

**PLANNING AND
COMMUNITY DEVELOPMENT**

Allen McNeill, Director
Ashley Minery, Planner



106 East Morgan Street, Suite 207
Brevard, NC 28712
828.884.3205
planning.transylvaniacounty.org

**Transylvania County Planning Board
August 17, 2022 at 6:00 PM
Community Services Building conference Room,
106 East Morgan Street, First Floor**

AGENDA

CALL TO ORDER

- I. WELCOME**
- II. PUBLIC COMMENT** (15-minute time limit. Speakers are limited to three minutes.)
- III. AGENDA MODIFICATIONS**
- IV. PRESENTATIONS**
 - A. Comprehensive Planning
- V. CONSENT AGENDA**
 - A. Minutes (July 21st, 2022)
 - B. Subdivision Approval and Updates
- VI. NEW BUSINESS**
 - A. Community Appearance Initiative
 - B. Director's Report
- VII. PUBLIC COMMENT** (15-minute time limit. Speakers are limited to three minutes.)
- VIII. BOARD MEMBERS' COMMENTS**

ADJOURNMENT

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Agenda Item: IV-A

Memorandum

From: Ashley Minery, Planner

To: Transylvania County Planning Board

Date: August 11, 2022

Meeting Date: August 18, 2022

Subject: Minutes from the July 21, 2022 regularly scheduled Planning Board Meeting

Contact Info: Ashley.Minery@transylvaniacounty.org or (828) 884-1710

Attachment(s): 1. Draft meeting minutes from the July 21, 2022 regularly scheduled Planning Board Meeting

Purpose: Review and approve the Regular Meeting Minutes of the July 21, 2022 Planning Board Meeting Minutes.

Background: Meeting minutes are prepared after each Planning Board meeting and submitted to the Planning Board for their review and approval.

Financial Impact: None

Strategic Plan Goal & Strategy: Goal 6: "County government is service driven, transparent and performance based with more active and engaged citizens."

Strategy 6E: "Provide timely, accurate, transparent and informative communication to the public and across the organization with superior customer service delivery."

Recommendations: Staff recommends the Transylvania County Planning Board review approve or approve with modification, the regular meeting minutes from July 21, 2022.

**Transylvania County Planning Board
July 21, 2022 at 6:00 PM
Cooperative Extension Conference Room,
106 East Morgan Street**

MINUTES

CALL TO ORDER

I. **WELCOME:** Mr. Lauren Wise called the meeting to order at 6:00PM. Mr. Rick Lasater, Mr. Kimsey Jackson, Ms. Karen Gleasman, Mr. Scott Sullivan, and Mr. Beecher Allison were also present. The Planning and Community Development Department staff Mr. Allen McNeil and Ms. Ashley Minery were also present. A quorum was present.

II. **PUBLIC COMMENT:** (15-minute time limit. Speakers are limited to three minutes.): There were no public comments.

III. **AGENDA MODIFICATIONS:** There were no agenda modifications.

IV. **CONSENT AGENDA:**

- A. Minutes (May 19, 2022)
- B. Subdivision Approval and Updates

There was no objection or discussion of the consent agenda. Ms. Gleasman moved to approve the consent agenda. Mr. Jackson seconded the motion. All present members voted in favor and the motion carried.

V. **OLD BUSINESS:**

- A. Comprehensive Plan Review: The Planning Board reviewed the letter to Transylvania County Commissioners that was prepared by staff. The letter summarized the board's concerns of the Comprehensive Plan, as discussed at their May meeting. The board expressed their concern for jobs and affordable housing for younger generations. They also discussed the process for preparing the next Comprehensive Plan. After a brief discussion, Mr. Allison moved to add "water, sewer and gas infrastructure expansion" to the letter and to approve the letter with amendments. Mr. Lasater seconded the motion. All present members voted in favor and the motion carried.

VI. **NEW BUSINESS:**

- A. Director's Report: Mr. McNeill explained the upcoming Community Appearance Initiative and its goal to clean lots around the county on a volunteer basis. He also announced that Ms. Darby Terrell would be returning to the Planning Department Staff as the new

Transportation Planner. The next Planning Board meeting will be held on Thursday August 18, 2022, at 6:00PM in the Cooperative Extension Conference Room.

VII. PUBLIC COMMENT: (15-minute time limit. Speakers are limited to three minutes.) There were no public comments.

VIII. BOARD MEMBERS' COMMENTS: Mr. Allison explained that he might be leaving the Planning Board at the end of his term due to work obligations. Ms. Gleasman welcomed Ms. Terrell back to the staff. Mr. Jackson gave an update on the School Board and informed the Board of their next meeting. Mr. Lasater moved to adjourn the meeting. Mr. Sullivan seconded the motion. All present members voted in favor and the meeting was adjourned at 6:48PM.

ADJOURNMENT

Ashley Minery, Planner

Lauren Wise, Chair



Agenda Item: VI-B

Memorandum

From: Ashley Minery, Planner

To: Transylvania County Planning Board

Date: August 9, 2022

Meeting Date: August 18, 2022

Subject: Review of Subdivision Approvals by the Planning Department from July 19, 2022, to August 9, 2022

Contact Info: allen.mcneill@transylvaniacounty.org or (828)884-1710

Attachment(s): 1. Subdivisions and Exemption Log from July 19, 2022, to August 9, 2022

Purpose: Provide a log of Subdivision and Exemption approvals to the Planning Board monthly. The approval log is for information purposes only to the Planning Board.

Background: The Subdivision and Exemption log is for recordkeeping of approvals made by the Planning Department. For July 19, 2022 – August 9, 2022, there were three **(3) subdivisions- all 2 lots**. For July 19, 2022 – August 9, 2022, there were six **(6) exemptions: 2 (1.1), and 3 (1.9) and 1 (1.6)**.

Exemptions:

- 1.1 Recombination or Combination of previously approved lots.
- 1.2 Division of land into parcels greater than 10 acres with no new right of way dedication.
- 1.3 Public Acquisition of Land for widening or opening roads.
- 1.4 Division of a tract of at least 2 acres into no more than three lots.
- 1.5 Division of land conveys a single lot or parcel to persons who are inheriting the land by intestacy or will.
- 1.6 Division of land into no more than two parcels to convey at least one of the lots to a grantee who would have been heir(s)
- 1.7 Court order of a land division
- 1.8 Division of land for cemetery lots
- 1.9 Changing of boundary lines between adjoining property owners.

Financial Impact: None

Strategic Plan Goal & Strategy: Goal 6: "County government is service driven, transparent and performance based with more active and engaged citizens."

Strategy 6E: *“Provide timely, accurate, transparent and informative communication to the public and across the organization with superior customer service delivery.”*

Recommendations: Staff recommends the Transylvania County Planning Board review the Subdivision and Exemption log.

- 1.1 Recombination of previously approved lots
- 1.2 Greater than 10 acres
- 1.3 Public Acquisition of land for widening roads
- 1.4 2 acres divided into no more than 3 lots
- 1.5 Single lot inherited by intestacy or will

- 1.6 Family Subdivision - no more than 2 parcels
- 1.7 Court order of land division
- 1.8 Division of land for cemetery lots
- 1.9 Changing of boundary lines between adjoining property owners

Subdivisions and Exemptions

July 19, 2022-August 9, 2022

Planning and Community Development

106 East Morgan Street, Suite 207
 Brevard, NC 28712
 828.884.3205

Date	Subdivision/Owner	Surveyor	Township	Type	Review Officer	Date Approved
7/19/2022	Chhis and Kelley Lavalley	Cameron Baker	Little River	2lots	A.Minery	7/28/2022
7/22/2022	Timothy and Page Owen	Douglas Garber	Eastatoe	2 lots	A. Minery	7/22/2022
7/22/2022	Charles Salter	Jared Owenby	Boyd	2 lots	A. Minery	7/25/2022
7/19/2022	James and Debra Fitzpatrick	Kevin Goldsmith	Eastatoe	1.9	A. Minery	7/19/2022
7/20/2022	Freeman Properties LLC	Roger Raxter	Brevard	1.9	A. Minery	7/21/2022
8/3/2022	Aaron and Darby Bell	Roger Raxter	Hogback	1.1	A. Minery	8/3/2022
8/5/2022	Glenda Lewis	Mike Pfoutz	Boyd	1.9	A. Minery	8/8/2022
8/5/2022	Nick Stow and Destini Petit	Kevin Goldsmith	Brevard	1.1	A. McNeill	8/5/2022
8/5/2022	Ernest and Patt Schreiner	Robert Raxter	Cathey's Creek	1.6	A. Minery	8/9/2022

Planning.TransylvaniaCounty.org

Agenda Item: VI-A

Memorandum

From: Allen McNeill, Planning and Community Development Director
To: Transylvania County Planning Board
Date: August 15, 2022
Meeting Date: August 18, 2022
Subject: Transylvania County Community Appearance Initiative
Contact Info: allen.mcneill@transylvaniacounty.org or (828)884-1710

Attachment(s): 1.) Draft Property Owner Agreement

Purpose: Introducing the re-establishment of the Transylvania Community Appearance Initiative

Background: A Community Appearance Commissions operate under North Carolina General Statute 160D, Article 9, Part 5. The purpose of these commissions is to make study of visual (aesthetic) problems throughout the local government's jurisdiction and develop plans and programs, allowed by the statute, to enhance the appearance of the community.

Transylvania County previously supported a Community Appearance Initiative from February 2007 through August 2015 when the commission was dissolved due to a lack of projects to consider. In its operation from 2007 to 2015, the group was responsible for identifying parcels throughout the County that had gone into disrepair or collected large assortments of junk and trash and work with the property owner to improve the visual appearance of the parcel. At the time, the program was specific to properties located on U.S. 64, U.S. 178, U.S. 276, NC 215, and NC 280. Property owners would participate in the program on a volunteer basis by applying for assistance and agreeing to maintain the property after the parcel had been cleaned.

Assistance the program's participants could receive depended on the work necessary to enhance the appearance of their property. Assistance provided by the county included decrepit structure demolition, scrap and trash clean up, grading, landscaping, and waste removal. The Community Appearance Initiative met regularly and considered an application to determine if the parcel was applicable to receive assistance, exactly what assistance would be provided, and then prioritize projects to be completed with funds available each fiscal year.

Transylvania County Staff provided direct support to the group in preparation for regular meetings, communicating with property owners, organizing contract services for projects, and securing participation agreements form

applicants. An estimated 10 hours per week of staff time was designated to the programs when it was operating regularly.

The previous adaption of the Community Appearance Initiative was dissolved as the group saw a limited number of applications (parcels that had fallen into disrepair) to consider on a regular basis. The group and the Board of Commissioners contributed this to the success of the program and approved the commission disband with the option to re-establish should the need be present.

Over the last 18 to 24 months, the number of calls to County staff concerning junk parcels and parcels in disrepair has increased gradually. It is County staff's opinion at this time that re-establishing the Transylvania Community Appearance Initiative would be beneficial to the entire community. Staff would propose that the group be re-established to operate in a similar capacity to its previous installation by accepting applications from property owners for assistance, prioritizing the applications, and directing staff to organize contract services to clear the parcels and record maintenance agreements with participating property owners.

Similar County staff time and resources would be necessary to support the commission and conduct work on the commission's behalf. This would include an estimated 10 hours per week of staff time and county resources not limited to facilities for regular meetings, prepared meeting materials, and transportation to and from application sites for inspection and study. The estimated fiscal contribution provided on behalf of the county would equal \$20,000 annually.

The County proposed that the Transylvania County Tourism and Development Authority match the county's contribution by allocating \$20,000 annually to support the procurement of the contract services necessary to complete the program's scope of work. The applicable service that can be contracted is authorized under North Carolina General Statute 160D, Article 9, Part 5, and include physical waste removal, waste disposal fees, structure demolition, and grading services. That proposal was accepted and approved with the TDA's FY 2023 budget.

Financial Impact: None

Strategic Plan Goal & Strategy: Goal 1: *"The local economy has a more diversified tax base, an increase in living wage jobs and has more stability. The community has capitalized on the unique quality of life and environment unique to the area.."*

Strategy 1B: *"Plan, advocate and provide for infrastructure to support economic development and to make the community a desirable place to live and work."*

Recommendations: Staff recommends the Transylvania County Planning Board consider the materials presented by staff.

TRANSYLVANIA COUNTY COMMUNITY APPEARANCE INITIATIVE

Project # ____ - PIN ____ - ____ - ____ - ____

THIS AGREEMENT IS SUBJECT TO ALTERNATIVE DISPUTE RESOLUTION AS THE ONLY FORMS OF DISPUTE RESOLUTION

This Agreement (“Agreement”) is made by and between Transylvania County (“County”) and the owner and operator of a junkyard (“Owner”), for the following mutual covenants and promises, the sufficiency of which is hereby acknowledged and agreed to by all parties.

WHEREAS, County has adopted a voluntary Community Appearance Initiative for the purpose of preserving and protecting the natural beauty of Transylvania County while preserving and protecting property rights.

WHEREAS, Owner owns a property (“Property”) that needs to have some work performed on it in order to help the County achieve the county-wide purpose stated above.

WHEREAS, County and Owner wish to enter into an arrangement, as reflected in this Agreement, to work together to help the County and the Owner achieve this county-wide purpose with respect to the Property.

NOW THEREFORE the parties agree as follows:

1. *TERMS/STIPULATION TO AGREEMENT*
2. *TERMS/STIPULATION TO AGREEMENT*
3. *TERMS/STIPULATION TO AGREEMENT*
4. Owner agrees to cooperate with these efforts in a timely fashion and provide their own or other labor, equipment, fuel, and to complete this project by _____.
5. County agrees to the following reasonable and necessary assistance, at its own costs so long as Owner fully performs and continues to perform under this Agreement, in this effort by securing or providing materials and labor including but not limited to:
 - A. *SERVICE A*
 - B. *SERVICE B*
 - C. *SERVICE C*

However, County costs for this project shall not exceed \$____,_____.

6. The parties agree and acknowledge that The Community Appearance Initiative Advisory Council will advise the Transylvania County Planning Director on progress toward completion of this project and will determine, in their sole discretion, whether efforts of either party to this agreement are being conducted satisfactorily and in accordance with this agreement or whether the project should be discontinued.

7. Nothing herein shall establish any relationship between the parties other than a contractual relationship, and the parties hereby agree and acknowledge that the County owes no other duty to Owner and that Owner has no other potential claim against County regarding this Project, except as limited to contractual matters only.
8. MISCELLANEOUS:
 - A. **Indemnification.** Each party hereby agrees to mutually release, hold harmless, and fully indemnify the other party for all claims, liabilities, debts or causes of action that result directly from the actions or inactions of that particular party.
 - B. **No Warranties or Representations.** County makes no warranties or representations as to the work or services it provides under this Agreement, and Owner hereby specifically and explicitly agrees to this provision and waives any argument, claim or cause of action contrary to the same as part of the consideration of this Agreement.
 - C. **Disclaimers and Waivers.** This Agreement is to be regarded as an agreement for the purposes described in the “Whereas” clauses and provisions herein. It is the responsibility of each party to seek independent professional advice, to review, and to negotiate any changes prior to execution of this Agreement. County hereby disclaims the use of any contract interpretation principles against it as the drafter of this Agreement, and Owner hereby waives any and all use of said principles in any dispute or action based on the terms of this Agreement.
 - D. **Merger.** The parties agree that this Agreement constitutes the entire agreement of the parties.
 - E. **Binding Agreement.** The parties agree that this Agreement is binding on their heirs, assigns, transferees, or successors in obligation or interest, except that, to the extent that performance requires the qualifications set forth above, and if the heirs, assigns, transferees, or successors do not possess such qualifications, then specific performance shall not be required, however all other remedies shall remain in full force and effect.
 - F. **Choice of Law.** The laws of the State of North Carolina shall apply to this Agreement.
 - G. **Modification.** This Agreement may only be modified in writing and signed by all parties.
 - H. **Termination.** This Agreement terminates by the substantial failure to perform by either party.
 - I. **Separable Provisions.** Should any provision of this Agreement be held to be unenforceable for any reason, then the remaining provisions shall have full force and effect.
 - J. **Default.** If a party substantially fails to perform under this Agreement, then that party is deemed to be in default and breach.
 - K. **Remedies.** The non-breaching, non-defaulting party is entitled to receive any and all remedies available at law and equity. In addition, the parties explicitly agree and waive any rights to argue against the same, that the non-breaching, non-

defaulting party shall receive all costs, expenses, and attorneys' fees associated in enforceable its/his/her rights under this Agreement

L. **Notice.**

All notices to the County shall be sent to:

Allen McNeill
Transylvania County Planning Department
106 E. Morgan St., Suite 207
Brevard, NC 28712

All notices to Owner shall be sent to:

M. **Safety.** The parties hereby acknowledge that safety issues are of key importance to the County and therefore Owner shall take whatever measures are necessary to make sure that the site is safe and if Owner fails to do so, the Owner agrees to fully indemnify County and hold it harmless for any claims, liabilities, debts, or causes of action arising from the Owner's actions or inactions related to the same.

N. **Alternative Dispute Resolution.** The parties hereby acknowledge and agree that all claims, disputes, or conflicts arising with respect to any provision under this Agreement, or any rights and obligations concerning the same, shall first be submitted to a process of dispute resolution called mediation. Mediation is that process which is described by North Carolina in its Alternative Dispute Resolution Program through the Dispute Resolution Commission. The parties agree that they will attempt to agree on a North Carolina Certified Superior Court Mediator with the understanding that this list is maintained by the North Carolina Dispute Resolution Commission. Should the parties be unable to agree, then that mediator who is next to be assigned on a case by Court Administration in Transylvania County will be used as the mediator. The parties shall share the costs of mediation equally and the parties agree to mediate in good faith. Should the parties be unable to reach a complete resolution of the disputes in mediation, the parties agree to submit the disputes to a North Carolina Certified Arbitrator for BINDING ARBITRATION. The parties hereby acknowledge and agree that BINDING ARBITRATION means that the Arbitrator's decision becomes binding as an enforceable contract between the parties and that no claim can be made in the courts except as to breach of this contract. The parties agree that they will attempt to agree on a North Carolina Certified Arbitrator with the understanding that this list is maintained by the North Carolina Dispute Resolution Commission.

Should the parties be unable to agree, then that arbitrator who is next to be assigned on a case by Court Administration in Transylvania County will be used as the arbitrator. The parties shall share the costs of arbitration equally and the parties agree to present their cases to the arbitrator in good faith

- O. **Assignment.** The parties hereby agree that they may not assign their obligations under this Agreement without written permission of the other party
- P. **Headings.** Section headings are not to be considered a part of this Agreement and are not intended to be a full and accurate description of the contents hereof.
- Q. **Immunity.** All of the County's duties and obligations required in this Agreement are traditional governmental functions. As such, nothing in this Agreement is intended to waive the County's governmental immunity or any other affirmative defenses which are otherwise available to it.

This Agreement 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 person or entities against the parties, their agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any worker or any other person

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above, with an effective date as noted above. The parties hereto agree that facsimile signatures shall be as effective as if originals.

Signed:

_____(Seal) _____(Seal)
Owner(s) Owner(s)

STATE OF NEW
COUNTY OF TRANSYLVANIA

I, _____, A Notary Public of said State and County, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this the ____ day of _____, 20____.

Notary Public

My commission expires: _____.

Signed:

_____(Seal)
Chairman – Community Appearance Initiative Advisory Council, with Authority as delegated by
the Transylvania County Board of Commissioners and the Transylvania County Manager

STATE OF NEW
COUNTY OF TRANSYLVANIA

I, _____, A Notary Public of said State and
County, do hereby certify that _____ personally appeared before me
this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this the _____ day of _____, 20_____.

Notary Public

My commission expires: _____.

Signed:

_____(Seal)
Transylvania County Manager

STATE OF NEW
COUNTY OF TRANSYLVANIA

I, _____, A Notary Public of said State and
County, do hereby certify that _____ personally appeared before me
this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this the _____ day of _____, 20_____.

Notary Public

My commission expires: _____.