

# Cashiers Area Community Planning Council

## Special Meeting Minutes

February 20, 2023  
5:00 p.m.  
Albert Carlton Community Library, Community Room

Members	Present	Absent	Members	Present	Absent	Members	Present	Absent
Daniel Fletcher		X	Sonia Morales		X	Dr. Douglas Homolka	X	
David Bond	X		Carole Stork	X		Judy Zachary	X	
Glenn Ubertino	X							

### Staff Present

Michael Poston- Planning Director  
John Jeleniewski- Senior Planner  
Anna Harkins- Planner I  
Allison Kelley- Administrative Assistant III

### Others Present

Chad Meadows, CodeWright

### Call to Order

Chairman Glenn Ubertino called the meeting to order at 5:06 p.m. and a quorum was present.

### Additions to/Approval of the Agenda

Doug Homolka made a motion to approve the agenda as written. Carole Stork seconded the motion, and it carried unanimously.

### New Business

#### **a) Recodify Cashiers: Cashiers ordinance recodification process-Chad Meadows, CodeWright**

Mr. Meadows stated his team has have been brought on to assist staff and community in preparing the development regulations for the community based on the Cashiers Small Area Plan, and some of the recommendations in the ULI report, and discussions throughout the process. Project initiation started in January, and he came to present to the Council to discuss the project and process. The consultant team and staff have been working on the policy guidance review, and focusing on what it tells us, are there conflicts, and do we need to revisit some of this guidance from the community, etc. The last time he was in town, they did the project introduction, met with some of the county administrators, came up with a project name and the webpage, started discussions about some of the policy guidance, identified stakeholders, and then we had our meeting on January 18<sup>th</sup> with the Council.

The stakeholder interviews starts tomorrow, and they would be meeting and talking to various people in the community, business owners, generational family members, various entities and groups who are active in Cashiers about their views about what is necessary in terms of the regulations. Tomorrow night they will have the policy guidance public workshop, and will finish the stakeholder meetings, and he will be

around for office hours for anyone who is interested to come talk and would be taking pictures of Cashiers. The next meeting they would be discussing what is the community character of Cashiers, and what it is not with a goal towards writing that down with pictures that explains in detail what our expectations are in terms of development quality, the attributes of different kinds of structures and uses, and how are sites laid out in Cashiers. The project website is now live and can be viewed at [www.recodifycashiers.com](http://www.recodifycashiers.com) that is kept up-to-date on all the information regard the project.

For the purposes of tonight, he would be discussing to compare and contrast the two proposed developments applications that recently came before the Council, one by MaCauley and the other by Kessler.

**MaCauley**

- Total Acres: 57.1
- # of Units:  $414+312=726$
- Non-Residential SF:  $123,407+35,150=158,557$
- # of Phases: 2
- # of Parking Spaces: 1,473

**Kessler**

- Total Acres: 24.5
- # of Units: 50 bdr + 50 bdr employee
- Non-Residential SF: 69,300
- # of Phases: 2
- # of Parking Spaces: 390

**MaCauley**

- Mixed-use town center
- Blend of residential types
- 188-room hotel
- 620 structured parking spaces
- Utility accommodation unclear
- Significant grading
- Urban street system

**Kessler**

- Central Community Structure
- No single-family structures
- 90-room lodge (+12 cottages)
- Clear strategy for utilities
- Less grading
- Dark sky lighting

Mr. Meadows stated the McCauley development which was 57.1 acres is a very large site for for Cashiers, with a total of 726 residential units as part of that proposal which is very substantial. The McCauley development was in two different phases, with 158,557 non-residential square feet, which is a significant non-residential plan that is cut up in a variety of different buildings with a couple of hotels and a parking structure, etc. The number of parking spaces were 1,473, which is also substantial and many of those spaces were to serve some of the residential units, and the plan also had a parking garage. Phase one of this proposal had some of the residential and a fair bit of the non-residential componentry of the development. The proposed development consistent a commercial core with residential worked in throughout and a spa, hotel that had 188 rooms.



Mr. Meadows stated the Kessler development was about half the size at 24.5 acres with considerably fewer residential units and no single-family homes. There were 50 mixed-use or multi-family kinds of developments and he believed there were 23 +/- multi-family units and the rest were upper story residential associated with some kind of retailer office building. In addition, there was a 50 unit bedrooms, employee housing that was to serve the lodge that was proposed as part of this project. The lodge was 90 rooms with a handful of cottages and 18 glamping spaces. One significant difference between these two projects is this that the McCauley application was withdrawn and the Kessler application was approved. The Kessler development has two phases, which is a 69,300 square feet of non-residential that is focused near the Crossroads area and had 390 parking spaces.

The McCauley development had proposed a mixed-use Town Center, which is often considered to be good and something that communities aspire to have a blend of residential types. Mr. Meadows stated both of the policy guidance documents discuss across the importance of blended residential unit types, not only single family homes, but other alternatives for a variety of reasons. McCauley had those, and had a 188 room hotel, 620 of those 1,400 parking spaces were structured. There were some positive aspects to the proposal, and some negative aspects for example the utility accommodation, and how would they be able to serve 712 single-family homes and 130,000 square feet of non-residential floor area with the sewer allocation that does not exist at this point. Mr. Meadows stated he believes they have some sewer allocation, but he does not think they have enough. Potable water and staff would agree is the primary limiting factor that Cashiers is going to be facing in the near term and medium term. The ability to have potable water and functional fire protection is going to be a more significant limiter for development in the future than wastewater or traffic, or any of the other utilities that we deal with. How McCauley was going to overcome those hurdles was completely unclear and was not addressed in a meaningful way. McCauley had significant grading on the site, and how that was going to be accommodated with stormwater with on-site wastewater, if there was going to be any was also very unclear. Mr. Meadows stated there was an urban street system with the McCauley proposal. However, wondering around in Cashiers, they do have in some places in the community side streets, back streets, lots that have double frontages, and there are two streets that front a lot and some of that has to do with topography or how the how the community has developed over time. In addition, he stated the McCauley development is big and the highly connected street network is certainly something that policy guidance is calling for, and having lots of extra streets is certainly helpful in a high topographic relief area, and maybe the street system they proposed was appropriate for their plan.

The Kessler proposal had a central community structure, which was devoted to people who live in Cashiers, and it is a good idea for a feature to include no single-family homes at all. In addition, this proposal had a 90 room lodge and 12 cottages, and he believes there was a lot more focused attention on how they were going to handle wastewater and how they were going to handle potable water. Mr. Meadows stated Kessler did differently was spend time upfront thinking about how those things were going to work, and it led to a very different kind of development. The middle of Kessler was focused primarily on onsite wastewater treatment for this site, which made a lot of sense. There was a lot less grading and more focus on building to the land, which is better for the environment, property values, and dealing with stormwater. Kessler also approached utilities and grading in a more upfront manner, and focused on what their impact on the community would be, and how their project would affect Cashiers.



### Comparison

- Both projects reviewed via special use permit
- Kessler project included more up-front community discussion
- Kessler project smaller, less dense, less traffic
- Kessler project included more clarity on potable water and wastewater system capacity
- Kessler project included less grading and less impervious surface
- Kessler project included smaller structures and no single-family homes

Mr. Poston stated staff has always suggested to every applicant, regardless of what special use permit the applicant is applying for they should always go talk to the community and neighbors ahead of time. That is never codified in the ordinance; it was not a rule but always a suggestion. Mr. Poston stated he believes what they saw with Kessler is that at the time the Council was working on amendments to the zoning ordinance. Staff was able provided to the applicant that information of where the Council was heading, and they tried to match some of that and they did get a lot closer to what we noticed would be beneficial.

Mr. Meadows stated he believes there are still plenty of large parcels in Cashiers, and there is still opportunities for future applicants to come forward and bring a development project that may be considered large depending on individual opinions. In addition, he stated we cannot nor should we try to limit applications based on size as that limitation might result in us missing some opportunities. He stated not necessarily all large developments are bad or density or utility impact, it is about how you manage it. In addition, how you negotiate for yourselves to get the best deal for the community and for the county is how you have success. It is certainly reasonable and rational to assume that if an applicant is going to come and ask the community to permit a large development, then the community should be making some large requests about how that development is going to fit. In addition, how is that development going to make Cashiers a better community, because we are offering you a beautiful location, the visitors and the revenue stream that results from being here and all of the other attributes that accrue.

Mr. Meadows stated the ULI document is also important, as it came three years later than the SAP, and many of the recommendations are mutually supportive and build on one another. The ULI report provides support and helps advocate for some of the policies that are in the SAP that are consistent. The SAP was adopted on March 19, 2019

### Policy Guidance Review

- In the past, infrastructure capacity limitations controlled growth; but that is changing – so there is a need for a plan
- Cashiers Small Area Plan (SAP)=Policy for growth and development in Cashiers
- “The SAP guides development to promote ‘positive’ growth while maintaining the rich natural environment” (p.6)

Mr. Meadows stated Tuckasegee Water & Sewer Authority (TWSA) is attempting to bring online additional wastewater capacity. In addition, he stated the potable water issue is one that we are going to have to deal with, and there are solutions to consider such as they could punch a well and take water from the ground. He believes that in the past they did not have to worry so much about controlling growth, because we had a utility situation that controlled growth and that is changing. As a result, it is necessary to have more policy guidance and he believes that both the McCauley and Kessler projects demonstrate that it is also necessary for us to have regulatory evolution.

The SAP is an adopted policy guidance, that the community has said this is what they want and the elected officials have adopted the plan which becomes the foundation for what we do going forward.



#### *Cashiers Small Area Plan Land Use Themes (p.16)*

- Additional density desired in the core
- Need for additional housing in the village
- Want a connected community
- Revised regulations that permit a greater variety of architectural styles
- Want visual or physical connection to Cashiers Lake
- Changes rules to provide for residential use, development, and design standards

#### *Cashiers Small Area Plan Stakeholder Meeting Themes (p.22)*

- Desire a place that has a “there”
- Need to attract younger people
- Don’t want a Gatlinburg
- No big box stores
- Additional residential could reduce employee travel times
- Center should have fairly dense residential
- Doesn’t need to be Highlands

Mr. Meadows stated they would need to review “center should have fairly dense residential” because of the past proposals of MaCauley and Kessler to find what exactly that means to the community.

Cashiers Small Area Plan Vision Statement: “People who love Cashiers envision a vibrant year-round destination refreshed and connected, attracting a new generation of visitors to live, work, and play. The experience will be influenced by the mountain plateau’s setting, heritage, and culture.”

#### *Cashiers Small Area Plan Vision Phrases (p.28)*

- Vibrant, year-round destination
- Refreshed village
- Connected village
- Attracting a new generation of visitors
- Influenced by mountain plateau’s setting, heritage, culture

#### *Cashiers Small Area Plan Objectives (p. 28-29)*

1. Honor the authenticity of Cashiers’ village character through **design** of the built environment
2. Create a destination by **increasing activity, growth, and density** in key areas
  - a. Encourage workforce development, commerce, and industry that extends the shoulder season
  - b. Increase housing diversity
3. Create a **network of trails and open space**
  - a. New development should connect people to nature
  - b. Take advantage of economic opportunities
4. Improve **transportation connectivity**
  - a. Promote social connection through design/programming
  - b. Increase access to healthcare
  - c. Enhance broadband infrastructure

Mr. Meadows stated in North Carolina, counties and municipalities are not typically in the road business. However, cities have the authority to own roads and control roads, and counties do not, which is a challenge. In addition, he stated the NCDOT also controls roads, and it becomes difficult to affect the kind of transportation system he believes Cashiers is looking for when they do not control the roads or the NCDOT. However, he stated they do have very robust private road standards, and they have the ability to regulate how private streets are built, how they are configured and their locations.

In addition, he stated they need to consider creating public gathering spaces (outdoor dining, plazas, etc.) where people can connect with one another on individual sites, whether that is a non-essential, mixed-use, or multifamily site to promote social connection. Enhancing broadband infrastructure is a challenge, because it is done either underground, which is expensive and they do not control it as a private party does it via franchise agreement, or it is airborne.

**Cashiers Small Area Plan Recommendations (p.28-29)**

- 10 Land Use Recommendations
- 3 Housing Recommendations
- 7 Parks/Natural Resource Recommendations
- Transportation Recommendations (4 off-road, 11 on-road, general)
- 6 Infrastructure Recommendations
- 4 Gateway District Recommendations
- 5 Lakeside District Recommendations
- Transitional District Recommendations
- Edge/Entrance Corridors Recommendations

In addition, there were approximately 17 suggested UDO changes.

**Land Use Recommendations**

- Activate/expand Village Core
- New residential in Village Core
- Short blocks/small buildings
- Buffers for dissimilar uses only
- Build-to-street
- Limit parking on building fronts
- Reduce parking requirements
- Require pedestrian connections
- Increase road/alley options
- Review open space standards
- Building transparency/façade variation requirements
- Natural exterior materials
- More flexibility in building color and styles
- Ground-floor retail
- Outdoor dining/gathering areas
- Special gateway & transition area standards
- Raise Special Use Permit (SUP) size threshold

**Housing Recommendations**

- Encourage 'missing middle' housing (duplex, triplex, quadplex, townhouse, upper-story, live/work, small floor/lot)
- Tie housing approval process to lot size and/or design quality
- Create a housing trust

**Park/Natural Resource Recommendations**

- Outdoor amenity spaces
- Integrate private common open space set-asides
- Require pedestrian connections to open spaces
- Protect visual access to Cashiers Lake (physical too?)
- "Dark sky" lighting
- Protect ridgelines
- Preserve 40% of vacant land



### **Transportation Recommendations**

- Traffic circle
- New connector roads
- Cashiers School Rd./NC 107
- Extend pedestrian network (Ramble + greenways)
- Bike lanes, sidewalks, sidepaths, crosswalks
- Traffic calming

### **Infrastructure Recommendations**

- Address stormwater issues in Village Core
- Create a stormwater master plan
- Encourage “green” stormwater infrastructure
- Neighborhood watch
- Health park off US 64, infill medical offices
- Provide walking/bike options to schools
- Continued to expand broadband
- Prioritize sewer expansion to targeted areas
- Address potable water system needs

Mr. Meadows discussed the geography of the Cashiers zoned jurisdiction, the SAP identifies different character areas such as Village Core, Gateway, Lakeside, Transition, Residential, Parks and Open Space, and Edge. In addition, he shared the map of the focus area from the SAP, along with the map of the current regulated zoned area. He inquired if they were going to enlarge the Cashiers Commercial Districts as part of this process. For instance, some of the areas they are showing on the map as Residential are not within the current zoned jurisdiction, and what would happen to that area if someone brings forth a development proposal and they do not extend the standards. He inquired if the Council had any ideas, thoughts about the geographic disconnect between the two sub-districts in the Cashiers Commercial Area and what the SAP is calling for, which is outside of the area that he was hired to do. Ultimately, it is the elected officials who get to decide what we are going to do, as the Council will be making recommendations to them for ordinance rewrite of the Cashiers Commercial Area.

Quotes from the ULI report is as follows; “Ideally new development should be more compact to allow greater pedestrian activity, and create a better mix of uses and housing types” (p.5). “It is never enough to say what you do not want in terms of new development. It is also important for communities to let developers and landowners know what they do want” (p.6).

### **ULI Report Recommendations**

- Long term conservation plan
- Robust network of pathways, trails, and sidewalks
- Accelerate construction of critical infrastructure (broadband, water, sewer, roadways)
- Create an organization to bring in more diverse housing to address workforce housing needs
- Work with major landowners to ensure development proposals respect local values and community character in scale, design, and architecture

Mr. Meadows stated there were a lot of recommendations, some were not related, indirectly related, or directly related to the UDO. He stated what they would do with those recommendations are as follows:



- Step 1: Clarify the recommendations that are directly or indirectly related to our task (updating the UDO)
- Step 2: Boil down the recommendations to their most essential form
- Step 3: Explore the options or issues associated with each recommendation (think pros & cons)
- Step 4: Crystalize our approach to each key recommendation (pick our preferred option)
- Step 5: Prepare the draft UDO language for consideration

Mr. Meadows stated at the community meeting scheduled for tomorrow night, they would be coming up with some boiled down recommendations for a reaction from the Council and community. They would then zero into the things that are most important from those recommendations or those they have questions about. In addition, they would be handing out keypad devices, that the community would answer each question and he would present those answers the next time he is back in town.

#### **Regulatory Evolution**

- Moderate effective development codes telegraph clear community expectations via their codified language so that no one has to guess what the code means or what the community wants.
- Clear and understandable standards and procedures are easier to administer and help avoid unpleasant surprises for all involved.
- Spending time on codifying the community desires instead of depending upon subjective or uncoded criteria increases the likelihood that the outcome of the development review process will be more acceptable to all parties involved.
- Time spent codifying clear procedures and processes has a much higher return on investment than time spent debating uncoded or unclear standards during application review.
- Identify a set of preferred forms of development and make the establishment of those kinds of development the procedural path of least resistance.
- Make the kind of development you want easy to accomplish and the kind of development that you do not want difficult to accomplish (but not impossible).
- Keep in mind that one size does not fit all, and it is a good idea to include a flexible alternative to preferred development forms – use of this alternative does not have to be easy, it just needs to exist.

#### **Move away from cumbersome and legally perilous quasi-judicial reviews**

- Uses permitted through the special use permit are presumed to be appropriate.
- If a development proposed as a special use permit meets the codified standards, you may not legally deny it.
- Rules for quasi-judicial consideration interferes with community and council discussion.
- It is easy to make procedural mistakes during evidentiary hearings and procedural mistakes are very easy to challenge in court successfully.
- Damages must now be awarded to successful challenges.

Mr. Meadows stated they have zero protection from the special use permit process. In addition, if that were not enough, the rules for the quasi-judicial procedure and your inability to talk amongst yourselves, your inability to talk with the applicant, your inability to talk with the community interferes with your ability to communicate about what is proposed. He stated you are not allowed to talk to each other, or the applicant, about quasi-judicial hearings, and if you do it is against the law. It is very easy to make procedural mistakes during evidentiary hearings, the quasi-judicial procedures and processes set down for us in the general statutes is very complicated, detailed, and it is



designed to protect the procedural due process of the applicant. If you make a procedural mistake, during your consideration of a special use permit, and the applicant takes you to court, you will lose. Judges have to award damages to plaintiffs who are successful in lawsuits against local governments, so not only will you get the development that you did not want; you also get to pay the attorney fees on top of it. Mr. Meadows stated for those reasons, he believes the special use permit process is not the right one for the Cashiers community to be embracing and they might want to consider something different that is the more defensible and less complex legislative review process like conditional zoning. Conditional zoning gives more authority to review bodies to exercise their own discretion and supports more robust community discussion than what is possible under the special use permit process. In addition, it is not hemmed in, by tight rules about is it property value or transportation, they could take up issues of compatibility, appropriateness, and could exercise more discretion and get to talk about the application which it is encouraged. We want to have conversations between ourselves, the applicant, and with the community. Mr. Meadows suggested to move away from the special use permit process and towards the conditional rezoning process. The conditional zoning process they could write ample opportunities for everybody to get involved, and since it is a legislative process it still permits this body to participate and to deliberate about applications and make recommendations, however the decision is made by elected officials.

The development code is a living document, and it can and must evolve as conditions change. Then we are able to rest on our laurels and let our infrastructure incapacity protect us from unapproved inappropriate growth. In addition, we have had some bad development applications and we have processed those and reacted and evolved by making changes to our regulations. He stated it is time for us to continue that process and keep moving forward towards this evolution in our regulatory approach, based on clear standards, what our expectations are with clear procedures.


Mr. Meadows stated they would have stakeholder interviews tomorrow and on Wednesday, and the policy guidance workshop would be tomorrow night. In addition, he is working on the photographic survey throughout the Cashiers zoned jurisdiction and if there are photographs of your community that you think illustrate something good about the Cashiers community character to share with them at [www.recodifycashiers.com](http://www.recodifycashiers.com) or contact the Planning staff. In addition, he asked those if they had any suggestions about how we can improve this process by advertising to let the consultant team know. Mr. Poston stated they are encouraging those that are interested in meeting with Chad Meadows to pick a time during his office hours and they would have those available on his next trip.

#### **Adjournment**

With no further business to discuss, Doug Homolka made a motion to adjourn. David Bond seconded the motion, and the meeting adjourned at 6:35 p.m.

**Respectfully Submitted,**

  
Allison Kelley  
Administrative Assistant

  
Glenn Ubertino  
Cashiers Planning Council Chairman

