

Parcel Ownership, Governmental Jurisdiction and Zoning

The parcels of land comprising the overall site for the "Creekside-Outside the Gate" site are identified as parcels 9360, 1204, 0580 and 2329 on the attached Buncombe County Map. Parcels 9360, 0580 and 2329 are owned by Mountain Retreat Association ("MRA").

1. Parcel 9360 is occupied by a long-time employee of MRA, but would be terminable upon reasonable notice if Parcel 9360 were acquired by the Town of Montreat ("Town"). Parcel 9360 lies within the bounds of the Town of Black Mountain ("Black Mountain") and according to the Black Mountain Zoning Administrator is zoned "SR2", which is suburban residential. In SR2 zoning districts, governmental facilities are permitted as a matter of right, so no zoning change or exception would be necessary were the Town to acquire Parcel 9360 and build a town hall or other public facility on the parcel. If the Town were to seek to annex Parcel 9360 into the Town, legislation in the North Carolina legislature would be necessary to "de-annex" the parcel. That would require the support of both the Town and Black Mountain. The same legislation could annex Parcel 9360 into the Town.

Parcel 9360 is subject to an Environmental Monitoring Equipment Station Easement dated as of April 16, 2007, from MRA to the City of Asheville. It is terminable by MRA on 90 days' notice to the City of Asheville.

2. Parcel 1204 is owned by the Town but also within the jurisdiction of Black Mountain. It is presently used by the Town for parking of vehicles and outside storage. Parcel 1204 is also zoned "SR2", in which governmental facilities are permitted as a matter of right. The same de-annexation/annexation procedure would apply to Parcel 1204 if the Town decided that it would be appropriate to include it within the boundaries of the Town.

3. Parcel 0580 is owned by MRA (acquired from Montreat Garden Club in 1922), and used by it for parking, landscaping and similar uses. Flat Creek also runs through a portion of it. The parcel also located in Black Mountain and zoned "SR2", in which governmental facilities are permitted as a matter of right. The same de-annexation/annexation procedure would apply to Parcel 0580 if the Town decided that it would be appropriate to include it within the boundaries of the Town.

4. Parcel 2329 is owned by MRA. Most of it is used by MRA for a maintenance facility, and a small portion of it is occupied by the Town under the Water Service Purchase Agreement dated July 31, 1981, between MRA and the Town (the "Purchase Agreement"). Paragraph 2 of the Purchase Agreement provides:

"2. Use of Additional Assets. In addition, from and after closing hereunder, Association grants Town the right to use, without remuneration from Town, the following assets for the terms hereinafter stated:

(a) The right to use the cinder block maintenance facility and property presently used by Association as a storeroom and workshop for the activities associated with the water systems being purchased and the sewer system being

transferred pursuant to this agreement, said maintenance facility being more particularly described in Exhibit "D" attached hereto, for a term of ninety-nine (99) years from and after closing or until such earlier time as Town may cease for a period of ninety (90) days, using such facility primarily associated with its maintenance and operation of said systems;"

The closing date of the purchase/transfer contemplated by the Purchase Agreement was March 1, 1982, so the right of use ends on February 28, 2082. The drawing of the facility and property designated for Town use in the Purchase Agreement is attached to this memorandum. The use of those facilities has expanded over the years, presumably with the consent of both MRA and the Town, so the limitation on the Town's use has apparently expanded to include the more general Town services in addition to the uses "primarily associated with its maintenance and operation of said systems."

A portion of Parcel 2329 is also the subject of a License Agreement dated June 12, 2006, between MRA and the Town (the "License Agreement"), pursuant to which MRA granted to the Town "an exclusive license to possess the site for the purpose of (i) constructing, using, maintaining, emptying and servicing, at the expense of Town, trash compactors, recycling bins and related equipment and (ii) constructing, repairing and maintaining a security fence around the Sanitation Equipment, a retaining wall and a concrete pad, subject to the terms and conditions set forth in this Agreement." The term of the License Agreement was five years, expiring initially on June 11, 2011, but is automatically renewed for successive five-year terms unless MRA elects to terminate and gives the Town notice of such election ninety days prior to the expiration of the then current term. The License Agreement automatically renewed for five years on June 11, 2016, and will continue for the next five-year term, ending June 11, 2021 (continuing thereafter unless MRA terminates). The drawing of the licensed facilities attached to the License Agreement is attached to this memorandum.

Parcel 2329 is not within the bounds of either the Town or Black Mountain, but rather is in Buncombe County. It could be annexed by the Town pursuant to the North Carolina annexation statutes. It is presently zoned either "R-2" or "R-LD", which either permits governmental facilities, or the present governmental facilities are grandfathered.

5. The unmarked parcel between Parcels 9360 and 1204 is Flat Creek.

6. Parcel 0407 is owned by MRA and is vacant, basically squaring up Parcels 0580 and 2329. It apparently was acquired with Parcel 0580 from the Montreat Garden Club, as such is the reference on the public records. It is also in Black Mountain and zoned "SR2". The de-annexation procedures would also apply to this parcel.

William E. Scheu
October 4, 2016

THIS SCALED DRAWING IS IN PROXIMITY TO ACTUAL DIMENSIONS. A SURVEY IS BEING MADE TO ACCURATELY PLAT THE DIVISION LINES.

SHADED AREA DESIGNATED FOR TOWN USE

SKA
JRL



