage prepaid, first class mail:

STEPHEN K.C. MAU, ESQ.
737 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Attorney for Petitioner
ROBINSON KUNIA LAND LLC,
a Hawaii limited liability company

CITY & COUNTY OF HONOLULU
DEPARTMENT OF PLANNING & PERMITTING
650 South King Street
Honolulu, Hawaii 96813
Attn: Kathy Sokugawa

STATE OF HAWAII
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814
Attn: Scott E. Enright

STATE OF HAWAII
OFFICE OF PLANNING
235 South Beretania Street, 6th Floor
Honolulu, Hawaii 96813
Attn: Leo R. Asuncion, Jr.

DATED: Honolulu, Hawai'i, _____, 2019.

DANIEL ORODENKER
Executive Officer