



**Town of Indian Trail**  
**Minutes of Town Council**  
**October 22, 2013**  
**Civic Building**  
**6:30 P.M.**

The following members of the governing body were present:

Mayor: Michael L. Alvarez

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

Absent Members: Christopher King.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Town Attorney Keith Merritt, Finance Director Marsha Sutton, Director of Engineering and Public Works Scott Kaufhold , Director of Community & Economic Development Kelly Barnhardt, Tax Collector Janice Cook, and Senior Planner Rox Burhans .

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

Mayor Alvarez called the meeting to order and led in the Pledge of Allegiance. He announced Council Member King was absent.

**ADDITIONS AND DELETIONS**

David Waddell made a motion to approve adding a presentation from NCDOT on the Monroe Bypass as item 4c and move the rest down accordingly.  
Council voted unanimously in favor of the motion.

### **MOTION TO APPROVE AGENDA**

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

### **PRESENTATIONS**

#### **a. William Goodyear Presentation**

Mr. Goodyear presented that William Goodyear Company is a manufacturing company that has been in business for 25 years, 21 of which are in Indian Trail. They currently have 2 facilities in Indian Trail and the one on Industrial Drive is involved with the Grant. He explained what his company manufactures advising that the Grant provided them an opportunity to grow. When applying for the grant they indicated it would increase their staff by 16 additional employees and stated that they hired only 10 additional staff members. Mr. Goodyear indicated he was prepared to reimburse the State for the grant obligations that were not completed. Mr. Goodyear was informed by Mr. Fivas that an application for an extension was possible and Mr. Goodyear feels that with the continued growth anticipated he sees no reason why that figure of 16 could not be achieved. In addition to asking for the extension, he wanted to express his gratitude for the grant in the first place, as it allowed them to purchase and refurbish completely an existing building to fit the needs of his company, to employ the people they do and the ones coming in, making on average \$20 per hour.

Mr. Fivas stated we've asked the State to draw up an extension agreement and Council can consider it at the next meeting.

#### **b. Dr. Sidor Presentation**

Mayor Alvarez read Dr. Sidor's profile and welcomed Dr. Sidor to the meeting.

Dr. Sidor, Dean of South Piedmont Community College provided information pertaining to the curriculum and opportunities available at South Piedmont Community College.

#### **c. Monroe Bypass Presentation from NCDOT - this item was added as a result of a motion made in Additions & Deletions by Council Member Waddell.**

Scott Cole, NCDOT Deputy Division Engineer provided a brief update on the Monroe Bypass that included its history, litigation experienced, current activities, and schedule.

Mayor Alvarez asked Council approval to move up the presentation from Union County Chamber of Commerce since Monroe Union Economic Development is detained. By consensus Council agreed.

#### **e. Monroe Bypass Presentation for Union County Chamber of Commerce - By consensus Council approved moving this matter up because the Representative**

from the Monroe Union Economic Development was detained.

Pat Kahle President of the Union County Chamber of Commerce presented to Council the history of the Chamber of Commerce and the many ways the Monroe Bypass will benefit the business community in the County, concluding that the Chamber supports the Bypass and requests construction begin as soon as possible. Ms. Kahle stated that if the Bypass is not built the County will lose approximately 550 businesses to widen US -74.

d. Monroe Bypass Presentation for Monroe Union Economic Development

Chris Patel of the Monroe Union Economic Development reviewed the many consequences that we would incur if the Bypass is not constructed and the quality of life benefits we will experience with the construction of the Monroe Bypass.

f. Monroe Bypass Presentation for Indian Trail Business Association

Mark Savard from the Indian Trail Business Association described the positive impact in the local community that is vital, quality of life for our residents and the business owners who are the conduit of our community. He requested that Council move forward on the project.

**PUBLIC COMMENTS**

Gordon Daniels, 1020 Wood Creek Lane, commented on the safety issue of Wesley Chapel Stouts/Old Monroe Road stating that emergency vehicles incur added response time on Old Monroe Road during rush hour. He suggested that Council should pass widening Old Monroe Road by a vote of 5-0 asking yourself what is a human life worth.

Gary Savoie, 2014 Apogee Dr., Indian Trail, NC addressed the article in the Enquirer Journal over the weekend, explaining the circumstances, stating that this case was dismissed and closed. He stated that he provided that information to the reporter and a retraction will be in the paper tomorrow. He said it's a personal matter, it's a political ploy, and he is willing to address this matter with anyone personally. He expressed his distress over the pain and suffering of his daughters requesting that candidates look at what they do and consider the consequences.

Jerry Morse, 271 Unionville-Indian Trail Road, Indian Trail, NC addressed the Cultural Arts Festival this weekend stating that it was a great event, he saw a lot of happy kids that had a good time. He stated that small business does drive our economy; he was able to appreciate and didn't know we had them in Indian Trail; it was a great way to promote those businesses. He expressed a concern about a walking billboard ordinance, stating that there was a violation at the festival, feeling it should be addressed, there was a complaint. He agrees the Bypass is needed; he supports it and feels both sides should be presented.

Jim Houston, 2009 Blue Range Road Indian Trail, encouraged everyone to go out and vote, he attended the forum, there were 6 people on the stage and he only recognized 3. He was able to recognize

them because they attend meetings. He spoke about some of the questions/comments made that evening. He believes that those that show and up get involved are committed. He informed he will vote for 2 of three candidates he named, Mr. Faulkenberry, Mr. Morse and Mr. Drehs. David Drehs, 3216 Old Club Trail, Matthews, NC addressed an email he received pertaining to Indian Trail named the best place for job seekers and complimented those responsible for it.

### **CONSENT AGENDA**

- a. Approval of draft minutes for October 8, 2013
- b. Adoption of Union County Nuisance Ordinance **(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**

- a. Annexation 137 - This is a voluntary annexation request to annex a single parcel of land consisting of 3.182 acres into the Town of Indian Trail. The parcel being considered for annexation is part of the proposed Union Grove Subdivision also being considered for conditional rezoning (CZ2013-003). Location: Unionville-Indian Trail Road- Parcel 07066007 90, Applicant: Wells Fargo Bank N.A.

Mayor Alvarez inquired if anyone wants to sign up for Public Comments on this matter as the original signup sheet is missing. No one wanted to sign up.

Mr. Burhans presented that the subject property is located on the north side of Unionville-Indian Trail Road within the unincorporated area of Union County. The property is an undeveloped parcel shaped with a triangular configuration. It is approximately 3.1825 acres in size and are zoned Union County Residential-20 (R-20) .The parcels being considered for annexation is also part of the Union Grove Conditional Rezoning subject property (CZ 2013-003). The Town Council is holding a public hearing for the Union Grove rezoning on October 22, 2013. Parcel 07-066-007-90 must first be annexed into the Town of Indian Trail prior to the Town Council taking action on the Union Grove rezoning

Mr. Burhans stated that 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 #137 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.

Mayor Alvarez opened and closed the Public Comments portion of the hearing as no one had signed up to speak.

Robert Allen made a motion to approve The Town Council of Indian Trail finds that, pursuant to the requirements of NCGS § 160A-31(d), that the proposed Annexation Ordinance #137 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 and hereby adopts Annexation Ordinance #137.

Council voted unanimously in favor of the motion. **(COPY ATTACHED HERETO AND MADE A PART OF THE MINUTES)**

- b. CZ2013-003 Union Grove Subdivision: This is a rezone request to establish a Conditional Single-Family Residential-5 Zone on an approx. 68-acre subject property for the purpose of developing a single-family residential subdivision. Location: Unionville-Indian Trail Road-Parcels 07066007-80 and 90, Applicant: The Bayard Group.

Mr. Burhans presented a request to establish a Conditional Single Family Residential-5 (SF-5-CZ) zoning district to support development of a 207-home neighborhood and related improvements. The approx. sixty-eight (68) acre subject property is located on Unionville-Indian Trail Road, east of Faith Church Road. The gross density of the community would be approximately 3-units per-acre. The neighborhood features two points of access on Unionville-Indian Road. The proposal also contemplates constructing eastbound left turn lanes on Unionville-Indian Trail Road at each site entrance, as recommended by the submitted Traffic Impact Analysis (summary enclosed) and approved by the North Carolina Department of Transportation (NCDOT).

The conditional rezoning request was presented to the Planning Board at their September 23, 2013 meeting. At the meeting, the Board received a presentation providing an overview of the Staff Report, received public comments, and discussed various aspects of the proposal. The Board voted unanimously to *Continue* the case until October 15, 2013 to provide time for staff and the applicant to research additional information related to emergency vehicle access requirements, the proposed stormwater management design, pedestrian accessibility on Unionville-Indian Rd, and additional information on the proposed 5-ft side building setbacks. At the October 15, 2013 Planning Board meeting, the Board received a presentation providing the requested additional information and voted 5 to 2 to recommend approval of the rezoning subject to conditions.

After deliberations the Board motioned to make the findings and transmit a recommendation to approve as conditioned and with two new conditions. New Draft Conditions were added by the Planning Board to prohibit vinyl siding due to the reduced side setbacks (Condition #2) and to require consultation with Mr. Robert Kiker (adjacent property owner) regarding the engineered stormwater design (Condition #12). The Planning Board voted 5 to 2 to recommend approval of CZ2013-003.

The Draft Conditions are as follows:

1. *Concept Plan and Community Design Guidelines*: The site shall be developed as generally depicted on the approved Concept Plan, referenced as Attachment 1. The proposed single family homes and amenity

improvements shall comply with Unified Development Ordinance (UDO) Chapter 13 *Statement of Integrity and Design* standards and the supplementary Community Design Guidelines developed for the Union Grove conditional rezoning

2. *Exterior Wall Siding Materials*: The use of vinyl siding on the exterior walls of the single family homes shall be prohibited within the Union Grove community. The exterior wall materials shall consist of brick, stone, and/or cement fiber board (i.e. Hardie) materials. The side building walls shall also not be constructed with any highly flammable building material such as natural, cedar shakes or wood siding, and similar materials.

3. *Permitted Uses*: The permitted use of the subject property is for single-family residential detached homes and accessory uses as permitted by the UDO.

4. *Maximum Dwelling Units*: The maximum number of dwelling units permitted on the 68-acre subject property (approx.) shall be limited to 207-homes. The maximum number of 50-ft wide lots shall be limited to 137 lots or 66% of all developed lots. The applicant may make a request to the Planning Director for up to an additional 4-single family lots (211 total) if it can be demonstrated that the lots can be accommodated in compliance with the UDO and the conditions of approval with no substantive impact to buffering from stormwater management facilities or impacts to open space and tree retention areas. The lot type arrangement within

Union Grove shall be defined by having the 50-ft lots located west of the Duke Energy transmission line easement and the 60-ft lots located east of the transmission line easement. Cul-de-sac lots requiring increased setbacks to meet min. lot width shall be generally designed to ensure a consistent overall home placement.

5. *Building Setbacks*: Min. building setbacks for single-family homes shall consist of the following: 25-ft front, 5-ft side/10-ft corner or street-side, and 30-ft rear. All homes and related improvements shall also be located outside all sight distance areas. The common area improvements will comply with the conventional SF-5 District setbacks.

6. *TIA Roadway Improvements*: The developer shall be responsible for constructing all road improvements identified in the TIA prepared April 18, 2013 by Kimley-Horn and its associated Addendum prepared August 13, 2013, as noted below. All required road improvements shall be constructed and any associated public ROW dedicated prior to issuance of a Town Zoning Compliance for any homes unless a later or phased timeline is approved by the Town of Indian Trail Engineer and the North Carolina Department of Transportation.

"X Construct a 3-lane road cross section on Unionville-Indian Trail Road between the two site access points with required tapers to create eastbound left turn lanes at each site entrance.

7. *Frontage Improvements*: Unionville-Indian Trail Road along the common site frontage with the Union Grove neighborhood will be improved with curb/gutter, a 6-ft wide sidewalk, and street trees. A min. 35-ft ROW measured from the existing road centerline will be dedicated to NCDOT or its assigns. All required frontage improvements shall be constructed and any associated public ROW dedicated prior to issuance of a Town Zoning Compliance for any homes unless a later or phased timeline is approved by the Town of Indian Trail Engineer and the North Carolina Department of Transportation.

8. *Perimeter Landscaping*: A min. 20-ft perimeter landscape area (outside future ROW) along the common site frontage with Unionville-Indian Trail Road shall be established and planted with trees, shrubs, and ground cover. Other amenities such as ornamental fencing, monuments, and/or other

community amenities etc. that are consistent with the Union Grove Community Design Guidelines shall also be integrated within this area. Stormwater management facilities may not be located within perimeter landscape or buffer areas.

9. *Onsite Road Improvements*: Internal roads within Union Grove shall be constructed with a min. of 50-ft and 60-ft Rights-of-Way with improvements consisting of two travel lanes, curb/gutter, sidewalks, and street trees, as generally depicted on Sheet 2 of the Concept Plan. Cul-de-sac roads shall be constructed with an ornamental, center island turning features such as a landscape island (trees not permitted) or similar improvement (subject to Town approval). All internal roads shall be constructed with a minimum pavement thickness consisting of an 8-inch base course, 1.5-inch Intermediate Course, and 1-inch Surface Course, in accordance with Town Engineering standards. Traffic calming shall also be incorporated into the internal road network, as needed, in accordance with the Town Traffic Calming Policy and Town Engineering standards.

10. *Open Space and Tree Retention*: Approximately 15.7 acres of useable open space will be provided. In the event the Duke Energy transmission easement area cannot be used for active recreational uses, parking, and/or road access as generally indicated on the Concept Plan, a major Conditional Rezoning Amendment will be required. Active recreation features shall include paved, concrete trails sized at a min. of 5-ft in width (unless alternative design/material is approved by Town Planning Director), a pool with cabana /recreational building (and associated parking), playground areas, and similar features. The pool and cabana building may be substituted for other major common area amenities representing an equal financial investment in the Union Grove neighborhood (subject to Town approval).

The pool and cabana building shall be constructed prior to issuance of Zoning Compliance Permits for the first 25% of homes. Pedestrian amenities consisting of seating areas, landscaping, and related amenities will be provided at trail intersections and in the small pocket parks located throughout Union Grove. A public access easement will be provided for the trail section running through the Duke transmission line easement. The exact quantity of open space will be finalized with the development of the site/construction plans. Maintenance of all open space areas shall be the responsibility of the Union Grove developer and/or his/her assigns. Trees retention areas shall be established as generally referenced on the Concept Plan. A survey of existing canopy and/or heritage trees shall be performed with the Site Plan submittal identifying additional trees for retention and/or mitigation needed for removed trees. All reasonable efforts shall be made to retain existing canopy and/or heritage trees, particularly those located on the perimeter of the development adjacent to residential properties.

11. *Stormwater Detention Pond*: The size of the proposed stormwater management facilities identified on the Concept Plan is for illustrative purposes only. The exact size will be determined with the Site Plan submittal. A min. 10-ft of separation shall be provided between the facility and any property lines or ROW lines. A dense vegetated screen shall be provided around the stormwater management improvements to minimize any visual obtrusiveness to adjacent properties or existing or future ROW. The size of the facility separation and/or its screening may be increased by the Planning Director based on the final proposed design and its likely increased visual impact to adjacent properties or existing or future ROW.

12. *Review of Stormwater Plans*: Town Engineering staff and the rezoning applicant's representatives (if needed) will review the proposed grading and drainage plans with the owner of adjacent Parcel #07066008A unless such a review is declined by the adjacent property owner. The intent of the review is

to keep the property owner apprised of the final grading and stormwater design and its relationship to adjacent, downstream properties. 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 as follows:

*Goal 1.3.1 Quality of Life* - The proposed conditional district will create a master planned medium-density residential community with a mix of lot types and housing sizes that will provide affordable living opportunities for a wide range of residents. The plan also contributes to Indian Trail's supply of parks and recreation lands through the development of a publically accessible trail that will eventually lead to a public greenway identified on the adopted Parks and Greenways Master Plan. The conditional district will also contribute to the enlargement of Indian Trail's protected, community forest through the establishment of tree retention areas.

*Goal 1.3.2 Land Use* - The proposed conditional district will avoid potential land use impacts with adjacent properties and surrounding municipalities through the use of extensive separation and buffering from adjacent industrial uses as well as making a significant roadway investment to mitigate any transportation impacts on Unionville-Indian Trail Road. The proposed district will further contribute to a more balanced tax base through the voluntary annexation of approx. 3-acres into the Town of Indian Trail.

The request for this conditional zoning district is a reasonable request and is in the public interest because it helps create a mix of lot types and housing sizes within the Sardis Village Center, provides expanded housing opportunities for Indian Trail citizens and business owners, and includes elements that benefit the general public in the areas of open space, tree preservation, and transportation infrastructure investment.

Mayor Alvarez opened the public comments portion of the hearing.

Jerry Morse, 271 Unionville-Indian Trail Road, Indian Trail, NC stated he still has concerns; he believes the traffic counts are a bit skewed s it's a high volume road, as a good neighborhood policy we should be considering how it will affect other schools, 5' setbacks he feels it should be 10'. He inquired how many Conditional Rezoning have not been approved and he was advised none, it's going from an SF1 to a SF5.

Mayor Alvarez closed public comments portion of the hearing.

Robert Allen made a motion to approve making the required findings as read into the record and found in draft ordinance including the Comprehensive Plan consistency statement.

Motion Passed 3 - 1 with David Waddell opposing.

Robert Allen made a motion to approve as presented.

Motion Passed 3 - 1 with David Waddell opposing.

Mr. Merritt advised this is the first reading of an Ordinance that did not pass by at least four of the Council Members it will have to be brought before Council for second reading at the next meeting.

### **BUSINESS ITEMS**

- a. Council consideration of acceptance of greenway trail from Hawthorne at the Trail

Mr. Fivas explained this is a request for the Town to accept a public greenway trail for maintenance, purchase and install a Thread Trail Sign and coordinanate a ribbon cutting event officially opening this segment of the Carolina Tread Trail by the owners of Hawthorne at the Trail Apartments. This will be the first built greenway trail segment of the Carolina Thread Trail in Indian Trail.

Robert Allen made a motion to approve taking over maintenance and also do the dedication for the Threadtrail and the sign.

Motion Passed 3 - 1 with David Waddell opposing.

### **DISCUSSION ITEMS**

- a. Discussion of selection of Law Enforcement Agreement Consultant

Mr. Fivas advised that Council assisted in creating and approved the Law Enforcement Consultant RFP guidelines, which staff mailed out to several potential consultants around the Country. We received three proposals, two were delivered within the timeline provided and one was received a day late and has not been opened by staff. Mr. Fivas stated that within the RFP Council has the ability to wave requirements if they wish to open and consider the late arrival? If not we can simply discuss the two received on time, Council discussed the matter.

Robert Allen made a motion to approve adhering to the deadline that we established as a Council.

Motion Passed 3 - 1 with David Waddell opposing.

Mr. Fivas inquired if Council wanted to invite both Consultants in for an interview?

Robert Allen made a motion to approve inviting both Law Enforcement Agreement Consultants in for an interview.

Council voted unanimously in favor of the motion.

### **MANAGERS REPORT**

*None*

### **COUNCIL COMMENTS**

Mayor Alvarez commented on the report mentioned by Mr. Drehs stating the real credit goes to the hard work of the town staff and thanked them for making us look good. He stated that Mr. Waddell has set up a meeting at SPCC for those interested in hearing an opposing view on the Bypass, simply for informational purposes it's at 6:30 pm, SPCC Salon B. Election Day is coming up, make your decisions, all the candidates have made themselves available to you 24/7, due your due diligence and vote for the candidate that fits what your vision of this town is, leave personalities out of it simply vote on the issues please. He noticed on the school websites that the awards have gone out for teachers and assistant of the year, he congratulate all of them, suggesting each Council Member stop by the schools and congratulate them in person.

Mr. Waddell stated that Mr. Daniels brought up a good point that public safety is the primary purpose for us being here and protecting rights of individuals and he appreciated his comments on Fire safety and EMT safety. There will be conversations long after this council moves on about these services. Mr. Savoie, I appreciate you and wish you the best. Mr. Morse thank you for the support with the SELC thing. Mr. Drehs I can't take credit for Indian Trail being a good town there are many factors involved, the geographical location, proximity to Charlotte and 485, the natural landscape, climate, proximity to mountains and beach, it has done a wonderful job of growing. Council is a big part of the decision making process and we would have to be really bad to mess it up and there are a lot of hard working people to assist in how it grows and we are blessed to have those people behind the scenes doing hard work making it all fit together and in place; he appreciates the comments on that.

Mr. Cohn referred to Mr. Daniels comments on safety advising as a Council we do all we can for the safety of our town and the widening of Old Monroe Road. He suggested Mr. Daniels familiarize himself on why it's not widened. If we could wave our magic wand and widen it, money wouldn't be an issue or taxes, there's reasons why it's not done, as it's the number one concern of us up here. We do care and we have tried hard to get it widened and would want to get it done yesterday. I am proud to live in Indian Trail and thanked the staff for doing their hard work in making Indian Trail #1 again to be a great place to work, play and be a part of.

Mr. Allen as a candidate, until you get behind this desk you don't know how limited you truly are. Often I've seen candidates run on platforms that were addressing schools, water, sewer, roads; you'll spend a lot of time beating your head against the wall as you come to find out how much you don't have control over these issues. You can try and spend a lot of time making relationships and having dialogue with those that do have control over them. Such as we did on Old Monroe Road and Wesley Chapel intersection where we were able to reach out to Raleigh to get nearly a million dollars applied to that intersection that was rated F for 25 years. We were able to leverage that development project which could amount to over sixty million dollars build out to improve that intersection to protect our children. Suggesting that one keeps in mind we did not put those schools there, the County did, but it's our kids going to them so it was a big deal. Mr. Allen referred to the collaboration of staff and developers who worked tirelessly on this subdivision to bring us a better product; it doesn't even resemble what was brought before them in the beginning. Mr. Goodyear is another opportunity where government and the private sector created a positive environment; government does not create jobs, they create an

environment for the opportunity for the entrepreneur, that's what we' doing and that's why we're improving in leaps and bounds. Kudos to staff and Council and the Manager for creating that environment and reaching out and having that collaboration with other agencies creating better intersections for our kids, for grants to grow our businesses and hire people; that ripple effect is huge.

Ms. Luther clarified Mr. Daniels comments and the message she received was that he understand it's being done but he would expect that it be a 5-0 vote; that all of us to be in support of it. She agrees with Mr. Waddell he can't take credit for the advancement of the town, he votes against everything, so I agree with you that you had nothing to do with us moving forward. She believes Mr. Savoie is a great candidate who has been under attack which she doesn't believe is right, it's unfortunate but she agrees he is a darn good candidate and people always attack good candidates to bring them down. She hopes everyone goes out and votes and that we have a good turnout.

**CLOSED SESSION**

*None*

**ADJOURN**

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

**APPROVED:**

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**Michael L. Alvarez, Mayor**

Attest:

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Peggy Piontek, Town Clerk