



**P.O. Box 2430**  
**Indian Trail, North Carolina 28079**  
**Telephone (704) 821-5401**  
**PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT**

## Special Use Permit Staff Report

|   |                                      |                                |                     |
|---|--------------------------------------|--------------------------------|---------------------|
| <b>Case: SUP 2003-005 M3 Special Use Permit</b> |                                      |                                |                     |
| <b>Reference Name</b>                           | Townhomes – Orr Road                 |                                |                     |
| <b>Existing Site Characteristics</b>            | <b>Proposed Use</b>                  | Townhomes                      |                     |
|   | <b>Existing Zoning</b>               | Multi-Family Residential (MFR) |                     |
|   | <b>Existing Use</b>                  | Vacant                         |                     |
|   | <b>Site Acreage</b>                  | 6.53 acres                     |                     |
| <b>Applicant</b>                                | Chris Azar; Property Owner           |                                |                     |
| <b>Submittal Date</b>                           | September 20, 2016                   |                                |                     |
| <b>Location</b>                                 | 5523 Orr Road                        |                                |                     |
| <b>Tax Map Number(s)</b>                        | 07069124B                            |                                |                     |
| <b>Plan Consistency</b>                         | Town of Indian Trail<br>Land Use Map | <b>Designation</b>             | US 74 Corridor East |
|   |                                      | <b>Consistent with Request</b> | Yes                 |

### Project Summary

The applicant is requesting a time extension for a previously approved Special Use Permit (SUP). The Special Use Permit is for the allowance of 80 townhome units on a 6.53 acre parcel, zoned Multi-Family Residential (MFR). The reason for the extension is the downturn in the economy delaying potential development of the site. The Board of Adjustment has approved a time extension request on two previous occasions.

## **Permit History**

- **March 25, 2004** - SUP2003-005 approved by the Board of Adjustment in March 2004, expiring March 25, 2006.
- **January 26, 2006** - SUP2003-005M approved a two-year time extension, expiring March 29, 2008
- **The Permit Extension Act 2009** – Senate Bill 831 suspended the clock on approved permits from January 1, 2008 to December 31, 2010.
- **The Permit Extension Act 2009** – Senate Bill 638 amended the Permit Extension Act of 2009 suspending the clock one additional year to December 31, 2011. The Special Use permit expires on March 29, 2012.
- **December 15, 2011** – SUP2003-005M2 approved a five-year time extension, expiring March 29, 2017

## **Analysis**

### **Proposed Land Use**

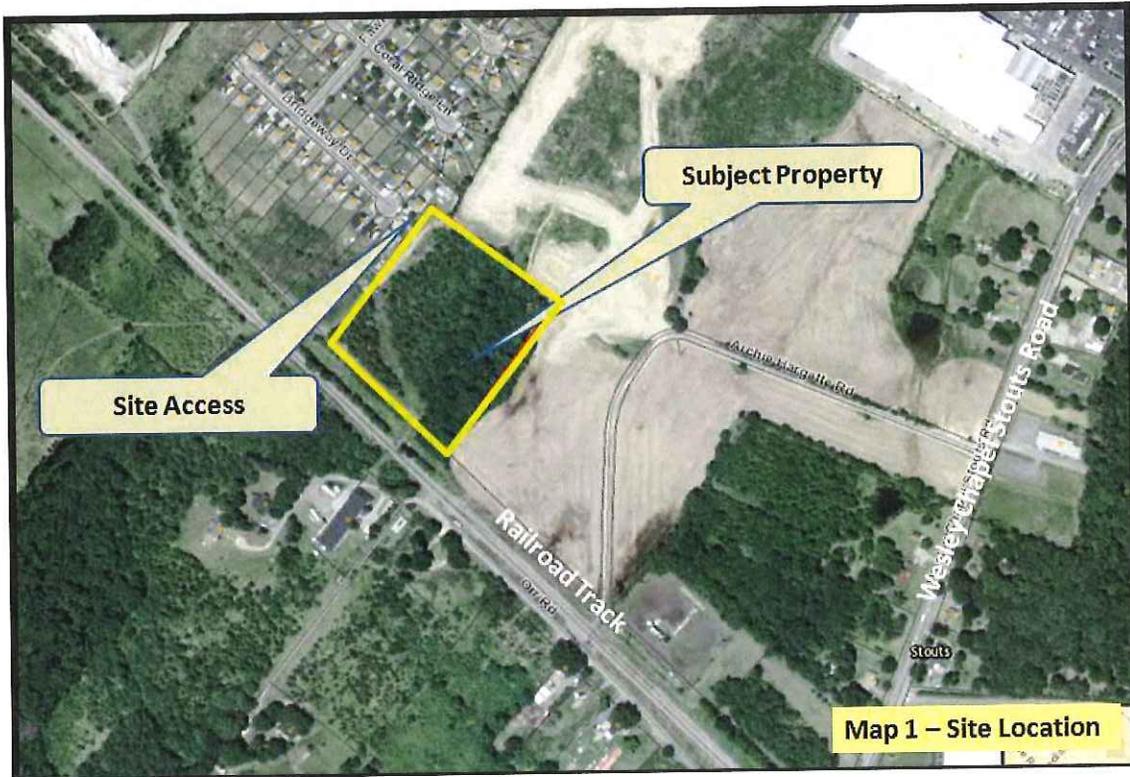
The subject property is currently vacant, accessed from Bridgeway Drive. The zoning is Multi-Family Residential (MFR). There is an approved Special Use Permit for townhome development on the property which expires March 29, 2017.

### **Proposed Site**

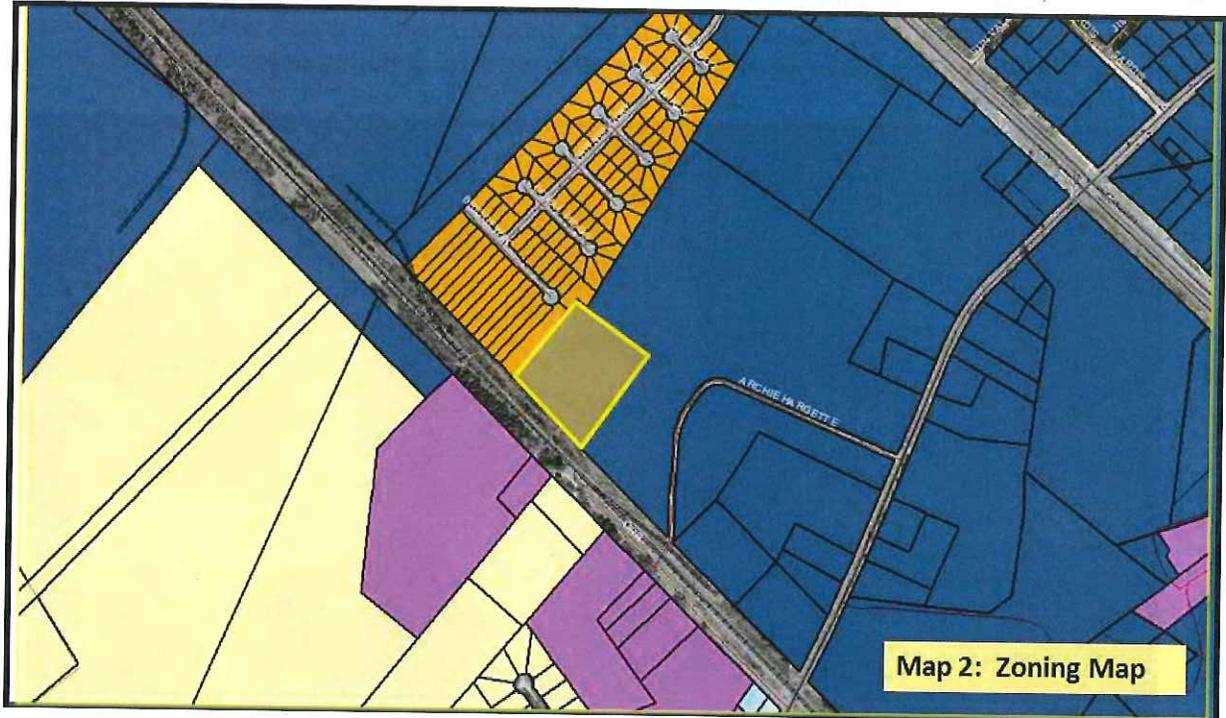
The proposal contemplates 80 townhome units on 6.53 acres, zoned Multi-Family Residential. This is a density of 12.2 units per acre. The parcel is addressed off Orr Road, but on the opposite side (East side) of the CSX Railroad. The primary access to the site will be utilizing a 30' in width public utility, drainage & access easement off the Bridgeway Drive cul-de-sac. An emergency access is located on the southern end of the parcel crossing the CSX Railroad to provide a connection to Orr Road. An agreement has been made with the property owner and the Department of Transportation to cross the railroad. The townhomes will be either 2 or 3 stories with a garage and driveway for each unit.

**Site and Adjacent Land Uses**

The subject property is addressed on Orr Road, but the site's main access will be on Bridgeway Drive. Single-family residential uses are to the adjacent west on Bridgeway Drive and across the railroad to the south. Adjacent to the north and the east is a 45.2 acre, vacant parcel. Map 1 below will provide a visual overview of the site relative to surrounding uses.



The 45.2 acre parcel to the adjacent north and east is zoned Regional Business District (RBD). The single-family residences to the adjacent west are Single-Family, High Density (SF-5). Across the railroad to the southwest is Light Industrial (L-I) zoning.



### Outside Agency Comments

Comments were received from the following Agencies:

- **Union County Sheriff's Office:** No comments.
- **Union County Fire Marshal:** No comments
- **Union County Environmental Health:** No comments.

### Comprehensive Plan Consistency

The subject property is located within the US 74 East Corridor of the Comprehensive Plan. The Future Land Use Map recommends this parcel as Mixed Use. Based on analysis of this use, staff is of the opinion that the proposed use is consistent with the intent of this corridor as follows:

- **Land Use and Housing Goal 1 and Economic Development Goal 2:** There are few properties in the Town with Multi-Family Residential zoning. This higher density zoning encourages a diverse type of housing throughout the Town and will provide additional housing for workers.

Under **UDO Section 360.080**, the Board of Adjustment, when considering whether to approve an application for a special use permit, shall review and evaluate the following:

1. **Whether the application is complete.**
  - a. Staff is of the opinion that the application for SUP2003-005M3 is complete.
2. **The Board will consider whether the application complies with all of the applicable requirements of this ordinance.**
  - a. As per the stated conditions of this special use permit, staff is of the opinion that SUP 2003-005M3 is in compliance with the requirements set forth by the Unified Development Ordinance (UDO).
3. **If the Board of Adjustment concludes that all such requirements are met, it will issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in UDO Section 360.030. Such a motion will propose specific findings, based upon the evidence submitted, justifying such a conclusion.**

Under **UDO Section 360.030**, the Board of Adjustment must make these required considerations of public health, safety, and welfare. The Board of Adjustment's authority in the review of this Special Use Permit application is broad and the Board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed development will:

1. **Not materially endanger the public health or safety; and**
2. **Not substantially injure the value of adjoining or abutting property; and**
3. **Be in harmony with the area in which it is to be located; and**
4. **Be in general conformity with the Town of Indian Trail Comprehensive Plan and other adopted plans.**

If one of these findings cannot be made, then the Board must move to deny the Special Use Permit request, stating for the record why the Board has decided to do so.

## **Recommendation**

If the Board is of the opinion that the above required findings can be made to approve the project, staff recommends the site be subject to the following conditions, along with the Board's approval of the special use permit:

1. Approval authorizes a 5-year extension – 3/29/2022
2. Said development shall comply with all associated conditions of the recorded Special Use Permits (excluding previously established expiration dates):
  - a. SUP 2003-005 recorded at the Register of Deeds Union County (BK3397PG089-092; and
  - b. SUP 2003-005M recorded at the Register of Deeds Union County (BK4064PG637-640).

### **Attachments**

**Attachment 1** – Application Submittal

**Attachment 2** – Alexis Pointe Recorded Plat

### **Staff Contact**

Meade Bradshaw III

Senior Planner

[mbradshaw@planning.indiantrail.org](mailto:mbradshaw@planning.indiantrail.org)

**ATTACHMENT 1**  
**Application Submittal**



R-000730

Inv 31616

SUP2016-005

# SPECIAL USE PERMIT APPLICATION



**Planning & Neighborhood Services**  
PO Box 2430  
Indian Trail, NC 28079  
Telephone (704) 821-5401  
Fax (704) 821-9045

## ONLY COMPLETE APPLICATIONS ACCEPTED

Processing Fee \$300.00 for Major Home Occupation, ~~\$400~~ for Non-Residential Use  
+ ~~\$100~~ for Engineering Review for Commercial Plans

Notification Fee ~~\$2.50~~ per notice Flat ~~\$100~~

Notices sent to all property owners within 400 feet of subject property

**\*\*A TECHNOLOGY FEE, 10% OF ALL APPLICABLE FEES, WILL BE APPLIED TO THE TOTAL FEE.\*\***

Date Received 9-20-16





SPECIAL USE PERMIT APPLICATION

Submittal Requirements

- Completed Application
Notarized signatures of applicant and property owner
Letter of Intent
Articles of Incorporation, Certificate of Incorporation, Articles of Organization, Corporate Charter, or similar (unless applicant is an individual)
8 copies of Concept Plan (including a digital copy)
Statement of Justification (used to determine if Findings of Fact can be made at public hearing)
Statement of Appraisal (8 hard copies and 1 digital)
Fees associated with review
A TECHNOLOGY FEE, 10% OF ALL APPLICABLE FEES, WILL BE APPLIED TO THE TOTAL FEE.

General Information

Project Address 5523 Orr Rd. (By Alexis Pointe Sub.)
City Monroe State NC Zip 28110
Tax Parcel ID # 07-069-124B Zoning Designation R-6 Multi-Family
Total Acres 6.53 AC Impervious Area
Project Description 80 TOWN HOMES

Contact Information - Applicant

Contact Name Chris AZAR
Company Name Union Construction
Address 5523 Orr Rd.
City Monroe State NC Zip 28110
Phone 704-283-8982 Fax 704-289-2438
Email cazari@peoplepc.com 704-408-3991 Cell

Contact Information - Property Owner

Contact Name Same as above
Address
City State Zip
Phone Fax
Email



SPECIAL USE PERMIT APPLICATION

Applicant's Certification

Signature [Signature] Date 9-20-16

Printed Name/Title Chris AZAR

Signature of Notary Public [Signature] Date 9-20-16

my commission expires 10-11-2020

Notary Seal

Property Owner's Certification

Signature [Signature] Date 9-20-16

Printed Name/Title Chris AZAR / owner

Signature of Notary Public [Signature] Date 9-20-16

my commission expires 10-11-2020

Notary Seal

Legal Name:  
ESSA AZAR  
[Signature]

TOWN OF INDIAN TRAIL OFFICE USE ONLY

CASE NUMBER: SUP2016-005

DATE RECEIVED: 9-20-16

AMOUNT OF FEE: \$660-

RECEIVED BY: Gretchen Cooper

RECEIPT #: \_\_\_\_\_



SPECIAL USE PERMIT APPLICATION

09-22-16P12:53 RCVD

Statement of Justification:

Please fill out this form or provide attached documentation as needed

09-22-16P12:53 RCVD

For each item, please specify as to how each required finding can be met and satisfied:

- 1. That the use will not endanger the public health and safety

Residential use is a better option and safer for area than light industrial.

- 2. That the use will not injure the value of adjoining or abutting property (a statement from a certified appraiser may be required to show this)

AS per DOT letter, it is better for road use. Previous Director of Planning of Indian Trail and Board of Adjustment found it to be a better use.

- 3. That the use will be in harmony with the area in which it is located

The zoning around the parcel is residential, this fits to be in harmony and use.

- 4. That the use will be in conformity with the Comprehensive Plan, Thoroughfare Plan, or other plan officially adopted by the Town Council

AS previously was confirmed in Rezone / SUP 2006-001 and 2003-005. This SUP is for extension of time. I'm requesting an extension of time for 5 years. Presently, the economy is stronger and more healthy. I have more interest from potential developers.

Chris Azar  
5523 Orr Road  
Monroe, N.C. 28110  
(704) 283-8982 office (704) 408-3971 cell

September 20, 2016

Town of Indian Trail  
Indian Trail, N.C. 28079

09-22-16 12:54 RCVD

Att: Rox Burhans / Planning Director

Re: Subdivision Parcel # SUP 2003-005 SUP 2007-025 Request for 5 year extension

To All Concerned:

This letter is a written request to extend the time period of the above referenced parcel of land.

This site specific plan is due to expire on March 29, 2017. I am requesting that it be extended for five years from that date. All submittals have been completed and it is recorded at the court house. I have followed all the guidelines for the site plan submitted, been approved and recorded.

I have invested money in the water and sewer installation as well as constructed a railroad crossing on the property. Each year I pay a fee to the railroad for that crossing that was required by the Town of Indian Trail. Therefore, I have met all the requirements for the plan.

The property has not been developed for several reasons and circumstances. At one point in time there was a sewer moratorium that had a limited allocation for who could have it. In addition, there has been a slowdown in the economy which limited development.

Presently, the economy is better and there is more potential interest in developing this property.

The multi-family zoning fits the area whereas light industrial zoning has an access issue due to an adjoining neighborhood. The property uses could include: townhomes, apartments, senior living facility or a hotel.

Since I have completed all the necessary submittals and requirements, I request this extension of time. I request that this matter go before the town council or board of adjustment as required.

Sincerely,

Chris Azar







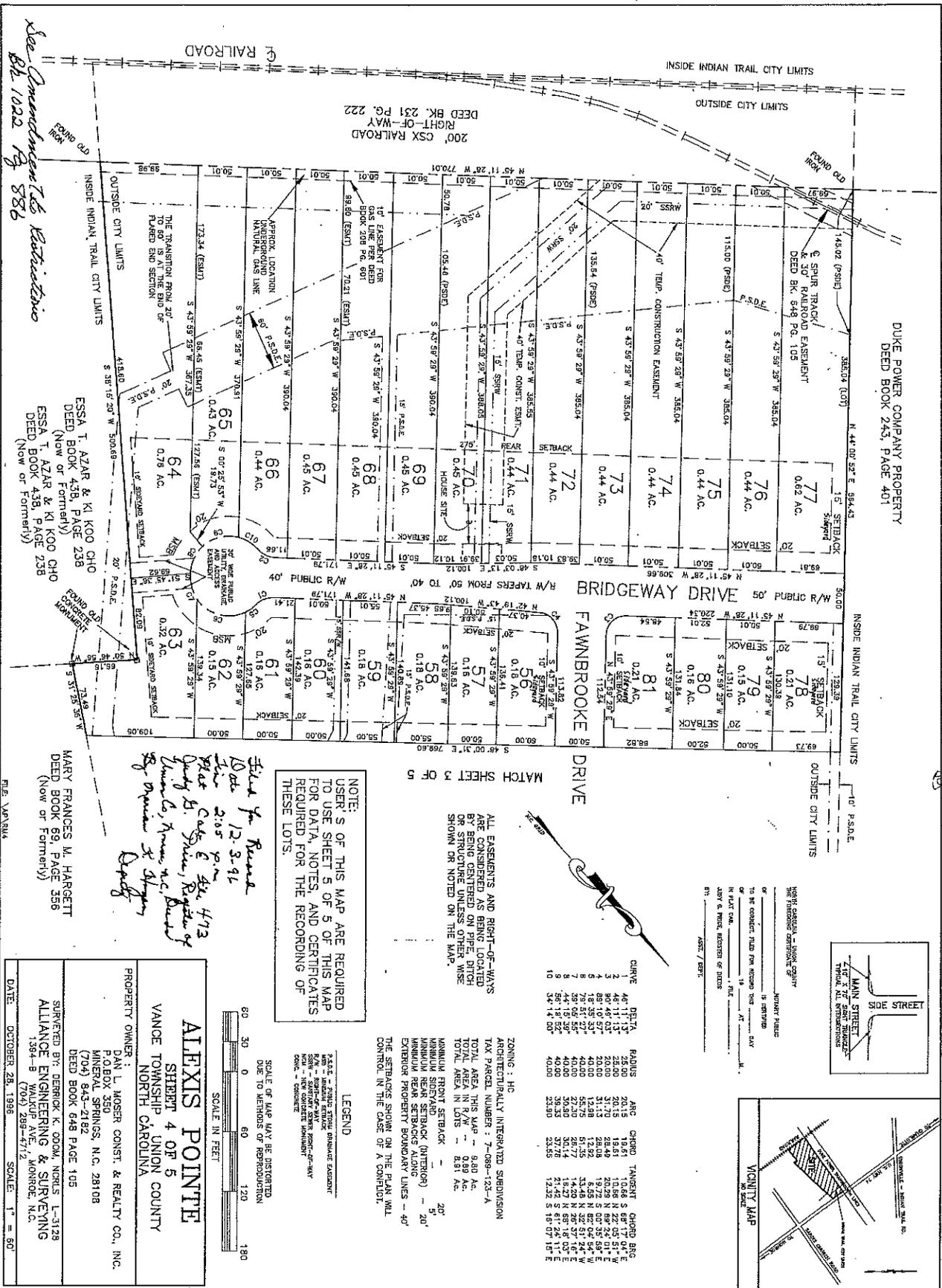
**ATTACHMENT 2**  
**Alexis Pointe Recorded Plat**



Car & File 473

DATE OF RECORD  
8-2-58

E-473



See Attachment to Restrictions  
Bk 1022 Pg 886

DUKE POWER COMPANY PROPERTY  
DEED BOOK 245, PAGE 401

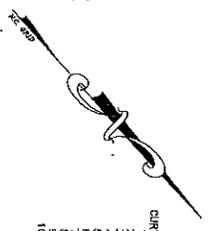
ESSA T. AZAR & KI KOO CHO  
DEED BOOK 436, PAGE 236  
(Now or Formerly)  
ESSA T. AZAR & KI KOO CHO  
DEED BOOK 438, PAGE 238  
(Now or Formerly)

MARY FRANCES M. HARGETT  
DEED BOOK 89, PAGE 356  
(Now or Formerly)

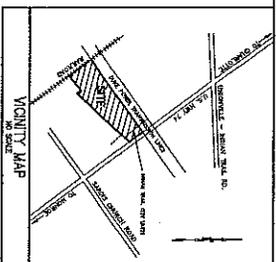
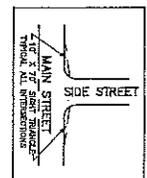
*Field for Record  
Date 12-3-91  
Time 2:05 p.m.  
Plat to Car & File 473  
Dated 8-2-58  
Survey by [Name], Registered  
Land Surveyor, State of North Carolina  
By [Name] & [Name]*

NOTE:  
USERS OF THIS MAP ARE REQUIRED  
TO USE SHEET 5 OF 5 OF THIS MAP  
FOR DATA, NOTES, AND CERTIFICATES  
REQUIRED FOR THE RECORDING OF  
THESE LOTS.

LEGEND  
P.L. = Right-of-Way  
R.W. = Right-of-Way  
C.C. = Centerline  
D.C. = Ditch  
E.C. = Easement  
S.C. = Setback  
M.S. = Minimum Setback  
M.R.S. = Minimum Rear Setback  
M.F.S. = Minimum Front Setback  
M.P.S. = Minimum Side Setback  
M.B.S. = Minimum Back Setback  
M.T.S. = Minimum Total Setback  
M.C. = Minimum Corner  
M.L. = Minimum Lot  
M.A. = Minimum Area  
M.P. = Minimum Perimeter  
M.V. = Minimum Volume  
M.W. = Minimum Weight  
M.H. = Minimum Height  
M.D. = Minimum Depth  
M.S. = Minimum Slope  
M.C. = Minimum Curve  
M.R. = Minimum Radius  
M.A. = Minimum Area  
M.P. = Minimum Perimeter  
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M.W. = Minimum Weight  
M.H. = Minimum Height  
M.D. = Minimum Depth  
M.S. = Minimum Slope  
M.C. = Minimum Curve  
M.R. = Minimum Radius



NOTE: ALL EASEMENTS AND RIGHT-OF-WAYS  
ARE CONSIDERED AS BEING LOCATED  
BY BEING CENTERED ON PIPE, DITCH  
OR STRUCTURE UNLESS OTHER WISE  
SHOWN OR NOTED ON THE MAP.



PROPERTY OWNER:  
DAN L. MOSER CONST. & REALTY CO., INC.  
P.O. BOX 350  
MINERAL SPRINGS, N.C. 28108  
(704) 843-2182  
DEED BOOK 648 PAGE 105  
SURVEYED BY: BERRICK K. DOOL, N.C.L.S. L-3129  
ALLIANCE ENGINEERING & SURVEYING  
1384-B WALKUP AVE., MONROE, N.C.  
(704) 289-4712  
DATE: OCTOBER 28, 1986 SCALE: 1" = 80'

Car & File 473

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