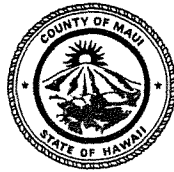


ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7740 FAX 270-7152

August 27, 2012

MEMO TO: Robert Carroll, Chair
Land Use Committee

F R O M: James A. Giroux, Deputy Corporation Counsel

SUBJECT: CORRECTION OF LAND USE MAPS ON FILE WITH THE OFFICE OF
THE COUNTY CLERK (PAF 12-143)

This memorandum is in response to your request of July 2, 2012 regarding the above subject. You asked the following:

1. Would it be acceptable for the Department of Planning to transmit corrected maps to the Council, who would instruct the County Clerk to replace the incorrect maps that are on file in the Office of the County Clerk?
2. Or, must the Council amend the maps by passing ordinances that refer to corrected maps?

I. Background

This issue concerns the passage of Ordinance Nos. 3906 and 3907 ("Ordinances") which were enacted on February 6, 2012. Ordinance 3906 amends the State land use district classification from Agricultural District to Rural District for approximately 1.395 acres identified by TMK: (2) 2-1-005:117. Ordinance 3907 amends the State land use district classification from Agricultural District to Rural District for approximately 2.79 acres identified by TMK: (2) 2-1-005:118. The properties are located adjacent to each other in Makena, Maui, Hawaii.

Section 1 of each ordinance references the applicable District Boundary Amendment Map and notes that the map is on file in the Office of the County Clerk. The District Boundary Amendment Maps are not attached as exhibits to the Ordinances.

Land Use District Boundary Amendment Map No. DB-518, on file in the Office of the County Clerk for TMK (2) 2-1-005:117, incorrectly states that the change in the State land use district classification is to the Urban District rather than the Rural District. In addition, District Boundary Amendment Map No. DB-518 incorrectly references Keoneoio-Makena Road rather than Makena-Keoneoio Road.

Land Use District Boundary Amendment Map No. DB-519, on file in the Office of the County Clerk for TMK (2) 2-1-005:118, incorrectly states that the change in the State land use district classification is to the Urban District rather than the Rural District.

II. Answer

Errors in District Boundary Amendment Maps on file with the County Clerk may be corrected by the County Clerk without having to go to Council to amend the Ordinance as long as the correction does not alter the sense, meaning, or effect of the ordinance.

III. Analysis

Chapter 1.14, Maui County Code, allows the County Clerk to make non-substantive corrections to supplements of the County Code. Chapter 1.14.040 states in relevant part:

In causing the preparation of supplements, the revisor of the county laws is authorized to make the following changes, provided that in making the changes, the revisor shall not alter the sense, meaning, or effect of any ordinance or rule:

....

7. Correct manifest clerical or typographical errors;...

In this situation the errors in the Land Use Designation Maps: the designation of Urban and the misnaming of the road are clerical errors that do not affect the sense, meaning, or effect of the ordinance. The Ordinance is clear that the intent of the Council was to grant a District Boundary Amendment from Agricultural District to Rural District, as evidenced by the agenda, Committee meeting transcripts, and report. The error on the map does not change the effect of the Ordinance. Correcting the name of the road on the map would have the same effect.

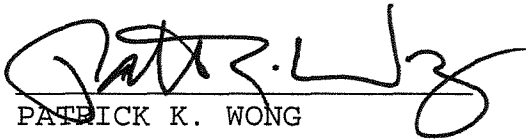
Robert Carroll, Chair
August 27, 2012
Page 3

Section 1.14.090 allows the County Clerk, to create rules and regulations to implement the chapter.¹ It is under this rule making process that the County Clerk would describe the method to be used to correct errors in maps that are kept by the County Clerk.

JAG:ln

S:\ALL\Advisory\JAG\clerk zoning maps.wpd

APPROVED FOR TRANSMITTAL:



PATRICK K. WONG

Corporation Counsel

S:\ALL\Advisory\JAG\clerk zoning maps.wpd

cc: William Spence, Planning Director
Webpage

¹ At the time of this memo and, to the best of our knowledge, the County Clerk has not adopted any rules pursuant to Chapter 1.14, Maui County Code.