



Town of
INDIAN TRAIL
north carolina

P.O. Box 2430

Indian Trail, North Carolina 28079

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PLANNING AND NEIGHBORHOOD SERVICES

Zoning Staff Report

Case: ZT 2012-004 Amendment of UDO Related to Public Noticing Requirements		
Reference Name	Noticing Requirements – Chapter 310 of the UDO	
Applicant	Town of Indian Trail	
Submittal Date	07/17/2012	
Location	Town-Wide	
Tax Map Number	N/A	
Plan Consistency	Town of Indian Trail Comprehensive Plan	Consistent With Request
Recommendations & Comments	Planning Staff	Recommends Approval of Proposed Text Amendments.

Project Summary

A request to amend Chapter 310 of the Unified Development Ordinance (UDO) to enhance public noticing requirements related to discretionary zoning permits. Public noticing related to zoning permits is a key component of the discretionary permit process to encourage public engagement in land use decisions. This amendment was initiated by staff as a result of voiced concern by residents and a workshop held with the Planning Board.

Areas of Analysis:

- 1. The Comprehensive Plan-** The proposed text amendment is consistent with goals of the Comprehensive Plan; Quality of Life and Land Use.
- 2. Staff Recommendation-** Staff recommends based on the guidance of the adopted plans that the text amendment be supported by recommending its approval to the Town Council

Analysis

This amendment is a result of research and collaboration with the Planning Board to address noticing concerns voiced by residents related to discretionary permits. Discretionary permits are planning permits, such as a Zoning Petition or Special Use Permit, that require approval by a decision making body (i.e. Board of Adjustment or Town Council). The specific areas of concern are:

- Mail-out Notice for Public Hearing
 - Notice can be difficult for residents to understand; and
 - Should a larger number of residents receive notice?
- Newspaper notification – Legal Ad for Public Hearing
 - Which local paper should the public hearings be advertised
- Community Meeting – prior to Public Hearing
 - Should the Town require developers to hold a community meeting

Administrative Changes

Staff evaluated internal department procedures and documents as a starting point. We found two issues could be addressed administratively – 1) Public Notice Comprehension, and 2) Newspaper readership for the public notice.

- **Mailed Notice** – staff has modified the public notice mailed to adjacent property owners to better explain the project, the process, and the implications if the project is granted. An example of the new notice is provided in Attachment 1.
- **Newspaper Readership** – based on readership numbers in our area, staff has changed the legal Ad distribution by advertising the hearings within the Union County News section of the Charlotte Observer.

Ordinance Changes - The outstanding notification concerns after the administrative changes are notification area and community meeting requirement.

Notice Area - Public notice requirements related to discretionary permits are outlined within the North Carolina General Statutes. The requirements include a publishing requirement, a mail-out notice requirement prior to the public hearing, the timing of the notice mail-out and publishing, the minimum mail-out notice area, and the posting of a zoning sign on the subject property. The Town ordinances meet all minimum requirements associated with public noticing. After reviewing state statutes requirements staff conducted a survey of ordinance notification requirements from a dozen jurisdictions. The findings are found in the table below.

Rezone Notification Requirements

Jurisdiction	Signs	HOA	Newspaper	Mail Out Notice	Additional Requirements
Indian Trail	Yes	No	Yes	Adjacent Properties	
Monroe	Yes	No	Yes	150 ft	Notification extends at discretion.
Waxhaw	Yes	No	Yes	300 ft.	Ordinance only requires adjacent.
City of Charlotte	Yes	Yes-those that are registered with the City	Yes	300 ft. With a registered HOA the notification is extended to 1 mile	Courtesy mailing 3 weeks after application. This notification included the date of an Open House Forum with staff. Legal by State req. ETJ.
Stallings	Yes	No	Yes	500 ft	
Mint Hill	Yes	No	Yes	Adjacent Properties	
Cary	Yes	No	Yes	400 ft	Ordinance only requires 100 ft Neighborhood mtg
City of Greensboro	Yes	No	Yes	600 ft	
Boone	Yes		Yes		
Rock Hill	Yes	Yes	Yes	300 ft	
Pineville	Yes	No	Yes	Adjacent Properties	
Weddington	Yes	No	Yes	300 ft	
Huntersville	Yes	No	Yes	250 ft	
Davidson	Yes	No	Yes	Adjacent and adjoining +100 ft	

The results indicate that 75 percent of these jurisdictions extend the notification area (mail-out) beyond the minimum state requirement. These notification areas range from 100-feet beyond the subject property boundaries to 600-feet. This information was presented to the Board at its June 19th meeting. The Board provided the following guidance for preparation of the amendment:

- The notification area should be extended beyond the minimum (adjacent properties only).
 - 300-ft or 500-ft minimum standard;
 - HOA – notification if applicable
 - Ability to extend notification area by the Board or Planning Director if the proposed project could have a substantial adverse impact to the adjacent area.

- The notification area should be consistent with all types of discretionary zoning permits.

Mandatory Community Meeting – None of the jurisdictions require a mandatory community meeting accept for a Conditional Zoning Permit process in which all jurisdictions require one including the Town of Indian Trail. The Board provided direction to staff to amend the ordinance to allow the Board or Planning Director the discretion to require a Community Meeting.

Proposed Amendment of Chapter 310

310.030 Required Notice for Public Hearings

- A.** Public hearing notifications shall be in accordance with the table in 310.020.
- B.** A notice of the public hearing on any public hearing (including the zoning map amendments) will be published once a week for two successive weeks in a newspaper having general circulation in the county. The notice will be published for the first time not less than ten days and not more than twenty-five days before the date fixed for the hearing. With respect to major map amendments, notification of such changes will be in accordance with G.S. 160A-384.
- C.** Mailed notice for all public hearings shall be sent by the Town by first class mail to the applicant, the owner of the subject parcel of land, and the owners of all parcels of land *or established Home Owner Associations abutting subject parcel that lie within 500 feet (or 300 feet) as measured from the exterior boundaries of the subject property. Property owners shall be identified* as shown on the county tax listing, at the last addresses listed for such owners on the county tax abstracts. The notice shall be mailed 10 days prior to the proposed public hearing in accordance to 310.050. The person or persons mailing such notices will certify to the decision making authority that fact, and such certificate will be deemed conclusive in the absence of fraud. With respect to major map amendments, notification of such changes will be in accordance with G.S. 160A-384.
- D.** Request for mailed notification of a public hearing by parties not identified in 310.030C shall be honored if written request has been submitted to the Planning and Development Department prior to the 10-day notification deadline.
- E.** The planning staff will also post notices of the public hearing in the vicinity of the property that is subject to a public hearing and will take any other action deemed by the planning staff to be useful or appropriate to give notice of the public hearing on any proposed amendment.
- F.** The newspaper and mailed notice required or authorized by this section will:
 - 1. state the date, time, and place of the public hearing;
 - 2. summarize the nature and character of the proposed project associated with the public hearing;
 - 3. if a proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
 - 4. state that the full text of an amendment or copies of application forms can be obtained from the planning department; and
 - 5. state that substantial change in the proposed amendment may be made following the public hearing.

- G.** The required posted notices will indicate the following:
1. type of application filed;
 2. link to the Town website, containing the information for the time, date and place of the public hearing, as well as all information on the application filed.
 3. a phone number to contact the Town.
 4. Note – such public notice sign postings shall be placed on the affected property(ies) once a complete project application (i.e., SUP, zoning map amendment, etc.) is received by the Town.
- H.** *The Planning Director and/ or the authorized hearing body shall have the authority to require a neighborhood meeting and/ or expand the mail notification boundary to a maximum of 1000 feet if it finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Planning Director or Board shall consider, among other factors, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in questions.**

***This section is still under review by the Town Attorney.**

The results of the Attorney review of this draft and information related to notification impacts between a 300-ft or 500-ft notification area will be presented at the meeting.

Required Consistency Findings

The Planning Board is required to make two consistency 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:
 - 1.3.2 of the Comprehensive Plan – *Land Use*; because this amendment encourages public participation in land use decisions by informing and engaging residents within the project area promoting land use compatibility.
- 2 This UDO ordinance amendment is in the best interest of the public because it enhances public noticing requirements and information dissemination thus encouraging public participation in the land use decision process.

Staff recommends that the Planning Board make the required consistency findings and recommend adoption of this UDO Text Amendment as presented to the Town Council.

Staff Contact

Shelley DeHart, AICP
 Director of Planning
 srd@planning.indiantrail.org

Attachments:

- Attachment 1- Sample Notice
- Attachment 2-Draft Ordinance

ATTACHMENT ONE



Town of
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north carolina

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

NOTICE EXAMPLE

PUBLIC MEETING NOTICE

The Indian Trail Town Council will hold a public hearing on Tuesday, July 10, 2012 at 6:30 p.m. in the Civic Building located at 100 Navajo Trail, Indian Trail, NC to consider the proposed request below. You are receiving this notification because you are an owner of property located adjacent to the proposed Zoning Map Amendment subject property.

CASE: ZM 2012-002 Brandon Oaks II (recently annexed property)	
Location	The subject property consists of two (2) properties that were recently annexed into the Town of Indian Trail (Annexation #131). The properties are located in Brandon Oaks Phase 9 and consist of Parcel # 07091004 or 2010 Canopy Drive and Parcel #07091029 or 6005 Sipes Place. See map on backside of this notice for subject property location.
Proposed Zoning	SF-4: Single-Family Residential-4 within a Pre-Existing Development Overlay District (PED Overlay 1). SF-4 is intended to accommodate a moderate intensity of single-family residential development. 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, lot area, etc.) that do not correspond to the SF-4 district.
Existing Zoning	R-20: Residential-20. R-20 is a Union County zoning classification that is intended for residential dwellings.
Intent	The intent of the proposed zoning map amendment is to establish Town zoning on recently annexed properties within the Brandon Oaks community. The proposed Town zoning is the closest compatible district to the previous Union County zoning and is consistent with nearby Town properties in Brandon Oaks.
Applicant	Town of Indian Trail

What is a Zoning Map Amendment or Rezoning?

The zoning district for a property designates the type of uses permitted on a property (i.e. residential, commercial, industrial, etc.) and certain development standards. A Zoning Map Amendment is the process to change the zoning district for a property such as from a residential district to a commercial district. The Indian Trail Planning Board reviews Zoning Map Amendment applications and provides a recommendation to the Indian Trail Town Council who makes the final decision in a public hearing.

The documentation on the proposed changes will be available from 9:00 a.m. until 5:00 p.m., Monday-Friday at the Indian Trail Administrative Services Building at 130 Blythe Drive, Indian Trail, NC 28079. You may also go to the Town's website at www.indiantrail.org for more information on this meeting, or contact Rox Burhans, Senior Planner at (704) 821-5401 or rburhans@planning.indiantrail.org.

ZM2012-002 LOCATION MAP



Direct Link to Project File: <http://www.indiantrail.org/planlog1.php?id=242&type=5>

NOTICE EXAMPLE

ATTACHMENT TWO

Section 1 – Section 310.030 Chapter 310 of the UDO is amended as follows:

310.040 Required Notice for Public Hearings

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

SO ORDAINED THIS 11TH DAY OF SEPTEMBER, 2012.

THE TOWN COUNCIL OF INDIAN TRAIL

By _____
Honorable Michael L. Alvarez, Mayor

Attest:

Peggy Piontek, Town Clerk