Role of State/Land Use Planning Commission
Who makes the decision?

- Who approves IAL map, is it the State or LUC? Constitution states the “Legislature” sets standards and criteria.
- In Constitution, “State” refers to the executive branch.
- When says “state” can this be delegated to LUC?
- Suggest that we note March 1998 opinion re: delegation to State/LUC & move on.
- Basic outline that we’re talking about was looked at by AG and found to be consistent with constitutional language.
- This is not in writing, but is the verbal opinion of the deputy AG.
- Is it the State legislature or the LUC that is responsible party for identification of IAL? Fundamental to this discussion.
- Talking about changing criteria for LUC/counties to reclassify/rezone—that is the legislature’s role per the Constitution.
- Second paragraph deals with the identification of IAL and that’s what is important to this discussion.
- Legislature should be one to identify IAL & set standards and criteria for redistricting/rezoning.
- Need this to be taken up as needed. If there is a legal question, then move on to role discussion that are here for today.
  - Ask AG to review this constitutional question and give us an opinion.
  - Constitution refers to State as executive branch with legislature responsibility for standards and criteria.
  - Request AG to research and come up with response.
  - Bruce Corker will provide question to submit to AG.

County/State role (County report was not completed, but an update was presented)
County proposal will be completed and posted on AWG website.

American Planning Association (APA) adoption of land use restructuring proposal will be completed and posted on the AWG website.

County planning directors, departments position on framework for proposal for county role

- Goals
  1. Support County identification of IAL
     - Need to also leverage changes that would result in greater efficiencies in the current system.
  2. Need to allow counties to do innovative rural land use and planning especially if we move forward with this proposal.

1. Elements of Proposal
   - Identify Standards and Criteria.
Public participation in standards
- Define rural and agriculture
  1. Allow county administration of rural
     - State broad purpose and intent language
       - Specifics on uses & lot sizes leave to county
- Deadlines need to be realistic otherwise counties will have hard time meeting state requirements
- Mapping
  1. County do within a framework of own planning process with state input
     - Further discussion is needed whether IAL is adopted by ordinance, who would adopt at county level, etc.
     - If adopted by commission/council, then follow planning/public participation process of county planning process
- LUC review of maps, deadlines needed so as not to hold up county-level planning/permitting
- Concurrent boundary amendment process in conjunction with LUC approval of IAL
- Residential subdivision should be curtailed on IAL, although enforcement can be difficult
- Overlay concept seems to make sense with IAL overlay in Ag district with special standards and requirements for IAL
- *City and County of Honolulu’s planning commission is different (advisory). Should their IAL process be approved by another entity?
- Management of Districts
  1. Conservation  State
  2. AG  State/County
  3. Rural  County
  4. Urban  County

Comments and Questions

- If county integrates with county planning process, how do you evaluate how criteria are applied for IAL?
- There are draft maps from planning process, that state has opportunity to work with county and comment on
- What is the “check” required to review of county mapping
  - County making report back to State/LUC
  - What criteria should LUC be judging whether it is good or bad?
- If goes through LUC, need rules for approval of IAL maps from counties
  - Have some input to shape what those rules/criteria should be
- Process should not be technical nuts & bolts on specific parcels, but should be considered more like a boundary review process
  - Would need rules & supported in statute
- What state agencies would be involved in county identification
  - Recommend DOA, Office of Planning, others with technical expertise
• Boundary review  
  o What is the process for boundary reviews  
  o In the past boundary reviews, commission’s consultants reports made recommendation and documented rationale

• IAL designation could be on less than whole TMK? Only portions of parcel can be IAL?  
  • Conceptually, process would be: there would be county report and map, county present, then state, via Office of Planning, would present, then LUC vote.

Redistricting of lands
• If this proposal includes redistricting of lands  
  o Will need a separate process  
  o will need statutes change to accommodate LUC adoption of maps and new boundary amendments

• Legislature should establish requirement for independent task force (citizen advisory group) to do IAL as planning commission overwhelmed with current workload/permits.  
• Kona Farm Bureau voted that it should be independent taskforce.

Appeals Process
• Is there an appeals process?  
  o May need one at LUC level, otherwise have to resort to circuit courts  
  o If by ordinance, then appeals process becomes difficult.

• If LUC is merely reviewing what is decided by county, may be improper delegation, may require courts to deal with it

• Use of IAL overlay and movement of some ag to rural district may make it confusing.  
• Would State AG be coterminous with IAL?  
• County of Hawaii has concerns for movement to rural  
• Want to move away from parcel to parcel amendments, more to a boundary review process  
• Need flexibility  
• Big Island has more land in different classifications  
  ▪ Lot of lands that could go rural  
  ▪ Pasture lands that should probably need to stay in Ag  
• Prefer IAL designation within ag district, then give counties time to show how they will develop growth management plans and procedures, for rural/urban before changing/moving lands

Creation of standards for ag and rural
• State provide general guidance for IAL/ag  
  • Standards for development/subdivision on IAL/ag lands  
• Counties develop standards as part of general plan development  
  ▪ Counties need to be able to further determine uses in ag districts, e.g., ability to have more flexibility for farm stands that sell off-premises ag
products

Before land goes to rural to counties need to look at rural in Chapter 205 and those standards for density

- If new process, rural planning and standards need to be addressed to remedy current land use system
- Recommend addressing this through county planning process

- Recommend DOA be involved in the process, with more weight put on DOA in LUC process
  - Do counties have way to accommodate this?
    - Counties believe this is in statute, they would welcome collaboration of state agencies in this process of identification of IAL

- Recommend that the process be user-driven rather than done all at one time. Make IAL determination at time request for reclassification/rezoning

- Two sets of elements related to Identification of IAL:
  1. Maps of IAL go to LUC
  2. A process to address other lands
- Funding would go with IAL process: first phase, funding IAL identification; then next phase funding to counties for process for addressing non-IAL lands

  - Designation of IAL involves report/rationale that documents how designation made
  - Require a timetable for boundary amendment
  - Should all ag district land be identified IAL, then apply criteria when taking out?
    - Consider using transfer tax when redistricting to fund PDR
  - Need to get away from parcel by parcel, need new process for “regional” boundary amendment process
  - Phasing of recommendations should include State providing simplified, expedited process for redistricting
    - Assure that an expedited process for dealing with non-IAL lands
    - Parcel by parcel process negates regional planning, doesn’t lend itself to IAL identification

**Permitted uses on IAL**

- Some restrictions required
- Golf courses—not IAL, but can be placed in rural
- Need to be addressed separately

**Enforcement**

- What are the plans for IAL and ag in general

**Residential use on IAL**

- Require process for housing on IAL under restrictive conditions. Farm Bureau not in favor of absolute prohibition
- Farming requires some residential use:
- Residence is incentive for farmers
- Also need housing for labor
  - Need counties to establish standards that are appropriate for ag development, e.g.,
    - Lot sizes
    - Utility standards
    - All other subdivision standards
- Require enforcement to ensure ag activity
  - Want people farming, tied to Gross income if have ability to enforce it
- Density under current law is more like urban subdivision
- Phrase only states that shouldn’t have residential subdivisions on IAL
  - Implies that don’t want large lot suburbia, don’t want to have to review/monitor lot by lot
  - Ensure that ag is occurring on these lots
  - Reg/standards should be at county level
- Who sets standards/regulations for IAL and enforcement of IAL?
  - County level, except for one or two standards for State e.g. lot size

- What is LUC’s role?
  - Quasi-judicial or quasi-legislative?
  - Who decides at county level
- Do we work only with IAL or everything between rural and ag?
- To what extent do we have enforcement written in the state law
  - E.g. IAL & farm dwelling use restrictions, etc.

- What would it take to have an expedited process for redistricting?
  - Required
    - Public participation
    - Have clear rules
  - Address whole process beyond IAL—looking at rural
  - Look at all requirements, notices, etc.
- How compatible are quads maps used by LUC & county planning maps?
  - Can be put together

15 Acre rule
- Should not apply to IAL
- LUC should be responsible entity for redistricting of IAL
- May change 15 acre rule for non-IAL
- City and County of Honolulu does not see many 15 acre boundary amendments, but sees a fair amount of special permits that are less than 15 acres

Legislative recommendation
- Could send legislature something that has different elements phased in.
  - IAL first
- The legislative package should not be an omnibus bill
  - Work in IAL
  - Recommend not include rural as it may kill the bill
Reclassification and rezoning
- Require standards and criteria for taking out of IAL
- LUC’s role
- Create initial criteria for eligibility

Other comments:
- Where counties agree on “role” there are a lot of individual choices and areas where still need discussion as to details of how to do certain elements
  - Many details will not be completed by the 9th

- Would like to have consensus on what IAL is
  - What is IAL
  - What is not IAL

- How is this discussion of IAL going to be linked to incentives?

3 other items from Ag Feasibility
1. Ag equalization tax credit on state income tax for workman’s compensation
2. Group health/insurance provided at a lower cost
3. Credit to employers to equalize/offset labor costs
4. Education incentives program

Next meeting:
December 9
1-4 p.m
Plant Quarantine