

CASHIERS VILLAGE APPLICATION
FOR SPECIAL USE PERMIT)
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)
)**OBJECTION TO NOTICE OF HEARING
AND MOTION TO CONTINUE**

NOW COME the Gana-Sita Property Owners Association (the "Association"), the Chattooga Conservancy, Yvonne Johnson, and Jean Menge, by and through the undersigned counsel (the "Movants") to request that the Cashiers Area Community Planning Council continue its hearing on the Cashiers Village Application for Special Use Permit from its November 15, 2020, meeting to its regularly scheduled meeting in February 2021 (the "Motion"). In support of this Motion, the Association offers the following:

1. The Association is a non-profit created to foster and protect the interests of property owners within the Gana-Sita neighborhood of Cashiers. Some of the properties within the Association are located approximately two (2) tenths of a miles from proposed Cashiers Village Development (the "Development"). The Association's standing to challenge the proposed development is supported by an affidavit attached as Exhibit 1.

2. Ms. Menge owns property that adjoins and abuts the proposed Development and her standing to challenge the proposed Development is supported by an affidavit attached as Exhibit 2.

3. The Chattooga Conservancy is a membership association specially dedicated to the protection of the water quality and watershed of the Chattooga River, which include upper portions of the river that are within less than five hundred (500) feet of the proposed Development. The Conservancy's standing to challenge the proposed Development is supported by an affidavit attached as Exhibit 3.

4. Ms. Johnson owns property that adjoins and abuts the proposed Development and her standing to challenge the proposed Development is supported by an affidavit attached as Exhibit 4.

Additional Time Needed to Prepare Defense and Secure Experts

5. The hearing on the pending application for special use permit is currently scheduled to occur on Monday, November 16, 2020. The Notice of Hearing, however, was not posted until October 30, 2020, which provided at most sixteen (16) days public notice. Additionally, the Movants did not become aware of the hearing until well after the Notice was posted and were only able to secure legal counsel as of 4:00 P.M. on Friday, November 13, 2020.

6. The undersigned has not had sufficient time to review the application for special use permit and supporting materials nor prepare an adequate defense and Movants are entitled by

law to be represented by well-prepared legal counsel. As a result, proceeding with the hearing under the current conditions would violate Movants' due process rights.

7. Based upon the undersigned's review of the application material and code provisions to date, it appears that the application material is deficient and that the hearing should be tabled/continued until such time as the deficiencies in the application material are cured in order to provide Movants and the Cashiers Planning Council adequate information reasonably far in advance of the hearing to evaluate the application under the applicable standards.

8. Moreover, Movants will also need a reasonable opportunity to present appropriate counter-evidence, which may include expert testimony in the areas of property value, traffic, and geology, among others. The undersigned currently represents parties in unrelated zoning cases across Western North Carolina and can represent to the Cashiers Planning Council that within the last two weeks he has contacted over a dozen different experts with expertise relevant to the subject matter of the pending application and none of those experts would be able to assist the Movants with a hearing on November 16th or be available to assist in a hearing until mid-to-late January 2021, as a result of COVID-19, current workloads, and the upcoming holiday season. As a result, proceeding with a hearing on the application without providing the Movants with a reasonable amount of time to secure expert witnesses would violate their due process rights.

Hearing Format Violates Executive Order No. 176

9. Aside from not having adequate time to prepare for the hearing, Movants do not believe the hearing can proceed under Executive Order 176 (attached as Exhibit 5), which was issued by the Governor of the State of North Carolina on November 10, 2020, after the Notice of Hearing was posted. The Movants greatly appreciate the work that has been put in by the Jackson County planning and legal departments to attempt to facilitate this hearing during a global health pandemic. However, through no fault of their own, the rules for mass gatherings were changed after the Notice of Hearing was posted. Specifically, Executive Order 176 defines "mass gatherings" as an "event or convening which brings together more than ten (10) people indoors" Section 5.1. It is Movants understanding that currently more than 10 individuals will be in the hearing room before the Council, which would violate Executive Order 176.

Notice of Hearing and Hearing Format Do Not Meet State Public Meetings Requirements

10. The Notice of Hearing's planned virtual hearing format does not meet State legal requirements for public meetings and constitutes a "remote meeting" which would require Movants consent. To be assured that their due process rights are protected, Movants cannot consent to such a meeting at this time. The following identified deficiencies also cannot be cured without revising and reissuing the Notice of Hearing. North Carolina's courts have held that open meetings laws "should be liberally construed 'in favor of open meetings and full disclosure.'" *Garlock v. Wake Cnty. Bd. of Educ.*, 211 N.C. App. 200, 221, 712 S.E.2d 158, 173 (2011) ("both the requirements for meetings of public bodies to be open and statutory exceptions to open meetings are construed in favor of public access."). As a result, these laws must be interpreted "in light of the legislative intent and . . . using a liberal interpretation which favors full and open access." *Id.* (quoting *State v. Jackson*, 353 N.C. 495, 501, 546 S.E.2d 570, 574 (2001))

11. Here, the Notice states that the hearing will occur at the "The Village Green (Commons Hall) with limited space and virtually." As a result, not all of the public will be allowed to attend the hearing, which violates N.C. Gen. Stat. § 143-318.10(a) ("each official meeting of a public body [] be open to the public and **any person is entitled to attend such a meeting.**"). The council will also be holding its official meeting through the use of electronic means. When electronic means are used, the Council is required to "provide **a location and means** whereby members of the public may listen to the meeting and the notice of the meeting . . . shall specify the location." N.C. Gen. Stat. § 143-318.13(a). The Notice also fails to provide the login information for the Zoom meeting which is required under Section 143-318.12. *Garlock v. Wake Cnty. Bd. of Educ.*, 211 N.C. App. 200, 221, 712 S.E.2d 158, 173 (2011) (holding that the Notice must also include "**any information reasonably necessary to give members of the public the opportunity to attend the meeting.**").

12. These requirements ensure that members of the public can participate in every public meeting. Additionally, they ensure that those without computers, televisions, or other electronic devices can show up at a certain location and also participate. Here, most of the public is excluded from the meeting, no location has been provided for the public to view the meeting electronically, and the Notice fails to include all information reasonably needed to give members of the public an opportunity to attend. Accordingly, the Notice does not comply with public meetings laws and any action taken by the Council during the hearing would likely be declared null and void under N.C. Gen. Stat. § 143-318.16a.

Hearing is a "Remote Meeting" That Does Not Meet Requirements of Section 166A-19.24

13. The use of a video conferencing system to facilitate this quasi-judicial hearing due to the limitation on in-person attendance means that the hearing's direct testimony, cross-examination, presentation of evidence, argument, and public comment will be simultaneously communicated to Council members. Council members will also participate by communicating with the application, Movants, experts, all parties with standing, and all virtual witnesses exclusively through simultaneous communication. As a result, this hearing is a "remote meeting" under State law. N.C. Gen. Stat. § 166A-19.24.

14. A remote meeting is defined as "[a]n official meeting, **or any part thereof**, with between one and all of the members of the public body participating by simultaneous communication." N.C. Gen. Stat. § 166A-19.24(i)(3) (emphasis added). In turn, "simultaneous communication" is defined as "**any communication** by conference telephone, **conference video**, or **other electronic means.**" N.C. Gen. Stat. §§ 166A-19.24(i)(2–4) (emphasis added).

15. While the Council can use "remote meetings," when an emergency declaration is made by the Governor, it can only do so when all of the following conditions are met:

- (1) The right of an individual to a hearing and decision occur during the emergency.

- (2) All persons subject to the quasi-judicial proceeding who have standing to participate in the quasi-judicial hearing have been given notice of the quasi-judicial hearing and **consent to the remote meeting.**"
- (3) All due process rights of the parties are protected.

N.C. Gen. Stat. §§ 166A-19.24(f)(1–3) (emphasis added). Here, it appears that at least two of the three requirements are not satisfied. First, Movants do not consent to the remote meeting and have expressly objected to the use of a "remote meeting" in their applications for standing. Accordingly, a "remote hearing" cannot be held until the Movants' consent is given.

16. Second, Movants cannot consent to the remote conduct of the quasi-judicial hearing because of the serious concerns about how a remote hearing would impact their due process rights. Among other concerns, it appears that the proposed remote hearing format may not enable Movants, or their counsel, to see all Planning Council members at the same time during the hearing, which would prevent them from seeing the facial expressions and other physical cues expressed by decision makers in this hearing. The remote evidentiary hearing process presents inherent problems in the use and review of documents for evidentiary and examination purposes and it is common for communications to freeze or be slowed or inaudible when electronic means of such communications are relied upon, which makes timely objections difficult if not impossible. As a result, Movants do not believe, at present, that their due process rights to a hearing can be protected by reliance on electronic participation. Additionally, Movants' health and safety can also not be adequately protected with regard to an in-person hearing at this time due to COVID-19 concerns. **In fact, the undersigned counsel learned just hours before submitting this brief that two of the daycare workers who care for his two children have contracted the virus and he his in-person attendance would put dozens of community members, including the Council and their families, at risk of contracting this deadly disease.** At a time when the virus is surging across the State, we should not be risking the health of the public, staff, or Council members to consider a development project.

17. Movants would also share with the Council that on November 4, 2020, Buncombe County's Board of Adjustment was enjoined by a Superior Court Judge from conducting a very similar quasi-judicial hearing for many of the same remote meeting and notice issues raised in this Objection and Motion. Additional time is need to work with staff to develop a safe and fair hearing process that avoids the need for litigation over the hearing format.

For the above stated reasons, Movants believe that the Board should continue the hearing on the application to: (a) provide the Applicant the opportunity to cure the numerous and substantial deficiencies in its application materials; (b) provide the Planning Council, Movants, and members of the general public an adequate opportunity to review and react to such supplemented application materials; (c) provide Movants a reasonable amount of time to prepare their case and secure the attendance of appropriate witnesses at a hearing; (d) allow for a fully compliant Notice of Hearing to issue for a re-set hearing; and (e) allow for due process to be provided to all parties in the conduct of the hearing as the current COVID emergency hopefully is abated in the coming months.

Respectfully submitted, this the 16th day of November 2020.

ROBERTS & STEVENS, P.A.

By: 

John D. Noor

Bar No. 43102

P.O. Box 7647

Asheville, N.C. 28802

Telephone: (828) 252-6600

Email: jnoor@roberts-stevens.com

Attorney for Movants

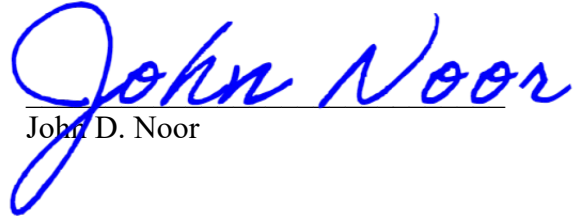
CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing **OBJECTION TO NOTICE OF HEARING AND MOTION TO CONTINUE** upon the parties below by email:

Mr. Craig Justus
Counsel for Applicant

Ms. Heather Baker
Counsel for Jackson County

This the 16th day of November 2019.



John D. Noor

Jackson County Cashiers Planning Council
Request to Participate in Hearing as a Party with Standing

I, the undersigned, would like to participate in Cashiers Planning Council Hearing for the Special Use Permit application for the Cashiers Village as a Party with Standing. (You may insert the name of the Parties and/or the Project if you do not know the case number).

My Full Name: Gana-Sita Property Owners Association, Inc.

My Registered Mailing Address: c/o John Noor (Attorney)
P.O. Box 7647
Asheville, N.C. 28802

My Telephone: c/o John Noor, (828) 210-6804 (optional)

My Email: c/o John Noor, jnoor@roberts-stevens.com (optional)

This form will be used by the Planning Council ("Council") to assist it in evaluating whether you have standing. You must fill out this form completely and may attach additional pages if necessary. Only the Council may grant standing. Submitting this form does not mean that you have standing. The Council reserves the right to grant standing based on the contents of this form if a proper showing of standing is made, to deny standing if the contents of this form fail to show valid grounds for standing, and to make further inquiries regarding any standing issue at the hearing.

I, the Undersigned, certify as follows (check and fill out all that apply):

- ☐ Did you receive a letter from the Jackson County Planning Department regarding the hearing?
 - ☐ Yes
 - ☒ No
- ☐ If applicable, I have the following interest in the property that is the subject of this hearing:
 - ☐ An ownership interest in the property that is the subject of the hearing; or
 - ☐ A leasehold interest in the property that is the subject of the hearing; or
 - ☐ An interest in the property that is the subject of the hearing created by:
 - ☐ Easement; or
 - ☐ Restriction; or
 - ☐ Covenant
- ☒ I will suffer special damages as the result of the proposed action that is the subject of this hearing, specifically (must be completed if box is checked attach additional pages if needed):

Please see attached affidavit

- ☒ The damages I will suffer are distinct from those damages to the public at large, specifically *(must be completed if box is checked attach additional pages if needed)*:
Please see attached affidavit
-
- ☐ The damages I will suffer are not distinct from those damages to the public at large or unique, they impact the entire community, specifically *(must be completed if box is checked attach additional pages if needed)*:
-
- ☐ I will not suffer special damages, however, I would like an opportunity to be heard by the Council.
- ☒ I represent an incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area (i.e. a homeowners association), and
- ☒ At least one (1) member of said association, Paul Anderson *(print name of member)*, would have standing as an individual to challenge the decision being appealed, specifically:
Please see attached affidavit
-
- ☒ Said association was not created in response to the particular development or issue that is the subject of the appeal.
Please see attached affidavit
-

Other Information: Pursuant to N.C. Gen. Stat. § 166A-19.24(f), the Gana-Sita Property Owners Association, Inc. does not consent and expressly objects to the quasi-judicial hearing on the application for special use permit submitted for Cashiers Village to be conducted via a "remote meeting."

By signing below, I the undersigned, certify that the information contained herein is true and correct to the best of my knowledge. **For security purposes, I will not share the meeting link with others.**

This the 14th day of November 2020.



(Signature)

NOTE: This form must be return to the Jackson County Planning Department at least 24 hours prior to the hearing referenced above. You may either email the form to: allisonkelley@jacksonnc.org or mail the form to Jackson County Planning, Attn: Allison Kelley, 401 Grindstaff Cove Rd, Suite A-258, Sylva, NC 28779, in such a manner that it is delivered at least 24 hours prior to the hearing referenced above.

COUNTY OF JACKSON

BEFORE CASHIERS AREA COMMUNITY
PLANNING COUNCIL

CASHIERS VILLAGE APPLICATION
FOR SPECIAL USE PERMIT

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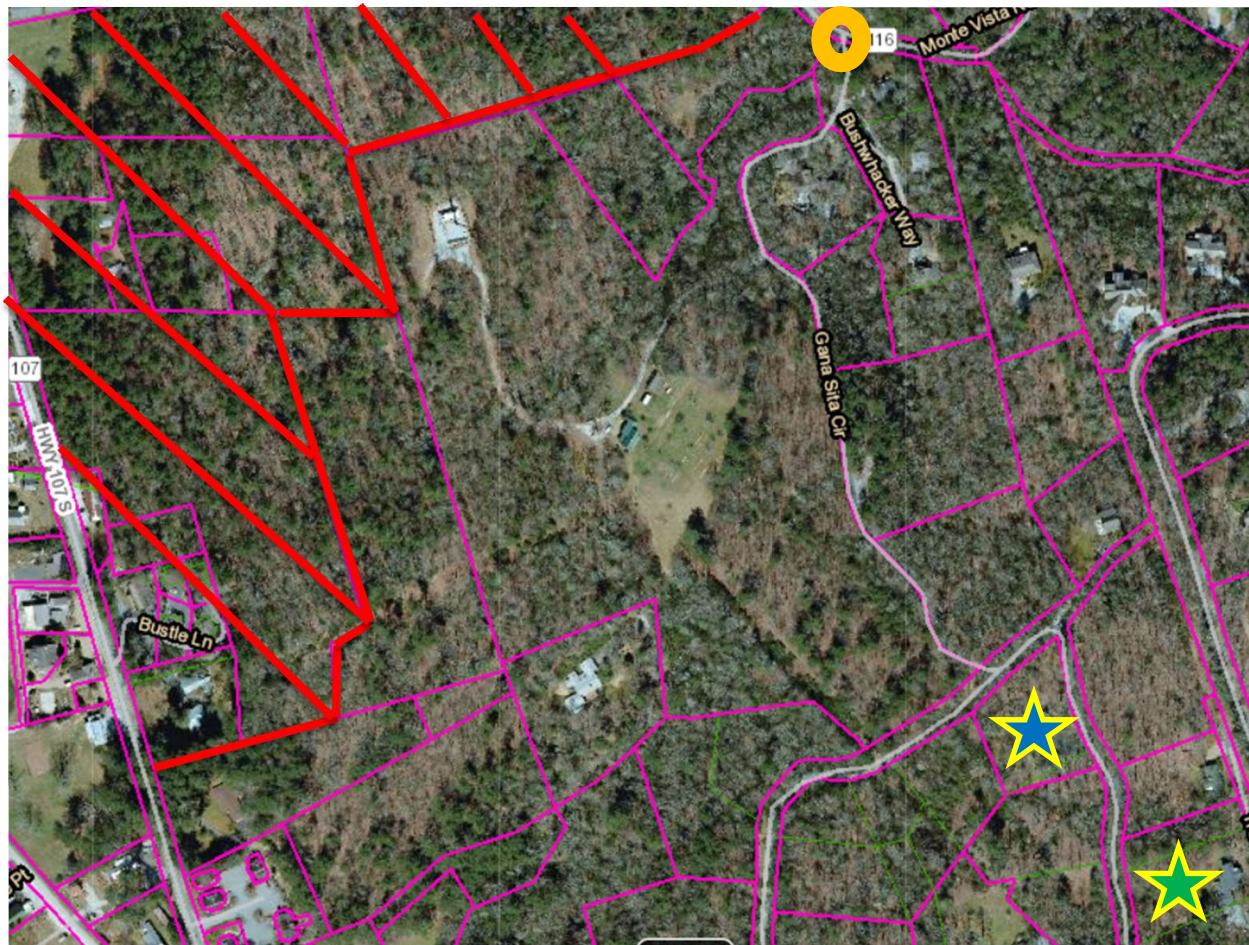
AFFIDAVIT OF PAUL ANDERSON

THE UNDERSIGNED, Paul Anderson, being first duly sworn, deposes and says:

1. I am over 18 years old and do not suffer from any disability. I have personal knowledge of everything stated in this affidavit.
2. I am a citizen of Jackson County, North Carolina and own the property located at 93 Tree Top Lane, Cashiers, North Carolina 28717 (the "Property"). The home on the Property is approximately three (3) tenths of a mile from the proposed Cashiers Village Development (the "Development").
3. I am currently President of Gana-Sita Property Owners Association, Inc. (the "Association") and this affidavit is being offered both in my capacity as a Board Member on behalf of the Association and in my individual capacity as an owner of the Property. The Association has formally authorized me to provide this affidavit on its behalf
4. The Association is a non-profit corporation incorporated under the laws of the State of North Carolina and was created to foster and protect the interests of property owners within the Gana-Sita neighborhood of Cashiers. The Association has existed for years and was not created in response to submittal of the application for the Development.
5. The only way to access my home from U.S. 64 East is via Monte Vista Road. I use Monte Vista Road to access grocery, medical, and all other services when at my Property. Additionally Monte Vista Road serves as the exclusive access to U.S. 64 East for virtually all of the other properties that are members of the Association and the property owners rely on that road for the above-listed services. Upon information and belief, Monte Vista serves as the road through which all emergency medical and fire services access my home.
6. Association member Mark A. Moran owns the property located at 350 Gana Sita Circle, which is located within approximately two (2) tenths of a mile from the proposed Development.

[additional allegations on following page]

7. A GIS image is depicted below with a green star that identifies my Property. Mr. Moran's property is identified with a blue star and the location of our Association's access to Monte Vista Road is depicted with an orange circle. The approximate location of the proposed Development is indicated with red lines.



8. I have reviewed the application for special use permit submitted by Stephen Macauley, Member-Manager of Cashiers Village II, LLC. I have also reviewed the site plans and other supporting materials.

9. The application and supporting materials show that there will be a primary entrance to the Development along Monte Vista Road (see applicant's Master Site and Zoning Plan) that will be used by the 914 residential units within the Development. The Application also appears to provide 1,400 parking spaces which indicates that the developer anticipates that there could be at least that many vehicles accessing the various properties within the Development. This will result in hundreds of daily vehicle trips that will cause undue traffic congestion and traffic hazards along Monte Vista Road and U.S. 64 East.

10. The Development will also be building residences on mountain slopes that will require significant grading and structures will be constructed on steep slopes. This poses a landslide risk for Monte Vista Road and in the event of a landslide it would be difficult if not

impossible for rescue vehicles to access the properties within the Association. Many of the property owners within the development are elderly and being cut off from emergency medical care is a public health and safety risk for me and the residents within our Association.

11. Additionally, because the development appears to maximize the use of impervious surfaces, the stormwater coming off of the proposed Development poses a flooding risk for Monte Vista Road and U.S. 64 East. If Monte Vista Road or U.S. 64 floods as a result of the stormwater coming off of the Development, it would be difficult if not impossible for rescue vehicles to access the properties within the Association. Many of the property owners within the Association are elderly and being cut off from emergency medical care is a public health and safety risk for me and those residents.

12. The above-identified: flooding, landslide, traffic, public health, and storm water damages are distinct from the public at large and broader community because only a limited number of properties rely on Monte Vista for access to U.S. 64. The Association's properties are also uniquely damaged because one of the Development's entrances is located on Monte Vista Road. Almost all of the other properties within the Cashiers Community do not rely on Monte Vista Road for access to U.S. 64, stores, and emergency medical services. As a result, the Association and its members will suffer special damages that are distinct from the public at large.

FURTHER this Affiant sayeth not.

Sworn to this the 15th day of November 2020.

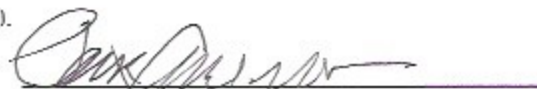

PAUL ANDERSON

STATE OF NORTH CAROLINA
COUNTY OF JACKSON

AFFIRMATION

Pursuant to Emergency Directive 5 within the Order of the Chief Justice of the Supreme Court of North Carolina dated October 15, 2020, the undersigned swears under the penalties for perjury that the above-made representations are true.

This the 15th day of November 2020.


PAUL ANDERSON

Jackson County Cashiers Planning Council
Request to Participate in Hearing as a Party with Standing

I, the undersigned, would like to participate in Cashiers Planning Council Hearing for the Special Use Permit application for the Cashiers Village as a Party with Standing. (You may insert the name of the Parties and/or the Project if you do not know the case number).

My Full Name: Jean Menge

My Registered Mailing Address: c/o John Noor (Attorney)
P.O. Box 7647
Asheville, N.C. 28802

My Telephone: c/o John Noor, (828) 210-6804 (optional)

My Email: c/o John Noor, jnoor@roberts-stevens.com (optional)

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I, the Undersigned, certify as follows (check and fill out all that apply):

- ☐ Did you receive a letter from the Jackson County Planning Department regarding the hearing?
 - ☒ Yes
 - ☐ No
- ☐ If applicable, I have the following interest in the property that is the subject of this hearing:
 - ☐ An ownership interest in the property that is the subject of the hearing; or
 - ☐ A leasehold interest in the property that is the subject of the hearing; or
 - ☐ An interest in the property that is the subject of the hearing created by:
 - ☐ Easement; or
 - ☐ Restriction; or
 - ☐ Covenant
- ☒ I will suffer special damages as the result of the proposed action that is the subject of this hearing, specifically (must be completed if box is checked attach additional pages if needed):

Please see attached affidavit

☒ The damages I will suffer are distinct from those damages to the public at large,
specifically *(must be completed if box is checked attach additional pages if needed)*:
Please see attached affidavit

☐ The damages I will suffer are not distinct from those damages to the public at large or
unique, they impact the entire community, specifically *(must be completed if box is
checked attach additional pages if needed)*:

- ☐ I will not suffer special damages, however, I would like an opportunity to be heard by the Council.
- ☐ I represent an incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area (i.e. a homeowners association), and
- ☐ At least one (1) member of said association, _____ (*print name of member*), would have standing as an individual to challenge the decision being appealed, specifically:
- _____
- ☐ Said association was not created in response to the particular development or issue that is the subject of the appeal.
- _____

Other Information: Pursuant to N.C. Gen. Stat. § 166A-19.24(f), I do not consent and expressly objects to the quasi-judicial hearing on the application for special use permit submitted for Cashiers Village to be conducted via a "remote meeting."

By signing below, I the undersigned, certify that the information contained herein is true and correct to the best of my knowledge. **For security purposes, I will not share the meeting link with others.**

This the 15th day of November 2020,

(Signature)

NOTE: This form must be return to the Jackson County Planning Department at least 24 hours prior to the hearing referenced above. You may either email the form to: allisonkelley@jacksonnc.org or mail the form to Jackson County Planning, Attn: Allison Kelley, 401 Grindstaff Cove Rd, Suite A-258, Sylva, NC 28779, in such a manner that it is delivered at least 24 hours prior to the hearing referenced above.

COUNTY OF JACKSON

BEFORE CASHIERS AREA COMMUNITY
PLANNING COUNCIL

CASHIERS VILLAGE APPLICATION
FOR SPECIAL USE PERMIT

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AFFIDAVIT OF JEAN MENGE

THE UNDERSIGNED, Jean Menge, being first duly sworn, deposes and says:

1. I am over 18 years old and do not suffer from any disability. I have personal knowledge of everything stated in this affidavit.

2. I own the property located at 91 Monte Vista Road, Cashiers, North Carolina 28717 and associated with PIN 7572-52-7025 (the "Property"). The Property abuts the proposed Cashiers Village Development (the "Development") from across Monte Vista Road.

3. The only way to access my home on the Property is from U.S. 64 East via Monte Vista Road. I use Monte Vista Road to access grocery, medical, and all other services when at my Property. Additionally Monte Vista serves as the road through which all emergency medical and fire services access my home.

4. A GIS image of my Property is depicted below and a green star identifies its location. The approximate location of the proposed Development is indicated with red lines.

[GIS image on the following page]



5. I have reviewed the application for special use permit submitted by Stephen Macauley, Member-Manager of Cashiers Village II, LLC. I have also reviewed the site plans and other supporting materials.

6. The application and supporting materials show that there will be a primary entrance to the Development along Monte Vista Road (see applicant's Master Site and Zoning Plan) that will be used by the 914 residential units within the Development. The Application also appears to provide 1,400 parking spaces, which indicates that the developer anticipates that there could be at least that many vehicles accessing the various properties within the Development. There also appears to be an entrance to a parking area within the Development within approximately 100 feet of my Property. This traffic design will result in hundreds of daily vehicle trips that will cause undue traffic congestion and traffic hazards along the portion of my Property on Monte Vista Road as well as U.S. 64 East.

7. The Development will also be building residences on mountain slopes that will require significant grading and be constructed on steep slopes. This poses a landslide risk for both my Property and Monte Vista Road which are at the base of the Development and in the event of a landslide it would be difficult if not impossible for rescue vehicles to access my Property. Due

to my age, being cut off from emergency medical care is a public health and safety risk for me and my family.

8. Additionally, the Development appears to maximize the use of impervious surfaces and, based on the topography of the site, it appears that stormwater will be channeled onto Monte Vista and my Property. The stormwater coming off of the proposed Development appears to pose a flooding risk for my Property, Monte Vista Road, and U.S. 64 East. If Monte Vista Road or U.S. 64 floods as a result of the stormwater coming off of the Development, it would be difficult if not impossible for rescue vehicles to access my Property. Being cut off from emergency medical care is a public health and safety risk for me and my family.

9. Preliminary investigations show that the Development will substantially injure the value of my Property, which abuts the proposed Development.

10. The above-identified: flooding, landslide, traffic, public health, stormwater, and loss of property value injuries would cause me to suffer damages that are distinct from the public at large because my Property is one of the few that abuts the Development and one of only a limited number that rely on Monte Vista for access to U.S. 64 and emergency medical care. My Property is also uniquely damaged because of the loss of property value I would suffer and due to the fact that one of the Development's entrances is within a couple hundred feet of my Property. Almost all of the other properties within the Cashiers Community do not rely on Monte Vista Road for access to U.S. 64, stores, and emergency medical services and only a handful would suffer a loss in value as an abutting property owner. As a result, by definition, I will suffer special damages that are distinct from the public at large.

FURTHER this Affiant sayeth not.

Sworn to this the 15th day of November 2020.

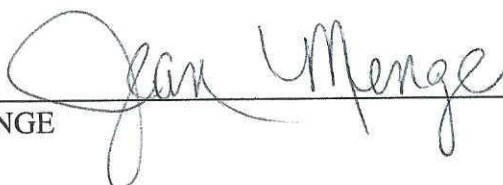

JEAN MENGE

STATE OF NORTH CAROLINA
COUNTY OF JACKSON

AFFIRMATION

Pursuant to Emergency Directive 5 within the Order of the Chief Justice of the Supreme Court of North Carolina dated October 15, 2020, the undersigned swears under the penalties for perjury that the above-made representations are true.

This the 15th day of November 2020.


JEAN MENGE

Jackson County Cashiers Planning Council
Request to Participate in Hearing as a Party with Standing

I, the undersigned, would like to participate in Cashiers Planning Council Hearing for the Special Use Permit application for the Cashiers Village as a Party with Standing. *(You may insert the name of the Parties and/or the Project if you do not know the case number).*

My Full Name: Chattooga Conservancy

My Registered Mailing Address: c/o John Noor (Attorney)
P.O. Box 7647
Asheville, N.C. 28802

My Telephone: c/o John Noor, (828) 210-6804 (optional)

My Email: c/o John Noor, jnoor@roberts-stevens.com (optional)

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I, the Undersigned, certify as follows *(check and fill out all that apply)*:

- ☐ Did you receive a letter from the Jackson County Planning Department regarding the hearing?
- ☐ Yes
☒ No

- ☐ If applicable, I have the following interest in the property that is the subject of this hearing:
- ☐ An ownership interest in the property that is the subject of the hearing; or
☐ A leasehold interest in the property that is the subject of the hearing; or
☐ An interest in the property that is the subject of the hearing created by:
- ☐ Easement; or
☐ Restriction; or
☐ Covenant

- ☒ I will suffer special damages as the result of the proposed action that is the subject of this hearing, specifically *(must be completed if box is checked attach additional pages if needed)*:

Please see attached affidavit

- ☒ The damages I will suffer are distinct from those damages to the public at large, specifically *(must be completed if box is checked attach additional pages if needed)*:
Please see attached affidavit
-

- ☐ The damages I will suffer are not distinct from those damages to the public at large or unique, they impact the entire community, specifically *(must be completed if box is checked attach additional pages if needed)*:
-

- ☐ I will not suffer special damages, however, I would like an opportunity to be heard by the Council.

- ☐ I represent an incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area (i.e. a homeowners association), and
- ☐ At least one (1) member of said association, _____ *(print name of member)*, would have standing as an individual to challenge the decision being appealed, specifically:
-

- ☐ Said association was not created in response to the particular development or issue that is the subject of the appeal.
-

Other Information: Pursuant to N.C. Gen. Stat. § 166A-19.24(f), the Conservancy does not consent and expressly objects to the quasi-judicial hearing on the application for special use permit submitted for Cashiers Village to be conducted via a "remote meeting."

By signing below, I the undersigned, certify that the information contained herein is true and correct to the best of my knowledge. **For security purposes, I will not share the meeting link with others.**

This the 15th day of November 2020.



(Signature)

NOTE: This form must be return to the Jackson County Planning Department at least 24 hours prior to the hearing referenced above. You may either email the form to: allisonkelley@jacksonnc.org or mail the form to Jackson County Planning, Attn: Allison Kelley, 401 Grindstaff Cove Rd, Suite A-258, Sylva, NC 28779, in such a manner that it is delivered at least 24 hours prior to the hearing referenced above.

COUNTY OF JACKSON

BEFORE CASHIERS AREA COMMUNITY
PLANNING COUNCIL

CASHIERS VILLAGE APPLICATION
FOR SPECIAL USE PERMIT

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AFFIDAVIT OF NICOLE HAYLER

THE UNDERSIGNED, Nicole Hayler, being first duly sworn, deposes and says:

1. I am over 18 years old and do not suffer from any disability. I have personal knowledge of everything stated in this affidavit.

2. I am the Executive Director of the Chattooga Conservancy, a membership association specially dedicated to the protection of the water quality and watershed of the Chattooga River.

3. I have reviewed the application for special use permit submitted by Stephen Macauley, Member-Manager of Cashiers Village II, LLC. I have also reviewed the site plans and other supporting materials.

4. The State of North Carolina has designated the Chattooga River within North Carolina as an Outstanding Resource Water (ORW) which aligns with the United States Congress's designation of the Chattooga River as a Wild and Scenic River.

5. The State of North Carolina has recognized that the primary threat to water quality in the upper Chattooga River is development which could lead to sedimentation and turbidity of the river.

6. The Chattooga Conservancy has members who make special use of difficult to access portions of the Chattooga River in North Carolina and who place high and special value on its water quality and fishery consistent with its designated status as an Outstanding Resource Water.

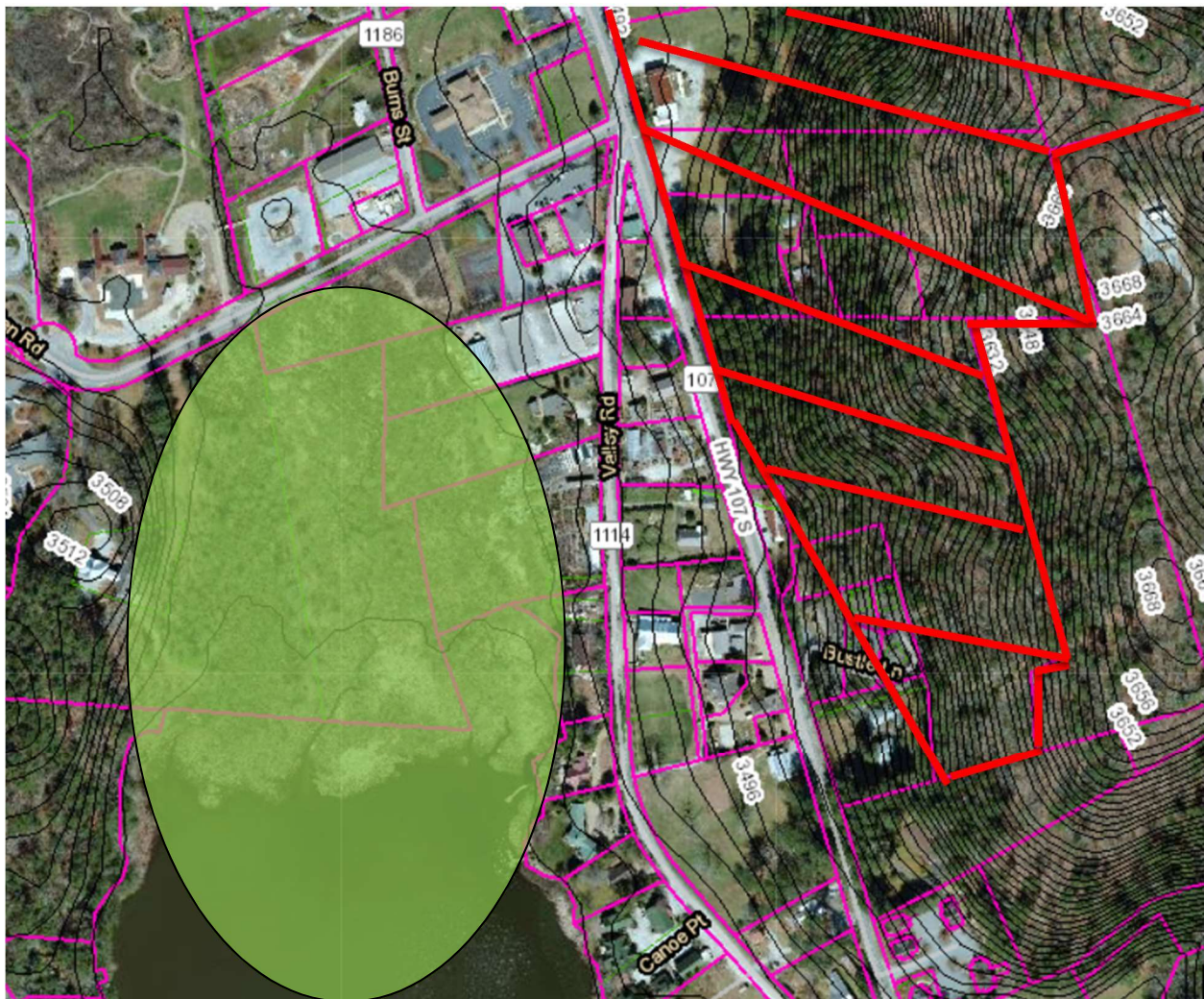
7. The Chattooga Conservancy and its members who make use of the Chattooga River in North Carolina would suffer special damage if a special use permit were granted to allow for the development of the property in Cashiers which is the subject of Cashiers Village II, LLC's special use permit application.

8. The property in question contains large areas of steep slopes that if developed according to the proposed plan would be the subject of substantial grading, cutting, and filling activity. That activity will create a substantial threat of sediment-laden storm water runoff that would flow into the upper Chattooga River and impair its water quality. As a recent highly-relevant example, the redevelopment of the nearby High Hampton property has resulted in substantial sedimentation of the Chattooga River and one of its tributaries, notwithstanding the

performance of such redevelopment pursuant to an erosion and sedimentation plan approved by Jackson County.

9. The Chattooga Conservancy as part of its special mission to protect the Chattooga River's water quality would be specially damaged if the special use permit sought by Cashiers Village II, LLC were granted. Therefore, the Chattooga Conservancy has standing to participate in the upcoming quasi-judicial hearing regarding that special use permit application and wishes to participate in that proceeding as a party.

10. A GIS image of a portion of the upper Chattooga River is depicted below within green circle. The approximate location of the proposed Development is indicated with red lines.



12. To my knowledge there is no other organization like the Chattooga Conservancy that works to protect this important national treasure.

FURTHER this Affiant sayeth not.

Sworn to this the 15th day of November 2020.



NICOLE HAYLER

STATE OF SOUTH CAROLINA
COUNTY OF JACKSON

AFFIRMATION

Pursuant to Emergency Directive 5 within the Order of the Chief Justice of the Supreme Court of North Carolina dated October 15, 2020, the undersigned swears under the penalties for perjury that the above-made representations are true.

This the 15th day of November 2020.



NICOLE HAYLER

Jackson County Cashiers Planning Council
Request to Participate in Hearing as a Party with Standing

I, the undersigned, would like to participate in Cashiers Planning Council Hearing for the Special Use Permit application for the Cashiers Village as a Party with Standing. *(You may insert the name of the Parties and/or the Project if you do not know the case number).*

My Full Name: Yvonne Johnson

My Registered Mailing Address: c/o John Noor (Attorney)
P.O. Box 7647
Asheville, N.C. 28802

My Telephone: c/o John Noor, (828) 210-6804 (optional)

My Email: c/o John Noor, jnoor@roberts-stevens.com (optional)

This form will be used by the Planning Council ("Council") to assist it in evaluating whether you have standing. You must fill out this form completely and may attach additional pages if necessary. Only the Council may grant standing. Submitting this form does not mean that you have standing. The Council reserves the right to grant standing based on the contents of this form if a proper showing of standing is made, to deny standing if the contents of this form fail to show valid grounds for standing, and to make further inquiries regarding any standing issue at the hearing.

I, the Undersigned, certify as follows *(check and fill out all that apply)*:

- ☐ Did you receive a letter from the Jackson County Planning Department regarding the hearing?
- ☒ Yes
- ☐ No

- ☐ If applicable, I have the following interest in the property that is the subject of this hearing:
- ☐ An ownership interest in the property that is the subject of the hearing; or
- ☐ A leasehold interest in the property that is the subject of the hearing; or
- ☐ An interest in the property that is the subject of the hearing created by:
- ☐ Easement; or
- ☐ Restriction; or
- ☐ Covenant

- ☒ I will suffer special damages as the result of the proposed action that is the subject of this hearing, specifically *(must be completed if box is checked attach additional pages if needed)*:

Please see attached affidavit

☒ The damages I will suffer are distinct from those damages to the public at large, specifically *(must be completed if box is checked attach additional pages if needed)*:
Please see attached affidavit

☐ The damages I will suffer are not distinct from those damages to the public at large or unique, they impact the entire community, specifically *(must be completed if box is checked attach additional pages if needed)*:

☐ I will not suffer special damages, however, I would like an opportunity to be heard by the Council.

- ☐ I represent an incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area (i.e. a homeowners association), and
- ☐ At least one (1) member of said association, _____ *(print name of member)*, would have standing as an individual to challenge the decision being appealed, specifically:
-

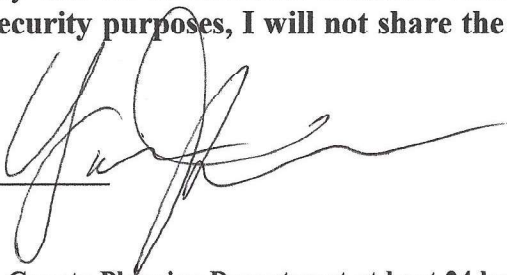
- ☐ Said association was not created in response to the particular development or issue that is the subject of the appeal.
-

Other Information: Pursuant to N.C. Gen. Stat. § 166A-19.24(f), I do not consent and expressly object to the quasi-judicial hearing on the application for special use permit submitted for Cashiers Village to be conducted via a "remote meeting."

By signing below, I the undersigned, certify that the information contained herein is true and correct to the best of my knowledge. **For security purposes, I will not share the meeting link with others.**

This the 15th day of November 2020.

(Signature)



NOTE: This form must be return to the Jackson County Planning Department at least 24 hours prior to the hearing referenced above. You may either email the form to: allisonkelley@jacksonnc.org or mail the form to Jackson County Planning, Attn: Allison Kelley, 401 Grindstaff Cove Rd, Suite A-258, Sylva, NC 28779, in such a manner that it is delivered at least 24 hours prior to the hearing referenced above.

COUNTY OF JACKSON

BEFORE CASHIERS AREA COMMUNITY
PLANNING COUNCIL

CASHIERS VILLAGE APPLICATION
FOR SPECIAL USE PERMIT

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AFFIDAVIT OF YVONNE JOHNSON

THE UNDERSIGNED, Yvonne Johnson, being first duly sworn, deposes and says:

1. I am over 18 years old and do not suffer from any disability. I have personal knowledge of everything stated in this affidavit.
2. I own the property located at 71 Bustle Lane, Cashiers, North Carolina 28717 and associated with PIN 7571-59-0758 (the "Property"). The Property abuts the proposed Cashiers Village Development (the "Development").
3. The only way to access my home on the Property is from Highway 107 South via Bustle Lane. I use Bustle Lane and Hwy. 107 to access grocery, medical, and all other services when at my Property. Additionally both roads serve as the road through which all emergency medical and fire services access my home.
4. A GIS image of my Property is depicted below and a green star identifies its location. The approximate location of the proposed Development is indicated with red lines.

[GIS image on following page]



5. I have reviewed the application for special use permit submitted by Stephen Macauley, Member-Manager of Cashiers Village II, LLC. I have also reviewed the site plans and other supporting materials.

6. The application and supporting materials show that there will be multiple access points to the Development along Hwy. 107 South (see applicant's Master Site and Zoning Plan) that will be used by the many residential and commercial units within the Development. The Application also appears to call for 1,400 parking spaces, which indicates that the developer anticipates that there could be at least that many vehicles accessing the various properties within the Development. This traffic design would result in hundreds of daily vehicle trips that would cause undue traffic congestion and traffic hazards along Hwy. 107 where it meets Bustle Lane.

7. The Development application also proposes the construction of numerous structures, roads, and parking areas on steep slopes above my property that will require significant grading and addition of impervious surfaces, with associated perils. I believe this would present a landslide risk to my Property, Bustle Lane, and Hwy. 107, which are at the base

of a steep portion of the Development property. In the event of a landslide, it appears that substantial dirt and debris associated with the construction of two or three large multi-family buildings and associated roads and parking areas could slide directly on to my Property. It would also be difficult if not impossible for rescue vehicles to access my Property in the event of a slide. Due to my age, being cut off from emergency medical care is a public health and safety risk for me and my family.

8. Additionally, the proposed Development appears to maximize the amount of grading and use of impervious surfaces above my property. Based on the topography of the site, it will be very difficult or impossible to manage stormwater runoff from such development to prevent adverse impacts on my property in the form of increased and concentrated storm water runoff which is likely to be polluted by sediment during the construction phase. This stormwater would likely be channeled onto my Property, Bustle Lane, and Highway 107. The stormwater that would be discharged from the proposed Development appears to pose flooding and pollution risk for my Property, Bustle Lane, and Hwy 107 South. If Hwy 107 floods as a result of the stormwater coming off of the Development, it would be difficult if not impossible for rescue vehicles to access my Property. Being cut off from emergency medical care is a public health and safety risk for me and my family.

9. My preliminary investigation indicates that the Development will substantially injure the value of and my rights in the Property, which abuts the proposed Development.

10. The above-identified flooding, landslide, traffic, public health, stormwater, and loss of property value injuries would cause me to suffer damages that are distinct from the public at large because my Property abuts and is downgradient of a steep portion of the Development property and one of only a limited number that rely on Bustle Lane for access to Hwy 107 and emergency medical care. My Property is also uniquely damaged because of the risk of loss of property value and rights that the Development presents to my Property. Almost five (5) properties within the Cashiers Community rely on Bustle for access to Hwy 107, stores, and emergency medical services, and my Property is one of only a handful that would suffer a loss in value as an abutting property owner. As a result, by definition, I will suffer special damages that are distinct from the public at large.

FURTHER this Affiant sayeth not.

Sworn to this the 15th day of November 2020.

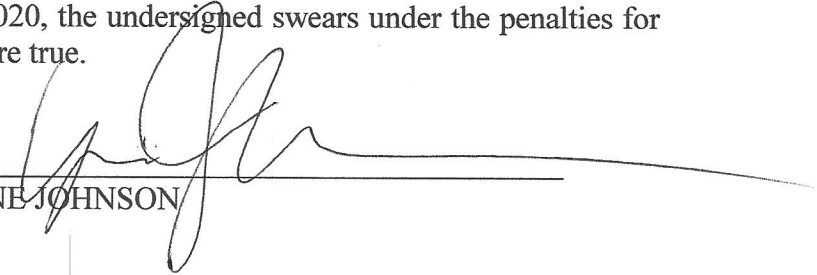
YVONNE JOHNSON

STATE OF NORTH CAROLINA
COUNTY OF JACKSON


AFFIRMATION

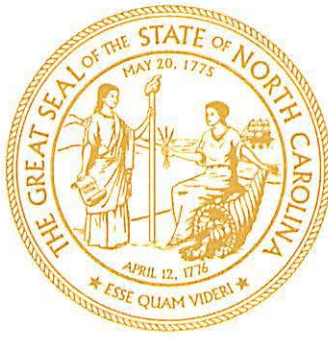
Pursuant to Emergency Directive 5 within the Order of the Chief Justice of the Supreme Court of North Carolina dated October 15, 2020, the undersigned swears under the penalties for perjury that the above-made representations are true.

This the 15th day of November 2020.



YVONNE JOHNSON





State of North Carolina

ROY COOPER
GOVERNOR

November 10, 2020

EXECUTIVE ORDER NO. 176

FURTHER EXTENSION OF THE PHASE 3 ORDER AND IMPLEMENTATION OF ADDITIONAL MEASURES NECESSARY TO PROTECT PUBLIC HEALTH

The COVID-19 Public Health Emergency

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165 and 169-173; and

WHEREAS, more than two hundred ninety-seven thousand (297,000) people in North Carolina have had COVID-19, and four thousand six-hundred and sixty (4,660) people in North Carolina have died from the disease; and

WHEREAS, on September 30, 2020, the undersigned issued Executive Order No. 169, which transitioned the state into Phase 3 of its COVID-19 response; and

WHEREAS, concerning trends in COVID-19 metrics following the issuance of Executive Order No. 169 led the undersigned to extend the measures of Executive Order No. 169 under Executive Order No. 170; and

WHEREAS, since the issuance of Executive Orders Nos. 169 and 170, COVID-19 continues to spread at an increased rate in North Carolina and nationally; and

WHEREAS, due to delays between exposure to the COVID-19 virus, the onset of symptoms, and hospitalizations, the increasing case counts in the state signal potential challenges to come for the state's health care facilities; and

WHEREAS, to slow the spread of the COVID-19 virus, to protect the lives of North Carolinians, and to preserve hospital capacity and other healthcare resources across the state, it is necessary for the undersigned to continue certain public health restrictions and to bolster the same; and

Reduction of Indoor Mass Gathering Limit to Protect Public Health

WHEREAS, public health data, contact tracing reports, and outbreak investigations indicate that in-home and other informal social gatherings are contributing to the rise in cases across the state; and

WHEREAS, the state's public health experts have advised that in familiar settings with friends and family, individuals may be more likely to forgo necessary precautions against transmission of COVID-19 such as maintaining social distance or wearing masks, which contributes to the spread of the virus; and

WHEREAS, the risk of transmitting and contracting COVID-19 is higher in indoor settings where individuals are in close physical contact for an extended period of time (more than 15 minutes), in which it is difficult to wear a Face Covering consistently, or that involve large numbers of people; and

WHEREAS, to reduce the prevalence of COVID-19 spread linked to social and in-home gatherings and all other settings not otherwise addressed by the undersigned's COVID-19 executive orders in which large groups of individuals tend to gather, the undersigned finds it reasonable and necessary to reduce the Mass Gathering limit established by previous COVID-19 executive orders for indoor settings; and

WHEREAS, businesses and operations identified in Executive Order No. 169 and those gatherings exempted from the Mass Gathering limit thereunder may continue to operate according to the measures and capacity limits, if any, which are specified in Executive Order No. 169 and which are intended to control the spread of COVID-19 in those settings; and

Statutory Authority and Determinations

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate Gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.12(3)(e), the Division of Emergency Management must coordinate with the State Health Director to revise the North Carolina Emergency Operations Plan as conditions change, including making revisions to set "the appropriate conditions for quarantine and isolation in order to prevent the further transmission of disease," and following this coordination, the Emergency Management Director and the State Health Director have recommended that the Governor develop and order the plan and actions identified in this Executive Order; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.23 in conjunction with N.C. Gen. Stat. §§ 75-37 and 75-38, the undersigned may issue a declaration that shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency or abnormal market disruptions; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact, thus needed control cannot be imposed locally; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if enacted or declared, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(3) authorizes the undersigned to restrict the possession, transportation, sale, purchase, and consumption of alcoholic beverages; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes the prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind the prohibitions and restrictions imposed by local authorities.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above and in Executive Orders Nos. 169 and 170, **IT IS ORDERED**:

Section 1. Extension and Amendment of the Phase 3 Order.

Executive Order No. 169, as amended by this Executive Order, and which includes, for avoidance of doubt, those provisions of Executive Order No. 163, as amended herein and which were incorporated into, and extended by, Executive Order No. 169, shall remain in effect until 5:00 pm on December 04, 2020. The effective date provision of Executive Order No. 169 is amended to have that order continue in effect through the above-listed time and date.

Section 2. Amendment to the Indoor Mass Gathering Limit.

Section 5.1 of Executive Order No. 169 is amended to read:

- 5.1. **Prohibition.** Mass Gatherings are prohibited. “Mass Gathering” means an event or convening which brings together more than ten (10) people indoors or more than fifty (50) people outdoors at the same time in a single confined indoor or outdoor space. This includes parades, fairs, or festivals. In publicly accessible indoor facilities, the Mass Gathering limit applies per room of the facility. When more than ten (10) people reside in the same household, residing together does not form a Mass Gathering.

At a park, beach, or trail, the outdoor Mass Gathering limit of fifty (50) people applies to each group of people that may gather together.

Section 3. Conforming Amendments for Amusement Parks; Museums and Aquariums.

1. Section 3.1(b)(2)(c) of Executive Order No. 169 is amended to read:

All other group activities, such as tours, receptions, or parties, are subject to the Mass Gathering limit for outdoor spaces, and twenty-five (25) individuals for indoor spaces.

2. The first sentence of Section 6(9)(b)(ii) of Executive Order No. 163 is amended to read:

Limit Guests in each room within a museum or aquarium such that they do not exceed twenty-five (25) individuals.

Section 4. Extension of Price Gouging Period.

Pursuant to N.C. Gen. Stat. § 166A-19.23, the undersigned extends the prohibition against excessive pricing, as provided in N.C. Gen. Stat. §§ 75-37 and 75-38, from the issuance of Executive Order No. 116 through 5:00 pm on December 04, 2020.

The undersigned further hereby encourages the North Carolina Attorney General to use all resources available to monitor reports of abusive trade practices towards consumers and make readily available opportunities to report to the public any price gouging and unfair or deceptive trade practices under Chapter 75 of the North Carolina General Statutes.

Section 5. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 6. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 7. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.


Section 8. Enforcement.

- A. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers. Enforcement of Face Covering requirements shall be limited as stated in Subsection 2.7 of Executive Order No. 169. Law enforcement and other public safety and emergency management personnel are strongly encouraged to educate and encourage voluntary compliance with all the provisions of this Executive Order.
- B. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.
- C. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 9. Effective Date.

This Executive Order is effective November 13, 2020, at 5:00 pm. This Executive Order shall remain in effect through 5:00 pm on December 04, 2020 unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 10th day of November in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

