



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: July 13, 2022
Re: **Board of Adjustment Meeting – July 25, 2022**

Applicants:

You or a representative **MUST** attend the meeting to have the matter considered.

Members of the Board of Adjustment & staff may visit each property prior to the meeting. If this occurs, the property owner will be notified beforehand and asked if they approve the visit.

Neighbors:

You are receiving this notice because your property is adjacent to an applicant on this month's agenda.

You may review applications & plans for the projects on this agenda at <http://www.biltmoreforest.org/board-of-adjustments>

You are invited to attend the scheduled meeting at the Town Hall and make comment when called upon.

Additional information regarding the meeting will be provided on the Town's website no later than July 20, 2022.

*****PROPOSED AGENDA*****

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, July 25, 2022 at 4:00 pm via Zoom. A link for the Zoom meeting is found on the following page.

1. The meeting will be called to order and roll call taken.
2. The minutes of the June 27, 2022 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: Undeveloped Parcel ID 9646-43-5152 (Cedar Hill Drive)
Revised application for new, single-family home construction and request for landscaping plan approval.

Case 2: 398 Vanderbilt Road – Special use permit request for accessory structure within side yard (ground-mounted solar array)

Case 3: 23 Eastwood Road – Appeal request for variance to encroach into side yard setback with terraced retaining wall.

4. Adjourn

Topic: Biltmore Forest Board of Adjustment Meeting

Time: Jul 25, 2022 04:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/88996769916?pwd=M2tVWms1MVJ3NGhUSCt6amYyMS9FZz09>

Meeting ID: 889 9676 9916

Passcode: 958664

One tap mobile

+13017158592,,88996769916#,,,,*958664# US (Washington DC)

+13126266799,,88996769916#,,,,*958664# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 646 931 3860 US

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 408 638 0968 US (San Jose)

+1 669 444 9171 US

Meeting ID: 889 9676 9916

Passcode: 958664

Find your local number: <https://us02web.zoom.us/u/kmeXfHTpZ>

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, JUNE 27, 2022

The Board of Adjustment met at 4:00 p.m. on Monday, June 27, 2022 via Zoom.

Mr. Greg Goosmann, Ms. Lynn Kieffer, Mr. Robert Chandler, Mr. Lowell Pearlman, Ms. Martha Barnes, and Ms. Rhoda Groce were present. Mr. Jonathan Kanipe, Town Manager, Mr. Harry Buckner, and Mr. William Clarke, Town Attorney were also present.

Chairman Goosmann called the meeting to order at 4:21 p.m.

Chairman Goosmann swore in the following:

Mr. Jonathan Kanipe

Ms. Lauren Arsuffi

Mr. R.J. Cray

Ms. Maki Goskowicz

Ms. Tara Off

Mr. Robert Anderson

Mr. Sean Sullivan

Mr. Scott Bartholomew

Mr. Anthony Adams

Ms. Mary Ann James

A motion was made by Ms. Rhoda Groce to approve the minutes from May 16, 2022. Ms. Lynn Kieffer seconded the motion. Roll call was taken, and the minutes were unanimously approved.

HEARING (Evidentiary):

A Special Use Permit is requested for 14 Eastwood Road for installation of a driveway retaining wall. Mr. Robert Chandler is shepherding the matter. The applicants were unavailable, so Mr. Kanipe discussed the matter. This will improve drainage issue. The walls will be constructed of brick which match with the existing house. There are no setback or front house issues. Mr. Kanipe said it is out of the five-foot right-of way. The Northern side of the entrance is the only area affected. The wall on the east side of the drive would be dependent on the arborist determining whether the wall would damage the tree roots.

DELIBERATION AND DETERMINATION:

Mr. Chandler recited the facts, the matter is in compliance with the Town. Mr. Chandler wanted to make sure the four trees will not be damaged once this wall is installed.

Ms. Lynn Kieffer made a motion to have a Special Use Permit granted to Sammie and David Bevan. The wall on the East side be contingent on the arborist checking to make sure it would not endanger the existing tree roots and the facts as accepted by Robert Chandler and his summation be findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Ms. Kieffer further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she is to report to the Zoning

Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The motion was seconded by Mr. Lowell Pearlman. Roll call was taken and was unanimously approved.

HEARING (Evidentiary):

A Special Use Permit was requested for 24 Amherst Road for installation of an accessory structure(playground) in the side yard. Mr. Pearlman shepherded the matter. Ms. Lauren Arsuffi discussed the project. There is no encroachment on the setback. Mr. Pearlman asked if a neighbor asked for buffering, would they be willing to buffer additionally. Ms. Arsuffi said yes.

DELIBERATION AND DETERMINATION:

A motion was made by Mr. Robert Chandler for a Special Use Permit for Ms. Lauren Arsuffi for installation of an accessory structure(playground) and the facts as recited by Lowell Pearlman be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Mr. Chandler further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3)of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can

determine that the project has been completed in accordance with plans submitted to the Town. Rhoda seconded. Roll call was taken and unanimously approved.

HEARING (Evidentiary):

A Special Use request for construction of a detached accessory building(greenhouse) in the rear yard at 9 Forest Road for Maki Goskowicz. The greenhouse will be less than 750 square feet. Ms. Barnes shepherded the matter. Ms. Barnes asked about the lighting for the greenhouse. Mr. R.J. Cray said the lighting will not be an issue and is very minimal. A few trees will need to be removed. They would like to create a quiet, private space for the greenhouse area. The homeowners agreed to buffer additionally if needed. There will be a 45,000 btu heater as well as some fans. The fans do not run at night and are quieter than a standard outdoor unit. There were no objections from neighboring property owners. Ms. Off a neighboring property owner asked which trees will be removed. This was shown in the site plan and explained by Mr. Cray.

DELIBERATION AND DETERMINATION:

Ms. Barnes restated the facts stating Maki Goskowicz is requesting a Special Use Permit for construction of a greenhouse in the rear yard. It will be less than 750 square feet. The owner has agreed to provide additional buffering if requested by neighboring property owners. There are no lighting or noise issues. The Tree Protection Ordinance will also be followed.

Ms. Groce made a motion that the Special Use Permit as requested be granted to Maki Goskowicz for construction of a greenhouse in the rear yard and the facts as recited by Ms. Barnes and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Ms. Groce further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the

plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The motion was seconded by Mr. Chandler. Roll call was taken and unanimously approved.

HEARING (Evidentiary):

A Variance request to change the front yard determination from Hendersonville Road to Browntown Road with undeveloped parcel ID 9646-99-9306. Ms. Lynn Kieffer shepherded the matter. Mr. Robert Anderson asked if the driveway could face Browntown Road. Ms. Kieffer said it would be safer having it on Browntown Road but asked Mr. Anderson to be cognizant of the Department of Transportation rules. Mr. Buckner said ideally you don't have two intersections within one hundred feet of each other. There is a significant safety concern with a driveway coming off Browntown Road with regards to stacking distance off Browntown Road. Ms. Kieffer wanted Mr. Anderson to be aware of this. Mr. Clarke said turning right or left on Hendersonville Road is unsafe and this is something that needs to be considered.

DELIBERATION AND DETERMINATION:

Ms. Kieffer restated the facts and said Robert Anderson of 4 Browntown Road owns the undeveloped parcel 9646-99-9306 which has 197 feet of footage off Hendersonville Road and 108 feet of footage off Browntown and he is requesting a Variance to have the egress access

Browntown instead of Hendersonville Road. Mr. Anderson is aware that the driveway will need to be extremely close to his existing driveway at 4 Browntown Road.

Mr. Pearlman made a motion that the Variance as requested be granted to Mr. Robert Anderson with undeveloped parcel 9646-99-9306 which is adjacent to 4 Browntown Road for possible new home construction and the facts as recited by Lynn Kieffer and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Further he moved by granting this Variance satisfies the applicable Sections of 153.110(D) and paragraphs one through four and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in this case, result in a practical difficulty or unnecessary hardship. He further moved the Board to find the spirit of the ordinance would be observed, public safety and welfare secured, and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Ms. Rhoda Groce seconded the motion and roll call was taken and unanimously approved.

HEARING (Evidentiary):

The next matter discussed is a variance request to exceed maximum roof coverage and variance request to encroach the side yard setback at 37 Hilltop Road. Mr. Anthony Adams, homeowner, was present as well as Mr. Scott Bartholomew who is over the project. Ms. Martha Barnes shepherded the matter. Mr. Bartholomew said the homeowners would like to renovate the exterior of their house along with some interior renovations. They would like to change the roofing, siding, windows, front porch design, and remodel the kitchen and laundry room. They currently have a very narrow screened in porch and they would like to expand this as well. They have a very small closet in the master suite, and they are going to make this larger and also

renovate their master bathroom. Ms. Barnes asked about the roof coverage ordinance and said the house predates this zoning ordinance. Mr. Kanipe said the portion of the zoning ordinance updated in 2007. This house was built in 1965.

Mr. Clarke asked by what percentage does the roof coverage exceed this with the additions. Ms. Barnes said it would be 11.3 over which is approximately 6% over. Ms. Barnes said in the past, the Board has allowed overages with existing houses (not new construction houses). Mr. Clarke said what the Board has allowed in the past is 10% or less. Mr. Clarke asked about the encroachment in the side yard setback. Mr. Bartholomew said the house is not square with the side of the lot. The front of the house is within the setback significantly. As you go back, the current structure is non-compliant by 3' 9.25". Extending that, it would encroach further to 5' 2.5". Mr. Clarke said given the fact the house was built before the zoning ordinance; this would justify the granting of a variance. Mr. Clarke said 1.5' is acceptable.

No trees will be taken down or clearing of land. Ms. Barnes said when the town plan was done, the number one complaint was the Board is not consistent with enforcing ordinances. Mr. Clarke said the state law provides variances and said he is very comfortable with what they are doing with this house. Mr. Chandler asked if there were any comments from neighbors. Mr. Kanipe said he has not received anything. A neighbor at 39 Hilltop asked for the plans but has not heard anything from this. Ms. Barnes asked if additional screening were requested from the neighbors, would they be willing to buffer. Mr. Adams said yes. Ms. Kieffer understood the reason why he would like to update the home and agreed with the plans.

DELIBERATION AND DETERMINATION:

Ms. Barnes restated the facts and said Anthony and Deborah Adams of 37 Hilltop Road are requesting two Variances. The first Variance is to exceed maximum roof coverage because they are adding on to their existing screened in porch and existing master bedroom. The second Variance is because they will be encroaching on the side yard setback because of the

way the house is set. They will be over the maximum roof coverage by 11.3% but when you look at the house it is unobtrusive. They will add buffering if the neighbors request it.

Ms. Kieffer moved that two Variances as requested be granted to Anthony and Deborah Adams of 37 Hilltop Road to exceed maximum roof coverage and to encroach within the side yard setback and the facts as recited by Martha Barnes and her summation be accepted as findings and facts to support this grant. The Board has inspected the site and no neighboring property owner has objected. Further she moved by granting this Variance satisfies the applicable Sections of 153.110(D) and paragraphs one through four and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in this case, result in a practical difficulty or unnecessary hardship. She further moved the Board to find the spirit of the ordinance would be observed, public safety and welfare secured, and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Ms. Groce seconded the motion. Role call was taken and unanimously approved.

HEARING (Evidentiary):

The next matter is for 100 Stuyvesant Road which is a Variance to exceed maximum roof coverage for an accessory building and a Special Use Permit to construct a detached accessory building and breezeway.

DELIBERATION AND DETERMINATION:

Chairman Goosmann said he spoke with the owner at the site and the owner requested this matter be tabled for one month because they would like to redesign their proposal and be compliant for next month.

HEARING (Evidentiary):

The last matter discussed was Undeveloped Parcel ID 9646-43-5152 (Cedar Hill Drive) for a variance to exceed maximum roof coverage and to encroach the side yard setback associated with new home construction, and a Special Use Permit request for swimming pool construction. Mr. Robert Chandler shepherded the matter. Mr. Sean Sullivan represented the owners, Bill and Hope Ross. They were able to work out the issue with the side setback variance and can present that next month. Mr. Sullivan would like to discuss the Special Use Permit for the swimming pool construction. Mr. Sullivan said they have designed a pool to be directly behind the center mass of the house. It is integrated into a patio, so it is not visible from the street. It has required safety guard rails and gates around it, so they are not aware of any safety concerns.

Ms. Barnes asked about what the lighting will be like around the pool area. Mr. Kanipe said the lighting is usually reviewed by the Design Review Board as part of their home review. Mr. Sullivan said right now there is a covered porch and there will be lighted wall sconces on the covered porch. Mr. Sullivan is not aware of any other lighting that will be on that patio.

Ms. James asked about the Variance request. Chairman Goosmann said they may redesign the garage area. Ms. James said there is a drainage problem in this area as well and wanted this noted. Ms. James said with the amount of construction that will be going on will dump a lot more water in that area and she is concerned about the drainage issues that may occur. These matters will be addressed at next month's meeting regarding the Variance.

DELIBERATION AND DETERMINATION:

Mr. Chandler recited the facts. This is a Special Use request for a swimming pool construction at Cedar Hill Drive parcel ID 9646-43-5152 for Bill Ross. The swimming pool will be located in the rear yard and does not encroach on any setbacks. This will not be visible to neighbors and people driving by.

A motion was made by Ms. Groce to grant a Special Use Permit to Bill Ross, parcel ID 9646-43-5152 on Cedar Hill Drive for a swimming pool located in the rear yard which does not encroach upon the setback and the facts as recited by Robert Chandler and his summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Ms. Groce further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The matter was seconded by Ms. Lynn Kieffer. Roll call was taken and was unanimously approved.

Chairman Goosmann adjourned the meeting at 5:59 pm. The next Board of Adjustment meeting is scheduled for Monday, July 25, 2022 at 4:00 pm.

ATTEST:

Greg Goosmann

Chairman

Laura Jacobs

Town Clerk

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

July 25, 2022



**Case 2 – Undeveloped Parcel ID 9646-43-5152
(Cedar Hill Drive)**

**New Single-Family Residence
Landscape Plan Review**

Property Owner: Bill Ross
Property Address: Undeveloped Parcel ID 9646-43-5152 - (Cedar Hill Drive)

Project Description

This application was presented during last month's Board of Adjustment meeting. During that meeting, the applicant withdrew their request for review of the landscaping plan and new home that included variances for encroaching the side yard setback and exceeding the maximum roof coverage.

This revised home plan shows there is no longer an exceedance of roof coverage nor an encroachment into the setbacks. As a result, the only review necessary from the Board of Adjustment is for the landscaping plan and associated tree removal.

Plan Changes

In order to eliminate the need for variance requests, the applicants have reoriented the garage doors. The doors now face the public road which is permissible under North Carolina state law. Due to this change, retaining walls that previously encroached into the side yard are no longer necessary. The applicants believe this design change will also rectify any potential drainage issues with neighbors to the west of their property.

Special Use Permit

A special use permit for the swimming pool was issued by the Board of Adjustment during last month's meeting. This is no longer a matter for the Board to consider.

Zoning Compliance Application

Town of Biltmore Forest

Name

Bill Ross

Property Address

964643515200000 (PIN) no house or lot number

Phone

(717) 201-4448

Email

bill@rossinsuranceagency.com

Parcel ID/PIN Number

964643515200000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.09 acres

Maximum Roof Coverage

5,060 square feet (Up to 1.2 acres)

Proposed Roof Coverage Total

5,007sq.ft.

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

10,511sq.ft.

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

Building Height

36'7"

Description of the Proposed Project

New Single Family Custom Home

Estimated Start Date

8/15/2022

Estimated Completion Date

2/5/2024

Estimated Cost of Project

\$2,900,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

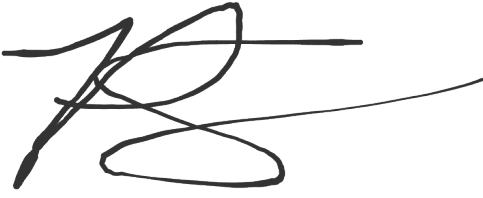
Ross Residence Pricing Set 07.07.2022.pdf

Ross_Final_Plans_ALL.pdf

Ross pool selection list.pdf

Ross Pool selections.pdf

Applicant Signature

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Date

7/11/2022

Name/Notes	Date
Site Plan for Submittal to the DRB	11/17/2021
Site Plan Revisions for Re-submittal to the DRB	01/10/2022
Final Plans for submittal to the DRB	05/31/2022
Revised Final Plans per DRB comments	07/11/2022

ROSS RESIDENCE
Town of Biltmore Forest, NC 28803
Cedar Hill Drive, PIN# 9646-43-5152

Sheet Title:

**SITE &
GRADING PLAN**

Sheet Number:

L-1.0

LEGEND

- APPROXIMATE LIMIT OF DISTURBANCE (28,558 SF)
- SILT FENCE PER TOWN OF BILTMORE FOREST STANDARDS
- TREE PROTECTION FENCE PER TOWN OF BILTMORE FOREST STANDARDS
- DRAINAGE FLOW DIRECTION
- EXISTING CONTOUR
- PROPOSED CONTOUR
- PROPOSED SPOT GRADE
TW TOP OF WALL
BW BOTTOM OF WALL
- LANDSCAPE BOULDERS
- CMU WALL W/ STONE OR STUCCO VENEER TO COMPLIMENT ARCHITECTURE
- POOL FENCE TO COMPLIMENT ARCHITECTURE (SEE PLAN LABEL FOR SPECIFICATION)
- PATIO DRAIN
- CULVERT
- PATIO DRAIN COLLECTION PIPE
- SHOVEL DUG LANDSCAPE EDGE
- TEMPORARY CONSTRUCTION MUD MAT PER STATE OF NORTH CAROLINA STANDARDS
- 4'-6" DIA. RIVER COBBLE OVER FILTER FABRIC
- ASPHALT
- INTEGRALLY COLORED AND STAMPED CONCRETE; COLOR TO BE CHOSEN BY OWNERS
- PAVERS TO COMPLIMENT ARCHITECTURE
- WOOD MULCH PLANTING BED AND PATH
- SOD
- EXISTING TREES TO BE SAVED, PROTECTED, & COUNTED TOWARDS STREET TREE REQUIREMENT
- EXISTING TREES TO BE SAVED

R1 DISTRICT DIMENSIONAL REQUIREMENT CHART

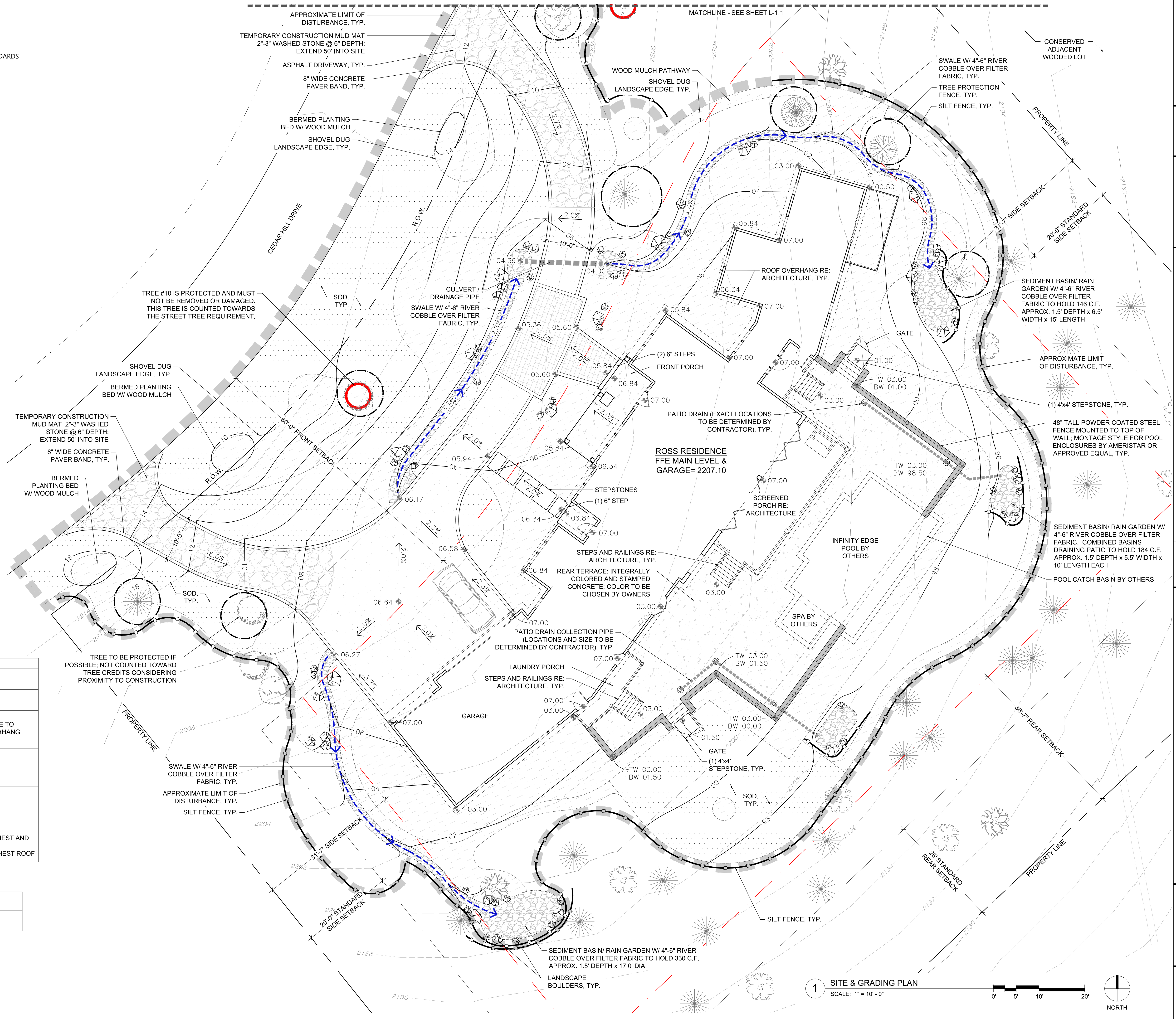
REQUIREMENT	PROVIDED
MINIMUM LOT AREA	43,560 SQ. FT. (1.00 ACRE) / 47,480 SQ. FT. (1.09 ACRES)
MINIMUM LOT WIDTH AT BUILDING LINE	150 L.F. / 240 L.F.
FRONT YARD SETBACK (FROM STREET)	60' / 66' FROM PROPERTY LINE TO CLOSEST ROOF OVERHANG
SIDE YARD SETBACK	20'-0" + 1'-6" FOR EVERY 1'-0" THE BUILDING HEIGHT IS OVER 25'-0" = 31'-7" / 36'-6" FROM PROPERTY LINE TO CLOSEST ROOF OVERHANG
REAR YARD SETBACK	25'-0" + 1'-6" FOR EVERY 1'-0" THE BUILDING HEIGHT IS OVER 25'-0" = 36'-7" / 86'-5" FROM PROPERTY LINE TO CLOSEST ROOF OVERHANG
HOUSE HEIGHT	40' OR LESS / 36'-7" AVERAGE FROM HIGHEST AND LOWEST GRADES AT FOUNDATION TO HIGHEST ROOF

ROOF COVERAGE COMPLIANCE

MAX. COVERAGE ALLOWED	PROVIDED
LOT SIZE CATEGORY: UP TO 1.2 ACRES	5,060 SQ. FT. / 5,007 SQ. FT.

IMPERVIOUS SURFACE COVERAGE COMPLIANCE

MAX. COVERAGE ALLOWED	PROVIDED
LOT SIZE CATEGORY: OVER 1 ACRE TO 3 ACRES	11,979 SQ. FT. OR 25% OF LOT AREA / 10,511 SQ. FT.



1 SITE & GRADING PLAN
SCALE: 1" = 10' - 0"

Date	Name/ Notes
11/17/2021	Site Plan for Submittal to the DRB
01/10/2022	Site Plan Revisions for Re-submittal to the DRB
05/31/2022	Final Plans for submittal to the DRB
07/11/2022	Revised Final Plans per DRB comments

ROSS RESIDENCE
Town of Biltmore Forest, NC 28803
Cedar Hill Drive, PIN# 9646-43-5152



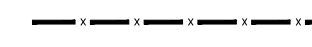

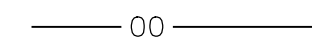











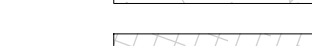

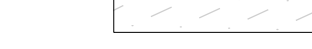
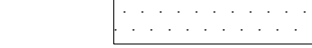





Sheet Title:
SITE & GRADING PLAN

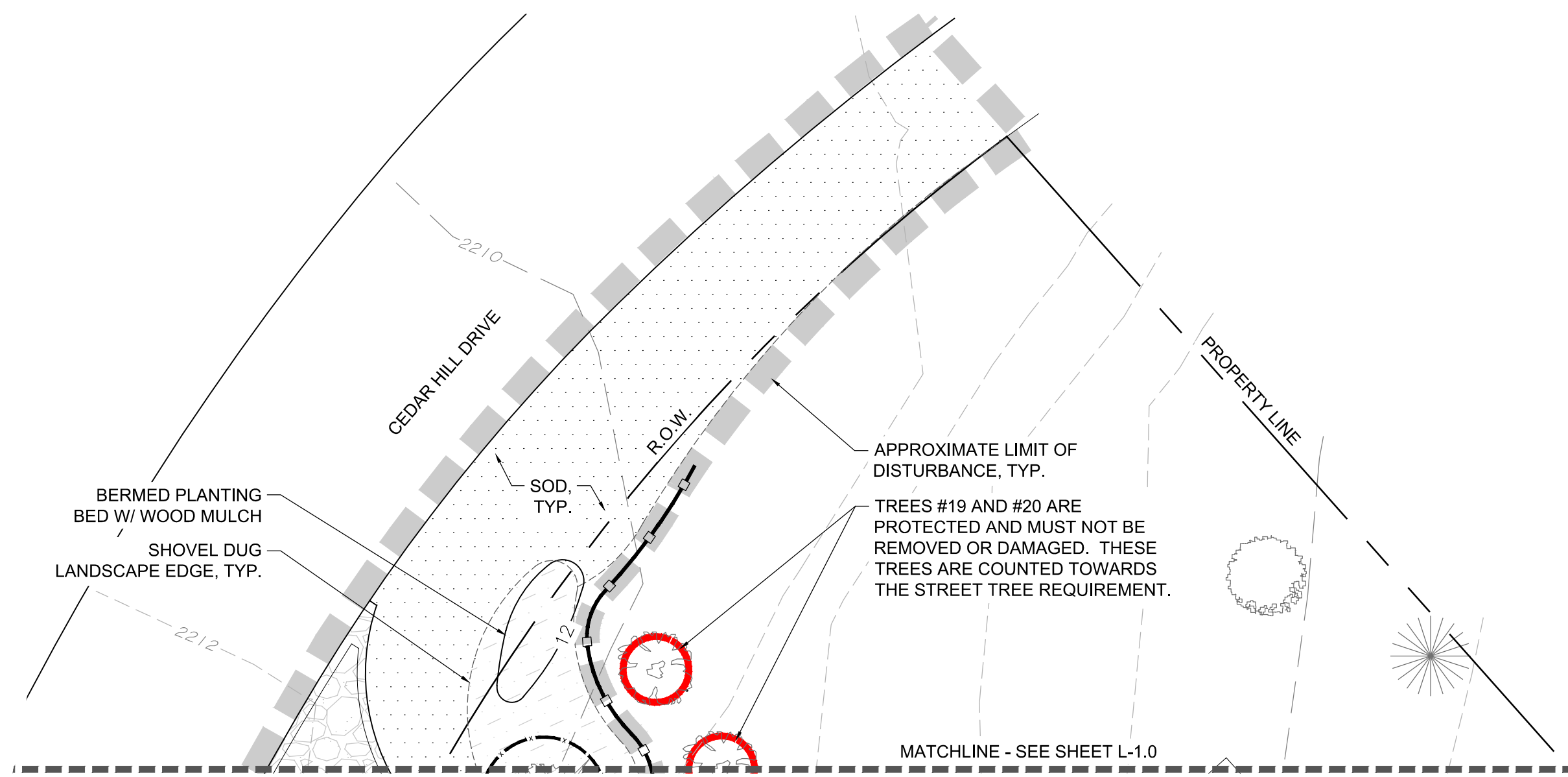
Sheet Number:
L-1.1

SITE AND GRADING NOTES

1. THE SURVEY FOR THIS WORK HAS BEEN PROVIDED BY OTHERS FOR USE IN THE DESIGN OF THIS PROJECT. THE LANDSCAPE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF THE SURVEY.
2. CONTRACTOR SHALL CONTACT THE NORTH CAROLINA 811 UTILITIES NOTIFICATION CALL CENTER TO DETERMINE THE LOCATIONS OF ALL UTILITIES. CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE EXACT LOCATIONS AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO BEGINNING WORK.
3. CONTRACTOR SHALL BECOME FAMILIAR WITH THE EXISTING SITE CONDITIONS PRIOR TO COMMENCING WORK.
4. ANY MISCELLANEOUS ITEMS AND MATERIALS NOT SPECIFICALLY NOTED, BUT REQUIRED FOR THE PROPER EXECUTION, INSTALLATION, AND PERFORMANCE OF THIS WORK SHALL BE PROVIDED BY THE CONTRACTOR.
5. CONTRACTOR SHALL MINIMIZE DISTURBANCE OUTSIDE THE SCOPE OF WORK. ANY DISTURBANCE OUTSIDE THE SCOPE OF WORK SHALL BE REPAIRED BY THE CONTRACTOR TO, AT A MINIMUM, ITS CONDITION PRIOR TO BEGINNING WORK.
6. ALL CONNECTIONS TO EXISTING WORK SHALL BE SMOOTH AND CONTINUOUS.
7. CONTRACTOR SHALL PROVIDE PROTECTION FOR NEWLY INSTALLED WORK AND FINISHES.
8. CONSTRUCTION DEBRIS SHALL BE REMOVED AT THE END OF EACH WORK DAY AND THE SITE SHALL BE MAINTAINED IN A NEAT, CLEAN CONDITION. CONTRACTOR IS RESPONSIBLE FOR ALL PHASES OF HANDLING, TRANSPORTING, AND DISPOSING OF TRASH AND DEBRIS.
9. CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH ALL APPLICABLE TOWN OF BILTMORE FOREST STANDARDS AND SPECIFICATIONS. REFER TO THE TOWN OF BILTMORE FOREST BUILDING REGULATIONS.
10. CONTRACTOR SHALL ASSURE POSITIVE DRAINAGE, AT A MINIMUM SLOPE OF 2%, AWAY FROM ALL BUILDING FOUNDATIONS, WALLS, AND OTHER STRUCTURES.
11. CONTRACTOR SHALL CONFINE ALL EARTHWORK AND GRADING ACTIVITIES TO PRIVATE PROPERTY WITH THE EXCEPTION OF THE DRIVEWAY CONSTRUCTION.
12. CONTRACTOR SHALL ROUTE ALL GUTTER DOWNSPOUTS VIA SUBSURFACE PIPES TO THE PROPOSED SWALES AND/OR RAIN GARDENS SHOWN ON THE PLANS.
13. SEDIMENT BASINS / RAIN GARDENS ARE SIZED TO HOLD THE FIRST FLUSH (FIRST 15 MINUTES) OF A 25 YEAR STORM EVENT.
14. CONTRACTOR SHALL STOCKPILE BOULDERS UNCOVERED DURING EXCAVATION FOR POTENTIAL USE AS LANDSCAPE ACCENT BOULDERS.

LEGEND

-  APPROXIMATE LIMIT OF DISTURBANCE (28,558 SF)
-  SILT FENCE PER TOWN OF BILTMORE FOREST STANDARDS
-  TREE PROTECTION FENCE PER TOWN OF BILTMORE FOREST STANDARDS
-  DRAINAGE FLOW DIRECTION
-  EXISTING CONTOUR
-  PROPOSED CONTOUR
-  PROPOSED SPOT GRADE
-  TOP OF WALL
-  BOTTOM OF WALL
-  LANDSCAPE BOULDERS
-  CMU WALL W/ STONE OR STUCCO VENEER TO COMPLIMENT ARCHITECTURE
-  POOL FENCE TO COMPLIMENT ARCHITECTURE (SEE PLAN LABEL FOR SPECIFICATION)
-  PATIO DRAIN
-  CULVERT
-  PATIO DRAIN COLLECTION PIPE
-  SHOVEL DUG LANDSCAPE EDGE
-  TEMPORARY CONSTRUCTION MUD MAT PER STATE OF NORTH CAROLINA STANDARDS
-  4"-6" DIA. RIVER COBBLE OVER FILTER FABRIC
-  ASPHALT
-  INTEGRALLY COLORED AND STAMPED CONCRETE; COLOR TO BE CHOSEN BY OWNERS
-  PAVERS TO COMPLIMENT ARCHITECTURE
-  WOOD MULCH PLANTING BED AND PATH
-  SOD
-  EXISTING TREES TO BE SAVED, PROTECTED, & COUNTED TOWARDS STREET TREE REQUIREMENT
-  EXISTING TREES TO BE SAVED



1 SITE & GRADING PLAN
SCALE: 1" = 10' - 0"

0 5 10 20' NORTH

EXISTING TREE SCHEDULE

Tree #	Caliper	Species	Trees to be Saved Credits		Trees to be Removed Equivalents	
			Protected	Un-Protected	Protected	Un-Protected
1	12"	Hickory	2	-	-	-
2	24"	Oak	4	-	-	-
3	24"	Oak	-	2	-	-
4	20"	Pine	-	2	-	-
5	10"	Sourwood	-	-	-	1
6	24"	Pine	-	-	-	2
7	18"	Pine	-	-	-	1
8	24"	Pine	-	-	-	2
9	10"	Hickory	-	-	-	1
10	24"	Oak	4	-	-	-
11	12"	Pine	-	-	-	1
12	24"	Pine	-	-	-	2
13	20"	Pine	-	-	-	2
14	12"	Sourwood	-	-	-	1
15	15"	Pine	-	-	-	1
16	15"	Pine	-	-	-	1
17	20"	Pine	-	2	-	-
18	10"	Poplar	-	1	-	-
19	10"	Poplar	2	-	-	-
20	10"	Poplar	2	-	-	-
21	15"	Oak	3	-	-	-
22	24"	Pine	4	-	-	-
23	10"	Sourwood	2	-	-	-
24	10"	Holly	-	1	-	-
25	24"	Maple	-	2	-	-
26	18"	Pine	-	1	-	-
27	24"	Pine	4	-	-	-
28	15"	Poplar	3	-	-	-
29	18"	Pine	3	-	-	-
30	20"	Pine	4	-	-	-
31	20"	Pine	4	-	-	-
32	15"	Poplar	3	-	-	-
33	20"	Pine	4	-	-	-
34	24"	Poplar	4	-	-	-
35	20"	Pine	4	-	-	-
36	15"	Pine	3	-	-	-
37	15"	Poplar	3	-	-	-
38	15"	Pine	3	-	-	-
39	15"	Pine	3	-	-	-
40	12"	Pine	2	-	-	-
41	24"	Pine	4	-	-	-
42	20"	Pine	4	-	-	-
43	20"	Pine	4	-	-	-
44	12"	Pine	2	-	-	-
45	12"	Sourwood	2	-	-	-
46	12"	Poplar	2	-	-	-
47	15"	Poplar	3	-	-	-
48	20"	Pine	4	-	-	-
49	24"	Pine	4	-	-	-
50	18"	Pine	3	-	-	-
51	20"	Poplar	4	-	-	-
52	18"	Poplar	3	-	-	-
53	24"	Pine	4	-	-	-
54	18"	Poplar	3	-	-	-
55	10"	Sourwood	2	-	-	-
56	18"	Pine	3	-	-	-
57	24"	Pine	4	-	-	-
58	24"	Pine	4	-	-	-
59	10"	Sourwood	-	2	-	-
60	15"	Pine	-	-	-	1
61	24"	Pine	4	-	-	-
62	15"	Pine	3	-	-	-
63	18"	Pine	-	-	-	1
64	18"	Oak	-	1	-	-
65	12"	Poplar	-	1	-	-
66	12"	Pine	-	1	-	-
67	15"	Pine	-	-	-	1
68	10"	Oak	-	-	-	1
69	10"	Oak	-	-	-	1
70	12"	Pine	-	-	-	1
71	12"	Sourwood	-	-	-	1
72	24"	Poplar	-	-	-	2
73	18"	Pine	-	-	-	1
74	18"	Pine	-	-	-	1
75	24"	Pine	-	-	-	2
76	20"	Pine	-	-	-	2
77	20"	Pine	-	-	-	2
78	24"	Maple	-	-	-	2
79	24"	Pine	-	-	-	2
80	20"	Pine	-	-	-	2
81	18"	Poplar	-	-	-	1
82	24"	Pine	-	-	-	2
83	30"	Pine	-	-	-	2
84	24"	Pine	-	-	-	2
85	24"	Pine	-	-	-	2
86	20"	Pine	-	-	-	2
87	15"	Pine	-	-	-	1
88	24"	Pine	-	-	-	2
89	12"	Poplar	-	-	-	1
90	24"	Pine	-	-	-	2
91	24"	Pine	-	-	-	2
92	15"	Poplar	-	-	-	1
93	15"	Sourwood	-	-	-	1
94	30"	Pine	-	-	-	3
95	10"	Sourwood	-	-	-	1
96	12"	Sourwood	-	-	-	1
97	10"	Holly	-	-	-	1
98	24"	Pine	-	-	-	2
99	12"	Pine	-	-	-	1
100	10"	Pine	-	-	-	1
101	10"	Pine	-	-	-	1
102	10"	Oak	-	-	-	1
103	24"	Pine	-	-	-	2
TOTALS:			136	16	0	73

LEGEND

- APPROXIMATE LIMIT OF DISTURBANCE (28,558 SF)
- SILT FENCE PER TOWN OF BILTMORE FOREST STANDARDS
- TREE PROTECTION FENCE PER TOWN OF BILTMORE FOREST STANDARDS
- EXISTING CONTOUR
- PROPOSED CONTOUR
- EXISTING TREES TO BE SAVED, PROTECTED, & COUNTED TOWARDS STREET TREE REQUIREMENT
- EXISTING TREES TO BE SAVED
- EXISTING TREES TO BE REMOVED
- OAK
- HICKORY
- MAPLE
- PINE
- POPLAR
- HOLLY
- SOURWOOD



TREE SUMMARY CHART

PROTECTED TREES TO BE PRESERVED CREDITS	UNPROTECTED TREES TO BE PRESERVED CREDITS	PROTECTED TREES TO BE REMOVED	UNPROTECTED TREES TO BE REMOVED EQUIVALENTS	NEW TREES TO BE ADDED
136	16	0	73	17*

NOTES:

- *REFER TO THE LANDSCAPE PLAN (SHEETS L-3.0 & L-3.1) FOR PROPOSED NEW TREES SPECIES AND SIZES.
- PER DISCUSSION WITH THE DRB, 'UNPROTECTED' TREES ARE THOSE INSIDE THE LIMIT OF DISTURBANCE AND 'PROTECTED' TREES ARE THOSE OUTSIDE THE LIMIT OF DISTURBANCE.

STREET TREE REQUIREMENT CHART

CODE	REQUIREMENT	PROVIDED
(1) LARGE-MATURING TREE FOR EVERY 40 L.F. OF PROPERTY ABUTTING A STREET WITHIN THE 50' PLANTING STRIP	240 L.F. / 40 L.F. = (6) LARGE MATURING TREES OR TREE CREDITS	(0) NEW LARGE MATURING TREES (2) EXISTING 10" CALIPER LARGE MATURING TREES = 4 NEW TREES (1) EXISTING 24" CALIPER LARGE MATURING TREE = 4 NEW TREES
		(8) TREE CREDITS PROVIDED

NOTES:

- LANDSCAPE BUFFER REQUIREMENTS AND PARKING LOT SCREENING REQUIREMENTS ARE NOT APPLICABLE TO THIS PROJECT.
- PER CODE SECTION 153.062, TREES DESIGNATED FOR PRESERVATION MAY BE CREDITED AT THE FOLLOWING RATES:
EXISTING 2"-6" CALIPER TREE = 1 NEW TREE
EXISTING 7"-12" CALIPER TREE = 2 NEW TREES
EXISTING 13"-18" CALIPER TREE = 3 NEW TREES
EXISTING 19"-24" CALIPER TREE = 4 NEW TREES
EXISTING 25" CALIPER AND GREATER TREE = 5 NEW TREES

TREE PRESERVATION NOTES

- CONTRACTOR SHALL ADHERE TO THE TOWN OF BILTMORE FOREST BUILDING REGULATIONS: SECTION 153.062 EXISTING VEGETATION FOR PRESERVING AND PROTECTING EXISTING TREES
- NO PERSON SHALL REMOVE OR IN ANY WAY DAMAGE ANY TREES MARKED AS 'PROTECTED' WITHOUT FIRST FILING AN APPLICATION FOR SAID REMOVAL AND RECEIVING A PERMIT FROM THE TOWN MANAGER.
- CONTRACTOR SHALL MAKE EVERY REASONABLE EFFORT TO PRESERVE ALL TREES MARKED 'TO BE SAVED'.
- ANY TREE MARKED 'TO BE SAVED' THAT IS REMOVED SHALL BE REPLACED PER TOWN OF BILTMORE FOREST BUILDING REGULATIONS.

1 TREE PRESERVATION PLAN
SCALE: 1" = 20' - 0"

Name/Notes	Date
Site Plan for Submittal to the DRB	11/17/2021
Site Plan Revisions for Re-submittal to the DRB	01/10/2022
Final Plans for submittal to the DRB	05/31/2022
Revised Final Plans per DRB comments	07/11/2022

ROSS RESIDENCE
Town of Biltmore Forest, NC 28803
Cedar Hill Drive, PIN# 9646-43-5152

PLANT SCHEDULE

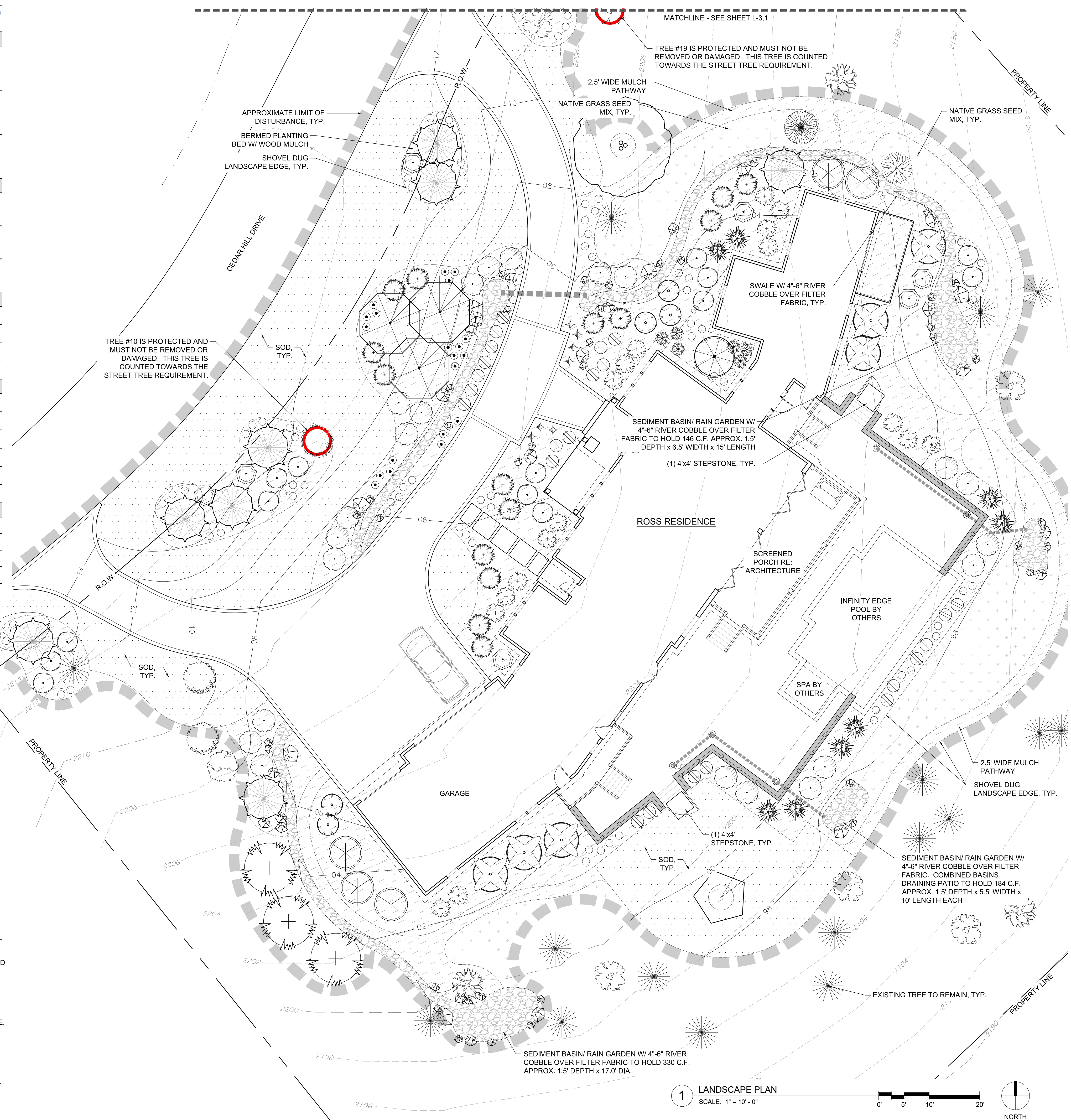
Sym.	Botanical Name	Common Name	Size	Condition
Deciduous Trees				
AP	Acer palmatum 'Koto-no-ito'	Koto-no-ito Japanese Maple	10 Gal.; 4' Height min.	Cont.
CF	Cornus florida 'Princess White'	Princess White Dogwood	15 Gal.	Cont.
LS	Liquidambar styraciflua 'Burgundy Blush'	Burgundy Blush Sweetgum	2" Caliper	B&B
Evergreen Trees				
IM	Ilex 'Magiana'	Acadiana Holly	10 Gal.; 4' Height min.	Cont.
MV	Magnolia virginiana 'Moonglow'	Moonglow Magnolia (Semi-Evergreen)	15 Gal.	Cont.
PF	Picea pungens 'Fat Albert'	Fat Albert Spruce	10 Gal.; 6' Height min.	Cont.
Deciduous Shrubs				
CAT	Cotoneaster apiculatus 'Tom Thumb'	Tom Thumb Cotoneaster	3 Gal.	Cont.
FMD	Fothergilla 'Mount Airy'	Dwarf Fothergilla	3 Gal.	Cont.
HMN	Hydrangea macrophylla 'Nikko Blue'	Nikko Blue Hydrangea	5 Gal.	Cont.
LBS	Lindera benzoin	Spice Bush	7 Gal.	Cont.
Evergreen Shrubs				
CPV	Chamaecyparis pisifera 'Vintage Gold'	Vintage Gold False Cypress	3 Gal.	Cont.
JSB	Juniperus scopulorum 'Blue Arrow'	Blue Arrow Juniper	5' Height Min.	Cont.
LFD	Leucothoe fontanesiana	Drooping Laurel	5 Gal.	Cont.
NDF	Nandina domestica 'Firepower'	Firepower Heavenly Bamboo	3 Gal.	Cont.
RCC	Rhododendron catawbiense	Catawba Rhododendron	7 Gal.	Cont.
RNZ	Rhododendron 'Nova Zembla'	Nova Zembla Rhododendron	5 Gal.	Cont.
Groundcovers and Perennials				
CVG	Chrysogonum virginianum	Green and Gold	4" Pot	Cont.
DEA	Dryopteris erythrosora 'Brilliance'	Autumn Fern	4" Pot	Cont.
GIJ	Geranium ibericum 'Johnson's Blue'	Johnson's Blue Geranium	4" Pot	Cont.
HGP	Heuchera 'Georgia Peach'	Georgia Peach Heuchera	4" Pot	Cont.

LEGEND

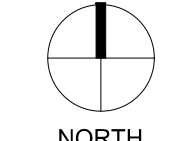
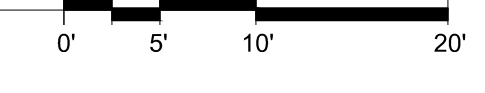
- APPROXIMATE LIMIT OF DISTURBANCE (28,558 SF)
- EXISTING CONTOUR
- PROPOSED CONTOUR
- LANDSCAPE BOULDERS
- CULVERT
- PATIO DRAIN COLLECTION PIPE
- SHOVEL DUG LANDSCAPE EDGE
- EXISTING TREES TO BE SAVED, PROTECTED, & COUNTED TOWARDS STREET TREE REQUIREMENT
- EXISTING TREES TO BE SAVED
- 4"-6" DIA. RIVER COBBLE OVER FILTER FABRIC
- WOOD MULCH PLANTING BED AND PATH
- SOD
- NATIVE GRASS SEED MIX

LANDSCAPE NOTES:

- CONTRACTOR SHALL SUPPLY ALL PLANT MATERIAL IN QUANTITIES SUFFICIENT TO COMPLETE THE PLANTING SHOWN ON THE DRAWINGS.
- ALL MATERIAL SHALL CONFORM TO THE GUIDELINES ESTABLISHED BY THE CURRENT AMERICAN STANDARD FOR NURSERY STOCK, PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSERYMEN, OR EQUIVALENT. PLANT MATERIAL DEEMED INFERIOR BY THE PROJECT MANAGER AND/OR LANDSCAPE ARCHITECT SHALL BE REPLACED AT CONTRACTOR'S EXPENSE.
- AREAS TO BE PLANTED SHALL BE TILLED TO A MINIMUM DEPTH OF 12-INCHES. CONTRACTOR SHALL THEN APPLY SOIL AMENDMENT OVER SURFACE AT MANUFACTURER'S SPECIFIED RATE. CONTRACTOR SHALL THEN TILL LANDSCAPE AREAS AGAIN TO A MINIMUM DEPTH OF 8-INCHES PRIOR TO ANY PLANTING. TILL AND AMEND WITHIN: 4' OF NEW TREE TRUNKS, 2' OF NEW SHRUB CENTERS, AND 1' OF NEW GRASS AND PERENNIAL CENTERS. WHERE PLANTING OCCURS UNDER EXISTING TREE CANOPIES THE CONTRACTOR SHALL CAREFULLY HAND DIG INDIVIDUAL PLANTING PITS AVOIDING MAJOR TREE ROOTS.
- AREAS TO BE SODDED THAT ARE NOT WITHIN AN EXISTING TREE DRIP LINE (ROOT ZONE) SHALL BE TILLED TO A MINIMUM DEPTH OF 4-INCHES. CONTRACTOR SHALL THEN APPLY SOIL AMENDMENT OVER SURFACE AT MANUFACTURER'S SPECIFIED RATE. CONTRACTOR SHALL THEN RE-TILL TO A DEPTH OF 4-INCHES.
- AREAS TO BE SODDED THAT ARE WITHIN AN EXISTING TREE DRIP LINE (ROOT ZONE) SHALL BE CAREFULLY ROUGHENED WITH A GARDEN RAKE, AVOIDING UNEARTHING ROOTS. CONTRACTOR SHALL THEN APPLY SOIL AMENDMENT OVER SURFACE AT MANUFACTURER'S SPECIFIED RATE AND RAKE IN PRIOR TO SODDING.
- NO LANDSCAPING SHALL BE INSTALLED BEFORE FINE GRADING HAS BEEN COMPLETED AND ITS CONDITION APPROVED BY THE PROJECT MANAGER OR LANDSCAPE ARCHITECT. ANY AREAS NOT PROPERLY TILLED, AMENDED, OR FINE-GRADED WILL NEED TO BE RE-DONE AT THE CONTRACTOR'S EXPENSE.
- PROPOSED PLANT SUBSTITUTIONS MUST BE REVIEWED AND APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO TRANSPORT TO THE PROJECT SITE. PLANT MATERIAL SUBSTITUTED AND INSTALLED WITHOUT APPROVAL MAY REQUIRE REMOVAL AND REPLACEMENT AT THE DISCRETION OF THE LANDSCAPE ARCHITECT. PLANT MATERIAL REQUIRING REPLACEMENT SHALL BE DONE AT THE CONTRACTOR'S EXPENSE.
- ALL PLANTS SHALL BE BALLED AND BURLAPPED OR CONTAINER GROWN AS SPECIFIED ON THE PLANT LIST. NO CONTAINER GROWN STOCK WILL BE ACCEPTED IF IT'S ROOT BOUND. ALL ROOT WRAPPING MATERIAL SHALL BE REMOVED COMPLETELY AT TIME OF PLANTING AND PROPERLY DISCARDED.
- ALL PLANTS SHALL HAVE THE SAME RELATIONSHIP TO FINISHED GRADE AS THE PLANT'S ORIGINAL GRADE BEFORE DIGGING, UNLESS OTHERWISE SPECIFIED OR DETAILED.
- AFTER PLANTING, WOOD MULCH SHALL BE APPLIED TO ALL PLANTING AREAS AT A DEPTH OF 3" OVER WEED CONTROL FABRIC.
- CONTRACTOR SHALL BE RESPONSIBLE FOR WATERING AND OTHER MAINTENANCE NECESSARY FOR INITIAL ESTABLISHMENT OF PLANTINGS. PLANT MATERIAL NEEDING REPLACEMENT WITHIN ONE YEAR OF PLANTING SHALL BE DONE AT CONTRACTOR'S EXPENSE.
- IN NATIVE SEED AREAS, CONTRACTOR SHALL BE RESPONSIBLE FOR ESTABLISHING A CONTINUOUS, CLOSE STAND OF GRASS THAT IS FREE OF SIGNIFICANT BARE SPOTS, GAPS, AND WEEDS. CONTRACTOR SHALL WATER AND OVERSEED AS NEEDED TO ESTABLISH AN ACCEPTABLE STAND OF NATIVE GRASS.



1 LANDSCAPE PLAN
SCALE: 1" = 10' - 0"



Prepared For:
Living Stone
Design + Build

PRELIMINARY
FOR REVIEW
NOT FOR
CONSTRUCTION

Name/Notes	Date
Site Plan for Submittal to the DRB	11/17/2021
Site Plan Revisions for Re-submittal to the DRB	01/10/2022
Final Plans for submittal to the DRB	05/31/2022
Revised Final Plans per DRB comments	07/11/2022

ROSS RESIDENCE
Town of Biltmore Forest, NC 28803
Cedar Hill Drive, PIN# 9646-43-5152

Sheet Title:

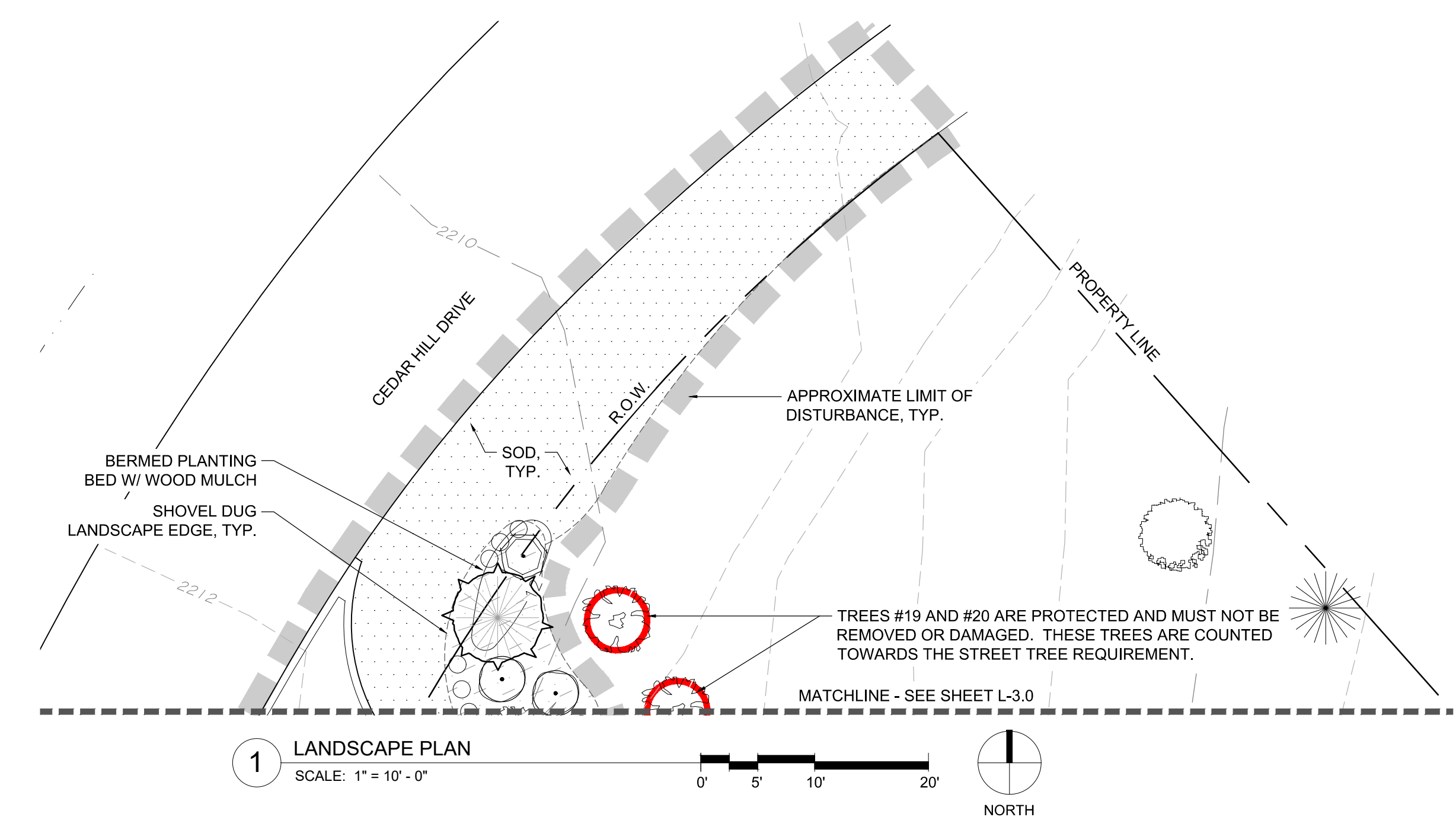
LANDSCAPE PLAN

Sheet Number:

L-3.0

PLANT SCHEDULE

Sym.	Botanical Name	Common Name	Size	Condition
Deciduous Trees				
AP	Acer palmatum 'Koto-no-ito'	Koto-no-ito Japanese Maple	10 Gal.; 4' Height min.	Cont.
CF	Cornus florida 'Princess White'	Princess White Dogwood	15 Gal.	Cont.
LS	Liquidambar styraciflua 'Burgundy Blush'	Burgundy Blush Sweetgum	2" Caliper	B&B
Evergreen Trees				
IM	Ilex 'Magiana'	Acadiana Holly	10 Gal.; 4' Height min.	Cont.
MV	Magnolia virginiana 'Moonglow'	Moonglow Magnolia (Semi-Evergreen)	15 Gal.	Cont.
PF	Picea pungens 'Fat Albert'	Fat Albert Spruce	10 Gal.; 6' Height min.	Cont.
Deciduous Shrubs				
CAT	Cotoneaster apiculatus 'Tom Thumb'	Tom Thumb Cotoneaster	3 Gal.	Cont.
FMD	Fothergilla 'Mount Airy'	Dwarf Fothergilla	3 Gal.	Cont.
HMN	Hydrangea macrophylla 'Nikko Blue'	Nikko Blue Hydrangea	5 Gal.	Cont.
LBS	Lindera benzoin	Spice Bush	7 Gal.	Cont.
Evergreen Shrubs				
CPV	Chamaecyparis pisifera 'Vintage Gold'	Vintage Gold False Cypress	3 Gal.	Cont.
JSB	Juniperus scopulorum 'Blue Arrow'	Blue Arrow Juniper	5' Height Min.	Cont.
LFD	Leucothoe fontanesiana	Drooping Laurel	5 Gal.	Cont.
NDF	Nandina domestica 'Firepower'	Firepower Heavenly Bamboo	3 Gal.	Cont.
RCC	Rhododendron catawbiense	Catawba Rhododendron	7 Gal.	Cont.
RNZ	Rhododendron 'Nova Zembla'	Nova Zembla Rhododendron	5 Gal.	Cont.
Groundcovers and Perennials				
CVG	Chrysogonum virginianum	Green and Gold	4" Pot	Cont.
DEA	Dryopteris erythrosora 'Brilliance'	Autumn Fern	4" Pot	Cont.
GIJ	Geranium ibericum 'Johnson's Blue'	Johnson's Blue Geranium	4" Pot	Cont.
HGP	Heuchera 'Georgia Peach'	Georgia Peach Heuchera	4" Pot	Cont.



LEGEND

- APPROXIMATE LIMIT OF DISTURBANCE (28,558 SF)
- EXISTING CONTOUR
- PROPOSED CONTOUR
- LANDSCAPE BOULDERS
- CULVERT
- PATIO DRAIN COLLECTION PIPE
- SHOVEL DUG LANDSCAPE EDGE
- 4"-6" DIA. RIVER COBBLE OVER FILTER FABRIC
- WOOD MULCH PLANTING BED AND PATH
- SOD
- NATIVE GRASS SEED MIX
- EXISTING TREES TO BE SAVED, PROTECTED, & COUNTED TOWARDS STREET TREE REQUIREMENT
- EXISTING TREES TO BE SAVED

Date	Name/ Notes
11/17/2021	Site Plan for Submittal to the DRB
01/10/2022	Site Plan Revisions for Re-submittal to the DRB
05/31/2022	Final Plans for submittal to the DRB
07/11/2022	Revised Final Plans per DRB comments

ROSS RESIDENCE
Town of Biltmore Forest, NC 28803
Cedar Hill Drive, PIN# 9646-43-5152

Sheet Title:
LANDSCAPE PLAN

Sheet Number:
L-3.1



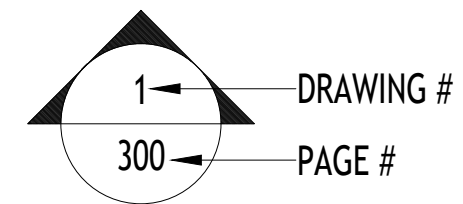
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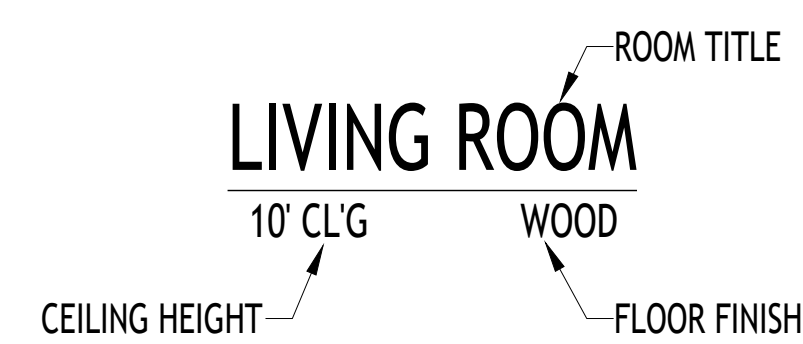
WINDOW / DOOR SIZING

2856 = 2'-8" WIDE x 5'-6" TALL OPENING SIZE
SEE ELEVATIONS FOR HEAD HEIGHT, HANDING
AND GRILL PATTERN

ELEVATION / SECTION BUBBLE



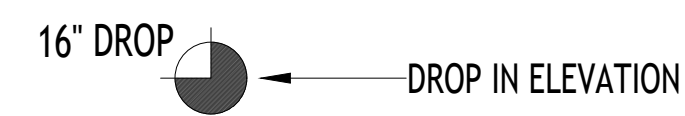
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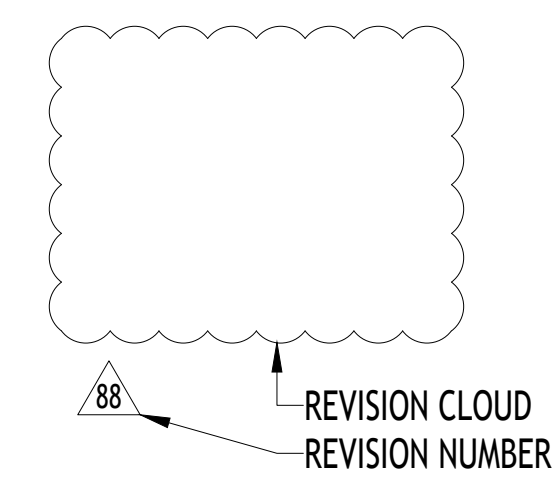
DRAWING TITLE



ELEVATION MARKERS



REVISION NOTES



ROSS RESIDENCE

BILTMORE FOREST, NC

DRAWING INDEX

- 000 TITLE SHEET / DRAWING INDEX / KEY
- 100 FOUNDATION PLAN / ROOF PLAN
- 201 OVERALL FIRST FLOOR PLAN
- 201.1 PARTIAL FIRST FLOOR PLAN
- 201.2 PARTIAL FIRST FLOOR PLAN
- 202 SECOND FLOOR PLAN
- 300 OVERALL ELEVATIONS
- 301 PARTIAL ELEVATIONS
- 302 PARTIAL ELEVATIONS
- 303 PARTIAL ELEVATIONS

SQUARE FOOTAGE

FIRST FLOOR HEATED:	2,960 sq. ft.
SECOND FLOOR HEATED:	1,206 sq. ft.
TOTAL HEATED:	4,166 sq. ft.
POOL STORAGE:	107 sq. ft.
FRONT PORCH & PERGOLA:	175 sq. ft.
REAR PORCH:	414 sq. ft.
FAMILY ENTRY:	22 sq. ft.
LAUNDRY DECK:	85 sq. ft.
MASTER DECK:	122 sq. ft.
STORAGE/MECH. @ 2ND FLR:	655 sq. ft.
GARAGE:	924 sq. ft.
TOTAL CUMULATIVE:	6,670 sq. ft.

ROSS RESIDENCE
BILTMORE FOREST, NC

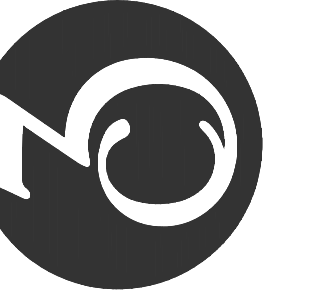
REVISIONS

DATE Pricing Set
July 7, 2022

PROJECT
2101025

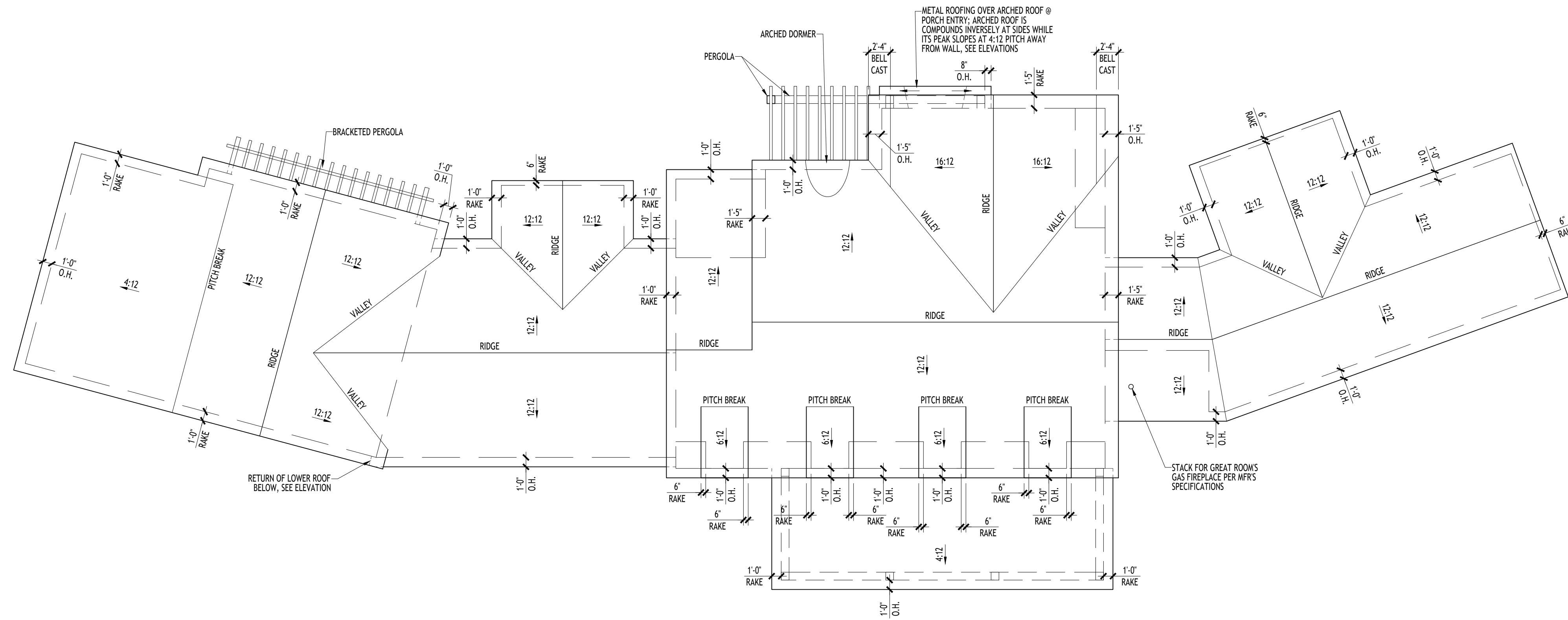
DRAWN JDD / CR	CHECKED BML
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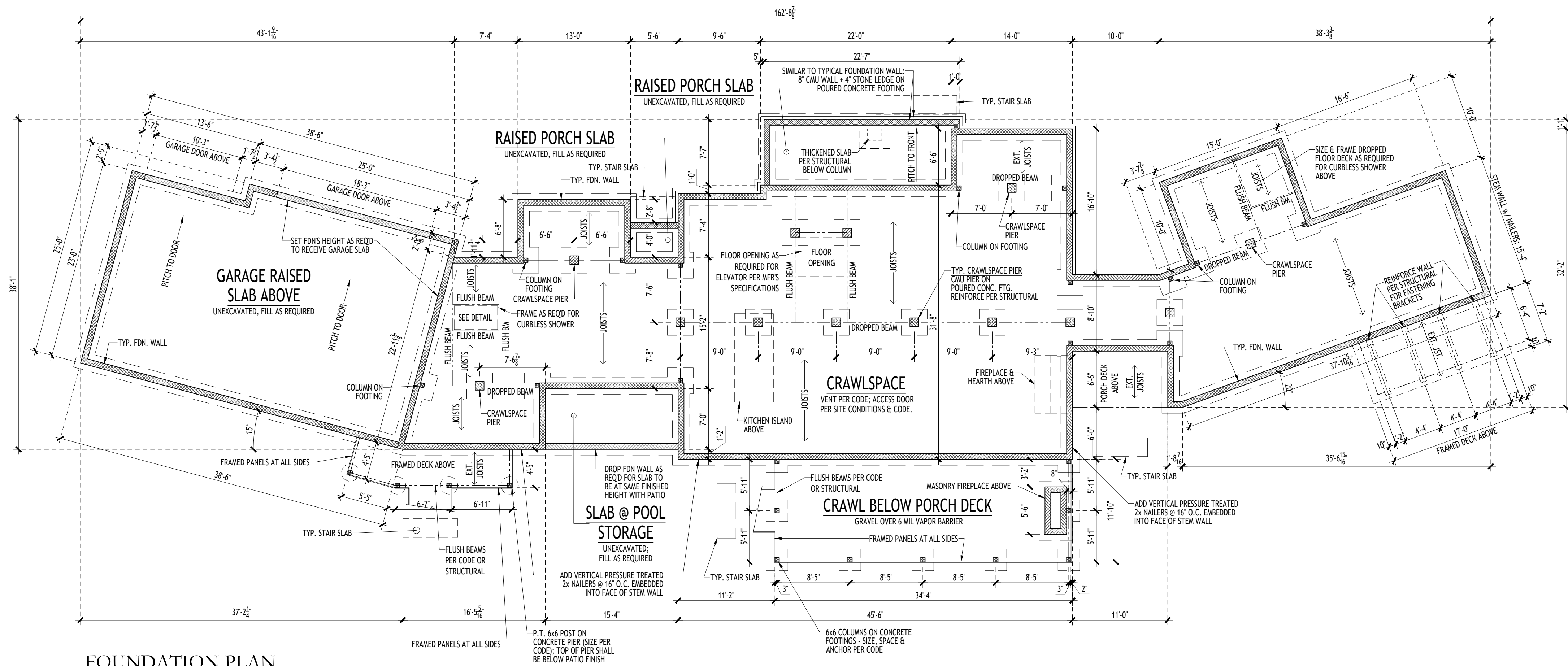
ROSS RESIDENCE

BILTMORE FOREST, NC



- ROOF NOTES:**
1. ROOF EAVE DIMENSIONS ARE GENERALLY (UNLESS NOTED OTHERWISE) FROM EXTERIOR SIDE OF BEARING WALL/BEAM TO FINISHED FACE OF EAVE. SEE SECTION FOR CLARIFICATION.
 2. EXHAUST VENTS (PLUMBING, HVAC OR OTHERWISE) SHALL BE GROUPED IN ATTIC TO LIMIT THE NUMBER OF ROOF PENETRATIONS.
 3. ALL ROOF PENETRATIONS SHALL BE HIDDEN FROM VIEW, LOCATED TOWARD THE REAR OF THE HOUSE, AND BE PAINTED TO MATCH ROOF COLOR.

ROOF PLAN
1/8" = 1'-0"



- CRAWLSPACE FOUNDATION & FRAMING GENERAL NOTES:**
1. TYPICAL FOUNDATION SHALL BE 8" CMU OR POURED CONCRETE WALL ON POURED CONCRETE FOOTING. REINFORCED PER CODE OR STRUCTURAL BOTTOM OF FOOTING AT OF BELOW LOCAL FROST DEPTH REQUIREMENT. 4" MASONRY LEDGE AS SHOWN.
 2. VERIFY ALL INTERIOR AND EXTERIOR FRAMING WITH CODE OR STRUCTURAL PLANS.
 3. ALL FRAMING COMPONENTS EXPOSED TO THE EXTERIOR OR IN CONTACT WITH MASONRY CONCRETE SHALL BE PRESSURE TREATED (U.N.C.) AND FASTENED MEETING REQUIREMENTS OF CODE OR STRUCTURAL.
 4. ALL STRUCTURAL SYSTEMS AND COMPONENTS SHALL COMPLY WITH LOCAL CODES AND INTERNATIONAL RESIDENTIAL CODE (IRC), OR BE SPECIFIED SEPARATELY ON STRUCTURAL PLANS BY AN ENGINEER PER BUDGET AND SITE CONDITIONS. APPROVED ENGINEERED LUMBER & COMPONENTS SHALL BE INSTALLED PER MANUFACTURERS SPECIFICATIONS.
 5. ADD SUPPORT WITHIN FLOOR SYSTEM PER CODE OR STRUCTURAL BELOW TUBS, LARGE SHOWERS WITH HUD BASE, KITCHEN ISLANDS, AND WALLS PARALLEL TO JOISTS.
 6. TYPICAL STAIR PAD: 4" CONCRETE SLAB TO RECEIVE STAIR STRINGERS - FIELD LOCATE AT BASE OF STAIRS.
 7. CRAWLSPACE SHALL BE VENTED PER CODE. VENTS NOT SHOWN ON PLAN.
 8. CRAWLSPACE PIERS SHALL BE SIZED & SPACED PER CODE OR STRUCTURAL.
 9. ALL SLABS SHALL HAVE CONTROL JOINTS SPACED EVERY 12'-15' APART, MIN. EXPANSION JOINT PER CODE.
 10. VENT SLABS FOR RADON PER CODE.

FOUNDATION PLAN
1/8" = 1'-0"

REVISIONS

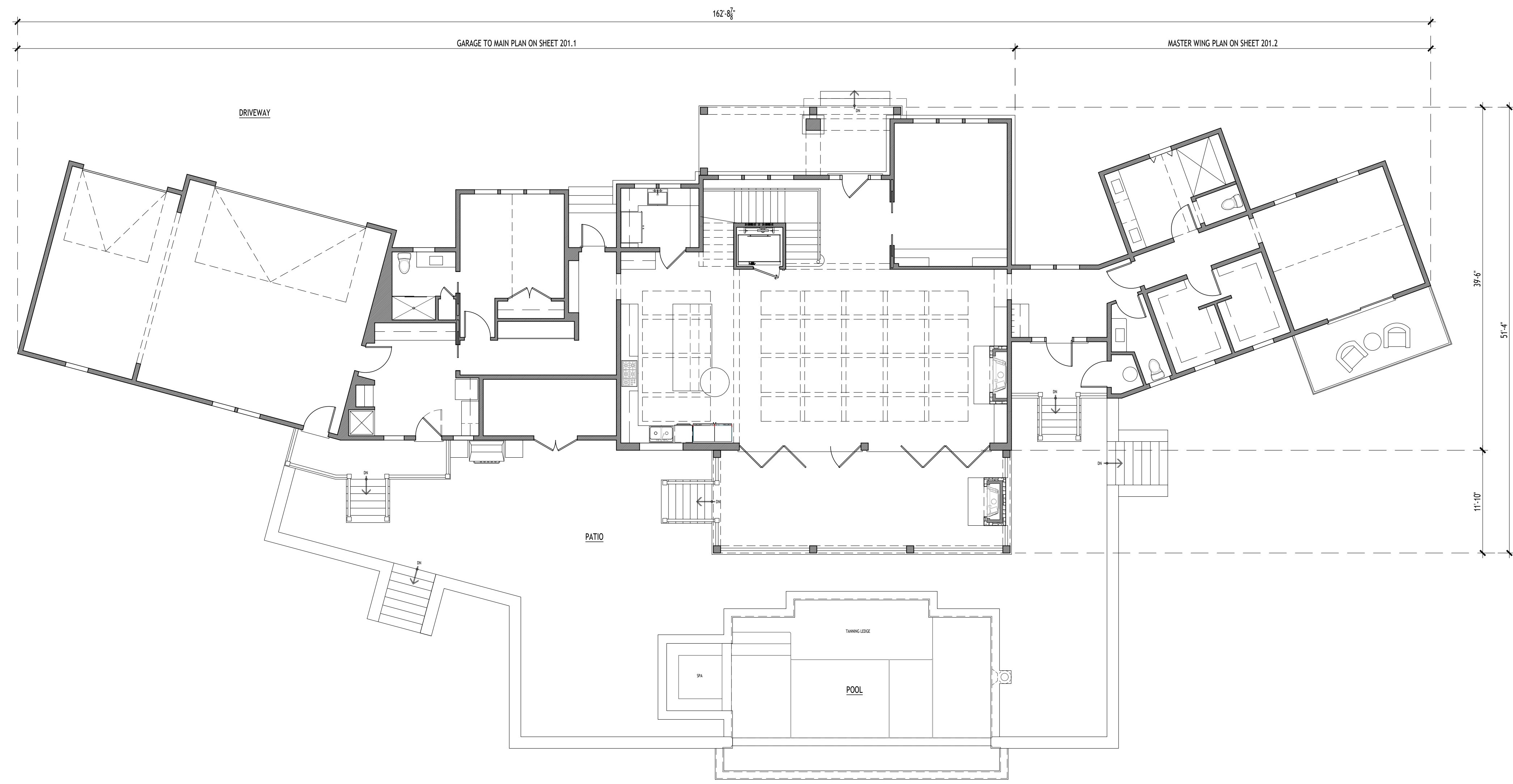
DATE Pricing Set
July 7, 2022

PROJECT
2101025

DRAWN JDD / CR
CHECKED BML



ROSS RESIDENCE
BILTMORE FOREST, NC



FIRST FLOOR FULL PLAN
1/8" = 1'-0"

REVISIONS

DATE Pricing Set
July 7, 2022

PROJECT
2101025

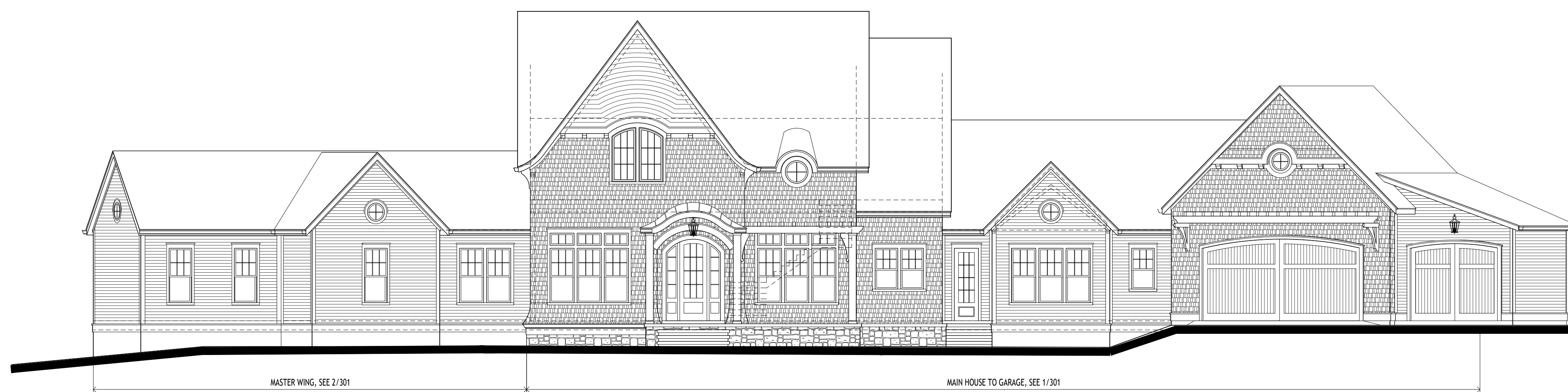
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ROSS RESIDENCE
BILTMORE FOREST, NC



2 REAR ELEVATION
1/8" = 1'-0"



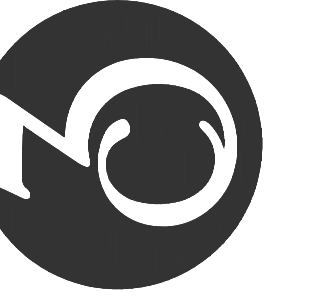
1 FRONT ELEVATION
1/8" = 1'-0"

REVISIONS

DATE Pricing Set
July 7, 2022

PROJECT
2101025

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ROSS RESIDENCE
BILTMORE FOREST, NC

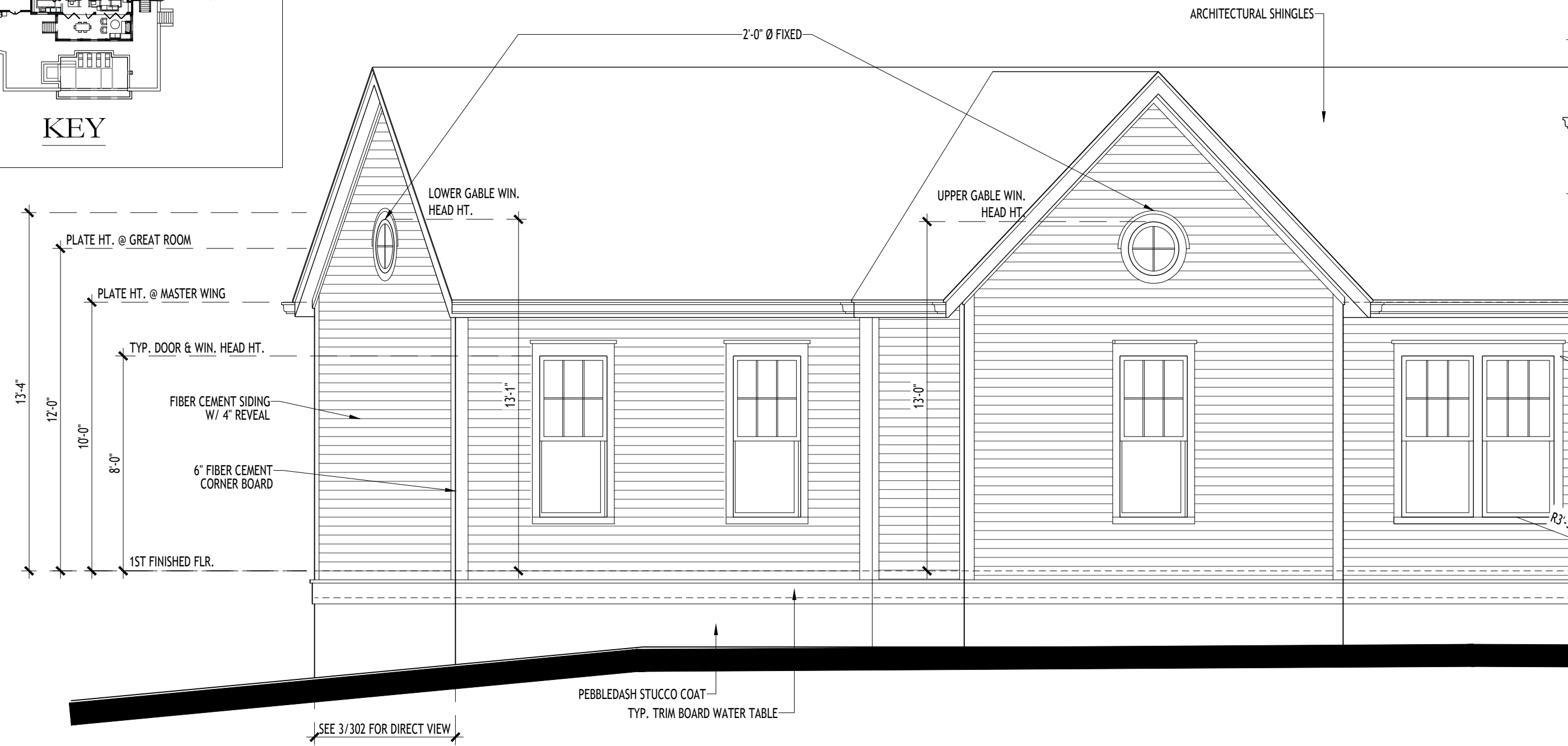
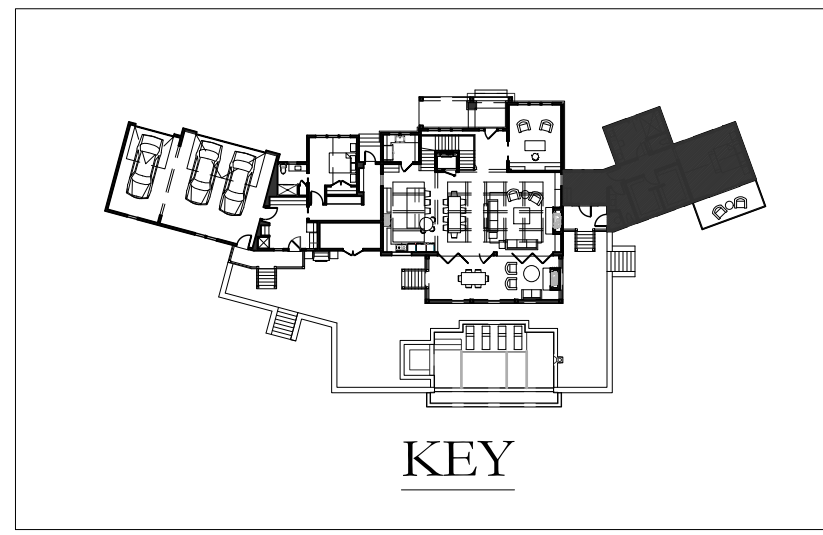
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July 7, 2022

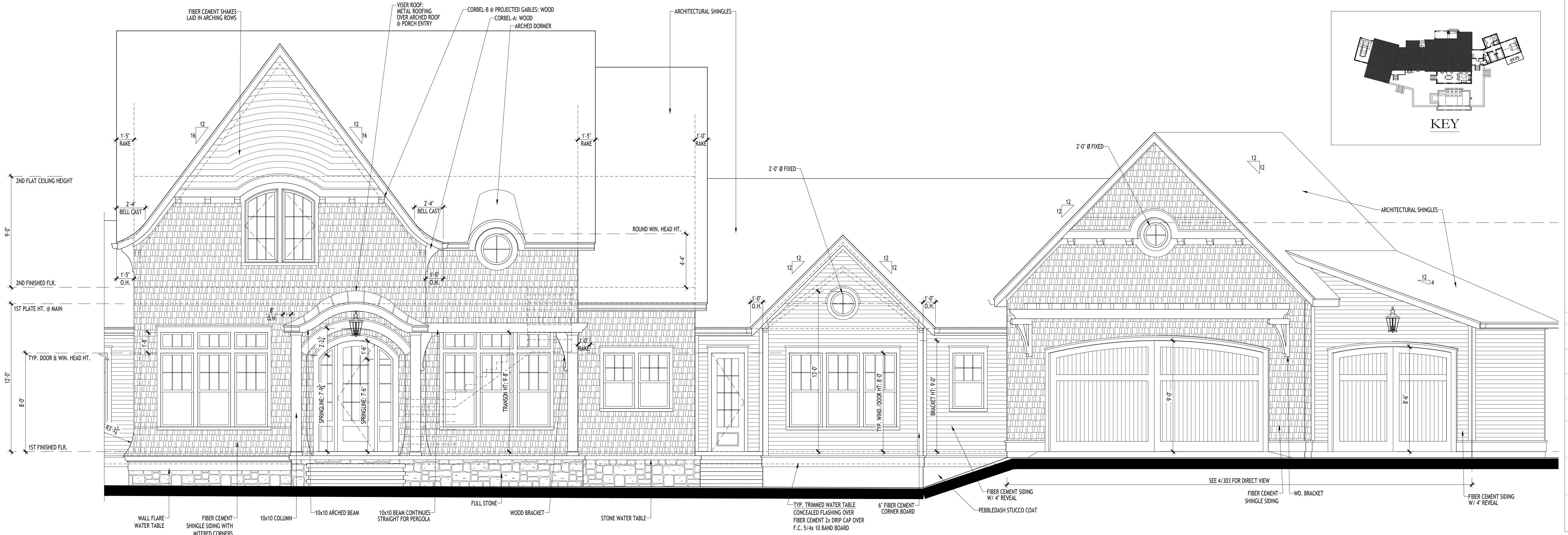
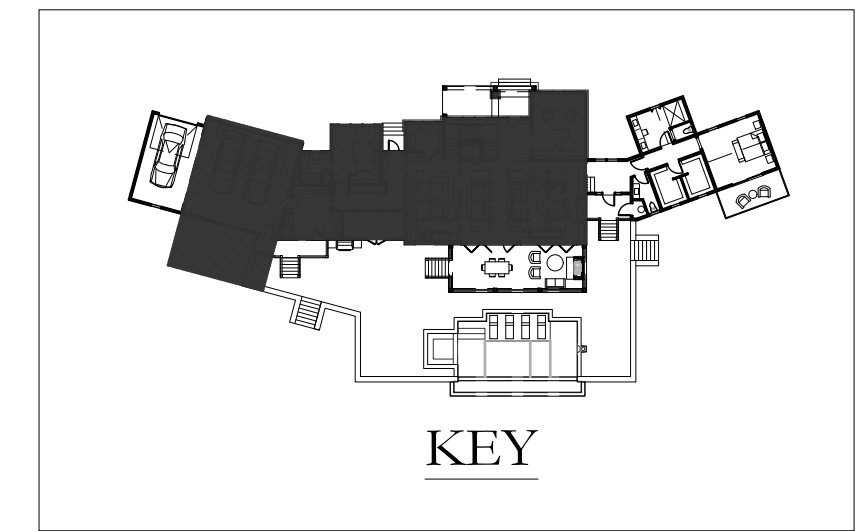
PROJECT 2101025

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CHECKED BML

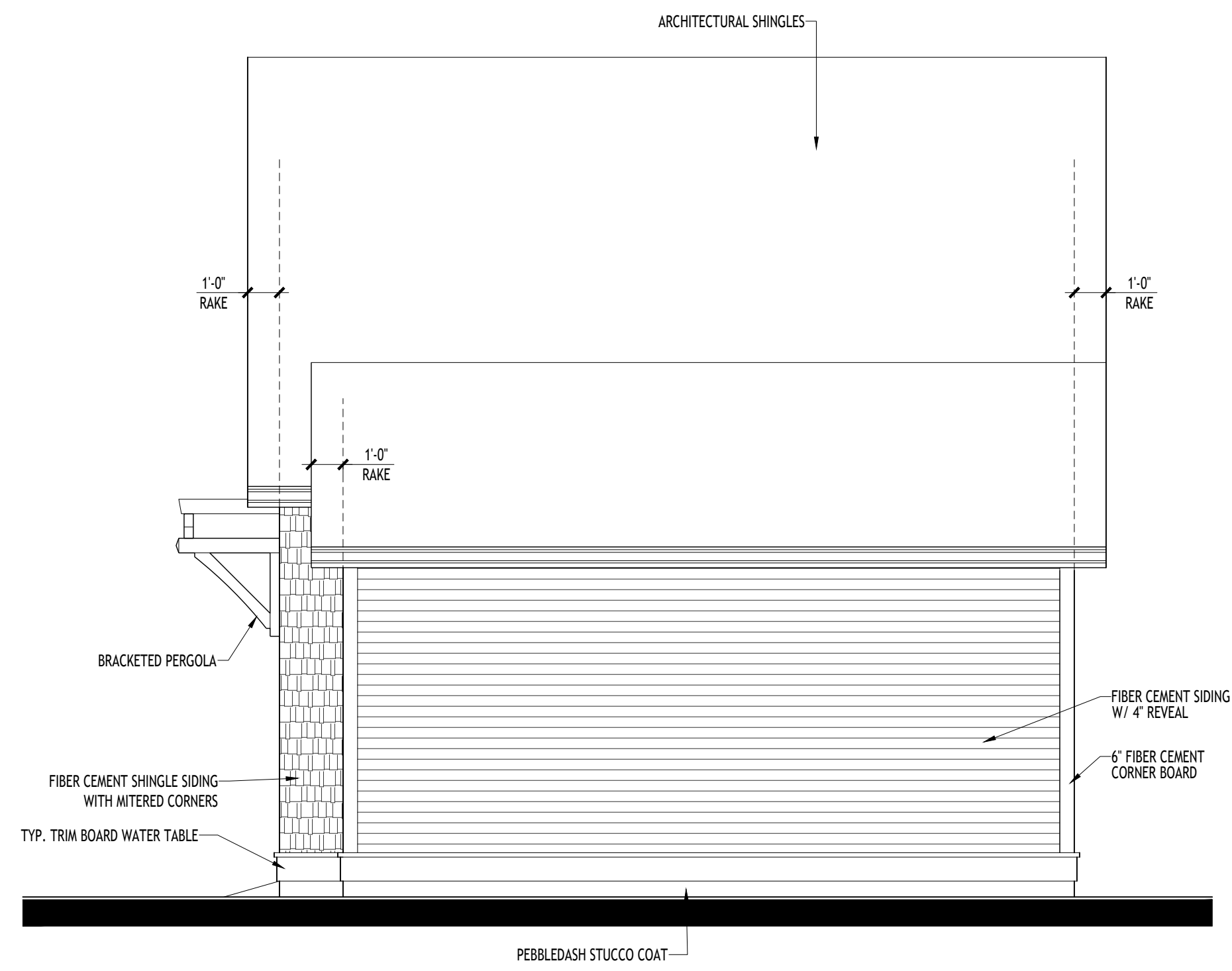
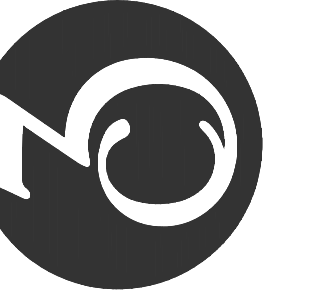
301



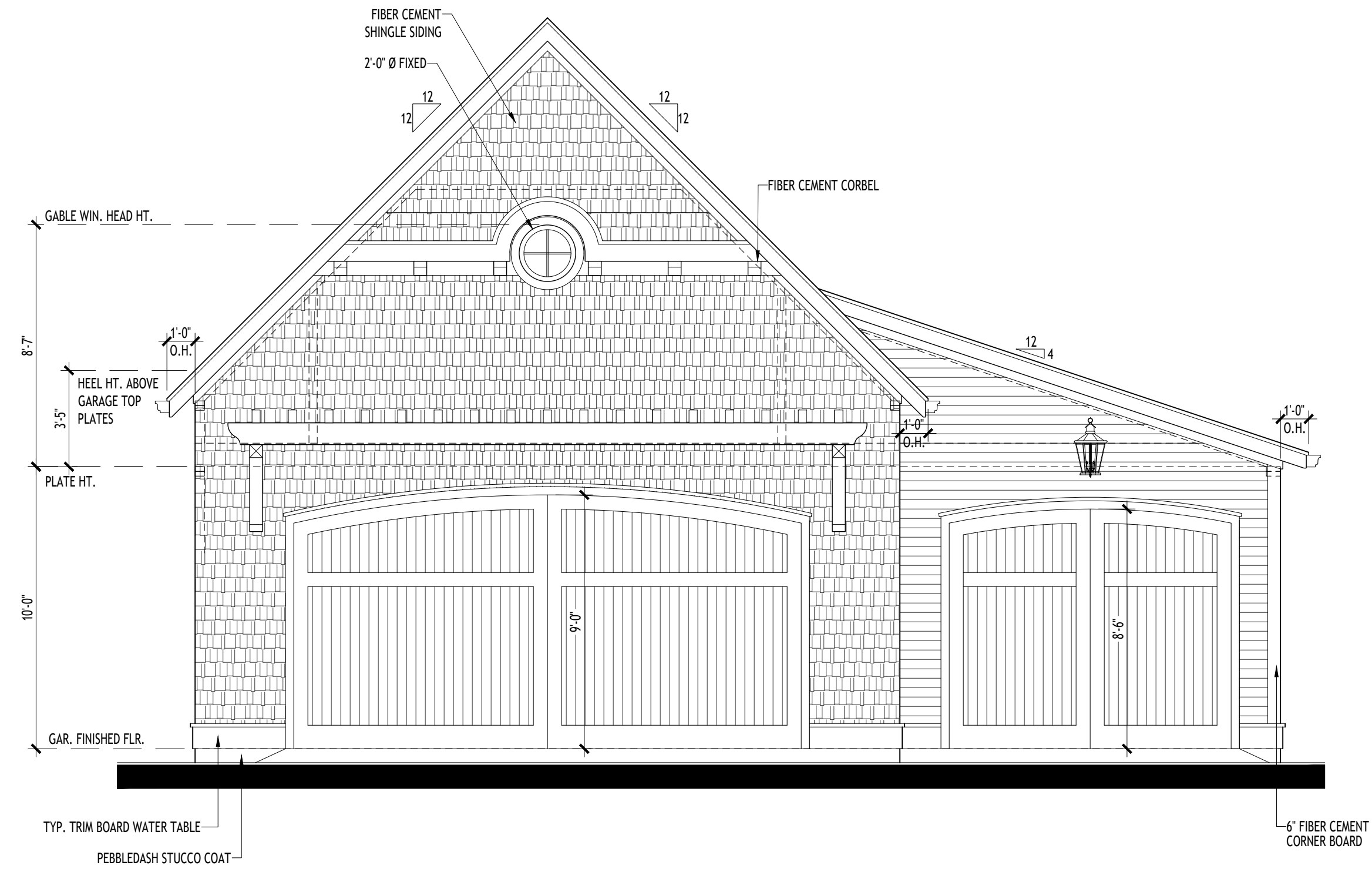
2 FRONT ELEVATION (CONTINUED)
1/4" = 1'-0"



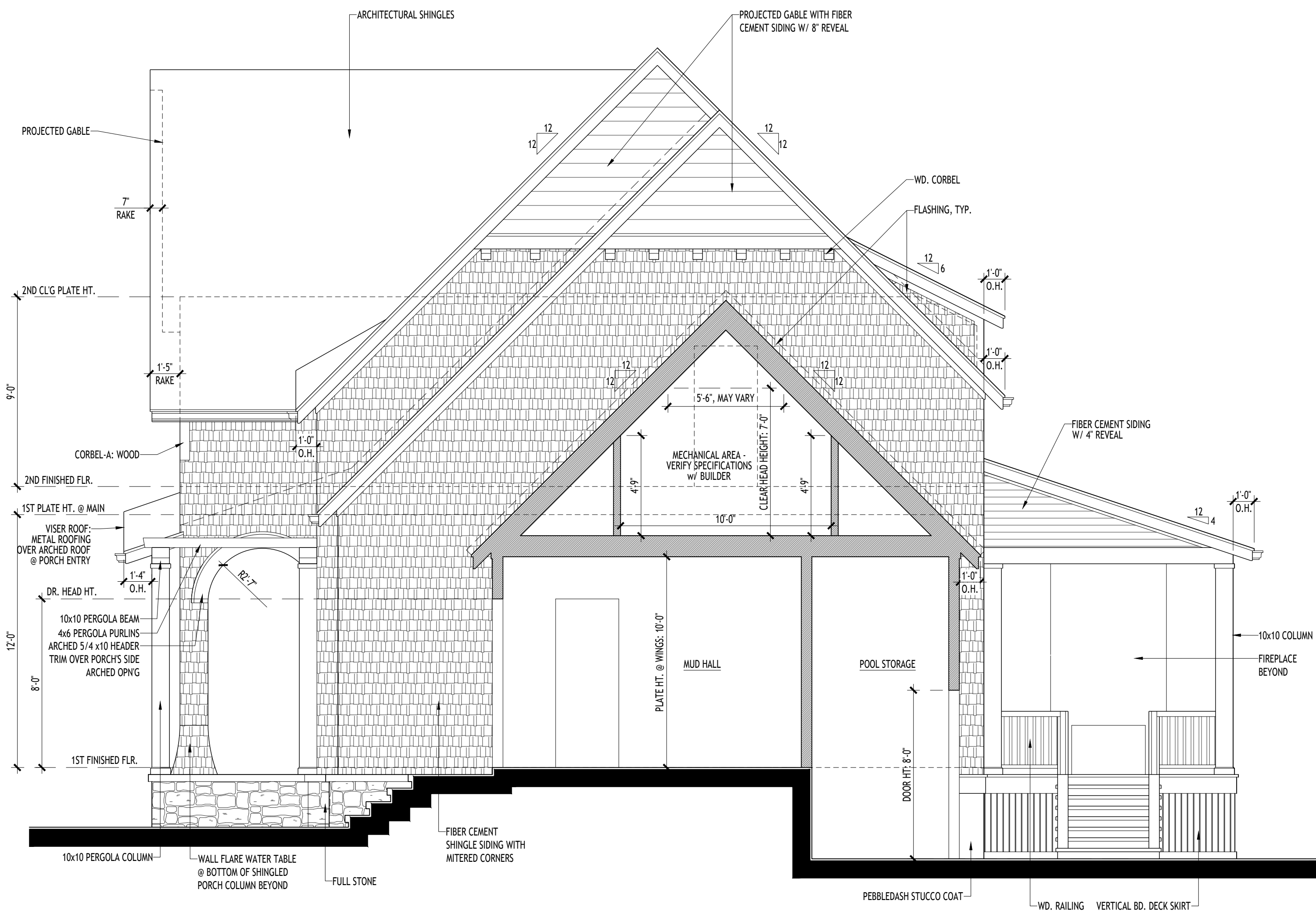
1 FRONT ELEVATION
1/4" = 1'-0"



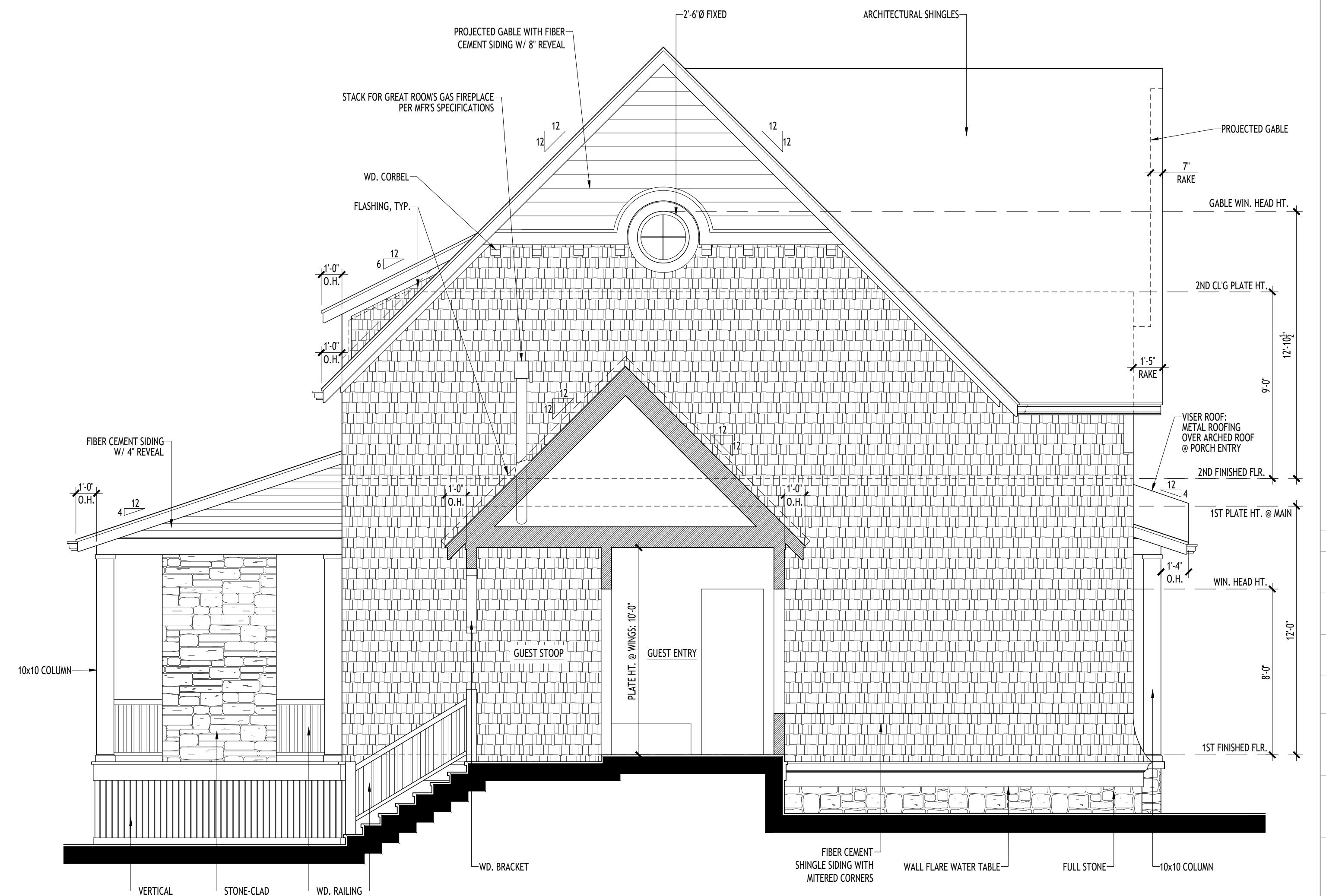
5 GARAGE DOOR SIDE ELEVATION
1/4" = 1'-0"



4 GARAGE FRONT ELEVATION
1/4" = 1'-0"



2 MAIN RIGHT ELEVATION
1/4" = 1'-0"



1 MAIN LEFT ELEVATION
1/4" = 1'-0"

REVISIONS

NO.	DATE	DESCRIPTION

DATE Pricing Set
July 7, 2022

PROJECT
2101025

DRAWN JDD / CR
CHECKED BML

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

July 25, 2022



Case 1 – 398 Vanderbilt Road

**Special Use Permit request for accessory structure
(Ground-mounted Solar Array)**

Property Owner: Paul Foster and Heather Hanks
Property Address: 398 Vanderbilt Road

Background

The applicant initially requested this approval in January 2021. The applicants withdrew their initial application in an effort to work with their neighbors and develop a different proposal. The applicants are now ready to revisit this request with an amended plan that is designed to conceal the solar array from all neighbors, the Biltmore Forest Country Club golf course, and the public road.

Proposal Description

The solar array is located on the southern boundary of the property and complies with both the side yard and rear yard setback requirements. The array is just over 76 feet long and comprised of 48 panels. The maximum height of the panels is 5 feet and 7 ¾ inches. The array is just over 13 feet wide.

The Town's Zoning Ordinance regulates solar panels as accessory structures and states they "shall be regulated in accordance with NCGS 160D-914". A copy of NCGS 160D-914 is attached to this memorandum.

§ 160D-914. Solar collectors.

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:

- (1) On the facade of a structure that faces areas open to common or public access.
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.
- (3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Zoning Compliance Application

Town of Biltmore Forest

Name

Paul Foster

Property Address

398 Vanderbilt Road

Phone

(703) 819-4600

Email

paul@Inf.com

Parcel ID/PIN Number

964667857600000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

4.2 acres

Maximum Roof Coverage

8,900 square feet (Up to 4.5 acres)

Proposed Roof Coverage Total

0

Maximum Impervious Surface Coverage

3-6 acres (20 percent of lot area)

Proposed Impervious Surface Coverage

0

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

Building Height

5'-7 3/4"

Description of the Proposed Project

Freestanding solar field to be construction in side yard of residence. Actual setbacks are as follows: from side property line = 34'-5 1/2"; from rear yard property line = 96'-4 1/8". Panels will be 5 feet, 7 3/4 inches high.

Estimated Start Date

8/1/2022

Estimated Completion Date

9/1/2022

Estimated Cost of Project

\$50,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Applicant Signature



A handwritten signature in black ink, appearing to be 'N. F. A.', written over a horizontal line.

Date

7/11/22

Special Use Permit Application

Town of Biltmore Forest

Name

Paul Foster

Address

398 Vanderbilt Rd

Phone

(703) 819-4600

Email

paul@Inf.com

Please select the type of special use you are applying for:

Accessory Structures

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

Please provide a description of the proposed project:

residential solar field, Jonathan Kanipe has detailed drawings.

Explain why the project would not adversely affect the public interest of those living in the neighborhood:

1. The solar field will be surrounded by hedges and nobody will be able to see it. 2. Once installed, the solar field should provide our household with the majority, if not all, of our electric needs, leading to cleaner air and fewer CO2 emissions for every bodies benefit.

I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature

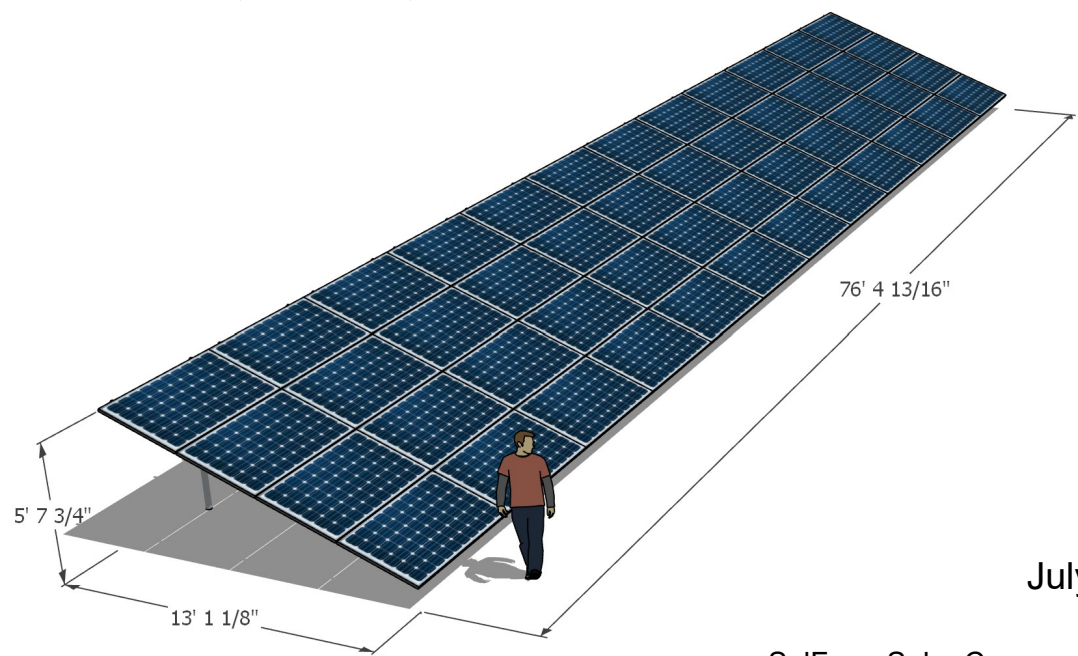
Date

7/15/2022



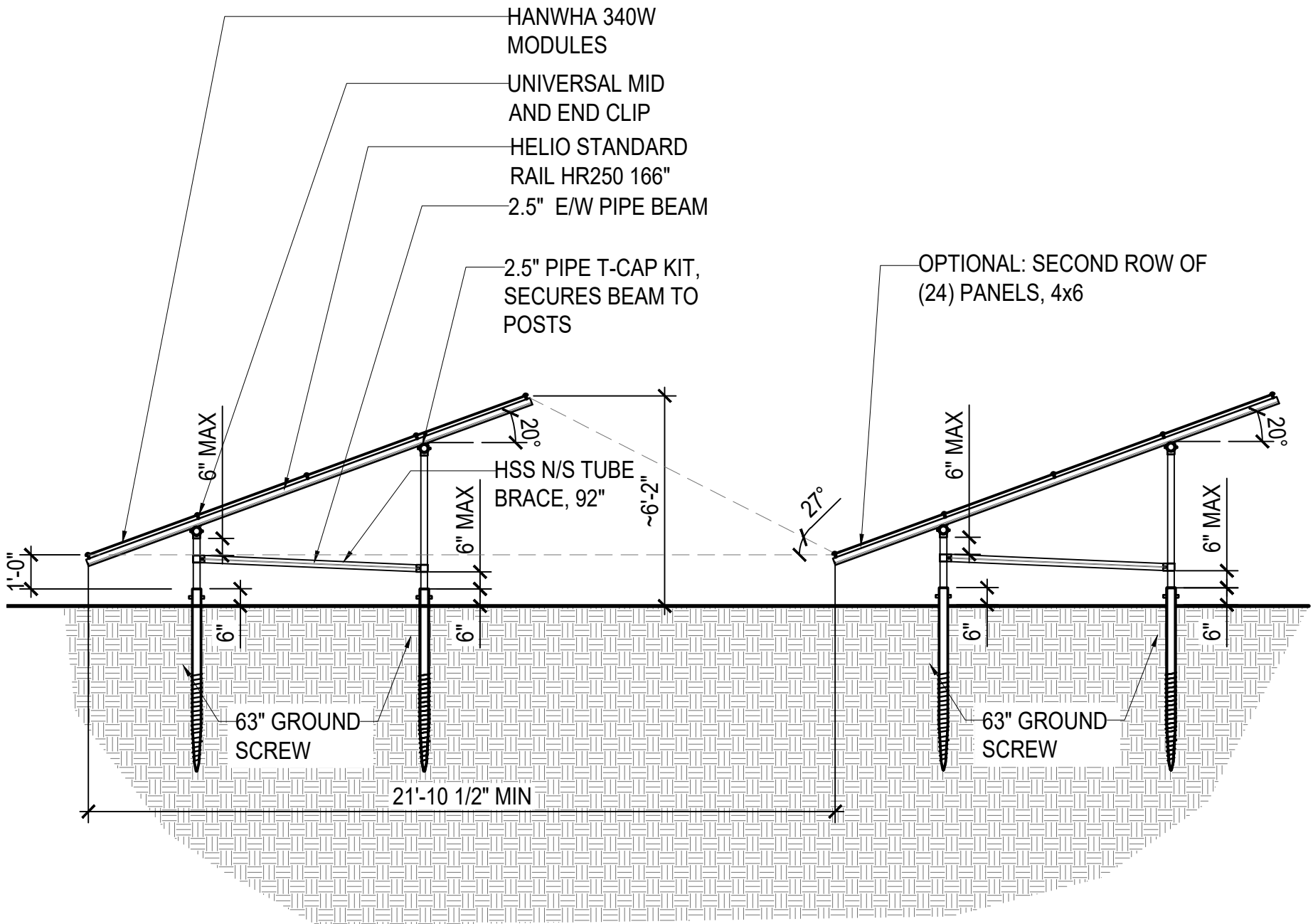


Site Plan for 17.52 KW Ground Mount Solar Electric System
 Hearther Hanks & Paul Foster
 398 Vanderbilt Rd., Asheville, NC 28803



July 14, 2022

SolFarm Solar Company
 739 Glenn Bridge Rd, Arden, NC 28704



A1 REVISED ELEVATIONS
SCALE: 1/4"=1'-0"

1	ISSUED FOR PERMITTING	1.14.21
2	REVISED ELEVATION	3.12.21
3		
4		
5		

SHEET TITLE: RACKING: ELEVATION

PROJECT
HANKS RESIDENCE
398 VANDERBILT RD
ASHEVILLE, NC 28803

SOLFARM SOLAR CO.
75 GLENDALE AVENUE
ASHEVILLE, NC 28803
(828) 332-3003



GO BIG ON TURF

SunTurf™ Ground Mount System



SunModo offers the next generation Ground Mount System with SunTurf™. The streamlined design combines the strength of Helio Rails with steel pipes to create the perfect ground mount solution.

SunTurf™ is ideal for solar installers looking for a durable and cost-effective system that can accommodate a wide variety of soil conditions.

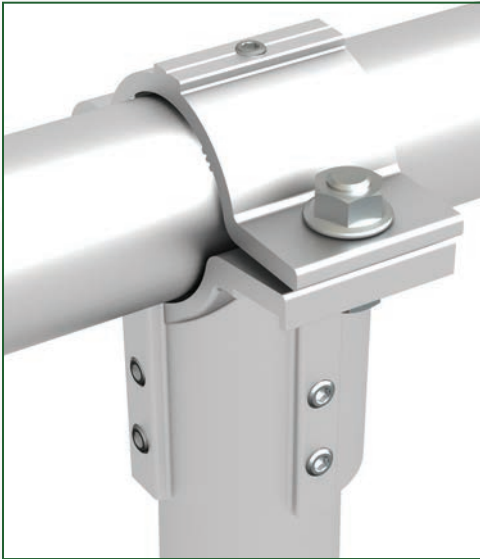
The SunTurf™ Ground Mount Advantage

- ✓ Easily scalable from kilowatts to multimegawatts PV Arrays.
- ✓ Foundation design solution for every soil condition.
- ✓ Online configuration tool available to streamline design process.
- ✓ Components optimized for strength, durability and fast installation.
- ✓ UL 2703 Listed by Intertek.

Key Features of SunTurf™ Ground Mount System

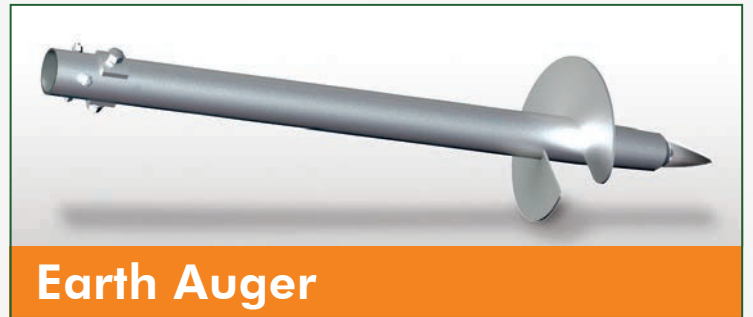


SunTurf™ Ground Mount System easily integrate Helio Rails with Schedule 40 steel pipes. No drilling is required to attach the aluminum rails to the horizontal pipe. Optional bracing can provide additional structural rigidity for sites with high snow or wind load conditions. Anchor any ground mount installation using one of our fountain types including helical piles, precast ballasts and concrete piers.



Augers and Ground Screws

Our augers are suitable for use in weak to moderate strength soils and areas with a high-water table. Our ground screws are ideal for use in hard packed earth or soils with large amounts of cobble and gravel.



Technical Data

Application	Ground Mount
Material	High grade aluminum, galvanized steel and 304 stainless steel hardware
Module Orientation	Portrait and Landscape
Tilt Angle	Range between 10 to 50 degrees
Foundation Types	Post in concrete, helical earth auger, ground screw anchor and ballast
Structural Integrity	Stamped engineering letters available
Certificate	UL2703 listed by ETL
Warranty	25 years

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

July 25, 2022



Case 3 – 23 Eastwood Road

**Variance request to Encroach Side Yard Setback with
Retaining Wall Deviating from Previously Approved Plan**

Property Owner: Tom and Char Hand
Property Address: 23 Eastwood Road

****Note****

This project was withdrawn from the June 27, 2022 Board of Adjustment agenda after the meeting was changed to being held remotely. No additional information has been provided regarding this matter since that time.

Project Description and Background

In December 2019, the applicants received approval for a large renovation project for the existing home. As part of this project, the applicants applied for and received special use permits for retaining walls and a driveway entrance plan in compliance with the Town's setback requirements. The Board of Adjustment also approved tree removal associated with the project during this initial hearing.

At a subsequent meeting in July 2021, the applicant requested an amendment to the previously approved landscaping plan that showed a reduction in the overall pavement for the project. The Board of Adjustment approved this revised landscaping plan at that time. Subsequently, the applicant provided a final revision that included keeping the existing driveway in its existing location. This revision did not require any Board of Adjustment action as there were no changes resulting in greater impervious surface coverage and no change to the current driveway. In each of these iterations, the retaining walls shown (and previously approved) on the western side property line did not change and were not encroaching within the setback.

Upon receiving information from the neighbor immediately west of the property, Town staff investigated and found that the retaining wall was located within the side setback. In addition, the planned single retaining wall was replaced with a constructed two-tiered retaining wall.

Variance Request

Upon staff investigation, it was determined the now constructed two-tiered retaining wall is 8 feet from the property line. The side setback for this parcel is 20 feet from the property line. The applicant was informed they could appeal for a variance or relocate the parcel back to the 20-foot side

setback line. Additionally, staff investigated tree removal that had occurred and found it complied with previously approved landscaping plans and tree removal approvals from the Board of Adjustment.

Appeal from Neighboring Property Owner

The neighboring property owner, Susan Taylor, has appealed the location of the constructed retaining wall within the side yard setback. Correspondence from her attorney is attached to this memorandum for the Board's review.

Zoning Compliance Application

Town of Biltmore Forest

Name

Howard McDill

Property Address

23 Eastwood

Phone

(828) 691-0960

Email

howard@mayhewnc.com

Parcel ID/PIN Number

ZONING INFORMATION

Current Zoning

R-1

Lot Size

2

Maximum Roof Coverage

6,100 square feet (Up to 2 acres)

Proposed Roof Coverage Total

na

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)

Proposed Impervious Surface Coverage

na

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

Building Height

25

Description of the Proposed Project

adding 2 tier retaining wall that is in the 20' side setback

Estimated Start Date

6/8/2022

Estimated Completion Date

6/9/2022

Estimated Cost of Project

\$25,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

update 21758 Steven Shillinglaw 12x18 Print.pdf

Applicant Signature

Date
6/8/2022



A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a thin horizontal line.

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Howard McDill

Address

201 WESTON WAY

Phone

(828) 691-0960

Email

howard@mayhewnc.com

Current Zoning/Use

residential

Requested Use

residential

APPLICATION REQUIREMENTS: An application to the Board of Adjustment for a variance must be submitted to the Town of Biltmore Forest Town Manager at least 21 days prior to the meeting at which the application will be considered. A pre-application meeting with Town staff is required prior to application submittal to the Board of Adjustment.

What would you like to do with your property?

At rear of long driveway on left side of the home install a two tier boulder retaining wall with plantings for buffer to neighbor that support the use of the driveway that accesses the lower garage and the rear of the home.

What does the ordinance require?

Approval to enter the setback

BOARD OF ADJUSTMENT: N.C.G.S. 160A-388(D) requires that the Board of Adjustment shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the items below. The Board of Adjustment must follow strict procedure and all determinations must be decided by a concurring vote of four-fifths of the members of the Board. It is important to provide detailed supporting documentation for the Board of Adjustment to review. If necessary, additional sheets may be attached to this application.

REQUIRED FINDINGS: Please provide a thorough response to each.**Unnecessary hardship would result from the strict application of the ordinance.**

Having the retaining wall allows the existing driveway to be truly functional for cars, also will allow the owner to safely access the rear of the home better.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

At the lower left side of the home there is a 2 car garage and the slope of the topography sends all the storm water to the end of the driveway and creates erosion concerns as well as making the driveway not functional.

The hardship did not result from actions taken by the applicant or the property owner.

The current plan shows a retaining wall at the lower end of the driveway, during construction it became apparent that a 2 tier boulder retaining wall would be needed to achieve the slope desired as well as allow for a more visually attractive buffer to the side of the house and driveway/garage area.

The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that

public safety is secured, and substantial justice is achieved.

the existing lower driveway originally adjoined a retaining wall comprised of small rocks. The idea was to replace this former retaining wall with a different, improved one. In the approved plan a portion of the new retaining wall is within the setback on the approved plan. Given the location of the existing lower driveway, we must have some sort of retaining wall within the setback area to get from the corner of the lower driveway to an area outside the setback line (20' from the property line). Also to maintain a slope lesser than 2:1. In this case, we were really pushing that degree of slope and additionally compromising the desirable, mature oaks below the wall.

The walls allowed us a stronger drainage solution (with subsurface inlets/piping that we install) to control the erosion that was being exacerbated by the downhill driveway above to the lower garage.

I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a thin horizontal line.

Date

5/9/2022



McGUIRE
WOOD &
BISSETTE
LAW FIRM

June 20, 2022

Re: Susan Taylor's Objection to Variance Application for 23 Eastwood Road

Dear Town of Biltmore Forest Board of Adjustment:

Please be advised that the McGuire, Wood & Bissette, P.A. law firm represents Susan Taylor, resident and owner of 24 Eastwood Road (the "Taylor Property"), and, on her behalf, I have been asked to object to the variance application for 23 Eastwood Road (the "Hands Property").

Request to be Recognized as Having Standing

When the proposed use of land is unlawful pursuant to a valid ordinance, the owner of adjoining or nearby lands have standing in hearings regarding the proposed use when that owner has or will sustain special damage distinct from the rest of the community. *See Mangum v. Raleigh Bd. of Adjustment*, 362 N.C. 640, 643, 669 S.E.2d 279, 282 (2008); *see also Casper v. Chatham Cty.*, 186 N.C. App. 456, 458, 651 S.E.2d 299, 301 (2007). Further, in order to have standing, the aggrieved party must allege "the manner in which the value or enjoyment of [her] land has been or will be adversely affected." *Id.* Examples of circumstances that North Carolina courts have deemed to adversely affect value or enjoyment of property include, without limitation, increases in noise level, increases in water runoff, etc. *Id.*; *see also Randall L. v. Cty. of Watauga*, 260 N.C. App. 704, 817 S.E.2d 496 (2018).

As an abutting landowner who has suffered special damages distinct from the rest of the community, Ms. Taylor has standing as an aggrieved party to be heard before the Board of Adjustment (the "Board") regarding the variance application submitted by Howard McDill on behalf of Tom and Char Hand (herein referred to as the "Hands" and the "Hands' Application"). In this case, the Hands are not requesting permission for significant intrusion into their 20-foot side setback area. Instead, they have already built the structures in question and are now asking the Board's forgiveness. The walls at issue intrude twelve (12) feet into the setback. To achieve this, the Hands have removed a significant portion of the dense tree barrier that formerly existed between the Taylor Property and the Hands Property.

A combination of the intrusion into the setback and the removal of the tree barrier has increased the noise and light level on the Taylor Property while significantly reducing the visual barrier that these trees provided. Additionally, due to the Hands significantly altering the slope of their Property in order to construct the walls at issue, the water and erosion Mr. McDill alleges as occurring on the Hands Property are now diverted to the Taylor Property. Photographs depicting the same are attached for your review.

PHONE 828.254.8800 / FAX 828.252.2438

PHYSICAL ADDRESS Drhumor Building / 48 Patton Avenue / Asheville, NC 28801

MAILING ADDRESS P.O. Box 3180 / Asheville, NC 28802

mwblawyers.com

As such, Ms. Taylor respectfully requests the Board recognize her as an aggrieved party with standing to be heard, through counsel, regarding the Hands' Application.

Summary of Objection to the Hands' Application

In order for the Board to grant the Hands' Application, the Board must make specific findings of fact that: (1) unnecessary hardship would result from the strict application of the regulation; (2) the hardship results from conditions that are peculiar to the property, such as location, size, topography; (3) the hardship did not result from actions taken by the applicant or the property owner; and (4) the requested variance is consistent with the spirit, purpose, and intent of the regulations. *See* N.C. Gen. Stat. § 160D-705. Additionally, “[h]ardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis from granting a variance. *Id.*

The Hands' Application does not meet the burden of proof for any of the four standards above. The Hands' Application purports that this variance is necessary as it will allow use of the driveway, “better” access to the rear of the home, “to achieve the slope desired,” and to “allow for a more visually attractive buffer to the side of the house and driveway/garage area.” As the Board is aware, the driveway at issue is the same driveway that existed and was in use for many years without any issue prior to the Hands' purchasing the lot and beginning construction. Additionally, neither the Town of Biltmore Forest nor North Carolina General Statutes provide for remedying stormwater and erosion control issues by conveying it, without express permitting, approved planning, and/or permission, to an abutting or adjacent landowner's property. *See* BILTMORE FOREST, N.C. ORDINANCES § 152.56-57; § 52.01-99; *see also* N.C. Gen. Stat. § 143-214.7. The remaining reasons Mr. McDill cites as reasons that this variance is allegedly necessary are all subjective – “better,” “desired,” “more visually attractive.” These are all personal circumstances created by what the Hands may or may not prefer, and the Board is bound by statute not to allow a variance based on these personal circumstances.

Additionally, the Board is bound by the purpose, intent, and values enumerated in the Town of Biltmore Forest's Ordinances. “The town has an abundant and diverse tree and vegetative cover that is essential to the aesthetic value of the town and provides numerous ecological and economic benefits.” BILTMORE FOREST, N.C. ORDINANCES § 153.060(A). In fact, the landscaping and buffering requirements in the Ordinances are in place to: (1) encourage the preservation of existing trees and vegetation and replenish removed vegetation; (2) protect and improve the visual quality of the town and minimize the negative impacts of development such as noise, dust, litter, glare of lights, traffic, heat, overcrowding, odor, and views of unsightly parking lots, utilities, and mechanical systems and buildings; (3) provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat; (4) provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and to preserve the character and value of property and to provide a sense of privacy; and (5) improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of the town while allowing flexibility to promote well-designed and creative landscape plantings. BILTMORE

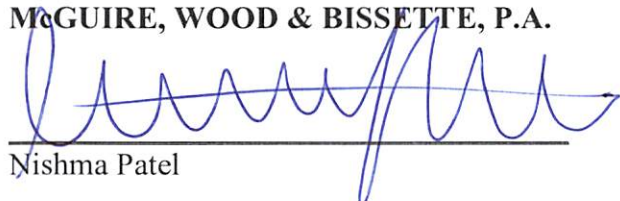
FOREST, N.C. ORDINANCES § 153.060(B). Biltmore Forest is so dedicated to the preservation of the trees, natural habitat, and aesthetic provided by natural vegetation that the Town passed a Tree Protection Ordinance on January 12, 2021, to specifically reduce and regulate damage and removal of trees. BILTMORE FOREST, N.C. ORDINANCES § 93-30 to 93-41, as amended.

The Hands have cleared their lot of the vast majority of trees, including but not limited to, along the property line they share with Ms. Taylor in order to build retaining walls that intrude twelve (12) feet into the setback along the Taylor Property line. Now, every time Ms. Taylor wants to enjoy a morning coffee in her backyard, an afternoon in her back garden, or dinner with friends on her back patio, she is met with a reduced visual barrier creating little to no privacy due to the diminished visual barrier, increased noise, increased light, and a view of the Hands' retaining walls which are in stark contrast to the aesthetic value the Town of Biltmore Forest Ordinances seek to preserve. This is precisely the kind of intrusion that setbacks and required buffers and yards are meant to prevent.

For those reasons, Ms. Taylor requests that you deny the Hands' Variance Application submitted by Howard McDill as the Hands' Application fails to meet the burden of proof on any of the four standard criteria that must be met. If the Board is inclined to grant the variance, Ms. Taylor would respectfully request that, as a special condition of the variance, the Hands' be required to restore the tree and vegetation barrier that existed between the property with the same or substantially equivalent vegetation that existed previously.

Sincerely,

McGUIRE, WOOD & BISSETTE, P.A.


Nishma Patel

Enclosures











