

Name: Calvert G. Chipchase
Agenda Item: B. Community Plan Designations
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May 3, 2023

Department of Planning
2200 Main Street, Suite 315
Wailuku, HI 96793
Attn: South Maui CPAC

Calvert G. Chipchase
Cades Schutte Building
1000 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813-4212
Direct Line: (808) 521-9220
Direct Fax: (808) 540-5021
Email: cchipchase@ca-des.com

Re: Draft South Maui Community Plan (“Draft SMCP”) Proposed Community Plan Land Use Designations

Dear Chair Weltman and Committee Members:

Thank you for the opportunity to comment on the Draft SMCP. I write to raise the concerns regarding provisions in the Draft SMCP that you will consider today relating to the Community Plan Land Use Designations.

We have concerns about the proposed “Guidelines for the New Community Plan Land Use Designations” which would amend the Planning Department’s recommendations. Most significantly, the proposal includes specific permitted uses which are allowed in each of the community plan designations. These permitted uses appear to conflict with the permitted uses allowed for under the zoning code.

Allow me to provide an example. Under the Chair’s recommendations, the Resort/Hotel Community Plan Designation permitted uses would be:

1. Transient accommodations;
2. Retail and commercial uses and other visitor amenities; and
3. Parks and other public/quasi-public uses.

By comparison, the Hotel Zoning District allows for many more uses:

1. Any use permitted in residential and apartment districts;
2. Hotels;
3. Apartment-hotels;
4. Auditoriums and theaters;
5. Automobile parking lots and buildings;
6. Bona fide nonprofit clubs and lodges;
7. Nonprofit museums, libraries, art galleries, and philanthropic institutions;
and
8. Cell or radio antenna attached to an existing building.

May 3, 2023

Page 2

Beyond the above permitted uses, twelve accessory uses are allowed in the Hotel Zoning District, including, for instance, eating and drinking establishments, personal and business services, and gift shops. These differences highlight some of the legal confusion that could result from adoption of specific permitted uses in the community plan.

Zoning ordinances and community plans serve very different purposes and operate at different scales. While zoning ordinances are intended to specify how land can be used and developed in a particular area, the community plan is supposed to be a more general framework that provides a broad vision for the future development of a community. The community plan is designed to guide development decisions and future zoning regulations, but are not as prescriptive as zoning ordinances. That is precisely why there are different legal processes for amending zoning ordinances and creating community plans.

The proposal to add specific permitted uses in each district is legally suspect and would create confusion. We suggest seeking the guidance of the Planning Department and your legal counsel on the differences between zoning regulations and the community plan to prevent unnecessary tension between these two types of land use regulations.

I thank each member of the Committee for the opportunity to provide written testimony on the Draft SMCP and for your consideration of the same.

Very truly yours,

A handwritten signature in black ink, appearing to read "Calvert G. Chipchase".

Calvert G. Chipchase