

Cashiers Area Community Planning Council

Minutes

January 6, 2021

9:00 a.m.

Village Green (Common Hall)

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
Heather Baker- County Attorney
Caroline LaFrienier- Planner II
Allison Kelley- Administrative Assistant

Others Present

Stephen Macauley, Applicant
Craig Justus, Attorney to Applicant
John Noor, Attorney

Call to Order

Chairman Michael Cox called the meeting to order at 9:12 a.m. and a quorum was present.

Additions to Agenda

Bob Dews made a motion to approve the agenda as written. Robin Ashmore seconded the motion, and it carried unanimously.

Approval of the Minutes

David Bond made a motion to approve the December 14th, 2020 minutes presented to the Council. Mark Letson seconded the motion, and it carried unanimously.

New Business

a) **Special Use Permit: Cashiers Village**

Chairman Cox opened the Public Hearing at 9:15 a.m.

Heather Baker stated that a party with standing is considered by the Council in all Quasi-Judicial hearings. There may be some objections to parties that have applied for standing, and the Council will need to be more formal in their decision than some in the past that were not contested. Ms. Baker discussed what qualifies a party with standing as follows:

- a person with a legal interest in the subject property (this includes ownership; lease interest; an option or contract to purchase the property; or an interest created by an easement, restriction, or covenant),
- the applicant before the decision-making board
- the city or county when the governing board believes the decision was made in error,
- a person who will suffer special damages as a result of the decision
- an association organized to promote the interests of a particular area (such as a homeowners association or community association) so long as at least one member would have standing as an individual and the association was not created in response to the development issue.

The county is required to send a notice to all adjacent property owners of the special use application; however, it does not guarantee they would suffer special damages. The Council should consider the following factors:

- Proximity: how close the party is to the proposed development
- Property value: economic damages such as a decrease in property value and other direct adverse effects on the property, and the party would have to show evidence of these special damages.
- Secondary impacts: impacts related by traffic, parking, security, stormwater runoff, littering, and noise that is specific to the alleged party's property

Ms. Baker introduced Craig Justus, attorney for the applicant, and John Noor, attorney to a group of individuals that have applied for standing. Mr. Noor stated he is representing Yvonne Johnson, Laura Moser, Jeannie Menge, Chattooga Conservancy, and Gana-Sita Property Owners Association. He stated that both he and Mr. Justus has come to an agreement amongst both parties that four of his clients have standing in this proposed project (Ms. Johnson, Ms. Moser, Ms. Menge and Chattooga Conservancy). Mr. Noor stated this is to help speed up the process by not spending too much time discussing the same issues for each of those clients, and to allow the Council to get through the other received applications. Mr. Justus confirmed that to help expedite this process that both parties agreed to the stipulation that Mr. Noor's four clients did have standing. The stipulations are attached and hereby incorporated.

Mr. Noor presented his client, Yvonne Johnson's application to the Council. Ms. Johnson stated she lived at 71 Bustle Lane, Cashiers. Mr. Noor asked Ms. Johnson where her property is located within relationship to the proposed development. Ms. Johnson stated her property is abutting the proposed development, and she is downgrade from the ridge. Mr. Noor inquired if Ms. Johnson received a notice from the county related to this hearing as an adjacent property owner. Ms. Johnson stated she did receive a notice from the county. Mr. Noor asked Ms. Johnson to clarify down ridge, does she mean that her property and home is situated below buildings and structures that are proposed in the development. Ms. Johnson stated yes, her property is directly below the proposed five multi-family use buildings, and we she goes outside of her house and looks up she is looking at a very steep incline which is approximately 70% grade. Mr. Noor inquired if she submitted an application and affidavit in support of standing and Ms. Johnson stated she did. That affidavit submitted is a sworn statement by the applicant regarding the basis of their standing. Mr. Noor clarified that on the second page of the affidavit, the "green star" represented Ms. Johnson's property in relationship to the development. Mr. Noor inquired what major public road Ms. Johnson used to access her property. Ms. Johnson stated the only accessible road is Highway 107 as Bustle Lane comes directly off this road. In addition, Bustle Lane serves as the entrance to her home, and four other properties. Mr. Noor inquired if there was an issue with traffic congestion on Highway

107 would it impact Ms. Johnson's property since that is the only road that can access her property. Ms. Johnson stated yes, that is correct and in her affidavit, she referenced traffic congestion as damage. In addition, the only accessible way to get to her home is from Highway 107, and during the high season it is difficult to turn left safely. Ms. Johnson stated she is concerned of the proposed development because they already have a lot of congestion and this will serve as an increase in congestion. She stated she is concerned that given that situation and the only access to her property is from Highway 107 that emergency vehicles might be prohibited from reaching her home. In addition, Ms. Johnson stated she experiences delays accessing Highway 107 during the high season, she tries to turn out on Highway 107 there is backed up traffic on Frank Allen Road. Another damage she is concerned about is landslide risks, and the proposed development will have multi-family houses behind her home on a steep incline, and is afraid of a landslide down to her property and further properties below her....and she does believe that the type of typography is wrong for those types of buildings. Ms. Johnson stated she had consulted with expert engineers regarding her concerns. In addition, the proposed development will have parking spaces, which would be impervious surfaces and the stormwater would have to be routed in a way to prevent landslides, and she is concerned about the water runoff damage to her property.

Mr. Cox asked the Board to vote if the four parties (Ms. Johnson, Ms. Moser, Ms. Menge and Chattooga Conservancy) to have standing. The Council voted unanimously that the four parties had standing.

Glenn Ubertino made a motion to allow Gana-Sita Properties Owners Association to participate as a witness, and not a party with standing. Robin Ashmore seconded the motion, and it passed unanimously.

The Council reviewed the submitted applications that alleged to have standing as follows:

- **Steven Clark and Deborah Clark:** Mr. Clark stated his property is not adjacent to the proposed development but within the vicinity. He stated they would experience damage in terms of traffic, their property entrance is from the crossroads intersection and that increase in traffic would be substantial from the proposed project. In addition, Mr. Clark stated he did not seek expert advice regarding his traffic concerns. Mr. Clark also alleged that his well could potentially run dry and the quality could deteriorate, but had not discussed with an expert. Mr. Noor inquired if Mr. Clark's property is on well water, and approximately how far away is his property from the proposed development. Mr. Clark stated that his property does have well water, and he is a third of a mile away from the proposed development. Mr. Noor inquired if he was familiar with a water study report by the Tuckasiegee Water Sewer Authority (TWSA) in 2018 related to water availability on the Cashiers plateau. Mr. Clark stated he has not heard of that water study but would be interested in reading it.

Bob Dews made a motion to allow Mr. Steven Clark and Ms. Deborah Clark to participate as a witness, and not a party with standing. Robin Ashmore seconded the motion, and it passed unanimously.

- **Anita Cramer:** Mr. Noor stated he had some information regarding Ms. Cramer though she is not his client, he was informed her husband is in the ICU, which is why she is not in attendance today as she is tending to a family member. In addition, the Council may want to review her application at the next meeting on January 25th. The Council unanimously decided to wait to review Ms. Cramer's application for standing on January 25, 2021.
- **Sean Cronin:** Mr. Cox, reading from the application, stated that Mr. Cronin is not an adjoining property owner, lives far from the proposed project on Honey Bee

Bend, and did not allege that he would have special damages but would like to be heard by the Council.

David Bond made a motion to deny Mr. Cronin to participate as a witness and as a party with standing. Bob Dews seconded the motion, and it passed unanimously.

- **Mary Ellis:** Ms. Ellis stated her family has property on Monte Vista Road and it is within a quarter of a mile from the proposed development. Her biggest concern is water availability, they are on a private well, and during a period of a dry season had to drill a second well that subsequently went dry. Another big concern for Ms. Ellis is traffic on Monte Vista Road, and she would like the opportunity to participate as a witness. In addition, she stated her family has owned the property since 1897, and although Cashiers has a large amount of rain they still experience extended drought, and she is unsure if the developer is recognizing this issue.

Mark Letson made a motion to allow Ms. Ellis to participate as a witness, and not as a party with standing. Robin Ashmore seconded the motion, and it passed unanimously.

- **Robert Goodman:** Mr. Cox, reading from the application, stated reviewing Mr. Goodman's application he did not receive a letter from the Planning Department, did not claim to suffer special damages, and is located not within the vicinity of the proposed development.

Bob Dews made a motion to deny Mr. Goodman to participate as a witness, and as a party with standing. Robin Ashmore seconded the motion, and it passed unanimously.

- **William Wallet and Suzanne Graham:** Mr. Cox, reading from the application, stated they live within the Gana-Sita community and the Council did allow the Gana-Sita Properties Owners Association to participate as a witness. Mr. Noor stated in this application they stated to have experienced issues with well water availability. In relationship to the proposed units, and the draw that will come off of this property for well water, and on behalf on Mr. Noor's clients he would submit this applicant has alleged special unique damages. Mr. Justus stated the application is an unsubstantiated claim that the impact of the development would be detrimental to this property. He also stated that this was an unsupported claim without proof from an expert or witness. Mr. Justus asked the Council to be consistent and allow this applicant to participate as a witness, but not with standing.

David Bond made a motion to allow Mr. Wallet and Ms. Graham to participate as a witness, and not as a party with standing. Bob Dews seconded the motion, and it passed unanimously.

- **Susan Hamilton:** Mr. Cox, reading from the application, the application states Ms. Hamilton did not receive a letter from the Planning Department, and is alleging she will suffer special damages such as light pollution, noise pollution, and road access to her property located in Gana-Sita during construction. In addition, the applicant stated the community would be impacted by traffic congestion, loss of ridgeline, trees, natural habitats, water (if aquifer over used), noise and light pollution, runoff, internet speed.

Glenn Ubertino made a motion to allow Ms. Hamilton to participate as a witness, and not as a party with standing. David Bond seconded the motion, and it passed unanimously.

- **Connie Hawkins and Keven Hawkins:** Mr. Cox, reading from the application, stated the applicant received a letter from the Planning Department, and stated they would not suffer special damages but would like to be heard by the Council.

Mr. Cox stated for consistency the applicant's property abuts the proposed development and is located near Bustle Lane. In addition, the applicant could potentially suffer damages such as landslide, traffic, and water. Mr. Justus asked the Council to consider the application as presented stating they would not suffer special damages.

David Bond made a motion to allow Ms. Hawkins and Mr. Hawkins to participate as a witness, and not as a party with standing. Glenn Ubertino seconded the motion, and it passed unanimously.

- **Mary Hotelling:** Mr. Cox, reading from the application, stated the applicant's property is located on Swiss Lane near Lake Glenville. Ms. Hotelling did not receive a letter from the Planning Department, and not alleging to suffer special damages.

Glenn Ubertino made a motion to deny Ms. Hotelling to participate as a witness, and as a party with standing. Mark Letson seconded the motion, and it passed unanimously.

- **Sarah Jennings:** Ms. Jennings stated she lived on Monte Vista Road and had become aware that the development was under contract with 22 acres behind their property, and if that were the case, she would be abutting two sides of the development. Ms. Jennings stated she has concerns that there would be a substantial amount of construction over the next 5-10 years in the small community. In addition, she is concerned of erosion on both sides as they have a 10-foot bank that separates the 22 acres behind her property, and a stream that separates the main part of the development from her property. Ms. Jennings stated she is also concerned about security during the construction phase with a substantial amount of traffic, and when the properties open. In addition, the long-term concerns are a decrease in property values due to the high density of the development. Mr. Justus stated that the property that Ms. Jennings discussed is not a part of this development.

Glenn Ubertino made a motion to allow Ms. Jennings to participate as a party with standing. Mark Letson seconded the motion, and it passed unanimously.

- **Steven Johannessen:** Mr. Johannessen stated that he was not an expert but has been in business for 15 years in the same location, and knows the traffic patterns on Highway 107. He stated the traffic patterns are seasonal, and it is important to know that there is traffic congestion at the left turn lane onto Frank Allen Road. He is concerned that the increased traffic on this road from the proposed development would affect his business, as currently during the peak seasons customers cannot access his property. Mr. Johannessen stated the NCDOT has completed a Traffic Analysis on Highway 107 over the years, and he is not an expert, but has observed the traffic patterns. Currently there are two large developments already on Highway 107, near the High Hampton area and across the road, and it is apparent that the traffic will increase dramatically once these developments are completed. In addition, Mr. Johannessen stated he had planned to sale this property once he retires in a few years, and if the construction continues for 10 years it is going to decrease the property value. He is also is concerned about secondary impacts, such as stormwater runoff as his property is located across the street and downhill where the development is proposed. He stated they already experience issues currently with stromwater runoff, and the new development would increase this issue. Mr. Johannessen stated he was concerned about groundwater contamination as the development plans to put in ground septic systems. He asked the Council to consider him for standing as

based on the impervious surface of the proposed project, he would receive impact from construction, and once the development is completed.

Glenn Ubertino made a motion to allow Mr. Johannessen to participate as a party with standing. Robin Ashmore seconded the motion, and it passed unanimously.

- **Giuliana Kaufman:** Mr. Cox, reading from the application, stated Ms. Kaufman received a letter from the Planning Department, and alleging to suffer special damages. Ms. Kaufman stated her property is located across the street and serve as both her business and home. She stated her customers already face issues accessing her property, as there is too much traffic between Frank Allen Road and the Crossroads intersection. She will suffer from dust pollution, and noise pollution from construction as she can no longer leave her doors and windows open.

Bob Dews made a motion to allow Ms. Kaufman to participate as a party with standing. Glenn Ubertino seconded the motion, and it passed unanimously.

- **Brent Millis:** Mr. Cox, reading from the application, stated Mr. Millis property is located on Gana-Sita Circle and inquired if he was a part of the Gana-Sita Property Owners Association. Mr. Millis stated that he was not a part of that association, and is in a separate development called Hidden Creek. In addition, he is approximately 100 feet away from the proposed development and has four residential homes located on his property. He is alleging that he will suffer high-density commercial and residential traffic, water, sewage, and noise that would be distinct from the public at large. Mr. Millis stated he considers himself an expert witness as he is a developer, NC licensed general contractor, and NC licensed real estate broker with an active real estate firm. Currently he has eight residents on his property on a spring, and is concerned the spring would be affected by the development and potentially dry up. In addition, he stated his cousin owned the lot above his property drilled a well of 1000 feet this year but it ran dry, which was approximately 100 yards from his home.

David Bond made a motion to allow Mr. Millis to participate as a party with standing. Robin Ashmore seconded the motion, and it passed unanimously.

- **Mark Moran and Jamie Moran:** Ms. Moran stated they are members of the Gana-Sita Properties Owners Association, and would like the opportunity to participate as witnesses.

Bob Dews made a motion to allow Mr. and Ms. Moran to participate as a witness, and not as a party with standing. Mark Letson seconded the motion, and it passed unanimously.

- **Jane Nardy and Patricia Nardy:** Mr. Cox, reading from the application, stated that Ms. Nardy did receive a letter from the Planning Department. Mr. Millis stated that Ms. Nardy is his neighbor on Monte Vista Road, and from a real estate perspective, it is located in a prime location. In addition, she is considered local historian of Cashiers, and based on her location of her property is the same as his, her rental business would be impacted.

Bob Dews made a motion to allow Ms. Nardy and Ms. Nardy to participate as a witness, and not as a party with standing. David Bond seconded the motion, and it passed unanimously.

- **Maria Partlow:** Ms. Partlow withdrew her application via email to Allison Kelley (Clerk to the Council).
- **Kelly Ryan:** Mr. Cox, reading from the application, stated Ms. Ryan did not receive a letter from the Planning Department and she lives on New Morning

Lane behind Gana-Sita Circle. Ms. Ryan is alleging she will suffer special damages increased traffic in accessing or leaving her property, and potential impact on resale value.

Glenn Ubertino made a motion to allow Ms. Ryan to participate as a witness, and not as a party with standing. Robin Ashmore seconded the motion, and it passed unanimously.

- **Robert Savelson and Susan Bianchi:** Mr. Cox, reading from the application, stated Mr. Savelson and Ms. Bianchi live on Fenley Forest Trail, and did not receive a letter from the Planning Department. In addition, on the application they alleged there would be a significant adverse change to the community, but they are not located within close proximity to the proposed development.

Mark Letson made a motion to deny Mr. Savelson and Ms. Bianchi to participate as a witness, and as a party with standing. Robin Ashmore seconded the motion, and it passed unanimously.

- **William Schoeffler/Silverleaf Capital LLC:** Mr. Cox, reading from the application, stated the application states Mr. Schoeffler did not receive a letter from the Planning Department, but purchased his home on October 26, 2020 located on Monte Vista Road. Mr. Schoeffler stated he would like to participate as a witness as his property is adjacent to the proposed development, and would like to be involved in this development process.

Bob Dews made a motion to allow Mr. Schoeffler/Silverleaf Capital LLC to participate as a witness, and not as a party with standing. Glenn Ubertino seconded the motion, and it passed unanimously.

- **Glenn Ullman and Lisa Ullman:** Mr. Cox, reading from the application, stated the application states Mr. and Ms. Ullman did not receive a letter from the Planning Department. In addition, the application they alleged they would be impacted by construction, congestion in roads, and drop in property value. Ms. Ullman stated they are represented by the Gana-Sita Properties Owner Association, and would like to be considered to participate as witnesses.

David Bond made a motion to allow Mr. and Mrs. Ullman to participate as a witness, and not as a party with standing. Bob Dews seconded the motion, and it passed unanimously.

- **Robert Wood:** Mr. Cox, reading from the application, stated Mr. Wood lives on Sheep Hollow Way, and a board member of Big Sheep Cliff Property Owners Association. The damages he stated he would suffer are not distinct from the public at large such as, traffic congestion, pollution, significant adverse drain on infrastructure (water, sewer, garbage, etc.).

Bob Dews made a motion to deny Mr. Wood to participate as a witness, and as a party with standing. Mark Letson seconded the motion, and it passed unanimously.

- **Jonathan Zachary:** Mr. Cox, reading from the application, stated the application states Mr. Zachary received a letter from the Planning Department, but was mailed to an incorrect address. In addition, he will suffer damages such as construction and operation of the project would restrict access to his property. Mr. Zachary does it will also restrict access to all community businesses. Mr. Zachary stated he is concerned about water supply and pollution, as the property's only source of water is from a spring, and the property is located downhill from the proposed development. In addition, he stated the property adjoins two sides of the proposed development, downhill from the development, and uphill to the cell tower that is near the apex of the ridge.

Glenn Ubertino made a motion to allow Mr. Zachary to participate as a party with standing. Bob Dews seconded the motion, and it passed unanimously.

- **Mark Zachary and Judy Zachary:** Ms. Zachary stated that they owned property that adjoins the family property where Jonathan Zachary resides, and her property surrounds the proposed project. Ms. Zachary stated they are alleging damages of loss of natural habitat, and non-distinct damages of traffic congestion, noise pollution and water usage. In addition, she stated her home is supplied by spring water that is located on the family property, and is concerned the proposed development could affect her drinking water supply.

Mark Letson made a motion to allow Mr. and Mrs. Zachary to participate as a party with standing. David Bond seconded the motion, and it passed unanimously.

The Council reviewed the following applications that were submitted after the deadline to request to participate as a party with standing:

- **Les Alderman:** Mr. Cox, reading from the application, stated Mr. Alderman lives on Beaver Court in Sapphire, and did not receive a letter from the Planning Department. In addition, he is not alleging to suffer special damages.

Bob Dews made a motion to deny Mr. Alderman to participate as a witness, and as a party with standing. Glenn Ubertino seconded the motion, and it passed unanimously.

- **Patrick Hurley:** Mr. Cox, reading from the application, stated Mr. Hurley did receive a letter from the Planning Department, and adjoins the proposed development. Mr. Hurley stated he bought his property in 2019, and has been renovating the existing home on the property. Mr. Hurley stated he would suffer special damages such as water availability, noise pollution from construction, and loss of natural wildlife habitats.

Bob Dews made a motion to allow Mr. Hurley to participate as a party with standing. Glenn Ubertino seconded the motion, and it passed unanimously.

- **Cashiers Canoe Club Development LLC:** Turner Inscoe stated they submitted an application to request to participate as a party with standing as there has been a tract of land under contract on Valley Road, which is contiguous and abuts Cashiers Lake. He stated his understanding is the land under contract is to assist in their stormwater management plan. In addition, he stated their civil engineer has spoken with the applicant's civil engineer yesterday to confirm that there are considerations to utilize Cashiers Lake for stormwater management. Mr. Inscoe stated he has interest in how the stormwater is managed, as they have historically incurred expenses of eight hundred thousand dollars for rehabilitation to the dam in 2011, and are in the process of obtaining permits and authorization to conduct needed lake dredging and maintenance from previous upstream development. In addition, he wants to understand how the stormwater will impact Cashiers Lake and collaborate to discuss the maintenance of the significant water resource. Mr. Inscoe stated he had great communication with the applicant in the past, and for that communication to continue. In addition, he stated he would be prepared with their experts to present evidence if needed for a proper solution. Mr. Cox asked Mr. Justus if it was true there is land under contract that adjoins Cashiers Canoe Club development property and Cashiers Lake, and if that property should be considered as part of this application. Mr. Justus stated there is no property under contract, and there is no property other than those included in the development application that is before the Council. Mr. Cox asked Mr. Inscoe to collect information to determine facts regarding the land under contract, and the Council

unanimously agreed to wait to hear this application at their next meeting on January 25, 2021.

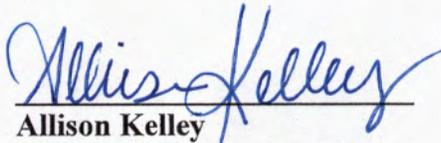
Chairman Cox closed the Public Hearing at 12:30 p.m.

David Bond made a motion to recess to continue the meeting on Monday, January 25th at 9:00 a.m. Robin Ashmore seconded the motion, and it carried unanimously.

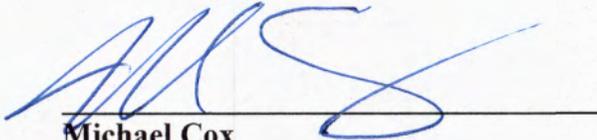
Adjournment

With no further business to discuss, the meeting adjourned at 12:30 p.m.

Respectfully Submitted,



Allison Kelley
Administrative Assistant



Michael Cox
Cashiers Planning Council Chairman