TOWN OF MONTREAT
NORTH CAROLINA

TOWN OF MONTREAT
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Staff Report – Conditional Zoning for Lot 1185, Mississippi Rd. (Mader)

Proposed Project: The property owner (Michael Mader) is requesting R-1 Low-Density Residential Conditional Zoning (CZ) for a 10' side setback on the south/west side of this property in conjunction with construction of a new single-family detached house. The Montreat Zoning Ordinance requires 15' side setbacks in the base/existing R-1 Low-Density Residential District (Sec. 501.8, Sec. 501.81).

The Applicant is requesting this Conditional Zoning in response to the subject property's limited lot width availability, given a 15' sewer easement on the north/east side and a 15' side setback requirement of the base/existing R-1 Low-Density Residential District on the south/west side.

Created by:

Scott Adams, AICP
Zoning Administrator
Town of Montreat

Created for:

Montreat Planning & Zoning Commission

April 21, 2022

Table of Contents

STAFF REPORT – Conditional Zoning, Lot 1185, Mississippi Rd. 3
Summary 3
Public Notice 3
Public Notice cont. 4
Conditional Zoning Request 4
Conditional Zoning Findings of Fact 5
Uses 5
Erosion & Sediment Control (ESC) 7
Erosion & Sediment Control (ESC) cont. 8
Post-Construction Stormwater Control 8
Post-Construction Stormwater Control cont. 9
Hillside and Floodplain Development 9
Comprehensive Plan 9

Table of Figures

Figure 1: 250' Public Notice for Conditional Zoning, PIN # 071065016800000, Mississippi Rd. 4
Figure 2: Estimated site setback dimensions (by Zoning Administrator) 6

STAFF REPORT – Conditional Zoning, Lot 1185, Mississippi Rd.

Summary

The following report summarizes the Zoning Administrator's review of an application for Conditional Zoning by Michael Mader (property owner) at property described as Lot 1185, Mississippi Rd. (PIN: 071065016800000) The project proposes to:

- Construct a new single-family detached house on a currently Vacant Residential Building Lot

Parcel Identifier Number (PIN #): 071065016800000

Address: currently unaddressed; project location is a vacant lot located between 157 Mississippi Rd. (to the south) and 161 Mississippi Rd. (to the north)

Owner: MADER MICHAEL P, MADER KATHRYN G
5277 ISLA KEY BLVD S APT 423, ST PETERSBURG, FL, 33715

Applicant: Michael Mader (property owner)

Zoning: R-1 Low-Density Residential

Current Land Use: Vacant Residential Building Lot

Utilities: Town of Montreat water, Metropolitan Sewerage District (MSD) sewer

Acres: 0.22 acres (9,467 SF lot)
NOTE: R-1 Low-Density Residential district minimum lot size for Single-Family Dwellings is 10,000 SF, however, this is a Lot of Record and therefore only subject to dimensional standards (i.e. setbacks, etc.)

Public Notice

Applicant mailed Public Notice to properties within 250' of the site at least 14 days in advance of **3/8/22 Community Meeting** (see Figure 1: 250' Public Notice for Conditional Zoning, PIN # 071065016800000, Mississippi Rd. page 4.)

Town staff mailed Public Notice to properties within 250' of the site on **April 21, 2022** (21 days ahead of **5/12/22 Planning & Zoning Commission hearing**)

Montreat's Town Clerk will provide Public Notice at least one week ahead of the **5/12/22 Planning & Zoning Commission hearing**, posting notice via:

- The Town's website
- The Town's "Montreat Minute" e-mail newsletter
- Posted notice on a community bulletin board at the Montreat Post Office
- Posted notice on the Town's Hall's community bulletin board

Montreat Planning & Zoning Commission, Public Hearing: **5/12/22**

Public Notice cont.

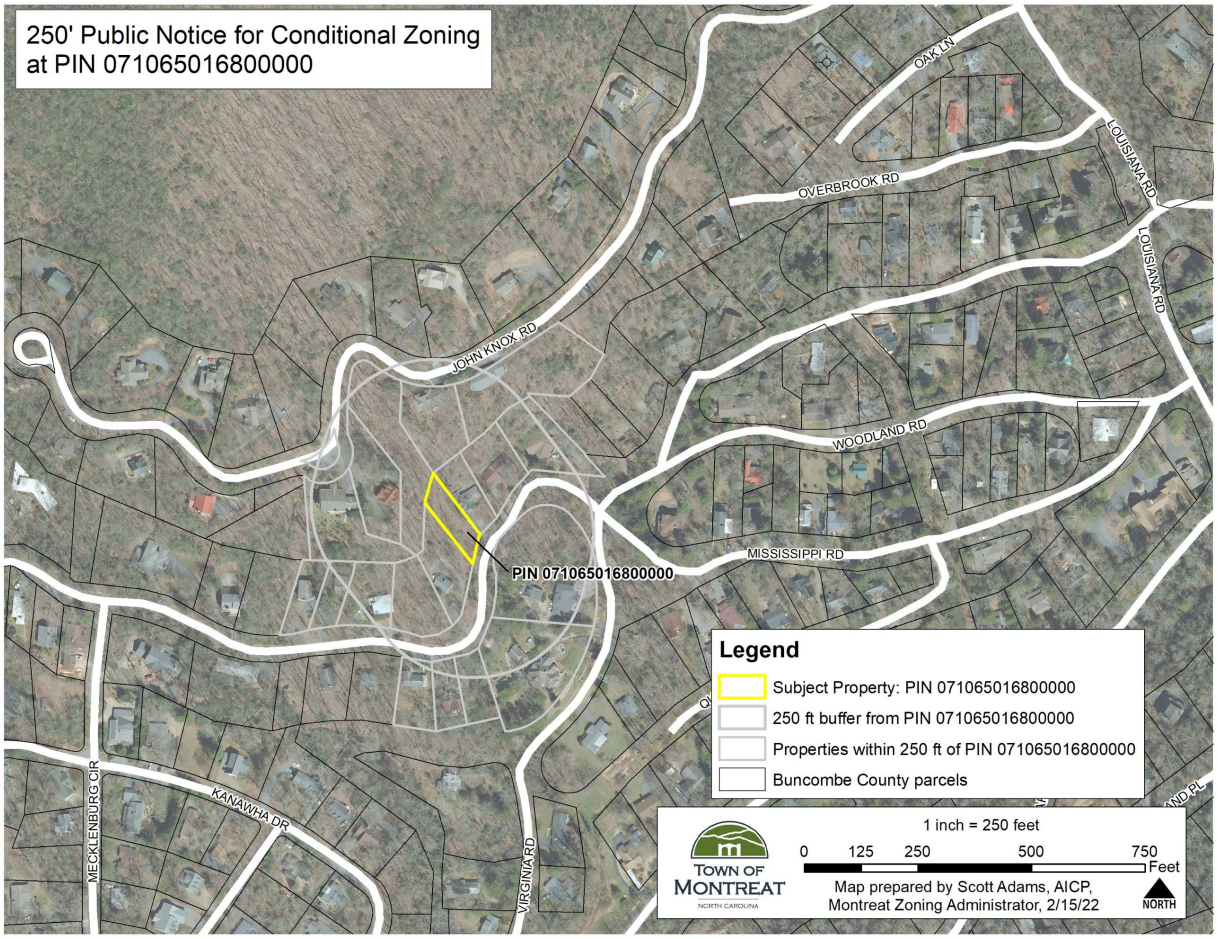


Figure 1: 250' Public Notice for Conditional Zoning, PIN # 071065016800000, Mississippi Rd.

Conditional Zoning Request

The property owner (Michael Mader), is requesting R-1 Low-Density Residential Conditional Zoning (CZ) for a 10' side setback on the south/west side of this property in conjunction with construction of a new single-family detached house. The Montreat Zoning Ordinance requires 15' side setbacks in the base/existing R-1 Low-Density Residential District (Sec. 501.8, Sec. 501.81).

See **STAFF FINDINGS** (i.e. Scott Adams, AICP, Montreat Zoning Administrator) in addition to applicant-provided materials. **STAFF FINDINGS** contain references to the Montreat Zoning Ordinance (**MZO**, eg. Sec. 500) and Montreat General Ordinances (**MGO**) where noted.

Conditional Zoning Findings of Fact

Uses

STAFF FINDINGS

"Single Family Dwelling" is a Permitted Use (Sec. 500 Permitted Uses Table) allowed within the R-1 Low-Density Residential zoning district, subject to Administrative review and approval. Any request for a use involving Conditional Zoning (CZ) requires review and an advisory vote by the Montreat Planning & Zoning Commission (advisory body), followed by review and a binding vote by the Montreat Board of Commissioners (legislative body).

Setbacks and Lot Size

STAFF FINDINGS

Lot area: 0.22 acres (9,467 SF lot)
R-1 Low-Density Residential minimum lot area for Single-Family Dwellings is 10,000 SF (Sec. 501.4, Sec. 501.41). However, this is a Lot of Record and thus legally allowed to be developed at its current size of 9,467 SF.

Lot width: 67.80' (front), 68.51' (rear), **68.15' average**
R-1 Low-Density Residential minimum lot width is 75' (Sec. 501.5). However, this is a Lot of Record and thus legally allowed to be developed at its current width of 68.15'.

Lot depth: 173.81' (north side), 164.01' (south side), **168.91' average**
R-1 Low-Density Residential minimum lot depth is 100' (Sec. 501.6).

Front setback: 30.75'
R-1 Low-Density Residential minimum front setback is 30' (Sec. 501.5).

Side setbacks: 15' on north/east side (R-1 Low-Density Residential District standard), 10' on south/west side (per request for R-1 Low-Density Residential District CZ).
R-1 Low-Density Residential minimum side setback is 15' for Single-Family and Two-Family Dwelling Units (Sec. 501.8, 501.81). Applicant is requesting CZ for a 10' side setback on south/west side.

Retaining Walls

The applicant is also proposing a retaining wall on the south/west side of the proposed house. Per the MZO's definition of "Structure" (see below), the Zoning Administrator has determined that this wall would be independent of the house, and thus not subject to Setback and minimum Yard requirements. The proposed retaining wall is estimated to be between 6.5" and 5' from the south/west property line.

Assuming a base elevation at Mississippi Rd., the retaining wall would range from 30' to 19.5' above the road elevation (see site plans with retaining wall show, "T.W. 30" stands for "Top of

Wall, 30’ elevation”, with the wall tucked into the hillside to the rear and left side of the house as viewed from the street.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including Decks, retaining walls, exterior stairways, Fences, and Signs provided, however, neither a driveway (including associated guardrails), a walkway (including associated steps and railings), an elevated boardwalk, nor a fence shall be considered a Structure for the purpose of Setback and minimum Yard requirements.
(Sec. 201, Definitions, pg. 17)

Rear setback: 81.5’*
R-1 Low-Density Residential minimum rear setback is 20% of mean lot depth or 35’ max. (Sec. 501.9). 20% of 168.91’ average lot depth = 33.78’. *The Zoning Administrator scaled and measured the application’s site plan and determined an 81.5’ rear setback, measured from rear wall of proposed house to midpoint of rear property line (see Figure 2: Estimated site setback dimensions (by Zoning Administrator).

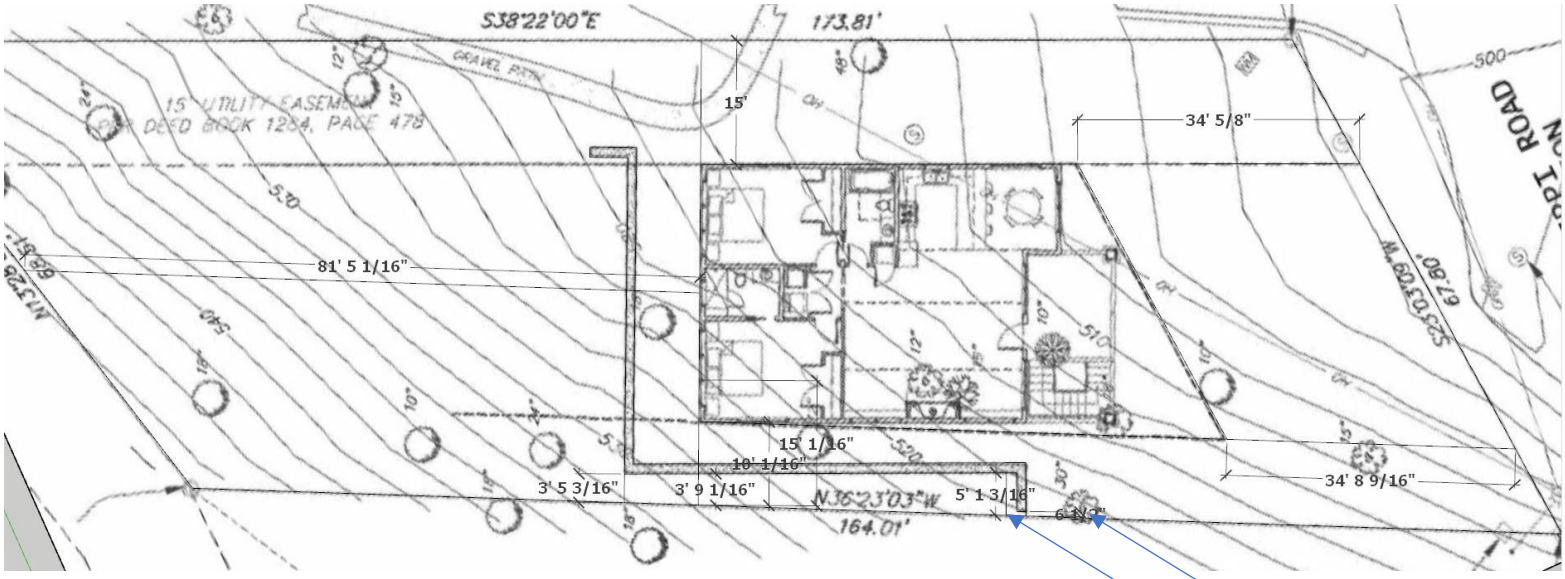


Figure 2: Estimated site setback dimensions (by Zoning Administrator)

Landscaping and Trees

STAFF FINDINGS

The applicant does not propose removing any trees within a Town of Montreat right-of-way (MRA right-of-way is the subject site's frontage and access), therefore **Montreat's Tree Ordinance does not apply** to this site. (Montreat General Ordinances, Chapter K – ENVIRONMENT, ARTICLE V: TREES).

Additionally, the Applicant has voluntarily submitted a Tree Protection and Removal Plan (see Sheet L 1.01, Tree Protection and Removal Plan). This plan shows the removal of nine (9) trees in proximity to the house footprint and the protection/retention of nine (9) trees on the rear of the site.

Erosion & Sediment Control (ESC)

STAFF FINDINGS

Erosion & Sediment Control (ESC) is the technical term for "stormwater control during construction". The applicant's exhibit "Grading, Drainage & Erosion Control Plan" (see Sheet L 1.02) notes the following conditions, all per **Buncombe County Soil Erosion and Sedimentation Control Ordinance** design standards:

- Install annual seed mix on slopes immediately after establishing rough grades; maintain until final grades are established and final land installation.
- Natural area to be preserved (No clearing or grading activity) [rear of site]
- **Silt fences** in areas of soil disturbance.

The Town of Montreat does not have its own independent ESC standards, but rather, references Buncombe County's standards as follows:

MONTREAT CODE OF GENERAL ORDINANCES
CHAPTER K – ENVIRONMENT
ARTICLE II: SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE

(Refers to the most updated version of the "Buncombe County
Soil Erosion and Sedimentation Control Ordinance.")

Projects that disturb more than one (1) acre of land are subject to Buncombe County ESC review and permitting. This project **does not disturb more than one (1) acre**, and therefore is not subject to Buncombe County ESC review. However, **all land disturbing activities must utilize protective measures, such as silt fencing and mud mats, to prevent sedimentation from moving off-site.**

Erosion & Sediment Control (ESC) cont.

The applicant's exhibit "Grading, Drainage & Erosion Control Plan" (see Sheet L 1.02) provides further summary information as follows:

LIMIT OF DISTURBANCE

TOTAL SITE AREA = 9,467 SF (0.22 ACRES);
PROPOSED DISTURBANCE = ±5,350 SF (0.12 ACRES);
IMPERVIOUS AREA = ±2,890 SF (2,890 / 9,467) = 30.5%;
DISTURBED AREA OVER 5,000 SF & IMPERVIOUS COVER OVER 24% TRIGGER REQUIREMENT FOR STORMWATER CONTROL PERMIT

Post-Construction Stormwater Control

STAFF FINDINGS

Post-Construction Stormwater Control is the technical term for "stormwater control after construction is complete". The applicant's exhibit "Grading, Drainage & Erosion Control Plan" (see Sheet L 1.02) provides summary information as follows:

Applicant Proposal

LIMIT OF DISTURBANCE

TOTAL SITE AREA = 9,467 SF (0.22 ACRES);
PROPOSED DISTURBANCE = ±5,350 SF (0.12 ACRES);
IMPERVIOUS AREA = ±2,890 SF (2,890 / 9,467) = 30.5%;
DISTURBED AREA OVER 5,000 SF & IMPERVIOUS COVER OVER 24% TRIGGER REQUIREMENT FOR STORMWATER CONTROL PERMIT

Pending approval of the application for Conditional Zoning (i.e. planning permission), the Applicant will need to submit a full Stormwater Permit application that meets Town stormwater standards (below).

Town of Montreat Stormwater Ordinance Standards

The Town of Montreat's Post-Construction Stormwater development triggers are as follows:

MONTREAT CODE OF GENERAL ORDINANCES
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

Stormwater Control Permit (SCP) (Sec. 303. Administration and Procedures., 3. Review and Appeals Procedure.) is required for:

- Disturbed area of ≥5,000 sq. ft. [≥0.12 AC]; or [*Applicant triggering this standard.]*
- ≥24% total lot area developed to include impervious cover; [*Applicant triggering this standard.]*
- Or addition of ≥2,500 sq. ft. [0.06 AC] or more impervious surface, unless exempt pursuant to this ordinance. [*Applicant triggering this standard.]*

Post-Construction Stormwater Control cont.

The Town of Montreat has independent and more restrictive Post-Construction Stormwater standards than Buncombe County's standards. **As proposed, this project's compliance with all relevant requirements of the Montreat Stormwater Ordinance is TENTATIVE (i.e. Applicant will need to submit a Stormwater Permit application, including stormwater calculations and a Natural Resources Inventory, per Town ordinance).**

Hillside and Floodplain Development

STAFF FINDINGS

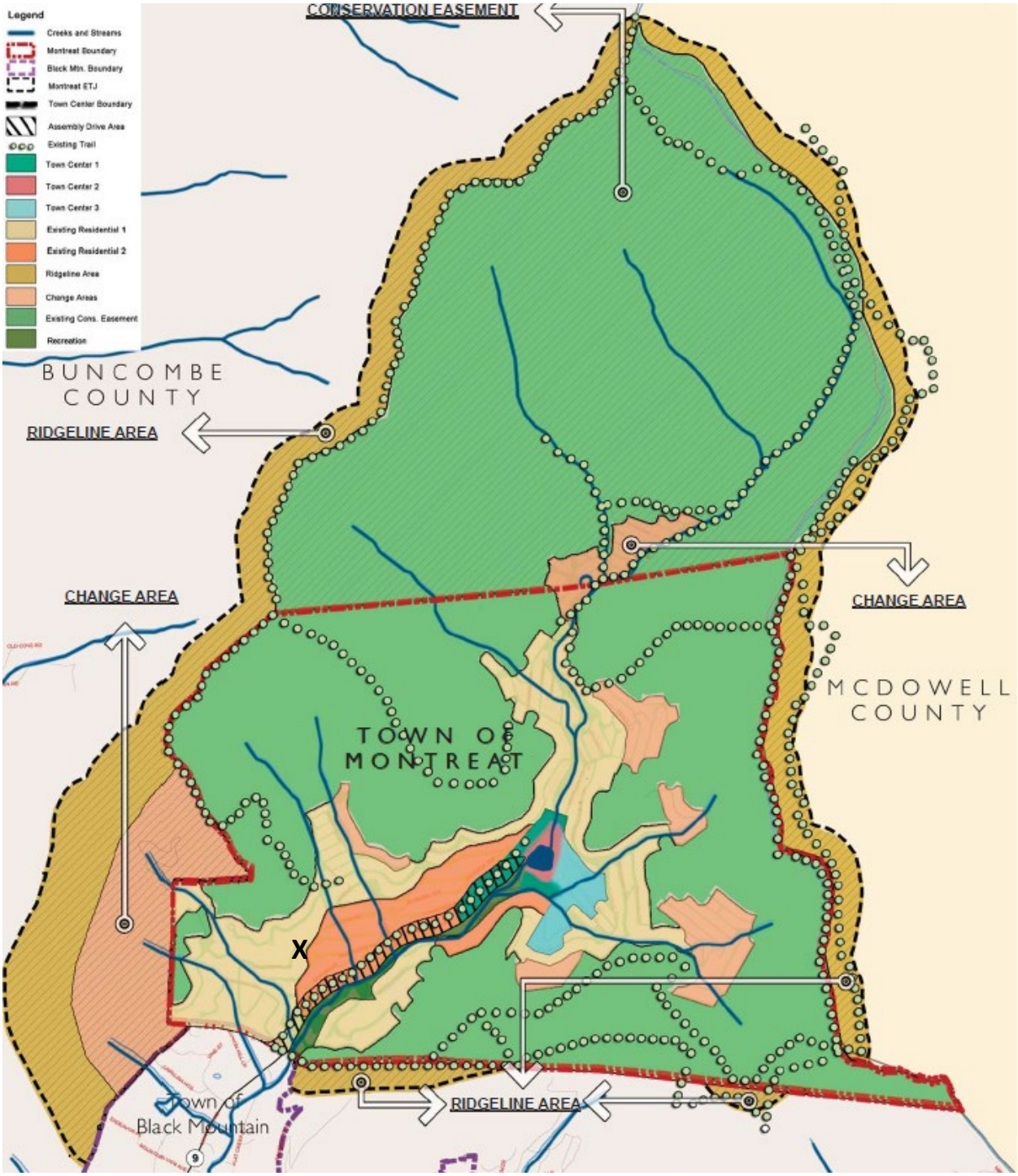
The Town of Montreat's Hillside Development and Floodplain Development ordinances are not applicable to this site since neither steep slopes (>40% slope) nor floodplains exist on the site.

Comprehensive Plan

STAFF FINDINGS

The subject property is located in a sub-area in the plan noted as **Existing Residential 1**. It's identified in the following text and map (see following page):

> *Residential Area 1*
>
> *Residential Area 1 could maintain a density of four dwelling units per acre (DUA) for single family residential. Here, the appearance of existing single-family residential should be maintained for visual continuity. Montreat has a distinctive style of residential architecture, the cottage style, that honors specific design characteristics such as building materials, the consistent pitch of the roof lines, façade widths, the proportion and rhythm of fenestrations, and large porches.* The scale in relation to other elements of the built environment in town and setbacks are also consistent. In addition, the built environment should continue to be integrated into the natural vegetation that is well preserved in Montreat.*
>
> ***NOTE**: This Comp Plan was written in 2008; State law restricted "building design elements" on One and Two-Family Dwellings, outside of Historic Districts, in 2015 (S.L. 2015-86) and again in 2019 (NCGS 160D-702 Grant of power (b)).



Source: Figure #6, Montreat's Planning Area Plan (TOWN OF MONTREAT COMPREHENSIVE PLAN [2008] "**X**" marks the location of the subject property.