Town of Montreat
Board of Commissioners Meeting – Public Forum
March 14, 2024 – 6:30 p.m.
Town Hall

I. Call to Order

- Welcome
- Moment of Silence

II. Agenda Adoption

III. Discussion of Honorary Street Naming of Assembly Drive

IV. Public Comments

V. Adjournment

Town of Montreat
Board of Commissioners
Town Council Meeting
March 14, 2024 – 7:00 p.m.
Town Hall

I. Call to Order

- Pledge of Allegiance
- Moment of Silence

II. Agenda Adoption

III. Texas Road Bridge Presentation – Jesse Gardner, Civil Design Concepts

IV. Leaf Blower Emissions Information Presentation – Jim Williamson

V. Mayor's Communications

VI. Consent Agenda

A. Meeting Minutes Adoption

- February 8th Public Forum Meeting Minutes
- February 8th Town Council Meeting Minutes

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

VI. Town Manager's Communications

- Consent Agenda Review
- Other Items

VII. Administrative Reports

- Administration
- Planning and Zoning
- Police
- Public Works and Water
- Sanitation
- Streets
- Finance - January Report
- Finance- February Report
- February Building Permit Information

VIII. Public Comment

Public comments will be heard during this period for <u>any and all items.</u>

IX. Old Business

X. New Business

A. NC Terrace Beautification Efforts: Wynne-Lithia Creek
- **Presenter: Jane Holt**
- **See Agenda Materials: pages 26-31**
- **Suggested Motion: Move to approve/deny the NC Terrace Beautification Efforts: Wynne-Lithia Creek**

B. Pigeon River Fund Grant Proposal
- **Presenter: Jean Norris and/or Patti Pyle**
- **See Agenda Materials: pages 32-53**
- **Suggested Motion: Move to approve/deny the Pigeon River Grant Proposal while allowing for possible minor modifications**

C. TA-2024-01 – Text Amendment Public Hearing
- **Presenter: Kayla DiCristina (if needed), Applicant (if needed)**
- **See Agenda Materials: pages 54-76**
- **Suggested Motion: Move to open/close Text Amendment Public Hearing**

D. TA-2024-01 – Adoption Ordinance
- **Presenter: Kayla DiCristina (if needed), Applicant (if needed)**
- **See Agenda Materials: page 77**
- **Suggested Motion: Move to adopt/adopt TA-2024-01 for revisions to Ordinance #24-03-0001**

E. Nomination and Appointment of _____ to Board of Adjustment
- **Presenter: Savannah Parrish**
- **See Agenda Materials: page 78**
- **Suggested Motion: Move to nominate and appoint _____ to Board of Adjustment for a term of three years to expire on 1/31/2027**

F. Discussion/Adoption of Fund Balance Policies

- **Presenter: Savannah Parrish and/or Mayor Pro Tem Mason Blake**
- **See Agenda Materials: pages 79-98**
- **Suggested Motion: Move to adopt/deny Fund Balance Policies as presented**

G. Proposal to Provide Legal Services – Discussion only

- **Presenter: Savannah Parrish**
- **See Agenda Materials: pages 99-109**

XI. Public Comment

Public comments will be heard during this period for <u>any and all items.</u>

XII. Commissioner Communications

XIII. Dates to Remember

- **Board of Commissioners Budget Workshop, Friday March 22nd at 2:00 p.m. in Town Hall with Zoom options**
- **Tree Board, Tuesday March 26th at 9:30 a.m. in Town Hall with Zoom options**
- **Tentative Board of Adjustment Meeting, March 28th at 5:00 p.m. in Town Hall with Zoom options**
- **Landcare, Wednesday April 3rd at 9:00 a.m. in Town Hall with Zoom options**
- **April Town Council Meeting, Thursday April 11th at 7:00 p.m. Public Forum to begin at 6:30 p.m.**
- **Bearwise/Montreat Presbyterian Church: "Know Your 3 B's-Bears, Behavior and Biology" with Ashley Hobbs. Wednesday April 17th at 4:00 p.m. in Town Hall. Refreshments at 3:45 p.m.**
- **Tree Board, Tuesday April 23rd at 9:30 a.m. in Town Hall with Zoom options**
- **Planning & Zoning Commission, Thursday April 25th at 10:30 a.m. in Town Hall with Zoom options**
- **Tentative Board of Adjustment, Thursday April 25th at 5:00 p.m. in Town Hall with Zoom options**

XIV. Adjournment

Town of Montreat
Board of Commissioners
Public Forum Meeting Minutes
February 8, 2024 – 6:30 p.m.
Town Hall

Board members present:	Mayor Tim Helms Commissioner Jane Alexander Commissioner Tom Widmer Mayor Pro Tem Mason Blake Commissioner Grant Dasher
Board members absent:	Commissioner Kitty Fouche
Town staff present:	Savannah Parrish, Town Manager Angie Murphy, Town Clerk

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

Agenda Approval

Commissioner Jane Alexander moved to adopt the agenda as presented. Commissioner Grant Dasher seconded, and the motion carried 4/0.

Public Forum

Mr. Gary Higgins, who owns property on Harmony Lane, took a moment to reintroduce himself to Council. Mr. Higgins came before them approximately 14 months ago for an easement, which was granted, to access his property. Mr. Higgins stated that in October he attempted to obtain a grading permit which he found out was impossible due to the current ordinance restrictions.

Mr. Brad Hestir, Chair of the Montreat Tree Board, passed out fliers to the Council advertising an event hosted by the American Chestnut Foundation. Mr. Hestir stated that 100 years ago Montreat was full of chestnut trees and today it is hard to find a healthy chestnut in Montreat. The American Chestnut Foundation was formed in the early 1980s with the purpose of bringing the chestnut back to where they once thrived. The event on March 19th at a park in West Asheville will involve training on how to plant and care for chestnut trees. Later that evening the event will be moved to Asheville Pizza & Brewing on Merrimon Avenue where scientists will be present and showing a documentary about the history of chestnuts.

Dr. Mary Standaert of 118 Shenandoah Terrace reminded everyone that this is an election year and early voting for the primaries starts on February 15th. Dr. Standaert reminded Council that Montreat

addresses are listed on residents NC drivers' licenses, but Black Mountain addresses are listed on resident's voter registration cards. Dr. Standaert advised that this year photo identification will be required to vote, and she wonders how Montreat residents will be affected by the different addresses. Mayor Helms was unsure but advised Dr. Standaert that the issue will be investigated. Dr. Standaert also asked if Council passed the ordinance amendment for the driveway this evening would that be setting a precedent. Mayor Helms responded that this change to the ordinance would apply to everyone.

Mrs. Shirley Mitchell of 201 Harmony Lane stated that when Mr. Higgins originally sought his easement it was mentioned that other future homeowners could use his driveway to access their properties. Mayor Helms advised that this really wasn't an option anymore.

Adjournment

Commissioner Tom Widmer moved to adjourn the meeting. Mayor Pro Tem Mason Blake seconded, and the motion carried 4/0. The meeting was adjourned at 6:50 p.m.

_____ _____

Tim Helms, Mayor Angie Murphy, Town Clerk

Town of Montreat
Board of Commissioners
Meeting Minutes
February 8, 2024 – 7:00 p.m.
Town Hall

Board members present:	Mayor Tim Helms Mayor Pro Tem Mason Blake Commissioner Grant Dasher Commissioner Tom Widmer Commissioner Jane Alexander
Board members absent:	Commissioner Kitty Fouche
Town staff present:	Savannah Parrish, Town Manager Angie Murphy, Town Clerk David Arrant, Patrol Chief Barry Creasman, Public Works Director

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

Agenda Approval

Commissioner Tom Widmer moved to approve the agenda as presented. Commissioner Grant Dasher seconded, and the motion carried 4/0.

Mayor's Communications

Mayor Tim Helms stated that he had asked Commissioner Grant Dasher to work with Town Staff to address the cell phone tower on South Carolina Terrace. Mayor Helms advised that when the cell tower was first installed the intent was for it to be camouflaged but with the wind and other weather issues that is no longer the case.

Meeting Minutes Adoption

- January 11th Public Forum Meeting Minutes
- January 11th Town Council Meeting Minutes

Town Manager's Communications

Town Manager Savannah Parrish advised that in October of 2023 the Board of Commissioners met in a retreat setting to identify their priorities for the next 12-24 months which includes items identified in the newly adopted Comprehensive Plan. The Planning & Zoning Commission is also working on implementing the items assigned to them in the Comprehensive Plan. They are utilizing

an implementation tracker to log their progress.

Administrative Reports

- Administration – This report was given in written format.
- Finance – This report was not available for the meeting.
- Planning & Zoning – This report was given in written format.
- Police – This report was given in written format.
- Public Works and Water – This report was given in written format.
- Sanitation – This report was given in written format.
- Streets – This report was given in written format.
- January Building Permits – This report was given in written format.

Mayor Pro Tem Mason Blake asked Public Works Director Barry Creasman for clarification about "Contracted Work Hours" under his sanitation report. Mr. Creasman advised this was to document the hours worked by First Inc. employees who we use now to assist with trash.

Commissioner Tom Widmer asked Mr. Creasman why water production for January was one million gallons higher than last year. Mr. Creasman stated that there were at least six significant breaks during the past few months in six-inch main water lines.

Public Comment

Dr. Mary Standaert of 118 Shenandoah Terrace commended Mayor Helms, Commissioner Dasher and Town Staff on restoring the cell phone tower to its original camouflaged glory.

Mrs. Martha Campbell of 149 Maryland Place noticed that there is a discussion about Fund Balance on the agenda and she wanted to continue to recommend the 35% of annual expenditures to handle any emergencies that may arise.

Old Business

There was no Old Business to discuss.

New Business

A. Swannanoa Valley Tree Alliance Treasure Tree Program: Mr. Ed Kramer of 134 Kanawha Drive, a member of the Tree Board, made contact and attended several meetings with the Swannanoa Valley Tree Alliance. Mr. Kramer was introduced to their Treasure Tree Program. Mr. Kramer advised that if the Town Commission decides to approve the Town's participation in the program the Town will officially be listed along with Black Mountain, Swannanoa, Camp Rockmont,

Veteran's Park and the Black Mountain Greenway in the brochure. In October of 2023 members of the Swannanoa Valley Tree Alliance, members of the Tree Board and Town Arborist Daniel Wiggs walked Assembly Drive looking for trees that fit the SVTA's description of a Treasure Tree. Fourteen trees were identified and approved by the SVTA as qualified trees. They include American Sycamores, Cucumber Magnolias, Eastern Hemlocks, White Oaks, Tulip Trees, Northern Red Oak, Red Maple and Black Gum. Montreat resident Joe Standaert took photographs of all the trees with their leaves as the final requirement for qualification purposes. The trees are identified by affixing a specially designed plaque onto the trees. The plaque is attached with springs so as the tree continues to grow the plaque goes with the growth of the tree. The plaque will contain the tree name, age, species and QR code with additional information about the tree along with the individual sponsor of the tree and the Montreat Town Logo. The cost to the Town of Montreat will be $0! The plaques will cost $50 with the intention of getting individuals to donate the one-time cost of the plaque in memory or honor of someone or something. There will be no maintenance costs. The money raised will go to the Town for additional educational programs. A walking tour of the Treasure Tree Program with the Town Arborists could serve as a fundraiser for the Tree Board. By being a member of the SVTA Treasure Tree Program in will open funding opportunities for Montreat with Buncombe County's Tree Program and other non-profit entities or environmental organizations. Releases will need to be signed by all property owners, including Town rights-of-ways, MRA and Montreat College with Treasure Trees on their property. Montreat's participation in this program fulfills one of the responsibilities of the Tree Board: tree education for Montreat residents. Montreat will be included on the SVTA's official Treasure Tree Walking Map. The map serves as both an educational tool and Nature Walk for our residents and their families. Mayor Pro Tem Mason Blake moved to approve the Town of Montreat joining the Swannanoa Valley Tree Alliance Treasure Tree Program. Commissioner Jane Alexander seconded, and the motion carried 4/0.

B. Flat Creek Crossing Update and Approval of Swannanoa Valley Endowment Fund Grant Application: Jean Norris, Secretary/Treasurer of Landcare and Treasurer of the Flat Creek Crossing Project advised Council that the Department of Justice EEG grant which was applied for last year was not awarded to the Flat Creek Crossing Project. The EEG recommended another grant source, the Pigeon River Fund, which the team will bring to the March Town Council Meeting. Ms. Norris advised that some changes were made to the application that was included in the meeting packet. She explained that they were stylistic changes only. Ms. Norris also explained that it has been recommended that they speak with the Program Officer of the grant which they plan to do next week. Ms. Norris advised that she is seeking approval from Council to proceed with the grant application with the changes indicated tonight and the possibility of additional smaller changes that may be recommended by the Program Officer. Ms. Norris also advised that if the Flat Creek Crossing Project gets the grant, they will start breaking ground with boulder removal, the creation of planting pockets and steps down to the future picnic area. They want to proceed with tasks that require heavy equipment so as not to damage other aspects of the project. Commissioner Tom Widmer moved to approve the Swannanoa Valley Endowment

Fund Grant Application as submitted while allowing for minor changes as needed. Mayor Pro Tem Mason Blake seconded, and the motion carried 4/0.

C. TA-2024-01 – Text Amendment Public Hearing: Zoning Administrator Kayla DiCristina gave a brief background of the details of the Text Amendment. The Board of Commissioners granted the Property Owner an access easement across Little Piney Branch on February 9, 2023. Mr. Higgins, the Property Owner, has the right to access his property through Harmony Lane by the easement he was granted last year; however, he cannot construct a driveway across the stream because of the built upon area buffer. The Stormwater Ordinance does not permit variances which is why this cannot go before the Board of Adjustment. The Applicant submitted this Text Amendment to allow exceptions to the built upon area restriction to be granted by the Stormwater Administrator for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing. Many other jurisdictions in the region who operate local stormwater management programs in the region permit exceptions to buffers for residential development. For more information about the current language, the proposed language, and legal counsel's recommendations visit the Town of Montreat's YouTube channel at the following link: youtube.com/watch?v=peJFgABzOyM&t=2283s. The Governing Body may refer any development regulations that is proposed to be adopted to the Planning and Zoning Commission for review and comment before making their final decision.

Mayor Pro Tem Mason Blake moved to open the Public Hearing. Commissioner Jane Alexander seconded, and the motion carried 4/0.

Jean Norris of 192 Mississippi Road did not see an assessment of how many lots would be affected within Montreat and in the ETJ. Ms. Norris felt that adding "shall" language to the ordinance could cause issues. Ms. Norris would like to see the amendment discussed at length and perhaps sent to the Planning & Zoning Commission for their review.

Gary Higgins, the Property Owner, advised that the easement was granted to him to build his house and have access to his property. He felt like it was a rather closed ended issue because the Council can decide whether to grant or not grant future easements.

Dr. Mary Standaert of 118 Shenandoah Terrace mentioned that the Stormwater Ordinance did not allow for variances. She questioned whether there was a mechanism in which this could be handled by the Town on a case-by-case basis by the Board of Adjustment.

Commissioner Jane Alexander asked how much disturbance was going to be caused by the driveway. Mr. Higgins stated it would be the minimum amount possible. Mr. Higgins offered to show the Commission the site if they were interested.

Mayor Pro Tem Mason Blake moved to close the Public Hearing. Commissioner Grant Dasher seconded, and the motion carried 4/0.

D. TA-2024-01 – Adoption Ordinance: Mayor Pro Tem Mason Blake stated that he would like to spend a little more time reading up on this issue. He also stated that he spoke with Ms. DiCristina earlier this week on how he was leaning, and she mentioned she had a Special Planning & Zoning Committee meeting set aside for the upcoming week in the anticipation that the Board of Commissioners would recommend this issue to them for their opinion. Mayor Pro Tem Mason Blake moved to refer this issue first to the Planning & Zoning Commission next week and then bring it back with recommendations before the Board of Commissioners for the March 14th Town Council meeting. Commissioner Jane Alexander seconded the motion. Commissioners Alexander and Dasher expressed their intent to walk the property with Mr. Higgins. Commissioner Tom Widmer felt that since the Zoning Administrator and the Town Attorney had both reviewed this item that it should be voted on tonight so he would be voting against the motion. Mayor Helms called for the vote, and it carried 3/1 with Commissioner Widmer voting against the motion.

E. Nomination and Appointment of (fill in the blank) to Board of Adjustment: Ms. Parrish advised that Ed Kramer had expressed interest in serving on the Board of Adjustment and she asked the Board to consider his appointment. Commissioner Tom Widmer nominated Ed Kramer to serve on the Board of Adjustment for a term of three years to expire on 1/31/2027. Mayor Pro Tem Blake seconded, and the motion carried 4/0. Commissioner moved to appoint Ed Kramer to a regular seat on the Board of Adjustment. Mayor Pro Tem Blake seconded, and the motion carried 4/0.

F. Discussion of Fund Balance Policies: Mayor Pro Tem Blake advised that the Local Government Commission has a sample policy which they ask municipalities to consider. This sample includes two different calculations: “available fund balance as a percentage of general fund expenditures” and “accessible fund balance”. Only one of these policies has real consequences and that is the “available fund balance as a percentage of general fund expenditures”. The current Fund Balance for the Town of Montreat was 35%, which he used to think was plenty but after working on the Fund Balance Policy, he now believes it should be higher. The current minimum threshold for Town’s the size of Montreat is 34%. Mayor Pro Tem Blake mentioned that perhaps the Board should think about increasing the Fund Balance. The “available fund balance as a percentage of general fund expenditures” is retroactive while the “accessible fund balance” is “forward looking”.

G. Revisions to Personnel Policy: Ms. Parrish advised that this revised personnel policy gives both the Town and the employees the protection they need. Some areas expand on sections that the previous policy did not, such as: harassment, workplace violence, and drug use in the workplace. The policy has been reviewed and accepted by the Town attorney. Commissioner Jane Alexander

moved to adopt Resolution #24-02-0001 Adopting the Revised Personnel Policy. Mayor Pro Tem Mason Blake seconded, and the motion carried 4/0.

H. Town & State Dinner/City Vision – Discussion Only: Mayor Pro Tem Mason Blake advised that last year he and Commissioner Jane Alexander attended the Town & State Dinner in Raleigh and had a very enjoyable time meeting with legislators. This year the dinner is being held in Hickory (as one of the regional meetings) on April 3rd from 5:00 p.m. until 8:00 p.m. Mayor Pro Tem Blake encouraged all the Council members to attend. Mayor Pro Tem Blake also mentioned that City Vision will be held April 23rd to April 25th in Winston-Salem. Mayor Helms also encouraged the Council members to attend the Town & State Dinner in Hickory to meet with the delegates for this area.

Public Comment

Mrs. Grace Nichols of 527 Suwannee Drive thanked Town Manager Savannah Parrish for her help with the Flat Creek Crossing Project. Mrs. Nichols also thanked Town Council for the work they are doing and their careful deliberations this evening.

Mrs. Shirley Mitchel of 201 Harmony Lane thanked Ed Kramer for his work on the Treasured Tree Project and his willingness to serve on Board of Adjustment. Mrs. Mitchell also stated that she hopes the plaque for the Treasured Tree only contains the tree information and not the name of the person donating the money for the plaque.

Zoning Administrator Kayla DiCristina invited everyone with questions/thoughts/concerns about the text amendment to attend the Special Planning & Zoning Commission Meeting on February 14th at 10:30 a.m. in Town Hall.

Mr. Gary Higgins of Harmony Lane questioned if one thing was changed in the proposed Text Amendment verbiage if the whole process would have to be started fresh. Mr. Higgins is in hopes that the text amendment can be passed in March so he can begin construction.

Ms. Jean Norris of 192 Mississippi Road moved to Montreat with the intention of opening/closing the right-of-way for the purpose of having more land with the possibility of adding on to their home. Ms. Norris stated that Montreat residents often stop to view the herd of deer that are often in the area that they use for their backyard which is right-of-way. Ms. Norris now believes that wildlife corridors are more precious than a garden/fence/home expansion. Ms. Norris urged Council to deal with the property issues on a case-by-case basis rather than opening/closing right-of-ways.

Commissioner Communications

There were no Commissioner Communications at this time.

Dates to Remember

- Tree Board, Tuesday February 27th at 9:30 a.m. in Town Hall with Zoom options
- Board of Adjustment Meeting, February 22nd at 5:00 p.m. in Town Hall with Zoom options
- Landcare, Wednesday March 6th at 9:00 a.m. in Town Hall with Zoom Options
- March Town Council Meeting, Thursday March 14th at 7:00 p.m. in Town Hall with Zoom Options. Public Forum to begin at 6:30 p.m.
- Tree Board, Tuesday March 26th at 9:30 a.m. in Town Hall with Zoom options
- Board of Adjustment, Thursday March 28th at 5:00 p.m. in Town Hall with Zoom options

Adjournment

Commissioner Jane Alexander moved to adjourn the meeting. Commissioner Tom Widmer seconded, and the motion carried 4/0. The meeting was adjourned at 8:12 p.m.

_____ _____

Tim Helms, Mayor Angie Murphy, Town Clerk

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

ADMINISTRATIVE REPORTS:
ADMINISTRATION

Town Administration report for the month of February 2024

Monthly Statistics	2023	2024
Public Meetings	7	7
Inter-Organizational /Intergovernmental Meetings	3	0
Agendas Prepared	4	6
Minutes Transcribed	5	3
Resolutions Drafted	1	0
Public Records Requests Processed	4	3
Leak Adjustments	1	pending
New Water Accounts Established	0	0
Purchase Orders	57	pending
Professional Development Hours	19	0
Sunshine List Messages		16
Website Posts	14	16
Social Media Posts	0	16
Code Red Alerts	0	0
Workers Compensation Claims	0	0

Upcoming Events and Schedule Changes

Comments
N/A

Staff Communications
0

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

ADMINISTRATIVE REPORTS:
BUILDINGS AND INSPECTIONS

Buildings and Inspections report for the month of January 2024

Monthly Statistics

	2023	2024
Building Permits Issued	9	4
Pending Building Permits	0	0
Building Inspections Performed	23	31
Stop Work Orders Issued	0	0
Defective Building Posted	0	0
Denied Building Permits	0	0
Fire Re-Inspections Performed	0	0
Fire Permits Issued	0	0

Comments

Staff Communications

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

ADMINISTRATIVE REPORTS:
STREETS

Streets Department report for the month of Febuary 2024

Monthly Statistics	2023	2024
Miles of Road Maintained	15.46	15.46
Miles of New Road Constructed	0	0
Public Trees Removed	0	6
Sand Applied to Roads (tons)	0	0
Ice Melt Applied to Roads (pounds)	0	0
Monthly Fuel Costs	364.23	$555.84
Road Closures	0	4

Comments

0

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

ADMINISTRATIVE REPORTS:
POLICE DEPARTMENT

Police Department report for the month of February 2024

Monthly Statistics	2023	2024
Mileage	2,351	2,244
Dispatched Calls	21	23
Officer-Initiated Calls	549	538
Fire Assistance Calls	3	3
EMS Assistance Calls	1	0
Motorist/Other Assistance Calls	20	20
Parking Issues	6	1
Burglar Alarm Responses	1	2
Fire Alarm Responses	3	3
Residential/Building Checks	501	456
Ordinance Violations	6	2
Law Enforcement Agency Assistance Calls	10	4
Animal Control Calls	0	2
Larcenies	0	1
Breaking & Entering Calls	0	0
Suspicious Person Investigations	2	2
Suspicious Vehicle Investigations	7	6
Disturbance Calls	5	1
Accident Responses	1	0
Auxiliary Hours Worked (Regular)	0	8
Auxiliary Hours Worked (Addittional)	36	192
Truck Turns at Gate	7	4
MPD Fuel Cost	$ -	$0.00
Professional Development Hours	20	0
Town Service	567	539
MRA Service	221	205
College Service	13	9

Comments

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

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

ADMINISTRATIVE REPORTS:
WATER AND PUBLIC WORKS

Water and Public Works report for the month of February 2024

Monthly Statistics	2023	2024
Calls for Service	32	52
Water Leaks Repaired	0	1
New Water Lines Installed	0	0
Water Meters Read	674	679
Water Meter Replacements	25	0
Gallons of Water Produced	2920484	3,317,894
Hours Pumped (11 wells combined)	1585	1,854

Comments

We would like to remind everyone that as the winter temps drop to please make sure that if your homes are not winterized to keep the heat on or have someone turn a few faucets on and let them drip to prevent any freezing of pipes.

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

ADMINISTRATIVE REPORTS:
SANITATION

Sanitation Department report for the month of February 2024

Monthly Statistics	2023	2024
Tons of Curbside Trash Collected	12.06	23.92
Pay-As-You-Throw Trash Bags Collected	N/A	N/A
Tons of Curbside Recycling Collected	4.29	3.79
Pay-As-You-Throw Recycling Bags Collected	N/A	N/A
Cardboard Recycling Collected	0.6	N/A
Unique Curbside Sanitation Stops	1780	1,680
Brush Pickup (cubic yards)	4 Loads	4 Loads
Hauling Fees	1650.5	$4,240.70
Tipping Fees	1027.67	$796.12
Dumpster Rental Fees	460.26	$460.26
Sanitation Fuel	230	$ 106.47

Comments:

We had 2 notifications for trash related issues and no citations were issued. We did 2 Bulk pickups.

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

ADMINISTRATIVE REPORTS:
ZONING ADMINISTRATION

Zonning Administration report for the month of Jan-24 2024

Monthly Statistics	2023	2024
Approved Zoning Permits	1	0
Denied Zoning Permits	0	0
Pending Zoning Permits	0	0
Variance/Interpretation Granted	1	0
Conditional Use Permits Granted	0	0
Permit Extensions Granted	0	0
Notices of Violation	0	0

Comments
0

TOWN OF MONTREAT
NORTH CAROLINA

January 2024 - MONTH 7 OF FISCAL YEAR 2023-2024

REVENUES

Fund	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Collected	YTD Actual Percentage	Difference
GENERAL FUND	10	2,030,592.00	1,184,512.00	58.33%	1,344,118.84	66.19%	159,606.84
WATER FUND	30	399,844.00	233,242.33	58.33%	259,302.05	64.85%	26,059.72
TOTAL REVENUES GENERAL & WATER FUNDS		**2,430,436.00**	**1,417,754.33**	**58.33%**	**1,603,420.89**	**65.97%**	**185,666.56**

EXPENSES

Dept Name	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Exp	YTD Actual Percentage	Difference
GOVERNING BODY	10	50,903.00	29,693.42	58.33%	41,578.79	81.68%	(11,885.37)
ADMINISTRATION	10	533,616.00	311,276.00	58.33%	288,797.02	54.12%	22,478.98
PUBLIC BUILDINGS	10	120,116.00	70,067.67	58.33%	27,946.92	23.27%	42,120.75
POLICE	10	494,744.00	288,600.67	58.33%	289,679.42	58.55%	(1,078.75)
BUILDING AND ZONING	10	91,400.00	53,316.67	58.33%	47,646.65	52.13%	5,670.02
PUBLIC WORKS	10	133,205.00	77,702.92	58.33%	74,315.83	55.79%	3,387.09
STREET	10	391,358.00	228,292.17	58.33%	153,799.85	39.30%	74,492.32
SANITATION	10	192,200.00	112,116.67	58.33%	130,637.12	67.97%	(18,520.45)
ENVIRON,CONS,REC	10	23,050.00	13,445.83	58.33%	13,339.79	57.87%	106.04
TOTAL EXPENSES GENERAL FUND		**2,030,592.00**	**1,184,512.00**	**58.33%**	**1,067,741.39**	**52.58%**	**116,770.61**

Dept Name	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Exp	YTD Actual Percentage	Difference
WATER	30	399,844.00	233,242.33	58.33%	201,514.03	50.40%	31,728.30
TOTAL EXPENSES WATER FUND		**399,844.00**	**233,242.33**	**58.33%**	**201,514.03**	**50.40%**	**31,728.30**
TOTAL EXPENSES GENERAL & WATER FUNDS		**$2,430,436.00**	**$1,417,754.33**	**58.33%**	**$1,269,255.42**	**52.22%**	**$148,498.91**

GENERAL FUND INCOME/LOSS - YTD	**$276,377.45**
WATER FUND INCOME/LOSS - YTD	**$57,788.02**
NET INCOME - YTD 2024	**$334,165.47**

SPECIAL PROJECTS

Project	Fund #	Budget	This Month Actual	Amount Spent To Date	Balance Remaining		% Spent
FEMA-MISC	25	214,747.00	0.00	72,853.03	141,893.97		66.07%
LANDCARE	26	18,241.19	110.00	2,237.95	16,003.24		87.73%
AMERICAN RESCUE PLAN ACT	28	277,266.78	0.00	250,144.87	27,121.91		9.78%
TOTAL SPECIAL PROJECTS		**$ 510,254.97**	**$ 110.00**	**$ 325,235.85**	**$ 185,019.12**		**36.26%**

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
1	Date of Deposit	Jul-22	Jul-23	% +/-	Aug-22	Aug-23	% +/-	Sep-22	Sep-23	% +/-	Oct-22	Oct-23	% +/-	Nov-22	Nov-23	% +/-	Date of Deposit	Dec-22	Dec-23	% +/-	Jan-23	Jan-24	% +/-
3	AdVal/RMV	2,467.17	2,021.44	-22%	8,783.55	9,164.35	**4%**	115,574.01	69,593.42	**-66%**	96,696.17	146,659.11	**34%**	84,706.01	72,079.39	**-17.52%**	AdVal/RMV	250,138.43	293,841.04	**14.87%**	371,502.07	350,152.84	**-6.10%**
4	(Includes Sp Assess&Ded Fees)																						
5																							
6	Sales	48,247.41	47,103.37	**-2%**	50,254.48	51,442.97	**2%**	52,432.25	55,100.98	**5%**	51,787.47	52,397.02	**1%**	51,747.54	51,397.25	**-0.68%**	Sales	52,079.05	50,334.71	**-3.47%**	51,498.73	51,506.29	**0.01%**
7																							
9	Solid Waste				157.37	198.73	**21%**							186.60	203.58	**8.34%**	Solid Waste						
10	(Quarterly)																(Quarterly)						
12	Utility Fran							19,305.00	20,713.30	**7%**							Utility Fran	26,761.50	26,453.45	**-1.16%**			
13	(Quarterly)								QE 6/30/23								(Quarterly)		QE 9/30/23				
15	Wine/Beer																Wine/Beer						
16	(Annual-May)																(Annual-May)						
18																							
19																							
20																							
21	NOTES:																						
22	AdVal Tax is received the month after the tax is collected																AdVal Tax is received the month after the tax is collected						
23	RMV Tax is received two months after the tax is collected																RMV Tax is received two months after the tax is collected						
24	Sales Tax is received three months after the tax is collected																Sales Tax is received three months after the tax is collected						
25																							
26																							
27																							
28																							
29																							
30																							
31																							

TOWN OF MONTREAT
NORTH CAROLINA

February 2024 - MONTH 8 OF FISCAL YEAR 2023-2024

REVENUES

Fund	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Collected	YTD Actual Percentage	Difference
GENERAL FUND	10	2,030,592.00	1,353,728.00	66.67%	1,682,271.57	82.85%	328,543.57
WATER FUND	30	399,844.00	266,562.67	66.67%	283,927.60	71.01%	17,364.93
TOTAL REVENUES GENERAL & WATER FUNDS		**2,430,436.00**	**1,620,290.67**	**66.67%**	**1,966,199.17**	**80.90%**	**345,908.50**

EXPENSES

Dept Name	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Exp	YTD Actual Percentage	Difference
GOVERNING BODY	10	50,903.00	33,935.33	66.67%	41,578.79	81.68%	(7,643.46)
ADMINISTRATION	10	533,616.00	355,744.00	66.67%	335,587.81	62.89%	20,156.19
PUBLIC BUILDINGS	10	120,116.00	80,077.33	66.67%	28,583.65	23.80%	51,493.68
POLICE	10	494,744.00	329,829.33	66.67%	321,879.72	65.06%	7,949.61
BUILDING AND ZONING	10	91,400.00	60,933.33	66.67%	54,547.65	59.68%	6,385.68
PUBLIC WORKS	10	133,205.00	88,803.33	66.67%	85,912.74	64.50%	2,890.59
STREET	10	391,358.00	260,905.33	66.67%	169,706.04	43.36%	91,199.29
SANITATION	10	192,200.00	128,133.33	66.67%	141,529.18	73.64%	(13,395.85)
ENVIRON,CONS,REC	10	23,050.00	15,366.67	66.67%	16,139.79	70.02%	(773.12)
TOTAL EXPENSES GENERAL FUND		**2,030,592.00**	**1,353,728.00**	**66.67%**	**1,195,465.37**	**58.87%**	**158,262.63**

Dept Name	Fund #	Budget	YTD Budget	YTD Projected Budget Percentage	YTD Exp	YTD Actual Percentage	Difference
WATER	30	399,844.00	266,562.67	66.67%	217,396.77	54.37%	49,165.90
TOTAL EXPENSES WATER FUND		**399,844.00**	**266,562.67**	**66.67%**	**217,396.77**	**54.37%**	**49,165.90**
TOTAL EXPENSES GENERAL & WATER FUNDS		**$2,430,436.00**	**$1,620,290.67**	**66.67%**	**$1,412,862.14**	**58.13%**	**$207,428.53**

GENERAL FUND INCOME/LOSS - YTD	**$486,806.20**
WATER FUND INCOME/LOSS - YTD	**$66,530.83**
NET INCOME - YTD 2024	**$553,337.03**

SPECIAL PROJECTS

Project	Fund #	Budget	This Month Actual	Amount Spent To Date	Balance Remaining		% Spent
FEMA-MISC	25	214,747.00	0.00	76,580.77	138,166.23		64.34%
LANDCARE	26	34,384.50	0.00	8,747.67	25,636.83		74.56%
AMERICAN RESCUE PLAN ACT	28	277,266.78	0.00	250,144.87	27,121.91		9.78%
TOTAL SPECIAL PROJECTS		**$ 526,398.28**	**$ -**	**$ 335,473.31**	**$ 190,924.97**		**36.27%**

K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	
Oct-22	Oct-23	% +/-	Nov-22	Nov-23	% +/-	Date of Deposit	Dec-22	Dec-23	% +/-	Jan-23	Jan-24	% +/-	Feb-23	Feb-24	%
96,696.17	146,659.11	34%	84,706.01	72,079.39	-17.52%	AdVal/RMV	250,138.43	293,841.04	14.87%	371,502.07	350,152.84	-6.10%	305,360.87	298,947.79	
51,787.47	52,397.02	1%	51,747.54	51,397.25	-0.68%	Sales	52,079.05	50,334.71	-3.47%	51,498.73	51,506.29	0.01%	49,849.91	52,797.91	
			186.60	203.58	8.34%	Solid Waste (Quarterly)							224.03	0.00	
						Utility Fran (Quarterly)	26,761.50	26,453.45 QE 9/30/23	-1.16%						
						Wine/Beer (Annual-May)									

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

February Permit Information

Permit Number	Date	Name	Property Address	Permit Type	Project	Zoning Approval	Cost	PIN	CONTRACTORS	Fee Amount	Fee Paid	HRF
5984	02/2/5/2024	Margaret Bauer	298 NC Terrace	mech/elect	hvac changeout	no			Mikes Heat & Cool	$ 100.00	x	
5985	2/7/2024	Joe & Linda Griffeth	332 Chapman Rd	building	Resid Renos	no	$ 12,000		Byrd Custom Builders	$ 272.00	x	
5986	2/23/2024	Louisa & David Berry	367 Arkansas Trail	elect/plumb	tub/shower repl	no			Hillside Plumb/Clegg Elect	$ 100.00	X	
5987	2/23/2024	Jane Kennedy	609 Greybeard Trail	building	resid repairs/deck	no	$ 29,425		Blk Mtn. Handyman	$ 186.55	x	

Proposal

Jane Holt <holtjane@charter.net>
Tue 3/5/2024 4:49 PM
To:Angela Murphy <amurphy@townofmontreat.org>

TO THE LAND CARE COMMITTEE OF THE TOWN OF MONTREAT

Neighbors at the end of North Carolina Terrace listed below, have a Land Care concern which they would like to share with the Land Care committee. If this committee shares our concern and its solution included below, we would hope that The Land Care Committee would pass our concern along to the Town Council in hopes of getting permission from theTown of Montreat for its implementation.

Our concern involves the Creek and its banks which is located just below Wynne-Lithia Spring on North Carolina Terrace.

In May of 2021, a driveway was partially cleared on the upper bank of the Creek without a permit and the issue went to the Town Council who blocked the grading of a driveway. Since that natural vegetation was cleared as well as some in the Creek bed, the flow of water in this ephemeral (flows only after a rain) Creek was diverted from its natural course, and is now overgrown with grasses and invasive plants.

Neighbors living near the Creek, Ellen and Gary Henschen, Robert Hope, Bob Wynne, Jane Holt, Mari Gramling have long wanted to correct the unnatural course of growth within the Creek Banks by removing some of the invasive species and planting Native Seed-grown Appalachian Shrubs and wild flowers.

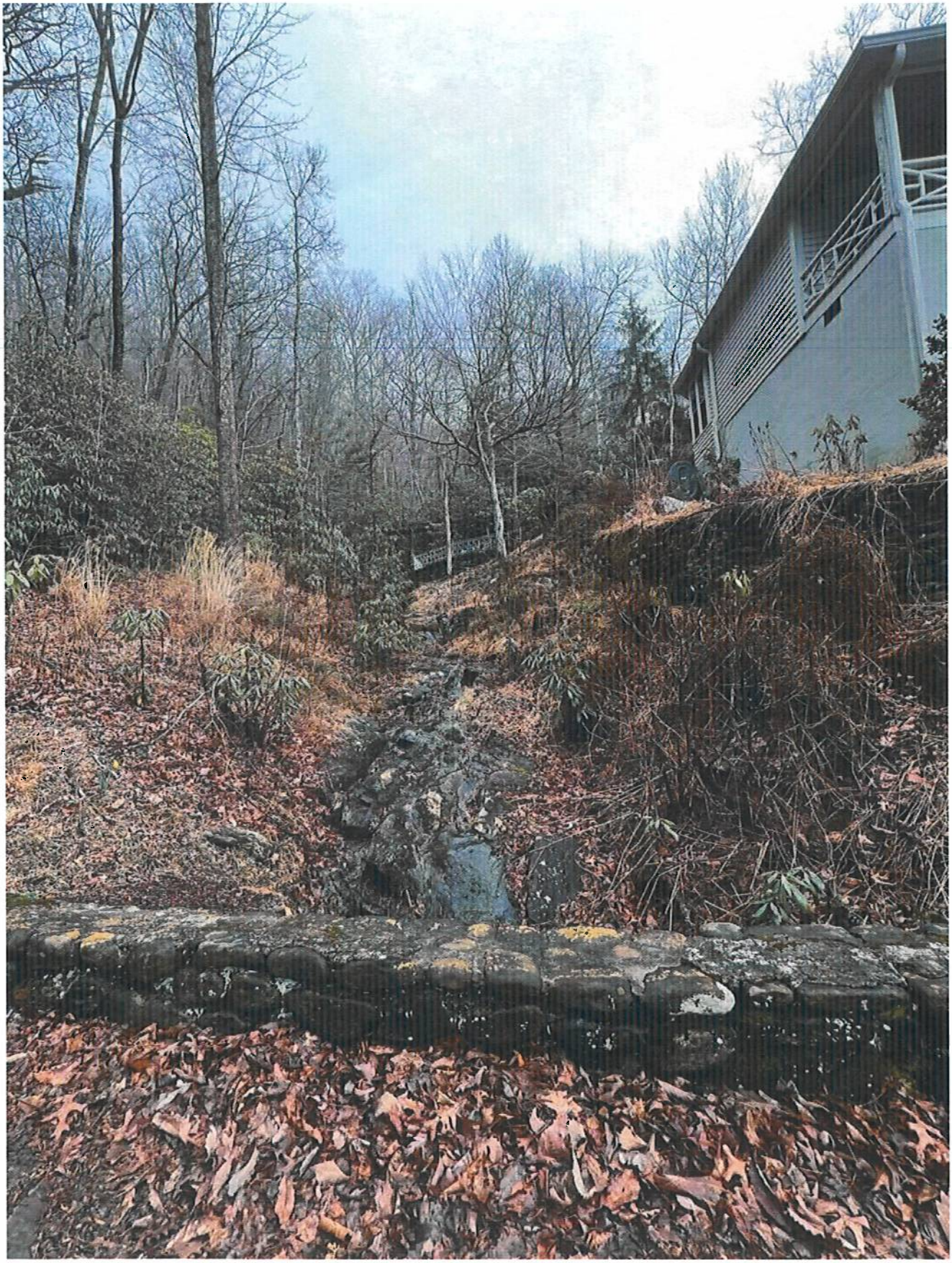
We have discovered that the Carolina Native Nursery in Burnsville, N.C., grows only Native Appalachian Plants *from seeds.* We have developed a plan of adding to the Creek , its bank ,and the old driveway bed the following plants which will be purchased and donated by us along with the labor and near future oversight of the planting which will be the responsibility of the group:

Shrubs: Mountain Laurel, Catawba Rhododendron, Rhododendron maximum , and Flame Azalea. My guess is it would take only about 3 - 4 of each widely spaced (total of 9-12). Then interspersed between these shrubs could be some of the following wild flowers:

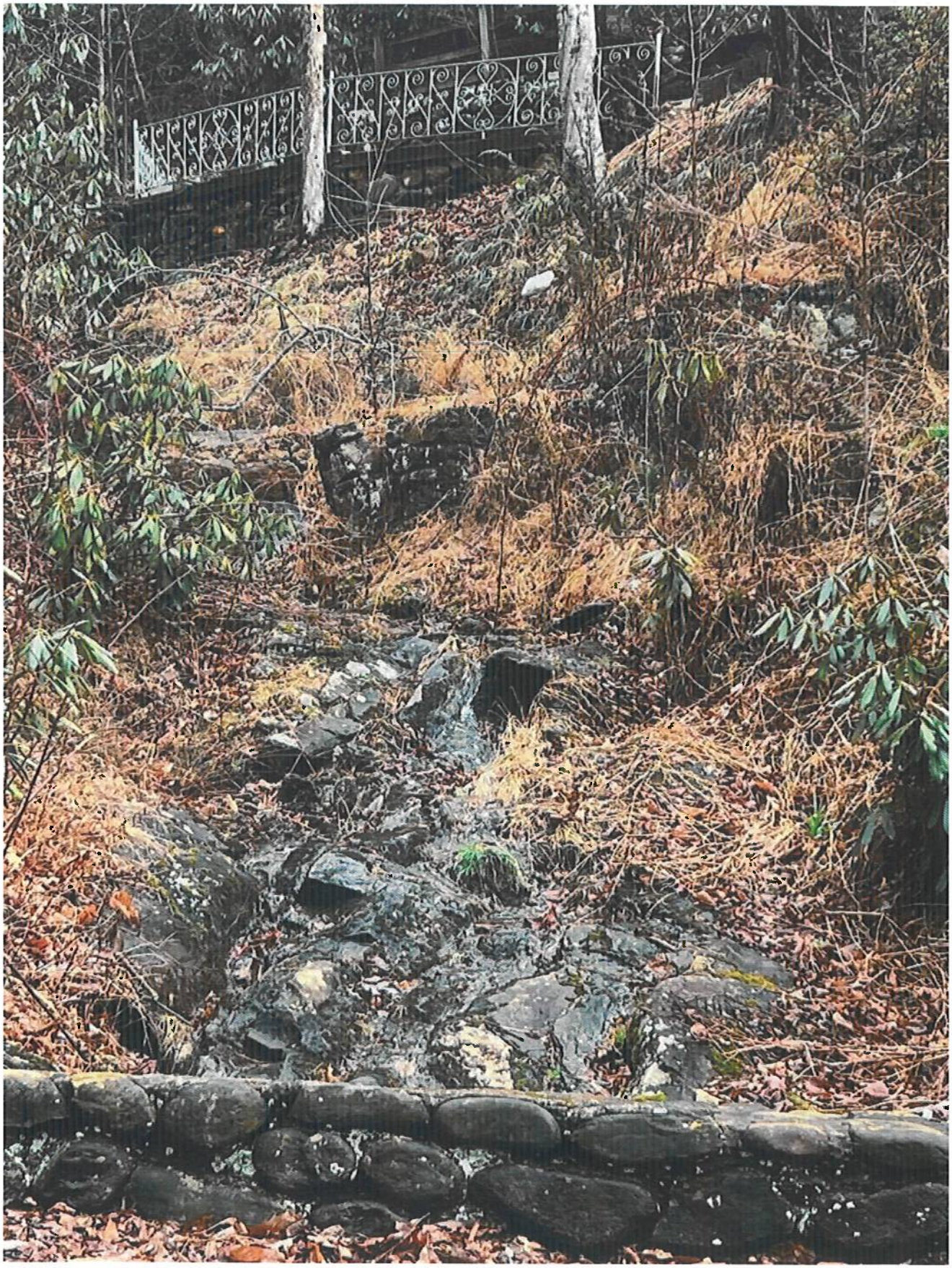
Perennials:
Columbine, Blazing Star, Cardinal Flower, Bee Balm, Columbine , Joe Pie Weed, Fire Pink, Turtle Head, Gentian,Trillium and Wild Iris. The Nursery has all of these and these bloom at all different seasons of Spring, Summer, and Fall. That's 10 different wild flowers. Perhaps get 4 of each to start with.

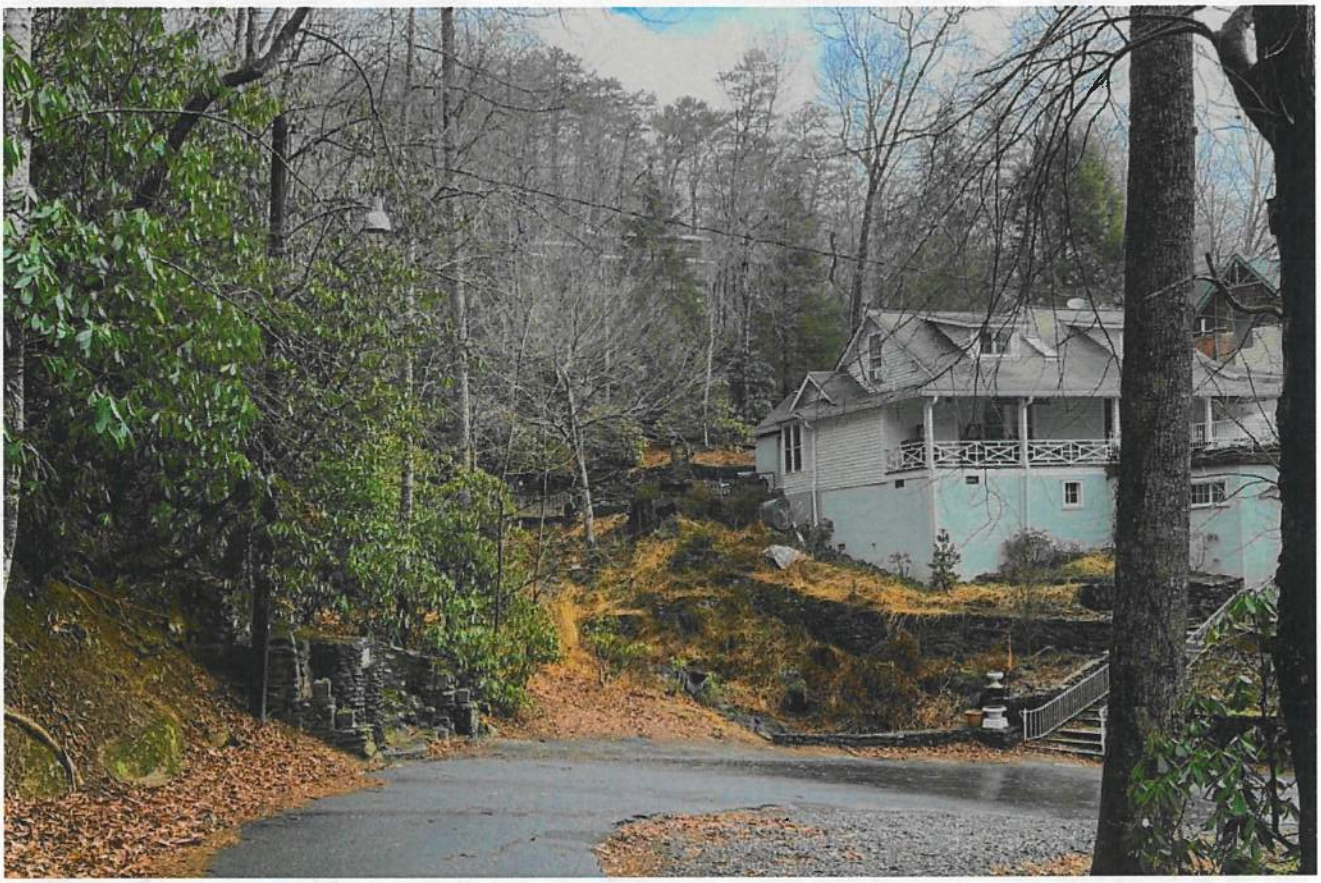
Our plan before you today is to ask you to act as a liaison with the Town to get permission for us to purchase - at our expense - native Appalachian plants from the Carolina Native Nursery in Burnsville, plants selected from those listed above, and plant them on the disturbed banks and bed of the ephemeral Creek on N.C. Terrace which lies below Wynne Lithia Spring and flows under the roadway.











Flat Creek Crossing Accessible Trail

Pigeon River Fund

Town of Montreat

Savannah Parrish
P.O. Box 423
1210 Montreat Road, Black Mountain NC
Montreat, NC 28757

sparrish@townofmontreat.org
O: 828/669-8002
M: 828 712 8308

Dr. Jean Cady Norris

P.O. Box 92
192 Mississippi Road
Montreat, NC 28757

jeannorris45@gmail.com
O: 510 332 7550
M: 510 332 7550

Application Form

Pigeon River Fund Grant Application

Project Name*
Name of Project

Flat Creek Crossing Accessible Trail

Amount Requested*
Amount Requested

$34,065.00

County Served*
Select one county or "Multiple". If multiple, list counties below.

Buncom

Multiple Counties
If you selected "Multiple" from "County Served,"list all counties to be served.

Organization's Mission Statement*
The Town of Montreat serves the public with the help of advisory boards. One of those is Montreat Landcare which is responsible for preserving, protecting and presenting the natural features of Montreat. A project team within Landcare made the decision to highlight Flat Creek by constructing a new educational park with access to the creek. Built with universal design, Flat Creek Crossing will be effective in preserving the quality of the creek water, protecting the natural habitat, allowing safe access for all and providing public education and outreach on flora and fauna and on stormwater management. The Town granted permission for use of the designated parcel with the understanding that no Town funds would be available for construction or future maintenance. The Landcare team has been tasked with raising all necessary funds which will be accomplished through private donations, special events and grants such as this request to the Pigeon River Fund.

Total Project Budget*
$305,000.00

Tax Exemption Status*
Select one

Public/Government Entity

Narrative

Project Summary*

Provide a brief project summary. Begin with "ABC organization requests $_____ to..." (state purpose of grant funds and the geographic community primarily affected). Include how your project meets one or more of the Grant Criteria referenced in the PRF Guidelines.

The Montreat Landcare Committee of the Town of Montreat requests $34,065 to fund part of a larger project, Flat Creek Crossing Accessible Trail (FCCAT). The 0.1 acre site is located just inside the entrance to Montreat in Buncombe County along the banks of Flat Creek, a vital part of the Upper Swannanoa River Valley Watershed. These funds will allow completion of Phase 3 of the 7-phase project: debris removal, bank stabilization, and riparian buffer installation on the creek side of the future ADA-compliant accessible trail. Completion of Phase 3 lays the foundation for Phase 4: a storm water management system and trail route surfacing. A summary of project phases is attached. The completed project will serve residents of Montreat and Buncombe County, local college students, Montreat Conference attendees, and thousands of hikers who use our trails every week. Critically, it creates access for the underserved population of people living with disabilities, estimated at 13.3% of Buncombe County's population, and their companions. This project will restore the creek bank to its natural state, improve storm water management (US Census ACS county-level data 2019), and sustain trout and salamander habitat. FCCAT reinforces the social value of accessibility, while providing a unique platform for environmental education and outreach using direct interaction with nature, signs, print, and digital media.

Statement of Issue*

What is the issue this project will address? Include relevant data showing the scale of the problem.

The proposed project directly addresses 4 important issues: Water quality protection, habitat restoration, lack of public awareness of these environmental issues, and equitable access to natural settings for persons living with disabilities and their companions. **Water quality protection:** Flat Creek is a healthy creek and Landcare is committed to insuring it stays that way. The Town of Montreat, with Land of Sky Regional Council, has completed an updated Stormwater Management Plan identifying only two possible locations for additional stormwater catchment installations on Town land. The FCCAT site creates a third opportunity for a catchment system in a critical area where runoff flows unabated from an uphill parking lot carrying not just sediment but also pollutants from parked vehicles. FCCAT will remove existing impervious, toxic (e.g asphalt) materials from the old and unused roadbed on the trail route. We have included a recent presentation to the American Fisheries Society by Bill Seaman, leader of Landcare's efforts to protect Flat Creek and to raise public awareness of contributors to creek health. He summarizes some of the recent history of water quality protection in Montreat, and illustrates the breadth and depth of both citizen and expert collaboration and involvement. **Habitat restoration:** The creekbank will be restored to its natural state by clearing debris covering tree trunks and roots, and removing invasive species including poison ivy. Native plantings will restore the riparian buffer providing shade and moderating water temperature critical to trout and salamanders. Interactive stations and signs will educate the public on flora and fauna. This will be a Leave No Trace site. **Public awareness of environmental issues:** The FCCAT project is designed to educate the public and increase understanding of Montreat's streams and the vital role they play in the watershed. Educational signs and web resources, during and after construction, will encourage citizen action on a wide array of initiatives, from picking up dog poop to installing rain gardens and other storm water management techniques. **Equitable access to natural settings for persons living with disabilities:** There are currently no accessible trails in Montreat. FCCAT will be the first, providing access for those individuals living with disabilities and mobility challenges. Resources at the trailhead and online will assist those with issues of neurodiversity. The fact that FCCAT connects with Black Mountain and with the extensive trail system of the Montreat Conference Center means that families and companions of the disabled will enjoy making this new site a destination. Statistics cited by the US Forest Service and ADA Guidelines show that one in five individuals live with some form of disability. In addition, the population in this retirement haven is aging. Construction of this small park and trail will increase access in safe and environmentally responsible ways.

Key Steps*

What key steps will you take to achieve your results? Provide sufficient detail, including a timeline, to demonstrate a well-conceived plan to implement this project effectively. Focus on the activities to be supported by the PRF grant.

A project overview with an outline of each phase and projected timeline is attached. PRF funds would underwrite Phase 3 of the Flat Creek Crossing Accessible Trail. The key steps for Phase 3 include: **1)** Obtain required permits (in-process) **2)** Create a work plan and schedule that maximizes equipment and labor use to not only minimize costs but to limit the time disturbed areas are left vulnerable. Scheduling around wildlife spawning cycles and peak visitor seasons in Montreat are critical. Implementing Phase 3 concurrently with Phase 2 would condense construction time and reduce the restricted access time to the site for the public **3)** Contract skilled labor to work with the Designer/Project Manager during the site prep and installation process **4)** Install erosion control systems prior to and after any earthmoving **5)** Procure materials in a timely manner (e.g. coir logs, plants, etc.) to insure disturbed areas (creek bank, riparian buffer strip) are quickly secured and protected subsequent to disturbance **6)** Employ Best Management Practices for bank stabilization and planting **7)** Assess creek side planting space and needs after final grading, develop and quantify native plant specifications based on site conditions **8)** Coordinate volunteer labor for planting/mulching **9)** Inform and educate the community about the work, its progress and benefits **10)** Document any unexpected issues or conditions that arise during construction, develop solutions and strategies in concert with appropriate professionals and staff **11)** Upon completion of Phase 3, identify location(s) for additional storm water management components to be integrated into Phase 4 Trail Construction.

Approach*

What is the basis for your approach to achieving results? Why is the proposed project the most appropriate strategy to address the challenge? Include how the project was developed and who planned and designed it.

The overall approach included the following steps: Define the goal; solicit input from user groups; identify criteria and strategies; research, develop, and design the project solution; develop budget; raise funds; and execute the project .
Research on accessible trails in other states and study of the National Forest Service accessibility guidelines was a first step for the project. Consultations with partners such as the G5 Trail Collective, Waypoint Adventures, Montreat College, Montreat Conference Center, NC Fish and Wildlife, Riverlink, EQI lab and others helped shape the concept. Criteria from these and other sources helped with site identification. Close collaboration of Montreat Landcare, the FCCAT planning team and focus groups along with open public meetings confirmed the need and site preference, and informed the design. The selected site requires minimal grading adjustments to comply with ADA standards, includes areas easily accessible for activities, and is adjacent to existing parking. These attributes result in less overall environmental disturbance than other potential sites, making this the least invasive and most appropriate strategy to address the issue of a universally accessible trail site in Montreat. It is worth noting that historically, the site and shallow ford at the creek was used by the Town of Montreat for access to the town dump site and maintenance compound. The Town of Montreat requires the new trail to be usable by emergency vehicles in the event the Rainbow Terrace bridge route to Montreat Road becomes impassable. This requirement dictates that the surface meet standards for vehicular traffic along with ADA compliance and permeability criteria. The FCCAT design accommodates these requirements. Retractable, lockable bollards will block civilian vehicles from using the trail to insure safe pedestrian access. The FCCAT project has been organized into sequential phases of development so progress can be incremental as funds become available. Phases 2 and 3 set the foundation for trail construction, improve environmental site conditions, create educational opportunities, maintain public access, and align with Landcare's mission to preserve, protect, and present the natural features of Montreat. FCCAT has been designed by April Carder of In-Site Out Design in Black Mountain. April is a landscape designer with over 25 years of experience with site planning and design, and specific expertise in native plants and in working with homeowners in Montreat. She has lived and worked in Black Mountain for over 20

years. Her projects include the St. James Episcopal Memorial Garden and a residential green roof carport, among other regional landscape projects.

Barriers*

Describe the barriers that could prevent the expected results and plans to overcome these barriers. Are there any regulatory requirements (permits, environmental assessments) necessary for implementation of this project? Are there other factors that could delay the start-up and/or completion of the project as proposed? (A Permit Reference Guide can be found **HERE**.)

The FCCAT project has momentum and the primary identifiable barrier is funding. A Special Use Permit has been issued. Permits for zoning compliance, floodplain development and storm water control are in process. Engineering analysis for FEMA approval and No-rise Certification will be pursued. Because no work is actually being done in the creek itself, no Army Corps sign off is required, though conversations with them have taken place and drawings have been shared. A letter of confirmation will be acquired. Potential delays beyond the financial include weather, supply chains, wildlife cycles and the busy summer months when Montreat conferences, vacationers and children's programs take place. These delays are all negotiable and would not prevent the project from being completed albeit on a different timetable. If the PRF grant is not awarded, other fundraising will continue and the timeline for completion will be adjusted accordingly.

Financial Considerations*

Indicate how grant funds will be used if awarded. Why is PRF financial support of this project important now? If funds other than the PRF grant are needed, state the source and status (committed or pending) of those funds and when they will be available. Include those sources in the Budget Form.

PRF funds if awarded will be used to rent heavy equipment such as backhoe and dump truck, pay operator, pay hauling and dump fees, tree removal, labor for removing invasive species in this targeted Phase 3 of construction. This money will also go to purchase and installation of silt fencing, coir logs, new plants of native species to extend the riparian buffer. There is a time sensitive nature to the work in this Phase 3 of the project. It is desirable for cost saving measures to do this work at the same time as the Phase 2 work on the uphill side of the trail route, funds for which are pending from the BM-SVEF. If coordinated, then heavy equipment and related expenses can be used most efficiently instead of renting twice. Additional large grants through PARTF, Accessible Trails, and the State's EEG program will be pursued for Phases 4 through 6 which cover paving and installing stormwater infrastructure; furnishing the picnic area; building the trailhead welcome zone; creating the designated parking and access route. Private donors so far have gifted over $40,000 just in the first year of publicity. Merchandise sales, prints of original watercolors of Montreat scenes have brought in over $5,000. Fundraising efforts continue. A subcommittee of the FCCAT team is focused solely on fundraising and is planning events for Summer 2024 and beyond. The project has already developed a wide group of interested followers and a very deep feeling of community support. If PRF funds are not awarded, fundraising will continue and the timeline adjusted accordingly. If BM-SVEF funds were not awarded, we could complete work on the banks above and below the proposed trail, but that would reduce our ability to match funds for other grants (See Organization budget attached). Lacking matching funds could delay moving on to Phase 4 work.

Key Partners*

Who are the key people and organizations responsible for achieving the results? What special skills, qualifications or experience do they bring to the project? Describe their expected role and evidence of their commitment to the project (may also be demonstrated by Letter of Support).

The leaders of this effort are the Flat Creek Crossing Accessible Trail Steering Committee, a Montreat Landcare team. We are a determined and dedicated group with long work experience in organizing and executing complex projects using strong backgrounds in business and public service organizations. Team

members include a head pastor, parents of a special needs child, and retired professionals in education, finance, accessibility advocacy, public health, and botanical garden management. The time we have invested over the past year in preliminary research, design work, site clearing, public events, fund-raising and bookkeeping, is evidence of our commitment. We have the time and the energy to see the project through to completion as well as coordinate the volunteers needed for future trail maintenance. The Steering Committee recruited the Professional Landscape Designer, April Carder, MA Landscape Design (In-Site Out Design), who is well-known in the region and beyond for her knowledge of local ecology and native plants and her expert design and project management. She has extensive experience working with homeowners in Montreat and has full knowledge of the terrain. April has shown her dedication to the project by participating in community meetings, presenting at fund-raiser events, researching eco-friendly and ADA-compliant materials, dividing the project into manageable phases, and creating the exquisite site renderings. Her recent work on the gardens at St. James Episcopal Church in Black Mountain is living proof of April's expertise. April's understanding of our site and our mission, her experience and collaborative approach have made the early stages of the project move ahead with ease and we know she will carefully oversee every detail of construction and implementation. Other active partners who will contribute to this project include Montreat College Environmental Sciences and Outdoor Recreation Studies departments, Waypoint Adaptive Outdoor Experiences, and Montreat Conference Center Wilderness Committee. Josh Holbrook, professor of Environmental Sciences at Montreat College, and his students have completed plant and animal species baseline assays, and he is a recognized world expert on salamanders and stream health. Dottie Shuman, professor of Outdoor Recreation Studies at Montreat College, and her students will design educational signage. We have sought and received support and advice from the author of the Stormwater Management Plan (Mary Roderick, Land of Sky Regional Council), the Environmental Quality Institute testing lab, and the State of NC Fisheries and Wildlife staff. Montreat Conference Center, an indirect partner through Landcare, welcomes the creation of FCCAT adjacent to their Memorial Garden. Our attachment includes 3 letters of support from Montreat Conference Center, Land of Sky Regional Council, and the Mayor of Montreat.

Organizational Profile*

What strengths and expertise will your organization bring to the proposed project? What has your organization achieved in the past three years that is relevant to this proposed project?

Montreat Landcare was founded in 2007, and has been an active force in Montreat for more than 17 years. Its structure follows the international Landcare model of linking citizens with government, business, researchers, natural resource management agencies and communities to work together on environmental needs. These partnerships build community ownership of issues; unlock volunteer knowledge, capability and capacity to create better environmental outcomes. Through its appointed members and dedicated volunteers, Montreat Landcare has an impressive history of getting things done. Abour half of Landcare's 11-members have served together productively for almost two decades. Representatives from the Town of Montreat, Montreat College, Montreat Conference Center, National Wildlife Federation, Montreat Cottagers Wilderness and Open Spaces, Earth Ministry of Montreat Presbyterian Church. Many volunteers and 'citizen scientists' serve on Landcare Teams without formal membership on the committee. Proof of the group's effectiveness is seen in these recent successes: National Wildlife Federation designation as a Community Wildlife Habitat; certification as Tree City; as a Firewise community; Bearwise community; upholding the Mayor's Monarch Pledge; partnering with the Blue Ridge Parkway Foundation on Kids in Parks and with the NC Arboretum on EcoEXPLORE; constructing the Town Hall rain garden and pocket park; restoring Hemlock trees and planting trees alongside American Chestnut Foundation. All of these community-based projects have in common protection of land, water and habitat with an emphasis on citizen education and involvement. Landcare members are committed to environmental preservation and caring for Montreat. Members remain involved in Landcare efforts after committee terms end. They serve on Town Boards and Advisory Committee and show up at Town Council meetings to voice concerns, express support and make presentations. Open meetings are held each month and current projects include Stream Team water quality monitoring, rain garden and other stormwater management education, Children and the Outdoors, annual native plant sale, and now, Flat Creek Crossing Accessible Trail. More information can be found at www.montreatlandcare.org. Montreat Landcare has also championed the protection of its creeks through its focus on stormwater management. Presentations on the health of the watershed by Land of Sky Regional

Council raised citizen awareness. Landcare also had an impact on the Town's newly updated Comprehensive Plan where creek protection has been incorporated into five of the plan's goals (see attached). Montreat Landcare volunteers have the expertise and energy to bring the FCCAT project from vision to reality. Landcare's influence in the community stretches far beyond the current 11 members. These are the people who will be sure that the future trail and park are maintained.

RESULTS AND VERIFICATION

Use of Grant Funds to Begin*

08/01/2024

Use of Grant Funds to End*

03/31/2025

Results you are committed to achieving*

Describe the change expected to result from this project. This should be stated in relationship to at least one of the Grant Criteria from the PRF guidelines: 1) improving surface water quality; 2) enhancing fish and wildlife management and habitats; 3) expanding public access; 4) increasing citizens' awareness about their roles in protecting these resources. If applicable, state how many people will be affected by the work.

The Flat Creek Crossing Steering Committee is committed to achieving results with the requested funds in 3 of the 4 (1,2, and 4) of the PRF Guidelines Grant Criteria. **1) Improving surface water quality** - Phase 3 work on the bank of Flat Creek will remove debris which tends to erode in high water episodes. It reinforces the bank using best management practices for improved stabilization and erosion mitigation. **2) Enhancing fish and wildlife management and habitats** – Phase 3 work includes removing invasive plant species, replacing them with native species, and supplementing and expanding the riparian buffer. This will improve and create additional habitat for the many species indigenous to the area. **4) Increasing citizen awareness** - Phase 3 work on the creek bank will attract attention from the community. A combination of press releases, signs and digital communications will raise awareness before, during and after construction of the importance of water quality and how humans can protect waterways and wildlife habitat.
3) Expanding public access – Phase 3 primarily lays the foundation for the accessible trail and its associated amenities, which will create future access for underserved and aging populations. "Everyone ought to be able to get to the creek." (USDA Forest Service Accessibility Guidebook for Outdoor Recreation and Trails, p.75, 2012)

Achievement of Results*

How will you document the results or assess the level of achievement of this project?

Results of Phase 3 work on the bank of Flat Creek funded by the PRF grant will be visually evident as the creek bank will be transformed from its former debris filled state. New plantings will be growing and the readiness of the site for that next big phase of paving and amenity installation will be obvious. To monitor water quality compared to baseline data at the same site, we will resume taking samples to EQI for analysis. Habitat improvement will be measured by repeated species inventories. Counting the number of visitors to the webpage will be one measure of public outreach. We will keep records on news stories and digital media posts about project progress, water quality, storm water management and wildlife habitat preservation. We will record attendance at guided hikes and other special events. The prime location and work underway at the FCCAT site will attract a substantial number of curious users to signs about project goals and funding.

Attachments for Uploading

NOTE: Only one document is allowed per Upload section so multiple documents will need to be combined into one document prior to each upload.

Budget Form*

The Program/Project Budget Form is in EXCEL format. Please click on the blue link below "Click here to download the Program/Project Budget Form" to download. Save the form to your computer and fill in your information. When you are ready to upload your program/project budget, click the "Upload a file" button below, browse to your saved Program/Project Budget Form, and click on it to complete the upload.
Click here to download the Program/Project Budget Form

CFWNC Budget PRF-3acjn.xlsx

Organizational Budget*

Upload your organization's operating budget showing line item income and expenses for the fiscal year of the proposed project (maximum 2 pages).

Landcare Budget FY 24-25 PRF.xlsx

Audit or Financial Review

(Not necessary for public agencies, e.g. public schools.)

Upload a copy of your organization's most recent financial audit or financial review. If you do not have an audit, please submit your organization's year-end financial review.

Board of Directors

The Board of Directors (BOD) form is in WORD format. Please click on the blue link below "Click here to download the Board of Directors form" to download. **(Please be sure to download this NEW version of the board form and do not use previous forms.)** Save the Board of Directors form to your computer. When you are ready to submit the form, click the "Upload a file" button below, browse to your saved BOD form, and click on it to complete the upload. ***PLEASE NOTE****: While you may upload your own board list, there are 3 governance questions on the CFWNC Board of Directors form that you must answer; therefore, if you choose to use your own board list, then you should copy and paste the questions into your own board list, answer them, and then upload.*
(This BOD upload is not necessary for public agencies.)

Click here to download Board of Directors Form.

Maps, design plans or photos

Upload maps, design plans or photos that provide key details of the proposed project, especially for stream improvements or other BMP installation projects.

PRF project description 4 docs.pdf

Letters of Support

Only upload letters from other organizations whose support or involvement is critical to the proposed project. These letters should be specific to this grant request and clearly state the level of engagement of the partnering organization.

PRF letters.pdf

Other Support Material

Upload other materials or documents, if any, that may be informative about this project. If this project is the implementation of a watershed action plan, please upload the plan here.

Flat Cr stkhldrs-Seaman-Landcare Mar2024.pdf

Project Status Report

If this request is for continued or additional funding for a current Pigeon River Fund grant project, provide a one-page summary of results-to-date and the current status of grant funds.

CERTIFICATION

By submitting this form, the above-named organization and the persons listed below hereby give permission for this application to be shared with Foundation donors and other appropriate parties and hereby certify: (1) that the information provided in this form is correct; (2) that the governing board of the organization has been notified of this proposed project; and (3) that the organization is in compliance with all applicable federal, state, and local laws and regulations, including but not limited to those prohibiting discrimination against a person or group on the basis of age, race, national origin, ethnicity, gender, disability or religious belief.

Name of Executive Director*

Savannah Parrish, Town Manager

Name of Board Chair

Tim Helms, Mayor

Grant Report Acknowledgment*

By checking the following box, you acknowledge that, if awarded a grant from this grant program: (1) your organization is required to submit a completed grant report in this online grant system by the date(s) specified; and (2) your organization will be ineligible to apply for any future grants from CFWNC if a report is past due and is not submitted to and accepted by CFWNC.

Yes, I am aware of the grant report requirement and of the consequences for failing to meet it.

Electronic Funds Transfer (EFT) Acknowledgment*

CFWNC makes grant payments by electronic funds transfers (EFT) through the Automated Clearing House (ACH) system. If CFWNC approves a grant in connection with the application you are submitting, your organization must have current bank information on file with CFWNC for the organization to receive payment. Failure to provide accurate and timely bank information may delay or prohibit a grant award for this application.

Yes, I am aware of CFWNC's EFT requirements in order to receive a grant award payment.

File Attachment Summary

Applicant File Uploads

- CFWNC Budget PRF-3acjn.xlsx
- Landcare Budget FY 24-25 PRF.xlsx
- PRF project description 4 docs.pdf
- PRF letters.pdf
- Flat Cr stkhldrs-Seaman-Landcare Mar2024.pdf

PROGRAM/PROJECT BUDGET

APPLICANTS SEEKING PROGRAM/PROJECT FUNDING MUST COMPLETE THIS FORM. NO OTHER BUDGET FORMS WILL BE ACCEPTED.

Enter your organization's name here:	Town of Montreat	
Total Cost of Program/Project:	$305,228.00	
Total Amount Requested from CFWNC:	$34,065.00	*Pigeon River Fund only*
Timeframe during which grant funds will be spent:	01/08/2024 to 31/03/2025 - August through March	

Please enter below the income and expenses related to the total program/project.

INCOME

Funding Sources for this Program/Project	Total Amount	Status - Pending or Committed (if pending include anticipated decision date)	Explanatory Notes *(Optional)*
CFWNC _Pigeon River Fund	$34,065.00	Pending (mid-May)	Current grant request
CFWNC _ Black Mountain-Swannanoa Valley EF	$10,000.00	Pending (end of April)	Partial cost for Phase 2 - Site stabilization above trail
Individual and small private foundation donations	$38,603.00	Private Contributions to date	Ongoing fundraising effort
Sale watercolor prints & notecards -Montreat scenes	$6,570.00	Merchandise Sales to date	Ongoing fundraising effort
Total Income	**$89,238.00**		

Packet Page 12

EXPENSES

Item	Total Cost	Amount of CFWNC Grant to be used for this item	Explanatory Notes *(Optional)*
Design, engineering, project management	$45,606.00	$4,500.00	Project mngment 10% of project cost
Site Prep	$15,070.00	$10,000.00	Erosion control; tree, debris removal
Permits, waste management	$4,785.00	$2,000.00	Haul fees, dump fees
Site Stabilization - steep bank above trail - Phase 2	$23,310.00	$0.00	Boulder outcrops, planting, stone steps
Site Stabilization - creek side below trail - Phase 3	$16,565.00	$16,565.00	Riparian buffer & restoring natural creekside plants
Trail,stormwater infrastructure, site amenities	$102,300.00	$0.00	ADA compliant, withstands flooding, runoff filtration
Parking, Welcome Zone	$57,530.00	$0.00	Includes signs with braille
Public Ed & Outreach	$40,062.00	$1,000.00	Signs and web-site updates
Total Expenses	**$305,228.00**	**$34,065.00**	

Your organization maintains an operating reserve: __ YES __ NO _x_ n/a This reserve could sustain your organization for ____ months.

Provide any additional information below that may help clarify your budget:

It is expected this project will take 2-3 years to complete. Due to the unpredictability of labor and materials costs, a 10% contingency allowance is reflected in each expense line . The trail provides vehicular access for Town maintenance and must be 10' wide and vehicular grade instead of the more common, narrower trails/surfaces. Site amenities meet ADA standards.

Montreat Landcare Committee Proposed Budget FY 2024-2025 July 2024- June 2025			
Description	**Income**	**Expenses**	**Balance Available**
Landcare Committee General Operating Funds			
Landcare Balance on hand	8000.00		
Town of Montreat (annual funding)	2500.00		
Contributions - Community Doanations	500.00		
Web hosting - 12 months		216.00	
Web site updates		1250.00	
Website rebuild - update software and plug-ins		4250.00	
Montreat Native Plant Sale & Arbor Day Celebration	200.00	500.00	
Landcare Subcommittees		700.00	
General Operating Funds	**$11,200.00**	**$6,916.00**	
Net Available			**$4,284.00**
Landcare Special Projects - Fundraising			
Flat Creek Crossing Accessible Trail			
Card & Print Sales			
Card & Print (sales to date)	5890.00	2978.00	**$2,912.00**
FY 2024-2025- Card & Print Sales	1000.00	500.00	
Card & Print Sales	**$6,890.00**	**$3,478.00**	
Flat Creek Crossing: Total Project Cost (TPC)- $305,228.00	**Income**	**Expenses**	
Contributions to date	38103.00	11856.00	
Total Funds -Current	38103.00	11856.00	**$26,247.00**
FY 2024-2025 Projections			
Contributions FY 2024-2025	15000.00		
Expenses FY2024-2025 (exludes Construction)		4000.00	
Marketing,digital support FY 2024-2025		750.00	
Total Projected '24-'25	**$15,000.00**	**$4,750.00**	$10,250.00
Projected Grant Revenue as of 3/1/2024 - Flat Creek Crossing	**Income/ Matching**	**Expenses**	
BM/SVEF : Phase 2 -$23,310 Cost - $10,000 request 7.6% of (TPC)			
Labor,materials		23310.00	
Landcare Matching Dollars	13310.00		
BM-SVEF Grant	10000.00		
Total	**$23,310.00**	**$23,310.00**	
Pigeon River Fund (PRF): Phase 3 - $34065.00 Request 11.1% (TPC)			
Site preparation - erosion control, tree & debris removal	10,000	10000.00	
Hauling and dump fees	2,000	2000.00	
Materials,Labor, Equipment	16,565	16565.00	

Montreat Landcare Committee Proposed Budget FY 2024-2025 July 2024- June 2025			
Description	**Income**	**Expenses**	**Balance Available**
Project management fees	4,500	4500.00	
Landcare Matching Dollars(LMD) Education, Outreach Signs, Printing	1000.00	1000.00	
*(LMD)Water Quality Testing, Wildlife Inventory Updates	1250.00	1250.00	
Total Phase 3 Costs	**35315.00**	**35315.00**	
*Not included in PRF Grant Request			
Budget Summary			
General Operating (Restricted)Cash on Hand	$4,284.00		
Special Projects Funds- Card & Print Sales Cash on Hand	$2,912.00	$2,912.00	
Special Projects Contributions on Hand	$26,247.00	$26,247.00	
Available Matching Funds		**$29,159.00**	
2024-2025 Proposed Budget	**Income**	**Expenses**	
General Operating (Restricted)Cash on Hand	4084.00	6416.00	
General Operating Income	3200.00		
Montreat Native Plant Sale & Arbor Day Celebration	200.00	500.00	
Card and Print Sales	1000.00	500.00	
Project Focused Fundraising Event(s)	12000.00	4000.00	
Project Specific Contributions	15000.00		
Project Restricted Expenses		4750.00	
Project restricted Matching Funds	13310.00		
Potential Restricted Funds - Grant Requests as of 3/15/24	45315.00	58625.00	
Potential Restricted Funds - Grant Pending			
	$94,109.00	**$74,791.00**	

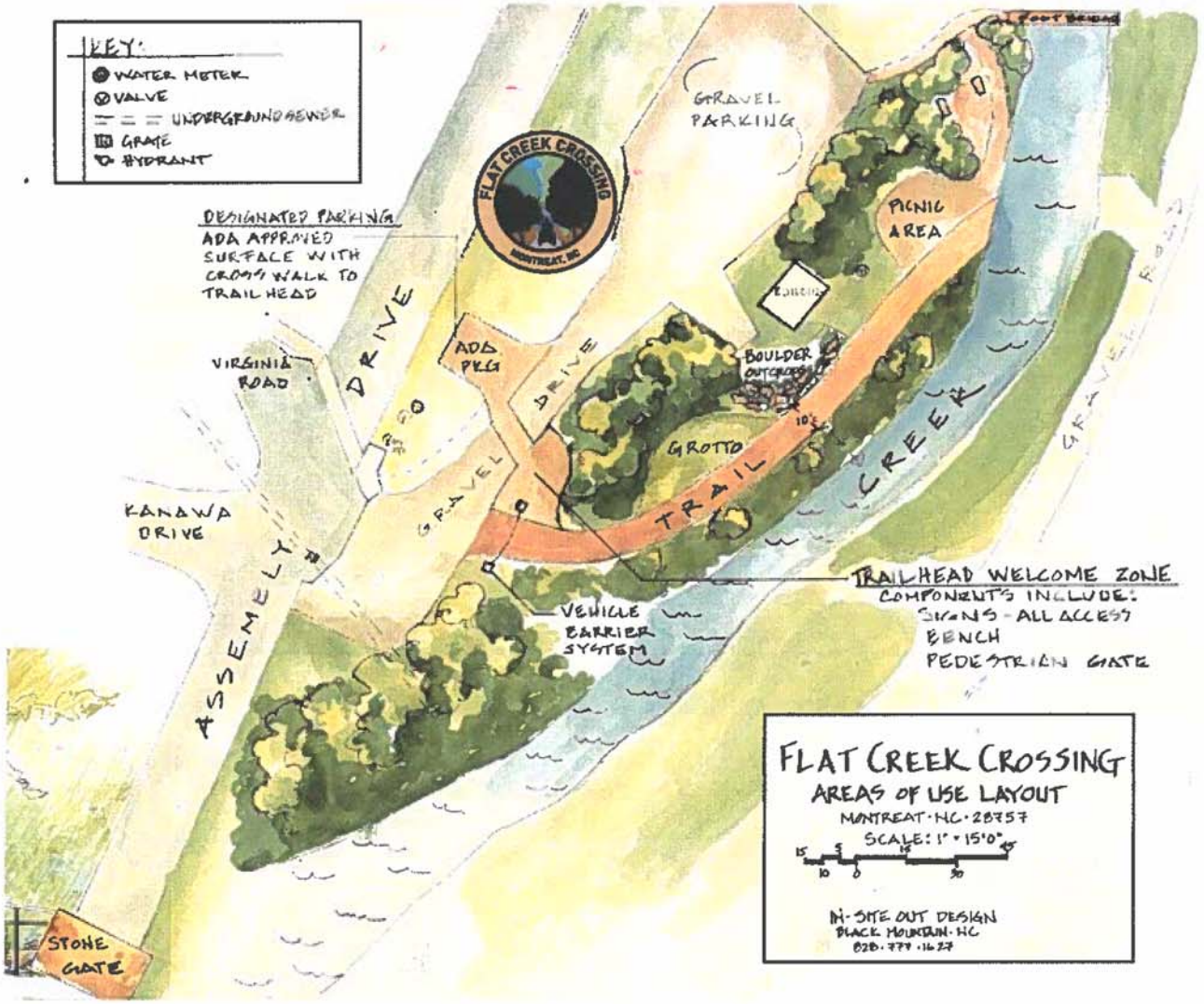
Flat Creek Crossing Accessible Trail site, Montreat, NC 28757



Flat Creek Crossing Accessible Trail site looking down toward Flat Creek, showing uphill boulder outcrop (Phase 2), downhill creek bank (Phase 3), and the old concrete roadbed (Phase 4)



Flat Creek Crossing Accessible Trail site showing the concrete road edge at the old ford (Phase 4) and the opposite creek bank, which is being planted but not otherwise modified


KEY:
WATER METER
VALVE
UNDERGROUND SEWER
GRATE
HYDRANT
FLAT CREEK CROSSING
MONTREAT, NC
DESIGNATED PARKING
ADA APPROVED SURFACE WITH CROSS WALK TO TRAIL HEAD
VIRGINIA ROAD
DRIVE
ADA PKG
DRIVE
GRAVEL PARKING
PICNIC AREA
BOULDER OUTCROPS
GROTTO
TRAIL
CREEK
GRAVEL ROAD
KANAWA DRIVE
ASSEMBLY
GRAVEL
TRAILHEAD WELCOME ZONE
COMPONENTS INCLUDE:
SIGNS - ALL ACCESS
BENCH
PEDESTRIAN GATE
VEHICLE BARRIER SYSTEM
STONE GATE
FLAT CREEK CROSSING
AREAS OF USE LAYOUT
MONTREAT · NC · 28757
SCALE: 1" = 15'0"
IN-SITE OUT DESIGN
BLACK MOUNTAIN · NC
828 · 779 · 1627

Flat Creek Crossing Accessible Trail (FCCAT) – Project Overview & Timeline

The Flat Creek Crossing project creates an all-persons, accessible trail to the water in a park-like setting at the entrance of Montreat. The site requires cleaning up and restoring to its natural state the areas adjacent to the new trail route. Erosion and stormwater controls are necessary. After that, the ADA-compliant trail, parking area, welcome zone with educational signage and accessible picnic area will be developed. We expect the project to take 2 to 3 years to complete. Because no Town of Montreat funds are available for this project, grants and private donations are being energetically pursued by the Landcare Committee's FCCAT team. See more at http://www.montreatlandcare.org/

Phase 1 – Research and Design (complete)

Research, Community Input
Committee and Partnership development
Site selection
Design
Town Council Approval
Special Use Permit granted

Phase 2 – Stabilization of north hillside above trail (*pending BM-SVEF grant)* **Sep 2024 – Mar 2025**

Obtain necessary permits
Use heavy equipment to install boulder outcrops
Install erosion control measures, such as steppers for secondary access to future picnic area
Install native plants on hillside and among boulders

Phase 3 – Repair and stabilization of south creek bank below trail
(pending Pigeon River Fund grant, additional fundraising) **Sep 2024 – Mar 2025**

Remove berm of added debris from creek side to re-establish original grade
Eliminate invasives and poison ivy
Secure toe of bank along the creek edge
Create, extend, and install native riparian buffer plantings
Additional permitting as required

Phase 4 –Trail Construction *(pending additional funding)* **Fall 2025**

Remove impervious material from abandoned roadbed on site
Install stormwater management infrastructure
Construct trail
Develop picnic area with flood worthy, accessible amenities

Phase 5 – Welcome Zone Construction *(pending additional funding)* **Spring 2026**

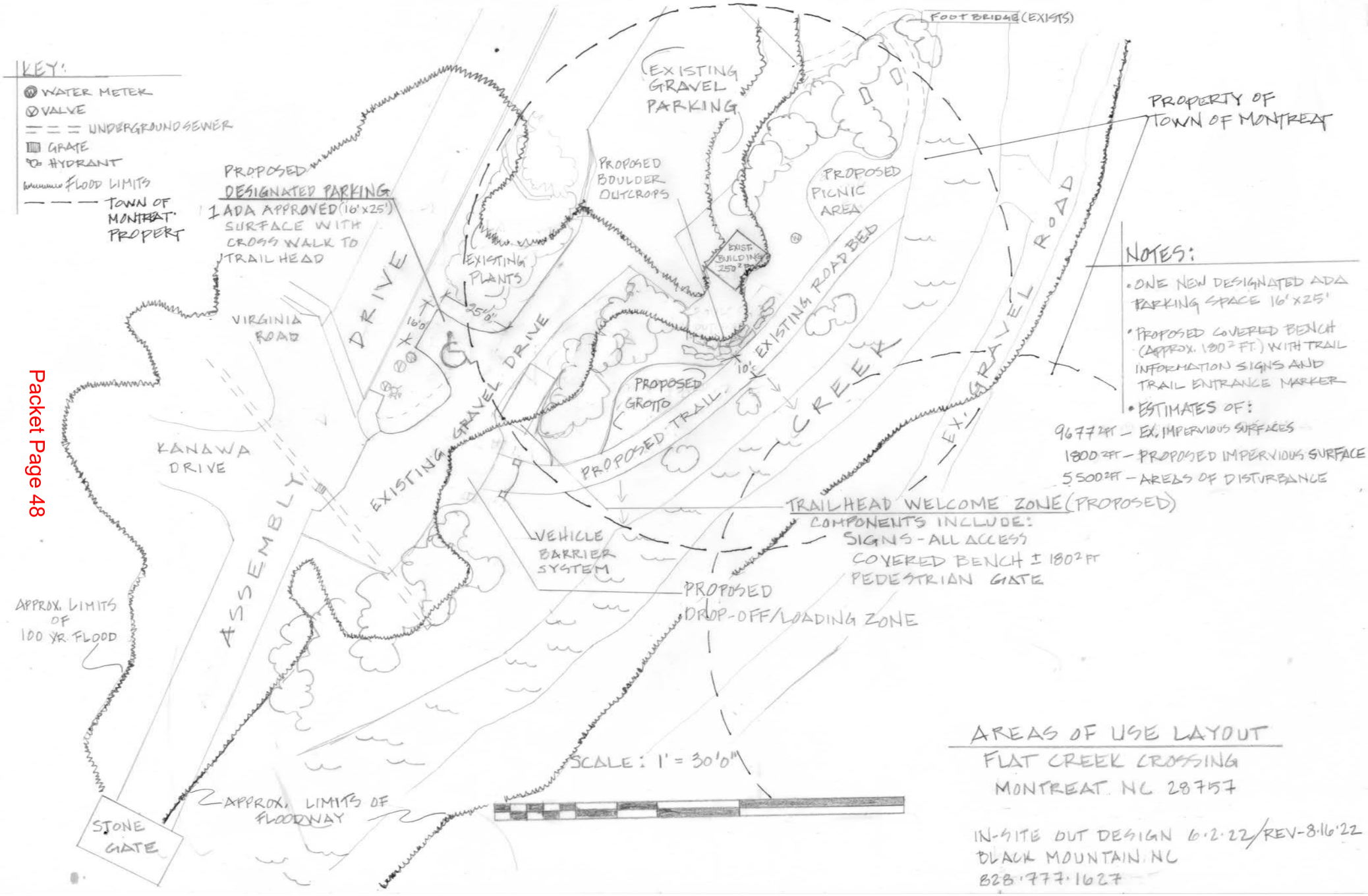
Install a dedicated accessible parking area
Build a covered bench welcome zone
Create and install signs with maps, trail info, and links to related resources

Phase 6 – Community Outreach *(concurrent and after completion)*

Stormwater management education
Collaboration with community groups (i.e. autism society, nursing homes, schools, area colleges)
Special events, guided hikes
Supplemental educational materials and website links

Phase 7 -- Long Term Maintenance

Ongoing maintenance of the trail, signs, website, resource material


KEY:
WATER METER
VALVE
UNDERGROUND SEWER
GRATE
HYDRANT
FLOOD LIMITS
TOWN OF MONTREAT PROPERT
FOOT BRIDGE (EXISTS)
EXISTING GRAVEL PARKING
PROPERTY OF TOWN OF MONTREAT
PROPOSED DESIGNATED PARKING
1 ADA APPROVED (16'x25') SURFACE WITH CROSS WALK TO TRAIL HEAD
PROPOSED BOULDER OUTCROPS
PROPOSED PICNIC AREA
EXIST BUILDING 250 SF
EXISTING PLANTS
VIRGINIA ROAD
DRIVE
16'x80'
25'0"
EXISTING GRAVEL DRIVE
EXISTING ROADBED
10'
EX. GRAVEL ROAD
PROPOSED GROTTO
PROPOSED TRAIL
FLAT CREEK
KANAWA DRIVE
ASSEMBLY
TRAILHEAD WELCOME ZONE (PROPOSED)
COMPONENTS INCLUDE:
SIGNS - ALL ACCESS
COVERED BENCH I 180 SF FT
PEDESTRIAN GATE
VEHICLE BARRIER SYSTEM
PROPOSED DROP-OFF/LOADING ZONE
APPROX. LIMITS OF 100 YR FLOOD
APPROX. LIMITS OF FLOODWAY
STONE GATE
SCALE: 1' = 30'0"
NOTES:
• ONE NEW DESIGNATED ADA PARKING SPACE 16'x25'
• PROPOSED COVERED BENCH (APPROX. 180 SF FT.) WITH TRAIL INFORMATION SIGNS AND TRAIL ENTRANCE MARKER
• ESTIMATES OF:
9677 SF FT – EX. IMPERVIOUS SURFACES
1800 SF FT – PROPOSED IMPERVIOUS SURFACE
5500 SF FT – AREAS OF DISTURBANCE
AREAS OF USE LAYOUT
FLAT CREEK CROSSING
MONTREAT NC 28757
IN-SITE OUT DESIGN 6.2.22/REV-8.16.22
BLACK MOUNTAIN NC
828.777.1627

TOWN OF MONTREAT
NORTH CAROLINA

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

Ms. Sarah Zambon
Assistant Attorney General
114 West Edenton Street
Raleigh, North Carolina 27603

May 11, 2023

Re: MNT023SG Town of Montreat Landcare Committee Flat Creek Crossing Accessible Trail

Dear Ms. Zambon

The Town of Montreat Town Council appreciates the opportunity to apply for the North Carolina Attorney General's Environmental Enhancement Grant for Flat Creek Crossing Accessible Trail.

The Town of Montreat, population about 900, is committed to preserving the water quality and biodiversity of the Flat Creek watershed, with a small expert staff and limited budget. The Town provides vital services in Montreat cove, including wells, wells water lines and building and maintaining storm water conveyances along roads and creeks.

The Town commissioned an extensive Stormwater Inventory and Management Plan by the Land of Sky Regional Council (2021) focused on steep slope conditions in the Flat Creek watershed within Montreat cove. The Town of Montreat has extremely limited space available for stormwater control measures, trails or other amenities. We have committed the only suitable creek bank land to the Flat Creek Crossing Accessible Trail site by unanimous vote of the Town Council in June 2022. In August 2022 the Board of Adjustment issued a special use permit.

The Flat Creek Crossing Accessible Trail project will extend protection of Flat Creek to the edge of Town and will also protect waters headed downstream into Black Mountain and the Swannanoa River. The stormwater control engineering, permeable surfaces and native plantings in the project design follows standards of other Town construction and will enhance the natural environment, restoring a neglected space. We are pleased that the site design addresses the same high level of accessibility standards as our recently completed Town Hall, making the waters of Flat Creek accessible by all persons. Flat Creek Crossing will create a beautiful entrance to our Town, welcoming the many visitors to Montreat cove from the surrounding communities, the region, the nation and the world.

Thank you for your consideration and your interest in the Town of Montreat and Montreat cove.

Respectfully submitted,

Timothy R. Helms
Mayor, Town of Montreat

MONTREAT
CONFERENCE CENTER

PO Box 969
Montreat, NC 28757
800.572.2257
montreat.org

5/2/23

Ms. Sarah Zambon
Assistant Attorney General
114 West Edenton Street
Raleigh, North Carolina 27603

Re: **EEG Grant Code:** MNT023SGTown of Montreat Landcare Committee- Flat Creek Crossing Accessible Trail

Dear Ms. Zambon,

Please accept this letter of support for the proposed accessible trail site called Flat Creek Crossing submitted by the Town of Montreat Landcare Committee.

As the original stewards of Montreat cove, the Mountain Retreat Association (MRA) continues to maintain our commitment to preserving and protecting the beauty of our surroundings. We have placed approximately 2,500 acres in conservation and greenspace so the natural beauty of this cove will be preserved forever. Conservation of land around the ridgeline and steepest slopes has contributed significantly to high water quality in Flat Creek watershed, continuous flow from springs, and the wells that provide water for Montreat. Conservation lands also protect habitat for many native species of plants and animals.

Preservation of Montreat's natural beauty and biodiversity is closely tied to the long-term prosperity of Montreat itself: our respect for its history, hopes for its future, and an outcome in this process that serves all who come here. Most of the recreational spaces in Montreat are available to the public and maintained by the MRA, and the community would benefit from more sites that meet ADA standards.

MRA partners with the Town of Montreat in a variety of ways, including participation on advisory boards and committees. MRA's appointed representatives to Montreat Landcare Committee actively engage in planning and supporting Landcare projects.

The Flat Creek Crossing Accessible Trail project will extend protection of Flat Creek to the stone gate at the entrance of Montreat cove. The stormwater control engineering, permeable surfaces and native plantings in the project design will enhance the natural environment. The educational signage will add to our own efforts to protect the trails and creeks of Montreat cove. The park-like amenities will create a beautiful setting and make the waters of Flat Creek accessible for rest and recreation for all people.

Tanner Pickett
Vice President for Communications
Mountain Retreat Association

339 New Leicester Hwy., Suite 140
Asheville, NC 28806
p: 828.251.6622 | 800.727.0557
f: 828.251.6353 | w: landofsky.org

LAND OF SKY
REGIONAL COUNCIL

EEG Grant Code: MNT023SG Town of Montreat Landcare Committee Flat Creek Crossing Accessible Trail

Ms. Sarah Zambon
Assistant Attorney General
114 West Edenton Street
Raleigh, North Carolina 27603

Dear Ms. Zambon,

Please accept this letter of support for the proposed accessible trail site called Flat Creek Crossing submitted by the Town of Montreat Landcare Committee.

Land of Sky Regional Council (LOSRC) has partnered with Montreat and Landcare in several ways. We are currently consulting with the Town of Montreat Comprehensive Plan Steering Committee on the next 10-year Comprehensive Plan. The Town's current Zoning and Code Enforcement Administrator is a contractor from Land of Sky. In 2020, LOSRC, with Blue Earth Engineering, undertook an extensive stream assessment and stormwater management evaluation for Montreat, resulting in the 2021 report Montreat Stormwater Inventory and Management Plan. Blue Earth mapped and modelled water flows in the 4.8 acre Flat Creek watershed, and assessed opportunities for stormwater capture and filtration in this steep slope terrain. The work was funded by NCDEQ, and the waterflow analysis and evaluation techniques will serve as models for evaluation of other steep slope sites.

An important finding from the 2021 report is that very few viable possibilities for stormwater control and filtration exist in Montreat on public right of way lands along roads or beside creeks. There are two possible downstream sites on Flat Creek, as it exits Montreat and enters Black Mountain. One of these is a parking area adjacent to a gravel road maintained by the Department of Transportation. Flat Creek Crossing, the proposed accessible trail and its planned small park, creates one more opportunity to protect Flat Creek from stormwater runoff on town-owned land.

Two local partners contributed to the study and report, both of whom also work with or serve on Montreat Landcare Committee. Montreat College Professor Josh Holbrook and his students in the Department of Natural Science conducted water quality assessments and macroinvertebrate monitoring for habitat assessment. Professor Bill Seaman (University of Florida), who lives in Montreat and leads the Montreat Landcare Committee Stream Team, has led community involvement in water quality monitoring for bacterial contamination in cooperation with the Environmental Quality Institute and he serves on the Montreat Comprehensive Plan Steering Committee. Landcare will continue to provide community education and coordinate volunteer efforts around stormwater control measures, native plants, and habitat protection.

With our history of collaboration and ongoing involvement with the Town of Montreat and Landcare, LOSRC is confident that this project will be well-executed. The Town of Montreat Landcare Committee brings to the project a wealth of talent, knowledge, and enthusiasm for environmental protection, particularly Flat Creek. This project will preserve, protect and enhance the natural environment of Flat Creek in Montreat, as well as serving underserved populations. This project will likely be seen as a model for future accessible site planning in environmentally sensitive streamside locations.

Sincerely,

Mary Roderick

Mary Roderick
Regional Planner, LOSRC

Watershed Stewardship in a Small Mountain Community: Stakeholder Involvement is Key to Education, Planning and Resource Restoration and Management*

William Seaman[1] and Jacob Rash[2]

[1]Professor Emeritus, University of Florida, Fisheries and Aquatic Sciences, Montreat, North Carolina
[2]Coldwtaer Research Coordinator, North Carolina Wildlife Resources Commission, Black Mountain



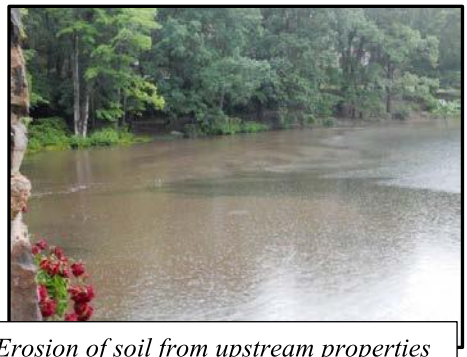
The mountain headwaters stream Flat Creek, Buncombe County, North Carolina rises and flows only a short distance, about half of its total 5.4-mile length, through the small town of Montreat, yet it exerts an inordinately large influence on the social dynamics and lifestyle of residents and more numerous seasonal visitors of all ages. The cultural ecosystem services of the creek and its small impoundment (ca. three acres) are valued, for example, by anglers seeking Eastern Brook Trout, K-12, college and non-formal educators teaching on-site, persons seeking solitude and meditation, amateur and professional naturalists in awe of its ecology, with some seeking to reestablish hellbender salamanders, children and adults at play on and in its waters, disabled persons anticipating new access to it, and advocates of both the latest stormwater management plan and also the new comprehensive town plan. Valued environmental services include its moderating effect on local climate, diverse wildlife habitat, and provision of clean water to the Swannanoa River Valley downstream. In return, a diversity of stakeholders have emphasized Flat Creek in conservation, restoration, research, education and management, as presented here for six tangible and successful efforts, with five in just the last five years. (Another project is scheduled for late 2024.)



First, Flat Creek waters have been found to be of sufficient quality to harbor hellbenders and native and introduced trout, thanks to first-ever field and laboratory studies that quantified baseline physical-chemical attributes in 2020. Funding came from the North Carolina Chapter of the American Fisheries Society for a citizen science project, in partnership with the Environmental Quality Institute. Secondly, prior to that, citizens organized a bio-control treatment program for invasive woolly adelgid insects damaging and killing hemlock tress, with one success being preservation of hemlocks along the creek to continue shading and its cooling effect on water temperatures. This work was in partnership with the Hemlock Restoration Initiative, with funding from the Buncombe County Board of Commissioners. Third, an educational TRACK Trail of the national Kids-in-Parks program has been designated for a nearly mile-long stretch adjacent to Flat Creek. Extramural funding was again secured, this time with the Blue Ridge Parkway Foundation. These three efforts were under the auspices of the Montreat Landcare Committee, an umbrella organization representing key entities in the community.

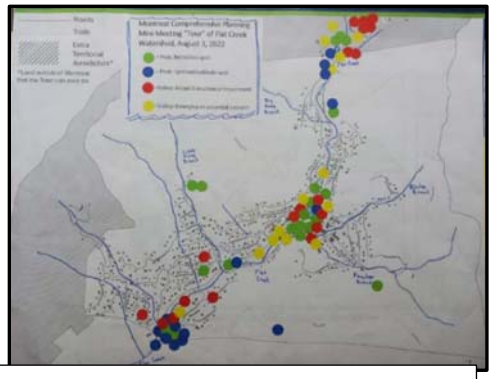
**Adapted a from presentation to the annual conference of the North Carolina Chapter of the American Fisheries Society, Sylva, February 28, 2024, as information for the Montreat community and beyond*

Fourth, more recently, the Town of Montreat completed a Stormwater Inventory and Management Plan so as to be in compliance with a mandated Municipal Separate Storm Sewer System, or MS4, permit requirement. Town officials were assisted by staff from the Land of Sky Regional Council, having secured a Clean Water Act Section 205(j) grant. The Council in turn partnered with consultants from Blue Earth and a faculty member from Montreat College to inventory and map stormwater system infrastructure and some biological attributes. Work focused on steep slopes and reducing erosion and sedimentation.



Erosion of soil from upstream properties creates "plume" of brown sediment in Lake Susan after heavy rain.

Fifth, as a gauge of progress in community recognition of the importance of Flat Creek, it is noteworthy that the 2023 town comprehensive plan mentions stormwater 23 times, while incorporating the general subject of creek management into 20% of its total "objectives," alongside subjects such as transportation and revenue, etc. Citizens again played an important part in driving significant attention to Flat Creek in the plan. In concert with the plan consultants, members of the Landcare Committee organized a "mini-meeting" attended by a dozen Montreat residents who listed and mapped so-called "peaks and valleys" related to positive negative issues and concerns such as runoff, erosion, and aesthetics for Flat Creek. Local ecosystem knowledge provided a foundation for the consultants.



Stakeholders mapped concerns (red, yellow dots) and valued places (blue, green) along creek; Lake Susan in middle.

Sixth, a work in progress that has drawn broad community hands-on support is the new Flat Creek Crossing All-Access Trail being developed as a Landcare project. This all-persons trail will create a universally accessible one-tenth-of-a-mile path to the water. Extramural funding is being developed.



Finally, an upcoming project will see the dredging of sediments from the bottom of Lake Susan, under the auspices of the Montreat Conference Center, with State funding having been secured for much of the work.

To sum up, then, we have described seven different projects concerning Flat Creek, a cultural and environmental jewel in Montreat, Western North Carolina, each of which has engaged stakeholders including permanent and seasonal residents, scientific entities and funding sources both in the community and outside. For a town with a population of about 800, we feel that this approach and array of effort offers a possible model of stakeholder-driven engagement with watershed science, education, community-building and resource management.

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

Staff Report
TA-2024-01

Text Amendment Request (TA-2024-01) – A Text Amendment request (TA-2024-01), submitted by Wyatt Edsel (on behalf of Gary Higgins, Property Owner) to amend Chapter K Article III Section 305(1) of the Montreat General Ordinance to permit an exception to the built-upon area buffer requirement for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing.

Created by:

Kayla DiCristina, AICP,
Zoning Administrator
Town of Montreat

Created for:

Town of Montreat Board of Commissioners
March 14, 2024

TABLE OF CONTENTS

REQUEST SUMMARY....3
EXISTING LANGUAGE....5
PROPOSED LANGUAGE....6
STAFF RESEARCH....6
BOARD OF COMMISSIONERS ACTION....11
STAFF RESEARCH ORDINANCE EXCERPTS....14

REQUEST SUMMARY

Background

Wyatt Edsel, of Edsel Engineering, is representing Gary Higgins ("Property Owner" and "Applicant"), the property owner of PIN# 071077202100000, which is on the eastern side of Harmony Lane ("Subject Property").

The Montreat Zoning Ordinance (MZO) Section 602 dictates that no building, structure, or use of land be permitted until the lot has legal and physical vehicular access to a dedicated and accepted public street. For lots that do not have access to streets, a legal access easement must be established that is a minimum of 12 feet wide, physically passable for vehicular traffic, and be an easement of record and appurtenant to the lot for which it provides access.

The Subject Property was platted under the original plat of Montreat in 1906 (Plat Book 154, page 2) with no access to a street. The Subject Property is separated from Harmony Lane (the nearest public street) by Little Piney Branch. Subsequent platting of the Subject Property through 1984 did not correct the road access issue. On February 9, 2023, the Board of Commissioners granted the Property Owner a thirty-foot access easement from the right-of-way of Harmony Lane across Little Piney Branch to the Subject Property to meet the conditions of Section 602 of the MZO.

Now that the Subject Property has legal access to a right-of-way, the Property Owner wants to construct a single-family dwelling on the Subject Property.

Stormwater Ordinance

Chapter K Article III of the Montreat General Ordinance (MGO) defines built-upon area as:

The portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Chapter K Article III Section 305(1) of the MGO contains the following language:

All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the

Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

In other words, Chapter K Article III Section 305(1) of the MGO prohibits any impervious surface within 30 feet of a perennial or intermittent stream. A perennial or intermittent surface water (i.e. stream) is present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). No exemptions are given under the MGO unless the stream is determined to be ephemeral by the North Carolina Department of Environmental Quality.

Little Piney Branch is shown on the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). While the Property Owner did not obtain a formal stream determination from the North Carolina Department of Environmental Quality, Little Piney Branch is considered a Water of the United States and is classified as "C" per correspondence with Andrew Moore (Environmental Specialist II, Division of Water Resources). Class C streams are protected due to aquatic life propagation, survival, and maintenance of biological integrity (including fishing and fish). Class C streams therefore have the presence of water either year-round or part of the year (making them either intermittent or ephemeral). Therefore, the built-upon area restriction in Chapter K Article III Section 305(1) of the MGO applies to Little Piney Branch and prevents the Property Owner from installing the needed driveway or bridge across the stream to access the Subject Property. Variances are not permitted in the Town's Stormwater Ordinance. As a note, the Property Owner has been in contact with the United States Army Corps of Engineers (USACE) and the North Carolina Department of Environmental Quality Division of Water Quality (NCDEQ DWR) and has received an OK from both agencies to proceed with his project. The Property Owner's proposed driveway is approved under USACE Nationwide Permit #18 and NCDEQ DWR Water Quality General Certification # 4249.

The Applicant submitted this Text Amendment to allow exceptions to the built-upon area restriction to be granted by the Stormwater Administrator for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing. The amended text stipulates that the crossing is to be located, designed, constructed, and maintained to minimize impervious surface,

protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable using the Best Management Practices (i.e. stormwater management measures). This text amendment would not apply to structures of residential development (like homes or accessory buildings) or any structures or access to non-residential development.

It is important to note that, as demonstrated later in this staff report, many other jurisdictions that have local stormwater management programs allow exceptions to buffer rules for residential development. This Property Owner is not the only resident of Montreat who has found this buffer to be restrictive for single-family residential development.

EXISTING LANGUAGE

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

PROPOSED LANGUAGE (APPLICANT)

Color key for amendments:

→ Existing language to remain
→ ~~Deletion of existing language~~
→ Insertion of new language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

> a) At the request of the Applicant, the Stormwater Administrator shall grant an exception from the built-upon area requirement in Section 305(1) for impervious driveway or walkway access to residential development when there is a lack of practical alternatives for a road crossing, bridge, or utility crossing as long as it is located, designed, constructed, and maintained to minimize impervious, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory.

STAFF RESEARCH

DiCristina reviewed the Unified Development Ordinances of Asheville, Black Mountain, Woodfin, Weaverville, Buncombe County, Hendersonville, and Fletcher to examine existing regulations related to exceptions to built-upon area buffers. Verbatim excerpts from these

ordinances are included at the end of this staff report. As a note, not all municipalities regulate stormwater.

City of Asheville Unified Development Ordinance (Chapter 7)

Article XII Section 7.12.2(e)(2)(a)(1) of the City of Asheville's Unified Development Ordinance (UDO) prohibits land disturbance within 30 feet of intermittent or perennial surface waters. Section 7.12.2(j)(2)(a) requires the Stormwater Administrator to grant an exception to this requirement when there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing. This section goes on to state that the crossing must be located, designed, constructed, and maintained to minimize disturbance, provide pollutant removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. Subsection b under Section (j)(2) limits the exception to 100 linear feet of disturbance in each 1,000 linear feet of aquatic buffer on the development site. As a note Section 7.12.2 (j)(1) permits an Applicant to apply for a Variance to stormwater requirements.

Town of Black Mountain Unified Development Ordinance (Chapter 8)

Section 8.2.14(C) of the Town of Black Mountain's UDO requires a 30-foot built-upon area buffer to intermittent or perennial surface waters. Section 8.2.16(B) an exception to the built-upon area requirement may be granted when there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing. The section goes on to state that the exception must be located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures. As a note Section 8.2.16(A) permits an Applicant to apply for a Variance to stormwater requirements.

Town of Weaverville Unified Development Ordinance (Chapter 20)

Section 20-1112 of the Town of Weaverville's UDO states that the Town utilizes Buncombe County's stormwater regulations. These regulations are enforced by Buncombe County for the Town of Weaverville.

Town of Woodfin Unified Development Ordinance (Chapter 41)

Section 41-12(a) of the Town of Woodfin's UDO requires a 30-foot built-upon area buffer to intermittent or perennial surface waters. Section 41-12(b) permits access encroachments into the 30-foot buffer for pre-existing lots (those established before the UDO) for the purpose of transportation and access if the following criteria are met:

(1) It is for the purpose of vehicles or non-motorized transportation and access only, such as trails, greenways, walkways, driveways, alley ways or access roads. Residential, accessory or commercial structures are not included in this encroachment allowance;
(2) Utility structures that follow the right-of-way for the access are only allowed within the disturbance area of the roadway, an existing utility easement or bridge structural footprint;
(3) It is the minimum encroachment necessary for access of the property, or is part of a trail, sidewalk or street alignment included on the Town of Woodfin's pedestrian master plan, greenway plan or transportation plan or other approved master plan;
(4) The encroachment area does not exceed more than ten percent of the total land area within the required buffer area, and shall never exceed more than 100 feet of linear disturbance for 1,000 feet of linear stream;
(5) Provides the minimum area of disturbance needed for access and includes mitigation of stream and stream bank disturbance as part of the design;
(6) Encroachments which include stream crossing should be designed so that crossing is perpendicular to the stream centerline to the maximum extent practicable; and
(7) Encroachments which are parallel to the watercourse should be designed to incorporate the maximum buffer practicable and still allow the necessary encroachment. Additional stormwater management techniques to slow and filtrate run-off should be included between the disturbed area and the waterway. Such parallel encroachments may be subject to additional review by the division.
(8) Any encroachment into the required surface water buffer which exceeds this allowance shall require a variance from the board of adjustment.

Buncombe County Unified Development Ordinance (Chapter 26)

Section 26-362 of the Buncombe County UDO requires a 30-foot built-upon area buffer for intermittent or perennial surface waters. Section 26-362(b)(9) permits variances to stormwater regulation requirements, but no other exceptions are stated in the UDO.

Hendersonville Unified Development Ordinance (Chapter 24)

Section 17-3-3 of the City of Hendersonville's UDO requires a 30-foot disturbance buffer to intermittent or perennial surface waters (although this provision is under Stream Protection, not stormwater). Under Section 17-3-5 the Planning Director may permit crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities. Crossing must meet the following requirements:

1. These crossings shall be allowed provided that they are designed to minimize the amount of intrusion into the stream buffer.
2. The property owner or applicant demonstrates to the satisfaction of the planning director that such facilities cannot be practicably located outside of the stream

buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer.

3. Alternate methods of stormwater and erosion control shall be considered prior to approval of such structures in the stream buffers.
4. A vegetated buffer of a width approved by the planning director shall be required around the stormwater control structures.
5. Any land disturbed for these structures shall be revegetated with appropriate native species in accordance with a revegetation plan approved by the planning director.

This section goes on to state that streams may be piped, thereby exempting the piped section of the stream from stream buffer requirements, provided such piping complies with the permitting/certification requirements of the Clean Water Act and any other applicable state and federal regulations. Piping undertaken for the purpose of accommodating public roads, railroads, greenways, recreational facilities and private roads and drives should be designed so that the right-of-way or roadway-and-shoulder width is no more than is necessary considering the design capacity of the facility and so that the proposed stream piping is not substantially in conflict with the other objectives of this section. Where stream piping is approved, a vegetated buffer area or other device shall be provided at any intake or discharge structure. All buffers and physical improvements related to the stream piping shall be located entirely on the site or, pursuant to easement, on lands adjacent to the site.

***Town of Fletcher Unified Development Ordinance* (Article 6)**

Section 6.5(G) of the Town of Fletcher's UDO requires a 30-foot built upon area buffer to intermittent or perennial surface waters. Section 6.5(J)(3) an exception to the built upon area requirement may be granted when there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing. The section goes on to state that the exception must be located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures. As a note Section 6.5(J) permits an Applicant to apply for a Variance to stormwater requirements.

PROPOSED LANGUAGE (LEGAL COUNSEL)

On January 31, 2024, the Town's Legal Counsel proposed the language below in place of the Applicant's requested revisions:

Color key for amendments:

→ Existing language to remain
→ ~~Deletion of existing language~~
→ Insertion of new language

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

a) At the request of the Applicant as set out in the Stormwater Permit Application and shown on the Stormwater site plan submitted in accordance with Section 303 or an Application for an amendment, the Stormwater Administrator may grant a reduction in the surface water buffer or an exception from the built-upon area requirement in Section 305(1) for an impervious driveway or bridge to provide access to Applicant's site or utilities to serve Applicant's site when the Applicant meets the following requirements: (i) the Applicant provides evidence that alternatives for a driveway or bridge to provide access would increase the amount of imperious surface or stormwater runoff, would increase the number of trees and other vegetation removed, or would increase the cost of the driveway, bridge or utility structure sufficiently to make the Applicant's plan impractical or impossible; and (ii) the Applicant's Stormwater site plan shows a driveway, bridge, or utility structure that is located, designed, constructed, and maintained to minimize impervious surface, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs. This authority shall be construed to be permissive and not mandatory. The Stormwater Administrator may require the Applicant to provide a letter from the North Carolina Department of Environmental Quality, the United States Army Corps of Engineers, and any other federal, state, or local governmental agency with jurisdiction stating that the reduction in the surface water buffer meets applicable federal, state and local requirements (other than Section 305).

PLANNING AND ZONING COMMISSION ACTION

The Planning and Zoning Commission reviewed the text amendment application at a special meeting on February 14, 2024. The Commission proposed the revised text below in place of the initial text amendment put forth by the Applicant and the revised text proposed by the Town's legal counsel.

Color key for amendments:

→ Existing language to remain
→ ~~Deletion of existing language~~
→ Insertion of new language

MONTREAT GENERAL ORDINANCE
CHAPTER K – ENVIRONMENT
ARTICLE III: STORMWATER MANAGEMENT

305. General Standards

1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.

EXCEPTION

a) At the request of the Applicant (as set out in the Stormwater Control Permit application and shown on the site plan submitted in accordance with Sections 303 and 304 or an application for an amendment to an existing Stormwater Control Permit), the Stormwater Administrator with the written approval of the Town Manager may grant a reduction in the surface water buffer or an exception from the built-upon area requirement in Section 305(1) for an impervious driveway or bridge to provide access to Applicant's site and/or for utilities to serve Applicant's site, provided and only in the event the site is permitted to be used for residential purposes only, when: (i) the Applicant provides evidence that constructing such a driveway or bridge, and/or installing such utilities, without the requested relief (i.e., either a reduction in the surface water buffer or an exception from the built-upon area requirement) is impossible or not practicable; and (ii) the proposed driveway,

bridge and/or utility improvements will be located and designed to minimize impervious surface, protect against erosion and sedimentation runoff, have the least adverse effects on aquatic life and habitat, protect water quality to the maximum extent practicable, and utilize all appropriate Best Management Practices (BMPs). Nothing in this subsection 305(1)(a) shall be construed to authorize a reduction in the surface water buffer or an exception from the built-upon area requirement for any improvement other than driveway, bridge and/or utility improvements as provided herein.

b) Before requesting relief as provided for in this subsection 305(1)(a), the Applicant shall meet with the Stormwater Administrator to discuss the nature of the proposed relief, alternatives to the proposed relief that may have a reduced impact on stormwater management, the required submittals that must accompany any request for relief and other potential concerns related to the relief being proposed.

c) In addition to submittals required in Section 304 and elsewhere in this ordinance, the request for a reduction in the surface water buffer or an exception from the built-upon area requirement submitted by the Applicant shall also include the following:

   i. A copy of construction plans for the proposed driveway, bridge and/or utility improvements prepared by an engineer licensed in North Carolina, which plan shall include a detailed depiction of all proposed impervious surfaces and structures;

   ii. A certification by the engineer preparing the plans that the proposed driveway, bridge or utility structure will be located and designed to minimize impervious surface, protect against erosion and sedimentation runoff, will have the least adverse effects on aquatic life and habitat, will protect water quality to the maximum extent practicable, and will utilize all appropriate BMPs;

   iii. A copy of all permits required by the North Carolina Department of Environmental Quality or any other state agency or authority;

   iv. A copy of all permits required by the United States Army Corps of Engineers, and any other federal agency or authority; and

   v. An operation and maintenance agreement in conformance with Section 309.

d) The Stormwater Administrator and Town Manager may request additional information as they deem necessary. This information may include:

i. A tree survey locating all trees in the proposed construction area and immediate vicinity exceeding 12" in Diameter Breast Height;

ii. A plan for restoration of topography and vegetation of all areas disturbed by construction; and

iii. Plans to protect natural features (such as a rock formation).

e) This authority to grant a reduction in the surface water buffer and an exception from the built-upon area requirement shall be construed to be permissive and not mandatory. Without limiting the generality of the preceding sentence, the Stormwater Administrator and Town Manager may attach reasonable and appropriate conditions to approval of the requested relief. Any such conditions should relate to the relationship of the proposed improvements and stormwater, the surface water and surrounding lands being impacted (including natural features thereof), open space and vegetation being impacted, surrounding properties, or other matters that the Stormwater Administrator and Town Manager may find appropriate or the Applicant may propose. In approving a request for relief as provided herein, the Stormwater Administrator and Town Manager may impose more restrictive requirements than would otherwise be required by this ordinance and those in the application, as deemed necessary to ensure that the purposes and intent of this stormwater management ordinance are met.

BOARD OF COMMISSIONERS ACTION

Per Section 160D-601(a) of the North Carolina General Statute, before adopting, amending, or repealing any ordinance or development regulation, the governing body shall hold a properly noticed legislative hearing. The Board of Commissioners held a public hearing on February 8, 2024 (noticed in the Black Mountain Newspaper on January 25, 2024, and February 1, 2024) to review this text amendment. Section 160D-604 of the North Carolina General Statute states that the governing body may refer any development regulation that is proposed to be adopted to the Planning and Zoning Commission for review and comment before making their final decision. At the February 8, 2024, public hearing, the Board of Commissioners referred this text amendment to the Planning and Zoning Commission for review. The Planning and Zoning Commission held a special meeting to review this text amendment on February 14, 2024, and recommended approval with revisions to the Applicant's proposed text.

This text amendment is scheduled to be heard during a public hearing at the Board of Commissioners on March 14, 2024, during the Board's regular meeting. This public hearing was noticed in the Black Mountain Newspaper on February 29, 2024, and March 7, 2024.

The Board of Commissioners must adopt, adopt with revisions, or deny the proposed text amendment. The Board of Commissioners may approve the language put forth by the Applicant, by the Town's Legal Counsel, by the Planning and Zoning Commission's recommendation or other agreed-upon language. Should the Board of Commissioners adopt the proposed amendment, the motion must clearly state what the adopted text will be.

STAFF RESEARCH ORDINANCE EXCERPTS

City of Asheville Unified Development Ordinance (Chapter 7)

Section 7.12.2(e)(2)

a. Land disturbing activity subject to this section shall be undertaken in accordance with the following requirements:

    1. Land-disturbing activity shall not occur within a 30-foot undisturbed buffer around all perennial and intermittent surface waters.

Section 7.12.2 (j)

1) Variances: Any aggrieved person may petition for a variance to the board of adjustment to use one's land in a manner otherwise prohibited by this section. Variances may also be requested from the aquatic buffer requirements, deed restrictions and protective covenants required herein. Reasonable and appropriate conditions and safeguards may be imposed on any variance granted. Merely providing that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. All of the procedural requirements of the entity charged with granting a variance shall be met by the applicant. Provided however, only the NCDENR—Division of Land Resources may grant a variance or exception as herein below set forth, to aquatic buffers along designated trout streams. The stormwater administrator may support an applicant's appeal for a variance if the applicant's application satisfies all of the following criteria:

    a. Unnecessary hardships would result from strict application of this section.

    b. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

    c. The hardships did not result from actions taken by the applicant.

    d. The requested variance is consistent with the spirit, purpose, and intent of this section; will protect water quality; will secure public safety and welfare; and will preserve substantial justice.

2) Exceptions: The stormwater administrator may approve plans that do not comply with the mandatory standards of subsection 7-12-2(e)(2) of this section if the land disturbing activity is for the construction of facilities to be located on, over, or under a lake or natural water course or work done for the purposes of creating trails, walkways, river access areas, and similar facilities along the rivers, creeks or streams. Where one or more measures required under subsection 7-12-2(e)(2) are not practicable, the stormwater administrator may approve plans provided that additional measures are installed that provide the same level of treatment, discharge and velocity control.

   a. Required exceptions: Notwithstanding the variance allowance herein, the stormwater administrator shall grant an exception from the aquatic buffer requirements, deed restrictions and protective covenants in any of the following instances:

      1. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide pollutant removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of the BMPs.

      2. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located designed, constructed, and maintained to minimize disturbance, provide pollutant removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

      3. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

   b. Limitation of aquatic buffer with a granted exception: Where a temporary and minimal disturbance has been permitted as an exception to the aquatic buffer, to the extent practicable, land disturbing activities in the aquatic buffer shall be limited to a maximum of ten percent of the total length of the aquatic buffer within the site to be disturbed such that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of aquatic buffer.

Section 20-1112.

The town has consented to the application of the Buncombe County construction and post-construction stormwater control regulations within the town's jurisdiction and all permitting, inspections and enforcement of those regulations shall be conducted by Buncombe County.

Town of Black Mountain Unified Development Ordinance (Chapter 8)

Section 8.2.14.

c. All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B.0233 (3)(a) or similar site-specific determination made using Division-approved methodology. Encroachment allowances may be made as described in 4.3.2.

Section 8.2.16.

A. Any person may petition the Town of Black Mountain for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. The Town of Black Mountain may impose reasonable and appropriate conditions and safeguards upon any variance it grants. To qualify for a variance, the petitioner must show all of the following:

1. Unnecessary hardships would result from strict application of this ordinance.

2. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

3. The hardships did not result from actions taken by the petitioner.

4. The requested variance is consistent with the spirit, purpose, and intent of this ordinance; will secure public safety and welfare; and will preserve substantial justice.

B. Statutory exceptions. Notwithstanding subsection (A) of this section, exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

1. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed,

constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures.

2. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures.

    1. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

    2. The stormwater runoff from the entire impervious area of the development is collected, treated and discharged so that it pass through a segment of the vegetative buffer and is managed so that it otherwise complies with all applicable state and federal stormwater management requirements.

Town of Woodfin Unified Development Ordinance (Chapter 41)

Section 41-12.

a. Setback requirement. All built-upon area shall provide a minimum buffer of 30 feet on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site-specific determination made using division approved methodology.

b. Access encroachments. Pre-existing lots and those areas identified in adopted master plans are allowed a minimum encroachment into the 30-foot buffer for the purpose of transportation and access if all of the following criteria are met:

1) It is for the purpose of vehicles or non-motorized transportation and access only, such as trails, greenways, walkways, driveways, alley ways or access roads. Residential, accessory or commercial structures are not included in this encroachment allowance;

2) Utility structures that follow the right-of-way for the access are only allowed within the disturbance area of the roadway, an existing utility easement or bridge structural footprint;

3) It is the minimum encroachment necessary for access of the property, or is part of a trail, sidewalk or street alignment included on the Town of Woodfin's pedestrian master plan, greenway plan or transportation plan or other approved master plan;

4) The encroachment area does not exceed more than ten percent of the total land area within the required buffer area, and shall never exceed more than 100 feet of linear disturbance for 1,000 feet of linear stream;

5) Provides the minimum area of disturbance needed for access and includes mitigation of stream and stream bank disturbance as part of the design;

6) Encroachments which include stream crossing should be designed so that crossing is perpendicular to the stream centerline to the maximum extent practicable; and

7) Encroachments which are parallel to the watercourse should be designed to incorporate the maximum buffer practicable and still allow the necessary encroachment. Additional stormwater management techniques to slow and filtrate run-off should be included between the disturbed area and the waterway. Such parallel encroachments may be subject to additional review by the division.

8) Any encroachment into the required surface water buffer which exceeds this allowance shall require a variance from the board of adjustment.

***Buncombe County Unified Development Ordinance* (Chapter 26)**

Section 26-362 (b)(1)

d. All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture of the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B.0233 (3)(a) or similar site-specific determination made using Division-approved methodology.

Section 26-362 (b)(2)

c. All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture of the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B.0233 (3)(a) or similar site-specific determination made using Division-approved methodology.

Section 26-362 (b)(9) (9)

a. Any person may petition to the board of adjustment or such other local governing body having jurisdiction in the area where the project is located for a variance granting permission to use the person's land in a manner otherwise prohibited by this article. To qualify for a variance, the petitioner must show all of the following:

1. Unnecessary hardships would result from strict application of this article.

2. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

3. The hardships did not result from actions taken by the petitioner.

4. The requested variance is consistent with the spirit, purpose, and intent of this article; will secure public safety and welfare; and will preserve substantial justice.

Hendersonville Unified Development Ordinance (Chapter 24)

Section 17-3-2

Stream buffers shall apply on each side of the stream and shall measure 30 feet horizontally from the top of the stream bank in a direction perpendicular to the stream flow.

Section 17-3-3

To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in natural undisturbed forest vegetation and no development or land-disturbing activities shall be undertaken therein, except as provided in section 17-3-5. Furthermore, there shall be a 20-foot transitional area immediately landward of the stream buffer which may be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized. Certain uses of land, as specified in section 17-3-5, below, may be permitted within the stream buffer so long as they meet the requirements of that section and are designed and constructed to minimize the amount of intrusion into the stream buffer and to minimize clearing, grading, erosion and water quality degradation. Nothing herein is intended to preclude the removal of downed vegetation from the stream bed in order to improve stream flow dynamics. If it is necessary to remove downed or

dead vegetation, it should be cut and the root ball left in place to help maintain stability of the shoreline. Nothing herein is intended to [or shall] preclude any activity specifically authorized pursuant to Section 401 and/or Section 404 of the Clean Water Act.

Section 17-3-5

Subject to prior written authorization by the planning director, the following activities may be undertaken within the stream buffer provided they meet all the standards specified herein as well as other applicable provisions of the zoning ordinance:

a. Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be allowed provided that they are designed to minimize the amount of intrusion into the stream buffer. Streets and driveways may run generally within and parallel to the stream buffer only where no other access to the property is feasible and when their design minimizes the amount of intrusion into the stream buffer. Crossings with a width of 40 feet or more are permitted only when it has been demonstrated that there is no practical alternative.

b. Stream buffers may be used for passive recreational activities, such as unpaved or paved trails or greenways, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the stream buffer. Where practical, such activities shall be kept at least 15 feet from the stream bank.

c. Clearing and revegetating the stream buffer pursuant to a plan approved by the planning director when it has been demonstrated that such clearing and revegetation will improve stream buffer's pollutant removal efficiency.

d. Stormwater control structures and temporary erosion control structures shall be considered utilities for the purposes of this section and may be allowed in stream buffers, provided that:

    1. The property owner or applicant demonstrates to the satisfaction of the planning director that such facilities cannot be practicably located outside of the stream buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer.

    2. Alternate methods of stormwater and erosion control shall be considered prior to approval of such structures in the stream buffers.

    3. A vegetated buffer of a width approved by the planning director shall be required around the stormwater control structures.

    4. Any land disturbed for these structures shall be revegetated with appropriate native species in accordance with a revegetation plan approved by the planning director.

e. Sanitary sewer lines, on an alignment generally parallel to the stream, may be allowed in stream buffers, provided that:

1. The property owner or applicant demonstrates in writing to the satisfaction of the director of water and sewer that the sanitary sewer lines cannot be practicably located outside of the stream buffer;

2. Design and construction specifications minimize damage to the stream and the possibility of line leakage;

3. The sewer line is located at least 15 feet from the top of the stream bank; and

4. The sanitary sewer plan and a plan for revegetating the stream buffer disturbance shall be approved by the director of water and sewer.

f. Streams may be piped, thereby exempting the piped section of the stream from stream buffer requirements, provided such piping complies with the permitting/certification requirements of the Clean Water Act and any other applicable state and federal regulations. Piping undertaken for the purpose of accommodating public roads, railroads, greenways, recreational facilities and private roads and drives should be designed so that the right-of-way or roadway-and-shoulder width is no more than is necessary considering the design capacity of the facility and so that the proposed stream piping is not substantially in conflict with the other objectives of this section. Where stream piping is approved, a vegetated buffer area or other device shall be provided at any intake or discharge structure. All buffers and physical improvements related to the stream piping shall be located entirely on the site or, pursuant to easement, on lands adjacent to the site.

g. Selective removal of invasive exotic species in accordance with a plan approved by the planning director.

h. View corridors are allowed so long as the soil is undisturbed and the natural forest floor, ground cover and understory vegetation are left intact. Pruning associated with the creation and maintenance of a view corridor is exempt. Thinning of the overstory and mid-canopy trees is permissible with the written authorization of the planning director.

Site plan approval by the planning director shall be required for any of the stream buffer intrusions described above. When any of the activities described above involves land clearing, the cleared area shall be revegetated pursuant to an approved plan. However, where a site plan is not required by any other provision of the zoning ordinance, the director of public works is authorized to approve plans for stream piping and erosion control structures in stream buffers.

Town of Fletcher Unified Development Ordinance (Article 6)

Section G.

6. All built-upon area shall be at a minimum of 30-feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when site-specific determination made using NC Division of Water Quality-approved methodology.

Section J

1. Conditions The Town of Fletcher may impose reasonable and appropriate conditions and safeguards upon any variance it grants. Additional fees shall be required for the technical evaluation of variances that are contracted to another local government or private entity.

2. Applicability Any person may petition the Town of Fletcher for a variance granting permission to use the person's land in a manner otherwise prohibited by this Section. To qualify for a variance, the petitioner must show all of the following:

    a. Unnecessary hardships would result from strict application of the requirements of this Section.

    b. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

    c. The hardships did not result from actions taken by the petitioner.

    d. The requested variance is consistent with the spirit, purpose, and intent of this Section; will secure public safety and welfare; and will preserve substantial justice.

3. Statutory Exceptions Notwithstanding 6.5.D.2, , Exemptions to Applicability, exceptions from the 30-foot landward location of built-upon area requirement of all perennial and intermittent surface waters as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

    a. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures.

    b. When there is a lack of practical alternatives for stormwater treatment measures.

i. These measures shall be located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable.

ii. The implementation of the stormwater treatment measures shall not disturb existing vegetation.

iii. Minor understory may be disturbed in order to accommodate these measures. Trees and shrubs shall be placed to maximize screening where the encroachment takes place.

c. When there is a lack of practical alternatives for utilities, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of Stormwater Control Measures.

d. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

ORDINANCE #_____

AN ORDINANCE AMENDING THE TOWN OF MONTREAT GENERAL ORDINANCE
TA-2024-01

WHEREAS, the Town of Montreat Board of Commissioners is responsible for adopting and rejecting development ordinance amendments, under Chapter 160D Article 6 of the North Carolina General Statutes; and

WHEREAS, the Town's existing General Ordinance was adopted on March 24, 1999; and

WHEREAS, pursuant to Section 160D-601(a) of the North Carolina General Statutes, the Town of Montreat used the adoption process mandated for zoning text amendments to adopt revisions to the Montreat General Ordinance, which is a development ordinance. A public hearing held on February 8, 2024, was noticed on January 25, 2024, and February 1, 2024, in the *Black Mountain News* newspaper. Pursuant to Section 160D-604 of the North Carolina General Statute, the Board of Commissioners referred this amendment to the Planning and Zoning Commission at the February 8, 2024, public hearing for review and recommendation. The Planning and Zoning Commission submitted its recommendation to the Board of Commissioners for the March 14, 2024, public hearing. A second public hearing was held on March 14, 2024, and was noticed on February 29, 2024, and March 7, 2024, in the *Black Mountain News* newspaper; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF MONTREAT, NORTH CAROLINA THAT:

The following revisions (shown in **bold**) be made to Chapter K Article III Section 305(1) General Standards:

> 1. All built-upon area shall be at a minimum of 30 feet landward on all sides of any surface water as measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division of Water Quality-approved methodology.
>
> **a) INSERT APPROVED TEXT**

This ordinance shall be in full force and effect from and after the date of its adoption.

READ, APPROVED, AND ADOPTED this the _____ day of _____, 2024.

_____
Tim Helms, Mayor

_____
Savannah Parrish, Town Manager

Rule 30. Appointments

A. The Board may consider and make appointments to other bodies, including its own committees, if any, only in open session. The Board may not consider or fill a vacancy among its own membership except in open session.

B. Rather than proceeding by motion, the Board shall use the following procedure to make appointments to various other boards and offices:

- The Mayor shall open the floor for nominations, whereupon the names of possible appointees may be put forward by Board members.
- The names submitted shall be debated.
- When the debate ends, the Mayor shall call the roll of the Board members, and each member shall cast his or her vote.

If more than one appointee is to be selected, then each Board member shall have as many votes as there are slots to be filled. The votes from a majority of the Board members voting shall be required for appointment. A Board member may cast all of his or her votes or fewer than all of them, but he or she shall not cast more than one vote for a single candidate.

MEMORANDUM

To: Town of Montreat File

From Mason Blake

Re: Summary of Analysis of General Fund Balance Policy for Town of Montreat

Date: February 13, 2024

The Local Government Commission of the NC Department of State Treasurer (LGC), in an online guidance blog entitled *The Myth of 8% (LGC Staff Guidance on Fund Balance Available),* recommends "that local governments develop a fund balance policy to maintain a [general] fund balance that is consistent with their peers that provide similar services."[1] The LGC provides online a sample policy developed by LGC staff "that units can use as a starting point for developing their policy."[2] Although the sample policy provided by LGC staff is almost two pages in length and complicated, the LGC blog optimistically states that "[t]he policy should be brief and simple to understand."[3] The purposes for a fund balance requirement, as stated by the LGC in its sample policy, is (i) to establish minimum fund balance levels for the General Fund that define what resources are available to provide sufficient financial flexibility to meet future obligations, take advantage of opportunities, and avoid interest expense through use of excess reserves in lieu of debt; (ii) to enhance the financial position of the town in order to maintain the highest credit and bond ratings; (iii) to plan for contingencies in unforeseen revenue volatility and expenditures in the event of an emergency; (iv) to generate investment income that diversifies revenue streams and decreases reliance on taxes; and (iv) to ensure

---

[1] LGC Staff, *The Myth of 8% (LGC Staff Guidance on Fund Balance Available),* dated February 1, 2021, NCSTD LGC Blog posted at https://www.nctreasurer.com/blog/2022/07/11/myth-8-lgc-staff-guidance-fund-balance-available. Rachel Eddings utilized the sample policy in preparing the initial draft of the Fund Balance Police circulated to the town council.

[2] LGC Staff, Sample Fund Balance Policy entitled *Fund Balance Policy City of Dogwood* posted at https://www.nctreasurer.com/documents/files/slgfd/sample-fund-balance-policy-exhibit-e/download?attachment.

[3] LGC Staff, *The Myth of 8%,* op. cit. The LGC sample policy is also unclear in several important respects (such as, as discussed below, where it fails to clearly define the "Total Fund Balance" requirement it suggests be adopted).

adequate cash flow.[4] A copy of the sample policy is attached hereto as Exhibit "A".

The LGS sample policy provides for two different minimum fund balance requirements: (1) a minimum "Accessible Fund Balance" requirement, and (2) a minimum "Total Fund Balance" requirement.[5] Before addressing these two separate fund balance requirements, please note the following important definitional information. The term "fund balance" is used in local and state governmental accounting and is defined as the difference between a fund's assets and liabilities. Government Accounting Standards Board (GASB) Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, governs the descriptions used to report fund balance. The statement focuses on the "extent to which the government is bound to honor constraints on the specific purposes for which amounts in the fund can be spent" and breaks the total fund balance into five different components:

- Non-spendable fund balance. The non-spendable fund balance classification includes amounts that cannot be spent because they are either (a) not in spendable form (for example, inventories and prepaid amounts), or (b) legally or contractually required to be maintained intact.
- Restricted fund balance. The restricted fund balance classification includes amounts which can be spent only for specific purposes based on constraints (a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments, or (b) imposed by law through constitutional provisions or enabling legislation.
- Committed fund balance. The current fund balance classification includes amounts that can only be used for specific purposes pursuant to constraints imposed by a formal action of the government's highest level of decision-making authority.
- Assigned fund balance. The assigned fund balance classification represents amounts earmarked by the government for specific purposes (that is, constrained by an indication of the government's intent to be used for specific purposes) but not classified as restricted or committed.
- Unassigned fund balance. The unassigned fund balance classification is the residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been

[4] LGC Staff, Sample Fund Balance Policy, op. cit., p. 1.
[5] Id., p. 2.

restricted, committed or assigned to specific purposes within the general fund.[6]

The LGS sample policy does not define the "Total Fund Balance" requirement. But based on (i) a statement made in Memorandum #2022-04 from the Fiscal Management Section of the LGC[7], and (ii) our discussions with Kendra Boyle, Director of the Fiscal Management Section, this fund balance requirement is described in most LGC communications as "Fund Balance Available as a Percentage of General Fund Expenditures" or the "Fund Balance Available" requirement.[8] This calculation is made by taking the total of all five components of a town's total fund balance on the last day of such town's fiscal year and subtracting out the portion thereof that is not available for appropriation for the next fiscal year under NCGS 159-8(a).[9] Thus, the "fund balance available" component of Fund Balance Available as a Percentage of General Fund Expenditures is calculated as follows: the total fund balance less the portion thereof that is not available for appropriation for the next fiscal year under NCGS 159-8(a).[10]

---

[6] Government Accounting Standards Board, Government Accounting Standards Board Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, dated February 2009, p. 3-7, posted at https://gasb.org/document/blob?fileName=GASBS%2054.pdf.

[7] McCullen, Susan, NCSTD LGC Memorandum #2022-4, dated August 26, 2021, p. 6.

[8] The "Fund Balance Available requirement is discussed extensively in the "Fund Balance Available" section of NCSTD LGC Memorandum #2022-4. This and similar memorandums issued by LGC each year publish how towns throughout the state in various population categories rank each year in terms of fund balance available as a percentage of general expenditures, both with and without Powell Funds included in the calculation of the fund balance.

[9] Section 159-8 requires each municipality to adopt a balanced budget. The concept of "funds available for appropriation" is included in the statute to prevent municipalities from budgeting expenditures of reserves which do not constitute unencumbered cash or cash equivalents. Section 159-8(a) prohibits a town from including in any portion of the fund balances it appropriates in an annual budget balance which exceeds "the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year." The fund balance available for appropriation represents the maximum amount of reserve funds that can legally be appropriated for expenditure in the next fiscal year under section 159-8(a). This may include restricted funds, committed funds, assigned funds and unassigned funds.

[10] The portion of a municipality's fund balance that is not available for appropriation under section 159-8(a) is composed of what we might consider non-spendable funds. But it is listed in the "Restricted" funds category of the "Fund balances" section of a town's balance, under the label "Stabilization by State Statute", because the funds are restricted from being spent by section 159-8(a).

The "general fund expenditures" component of Fund Balance Available as a Percentage of General Fund Expenditures calculation consists of the actual general fund expenditures for the fiscal year leading up to the June 30 date on which the fund balance available is calculated.[11] Thus, the Fund Balance Available as a Percentage of General Fund Expenditures for a municipality in FY 2023-24 will be calculated as follows: (the total fund balance for the town's general fund as of June 30, 2024 less the portion thereof that was not available for appropriation in the FY 2024-25 budget pursuant to NCGS 159-8(a)) divided by the total actual general fund expenditures of the town for FY 2023-24.

The specific steps in our accountant's calculation of the Fund Balance Available as a Percentage of General Fund Expenditures are specified in a workbook promulgated by the LGC and are outlined in Exhibit "B" attached hereto. The workbook and Exhibit "B" calculate "Fund Balance Available as a Percentage of General Fund Expenditures" without Powell Bill funds. LGC Memorandum #2022-04 includes charts calculating Fund Balance Available as a Percentage of General Fund Expenditures both with and without Powell Bill funds. But as will be discussed below, the calculation without Powell Bill funds is the ratio we need to focus on. The workbook calculations expressly provide for debt services funds (which can be either restricted or unrestricted in nature depending on the terms of the debt) to be included in the calculation of the total Fund Balance Available and for debt service payments to be included in the calculation of total general fund expenditures. We confirmed with Becky Garland of the LGC that the LGC includes debt service funds in all its calculations of Fund Balance Available as a Percentage of General Fund Expenditures, whether they are calculated with or without Powell Bill Funds.

LGC Memorandum #2022-04 points out that funds included as "available funds" in the calculation of Fund Balance Available as a Percentage of General Fund Expenditures "may not be available to support all operations of a local government or may have been committed by the governing board."[12] This is because funds in the restricted fund balance and committed

---

[11] We confirmed this in our discussions with Kendra Boyle and through other sources. "General fund expenditures" for purposes of calculating the either actual general fund expenditures for the Fund Balance Available ratio or budgeted general fund expenditures for the Accessible Fund Balance ratio are defined as "total general fund expenditures including debt service but excluding 'Other Financing Sources and Uses'." See LGC Staff, Sample Fund Balance Policy, op. cit., p. 2.

[12] McCullen op. cit., p. 6.

fund balance are included in this calculation. These categories include funds which a town council would be legally prohibited from spending for needed emergency purposes because they are legally restricted and funds which have previously been committed for other uses by formal action of the governing body and may be difficult to utilize.[13]

"Accessible Fund Balance" is defined in the LGS sample policy as the total of the "assigned fund balance" and the "unassigned fund balance" (funds in the restricted fund balance and committed fund balance are not included).[14] All of the funds in the assigned and unassigned fund balance categories are readily available for use in furtherance of the emergency and other purposes for which the fund balance requirement was created.[15] Another key difference between the Accessible Fund Balance ratio and the Available Fund Balance ratio is that the Accessible Fund Balance ratio is calculated and applies prospectively, using the upcoming fiscal year's budgeted general fund expenditures.[16] A town's Accessible Fund Balance requirement for FY 2023-24 is calculated as follows: the sum of the assigned fund balance and the unassigned fund balance of the town as June 30, 2023 (the last day of FY 2022-23) divided by the total budgeted general fund expenditures of the town for FY 2023-24. Thus, an Accessible Fund Balance requirement serves as a limitation on the town's ability to budget expenditures.

Should the town of Montreat's Fund Balance Policy include one or both or the fund balance requirements discussed above? At the very least, we need to include the Fund Balance Available requirement in the town's policy. *The Myth of 8%* blog stresses that that there is neither a statutory requirement for a minimum fund balance nor an LGC requirement that the fund balance be any specific percentage. But LGC Memorandum #2022-4, in a section entitled "New Threshold for Fund Balance Available as Percentage of Expenditures Performance Indicator – beginning in Fiscal Year 2021," establishes certain "minimum thresholds" of Fund Balance Available as a Percentage of Expenditures for municipalities based on the amount of general fund expenditures of the municipality. Kendra Boyle clarified for us that these thresholds were based on "Fund Balance Available as a

[13] Government Accounting Standards Board op. cit., p. 4-5.
[14] LGC Staff, Sample Fund Balance Policy, op. cit., p. 1.
[15] Government Accounting Standards Board op. cit., p. 6-7.
[16] LGC Staff, Sample Fund Balance Policy, op. cit., p. 2. This was also confirmed in a telephone conversation with Becky Garland of the LGC.

Percentage of General Fund Expenditures" being calculated without Powell Bill funds. The chart provides as follows:

Gen. Fund Exp.	Min. Thresholds FBA as a % of Gen. Fund Exp. (without Powell Bill funds)
<$100M	100%
$100,000-$1,000,000	71%
$1,000,000-$10,000,000	34%
>$10,000,000	25% [17]

What is the potential impact of this minimum threshold? Kendra Boyle advised that "[t]he minimum threshold is the threshold that [if it is not met or exceeded] will result in a financial performance indicator of concern (FPIC). The existence of a FPIC will require the unit's staff and Council to conduct a closer review of the fiscal health of the unit to analyze the variable, trends and circumstances causing the concerning level, develop a plan to improve the FPIC and communicate that plan to LGC Staff." [18] Thus, the failure to meet the minimum threshold (the "FPIC Available Fund Balance Threshold") constitutes a financial performance indicator of concern the town will have to address with the LGC. Note that based on the above chart, which is still in effect and according to Kendra Boyle has not been amended, a 34% minimum FPIC Available Fund Balance Threshold is applicable to the Town of Montreat.[19]

Because the failure to meet the FPIC Available Fund Balance Threshold constitutes a "financial performance indicator of concern" and results in "a close review of fiscal health" by the LGC, basic prudence requires the town

[17] McCullen op. cit., p. 8.
[18] See also LGC Staff, *The Myth of 8%*
[19] We do not have any written record of a town fund balance policy, or even a record of a policy being formally adopted by the town. But it appears the ratio reported by our CPAs in our Annual Comprehensive Financial Reports is the Available Fund Balance requirement (except for the initial 2023 Annual Comprehensive Financial Report, which calculated the fund balance using an Accessible Fund Balance calculation). Kendra Boyle indicated the LGC asks municipal auditors to include a calculation of the Available Fund Balance ratio in Annual Comprehensive Financial Reports because the LGC collects and reviews these ratios. See McCullen op. cit. p.8. Our CPAs may have been calculating and reporting a fund balance ratio due to the LGC's request for the same rather than the existence of an adopted town policy.

council to establish an Available Fund Balance requirement (calculated without Powell Bill funds) of 34% or higher. Our current 35% fund balance requirement only slightly exceeds this 34% threshold.[20] Perhaps an increase in the 35% requirement should be considered for the Available Fund Balance ratio. We need to ensure we meet the applicable FPIC Available Fund Balance Threshold each year to avoid FPIC status or react promptly with corrective action if we have failed to meet the threshold.

Should Montreat's Fund Balance Policy include an Accessible Fund Balance requirement as well? Based on our discussion with Kendra Boyle, no specific fund balance requirement or requirements are required by the LGC to be included in a fund balance policy. Neither the Available Fund Balance requirement nor the Accessible Fund Balance requirement must be used. Local governments are able to develop their own fund balance formulas. For example, Buncombe County's fund balance policy provides for a "minimum unallocated general fund balance of between fifteen percent (15%) and twenty percent (20%) of the total actual expenditures and transfers," with the "unrestricted" fund balance consisting of the sum of the committed fund balance, the assigned fund balance and the unassigned fund balance.[21]

Sound arguments can be made that including an Accessible Fund Balance requirement in a town fund balance policy is an appropriate and fiscally conservative measure. First, an Accessible Fund Balance requirement operates prospectively and effectively creates a reserve of funds - unbudgeted funds in the general fund balance equal to the required percentage of budgeted expenditures for the upcoming year (for example, if Montreat has a 35% Accessible Fund Balance requirement and budgeted general fund expenditures of $2,000,000 for the upcoming fiscal year, at least $700,000 of allocated and unallocated fund balances cannot be included in budgeted expenditures for the fiscal year and cannot be spent by virtue of any amendment to the budget unless one of the criteria permitting expenditure of this reserve, such as damage to town infrastructure caused by a natural disaster, is met). Second, the "reserve" of unbudgeted funds created by the Accessible Fund Balance requirement consists of "accessible" funds, all of which can be used in furtherance of the purposes for which the

[20] LGC Memorandum #2022-4 indicates that for FY 2019-20, the statewide average fund balance available as a percentage of average expenditures was 52.67% for towns with a population of between 1,000 and 2,000 and 65.41% for towns with a population of between 500 and 999.

[21] Buncombe County General Fund Balance Policy (orig. eff. date 06-18-96; rev'd 08-07-12 and 08-04-20) online at https://www.buncombecounty.org/common/policies/General%20Fund%20Balance%20Policy.pdf.

fund balance policy is created. Finally, because an Accessible Fund Balance requirement operates prospectively as a limit on expenditures from the general fund, imposing the requirement can be helpful in preventing the town from failing to meet the LGC's FPIC minimum Available Fund Balance threshold.

EXHIBIT "A"

SAMPLE FUND BALANCE POLICY FROM LGC

EXHIBIT "B"

OUTLINE OF ACCOUNTANT WORKBOOK CALCULATIONS

A. Formula for Calculating Fund Balance Available as Percentage of Total Expenditures (Including Debt Service Fund but Excluding Powell Bill Funds):

Fund Balance Available (Including Debt Service Funds but Excluding Powell Bill Funds) ÷ Total Expenditures (Adjusted)

B. Formula for Calculating Fund Balance Available (Including Debt Service Funds and Excluding Powell Bill Funds) for purposes of FBA Ratio Calculation:

Sum of:	
Fund Cash and Investments – Unrestricted	_____
General Fund Cash and Investments – Restricted	_____
Excluding Powell Bill Restricted Cash	(_____)
Debt Service Fund Fund Balance	_____
Less:	
General Fund - Current Liabilities	(_____)
General Fund – Encumbrances	(_____)
General Fund – Deferred income from cash receipts	(_____)

Equals: Fund Balance Available (Including Debt Service Funds and Excluding Powell Bill Funds)

C. Formula for Calculating of Total Expenditures (Adjusted) for purposes of FBA Ratio Calculation:

General Fund - Total Expenditures	_____
Less adjustments:	
General Fund – Transfers Out	(_____)
General Fund – Issuance of capital leases and installment purchases	(_____)
Negative Debt Refunding	(_____)
Positive Debt Refunding	(_____)
Amount Expended for Powell Bill Expenditures in the General Fund	(_____)

Equals: Total Expenditures (Adjusted) for purposes of FBA Ratio Calculation

TOWN OF MONTREAT FUND BALANCE POLICY

(Alternative 1)

I INTRODUCTION

The Local Government Commission of the NC Department of State Treasurer (LGC) recommends that local governments develop a fund balance policy. The Town desires to adopt this Fund Balance Policy to comply with the LGC recommendation and establish an Available Fund Balance ratio requirement. The purposes of the Available Fund Balance ratio requirement are to (i) ensure the town begins each fiscal year with a fund balance sufficient to maintain liquidity during the times of the year when levels of incoming revenue are low, and (ii) ensure the Town exceeds the minimum Available Fund Balance ratio threshold applicable to the Town established by the LGC for its regulatory oversight purposes.

II AVAILABLE FUND BALANCE RATIO

The Town Board of Commissioners hereby establishes a policy requiring the "Available Fund Balance ratio" calculated at the end of each fiscal year to be an amount not less than _____ percent (___%) of actual general fund expenditures during such fiscal year. For purposes of this policy, the "Available Fund Balance ratio" shall be calculated in the same manner as it is calculated by the LGC for determining whether municipalities have met the Available Fund Balance minimum thresholds established by the LGC for financial oversight purposes (sometimes referred to by the LGC as "Available Fund Balance as a percentage of General Fund Expenditures without Powell Bill" or "Fund Balance Available for Performance Indicator"). Such manner of calculation is as follows: Available Fund Balance ratio equals (a) the total of (i) General Fund cash and investments – unrestricted, plus (ii) General Fund cash and investment – restricted, plus (iii) Debt Service Fund fund balance, less (iv) Powell Bill restricted cash, less (v) Current Liabilities – General Fund, less (vi) Encumbrances as of June 30 – General Fund, and less (vii) Unavailable or unearned revenues arising from cash receipts – General Fund, divided by (b) the total of (i) Total expenditures – General Fund, less (ii) Transfers out – General Fund, less (ii) Negative debt

refunding, less (iii) Issuance of capital leases and installment purchases – General Fund, less (iv) Positive debt refunding, and less (v) Powell Bill expenditures.

If it is determined at the conclusion of any fiscal year that the Available Fund Balance ratio is less the required level set forth in this policy, the Board of Commissioners shall adopt a plan to restore the Available Fund Balance ratio to the required level within thirty-six (36) months. Provided, however, if the restoration of the Available Fund Balance ratio to the required level cannot be completed in 36 months without severe hardship to the Town, the Board of Commissioners may adopt an alternative restoration plan.

IV ADMINISTRATION AND IMPLEMENTATION.

The Town Manager and Finance Officer are charged with carrying out this Fund Balance Policy. The Town Manager shall develop operating budgets that maintain the Available Fund Balance ratio in accordance with this policy. The Finance Officer shall maintain the Town's finances in compliance with this policy. The Town Manager and Finance Officer shall periodically review LGC directives and communications to ensure the Available Fund Balance ratio required by this policy meets or exceeds the minimum Available Fund Balance ratio threshold applicable to the Town established by the LGC.

DRAFT

TOWN OF MONTREAT FUND BALANCE POLICY

(Alternative 2)

I INTRODUCTION

The Local Government Commission of the NC Department of State Treasurer (LGC) recommends that local governments develop a fund balance policy to assist in cash flow management and help insure financial stability in the event of unforeseen circumstances. The LGC recommends two different fund balance ratio requirements be included in fund balance policies, an Available Fund Balance (as a percentage of actual total expenditures) ratio requirement and an Accessible Fund Balance (as a percentage of budgeted total expenditures) ratio requirement.

The purposes of the Available Fund Balance ratio requirement are to (i) ensure the town begins each fiscal year with a fund balance sufficient to maintain liquidity during the times of the year when levels of incoming revenue are low, and (ii) ensure the Town exceeds the minimum Available Fund Balance ratio threshold applicable to the Town established by the LGC for its regulatory oversight purposes. The purposes of the Accessible Fund Balance ratio requirement are to provide a reserve of accessible funds each fiscal year to (i) fund emergency expenditures in the event of a disaster, (ii) utilize for one-time expenditures that are for the long-term financial benefit of the Town, and (iii) provide resources to offset unforeseen revenue shortfalls.

II AVAILABLE FUND BALANCE RATIO REQUIREMENT

The Town Board of Commissioners hereby establishes a policy requiring the "Available Fund Balance ratio" calculated at the end of each fiscal year to be an amount not less than _____ percent (___%) of actual general fund expenditures during such fiscal year. For purposes of this policy, the "Available Fund Balance ratio" shall be calculated in the same manner as it is calculated by the LGC for determining whether municipalities have met the Available Fund Balance minimum thresholds established by the LGC for financial oversight purposes (sometimes referred to by the LGC as "Available Fund Balance as a percentage of General Fund Expenditures without Powell Bill" or "Fund Balance Available for Performance Indicator"). Such manner of calculation is as follows: Available Fund

Balance ratio equals (a) the total of (i) General Fund cash and investments – unrestricted, plus (ii) General Fund cash and investment – restricted, plus (iii) Debt Service Fund fund balance, less (iv) Powell Bill restricted cash, less (v) Current Liabilities – General Fund, less (vi) Encumbrances as of June 30 – General Fund, and less (vii) Unavailable or unearned revenues arising from cash receipts – General Fund, divided by (b) the total of (i) Total expenditures – General Fund, less (ii) Transfers out – General Fund, less (ii) Negative debt refunding, less (iii) Issuance of capital leases and installment purchases – General Fund, less (iv) Positive debt refunding, and less (v) Powell Bill expenditures.

If it is determined at the conclusion of any fiscal year that the Available Fund Balance ratio is less the required level set forth in this policy, the Board of Commissioners shall adopt a plan to restore the Available Fund Balance ratio to the required level within thirty-six (36) months. Provided, however, if the restoration of the Available Fund Balance ratio to the required level cannot be completed in 36 months without severe hardship to the Town, the Board of Commissioners may adopt an alternative restoration plan.

III ACCESSIBLE FUND BALANCE RATIO REQUIREMENT

The Town Board of Commissioners hereby establishes a policy requiring the "Accessible Fund Balance ratio" for each fiscal year (as calculated as of the start of such fiscal year) to be an amount not less than _____ percent (___%) of the budgeted general fund expenditures for the applicable fiscal year. For purposes of this policy, the "Accessible Fund Balance ratio" shall be calculated as follows: (a) the sum of (i) the Assigned fund balance – General Fund, plus (ii) the Unassigned fund balance – General Fund, as those amounts are shown on the Governmental Funds Balance Sheet as of the end of the preceding fiscal year, divided by (b) the budgeted general fund expenditures for the fiscal year. For purposes of this calculation, budgeted general fund expenditures shall be total budgeted general fund expenditures including debt service, excluding "Other Financing Sources and Uses" (e.g., capital leases and installment purchases).

That portion of Accessible Fund Balance which is equal to or below the required level may not be used except (i) in dire financial circumstances with the approval of the Board of Commissioners, to fund emergency expenditures in the event of a disaster or to provide resources to offset (in combination with expenditure reductions where possible) unforeseen revenue shortfalls, and (ii) to pay for one-time expenditures that are for the

long-term financial benefit of the Town (e.g., refinancing at lower interest rates and capital outlays on a "pay-as-you-go" basis to avoid significant financing costs).

When adopting an appropriation of Accessible Fund Balance that reduces the Accessible Fund Balance for the General Fund to be an amount less the required level set forth in this policy, the Board of Commissioners shall also adopt a plan to restore the Accessible Fund Balance to the required level within thirty-six (36) months. Provided, however, if the restoration of the Accessible Fund Balance to the required level cannot be completed in thirty-six (36) months without severe hardship to the Town, the Board of Commissioners may adopt an alternative restoration plan.

IV ADMINISTRATION AND IMPLEMENTATION.

The Town Manager and Finance Officer are charged with carrying out this Fund Balance Policy. The Town Manager shall develop operating budgets that maintain the Available Fund Balance ratio and the Accessible Fund Balance ratio in accordance with this policy. The Finance Officer shall maintain the Town's finances in compliance with this policy. The Town Manager and Finance Officer shall periodically review LGC directives and communications to ensure the Available Fund Balance ratio required by this policy meets or exceeds the minimum Available Fund Balance ratio threshold applicable to the Town established by the LGC.

DRAFT

TOWN OF MONTREAT FUND BALANCE POLICY

(Alternative 3)

I INTRODUCTION

The Local Government Commission of the NC Department of State Treasurer (LGC) recommends that local governments develop a fund balance policy to assist in cash flow management and help insure financial stability in the event of unforeseen circumstances. In compliance with the LGC's recommendation, the Town had adopted this Fund Balance Policy, which establishes an Available Fund Balance ratio requirement and an Accessible Funds reserve requirement.

The purposes of the Available Fund Balance ratio requirement are to (i) ensure the Town begins each fiscal year with a fund balance sufficient to maintain liquidity during the times of the year when levels of incoming revenue are low, and (ii) ensure the Town exceeds the minimum Available Fund Balance ratio threshold applicable to the Town established by the LGC for its regulatory oversight purposes. The purposes of the Accessible Funds reserve requirement are to provide a reserve of accessible funds each fiscal year to (i) fund emergency expenditures in the event of a disaster, (ii) utilize for one-time expenditures that are for the long-term financial benefit of the Town, and (iii) provide resources to offset unforeseen revenue shortfalls.

II AVAILABLE FUND BALANCE RATIO REQUREMENT

The Town Board of Commissioners hereby establishes a policy requiring the "Available Fund Balance ratio" calculated at the end of each fiscal year to be an amount not less than _____ percent (___%) of actual general fund expenditures during such fiscal year. For purposes of this policy, the "Available Fund Balance ratio" shall be calculated in the same manner as it is calculated by the LGC for determining whether municipalities have met the Available Fund Balance minimum thresholds established by the LGC for financial oversight purposes (sometimes referred to by the LGC as "Available Fund Balance as a percentage of General Fund Expenditures without Powell Bill" or "Fund Balance Available for Performance Indicator"). Such manner of calculation is as follows: Available Fund Balance ratio equals (a) the total of (i) General Fund cash and investments – unrestricted,

plus (ii) General Fund cash and investment – restricted, plus (iii) Debt Service Fund fund balance, less (iv) Powell Bill restricted cash, less (v) Current Liabilities – General Fund, less (vi) Encumbrances as of June 30 – General Fund, and less (vii) Unavailable or unearned revenues arising from cash receipts – General Fund, divided by (b) the total of (i) Total expenditures – General Fund, less (ii) Transfers out – General Fund, less (ii) Negative debt refunding, less (iii) Issuance of capital leases and installment purchases – General Fund, less (iv) Positive debt refunding, and less (v) Powell Bill expenditures.

If it is determined at the conclusion of any fiscal year that the Available Fund Balance ratio is less the required level set forth in this policy, the Board of Commissioners shall adopt a plan to restore the Available Fund Balance ratio to the required level within thirty-six (36) months. Provided, however, if the restoration of the Available Fund Balance ratio to the required level cannot be completed in 36 months without severe hardship to the Town, the Board of Commissioners may adopt an alternative restoration plan.

III ACCESSIBLE FUNDS RESERVE REQUIREMENT

For purposes of this policy, the term "Accessible Funds" means the total of funds included in the Assigned fund balance – General Fund and Unassigned fund balance – General Fund categories shown on the Governmental Funds Balance Sheet as of the end of each fiscal year. The Town Board of Commissioners hereby establishes a policy requiring that _____ _____Dollars ($ _____) (the "Required Reserve Amount") of the Accessible Funds at the end of each fiscal year shall not be subject to appropriation and expenditure during the immediately following fiscal year except (i) in dire financial circumstances with the approval of the Board of Commissioners, to fund emergency expenditures in the event of a disaster or to provide resources to offset (in combination with expenditure reductions where possible) unforeseen revenue shortfalls, and (ii) to pay for one-time expenditures that are for the long-term financial benefit of the Town (e.g., refinancing at lower interest rates and capital outlays on a "pay-as-you-go" basis to avoid significant financing costs).

If it is determined at the conclusion of any fiscal year that the total of Accessible Funds is less than the Required Reserve Amount, (i) the entire amount of Accessible Funds shall not subject to appropriation and expenditure during the immediately following fiscal year except the limited purposes provided for in the immediately preceding paragraph, and (ii)

the Board of Commissioners shall adopt a plan to restore the total of Accessible Funds at the conclusion of the following fiscal year to an amount exceeding the Required Reserve Amount.

IV ADMINISTRATION AND IMPLEMENTATION.

The Town Manager and Finance Officer are charged with carrying out this Fund Balance Policy. The Town Manager shall develop operating budgets that maintain the Available Fund Balance ratio and the Accessible Funds Required Reserve Amount in accordance with this policy. The Finance Officer shall maintain the Town's finances in compliance with this policy. The Town Manager and Finance Officer shall periodically review LGC directives and communications to ensure the Available Fund Balance ratio required by this policy meets or exceeds the minimum Available Fund Balance ratio threshold applicable to the Town established by the LGC. They shall also periodically review the Required Reserve Amount and recommend when appropriate that this policy be amended to increase the required amount due to inflation and other factors.

DRAFT

allen
stahl+
kilbourne

828.254.4778 | asklawnc.com
20 Town Mountain Rd., Suite 100
Asheville, NC 28801

DEREK J. ALLEN
Attorney at Law
dja@asklawnc.com
828-412-4026

ROBERT C. "BO" CARPENTER
Attorney at Law
bcarpenter@asklawnc.com
828-412-4022

February 23, 2024

Savannah Parrish
Town of Montreat
Savannah.parrish@tobm.org

Re: **Proposal to Provide Legal Services**

Dear Town Clerk:

The law firm of Allen Stahl + Kilbourne respectively submits this proposal to Montreat.

Background Information on ASK

Allen Stahl + Kilbourne is a dynamic, growing law firm that was born out of the joining of Dungan, Kilbourne and Stahl, a long-established Asheville law firm and Derek Allen, a veteran litigator, community leader, and land use attorney. Since formed in 2019, the Firm has grown from six attorneys to a roster of 16 highly skilled attorneys in a broad range of practice areas. The growth is a reflection of the Firm's commitment to client service and diligent representation. We pride ourselves on client satisfaction.

A significant portion of our practice involves the representation of developers and other individuals before local governmental entities. Derek Allen, in particular, has robust experience locally and statewide working with local government staff members and appearing before local governmental boards. He may have spent more time in local government meetings than any other local attorney.

Other attorneys in the Firm also have significant experience in governmental law. Robert "Bo" Carpenter has engaged in numerous litigation matters involving local governmental entities, specifically in the employment law realm. Clifton

Williams served for years as general counsel for UNCA and elsewhere in the state university system. The Firm is very comfortable representing municipalities and confronting the legal issues specific to municipalities and other governmental entities.

Another significant portion of the Firm's practice is advising and representing homeowners' associations. While the law governing HOAs may be different than municipal law, advising and representing HOA boards is similar to advising and representing municipalities. Each require attorneys to deftly handle contentious matters and complicated personal dynamics in a neutral, objective manner without taking sides. This skillset transfers well into representing municipalities where calm, objective advice is critical.

Finally, the Firm approaches the practice of law with a team mentality. Client tasks are assigned to attorneys best equipped to handle them. For example, an employment law or policing issue would be handled by Bo Carpenter while a complicated municipal law issue would be researched by Jesse Swords, who has experience and talent with that topic. The breadth of the Firm's practice areas enables the Firm to competently and expeditiously handle any legal issue that Montreat may have.

ASK Law Municipal Experience

ASK Law formally represented the Town of Lake Santeetlah. Attorneys regularly appear before and have been involved in litigation with many municipalities, counties, and other local governmental entities such as water and sewer authorities. Bo Carpenter recently served on the Buncombe County Board of Elections, a local board governed by state law. We have a wealth of experience in local government law.

Municipal law is well within the Firm's purview. We have ongoing, active matters with Asheville, Highlands, Weaverville, Woodfin, Waynesville, Bryson City, Hendersonville, Canton, and Mills River. Our typical municipal interaction includes all levels of the municipality from staff members to lower boards and up through and including the elected board. The Firm is intimately familiar with Chapter 160A and comfortable navigating local ordinances. Montreat would have a wealth of municipal experience at its disposal with ASK Law.

Proposal for Legal Needs

The Firm will have co-lead attorneys – Derek Allen and Bo Carpenter – who will be the primary points of contact for the Town. Town officials will have their cellphone numbers and be able to call them at any time. Both Derek and Bo endeavor to respond to inquiries quickly and are usually able to do so within 24 hours. The scope of their legal knowledge and experience often enables them to

answer legal questions quickly and efficiently. More robust work tasks will likely be assigned to the attorney best equipped to handle the task within the firm.

The Firm would charge a flat fee amount for the representation for "General Town Matters" as defined in the enclosed. Services outside routine services would be charged on an hourly rate. The flat fee amount would be $2,500.00 a month. The hourly rate would be a 20% discount on our normally hourly rate per the enclosed rate sheet with a cap of $350 an hour.

We very much appreciate the opportunity to submit this proposal and look forward to discussing how we can serve the Montreat community.

Robert C. "Bo" Carpenter
Partner

Derek J. Allen
Partner

Nature and Scope of Representation

Allen Stahl + Kilbourne ("the Firm", "we", "us" "our") agrees to provide the Town Montreat ("the Town", "you", "Client") legal advice in connection with General Town Matters. General Town Matters include general, transactional, and administrative matters pertaining to Town meetings of the Board of Commissioners, attendance at no more than two meetings a month of the Board of Commissioners, organization, governance, and authority; property rights and development; land use regulation; and other affairs arising from routine Town business. General Town Matters specifically does not include litigation, representation of the Board of Adjustment, administrative appeals, appeals to the North Carolina Appellate Courts, significant ordinance drafting (or similar work), or bond related matters. Any additional representation beyond that which is set forth herein will require a separate Engagement Agreement.



RATE SHEET

		Town rate
Derek J. Allen	$495/hr	$350/hr*
Jeffrey K. Stahl	$375/hr	$300/hr*
James W. Kilbourne, Jr.	$400/hr	$320/hr*
Robert C. "Bo" Carpenter	$365/hr	$292/hr*
Robert E. Dungan	$400/hr	$320/hr*
Megan Farley	$325/hr	$256/hr*
Charles E. Flowers, III	$350/hr	$280/hr*
Eric Clifton Williams	$325/hr	$256/hr*
Jesse M. Swords	$310/hr	$248/hr*
Alicia E. Sessoms	$250/hr	$200/hr*
Hannah Michalove	$300/hr	$240/hr*
Scott K. Burger	$350/hr	$280/hr*
Matthew Giangrosso	$265/hr	$212/hr*
Andrew F.O. Wright	$250/hr	$200/hr*
Elizabeth Thompson	$300/hr	$240/hr*
Madison V. Thornton	$285/hr	$228/hr*
Christopher G. Lewis	$375/hr	$300/hr*
Paralegals	$175- $190/hr	$140- $152/hr*

** 20% Discounted Rate - Not to exceed $350/hr for Town of Montreat*

Allen Stahl + Kilbourne | 20 Town Mountain Road, Asheville, NC 28801 | www.asklawnc.com

DEREK J. ALLEN

CO-MANAGING PARTNER



(828) 254-4778 office
(828) 412-4026 direct
dja@asklawnc.com

Derek is a leader in Alcoholic Beverage Law, Real Estate Development, and Zoning and Land Use. He has extensive experience with craft breweries ranging in size from small startups to those with international distribution. His practice includes representation of craft breweries, wineries, and distilleries in a wide range of permitting, regulatory, and trade issues.

Additionally, Derek has experience in all aspects of civil litigation, including depositions, hearings, mediations, arbitrations, jury trials, and appeals. He advises clients and litigates cases involving all forms of commercial, business, development, and real property disputes in state and federal courts. He has litigated numerous matters concerning land use issues at the trial and appellate levels. Derek also has experience litigating corporate and partnership disputes before the North Carolina Business Court. He routinely appears in front of city and county governmental bodies.

Derek also works with other regulated industries, including the hemp and CBD markets, both in North Carolina and beyond. He regularly partners with hemp farmers, processors, extractors, product manufacturers, wholesalers, distributors, and retailers to address their unique legal needs. Derek also assists indirect industry participants, including brokers, consultants, marketing agencies, lenders and financial institutions, and other suppliers and vendors in this quickly changing market space.

Awards:

- AV® Preeminent Rated since 2010
- "Lawyer of the Year," *The Best Lawyers in America®*, Land Use & Zoning Law, Litigation - Land Use & Zoning, 2015, 2020
- "Best Lawyer," The Best Lawyers in America®, Land Use & Zoning Law, Litigation - Land Use & Zoning, 2010-2023
- "Super Lawyer," *North Carolina Super Lawyers*, 2010-2011, 2019-2023
- "Rising Star," *North Carolina Super Lawyers*, 2009-2011

Areas of Practice

- Craft Beverage
- Food and Hospitality
- Commercial Litigation
- Land Use and Zoning
- Local Government Administration

Bar Admissions

- North Carolina, 1997
- U.S. Court of Appeals, 4th Circuit
- U.S. District Court, Eastern District of North Carolina
- U.S. District Court, Middle District of North Carolina
- U.S. District Court, Western District North Carolina

Education

- J.D., The University of North Carolina School of Law, 1997
- B.A., Political Science and History, *magna cum laude*, with distinction, The University of North Carolina Asheville, 1993

Packet Page 104

- The Business Journal of the Triad, 40 Leaders Under Forty Award, 2005
- "Legal Elite," *Business North Carolina*, Young Guns 2007-2008, Real Estate 2010-2013, Litigation 2022-2023

Professional Associations and Memberships:

- North Carolina State Bar
- Asheville Area Chamber of Commerce
- Leadership Asheville Alumnus, Class XXIX
- Asheville Brewers Alliance, Board Member
- Asheville Buncombe Regional Sports Commission, Board Member 2012-2018
- Buncombe Bar
- Brewers Association Associate Member
- Community Associations Institute
- Diana Wortham Theatre, President 2019, Member, Board of Directors
- LEAF, President 2018-2019, Member, Board of Directors
- North Carolina Bar Association
- Committee: Arts, Entertainment & Sports Law Committee, Former Chair
- Sections: Litigation; Zoning, Planning and Lane Use, Former council member
- North Carolina Craft Museum, Board Member
- North Carolina Creditors Bar Association
- North Carolina Economic Developers Association
- The University of North Carolina at Asheville Foundation Board, Member, Executive Committee
- United Way of Asheville and Buncombe County, Member, Board of Directors
- Western North Carolina Green Building Council, Board Member

ROBERT C. CARPENTER

PARTNER



(828) 254-4778 office
(828) 412-4022 direct
bcarpenter@asklawnc.com

Bo has developed a uniquely diverse practice where he has garnered significant experience in a variety of distinct practice areas. His diverse areas of practice reflect his personal journey as a WNC native with little exposure beyond these mountains, to someone who studied abroad in Japan and Korea, volunteered with AmeriCorps in five different states from California to Minnesota, and spent his early 20s living in Washington, D.C.

The throughline between his personal and professional life is a strong desire to help those in need and tackle the most complex of issues. He has proven this ability with both the individual client confronting a difficult issue or facing personal turmoil, as well as for the multi-million-dollar business client in high stakes commercial litigation.

While he is honored to be consistently selected by his peers for the Legal Elite and Super Lawyer recognitions, he takes the most pride in diligently serving his clients. He strives for excellence in all aspects of the representation, from responding quickly to client communications, to drafting superior legal briefs, and for everything else in between. He enjoys a job well done.

Bo continues to maintain a comprehensive legal practice that includes a healthy mix of litigation matters and advising and helping small businesses. He lives on the side of a mountain in the Fairview area with his wife, three daughters, and plethora of cats and dogs.

Awards:

- "Legal Elite," *Business North Carolina*, Employment Law
- "Super Lawyer," *North Carolina Super Lawyers*, General Litigation and Employment Law, 2021-2023
- "Rising Star," *North Carolina Super Lawyers*, 2013-2019
- "Best Lawyer," *The Best Lawyers in America©*, Litigation - Construction, 2024
- AV® Preeminent Rated since 2023

Areas of Practice

- Employment Law
- Railroad Law
- Land Use and Zoning
- Local Government Administration
- Medical Records Privacy
- General Litigation
- Small Business General Counsel

Bar Admissions

- North Carolina
- U.S. District Court Western District of North Carolina
- U.S. Court of Appeals for the Fourth Circuit
- Eastern Cherokee Tribal Court

Education

- J.D., Campbell University, Normal Adrian Wiggins School of Law, 2007
- B.A., Political Science, Wake Forest University, 2001

Packet Page 106

- 2018 Buncombe County Bar Attorney Volunteer of the Year
- North Carolina Pro Bono Honor Society

Professional Associations and Memberships:

- Buncombe County Bar (28th Judicial District), Treasurer, 2014-2017, Pro Bono Committee, 2018-2022
- North Carolina State Bar
- Police Benevolent Association (referral attorney)
- Buncombe County Board of Elections - September 2021 to the present
- Our Voice Board of Directors, 2015-2019, President, 2017-2019, Vice President, 2016-2017, Treasurer, 2015-2017
- Pisgah Legal Services, MAVL Volunteer, Hotline Volunteer

ERIC CLIFTON WILLIAMS

PARTNER



(828) 254-4778 office
(828) 575-5242 direct
cwilliams@asklawnc.com

Clifton began his legal career in 2010 while working in the Raleigh area, with initial practice focus in criminal law, personal injury, estate planning and general business matters. Clifton then went into public service, working in various in-house legal roles within the University of North Carolina System for about 10 years. While there, he developed extensive experience with many aspects of higher education law, including land use and development, unified development ordinance (UDO)/zoning compliance, procurement and contract negotiation, public records, employment law, policing, Title IX and student discipline and numerous other areas of federal/state law compliance. Since joining Allen Stahl + Kilbourne in 2020, Clifton focuses his practice on higher education law, employment law, corporate work, real estate and other general business areas.

Clifton received his B.S. in Criminal Justice from Appalachian State University in 1996, and his law degree from North Carolina Central University in 2009. He served 10 years in the United States Army, leaving Army service after achieving the rank of major. While in Army service, Clifton was a qualified Army paratrooper and participated in airborne training operations with the 82nd Airborne Division and 3rd Special Forces Group. After military service, Clifton worked in the retail management and banking/finance sectors with two nationally-recognized companies, both with significant operations in North Carolina, before starting his legal career.

Clifton and his family are thrilled to have lived in Asheville since 2014, and enjoy hiking on the Blue Ridge Parkway and in Pisgah National Forest.

Military Service:

- United States Army
- 10 years in the U.S. Army Transportation Corps, focusing on multifunctional logistics management (air, land and water). Served at multiple posts including Ft. Carson, Colorado and Ft. Bragg, North Carolina

Areas of Practice

- Education
- Employment Law
- Business/Commercial
- Real Estate
- Land Use and Planning
- Estate Planning and Administration
- Landlord/Tenant

Bar Admissions

- North Carolina
- U.S. District Court, Western District of North Carolina
- U.S. Court of Appeals 4th Circuit

Education

- J.D., North Carolina Central University School of Law, 2009
- B.A., Appalachian State University, 1996

JESSE M. SWORDS

ATTORNEY



(828) 254-4778 office
(828) 575-5248 direct
jswords@asklawnc.com

Jesse received his B.A. from Emory University in 2006, and his J.D., with honors, from the University of North Carolina School of Law in 2017. In between, he spent time working in the bicycle industry, which is what brought him to Asheville in 2012.

Jesse has represented clients across Western North Carolina in a wide variety of land use matters and civil litigation matters. His litigation work has included professional liability, large and small construction defect cases, contract disputes, employment matters, and governmental immunity, to name a few. In the land use area, he has worked with clients large and small to obtain special use permits and re-zonings and has also guided clients and local governments through complex ordinance interpretation issues.

In addition to his land use and litigation work, Jesse has assisted clients with formation of LLCs and non-profit corporations. He is currently serving on the Board of Directors of the Asheville Museum of Science.

Jesse chooses to call Asheville home because he loves the energy and ingenuity of the local community, and he loves the mountain setting. Outside of work, you can find him mountain biking or hiking on the trails surrounding town or strolling with his family to a neighborhood coffee shop, bakery, or pizza place.

Areas of Practice

- Litigation
- Land Use and Zoning
- Real Estate Litigation
- Business/Commercial

Bar Admissions

- North Carolina
- U.S. District Court, Western District of North Carolina
- U.S. District Court, Middle District of North Carolina
- U.S. District Court, Eastern District of North Carolina

Education

- J.D., University of North Carolina School of Law, 2017
- B.A., Emory University, 2006

Professional Associations and Memberships:

- North Carolina State Bar
- North Carolina Bar Association
- Buncombe Bar

Awards:

- "Ones to Watch", *The Best Lawyers in America®*, Commercial Litigation, 2022-2024, Corporate Law & Insurance Law 2023-2024, Land Use & Zoning Law, 2024

Packet Page 109