

# Cashiers Area Community Planning Council Minutes

September 25<sup>th</sup>, 2018

5:00 p.m.

Cashiers/Glenville Recreation Center

Members	Present	Absent	Members	Present	Absent	Members	Present	Absent
David Bond	X		Robin Ashmore	X		Michael Cox	X	
Bob Dews	X		Mark Letson	X		Deborah Townsend Stewart	X	
Glenn Ubertino		X						

## **Staff Present**

Michael Poston- Planning Director  
John Jeleniewski- Senior Planner  
Caroline Edmonds- Planner 1  
Heather Baker- County Attorney  
Allison Kelley- Administrative Assistant

## **Others Present**

Susan San Souci, The Designer's Market

## **Call to Order**

Chairman Michael Cox called the meeting to order at 5:03 p.m. and a quorum was present.

## **Additions to Agenda**

Mike Poston requested to add "Cashiers Small Area Plan" under "New Business" as letter 5c. Deborah Townsend Stewart made a motion to add letter 5c. Robin Ashmore seconded the motion, and it passed unanimously.

## **Approval of the Minutes**

Deborah Townsend Stewart requested corrections to the draft minutes. Bob Dews made a motion to approve the August 27<sup>th</sup>, 2018 minutes pending the corrections presented to the Council. Robin Ashmore seconded the motion, and it passed unanimously.

## **Public Comment- Sign-up sheet- 3 minutes per speaker**

There were no public comments.

## **New Business**

### **a) Quasi-Judicial Hearing: Administrative Appeal of Sign Permit The Designers Market, Susan San Souci**

Chairman Cox informed the Council and those in attendance that a Quasi-Judicial hearing is an evidentiary hearing. The Council will make a decision based solely on competent material, substantial evidence, and the record. Chairman Cox opened the public hearing at 5:06 p.m. and asked the Council if there are any disclosures to be made.

He shared at the beginning of the process Ms. San Souci called him for guidance, and he directed her to the Planning Department. He believes his action does not meet the requirements for recusal, and the Council agreed. The applicant and staff were sworn into the Quasi-Judicial hearing.

John Jeleniewski presented the staff report for the Administrative Appeal to an application denial from staff by the applicant The Designer's Market, Inc. (Susan San Souci). The property location is tract "F" US Highway 64 East; Cashiers; PIN 7572-83-5753. The property location is in the General Commercial district zone. Article XI- Sign Regulations is the appealed ordinance article.

*Cashiers Commercial Area Land Development Ordinance* establishes the purpose of an administrative appeal in Article V, Section 5-2.

- a. *Purpose:* Appeals to the Cashiers Area Community Planning Council from the decisions of the administrative staff of Jackson County are permitted as provided in this section.

The applicant is appealing the Planning Department's decision to deny a sign permit on a property that is not the location of the primary business operations. Business operations occur on PIN 7572-83-8535 and the sign was requested on property PIN 7572-83-5753.

The *Cashiers Commercial Land Development Ordinance* sets forth sign regulations in Article XI and Section 11-3 – Prohibited Signs (11-3.f) specifically states:

*"Off-premise signs - Off-premise signs are prohibited except off-premise community identification signs as set forth in section 11-5c."*

Definitions from the *Cashiers Commercial Land Development Ordinance* from Article II, Section 2-5

- *Identification sign-* sign used to identify or advertise the name, logo, or other identifying symbol of a building, business, profession, etc. conducted on the property upon which the sign is located.
- *Off-premises sign* - any sign used to advertise, identify, or direct attention to business products, operations, or services sold or offered at a site other than the site where the sign is located.

Definition from the *Jackson County Sign Ordinance* from Article I, Section 22-1

- *Premises* - means a single tract of real property that is not divided by a street or right-of-way.

Exhibits presented to the Council as follows:

- Exhibit "A" - Site Map.
- Exhibit "B" - Email chain to Lynn Delgado (representative of the Designer's Market) explaining in detail that an off-premise sign could not be permitted and clarified ordinance sign regulations, i.e., sign, locations, height, quantity and fees.
- Exhibit "C" - Sign permit application submitted by Ms. Susan San Souci, owner of the Designer's Market.
- Exhibit "D" - Email chain to Ms. San Souci regarding the process and procedure for an administrative appeal.
- Exhibit "E" - Notification to adjacent property owners (via first class mail), advertisement in the local newspaper (2-week cycle) and posted the subject property 14 days prior to hearing date.
- Exhibit "F" - Submitted Appeal Application.
- Exhibit "G" - Applicants appeal letter.



- Exhibit “H” - Cashiers Commercial Area Land Development Ordinance, Article II.
- Exhibit “I” - Cashiers Commercial Area Land Development Ordinance, Article IV – Sign Permits.
- Exhibit “J” - Cashiers Commercial Area Land Development Ordinance, Article XI – Sign Regulations; Section 11-3 – Prohibited Signs.
- Exhibit “K” - Cashiers Commercial Area Land Development Ordinance; Section 5-2 – Appeals of Administrative Decisions.

The Jackson County Planning Department is charged with administration and enforcement of the *Cashiers Commercial Area Land Development Ordinance*. Planning staff has applied the standards and regulations set forth in this ordinance consistently without bias to all applicants.

*Cashiers Commercial Area Land Development Ordinance* establishes the Planning Council required actions to an administrative appeal in Article V, Section 5-2.e.

- 1) The Cashiers Area Community Planning Council shall hold a public hearing on the appeal upon receipt of the application materials. Notice of the public hearing shall be provided in accordance with statutes. The public hearing shall be conducted in accordance with the rules of procedure of the community planning council.
- 2) The community planning council shall adopt an order reversing, affirming, or modifying the contested action, either at the public hearing or at a subsequent meeting.
- 3) The community planning council shall not reverse or modify the contested action unless it finds the administrative officer erred in the application or interpretation of the requirements of this ordinance.
- 4) The community planning council shall not reverse or modify the contested action unless there is a concurring vote of a simple majority of the council members.

Chairman Cox inquired how the Planning staff determined an administrative appeal was the proper path for Ms. San Souci to pursue instead of a use variance. Staff answered that in North Carolina, a use variance is illegal, and off-premises signs are not allowed in the *Cashiers Commercial Area Land Development Ordinance*.

David Bond inquired if Ms. San Souci has a right-of-way to Hawks View Road off of Highway 64. Ms. San Souci stated she does not have an easement, but has non-exclusive rights to use Hawks View Road to enter her business. Mr. Bond asked staff if the applicant could have a sign at the beginning of the road that led to the business.

John Jeleniewski stated the property is not exempt from the ordinance. Had the Planning staff been contacted for the intent to place a sign on this property they would have informed Ms. San Souci of the inability to issue a sign permit due to it being off-premise. According to the ordinance, when a use or sign changes it must comply fully with the ordinance.

Ms. San Souci inquired about the definition of contiguous from the ordinance. The ordinance states, if there is no definition to a specific word, go to the Planning Dictionary. The Planning Dictionary defines contiguous as “adjacent or adjoining.”

The applicant, Susan San Souci owner of the Designer’s Market, presented to the Council. The Planning staff is claiming that it is an off-premise sign. She believes it is not an off-premise sign. According to the Cashiers Ordinance, she believes it is an identification sign. The definition of an identification sign is that it has to be on the

property upon which the sign is located. Ms. San Souci presented evidence Exhibit 1, a tax map from the Jackson County Geographic Information System (GIS), which shows all three properties are recorded on the same date and deed. In the *Jackson County Sign Ordinance*, staff provided a definition of *premises*, but that word is not included in the *identification sign* definition. The Jackson County definition of an *on-premises sign* is almost identical to the Cashiers Ordinance *identification sign*. The verbiage is similar, as the *Jackson County Sign Ordinances* states the sign must be on-premises and *Cashiers Commercial Area Land Development Ordinance* states it should be on the property. The town of Cashiers has its own municipalities and township ordinances due to the difference in population, and demographics that differ in other parts of Jackson County.

The applicant, along with her marketing manager, Lynn Delgado decided they wanted a new sign Ms. Delgado reached out to staff to find out the size regulations. Staff replied that they were unable to have a sign there, she replied they already had a sign permit. At this point, Ms. San Souci realized a sign permit was not just for the business, but for the business per location. When Ms. Delgado found out the sign was not appropriately permitted, the applicant went down to the Cashiers office and turned in her application despite staff's statement. Ms. San Souci presented evidence Exhibit 2, a plat for Dianne H. King, J. Donald King Sr. indicating the piece of property recorded on November 7, 2000. When the applicant purchased the property, a deal was made with the property owner, Tom Sawyer to take a tract off of the property meant for an *identification sign* according to staff's definitions. Staff contacted Ms. San Souci stating that the sign is off-premises according to the ordinance. The applicant pursued an administrative appeal of staff's decision. Exhibit 3 was presented to the Council of the email from the adjacent property owner, Tom Sawyer stating when he sold Ms. San Souci the property he gave her the rights to place a sign on that property. In addition, Exhibit 4 the official copy of the adjacent property letter The Designer's Market received was presented to the Council.

Hawks View Road leads to the business and was paved by the applicant's expense. Ms. San Souci's physical address is 61 Hawks View Road. She stated Exhibits "H, I, J and K" from the Cashiers Ordinance does not contain a definition of *on-premises* or *premises* only a definition of *identification signs*. She believes the insertion of premises is not accurate or appropriate in her opinion.

With no further questions to the applicant, Chairman Cox asked staff if they had any rebuttal evidence to present. John Jeleniewski stated the *Jackson County Sign Ordinance* does not allow off-premise signs, and staff has the authority to remove signs in the rights-of-way that are off-premise.

Ms. San Souci made a final statement that she believes that staff made an error as the sign relates to the property and other tracts. She stated a sign is not a luxury to a business, but the livelihood of the business. Business owners in the community are members of the community. She hires employees from different counties, participates in an internship program, and is a member of the workforce development initiative of the leadership forum. The sign is attached to her property, and she hopes the Council will allow her to keep the sign.

David Bond stated he looked into the regulations for US Highway 64. Currently, it is known as a scenic byway, and therefore are unable to erect a billboard on US Highway 64. The billboards that currently reside on US Highway 64 are grandfathered in from 1998 or 2000.

*Chairman Cox closed the public hearing at 5:53 p.m.*

Deborah Townsend Stewart stated she does not feel qualified to make changes to the ordinance. She is concerned that the Council would steer staff away from their job



they have given them to do. However, she believes this situation should be looked at going forward in making a change to the ordinance.

Chairman Cox stated staff did their job correctly and they used a standard interpretation of the meaning of premises. However, he believes there was a failure in the way the property was developed. In reference to Exhibit 3 the email from Tom Sawyer, it is apparent it was his intention and Ms. San Souci's for a sign to be on the property.

*Deborah Townsend Stewart made a motion affirming staff's application denial decision. Mark Letson seconded the motion and it passed unanimously.*

*Deborah Townsend Stewart made a motion to add "Off-Premises Signs" letter 5b of the agenda. Mark Letson seconded the motion and it passed unanimously.*

**b) Off-Premises Sign**

Chairman Cox believes the Council is tasked by doing the right by the village of Cashiers. This task leaves a gap of the uncertainty of what is right for the character of Cashiers. From the conversation today, it is apparent it is in the character of Cashiers to allow Ms. San Souci to keep her sign. However, the village of Cashiers does not want to see a flood of billboards go up. There is a lot of undeveloped land in Cashiers, and do not need everyone selling 10 feet by 10 feet sign lots.

Mike Poston asked the Council if they wanted staff to find a resolution to this type of situation and reach out to NCDOT about HWY 64. In addition, for staff to find out if there is a way to offer an amendment to make allowances for similar situations.

*Deborah Townsend Stewart made a motion for the Planning staff gather information of proposed changes of off-premises sign to bring to the Council at the next meeting. David Bond seconded the motion with the addition of the information to be directly related the property to be a certain distance. Deborah Townsend Stewart amended her motion, and it passed unanimously.*

**c) UDO Articles VI, VII and X**

Mike Poston presented UDO Article VI, the Development Standards section. The section includes general development standards related to Outdoor Lighting, Wireless Communications Facilities, Manufactured Home Parks, Industrial Development, and Adult Establishments. The Planning staff kept the same standards but removed the Administration & Enforcement, and definitions. Staff will revisit Outdoor Lighting due to LED technology becoming a new type of lighting system in the future. Article VII is the Signs section. The Supreme Court case, *Reed v. Town of Gilbert, Arizona*, is known as the *Reed* decision. This decision limits the ability of jurisdictions, local, and state governments to regulate non-commercial content. The draft now reflects the duration, size, and location of the sign. Article X is the Violations and Enforcement section. Under Procedures, staff added both Planning and/or Permitting and Code Enforcement Director will make enforcement actions that may lead to certain types of procedures. In addition, Article X references the state statute that governs how notices are issued and standardized throughout the ordinance. Both Planning and/or Code Enforcement decisions can be appealed to the Board of Adjustment when outside the zoned districts or to the appropriate Board/Council within the zoned districts.

**d) Cashiers Small Area Plan**

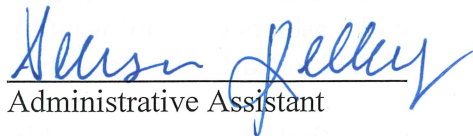
Caroline Edmonds presented the first draft of the Cashiers Small Area Plan. She informed the Council that staff has reviewed the draft and corrected spelling errors. Mike

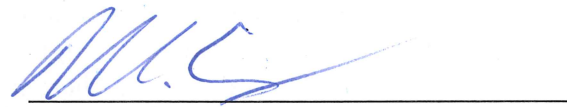
Poston stated staff gathered email addresses of individuals that wanted to be informed on the plan. Those individuals will be emailed a copy of the draft tomorrow morning. In addition, this document will be uploaded to the Cashiers Small Area project page on the Jackson County website at [jacksonnc.org](http://jacksonnc.org). Staff will post the draft on the Jackson County Planning Facebook page to inform the public that it is available for review. Mike Poston asked the Council to review the draft to have a robust discussion for the October meeting.

### Adjournment

With no further business to discuss, Robin Ashmore made a motion to adjourn. Deborah Townsend Stewart seconded the motion and the meeting adjourned at 6:25 p.m.

Respectfully Submitted,

  
Administrative Assistant

  
Michael Cox, Chairman