

**Cashiers Area Community Planning Council**  
**Special Meeting Minutes**  
**May 29, 2024**  
**5:30 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  
 Anna Harkins- Planner I  
 Allison Kelley- Administrative Assistant III  
 Hunter Rogers- Planning Intern

**Others Present**

Chad Meadows, CodeWright

**Call to Order**

Chairman Glenn Ubertino called the meeting to order at 5:43 p.m. and a quorum was present.

**Additions to/Approval of the Agenda**

Doug Homolka made a motion to approve the agenda as written. David Bond seconded the motion, and it passed unanimously.

**New Business**

**a) Recodify Cashiers: Community Character Analysis Presentation-Chad Meadows, CodeWright**

Mr. Meadows stated we are drafting the document now and there are numerous changes in multiple articles. When we started this process, we were really focused on the Unified Development Ordinance (UDO) Section 9.3, which is the regulated district for Cashiers and what we have come to realize is there are other issues and challenges that we are dealing with. He stated we are restyling the format of entire UDO as when your current UDO was drafted, there were a lot of problems with it and it was not done in the way that made it easy for staff to update over time.

Mr. Meadows discussed the document features of the new formatted UDO that does not currently exist today. The first couple of pages are currently reserved for an About Section for the UDO and it could be an introductory text that is a description of the parts of the UDO or it could be frequently asked questions, etc. This section is not black letter law and we do not have to worry about this being legal as this can be supporting information, which is something he has been starting to do more of in projects. He encouraged the Council to think about doing some FAQs in this part of the ordinance. Mr. Meadows stated there would also be a Table of Amendments Section within the



UDO, which is something that does not currently exist and it is almost impossible to know what is the current version of the ordinance.

Mr. Meadows showed the general layout of the updated and modernized UDO. He stated the Table of Contents Section currently exists, however the difference is with the new layout you will be able to click on any of these and be taken to that section within the UDO document. In addition, you can also move through the document by clicking the Headers. The Footers at the bottom show the date of last update and there is a button in the digital version that you would be able to click and go back to the main Table of Contents from any page. In addition, he highlighted the new page layout colors and different fonts. With the updated UDO there will be a heavier use of tables as they are trying to embrace more tables to be clearer about getting information across.

Mr. Meadows discussed the article review and that there are eleven articles in the current UDO and they have not changed the names or made significant changes to many of these chapters. Article I – General Provisions, they have added one new section for vested rights that are to protect approved applications from changes in the rules which is required to be compliant with Chapter 160D as this section was not included in the current version to the extent that the new version would include. He stated the General Assembly is very keen on vested rights and they change it almost every year and this would be current.

Article II – Administration, they changed from the Cashiers Commercial District the Cashiers Planning Area, because they now have residential districts. Other changes included within Article II is that they have cleared up and clarified the other County's boards duties and responsibilities.

Article III – Permits and Procedures, they revised the administrative adjustment provision which is a safety valve provision that allows County staff to grant minor modifications, deviations reductions of up to 10% of a numeric standard based on very clear criteria, conditions or scenarios. They have clarified and made this section clearer about what is the criteria and conditions which staff would permit under that numeric standard and when you can do this and how much. In addition, more than 10% would be considered a variance.

The conditional map amendment is new and incorporated within the ordinance. The conditional map amendment, conditional district is not something that that somebody comes and asks for and this designation is reserved for specific instances. Those instances are if your building or series of buildings are 20,000 square feet or if you generate a certain amount of traffic based on what ITE says you generate, 3000 trips per day or 100 peak hours whether AM or PM. If your development crosses any one of those thresholds regardless of how it is submitted, it will be kicked to a conditional rezoning process. Within the conditional rezoning process there is a pre-application conference requirement, community meeting requirement and other requirements that must be done early on in the process. The conditional map amendment has a masterplan requirement, concept plan and it is also supported by a textual description of what you want to do if you are going above and beyond the minimum requirements.

This procedure, as currently drafted does permit applicants to request reductions from standards or overages. For example, standards such as there is eight units an acre as a maximum density in the mixed-use zoning district and somebody files a conditional rezoning application that wants to go to 10 units. If applicants are seeking that reduction or change from the standard, we are asking them to provide what we are calling compensating public benefits, which is more open space, higher quality design, LEED certified building, harvesting rainwater, low impact development in their parking lot, etc. This is showing that the applicant is going above and beyond the minimum standards, and attempting to compensate for the reduction that they have requested. The idea is to



build flexibility into the process, but it is incumbent upon any applicant who is seeking this kind of reduction or deviation as they have to prove to this Council and to the Board of County Commissioners, that this is going to be a better development. In addition, he stated his sense is that with the conditional map amendment process more applicants will go above and beyond the threshold of the minimum standards.

The concept plan gets approved with this conditional map application, the textual statement that sets down everything in the development, how they are deviating from the standards, how they are going above and beyond the standards, and all the uses that they are seeking to accommodate over the lifetime of the development have to be listed. Otherwise, they are not allowed and they will have to go back to the rezoning process, if they want to change that. All that gets submitted is required, but it does not substitute for a subdivision, site plan or a zoning permit as you would still have to go through all that is required. With this procedure, we are integrating the Cashiers Planning Council review in this kind of legislative discretion environment and handle the largest development proposals. The Council would not be seeing projects that are 4000 square feet in size or 6000 square feet in size, as that would be an administrative review by staff. However, of the biggest projects that trigger the threshold the Council would be involved in and they would have much more latitude about negotiation, discussion, openness with the community, and they would be able to talk amongst Council members.

Mr. Meadows stated they are trying to move the Council into a less of a reactive and a more proactive stance of being more focused on the regulation and what the rules say and less focused on how to interpret them. These smaller projects in the use of the special use permit procedure is very troublesome and also very legally fraught for the County as it puts them and the Council in a very untenable position. In addition, to his understanding the Council does not want to be involved in the 4000 or 6000 square foot cases. He stated it has always been open for discussion of what is the Council's role, and how do we thread that needle and make the most out of the Council without burning them out or putting them into potentially legally fraught places where they feel like they cannot walk around the grocery store without being accosted by someone who is mad at them about a decision they made.

Mr. Meadows stated the special use permit is staying but it is evolving to be more like what a real special use permit is, and there are a handful of uses that because of how they operate or their particular characteristics, they deserve a heightened level of scrutiny for how are they going to manage the impacts of these developments. Where Jackson County and Cashiers in particular has gotten a little bit canted to that theory or that philosophy is that the current rules say anything over a threshold size triggers the quasi-judicial process. That is not how the special use permit process is normally administered, it is typically administered for some uses but not any use based on the size. He stated that is one of the issues that they are trying to move the Council away from. It is a torture laborious tool to consider larger buildings, and if we took the time to explain to applicants that if you want to come to Cashiers, this is what we want and if you do this, we do not need to have a fight. We do not need to have an in-depth review by 14 lawyers and 87 engineers and six months to review stuff because we would have an applicant bring us what we wanted and they should be allowed to go forward. In addition, he stated if we do not want anything, buy the land.

Mr. Meadows stated the thresholds for the conditional rezoning process is 20,000 square feet or more or the Traffic Impact Analysis (TIA) numbers. We are suggesting taking the quasi-judicial square footage numbers off the table, that we are no longer using the special use permit process in that way. There will be some uses that do need a special use permit review and likely would never to come to Cashiers, but that we still have to recognize because they are federally protected. Adult uses or group home are an example



of a use type that needs to have a special use permit, because that use type is protected by the federal government and you have to accommodate it somewhere in your jurisdiction. A special use is generally thought to be allowed, it is presumptively valid and permitted in the district, but we are worried about some of the mitigation or the negative impacts that might flow from that use. The purpose of the special use permit process is to consider that use in that site and come up with site specific mitigation or address concerns that might result from that use of that site. It is not about that we want to see everything that is over a threshold size and that is how we are going to control development here. We are suggesting to take time to write the rules to explain what you want and let that happen without having these very tight controls.

Conservation subdivision already exists within the ordinance and what it allows for is people to have smaller setbacks and smaller lots, and it is usually used for single family detached residential. The expectation with a conservation subdivision is that you set aside a significant amount of land that you would have used to build, and it is left alone. In trade for that, you allow people to have smaller lots and smaller setbacks. In a net density at the site level, it does not really change, at the sub site level it changes density significantly because you have buildings that are much closer together.

If you want to avail yourself of a conservation subdivision, there are two requirements and the first is that I cannot see it from the road. The other requirement is that 50% of the site area be left alone. There is an iterative plan process where staff and the applicant assemble a conservation and development plan that show the locations on the site where it is acceptable for building and where it is not. Once the conservation subdivision has gone through the four steps within the process there is a design for a subdivision but we do not have a subdivision approval which will have to go through review by staff as it is an administrative process.

Mr. Meadows stated they have added a determination procedure that the Council already does but it is not as clearly codified. This procedure allows anyone to come in and request staff, what does the code say, ask a question about their vesting status or about an unlisted use or about a condition of approval, etc. Within this procedure they have the choice to have an informal determination, which is non-written of what the code says, it is not binding, and it does not cost anything. The other choice they can have is a formal determination that is in writing and that is appealable.

Fee in Lieu is for challenging sites that cannot meet the open space requirements, cannot meet the roadway dedication requirements or cannot meet the pedestrian facility requirements, etc. We are formalizing the fee in lieu process that provides clarification of the process and the County would be the one to decide if it is mandatory or voluntary. The fee in lieu money is to be used by the County for that kind of infrastructure in Cashiers, and it cannot be used somewhere else.

The Council is supposed to do design review but that has not worked out as well as it should. What we are suggesting be done is that when there is an aspect of design review that is necessary and if it is one of these larger projects, it would be handled through the conditional rezoning process. If it is part of a special use permit use, then it is handled through the concept plan that rolls through with that special use permit. If it is neither of those two things it is handled in the site plan process based on the standards that are within the ordinance.

Mr. Meadows stated they clarified the things that require a pre-application conference and what kinds of things that we want somebody to bring to a pre-application conference to have a productive discussion about what you want to do. The special use permit process today requires the applicant to do a community meeting prior to the submittal of the final application. There are more standards in the community meeting procedure, about notice, where the meetings can be held, what the applicant's



responsibility is in terms of communication and clarifying for decision makers. For example, what was said during the community meetings, and how did the application change based on what was said. We will still have the community to keep the applicant honest about whether or not they were truthful in their assessment of what was said at community meeting and what they did about it.

When there is an application that comes through the process, staff generates a staff report for applications that are decided by anybody other than staff. The state has very clear rules about what has to be in that, who gets it and when. That stuff was not in your code, but it is now. We have supplemented your public hearing procedure material for legislative, which is zoning and quasi-judicial, which is special use permit, variance, and appeal. There is more clarity about who can testify, who has standing and who does not, details about evidence, testimony, etc.

In addition, he stated we need some better clarity about what conditions of approval are allowed. There are a variety of conditions of approval that are not permitted under federal law. You cannot assign conditions on who can rent what, and there are limitations on all kinds of suggestions or provisions that you might apply in North Carolina. You cannot require somebody to have a house of a certain size. There will be clarity about what conditions are on the table and what conditions are off the table, and how we handle conditions of approval. The applicant has to agree in writing to those conditions of approval before your final order is issued and if you fail to do that, you cannot enforce those conditions. Following the conditions of approval will be the written notice of decision which happens today but will be noted within the ordinance.

Mr. Meadows stated there was no major changes to subdivisions other than they have pulled out the old conservation subdivision and replaced it with this procedure and no significant changes to the environmental regulations. In addition, there was no changes to the development standards as Cashiers has its own development standards that are generally applied and those standards do not necessarily deal with the projects in Cashiers but are applied everywhere else outside of the zoned jurisdictions.

There was discussion regarding extraterritorial jurisdiction (ETJ), which Cashiers planning area is not a municipality and if they were they could then apply for an ETJ from the state and that could be exercised zoning authority up to a mile based on size. However, there has been a lot of discussion about how much longer the state will allow jurisdictions to have ETJ's because those property owners are not part of the town and not voting in those elections. Mr. Meadows stated that they have seen a move in the General Assembly to curtail extraterritorial jurisdiction. Last year, they proposed a blanket bill that said if you have an ETJ, you do not have it anymore but that did not go anywhere. Then they proposed another bill that said if you are in a County that has more than 50,000 people then you can keep your ETJ and if your County is fewer than 50,000 then you would not be able to keep your ETJ but that did not get past the short session. In addition, we have also seen two local bills that said no local governments or County can have an ETJ but that was ultimately beaten back by Pinehurst, Southern Pines, Carthage, Southport, etc. Since Cashiers is a county planning area and not a municipality they cannot ask for an ETJ, however, they may consider in the future that the tools that come in the toolbox of zoning might need to be more broadly applied countywide.

Article IX – Regulated District Standards includes the Airport Hazard District, Cashiers Commercial Area, Cullowhee Community Planning District and the US 441 Gateway District. Within Article IX the only changes that is being made is to Section 9.1 Introduction and General Provisions and Section 9.3 Cashiers Commercial Area. Mr. Meadows highlighted the transitional standards which are how we handle stuff that has already been approved, but not finished or is in the process of approval before we adopt this ordinance and how we handle those changes. Section 9.3 has six major sections that



include the administration provisions, the purpose and intent section on community character, sub districts, use provisions and development standards.

For the next visit, staff is going to send a letter of written notice to every property owner within the district of the rezoning and inform them of what their current zoned designation is and what their new zoned designation would be along with a use table of what is permitted. The letter would also include an invitation to those property owners to attend an all-day workshop to discuss the zoning map changes, ask questions and express any concerns.

The Cashiers Small Area Plan included a proposed land use framework plan that included a Village Core, Gateway, Lakeside, Transition, Residential, Parks and Open Space, and Edge districts. This framework plan which advisory went outside the Cashiers Commercial Area boundary, however with the proposed rezoning map they had to stay within the boundary lines. The methodology used for the rezoning they went based on what the current use of the property was according to the property record card on file with the County along with reviewing the proposed land use framework plan within the Cashiers Small Area Plan. The new proposed zones are for residential, non-residential, and mixed-use. The consultant team made a tactical decision not to be expansive in our thinking about laying mixed-use on the ground early on as they wanted to have a community conversation about that to get a better sense about what should and should not be mixed-use. The proposed districts are open for discussion, and that is why they want to have this process. The opportunity for property owners to comment and provide feedback regarding the proposed rezoning draft prior to it going through the process of adoption is an important step. Along with the proposed text for the ordinance the Council would be asked to make a recommendation on a map to be passed on to the Board of Commissioners during their public hearing for final consideration as that is the final step within the legislative adoption process. The adoption process would include notifying the property owners within the Cashiers Commercial Area District of the public hearing and advertising the public hearing within the community newspaper within the legal section. The consultant team intends to provide information and notice to property owners within the district prior to the adoption process to give ample opportunity to reach out to discuss the proposed rezoning changes.

Thursday, May 30, 2024 there will be a community discussion at the Cashiers/Glenville Recreation Center in the community room at 5:30 p.m. were they will focus on the development standards. The County's attorneys would need to review the ordinance draft before it is posted for public review. The Council and public would have approximately 30 days to take their time reviewing the ordinance draft. The consultant team is possibly considering doing a webinar to provide information to the public of what the Unified Development Ordinance (UDO) does, where you can go review the UDO, and where to post comments on the webpage. After the draft is posted for the public review the consultant team will be back in Cashiers for a few days to have meetings for the public to provide feedback. Looking at timeframes, staff is going to look at dates, times, and venue availability in July for the consultants next visit that would include a zoning map open house, more intensive review sessions on the ordinance, and more office hours. Following these workshops, there would likely be some adjustments to the ordinance draft then they would begin the adoption process and they would like to have the ordinance adopted in August or September.

Mr. Poston stated following the Council's public hearing and making a recommendation it would be forwarded over the Planning Board for a public hearing because they are also making some changes within the ordinance outside of the Cashiers Commercial Area. Then the Board of Commissioners would set and hold their public hearing that typically takes 60 or 90 days.

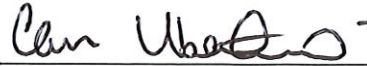
**Adjournment**

With no further business to discuss, the meeting adjourned at 7:03 p.m.

Respectfully Submitted,



Allison Kelley  
Administrative Assistant



Glenn Ubertino  
Cashiers Planning Council Chairman