



Town of Indian Trail
P.O. Box 2430
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PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

Zoning Staff Report

Case: ZT 2011-004 Tree Ordinance Amendment		
Reference Name(s)	Amend/Add Sections 830.140; 830.040E; 880.010B; 880.040A; Appendix 1	
Applicant	Town of Indian Trail	
Submittal Date	April 19, 2011	
Location	Town-Wide	
Tax Map Number	N/A	
Recommendations & Comments	Planning Staff	Recommend approval of the proposed UDO amendments to the Town Council

Executive Summary

Staff is introducing this text amendment (ZT2011-004) relating to landscape buffer strip planting requirements, heritage tree mitigation requirements and the approved tree species list. The proposed amendments/additions are as follows:

- *Amend UDO Section 810.140 Landscaping Adjacent to Buildings regarding the requirement for 3' landscape buffer strip.*
- *Add to UDO Section 830.040E Heritage Tree Protection to allow for in-lieu fee and offsite mitigation for heritage tree mitigation requirements. Amend UDO Sections 880.010B and 880.040A for the purpose of referencing section 830.040E.*
- *Add to Appendix 1: Trees and Shrubs to include Deodar Cedar as an approved evergreen tree species.*

Analysis

Landscaping Adjacent to Buildings

The Town currently requires the installation of a 3' landscape buffer strip along all exterior building walls visible from public right-of-way in Section 810.140 of the Unified Development Ordinance (UDO) as follows:

810.140 Landscaping Adjacent to Buildings

Exterior building walls adjacent to parking lots, driving aisles, or public sidewalks that are visible from a public or private right-of-way must be improved with a landscaped buffer strip at least 3 feet in width.

Where the exterior building façade provides public access to the building and is adjacent to a surface parking lot and/or a driving aisle there shall be a combined landscape strip and walkway with a width of at least 8 feet. Any landscape strip must be densely planted with hedges at least 24 inches in height at the time of installation. See Section 810.130A.3.

In implementation of this section of the UDO, it has come to the attention of staff that the landscape buffer strip requirement along the rear wall of a building, if visible from public right-of-way, is impractical. The rear building wall is rarely used by the public and is usually adjacent to a drive isle. Also, the UDO requires a 10' perimeter landscape strip along the rear of the property; therefore serving the purpose of providing a landscape barrier between the building and neighboring properties.

Staff is also of the opinion that this section of the UDO clearly exceeds the intent of the landscaping ordinance by requiring a 3' landscaping strip against building walls abutting parking lots and driving aisles. The proposed amendment would remove the requirement for a 3' landscaping strip for such situations, leaving the requirement only for building walls adjacent to public sidewalks.

Therefore, staff proposes the following changes to Section 810.140 of the UDO:

810.140 Landscaping Adjacent to Buildings

~~Exterior~~ ~~Front and side~~ building walls adjacent to ~~parking lots, driving aisles, or~~ public sidewalks that are visible from a public or private right-of-way must be improved with a landscaped buffer strip at least 3 feet in width. Where the exterior building façade provides public access to the building and is adjacent to a surface parking lot and/or a driving aisle there shall be a combined landscape strip and walkway with a width of at least 8 feet. Any landscape strip must be densely planted with hedges at least 24 inches in height at the time of installation. See Section 810.130A.3.

Heritage Tree Protection

Also through application of the UDO, it has been determined that the heritage tree mitigation requirements cannot be met completely onsite in some development and redevelopment circumstances due to physical site constraints such as utility easements, streams, among other unusual site conditions.

Currently, the only option for alternative compliance for heritage tree mitigation is the opportunity for a developer to present an alternative planting plan to the Parks, Tree and Greenway Committee for review as referenced in UDO 880.040A. The Parks, Tree and Greenway committee reviews the alternative plan and makes a recommendation to the Planning Director. The Planning Director may choose to approve or deny the alternative plan and any appeal to this decision goes directly to the Board of Adjustment.

This opportunity for an alternative planting plan typically results in a net reduction tree canopy on the site. In order to provide more options for alternative methods of compliance and for the goal of preventing net loss of tree canopy, specifically as it relates to heritage trees, staff presents the following text amendment allowing for in-lieu fees and offsite mitigation only for the heritage tree mitigation requirement.

830.040 E. Heritage Tree Protection

To the maximum extent feasible, heritage trees located on any site subject to tree preservation requirements of this Chapter must be preserved. Where a project saves heritage trees and is subject to the canopy tree requirements of this Chapter, 150 percent of the heritage tree canopy area shall count toward the required canopy tree requirements. A person proposing to remove a heritage tree must identify the proposed tree removal on a site plan or major subdivision plan submitted for approval to the Town of Indian Trail unless such removal is authorized in Section 830.040E. Anyone who removes a heritage tree without plan approval is subject to one or more of the civil penalties in Section 880.050A. Plans representing the removal of heritage trees will be granted only where:

1. The tree is located within that portion of the lot where buildings or improvements are permitted. The applicant should demonstrate that there is no other reasonable location for the building or improvement and that preservation would unreasonably restrict use of the property.
2. The tree is diseased, dying or dead or causes a safety hazard to nearby buildings or pedestrian or vehicular traffic.
3. The tree is causing significant structural damage to a building or other structure that reasonable maintenance cannot prevent.
4. The tree is dropping debris or sap that is significantly affecting vehicles in a parking lot.
5. Removal is necessary to allow construction of a road or drive that is essential for access to the site.
6. A joint agreement regarding the replacement of any removed heritage trees has been made by the Planning Director, developer and design team during project approval process.
7. Where removal of healthy heritage trees is approved as part of an approved site plan, subdivision plat or tree removal permit, new trees will be planted according to the following (Also refer to Chapter 870, Tree Planting Standards):

Tree Removed Tree Replaced

Tree Removed	Tree Replaced
12" caliper to less than 18" tree	Three 2.5" caliper trees
18" caliper to 24" tree	Four 2.5" caliper trees
24"+ caliper tree	Five 2.5" caliper trees

8. Payment In-Lieu and Offsite Mitigation

Certain circumstances may prevent locating all of the required heritage tree mitigation plantings on site. The following mitigation options are available for each replacement tree, not to exceed ninety (90) percent of the total heritage tree mitigation requirement. The remaining ten (10) percent must be planted onsite.

1. Payment In-Lieu. A payment in-lieu of tree replacement may be allowed, subject to approval by the Planning Director or decision-making authority after careful consideration of all other options. The amount of the contribution shall be based on the number and species of trees needed to meet

the heritage tree mitigation requirements and on the commercial price and installation cost for such trees.

- a. A separate account shall be established by the Town for fees collected. Tree replacement fee receipts shall be earmarked specifically for this account. Funds withdrawn from this account shall be used for planting of new trees in Town owned parks, open spaces or rights-of-way or maintenance of public trees and purchase of public land for the purpose of tree canopy preservation.
- b. The applicant is responsible for providing price quotes from at least three (3) suppliers within this region.
- c. The fee shall be paid to the Town prior to the issuance of Site Plan approval.

Example:

Heritage tree mitigation required	150 trees (2.5" caliper)
Allowable for in-lieu fees	135 trees (90%)
Remaining trees to be planted onsite	15 trees (10%)

2. Off-site Mitigation. The applicant may convey at no cost to the Town of Indian Trail land within the Town containing mature tree canopy equal to the total canopy area required by heritage tree mitigation or equal in ecological value as described below. The land shall be conveyed subject to either a permanent conservation easement or deed restrictions for the purpose of preserving tree canopy.

- a. The following factors shall be considered by the decision making authority when identifying potential offsite mitigation locations:
 - 1. Net canopy and forest type
 - 2. Habitat values and species diversity
 - 3. Tree age diversity
- b. The Parks, Tree and Greenway Committee makes a recommendation to Town Council regarding the offsite mitigation proposal and its ecological benefit as it relates to heritage tree mitigation.
- c. The conveyance and its terms must be: (1) approved by the Town; (2) be acceptable to the Town of Indian Trail Town Council; and (3) comply with the Tree Ordinance.

The request must be made, in writing, to the Planning Director to pursue either alternative mitigation option. The Planning Director must determine, as part of the process described above, if the site is not suitable for complete onsite mitigation. Such a determination is to be made in conjunction with a North Carolina registered forester, registered landscape architect, ISA certified arborist, or certified tree and landscape appraiser.

Staff is of the opinion that by providing more options for developers and property owners to comply with the heritage tree mitigation requirement, the total net loss of heritage tree canopy will be reduced over time. The end result of allowing either alternative compliance scenario is one that will preserve and increase tree canopy in Indian Trail and also enhance the ecological integrity of our local environment.

The following amendments proposed include a reference for UDO Section 830.040E. By providing a reference within these sections of the ordinance, the proposed alternative heritage tree mitigation options cannot be bypassed by an applicant seeking to reduce all required tree plantings.

880.010 Responsibilities and Enforcement

A. The Planning Director or designee shall have the power and authority to administer and enforce this ordinance. The Planning Director or designee may serve notice to any person in violation of this ordinance and/or institute legal proceedings as may be required, and the Town Attorney is hereby authorized to institute appropriate proceedings to that end.

B. Park, Tree and Greenway Committee will have the power and authority to the following:

1. Review and propose revisions to the tree preservation standards.
2. Review alternative methods of compliance with the tree planting and tree protection requirements and make recommendations to the Planning Department, *except as indicated in Section 830.040 E.*
3. Provide community outreach and public education.
4. Participate in the Town’s Arbor Day Event.

880.040 Modifications, Denials, Inspections and Emergencies

A. Modifications

Alternate tree protection/planting plans, plant materials, planting standards or reforestation may be used where it would be unreasonable or impractical to strictly apply the tree protection/planting requirements. Such situations may be the result of streams, natural rock formations, topography, or other physical conditions; utility easements, a unified development design, or unusual site conditions. An alternate plan may be approved when:

1. The Park, Tree and Greenway Committee makes a recommendation to planning staff regarding all alternate tree protection/planting plans, plant materials, planting standards or reforestations, *except as indicated in Section 830.040 E.*

Tree Appendix Amendment

It was recently recognized that the UDO Tree and Shrub appendix does not include one of the recommended evergreen tree species by the Union County Urban Forester as a suitable species for our area. The Deodar Cedar is presently listed in the Union County Tree Species List and is recognized as a tree species that will perform well in this region under most circumstances. The tree grows to about 40’-60’ high with a spread of about 40’ and is available in a variety cultivars for color and size. The proposed amendment to the Tree and Shrub Appendix is as follows:

EVERGREEN		
Common Name	Botanical Name	Mature Height (feet)
<i>Deodar Cedar</i>	<i>Cedrus deodara</i>	40-60

Eastern Red Cedar	Juniperus virginiana	20-30
Carolina Cherrylaurel	Prunus caroliniana	20-30
Holly, American	Ilex opaca	20-40
Holly, Chinese (Tree Form)	Ilex cornuta	8-15
Xholly, Foster	Ilex X attenuata	20-30
Holly, Hume	Ilex X attenuata	25-35
Holly, Nellie R. Stevens	Illex X 'Nellie R Stevens'	15-25
Holly, Yaupon	Ilex vomitoria	15-20
Holly, Savannah	Ilex X attenuata	25-30
Magnolia, Southern	Magnolia grandiflora	60-80
Loquat	Eriobotrya japonica	15-20
Pine, Loblolly	Pinus taeda	60-90
Pine, Shortleaf	Pinus echinata	80-100
Spruce, Norway	Picea abies	40-60
Myrtle, Wax	Myrica cerifera	10-15

Required Consistency Findings

The Planning Board is required to make two findings, one for consistency with Town adopted plans and another regarding the benefit of the public. Staff is of the opinion the following findings can be made:

1. The proposed UDO amendment is consistent with the following goals:
 - 1.3.1 of the Comprehensive Plan – Quality of Life; the proposed UDO amendment will help to reduce the net loss of tree canopy and preserve ecological integrity within Indian Trail.
 - 1.3.2 of the Comprehensive Plan – Land Use; the proposed UDO amendment will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties and surrounding municipalities.
2. This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process, while providing a greater quality of life for all residents of the Town of Indian Trail.

Staff Recommendation

Staff recommends that the Planning Board make the required consistency findings and recommend adoption of these UDO ordinance amendments as stated in this report to the Town Council.

Staff Contact

Hillary Pace
Environmental Planner

Planning Board Attachments:

PB Attachment 1 – Draft Ordinance

PB ATTACHMENT 1

NOW THEREFORE, BE IT ORDAINED ON MAY 10, 2011 BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA HEREBY TAKES THE FOLLOWING ACTION:

Section 1 – Division 800, Section 810.140 is hereby amended as follows:

810.140 Landscaping Adjacent to Buildings

~~Exterior~~ **Front and side** building walls adjacent to parking lots, driving aisles, or public sidewalks that are visible from a public or private right-of-way must be improved with a landscaped buffer strip at least 3 feet in width. Where the exterior building façade provides public access to the building and is adjacent to a surface parking lot and/or a driving aisle there shall be a combined landscape strip and walkway with a width of at least 8 feet. Any landscape strip must be densely planted with hedges at least 24 inches in height at the time of installation. See Section 810.130A.3.

Section 2 – Division 800, Section 830.040E is hereby amended as follows:

E. Heritage Tree Protection

To the maximum extent feasible, heritage trees located on any site subject to tree preservation requirements of this Chapter must be preserved. Where a project saves heritage trees and is subject to the canopy tree requirements of this Chapter, 150 percent of the heritage tree canopy area shall count toward the required canopy tree requirements. A person proposing to remove a heritage tree must identify the proposed tree removal on a site plan or major subdivision plan submitted for approval to the Town of Indian Trail unless such removal is authorized in Section 830.040E. Anyone who removes a heritage tree without plan approval is subject to one or more of the civil penalties in Section 880.050A. Plans representing the removal of heritage trees will be granted only where:

- 1.** The tree is located within that portion of the lot where buildings or improvements are permitted. The applicant should demonstrate that there is no other reasonable location for the building or improvement and that preservation would unreasonably restrict use of the property.
- 2.** The tree is diseased, dying or dead or causes a safety hazard to nearby buildings or pedestrian or vehicular traffic.
- 3.** The tree is causing significant structural damage to a building or other structure that reasonable maintenance cannot prevent.
- 4.** The tree is dropping debris or sap that is significantly affecting vehicles in a parking lot.
- 5.** Removal is necessary to allow construction of a road or drive that is essential for access to the site.
- 6.** A joint agreement regarding the replacement of any removed heritage trees has been made by the Planning Director, developer and design team during project approval process.
- 7.** Where removal of healthy heritage trees is approved as part of an approved site plan, subdivision plat or tree removal permit, new trees will be planted according to the following (Also refer to Chapter 870, Tree Planting Standards):

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- a. A separate account shall be established by the Town for fees collected. Tree replacement fee receipts shall be earmarked specifically for this account. Funds withdrawn from this account shall be used for planting of new trees in Town owned parks, open spaces or rights-of-way or maintenance of public trees and purchase of public land for the purpose of tree canopy preservation.
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a. The following factors shall be considered by the decision making authority when identifying potential offsite mitigation locations:

- 1. Net canopy and forest type
- 2. Habitat values and species diversity
- 3. Tree age diversity

b. The Parks, Tree and Greenway Committee makes a recommendation to Town Council regarding the offsite mitigation proposal and its ecological benefit as it relates to heritage tree mitigation.

- c. The conveyance and its terms must be: (1) approved by the Town; (2) be acceptable to either the Town of Indian Trail Town Council; and (3) comply with the Tree Ordinance.

The request must be made, in writing, to the Planning Director to pursue either alternative mitigation option. The Planning Director must determine, as part of the process described above, if the site is not suitable for complete onsite mitigation. Such a determination is to be made in conjunction with a North Carolina registered forester, registered landscape architect, ISA certified arborist, or certified tree and landscape appraiser.

Section 3 – Division 800 Section 880.010B is hereby amended as follows:

880.010 Responsibilities and Enforcement

A. The Planning Director or designee shall have the power and authority to administer and enforce this ordinance. The Planning Director or designee may serve notice to any person in violation of this ordinance and/or institute legal proceedings as may be required, and the Town Attorney is hereby authorized to institute appropriate proceedings to that end.

B. Park, Tree and Greenway Committee will have the power and authority to the following:

1. Review and propose revisions to the tree preservation standards.
2. Review alternative methods of compliance with the tree planting and tree protection requirements and make recommendations to the Planning Department, *except as indicated in Section 830.040 E.*
3. Provide community outreach and public education.
4. Participate in the Town’s Arbor Day Event.

Section 4 – Division 800 Section 880.040A is hereby amended as follows:

880.040 Modifications, Denials, Inspections and Emergencies

A. Modifications

Alternate tree protection/planting plans, plant materials, planting standards or reforestation may be used where it would be unreasonable or impractical to strictly apply the tree protection/planting requirements. Such situations may be the result of streams, natural rock formations, topography, or other physical conditions; utility easements, a unified development design, or unusual site conditions. An alternate plan may be approved when:

1. The Park, Tree and Greenway Committee makes a recommendation to planning staff regarding all alternate tree protection/planting plans, plant materials, planting standards or reforestations, *except as indicated in Section 830.040 E.*

Section 5 – Appendix 1: Trees and Shrubs is hereby amended as follows:

EVERGREEN		
Common Name	Botanical Name	Mature Height (feet)
<i>Deodar Cedar</i>	<i>Cedrus deodara</i>	40-60
Eastern Red Cedar	<i>Juniperus virginiana</i>	20-30
Carolina Cherrylaurel	<i>Prunus caroliniana</i>	20-30
Holly, American	<i>Ilex opaca</i>	20-40

Holly, Chinese (Tree Form)	Ilex cornuta	8-15
Xholly, Foster	Ilex X attenuata	20-30
Holly, Hume	Ilex X attenuata	25-35
Holly, Nellie R. Stevens	Illex X 'Nellie R Stevens'	15-25
Holly, Yaupon	Ilex vomitoria	15-20
Holly, Savannah	Ilex X attenuata	25-30
Magnolia, Southern	Magnolia grandiflora	60-80
Loquat	Eriobotrya japonica	15-20
Pine, Loblolly	Pinus taeda	60-90
Pine, Shortleaf	Pinus echinata	80-100
Spruce, Norway	Picea abies	40-60
Myrtle, Wax	Myrica cerifera	10-15

Section 6 - This ordinance shall be effective immediately upon adoption.

SO ORDAINED THIS 10TH DAY OF MAY, 2011.

THE TOWN COUNCIL OF INDIAN TRAIL

By _____
Honorable John J. Quinn, Mayor

Attest:

Peggy Piontek, Town Clerk

APPROVED AS TO FORM:

TOWN ATTORNEY