



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

Special Use Permit Staff Report

Case SUP2014-004			
Reference Name	Tracy Alsobrooks (Owner)		
Proposed Use	Horse Stable		
Existing Site Characteristics	Existing Zoning	Single Family Residence (SF-1)	
	Existing Use	Residence	
	Site Acreage	7.23 (Total Parcel Size 9.8)	
Applicant	Tracy Alsobrooks		
Submittal Date	October 3, 2014		
Location	3425 Fincher Road		
Tax Map Number(s)	07-135-050, 07-135-050C & 07-135-050F		
Plan Consistency	Town of Indian Trail Comprehensive Plan	Designation	Austin Village
		Consistent with Request	Yes

Project Summary

The is a request for a Special Use Permit (SUP) to allow a Horse Stable at 3425 Fincher Road (vacant portion of the lot) also identified as tax parcel ID 07-135-050 and to use parcel's 07-135-050C & 07-135-050F for horse riding/grazing (potentially in future). The SUP subject property consists of three separate parcels and each owner has signed the SUP application. The SUP applicants are members of the same family. This case is the result of Code Enforcement Violation #C806715 (*see attachment #4*); operating a horse stable in the (SF-1) single family residential district without a Special Use Permit.

Analysis

Proposed Land Use

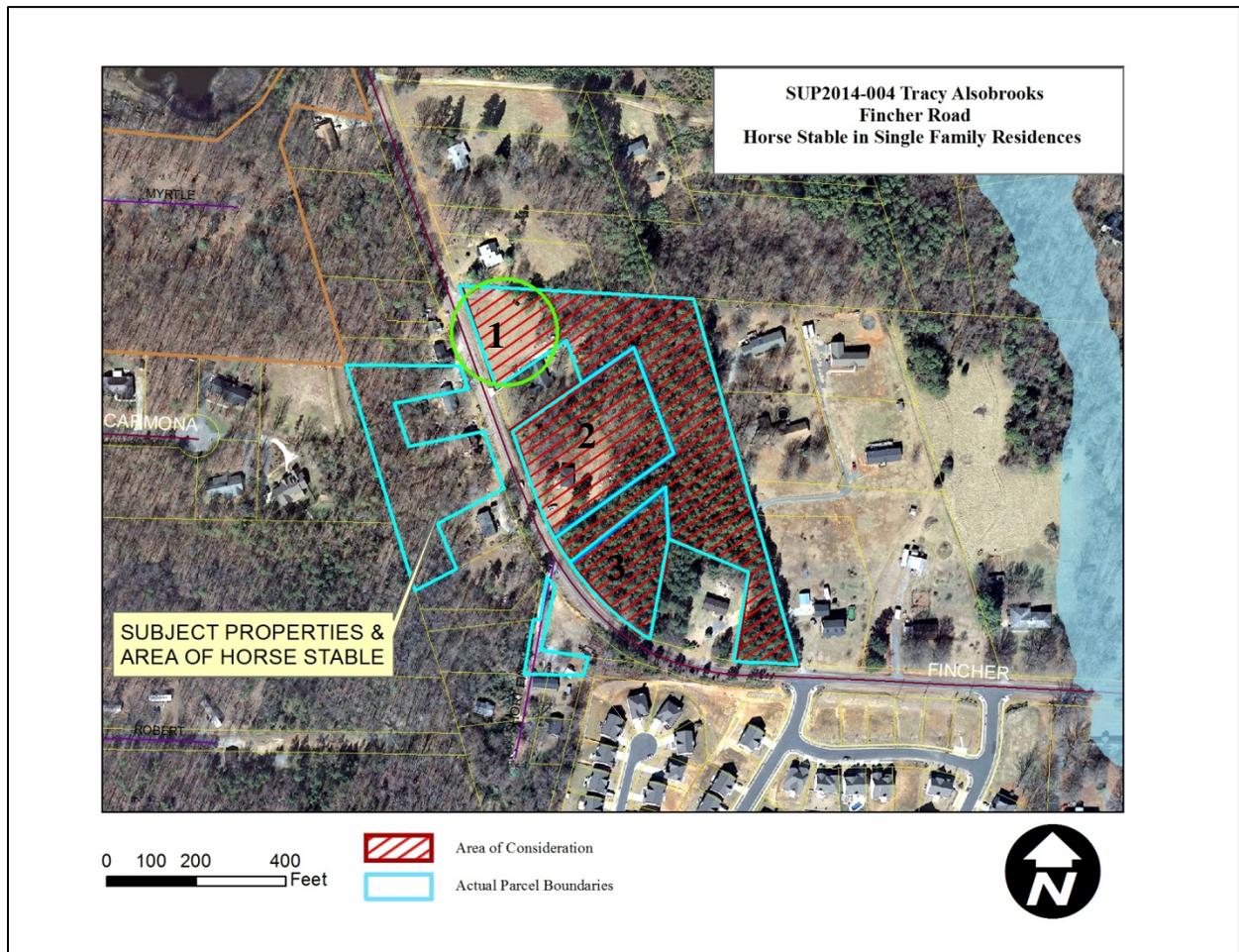
As reflected in the map below, the subject property consists of three lots totaling approximately 7.23 acres in size. Parcel 07-135-050 (Lot 1 below) has an existing pasture area housing three horses. Parcel 07-135-050C (Lot 2) contains a single family residence. Parcel 07-135-050F (Lot 3 below) is vacant and is covered with trees. It is the intent of the owner to only house two horses onsite in the foreseeable future with the existing third horse currently being offered for sale. The Unified Development Ordinance (UDO) allows up to 1 horse per acre. In this instance a total of 7 horses could be located on the 7.23 acres that make up the subject property.

There is currently a small structure on Lot1 below that is partially built. The owners stopped work on it upon receipt of the above noted NOV. Town permits will be required to complete the structure if the SUP is approved. If the Alsobrooks decide to build a larger barn/stable in the future it would require a Town site plan approval and compliance with the UDO and the conditions of this SUP (if approved).

Site Characteristics

Existing Conditions/Location: The legal boundaries of this property are unique. As reflected in the map below, one of the subject parcels (Lot 1 below) is divided by Fincher Road. The proposed SUP to permit horses is only associated with the parcels located on the eastern side of Fincher Road. The portions of Lot 1 located on the western side of Fincher Road that contain the Alsobrook’s house will not be used for maintaining horses and is not located in the SUP subject property.

Approximately 80% of the subject property is wooded. Currently, the horses are located in the area that is cleared and circled in green below. It is the intent of the Alsobrooks to clear limited areas within the site for the horses. This would consist of new areas for grazing and to create riding trails throughout the property for their enjoyment.



Property Boundaries & Area in Consideration

Street View: The horses are contained by a fence constructed of tree trunks by the owner. A small shelter has also been constructed in the pasture (see photo below).

Outside Regulations: There are no specific State regulations for housing horses beyond statutes related to general animal welfare and the transporting of horses. When horses are transported they are required to have documentation that states that they have tested negative for Equine Infectious Anemia (EIA) also known as ‘swamp fever’ by performing the Coggins test which detects if a horse has EIA. This test is typically done on an annual basis by a licensed veterinarian.



Fincher Road View

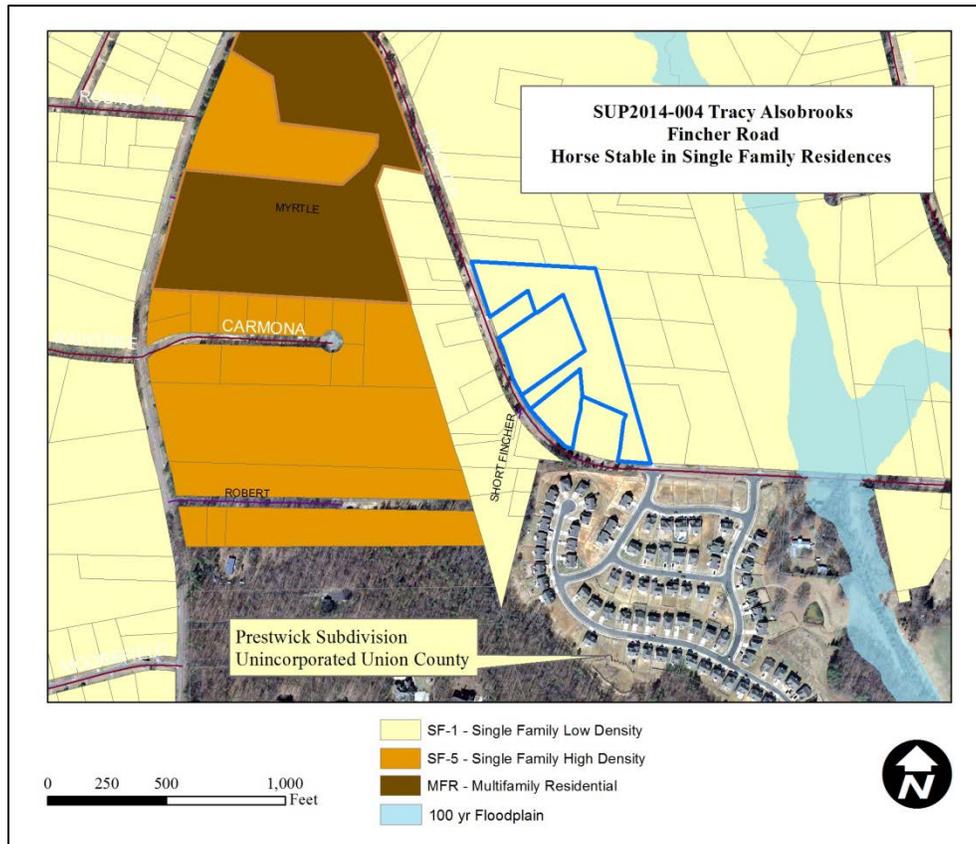
Odor and Insects: During staff’s site visit on 10/13/14 there was a detectable odor when standing approximately ten (10’) feet from the horses. When staff walked to the opposite side of Fincher Road, approximately sixty (60’) feet from the fence, there was no odor detected or the presences of any insects. The owner has stated that an additive is put in the horse’s food (food pellets) daily that prevent new flies from generating. The chemical is active in the manure, which helps to prevent the larvae from forming and cuts down on the intensity of the smell emitted.

Disposal of Excrement: The manure is spread and naturally decomposes into the ground creating a natural fertilizer. By allowing for the additional grazing locations each area will be able to have grass re-grow for future use.

Surrounding Uses

The subject properties are surrounded by large lot single family residences and the Prestwick subdivision (unincorporated Union County).

Area	Existing Use
North & East	Single Family Residence (Large Lots)
South	Medium Density Single Family Residence
West	Single Family Residence



Zoning Map

Appraiser’s Report

As part of the Town’s requirements for an SUP, the applicant is required to submit an impact study to determine whether or not there will be a substantial negative impact on neighboring property values as a result of the proposed use. The applicant has submitted a report as part of their application prepared by Morrison Appraisal, Inc. The report’s findings state that the proposed use of the site for keeping horses will not substantially injure the value of the abutting or adjoining properties. The report was initially dated October 3, 2014. After the initial submittal the applicant wanted to expand the scope of the Special Use Permit to address all properties under family ownership. The appraiser submitted a revised Impact Study with the updated parcels. The expanded document was submitted on November 3, 2014 stating there was no

negative impact on the adjacent properties. A copy of the letter from the impact study is provided with this report. (*Attachment #2*)

Outside Agency Comments: No comments on this proposal from outside agencies.

Plan Consistency

This property is part of the Austin Village Plan, as shown on the Indian Trail Comprehensive Plan and is designated for future medium density residential uses. The area itself is currently low density and consists of larger lot single family homes. Based on analysis of this use, staff is of the opinion that the proposed use is in harmony with the surrounding area based on the following goals:

- **Land Use and Housing Goal No. 1:** *Promote a mix of different types of land uses within each village, and avoid-potential land use conflicts between neighboring properties and surrounding municipalities.*
- **Quality of Life Goal No. 2:** *Provide and support cultural amenities that preserve and expand the town's heritage.*

The use of the subject property for the keeping of horses helps to maintain Indian Trail's rural/agricultural heritage in a way that is compatible with adjacent residential properties. The proposal will comply with all applicable requirements of the UDO and any supplementary SUP conditions, which include limits on the number of horses permitted on a property and will minimize any potential land use conflicts.

Required Findings

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.**
Staff is of the opinion that the application for SUP2014-004 is complete.
2. **The Board will consider whether the application complies with all of the applicable requirements of this ordinance.**
If an SUP approval is granted by the Board, it is staff's opinion that the proposal will comply will all applicable UDO requirements. The applicant has indicated they will comply with the requirement limiting horses to no more than one animal per acre of land.
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. No signage is allowed on the exterior of the site; and
2. The applicant will comply with all applicable sections of the UDO including UDO Section 7110 that limits the number of horses to no more than one animal per acre of land; and
3. A Town permit will be obtained for the existing horse barn/structure within 14-days of SUP approval. Town permits will be obtained by the applicant for any future improvements to the site (i.e. removal of trees, fences, new structures, etc.). Any required permits from applicable outside agencies shall also be obtained; and
4. Any areas cleared in the future for corralling grazing, and/or trails will maintain a minimum undisturbed area of twenty five (25') feet from any property line or public right of way.

Attachment 1- Application/ LOI

Attachment 2- Morrison Appraisal Inc. Letter

Attachment 3- Photo Exhibit

Attachment 4- Code Enforcement Violation #C806715

Staff Contact

Kevin P. Icard, AICP, CZO

Senior Planner

kicard@planning.indiantrail.org

704.821.5401

ATTACHMENT 1
Application/ LOI

ATTACHMENT 2
Morrison Appraisal Inc. Impact Letter

Attachment 3
Photo Exhibit





Attachment 4
Code Enforcement Violation #C806715



INDIAN TRAIL CODE ENFORCEMENT DIVISION
NOTICE OF VIOLATION

Personal Delivery

Certified Mail (Return Receipt)

Owner: Hoyte Alsobrooks heirs & AA Rushing

Mailing Address: 3425 Fincher Rd, Matthews, NC 28104

Violation Address: Fincher Rd, Matthews, NC

Parcel Number: 07135050

You are hereby notified that a violation of Chapter 410. General Permit Requirements of the Town's Unified Development Ordinance has been confirmed on 7/31/14 at the violation address identified above.

Violation: Horses not allowed in single family zoning without a Special Use Permit.

Ordinance Reference within Chapter 7110. Livestock and Horse stables (See Back Page):

Chapter 7110.- No person may keep livestock or poultry within 150 feet from an adjoining lot line. Nothing in this subsection shall be construed as authorizing poultry or livestock to be kept except where such uses are authorized under the zoning district regulations.

You are hereby ordered to bring this property into compliance by completing the following: **Please contact a Planner at the Planning Office to discuss bringing the property into compliance.**

If you need assistance or would like to discuss the issue, contact this office at 704 821-5401.

Notice Issued: 8/5/14

Signed Regina Tomczyk

Code Enforcement Officer

If the property is not brought into compliance within 30 days from receipt of this notice further enforcement action will be necessary according to The Unified Development Ordinance Chapter 1520. Remedies and enforcement power. §1510.040- Enforcement Procedure D. the time allowed for correction of the violation shall be within 30 days of the notice of violation or within a longer time period as established by the Zoning Administrator based on an assessment of the nature/scale of the zoning violation and, §1520.050- Penalties A. Any violation of this development ordinance is punishable as a misdemeanor with an associated fine of not less than \$100.00 for each and every day that the violation continues. B. If the violation appears deliberate, intentional, and with knowledge of the law or if violation is repeated on multiple occasions, then punishment upon conviction will be a fine of not less than \$100.00 or more than \$500.00 for each and every day that the violation continues.

If you do not agree with the findings of this letter, the Town of Indian Trail Municipal Code Section 91.09(A) states "Within the 15 day period following receipt of notice of abatement, the owner of the property where the nuisance exists may appeal the findings of the Inspector to the Town Council, by giving written notice of appeal to the Town Clerk; the appeal will stay the abatement of the nuisance by the town until a final determination is made by the council."