



Town of
INDIAN TRAIL
north carolina

Town of Indian Trail, NC
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PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

Special Use Permit Staff Report

Case: SUP 2011-002			
Reference Name	4508 Old Monroe Road Landscaping Business		
	Proposed Use	Landscaping Business – Major Home Occupation/Non-Conforming Use	
Existing Site Characteristics	Existing Zoning	GBD (General Business District); O-VCD (Village Center Overlay)	
	Existing Use	Landscaping Business – Major Home Occupation/Non-Conforming Use	
	Site Acreage	10.16 acres	
Applicant	Cam Helms		
Submittal Date	May 16, 2011		
Location	4508 Old Monroe Road		
Tax Map Number(s)	07-114-015; 07-114-016; 07-114-016A; 07-114-016B; 07-114-359; 07-114-360		
Plan Consistency	Town of Indian Trail Land Use Map	Designation	Old Monroe Suburban Mix Village
		Consistent with Request	Yes

Project Summary

Request: Applicant is requesting a Special Use Permit (SUP) for his non-conforming major home occupation landscaping business located at 4508 Old Monroe Road, involving all six properties owned by the applicant and his family.

Areas of Analysis:

- 1. Subject Properties:** The subject site's parcels are all zoned GBD (General Business District), and are located within the Village Center Overlay District (O-VCD).
- 2. Adjacent Properties:** See **Analysis** under **Subject and Adjacent Properties Characteristics** for this information.
- 3. Indian Trail Comprehensive Plan:** The subject site is located within the Old Monroe Suburban Mix Village of the Plan, and is consistent with the Plan.
- 4. Staff Recommendation:** Staff finds that the site does conform to the Comprehensive Plan, and is an existing non-conforming use under the UDO.

Analysis

Brief Foreword

This request comes to the Board as a different type of SUP, in that this particular subject site is both a major home occupation and also a non-conforming use at the same time.

This request is a major home occupation under **UDO Section 790.080(D)**, because it deals with a landscaping contractor business based out of a single-family residential home, which requires an SUP to get Town approval. In this case, there is a situation where there has been a type of major home occupation that has been in operation on the subject site for at least 20 years, owned and operated by applicant as such.

In addition, we have a major home occupation that is accessory to single-family residential uses on the subject site. As a consequence, under **UDO Chapter 780**, such a use is only allowed in a residentially-zoned area with a single-family residential home. In 1998, the subject site was rezoned from R-20 Residential to B-4 Commercial, thus making it and the uses on the site nonconforming uses. As a result, there is now a major home occupation connected with single-family uses that just happen to be on commercially-zoned properties, which makes this nonconforming under **UDO Section 1420.010** and thus requires SUP approval from the Town.

Therefore, staff is of the opinion that this use is a hybrid case, in the sense that you have a major home occupation coupled with a nonconforming use. In either case, the appropriate process would remain the SUP, which is what the applicant has filed to the Board for their consideration.

Subject Site's Base Characteristics (See **Map #1** and **Table #1** below)

The subject site involves six properties and a total of 10.16 acres of land. The following table shows each property and its features:

Table 1: Table of Subject Site's Properties

Parcel Label	Address (if applicable)	Tax Parcel #	Property Owner(s)	Parcel Acreage	Existing Use(s)
A	4508 Old Monroe Road	07-114-015	All owned by applicant and his family as part of landscaping business	1.83 acres	Single-family residential; all used by applicant and his family
B	N/A	07-114-016		2.79 acres	
C	4504 Old Monroe Road	07-114-016A		2 acres	
D	4506 Old Monroe Road	07-114-016B		0.96 acres	
E	N/A	07-114-359		1.58 acres	
F	4508 Old Monroe Road (also listed as this)	07-114-360		1 acre	

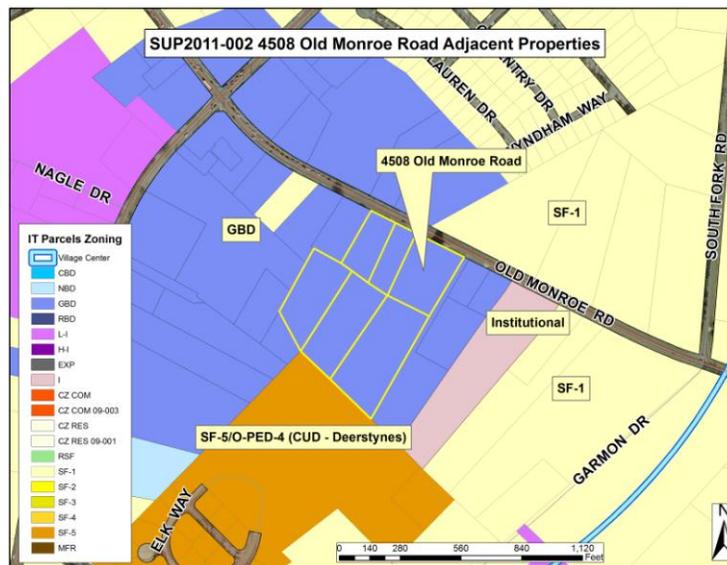
Map #1: 4508 Old Monroe Road General Map



Adjacent Properties' Characteristics (See Map #2 below for reference)

Like the subject site, almost all of the adjacent properties are zoned General Business District (GBD), which allows for a wide variety of commercial uses, This area is also located within the Village Center Overlay District (O-VCD).

Map #2: 4508 Old Monroe Road Zoning Map



Background

The applicant and his family have owned and operated a home-based landscaping business on these properties for 20 years (See **Attachment 1**). These properties were originally zoned as single-family residential (**R-20**). In 1998, the Town Council granted a rezoning that allowed for these properties to be **B-4 Commercial** zoning, which is known today as General Business District (**GBD**), and has remained ever since. As a result, the subject site became nonconforming in use, as was explained in this report earlier.

Over time, the applicant's business has continued to grow and expand in usage, turning from a minor to a major home occupation. At the present time, the following represents the extent of the business operations on-site, per the applicant (See **Attachment 1**):

- 13 employees are involved with the landscaping business;
- 2 enclosed outbuildings are located on-site that house 8 lawn mowers and several pieces of small equipment (i.e., blowers, weed eaters, etc.);
- 2 covered storage units that are entirely surrounded by wooded areas;
- Hours of operation vary from season to season (i.e., in the winter months, 11AM-4 PM, and in the summer months, 8AM-5PM); and
- No walk-in traffic or retail operations are concluded, and this home occupation is not directly open to the public.
- All current driveways, parking, and traffic circulation areas have gravel surfaces (See **Pictures of the Subject Site** below).

The applicant does not plan to expand or increase his major home occupation in any way beyond its current condition at this time. If the SUP is granted by the Board, this will be conditioned in the applicant's approval for the use.

Staff is approaching this project in a similar way as another SUP approved in 2008 since there is an existing non-conforming business on the subject site. The use approved in 2008 is a type of interim use good for 3-5 years, allowing time for the applicant to place a more compatible use with the zoning for the subject site. If the Board were to grant this SUP, a similar timetable and approach would be conditioned as part of such an approval for the applicant to follow.

4508 Old Monroe Road (Frontal View)



4506 Old Monroe Road (View of Main Business Area)



*Subject Site Analysis (Refer to **Table #2** below)*

The following table represents the overall analysis for the subject site:

Table #2: Subject Site’s Parking/Traffic Circulation and Landscaping Areas

Parcel Label	Address (if applicable)	Tax Parcel #	Parking/Traffic Circulation	Landscaping Extent
A	4508 Old Monroe Road	07-114-015	Gravel drive aisle; main access	None present along drive aisle boundary w/4524 Old Monroe
B	N/A	07-114-016	Rear parking area (has 17 min. parking spaces under UDO); also gravel	Dense/heavily wooded
C	4504 Old Monroe Road	07-114-016A	Gravel circulation area & drive aisle to home	Dense/heavily wooded
D	4506 Old Monroe Road	07-114-016B	Limited gravel circulation area to rear	Contains several trees and canopy
E	N/A	07-114-359	No circulation/parking	Dense/heavily wooded
F	4508 Old Monroe Road (also listed as this)	07-114-360	Limited gravel area in rear; gravel drive aisle onto Old Monroe Road	Contains several trees and canopy

*Parking/Traffic Circulation (Refer also to **Table #2** above)*

Landscaping businesses of this type under **UDO Section 1020.010** are treated as office types uses, since this is a major home occupation w/non-conforming site features acting as an office out of the subject site. For office uses, the UDO requires a minimum of 3.5 parking spaces per

1,000 square feet of floor area used as floor area. Since the total number of building square feet for the site is 4,734 square feet, the minimum amount of parking required for the use is 17 parking spaces. Based on field research and analysis, the applicant does appear to have sufficient parking for the site as reflected in **Table #2** above.

Landscaping/Screening (Refer also to **Table #2** above)

In terms of landscaping and screening for the subject site, the following table shows the current status for each parcel involved (Refer to **Map #1** for parcels involved):

Typically, under **UDO Section 810.050**, a landscaping/lawn care use such as the one on the subject site would need to provide at least a 50' landscaping buffer between itself and a single-family residential use, which here is 4524 Old Monroe Road, adjacent **Parcels A** and **B** (See **Map #3** below). With respect to the part of the adjacent property that is the single-family use abutting **Parcel B**, **Parcel B** is already heavily wooded well in excess of the minimum 50' buffer. For **Parcel A** abutting this adjacent property, which is a flag lot from Old Monroe Road, there is no buffering present. This being the case, **Parcel A** borders that part of 4524 Old Monroe Road which is only a drive aisle leading into the main use. Therefore, based on this analysis, staff is of the opinion that a minimum 15' wide buffer along **Parcel A's** border with the 4524 Old Monroe Road drive aisle portion of the entire flag lot would be sufficient, given that **Parcel B** already accomplishes the spirit and intent of the UDO in buffering for this adjacent property's single-family use.

Map #3: Landscaping View of 4508 Old Monroe Road



Appraiser's Report (See **Attachment #1**)

As part of the Town's requirements for an SUP, the applicant is required to submit an appraisal report to determine whether or not there will be a substantial negative impact for the use in terms of neighboring property values. The applicant has submitted such a report as part of his

application, and it was prepared by William R. Morgan of William R. Morgan Company, based in Charlotte, NC, on February 23, 2011. The report's findings state that the subject site is generally well-maintained and that all materials associated with the business are stored away on-site, out of public view. The report concludes that there would be no detrimental effect or diminution in value to the surrounding properties in regards to the applicant's use.

Plan Consistency

The subject property is located within the Old Monroe Suburban Mix Village of the Comprehensive Plan. Based on analysis of this use, staff is of the opinion that the following Location Criteria are met for this Village with respect to the subject site:

- **LC1 – Retail and office uses are to be located nearest the intersection of two boulevards or thoroughfares in a Village Center.**
 - The subject site is an office type of use that is located near one known thoroughfare (Waxhaw-Indian Trail Road) and one known boulevard (Old Monroe Road), as identified in the Plan; intersect within ¼ mile of the subject site; and is located within a known Village Center.

Staff is also of the opinion that the subject site does conform to the following goals of the Plan:

- **Goal 1.3.2 – The subject site does help to provide a mix of different land uses within the Village Center for the Old Monroe Suburban Mix Village, and limits its usage to the subject site only, thereby reducing conflicts with other surrounding land uses.**

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.**
 - a. Staff is of the opinion that the application for SUP2011-002 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 2011-002 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 or 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. All site plans and permits submitted under this SUP shall be subject to the requirements of the Indian Trail Unified Development Ordinance (UDO), including any outside agency approvals or permits for the use's operation (i.e., Union County Public Works, NCDOT, etc.).
2. Applicant must obtain the following from the Town, following SUP approval by the Board:
 - a. Site plan review approval, which follows these SUP approved plans; and
 - b. A current privilege license from the Town.
3. All on-site improvements as delineated in any approved site plans or permits shall be maintained at all times.
4. Applicant shall maintain all existing and proposed screening and landscaping for the site, including the preservation of all existing tree canopy on-site. Additional screening and landscaping shall be provided on the site as follows:
 - a. A 15' landscaping buffer shall be required along the border of 4508 Old Monroe Road, immediately adjacent to 4524 Old Monroe Road.
5. All outdoor storage-related materials associated with this use shall be properly stored, screened, and maintained on-site so as to be not visible from public view.
6. The duration of this SUP use shall follow the following time frames:
 - a. The proposed use is to be used exclusively as an interim use for a maximum of three (3) years after initial site plan approval based on this SUP, and shall be reviewed on an annual basis by the Town for the next two (2) years after the initial three years in regards to the proposed interim use. This use shall be subject to Board of Adjustment review and approval after the initial three years for the following two years, and shall be done annually by the Board following the initial three years of the use.
7. If this site should change use in any way from this allowed interim SUP use, then the site shall revert back to its current zoning and uses under the Town's UDO. The applicant shall be required to obtain Town approval for any other proposed use for the site (i.e., a new commercial use, etc.).

Attachments:

Attachment 1- SUP Application w/Real Estate Appraisal Report

Attachment 2- SUP Concept Plan

Staff Contact

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ATTACHMENT 1
SUP Application w/Appraiser's Report

ATTACHMENT 2
SUP Concept Plan