

April 26, 2021

VIA E-MAIL ONLY

State of Hawaii, Land Use Commission
P.O. Box 2359
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Dear Chair Scheuer and Commissioners:

We write on behalf of The Edmund C. Olson Trust No. 2 (the "Trust") to object to the City and County of Honolulu's ("C&C") proposed designation of certain Trust property in the West Oahu mountains above Makakilo as Important Agricultural Lands ("IAL"). The land proposed for designation consists of AG district portions of two parcels totaling approximately 2,060 acres identified as TMK Nos. (1) 9-2-045-007 and (1) 9-2-004-008 (hereafter, the "Palehua Property").

The Palehua Property consists primarily of steep slopes, ravines and rocky terrain covered by non-native Guinea grass. The land is still recovering from a large 2014 fire that burned over a thousand acres and destroyed many *Wiliwili* trees. The Trust has been working on preserving Native fauna and revitalizing the natural ecosystem through dedication of land for a Native-plant nursery. Agricultural activity (unrelated to conservation) is limited to cattle grazing for fire suppression. The topography, poor soils and lack of infrastructure make productive farming impractical and unsustainable.

Throughout this IAL designation process, the Trust has received two form letters: one letter from C&C noticing the proposed designation ("IAL Notice") and a second letter from the State Land Use Commission ("LUC") noticing this April 28-29, 2021 meeting ("LUC Notice"). See Exs. 1 & 2, attached. The Trust has never been consulted, interviewed or even asked to complete a survey to determine if sustainable productive agricultural exists, is possible, or is even desirable at the Palehua Property.

Contrary to State law requiring a "weighing" of criteria, C&C relied upon a single criterion to designate the Palehua Property, i.e., that the lands are currently in agricultural production. Even with this overly broad definition of IAL, C&C's process has not produced evidence establishing that the Palehua Property meets the criterion.¹ Rather than waste this Commission's time with dozens of meetings and hearings to analyze the C&C's flawed process, this matter should be remanded with directions to "consult and cooperate" with all affected landowners (including the Trust), to designate only those lands that meet the State law's definition and the intent of IAL and to establish an evidentiary record that is at least as robust as those for voluntary IAL petitions brought before the LUC.

¹ While limited cattle grazing—for fire suppression—is an agricultural activity, C&C's expansive redefining of State IAL would support designating all eligible Oahu AG land as IAL.

I. FACTUAL BACKGROUND

On or about April 15, 2021, the Trust received the LUC Notice for the April 28-29, 2021 meeting to consider whether C&C's recommendations for designation of IAL on the Island of Oahu complies with the requirements of Hawaii Revised Statutes ("HRS") §§ 205-47 and 205-49 and whether the proper procedural, legal, statutory and public notice requirements were met in developing the recommendations. Ex. 2. The LUC Notice stresses that the "Commission will not be considering or determining at this meeting the legal rights, duties, or privileges of specific landowners or issues relating to particular properties."² The Trust, therefore, understands that this meeting is not intended to be a hearing and that no action will be taken to impact the rights (whether substantive or procedural) of any affected land owners, including the Trust.

A. C&C's IAL Mapping Process

According to C&C's August 2018 "O'ahu Important Agricultural Land Mapping Project" Report ("Report") prepared by the Department of Planning and Permitting ("DPP"), "IAL refers to a State land use designation ... for an exclusive sub-set of high-quality farm land within the State Land Use Agricultural District." Ex. 3 (emphasis added). "The [IAL] recommendations articulate a long-term vision for the high quality farm land on O'ahu most suited for farming." *Id.*

The Report states that the IAL designation will not affect the range of permitted land uses or impose a higher level of protection from future development but, rather, will benefit landowners by granting access to incentives and support to reduce the cost of farming. Ex. 4. C&C has consistently taken the position that the IAL designation does not impact landowner property rights, despite the designation enshrining the lands within the restrictions and protections established by Article XI, Section 3 of the State Constitution and HRS, Chapter 205, which protect IAL from the encroachment of nonagricultural activities and effectively precludes any future reclassification and/or rezoning.

In determining the informational sources and weighting criteria used for C&C's mapping project, DPP set up a technical advisory committee ("TAC") comprised of a single landowner organization making up 4% of the vote of a 25-member committee. Ex. 5.³ Apparently, this was done to satisfy the requirement of "consultation and cooperation" with landowners pursuant to HRS § 205-47 even though the statute requires reporting of the "[r]epresentations or position statements of the owners whose lands are subject to the potential designation." HRS § 205-47(d)(5). Through a series of invitation only meetings and three publicly noticed community meetings (all on Oahu), C&C claims it satisfied the requirement to consult and cooperate with landowners affected by the potential designation. According to Table 2-1 of the Report, the process consisted of TAC meetings, focus group meetings, community meetings and landowner notification after lands were determined eligible and recommended to the city council for designation. Ex. 6.

In determining whether land was currently in agricultural production (Criteria 1), DPP used 2011 aerial imagery, a 2012 Ko'olau Poko Watershed Management Plan (covering windward Oahu), an Island of O'ahu Agricultural Land Use Map, 1978-1980 ("ALUM") and a 2011 Real Property Taxation Database.

² The Notice, itself includes conflicting dates (referencing a meeting on March 24-25, 2021 as well as April 28 and 29, 2021) and refers to the action as both a meeting and a hearing at which "any member of the public may provide public testimony on this matter." If the LUC intends to conduct a hearing, then the LUC Notice must be clarified and reissued.

³ The single landowner organization was the Land Use Research Foundation ("LURF"), consisting primarily of large-scale developers, some of whom voluntarily designated their lands as IAL to avoid being subject to the C&C mapping process.

Ex. 7. The 2011 imagery was compared to the ALUM to identify active and fallow agricultural lands. Any parcels receiving AG exemptions according to tax records were included in the data set as "currently used for agricultural production." *Id.* The standards for claiming an AG exemption for tax purposes, however, have nothing to do with designating "an exclusive sub-set of high-quality farm land within the State Land Use Agricultural District." Ex. 3 (emphasis added).

To identify IAL, the TAC determined that three of the statutory criteria should be prioritized (Criteria 1, 2 and 5) concerning current AG production, soil and growing conditions and sufficient quantities of water. Ex. 8. TAC members discussed using the Top 3 or 4 criteria and one member commented that the TAC would lose credibility if they recommended all of the AG lands for IAL, without considering the quality of the land. Ex. 9. Another member stated his preference for using the top 3 criteria because designating all AG lands would defeat the intent of the law, which is to preserve and protect the best AG lands. *Id.* Despite these initial misgivings by TAC members, C&C adopted an "inclusive" approach including land with attributes of any one of the 3 priority criteria as eligible for IAL designation. Ex. 8. Apparently, this was a result of community sentiment that "all AG land should be IAL." Ex. 10, pp. 5-6. TAC members noted that:

Requiring multiple criteria be met could have the effect of limiting the pool of lands eligible for IAL designation, when the goal is to be inclusive as possible. The community has expressed a strong opinion that "all AG land should be IAL." It would be contradictory for the TAC to require multiple criteria be satisfied if it limits the pool of IAL-eligible lands, given the community's sentiment...

"There is a desire to be as inclusive as possible while at the same time identifying the best candidate lands. As such, landowners should be required to prove that their land cannot be farmed. This approach requires landowners to decide that they do not want to be included in IAL, and ask to be omitted. *Id.* (emphasis added).

During the second phase of the C&C mapping project, the TAC members participated in public outreach. A comment made by the sole member representing landowners (the LURF) was that "consultation and cooperation with landowners" needed to come before public involvement as it would provide a better/fuller record for the general public. Ex. 10, pp. 1-2. It was further noted that the IAL legislation was framed around the concept of agricultural viability, not land use and preservation. *Id.* DPP staffer, Scott Ezer, confirmed that DPP intended to notify landowners before recommendations are transmitted to the city council but that budgetary restraints did not allow for individual meetings with landowners. *Id.*

At the last TAC meeting on November 14, 2017, LURF noted 10 concerns about the C&C mapping process. Ex. 11. Included in the concerns was C&C's use of "one criteria" as a basis for IAL designation as well as the failure of C&C to consult and cooperate with landowners. *Id.* Indeed, C&C essentially adopted the approach that the burden was on landowners to object to the IAL designation rather than on the C&C to establish and present a record in support of designation.

As part of public outreach, focus groups were created by invitation only. In the focus groups, environmental interest groups outnumbered landowners even though HRS § 205-47 does not call for cooperation and consultation with environmental groups but does expressly call-out landowners. Ex. 12. Even with limited representation, it is not clear whether the landowner representatives such as the Agribusiness Development Corporation (an attached agency to the Department of Agriculture) had any

lands subject to IAL designation.⁴ *Id.* During the focus group discussions, there were many questions about restrictions placed on IAL designated lands. It was noted that "IAL will provide a hierarchy within the State's Agricultural District to ensure that the most valuable agricultural lands are protected. Speculation to urbanize agricultural lands should disappear once lands are designated IAL, since it is more difficult to urbanize land that has an IAL designation." Ex. 13. DPP confirmed that "[o]nce the inventory of IAL is identified, DPP is hopeful that the regulatory mechanisms that promote agricultural use of the land will follow...it should ultimately result in future regulatory mechanisms to better manage the use of lands identified as IAL." Ex. 14 (emphasis added). This is not what was presented in the IAL Notice or during public meetings; IAL designation was presented as a way to qualify for valuable incentives.

B. C&C's Consultation and Cooperation With The Trust

C&C mailed the Trust a single form communication dated November 8, 2017 entitled "Notice to Affected Landowner Important Agricultural Lands (IAL) Project." Ex. 2. This letter was sent well after the TAC and Focus Groups crafted C&C's over-inclusive definition of IAL and put the burden on landowners to prove their land cannot be farmed. This notice was also after the Community Meetings held in April 2015, January 2017 and a mere 12 days before the third and final Community Meeting on November 20, 2017. The IAL Notice states that:

Your property is recommended for inclusion in IAL based on selected state criteria defined under Chapter 205, Hawaii Revised Statutes. Enclosed is a map of proposed land to be recommended as IAL by the DPP and a "Frequently Asked Questions" handout. More detailed maps and information can be found on the project website: www.mapoahuagland.com.

We encourage you to come to the final community meeting to view the final Draft IAL Map and the IAL process on November 20, 2017, 6:00 p.m. to 8:00 p.m. at the Aiea Intermediate School Cafeteria, 99-600 Kulaweia Street, Aiea, Hawaii 96701...

Thereafter, the DPP will send the draft IAL Map to the City Council for endorsement in the spring of 2018. Additional information is available at: [www.honoluluapp.org/Planning/ImportantAgriculturalLands\(IAL\).aspx](http://www.honoluluapp.org/Planning/ImportantAgriculturalLands(IAL).aspx). Click on the link under "Documents" for the IAL Phase I Report. Should you have any questions, please contact Raymond Young of our staff, at (808) 768-8049. *Id.*

In sum, after approximately five years of planning and meetings, DPP finally got around to notifying the Trust that its approximately 2,000 acres of AG lands were part of the final Draft IAL Map being sent to the city council.

In summarizing the "Mandatory County Designation" process, the IAL Notice identifies the following steps:

1. The County Planning Department (for Oahu, it is the Department of Planning and Permitting) prepares draft IAL maps and an accompanying report and notifies affected landowners.
2. The County Council review and adopt the IAL maps via resolution.
3. The County transmits its IAL recommendations to the LUC.

⁴ Similarly, Castle and Cooke and other large owner representatives voluntarily petitioned for IAL designation thereby exempting their remaining lands from the C&C mapping process.

4. The State Department of Agriculture (DOA) and the State Office of Planning reviews the County's recommendations and provides comments to the LUC within 45 days of receipt of the County's recommendations.
5. The LUC issues a written decision to designate the County's IAL recommendations after a two-thirds majority vote by the LUC.

This is the exact process C&C followed. Absent from that process is any actual "consultation and cooperation" with affected landowners. LUC Rules § 15-15-125(b)(1). The only involvement of the Trust in this process has been receipt of the after-the-fact, vague and misleading IAL Notice.

Had C&C conducted basic outreach with the Trust, it would be apparent that the Palehua Property has never supported and is not capable of producing high agricultural yields, does not contribute to the State's economic base or produce agricultural commodities for export or consumption and is not necessary to the expansion of agricultural activities and income for the future. The Palehua Property is steeply sloped, rocky with extremely poor soil, insufficient access to water or related infrastructure and home to many historic resources that would be significantly impacted by productive agriculture.⁵ The Trust is prepared to present this evidence against the designation should a hearing go forward, however, this would reward C&C for not satisfying the most basic requirements for IAL designation. Due to C&C's noncompliance, the evidentiary record is woefully inadequate and the proper course is to remand the matter to C&C for further proceedings and actual consultation and cooperation with affected landowners. The burden is on C&C—not the affected landowners—to develop the necessary record to support IAL designation.

II. COUNTY IAL MAPPING PROCESS UNDER HRS § 205-47

HRS § 205-47 sets forth the process each county must follow in mapping IAL. Each county is directed to "map potential important agricultural lands within its jurisdiction based on the standards and criteria in section 205-44 and the intent of this part..." HRS § 205-47 (a). Under subparagraph (b), "[e]ach county shall develop maps...in consultation and cooperation with landowners..." (Emphasis added.) Upon identification of potential IAL, the counties shall take reasonable action to notify each landowner. HRS § 205-47(d). And, the planning departments shall report on the manner in which the important agricultural lands mapping relates to, supports and is consistent with "... (5) Representations or position statements of the owners whose lands are subject to the potential designation." HRS § 205-47(d)(5). Under State law, therefore, landowners are integral to the mapping process.

⁵ Soil Quality: Approximately:

- 97% of the soils are rated "Poor" (D) and "Very Poor" (E) under the Land Study Bureau (LSB) Detailed Land Classification System
- 65.5% is "Unclassified" under the Agricultural Lands of Importance to the State of Hawai'i (ALISH) classification system; 32.2% is classified as "Other;" and only 2.3% is classified as "Prime"

Topography: Over 72% of the land is comprised of slopes of 20% or greater.

Availability of Water: Approximately 90% of the land does not have a sufficient amount of water to support agricultural uses.

Current Agriculture Production: The capacity of the land to support cattle grazing is limited; the small number of cattle grazing on the land is largely for fire load suppression rather than active cattle ranching and production.

HRS § 205-44 sets forth the criteria for IAL designation which does not permit a "one criteria" approach:

(a) The standards and criteria in this section shall be used to identify important agricultural lands. Lands identified as important agricultural lands need not meet every standard and criteria listed in subsection (c). Rather, lands meeting any of the criteria in subsection (c) shall be given initial consideration; provided 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 and policies for important agricultural lands in sections 205-42 and 205-43...

(c) The standards and criteria shall be as follows:

- (1) Land currently used for agricultural production;
- (2) Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops;
- (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;
- (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;
- (5) Land with sufficient quantities of water to support viable agricultural production;
- (6) Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county;
- (7) Land that contributes to maintaining a critical land mass important to agricultural operating productivity; and
- (8) Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power. (Emphasis added.)

The clear intent of the State law is for all IAL criteria to be considered and weighed to meet the constitutional purpose and statutory objectives and policies for IAL. The intent is not to be over-inclusive to placate public sentiment but to actually identify and select high-quality AG land so that incentives can be directed to viable agribusiness.

Critical to the entire process is the definition of IAL, i.e.: (1) lands capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology; (2) lands contributing to the State's economic base and producing agricultural commodities for export and local consumption; or (3) lands needed to promote the expansion of agricultural activities and income for the future, even if currently not in production. HRS § 205-42. The objective for identifying these important agricultural lands 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 that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations. *Id.* (emphasis added). In other words, IAL is not simply land upon which agricultural activities may be conducted but the highly productive lands that can support profitable and sustainable agricultural businesses.

Over designating IAL lands to include marginal lands unsuitable for intensive agricultural operations not only misdirects incentives intended for truly productive AG lands but also prevents ancillary uses that are

best located on these lands.⁶ Once IAL are designated, statutory policies discourage nonagricultural uses and activities and direct such uses/activities to other lands. HRS § 205-43. The policies encourage development of basic infrastructure and services necessary to support agricultural uses and activities and promote the maintenance of essential agricultural infrastructure systems, including irrigation systems. *Id.* If IAL mapping is too inclusive, these policies will promote development of unproductive and unsustainable agricultural operations, contrary to State law. Landowners with marginal lands improperly designated as IAL, will face new limits on farm dwellings and employee housing (HRS § 205-45.5) as well as new restrictions on any future reclassification of rezoning (HRS § 205-50). Indeed, the maps of IAL “shall guide all decision-making on the proposed reclassification and rezoning of important agricultural lands, state agricultural development programs, and other state and county land use planning and decision-making.” HRS § 205-49 (b). And, IAL lands will be subject to heightened scrutiny because their use will be subject to Hawaii State Constitutional protection.

Accordingly, given the significant property interests at stake, the C&C mapping process must strictly adhere to the requirements of State law and LUC Rules.

A. C&C’s Mapping Process Failed To Comply With State Law And LUC Rules

As previously noted, C&C failed to comply with State law and the LUC Rules in at least two significant respects: (1) the definition of IAL was broadened to include nearly all eligible AG land on Oahu with an AG exemption and (2) the process was designed to avoid “consultation and cooperation” with affected landowners. While C&C identified three (3) criteria to be given priority in the designation, rather than actually weigh these criteria along with the others as mandated by HRS § 205-44, C&C determined that a single one of the three was sufficient to designate the land as IAL. This apparently was driven by public sentiment to include all AG land as IAL. Therefore, a property (such as the Palehua Property) with poor soil, insufficient water, steep slopes and little infrastructure is proposed as IAL because the parcel was identified on an old AG land use map and qualifies for an AG exemption.

This public sentiment driven approach presents the LUC with a very significant evidentiary problem. Unless the LUC agrees (contrary to the plain meaning of the State statute) that criteria weighing is unnecessary and that a single criterion is sufficient to designate land as IAL, the C&C record is grossly deficient. To build a complete record, the LUC will be forced to hold its own evidentiary hearings to fill-in the gaps created by C&C’s over-inclusive approach.

Compounding this evidentiary problem is the fact that C&C failed to conduct even the most basic outreach to landowners, as required by statute and LUC Rules. LUC Rule § 15-15-125 requires C&C to provide evidence of: its “cooperation with landowners” as well as “reasonable action to notify each owner of those lands by mail or posted notice.” [The only notice received by the Trust was the form IAL Notice that did not even identify the property proposed for designation.] There was no screening or “cooperation” with the Trust to determine if lands are suitable for agricultural production. Rather, based

⁶ Solar and wind projects and many other permitted uses on AG land will likely not be permitted on IAL lands as they are not an “agricultural activity” which is limited to:

(1) Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;

(2) Game and fish propagation;

(3) Raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use; but ancillary uses. See HRS 205-4.5 (a)(17), Definition of “Agricultural activity”.

on the C&C's own record, DPP largely excluded landowners from the process and forced them to prove their AG lands should not be designated.

C&C is required to present a record that shows that the standards of HRS § 205-44 have been met in designating IAL, the "viability of existing agribusinesses" and representations or position statements by landowners whose lands are subject to the designation. With regard to the Palehua Property, there is no evidence that cattle grazing for fire suppression is a viable agribusiness, and C&C made no effort to cooperate or consult with the Trust. Evidence must be established for each property proposed, not wholesale conclusory analysis and statements of little evidentiary value. As such, the LUC should not accept the C&C's submission as complete and should remand the matter to the C&C for compliance with the statute and LUC Rules.

B. Due Process Requires Remanding The Matter For Compliance With The State Mandated Mapping Process

Any potential IAL designation must be based on written findings of fact and conclusions of law and a showing "by a preponderance of the evidence that the subject lands meet the standards and criteria set forth in 15-15-120." LUC § 15-15-126(c). The LUC's consideration of county identified IAL is pursuant to LUC § 15-15-109. Under the rule, a public hearing shall be conducted affording interested persons reasonable opportunity to offer testimony with respect to the matter, in order to obtain a clear and orderly record. While testimony may be given (subject to time limits in the discretion of the presiding officer), there is no right to cross-examination or rebuttal testimony and any testimony given is not reported verbatim. See LUC § 15-15-19(d)(f). This process, particularly in light of C&C's deficient process, does not meet the minimum standards of due process.

"The basic elements of procedural due process of law require notice and an opportunity to be heard at a meaningful time and in a meaningful manner before governmental deprivation of a significant property interest." (citations omitted) *DW Aina Le'a Dev., LLC v. Bridge Aina Le'a, LLC*, 134 Hawai'i 187, 218, 339 P.3d 685, 716 (2014). The specific procedures required to satisfy due process requires a balancing of several factors: (1) the private interest which will be affected; (2) the risk of an erroneous deprivation of such interest through the procedures actually used, and the probable value, if any, of additional or alternative procedural safeguards; and (3) the governmental interest, including the burden that additional procedural safeguards would entail. *Sandy Beach Def. Fund v. City Council of Honolulu*, 70 Haw. 361, 378, 773 P.2d 250, 261 (1989).

Here, the private interests are significant and the risk of erroneous deprivation is high because C&C failed to consult and cooperate with affected landowners prior to recommending IAL lands to the city council. The LUC's hearing procedures do not provide any mechanism to fix the flawed process short of remand. Indeed, the LUC cannot cure C&C's flawed process without improperly usurping C&C's authorities under HRS § 205-47 and carrying-out its own mapping process in consultation and cooperation with affected landowners. The governmental interest favors remand because C&C is charged with the mapping process and curing any evidentiary record defects, not the LUC.

Should the LUC proceed with hearings on the flawed C&C maps, due process requires that each landowner be afforded a hearing at a reasonable time and in a reasonable manner. Under the circumstances, each affected landowner (including the Trust) must be given a full and fair opportunity to provide evidence and testimony, be permitted to cross-examine opposing testimony and to offer rebuttal testimony. In other words, each landowner must be afforded the equivalent of a contested case hearing. Anything short will deprive landowners of a meaningful opportunity to be heard and compound C&C's errors.

C. The Hawaii Environmental Policy Act (“HEPA”) Must Be Complied With

Prior to adopting a new land use overlay over tens of thousands of acres and thereby incentivizing agricultural production with State and county resources, an Environmental Assessment (“EA”) is necessary to evaluate the impacts of the IAL project/program. As the IAL policies are to promote agricultural use through County incentives and development of infrastructure necessary for viable agribusiness, the LUC’s reclassification of AG land will likely have a significant environmental impact on the lands proposed for designation.

An environmental assessment under HEPA is required if three conditions are satisfied: (1) the proposed activity is an “action” under HRS § 343-2; (2) the action proposes one or more of the nine categories of land uses or administrative acts enumerated in HRS § 343-5(a); and (3) the action is not declared exempt pursuant to HRS § 343-6(a)(2). *Umberger v. Dep’t of Land & Nat. Res.*, 140 Hawai’i 500, 512, 403 P.3d 277, 289 (2017). An “action” is any program or project initiated by any agency or applicant. The IAL designation is an agency initiated program/project designed to incentivize agribusiness. The action proposes the use of state or county funds as part of the incentive program, a trigger under HRS § 343-5(a)(1). And, none of the exempt classes of action listed under Hawaii Administrative Rule, § 11-200-8 are applicable and, even if one were, the cumulative effects of the proposed IAL designation are significant and likely to impact particularly sensitive environments. Where all three elements of an EA are present, the LUC is required to prepare an EA of the proposed action at the earliest possible time. *Sierra Club v. Office of Planning*, 109 Hawai’i 411, 418, 126 P.3d 1098, 1105 (2006).

Under HRS § 205-46(a), “[a]gricultural operations occurring on important agricultural lands shall be eligible for incentives and protections provided by the State and counties...to promote the viability of agricultural enterprise on important agricultural lands and to assure the availability of important agricultural lands for long-term agricultural use.” Incentives include, *inter alia*, “grant assistance,” “tax incentives programs for equity investments and financing for agricultural operations, including agricultural irrigation systems,” “State funding mechanisms to fund business viability and land protection programs,” and “[o]ther measures that would ensure that state capital investments, projects, programs and rules are consistent with this part.” *Id.* All of the state and county incentives and funding is contingent upon IAL designation. Use of State and county funds to promote agribusiness on lands of marginal value will likely have significant environmental effects that require consideration prior to designation of IAL based on the C&C’s over-inclusive mapping process. And, restricting use of marginal IAL land to “agricultural activities” will push AG uses (such as wind, solar, etc.) onto non-IAL designated properties that may be better suited to agricultural production.⁷

With regard to the Palehua Property, incentivizing agribusiness with State funds (including building irrigation systems and other infrastructure necessary for productive cattle ranching) may have significant impacts on cultural resources that exist throughout the property. As the land is currently used primarily for preservation purposes with limited grazing for fire suppression, the existing cultural sites are protected and preserved. Intensive AG operations, consistent with the intent of classifying lands as IAL, may damage or destroy these cultural sites. Intensive agriculture may also have a significant impact on the neighboring community of Makakilo. Prior to holding a hearing on designating any of the C&C proposed

⁷ A considerable amount of prime AG land is protected from IAL designation as a result of voluntary petitions by landowners designating a majority (51%) of their land. The 49% that is not designated is likely land that is far superior in soil quality, water availability and current agricultural production than the Trust’s Palehua Property. And, large swaths of prime AG land in Ewa and Waipahu have already been reclassified as urban. Marginal and poor AG lands, such as the Palehua Property, are better suited for non-agricultural activities that are nevertheless permitted uses in the AG district.

lands as IAL, an EA must be prepared to analyze the potential environmental effects of designating the lands, including the Palehua Property.

III. CONCLUSION

C&C's process was flawed from the start. By developing the IAL maps without landowner "consultation and cooperation" and with the intent of being "inclusive" of all AG lands to assuage public sentiment, C&C failed to present an evidentiary record meeting the requirements of LUC Rule 15-15-125(b). This flawed process cannot (and should not be cured) by an endless series of LUC hearings to build the record necessary to support findings of fact and conclusions of law in favor of IAL designation. The proper course is to remand the matter to C&C to cure the fundamental defects in the process.

Sincerely,



Timothy H. Irons

Enclosures

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

November 8, 2017

**NOTICE TO AFFECTED LANDOWNER
IMPORTANT AGRICULTURAL LANDS (IAL) PROJECT**

This is to notify you that based on information available to us, the property you own is being included in the Department of Planning and Permitting's (DPP) proposed IAL Map.

Your property is recommended for inclusion in IAL based on selected State criteria defined under Chapter 205, Hawaii Revised Statutes. Enclosed is a map of proposed land to be recommended as IAL by the DPP and a "Frequently Asked Questions" handout. More detailed maps and information can be found on the project website: www.mapoahuagland.com.

We encourage you to come to the final community meeting to view the final Draft IAL Map and the IAL process on November 20, 2017, 6:00 p.m. to 8:00 p.m., at the Aiea Intermediate School Cafeteria, 99-600 Kulawea Street, Aiea, Hawaii, 96701 (see enclosed map of meeting site). Sign-in and open house is from 6:00 p.m. to 6:30 p.m. The meeting begins at 6:30 p.m.

Thereafter, the DPP will send the draft IAL Map to the City Council for endorsement in the spring of 2018. Additional information is available at: [www.honolulu.gov/Planning/ImportantAgriculturalLands\(IAL\).aspx](http://www.honolulu.gov/Planning/ImportantAgriculturalLands(IAL).aspx). Click on the link under "Documents" for the IAL Phase I Report. Should you have any questions, please contact Raymond Young of our staff, at (808) 768-8049.

Should you require special assistance, auxiliary aid, and/or service to participate in this event (i.e., sign language interpreter, interpreter for language other than English, or wheelchair accessibility), please call 768-8000 or email your request to info@honolulu.gov at least three business days prior to the event.

Enclosures

EXHIBIT "1"



Aiea Intermediate School Cafeteria

Alpha Stadium





Important Agricultural Lands Phase II
Frequently Asked Questions
"Great Lands for Great Farms"
November 2017

What does "Important Agricultural Lands" (IAL) mean?

As defined in Section 205-42, Hawaii Revised Statutes (HRS), IAL is defined as those lands that: (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.

What is the legal basis for designating IAL?

Article XI, Section 3 of the State Constitution states:

"The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing. Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action."

How are lands selected as IAL?

The State Land Use Commission (LUC) applies the designation. The two main methods that the LUC can use to designate IAL are *Voluntary Designation* and *Mandatory County Designation* under Sections 205-45 and 205-47, HRS, respectively.

Voluntary Designation allows private landowners or farmers to submit a petition directly to the LUC for designation of specific lands. The LUC would issue a declaratory order to adopt the IAL designation in whole, in part, or deny the petition. With *Voluntary Designation*, the landowner or farmer chooses which lands are considered for IAL and any other agricultural lands can be exempt from being designated IAL if a majority of their land holdings has already been designated as IAL.

The *Mandatory County Designation* process under Section 205-47(a), HRS, identifies and map potential important agricultural lands based on standards and criteria under Section 205-44, HRS, excepting lands already designated by the City or the LUC for urban use. The process is as follows:

1. The County Planning Department (for Oahu, it is the Department of Planning and Permitting) prepares draft IAL maps and an accompanying report and notifies affected landowners.
2. The County Council reviews and adopts the IAL maps via resolution.
3. The County transmits its IAL recommendations to the LUC.
4. The State Department of Agriculture (DOA) and the State Office of Planning reviews the County's recommendations and provides comments to the LUC within 45 days of receipt of the County's recommendations.

5. The LUC issues a written decision to designate the County's IAL recommendations after a two-thirds majority vote by the LUC.

State Designation is a third method to designate IAL. Section 205-44.5, HRS, requires that the DOA and the State Department of Land and Natural Resources collaborate and prepare maps identifying public lands for IAL designation of State-owned lands. This State process is separate from the two methods above.

What are the criteria for IAL?

There are eight criteria listed in Section 205-44, HRS: (1) land use for agricultural production; (2) land with soil qualities and growing conditions that support agricultural production; (3) land identified under the State's Agricultural Lands of Importance to the State of Hawaii system; (4) land identified with native Hawaiian agricultural uses; (5) land with sufficient quantities of water; (6) land whose designation as IAL is consistent with county community and development plans; (7) land that contribute to maintaining a critical mass important to agricultural operating productivity; and (8) land with or near support infrastructure, such as transportation to markets, water, or power.

Minimum criteria considered by the City for inclusion into IAL include land within the State Land Use Agricultural District, availability of water, good soil quality, and in agricultural use. IAL land excludes Federal and State-owned land.

What are the incentives for IAL designation?

Section 205-46, HRS, mandates State and County incentives and protections to promote the long-term viability of agriculture. Adopted incentives so far include grant assistance, tax incentives, and agricultural education and training. Additional incentives and protections are being considered.

Voluntary designation includes an expedited land use reclassification process to either the State Urban, Rural, or Conservation Districts for up to 15 percent of the petition area, if the remaining portion of the land holding (minimum 85 percent) is designated as IAL (commonly referred to as the "85/15 incentive").

Are there any other counties conducting IAL projects?

At this time, only Oahu is conducting the *Mandatory County Designation* process.

Can "Ho'opili" or "Koa Ridge" residential developments be designated as IAL?

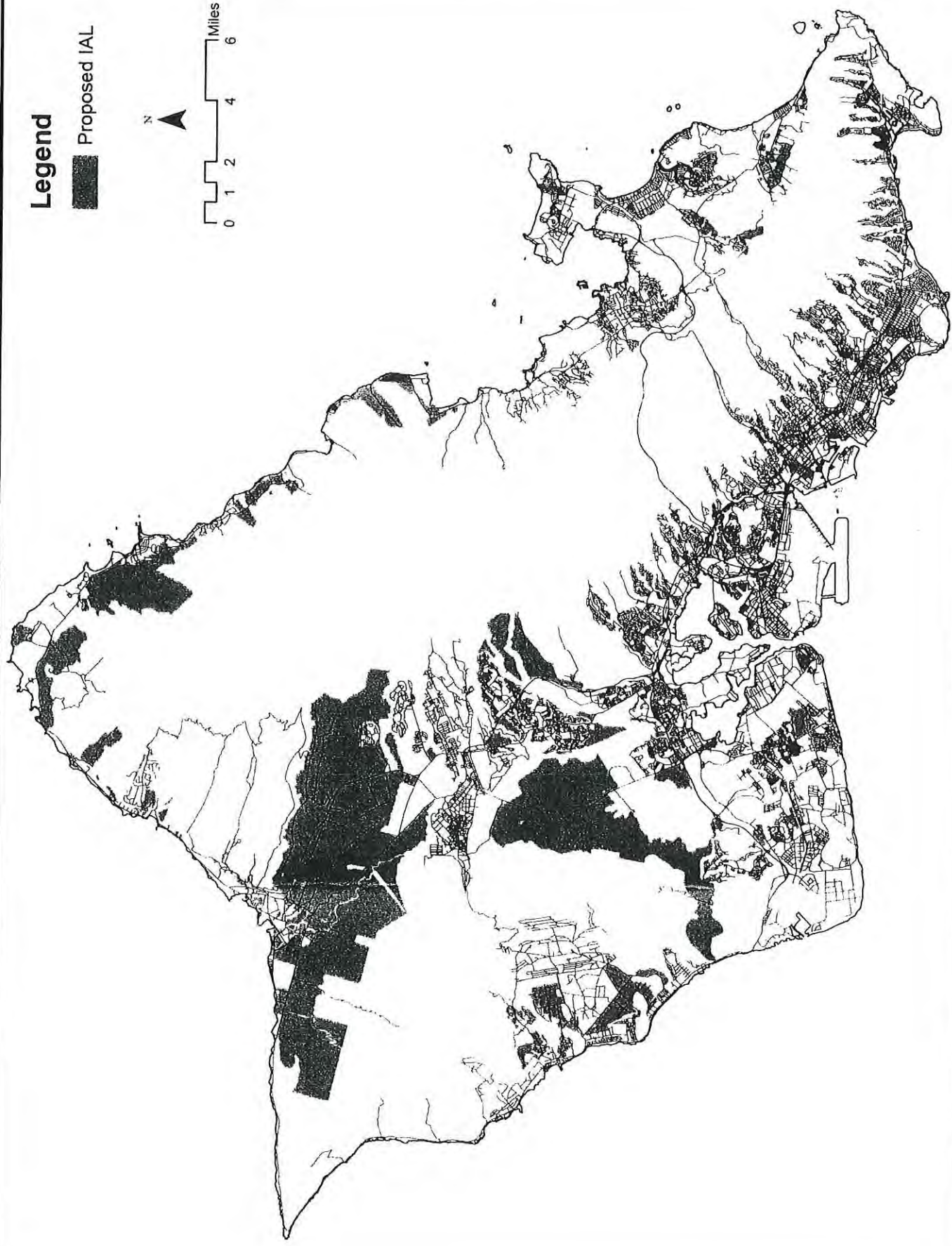
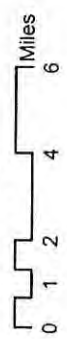
No. The proposed Ho'opili mixed-use project consisting of approximately 1,553 acres of land in East Kapolei and the Koa Ridge residential development in Waipio, Central Oahu, are excluded from consideration as IAL because they have been reclassified to the State Land Use Urban District, consistent with the City's land use plans for urban use. Only lands in the State Agricultural District are eligible for IAL designation.

How can the public participate?

The public can participate by reading our IAL Phase I Report which can be viewed on the Department of Planning and Permitting's website at: [http://www.honoluluodpp.org/Planning/ImportantAgriculturalLands\(IAL\).aspx](http://www.honoluluodpp.org/Planning/ImportantAgriculturalLands(IAL).aspx). Click on the link under "Documents." Attend the final community meeting and access our consultant's IAL website at: www.mapoahuagland.com, which will have the layers of data gathered in Phase I. For more information, or to be added to our email notification list, please contact us at: info@hhf.com.

Legend

Proposed IAL



DAVID Y. IGE
Governor



DANIEL ORODENKER
Executive Officer

MIKE McCARTNEY
Director

LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

April 12, 2021

Dear Property Owner;

Our records indicate that you are the owner of one the above referenced lot(s) identified by their Tax Map Key numbers (TMKs). This letter is to advise you that pursuant to Hawaii Revised Statutes Section 205- 47 (a) your property has been proposed for designation as Important Agricultural Land (IAL) by the City and County of Honolulu.

Please be advised that the Land Use Commission will be taking up the County proposal for Designation of Important Agricultural Lands for the Island of Oahu at the Commission's March 24-25, 2021, meeting. Because your property is one of the parcels proposed for IAL designation you should attend this hearing.

Please understand that this first meeting (April 28 and 29, 2021) will be limited in scope. The first thing the Commission needs to do is understand what the County has done in connection with its designation. The Commission needs to decide whether the County has complied with legal requirements regarding the recommendation for designation. To be clear, the March meeting will not be considering or determining the legal rights, duties, or privileges of specific landowners or issues relating to particular properties. Depending on what the Commission decides, there may be a later meeting to consider specific properties and owners. If so, you will also receive notice of that meeting.

At the hearing on April 28 and 29, any member of the public may provide public testimony on this matter, but we ask that testimony be directed to general issues regarding the process used by the County. Public testimony may be limited to a specific amount of time by the Chair of the Commission at his discretion.

Because this matter is being held via Zoom virtual technology, please see our website on how to register to provide public testimony and a receive an invitation to the proceedings. Additional meeting sign-in registration and public testimony information is available at www.luc.hawaii.gov. To view the County's IAL proposal, click on the link under "Pending Dockets", then "City and County IAL". The meetings begin at 9:00 a.m.

Thank you for your understanding and attention to this matter. Please contact us at 808-587-3824 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Orodener".

Daniel Orodener
Executive Officer

EXECUTIVE SUMMARY

This report presents the recommendations of the City and County of Honolulu Department of Planning and Permitting (City) for the lands on O'ahu that meet the statutory requirements for consideration as Important Agricultural Land (IAL) designation in accordance with the county designation process set forth in Chapter 205-47, Hawai'i Revised Statutes (HRS) and Hawai'i Administrative Rules (HAR) 15-15-17. The recommendations presented by the City are to be reviewed by the Honolulu City Council and adopted by resolution with or without changes, then submitted to the LUC for final approval and adoption.

In the context of the State land use system, IAL refers to a State land use designation for a select class of farm land intended to be used in the long-term for active agricultural production. Administered by the State Land Use Commission (LUC), the IAL designation is a supplemental state land use classification for an exclusive sub-set of high-quality farm land within the State Land Use Agricultural District. By granting landowners access to incentives and supportive measures that reduce the cost of farming, the IAL designation seeks to promote the economic viability of farming and to make it possible for landowners to keep agricultural lands active, ultimately leading to the long-term preservation and protection of productive agricultural land (Chapter 205-42, HRS).

Long-Term Goals of IAL

- *Help farming be an economically viable activity*
- *Ensure that the best of O'ahu's high-quality farm land is actively used for agricultural purposes*
- *Guide decision-making in the State Agricultural District*

There are three distinct processes to designate land as IAL. The first allows farmers or landowners to voluntarily petition the LUC for a declaratory ruling (i.e., voluntary designation); the second authorizes the designation of state-owned land; and the third is a mandatory requirement for the counties to prepare recommendations for IAL and submit its findings to the LUC for decision-making.

The City's recommendations for IAL are the result of a strategic, resource-based mapping exercise that used available geographic information system (GIS) datasets to inventory land in accordance with the standards and criteria prescribed by the law. The planning process was structured with various forums for public involvement, including consultation with the project technical advisory committee, a series of focus group meetings and community meetings, two 60-

INTRODUCTION

This report presents the recommendations of the City and County of Honolulu Department of Planning and Permitting (DPP) for the lands on O'ahu that meet the statutory requirements for consideration as Important Agricultural Land (IAL) designation in accordance with the county designation process set forth in Chapter 205-47, Hawai'i Revised Statutes (HRS) and Hawai'i Administrative Rules (HAR) Title 15, Chapter 15, Subchapter 17 Important Agricultural Land Designation and Proceedings.

"IAL" is a legal term that refers to a State land use designation for a select class of farm land intended to be used in the long-term for active agricultural production. In the context of the State land use system, the IAL designation is a supplemental State land use classification for an exclusive sub-set of high-quality farm land within the State Land Use Agricultural District. Administered by the State Land Use Commission, the IAL designation overlays existing State and county land use classifications (i.e., state land use districts, county zoning districts) and does not change existing classifications or affect the range of current permitted land uses. Contrary to popular belief, the IAL designation does not impose a higher level of permanent protection from future development, and it does not simply ensure that agricultural land is preserved in perpetuity. Rather, the premise of the IAL designation is to grant landowners access to incentives and supportive measures that reduce the cost of farming, which in turn promotes the economic viability of farming and makes it possible for landowners to keep agricultural lands active, ultimately leading to the long-term preservation and protection of productive agricultural land (Chapter 205-42, HRS).

Hawai'i State law—Chapter 205, HRS—mandates that each of the four counties in Hawai'i conduct a mapping process to identify lands within their jurisdiction to be recommended to the State Land Use Commission (LUC) for designation as IAL. Upon transmittal of this report to the Honolulu City Council, the City and County of Honolulu (City) will be the first of the four counties to comply with the statutory requirement. Following the prescribed county designation process, the maps and supporting materials presented in this report are to be reviewed by the Honolulu City Council and adopted by resolution with or without changes, then submitted to the LUC for final approval and adoption.

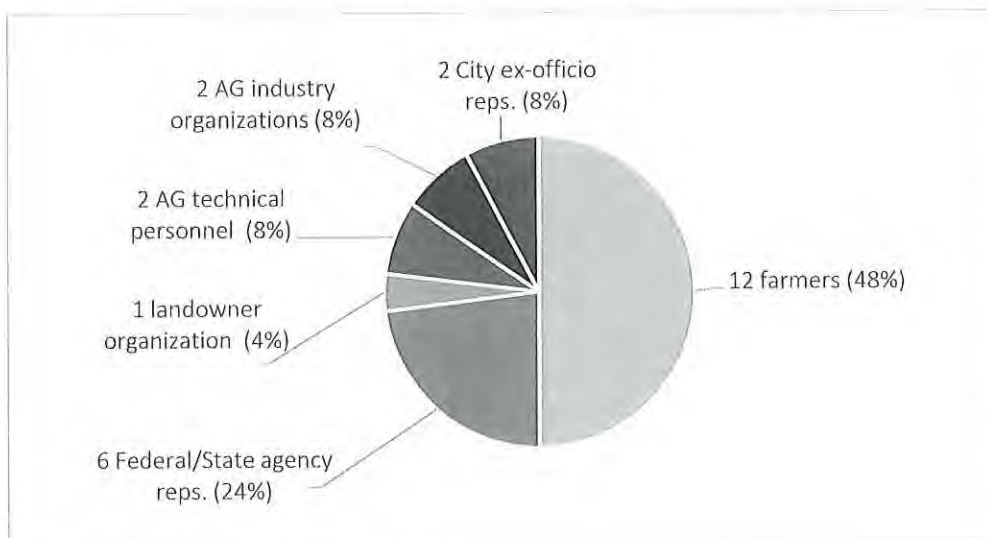
In addition to presenting the City's recommendations for county-designated IAL, this report provides background information about the City's mapping process and the methodology used to develop the recommendations. It also documents the public involvement and input received in response to the DPP's consultation

The process to develop the City's recommendations consisted of two major phases, Internal Technical Review and Community Engagement, which were each defined by distinct scopes and work products. A third phase, Policy Formation, which has not been completed and is pending future action, will involve City Council and LUC approval. Figure 2-1 presents a graphic illustration of the major tasks and the public participation program as they relate to each phase.

The first phase involved an internal technical review to define the criteria and their use in identifying lands eligible for IAL designation. Specific tasks of the technical review were to:

- identify available data sources to be used in defining the criteria
- develop resource maps based on the criteria definitions, and
- determine how to weight (i.e., rank) the criteria.

Consultation with a technical advisory committee (TAC) comprised of agricultural interests, policy makers, agency representatives, agricultural specialists and scientists, and landowner representatives (including the organizations specified in Chapter 205-47(b), HRS) was a major component of this phase. Given the specialized aspects of farming and the complex, theoretical nature of the subject matter, the ability to hold focused, technical discussions with such a small, dedicated group of agricultural experts allowed for in-depth, thorough examination of the criteria and weighting methodology (see Section 2.2 for the mapping methodology). A roster of TAC members is provided in Appendix B.



Original TAC Composition (2012)

Table 2-1: Public Participation Program Compliance with HRS, Chapter 205

ELEMENT	PURPOSE	STATUTORY COMPLIANCE
TAC meetings	Provide technical assistance in developing the community participation process and IAL maps	<ul style="list-style-type: none"> • HRS § 205-47(b). TAC members represented all of the interests specified: "landowners, department of agriculture, Hawai'i Farm Bureau Federation, US Department of Agriculture Natural Resources Conservation Service, the office of planning, and other agricultural organizations and interest groups." • HRS § 205-47(c). "Planning departments may also establish one or more citizen advisory committees..."
3 focus group meetings	<p>Validate criteria weighting, receive input on the public outreach strategy, and gauge reactions to the discussion topics proposed for the community meetings.</p> <p>Meetings were designed for 12-15 participants each, with a different group of participants invited to each meeting.</p>	<ul style="list-style-type: none"> • HRS § 205-47(b). Focus group participants represented a large cross-section of the larger community, including Neighborhood Board members, representatives of community organizations, and "landowners, ...Hawai'i Farm Bureau Federation,.... and other agricultural organizations and interests groups." • HRS § 205-47(c). "Planning departments may also establish one or more citizen advisory committees..."
<ul style="list-style-type: none"> • 3 rounds of community meetings • 2 60-day public comment periods 	Inform and seek input from interested stakeholders	<ul style="list-style-type: none"> • HRS § 205-47 (c). "Each county, through its planning department, shall develop an inclusive process for public involvement,...including a series of public meetings..."
Website	Provide an on-line presence to inform and seek input from interested stakeholders	<ul style="list-style-type: none"> • HRS § 205-47(c). "Each county, through its planning department, shall develop an inclusive process for public involvement..."
Landowner notification	Inform landowners that their land is recommended for IAL designation	<ul style="list-style-type: none"> • HRS § 205-47(d). "Upon identification of potential lands to be recommended to the county council as potential important agricultural lands, the counties shall take reasonable action to notify each owner of those lands by mail or posted notice on the affected lands to inform them of the potential designation of their lands."

Report on the O'ahu Important Agricultural Land Mapping Project

Table 2-2: Criteria Mapping References

HRS, CHAPTER 205-44 STANDARDS AND CRITERIA	DEFINING ATTRIBUTES AND FEATURES	GIS DATA SOURCES / REFERENCES	DESCRIPTION OF DATASETS
1. Land currently used for agricultural production	Either currently being used for farming or grazing/ranching activities, or currently fallow but part of a near-term (three year or less) field rotation, or has the potential to be returned to active production which conveys the notion of historic use.	2011 aerial imagery. State Office of Planning and the U.S. Geological Survey. Ko'olau Poko Watershed Management Plan. Prepared by Townscape for the Honolulu Board of Water Supply, September 2012. Island of O'ahu Agricultural Land Use Map (ALUM), 1978-1980. State Office of Planning, GIS data. 2011 Real Property Taxation Database. City Department of Budget and Fiscal Services Real Property Assessment Division.	2011 aerial imagery was compared to the 1980 ALUM and analyzed to identify active and fallow agricultural lands. Agricultural areas (active and fallow lands) identified as part of the Ko'olau Poko Watershed Management Plan. To identify areas used for grazing and ranching, parcels included in the O'ahu ALUM as having current agriculture use were identified; then compared against current county tax records. Parcels receiving AG exemptions were included in this dataset.
2. Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops	Soil properties and agricultural productivity Solar radiation Slopes	Soil Survey Geographic (SSURGO) Database. USDA Natural Resources Conservation Service.	Land classifications of Irrigated and Non-Irrigated Capability (Classes I, II, and III)
3. Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system	Land Study Bureau (LSB) ratings range from "A" (Very Good) to "E" (Not Suitable), with land types/ratings based on soil and productive capabilities for certain crop types.	Overall Productivity Rating, Detailed Land Classification – Land Study Bureau, 1965 - 1972. State Office of Planning, GIS data.	Lands that met the LSB Overall Productivity Ratings of A: Very Good and B: Good

- Meet 2 of the 3 priority criteria in a specific combination
- Meet all 3 priority criteria

The scenarios represented a range of possibilities for mapping, ranging from being as inclusive as possible (i.e., land could have any one of the criteria to be eligible for the IAL designation), to selective (i.e., land had to have a defined set of criteria to be eligible), to exclusive (i.e., land had to have all three criteria to be eligible). Table 2-3 lists the range of possible scenario combinations that were considered, and also describes the variations of criteria sets associated with each scenario. The preferred scenario selected to prepare the City's preliminary map involved applying the three priority criteria in an inclusive approach, where land with the attributes of any one of the three criteria—meaning land was either currently in agricultural production, had soil qualities and growing conditions to support agricultural production, or had sufficient quantities of water—was considered eligible for IAL designation.

Table 2-3: Possible Criteria Combinations

	Scenario	Criteria Set Required for IAL Designation
inclusive	Meets any 1 of the 3 priority criteria	AG PROD or SOILS or WATER
	Meets any 2 of the 3 priority criteria in any combination	AG PROD and SOILS + AG PROD and WATER + SOILS and WATER + SOILS and AG PROD
selective	Meets 2 of the 3 priority criteria in a specific combination	If AG PROD is a prerequisite, then: AG PROD and SOILS + AG PROD and WATER If SOILS is a prerequisite, then: SOILS and WATER + SOILS and AG PROD
exclusive	Meets all 3 priority criteria	If WATER is a prerequisite, then: AG PROD and WATER + SOILS and WATER AG PROD and SOILS and WATER

AG PRODUCTION = Criterion 1 Currently Used for Agricultural Production
 SOILS = Criterion 2 Soil Qualities and Growing Conditions that Support Agricultural Production of Food, Fiber, or Fuel- or Energy-Producing Crops
 WATER = Criterion 5 Sufficient Quantities of Water to Support Viable Agricultural Production

REVIEW THE TAC'S ROLE IN THE CITY'S PROCESS TO IDENTIFY IAL

Phase II. Scott presented a general overview of Phase II and explained how the criteria and associated maps developed during Phase I would be used in Phase II. The scope and funding for Phase II has not been determined yet. Funding is pending City Council approval of the FY-2014 budget. The City has not selected a consultant yet, and will negotiate the scope of work with the selected consultant. In general, Phase II will consist of a series of community meetings and landowner meetings to educate the community and landowners on the materials produced during Phase I, including presentation of the criteria maps and the process that was used to develop the maps and discussion about determining the threshold for IAL.

Tim Hata, DPP project manager, summarized the overall decision-making process to be used by DPP and the TAC's role in developing recommendations. The products resulting from Phase I - including the report, conceptual maps and TAC recommendations - provide an important foundation for Phase II. During Phase II, the work products from Phase I would be refined before the draft maps will be submitted to the City Council for review/approval, then to the LUC for final consideration.

Kathy Sokugawa clarified that the phasing will depend on how much money is given for funding. Although DPP anticipates two separate phases, additional phases may be needed to complete the work, if the necessary funding is not available. The total amount allocated in the current City budget is \$300,000, consisting of \$150,000 requested by the City Administration and an additional \$150,000 added by the City Council.

Map of Private Ownership. It was suggested that the draft report should include a map of private landownership. Scott re-emphasized that the purpose of Phase I is to establish the manner in which the criteria are operationalized and rated, and the way that the data sets are used to create the maps. Land ownership is immaterial to the recommendations of Phase I. The second phase will consider land ownership, and the size and location of the parcels. A TAC member commented that private landownership would be of interest to the general public, since the counties can only propose 50% of a landowner's land as IAL. Due to confusion among meeting attendees about the 50% rule, the discussion was deferred for legal review.

Farms in the Urban District. A section in the report will present "lessons learned" or recommendations for minor changes to improve the existing law. This includes describing the concern that farms in the Urban District cannot qualify for incentives. Incentives that support these farms are important, if the long-term goal is to continue farming in these areas. A provision that allows farms with a dedicated AG easement to qualify for the incentives was suggested.

TAC'S CRITERIA RECOMMENDATIONS (NON-BINDING VOTE)

Kem explained the next agenda item, which involved TAC members voting on the criteria ranking. Developing the TAC's criteria recommendations will consist of a two-step decision-making process: (1) the first decision involves determining the TAC's satisfaction with the current priority criteria (Criteria #5, #1 and #2, per the original TAC vote) and the desire for a re-vote on the criteria ranking; and (2) the second decision involves identifying how the priority criteria should be combined to define the IAL threshold.

The voting process was summarized before the ballot was passed out. Kem also noted that per the group charter, two-thirds of those attending a meeting and voting by written ballot

constitutes a super-majority. Only TAC members in attendance would vote. The vote would be anonymous, and the results would be announced after a 20-minute break. The question on the ballot read: "Given the TAC discussions and review of criteria data, do you want to re-rank the 9 criteria?" If the majority voted YES in favor of a re-vote, then the meeting would be adjourned and ballots would be emailed to TAC members for additional voting on ranking. If the majority voted NO in favor of the current criteria ranking, then the meeting would continue, and a second vote would be conducted to determine which criteria would be used (e.g., Top 3, Top 4 or Top 6 priority criteria).

There was some discussion that the entire TAC process could be compromised if the criteria were changed after the preliminary criteria maps were reviewed.

The vote was taken, followed by a 20-minute break. The meeting was reconvened, and the voting results were announced (10 NO votes, 1 YES vote). Given that the majority of TAC members present indicated satisfaction with the current criteria ranking, the meeting continued and the second ballot was passed out. The second ballot presented three choices: (1) My preference is to continue with the top 3 priority criteria (Criteria #5, #1 and #2); (2) My preference is to continue with the top 4 priority criteria (Criteria #5, #1, #2 and #3). I agree that Criterion #8 is not critical for O'ahu; and (3) My preference is to continue with the top 6 priority criteria (Criteria #5, #1, #2, #3, #7 and #4).

Prior to voting, Scott reviewed the maps/acreages associated with the Top 3 and Top 4 criteria (see PowerPoint slides #21 and #22), and then opened up the meeting for questions and comments. Discussion is summarized as follows.

- One TAC member commented that even though his personal bias supports the notion of including as much land as possible to protect AG, the TAC would lose credibility if they recommended all of the AG lands for IAL, without considering the quality of the land. In reviewing the Top 3/Top 4 Criteria Maps, it appears that the areas with only 1 or 2 criteria shown are not good farmland (i.e., high elevation, along ridges, in gulches or located too high for gravity-fed irrigation). Using either 2 of the top 3 criteria or all 3 criteria would be preferred.
- A second TAC member expressed his preference for using the top 3 criteria. A recommendation that supports designating all AG lands as IAL would defeat the intent of the law, which is to preserve and protect the best AG lands. Not all AG lands are meant to be IAL. It could set precedence for future landowner petitions, if the TAC broadened the definition to include lesser-quality lands.
- A third TAC member commented that he would have difficulty adding a fourth criteria because the top 3 criteria (water, current AG use, and soil qualities) reflect the key factors that contribute to successful AG operations. In addition, the median scores show a clear separation among the top 3 criteria.
- A fourth TAC member agreed that using the top 3 criteria would be consistent with the voting results. It is unclear how to justify adding additional criteria, when only the top 3 are grouped closely together.
- It was clarified that the data used to map Criteria #5 (sufficient quantities of water) was based on existing irrigation systems, and that the criterion did not account for sustainable yield. The operational definition was based on the current availability of

MEETING SUMMARY



Date: December 8, 2015
HHF Project No. 2014120
Project Name: O'ahu IAL Phase 2
Recorded by: Corlyn Orr
Reviewed by DPP: January 2015
Reviewed by TAC: January 2015
Location: Pacific Guardian Center
Makai Tower Conference Room
Attendees: see attached
Subject: Technical Advisory Committee Meeting #2

The second Technical Advisory Committee (TAC) meeting for the O'ahu Important-Agricultural Lands (IAL) Mapping Project was held on Monday, December 8, 2015 at the Pacific Guardian Center, Makai Tower Conference Room (733 Bishop Street, Honolulu). The meeting was scheduled from 4:30 to 6:30 pm. The purposes of the meeting were to: (1) discuss outcomes from the community outreach phase; and (2) receive the TAC's input on the methodology that will be used to prepare the draft IAL maps. Meeting materials were emailed to TAC members in advance of the meeting: (1) written summaries from the 3 focus group meetings; (2) written summary from Community Meeting 1; (3) written comments received during the 60-day public comment period; and (4) meeting agenda.

INTRODUCTIONS, PROJECT UPDATE, AND PHASE 2 OVERVIEW

The first 15 minutes of the meeting were set aside for meeting attendees to view the open house stations that were displayed during the community meeting. At roughly 4:45, Ken Lowry called the meeting to order and opened with introductions. Ten TAC members were in attendance, including two new TAC members (Amy Koch, USDA NRCS and Jeff Pearson, CWRM replacing Tony Roifes and Bill Tam, respectively). Following the introductions, Ken reviewed the meeting agenda. Scott Ezer then presented an update of O'ahu's current IAL acreage, followed by a review of the comments received during the public outreach campaign, which involved a website, focus group meetings, three community meetings, and a 60-day public comment period. The remainder of the meeting was designated for group discussion to consider the suggested criteria refinements being proposed by DPP.

The following is a summary of the opinions expressed during the group discussion.

- Land Use Research Foundation (LURF), which represents large agricultural landowners, has four specific concerns about the City's designation process.
1) The IAL law is about agricultural viability, not land use. This was not effectively conveyed during the community outreach process, as evidenced by the community's list of concerns. (See attached testimony from LURF and Hawai'i Farm Bureau submitted during the legislative proceedings.)
2) County incentives are required, per HRS 205-46.
3) County incentives are required BEFORE the county proposes to designate land for IAL. Authors of the IAL legislation—including three individuals who are present for this meeting—foresaw state and county incentives as a motivation for landowners to seek voluntary designation of IAL before the counties proceeded to identify lands for IAL. The law provides for a three-year window between the time that the counties pass their incentives and then put forth their recommendations for county-designated IAL. This

was meant to encourage voluntary designations, and also discourage takings lawsuits from landowners who did not want to be included in IAL.
4) The county process outlined in HRS 205-47 lists "consultation and cooperation with landowners" before "public involvement." This is interpreted that landowner consultation should come before public engagement. Consulting landowners first would result in better/fuller information for the general public. Authors of the IAL legislation can attest that working with landowners to voluntarily designate land is the most important component of the law. Following the process outlined in the law is important to prevent lawsuits from unwilling landowners. Recent cases like Superferry and TMT were based strictly on following process.

- The intent, purpose and mission of IAL prescribed in the law is important, especially since it took 20+ years for the parties to find a single concept they could agree on and pass. With so many landowners and farmers, agricultural viability (i.e., farmer success and keeping farmers on the land) was the only premise that all parties agreed upon. Initial discussions about land use and preserving land were unsuccessful. Framing the issue in terms of agricultural viability was the key to passing the law. DPP should be following the law precisely as drafted; the authors spent hours debating each section of the law. It will get contentious if landowners are not on board.
• The public does not understand IAL. The project has been presented in a way that provokes certain feedback. Terminology used to define the project purpose/need in the media and community meetings focused on land use and preventing future development, which antagonized landowners and spurred public opposition (e.g., Hoopili) was an issue at the Kapolei meeting, even though the law does not allow it to be considered for IAL; Star-Advertiser article on IAL played up the Maalekaha/HRI proposal. Public outreach efforts would gain traction if agricultural viability was the premise of IAL.
The irony is that the same parties who fought against the IAL legislation are now using IAL as a tool to oppose development.
• George Atta responded that DPP would be willing to talk to major landowners about the preliminary maps before the information is presented to the general public. Community outreach efforts to date have not generated much landowner interest.
• Scott Ezer confirmed that DPP's intention is to notify landowners before recommendations are transmitted to the City Council. The criteria maps were prepared based on physical characteristics of the land, without consideration of who owned the land; the intent has always been to engage landowners after looking at the land qualities. Scott also acknowledged budgetary constraints that make it desirable for DPP to work with LURF to convene a meeting with landowners. The budget does not allow for numerous individual meetings.
• The need for county IAL incentives was discussed at the last meeting of the City Council's AG Task Force. The City could face potential lawsuits if they proceed without an incentives package.

DISCUSSION QUESTIONS

In addition to the group discussion, a blank questionnaire of these questions was passed out at the meeting and later emailed to meeting attendees. Attendees were encouraged to submit their individual responses to the questions in writing. Comments received during the meeting are summarized below. Written responses are recorded verbatim in Attachment 1.

Question 1: Should the definition and datasets used to map IAL be revised to exclude steep lands? If so, what percentage slope should be used?

This question is being raised because there were several comments that slope should have been included as a separate criterion. As a result, DPP is considering omitting lands in excess of 20% slope from the study area.

TAC members felt that the current definition and maps were satisfactory for the following reasons.

- Slope is already included in the NRCS land capability classes (LCC) which were used to map Criterion 2: Soil Qualities and Growing Conditions. The TAC has discussed this at several meetings and decided to use LCC I, II and III, which includes lands up to 15% slope. The TAC consciously chose to use LCC I, II and III as a measure of high quality farmland.
- Changing the definition at this point essentially dismisses the NRCS data. The methodology should support the NRCS and other soil classification studies.
- Ravines and gullies with steep slopes are recognized components of drainage systems within larger areas. Since the Land Use Commission assumes a contiguous approach and includes these steep areas when urbanizing lands, there should be no distinction when defining IAL.
- Criterion 1: Current AG Production includes steep slopes being used for ranching. Ranching uses provides fire control and stewardship benefits in areas too steep for crops. These areas would be omitted from Criterion 1 if slope were added as a criterion.
- Kona coffee grows on steep lands, which implies that certain crops/farmers can be productive regardless of the slope.

A suggestion was given to better label the maps so that the public can easily see that the NRCS datasets being mapped include certain slopes. If the maps are not communicating the information, then they should be tweaked accordingly. Unfortunately, nobody takes the time to read metadata.

In response to a question, the relationship between the NRCS LCC and ALISH Unique classifications was clarified. The ALISH classifications are based on the USDA's farmland inventory classification schema—that is, the soil types that USDA determines meet the federal prime classification and then locally derived soil types that meet the broad federal criteria for locally defined unique and other important agricultural classifications. The LCCs are soils classified as to categories, but the relationship of LCC to ALISH is through the soil types that meet the three broad federal criteria for agricultural lands.

Question 2: Should additional consideration be given for high solar radiation as a separate, stand-alone criteria?

This question is being raised in response to community concern that solar radiation is not considered in the identification process. Island wide, solar radiation values range from the highest measurement of 500 calories per square centimeter per day (cal/cm²/day) in Kapolei, Kahuku and Waianae, to 450 cal/cm²/day along the North Shore, to 350 cal/cm²/day in Kunia and Central O'ahu.

First, it was confirmed that solar radiation is not explicitly captured in the NRCS LCC or soil survey ratings.

TAC members felt that the current definition were satisfactory for the following reasons.

- Adding solar radiation as a criteria would be a limiting factor. There were concerns that different crops have different capabilities to utilize light, and productive land could be overlooked because of a lower solar radiation factor. It is true that the areas with the most

sunlight have the highest production of sugar cane because sugar cane needs strong sunlight to thrive; however, other crops do not require as much sunlight to be productive.

- Climate change is affecting weather and rainfall patterns. For example, the average rainfall in Waimanalo has dropped from 70 inches/year to 30 inches/year this past year.

Question 3: Should the definition and datasets used to map Criterion 1: Current AG Production be revised to recognize aquaculture as a form of agriculture?

This question is being raised because there were several comments that the definition of agriculture should be expanded to include specific production methods such as Native Hawaiian traditional growing practices and aquaculture

TAC members felt that the current definition was satisfactory for the following reasons.

- The TAC has discussed the definition of agriculture at several meetings, and each time decided against specifying certain technologies and methods as the determining factor for IAL. The methodology the City is using to qualify land for IAL is based on land characteristics. Growing practices are irrelevant, given the current methodology.
- Productive aquaculture does not require a certain soil type or soil quality. Aquaculture can be successful in areas without soil (e.g., NELHA set up tanks on lava fields in Kona).
- Aquaculture is not a distinct land use classification. It falls within the City's definition of agriculture, and is an allowable use within the City's Agricultural zoning district.
- The City's IAL designation process is not the only way for a landowner to seek IAL. A landowner omitted from DPP's proposed IAL package could ask the City Council to add their land to the City's package. Petitioning the LUC for voluntary landowner designation is another option.
- Aquaculture is already mapped as part of Criterion 4: Traditional Native Hawaiian and Unique Crops. Criterion 4 is not one of top 3 criteria, but much of the land mapped in Criterion 4 is captured by the top 3 criteria.
- The public comments reflect individuals' reactions to the maps of the priority criteria (i.e., people are responding negatively because they are concerned that the criteria that mean the most to them are being excluded). Adding a footnote to the IAL maps about the excluded criteria would help to communicate the other factors that were considered, but did not rise to the level necessary for this process.

Question 4: Do the top 3 criteria (Criteria 1: Current AG Production, 2: Soil Qualities and Growing Conditions and 5: Sufficient Quantities of Water) represent the characteristics most important for the designation process, or is there a need to add additional criteria? (e.g., Criterion 3: AG Productivity Rating Systems)

A TAC member noted that adding Criterion 3 would address concerns from those who want IAL to recognize traditional Hawaiian agriculture because the ALISH classifications map taro, coffee and other unique crops. It would not make much difference in terms of overall acreage, but it would allow DPP to respond to community concerns about productive wetland taro lands. Neither Criterion 1 which identifies current agricultural production or Criterion 2 which maps the NRCS LCC classifications adequately identifies areas used for wetland taro.

TAC members offered the following comments regarding the use of just the top 3 criteria or the addition of other criteria.

- The top 3 priority criteria were identified by the TAC based on a ranking system. A lot of thought went into the criteria definitions and the selection of the priority criteria.
- Requiring that multiple criteria be met could have the effect of limiting the pool of lands eligible for IAL designation, when the goal is to be inclusive as possible. The community has expressed a strong opinion that "all AG land should be IAL." It would be contradictory for the TAC to require multiple criteria be satisfied if it limits the pool of IAL-eligible lands, given the community's sentiment. Two of the 3 priority criteria (i.e., Criterion 3: Water and Criterion 2: Soil Qualities and Rating Systems address the factors most needed for productive farming; farmers cannot farm without water (Criterion 5) or good soils (Criterion 2). Land currently in AG production (Criterion 1) is evidence that the land can be farmed.
- The datasets used to map Criterion 3—ALISH Prime and Unique categories, and USB A and B classifications—were clarified.
- Rob James commented that the addition of Criterion 3: AG Productivity Rating Systems would expand the inventory and add about 1,000 acres to the amount of land eligible for IAL because of the extent of overlap with the other criteria. (Much of the land in Criterion 3 is also identified in Criterion 1 and Criterion 2.)
- Bruce Plisch commented in support of using both Criterion 2 (NRCS ratings) and Criterion 3 (ALISH and USB ratings) to include all lands having high soil ratings, regardless of the rating system. This would increase the supply of land eligible for IAL, and would avoid having to explain why some highly rated lands were omitted. In addition to including all lands that meet Criterion 1 (Current AG Production), Bruce is in support of combining Criteria 2 and 3 with Criterion 5 (water) to include only lands that are viable for agriculture (i.e., lands having both good soils and water).

Question 5: In order to be designated IAL, should a land unit meet all 3 criteria (or all 4 criteria if we add a criteria)? Or should meeting 1 or 2 of the criteria be satisfactory for IAL designation (or 3 if we add a criteria)? Alternatively, should it meet some combination of the criteria—specifically (a) land that is currently in AG production (Criterion 1) OR (b) land having both good soils and sufficient quantities of water (Criteria 2 and 5)? [NOTE: If land has to meet only one criterion to be IAL, some recommended acreage may not be high-quality farmland. For example, land could have good soils (Criterion 2) but lack sufficient quantities of water, or land could have extremely stony soils but have sufficient water (Criterion 5).]

The number of criteria used to identify IAL and how they are applied determines the acreage amount. If 3 criteria are used and land only has to meet 1 of the 3 criteria to be designated IAL, 56,000 acres of land would qualify for IAL. If land has to meet 2 of the 3 criteria, 32,000 acres of land would qualify for IAL. However, in both scenarios, some of the land considered eligible for IAL would not be viable for agricultural use, and could be difficult to justify for IAL. If land has to meet all 3 of the criteria to be IAL, 18,000 acres of land would qualify (but this would exclude some highly rated land having access to water which is not currently farmed). If a fourth criteria is added and land only has to meet 1 of the 4 criteria to be designated IAL, 57,000 acres of land would qualify for IAL (adding an additional 1,000 acres to the 1 of 3 scenario).

TAC members felt that meeting only 1 of the 3 priority criteria was satisfactory for the following reasons.

- 56,000 acres represents about 83% of the land area eligible for county-IAL designation. This number assumes that all of the land in the study area would be eligible for designation. It does not take into consideration the 50% rule, which restricts the county from designating land that

- belongs to a landowner who has designated at least 50% of their land for IAL. Also, some of these lands would not be viable for agricultural use, which would be difficult to explain why they are being considered for IAL.
- There is a desire to be as inclusive as possible while at the same time identifying the best candidate lands. As such, landowners should be required to prove that their land cannot be farmed. This approach requires landowners to decide that they do not want to be included in IAL, and ask to be omitted. DPP needs to have a process to allow for open discussion with landowners.
- The process to voluntarily designate IAL typically involves hiring an attorney and is expensive, especially for small landowners. Therefore, the county designation process should include an option for landowners who are excluded from the top 3 criteria screen to add their lands to the City's mapping inventory. The process should be simple to get included (or excluded, if lands are not viable for agriculture, such as not having water available). It could be a two-tier process: the first tier representing the best-candidate lands that qualify based on the top 3 criteria, and the second tier representing the remaining criteria (i.e., not the top 3 criteria). To be eligible for this second tier, a landowner would have to demonstrate that they meet one of the criteria.
- George Atta indicated that his personal preference would be to rely primarily on a set of specific technical criteria, while allowing for flexibility to use other criteria as well. DPP's goal is to develop a baseline inventory for City Council and LUC review.

NEXT STEPS

- Landowner notification will be the next step in the process. The form of notification remains undetermined, pending the possibility that LURF would provide assistance to engage landowners. Following landowner notification, DPP would develop recommendations for IAL and present the recommendations at the next community meeting. There is no date set for the next community meeting. The next TAC meeting would follow Community Meeting 2.

Meeting was adjourned at about 6:35 PM.

ATTENDANCE RECORD

TAC Members: David Arakawa, Land Use Research Foundation
Ruby Edwards, State DBEDT, Office of Planning
Dan Nellis, Dole Food Company Hawai'i
Dean Okimoto, Nalo Farms
Jeff Pearson, Commission on Water Resource Management
Amy Saunders Koch, USDA-NRCS
Alan Takemoto, Monsanto
Mark Takemoto, Pioneer Hi-Bred
Earl Yamamoto, State Department of Agriculture
Larry Yamamoto, USDA-NRCS Pacific Islands Area, retired

Others: Dr. Po-Yung Lai, Mayor's Agricultural Liaison
George Atta, DPP Director
Kathy Sokugawa, DPP Planning Division Head
Tim Hata, DPP
Scott Ezer, HHF Planners

TAC members appreciate the rigor of DPP's process and commend DPP for a good process that invited a fair amount of representation from AG interests.

The general public does not understand the legislation and its benefits for the future of the AG industry. More effort is needed to educate the public about what IAL is really about, and motivate landowners to come forward and designate their land.

Some of the resistance to IAL comes from landowners who bought AG land as an investment for non-AG purposes, and have no intention to use the land to farm.

The lack of funding from the State has been a major downfall in the process. When the legislation was written, it was assumed that the State would fund the county-level and state-level mapping efforts.

POTENTIAL LITIGATION

The County is risking litigation by not following the process as outlined in the law. Land Use Research Foundation (LURF) distributed a handout that listed 10 specific concerns about the City's designation process (see Attachment 1 for handout).

Meeting was adjourned at about 6:35 PM.

ATTENDANCE RECORD

TAC Members: David Arakawa, Land Use Research Foundation
Alan Gottlieb, Hawai'i Livestock Farmers Coalition
Ken Kamiya, Kamiya Gold, Inc.
Dan Nellis, Dole Food Company Hawai'i
Dean Okimoto, Nalo Farms
Jeff Pearson, Commission on Water Resource Management
Amy Saunders Koch, USDA-NRCS
Alan Takemoto, Monsanto
Stephanie Whalen, Hawai'i Agriculture Research Center
Earl Yamamoto, State Department of Agriculture

Others: Dr. Po-Yung Lai, Mayor's Agricultural Liaison
Kathy Sokugawa, DPP Acting Director
Eugene Takahashi, DPP
Raymond Young, DPP
Scott Ezer, HHF Planners
Erin Higa, HHF Planners
Corlyn Orr, HHF Planners
Kem Lowry, ACCORD3.0 Network
Bruce Plasch, Plasch Econ Pacific

OBJECTIONS TO CITY'S IAL PROCESS AND PROPOSED DESIGNATIONS

1. NEW PARADIGM - IAL IS AN AGRICULTURAL VIABILITY INITIATIVE - IAL IS NOT A LAND USE INITIATIVE. IAL does not change the LUC classification and county zoning ("not land use change"), but requires the state and counties to implement IAL incentives to make IAL viable, productive and profitable, thereby encouraging landowners to designate IAL for a long term.
2. PUBLIC PRESENTATIONS BY CITY AND ITS CONSULTANTS MISREPRESENTED IAL AS "A WAY TO STOP DEVELOPMENT"
3. COUNTY INCENTIVES REQUIRED - NO CITY INCENTIVES YET - Counties are required to implement IAL Incentives first; then allow a 3-year window for voluntary IAL designations. AFTER implementing county incentives and the 3-year window - - then the county planning departments can propose IAL designations and maps to the county Council (HRS §205-46)
4. CITY HASN'T EVEN STARTED ON INCENTIVES? No excuse, examples of IAL incentives are provided (Act 183 (2005) and HRS §205-46)
5. NO 3-YEAR VOLUNTARY DESIGNATION WINDOW YET (HRS §205-49)
6. CITY'S "ONE CRITERIA" AS BASIS FOR IAL DESIGNATION IS UNREASONABLE
7. IAL LAW REQUIRES COUNTY CONSULTATION AND COOPERATION WITH LANDOWNERS BEFORE PUBLIC MEETINGS (HRS §205-47) City violated the law, by starting public meetings before consultation and cooperation with landowners.
8. CITY HAS NOT RESPONDED TO 10-PAGE AND 20-PAGE LETTERS FROM PVT LAND COMPANY AND GRACE PACIFIC AND HAS NOT RESPONDED TO REQUESTS FOR MEETINGS
9. CITY POSITION ON RECENT IAL PETITION TO LUC: "ALL PETITIONER'S LANDS SHOULD BE IAL"
10. DPP SHOULD POSTPONE ITS PROPOSED IAL DESIGNATIONS AND MAPS ON NOVEMBER 20, 2017

LIST OF INVITED PARTICIPANTS: FOCUS GROUPS | JANUARY 2015

	Name	Affiliation
Farmers and producers	Brian Miyamoto	Hawaii Farm Bureau Federation
	Mark Suiso	Makaha Mangoes, Hawaii Tropical Fruit Growers
	Wayne Ogasawara	Mililani Agricultural Park
	Mama T. Trisha Gonsalves	Hawaii Organic Farmers Association, Down to Earth
	Clifford Migita	Waimanalo Agricultural Assn.
	Pamela Boyar	Hawai'i Farmers Union United
	Alec Sou	Aloun Farms
	Bud Gibson	Rocker G Livestock Co (Waimanalo)
	Melissa Zemen	Kunia Agricultural Park
Agricultural support and related industries	Pauline Sato	Agricultural Leadership Program
	Jean Brokish	Oahu RC&D Council
	Dave Ringuette	Windward Community College, GOFarm Hawai'i Program
	Jensen Ueda	UH-CTAHR Extension Agent
	Nathan Miranda	Windward Oahu Soil and Water Cons. District
Wholesalers and consumers	Claire Sullivan	Whole Foods , Purchasing/Public Affairs
	Russell Hata	Y. Hata
	Kacey Robello	Hawaii Farm Bureau Federation, Farmers Market Manager
	Kevin Vacarello	Sustain Hawaii, also Sweet Home Waimanalo
	Tish Uyehara	Armstrong Produce, Agribusiness Development Corporation
Environmental Interests	Steve Montgomery	Sierra Club
	Tim Vandever	Defend Oahu Coalition
	Sam Gon	Nature Conservancy
	Stephen Rafferty	Trust for Public Land
	Marti Townsend	Outdoor Circle
	Kioni Dudley	Friends of Makakilo
Community Organizations and Neighborhood Boards	Ted Radovich	UH-CTAHR Organic Farming, Waimanalo N.B.
	Jeanne Ishikawa, Chair	Wahiawa N.B.
	Antya Miller	North Shore N.B.
	Cynthia Rezentes	Nanakuli-Maili N.B, Chair
	Johnnie-Mae Perry, Chair	Waianae Coast N.B.
	Kent Fonoimoana	Koolau Loa N.B.
	Amy Leursen	Kahaluu NB
Landowners	John Morgan	Koolau Ranch
	James Nakatani	Agribusiness Development Corporation
	Bev Kaku	Castle and Cooke
	Steve Hoag	Hawaii Reserves Inc.
	Sidney Keliipuleole	Kamehameha Schools
Native Hawaiian Interests	Jeannin Jeremiah	Office of Hawaiian Affairs
	Michele Wilhelm	Kapalai Farms
	Nick Reppun	Kakoo Oiwi
	Rick Barboza	Hui Ku Maoli Ola
	Trevor Atkins	Halau Ku Mana Charter School
	Puni Freitas	Kokua Kalihi Valley
Government Agencies	Sen. Russell Rudermann	Senate AG Committee Chair
	Rep. Clift Tsuji	House AG Committee Chair
	Russell Tsuji	DLNR Land Division

- The water criteria map (Criterion #5 map) should identify lands that have access to R-2 recycled water because water from the Wahiawa Wastewater Treatment Plant/Wahiawa Reservoir used for irrigation purposes has been upgraded to R-2. Scott clarified that lands irrigated by recycled water are included in the Criterion #5 map, without specifically calling out the type or quality of irrigation water. There was general agreement that this should be highlighted in future conversations.
- How much of the community outreach process will focus on educating the public about the intent of the legislature? It is important that the general public understand the background/history and purpose of the IAL legislation. Considering that it will be difficult to convey all of this information through the community meetings, the website should be used as an information-sharing tool. UH Law School (2nd year seminar project) prepared an analysis of the legislation that may be a useful resource to include on the website.

QUESTION: There will be two general types of questions: (1) from people with agricultural expertise and experience farming; and (2) from members of the general public without agricultural experience. What are the hard questions that will be asked in this process?

- Why is the Ho'opi'i project area excluded from this process?
- How was the TAC selected? The TAC recommendations may be questioned because of the committee composition.
- What is IAL? The general public may have basic questions about the basic definition and concept of IAL. Budgetary constraints should not be a limiting factor for education and outreach.
- How can farmers access the lands identified as IAL?
- How does IAL benefit small farmers?
- How will IAL affect the community? What about the social, economic and environmental implications for surrounding communities? Agricultural communities in Wahiawa (e.g., Whitmore, Kunia) have expressed a desire for agricultural jobs and the ability to retain their rural lifestyles.
- What is the status of the incentives? Being able to speak with more certainty about the incentives may help to convey the potential benefits of the IAL designation.
- Possible questions may concern housing:
 - What is the impact to affordable housing? (Some will feel that affordable housing is more important than preserving agricultural land.)
 - Where are agricultural workers going to live? The long-range plan needs to include farm worker housing.
- How will the IAL designation affect land use? What can a landowner no longer do with their land if their property is designated IAL?
- Is it possible to consider lands currently occupied by the military? This would provide a back-up plan for the possibility that the military reduce their footprint and vacate their lands (e.g., Luualalei, Makua Valley, Schofield). Scott indicated that the law requires the counties to conduct periodic reviews of the IAL maps, and that any excess military lands are automatically placed in the P-2 Preservation zoning district.
- What are the implications of the IAL designation for gentleman estates? How will this discourage gentlemen estates?
- How much is this initiative going to cost the taxpayers? What are the costs of IAL? A loss in potential taxes is possible. However, this would result from the cost of paying for any incentives, not from the loss of property tax revenues (assuming that these lands are currently in agricultural

use and the tax structure stays the same). It may be possible that the economic and employment benefits from increasing agricultural production may outweigh the costs.

- Would IAL include flower crops? Scott clarified that IAL is not specific to food crops. The use of the land for agricultural production is important, not the type of crop grown (flowers, landscaping, turf growing are also included).

During the discussion, it was emphasized that the IAL designation is a land use regulatory/zoning mechanism that does not impose any restrictions on the use of the land, does not require that the land be farmed, and will not resolve other agricultural issues. IAL will provide a hierarchy within the State's Agricultural District to ensure that the most valuable agricultural lands are protected. Speculation to urbanize agricultural lands should disappear once lands are designated IAL, since it is more difficult to urbanize land that has an IAL designation. (For clarification, Chapter 205-50(f), HRS requires a 2/3 vote of the Land Use Commission or the county's decision-making body when reclassifying or rezoning lands from IAL. The legislature does not have jurisdiction to reclassify IAL.) Without the prospect of urbanization overshadowing these lands, large landowners may be more willing to make a long-term commitment to agriculture and offer small farmers long-term leases.

QUESTION: What are the difficult trade-offs of the IAL designation? What is at stake to be lost?

- Landowners whose lands are designated involuntarily under the county process may have a sense of lost opportunity costs.
- The ability to reclassify lands that have been designated as IAL will get more difficult. Landbanking (waiting for future development opportunities) should no longer be an issue, as there will be clarity about which lands are to be preserved for agricultural use.
- A possible gain may be an increase in the number of people interested in agriculture. Out-of-state entrepreneurs may be attracted to O'ahu to invest in new agricultural enterprises. Small and P/T farmers may find new opportunities to farm.

QUESTION: How would you address traditional native Hawaiian agricultural uses and unique crops (Criterion #4)? Are there other considerations that were not addressed?

- The type of crop grown is not as important as the economics. Farmers will grow certain crops if they can make money. If it is not commercially viable for the farmer, farming may still be relevant as a hobby.
- The map of Criterion #4 needs to identify historic/iconic lands used for kalo because the cultural significance of these areas is important.

QUESTION: What are your thoughts about the proposed community outreach process? Do you have any advice or ideas for how to talk to a wider range of people?

- Ground rules are critical. Control the discussion, do not allow for redundancy, and limit the time given for individual comments. Keep the discussion focused, restate the meeting purpose often.
- Post a visual reminder of the meeting purpose and refer to it often.
- Be prepared to entertain the non-farming public and those with other agendas.
- None of the meeting attendees were involved with Kauai County's IAL project.

QUESTION: Are there any other issues, ideas or concerns to be considered?

- Is there any overlap between the City's IAL project and the Trust for Public Land's GreenPrint project? Are the two projects sharing information? The general public may express some confusion and fatigue, since both projects involve mapping.



MEETING SUMMARY

Date: January 28, 2015

HHF Project No. 2014120

Time: 4:30-6:30 pm

Project Name: O'ahu IAL Phase 2

Location: Pacific Guardian Center
Makai Tower Conference Room

Recorded by: Corlyn Orr

Reviewed by DPP: February 17, 2015

Attendees: see attendance record

Subject: Small Group Discussion #2

The second of three small group discussions for the City's Important Agricultural Lands (IAL) Mapping Project was held on Wednesday, January 28, 2015 at the Pacific Guardian Center, Makai Tower Conference Room (733 Bishop Street, Honolulu). The meeting was scheduled from 4:30 to 6:30 pm. The purpose of the meeting was to provide an overview of the project and seek feedback from the group. Ten invited attendees were present (see attached attendance record). Meeting materials emailed to participants in advance of the meeting included a meeting agenda, project sheet, unofficial copy of Chapter 205 Hawaii Revised Statutes (HRS), and an electronic link to the IAL Phase I Report. Hard copy of the PowerPoint presentation was passed out at the meeting.

WELCOME, INTRODUCTIONS, AND PROJECT BRIEFING

Scott Ezer opened the meeting at roughly 4:35 pm with introductions of the project team. Following individual introductions, Peter Adler (meeting facilitator) summarized the goals for the meeting: (1) brief attendees on work done to date; (2) gather comments and concerns for DPP consideration; and (3) prepare for the community meetings. Kathy Sokugawa, DPP Planning Division Chief, followed with opening remarks, which included thanking everyone for participating and highlighting the City's goal of preparing the IAL maps with as much community participation as possible. Scott then reviewed the legislative history and statutory requirements for the IAL designation, the preliminary criteria maps, and the proposed community outreach process (see attached PowerPoint).

After Scott completed the briefing, Peter asked if there were any questions for additional information and/or clarification. Questions and responses are summarized as follows.

- State-owned lands in Central O'ahu (i.e., former Galbraith Estate lands) have not been designated IAL.
 - State-owned lands were excluded from County consideration as provided in Chapter 205, HRS.
- Recycled water is accounted for in the map identifying lands with adequate water (Criterion #5). There should be a distinction between high-quality water and recycled R-2 water. The North Shore does not have an adequate water supply because the use of R-2 recycled water from Waiahua Reservoir limits the types of crops that can be grown.

- Response indicated that the process was blind to creating hierarchy for preferred crops. R-2 water is capable of supporting agricultural irrigation, but not directly on leafy food plants.
- How did you choose farmers for the Technical Advisory Committee?
 - Recommendations from different sources—including the City's agricultural liaison, individuals familiar with the AG industry, and DPP—were considered. Chapter 205, HRS also mandates the involvement of certain organizations (e.g., Hawai'i Farmers Bureau, State Office of Planning, Dept. of Agriculture, Commission of Water Resources Management). The goal was to involve a diverse cross-section of farming interests, such as small and large farmers, food producers, ranchers, nursery crops, landscapers, flower growers, etc.

- How easy will it be to modify or change the IAL designation? How firm will the boundaries be? The concern is that the City will not utilize the IAL classification to provide long-range guidance for future land use decisions, and that landowners will be able to modify the IAL classification like the DPS/SCPs and zoning can be changed.
 - The LUC is the authorizing body with jurisdiction to designate land IAL and change the IAL designation. It will be difficult to redesignate IAL, since it requires a two-thirds vote of the LUC (requiring 6-3 votes, as opposed to the standard 5-4 votes). Once the inventory of IAL is identified, DPP is hopeful that the regulatory mechanisms that promote agricultural use of the land will follow. An anticipated benefit of IAL is that it will discourage speculative land banking practices associated with short-term farming leases while landowners wait to develop the land for housing.

- How will the IAL designation affect agricultural land subdivisions? Will it still be possible to subdivide agricultural land into two-acre parcels and create gentlemen estates?
 - The intent of this project is to identify the baseline of important agricultural lands, and distinguish between the important lands and the lesser-quality agricultural lands. This is a discreet project to identify the land base that needs to be preserved and to answer the question about where agriculture should be on O'ahu. This will not resolve all existing agricultural issues, although it should ultimately result in future regulatory mechanisms to better manage the use of lands identified as IAL.

- Is there a mechanism to add additional IAL to the inventory in the future?
 - Yes, the law requires the counties to periodically review the IAL inventory. This is an important process because the face of agriculture is constantly changing. (Consider how much has changed in the past 30 years). Private landowners are also able to petition the LUC on their own. For example, Kamehameha Schools has filed an individual petition with the LUC to designate about 10,000 acres of their North Shore lands.

- Can the criteria maps be revised to remove the Urban Boundary filter? It would be interesting to see the qualities of all the land areas, especially since much of Windward O'ahu lands that are currently in agriculture are excluded from the map.
 - Areas excluded from mapping are in the State Urban District or designated for urban use by the county, as prescribed by state law. Several areas currently in agricultural use were