

**Town of Montreat  
Board of Adjustment  
Meeting Agenda  
April 25, 2019  
Walkup Building**

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**I. Call to Order**

- Welcome
- Invocation/Moment of Silence

**II. Agenda Adoption**

- **Suggested Motion:** To adopt the meeting agenda as presented/amended

**III. Minute Adoption**

**A. March 28, 2019 Meeting Minutes**

- **Suggested Motion:** To adopt the March 28, 2019 Meeting Minutes as presented/amended

**IV. Public Hearing**

**A. Appeal from Zoning Administrator's Determination – 322 Texas Road**

**V. Public Comment**

**VII. Adjournment**

**Town of Montreat  
Board of Adjustment  
March 28, 2019 – 7:00 p.m.  
Walkup Building**

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Board members present: AnnKelso Hewitt  
Mark Spence  
Margaret Waterstradt  
Martha Chastain  
Robert Sulaski  
Eleanor James

Town staff present: Alex Carmichael, Town Administrator  
Ron Sneed, Attorney Hired to Represent the Board  
Angie Murphy, Town Clerk  
Adrienne Isenhower, Zoning Administrator

Seventeen members of the public were present. Prior to calling the meeting to order an election of officers took place. Mrs. Hewitt moved to appoint Mark Spence as chairman of the Board of Adjustment. Martha Chastain seconded and the motion carried 5/0. Martha Chastain moved to appoint AnnKelso Hewitt as vice-chair of the Board of Adjustment. Margaret Waterstradt seconded the motion and the motion carried 5/0. Mr. Spence, as Chair, called the meeting to order at 7:05 p.m. and led those in attendance in a moment of silence.

**Agenda Approval**

Mr. Sulaski moved to amend the agenda with Item D being placed before Item A on the agenda. AnnKelso Hewitt seconded and the motion carried 6/0.

**Minutes Approval**

Mr. Sulaski moved to approve the November 29, 2018 minutes as presented. Eleanor James seconded and the motion carried 6/0.

**Public Hearing**

The first matter of business was to hear an appeal from Zoning Administrator's Determination regarding a house at 322 Texas Road. There has been a motion submitted by the applicant and her counsel to continue this appeal to the April Meeting. Mr. Sulaski moved to continue this appeal until the April 26, 2019 meeting. Eleanor James seconded and the motion carried 6/0.

The second matter of business was a Public Hearing to consider a request for a variance for construction of a deck in the side and rear yard setbacks at 223 Louisiana Road. The property is zoned R-1 Low Density Residential and is further described as PIN# 0710-76-2549.

**Swearing of Witnesses:** Ms. Murphy swore in the following individuals as witnesses:

- John “Gus” Currie
- Chris Herrin from Semper Fi Construction

**Disclosures of Conflicts of Interest or Prior Information:** Mr. Spence asked the Board members if any possible conflicts existed or if any member had any prior information or special knowledge pertaining to this matter.

**Opening of Hearing:** Chair Spence then explained the procedures that would be followed and opened the hearing.

**Presentation of Zoning Administrator:** Mrs. Isenhower presented her testimony.

**Presentation of Applicant/Proponents:** Mr. John A. L. “Gus” Currie presented his testimony.

**Presentation of Opponents:** There were no opponents.

#### **Findings of Fact**

1. The property at issue consists of a parcel of land at 223 Louisiana Road PIN#0710-76-2549-00000, which is a lot upon which is situated a single family residence. This property is zoned R-1.
2. The Property Owner is Der Gelbe Turm, LLC and is the applicant for the variance and John A.L. “Gus” Currie, a member of the owner limited liability company, submitted the application and appeared to present evidence for the applicant.
3. The Property Owner wishes to construct a deck along the side and rear of the house on the property.
4. The zoning ordinance provides that the minimum side setback or side yard for single family home properties zoned RS-1 is 15 feet and the minimum rear setback or rear yard is 20% of the mean lot depth.
5. The subject lot is 40 feet wide at the street and 67 feet wide at the rear, and the mean lot depth is approximately 143 feet.
6. The slope of the lot is 47.5%. Due to the slope of the lot, the home is accessed by way of a steep driveway. The slope also makes it difficult to create a reasonably level approach to the entryways of the house from the parking areas.

7. The Applicant proposes to build an open deck along the side and rear of the house to provide safer access to the house for older residents and guests.
8. The proposed deck will encroach in the side and rear setback areas.
9. Due to the narrow lot, the existing house, which was not built by the Applicant, is also narrow but uses up all the space within the side and rear setbacks.
10. This placement of the house creates a hardship in that it is impossible to create less steep and safer access to the house without encroaching into the setback area.
11. Unnecessary hardship would result from the strict application of the ordinance as it would prohibit the creation of safer access to the house from the driveway and parking area.
12. The hardship is peculiar to the property, as the lot is narrow and steep, which required that even the narrow house that was built to be built out to the setback lines, causing the driveway and any pedestrian access to the house to be steep and limiting what the Property Owner can do to create safer access to the house.
13. The hardship did not result from actions taken by the Property Owner as the house was already constructed in its present location when the property was purchased by the present owner.
14. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved, since the variance will allow the Property Owner to create a more safe access to the house.

### **Conclusions of Law**

The Board of Adjustment made the following Conclusions of Law based on the Findings of Fact:

1. The Variance Request should be granted, and the Applicant should be allowed to construct a deck that encroaches into the side and rear yard setbacks.
2. The Property Owner/Applicant provided competent, material and substantial evidence to establish that:
  - a. an unnecessary hardship would result from the strict application of Zoning Ordinance Sections 701.8 and 701.9 to the Property

- b. the hardship results from conditions that are peculiar to the Property
- c. the hardship did not result from actions taken by the Property Owner
- d. the requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Based on the above Findings of Fact and Conclusions of Law, the Montreat Board of Adjustment, by a vote of 6 to 0, hereby grants the Variance Request.

The third matter of business was to consider a variance request for placement of an outbuilding in the setback of the creek bank at 513 Greybeard Trail. The property is zoned R-1 Low Density Residential and is further described as PIN#0720-08-4745.

**Swearing of Witnesses:** Ms. Murphy swore in the following individuals as witnesses:

- Margo Smith

**Disclosures of Conflicts of Interest or Prior Information:** Mr. Spence asked the Board members if any possible conflicts existed or if any member had any prior information or special knowledge pertaining to this matter.

**Opening of Hearing:** Chair Spence then explained the procedures that would be followed and opened the hearing.

**Presentation of Zoning Administrator:** Mrs. Isenhower presented her testimony.

**Presentation of Applicant/Proponents:** Mrs. Smith presented her testimony.

**Presentation of Opponents:** There were no opponents.

### **Findings of Fact**

1. The property at issue consists of a parcel of land at 513 Greybeard Trail PIN#0720-08-4745, which is a lot upon which is situated a single family residence. This property is zoned R-1.
2. The Property Owner is Margo K. Smith and she is the Applicant for this variance who submitted the application and appeared to present evidence.
3. There is an intermittent stream that runs through the middle of the property, greatly limiting the buildable area of the lot.

4. The Property Owner has constructed an accessory building on the property which is within the 30 feet stream buffer required by Chapter K, Article III, Section 305 of the General Ordinances of the Town of Montreat. The placement of the building was inadvertently constructed 17 feet from the top of the stream bank.
5. If the accessory building was built 30 feet from the top of the stream bank, it would be situated in the driveway.
6. The shape, size and slope of the lot together with the location of the stream make it impossible to relocate the structure without obstructing the driveway or to relocate the driveway to allow room for the structure.
7. If the driveway is abandoned or obstructed, there would be no access to the parking area on the property, forcing parking to be on Greybeard Trail and obstructing the public street while forcing residents and guests to walk over steep terrain to the house.
8. The accessory building is constructed on piers and elevated so that the flow of surface water is not disrupted.
9. Unnecessary hardship would result from the strict application of the ordinance as it would inhibit safe access from the public street to the house by blocking the driveway that provides safer access to house and allows off street parking.
10. The hardship is peculiar to the property as the presence of the stream restricts the usable area of the lot and leaves limited space for the driveway and any additional structures that might otherwise be allowed.
11. The hardship did not result from actions taken by the Property Owner as the stream and lot configuration existed when the owner acquired the property.
12. The requested variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved, since the variance will allow the Property Owner to maintain safe access to the house, provide off street parking to help keep the public right of way clear of parked cars and allow the Property Owner to have an accessory building for lawn equipment storage as all other property owners in the zoning district are allowed to have.

**Conclusions of Law**

1. The Variance Request should be granted, and the Applicant should be allowed to maintain the accessory building that located 17 feet from the top of the bank of the intermittent stream on the property.
  
2. The Property Owner/Applicant provided competent, material and substantial evidence to establish that:
  - a. an unnecessary hardship would result from the strict application of Chapter K, Article III, Section 305 of the General Ordinances of the Town of Montreat
  
  - b. the hardship results from conditions that are peculiar to the Property
  
  - c. the hardship did not result from actions taken by the Property Owner
  
  - d. the requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved..

Based on the above information the Montreat Board of Adjustment voted 6 to 0 and hereby grants the Variance Request.

The fourth matter of business was to consider a variance request for placement of an outbuilding in the front and side yard setbacks at 218 Tennessee Road. The property is zoned R-2 Low Density Residential and is further described as PIN#0710-85-4648.

**Swearing of Witnesses:** Ms. Murphy swore in the following individuals as witnesses:

- Tom Widmer
- Bill Solomon

**Disclosures of Conflicts of Interest or Prior Information:** Mr. Spence asked the Board members if any possible conflicts existed or if any member had any prior information or special knowledge pertaining to this matter.

**Opening of Hearing:** Chair Spence then explained the procedures that would be followed and opened the hearing.

**Presentation of Zoning Administrator:** Mrs. Isenhower presented her testimony.

**Presentation of Applicant/Proponents:** Mr. Widmer presented her testimony.

**Presentation of Opponents:** There were no opponents.

**Findings of Fact**

1. The property at issue consists of a parcel of land at 218 Tennessee Road PIN# 0710-85-4648-00000, which is a lot upon which is situated a single family residence. This property is zoned R-2.
2. The Property Owners are Thomas G. Widmer and Kathleen M. Widmer and they are the applicants for this variance. Thomas Widmer submitted the application and appeared to present evidence.
3. The property fronts on both Tennessee Road and Assembly Drive, and as a double frontage lot must comply with Section 614 of the Zoning Ordinances of the Town of Montreat, which requires that the front setback requirement must be met on both street sides of the lot.
4. The lot is approximately 62 feet wide and 182 feet deep.
5. The front setback requirement in the R-2 zoning district is 30 feet and the side setback requirement is 10 feet.
6. The Applicants desire to construct a 132 square foot accessory building on the lot.
7. The front and rear setbacks of 30 feet limit the building area.
8. Four off street parking spaces are required because of the number of bedrooms.
9. Accessory buildings are typically located behind the house in the area restricted only by the usually lesser rear setback requirement, but there is no such "back yard" for this property.
10. Primary access to the property is from Tennessee Road, and that access leads to the required off street parking on the property.
11. If the accessory structure is built on the Tennessee Road side of the property, it can be set back far enough not to encroach over the setback line, but it would have to be in the area where off street parking now exists. If the accessory building is located and built so as to be in compliance, the property will be out of compliance with the parking requirement.
12. The planned location of the lot and the use of materials and colors to match the residence on the property will not create an unappealing look or the appearance of being out of place. If



the structure is located partially in the side setback, it will not have the appearance of being in front of the house.

13. Unnecessary hardship would result from strict application of the ordinance as an accessory structure cannot be placed on the property at a location that will be in compliance with setback requirements without making the property out of compliance with other requirements.

14. The hardship is peculiar to the property due to the narrowness of the lot and the double frontage on public streets.

15. The hardship did not result from actions taken by the Property Owner as lot width and double frontage existed when the owner acquired the property.

16. The requested variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved, since the variance will allow the Property Owner to have an accessory structure and the proposed accessory structure will not detract from the look of the property or the or the neighborhood.

#### **Conclusions of Law**

1. The Variance Request should be granted, and the Applicant should be allowed to construct an accessory building that encroaches within the front setback on the Assembly Drive side of the property and into the side setback.

2. The Property Owners provided competent, material and substantial evidence to establish that:

a. an unnecessary hardship would result from the strict application of Sections 702.7 and 702.8 of the Zoning Ordinances of the Town of Montreat.

b. the hardship results from conditions that are peculiar to the Property

c. the hardship did not result from actions taken by the Property Owner

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

Based on the Findings of Fact and Conclusions of Law the Montreat Board of Adjustment, by a vote of 6 to 0, hereby grants the Variance Request.

**Public Comment**

There were no Public Comments at this time.

**Adjournment**

There being no further business to discuss, Mr. Spence declared the meeting adjourned at 7:59 p.m.

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Mark Spence, Chair

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Angie Murphy, Town Clerk



## TOWN OF MONTREAT

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P. O. Box 423  
Montreat, NC 28757  
Tel: (828)669-8002 Fax: (828)669-3810  
[www.townofmontreat.org](http://www.townofmontreat.org)

### MEMORANDUM

To: Board of Adjustment

From: Adrienne Isenhower, Zoning Administrator

Re: Appeal from Zoning Official's Determination – 322 Texas Road

Date: April 18, 2019

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An Application for Appeal from the Zoning Administrator's Determination was submitted to the Town Clerk on February 22, 2019 for construction taking place at 322 Texas Road. The appeal was submitted by Ms. Laura Wolfe, property owner at 324 Texas Road. The Town Attorney has entered a Motion to Dismiss included in your packet for review. Also included in this packet for your review are the following documents:

- Application for Appeal
- Building Permit Application and Approval
- Zoning Permit Application and Approval
- Hillside Development Permit Application and Approval
- Geotechnical Engineering Report
- Foundation Certifications
- Site Plan and Supporting Documents

In matters under appeal, the Town is required to retain a separate attorney to represent the Board of Adjustment. Mr. Ron Sneed has agreed to take on this role and will be present at the meeting to lead you through the process and discussion.

TOWN OF MONTREAT

ZONING AND INSPECTIONS DEPARTMENT  
P. O. Box 423  
Montreat, NC 28757  
Tel: (828)669-8002, ext. 303  
Fax: (828)669-3810  
www.townofmontreat.org

APPLICATION FOR APPEAL FROM ZONING ADMINISTRATOR'S DETERMINATION

Appellant Name: Laura Wolfe Date: 02/22/2019  
Mailing Address: P.O. Box 1316  
City: Montreat State: NC ZIP: 28757  
Appellant's Phone: 336-830-2937 E-mail: lauramwolfemd@gmail.com

Property Owner Name: Daniel L Scheer & Caroline H Scheer  
Mailing Address: 4704 Stoney Trace  
City: Tallahassee State: FL ZIP: 32309  
Owner's Phone: 850-443-6210 E-mail: Dscheer4@gmail.com  
Relationship of Property Owner to Appellant: Neighbor

Property Location: 322 Texas Road, Montreat, N.C. 28757  
Existing Use of Property: Vacant Lot/Single Family Residence  
PIN #: 0710-95-7918-00000 Zoning District: R-2

Date of Zoning Administrator's Decision: 09/25/2018

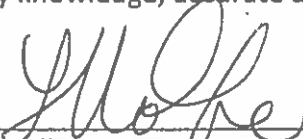
Summary of Zoning Administrator's Determination: \_\_\_\_\_  
Approval of Zoning Compliance Application and Certificate and Hillside Development  
Development Application and Certificate

Town of Montreat Zoning Ordinance, Article See Attached - Section See Attached

Reason(s) for Appeal Request: \_\_\_\_\_  
See Attached.

**CERTIFICATIONS**

A. I hereby certify that all of the information provided for this application is, to the best of my knowledge, accurate and complete.

  
\_\_\_\_\_  
Appellant Signature

  
\_\_\_\_\_  
Date

B. I, \_\_\_\_\_, Owner of property located at \_\_\_\_\_, Montreat, North Carolina do hereby authorize \_\_\_\_\_ (Appellant's Name) to submit this Application for Appeal from the Zoning Administrator's Determination on my behalf.

\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Date

**TO BE COMPLETED BY ZONING ADMINISTRATOR**

To the best of my knowledge, this application is accepted and deemed complete.

\_\_\_\_\_  
Zoning Administrator Signature

\_\_\_\_\_  
Date

Date of Last Meeting/Conversation with Appellant: \_\_\_\_\_

Details and Notes Concerning the Decision:

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**ATTACHMENT TO APPEAL FROM ZONING DETERMINATION**  
**(322 Texas Road, Montreat, N.C. 28757; PIN# 0710-95-7918-00000)**

1. Who rendered the decision? Adrienne Isenhour, Zoning Administrator Town of Montreat

2. Reasons For Appeal Request?

On September 25, 2018, the Zoning Administrator for the Town of Montreat certified that the proposed development plans for 322 Texas Road, Montreat, N.C. 28757, PIN# 0710-95-7918-00000 (the "Property") were in full compliance with the Town's Zoning Code and Hillside Development Ordinance. The certificates were incorrectly issued and ignored numerous violations of the Town's Zoning Code and Hillside Development Ordinances within the proposed plans.

3. Date of Decision: September 25, 2018

4. Date that Applicant received the decision: February 11, 2019

5. What section(s) of the ordinance or guidelines supports your interpretation?

Sections 602.4, 606, 616.12(2), 619, 702.41, 702.5, 702.6, 702.81, 702.11, 901(D), 901(G), 902, 905, and 1400 of the Zoning Code and Paragraphs 4(a), 4(d), and 4(e) of the Hillside Development Ordinance.

6. Explain the basis for your standing to pursue this appeal and why you think that the Zoning Administrator's decision was incorrect? Other comments/information that you would like to have considered:

Ms. Wolfe has standing to pursue this appeal pursuant to N.C. Gen. Stat. § 160A-388(b1)(1) and § 160A-393(d) because: (1) Ms. Wolfe holds an interest created by easement, restriction, or covenant in the Property, and (2) Ms. Wolfe has suffered special damages as a result of the decision. Additionally, Section 604 of the Zoning Code provides Ms. Wolfe with standing because she would suffer damages as a result of the construction that has occurred on the Property in contravention of the Zoning and Hillside Development Ordinances requirements.

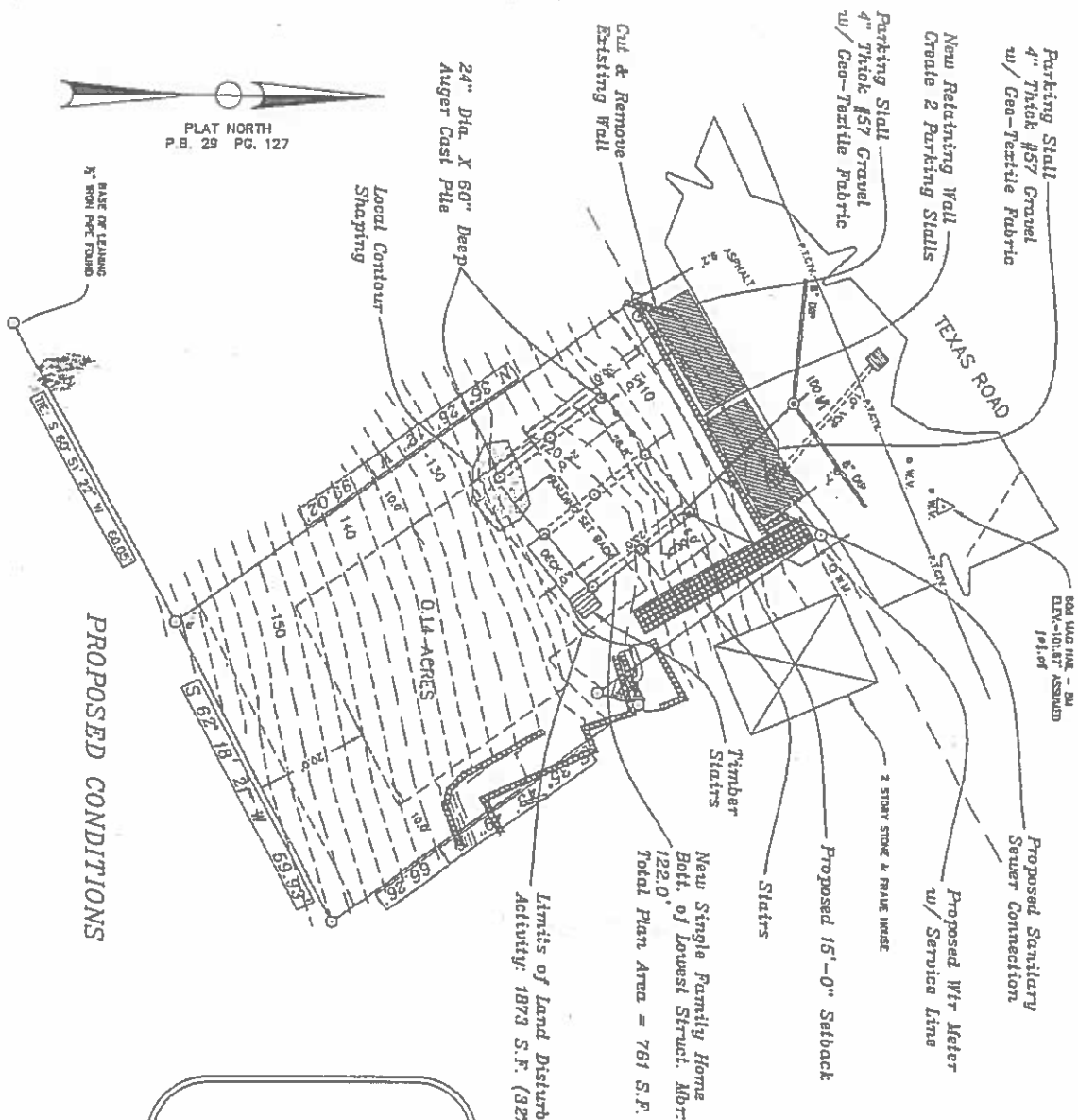
Specific special damages suffered by Ms. Wolfe include, but are not limited to: (1) a loss in the property value of her adjoining lots at 324 Texas Road, Montreat, North Carolina, due to (a) the construction of structures within the minimum setback areas on the Property, (b) the construction of unpermitted parking, and (c) the builder's failure to construct the neighboring home in conformity with the geotechnical assessment required under the Hillside Ordinance; (2) increased water runoff due to (a) excessive grading, and (b) the construction of the improperly developed and approved structure on the Property; (3) increased safety concerns regarding steep

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slope instability due to the construction of a neighboring home less than 20 feet from Ms. Wolfe's residence without the recommended structural components included in the geotechnical assessment provided to the Town.

The Zoning Administrator's issuance of the Zoning and Hillside Development Certificates incorrectly certified the proposed development's compliance with the Town's Zoning and Hillside Development Ordinances requirements. The proposed development's zoning violations include, but are not limited to: (1) the proposed development being located on a non-conforming vacant lot that does not meet the minimum requirements (square footage, lot width, length, front yard, side yard, and off-street parking) for the zoning district in which the lot is located and, as a result required a variance from the Board of Adjustment; (2) the proposed development does not comply with the Zoning Ordinances minimum setback and front yard requirements; (3) the proposed development's requested reduction in the minimum front-yard requirements are not permitted under Sections 619 and 1440 of the Zoning Ordinance; (4) even if the minimum front-yard requirement could be reduced under the Hillside Development Ordinance, which they cannot, they Property Owner did not receive the requisite Town approvals in writing from both the Zoning and Town Administrator as required under the Hillside Development Ordinance; (5) the proposed development plan expressly shows the construction of structures within the minimum side yard setback on the Property; (6) the proposed plan proposes the construction of parking within the public right-of-way on Texas Road in violation of Section 901(D) of the Zoning Code; (7) the proposed parking is within 8 feet of the traveled portion of Texas Road in violation of Section 901(G) of the Zoning Code; (8) the proposed parking lacks an 8 foot buffer with landscaping as required by Section 901(G) of the Zoning Code; (9) the proposed parking uses portions of public streets for parking in violation of Section 905 of the Zoning Code; (10) the proposed parking is parallel parking located on Property zoned R-2 which, pursuant to Section 905(A), is only permitted in areas zoned I or IR; (11) it appears that the grading proposed and performed on the Property exceeds the amount permitted under Paragraph 4(a) of the Hillside Ordinance; and (12) grading was approved and performed outside of the approved grading area indicated on the proposed development plan in violation of Paragraph 4(e) of the Hillside Development Ordinance.





PROPOSED CONDITIONS

PLAT NORTH  
P.B. 29 PG. 127

BASE OF LEANING  
N° IRON PILE FOUND

FOR:  
**DANIEL L. SCHEER**

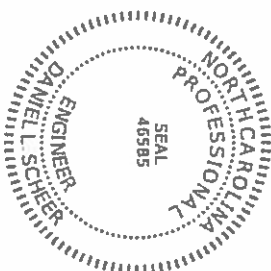
PIN LOT: 0710-86-7918

TOWN OF MONTREAT, BUNCOMBE CO., N.C.  
REF: D.B. 1731, PG. 381; P.B. 29, PG. 127

SCALE: 1" = 20'

**LEGEND**

- 5/8 IN. REBAR W/CAP SET UNLESS OTHERWISE NOTED
- POWER LINE
- TELEPHONE LINE
- CABLE TELEVISION LINE
- WATER VALVE
- WATER METER
- CORRUGATED METAL PIPE
- DUCTILE IRON PIPE
- ROCK WALL / STAIRS



Digitally signed by Daniel L. Scheer  
DN: CN = daniel.scheer@col.state.nc.us  
Date: 2018.08.08 15:35:39 -0400

- Stairs:
- 1) Max Rise is 7.5"
  - 2) Min Run is 11"

Daniel L. Scheer 222 Texas Rd Schreer - Montreat 9/15/2018 1" = 20'	PIN LOT: 0710-86-7918 REF: D.B. 1731, PG. 381; P.B. 29, PG. 127	FOR: <b>DANIEL L. SCHEER</b>	SCALE: 1" = 20'	S1
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3

Doc ID: 03189460003 Type: CRP  
 Recorded: 08/10/2018 at 08:13:20 AM  
 Fee Amt: \$26.00 Page 1 of 3  
 Revenue Tax: \$0.00  
 Workflow# 0000481686-0001  
 Buncombe County, NC  
 Drew Reisinger Register of Deeds  
 BK 5691 pg 1388-1390

sf

Excise Tax \$0.00	Recording Time, Book and Page
Tax Map No.	Parcel Identifier No.

✓ Mail after recording to Barrett W. McFatter, Atty., Stone and Christy, P.A., Box 52  
 This instrument was prepared by Barrett W. McFatter, Attorney, a licensed North Carolina attorney. Delinquent taxes, if any, are to be paid by the closing attorney, to the county tax collector upon disbursement of closing proceeds.

**NORTH CAROLINA  
 GENERAL WARRANTY DEED**

THIS DEED made this 7<sup>th</sup> day of August, 2018, by and between

**GRANTOR**  
 DANIEL L. SCHEER and wife, CAROLINE H. SCHEER  
 4704 Stoney Trace  
 Tallahassee, FL 32312

**GRANTEE**  
 DANIEL L. SCHEER and wife, CAROLINE H. SCHEER  
 4704 Stoney Trace  
 Tallahassee, FL 32312

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Town of Montreat, Black Mountain Township, Buncombe County, North Carolina, and more particularly described as follows:

SEE ATTACHED DESCRIPTION

All or a portion of the property herein conveyed \_\_\_ includes or X does not include the primary residence of a Grantor.

2

The property hereinabove described was acquired by Grantor by instrument recorded in Book 4818, Page 1715.

A map showing the above described property is recorded in Plat Book \_\_, Page \_\_.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomever except for the exceptions hereinafter stated.

Title to the property hereinabove described is hereby conveyed subject to all valid and subsisting restrictions, reservations, covenants, conditions, rights of ways and easements properly of record, if any, ad valorem taxes for the current year and subsequent years, and any local, county, state, or federal laws, ordinances, or regulations relating to zoning, environment, subdivision, occupancy, use, construction, or development of the subject property, including existing violations of said laws, ordinances, or regulations.

IN WITNESS WHEREOF, the Grantors have herenunto set their hands and seals, or, if corporate, has caused this Deed to be executed by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

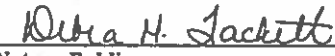
  
 \_\_\_\_\_ (SEAL)  
 DANIEL L. SCHEER

  
 \_\_\_\_\_ (SEAL)  
 CAROLINE H. SCHEER

STATE OF FLORIDA  
 COUNTY OF Leon

Personally appeared before me this day the said DANIEL L. SCHEER and wife, CAROLINE H. SCHEER, known to me personally or who produced satisfactory evidence of his or her identity in the form of a driver's license, and who acknowledged that they voluntarily executed the foregoing instrument for the purposes stated therein this the 7<sup>th</sup> day of August, 2018.

My Commission Expires:  
9/13/2020

  
 Notary Public



**Description of property for transfer from DANIEL L. SCHEER and wife, CAROLINE H. SCHEER to  
DANIEL L. SCHEER and wife, CAROLINE H. SCHEER**

**BEGINNING** at the northwest corner of Lot 513E in the Town of Montreat, common corner of property owned by Flynn E. Menius as described in Deed Book 2043, Page 256, Buncombe County Registry; and runs thence along with Texas Road North 51 degrees 35 minutes 08 seconds East 53.08 feet to an iron pipe found; thence South 35 degrees 40 minutes 00 seconds East 48.31 feet to an iron pipe found; thence North 15 degrees 27 minutes 15 seconds East 7.49 feet to a plastic cap found; thence South 35 degrees 43 minutes 49 seconds East 66.26 feet to an iron pipe found; thence South 62 degrees 18 minutes 21 seconds West 59.93 feet to an iron bar found; thence along with the Menius line North 35 degrees 25 minutes 12 seconds West 99.02 feet to the point of **BEGINNING**, being all of Lot 513E containing 0.14 acres, more or less, as described on a survey prepared by W. Dennis Campbell III, P.L.S. entitled "Survey for Daniel L. Scheer" Job No. 10-096-E, dated September 9, 2010, and further identified as Tax PIN 0710-95-7918.00000.

**SUBJECT TO Zoning Ordinances for The Town of Montreat, easements, restrictions and rights of way of record.**

**BEING** the same property conveyed by deed from Rebecca Lynn Smith to Daniel L. Scheer, recorded in Deed Book 4818, Page 1715, aforesaid registry.

**The purpose of this deed is to vest the property as Tenants by the Entireties.**

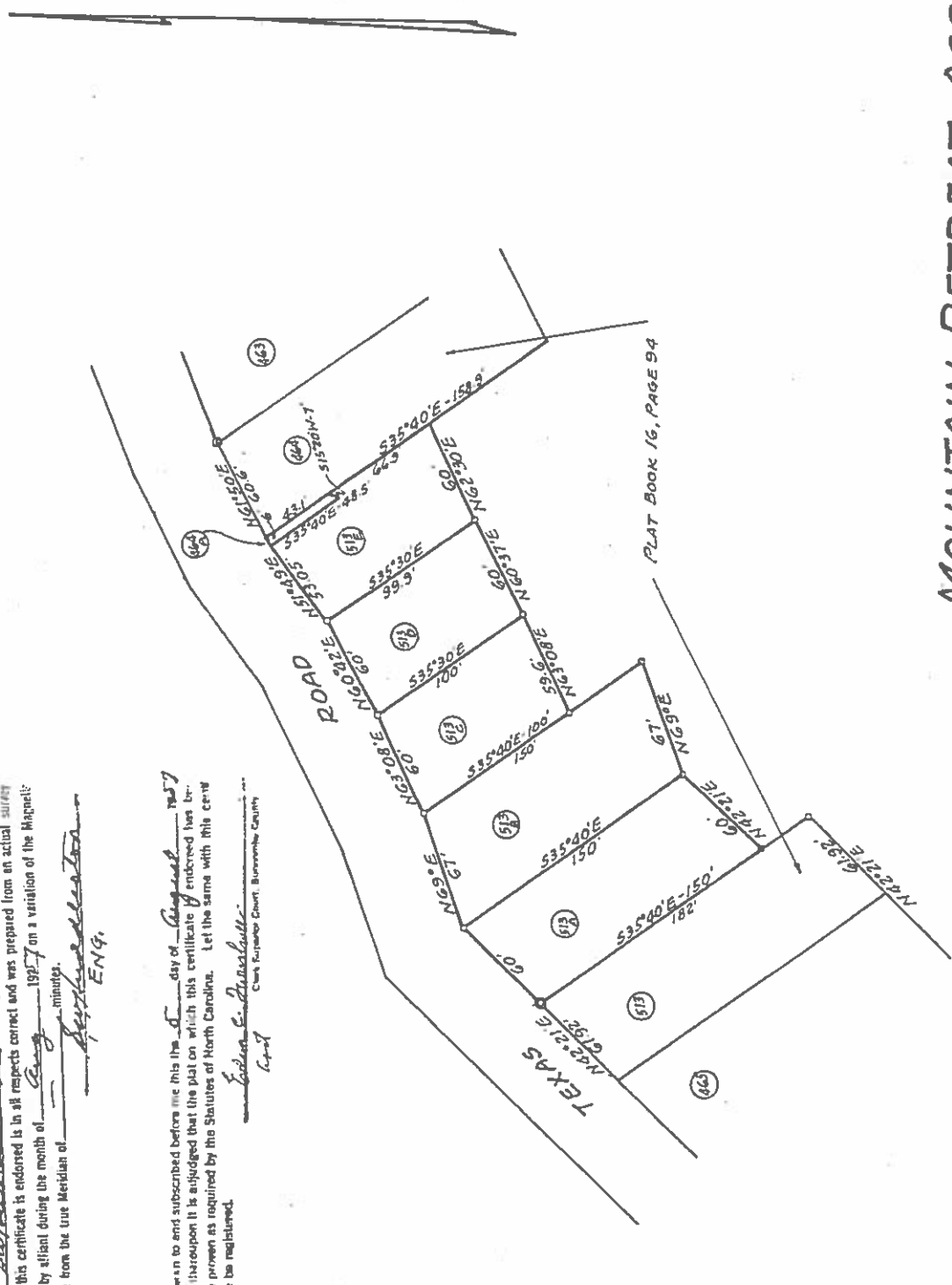
29-127

P.B. 23, Pg. 127

STATE OF NORTH CAROLINA  
County of Buncombe

being first duly sworn says that the plat on which this certificate is endorsed is in all respects correct and was prepared from an actual survey made by himself during the month of August 1957 on a variation of the Magnetic Decline from the true Meridian of \_\_\_\_\_ minutes.  
*Arthur H. Johnston*  
ENG.

Sworn to and subscribed before me this \_\_\_\_\_ day of August 1957 and in presence of \_\_\_\_\_ I certify that the plat on which this certificate is endorsed has been duly prepared as required by the Statutes of North Carolina. Let the same with this certificate be registered.  
*Edwin E. Drussholtz*  
Clerk, Register Court, Buncombe County



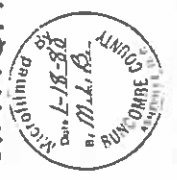
PLAT BOOK 16, PAGE 94

# MOUNTAIN RETREAT ASSOCIATION

BUNCOMBE CO. N. C.

AUGUST 2, 1957 SCALE 1"=50'

*Arthur H. Johnston* ENG.



Common: Notes	
No.	Revisions/Notes

Project Name and Address	
Schaefer - Montreat 322 Tezala Rd	

Sheet	
Schaefer - Montreat	
Date	3/15/2018
Scale	1" = 20'

Stairs:  
 1) Max Rise is 7.5"  
 2) Min Run is 11"



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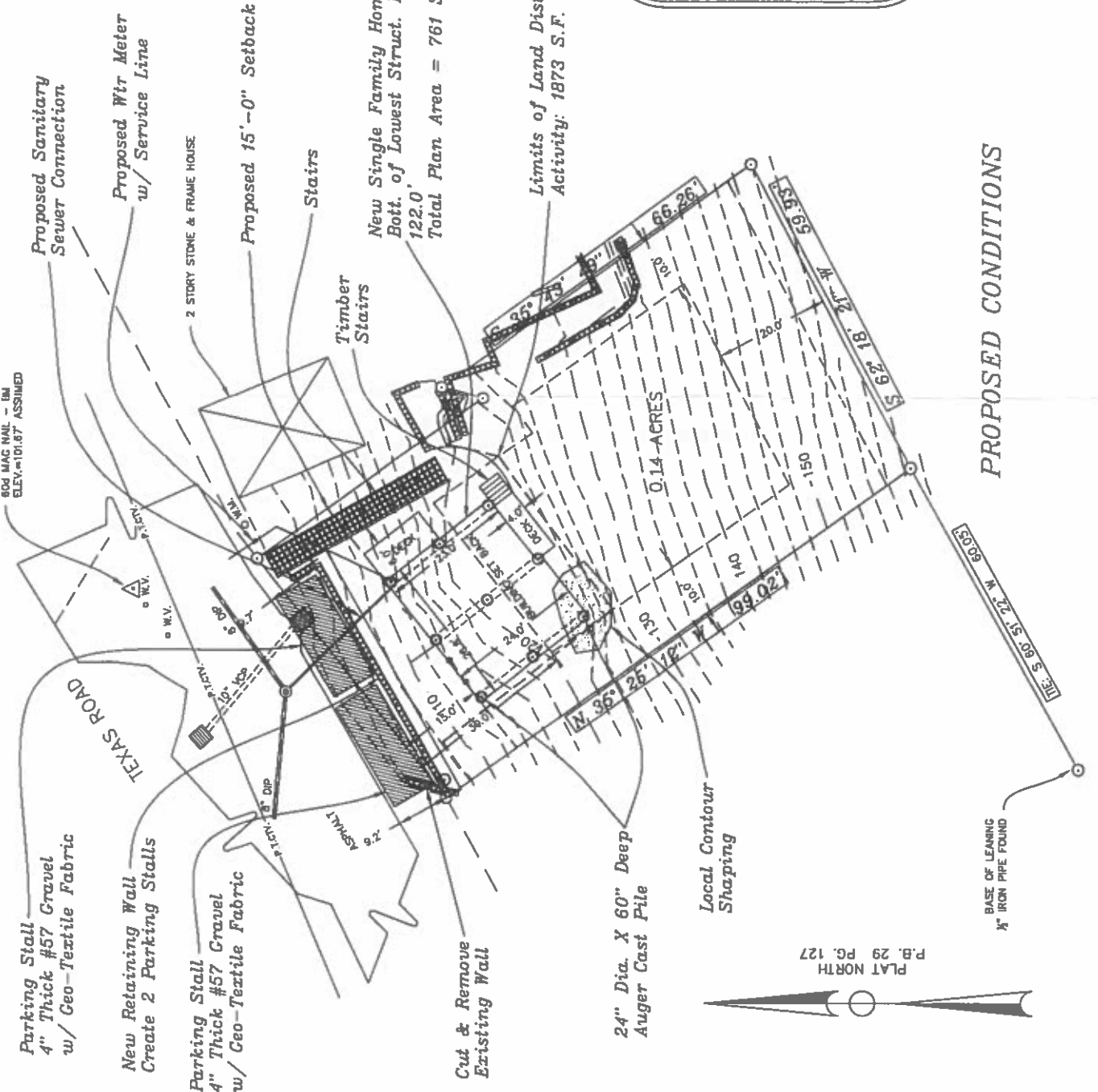
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- T TELEPHONE LINE
- CTV CABLE TELEVISION LINE
- TR TELEPHONE RISER
- WV WATER VALVE
- WM WATER METER
- VCP CORRUGATED METAL PIPE
- DIP DUCTILE IRON PIPE
- ROCK WALL / STAIRS

FOR:  
**DANIEL L. SCHEER**  
 PIN LOT: 0710-95-7918  
 TOWN OF MONTREAT, BUNCOMBE CO., N.C.  
 REF: D.B. 1731, PG. 381; P.B. 29, PG. 127

SCALE: 1" = 20'

20' 0' 20' 40' 60'



PROPOSED CONDITIONS



General Notes  
*Dan Caldwell*  
 777-403J

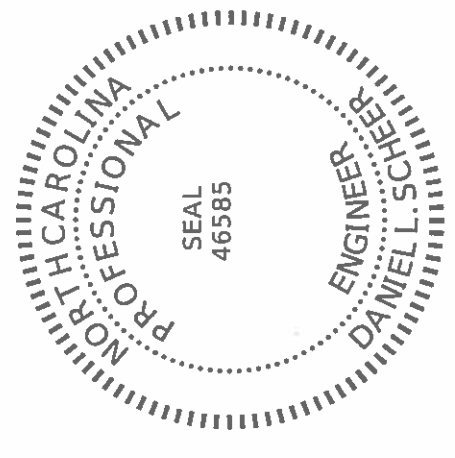
No.	Revision/Issue	Date

Project Name and Address  
 Scheer - Montreat  
 322 Texas Rd

Project  
 Scheer - Montreat  
 Date  
 3/15/2018  
 Scale  
 1" = 20'

S1

Stairs:  
 1) Max Rise is 7.5"  
 2) Min Run is 11"



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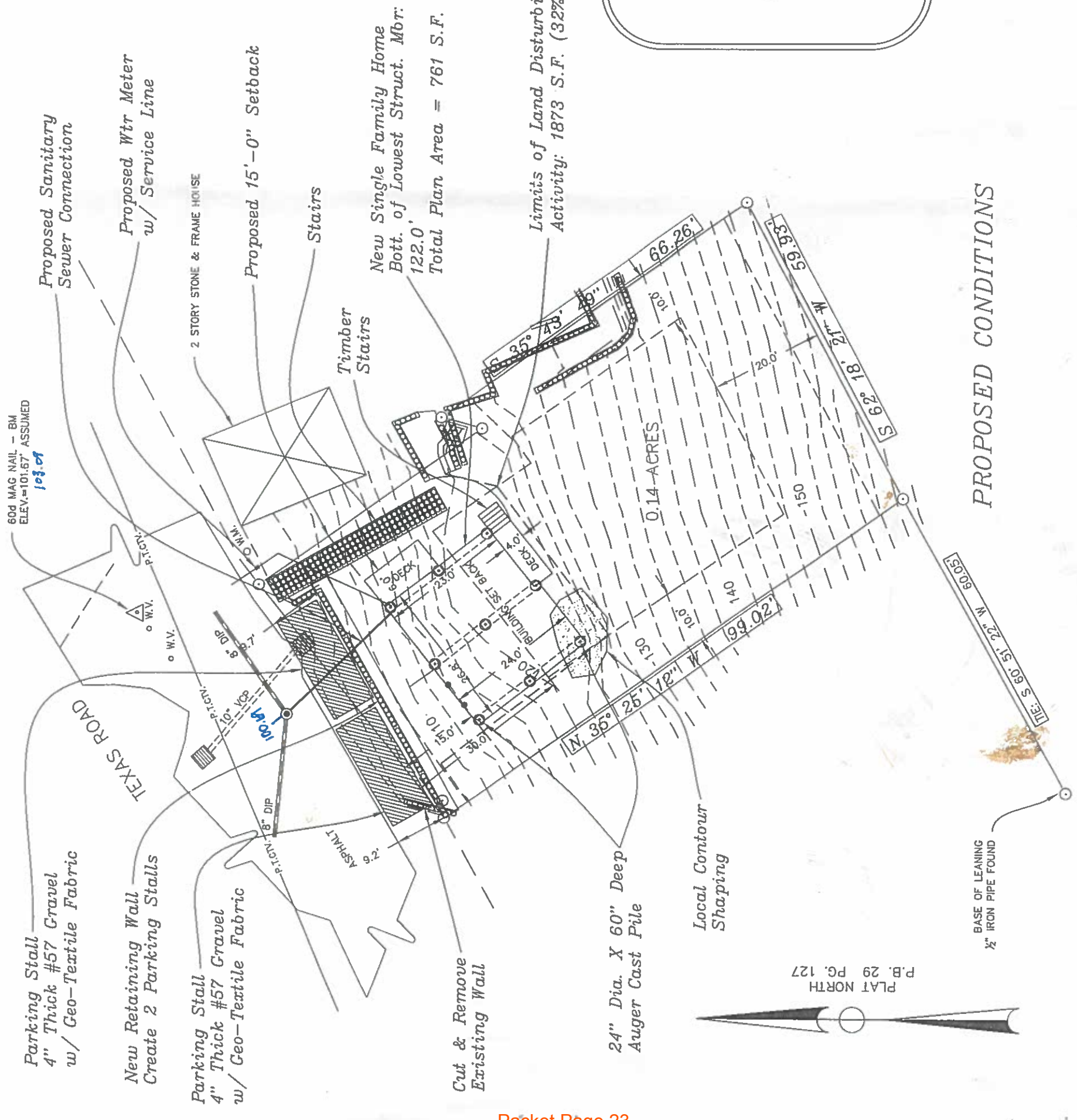
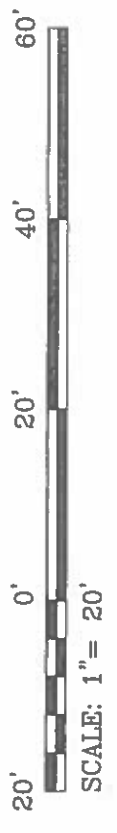
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- TR TELEPHONE RISER
- WV WATER VALVE
- WM WATER METER
- VCP CORRUGATED METAL PIPE
- DIP DUCTILE IRON PIPE
- ROCK WALL / STAIRS

FOR:  
**DANIEL L. SCHEER**

PIN LOT: 0710-95-7918

TOWN OF MONTREAT, BUNCOMBE CO., N.C.  
 REF: D.B. 1731, PG. 381; P.B. 29, PG. 127



**PROPOSED CONDITIONS**

General Notes

No.	Revisions/Issue	Date

Project Name and Address

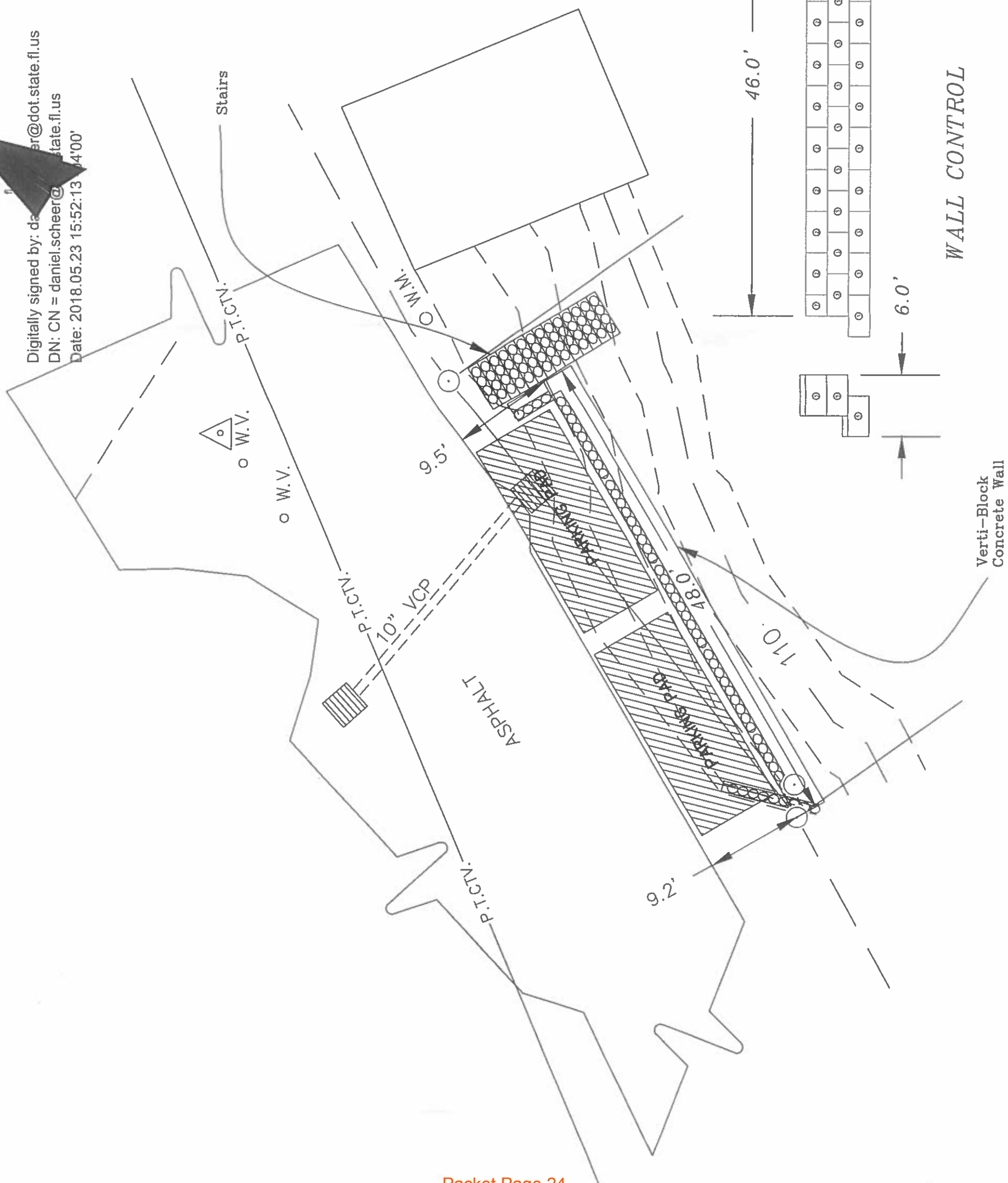
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 322 Texas Rd

Sheet  
 Scheer - Montreat  
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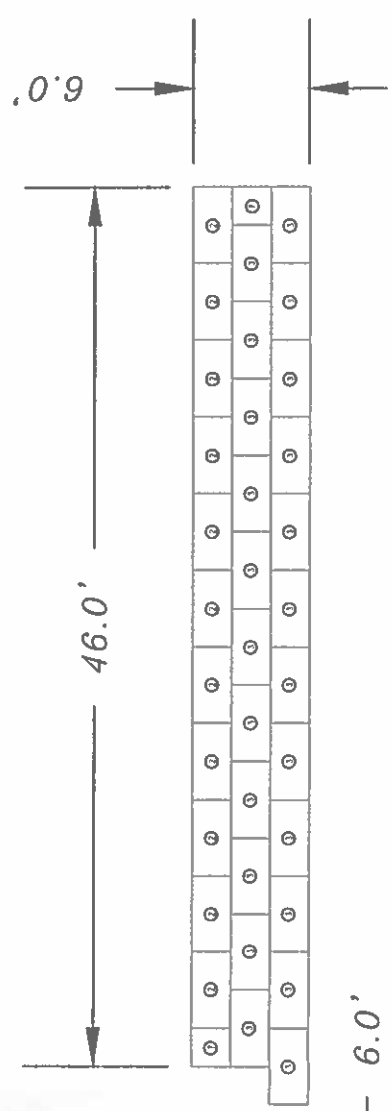
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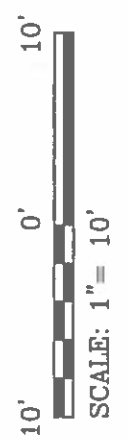


PLAT NORTH  
 P.B. 29 PG. 127



WALL CONTROL

Verti-Block  
 Concrete Wall





General Notes	
No.	Revision/Issue
	Date

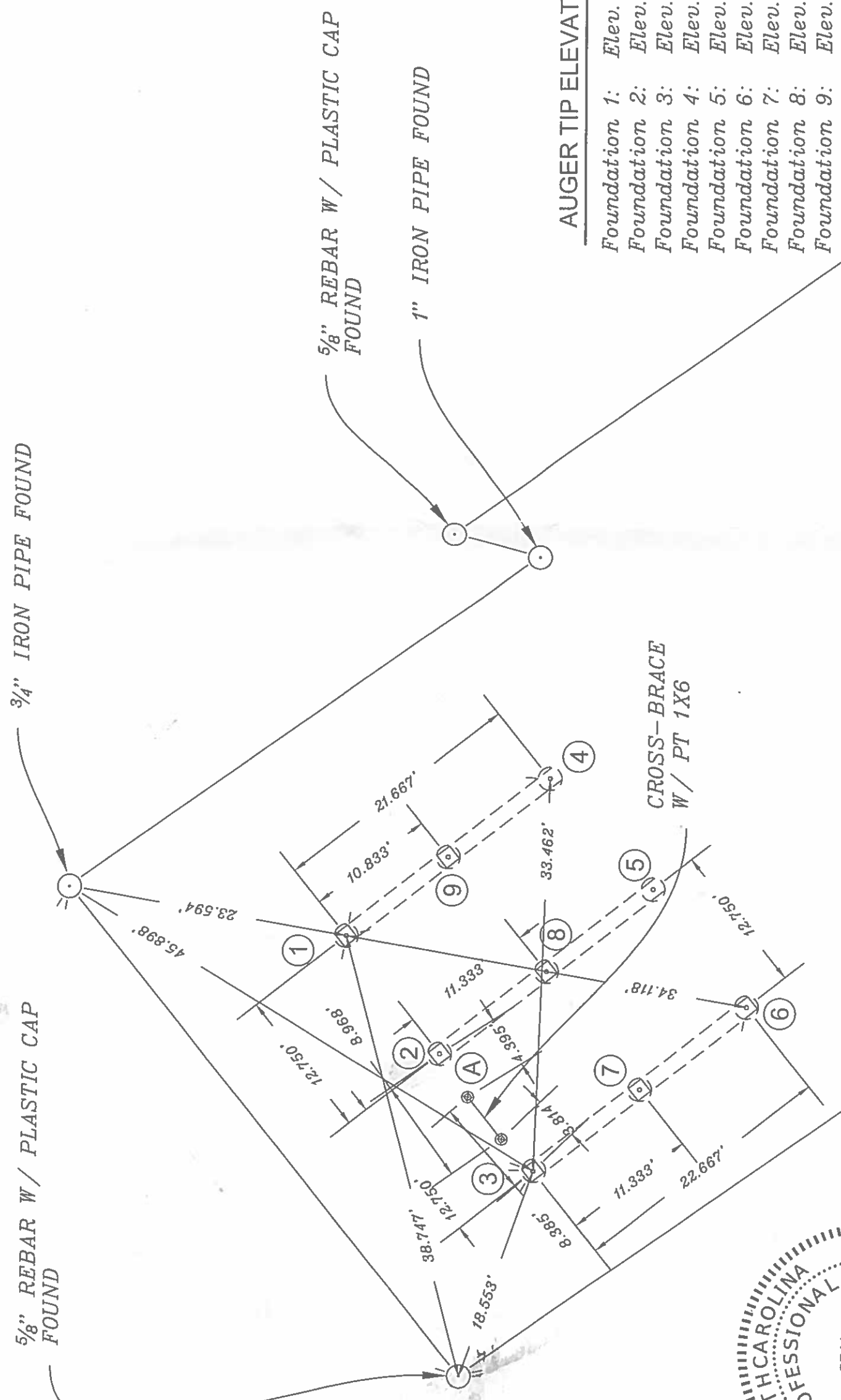
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Project Name and Address  
Scheer - Montreat  
322 Texas Rd

Project  
Scheer - Montreat  
Date  
9/15/2018  
Scale  
1" = 10'

F1

PLAT NORTH  
P.B. 29 PG. 127

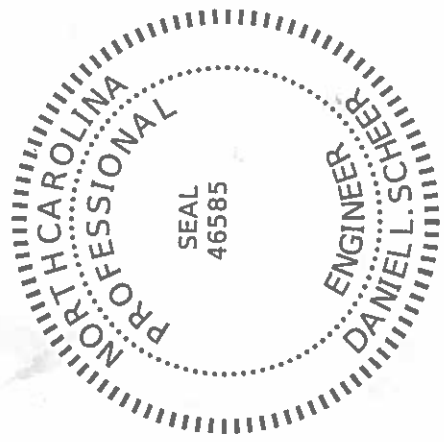


**AUGER TIP ELEVATIONS:**

- Foundation 1: Elev. 105.66'
- Foundation 2: Elev. 109.0'
- Foundation 3: Elev. 109.0'
- Foundation 4: Elev. 117.0'
- Foundation 5: Elev. 117.0'
- Foundation 6: Elev. 117.0'
- Foundation 7: Elev. 115.0'
- Foundation 8: Elev. 115.0'
- Foundation 9: Elev. 115.0'

**TOP FOUNDATION ELEVATIONS:**

- Foundation 1: Elev. 110.66'
- Foundation 2: Elev. 114.0'
- Foundation 3: Elev. 114.0'
- Foundation 4: Elev. 122.0'
- Foundation 5: Elev. 122.0'
- Foundation 6: Elev. 122.0'
- Foundation 7: Elev. 120.0'
- Foundation 8: Elev. 120.0'
- Foundation 9: Elev. 120.0'



daniel.scheer@dot.state.fl.us

Digitally signed by: daniel.scheer@dot.state.fl.us  
DN: CN = daniel.scheer@dot.state.fl.us  
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General Notes

No. Revision/Issue Date

Print Name and Address

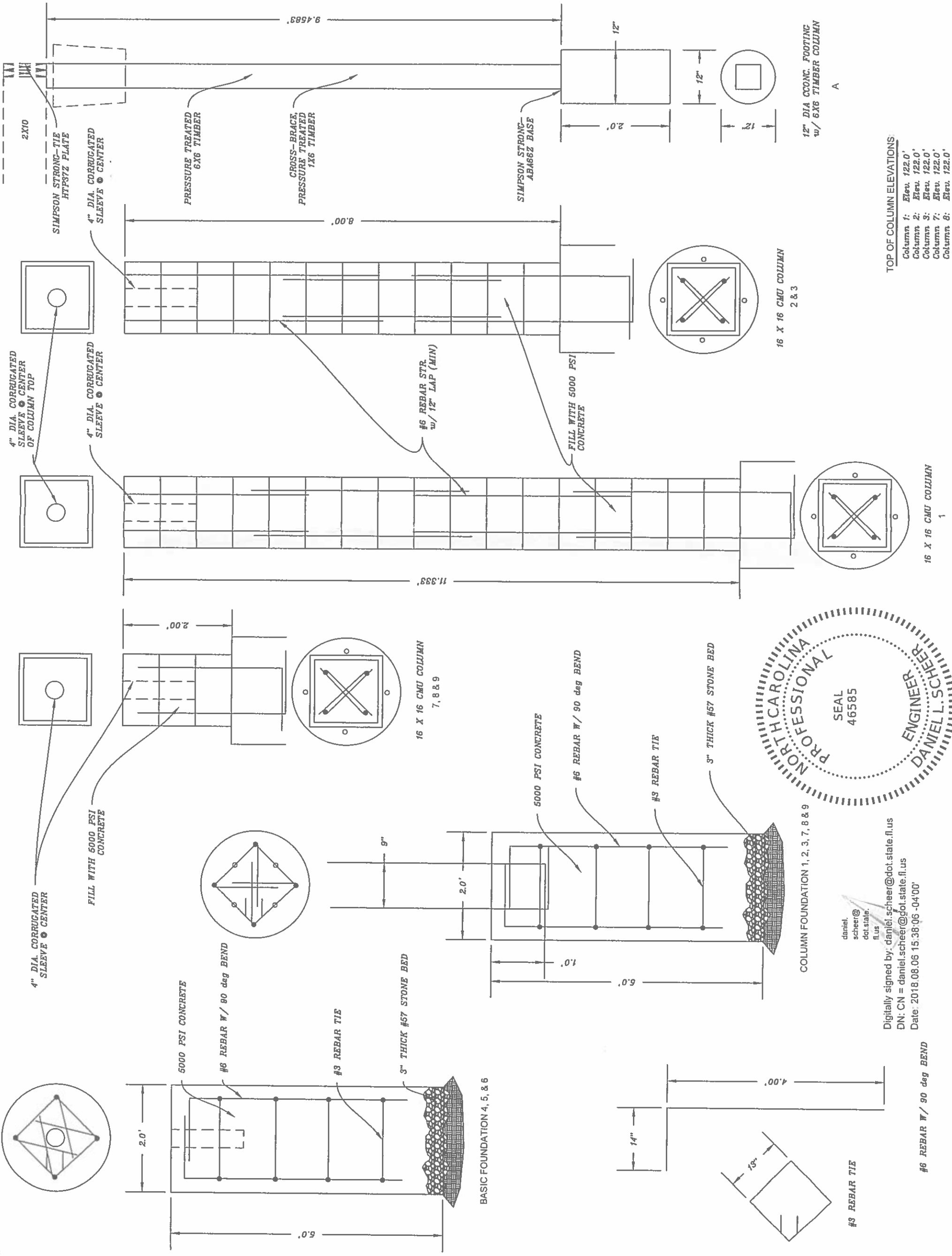
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Scheer - Montreat  
322 Texas Rd

Project  
Scheer - Montreat

Date  
3/15/2018

Scale  
1" = 20"

Sheet  
F2



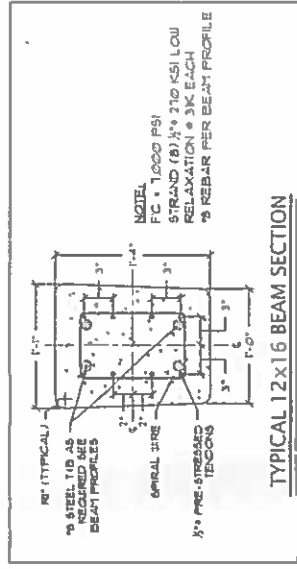
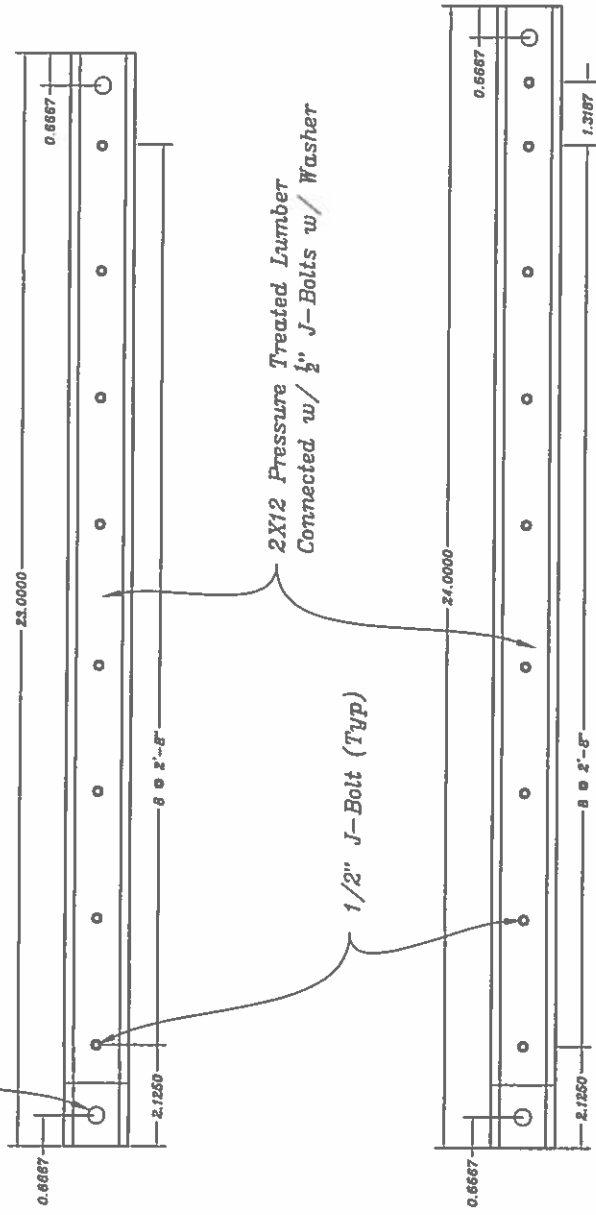
TOP OF COLUMN ELEVATIONS:

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- Column 2: Elev. 122.0'
- Column 3: Elev. 122.0'
- Column 7: Elev. 122.0'
- Column 8: Elev. 122.0'
- Column 9: Elev. 122.0'

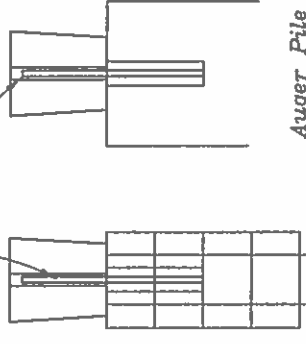


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 Date: 2018.08.06 15:38:06 -04'00'

Connection Sleeve (Typ.)



2'-6" #7 Rebar Dowel w/  
Non-Shrink Grout

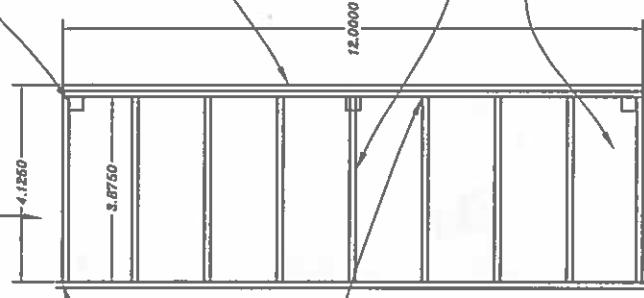
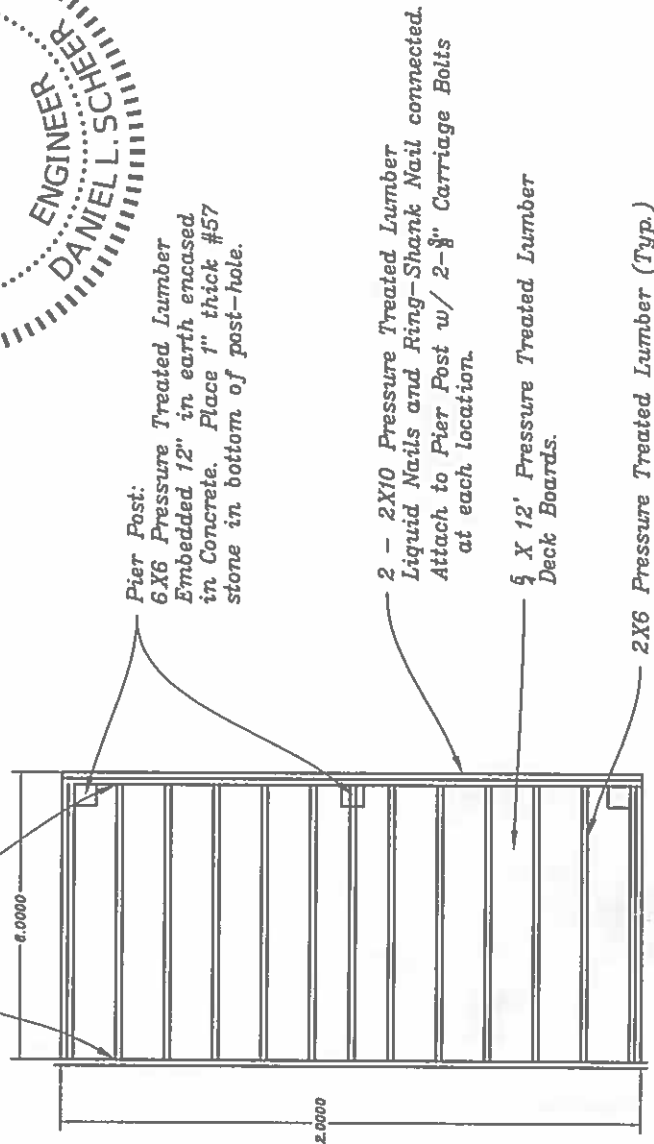


Beam to Substructure  
Connection Details



daniel.scheer@dot.state.fl.us  
Digitally signed by: daniel.scheer@dot.state.fl.us  
DN: CN = daniel.scheer@dot.state.fl.us  
Date: 2018.05.23 15:53:02 -04'00'

2X6 Simpson Strong-Tie  
Joist Hanger (Typ.)



At-Grade Deck Details

- Deck Notes:
- 1) Handrail & Pickets to Code.
  - 2) Stair Rise = 7.5 in.
  - 3) Stair Run = 11 in.

East-Side Deck Details

General Notes

No.	Revision/Issue	Date

Print Name and Address

Project Name and Address  
Scheer - Montreat  
322 Texas Rd

Project  
Scheer-Montreat  
Date 3/15/2018  
Scale 1/4" = 1'

B1



**Geotechnical Engineering  
Exploration and Analysis**

**Proposed Cabin  
324 Texas Road  
Montreat, North Carolina**

**Prepared for:**

**Daniel L. Scheer, PE  
4704 Stonev Trace  
Tallahassee, FL 32309**

**Prepared by:**

**Gentry Geotechnical Engineering, PLLC.  
Asheville, North Carolina**

**March 9, 2018  
Gentry Project Number 18G-0032-01**



(828) 232-8932  
WILL@GENTRYGEOTECH.COM  
GENTRYGEOTECH.COM  
17 SAND HILL RD.  
ASHEVILLE, NC 28806

March 9, 2018

Daniel L. Scheer, PE  
4704 Stoney Trace  
Tallahassee, FL 32309

**Subject: Geotechnical Engineering Exploration and Analysis  
Proposed Cabin  
324 Texas Road  
Montreat, North Carolina  
Gentry Project No. 18G-0032-01  
Gentry NC Engineering License No. P-1170**

Dear Mr. Scheer:

As requested, Gentry Geotechnical Engineering, PLLC (Gentry) conducted a *Geotechnical Engineering Exploration and Analyses* for the proposed project. The accompanying report describes the services that were conducted for the project and it provides geotechnical-related findings, conclusions and recommendations that were derived from those services.

We sincerely appreciate the opportunity to provide geotechnical consulting services for the proposed project. Please contact the undersigned if there are questions concerning the report or if we may be of further service.

Respectfully submitted,

GENTRY GEOTECHNICAL ENGINEERING, PLLC

A handwritten signature in blue ink, appearing to read "Michon T. Sentner", is written over a black rectangular redaction box.

Michon T. Sentner, P.E.  
Senior Geotechnical Engineer  
NC License #42383

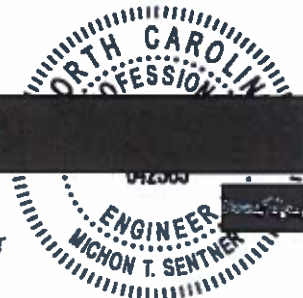


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 PROPOSED CABIN  
 324 TEXAS ROAD  
 MONTREAT, NORTH CAROLINA  
 GENTRY PROJECT NUMBER 18G-0032-01

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3.0	PROJECT DESCRIPTION .....	1
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8.8.	<u>Basis of Report</u> .....	10

ATTACHMENTS:

- Test Pit Location Plan
- Records of Subsurface Exploration (2 Pages)
- Photographs (6 Pages)
- Reference Notes for Test Pit Logs



# GEOTECHNICAL ENGINEERING EXPLORATION AND ANALYSES

PROPOSED CABIN  
324 TEXAS ROAD  
MONTREAT, NORTH CAROLINA  
GENTRY PROJECT NUMBER 18G-0032-01

## 1.0 SCOPE OF SERVICES

This report provides the results of the *Geotechnical Engineering Exploration and Analyses* that Gentry Geotechnical Engineering, PLLC ("Gentry") conducted regarding the proposed development. The *Geotechnical Engineering Exploration and Analyses* included several separate, but related, service areas referenced hereafter as the Geotechnical Subsurface Exploration Program, Geotechnical Laboratory Services, Geotechnical Soils Evaluation and Geotechnical Engineering Services. The scope of each service area was narrow and limited, as directed by our client and in consideration of the proposed project. The scope of each service area is briefly explained later.

Geotechnical-related recommendations for design and construction of the foundation and slab-on-grade for the proposed residence are provided in this report. Site preparation recommendations are also given; however, those recommendations are only preliminary since the means and methods of site preparation will largely depend on factors that were unknown when this report was prepared. Those factors include the weather before and during construction, subsurface conditions that are exposed during construction, and finalized details of the proposed development.

## 2.0 SITE DESCRIPTION

Our technicians, Mr. Brian Moretti and Mr. Kiefer Bumby, along with the excavating contractor, performed geotechnical test pits at the site on February 20, 2018.

The site consists of mountainous topography that is light to moderately wooded. Based on our review of the Buncombe County GIS website, the property slopes up from Texas Road at about a 2.1H:1V (Horizontal: Vertical) or 48.6 percent slope.

Based on our review of the Buncombe County GIS website, the property is located within a Stable (Low Hazard) Zone to Unstable (High Hazard) Zone based on the Stability Index Map (SIN) of Buncombe County, North Carolina.

The property is located within a potential debris flow pathway. The Buncombe County Steep Slope Ordinance requires a *geotechnical analysis for home sites on a 35% or greater slope or in an area designated as high or moderate hazard*.

## 3.0 PROJECT DESCRIPTION

It is assumed that the house will be constructed across the natural slope. The actual structural loads of the proposed residence were unknown at the time this report was prepared. The residence is anticipated to consist of conventional wood framing and wood roof truss supported by bearing walls and/or columns with maximum loads estimated at 2,000 pounds per lineal foot for walls and 25 kips for columns. The floors are expected to support a maximum 100 pounds



per square foot live load.

#### 4.0 GEOTECHNICAL SUBSURFACE EXPLORATION PROGRAM

The scope of the Geotechnical Subsurface Exploration Program included evaluating the subsurface conditions by performing two test pits with a mini-excavator at the site on February 20, 2018. In order to get an accurate assessment of the soil conditions, Gentry located the test pits to include both uphill and downhill locations. The approximate test pit locations are shown on the attached *Test Pit Location Plan*. Available Test Pit locations were limited because of the potential for unmarked underground utilities.

The test pits were performed to depths of 8 and 10 feet, the maximum depths explored due to refusal of the excavating equipment on Partially Weathered Rock or the maximum reach of the excavating equipment. In all test pits, dynamic cone penetrometer (DCP) testing was performed to provide quantitative data about the soil strength and density. The dynamic cone penetrometer is an instrument composed of a conical point driven with blows from a 15-pound hammer falling 20 inches. The point is driven into the soil in three increments of 1-3/4 inches. The number of hammer blows required to drive each increment is recorded. The average number of blows of the final two increments is an index to soil strength and bearing capacity.

The ground elevations at the test pits were estimated as part of the Geotechnical Subsurface Exploration Program based on the topographic information provided on the site plan. The test pit elevations are noted on the *Records of Subsurface Exploration*, which are logs of the test pits. The test pit elevations are considered accurate to within about 2 feet.

At certain depths, samples of the excavated soils were collected from the Test Pits. Immediately after sampling, select portions of the excavated soils were transferred to zip lock bags that were labeled at the site for identification. Samples that were retained at the site were classified by a geotechnical engineer using the descriptive terms and particle-size criteria, and by using the Unified Soil Classification System (ASTM D 2488-75) as a general guide. The classifications are shown on the *Records of Subsurface Exploration*, along with horizontal lines that show supposed depths of material change. Field-related information pertaining to the test pits is also shown on the *Records of Subsurface Exploration*.

The natural moisture content and percent fines evaluation of the select soil samples was performed to aid in soil classification and in estimating engineering properties of the site soils. The laboratory test results are shown in Table 1 below.

Test Pit No.	Depth (ft)	Percent Finer than No. 200 Sieve (%)	Moisture Content (%)	USCS Soil Classification
TP-2	4	35.5	21.7	SM





## 5.0 SITE GEOLOGY

The project site is located in the Blue Ridge Physiographic Province. The bedrock in this region is a complex crystalline formation that has been faulted and contorted by past tectonic movements. The rock has weathered to residual soils which form the mantle for the hillsides and hilltops. The typical residual soil profile in areas not disturbed by erosion or the activities of man consists of clayey soils near the surface where weathering is more advanced, underlain by sandy silts and silty sands.

The boundary between soil and rock is not sharply defined, and there often is a transitional zone, termed "partially weathered rock," overlying the parent bedrock. Partially weathered rock is defined, for engineering purposes, as residual material with standard penetration resistances in excess of 100 blows per foot (bpf). Weathering is facilitated by fractures, joints, and the presence of less resistant rock types. Consequently, the profile of the partially weathered rock and hard rock is quite irregular and erratic, even over short horizontal distances. Also, it is not unusual to find lenses and boulders of hard rock and/or zones of partially weathered rock within the soil mantle well above the general bedrock level.

## 6.0 MATERIAL CONDITIONS

Since material sampling at the test pits was discontinuous, it was necessary for *Gentry* to suppose conditions between sample intervals. The supposed conditions at the test pits are briefly discussed in this section and are described in detail on the *Records of Subsurface Exploration*. Also, the conclusions and recommendations in this report are based on the supposed conditions.

### 6.1. Surface Materials

The surface materials consisted of 6 to 12 inches of topsoil, root mat and loose, surface rock. The topsoil was composed of silty fine sand.

### 6.2. Residual Soil

Below the surface materials, the subsurface soils consisted of loose to very firm, tan, brown, moist to wet, micaceous, silty fine to medium sand with rock fragments to depths of 8 and 10 feet. These were the maximum depths explored due to refusal of the excavating equipment on Partially Weathered Rock or the maximum reach of the excavating equipment. The silty sand encountered was classified as Residual soils.

## 7.0 GROUNDWATER CONDITIONS

When the Geotechnical Subsurface Exploration Program was conducted, groundwater was encountered at a depth of 8 feet within Test Pit No. 2. No groundwater was encountered within Test Pit No. 1. However, groundwater conditions will fluctuate, and groundwater may become perched above the water table.



## 8.0 CONCLUSIONS AND RECOMMENDATIONS

### 8.1. Slope Stability Considerations

Site grading in mountainous areas such as at this site can have a significant impact on the stability of natural and manmade slopes. As mentioned previously, the property slopes up from Texas Road at about a 2.1H:1V (Horizontal: Vertical) or 48.6 percent slope.

It is assumed that the residence will be constructed across the natural slope. A site reconnaissance did not observe any signs of slope instability (i.e., scarps, tension cracks or bulges) within the proposed construction limits and for a distance of about 50 feet in all directions. Although we did not observe evidence of slope instability in the site area, care should be taken to minimize disturbance of the existing slope. Site grading within the planned residential area should be limited to excavation as required to achieve the planned finished grade elevations.

A preliminary global stability analysis indicated the natural slope to be stable. The analysis used estimated soil strength parameters based on the subsurface conditions encountered and our experience with similar materials. Based on our observations of the slope and the soil conditions encountered at the test pits, shallow foundations with sufficient embedment into residual soils should be used to support the proposed residence.

Based on our observations and the subsurface conditions encountered at our geotechnical test pit locations, the risk of instability of the natural slope appears to be reasonable with the recommended design measures, site preparation and testing during construction.

### 8.2. Building Foundation Recommendations

Based on the assumed structural loads and the test pit findings, a foundation designed using a 2,000 psf maximum, net, allowable soil bearing capacity is recommended for the proposed residence. Strip footing pads are recommended to be at least 18 inches wide and isolated column pads are recommended to be at least 24 inches wide for geotechnical considerations, regardless of the calculated foundation bearing stress. Foundation walls are assumed to be built of reinforced cast-in-place or reinforced masonry wall system. It is understood that specific foundation details including footing dimensions, reinforcing, and other parameters will be constructed per the most recent edition of the North Carolina State Building Code.

It is understood that the North Carolina Building Code requires a minimum 12-inch foundation depth. However, it is our opinion that foundations have a minimum 24-inch foundation depth for stability and frost action concerns. Therefore, footings for foundation walls and columns of the proposed structure are recommended to bear at least 24 inches below the finished ground grade. The foundation analysis was conducted assuming that the foundations will bear at about 24 inches below the exterior ground surface. The top of footings must be at least 5 feet horizontally from a slope face. This includes footings bearing near the crest of a slope or within the slope itself. This may result in the footings bearing deeper than the recommended minimum embedment depth to provide 5 feet horizontally from a slope face.



Foundation excavations are recommended to be dug with a smooth-edge backhoe bucket to develop a relatively undisturbed bearing grade. A toothed bucket will likely disturb foundation-bearing soil more than a smooth-edge bucket, thereby making soil at the excavation base more susceptible to saturation and instability, especially during adverse weather. It is critical that contractors protect foundation support soil and foundation construction materials (concrete, reinforcing, etc.). In addition, engineered fill is recommended to be placed and compacted in benched excavations along foundation walls immediately after the foundation walls are capable of supporting lateral pressures from backfill, compaction, and compaction equipment. Earth-formed footing construction techniques will likely be feasible considering that sandy silt to silty sand was above the estimated foundation bearing elevations at the test pits.

Foundation Support Soil Requirements

Footing pads are recommended to be directly and entirely supported by suitable-bearing residual soil. Based on the recommended 2,000 psf bearing capacity, the average corrected N-value (determined from SPTs and correlated from other in-situ tests) is recommended to be at least 5 based upon a 2,000 psf maximum bearing capacity. Suitable bearing residual soils for foundation support is anticipated to be available at depths below the current surface and elevations as shown on Table 2 below. The depth and elevation of the suitable bearing soil may be interpolated linearly between the test pit locations for preliminary cost purposes.

TABLE 2 - ANTICIPATED DEPTH AND ELEVATION TO SUITABLE BEARING SOILS <sup>(A)</sup>		
Test Pit Location	Depth Below Current Surface (feet) <sup>(b)</sup>	Elevation <sup>(c)</sup>
TP-1	2 ±	119 ±
TP-2	4 ±	104 ±
(a) Based on a 2,000 psf maximum, net, allowable bearing capacity (b) Referenced to the existing site grades at the time of the exploration (c) Referenced to the provided topographic survey.		

It is further recommended that the strength characteristics of soil within the entire foundation influence zone (determined by *Gentry* during construction) meet or exceed the recommended values, unless *Gentry* approves lesser values.

It is recommended that *Gentry* evaluate foundation support soil using appropriate means and methods immediately before foundation construction. The purpose of the recommended evaluation is to confirm that the foundation will be properly supported and confirm that the support soil is similar to the conditions described on the *Records of Subsurface Exploration*. In the event that another firm performs the recommended foundation evaluation, *Gentry* must be notified if the composition or strength characteristics of foundation support soils differ from those shown on the *Records of Subsurface Exploration*.



Soil that is within a foundation influence zone but does not meet the recommended allowable bearing capacity (described above), or is otherwise unsuitable, is recommended to be replaced. Unsuitable bearing material could be replaced with engineered fill, such as No. 57 stone. It is recommended that *Gentry* provide specific recommendations pertaining to soil over-excavation and replacement at the time of construction including the need for wrapping the stone in a geotextile fabric. As an option to soil replacement, strip footings could be stepped or thickened to extend through unsuitable bearing materials. It is recommended that a structural engineer or architect provide specific details of stepped or thickened footings when required.

#### Estimated Foundation Settlement

The post-construction total and differential settlements of foundations designed and constructed based on this report are estimated to be a maximum of about 1 and 1/2 inch, respectively. The post-construction angular distortion is estimated to be a maximum of about 1/480 across a distance of 20 feet or more.

### **8.3. Floor Slab Recommendations**

With proper sub-grade preparation, it is expected that site soil will be suitable for floor slab support. Over-excavation of unsuitable bearing soil might, however, be necessary to develop a suitable floor slab sub-grade. Engineered fill that is selected, placed, and compacted according to this report could also support a concrete slab. It is understood that the specific floor slab thickness, reinforcing, joint details and other parameters will be constructed per the most recent edition of the North Carolina State Building Code.

A minimum 4-inch-thick base course is recommended to be directly below the floor slab to serve as a capillary break and help develop uniform support. It is recommended that the base course consist of free-draining aggregate. It is recommended that *Gentry* test and approve the base course aggregate before it is placed. Depending on aggregate gradation, a geotextile might need to be below the base course.

A minimum 10-mil vapor retarder is recommended to be directly below the base course throughout the entire floor area. If the base course has sharp, angular aggregate, protecting the retarder with a geotextile (or by other means) is recommended.

#### Estimated Floor Slab Settlement

The post-construction total and differential settlements of an isolated floor slab constructed in accordance with this report are estimated to be a maximum of about 1/2 and 1/8-inch, respectively.

### **8.4. Retaining Wall Recommendations**

Cast-in-place concrete or concrete masonry unit cantilever retaining walls for the residence should be designed as "restrained" retaining walls based on "at-rest" earth pressure, plus any surcharges near the walls as described below, since the walls are expected to be part of the residence and lateral movement is not acceptable. Cast-in-place concrete or CMU (concrete masonry unit) cantilever walls that are not attached to the residence and that can accept some



lateral movement may be designed based on “active” earth pressures, plus any surcharges. Based on the geotechnical test pits and our experience with similar soil conditions, an allowable bearing pressure of 2,000 pounds per square foot (psf) may be used. Foundation support soil requirements of the retaining walls should be performed as previously discussed.

Table 3 presents the recommended soil related design parameters for the site retaining walls with a level back slope behind the walls (i.e.  $\beta=0$  degrees). *Gentry* should be contacted if an alternate retaining wall system is used for alternate recommendations or if a different sloped backfill surface is planned.

Table 3 – Recommendations for soil properties and lateral earth pressures									
Material	Unit Weight (pcf)	Friction Angle, $\Phi'$ (degrees)	$f_s$	Active earth pressures		At-rest earth pressures		Passive earth pressures	
				Equiv. fluid pressure (pcf)	$K_a$	Equiv. fluid pressure (pcf)	$K_o$	Equiv. fluid pressure (pcf)	$K_p^{(1)}$
On-site silty SAND or sandy SILT	125	29	0.35	44	0.35	65	0.52	356 <sup>(1)</sup>	2.85
Clean washed stone (No. 57) <sup>(2)</sup>	100	40	0.5	22	0.22	36	0.36	460 <sup>(1)</sup>	4.6

(1) The passive earth pressure coefficient should be divided by a safety factor of 2 to limit the amount of lateral deformation required to mobilize the passive resistance.  
 (2) In order for this coefficient to be used, the soil wedge within an angle of 45 degrees from the base of the wall to about 2 feet below the finished exterior grade should be excavated and replaced with compacted clean washed stone.

The compacted mass unit weight of the backfill soil presented in the previous table should be used with the earth pressure coefficients to calculate lateral earth pressures. Lateral pressure arising from surcharge loading should be added to the above soil earth pressures to determine the total lateral pressures which the walls must resist. In addition, transient loads imposed on the walls by construction equipment during backfilling should be taken into consideration during design and construction. Excessively heavy grading equipment should not be allowed within about 5 feet horizontally of the walls.

Surface water should be rerouted around the walls and not allowed to flow over or pond behind the walls. In addition, to reduce the potential for the infiltration of surface water in the backfill, the upper 24 inches of backfill should consist of relatively impervious soils (i.e., clayey or silty soils) as backfill. This soil should be compacted to a minimum of 95 percent of its standard Proctor maximum dry density within plus or minus three percentage points of the optimum moisture content in accordance with ASTM D 698.





We recommend that positive, unblocked gravity drainage be provided to transfer water from behind the walls. A perforated, rigid conduit within free draining crushed stone backfill at the base of the wall can be used to help provide the drainage required. A layer of nonwoven geotextile filter fabric should wrap entirely around the crushed stone backfill. If drainage is not provided, the walls should be designed to accommodate hydrostatic pressures that could develop.

### **8.5. Generalized Site Preparation Recommendations**

This section deals with site preparation including preparation of foundation and engineered fill areas. The means and methods of site preparation will greatly depend on the weather conditions before and during construction, the subsurface conditions that are exposed during earthwork operations, and the finalized details of the proposed development. Therefore, only generalized site preparation recommendations are given.

#### **Subgrade Evaluation and Fill Placement**

After the recommended clearing, grubbing, and stripping as needed, the sub-grade is recommended to be evaluated by visual observations and probing since site constraints will not allow for typical proof-rolling to help locate unstable soil. It is recommended that *Gentry* evaluate the sub-grade stability based on those observations.

Soil that shows signs of instability is recommended to be replaced with engineered fill. Unsuitable soil could also be mechanically stabilized with coarse aggregate and/or geosynthetics (geogrids, geotextiles, etc.). It is recommended that *Gentry* provide specific soil improvement recommendations based on the conditions during construction.

The site is recommended to be raised, where necessary, to the planned finished grade with engineered fill immediately after the sub-grade is confirmed to be stable and suitable to support the proposed site improvements. Engineered fill should have a maximum liquid limit of 50, maximum plasticity index of 25, a maximum fines content of 50 percent, a maximum organic content of 5 percent and be free of deleterious or otherwise unsuitable material. Engineered fill is recommended to be placed in uniform, relatively thin layers (lifts). It is recommended that engineered fill slopes be placed no steeper than 2H:1V and be properly benched into the existing residual soils. **Any fill slopes steeper than 2H:1V should be designed by a Professional Engineer and possibly reinforced with geogrid.** Each layer of engineered fill is recommended to be compacted to at least 95 percent of the fill material's maximum dry density within 3 percent of the optimum moisture content as determined by *The Standard Proctor Compaction test (ASTM D698)*.

Engineered fill that does not meet the density and water content requirements is recommended to be replaced or scarified to a sufficient depth (likely 6 to 12 inches, or more), moisture-conditioned, and compacted to the required density. A subsequent lift of fill should only be placed after *Gentry* confirms that the previous lift was properly placed and compacted. Sub-grade soil may need to be re-compacted immediately before construction since equipment traffic and adverse weather may reduce soil stability.

### Use of Site Soil as Engineered Fill

Site soil that does not contain adverse organic content, construction or household debris or other deleterious materials or fines content greater than 50 percent, could be used as engineered fill. If construction is during adverse weather (discussed in the following section), drying site soil will likely not be feasible. In that case, aggregate fill (or other fill material with a low water-sensitivity) will likely need to be imported to the site.

### Surface Water Management

Control of surface water from driveway areas and roof drainage is very important for this site. Surface water that erodes slopes could cause instability or undermine footings. All structures should incorporate gutters with downspouts that are connected to a pipe system that will convey water to storm drains or offsite. Routine maintenance should include inspecting, cleaning and repairing the gutters, downspouts and other stormwater handling systems as needed to ensure they remain operable. Inspections and cleanings should be performed at least annually. If conveyance of surface water into municipal storm drains is not possible, the surface water should be directed well away from the structure and maintained in a distributed flow onto the natural slope. Surface water should not be directed below the ground surface.

## **8.6. Generalized Construction Considerations**

### Adverse Weather

Site soil is moisture sensitive and will become unstable when exposed to adverse weather such as rain, snow, and freezing temperatures. Therefore, it might be necessary to remove or stabilize the upper 6 to 12 inches (or more) of soil due to adverse weather, which commonly occurs during late fall, winter, and early spring. At least some over-excavation and/or stabilization of unstable soil should be expected if construction is during or after adverse weather. Based on the test pits, extensive over-excavation is not expected to be needed if construction is during and after favorable, dry weather. Because site preparation is weather dependant, bids for site preparation, and other earthwork activities, are recommended to be based on the time of year that construction will be conducted.

In an effort to protect soil from adverse weather, the site surface is recommended to be smoothly graded and contoured during construction to divert surface water away from construction areas. Foundation construction should begin immediately after suitable support is confirmed.

### Dewatering

Ground water was encountered at the time the test pits were performed. Therefore, dewatering might be needed during construction due to precipitation or if perched water is encountered. Water that accumulates in construction areas is recommended to be removed from excavations and other construction areas, along with unstable soil as soon as possible. Filtered sump pumps, drawing water from sump pits excavated in the bottom of construction trenches, will likely be adequate to remove water that collects in shallow excavations. Excavated sump pits should be fully-lined with a geotextile and filled with open-graded, free-draining aggregate.



### Difficult Excavation

The firm or better silty sand residual soil should be excavatable with conventional construction equipment such as trackhoes. However, Partially Weathered Rock was encountered within the test pit locations. Therefore, heavy, tracked excavating equipment with single tooth ripping tools will be required for removal. The ease of excavation cannot be specifically quantified and depends on the quality of grading equipment, skill of the equipment operators and geologic structure of the material itself, such as the direction of bedding, planes of weakness and spacing between discontinuities. Excavation of the refusal material usually requires blasting to loosen and facilitate removal.

### Excavation Stability

Excavations through residual silty sand soils should be no steeper than 1H:1V for short term conditions and no steeper than 1.5H:1V for long term conditions. Excavations may cave during construction, especially if granular soil is encountered. Excavations are recommended to be made in accordance with current OSHA excavation and trench safety standards, and other applicable requirements. Sides of excavations might need to be sloped or braced to maintain or develop a safe work environment. Temporary shoring must be designed according to applicable regulatory requirements. Contractors are responsible for excavation safety.

## **8.7. Recommended Construction Materials Testing Services**

This report was prepared assuming that *Gentry* will perform Construction Materials Testing ("CMT") services during construction of the proposed development. In general, CMT services are recommended to at least include observation and testing of: foundation, floor slab, concrete and other construction materials. It might be necessary for *Gentry* to provide supplemental geotechnical recommendations based on the results of CMT services and provided specific details of the project.

## **8.8. Basis of Report**

This report is based on *Gentry* Proposal No. 18P-012, which is dated January 22, 2018 and authorized by you on February 12, 2018. The actual services for the project varied somewhat from those described in the proposal because of the conditions that were encountered while performing the services and in consideration of the proposed project.

This report is strictly based on the project description given earlier in this report. *Gentry* must be notified if any part of the project description is not accurate so that this report can be amended, if needed. This report is based on the assumption that the structure will be designed and constructed according to the building code that governs construction at the site.

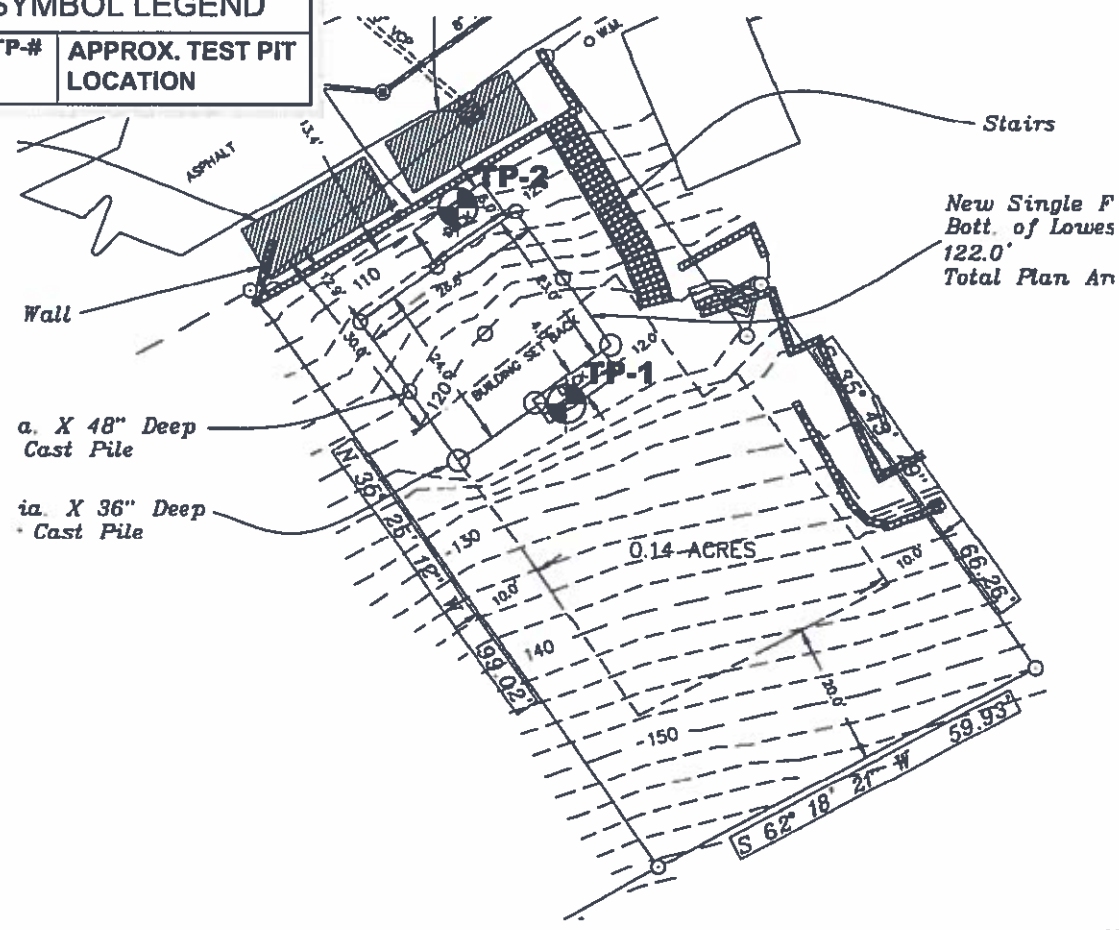
The conclusions and recommendations in this report are based on supposed subsurface conditions as shown on the *Records of Subsurface Exploration*. *Gentry* must be notified if the subsurface conditions that are encountered during construction of the proposed development differ from those shown on the *Records of Subsurface Exploration* because this report will likely need to be revised.



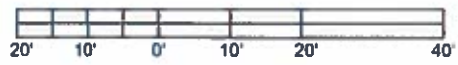


**SYMBOL LEGEND**

TP-#	APPROX. TEST PIT LOCATION



**TEST PIT LOCATION PLAN**



**GENTRY**  
geotechnical engineering  
17 SAND HILL ROAD  
ASHEVILLE, NC 28606  
TEL: 828-232-8832  
WWW.GENTRYGEOTECH.COM  
WLL.GENTRYGEOTECH.COM

**PROPOSED CABIN**  
AT  
324 TEXAS ROAD  
NORTH CAROLINA

MONTREAT  
DATE: 09 MAR 2018  
PROJECT No: 18G-0032-01  
SCALE: 1" = 20'-0"

SHEET No.  
**FIG.1**  
01 OF 01 SHEETS

# GENTRY GEOTECHNICAL ENGINEERING, PLLC

## Record of Subsurface Exploration

Project Name: Proposed Cabin, 324 Texas Road, Montreat, NC
Test Pit: TP-1  
Elevation: 121 ft      February 20, 2018

Location: See Test Pit Location Plan
Project No. 18G-0032-01

Technician: BM and KB. Equipment: Excavator Bobcat 334 and DCP. Weather: 45°, sunny

Description	Depth feet	Sample type	DCP	Remarks
6 to 12 inches of silty sand topsoil, rootmat and loose, surface rock				DCP = Dynamic Cone Penetrometer
Loose to very firm, tan, brown, moist, micaceous, silty fine to medium SAND w/ 10" to 16" rock fragments (Residual)		Grab	5	
		Grab		
		Grab	7	
	5	Grab	17	
		Grab		
		Grab	25/1'	
Test pit terminated at 8 feet. Excavator refusal on Partially Weathered Rock No groundwater encountered	10			
	15			
	20			
	25			

# GENTRY GEOTECHNICAL ENGINEERING, PLLC

## Record of Subsurface Exploration

Test Pit: TP-2

Project Name: Proposed Cabin, 324 Texas Road, Montreat, NC

Elevation: 108 ft

February 20, 2018

Location: See Test Pit Location Plan

Project No. 18G-0032-01

Technician: BM and KB. Equipment: Excavator Bobcat 334 and DCP. Weather: 45°, sunny

Description	Depth feet	Sample type	DCP	Remarks
6 to 12 inches of silty sand topsoil, rootmat and rock				DCP = Dynamic Cone Penetrometer
Very loose to very firm, tan, brown, moist, micaceous, silty fine to medium SAND with Partially Weathered Rock fragments (Residual)		Grab	3	
		Grab		
		Grab	5	
	5	Grab		
		Grab	25/1*	
		Grab	14	
Loose, tan, brown, wet, micaceous, silty fine to medium SAND with Partially Weathered Rock fragments (Residual)		Grab		
	10	Grab	na	
Test pit terminated at 10 feet. Maximum reach of excavator. Groundwater encountered at 8 feet. Waterline encountered at 4 feet. Adjusted location of Test Pit to avoid the waterline.				
	15			
	20			
	25			

## Drilling and Sampling Abbreviations:

### Sample/Drilling:

SS-Split Spoon Sampler  
 ST-Shelby Tube Sampler  
 RC-Rock Core: NX, BX, AX  
 HSA-Hollow Stem Auger

### In-Situ Tests:

SPT-Standard Penetration Test  
 PMT-Pressuremeter Test  
 VS-Vane Shear  
 DCP-Dynamic Cone Penetrometer  
 Q<sub>p</sub>-Estimated Unconfined Compressive Strength using Pocket Penetrometer  
 Q<sub>u</sub>-Estimated Unconfined Compressive Strength using strain-controlled axial load device.

## Correlation of Penetration Resistances to Soil Properties:

### Relative Density -Sands, Silts

More than 50% retained onto the No. 200 sieve

### Consistency Cohesive Soils

More than 50% passing the No. 200 seive

<u>SPT-N Value</u>	<u>Relative Density</u>	<u>Unconfined Compressive Strength Q<sub>p</sub> tsf</u>	<u>SPT-N Value</u>	<u>Consistency</u>
0-4	Very Loose	under 0.25	0-2	Very Soft
5-10	Loose	0.25-0.50	3-4	Soft
11-20	Firm	0.50-1.00	5-8	Firm
21-30	Very Firm	1.00-2.00	9-15	Stiff
31-50	Dense	2.00-4.00	16-30	Very Stiff
over 50	Very Dense	4.00-8.00	31-50	Hard
		over 8.00	over 50	Very Hard

## Gradation Description and Terminology:

<u>Major Component of Sample</u>	<u>Size Range</u>	<u>Description of Minor Components</u>	<u>Percent of Dry Weight</u>
Boulders	Over 12 inches	Trace	1-9
Cobbles	12 inches to 3 inches	Little	10-19
Gravel	3 inches to No. 4 sieve	Some	20-34
<i>Coarse</i>	<i>3 inches to 3/4 inches</i>	And	35-50
<i>Fine</i>	<i>3/4 inches to No. 4 sieve</i>		
Sand	No. 4 sieve to No. 200 sieve		
<i>Coarse</i>	<i>No. 4 sieve to No. 10 sieve</i>		
<i>Medium</i>	<i>No. 10 seive to No. 40 sieve</i>		
<i>Fine</i>	<i>No. 40 seive to No. 200 sieve</i>		
Silt/Clay	Passing No. 200 seive		



**GENTRY**  
 geotechnical engineering

## REFERENCE NOTES FOR BORING LOGS



Photo 1 – Site





Photo 2 – Site



Photo 3 – Test Pit 1 at 8 feet





Photo 4 – Test Pit 2 at 4 feet





Photo 5 – Test Pit 2 at 6 feet



Photo 6 – Test Pit 2 at 8 to 10 feet





5424



TOWN OF MONTREAT

ZONING AND INSPECTIONS DEPARTMENT
P. O. Box 423
Montreat, NC 28757
Tel: (828)669-8002, ext. 303
Fax: (828)669-3810
www.townofmontreat.org

PERMIT#: 5424
Residential Commercial

BUILDING PERMIT APPLICATION

Owner Name: DANIEL SCHUBER
Mailing Address: 4704 STONEY TRACE
City: TALLAHASSEE State: FL ZIP: 32309
Owner Phone: 850-443-6210 E-mail: dschuber4@gmail.com
Project Address: 322 TEXAS ROAD, MONTREAT, NC PIN #: 0710-95-7918-00000

Attached to and part of this application are:

- Two (2) sets of complete plans
Site Plan
Zoning Compliance
MSD Permit Water Tap Approved
Boundary Line Survey (if applicable)
Architectural site review (if applicable)
LEED or Healthy Built Home Certified (Green Building)
House numbers attached and visible from the road
Stormwater Control System Plan Permit
Elevation Certificate (Qualifying Development in SFHA)
Sedimentation/Erosion Control System Plan Permit
Progress Energy Premise #

Brief Description of Project: NEW ANIOLS FAMILY RESIDENCE

Project Cost: \$210,000 Market Value of Structure: \$210,000

Total Heated Sq. Ft.: 849 Areas: Accommodations:
Covered Unheated: # of Dwelling Units: 1
Open Decks: 125 sq ft # Bedrooms: 2 # Baths: 2
Concrete/Asphalt: Kitchen(s): 1
# of Stories: 2

SPECIFICATIONS

- FOUNDATIONS: Concrete Block, Poured Wall, Slab on Grade, Other: Elevated
WALLS: Wood Siding, Vinyl Siding, Stucco, Other:
SUB-FLOORING: Diagonal, Plywood (T&G)
FLOORING: Hardwood, Tile, Vinyl, Carpet
ROOFING: Fiberglass, Wood, Metal, Membrane, Other:
HEATING & AIR CONDITIONING: Heat Pump, Fireplace, Furnace, Gas, Oil, Elec. Resist., Central Air, Window Units, Geothermal, Solar
PLUMBING FIXTURES: Lavatories, Tub/Showers, Bidets, Sinks, Water Closets, Water Heaters, Laundry Trays

\*Remember to Schedule a Final Inspection upon Completion of Project By Calling (828) 669-8002, ext. 303\*

INSULATION	TYPE	THICKNESS	R-FACTOR
Exterior Wall	BATT		R-19
Ceiling/Attic	BATT		R-38
Floor	SPRAY FOAM	CLOSED CELL - 3"	R-21
Conditioned Attic/Closed Crawlspace? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," attach details.			

**Gas Appliances:** List Gas Appliances and BTU Demands:

N/A

*\*Note: If gas installed for other than fireplaces, a detailed schematic is required.*

**Concrete Areas:**

Basement/Garage Floor  Driveway/Parking Area  Other: N/A

**Contractor Information:**

FREESTONE CONSTRUCTION LLC (General Contractor)	828 734 0174 (Phone #)	69620 (State License #)
LOGAN NESBITT ELECTRIC LLC (Electrical Contractor)	828 421 0962 (Phone #)	SP. JFD. 32360 (State License #)
Quality Comfort Heating/Cooling LLC (Mechanical Contractor)	828 252 8544 (Phone #)	33206 (State License #)
AJM SERVICE GROUP LLC (Plumbing Contractor)	828 329 6460 (Phone #)	32582 (State License #)
N/A (Other)		

**CERTIFICATION**

I (We) agree to conform to all Federal, State and local codes and ordinances. All materials will be kept presentable on the lot and all debris will be removed prior to issuance of a Certificate of Occupancy.

\_\_\_\_\_  
(Owner's Signature) Date: 9-12-18

\_\_\_\_\_  
(Contractor's Signature) Date:

		FEES	
Permit:	729.-	Homeowner's Recovery:	10.-
Plumbing:	300.-	Certificate of Occupancy:	40.-
Mechanical:	20.-	Gas: DUNE QUOT.	150.-
Electrical:	300.-	Fire/Sprinkler: ZONING	35.-
Total Fees: \$	1964.-	Cash: \$	
		Check #: 13842	Date Paid: 10-2-18 TA.

9-26-18 (PERMIT APPROVAL DATE) \_\_\_\_\_ BUILDING INSPECTOR SIGNATURE

**\*NOTE: If the work has not been started within six (6) months of permit issuance date, or if the work has ceased for twelve (12) months, the permit will become void and all fees will be surrendered.**

**IMPORTANT NOTICE**

Construction site must be kept clean and presentable at all times. Do not allow debris to blow on adjacent properties, roads, streams, etc. A "STOP WORK ORDER" will be issued for violations.

► Contractor shall remove all construction advertisement signs within five (5) days upon completion of said job ◀

DATE: December 5, 2018

TO: Town of Montreat Zoning and Code Enforcement, M. Adrienne Isenhower  
Town of Black Mountain Building Inspector, M. Dan Cordell

FROM: Daniel L. Scheer, P.E.

RE: Engineering/Construction Certification for the Foundation Construction: New Residence at 322 Texas Road, Town of Montreat

Town Building Inspector:

This correspondence is to serve as certification that all engineering designs and construction work on the above mentioned project have been completed in accordance with all applicable technical standards/specifications and the construction plans approved by the Town Engineer via an Approved Residential Building Permit.

Any minor variations from the originally approved construction plans do not affect the original design(s) in any way.

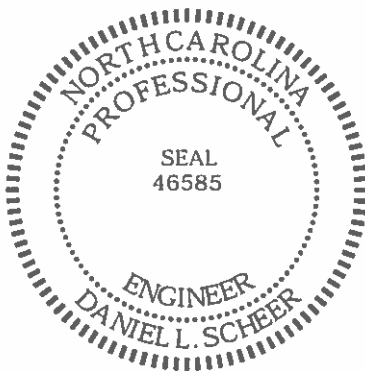
Please contact me if you should have any questions.

Respectfully,

SCHEER.DANIEL.  
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Daniel L. Scheer, P.E.  
NC Professional Engineer: 46585



#5424

DATE: December 18, 2018

TO: Town of Montreat Zoning and Code Enforcement, M. Adrienne Isenhower  
Town of Black Mountain Building Inspector, M. Dan Cordell

FROM: Daniel L. Scheer, P.E.

RE: Engineering/Construction Certification for the Foundation Construction: New Residence at 322 Texas Road, Town of Montreat

Town Building Inspector:

This correspondence is to serve as certification that all engineering designs and construction work on the subject project have been completed in accordance with design and specifications and meet the design requirements of the Engineer of Record.

Any minor variations from the originally approved construction plans do not affect the original design(s) in any way.

Please contact me if you should have any questions.

Respectfully,

SCHEER.DANIEL.L  
OUIS.1233456000

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Date: 2018.12.18 13:38:41 -05'00'

Daniel L. Scheer, P.E.  
NC Professional Engineer: 46585





DATE: April 5, 2019

TO: Town of Montreat Zoning and Code Enforcement, M. Adrienne Isehower  
Town of Black Mountain Building Inspector, M. Dan Cordell

FROM: Daniel L. Scheer, P.E.

RE: Engineering/Construction Certification for the Retaining Wall Construction: New Residence at 322 Texas Road, Town of Montreat

Town Building Inspector:

This correspondence is to serve as certification that all engineering designs and construction work on the subject project have been completed in accordance with design and specifications and meet the design requirements of the Engineer of Record.

Any minor variations from the originally approved construction plans do not affect the original design(s) in any way.

Please contact me if you should have any questions.

Respectfully,

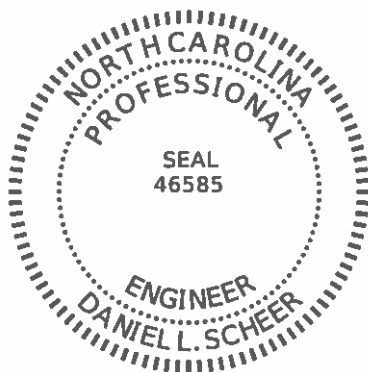
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L.LOUIS.123345

6000

Daniel L. Scheer, P.E.

NC Professional Engineer: 46585

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TOWN OF MONTREAT

ZONING AND INSPECTIONS DEPARTMENT
P. O. Box 423
Montreat, NC 28757
Tel: (828)669-8002, ext. 303
Fax: (828)669-3810
www.townofmontreat.org

ZONING COMPLIANCE APPLICATION AND CERTIFICATE

Project Address: 322 TEXAS ROAD, MONTREAT, NC 28757
PIN#: 0710-95-7918
Parcel Tax ID Sheet #: Lot#: Private Lot #:
Owner Name: DANIEL SCHUBER
Mailing Address: 4704 STONEY TRACE
City: TALLAHASSEE State: FL ZIP: 32309
Owner Phone: 850-443-6210 E-mail: dschuber4@battl.com
Contractor/Agent Name: FREESTONE CONSTRUCTION LLC / ANDREW BROWN
Contractor/Agent Mailing Address: PO Box 329
City: WYNNEVILLE State: NC ZIP: 28786
Contractor/Agent Phone: 828-734-0174 License #: 69620
Contractor/Agent E-mail: ABROWN4@FREESTONECONSTRUCTION.COM
Short description of proposed project and intended use: CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE.

Special Conditions, C.U.P. or Variance Granted? [ ] Yes (see attached) [X] No

This is to certify that I, the Owner/Contractor/Agent, am aware of the zoning district the lot is in, the permitted uses within said zoning district, the minimum setbacks for the lot, the maximum building height, the off-street parking requirements and the fact that drainage during and after construction is my responsibility. These plans conform to the Town of Montreat's present Zoning Ordinance. The contractor shall protect adjacent properties and the general public and shall be responsible for all damages that occur during construction. Driveways are NOT automatically included in the zoning and building permits.

Signature of Owner/Contractor/Agent: George Andrew Brown IV

Date: 9-19-2018

This is to certify that I, the Code Administrator for the Town of Montreat, North Carolina, have reviewed the attached plans and hereby deem the intended use of the structure and/or lot to be in full compliance with the Zoning Ordinance of the Town.

Signature of Code Administrator: [Signature]

Date: 9/25/18

FOR OFFICE USE ONLY

Permit Fee: \$ Cash: \$ Check #: Date Paid:



TOWN OF MONTREAT

ZONING AND INSPECTIONS DEPARTMENT
P. O. Box 423
Montreat, NC 28757
Tel: (828)669-8002, ext. 303
Fax: (828)669-3810
www.townofmontreat.org

HILLSIDE DEVELOPMENT APPLICATION AND CERTIFICATE

Project Address: 322 TEXAS ROAD, MONTREAT, NC 28757
PIN#: 0710-95-7918 Zoning District:
Parcel Tax ID Sheet #: Lot#: Private Lot #:
Owner Name: DANIEL SCHUBER
Mailing Address: 4704 STONEY TRAIL
City: TALLAHASSEE State: FL ZIP: 32309
Owner Phone: 850-443-6210 E-mail: dschuber4@gmail.com
Contractor/Agent Name: FREESTONE CONSTRUCTION LLC / ANDREW BROWN
Contractor/Agent Mailing Address: PO Box 329
City: WAYNEVILLE State: NC ZIP: 28786
Contractor/Agent Phone: 828 734 0174 License #: 69620
Contractor/Agent E-mail: ABROWN4@FREESTONECONSTRUCTION.COM
Short description of proposed development and grading: NEW SINGLE FAMILY RESIDENCE
WILL BE CONSTRUCTED. SITE WORK INCLUDES CLEARING, RETAINING
WALL, PARKING AREA, FOUNDATION, EROSION CONTROL, FINISH GRADING,
AND WATER/SEWER CONNECTIONS.

A Hillside Development Permit is required for all development and redevelopment on lots with an existing slope of forty percent (40%) or greater, unless exempt pursuant to Town of Montreat ordinances. A site plan and permit application shall be accompanied by results from the required Geotechnical Assessment and recommendations from a North Carolina-registered geotechnical engineer.

Signature of Andrew Brown IV
Applicant Signature

9-19-2018
Date

Signature of Zoning Administrator
Zoning Administrator Signature

9/25/18
Date

FOR OFFICE USE ONLY

Permit Fee: \$ Cash: \$ Check #: Date Paid:



Town of Montreat Planning and Development Department  
APPLICATION FOR STORMWATER PERMIT  
Financial Responsibility / Ownership Form

**INSTRUCTIONS:** All sections must be completed. Please type or print information. Section 4 must be completed in the presence of a Notary Public. Application must be completed before a building or grading permit is processed.

PERMIT #: \_\_\_\_\_

- Residential
- Commercial
- Flood Zone

Elevation: \_\_\_\_\_

Rec. Date: \_\_\_\_\_

Section 1:

Owner Name: SCHEER, DANIEL Owner Phone #: 850 443 6210

Owner Address: 4704 STONEY TRCE, TALLAHASSEE FL 32309

Project Address: 322 TEXAS RD, MONTREAT PIN #: 0710-95-7918

Total Acreage of Site: 0.14 AC

Total Area Disturbed/Percentage Impervious/Impervious Surface Added: 1873 SF / 34%<sup>\*\*</sup> / 634 SF

Amount of fee enclosed: \_\_\_\_\_

\* - 10% OF TOTAL LOT IS IMPERVIOUS  
\*\* - PERCENT OF DISTURBED AREA

Section 2:

Descriptions of Stormwater Management Practice (briefly describe and/or attach plan):

*PLZ SEE ATTACHED.*

Section 3:

The undersigned states that he/she is the applicant/developer and/or property owner and is financially responsible for installation, operation and maintenance of the stormwater controls until ownership is conveyed and acknowledges requirements of the Town of Montreat Article III: Stormwater Management Ordinance as well as the penalties and resources available to the Town in the event of violation of the Ordinance.

Signature: *[Handwritten Signature]*

Section 4:

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public for the County of \_\_\_\_\_, State of \_\_\_\_\_, hereby certify that the above personally appeared before me this day and under oath acknowledged that the above form was voluntarily executed by him and is correct to the best of his knowledge and belief.

Witness my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary

My Commission Expires

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

BEFORE THE MONTREAT  
BOARD OF ADJUSTMENT  
CASE NO.

IN RE THE APPEAL BY  
LAURA WOLFE OF A DECISION  
OF THE ZONING OFFICIAL

MOTION TO DISMISS

Comes now Appellee the Town of Montreat (referred to herein as "Town") and moves to dismiss the appeal filed by Laura Wolfe on the grounds stated below.

BACKGROUND

This is an appeal of the decision of the Town Zoning Official to issue a Certificate of Zoning Compliance and Hillside Development Permit for the property located at 322 Texas Road in Montreat, North Carolina, owned by Daniel L. Scheer and Caroline H. Scheer and described in the deed recorded in Book 5691 at Page 1388, Buncombe County, North Carolina, Register of Deeds Office (the "Scheer Property"). In accordance with Section 602.1 of the Montreat Zoning Ordinance, Daniel Scheer submitted a Zoning Compliance Application and Certificate dated September 19, 2018, with the plans for construction of a house on the Scheer Property. In accordance with Montreat General Ordinances, Chapter K-Environment, Article IV: Hillside Development, Daniel Scheer also submitted a Hillside Development Application dated September 19, 2018, for the Scheer Property.

The Zoning Official issued the Certificate of Zoning Compliance and the Hillside Development Permit for the Scheer Property on September 25, 2018. The Building Permit was issued on September 26, 2018, and was posted on the Scheer Property in October 2018. Laura Wolfe called the Town office numerous times during the construction of the house on the Scheer Property.

The building, water and sewer inspection of the construction on the Scheer Property was completed on January 10, 2019.

GROUND FOR DISMISSAL  
THE APPEAL WAS NOT FILED IN A TIMELY FASHION

The appeal in this matter was not filed in a timely manner; therefore, the Board of Adjustment does not have jurisdiction to decide the matter.

North Carolina General Statute Section 160A-388(b1) provides that decisions of administrative officials charged with enforcement of the zoning ordinance may be appealed by a person with standing by filing a notice of appeal with the city clerk within thirty (30) days of actual or constructive notice of the decision. Laura Wolfe filed this appeal with Town Clerk, Angela Murphy, on February 22, 2019. In order for such appeal to be timely filed, the latest date Laura Wolfe could have had actual or constructive notice of the decision was January 23, 2019.

Laura Wolfe called the Town office in late November with questions about the house being built on the Scheer Property. As early as the end of December 2018, Laura Wolfe had constructive knowledge of the location of the foundation of the house, which can be seen from Texas Road. When the portable toilet was delivered to the Scheer Property, Laura Wolfe called the Zoning Official to request that the portable toilet be turned so the door would not face her property.

As part of e-mail correspondence with the Zoning Official about the house on the Scheer Property, Laura Wolfe sent an e-mail on January 9, 2019, in which she wrote: "I do want to remind you that the building plans for the house next door call for a porch 6' X 10' and there is not much more than 10 feet between their house and the lot line. Also, my line cuts in more parallel to the road and they will need to be within 10 feet of this line as well, as far as I am concerned. I don't see how their plan will be conforming to the ordinance." A printed copy of this e-mail correspondence is attached hereto as Exhibit A and incorporated herein by reference.


This e-mail establishes that on January 9, 2019, Laura Wolfe had the building plans for the house on the Scheer Property and was aware of the location of the house with respect to the lot lines. She had actual knowledge of the Zoning Official's decision no later than January 9, 2019, so the deadline for filing this appeal was February 8, 2019. Clearly, Laura Wolfe did not meet this requirement of the North Carolina statute when she filed the appeal on February 22, 2019.

The Board of Adjustment does not have jurisdiction to hear this appeal because Laura Wolfe filed the appeal more than thirty (30) days from the date she had actual knowledge of the decision. "According to well-established principles of North Carolina law, boards of adjustment do not have subject matter jurisdiction over appeals that have not been timely filed." *Meier v. City of Charlotte*, 206 N.C. App. 471, 476, 698 S.E. 2d 704, 708 (2010).

For this reason, the Town respectfully requests that the Board dismiss Laura Wolfe's appeal.

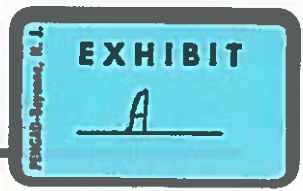
This the 21<sup>st</sup> day of March, 2019.

For the Town of Montreat



Susan Taylor Rash  
Town Attorney  
29 North Market Street, Suite 300  
Asheville, NC 28801  
Telephone 828-255-7641  
NCSB# 16803





**Adrienne Isenhower**

**From:** Laura Wolfe <lauramwolfemd@gmail.com>  
**Sent:** Wednesday, January 16, 2019 7:10 PM  
**To:** Adrienne Isenhower  
**Subject:** Re: Meeting Dates

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

thanks. I'll probably see you at the meeting tomorrow evening. Yes, you can supply the information on the contractor to me. The Town sent someone out about the pipe and it was not sewer it was water but it was a "dead" pipe.

On Tue, Jan 15, 2019 at 2:53 PM Adrienne Isenhower <[adrienne@landofsky.org](mailto:adrienne@landofsky.org)> wrote:  
Hi Laura,

I spoke with the property owner and the building inspector about your concerns. Right now they have about 15 feet from the side of the house to the property line (per the building inspector) and understand this only allows a porch of 5 feet. They have assured me they will meet the setback requirement.

The building inspector may be helpful with some of your questions, but I would suggest talking to the general contractor about your concerns who will be much more knowledge about the intricacies of the plans. I will be glad to get you that information.

As far as the pipe, it is my understanding it is a sewer line in which case, MSD would need to be contacted. The builder probably does need to be contacted if there is no one on site.

If you would like to set up a meeting I can check with the building inspector on his availability. He is usually in the office around lunch. I am also glad to meet with you outside of those hours and will be in the office all day tomorrow and Thursday.

Thanks,  
Adrienne

Sent from my iPhone

On Jan 15, 2019, at 2:34 PM, Laura Wolfe <[lauramwolfemd@gmail.com](mailto:lauramwolfemd@gmail.com)> wrote:

Hi Adrienne. I did measure the set backs on my side and there is not enough room for them to place a 6X10 porch w/10 foot setbacks on their lot. Even if they made 10 foot set backs on their lot, the would still be w/in 15 feet of my house which I don't think is allowed under the ordinance.

I have a lot of other concerns about the building, including whether they will build a sustainable retaining wall to keep their house from sliding into the street, whether they will remove the stump of the hemlock tree that I did not want taken down in the first place, etc.



It seems that maybe I will need to address these to the building inspector. Could we arrange to have a meeting?

I just heard from my dog walker that the builders broke a pipe and it probably belonged to my house and they told her to "call the builder."

Laura

On Thu, Jan 10, 2019 at 9:30 AM Laura Wolfe <[lauramwolfemd@gmail.com](mailto:lauramwolfemd@gmail.com)> wrote:  
Has not been a problem and someone had them put out a dumpster for their trash.

On Wed, Jan 9, 2019 at 8:48 PM Adrienne Isenhower <[adrienne@landofsky.org](mailto:adrienne@landofsky.org)> wrote:  
I am planning to discuss this with the building inspector tomorrow. I did go by there on Tuesday and asked the construction company not to park their vehicle/trailer in front of your house. Please let me know if that continues to be a problem.

Adrienne

Sent from my iPhone

On Jan 9, 2019, at 8:25 PM, Laura Wolfe <[lauramwolfemd@gmail.com](mailto:lauramwolfemd@gmail.com)> wrote:

I do want to remind you that the building plans for the house next door call for a porch 6' X 10' and there is not much more than 10 feet between their house and the lot line. Also, my lot line cuts in more parallel to the road and they will need to be within 10 feet of this line as well, as far as I am concerned. I don't see how their plan will be conforming to the ordinance.

Laura

On Mon, Jan 7, 2019 at 11:53 AM Adrienne Isenhower <[adrienne@landofsky.org](mailto:adrienne@landofsky.org)> wrote:

Laura,

I am in Biltmore Forest today but realized I actually have the plans as an email attachment. The total height is 26'4". Let me know if you need anything else. I will be in Montreat tomorrow.

Thanks!

**From:** Laura Wolfe <[lauramwolfemd@gmail.com](mailto:lauramwolfemd@gmail.com)>  
**Sent:** Friday, January 04, 2019 12:09 PM  
**To:** Adrienne Isenhower <[adrienne@landofsky.org](mailto:adrienne@landofsky.org)>  
**Subject:** Re: Meeting Dates

thank you Adrienne. Just one more question, can you get me the total height of the front of the house? It comes to a peak in the middle. TX!

On Thu, Jan 3, 2019 at 12:59 PM Adrienne Isenhower  
<[adrienne@landofsky.org](mailto:adrienne@landofsky.org)> wrote:

Hi Laura,

The meeting dates for the zoning ordinance review are listed below. Let me know if I can be of further assistance.

January 17, 2019: Open-Ended Public Input Session

February 21, 2019: General Provisions  
Definitions

March 21, 2019: Parking and Loading  
Signs  
Definitions

April 18, 2019: Zoning District Regulations  
Purpose  
Definitions

May 16, 2019: Zoning District Regulations  
Definitions

June 20, 2019: Conditional Uses

Planning and Zoning

Board of Adjustment

July 18, 2019:

Recommendations and Report

**Adrienne Isenhower**

Regional Planner (Biltmore Forest and Montreat)

339 New Leicester Hwy., Suite 140 • Asheville, NC 28806

Land of Sky Office: 828.251.6622

Biltmore Forest: 828.274.0824

Montreat: 828.669.8002

<image001.png>

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