

LAND USE COMMISSION  
STATE OF HAWAII

Minutes of Public Hearing

LUC Hearing Room

Honolulu, Hawaii

10:00 A. M. - January 18, 1964

Commissioners

Present:

C.E.S. Burns  
James P. Ferry  
Goro Inaba  
Shiro Nishimura  
Charles S. Ota  
Myron B. Thompson  
Robert G. Wenkam  
Leslie E. L. Wung

Absent:

Shelley Mark

Staff

Present:

Raymond Yamashita, Executive Officer  
Roy Takeyama, Legal Counsel  
Gordon Soh, Planning & Economic Development  
Richard Mar, Field Officer

The public hearing was called to order. The Chairman outlined the procedure to be followed throughout the hearing.

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PETITION OF LEATRICE S. YANG, ET AL (A(T)63-45), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT CLASSIFICATION TO AN URBAN DISTRICT CLASSIFICATION FOR LAND IN WAIAWA, PEARL CITY: Described as First Division, TMK 9-6-02.

The Chairman swore in all persons who were to present testimonies in this matter together.

Mr. Gordon Soh outlined the area and request involved, giving a background description on it, and locating the area on the map.

Mr. Charles Yang representing Leatrice Yang stated that his wife and friends wish to put some improvements on their lot and build more homes, but are not able to because of the present land use classification. He stated that the area in question is in the immediate vicinity of urban encroachment and development. He stated that there are some small farms and water cress patches in the area; however added that these people have built homes in here for rental purposes. Mr. Yang stated that they have asked these people to be part of this

petition but they have said they have developed their lands to the maximum and did not wish to change their land use classification and pay higher taxes. He stated that he was concerned of the replacing of dwellings in the area under the present land use classification. He stated that he was sure that Mr. Mahi, Mr. Sakamoto, and others in the area have been putting up replacements. Mr. Yang stated that he did not feel that this area should be recommended for agricultural use as he felt that the area in general will be urbanized in the near future.

Mr. Mahi (the originator of this petition) stated that the lands in the area under question have been in residential use ever since he was born in 1900. He stated that these lands were never in agricultural use. He stated that he was ignorant to obtain money for his new home first before applying for a building permit. He stated that he was unaware of the Land Use Law that was in effect which would prohibit him from building in the area as there was building going on during that time. He stated that when he was informed of this Law he came to this Commission to inquire about it and spoke to Mr. Mullahey, who was then the Executive Officer. He asked, "How is it that people are building in that area and I couldn't?" Mr. Mullahey stated that the State administers this Law but it does not do the policing. He further stated that there was a penalty for those who violated this Law. Mr. Mahi stated that his main concern was in the money that he had borrowed and in his conversations with Mr. Mullahey, he learned that the prior Land Use Commission had proposed to reclassify this area in question, but that they were not able to adopt this proposal because their term expired before they could adopt it. Mr. Mahi stated that it is upon the advice of Mr. Mullahey and the proposed recommendation of the last Land Use Commission that he is asking that this Commission reconsider this area on this submitted petition. Mr. Mahi stated that they are asking for redistricting at this time for only the residential areas and not the watercress area.

Mr. Gordon Soh proceeded with the staff's analysis and recommendation. The staff recommended approval of this petition. Mr. Yang expressed his approval that the staff had concurred with the petitioners.

A lengthy discussion concerning the petition as submitted by the petitioners, and the request of the petitioners followed.

The Executive Officer stated that the petitioners are asking for change in classification for the residential areas along the roadway as shown in red on the map. The Executive Officer stated that he would concur that if the petition were granted for only those areas in red for urban it would in effect constitute spot zoning. The Executive Officer stated that this is not stated in the staff's report. He stated that the staff's recommendation was in effect to grant the petitioners' request for the general area, generally located this side of the road and below the road which do have a character of an urban area and related to the Pearl City complex. The Executive Officer amended the staff's recommendation to read, "The petition cannot be granted because it would constitute spot zoning, but in the final districting, the staff recommends that the general area roughly be included in the final urban boundary."

Mr. Soh (who spoke as a private citizen and not as a staff member) took issue to this view point. He stated that this would not constitute spot zoning;

that it was his understanding that what the petitioners are requesting is an adjustment of the present temporary district boundaries to include their properties, and not to circumstrike it.

The Chairman in carrying Mr. Soh's point further asked, "Is it within this Commission's prerogative to change the interim boundary which would include the petitioners request and all other areas contiguous to these areas in question at this time, aside from the final adoption of the district boundaries?"

Legal counsel stated that this Commission cannot. This Commission must hold a separate hearing to adjust these interim boundaries. Legal counsel stated that the petitioners cannot petition for other properties other than their own for a boundary change. Even if the petitioners represented the majority property owners in the area, the petition would have no status. He stated that this was different from the Wolters matter which involved a hui, and not property land owners. He cited the Warfield matter which illustrated the matter beforehand. He stated that Mr. Warfield represented only those property owners of parcels stated in the petition.

Mr. Mahi explained that it was upon the advice of Mr. Mullahey that a petition for boundary change for the whole area be submitted. Mr. Yang added that Mr. Mullahey felt that it would be inadvisable for Mr. Mahi to apply for a special permit. Mr. Yang added that it is because of this spot zoning that is being mentioned that the petition has been submitted for the whole area. He stated that there was no objection to urbanizing this area before the expiration of the last Land Use Commission. He stated that it would be up to this Commission to urbanize this whole area, since this concerns district boundaries. He stated that it was hard for the petitioners to ask for a boundary change for only their lots, therefore, they have mentioned the whole plat.

Chairman Thompson explained that in terms of this Commission, it is possible for this Commission to consider a favorable decision concerning the whole area as outlined by the Executive Officer. But in terms of this petition, itself, requesting for amendment for the whole area, this is not possible, but this Commission may consider it when it establishes its final boundaries.

Commissioner Ferry requested that the petitioners be informed whether this petition as submitted by the petitioners is legal or not. Legal counsel stated that the petition is legal only for those property outlined in red.

The Chairman announced that this Commission will receive additional comments and protests within the next 15 days and will take action on this matter 45 to 90 days from this hearing.

Public hearing closed at 12:00 p.m.