

Cashiers Area Community Planning Council
Minutes
January 23, 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
 Heather Baker- County Attorney

Others Present

Don Jehle, Cashiers Properties of Jax LLC
 Cliff Pepper, Project Manager

Call to Order

Chairman Glenn Ubertino called the meeting to order at 5:04 p.m. and a quorum was present.

Additions to/Approval of the Agenda

Daniel Fletcher made a motion to approve the agenda as written. David Bond seconded the motion, and it carried unanimously.

Approval of Minutes

Doug Homolka made a motion to approve the minutes from November 28, 2022. Daniel Fletcher seconded the motion, and it carried unanimously.

Public Comment

- **Mary Palmer Dargan:** Ms. Dargan stated she is a landscape architect, and for about four years has been practicing in Cashiers, North Carolina. Every year she has seen more and more hardscapes put across impermeable surfaces, and when we have the opportunity with the Unified Development Ordinance (UDO), opportunity to have the code right, consultants really worked with us hand in hand, to acknowledge our environmental specialness and she wants to encourage the Council to look closely and think out of the box about ways we could preserve our valley and provide habitat and keep the system working with nature instead of doing some paving. In addition, one thing she does not know if CodeWright is going to be addressing is the issue of grand trees, we do not have enough large trees anymore, but if there could be some provision for trees or protection of trees or some mitigation for trees, in applications in future in the UDO that would be fabulous.

- **Robin Walker:** Ms. Walker stated she lives in Cashiers full time, and is also part of the group Develop Cashiers Responsibility. She stated she wanted to address quickly the presentation from the consultant last week, which was fabulous. In addition, she stated there was one part of the presentation where he put up the slide with the five goals from the Small Area Plan and the ULI. The first one for the ULI was about preserving the environment and conservation, and she was not sure if she understood him correctly, but it seemed like he was saying there is a lot of conservation that is outside the scope of this Unified Development Ordinance that a lot of it is state regulated. While that is true, she stated she wants to encourage us to be looking for ways that we can protect the environment through regulations when we have the opportunity, whether that is impervious surface, or, like Mary Palmer mentioned trees, there are lots of things we can do from a regulation standpoint. In addition, she stated there are also incentives we can give to developers to maybe protect one corner of a property that is environmentally sensitive, but give them an incentive to do something on the rest of the property. Ms. Walker stated she wanted to ask you all to keep that in mind, and she knows we are going to have a lot of opportunities to participate and we are looking forward to that process.

New Business

a) Cashiers Community Collaborative/ULI Update

Mr. Ubertino gave an update on the Cashiers Community Collaborative. In addition, he stated he believed they all understand what that is made up of and we are always looking to add to it but the following organizations are involved as follows; Chamber of Commerce, Cashiers Area Community Planning Council, Cashiers Historical Society, Develop Cashiers Responsibly, Highlands-Cashiers Board of Realtors, Highlands Cashiers Health Foundation, Highlands Cashiers Land Trust, Jackson County Planning Board, Jackson County Tourism Development Authority, Leadership Cashiers, ULI National Board of Trustees, Village Green and Vision Cashiers. He stated we are all collaborating to just try to move in the same direction as a community to get some of our priorities done, our last meeting was held on November 10, 2022 and we have not had another meeting with the holidays, and there is a call tomorrow on trails and sidewalks by Vision Cashiers.

Mr. Ubertino stated our next collaborative meeting is on Thursday, February 9, 2023 and they will have a presentation by Jackson County Board of Commissioners Chair Mark Letson. Discussion will be on legislative and governmental priorities, with special interests on Cashiers Area programs and projects and how the collaborative can support all those efforts. In addition, he stated they would update again at the next Cashiers Planning Council meeting.

Ms. Stork had a question on the collaborative. She stated she knows there was an issue with too many of the council members being in one place at one time, is that an issue with that meeting as well?

Mr. Ubertino stated he did not think we can have more than three of us at any given meeting, and what he has suggested in the past is that we kind of alternate through those meetings. In addition, he stated we have never had more than two members, and they have not had that issue. However, if we did, one of us would leave that meeting and he would suggest alternate through those meetings as we have them as we look to have whatever what we were trying to do.

b) Special Use Permit: Wormy Chestnut Retail/Commercial Development

Mr. Ubertino read general information regarding a quasi-judicial hearing. He stated 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 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.

Ms. Baker stated as a remember when an applicant comes to you as a special use permit, special use application, that is because it is something that is allowed in your ordinance. It is a use that is allowed in your ordinance so long as it meets a few special conditions and you will go over those in detail and the checklist. Ms. Baker stated she thinks remembering that, from the beginning that it is something that is already allowed in your ordinance. That is how it gets to this point before you, also remembering that this is not a public hearing, though it is open to the public and the members of the public are encouraged to be here. It is not a public hearing, it is a hearing that is a fact finding, hearing based on this specific piece of property and information and for those related to it. In addition, that is why the rules are so strict with regard to who can provide evidence, who, you know, what kind of witnesses can be there. It is a tough process. It is one we are not a big fan of because it is not completely open to the public, as most of our hearings and things usually aren't as we prefer.

Mr. Poston stated the ordinance already provides a path forward for these permits to be issued and done. In addition, he stated he thinks we find ourselves questioning, you know, it would be great if the ordinance said this, and he thinks those are things that we as the Planning Council's legislative function outside of the quasi-judicial function, we will deal with and have an opportunity now to work through when we are recodifying the ordinance. Mr. Poston keep that in mind that what Ms. Baker has said is that the use is allowed if it can meet the conditions that the ordinance sets out, and that is what you would be hearing evidence today from staff and possibly others that has standing.

Ms. Baker encouraged the encourage the council members to read through the procedures and the couple of notes about the evidence. In addition, she asked the chairman to officially open the hearing, then go on to disclosures and then when we get to the evidence part the first thing that is provided will be the staff opinion.

Chairman Glenn Ubertino opened the quasi-judicial hearing at 5:16 p.m.

Disclosures:

Mr. Ubertino stated members of the Cashiers Area Community Planning Council shall disclose any site visits, Ex parte communications with any person including County staff, and consultant, 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.

Mr. Ubertino disclosed that he attended the community meeting, and that was the first of its kind, he sat in the back of the room that afternoon and he did not say two words and did not participate in the meeting. In addition, he stated as the Planning Council Chair, it was the first one that we had ever done, and he just wanted to see what happened, who showed up, how it ran procedurally, etc. Mr. Ubertino stated he did attend that meeting, on that afternoon, but it does not skew his ability to do his job this evening, as the Planning Council Chair.

Ms. Baker stated this is a reapplication, Wormy Chestnuts came to you previously for this property in August of 2020, came before the Council and she realizes that not everybody here was on the Council at that time. A couple of you were, and this was approved by the Council in August of 2020. In addition, she stated it is not exactly a modification under our ordinance, it is a new application and they will hear more about that from your Planning Staff. However, she stated if you did sit through that hearing, that would be the disclosure as well, and she believes that was in August of 2020 and that was a virtual hearing if that helps bring it back to anyone.

Mr. Ubertino and Mr. Bond both disclosed they were at that meeting also. Ms. Baker inquired if you were there did that cause you to have a fixed opinion on this hearing. Mr. Ubertino and Mr. Bond both stated it does not.

Parties:

Ms. Baker stated she believes you have got two applications before you and everybody has a copy of those two applications. The first is from Ashlie Mitchell with Village Green. In addition, she stated as we all learned last time together about that same time with the East Cashiers hearing, that entity cannot represent itself, it would have to have a North Carolina counsel. Ms. Baker stated she believes you see on the application for the Village Green, they are an adjoining property owner, probably under some of the terms you've heard before would have standing. But in this case, she's asking to participate as a non-party witness, which means she would not need to have an attorney to represent her. But if you choose to allow her to do that, under the section where parties will provide evidence during the hearing, she'll be able to testify, give you relevant evidence if she has any and you would hear comments at that time, if you choose to allow her to do that. In addition, she stated since the Village Green would probably be a party with standing, if they were trying to do that and went through that process, it probably at least in her opinion she should be allowed to participate in this way. Ms. Baker stated secondly, you will want to make a decision and inquired if Nicole Hayler is here, she stated I do not believe she is. In addition, she stated she sent in an application, but you do have to be here to present that because this is about evidence presenting, and you can take a look at her application, but she's not here to present that and she does not believe she would be qualified to be a non-party witness and believes her application would fall under that same thing at the time, because she's not a neighboring property owner and she can't represent the entity as well. But if she were here, she could probably participate under that same non-party witness, but if she's not here, we can't really hear that.

Mr. Ubertino inquired that the Council will vote or discuss obviously both of these applications, correct? Ms. Baker stated yes, if you want to take Ashlie Mitchell's on behalf of the Village Green to be a non-party witness first, and that would need to be a motion and a second, and a vote to do that.

Daniel Fletcher made a motion to approve Ashlie Mitchell to participate as a non-party witness. Doug Homolka seconded the motion, and it passed unanimously.

Mr. Ubertino moved onto Nichole Hayler's application and stated like Heather said when the person is not here, he did not know if we should allow.

Ms. Baker stated she does not know that you really can because they're not here to present their case for standing in even as a non-party witness. If you're not a party with standing, you can admit evidence, so even the attachment there to her application can't be admitted as evidence without her being a party. We're aware of these comments, and she would be asking Mr. Jeleniewski who is familiar with her comments, to maybe address that in his report. In addition, she stated it is not that it would be ignored, but with it being a quasi-judicial standard, we cannot proceed allowing her to be a witness or allowing her

evidence to be introduced. A member from the Council inquired if Ms. Hayler was notified. Ms. Baker informed the Council that Ms. Hayler did send in her application today, everybody has to be present. In addition, she stated she did not know if she asked that question and we were expecting her to be here. A member from the Council inquired if she knew about the meeting. Ms. Baker stated yes, she sent this application in today for this meeting.

Mr. Ubertino stated he liked the idea of having Mr. Jeleniewski maybe speak to the comments that are in here. In addition, he inquired do we have to have a motion to dismiss this officially? Ms. Baker stated she believed that it would be best since she has submitted an application that there's a motion that since she's not here that should not be admitted as a party or a non-party witness, and a vote on that.

Doug Homolka made a motion to disregard Nichole Hayler's her comments based on her not attending with the understanding that she knew that this meeting existed. David Bond seconded the motion, and it passed unanimously.

Planning staff, applicant, and expert witnesses were sworn into the quasi-judicial hearing.

Ms. Baker presented and read the following stipulations:

Applicant, Cashiers Properties of Jax, LLC, has applied for a Special Use Permit with a Hearing to be held before the Cashiers Area Community Planning Council, hereinafter "Cashiers Council" on January 23, 2023. In order for the Hearing to run smoothly and efficiently, Counsel for the Cashiers Council, Heather C. Baker, submits the following proposed Stipulations to the Council and agree upon the following stipulations for purposes of the Hearing.

1. The Application was submitted as required to the Jackson County Planning Office and was reviewed within a reasonable time by the Planning staff. The Application was determined to be complete in accordance with the Jackson County Unified Development Ordinance and submitted to be heard by the Cashiers Council for a Special Use Permit within an appropriate time.
2. The Notice requirements of North Carolina General Statute 160D-406 and the Jackson County Unified Development Ordinance were met by the County including but not limited to notice being deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing to all required parties and that within the same time period notice was prominently posted on the site. As required by the Ordinance, notice was published in the Sylva Herald, a newspaper with general circulation in Jackson County, for two consecutive weeks prior to the hearing and noticed was published in the Crossroads Chronicle the week before the hearing as additional notification.
3. That the record before the Cashiers Council consists of the Agenda and Agenda Materials, the Application and Exhibits, and the Staff Report and Exhibits, which are all considered competent, material and substantial evidence and are admitted into evidence to the Cashiers Council without objection.
4. That the Parties agree that the Procedure for Quasi-Judicial Hearing and the Checklist for Special Use Permit was provided to all Parties and to the Cashiers Council and are the agreed upon procedures for the Hearing.
5. That County Attorney, Heather C. Baker, represents the Cashiers Council and not County Staff for purposes of the Hearing.

Ms. Baker asked that those stipulations be admitted into evidence for purposes of this hearing and stipulate upon.

Chairman Mr. Ubertino accepted the stipulations to be submitted into the record.

Evidence:

John Jeleniewski presented the following special use permit application for project The Wormy Chestnut Shops by applicant Cashiers Properties of Jax, LLC located in the Village Center zoned district of the *Cashiers Commercial Area* at 95 US Highway 64 West, Cashiers NC 28717; PIN 7572-31-3478.

Project Summary:

The applicant is proposing the construction of four new commercial structures, 1,484 s.f. each in floor space with the existing 1,480 s.f. building remaining for a grand total of 7,080 s.f. The location of this proposed project is on the south side of Highway 64 West and approximately 600 lf west from the intersection of the Highway 107/Highway 64. The total area of this property is 2.38 acres and has an average slope of less than 1.0%. The proposed structures exterior will be traditional lap siding (wood/cement board) and architectural shingles or alternate metal roofing; the proposed architectural features will be in harmony with the existing structure that will be remaining. All new perimeter and interior landscaping will meet or exceed the Cashiers Development Ordinance regulations for species and buffering. Setbacks from jurisdiction wetlands and waterways will be reviewed by the appropriate agency (USACE, NC Fish and Wildlife, NCDEQ) prior to construction. The ingress/egress access to this property will be from Highway 64 and a driveway permit is required from the NCDOT prior to construction. The immediate surrounding properties are a mix of commercial and community (The Village Green) uses. This proposed commercial development will have shared parking on-site. Utility services will be provided by Tuckaseegee Water & Sewer Authority for sanitary sewer and a private well for potable water. Fire protection will be provided by the Cashiers Fire Department.

Jackson County Unified Development Ordinance (UDO)

Article IX-Regulated District Standards

Section 9.3-Cashiers Commercial Area

The following is sections from the UDO that are applied during this review with staff's comments that are identified in blue from the staff report.

Section 9.3.4.vii-Traffic Impact Analysis

Purpose. The purpose of this section is to ensure that applicants for major new construction and/or changes of use consider and mitigate the traffic of the development on the existing and/or proposed roadway system. While the State of North Carolina has built and maintains a public transportation system that meets typical needs, project applicants may need to assist in improving transportation facilities in order to maintain the existing level of service by accommodating additional traffic generated by the development. These transportation facilities involve pedestrian, non-motorized vehicular traffic and motorized vehicular traffic. The Transportation Impact Analysis (TIA) is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. The TIA helps identify where the development may have a significant impact on safety, traffic, and transportation operations, and provides a means for the developer and government agencies to mitigate these impacts. Ultimately, the TIA can be used to evaluate whether the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and

efficient access and traffic flow. Single family developments typically will not require a TIA.

The Applicant has submitted documentation regarding the findings of their preliminary traffic study. Also included in the submittal package is a letter from the NCDOT stating that a TIA is required for this project.

Section 9.3.5 – Site and Building Design Standards

Building Architecture:

(a) Building Architecture

- (i) Building design and architecture are critical components for quality development. Building and architecture design standards are intended to promote compatibility within a development and throughout the Cashiers Commercial Area, allow creativity and diversity of design, protect property values and neighborhood quality, and provide a safe and attractive environment for residents and visitors alike to uses in the community.

(b) Building Materials and Color

(i) Materials.

- 1) All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, or other high-quality material, as approved by the Design Review Committee. No building shall be covered with sheet or corrugated metal or with vinyl siding.

The proposed exterior siding material will be traditional lap siding (wood/cement board). The siding materials will continue to a masonry foundation.

- 2) Exterior building materials shall be continued to finished grade of any elevation in accordance with minimum manufacture specifications.

The siding materials will continue to a masonry foundation.

- 3) Cornices shall be constructed of brick, stone, wood, pre-cast concrete, or other high quality, long-lasting material.

The proposed building materials comply with this standard.

- 4) Architectural accent materials located above the roof line shall be constructed of brick, stone, wood, pre-cast concrete, architectural quality steel, fiber cement siding or other high quality, long-lasting material.

N/A

(ii) Colors.

- 1) Color schemes used for buildings shall aesthetically integrate building elements together, relate separate (free-standing) buildings on the same lot or parcel to each other, and be used to enhance the architectural form of the building.

The applicant has stated that the exterior colors for the proposed structure will be traditional colors suggested such as historic whites, grays, browns or colors from a rustic color palette.

- 2) Exterior colors for new buildings and structures, including roofs, should be the predominant colors of the historic Cashiers Summer resort traditions, historic whites, grays, browns or colors from a rustic color palette are recommended, along with white or black pronounced trim colors. Fluorescent colors shall be avoided.

The applicant has stated that the exterior colors for the proposed structure will be traditional colors suggested such as historic whites, grays, browns or colors from a rustic color palette.

- 3) All building projections, including, but not limited to, chimneys, flues, vents, and gutters, shall match or complement in color the permanent color of the surface from which they project.

The applicant has stated that the exterior colors for the proposed structure will be traditional colors suggested such as historic whites, grays, browns or colors from a rustic color palette.

(c) Building Massing and Configuration

- (i) Building scale. Buildings shall be small in scale and shall not exceed 45 feet in height. Buildings located on steep areas shall conform to hillside topography by stepping or staggering the mass of the proposed structure up or down the slope.

This proposed structures will not exceed 35 vertical feet in height.

- (ii) Visibility. Buildings with visibility from the public right-of-way or public street or pedestrian walkway in the Cashiers Commercial District shall be designed with the following specific limitations:

- a) Building masses shall maintain a balance of scale and proportion using design components which are harmonious with natural landforms and landscaping.

The property where the proposed structures will be constructed is relatively flat. It appears that these buildings would comply with this standard.

- b) Proposed structures shall not be sited atop peaks or silhouetted against the sky when viewed from any designated public right-of-way.

The property where the proposed structures will be constructed is relatively flat. It appears that these buildings would comply with this standard.

- c) Retaining walls visible from the valley floor shall not exceed ten feet in height as measured from grade at face to top of wall. Multiple "stepped" retaining walls whose total height exceeds ten feet must each be offset by at least six horizontal feet. Visible walls shall be colored and textured to complement the background land and vegetation.

N/A

(d) Building Façade Character

- (i) Elements of articulation shall be employed on any building visible from the public right-of-way or public street or pedestrian walkway to reduce the apparent bulk and uniform appearance of large buildings, provide visual interest and variety, and reinforce local architecture.

- (ii) Building scale. At least four of the following elements must comprise 50 percent of front façade length and at least two of the following elements must comprise 30 percent of any façade length fronting a major public street and/or parking lot:

- (a) Trellises with vegetation.
- (b) Balconies.
- (c) Cornices.
- (d) Covered porches.
- (e) Roofline offsets.
- (f) Doors.
- (g) Window hoods.
- (h) Transoms.
- (i) Bulkheads.
- (j) Awnings or canopies.

- (k) Arcades.
- (l) Arches.
- (m) Outdoor patios.
- (n) Planters or wing walls that incorporate landscape areas or places for sitting
- (o) Ribs or columns.
- (p) Changes in texture or masonry.
- (q) Mansard Roofs or Parapet walls designed to meet the minimum requirements set forth of Section 9.3.5 (e) below.
- (r) Shutters

The proposed structures include at least four of the elements listed.

- (iii) Windows. Front building façade must be comprised of a minimum of 30 percent window or glazed area.

The front façade of the proposed structures include at least 30% glazed area.

- 1) All sides of the building shall include articulation, materials, and design characteristics consistent with those on the primary front façade in terms of quality and detail, unless the public's view of a rear or side building elevation from a public right-of-way or private street or pedestrian walkway is blocked by intervening buildings, topography, a solid screen wall at least six feet high built using materials consistent with the building, or landscaping measuring at least 15 feet in height at maturity.

The proposed structures comply with this ordinance standard.

(e) Roof Form and Articulation

- (i) The roof of any building shall present a distinctive profile and add interest to larger buildings and complement the character of other buildings included on the same lot or parcel.

The proposed structures comply with this ordinance standard.

- 1) Flat roof buildings.

- a) The roof of any building with a flat roof shall include parapets to conceal the roof and roof-top equipment from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall, unless required for in Section 9.3.5 (f) Rooftop Equipment Screening, and such parapets shall not at any point exceed one-third of the height of the supporting wall.

N/A

- b) Parapets used to conceal the roof and roof-top equipment for any building shall not extend a constant height for more than 100 feet in length.

N/A

- 2) Slope roof buildings. The roof of any building with a slope roof shall include the following to maintain proportional building architecture:

- a) Overhanging eaves, extending no less than one foot past the supporting wall;
- b) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to 5/12 pitch (5 inches of horizontal rise, 12 inches horizontal run). This would not apply to shed roofs or covered walkways.

The proposed structures comply with this ordinance standard.

- 3) Additional requirements.

- a) Consistent roof treatments, whether flat or sloping, shall be provided on all sides of the building.

The proposed structures comply with this ordinance standard.

- b) The back side of all cornices, parapets, and roofline that are visible from an adjacent public right-of-way shall be finished with materials consistent with the associated building.

N/A

(f) Rooftop Equipment Screening

- (i) Screen requirements. All rooftop mechanical equipment and vents greater than eight inches in diameter shall be:

- 1) Screened from the line of sight of public rights-of-way, private roads, parking lots, public sidewalks, greenways, and internal pedestrian ways except for instances where site topography precludes reasonable compliance with the minimum screening requirement;

N/A

- 2) Screened by either a parapet wall along the building edge or a freestanding screen wall on the roof of a material, color, and design architecturally compatible with the building, that is at least as high as the equipment and vents for which the screening is designed to hide.

N/A

(g) Franchise Architecture

- (i) To maintain the unique character of the Cashiers District, buildings shall not be constructed or renovated using franchise architecture. Franchise or national chains may be permitted in the Cashiers District but must follow the standards of this section to create a building that is compatible with the Cashiers District.

N/A

(h) Architectural Unity

- (i) All buildings within the same lot or parcel shall be architecturally unified. Architectural unity means that buildings shall be related and compatible in style, color, scheme, quality, and type of exterior building materials.

The proposed structures will be architecturally similar to the existing structure that is remaining. All proposed structures will maintain the same style, building materials and colors.

Review Process:

This proposed building for this project will exceed the 4,000 square foot threshold for staff approval and must be reviewed by the Planning Council for a Special Use Permit. In order to issue the special use permit, the Planning Council must find that the proposed design complies with the design standards set forth in *Section 9.3.5 – Site and Building Design Standards (Cashiers Commercial Area Regulated District)* in the *Jackson County Unified Development Ordinance* and must make the following findings:

Jackson County Unified Development Ordinance

Article III – Permits and Procedures

Section 3.7.15 – Special Use Permit

Vi - Special Use Permit Review Standards (Regulated Districts).

- a) That the proposed use or development of the land will not materially endanger the public health or safety.
- b) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.
- c) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting properties.
- d) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the community.

- e) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
- f) That the proposed use will not cause undue traffic congestion or create a traffic hazard.

Staff Review:

As required by the *Cashiers Commercial Area Ordinance Section 9.3.2.b*, the applicant scheduled and completed a *Community Meeting* on November 15, 2022 at 3 p.m. This meeting was advertised in the local paper and notices were mailed to property owners within 1,500 feet of the property boundary.

Notice of the *Special Use Permit* hearing was advertised in the local paper January 11 and 18, 2023, Planning Staff posted notice of the hearing the property on January 9, 2023 and hearing notices were mailed to adjacent property owners January 9, 2023.

The proposed use and structures appear to meet the standards set forth in *Section 9.3.5 – Site and Building Design Standards of the Cashiers Commercial Area Regulated District*; Approval of the use and the design is recommended with the following conditions:

- The owner/developer shall work with Planning Department staff in the final building design, site design, site construction, stormwater and landscaping of the overall project.
- That the applicant receive approval/permits from any other agency that has jurisdiction in the development of this property/project including the NCDOT, Army Corps of Engineers, NC Fish and Wildlife, NC Department of Environmental Quality, etc.
- This project will require sidewalk construction along US Highway 64 West. Final site construction plans must show this design standard and the applicant must coordinate permits with the NCDOT.

Mr. Jeleniewski stated the sidewalk construction will require DOT a three-party right-of-way encroachment, an agreement between the applicant, the County and the DOT that in this case would allow the County to own and maintain the sidewalks that are right-of-way. In addition, he stated that it would be a County project moving forward to maintain those sidewalks. Mr. Jeleniewski stated we are talking about jurisdictional waterways and wetlands here at the County does not regulate, and we know that when a project like this is done they have to get permitting from other agencies either state or federal, and they do that. In addition, he stated what we do have in one of the ordinances a watershed ordinance, which doesn't apply here, we do have buffer requirements for waterways, and in our erosion control ordinances, we do have trout buffer setbacks. Therefore, anything that is a tributary to trout buffers, there has to be at least a minimum of 25 foot, it depends on the water quality, but at least a minimum of 25 feet off the top of the bank, and top of the bank means not down somewhere near the water, it means up to where there is a break from toe to the flat ground.

Mr. Jeleniewski stated in this case, for good measure, the applicant is providing 30 feet off of that stream, whether it's high quality water he did not know, that's going to be for the jurisdictional agency to figure out or to make the decision on. He stated his guess would be it's a little bit gray, because you're picking up highway and picking up a lot of impervious surface to the north of this property, and of course, anything off the highway, but obviously, jurisdictional wetlands is a different story. This is a new application, the one like we talked about in 2020, they did receive approval for this, in their process with the previous application and approval this site is different. Mr.

Jeleniewski presented the site plan for that previous application, and stated there was a center and ingress egress buildings kind of split, you have one in the back and four up front and kind of share parking all in the middle, the detention area being in the lower corner. He stated there was some areas where they were in those wetlands, they did apply for to the Corps with that application because they had other issues on the site with other applications that that time ran out on the action of that permit. He stated they're having to go through the whole process again, not only here locally, but through the other agencies. In addition, he stated what that will entail is, obviously you don't want to get try to get an approval for anything going on here unless we have something local and we've tied the conditional approval to that other agency approval, whether it be DOT, Army Corps, etc.

Staff Recommendation:

Approve the proposed Wormy Chestnut Shops project and issue the Special Use Permit subject to the conditions identified in the staff report.

Mr. Jeleniewski stated we didn't review the stormwater here, that's a technical standard embedded in the Cashiers ordinance. He stated they may remember that a part of that amendment process we went through last summer we had a two-tier system of the amount of impervious surface that was proposed, and if you didn't meet that you basically could maintain what's on site, no special standards were required for anything for treatment and that kind of thing. He stated what we did is we took that first tier out and any new project in Cashiers is required to do what used to be tier two, which is now just a requirement of the ordinance which is the treatment of the first flush of water. He stated so any impervious surface that comes off here, being a rooftop or any hardscaping, concrete, asphalt etc. and we do have some loading areas and the dumpster pad etc. so any impervious surface that is collected and naturally the site is moving from north to south is going to be collected in the detention area. That detention area, the ordinance requires that the first flush, that first inch when it comes off the site is getting trapped in the detention area and the solids are settling out before its released downstream and this is a pretty standard design, it's designed by a registered engineer here in North Carolina, and that design, the stormwater is coordinated with our department and our erosion control folks. He stated so when they start pushing dirt around and adding those conduits and structures we know about it, but we coordinate those numbers and those calculations to make sure that they check, and that will happen when we get to the erosion control process, and that is an ordinance standard that is part of our zoning permit review, which is not part of this review. Mr. Jeleniewski stated this is the first stop before staff moves further with the final plans and design standards.

Mr. Poston stated that part of the ordinance amendments that we did ask for a schematic design and stormwater and things of that nature. He stated so that's why that's been added to these plans were before we didn't really speak to it, now you're seeing at least their intention, and where their preliminary numbers and when they get into the final design will confirm all that and make any adjustments, as the final design may be deemed necessary through Mr. Jeleniewski's review and erosion controls review.

Mr. Ubertino inquired from Mr. Jeleniewski in his opinion if that is sufficient based on the projects you've been involved with, here in terms of that detention. Mr. Jeleniewski stated yes, this is as low hanging fruit as you can get in Cashiers, given all of the ordinance amendments that we've had recently and going forward this is much better design than the previous design and of course, that was approved as well. He stated we're not going to make a determination as staff, because we can't, we can't say that we don't like to look at this plan with these buildings around, that's not what our role is. He stated do you meet the technical standards of the ordinance, if you do, here is your permit, and so that's the way we're looking at it we're not being subjective about these reviews when

they come in. He stated but in his professional experience and background, yes, it is a responsible design.

Ms. Stork stated she did not know a lot about wetlands, and inquired do they ever increase? Mr. Jeleniewski stated they are staying out of the wetlands in this case, but yes to your point, they can overtime increase, that doesn't mean that an applicant couldn't, you can mitigate, you can go in there and you could grade and you could fill some wetlands, but you have to mitigate that, you have to do other things in order to make up for what you've done. In addition, he stated so the damage that you've done, you've got to basically either buy more land or put into a fund that would purchase more wetlands, or you mitigate if your property is big enough to where they give you a certain percentage that you can work on, if that's the case. We don't have that here, but in large projects that I've seen, yes you can do that. Mr. Jeleniewski stated that would be the Army Corps of Engineers, and the North Carolina Fish and Wildlife is involved for endangered species and things like that that are in wetlands and so forth. However, any wetland jurisdiction you're dealing with the Army Corps.

Mr. Fletcher inquired if there are any protection requirements for the during construction phase for runoff. Mr. Jeleniewski stated of course, this whole thing will be theoretically in our ordinance and our erosion control standards, you have to put a silt fence and the idea is to protect everybody downstream, and you don't want to lose any material. The silt fences are that barrier to where it allows water to pass through, because it's a fabric material, but it's holding back the solid and the silt. In addition, the idea is that if you sort of fence all the way around your grading and disturbing site, you're not losing any of that past that and that is more of an erosion control review and inspection.

Mr. Ubertino stated he knows crossing 64 there is a marked pedestrian crosswalk for people to cross and there's no light there, but does that have to change at all or is that far enough down. Mr. Jeleniewski stated his guess is that it's there because of the Village Green crossing right there and the path that it is connected, and it would be a DOT question. In addition, he stated the DOT would review that when they do the driveway permit, when the applicant applies to DOT for an access they take that into account and they go out there and they will measure and make sure where the separation is without the driveways. Along with what's going on across the street, where and how are the safe turning movements happening, and if the crosswalk is in the way, does it need to be signalized now he does not know if that is going to be the determination based on the movements of coming off of this site.

Mr. Bond stated wetlands is a refuge for the snapping turtle back in there is what he understands and inquired if that is something that has been addressed by the Army Corps of Engineers. Mr. Jeleniewski stated that would be, it could be the Corp or Fish and Wildlife and it is out of our purview and there's not much we can do about that, we have no local authority to do that.

Ms. Baker stated she wanted to be clear, that Mr. Jeleniewski's conditions are that they meet all the approval requirements of both the Army Corps of Engineer and Department of Environmental Quality DEQ within the state, is that correct? Mr. Jeleniewski stated he believed they could, yes. Ms. Baker stated that can be a condition of this approval today is that they meet all of the requirements including any mitigation recommended the Army Corps or DEQ. Mr. Jeleniewski stated that's correct, and that's part of the condition that I have in condition number two is meeting those requirements and getting permitting through those agencies.

Mr. Fletcher inquired when the applicant goes through the Army Corps and all those processes, would you get notified if there's any violations. Mr. Jeleniewski stated our erosion control would because they're tied to that review, and they're dealing with them every day. In addition, he stated those agencies don't know what's going on here,

and they don't know what this local approval process is, but they do know they are required to get in a local erosion control permit and they are in contact with them when it comes to those types of additional approvals. He stated as a matter of fact, that was one of the issues on the previous application, there was some hang up with some of the locations of buildings and it was applied for at the time, and we were in constantly contact back and forth with the agencies about that.

Mr. Poston stated our erosion control office and planning office are a door away from each other, but beyond that, Mr. Jeleniewski and erosion control folks do work hand in hand, and understanding if there's a reason why this project shouldn't move forward or they haven't received their permits, Mr. Jeleniewski is not going to release the final approval construction plans until those conditions have been satisfied, some of the conditions will be satisfied like sidewalk it will either be put in or it won't so that'll wait to the final plan. But as far as the other approvals that are necessary to move forward, they kind of have a holding pattern until they get those things done, and then we're able to move forward.

Mr. Jeleniewski stated he thinks it's important to note that this is the first stop, the applicant doesn't take your approval and start turning dirt tomorrow. We still have to give them a zoning permit and if the erosion control fails or we haven't heard back from an agency or something we don't issue a zoning permit. If they don't have a zoning permit which is where the stormwater regulations are in your ordinance, and they're required to have a zoning permit before they do anything. But they're getting everything else done before they come back to us for that zoning permit, because that's what is going to be required and the erosion control and the stormwater is tied to that zoning permit.

Mr. Ubertino stated for the record Dr. Homolka will not be back, he was not feeling good and hasn't been feeling well and he took off. In addition, he stated he believed we want to now hear from the applicant.

Don Jehle introduced Cliff Pepper who is the representative of Cashiers Properties of Jax and introduced himself to be the engineer of record working for them, and asked the Council if they had any questions of interest.

Mr. Ubertino stated the sidewalk is really just going to be like the other sidewalk right in front of the library correct or front of, it's going to be that same surface and stack and everything.

Mr. Jehle stated it is going to be a five-foot wide concrete sidewalk with a two-foot grass strip separating it from the curb and gutter, which will run essentially from the termination of west side of Village Green's driveway all the way down to Mr. Aldridge property on the west end property, four or 500 feet of sidewalk is a pretty good addition to our program.

Mr. Jeleniewski added that in the Cashiers ordinance that the sidewalk requirements are per DOT standards.

Mr. Jehle stated there was a question from one of the committee members about the crosswalk, there is a crosswalk which comes out of the west side of Village Green's driveway and crosses Highway 64 to the north center, north side, that center where the Chronicle sits. In addition, he stated DOT, in our previous meetings has asked us to line up our sidewalks to match with that, and to actually put a handicap ramp in our sidewalk to accommodate a crossing there, so that's been addressed.

Mr. Fletcher stated he was just kind of curious, because he hasn't seen the previous version until just now, based off of the time that has passed what was the main driver of the change? What kind of lessons have been learned from the previous version, and how is this version better?

Mr. Jehle stated he would give his perspective, what they want to add is unrelative to the building's themselves, I think they may have had some different takes on what they

want to do with the buildings. In addition, he stated from a site perspective we eliminated essentially any impact of wetlands, which was a big step forward as far as working with those agencies and making improvements to the site, we reduced the footprint of the impervious area. The buildings themselves got situated a little bit differently, we did have one toward the back, which kind of presented a little bit of a problem and how it could be serviced from internal operation, but it also cut down on how much disturbance within the backside of the property. He stated from a site perspective that was it, and the buildings were really the driving force.

Mr. Pepper stated one of the things we wanted to do was put the buildings close to the roadway because there were some buildings before they were kind of on the back of the property, less visible for pedestrians walking by. In addition, he stated so now they are kind of all along close to the sidewalk where people can access them more easily without going to the back of the property.

Mr. Ubertino stated I think it is better in my opinion, in terms of what the planning council has been talking about as several years ago we've been trying to get parking to the back and buildings towards the front, if you will. In addition, he stated I think from that perspective it's better than the other plan in addition to not obviously getting into the wetlands, but I think whatever percentage of the glass towards the front and all of those things are in this plan that some of it wasn't so much in the other plan, and I think it does line up better than the other.

Ms. Morales inquired what's the distance between the village play and the back parking lot? Mr. Poston stated I guess you're talking about the playground area at the Village Green, do you have an estimate of how far away the parking area is from the playground?

Mr. Jehle stated I don't know how far the playground is from the parking area. Parking is about 30 feet at closest place, we wanted to set that buffer needed to meet that buffer requirement. I would say the playground itself was probably 20 or 30 feet in the Village Green property, that's a guess, because I remember measuring it. He stated so we're probably 50 feet away from that playground to impervious surface.

Mr. Fletcher inquired that there's no actual connection between the parking lot to the Village Green, correct? Mr. Jehle stated no there is not.

Mr. Fletcher stated it's more of an aesthetic question, have you made a decision whether the five buildings are going to be the same color or different colors? Mr. Pepper stated I'd say the final decision has been made, but I think we want to harmonize them in terms of color. Mr. Fletcher stated he would probably think his personal preference that they should be the same color. Mr. Ubertino stated he agreed, but that's just his two cents.

Mr. Ubertino opened up to hear from the non-party witness Ms. Ashlie Mitchell.

Ms. Mitchell stated I am the representative for the Village Green as their executive director, and would be speaking on their behalf today as a non-party witness of an organization that is an adjoining abutting property owner, which is the Village Green. In addition, she stated I want to strike for the record too, that we have not seen this new updated slide, we did get information late last week and so we have been working this weekend kind of making sure that we're touching our bases. This does show some very positive movement, and thank you for taking that into consideration. Thank you to the town and the county for honoring some of those buffer questions that the Village Green did rise to the Planning Council as well as the developers, so we do appreciate that and one of that being the respect of the riparian buffer zone between their retention pond that previously was sitting right on the property line which would have put it in direct conflict with any type of riparian buffer or buffer zone requirements being it was within about 12 feet from the branch which is an unnamed tributary of the Chattooga River. In addition,

she stated we did want to raise that today, but we will say thank you because now I do not have to talk about that. However, she stated I have some documents that I am using for demonstration purposes while I am talking, it is a map with an overlay so I do not have to stay on the right West South corner, and things along those lines if you all would like to look at those while I speak.

Ms. Baker stated as a reminder it cannot be admitted into evidence but to demonstrate what she is saying while she says it. In addition, she stated we will need the document for our official record even though it will not be admitted into the hearing record. Ms. Baker stated that it could just to be the map and not the written information.

Ms. Mitchell stated she was the executive director and the representative of the Village Green and was speaking on behalf of the Village Green board as we did have some concerns regarding the future development. In addition, she stated by no means is the Village Green board of directors against development within the Cashiers area, and especially if it is responsible development. She stated we always want to be good neighbors, but our primary mission at the Village Green is to preserve and protect the land of Cashiers for everyone who lives in or visits the Cashiers area. In addition, she stated we do have to take that in mind to not necessarily the heavy conservation aspect, but the protection and preserving aspect. Ms. Mitchell stated on the map I provided, you can see that the Village Greens property adjoins along the blue line and with the old plans they were about 15 feet from our pedestrian walkway, and now it looks to be that they will be about from what Mr. Jehle said it would be about 35 feet, because you are 30 feet away from the buffer zone and you have pushed it back and that is no longer a point of contention for us as it was posing public safety, and we felt that with the retention basin being so close to a stream which should be designated as a unnamed tributary to the Chattooga. In addition, she stated we were concerned with public health and safety in the matter that children might be able to easily cross over that boundary line and into the retention pond or around it. She stated that was a concern that we did have, and now that we see that those buffer zones have been honored, both along the property line next to the village play, as well as the property line that is right next to the Village Greens driveway. She stated it looks like they have moved everything for the parking to honor that buffer zone as well, and we really appreciate that as it was a concern because we do want to protect our local landscapes, and it also does help with the privacy screen for our community members and the children that are playing on the playground, so thank you again for honoring that buffer. Another point of concern that the Village Green would like to raise is the matter of stormwater runoff, and overall impact of increased water into the Village Green property. Ms. Mitchell stated we see that the retention pond has been moved back from the property line, and in our thinking we would like to have a better understanding of if you decrease the size of the retention pond is it still in capacity to handle a 25 year rain event, and does it still coincide with the plans that you sent earlier about the formula to deal with any type of water distribution? She stated that is a question I have, and I am not sure I am allowed to ask the questions, just the size of the retention ponds shrinking, and is it adequate enough to hold the potential stormwater since it has gotten smaller from the plans we had last week. In addition, she stated the discharge points, we know from these plans, on your map you can see at the top yellow line if you follow that up to 64 they are doing a great culvert system, however the Village Green is concerned and the board of directors is concerned about the potential runoff and the water runoff into that culvert and into the unnamed tributaries that feed into the Chattooga and our wetlands and the amount of water from those impervious surfaces being much more funneled and directed into those pretty delicate stream systems. In addition, she stated that damage and that runoff really falls into, if you go on to the map I gave you will see that at the very bottom, the far left line, the thick left line on the bottom, it ends in a red

circle. She stated our LIDAR shows that is the lowest point of the Village Green property, and unfortunately if I believe everybody in this room has walked in the Village Green and right there it is already underwater. She stated we have a concern that potential increase of any runoff water, whether it be stormwater or any coming through that unnamed tributary at the bottom will increase water retention in the Village Green and that it could pull water up closer to the playground, which you will know that the very corner edge of the playground where we have our swing systems and that is the entrance to our boardwalk area. Ms. Mitchell stated she wanted to note to the Council members that there was an article in the Crossroads Chronicle stating that the Village Green had been aware of a drainage opportunity with the Village Green and we had not approved of that, and we would like to be able to speak with the developers about a drainage plan to ensure that we won't have any or incur any adverse possibilities from increased rainwater or water into those two streams. She stated I am going to go into really quickly with your special use permits, basically your A, B, C, D, E, F, parts where you will be voting on today, and touch on those a bit.

Ms. Baker stated just a reminder, Ms. Mitchell, what you are allowed to do in this stage, whether you are a non-party witness or a party is provide relevant evidence. In addition, she inquired so do you have any other relevant evidence, this is the time to provide that it's not a discussion or a detail, it's just a time to provide evidence.

Ms. Mitchell stated we discussed the buffer and the barriers at present tense that could injure our property as well as public safety. We feel as though if that buffer has been honored now and we can discuss in the future, we ask the Council that we could discuss in the future with the builders and staff to make sure that the stormwater management through erosion control would be able to handle that since the retention pond has been shrunk. In addition, she stated the last point of consideration that we would like to point forward is that with the movement of the entrances, which we understand now that the DOT will be looking through all this when reviewing it, we have some concern with how closely their entrances is to our entrance and the potential hazards that self, health and safety risks that could pose to pedestrians as well as drivers who are exiting and entering the Village Green. We see hundreds of people during offseason but we see thousands a day during season. Ms. Mitchell stated we just want to make sure we are all in accordance with the potential of our concern of having an entrance so close to our pedestrian walkway that leads into the Village Green. In addition, she stated we would like to ask that the Council when you are making your considerations for approving this, that the Village Green is brought into the conversation and that we can work alongside the developer to make sure that the community all benefits from the new development. She stated we would like that consideration to be made when you are voting on your sections of the special use permit.

Mr. Fletcher stated can you remind me as it has been a while since I have been to the Village Play, but the Village Play is surrounded by a fence, correct?

Ms. Mitchell stated yes, it is surrounded by a fence, but there is a walkway in between and the families go there and it joins into the backside of the playground as well as the field and then also goes to where our boardwalk is. In addition, she stated we thank you a lot for letting us speak tonight and we do hope that you will hear our concerns, and we do want to be active members in this communication and conversation regarding this development and its potential impact on the Village Green's property.

Mr. Fletcher inquired if they could address questions back to the developer.

Ms. Baker stated yes, and I would recommend you go back to staff first and then to the developer. In addition, she stated this would be a time for rebuttal evidence for Mr. Jeleniewski first and then for the developer.

Mr. Jeleniewski stated as we talked discussed before the jurisdictional wetlands, the waterways that is going to be handled by different agency, we do not have a tool in our toolbox to handle that short of setback. Secondly, anecdotally there is a difference between detention and retention. Retention has been thrown around a lot, it is not retention, it is detention, water is collected there, the suspended solids are filtered out, and that water is released, that is detention. Retention, that water is held on property, it is not released. In addition, he stated that being the case, there is a difference between the two that is not going to be a wet pond, it may be dammed a lot of times during the year because of storm events, but it should be dry or should be damp, it is not going to be holding water, it is not going to be five feet deep or anything like that.

Mr. Ubertino stated I do see in North Carolina and in other places that I have been or travel to and oftentimes you will see those deeper areas, the retention and inquired if they have to be fenced versus this does not.

Mr. Jeleniewski stated it depends, depends on what agency is involved, depends on the local jurisdiction etc. If you are from Florida or been around Florida there is a lot of wet retention going on down there. In addition, he stated and that is exactly what is going on is they are harnessing their impervious runoff basically and holding it onsite, and there is a drawdown but it is retained in those ponds. In addition, he stated that is in our ordinance, that is what we are speaking of here, and that is what is designed as detention not retention. Mr. Jeleniewski stated and to follow up, yes, the stormwater will be any stormwater that has to happen and meet the Cashiers ordinance and erosion control and that will be revised accordingly. In addition, he stated by looking at just because it is shrunk a little bit does not mean it has gotten deeper, we are looking at a 2D plane here and we are not looking at 3D drawing. In addition, he stated keep in mind that there is some wiggle room, not only to go horizontally but to go vertically with that, and it is going to be more fluid to make that whatever calculation asked it to work onsite.

Ms. Baker stated if you want to see if there is any rebuttal any or any additional information that Mr. Pepper or Mr. Jehle wanted to provide, and then open up to questions.

Mr. Jehle stated I really don't have any rebuttal, we agree with everything that has been said and I could assure you I don't want to be an engineer responsible for flooding somebody's downstream property, we will abide by all the county's requirements, DEQ requirements. In addition, he stated the situation as I see it the site was developed before there were actually three or four or two or three other buildings on that site as well, gravel parking. The impact that you are seeing on this drawing is not really totally on this property, but there were some impact before which we have already eliminated. Mr. Jehle stated the bottom line is we have got about an acre of property there that has no choice but to drain down towards the Village Greens property and we are going to trap that filter it and process it like we should by ordinance. In addition, he stated the ditch that comes through our property we have no control over, and as a matter of technical terms, it drains about another 40 acres above our property so you are looking at an impact that we are controlling on one acre, but there being another 40 acres, which basically drains down through there we have no control over. He stated we can only do so much within our site to continue what we are doing and we are going to do that according to the regulations. In addition, he stated there was some discussion about the driveway location, please be aware of that we understand Village Green's driveway location but there are other driveways in the area as well, and one typical requirement the DOT has when you put in new driveway connections, if there is one across the road, which is where you get more conflicts than one to the side because you have people coming out one to turn both directions is that they lined up as perpendicular as possible so you don't get turning movements that people are not seeing what other things are doing. In addition, he stated

we understand what your concern might be for yours next to us, but we have other people that have probably a higher degree of conflicts.

Mr. Ubertino inquired from Ms. Baker that he thinks at this point there can be closing statements, is that accurate?

Ms. Baker stated yes, and you do not have any parties here because everybody is only witnesses today, so really there is no one to do closing statements. In addition, she stated at this point, unless there are any other questions from the Council you can close the public section of this and go on to board discussion.

Chairman Glenn Ubertino closed the quasi-judicial hearing at 6:42 p.m.

Mr. Ubertino stated we do have a checklist and in my experience that is probably the best way to do this is to work right off of this checklist.

Ms. Baker stated yes work through the checklist as it is set out for you to go through the ordinances and do that. In addition, she stated one thing that I will offer as you go through this there is a prior order that does have facts provided and you are going to be asked to provide the facts to fill in under each of these, but you can also refer back to staff and we can fill in as we have heard from Mr. Jeleniewski's report or other testimony given or from the previous order as well as long as it matches up to this one.

Board Discussion:

The Council reviewed the special use permit application for compliance with the requirements of the Cashiers Area Community Planning Council development standards as follows:

1. *The Design Review Committee finds that the proposed development complies with with Article IX of the Unified Development Ordinance Standards.*

Mr. Ubertino stated we could have some discussion but he believes that it meets the standards and Mr. Jeleniewski's report points out that these standards have been met.

Judy Zachary made the motion. Daniel Fletcher seconded the motion.

Vote: 6-0, in favor

2. *That the proposed use or development of the land will not materially endanger the public health or safety.*

Mr. Ubertino stated they have talked about DOT and things like that, and he thinks that obviously DOT is going to make the determination on whether that crosswalk gets smoothed or whether they tell these guys that they are going to have to move the parking three feet to the left or the entrance, he inquired from Mr. Jeleniewski if he was right in his understanding. Mr. Jeleniewski stated that was correct. In addition, possible approval be contingent upon NC Department of Environmental Quality, Army Corps of Engineers approvals, and NC Fish and Wildlife approvals.

Daniel Fletcher made the motion. David Bond seconded the motion.

Vote: 6-0, in favor

3. *That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*

Mr. Ubertino stated here again so long as all of the permits such as the Army Corps of Engineers in this case etcetera are met, I do not see any issues here.

David Bond made the motion. Daniel Fletcher seconded the motion.

Vote: 6-0, in favor

4. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting properties.*

Mr. Ubertino stated we have no witnesses here today or anything like that stating otherwise.

Ms. Baker stated some evidence that you did have is Mr. Jehle's information that there were previous buildings here that you are really keeping the use as the same as it was, and also that you have the prior approval and there has not been any changes that were brought forth between that last approval and this one that would devalue property. In addition, she stated I think those were things that were testified to that you could incorporate here.

Mr. Ubertino stated based on Ms. Baker's comments he asked for a motion to approve the standard.

David Bond made the motion. Daniel Fletcher seconded the motion.

Vote: 6-0, in favor

5. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density and character of the Village of Cashiers.*

Mr. Ubertino stated the previous plan was approved, and I think we are getting what we have asked for in terms of these are not three-story buildings, they meet all the standards that Mr. Jeleniewski went over in terms of the siding and the glazing and all of that. In addition, he stated I think these buildings to me, and then the original Wormy Chestnut it is a beautiful building and I am glad it is being taken care of because it was about to fall down. He stated I do not see any issue with this project and the bulk and scale and so on and so forth. In addition, he stated to me, these remind me of the buildings across from the Ugly Dog with that kind of look and feel, and I do not see it detracting from the village character.

Ms. Baker stated I think in Mr. Jeleniewski's report, I think he specifically said this as part of his report that it was in harmony, and I think that is part of his report and we can incorporate that part of his report here as well.

Daniel Fletcher made the motion. Sonia Morales seconded the motion.

Vote: 6-0, in favor

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*

Mr. Poston stated I think that what you would have seen in Mr. Jeleniewski's report and heard is that it is on US Highway 64, it is a state maintained road and DOT is responsible for that. In addition, he stated you have heard that allocation and plans for Tuckasegee Water and Sewer Authority provide sanitary sewer. He stated we know that the fire department is just right down the street from this location, and waste disposal you will see on the plan they do have a place for a common waste facility for solid waste dumpster.

Daniel Fletcher made the motion. Judy Zachary seconded the motion.

Vote: 6-0, in favor

7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*

Mr. Ubertino stated I think as stated and we have a document from the Department of Transportation saying there was no Traffic Impact Analysis (T.I.A) needed. In addition, he stated obviously DOT is going to have to approve the entrance and egress, but I do not have any concerns or anything with this standard.

Daniel Fletcher made the motion. David Bond seconded the motion.

Vote: 6-0, in favor

8. *The application for Special Use permit is approved with the following conditions:*
- The owner/developer shall work with Planning Department staff in the final building design, site design, site construction, stormwater and landscaping of the overall project.
 - That the applicant receive approval/permits from any other agency that has jurisdiction in the development of this property/project including the NCDOT, Army Corps of Engineers, NC Fish and Wildlife, NC Department of Environmental Quality, etc.
 - This project will require sidewalk construction along US Highway 64 West. Final site construction plans must show this design standard and the applicant must coordinate permits with the NCDOT.
 - Planning staff and applicant coordinate and communicate with the Village Green for final site construction plans.

Mr. Ubertino also made a recommendation to reach out to talk to a local arborist to discuss types of plants and trees that could be planted.

David Bond made a motion to approve the project with staff's conditions.

Daniel Fletcher seconded the motion.

Vote: 6-0, in favor

9. *The proposed use (or development of the land) meets the requirements set forth in the ordinance for the proposed use and the findings made in numbers 1-7 above shall be incorporated into a written decision as the findings for approval of this application for a Special Use permit.*

Chairman Ubertino instructed staff to prepare the order, and include findings based on the evidence presented and entered into evidence during the Quasi-Judicial Hearing.

Mr. Poston provided a quick update that they are planning on having a special called meeting regarding the Cashiers ordinance recodification the week of February the 20th, and staff will let the Council know the exact date. Our consultant Chad Meadow's will be here in town for three days, and we are going to ask the Council to meet that first evening and then three days following. In addition, he stated I would also let you know that we do not have any applications or no new business to discuss in the February meeting and it may be that you would want to cancel the regularly scheduled meeting as there is no new business to report out to the Council at this time. If that is the will of the Council, we will certainly make that initial effort to cancel the regular scheduled meeting, which is the week following the special called meeting in February. Mr. Ubertino stated I am in favor of that.

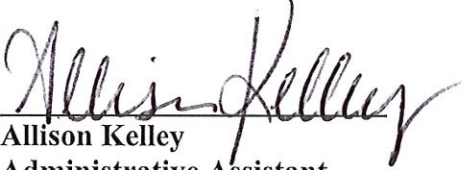
Mr. Poston stated another update that they may have heard through the Board of Commissioners meeting is that there was grant funds available to do a NCDOT's Paved Trails and Sidewalk Feasibility Study Grant. Jackson County has approved and is moving forward with two applications, one of them is 64 West from 107 to the Ingles shopping plaza. In addition, he stated it is a no match grant that we can do a feasibility study, which will take into consideration which side of the road should be on, what the cost should be, what engineering principles, or are there additional right-of-way that need to be acquired, and that helps us plan about how we might fund that project one day. That is a good next step in trying to see that move forward, and we got support letters of support from the Chamber Area Chamber of Commerce, Cashiers Collaborative, Vision Cashiers, Thrift Brothers, Turner Inscoe, etc. In addition, he stated we got a lot of support from the community and we will not find out what the results of the grants are for a month, but


there is a chance we may not get it but we had an opportunity to try to move that project forward.

Adjournment

With no further business to discuss, Judy Zachary made a motion to adjourn. David Bond seconded the motion, and the meeting adjourned at 6:50 p.m.

Respectfully Submitted,


Allison Kelley
Administrative Assistant


Glenn Ubertino
Cashiers Planning Council Chairman