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February 9, 2021



Mr. Daniel E. Orodener
Executive Officer
Land Use Commission
P. O. Box 2359
Honolulu, Hawaii 97804-2359

Email: dbedt.luc.web@hawaii.gov

Dear Mr. Orodener:

Subject: City and County of Honolulu Important Agricultural Lands (IAL)
Designation

The Department of Agriculture supports the City and County of Honolulu's petition identifying Important Agricultural Lands and recommends the agricultural lands itemized in the petition be designated as Important Agricultural Lands.

We have reviewed the petition and find that it addresses to our satisfaction the evaluation criteria for State agency review as found in Section 205-48:

"County recommendations result in an identified resource base that meets the definition of important agricultural land and the objectives and policies for important agricultural lands in sections 205-42 and 205-43; and

County has met the minimum standards and criteria for the identification and mapping process in sections 205-44 and 205-47."

The pervasive and deep economic damage wrought by the pandemic upon many island businesses, including farm operations, makes the approval of the City's petition much more than just achieving the county identification of potential IAL as described in Section 205-47. The existing farms, many of which lost 40- to 60-percent of their sales,

and those landowners or others who may want to undertake agricultural production may have access to the seven IAL incentives (see attachment to this letter).

The IAL incentive of primary importance is the IAL Qualified Agricultural Cost Tax Credit (Section 235-110.93) that offers a partial offset to the qualified expenditures of farmers and landowners to establish, maintain, and expand their operations on designated IAL. To date, over 136,000 acres of agricultural lands on Kauai, Oahu, Maui, and the Big Island, with 5 landowners and farming operations have had their qualified expenses certified by the Department for \$4.7 million in tax credits on \$14.1 million of total qualified costs. The Department strongly believes that this incentive must continue to be made available to qualified landowners and farming operations of all sizes that are within the City's IAL mapped areas. Their economic survival will play a major role in Hawaii's overall economic recovery. Further, approval of the City's request would lend support to our current effort before the current State Legislature to extend the tax credit beyond its expiration at the end of the 2021 tax year.

REVIEW OF THE CITY'S IAL PETITION PURSUANT TO THE STATE AGENCY EVALUATION CRITERIA OF SECTION 205-48

The Department of Agriculture believes the process utilized by the City leading to the development of the final maps was deliberate and thorough.

The Department of Agriculture reviewed the City Council's Resolution No. 18-233, CD1, FD1 (dated June 5, 2019) and attached Exhibits A (the IAL maps) and B (the list of TMK parcels that comprise the IAL maps, both dated May 2019); the "Oahu Important Agricultural Land Mapping Project (August 2018)" (hereafter "Project") and Appendices that include the proceedings of the City's IAL Technical Advisory Committee (TAC) meetings and three community meetings, the legislative history of the City Council's review of the proposed IAL maps and the testimonies submitted supports the City and County of Honolulu's petition identifying potential Important Agricultural Lands on Oahu.

For over five years (2012-2017) the Department participated in the City Department of Planning and Permitting's Technical Advisory Committee that ended with community meetings across Oahu. Throughout this period, the Department of Agriculture kept in mind the underlying intent of the Important Agricultural Lands Act is to support agricultural production and not be another zoning layer. More specifically, Act 183 (2005 Session Laws of Hawaii), Section 1 states:

“...the intent of this Act is not only to set policies for important agricultural lands and to identify important agricultural lands but also to provide for the development of incentives for agricultural viability in Hawaii, particularly for agricultural enterprises that farm important agricultural lands and for landowners of important agricultural lands. These incentives would be designed to promote the retention of important agricultural lands for viable agricultural use over the long term.” (House Bill No. 1640, Conference Draft 1, 2005 Legislature)

The City with the guidance of the Technical Advisory Committee (TAC), used a 4-step process that resulted in the final maps and listing of TMK parcels (Project, pages 24-35).

1. The eight IAL identification criteria (Section 205-44(c)) and one additional criterion were operationally defined (Project, Appendix F, pages 5-9) and data sources identified;
2. The operationally-defined identification criteria were then assigned weights to arrive at the following three highest priority IAL identification criteria for mapping:
 5. land with sufficient quantities of water to support viable agricultural production,
 1. land currently used for agricultural production, and
 2. land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy- producing crops);
3. Preliminary maps were developed using different combinations of the three highest priority identification criteria, followed by notification of 1,800 affected landowners, a presentation at a community meeting in November 2017, followed by a 60-day formal comment period for landowners; and
4. The final map recommendation was produced based on the City’s ultimate decision to map as potential IAL, agricultural land that satisfies any one of the three highest priority IAL identification criteria (Project, Appendix F, Criteria Maps and Summary Description, page 9).

The final maps identify 41,407 acres of land on 1,781 tax map key parcels recommended for IAL designation (City Council Resolution No. 18-233, CD1, FD1 Exhibits A (the IAL maps) and B (the list of TMK parcels that comprise the IAL maps) both dated May 2019). The Department of Agriculture is satisfied with the final mapped products. In the following section we address certain anomalies and differences in interpretation that arose during the City’s mapping effort.

Apparent anomalies in mapping potential IAL

Department of Agriculture staff did a cursory review of the geographic distribution of parcels proposed for IAL designation and the agricultural activities found in the area (derived from the 2015 Statewide Agricultural Land Use Baseline):

- 474 in Lualualei and Maili – diversified crops and flowers/foilage/landscape
- 326 from Kahaluu to Turtle Bay – pasture and diversified crops
- 242 from Waialua to Dillingham Airfield – pasture and diversified crops
- 235 in Waimanalo to Maunawili – flowers/foilage/landscape and pasture
- 153 in the Kunia corridor from Royal Kunia subdivision to Wheeler Army Airfield (104 parcels are within the Kunia Loa Ridge Farmlots cooperative leasehold) – seed corn, diversified crops and banana
- 136 in Waianae Valley – diversified crops, flowers/foilage/landscape, and
- 125 in the North Shore – seed corn, pineapple, diversified crops, tropical fruit.

Not all areas recommended for IAL designation were in agricultural production, particularly in Waimanalo and the Waianae coast.

Department of Agriculture staff does note that 38 percent (232) of 621 tax parcels proposed for IAL designation along the leeward coast from Waianae valley through Lualualei are less than two acres. Similarly, 45 percent (106) of 235 tax parcels proposed for IAL designation in the Waimanalo to Maunawili are less than two acres. (Exhibit B, (list of TMK parcels that comprise the IAL maps, dated May 2019), City Council's Resolution No. 18-233, CD1, FD1 (dated June 5, 2019)). Department staff was time-constrained and unable to calculate the remaining tax map parcels by geographic area with less than two acres. These small mapped areas appear inconsistent with the IAL policy of promoting "...the retention of important agricultural lands in blocks of contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management" (Section 205-43(1)).

Nevertheless, the Department believes that the potential IAL areas described in Exhibit A (attached to the City Council's resolution), Figures 2 through 7, describe for the most part, significant areas of potential IAL in accord with Section 205-42(b) that states the objective for the identification of IAL is to "...identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities..."

Public lands that are supposed to be identified as IAL and designated as such by the Land Use Commission

In 2008, the enacted IAL incentives included Section 205-44.5 that describes a process for the department of Land and Natural Resources and Agriculture were to identify certain public lands as IAL that met the identification criteria and standards. The light blue colored areas on the Exhibit A, Figure 1 (islandwide map) are the 11,381 acres of public lands in the Agricultural District that may be subject to Section 205-44.5. By definition, Section 205-44.5 excludes from consideration as IAL those public lands whose title is held by:

1. Department of Hawaiian Homes (Waimanalo),
2. University of Hawaii (Waimanalo and West Oahu Campus Mauka),
3. Hawaii Housing Finance and Development Corporation (Waiahole), and
4. Agribusiness Development Corporation (former Galbraith Estate in Wahiawa).

The departments of Agriculture and Land and Natural Resources need to resume work to complete their statutory responsibility in coordination with the ongoing transfer of qualified public lands within Land and Natural Resource's inventory to Agriculture for our management (Act 90, Session Laws of Hawaii 2003). We believe the county process of identifying IAL as described in Section 205-47 is separate and apart from the public land process and not a valid reason to delay the county process from moving forward. The City's Report attached to the City Council's resolution arrived at a similar conclusion (Section 4.2.2, page 74).

Inconsistency between the City's operational definition of Criterion 2, "Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops" that uses a different standard from the Department of Agriculture in commenting on all past voluntary landowner petitions for IAL designation

The City's petition (Project, page 26, Defining Attributes and Features, IAL identification criterion 2, "Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops") identifies the Natural Resources Conservation Service's "Soil Survey Geographic (SSURGO) Database" to map soil properties, available water capacity, agricultural productivity for cropland, rangeland, and pastureland, solar radiation, and slopes with Land Capability Classifications I, II, and III (with or without irrigation). The Department agrees with this selection.

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Historically, the Department has utilized the "Overall Productivity Ratings" ("A" through "E"), Land Types describing physical characteristics, and specific crop productivity potential and yield estimates found within the Land Study Bureau's reports. The data layer found in the Office of Planning's Geographic Information System program maps only the "Overall Productivity Ratings" and not the other data attributes that we have historically used in reviewing petitions for voluntary designation of agricultural lands as IAL. The Natural Resources Conservation Service's SSURGO database contains more characteristics that better describes Criterion 2.

Summary

The Department of Agriculture finds the City's petition addresses to our satisfaction the evaluation criteria for State agency review as found in Section 205-48. The Department recommends the agricultural lands itemized in the petition be designated as Important Agricultural Lands.

Sincerely,



Phyllis Shimabukuro-Geiser
Chairperson, Board of Agriculture

c: Mr. Dean Uchida, Director Designate, Department of Planning and Permitting
Ms. Mary Alice Evans, Director, Office of Planning

**Important Agricultural Land Incentives
(Identified by underscoring and listed in order of their appearance in HRS)**

Section 141-1(9) Manage, administer, and exercise control over any public lands defined pursuant to Section 171-2 that are designated IAL, including prioritizing their leasing. This is related to the incentive in Section 171-3.

Section 155-5.6 IAL agricultural and aquacultural loan guaranty – has the Department of Agriculture guaranteeing loans made by commercial lenders authorized to do business in Hawaii. Loans must be for operations or capital improvements on designated IAL, with conditions.

Section 171-3 The authority to manage, administer, and exercise control over any public lands that are designated IAL shall be transferred from the Department of Land and Natural Resources to the Department of Agriculture. This is indirectly related to the transfer of public lands from Land and Natural Resources to Agriculture pursuant to Act 90, SLH 2003. This is related to the incentive in Section 141-1(9).

Section 174C-31 State agricultural water use and development plan for agricultural uses to include an inventory of public and private irrigation systems, sources of water used by farming operations especially those on designated IAL, and identify current and future water needs for farming operations especially those on designated IAL.

Section 205-44.5 Public lands as IAL – requires departments of Agriculture and Land and Natural Resources to identify certain public lands that should be designated as IAL so the farmer lessees on those lands may have access to the IAL incentives. There is more discussion on this particular incentive later in this letter.

Section 205-45.5 IAL farm dwellings and employee housing – landowner of designated IAL may construct farm dwellings and employee housing for farmers, employees, and their immediate families, with conditions.

Section 205-46.5 Priority given to permits for agricultural processing facilities – requires agencies that issues permits for agricultural processing facilities that process crops or livestock from an agribusiness whose majority of lands held by the agribusiness is designated IAL, to implement priority processing procedures to process permit for these facilities at no additional cost to the applicant, with conditions. Similar language found in Section 321-10.5.

Section 235-110.93 IAL qualified agricultural cost tax credit – allows taxpayers a tax credit for a portion of the costs incurred for a wide variety of activities and products, with conditions and restrictions.

Section 321-10.5 Priority given to permits for agricultural processing facilities – similar language to 205-46.5.