

1 LAND USE COMMISSION

2 STATE OF HAWAII

3 August 8, 2018

4 Commencing at 9:00 a.m.

5 400 Rogers Boulevard, Suite 700, Rm. #IIT#2

6 Honolulu, Hawaii 96819

7
8 AGENDA

9 I. Call to Order

10 II. Adoption of Minutes

11 III. Tentative Meeting Schedule

12 IV. Action-DR18-62 Kualoa Ranch, Inc. IAL (Oahu)

13 V. Action - Designation of Executive Officer

14 VI. Adjournment

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1 APPEARANCES

2 COMMISSIONERS:

3 JONATHAN SCHEUER, Chairperson
4 NANCY CABRAL, Vice Chair
5 AARON MAHI, Vice Chair
6 LEE OHIGASHI
7 EDMUND ACZON
8 GARY OKUDA
9 ARNOLD WONG

10 RANDALL S. NISHIYAMA, ESQ.
11 Deputy Attorney General

12 STAFF:

13 DANIEL ORODENKER, Executive Officer
14 RILEY K. HAKODA, Chief Clerk/Planner
15 SCOTT A.K. DERRICKSON, AICP

16 CAL CHIPCHASE, ESQ.
17 JACOB GARNER, ESQ.
18 Attorneys for Kualoa Ranch

19 DAWN APUNA, ESQ.
20 Deputy Attorney General
21 RODNEY FUNAKOSHI, Planner
22 LORENE MAKI, Planner

23 EARL YAMAMOTO
24 For State Department of Agriculture

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1 CHAIRPERSON SCHEUER: Good morning.

2 This is the August 8, 2018 Land Use
3 Commission Meeting.

4 The first order of business is the adoption
5 of the minutes for the July 11, 2018 meeting and the
6 July 25, 2018 meeting.

7 Are there any corrections or comments on
8 them? If not, is there a motion to adopt the
9 minutes?

10 COMMISSIONER

11 COMMISSIONER

12 CHAIRPERSON SCHEUER: Commissioner has
13 moved to adopt the minutes. Is there a second to the
14 motion to adopt the minutes?

15 A motion has been made by Commissioner and
16 Seconded by Commissioner to adopt the minutes.

17 All in favor say "aye".

18 Any opposed?

19 The minutes are adopted unanimously.

20 The minutes are adopted unanimously.

21 The next agenda item is the tentative
22 meeting schedule. Mr. Orodenker.

23 EXECUTIVE OFFICER:

24

25

1 CHAIRPERSON SCHEUER: Good morning.

2 This is the August 8, 2018 Land Use
3 Commission meeting.

4 The first order of our business is the
5 adoption of the minutes for the July 11, 2018 meeting
6 and July 25th, 2018 meeting.

7 Any questions or comments?

8 COMMISSIONER ACZON: Move to approved for
9 both.

10 VICE CHAIR CABRAL: Second.

11 CHAIRPERSON SCHEUER: For both dates?

12 COMMISSIONER ACZON: Correct.

13 CHAIRPERSON SCHEUER: And seconded by
14 Commissioner Cabral.

15 All in favor say "aye". The minutes are
16 adopted unanimously.

17 Our next agenda item is the tentative
18 meeting schedule. Mr. Orodener.

19 EXECUTIVE OFFICER: Thank you, Mr. Chair.

20 August 22nd we will be on Big Island for
21 Order to Show Cause for Waikoloa Mauka. August 23rd
22 also reserved for that, if necessary.

23 On September 12th, continued hearing on
24 Waikoloa Mauka, if necessary, and adoption of the
25 form of the order DR18-62, if necessary.

1 September 13th, we are scheduled on Maui
2 for Hale Mua.

3 September 27th, we will be on Big Island
4 for motion to extend time.

5 September 26th is also reserved. We may
6 have a hearing on that date, so appreciate the
7 Commissioners keeping the dates open.

8 The rest of the schedule -- lot of
9 tentative. We had a lot of moving parts, so just
10 appreciate the Commissioners keeping October 10th and
11 11, October 24th and 25th open for now. Thank you.

12 CHAIRPERSON SCHEUER: Thank you, Mr.
13 Orodenker.

14 Commissioners, do you have any questions?

15 Hearing none. This hearing and action
16 meeting on DR18-62 in the matter of Petition of
17 Kualoa Ranch Incorporated, a Hawai'i corporation for
18 Declaratory Order to Designate Important Agricultural
19 Land for approximately 761.55 acres at Oahu, Hawai'i
20 identified by portions of the following TMK's:
21 (1) 4-9-0021-001; 4-9-004-002; 4-9-005-001;
22 5-1-001-001; 5-1-001-016; 5-1-001-025; 5-1-400-001;
23 and 5-1-007-001.

24 Will the Petitioner identify yourself?

25 MR. CHIPCHASE: Good morning, Cal Chipchase

1 and Jacob Garner for Petitioner.

2 CHAIRPERSON SCHEUER: Thank you.

3 Now let me update the record.

4 On June 20th, 2018, the Commission mailed
5 the June 28, 2018 site visit agenda notice to the
6 Parties and to Statewide and Oahu mailing list.

7 On June 28, 2018, the Commission conducted
8 a site visit to the Petition Area.

9 On June 29, 2018, the Commission received
10 Petitioner's Petition for Declaratory Order to
11 designate Important Agricultural Lands, as well as
12 Exhibits A & B and D with both a hard copy and
13 digital file.

14 A request for comments to the LUC about the
15 Petition were mailed by the Petitioner to the Office
16 of Planning, State Department of Agriculture, and to
17 City and County Department of Planning and Permitting
18 on the same date.

19 On July 10th, 2018, the Commission received
20 the \$1,000 application filing fee.

21 On July 25th, 2018, the Commission received
22 the Petitioner's unsigned Exhibit C.

23 Two days later on July 27th, 2018, the
24 Commission received Petitioner's signed Exhibit C.

25 On July 31st, 2018, the Commission mailed

1 the August 8, 2018 LUC Meeting Agenda to the
2 Petitioner, Op, DOA, DPP and The State and Oahu
3 mailing lists.

4 On August 3rd, 2018, the Commission
5 received OP's and DOA's comments on the Petition.

6 And today, August 8th, 2018, the Commission
7 received -- I believe we have received Petitioner's
8 proposed findings of facts, Conclusions of Law, and
9 Decision and Order.

10 Mr. Chipchase, has our staff informed you
11 of the Commission's policy regarding the
12 reimbursement of hearing expenses? If so, please
13 state your client's position with respect to this
14 policy.

15 MR. CHIPCHASE: Yes, Chair, and we accept
16 it.

17 CHAIRPERSON SCHEUER: Let me briefly
18 describe our procedure for today on this docket.

19 I will first call -- I don't believe
20 there's anybody -- but I will first call for any
21 individuals desiring to provide public testimony to
22 identify themselves. If there is anybody, I will
23 call them up to the witness box. I will swear you in
24 prior to their testimony.

25 After the completion of the public

1 testimony portion of the proceeding, the Petitioner
2 will make their presentation.

3 After the completion of Petitioner's
4 presentation, we will receive any public comments
5 from County, the Office of Planning, and Department
6 of Agriculture.

7 And after that, the Commission will conduct
8 its deliberations.

9 I will also note from time to time I may
10 call for short breaks.

11 Are there any questions from the Parties or
12 Petitioner on our procedure today?

13 MR. CHIPCHASE: No.

14 CHAIRPERSON SCHEUER: Mr. Chipchase, the
15 Chair intends to declare himself -- I find it odd to
16 refer to myself in the third person -- the Chair
17 intends to declare that the documents submitted by
18 the Department of Agriculture, Office of Planning,
19 City and County of Honolulu, Department of Planning
20 and Permitting, any written public testimony, and
21 Petitioner's response are part of the record in this
22 matter.

23 Do you have any objections to this?

24 MR. CHIPCHASE: My only question is whether
25 you received anything from DPP or any written

1 testimony?

2 CHAIRPERSON SCHEUER: Mr. Orodenger, could
3 you please share what we have received apparently
4 this moment electronically?

5 MR. CHIPCHASE: No minute like the last
6 minute.

7 EXECUTIVE OFFICER: I just received a
8 document from the City and County of Honolulu
9 transmitted to us electronically addressed to me,
10 which is purported to be their position on this
11 matter.

12 I have not had a chance to review it yet.

13 MR. CHIPCHASE: Chair, since it was
14 received late, and it was not provided prior to the
15 hearing and has not been read by anyone yet, I object
16 to receiving that document into the record.

17 CHAIRPERSON SCHEUER: That seems reasonable
18 to me.

19 Do the Commissioners have any thoughts on
20 that? Why don't we accept that as part of the record
21 filed late.

22 MR. CHIPCHASE: Thank you, Chair. With
23 that exception, no objection.

24 CHAIRPERSON SCHEUER: Anybody in the
25 audience desiring to provide public testimony on this

1 matter?

2 COMMISSIONER OKUDA: Mr. Chair, out of
3 abundance of caution, I would like to make a
4 disclosure.

5 It might have been 20 years ago, I
6 represented a client that had title litigation
7 involving Kualoa Ranch. At that time I took the
8 deposition of Mr. John Morgan who I found to be a
9 credible witness.

10 For the life me, I cannot even remember the
11 name of my client. But I would like to make that
12 disclosure.

13 Also like to disclose the fact that I know
14 Mr. Chipchase just in the regular practice of law,
15 and I believe the partner has once in a blue moon
16 invited myself and family out to dinner.

17 None of this will affect my
18 decision-making.

19 CHAIRPERSON SCHEUER: Thank you, Mr. Okuda.

20 One moment, let me first ask and I'll --
21 Mr. Chipchase, any objection to Mr. Okuda's position?

22 MR. CHIPCHASE: No. I accept that Mr. Lee
23 is trainable.

24 CHAIRPERSON SCHEUER: Commissioner Mahi.

25 COMMISSIONER MAHI: Disclose the fact that

1 John Morgan and I have had a long friendship
2 relationship. I've been called on a cultural basis
3 too at times from time to time when John was
4 endeavoring and creating some of the historical sites
5 at Kualoa Ranch. And I do want to admit that we have
6 a close relationship, but as previously stated by the
7 other Commissioner, Commissioner Okuda, I will not
8 have difficulty making decisions in the discussion of
9 the Petitioner's request.

10 CHAIRPERSON SCHEUER: Thank you,
11 Commissioner Mahi.

12 Mr. Chipchase, any objection?

13 MR. CHIPCHASE: No, Chair.

14 CHAIRPERSON SCHEUER: Any other
15 Commissioners having any other disclosure?

16 The Department of Agriculture and Office of
17 Planning are not actually parties to this. I'm just,
18 in an abundance of caution, do either of you have any
19 objections or concerns with participation of the
20 Petitioner?

21 MS. APUNA: No objection.

22 MR. YAMAMOTO: None.

23 CHAIRPERSON SCHEUER: Anybody from the
24 public wishing to testify on this matter? Hearing
25 none, this will close the public testimony portion of

1 this.

2 Mr. Chipchase, you can proceed with your
3 presentation.

4 MR. CHIPCHASE: David Morgan will talk
5 about the history of Kualoa Ranch, overview of the
6 operation today and a little about the future.

7 Taylor Kellerman will talk in more detail
8 about the agricultural operations.

9 Tom Schnell is a consultant with PBR,
10 provide expert assessment of lands and qualifications
11 SIAL.

12 And John Morgan will talk about accessory
13 uses and relationship to the agriculture on the
14 property.

15 The entire presentation I hope takes less
16 than an hour and ten minutes. So we will wrap up
17 hopefully right on schedule and can move on to the
18 balance of the meeting.

19 If there are no questions, my first witness
20 is David Morgan.

21 CHAIRPERSON SCHEUER: I will swear you in
22 first.

23 Do you swear or affirm that the testimony
24 you're about to give is the truth?

25 THE WITNESS: Yes, I do.

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DAVID MORGAN

Was called as a witness by and on behalf of the
Petitioner, was sworn to tell the truth, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. CHIPCHASE:

Q Good morning. State your name.

A David Morgan.

Q David, what is your relationship with
Kualoa Ranch?

A I've been there pretty much my whole life.
I was born and raised there. And presently I'm the
Director of Strategic Planning.

Q As you suggested, David, your relationship
is not with employment with Kualoa Ranch, your family
history is Kualoa Ranch?

A Yes, sixth generation of my family there.

Q As part of that experience there you
suggested you spent your entire life there.

Your present position is Director of
Strategic Planning?

A That means I get to look forward into the
future and see how the ranch should line itself up
for the future, determine what we need to change,
what we need to keep the same, and what we need to do

1 differently.

2 Q Have you held other jobs at Kualoa Ranch?

3 A Yes, Director of the Tour Operations for
4 awhile in charge of the Visitor Center, retail and
5 food and beverage operations, and for awhile -- and
6 then also in charge of all the agricultural
7 operations.

8 Q In addition to Kualoa Ranch, you have other
9 professional experience in ag?

10 A I've been pretty much involved in
11 agriculture for almost my whole professional career.
12 Worked for sugar plantation on Big Island for nine
13 years. Ran a botanical tourist attraction on the Big
14 Island for six years, and then moved back to the
15 ranch in 2003.

16 Q So you've been with the ranch since 2003?

17 A Yes, that's right.

18 Q In that opportunity, during that career,
19 since your entire professional career has been mostly
20 dedicated to agricultural, have you had an
21 opportunity to serve on any boards or commissions to
22 the state for botanical?

23 A Yes. When I was on the Big Island working
24 for the sugar plantation, I was on the board of
25 director for Mauna Kea Soil and Water Conservation

1 District.

2 And then when I came back to the ranch, I
3 joined the board of the Windward, Oahu, Water and
4 Soil Conservation District.

5 Also a board member for quite a while on
6 Oahu Resource Conservation Development Council. Not
7 on that board right now, I jumped out, have to sit
8 out for a year before I can go back on it.

9 Also on the Board of Directors for Hawai'i
10 Park Industry Association.

11 Q Putting the professional aside for just a
12 moment, I thought I heard you say sixth generation
13 family/owner of Kualoa Ranch.

14 A Yes.

15 Q Can you tell us about your family history
16 on that property?

17 A It all started with my great, great, great
18 grandfather, Dr. Gerrit Judd. He purchased the
19 original parcel where the ranch headquarters is now
20 in 1850. He wanted to start a farm out there to
21 employ people in the agricultural industry.

22 It was the first sugar operation on Oahu.
23 Unfortunately, rainfall wasn't adequate to support a
24 sugarcane crop, so they struggled with that for a
25 little bit, tried a bunch of other crops and

1 eventually settled primarily on cattle. It's been a
2 cattle ranch ever since.

3 Q So the whole history of your family's
4 ownership of ranch is the history of agriculture?

5 A Yes, that's correct.

6 Q Let's talk a little bit about the ag uses
7 that continue today.

8 David would you put up on the screen an
9 excerpt from our fish and ag assessment. Confirm
10 that the areas outlined in green represent the
11 Petition Area, and all of that area is currently in
12 agriculture.

13 A Yes, that's correct, all that area is in
14 agriculture.

15 Q If we look at the table to our right of the
16 screen, it breaks down that agriculture into three
17 categories, just provide an overview of those
18 categories.

19 A Yeah. As you can see the majority of the
20 land that's up there is in cattle. We do have a
21 small area in diversified ag, and a small area in
22 aquaculture as well.

23 Q So for the area for ag, what kind of
24 products do you produce?

25 A Primarily orchard crops, banana, papaya.

1 We do have some cacao, breadfruit, but we do some
2 other leafy crops and things like that as well.

3 Q And the last category, aquaculture,
4 describe a little bit about those operations?

5 A The location of those ponds is in an area
6 where the water table is fairly close to the surface,
7 so it's very well-suited for aquaculture because the
8 water is not going to drain out of the pond, so no
9 issues with leakage.

10 Q With such a long history in farming and in
11 the area, has Kualoa Ranch had an opportunity to
12 establish relationship with the community by any
13 educational and outreach programs?

14 A We have been doing some educational
15 programs for a long time. It all started with
16 bringing elementary school kids out to come visit our
17 petting zoo so they could interact with farm animals.

18 Over the years it's grown significantly
19 from that, and grown in scope and also in demographic
20 of the kids coming out.

21 So now it goes all the way from still doing
22 that type of program, up to doing some programs to
23 Hawai'i and Windward Community College.

24 Q One thing that's always struck me about
25 Kualoa Ranch is it's uniquely visible from highway

1 and visible because of those outreach programs and
2 because the visitors come to Kualoa Ranch.

3 Can you talk a little bit about your
4 thoughts on why that visibility is important to
5 agriculture in Hawai'i?

6 A My understanding now in the United States
7 in general is there's a very small percentage of our
8 population that's involved directly in agriculture.
9 The large huge percentage has been away from
10 agriculture for generations now, and so we would like
11 to put ourselves out there as something that is
12 visible, that you can show off to the public, the
13 general public, what agriculture is all about,
14 because it's important, we feel, for the future of
15 the country and for the state.

16 Q So talking about the future, Director of
17 Strategic Planning, how do you see the future of
18 Kualoa Ranch?

19 A We would like to continue growing our
20 agricultural operation. A few years ago we started
21 marketing grass fed beef. At the beginning of that
22 project we weren't really sure on how we were going
23 to market it, and I was very presently surprised when
24 we were successful at actually drawing the market to
25 us.

1 The size of our production, we don't need
2 to go out into the grocery stores, people are coming
3 to the source. And from that, we started to realized
4 that, you know, we can add something to the table.
5 And we're not just selling food product, but we are
6 selling experience as well and adding experience to
7 the value of that product.

8 So what we would really like to do is
9 continue to expand our product line broader and
10 broader, and to become a reality at the source-type
11 of farmers market.

12 The ultimate goal that I would like to
13 achieve is that we become the marketing hub for
14 farmers in our community as well.

15 Q Thank you, David.

16 Chair, I don't have any further questions
17 of this witness.

18 CHAIRPERSON SCHEUER: Thank you.
19 Department of Agriculture, do you have any questions
20 for the witness?

21 MR. YAMAMOTO: No.

22 CHAIRPERSON SCHEUER: Office of Planning?

23 MS. APUNA: No. Thank you.

24 CHAIRPERSON SCHEUER: Commissioners?
25 Commissioner Aczon.

1 COMMISSIONER ACZON: Just a quick one.
2 You're proposing 761.55 acres in this Petition?

3 THE WITNESS: Yes, sir.

4 COMMISSIONER ACZON: I understand City and
5 County has a proposed IAL plan. What's the
6 difference?

7 THE WITNESS: As it's written in the
8 statute, we propose an area slightly over 50 percent
9 of the eligible area.

10 COMMISSIONER ACZON: How many acres City
11 and County?

12 CHAIRPERSON SCHEUER: Can I ask you to
13 speak up more?

14 MR. CHIPCHASE: Commissioner, not to stop
15 the question, just may help move things along, we
16 have a witness specifically to address that question
17 and prepared the city map. If you would like to
18 wait, great.

19 COMMISSIONER ACZON: My question is why you
20 think -- why you think it's important for you to have
21 these acres than the City and County's has planned?
22 What's so important about these acres, additional
23 acres, that you're proposing and the City and County
24 plans?

25 THE WITNESS: My understanding, to be

1 honest, is that there is no benefit for us to get
2 more acres than what we are proposing.

3 COMMISSIONER ACZON: Maybe the next witness
4 can answer more.

5 MR. CHIPCHASE: Very good.

6 COMMISSIONER ACZON: Thank you, Mr. Chair.

7 CHAIRPERSON SCHEUER: Commissioner Okuda.

8 COMMISSIONER OKUDA: Mr. Morgan or Mr.
9 Chipchase, maybe somebody else, have you had a chance
10 to review the Department of Agriculture's submittal
11 which is a letter dated August 3, 2018?

12 My question is just whether you had any
13 comment, if any, that you wanted to make to what the
14 Department of Agriculture stated in their letter?

15 THE WITNESS: Off the top of my head, I
16 don't have a comment.

17 COMMISSIONER OKUDA: Did you consider their
18 letter essentially to be an accurate commentary with
19 respect to the present petition?

20 THE WITNESS: I apologize, I did read the
21 letter. Nothing is popping to my mind. I don't have
22 it in front of me.

23 COMMISSIONER OKUDA: That's fine. Thank
24 you very much.

25 CHAIRPERSON SCHEUER: Any further

1 questions, Commissioners? You can call your next
2 witness.

3 MR. CHIPCHASE: Call David Kellerman.

4 CHAIRPERSON SCHEUER: Good morning.

5 Do you swear or affirm that the testimony
6 you're about to give is the truth?

7 THE WITNESS: Yes, I do.

8 TAYLOR KELLERMAN

9 Was called as a witness by and on behalf of
10 Petitioner, was sworn to tell the truth, was examined
11 and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. CHIPCHASE:

14 Q Good morning.

15 A Good morning.

16 Q State your name.

17 A Taylor Kellerman.

18 Q What is your relationship to Kualoa Ranch?

19 A My relationship is I'm the Director of
20 Diversified Agriculture and Land Stewardship.

21 Q So that title may link a couple of things,
22 agriculture and land stewardship.

23 Can you explain to the Commission what your
24 responsibilities are?

25 A Sure. So my responsibilities include all

1 agriculture activities. That includes livestock,
2 agriculture, aquaculture, traditional land
3 agriculture.

4 I also take care of the landscaping in
5 areas that require it. And I also oversee the land
6 stewardship or conservation department.

7 Because our Kualoa Ranch landholdings
8 include a watershed as well as undeveloped areas, we
9 find that since our agriculture is part of the land
10 use as well as neighboring area to those conservation
11 areas, having it under the same management is a great
12 benefit to us.

13 Q How long have you been at Kualoa Ranch?

14 A In September it will be three years.

15 Q How many employees do you oversee in those
16 different areas?

17 A Total employees in agriculture is 21; total
18 employees in conservation is eight; and total
19 employees in landscape is nine.

20 Q Are these seasonal positions?

21 A No, every one of our positions is a
22 full-time permanent position.

23 Q Taylor, before joining the ranch, did you
24 have other experience in agriculture?

25 A Yes. So I actually went to the University

1 of Hawai'i at Hilo. I graduated with degree in
2 tropical agriculture, focused in vegetable crop
3 production.

4 After graduating college, I worked for the
5 pineapple industry on two separate plantations, both
6 Del Monte and Maui Pineapple Company.

7 After that I moved back to Oahu from Maui,
8 and worked in seed industry in Kunia for eight years,
9 and I've been with Kualoa Ranch ever since for the
10 past three.

11 Q What brought you from seed industry to the
12 ranch?

13 A Born and raised in Kailua on the windward
14 side, and having driven past Kualoa Ranch my entire
15 life to go surfing and diving and all the fun things
16 we like to do, the opportunity to practice my craft
17 as well as participate in the management of a piece
18 of property like Kualoa Ranch, for somebody in the
19 industry that I'm in, that does what I do, that is
20 basically a dream job. So it didn't take long to
21 figure that was where I wanted to be.

22 Q Since you also have spent your whole
23 professional career in agriculture, have you had an
24 opportunity to serve on any boards or commissions
25 related to ag in the state?

1 A Yes. In fact, David and I overlapped quite
2 a bit. So I also served for Soil and Water
3 Conservation District, however, I served on the West
4 Oahu.

5 I also served on the Kunia Water Use
6 Commission, which entails most of the management for
7 the Waiahole Ditch in partnership with ABC.

8 Currently I serve on the Agricultural
9 Leadership Foundation of Hawaii, which I'm also a
10 graduate of Class 15. And I also serve on the Board
11 of the Oahu Resource Conservation Development
12 Council, and I am a committee chair for the Land and
13 Water Use Commission of the Hawai'i Cattleman's
14 Council.

15 Q Thank you, Taylor.

16 David talked about the history of the
17 ranch, and about the current operations, three
18 categories of operation, the pasture, the diversified
19 ag and aquaculture. I would like to explore that in
20 more detail.

21 In looking at the map we put on the screen
22 from our Petition Agriculture Assessment, see the
23 same areas outlined in green?

24 How would you describe the areas that
25 Kualoa Ranch has identified for Important Ag Land

1 designation?

2 A When you look at our three different
3 businesses, if you're looking at our livestock,
4 cattle has always been our primary livestock crop, if
5 you will.

6 The areas designated on those maps are what
7 we always considered our primary pasture land,
8 however, we have diversified in the past few years
9 into aquaculture, as David mentioned, with Pacific
10 shrimp, with oysters, freshwater prawns, as well as
11 Chinese catfish and other fin fish as well.

12 We have diversified land agriculturally in
13 the four orchard crops that David mentioned, cacao,
14 ulu, papaya and banana.

15 And we also do about ten different kinds of
16 vegetables, and we have a listing of about 20
17 different kinds of exotic fruit trees as well.

18 Q We will explore each of those in more
19 detail.

20 What I wanted to focus on was your
21 description of the designated lands as your core
22 pasture land.

23 A Sure.

24 Q Tell us about your pasture operation
25 beginning with cattle.

1 A Okay. So we practice a -- it's kind of a
2 hard thing to describe -- but what we describe it as
3 is low impact/high rotation pasture management.

4 What it is, we have about 30 paddocks total
5 between the three valleys. We have perimeter fencing
6 around the whole pasture area. Then we've used cross
7 fencing to cut areas into those 30 separate paddocks.

8 By rotating animals frequently and using a
9 lower density, what we're able to do is, we're able
10 to use pasture so that there's never an impact on
11 erosion, because we are never exposing topsoil, and
12 you never have a density as such, so you have enough
13 animal waste that it would run into a runoff
14 situation.

15 So depending on size of the individual
16 paddock, we'll leave the animals in there anywhere
17 between two to five days. The intent is to let every
18 single pasture rest for at least 30 days so that
19 you're always coming back to not only good feed for
20 the animals, but you're managing the pastures in a
21 way that it's environmentally friendly.

22 Q How many animals does your cattle operation
23 produce per month?

24 A So we have a total head count of about 500,
25 but we are currently harvesting between eight and ten

1 animals per month.

2 Q And these are both grass fed and grass
3 finished. Describe the difference.

4 A Correct. So every time I hear marketing
5 people claim that something is grass fed, I always
6 kind of smile internally because all cows are grass
7 fed at some point. So the trick is what do you
8 finish them on?

9 We're entirely grass fed, grass finished,
10 meaning that they spend their entire lives from
11 calving all the way to harvest on pasture land with
12 no supplemental grains or forage aside from what
13 they're eating inside the pasture.

14 Q Taylor, as the guy in charge of the
15 agricultural operation, looking at those core pasture
16 lands that you've identified, are the cattle able to
17 use all the pasture areas even as they start to climb
18 the slopes?

19 A Yes, very much so.

20 Ironically, sometimes the most high
21 nutrition forage are in pastures that don't have the
22 most beautiful green rolling look. So our cattle
23 utilize a lot of the top ridge because there's some
24 broad leaf species up there that they enjoy and also
25 gives them high nutrition.

1 They're also very good at making
2 switchbacks, so they quite frankly will graze all the
3 way up to the sheer face and most of our valley
4 pastures.

5 Q It strikes me that having a rotational
6 system the way you do, trying to avoid over-impacting
7 grass and eroding a lot of the infrastructure, can
8 you tell us a little bit about the infrastructure at
9 Kualoa Ranch?

10 A Sure. So when you consider 30 separate
11 paddocks, and you consider the cross fencing and
12 perimeter fencing, I think at last look when we were
13 using GPS, I think we were just over 14 miles of
14 fencing.

15 We also require roads that proceed through
16 all of those paddocks as well. What's nice is that
17 everybody knows that Kualoa Ranch is diversified, not
18 only in crops that we produce, but also the entire
19 economy structure.

20 And what is great is that those road
21 infrastructure is kind of a dual use/dual purpose.

22 So it now only allows for that
23 diversification economically, but it also allows for
24 us to better manage our cattle.

25 Q What are your markets for your cattle?

1 A 95 percent of cattle are beef product, in
2 fact, almost all of our agricultural products. We
3 have an overarching brand for everything we produce
4 called "Kualoa Grown".

5 And I would say the majority of our beef,
6 in particular 95 percent is sold directly to
7 consumers out of our Visitor Center.

8 If I can plug to the Commission and chairs,
9 you can go on Kualoa.com, put your order in. We will
10 make it for you and you can come and pick it up.

11 I never miss an opportunity. And two scoop
12 rice too.

13 Q That was not scripted.

14 In addition to the cattle in your pasture
15 you've expanded into pigs and sheep. Tell us about
16 those operations.

17 A The piggery that we have is actually my
18 favorite project right now. We're utilizing a system
19 called a deep liter system, and what it entails is
20 traditionally piggeries are a cement floor that you
21 wash off with water. And you can have lagoons and
22 the requirement for that.

23 However, what we are doing is taking
24 four-foot deep channels, if you will, and filling
25 them with different layers of logs, branches,

1 mulches, as well as coconut husk, banana leaf, things
2 like that.

3 You then inoculate that whole system, or
4 the four-foot depth with microorganisms, and what
5 that does is it creates a living floor, almost
6 mimicking like a rain forest environment.

7 As so as the pigs live, they produce waste,
8 and that waste has been consumed by microorganisms.
9 What that means is that basically you have a aerobic
10 environment or with oxygen environment for that waste
11 consumption. So there really is no smell, and
12 there's very little insects or flies.

13 So some people also know of it as no
14 smell/fly operation.

15 Sheep, we are also building our breeding
16 herd right now. We are using dorper sheep which is
17 originally from Africa. They're well-suited for our
18 tropical environment, unlike say the normal concept
19 of sheep, lot of people say they look like goats, but
20 it's because they're hair sheep, they're
21 self-shedding. So they're strictly for meat
22 consumption.

23 And right now we're simply building our
24 breeding stock just like the pigs. So we are
25 hopefully -- right now the way that our breeding

1 schedule is, we're looking at having production
2 animals available for consumption in the next ten
3 months or so.

4 Q For pig and sheep, how many animals per
5 year?

6 A Pigs, right now our facility is going to
7 max out at about 500 per year, and that's market
8 pigs.

9 Sheep right now we have designated I want
10 to say about 20-25 acres of pasture land. And
11 because it's a new crop, and because we want to do
12 the same pasture management we do the cattle, we're
13 still figuring out what densities will work best.

14 Q In addition to the pasture and expanded
15 pasture operations, you talked a little bit about
16 diversified agriculture, talked a little bit about
17 the crops you produce.

18 I want to get a sense of what -- how much
19 you produce per month from diversified ag.

20 A Sure. So all of our diversified
21 agriculture areas we have production goals that are
22 just like I was held to on the plantation with the
23 seed industry.

24 So in other words, you have a per acre
25 value that you're trying to achieve. Right now

1 banana, we are at about 5,000 pounds per month.

2 Papaya, we're about 3500, trying to get to
3 4500 per month.

4 Cacao, that's one of our newest industries,
5 so we have a lot of young orchards, but in total
6 we're at about 1000 trees. And we just took our
7 first commercial harvest into Manoa Chocolate two
8 months ago. Took about 150 pounds of fermented dry
9 beans.

10 If you've ever worked in chocolate, that's
11 actually a pretty decent amount.

12 As far as breadfruit goes, again, we're
13 slowly building orchards. We take all of our
14 agricultural areas and border them with breadfruit
15 trees.

16 As far as I know, we're the largest
17 producer on the east side now, but again, we have a
18 lot of young trees.

19 Q Like the pasture products, is diversified
20 agriculture intended for local markets?

21 A Everything is intended for local market.
22 The only thing we sell off island is some oyster,
23 everything else on Oahu. Almost all of it is
24 available either through some of our auxiliary
25 businesses like where you can eat on the ranch, or

1 simply through direct consumer, some markets, but not
2 much.

3 Q Even oysters, do they stay in Hawai'i?

4 A Yes. We produce about 15 to 17,000 per
5 month. Everything stays in Hawai'i.

6 Q Let's talk a little bit about the
7 aquaculture operation. Describe those operations for
8 us.

9 A So we grow Pacific white shrimp -- side
10 note, maybe unimportant, but I always try to claim it
11 in front of people.

12 There's only two shrimp growers that still
13 cook and serve their own shrimp in their shrimp
14 plates. So if you're out North Shore Giovanni's
15 tastes good, but we grow our own.

16 Then we also do our oysters. We are the
17 only retail growers of oysters on the Island of Oahu.
18 That's probably the one product that we serve -- that
19 we use a lot in restaurants, a lot of restaurants.

20 Then we also do fin fish as well as
21 freshwater prawn and Chinese catfish.

22 Q Specific to the aquaculture ponds in the
23 Petition Area, which products are produced there?

24 A The Chinese Catfish and the freshwater
25 prawn.

1 Q You talk a lot about the local markets.
2 Why are they so important to Kualoa Ranch?

3 A I think because when you look at the
4 concept that David gave when he talked about the
5 future for the agriculture activity at Kualoa Ranch.
6 When you consider the fact that we have the ability
7 to produce food, and we have the ability to utilize
8 our land to do so, it only makes sense to be
9 supporting the surrounding communities simply because
10 agriculture is a business that is becoming more
11 challenging for everyone, and quite frankly, it's
12 kind of almost something that it just makes a perfect
13 marriage.

14 Q You mentioned that your employees work year
15 round.

16 Are your agricultural operations year round
17 as well?

18 A Yes. Like any agriculture operation in
19 Hawai'i, there are the ebbs and flows. Summer tends
20 to be when your bumper crops come in, but we do
21 produce year round all products.

22 Q Looking at the operation that is in your
23 charge, what are Kualoa Ranch expectations for you
24 and your department?

25 A So every single one of my departments, if

1 you're going to break it down into administrative
2 accounting, seven total. Each one of those
3 departments have its own budget, own variance
4 analysis at the end of the month.

5 When I was at my previous job in Kunia, I
6 was in charge of the budget of \$7 million for the
7 entire farm, 2000 acres. Basically I've taken that
8 knowledge and that ability and treat every single
9 department the same way.

10 So it's kind of one of those things that
11 every time somebody comments that they didn't know
12 how much agriculture we do on the ranch, I always
13 make sure to point it out that we treat each one of
14 our agricultural business as such, and the same
15 criteria we would anywhere else.

16 Q You mentioned earlier road network and dual
17 use and economies that Kualoa Ranch has.

18 Do the tourist interfere with your
19 operations at all?

20 A Not at all. In fact, I would say that
21 having the accessory use is not only supporting both
22 financially, but it is also supporting as well as
23 infrastructure, particularly around roads.

24 It also, I think, provides us a platform to
25 be able to share what we're doing agriculturally

1 speaking and also gain customers. Quite frankly,
2 because people come to visit and realize we are doing
3 all of these things, they become permanent customers
4 after that.

5 I've never had a situation where activities
6 within the same land area have been an issue.

7 Q As the guy in charge of agriculture for
8 Kualoa Ranch, how do you see the future of
9 agriculture at Kualoa Ranch?

10 A I'm going to jump on a soap box if that's
11 all right.

12 So I've basically dedicated my entire
13 career and the majority of my life to agriculture. I
14 grew up with plantation era, loved it, but realized
15 that financially speaking it just couldn't work any
16 more due to obvious reasons.

17 The thing about agriculture in Hawai'i is
18 we do have the ability to produce a lot of food. The
19 other thing about agriculture in Hawai'i is that
20 economically it's a difficult business. So if we can
21 look at Kualoa Ranch as almost kind of, I want to
22 call it an example for the future, or basically
23 examples for other people, where you can take your
24 economy and diversify it, but still at the same time
25 produce a lot of food.

1 Because in my opinion, if you have the
2 resources that we have, natural resource speaking at
3 Kualoa Ranch, it's paramount that we use that to keep
4 producing food.

5 So the support that I receive from my upper
6 management to continue to grow produce for food,
7 continue to sustain the communities around us, as
8 well as the island, I can say sitting here under oath
9 that that has been nothing but 100 percent moving
10 forward.

11 So really, speaking all together, I think
12 the future for agriculture in Kualoa is one of growth
13 and one of hopefully being an example for other
14 businesses to follow.

15 Q Thank you.

16 Chair, I have no further questions.

17 CHAIRPERSON SCHEUER: Thank you.

18 Department of Agriculture, do you have any
19 questions for the witness?

20 MR. YAMAMOTO: No questions.

21 CHAIRPERSON SCHEUER: Office of Planning?

22 MS. APUNA: No questions.

23 CHAIRPERSON SCHEUER: Commissioner Cabral.

24 VICE CHAIR CABRAL: Thank you very much for
25 your testimony. And I wanted to also thank all of

1 Kualoa for the wonderful tour we got last month, or
2 whenever that was.

3 I'm from the Big Island, and you did go to
4 a wonderful school, thank you for bringing your money
5 to Hilo. And I'm also into agriculture some. I have
6 my own paddocks, my own cows, my own pigs, and my own
7 sheep, and I've had goats, ducks, chickens. So I
8 really have a belief to the need for agriculture.

9 You mention the number of employees you
10 have. There's a lot of talk always about needing
11 more technology jobs, and that we are so inundated
12 with what we call entry level jobs.

13 I'm not an expert by any means, I shovel
14 shit instead, but the question is, would you consider
15 the job that you have with your employment base
16 there, is that something that you would call entry
17 level job, skilled jobs, technical jobs requiring
18 training, requiring experience, requiring degrees,
19 education.

20 Give us a little bit about that
21 contribution that you are making to our employment
22 economy.

23 THE WITNESS: Absolutely. So the way that
24 our employment structure is broken down, you have --
25 although they're all under the same umbrella, each

1 department, say livestock or agriculture, aquaculture
2 or agriculture has a hierarchy within itself.

3 So you have college graduate skilled
4 experienced people running the department.
5 Underneath them, you then have a set of systems where
6 you have leads. You have technicians, and you have
7 laborers. Laborers would be the only entry level
8 position that I would consider just a straight level
9 entry level.

10 Technician, you can be hired in off the
11 street, but have to come with experience.

12 Lead, you have to have experience, not only
13 in the crop that you're growing, but in leading
14 people and in growing people underneath you.

15 And then obviously department head, you're
16 in charge of financials, in charge of basically
17 anything you would associate with any other
18 department head.

19 When it comes to technology in agriculture,
20 you know, there's quite a range. You know, there's
21 dirt farmer, truck farmer, all the way to GPS
22 self-driven trackers that are using smart yields and
23 things like that.

24 Because we are not only sharing what we do
25 with people, but intend on producing as much as we

1 can, we try to find a good blend of that.

2 So we do use technology, but we still have
3 somebody driving the tractor. So it's kind of one of
4 those things where I think as we grow, we want to
5 incorporate more, but we want also want to -- you
6 know, part of what we would like to do is grow
7 farmers, expose people to agriculture, and kind of
8 get that back into the minds of younger people.

9 VICE CHAIR CABRAL: Thank you, that led
10 into some more thoughts.

11 Do you have any type of thoughts of
12 expanding? You have to almost train a number of
13 those people.

14 Do you have people out there that come to
15 you in that training, or do you have to train a lot
16 of those skills?

17 The second question was, you referenced
18 approximately 90 something percent of your beef, at
19 least, was sold right there on site. And then you
20 laid the reference that you sell to a lot of
21 restaurants on the island.

22 So is that, when you say 90 percent
23 on-site, is that including restaurants that come to
24 pick it up or you deliver or something?

25 THE WITNESS: I apologize for

1 miscommunication. Oysters we sell to restaurants,
2 use distributor for oysters. For beef we sell to
3 only three restaurants, they're all local family run
4 eastside Kailua restaurants.

5 Moke's Bread and Breakfast. They make a
6 killer Kualoa moko local with our eggs.

7 COMMISSIONER CABRAL: You can reduce
8 advertising.

9 THE WITNESS: But aside from that, it's
10 almost all sold straight out of there. As far as
11 labor, it's kind of -- it's a mix. We're utilizing
12 Grove Farms, which I don't know if you are familiar
13 with that. That's an incubator program, but we also
14 do a lot of on-site training. Unfortunately,
15 agriculture on the eastside is a business that you're
16 limited by the amount of people that you find, so the
17 intent actually with that labor tech lead role was to
18 give people a path for better career advancement and
19 training.

20 VICE CHAIR CABRAL: Thank you very much.

21 CHAIRPERSON SCHEUER: Mr. Aczon.

22 COMMISSIONER ACZON: I just want to follow
23 up, Mr. Chipchase, about the future of agriculture.
24 You know, pineapple -- lost pineapple, lost sugarcane
25 and there is several plans without their

1 sustainability plan. For example, the former
2 director (inaudible) 2025 sustainability, city and
3 county coming out with their own.

4 Do you think those plans are obtainable?

5 THE WITNESS: I think agriculture is
6 obtainable if it is economical. And for a business
7 to be economical, I think we have to look at the
8 model of the past and grow upon that. I think the
9 idea of going UH Hilo, getting a loan from First
10 Hawaiian Bank, getting a lease from Kamehameha
11 School, growing up to send your kids to school, I'm
12 not sure that's attainable.

13 I think taking your business and expanding
14 in a way that you can economically diversify, Kualoa
15 Ranch being a good example, utilizing an already set
16 customer base, like the tourist industry, or finding
17 crops that you can take to a valid added arena.

18 Cacao is one of the larger growing crops,
19 because you can take your beans and take it all the
20 way to the bar. You can find these things that are
21 geographically unique, Maui Onion, Kona Coffee,
22 Hawaiian Chocolate, or if you can find things where
23 you're dual ending your economy. Tourism, tours,
24 things likes that.

25 Or if you can simply, I think, take that

1 product all the way to that final end that you can
2 charge a premium for, I think that that is very
3 attainable.

4 But I think when you're just talking about
5 feeding community, you've got to look at ways to help
6 support your economy, and if you think about it,
7 sharing what we do with visitors who are hungry for
8 knowing where their food comes from, it's almost a
9 no-brainer.

10 COMMISSIONER ACZON: Do you think you have
11 enough customer base to sustain your business?

12 THE WITNESS: We could produce twice as
13 much as we produce now and still not have satiated
14 the market.

15 COMMISSIONER ACZON: Thank you.

16 CHAIRPERSON SCHEUER: Mr. Ohigashi.

17 COMMISSIONER OHIGASHI: I was always told
18 to say Kula Onion, not Maui Onion.

19 THE WITNESS: Omiapio and Kula, yeah.

20 COMMISSIONER OHIGASHI: Besides that, I'm
21 assuming that your agricultural operation are not in
22 the strict sense profitable without support from the
23 tour; is that correct?

24 THE WITNESS: That is correct.

25 COMMISSIONER OHIGASHI: Is there a plan by

1 Kualoa Ranch to actually have the agricultural part,
2 sustainable or profitable, what length of time do you
3 think for that plan, if there is one?

4 THE WITNESS: So I would say, rather than a
5 direct plan for just saying we're going to achieve
6 ten percent margins by this year.

7 What we're trying to do is, because our
8 business is structured together with our ancillary
9 business, the idea I think more is looking at the
10 productivity of our areas, looking at the
11 productivity of our people. And because we are
12 following that variance, because I watch that every
13 month, where is my overhead versus my income.

14 The idea is how do we close that gap, do
15 the best that we can? The way that we're structured
16 is to always find economic opportunities within the
17 auxiliary businesses.

18 So I think rather than a true goal of
19 finding when it would be a stand alone success
20 financially, because we are really looking at that
21 business as a whole program. The goal is to be as
22 productive as possible on the lands that we are
23 putting agriculture into.

24 COMMISSIONER OHIGASHI: So would it be fair
25 to say then that the model that you've chosen

1 supports this diversified type of agriculture, and
2 that absent the tour portion, diversified ag would
3 have obviously a difficult time in moving forward?

4 THE WITNESS: I would say that's very fair,
5 yes.

6 COMMISSIONER OHIGASHI: And when we
7 designate Important Agricultural Lands, what portion
8 do you think the commercial portion of the tour
9 portion should play in making that determination, if
10 you know?

11 THE WITNESS: I'm not sure I understand the
12 question.

13 COMMISSIONER OHIGASHI: Maybe Mr. Chipchase
14 can answer that later on.

15 MR. CHIPCHASE: I'll do my best.

16 COMMISSIONER OHIGASHI: Thank you.

17 CHAIRPERSON SCHEUER: Commissioners,
18 further questions? Mr. Mahi.

19 COMMISSIONER MAHI: I know you mentioned
20 earlier the numbers that you're marketing, 500 head
21 of cattle, how much market per year out of the 500
22 head?

23 THE WITNESS: Very good question. So we
24 have three herd geographically set by valleys, so
25 Hakipuu, Kaaawa, and Kualoa. Hakipuu and Kaaawa are

1 calf halfords. And the offspring from those calf
2 halfords are used to feed not only our harvest
3 program, but also replacement breeding program.

4 COMMISSIONER MAHI: You're moving how much
5 beef?

6 THE WITNESS: 115 animals for prime cuts,
7 which is what would be the steaks, but then you
8 consider two to three cows per month, so you're
9 looking at a total of 150 animals, maybe little bit
10 over per year.

11 COMMISSIONER MAHI: And the sheep stock,
12 also the piggery?

13 THE WITNESS: Piggery we're looking at 500
14 market animals, and the sheep we're still determining
15 the proper density for the areas.

16 COMMISSIONER MAHI: I just wanted to get
17 figures. Mahalo.

18 CHAIRPERSON SCHEUER: Commissioners,
19 further questions?

20 I have just have a very brief question for
21 you that goes to Mr. Chipchase's questioning of you
22 regarding the relationship between the tourist
23 activities and other activities and your aquacultural
24 operation.

25 I was surprised to hear you say no

1 conflict. What kind of relationship do you have
2 within the operations so that movie companies coming
3 in, they say we need to film here for a month or
4 more, two months. Those are part of your rotational
5 pastures.

6 How do you manage that so that it's not
7 harmful to the agriculture operation?

8 THE WITNESS: So we have -- in hierarchy of
9 business, I'm at the director level, and I have four
10 counterparts. Each one of those counterparts we meet
11 with weekly and we discuss activities. By
12 maintaining a very open line of communication, and by
13 careful planning, what we're able to do is, we are
14 able to foresee say when certain pastures are used to
15 filming and plan accordingly.

16 Typically, I'll know at least a month, if
17 not two months ahead of time. And so what we can do
18 is basically -- because then you start pasture
19 management. You have a set goal, but there's
20 variables. There's rainfall, is it winter? Is it
21 summer? Is the grass growing fast? Is it growing
22 slow?

23 So you really look at those numbers then
24 basically figure out how you can work around what is
25 going in. But with that communication, it's never

1 been a problem.

2 CHAIRPERSON SCHEUER: Thank you. I think
3 it's time for a break. It's 9:56, we will return at
4 10:06.

5 (Recess taken.)

6 CHAIRPERSON SCHEUER: We are back in
7 session. We still have our witness.

8 Mr. Aczon, did you want to ask your
9 question or continue your questioning that you had
10 started with this witness?

11 COMMISSIONER ACZON: I was asking about the
12 city and county's proposed IAL versus your proposed
13 IAL.

14 What is the difference? How many acreage
15 and why you think we should consider yours without
16 additional upgrades proposed by city and county?

17 MR. CHIPCHASE: If I may, to orient
18 everyone, we put an overlay up to the screen, a
19 mapping. It's part of the ag assessment showing the
20 Petition Area, and overlaid in crosshatching is the
21 city's mapping.

22 This is from a slide later in our
23 presentation intended for Mr. Schnell talking about
24 the technical differences, how the city looked at
25 IAL, and how we looked at it, which we thought was

1 more efficient. I thought we would give opportunity
2 to ask this witness those questions.

3 THE WITNESS: So if I can just refer to the
4 map, and go over kind of so the area that's obviously
5 not crosshatched is the area that we want to explain
6 why we chose not to --

7 CHAIRPERSON SCHEUER: One moment. Just for
8 the record, for somebody who is reading this
9 transcript, can you describe by slide number or
10 exhibit number what slide is being referred to?

11 MR. CHIPCHASE: Sure, I can.

12 The two documents we didn't -- we submitted
13 this morning as well as Mr. Schnell's resume.

14 CHAIRPERSON SCHEUER: It's from that -- the
15 slide entitled Important Agriculture Lands; Slide No.
16 40.

17 MR. CHIPCHASE: It is, Chair.

18 Areas in orange are the city's proposed
19 designation, crosshatching is Kualoa Ranch's proposed
20 designation. City's maps are not final. So we don't
21 know that this would be what they would propose.
22 This is a draft what we have.

23 CHAIRPERSON SCHEUER: You can continue.

24 THE WITNESS: So when considering important
25 Ag Lands, we looked at a couple different factors,

1 looking at things like topography, soil type and
2 access to water.

3 So if you look at Kaaawa Valley, which is
4 the valley on the top portion of it, when you look at
5 how the mouth is not included, we chose not to
6 include that simply because that is where the water
7 table is very, very close to the top soil level and
8 prone to flooding. And typically for cattle, it's
9 not as good a land use because of parasites like
10 liver fluke that sit in the water.

11 And also not good for agriculture simply
12 because if you've ever tried to grow a crop that
13 doesn't like wet feet in a swamp or -- shouldn't say
14 "swamp" -- in an area that has a high water table,
15 you tend to have issues during high rains.

16 If you look down the page where actually
17 the word "Kualoa" is typed in, there's two reasons
18 why we chose not to include that, one of which is our
19 Visitor Center and parking lot is in that area, and I
20 haven't tried to grow crops on the parking lot yet --
21 kidding.

22 Also the area, just look at the word
23 "Kualoa" and look just above it, those are areas
24 where it's -- the topsoil is almost more sand. I
25 believe it used to be dunes.

1 So you have a very, very shallow topsoil
2 with sand and does not hold water well. And, David,
3 correct me if I am wrong, I think that goes back to
4 why sugar was difficult in that an area as well.

5 When you look at the bottom of the page,
6 you see those areas along Kamehameha Highway makai,
7 those areas currently have a lot of residential that
8 were preexisting. And the areas that would be
9 farmable are not contiguous, or they're very separate
10 and they're small.

11 So quite frankly, jus not a very desirable
12 area. And topography is quite uneven making
13 machinery use quite difficult.

14 Then if you look mauka of Kamehameha
15 Highway in that small finger in Hakipuu as well, most
16 of that area is under permanent conservation in rain
17 shed management, and is managed as such.

18 CHAIRPERSON SCHEUER: Mr. Aczon, any
19 further follow up?

20 COMMISSIONER ACZON: I'm okay. Thank you.

21 CHAIRPERSON SCHEUER: Any further
22 questions, Commissioners? Any redirect?

23 MR. CHIPCHASE: No, Chair.

24 CHAIRPERSON SCHEUER: Thank you very much.
25 Your next witness, Mr. Chipchase.

1 MR. CHIPCHASE: Mr. Schnell, Tom Schnell.

2 CHAIRPERSON SCHEUER: Do you swear or
3 affirm that the testimony you're about to give is the
4 truth?

5 THE WITNESS: I do.

6 TOM SCHNELL

7 Was called as a witness by and on behalf of the
8 Petitioner, was sworn to tell the truth, was examined
9 and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. CHIPCHASE:

12 Q Good morning. Would you please state your
13 name.

14 A My name is Tom Schnell.

15 Q Mr. Schnell, you know, we are here on
16 Kualoa Ranch Important Agriculture Land Petition.

17 I wanted you to orient the Commission as to
18 your role in preparing the assessment which is part
19 of that Petition.

20 A I'm with PBR Hawai'i. We are a land
21 planning and landscape architecture firm. PBR
22 Hawai'i has prepared ten of the 15 agricultural
23 assessment reports that have been in IAL petitions.

24 For this particular project, I was in
25 charge of the project. I supervised and I actually

1 drafted much of the report. I supervised the
2 production of the maps, and I worked with others in
3 our office regarding the designation. We have a lot
4 of experience our firm.

5 Q So, Mr. Schnell, just to jump that, of the
6 ten that PBR prepared, how many of those petitions
7 were you involved with?

8 A I was directly involved in the supervision
9 of two of the petitions that PBR has worked on. I
10 have worked in other capacities on some of the other
11 eight.

12 Q Mr. Schnell, your resume is in evidence, so
13 I don't want to go through all of it. But if you
14 could help us understand your position at PBR and
15 what your responsibilities are?

16 A I'm a principal at PBR Hawai'i. I started
17 with PBR Hawai'i in 1999, so I've been there nearly
18 20 years.

19 As my role as a principal, my niche in the
20 firm is preparing land use planning documents, land
21 use entitlement documents, and I also prepare
22 environmental assessments and environmental impact
23 statements.

24 Q Do you have education or training in land
25 use planning?

1 A I have a Master's degree in urban and
2 regional planning.

3 Q What about any certifications or societies
4 which you belong?

5 A I'm a member of the American Institute of
6 Certified Planners since 1998.

7 Q Mr. Schnell, in your capacity as a
8 principal at PBR and over the course of your career,
9 have you had an opportunity to testify before the
10 Land Use Commission before?

11 A I have had the opportunity to testify
12 before the Land Use Commission on a district boundary
13 amendment and also previous IAL petition.

14 Q In your prior testimonies before the LUC,
15 was that in the capacity as expert witness?

16 A Yes.

17 Q What were you qualified as an expert in?

18 A Land use and environmental planning.

19 Q Do you believe that that description fairly
20 states your expertise?

21 A Yes.

22 Q So, Chair, at this point I would offer Mr.
23 Schnell as an expert in land use and environmental
24 planning.

25 CHAIRPERSON SCHEUER: If you want to

1 qualify him or state on the record that he's an
2 expert, this is a declaratory ruling, it isn't any
3 other kind of proceeding. So I'm not intending to
4 declare expertise.

5 MR. CHIPCHASE: We go through this almost
6 every time, Chair. It is a 91 proceeding ultimately,
7 contested case proceeding. I have asked him to be
8 recognized as an expert.

9 I understand if the Commission is not
10 prepared to do that, or -- but that's what I would
11 put him forward as.

12 CHAIRPERSON SCHEUER: Please continue.

13 Thank you.

14 MR. CHIPCHASE: Mr. Schnell --

15 COMMISSIONER OKUDA: Excuse me --

16 CHAIRPERSON SCHEUER: Commissioner Okuda.

17 COMMISSIONER OKUDA: I'm not sure what the
18 correct point under Roberts Rules. I would ask that
19 the witness be qualified as an expert so that the
20 record here is clear. I believe if we apply the
21 standard under Hawai'i Rules of Evidence which may or
22 may not apply, that standard shows, and I believe his
23 resume shows that he has expertise in the area based
24 on education and experience.

25 So I would, if a formal motion is

1 necessary, I would move that the witness be qualified
2 as an expert and his testimony be so considered.

3 COMMISSIONER ACZON: I think I agree with
4 Commissioner Okuda. I'll second that motion.

5 CHAIRPERSON SCHEUER: Okay. There is a
6 motion and a second on the floor to qualify the
7 witness as an expert as stated by the Petitioner.
8 Any discussion? Okay, no discussion.

9 All in favor? Any opposed? Motion
10 carries. Please continue.

11 COMMISSIONER OHIGASHI: Mr. Chair, I just
12 wanted to make sure that the record -- does the
13 record include the -- I'm not sure if we accepted
14 into the record or we have to accept the form of Mr.
15 Schnell's resume. Is that part of the record?

16 CHAIRPERSON SCHEUER: I believe, Mr.
17 Ohigashi, at the very beginning of the hearing when I
18 noted all the documents received to this point from
19 the Petitioner as well as from the Office of Planning
20 and Department of Agriculture be accepted into the
21 record. The same discussion where we did not accept
22 into the record the very late statement from DPP,
23 that includes Mr. Schnell's resume.

24 COMMISSIONER OHIGASHI: Thank you, Mr.
25 Chairman, I didn't have my sugar in the morning,

1 that's why.

2 Q (By Mr. Chipchase): Mr. Schnell, working
3 with Kualoa Ranch to identify the Petition Area, I
4 would like you to give some sense to the Commission
5 of that process, and how long you worked with Kualoa
6 Ranch to identify the lands that come before the
7 Commission for designation.

8 A So specifically we started working with
9 Kualoa Ranch on this process last November,
10 November 17th, and through the beginning of this
11 year. We went through a series of communication with
12 them, back and forth on what their important
13 agricultural lands are to them. What they consider
14 their core lands. We did site visits. We had
15 multiple discussions with Kualoa Ranch.

16 We also did a series of GIS based maps
17 which we typically do for ag assessment reports, and
18 you'll see some of those maps here. But the maps
19 concern soil quality, soil radiation, availability of
20 water, topography, annual and you'll see those along
21 the way.

22 Q So, Mr. Schnell, you mentioned the mapping
23 that was done, and we will look at a number of
24 mappings. Could you confirm for us that the maps
25 that we will look at during testimony your testimony

1 are all part of the assessment report that is in the
2 record as Exhibit D to the Petition, and that you
3 supervised the preparation of all of those maps?

4 A I did supervise the preparation of all of
5 the maps. I'm not a GIS expert, but we do have that
6 expertise in our office, and I've gone through the
7 process several times, so I know what to ask for in
8 the maps, yes.

9 Q And all of those maps are part of your
10 assessment?

11 A They are.

12 Q Mr. Schnell, I wanted to put up on the
13 screen very briefly the overview of the mapping, the
14 area. We have crosshatched there the proposed
15 Petition Area, and to the right of that or numbers
16 breaking down the total acreage owned by Kualoa Ranch
17 and the total acreage proposed for designation, and
18 the percentage of that represents ag and urban land.

19 A Yes, just let me briefly overview. Kualoa
20 Ranch owns about 3700 acres in the area. A lot of
21 that is in Conservation District. Obviously that's
22 not part of the assessment.

23 There is about 1400 acres within the state
24 ag district. And of the 1400 acres, we're proposing
25 761.55 acres to be designated as Important

1 Agricultural Land, and that's 51.5 percent of their
2 combined agricultural and urban lands, because that's
3 the way the statute reads, but there's about 11 acres
4 of urban lands also that's included in the total
5 lands that this is a majority of.

6 Q Thank you.

7 Like to turn next to the framework for your
8 agricultural assessment. We put up on the screen an
9 excerpt from HRS 205-44 identifying the eight
10 criteria that are looked at when assessing Important
11 Agricultural Land.

12 Did those eight criteria guide your
13 assessment of these lands?

14 A Yes.

15 Q As we go through the mapping, we'll look at
16 the quality of lands as they relate to each category,
17 And I'd like to start with the land currently used
18 for agricultural production.

19 We have on the screen a map that we saw
20 earlier, and David confirmed that all these lands are
21 in agricultural production today. Is that your
22 understanding as well?

23 A Yes.

24 Q Within these lands that are currently used
25 for agricultural production, are you aware of any

1 historic use associated with any traditional crop?

2 A As part of our research, I understand
3 historically that this region was used for production
4 of taro. There is some taro grown in the diversified
5 agricultural section now.

6 Q Of the other crops that are grown, are
7 there any that you recognized or considered as unique
8 or traditional?

9 A I think cacao is definitely a unique crop.
10 Also there's breadfruit growing in the diversified
11 agricultural area that I would consider a unique crop
12 also.

13 Q If I could turn to the next map, so the
14 next category, topography and stream. Walk us
15 through this.

16 A Sure. This map is a combination of things.
17 It's topography and also a slope analysis. I realize
18 at this level it's hard to see, but the orange lines
19 that you see are the topography lines, and obviously
20 the closer the lines are, the steeper the topography.

21 And then the colored areas represent
22 slopes, with the lighter colored areas being the more
23 gentle grades, and the darker color green area being
24 the more steep slopes.

25 So as you would expect, if you look at the

1 slide, especially Kaaawa Valley, relatively gentle
2 slopes are in the center of the valley, and as you
3 get up to the sides it's much more steep slopes.

4 Q So within those more sloped areas, we saw,
5 on our tour, for example, cattle grazing in on our
6 map what would show steeper areas.

7 A That's correct. As you saw on the site
8 visit, the sloped areas are not on a problem for
9 cattle grazing up in those areas. And Taylor
10 explained that cattle have no problem accessing those
11 areas.

12 Q If we could turn to the next map, next
13 series of maps, highlight the soil quality. I'd like
14 to start with the land study which you overlaid here.

15 Would you walk us through this map?

16 A Sure. This is LSB, Land Study Bureau map.
17 One of the standard maps that we do as part of an ag
18 assessment.

19 What this map shows is the LSB ratings for
20 the Petition Area. And you can see that there is a
21 high percentage of E lands designated by the darker
22 color brown area, there is about 70 percent E lands,
23 which I think the Department of Ag mentioned in their
24 letters too that they did not have a concern as far
25 as the utility of those lands.

1 There are also B, C and D lands. And I
2 would just like to mention as far as the E lands, if
3 you look at the entire LSB books or maps for the
4 Island of Oahu, about 62 percent of the lands on Oahu
5 that are designated as ag are E designated land, so
6 we're roughly consistent with the overall percentage
7 of E lands across Oahu for ag.

8 Q In your experience, Mr. Schnell, are these
9 inclusion of C, D, E lands typical on an IAL?

10 A Yes. All of the petitions we prepared have
11 a range of lands.

12 Q The next rating system is the ALISH system,
13 so we put that up on the screen. And we don't need
14 to walk through every part, but can you give us the
15 highlights on this map?

16 A So The important thing about this map i
17 think that stands out to me is that about 82 percent
18 of the land designated in the Petition Area has been
19 rated under the ALISH system. It means it was rated
20 on some level as part of ALISH, Important
21 Agricultural Lands to the State of Hawaii. That's a
22 relatively high percentage of lands for petition area
23 to be rated under ALISH that much.

24 Q The last mapping I would like to look at,
25 solar radiation.

1 Can you help us understand what this map
2 is?

3 A This graphically represents the solar
4 radiation where the warmer colors indicate more solar
5 radiation than the more cooler colors, such as green
6 towards the back of the valley.

7 It indicates that the Petition Area
8 receives an adequate amount of solar radiation.

9 Q So, Mr. Schnell, taking these maps into
10 account, the LSB, ALISH, solar radiation map, in your
11 opinion do the lands that have been set for
12 designation have soil quality and growing condition
13 to support the agricultural production of food?

14 A They do.

15 Q I'd like to turn to another category under
16 the -- actually and another aspect of important for
17 IAL, and that is infrastructure and water.

18 We heard from both witnesses so as far
19 something about the infrastructure for Kualoa Ranch.
20 Taylor testified at length about how that supports
21 the operation.

22 You visually depicted some of those
23 infrastructure elements and I would like you to walk
24 us through this map.

25 A Sure. So this map shows graphically some

1 of the agricultural infrastructure on the property.
2 Most prominently you can see some of the agricultural
3 roads that go through the property. What you can
4 also see denoted by symbols are symbols for the
5 locations of the wells, also a water tank, a
6 composting facility.

7 And what is not shown on here, but there
8 are agricultural fences, gates. There is an entire
9 system in support of agriculture.

10 Q And what about accessibility markets?

11 A The properties is directly adjacent to
12 Kamehameha Highway that allows direct access to
13 marker.

14 Also you've heard that they are their own
15 market where people can come to the Visitor Center
16 and purchase the products.

17 Q What has always jumped out at me on this
18 map is that the areas proposed for IAL are
19 contiguous, they all connect.

20 Can you explain to us a little bit about
21 the importance of having contiguous land as part of a
22 single IAL designation?

23 A As part of the IAL operation, and also --
24 Kualoa Ranch's agricultural operation, it's important
25 to have a contiguous area for land management, for

1 conservation, back to land management to manage the
2 lands as one cohesive agricultural unit. And Taylor
3 explained how they have various areas for their
4 cattle operations that are unique areas, but it's a
5 contiguous operation, and they move the cattle back
6 and forth between different areas.

7 Q I would like to turn, if we can, Mr.
8 Schnell, to the state and city mapping starting with
9 the State Land Use District. We will go quickly.

10 I'd like to first confirm that the entire
11 Petition Area is part of the State Agricultural
12 District.

13 A The entire area is part of the State
14 Agricultural District.

15 Q What about on the city plan? I understand
16 we sit between community plan?

17 A So we straddle two community plan areas.
18 The Koolaupoko sustainable community plan, and the
19 Koolauloa sustainable community plan. This map we
20 have combined them both so you can see the entire
21 area of Kualoa's land.

22 The important thing about these both
23 community plans designate the area for agricultural
24 use. There are some areas for preservation along the
25 stream edges. But in general the community plans

1 designate the lands for agricultural use were
2 consistent with that designation.

3 Q And lastly, what about the city zoning.
4 How does the city zone this area?

5 A All of the land is zoned AG 2 or restricted
6 agriculture.

7 Q Mr. Schnell, we looked at this map during
8 Taylor's testimony, and he talked about it from a
9 practical farmer's perspective, and that is the
10 difference between the mapping, or proposed
11 designation by Kualoa Ranch, and the mapping the city
12 has done so far for its potential designation.

13 I was hoping that you could explore this
14 mapping from a technical or planning perspective and
15 talk to us about the different approach between
16 Kualoa Ranch and the city.

17 A So my understanding, I have been following
18 the city's IAL designation process for quite
19 sometime. The orange areas on this map represent
20 what the city is proposing in this area for IAL
21 designation.

22 As Cal said, it's a draft. We don't know
23 how their final designation will come out. But my
24 understanding of the process that the city went
25 through is that they used GIS extensively. Out of

1 the eight criteria for designation of IAL, they had
2 three criteria that they chose: Land currently in
3 ag, soil productivity ratings, and sufficient water
4 to support agricultural use.

5 And then in preparing the map that's their
6 current version of their draft, if the lands met one
7 of those criteria, it showed up on their maps.

8 In contrast with Kualoa Ranch, we went
9 through an extensive GIS exercise, and we also went
10 through practical knowledge of what they are growing
11 on the land and where their agricultural areas are.

12 And we meet -- with our designation, we
13 meet all of the eight IAL criteria in some fashion.

14 Q And so, Mr. Schnell, in looking at those
15 eight criteria, I was hoping you could tell us, in
16 your view, how designating these lands helps maintain
17 critical mass of agricultural lands in the state?

18 A So historically we have learned or you know
19 that the lands have been managed as a whole for at
20 least since 1850. Their land has historically been
21 used for agriculture since the ranch obtained the
22 lands. They are currently used for agriculture, and
23 their plan to designate it on State Land Use
24 District, community plans and county zoning for
25 continued agriculture use.

1 Q So taking all of that into account, in your
2 opinion, do these lands meet the qualifications for
3 IAL designation?

4 A They do. And they meet -- they meet eight
5 of the eight criteria in some fashion.

6 Q Thank you, Mr. Schnell.

7 MR. CHIPCHASE: Chair, I have no further
8 questions.

9 CHAIRPERSON SCHEUER: Department of
10 Agriculture, any questions?

11 MR. YAMAMOTO: No questions.

12 MS. APUNA: No questions.

13 CHAIRPERSON SCHEUER: Commissioners?
14 Commissioner Aczon.

15 COMMISSIONER ACZON: I just want to thank
16 you for your testimony. It kind of answered all of
17 my questions. Thank you for that.

18 CHAIRPERSON SCHEUER: Commissioner Wong.

19 COMMISSIONER WONG: Just on the slide that
20 was Agricultural Land of Importance to the State of
21 Hawaii, just for my own knowledge, it says "prime",
22 "unique", and what does "other" mean?

23 THE WITNESS: So there is prime, that was
24 generally it was considered -- it's considered good
25 soils and good access, and also I think one of the

1 criteria for prime was access for mechanical
2 tilability and such.

3 So that's the criteria. Unique was unique
4 crops that are grown in Hawai'i specifically, let's
5 say coffee or some other unique crop, so there's a
6 category for that.

7 Other was also considered Important
8 Agriculture Land, but based on different criteria or
9 based on different conditions, let's say, topography
10 or rainfall or something. It didn't have enough
11 capability for year round production, but still
12 considered Important Agriculture Land.

13 COMMISSIONER WONG: Thank you.

14 CHAIRPERSON SCHEUER: Commissioner Cabral.

15 VICE CHAIR CABRAL: Yes, thank you.

16 In your 205 decisions of the eight
17 criteria, I don't see anything that talks about
18 aquaculture, so is that one of the reasons that
19 you're not designating the aquaculture lands?

20 THE WITNESS: In our diversified
21 agriculture area, we do have an area that has
22 aquaculture ponds. You see the pink area up at the
23 top? I can't read that --

24 VICE CHAIR CABRAL: It's B on one of your
25 lists.

1 THE WITNESS: There is a light blue area,
2 that's where the aquaculture pond within the Petition
3 Area.

4 VICE CHAIR CABRAL: It is within your
5 Petition Area. I have a lot of colored maps here.

6 That was my only question. In your Land
7 Study Bureau, LSB, map, you go through the A, B, C, D
8 and E, and there was a lot of reference to that.

9 You only have that small little area on the
10 very top that jetties out that's green on both maps.
11 That looks like it's got some aquaculture in that, so
12 what makes that B as opposed to the other things as
13 versus D, C and E?

14 It's your Land Study Bureau map, that's got
15 A, B, C, D, and E productivity ratings on it, Figure
16 4.

17 THE WITNESS: Yes, that's Figure 4, Exhibit
18 D of the Petition.

19 VICE CHAIR CABRAL: So up there, that top
20 little corner is the only thing that you have nothing
21 on there that you're showing as A, but got only that
22 little spot that's B. What's going up there that
23 makes it different?

24 THE WITNESS: The last study Bureau ratings
25 where based on soil types, and the more productive

1 type of soil types for crops were rated at a higher
2 rating. So this area for the LSB area was rated as
3 B, and that's one of the reasons why this is
4 primarily the diversified agriculture area, because
5 soil based crops can grow well in these soils.

6 CHAIRPERSON SCHEUER: Commissioner
7 Ohigashi.

8 COMMISSIONER OHIGASHI: You indicated that
9 you have been following the city and county's
10 progress in determining IAL lands.

11 THE WITNESS: That's correct, I have.

12 COMMISSIONER OHIGASHI: Is your firm a
13 participant or contracted to the city to do any of
14 the planning, a system in the designation?

15 THE WITNESS: No, PBR was not contracted.
16 Another planning firm was.

17 COMMISSIONER OHIGASHI: Are you able to
18 tell us what -- how far they've progressed in
19 their --

20 THE WITNESS: I'll tell you to the best
21 that I know. I have been following. I think they
22 did have a community meeting where they showed the
23 latest draft maps in October or November last year.
24 And then what I heard at the beginning of this year
25 was that they were planning to go to the Planning

1 Commission with their maps, go through the Planning
2 Commission process in the first quarter of 2018.
3 That didn't happen.

4 In meetings I've been with DPP most
5 recently in June, they said they plan to take their
6 maps to the Planning Commission in 2018, and that's
7 as far as I know.

8 COMMISSIONER OHIGASHI: Thank you.

9 CHAIRPERSON SCHEUER: Mr. Okuda.

10 COMMISSIONER OKUDA: Thank you, Mr. Chair.

11 Mr. Schnell, going to the LSB, Land Study
12 Bureau ratings, is it true that those ratings were
13 basically designed through the lens of determining
14 what lands would be suitable or productive for big
15 sugar and big pineapple?

16 THE WITNESS: I would say generally that's
17 a true statement. The LSB ratings were done from
18 about 1965 to 1972. And obviously, that's a time in
19 Hawai'i where sugarcane and pineapple production was
20 at a peak.

21 So if you look at the LSB maps, it's common
22 to see that high rated lands are where sugar
23 plantations or pineapple plantations were.

24 COMMISSIONER OKUDA: I'm not advocating
25 ignoring those ratings, or the LSB maps or findings

1 or anything like that, because we should consider all
2 relevant evidence in making these decisions, but
3 would it be a fair statement to also say that
4 depending on the actual use, the actual use some
5 cases might be more material than solely relying on
6 the LSB ratings?

7 THE WITNESS: I would say that's correct.
8 I would say in general there's a caveat in one of the
9 LSB reports that says farmers generally know the
10 productivity of their lands better, because they're
11 actually on the land, than maybe a study would show.

12 COMMISSIONER OKUDA: So in other words,
13 even though there is exceptions to any rule, it's
14 important to actually look at what's actually taking
15 place and not -- I don't want to say blindly relying
16 on ratings -- but we should really concentrate on
17 looking at what is actually taking place.

18 Is that a fair statement?

19 THE WITNESS: That's a fair statement, yes.

20 COMMISSIONER OKUDA: Final question.

21 Did you review or see the submittal
22 prepared by the Department of Agriculture? Do you
23 have any comments on that?

24 THE WITNESS: You mean their comment letter
25 on this Petition?

1 COMMISSIONER OKUDA: Yes, that's correct.

2 THE WITNESS: I did read that letter. I
3 thought they did a very thorough analysis in regard
4 to conformance with each of the criteria.

5 COMMISSIONER OKUDA: Thank you very much.

6 CHAIRPERSON SCHEUER: Commissioner Wong?

7 COMMISSIONER WONG: No.

8 CHAIRPERSON SCHEUER: Any other questions,
9 Commissioners? I think we can move to your final
10 witness, Mr. Chipchase.

11 MR. CHIPCHASE: Yes, Chair. Just one quick
12 clarification for Commissioner Cabral.

13 There is an aquacultural area that is
14 Conservation District, so also could not have been
15 included even if we wanted to.

16 VICE CHAIR CABRAL: That's what is blue on
17 this area -- there's two big blue areas. Thank you.

18 MR. CHIPCHASE: You're very welcome.

19 My final witness is John Morgan.

20 CHAIRPERSON SCHEUER: Still morning. Good
21 morning.

22 THE WITNESS: Good morning, Chair,
23 Commissioners.

24 CHAIRPERSON SCHEUER: Do you swear or
25 affirm that the testimony you're about to give is the

1 truth?

2 THE WITNESS: I do.

3 CHAIRPERSON SCHEUER: Please proceed.

4 JOHN MORGAN

5 Was called as a witness by and for the Petitioner,
6 was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. CHIPCHASE:

10 Q Please state your name.

11 A John Morgan.

12 Q John, would you describe your relationship
13 to Kualoa Ranch?

14 A Like my brother, I'm part of the sixth
15 generation of our family that's been the stewards of
16 this land.

17 Q In addition to that, you also have a
18 leadership role at Kualoa Ranch?

19 A I do, as the light says, CEO, president and
20 general manager.

21 Q As the CEO, president and general manager,
22 what falls within your responsibility?

23 A Everything. The buck stops here.

24 Q Then we have the right guy.

25 John, I assume those aren't the first jobs

1 you held at Kualoa Ranch. What is your experience,
2 in addition to growing up on the ranch, what is your
3 experience working for the ranch?

4 A I've held a number of positions. I just
5 celebrated 45 years working there. So when you start
6 very young as a teenager, I was fixing fences,
7 chasing cows on horseback back then. We still do
8 occasionally.

9 But spraying herbicide in the pastures,
10 carrying irrigation pipe, cutting flowers for our
11 tropical flower operation, taking trail rides out,
12 and all kinds of different jobs, but that's how I
13 started.

14 Q So, John, between you and your brother,
15 your brother and you, having grown up around the
16 ranch, and you having worked there for 45 years, is
17 it fair to say that nobody knows those lands better
18 than you and your brother?

19 A I think that's a fair statement.

20 Q How do you, as a sixth generation farmer
21 there see your legacy, the ranch's legacy and
22 mission?

23 A Our mission is to preserve the land
24 forever. It's been 168 years in our kuleana, and we
25 take it very seriously that it's our kuleana to

1 shepherd it forward.

2 Q We have talked a lot about today, a lot of
3 testimony today focused on the agricultural operation
4 at Kualoa Ranch, its principle uses, but they're with
5 accessory uses, as we heard from Taylor, that support
6 that agriculture.

7 I would like to talk a little bit about
8 those uses for the Commission.

9 What accessory uses occur in the Petition
10 Area?

11 A We basically do tours. We do -- for us the
12 term "tours" includes a wide variety of ways that we
13 have guests come and experience the property,
14 experience the ag. And they could be narrated tours.
15 They could be horseback tours. They could be Atv
16 tours. They could be zipline tours. We have
17 mountain bikes, but each one of them is a way for
18 people to get into the property and experience what
19 the property has to offer.

20 Q And how long has these uses, agriculture
21 and tourism, existed at the ranch?

22 A We started horseback rides in the early
23 '70s, and then we expanded, through a SUP and CUP
24 into other activities into 1985.

25 Q Can you describe the ways in which that

1 ability to show people the ranch, the land, the
2 agriculture, how does that support your ability to
3 continue agriculture and to expand your agriculture
4 operations?

5 A Clearly it's a financial, economic business
6 model. So I think, as Taylor and David said, and a
7 lot of us know already, agriculture in Hawai'i is not
8 easy. And especially if you're relying on the
9 wholesale model, wholesale, retail value added and
10 experiential all the different ways you can turn an
11 ag product into revenue.

12 So for us, especially in a relatively small
13 operation, it was just economically impossible to
14 sustain the whole place on ag alone, so we had to
15 develop a business, and it wasn't a straight line of
16 success, it was, you know, we had our challenges
17 along the way. But I think we found a model now that
18 really works for us.

19 Q As a guy here today who has seen the ranch
20 back before even there were horseback rides or
21 horseback tours, all the way to today, the synergy
22 between your ag uses and your principle uses, do you
23 see any interference or any conflict between those
24 uses?

25 A Aside from the occasional gate that's left

1 open, that frustrates Taylor and the cattle
2 operation, no, there is no conflict whatsoever. It's
3 very symbiotic.

4 Q David touched on this little bit, but what
5 I wanted to hear from your perspective, what is the
6 family's long-term plan? What is your vision for
7 Kualoa Ranch in ag and as a whole?

8 A Again, our goal is long-term sustainability
9 and stewardship of the property. And we're lucky
10 from the business model perspective, and how it
11 relates to agriculture. Again, it's kind of a
12 personal mission to try to expose the public to ag,
13 but we have found through our experience that doing
14 that makes the visitor side even more valuable.

15 So each time we develop, like Taylor had
16 showed, like a piggery, that's more value added to
17 the experience of our guests. So our long-term goal
18 is to continue to be good stewards of the property,
19 to continue to develop as we can new ways to make the
20 land more productive as Taylor alluded to.

21 We look at productivity very seriously, and
22 the more we can make it productive, the more
23 agriculture happens, and the better story it is
24 honestly, so we are selfish from that perspective.
25 Success in ag breeds success in visitors, which feeds

1 back to ag.

2 Q So is it fair to say then, having authentic
3 real agricultural operation is central to being able
4 to bring the visitors to see?

5 A Correct.

6 Q And that bringing visitors to see it is
7 essential to sustaining and growing an authentic ag
8 operation?

9 A Correct.

10 MR. CHIPCHASE: Thank you, Chair, I have no
11 further questions.

12 CHAIRPERSON SCHEUER: Department of
13 Agriculture?

14 MR. YAMAMOTO: No questions.

15 MS. APUNA: I do have a few.

16 CROSS-EXAMINATION

17 BY MR. APUNA:

18 Q Thank you for your testimony.

19 The first question I had, were you able to
20 look at Office of Planning's decision?

21 A I think there was some concerns about the
22 accessory uses.

23 Q Well, we actually proposed two conditions
24 to the Petition. Were you able to read those?

25 A Yes. As I recall one was amended, correct.

1 Q Yes. Did you look at the amended
2 condition?

3 A Yes. We appreciate removing the word
4 "approve" and but we would still like to be consulted
5 in the process of any SUP and CUP proposed
6 activities.

7 Q Correct.

8 So you're agreeable to that condition as
9 amended?

10 A We'd rather not have that additional
11 hurdle, but I think we can live with it.

12 Q And then my second question was:

13 You spoke about the tourist activities and
14 the balancing between that and the agriculture.

15 Are you at capacity now? Are you looking
16 to expand? And when do you know you've reached a
17 limit as far as non-ag activity.

18 There must be a balance, so when do you
19 know that you can't go any further?

20 A I appreciate that. That's a very good
21 question. That's one we ask ourselves a lot.

22 It's one -- there's a couple of parts to
23 that question is who determines it? And when do you
24 reach it?

25 So we feel very strongly that we should be

1 the determining, because we're the closest to the
2 operation. As a matter of fact, we're looking at
3 Atv's right now as a way -- we think we have enough
4 Atv's. So we would like to grow our business, but we
5 don't want to have any more Atv's.

6 One of the ways to do that, let's convert
7 from single passenger Atv to multi-passenger Atv.
8 And we get more customers and more revenues. So
9 that's just a small example saying we don't think
10 there is any environmental damage whatsoever, no
11 community impact whatsoever, but we would rather not
12 see as many Atv's on the property.

13 So that's just us looking at the operation.
14 And then partially impacts other guests, because, you
15 know, if you can hear more -- so I guess that's an
16 example of us taking a look at the carrying capacity
17 and saying maybe we should come up with something
18 different.

19 When it comes up to things like, there's
20 always discussions about is there anything else we
21 can do. We just had a discussion yesterday -- I had
22 one with my sales director -- is there a market for
23 hiking? Well, we don't think if we had a hike, if
24 people would pay for a hike, that that would
25 negatively impact anything.

1 So from the perspective of do we want to
2 expand, we will expand when we think it's
3 appropriate. If it doesn't do any environmental
4 damage, any community disruption or affect the
5 agriculture operation.

6 Q Thank you.

7 CHAIRPERSON SCHEUER: Commissioners?
8 Commissioner Okuda.

9 COMMISSIONER OKUDA: Mr. Morgan, even
10 though we were looking present and forward, I would
11 like a little additional information to the record
12 that was placed in your Petition that was filed here.

13 Your ancestor Dr. Gerrit Judd. What is
14 your relationship to Dr. Judd, first of all?

15 THE WITNESS: He was my great, great, great
16 grandfather.

17 COMMISSIONER OKUDA: And what was his
18 relationship to the Hawaiian monarchy?

19 THE WITNESS: He had a number of positions,
20 three of which were the Minister of Finance, the
21 Minister of Foreign Affairs, and the Minister of the
22 Interior in successive -- I'm not sure of the order,
23 but those are the three formal ministerial positions
24 that he had besides being a confidant of the king.

25 Q Based on your knowledge of your family

1 history, did that relationship to the ali'i have
2 anything to do with the acquisition of Kualoa Ranch
3 property which you kept in your family?

4 THE WITNESS: I would presume so. The
5 Mahele happened and there's a disposition of land all
6 over Hawai'i, and it was a purchase of the land, it
7 was the king's personal land. But presumably, given
8 the lore and legacy of Kualoa as we know it, there
9 was reasons why he sold it to Dr. Judd rather than
10 somebody else.

11 COMMISSIONER OKUDA: And you have described
12 or used the word "steward" in your testimony. What
13 do you mean by that?

14 THE WITNESS: Responsibility. It's a
15 kuleana.

16 COMMISSIONER OKUDA: Thank you. I have no
17 further questions.

18 CHAIRPERSON SCHEUER: Any Commissioners?
19 Commissioner Cabral.

20 VICE CHAIR CABRAL: I'll stay quiet.

21 CHAIRPERSON SCHEUER: Moving to my left,
22 Commissioners?

23 Mr. Morgan, if I may, can you just explain
24 for me -- it's a delight to know of long-standing
25 commitments to agriculture in Hawaiian, many other

1 entities as we know have appeared in front of
2 different state boards and commissions and professed
3 longstanding agriculture and gotten out of it the
4 next year.

5 You have this long standing commitment, and
6 approaching this IAL as part of that long standing
7 commitment. But I'm interested in what is motivating
8 you to seek IAL designation of your lands at this
9 time. Because in my role on the Land Use Commission
10 has been interested in how well IAL does or does not
11 work towards its intended purpose.

12 THE WITNESS: Very good question.

13 My understanding is the legislature created
14 this process, and the intent of the process and the
15 legislative intent was to preserve that which is
16 important about Hawai'i, or at least what is
17 important about Hawai'i. And to that end we support
18 that.

19 We think agriculture is important on Oahu,
20 it's important in Hawai'i in general, and the
21 legislature and part of the law that it was created
22 by it had the provision that either the county will
23 designate or a private landowner could come in and
24 self-designate.

25 And so we thought it would be better to

1 participate in the process and self-designate than
2 wait and see what happened.

3 CHAIRPERSON SCHEUER: So there was, if I
4 may, some concern if you simply allow the county to
5 designate their designation of IAL might restrict
6 some of the kind of activities that you would want to
7 do on some of your lands?

8 THE WITNESS: Correct. We are atypical, I
9 think, in both the property in general, and in
10 agricultural property. We've been a leader in all
11 kind of multiple use, accessory use, and while we
12 think it's worked incredibly well, we realize that
13 going into the future with SUP, CUP, all the
14 different processes, that not everybody might see
15 everything that we do now or may do in the future the
16 same as we do, so we thought we'd be proactive.

17 CHAIRPERSON SCHEUER: Thank you. Any other
18 Commissioner? Mr. Chipchase?

19 I have to say, getting Commissioner Cabral
20 to talk about ag is not that difficult.

21 VICE CHAIR CABRAL: I know my horse is down
22 in South Point now.

23 I do want to absolutely commend you,
24 because I do totally appreciate how difficult it is
25 to make a living on agriculture, and it's a little

1 scary on all levels of agriculture. We all need it,
2 but nobody wants to pay for it, and the farmer and
3 ranchers are the ones that take it, every weather
4 change, everything that could happen to the person at
5 that level, and yet we all gripe -- you know we'll
6 pay 20 bucks for a couple cups of coffee or pay five
7 even for a pound of tomatoes, so I appreciate your
8 efforts there, and absolutely on this island with the
9 cost of real estate, I cannot imagine, I mean, wow
10 you, because the most financially advantageous crop
11 you could grow is houses.

12 So the fact that you're willing to try and
13 stay away from that on such a large scope of your
14 land, and I know not all of lands are in this, most
15 are in Conservation. I want to commend you in that,
16 and I share in your frustration. This morning I came
17 out of my driveway and down on the county road. I
18 came around the corner and there was one huge bull
19 size steer dead center in the middle of the county
20 roadway. Somebody's fence got left open. I almost
21 made hamburger this morning. So I do appreciate your
22 frustration.

23 CHAIRPERSON SCHEUER: Anything further, Mr.
24 Chipchase?

25 MR. CHIPCHASE: Chair, the only thing

1 further was to maybe explain to the Commission
2 between the witness and Office of Planning regarding
3 the condition referred to. I wasn't sure if that was
4 clear, so I thought I would take an opportunity to
5 clear that up.

6 In the Office of Planning's submission
7 there are two conditions attached to it. One of
8 those conditions we didn't agree with. So we had an
9 opportunity to meet with Office of Planning yesterday
10 and talk about that condition.

11 As a result of those discussions, there was
12 a revised condition proposed by Office of Planning,
13 that has been submitted to the Commission and
14 incorporated as part of our Findings of Fact,
15 Conclusions of Law, and Condition and Order. We
16 regard that condition as largely duplicating Office
17 of Planning's role, as it stands under statute and
18 under Planning Commission rule.

19 So as John testified, while you don't want
20 conditions, we do accept that condition and don't
21 propose any objection to it.

22 CHAIRPERSON SCHEUER: Thank you. One
23 moment. Did you want to discuss the substance of
24 this issue? I suggest -- it's about time for a
25 break. I think after once Mr. Chipchase is

1 concluded, Department of Agriculture will have a
2 chance to present, then OP, that's when I think we
3 will have a chance to directly discuss with OP their
4 proposed --

5 MR. CHIPCHASE: Very good.

6 CHAIRPERSON SCHEUER: Are you done?

7 MR. CHIPCHASE: Yes, Mr. Chair.

8 CHAIRPERSON SCHEUER: It's now 11:03.

9 We'll come back exactly at 11:13.

10 (Recess taken.)

11 CHAIRPERSON SCHEUER: During the break, Mr.
12 Funakoshi of Office of Planning reminded me the
13 proper order should be Office of Planning and then
14 the Department of Agriculture. Ms. Apuna.

15 MS. APUNA: For the record, Deputy Attorney
16 General, Dawn Apuna. Here with me today is Lorene
17 Maki and Rodney Funakoshi.

18 Generally the Office of Planning supports
19 the petition with conditions, and Rodney will provide
20 some of the details in outlining our position.

21 CHAIRPERSON SCHEUER: Do you swear or
22 affirm that the testimony you're about to give is the
23 truth?

24 THE WITNESS: Yes. May I stay here?

25 CHAIRPERSON SCHEUER: Yes.

1 COURT REPORTER: I know you'd like to stay
2 there, but I can hear you a lot better if you sit
3 next to me.

4 CHAIRPERSON SCHEUER: The Chair has been
5 overruled by the court reporter, appropriately so.
6 Apparently we have two vice chairs but no vice court
7 reporter.

8 Please proceed.

9 RODNEY FUNAKOSHI
10 Was called as a witness by and on behalf of the
11 Office of Planning, was sworn to tell the truth, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 THE WITNESS: I'm Rodney Funakoshi with
15 State Office of Planning Land Use Commission, and I'm
16 going to summarize the Office of Planning's position
17 on the Kualoa proposed IAL.

18 The Office of Planning thanks Kualoa Ranch
19 in petition for voluntary participation in the
20 designation of Important Agricultural Lands. OP
21 summarily recommends that the Land Use Commission
22 approval all 761.55 acres in the Petition Area as IAL
23 with conditions to mitigate impacts that may result
24 from the existing and proposed modification to the
25 Petitioner's State Special Permit.

1 So we note that in December 2017 the city
2 issued a draft environmental assessment for Kualoa
3 Ranch improvements. However, this draft EA was not
4 mentioned or discussed in the IAL Petition. It does
5 however mention in the EA modifications that will be
6 made that basically will allow for the expansion of
7 uses within the area, including potentially, of
8 course, within the proposed IAL area.

9 So these would include the allowance for
10 agricultural and other tours with no limit on trails,
11 increasing the number of guests per day, increasing
12 the number of recreational vehicles, the allowance of
13 field production, wedding, and to also understand
14 that the Petitioner has not yet submitted an
15 application for the amendment of the Special Permit
16 to the Department of Planning and Permitting.

17 As part of the subject IAL Petition, there
18 has not been included any information, discussion or
19 maps showing the existing and proposed modifications
20 to the Petition State Special Permit and Conditional
21 Use Permit.

22 So OP is concerned that these other uses
23 may conflict with bonafide agricultural uses for the
24 proposed IAL areas. And in particular, we do want
25 Petitioner to clarify the extent of unpermitted uses

1 within the proposed IAL which will be part of the
2 forthcoming special permit.

3 Relative to the IAL itself, OP acknowledges
4 that the proposed IAL areas meet all or portions of
5 all the eight IAL criteria. We have no objections,
6 and therefore are recommending the designation of all
7 of it.

8 We do, however, wish to recommend two
9 conditions. One, is that a condition approval be
10 imposed waiving any and all rights to credits
11 underneath 205-45H as represented by the Petitioner.
12 This has become more or less a standard condition
13 that the Petitioner shall comply with the
14 representations made to the Commission with respect
15 to disclaiming any credit described in HRS 205-45H
16 with respect to the Petition Area.

17 We remain concerned that during the
18 forthcoming Special Use Permit process, Petitioner
19 nonagricultural activities may conflict with and
20 adversely affect IAL uses.

21 Accordingly, we recommend a condition that
22 has been modified based on discussions with the
23 Petitioner as follows: So I'll read it, although
24 copies have been distributed to the parties and the
25 Commission. So it would read:

1 Any special permit application or
2 modification thereto for lands within or adjacent to
3 the Petition Area shall be provided to the State
4 Office of Planning and Department of Agriculture for
5 review and recommendations relative to impacts and
6 consistency with the objectives and policies in
7 Hawai'i Revised Statute Chapter 205, part 3,
8 Important Agricultural Land.

9 The other thing we note for the Commission
10 is that the Petition Area constitutes approximately
11 51 percent of all lands owned by the Petitioner
12 within the State Agricultural and Urban Land Use
13 Districts, thus under 205-49A3 the Commission is
14 barred from designating any additional land owned by
15 the Petitioner that may be identified by the city for
16 designation as IAL.

17 So thank you for the opportunity to comment
18 on the Petition.

19 CHAIRPERSON SCHEUER: You don't have any
20 questions for your witness.

21 MS. APUNA: No questions.

22 CHAIRPERSON SCHEUER: Mr. Chipchase.

23 MR. CHIPCHASE: No questions, Chair. No
24 questions.

25 CHAIRPERSON SCHEUER: Department of

1 Agriculture.

2 MR. YAMAMOTO: No questions.

3 CHAIRPERSON SCHEUER: Commissioners?

4 Commissioner Okuda.

5 COMMISSIONER OKUDA: Mr. Funakoshi, we
6 really do thank you, the Office of Planning and the
7 Department of agriculture for your input, because we
8 don't have the expertise that many of you folks have,
9 and we do look to you as basically the custodian of
10 the public trust, under our state constitution, but I
11 do have a question about this proposed modified
12 condition or the condition that was modified
13 apparently in discussion with the Petitioner Kualoa
14 Ranch about that, you know, that Special Permit
15 Application or modifications shall be provided to OP
16 or Department of Agriculture for review and the items
17 that you discussed.

18 Can you tell me where in the statute the
19 Land Use Commission even has the authority to impose
20 such a condition? And your deputy can assist you,
21 and if you need time to consult, if the Chair would
22 allow consultation.

23 CHAIRPERSON SCHEUER: Or you can phone a
24 friend, I think.

25 COMMISSIONER OKUDA: Let me tell you why.

1 I'm not saying -- I was not prejudging whether or not
2 such a condition should be adopted or should not
3 be -- should be or should not be adopted.

4 This question has no preconception or
5 predisposition, but before we even consider it, I
6 think we have to know whether or not we have the
7 authority to even request or impose such a condition.

8 THE WITNESS: That's probably a fair
9 question. This is Declaratory Order, and not a
10 petition per se, so, you know, but in the past
11 conditions have been imposed similar to, for example,
12 waiving the rights to the so-called 85-15 rule
13 relative to automatic designation to urbanized lands,
14 so that condition has been imposed, and so only when
15 we feel it's necessary to provide something that
16 would help ensure that our interests are preserved
17 would we recommend such a condition.

18 And in this case, given the uncertainty of
19 pending actions by the Petitioner, that could affect,
20 for example, this would be potentially for special
21 permit that involves IAL, that special permit has not
22 been done for IAL in the past, so this is more to
23 ensure that whatever happens is consistent.

24 Mr. Chipchase has already pointed out that
25 in actuality OP has already -- and Department of

1 Agriculture -- has already required in the statute to
2 review special permits processed by the county.
3 Although implementation of that has not been
4 100 percent.

5 CHAIRPERSON SCHEUER: If I may interject.
6 I think to -- legal authority was the question.

7 THE WITNESS: It's unclear.

8 COMMISSIONER OKUDA: Chair is correct. I
9 wasn't asking for explanation, asking for whether
10 anyone can point us to the specific statutory
11 authority that would give us the authority to impose
12 such a condition.

13 CHAIRPERSON SCHEUER: Ms. Apuna, did you
14 have anything to add?

15 MS. APUNA: I don't have it readily
16 available as far as the authority. I couldn't -- I
17 don't have that right now.

18 CHAIRPERSON SCHEUER: Commissioner Wong.

19 COMMISSIONER WONG: I would like to make
20 motion to move into Executive Session to consult with
21 the Board's attorney on the question pertaining to
22 Board's authority, duties, privileges and immunities
23 about this issue.

24 COMMISSIONER OKUDA: I second.

25 CHAIRPERSON SCHEUER: There has been a

1 motion made by Commissioner Wong and seconded by
2 Commissioner Okuda to go into Executive Session to
3 consult with our counsel particularly back to this
4 legal question as to the Land Use Commission ability
5 to place conditions on Declaratory Order.

6 Any discussion over the motion? Hearing
7 none, all in favor? Any opposed? Motion carries.
8 We're going into executive session.

9 (Executive Session.)

10 CHAIRPERSON SCHEUER: We still have Mr.
11 Funakoshi on the stand. Any further questions from
12 the Commissioners for Mr. Funakoshi? Anything more
13 OP?

14 MS. APUNA: I guess I would just add that
15 we had discussions with the Petitioner and we were at
16 agreement as far as the conditions, and like Mr.
17 Funakoshi had said, conditions that were placed in
18 these IAL designation by the Commission in prior
19 petitions. So if the parties are agreeable I don't
20 think it's a problem to include the conditions.

21 COMMISSIONER OKUDA: Chair, if I could just
22 state my position just for the record. Not saying I
23 speak for everyone, but I think the term "condition",
24 we have to be very careful about how we use it. For
25 example, what's been often colloquially called

1 "condition" that in the IAL order granting or
2 decision order granting the IAL petition be recorded
3 at the bureau, even though that might be termed
4 described by the use of the word "condition", it
5 really is more an instruction to record the decision
6 at the bureau, so there would be proper notice of
7 what this means as the title.

8 And as far as what's been described
9 sometimes as a condition, applicants or petitioners
10 waiving certain rights or credits, I'm not sure if I
11 would term or describe that as a pure condition,
12 because that's more the fact that the parties or the
13 party agreed to waive something.

14 So that's the distinction I would make
15 between what's happened in some of the documents,
16 might be unfortunate that the term condition is used,
17 but my question with respect to the present issue is
18 a little bit more precise question about authority to
19 make the condition.

20 CHAIRPERSON SCHEUER: Thank you, Mr. Okuda.

21 Any other statements from the Commissioners
22 at this point? If OP is done, we will move on to
23 Department of Agriculture and please introduce
24 yourself.

25 Still good morning.

1 Do you swear or affirm that the testimony
2 you're about to give is the truth?

3 THE WITNESS: I do.

4 CHAIRPERSON SCHEUER: Please state your
5 name and title for the record.

6 THE WITNESS: I'm Earl Yamamoto, Planner at
7 Department of Agriculture, 1428 South King Street,
8 Honolulu.

9 CHAIRPERSON SCHEUER: You can proceed with
10 your presentation to the Commission.

11 EARL YAMAMOTO
12 Was called as a witness by Department of Agriculture,
13 was sworn to tell the truth, was examined and
14 testified as follows:

15 DIRECT EXAMINATION

16 THE WITNESS: The Department of Agriculture
17 also supports the Petitioner's request to have
18 designated 761.55 acres of lands out in Kualoa as
19 Important Agricultural Lands.

20 We also have a concern about the
21 amendments, the proposed, at least what we understand
22 the proposed amendments to their existing Special Use
23 Permit and Conditional Use Permit, but putting that
24 aside for now, with respect to the eight criteria, we
25 also believe that all criteria have been met,

1 particularly with respect to the first one, current
2 agricultural activity, agricultural production.

3 The department also considered other
4 information, including the information that we can
5 get from the 2015 Statewide Agricultural Land Use
6 Baseline. That was done statewide, and it actually
7 took an inventory of the agricultural activities on
8 the ground at the time.

9 And that study does confirm the area is
10 used for -- the IAL Petition area is used for
11 pasture, for grazing.

12 Another indication of agricultural activity
13 is the tax dedication status of the property
14 according to the city's real property tax division.
15 And it is all dedicated to agricultural activity for
16 a five-year period, which I presume is pasture, and
17 it's kind of like a contractual agreement between
18 the Petitioner and the City, so then the city kind of
19 hard up for cash, I'm sure that they're very mindful
20 of ensuring that agricultural activity does occur on
21 the property.

22 And we also confirm that during a meeting
23 on May 16th of this year, 2018, we did meet with the
24 Petitioner and their counsel, and that as we've heard
25 testimony prior, that the existing Special Use

1 Permit, Conditional Use Permit activities on the
2 lands do not adversely affect the agricultural
3 activities on the IAL property.

4 We also believe that this is the first IAL
5 petition that involves activities linked to an
6 existing Special Use Permit. And -- I better read
7 this.

8 We are concerned about the potential impact
9 of an increase in the number of visitors and
10 activities on the agricultural operations within the
11 proposed IAL.

12 However, we recognize that the Petitioner
13 has successfully integrated their agricultural
14 activities and their existing Special Use Permit
15 activities to date.

16 That concludes my testimony.

17 CHAIRPERSON SCHEUER: Thank you, Mr.
18 Yamamoto.

19 Does the Petitioner have any questions for
20 Department of Ag?

21 MR. CHIPCHASE: No, Chair.

22 MS. APUNA: No questions.

23 CHAIRPERSON SCHEUER: Fellow Commissioners?

24 Thank you, Mr. Yamamoto.

25 Commissioner Aczon.

1 COMMISSIONER ACZON: (Inaudible)

2 COURT REPORTER: I'm sorry, I didn't hear
3 that.

4 CHAIRPERSON SCHEUER: The question is: Was
5 the City Department of Planning and Permitting
6 invited to this hearing.

7 The Department of Planning and Permitting
8 has assured in reviewing the record. Was notified
9 about the site visit and meetings. They were aware
10 of this meeting. They sent testimony, that we have
11 not included in the meeting, at the very last minute.
12 They have chosen not to show up today.

13 COMMISSIONER ACZON: Let the record reflect
14 that they are not in attendance.

15 CHAIRPERSON SCHEUER: It is so reflected
16 that the Department of Planning and Permitting of the
17 City and County of Honolulu is absent from these
18 proceedings.

19 Commissioners, do you have any final
20 comments or questions for the Petitioner, the
21 County -- OP or Department of Agriculture? Well, you
22 can't ask county.

23 Mr. Aczon.

24 COMMISSIONER ACZON: Mr. Chair, I want to
25 make a motion.

1 CHAIRPERSON SCHEUER: Are there any final
2 questions or comments before we go into motions and
3 deliberation? Go ahead.

4 COMMISSIONER ACZON: Mr. Chair, I want to
5 move that this Commission approve the IAL designation
6 for 761.55 acres as requested by the Petitioner with
7 the following two conditions:

8 Condition one, more instruction, Petitioner
9 has self-comply with representations made to the
10 condition with respect to not claiming any credits
11 described in HRS 205-45 with respect to the petition
12 area.

13 Number two, within seven days of this
14 assurance of Commission's Decision and Order,
15 Petitioner required to record it to the Bureau of
16 Conveyances.

17 CHAIRPERSON SCHEUER: Motion made by
18 Commissioner Aczon. Is there a second?

19 COMMISSIONER MAHI: Second.

20 CHAIRPERSON SCHEUER: Seconded by
21 Commissioner Mahi.

22 We are now in deliberations.
23 Commissioners, would you like to speak to or discuss
24 the motion? Commissioner Cabral.

25 VICE CHAIR CABRAL: I would like to speak

1 very much in favor of proceeding with this motion and
2 appreciate the fact that the combination of
3 agriculture and other means to support agriculture
4 with a great need to have agriculture is going to be
5 a challenge of our future. Thank you.

6 CHAIRPERSON SCHEUER: Commissioner Okuda.

7 COMMISSIONER OKUDA: Thank you, Chair.

8 I would like to state that I'm inclined to
9 vote in favor of the motion, and these are the
10 reasons why.

11 I would find that the Petitioner Kualoa
12 Ranch has satisfied all the elements set forth in HRS
13 section 205-44 which deals with the standard and
14 criteria for the identification of Important
15 Agricultural Lands.

16 I would find persuasive the analysis
17 presented by the Department of Agriculture, and
18 having listened to and weighed the demeanor and the
19 testimony of the witnesses, I believe that the
20 evidence is clear that the Petition, or the Petition
21 should be granted and that the element set forth and
22 required by 205-44 have been satisfied.

23 Again, with respect to the direction about,
24 or recognition that the Petitioner has waived certain
25 benefits -- benefits under the statute, that's not

1 really a condition, that's just an acknowledgment of
2 the Petitioner's waiver and the recordation of any
3 decision with Bureau of Conveyance that's not really
4 condition, that's more instruction.

5 But the final point I would like to say is
6 that the statute spells out the elements and the
7 criteria for approval or disapproval such a petition
8 for designation, and just on the evidence presented
9 on that fact, I believe this Petition should be
10 granted.

11 But the additional fact, is the fact that I
12 believe the Morgan family have lived -- I'm sorry --
13 to their promises made many years ago, and they
14 deserve credit for that. Thank you.

15 CHAIRPERSON SCHEUER: Commissioner Aczon.

16 COMMISSIONER ACZON: Mr. Chair, same with
17 Commissioner Okuda, I fully support this Petition.
18 The Petition meets all eight IAL criteria with its
19 51.5 percent of Petitioner landholding, and I
20 appreciate the Petitioner's commitment to have their
21 land area dedicated to agriculture.

22 CHAIRPERSON SCHEUER: Commissioner Wong.

23 COMMISSIONER WONG: I'm inclined to support
24 this motion. I just wanted to thank the Petitioner
25 and the Morgan family for taking a proactive approach

1 for doing the IAL.

2 Ag land is very important to Hawai'i for
3 the sustainability of our lands. So I just wanted to
4 thank you.

5 CHAIRPERSON SCHEUER: Commissioners, any
6 further comments? Deliberation? I also will be
7 voting in favor of the motion. I have a lot of aloha
8 for the Morgan family and what they have been able to
9 do on their property.

10 I have a general problem with the IAL
11 statute. I think it falls far short of what the
12 constitution demands in supporting Important
13 Agricultural Lands.

14 I think it's a very imperfect statute, and
15 there is a lot more that we should do of substance to
16 support agriculture in the state, and IAL designation
17 doesn't really provide extra protection. It gets tax
18 credits when there's tax credits available. And I'm
19 not sure exactly what else, but clearly under the
20 statute you guys have shown that you meet the
21 criteria.

22 And in addition, I think showed that you
23 exceed what's called for in terms of your long term
24 commitment to agriculture. A pleasure to vote on
25 this.

1 Any further questions or deliberations? If
2 not, Mr. Executive Officer, will you roll call the
3 Commission?

4 EXECUTIVE OFFICER: Thank you, Mr. Chair.

5 The motion is to grant the Petition to
6 designate certain lands at Kualoa Ranch Important
7 Agricultural Lands with conditions to adhere to
8 representations and conditions to record the
9 designation.

10 Commissioner Aczon?

11 COMMISSIONER ACZON: Aye.

12 EXECUTIVE OFFICER: Commissioner Mahi?

13 COMMISSIONER MAHI: Aye.

14 EXECUTIVE OFFICER: Commissioner Wong?

15 COMMISSIONER WONG: Aye.

16 EXECUTIVE OFFICER: Commissioner Ohigashi?

17 COMMISSIONER OHIGASHI: Aye.

18 EXECUTIVE OFFICER: Commissioner Cabral?

19 VICE CHAIR CABRAL: Aye.

20 EXECUTIVE OFFICER: Commissioner Okuda?

21 COMMISSIONER OKUDA: Yes.

22 EXECUTIVE OFFICER: Chair Scheuer?

23 CHAIRPERSON SCHEUER: Yes.

24 EXECUTIVE OFFICER: Thank you. Mr. Chair,
25 the motion passes.

1 CHAIRPERSON SCHEUER: Thank you.

2 Congratulations, Petitioner.

3 We will take a short recess.

4 COMMISSIONER OHIGASHI: Mr. Chair, one
5 question. Do we have to meet again on this issue to
6 sign the Declaratory Order, or is it administerial on
7 your part and director's part?

8 EXECUTIVE OFFICER: We will be adopting the
9 order later, but it doesn't have to be done --

10 COMMISSIONER OHIGASHI: I just wanted to
11 know.

12 CHAIRPERSON SCHEUER: Thank you very much
13 to the Petitioner, congratulations. We'll take a
14 five-minute recess for our next agenda item.

15 (Recess taken.)

16 We're back in session.

17 We have one remaining agenda item 5.

18 Designation of Executive Officer to conduct
19 public hearings for the adaption of administrative
20 rules pursuant to section 15-15-109(a).

21 Mr. Orodenker, ask you to briefly describe
22 what is necessary.

23 EXECUTIVE OFFICER: Thank you very much,
24 Mr. Chair.

25 Housekeeping matter.

1 Technically our rules require that the
2 Commissioners all come to the hearings on the
3 different islands, unless they designate somebody
4 else to do it for them, so unless all the
5 Commissioners want to come to every meeting on all
6 the islands, we would hope that you just designate
7 myself.

8 CHAIRPERSON SCHEUER: Questions for Dan?

9 COMMISSIONER CABRAL: I saw somewhere --
10 can you let us know again -- I think you're going to
11 be in Hilo on the 15th, let us know what time and
12 where?

13 EXECUTIVE OFFICER: I think it's on the
14 website.

15 COMMISSIONER OHIGASHI: What do you need, a
16 motion?

17 CHAIRPERSON SCHEUER: Just to clarify, it's
18 okay for the Commissioners to come?

19 EXECUTIVE OFFICER: Yes, it is.
20 Commissioners are always welcome. If a Commissioner
21 wishes to attend one of the hearings on the neighbor
22 island, we can arrange for that Commissioner to go as
23 part of their Commissioner's duties. We'll pay for
24 the airfare. We just don't want to require the
25 Commissioners to come to all the meetings.

1 CHAIRPERSON SCHEUER: Mr. Wong.

2 COMMISSIONER WONG: Mr. Chair, I make a
3 motion that executive officer take the lead instead
4 of us.

5 CHAIRPERSON SCHEUER: Designated?

6 COMMISSIONER WONG: Exactly.

7 COMMISSIONER OHIGASHI: I'll second that.

8 CHAIRPERSON SCHEUER: Mr. Ohigashi, after
9 some consideration, had seconded the motion.

10 Any discussion on the motion? If not, all
11 in favor? Any opposed? Motion carries.

12 With that, we're set to adjourn.

13 (The proceedings adjourned at 11:58 a.m.)

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1 CERTIFICATE
2 STATE OF HAWAII)
3) SS.
4 COUNTY OF HONOLULU)

5 I, JEAN MARIE McMANUS, do hereby certify:

6 That on August 8, 2018, at 9:00 a.m., the
7 proceedings contained herein was taken down by me in
8 machine shorthand and was thereafter reduced to
9 typewriting under my supervision; that the foregoing
10 represents, to the best of my ability, a true and
11 correct copy of the proceedings had in the foregoing
12 matter.

13 I further certify that I am not of counsel for
14 any of the parties hereto, nor in any way interested
15 in the outcome of the cause named in this caption.

16 Dated this 8th day of August, 2018, in
17 Honolulu, Hawaii.

18 /s/ Jean Marie McManus

19 JEAN MARIE McMANUS, CSR #156

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