

BEFORE THE CASHIERS AREA COMMUNITY PLANNING COUNCIL

CASHIERS VILLAGE II, LLC'S
APPLICATION FOR SPECIAL USE
PERMIT DATED AUGUST 23, 2020

OBJECTION & MOTION TO DISMISS
APPLICATION

NOW COME the Chattooga Conservancy, Jean Menge, Laura Moser, and Yvonne Johnson (“Movants”), by and through counsel, pursuant to N.C.G.S. § 160D-406(d), to request that the Cashiers Area Community Planning Council (the “Council”) dismiss the above-referenced Application for Special Use Permit. In support of the Motion, Movants show the following:

1. On 23 August 2020, Stephen Macauley, Member-Manager of Cashiers Village II, LLC, submitted an Application for a Conditional Use Permit, aka Special Use Permit.

2. If approved by the Council, the proposed development would include the construction of a dense multi-use development on 55.52 acres in two phases spanning across the top and two sides of a major ridge (Chattooga Ridge) between Highway 107 and Monte Vista Road. The proposed development would consist of over 1.2 million square feet of spaces within building structures and include hotel and commercial uses; apartments, townhomes, and condominiums.

3. The above-referenced application for a special use permit (“Application”) is subject to dismissal on its face as a matter of law because the application and supporting documents disclose violations of pertinent provisions of the Cashiers regulated district provisions found at Section 9.3 of the Jackson County Unified Development Ordinance (“UDO”).¹

4. The proposed development that is the subject of the Application is situated within both the Cashiers Village Center (VC) District and the Cashiers General Commercial (GC) District which are the subject of Section 9.3 (Cashiers Commercial Area regulated district) of the UDO. Provisions of the UDO specific to the Cashiers VC District are found at UDO Section 9.3(d), and provisions specific to the GC District are found at UDO Section 9.3(e). Figure 9.1 of UDO Section 9.3(d) reflects various development requirements and limits applicable to the VC District, and Figure 9.2 of UDO Section 9.3(e) reflects various development requirements and limits applicable to the GC District

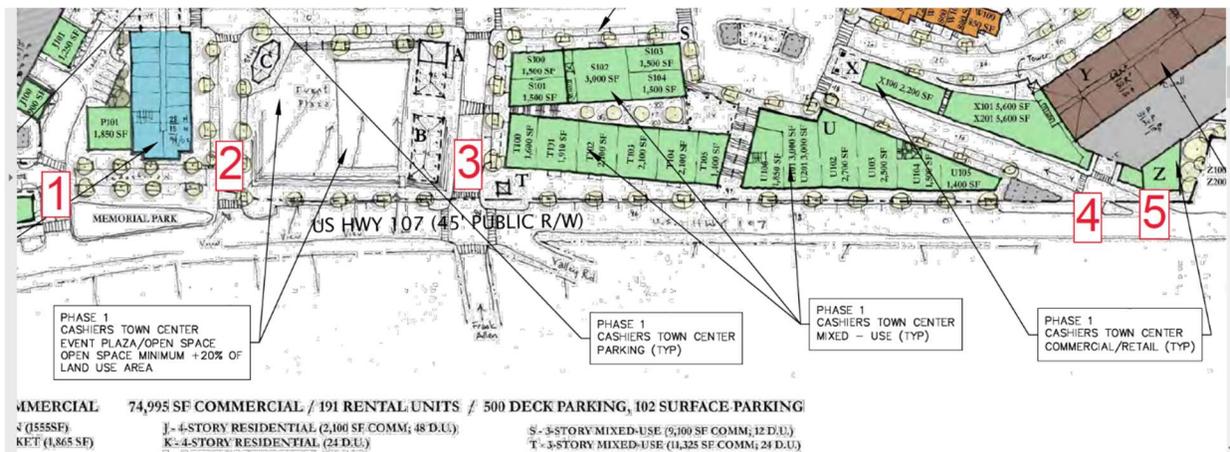
5. UDO § 9.3(d)(vi)(9) sets forth mandatory access point limitations in the VC District: “Points of access shall be limited to not more than **two per development along any street or road**. Points of access for a development shall be at least 50 feet apart and points of access for different developments shall be at least 25 feet apart. Shared access points for adjacent developments are encouraged and should be used wherever possible.” Figure 9.1 in the

¹ The UDO violations referenced below are not exclusive of other legal deficiencies and inadequacies of the Application, and Movants reserve the right to object to such deficiencies and inadequacies in the course of the hearing should this motion to dismiss not be granted.

UDO repeats that same two (2) access point limitation. Pursuant to Section 11.1 of the UDO, “access point” is defined by the American Planning Association’s Planners Dictionary as “a driveway or local street intersecting a local street.” A Planners Dictionary, 2004 pg. 44. Driveway is defined as “an entrance used by vehicular traffic to access property abutting a street. As used in this [UDO], the term includes private residential, nonresidential, and mixed-use driveways.” UDO § 11.2.

6. UDO Section 9.3(e)(9)(i) contains identical access point limits in the GC District. Figure 9.2 repeats those access point limits.

7. Identified in red below on the site plan submitted with the Application are the ten (10) access points for the proposed development. As numbered below, the site plan shows five (5) access points on Monte Vista Road (within the GC District) and five (5) access points on U.S. Highway 107 (in the VC District).



8. Section 9.3 includes Figure 9.1 (Village Center District) and Figure 9.2 (General Commercial District), both of which establish maximum structure size limits of 5,000 square feet.

9. The UDO defines “structure” as “anything installed, constructed or erected by a human The term structure includes the term building.” UDO § 11.2.

10. Below are screen shots from Figures 9.1 and 9.2 of Section 9.3 of the UDO which establish that maximum structure size within both the Cashiers VC and GC Districts:

STRUCTURE SIZE:

A. Maximum Structure Size: ≤ 5,000

(Structures exceeding 1,500 square feet footprint—including decks, porches, and other add-ons-- require a conditional use permit.)

B. Maximum Structure Height: 30 Feet

STRUCTURE SIZE:

A. Maximum Structure Size: ≤ 5,000

(Structures exceeding 1,500 square feet footprint—including decks, porches, and other add-ons-- require a conditional use permit.)

B. Maximum Structure Height: 30 Feet

11. Below are zoomed in screenshots of the applicant’s Cashiers Town Center Retail Plan with all structures exceeding 5,000 square feet highlighted in red.

A - 1-STORY RESTROOM & PAVILION (1555SF)

B - 1-STORY OPEN PAVILION / MARKET (1,865 SF)

C - 1-STORY STAGE (775 SF)

G - 1-STORY RETAIL (4,175 SF)

H - 1-STORY RETAIL (2,140 SF)

I - 2-STORY MIXED-USE (5,975 SF COMM; 6 D.U.)

J - 4-STORY RESIDENTIAL (2,100 SF COMM; 48 D.U.)

K - 4-STORY RESIDENTIAL (24 D.U.)

L - 3-STORY RESIDENTIAL (49 D.U.)

M - 3-STORY MIXED-USE (4,000 SF COMM; 14 D.U.)

N - 2-STORY LIVE-WORK (2,800 SF COMM; 2 D.U.)

O - 3-STORY MIXED-USE (4,200 SF COMM; 8 D.U.)

P - 3-STORY HOTEL (27,400 SF COMM; 100 HOTEL S)

Q - 2-STORY RETAIL (6,260 SF COMM.)

R - 3-STORY MIXED-USE (4,600 SF COMM; 8 D.U.)

- S** - 3-STORY MIXED-USE (9,100 SF COMM, 12 D.U.)
- T** - 3-STORY MIXED-USE (11,325 SF COMM, 24 D.U.)
- U** - 3-STORY MIXED-USE (15,350 SF COMM, 18 D.U.)
- V** - 3-STORY LIVE WORK (3,500 SF COMM, 3 D.U.)
- W** - 3-STORY LIVE WORK (4,900 SF COMM, 7 D.U.)
- X** - 2-STORY RETAIL (13,175 SF COMM)
- Y** - 2-STORY RESIDENTIAL (18 D.U.)
- Z** - 2-STORY RETAIL (3,225 SF COMM)

12. A zoomed in chart from the Application's Cashiers Town Center Retail Plan showing the total square footage measurements for each building is depicted below, again, with buildings exceeding 5,000 sq.ft. highlighted in red.

Building	Use	Commercial	Apartment Sq. Ft.
A	Restroom/ Market	580	0
B	Open Market		0
C	Stage		0
			0
			0
G	Retail	4,175	0
H	Retail	2,140	0
I	Mixed-Use	5,975	5800
J	Multi-Family	2,100	33600
K	Multi-Family	750	36000
L	Multi-family		49750
M	Mixed-Use	4,000	8906
N	Live-Work	2,800	2300
O	Mixed-use	4,200	6900
P	Hospitality	27,400	0
Q	Retail	6,260	
R	Mixed-use	4,600	2,400
S	Mixed-use	9100	24
T	Mixed-use	11,325	24180
U	Mixed-use	15,350	19845
V	Line-Work	3,500	3500
W	Live-Work	4,900	8545
X	Retail	13,175	
Y	Condo Flats		22300
Z	Retail	3,225	

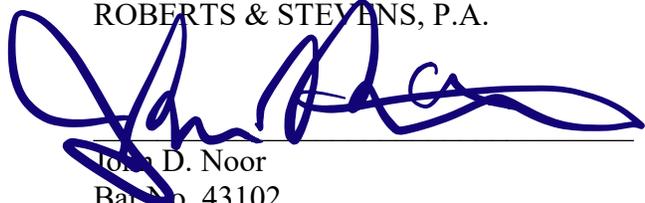
13. As disclosed by portions of the Applicant's own site plan shown above, numerous structures within the proposed development would be larger than the 5,000 square foot structure size limit in the Cashiers Regulated Districts at Section 9.3, and Figures 9.1 and 9.2 of the UDO.

14. The applicant's proposed development includes six (6) access points more than are permitted under the UDO and over seventeen (17) structures that exceed the maximum structure size of 5,000 square feet. As a result, and as a matter of law, the application should be dismissed so that the Council does not spend valuable time evaluating a proposed development that cannot be approved under the UDO.²

WHEREFORE the Chattooga Conservancy, Jean Menge, Laura Moser, and Yvonne Johnson request that the Cashiers Area Community Planning Council dismiss the above-referenced Application for Special Use Permit.

This the 25th day of January, 2021.

ROBERTS & STEVENS, P.A.



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² Section 3.7.15(d)(v)(2) of the UDO provides that each “[c]ouncil shall state whether the proposed special use does or does not meet each of the standards set forth in Section (vi) of this Ordinance **and all other requirements set forth in this Ordinance for the proposed special use.**” (emphasis added). Section 1.1 of the UDO states that “this ordinance shall be known as and may be cited as the ‘Jackson County Unified Development Ordinance’ and may be referred to as the ‘Ordinance’, ‘UDO’, or ‘Jackson County UDO’.”

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing **OBJECTION & MOTION TO DISMISS APPLICATION** in the above-entitled action, pursuant to Rule 5(b)(1)(a) by hand delivery and email as follows:

Ms. Heather Baker
Email: heatherbaker@jacksonnc.org
*Attorney For Cashiers Area Community
Planning Council*

Mr. Craig Justus
Email: cjustus@vwlawfirm.com
Attorney for Cashiers Village

This the 25th day of January 2021.



John D. Noor