

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

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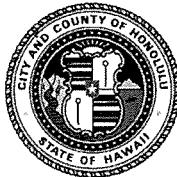
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MAYOR

DOUGLAS S. CHIN
MANAGING DIRECTOR

CHRYSTN K. A. EADS
DEPUTY MANAGING DIRECTOR



March 29, 2012

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CITY COUNCIL
HONOLULU, HAWAII

2012 MAR 29 AM 10:19

The Honorable Ernest Y. Martin,
Chair
Honolulu City Council
530 South King Street, 2nd Floor
Honolulu, Hawaii 96813

Dear Chair Martin:

Attached is the Progress Report on the Mapping of Important Agricultural Lands requested by the City Council in Resolution 12-23, CD1, FD1.

Please let me know if you would like to schedule a meeting or hearing to discuss the Report or other related matters.

Very truly yours,

Laura H. Thielen
Agricultural Liaison
City and County of Honolulu

Enclosure

cc w/enclosure: All Members of the City Council

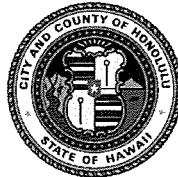
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**Agricultural Liaison
Important Agricultural Lands
Progress Report
Provided to Members of the City Council,
City and County of Honolulu
March 29, 2012**

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CITY COUNCIL
HONOLULU, HAWAII

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Introduction

Hawaii's State Constitution directs the State to conserve and protect agricultural lands, promote diversified agriculture, and increase agricultural self-sufficiency.

Recently the Hawaii State Legislature adopted laws defining the process to comply with this Constitutional mandate. The State and the Counties have distinct responsibilities to implement the Important Agricultural Lands (or "IAL") process described in State law.

The City Council of the City and County of Honolulu adopted Resolution 12-23, which requested the Agricultural Liaison provide a progress report on mapping IAL.

Part I of this report contains background information to assist Council members' implementation of the County's role in meeting the Constitutional mandate.

Part II of this report provides the City Council with the progress on mapping IAL.

The objective of Important Agricultural Lands is to maintain a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities to increase agricultural self-sufficiency for current and future generations.

Act 183, SLH 2005

Part I - BACKGROUND

The Constitution and the State Law

In 1978 Hawaii residents passed a Constitutional Amendment:

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.

Constitution of the State of Hawaii, Article XI, Section 3.

Between 1978 and 2005 there were a number of unsuccessful attempts to adopt legislation to meet this objective. In 2005 and 2008 the Legislature adopted two Acts which defined the IAL process.

The law attempts to address the broad Constitutional objective to support the long-term viability of agriculture in Hawaii. Accordingly, it mandates not just mapping lands as IAL, but also establishing State and County policies to maintain a strategic agricultural land resource base and to promote agricultural operations on those lands.

The designation of land as IAL has the following ramifications under the State law:

1. IAL landowners are eligible to receive specific State incentives for IAL¹;
2. State and County laws and policies specific to IAL shall apply to these lands;
3. Lands designated as IAL may only be reclassified out of the Agricultural District by a two-third vote², or if a sufficient supply of water is no longer available to allow profitable farming; and
4. Decisions to reclassify IAL must consider additional criteria specific to IAL, such as the impact to adjacent agricultural operations and the stock of similarly suited lands remaining in the State and County.

¹ The State adopted a suite of incentives for lands designated as IAL in 2008, including: refundable qualified agricultural cost tax credit; loan guaranty; priority permitting; farm dwelling and employee housing; and, an 85%-15% incentive for voluntary designations of IAL land that permits reclassifications of other lands to the Rural or Urban District, consistent with County plans.

² The 2/3 vote applies to all reclassifications of Agricultural land, not just IAL. Reclassifications under 15 acres are decided by the County Council; reclassification over 15 acres are decided by the LUC. However, reclassifications of lands voluntarily designated as IAL by any landowner who received the incentive to reclassify other land to Urban or Rural must also be approved by Legislative concurrent resolution.

State and County Responsibilities

The law mandates distinct responsibilities for both the State and the Counties for:

1. Identifying IAL; and
2. Establishing policies to maintain a strategic agricultural land resource base and to promote agricultural operations on those lands.

The Counties may conduct the two processes concurrently or consecutively.

Identify Important Agricultural Lands

State Responsibilities

The State Legislature established the standards and criteria for lands eligible to be classified as IAL and the process for the designation of IAL.

The State Land Use Commission is the body authorized to designate land as “Important Agricultural Lands.” The Land Use Commission may review two types of petitions to designate lands as IAL:

1. Landowners may submit petitions to voluntarily designate their lands as IAL; or
2. Beginning as of July 1, 2011, Counties’ shall identify IAL within their boundaries and petition the Land Use Commission for IAL designation of those lands.

The law authorizes only the Counties or landowners to initiate the IAL designation process; the State has no authority to initiate the designation of IAL.

The Land Use Commission shall not designate more than 50% of a landowner’s land as IAL without their consent. This limit effectively “caps” the amount of eligible lands the Counties may propose or the LUC may designate as IAL.

County Responsibilities

The Counties’ Planning Departments are tasked with mapping lands within their boundaries which are eligible to be designated as IAL, in accordance with the standards and process described in the State law. County Councils’ are responsible for approving the maps. The Counties’ Planning Departments then submit the County maps to the Land Use Commission for final action.

A. Mandatory Standards Counties Shall Use to Map IAL

Act 183 provides eight standards and criteria to identify important agricultural lands.

The Act specifically states that “lands need not meet every standard and criteria” to be identified as IAL. “Rather, lands meeting any of the criteria below shall be given initial consideration; provided that the designation of [IAL] shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes...”

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 in or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water or power.

B. Mandatory Process Counties Shall Follow to Map IAL

County Planning Departments must develop maps of IAL in consultation and cooperation with landowners, the Department of Agriculture, agricultural interest groups, including the Hawaii Farm Bureau Federation, USDA Natural Resources Conservation Service, and the State Office of Planning, among others. Each County’s Planning Department is required to develop an inclusive process for public involvement in the identification of IAL, including a series of public meetings.

Upon identification of lands eligible for IAL, Counties’ shall take reasonable action to notify each owner of those lands to inform them of the potential designation.

The Planning Departments shall submit the maps to the respective County Councils for decision making. The Councils shall adopt the maps (with or without changes), which shall then be transmitted to the Land Use Commission for further action.

Establish Policies to Maintain a Strategic Agricultural Land Resource Base and Promote Agricultural Operations on those Lands

State and County Responsibilities

The Counties and the State are each responsible to establish and/or amend specific policies to promote, protect and assure the long-term viability of agricultural activities on Important Agricultural Lands.

Act 183 directs State and County land use and agricultural policies, tax policies, land use plans, ordinances and rules to:

1. Promote the retention of IAL in blocks of contiguous, intact, functional land units large enough to allow flexibility in agricultural production and management;
2. Discourage the fragmentation of IAL and the conversion of these lands to nonagricultural uses;
3. Direct nonagricultural uses and activities from IAL to other areas and ensure that uses on IAL are actually agricultural uses;
4. Limit physical improvements on IAL to maintain affordability of those lands for agricultural purposes;
5. Provide a basic level of infrastructure and services on IAL limited to the minimum necessary to support agricultural uses and activities;
6. Facilitate the long-term dedication of IAL for future agricultural use through the uses of incentives;
7. Facilitate the access of farmers to IAL for long-term viable agricultural uses; and
8. Promote the maintenance of essential agricultural infrastructure systems, including irrigation systems.

In sum, the law directs Counties to develop policies specific to IAL to assure the designation achieves the Constitutional objectives.

Some lands in the Agricultural District will not be designated IAL for a variety of reasons. The non-IAL agricultural lands may permit rural-agricultural uses, such as riding stables, solar farms or small farming operations. These non-IAL agricultural lands may also serve as buffer areas, separating IAL production lands from incompatible uses and reducing the long-term development pressures on IAL.

It should be noted that the City has established policies to promote active agriculture, most notably the real property tax dedication which significantly reduces property taxes for active agriculture on lands dedicated to such uses for minimum periods of time.

Part I Conclusion: Viability of IAL and Agriculture on Oahu Requires a Comprehensive County Approach to Land Use

Hawaii's Constitutional objective for agriculture is two-fold: (1) Promote the growth of diversified agriculture for the purpose of increasing self-sufficiency; and, (2) Ensure the best agricultural lands are used for agriculture production over the long-term.

Maps and designation of land as "IAL", by itself, will not achieve the Constitutional objective, and likely will not result in much measurable difference in the level and quality of agricultural activities on Oahu.

The first Constitutional objective requires policies to promote diversified agriculture, especially agriculture that provides for the basic needs of Hawaii's population. The second Constitutional objective requires policies that assure lands remain available for agricultural production over the long term.

Developing a comprehensive County approach to support agriculture need not, and should not, be punitive in nature. Rather, the approach should foster and concentrate public and private investment to increase diversified agriculture on Oahu.

An analogy is Oahu's Urban Growth Boundary, or "UGB", which identifies the areas for long-term urban growth. The County adopted the UGB on maps as well as incorporated the directed growth policy into plans, budgets and regulations. This comprehensive approach created a concentration of public and private investment to support population growth in specific areas and the development of the businesses and services to support that growth.

Oahu may approach IAL in a similar vein, and develop an Agricultural Growth Boundary or Boundaries and comprehensive policies to support agricultural development within these areas. The Boundaries, or IAL, should concentrate private and State infrastructure investment and public incentives to support active agricultural production that increases the island's self-sufficiency. The comprehensive policies should ensure the long-term conservation of contiguous lands large enough to support agricultural production.

Whatever approach is adopted, Oahu will need incentives, policies and ordinances specific to Important Agricultural Lands. The existing State and County agricultural incentives, policies and laws have proven to be insufficient to promote agricultural production to its potential or to assure the long-term availability of lands for agricultural production, for a variety of reasons.

Part II – STATUS REPORT

Scale of Potential IAL Acreage on Oahu

Oahu has about 128,523 acres in the State Agricultural District. Some lands have been or are in process of reclassification. Accordingly, the total acreage of lands is somewhat different and likely less than this number.

Oahu State Land Use Districts (in acres) *				
Year	Urban	Agriculture	Conservation	Total
2009	101,051	128,523	156,614	386,188
1970	82,898	145,500	156,902	385,300

* Annual Report on the Status of Land Use on Oahu, FY 2010
Department Planning & Permitting, City & County of Honolulu

Lands in the State Agricultural District include lands that are: owned by the military and unavailable for agriculture; inside Oahu's Urban Growth Boundary; or, not necessarily eligible for IAL designation for a variety of reasons. Previous studies developed several agricultural productivity rating systems, which must be considered by the Counties in mapping IAL. The acreage of highly productive lands varies depending on the rating system and the level of categories considered "highly productive."

Oahu Land in State Agriculture District Meeting Agricultural Productivity Criteria for IAL Designation (in acres)				
	"Prime" or "Unique" *	"A" or "B" * and/or A/B *	Prime/Unique and/or A/B *	Prime/Unique or Other Impt. and/or A/B/C **
Total Acreage	41,190	41,400	***	***
Inside Urban Growth Boundary (UGB)	5,830	4,750	***	***
Military - not available for Ag, outside UGB	3,560	2,710	4,860	***
Total Acreage Outside UGB, Non-military	36,800	33,940	42,620	60,814

* Data from *Oahu Agriculture: Situation, Outlook, Issues*, Plasch Econ Pacific, February 2010.

** Data from *Agricultural Resource Lands in Hawaii*, State Office of Planning, September 2010, <http://www.usda.gov/documents/01AMayrOfficeStatePlanning.pdf>.

*** Neither Report quantified the "best" lands inside the UGB. OP Report did not quantify the military lands outside the UGB, but did exclude them from the total available lands outside the UGB. Both Reports appear to have included military lands leased for agriculture in their available acreage totals.

The agricultural productivity rating systems are one of the eight criteria the Counties must use to evaluate land for IAL designation.³ As some studies are older, the acreage that currently meets their qualification standards will be a bit different today. For instance, expanding irrigation will shift more lands into the highly productive category. In addition, the City must consider seven other criteria, which may identify other lands as potential IAL. Accordingly, these productivity rating systems serve as a starting point for IAL identification. However they give some measure of the scale of the process.

It's important to note that some of the acreage rated as highly productive lands by one or more study will not be eligible for IAL designation due to at least two reasons:

1. Lands use patterns can effectively render highly productive lands ineligible for IAL. For example, lands that are in non-agricultural, permitted uses; lands that have evolved into other primary uses such as housing; and lands that have been surrounded by development and/or are too small for meaningful agriculture; and
2. The law prohibits designating more than 50% of any landowner's land as IAL without their consent.

Given these circumstances, the amount of Oahu lands that can be proposed for IAL designation by the City likely will be different than the total acreage of highly productive lands. Due to the fact that land use patterns can render lands effectively ineligible for IAL, delays in mapping and policy development will reduce the numbers further.

Status of Department of Planning and Permitting Mapping of IAL

Phase I Funding and Consultant Contract

The City Council appropriated funds for the Department of Planning and Permitting (DPP) to begin Phase I of mapping Important Agricultural Lands in the current year's operating budget. In 2011 DPP developed and posted a Request for Qualifications for a contractor to assist in Phase I of the mapping, and is currently in the selection process. Once the negotiations are finalized, DPP and the Agricultural Liaison will work with the consultant to present the activities and timetable for Phase I of the IAL mapping.

³ *Land Capability Classification*, 1972; 2003, United States Department of Agriculture (USDA) and University of Hawaii (UH); *Land Study Bureau Overall Productivity Rating*, 1965-1972, UH; *Agricultural Lands of Importance to the State of Hawaii (ALISH)*, 1977-1978, Department of Agriculture, UH College of Tropical Agriculture and USDA. At least two other studies or reports on productivity have been completed, but data on the Oahu acreage was not readily available for this Report. These other soil rating systems will be included in the City's IAL analysis.

DPP reports that it expects Phase I to take about a year. Phase I will include identifying any data gaps in the eight standards and criteria the City is required by law to assess when identifying IAL, and then filling gaps to the extent possible under the contract. DPP will negotiate for some outreach as part of Phase I. The amount of outreach in Phase I will depend somewhat on the volume of data gaps and the total budget.

Initial Preparation

A. Meeting with Executive Director of the Land Use Commission

DPP and the Agricultural Liaison met with the Executive Director of the State Land Use Commission in early February to discuss the process by which the County will submit its maps to the Commission for action.

According to the Executive Director, the law provides the Counties with some flexibility and autonomy as they weigh the eight criteria to recommend IAL within their boundaries. The Land Use Commission, however, will expect each County to provide an analysis and justification for it's methodology in reaching its recommendations, and to demonstrate that it has followed the process laid out by the law.

B. Conference Call with Kauai County Planning Department

DPP and the Agricultural Liaison held a conference call in February with the Kauai County Planning Department Director and lead IAL Planner. Kauai County Planning Department is in the process of drafting their final IAL report and maps, which it plans to take to their Council in the near future for adoption.

Kauai County Planning Department spent approximately two years on their IAL process to date. However, Kauai's original data inventory was at a significantly reduced level than Oahu's. For example, their zoning maps were not digitized, so time and funds were spent developing the necessary data before starting their mapping process.

Status of Landowner Voluntary Designation

To date a handful of private landowners have voluntarily submitted petitions to the Land Use Commission and received IAL designation of their lands. Voluntary designation of IAL include: approximately 27,100 acres of Hawaii Cane & Sugar land on Maui; approximately 56,700 acres of Parker Ranch land on the Big Island; and approximately 3,700 acres of Alexander and Baldwin land on Kauai.

On Oahu, to date only one landowner, Castle and Cooke, has submitted a voluntary petition to the Land Use Commission. The Commission partially accepted and partially rejected the petition, designating nearly 680 acres as IAL, but rejected nearly 223 acres as not meeting the criteria for IAL designation.

Phase II: Future Steps

The amount of data the City needs to develop to consider all eight mandatory criteria will effectively determine how far the City can progress in the mapping, consultation and public outreach process mandated by law. Until the data gaps are identified DPP cannot predict how much of the mandatory process can be completed in Phase I, or which mandatory steps will have to be included in Phase II.

At a minimum, however, future steps will to include the following:

1. Completion of any of the processes the law mandates the Counties to follow prior to bringing petitions before the Land Use Commission;
2. Notification to landowners of potential designation of their lands;
3. Preparing the documentation for submittal of maps to the City Council, and, subsequently, the Petition to the Land Use Commission; and
4. Development of policies, incentives and regulations to promote the growth of diversified agriculture and assures lands remain available for diversified agriculture over the long term.

Conclusion

Hopefully this Report has been helpful in assisting the Council as the City embarks upon this process. The Administration and the Council should remain in close communication throughout the IAL mapping and policy development process. In addition to informal communications, progress reports will position City policy makers to adopt maps and policies in a timely manner and in coordination with their other land use responsibilities.

Hawaii residents have been waiting a long time for this Constitutional mandate to be met. Now that the initial responsibility has been delegated to the Counties, it is an opportunity to demonstrate the ability of local government to collaborate and achieve this strategic objective to increase our self-sufficiency and a diversified agricultural economy.

APPROVED:



Douglas S. Chin
Managing Director