

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
A.	Participation in LUC/LU process		
2	A.8	Public advocate / lawyers to represent citizens groups in DBA hearings	<p>—This would have chilling effect on public participation.</p> <p>—This person should act as a gatekeeper, to advise potential intervenors so they don't go through the process and then struggle when they confront the LUC.</p> <p>—Are counties and OP supposed to represent the public? Why do you need a public advocate if state and county agencies are supposed to protect the health and safety of various state and county interests?</p>
2	A.9	Ombudsman / citizen advocate position in LUC (to demystify process & reduce burden on public to participate)	<p>—Much staff time spent walking public participants through the process.</p>
1	A.2	More meaningful avenue for public participation & expertise to be utilized (less time-consuming than intervention)	<p>—The supreme court has told us we need to do contested case hearing.</p> <p>—State land use process should lead and county should follow, but realistically that's not what happens.</p> <p>—I differ. Counties have more arch/planners/engineers on staff than the LUC, so while state should probably play a role, counties have a more robust review process and more expertise.</p> <p>—Can state participate in county processes? The State basically covers the same [issues] as the county.</p> <p>—Should ask that state agencies are consulted before LUC as part of EIS process.</p>
1	A.3/A.4.a	Use of technology to allow statewide participation	
1	A.5	Signs with contact info posted at sites of proposed LUC projects	<p>—This is a good idea.</p>
1	A.5.a	Signs with contact info posted at sites of proposed LUC projects--see Hawaii County-- provides good model	<p>—Need more specificity. Hawaii County has good provisions requiring posting of signage. It is clear as to where the information is provided. This would be good model.</p> <p>—What about defacing? Does it delay the process if a sign is defaced?</p>
1	A.7	Intervention fee of \$1,000	<p>—We considered raising the fees, but raising fees would have chilling effect on public participation process.</p>

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	<p>A.1</p> <p>Early, meaningful consultation</p>	<p>—The process can't start any earlier. First thing, we tell the petitioner to talk to OP, to the counties, and to the community, so I don't see this as an issue.</p> <p>—This is too vague. What does it mean?</p> <p>—Major projects require an EIS and most major projects are on the county General Plan (have gone through PC, Council, mayor) or sustainable community plans. So major projects have already gone through all of [these approval processes], so this isn't really an issue for —major projects.</p> <p>—We want to look at ways to get state agencies involved earlier in the process. Need other opportunities for OP and other state agencies to sit at the table for development of GP, community plans, and sustainability plans.</p> <p>—Define roles and responsibilities early on. Collectively maximize participation. Everything should be on table at same time (i.e. libraries, schools, highways, etc.)</p> <p>—In the mid-90s, OP did get involved in development of county plans but there was resistance from counties, so now reluctance from state to get involved.</p>
	<p>A.3</p> <p>Live web streaming of LUC hearings</p>	<p>—We are required to go to the county in which the land is located. Live streaming of all meetings would require us to double our budget.</p>
	<p>A.4</p> <p>Allow witnesses to testify electronically if elderly or in rural areas</p>	<p>—Public testimony not evidence; holds no weight in D&O because no verification as to what they are saying as evidence.</p>
	<p>A.6</p> <p>Easier ways for interested parties to enter contested case</p>	<p>—Intervention process is already pretty simple; would hate to see it even simpler.</p> <p>—We have some guidance from AG or DAGS regarding what our requirements are in terms of Ch. 91, conferencing for meetings.</p> <p>—Process so easy right now -- making it easier would allow too many people to enter as intervenors.</p> <p>—Items A6 and A7 seem contradictory.</p>
	<p>A.10</p> <p>a) Ch. 343 triggered by LUC petition filing; and b) any filing/project has to be consistent with county plan</p>	<p>—Missing from this list it that Ch. 343 should be triggered by the petition for any proposal that comes to LUC and the project should be consistent with the GP. This would ensure better participation.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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B.	Enforcement		
10	B.5	Greater flexibility for LUC to enforce conditions (other than reversion, e.g., allow amendment of conditions)	<p>—Purpose of the LUC is to have a perspective of consistency with State and local plans. This role is becoming smaller and smaller today, and we need to go back to that. It shouldn't be so much about regulatory control, enforcing of conditions, public trust issues, etc. -- send all this back to the counties who have the ground perspective.</p> <p>—The big issue with enforcement is the only hammer LUC has is reversion which is why we're reluctant to take on enforcement and why we leave it to the counties. LUC doesn't have a problem taking on enforcement, but we need more remedies to do it. Statutory authority for LUC enforcement of LUC conditions.</p>
4	B.2	Write enforceable conditions with clear path for county or state agency enforcement/compliance	<p>—Are the counties in a position to enforce LUC conditions? Counties don't know what is meant by LUC because they weren't there, so it should be a State function, or the conditions should be written in a manner that is clear so that County can enforce them.</p> <p>—Right now, counties are in limbo -- there is no alignment and it's difficult to ascertain who is responsible for enforcing.</p> <p>—The dec. ruling provision allows counties to question things they're unsure about. There are a lot of crossover issues; some of the difficulty is that it's difficult to know who is the enforcing authority and what remedies are available. Right now, e.g., if there's something wrong in Ag., we can't reverse anything or fine the violator, so we send a letter to counties to enforce.</p> <p>—Counties already have statutory authority to fine but who has the authority to enforce Chapter 205? It's not very clear. Suggesting clarification policy issue of who we want to enforce conditions.</p> <p>—These are two different issues -- for consistency, we need to have a series of working meetings to rectify differences between Chapter 205 and county ordinances. Consistency is important.</p> <p>—There needs to be more balance in recognition of what happens in the market place and understanding of what agencies have to do to provide infrastructure. The applicant is responsible for providing a lot other stuff in the growth area [outside of the project area]. There needs to be a more balanced and flexible approach; if the market isn't there, developers are not going to build. Need certainty for everyone to bring down the cost for the new home buyer. Need certainty with flexibility.</p> <p>—If the sewer is not upgraded, and more homes are added, what happens?</p> <p>—Regarding the Bridge Aina Lea case, the county enforces conditions that affect county issues; same thing for the state and LUC.</p> <p>—Only when a county comes in for zoning, does the county have a say in the process. A lot of the time the county will take LUC conditions and put them into the zoning. When there are issues of noncompliance, there is an issue with both the county and the LUC.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
3	B.4.a	Define clearly in legislation who monitors compliance with & enforces LUC conditions: Tie county authority to fine under Chapter 46 for Chapter 205 use violations.	—Clarify statute.
3	B.1	Better enforcement of conditions	
2	B.12	Clarification of Ch. 205: Have in D&O/law exception for delays in public infrastructure or market changes (certainty with flexibility)	
1	B.4.b	Enforcement monitored and implemented by county	
1	B.6	Better use of annual reports for monitoring & enforcement	
1	B.13	Statutory change for citizen enforcement of LUC conditions (appeal or lawsuit)	<p>—There needs to be statutory change to make facilitated citizen enforcement part of LUC conditions (via appeal or lawsuit).</p> <p>—State or county should be able to enforce conditions, otherwise there would be too much litigation.</p>
	B.10	Monitoring county plan implementation	
	B.11	Appeal via declaratory ruling for county plan- based regional boundary amendments	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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	B.2.a	Clarification of Ch. 205: County issues handled at county level; if state issue, then state enforces, except in case where project has not triggered county process (then, state enforces).	
	B.2.b	Write enforceable conditions with clear path for county or state agency enforcement/compliance: Consistency between State law and county ordinances, but county has authority to be more restrictive	—Counties should remain more strict than State law, more restrictive. Need to clarify enforcement and responsibility. I do, however, appreciate current process where counties have a say in the D&O. If we think its reasonable for us to enforce, we will enforce. The current process allows flexibility for us to have a say in the enforcement process when we want or need to have a say.
	B.3	From intervenors perspective: conditions in subsequent decisions to be consistent with decision or final order	
	B.4	Define clearly in legislation who monitors compliance with & enforces LUC conditions	—Need clarity about which conditions warrant certain enforcement. Who is best suited to enforce certain conditions?
	B.4.c	Define clearly in legislation who monitors compliance with & enforces LUC conditions: Name enforcing authority in LUC D&O or LUC conditions	
	B.7	Define clearly what happens if LUC conditions not met	
	B.8	Conditions or hammer at the county level	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
	B.9	Reversion if DBA conditions not met should be common	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
C.	Information for decision-making		
5	C.11	Comprehensive set of environmental, social, economic indications to inform decision- making	<p>—Needs clarification.</p> <p>—I didn't author this, but these are just other factors that should affect decision-making (i.e. water quality, lost ag. land, etc.)</p> <p>—For comprehensive plan update, we need a robust statewide housing inventory study, i.e. regarding vacant and underutilized housing (tech study for county plan development). Difficult for counties to do projections, so would be helpful if done at statewide level. This could be valuable for decision-making.</p>
4	C.4	Use of thresholds for operations & safety of roadways	
3	C.10.a	State does statewide population & economic projections: improve how state and counties update and use population projections for statewide and county land use planning	<p>—How does the state work now in terms of projections, in terms of where expansion is going to go?</p> <p>—City and County of Honolulu generates their own. They start with states model as a base and then use their own projections.</p> <p>—DBEDT does future growth projections that are distributed to counties, which the counties then use in their plans. State comes out with those about every five years.</p> <p>—State does economic and population projections every year, county by county.</p> <p>—OP needs to clarify what it is and how its provided to the counties.</p> <p>—That should feed into LUC's decision-making process and it should flow, so that the LUC can consider all of this.</p> <p>—It's the applicant's duty to provide that info to the LUC.</p> <p>—It doesn't matter who provides it but it just needs to be available.</p>
1	C.1	More local/regional review & input in process & approvals	<p>—Once LUC done, the project goes to county for entitlements, so lots of additional review at county level. This may need to be changed.</p>
1	C.5	Require state agencies to do Ka Pa'akai analysis on all projects	<p>—Chapter 343 requires cultural analyses.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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1	C.14	Meaningful analysis of infrastructure planning, development, and environmental impact.	
	C.10	State does statewide population & economic projections	<p>—This suggestion needs clarification.</p> <p>—This is already being done. Perhaps counties and the public don't understand how they're done or where they come from.</p> <p>—We've become too data-driven. The location of homes shouldn't depend on availability of water -- provide water for homes in the core of the city. We should place more weight on insights from own communities when making these decisions.</p> <p>—But we need good baseline data to make these decisions.</p>
	C.10.b	State does statewide population & economic projections: More data on water, schools, transportation for county regional planning	<p>—This is valuable tool as it helps ground decision-making. We really need data for water, transportation, and schools in order to plan on a regional perspective. These are the issues that will drive growth and we would like to see a greater investment in those projections (to fund the studies that need to happen to get the projections).</p> <p>—Counties don't have money to do the analysis that needs to be done (i.e. drilling and measurements).</p> <p>—Need more investment at State level.</p>
	C.12	Centralized location for data, GIS-compatible or GIS-based	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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	<p>C.13</p>	<p>Need carrying capacity analysis for state and islands to determine land use needs & guide land use decision-making</p>	<p>—Needs clarification. People can differ on carrying capacity. —Each county has different carrying capacity. —Even if you figure out a carrying capacity, what do you do with the information? For example, once you have a capacity for a park, you still can't prohibit people from entering the park. So what does the analysis mean? The policy discussion has evolved to sustainability. —What are we carrying? We can't restrict people from having kids and populating the island. Too theory based. —This shouldn't be part of the discussion. This is "old school" and we should put it aside. —We need to consider how we do things -- we have responsibility to manage our impact on the earth. This is a key concept of planning. —OP asked County of Maui PD for clarification. Maui stated each county may have different thresholds. OP asked if there may be core thresholds for the counties. No response from Maui. —Thresholds are a real problem as they're based on tolerance; 10-20 years from now, we may have a different tolerance but once they're in place, the developer must go through a lengthy process to adjust them.</p>
	<p>C.2</p>	<p>Greater emphasis on review of cumulative effects</p>	<p>—To what extent? How far does the consideration of cumulative effects go? —We need to reconsider role of LUC and whether they need to consider cumulative effects. Are we asking LUC to take on role of other existing regulatory bodies? We need to look, through planning, at all the impacts, before the regulatory process. If done after, we're just mitigating. We need to decide whether it's regulatory or whether it's planning. —I agree that a lot of these issues need to be done before they get to the LUC. May need clearer laws for development. Some of this discussion is outside of Chapter 205. —Does LUC have to be so specific, or is it working the way it is? That's the big question because government agencies do weigh in on project impacts. We need to look at consistency with plans. —What Evans is describing is part of an environmental review, like an EPA or NEPA, but what I'm saying is that we need a combined process. What is LUC role in terms of looking at cumulative impacts? —LUC can't make quick decisions because the information isn't being provided to do so. —I agree with comments made -- "cumulative" is very vague.</p>
	<p>C.3</p>	<p>Early, meaningful consultation</p>	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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	C.4	Use of thresholds for operations & safety of roadways	—Thresholds needs to be more defined, i.e. number of homes or equipment pieces. This makes for a more level playing field for public, counties, and communities.
	C.6	Improve quality of LUC site visits	—Need clarification on what this means. We need to know who authored this and get more information. —This is a matter of practice, not something that needs to be changed in law.
	C.7	Strengthen protection of cultural properties. On-the-ground / site visits of cultural properties	
	C.9	Move environmental review to post-LUC decision making	—I have no idea what that means. —Need clarification on what this means. We need to know who authored this and get more information. Everything done in an EA is germane for the LUC determination process. We need an EA at that stage. —Ch. 343 functions as a trigger, so if there are no plans to use state or county lands, the project is probably not going to trigger Ch. 343.
	C.15	Require at least one land use commissioner to have expertise in land use planning (i.e. at least 5-years of experience preparing or administering comprehensive land use plans.)	

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D.	Implementation		
9	D.3	Coordinate infrastructure planning & development with county	—Has LUC coordinated infrastructure in growth areas? Growth is dependent on infrastructure being provided.
4	D.17	State participates in County planning process (GPs and DPs)	—The state and LUC should get involved in county planning process (GP, community plans, and sustainable community plan amendments). —LUC relies on OP to provide state context and expertise and relies on counties to provide county context and expertise. LUC not in a position to judge or direct.
4	D.18	Combined (single) county and LUC hearings on individual project (DBA) or DPs/community-level plans	—We should have one combined public hearing with LUC and Council/PC so that all can all ask their questions on the projects (DBA, DPs, or community level plans), where no one votes, but it's an opportunity to cross examine and ask questions. Then hold a separate hearing with LUC to make a decision based on criteria in Ch. 205. —To do this, you have to recognize there are very different procedures at play.
4	D.16	Fiscal discipline in CIP investment	—Hawaii is not disciplined so it is difficult to implement CIP -- planning not tied to CIP and there is no consistency in planning. Need fiscal discipline in the system so that developers and public have expectations about what will happen where. LUC not implementing long range plans like they used to, but they're amending land use districts, and there's no plan for this, or predictable investment in infrastructure. We need to bring statewide planning back and tie it to public infrastructure investments. The State of Washington is an example of fiscal discipline: CIP bills required to have fiscal model analysis with priorities in long range plans (can't bring bill to floor unless fiscal analysis); it must be budget neutral; and it must consistent with local and state planning (must indicate why project diverging from State DOT plan, for example).
3	D.1	State review of county plans & activities with respect to impact on areas of state concern	—Do we want checklists or do we want judgment? Do we want quasi-legislative or something else?

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1	D.10	Incentives for desirable development	<p>—What does this mean? Who decides desirable and undesirable?</p> <p>—We could create a checklist that identifies what is desirable and undesirable. For example, could look at location of things, infrastructure, avoid hazardous areas, wetlands, floodplains, etc.</p> <p>—It is a little more nuanced. For example, density bonuses for affordable housing, but we don't want tall buildings to block our views.</p> <p>—Desirable is in the eye of the beholder, i.e. the LUC commissioner, so if no checklist then it becomes subjective.</p> <p>—I authored items D.10 and D.11, and was not thinking so much in terms of LUC, but on a local policy level, i.e. infill development, cutting fees, tax incentives, disincentives.</p>
1	D.13	Thresholds for dealing with unplanned or premature projects (not in plan or phasing)	<p>—Many of the GPs have different timeframes than the implementation plans (infrastructure plans), so what does premature mean here? How do you decide that its premature? Which plan is leading?</p>
1	D.15	Public (rather than developer) should pay for infrastructure	<p>—I disagree with this. Public should pay for some, but not all infrastructure. We should be more planful and consider proportionality and nexus.</p>
1	D.2	Direct input in LU matters which involves state functions or facilities	
1	D.5	State CIP to implement LU plans & policies (based on state infrastructure component)	<p>—Regarding items D.5 and D.6, we have to be careful because there is a hard roadblock. State and county funding changes every year or two; disconnect between State and county and funding source. Infrastructure cost fall to developer and that may not be correct. Do we have the correct taxing structure to fund State infrastructure (State CIP), or do we need to change the structure?</p>
	D.11	Disincentives for undesirable development (e.g. in areas of hazards or significant resources)	<p>—What does this mean? Again, who decides desirable and undesirable?</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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	D.12	Do we need police powers to enforce or direct growth if we're built out?	
	D.14	Public expenditures commensurate with public benefit (public costs manageable, sustainable)	<p>—This is an open question that comes up a lot. Public often needs to rescue private infrastructure systems.</p> <p>—There needs to be a mix of investment. The private sector provides for a lot of the beneficial infrastructure.</p>
	D.4	State plans & phasing of implementation to match county LU planning	<p>—To me, the focus here is on Ch. 226. The state plan is absent (from a state plan process standpoint, for years its been piecemeal amendments, not comprehensive), and functional plans are absent (they're not being done by individual agencies anymore, they're more targeted toward budget). This should happen at state level and then inform the counties. A lot of these issues listed here are what the state plan was designed to do when the state plan worked well and when it was funded and updated regularly.</p>
	D.6	State funding sources & frameworks that support county CIP investments consistent with statewide framework/priorities	
	D.7	County strategic investments in built & natural infrastructure (based on community plan)	
	D.8	Address problems in zone change process in meeting transportation mitigation required for projects	

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	<p>D.9</p>	<p>Paying for infrastructure improvements required by agencies (e.g., DOT) as conditions of project approvals</p>	
		<p>Other comments:</p>	<p>—Implementation of what? State plan process? The first three components listed in this section clearly relate to LUC. These are all state plan issues rather than LUC stuff. —Most of these don't deal with Ch. 205. and I don't understand most of them. —These are ok categories, but we have to look at components of the existing system. We need to put these comments within the existing land use process and see how and where they work or don't work; we should put the comments into the context of the existing system.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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E.	Streamlining/managing permitting		
8	E.3	Consolidate points of legal intervention in land use process to reduce delays & uncertainty	
7	E.1	Speed up processing & ministerial permitting by state/county agencies	<p>—Need a one-stop shop for permitting as in San Diego County where developer meets with everyone at once.</p> <p>—There should be some sort of clear expectation on all sides, such as a handbook or manual for (ministerial?) permit approval.</p> <p>We hesitate to do something like that because we don't know what qualifies and what necessitates a "hard look," which is an extension of Chapter 343.</p> <p>—Regarding a one-stop process, do you mean county one-stop process? Sierra Club clarified county and state process where county and state agencies share knowledge as early in the process as possible.</p> <p>—The question is in the discretionary issues such as archeological resources and zoning.</p> <p>—Regarding streamlining and coordinating, the State asks all agencies to comment on a project and all comments included in record. All comments are reflected in the State's position.</p> <p>—Can we streamline coordination by doing it digitally, and using computers versus not snail mail?</p> <p>—Almost all materials are available digitally.</p> <p>—Shared knowledge -- need clearing house of knowledge.</p> <p>—All projects should be efficient and effective, no special treatment in the review process.</p> <p>—If we're slow because of limited resources, then maybe that's ok, but we can't make it slow because of other reasons.</p> <p>—Where is the line between ministerial and discretionary? This determines whether we're tweaking the system or making major changes to the system. The line is gray. Lots of county applications have some sort of discretionary aspect.</p> <p>—The line is at the county level.</p>
2	E.2	More efficient permitting process for key areas, e.g., affordable housing, fishponds)	—"Would like to see affordable housing. Chapter 201H is not liked but it gets things done quicker."
1	E.1.a	Speed up processing & ministerial permitting by state/county agencies: Increase threshold for county LUDBAs	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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1	E.1.b	Speed up processing & ministerial permitting by state/county agencies: Expand use of boundary amendment interpretation flexibility	—Look at administrative boundary amendments to allow minor modifications. Need flexibility in land use boundary amendment interpretation (increase size/area).
	E.1.c	Speed up processing & ministerial permitting by state/county agencies: SUP clarification when using for temporary or permanent use (SUP = Variance)	—Generally the SUP process is good, but clarification regarding when you can use as SUP versus a boundary amendment is needed. Need to streamline and re-evaluate the 15 acre threshold for LUC cases.
	E.4	Clarify when the clock starts running for processing of boundary amendments in section 205-4(g).	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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F.	Protection of valuable ag lands		
7	F.3.a	Standards for / determine ag land to be protected: "Preservation of Open Space" should not be an ag criteria	<p>—Need to consider protection of ag for open space versus people who really need the land for food. Need to weed out the non-genuine people and only consider the genuine protection of ag land (open space shouldn't be considered a genuine use of ag land).</p> <p>—Consider changing title of district to Open Space. We continue to call it ag with all the associated expectations, and we have to find inventive ways of dealing with that.</p> <p>—IAL process used for truly valuable ag land. The community plans and GPs will determine what is permissible and what is not.</p>
6	F.6	Better standards for Ag District	<p>—Development standards are inadequate in terms of protecting ag. If we're serious about protecting ag land, we need to look at density and minimum lot size in HRS or at county level, which is the more effective place to do it. We need to look at the districts and use the rural district more, or create subcategories/sub-districts within the ag district. We need better dev. standards at State and local level. Current standards creating a lot of confusion.</p> <p>—Lot size alone not a deterrent to protect ag land.</p>
5	F.5	Standards for / determine ag land that can be urbanized; release lands for urbanization	<p>—This should be in next section.</p>
5	F.6.a	Better standards for Ag District: Define in Ch. 205 what bona fide ag. operation is.	
3	F.6.b	Better standards for Ag District: Bona fide ag. is: a) ag. crops/food for sale; and b) no dwellings greater than x square feet, pools, tennis courts, etc.	
2	F.10	County authority to determine permissible uses in Ag District	
2	F.12	Determine ag land to be protected; ag land needed	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

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2	F.9	Increase minimum lot size in Ag District to 10 acres	
2	F.1	Funding for counties to conduct/complete the IAL process	—I need to put emphasis on this.
1	F.2	Greater scrutiny for ag; increased consideration of ag resource concerns in boundary amendment process; higher threshold	—The counties need to take more responsibility with respect to perceived ag. It should go beyond HRS, which isn't very much in terms of guidance. Counties need ag. expertise/ag resource people, to represent ag. interests. There isn't much to speak of in terms of ag resources.
1	F.8.a	Create new benchmarks for judging ag lands that updates LSB: Soil scientists/agronomists review LSB to come up with "big letter" and yield information	<p>—The key to LSB is not so much the overall productivity rating, but the land type which is relatively stable -- it's the soil characteristics. Soil scientists and agronomists need to review productivity ratings (take out pineapple and sugar), and they also need to look at yield information.</p> <p>—Does LSB take into account water use?</p> <p>—LSB needs to be updated.</p>
1	F.6.c	Better standards for Ag District: Permissible uses for IAL need to be stronger than Ch. 205 for ag. district	
1	F.4	Create new benchmarks for judging ag lands that updates LSB	
1	F.7	Define agriculture as "growing food crops for sale"	<p>—Scratch this. Rephrase to define in Ch. 205 what bona fide ag. use is. Once you establish what bona fide is, the accessory uses that are added to it (i.e. gentleman's farms) will go away, but Ch. 205 now provides for personal use.</p> <p>—"Bona fide ag." would have to be something people eat.</p>
	F.16	Disclose impacts to Ag land when statutory changes	—Require legislature to disclose impacts of proposals for changes in permissible uses in Ag. District
	F.17	Change "Ag District" label to "Open Space" District	

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	F.10	County authority to determine permissible uses in Ag District	—Yes, but only if ag. operations are defined statutorily.
	F.11	Joint state/county regulation of lands in Ag District	—Joint state county regulation of lands in ag district, is OK for now. Because of the lack of definition and the lack of thresholds, non-ag development in ag. lands will continue, but ag. subdivisions shouldn't be happening. State needs to take more of a role.
	F.12	Determine ag land to be protected; ag land needed	—Let's not do Kauai IAL -- we have limited resources. (not sure what he meant by this)
	F.13	Adopt zoning overlays to protect ag land	
	F.14	State funding for land acquisition & conservation easements for lands for protection	
	F.15	Use public & private farm trusts to protect ag land	—There is a problem with enforcement of ag. easements. Farm trusts can be a tool if they are better enforced.
	F.18	Counties need to take more responsibility as to ag. needs of county; need ag. expertise to represent ag. interests and ag. resources	—The counties need to take more responsibility with respect to perceived ag. It should go beyond HRS, which isn't very much in terms of guidance. Counties need ag. expertise/ag resource people, to represent ag. interests. There isn't much to speak of in terms of ag resources. The counties need to take more responsibility with respect to perceived ag. It should go beyond HRS, which isn't very much in terms of guidance. Counties need ag expertise/ag resource people, to represent ag. interests. There isn't much to speak of in terms of ag resources.

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS	Comments about System Improvements		
	<p>F.3</p>	<p>Standards for / determine ag land to be protected</p>	<p>—Need a decision-making criteria that mentions ag. —Why special protection for ag lands? Need to take a land use perspective versus a food sustainability perspective. LUC doesn't have the time, money, resources, etc. to look at this. We are dealing in public trust, but also in private property. —It's the cheapest land to develop and it's the moving target. We need to determine what is ag and what is not. —This is a hot topic because so much of the land is in ag. which has been a catch-all for many years, so we want to separate what is important and what is not. —Sierra Club asked Chamber of Commerce why food sustainability shouldn't be addressed if it's explicitly laid out in Chapter 205. Chamber of Commerce stated the discussion needs to have land use perspective; DOA deals with that food sustainability. Purview of LUC is a perspective of land use. —Chapter 205 includes a statute to consider impacts of development on ag producing viable lands. —Policymakers often use buzzwords like climate change and sustainability which are subject to interpretation, whose meanings are sometimes difficult to determine. How does putting these words in statute translate to local decision-makers? We keep changing and adding these new terms. —Ag has been the default district and we need now to look at where land truly does fit.</p>
	<p>F.3.b</p>	<p>Standards for / determine ag land to be protected: Ag District lands should be reclassified to Conservation</p>	<p>—LUC is committed to upholding the cultural integrity under the constitution and ag helps inform cultural practices. Some Ag District lands should be reclassified to Conservation District (due to resource value/s). For example, low mountain slopes on Maui should be in Conservation.</p>
	<p>F.6</p>	<p>Better standards for Ag District</p>	<p>—The most important problem with Ch. 205 is the proliferation of fake farm subdivisions. There are mechanisms the state can use to solve the problem: 1) food crops must be for sale; 2) whenever a developer applies for subdivision on ag. land, prohibit tennis courts, swimming pools, or houses greater than 1,000 sq. feet. This would make farmland available to "real" farmers; you have to reduce the appeal for people to do non- ag. uses on ag. land. —Subdivision condominiums should not be allowed.</p>
	<p>F.8</p>	<p>Create new benchmarks for judging ag lands that updates LSB</p>	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS	Comments about System Improvements		
	F.19	Consider expanding IAL classification to include LSB”A” and “B” lands or to use the ALISH system.	
	F.20	Consider relaxing requirements for nonconforming infrastructure in the Agricultural district, or allowing subject to a State Special Use Permit. This includes, but is not limited to, wind farms, solar farms, and geothermal. Technology is rapidly evolving so the land use law should be updated to ensure it is not overly restrictive.	
		Other comments:	—After IAL determination, there is going to be a lot of land outside IAL and still left in ag. What do you do with that? Should we put it into conservation?

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
G.	Rural district		
10	G.6	Delegate to counties regulatory authority over Rural District	
4	G.3	Revise HRS to use Rural more (broader range of uses)	<p>—Why don't counties use rural more? This is really the counties' jurisdiction but they don't think its useful.</p> <p>—Rural district now encourages sprawl. Should expand uses to include small scale commercial. Don't specify lot size but specify standards and uses, let county determine lot size through zoning.</p> <p>—Definition needs to be rewritten recognizing rural today.</p> <p>—What is the role of the rural district? Do we even want the rural? We need to revisit the purpose of the rural district.</p> <p>—Every county has different issues so it's hard to satisfy all counties' rural issues. Do we want to protect existing or promote new towns?</p> <p>—Rural is now low density residential with a lot of expensive properties that should perhaps go through zoning process. —Subdivisions are causing issues (traffic, etc.) and the county is left having to deal with infrastructure needs, water lines, roads, etc. Call it something else, tax it differently, and make it go through some sort of process; right now they are not going through rural boundary amendments.</p> <p>—Rural district initially proposed as the buffer between Urban and Ag but it's not used that way.</p> <p>—All the current law does not is create sprawl. Doesn't have flexibility to texturize; rural communities in effect are urban.</p>
3	G.2.a	Better definition of Rural: Need new vision for what rural district is	
2	G.2	Better definition of Rural; more specific language for Rural District	<p>—Part of the problem is how rural is defined in HRS. Need broader definition that recognizes modern era and counties can define that in their zoning ordinances.</p> <p>—Need standards for gentleman's estate and to be able to tax them for it.</p>
1	G.6.a	Delegate to counties regulatory authority over Rural District: County needs ability to texturize rural land uses.	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS	Comments about System Improvements		
1	G.1.a	Eliminate Rural District & have higher density ag in the Ag District: Higher density ag in Rural District	—Urban/Ag. divide. Higher density ag lots, e.g. 50 acres or more. Allow housing for migrant workers, golf courses, etc. Use rural to create higher density ag or eliminate rural. People aren't pursuing rural so we need to encourage ag by having higher density ag lots. Then what would be the role of LUC? Is this practical or useful? don't know.
	G.1	Eliminate Rural District & have higher density ag in the Ag District	<p>—Does this mean smaller lot sizes? I disagree, they're small enough right now.</p> <p>—The idea is that the rural communities do grow, so you either expand the boundaries or increase the density -- you have to do something.</p> <p>—A lot of the reasons this isn't happening is because you have to go through the same process.</p>
	G.4	Increased use of Rural classification, as catch- all/substitute for non-ag uses locating in Ag District	—Regarding putting nonproductive ag. lands into rural, these lands are not put into the ag. district for ag. purposes. It's so that urbanization can be phased in time. So, these lands are too early to be developed. People aren't looking at natural resource and cultural resource qualities of these lands. The rural district is a political compromise.
	G.5	Many places currently designated as Ag should be Rural	
	G.2.b	Better definition of Rural; more specific language for Rural District: Change standards for rural districts to encourage better land use planning (i.e. Compact development, clustering development, neighborhood-scale commercial establishments). The two homes per acre limitation encourages rural sprawl.	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
H.	Scope of LUC		
1	H.12	Boundary amendments based on county plans with appeal via declaratory ruling	
1	H.5	Limit LUC to determining district classification	—You have to confine the role of the LUC or they'll become "zoning wannabes." They talk more and more about the project, and not the land reclassification.
1	H.7	Move environmental review to post-LUC decision-making	
	H.1	Eliminate duplication of LUC and county issues & processes	
	H.10	State- or county-initiated boundary amendments based on §205-18 5-yr boundary reviews	
	H.11	Comprehensive review/reclassification for each island only once every 5 years	
	H.13	Comprehensive boundary amendments based on long-range plans not individual petitions	
	H.14	County- & state-initiated DBAs without EISs & D&Os	
	H.15	LUC urban reclassification with county re-zoning to conform	
	H.16	Allow counties to process boundary amendments if consistent with county plans, similar to amendments less than 15 acres	
	H.17	County regional LUDBAs consistent with county plans	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS	Comments about System Improvements		
	H.18	Automatic changes to LUDB triggered by county plan changes (envtl impacts/other reviews required at county level)	
	H.19	Automatic alignment of county GPs with land use designations, e.g., lands within urban growth boundaries	
	H.2	Determine state's interest and determine how to express them	
	H.20	Delegation of LUDBA process to counties	
	H.21	State LUC responsibilities strategically reduced; county responsibilities increased	
	H.22	Shift LUC from petitions/DBAs to growth management & regional planning	
	H.23	Abolish state land use districts (give responsibility to counties)	
	H.24	No LUC (functions to counties)	
	H.3	Two levels of review & scrutiny to balance decision-making at local level (political)	
	H.4	Limit LUC review & conditions to items of state interest (eliminate duplication)	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS	Comments about System Improvements		
	H.6	Change (increase) 15-acre threshold for county LUDBA (e.g., to 50 ac, 100 ac)	
	H.8	Return to quasi-legislative & initial role of LUC (limit to determining district classification only)	—That the process now is so project-oriented is myopic. Quasi-legislative process allows for freer discourse and allows the State and the counties to discuss policy issues.
	H.9	Move environmental review to post-LUC decision-making	
	H.6.a	Change (increase) 15-acre threshold for county LUDBA (e.g., to 50 ac, 100 ac): Increase the threshold for county jurisdiction of district boundary amendments from 15- acres to 100-acres due to the high cost of going through the LUC's quasi-judicial process.	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
I.	Planning		
7	I.27	Development follows county plans-- focus on development consistent with plans rather than individual petitions	—It's difficult because, for example, on Big Island, you have only nine elected officials governing the entire island, so changing something like building height in Kona is hard to do, and Kona residents don't feel like they have their voices heard because it's such a huge jurisdiction.
5	I.13	County plans guide land use changes-- focus on development consistent with plans rather than individual petitions	
5	I.4	Eliminate duplication with county issues & processes	—When do counties update sustainable communities plan? Every 5 years? It depends. State and counties need to coordinate their updates. As it is now, they overlap, stagger, or fall behind.
4	I.10	State plans & phasing of implementation to match county LU planning	—A lot of this is in Ch. 226 already but it's not happening. Why? For example, the county owns a lot of land in west Oahu and the State is not even at the table to talk about affordable housing , TOD, or other issues.
4	I.6	Codify in HRS uniform county LU planning system that reflects state functions; counties w/ primary role in LU planning/decision making	
3	I.15	Two levels of review & scrutiny to balance decision-making	
3	I.3	Long-term planning to protect public's interest/public trust resources	
2	I.17	Identify what's appropriate/needed to preserve, protect, and develop	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
2	I.28	Better coordination among state and county	<p>—Do you think it's a reality that you can work together and make the system work better? What needs to be done to make it more smooth coordination?</p> <p>—From a statewide perspective, we know we're lacking in resources but our goal is to bring state agencies up to par. All the agencies have planners now, so its helping them learn how to critically review planning documents. They have latest data and position on what there agency wants to see. OP can then present that info to the LUC . It's about bringing that capacity and making other state agencies realize what is available at the county -- right now they're working in a silo.</p>
2	I.7	State review of county plans & activities with respect to impact on areas of state concern	
1	I.11	State CIP to implement LU plans & policies (based on state infrastructure component)	
1	I.12	State decision making (re: resources & infrastructure) in accord with state planning framework	
1	I.16	Consolidate points of legal intervention in land use process to reduce delays & uncertainty	
1	I.19	State & county infrastructure components included in county LU plan	
1	I.30	Coordinate infrastructure planning & development with county	
1	I.32	Rational change: One comprehensive DBA every five years.	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
1	I.2.a	State interests are inherently statewide	—Statewide interests are inherently state interests, and the counties recognize the statewide interests (transportation, schools, etc.) but they are the hard things to deal with. At the county level, it is easier to implement county interests and be effective.
1	I.5	State requirements for county land use plans & require consistency with state policies	
1	I.9	Allow for orderly LUD changes, while providing specific & reliable milestones for short- & long-term investment backed expectations	
	I.33	Concurrent State and county comprehensive plan review	—Make review process more proactive and get State more involved in comprehensive plan updates/county planning. State and county should do boundary review and comprehensive plan review at the same time -- we'd likely agree on most things. This way there is more collaboration built into system. Current system antithesis of home rule. —Good to have State involved in county process but two things need to happen: 1) need more money; 2) there needs to be paradigm shift -- probably need statutory change and need legislative buyoff for more home rule.
	I.1	State leadership for land use	
	I.14	Monitoring county plan implementation	
	I.18	Public land use planning with mechanisms that support orderly growth	
	I.2	Determine state's interest and determine how to express them	—Statewide interests are inherently state interests, and the counties recognize the statewide interests (transportation, schools, etc.) but they are the hard things to deal with. At the county level, it is easier to implement county interests and be effective. —We need to determine the state's interest. and we need to recognize it changes over time.
	I.20	State decision making (re: resources & infrastructure) in accord with state planning framework	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS	Comments about System Improvements		
	I.21	State plans & phasing of implementation to match county LU planning	
	I.22	Monitoring county plan implementation	
	I.23	County plans have phasing & magnitude in lan use plans (to direct location & timing of growth)	
	I.24	State & county infrastructure components included in county LU plan	
	I.25	Mechanisms for counties to increase competition among different size developers	
	I.26	Monitoring county plan implementation	
	I.29	State's interests should be stated as counties develop their plans	
	I.34	State plan = state LUD boundaries (recognition of this is missing)	<p>—The list is missing recognition that we already have a state plan -- landowners and developers should simply comply with it.</p> <p>—Ag. was a placeholder, and it was conceived at the beginning that it would change over time -- are you saying you want to put a stop to it?</p> <p>—If you want to change boundaries, that's ok, it just needs to happen once every five years and be done with a planning view and a look at the big picture.</p> <p>—Boundary amendments should be made at any time, just as it is today</p>
	I.30	Coordinate infrastructure planning & development with county	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS	Comments about System Improvements		
	I.31	Direct input in LU matters which involves state functions or facilities	
	I.8	Direct input in LU matters which involves state functions or facilities	
	I.35	Update the Hawaii State Plan and State Functional Plans so that they provide better guidance to the land Use Commission, and address emerging issues such as climate change, and continue to update the plans at least every ten years.	
		Other comments:	<p>—Observation, this shows a real lack of understanding of current laws that are on the books. Almost everything listed here is already part of the law. Whether its working optimally or not is open to debate. The TF needs to be educated on what is and isn't in Ch. 205 and Ch. 226, and then we can have a discussion about tweaking or changing the system.</p> <p>—Stated that OP did try to educate the group but everyone focused instead on their different viewpoints.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
J.	Other sub-system issues		
1	J.1	Truly affordable housing stock	<p>—Allow for leasehold interest to reduce housing costs.</p> <p>—What is the rational nexus for an affordable housing project? Good policy but not sure if the LUC should be involved in this.</p> <p>—What is the cost of the entitlement process and what does it do to affordable housing (attorneys, staff time, etc.)? Increasing fees? It could give rise to further revisions about what the LUC does or doesn't do, e.g. it may add \$10,000 to the cost of a house.</p> <p>—Perhaps LUC not the right place to deal with affordable housing. It's more of an issue of supply -- we need to provide housing for everyone, and caution label of "affordable" -- i.e. \$700,000 homeowners may be looking for \$400,000 homes instead. Need to be clear of what the LUC role is.</p> <p>—It is important to consider affordable housing as it is not always provided.</p> <p>—Does a marketplace housing project create the need for affordable housing, or do other economic development projects necessitate housing projects? It shouldn't just be triggered by housing projects.</p>
1	J.2.a	More frequent boundary reviews	<p>—More frequent boundary review. See if any significant cultural resources exist in the subject Conservation, Ag, or Urban areas. We need to make these things meaningful, and maybe there is a role for OHA to play in providing cultural inventories (Kipuka database?).</p>
1	J.2	Boundary review / amendments to reclassify to Conservation District: 1) significant natural & cultural resources in Ag and Urban Districts 2) undeveloped land within 150 feet of shoreline	<p>—This needs to be clarified. This comment asks OP to do what its statutorily required of them every 5 years and identify important natural, cultural, archeological resources and put them in the conservation district.</p> <p>—Clarification of 2), "undeveloped URBAN land."</p> <p>—There should be a size threshold.</p>
	J.2.b	Boundary review / amendments to reclassify to Conservation District:: Similar review for conversation district: General sub-zone -- move out lands with lower cons. Value or developed	<p>—You have to look at general subzone and see if there are in fact any resources there that need to be protected.</p>
		Other comments:	<p>—If OP ever tried to do a statewide comprehensive boundary petition, it couldn't do it.</p> <p>—A five year boundary review of regional zone changes would require new legislation.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

Comments on Land Use System Redesign Proposals :
<p>Responses to APA-HI Chapter proposal:</p> <ul style="list-style-type: none">—Hawaii is a model system for the nation.—LURF supports this model/proposal.—Overall, it's good. We need an overall approach, a comprehensive coordinated effort, and then we need to look at goals and objectives.—It's a theoretical model that has no basis in reality. Ch. 205 is a model for the nation. If you turn authority over to counties, you lose a lot of legal protection. There are so many resources that are not protected right now.—Regarding APA discussion and process, did you ever talk about how this notion would work with sovereign Hawaiian entity that had land? Chester said no.—How does that work with LUC? I agree with Chester that protections are good -- county-level hearing/meeting opportunities would ensure development is not unchecked. There would be more protection if LUC acted as an appellant body.—We need to make sure we're looking island wide. We need to consider all of the islands' needs and make sure the other islands can fund some of their bigger initiatives. Oahu can't take 60% of the yearly funds, for example, every year. —Need to look at the bigger picture, and not just focus on Honolulu for example.—APA's proposal is good because it resembles my thoughts.—Burden of proof on the public under this model, but now the burden of proof is on the developer.—If at county, then looking only at their island. Come state interests need to look statewide.—Makes closer to county/community level.
<p>Response to C&C Honolulu DPP:</p> <ul style="list-style-type: none">—Currently, project by project planning is done by whoever has money. The state should provide funding to make certain projects happen. There is now no order to development, it is just done by whoever has money.
<p>Response to Hawaii PD proposal:</p> <ul style="list-style-type: none">—This comes back to education. Does everyone know what they're supposed to know?
<p>Response to Sierra Club of Hawaii proposal:</p> <ul style="list-style-type: none">—In this system, an island could miss the economic cycle and not have the opportunity to develop for the next five years -- constrains developer ability to respond to market.
<p>Responses to APA-HI Chapter proposal:</p> <ul style="list-style-type: none">—Who is appointed to the Commission to hear appeals? What sort of qualifications are required?—I like it because it puts recognition on county's ability to plan and do decision-making.
<p>Response to County of Kauai PD proposal:</p> <ul style="list-style-type: none">—Isn't Chapter 343 supposed to inform us before decision-making? Dahilig says not necessarily -- at the end of the day, zoning is a spatial policy, not necessarily an entitlement.
<p>Response to Sierra Club of Hawaii proposal:</p> <ul style="list-style-type: none">—I'm a little troubled with prospect of the landowners "buying off" the counties because it's a little "self righteous" and "judges judge" -- they have to make the best of what they have and sometimes that includes working with landowners.

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

General Comments:
—We've ben discussing a very state-centric view, which shows that people don't trust the counties [to plan]. It's frustrating.
—State needs to offer the land up front and allow developers to come forward with their own proposals -- this would make it more competitive and provide more inventory to the market quickly.
—To what extend does a county agency need to comply with a State appointed commission's request?
—Expressed concern the counties never say no.