MAYOR
Michael L Alvarez

MAYOR PRO TEM
David L. Cohn

TOWN COUNCIL
Robert W. Allen
Christopher M. King
Darlene T. Luther
David K. Waddell

Indian Trail Town Council Meeting
January 8, 2013
Civic Building
6:30 p.m.

1. **CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE**

2. **ADDITIONS AND DELETIONS** **action**

3. **MOTION TO APPROVE AGENDA** **action**

4. **PRESENTATIONS**

5. **PUBLIC COMMENTS**

6. **CONSENT AGENDA** **action**
   - **a.** Approval December 1, 11, & 20, 2012 draft Minutes
   - **b.** Approval of Month End Tax Report for December 2012
   - **c.** Tax Refunds over $500
   - **d.** Bond Reimbursement Resolution
   - **e.** Budget Amendments

7. **PUBLIC HEARINGS** **action**

– Please adhere to the following guidelines:

- ***Proceed to the podium, and state your name and address clearly;***
- ***Be concise; avoid repetition; limit comments to three (3) minutes or less;***
- ***Designate a spokesperson for large groups***

a. **Annexation 134- Oakwood Lane Properties:** a request for a voluntary annexation for three properties located on Oakwood Lane. Applicant: Town of Indian Trail; Location: 07048019L, 07048019L, and N7048019M
b. **ZM 2012-004 Gulley Property**: A request to rezone a newly annexed vacant 23.39 acre parcel from Union County Residential R-20 to SF-1. Applicant: Town of Indian Trail; Location: Helmsville Road across from 3809-3827 Helmsville Rd.
c. **ZM2012-005 Brandon Oaks Phase 9**: A request to rezone two newly annexed parcels from Union County R-20 Residential District to SF-4 Single-Family District with a Pre-Existing Development Overlay (PED Overlay 1). Applicant: Town of Indian Trail; Location: 100 Garden Oak Drive & 8011 Fountainbrook Drive, Indian Trail.
d. **CZ 2012-002 Carolina Courts:** a request to rezone a 3-acre portion of a 51-acre lot from SF-1 to a Conditional Regional Business Zoning District for the purpose of developing the lot as an indoor/outdoor recreation facility known as Carolina Courts. Applicant: Partners in Hoops; Location: 304 Matthews-Indian Trail Road
e. **Animal Enforcement Ordinance:** A request to establish an Ordinance that would enable staff to work with law enforcement and the County for enforcement for the protection of our residents and the animals as well.
This item was published in the Charlotte Observer on December 27, 2012

8. BUSINESS ITEMS

a. Chestnut Parkway Improvement Contract

9. DISCUSSION ITEMS

10. MANAGERS REPORT

11. COUNCIL COMMENTS

12. CLOSED SESSION **action**

13. ADJOURN **action**

To speak concerning an item on the Agenda, please print your name and address on the sign up sheet on the table prior to the meeting. Each speaker will be limited to 3 minutes.
AS A COURTESY, PLEASE TURN CELL PHONES OFF WHILE MEETING IS IN PROGRESS

The Town of Indian Trail is committed to providing all citizens with the opportunity to participate fully in the public meeting process. Any person with a disability who needs an auxiliary aid or service in order to participate in this meeting may contact the Town Clerk at least 48 hours prior to the meeting. The e-mail address is townclerk@admin.indiantrail.org; the phone number is 704-821-2541

Town of Indian Trail
Minutes of Town Council Special Meeting
December 1, 2012
Civic Building
9:00 A.M.

DRAFT

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: Robert Allen, David Cohn, Christopher King, and Darlene Luther.

Absent Members: David Waddell.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Director of Community & Economic Development Kelly Barnhardt, Planning Director Shelley DeHart, Finance Director Marsha Sutton, Director of Engineering and Public Works Scott Kaufhold, and Events Coordinator & PIO Rebecca Carter.

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting or order, led in the Pledge of Allegiance and announced that Council Member Waddell would not be in attendance today.

MOTION TO APPROVE AGENDA

Christopher King made a motion to approve the agenda.

Council voted unanimously in favor of the motion.

CONSENT AGENDA

a. Adoption of Certification of Canvas from Union County Board of Elections
b. Adoption of Resolution Certifying and Declaring the results of the November 6th Bond referendum for Parks and Recreation

Robert Allen made a motion to approve the Consent Agenda.
Council voted unanimously in favor of the motion.

DISCUSSION ITEM

a. Discussion of the Pathway 2 Progress (P2P) Initiative-This discussion may include new or current infrastructure projects, economic development initiatives, wayfinding initiative, park development, and any future planning for the P2P initiative

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Mr. Fivas advised that the goal is to give an update on interesting and timely projects and discuss the broader concept of Pathways 2 Progress. Mr. Fivas reviewed several actions already taken by Council resulting in staff introducing a possible new initiative called Pathways 2 Progress. This would establish an Investment District(s) within Indian Trail to improve infrastructure, creating quality of life amenities and focus on Economic Development.

Overall district improvements would include the creation of a 3 or 4 lane parkway around the midsection of Indian Trail to significantly eliminate traffic congestion. This would include significant improvements to the future Chestnut Parkway, future Faith Church Road, Old Monroe Road and Wesley Chapel-Stouts Road. To create technology/business parks with investment from public/private partnership, develop future plans for a municipal complex, create a green-way system that will connect all sections of our community and have four parks located within this district. We would develop two comprehensive gateway projects to brand Indian Trail at key corridors, create economic development corridors and corresponding wayfinding signs, improve some independent intersections, build walkway system within this district, we have already developed our Cultural Arts Center and we need to identify areas for a future entertainment/shopping district. **(SEE ATTACHED MAP)**

Mr. Fivas suggested for Council consideration for the first phase of P2P:
Phase I would include the first (half of this phase is designed and ready for construction) second, third and fourth phases of Chestnut Parkway construction, first phase of Old Monroe Road widening, development of "Gateway Project(s) branding designs and construct Gateways at four location, development and begin implementation of Town wayfinding signs, begin construction of large community park(s), select a location, design concepts and space needs assessment for future Municipal Complex, develop construction plans and acquire right-of-way for greenway system and Indian Trail Pathway Project, create Technology/Business Parks with investment from public/private partnerships

along with additional needed infrastructure projects. Mr. Fivas explained the process staff would perform for these projects in detail, requesting direction from Council on the following matters:

There was a discussion pertaining to the connection to Highway 74 with Mr. Fivas assuring Council that the connection can be made in various ways.

Mr. Fivas clarified two things needed for input and direction from Council: first bids Council will receive in January only builds a portion of the road, Shady Bluff Drive will not be in first bids. We are still going thru the Conditional Zoning (CZ) with Carolina Courts, once completed, we will make the Shady Bluff Drive connection, and there are ROW issues that will need to be worked out. We may bring back a second phase bid in January or February but prefer to wait until the CZ is approved. The cost will be determined by what kind of amenities Council wants. Mr. Fivas stated that Council should be aware that they will receive bids in January, then they need to make a decision on what it will look and feel like, it will include the grading for Carolina Courts. The overall goal is to connect it from Old Monroe Road to Highway 74.
Chestnut Parkway Phase II, III and IV: direction on when to review and get access to ROW on different alignments, direction to begin discussions with MUMPO and NCDOT about funding for Phase III, by consensus Council agreed that staff should go forward with these projects: 1) Securing ROW for future phases; 2) Approach MUMPO and NCDOT about funding for future phases.

The investment district projects would be built in 4 phases over approximately the next 12 years:
Phase I (tentatively 2013-15) would include the phases of Chestnut Parkway construction, first phase of Old Monroe widening, development of gateway projects, development and begin implementation of town wayfinding signs, begin construction of large community parks, select location for future municipal complex, begin design concepts and space needs assessment for municipal complex, develop construction plan and acquire ROW for greenway system and Indian Trail Pathway Project, create technology/business parks with investment from public/private partnerships along with additional infrastructure projects.

Update on Old Monroe Road widening project:
NCDOT has hired Atkins Global to do the first phase of necessary environmental assessment from Trade Street to Wesley Chapel Stouts Road. Mr. Fivas explained the next steps NCDOT will take advising that upon completion they will have used State funds to design 25% of the project ready. If at that point we want to begin a section, we will have all the necessary documentation and we can begin once we complete the design 100%. From a public relations standpoint, we should make sure that our residents know something is happening. By consensus Council directed staff to make this a high priority and take every opportunity to push NCDOT to start this project.

Ms. Luther stated for the record she will always vote in favor of getting this project done as quickly as possible and suggested that another public relations project for staff should be to inform the citizens the difference between our trying to widen a road that is not ours and the roads we own.

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Darlene Luther made a motion to approve having the Town MUMPO Representative to work with Stallings and pursue having MUMPO and NCDOT move the date for this project from 2017 to 2015. Council voted unanimously in favor of the motion.

Wayfinding Sign discussion:
Mr. Fivas explained the benefits of wayfinding signs and the gateway signs at four difference locations with electronic messaging; advising staff has begun the process and will have quotes to get designs for this signage for Council consideration at the December 11th meeting.

Mr. Fivas explained the benefits and necessity of hiring a Park Project Manager, advising that we would like to begin construction of our large community park, requesting direction from Council on when to bid out for a Project Construction/Design Manager. He would like to bring back a Project Manager recommendation to get things moving in December/January. We'd like to get the walking trails open this summer which is why we need the Project Manager. By consensus Council agreed to have staff move forward with this project.

Mr. Fivas explained the next key thing is staff would like to have a point person from Council to get a sponsorship/donation strategy policy implemented.

Christopher King made a motion to approve nominating Council Member Cohn as the point person from Council for the sponsorship/donation strategy.
Council voted unanimously in favor of the motion.

PARTF Grant discussion:
Mr. Fivas advised Council that there is an application process coming up in January. However staff has spoken to State representatives and they recommended that we not rush this opportunity, that we take our time, apply 3 years in a row for $500,000 each year for a better chance of success. This is for information only; no direction is needed from Council.

Mr. Fivas addressed Oakwood Lane that connects the large park, we might want to consider owning that road, its State owned currently. Mr. Allen inquired if we have evaluated the condition of the road. Mr. Fivas explained the condition stating that it is not wide enough for full build out and we will have to do upgrades anyway. By consensus, Council agreed to obtain Oakwood Lane as a Town owned road.

Mr. Fivas suggested that we table the discussion on a location for future Municipal Complex; we might want to think about it for the Comprehensive Plan.

Mr. Fivas advised we're working on obtaining a Threadtrail Grant creating our first greenway system from Faith Church Road behind Meridian Apartments, Ashcroft, Brittany Downs all the way back and connect into our park as phase I. He inquired when Council wants us to start working on a Greenway Plan. By consensus, staff was directed to figure out pathway now.

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Council took and returned from a brief break.

Mr. Fivas clarified that bids from Chestnut Parkway will only be for the first section, the figures quoted $700-$900,000 will not get you to Highway 74.

Technology Park discussion:
Mr. Fivas advised this park would bring jobs, increase commercial tax base, requesting Council provide their thoughts if interested. Would Council like staff to search for site locations, what it would look like, advising that staff believes it would be a public/private partnership.

Mr. King expressed he has an interest, inquiring if can we bring in the Multi Jurisdictional Economic Development (CJED) we recently joined?
Mr. Fivas replied yes, we need to come up with framework/plan and where to put it, develop zoning, boundary's, occupants, design.

Mr. Allen agrees we should pursue encouraging taking it farther than zoning and ready to build sites making it easier to attract investments.

Ms. Luther agreed and provided information obtained by MCJED that organizations come and review areas without the areas being aware of it. She would like to see us go after (STEM) Science, Technology, Engineering and Math, technology sites specifically which provides sustainability.

Ms. Barnhardt explained that site ready includes: utilities, pads, infrastructure so they can build ASAP.

Darlene Luther made a motion having Kelly Barnhardt bring back 3 site locations for future technology park.
Council voted unanimously in favor of the motion.

Mr. Fivas asked Council for permission to get $100,000 from Partners 4 Progress for hard core analysis.

Robert Allen made a motion to approve permission to get $100,000 from Partners 4 Progress for hard core analysis.
Council voted unanimously in favor of the motion.

Robert Allen made a motion to amend previous motion to state requesting as much as possible from Partners 4 Progress.
Council voted unanimously in favor of the motion.

Projects within the P2P discussion:
Mr. Fivas happily informed Council that yesterday we received federal approval for our Rogers Road, Sardis Church Road & Unionville Indian Trail Road sidewalk projects. The next step for these projects is building a sidewalk from Highway 74 to Sardis Road School, then down Sardis Church Road to Brittany

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Downs neighborhood. These projects are 80% federally funded, explaining the challenges this brings as it pertains to guidelines. We have started the bid document process anticipating having them out sometime mid December.

Mr. Fivas informed Council of 3 additional road projects: Sardis Church/Unionville Indian Trail Road corner, Sardis Road and Highway 74, Rogers Road intersection, and Pioneer Lane and provided information on these roads:
Sardis Church/Unionville Indian Trail Road corner is the most important as it is a safety issue that needs confrontation - requesting direction from Council to negotiate with NCDOT for as much funding as possible.
Sardis Road and Highway 74 - Mr. King expressed his concern over this corner and would like to be at the meeting with NCDOT about it. Mr. Fivas stated that NCDOT needs to fix this as they are the ones that designed it.
Rogers Road intersection is highly populated and inadequate.
Pioneer Lane is of interest because the developer is investing funds into it and all we would need to do is create a turn lane to allow the citizens in the several subdivisions to get in without blocking traffic on Waxhaw Indian Trail Road. Council had a discussion on this resulting in Mr. Fivas suggesting that we take the funds we have, get an engineering design and when Council is ready to implement the project will be ready for bid. By consensus Council agreed with Mr. Fivas.

Mr. Fivas Clarified Council direction: have meeting with NCDOT and determine what funding they can contribute to Sardis Church/Unionville Indian Trail Road as first priority, second is Rogers Road intersection, and have a conversation with NCDOT about Sardis Church Road/Highway 74 intersection to determine what they plan to do about the safety issues, by consensus Council agreed with Mr. Fivas.

Update on Economical Development Projects:
Mr. Fivas informed Council staff is working on a new project for a 35,000 square foot building in Old Hickory, along with a 30,000 square foot building on Matthews/Indian Trail Road creating more jobs locally. We're hopeful that Chick-fil-A will start in the near future as the previous owners vacated the building on that location and Ms. Barnhardt is assisting with relocation for them; Sweet Frog has opened in Sun Valley Commons and there is another building going up, we are uncertain of the tenants expected to occupy that space; Family Dollar on Old Monroe Road is expected to be one of their nicest facilities, this is a small part of what is expected to be a large commercial development. Our residential development is booming, 173 housing starts this year; Ms. DeHart went into specific information about subdivisions. Carolina Courts has received acceptable numbers pertaining to financing and when we give this bid we will begin the grading and bring utilities out there with the hope that it will be pad ready within a short period of time and they can begin building. Ms. DeHart explained the Conditional Zoning process, advising that staff has scheduled the two necessary community public meetings next week, one here and one on site. Mr. Fivas informed Council there may need to be a special meeting for Council consideration of the Conditional Zoning for Carolina Court. We have not gotten a commitment from Union County on the water/sewer, we are not anticipating any issues so we will wait and see. He

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explained that there is anticipated a high quality sit down restaurant planned for in the facility as well. Mr. Fivas concluded his report and inquired if Council had any comments.

Ms. Luther inquired about apartment complexes being located in several locations in Indian Trail. Ms. DeHart replied she has received two sketch plans and other inquiries but nothing has been confirmed.

Mayor Alvarez thanked everyone for their hard work and requested that Council not delay the Municipal Center too long, space is needed as we've grown. Ms. Luther responded that she does not believe it's been tabled. Mr. Fivas commented that it was tabled for today.

ADJOURN

Christopher King made a motion to adjourn
Council voted unanimously in favor of the motion.

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APPROVED:

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Michael L. Alvarez, Mayor

Attest:

_____

Peggy Piontek, Town Clerk

Town of Indian Trail
Minutes of Town Council
December 11, 2012
Civic Building
6:30 P.M.

DRAFT

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: Robert Allen, David Cohn, Christopher King, Darlene Luther, and David Waddell.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Town Attorney Keith Merritt, Director of Community & Economic Development Kelly Barnhardt, Planning Director Shelley DeHart, Finance Director Marsha Sutton, Tax Collector Janice Cook, Director of Engineering and Public Works Scott Kaufhold , Director of Human Resources Miriam Lowery, Senior Planner Rox Burhans , and Events Coordinator Rebecca Carter.

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting to order. Art Spurr led the prayer for our soldiers not able to get home for the holidays.

ADDITIONS AND DELETIONS

David Waddell made a motion to approve adding as item 8d Indian Trail Representative for Union County Economic Development Board.

Council voted unanimously in favor of the motion.

MOTION TO APPROVE AGENDA

David Cohn made a motion to approve the Agenda.
Council voted unanimously in favor of the motion.

PRESENTATIONS

a. Johnson-Hemby Insurance for joining the Business Hall of Fame plaque.

Ms. Barnhardt explained that to be in the Business Hall of Fame, 25 years of business is necessary. Ms. Barnhardt announced that Hemby Insurance Associates has achieved that goal, congratulated John Hemby and presented him with a certificate, advising the company name of Hemby Insurance Associates is now on the plaque located in the Civic building.

b. Annual Transportation Advisory Committee Report

Mr. Roland Geoffrey, the Chairman of the Transportation Advisory Committee presented to Council the completed projects of the Committee for the last year and their goals for the upcoming year. Council expressed their thanks and appreciation for the Committee's hard work.

PUBLIC COMMENTS

Maureen McCarthy, 2001 Little Chapel Road, Indian Trail, NC expressed her concerns about not having a leash law providing examples of why it should be passed.

Michael Faulkenberry, 519 Picketts Circle, Indian Trail, NC expressed his appreciation to staff for the Christmas Parade and Christmas Tree Lighting Ceremony and his concern about people crossing the railroad tracks during events and it's danger. He recommended putting some netting along the tracks, a sample of which he purchased, brought with him and donated to the Town, suggesting the Town get enough to extend along the tracks.

CONSENT AGENDA

a. Approval November 13, 2012 draft Minutes
b. Adoption of the 2013 Town Council regular meeting schedule**(COPY ATTACHED HERETO AND MADE A PART OF THE MINUTES)**
c. Annexation 134 - Oakwood Lane Parcels * Resolution directing the Clerk to investigate Annexation Petition * Certificate of Sufficiency * Resolution fixing the date of the Public Hearing for Annexation 132 **(COPY ATTACHED HERETO AND MADE A PART OF THE MINUTES)**
d. Approval of Month End Tax Report for November **(COPY ATTACHED HERETO**

AND MADE A PART OF THE MINUTES)

Robert Allen made a motion to approve the Consent Agenda.
Council voted unanimously in favor of the motion.

PUBLIC *HEARINGS*

None

BUSINESS ITEMS

a. Consider approval of agreement for Wayfinding and Gateway Signage Program.

Kelly Barnhardt explained what wayfinding signs are, how they benefit the community and the procedure involved in getting proposals and ultimately staff's recommendation of Bizzell Design Company. Ms. Barnhardt provided a brief history of Mr. Bizzells accomplishments and the process of the project. Council had a brief discussion about this item.

Mr. Bizzell explained that the procedure includes his company to measure traffic determining popular and future destinations, they find a way to graphically express the feeling of the town. Then the technical areas of NCDOT which is generally not an issue with his company.

Robert Allen made a motion to approve agreement for Bizzell Design Company proposal for the Wayfinding and Gateway Signage Program. **(COPY ATTACHED HERETO AND MADE A PART OF THE MINUTES)**
Council voted unanimously in favor of the motion.

b. Consider the establishment of a future Special Council meeting to review current Law Enforcement Agreement and to hear a presentation from Union County Sherriff's Office.

Mr. Fivas explained that an in depth discussion and attention on the Town's needs for Law Enforcement is required, suggesting that Council schedule a Special Meeting for this item. All Council members agreed and feel it should be done as soon as possible.

Darlene Luther made a motion to approve having the meeting within the next week or two.

Council had a discussion about the attendance of Lt. Coble, who suggested that Council meet and discuss amongst themselves initially. There was a conversation about when to have the meeting regarding personal schedules, Mr. Fivas suggested that Council check their calendars, attempt to have the meeting on December 19th or 20th, since no decision was made, Ms. Luther withdrew her motion.

c. Consideration of Animal Control Ordinance - this matter was requested by Council Member Darlene Luther

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Ms. Luther explained that all of the Council Members have been contacted by residents requesting that some action be taken for the safety of the citizens and animals. She stated she is very excited it is on the agenda.

Mr. Fivas thanked and congratulated the Public Safety Committee for working through this complex issue. Mr. Fivas stated that nothing is ever perfect and this is a building block to initiate the Ordinance which can be amended at any time to accommodate issues that might not have been considered. He requested that Council advise if the Committee and staff are headed in the right direction before reviewing the financial analysis. Mr. Fivas reviewed the document explaining that the Animal Control Ordinance is a comprehensive Town Ordinance which regulates all animals within Indian Trail to include community education, community safety programs and enforcement. Mr. Fivas explained our present ordinance and the County ordinance for this matter as well.

Mr. Houston, a member of the Public Safety Committee thanked Mr. Fivas and staff for their extensive research. He explained the process that the Public Safety Committee went through for this ordinance. He also advised that the Public Safety Committee will be presenting their annual report in the future to inform Council on what they have done and future issues they hope to address.

Council had a lengthy discussion on this Ordinance, topics included: 6 dogs/cats per acre, County acceptance of animals to the shelter, appeals, County obligation to enforce Municipal Code and conflicts with UDO.

Darlene Luther made a motion to approve adopting the proposed Animal Enforcement Ordinance.

Mr. Merritt requested it not be adopted this evening as he would like the opportunity to review it as there are a couple of items in question.

Ms. Luther withdrew her motion.

Mr. Cohn recommended we have a Public Hearing on this Ordinance so the residents can voice their concerns.

David Waddell made a motion to table and place on the agenda for January 8th meeting, and providing an opportunity for residents to come and voice their thoughts.

Mr. Waddell withdrew his motion.

David Cohn made a motion returning revisions to Animal Control Ordinance to Council on Dec. 20th, place Ordinance on the agenda for January 8th meeting for possible adoption and have a public comment period for the Ordinance at the January 8th meeting.
Council voted unanimously in favor of the motion.

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d. Union County Economic Development Board Representative

This item was added as a result of a motion made in Additions & Deletions.

Mr. Fivas explained that Monroe and Union County have developed an Economic Development Board within the County with Monroe and Union County each having eight appointees, with eight efficacious appointees. Six of the eight County appointees are available for local government to participate in for a fee of $7,500 as a contribution toward the program. Mr. Fivas advised that the County Manager requested that the communities respond by January 7th for her to take to the committee. Mr. Fivas explained that we have three options: say no, say yes and pay the $7,500 fee - or say yes and indicate that we already have an Economic Development Department and request the fee be waived. He requested direction from Council on how to respond.

Darlene Luther made a motion to approve we would like to be a part of Union County Economic Development Board as a representative with an exemption of the fee.
Council voted unanimously in favor of the motion.

DISCUSSION ITEMS

None

MANAGERS REPORT

Mr. Fivas announced staff will be scheduling the ribbon cutting for new sidewalk on Chestnut Lane. He reminded everyone that as the holidays approach we have special solid waste services, additional solid waste should be put next to the can and it will be removed, along with live Christmas trees, leave them out at the curb on your regular yard waste day, please refer to your schedule.

COUNCIL COMMENTS

Ms. Luther is looking forward to the Animal Enforcement Ordinance being passed next month. She thanked the Public Safety Committee, it's a great Ordinance.

Mr. Waddell thanked everyone for the year we have served, it's been an interesting experience, and he wished everyone happy holidays and explained Chanukah. He encouraged residents that the town plan is being put together and now is the time to provide your inputs and show up to be a part of it.

Mayor Alvarez wished everyone happy holidays and New Year, he thanked staff for the Christmas Parade and tree lighting, along with Christina & Kilah for their participation.

Mr. Allen encouraged people to go out and commit random acts of kindness, suggesting they go to local organizations.

Mr. King suggested playing the lottery tomorrow is 12/12/12.

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Mr. Cohn wished everyone a Merry Christmas, Happy Holidays; he thanked the Public Safety Committee and all the people who work for all our committees for their hard work. Porter Ridge Football Team almost won State Championship 39-38. He commented about statements made by UNNC Football Coach pertaining to the Porter Ridge Football Team, stating it speaks a lot for coach and kids they are winners we all should be very proud of them.

CLOSED SESSION

Christopher King made a motion NCGS 143-318.11 (a) (3) Consult with the attorney to protect the attorney-client privilege
NCGS 143-318.11 (a) (6) To consider the qualifications, competence, performance, condition of appointment of a public officer or employees or prospective public officer or employee.
Council voted unanimously in favor of the motion.

Christopher King made a motion to approve coming out of Closed Session.
Council voted unanimously in favor of the motion.

ADJOURN

Christopher King made a motion to adjourn
Council voted unanimously in favor of the motion.

APPROVED:

_____
Michael L. Alvarez , Mayor

Attest:

_____
Peggy Piontek, Town Clerk

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Town of Indian Trail
Minutes of Town Council Special Meeting
December 20, 2012
Civic Building
6:30 P.M.

DRAFT

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: Robert Allen, David Cohn, Christopher King, Darlene Luther, and David Waddell.

Staff Members: Town Manger Joe Fivas, Town Clerk, Peggy Piontek, and Finance Director, Marsha Sutton.

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting to order and led in the Pledge of Allegiance

MOTION TO APPROVE AGENDA

Robert Allen made a motion to approve the Agenda.
Council voted unanimously in favor of the motion.

DISCUSSION ITEMS

a. Review of Animal Enforcement Ordinance

Mr. Fivas advised that staff is working through some of the issues Mr. Merritt discussed at the last meeting. The plan is for staff to continue to review it for the Public Hearing and your consideration at the January 8th meeting.

b. Discussion and review of current agreement with Union County Sherriff's Office for law enforcement.

Mr. Fivas advised we have had an Interlocal Agreement with Union County Sheriff's Office since 1995 and a 5 year agreement that expires June 30, 2013; the purpose is for Council to collaborate and go forward. Mr. Fivas provided the history of our Agreement, how to move forward and would like Council to provide concepts to take to the County and return with responses and counter offers.

Mr. Fivas explained that this meeting is simply a "kick off" with additional special meetings that will include requested information, initiate discussions with County in January and by the end of January another special meeting with the anticipation of concluding the matter by the beginning of February. Mr. Fivas reviewed the current agreement for Council and suggested that the process include a general point of contact to ensure that everyone gets the same information. Mr. Fivas and Ms. Sutton would be willing to provide that point of contact, by consensus Council agreed.

Mr. Allen stated that he likes the timeline, as you receive the information get it to them electronically and they can be productive. Mr. Allen requested to see a cost breakdown per Deputy.

Mr. Waddell requested a copy of the University of North Carolina Law Enforcement study that was done for town.

Ms. Luther suggested, in the interest of our tax payers, her thoughts for discussion: when we hire a new deputy the length of time we pay for that position while they are trying to fill the position, should be prorated; Deputies servicing non Indian Trail taxpaying areas should not be funded by us; if our deputies are leaving the town limits we should know how often that is and where they are serving, unless it's an emergency; are there any annual or contractual caps anywhere? Does the County determine what the cost to the Town should be? In any contract you are locked into a price. Paying for cars, equipment, etc, if we're paying for them we should be able to keep them. Enforcement of local Ordinances, it's her understanding that they cannot enforce our local ordinances unless it's part of the County Ordinances.

Mr. Fivas stated that this is exactly how we can get answers, by receiving inquiries from Council, sending them to the County and request a written response to staff so we can provide it to Council.

Mr. Waddell stated that he has had residents mention certain areas in particular - Meriwether would like some extra patrols, doesn't believe it's needed throughout the whole area but there are some areas that need more than others. Is that something we need to address? Mr. Fivas replied they can ask Union County Sheriff's Office whatever you would like to know.

Mr. Waddell inquired if animal control a total separate issue here or related to this contract. Mr. Fivas replied it depends on how Council wants to handle it, we need to get you the second draft and you can make that determination; from the ordinance it's a town issue but from a service issue, it involves the County.

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Ms. Luther requested to receive the cost of the different positions. Mr. Fivas replied we'll get it out to you in the morning.

Mr. Fivas reviewed the next meeting approach, advising it will be a lengthy meeting, suggesting Council come in with the information you have received, have your questions ready to be discussed concluding with a consensus of Council of the direction they want us to go.

Mr. Allen inquired if contract negotiations be in opened or closed session, Mr. Fivas advised that's up to the Town Attorney, Ms. Luther would prefer it be in open session.

ADJOURN

David Cohn made a motion to adjourn
Motion Passed 4 - 1 with David Waddell opposing.

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APPROVED:

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Michael L. Alvarez, Mayor

Attest:

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Peggy Piontek, Town Clerk

INDIAN TRAIL
north carolina

TO: Mayor and Town Council

FROM: Janice Cook

DATE: January 08, 2013

SUBJECT: Month end December 2012

According to G.S. 105-350 (7), it is the duty of the tax collector to submit to the governing body at each of its regular meetings a report of the amount he has collected on each year's taxes with which he is charged, the amount remaining uncollected, and the steps he is taking to encourage or enforce payment of uncollected taxes.

Enforcement of any uncollected debt started today, January 8, 2013 which includes N. C. DEBT SETOFF and BANK ATTACHMENTS.

Description	Count	Principal Arrears/Other	Principal Fiscal 2012	Principal Fiscal 2013	Principal Future	Penalty	Total
Billing	30663	258.87-	6,962,577.43	69.58	0.00		6,962,388.14
Payments	25083	33,113.99-	29,837.65-	5,619,495.79-	0.00	4,235.03-	5,686,682.46-
Reversals	9	0.13	829.33	0.00	0.00	6.11	835.57
Adjustments	2	0.01	0.01-	0.00	0.00	0.00	0.00
Apply Over	9	0.00	29.69-	0.00	0.00	0.00	29.69-
Ref Overpay	74	20,037.19	0.00	0.00	0.00	0.00	20,037.19
Penalty	12881					8,288.81	8,288.81
Totals	68721	13,335.53-	6,933,539.41	5,619,426.21-	0.00	4,059.89	1,304,837.56

TO: Mayor and Town Council

FROM: Joe Fivas

DATE: January 8, 2013

SUBJECT: Tax Refunds greater than $500

Please find attached copies of tax refunds greater than $500.00

1. Federal National Mortgage - $602.38 refunded to Lereta LLC as taxes previously paid during settlement.

2. Darshan Shah - $535.75 refunded to Mortgage Company as taxes previously paid by attorney.

3. Clarence Bates - $511.83 refunded to Mortgage Company as taxes previously paid by Title Company.

4. William Bowers - $536.08 refunded to Mortgage Company as taxes previously paid by Title Company.

5. John Phillip Krohn - $638.11 refunded to Mortgage Company as taxes previously paid by attorney.

6. William Diehl - $1290.75 refunded to Mortgage Company as taxes previously paid by attorney.

7. Connie Williams - $670.81 refunded to Mortgage Company as taxes previously paid by Title Company

8. James Massey - $1190.37 refunded to Mortgage Company as taxes previously paid by Title Company.

If you need any clarification on any of these items, please feel free to contact Marsha Sutton at (704) 821-5401.

TO: Mayor and Town Council

FROM: Joe Fivas

DATE: January 8, 2013

SUBJECT: Resolution Declaring the Intent of the Town of Indian Trail to Reimburse Itself for Capital Expenditures Incurred in Connection with Parks and Recreation Projects From the Proceeds of Tax Exempt Obligations

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As part of beginning the process to issue proceeds for the Parks and Recreation Projects of $8,500,000, the Town will start the initial phase of various projects and incur cost related to these bond projects. The Town will advance funds currently on hand to pay for these costs and the Town reasonably expects to reimburse itself for these costs from a portion of the proceeds from the issuance of these obligations to be executed and delivered by or on behalf of the Town.

Staff is recommending the Council approve the attached Resolution Declaring the Intent of the Town of Indian Trail to Reimburse Itself for Capital Expenditures Incurred in Connection with Parks and Recreation Projects from the Proceeds of Tax Exempt Obligations.

STATE OF NORTH CAROLINA)
) **RESOLUTION #R130108-1**
TOWN OF INDIAN TRAIL)

RESOLUTION DECLARING THE INTENT OF THE TOWN OF INDIAN TRAIL TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH PARKS AND RECREATION PROJECTS FROM THE PROCEEDS OF TAX EXEMPT OBLIGATIONS.

WHEREAS, the Town Council of the Town of Indian Trail, North Carolina (the *"Town"*) hereby finds and determines that it is in the best interests of the Town to the acquire, construct, renovate, improve and equip parks and recreation facilities for a park located at 304 Matthews-Indian Trail Road and another community park to be designated by the Town, including the acquisition of land, rights-of-way and easements related thereto, if necessary, as authorized by a referendum approved by a majority of voters in the Town on November 6, 2012 (the *"Project"*);

WHEREAS, the Town reasonably expects to receive the proceeds of the sale of tax-exempt obligations (the *"Obligations"*) over the next several years to finance the Project;

WHEREAS, the Town desires to proceed with the Project and will incur capital expenditures (the *"Capital Expenditures"*) in connection therewith before the issuance of the Obligations; and

WHEREAS, the Town expects to advance moneys from funds currently on hand to pay for the Capital Expenditures and the Town intends, and reasonably expects, to reimburse itself for the Capital Expenditures from a portion of the proceeds of the sale of the Obligations to be executed and delivered by or on behalf of the Town;

NOW, THEREFORE, BE IT RESOLVED by the Town as follows:

Section 1. ***Official Declaration of Intent.*** The Town presently intends, and reasonably expects, to reimburse itself for the Capital Expenditures incurred and paid by the Town on or after the date occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the Obligations. The Town reasonably expects to cause the execution and delivery of the Obligations to finance all or a portion of the costs of the Project. The maximum principal amount that the Town expects to reimburse itself from the proceeds of the Obligations for the costs of the Project is $8,500,000.

Section 2. ***Compliance with Regulations.*** This Resolution is a declaration of official intent of the Town under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the Town's intent to reimburse itself for the Capital Expenditures from proceeds of the Obligations.

Section 3. ***Itemization of Capital Expenditures.*** The Finance Director of the Town or her designee, with advice from special counsel, is hereby authorized, directed and designated to act on behalf of the Town in determining and itemizing all of the Capital Expenditures incurred and paid by the Town in connection with the Project during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of execution and delivery of the Obligations.

Section 4. ***Effective Date.*** This Resolution shall become effective immediately upon the date of its adoption.

ADOPTED THIS 8TH DAY OF JANUARY, 2013

APPROVED:_____
Michael L. Alvarez, Mayor

Attest:_____
Peggy Piontek, Town Clerk

STATE OF NORTH CAROLINA)
) SS:
COUNTY OF UNION)

I, *Peggy Piontek*, Town Clerk of the Town of Indian Trail, North Carolina, *DO HEREBY CERTIFY* the attached to be a true and correct copy of a Resolution entitled, **"RESOLUTION DECLARING THE INTENT OF THE TOWN OF INDIAN TRAIL TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH PARKS AND RECREATION PROJECTS FROM THE PROCEEDS OF TAX EXEMPT OBLIGATIONS"** adopted by the Town Council of the Town of Indian Trail, North Carolina at a regular meeting held on the 8th day of January, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town, this the 8th day of January, 2013.

(SEAL)

_____
Peggy Piontek, Town Clerk
Town of Indian Trail, North Carolina

TO: Mayor and Town Council

FROM: Joe Fivas

CC: Marsha Sutton, Jennifer Smith

DATE: January 2, 2013

SUBJECT: Budget Amendments for January 8th Meeting

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1. Reallocate funds within the Solid Waste Cost Center.
2. Reallocate funds within Powell Bill Funds for new categories on Year end Reporting forms.
3. Reallocate funds within the Solid Waste Cost Center.
4. Reallocate funds for a transportation sign.
5. Reallocate funds within the Transportation Department.
6. Reallocate funds within Powell Bill for Traffic Control and Paving/Resurfacing.
7. Establish Bond Fund for first bond issuance and distribution, 2012 Street and Sidewalk Bonds.
8. Recognize 2012 Street and Sidewalk Bond Issuance.
9. Recognize Cultural Arts Center Sponsorship.
10. Reallocate funds within Planning Department.
11. Reallocate funds for Fleet Maintenance.
12. Reallocate funds for additional attorney's fees.
13. Recognize an in-kind donation of fencing to the Town.

If Council has any questions, or would like to see any of the budget amendments, please contact the Finance Director at 704-821-5401.

PO Box 2430
Indian Trail, NC 28079
PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

Case: Annexation #134	
Reference Name	Oakwood Lane Properties
Applicant	Town of Indian Trail
Submittal Date	November 14, 2012
Location	Three vacant properties on Oakwood Lane, Indian Trail
Tax Map Number	07048019L; 07048019K; N7048019M

Summary

This is a request to voluntarily annex three properties (identified above) into the Town of Indian Trail. The Council took the following actions at its December 11, 2012 meeting initiating the annexation process:

1. Adopted a resolution directing the Town Clerk to Investigate the Sufficiency of the Voluntary Annexation Petition; and
2. Certified the Sufficiency of the Annexation Petition; and
3. Adopted a resolution setting the public hearing to January 8, 2013.

Background and Analysis

The subject properties (three parcels) were included in the 140 acre park purchase (Sardis Park) by the Town last July. These properties are located on Oakwood Lane and combined represent approximately 1.69 acres. Two of the three properties are wooded with a small dilapidated house that sits on their shared property line. The third lot is disturbed and has been reserved for the future Oakwood Lane extension.

The following consistency finding, pursuant to NCGS § 160A-31(d) regarding voluntary annexations in North Carolina, must be made for the annexation to be valid:

> The Town Council of Indian Trail finds that, pursuant to the requirements of NCGS § 160A-31(d), that the proposed Annexation Ordinance #134 petition offered by the applicants does in fact meet all requirements for a proper voluntary annexation under North Carolina law and is found to be valid in form and manner.

Staff Recommendation -Staff recommends to the Town Council the following actions:

1.) Receive this staff report and public testimony on this annexation.
2.) Make the required finding in accordance with NCGS § 160A-31(d) reading into the record the statement above; and
3.) Make a motion to approve/disapprove extending the corporate limits of the Town of Indian Trail to include Annexation Ordinance #134 establishing the effective date of the annexation as January 8, 2013.

Staff Contact

Shelley DeHart, AICP
704 821-5401
srd@planning.indiantrail.org

Attachment One: Proposed Annexation Ordinance #134 w/Legal Description
Attachment Two: Petition Application for Proposed Voluntary Annexation w/Maps

TC ATTACHMENT ONE

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA

ANNEXATION ORDINANCE #134- Voluntary annexation for three parcels located on Oakwood Lane identified as Tax Parcels 07048019L, 07048019K, and N7048019M Owned by the Town of Indian Trail

WHEREAS, the Town Council has been petitioned pursuant to N.C.G.S. Chapter 160A, Article 4A, Part 1 to annex the area described below; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of annexation was held at the Town Civic Building at 6:30 PM on the 8th day of January, 2013, after due notice by Enquirer Journal; and

WHEREAS, the Town Council finds that the petition meets the requirements of G.S. 160A-31(d);

NOW, THEREFORE BE IT ORDAINED by the Town Council of the Town of Indian Trail, North Carolina that:

Section 1. By Virtue of the authority granted pursuant to N.C.G.S. Chapter 160A, Article 4A, Part 1, the following described territory is hereby annexed and made part of the Town of Indian Trail, North Carolina as of the 8th day of January, 2013:

See Attached Metes and Bounds Description

Section 2. Upon and after the 8th day of January, 2013, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Indian Trail, North Carolina and shall be entitled to the same privileges and benefits as other parts of the Town of Indian Trail, North Carolina. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Indian Trail, North Carolina shall cause to be recorded in the office of the Register of Deeds of Union County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Board of Elections, as required by G.S. 163-288.1.

Section 4. The Attorney of the Town of Indian Trail, North Carolina shall submit in the Office of the United States Attorney General, in accordance with Section 5 of the Voting Rights Act of 1965, codified as 42 U.S.C. 1973c, documents and materials required for review pursuant to federal law.

Adopted this 8th day of January, 2013.

TOWN OF INDIAN TRAIL

BY:_____
Michael L. Alvarez, Mayor

ATTEST:

APPROVED AS TO FORM:

_____
Peggy Piontek, Town Clerk

_____
Keith J. Merritt, Town Attorney

Metes and Bounds Description For Annexation 134 - Oakwood Lane Properties Identified as Tax Parcels 07048019L, 07048019K, and N7048019M Owned by the Town of Indian Trail

Lying and being in the Town of Indian Trail, Vance Township, Union County, North Carolina and being three tracts more particularly described as follows:

BEGINNING at an iron pin found in the northerly line of the Tyson Center, LLC, et al, property, now or formerly (see Deed Book 5523, Page 387) and the southeasterly corner of the Paul Samuel Hunter and Zee Hunter property, now or formerly (see Deed Book 200, Page 470); thence from said Beginning Point, along the easterly line of said Hunter property, N 17-12-34 W a distance of 161.28 feet to an iron pin found in the easterly line of said Hunter prope1iy and the southwesterly comer of the Lee A. Gravers property, now or formerly (see Deed Book 3082, Page 667); thence, along the southerly line of said Gravers property, N 85-12-25 E a distance of 345.56 feet to a point in the westerly line of the Judy B. Richardson property, now or formerly (see Deed Book 199, Page 122), passing along the way an iron pin found at 285.38 feet; thence along the westerly line of said Richardson property, S 02-40-37 E a distance of221.18 feet to an iron pin found in the southwesterly corner of said Richardson property and the northerly line of said Tyson Center property; thence, along the northerly line of said Tyson Center property, the following two courses and distances: (1) N 82-48-18 W a distance of60.74 feet to an iron pin found and (2) N 82-58-29 W a distance of248.57 feet to the point and place of Beginning.

Containing 1.40 acres, more or less, all as shown as "Tract 2" on the Survey titled "ALTA/ACSM Land Title Survey of Tyson Center LLC, et al" dated June 26, 2012, last revised July 18,2012, and signed and sealed on July 19,2012 by Lawrence Associates (F. Donald Lawrence, NCRLS L-1290) (Job No. 2940) (the "Survey").

The foregoing description also described as all of Lots 6 and 7 shown on the plat recorded in Plat Cabinet H, File 508 in the Union County Public Registry.

TOGETHER with the following described right of way:

BEGINNING at an iron pin found in the southwesterly corner of the Judy B. Richardson property, now or formerly (see Deed Book 199, Page 122), and the southeasterly corner of the Tyson Realty, Inc. property now or formerly (see Deed Book 5523, Page 387), said iron pin also having NC Grid Coordinates North: 483864.7015, East: 1517701.1901; thence, along the southerly line of said Tyson Realty property, N 82-48-18 W a distance of60.74 feet to point; thence N 82-58-29 W a distance of 0.16 feet to an iron pin found; thence N 02-40-37 W a distance of210.66 feet to a point; thence N 02-50-01 W a distance of 109.87 feet to a point; thence along the arc of a circular curve to the left having a radius of 252.29 feet and an arc length of 128.95 feet (chord bearing and distance: N 17-28-34 W 127.55 feet) to a point; thence S 32-11-35 E a distance of 130.50 feet to a point; thence N 57-48-25 E a distance of31.28 feet to a point located in the westerly line of said Richardson property; thence the following three courses and distances along the westerly line of said Richardson property: (1) along the arc of a circular curve to the right having a radius of 312.29 and an arc length of 25.03 feet (chord bearing and distance: S 05-07-47 E 25.03 feet) to a point, (2) S 02-50-01 E a distance of 109.95 feet to a point, and (3) S 02-40-37 E a distance of: 221.18 feet to the point and place of Beginning. Containing 0.50 acres, more or less, all as shown as "Tract 3" on the Survey.

The foregoing parcel is also described as the right of way labeled "60' ROW RESERVED FOR PROPOSED FUTURE EXTENSION OF OAKWOOD LANE (PUBLIC ROW)" on the Plat recorded in Plat Cabinet H, File 508 in the Union County Public Registry.

TC ATTACHMENT TWO

PETITION REQUESTING A CONTIGUOUS ANNEXATION

DATE: November 14, 2012

To the Town Council of the Town of Indian Trail, North Carolina:

1. We, the undersigned owners of real property, respectfully request that the area described in paragraph 2 below be annexed to the Town of Indian Trail, North Carolina.

2. The area to be annexed is contiguous to the primary limits of the Town of Indian Trail, North Carolina and the boundaries of such territory are as follows:

SEE ATTACHED DESCRIPTION OF BOUNDARIES
(Copy of Deed or other source containing legal description of properties requesting annexation)

07048019L and 07048019K

NAME (print or type)	ADDRESS	SIGNATURE
	N7048019M	
1. Town of Indian Trail	PO Box 2430, Indian Trail, NC	J. Anthony Fivas
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

5786
0144

FILED
UNION COUNTY, NC
CRYSTAL CRUMP
REGISTER OF DEEDS

FILED	Jul 27, 2012
AT	01:24 pm
BOOK	05786
START PAGE	0144
END PAGE	0151
INSTRUMENT #	22689
EXCISE TAX	$32.00

SB

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: 32.00

Parcel Identifier No. 07048019K Verified by 07048019L County on the K7048019M day of N7048019M 20

By:

Mail/Box to: Hamilton Stephens Steele & Martin, PLLC (GWS), 201 S. College Street, Suite 2020, Charlotte, NC 28244-2020

This instrument was prepared by: Hamilton Stephens Steele & Martin, PLLC (GWS)

Brief description for the Index: Lots 6, 7 and 60' Right of Way, Plat Cabinet H, File 508.

THIS DEED made this 27th day of July, 2012, by and between

GRANTOR	GRANTEE
TYSON REALTY, INC., a North Carolina Corporation (a 50% undivided interest), THREE STAR INVESTORS, a North Carolina limited partnership (a 25% undivided interest), TYSON CENTER, LLC, a North Carolina Limited Liability Company (a 25% undivided interest)	THE TOWN OF INDIAN TRAIL
Address:	Address: Box 2430 Indian Trail, NC 28079

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Town of Indian Trail, Vance Township, Union County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and made a part hereof.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 956, page 915, Book 3077, page 305, Book 5523, page 387.

All or a portion of the property herein conveyed ☐ includes or ☒ does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Cabinet H, File 508 (a revision of Plat Cabinet H, File 188).

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

See Exhibit B attached hereto.

|SIGNATURES FOLLOW ON NEXT PAGES|

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IN WITNESS WHEREOF, Grantor has executed this instrument as of the day and year first above written.

TYSON REALTY, LLC

By: _____
Name: L. CARLTON TYSON
Its: ~~Manager~~ PRESIDENT

[NOTARY SEAL]
(MUST BE FULLY LEGIBLE)

CHARLOTTE WILSON NOTARY PUBLIC UNION COUNTY, NC

STATE OF North Carolina
COUNTY OF Union

I, Charlotte Wilson, a Notary Public of Union County, State of North Carolina, certify that L Carlton Tyson (the "Signatory"), personally came before me this day and acknowledged that he is Manager of Tyson Realty, LLC, a North Carolina limited liability company, and that he, as Manager, being authorized to do so, executed the foregoing on behalf of the Company.

I certify that the Signatory personally appeared before me this day, and *(check one)*

✓ (I have personal knowledge of the identity of the Signatory); or

_____ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of: *(check one)*

___ a driver's license *or*

___ in the form of _____); or

_____ (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing instrument for the purpose stated and in the capacity indicated.

Witness my hand and official stamp or seal this 26 day of July, 2012

Charlotte Wilson
Notary Public

Print Name: Charlotte Wilson
[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: 4/6/14

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THREE STAR INVESTORS, LP

By: Larry L Brittain, President
Name: Brittain Star Investments Inc
General partner Three Star Investors LP.
Its: Manager

STATE OF North Carolina
COUNTY OF Catawba

VICTORIA A LOVETT NOTARY PUBLIC CATAWBA COUNTY, NC

[NOTARY SEAL]
(MUST BE FULLY LEGIBLE)

I, Victoria A Lovett, a Notary Public of Catawba County, State of North Carolina, certify that Larry L Brittain (the "Signatory"), personally came before me this day and acknowledged that he is Manager of **Three Star Investors**, a North Carolina limited liability company, and that he, as Manager, being authorized to do so, executed the foregoing on behalf of the Company.

I certify that the Signatory personally appeared before me this day, and *(check one)*

✓ (I have personal knowledge of the identity of the Signatory); or

____ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of: *(check one)*

___ a driver's license *or*

___ in the form of _____); or

____ (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/sbe voluntarily signed the foregoing instrument for the purpose stated and in the capacity indicated.

Witness my hand and official stamp or seal this 24th day of July, 2012.

Victoria A Lovett
Notary Public

Print Name: Victoria A Lovett
[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: MY COMMISSION EXPIRES 7/5/2014

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0148

TYSON CENTER, LLC

By: _____
Name: L. Carlton Tyson
Its: Manager

[NOTARY SEAL]
(MUST BE FULLY LEGIBLE)

CHARLOTTE WILSON NOTARY PUBLIC UNION COUNTY, NC

STATE OF North Carolina
COUNTY OF Union

I, Charlotte Wilson, a Notary Public of Union County, State of North Carolina, certify that L Carlton Tyson (the "Signatory"), personally came before me this day and acknowledged that he is Manager of **Tyson Center, LLC**, a North Carolina limited liability company, and that he, as Manager, being authorized to do so, executed the foregoing on behalf of the Company.

I certify that the Signatory personally appeared before me this day, and *(check one)*

✓ (I have personal knowledge of the identity of the Signatory); or

_____ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of: *(check one)*

___ a driver's license *or*

___ in the form of _____); or

_____ (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he/she voluntarily signed the foregoing instrument for the purpose stated and in the capacity indicated.

Witness my hand and official stamp or seal this 26 day of July, 2012

Charlotte Wilson
Notary Public

Print Name: Charlotte Wilson
[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: 4/6/14

EXHIBIT A

LEGAL DESCRIPTION

Lying and being in the Town of Indian Trail, Vance Township, Union County, North Carolina and being two tracts more particularly described as follows:

BEGINNING at an iron pin found in the northerly line of the Tyson Center, LLC, et al, property, now or formerly (see Deed Book 5523, Page 387) and the southeasterly corner of the Paul Samuel Hunter and Zee Hunter property, now or formerly (see Deed Book 200, Page 470); thence from said Beginning Point, along the easterly line of said Hunter property, N 17-12-34 W a distance of 161.28 feet to an iron pin found in the easterly line of said Hunter property and the southwesterly corner of the Lee A. Gravers property, now or formerly (see Deed Book 3082, Page 667); thence, along the southerly line of said Gravers property, N 85-12-25 E a distance of 345.56 feet to a point in the westerly line of the Judy B. Richardson property, now or formerly (see Deed Book 199, Page 122), passing along the way an iron pin found at 285.38 feet; thence along the westerly line of said Richardson property, S 02-40-37 E a distance of 221.18 feet to an iron pin found in the southwesterly corner of said Richardson property and the northerly line of said Tyson Center property; thence, along the northerly line of said Tyson Center property, the following two courses and distances: (1) N 82-48-18 W a distance of 60.74 feet to an iron pin found and (2) N 82-58-29 W a distance of 248.57 feet to the point and place of Beginning.

Containing 1.40 acres, more or less, all as shown as "Tract 2" on the Survey titled "ALTA/ACSM Land Title Survey of Tyson Center LLC, et al" dated June 26, 2012, last revised July 18, 2012, and signed and sealed on July 19, 2012 by Lawrence Associates (F. Donald Lawrence, NCRLS L-1290) (Job No. 2940) (the "Survey").

The foregoing description also described as all of Lots 6 and 7 shown on the plat recorded in Plat Cabinet H, File 508 in the Union County Public Registry.

TOGETHER WITH the following described right of way:

BEGINNING at an iron pin found in the southwesterly corner of the Judy B. Richardson property, now or formerly (see Deed Book 199, Page 122), and the southeasterly corner of the Tyson Realty, Inc. property, now or formerly (see Deed Book 5523, Page 387), said iron pin also having NC Grid Coordinates North: 483864.7015, East: 1517701.1901; thence, along the southerly line of said Tyson Realty property, N 82-48-18 W a distance of 60.74 feet to point; thence N 82-58-29 W a distance of 0.16 feet to an iron pin found; thence N 02-40-37 W a distance of 210.66 feet to a point; thence N 02-50-01 W a distance of 109.87 feet to a point; thence along the arc of a circular curve to the left having a radius of 252.29 feet and an arc length of 128.95 feet (chord bearing and distance: N 17-28-34 W 127.55 feet) to a point; thence S 32-11-35 E a distance of 130.50 feet to a point; thence N 57-48-25 E a distance of 31.28 feet to a point located in the westerly line of said Richardson property; thence the following three courses and distances along the westerly line of said Richardson property: (1) along the arc of a circular

curve to the right having a radius of 312.29 and an arc length of 25.03 feet (chord bearing and distance: S 05-07-47 E 25.03 feet) to a point, (2) S 02-50-01 E a distance of 109.95 feet to a point, and (3) S 02-40-37 E a distance of: 221.18 feet to the point and place of Beginning. Containing 0.50 acres, more or less, all as shown as "Tract 3" on the Survey.

The foregoing parcel is also described as the right of way labeled "60' R/W RESERVED FOR PROPOSED FUTURE EXTENSION OF OAKWOOD LANE (PUBLIC R/W)" on the Plat recorded in Plat Cabinet H, File 508 in the Union County Public Registry.

EXHIBIT B

PERMITTED EXCEPTIONS

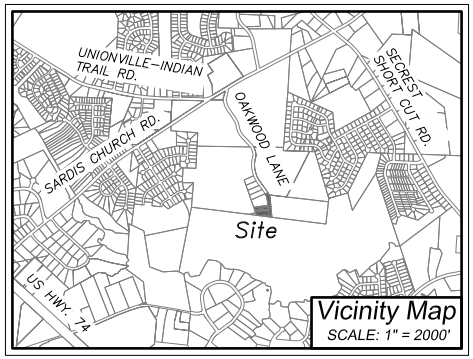
1. Zoning matters affecting the property.

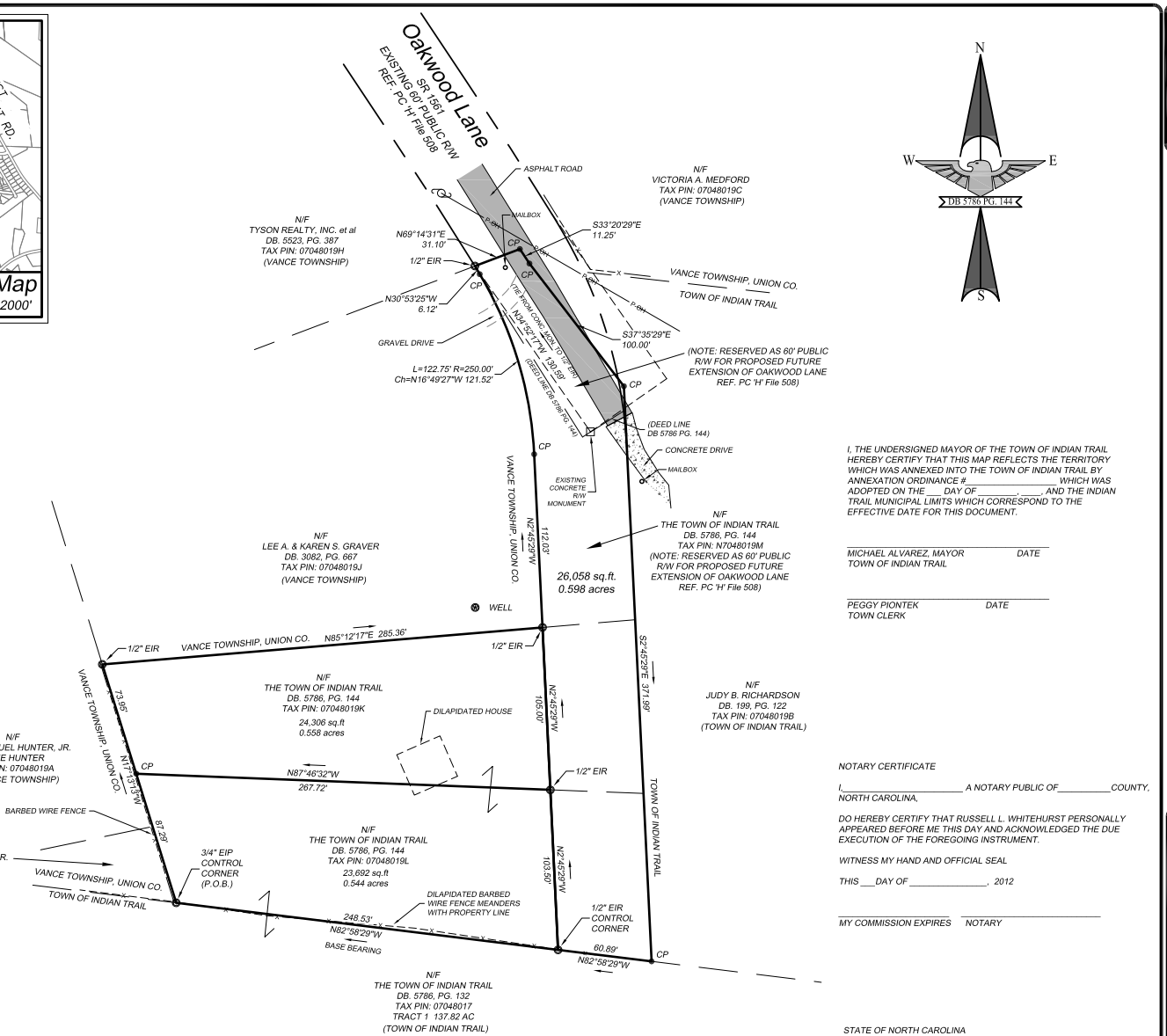
2. Taxes or assessments for the year 2012, and subsequent years, not yet due or payable.

3. Any right, easement, setback, interest, claim, encroachment, encumbrance, violation, variation, or other adverse circumstance affecting the Title disclosed by survey entitled "ALTA/ACSM LAND TITLE SURVEY OF TYSON CENTER, LLC, ET AL" by F. DONALD LAWRENCE, P.L.S., dated JUNE 26, 2012, last revised JULY 18, 2012 ("THE SURVEY").

4. Right of Way recorded in Book 3082, page 667.

5. Any right, easement, setback, interest, claim, encroachment, encumbrance, violation, variation, or other adverse circumstance affecting the Title disclosed by plat(s) recorded in Plat Cabinet H, File 508 (a revision of Plat Cabinet H, File 188).





LEGEND OF SYMBOLS & ABBREVIATIONS

EIP - EXISTING IRON PIPE
EIR - EXISTING IRON REBAR
NIR - NEW IRON REBAR
S.T. - SIGHT TRIANGLE
M.B.S. - MINIMUM BUILDING SETBACK
P.S.D.E. - PUBLIC STORM DRAINAGE EASEMENT
S.S.E. - SANITARY SEWER EASEMENT
SSMH - SANITARY SEWER MANHOLE
R/W - RIGHT OF WAY
P.S.S.E. - PRIVATE SANITARY SEWER EASEMENT
G.U.E. - GENERAL UTILITY EASEMENT
C.P. - COMPUTED POINT
ECM - EXISTING CONCRETE MONUMENT
E.P.K. - EXISTING P.K. NAIL

- UTILITY POLE
- UNDERGROUND GASLINE
- OVERHEAD UTILITY LINE
- SANITARY SEWER LINE
- SANITARY SEWER MANHOLE
- FIRE HYDRANT
- WATER VALVE
- WATER LINE
- FENCE LINE

MISCELLANEOUS NOTES

AREAS COMPUTED USING COORDINATE GEOMETRY.

IRON REBARS AT ALL PROPERTY CORNERS UNLESS OTHERWISE NOTED.

CURRENT UNION COUNTY ZONING: R-20

REF. TRACT 2 ON ALTA/ACSM LAND TITLE SURVEY OF TYSON CENTER, LLC et.al. BY LAWRENCE ASSOCIATES DATED 6/26/2012 REVISED 6/28/2012

REF. PC 'H' File 508

ALL ADJOINER PROPERTY OWNER INFORMATION IS TAKEN FROM CURRENT DEEDS AND TAX RECORDS AND ARE CONSIDERED "NOW OR FORMERLY".

RAW ERROR OF CLOSURE: 1:10,000+. BOUNDARY TRAVERSE WAS ADJUSTED USING THE LEAST SQUARES METHOD.

OTHER UNDERGROUND UTILITIES MAY EXIST BUT THEIR LOCATIONS ARE NOT KNOWN.

ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES.

THE PROPERTY SHOWN HEREON IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON F.E.M.A. FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 3710541800J, EFFECTIVE DATE OCTOBER 16, 2008.

903.62 TOTAL LINEAR FEET OF BOUNDARY TO BE ANNEXED
248.53 TOTAL LINEAR FEET OF BOUNDARY CONTIGUOUS WITH THE INDIAN TRAIL TOWN LIMITS
TOTAL AREA TO BE ANNEXED: 1.700 ACRES

THE PURPOSE OF THIS PLAT IS TO ANNEX PARCELS 07048019K & 07048019L AND PARCEL N7048019M INTO THE MUNICIPAL LIMITS OF THE TOWN OF INDIAN TRAIL

GRAPHIC SCALE

-50 0 25 50

(IN FEET)
1 inch = 50 ft.

I, THE UNDERSIGNED MAYOR OF THE TOWN OF INDIAN TRAIL HEREBY CERTIFY THAT THIS MAP REFLECTS THE TERRITORY WHICH WAS ANNEXED INTO THE TOWN OF INDIAN TRAIL BY ANNEXATION ORDINANCE #_____ WHICH WAS ADOPTED ON THE ___ DAY OF _____, ____, AND THE INDIAN TRAIL MUNICIPAL LIMITS WHICH CORRESPOND TO THE EFFECTIVE DATE FOR THIS DOCUMENT.

_____
MICHAEL ALVAREZ, MAYOR DATE
TOWN OF INDIAN TRAIL

_____
PEGGY PIONTEK DATE
TOWN CLERK

NOTARY CERTIFICATE

I,_____ A NOTARY PUBLIC OF_____COUNTY, NORTH CAROLINA,

DO HEREBY CERTIFY THAT RUSSELL L. WHITEHURST PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE DUE EXECUTION OF THE FOREGOING INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL

THIS ___DAY OF _____, 2012

_____ _____
MY COMMISSION EXPIRES NOTARY

STATE OF NORTH CAROLINA
UNION COUNTY

I, RUSSELL L. WHITEHURST, PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THIS MAP DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION OF A TRACT OF LAND WHOSE TITLE REFERENCES ARE SHOWN ON THE FACE OF THIS PLAT; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000; THAT THE MAXIMUM FIELD ERROR OF ANGULAR CLOSURE IS 7.5 SECONDS; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN DEED BK. (SEE NOTES) PG.(SEE NOTES); AND THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL

THIS 7TH DAY OF DECEMBER, 2012.

_____
RUSSELL L. WHITEHURST
PROFESSIONAL LAND SURVEYOR
NO. L-3661

ENGLE ENGINEERING
2013 Van Buren Avenue
Indian Trail, NC 28079
(704) 882-4222
www.engleonline.net

NO.	DATE	BY	REVISION

THE TOWN OF INDIAN TRAIL PROPERTY
INDIAN TRAIL, VANCE TOWNSHIP, UNION CO., N.C.

OWNER(s):
THE TOWN OF INDIAN TRAIL
P.O. BOX 2430
INDIAN TRAIL, NORTH CAROLINA 28079

Annexation Plat
#134 Oakwood Lane Properties
1.699 Acres

DRAWN BY: DGS APPROVED BY: RLW DATE: DEC. 7, 2012
LOCATION: X:\LAND PROJECTS\ SCALE: 1" = 50' EEI PROJECT 4885

DRAFT

PO Box 2430
Indian Trail, NC 28079
Telephone (704) 821-5401
Fax (704) 821-9045
PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

Planning Board Transmittal for the January 8, 2013 Town Council Public Hearing

Case: ZM2012-004			
Reference Name	**Helmsville Road Rezoning – Gulley Property**		
Planning Board Meeting Date	December 18, 2012		
Seated Members	Chair Cowan ☒	Jan Brown ☒	Larry Miller ☒
	Vice-Chair Higgins ☒	Kelly D' Onofrio ☒	Robert Rollins ☐ Present - Audience
	Sidney Sandy ☐	Cheryl Mimy ☒ Alternate 1	Steve Long ☐ Alternate 2 Present - Audience
	Alan Rosenberg ☒ Alternate 3		
Case Found Complete	Yes ☒ No ☐		
Motion	Recommend approval to Town Council		
Member Making the Motion	Boardmember Higgins		
Second the Motion	Boardmember Mimy		
Vote	All seated members voted in favor of the motion		

Purpose of the Amendment: to rezone a vacant 23.39 a cre parcel from Union County Residential-20 (R-20) to Single-Family Residential-1 (SF-1). The subject property was annexed into the Town of Indian Trail on November 13, 2012. The Town has 60-days to establish zoning for the newly annexed parcel pursuant to the North Carolina General Statues.

Town Council Action: *Receive transmittal report and public testimony and:*

1. *Concur with the findings and transmittal of the Planning Board to approve; or*
2. *Concur with the findings and approve as modified by Council; or*
3. *Do not make the findings and disapprove the amendment.*

Executive Summary

The purpose of the proposed rezone is to establish an Indian Trail Zoning Classification on a newly annexed property. A voluntary annexation ordinance was approved by the Town in November 2012. The property owners have requested a single-family residential zoning classification (SF-1) be placed on their property consist with the Union County classification (R-20) prior to annexation. The proposed classification of SF-1 is consistent with the Union County zoning classification.

Planning Board

This proposed amendment was heard by the Planning Board on December 18, 2012. After receiving the report, hearing staff's analysis, and general discussion, the Board motioned to make the findings and transmit a unanimous recommendation to approve. The draft findings for Council consideration are noted below:

1. The proposed UDO amendment is consistent with the following goals:

   Goal 1.3.1 Quality of Life: Because the proposed zoning classification provides for low- to medium residential density therefore supporting a diverse range of housing options, including varying densities of single family, multifamily, traditional neighborhood development (TND), and mixed-use communities in order to provide affordable living opportunities for a wide range of residents.

2 The request for this zoning reclassification is a reasonable request and is in the public interest because it establishes a zoning classification consistent with the existing Union County zoning classification and it promotes the goals of the adopted Indian Trail Comprehensive Plan.

Staff Contact
Shelley DeHart, AICP
srd@planning.indiantrail.org
(704) 821-5401

Attachment 1- Planning Board Report
Attachment 2- Draft Ordinance

TC ATTACHMENT – PLANNING BOARD REPORT

P.O. Box 2430
Indian Trail, North Carolina 28079
Telephone (704) 821-5401
Fax (704) 821-9045
PLANNING AND NEIGHBORHOOD SERVICES

Zoning Map Amendment Staff Report

Case: ZM 2012-004 Gulley Property		
Reference Name	Helmsville Road Rezoning	
Request	Proposed Zoning	SF-1 Single Family Residential
	Proposed Use	Unknown at this Time
Existing Site Characteristics	Existing Zoning	R-20 (Union County)
	Existing Use	Single-Family Residential
	Site Acreage	23.39 acres
Applicant	Town of Indian Trail	
Submittal Date	11/14/2012	
Location	Helmsville Road across the street from 3809 -3827 Helmsville Road.	
Tax Map Number	07-048-018	
Plan Consistency	Town of Indian Trail Comp. Plan	Designation- 74 Business Corridor
		Consistent with Request
Recommendations & Comments	Planning Staff	Recommends Approval to Town Council

Project Summary

Request: To rezone a vacant 23.39 acre parcel from Union County Residential-20 (R-20) to Single-Family Residential-1 (SF-1). The subject property was annexed into the Town of Indian Trail on November 13, 2012. The Town has 60-days to establish zoning for the newly annexed parcel pursuant to the North Carolina General Statues.

Staff Recommendation- Staff recommends the Planning Board receive the report and recommend approval to the Town Council as presented.

General Information

The subject property is currently zoned for single-family residential uses (Union County R-20) and the intent of the proposed rezoning is to assign it the closest compatible Town zoning district per the request of the property owner. The subject property was voluntarily annexed into the Town of Indian Trail on November 13, 2012 (Annexation #133). State law requires annexed property to undergo a Zoning Map Amendment process to establish Town zoning on the subject property. Figure 1 provides a location map of the subject property.

Figure 1 – Location Map

Zoning Information

The subject property is currently zoned Residential-20 (R-20) under Union County zoning. The proposal requests to rezone the subject property to Single-Family Residential-1 (SF-1). The SF-1 district is intended to provide a low density area for single-family dwellings under conventional or planned development controls.

Adjacent uses and zoning classifications in the subject area are single-family residential (SF-1); Light Industrial, and Regional Business District. Figure 2 below is the official zoning map for the area.

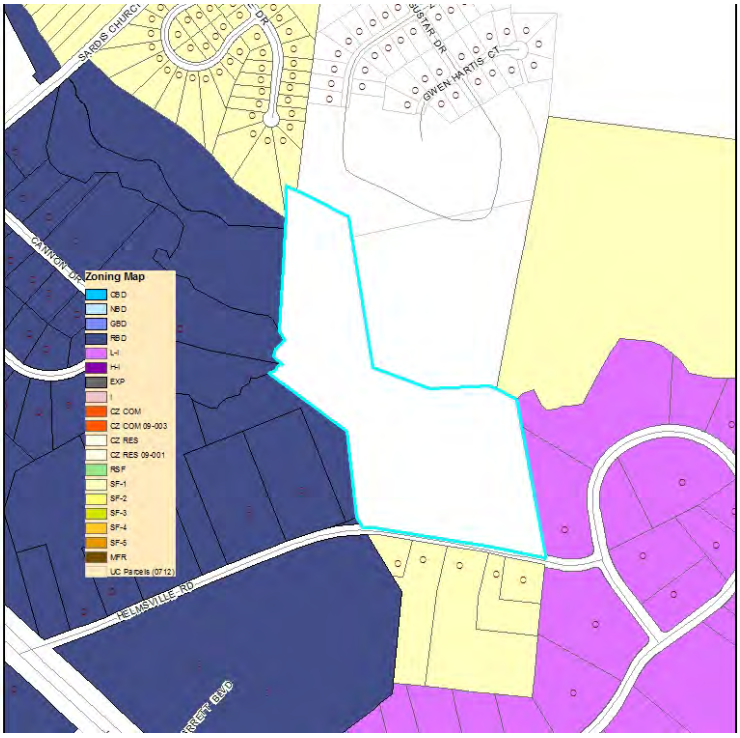


Figure 2 Zoning Map

Site Characteristics

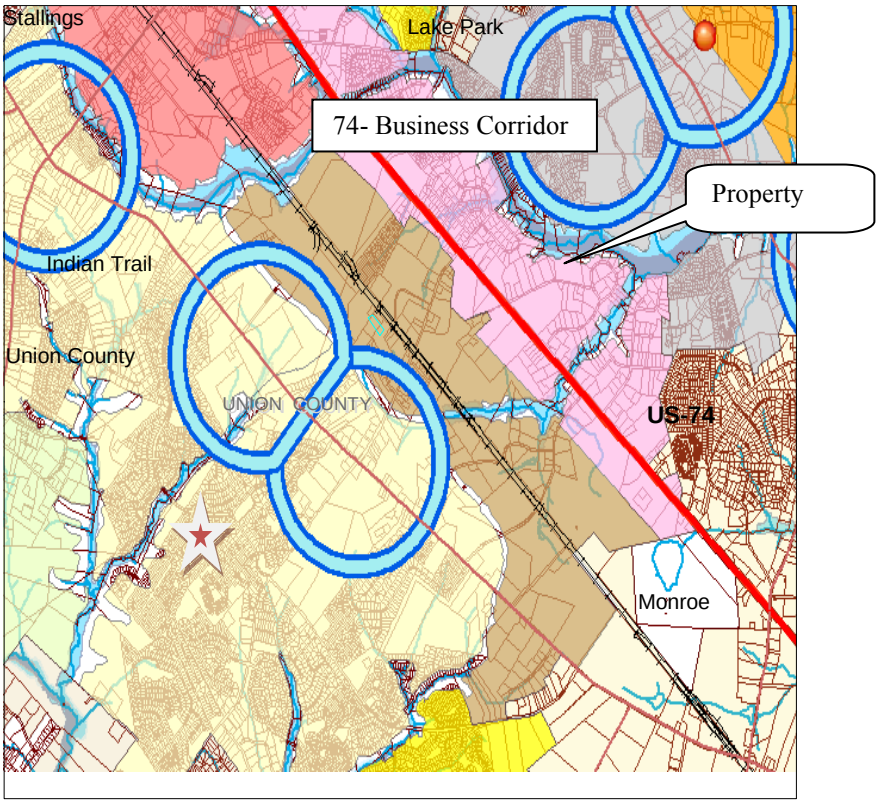
The subject property is approximately 23.39 acres in size and is undeveloped with a healthy tree line however constrained by South Fork Crooked Creed and associated floodplain.

Figure 3 - Site

Plan Consistency

Comprehensive Plan

The property is located within the 74 Business Corridor land use area of the Indian Trail Comprehensive Plan. The 74-Business Corridor provides a significant amount of opportunities for retail, office, entertainment, and lodging however also provides for a residential population to support the commercial uses locally. This corridor provides for medium to high density single-family and multi-family residential uses. The proposed zoning classification provides for two (2) du/acre therefore would fall between the low and medium density category and therefore consistent with the Comprehensive Plan.



Action Required

The Planning Board must make findings prior to motioning for recommendation. The findings must be made that the proposed amendment is both reasonable and consistent with the Comprehensive Plan. Staff is of the opinion the goals of the Comprehensive Plan are satisfied as follows:

> ***Goal 1.3.1 Quality of Life:*** Because the proposed zoning classification provides for low- to medium residential density therefore supporting a diverse range of housing options, including varying densities of single family, multifamily, traditional neighborhood development (TND), and mixed-use communities in order to provide affordable living opportunities for a wide range of residents.

The request for this zoning reclassification is a reasonable request and is in the public interest because it establishes a zoning classification consistent with the existing Union County zoning classification and it promotes the goals of the adopted Indian Trail Comprehensive Plan.

Recommendation

Staff is of the opinion that the findings can be made to support the petition requesting a rezone to Single-Family Residential-1 (SF-1) for the subject property.

Staff Contact

Shelley DeHart, AICP
Director of Planning
(704) 821-5401 ext. 225
srd@planning.indiantrail.org

Attachment -1- Application and Map
Attachment 2 - SEE TC ATTACHMENT

PB ATTACHMENT 1: Application and Map

ZONING MAP AMENDMENT APPLICATION

PLANNING & NEIGHBORHOOD SERVICES
PO Box 2430
Indian Trail, NC 28079
Telephone (704) 821-5401
Fax (704) 821-9045

DEADLINE: THE FIRST DAY OF THE EACH MONTH

ONLY COMPLETE APPLICATIONS ACCEPTED

Processing Fee $500.00

ZONING MAP AMENDMENT APPLICATION

Submittal Requirements

- Completed Application
- Notarized signatures of applicant and property owner
- Letter of Intent
- Fees associated with review

General Information

Project Address Helmsville Road

City Indian Trail State NC Zip 28079

Tax Parcel ID 07-048-18 Zoning Designation SF-1

Total Acres 23.39 acres Impervious Area _____

Project Description Helmville Rd Newly Annexed Zoning

Contact Information – Applicant

Name Town of Indian Trail

Address 130 Blythe Dr, Indian Trail; PO Box 2430

City Indian Trail State NC Zip 28079

Phone 704 821-5401 Fax 704 821-9045

Email srd@planning.indiantrail.org

Contact Information – Property Owner

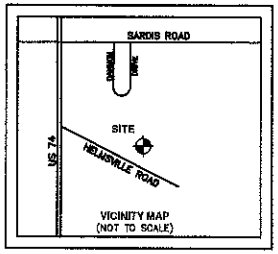
Name Gulley Family - Suzanne Gulley - Contact

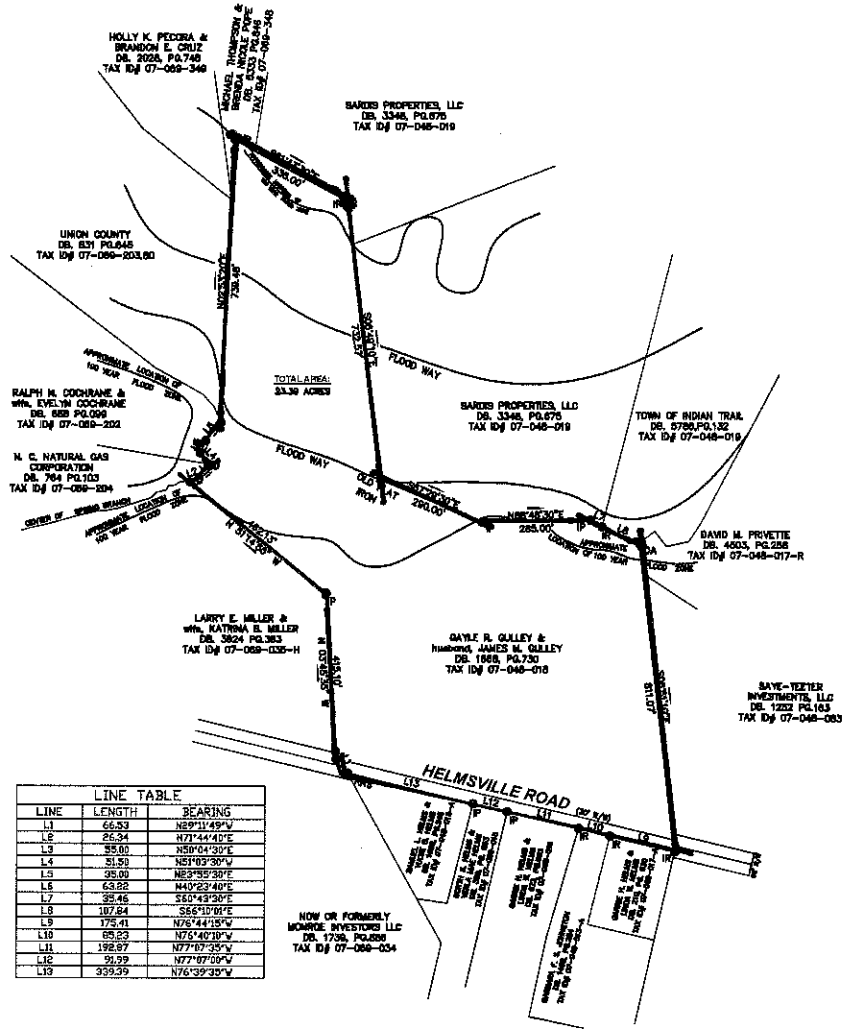
Address 2009 Kimiway Dr

City Matthews State _____ Zip _____

Phone 704 821-5401 Fax _____

Email _____





LINE TABLE		
LINE	LENGTH	BEARING
L1	66.53	N29°11'49"W
L2	26.34	N71°44'40"E
L3	35.00	N50°04'30"E
L4	31.50	N51°03'30"W
L5	25.00	N83°55'30"E
L6	63.82	N40°23'40"E
L7	35.46	S60°43'30"E
L8	107.84	S66°10'01"E
L9	175.41	N76°44'15"W
L10	65.23	N75°40'10"W
L11	192.87	N77°07'35"W
L12	91.99	N77°07'00"W
L13	339.39	N76°39'35"W

200 0 100 200 400 800

1 inch = 200 ft.
SCALE IN FEET

SURVEYOR CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF UNION
THE UNDERSIGNED SURVEYOR, BEING DULY SWORN DEPOSES AND SAYS THAT THE PLAT UPON WHICH THIS CERTIFICATE APPEARS WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; IS IN ALL REPECTS CORRECT ACCORDING TO THE BEST OF HIS KNOWLEDGE AND BELIEF, AND WAS PREPARED FROM AN ACTUAL SURVEY MADE UNDER HIS SUPERVISION WITH A MAXIMUM LINEAR ERROR OR CLOSURE OF 1:10000 AND A MAXIMUM FIELD ERROR OF CLOSURE OF 7.5 SECONDS PER ANGLE

SIDNEY M. SANDY
NCPLS L-1396

NORTH CAROLINA PROFESSIONAL SEAL L-1396 LAND SURVEYOR SIDNEY M. SANDY

REFERENCE: DB. 1668, PG. 730

LEGEND

IP=IRON PIN
RRS=RAIL ROAD SPIKE
OA=OLD AXLE
IR=IRON ROD
R/W=RIGHT-OF-WAY
DB=DEED BOOK
PG=PAGE

OFFICIAL CERTIFICATION

STATE OF NORTH CAROLINA
COUNTY OF UNION

I, THE UNDERSIGNED MAYOR OF THE TOWN OF INDIAN TRAIL HEREBY CERTIFY THAT THE MAP REFLECTS THE TERRITORY WHICH WAS ANNEXED INTO THE TOWN OF INDIAN TRAIL BY ANNEXATION ORDINANCE #133 WHICH WAS ADOPTED ON THE _____ DAY OF _____, 2012 AND THE INDIAN TRAIL MUNICIPAL LIMITS WHICH CORRESPOND TO THE EFFECTIVE DATE OF _____, 2012

MICHAEL ALVAREZ, MAYOR DATE

TOWN CLERK DATE

ANNEXATION INTO THE TOWN OF INDIAN TRAIL

ANNEXATION ORDINANCE NO. 133

TOWN OF INDIAN TRAIL

VANCE TOWNSHIP, UNION COUNTY, N.C.

TAX ID#: D7-048-018

NORTH CAROLINA SINCE 1972 SOUTH CAROLINA
S. M. SANDY SURVEYING
1833 WESLEY CHAPEL ROAD
INDIAN TRAIL, NC 28079
PHONE. (704) 289 - 8040

DATE: 09-24-12
SCALE: 1"=200'
ACAD FILE: HR-GRG

TC ATTACHMENT 2- DRAFT ORDINANCE

STATE OF NORTH CAROLINA)
) ORDINANCE #
TOWN OF INDIAN TRAIL)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF INDIAN TRAIL REZONING PARCEL 07-048-018 (OWNED BY THE GULLEY'S) LOCATED ON HELMSVILLE ROAD FROM UNION COUNTY RESIDENTIAL (R-20) DISTRICT) TO SINGLE-FAMILY RESIDENTIAL-1 (SF-1) IN THE TOWN OF INDIAN TRAIL, UNION COUNTY, NORTH CAROLINA

WHEREAS, the Town of Indian Trail has petitioned to establish zoning (SF-1 Residential) for a newly annexed property (07-048-018) in compliance with the North Carolina General Statues on behalf of the property owners; and

WHEREAS, this Zoning Map Amendment (ZM2012-004) was duly noticed in compliance with North Carolina General Statutes; and

WHEREAS, a public meeting was held by the Planning Board on December 18, 2012 to consider this conditional zoning request; and

WHEREAS, the Planning Board found the proposed map amendment is consistent with the following goal of the Comprehensive Plan:

> ***Goal 1.3.1 Quality of Life:*** Because the proposed zoning classification provides for low to medium residential density thus supporting a diverse range of housing options, including varying densities of single family, multifamily, traditional neighborhood development (TND), and mixed-use communities in order to provide affordable living opportunities for a wide range of residents.

WHEREAS, the Planning Board further found this zoning reclassification is a reasonable request and is in the public interest because it establishes a zoning classification consist with the existing Union County zoning classification and it promotes the goals of the adopted Indian Trail Comprehensive Plan.

WHEREAS, after making the draft findings the Planning Board unanimously approved the motion to transmit a recommendation to approve as conditioned to the Town Council; and

WHEREAS, the Town Council held a public hearing on January 8, 2013 to consider said request and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council concurred with the Planning Board's consistency findings and hereby endorses said findings; and

NOW, THEREFORE, IT SHALL BE ORDAINED by the Town Council of the Town of Indian Trail, North Carolina hereby takes the following action:

Section 1 – Approves ZM 2012-004 Zoning Petition thereby granting the Zoning Map amendment to establish a Single-Family -1 Residential Zoning District (SF-1) on parcel number 07-048-018.

Section 2 – This ordinance shall be effective immediately upon adoption.

AND IT IS SO ORDAINED this 8th day of January, 2013.

TOWN OF INDIAN TRAIL COUNCIL

Attest:

_____

Michael Alvarez, Mayor

_____

Peggy Piontek, Town Clerk

APPROVED AS TO FORM:

_____

TOWN ATTORNEY

PO Box 2430
Indian Trail, NC 28079
Telephone (704) 821-5401
Fax (704) 821-9045
PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

Planning Board Transmittal for the January 8, 2013 Town Council Public Hearing

Case: ZM2012-005			
Reference Name	**Brandon Oaks Phase III**		
Planning Board Meeting Date	December 18, 2012		
Seated Members	Chair Cowan ☒	Jan Brown ☒	Larry Miller ☒
	Vice-Chair Higgins ☒	Kelly D' Onofrio ☒	Robert Rollins ☐ Present - Audience
	Sidney Sandy ☐	Cheryl Mimy ☒ Alternate 1	Steve Long ☐ Alternate 2 Present - Audience
	Alan Rosenberg ☒ Alternate 3		
Case Found Complete	Yes ☒	No ☐	
Motion	Recommend approval to Town Council		
Member Making the Motion	Boardmember Miller		
Second the Motion	Boardmember Brown		
Vote	All seated members voted in favor of the motion		

Purpose of the Amendment: to rezone two parcels totaling 0.42 acres from Union County Residential-20 (R-20) to Single-Family Residential-4 (SF-4), with the Pre-Existing Development Overlay (PED Overlay 1). The subject properties were annexed into the Town of Indian Trail on November 13, 2012. T he Town has 60-days to establish zoning for the newly annexed parcels pursuant to the North Carolina General Statues.

Town Council Action: *Receive transmittal report and public testimony and:*

1. *Concur with the findings and transmittal of the Planning Board to approve; or*
2. *Concur with the findings and approve as modified by Council; or*
3. *Do not make the findings and disapprove the amendment.*

Executive Summary

The purpose of the rezone is to establish an Indian Trail Zoning Classification on two newly annexed properties. A voluntary annexation ordinance was approved by the Town in November 2012. The subject properties are currently zoned Residential-20 (R-20) under Union County zoning. The proposal requests to rezone the subject properties to Single-Family Residential-4 (SF-4). The SF-4 district is intended to accommodate a variety of moderate intensity single-family residential development under conventional or planned development controls. Because the subject property was previously platted using Union County Smart Growth development standards, the rezoning proposal also contemplates a Pre-Existing Development Overlay (PED Overlay 1) to account for the previously approved dimensional requirements (setbacks, etc.) that do not correspond to the SF-4 district.

Planning Board

This proposed amendment was heard by the Planning Board on December 18, 2012. After receiving the report, hearing staff's analysis, and general discussion, the Board motioned to make the findings and transmit a unanimous recommendation to approve. The draft findings for Council consideration are noted below:

1. The proposed UDO amendment is consistent with the following goals:

   Goal 1.3.1 Quality of Life: The proposed rezoning to SF-4 with a PED Overlay 1 will help to promote a better quality of life for our residents by ensuring the continuation of the unique identity and residential character of the Brandon Oaks community.

   Goal 1.3.1 Quality of Life: The proposed rezoning to SF-4 with a PED Overlay 1 will help provide a diverse range of housing opportunities in Indian Trail by providing additional medium density housing within an overall planned development community with varying housing sizes and densities.

2. The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of *Quality of Life* and is consistent with the adopted plans within the Town of Indian Trail.

Staff Contact
Shelley DeHart, AICP
srd@planning.indiantrail.org
(704) 821-5401

Attachment 1- Planning Board Report
Attachment 2- Draft Ordinance

TC ATTACHMENT 1 – PLANNING BOARD REPORT

P.O. Box 2430
Indian Trail, North Carolina 28079
Telephone (704) 821-5401
Fax (704) 821-9045
PLANNING AND NEIGHBORHOOD SERVICES

Zoning Map Amendment Staff Report

Case: ZM 2012-005 Brandon Oaks		
Reference Name	Brandon Oaks III Rezoning	
Request	Proposed Zoning	SF-4 with PED Overlay 1
	Proposed Use	Single-Family Residential
Existing Site Characteristics	Existing Zoning	R-20 (Union County)
	Existing Use	Single-Family Residential
	Site Acreage	0.422 acres (approx.)
Applicant	Town of Indian Trail	
Submittal Date	11/2/12	
Location	Brandon Oaks Phase 9 consisting of two properties recently annexed in Annexation #132.	
Tax Map Numbers	2-Parcels. 07091047 and 07091032	
Plan Consistency	Town of Indian Trail Comp. Plan	Designation- Sun Valley Suburban Mix Village
		Consistent with Request
Recommendations & Comments	Planning Staff	Recommends Approval for SF-4 with PED Overlay 1

Project Summary

Request: To rezone two (2)-parcels (approx. 0.422 acres) from Union County Residential-20 (R-20) to Single-Family Residential-4 (SF-4) with a Pre-Existing Development Overlay (PED Overlay 1). The two properties comprising the subject property are generally located near the intersection of Canopy Dr. and Foutainbrook Dr. and the intersection of Garden Oak Dr. and Sipes Pl. within Brandon Oaks Phase 9 (see Figure 1).

Staff Recommendation- Staff recommends the Planning Board receive the report and recommend approval to the Town Council as presented.

General Information

The subject property is currently zoned for single-family residential uses (Union County R-20) and the intent of the proposed rezoning is to assign it the closest compatible Town zoning district. The subject property was annexed into the Town of Indian Trail on November 13th, 2012 (Annexation #132). State law requires annexed property to undergo a Zoning Map Amendment process to establish Town zoning on the subject property. Figure 1 depicts the two (2) parcels within the rezoning area, of which, both parcels are developed with single-family detached houses. Staff will continue to assist unincorporated Brandon Oaks property owners with any potential future annexations.

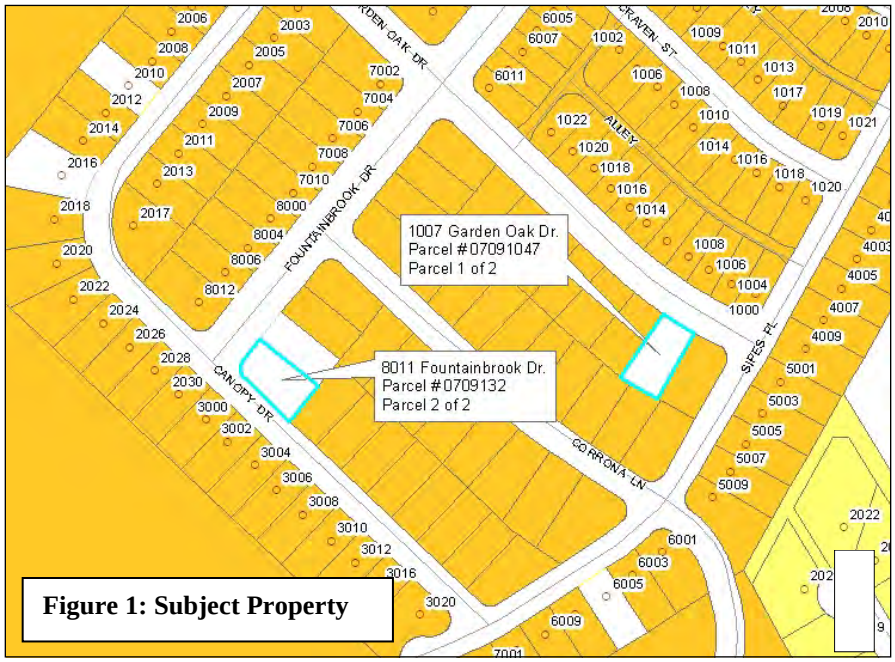


Figure 1: Subject Property

Zoning Information

The subject property is currently zoned Residential-20 (R-20) under Union County zoning. The proposal requests to rezone the subject property to Single-Family Residential-4 (SF-4). The SF-4 district is intended to accommodate a variety of moderate intensity single-family residential development under conventional or planned development controls. Because the subject property was previously platted using Union County Smart Growth development standards, the rezoning proposal also contemplates a Pre-Existing Development Overlay (PED Overlay 1) to account for the previously approved dimensional requirements (setbacks, etc.) that do not correspond to the SF-4 district. Table 1 below provides a snapshot of the differences between these standards. A copy of the applicable Brandon Oaks Phase 9 Final Plat Map reflecting the Union County standards are attached (Attachment 2).

TABLE1: DIMENSIONAL REQUIREMENT COMPARISON

	Town SF-4 District	Union County R-20 District
Lot Width	60-ft	60-ft.
Front Setback	30-ft	20-ft.
Rear Setback	40-ft.	15-ft.
Side Yard	10-ft.	5-ft/10-ft Streetside Min. 10-ft building separation

Adjacent uses and zoning classifications in the subject area are single-family residential (Town SF-2, SF-4, and R-20 in Union County). Existing Town properties within Brandon Oaks are also subject to a PED Overlay 1. Figure 2 below is the official zoning map for the area.

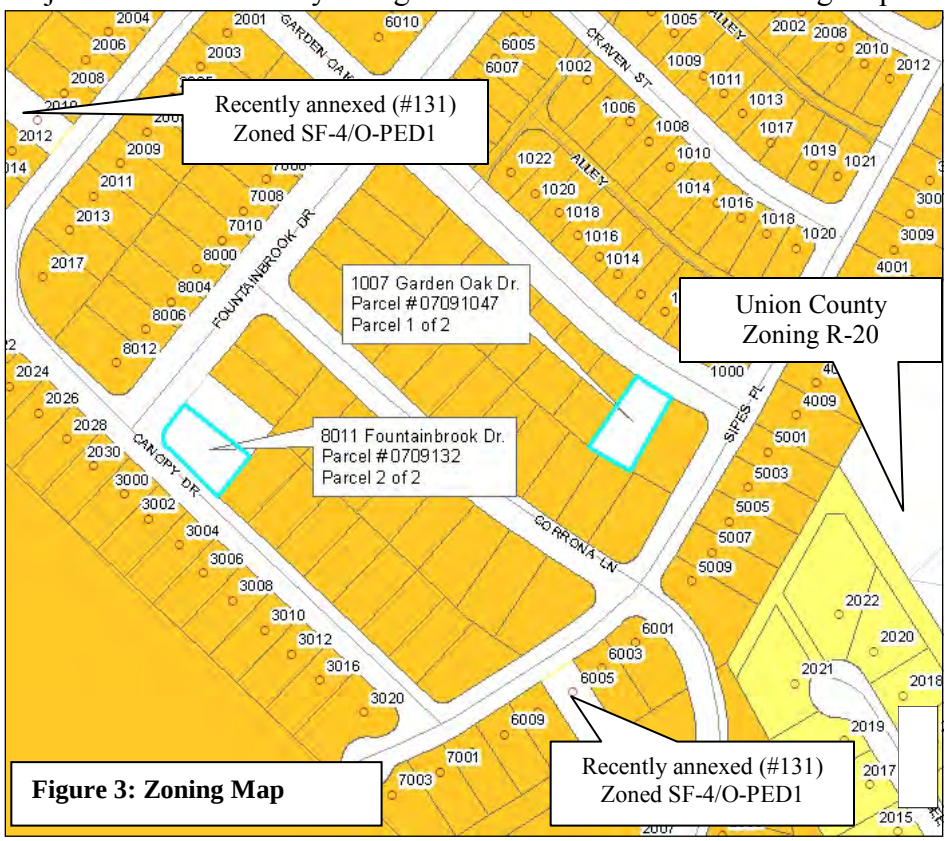


Figure 3: Zoning Map

Site Characteristics

The subject property is approximately 0.422 acres in size and both parcels are in a developed condition. As previously noted, both parcels within the subject property are constructed with single-family detached homes.

Plan Consistency

Comprehensive Plan

The property is located within the Sun Valley Suburban Mix Village land use area of the Indian Trail Comprehensive Plan (see Figure 3). A Suburban Mix Village consists of land uses that promote a neighborhood setting with single-family detached houses as its primary development type. The single-family residential component characterizes this village, with retail development (predominately within village centers) providing convenient access to daily goods and services.

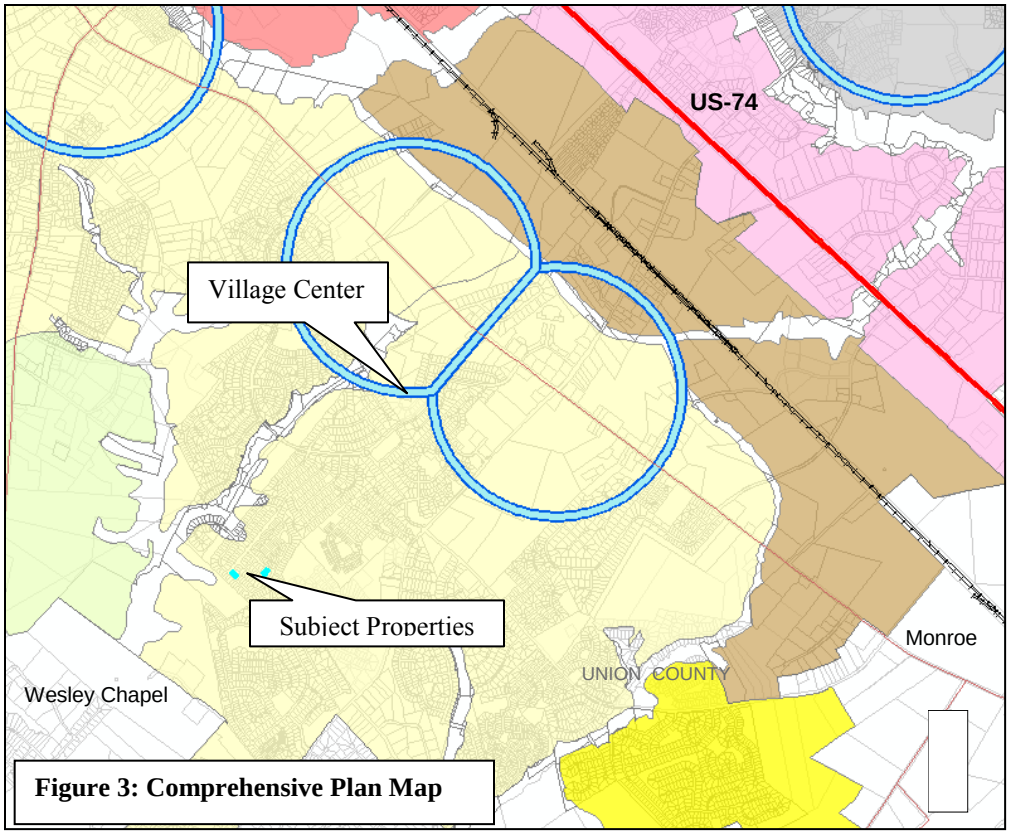


Figure 3: Comprehensive Plan Map

All Villages within the Comprehensive Plan identify a future land use make-up. The table below provides the current make-up and future build out.

Mix Village - Existing Land Sun Valley/Suburban Use Calculations

Land Use	Current Base	Percent Base	Flexibility Factor
Low Density Residential	2.25%	7%	+2
Medium Density Residential	51.35%	60%	-5
High Density Residential	2.91%	8%	+/-2
Multi-Family Residential	0.42%	3%	+/-1
Parks/Open Space/ Agriculture/ Forest	3.94%	6%	-
Institutional	6.38%	7%	+2
Retail	4.40%	2%	-
Office	1.00%	2%	-
Boulevards/Thoroughfares	5.09%	5%	-
Industrial	2.43%	-	-

The proposed petition, if approved, will not modify the above land use mix in light of the subject property being previously subdivided and the proposed Town zoning district being the closest compatible district to the existing R-20 zone. The rezone request is consistent with the Comprehensive Plan in the areas of medium density residential.

Action Required

The Planning Board must make findings prior to motioning for recommendation. The findings must be made that the proposed amendment is both reasonable and consistent with the Comprehensive Plan. Staff is of the opinion the goals of the Comprehensive Plan are satisfied as follows:

> ***Goal 1.3.1 Quality of Life:*** **A more sustainable quality of life to the residents of Indian Trail by establishing a greater sense of community and promoting a unique identity within the Town of Indian Trail for all residents.**
>
> The proposed rezoning to SF-4 with a PED Overlay 1 will help to promote a better quality of life for our residents by ensuring the continuation of the unique identity and residential character of the Brandon Oaks community.
>
> ***Goal 1.3.1 Quality of Life:*** **A diverse range of housing options, including varying densities of single family, multifamily, traditional neighborhood development (TND), and mixed-use communities in order to provide affordable living opportunities for a wide range of residents.**
>
> The proposed rezoning to SF-4 with a PED Overlay 1 will help provide a diverse range of housing opportunities in Indian Trail by providing additional medium density housing within an overall planned development community with varying housing sizes and densities.

The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of *Quality of Life* and is consistent with the adopted plans within the Town of Indian Trail.

Recommendation

The Planning Staff believes that the findings can be made to support the petition requesting a rezone to Single-Family Residential-4 with a PED 1 Overlay for the subject property.

Staff Contact
Hillary Pace, Environmental Planner
(704) 821-5401 ext. 223
hkp@planning.indiantrail.org

Attachment 1 – Application/Letter of Intent
Attachment 2- Draft Ordinance

ATTACHMENT ONE: APPLICATION

R000412

ZONING MAP AMENDMENT APPLICATION

PLANNING AND DEVELOPMENT DEPARTMENT
PO Box 2430
Indian Trail, NC 28079
Telephone (704) 821-5401
Fax (704) 821-9045

DEADLINE: THE FIRST DAY OF THE EACH MONTH

ONLY COMPLETE APPLICATIONS ACCEPTED

Processing Fee $500.00

Notification Fee $2.50 per adjoining property owner

ZONING MAP AMENDMENT APPLICATION

Submittal Requirements

- Completed Application
- Notarized signatures of applicant and property owner
- Letter of Intent
- Fees associated with review

General Information

Project Address: Two (2) parcels recently annexed into the Town of Indian Trail by Annexation #132. Project addresses are 1007 Garden Oak Dr. and 8011 Fountainbrook Dr. Parcels are part of Brandon Oaks Phase 9.

City Indian Trail, North Carolina 28079

Tax Parcel ID: Parcels #s 07091047 and 0709132. Zoning Designation: Existing: R-20 in Unincorporated U.C. Proposed: SF-4 with PED Overlay 1.

Total Acres Approximately 0.467 acres Impervious Area N/A

Project Description: The subject property consisting of two (2)-parcels (Parcel #s 07091047or 1007 Garden Oak Dr. and 07091032 or 8011 Fountainbrook Tr. were annexed into the Town of Indian Trail on October 9th, 2012 (Annexation # 132). The proposed Town zoning district is Single-Family Residential-4 (SF-4) within a Pre-Existing Development Overlay District (PED Overlay 1). The PED Overlay 1 is to account for the subject property having been previously subdivided in unincorporated Union County with Smart Growth development standards (i.e. building setbacks, etc.) that do not correspond to the Town SF-4 district.

Contact Information – Applicant

Name Town of Indian Trail: Hillary Pace, Environmental Planner

Address P.O. Box 2430

City Indian Trail, State NC Zip 28079

Phone 704-821-5401 Fax 704-821-9045

Email hkp@planning.indiantrail.org

Contact Information – Property Owner

Name Initiated by Town of Indian Trail. Property owners are America and Gonzalo Cepeda (Foutainbrook Dr.) and Sachwinder Singh (Garden Oak Dr.)

ZONING MAP AMENDMENT APPLICATION

Town of INDIAN TRAIL north carolina

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Email _____

Applicant's Certification

Signature _____ Date 11/2/12

Printed Name/Title: Hillary Pace, Environmental Planner

Signature of Notary Public Helen S. Boich Date 11/2/2012

Notary Seal HELEN S BOICH NOTARY My Commission Expires 02 / 01 / 2016 PUBLIC UNION COUNTY NC

Property Owner's Certification

Signature Refer to applicant certification above Date _____

Printed Name/Title

Signature of Notary Public _____ Date _____

Notary Seal

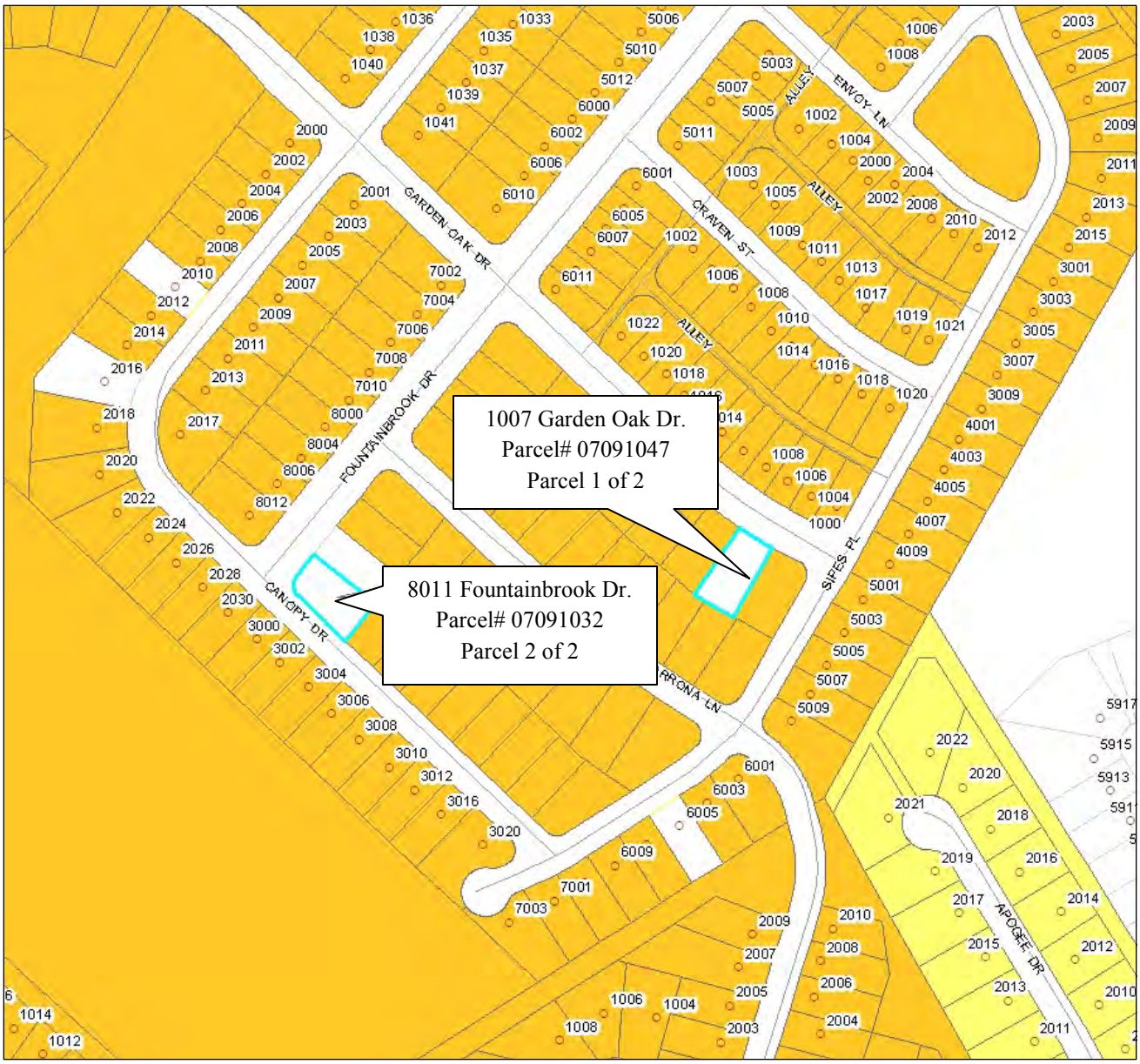
TOWN OF INDIAN TRAIL OFFICE USE ONLY

Case Number: ZM2012-005

Date Received: 11/2/12 Amount of Fee: N/A

Received By: HKP Receipt #: N/A

ZM2012-005 Location Map



P.O. Box 2430
Indian Trail, North Carolina 28079
Telephone (704) 821-5401
Fax (704) 821-9045
PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

To: ZM2012-005 Project File

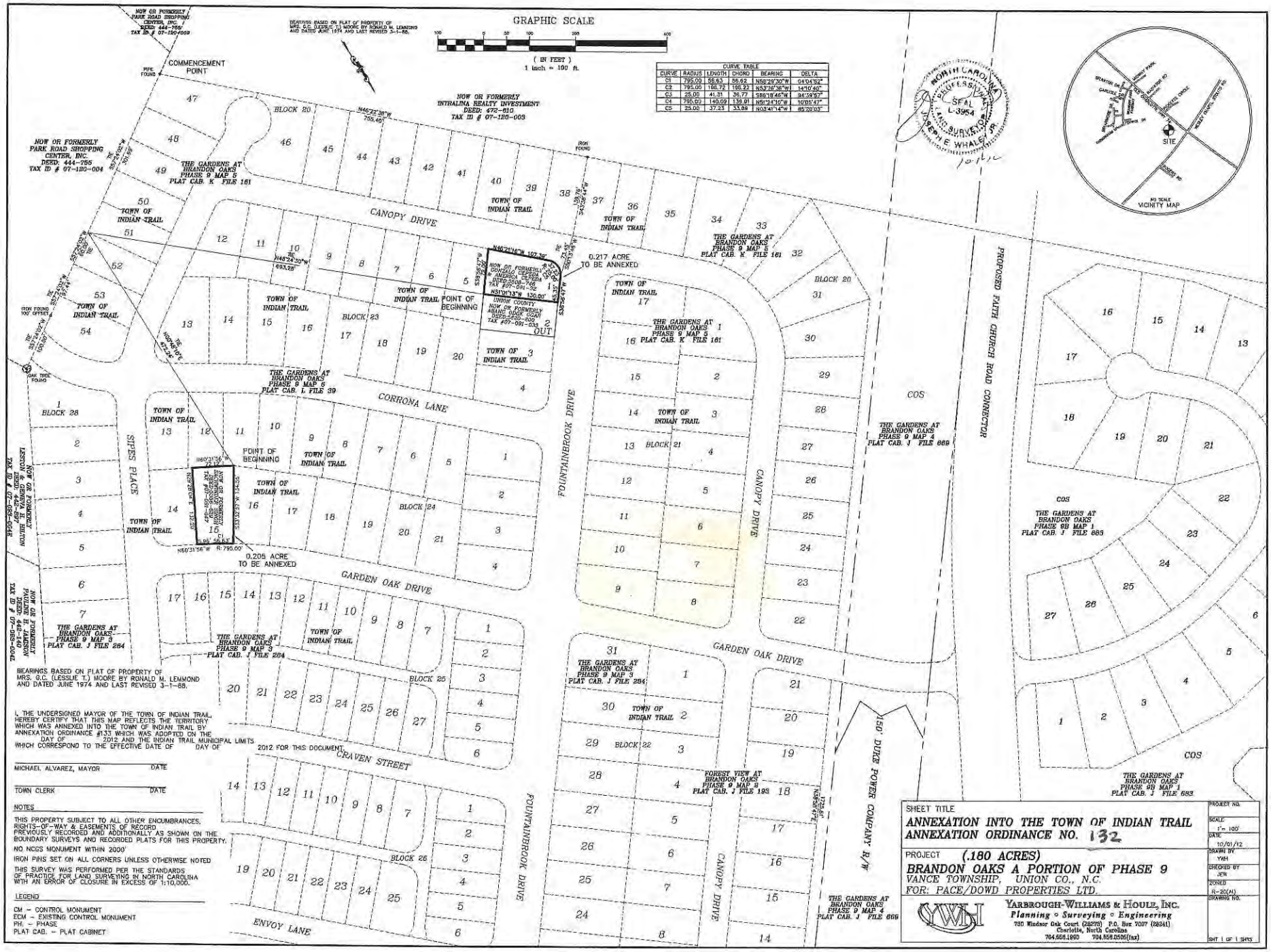
From: Hillary Pace, Environmental Planner

Date: November 2, 2012

Re: ZM2012-003 Brandon Oaks III Rezoning Letter of Intent

The intent of the proposed Zoning Map Amendment is to establish a compatible Town of Indian Trail zoning classification for two (2) parcels recently annexed into the Town of Indian Trail.

The subject property consisting of two (2)-parcels (Parcel #s 07091032 or 8011 Fountainbrook Tr. and 07091047or 1007 Garden Oak Dr. were annexed into the Town of Indian Trail on October 9th, 2012 (Annexation # 132). The proposed Town zoning district is Single-Family Residential-4 (SF-4) within a Pre-Existing Development Overlay District (PED Overlay 1). The PED Overlay 1 is to account for the subject property having been previously subdivided in unincorporated Union County with Smart Growth development standards (i.e. building setbacks, etc.) that do not correspond to the Town SF-4 district.



CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	795.00	56.63	56.62	N58°29'30"W	04°04'52"
C2	795.00	198.72	198.22	N53°26'38"W	14°10'40"
C3	25.00	41.31	36.77	S86°18'46"W	94°39'57"
C4	795.00	140.09	139.91	N51°24'10"W	10°05'47"
C5	25.00	37.23	33.88	N03°41'14"W	85°20'03"

BEARINGS BASED ON PLAT OF PROPERTY OF MRS. G.C. (LESSLIE T.) MOORE BY RONALD M. LEMMOND AND DATED JUNE 1974 AND LAST REVISED 3-1-88.

I, THE UNDERSIGNED MAYOR OF THE TOWN OF INDIAN TRAIL, HEREBY CERTIFY THAT THIS MAP REFLECTS THE TERRITORY WHICH WAS ANNEXED INTO THE TOWN OF INDIAN TRAIL BY ANNEXATION ORDINANCE #133 WHICH WAS ADOPTED ON THE DAY OF 2012, AND THE INDIAN TRAIL MUNICIPAL LIMITS WHICH CORRESPOND TO THE EFFECTIVE DATE OF DAY OF 2012 FOR THIS DOCUMENT.

MICHAEL ALVAREZ, MAYOR DATE

TOWN CLERK DATE

NOTES

THIS PROPERTY SUBJECT TO ALL OTHER ENCUMBRANCES, RIGHTS-OF-WAY & EASEMENTS OF RECORD PREVIOUSLY RECORDED AND ADDITIONALLY AS SHOWN ON THE BOUNDARY SURVEYS AND RECORDED PLATS FOR THIS PROPERTY.

NO NCGS MONUMENT WITHIN 2000'

IRON PINS SET ON ALL CORNERS UNLESS OTHERWISE NOTED

THIS SURVEY WAS PERFORMED PER THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA WITH AN ERROR OF CLOSURE IN EXCESS OF 1:10,000.

LEGEND

CM - CONTROL MONUMENT
ECM - EXISTING CONTROL MONUMENT
PH. - PHASE
PLAT CAB. - PLAT CABINET

SHEET TITLE
ANNEXATION INTO THE TOWN OF INDIAN TRAIL
ANNEXATION ORDINANCE NO. 132

PROJECT (.180 ACRES)
BRANDON OAKS A PORTION OF PHASE 9
VANCE TOWNSHIP, UNION CO., N.C.
FOR: PACE/DOWD PROPERTIES LTD.

YARBROUGH-WILLIAMS & HOULE, INC.
Planning ◦ Surveying ◦ Engineering
730 Windsor Oak Court (28278) P.O. Box 7007 (28241)
Charlotte, North Carolina
704.556.1960 704.556.0505(fax)

PROJECT NO.	
SCALE	1"= 100'
DATE	10/01/12
DRAWN BY	YWH
CHECKED BY	JEW
ZONED	R-20(A)
DRAWING NO.	
SHT 1 OF 1 SHTS	

TC ATTACHMENT 2- DRAFT ORDINANCE

STATE OF NORTH CAROLINA)
) ORDINANCE #
TOWN OF INDIAN TRAIL)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF INDIAN TRAIL REZONING TWO (2) PARCELS TOTALING APPROXIMATELY 0.422 ACRES FROM RESIDENTIAL-20 (R-20) TO SINGLE-FAMILY RESIDENTIAL-4 (SF-4) WITH A PRE-EXISTING DEVELOPMENT OVERLAY (PED OVERLAY 1) IN THE TOWN OF INDIAN TRAIL, UNION COUNTY, NORTH CAROLINA

WHEREAS The Town of Indian Trail petitioned to rezone two (2) parcels that were recently annexed into the Town as part of Annexation #132 (parcels 07091047 and 07091032), from Residential-20 (R-20) to Single-Family Residential-4 (SF-4) with a Pre-Existing Development Overlay (PED Overlay 1) zoning classification; and

WHEREAS, this Zoning Map Amendment (ZM2012-005) was duly noticed in compliance with North Carolina General Statutes; and

WHEREAS, a meeting was held by the Planning Board on December 18th, 2012 to consider this zoning request; and

WHEREAS, the Planning Board found the proposed amendment is consistent with the following goals of the Comprehensive Plan:

> ***Goal 1.3.1 Quality of Life:*** **A more sustainable quality of life to the residents of Indian Trail by establishing a greater sense of community and promoting a unique identity within the Town of Indian Trail for all residents.**
>
> The proposed rezoning to SF-4 with a PED Overlay 1 will help to promote a better quality of life for our residents by ensuring the continuation of the unique identity and residential character of the Brandon Oaks community.
>
> ***Goal 1.3.1 Quality of Life:*** **A diverse range of housing options, including varying densities of single family, multifamily, traditional neighborhood development (TND), and mixed-use communities in order to provide affordable living opportunities for a wide range of residents.**
>
> The proposed rezoning to SF-4 with a PED Overlay 1 will help provide a diverse range of housing opportunities in Indian Trail by providing additional medium density housing within an overall planned development community with varying housing sizes and densities.

WHEREAS, the Planning Board further finds zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian

Trail Comprehensive Plan in the areas of Quality of Life and is consistent with the adopted plans within the Town of Indian Trail.

WHEREAS, the Town Council held a public hearing on January 8, 2013to consider said request, received public testimony, and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council concurred with the Planning Board's consistency findings and hereby endorses said findings; and

NOW, THEREFORE, IT SHALL BE ORDAINED by the Town of Indian Trail Town Council that:

Section 1 ZM 2012-005 rezone petition be granted and the Zoning Map shall be amended to reflect the Single-Family Residential-4 (SF-4) with a Pre-Existing Development Overlay (PED Overlay 1) zoning designation for parcels recently annexed into the Town as part of Annexation #132 (parcels 07091047 and 07091032).

Section 2 – This ordinance shall be effective immediately upon adoption.

AND IT IS SO ORDAINED this 8th day of January, 2013.

TOWN OF INDIAN TRAIL COUNCIL

Attest:

_____

Michael Alvarez, Mayor

_____

Peggy Piontek, Town Clerk

APPROVED AS TO FORM:

_____

TOWN ATTORNEY

PO Box 2430
Indian Trail, NC 28079
Telephone (704) 821-5401
Fax (704) 821-9045
PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

Planning Board Transmittal for the January 8, 2013 Town Council Public Hearing

Case: CZ 2012-002			
Reference Name	**Carolina Court Conditional Zoning**		
Planning Board Meeting Date	December 18, 2012		
Seated Members	Chair Cowan ☒	Jan Brown ☒	Larry Miller ☒
	Vice-Chair Higgins ☒	Kelly D' Onofrio ☒	Robert Rollins ☐ Present - Audience
	Sidney Sandy ☐	Cheryl Mimy ☒ Alternate 1	Steve Long ☐ Alternate 2 Present - Audience
	Alan Rosenberg ☒ Alternate 3		
Case Found Complete	Yes ☒ No ☐		
Motion	Recommend approval to Town Council with Modified Conditions		
Member Making the Motion	Boardmember Miller		
Second the Motion	Boardmember Mimy		
Vote	All seated members voted in favor of the motion		

Purpose of the Amendment: to rezone a 3-acre portion of a 51-acre parcel from Single-Family Residential 1 – (SF-1) to a Conditional Regional Business District (CZ-RBD)/Downtown Overlay District- for the purpose of developing the site as an indoor/outdoor recreation facility with accessory uses. The project consists of a 48,000 square foot indoor basketball/volleyball facility, fitness services; retail/shopping/gift Shop; restaurant; commercial entertainment (Concert & other events); and after school and athletic instruction.

Town Council Action: *Receive transmittal report and public testimony and:*

1. *Concur with the findings and transmittal of the Planning Board to approve; or*
2. *Concur with the findings and approve as modified by Council; or*
3. *Do not make the findings and disapprove the amendment.*

Executive Summary

The applicant filed this Conditional Zoning District request for the purpose of relocating their existing Indian Trail recreation facility to the Town's future park facility referred to as Chestnut Park. This request is part of the ongoing public-private partnership between the Town and Carolina Courts. The impetus for the relocation of Carolina Courts is the proposed alignment of the Monroe Bypass project. The North Carolina Department of Transportation (NCDOT) has already purchased the property from the applicants. The applicants are now leasing the property from NCDOT until their new facility is complete. Their request includes the potential for the following accessory uses:

- *The potential for outdoor sports such as volleyball in coordination with the Town park;*
- *Fitness Services/Center;*
- *Retail/Shopping/Gift Shop*
- *Restaurant*
- *Commercial Entertainment (Concert & other events-maximum occupancy under 1000 people.*
- *After school and athletic instruction*

Please refer to the Planning Board Report found in attachment one for the complete project evaluation.

Planning Board

This project was heard by the Planning Board at its December 18, 2012 public meeting. Supplemental information was presented to the Board with staff's report. This supplemental information consisted of a proposed phasing plan for the Porte Cochere[1], outdoor dining and plaza area (Attachment 2). The Board evaluated the project and had concerns in the area of parking (including ADA spaces), general traffic, future changes in use, building material, and the phasing plan as it related to the Porte Cochere.

Parking – The project is designed with shared parking between the proposed recreation facility and the park as a whole. The initial phase of the park includes 301 parking spaces of which nine (9) are ADA spaces. This initial phase parking plan exceeds the required parking and ADA spaces for this request. Additional parking will be developed as the park is phased in. Staff will continue to evaluate the parking, including ADA space locations, as the Park is developed. The applicant also discussed their business model for their events which includes:

1. Good communication and coordination of events with the Town; and
2. Information packets to event participants (Teams) regarding parking facilities and directions.

Traffic – Questions were raised regarding potential traffic impacts. Staff explained the project has been designed with shared infrastructure such as shared access driveway, turn lanes, and the first phase of the Chestnut Connector. Attachment 3- provides and overall view of the conceptual transportation network that will ultimately distribute traffic in multiple directions for the park as a whole. A traffic study was done and the infrastructure will be phased in coordination with the phasing of Chestnut Park.

Future Changes in Use: Concerns were voiced regarding the potential for future changes in use of the facility based on its location within the Town's Park. Staff explained the applicant would have to come back before the Council if the principle use is proposed to be changed to another

[1] An architectural term for a roofed structure covering a driveway at the entrance of a building to provide shelter while entering or leaving a vehicle.

use other than an indoor recreation facility. This would be processed as a new rezone request per the Unified Development Ordinance (UDO).

Building Material: The Board requested that conditions be modified to specifically call out the building material required on the front façade – which is brick, stucco, and stone material. This has been incorporated within condition two of the draft ordinance.

Phasing Plan- The applicant had requested to phase certain elements of the project, specifically the following:

- ***Front Entrance Porte-cochere –*** *this is the covered driveway drop- off structure located at the front entrance of the building. Their request is for a 10-year phasing to allow time to understand their staging needs at this location. The applicant has proposed maintaining the drop-off lane utilizing features such as bollards and tree boxes to address safety.*

  The Board did not support the request for phasing of the Porte-cochere. They voiced the importance of providing weather related relief as a shelter at the loading and unloading point to the facility as well as an aesthetic architectural feature for the structure. The Board voiced the importance of having a shelter structure at the drop-off area for possible events such as graduations or Special Olympic events. The applicant stated they will construct the Porte-cochere with the initial development stage however requested the ability to phase in the enhancements of the post (brick materials). This has been added as condition three of the draft ordinance.

- ***Outdoor areas adjacent to outdoor volleyball courts*** *–this includes the outdoor dining area and seating plaza. Their request is for a 3-5 year phasing period to allow time to understand the facility's operation flow and restaurant dining needs.*

  The Board had no major concerns regarding the phasing or the development of the outdoor dining and plaza and understands the need to observe their operations to assess their needs. Based on the discussion by the Board with the applicant, these areas could be phased in within a 10-year period however are not necessary because they do not serve as a safety or welcoming feature for their facility.

After deliberations the Board motioned to make the findings and transmit a recommendation to approve with modified conditions. The Draft Conditions are:

1. The Conditional Regional Business Zoning District (CZ-RBD) is approved for the following uses:
    a. **Principle Use** – Indoor Recreational Facility-Spectator Entertainment Use.
    b. **Accessory Uses:**
        i. The potential for outdoor sports such as volleyball in coordination with the Town park;
        ii. Fitness Services/Center;
        iii. Retail/Shopping/Gift Shop
        iv. Restaurant
        v. Commercial Entertainment (Concert & other events-maximum occupancy under 1000 people.)
        vi. After school and athletic instruction
    c. Any change in the principle use (recreational/spectator entertainment use) or major change in the conceptual plan, shall require Town Council consideration as a new rezone request.
2. The proposed development shall be designed generally consistent with the associated site plan and elevations as incorporated herein. The front façade shall be architecturally treated with brick, stucco, and stone building material.
3. The applicant shall construct the Porte-cochere feature at the front entrance of the facility during the initial construction phase. Post enhancements (brick or stone material) of the structure may be phased in as needed.
4. The applicant may phase in the plaza and/or outdoor dining patio area if deemed necessary for business operations without modification of the conditional zoning.
5. All street/plaza furniture such as benches and trash receptacles, bike racks, pedestrian lighting, other incidental site features shall be approved by the Town.
6. The three acre area shall be subdivided from the 51-acre tract prior to certificate of occupancy.
7. All conditions shall be met within two years of the establishment of the Conditional Zoning District unless authorized herein. The Town Council may act to revoke the conditional zoning district designation if the applicant fails to meet the terms of the district.

The draft findings made were:

Goal 1.3.1 Quality of Life - The proposed conditional zoning district will meet this goal by:

- *Providing common urban design elements in coordination with the Town in the Downtown area; and*
- *Assisting in the implementation of the Town's park system in order to provide a better sense of community for Indian Trail Residents;*

Goal 1.3.2 Land Use - the proposed rezone project provides a mix of uses within the Downtown Village and promotes a more balanced tax base by authorizing a relocation of a displaced business within Indian Trail; and

Goal 1.3.4 Downtown Revitalization – the proposed project promotes the downtown area as a focal point by including the opportunity for a gathering place for community events, while at the same time serving as a business and cultural destination for the local and regional population.

The request for this Conditional Zoning District is a reasonable request and is in the public interest because it is consistent with the Downtown Master Plan, the Indian Trail Comprehensive Plan, the Parks and Greenway Master Plan, and provides much needed recreational opportunities for our Town residents.

Council Action:

1. Receive Transmittal report, public comments, and after deliberations:
2. Motion (Based on Transmittal):
    a. Make the required findings as read into the record and incorporated within the attached ordinance; and
    b. Approve CZ 2012-002 as presented establishing a conditional regional business zoning district.

Staff Contact

Shelley DeHart, AICP
srd@planning.indiantrail.org
(704) 821-5401

Attachment 1- Planning Board Report
Attachment 2- Applicant Phasing Plan presented to the Planning Board
Attachment 3- Conceptual Park Plan
Attachment 4 - Draft Ordinance

TC ATTACHMENT 1- PB REPORT

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

Conditional Zoning Staff Report

Case: CZ 2012-002			
Reference Name	Carolina Courts		
Request	Proposed Zoning	Conditional Zoning Regional Business District (CZ-RBD)/Downtown Overlay District	
	Proposed Uses	Indoor/Outdoor Recreation Facility	
Existing Site Characteristics	Existing Zoning	Single-Family Residential SF-1 /Downtown Overlay District	
	Existing Use	Vacant	
	Site Acreage	3- acres	
Applicant	Partners in Hoops		
Submittal Date	August 29, 2012		
Location	304 Matthews-Indian Trail Road, 3-acre portion		
Tax Map Number(s)	07-105-011		
Plan Consistency	Comprehensive Plan	Designation	Downtown Village
		Consistent with Request	Yes
Recommendations & Comments	Planning Staff	Recommends approval of a Conditional Zoning District	

Project Summary

This is a request to rezone a 3-acre portion of a 51-acre parcel from Single-Family Residential 1 – (SF-1) to a Conditional Regional Business District for the purpose of developing the site as an indoor/outdoor recreation facility. The project consists of:

- *A 48,000 square foot indoor basketball/volleyball facility;*
- *The potential for outdoor sports such as volleyball in coordination with the Town park;*
- *Fitness Services;*
- *Retail/Shopping/Gift Shop*
- *Restaurant*
- *Commercial Entertainment (Concert & other events)*
- *After school and athletic instruction*

Recommendation

Staff is of the opinion the necessary findings can be made to support this rezone request for a Conditional Regional Business Zoning District.

Background

The applicants are proposing to relocate their recreation facility operations in conjunction with the Town's future park facility referred to as the Chestnut Park. The impetus for the relocation of Carolina Courts is the proposed alignment of the Monroe Bypass project. The North Carolina Department of Transportation (NCDOT) has purchased the property from the applicants. The applicants are now leasing the property from NCDOT until their new facility is complete. This request includes the potential for the following accessory uses:

- *The potential for outdoor sports such as volleyball in coordination with the Town park;*
- *Fitness Services/Center;*
- *Retail/Shopping/Gift Shop*
- *Restaurant*
- *Commercial Entertainment (Concert & other events-maximum occupancy under 1000 people.*
- *After school and athletic instruction*

The process of establishing a Conditional Use Zoning District allows for some flexibility in development while conditioning the zoning district. It can be viewed as a "customized zoning district." The processing of this conditional RBD zone will allow for the proposed primary and secondary uses by right once the zone is established. Any proposed changes in the primary use of the site will require a modification of the conditional zoning district.

Site Location and Proposed Operation

The project property is approximately three (3) acres in size and is currently part of an existing 51-acre property identified as the future Chestnut Park. Figure one below provides a location map for the subject property.

Figure 1 – Location Map

The three (3) acre area has been designed in conjunction with the conceptual plan for the future Chestnut Park as seen in figure two below.

Figure 2- Concept Plan Chestnut Park

This coordination allows for the sharing of infrastructure such as access driveways and parking, as well as shared use of outdoor volleyball facilities and court time use for Indian Trail residents (1,500 hours annually). The applicant will allow up to eight (8) Town hosted events to be held within their facility annually. This provides the opportunity to use this much needed space for such things as graduations.

Based on the letter of intent, the applicant anticipates hosting over 40 events/tournaments per year that will generate between 150,000 and 200,000 visitors to the park (Attachment 1). These visitors in turn generate economic development within the Town. Carolina Courts will operate on a 7-days a week schedule with 5 full-time and 30 part-time employees.

The plan includes a 2,400+ square foot restaurant that will service the facility patrons, our park users, residents, as well as the daytime business community. The restaurant has been designed to include the opportunity for patio dinning.

Analysis

The subject property is currently zoned Single-Family Residential -1 (SF-1). Surrounding zoning and uses vary from Single-Family Residential to Light Industrial within the project area (Figure 3).

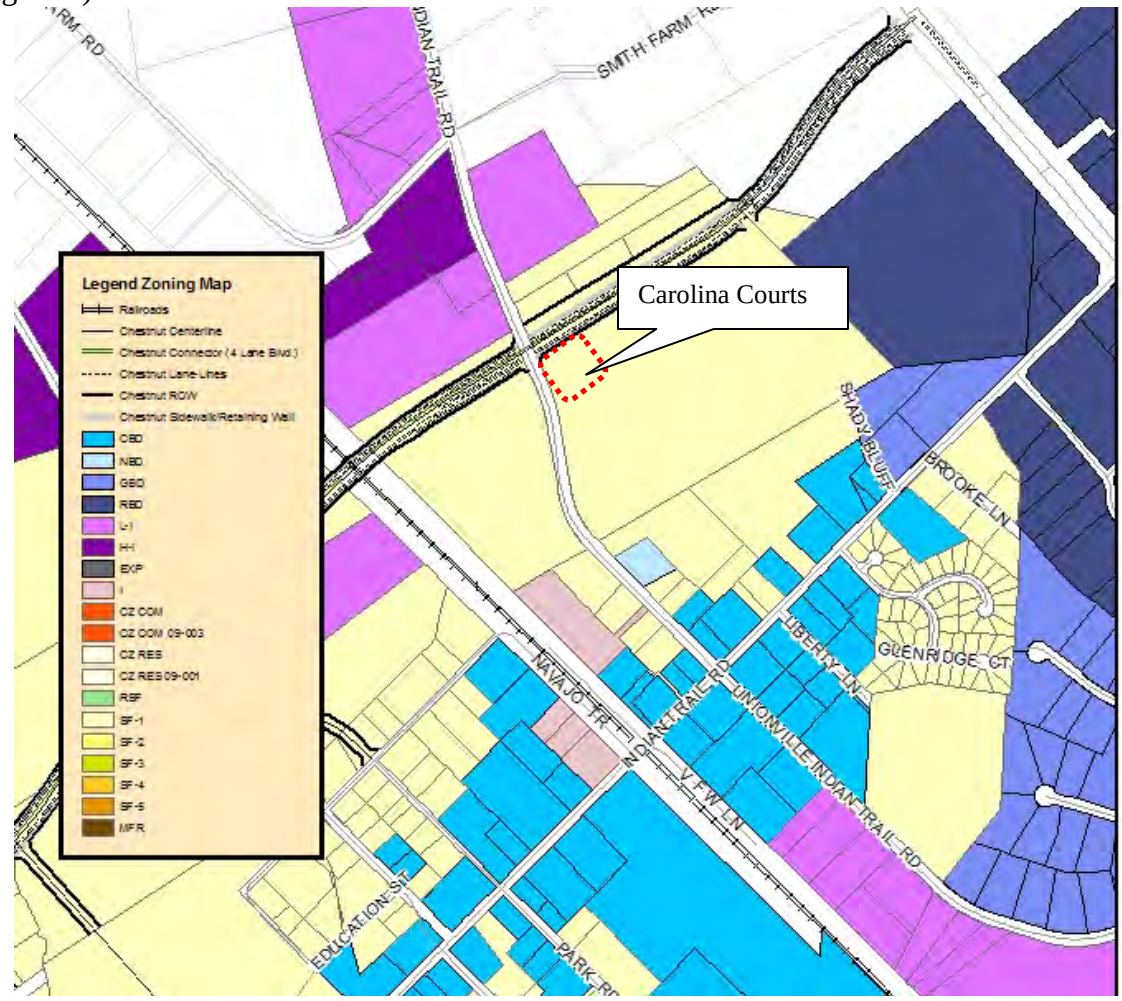


Figure 3 – Zoning Map

The applicants propose to rezone this parcel from SF-1 to a Conditional Regional Business District (CZ-RBD) based on the primary and accessory uses. The Unified Development Ordinance (UDO) identifies this district as one that is "intended to establish suitable development standards for the provisions of convenience goods, groceries, and services at locations along major transportation routes to the motoring public, both local and transient." As seen in the map above, the future Chestnut Connector, a major thoroughfare, will provide future access from Hwy 74 to Old Monroe Road and become a major transportation corridor for the Town. The construction of this alignment is planned to be phased, the first phase being the section along the northeast section of the park. This section, and associated roadway improvements, will provide access and add traffic capacity for the proposed facility and the future Chestnut Park. Staff supports this zoning classification (CZ-RBD) with the Downtown Overlay Zone based on the size of the facility, its operations and accessory uses, and its proximity to major transportation routes.

Site Design

A stated earlier in this report, this 3-acre site has been designed in coordination with the future town park. The parking will be provided on-site as a shared parking facility with the town park use. There are 301 parking spaces planned with this initial phase with additional overflow parking coming on-line as Chestnut Park is phased in. This shared parking allocation was supported by our park consultant, (Woolpert Designs) experienced in park design and implementation.

The Carolina Courts facility exterior design includes an outdoor plaza/gathering area at the front of the facility, an outdoor dining area at the side of the facility, and a large grassed area that will possibly be transformed into an outdoor volleyball area in the future phase (See Attachment -2 Site Plans). The structure itself is a metal shell that will be architecturally treated on the front facade with brick and stucco material.

The front façade includes a Porte-cochère, pilasters, a decorative fence around the front plaza area and landscaping adjacent to the building providing some depth and articulation to the front of the structure. The interior park side (left side in picture) will have large windows, sign and banner areas between windows, awnings, landscaping, and an outdoor dining area with a trellis structure. The remaining walls will not be treated however screened with landscaping consisting of native evergreen and deciduous trees.

The applicant is coordinating the style of the plaza furniture (such as benches and trash receptacles), bike racks, and pedestrian lights with the Town to ensure a holistic, high quality vision is obtained consistent with the Town's vision for the park.

Comprehensive Plan

The subject property is located within the Downtown Village of the Comprehensive Plan. It identifies the planning needs for this area as:

- Attractive urban design to attract new residents and business
- Create a community gathering place and regional destination
- Economic Development is vital
- The area needs to become more pedestrian friendly
- Public facilities such as parks/open space, civic uses etc. are needed.

Staff is of the opinion that the proposed project, in partnership with the Town's public park, meets all of the needs listed above. It further meets the general "Smart Growth Principles" applicable to the Downtown Village which are;

- *Provide a variety of uses that enhance the quality of life and meet the needs of current and future residents;*
- *Take advantage of compact building design – this would include things such as shared infrastructure;*
- *Foster distinctive, attractive communities with a strong sense of place;*
- *Connect schools, parks, downtown existing open spaces and outdoor recreation areas.*

Community Meetings

The conditional zoning process requires that two neighborhood meetings be held prior to the Planning Board's consideration. The meetings were held on December 5th at the Indian Trail Civic Building, and on December 6th at the project site (304 Matthews-Indian Trail Road. There were no attendees other than the staff and the applicant's development team. These meetings were advertised in compliance with the UDO.

Action Required

The Planning Board must adopt a statement of consistency and reasonableness prior to making a motion for recommendation. The finding must be made that the proposed amendment is both reasonable and consistent with the Comprehensive Plan. Staff is of the opinion the goals of the Comprehensive Plan are satisfied as follows:

Goal 1.3.1 Quality of Life - The proposed conditional zoning district will meet this goal by:

- *Providing common urban design elements in coordination with the Town in the Downtown area; and*
- *Assisting in the implementation of the Town's park system in order to provide a better sense of community for Indian Trail Residents;*

Goal 1.3.2 Land Use - the proposed rezone project provides a mix of uses within the Downtown Village and promotes a more balanced tax base by authorizing a new commercial business; and

Goal 1.3.4 Downtown Revitalization – the proposed project promotes the downtown area as a focal point by including the opportunity for a gathering place for community events, while at the same time serving as a business and cultural destination for the local and regional population.

The request for this Conditional Zoning District is a reasonable request and is in the public interest because it is consistent with the Downtown Master Plan, the Indian Trail Comprehensive Plan, the Parks and Greenway Master Plan, and provides recreational opportunities for our Town residents.

Draft Conditions:

1. The proposed development shall be designed generally consistent with the associated site plan and elevations as incorporated herein as attachment two.
2. Any change in the principle use (recreational/spectator entertainment use) or major change in the conceptual plan, shall require Town Council consideration as a new rezone request.
3. The applicant shall submit for approval a phasing plan (if needed) for the plaza and/or outdoor dining patio area prior to construction.
4. All street/plaza furniture such as benches and trash receptacles, bike racks, pedestrian lighting, other incidental site features shall be approved by the Town.
5. The three acre area shall be subdivided from the 51-acre tract prior to certificate of occupancy.
6. All conditions shall be met within two years of the establishment of the Conditional Zoning District unless authorized herein. The Town Council may act to revoke the conditional zoning district designation if the applicant fails to meet the terms of the district.

Recommendation

Staff is of the opinion that the findings can be made to support the rezone request establishing a conditional Regional Business zoning district for the subject property. The proposed conditional rezone is consistent with the town's Comprehensive Plan.

Attachment 1 – Application
Attachment 2 – Site Plan

Staff Contact
Shelley DeHart, AICP
704 821-5401
srd@planning.indiantrail.org

PB Attachment 1

Application

CONDITIONAL ZONING APPLICATION

INDIAN TRAIL
north carolina

PLANNING AND NEIGHBORHOOD SERVICES
PO Box 2430
Indian Trail, NC 28079
Telephone (704) 821-5401
Fax (704) 821-9045

ONLY COMPLETE APPLICATIONS ACCEPTED

Processing Fee $800.00

Notification Fee $2.50 per adjoining property owner

Date Received 8/29/2012

CONDITIONAL ZONING APPLICATION

Town of INDIAN TRAIL north carolina

Submittal Requirements

- Completed Application
- Notarized signatures of applicant and property owner
- Letter of Intent
- 8 copies of Concept Plan (must be drawn to scale by architect, landscape architect, professional surveyor, or engineer licensed in North Carolina)
- Boundary Survey (acreage, current zoning, location of existing buildings, setbacks)
- List, address labels, and digital copy of all adjoining property owners within 500 feet of subject parcel
- Traffic Impact Analysis, if necessary
- Statement of Appraisal, if necessary
- Fees associated with review

General Information

Project Address: 3-acre portion of 304 Matthews-Indian Trail Rd

City: Indian Trail State: NC Zip: 28079

Tax Parcel ID: 07105011 Zoning Designation: SF-1

Total Acres: 3- acres Impervious Area: _____

Project Description: Request for conditional zoning RBD/DOD

Contact Information – Applicant

Name: Partners in Hoops, LLC

Address: 1119 Dobson Dr

City: Waxhaw State: NC Zip: 28173

Phone: 704 619-3028 Fax: _____

Email: scott.chitwood@carolinacourts.com

Contact Information – Property Owner

Name: Town of Indian Trail

Address: PO Box 2430

City: Indian Trail State: NC Zip: 28079

Phone: 704 821-5401 Fax: 704 821-9045

CONDITIONAL ZONING APPLICATION

Town of INDIAN TRAIL north carolina

Email townmanager@admin.indiantrail.org

Applicant's Certification

Signature _____ Date 8/28/2012

Printed Name/Title Scott J. Chitwood Executive Vice President

Signature of Notary Public Helen S. Boich Date 8/28/2012

Notary Seal HELEN S BOICH NOTARY My Commission Expires 02/01/2016 PUBLIC UNION COUNTY NC

Property Owner's Certification

Signature _____ Date 8/28/12

Printed Name/Title Joseph Fivas Town Manager

Signature of Notary Public Helen S. Boich Date 8/28/12

Notary Seal HELEN S BOICH NOTARY My Commission Expires 02/01/2016 PUBLIC UNION COUNTY NC

TOWN OF INDIAN TRAIL OFFICE USE ONLY

CASE NUMBER: CZ 2012 - 002

DATE RECEIVED: 8/29/2012 AMOUNT OF FEE: N/A per agreement

RECEIVED BY: _____ RECEIPT #: _____

LETTER OF INTENT FOR CZ2012-002

Carolina Courts
7210 Stinson Hartis Road
Indian Trail, NC 28079

Ms. DeHart,

This is a request to establish a Conditional Zoning District on a 3-acre lot (portion of 07105011) for the purpose of establishing an indoor/outdoor sports & recreation facility. The request is to rezone the 3-acres from SF-1 Single-family residential to a Conditional Regional Business District maintaining the Downtown Overlay District.

The planned development will consist of a 48,000 square foot indoor basketball/volleyball facility and potential for outdoor sports such as volleyball facility in coordination with the Town's planned park facility. The building will hold approximately 1,000 people; however, actual occupancy will be much less. Other indoor accessory uses within the facility can include:

- Recreational
- Fitness
- Retail / Shopping / Gift Shop
- Restaurant (with potential of temporary ABC license)
- Commercial Entertainment (Concerts and other events)
- After school and Athletic instruction

Carolina Courts with 5 full-time employees and 30 part-time employees, operates seven days a week. With typical business hours Monday through Thursday from 10am to 11pm; Friday and Saturday from 10am to 10pm and Sundays from 1pm to 10pm. The Town of Indian Trail and Carolina Courts have agreed to 1,500 hours of open court use annually, for residents of Indian Trail to use the facility. Residents during these times will have access to basketball & volleyball courts along with areas to walk with conditioned air. In addition, there will be up to 8 events annually that the Town could host at the Carolina Courts facility.

The timeline for construction of the new Carolina Courts facility is to start building in November 2012 with a completion date of April or May 2013. Any future phases may include four outdoor volleyball courts within the 3 acres that is Carolina Courts property. The Town of Indian Trail has agreed to shared parking for Carolina Courts within the planned future park facility. Carolina Courts will be respectful of this agreement by using a staggered start time for teams and/or events so as to be respectful to park patrons utilizing the rest of the park.

A limited portion of the building, approximately 2,300 SF, may be set aside for use as a restaurant. This restaurant would bring a unique Southern Style menu with a variety of food items to accommodate not only event crowds but also as another great option for residents and business people to have lunch or dinner during the week.

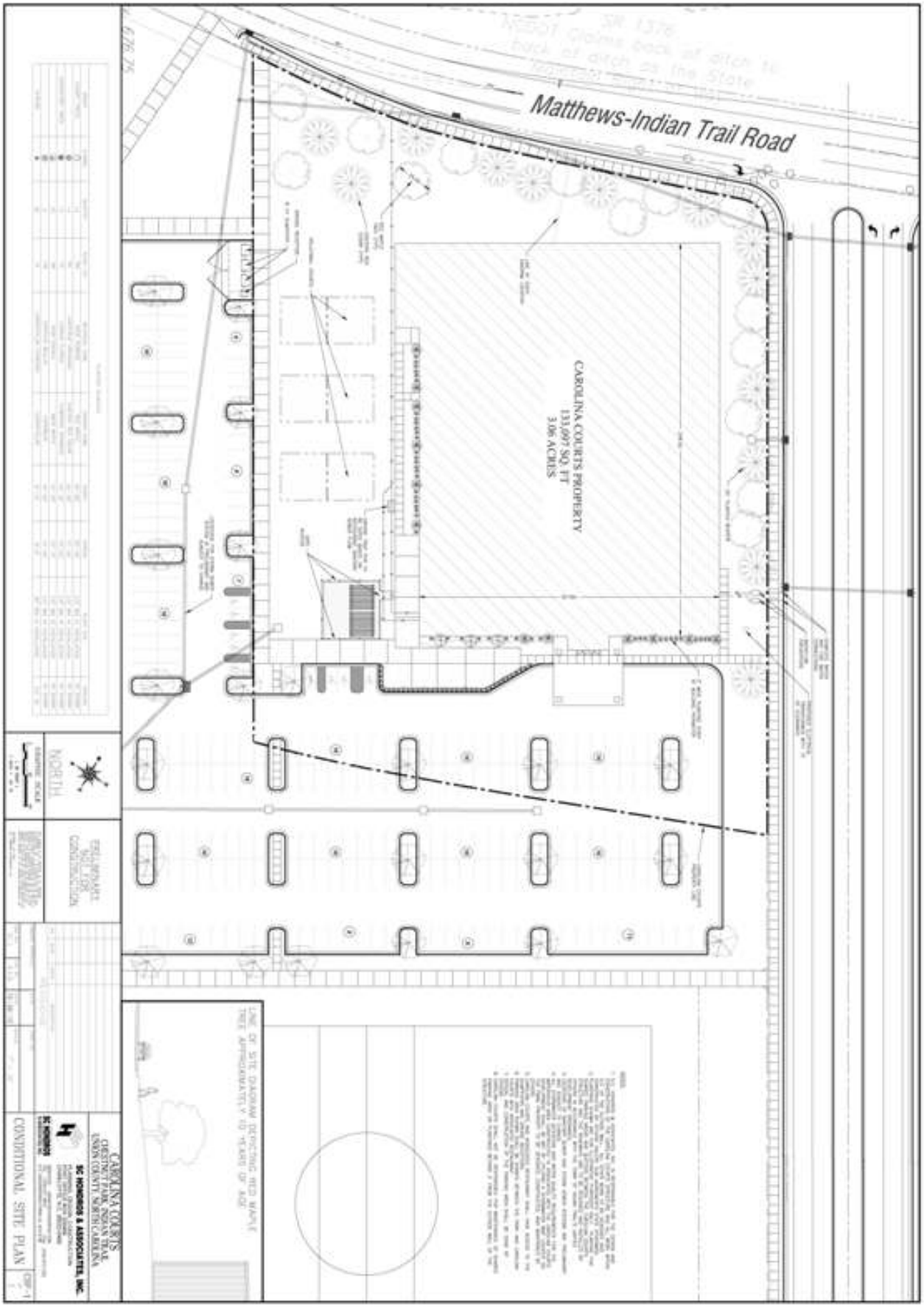
Carolina Courts anticipates hosting 40+ events/tournaments per year that will generate between 150,000 and 200,000 visitors to the Park. In addition to this, Carolina Courts will be looking at various options to expand their programs to make sure that we are able to offer something for people of all ages. This could include: gymnastics, cheerleading, wrestling, karate, ping-pong and badminton events to just name a few.

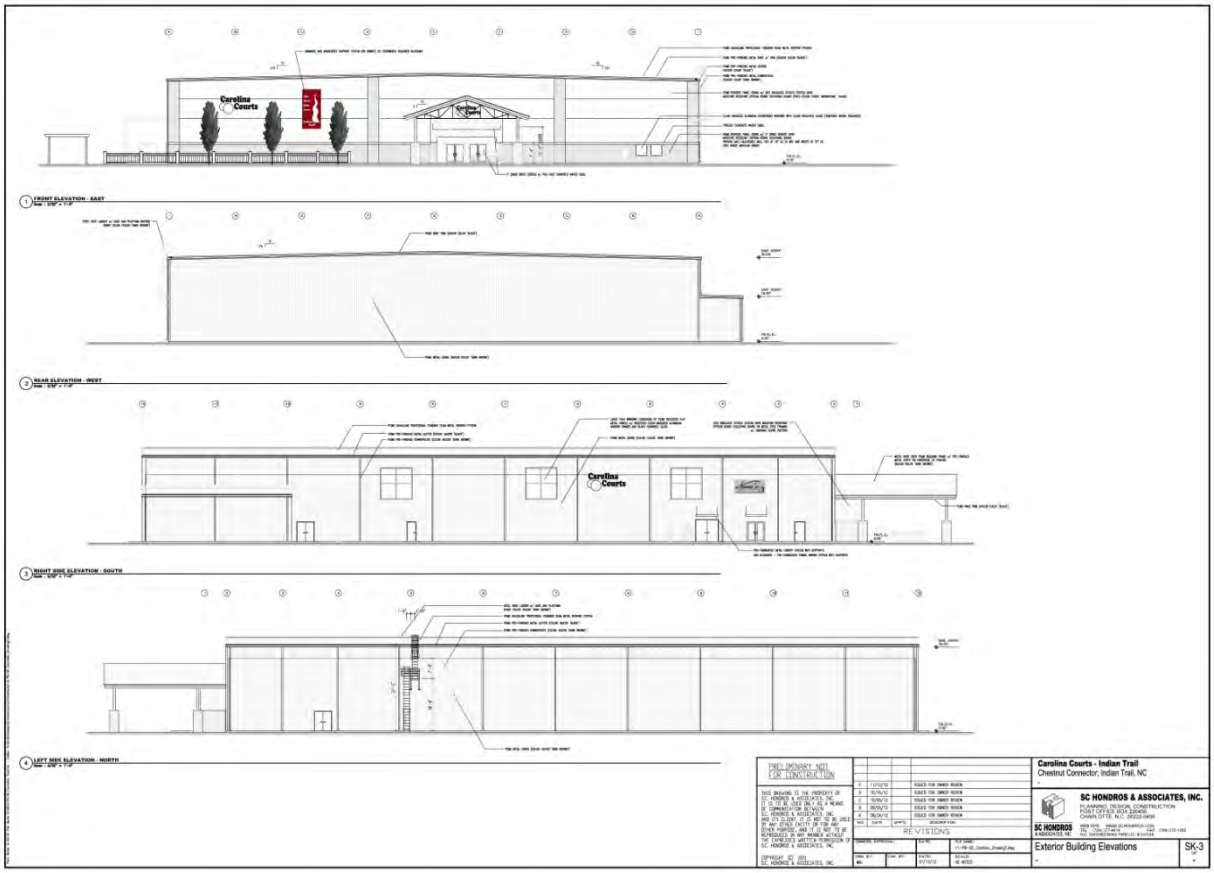
The average number of visitors to these other events would not exceed the number of visitors we currently have for our basketball and/or volleyball tournaments.

Scott Chitwood
Executive VP
Partners in Hoops

PB Attachment 2

Site Plan


Matthews-Indian Trail Road
CAROLINA COURTS PROPERTY
133,097 SQ. FT
3.06 ACRES
NORTH
CONDITIONAL SITE PLAN
CAROLINA COURTS
CRESTNET PARK INDIAN TRAIL
UNION COUNTY, NORTH CAROLINA
SC HOMERGS & ASSOCIATES, INC.


1 FRONT ELEVATION - EAST
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Carolina Courts
PRELIMINARY NOT FOR CONSTRUCTION
REVISIONS
Carolina Courts - Indian Trail
Chestnut Connector, Indian Trail, NC
SC HONDROS & ASSOCIATES, INC.
PLANNING, DESIGN, CONSTRUCTION
POST OFFICE BOX 220400
CHARLOTTE, N.C. 28222-0400
Exterior Building Elevations
SK-3

Carolina Courts
Carolina Courts
Carolina Courts

TC Attachment 2- Phasing Plan

Subject: Request for Phase in schedule for Carolina Courts New Facility

Ms. Barnhardt,

In regard to the Carolina Courts facility that we will begin constructing in January of 2013, I would request that we be allowed to have a phase in schedule for several areas of the project, allowing us time to understand the scope of the day to day operations of our facility being located in the Indian Trail Park. With our agreement in place with the Town of Indian Trail we think it would be beneficial for Carolina Courts and the Town of Indian Trail to spend some time in the next few years to analyze certain parts of the project to make sure we providing the amenities that make sense not only the Carolina Courts programs, events, and tournaments but for the Indian Trail events that will take place at Carolina Courts. This phase in schedule will allow us to really understand exactly what needs to be provided. Below are the areas I would request we are allowed to have a phase in schedule.

Outdoor Area adjacent to sand volleyball courts and directly across from the entrance to Nana's Restaurant: We would request that we are allowed to have a 3-5 year phase in period for this area to allow us to understand the outdoor seating needs and how best to design them with the numerous events that will take place in this area. There are several variables that need to be taken into consideration in this area including seating, shade areas, lighting, traffic flow, event staging, restaurant dining, and our partnership agreement with the Town of Indian Trail. Economically this makes sense for us to guarantee that we are putting in exactly what we need and avoid a rebuilding situation in that area and that this area will accommodate the majority of our events once we understand the scope of those events.

Front Entrance Port-cochere: We would request that we have 10 year period to understand the viability and need to construct a Port-cochere at our front entrance. Currently we have two facilities, our current Indian Trail location has one and our Concord location does not have one. Again, economically this would make sense for us to be granted the time to understand if there truly is a need for this feature. We would still like to construct the drop off lane along with protective cross walk features like bollards, tree boxes, etc. that you would see possibly in front of a big box store like Target. This gives us time to understand the staging requirements and how we might be utilizing the area adjacent to the volleyball courts and utilization of our side entrance. This would also allow us to research new and innovative ways that we could have a port-cochere if we find that we absolutely need it for our business.

Please feel free to call me or Ron Esser if you have any question in regard to our request. Thank you.

Scott Chitwood
Exec. VP
Carolina Court
scott.chitwood@carolinacourts.com
704-619-3028

Revised Elevation Drawings Based on Proposed Phasing Plan

TC Attachment 3- Conceptual Park Plan with Transportation

Chestnut Parkway
To Stallings Rd
To Hwy 74
Shady Bluff to Indian Trail Rd
To Old Monroe
concept
LEGEND
A) COMMUNITY CENTER AREA
1. "Future" Community Center
2. Public Works Annex
3. Playground
4. Main Trail
5. Secondary Trail
6. Parking
15. Dog Park
16. Fitness Station
C) MULTI-PURPOSE AREA
17. Synthetic Multi-Purpose Fields
18. Restrooms/Shelter
19. Walking Path
D) CAROLINA COURTS
20. Carolina Courts Facility
21. Outdoor Volleyball Courts
22. Plaza
23. Parking
24. Main Trail
OTHER
25. Ornamental Fence/Gateways
26. Secondary Entrance/Exit Road
27. "Future" Private Development
A
B
C
D
Shady Bluff Rd
Building
CHESTNUT PARK

TC Attachment 4- Draft Ordinance

STATE OF NORTH CAROLINA)
) ORDINANCE #
TOWN OF INDIAN TRAIL)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF INDIAN TRAIL REZONING A THREE ACRE PORTION OF PARCEL 07-105-011 LOCATED AT 304 MATTHEWS-INDIAN TRAIL ROAD FROM SINGLE FAMILY RESIDENTIAL-1 (SF-1) TO A CONDITIONAL REGIONAL BUSINESS ZONING DISTRICT (CZ-RBD)/ DOWNTOWN OVERLAY DISTRICT IN THE TOWN OF INDIAN TRAIL, UNION COUNTY, NORTH CAROLINA

WHEREAS, the applicant, Partners in Hoops, in partnership with the property owner, the Town of Indian Trail, petitioned to rezone a three acre portion of parcel 07-105-011 from Single-family Residential-1 (SF-1) to a Conditional Regional Business Zoning District/ Downtown Overlay District for the purpose of developing the site as a recreational/spectator entertainment use; and

WHEREAS, this Conditional Zoning Amendment (CZ2012-002) was duly noticed in compliance with North Carolina General Statutes; and

WHEREAS, two community meetings were held on December 5, 2012 and December 6, 2012; and

WHEREAS, a public meeting was held by the Planning Board on December 18, 2012 to consider this conditional zoning request; and

WHEREAS, the Planning Board found the proposed map amendment is consistent with the following goal of the Comprehensive Plan:

Goal 1.3.1 Quality of Life - The proposed conditional zoning district will meet this goal by:

- *Providing common urban design elements in coordination with the Town in the Downtown area; and*
- *Assisting in the implementation of the Town's park system in order to provide a better sense of community for Indian Trail Residents;*

Goal 1.3.2 Land Use - the proposed rezone project provides a mix of uses within the Downtown Village and promotes a more balanced tax base by authorizing a relocation of a displaced business within Indian Trail; and

Goal 1.3.4 Downtown Revitalization – the proposed project promotes the downtown area as a focal point by including the opportunity for a gathering place for community events, while at the same time serving as a business and cultural destination for the local and regional population.

WHEREAS, the Planning Board further found this Conditional Zoning District request a reasonable request and is in the public interest because it is consistent with the Downtown Master Plan, the Indian Trail Comprehensive Plan, the Parks and Greenway Master Plan, and provides much needed recreational opportunities for our Town residents.

WHEREAS, after making the draft findings the Planning Board unanimously approved the motion to transmit a recommendation to approve with modified conditions to the Town Council; and

WHEREAS, the Town Council held a public hearing on January 8, 2013 to consider said request and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council made the required findings as stated herein; and

NOW, THEREFORE, IT SHALL BE ORDAINED by the Town Council of the Town of Indian Trail, North Carolina hereby takes the following action:

Section 1 – Approves CZ 2012-002 Conditional Zoning Petition thereby granting the Zoning Map amendment to establish a Conditional Regional Zoning District (CZ-RBD)/Downtown Overlay District on a three acre portion of parcel number 07-105-011 subject to the following conditions:

1. The Conditional Regional Business Zoning District (CZ-RBD) is approved for the following uses:
   a. **Principle Use** – Indoor Recreational Facility-Spectator Entertainment Use.
   b. **Accessory Uses:**
      i. The potential for outdoor sports such as volleyball in coordination with the Town park;
      ii. Fitness Services/Center;
      iii. Retail/Shopping/Gift Shop
      iv. Restaurant
      v. Commercial Entertainment (Concert & other events-maximum occupancy under 1000 people.)
      vi. After school and athletic instruction

   Any change in the principle use (recreational/spectator entertainment use) or major change in the conceptual plan, shall require Town Council consideration as a new rezone request.

2. The proposed development shall be designed generally consistent with the associated site plan and elevations as incorporated herein. The front façade shall be architecturally treated with brick, stucco, and stone building material.
3. The applicant shall construct the Porte-cochere feature at the front entrance of the facility during the initial construction phase. Post enhancements (brick or stone material) of the structure may be phased in as needed.
4. The applicant may phase in the plaza and/or outdoor dining patio area if deemed necessary for business operations without modification of the conditional zoning.
5. All street/plaza furniture such as benches and trash receptacles, bike racks, pedestrian lighting, other incidental site features shall be approved by the Town.

6. The three acre area shall be subdivided from the 51-acre tract prior to certificate of occupancy.
7. All conditions shall be met within two years of the establishment of the Conditional Zoning District unless authorized herein. The Town Council may act to revoke the conditional zoning district designation if the applicant fails to meet the terms of the district.

Section 2 – This ordinance shall be effective immediately upon adoption.

AND IT IS SO ORDAINED this 8th day of January, 2013.

TOWN OF INDIAN TRAIL COUNCIL

Attest:

_____

Michael Alvarez, Mayor

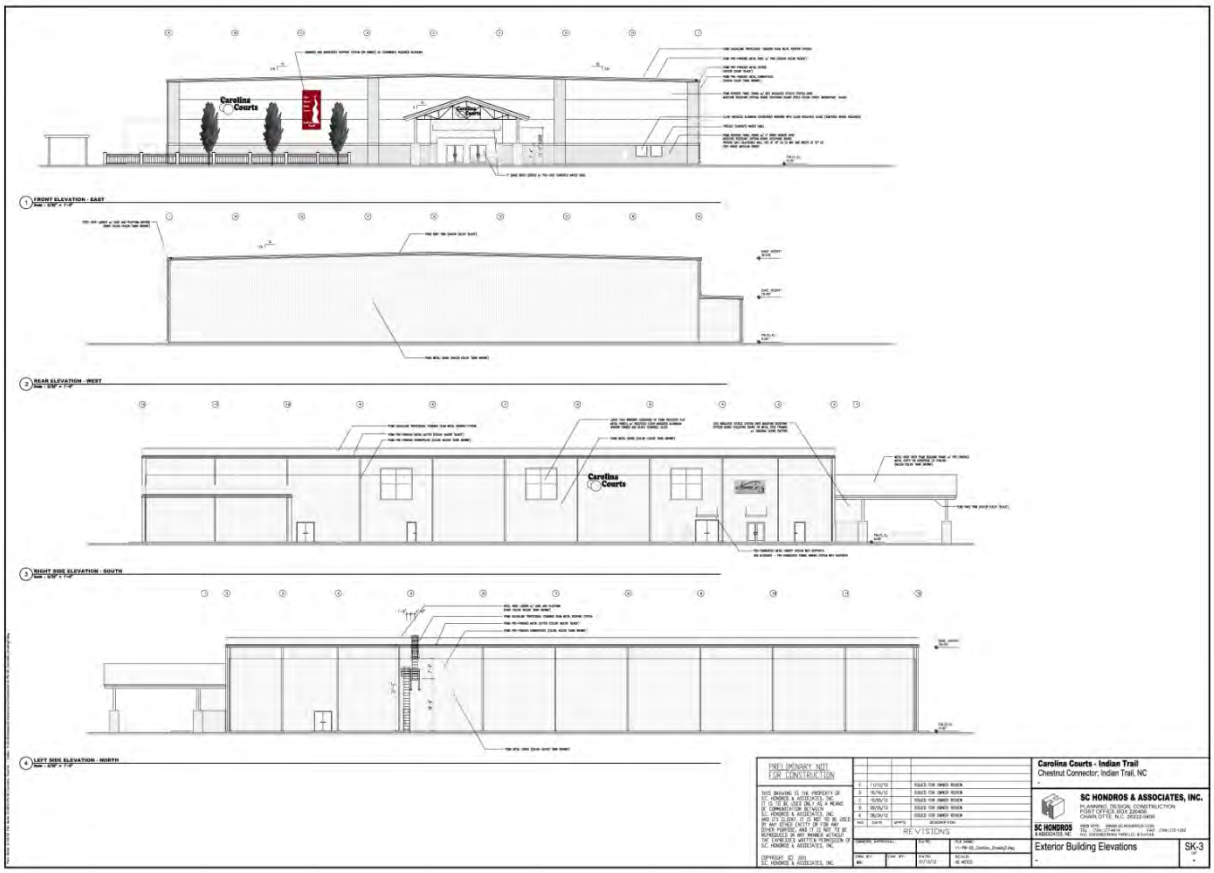
_____

Peggy Piontek, Town Clerk

APPROVED AS TO FORM:

_____

TOWN ATTORNEY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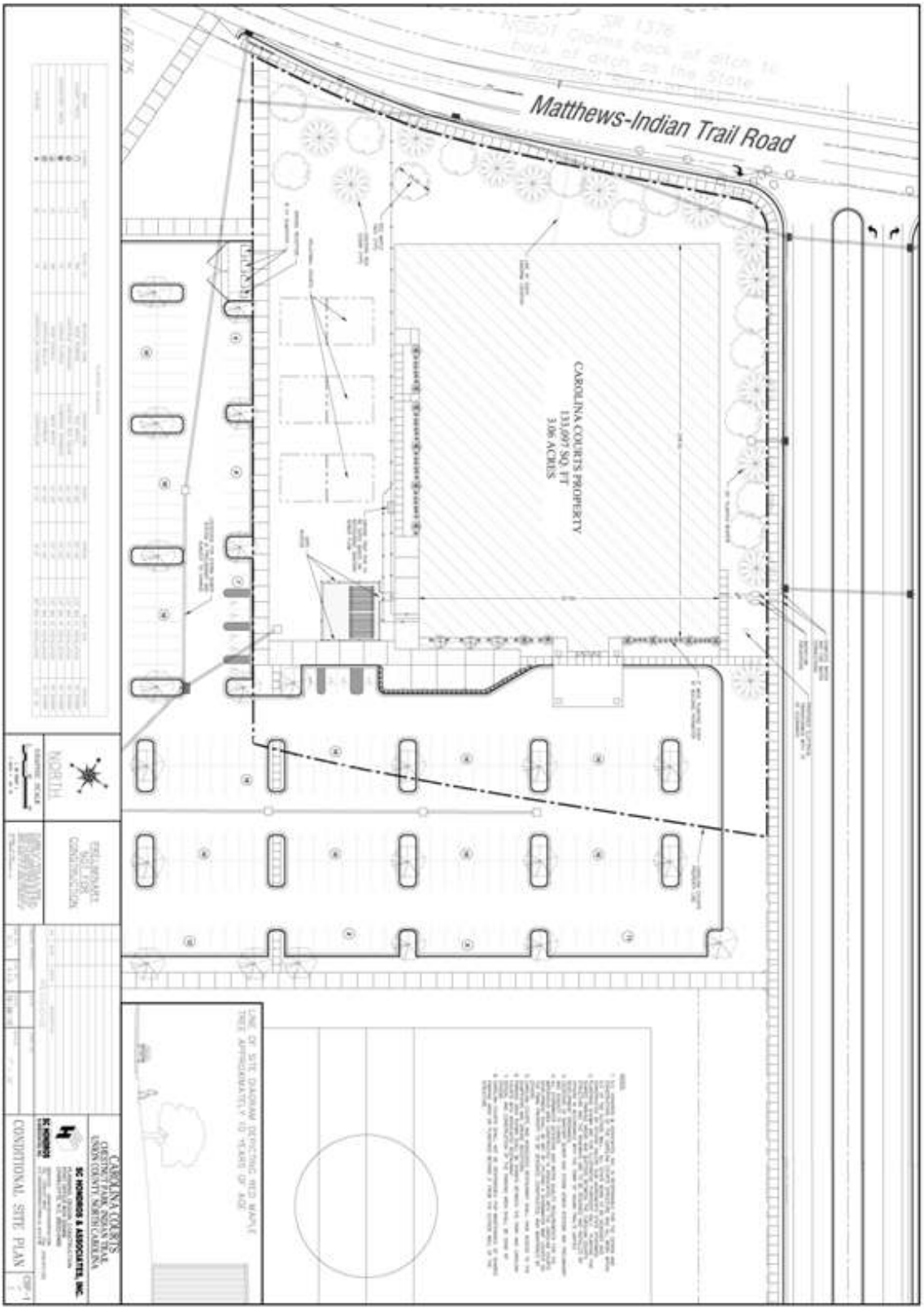
Exterior Building Elevations
SK-3

Carolina Courts


Matthews-Indian Trail Road
CAROLINA COURTS PROPERTY
133,697 SQ. FT
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NORTH
CONDITIONAL SITE PLAN

CHAPTER 92

ANIMAL CONTROL ORDINANCE

Article I - Definitions
- Section 92.01 Purpose
- Section 92.02 Definitions

Article II- Animal Registration
- Section 92.03 Registration for Dogs and Cats
- Section 92.04 Registration Fee Exemptions
- Section 92.05 Rabies and Identification Tags

Article III - Livestock & Wild Animals
- Section 92.06 Permits
- Section 92.07 Revocation of Permits
- Section 92.08 Feeding of Deer Prohibited

Article IV- Animal Control Program- Organization, Powers, Duties
- Section 92.09 Animal Control Program
- Section 92.10 Animal Control Officer(s)
- Section 92.11 Interference with Administrator

Article V- Regulation & Control
- Section 92.12 Confinement & Running at Large
- Section 92.13 Animals Creating a Nuisance
- Section 92.14 Dangerous Dogs
- Section 92.15 Security Dogs
- Section 92.16 Stray Animals
- Section 92.17 Dog Owners Required to Remove Feces Deposited by Dogs

Article VI- Rabies
- Section 92.18 Administrator to Cooperate in Vaccination Programs
- Section 92.19 Quarantine of Animals Suspected of Having Rabies

Article VII – Impoundment & Release
- Section 92.20 Impoundment: Notice to Owner
- Section 92.21 Release to Owner

Article VIII - Care & Protection
- Section 92.22 Cruelty to Animals

Article IX - Animal Collection
- Section 92.23 License & Permit Required
- Section 92.24 Permit Procedure
- Section 92.25 Records

Article X -Enforcement, Appeals & Penalties
- Section 92.26 Enforcement Administration
- Section 92.27 Appeals
- Section 92.28 Penalties and Remedies
- Section 92.29 Effective Date

ARTICLE I

PURPOSE AND DEFINITIONS

Section 92.01 Purpose:

(a) Pursuant to the authority granted by the North Carolina General Assembly, this ordinance is enacted to;

(1) Regulate, restrict or prohibit, if necessary, animals;

(2) Protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild or exotic animals;

(3) Make unlawful the acts of animals that interfere with the enjoyment of property or the peace and safety of the community;

(4) Protect animals from abuse or conditions harmful to their well-being; and

(5) Carry out any other lawful duties authorized by state laws and applicable ordinances.

(b) The Town Council hereby finds that animals kept or allowed to be in violation of any of the sections of this Ordinance are detrimental to the health, safety and welfare of the citizens of the Town and jeopardize the peace and dignity of the Town.

(c) It is hereby found by enactment of this ordinance by the Town Council of the Town of Indian Trail that animals kept or allowed to be in violation of any of the provisions of this ordinance are detrimental to the health, safety and welfare of the citizens of the Town of Indian Trail and jeopardize the peace, safety and dignity of the Town. Nothing in this Ordinance shall be construed to prevent any law enforcement officer contracted for service by the Town of Indian Trail or any other law enforcement officer exercising proper jurisdiction or authority from enforcing any of the provisions of this Ordinance or from exercising their authority as law enforcement officers. The Town of Indian Trail further acknowledges and confirms the previous authority granted to Union County by adoption of its regulatory ordinances to include the Union County Animal Control Ordinance which covers in various respects and details offenses pertaining to animal control, education, and enforcement.

(d) Nothing in the enactment and adoption of this ordinance shall be construed to limit the authority of Union County, the Union County Sheriff's Department or the Office of Union County Animal Control to enforce the provisions of the Union County Animal Control Ordinance. Furthermore, The Town of Indian Trail continues to request and require the enforcement of the county animal control ordinance by the authorities referred to herein above.

Section 92.02 Definitions:

Unless otherwise specifically provided or unless otherwise clearly required by the context, the following words and phrases shall have the meaning indicated when used in this chapter:

(1) Administrator: The Animal Control Officer or any other person designated by the town manager to perform the responsibilities assigned by this chapter.

(2) Adequate Food: The provision in a sanitary manner a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to the extent practicable at suitable

intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal.

(3) Adequate Shelter: A shelter or containment area that (i) will keep a non-aquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal; (ii) is free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris; and (iii) provides a suitable method of drainage to eliminate accumulating excess water or moisture. For dogs, cats and other small animals, the shelter shall be a windproof and moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat. The shelter shall include four walls, a roof and a solid floor raised up off the ground, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, or the equivalent. As applied to aquatic or semi- aquatic animals the term means a containment area that has an adequate amount of clean water to enable the animal to move about.

(4) Adequate Water: A constant access to a supply of clean, fresh water provided in a sanitary manner. In near or below freezing temperatures the water must be changed frequently to prevent freezing.

(5) Animal: Any live, vertebrate creature specifically including but not limited to dogs, cats, livestock, birds, fish and reptiles.

(6) Animal Shelter: A place provided and operated by Union County for the restraint, care, adoption and disposition of animals.

(7) Competent Person: A person of suitable age who is physically and mentally capable of keeping an animal under sufficient restraint and control in order to prevent harm to the animal, to persons and other animals.

(8) Cruel Treatment: Every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted. Such acts or omissions shall include, but not be limited to, kicking, beating, hanging, submerging under water, suffocating, poisoning, setting on fire, and depriving of food, water, exercise and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include lawful taking of animals under the jurisdiction and regulations of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, and lawful activities for sport.

(9) Display: Display shall mean any exhibition, act, circus, public show, trade show, photographic opportunity, carnival ride, parade, race, performance, or similar undertaking in which animals are required to perform tricks, fights, wrestle or participate in performances for the amusement or entertainment of an audience, whether or not a fee is charged. "Display" shall not include the use or exhibition of animals for animal-related educational purposes by non-profit groups, institutions or individuals. "Displayed" means to be the subject thereof.

(10) Domestic Animal: Domesticated or tame animal that is kept principally as a pet, except that livestock (other than rabbits and ferrets kept as pets and not for productive purposes) and wild animals shall not be regarded as domestic animals.

(11) Educational Purposes: Teaching and instructing with the intent and effect of imparting knowledge to others.

(12) Exposed to Rabies: An animal has been exposed to rabies within the meaning of this ordinance if it has

been bitten by, or otherwise come into contact with the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis.

(13) Feral Cat: Is any cat that does not have a known home.

(14) Harbor: An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for seventy-two (72) consecutive hours or more.

(15) Keeper: A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person, whether or not that person literally "owns" the animal. Every person 18 years or older residing in the dwelling unit where a pet is harbored and/or kept shall be deemed a keeper for purposes of this ordinance.

(16) Leash-free Area: An area of Town owned property within the Town Limits of Indian Trail designated by the Town Council upon which animals may be permitted to go free from physical restraint.

(17) Livestock: Animals raised for the production of meat, milk, eggs, fiber or used for draft or equestrian purposes, including but not limited to horses, mules, cows, pigs, emu, goats, llamas, ostriches, sheep, fowl (such as chickens, ducks, turkeys, etc.), rabbits, and all other animals that typically are kept primarily for productive or useful purposes rather than as pets.

(18) Owner: Any person who owns any animal.

(19) Person: Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.

(20) Restraint: An animal is under restraint if its movement is physically controlled by use of a leash, lead, cage, or bridle which restrains and controls the animal, or if it is within a vehicle from which it cannot escape without assistance.

(21) Running at Large: Any animal shall be deemed to be running at large when it is off the real property of its owner or its keeper, and not under the restraint of a competent person. For purposes of this definition, the term "real property of its owner or keeper" shall include any property owned or occupied by the owner or keeper of such animal.

(22) Secure Enclosure: An enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner or keeper. A motor vehicle shall not constitute a secure enclosure. Minimum space and height requirements and other specifications for secure enclosures shall be obtained from the Animal Control Administrator based on breed, age, height, weight, temperament, and history of the animal.

(23) Tether: To restrain a dog outdoors by means of a rope, chain, wire, or other line, one end of which is fastened to the dog and the other end of which is connected to a stationary object or to a cable trolley system. (This definition excludes walking a dog with a handheld leash).

(24) Suspected of having Rabies: An animal which has bitten a person or another animal.

(25) Wild or Exotic Animal: An animal (other than livestock) that typically is found in a Non-domesticated state and that, because of its size or vicious propensity or because it is poisonous or for any other substantial reason, poses a potential danger to persons, other animals or property, including, without limitation, any of the following, whether bred in the wild or in captivity, and also any or all of their hybrids with domestic species:

a. Non-human primates and prosimians;

b. Felids, feral cats, except domesticated cats;

c. Canids, including wolf hybrids, except domesticated dogs;

d. Ursids (bears);

e. Elephants;

f. Marine mammals (such as whales, seals, sea lions, dolphins and others);

g. Crocodilians (such as alligators and crocodiles);

h. Marsupials (such as kangaroos and opossums);

i. Snakes and reptiles (poisonous, giant and crushing);

j. Ungulates (such as hippopotamus, rhinoceros, giraffe, zebra, deer);

k. Hyenas;

l. Mustelids (such as skunks, weasels, otters and badgers);

m. Procyonids (such as raccoons and coatis);

n. Endentates (such as anteaters, sloth and armadillos);

o. Viverrids (such as mongooses, civets and genets); and

p. Camels

ARTICLE II

ANIMAL REGISTRATION

Section 92.03 Registration for Dogs and Cats:

a) All dogs and cats over four months of age shall be required to be registered by the town on an annual or multi-year basis with the registration fee being structured in the Town's annual fee structure and approved by the Town Council. Dogs will be required to be registered beginning on March 1, 2014. Cats will be required to be registered beginning on October 1, 2015.

b) In order to further the goal of controlling animal population, the fee on unspayed or un-neutered dogs and cats shall be higher than that of spayed or neutered animals. In such case the Town, shall require proof that the animal is in fact spayed or neutered. The Town may also establish various incentives as part of its licensing program such as but not limited to micro chipping etc. The Town reserves the right to offer multi-year licenses.

c) It shall be unlawful for any person to use a registration tag for any dog or cat other than for which the registration tag was issued.

d) It shall be unlawful for any owner to fail to provide a current registration tag as provided in this section. No registration or permit will be issued unless written proof of current rabies vaccination is shown at the time of application for registration.

e) It shall be unlawful for any owner of a dog to fail to provide said animal with a collar or harness to which a current registration tag issued under this section is securely attached. The collar or harness, with attached registration tag, must be worn by the animal when off of owners property or keepers property, except while the animal is participating in bona fide animal shows, tracking tests, training events or training schools, or other events sanctioned and supervised by a recognized organization, or except while the animal is involved in lawful hunting activities, provided that the animal's owner or keeper has the tag in their actual possession at these times. The owner maybe charged with a civil penalty, under this ordinance, if their dog is found without its registration tag attached to its collar or harness, and it is not an expressed exception to this policy.

f) The amount of any registration fee imposed by this chapter shall be deemed a debt to the town.

Section 92.04 Registration Fee Exemptions:

a) Owners of the following dogs or cats shall complete an application for registration, but are exempt from paying the registration fee:

1. Service and/or trained assistance dog provided the dog is spayed or neutered.
2. An animal, which is a working member of a law enforcement or public safety agency, regardless whether the animal is fertile or unfertile.
3. A spayed or neutered animal belonging to an owner 65 years of age or older.
4. Any foster dog being housed for a temporary (6) six-month time period. Any foster dog must obtain regular dog registration after (6) six-month period.

Section 92.05 Rabies and Identification Tags:

a) In accordance with G.S. 130A-185, the owners and keepers of all dogs and cats over four (4) months of age shall have the animal vaccinated against rabies.

b) In accordance with the Union County Animal Control Ordinance, the owners and keepers of all dogs shall cause such animals to wear a valid rabies tag. Cats shall not be required to wear the rabies tag. In addition; microchips are valid for identification purposes.

ARTICLE III

LIVESTOCK AND WILD ANIMALS

Section 92.06 Permits:

a) No person may keep or display within the town any wild or exotic animal. Any wild or exotic fowl refuge within town jurisdiction would be grandfathered, and can keep wild and exotic fowl.

b) No person may keep within the town any permissible livestock over four (4) months of age except in accordance with a permit issued pursuant to subsection (c). No animal regulated under this section will be required to obtain a permit until October 1, 2016.

c) Subject to subsections (d) and (e), no permit may be issued for any livestock unless the applicant for the permit demonstrates that the livestock will be kept on a tract of land that satisfies each of the following conditions:

   1) The tract shall consist of at least 40,000 square feet of land under single ownership or control, or 1 acre per horse.

   2) There shall be at least 20,000 square feet of land per animal.

   3) No fence, coral, or other similar enclosure shall be erected within 15 feet of any property line.

   4) No barn, stable or similar structure used for the keeping of livestock other than rabbits or fowl shall be erected or maintained within 150 feet of any property line or street-right-of-way.

   5) No barn, cage, pen, or similar structure used for the keeping of rabbits or fowl shall be erected or maintained within 15 feet of any property line or street right-of-way line.

d) The provisions of subsection (c)(3), (4) and (5) shall not preclude the establishment, with the consent of the affected adjoining property owners, of a commonly owned or used fence, barn or other enclosure, all of which is located along or near a common property line. When the same property owners lose consent, the properties must comply with Town ordinances.

e) The provisions set forth above in (c) (l) and (c) (2) shall not apply to rabbits and fowl. However, no permit may be issued for rabbits or fowl unless the provisions of (c)(3) and (c)(4) are complied with and unless the permit applicant demonstrates compliance with the following conditions:

   1) The tract where such fowl and rabbits are kept shall consist of at least 10,000 square feet.

   2) Such fowl and rabbits may be kept only (i) on a lot used for residential purposes and only for the consumption of persons who reside at that lot, or (ii) on a common open space area within a residential development with the written permission of the owner of such common space land accompanied by a copy of association minutes reflecting the approval decision, and only for the consumption of persons who reside within that residential development. Such fowl and rabbits may not be kept for commercial purposes.

f) Before issuing a permit under this section, the Administrator shall notify the applicant and the applicant's immediate neighbors by any convenient means of a date and time when they may be heard on the question of whether a permit should be issued. After the hearing, the Administrator shall set forth in writing his reasons for the issuance or denial of the permit and shall furnish a copy thereof to any person requesting the same. Any person aggrieved by the issuance or denial of a permit under this section appeal such decision to the subcommittee of the Public Safety Committee (except that the burden of demonstrating

that the Administrator erred shall be on the appellant).

g) Beekeeping shall be permitted as long as hives and related areas are located at least 50 feet from any property or street line.

Section 92.07 Revocation of Permit

a) A permit issued in accordance with this section may be revoked by the administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance.

b) If the administrator denies or revokes a permit in accordance with this section, he shall notify the owner in writing of the animal of his right to appeal to the subcommittee of the Public Safety Committee.

Section 92.08 Feeding of Deer Prohibited:

a) Subject to subsection (f), no person within the corporate limits of the town may place or allow any device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of feeding or attracting deer.

b) There is a rebuttable presumption that the placement of any fruit, grain, mineral, salt, plant, vegetable, or other material edible by deer at a height of less than five (5) feet off the ground is for the purpose of feeding deer.

c) There is a rebuttable presumption that the placement of any fruit, grain, mineral, salt, plant, vegetable, or other material edible by deer in a drop feeder, automatic feeder, or similar device regardless of the height of such device is for the purpose of feeding deer.

d) Each property owner shall remove any materials placed on the owner's property in violation of this section within 48 hours of being notified by the town that such violation exists. Failure to do so shall constitute a separate violation of this section.

e) Each property owner shall remove any device placed on the owner's property to which deer are attracted or from which deer actually feed. Alternatively, a property owner may modify such device or make other changes to the property that prevents deer from having access to or feeding from the device. Failure to remove the device or make necessary modifications with 48 hour of notice from the town shall constitute a separate violation of this section.

(f) This section does not apply to:

1) Naturally growing materials, including but not limited to fruits, grains, seeds, vegetables, or other crops or vegetation.

2) Stored crops, provided that such crop materials are not intentionally made available to deer.

3) Feeders used to provide food to domestic animals or livestock.

ARTICLE IV

ANIMAL CONTROL PROGRAM- ORGANIZATION, POWERS, DUTIES

Section 92.09 Animal Control Program:

The Indian Trail Animal Control Program, as herein described and as otherwise described in other town ordinances related to animals and as otherwise described under the laws of North Carolina, shall be administered by the animal control officer or other persons designated by the town manager to perform the responsibilities assigned by this chapter to the administrator. Such person or persons are referred to in this ordinance as the administrator. This position may not have to be a sworn law enforcement officer.

Section 92.10 Animal Control Officer(s):

The administrator shall:

1) Enforce all laws of North Carolina and all ordinances of the Town of Indian Trail pertaining to animals and cooperate with all animal control officers and law enforcement officers within Union County in fulfilling this duty.

2) Cooperate with all agencies within Union County and the towns therein and assist in the enforcement of the laws of the State with regard to animals, the vaccination of dogs and cats against rabies, and any other state law applicable to animals or animal control.

3) Report any reported or observed animal cruelty or abuse, and assist Union County Animal Control.

4) Investigate public nuisance complaints involving animals.

5) Keep, or cause to be kept, accurate and detailed records as determined by the town manager.

6) Be trained to standards to be established by the town manager, which training shall include but not be limited to, training in animal first aid taught by a licensed veterinarian.

7) Establish an on-going community education program to highlight issues related to Animal Control.

Section 92.11 Interference with Administrator:

It shall be unlawful for any person to interfere with, hinder, or molest the administrator or any law enforcement officer while in the performance of any duty authorized by this ordinance, or to seek to release any animal in the "custody of the administrator or other agent of the town, except in the manner herein provided.

ARTICLE V

REGULATION AND CONTROL

Section 92.12 Confinement and Running at Large:

a) Subject to subsections (b) and (c), no owner or keeper of any animal may cause, permit, or allow the animal to stray or in any manner to: (i) run at large or (ii) trespass upon the property of another. If a dog is not on its property it shall be controlled by a leash. The owner maybe charged with a civil penalty if their dog or animal is found in violation of this subsection (a).

b) The provisions of subsection (a) shall not apply to cats.

c) The provisions of subsection (a) shall not apply to any area of the town property designated by resolution of the town council as a "leash-free" area. The administrator shall maintain a current list of approved leash free areas.

Section 92.13 Animals Creating a Nuisance:

a) Subject to subsection (e), no owner or keeper may have within the town, after receiving the notice of removal prescribed in subsection (c), any animal that:

1) Habitually or repeatedly, without provocation, chases, snaps at or attacks pedestrians, bicycles, other animals being walked on a leash, or vehicles even if the animal never leaves the owner's property, except that this provision shall not apply if such animal is restrained by a pen, fence, or other secure enclosure. For purposes of this section, an "underground fence" shall only be considered secure if it in fact contains the animal and a small sign or other notification is present to alert others that the animal is restrained.

2) Interference with the reasonable use and enjoyment by neighboring residents of their property because of its odor or excessive noise making. For purposes of this subsection, excessive noise making shall include at least two episodes of barking, howling, whining, crying, crowing, or other noise making that (i) are audible on premises other than the premises where the noise making animal is located (including other dwelling units located on the same tract of land), and (ii) by reason of the time of day or night that they occur, their duration, and/or their frequency, would tend to annoy or disrupt the peace and tranquility of a person of reasonable sensibilities.

3) Is a female animal that is not confined while in heat in a building or secure enclosure in such a manner that she will not be in contact with another animal, provided that this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.

4) Damages the property of anyone other than its owner or keeper, including but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees either by digging, repeated defecation or urination, or causing injury to domesticated livestock or pets.

b) If the administrator determines that any animal is creating a nuisance as describcd in subsection (a), he shall in writing inform the animal's owner of the nature of the violation(s) and shall indicate that unless these violations are corrected and/or measures taken to prevent their recurrence within forty-eight (48) hours, the owner shall be required to remove the animal from the town, and subject to civil penalties.

c) If the administrator determines that any animal cited for a violation of subsection (a) has, more than forty-eight (48) hours after service of the notice prescribed in subsection (b), continued to cause a

nuisance as described in the subsection, then the administrator shall, in writing, notify the animal's owner that the animal must forthwith be removed from the town. The administrator shall also notify the owner of his right to appeal this determination.

d) The owner of any animal removed pursuant to this section shall, within five (5) days after removal, inform the administrator in writing of the animal's present location, including the name, address and telephone number of the animal's owner or keeper. If the animal has been destroyed, the administrator shall be informed of the name, address, and telephone number of the person who destroyed such animal.

e) The provisions of subsections (a) through (d) of this section shall not apply to cats. However, domestic cats with known homes shall be subject to the following requirements in section (1). Cats without a known home or feral cats. are exempt from this provision:

1) If a cat engages in any of the activity described in this subsection, then the administrator shall in writing inform the cat's owner of the nature of these actions and shall indicate that unless these activities are corrected and/or measures are taken to prevent their recurrence, the owner shall be required to confine the cat on the owner's premises. A person who fails to abide by the direction of the administrator to confine a cat pursuant to this subsection shall be subject to the civil penalties. This process shall apply to any cat, that, off the premises of its owner or keeper:

a. Habitually or repeatedly defecates or urinates in children's sandboxes, gardens, flower beds or other private property without the permission of the property owner;

b. Habitually or repeatedly injures or kills animals or birds, whether domesticated or not;

c. Is a female in heat not confined in a building or secure enclosure in such a manner as to prevent contact with another cat;

d. Habitually or repeatedly, without provocation, chases or attacks pedestrians, bicyclists or other animals being walked on a leash;

e. Seriously interferes with the reasonable use and enjoyment by neighboring residents of their property because of its howling, whining, crying, or other noise making;

f. Without provocation, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.

g. Habitually or repeatedly walks or sleeps on or damages vehicles owned by another.

f) It shall be unlawful for any person to stake or tie animal where it can get upon any public sidewalk or street in the town.

Section 92.14 Dangerous Dogs:

a) Any person, or town, notifications of a dangerous dog and/or potentially dangerous dog will be immediately referred to Union County Animal Control. Union County will use the Union County Animal Control Ordinance and North Carolina law in response to these referrals.

Section 92.15 Security Dogs:

a) For purposes of this section, the term security dog shall mean any dog on the premises of its owner or keeper that (i) is trained or conditioned to attack or otherwise respond aggressively, but only upon command from its owner or keeper (patrol dog), or (ii) is trained or conditioned to attack or otherwise respond aggressively without command (sentry dog).

b) All persons owning security dogs shall register such animals with the town of Indian Trail.

c) The owner or keeper of any dog that is classified as a security dog under this ordinance shall place signs or placards on his premises noting "Premises Patrolled By Security Dog" or other information noting the presence of a security dog(s). Such signs shall be prominently displayed at all points of probable entry to the premises so as to provide reasonable notice of the presence of such security dogs. Signs noting "Beware of Dog" shall not be sufficient notice of a security dog trained to attack or otherwise respond aggressively without command (security dogs).

Section 92.16 Stray Animals:

a) No person may, without the consent of its owner or keeper, knowingly or intentionally harbor, feed or keep in possession by confinement or otherwise, any animal bearing identification tags or otherwise known by the person to belong to a specific individual, other than to restrain the animal pending notification of its owner or the administrator.

b) Any person coming into the possession of an animal bearing identification or otherwise known to belong to a specific individual shall make reasonable efforts to notify the owner or keeper, the administrator, and/or the Union County animal shelter within twenty-four (24) hours.

c) Any cases where stray dogs are not wearing a rabies tag, believed to have rabies, or a dog that may have come in contact with an animal with rabies, shall be referred to Union County Animal Control for enforcement. Union County will use the Union County Animal Control Ordinance and North Carolina law in response to these referrals.

Section 92.17 Dog Owners Required to Remove Feces Deposited by Dogs

a) Subject to subsection (b), it shall be unlawful for the owner of any dog, or any person walking or otherwise in charge of such dog, to fail or refuse to remove feces deposited by such dog on any street, sidewalk, park, or other publicly owned area, or on any private property.

b) The provisions of subsection (a) of this section shall not apply to the premises occupied by the owner or keeper of the dog, but shall apply to any common areas in any two-family or multi-family residential developmen

ARTICLE VI

RABIES

Section 92.18 Administrator to Cooperate in Vaccination Programs:

a) The administrator shall cooperate with and assist the area animal control officers and public health officials in their efforts to see that all animals are vaccinated against rabies in accordance with the provisions of G.S. 130A-184 through 130A-201.

Section 92.19 Quarantine of Animals Suspected of Having Rabies:

a) Any cases where animals believed to have rabies, or animals that may have come in contact with an animal with rabies, or animal that has bitten a person that does not have rabies tag, shall be referred to Union County Animal Control. Union County will use the Union County Animal Control Ordinance and North Carolina law in response to these referrals.

ARTICLE VII

IMPOUNDMENT AND RELEASE

Section 92.20 Impoundment: Notice to Owner:

a) The administrator may impound on rare occasions any dog that is found running at large, and is not violating the Union County Animal Control Ordinance, and the owner cannot be located.

b) Whenever a dog is impounded under subsection (a), or whenever a dog otherwise lawfully comes into the possession of the administrator, the administrator shall either return the dog to its owner or keeper or take the dog to the Union County Animal Shelter.

c) Whenever a dog is impounded or otherwise comes into the possession of the administrator, the administrator shall make reasonable efforts to identify the owner, notify him of the impoundment, and advise him of the conditions under which the dog may be reclaimed, if any.

Section 92.21 Release to Owner:

a) Subject to subsection (b), an owner of an impounded animal may reclaim the dog after it is impounded, upon compliance with the requirements of this section and in accordance with the requirements established by the Union County Animal Shelter.

b) Notwithstanding any other provision of this Chapter, the administrator may refuse to release any dog that: (i) is subject to an order of removal pursuant to creating a nuisance; (ii) the owner has outstanding fines or penalties from the town.

ARTICLE VIII

CARE AND PROTECTION

Section 92.22 Cruelty to Animals:

a) In accordance with G.S. 14-360 and 14-361, no person may intentionally or maliciously subject any animal to cruel treatment, including but not limited to the following: overdrive, overload, wound, injure, torture, cruelly beat, needlessly mutilate or kill or deprive any animal of adequate food, water, shelter or veterinary care, or cause or procure the same. All cases involving specific cruelty to animal claims shall be referred to Union County Animal Control for enforcement. Union County Animal Control will use North Carolina and Union County laws to enforce cruelty animal claims. The town may enforce civil penalties related to cruelty to animals.

b) No person may conduct, promote, attend, or otherwise participate in animal fighting or cock fighting.

c) No person may possess any paraphernalia for the purposes of dog, cock, or other animal fighting, including but not limited to gaffs, treadmills, spurs, spring poles, wheels, etc.

d) No person may sell or offer for sale, barter, or give away within the town, baby chickens, baby ducklings, or other fowl or rabbits under eight (8) weeks of age as pets, toys, premiums, or novelties.

e) No person may color, dye, stain, or otherwise change the natural color of baby chickens or other fowl or rabbits.

f) No person may tether any fowl.

g) No person may keep a dog outdoors within an enclosure such as a fence, kennel, or other devise unless the enclosure contains the minimum outdoor enclosure for each animal shall be 100 square feet for the first animal, with an addition 25 square feet for each additional animal. Any existing enclosure will be grandfathered until the enclosure is modified. Additional animals temporarily residing at a property for fewer than fourteen days shall be exempt for the additional square footage. All structures used to confine dogs shall be secure to prevent reasonable escape from the pen or kennel.

h) No person may use for the purpose of trapping animals, any type of steel jaw trap (except commercially available mice and rat traps). A steel jaw trap is defined as any spring- powered device designed to capture or hold an animal by exerting a lateral force with fix -mounted jaws on the leg, paw, or any other part of an animal's body.

i) No person may entice or lure any animal out of an enclosure or off the property of its owner or keeper, or seize, molest, or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property or its owner or keeper.

j) No person may transport without adequate ventilation an animal in the closed trunk of a vehicle, or closed compartment on a vehicle or trailer when the ambient temperature outside the vehicle or trailer is greater than or equal to 70 degrees Fahrenheit. For purposes of this section, "transport" refers to a vehicle or trailer whether in motion or stationary and "closed compartment" refers to a vehicle or trailer whether or not the windows or other openings are closed, open or partially open, and "adequate ventilation" refers to sufficient circulation of air and/or control of temperature such that the animal's health and safety is not adversely affected.

k) It shall be unlawful for any person to locate, keep or maintain more than a combined total of six (6) dogs and cats per acre or a portion thereof. This provision shall not apply to dogs or cats under four months of age. Any person having more than a combination of six (6) dogs or cats per acre or portion thereof, on the effective date of this ordinance will be allowed to keep them on their property provided that all other requirements of the Town's animal enforcement ordinance are in compliance and all excess dogs and cats that are removed from the premises upon death or other means are not replaced. In cases of special circumstances, the property owner(s) (or the owner(s) of the dogs with the property owner(s)'s written consent) may appeal in writing to the Animal Enforcement Officer requesting to keep in excess of six animals. If a person has six (6) or more dogs or cats per acre or portion thereof, the Animal Enforcement Officer, or other person designated by the Town manager, may issue a special permit upon making the following findings:

(1) Noise from the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.
(2) Any odor or unsanitary conditions caused by the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.
(3) Three or more dog runs or other dog-related structures or any combination thereof shall not be permitted if the structures can be seen from an abutting occupant's property in a residentially zoned district.
(4) There is no evidence that the dogs or cats pose any health problem or disease exposure for abutting occupants.
(5) The dogs and cats do not interfere in some similar manner with the peaceful use and enjoyment of abutting property.

l) The animal's owner shall be responsible for insuring that anyone having possession over the animal while off the owner's property shall maintain control over the animal's behavior. Control shall include having the dog on a leash or harness at all times. If the physical restraint is a leash requiring the competent person to control the animal, the person using such restraint must be of sufficient age and physical size or ability to reasonably restraining the animal.

m) It shall be unlawful for any person to locate, construct, reconstruct, alter, or maintain any kennel, pen or similar structure for the purposes of keeping any animal over four months of age unless such kennel, pen or similar structure is 30 feet or greater from the adjoining property owner's inhabited structure.

n) No person may commit any of those acts made unlawful under the provisions of G.S.14-362, 14-362.1, 14-362.2, and 14-362.3 or to commit any other act made unlawful by any other law of the State of North Carolina relating to animal fighting or animal baiting.

o) In accordance with G.S. 14-361.1, no person may abandon or forsake any animal within the town.

p) No person may display or sponsor a display of wild or exotic animals on any public or private property within the town without a special event permit from the town.

ARTICLE IX

ANIMAL COLLECTION

Section 92.23 License and Permit Required:

a) No person may engage in the collection of dogs and cats for sale unless such person obtains a town privilege license. A permit must be obtained from the administrator, as provided in this Article, before a privilege license may be issued.

b) A permit for the collecting of dogs and cats for sale shall be required before any individual may engage in any action in Indian Trail in furtherance of any action involving or relating to the collection or procurement of dogs and cats for sale. A permit allowing such actions will be issued only upon payment of a fee set by the Town Council and demonstration by the applicant that the requirements of this article shall be met. A permit issued in accordance with this article may be revoked by the administrator after notice and a hearing, for any reasons that would have justified denial of the permit in the first instance. If the administrator denies or revokes a permit in accordance with this article, he shall notify the person affected of his right to appeal such decision.

Section 92.24 Permit Procedure:

a) An application for a collection permit shall be made by each and every individual involved in the collecting of dogs and/or cats in Indian Trail for the purpose of sale. Any such application for the above-mentioned purpose shall be made to the administrator on a form prescribed by the administrator.

b) An investigation may then be conducted by the administrator, which may include inspection of the premises where the animals are to be kept and any vehicles in which they are to be transported.

c) Upon the determination by the administrator that the requirements of these regulations have been met and are capable of continuing to be met during the duration of the permit, a permit for no more than one (1) year shall be issued, upon payment of applicable fees, to the individual applicant only for the specific individual applicant, premises, and vehicles listed on the application.

d) Application for a permit renewal is the responsibility of the permit holder and shall be made no later than thirty (30) days prior to the expiration of the current permit. Failure to reapply prior to the 30-day limit may result in a penalty fee.

Section 92.25 Records:

a) Every person who sells, gives, exchanges or otherwise delivers any animal to a collector must receive from the collector a written receipt, a copy of which is to be kept by the collector, signed by both the owner or keeper and the collector, stating the following:

    1) The number of animals received by the collector;

    2) The sex, breed, a general description of each animal received and the U.S. Department of Agriculture number assigned to each animal;

    3) The name, address and telephone number of the location to which the animal will be taken for the following five (5) days;

4) The name, address and telephone number of the collector;

5) The name, address and telephone number of the person surrendering the animal.

b) A written report containing the above information shall be delivered by the person collecting the animals to the administrator within twenty-four (24) hours of the surrender of the animal.

c) A record shall be kept of the disposition of every animal which is collected.

d) Every collector shall maintain a copy of all receipts and disposition records for one year.

ARTICLE X

ENFORCEMENT, APPEALS AND PENALTIES

Section 92.26 Enforcement Administration:

a) Primary responsibility for enforcing the provisions of this chapter may be assigned to one or more individuals by the town manager. The term "administrator" is used in this chapter to refer to the person or persons assigned these responsibilities, including but not limited to the Animal Control Officer.

Section 92.27 Appeals:

a) The owner of any animal who (i) is required to remove his animal from the town, (ii) who has been assessed and has paid a civil penalty, or (iii) whose permit is denied or revoked, may appeal to a subcommittee of the Public Safety Committee. An appeal shall be taken within ten (10) business days after receiving the written notice of the determination appealed. An appeal is taken by filing a written notice of appeal with the administrator and stays all enforcement efforts of the administrator until the appeal is disposed of. An appeal from an order to pay civil penalties shall first be reviewed by town official appointed by the town manager. If the owner is unsatisfied with the first civil penalty review, the owner may then appeal to the subcommittee of the Public Safety Committee within ten (10) days of the first decision.

b) The subcommittee of the Public Safety Committee shall consist of three (3) members and one (1) alternate appointed by the town manager. One member should be the Chair of the Public Safety Committee.

c) The committee shall meet within twenty (20) days after notice of appeal is filed. A quorum of the committee shall consist of three (3) members, and all decisions shall be made by majority vote. The committee may uphold, reverse, or modify the determination appealed from, and the administrator shall thereafter continue, modify or cease his enforcement efforts in accordance with the committee's decision.

d) The burden of justifying the administrator's determination shall be on the administrator. Strict rules of evidence need not be followed, but the committee may consider only what a witness knows of his own knowledge, and no decision may be based upon hearsay alone.

e) The committee shall reach a decision as expeditiously as possible and shall provide the appellant and the administrator with a written decision, stating the reasons therefore.

Section 92.28 Penalties and Remedies:

a) A violation of any of the following provisions of this chapter shall constitute a misdemeanor punishable as provided in North Carolina law:

A violation of any of the provisions cited:

First Offense:	$100
Second Offense:	$200
Third Offense:	$300
Fourth Offense:	$400
Fifth Offense:	$500 and possible seizure of animal

b) If the offender fails to pay any penalty within fifteen (15) calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

c) Violations accumulate per owner, not per animal. Second and subsequent offenses are based on offenses within any 24-month period. Each day's continuing violation shall constitute a separate offense.

d) Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsections (a) and (b) shall constitute a separate offense.

e) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

f) The town may enforce this chapter by any one or any combination of the foregoing remedies.

Section 92.29 Effective Date:

a) The effective date for this ordinance shall begin on October 1, 2013. The current Chapter 92- Animals shall be repealed on this effective date.

Town of Indian Trail

Memo

TO: Mayor and Town Council

FROM: Scott J. Kaufhold, P.E., Director of Engineering and Public Works

DATE: 12/31/12

COUNCIL DATE: 1/8/13

SUBJECT: Chestnut Parkway Improvements Contract

General Information:

Staff held a formal bid for Chestnut Parkway Improvements.

Bid opening is scheduled for Monday, January 7, 2013. Bid tab information will be provided to Council following review by staff. The Engineer's estimate is confidential in order to remain neutral and objective for all bidders.

Required Actions:

Council Award of Contract

Attachments:

1. Chestnut Parkway Improvements Contract

PO Box 2430 . 130 Blythe Drive . Indian Trail . North Carolina . 28079 . (704) 821-1314 . Fax (704) 821-1381

PROJECT MANUAL FOR

Chestnut Parkway Improvements

PROJECT NUMBER:

520-2012-001

TOWN OF INDIAN TRAIL, NORTH CAROLINA

NORTH CAROLINA PROFESSIONAL SEAL 024973 ENGINEER SCOTT J. KAUFHOLD

12/14/12

Scott J. Kaufhold, P.E.
Director of Engineering and Public Works
Registered, North Carolina 024973

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I. ADVERTISEMENT FOR BIDS

Chestnut Parkway Improvements

Sealed bids will be received until 10:00 a.m. on Monday, January 7, 2013 in the Town of Indian Trail Engineering Department at 130 Blythe Drive for Chestnut Parkway Improvements, **520-2012-001.** The bids will be opened and publicly read aloud at 10:30 a.m. in the Civic Building at 100 Navajo Trail, Indian Trail, NC 28079.

Description: This project includes the construction of approximately 2,000 ft. of asphalt roadway, concrete curb and gutter, concrete sidewalk, grading for building pad and parking lot, storm drainage, and wet pond at 304 Matthews Indian Trail Road.

A Mandatory Pre-Bid Meeting will be held at 10:00 am on Tuesday, December 18, 2012 in the Civic Building at 100 Navajo Trail, Indian Trail, NC 28079. Attendance at this meeting is required in order to bid on this project. The meeting will begin promptly at 10:00 am. Late attendees will not be admitted and will not be allowed to bid on the project.

Contract Documents will be available on December 18, 2012 and can be obtained from:

Town of Indian Trail
Engineering Department
130 Blythe Drive
Indian Trail, NC 28079

Phone: 704-821-1314

The Town of Indian Trail reserves the right to reject any and all proposals.

For more project information, contact Adam McLamb at 704-821-1314 or ajm@engineering.indiantrail.org.

II. INSTRUCTIONS TO BIDDERS

The Town of Indian Trail (hereafter, the "Town") will receive sealed bids for the following Project:

PROJECT NAME:

Chestnut Parkway Improvements

PROJECT NUMBER:

520-2012-001

SCOPE OF WORK:

This project includes the construction of approximately 2,000 ft. of asphalt roadway, concrete curb and gutter, concrete sidewalk, grading for building pad and parking lot, storm drainage, and wet pond at 304 Matthews Indian Trail Road.

CONTRACT DOCUMENTS:
The Contract Documents are this Project Manual (which contains the Advertisement, Instructions to Bidders, Bid Documents, Agreement, Supplementary General Conditions, Special Conditions and Specifications), the Plans & Drawings, and any addenda. Contract Documents are available at a charge of $35.00 (non-refundable) and can be obtained at the Town of Indian Trail, Engineering Department. Contract documents will be mailed upon request at an additional fee. A current e-mail address must be provided at the time of contract purchase.

MANDATORY PRE-BID MEETING:
A Mandatory Pre-Bid Meeting will be held at 10:00 a.m. on Tuesday, December 18, 2012 in the Civic Building at 100 Navajo Trail, Indian Trail, NC 28079. Attendance at this meeting is required in order to bid on this project. The meeting will begin promptly at 10:00 a.m. Late attendees will not be admitted and will not be allowed to bid on the project.

BID DEADLINE:
Bids must be received by the Town of Indian Trail Engineering Department at 130 Blythe Drive, Indian Trail, NC 28079, no later than 10:00 a.m. on Monday, January 7, 2013. The bids will be opened and publicly read aloud at 10:30 a.m. in the Civic Building at 100 Navajo Trail, Indian Trail, NC 28079.

CONTENT OF BID:
Each Bid must contain the following fully-completed forms provided by the Town. **The Project Manual, in its entirety (the Project Manual shall not be taken apart or altered), shall be submitted for bid consideration:**

a) Acknowledgement of Addenda (page 11 of this Project Manual)
b) Itemized Bid Form (page 12 – 15 of this Project Manual)
c) Representative Projects Form (page 16 of this Project Manual)
d) Execution of Bid Form (page 17 of this Project Manual)
e) Bid Bond (page 18 of this Project Manual)

All Bids shall be placed in a sealed envelope with the following information printed on the outside of the envelope:

BID FOR:	_____ *Project Name & Number*
BIDDER'S NAME:	_____ *Contractor's Name*
DO NOT OPEN UNTIL:	_____ *Bid Opening Date & Time*

BID BOND:

Each Bid shall be accompanied by a bid bond or a certified check in the amount not less than 5% of the total amount of the Bid. When the bid security is in the form of a bid bond, that bid bond shall be executed by a corporate surety licensed in North Carolina to execute such bonds.

BIDS ARE FIRM OFFERS:

All Bids shall be firm offers to contract for 180 days from the Bid Deadline. Unless forfeited, Bid Bonds shall be returned to Bidders upon the earlier of Contract Award or 180 days from the Bid Deadline. All interest on cash bonds shall be retained by the Town.

BID PHASE CONTACT:

For questions regarding the Project or Instructions to Bidders, contact **Adam McLamb** at 704-821-1314 or ajm@engineering.indiantrail.org . The Town will attempt to answer all questions in writing by email. THE TOWN WILL NOT MAKE AND BIDDERS MAY NOT RELY ON ORAL REPRESENTATIONS.

ADDENDA:

Addenda will be filed in the Town's Engineering Department and sent by email to all persons who have requested Contract Documents. The Bidder shall be responsible for inquiring if Addenda have been issued.

SELECTION CRITERIA:

The Town shall select as the contractor ("Selected Bidder") the lowest responsive and responsible Bidder, as required by North Carolina General Statutes. Consideration will be given only to Bids from contractors who are properly licensed, bonded, experienced in the class of work proposed, and who can refer to projects of similar magnitude and character that have been completed by them. The Town also reserves the right to reject any and all Bids and to waive informalities and technicalities as it may deem to be in its best interest.

ONLY ONE BID PER ENTITY:

No entity or person may submit or participate in the submission of more than one Bid.

CONTRACT AWARD:

The Town will inform the Selected Bidder of its selection and request that the Selected Bidder submit the executed Agreement plus insurance certificates and payment and performance bonds. The Selected Bidder shall submit the requested documents so that they are received by the Town within 10 calendar days (or such other time as designated by Town) from the date of notice of selection. The Selected Bidder's failure to do so will result in forfeiture of its bid bond and this contract. The contract shall not be deemed awarded and this Agreement shall not be binding on the Town unless and until both the Selected Bidder and Town have both executed the Agreement.

III. BID DOCUMENTS

ACKNOWLEDGEMENT OF ADDENDA

PROJECT NAME: **Chestnut Parkway Improvements**

PROJECT NUMBER: **520-2012-001**

ACKNOWLEDGMENT OF ADDENDA

The Bidder hereby acknowledges receipt of any addenda

NUMBER:_____DATE:_____INITIAL:_____

NUMBER:_____DATE:_____INITIAL:_____

NUMBER:_____DATE:_____INITIAL:_____

NUMBER:_____DATE:_____INITIAL:_____

Contractor Name: _____

ITEMIZED BID FORM

TOWN OF INDIAN TRAIL
CHESTNUT PARK IMPROVEMENTS
BID TAB

Contractors Name _____

Line Item	Item Type	Item Description	Quantity	Unit	Unit Price	Amount
		ROADWAY CONSTRUCTION				
1	SP1	Mobilization	1	LS		
2	SP2	Comprehensive Grading	1	LS		
3	SP3	Construction Stakes, Lines, and Grades	1	LS		
4	225	Undercut Excavation	100	CY		
5	300	Foundation Conditioning Material, Minor Structures	100	TN		
6	310	15" RCP, Class III	929	LF		
7	310	18" RCP, Class III	93	LF		
8	310	24" RCP, Class III	267	LF		
9	310	30" RCP, Class III	1010	LF		
10	310	36" RCP, Class III	109	LF		
11	310	42" RCP, Class III	383	LF		
12	310	48" RCP, Class III	29	LF		
13	310	54" RCP, Class III	60	LF		
14	310	15" Parallel Pipe End Section	1	EA		
15	520	Aggregate Base Course	4400	TN		
16	610	Asphalt Concrete Surface Course, S 9.5 B, Up To 1.5" Thick (Overlay)	240	TN		
17	610	Asphalt Concrete Surface Course, S 9.5 C, Up To 2.5" Thick	1100	TN		
18	610	Asphalt Concrete Surface Course, S 9.5 C, Up To 3.0" Thick	250	TN		
19	610	Asphalt Concrete Intermediate Course, I 19.0 C, Up To 2.25" Thick	900	TN		
20	610	Asphalt Concrete Intermediate Course, I 19.0 C, Up To 4.0" Thick	320	TN		
21	610	Asphalt Concrete Base Course, B 25.0 C, Up To 3" Thick	250	TN		
22	620	Asphalt Binder for Plant Mix (Grade PG 64-22, PG 76-22)	177	TN		
23	838	Concrete Endwall (NCDOT Std. 838.01)	5	CY		
24	840	Masonry Drainage Structure, CB (NCDOT STD. 840.01)	19	EA		
25	840	Masonry Drainage Structure, JB (NCDOT STD. 840.32)	6	EA		
26	839	Masonry Drainage Structure, DI (NCDOT STD. 840.15)	6	EA		
27	840	Masonry Drainage Structures, Additional Depth	90	LF		
28	840	Frame, Grate, and Hood (NCDOT STD. 840.03)	19	EA		
29	840	Frame and Cover (NCDOT STD. 840.54)	6	EA		
30	841	Frame and Grate (NCDOT STD. 840.16)	6	EA		
31	SP4	1' - 6" Concrete Curb and Gutter	2300	LF		
32	SP4	2' - 6" Concrete Curb and Gutter	3000	LF		
33	SP4	4" Concrete Sidewalk (6' wide)	1180	SY		
34	SP4	Concrete Curb Ramps	2	EA		
35	876	Rip Rap, Class B	50	TN		
36	876	Geotextile for Drainage	90	SY		

Line Item	Item Type	Item Description	Quantity	Unit	Unit Price	Amount
37	1205	Thermoplastic Pavement Marking Lines (4", 120 MILS)	2750	LF		
38	1205	Thermoplastic Pavement Marking Lines (8", 120 MILS)	1050	LF		
39	1205	Thermoplastic Pavement Marking Lines (24", 120 MILS)	40	LF		
40	1205	Thermoplastic Pavement Markings, Arrows, (90 MILS) (NCDOT STD. 1205.08)	10	EA		
41	UCPW	6" x 6" Tapping Sleeve and Tapping Valve plus minor fittings	5	EA		
42	UCPW	Substituting 6" Restrain Joint Pipe	108	LF		
43	UCPW	Installing 6-inch PVC (DR 14) pipe or 6-inch DIP (Class 350) (all fittings and couplings shall be included in the cost of this line item)	1000	LF		
44	UCPW	Stone Bedding	100	LF		
45	UCPW	Abandon in place existing 6" water main (cut and plug)	2	EA		
46	UCPW	Fire Hydrant (w/ tees on 6-inch pipe)	1	EA		
47	UCPW	6" Mainline Gate Valve	1	EA		
48	UCPW	6" 90° Restrained Joint Bend	2	EA		
49	UCPW	Mobilization, Excavation/Backfill of Bore Pit @ 0' - 5' depth	1	EA		
50	UCPW	12" Diameter Casing (includes grouting)	80	LF		
51	UCPW	6" BF Preventer	1	EA		
52	UCPW	6" WM w/Vault (Detail #24)	1	EA		
53	UCPW	2" Water Metter	1	EA		
54	UCPW	2" BF Preventer	1	EA		
55	UCPW	Installing 2-inch Red Brass or DIP Blowoffs	1	EA		
56	UCPW	Reinforced Concrete Blocking	20	CF		
57	UCPW	Concrete Blocking	30	CF		
58	UCPW	2" Mainline Gate Valve (includes	3	EA		
59	UCPW	6" x 2" Tapping Sleeve	1	EA		
60	UCPW	Installing 2-inch PVC (DR 14) with Push-on Joints	1100	LF		
61	UCPW	On 2-inch pipe - 1" Air Release	1	EA		
62	UCPW	8-inch DIP Sanitary Sewer Line (Avg. depth 0'-10') (all fittings and couplings shall be included in the cost of this line item)	300	LF		
63	UCPW	4-Foot Diameter Manhole (0'-10' depth)	2	EA		
64	UCPW	With grouted on frame and cover	2	EA		
64	UCPW	For outside drops at manholes (0' - 5' depth)	1	EA		
65	UCPW	For connection to existing manhole	1	EA		
66	UCPW	Testing for exfiltration on sewer main	320	LF		
67	UCPW	Testing for exfiltration on sewer manhole	1	EA		
68	UCPW	Water Capacity Fee	1	EA		
69	UCPW	Sewer Capacity Fee	1	EA		
70	1605	Temporary Silt Fence	2500	LF		
71	1631	Erosion Control Matting	2400	SY		
72	1660	Seeding and Mulching	1.50	AC		
73	SP5	Coir Fiber Wattles	100	LF		
74	SP6	Wet Pond - Water Quality/Detention	1	LS		
75	SP7	Erosion Control	1	LS		
76	SP8	Street Lighting	1	LS	$21,000.00	$21,000.00

Line Item	Item Type	Item Description	Quantity	Unit	Unit Price	Amount
77	SP9	Traffic Control	1	LS		
					Subtotal for Roadway Construction	
		SITE GRADING				
78	SP10	Site Grading	1	LS		
79	SP3	Construction Stakes, Lines, and Grades	1	LS		
80	225	Undercut Excavation	100	CY		
81	545	Incidental Stone Base (min. 4.0" Thick)	400	TN		
82	SP7	Erosion Control	1	LS		
					Subtotal for Site Grading	
		PROJECT TOTALS				
					Roadway Construction	
					Site Grading	
83	SP11				Materials Testing Services	$30,000.00
					Subtotal	
			Contingency	10%		
			Total			

REPRESENTATIVE PROJECTS FORM

1. Project: _____

   Owner: _____

   Contract Price: _____

   Date Completed: _____

   Owner Contact: _____

2. Project: _____

   Owner: _____

   Contract Price: _____

   Date Completed: _____

   Owner Contact: _____

3. Project: _____

   Owner: _____

   Contract Price: _____

   Date Completed: _____

   Owner Contact: _____

Contractor Name:_____

EXECUTION OF BID FORM

PROJECT NAME: **Chestnut Parkway Improvements**

PROJECT NUMBER: **520-2012-001**

The person executing the Bid, on behalf of the Bidder, being first duly sworn, deposes and says that:

(1) It is the intent of the Bidder to enter into this Contract to furnish materials, labor, and equipment required to perform all work specified in accordance with the instructions, terms, conditions, provisions, specifications, plans and all other Contract Documents incorporated into this Invitation to Bid;
(2) He/she is fully informed regarding the preparation and contents of the attached Bid and of all pertinent circumstances regarding such Bid;
(3) He/she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, or veteran's status; and
(4) He/she, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with any bid or contract, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.
(5) Execution of this bid in the proper manner also constitutes the Bidder's certification of Status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.
(6) N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Type of Bidder: ☐ **Sole Proprietor** ☐**Partnership** ☐ **Limited Liability Company** ☐ **Corporation** ☐ **Joint Venture**
(Check appropriate box)

BIDDER #I

Name _____

Address _____

_____

Phone _____

Email _____

Printed Name _____

SIGNATURE _____

Title _____

NC General Contractor's License Number _____

Classification _____

Limits _____

Subscribed and sworn before me this the _____ day of _____, 20___.

_____
Signature of Notary Public

of _____ County

State of _____

My Commission Expires: _____

NOTARY SEAL

BID BOND

(Attach Bond and Power of Attorney to this sheet)

IV. AGREEMENT

AGREEMENT FOR CONSTRUCTION

THIS AGREEMENT ("Agreement"), made and entered into on or about _____, 2013, by and between the Town of Indian Trail, North Carolina, hereinafter called "Owner" and _____, hereinafter called "Contractor" (collectively, "Parties"),

WITNESSETH

In consideration of the mutual promises set forth herein, the parties hereto mutually promise and agree as follows:

1. **PROJECT:** **Chestnut Parkway Improvements**

2. **COMPLETION OF WORK:** For the Contract Price, Contractor shall furnish all materials, labor, tools, equipment, and supervision for the construction of the Project and all expense, direct or indirect, connected with the proper execution of the same and of maintaining the same, until it is accepted by the Owner (the "Work"). All Work shall be performed and completed in an efficient and workmanlike manner, in accordance with the Contract Documents and in compliance with all applicable federal, local and state regulatory agencies.

3. **CONTRACT DOCUMENTS**

   a. Advertisement
   b. Instructions to Bidders
   c. Bid Documents (Acknowledgment of Addenda, Itemized Bid Form, Representative Projects, Execution of Bid Form and Bid Bond)
   d. This Agreement
   e. Supplementary General Conditions
   f. Dispute Resolution Requirements
   g. Specifications
   h. Project Special Provisions
   i. Plans & Drawings
   j. Addenda

   The Contract Documents listed above are all essential parts of the contractual requirements. The terms "Contract Documents" and "Contract" shall have the same meaning. A requirement occurring in one Contract Document is as binding as though occurring in all. They are intended to be complementary. In case of discrepancy, detailed provisions shall have precedence over general conditions. Should any addenda, change orders or supplemental agreements be issued at a later date, they will become part of the Contract Documents, and their terms shall take precedence over conflicting terms in earlier Contract Documents.

   The Contractor shall not take advantage of any apparent error or omission in the Contract Documents. In the event the Contractor discovers an error or discrepancy, it shall immediately inform the Owner.

4. **CONTRACT PRICE:** This is a unit price contract. The Contract Price shall be the unit price for each pay item multiplied by the actual units of each pay item certified by Contractor on a pay request as described below and approved by the Owner as satisfactorily completed in accordance with the Contract. The pay items and their unit prices are set forth in the Itemized Bid Form. Change orders must be approved in writing prior to commencing work by both the Owner and the Contractor. The final Contract Price shall not be determined until the completion and acceptance by the Owner of the Work and shall be the sum of the approved amounts of all pay items.

5. **CONTRACT TIME AND LIQUIDATED DAMAGES:** This contract is anticipated for award by the Town Council on **Tuesday, January 8, 2013**. The low bidder is required to sign and return the agreement forms along with executed documents by **Wednesday, January 16, 2013**. The contract period defined shall begin on the date (date of availability) set forth in a Notice to Proceed from the Engineer to the Contractor.

In order to meet commitments, the intent of this contract is for the Contractor to begin construction of the Carolina Courts site on the date of availability and to continue construction of all subsequent segments of the project without interruption until the entire project is completed. Unless otherwise directed by the Engineer, the Contractor will commence work on the Carolina Courts site, complete it within the specified project period, then proceed immediately with the next segment as defined below, continuing this process until the entire project has been completed. The Contractor will be required to complete all work and necessary testing on each section by the specified date or **liquidated damages** in the amount of **$1,000** per calendar day will be assessed for each calendar day beyond the specific Phase Completion Date.

Description of Phase	**Days to Complete**	**Completion Date**
I. Carolina Courts Site: Clear and Grub, Erosion Control, Finish Grade for Building Pad, Rough Grade Parking Lot	30	3/1/2013
II. All remaining work	135	6/15/2013

Completion shall mean all Work has been completed, inspection has occurred and a final punch list has been agreed upon. No extensions will be authorized except as authorized by Article 108-10 of the *Standard Specifications.*

If the date of award is delayed, all dates as noted above will be moved back the same number of calendar days as the delay.

Work on Town designated holidays may continue upon approval by Engineer.

6. **PAYMENTS**: Partial payments will be made upon receipt of Contractor invoice at least once each month as the Work progresses. Said payments will be based upon estimates, prepared by the Contractor and approved by Owner, of the value of the Work performed and materials complete in place in accordance with the Contract Documents. Each invoice shall include the Contractor's Affidavit Release and Waiver of Claim and the Sales and Use Tax Certification Statement.

   No partial payment will be made when the amount due the Contractor since the last estimate amounts to less than ten thousand dollars ($10,000.00).

   No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in the subsection titled ACCEPTANCE AND FINAL PAYMENT of this section.

7. **INDIAN TRAIL PRIVILEGE LICENSE**: An Indian Trail Privilege License must be maintained throughout the life of the contract.

8. **GUARANTEE**: The Contractor shall guarantee all materials and workmanship for a period of twelve (12) months from the date of acceptance by the Town and shall replace any portions that fail because of faulty material or workmanship at no additional cost to the Town. This guarantee shall include any grass that needs to be mowed that was seeded and mulched during construction. A six (6) month and eleven (11) month inspection will be held during the warranty period. The Contractor shall immediately repair all defective items upon notification. Items repaired under the provisions shall have an extended warranty period of twelve (12) months from the date of repair of the item. The performance bond will be held as the guarantee for the twelve (12) month period.

9. **BONDS AND INSURANCE:** Owner's obligations under this Agreement are subject to the condition precedent that the Contractor provides a Performance Bond, Maintenance Bond, and Certificate of Insurance as required by the Contract Documents.

   The successful bidder shall provide the Town with a contract payment bond in an amount equal to 100 percent of the estimated Contract Price (as determined by the Town) and a contract performance bond in an amount equal to 100

percent of the estimated Contract Price (as determined by the Town) within 10 calendar days (or such other time as designated by Town) from the date of notice of selection. All bonds shall be in conformance with G.S. 44A-33. The corporate surety furnishing the bonds shall be authorized to do business in the State.

The successful bidder's failure to submit acceptable bonds shall be just cause for the forfeiture of the bid bond or bid deposit and rescinding the award of the contract. Award may then be made to the next lowest responsible bidder or the work may be re-advertised and constructed under contract or otherwise, as the Town may decide.

END OF AGREEMENT FOR CONSTRUCTION

SIGNATURE SHEET

CONTRACTOR FIRM NAME: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

Address: _____

_____

_____

FEDERAL TAX ID NUMBER: _____

TOWN OF INDIAN TRAIL

By: _____ _____
Town Manager Date

This Agreement has been pre-audited in the manner required by the "Local Government Budget and Fiscal Control Act."

By: _____ _____
Finance Officer Date

SURETY COMPANY CONTACTS

PAYMENT BOND NO.: _____

Surety Name: _____

Address: _____

_____

Contact Person: _____

Title: _____

Phone No.: _____

PERFORMANCE BOND NO.: _____

Surety Name: _____

Address: _____

_____

Contact Person: _____

Title: _____

Phone No.: _____

SURETY AGENCY/AGENT: _____

Agency Name: _____

Address: _____

_____

Contact Person: _____

Title: _____

Phone No.: _____

PERFORMANCE BOND

(Attach Performance Bond to this sheet.)

PAYMENT BOND

(Attach Payment Bond to this sheet.)

CERTIFICATE OF INSURANCE

(Attach Certificate of Insurance to this sheet.)

V. SUPPLEMENTARY GENERAL CONDITIONS

1. SCOPE OF WORK

1.1 ALTERATION OF WORK AND QUANTITIES

The Owner reserves and shall have the right to make such alterations in the Work as may be necessary or desirable to complete the Work in the manner acceptable to Owner. Unless otherwise specified herein, the Owner may make such alterations in the Work as may increase or decrease the originally awarded Contract quantities, and the Contractor agrees to value the increase or decrease in quantities using the unit prices set forth in the Itemized Bid Form, or if there are none, as agreed to by the parties. These alterations shall be covered by written Change Orders signed by Owner and Contractor. Change Orders for altered Work may include extensions of Contract Time if, in the Owner's opinion, such extensions are warranted by the amount and difficulty of added work.

1.2 MAINTENANCE OF TRAFFIC

When the Contract requires the maintenance of vehicular traffic on an existing road, street, or highway during the Contractor's performance of Work that is otherwise provided for in the Contract Documents, the Contractor shall keep such road, street, or highway open to all traffic and shall provide such maintenance as may be required to accommodate traffic. The Contractor shall furnish, erect, and maintain barricades, warning signs, flagmen, and other traffic control devices in reasonable conformity with the Manual of Uniform Traffic Control Devices for Streets and Highways (published by the United States Government Printing Office), unless otherwise specified herein.

The Contractor shall also construct and maintain in a safe condition any temporary connections necessary for ingress to and egress from abutting property or intersecting roads, streets or highways. Unless otherwise specified herein, the Contractor will not be required to furnish snow removal for such existing road, street, or highway. The Contractor must contact NCDOT before any work is performed along state maintained streets.

1.3 FINAL CLEANING UP

Upon completion of the Work and before acceptance and final payment will be made, the Contractor shall remove from the site all machinery, equipment, surplus and discarded materials, rubbish, temporary structures, and stumps or portions of trees on all ground occupied during the project. The contractor shall leave the site in a neat and presentable condition. Material cleared from the site and deposited on adjacent property will not be considered as having been disposed of satisfactorily, unless the Contractor has obtained the written permission of such property owner.

1.4 ACCESS TO THE WORK

The Contractor shall identify access routes with suitable signs, barricades and similar equipment. The entire access route and construction site shall be kept free and clean of all debris at all times and maintained in good repair by the Contractor. All damage to the access route caused by the actions of the Contractor or his agents shall be immediately repaired to the satisfaction of the Owner. The Contractor shall be responsible for notifying property owners five (5) days in advance of work affecting driveway access.

1.5 MAINTENANCE DURING CONSTRUCTION

The Contractor shall maintain the Work during construction and until the Work is accepted. This maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces so that the Work is maintained in satisfactory condition at all times. In the case of a contract for the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations. All costs of maintenance work during construction and before the project is accepted shall be included in the unit prices bid on the various contract items, and the Contractor will not be paid an additional amount for such work.

END OF SCOPE OF WORK

2. CONTROL OF WORK

2.1 CONFORMITY WITH PLANS AND SPECIFICATIONS

The current edition including revisions of the North Carolina Department of Transportation, Standard Specifications for Roads and Structures, hereinafter referred to as the "Standard Specifications" shall apply on all portions of the project unless otherwise specified herein.

The current edition of the Union county Public Works Sanitary Sewer and Water Specifications, including revisions, applies on all portions of the project unless otherwise specified herein. All fittings and couplings shall be included in the price for all line items using linear foot units or as specified in the Itemized Bid Form. This also includes all water meter installations.

All Work and all materials furnished shall be within the specified tolerances of the lines, grades, grading sections, cross sections, dimensions, material requirements, and testing requirements that are specified in the contract, plans and specifications.

If the Owner finds the materials furnished, Work performed, or the finished product not within the specified tolerances of the plans and specifications but that the portion of the Work affected will, in its opinion, result in a finished product having a level of safety, economy, durability, and workmanship acceptable to the Owner, that the affected Work be accepted and remain in place. In this event, the Owner determines an adjustment in the Contract Price for the affected portion of the Work.

If the Owner finds the materials furnished, Work performed, or the finished product are not within the specified tolerances of the plans and specifications and have resulted in an unacceptable finished product, the affected Work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor in accordance with the Owner's written orders.

For the purpose of this subsection, the term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the Work in accordance with the Contract Documents. The term shall not be construed as waiving the Owner's right to insist on strict compliance with the requirements of the Contract Documents.

2.2 COOPERATION OF CONTRACTOR

The Contractor will be supplied with two (2) copies each of the plans and specifications. He shall have available on the Site at all times, one copy each of the plans and specifications. Additional copies of plans and specifications may be obtained by the Contractor for the cost of reproduction.

The Contractor shall give constant attention to the Work to facilitate the progress thereof, and he shall cooperate with the Owner and his/her inspectors, the Engineer and with other contractors in every way possible. The Contractor shall have a competent superintendent on the Work at all times who is fully authorized as his/her agent on the Work. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the Owner or his/her authorized representative.

2.3 COOPERATION BETWEEN CONTRACTORS

The Owner reserves the right to contract for and perform other or additional work on or near the Work covered by this contract.

When separate contracts are let within the limits of any one project, each contractor shall conduct his/her Work so as not to interfere with or hinder the progress of completion of the Work being performed by other contractors. Contractors working on the same project shall cooperate with each other as directed.

Each contractor involved shall assume all liability, financial or otherwise, in connection with his/her contract and shall protect and save harmless the Owner from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by him because of the presence and operations of other contractors working within the limits of the same project.

The Contractor shall arrange his/her work and shall place and dispose of the materials being used so as not to interfere with the operations of the other contractors within the limits of the same project. He shall join his/her work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

2.4 AUTHORITY AND DUTIES OF INSPECTORS

Inspectors employed by the Owner shall be authorized to inspect all work done and all material furnished. Such inspection may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of the materials to be used. Inspectors are not authorized to revoke, alter, or waive any provision of the contract. Inspectors are not authorized to issue instructions contrary to the plans and specifications or to act as foreman for the Contractor.

2.5 INSPECTION OF THE WORK

All materials and each part or detail of the Work shall be subject to inspection by the Owner or Owner's inspectors. The Owner and Owner's inspectors shall be allowed access to all parts of the Work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the Owner or Owner's inspector requests it, the Contractor, at any time before acceptance of the Work, shall remove or uncover such portions of the finished Work as may be directed. After examination, the Contractor shall restore said portions of the Work to the standard required by the specifications. Should the Work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as Extra Work; but should the Work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Any Work done or materials used without supervision or inspection by the Owner may be ordered removed and replaced at the Contractor's expense unless the Owner failed to inspect after having been given reasonable notice in writing that the Work was to be performed.

2.6 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK

All Work which does not conform to the requirements of the Contract Documents will be considered unacceptable, unless otherwise determined acceptable as provided in the subsection titled CONFORMITY WITH PLANS AND SPECIFICATIONS.

Unacceptable Work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to the final acceptance of the Work, shall be removed immediately and replaced in an acceptable manner at the Contractor's expense.

Upon failure on the part of the Contractor to comply forthwith with any order of the Owner made under the provisions of this subsection, the Owner will have authority to cause unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs (incurred by the Owner) from any monies due or to become due the Contractor.

2.7 LOAD RESTRICTIONS

The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads beyond the limits of the Work. A special permit will not relieve the Contractor of liability for damage which may result from the moving of material or equipment.

The operation of equipment of such weight or so loaded as to cause damage to structures or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base, or structure before the expiration of the curing period. The Contractor shall be responsible for all damage done by his/her hauling equipment and shall correct such damage at its own expense.

2.8 RETEST OF WORK

When as provided for in the Contract Documents, the Owner performs sampling and tests of the Work and if the tests show a failure to meet the requirements of the Contract Documents, the expense of retesting, after reworking or substitution by the Contractor will be at the expense of the Contractor and such costs will be deducted from the payments otherwise due to the Contractor.

2.9 CHARACTER OF WORKERS, METHODS AND EQUIPMENT

The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the Work to full completion in the manner and time required by the contract, plans, and specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

All equipment which is proposed to be used on the Work shall be of sufficient size and in such mechanical condition as to meet requirements of the Work and to produce a satisfactory quality of work. Equipment used on any portion of the Work shall be such that no injury to previously completed work, or adjacent property.

When the methods and equipment to be used by the Contractor in accomplishing the Work are not prescribed in the contract, the Contractor is free to use any methods or equipment that will accomplish the Work in conformity with the requirements of the contract, plans, and specifications.

Any person employed by the Contractor or by a subcontractor who, in the opinion of the Owner does not perform its work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Owner, be removed forthwith by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the Work without the approval of the Engineer.

Should the Contractor fail to remove such person or persons or fail to furnish suitable and sufficient personnel for the proper prosecution of the Work, the Owner may suspend the Work by written notice until compliance with such orders.

The failure to provide adequate labor and equipment may be considered cause for terminating the Contract.

2.10 FIRE PREVENTION

Contractor shall conform to all Federal, State, and local laws and regulations pertaining to burning, fire prevention and control within or adjacent to the project. Necessary precautions to avoid and eliminate fire hazards shall be the responsibility of the Contractor. This includes keeping the Contract Work area clear of all trash at all times.

All tarpaulins used for any purpose during construction of any work shall be made of material resistant to fire, water and weather and shall bear UL labels. Lighting of any fires on premises is strictly forbidden.

Contractor shall provide portable fire extinguishers compatible with the hazard of each work area and shall instruct its personnel in their location and use. Wherever welding and burning are conducted, no inflammable materials shall be allowed, and welding activities shall be shielded. The Contractor shall post a Hot Work Permit whenever an open flame shall be utilized for work.

2.11 PUMPING AND DRAINAGE

Surface or sub-surface water or other fluid shall not be permitted to accumulate in excavations or under any structure. Should such conditions develop or be encountered, the water or other fluid shall be controlled and suitably disposed of by means of temporary pumps, piping, drainage lines and ditches, dams or other methods approved by the Owner and other public agencies having jurisdiction.

2.12 DUST CONTROL

The Contractor, for the duration of the Contract, shall maintain all excavations, embankments, haul roads, access roads, plant sites, waste disposal areas, borrow areas, and all other work areas free from dust. Industry-accepted methods of dust control suitable for the area involved and approved by Owner will be permitted.

2.13 WATER POLLUTION

Contractor shall, at its expense, provide suitable facilities to prevent the introduction of any substances or materials into any stream, river, lake or other body of water, which may pollute the water or constitute substances or materials deleterious to fish and wild life.

2.14 ILLUMINATION

When any work is performed at night or where daylight is shut off or obscured, Contractor shall, at its expense, provide artificial light sufficient to permit work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods the access to the place of work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in compliance with local code, securely fastened in place at all points, and shall be kept as far as possible from telephone wires, signal wires, and wires used for firing blasts.

2.15 HAZARDOUS MATERIAL

The Contractor shall immediately notify Owner of any hazardous materials subsequently found on the site and shall not remove same without the permission of Owner.

If the contractor caused the hazardous material and subsequent contamination, Contractor shall remove said hazardous material and contaminated soils or materials from the site and shall dispose of same in accordance with all Federal, State or Local laws or regulations. Removal of such materials and contamination shall be monitored by a licensed hazardous materials laboratory, and said laboratory shall prepare a written report attesting to the complete removal of the contaminating material and resulting contamination, all to the satisfaction of, and at no cost to, the Owner.

2.16 EROSION CONTROL

Contractor shall also follow all erosion control measures on construction drawings and or plans and specifications. Contractor shall conform to all Federal, State, and local laws and regulations pertaining to erosion control within or adjacent to the project.

2.17 ADDITIONAL WORK

Additional work is that which results from a change or alteration in the contract and for which there are existing contract unit prices.

END OF CONTROL OF WORK

3. PROSECUTION AND PROGRESS

3.1 PRE-CONSTRUCTION MEETING

A pre-construction conference will be scheduled as soon as practical after the award of the Contract. The Contractor shall attend the conference along with the prospective job superintendent, any anticipated major subcontractors and major material suppliers. A proposed progress schedule in a form satisfactory to the Engineer and a statement of the anticipated monthly progress payments showing the percent of progress each month shall be submitted.

The Contractor shall also provide at least two (2) local telephone numbers that may be used to contact the Contractor or his authorized representative in the event of an emergency after normal business hours. The Contractor will provide a Request for Taxpayer Identification Number and Certification (W-9). Upon receipt of the required documentation, a Notice to Proceed will be issued by the Engineer.

The Town will provide two (2), copies of the contract to the contractor and the pre-construction conference. Additional copies may be obtained subject to the cost of printing.

3.2 PROPOSAL SECTION

This proposal has been separated into two phases to facilitate the administration of this contract. (Reference Section IV, 5, page 19.)

Bids will be awarded to the low bidder on the basis of the total bid. If work is encountered in a phase and a pay item is not set up for the work in that phase, tbe work will be paid for at unit prices taken from the other phase. Mobilization will be paid for in Phase 1.

The Contractor will be required to complete all sections of the Proposal. Payment will be made for work completed as outlined in the Itemized Bid Form and Project Special Provisions sections. The Contractor is forewarned to bid this work in strict accordance to the line items.

The Town reserves the right to revise the construction sequence as may be required to meet changing needs of the Town. If the construction schedule is revised, interim project completion dates will be revised based on the interim project completion times.

3.3 NOTICE TO PROCEED

A Notice to Proceed will be issued to the Contractor upon receipt of a fully executed contract, bonds, insurance certificates, receipt of approval by other governmental agencies (if required) and any other documentation required by the Engineer.

3.4 PROSECUTION AND PROGRESS

Unless otherwise specified, the Contractor shall submit his/her progress schedule for the Owner's approval at the pre-construction meeting. The Contractor's progress schedule, when approved by the Owner, may be used to establish major construction operations and to check on the progress of the Work.

If the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the Owner's request, submit a revised schedule for completion of the Work within the Contract Time and modify his/her operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the prosecution of the Work be discontinued for any reason, the Contractor shall notify the Owner in writing at least 24 hours in advance of resuming operations.

The Contractor shall not commence any actual construction prior to the date set forth in the Notice to Proceed.

3.5 TEMPORARY SUSPENSION OF THE WORK

The Owner shall have the authority by written notice to the Contractor, to suspend the Work wholly, or in part, for such period or periods as the Owner may deem necessary, or for such time as is necessary due to the failure on the part of the Contractor to carry out orders given or to perform any or all of the Contractor's other duties under this Contract.

A. If the Contractor is ordered by the Owner to suspend the Work under this Section due to an unforeseen cause not otherwise provided for in the other provisions of this Contract and over which the Contractor has no control, the Contractor may be reimbursed for actual money expended on the Work during the period of shutdown. No allowance will be made for anticipated profits. The period of shutdown shall be computed from the effective date of the Owner's order to suspend the Work to the effective date of the Owner's order to resume the Work. Claims for such compensation shall be filed with the Owner within the time period stated in the Owner's order to resume work. The Contractor shall submit with its claim information substantiating the amount shown on the claim.

B. If the Work is suspended under this Section for an indefinite period, the Contractor shall perform the following duties:

1. Suitably store all materials.

2. Implement measures to protect existing work from damage or deterioration.

3. Erect such temporary structures and barricades as necessary to provide for traffic on, to or from the Project.

4. Periodically inspect and maintain the Work and temporary measures during the suspension period, and repair any damage to the Work during the suspension period.

5. Maintain all insurance and bond coverage.

6. Perform such other work as required by the Contract Documents with respect to the Project.

7. Remobilize when ordered to resume the Work by the Engineer.

The Contractor shall notify the Owner in writing fourteen (14) calendar days prior to demobilizing. At the time that the written notice is given to the Owner, the Contractor shall submit a written estimate of any costs of remobilization except in those cases in which the Contractor will bear the costs of remobilization under Paragraph C hereof. Compliance by the Contractor with such notice requirement, and with the requirement for submitting such written estimate, shall be a prerequisite to the Contractor's right to recover any costs incurred by the Contractor to comply with this Paragraph B, to the extent the Contractor would otherwise have a claim for such costs hereunder.

C. If the Contractor requests a suspension of the Work in whole or in part, or if the Contractor is ordered by the Owner to suspend the Work under this Section due to inclement weather, due to the Contractor's failure to carry out orders given or due to the Contractor's failure to perform any of the Contractor's other duties under this Contract, then:

1. The Contractor shall not be entitled to any additional compensation for fulfilling the duties that the Contractor is required to perform by reason of such suspension, regardless of whether any additional compensation would otherwise be allowed hereunder, including, without limitation, any additional compensation for fulfilling any of the duties that are imposed upon the Contractor under Paragraph B hereof or for fulfilling the Contractor's duty to remobilize at the end of such suspension; and

2. The Contractor shall pay the Owner all of the costs that are incurred by the Owner by reason of such suspension, including, but not limited to, the Engineer's fees and the costs of any necessary inspections or testing during the period of such suspension.

3.6 ADJUSTMENT OF CONTRACT TIME

The Contract Time may be adjusted only by change order, when requested by the Contractor in writing and approved by the Owner, for reasons outside of the Contractor's control, as follows:

A. Natural disasters affecting the site; or

B. Excessive rainfall during the entire calendar month, defined as total monthly rainfall in excess of the normal rainfall for that calendar month and total number of days with more than 0.10 inches of rainfall in excess of the normal number of such days for that calendar month. Normal values shall be taken as published in "Climatography of the United States No. 20 for North Carolina"; or

C. Suspension of the Work as order by the Owner; or

D. Delays in critical work by others that is not part of this Contract; or

E. Significant additions to the scope of the Work.

The Contractor shall bear the burden of proof that a delay has been caused by factors outside his control, shall clearly demonstrate how the delay impacts the critical path of the Work as shown on his work schedule as last revised, and shall demonstrate that he has made reasonable and prudent efforts to overcome the impact of the delay on the critical path. With respect to item (b) above, a condition precedent to meeting its burden of proof will be the monthly submission to the owner of a statement of the number of days, if any, the Contractor was prevented from prosecuting the Work during the immediately preceding month due to excessive rainfall.

3.7 FAILURE TO COMPLETE PUNCH LIST ON TIME

The Contractor shall complete all punch list items determined by the Owner within thirty (30) calendar days. Should the Contractor fail or refuse to complete all punch list items to the satisfaction of the Owner within the said 30-day period, the Owner shall have the right to complete all said punch list items. In such event, Owner shall be entitled to recover from Contractor the Owner's actual costs incurred in completing such punch list items, plus any and all consequential damages and costs incurred by Owner as a result of Contractor's failure to complete such punch list items. Failure to complete all punch list items within thirty (30) calendar days, shall be considered Default of Contract and shall result in loss of any remaining retainage otherwise due to the Contractor.

3.8 DEFAULT AND TERMINATION OF CONTRACT

The Contractor shall be considered in default and such default will be considered as cause for the Owner to terminate the Contract for any of the following reasons if the Contractor:

A. Fails to begin the Work under the Contract within ten (10) calendar days of the date of commencement specified in the "Notice to Proceed"; or

B. Fails to perform the Work or fails to provide sufficient workers, equipment or materials to assure completion of the Work in accordance with the terms of the Contract; or

C. Performs the Work unsuitably or neglects or refuses to remove materials or to perform anew such Work as may be rejected as unacceptable and unsuitable; or

D. Discontinues the prosecution of the Work; or

E. Fails to resume Work which has been suspended within a reasonable time after notice to do so; or

F. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency; or

G. Allows any final judgment related to the Project to stand against him unsatisfied for a period of 10 days; or

H. Makes an assignment for the benefit of creditors; or

I. Fails to perform any covenant of this Contract, or

J. For any other cause whatsoever, fails to carry on the Work in an acceptable manner.

Should the Owner consider the Contractor in default of the Contract for any reason hereinbefore, the Owner shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the Owner's intentions to terminate the contract.

If Contractor or Surety shall fail to cure such default within 10 calendar days after such written notice from the Owner of the existence of such default or, if such default cannot with reasonable diligence be cured within a period of 10 calendar days, then upon the failure of the Contractor to commence to cure such default within said 10-day period and to proceed with due diligence to complete the remedying of said default; then the Owner will, have full power and authority, without violating the Contract, to terminate the Contract and/or to take control of the Work.

All costs and charges incurred by the Owner, together with the cost of completing the Work, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of such excess.

3.9 TERMINATION FOR CONVENIENCE

At any time after the acceptance of this Contract, the Owner shall have the absolute right to terminate the entire Contract or any part thereof for any reason whatsoever.

3.10 ACTIONS UPON TERMINATION OR TERMINATION FOR CONVENIENCE

Upon receipt of such notice of termination, the Contractor shall:

A. Stop the performance of the Work.

B. Take any other action toward termination of the Work which the Owner directs, including but not limited to:

1. Stabilization of the unfinished site to meet the conditions of the erosion and sediment control permit and at the direction of the Department of Environment and Natural Resources.

2. Maintain the necessary traffic control devices until all potential hazards due to unfinished construction activities have been removed and/or to the satisfaction of the Owner. Traffic control devices that are determined by the Owner to remain shall become the property of the Owner.

3. Complete any pay item as directed by the Owner that if left uncompleted may result in a safety hazard.

4. Deliver all paid stored materials stored off site and material stored on site to a location directed by the Owner.

5. Remove all temporary facilities.

6. Provide any necessary items of Work to secure the Site from public access as directed by the Engineer.

3.11 PAYMENT UPON TERMINATION

When the Contract, or any portion thereof, is terminated before completion of all pay items, payment will be made for the actual number of units or items of Work completed at the Contract price or as mutually agreed for items of Work partially completed.

If the Contract is terminated under Paragraph 3.8 (Termination for Convenience), reimbursement for organization of the Work, and other overhead expenses, (when not otherwise included in the contract) and moving equipment and materials to and from the job will be considered, the intent being that an equitable settlement will be made with the Contractor.

Acceptable materials, obtained or ordered by the Contractor for the Work and that are not incorporated in the Work shall, at the option of the Owner, be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the Owner.

If the sum of all previous payments and credits made by the Owner exceeds the sum payable due to the Contractor, such excess shall be refunded by the Contractor to the Owner immediately upon the determination of such excess by the owner.

If the Contract is terminated under Paragraph 3.8 (Termination for Convenience), the Contractor shall be paid a sum as profit determined taking the amount of profit the Contractor would have received upon completing this Contract, multiplied by a fraction, the numerator of which is the value of the Work completed as of the date of receipt of the notice of termination and the denominator of which is the Contract Price.

Termination of the Contract or a portion thereof shall neither relieve the Contractor of his/her responsibilities for the completed Work nor shall it relieve his/her surety of its obligation for and concerning any just claim arising out of the Work performed.

The Owner shall be given full access to all books, cost records, correspondence and papers of the Contractor relating to the Contract in order to determine amounts to be paid the Contractor due to any termination of the Contract.

3.12 PARTIAL ACCEPTANCE

If at any time during the prosecution of the Work the Contractor substantially completes a usable unit or portion of the Work, the occupancy of which will benefit the Owner, he may request the Owner to make final inspection of that unit. If the Owner finds upon inspection that the unit has been satisfactorily completed in compliance with the Contract, he may accept it as being completed, and the Contractor may be relieved of further responsibility for that unit. Such partial acceptance and beneficial occupancy by the Owner shall not void or alter any provision of the Contract.

3.13 FINAL ACCEPTANCE

Upon due notice from the Contractor of presumptive completion of the entire Work, the Owner will make an inspection. If all construction provided for and contemplated by the Contract is found to be completed in accordance with the Contract Documents, such inspection shall constitute the final inspection. The Owner shall notify the Contractor in writing of final acceptance as of the date of the final inspection.

If, however, the inspection discloses any Work, in whole or in part, as being unsatisfactory, the Owner will give the Contractor the necessary instructions for correction of same and the Contractor shall immediately comply with and execute such instructions. Upon correction of the Work, another inspection will be made which shall constitute the final inspection, provided the Work has been satisfactorily completed. In such event, the Owner will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

END OF PROSECUTION AND PROGRESS

4. MEASUREMENT AND PAYMENT

4.1 MEASUREMENT OF QUANTITIES

All Work completed under the Contract will be measured by the Owner, or his/her authorized representatives, using United States Customary Units of Measurement.

The method of measurement and computations to be used in determination of quantities of material furnished and of Work performed under the Contract will be those methods generally recognized as conforming to good engineering practice.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally, and no deductions will be made for individual fixtures (or leave-outs) having an area of 9 square feet or less. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the plans or ordered in writing by the Engineer.

Structures will be measured according to neat lines shown on the plans or as altered to fit field conditions.

Unless otherwise specified, all pay items which are measured by the linear foot such as electrical ducts, conduits, pipe culverts, underdrains, and similar items shall be measured parallel to the base or foundation upon which such items are placed.

In computing volumes of excavation the average end area method or other acceptable methods will be used.

The thickness of plates and galvanized sheet used in the manufacture of corrugated metal pipe, metal plate pipe culverts and arches, and metal cribbing will be specified and measured in decimal fraction of inches.

The term "ton" will mean the short ton consisting of 2,000 pounds avoirdupois. All materials which are measured or proportioned by weights shall be weighed on accurate, approved scales by competent, qualified personnel at locations designated by the Engineer. If material is shipped by rail, the car weight may be accepted provided that only the actual weight of material be paid for. However, car weights will not be acceptable for material to be passed through mixing plants. Trucks used to haul material being paid for by weight shall be weighed empty daily at such times as the Engineer directs, and each truck shall bear a plainly legible identification mark.

Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured therein at the point of delivery. Vehicles for this purpose may be of any size or type acceptable to the Engineer, provided that the body is of such shape that the actual contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.

When requested by the Contractor and approved by the Engineer in writing, material specified to be measured by the cubic yard may be weighed, and such weights will be converted to cubic yards for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the Engineer and shall be agreed to by the Contractor before such method of measurement of pay quantities is used.

Bituminous materials will be measured by the gallon or ton. When measured by volume, such volumes will be measured at 60°F or will be corrected to the volume at 60°F using ASTM D 4311 for asphalts or ASTM D 633 for tars.

Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when bituminous material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the work.

When bituminous materials are shipped by truck or transport, net certified weights by volume, subject to correction for loss or foaming, may be used for computing quantities.

Cement will be measured by the ton or hundredweight.

Unless otherwise specified, timber will be measured by the thousand feet board measure (M.F.B.M.) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The term "lump sum" when used as an item of payment will mean complete payment for the Work described in the contract.

When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

Rental of equipment will be measured by time in hours of actual working time and necessary traveling time of the equipment within the limits of the work. Special equipment ordered by the Engineer in connection with force account work will be measured as agreed in the change order or supplemental agreement authorizing such force account Work as provided in the subsection titled PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK of this section.

When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gage, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.

Scales for weighing materials which are required to be proportioned or measured and paid for by weight shall be furnished, erected, and maintained by the Contractor, or be certified permanently installed commercial scales.

Scales shall be accurate within one-half percent of the correct weight throughout the range of use. The Contractor shall have the scales checked under the observation of the inspector before beginning work and at such other times as requested. The intervals shall be uniform in spacing throughout the graduated or marked length of the beam or dial and shall not exceed one-tenth of 1 percent of the nominal rated capacity of the scale, but not less than 1 pound. The use of spring balances will not be permitted.

Beams, dials, platforms, and other scale equipment shall be so arranged that the operator and the inspector can safely and conveniently view them.

Scale installations shall have available ten standard 50-pound weights for testing the weighing equipment or suitable weights and devices for other approved equipment.

Scales must be tested for accuracy and serviced before use at a new site. Platform scales shall be installed and maintained with the platform level and rigid bulkheads at each end.

Scales "over weighing" (indicating more than correct weight) will not be permitted to operate, and all materials received subsequent to the last previous correct weighing-accuracy test will be reduced by the percentage of error in excess of one-half of 1 percent.

In the event inspection reveals the scales have been "under weighing" (indicating less than correct weight), they shall be adjusted, and no additional payment to the Contractor will be allowed for materials previously weighed and recorded.

All costs in connection with furnishing, installing, certifying, testing, and maintaining scales; for furnishing check weights and scale house; and for all other items specified in this subsection, for the weighing of materials for proportioning or payment, shall be included in the unit Contract prices for the various items of the project.

When the estimated quantities for a specific portion of the Work are designated as the pay quantities in the contract, they shall be the final quantities for which payment for such specific portion of the Work will be made, unless the dimensions of said portions of the Work shown on the plans are revised by the Engineer. If revised dimensions result in an increase or decrease in the quantities of such work, the final quantities for payment will be revised in the amount represented by the authorized changes in the dimensions.

4.2 COMPENSATION FOR ACTUAL QUANTITIES

When the actual quantities of work vary from the estimated quantities, the Contractor shall accept as payment in full, so far as pay items are concerned, payment at the unit price for the quantities of work actually completed and accepted. No allowance will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor which results directly or indirectly from its unbalanced allocation of overhead and profit among the pay items, or from any other cause.

4.3 PARTIAL PAYMENT/RETAINAGE

Partial payments will be made at least once each month as the Work progresses. Said payments will be based upon estimates, prepared by the Contractor and approved by Owner, of the value of the Work performed and materials complete in place in accordance with the Contract Documents. Each invoice shall include the Contractor's Affidavit Release and Waiver of Claim and the Sales and Use Tax Certification Statement.

No partial payment will be made when the amount due the Contractor since the last estimate amounts to less than ten thousand dollars ($10,000.00).

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in the subsection titled ACCEPTANCE AND FINAL PAYMENT of this section.

From the total of the amount determined to be payable on a partial payment, five percent (5%) of such total amount will be deducted and retained by the Owner until final payment is made. The balance (%) of the amount payable, less all previous payments, shall be certified for payment. (G.S. 143-134.1)

4.4 ACCEPTANCE AND FINAL PAYMENT

When the Work has been accepted in accordance with the requirements of the subsection titled FINAL ACCEPTANCE, the Owner shall determine the actual quantities of the items of work actually performed. The Contractor shall approve the Owner's statement of actual quantities or advice the Owner of his/her objections which are based on disputes in measurements or computations of the final quantities. The Contractor and the Owner shall resolve all disputes (if any) in the measurement and computation of final quantities to be paid within 30 calendar days of the Contractor's receipt of the Owner's final statement of actual quantities. If, after such 30-day period, a dispute still exists, the Contractor may approve the Owner's statement of actual quantities under protest of the quantities in dispute, and such disputed quantities shall be considered by the Owner as a claim in accordance with the subsection titled CLAIMS FOR ADJUSTMENT AND DISPUTES.

After the Contractor has approved, or approved under protest, the Owner's statement of actual quantities, final payment will be processed based on the entire sum, or the undisputed sum in case of approval under protest, determined to be due the Contractor less all previous payments and all amounts to be deducted under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

4.5 LIENS

The final payment shall become due when the Contractor delivers to the Owner: (a) an affidavit stating, if that be in fact, that all subcontractors and suppliers have been paid in full, or if the fact be otherwise, showing the name of each subcontractor and supplier who has not been paid in full and the amount due or to become due each for labor, service or material furnished; (b) Consent of Surety, if any, to final payment; and (c) if required by Owner, other data establishing payment for satisfaction of all obligations, such as receipt, releases, and waivers of lien arising out of the Contract to the extent and in such form as designated by the Owner.

4.6 CLAIMS FOR ADJUSTMENT AND DISPUTES

If for any reason the Contractor deems that additional compensation is due him for work or materials not clearly provided for in the Contract Documents or previously authorized as Extra Work, he shall notify the Owner in writing of his/her intention to claim such additional compensation before he begins the work on which he bases the claim. If such notification is not given or the Owner is not afforded proper opportunity by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor and the fact that the Owner has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the Contractor shall, within 10 calendar days, submit his/her written claim to the Owner and the Engineer. Failure to do so within the time specified will constitute a waiver by Contraetor of the claim.

Nothing in this subsection shall be construed as a waiver of the Contractor's right to dispute final payment based on differences in measurements or computations.

The following documentation and information must be presented in order to properly evaluate such claim:

A. Definition of the basis of the claim, including a detailed identification of which materials and what work is considered to represent a change to the original contract, an explanation of why the work or material is different than what was called for by the original Contract, and an identification of the contract provisions and anything else which the Contract relied upon;

B. An explanation of how and why the work which is considered a change will result in any additional cost or performance time for the Contractor;

C. An identification of the categories of additional costs which may be incurred, an estimate of the dollar magnitude of each, and a statement of the impact this work will have on the construction schedule, including the contract completion dates;

D. An indication of how the additional costs which is believed that may be incurred can be, and are to be, quantified;

E. Documentation of any actual additional costs and any actual impact to the construction schedule due to this work;

F. Documentation of the cost of performing all similar "unchanged" work, to provide the Engineer a basis for comparison;

G. All backup and other documentation which are believed to support or relate to the claim;

H. Documentation quantifying the amount of work which is believed to constitute this "changed" Work, and the time period and the areas where such work was or is to be performed.

4.7 CORRECTION OF WORK AFTER FINAL PAYMENT

Neither the final certificate nor payment, nor any provision in the Contract Documents shall relieve the Contractor of responsibility for faulty materials or workmanship and, unless otherwise specified, he shall remedy any defect due thereto and pay for any damage to other Work resulting therefrom, which shall appear within a period of one year from date of final acceptance. Wherever the word "acceptance" occurs, it shall be understood to mean final acceptance.

The Owner shall give notice of observed defects with reasonable promptness. If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after the receipt of notice, the Owner shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense. With respect to all warranties, expressed or

implied, from subcontractors, manufacturer, or suppliers for Work performed and materials furnished under this Contract, the Contractor shall:

A. Obtain all warranties that would be given in normal commercial practice.

B. Require all warranties to be executed, in writing, for the benefit of the Owner.

4.8 SUBSURFACE INVESTIGATION

The Contractor shall make his own subsurface investigations. Any information obtained by the Town as a result of its own subsurface investigations will be made available upon request. This information (when available) is provided for informational purposes only and shall not relieve the Contractor from making his own investigations. The Contractor shall obtain all necessary permits prior to making any pavement cuts on existing streets.

4.9 EXISTING UNDERGROUND UTILITIES/FACILITIES

The location of all existing underground utilities will be illustrated on the approved construction drawings for information purposes only. The Town will not be held liable for the accuracy of the utility locations, sizes, depths, or for completeness of utility information. Utility owners have been notified of the project. Each utility owner will be requested to attend the preconstruction conference to discuss potential conflicts and their schedule for relocation where required. All adjustments or relocations will be made by the utility owner unless otherwise indicated in the Contract Documents.

The owners of utilities in this project could include but not be limited to:

AT&T
Duke Energy
North Carolina Department of Transportation
PSNC Energy
Piedmont Natural Gas Company
Time Warner Cable
Union County Public Works
Union Power Cooperative
Utilities, Inc. /Carolina Water Service
Windstream

The Contractor shall adhere to the provisions of 1985 Underground Damage Prevention Act North Carolina General Statutes 887 Chapter 785 Senate Bill 168 Article 3. To assist the contractor and utility owners in meeting the requirements of this law, there is a "one call system" called "NC ONECALL".

Most major utilities with underground facilities in the State subscribe to this service. For calls originating within North Carolina, The NC ONECALL telephone number is **811**.

Contact Union County Public Works (704-296-4210) for water and sewer line and service locates.

For locates of utilities not members of NC One-Call contact the designated project manager.

Prior to construction, the Contractor shall notify all utility owners whose facilities will be affected to determine utility locations

The Contractor shall include the cost of any coordination and cooperation of utilities in his bid.

No additional compensation shall be allowed for delays or inconveniences sustained by the Contractor due to utility relocation or adjustments. No additional payment will be made for re-mobilization required by the utility's failure to relocate utility at the request of the Contractor. The Contractor should refer to Section 108-10 (B) paragraph 3 of the Standard Specifications.

Where changes to utility facilities are to be made solely for the convenience of the Contractor, it shall be the Contractor's responsibility to arrange for such changes, and the Contractor shall bear all costs of such changes.

The Town will not assume nor accept any responsibility for charges assessed by private or public utility companies or from the NC Department of Transportation for damages sustained to their property by virtue of action on the part of the Contractor, nor for such charges as may be imposed by the utility or Department of Transportation for personnel to furnish field location of the facility. All such costs are to be borne by the Contractor within the unit prices and/or lump sum prices stated in the Bid.

4.10 MATERIALS TICKETS

All quantity tickets for items not measurable in place shall be submitted to the Project Inspector within forty-eight (48) hours after receipt of the material on the job. Each ticket shall indicate the date, contractor, job location and name, type of material, quantity of material, truck number and signature of the contractor or his authorized representative.

No tickets will be accepted after forty-eight (48) hours have elapsed between the time of delivery and submittal of tickets to the Project Inspector.

END OF MEASUREMENT AND PAYMENT

5. MISCELLANEOUS

5.1 VENUE

This Contract has been executed by, delivered to and accepted by the Owner in North Carolina, and the provisions hereof shall be governed by the laws of North Carolina. Any disputes arising out of or related to this Contract shall be resolved in accordance with said laws.

The parties agree that any action or legal proceeding arising out of or related to this Contract shall be brought in the state courts of Union County, NC or in the U.S. District Court for the Western District of North Carolina; and the parties hereby consent to and waive any objection to jurisdiction or venue in said courts.

5.2 INDEPENDENT CONTRACTOR

Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such work. Contractor shall act as an independent contractor and not as the agent of Owner in performing the Contract, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such supplier or subcontractor and Owner.

5.3 INDEPENDENT CONTRACTOR

Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such work. Contractor shall act as an independent contractor and not as the agent of Owner in performing the Contract, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such supplier or subcontractor and Owner.

5.4 LAWS AND REGULATIONS

Contractor and its employees and representatives shall at all times comply with all applicable laws, ordinances, statutes, rules or regulations in effect at the time Work is performed under this Contract.

5.5 INDEMNITY

Contractor agrees to defend, indemnify and hold harmless the Owner, its officers, employees and agents from any and all claims, suits, actions, damages, expenses, costs (including attorneys' fees if applicable) or fines, arising from Contractor's performance of this Contract; provided that Contractor shall not be liable for any injury, damage or loss occasioned by the sole negligence of Owner, its officers, employees or agents. Contractor shall purchase insurance, as described in this Section, which insurance shall provide coverage for this contractual liability. In any case in which Contractor provides a defense to the Owner, its officers, employees or agents, pursuant to his indemnity, the defense will be provided by attorneys reasonably acceptable to the Owner. The provisions of this Section shall survive the expiration or early termination of this Agreement.

5.6 INSURANCE

A. Commercial General Liability Insurance. Contractor shall maintain in force during the term of this Contract commercial general liability insurance, in an amount acceptable to Owner but no less than One Million Dollars ($1,000,000) per occurrence. This insurance shall include coverage for products/completed operations, bodily injury, personal injury, property damage and the contractual liability assumed under the indemnity provision of the Contract. The policy shall be occurrence-based and name the Owner as an additional insured.

B. Vehicle Liability Insurance. Contractor shall maintain in force during the term of this Contract liability insurance covering the operations of Contractors' owned, non-owned and hired automobiles and other ground vehicles, for limits satisfactory to Owner but not less than One Million Dollars ($1,000,000) bodily injury and property damage each occurrence. The policy shall be occurrence-based and name the Owner as an additional insured.

C. Worker's Compensation and Employer's Liability Insurance. Contractor shall maintain worker's compensation and employer's liability insurance in the amounts and form required by the laws of the State of North Carolina.

D. A certificate evidencing all insurance coverage required of Contractor shall be filed with the Owner at the execution of this Contract, and such certificate shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) day's prior written notice to the Owner. At least ten (10) days prior to the expiration of any such policy, a certificate showing that such coverage has been renewed shall be filed with the Owner. If such insurance coverage is canceled or reduced, the Contractor shall within fifteen (15) days after receipt of written notice from the Owner of such cancellation or reduction in coverage, file with the Owner a certificate showing the required insurance has been reinstated or provided through another insurance company or companies. The company or companies furnishing insurance shall be qualified to issue insurance effective in the State of North Carolina.

E. Payment and Performance Bonds. Contemporaneously with Contractor's execution of the Contract Documents, Contractor shall supply the Owner with a Performance Bond and a Payment Bond, each in an amount equal to the estimated Contract Price.

5.7 CONTRACT MEETINGS

The Contractor shall, as requested by Owner, attend any and all meetings called by Owner to discuss the Work. Such meetings shall be conducted and recorded by the Contractor with minutes of each meeting distributed to Owner and Contractor.

5.8 SUCCESSORS, ASSIGNEES AND ASSIGNMENT

Contractor shall not assign, transfer, convey or otherwise dispose of the Contract or its right, title or interest in or to the same or any part thereof, without previous written consent of the Owner and concurred to by the sureties.

5.9 AUDIT RIGHTS

The Owner shall have the right to inspect, examine and make copies of any and all books, accounts, records, and other writings of contractors relating to the performance of the Work under the Contract, including change orders. Such audit rights shall be extended to any duly authorized representatives designated by the Owner. Audits shall take place at times and locations mutually agreed upon by both parties, but not later than one week following the date of a request for an audit.

5.10 OSHA REQUIREMENTS

The Contractor shall comply with OSHA and all other applicable regulations.

5.11 TAX STATEMENT SUBMITTAL

A. All tax statement bodies and all signatures must be original. Photocopies of blank forms may be used, provided the document containing the information is original.

B. All tax statements must be signed by the Contractor/Subcontractor's company officer submitting the statement and certified by a Notary Public. All tax statements must list in detail taxes paid by individual invoice. No lump sum, running total, or copies of previously reported statements will be accepted. Tax statements shall show North Carolina tax and County tax paid.

C. A tax statement showing detailed amounts with "amounts previously reported" noted on the face will be accepted if they are original. This is the equivalent of a statement indicating "no taxes paid this period." All subcontractors for whom tax statements are included must be certified as such on the face of the Contractor's tax statement.

D. Tax statements (the State/County Sales/Use Tax Statement form) must always accompany a payment request for the related project. All final construction payment requests must have a final tax statement regardless of whether any taxes have been paid during the period in question. If no taxes have been paid, the detail page should simply state "0", "None", or "No taxes paid this period."

5.12 PROJECT CLOSEOUT SUBMITTALS

The Contractor shall submit two (2) copies (except as noted) of the following documents. Each document shall be an original, signed, and notarized where requested. Final payment will not be made until all documents are submitted:

A. Final Application and Certificate for Payment with Sales and Use Tax Certification Statement.

B. Contractor's Affidavit Release and Waiver of Claim

C. Consent of Surety to Final Payment (contracts equal to or exceeding $100,000) (AIA Document G707).

D. Guarantees, Warranties, and Test Results required by the Contract Documents.

E. Operation and Maintenance Manuals and spare parts or materials (as required).

END OF MISCELLANEOUS

CONTRACTOR'S AFFIDAVIT RELEASE AND WAIVER OF CLAIM

STATE OF _____ COUNTY OF _____

_____, _____, of
(Name) (Title)

_____, being first duly sworn, deposes and says that:
(Company)

The undersigned is authorized to execute this Affidavit, Release and Waiver of Claim on behalf of the Contractor and that he has personal knowledge of all facts set forth herein;

This Affidavit, Release and Waiver of Claim is made concerning the construction of the following:

Project: _____ Project No.: _____

All payrolls, material bills, sales tax, social security tax, state and federal unemployment insurance, and all other liabilities and taxes owed by the Contractor and arising in any manner from the above-described project have been paid in full;

No claim or lien exists in favor of any supplier of materials or labor or in favor of any subcontractor furnishing materials or labor on the above-described project;

Notwithstanding the foregoing, if the Town of Indian Trail, or property of the Town of Indian Trail, is subject to any claim or lien that arises in any manner from the failure of the Contractor to pay any liability described above, the Contractor will indemnify and hold the Town of Indian Trial harmless for any amount that the Town of Indian Trail is required to pay to discharge such lien or settle such claim and, further, will pay the Town of Indian Trail's expenses, costs, and attorney fees incurred in connection therewith;

All claims, suits, and proceedings of every name, description, or nature arising out of the above project against the Town of Indian Trail, its officers, employees, and agents have been settled;

The Contractor releases and waives any and all claims of every type and description that the Contractor may have against the Town of Indian Trail arising in any manner from the construction of the above-described project.

By: _____

Title: _____

Date: _____

Subscribed and sworn before me this
the _____ day of _____, 20___.

_____
Signature of Notary Public

of _____County

State of _____

My Commission Expires: _____

NOTARY SEAL

STATE/COUNTY SALES/USE TAX STATEMENT

PROJECT: _____

CONTRACTOR/SUBCONTRACTOR: _____

PERIOD COVERED: _____

Invoice No.	Date	Vendor	Before Tax	5.50% NC Tax	____% County Tax	Total Invoice	County

I certify that the above-listed vendors were paid sales tax upon purchases of building material during the period covered by the construction estimate, and the property upon which such taxes were paid were, or will be, used in the performance of this Contract. The list above does not include any taxes paid on purchases of tangible personal property that does not annex to, affix to, or in some manner become a part of the project, building, structure or repairs.

By: _____

Title: _____

Date: _____

Subscribed and sworn before me this the _____ day of _____, 20___.

_____
Signature of Notary Public

of _____County

State of _____

My Commission Expires: _____

NOTARY SEAL

VI. DISPUTE RESOLUTION REQUIREMENTS

DISPUTE RESOLUTION REQUIREMENTS ("Requirements") FOR CERTAIN TOWN OF INDIAN TRAIL CONTRACTS

In accordance with N.C.G.S. § 143-128 (f1), these Requirements establish the dispute resolution process for all Town building construction projects that cost over $300,000, exclusive of land acquisition and design costs ("Eligible Projects").

This dispute resolution process will be available to all parties involved in the Town's Eligible Projects, including the Town, the architect, the construction manager, the contractors, and the first-tier and lower-tier subcontractors. Therefore, it is the Town's policy that the following clauses are hereby made part of all contracts executed by the Town on Eligible Projects.

1. It is understood and agreed that NCGS 143-128(g-h) requires that disputes arising under an agreement for the erection, construction, alteration or repair of a building be subject to a dispute resolution process specified by the owner. In compliance with this statutory provision, the Town specifies this Article as the dispute resolution process to be used on Eligible Projects. It is further understood and agreed that this dispute resolution process is based on non-binding mediation and will only be effective to the extent that the Parties to any mediated dispute participate in the mediation in good faith. It is also understood and agreed that the Town is under no obligation under any circumstance to secure or enforce the participation of any other Party in the mediation of any dispute subject to this Article and GS 143-128(g-h).

2. Any dispute arising between or among the Parties listed in Section 4 of this Article that arises from an agreement to construct the Eligible Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered by the American Arbitration Association under its Construction Industry Mediation Rules ("Rules"), except as otherwise expressly set forth in this Article. To the extent any provision of the Rules is inconsistent with the provisions of this Article, the provisions of this Article shall control. To the extent any provision of this Article is inconsistent with the dispute resolution provisions of any contract between or among the Parties, this Article shall control. The mediation provided in this Article is in lieu of any dispute resolution process adopted by the North Carolina State Building Commission, which process shall not apply to this Eligible Project.

3. For purposes of this Article the following definitions shall apply:

   Construct or *construction* refers to and includes the erection, construction, alteration or repair of the Eligible Project; and

   Party or *Parties* refers to the parties listed in Section 4 of this Article.

4. The Town and any Party contracting with the Town or with any first-tier or lower-tier subcontractor for the construction of the Eligible Project agree to participate in good faith in any mediation of a dispute subject to this Article and GS 143-128(g-h), including without limitation the following Parties (if any): architect(s), engineer(s), surveyor(s), construction manager, construction manager at risk, prime contractor(s), surety(ies), subcontractor(s), and supplier(s).

5. In order to facilitate compliance with GS 143-128(g-h), all Parties shall include this Article in every agreement to which it (any of them) is a Party for the Eligible Project without variation or exception. Failure to do so will constitute a breach of contract, and the Party failing to include this Article in any agreement required by this Article shall indemnify and hold harmless the remaining Parties from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach. Notwithstanding the foregoing provisions of this Section, it is expressly understood and agreed that the Parties are intended to be and shall be third-party beneficiaries of the provisions of this Article and can enforce the provisions hereof.

6. a. The following disputes are not subject to mediation:

   i. A dispute seeking a non-monetary recovery; and

   ii. A dispute seeking a monetary recovery of $15,000 or less.

b. A dispute seeking the extension of any time limit set forth in an agreement to construct the Project shall be subject to mediation pursuant to this Article and GS 143-128(g-h), but only if the damages which would be suffered by the Party seeking the extension would exceed $15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such Party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.

7. For purposes of this Article, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single Party or two or more Parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all Parties to such disputes.

8. In addition to such matters as are required by the Rules, a request for mediation shall include the amount of the monetary relief requested.

9. Prior to requesting mediation, a Party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining Parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining Party, unless supported by such investigation and good faith belief by the Party requesting the mediation.

   In addition, prior to requesting mediation, the initiating Party must request a pre-mediation meeting of the principals of the Parties engaged in the dispute. Such request for a pre-mediation meeting shall be made in writing and upon at least 10 business days' notice of the requested meeting date.

10. If a Party breaches any provision of Section 9, it shall indemnify and hold harmless all other Parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other Parties that arise from such breach.

11. All expenses incurred by a Party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the Party. Such expenses include without limitation preparation and production of witnesses and exhibits and attorney fees. All other expenses of the mediation, including filing fees and required traveling and other expenses of the mediator, shall be borne as follows: one half by the Party requesting the mediation, with the remaining parties paying equal shares of the remaining expenses and costs; provided that, if the Town is named as a party to the mediation, the Town shall pay at least one-third of the mediation expenses and costs divided among the Parties. If more than one Party to a dispute requests a mediation, the mediation expenses and costs to be divided among the Parties shall be borne equally by the Parties to the dispute; provided that, if the Town is named as a party to the mediation, the Town shall pay at least one-third of the mediation expenses and costs divided among the Parties.

    All expenses incurred by a Party in preparing for, holding and attending a pre-mediation meeting of principals shall be paid by that Party.

12. The mediation shall be held at a location agreeable to the mediator and all of the Parties; provided that, if no agreement can be reached, the mediation will be held at such location in Union County, as the mediator shall determine.

13. The provisions of this Article are subject to any other provision of this Agreement concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this Article.

14. The Parties understand and agree that mediation in accordance with this Article shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this Article.

END OF DISPUTE RESOLUTION REQUIREMENTS

VII. SPECIFICATIONS

7.1 ASPHALT

All asphalt used in the construction of this project shall consist of all elements covered by Section 610 of the Standard Specifications.

All cost associated in raising utilities (sewer manholes, water valve boxes, etc.) or removal/hauling away existing asphalt during paving operations shall be included in the unit price bid for Asphalt.

All work associated in the adjustment of utilities shall be in accordance with Section 858 of the Standard Specifications.

7.2 CONCRETE

A. Compressive Strength

All concrete used in the construction of this project shall be 3600 PSI strength at twenty-eight (28) days, unless otherwise specified. No adjustment will be allowed for the required use of high-early strength concrete. When the Contractor is requested to use high-early strength concrete in certain areas, he must furnish a copy of the delivery ticket to the project inspector prior to allowing traffic to proceed across the item in question before the required seven-day curing period.

Concrete cylinders shall be prepared by the Town's designated materials testing firm. It shall be the responsibility of the Contractor to protect the cylinders until such time as they are taken to the designated materials testing laboratory. Not less than five (5) cylinders (six (6) for structures) shall be made for each day's pour.

B. Slump

The maximum slump of the concrete used on the project shall be as defined in Section 1000 of the Standard Specifications. The Town's designated testing firm shall provide all equipment necessary to test the slump of the concrete and at a frequency established by the Engineer and in accordance with ASTM C 143. The sample taken for determination of slump will be obtained immediately prior to the concrete being discharged onto the project. Concrete failing to meet requirements for slump will be subject to rejection.

C. Air Content

The air content of the concrete used on this project shall be as defined in Section 1000 of the Standard Specifications. The Town's designated testing firm shall provide all equipment necessary to test the air content of the concrete and shall test the air content at a frequency established by the Engineer. The sample taken for the determination of air content will be obtained immediately prior to the concrete being discharged onto the project. Concrete failing to meet specification requirements for air content will be subject to rejection.

D. Acceptance and Testing Standards

Concrete batching, sampling, testing and evaluation shall be done in accordance with the standards listed below:

ASTM C94	Standard Specifications for Ready Mixed Concrete
ASTM C172	Standard Method of Concrete Sampling
ASTM C470	Tentative Specification for Molds for Forming Concrete Test Cylinders Vertically
ASTM C31	Standard Method of Making and Curing Concrete
ASTM C143	Standard Method of Test for Slump of Portland Cement Concrete
ASTM C42	Obtaining and Testing Drilled Cores and Sawed Beams of Concrete
AASHTO T199-72	Air Content of Freshly Mixed Concrete by the Chace Indicator
ASTM C231-82	Standard Test for Air Content of Freshly Mixed Concrete by the Pressure Method

E. Concrete Finishes

The type of finish required will be that required by the section of specifications directly applicable to the work being constructed. All exposed surfaces of retaining walls, structures, and etc. shall be given a Class 2 finish as described by Section 420-18 (f) of the Standard Specifications unless indicated otherwise in the plans.

F. Compressive Strength Quality Assurance for Incidental Concrete

The following Quality Assurance Specifications shall apply only to incidental concrete used in the construction of this project. Incidental concrete shall be defined as any concrete not used in the construction of rigid pavement or any concrete that is not an integral part of a structure. The acceptability of any questionable structural concrete used in the construction of this project will be evaluated on a case by case basis.

It is the intent of these specifications to provide an equitable means of accepting materials that may vary slightly from the specification range stated in the Standards Specifications in lieu of total rejection, removal, repair or non-payment. The Engineer will determine acceptability of materials in accordance with the applicable sections of these specifications. When materials are not within specification limits, an adjusted payment may be allowed as delineated in these specifications, except where the level and variability of test results indicate a degree of noncompliance with requirements so great as to make the material unacceptable. Unacceptable material shall be either re-worked or replaced at no additional cost to the Town. The Engineer reserves the right to reject questionable material at any time in lieu of making reduced payment.

Concrete will be tested and accepted with respect to compressive strength on the basis of the average test results of concrete test cylinders. It shall be the responsibility of the Town's designated testing firm to prepare test cylinders in accordance with ASTM C31. It shall be the Contractor's responsibility to adequately protect the cylinders until such time as they are taken by the Town's designated testing firm to an approved Materials Laboratory for curing and testing. If the average strength of concrete cylinder test results fail to attain the specified minimum compressive strength at twenty-eight (28) days but meets or exceeds 70% of the minimum compressive strength, the Engineer will have the option of instructing the Contractor to replace all concrete represented by those cylinders with concrete meeting specifications or of allowing the concrete to remain in place at a reduced contract price. The contract unit price for such concrete left in place shall be reduced by the following formula:

$$\text{Reduced Unit Price} = \text{Contract Unit Price X } \frac{\text{Avg. Strength of Test Cylinders at 28 Days}}{\text{Specified min. Compressive Strength}}$$

In the event that concrete cylinder tests fail to meet minimum compressive strengths at twenty-eight (28) days, the Contractor will have the option of taking cores from the concrete in question at the Contractor's expense. Cores must be taken and tested in accordance with ASTM C42. The average compressive strength of cores which are correctly tested shall then be used as the basis for acceptance of concrete in lieu of concrete test cylinder results discussed above. The above criteria for acceptance of concrete with respect to compressive strength shall then be applied to core test results. Cores must be taken thirty-one (31) days after placement of concrete. Cores will be tested by the Town's designated testing firm. A minimum of three (3) cores shall be taken from questionable concrete, unless otherwise specified by the Engineer. Cores shall be taken from locations selected by the Engineer.

If the average strength of the concrete test results (cylinders and cores) fail to attain seventy percent (70%) of the specified minimum compressive strength at twenty-eight (28) days, all applicable concrete shall be rejected. The Contractor, at no additional cost to the Town, shall remove the rejected concrete and replace it with concrete meeting specifications.

7.3 EROSION AND SEDIMENTATION CONTROL MEASURES

The Contractor shall install and maintain all erosion and sedimentation control measures and devices necessary to comply with the Erosion and Sedimentation Control Plan and applicable local and state ordinances and laws. All erosion and sedimentation control measures and devices shall be installed prior to beginning clearing or grading operations. Such devices shall be maintained in proper working condition from installation throughout the duration of the Project.

The Contractor shall indemnify and hold harmless the Town for any penalties imposed against the Town by any local or state agency for the Contractor's failure to install and properly maintain erosion and sedimentation control devices. The Contractor shall immediately correct any deficiencies in erosion and sedimentation measures identified by the Town or local or state agency. If the Contractor fails to correct the deficiencies within 24 hours after notification, the Town will have such corrections performed and assess the cost of these corrections plus a 100% surcharge against the Contractor.

The Contractor will install silt bags in all catch basins that are located in the construction area where proposed asphalt paving, widening, asphalt surface treatments or rehabilitation of the existing subgrade is being performed. These devices will be monitored on a per week basis.

If any borrow or waste areas are to be utilized, it shall be the responsibility of the Contractor to notify the property owner that the property owner is responsible for any damage occurring from the site, either as part of the agreement with the Contractor, or on his own. All work, sediment control structures, and seeding will be at the cost of the property owner or Contractor. The Town will not participate in the cost of this work on the waste or borrow areas. Prior to final payment being made, the Contractor shall obtain a release from the property owner of the borrow or waste site utilized for the Project.

The Contractor shall include the cost of maintaining erosion and sedimentation control devices in the price bid for **Grading** unless otherwise specified.

7.5 FULL DEPTH STREET REPAIRS

Unless otherwise shown in the plans or stated by the Engineer in the field, all full depth street repairs will consist of digging out a five-inch depth specified area and replacing it with intermediate base course (I 19.0 B) or an approved equal. If the repaired area is not sealed off with an appropriate layer of asphalt surface mix in a suitable time frame, the area in question will be inspected again and if found to be unsuitable the Contractor will replace the area at no cost to the Town.

7.6 SAWING EXISTING PAVEMENT

Where asphalt or concrete (curb, sidewalk, roadway, driveways, parking lots, etc.) is to be removed, the Contractor shall provide a neat edge along the pavement being retained by sawing the pavement a minimum of 2" deep and 1' wide before breaking and removing adjacent pavement.

When the Contractor proposes to saw pavement more than one foot from the proposed pavement (curb, sidewalk, structure, etc.), the Contractor shall obtain approval from the Engineer prior to saw cutting and removing pavement.

The cost of sawing asphalt or concrete shall be considered incidental to the removal operation and shall be included in the proper unit price bid line items.

7.7 SEEDING AND MULCHING

The work covered by this special provision includes preparing seedbeds; furnishing, placing, and covering limestone, fertilizer, and seed; compacting seedbeds; furnishing, placing, and securing mulch; mowing; and other operations necessary for the permanent establishment of grasses from seed on shoulders, slopes, ditches, and on all earth areas disturbed by construction and on portions of areas seeded under previous contracts where, in the opinion of the Engineer, there is unsatisfactory vegetative cover.

All work covered in this special provision shall be in accordance with, and all materials shall conform to, the requirements of the Charlotte Mecklenburg's "Landscape Construction Standards".

END OF SPECIFICATIONS

VIII. PROJECT SPECIAL PROVISIONS

8.1 SP1 – MOBILIZATION

Description: Work covered by this special provision consists of preparatory work and operations which must be preformed or for costs incurred prior to beginning work on the Contract.

Payment: Payment for the entire lump sum price for the item of "Mobilization" will be made with the first pay request paid on the Contract. The bid price shall not exceed 3% of the total amount bid for the items in this Contract, excluding mobilization.

Payment will be made under:

MOBILIZATION.....LS

8.2 SP2 – COMPREHENSIVE GRADING

Description: The work covered by this special provision consists of all elements of Roadway Excavation work covered by Section 226, "Comprehensive Grading"; Section 240, "Ditch Excavation"; and the work listed in this contract as items A through K.

A. All clearing and grubbing necessary to construct all components (roadway, site grading area, etc.) within the construction limits on the approved plans and as described in the Contract. This also includes the wet pond area.

B. The building structure located at 304 Matthews-Indian Trail Road shall be taken down and removed from site in its entirety. Any additional clearing and grubbing outside the construction limits that needs to be performed in order for this work to be done in a sufficient and timely manner will be included in this special provision. This additional clearing and grubbing will need to have prior approval from the Engineer.

C. Septic tank located at 304 Matthews-Indian Trail Road shall be abandoned in accordance with Union County Environmental Health abandonment requirements.

D. Existing wet well will be protected and remain in place. Any cost for upgrading this well per Union County requirements shall be included in this special provision.

E. Repairing any insufficiencies that are present in all existing masonry structures during construction (no steps, open joints, etc.). All masonry structures shall be free of any debris that may have collected due to construction.

F. Removal and proper disposal existing drain pipes, trees, tree roots, shrubbery, structures, or any other foreign materials not associated with the overall appeal of the site.

G. Proper relocation and maintenance of street signs impacted by this project. The Contractor shall keep signs in service at all times.

H. Protection, maintenance, repair, and or replacement of all property corners: the Contractor will be responsible for protecting the integrity of all property corner monuments. Any property corners damaged during the construction of the project will be properly mitigated to the satisfaction of the Town.

I. All surplus material shall be stockpiled in a satisfactory manner at the location designated on the approved plans or by the Engineer. Installation of silt fence shall be incorporated around the entire stockpile location at a one foot offset from the toe of slope. Temporary seeding shall occur no later than seven (7) days after formation of pile; permanent seeding shall occur within fourteen (14) days after project completion. Silt fence shall be maintained in place until stockpile has been eliminated and shall be removed only when directed by the Engineer. If the Engineer requested the installation of a drainage swale; Contractor shall install it between the stockpile and off-site properties.

J. The removal of all excavated material the Specifications and/or the Engineer classifies as being rock. This includes rock that is encountered in any type of pipe construction (stormwater, water, sewer, etc.).

K. Tree Protection Safety Fence / Additional Tree Protection: any tree protection safety fence shown on the plans or additional tree protection safety fence anticipated by the Contractor (other than that shown on the plans) will be in accordance with the Charlotte "Landscape Construction Standards" Tree Preservation and Protection Section 01000.

Methods and Materials: Construction Methods will be per Section 226, "Comprehensive Grading" and Section 240, "Ditch Excavation" of the latest addition of the NCDOT Standards Specifications.

Payment: Payment will be paid at the lump sum price for "Comprehensive Grading". Partial payments will be equal to the percentage of such item that is complete as estimated by the Engineer. This payment will be full compensation for all elements of work required to complete the Project as specified.

The will be no separate payment for temporary ditch excavation. This work shall be included in the cost associated with the "Erosion Control" special provision.

Payment will be made under:

COMPREHENSIVE GRADING.....LS

8.3 SP3 – CONSTRUCTION STAKES, LINES, AND GRADES

Description: The work covered by this special provision consists of providing construction stakes, lines and grades necessary to construct the proposed project. Work shall also include reestablishment of all property irons that are disturbed by the construction.

Methods and Materials: The Contractor will set construction stakes establishing lines, slopes and continuous profile-grade in road work, and centerline and benchmark for culvert work, utilities, protective and accessory structures, and appurtenances which require the use of a surveyor's level and transit. The Contractor will locate and mark right-of-way limits and construction easements within the work area. In addition, the Contractor will be responsible for all commutations and information relating to stakes, lines and grades. Contractor shall also reestablish all property irons disturbed by the construction. All construction staking and establishment of property irons at their correct locations shall be performed under the responsible charge of a North Carolina Registered Land Surveyor.

The Contractor shall also conform to the requirements described in Section 801 "Construction Stakes, Lines and Grade"; Sub-Article 801-2 "Construction Methods"; Section (A), "General" of the Specifications.

The Contractor is responsible for providing storm drain and water quality/detention as-built drawings performed by a NC Registered Land Surveyor.

Measurement: There will be no separate measurement for this item.

Payment: Payment will be paid at the lump sum price for "Construction stakes, lines, and grades". Partial payments will be equal to the percentage of such item that is complete as estimated by the Engineer. This payment will be full compensation for all elements of work required to complete the Project as specified. The Contractor will be responsible for the preservation of all stakes of marks; no additional payment will be made for replacing any stakes or marks.

Final payment will not be granted until recorded drawings and electronic version has been received by the Town.

Payment will be made under:

CONSTRUCTION STAKES, LINES, AND GRADES.....LS

8.4 SP4 – CONCRETE SIDEWALK, CONCRETE CURB RAMPS, CONCRETE DRIVEWAYS, AND CONCRETE CURB AND GUTTER

Description: The work covered by this special provision consists of all elements of work covered by Section 846 "Concrete Curb and Gutter" and Section 848 "Concrete Sidewalk, Driveways, and Curb Ramps" of the Standard Specifications. **This item includes sawcutting, excavation, backfill, removal and disposal of existing concrete, furnishing and installing truncated dome mats at locations per the plans, and the installation of new 4" Concrete Sidewalk, Concrete Curb Ramps, 6" Concrete Driveways, and Concrete Curb and Gutter.** Indian Trail Land Development Standards 1.12A, 1.12B, 1.17, and NCDOT Std. 848.05 shall be followed in the installation, construction and materials used for concrete work.

Work areas shall be clearly marked with construction barrels or caution tape at all times. All debris shall be removed from the work area daily. Installation of the new concrete must occur within 24 hours of the excavation and removal of the existing concrete; otherwise the Contractor must secure the work area with temporary methods at the Contractor's expense. Temporary methods of securing the work area must meet the approval of the Engineer. Backfilling along with seeding and mulching shall occur no later than 3 days following the pouring of the concrete.

Methods and Materials: The concrete mix design shall conform to the requirements of the Concrete section under the Specifications section of this Contract.

The Contractor shall incorporate existing castings encountered within the limits of the project to match the adjacent finished work. No direct payment will be made for this work. Any costs anticipated should be included in other contract quantities bid price.

Measurement: The quantity of 4" Concrete Sidewalk to be paid for will be the actual number of square yards of 4" Concrete Sidewalk measured along the surface of work which has been completed and accepted. The quantity of 6" Concrete Driveway to be paid for will be the actual number of square yards of 6" Concrete Driveway measured along the surface of work which has been completed and accepted. The quantity of Concrete Curb Ramps to be paid for will be the actual number of Concrete Curb Ramps installed and has been completed and accepted. The quantity of specified Concrete Curb and Gutter to be paid for will be the actual number of lineal feet of Concrete Curb and Gutter measured along the surface of work which has been completed and accepted.

Payment: Payment for 4" Concrete Sidewalk will be the number of square yards (SY) of 4" sidewalk measured in place. Payment for 6" Concrete Driveway will be the number of square yards (SY) of 6" driveway measured in place. Payment for Concrete Curb Ramps will be each (EA) for the number installed and accepted. Payment for Concrete Curb and Gutter will be the amount of actual lineal footage (LF) installed and accepted.

There will be no separate payment for furnishing and installing truncated dome mats at proposed curb ramp locations. The cost for furnishing and installing the truncated domes shall be included in the cost of installing the concrete curb ramp.

Payment will be made under:

4" CONCRETE SIDEWALK ..... SY
6" CONCRETE DRIVEWAY ..... SY
CONCRETE CURB RAMPS ..... EA
CONCRETE CURB AND GUTTER ..... LF

8.5 SP5 – COIR FIBER WATTLES

Description: Work covered by this special provision consists of furnishing, installing, maintaining, and removal of temporary wattles at locations shown on the plans and as directed by the Engineer.

Construction Methods: The wattles shall be constructed in accordance with the details and shall be maintained in its originally installed condition throughout the project duration. Payment will not be made for any wattles which are not properly maintained.

Measurement: The quantity of wattles to be paid for will be the actual lineal footage of installed and accepted.

Payment: The quantity of "COIR FIBER WATTLES" to be paid for will be the actual number of lineal feet of Wattles measured along each device which has been completed and accepted. Such payment will be full compensation for all work covered by this special provision, including but not limited to furnishing, installing, maintaining, and removal of materials, posts, and all incidentals.

Payment will be made under:

COIR FIBER WATTLES..... LF

8.6 SP6 – WET POND (WATER QUALITY/DETENTION)

Description: The work covered by this special provision consists of the excavating, place and compact or satisfactory dispose of all materials within the limits of the water quality feature necessary for the satisfactory construction of a wet pond. The following items are also included in this special provision:

A. Unclassified Excavation (approximately 12,000 – 15,000 CY)

B. 15" RCP, Class III – 107.0 LF

C. 24" RCP, Class III – 109.0 LF

D. Anti-seep Collar (see detail sheet) – 1.0 EA

E. Masonry Outlet Structure (see Detail Sheet EC-10) – 1.0 EA (include all components)

F. Masonry Drainage Structure, JB (NCDOT STD. 840.32) – 1.0 EA

G. Frame and Cover (NCDOT STD. 840.54) – 1.0 EA

H. 8" Faircloth Skimmer (see detail sheet) – 1.0 EA

I. Reinforced Brick Endwall (No Precast) – 2.0 CY

J. Rip Rap Class II (forebay and outlet apron) - approximately 1600 TN

K. Geotextile for Drainage, Type 2 - approximately 212.0 SY

L. Sodding (b/w lattoral shelf and top of outer berm) – 2860.0 SY

M. Seeding and Mulching (approximately 1.1 AC)

Construction of wet pond shall be in accordance with the requirements of NCDWQ's Stormwater Best Management Practices Manual, July 2007, or latest revisions, and the Town's Unified Development Ordinance Chapter 1760, Appendix 6: Embankment Requirements.

Payment: Payment will be paid at the lump sum price for "Wet Pond (Water Quality/Detention)". Partial payments will be equal to the percentage of such item that is complete as estimated by the Engineer. This payment will be full compensation for all elements of work required to complete the Project as specified.

Payment will be made under:

WET POND (WATER QUALITY/DETENTION).....LS

8.7 SP7 – EROSION CONTROL

Description: The work covered by this special provision consists of all elements of work covered by Section 1630, "Construction and Maintenance of Silt Detention Devices"; Section 1640, "Coir Fiber Baffle"; and the work listed in this contract as items A through H.

A. All temporary and repair seeding and mulching as per the Specifications.

B. All items involved in the overall construction and performance of the silt detention devices (skimmer, structures, pipe sections, rip rap apron, all temporary ditch excavation, rock weir, etc.) (see detail sheet).

C. Installation of rock check dams per the plans and/or directed by the Engineer.

D. Installation of all inlet protection devices (see detail sheet).

E. Installation of all stone filters along silt fence (see detail sheet).

F. The maintenance and removal of all erosion control devices within the construction limits.

G. Installation of construction entrances (min. of 2) designated on the plans (see detail sheet).

H. All necessary work required to satisfy NCDENR requirements

Payment: Payment will be paid at the lump sum price for "Erosion Control". Partial payments will be equal to the percentage of such item that is complete as estimated by the Engineer. This payment will be full compensation for all elements of work required to complete the Project as specified.

Payment will be made under:

EROSION CONTROL.....LS

8.8 SP8 – STREET LIGHTING

Description: This special provision consists of but not limited to coordinating with Union Power Cooperative to complete the installation of proposed street lights at locations designated on the approved plans.

Street light model and makeup shall be in accordance with the Town's Unified Development Ordinance which states:

CHAPTER 1330 – LIGHTING STANDARDS

SECTION 1330.080 – STANDARDS FOR SPECIFIC USES

SUBSECTION "E" PUBLIC AND PRIVATE ROADWAYS (6b) – *Collector and thoroughfare lighting shall be AEL 125 full cutoff style cobrahead, 400 watt high pressure sodium or metal halide, and shall conform to NCDOT standards. Sag lens shall not be allowed. Poles shall be free standing with an aluminum finish. No overhead service wires shall be allowed.*

Payment: An allotted amount of funds will be shown on the Itemized Bid Form of this Contract. The Town will use this fund source to pay for any upfront cost that might occur due to Union Power Cooperative requirements. It will be the responsibility of the Contractor to coordinate with the utility company on scheduling work in an efficient and timely manner.

Payment will be made under:

STREET LIGHTING ..... LS

8.9 SP9 – TRAFFIC CONTROL

Beginning Work and Street Closings: The Contractor is responsible for notifying the appropriate agency of any work where the number of travel lanes is reduced from normal conditions. The Contractor shall install advance warning signs and/or message boards for the Project. These signs shall be in place for one week before construction activity begins. The Contractor shall begin construction activity on a street on the scheduled date for the closing of the travel lane.

During daily construction work hours, the Contractor will maintain at least one lane of traffic. The Contractor shall not narrow or close any travel way during the peak hours of 7:00 am to 9:00 am and 4:00 pm to 6:00 pm Monday through Friday. During periods of construction inactivity, all lanes of traffic will be open unless otherwise shown on the plans or noted in the specifications.

Traffic Control Plan: Traffic control will be performed by the Contractor based upon the current NC Traffic Control In Work Zones Standards Provisions.

The current edition of the Manual on Uniform Traffic Control Devices, the current edition of the North Carolina Department of Transportation (NCDOT) Supplement to the Manual on Uniform Traffic Control Devices for Streets and Highways, the NCDOT Roadway Standard Drawings and the current edition of the NCDOT Standard Specifications for Roads and Structures.

The Contractor shall maintain the traffic control as described herein unless the Contractor submits an alternate traffic control plan to the Engineer and it is approved by the Engineer. The Engineer may direct the Contractor to modify the traffic control if, in the Engineer's opinion, traffic is not moving safely or efficiently.

Maintenance of Traffic: The Contractor shall maintain all travel lanes in accordance with the noted procedures and standards.

The Contractor shall use flagger control in accordance with the appropriate standard.

In areas of drop-offs and low shoulders, the Contractor shall backfill up to the edge and elevation of the existing pavement as directed by the engineer

The Contractor will be required to maintain ingress and egress to all businesses and dwellings, and easy access to fire hydrants.

The Contractor shall not work on both sides of the road simultaneously within the same area.

The Contractor shall provide adequate drainage under driveways and within the Project area for the duration of the Project.

The Contractor shall mark all hazards within the Project limits with well-maintained signs, barricades, warning and/or channelizing devices.

Traffic Control Devices: The Contractor shall furnish, install, operate, relocate, maintain and remove all temporary traffic control devices necessary for controlling traffic. All construction signs and barricades shall remain in place until the appropriate permanent signs and pavement markings are installed.

Pedestrian Considerations: The Contractor shall accommodate the needs of all pedestrians.

Equipment and Material Storage: During periods of construction inactivity, all construction materials and equipment shall be stored by the Contractor as directed by the Engineer.

Excavation and Trenches: Excavations and trenches that cannot be properly backfilled and patched prior to the end of the workday shall be secured as directed by the Engineer.

Measurement: There will be no separate measurement made for Traffic Control.

Payment: Traffic Control will be paid at the lump sum price for "Traffic Control". This payment will be full compensation for all elements of work required to complete the Project as specified.

Payment will be made under:

TRAFFIC CONTROL.....LS

8.10 SP10 – SITE GRADING

Description: The work covered by this special provision consists of grading entire site delineated on the plans and outside of area required under SP-1 "Comprehensive Grading" for Chestnut Parkway, Matthews-Indian Trail Road, etc. This proposed grading work shall conform to the requirements stated in Section 226, "Comprehensive Grading"; Section 240, "Ditch Excavation"; Section 520, "Aggregate Base Course", when applicable. The following list of items shall be part of this special provision:

A. Finished foundation pad elevation shall be within six (6) inches plus or minus.

B. Subgrade elevation for proposed parking lot area shall be within six (6) inches plus or minus.

C. Formation of Fill section – Uniformly spread material in successive, approximately horizontal layers of not more than 10" depth, loose measurement, for the full width of the proposed area. Compact each layer for its full width to a density equal to at least 95% maximum dry density.

D. Cut section – density compaction verification shall be made to show that virgin ground has the proper percent compaction stated in Item "B".

E. Construct and maintain adequate drainage of surface runoff to prevent erosion throughout the site. Contractor will replace damaged areas at no cost to the Town.

F. Haul, place, and compacted aggregate base course for the purpose of a proposed materials and equipment storage yard at the location determined by the Engineer.

G. Construct shoulders and slopes as per the approved plans.

H. Removal and proper disposal existing drain pipes, trees, tree roots, shrubbery, structures, or any other foreign materials not associated with the overall appeal of the site.

I. Protection, maintenance, repair, and or replacement of all property corners: the Contractor will be responsible for protecting the integrity of all property corner monuments. Any property corners damaged during the construction of the project will be properly mitigated to the satisfaction of the Town.

J. The removal of all excavated material the Specifications and/or the Engineer classifies as being rock. This includes rock that is encountered in any type of pipe construction (stormwater, water, sewer, etc.).

K. Tree Protection Safety Fence / Additional Tree Protection: any tree protection safety fence shown on the plans or additional tree protection safety fence anticipated by the Contractor (other than that shown on the plans) will be in accordance with the Charlotte "Landscape Construction Standards" Tree Preservation and Protection Section 01000.

Methods and Materials: Construction Methods will be per Section 226, Comprehensive Grading" and Section 240, "Ditch Excavation" of the latest addition of the NCDOT Standards Specifications.

Payment: Payment will be paid at the lump sum price for "Site Grading". Partial payments will be equal to the percentage of such item that is complete as estimated by the Engineer. This payment will be full compensation for all elements of work required to complete the Project as specified.

The will be no separate payment for temporary ditch excavation and silt basin. This work shall be included in the cost associated with the "Erosion Control" special provision.

Payment will be made under:

SITE GRADING.....LS

8.11 SP11 – MATERIALS TESTING SERVICES

Description: The work covered by this special provision covers materials testing services. An ASTM certified testing laboratory will be selected by the Town to perform the required work which consists of but not limited to the following:

A. Determine soil optimum moisture content and maximum dry unit weight;
B. Determine soil shear strength;
C. Perform field density testing of backfill material compaction;
D. Provide proof-rolling observations and corrective recommendations/measures;
E. Determine concrete compressive strength, slump, and air content (see Subarticle 6.2 CONCRETE).
F. Perform density test on aggregate base course
G. Pavement core verification samples for Quality Assurance.

All work shall be performed in accordance with appropriate and applicable standards.

The Contractor shall notify the Town 24 hours prior to any materials sampling and or testing.

The Town reserves the right to choose the frequency of testing needed for final acceptance of any and all work.

Payment: An allotted amount of funds will be shown on the Itemized Bid Form of this Contract. The Town will use this fund source to pay the materials testing services. The Contractor shall submit any invoices received by the testing firm with the monthly partial payment request. It will be the responsibility of the Contractor to pay all invoices submitted by the testing firm before acceptance and final payment can be issued as stated under Subarticle 4.4 "Acceptance and Final Payment", Section 4 "Measurement and Payment" of this Contract.

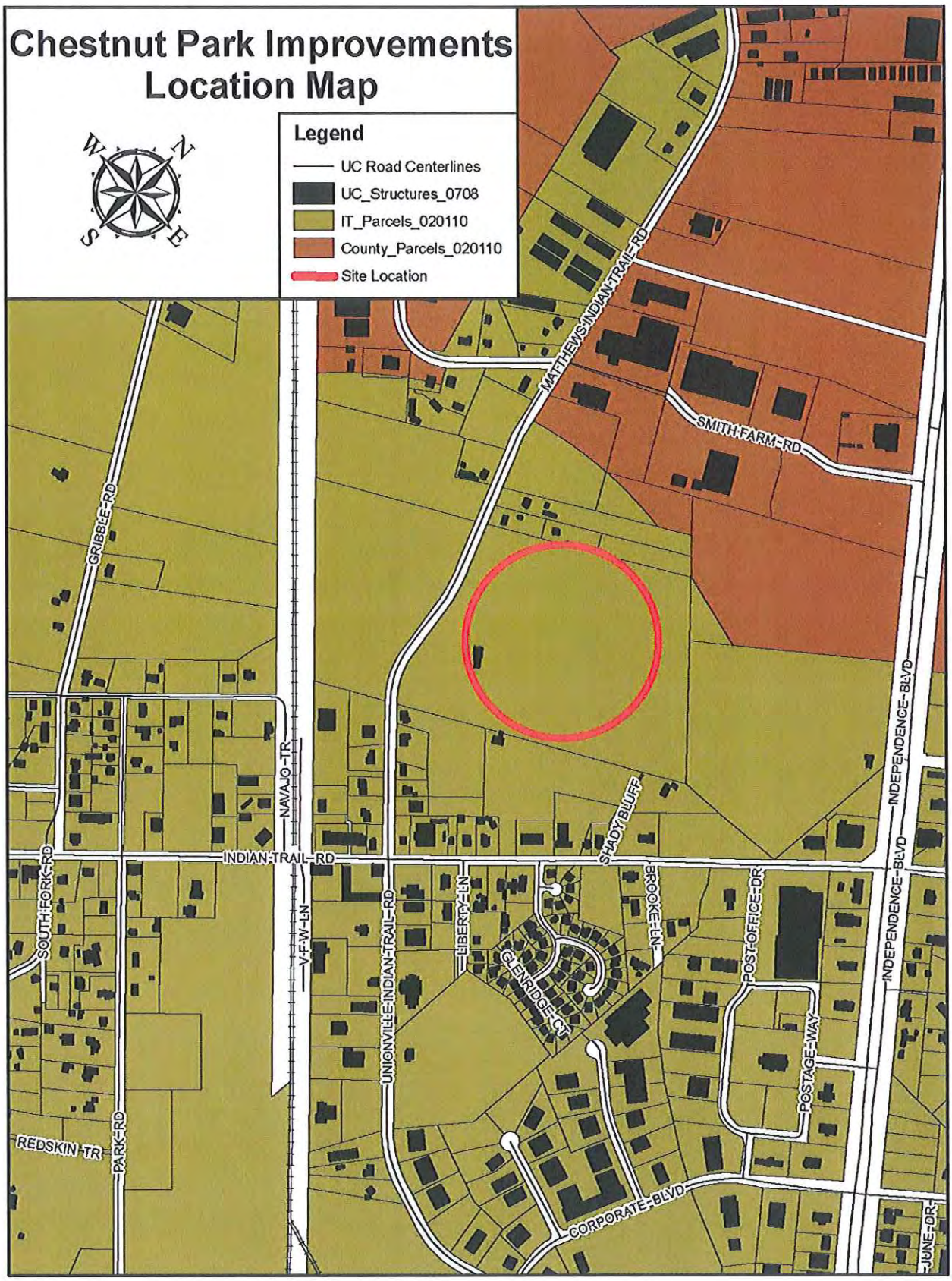
The Town will not bear any cost associated with testing results that indicate the work was not performed properly and/or did not meet the requirements of this Contract. All cost associated with the initial testing and any additional testing required to correct the work in question, will be paid for by the Contractor. The Town shall have the right to hold "Final Payment" if any outstanding unpaid cost to the testing firm hasn't been paid by the Contractor due to required retesting of failed Work. Until testing firm can attest to the Town that all payments due to them from the Contractor have been paid, the Town only recourse is to hold "Final Payment" until all dues are final.

Payment will be made under:

MATERIALS TESTING SERVICES ..... LS

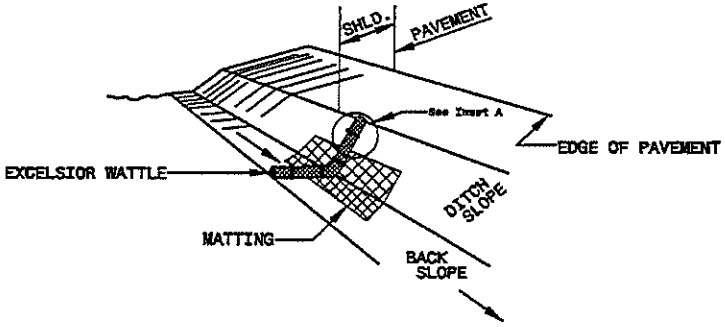
VIIII. APPENDIX

APPENDIX A: MAP OF LOCATION

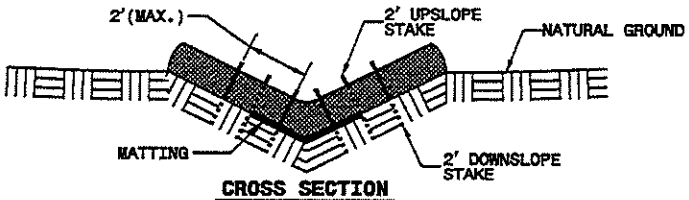

Chestnut Park Improvements
Location Map
Legend
UC Road Centerlines
UC_Structures_0708
IT_Parcels_020110
County_Parcels_020110
Site Location
W
N
S
E
MATTHEWS-INDIAN-TRAIL-RD
SMITH-FARM-RD
GRIBBLE-RD
NAVAJO-TR
INDIAN-TRAIL-RD
SOUTH-FORK-RD
V-F-W-LN
UNIONVILLE-INDIAN-TRAIL-RD
LIBERTY-LN
SHADY-BLUFF
BROOKE-LN
POST-OFFICE-DR
GLENRIDGE-CT
INDEPENDENCE-BLVD
POSTAGE-WAY
REDSKIN-TR
PARK-RD
CORPORATE-BLVD
JUNE-DR

APPENDIX B: WATTLE DETAIL

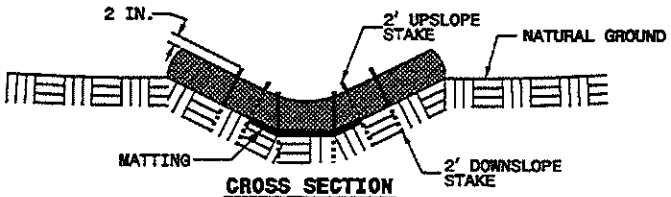
WATTLE DETAIL



ISOMETRIC VIEW



CROSS SECTION
VEE DITCH



CROSS SECTION
TRAPEZOIDAL DITCH

NOTES:

USE MINIMUM 12 IN. DIAMETER EXCELSIOR WATTLE.

USE 2 FT. WOODEN STAKES WITH A 2 IN. BY 2 IN. NOMINAL CROSS SECTION.

ONLY INSTALL WATTLE(S) TO A HEIGHT IN DITCH SO FLOW WILL NOT WASH AROUND WATTLE AND SCOUR DITCH SLOPES AND AS DIRECTED.

INSTALL A MINIMUM OF 2 UPSLOPE STAKES AND 4 DOWNSLOPE STAKES AT AN ANGLE TO WEDGE WATTLE TO BOTTOM OF DITCH.

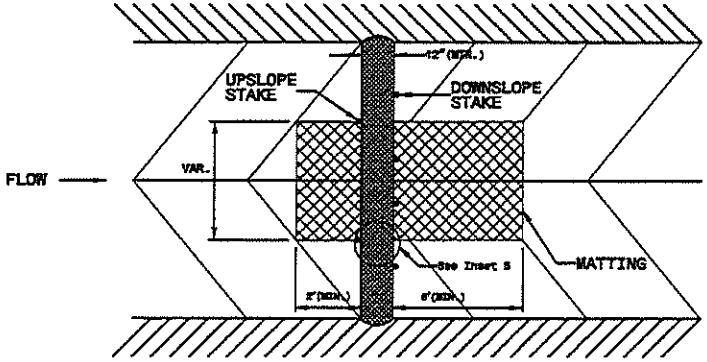
PROVIDE STAPLES MADE OF 0.125 IN. DIAMETER STEEL WIRE FORMED INTO A U SHAPE NOT LESS THAN 12" IN LENGTH.

INSTALL STAPLES APPROXIMATELY EVERY 1 LINEAR FOOT ON BOTH SIDES OF WATTLE AND AT EACH END TO SECURE IT TO THE SOIL.

INSTALL MATTING IN ACCORDANCE WITH SECTION 1631 OF THE STANDARD SPECIFICATIONS.

INSET A

INSET B



TOP VIEW

APPENDIX C: CONSTRUCTION PLANS

(Separate sheets)