

COUNTY OF JACKSON

BEFORE CASHIERS AREA COMMUNITY  
PLANNING COUNCIL

CASHIERS VILLAGE APPLICATION )  
FOR SPECIAL USE PERMIT )  
                               )  
                               )

**SUPPLEMENTAL AFFIDAVIT OF**  
**NICOLE HAYLER**

THE UNDERSIGNED, Nicole Hayler, being first duly sworn, deposes and says:

1. I am over 18 years old and do not suffer from any disability. I have personal knowledge of everything stated in this affidavit.

2. I am the Executive Director of the Chattooga Conservancy, a membership association specially dedicated to the protection of the water quality and watershed of the Chattooga River.

3. The Chattooga Conservancy has been in operation since 1994 and its mission is to "protect, promote and restore the natural ecological integrity of the Chattooga River watershed ecosystems; to ensure the viability of native species in harmony with the need for a healthy human environment; and, to educate and empower communities to practice good stewardship on public and private lands."

4. I have reviewed the application for special use permit submitted by Stephen Macauley, Member-Manager of Cashiers Village II, LLC. I have also reviewed the site plans and other supporting materials.

5. The State of North Carolina has designated the Chattooga River within North Carolina as an Outstanding Resource Water (ORW) which aligns with the United States Congress's designation of the Chattooga River as a Wild and Scenic River.

6. The State of North Carolina has recognized that the primary threat to water quality in the upper Chattooga River is development which could lead to sedimentation and turbidity of the river.

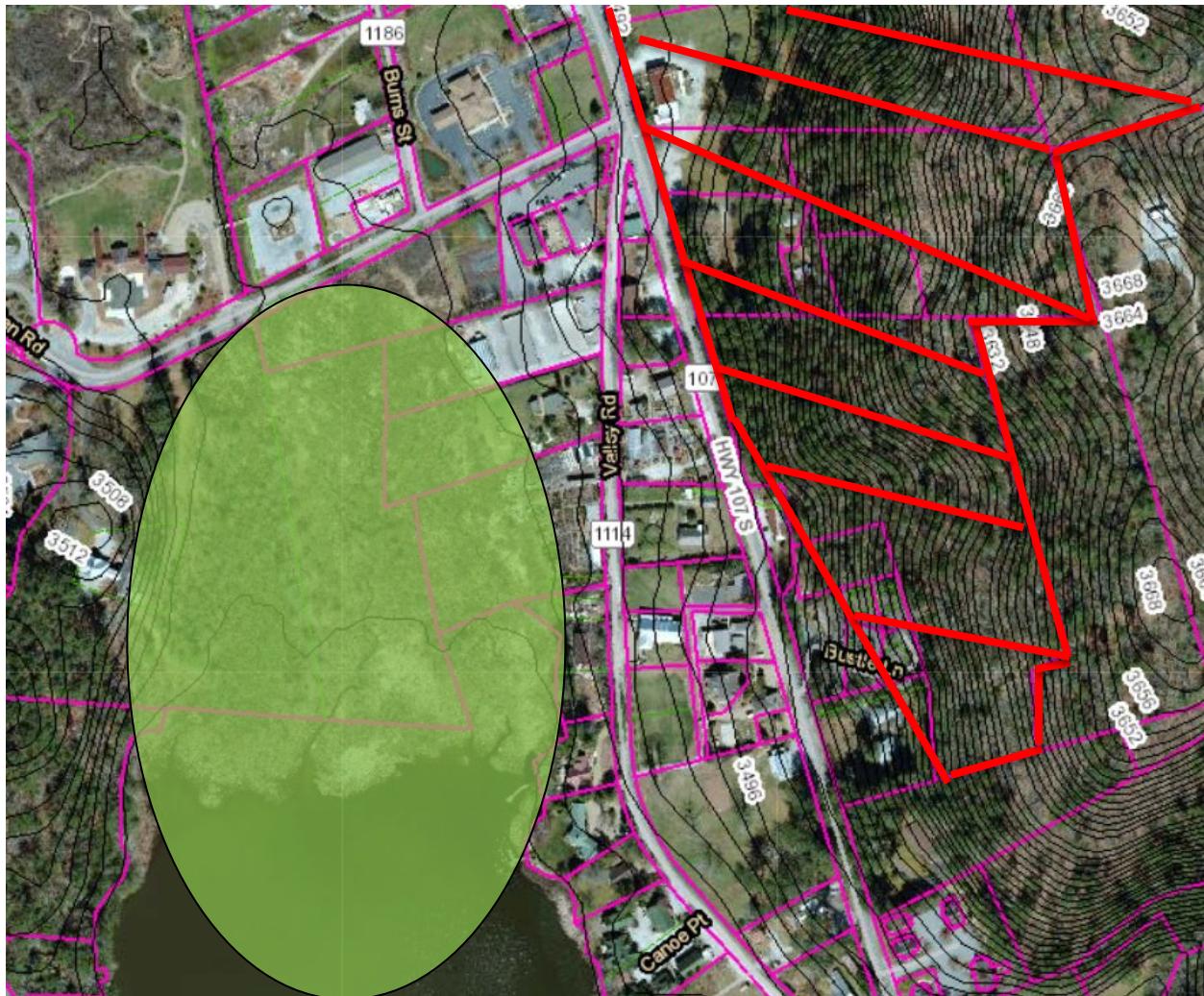
7. The Chattooga Conservancy has members who make special use of difficult to access portions of the Chattooga River in North Carolina and who place high and special value on its water quality and fishery consistent with its designated status as an Outstanding Resource Water.

8. The Chattooga Conservancy and all of its members who make use of the Chattooga River in North Carolina would suffer special damage if a special use permit were granted to allow for the development of the property in Cashiers which is the subject of Cashiers Village II, LLC's special use permit application.

9. The property in question contains large areas of steep slopes that if developed according to the proposed plan would be the subject of substantial grading, cutting, and filling activity. That activity will create a substantial threat of sediment-laden stormwater runoff that would flow into the upper Chattooga River and impair its water quality. As a recent highly-relevant example, the redevelopment of the nearby High Hampton property has resulted in substantial sedimentation of the Chattooga River and one of its tributaries, notwithstanding the performance of such redevelopment pursuant to an erosion and sedimentation plan approved by Jackson County.

10. The Chattooga Conservancy as part of its special mission to protect the Chattooga River's water quality would be specially damaged if the special use permit sought by Cashiers Village II, LLC were granted. Therefore, the Chattooga Conservancy has standing to participate in the upcoming quasi-judicial hearing regarding that special use permit application and wishes to participate in that proceeding as a party.

11. A GIS image of a portion of the upper Chattooga River is depicted below within green circle. The approximate location of the proposed Development is indicated with red lines.



12. The portion of the upper Chattooga depicted above is located down gradient from the proposed Development and I would expect most of the Development's stormwater to be channelized towards this portion of the River.

13. To my knowledge there is no other organization like the Chattooga Conservancy that works to protect this important national treasure.

14. The Conservancy has over 20 members who live in the Cashiers area, including at least one member who owns property abutting the proposed Development (Ms. Yvonne Johnson) and another member who owns property within fifty (50) feet of the Development (Ms. Laura Moser). Both Ms. Johnson and Ms. Moser regularly walk and run around the headwaters of the Chattooga River on Cashiers Lake and will suffer damages as result of the stormwater and sedimentation pollution that would be caused by the Development and flow into the River. The Chattooga Conservancy has other members who are residents and landowners in the Cashiers area (Pimpaktra Rust & Michael Bamford; Martha C. Black; Becky McKee; Jeffrey & Jodie Zahner, owners, Chattooga Gardens), who regularly recreate in the Chattooga headwaters and treasure the river's pristine Outstanding Resource Waters, and who will suffer damages as a result of the stormwater and sedimentation pollution that would be caused by the Development and flow into the River.

15. The Conservancy also has thousands of other members who live across the southeastern portion of the United States and actively support the organization's mission.

16. In particular, expert analysis by Geoff Smith shows that increased stormwater and sedimentation pollution from the Development will flow into Cashiers Lake and the Chattooga River, which will reduce water quality and the recreational value of those water bodies and harm all of the organization's members.

17. The Conservancy also holds a conservation easement across 55 acres of real property located within the Chattooga River watershed and downstream from the proposed Development.

18. The Conservancy offers the following as evidence of some of its work to protect the River:

- a. In 1996, the Conservancy sponsored a study of Brook Trout populations in the Chattooga River watershed by Dr. William McLarney, that discovered new populations of this charismatic species in the East Fork of the Chattooga River in Jackson Co;
- b. In 2001, the Conservancy collaborated with a landowner in Jackson Co. to bring an enforcement action against a company that was responsible for stormwater, erosion, and sedimentation discharges into the landowner's private lake, which flows into an unnamed tributary of the headwaters of the Chattooga River (Whiteside Estates Inc. versus Highlands Cove LLC);

- c. In 2012, the Conservancy collaborated with Cashiers landowner Martha Crouch Black to remove an illegal impoundment on the Chattooga River on national forest land at Silver Slip Falls and adjacent to Ms. Black's property;
- d. In 2014, The Conservancy testified at a public hearing before the Jackson County Planning Board to stop the construction of a cell tower at the base of Whiteside Mountain in Jackson County at the top of the Chattooga River watershed, which preserved the visual and scenic quality in Whiteside Cove in the Cashiers Valley; and
- e. In 2019, the Conservancy testified at the NC Division of Water Resources' public hearing in Cashiers regarding the proposed dredging of Cashiers Lake, its potential negative impacts on the Chattooga River, and the importance of preserving unique Outstanding Resource Water bodies like the Chattooga.

19. The Conservancy also regularly holds river clean up events for members throughout the year, hosts exotic invasive plant removal projects along the River, and performs water quality monitoring within the watershed to identify sources of pollution, including stormwater runoff and sedimentation loading.

20. The proposed Development, if approved, would force the Conservancy to divert financial and human resources away from current programming and water quality monitoring to mitigate and monitor the stormwater and sedimentation generated from the Development and flowing into Cashiers Lake and the Chattooga River. This would result fewer resources to pursue current programming to meet our mission.

21. Additionally, the Development, as proposed, would frustrate the Conservancy's purpose and mission because the stormwater and sedimentation pollution it would generate will undermine the natural ecological integrity of the Chattooga River ecosystem; threaten the viability of native species to the River; and would constitute poor environmental stewardship of nearby private lands.

FURTHER this Affiant sayeth not.

Sworn to this the 5<sup>th</sup> day of January 2021.



NICOLE HAYLER

STATE OF SOUTH CAROLINA  
COUNTY OF JACKSON

**AFFIRMATION**

Pursuant to Emergency Directive 5 within the Order of the Chief Justice of the Supreme Court of North Carolina dated December 14, 2020, the undersigned swears under the penalties for perjury that the above-made representations are true.

This the 5<sup>th</sup> day of January 2021.

Nicole S. Hayler

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NICOLE HAYLER