

**Town of Montreat
Board of Commissioners Meeting – Public Forum
February 9, 2023 – 6:30 p.m.
Town Hall**

I. Call to Order

- Welcome
- Moment of Silence

II. Agenda Adoption

III. Public Comments

IV. Adjournment

**Town of Montreat
Board of Commissioners
Town Council Meeting
February 9, 2023 – 7:00 p.m.
Town Hall**

I. Call to Order

- Pledge of Allegiance
- Moment of Silence

II. Agenda Adoption

III. Mayor's Communications

IV. Consent Agenda

A. Meeting Minutes Adoption

- January 12th Town Council Public Forum Meeting Minutes
- January 12th Town Council Meeting Minutes

All items on the Consent Agenda are considered routine, to be enacted by one motion with the adoption of the agenda and without discussion. If a member of the governing body requests discussion of an item, it will be removed from the Consent Agenda and considered separately.

VI. Town Manager's Communications

- Consent Agenda Review
- Other Items

VII. Administrative Reports

- Administration
- Planning and Zoning
- Police
- Public Works and Water
- Sanitation
- Streets
- Finance

VIII. Public Comment

Public comments will be heard during this period for any and all items.

IX. Old Business

X. New Business

A. Consideration of Wayfinding Sign Request from MRA

- **Presenter: Tanner Pickett, MRA**
- **See Agenda Materials on page 22-53**
- **Suggested Motion: Move to grant/deny a request from the Mountain Retreat Association to place -a new wayfinding sign in the Town of Montreat's right-of-way for Assembly Drive between Community Center Circle and Lookout Road.**

B. Consideration of Resolution # 23-02-0001 Supporting Local Control of School Calendars

- **Presenter: Angie Murphy**
- **See Agenda Materials on page 54-56**
- **Suggested Motion: Move to approve/deny Resolution....**

C. Consideration of Granting an Easement regarding property on Harmony Lane

- **Presenter: Kayla DiCristina**
- **See Agenda Materials on page 58-79**
- **Suggested Motion: Move to grant/deny an easement across Little Piney Branch to provide access to a lot to the east of Harmony Lane described as PIN#071077202100000**

D. Consideration of Parking Plan on Lookout Road

- **Presenter: David Arrant, Commissioner Kent Otto, Commissioner Jane Alexander**
- **See Agenda Materials on page 80-84**
- **Suggested Motion: Move to approve/deny Parking Plan on Lookout Road**

E. Consideration of Ordinance Revisions for Qualifications as a Bearwise Community

- **Presenter: Mayor Pro Tem Mason Blake**
- **See Agenda Materials on page 85-89**
- **Suggested Motion: Move to approve/deny Ordinance Revisions for Qualifications as a BearWise Community**

XI. Public Comment

Public comments will be heard during this period for any and all items.

XII. Commissioner Communications

XIII. Dates to Remember

- **BearWise Training Meeting, Monday February 20^h at 10:00 a.m. in Town Hall**
- **BearWise Training Meeting, Wednesday February 22th at 6:00 p.m. in Town Hall**
- **Board of Adjustment Meeting, Tentative Thursday February 23rd at 5:00 p.m. in Town Hall**
- **BearWise Training Meeting, Friday February 24th at 1:00 p.m. in Town Hall**

XIV. Closed Session

- **Suggested Motion: To enter into Closed Session in accordance with NCGS §143-318.11(6) for discussion of a personnel matter**

XV. Adjournment

**Town of Montreat
Board of Commissioners
Public Forum Meeting Minutes
January 12, 2023 – 6:30 p.m.
Town Hall**

Board members present: Mayor Tim Helms
Mayor Pro Tem Mason Blake
Commissioner Jane Alexander
Commissioner Kitty Fouché
Commissioner Tom Widmer
Commissioner Kent Otto

Board members absent: None

Town staff present: Ben Blackburn, Interim Town Manager
Angie Murphy, Town Clerk

A few members of the public were present. Mayor Tim Helms called the meeting to order at 6:30 p.m., and led the group in a moment of silence.

Agenda Approval

Commissioner Kitty Fouché moved to adopt the agenda as presented. Commissioner Kent Otto seconded and the motion carried 5/0.

Public Forum

Mr. Philip Arnold of 530 Magill Drive asked the Town Council for an update on the hiring of a new Finance Officer. Interim Town Manager Ben Blackburn advised that an offer has been made and accepted by Rachel Eddings. Ms. Eddings has been working for the past month on a part time basis and will start full time on February 1st. Mr. Blackburn hoped Ms. Eddings would be in attendance later on this evening for an introduction to the Town.

Dr. Mary Standaert of 118 Shenandoah Terrace reflected on the history of Gaither Chapel and its importance to the Town of Montreat. Dr. Standaert recently learned that Montreat College plans to remove the chestnut pews from Graham Chapel and replace with more flexible seating. Dr. Standaert urged people to reach out to College administration if they had concerns about the pews.

Mayor Helms brought everyone's attention to a beautiful new podium in the Community Room which was handcrafted by our very own Commissioner Tom Widmer.

Adjournment

Mayor Pro Tem Mason Blake moved to adjourn the meeting. Commissioner Jane Alexander seconded and the motion carried 5/0. The meeting was adjourned prior to 6:37 p.m.

Tim Helms, Mayor

Angie Murphy, Town Clerk

**Town of Montreat
Board of Commissioners
Meeting Minutes
January 12, 2023 – 7:00 p.m.
Town Hall**

Board members present: Mayor Tim Helms
Mayor Pro Tem Mason Blake
Commissioner Kitty Fouche
Commissioner Jane Alexander
Commissioner Tom Widmer
Commissioner Kent Otto

Board members absent: None

Town staff present: Ben Blackburn, Interim Town Manager
Angie Murphy, Town Clerk
David Arrant, Chief of Police
Barry Creasman, Public Works Director
Jarod McIntosh, Senior Water Operator

Several members of the public were present at Town Hall and several more were watching via Zoom. Mayor Tim Helms called the meeting to order at 7:00 p.m., and led the group in the pledge of allegiance and a moment of silence.

Agenda Approval

Commissioner Jane Alexander moved to adopt the agenda as presented. Commissioner Tom Widmer seconded and the motion carried 5/0.

Mayor's Communications

Mayor Tim Helms thanked Margaret Bauer, Robin Melvin, Nickie Otto, Lynn Gilliland and Lolly Hightower for adding seasonal decorations around Lake Susan. Mayor Helms also thanked Mayor Pro Tem Mason Blake for coordinating meetings between the Buncombe County Board of Commissioners and Montreat Town Council to discuss funding issues.

Meeting Minutes Adoption

- Decmeber 8th Town Council Public Forum Meeting Minutes
- December 8th Town Council Meeting Minutes

Mayor Pro Tem Mason Blake requested the word “carried” to be changed to the word “defeated” in the December 8th Town Council Meeting Minutes under Item H. Mayor Pro

Tem Mason Blake moved to approve the minutes as amended. Commissioner Kitty Fouché seconded and the motion carried 5/0.

Interim Town Manager's Communications

Interim Town Manager Ben Blackburn had no communication this evening.

Administrative Reports

- Administration – This report was given in written format.
- Finance – Reports were handed out to the Commissioners at the beginning of the meeting.
- Planning & Zoning – This report was given in written format.
- Police – This report was given in written format.
- Public Works and Water – This report was given in written format.
- Sanitation – This report was given in written format.
- Streets – This report was given in written format.

Public Comment

Dr. Mary Standaert of 118 Shenandoah Terrace referred to her earlier comments about the removal of chestnut pews from Graham Chapel and advised that during the break she learned that the pews had already been removed and are being sold.

Old Business

There was no Old Business to discuss.

New Business

- A. Presentation of Wellhead Protection Certificate of Achievement: Ms. Jordan Jackson of NC Rural Water Association was on hand to present Senior Water Operator Jarod McIntosh, on behalf of the Town, an Award of Achievement. Montreat Water Department voluntarily prepared a Wellhead Protection Plan which was submitted and accepted by NC Rural Water Association.

- B. Consideration of Designation of Voting Delegate for 2023-2024 North Carolina League of Municipalities: Mayor Pro Tem Mason Blake moved to appoint Mayor Tim Helms as Voting Delegate for 2023-2024 North Carolina League of Municipalities. Commissioner Tom Widmer seconded and the motion carried 5/0.
- C. Consideration of Updating Signature Authority on Town of Montreat's Bank Accounts at Truist Bank: Commissioner Jane Alexander moved to appoint Town Clerk Angie Murphy, Interim Town Manager Ben Blackburn, Police Chief David Arrant, Mayor Tim Helms and Commissioner Kitty Fouche to have Signature Authority on Town of Montreat's Bank Accounts at Truist Bank. Commissioner Tom Widmer seconded and the motion carried 5/0.

Public Comment

There was no Public Comment at this time.

Commissioner Communications

Mayor Pro Tem Mason Blake informed the Commission that the BearWise Committee, underneath the umbrella of Montreat Landcare, has been very busy working to get Montreat qualified as a BearWise community. Mayor Pro Tem Mason Blake also mentioned his intent to attend the North Carolina League of Municipalities Town & State Dinner on February 22nd in Raleigh. Mr. Blake feels that it would be a great opportunity for the Commission to visit with the state legislation delegation. Mayor Pro Tem Blake also thanked Public Works Director Barry Creasman and his team for installing signage and arranging boulders along Appalachian Way to curtail parking issues with Montreat College students

Commissioner Tom Widmer made everyone aware that that the Land of Sky Metropolitan Planning Organization, who are responsible for transportation efforts in our area, are seeking input on the 2023-2033 transportation plan. The survey link will be provided in the next Montreat Minute. Commissioner Widmer also thanked Barry Creasman and his team for the installation of new "Children at Play" signage on Texas Road Spur and Texas Road Extension.

Dates to Remember

- Comprehensive Plan Steering Committee Meeting, Friday January 13th at 10:00 a.m. in Town Hall
- Town Offices Closed Monday January 16th in observance of MLK Day. Sanitation services will resume on Tuesday, January 17th
- Planning & Zoning Commission, Thursday January 19th at 10:30 a.m. in Town Hall
- Tree Board, Tuesday January 24th at 9:30 a.m. in Town Hall

- Comprehensive Plan Steering Committee Meeting, Wednesday January 25th at 10:30 a.m.
- Board of Adjustment, Thursday January 26th at 5:00 p.m.
- Landcare, Wednesday February 1st at 9:00 a.m.
- Comprehensive Plan Steering Committee Meeting, Tuesday February 7th at 12:00 p.m. in Town Hall
- Bridge Aesthetics Committee Meeting, Thursday February 9th at 2:00 p.m.
- February Town Council Meeting, Thursday February 9th at 7:00 p.m. Public Forum begins at 6:20 p.m.

Interim Town Administrator Ben Blackburn introduced Rachel Eddings as the Finance Officer. Mr. Blackburn also thanked the Public Works Department for the recent installation of dog waste stations with accompanying signage.

Closed Session

Commissioner Tom Widmer moved to enter into Closed Session in accordance with NCGS 143-318.11(6) for discussion of a personnel matter. Commissioner Jane Alexander seconded and the motion carried 5/0.

Upon returning to Open Session Mayor Tim Helms announced that the Montreat Board of Commissioners extended an offer of employment to Jonathan Blanton of Ranlo, NC for the position of Town Manager. Pending his acceptance of the position by noon on January 13, 2023, Mr. Blanton will work a 30 day notice and agree to a salary of \$100,000.

Adjournment

Commissioner Jane Alexander moved to adjourn the meeting. Mayor Pro Tem Mason Blake seconded and the motion carried 5/0. The meeting was adjourned at 7:25 p.m.

Tim Helms , Mayor

Angie Murphy, Town Clerk



TOWN OF MONTREAT

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

ADMINISTRATIVE REPORTS: ADMINISTRATION

Town Administration report for the month of January 2023

Monthly Statistics	2021	2022
Public Meetings	4	8
Inter-Organizational /Intergovernmental Meetings	2	1
Agendas Prepared	4	7
Minutes Transcribed	4	7
Resolutions Drafted	0	0
Public Records Requests Processed	0	3
Water Bills Processed	674	675
Leak Adjustments	10	2
New Water Accounts Established	1	2
Purchase Orders	69	74
Professional Development Hours	0	0
Sunshine List Messages		14
Website Posts	9	14
Social Media Posts	0	0
Code Red Alerts	1	0
Workers Compensation Claims	0	0

Upcoming Events and Schedule Changes

Comments

N/A

Staff Communications

N/A



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ADMINISTRATIVE REPORTS: BUILDINGS AND INSPECTIONS

Buildings and Inspections report for the month of January 2023

Monthly Statistics	2021	2022
Building Permits Issued	7	4
Pending Building Permits	0	1
Building Inspections Performed	26	23
Stop Work Orders Issued	0	0
Defective Building Posted	0	0
Denied Building Permits	0	0
Fire Inspections Performed	0	0
Fire Re-Inspections Performed	0	0
Fire Permits Issued	0	0

Comments

Staff Communications



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ADMINISTRATIVE REPORTS: STREETS

Streets Department report for the month of January , 2023

Monthly Statistics	2021	2022
Miles of Road Maintained	15.46	17.12
Miles of New Road Constructed	0	0
Public Trees Removed	0	0
Sand Applied to Roads (tons)	0	0
Ice Melt Applied to Roads (pounds)	0	0
Monthly Fuel Costs	364.23	364.23
Contracted Employee Staff Hours	0	0
Road Closures	0	0

Comments

This month we are going to be removing numerous dead trees all around town. There will be some road closures involved with some of the removals. We will be posting the closures the day before so that folks can plan accordingly. Thank you.



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ADMINISTRATIVE REPORTS: POLICE DEPARTMENT

Police Department report for the month of January , 2023

Monthly Statistics	2021	2022
Mileage	1,865	2,654
Dispatched Calls	32	17
Officer-Initiated Calls	444	633
Fire Assistance Calls	1	0
EMS Assistance Calls	1	1
Motorist/Other Assistance Calls	22	11
Traffic Stops	11	28
Parking Issues	0	5
Burglar Alarm Responses	1	0
Fire Alarm Responses	2	0
Residential/Building Checks	402	521
Ordinance Violations	0	5
Law Enforcement Agency Assistance Calls	12	9
Animal Control Calls	0	3
Larcenies	2	0
Breaking & Entering Calls	2	1
Suspicious Person Investigations	2	1
Suspicious Vehicle Investigations	2	3
Disturbance Calls	5	2
Accident Responses	2	1
Auxiliary Hours Worked (Regular)	16	16
Auxiliary Hours Worked (Addittional)	0	12
Truck Turns at Gate	7	5
MPD Fuel Cost	\$ -	\$0.00
Professional Development Hours	0	16
Town Service	442	637
MRA Service	268	222
College Service	3	6

Comments

A reminder, our non-emergency number has changed. You can reach the MPD Officer on duty through Buncombe County Dispatch. 828-250-6670.



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ADMINISTRATIVE REPORTS: WATER AND PUBLIC WORKS

Water and Public Works report for the month of January , 2023

Monthly Statistics	2021	2022
Calls for Service	56	43
Water Leaks Repaired	2	2
New Water Lines Installed	0	0
Water Meters Read	674	674
Water Meter Replacements	0	56
Gallons of Water Produced	3933156	2,853,222
Monthly Fuel Cost	541.41	\$ 465.85
Hours Pumped (11 wells combined)	1770	1,574

Comments

We would like to remind folks to please leave their heat on a low setting when their homes are going to be empty over the winter months. Also if they hear of a power outage and think that their homes are affected by the outage please leave the water in their homes at a slow drip. If your are not able to do so have one of your neighbors turn the water on for you or gives us a call and we can see if we can assist you. Thank you and Have a Blessed year.



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ADMINISTRATIVE REPORTS: SANITATION

Sanitation Department report for the month of January , 2023

Monthly Statistics	2021	2022
Tons of Curbside Trash Collected	20.08	21.82
Pay-As-You-Throw Trash Bags Collected	N/A	NA
Tons of Curbside Recycling Collected	4.62	3.84
Pay-As-You-Throw Recycling Bags Collected	N/A	NA
Cardboard Recycling Collected	0.62	2.06
Unique Curbside Sanitation Stops	1425	2,285
Bagged Leaf Pickup	62	184.00
Brush Pickup (cubic yards)	3 Loads	4 Loads
Hauling Fees	1950.85	\$3,284.60
Tipping Fees	956.32	\$1,272.98
Dumpster Rental Fees	203.92	\$454.26
Sanitation Fuel	159.34	\$ 224.10

Comments:

We would like to remind everyone to please tie trash bags and to please break down their cardboard.
Thank you.



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ADMINISTRATIVE REPORTS: ZONING ADMINISTRATION

Zoning Administration report for the month of January 2023

Monthly Statistics	2021	2022
Approved Zoning Permits	0	2
Denied Zoning Permits	0	0
Pending Zoning Permits	0	2
Variance/Interpretation Granted	0	1
Conditional Use Permits Granted	0	0
Permit Extensions Granted	0	0
Sign Permits Issued	0	0
Notices of Violation	0	0

Comments

Date of Deposit	Jul-21	Jul-22	% +/-	Aug-21	Aug-22	% +/-	Sep-21	Sep-22	% +/-	Oct-21	Oct-22	% +/-	Nov-21	Nov-22	% +/-	Date of Deposit	Dec-21	Dec-22	% +/-	Jan-22	Jan-23	% +/-
AdVal/RMV (Includes Sp Assess&Ded Fees)	2,920.94	2,467.17	-18%	3,457.81	8,783.55	61%	106,638.16	115,574.01	8%	112,242.83	96,696.17	-16%	60,228.54	84,706.01	28.90%	AdVal/RMV	267,776.90	250,138.43	-7.05%	364,761.06	371,502.07	1.81%
Sales	40,374.75	48,247.41	16%	41,390.38	50,254.48	18%	45,270.46	52,432.25	14%	45,114.37	51,787.47	13%	41,479.39	51,747.54	19.84%	Sales	43,345.68	52,079.05	16.77%	44,765.05	51,498.73	13.08%
Solid Waste (Quarterly)				179.40	157.37	-14%							173.79	186.60	6.86%	Solid Waste (Quarterly)						
Utility Fran (Quarterly)							18,360.31	19,305.00 QE 6/30/22	5%							Utility Fran (Quarterly)	23,240.05	26,761.50 QE 9/30/22	13.16%			
Wine/Beer (Annual-May)																Wine/Beer (Annual-May)						

NOTES:
AdVal Tax is received the month after the tax is collected
RMV Tax is received two months after the tax is collected
Sales Tax is received three months after the tax is collected

REVENUES

Fund	Fund #	Budget	YTD Budget	YTD Collected	Difference
GENERAL FUND	10	1,810,952.00	1,056,388.67	1,178,616.21	122,227.54
WATER FUND	30	344,041.00	200,690.58	202,074.83	1,384.25
TOTAL REVENUES GENERAL & WATER FUNDS		2,154,993.00	1,257,079.25	1,380,691.04	123,611.79

EXPENSES

Dept Name	Fund #	Budget	YTD Budget	YTD Exp	Difference
GOVERNING BODY	10	40,471.00	23,608.08	10,417.09	13,190.99
ADMINISTRATION	10	446,567.00	260,497.42	266,628.08	(6,130.66)
PUBLIC BUILDINGS	10	44,503.00	25,960.08	19,283.36	6,676.72
POLICE	10	438,373.00	255,717.58	219,565.00	36,152.58
BUILDING AND ZONING	10	117,506.00	68,545.17	39,996.29	28,548.88
PUBLIC WORKS	10	203,074.00	118,459.83	60,052.79	58,407.04
STREET	10	395,462.00	230,686.17	132,835.15	97,851.02
SANITATION	10	102,096.00	59,556.00	71,413.58	(11,857.58)
ENVIRON,CONS,REC	10	22,900.00	13,358.33	5,361.78	7,996.55
TOTAL EXPENSES GENERAL FUND		1,810,952.00	1,056,388.67	825,553.12	230,835.55

Dept Name	Fund #	Budget	YTD Budget	YTD Exp	Difference
WATER	30	344,041.00	200,690.58	162,526.24	38,164.34
TOTAL EXPENSES WATER FUND		344,041.00	200,690.58	162,526.24	38,164.34

TOTAL EXPENSES GENERAL & WATER FUNDS		\$2,154,993.00	\$1,257,079.25	\$988,079.36	\$268,999.89
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GENERAL FUND INCOME/LOSS - YTD	\$353,063.09
WATER FUND INCOME/LOSS - YTD	\$39,548.59
NET INCOME - YTD 2022	\$392,611.68

SPECIAL PROJECTS					
Project	Fund #	Budget	This Month Actual	Amount Spent To Date	% Spent
TOWN HALL	13	2,389,479.77	0.00	2,222,293.91	93.00%
PUBLIC WORKS BLDG	14	403,888.86	0.00	396,258.50	98.11%
FEMA-GREYBEARD	15	242,684.30	0.00	242,684.30	100.00%
FEMA-TEXAS ROAD	16	50,000.00	0.00	38,071.55	76.14%
FEMA-PROVIDENCE TERR	17	21,000.00	0.00	15,683.00	74.68%
FEMA-CALVIN TRAIL	20	30,000.00	0.00	13,490.57	44.97%
FEMA-CULVERT PROJECT	21	39,800.00	0.00	39,274.83	98.68%
FEMA-DEBRIS PROJECTS	22	3,200.00	0.00	0.00	0.00%
FEMA-URBAN FORESTRY 2018	23	10,000.00	0.00	841.28	8.41%
FEMA-URBAN FORESTRY 2019	24	10,114.00	0.00	2,352.41	23.26%
FEMA-MISC	25	183,943.00	0.00	57,060.03	31.02%
LANDCARE	26	750.00	0.00	49.95	6.66%
CARES ACT GRANT	27	9,697.06	0.00	3,828.57	39.48%
AMERICAN RESCUE PLAN ACT	28	138,633.39	22,923.00	55,423.00	39.98%
TOTAL SPECIAL PROJECTS		\$ 3,533,190.38	\$ 22,923.00	\$ 3,087,311.90	87.38%

January 2023 - MONTH 7 OF FISCAL YEAR 2022-2023

REVENUES

Fund	Fund #	Budget	YTD Budget	YTD Collected	Difference
GENERAL FUND	10	2,074,556.00	1,210,157.67	1,115,993.78	(94,163.89)
WATER FUND	30	359,734.00	209,844.83	194,106.38	(15,738.45)
TOTAL REVENUES GENERAL & WATER FUNDS		2,434,290.00	1,420,002.50	1,310,100.16	(109,902.34)

EXPENSES

Dept Name	Fund #	Budget	YTD Budget	YTD Exp	Difference
GOVERNING BODY	10	45,572.00	26,583.67	40,417.31	(13,833.64)
ADMINISTRATION	10	471,922.00	275,287.83	274,264.59	1,023.24
PUBLIC BUILDINGS	10	120,862.00	70,502.83	29,346.41	41,156.42
POLICE	10	439,974.00	256,651.50	231,933.16	24,718.34
BUILDING AND ZONING	10	94,600.00	55,183.33	58,751.00	(3,567.67)
PUBLIC WORKS	10	117,593.00	68,595.92	77,301.38	(8,705.46)
STREET	10	624,083.00	364,048.42	152,448.82	211,599.60
SANITATION	10	136,900.00	79,858.33	78,681.28	1,177.05
ENVIRON,CONS,REC	10	23,050.00	13,445.83	1,332.31	12,113.52
TOTAL EXPENSES GENERAL FUND		2,074,556.00	1,210,157.67	944,476.26	265,681.41

Dept Name	Fund #	Budget	YTD Budget	YTD Exp	Difference
WATER	30	359,734.00	209,844.83	128,647.91	81,196.92
TOTAL EXPENSES WATER FUND		359,734.00	209,844.83	128,647.91	81,196.92

TOTAL EXPENSES GENERAL & WATER FUNDS	\$2,434,290.00	\$1,420,002.50	\$1,073,124.17	\$346,878.33
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GENERAL FUND INCOME/LOSS - YTD	\$171,517.52
WATER FUND INCOME/LOSS - YTD	\$65,458.47
NET INCOME - YTD 2022	\$236,975.99

SPECIAL PROJECTS					
Project	Fund #	Budget	This Month Actual	Amount Spent To Date	% Spent
TOWN HALL	13	2,389,579.77	0.00	2,317,203.80	96.97%
PUBLIC WORKS BLDG	14	403,888.86	0.00	398,393.11	98.64%
FEMA-GREYBEARD	15	242,760.00	0.00	242,684.30	99.97%
FEMA-TEXAS ROAD	16	38,272.00	0.00	38,071.55	99.48%
FEMA-PROVIDENCE TERR	17	15,883.00	0.00	15,683.00	98.74%
FEMA-CALVIN TRAIL	20	13,691.00	0.00	13,490.57	98.54%
FEMA-CULVERT PROJECT	21	47,491.00	0.00	39,274.83	82.70%
FEMA-URBAN FORESTRY 2018	23	10,000.00	0.00	841.28	8.41%
FEMA-URBAN FORESTRY 2019	24	10,114.00	0.00	2,352.41	23.26%
FEMA-MISC	25	214,747.00	0.00	62,903.55	29.29%
LANDCARE	26	1,560.00	0.00	49.95	3.20%
CARES ACT GRANT	27	9,697.06	0.00	5,135.53	52.96%
AMERICAN RESCUE PLAN ACT	28	138,633.39	0.00	55,423.00	39.98%
TOTAL SPECIAL PROJECTS		\$ 3,536,317.08	\$ -	\$ 3,191,506.88	90.25%

MEMORANDUM

TO: The Town of Montreat Board of Commissioners

CC: Ben Blackburn (Interim Town Administrator), Angela Murphy (Town Clerk),
Tanner Pickett (Applicant, on behalf of the Mountain Retreat Association)

FROM: Kayla DiCristina (Zoning Administrator)

SUBJECT: Wayfinding Sign Request

DATE: February 9, 2023

ATTACHMENTS: Applicant Correspondence, Proposed Sign Proofs, Excerpts from the
Montreat Zoning Ordinance, Staff Presentation

This request, submitted by the applicant, Tanner Pickett (on behalf of the Mountain Retreat Association), is for permission from the Board of Commissioners to place a new wayfinding sign in the right-of-way for Assembly Drive between Community Center Circle and Lookout Road. Wayfinding signs, per Section 809 of the MZO, are signs designed and intended to help direct a person from point to point or confirming a person's progress along a route. There is an existing wayfinding sign in the same location as the new wayfinding sign that will be removed. The existing wayfinding sign predates the Montreat Zoning Ordinance (MZO) and is considered non-conforming. Per Section 810 of the MZO, a non-conforming sign is any sign that existed on the effective date of the MZO that does not meet the requirements of the ordinance. These signs may continue to be used, but have strict stipulations stated in Section 810 of the MZO as to when and how they can be replaced, altered, and maintained and whether these actions nullify the signs non-conforming status. When a sign's non-conforming status is nullified, the sign is considered new and must conform to the MZO. Given that the existing wayfinding sign is being removed, the design is being altered, and the wayfinding sign was allowed to deteriorate, the new wayfinding sign must conform to the MZO.

Section 809 of the MZO details the requirements of wayfinding signs in the Town of Montreat. This section states that privately owned wayfinding signs may be placed by right (i.e. with approval by the Zoning Administrator) in the Institutional and Institutional/Residential Zoning Districts. However, no wayfinding signs, other than government agency-owned wayfinding signs may be placed in Town Rights-of-Way or on other Town property in any Zoning District without first obtaining the permission and approval of the Town. This approval may be conditioned by the Town. In addition to location restrictions, privately owned wayfinding signs are limited to less than four square feet in surface area unless they are part of a Community Wayfinding System. This Community Wayfinding System and an accompanying ordinance must be approved and adopted by the Town. The Town of Montreat completed a Wayfinding System Plan in 2014, but did not adopt an accompanying ordinance and the applicant was unable to provide evidence that the proposed wayfinding sign was a part of this plan.

As stated previously, the new wayfinding sign must conform to the MZO. To demonstrate conformance, the new wayfinding sign must obtain permission and approval from the Town of Montreat to place the sign in the right-of-way of Assembly Drive. The applicant must also obtain a variance from the Board of Adjustment to allow the wayfinding sign to exceed the size restriction of four square feet for wayfinding signs, as stated in Section 809 of the MZO. Should the Board of Commissioners approve the location of the proposed wayfinding sign, the approval should be conditional on the applicant obtaining a variance for the size of the surface area of the proposed wayfinding sign, as it exceeds that which is permissible under Section 809 of the MZO. In addition, the Board of Commissioners should consider conditioning the applicant to obtain new permission and approval from the Board of Commissioners should the applicant change the design or size of the new wayfinding sign (even if this change negates the need for a variance), if the new wayfinding sign remains in the Town's right-of-way of Assembly Drive.

Fw: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Tanner Pickett <tannerp@montreat.org>

Thu 1/19/2023 11:53 AM

To: Angela Murphy <amurphy@townofmontreat.org>

Cc: Kayla DiCristina <kayla@landofsky.org>

Be Advised: This email originated from outside Land of Sky

Hi Angie,

I hope that you are well.

I would like space on an upcoming town agenda for approval from the BOC to replace the sign on Assembly Drive, directly across from Freeland Hall.

I have no history of who "owns" that sign, and it is in disrepair. I believe it is generally assumed that the MRA owns it, and we have worked with the college to create a design that we think is more useful for wayfinding and looks better.

It sounds like I will still have to seek a variance and approval from the BOA after this step.

Here is a file with the mockups, approximate location, and picture of the existing sign:  [Wayfinding Sign- Assembly Drive](#)

Please let me know if there is anything else that is needed.

Peace,

Tanner Pickett (he/him)

Vice President for Sales, Marketing, and Communication

montreat.org

-please note that I typically check emails at 10a and 4p each day

[Book time to meet with me](#)

From: Kayla DiCristina <kayla@landofsky.org>

Sent: Thursday, January 19, 2023 11:34 AM

To: Tanner Pickett <tannerp@montreat.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Hi Tanner,

Understood. Thanks for confirming. Please reach out to Angie Murphy and cc me letting her know that you would like space on the agenda to request approval from the BOC to replace the sign on Assembly Drive across from Freeland Hall. I recommend providing pictures of the proposed sign. I will provide the board with an explanation of the origin of this request, the process you are following to obtain approval for the sign, and the decision they need to make.

Best,

Kayla DiCristina, AICP

(*For inquiries regarding the Town of Montreat, please see below)

Regional Planner | Economic and Community Development

Land of Sky Regional Council

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

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From: Tanner Pickett <tannerp@montreat.org>
Sent: Thursday, January 19, 2023 11:28 AM
To: Kayla DiCristina <kayla@landofsky.org>
Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Be Advised: This email originated from outside Land of Sky

The sign is located 20 feet from the center line of assembly drive.

Tanner Pickett (he/him)
Vice President for Sales, Marketing, and Communication
montreat.org

-please note that I typically check emails at 10a and 4p each day

[Book time to meet with me](#)

From: Kayla DiCristina <kayla@landofsky.org>
Sent: Thursday, January 19, 2023 11:01 AM
To: Tanner Pickett <tannerp@montreat.org>
Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Hi Tanner,

The right-of-way in the area of this sign is 30' from the centerline of Assembly Drive. Please confirm that the sign is within that area. I'd hate for y'all to go before the BOC and ask for permission you don't need.

Best,

[Kayla DiCristina, AICP](#)

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From: Tanner Pickett <tannerp@montreat.org>
Sent: Thursday, January 19, 2023 10:58 AM
To: Kayla DiCristina <kayla@landofsky.org>
Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Be Advised: This email originated from outside Land of Sky

It is on the right-of-way, in the "yellow-hatched" area. The college and the MRA feel that a wayfinding sign is helpful there, but the existing sign is in terrible shape (and I believe many assume it is ours).

Tanner Pickett (he/him)
Vice President for Sales, Marketing, and Communication
montreat.org

-please note that I typically check emails at 10a and 4p each day

[Book time to meet with me](#)

From: Kayla DiCristina <kayla@landofsky.org>
Sent: Wednesday, January 18, 2023 9:57 AM
To: Tanner Pickett <tannerp@montreat.org>
Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Hi Tanner,

Before confirming, do you know for certain that the sign is within the Town's right-of-way or on Town owned property?

Best,

[Kayla DiCristina, AICP](#)

(*For inquiries regarding the Town of Montreat, please see below)
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From: Tanner Pickett <tannerp@montreat.org>
Sent: Wednesday, January 18, 2023 9:50 AM

To: Kayla DiCristina <kayla@landofsky.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Be Advised: This email originated from outside Land of Sky

Thanks. I guess we can just start with the BOC meeting. The next one is on 2/9? Is that correct? If they have an issue, then there is no need to move forward.

thanks.

Tanner Pickett (he/him)

Vice President for Sales, Marketing, and Communication

montreat.org

-please note that I typically check emails at 10a and 4p each day

[Book time to meet with me](#)

From: Kayla DiCristina <kayla@landofsky.org>

Sent: Wednesday, January 18, 2023 8:56 AM

To: Tanner Pickett <tannerp@montreat.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Good morning Tanner,

As a reminder, what is constructed will need both approval from the BOC and a variance request from the BOA. Requesting the BOC allow the sign to be constructed is at no cost to the MRA (other than time) as it is a request made to the BOC at their monthly public meeting. The variance request has a fee associated with it that is non-refundable once the case is placed on the Board of Adjustment's agenda.

You can begin this process with either request. Just let me know how you want to proceed.

Best,

Kayla DiCristina, AICP

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From: Tanner Pickett <tannerp@montreat.org>

Sent: Tuesday, January 17, 2023 2:16 PM

To: Kayla DiCristina <kayla@landofsky.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Packet Page 27

Hey Kayla.

Thanks for the information on this. I will want to move forward with getting that sign replaced, so please let me know how to proceed to apply for the variance.

Best,

Tanner Pickett (he/him)
Vice President for Sales, Marketing, and Communication
montreat.org

-please note that I typically check emails at 10a and 4p each day

[Book time to meet with me](#)

From: Tanner Pickett <tannerp@montreat.org>
Sent: Wednesday, January 4, 2023 4:37 PM
To: Kayla DiCristina <kayla@landofsky.org>
Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

ok. thanks. I'll give all of this some thought.

Tanner Pickett (he/him)
Vice President for Sales, Marketing, and Communication
montreat.org

-please note that I typically check emails at 10a and 4p each day

[Book time to meet with me](#)

From: Kayla DiCristina <kayla@landofsky.org>
Sent: Wednesday, January 4, 2023 3:18 PM
To: Tanner Pickett <tannerp@montreat.org>
Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Hi Tanner,

My understanding is that the reference to the Town wayfinding system would include signs that were part of a town led effort to create the public wayfinding system, not privately constructed signs. Please see my responses in red below:

1. There are a few of similar signs around campus that were put up at the same time, and my understanding is these were part of a collaborative effort (presumably the MRA and College, but I have no ideas with the town was involved) and I have no idea if those were part of a "town-adopted" wayfinding system when they were put in. If it was, does that change the process at all? Especially since I'm partnering with the college on this. **If the Town was involved with this, yes. Otherwise, no. If you can provide evidence that this part of the Town's wayfinding plan, I'd be happy to re-evaluate (it was adopted around 2014, but it was put together starting in 2013).**
2. Assuming that it's not part of any adopted plan and would not be, do I need to obtain permission before I start the variance, or does that come as part of the variance process? **You can do it either way. Ultimately, what is constructed will need both pieces. Requesting the BOC allow the sign to be constructed is at no cost to the MRA (other than time) as it is a request made to the BOC at their monthly public meeting. The variance request has a fee associated with it that is non-refundable once the case is placed on the Board of Adjustment's agenda. I'm happy to get you started either way you choose. Just let me know.**

Best,

Kayla DiCristina, AICP

(*For inquiries regarding the Town of Montreat, please see below)

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From: Tanner Pickett <tannerp@montreat.org>

Sent: Wednesday, January 4, 2023 3:12 PM

To: Kayla DiCristina <kayla@landofsky.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Be Advised: This email originated from outside Land of Sky

Ok. Thank you--- that is what I couldn't figure out.

One, last, 2-part question (hopefully). As I understand it, the current sign is in green space and is on town property. Section 809 states that "privately owned Wayfinding Signs that are part of a community wayfinding system approved and adopted by the town may be greater than the four square feet..." and goes on to say, "No Wayfinding signs other than government agency-owned Wayfinding signs may be placed on town property without obtaining permission...."

1. There are a few of similar signs around campus that were put up at the same time, and my understanding is these were part of a collaborative effort (presumably the MRA and College, but I have no ideas with the town was involved) and I have no idea if those were part of a "town-adopted" wayfinding system when they were put in. If it was, does that change the process at all? Especially since I'm partnering with the college on this.
2. Assuming that it's not part of any adopted plan and would not be, do I need to obtain permission before I start the variance, or does that come as part of the variance process?

I realize now that this had gotten a little complicated. Please let me know if you'd rather hash this out over the phone or me to stop by one day and chat.

Tanner Pickett (he/him)

Vice President for Sales, Marketing, and Communication

montreat.org

-please note that I typically check emails at 10a and 4p each day

[Book time to meet with me](#)

From: Kayla DiCristina <kayla@landofsky.org>

Sent: Wednesday, January 4, 2023 2:29 PM

To: Tanner Pickett <tannerp@montreat.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Hi Tanner,

You will need a variance and then a sign permit. A variance is relief from the Zoning Ordinance and the sign permit is the development approval. We would not do the sign permit until the variance was ruled on.

Best,

Kayla DiCristina, AICP

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From: Tanner Pickett <tannerp@montreat.org>

Sent: Wednesday, January 4, 2023 1:49 PM

To: Kayla DiCristina <kayla@landofsky.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Be Advised: This email originated from outside Land of Sky

Ok. thanks.

Just for clarity. Will I need a sign permit and a variance application for consideration of the sign as designed or just the variance app?

Thanks.

Tanner Pickett (he/him)

Vice President for Sales, Marketing, and Communication

montreat.org

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From: Kayla DiCristina <kayla@landofsky.org>

Sent: Tuesday, January 3, 2023 3:17 PM

To: Tanner Pickett <tannerp@montreat.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Hi Tanner,

Given this information, the existing sign would be considered a non-conforming private wayfinding sign. Non-conforming means that the existing sign does not comply with the provisions of the Montreat Zoning Ordinance but is allowed to continue to exist in its current state because its likely construction date predates the current regulations. Non-conforming signs are allowed to be maintained (repainted, etc.) provided that neither the design nor dimensions of the sign are altered in any fashion. As a note, normal weathering does not constitute destruction by adverse weather conditions, which would permit replacement of a non-conforming Sign. If a Sign is allowed to deteriorate, it cannot be replaced, and any repairs would require conformance to the current sign regulations.

The proposal to replace the sign with a new structure and new design would constitute a new sign (i.e. this proposal would not be considered maintenance of a non-conforming sign) so you will need to pull a sign permit and comply with the provisions of Section 800 (specifically 801.6 and 809) of the Montreat Zoning Ordinance. See below:

- The sign must be less than four square feet in surface area. A variance can be applied for to permit an increase in the signs area.
- The sign must be at least two feet from any vehicular or pedestrian traveled way. If the sign is within the Town's right-of-way or on Town owned property, approval and permission from the Board of Commissioners is required prior to the approval of the sign permit.

Please let me know how you would like to proceed.

Best,

Kayla DiCristina, AICP

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From: Tanner Pickett <tannerp@montreat.org>

Sent: Tuesday, January 3, 2023 3:11 PM

To: Kayla DiCristina <kayla@landofsky.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Be Advised: This email originated from outside Land of Sky

I don't--- no one seems to know. My best guess is about 25 years.

Also, there are a couple of these around town that I could see us replacing over the next year or so if we can, but thought that we'd start with this one because it's in the worst shape.

thanks.

Tanner Pickett (he/him)

Vice President for Sales, Marketing, and Communication

montreat.org

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From: Kayla DiCristina <kayla@landofsky.org>
Sent: Tuesday, January 3, 2023 3:03 PM
To: Tanner Pickett <tannerp@montreat.org>
Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Hi Tanner,

Do you know when the sign was originally installed?

Best,

Kayla DiCristina, AICP

(*For inquiries regarding the Town of Montreat, please see below)

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From: Tanner Pickett <tannerp@montreat.org>
Sent: Tuesday, January 3, 2023 2:31 PM
To: Kayla DiCristina <kayla@landofsky.org>
Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Be Advised: This email originated from outside Land of Sky

Hey there... the dimensions of the existing sign are the same as those of the proposed sign (see the draft sign in the link). The sign itself is 5ft, 3in tall, and the post closest to the road is about 5ft 4in from the pavement and 20 feet from the road's centerline.

thanks for the consideration.

Tanner Pickett (he/him)
Vice President for Sales, Marketing, and Communication
montreat.org

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From: Kayla DiCristina <kayla@landofsky.org>
Sent: Tuesday, January 3, 2023 11:06 AM

To: Tanner Pickett <tannerp@montreat.org>

Subject: Re: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Hi Tanner,

Thank you, I hope you've had a wonderful start to the year as well. Do you know what the dimensions, height, and distance from the pavement are for the existing sign?

Best,

Kayla DiCristina, AICP

(*For inquiries regarding the Town of Montreat, please see below)

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From: Tanner Pickett <tannerp@montreat.org>

Sent: Monday, January 2, 2023 11:47 AM

To: Kayla DiCristina <kayla@landofsky.org>

Subject: Wayfinding sign on Assembly Drive (Across from Freeland Hall)

Be Advised: This email originated from outside Land of Sky

Hey Kayla,

I hope that you are having a great year so far . I have been working with the college on a project to replace the Wayfinding sign on Assembly Drive (across from Freeland Hall). It was put in before I arrived here and is in horrible shape, so we want to overhaul it to make it look better and be more helpful. The Sign Ordinance on Wayfinding wasn't very clear on how to move forward with this type of thing, so I decided to go straight to the source. The link below has a pic of the current sign, an approximate location on the GIS, and some mockups (the overall size would be the same).

☐ [Wayfinding Sign- Assembly Drive](#)

Please advise me on how to proceed.

thanks!

Tanner Pickett (he/him)

Vice President for Sales, Marketing, and Communication

montreat.org

-please note that I typically check emails at 10a and 4p each day

[Book time to meet with me](#)

PROPOSED SIGN PROOF

BACK

(approach from the Lookout Rd.)



FRONT
(approach from the Gate)



ARTICLE VIII – SIGNAGE

800 **Purpose.** The purposes of this Article are: (i) to permit such Signs in the Town of Montreat that will not, by their reason, size, location, construction, or manner of display, confuse or mislead the public, obstruct the vision necessary for traffic safety, or otherwise endanger public health and safety; and (ii) to permit and regulate Signs in such a way as to support and complement land-use objectives set forth in the Zoning Ordinance for the Town of Montreat.

801 **General Regulations.** The following regulations shall apply to all Signs in all Zoning Districts:

801.1 **COMPLIANCE.** No Sign of any type shall be constructed, erected, painted, posted, placed, replaced, or hung in any District except in compliance with this Ordinance.

801.2 **MAINTENANCE.** All Signs, together with braces, guys and supports shall at all times be kept in good repair. If at any time a Sign should become unsafe or poorly maintained, the Zoning Administrator shall send written notice to the owner of the Sign that the Sign must be repaired, maintained or removed. Upon failure of the owner to correct such condition within thirty (30) days of such notice, the Zoning Administrator shall proceed with enforcement action pursuant to Section 801.9.

801.3 **REMOVAL OF OBSOLETE SIGNS.** Signs identifying establishments no longer in existence, products no longer being sold, and service no longer being rendered shall be removed from the premises within ten (10) days from the date of termination of such activities. Temporary Signs, pole-mounted banners giving notice of seasonal or special events, and political Signs shall be removed within two (2) days after termination of the event or election advertised. Upon failure of the owner of these Signs to remove such Signs within the prescribed time period, the Zoning Administrator shall proceed with enforcement action pursuant to Section 810.9.

801.4 **MEASUREMENT OF AREA; HEIGHT.** Sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof which will encompass the entire advertising copy or art designed to attract attention including borders and other architectural embellishments. Sign height shall be measured from the Street grade of the closest point in the Street along which the Sign is located or the average grade at the base of the Sign, whichever is higher, to the highest point of the Sign Structure.

801.5 **BUILDING CODE COMPLIANCE.** All commercial Signs shall fully comply with the requirements of the North Carolina State Building Code and National Electrical Code (NEC). A Building permit shall be required for any projecting Sign attached to a Building or Structure which has a surface area in excess of six (6) square feet.

An electrical permit is required for any internally or externally illuminated Sign powered by electrical sources regulated by requirements of the NEC.

801.6 **SIGN SETBACK REQUIREMENTS.** No projecting portion of any free-standing Sign may be located closer than two feet (2') to any vehicular or pedestrian traveled way. For the purposes of this Ordinance, house numbers and nameplates shall be exempt from this Setback requirement.

801.7 **ILLUMINATION OF SIGNS.** Unless otherwise expressly prohibited, Signs may be illuminated from above at a downward angle provided that lighting directed toward a Sign shall be shielded in such a manner as to illuminate only the face of the Sign, and shall not project light into any portion of the traveled roadway or toward neighboring Buildings.

801.8 **SIGN PERMIT REQUIRED.** A Sign permit, issued by the Zoning Administrator shall be required for all Signs except those specified in Section 803 and Section 804. No permit shall be issued until the Zoning Administrator inspects plans for such Signs and determines that they are in accordance with the requirements contained in this Article. The fee schedule for Sign permits shall be set forth in the Town of Montreat Fee Schedule.

801.9 **ENFORCEMENT OF REGULATIONS.** Any Sign constructed after the Effective Date or any Sign maintained in a non-conforming manner shall be subject to the following actions:

801.91 **Notice.** The Zoning Administrator shall notify in writing the following persons of the non-conforming Sign:

1. The owner of the Sign;
2. The owner of the property on which the Sign is located; and;
3. The occupant of the property on which the Sign is located.
4. Notice shall be given to the above persons that the non-conforming condition must be corrected within thirty (30) days from the date of notification.

801.92 **Penalties.** Penalties for these requirements are specified in Section 307.

801.93 **Appeals.** Any person having an interest in a Sign found to be non-conforming, or the property on which it is located, may appeal to the Board of Adjustment a determination by the Zoning Administrator ordering removal or compliance, as provided in Section 310 of this Ordinance.

801.94 **Removal.** If the non-conforming Sign has not been removed or brought into compliance with the provisions of this Ordinance within the allotted thirty (30) days and if no appeal has been taken, as specified above, then said Sign

shall be removed by the Town and the cost of removal shall be billed to the owner of the Sign.

801.95 Failure to Pay Removal Costs. (a) Pursuant to N.C.G.S. § 160A-193, if the Zoning Administrator determines that a Sign removed by the Town was dangerous or prejudicial to the public health or safety and the owner of the Sign has not paid the costs of removal within thirty (30) days of the billing date, then a lien in the amount of the costs of removal shall be placed on the real property where the removed Sign was located, and shall be collected as unpaid ad valorem property taxes. (b) If no determination of danger or prejudice to the public health or safety is made, then the costs of removal shall be collected by the Town in a civil action in the nature of a debt.

802 **Prohibited Signs.** The following Signs are prohibited, unless otherwise expressly permitted in this Ordinance:

802.1 Signs Constituting Traffic Hazards. Any Sign located in a manner or place so as to constitute a hazard to vehicular or pedestrian traffic as determined by the Zoning Administrator.

802.2 Signs in Street Right-of-Way. Any free-standing Sign located in a Street right-of-way or projecting over into a Street Right-of-Way. One house number and/or name plate shall be permissible for each Dwelling.

802.3 Signs Obstructing Passages. Any Sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any Building.

802.4 Off-Premises Advertising Signs. Billboards and other types of off premises advertising Signs.

802.5 Flashing Devices. Any flashing device or Sign displaying flashing or intermittent lights or lights of changing degrees of intensity.

802.6 Moving Devices. Any commercial Use of moving Signs or device to attract attention, all or any part of which moves by any means, including motion by the movement of the atmosphere or by electrical or other means, including but not limited to, pennants, flags, propellers, or discs, whether or not any said device has a written message.

802.7 Posted Signs. Any Sign posted to utility poles, trees, Fences, rocks or other Signs. Honorarium Signs meeting the requirements of 805.25 are not prohibited under this

section. House Number and Nameplate Signs meeting the requirements of 804.7 are not prohibited under this section.

802.8 Copies of Official Signs. Any Sign which is a copy or an imitation of an official Sign, or which purports to have official status but does not have an official purpose.

802.9 Portable Signs. A Sign that is not permanently affixed to a Building, Structure or the ground.

802.10 Roof Signs. Any Sign which is affixed to the roof of a Building or Structure.

802.11 Signs Not Permitted. Any Sign not expressly permitted or exempted elsewhere in this Ordinance.

803 **Exempt Signs.** The following Signs are exempt from the provisions of this Ordinance:

803.1 **GOVERNMENTAL AGENCY SIGNS.** (i) Signs erected or maintained by a governmental agency to regulate, control or direct traffic including Wayfinding Signs, Signs indicating bus stops, parking areas, and similar transportation facilities, or Signs employed to serve as a directory for services that may be found within the Town; and (ii) informational kiosks that provide maps and locational information. Such Signs may be illuminated, flashing, or moving as required for public safety. Furthermore, Signs erected by a governmental agency which convey information regarding a public service, or the location of a public facility may also be illuminated as necessary.

803.2 **SIGNS REQUIRED BY LAW.** Signs erected pursuant to federal, state, or local laws or ordinances.

803.3 **WARNING SIGNS.** Signs which warn of hazards to life, limb, and property such as high voltage electrical equipment, explosives and the like.

803.4 **MONTREAT CONFERENCE CENTER SIGN STRUCTURE NEAR GATE.** The longstanding Montreat Conference Center Sign Structure containing approximately five sign panels is permitted. Sign panels may be changed as and when necessary. If destroyed by casualty or other cause, such sign structure may be reconstructed consistent with its previous size and design. A change in the design or size of the Montreat Conference Center sign structure is subject to approval of the Zoning Administrator.

804 **Signs Allowed Without a Permit.** The following types of Signs shall be permitted in any Zoning District without the issuance of a sign permit provided they meet the stated requirements:

804.1 **TEMPORARY REAL ESTATE SIGNS.** Temporary real estate Signs advertising a specific piece of property for sale, lease, rent, or development, located on said property, provided such Signs shall not exceed six (6) square feet in surface area per side. Signs shall not be illuminated and shall not exceed one (1) per parcel of land unless such land is located at an intersection of two Streets; in such a case, two Signs shall be allowed, one facing each Street.

804.2 **SIGNS ON WINDOW GLASS.** Signs on window glass, regardless of size.

804.3 **PRIVATE REGULATORY SIGNS.** Private, unofficial regulatory Signs not exceeding two (2) square feet in surface area per side, which indicate directions, entrances and exits, available parking facilities, no smoking, control of pets and other similar requirements. Such Signs shall be located entirely on the property to which they pertain and shall not contain any advertising message.

804.4 **CONSTRUCTION SIGNS.** One (1) construction Sign per construction project not exceeding sixteen (16) square feet of Sign area in residential Zoning Districts or thirty two (32) square feet in the Institutional or Institutional/Residential Zoning Districts, provided that such Signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid Building Permit has been issued, shall be confined to the site of construction, and shall be removed five (5) days after completion of construction and prior to occupancy.

804.5 **PUBLIC NOTICE.** Official notices posted by public officers or employees in the performance of their duties.

804.6 **HOUSE NUMBER SIGNS.** Street address numbers must be clearly displayed so that the location can be identified easily from the road. Every property owner of improved property shall purchase and display in a conspicuous place on said property the number assigned.

804.61 The official address number must be displayed on the front of a Building or at the entrance to a Building which is most clearly Visible from the Street or road during both day and night.

804.62 If a Building is more than seventy-five feet (75') from any road or if two or more homes use the same entrance, the address number(s) shall be displayed at the end of the driveway or Easement nearest the road which provides access to the Building(s)

804.63 Numerals indicating the address number shall be at least three (3) inches in height and shall be posted and maintained so as to be legible from the road.

804.64 Numerals must be of contrasting color to the background. Reflective numbering or placing reflective dots at the Sign to direct attention to it is encouraged.

804.65 The Zoning Administrator will have the right to authorize and approve alternate methods of displaying house numbers which meet the intent of this Ordinance when strict adherence to these standards cannot reasonably be met.

804.7 **RESIDENTIAL NAMEPLATE SIGNS.** Residential nameplate Signs are permitted and may include house numbers. Residential nameplate Signs shall not exceed six (6) square feet in area.

804.8 **POLITICAL SIGNS.** Political Signs shall, with the permission of the property owner, be allowed on private property more than five (5) feet from the traveled portion of the roadway, sixty (60) days before and on the date of the election or referendum, and shall be removed within one day after said election or referendum. Political Signs are defined as Signs for candidates for election or for issues on the ballot, and such Signs shall not exceed eight (8) square feet in area per display side. Political Signs may not be illuminated.

804.9 **TEMPORARY SPECIAL EVENT/PUBLIC INTEREST SIGNS.** Signs providing notice of upcoming events or gatherings of special interest to the public, including meeting dates and locations, etc. may be displayed, but only in accordance with the following requirements:

804.91 Such Signs shall be no larger than four (4) square feet of surface area per side;

804.92 Such Signs must be located at least two (2) feet from the paved or traveled portion of the road or sidewalk along which they are placed;

804.93 Such Signs shall be placed no earlier than fifteen (15) days before the event to which they refer; and

804.94 Such Signs must be removed no later than two (2) days after the conclusion of the event to which they refer. Signs shall be limited to informational material only; no commercial advertisements or for-profit endorsements shall be permitted.

805 **Signs Allowed with Permits.** The following types of Signs shall be allowed within the Town of Montreat upon the issuance of a sign permit for each proposed Sign and subject to the regulations set forth below:

805.1 **SIGNS ALLOWED IN RESIDENTIAL ZONING DISTRICTS (R-1, R-2, AND R-3).** The following types of Signs shall be allowed in all of the residential Zoning Districts subject to the accompanying restrictions and the issuance of a sign permit:

805.11 **HOME OCCUPATION SIGNS.** Each Home Occupation shall be allowed one (1) Sign for purposes of identification. Said Sign shall not exceed four (4) square feet of surface area. Signs shall not be illuminated.

805.12 **SUBDIVISION SIGNS.** One (1) ground Sign per entrance to a subdivision. Said Sign(s) shall be no larger than sixteen (16) square feet of surface area per side. Signs shall not exceed six feet (6') in height and may not be illuminated.

805.13 **NON-RESIDENTIAL USES.** Non-residential Uses permitted as a Special Use in residential Zoning Districts shall be allowed one (1) freestanding or wall identification Sign per Street fronted on by the permitted Use. Said Sign shall be no larger than eight (8) square feet of surface area per side. Signs shall not exceed eight feet (8') in height and shall not be illuminated.

805.2 **SIGNS ALLOWED IN THE INSTITUTIONAL/RESIDENTIAL AND INSTITUTIONAL ZONING DISTRICTS.** The following types of Signs shall be allowed in the above Zoning Districts for Uses permitted in accordance with the Special Use permitting process or for a use-by-right for that Zoning District subject to the accompanying restrictions and the issuance of a sign permit:

805.21 **GROUND OR FREE-STANDING SIGNS.** For each Principal Building on a Lot, one (1) ground Sign not to exceed the following surface area limitations: Sixteen (16) square feet in surface area per side of Sign.

805.22 **WALL SIGNS.** For each Principal Building on a Lot, one (1) wall Sign located on the Street frontage side of the Building not to exceed sixteen (16) square feet. Existing or newly engraved permanent wall Signs consisting of chiseled or hewn stone which identify the current Use or occupancy of an associated Structure are permitted to serve as one (1) allowable wall Sign on the Street frontage side of the Building. Should the Use or occupancy change such that the chiseled or engraved Sign no longer serves to indicate the current Use or occupancy of the Structure, one (1) new wall Sign shall be permitted.

805.23 **MULTI-TENANT SIGNS.** Buildings occupied by two or more tenants, regardless of individual or shared ownership, are permitted to have one (1) free-standing Sign on the property on which the Building is located. The maximum size of such free-standing Signs shall not exceed sixteen (16) square feet in surface area per side of Sign. In addition, each multi-tenant Building shall be allowed one (1) wall Sign, per tenant, not to exceed eight (8) square feet of surface area. The Sign Structure(s) may be designed to allow the addition or removal of copy elements as tenants change in the case of multi-tenant Buildings.

805.24 **BUILDINGS LOCATED ON CORNER LOTS.** In cases where a Building is located on a Corner or Double-Frontage Lot, then said Building is allowed two (2) wall and two (2) freestanding Signs - one (1) of each Sign type facing each Street that borders the Lot.

805.25 **HONORARIUM SIGNS.** Honorarium signs shall be permitted if the size and scale are deemed proportionate to the Structure and location whereon displayed. Signs may be located on existing rocks, Buildings or other Structures as approved by the property owner. Signs shall be constructed of stone or bronze and securely anchored so as to prevent dislocation by weathering or impact. Signs erected above walkways or other areas of public assembly shall be subject to approval by the Building Inspector for adequate anchorage and structural support.

805.26 **EDUCATIONAL SIGNS.** Signs that supply information about people, facilities, natural features or other areas of educational or historical interest shall be permitted as educational Signs. Maximum size of such free-standing Signs shall not exceed twelve (12) square feet in surface area for pedestal mounted Structures.

806 **Temporary Signs allowed in all Zoning Districts.** In addition to the provisions of 804.9, temporary Signs, flags, or banners advertising the initial openings of businesses, establishments, special events or special sales may be permitted provided the size, location and duration of such Signs is approved by the Zoning Administrator. Such Signs may be freestanding or attached to any part of a Building, wall, or other Structure and shall meet all other applicable requirements. An example of a Sign permitted hereunder is the “Welcome” wall Sign hung by Montreat College (approximately 23’ x 7’) below the wall of the Howerton Building at the beginning of academic terms.

807 **Recreational Signs.** Sign Structures designed to identify the location of, and provide other information concerning, specific recreational features, such as hiking and walking trails and bicycle paths, through maps and trail-head informational displays, are permitted in all zoning Districts. Such Signs are to be limited to the location of the associated feature(s) and are subject to approval by the owner of the land on which the Sign and recreational feature(s) are located. Maximum size of such free-standing Signs shall not exceed twenty-four (24) square feet in surface area for multi-base frame Structures. Sign Structures are to be fabricated of naturally-durable species of wood in the form of logs and roughhewn dimensional timbers that cohere with the adjacent natural setting and location. Sign Structures may be allowed with small roof or canopy features to provide weather-protective cover for viewers, subject to approval by the Building Inspector. Roof coverings shall also be constructed of naturally durable species of wood such as cedar, redwood, black locust or black walnut.

808 **Utility Pole Banners in Town Center Overlay District.** Upon receipt of a sign permit, Owners of property located in the Institutional Use Zoning District and within the Town Center Overlay District may, in accordance with this section install temporary banners on utility poles located on their property for the purposes of (i) identifying the campus or buildings on the owner's property, or (ii) identifying special events occurring at or being celebrated on the owner's property.

808.1 The location, size and period of time the banners may be displayed and total number of banners proposed shall be approved in advance by the Zoning Administrator, in her or his reasonable discretion; and in addition, the following requirements must be met: (a) the owner of the property shall obtain the prior written consent of the owner of the utility pole to the placement of the banner thereon; (b) the maximum size of each banner shall be 30 inches in width by six feet (6') in length; (c) the bottom of the banner shall be no less than eleven feet (11') above the ground surface (measured from the base of the applicable utility pole); (d) if the utility pole is within three feet (3') of the back of the curb (or if there is no curbing, within three feet (3') of the edge of the pavement) of an adjoining Street, the banner shall not be installed on the street side of the utility pole; (e) banners promoting special events shall not be permitted to be installed longer than one (1) month; and (f) any banner on a particular utility pole shall not be displayed from such pole more than eight (8) months during any calendar year.

808.2 Upon receipt of a sign permit, Owners of property located in the Institutional Use Zoning District and within the Town Center Overlay District may install banners for limited time periods on utility poles located within a Town Street Right-of-Way adjacent to the Owner's property for the purposes of identifying the campus or buildings on the Owner's property or special events occurring at or being celebrated on the owner's property, provided (i) the owner obtains the prior written consent of the Zoning Administrator upon such conditions as the Zoning Administrator may require in her or his sole discretion, including without limitation the execution of a written agreement setting forth any restrictions as to the location, size, number and permitted time periods for such banner(s), and (ii) requirements (a) through (f) provided for in the immediately preceding grammatical paragraph of this section are complied with in all respects.

809 **Wayfinding Signs.** Government agency-owned Wayfinding Signs are exempt from the provisions of this Ordinance as provided in Section 803.1 above. Privately owned Wayfinding Signs which do not exceed four (4) square feet in surface area are permitted in all Zoning Districts except R-1, R-2 and R-3, provided the location of such Signs is approved by the Zoning Administrator. Privately owned Wayfinding Signs that are part of a community Wayfinding system approved and adopted by the Town may be greater than four (4) square feet in surface area and may be in any Zoning District if and to the extent such is provided for in the ordinance adopting such community Wayfinding system. No

Wayfinding Signs other than government agency-owned Wayfinding Signs may be placed on Town Rights-of-Way or other Town property without obtaining the permission and approval of the Town, which approval or permission may be withheld or conditioned by the Town in its sole and complete discretion. As used in this ordinance, the term “Wayfinding Sign” means a Sign designed and intended to help to direct a person from point to point or confirming a person’s progress along a route.

810 **Non-Conforming Signs.** Any Sign which existed on the Effective Date, but which does not meet the requirements of the Ordinance shall be deemed a non-conforming Sign and may continue to be used, but only in accordance with the following provisions:

810.1 **Maintenance of Non-Conforming Signs.** All non-conforming Signs shall be maintained in accordance with the requirements of this Article, provided, however, that no repainting of the Sign shall alter the design of the Sign in any fashion. If the design or dimensions of a non-conforming Sign are altered, the non-conforming Sign shall be removed or conformed to this Article at the time of the redesign.

810.2 **Replacement of Non-Conforming Signs.** If a non-conforming Sign is destroyed by vandals, accident, or adverse weather conditions, such Sign may be replaced. If it is replaced, it shall conform to the requirements in this Article. Normal weathering does not constitute destruction by adverse weather conditions which would permit replacement of a non-conforming Sign. If a Sign is allowed to deteriorate, it shall not be replaced under this Section.

810.3 **Relocation of Non-Conforming Signs.** A non-conforming Sign may be relocated on the same premises on which it is located if the relocation brings the Sign into conformity.

810.4 **Removal of Non-Conforming Signs.** All non-conforming Signs must be removed or brought into compliance with this Ordinance no later than five (5) years after the date of adoption of this Ordinance.

Wayfinding Sign Request

Montreat Board of Commissioners

February 9, 2022



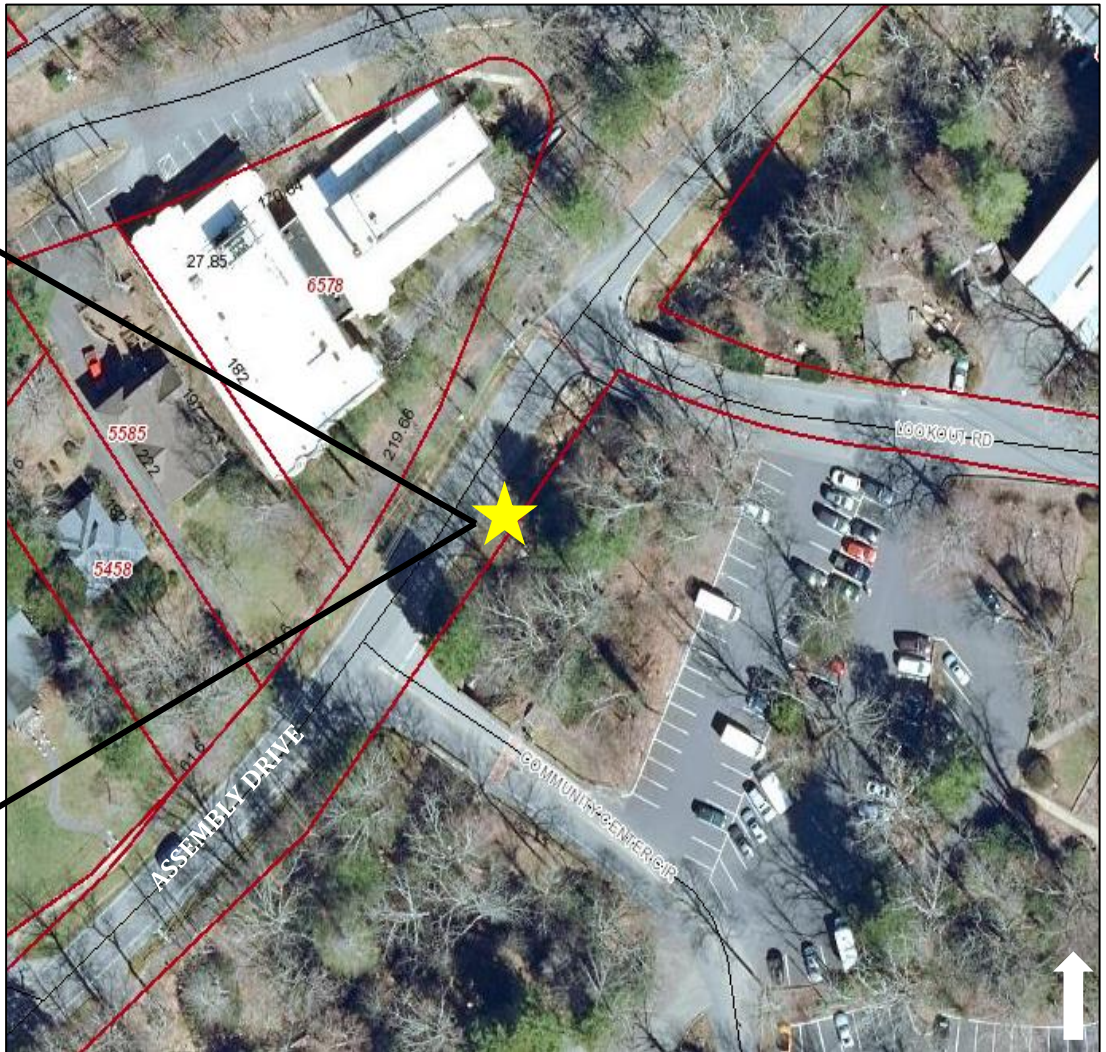
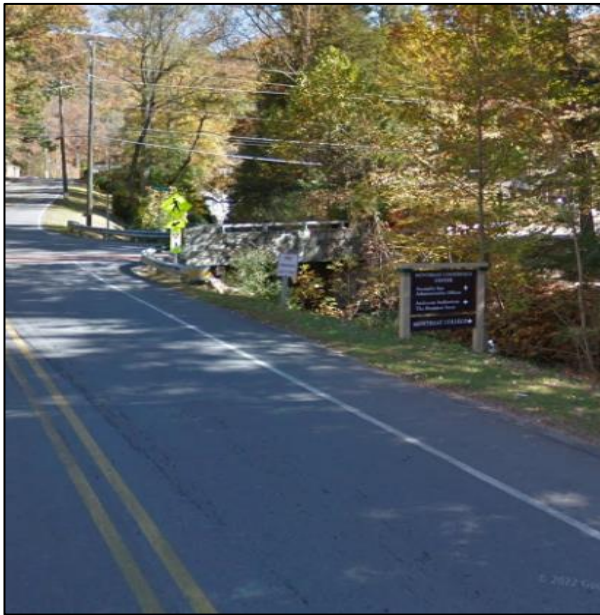
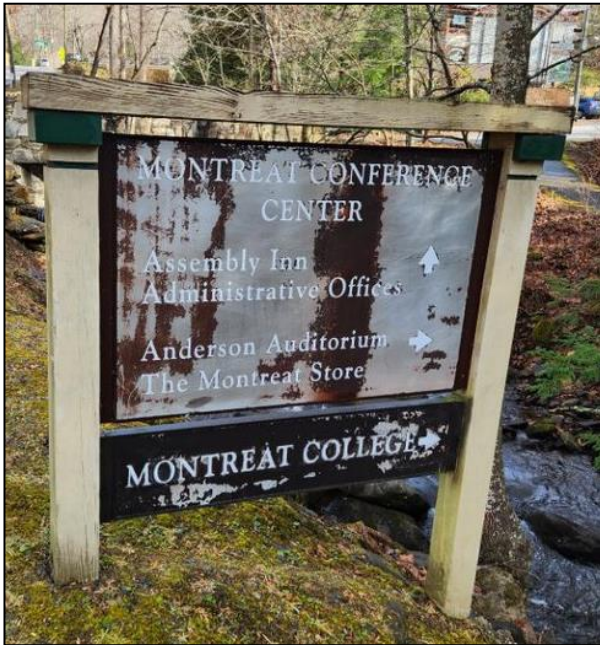
REQUEST OVERVIEW

Applicant: Tanner Pickett, on behalf of the Mountain Retreat Association (MRA)

Request Summary: The MRA seeks permission from the Board of Commissioners to place a new wayfinding sign in the right-of-way for Assembly Drive between Community Center Circle and Lookout Road. This new wayfinding sign would replace the existing wayfinding sign in the same location.

The existing wayfinding sign predates the Montreat Zoning Ordinance (MZO) and is considered non-conforming. The existing wayfinding sign is proposed to be removed and replaced with a new wayfinding sign. The new wayfinding sign must comply with the provisions of the MZO.

EXISTING SIGN



RELEVANT SIGN REGULATIONS

SECTION 809 MZO – WAYFINDING SIGNS

- ❖ **No Wayfinding Signs other than government agency-owned Wayfinding Signs may be placed on Town Rights-of-Way or other Town property without obtaining the permission and approval of the Town,** which approval or permission may be withheld or conditioned by the Town in its sole and complete discretion.
- ❖ As used in this ordinance, the term “Wayfinding Sign” means a Sign designed and intended to help to direct a person from point to point or confirming a person’s progress along a route.

REQUEST OVERVIEW

The proposed wayfinding sign must conform to the MZO. To conform to the Ordinance...

1. Applicant must obtain permission and approval from the Town of Montreat to place the wayfinding sign in the right-of-way of Assembly Drive (Section 809).
2. Applicant must obtain a variance from the Board of Adjustment to allow the wayfinding sign to exceed the size restriction of four square feet on wayfinding signs (Section 809).

PROPOSED SIGN



BACK (approach from Lookout Road)



FRONT (approach from the Gate)

RECOMMENDATION

For the applicant to place the new wayfinding sign in its proposed location, the Board of Commissioners must give their permission.

Should the Board of Commissioners approve the location of the proposed wayfinding sign, the approval should be conditional on the applicant obtaining a variance for the size of the proposed wayfinding sign, as it exceeds that which is permissible under Section 809 of the Montreat Zoning Ordinance.

The Board of Commissioners should also consider requiring the applicant to obtain new permission and approval should the applicant change the design or size of the wayfinding sign (even if this change negates the need for a variance), if the proposed wayfinding sign remains in the right-of-way of Assembly Drive.

Wayfinding Sign Request

Montreat Board of Commissioners

February 9, 2022





TOWN OF MONTREAT

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

RESOLUTION #23-02-001 **RESOLUTION BY THE MONTREAT BOARD OF COMMISSIONERS SUPPORTING** **LOCAL CONTROL OF SCHOOL CALENDARS**

WHEREAS, the North Carolina law provides the Buncombe County Board of Education powers of supervision and control of the public schools located within Buncombe County;

WHEREAS, local control over establishing school calendars is an integral component of school system supervision and the administrative powers with which the Buncombe County Board of Education has been vested;

WHEREAS, in 2004 the North Carolina General Assembly set a statewide, mandatory start and end date for all school districts (the school calendar law); and

WHEREAS, the North Carolina General Assembly amended the school calendar law in 2012 to further restrict the starting date for schools:

WHEREAS, the mandated school start day is no earlier than the Monday closest to August 26 and the end date is no later than the Friday closest to June 11;

WHEREAS, the school calendar law resulted in school starting no earlier than August 29 for the 2022-2023 school year, and no earlier than August 28 for the 2023-2024 school year;

WHEREAS, a late August start date means the schools within Buncombe County are unable to complete the first semester until mid to late January;

WHEREAS, the school calendar law requires high school students to take first semester exams after the winter break, which negatively impacts students and faculty and further, is an inefficient use of instructional time;

WHEREAS, the school calendar law does not align with community college and university calendar, making it nearly impossible for high school students who graduate at the end of the first semester to enroll in college courses in January because college courses start before or at the same time as high school students complete final exams;

WHEREAS, exams for Advanced Placement classes are given on the same day nationwide, and the current calendar law shortens the amount of time that Buncombe County students have to learn the material and prepare before the exam;

WHEREAS, it is well-documented through multiple studies that children will experience a phenomenon known as learning loss during breaks, which has a disproportionate impact on low-income children;

WHEREAS, with little flexibility built in the calendar, scheduling workdays and professional development during the school year for faculty and staff is almost impossible during the Fall semester and remains challenging in the Spring semester, despite the insignificant increase in areas with faculty and staff are required by law to receive training;

WHEREAS, fall sports and band programs have not changed to coincide with the State-mandated school calendar causing some football and band events to occur before school begins;

WHEREAS, neither charter schools nor private schools are require to follow the school calendar law;

WHEREAS, allowing schools to start earlier in August will not impact the overall length of the summer break as the school year will also end earlier;

WHEREAS, parents overwhelmingly support a school calendar where the Fall semester ends in December;

WHEREAS, local school boards are better equipped to understand the balancing act of meeting the community's needs and maximizing student success;

WHEREAS, restoring local control of school calendars will allow the Buncombe County Board of Education to meet the calendar preferences of Buncombe County's families, educators, and businesses in our community while allowing for innovative experimental approaches to improve student achievement; and

WHEREAS, on December 12, 2022, the North Carolina House Select Committee on An Education System for North Carolina's Future issued its finding that the current school calendar law is not best suited to the needs of students and educators and that local boards of education should be given greater calendar flexibility; the Select Committee recommended the "General Assembly take action and change the school calendar law."

NOW, THEREFORE, BE IT RESOLVED by the Town of Montreat Board of Commissioners supports an amendment to the current school calendar law, providing local school boards more flexibility in the start date of the school calendar.

READ, APPROVED, AND ADOPTED, this the 9th day of February, 202.

Tim Helms, Mayor

Ben Blackburn, Interim Town Administrator

ATTEST:

I, hereby certify this is a true and correct copy of this Resolution, duly adopted by the Town of Montreat on the 9th day of February, 2023, as it appears of record in the official minutes.

Angie Murphy, Town Clerk



MEMORANDUM

TO: The Town of Montreat Board of Commissioners

CC: Ben Blackburn (Interim Town Administrator), Angela Murphy (Town Clerk),
Gary Higgins (Applicant), Susan Taylor Rash (Town Council)

FROM: Kayla DiCristina (Zoning Administrator)

SUBJECT: Harmony Lane Lot (Pin# 071077202100000)

DATE: February 9, 2023

ATTACHMENTS: Mountain Retreat Association Letter, Draft Right-of-Way Agreement, Draft
Easement Plat, Title Attorney Correspondence, and Staff Presentation

The Subject Property of this request, submitted by Gary Higgins, is to the east of Harmony Lane on the eastern side of Little Piney Branch (PIN#071077202100000). Currently, the Subject Property does not have access to a public right-of-way. The Montreat Zoning Ordinance (MZO) Section 602 requires that every lot have access to a street and states that no building, structure, or use of land shall be established on a lot within Town limits which does not have legal or physical vehicular access to a dedicated and accepted public street. Between the Subject Property and the nearest public right-of-way is Little Piney Branch.

At the October 13, 2022 Board of Commissioners meeting, staff presented Mr. Higgins's request and provided an overview of the routes he could take to establish access for the Subject Property. Mr. Higgins requested that the Board of Commissioners consider granting him a 30 foot wide easement, permitted via Section 602 of the MZO, across the area containing Little Piney Branch to access the Subject Property. The Board of Commissioners directed Mr. Higgins to obtain written permission from the Mountain Retreat Association to cross the area containing Little Piney Branch and have an access easement agreement and easement description prepared. Commissioner Blake also requested that Mr. Higgins obtain an opinion of title to confirm that the Town of Montreat can grant this access easement agreement.

In January 2023, staff received the easement agreement and easement description requested by the Board of Commissioners from Mr. Higgins. The final opinion of title is anticipated to be received in advance of the Commissioner's meeting, but was not available at the time of writing this memo. The documents received as of February 2, 2023 are attached to this memo. Town Council, Susan Taylor Rash, reviewed the easement agreement and easement description and found them satisfactory. As a note, Commissioner Blake also reviewed the easement agreement and easement description and found them satisfactory as well.

As a reminder, Mr. Higgins is requesting access via Section 602 of the MZO, which allows the use of a legal easement for providing access to lots that do not abut a public street. This section requires that the easement must be a minimum of 12 feet wide, be physically passable for vehicular traffic, and be an easement of record and appurtenant to the lot for which it provides access. Mr. Higgins has provided an access easement agreement and easement description to the Board of Commissioners for the public hearing on February 9, 2023. The location and terms of the easement agreement shall be subject to the Board of Commissioners approval.



MONTREAT[®]
CONFERENCE CENTER

Richard DuBose
President

✉ PO Box 969
Montreat, NC 28757
☎ 828.419.9800

To: Kayla DiCristina

From: Richard DuBose

Date: November 1, 2022

I'm following up on your request for a statement regarding the property on Harmony (PIN #0710772021) granting the Mountain Retreat Association's permission for the crossing of the greenspace at that location. To the extent that such permission is required, the MRA has no concerns if the town chooses to grant a crossing to allow access.

Please note that it might be in the best interests of all concerned if the easement also benefits the lots on either side of the subject lot. This would require the lot owner to grant an easement over his lot to these neighboring lots. Consider exploring this possibility with him.

Kind regards,

Richard DuBose

President, Montreat Conference Center

O: 828.419.9800 C: 404.805.9917

rdubose@montreat.org

STATE OF NORTH CAROLINA

EASEMENT AND MAINTENANCE AGREEMENT

COUNTY OF BUNCOMBE

Prepared by and return to: Susan Taylor Rash
Patla, Straus, Robinson & Moore, P.A. (Box # 35)

THIS EASEMENT AND MAINTENANCE AGREEMENT is entered into this the ____ day of _____, 2023, by and between TOWN OF MONTREAT, a North Carolina municipal corporation (hereinafter referred to as the "Town"), and GARY HIGGINS and MARILYN HIGGINS, married to each other, residents of _____ County, North Carolina (hereinafter referred to as the "Property Owners"), and consented to by MOUNTAIN RETREAT ASSOCIATION, a North Carolina nonprofit corporation (the "Association").

W I T N E S S E T H:

WHEREAS, the Property Owners own an approximately 0.40 acre tract of real property located in Montreat, North Carolina, shown as Lot 1142 on the Plat of the Mountain Retreat Association recorded in Plat Book 49 at Page 2, and described in the deed recorded in Book ____ at Page ____ in the Office of the Register of Deeds for Buncombe County, North Carolina (hereinafter referred to as "Lot 1142");

WHEREAS, by Offer of Dedication dated May 12, 1983, and recorded August 28, 1986, in Deed Book 1443 at Page 145 in the Office of the Register of Deeds for Buncombe County, North Carolina, made by the Association to and in favor of the Town, the Association offered for dedication designated street rights-of-way and greenspaces (the "Offer of Dedication");

WHEREAS, by Resolution of the Board of Commissioners of the Town of Montreat dated May 12, 1983, and recorded August 28, 1986, in Deed Book 1443 at Page 144 in the Office of the Register of Deeds for Buncombe County, North Carolina, the Town accepted the Offer of Dedication;

WHEREAS, the hatched green areas shown on Exhibit B to the Offer of Dedication ("Greenspace") were dedicated for "recreation, fishing, greenspaces and beautification and for such street, bridge and utility rights of way as Town shall deem reasonably necessary for its use or shall grant to others for such purpose" subject to the Association's option to rescind if the Town uses the Greenspace for other purposes without agreement with the Association;

WHEREAS, the Property Owners have requested an easement from the Town to construct, install, repair and maintain an access drive (the “Drive”) and a water line, sewer line and electrical power line (the “Utilities”) over the portion of the Greenspace located between Lot 1142 and Harmony Lane and shown as the Easement Area on the plat recorded in Plat Book ____ at Page ____ and the Property Owners represent to the Town that construction of the proposed Drive and Utilities in Greenspace will provide the public benefit of being the most direct access from a public road to Lot 1142, which will result in the disturbance of less surface area and the cutting of fewer trees;

WHEREAS, the Town desires to grant, with the consent of the Association, and the Property Owners desire to accept an easement to construct, install, maintain and repair the Drive and the Utilities upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

1. The Town hereby grants and conveys to the Property Owners, their heirs and successors who are or shall be owners of Lot 1142, a permanent, non-exclusive easement thirty feet in width for ingress, egress, regress and utilities from the western line of Lot 1142 to the eastern margin of Harmony Lane as shown on the plat recorded in Plat Book ____ at Page ____ in the Office of the Register of Deeds for Buncombe County, North Carolina (the “Easement Area”), for the purpose of constructing, installing and maintaining the Drive and Utilities, subject to the terms and conditions set forth in this Agreement. The Drive and Utilities shall be designed and constructed by a contractor licensed in the State of North Carolina and in accordance with such other terms and conditions related thereto as are provided for in this Agreement. The Property Owners acknowledge and agree that they shall not expand the Drive or Utilities or change the location of the Drive or Utilities without obtaining the prior written consent of the Town, which the Town may grant or withhold in its sole discretion for any reason or for no reason.
2. The Town and the Property Owners further agree that the Property Owners shall meet and comply with the following terms and conditions:
 - a. The Property Owners shall retain a contractor licensed in the State of North Carolina to prepare plans which shall show the location of the Drive and Utilities within the Easement Area and shall include stabilization of any cut and fill banks, adequate drainage measures, and other matters deemed necessary by the Town. The Property Owners shall not begin construction unless and until (i) such plans have been reviewed for compliance with this Agreement, Town Ordinances, and applicable governmental regulations and approved by the Town Zoning Administrator; and (ii) the Property Owners shall have obtained all required permits and approvals, including but not limited to a Certificate of Zoning Compliance and a Building Permit.
 - b. The Property Owners acknowledge that the Drive and Utilities will cross Little Piney Branch and the Property Owners agree to comply with all applicable

federal, state and local laws, ordinances and governmental regulations applicable to the construction, installation, maintenance, repair and replacement of the Drive and the Utilities within the Easement Area, including without limitation all federal, state and local regulations regarding streams and other wetlands.

- c. The Property Owners shall remove only the trees and shrubs approved by the Town. The Property Owners shall restore the topography of the Easement Area after construction and installation of the Drive and Utilities to approximately the same condition as existed before said construction and installation or as may be approved by the Town.
 - d. The Town shall have no obligation to maintain the Easement Area, Drive or Utilities. The Property Owners shall have sole responsibility for the maintenance of the Easement Area, Drive and Utilities.
 - e. The Property Owners shall repair any damage to existing vegetation, topography and improvements located in the Greenspace and any damage to the adjoining property caused by the construction, installation, maintenance, or repair of the Drive or Utilities and restore the Greenspace and adjoining property to the same condition as existed before said construction and installation or as may otherwise be approved by the Town.
 - f. The Property Owners agree and acknowledge that the Town shall have the authority to allow other property owners and members of the public to use the Easement Area and agrees that they shall not take any measures that would prevent or discourage public use of the Easement Area. Without limiting the generality of the foregoing, the Property Owners acknowledge and agree the Town shall have the right to grant the owners of those properties which are adjacent to or in the vicinity of Lot 1142 the right and easement to use all or portions of the Easement Area for ingress, egress, regress, and utility purposes (and in connection therewith, to grant the owners of those properties an easement over additional portions of the Greenspace for ingress, egress, regress, and utility purposes).
3. The Property Owners shall indemnify and hold the Town harmless from and against all liabilities, claims, and demands for personal injury, property damage, or any other liabilities or claims arising out of or caused by the use, design, installation, construction, maintenance or repair of the Drive and Utilities.
4. The Town shall at all times have the right to use the Easement Area in any manner it deems appropriate. The Town retains the right to grant easements to others in the Easement Area and to allow the installation, maintenance and repair of additional utility lines, including but not limited to, electric, gas, telephone, cable, sewer, or water lines. Without limiting the generality of the foregoing, the Property Owners acknowledge and agree the Town shall have the right to grant the owners of those properties which are adjacent to or in the vicinity of Lot 1142 the right and easement to use all or portions of the Easement Area for ingress, egress, regress, and utility purposes (and in connection therewith, to grant the owners of those

properties an easement over additional portions of the Greenspace for ingress, egress, regress, and utility purposes).

5. The Property Owners acknowledge that the Town has the right to pass over and upon the Easement Area, as well as other Greenspace with appropriate roadways for use by the public. As to paved Town roads, the Property Owners, in future repairs or maintenance of the Drive or Utilities, shall be responsible for repaving and patching the portion of said paved Town roads disturbed by such work. As to non-paved Town roads, the Property Owners shall be responsible for regravelling and tamping in connection with any repairs or maintenance.

6. The parties agree that this Agreement shall be appurtenant to and run with Lot 1142 and shall inure to the benefit of the Town and the Property Owners, their heirs, successors in title and other parties who acquire title to Lot 1142.

7. The Association joins in this Agreement for the purposes of (i) agreeing that the granting of this easement and the construction, maintenance and repair of the Drive and Utilities by the Property Owners in the Easement Area is within the permitted use of the Greenspace as set out in the Offer of Dedication and (ii) waiving any right to rescind and nullify the Offer of Dedication that may arise from the construction, installation, maintenance or repair of the Drive and Utilities.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

[The remainder of this page is left blank intentionally. Signatures follow on attached pages.]

**Signature Page for Easement and Maintenance
Agreement Between the Town of Montreat
and Gary and Marilyn Higgins**

_____(Seal)
GARY HIGGINS

_____(Seal)
MARILYN HIGGINS

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____ a Notary Public of _____ County, North Carolina,
certify that GARY HIGGINS and MARILYN HIGGINS, personally appeared before me this day
and acknowledged the voluntary execution of the foregoing instrument.

Witness my hand and official stamp or seal, this ____ day of _____, 2023.

[Notarial Seal]

Notary Public

Notary's Printed or Typed Name

My commission expires:_____

**Signature Page for Easement and Maintenance
Agreement Between the Town of Montreat
and Gary and Marilyn Higgins**

TOWN OF MONTREAT

Attest:

By: _____
Timothy R. Helms, Mayor

Angela Murphy, Town Clerk

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of Buncombe County, North Carolina, do hereby certify that Angela Murphy personally appeared before me this day and acknowledged that she is the Town Clerk of Montreat, a municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Mayor sealed with its corporate seal and attested by herself as its Town Clerk.

Witness my hand and official stamp or seal, this ____ day of _____, 2023.

[Notarial Seal]

Notary Public

Notary's Printed or Typed Name

My commission expires: _____

**Signature Page for Easement and Maintenance
Agreement Between the Town of Montreat
and Gary and Marilyn Higgins**

MOUNTAIN RETREAT ASSOCIATION
a North Carolina corporation

By: _____

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, a Notary Public of Buncombe County, North Carolina, certify that the following person(s) personally appeared before me this day and acknowledged to me the due and voluntary execution of the foregoing instrument for the purpose stated therein and in the capacity indicated: _____, as _____ of Mountain Retreat Association, a North Carolina corporation by authority duly granted by the Board of Mountain Retreat Association.

Witness my hand and official stamp or seal, this ____ day of _____, 2023.

[Notarial Seal]

Notary Public

Notary's Printed or Typed Name

My commission expires: _____

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN D.B. 4435, P. 371, P.B. 59, P. 5, AND P.B. 42, P. 9.) THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS BROKEN LINES AS DRAWN FROM INFORMATION FOUND IN OTHER REFERENCE SOURCES. THAT THE RATIO OF PRECISION IS 1:10,000, AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS 31st DAY OF JANUARY, 2023.

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL GNSS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING WAS USED TO PERFORM THE SURVEY.

1. CLASS OF SURVEY: CLASS A (HORIZONTAL)
2. POSITIONAL ACCURACY: NOT TO EXCEED 0.10 FT. H. & V.
3. TYPE OF FIELD PROCEDURE: RTK-VRS
4. DATES OF SURVEY: 11-02-2020.
5. DATUM/EPOCH: H-NAD 83-2011 EPOCH 2010, V-NAVD 88
6. PUBLISHED/FIXED-CONTROL USED: NC VRS NETWORK
7. GEOD MODEL: GEOD 12B
8. COMBINED GRID FACTOR: 0.99976613.
9. UNITS USED: US SURVEY FOOT

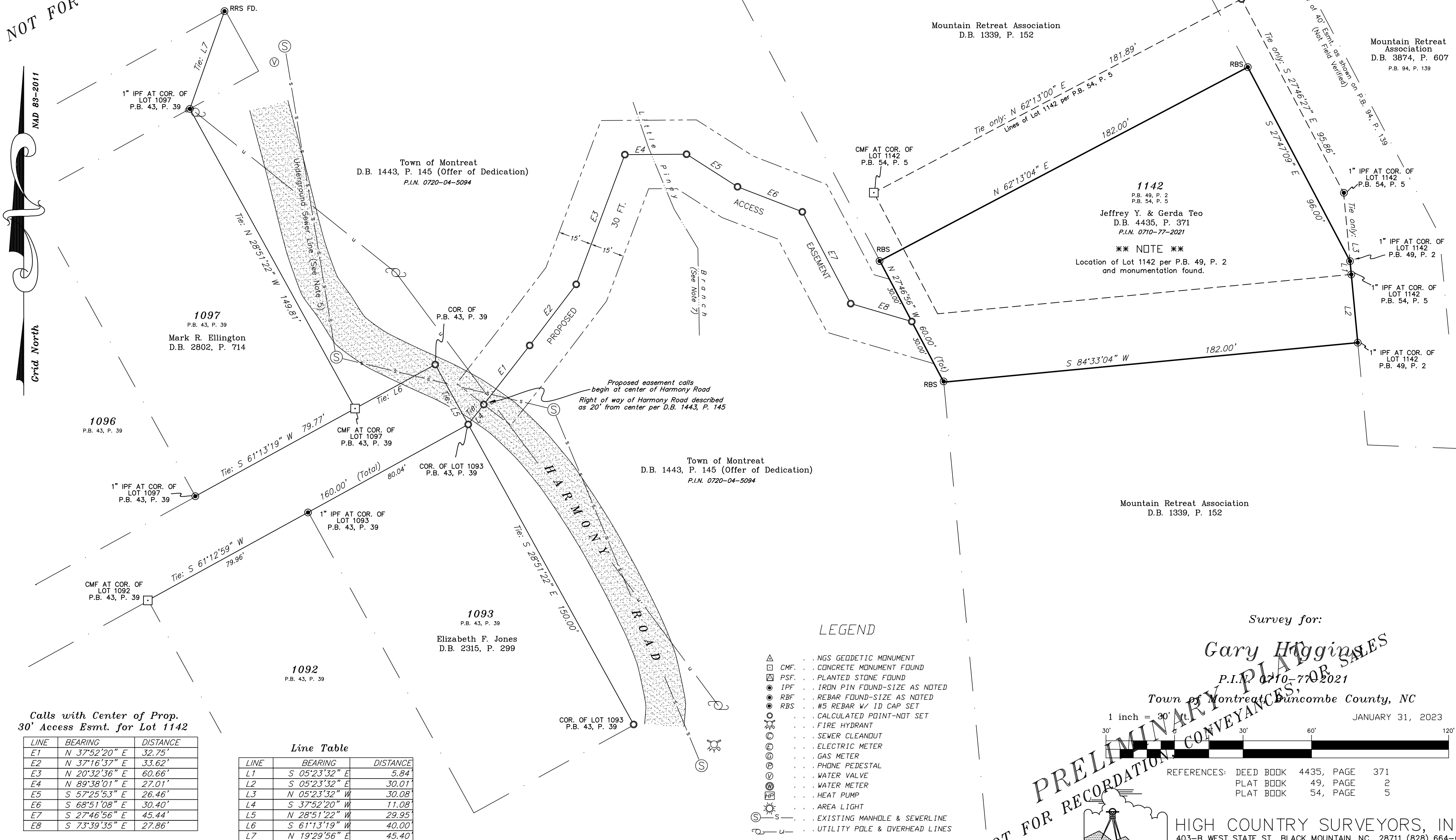
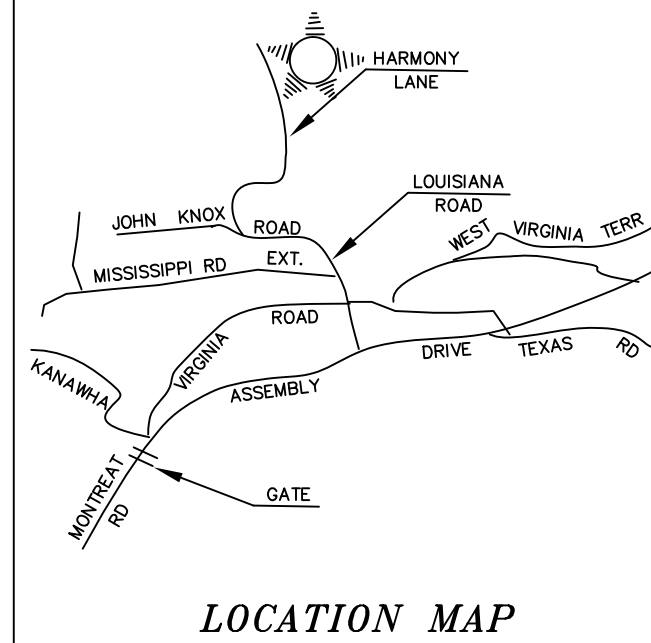
*RTK Observations were used only to tie the property to NC Grid

PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-2996

NOTES

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH, AND MAY NOT SHOW ALL EASEMENTS, RESTRICTIONS, RIGHTS OF WAY, ENCUMBRANCES, OR OTHER FACTS THAT MAY BE DISCLOSED BY A FULL TITLE EXAMINATION PERFORMED BY AN ATTORNEY AT LAW. THIS SURVEY SHALL NOT BE CONSIDERED A CERTIFICATION OF OWNERSHIP, ZONING, TITLE, OR GUARANTEE THAT THE PROPERTY IS FREE FROM ENCUMBRANCES.
2. THE DISTANCES AND ACREAGE SHOWN ON THIS PLAT ARE GRID MEASUREMENTS TO CONVERT TO GROUND DISTANCES AND ACREAGE, DIVIDE BY THE COMBINED FACTOR OF 0.99976613.
3. UNLESS STATED OTHERWISE HEREON, ONLY EVIDENCE OF EASEMENTS, BURIED UTILITIES, PIPELINES, OR STRUCTURES THERETO WHICH ARE READILY APPARENT FROM A CASUAL ABOVE GROUND VIEW OF PREMISES ARE SHOWN. INTERESTED PARTIES SHOULD INVESTIGATE THE EXISTENCE OF EASEMENTS, BURIED UTILITIES, PIPELINES, IF ANY, AND VERIFY. NO LIABILITY IS ASSUMED BY HIGH COUNTRY SURVEYORS, INC. FOR ANY LOSS THAT MAY BE ASSOCIATED WITH THE EXISTENCE OF ANY EASEMENT, BURIED UTILITY, OR PIPELINE ON THE PREMISES.
4. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY FEMA. SEE FIRM 3710071000J DATED 01/06/2010.
5. UNDERGROUND SEWERLINE INFORMATION IS TAKEN FROM BUNCOMBE COUNTY MSD GIS INFORMATION, AND HAS NOT BEEN FIELD VERIFIED.
6. THIS PROPERTY IS ZONED R-1 BY THE TOWN OF MONTREAT. SETBACKS: 30' FRONT, 15' SIDE, REAR (20% MEAN LOT DEPTH OR <35') SEE THE TOWN OF MONTREAT ZONING ORDINANCE FOR MORE INFORMATION. SEC 701. INTERESTED PARTIES SHOULD INVESTIGATE ALL EXISTING RESTRICTIONS PRIOR TO DESIGN OR CONSTRUCTION. HIGH COUNTRY SURVEYORS, INC. MAKES NO CLAIM TO THE EXISTANCE OF ANY RESTRICTIONS OR COVENANTS.
7. ANY STREAMS, CREEKS, PONDS, LAKES, WETLANDS, ETC. LOCATED ON THIS PROPERTY, SHOWN OR NOT SHOWN HEREON, MAY BE SUBJECT TO BUFFER AREAS. IT IS THE OWNER'S/DEVELOPER'S RESPONSIBILITY TO HAVE THE AREAS DESIGNATED BY THE PROPER AUTHORITIES TO MAKE THESE DETERMINATIONS.

AREA = 0.400 ACRE
By Coord. Computation



Re: Higgins Title Opinion

Richard Maita <Rich@maitalaw.com>

Thu 2/2/2023 1:06 PM

To: Kayla DiCristina <kayla@landofsky.org>

Be Advised: This email originated from outside Land of Sky

I'm working on it as we speak. I'll have an opinion of title to you in the morning.

Rich

PLEASE READ WIRE WARNING BELOW!

Richard J. Maita, Attorney
Licensed in North Carolina & Florida
Phone 828 236-1888
Fax 828 236-1887
35A Montford Ave., Asheville, NC 28801

BEFORE SENDING ANY WIRE, CALL OUR OFFICE TO VERIFY THE INSTRUCTIONS. WE WILL NOT CHANGE WIRING INSTRUCTIONS. IF YOU RECEIVE WIRING INSTRUCTIONS FOR A DIFFERENT BANK, BRANCH LOCATION, ACCOUNT NAME OR ACCOUNT NUMBER. THEY SHOULD BE PRESUMED TO BE FRAUDULENT. DO NOT SEND ANY FUNDS AND CONTACT OUR OFFICE IMMEDIATELY. FAILURE TO FOLLOW THIS PROCEDURE ENDANGERS YOUR FUNDS.

Notice of Confidentiality

This E-mail message and its attachments (if any) are intended solely for the use of the addressee hereof. In addition, this message and the attachments may contain information that is confidential, privileged and exempt from disclosure under applicable law. If you are not the intended recipient of this message, you are prohibited from reading, disclosing, reproducing, distributing, disseminating or otherwise using this transmission. Delivery of this message to any person other than the intended recipient is not intended to waive any right or privilege. If you have received this message in error, please notify the sender by reply e-mail and immediately delete this message from your system.

From: Kayla DiCristina <kayla@landofsky.org>

Sent: Thursday, February 2, 2023 1:04 PM

To: Richard Maita <Rich@maitalaw.com>

Subject: Higgins Title Opinion

Good afternoon Richard,

I am checking in on the title opinion you are preparing for Mr. Higgins. Any idea when that will be done? Thanks!

Best,

Kayla DiCristina, AICP

*(*For inquiries regarding the Town of Montreat, please see below)*

Regional Planner | Economic and Community Development

Land of Sky Regional Council

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



This institution is an equal opportunity provider and employer. All email correspondence to and from this address is subject to public review under the NC Public Records Law.

***Town of Montreat:** *Inquiries regarding the Town of Montreat are answered in the order they are received during Montreat office hours every Tuesday through Thursday 8:00 am through 5:00 pm. For assistance, please call 828-669-8002, ext. 3030, or e-mail zoning@townofmontreat.org.*

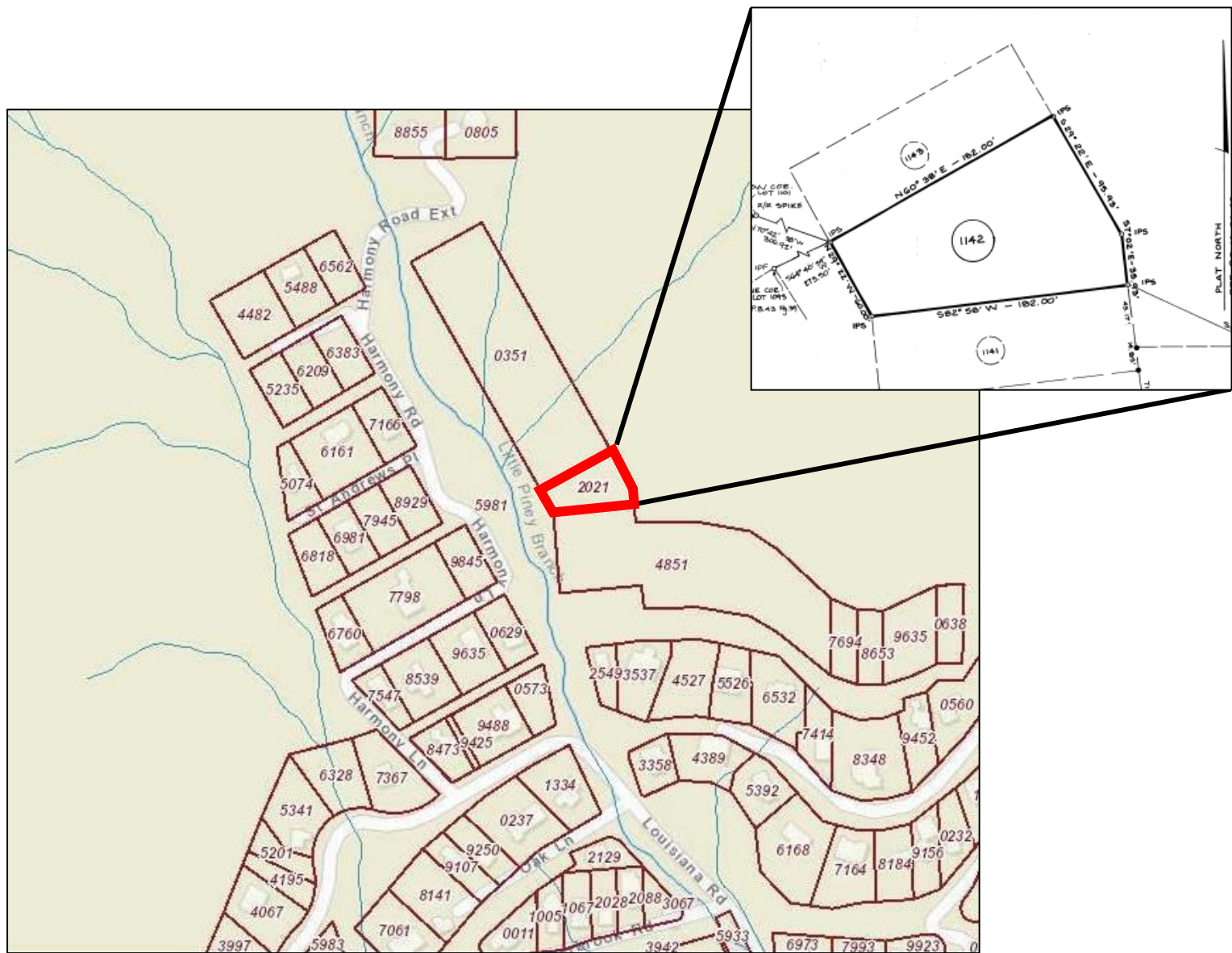
This institution is an equal opportunity provider and employer. All email correspondence to and from this address is subject to public review under the NC Public Records Law.

Harmony Lane Lot (PIN# 07107720210000)

Montreat Board of Commissioners

February 9th, 2023





SUBJECT PROPERTY
Packet Page 72

10/13/22 MEETING

Board of Commissioners requested that Mr. Higgins return with the following documents to continue discussing granting an easement across Little Piney Branch.

1. Draft access easement agreement.
2. Draft description of easement (plat or metes-and-bounds description).
3. Letter from Mountain Retreat Association for permission to cross the area containing Little Piney Branch.
4. Title search confirming that the Town of Montreat can grant this access agreement.

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN D.B. 4435, P. 371, P.B. 58, P. 5 AND P.B. 42, P. 8) THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DOTTED LINES AS DRAWN FROM INFORMATION FOUND IN OTHER REFERENCE SOURCES. THAT THE RATIO OF PRECISION IS 1:10,000, AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600) THIS 31st DAY OF JANUARY, 2023.

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING WAS USED TO PERFORM THE SURVEY.

1. CLASS OF SURVEY: CLASS A (HORIZONTAL)
2. POSITIONAL ACCURACY: NOT TO EXCEED 0.10 FT. H. & V.
3. TYPE OF FIELD PROCEDURE: RPS - IRS
4. DATES OF SURVEY: 11-02-2023
5. DATUM/PROJ: NAD 83-2011 (EPSG 2010, V-NAD 83)
6. PUBLISHED/ATD-CONTROL: USED: NC IRS NETWORK
7. GRID MODEL: GRID 128
8. COMBINED GRID FACTOR: 0.99976613
9. LIMITS USED: 10 SURVEY FOOT

*RPS Observations were used only to the extent of the following:

PROFESSIONAL SURVEYOR
LICENSE NUMBER: 1-25996

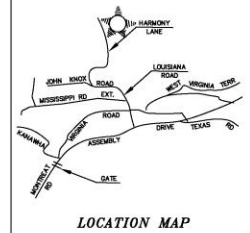
NOT FOR RECORDATION, CONVEYANCE, OR SALES



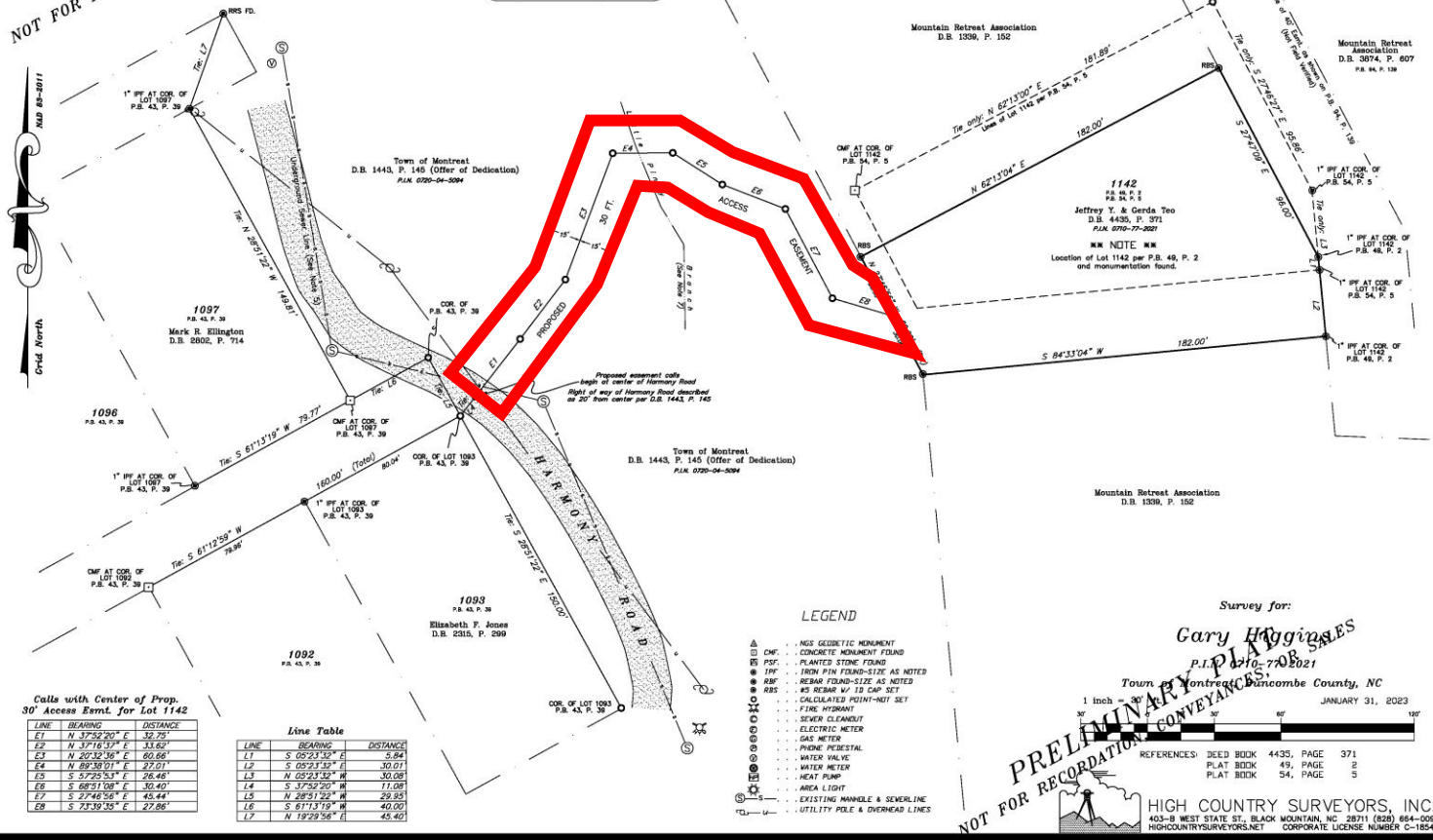
NOTES

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH, AND MAY NOT SHOW ALL EASEMENTS, RESTRICTIONS, RIGHTS OF WAY, ENCUMBRANCES, OR OTHER FACTS THAT MAY BE DISCLOSED BY A FULL TITLE EXAMINATION PERFORMED BY AN ATTORNEY AT LAW. THIS SURVEY SHALL NOT BE CONSIDERED A CERTIFICATION OF OWNERSHIP, JOINT TITLE, OR GUARANTEE THAT THE PROPERTY IS FREE FROM ENCUMBRANCES.
2. THE DISTANCES AND ACREAGE SHOWN ON THIS PLAT ARE GRID MEASUREMENTS TO BE CONVERTED TO GROUND DISTANCES AND ACREAGE, DIVIDE BY THE COMBINED GRID FACTOR OF 0.99976613.
3. UNLESS STATED OTHERWISE HEREON, ONLY EVIDENCE OF RECORDS, BURIED UTILITIES, PROXIES, OR STRUCTURES THEREO WHICH ARE RECORDED IN THE PUBLIC RECORDS ABOVE GROUND VIEW OF PREMISES ARE SHOWN. THE SURVEYOR WOULD NOT INVESTIGATE THE EXISTENCE OF EASEMENTS, ENCUMBRANCES, OR OTHER FACTS, AND VERIFY NO LIABILITY IS ASSUMED BY HIGH COUNTRY SURVEYORS, INC. FOR ANY LOSS THAT MAY BE ASSOCIATED WITH MISINTERPRETING OR OMISSIONS, BURIED UTILITIES OR PIPELINE ON THE PREMISES.
4. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY FEMA. SEE FIRM 375007000A (JULY 08/2010).

5. UNDERGROUND AND SEWERLINE INFORMATION IS TAKEN FROM BUNCOMBE COUNTY MSD GIS RECORDS AND HAS BEEN FIELD VERIFIED.
6. THE PROPERTY IS ZONED R-1 BY THE TOWN OF MONTREAL. SETBACKS: 30' FRONT, 15' SIDE, REAR (DOOR MEAN LOT DEPTH OR <30') SETBACK. THE TOWN OF MONTREAL ZONING ORDINANCE FOR MORE INFORMATION, SEC. 701. INTERESTED PARTIES SHOULD INVESTIGATE ALL EXISTING RESTRICTIONS PRIOR TO DESIGN OR CONSTRUCTION. HIGH COUNTRY SURVEYORS, INC. MAKES NO CLAIM TO THE EXISTENCE OF ANY RESTRICTIONS OR COVENANTS.
7. ANY STREAMS, CREEKS, PONDS, LAKES, WETLANDS, ETC. LOCATED ON THIS PROPERTY, SHOWN OR NOT SHOWN HEREON, MAY BE SUBJECT TO BUFFER AREAS. IT IS THE OWNER'S/DEVELOPER'S RESPONSIBILITY TO MAKE THE AREAS DETERMINED BY THE PROPER AUTHORITIES TO MAKE THESE DETERMINATIONS.



NOT FOR RECORDATION, CONVEYANCE, OR SALES
AREA = 0.400 ACRE
By Coord. Computation



Survey for:
Cary Higgins
P.L. 10-708201
Town of Montreal, Buncombe County, NC
JANUARY 31, 2023

REFERENCES: DEED BOOK 4435, PAGE 371
PLAT BOOK 49, PAGE 2
PLAT BOOK 54, PAGE 3

NOT FOR RECORDATION, CONVEYANCE, OR SALES

HIGH COUNTRY SURVEYORS, INC.
403-9 WEST STATE ST., BLACK MOUNTAIN, NC 28711 (828) 664-0091
HIGH COUNTRY SURVEYORS.NET CORPORATE LICENSE NUMBER C-1854

Crd. File 2020-228

DRAWING NO. 2022-245

Packet Page 74
PROPOSED EASEMENT

EASEMENT REQUIREMENTS

Montreat Zoning Ordinance

Article VI, Section 602 – Development Provisions, Every Lot Must Have Access to a Street

- For any lot that does not abut a public street, no building, structure, or use of land shall be established until it has a legal easement connecting the lot with a public street.
- The easement must be a minimum of 12' wide, be physically passable for vehicular traffic, and be an easement of record and appurtenant to the lot for which it provides access.

BOARD OF COMMISSIONERS REQUEST

To grant or deny the easement as proposed or with revisions subject to the conditions stated in the right-of-way agreement.

Harmony Lane Lot (PIN# 07107720210000)

Montreat Board of Commissioners

February 9th, 2023





MEMORANDUM

TO: The Town of Montreat Board of Commissioners

CC: Ben Blackburn (Interim Town Administrator), Angela Murphy (Town Clerk),
Gary Higgins (Applicant), Susan Taylor Rash (Town Council)

FROM: Kayla DiCristina (Zoning Administrator)

SUBJECT: Harmony Lane Lot (PIN# 071077202100000) Memo 2

DATE: February 9, 2023

ATTACHMENTS: Title Opinion

Attached to this memo is the final title opinion associated with the Higgins request for the Board of Commissioners to grant the requested easement across Little Piney Branch from Harmony Lane to the Lot with PIN#071077202100000. Commissioner Blake has reviewed this document and has found it satisfactory.

Regarding the easement agreement, Commissioner Blake suggests the addition of the language below to the agreement and to add the Mountain Retreat Association as a party to the agreement. At the time of writing this memo, staff is awaiting comment from the Town's Legal Counsel, Susan Taylor Rash.

- A) Language to address MRA ownership interest in easement area indicated by title opinion:
- (i) In the initial paragraph of the instrument insert the words "joined in and" before the words "consented to"; and (ii) at the end of paragraph 7 adding the words "and (iii) joining with the Town in granting the easement provided for in this Agreement to Property Owners."
- B) Language to address possible future creation of owners' Association: Add the following at the end of subparagraph 2(f):

By Property Owners' acceptance of this instrument and the easement granted hereunder, Property Owners covenant and agree that in the event the Town grants owners of property adjacent to or in the vicinity Lot 1142 the right to use all or portions of the the Easement Area for ingress, egress and utility purposes and in connection therewith grants the owners of such properties an easement over additional portions of the Greenspace for ingress, egress and utility purposes (the combination of the Easement Area and such additional portions of the Greenspace over which the Town grants the owners of such properties an easement being hereinafter collectively referred to as the "Combined Easement Area"), Property Owners shall upon the request of the Town join with the owners of such properties (i) in the creation of an owners' association formed for the purpose of maintaining, repairing and replacing the Drive and maintaining other portions of the Combined Easement Area, and (ii) in the execution of a declaration of covenants and restrictions recorded in the public records of Buncombe County which confers on such owners' association the right to assess Lot 1142 and such properties for the cost of maintaining, repairing and replacing the Drive and maintaining other portions of the Combined Easement Area and submits Lot 1142 and such properties to the lien created under the declaration of covenants and restrictions for the purpose of securing the obligation to pay their respective share of such cost.

**OPINION ON TITLE FOR
TOWN OF MONTREAT**

The undersigned has examined the record title on the BUNCOMBE County records (and municipal tax and assessment records if within a municipality) for the period shown below relative to title to the real property described below, and gives the following opinion of status:

Owner(s): **MOUNTAIN RETREAT ASSOCIATION and TOWN OF MONTREAT**

Interest or estate: **Marketable Fee Simple/Dedication**

Property Description: (or attach copy of legal description)

THAT CERTAIN AREA identified as "Proposed 40 ft. Access Easement" on that survey for Gary Higgins dated December 28, 2022, prepared by John M. Stollery, and identified with Drawing No. 2022-245, reference to said survey being hereby made for a more particular description.

Being a portion of the property described and referred to in Deed Book 1443, Page 144 and Page 145, Buncombe County Registry.

Subject to the uninitialed **STANDARD EXCEPTIONS** on reverse side hereof.

Also subject to the following **SPECIAL INFORMATION AND EXCEPTIONS**:

Taxes:

1. Ad valorem taxes are paid through and including those for the year:
2. Taxes now due and payable:
3. Taxes, a lien, deferred or otherwise, but not yet due and payable:
4. Special levies or assessments now due or payable in future installments:
5. Estate or inheritance taxes:

Restrictive Covenants? (Attach Copy).

1. Book , Page ;
2. Does survey and/or public record indicate a violation? NO
3. Contain reversionary or forfeiture clause? No
4. Building Setback Line(s)
5. Easements/Other Matters:

Survey and Inspection Report Attached? No. Please provide survey coverage for lender..

Recorded Plat? Yes.

1. Plat Slide _____
2. Building Setback Line(s)
3. Violated?
4. Easements/Other Matters:

Access to Public Right of Way? Yes

Private Easement (If private easement, attach copy).

If over a private easement, has a search been made of adjoining property on which easement crosses?

Property Occupied By: Unknown

Updating from Previous Title Insurance Policy? No . (Attach Copy). If "Yes", has a search of the public records been accomplished for such period of time within which judgments, liens or other matters could affect the property, regarding the owner(s) of the property on and after the date of said policy?

Notes: Per Resolution and Offer of Dedication filed in Book 1443, Page 144 and 145, Town of Montreat and Mountain Retreat Association together are authorized to grant Lot 1142 of Montreat an access and utilities easement over and upon the above described property. This title opinion makes no representations regarding liens, taxes or other matters pertaining to the property.

(Continue on back if necessary)

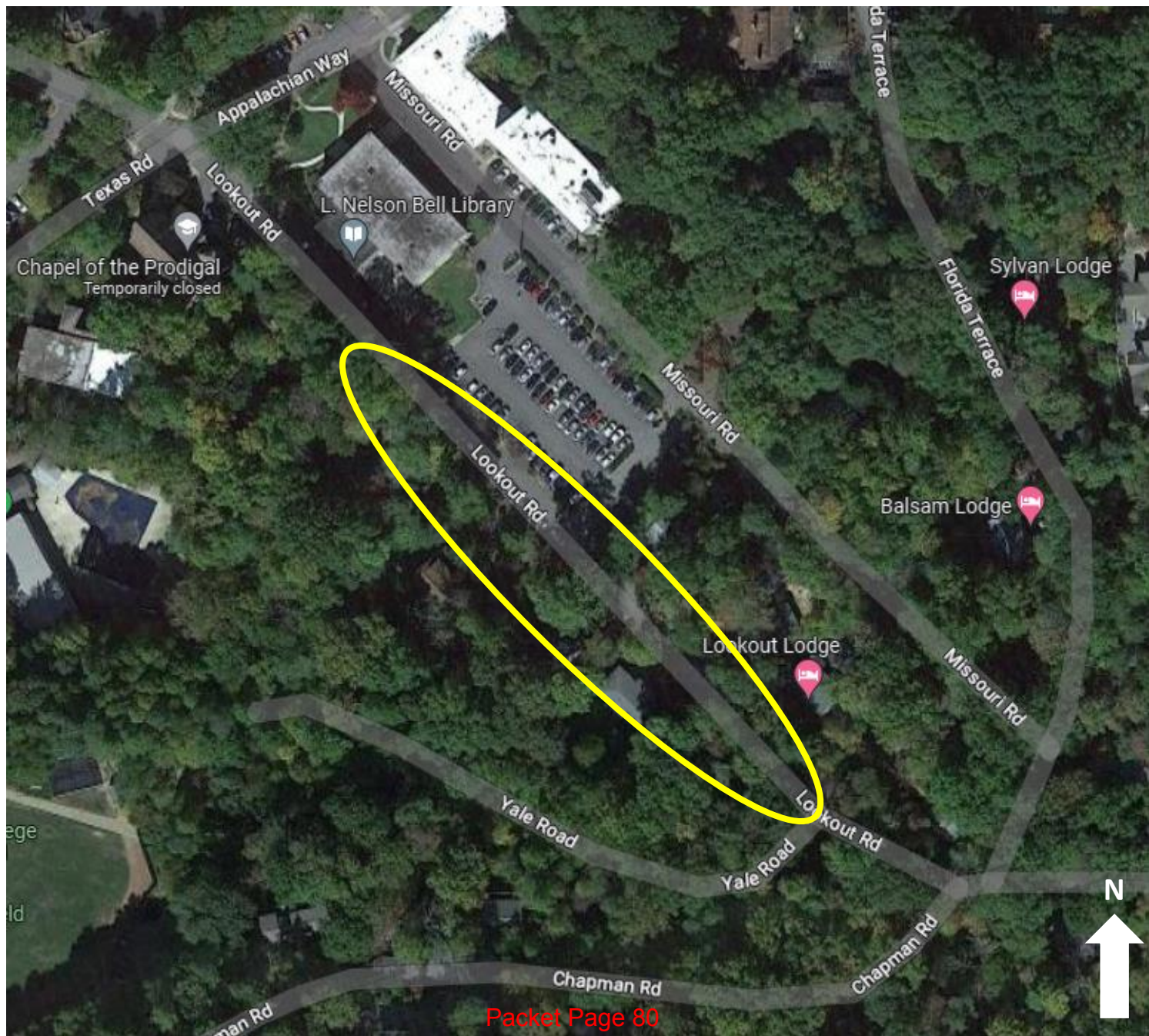
This opinion of title is for the parties to whom it is furnished, is not transferable, and may not be used by any other person or entity without the prior written consent of the undersigned. This opinion of title is furnished for and may be relied on by the Town of Montreat.

The Search Period was from 08/28/1986 to 01/31/2023 at 08:00 AM

Telephone/Address: **Richard J. Maita, Attorney, 35A Montford Avenue, Asheville, NC 28801, 828 236-1888**

By: _____

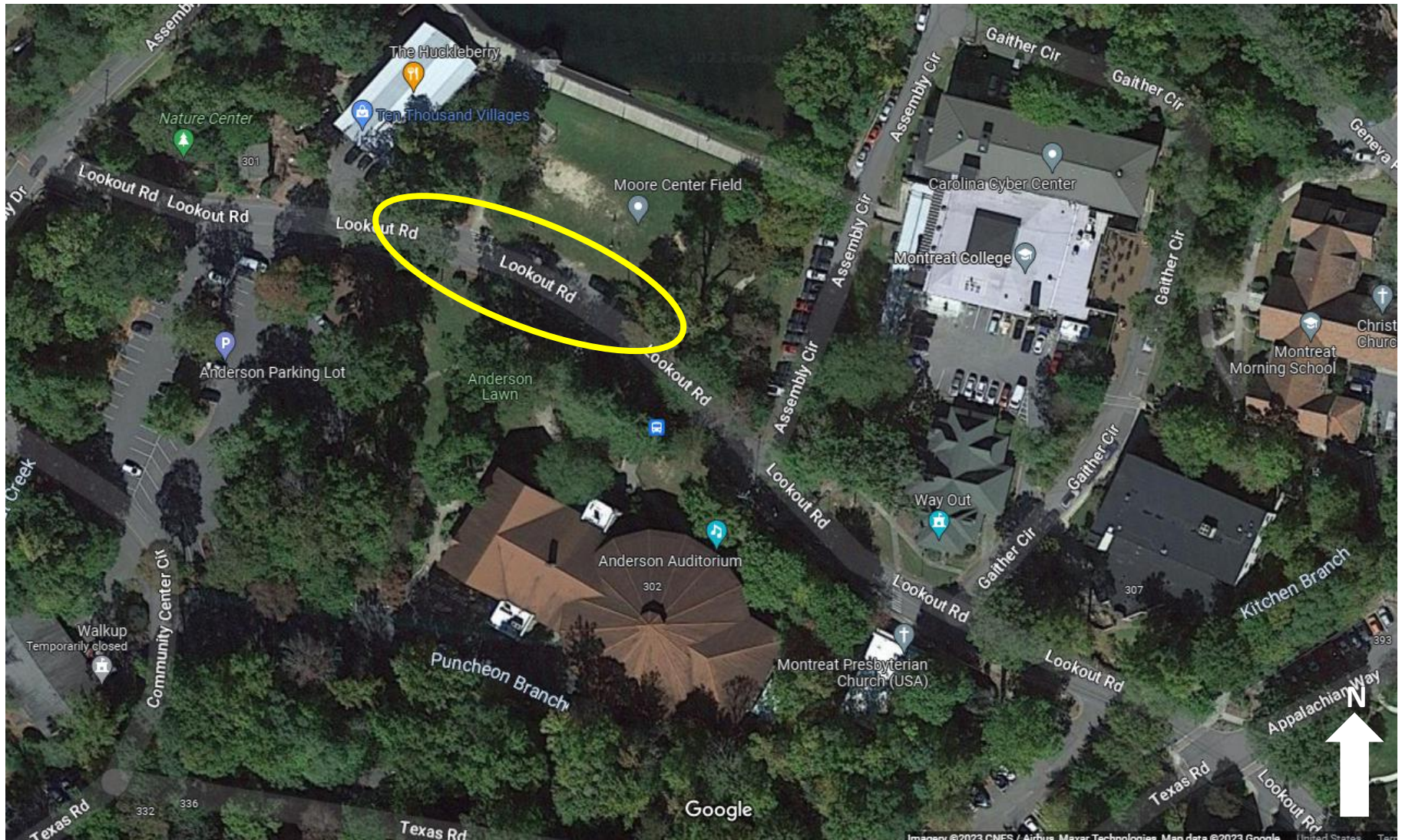

RICHARD J. MAITA, Attorney

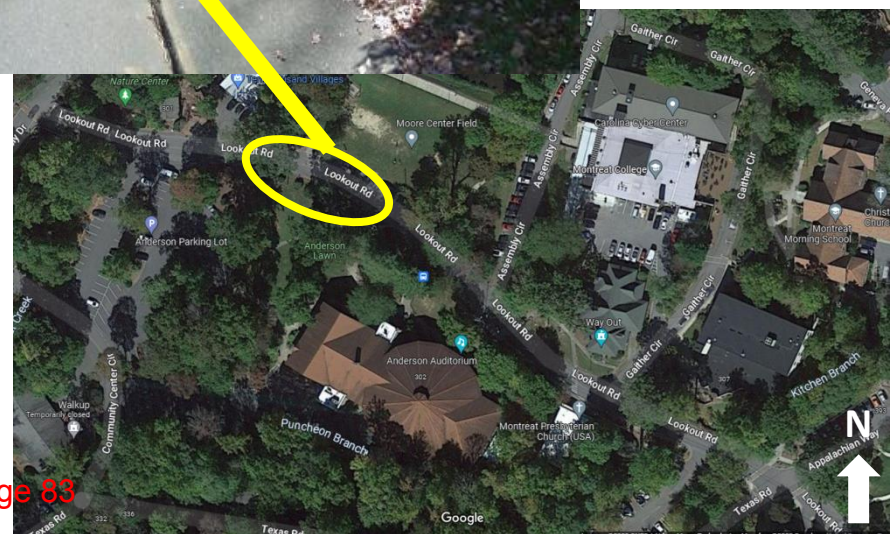


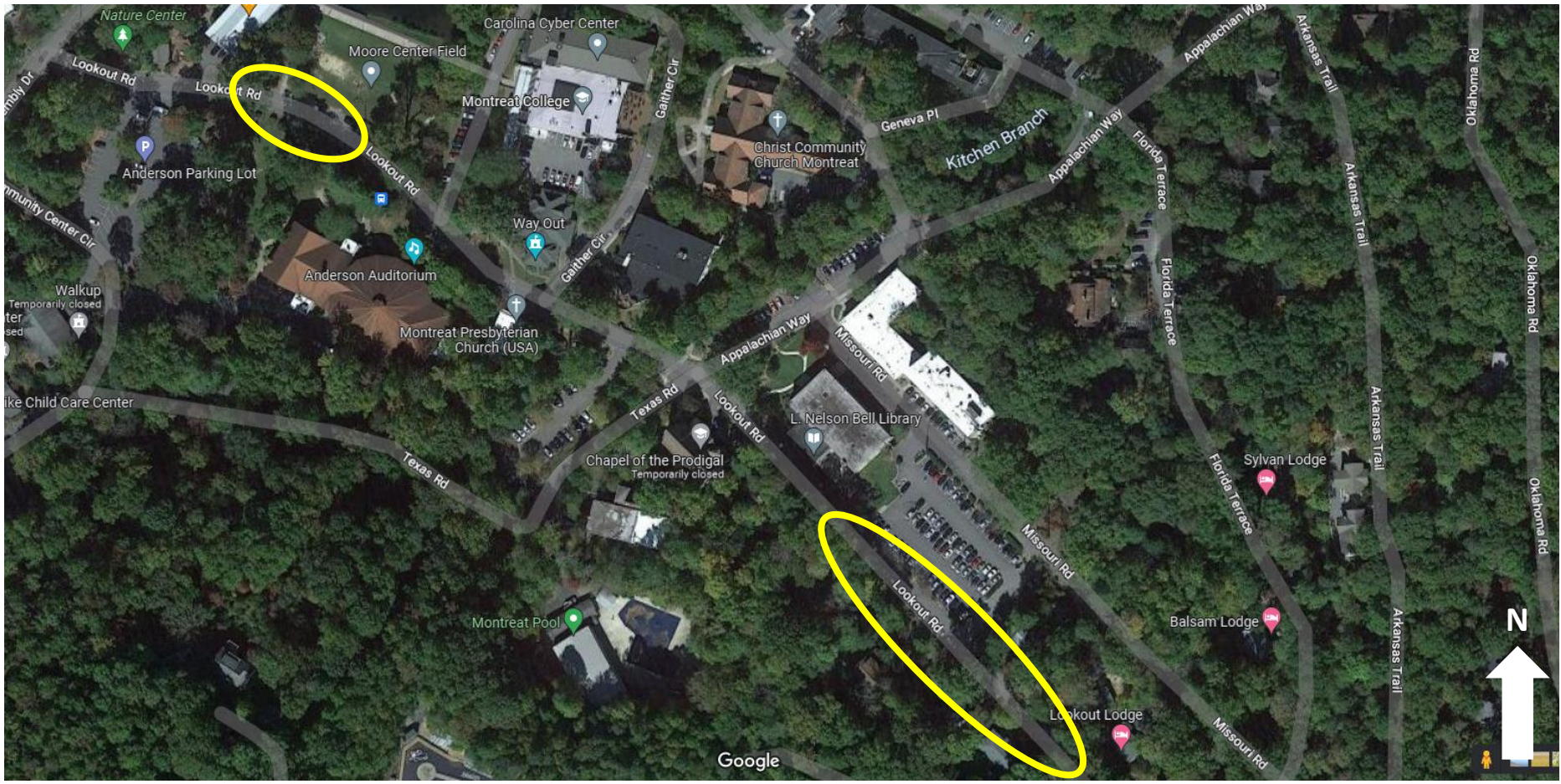


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Ordinance Revisions for Qualification as a Bearwise Community

Revisions to Sections 1 and 4 of the Solid Waste Ordinance – Article II of Chapter G

Section 1. Requirements.

(a) **Required Containers.** Solid Waste, except recyclable items, must be kept in paper or plastic bags and placed in either (i) a Standard Solid Waste Container (as defined hereinbelow), or (ii) a Bear-Resistant Solid Waste Container (as defined hereinbelow). As used herein, the term “Standard Solid Waste Container” means and refers to a metal or rigid plastic solid-waste Solid Waste containers of not over ~~forty (40)~~ sixty-five (65) gallon capacity with ~~proper lids~~ a tight functioning lid, and the term “Bear-Resistant Solid Waste Container” means and refers to both (i) a portable metal or rigid plastic Solid Waste container of not over sixty-five (65) gallon capacity with a locking or other bear-resistant lid, which is either certified as bear-resistant by the Interagency Grizzly Bear Committee or approved by the Town Manager and Code Administrator as bear-resistant, and (ii) a metal drum or box suitable for bags containing Solid Waste to be stored in, which is either certified as bear-resistant by the Interagency Grizzly Bear Committee or approved by the Town Manager and Code Administrator as bear-resistant. All Bear-Resistant Solid Waste Containers described in clause (ii) of the preceding sentence must be securely anchored to the ground, a concrete slab or another permanent object in a manner that will prevent tipping. A list of commercially available Bear-Resistant Solid Waste Containers certified by the Interagency Grizzly Bear Committee and/or approved by the Town Manager and Code Administrator as bear-resistant shall be made available for residents at the Town Hall. All ~~cans~~ Standard Solid Waste Containers and Bear-Resistant Solid Waste Containers ~~are to~~ shall be marked with house number legible for easy viewing.

An adequate number of ~~garbage cans~~ Standard Solid Waste Containers and/or Bear-Resistant Solid Waste Containers shall be required for ~~any~~ each and every building to fully hold all ~~solid waste~~ Solid Waste generated by the building. ~~(If additional solid-waste Solid Waste is placed outside of cans Standard Solid Waste Containers and Bear-Resistant Solid Waste Containers and cans because the available containers are full, then the owner does not have adequate number of Standard Solid Waste Containers and/or Bear-Resistant Solid Waste Containers for the building.)~~

Each property owner shall maintain all Standard Solid Waste Containers serving such owner’s property, including without limitation the tops and top fastening mechanisms of such containers, in good condition and repair. Each property owner shall maintain all Bear-Resistant Solid Waste Containers serving such owner’s property, including without limitation the tops, locks, latches, hasps and hinges of such containers, in good condition and repair and functioning as bear-resistant. In the event any Standard Solid Waste Container and/or Bear-Resistant Solid Waste Container is damaged (whether by bears or any other cause), the container shall promptly be repaired or replaced so that it or its replacement complies with the provisions of this Section 1. A damaged container may not be utilized again for the disposal of bags containing Solid Waste unless and until it is repaired.

~~Secure garbage cans may be placed at roadside only on the morning of scheduled pick up and shall be removed from the street by the following morning.~~

As provided in subsection 1(c) below, Standard Solid Waste Containers may be placed at roadside only on a scheduled day of Solid Waste pick-up unless they are placed in a ~~Property owners or occupants who leave Solid Waste for collection on any day other than the scheduled pick-up day must place any such Solid Waste in a bear proof container~~ Bear-Resistant Waste Container Enclosure. Portable Bear-Resistant Solid Waste Containers may be placed at roadside at any time.

(b) Bear-Resistant Waste Container Enclosures. The term “Bear-Resistant Waste Container Enclosure” shall mean and refer to a strong metal or wooden bear-resistant enclosure for Standard Solid Waste Containers which is either (i) commercially available and approved as bear-resistant by Town Manager and Code Administrator, or (ii) constructed in accordance with plans and specifications approved in writing by the Town Manager and Code Administrator. A list of any commercially available Bear-Resistant Waste Container Enclosures approved by the Town Manager and Code Administrator as bear-resistant, as well as a set of pre-approved plans and specifications for a wooden two-container Bear-Resistant Waste Container Enclosure, shall be made available for residents at the Town Hall. All Bear-Resistant Waste Container Enclosures must be securely anchored to the ground, a concrete slab or another permanent object in a manner that will prevent tipping.

Each property owner shall maintain any and all Bear-Resistant Waste Container Enclosures serving such owner’s property, including without limitation the tops, doors, locks, latches, hasps and hinges of each enclosure, in good condition and repair and functioning as bear-resistant. In the event any Bear-Resistant Waste Container Enclosure is damaged (whether by bears or other cause), such container shall be promptly repaired or replaced so that it or its replacement complies with the provisions of this Section 1. A damaged enclosure may not be utilized again for holding Standard Solid Waste Containers prior to the date of scheduled pick-up unless and until it is repaired.

~~All bear proof containers located in Town right of way shall be approved by the Town Administrator and Code Administrator in accordance with the guidelines listed below:~~

~~1) Containers manufactured by vendors using metal construction are approved as bear proof when firmly anchored to the ground or other permanent object.~~

~~2) Containers that are not constructed as described above may be granted conditional approval subject to the following conditions:~~

~~i. The construction of the container must be of a solid, sturdy material on all sides and hinged openings must have secure latches.~~

~~ii. Containers must be securely anchored to the ground or other permanent object in a manner that will prevent tipping.~~

~~iii. If conditional approval is given and the container is broken into by bears, the owner~~

~~will be notified immediately by the Town. The owner shall have thirty (30) days to either remove or replace the container with an approved metal container.~~

(c) Location of Containers and Enclosures in Right-of-Way. Bear-Resistant Solid Waste Containers of the metal drum or box type and Bear-Resistant Waste Container Enclosures may be permitted by the Town to be located and installed within a public right-of-way in accordance with the following requirements:

- 1) The Bear-Resistant Solid Waste Container (of the metal drum or box type) or the Bear-Resistant Waste Container Enclosure, as the case may be, shall comply with all requirements provided for in this Section 1 and shall be securely anchored in accordance with the requirements provided for in this Section 1.
- 2) ~~3)~~ The location of the container ~~or enclosure~~ shall be of sufficient distance from traveled roadway to minimize traffic hazards.
- 3) ~~4)~~ The container ~~or enclosure~~ shall be located within the property owner's projected lines. If this is not possible due to terrain or other obstacles, the owner shall obtain and provide to the Town a copy of written permission from another property owner to locate the container ~~or enclosure~~ within that owner's projected property lines.
- 4) ~~5)~~ Property owners with ~~a~~ containers ~~or enclosure~~ meeting the above requirements must apply for and receive written permission from the Town Administrator and Code Administrator to locate the container ~~or enclosure~~ on ~~a~~ public rights-of-way. A site plan, survey or some other type of accurate graphic representation indicating the specific location of the proposed container or ~~enclosure~~ shall be provided along with the completed form: Application to Locate a Bear-Proof-Resistant Garbage Solid Waste Container ~~or Bear-Resistant Waste Container Enclosure~~ in the Public Right-of-Way. ~~Because such~~ Since the containers ~~or enclosures~~ are not considered structures, a Certificate of Zoning Compliance is not required.

Any containers ~~or enclosures~~ located in Town ~~public~~ rights-of-way that are not bear-proof resistant or have not received proper approval shall be removed by the property owner. The Town may request a Bear-Resistant Solid Waste Container or a Bear-Resistant Waste Container Enclosure that has been permitted to be located in the public right-of-way to be removed at any time.

(d) Requirements for Disposal of Solid Waste.

- 1) Bags containing Solid Waste may not be placed at roadside unless they are stored in Standard Solid Waste Containers or Bear-Resistant Solid Waste Containers in accordance with the requirements of this Section 1. Bags may not be placed on top of or beside containers.
- 2) Standard Solid Waste Containers may be placed at roadside only on a scheduled day of Solid Waste pick-up unless they are placed in a Bear-Resistant Waste Container Enclosure. Portable Bear-Resistant Solid Waste Containers may be placed at roadside at any time.

- 3) No person shall throw, place or deposit any ~~solid waste~~ **Solid Waste** of any kind in any place or on any public or private property, ~~except in his or her own container(s) except in compliance with the provisions of this Article II of Chapter G.~~

(e) Approval of Containers and Enclosures Existing on March ___, 2023. Bear-Resistant Solid Waste Containers and Bear-Resistant Waste Container Enclosures constructed and installed within the Town on or before March ___, 2023 shall be deemed approved by the Town Manager and Code Administrator as bear-resistant and in compliance with this Section 1 unless the Town delivers written notice to an owner of property served by a Bear-Resistant Solid Waste Container or a Bear-Resistant Waste Container Enclosure on or before May 1, 2023 informing such owner that the Bear-Resistant Solid Waste Container or Bear-Resistant Waste Container Enclosure is not approved as bear-resistant and that the container or enclosure must to be brought into compliance with this Section 1 within sixty (60) days after the date of the notice.

(f) Violations and Penalties. In the event (i) Solid Waste is placed at roadside outside a building without being placed in either ~~garbage cans~~ **Standard Solid Waste Containers** or ~~meeting the requirements of this Section 1 or a bear proof container~~ **Bear-Resistant Solid Waste Containers** meeting the requirements of this Section 1, or (ii) ~~garbage cans containing Solid Waste~~ **Standard Solid Waste Containers** that are not enclosed within a Bear-Resistant Waste Container Enclosure are placed at roadside prior to the morning of a scheduled **day for Solid Waste pick-up** ~~pickup~~, or (iii) an adequate number of ~~garbage cans~~ **Standard Solid Waste Containers** and/or **Bear-Resistant Solid Waste Containers** meeting the requirements of this Section 1 is not provided for by the owner of a building, or (iv) if a property owner fails to comply with any of the other provisions of this Article II of Chapter G, then, in any of such events, the ~~offending property owner of the subject property~~ shall receive a written warning for the first violation and be subject to a civil penalty upon the issuance of a citation for any subsequent violations. The Town may recover the civil penalty, if not paid to the Town within thirty (30) days after the citation is issued, in a civil action of the nature of a debt pursuant to NCGS Section 160A-175. The civil penalty for violation of this ordinance shall be \$100 for the first violation after the written warning, \$250 for the second violation after the written warning, and \$500 for the third violation after the written warning and each subsequent violation. Notwithstanding anything in this Section 1 to the contrary, no person shall be assessed a civil penalty pursuant to the immediately preceding two sentences unless the person has first been issued a prior written warning for a violation of this Section 1.

Section 4. Solid Waste Collection. The Town provides weekly **Solid Waste** pick-ups year-round, and ~~may provide twice-weekly pick-ups if and when as scheduled each in some or all of the summer months.~~ The Town ~~will~~ **staff may if time and circumstances permit** ~~pick up garbage collect and dispose of Solid Waste scattered around as a result of cans containers or enclosures that have been upset or damaged (or where the tops have been torn as a result of any other cause).~~ However, if the Public Works Director or the investigating Police Officer determines that ~~this resulted from failing to comply with the requirements of this Ordinance, the owner of the property shall be cited, required to purchase a bear proof container, inform the Town Administrator as to the approximate time of the container placement, and be subject to the penalties as found in Chapter L.~~ **Town staff does not for whatever reason collect and dispose Solid Waste scattered as a result of a container or enclosure that has been upset or damaged, or**

as a result of any other cause, the owner of the property served by such container or enclosure shall be responsible to promptly collect and dispose of the scattered Solid Waste (including Solid Waste scattered at a distance from the containers and/or enclosure) in compliance with the provisions of this Article II of Chapter G.

Revision to Last Grammatical Paragraph of Section 1 of Ordinance Prohibiting Feeding of Bears
- Article V of Chapter G

This section shall not apply in the case of an unintentional feeding of a black bear.

"Unintentional feeding" means using or placing any material for a purpose other than to attract or entice black bears but which results in the attraction or enticement of a black bear, and shall include but need not be limited to the feeding of a black bear as a result of the inadvertent failure to secure a bird feeder from access by a bear. "Unintentional feeding" does not include (i) putting out or storing garbage or trash in a manner which does not comply with the requirements set forth in article II of chapter G, or (ii) continuing any activity, other than placing bird food in a bird feeder, after being notified by the Montreal Police that the activity is having the effect of attracting or enticing black bears.