

# Transylvania County Planning Board/ Board of Adjustment

## Staff Report:

**SIGN VARIANCE APPLICATION SV-01**, A REQUEST BY ROBERT SINGLETON II, OF LAMAR ADVERTISING, ON BEHALF OF SHAYNE PAYNE, PIN# 9508-56-9607-000, REQUEST FOR A VARIANCE FROM THE SIGN REGULATIONS IN AN UNZONED AREA OF TRANSYLVANIA COUNTY, LOCATED AT 5490 ASHEVILLE HIGHWAY, PISGAH FOREST, TRANSYLVANIA COUNTY, NORTH CAROLINA, 28704.

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**Agenda Date:** September 17, 2025

**Prepared By:** Jeff Adams

## GENERAL INFORMATION

### NOTICE

Notice was sent to the applicant/owner, surrounding property owners and posted on the County's website for the August 21<sup>st</sup> meeting on August 7, 2025. Due to a failure to adequately post the property in time for that meeting, the meeting was rescheduled for a special-called meeting of September 17<sup>th</sup>. The applicant/owner, surrounding property owners, and public were re-noticed on August 26<sup>th</sup>, the site and County website was posted on September 4<sup>th</sup>.

### DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

### EXHIBITS

#### "A" Exhibits – Application Materials

- A-1 Robert Singleton III, on behalf of Shane Payne, of 5490 Asheville LLC, SV#25-02 Sign Variance Application;
- A-2 PIN# 9508-56-9607-000 Transylvania County Parcel Information Data Card, Assessor's Office;
- A-3 GIS Aerial Site Map of property, Transylvania County GIS;

#### "B" Exhibits – Transylvania County Supplemental Materials

- B-1 Sign Control Ordinance, Transylvania County, last updated February 13, 2018;
- B-2 North Carolina General Statutes, 160D-406 Quasi-judicial Procedures;
- B-3 Pictures of property, from Highway-64, taken by staff, August 14, 2025;
- B-4 Meeting Minutes from previous Sign Variance approval from December 6, 2012 Planning Board Meeting;
- B-5 Google Maps Historic Photos of Site Signage;
- B-6 5490 Asheville Hwy, LLC, Secretary of State business filings;
- B-7 Off-Premise & On-Premise Signage Aerial Maps, Staff produced;
- B-8 Transylvania County & NC-280 Scenic Corridor Maps, Staff produced;

- B-9 Public Notice sent to Surrounding Owners and posted on August 7, 2025;**
- B-10 Surrounding Owners Mailing List;**
- B-11 Public Re-Notice sent to Surrounding Owners on August 26<sup>th</sup> and posted on site September;**
- B-12 Site Positing, Staff.**

## **Background**

Robert Singleton II, applicant, of Lamar Advertising, is requesting on behalf of Shane Payne of 5490 Asheville Highway LLC, a variance from the Transylvania County Sign Control Ordinance. The property owner owns the 2.6-acre parcel, PIN# 9508-56-9607-000, at 5490 Asheville Highway and the adjacent 4.02 parcel to the southwest, PIN#9508-56-4179-000, where the Bolyston Creek RV Park & Cabins is located.

The two parcels hold an RV camping operation and a sawmill. The property owner is seeking a variance to allow an on-premise sign to advertise the RV operation.

The property currently has a non-conforming off-premise sign currently advertising for Pisgah Roofing & Restoration, as shown in (B-3.2), pictures taken along the Highway-64 access roads. There is also an additional non-conforming sign in the right-of-way adjacent to the property, for the Bolyston Creek RV Park & Cabins (see B-3.1). There is no record of an active permit for the existing RV signage, shown in Exhibit B-3.1. The sign is non-conforming in its proximity to the roadway, its location in the right-of-way (ROW), and seems to have been placed in the ROW between April 2023 and October 2023, according to Google Streetview dating of the corridor (see B-5.2&3)

The applicant requests a new on-premise sign structure, to be placed along the property line of 5490 Asheville Hwy., approximately at the junction of the two access drives (see B-7-1&2). The Sign Control Ordinance, according to sub-section 5.8 states, “No off-premise sign shall be located on the same parcel as an on-premise sign or within fifty (50) feet of an on-premise sign. The proposed structure would require a variance from this standard.

Sub-section 6.10 of the Sign Control Ordinance places limitations on signs in Scenic Corridors (see B-8.1). Exhibit B-8.2 shows that the location of the subject property does not fall within the Little Mountain NC 280 Scenic Corridor.

## **Applicable Criteria**

### **TRANSYLVANIA COUNTY SIGN CONTROL ORDINANCE**

#### **SECTION 5: Off-Premise Sign Regulations**

*5.1 Off-premise signs shall not exceed one hundred and fifty (150) square feet per sign face, shall not exceed twenty (20) feet in horizontal length per sign face and shall have a total height no greater than twenty-five (25) feet.*

*5.2 Off-premise signs with a sign face of thirty-two (32) square feet or less do not require a sign permit,*

*however, signs shall be securely affixed to the ground and must otherwise follow this Ordinance.*

*5.3 Off-premise signs for the same establishment, event or location shall be no closer than seventy-five*

*(75) feet apart. Up to three (3) off-premise signs may be placed on the same road, with the total number of signs equaling five (5) or less in Transylvania County, at any one time.*

*5.4 Off-premise signs shall be no closer than the edge of the right-of-way or no closer than twenty (20) feet from the edge of the traveled way, whichever is greater. All signs and sign structures shall be located at least twenty-five (25) feet from abutting property lines and outside of all sight visibility triangles.*

*5.5 Off-premise signs, with a sign face greater than thirty-two (32) square feet, shall be at least two thousand (2,000) linear feet, as measured along any roadway center line, from any other off premise sign; at least five hundred (500) linear feet from any intersection of the center line of all roads, at-grade railroad crossings or bridges; and at least five hundred (500) linear feet from the nearest point of any personal residence, church or building used for worship located within six hundred and sixty (660) linear feet of the right-of-way.*

*5.5.1 A property owner may have an off-premise sign placed on their property closer than the five hundred (500) foot requirement from their personal residence provided that they submit a written and notarized statement identifying themselves as the property owner and certifying that the proposed sign will meet all other requirements of this Ordinance.*

*5.6 Off-premise signs shall not be attached to or painted onto any building or structure.*

*5.7 Off-premise signs shall have only one (1) sign face per side and no more than a total of two (2) sign faces per sign structure.*

*5.8 No off-premise sign shall be located on the same parcel as an on-premise sign or within fifty (50) feet of an on-premise sign.*

*5.9 Off-premise illuminated signs shall be lighted by fixtures located, aimed, and fully shielded so that*

*light is directed only onto the sign face. Lighting fixtures shall not be aimed upward, toward adjacent streets, roads or properties.*

*5.10 Off-premise signs that are illuminated at night may not exceed a maximum luminance level of seven*

*hundred and fifty (750) cd/m<sup>2</sup> or Nits, regardless of the method of illumination.*

*5.11 Off-premise signs designed to be visible from a road, or a portion thereof, designated as a Scenic Corridor by the Transylvania County Board of Commissioners shall be no greater than twenty (20) square feet with a limit of one sign per establishment per Scenic Corridor.*

*5.12 Off-premise signs designed to be visible from a road, or a portion thereof, designated as a No1th Carolina Scenic Byway shall follow the No1th Carolina Department of Transportation Regulations for the Control of Outdoor Advertising.*

## **SECTION 6: On-Premise Sign Regulations**

6.1 *On-premise freestanding signs shall not exceed one hundred and fifty (150) square feet per sign face and shall have a total height no greater than twenty-five (25) feet.*

6.2 *On-premise attached signs shall not exceed a cumulative area of one hundred and fifty (150) square feet per sign face and shall have a total height no greater than twenty-five (25) feet.*

6.3 *On-premise freestanding signs shall have only one (1) sign face per side for no more than a total of two (2) sign faces per sign structure.*

6.4 *On-premise signs shall be no closer than the edge of the right-of-way or no closer than twenty (20) feet from the edge of the traveled way, whichever is greater. All signs and sign structures shall be located at least twenty-five (25) feet from abutting property lines and outside of all sight visibility triangles.*

6.5 *Single parcels with one establishment may have one (1) freestanding sign and one (1) sign attached to the building per state maintained road frontage.*

## **STAFF COMMENTS**

### **Signage**

The application is requesting an on-premise sign at a location along the Highway-64 right-of-way property line, placed between the two driveway access points. It should be noted that the owner is the owner of both parcels, the northern parcel, PIN# 9508-56-9607-000, at 5490 Asheville Highway, where a sawmill is in operation and the adjacent parcel to the southwest, PIN#9508-56-4179-000, where the RV Park is located. If the PB/BoA finds that applicant's RV Park, for which this proposed sign is intended, is indeed operating on this northern parcel, or both, then subsection 6.4 states, "On-premise signs shall be no closer than the edge of the right-of-way or no closer than twenty (20) feet from the edge of the traveled way, whichever is greater." (my emphasis)

The two existing non-conforming signs will also require a determination from the PB/BoA, since subsection 6.5 permits only one freestanding sign per parcel. If the PB/BoA finds that this would be the second on-premise sign on the northern parcel, then the PB/BoA would be required to find that the variance covers this second non-conformity, or condition any approval on the removal of the existing non-conforming, on-premise sign.

The existing non-conforming off-premise sign, according to subsection 5.8, requires that any new on-premise sign be located fifty (50) from the existing structure and that the proposed structure follow subsection 6.1, "shall not exceed on hundred and fifty (150) square feet per sign face and shall have a total height no greater than twenty-five (25) feet." The applicant states that the proposed sign would comply with these standards.

## **ARTICLE X: LEGAL STATUS PROVISIONS**



## **SECTION 21: Variances**

*Where strict adherence to the provisions of this Ordinance would cause an unnecessary hardship, the Planning Board may authorize a variance, if such variance can be made without destroying the intent of this Ordinance. Any variance thus authorized is required to be entered in writing in the minutes of the meeting of the Planning Board and the reasoning on which the departure was justified set forth.*

### **STATE STATUTES**

#### **160D-705. Quasi-judicial zoning decisions.**

##### **(d) Variances**

*When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:*

- (1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.*
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*
- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.*

*No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.*

### **STAFF COMMENTS**

#### **Hardship**

The applicant states, "The spacing provision of ordinance not only creates hardship for Mr. Payne's use of an on-premise sign, but is also denying him the opportunity to accrue ground rent for the off-premise sign lease between Mr. Payne and Lamar." The Sign Control Ordinance specifically prohibits business owners from taking advantage of on-premise and off-premise signs on a single parcel. Needless to say if all property owners, even just those currently operating businesses with on-premise signs, to also be permitted to offer off-premise signs, there would be many offering such services and taking advantage of both business opportunities. The intent of the Sign Control Ordinance, on the other hand is "to preserve the scenic and aesthetic features and the quality of life for residents and visitors," while at the same time being "sensitive to, the need for local businesses to adequately identify their products and services."

The question to be weighed is whether the applicant is faced with a hardship by only having the two existing signs on the property?

#### **STAFF RECOMMENDATION**

Since variance requests are site specific determinations, and thus, a case-by-case determination based on hardship. Staff has provided the meeting minutes from the most recent sign variance request before the PB/BoA, from December 6, 2012, as a point of reference. Each variance request should be seen in light of the hardship provisions and as the Sign Control Ordinance states, "if such (a) variance can be made without destroying the intent of this Ordinance. Any variance thus authorized is required to be entered in writing in the minutes of the meeting of the Planning Board and the reasoning on which the departure was justified set forth."

## Transylvania County Sign Variance Application

### Submittal:

Applications are accepted by Planning and Community Development Department staff. Application submittals must be made in-person and during regular operating hours. **ONLY COMPLETE APPLICATIONS CAN BE ACCEPTED.**

Variances to the Transylvania County Sign Control Ordinance are heard by the Transylvania County Planning Board as a quasi-judicial public hearing conducted during a regularly scheduled meeting of the Planning Board (3<sup>rd</sup> Thursday of every month at 6:00 PM). To be considered at a meeting, the complete application **must be submitted at least fifteen (15) business days in advance of the proposed hearing.** The application is a form of written testimony and is used to provide evidence that the required findings for approval can be made. In addition to the application materials, the applicant may provide any other written, drawn or photographed material to support his/her request and as permitted by the Board of Adjustment. Any such additional material submitted will become part of the application, and as such cannot be returned.

### Attendance at the hearing is required:

Applicants may represent themselves or may be represented by someone appropriate for quasi-judicial public hearings. The applicant has the **burden of proof** and must provide sufficient evidence in order for the required findings to be made. The public hearing will allow the applicant, proponents, opponents and anyone else the opportunity to speak and ask questions in regards to the request. An application may be approved, approved with conditions, continued for more information, or denied.

### TRACKING INFORMATION (Staff Only)

Variance Application No.: SCVA - - -

Received by: \_\_\_\_\_

Date Rec'd:     /     /    

### SIGN INFORMATION

Sign Type:

Off-Premise Sign: ☐ On-Premise Sign: ☒

Will the sign be attached to an existing or proposed structure: ☐ Yes ☒ No

Will the sign be located along a scenic corridor: ☐ Yes ☒ No

Proposed size of the sign face: 55 Sq. ft Proposed sign faces 2

Proposed distance from the edge of right-of-way: 20 Ft.

Proposed distance from the edge of adjoining property lines: 25 Ft.

Will the proposed sign use an electronic message display: ☐ Yes ☒ No

Will the proposed sign be illuminated: ☐ Yes ☒ No

Is a copy of the proposed sign message attached: ☒ Yes ☐ No If "No" please provide a brief description of the sign copy: \_\_\_\_\_



**PARCEL INFORMATION**Parcel Number(s): 9508-56-9607-000Total Acreage: 2.77 Deed Book: 1150 Page: 649-651Township: 0 1 Zoning District: UNZONEDProperty address: 5490 Asheville Highway, Pisgah Forest, NC 28768**CONTACT INFORMATION****Property Owner:**Name: Shane PaynePhone: 828 489 9822Address: 5490 ASHEVILLE HWY City, State, Zip: PISGAH FOREST NC**Applicant/Agent: (If different from the owner)**Name: Robert R. Singleton II, Lamar Advertising Co. Phone: (828)-687-4000Address: PO Box 732 City, State, Zip: Arden, NC 28704**Plan Preparer: (If applicable)**

Name: \_\_\_\_\_ Phone: ( ) - \_\_\_\_\_

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

**Appointment of agent designation: (if applicable)**

I, SHANE PAYNE (Owner) owner of the property located on 5490 ASHEVILLE HWY (Property Address) recorded in 1150 (Deed Book) 649 (Page) and having the parcel identification number of 9508-56-9607-000 located in Transylvania County, North Carolina, do hereby appoint Robert R. Singleton To represent me in a Sign Control Ordinance variance application to the Planning and Community Development Department and authorize him/her to act as my agent in all matters, formal and informal except as stated herein, and authorize him/her to receive all official correspondence.

I however understand that as the listed property owner, I must sign all affidavits and statements required by any the Sign Control Ordinance.

Shane Payne  
Signature (Owner)

7/24/2025  
Date

## BURDEN OF PROOF

The applicant seeking a variance to the Transylvania County Sign Control Ordinance shall have the burden of presenting evidence sufficient to allow the Planning Board to reach the conclusions set forth below, as well as the burden of persuasion on those issues.

*Complete and respond to the following with an attachment (suggested), or in the space provided:*

Ordinance Provision(s) from which a variance is requested:

Sign Control Ordinance Article VI, Section 5.8: No off-premise sign shall be located on the same parcel as an on-premise sign or within fifty (50) feet of an on-premise sign

This is what I want to do:

Lamar will build one multipole on-premise sign for Boylston Creek RV Park and Cabins, approximately 250' east of the existing off-premise sign. The sign will have two faces in a back to back configuration. Maximum height of the sign and sign structure will be 25' and each face will be less than 150 square feet.

Ordinance provision(s) require:

25' maximum height, sign faces to be less than 150 square feet with each no greater than 25' in height. No closer than edge of right of way or 20' from edge of traveled roadway. 25' from abutting property line. Must not be located on same parcel as off-premise sign (reason for variance request).

Article X, Section 21 of the Transylvania County Sign Control Ordinance calls out the following findings which the Planning Board must make in granting any variance:

1. Unnecessary hardship would result from the strict adherence to the provisions of the Ordinance.

**Applicant's Response:**

As one of the largest sign operators in the country, Lamar Advertising requests a variance to build a professional and attractive on-premise sign structure for Mr. Shane Payne, owner and operator of Boylston Creek RV Park and Cabins. This sign will not pollute the aesthetic value of Transylvania County and only serve to benefit the motoring public who are visiting to recreate, stimulate the economy, and enjoy the area. The sign shall not exceed the Transylvania County On-Premise Sign Ordinance requirements for height, face size, and setback. The current ordinance prohibits building this sign solely because of Lamar's off-premise sign on the same property owned by Mr. Payne. The spacing provision of ordinance not only creates hardship for Mr. Payne's use of an on-premise sign, but is also denying him the opportunity to accrue ground rent for the off-premise sign lease between Mr. Payne and Lamar.

The current ordinance allows for an on-premise sign on the adjoining parcel (also owned by the Mr. Payne) at a distance of 50' from the off-premise sign. However, this would offer no roadway visibility for the on-premise sign, would give the appearance of a cluttered landscape, "stacking" the two signs, and would require the removal of a large swath of trees currently offering an environmental buffer to Mr. Payne's customers at the campground. Our proposed on-premise sign, built for Mr. Payne's business and on his property, would be over 200' from the off-premise sign, fit more neatly on the property than building a sign effectively on top of our existing sign, and require little to no disturbance to the existing landscape. The one preclusion is the parcel distinction. There is a legitimate need for the business owner to have road signage in order to appropriately market his business on the property to travelers westbound on Highway 280, the direction from which the majority of customers originate.

2. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice achieved.

**Applicant's Response:**

The requested variance will maintain the scenic aesthetic value of Transylvania County, set forth in Article III (1) of the Sign Control Ordinance, by creating adequate spacing of two signs and limiting the disturbance to the surrounding landscape. This on-premise sign will help a local business owner adequately advertise and display services offered on the premises and further contribute to the vital tourism that enhances the value of greater western North Carolina.

The existence of the on-premise sign on a different part of this parcel will not create a distraction to the motoring public, as the sign will be a permanent fixture of the property and built to the safety standards of the county and of Lamar as a professional sign operator and builder. No other variance to the ordinance is requested that would result in increased non-conformity of the off-premise sign that has created no distraction to the motoring public for many years. The on-premise sign will blend seamlessly with the property and appear with the copy shown below.

I appreciate the opportunity to present this information to the Transylvania County Variance Board and submit to you the information herein is truthful and accurate to the best of my ability and knowledge. Thank you for your consideration of this request.

I certify that the information shown above is true and accurate and is in conformance with the Transylvania County Sign Control Ordinance, and if is not that it could result in assessment of civil penalties or initiation of civil or criminal court actions.

Robert R. Singleton II

Print (Owner or Agent)

Robert R. Singleton II

Signature (Owner or Agent)

07 124 12025

Date

**COUNTY USE ONLY**

Fee: \$ \_\_\_\_\_ Paid: ☐ Yes ☐ No Method: \_\_\_\_\_

Site Plans attached: ☐ Yes ☐ No

Date of Planning Board Consideration: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Date of Planning Board Decision: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Variance Status: ☐ APPROVED ☐ DENIED

Planning Board Meeting Minutes Attached: ☐ Yes ☐ No

Permit No.: \_\_\_\_\_ (If Approved)

**WITNESS**

\_\_\_\_\_  
Sign Enforcement Officer

\_\_\_\_\_  
Date

Notes:

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**Boylston Creek**



**RV PARK & CABINS**

**24 RV SITES**

(PRIVATE PIC-KNICK TABLE & FIRE RING)

**6 PRIMITIVE CABINS**

**OUTLANDER PARKING**

**(828) 775-5991**

**BoylstonCreekRV.com**

**BATH HOUSE**

**DOG PARK**

**EV CHARGER**

**DUMP STATION**



5490 Asheville Hwy LLC

Parcel ID: 9508-56-9607-000

70576710

PLAT: / UNIQ ID 49449  
ID NO: T452 00123A 01 MS.02

SPLIT FROM ID

COUNTY TAX (100), N TRAN FIRE (100), COUNTY FIRE TAX (100)

Reval Year: 2025 Tax Year: 2026 US 280

Appraised By 14 on 01/01/2025 45200 Asheville Highway

CARD NO. 1 of 1  
2.7700 AC  
TW-01 CI- FR-

SRC= Inspection  
AT- LAST ACTION 20250527

CONSTRUCTION DETAIL		MARKET VALUE								DEPRECIATION		CORRELATION OF VALUE				
TOTAL POINT VALUE		0	USE	MOD	Eff. Area	QUAL	BASE RATE	RCN	EYB	AYB		NORM	CREDENCE TO MARKET			
BUILDING ADJUSTMENTS			10	00							% GOOD					
TOTAL ADJUSTMENT FACTOR		0	COMMERCIAL										DEPR. BUILDING VALUE - CARD			0
TOTAL QUALITY INDEX		0	STYLE:										DEPR. OB/XF VALUE - CARD			1,830
													MARKET LAND VALUE - CARD			52,630
													TOTAL MARKET VALUE - CARD			54,460
													TOTAL APPRAISED VALUE - CARD			54,460
													TOTAL APPRAISED VALUE - PARCEL			54,460
													TOTAL PRESENT USE VALUE - LAND			0
													TOTAL VALUE DEFERRED - PARCEL			0
													TOTAL TAXABLE VALUE - PARCEL \$			54,460
													PRIOR APPRAISAL			
													PERMIT			
													BUILDING VALUE			0
													OBXF VALUE			2,660
													LAND VALUE			52,630
													PRESENT USE VALUE			0
													DEFERRED VALUE			0
													TOTAL VALUE			55,290
													ROUT: 008WTRSHD:			
													SALES DATA			
			OFF. RECORD		DATE		DEED				V/I		INDICATE			
			BOOK	PAGE	MO	YR	TYPE	Q/U					SALES PRICE			
			00115	00064	5	2025	WD*	X	V				150,000			
			0	9												
			00913	0306	3	2020	AR	C	V				0			
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													NOTES			
													09-33			

SUBAREA				CODE	DESCRIPTION	COUNT	LTH	WTH	UNITS	UNIT PRICE	ORIG % COND	BLDG #	---	AYB	EYB	DEP SCH	OVR	% COND	OB/XF DEPR. VALUE
TYPE	GS AREA		RPL CS																
SUBAREA				97	SHELTER		75	24	1,800	3.85	100.00	—	0.00	1986	1998	S3		19	1317
TOTALS				01	STORAGE		25	8	200	8.50	100.00		0.00	1938	1980	30		30	510
TOTAL OB/XF VALUE																		1827	

BLDG DIMENSIONS																			
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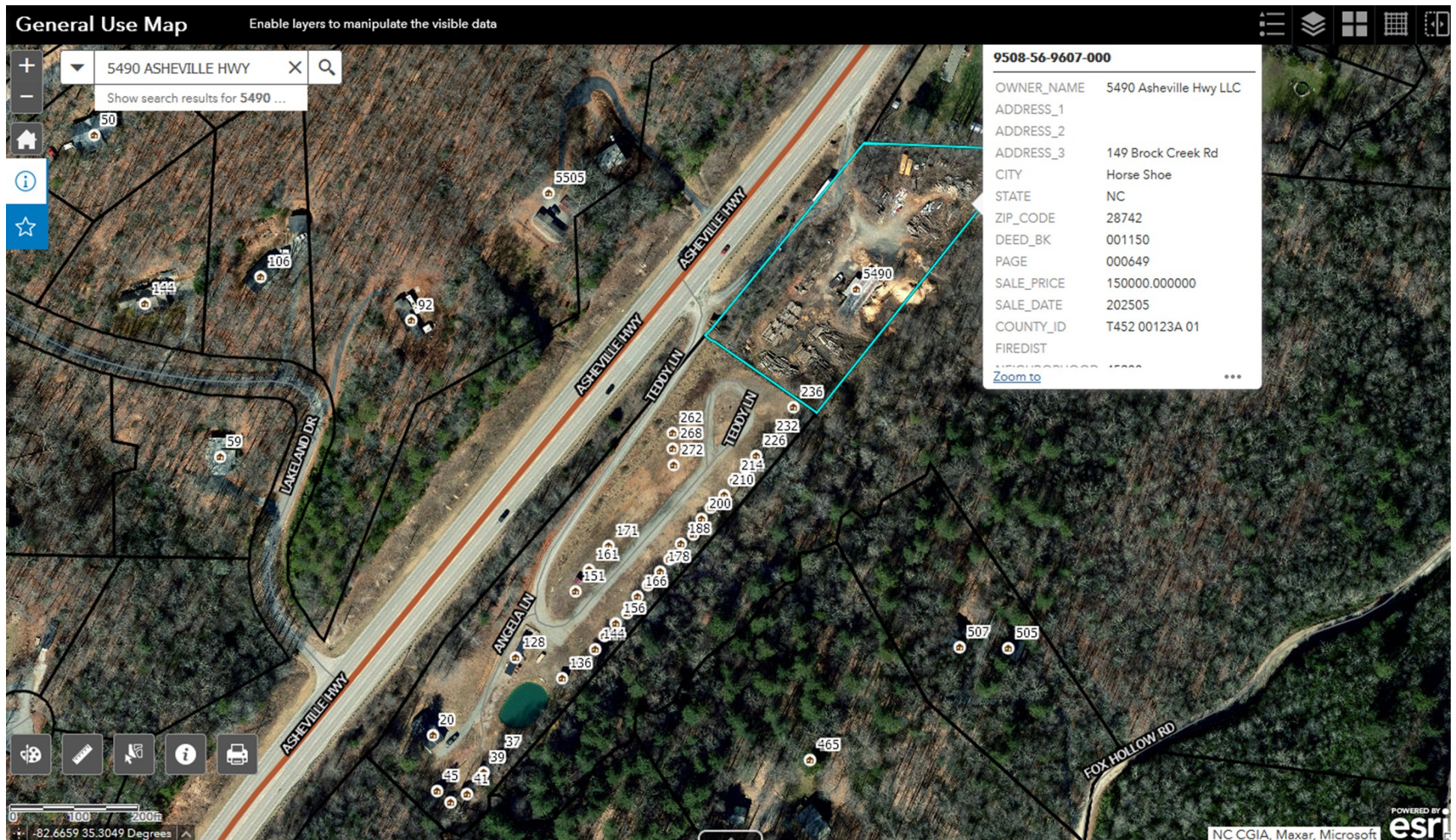
LAND INFORMATION																		
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HIGHEST AND BEST USE	USE CODE	LOCAL ZONING	FRONTAGE	DEPTH	DEPTH / SIZE	LND MOD	COND FACT	OTHER ADJ/NOTES RF AC LC TO OT					ROAD TYPE	LAND UNIT PRICE	TOTAL LAND UNITS	UNIT TYPE	TOTAL ADJST	ADJUSTED UNIT PRICE	LAND VALUE	OVERRIDE VALUE	LAND NOTES
LUMBER YRD	0643		0	0	1.9000	4	1.0000	+00	+00	+00	+00	+00	RP	10,000.00	2.770	AC	1.900	19,000.00	52630	0	

TOTAL MARKET LAND DATA															2.77				52630		
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TOTAL PRESENT USE DATA																					
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## SV# 25-02 Sinclair Sign Variance Application



**SIGN CONTROL ORDINANCE**  
**TRANSYLVANIA COUNTY, NORTH CAROLINA**

**ARTICLE I**

**SHORT TITLE**

This Ordinance shall be known and cited as the Sign Control Ordinance of Transylvania County, North Carolina.

**ARTICLE II**

**AUTHORITY**

Pursuant to the authority and provision conferred in Chapter 153A-121(a) of the North Carolina General Statutes, and pursuant to the "Scenic Corridor Designation Ordinance of Transylvania County, North Carolina", the Transylvania County Board of Commissioners hereby ordain and enact into law these Articles and Sections.

**ARTICLE III**

**PURPOSE**

1. To guide and regulate the construction and placement of signs in Transylvania County in order to preserve the scenic and aesthetic features and the quality of life for residents and visitors.

The Board of Commissioners is aware of, and sensitive to, the need for local businesses to adequately identify their products and services and is committed to safeguarding the interests of local businesses while providing reasonable regulations.

2. To insure the safety of local and visiting motorists on the roads in Transylvania County by reducing the distracting influence of uncontrolled signs throughout the County.

**ARTICLE IV**

**JURISDICTION AND ADMINISTRATION**

This Ordinance shall apply to all areas of Transylvania County located outside any incorporated city or town planning or extraterritorial jurisdiction. Municipalities within Transylvania County may elect to allow this Ordinance to be effective within their corporate limits.

The Transylvania County Planning and Community Development Department shall administer this Ordinance. The Planning and Community Development Director, or their appointee, shall be known as the Sign Enforcement Officer.

## ARTICLE V

### DEFINITIONS

**SECTION 1:** For the purpose of this Ordinance, certain words or terms used herein are defined as follows:

- 1.1 Copy - The characters, letters or illustrations displayed on a sign face.
- 1.2 Electronic Message Sign, Electronic Message Center or Electronic Message Board (EMC) - An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Electronic message signs typically use light emitting diodes (LEDs) as a lighting source.
- 1.3 Establishment - A business, non-profit organization, public institution, or personal residence.
- 1.4 Exempt Sign - Any sign which is specifically listed as exempt from this Ordinance. Exempt signs are not regulated by the terms of this Ordinance and shall not require a permit.
- 1.5 Flashing Sign - Signs or portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this Ordinance, flashing is defined as occurring if the cyclical period between on-off phases of illumination is less than three (3) seconds.
- 1.6 Freestanding Sign - The general term for any sign that is supported from the ground and not attached to a building.
- 1.7 Government Sign - A sign constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.
- 1.8 Illuminated Sign - A sign designed to be lighted by lights on or in the sign, or with lights directed toward the sign.
- 1.9 Luminance - A measurement of light output at its source that does not vary with ambient light conditions and can be measured during both the sign fabrication process and after installation.
- 1.10 Moving Signs - Signs or portions of signs characterized by movement powered or activated by natural, manual, mechanical, electrical or other means, including but not limited to banner signs, pennant strings, streamers, spinners, propellers, and search lights.
- 1.11 Nits - A unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter. Nits are used to describe the brightness of computer displays, such as electronic message signs.
- 1.12 Nonconforming Sign - Existing signs that were constructed and in place prior to the adoption of this Ordinance and that do not conform to the provisions of this Ordinance, as amended. An illegal sign is not a nonconforming sign.
- 1.13 North Carolina Scenic Byways - Routes designated by the North Carolina Department of Transportation that provide motorists with an opportunity to experience North Carolina history, geography and scenery while traveling along state maintained roads.
- 1.14 Off-Premise Sign - Any sign not on the property of the establishment advertised or referenced in the copy.

- 1.15 On-Premise Sign - A sign that draws attention to or communicates information about a business, service or commodity that exists or is conducted, sold, offered, maintained or provided on the same property where the sign is located.
- 1.16 Permanent Sign - A sign permanently affixed to the ground or another permanent structure, such as a building, and is intended to remain in one location for an indefinite period.
- 1.17 Setback - The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the sign or its supporting member.
- 1.18 Sight Visibility Triangle - The land adjoining a road intersection that is to be kept clear of obstructions between three (3) and seven (7) feet above ground to ensure visibility and the safety of motorists and pedestrians. The protected sight distance is the length of roadway visible to the driver who is traveling along the roadway or waiting to enter or cross the roadway for at least thirty-five (35) feet in each direction.
- 1.19 Sign - Any display of letters, words, numbers, figures, devices, emblems, pictures, logos, or any other means whereby the same are made visible for the purpose of making anything known, whether such display be made on, or attached to, or as a part of a structure, surface or any other object whether natural or man-made.
- 1.20 Sign Area (Sign Face) - The area of a sign shall be considered to be that of the smallest rectilinear figure that encompasses all lettering, wording, design or symbols, together with any background difference on which the sign is located, if such background is designed as an integral part of and related to the sign. All cut-outs or extensions shall be included in the area of a sign. Supports and bracing which are not intended as part of the sign shall be excluded.
- 1.21 Sign Height - Sign height shall be measured from the ground directly below the center of the sign or from the road grade of the closest point in the road the sign is located along, whichever is higher, to the sign or sign structure's highest point.
- 1.22 Temporary Portable Sign - A sign that is displayed only for a limited period of time; is not permanently affixed to the ground; is on wheels or a trailer; v-shaped "sandwich" signs; and/or is made out of materials such as paper, cloth, canvas, plastic sheet, cardboard, wallboard or other like materials that appear to be intended for temporary display and easy movement. If a sign display area is permanent, but the copy displayed is subject to change, that sign shall not be regarded as temporary.
- 1.23 Transylvania County Scenic Corridors - Roadways designated by the Transylvania County Scenic Corridor Designation Ordinance that are particularly beautiful and offer outstanding views and natural experience of our mountains, as seen and enjoyed by the public while traveling on the roads and highways in Transylvania County.

## ARTICLE VI

### SIGN REGULATIONS

**SECTION 2: Sign Regulations** - Signs constructed, placed or maintained, except as otherwise prohibited or exempted, must comply with the standards, procedures, exemptions and other requirements of this Ordinance. Signs allowed without a sign permit shall be subject to the requirements of this Ordinance. Signs permitted by this Ordinance shall be constructed in accordance with the North Carolina State Building Codes, as amended.

**SECTION 3: Signs Exempted** - The following signs are exempt from this Ordinance:

- 3.1 Government signs including, but not limited to, traffic warning or regulatory signs including building identification, directional, informational and welcome signs.
- 3.2 Trade names and graphics that are located on newspaper, soft drink, gasoline pumps and similar vending devices.
- 3.3 Flags or insignia of any governmental or non-profit organization when not displayed as an advertising device.
- 3.4 Warning signs posted by utility or construction companies.
- 3.5 Commemorative tablets, markers or monuments constructed by or with the permission of the Transylvania County Board of Commissioners.
- 3.6 Signs on operational motor vehicles indicating the name of a business, when the vehicle is not intended to be used solely for a display of signs.
- 3.7 Signs required by law, statute or Ordinance.
- 3.8 Signs or sign structures that cannot be seen from a public roadway are not subject to this Ordinance; however, these signs must comply with the safety and construction provisions of the current North Carolina State Building Code.
- 3.9 Signs inside a building.

**SECTION 4: Signs Prohibited** - The following signs are prohibited:

- 4.1 Signs obstructing the view of motorists entering or exiting roads or highways, or interfering with the driver's view of approaching, merging or intersecting traffic.
- 4.2 Signs creating unsafe distractions to motorists such as:
  - Moving signs or signs which simulate movement
  - Flashing signs or signs with flashing parts
  - Signs that prevent free ingress or egress from a building, driveway or road
  - Signs containing strobe lights
  - Signs incorporating mirrors or reflective surfaces
  - Signs with beams or rays of light that are directed on any personal residence or at any portion of a roadway and are of such intensity as to impair a driver's vision thereby interfering with the operation of a motor vehicle. No illuminated sign shall interfere with or obscure an official traffic sign, device or signal.
- 4.3 Any non-governmental sign resembling a public safety warning or traffic sign.
- 4.4 Signs, whether temporary or permanent, within any public road or highway right-of-way, with the exception of governmental signs.
- 4.5 Signs constructed or maintained upon trees and utility poles, or painted or drawn upon natural rock formations or other natural features.
- 4.6 Signs containing words or graphics that are obscene, as defined in Chapter 14 of the North Carolina General Statutes.
- 4.7 Off-premise electronic message signs.



## **SECTION 5: Off-Premise Sign Regulations**

- 5.1 Off-premise signs shall not exceed one hundred and fifty (150) square feet per sign face, shall not exceed twenty (20) feet in horizontal length per sign face and shall have a total height no greater than twenty-five (25) feet.
- 5.2 Off-premise signs with a sign face of thirty-two (32) square feet or less do not require a sign permit, however, signs shall be securely affixed to the ground and must otherwise follow this Ordinance.
- 5.3 Off-premise signs for the same establishment, event or location shall be no closer than seventy-five (75) feet apart. Up to three (3) off-premise signs may be placed on the same road, with the total number of signs equaling five (5) or less in Transylvania County, at any one time.
- 5.4 Off-premise signs shall be no closer than the edge of the right-of-way or no closer than twenty (20) feet from the edge of the traveled way, whichever is greater. All signs and sign structures shall be located at least twenty-five (25) feet from abutting property lines and outside of all sight visibility triangles.
- 5.5 Off-premise signs, with a sign face greater than thirty-two (32) square feet, shall be at least two thousand (2,000) linear feet, as measured along any roadway center line, from any other off-premise sign; at least five hundred (500) linear feet from any intersection of the center line of all roads, at-grade railroad crossings or bridges; and at least five hundred (500) linear feet from the nearest point of any personal residence, church or building used for worship located within six hundred and sixty (660) linear feet of the right-of-way.
  - 5.5.1 A property owner may have an off-premise sign placed on their property closer than the five hundred (500) foot requirement from their personal residence provided that they submit a written and notarized statement identifying themselves as the property owner and certifying that the proposed sign will meet all other requirements of this Ordinance.
- 5.6 Off-premise signs shall not be attached to or painted onto any building or structure.
- 5.7 Off-premise signs shall have only one (1) sign face per side and no more than a total of two (2) sign faces per sign structure.
- 5.8 No off-premise sign shall be located on the same parcel as an on-premise sign or within fifty (50) feet of an on-premise sign.
- 5.9 Off-premise illuminated signs shall be lighted by fixtures located, aimed, and fully shielded so that light is directed only onto the sign face. Lighting fixtures shall not be aimed upward, toward adjacent streets, roads or properties.
- 5.10 Off-premise signs that are illuminated at night may not exceed a maximum luminance level of seven hundred and fifty (750) cd/m<sup>2</sup> or Nits, regardless of the method of illumination.
- 5.11 Off-premise signs designed to be visible from a road, or a portion thereof, designated as a Scenic Corridor by the Transylvania County Board of Commissioners shall be no greater than twenty (20) square feet with a limit of one sign per establishment per Scenic Corridor.
- 5.12 Off-premise signs designed to be visible from a road, or a portion thereof, designated as a North Carolina Scenic Byway shall follow the North Carolina Department of Transportation Regulations for the Control of Outdoor Advertising.



## **SECTION 6: On-Premise Sign Regulations**

- 6.1 On-premise freestanding signs shall not exceed one hundred and fifty (150) square feet per sign face and shall have a total height no greater than twenty-five (25) feet.
- 6.2 On-premise attached signs shall not exceed a cumulative area of one hundred and fifty (150) square feet per sign face and shall have a total height no greater than twenty-five (25) feet.
- 6.3 On-premise freestanding signs shall have only one (1) sign face per side for no more than a total of two (2) sign faces per sign structure.
- 6.4 On-premise signs shall be no closer than the edge of the right-of-way or no closer than twenty (20) feet from the edge of the traveled way, whichever is greater. All signs and sign structures shall be located at least twenty-five (25) feet from abutting property lines and outside of all sight visibility triangles.
- 6.5 Single parcels with one establishment may have one (1) freestanding sign and one (1) sign attached to the building per state maintained road frontage.
- 6.6 Multiple establishments on a single parcel may share one (1) on-premise freestanding sign per public road frontage. In addition, each establishment may construct one (1) on-premise attached sign to the building per state maintained road frontage.
- 6.7 Electronic message signs are permitted in accordance with the on-premise sign regulations with the following additional stipulations:
  - 6.7.1 The sign may be a portion of a building sign or freestanding sign, or may comprise the entire sign area.
  - 6.7.2 All signs shall have automatic dimming controls, either by photocell (hardwired) or via software settings, in order to bring the sign lighting level into compliance at night.
  - 6.7.3 Signs shall have a minimum display time of eight (8) seconds. The transition time between messages and/or message frames is limited to three (3) seconds and these transitions may employ fade, dissolve, and/or other transition effects.
  - 6.7.4 The following display features and functions are prohibited: blinking, flashing, spinning, rotating, any other moving effects, and all dynamic frame effects or patterns of illusionary movement or simulated movement.
  - 6.7.5 Full motion video or film display via an electronic file imported into the sign software or streamed in real time into the sign is prohibited.
- 6.8 On-premise lighted signs shall be lighted by fixtures located, aimed, and fully shielded so that light is directed only onto the sign face and glare is significantly reduced. Lighting fixtures shall not be aimed upward, toward adjacent streets, roads, or properties.
- 6.9 On-premise signs that are illuminated at night may not exceed a maximum luminance level of seven hundred and fifty (750) cd/m<sup>2</sup> or Nits, regardless of the method of illumination. All illuminated signs must comply with this maximum luminance level throughout the night until apparent sunrise, at which time the sign may resume luminance levels appropriate for daylight conditions.
- 6.10 On-premise signs located on Scenic Corridors are limited to eighty (80) square feet in area and shall have a total height no greater than fifteen (15) feet.

## **SECTION 7: Temporary Portable Sign Regulations**

- 7.1 Temporary portable signs do not require a permit or fee, but must otherwise follow this Ordinance.
- 7.2 On-premise temporary portable signs shall be displayed for a maximum of ninety (90) days per calendar year. If the sign is displayed more than ninety (90) days during a calendar year, it shall be considered a permanent sign and will be considered in violation of this Ordinance unless the on-premise sign regulations in Section 6 are followed.
- 7.3 Only one (1) on-premise temporary portable sign shall be allowed per establishment. In no instance shall any two (2) portable signs be closer than seventy-five (75) feet apart.
- 7.4 Temporary portable signs shall be located no closer than the edge of the right-of-way or no closer than twenty (20) feet from the edge of the traveled way and outside of all sight visibility triangles.
- 7.5 Temporary portable signs shall not exceed thirty-two (32) square feet or a height of five (5) feet.
- 7.6 Temporary portable signs shall not be illuminated, employ flashing lights, or have intermittent or moving parts.
- 7.7 Off-premise temporary signs for the same establishment, event or location shall be no closer than seventy-five (75) feet apart, and up to three (3) may be placed on the same road with the total number of signs equaling five (5) or less in Transylvania County at any one time.

## **ARTICLE VII**

### **SIGN MAINTENANCE, ABANDONED SIGNS AND TREE CUTTING**

**SECTION 8: Maintenance** - All signs and their structures shall be maintained in good repair and safe condition by the sign owner and/or the owner of record of the real property upon which the sign is located. Maintenance carried out in accordance with this Section shall not require a sign permit, provided the sign is not enlarged, moved or altered in any manner that would create or increase a nonconforming condition. Any sign violating these requirements shall be repaired or removed as required.

- 8.1 No sign shall be allowed to have more than twenty percent (20%) of its total surface area covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions for more than thirty (30) consecutive days.
- 8.2 No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts which causes the sign to stand more than fifteen (15) degrees from perpendicular for more than thirty (30) consecutive days.
- 8.3 No sign or sign structure shall be allowed to have weeds, vines or other vegetation obscuring more than twenty percent (20%) of the sign from the road or highway from which it is intended to be viewed for more than thirty (30) consecutive days.
- 8.4 No illuminated sign shall be allowed to stand with only partial illumination for more than thirty (30) consecutive days.
- 8.5 No sign or sign structure shall be allowed to stand if a business no longer exists.

**SECTION 9: Unlawful Cutting of Trees or Shrubs** - No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim or remove any trees, shrubs or other vegetation located within any public road or highway right-of-way, except where a legal permit has been obtained from the North Carolina Department of Transportation.

## **ARTICLE VIII**

### **PERMITS, FEES AND NONCONFORMING SIGNS**

**SECTION 10: Permits** - All signs, except as otherwise provided in Article VI of this Ordinance, shall require a sign permit prior to being constructed, placed or altered. Sign permits shall be issued by the Sign Enforcement Officer upon proper application and approval. New sign structure construction or installation shall not commence until a permit is issued. The sign structure must be completely constructed and erected within one hundred and eighty (180) days from the date of the permit issuance. During the one hundred and eighty (180) day period, newly permitted sign structures shall be considered in existence for the purpose of spacing signs. If a sign permit is denied, the decision may be appealed to the Transylvania County Planning Board within thirty (30) days of the decision.

**SECTION 11: Permit Application** - No permit shall be issued until an application for each separate sign or sign structure is completed, submitted and approved by the Sign Enforcement Officer. The initial permit shall be valid until revoked by the Sign Enforcement Officer.

**SECTION 12: Permit Fees** - A fee is required to be paid for permitting significant sign modifications and all new signs. A fee schedule shall be determined by the Transylvania County Board of Commissioners and posted on-line or in the Transylvania County Planning and Community Development Department Office.

**SECTION 13: Permit Revocations** - Sign permits for new and permitted nonconforming signs may be revoked for any one of the following reasons:

- 13.1 Misrepresenting material facts by the applicant on the permit application form.
- 13.2 Failing to construct the sign structure within one hundred and eighty (180) days from the permit issue date.
- 13.3 Altering, enlarging or relocating a permitted sign structure, except in conformance with the requirements of this Ordinance.
- 13.4 Allowing a sign to remain blank for a period of twelve (12) consecutive months or reaching a state of dilapidation or disrepair as determined by the Sign Enforcement Officer.

**SECTION 14: Nonconforming Signs** - Legal nonconforming signs may continue to exist provided:

- 14.1 The sign is not changed or replaced with another nonconforming sign, except that copy may be changed on an existing sign.
- 14.2 The sign is not expanded or modified in any way, which increases the sign's nonconformity.
- 14.3 An existing nonconforming sign that is damaged or destroyed may be re-established provided that all requirements of this Ordinance are met except distance between signs and the sign is no larger than the one damaged or destroyed.
- 14.4 If a nonconforming sign's support structure is modified, the entire sign structure and sign face shall be made to conform to all requirements of this Ordinance except for the established

minimum spacing distance. Before such modification can take place, the sign owner must obtain a permit for the proposed modification.

**SECTION 15: Reason Given for Denial of Permit Application** - Any permit application not containing all information and not meeting specifications set forth in this Ordinance shall be rejected and returned to the applicant together with the reason(s) for rejection. The Sign Enforcement Officer may allow the applicant thirty (30) calendar days or a reasonable time period agreed upon by both parties in writing, to cure any deficiencies in the application, which if cured, would make the application complete.

**SECTION 16: Reconstruction of Damaged Signs or Sign Structures** - Any conforming sign or sign structure that has been damaged may be repaired or replaced and used as before by the sign owners and/or the owners of record of the real property where the sign is located provided all repairs are initiated within thirty (30) working days and completed within sixty (60) working days of such damage. However, if the sign should be declared unsafe by the Sign Enforcement Officer, the owner of the sign or the owner of record of the real property whereon the sign is located shall immediately correct all unsafe conditions to the Sign Enforcement Officer's satisfaction.

As a courtesy to the sign owner, if the Sign Enforcement Officer discovers that a sign is damaged or is in an unsafe condition, the Sign Enforcement Officer will promptly notify the sign owner and/or the owner of record of the real property whereon the sign is located. The affirmative duty and liability shall, however, remain with the owner of each sign to keep each sign in a safe and undamaged condition in accordance with the terms of this Ordinance.

## ARTICLE IX

### **ENFORCEMENT, APPEALS AND PENALTIES**

**SECTION 17: Enforcement** - The Sign Enforcement Officer shall enforce all provisions of this Ordinance. The Sign Enforcement Officer shall also have the following authority:

- 17.1 Violation Notice. A Violation Notice shall be delivered by certified mail, return receipt requested, or by such other method as allowed by law, to the owner of the sign in violation of the Ordinance. Whenever the owner of the sign cannot be located and notified, said notice shall be delivered to the owner of record of the real property whereon the sign is located. The time period provided herein shall commence upon receipt of such Violation Notice. The Violation Notice shall identify the sign and shall describe the nature of the violation, refer to the Section of the Ordinance violated, specify in detail what action must be taken to correct the violation and specify all potential enforcement penalties that may apply. Violations shall be corrected within fifteen (15) calendar days unless the Sign Enforcement Officer grants an extension.
- 17.2 Compliance Order. A Compliance Order shall be issued for any sign or sign structure violation not corrected within the time allotted under the Violation Notice. The Compliance Order shall be delivered to the sign owner and to the owner of record of the real property whereon the sign is located in the same manner as set out for a Violation Notice and shall not be effective until received. The Compliance Order recipient shall be allowed thirty (30) calendar days to remove the subject sign at owner's expense. Owners of temporary portable signs shall have five (5) working days to remove the subject sign at owner's expense. The Compliance Order shall identify the sign and refer to the Section of the Ordinance violated.
- 17.3 Unsafe Sign Notice. Should any sign or sign structure become imminently unstable or in danger of falling or otherwise unsafe, an Unsafe Sign Notice shall be delivered to the sign owner or to



the owner of record of the real property whereon the sign is located in the same manner as set out for a Violation Notice except that the recipient of the notice shall immediately, in the case of imminent danger, secure or remove the sign in a manner to be approved by the Sign Enforcement Officer in conformance with the provisions of this Ordinance. If the condition prompting the notice is not corrected within twenty-four (24) hours after receipt of the notice, the Sign Enforcement Officer shall have the authority to remove the sign at the recipient's expense.

**SECTION 18: Appeals** - Violation Notices and Compliance Orders issued by the Sign Enforcement Officer may be appealed to the Transylvania County Planning Board within thirty (30) working days of receipt of notice. Pending appeal, the time limits set out in the notice or order shall be suspended. If the Planning Board finds that the action of the Sign Enforcement Officer has been taken for good cause and in accordance with this Ordinance, it shall so declare and the time period for compliance shall run from the issuance of that Board's finding. If the Planning Board sustains the appeal of the petitioner, no further action will be taken by the Sign Enforcement Officer.

**SECTION 19: Penalties** - Upon receipt of the Compliance Order, the Sign Enforcement Officer or the County Attorney may issue a citation imposing a penalty, in addition to legal expenses, of not more than one hundred dollars (\$100.00) to the owner of the sign in question or to the owner of record of the real property whereon the sign is located whenever the owner of the sign cannot be located and notified of said citation. Each twenty-four (24) hour period in which the violation exists shall constitute a separate violation. In addition to the above described penalty, the county may enforce this Ordinance by any one or more of the remedies authorized by Chapter 153A-123 of the General Statutes, with the exception of 153A-123(b).

## ARTICLE X

### LEGAL STATUS PROVISIONS

**SECTION 20: Conflict With Other Laws** - Whenever the regulations of this Ordinance conflict with the requirements of another statute, the more restrictive standard shall govern.

**SECTION 21: Variances** - Where strict adherence to the provisions of this Ordinance would cause an unnecessary hardship, the Planning Board may authorize a variance, if such variance can be made without destroying the intent of this Ordinance. Any variance thus authorized is required to be entered in writing in the minutes of the meeting of the Planning Board and the reasoning on which the departure was justified set forth.

**SECTION 22: Noncommercial Messages** - Any sign, display, or device allowed under this Ordinance may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with size, lighting and spacing, or other requirements of this Ordinance.

**SECTION 23: Separability** - Should any Section of provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

**SECTION 24: Effective Date** - This Ordinance shall take effect and be enforced on and after the date of its adoption by the Board of Commissioners of Transylvania County, 23<sup>rd</sup> day of September, 1991. Amended September 26, 1994, June 26, 1997, December 8, 2003, and February 13, 2018.

 Larry Chapman, Chairman Board of Commissioners

Attest:  Trisha Hogan, Clerk to Board of Commissioners

**§ 160D-406. Quasi-judicial procedure.**

(a) **Process Required.** – Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

(b) **Notice of Hearing.** – Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

(c) **Administrative Materials.** – The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

(d) **Presentation of Evidence.** – The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e) **Appearance of Official New Issues.** – The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

(f) **Oaths.** – The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) **Subpoenas.** – The board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-1402(c) may make a written request

to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(h) Appeals in Nature of Certiorari. – When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).

(i) Voting. – The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(j) Decisions. – The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

(k) Judicial Review. – Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d). The governing board of the local government that is a party to the judicial review of the quasi-judicial decision shall have the authority to settle the litigation, subject to Article 33C of Chapter 143 of the General Statutes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d); 2021-168, s. 3(a).)









B-3.3



B-3.4





**B-3.5**

## **Transylvania County Planning Board**

### **Transportation Committee**

#### **Minutes**

**December 6, 2012**

The Transylvania County Planning Board met in a joint meeting with the Transportation Advisory Board on Thursday, December 6, 2012 at 7PM in the Community Services Building conference room. Members present were Chairman Scott McCall, Larry Hoxit, Jay Kaiser, Mark Parker, Mark Tooley, Mike West and Larry Wilson. Transportation Advisory Board members present were Chairman Dana Hawkins, Craig Burghardt, David Carter, Norah Davis, Tim Garner, Mac Morrow and Ray Norris. Also present were Mark Burrows and Trish Hamilton. Guests present were Donny Fisher with Enviro-Tech Plus, County Manager Artie Wilson, County Commissioner Larry Chapman, Jim Meyer, Madelyn Meyer and Aubry Woodard.

#### **NEW BUSINESS**

##### **A. Variance Request to the Sign Control Ordinance for Enviro-Tech Plus**

Mr. Donny Fisher, owner of Enviro-Tech Plus requested a variance to the Sign Ordinance for the existing Enviro-Tech Plus sign. Enviro-Tech is moving out of the Brevard city limits into a new location in the county on Hwy. 280. Mr. Fisher stated that the existing sign is 180 sq. ft. and had complied with the City of Brevard Sign Ordinance, however, it won't comply with the County's Sign Ordinance since the requirement for an on-premise sign in the County is 150 sq. ft. Mr. Fisher commented that he is requesting a variance due to the economic hardship of having to purchase a new sign (existing sign cost \$3,600).

Mr. Burrows commented that after reviewing the variance request from Mr. Fisher that he recommended the Planning Board grant the request since it would be difficult to reduce the size of the existing sign and the economic hardship it would cause to Enviro-Tech Plus if they had to purchase a new sign.

**Transylvania County Sign Control Ordinance SECTION 26: Variances** - Where strict adherence to the provisions of this Ordinance would cause an unnecessary hardship, the Planning Board may authorize a variance, if such variance can be made without destroying the intent of this Ordinance. Any variance thus authorized is required to be entered in writing in the minutes of the meeting of the Planning Board and the reasoning on which the departure was justified set forth.

After discussion, **motion was made by Mr. Tooley to approve the Enviro-Tech Plus variance request due to the economic hardship it would cause if Enviro-Tech Plus had to purchase a new sign, seconded by Mr. Hoxit and carried unanimously.**

#### **JOINT BOARD DISCUSSION**

Planning Board Chairman Scott McCall welcomed the Transportation Committee members to the meeting. He stated that he, Transportation Committee Chairman Dana Hawkins and Mr. Burrows had met to discuss transportation and road issues. Chairman McCall stated that in October the Board of Commissioners had charged the Planning Board with the following items and requested that a report of the results be completed no later than June 2013:

- **Examine transportation issues, including working with the Transportation Advisory Committee to think strategically.**
- **Conduct a water and sewer analysis**
- **Complete a land inventory**

Chairman Hawkins stated that since he has been on the Transportation Committee they have met twice with the Planning Board. It is important for these Boards to work together and speak with one voice. The Transportation Committee makes recommendations to Commissioners on the Transportation Improvement Plan (TIP). A lot of our responsibilities have changed since the creation of the Rural Planning Organization (RPO). Land-of-Sky (LOS) is in charge of the RPO which consists of Transylvania and Madison counties and portions of Buncombe, Haywood and Henderson counties. Transylvania County is the largest county in the LOSRPO. There has also been a change in DOT budgeting which now requires project planning be in place for the project to receive funding.

Mr. Burrows asked Chairman Hawkins to help the Planning Board understand the process of how roads are prioritized.

Chairman Hawkins stated that in 1992 there was more discretionary funding available and Board members had more of a say in how the money was spent. Transylvania County benefited from this with the work that was done on Caldwell Street. Projects are more data driven now with accident rates and conditions of bridges playing a major role. It's expensive to build roads in the mountains.

#### **A. BOARD MEMBER COMMENTS**

Chairman McCall commented that two of the key projects are the elevation of Hannah Ford Road and Wilson Road.

Mr. Garner commented that there has been a lot of changes in transportation since the 1960's due to the paving of gravel roads in the County. Mr. Garner also commented about the lack of public transportation in the County.

Chairman Hawkins commented that LOS has addressed public transportation in the county but the taxpayers would have to subsidize this.

Chairman McCall commented that bike lanes should be built on the roads. A lot of people ride bikes in the County and the roads just aren't safe for them.

Mr. Kaiser brought up the subject of catwalks over the Davidson River (US 276 and US 64) for pedestrian use. Chairman Hawkins commented that catwalks are relatively expensive and they affect the bridges.

Mr. Burrows asked each Board to review the map that LOS had provided on land characterization. This map shows every parcel in the county with a color code for what the parcel is used for, such as manufacturing, residential, commercial, public, etc. Mr. Burrows asked - from an economic development and transportation point what is the big picture?

Chairman McCall commented that he thinks there are five areas that could be targeted for economic development, safety and quality of life.

- 1) Elevation of Hannah Ford Road.
- 2) Elevation of Wilson Road.
- 3) Completion of 4-lane highway between Brevard and Rosman.
- 4) Bridge in the lower end of Rosman to connect 178 and 64 to help with traffic flow during flooding and to open up the corridor.
- 5) Build a new hwy. 215.

Mr. Wilson wanted to know what area would be good for economic development.

Chairman McCall stated that he believes the corridor between Brevard and Rosman, along Hsy. 64, has the best potential for manufacturing development, along with the Hwy 64 east corridor to the Henderson County line.

Chairman Hawkins commented that there are different ways to look at needs and certainly the quality of life, safety and economic development. We have to be all to bring all of these together and come up with the best solution that we can. One scenario is the widening of roads. For every foot of lane width the safety of the road increases. It provides an alternate form of transportation whether it is for bike or pedestrian.

Ms. Davis commented that public transit between Brevard and Asheville would be very beneficial. People want a quick and easy way to get to cities.

Chairman McCall stated that he understands the need for enhanced public transportation, as he has a handicapped daughter and must make arrangements for her daily travel needs.

Mr. Tooley commented that widening the road between Rosman and Brevard might be nice but you still have the problem with getting traffic through Brevard. There is a need to create an eastern loop, fix the problems with the intersection of US 64, NC 280 and US 276 in Pisgah Forest and somehow address the safety issues on NC 280 going over Little Mountain.

**B. Next Step**

Mr. Burrows stated that in order for the Planning Board to meet the request of the Commissioners they will need to start looking at land characterization and ask LOS to revise the current map with fewer legends. The map needs to show water/sewer lines, public lands, road and larger parcels. The next step for both the Planning Board and the Transportation Committee would be to meet with the City Planning Board and the Economic Development Advisory board. We need to bring all these Boards together and become one voice for the County.

## **PUBLIC COMMENT**

Commissioner Chapman wanted to know if there was a way for the County to gain quicker access to the interstate. From an economic development standpoint it would be a major impact to the County if we could get closer to the interstate.

Chairman Hawkins stated that the DRV property is a prime example of how to get a road considered. Renova donated the row and did the engineering on the bridges. It's a matter of private and government working together doing something for the community. The road will be will accessed from 64 at Ecusta Credit Union, cross Ecusta Road, go through the DRV property and access 64 East at Riverside Grocery. The road is the number one project for DOT in the County. The funding is available to complete the road.

Chairman Hawkins thanked the Planning Board for the opportunity to meet with them. This has been a good exchange of ideas. He stated that it is very important to work with the City of Brevard. If there's a negative impact on the City then we need to revise our plans. We have to work together in order to get things accomplished.

Mr. Kaiser stated that it would be good to have water and sewer to parcels outside the Brevard city limits without the city annexation.

Chairman McCall commented that when the Planning Board concludes their work on the projects that they Commissioners have asked them to do it would be nice to have a joint meeting with the City of Brevard Planning Board, Economic Development Advisory Board and the Transportation Committee to review their findings.

Being no further business to discuss, **motion was made by Mr. West to adjourn the meeting, seconded by Mr. Parker and carried unanimously.** Meeting adjourned at 8:45pm.

## **Minutes Approved**

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K. Scott McCall, Planning Board Chairman

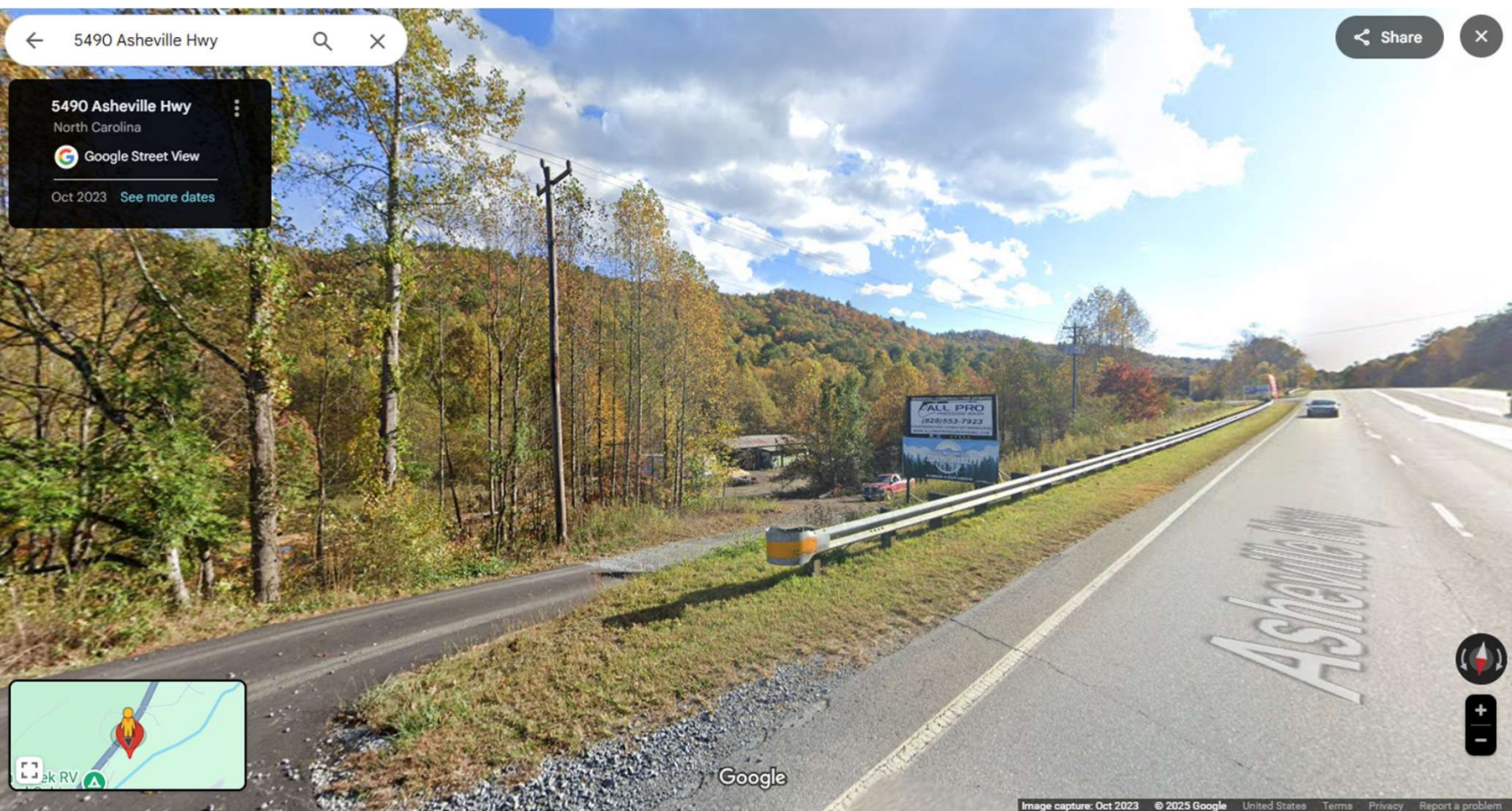
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Dana Hawkins, Transportation Board Chairman

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Trish Hamilton, Recording Secretary





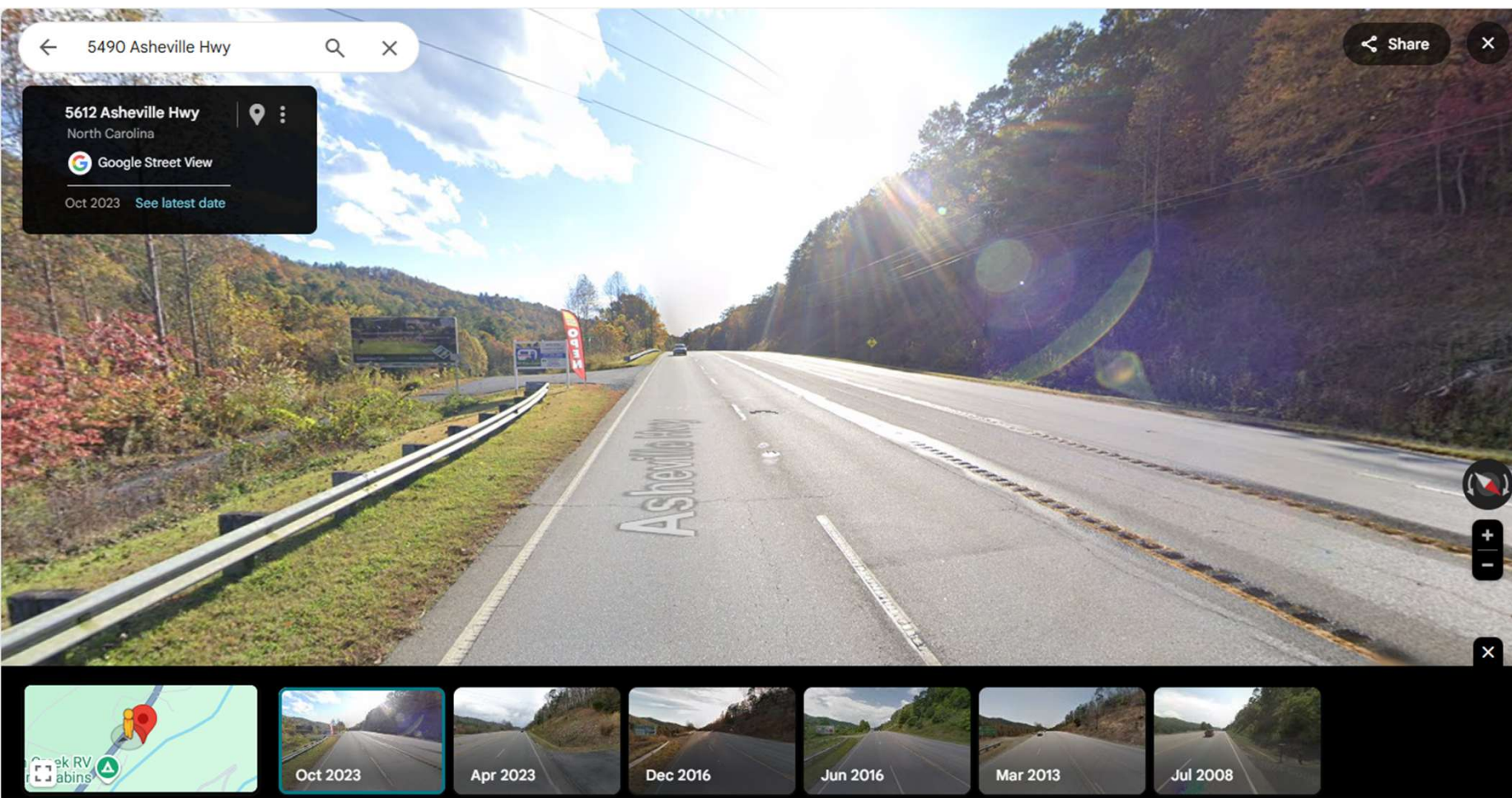
B-5.1



SV# 25-01 Singleton-Payne

Google October 2023





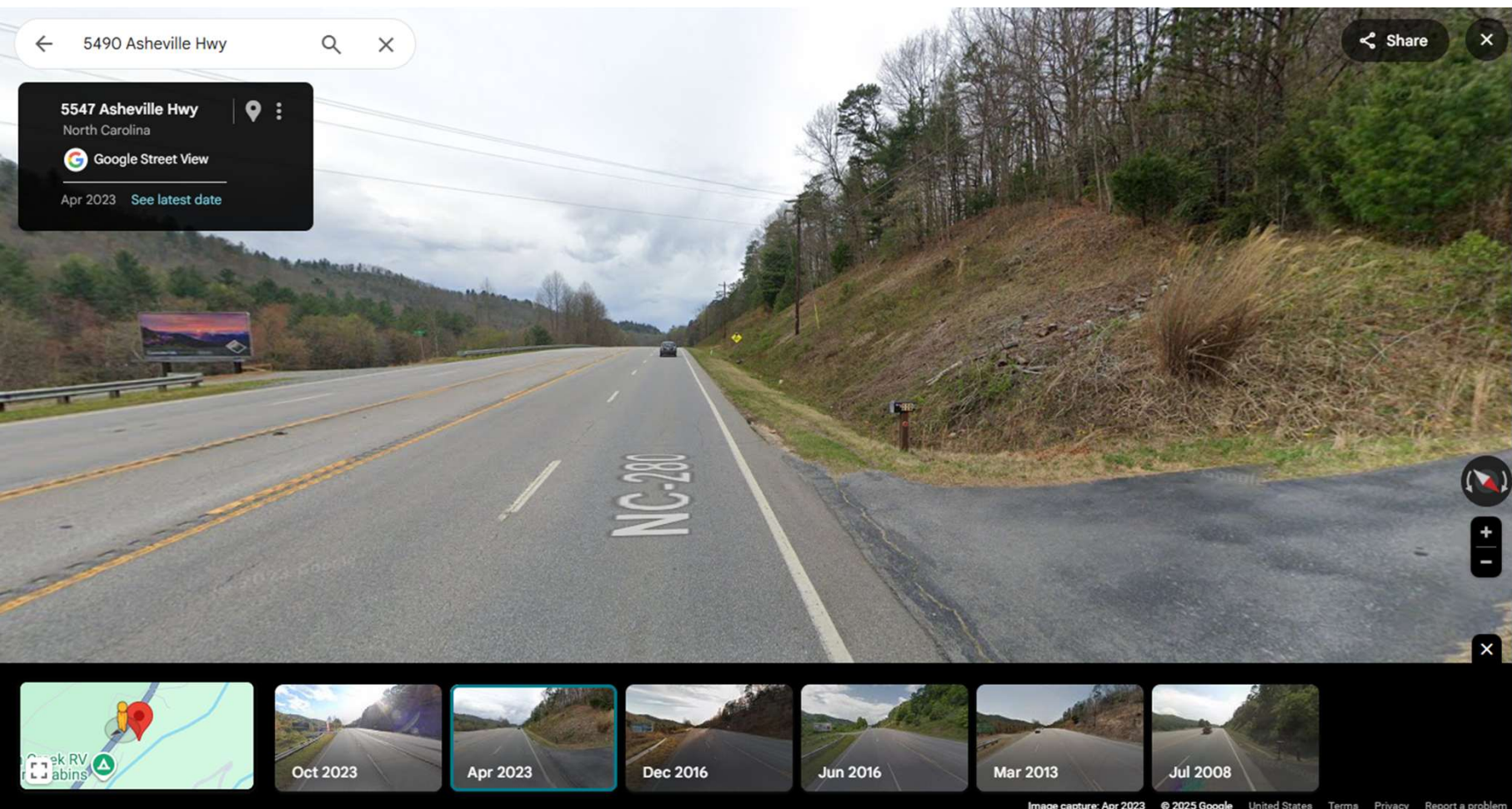
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Google October 2023





B-5.3



SV# 25-01 Singleton-Payne

Google April 2023



**Secretary of State**  
**Elaine F. Marshall**

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[Home](#) > [Business Registration](#) > [Search](#) > [Search Results](#) > 5490 Asheville Hwy, LLC

## 5490 Asheville Hwy, LLC

### Filings

- Creation Filing
  - 2/7/2023
  - C202303800755
  - Articles of Organization Limited Liability
  - [View Filing\(PDF\)](#)
- Notice Annual Report
  - 8/26/2024
  - C202424037616
  - ADM Notice
  - [View Filing\(PDF\)](#)



**LIMITED LIABILITY COMPANY ANNUAL REPORT**

NAME OF LIMITED LIABILITY COMPANY: 5490 Asheville Hwy, LLC

SECRETARY OF STATE ID NUMBER: 2571153 STATE OF FORMATION: NC

REPORT FOR THE CALENDAR YEAR: 2024

**SECTION A: REGISTERED AGENT'S INFORMATION**

1. NAME OF REGISTERED AGENT: Payne, Shane

2. SIGNATURE OF THE NEW REGISTERED AGENT: \_\_\_\_\_  
SIGNATURE CONSTITUTES CONSENT TO THE APPOINTMENT

3. REGISTERED AGENT OFFICE STREET ADDRESS & COUNTY 4. REGISTERED AGENT OFFICE MAILING ADDRESS

149 Brock Creek Road 149 Brock Creek Road  
Horse Shoe, NC 28742-6631 Henderson County Horse Shoe, NC 28742-6631

**SECTION B: PRINCIPAL OFFICE INFORMATION**

1. DESCRIPTION OF NATURE OF BUSINESS: Camping

2. PRINCIPAL OFFICE PHONE NUMBER: (828) 775-5991 3. PRINCIPAL OFFICE EMAIL: Privacy Redaction

4. PRINCIPAL OFFICE STREET ADDRESS 5. PRINCIPAL OFFICE MAILING ADDRESS

128 Teddy Lane 128 Teddy Lane  
Pisgah Forest, NC 28768 Pisgah Forest, NC 28768

6. Select one of the following if applicable. (Optional see instructions)

☐ The company is a veteran-owned small business

☐ The company is a service-disabled veteran-owned small business

**SECTION C: COMPANY OFFICIALS** (Enter additional company officials in Section E.)

NAME	NAME	NAME
<u>Shane Payne</u>	<u>Janelle Danette Payne Mrs</u>	<u></u>
TITLE: <u>Manager</u>	TITLE: <u>Manager</u>	TITLE: <u></u>
ADDRESS: <u></u>	ADDRESS: <u></u>	ADDRESS: <u></u>
<u>149 Brock Creek Road</u>	<u>149 Brock Creek Road</u>	<u></u>
<u>Horse Shoe, NC 28742-6631</u>	<u>Horseshoe, NC 28742</u>	<u></u>

**SECTION D: CERTIFICATION OF ANNUAL REPORT.** Section D must be completed in its entirety by a person/business entity.

Janelle Danette Payne Mrs 9/12/2024  
SIGNATURE DATE

Janelle Danette Payne Mrs Manager  
Print or Type Name of Company Official Print or Type Title of Company Official

This Annual Report has been filed electronically.  
MAIL TO: Secretary of State, Business Registration Division, Post Office Box 26025, Raleigh, NC 27602-0025

B-6 ■

SV# 25-01 Singleton-Payne



## SECTION 5: Off-Premise Sign Regulations

B-7.1

Previous Non-conforming Sign Location

Proposed On-Premise Sign Location

5.8 No off-premise sign shall be located on the same parcel as an on-premise sign or within fifty (50) feet of an on-premise sign.

Existing Non-conforming Sign Location

Existing Off-Premise Sign Location

**SECTION 6: On-Premise Sign Regulations**

- 6.1 On-premise freestanding signs shall not exceed one hundred and fifty (150) square feet per sign face and shall have a total height no greater than twenty-five (25) feet.

B-7.2

Proposed On-Premise Sign Location

- 6.4 On-premise signs shall be no closer than the edge of the right-of-way or no closer than twenty (20) feet from the edge of the traveled way, whichever is greater. All signs and sign structures shall be located at least twenty-five (25) feet from abutting property lines and outside of all sight visibility triangles.

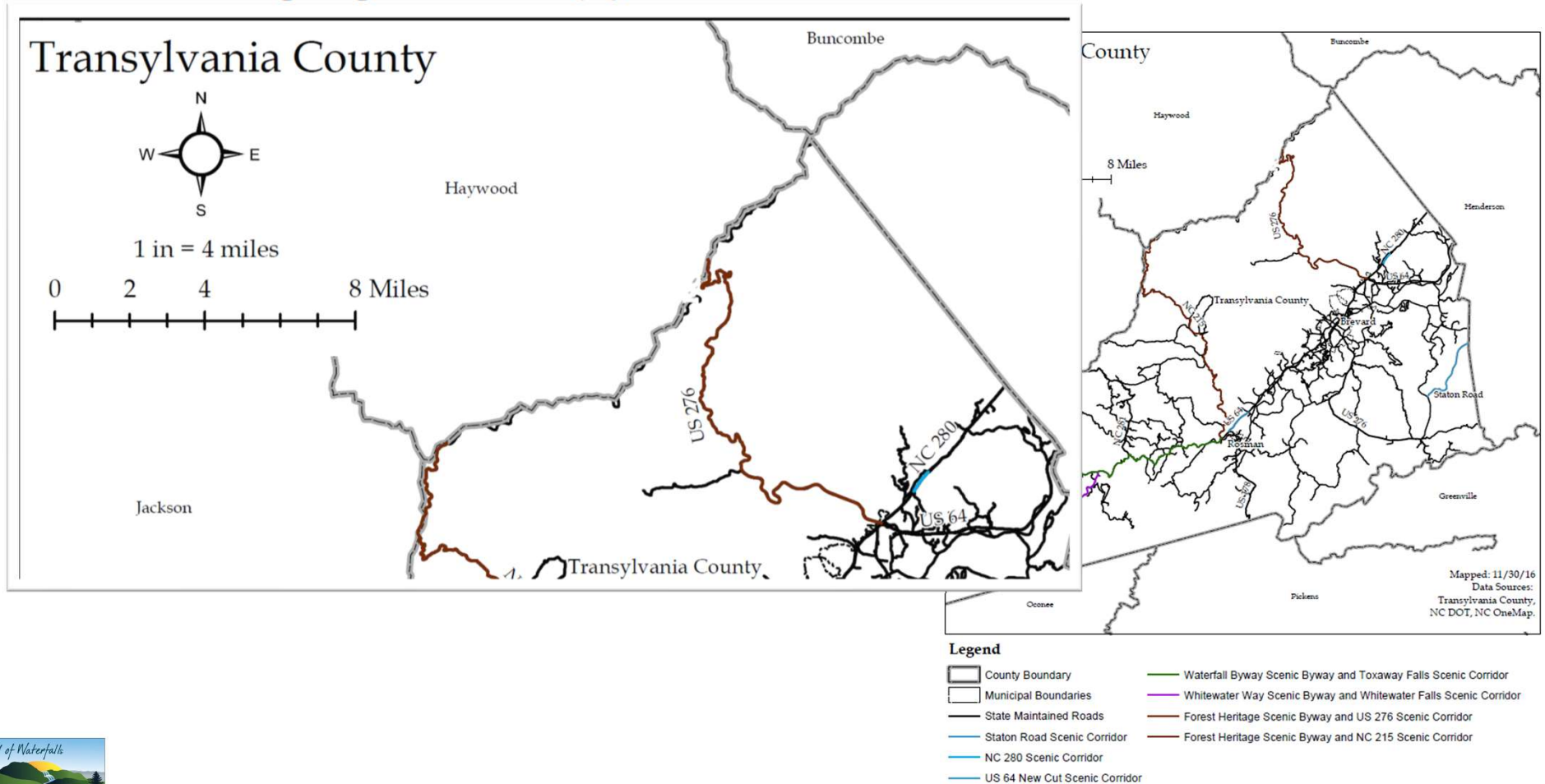
Existing Non-conforming Sign Location

Existing Off-Premise Sign Location



6.10 On-premise signs located on Scenic Corridors are limited to eighty (80) square feet in area and shall have a total height no greater than fifteen (15) feet.

B-8.1



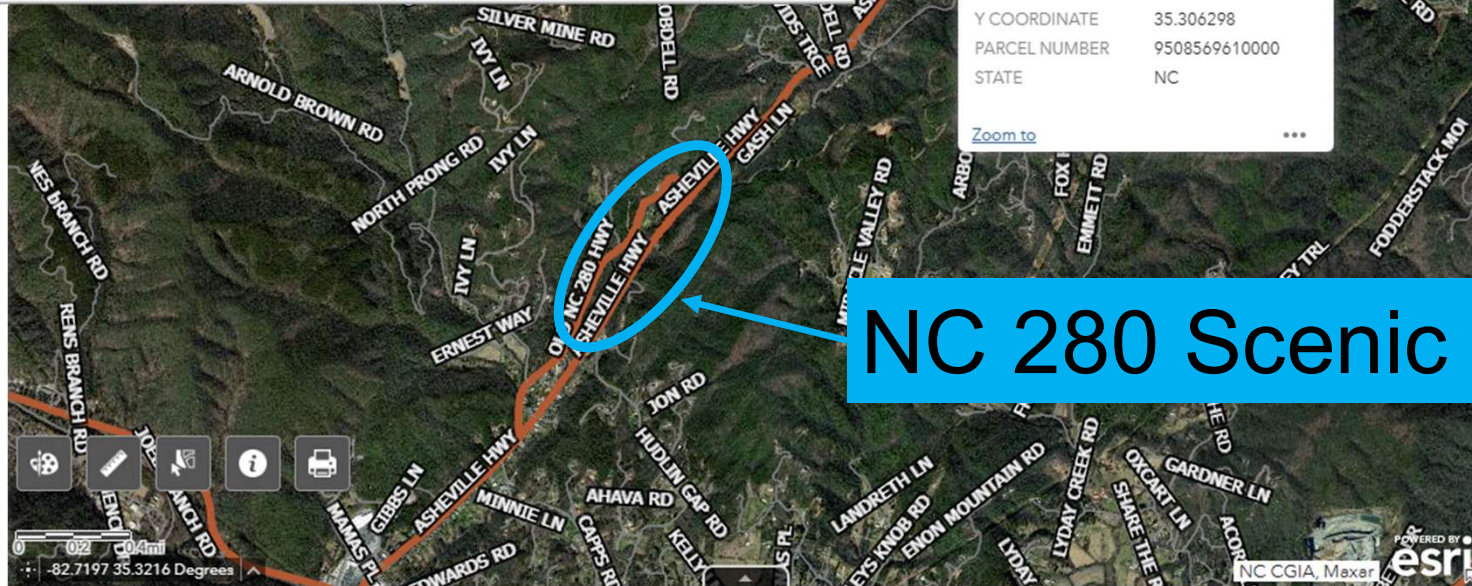
SV# 25-01 Singleton-Payne: Transylvania Scenic Corridors

## ARTICLE II

### SCENIC CORRIDORS

For purposes of establishing areas that are particularly beautiful and offer outstanding views and natural experience of our mountains, as seen and enjoyed by the public while traveling on the roads and highways in Transylvania County, the following areas are designated as Scenic Corridors:

**Little Mountain:** That portion of N.C. 280 beginning at the intersection of Hudlin Gap Road (SR 1510) and N.C. 280 and spanning to the top of Little Mountain.



**NC 280 Scenic Corridor**

**PUBLIC NOTICE – PLANNING BOARD/BOARD OF ADJUSTMENTS PUBLIC HEARING OF SIGN VARIANCE REQUEST SV 25-01**

News Release Date: August 7, 2025

The Transylvania County Planning Board/Board of Adjustment, will hold a public hearing, on Thursday, August 21, 2025, at 6:00 pm in the First Floor, Community Service Building Conference Room, 106 East Morgan Street, Brevard, North Carolina.

**SIGN VARIANCE APPLICATION SV-01**, A REQUEST BY ROBERT SINCLAIR II, PIN# 9508-56-9607-000, REQUEST FOR A VARIANCE FROM THE SIGN REGULATIONS IN AN UNZONED AREA OF TRANSYLVANIA COUNTY, LOCATED AT 5490 ASHEVILLE HIGHWAY, PISGAH FOREST, TRANSYLVANIA COUNTY, NORTH CAROLINA, 28704.

The property owner has requested a variance from the sign regulations of the Transylvania County Sign Control Ordinance. The owner would like to install an On-Premise Sign, which is not otherwise allowed according to §5.8, where an Off-Premise Sign is previously located.

Pursuant to Section §22 *VARIANCES*, notice is hereby given that the purpose of the hearing is to hear comments regarding the applicant and owner's request for a variance to allow the construction of an On-Premises sign in contrast to allowance by §5.8 (G) of the Sign Control Ordinance.

**Documents relating to this request are available for public inspection in the Planning Office, 106 E. Morgan St., Suite 207, Brevard, North Carolina, 28712. Please call (828) 884-1710 for further assistance.**

**Surrounding Owners List**

FID	OBID	PIN	OWNER	OWNER 2	ADD	CITY	ST	ZIP
3182	3161	9508-67-0072-000	KING LYNNE T		28 SHORTVIEW DRIVE	PISGAH FOREST	NC	28768
5527	5474	9508-66-5343-000	Anthony Jacqueline B	Bond June S	749 Brown Dr	Charleston	SC	29412
8998	8993	9508-57-4175-000	Shelton Cindy		5617 Asheville Hwy	Pisgah Forest	NC	28768
14334	14331	9508-56-2755-000	Ownbey Scott R Etal		PO BOX 1131	Pisgah Forest	NC	28768
16648	16606	9508-66-3903-000	Mitchell Lisa Diann		45 Shortview Dr	Pisgah Forest	NC	28768
23301	23268	9508-56-4179-000	West Jack	West Tanya	PO Box 314	Rising Star	TX	76471
28350	28333	9508-56-9607-000	MCCALL AUDIE EMORY		14 CIMMARON DR	PISGAH FOREST	NC	28768
29936	29945	9508-57-8288-000	Abernethy Elizabeth S	Abernethy Caleb A	5619 Asheville Hwy	Pisgah Forest	NC	28768
			Shane Payne		PO Box 732	Arden	NC	28740



**PUBLIC NOTICE – PLANNING BOARD/BOARD OF ADJUSTMENTS PUBLIC HEARING OF SIGN VARIANCE REQUEST SV 25-01**

News Release Date: August 26, 2025

The Transylvania County Planning Board/Board of Adjustment, will hold a special called public hearing, on Wednesday, September 17, 2025, at 6:00 pm in the Commissioners Multipurpose Chambers, 101 South Broad Street, Brevard, North Carolina.

**SIGN VARIANCE APPLICATION SV-01**, A REQUEST BY ROBERT SINGLETON II, OF LAMAR ADVERTISING, ON BEHALF OF SHAYNE PAYNE, PIN# 9508-56-9607-000, REQUEST FOR A VARIANCE FROM THE SIGN REGULATIONS IN AN UNZONED AREA OF TRANSYLVANIA COUNTY, LOCATED AT 5490 ASHEVILLE HIGHWAY, PISGAH FOREST, TRANSYLVANIA COUNTY, NORTH CAROLINA, 28704.

The property owner has requested a variance from the sign regulations of the Transylvania County Sign Control Ordinance. The owner would like to install an On-Premise Sign, which is not otherwise allowed according to §5.8, where an Off-Premise Sign is previously located.

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Site Posting of 5490 Asheville Hwy.  
Posted September 4<sup>th</sup>, 2025



B-12.1



# Public Notice

Case Number: SV# 25-01  
Sign Variance Request

Meeting Date: Wednesday  
September 17, 6PM  
101 S. Broad St.  
Brevard, NC

Transylvania County Planning

Call  
828.884.3205



B-12.2





B-12.3