

PROCEDURE FOR QUASI-JUDICIAL HEARING

- I. General Information: A Quasi-Judicial Hearing is an evidentiary hearing where the Cashiers Area Community Planning Council will make a decision based solely on competent, material, and substantial evidence in the record. The record is all of the materials and input that is presented to the Council, including the application, exhibits, testimony, and related materials. The record may include some insufficient evidence, but the Council may not base its decision on it. The procedures provided here are not meant to be binding rules but to be flexible guidance for the conduct of the hearing.

Notes to be read following the General Information above:

1. Witnesses shall avoid hearsay evidence. Hearsay evidence is testimony that the witness does not know of his or her own personal knowledge, including that which someone else told the witness. Unless they are a qualified expert, witnesses are not competent to testify about the impact of a proposed land use on the value of other property, the danger to public safety resulting from increases in traffic or other matters that require special training or expertise. The Chairman of the Cashiers Area Community Planning Council may rule on any objections or requests from participants regarding the procedure of the hearing or the evidence presented with or without objection.
2. The Applicant has the burden of producing competent, material and substantial evidence for the Cashiers Area Community Planning Council to conclude that the standards of the applicable ordinance have been met. If the Applicant shows that they meet these standards then the Applicant is entitled to approval unless those opposed present competent, material and substantial evidence that one or more of the standards have not been met.

- II. Opening of the Hearing: The Chairman of the Cashiers Area Community Planning Council will call the case by announcing: **We are here today for a Quasi Judicial Hearing regarding the application for a Special Use Permit for Cashiers Village II, LLC, referred to as the Cashiers Village Project.**

- III. Disclosures: Members of the Cashiers Area Community Planning Council shall disclose any site visits, Ex parte communications with any person including County staff, specialized knowledge related to the case, fixed opinion on the case, family, business or other similar relationship with the applicant or other affected person, financial interest in the outcome or any other relevant information.

- A. Procedure for Disclosures: Each Council Member will be called upon by the Chair to disclose any relevant information. If a Council Member has a financial interest or other conflict such that they have a fixed opinion, the Council will vote on whether or not to recuse that Member. The issue of conflict or bias may also be raised by another Council Member. After discussion, a vote would be held to determine if the Member is recused from participating in the hearing.

B. The votes regarding recusal may take place after each Member announces their Disclosures or all at once, after every Member has provided Disclosures. It is important to have as many Members of the Council participate as possible to provide the a fair and impartial hearing.

IV. Parties: The Chairman of the Cashiers Area Community Planning Council will inquire if there is anyone other than the Applicant and the County Staff who wants to be a party to this action. Anyone other than the Applicant and County Staff who wants to be a Party in this action must have Standing as defined in NC General Statute 160A-393(d).

Procedure for determining standing: The Chair will read through each application for standing and then give the applicant 2 minutes to provide additional information after which the Council will vote on whether or not the applicant has Standing to participate in the hearing.

V. Swearing In: All persons, including County staff and consultants, who intend to present evidence shall be sworn in.

VI. Evidence:

A. Staff Presentation of Report.

1. Cross examination by the Applicant, followed by other parties.
2. Questions from the Cashiers Area Community Planning Council or County Attorney.

B. Applicant Presentation of Evidence and Witnesses.

1. Cross examination by other parties.
2. Questions from the Cashiers Area Community Planning Council or County Attorney.

C. Other parties presentation of Evidence and Witnesses.

1. Cross examination by the Applicant, followed by other parties.
2. Questions from the Cashiers Area Community Planning Council or County Attorney.

D. Rebuttal.

1. Applicant may present brief rebuttal evidence.
2. Other parties may present brief rebuttal evidence.

E. Testimony from non-party witnesses who did not have Standing to participate in the Hearing (limited to 3 minutes each)

F. Closing Statements (5 minutes each)

1. Each party who presented evidence may give a 5 minute or less closing statement.
2. Additional questions from the Cashiers Area Community Planning Council

VII. Board Discussion: (This ends the public input section of the Hearing).

- A. The Cashiers Area Community Planning Council will discuss the application and whether it meets the requirements set forth in the Ordinance and make findings relevant to each of these factors based on the evidence and testimony presented. The County staff will be available to guide the Council through the standards of the Ordinance. Findings shall be made on each applicable requirement and standard.

The Applicable Ordinance for this hearing is the Unified Development Ordinance and the requirements are set forth in Article III Section 3.7.15(d), Special Use Permits and Article IX Section 9.3. **GO TO CHECKLIST**

- B. The Cashiers Area Community Planning Council will then make a decision to deny the approval of the permit, table the request pending submittal of additional information or approve the application with or without additional conditions and direct who will prepare the Order.

VIII. The Hearing is Concluded.