

**Town of Montreat  
Board of Adjustment (BOA)  
Meeting Agenda  
November 20, 2025, 5:00 p.m.  
Montreat Town Hall  
1210 Montreat Rd., Black Mountain, NC 28711**

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**I. CALL TO ORDER**

- Welcome and Introductions
- Moment of Silence

**II. CERTIFICATION OF QUORUM**

**III. AGENDA ADOPTION**

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

**IV. ADOPTION OF OCTOBER 23, 2025, MEETING MINUTES**

- **Suggested Motion:** To adopt the October 23, 2025, Meeting Minutes as drafted/amended.

**V. ORDER OF APPROVAL**

- 1) **Special Use Permit (112 Kanawha Drive)** – Matthew Milne, Applicant, on behalf of property owners, Daniel and Mary Ann Zorn, is requesting the approval of a Special Use Permit to build an accessory dwelling unit at 112 Kanawha Drive (PIN# 071054358300000). The subject property is zoned R-1 Residential District and requires a Special Use Permit in this Zoning District (Montreat Zoning Ordinance, Article V – Zoning District Regulations, Sec. 500: Permitted Uses Table 1: Permitted Uses Table).

**Suggested Motion:** To grant/grant with conditions/deny the Special Use Permit for 112 Kanawha Drive.

**VI. NEW BUSINESS**

**VII. NEXT MEETING DATE:** December 18, 2025 (if needed)

**VIII. ADJOURNMENT**

# Board of Adjustment

## October 23, 2025, 5:00 p.m.

### Meeting Minutes

#### **Board Members in Attendance:**

George Sawyer  
Mari Gramling  
David Neel  
Danny Sharpe  
Ed Kramer

Matt Horne (Alternate Member – Observing Only)  
Arrington Cox (Alternate Member – Voting Member)  
Bill Scheu

#### **Board Members not Present:**

None

#### **Town Staff in Attendance:**

Alexis Baker, Interim Zoning Administrator  
Angie Murphy, Town Clerk  
Brandon Freeman, Town Attorney

#### **Members of the Public in Attendance:**

11

## **Call to Order**

Danny Sharpe (Chair) called the meeting of the Board of Adjustment to order at 5:00 PM on Thursday, October 23, 2025. He acknowledged the lack of quorum at the previous meeting and expressed gratitude for the strong attendance of eight members present.

## **Welcome and Introductions**

No specific introductions were made as all members were familiar with each other.

## **Moment of Silence**

Chair Sharpe led the board in a moment of silence. He shared a personal reflection about attending a community in southern France where participants spend ten minutes in silence three times daily, noting that most attendees are young people under 21, which he finds remarkable.

## **Certification of Quorum**

Chair Sharpe confirmed that a quorum was present with eight members in attendance, exceeding the requirement for the seven-member board.

## **Agenda Adoption**

Chair Sharpe presented the agenda for adoption.

Motion: George Sawyer moved to adopt the agenda as presented. The motion was seconded by Mari Gramling. The motion carried unanimously.

## **Adoption of September 25, 2025, Meeting Minutes**

Chair Sharpe asked if there were any corrections or additions to the minutes from the September 25, 2025, meeting.

Motion: A motion was made by Mari Gramling to adopt the September 25, 2025, meeting minutes as presented. The motion was seconded by David Neel. The motion carried unanimously.

## **Order of Approval**

### **Written Order of Approval Case No. 167 Virginia Road**

Chair Sharpe presented the written order of approval for the special use permit that was approved at the September meeting for Grant Dasher's property at 167 Virginia Road. He explained this was the formal written order produced by the town attorney and interim zoning administrator following the board's previous approval of the special use permit for an accessory dwelling unit.

Motion: A motion was made by David Neel to approve the written order of approval for Grant Dasher. The motion was seconded by Mari Gramling. The motion carried unanimously.

### **Variance Request (536 Calvin Trail)**

Before beginning the variance hearings, Chair Sharpe inquired about ex parte communications. Bill Scheu disclosed that he had called Lila Ray, who lives next door to one of the properties, to ask her opinion about the setback movement. He reported that she had no objection.

Alexis Baker (Interim Zoning Administrator) then led the board through an extensive conflict of interest questionnaire, asking each member about potential conflicts including discussions with parties, fixed opinions, ex parte communications, familial relationships, business relationships, associational relationships, and financial interests. All board members answered "no" to all conflict-of-interest questions.

The attorney clarified that with eight members present for a seven-member board, they needed to identify which member would serve as the non-voting alternate. After discussion, Matt Horne was designated as the non-voting alternate for this meeting.

Alexis Baker (Interim Zoning Administrator) was sworn in and presented the variance request submitted by Wade Burns on behalf of property owner Graceful Blessings LLC for 536 Calvin Trail. The request was to reduce the side setback requirement from 15 feet to 2 feet on the southern side of the property to expand the existing dwelling. She noted the property is 1.12 acres in the R-1 residential district with a slope of 50.6%.

Wade Burns, a licensed architect since 1973 and 26-year resident who has served on Montreat's planning, zoning, and board of adjustment, was sworn in and presented the case. He explained that the house was built by a former MRA president and has been used as vacation housing and supplemental housing for Mountain Retreat Association ministry work. He described how the current owners, two preachers who have recently moved to Montreat full-time, need to add a glass room to the dark basement level that currently houses four bedrooms and a kitchen. Mr. Burns emphasized that the addition would have no negative impact on the community or neighbors, as the nearest neighbor is "two football fields away."

Richard Deibert, co-owner with his wife Elizabeth, was sworn in and provided additional testimony. He described their 40-year connection to Montreat and their Christian stewardship philosophy for the property. He explained how they've spent \$15,000 over 10 years managing the green space along Flat Creek for the enjoyment of renters and campground guests. Mr. Deibert emphasized that the basement currently keeps 12-15

renters "literally in the dark" and that the variance would allow them to expose visitors to Montreat's natural beauty, which he connected to experiencing Jesus Christ.

Board members asked numerous questions about the project. Matt Horne inquired about other renovations planned for the basement level. Mr. Burns explained they would be improving egress paths and windows for safety. Mari Gramling asked why the property was considered single-family when it houses up to 25 people. Mr. Burns clarified it's about ownership structure, with the owners having separate guest quarters. Ms. Gramling also warned about dangerous conditions at the driveway edge near a steep drop-off. Ed Kramer expressed concern about fire safety with so many occupants and questioned the occupancy permit.

Chair Sharpe raised the critical issue of hardship, reading from the Quasi-Judicial Handbook that "hardship must be peculiar to the property, not the property owner" and that "hardships resulting from personal circumstances may not be the basis for granting a variance." He questioned whether the darkness of a basement cut into a hillside was unique to this property when many Montreat properties share this characteristic.

Mr. Burns responded that while multiple properties might qualify for similar hardships, each lot's unique topography and boundaries create individual hardships. He argued that when neighbors don't object and no one is harmed, common sense should prevail.

After extensive discussion about the hardship requirement and the unique circumstances of the property, Bill Scheu made a motion.

Motion: Bill Scheu moved that the board approve the variance request for 536 Calvin Trail to Section 501.81 of the Montreat Zoning Ordinance to reduce the setback requirement from 15 feet to 2 feet on the southern side of the subject property for the purpose of expanding the existing dwelling on the subject property. George Sawyer seconded the motion. The motion carried 6-1, with Chair Sharpe voting against.

## Variance Request (428 South Carolina Terrace)

Alexis Baker presented the variance request submitted by Ewing Construction on behalf of property owners Albert and Lucy Robinson for 428 South Carolina Terrace. The request was to reduce the front setback from 30 feet to 20 feet on the western side to build a new single-family dwelling. The property is 0.53 acres with a slope of 51.84%, subject to the Hillside Development Ordinance.

Jason Gilliland with Site Design Studio, representing the applicants, was sworn in and presented the case. He explained that the existing 100-year-old structure already encroaches both the front setback (at 16.2 feet) and side setback (at 9.2 feet). The owners wish to demolish rather than renovate due to structural integrity concerns. The new structure would be entirely outside all setbacks except for a covered front porch, which would encroach 10 feet into the front setback. Mr. Gilliland emphasized that their request actually improves the current encroachment situation by pulling the structure back almost 4 feet from its current position and completely eliminating the side setback encroachment.

Board members questioned why the house couldn't be moved further back. Mr. Gilliland explained that they're creating a 10-foot retaining wall uphill of the house and their structural engineers advised against going higher based on the geotechnical report required by the Hillside Development Ordinance.

Sara Thielman, a neighbor living below the Robinsons, was sworn in and expressed concerns about water runoff and slope stability following recent flooding that sent water "pouring across" South Carolina Terrace and down the mountain behind her house. She worried about excavation destabilizing the mountain and asked about plans to manage runoff.

Brandon Freeman reminded the board that technical testimony about geotechnical matters and retaining wall effectiveness must come from credentialed engineers, not lay people. He also noted that stormwater management and Hillside Development Ordinance compliance would be handled administratively after any variance approval.

Mr. Gilliland, identifying himself as a licensed landscape architect qualified to do stormwater management plans, responded that they were more concerned about rock than unstable soils. He stated that any required stormwater management would be addressed and that most drainage on South Carolina Terrace comes from offsite sources, not this property.

After confirming no one else wished to speak, the board moved to deliberation.

Motion: Arrington Cox moved that the Board of Adjustment approve the variance request for the property at 428 South Carolina Terrace, Montreat, North Carolina. This variance request is to reduce the front setback requirements from 30 feet to 20 feet on the west side of the subject property for the purpose of building a single-family residential dwelling. The motion was seconded by George Sawyer. The motion carried unanimously.

## Variance Request (438 Kentucky Road)

Alexis Baker presented the variance request submitted by Philip Jung for 438 Kentucky Road. The request was to reduce the front setback from 30 feet to 19 feet on the western side and reduce the side setback from 15 feet to 5.8 feet on the southern side to expand the existing dwelling. She noted this is a double-frontage lot with a slope of 25.05%, not subject to the Hillside Development Ordinance.

John Yurko, a licensed architect with 35 years of local practice, was sworn in and presented on behalf of Mr. Jung. He corrected that the property is 0.25 acres, not 0.53 as stated in the documents. He explained that the existing house, built in the 1980s, sits askew to the setbacks due to topography and bedrock, already encroaching the front setback by 10 feet and the side setback by 5 feet. With only 50 feet of buildable width after setbacks, the vertical three-story structure was built in response to the limited building area.

Mr. Yurko explained the primary need was to expand the single-car garage to accommodate two compact cars and an elevator for aging in place. He emphasized that while they're requesting more encroachment than currently exists, it's in the spirit of how the original house was built. The expansion would increase impervious surface by 18%, but existing stormwater infrastructure would handle runoff.

Philip Jung was sworn in and shared his deep connection to Montreat, having first visited as a 5-year-old when his parents were commissioned as missionaries in 1952. He and his wife have owned the property for 13 years and visited for 30 years prior. Mr. Jung explained they want to retire in Montreat and need modifications including a bigger bedroom, kitchen, and elevator. He confirmed they had met with neighbor Lila Ray, showed her the plans, and she had no objection despite her carport being within 2-3 feet of the property line.

Board members asked detailed questions about the plans. Ed Kramer questioned whether such a large variance request was necessary just for retirement modifications and asked about square footage increases. Chair Sharpe requested clarification of the confusing drawings. Mr. Yurko explained that the gray areas represent the requested variance - expanding the garage forward and to the side, with additional living space above. The yellow areas shown on the drawing would be additions that comply with setbacks.

Mari Gramling pressed on the hardship issue, asking if the hardship was simply wanting to tear down the original house to build new. Yurko clarified the hardship was the existing setback encroachments and the constraints of the small, askew lot.

Brandon Freeman read extensively from School of Government guidance on hardships, emphasizing that hardships must be peculiar to the property, not general to the neighborhood. He noted that when lots are different from one another and can't be fixed by a simple ordinance applying to all lots, a variance may still be appropriate.

Following discussion about whether the topographical constraints and existing non-conforming structure constituted sufficient hardship peculiar to the property, David Neel made a motion to approve.

Motion: David Neel moved to approve the request. George Sawyer seconded the motion. The motion carried 6-1, with Ed Kramer voting against.

## New Business

No new business was discussed.

## Next Meeting Date: November 20, 2025

The next meeting was scheduled for November 20, 2025

## Adjournment

Motion: A motion was made to adjourn by Arrington Cox. The motion was seconded by Mari Gramling. The motion carried unanimously.

The meeting was adjourned at approximately 7:03 PM.

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Danny Sharpe, Chair

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Angie Murphy, Town Clerk

# Staff Report – Special Use Permit for 112 Kanawha Drive (PIN# 071054358300000)

**Proposed Project:** Matthew Milne, Applicant, on behalf of property owners, Daniel and Mary Ann Zorn, is requesting the approval of a Special Use Permit to build an accessory dwelling unit at 112 Kanawha Drive (PIN# 071054358300000). The subject property is zoned R-1 Residential District and requires a Special Use Permit in this Zoning District (Montreat Zoning Ordinance, Article V – Zoning District Regulations, Sec. 500: Permitted Uses Table, Table 1: Permitted Uses Table).

Created by:

Alexis Baker, AICP  
Interim Zoning Administrator  
Town of Montreat

Created for:

Montreat Board of Adjustment

November 20, 2025

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## STAFF REPORT

### Summary

The following report summarizes the Zoning Administrator's review of an application for a Special Use Permit submitted by Matthew Milne, Applicant, on behalf of property owners, Daniel and Mary Ann Zorn, is requesting the approval of a Special Use Permit to build an accessory dwelling unit at 112 Kanawha Drive (PIN# 071054358300000). The subject property is zoned R-1 Residential District and requires a Special Use Permit in this Zoning District (Montreat Zoning Ordinance, Article V – Zoning District Regulations, Sec. 500: Permitted Uses Table, Table 1: Permitted Uses Table).

**Parcel Identifier Number (PIN #):** 071054358300000

**Address:** 112 Kanawha Drive  
Montreat, NC 28711

**Owner:** Daniel and Mary Ann Zorn  
P.O Box 487,  
Montreat, NC 28757

**Applicant:** Matthew Milne

**Zoning:** R-1 Residential District

**Surrounding Zoning (Figure 1: Surrounding Zoning and Uses):**

*North:* R-1 zoning

*South:* R-1 zoning

*East:* R-1 zoning

*West:* R-1 zoning

**Current Land Use:** Single-family residential.

**Surrounding Land Use (Figure 1: Surrounding Zoning and Uses):**

*North:* Kanawha Road

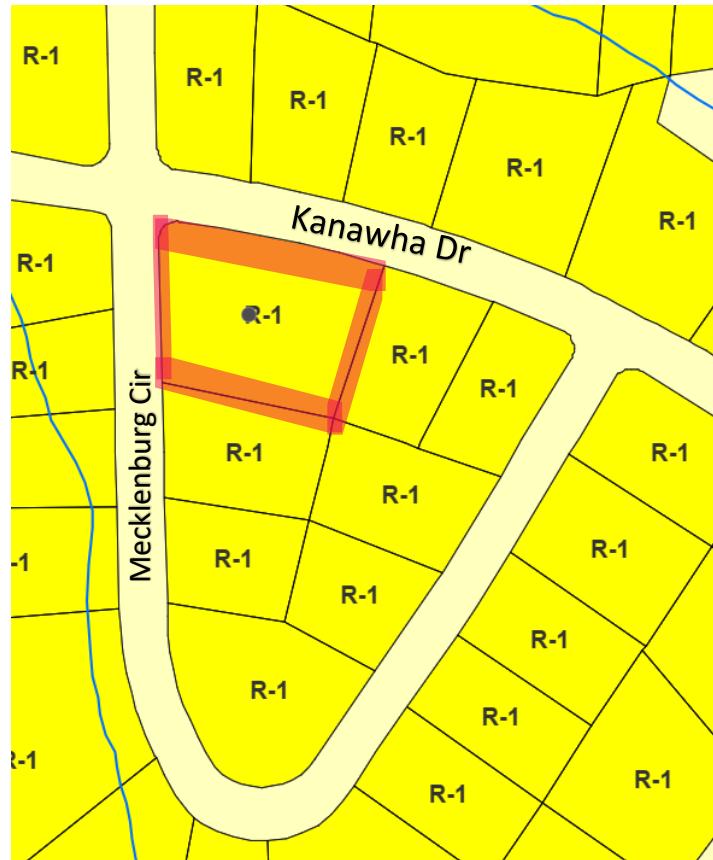
*South:* Single-family residential

*East:* Single-family residential

*West:* Mecklenburg Circle

**Utilities:** On-site

**Acres:** 0.54 acres (23,522.4 square feet)



*Figure 1: Surrounding Zoning and Uses; provided by staff*

## Public Notice

Staff mailed notice to properties within 250' of the site **11/10/25** (see Figure 2: Properties within 250' of Subject Property for Public Notice) for the Board of Adjustment Hearing on **11/20/25**.



Figure 2: Properties within 250 ft of Subject Property for Public Notice

## Special Use Permit Request

Matthew Milne, Applicant, on behalf of property owners, Daniel and Mary Ann Zorn, is requesting the approval of a Special Use Permit to build an accessory dwelling unit at 112 Kanawha Drive (PIN# 071054358300000). The subject property is zoned R-1 Residential District and requires a Special Use Permit in this Zoning District (Montreat Zoning Ordinance, Article V – Zoning District Regulations, Sec. 500: Permitted Uses Table, Table 1: Permitted Uses Table).

See Staff Analysis (i.e. Alexis Baker, AICP, Interim Montreat Zoning Administrator) in addition to applicant-provided materials. Staff Analysis contain references to the Montreat Zoning Ordinance (**MZO**) and Montreat General Ordinances (**MGO**) where noted.

### Special Use Permit Analysis

#### USES

##### Staff Analysis

**“Accessory Dwelling Units” require a Special Use Permit in the R-1 Residential District**, subject to the Board of Adjustment’s review and approval (MZO, Article V – Zoning District Regulations, Sec. 500: Permitted Uses Table, Table 1: Permitted Uses Table). The applicant is requesting to build a pool house along with a pool. The pool house is subject to this special use permit request as it will be used as an accessory dwelling unit.

**619 Accessory Dwelling Units.** *The purpose of an Accessory Dwelling Unit is to:*

- a) *Provide flexible housing options for residents and their families;*
- b) *Integrate affordable housing into the community with minimal negative impact;*
- c) *Provide elderly citizens with the opportunity to retain their homes and age in place.*

#### **619.1 STANDARDS**

1. *An Accessory Dwelling Unit shall be located only on a residential Lot containing one Single Family detached Structure. The residential Lot may contain other accessory Structures as provided in this ordinance.*
2. *Only one Accessory Dwelling Unit shall be permitted per Lot.*
3. *No Accessory Dwelling Unit shall exceed the height of the principal Structure.*
4. *The Accessory Dwelling Unit shall meet the appropriate Setbacks.*
5. *The Accessory Dwelling Unit shall be clearly subordinate to the main Structure.*
6. *The Accessory Dwelling Unit must contain complete kitchen facilities including a stove or cook top and a full bath including lavatory, water closet, and tub or shower (or combination).*
7. *At least one Parking Space shall be provided in addition to those required for the principal Dwelling.*

8. Manufactured housing, campers, travel trailers and recreational vehicles are not permitted for Use as an Accessory Dwelling Unit.
9. An Accessory Dwelling Unit shall be occupied by no more than four (4) persons.

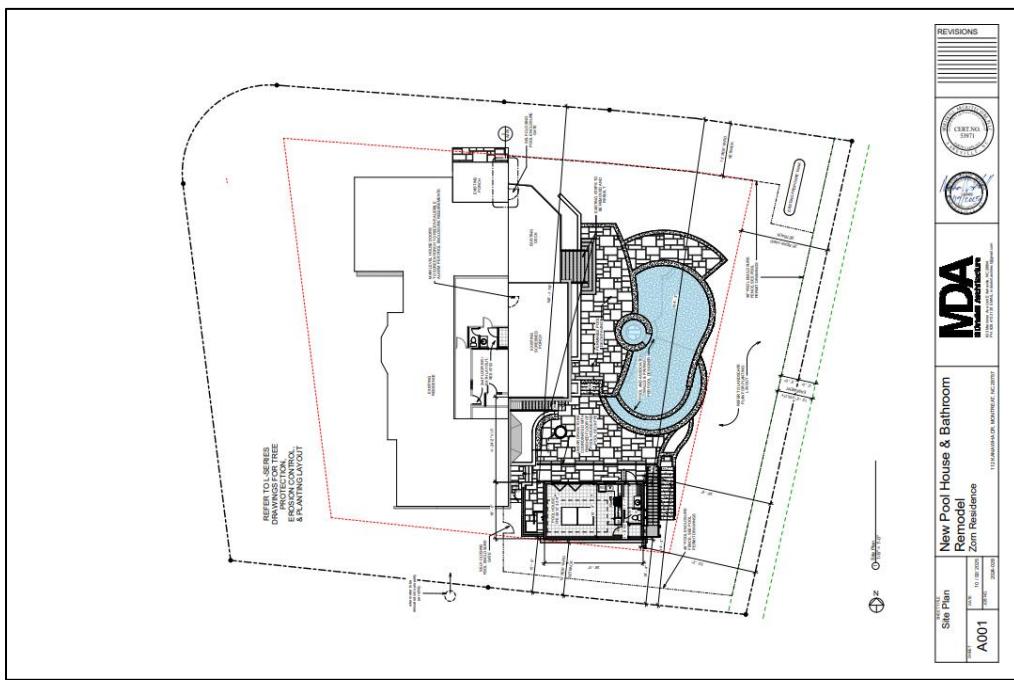


Figure 3: Site Plan; Provided by Applicant provided by applicant

## EROSION & SEDIMENT CONTROL (ESC)

### Staff Analysis

The applicant does not propose to conduct any land disturbing activity which uncovers one or more acres on a tract of land and is not proposing residential land disturbing activity. Therefore, **an ESC plan and land disturbing permit under the Buncombe County Soil Erosion and Sedimentation Control Ordinance, as cited in the MGO, Chapter K – Environment, Article III: Soil Erosion and Sediment Control Ordinance, is not required** for this site. The applicant must take all reasonable measures, as outlined in Division 3 of the Buncombe County Soil Erosion and Sedimentation Control Ordinance, to protect all public and private property from damage caused by land disturbing activities associated with the construction of the handicap accessible trail and associated parking lot.

## POST-CONSTRUCTION STORMWATER MEASURES

### Staff Analysis

The subject property contains approximately 6,505 square feet of impervious area in the form of building footprints, walkway, covered deck, steps, and driveway. The applicant indicates that only 2,446 square feet of impervious surface will be created, including the pool house and pavilion. The pool surface water area is not included in the calculation. Additionally, it is anticipated that 7,571 square feet will be disturbed. Impervious surface and land disturbance are defined as follows in the Stormwater Management Ordinance:

**Impervious surface:** Any surface that, in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but are not limited to, gravel, concrete, asphalt or other paving material, and all areas covered by the footprint of buildings or structures.

**Disturbed area:** The portions of a development project that include graded areas disturbed so as to remove the natural cover in conjunction with development activities; both pervious and impervious surfaces installed and/or constructed including, but not limited to, buildings; concrete/asphalt pavement and gravel areas such as parking lots, patios, roads, and paths; lawns and artificially surfaced (e.g. recycled rubber mulch, crushed brick, etc.) areas; retention structures including, but not limited to, timber, stone and masonry walls; installation of septic/sewage systems, buried tanks or cisterns, etc.

In accordance with the MGO, Chapter K – Environment, Article III: Stormwater Management, Section 303 Administration and Procedures, 3. Review and Appeal Procedure, a Stormwater Control Permit (SCP) is required for the following:

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

The applicant is triggering both the disturbance and over 24% of total area conditions listed above and therefore **will be required to obtain an SCP and comply with the provisions outlined in MGO, Chapter K – Environment, Article III: Stormwater Management, Section 304 Permit Application and Plans.**

## HILLSIDE DEVELOPMENT

### Staff Analysis

The **Town of Montreat's Hillside Development Ordinance is not applicable** to the subject property as the subject property does not contain steep slopes greater than 40% (MGO, Chapter K – Environment, Article IV: Hillside Development Regulations).

## FLOODPLAIN DAMAGE PREVENTION AND DEVELOPMENT

### Staff Analysis

There are no streams or Special Flood Hazard Areas on the Subject Property. Prior to development permit issuance, the Applicant will be required to comply with the Town of Montreat's General Ordinance Chapter K Article III.



Figure 4: 100-Year Floodplain

## Board of Adjustment Analysis

The Board of Adjustment should consider this application using the following findings per Section 310.621-310.626:

1. That the Use will not be detrimental to or endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved;
2. That the Use meets or will meet all the required and applicable development standards and conditions of the Town of Montreat (including without limitation all development standards, conditions, and requirements related to utilities, parking, access, and stormwater drainage and the applicable regulations of the Zoning District in which it is located, except as such regulations may, for each case, be modified by the Board of Adjustment);
3. That the Use will not substantially diminish and impair the value of any property any portion of which is located within two hundred fifty feet (250') of the boundary of the parcel on which the Use will be located.
4. That the location and character of the Use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will not be injurious to the use and enjoyment of other property, for the purposes already permitted, within the area in which it is located;
5. That the location and character of the Use, if developed according to the plan as submitted and approved, will be in general conformity with the adopted policies and plans, including the Comprehensive Plan of the Town of Montreat; and
6. That adequate measures have been taken or will be taken to provide ingress and egress so designed as to minimize congestion in the public streets.

## Template Special Use Permit Decision Language

Per Section 310.634 and 310.635 of the MZO, the Board of Adjustment shall only approve the requested application if it concludes, based upon the information submitted at the hearing that:

1. The requested permit is within its jurisdiction to grant according to the Table of Permitted Uses.
2. The application for the permit is complete.
3. If completed as proposed in the application, the development will comply with all the requirements of this Ordinance

Motion for Decision: "I move that the Board [approve/approve with conditions/deny] the Special Use

Permit for 112 Kanawha Drive to allow an accessory dwelling unit per Sec. 500: Permitted Uses Table, Table 1: Permitted Uses Table. *[List any conditions of approval in the motion, if applicable].*

## Attachments

Town of Montreat - Special Use Permit Application  
Response to Six Standards

Re: 112 Kanawha Drive

Prepared by:

Matthew Milne  
NCLBGC Qualifier #: 57713  
Terra Firma Builders  
terrafirmanc@gmail.com

**MZO 310.621**

***That the Use will not be detrimental to or endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved.***

The ADU Pavilion and corresponding swimming pool will not endanger the public in any way, as access to the pool will be restricted on all sides of the property to ensure safe use. Additionally, the ADU in question will meet all building codes and standards mandated by Buncombe County and the Town of Montreat. We are licensed contractors with all requisite insurance and licenses necessary to build in a safe and responsible manner, with a track record proven on the previous phase of work at this residence in 2023/24.

**MZO 310.622**

***That the Use meets or will meet all the required and applicable development standards and conditions of the Town of Montreat (including without limitation all development standards, conditions, and requirements related to utilities, parking, access, and stormwater drainage and the applicable regulations of the Zoning District in which it is located, except as such regulations may, for each case, be modified by the Board of Adjustment).***

Our team of licensed design and construction professionals (architect, landscape architect, pool design team, and licensed contractors) have taken care to ensure the proposed project will meet or exceed all standards put forth by the county and town.

During our previous phase of work, completed in August of 2024, we added additional off-street parking to the site to ensure safe access for all guests of the residence. This work was permitted and inspected by the previous zoning official, Kayla DiCristina, and the town.

Additionally, there is a stormwater drainage control plan included in our documents which provides a thorough course for controlling drainage during construction as well as the extensive

native species planting plan that will provide erosion and drainage control, as well as habitat for local wildlife.

The proposed plan meets all of the standards outlined in section 619.1 of the Montreat Zoning Ordinance:

1. The property in question is a single family residential lot.
2. This will be the only ADU on the property in question.
3. The ADU will not exceed the height of the principal structure.
4. The ADU is within the setbacks, as outlined in the design materials.
5. The ADU (950sq ft) will clearly be subordinate to the main structure (3263sq ft).
6. The ADU will contain a full kitchen and half bath downstairs for entertaining and a kitchenette and full bath upstairs for guests of the homeowners.
7. Additional parking was added under the town's supervision in August 2024.
8. The ADU will be built on a masonry foundation and will not be mobile.
9. The ADU will not be occupied permanently, and if it were, would only comfortably house two residents.

**MZO 310.623**

***That the Use will not substantially diminish and impair the value of any property any portion of which is located within two hundred fifty feet (250') of the boundary of the parcel on which the use will be located.***

There is no clear way in which this structure, and its corresponding landscaping, could diminish the value of any property within 250' of the subject's boundary. This will clearly add value to the subject's property, which could in turn be beneficial to properties nearby.

**MZO 310.624**

***That the location and character of the Use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will not be injurious to the use and enjoyment of other property, for the purposes already permitted, within the area in which it is located.***

The planned ADU will conform to the character of the existing primary structure in color, materials, and style. It is very intentionally designed in a way to compliment the property and appear as though it was built near the same time. Siding, trim, and roofing materials will all match the existing structure, as detailed in the plans put forth.

Once again, the landscaping will be nothing short of a beautification project for the space. The broad array of native species will be beneficial to the aesthetics of the area, as well as the local wildlife that will interact with them.

**MZO 310.625**

***That the location and character of the Use, if developed according to the plan as submitted and approved, will be in general conformity with the adopted policies and plans, including the Comprehensive Plan of the Town of Montreat.***

We feel the plan conforms to the adopted policies and plan outlined in the Comprehensive Plan of the Town of Montreat, as it is a clear case of redevelopment of land that preserves the existing character of the property, while promoting natural beauty and increasing the amount of native plant species that the local fauna can inhabit.

ADUs are becoming much more common and we feel this is a great example of how to build alternative structures that do not stick out like sore thumbs or provide additional congestion on the city's streets.

**MZO 310.626**

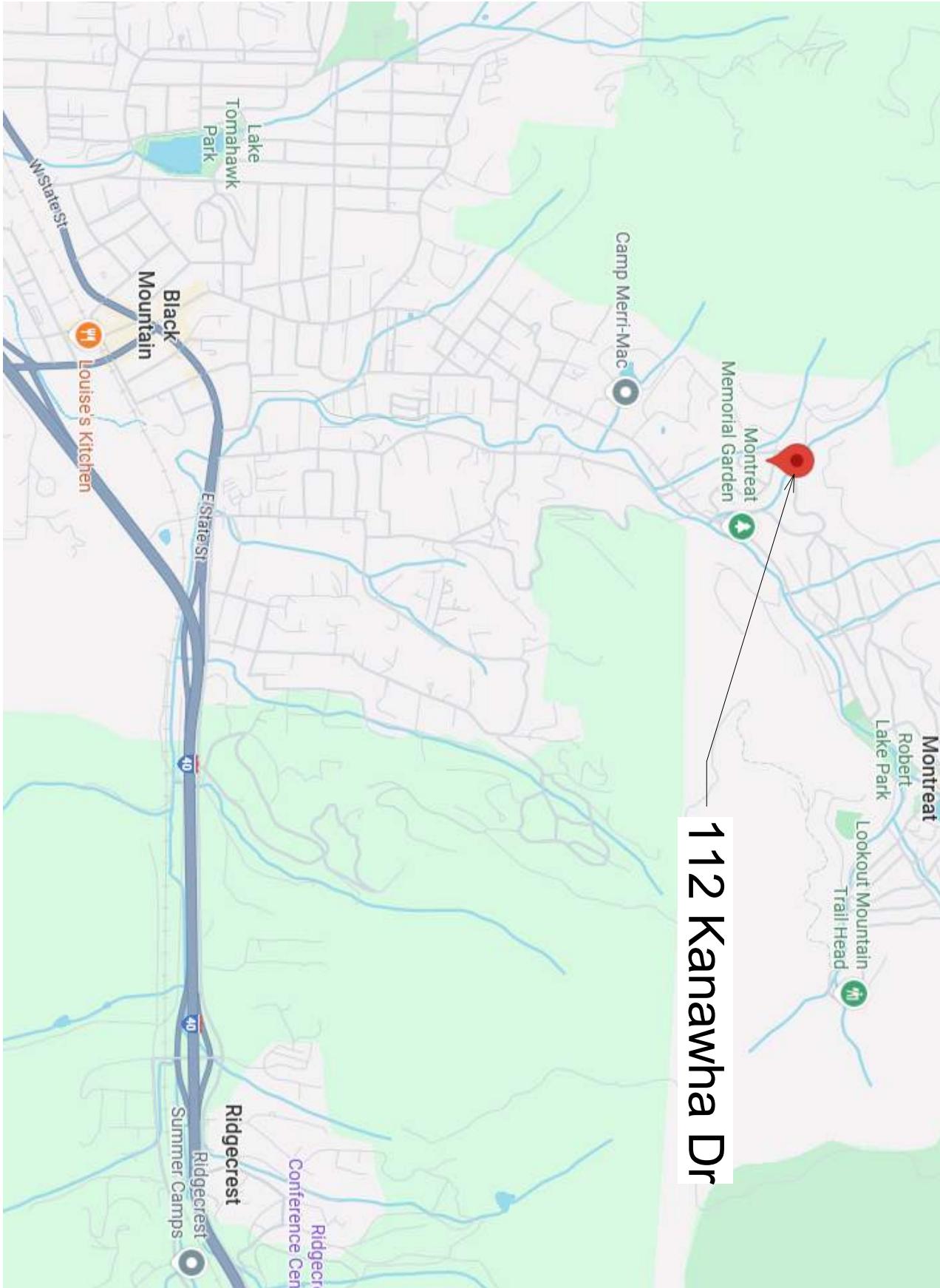
***That adequate measures have been taken or will be taken to provide ingress and egress so designed as to minimize congestion in the public streets.***

There is a clear construction entrance outlined in the plans and the residents have coordinated with their immediate neighbors to allow parking access in their driveway during business hours. This will significantly reduce the number of vehicles parking on city streets during the construction process.

As mentioned above, there are already three additional off-street, paved parking spots in place that were constructed in conjunction with the town in 2024. This will allow additional visitors ease of ingress and egress that will not inhibit the flow of traffic in the neighborhood.

# ZORN POOL HOUSE & REMODEL

112 KANAWHA DR, MONTREAT, NC 28757



LOCATION MAP

2018 NC Residential Code  
2018 NC Energy Conservation Code - Prescriptive Compliance  
Glazed Fenestration SHGC = .30 / Ufactor .35

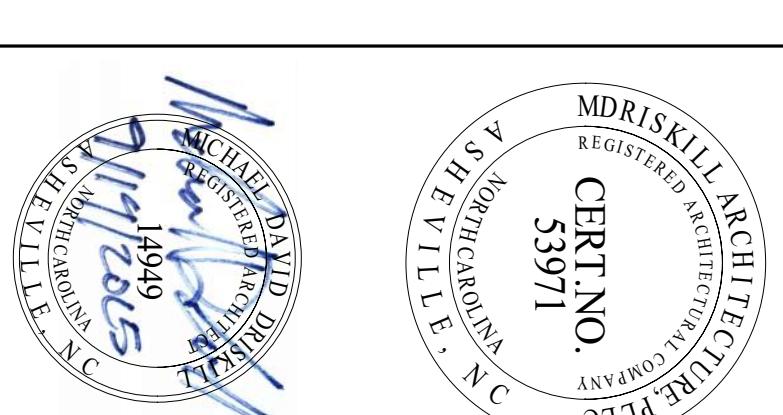
Framed Walls = R-15 Insulation  
Roof = R38 Insulation

Floor = Main Level: R19 min. closed cell spray foam  
2nd Level: R19 Minimum

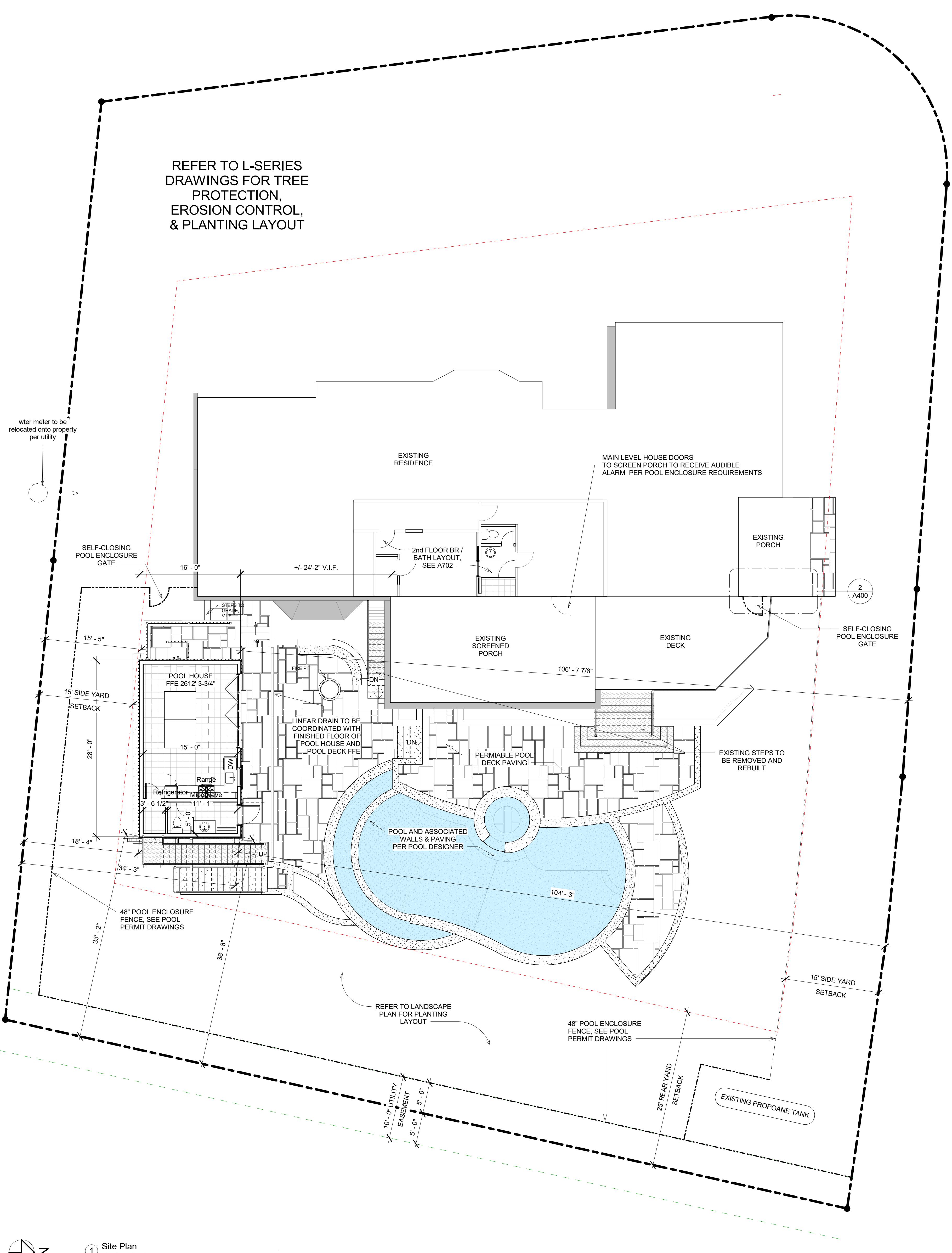
Fire Ratings:  
1 hr slab above storage / pool equipment

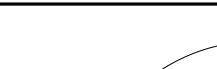
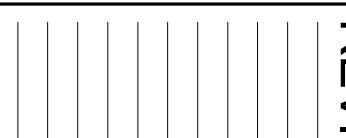
Property Data:  
Address: 112 Kanawha Dr, Montreat, NC 28757  
PIN#: 071054358300000

Sheet List	
Sheet Number	Sheet Name
A000	Title Sheet
A001	SITE PLAN
L1.01	Existing Conditions - Tree Protection Plan
L1.02	Grading, Drainage, Erosion Control Plan
L1.03	Planting Plan
L2.01	Planting Details
A100	Floor Plans
A101	Framing Plans
A102	Reflected Ceiling Plans
A201	Elevations
A300	Building Section
A301	Building Section & Details
A302	Timber Profiles
A400	Form/Porch Entry Gate
A701	Pavilion Interiors
A702	2nd Flr Shared Bath - Main House

SHEET TITLE		REVISIONS	
Title Sheet			
SHEET	DATE		
A000	10 / 02 / 2025		
	JOB NO.	2024-028	
New Pool House & Bathroom Remodel Zorn Residence			
112 KANAWHA DR, MONTREAT, NC 28757			
<b>MDA</b> MDriskill Architecture			
633 Merrimon Ave Unit E Asheville, NC 28804 PH. 828.413.3128 EMAIL: mdriskill.architect@gmail.com			

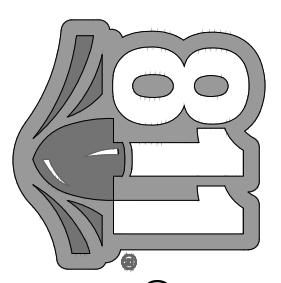




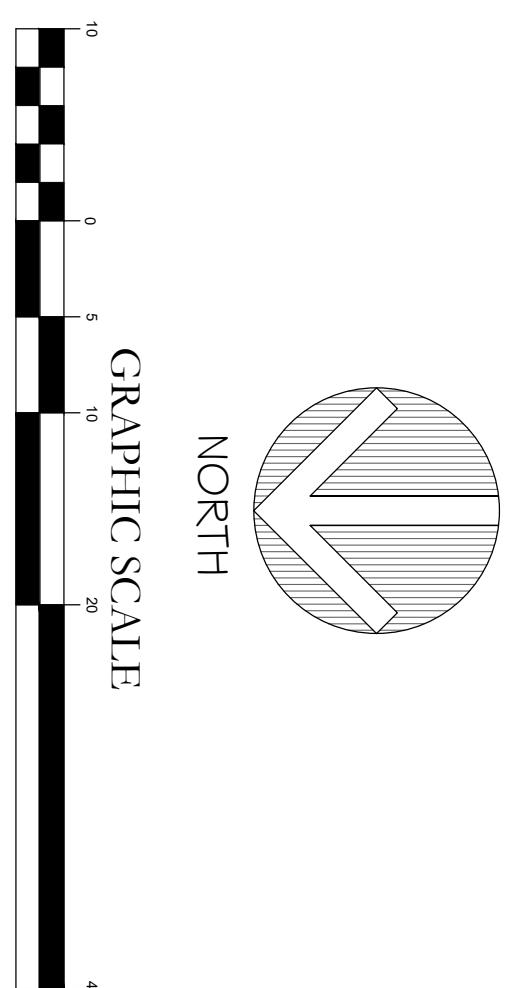
SHEET TITLE <b>Site Plan</b>		<b>New Pool House &amp; Bathroom Remodel Zorn Residence</b>		<b>MDA</b> <b>MDriskill Architecture</b> 633 Merrimon Ave Unit E Asheville, NC 28804 PH. 828.413.3128 EMAIL: mdriskill.architect@gmail.com	    
SHEET <b>A001</b>	DATE 10 / 02 / 2025	JOB NO. 2024-028			







Call Before You Dig  
Dial 811  
Or Call 1-800-282-7411  
VERIFY LOCATION OF EXISTING UTILITIES  
PRIOR TO ANY GRAVING OR SITE WORK.  
NOTIFY OWNER OF ANY CONFLICTS.



PN:	0710-54-3583
PROJECT LOCATION:	112 KANAWHA DRIVE
PIN:	R-1
BUILDING USE:	RESIDENTIAL
TOTAL SITE AREA:	0.54 ACRES (23,522 SF)



### PLANT SCHEDULE

TREES				
KEY	TOTAL	SPECIES	COMMON NAME	SIZE
1	1	Acer platanum	Japanese Maple	B&B, 7'-8', Weil-Branched
2	1	Cornus florida	Flowering Dogwood	B&B, 5'-6', Weil-Branched
3	10	Magnolia grandiflora	Teddy Bear Magnolia	B&B, 7'-8', Weil-Branched

### SHRUBS

KEY	TOTAL	SPECIES	COMMON NAME	SIZE
1	1	Hydrangea paniculata	Umelight Hydrangea	5 Gallon
2	12	Hydrangea quercifolia	Oakleaf Hydrangea	5 Gallon
3	19	Prunus lanceracraus	Cherry Laurel	10 Gallon
4	2	Rhododendron spp.	Azalea	B&B, Weil-Branched
5	2	Rosebay Rhododendron	Rhododendron Maximum	B&B, Weil-Branched

### HERBACEOUS PERENNIALS & ORNAMENTAL GRASSES

KEY	TOTAL	SPECIES	COMMON NAME	SIZE
1	21	Amsonia hubrichtii	Amsonia Blue Star	1 Gallon
2	27	Heuchera	TBD	1 Gallon
3	2	Rosebay Rhododendron	Rhododendron Maximum	B&B, Weil-Branched

### FERNS & GROUNDCOVERS

KEY	TOTAL	MATERIAL	SIZE
1	65	Dryopteris erythrosora	Autumn Fern
2	20	Sedum ternatum	Mountain Stonecrop
3	1,159	Heuchera pensylvanica	Pennsylvania Sedge

### HARDSCAPE

KEY	TOTAL	MATERIAL	SIZE
1	- 5'	Mulch	Double Ground Hardwood
2	- 5'	Soil Amendments	
3	- 10'	Metal Fencing	

**PLANTING PLAN**  
112 KANAWHA DRIVE  
MONTREAT, NORTH CAROLINA

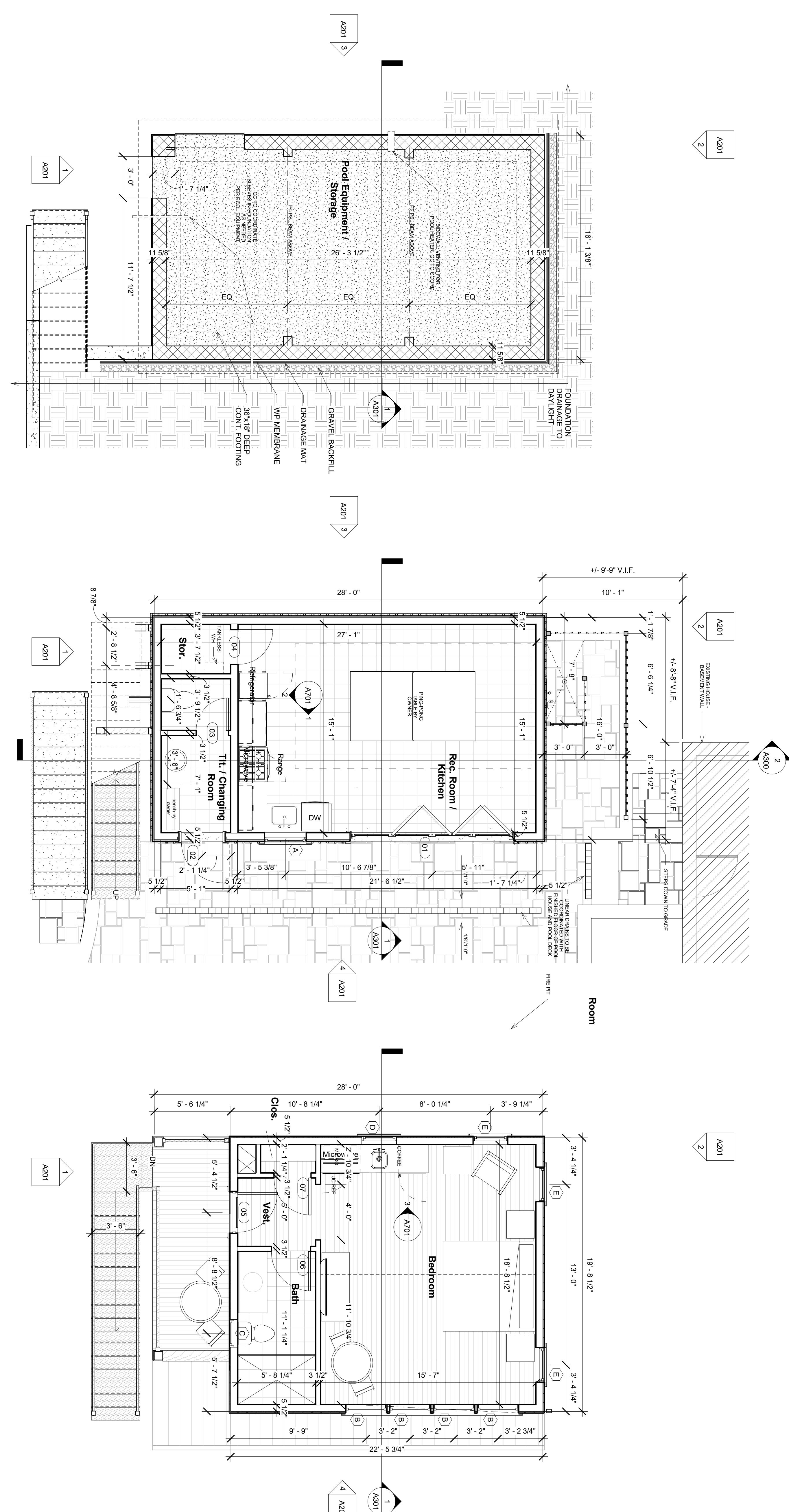


Type	Mark	Operation	Width	Height	Sill Height	FINISH	Comments
A		Awning	3'-0"	4'-6"	3'-6"	TBD	Western Window Systems Performance series 7665
B		Double Hung	3'-0"	5'-0"	2'-0"	TBD	design basis is Sierra pacific aluminum clad Mullion unit
C		single hung	2'-0"	2'-6"	4'-6"	TBD	Design basis Sierra pacific aluminum clad
D		single hung	2'-6"	4'-0"	3'-0"	TBD	Design basis Sierra pacific aluminum clad
E		Double Hung	2'-6"	3'-10"	3'-2"	TBD	Design basis Sierra pacific aluminum clad

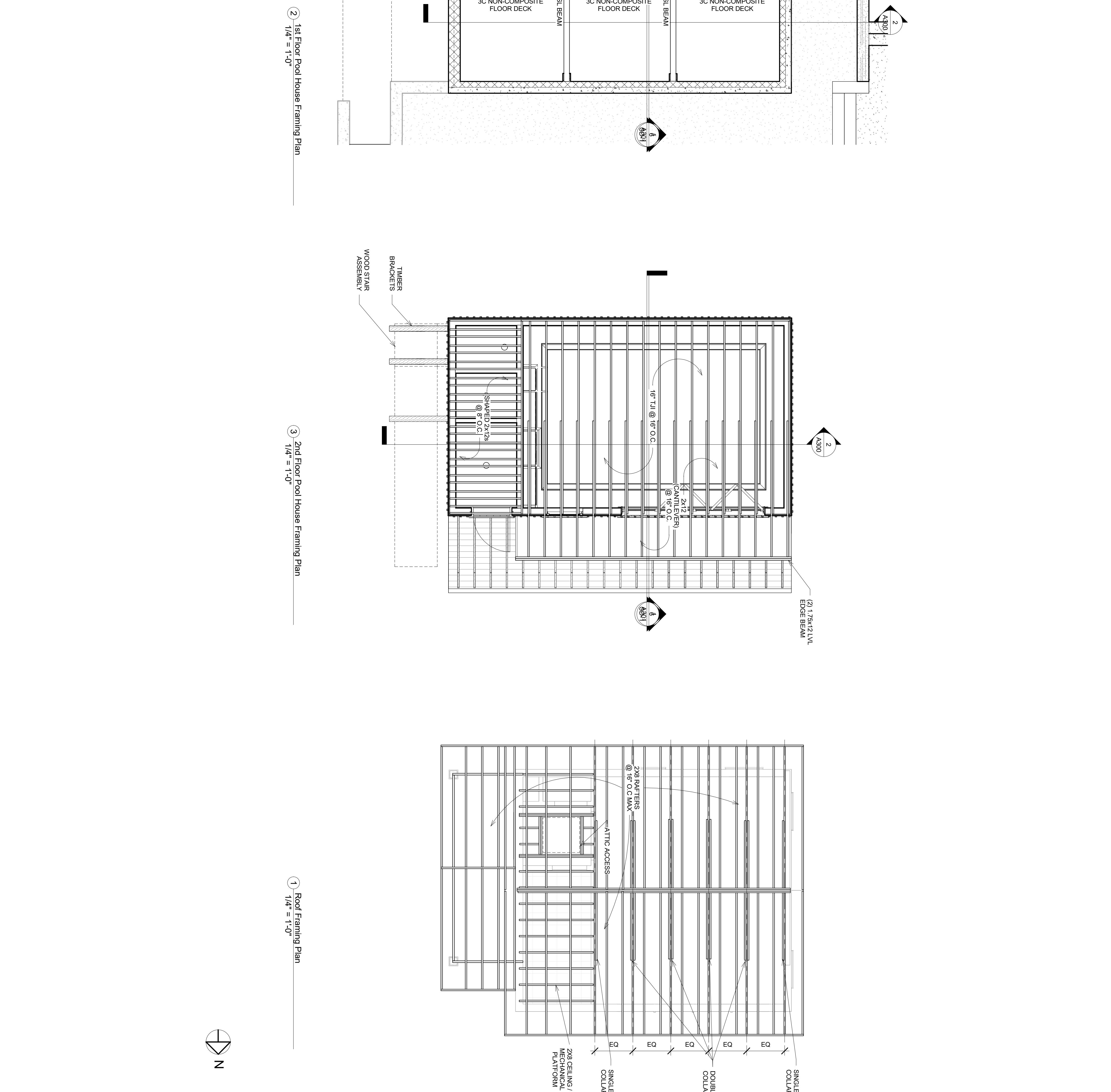
③ Pool House Storage Plan  
1/4" = 1'-0"

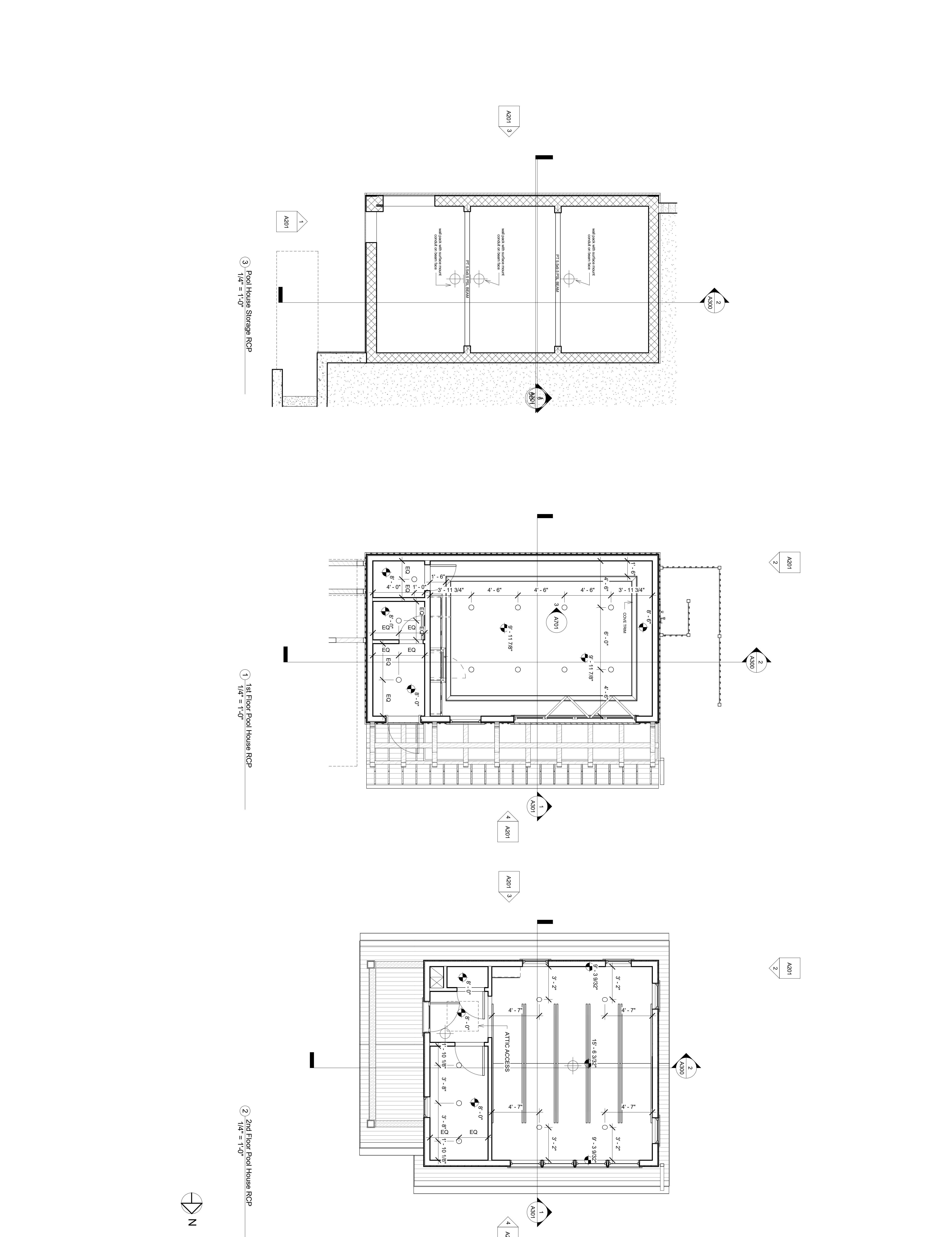
① 1st Floor Pool House Plan  
1/4" = 1'-0"

② 2nd Floor Pool House Plan  
1/4" = 1'-0"



SHEET TITLE		New Pool House & Bathroom Remodel		MDriskill Architecture		REVISIONS	
SHEET	DATE	10 / 02 / 2025	JOB NO.	53971	112 KANAWHA DR, MONTREAT, NC 28757	1999 MDriskill Architecture REGISTERED ARCHITECT CLT, PLLC Montreat, NC A. Michael Driskill, AIA CERT. NO. 53971 10/02/2025	112 KANAWHA DR, MONTREAT, NC 28757

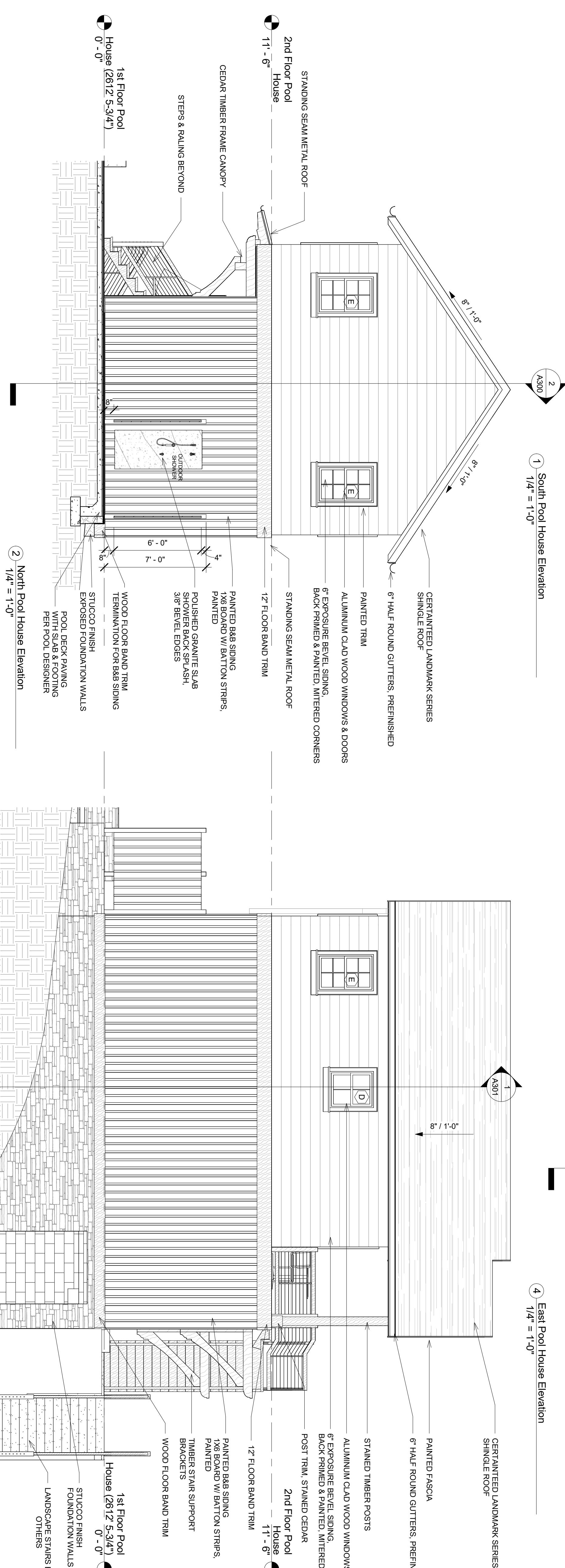




SHEET TITLE		New Pool House & Bathroom Remodel		MDriskill Architecture		REVISIONS	
Reflected Ceiling Plans		Zorn Residence		633 Merrimon Ave Unit E Asheville, NC 28804 PH. 828.413.3128 EMAIL: mdriskill.architect@gmail.com		MDRISKILL ARCHITECTURE REGISTERED ARCHITECTURE CLERK OF THE COURTS STATE OF NORTH CAROLINA ASHEVILLE, NC CERT. NO. 53971 1999 11/1/2025	
SHEET	DATE						
A102	10 / 02 / 2025						
	JOB NO.	2024-028					

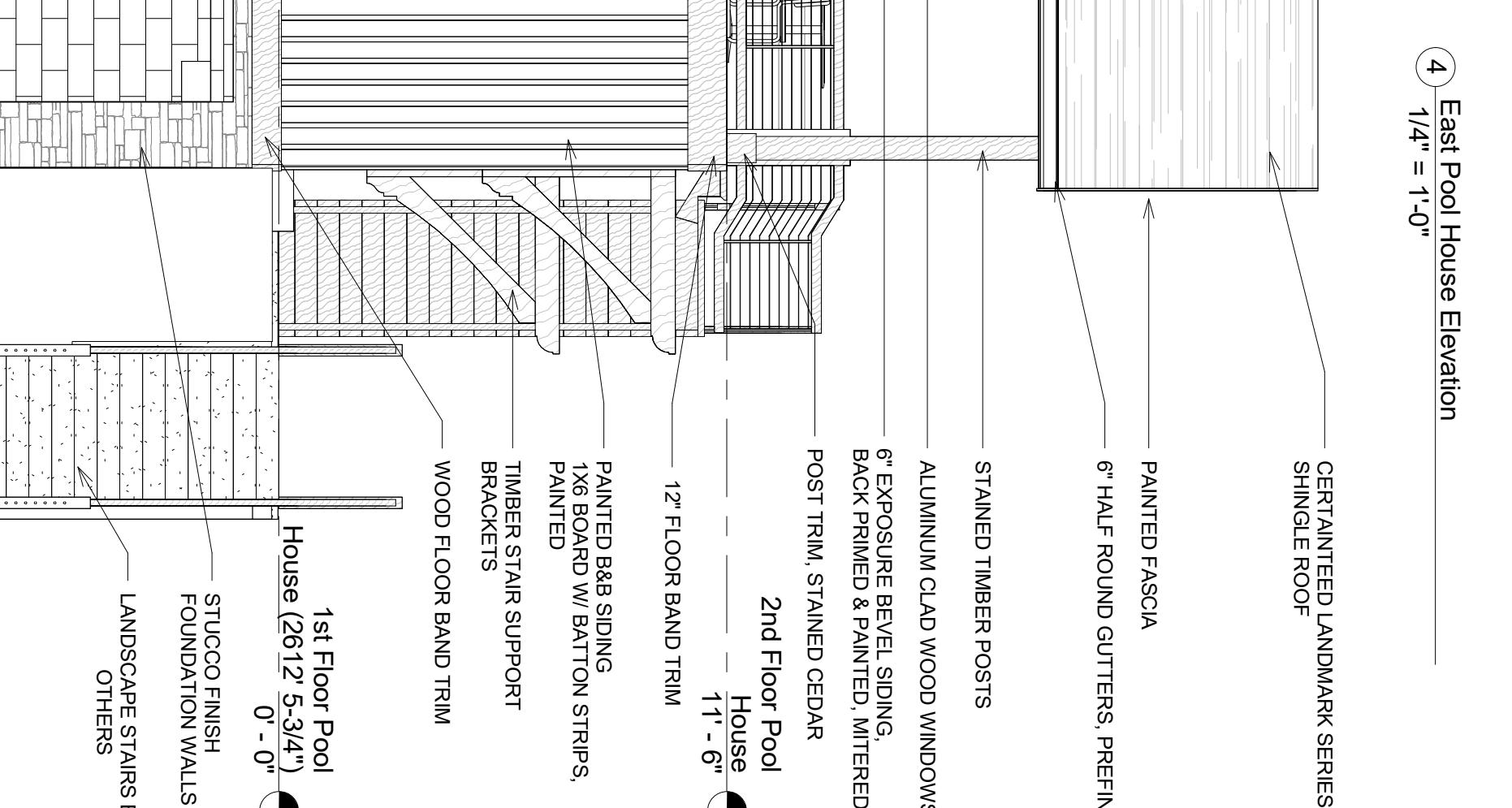
Window Schedule					
Type	Mark	Operation	Width	Height	Sill Height
A	Awning	3'-0"	4'-6"	3'-6"	TBD
B	Double Hung	3'-0"	5'-0"	2'-0"	TBD
C	single hung	2'-0"	2'-6"	4'-6"	TBD
D	single hung	2'-6"	3'-0"	4'-0"	TBD
E	Double Hung	2'-6"	3'-10"	3'-2"	TBD

1/4" = 1'-0"



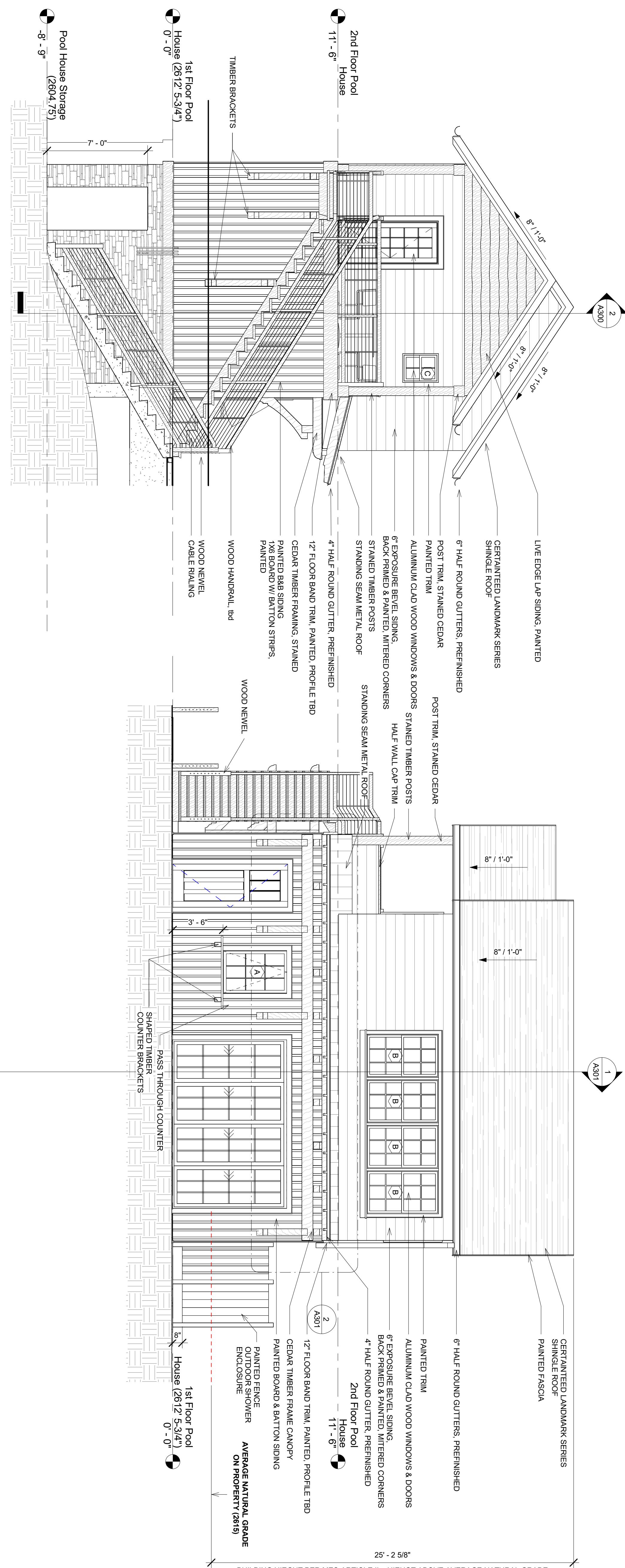
① South Pool House Elevation

④ East Pool House Elevation



② North Pool House Elevation

③ West Pool House Elevation

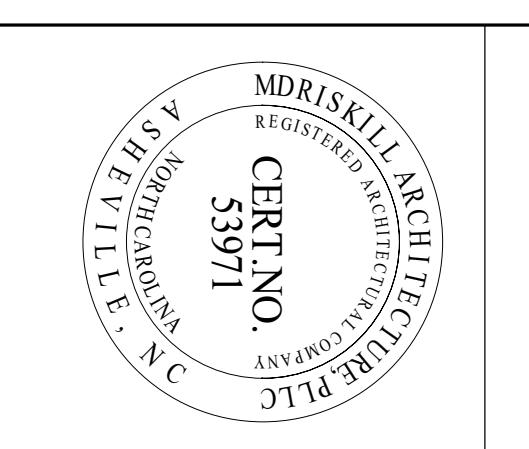


BUILDING HEIGHT PER M20 ARTICLE II = HEIGHT ABOVE AVERAGE NATURAL GRADE

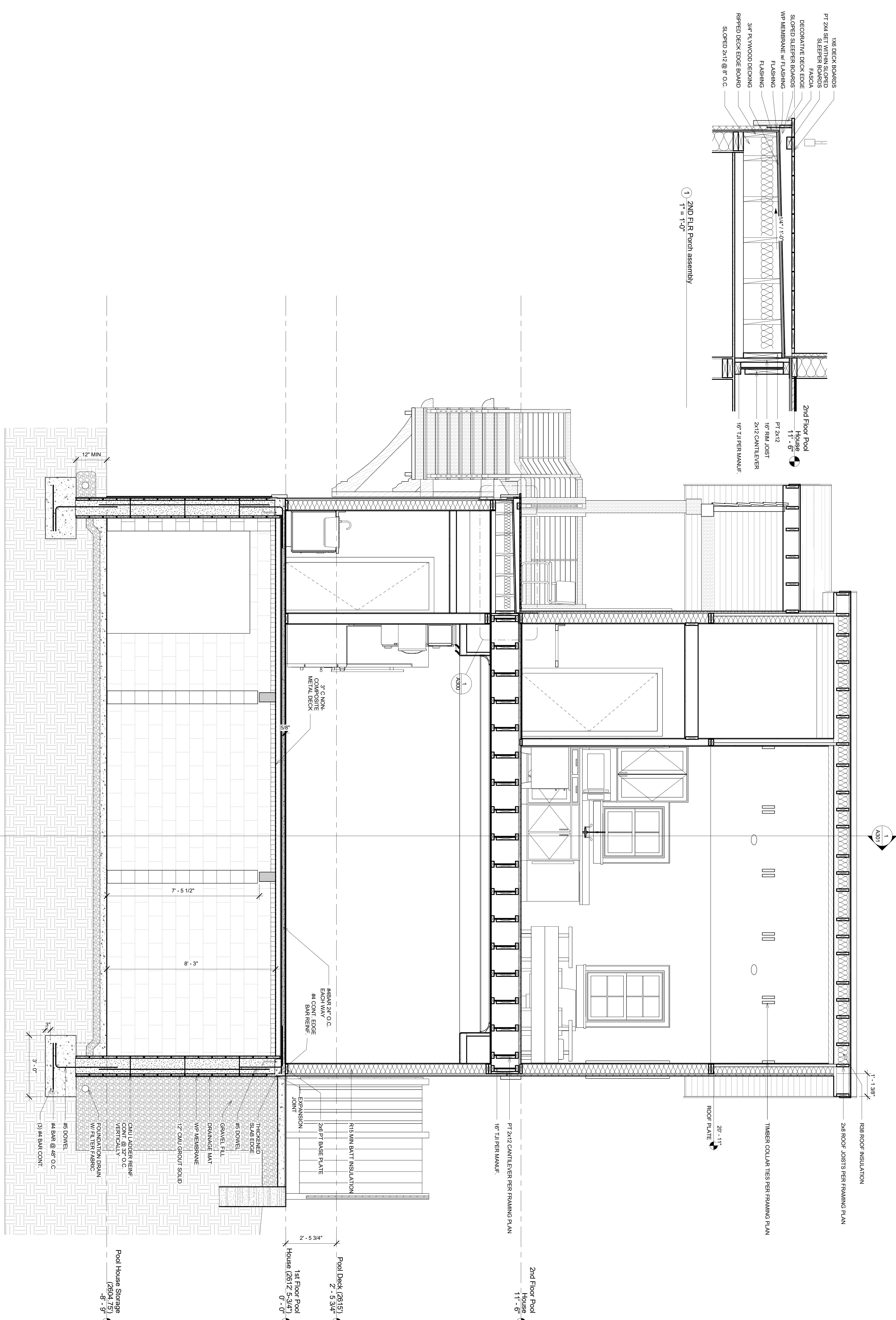
SHEET TITLE		Elevations	
A201		New Pool House & Bathroom Remodel Zorn Residence	
DATE	10 / 02 / 2025	JOB NO.	2024-028

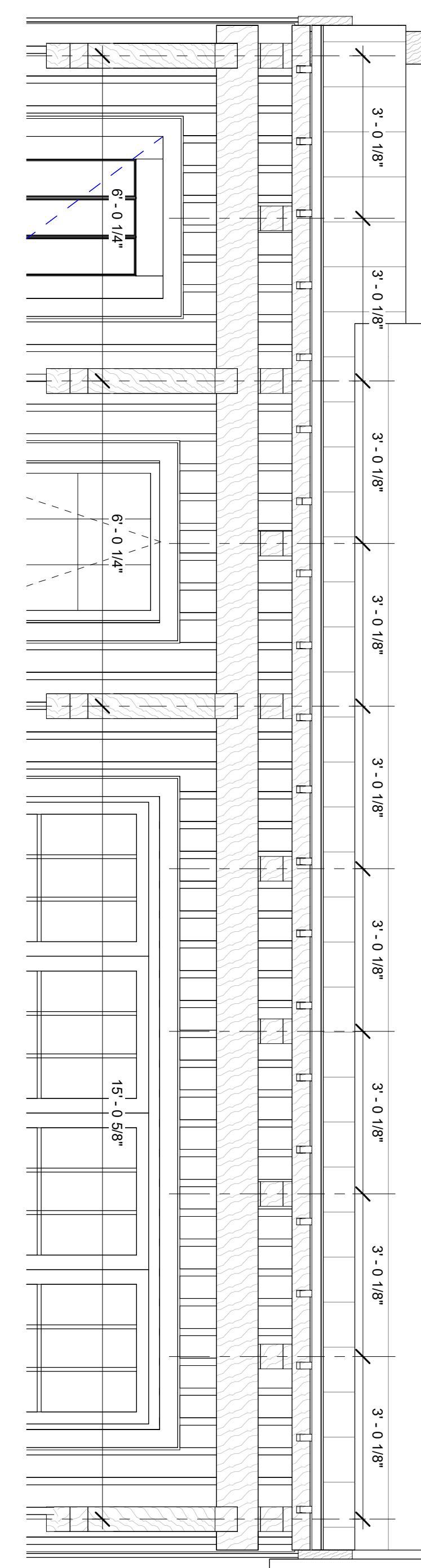
**MDA**  
MDriskill Architecture

633 Merrimon Ave Unit E Asheville, NC 28804  
PH. 828.413.3128 EMAIL: mdriskill.architect@gmail.com

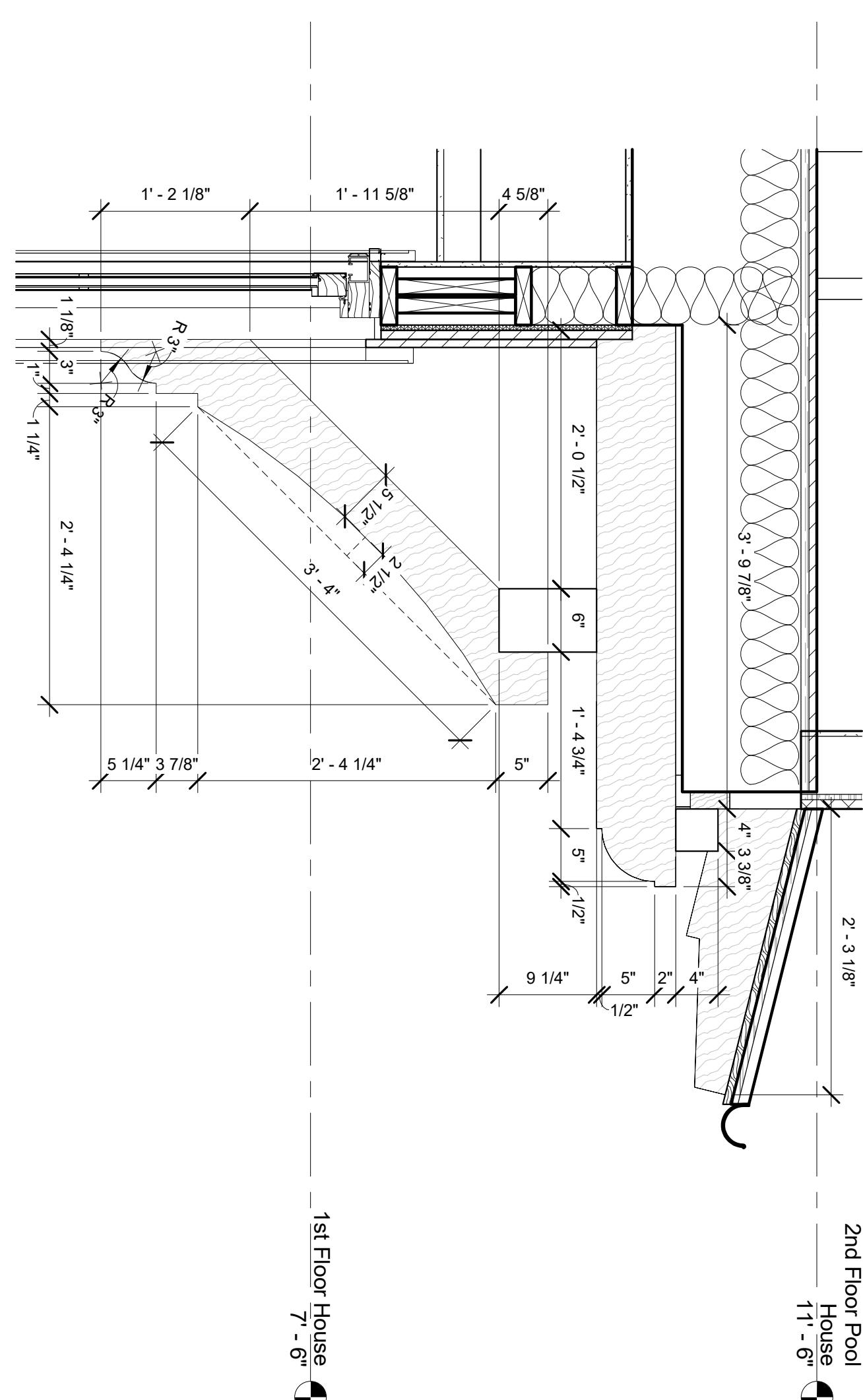


REVISIONS

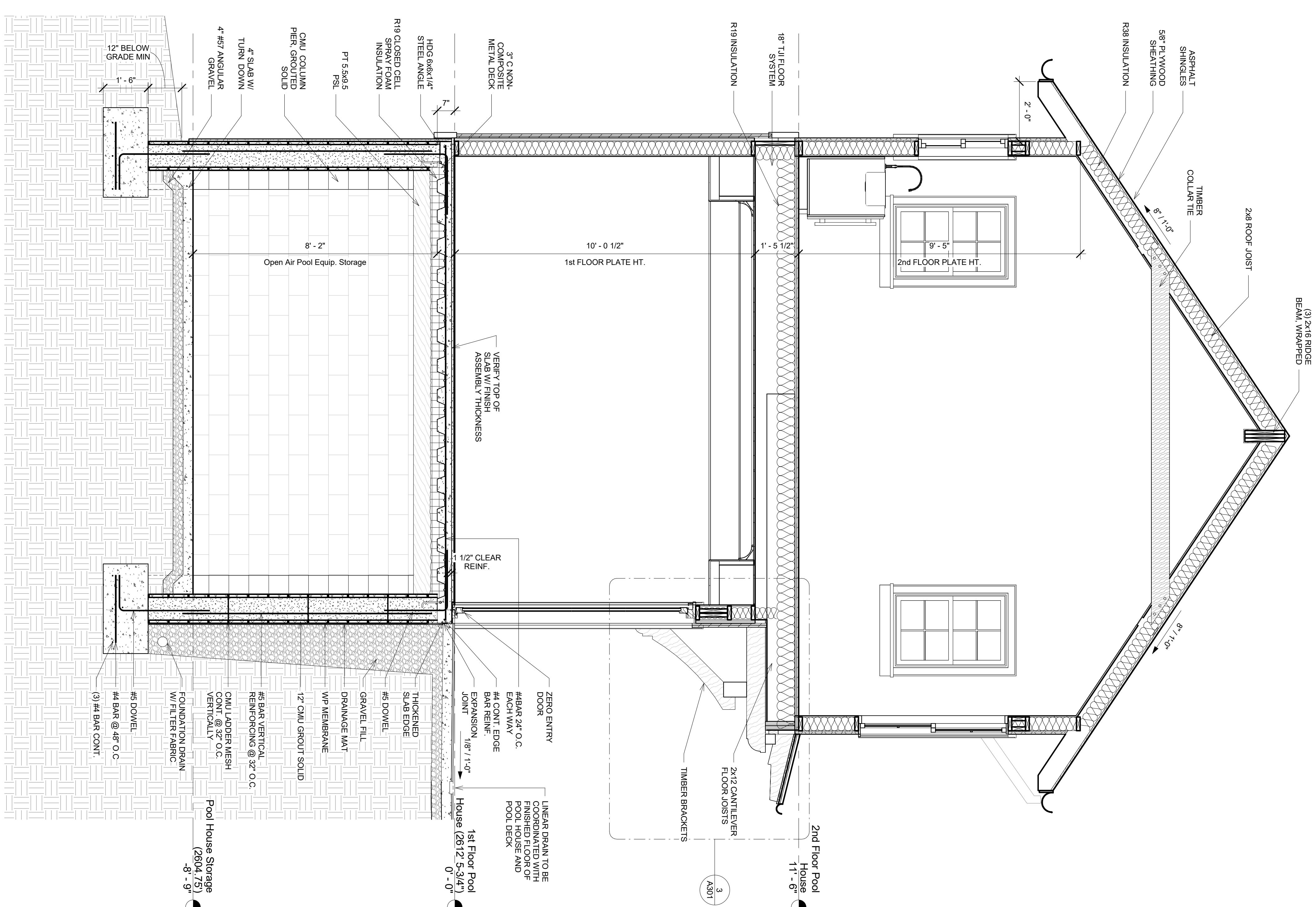




② Pool House Canopy  
1/2" = 1'-0"

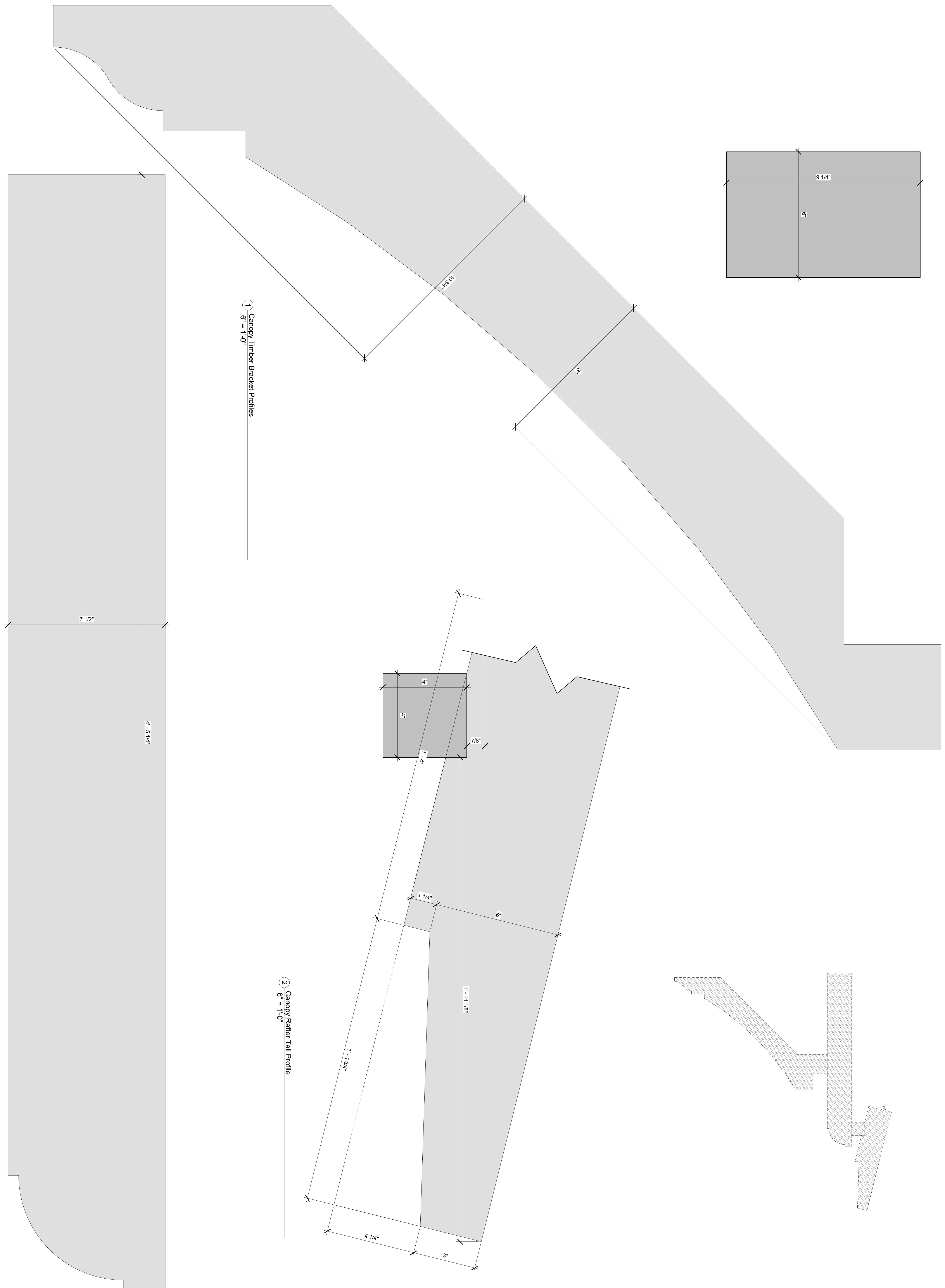


③ Pool House Canopy Detail  
1" = 1'-0"

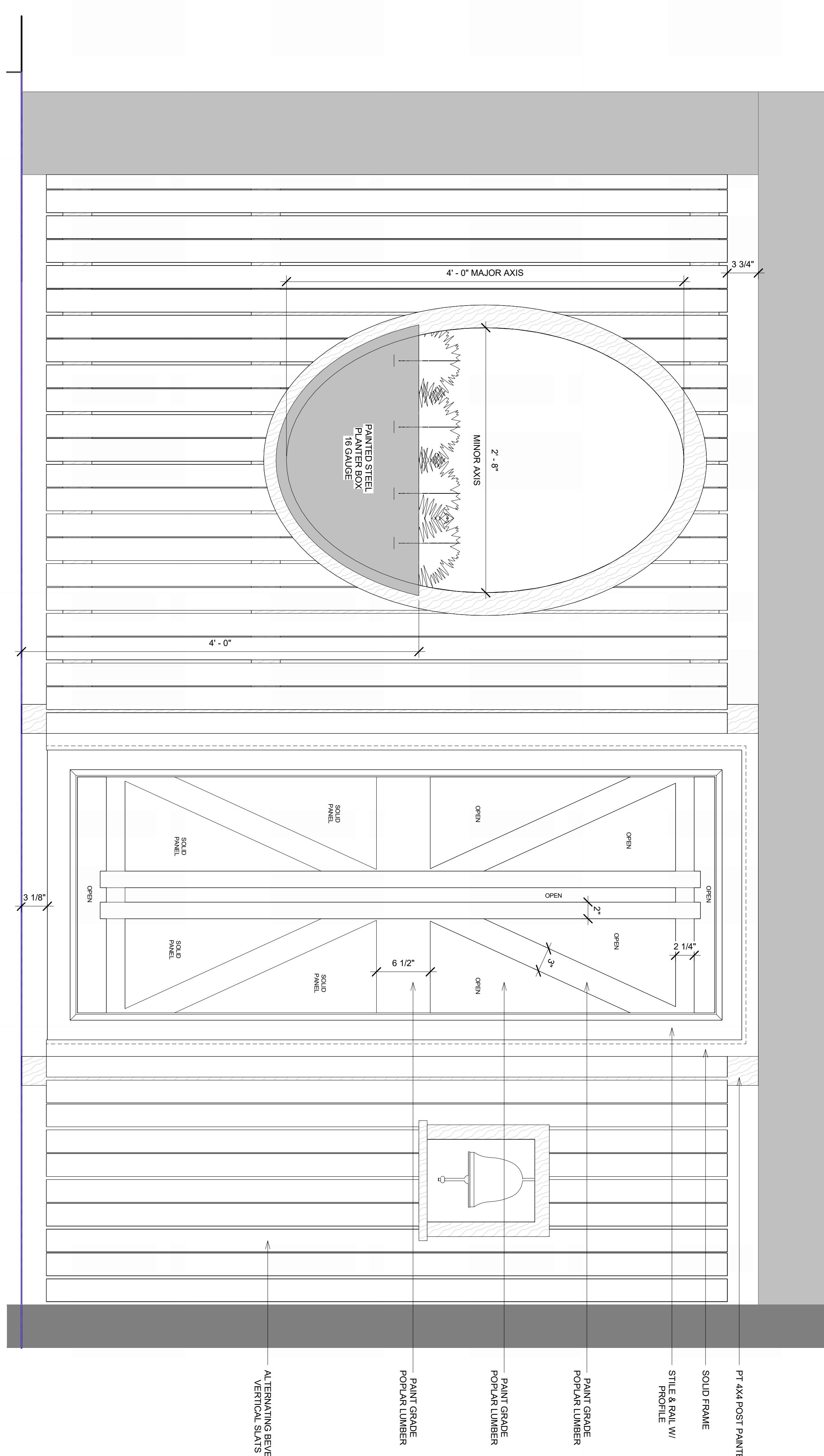
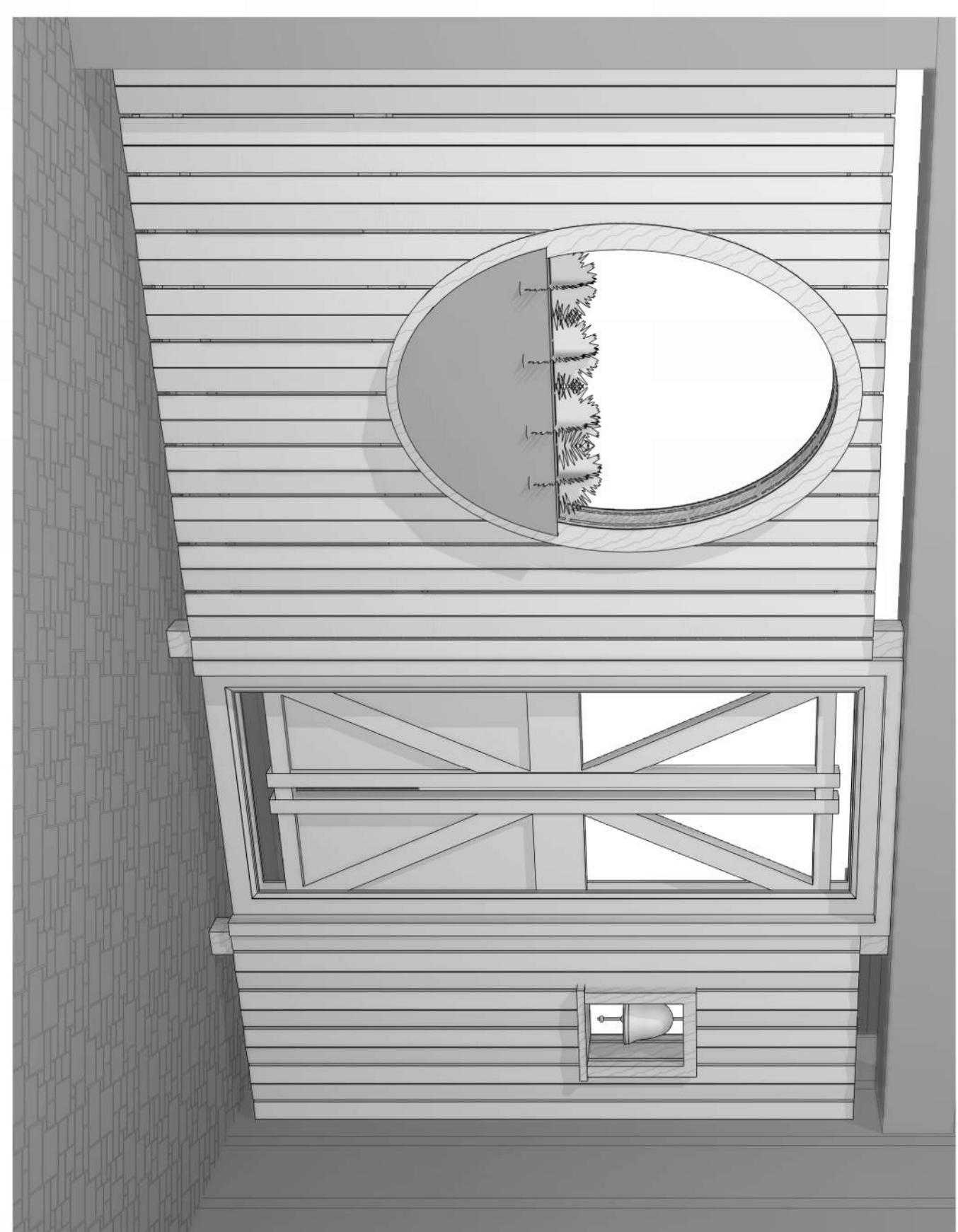


① Pool House Section South  
1/2" = 1'-0"

SHEET TITLE Building Section & Details		New Pool House & Bathroom Remodel Zorn Residence		REVISIONS
SHEET A301	DATE 10 / 02 / 2025 JOB NO. 2024-028	MDriskill Architecture 633 Merrimon Ave Unit E Asheville, NC 28804 PH. 828.413.3128 EMAIL: mdriskill.architect@gmail.com	CERT NO. 53971 MICHAEL ANDREW DRISKILL REGISTERED ARCHITECT MDRISKILL ARCHITECTURE PLLC 11/19/1999 Montreat, NC Montreat, NC	

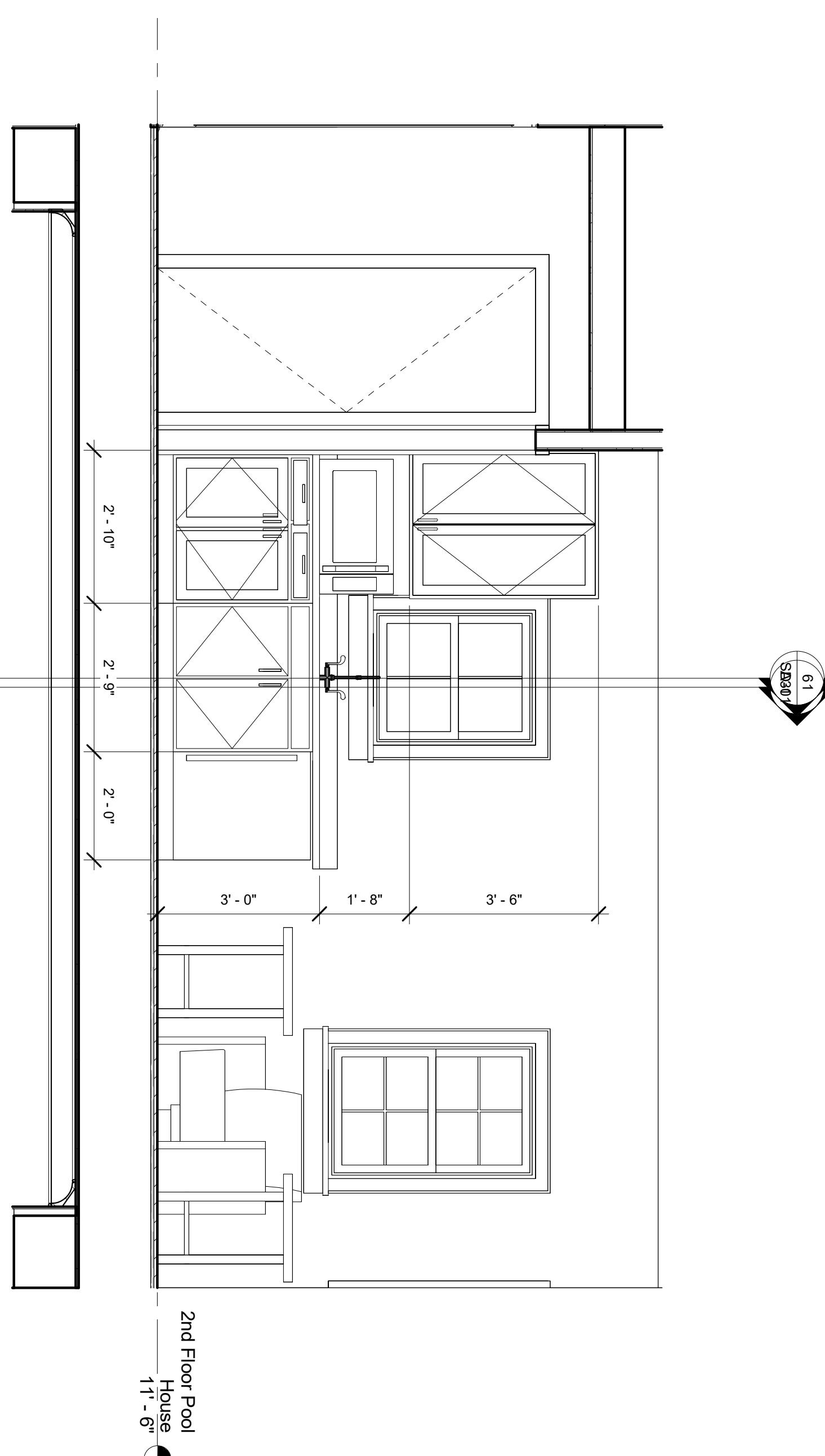


SHEET TITLE		New Pool House & Bathroom Remodel		MDriskill Architecture		REVISIONS	
SHEET	DATE	Zorn Residence		633 Merrimon Ave Unit E Asheville, NC 28804 PH. 828.413.3128 EMAIL: mdriskill.architect@gmail.com		CERT NO.	
A302	10 / 02 / 2025	112 KANAWHA DR, MONTREAT, NC 28757		MICHAEL DAVID DRISKILL, RA, AIA REGISTERED ARCHITECT MDRISKILL ARCHITECTURE PLLC ASHEVILLE, NORTH CAROLINA 14949		14949	

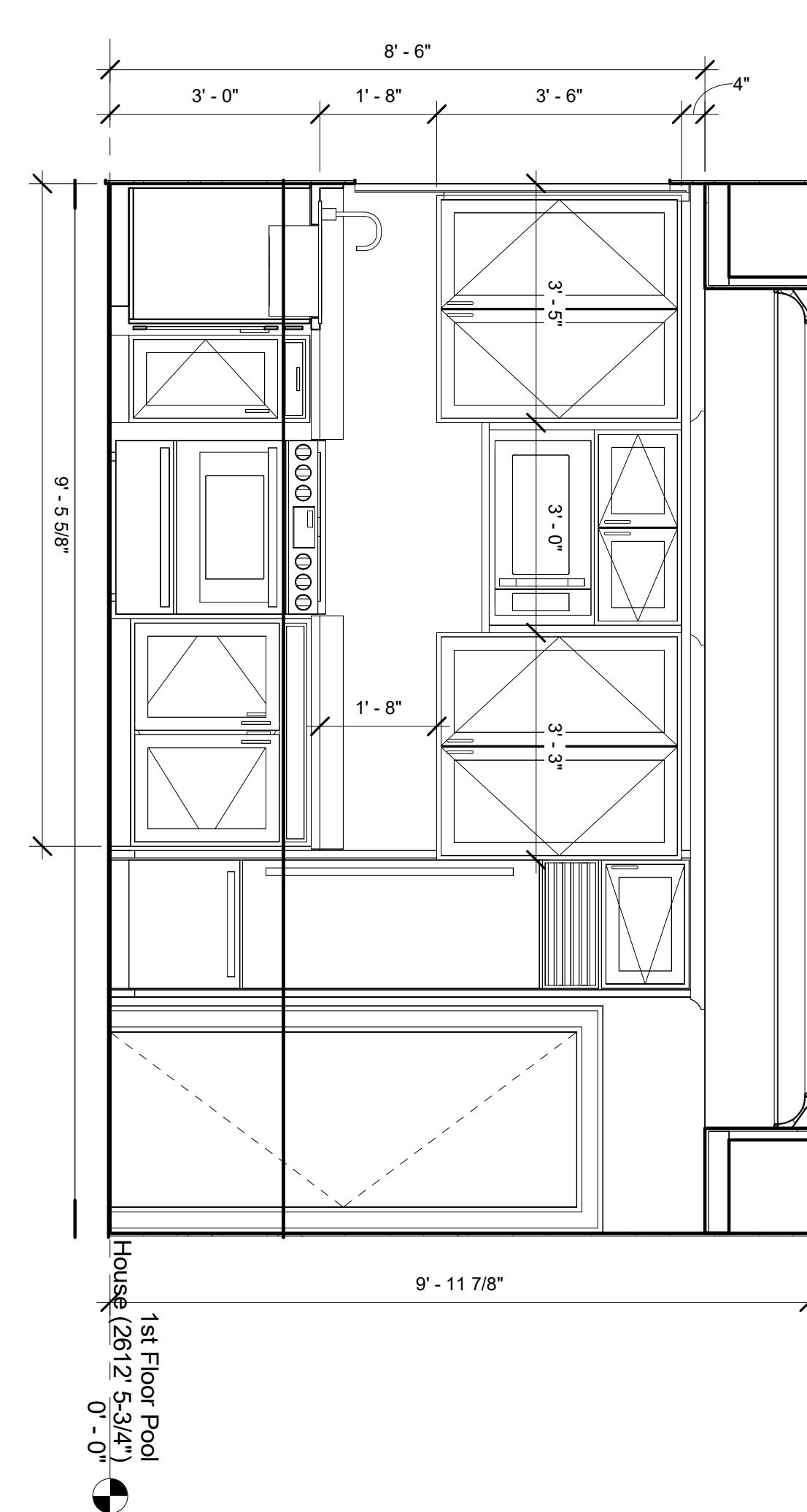
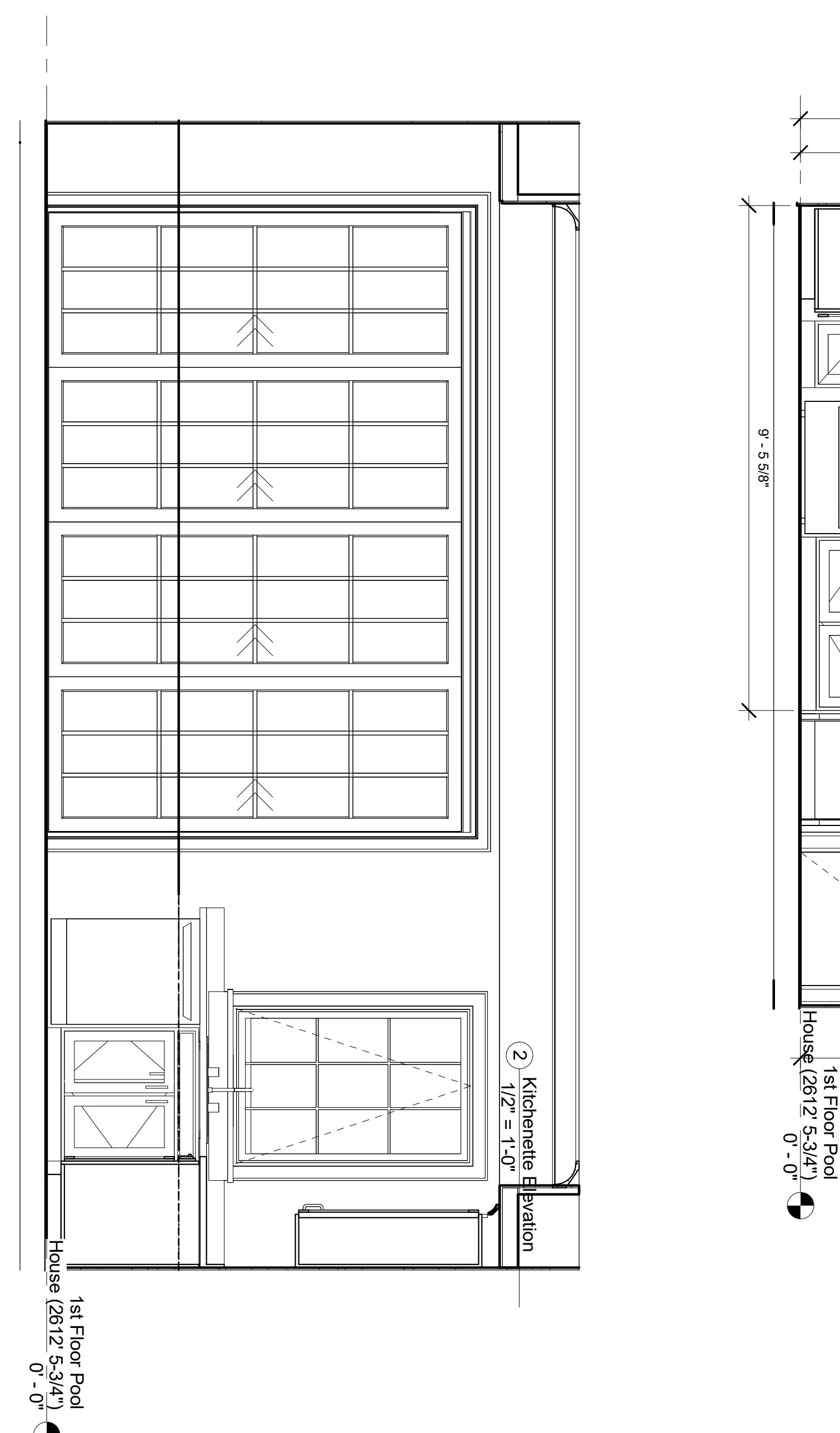


SHEET TITLE		New Pool House & Bathroom Remodel		REVISIONS	
Fornt Porch Entry Gate		Zorn Residence			
SHEET	DATE				
<b>A400</b>	10 / 02 / 2025				
JOB NO.		112 KANAWHA DR. MONTREAT, NC 28757			
2024-028					

③ Guest Suite Kitchenette  
1/2" = 1'-0"



① Sink Elevation  
1/2" = 1'-0"



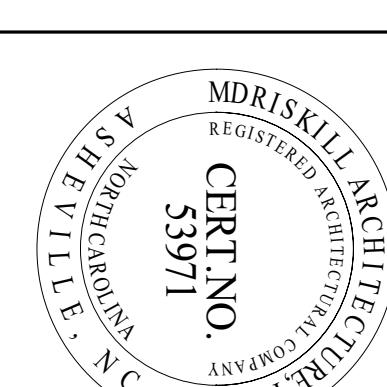
SHEET TITLE	
Pavilion Interiors	
SHEET	DATE
A701	10 / 02 / 2025
	JOB NO.
	2024-028

## New Pool House & Bathroom Remodel Zorn Residence

112 KANAWHA DR, MONTREAT, NC 28757

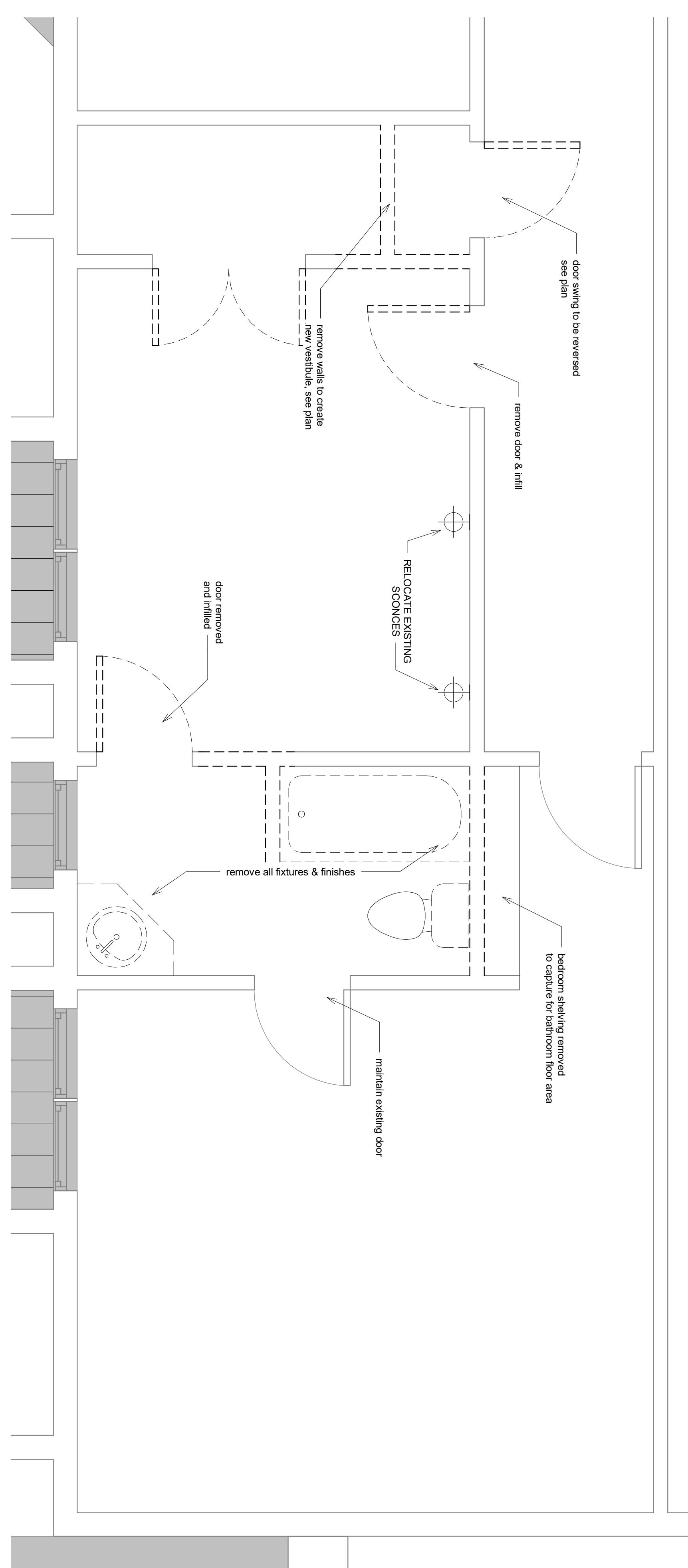
**MDA**  
MDriskill Architecture

633 Merrimon Ave Unit E Asheville, NC 28804  
PH. 828.413.3128 EMAIL: mdriskill.architect@gmail.com

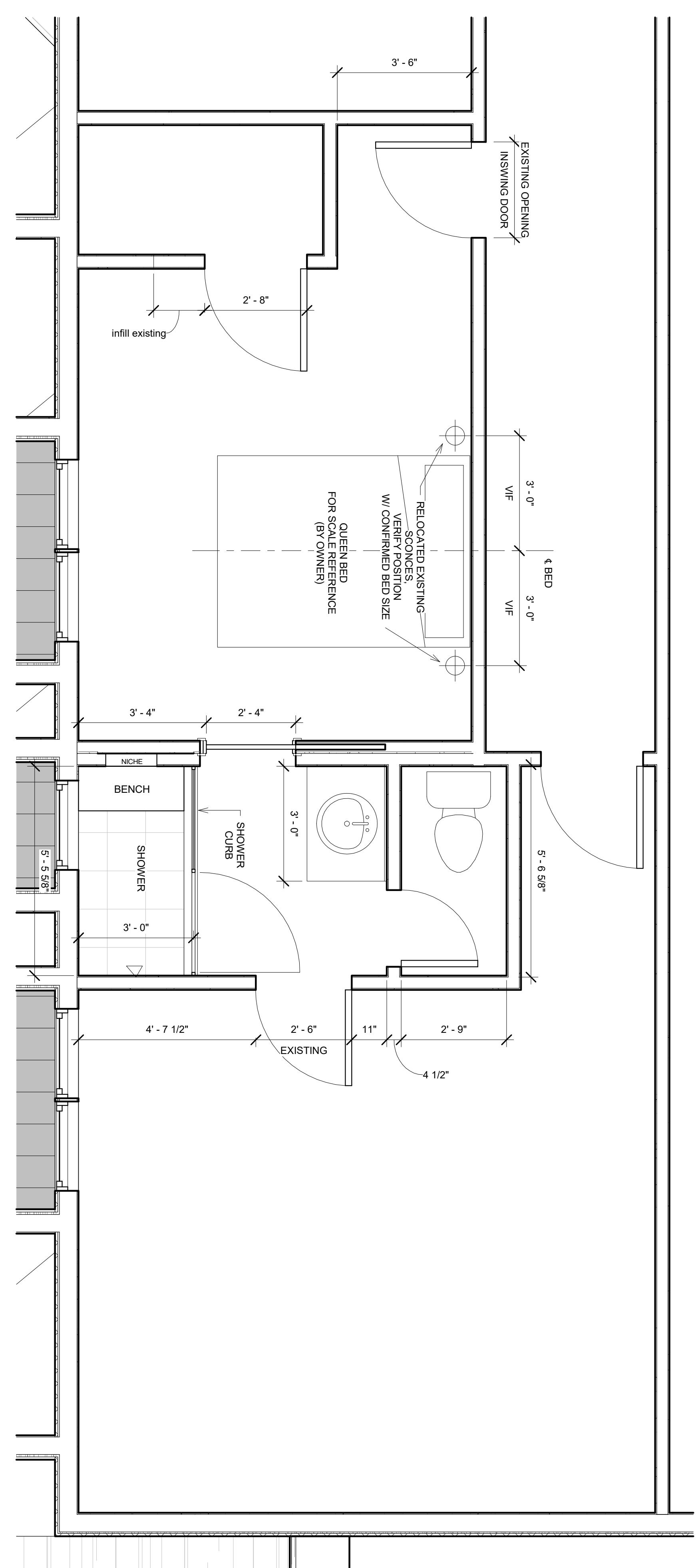


REVISIONS

① 2nd Floor Shared Bath - Demo Plan  
1/2" = 1'-0"



② 2nd Floor Shared Bath - Proposed  
1/2" = 1'-0"



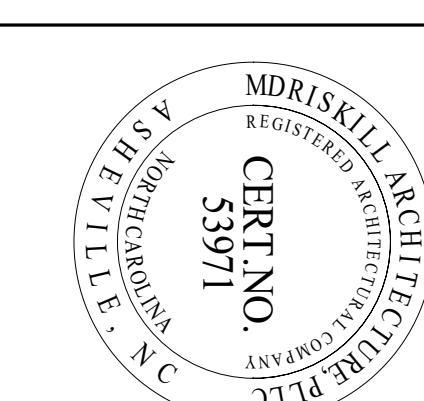
SHEET TITLE	
2nd Flr Shared Bath - Main House	
SHEET	DATE
A702	10 / 02 / 2025
JOB NO.	
2024-028	

## New Pool House & Bathroom Remodel Zorn Residence

112 KANAWHA DR, MONTREAT, NC 28757

**MDA**  
MDriskill Architecture

633 Merrimon Ave Unit E Asheville, NC 28804  
PH. 828.413.3128 EMAIL: mdriskill.architect@gmail.com



REVISIONS



Doc ID: 030957810018 Type: CRP  
 Recorded: 03/02/2017 at 04:45:53 PM  
 Fee Amt: \$64.00 Page 1 of 18  
 Workflow# 0000400983-0002  
 Buncombe County, NC  
 Drew Reisinger Register of Deeds  
 BK 5525 PG 1343-1360

---

## Deed of Trust

---

**Return To:** Prepared by and Return to:  
 Goosmann Rose Colvard & Cramer, P.A.  
 77 Central Avenue, Suite H  
**Prepared By:** Asheville, NC 28801  
 File No: 17-0384 CNT/VHC lrj 81

### Definitions

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) **"Security Instrument"** means this document, which is dated March 2, 2017, together with all Riders to this document.

(B) **"Borrower"** is Daniel McAlister Zorn, aka Daniel Zorn and Mary Ann Zorn, married to each other

Borrower is the trustor under this Security Instrument.

(C) **"Lender"** is Black Mountain Savings Bank

Lender is a State Savings Bank  
 organized and existing under the laws of The State of North Carolina  
 Lender's address is PO Box 729, Black Mountain, NC 28711

Lender is the beneficiary under this Security Instrument.

(C-1) The name of the Mortgage Broker is n/a

(D) "Trustee" is M. Wendell Begley

(E) "Note" means the promissory note signed by Borrower and dated March 2, 2017. The Note states that Borrower owes Lender Four Hundred Thousand and No/100ths Dollars\*\*\*\*\*

Dollars (U.S. \$ 400,000.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than March 1, 2047

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

<input type="checkbox"/> Adjustable Rate Rider	<input type="checkbox"/> Condominium Rider	<input type="checkbox"/> Second Home Rider
<input type="checkbox"/> Balloon Rider	<input type="checkbox"/> Planned Unit Development Rider	<input type="checkbox"/> 1-4 Family Rider
<input type="checkbox"/> VA Rider	<input type="checkbox"/> Biweekly Payment Rider	<input type="checkbox"/> Other(s) [specify]

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

3

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

**Transfer of Rights in the Property**

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee and Trustee's successors and assigns, in trust, with power of sale, the following described property located in the County of **Buncombe**:

*(Type of Recording Jurisdiction)*

*(Name of Recording Jurisdiction)*

See Exhibit A attached hereto and incorporated herein by reference.

**Parcel ID Number:** 0710-54-3583.00000  
112 Kanawha Drive  
("Property Address"):

which currently has the address of  
Montreat 28757 (Street)  
(City), North Carolina (Zip Code)

TO HAVE AND TO HOLD this property unto Trustee and Trustee's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

**BORROWER COVENANTS** that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

4

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**Uniform Covenants.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.**

Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. If Borrower has breached any covenant or agreement in this Security Instrument and Lender has accelerated the obligations of Borrower hereunder pursuant to Section 22 then Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority:

(a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with

RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security

Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.
7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible,

Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make

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separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve, if permitted under Applicable Law, in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve, if permitted under Applicable Law. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, if permitted under Applicable Law, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

- (a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.
- (b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this

Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.
13. **Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.  
Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.
14. **Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products,

toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**Non-Uniform Covenants.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, and if it is determined in a hearing held in accordance with Applicable Law that Trustee can proceed to sale, Trustee shall take such action regarding notice of sale and shall give such notices to Borrower and to other persons as Applicable Law may require. After the time required by Applicable Law and after publication of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the

**highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Lender or its designee may purchase the Property at any sale.**

**Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, Trustee's fees of 5 % of the gross sale price; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it. The interest rate set forth in the Note shall apply whether before or after any judgment on the indebtedness evidenced by the Note.**

- 23. Release.** Upon payment of all sums secured by this Security Instrument, Lender or Trustee shall cancel this Security Instrument. If Trustee is requested to release this Security Instrument, all notes evidencing debt secured by this Security Instrument shall be surrendered to Trustee. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.
- 24. Substitute Trustee.** Lender may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.
- 25. Attorneys' Fees.** Attorneys' fees must be reasonable.

BY SIGNING UNDER SEAL BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Daniel McAlister Zorn \_\_\_\_\_ (Seal)  
Daniel McAlister Zorn, aka Daniel Zorn -Borrower

Mary Ann Zorn \_\_\_\_\_ (Seal)  
Mary Ann Zorn -Borrower

\_\_\_\_\_ (Seal)  
-Borrower

\_\_\_\_\_ (Seal)  
-Borrower

Refer to the attached *Signature Addendum* for additional parties and signatures.

**Acknowledgment**

State of NC

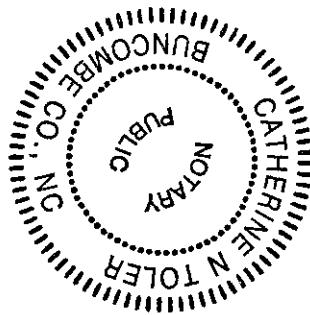
County of Buncombe

I, Catherine N. Toler

, a notary public, do hereby certify that

Daniel McAlister Zorn, aka Daniel Zorn and Mary Ann Zorn

personally appeared before me this day and acknowledged the due execution of the foregoing instrument.  
 Witness my hand and official stamp or seal on March 2, 2017



*Catherine N. Toler*

Notary Public Catherine N. Toler

My commission expires: 4/29/19

Loan Origination Organization: Black Mountain Savings Bank

NMLS ID: 410481

Loan Originator: Marcus Wendell Begley

NMLS ID: 805019

## Exhibit A

Being all of **Lots 21 and 22 of the Property of Mountain Retreat Association** as shown on that plat recorded in **Plat Book 32, at Page 119** of the Buncombe County, NC Register's Office; reference to which Plat is hereby made for a more particular description of said Property.

The above-described property is all of that property conveyed in that deed recorded in Record Book 5466, at Page 1465 of the Buncombe County, NC Register's Office.

17-0384

A handwritten signature consisting of the letters "MRA" in a stylized, cursive font, with a long, sweeping line extending from the "A" towards the right.