

BEFORE THE CASHIERS AREA COMMUNITY PLANNING COUNCIL

CASHIERS VILLAGE II, LLC'S
APPLICATION FOR SPECIAL USE
PERMIT DATED AUGUST 23, 2020

**REQUEST FOR ISSUANCE OF
SUBPOENA**

NOW COME the Chattooga Conservancy, the Gana-Sita Property Owners Association, Jean Menge, Laura Moser, and Yvonne Johnson (Applicants), by and through counsel, pursuant to N.C. Gen. Stat. § 160D-406(g), to request that the Chair of the Cashiers Area Community Planning Council (the "Council") issue a subpoena to Daniel Manring, Executive Director of the Tuckasegee Water & Sewer Authority ("TWASA"). Applicants request that the subpoena require Mr. Manring's attendance at the Council's January 6, 2021, hearing on Cashiers Village II, LLC's ("Cashiers Village") Application for Special Use Permit (the "Hearing"), or on such date as that Hearing may be continued to by the Council. Additionally, Applicants request that the subpoena require Mr. Manring to produce all communications and documents within TWASA's possession related¹ to the availability of waste water treatment from TWASA for the proposed Cashier Village Project and any proposed onsite treatment for the Project. The undersigned represents that Mr. Manring does not object to the issuance of the requested subpoena.

Section 3.7.15(d)(vi)(1)(e) of the Jackson County UDO states that the:

"Community Planning Council shall not approve [a] special use permit application and site plan unless and until it makes the following findings, based on the evidence and testimony presented at the public hearing . . . :

- a) That the proposed use or development of the land will not materially endanger the public health or safety.
- e) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, **waste disposal, and similar facilities**

Jackson County UDO § 3.7.15(d)(vi)(a, e).

As a result, the Council cannot approve a special use permit if the proposed development will endanger public health or is located in an area where there is insufficient capacity to meet its waste disposal needs, including wastewater. As the Executive Director of the only wastewater treatment facility serving the Cashiers community, Mr. Manring is uniquely qualified to testify about TWASA's capacity to meet the anticipated wastewater generated by the proposed

¹ "Related" means: concerning, referring to, alluding to, relating to, connected with, commencing on, in respect of, about, regarding, discussing, showing, describing, supporting, contradicting, substantiating, reflecting, mentioning, analyzing, and evidencing.

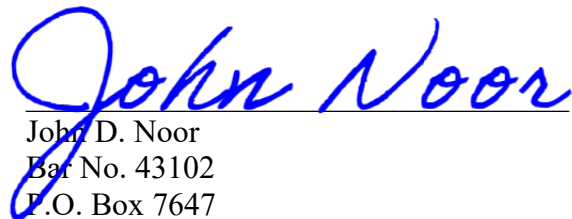
development and his presence is necessary to accurately assess whether the proposed development is appropriately located with respect to wastewater treatment facilities. The Applicants also need Mr. Manring to produce the requested documents so that a comprehensive understanding of how the developer intends to dispose of wastewater can be presented to the Council. If the requested subpoena is not issued, the Applicants will be denied the ability to present critical information related to two of the criteria for the pending special use permit application.

Applicants have standing under N.C. Gen. Stat. § 160D-1402(c)(2–3) because they will suffer special damages as a result of the proposed development and incorporate by reference the applications and affidavits they submitted to the Council in November 2020 to establish their standing to challenge the proposed development.

Appellant respectfully requests that the Chair issue the above-requested subpoena and require Mr. Manring to appear at the Council's Hearing and produce the requested documents by January 4, 2020.

This the 22nd day of December 2020.

ROBERTS & STEVENS, P.A.



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Attorney for Applicants

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing **REQUEST FOR ISSUANCE OF SUBPOENA** in the above-entitled action, pursuant to Rule 5(b)(1)(a) by email as follows:

Ms. Heather Baker
Email: heatherbaker@jacksonnc.org
*Attorney For Cashiers Area Community
Planning Council*

Mr. Craig Justus
Email: cjustus@vwlawfirm.com
Attorney for Cashiers Village

This the 22nd day of December 2020.



John D. Noor