



Town of  
**INDIAN TRAIL**  
north carolina

Indian Trail, North Carolina 28079

Telephone 704-821-5401

Fax 704-821-9045

**PLANNING BOARD TRANSMITTAL**

**Planning Board Transmittal for the November 9, 2010 Town Council Meeting**

<b>Reference Name</b>	Case: ZT 2010-011 Landscaping Amendment		
<b>PB Meeting Date</b>	October 19, 2010		
<b>Members Present</b>	Chair Whitehurst <input checked="" type="checkbox"/>	Gary Vaughn <input checked="" type="checkbox"/>	Larry Miller <input type="checkbox"/>
	Vice Chair Cowan <input checked="" type="checkbox"/>	Kathy Broom <input checked="" type="checkbox"/>	Robert Rollins <input type="checkbox"/>
	Sidney Sandy <input type="checkbox"/>	Cathi Higgins <input checked="" type="checkbox"/> Alternate	John Simulcik <input type="checkbox"/> Alternate
	Vacant Seat <input type="checkbox"/>		
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Motion</b>	Recommend approval as transmitted.		
<b>Member making the motion</b>	Chairman Whitehurst		
<b>Second the motion</b>	Board member Vaughn		
<b>Vote</b>	4-1		

**Background**

A request to amend UDO Sections 810.090 and 880.040 of the Unified Development Ordinance to allow for the Planning Director to decide on a proposed modified buffer screening plan and/or tree plan 45 days after its presentation to the Park, Tree, and Greenway Committee. The Planning Board heard this request on October 19th, 2010 and transmits a recommendation to approve.

**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 findings and approve as modified by Council; or*
3. *Do not make the findings and disapprove the amendment.*

## **Planning Board**

The Planning Board heard the request at its October meeting, made the required draft findings and therefore transmits a recommendation to approve as presented.

In brief, the amendment establishes a 45-day window for a town appointed board to consider an alternative plan and transmit a recommendation to town staff. The Unified Development Ordinance (UDO) identifies the Parks, Tree, and Greenway Committee as the recommending body to the Planning Director for decision on alternative buffer/screening plans and alternative tree planting plans. Staff is requesting this amendment to provide relief in the event that a quorum is not not attainable within a two month period. This does not eliminate the requirement that the applicant present all alternative plans to the committee, this can be done without a quorum. If a quorum cannot be met within two months, staff will use discussions from committee minutes to assist in a decision for the alternative plan.

### *Draft Findings:*

1. The proposed UDO amendment is consistent with the following goals:
  - 1.3.2 of the Comprehensive Plan – Land Use; the proposed UDO ordinance amendments will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties by continuing to process applications for land use in a streamline and efficient manner while upholding the intent of Landscape Ordinance.
2. This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process.

## **Project Contact**

**Shelley DeHart, AICP**  
[srd@planning.indiantrail.org](mailto:srd@planning.indiantrail.org)

**Attachement 1 – Planning Board Report**  
**Attachment 2 – Draft Ordinance**

**TOWN COUNCIL ATTACHMENT 1**



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PLANNING AND DEVELOPMENT DEPARTMENT

## Zoning Staff Report

<b>Case: ZT 2010-011 Amendment of Division 800 Landscaping</b>	
Reference Name	Landscaping Modifications
Applicant	Town of Indian Trail
Submittal Date	08/01/2010
Location	Town wide
Tax Map Number	n/a
Plan Consistency	Comprehensive Plan
Recommendations & Comments	Planning Staff Recommend approval to Town Council.

### Project Summary

A request to amend UDO Sections 810.090 and 880.040 of the Unified Development Ordinance to allow for the Planning Director to decide on a proposed modified buffer screening plan and/or tree plan 45 days after its presentation to the Park, Tree, and Greenway Committee.

### Analysis

There are two sections of Division 800 - Landscaping - that allow for consideration of alternative plans to be considered by the Planning Director in the area of Buffer and Screening requirements and Tree Plans. In both cases, the alternative plan is required to be presented to the Parks, Tree, and Greenway committee for their consideration and recommendation to the Planning Director for a decision. Staff is requesting these sections be amended to include a 45-day recommendation provision for the Parks, Tree, and Greenway committee from the time a plan is presented. This request stems from past situations when the ability to obtain a quorum has been difficult leaving an applicant no other choice than to delay their project. The committee must have a quorum in order to vote on a recommendation. However, a quorum is not necessary to hear a modification request. A 45-day provision will allow the ability for an applicant to be scheduled on two committee meeting agendas, however if a quorum is not met, the Planning Director would be able to move the project forward in a timely manner.

### Division 800

## 810.090 Alternative Buffers and Screening

In lieu of compliance with the 15-foot, 25 foot or 50-foot buffer standards of this section, an applicant may submit an alternative landscape and buffer plan to the ~~Parks, Greenway, and Tree~~ *Parks, Tree, and Greenway* Committee for review. Upon review of the alternate plan, the Committee may recommend that the Director of Planning and Development approve the alternative buffering and screening upon finding that the proposal will afford a degree of buffering and screening, in terms of height, separation, and opacity that is equivalent to or exceeding that provided by the applicable 15, 25, or 50-foot and greater buffer standards of this section. *The Planning Director may not take final action approving an alternative plan until a recommendation from the committee is received or until fourth-five (45) days have passed since the proposal was heard by the committee, whichever is first.*

## 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, ~~Greenway and Tree~~ *Tree, and Greenway* Committee makes a recommendation to planning staff regarding all alternate tree protection/planting plans, plant materials, planting standards or reforestations.
2. The Planning Director approves an alternate plan that proposes different plant materials or methods provided that the quality, effectiveness, durability, and performance are equivalent to that required by this ordinance. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement, coverage, location of plantings on the lot, and the level of screening, height, spread and canopy of the plantings at maturity.

*The Planning Director may not take final action approving an alternative plan until a recommendation from the committee is received or until fourth-five (45) days have passed since the proposal was heard by the committee, whichever is first.*

3. In order to allow planting to occur at the optimal time, the Planning Director may allow for a delay in the installation of the required plantings after the approval of a tree protection or planting plan provided the applicant provides an acceptable form of performance bond, letter of credit, or other type of surety that will insure future installation of the required trees.
4. The Planning Director may grant relief on the tree canopy cover requirements (**Error! eference source not found.**) if enforcing the minimums would require planting new trees to a degree that would cause undue burden to the property owner counter to the purposes of this UDO. This applies to already existing land uses seeking to change or expand.
5. Any decision of the Planning Director regarding alternate methods of compliance may be appealed to the Board of Adjustment.

### 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:

1.3.2 of the Comprehensive Plan – Land Use; the proposed UDO ordinance amendments will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties by continuing to process applications for land use in a streamline and efficient manner while upholding the intent of Landscape Ordinance.

2. This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process.

**Staff Recommendation**

Staff recommends that the Planning Board make the required consistency findings and recommend adoption of the UDO ordinance amendment to the Town Council.

**Staff Contact**

Shelley DeHart, AICP

Director of Planning

[srd@planning.indiantrail.org](mailto:srd@planning.indiantrail.org)

Attachments:

Attachment One- Draft Ordinance

**TOWN COUNCIL ATTACHMENT TWO**



## **810.090 Alternative Buffers and Screening**

In lieu of compliance with the 15-foot, 25 foot or 50-foot buffer standards of this section, an applicant may submit an alternative landscape and buffer plan to the *Parks, Tree, and Greenway* Committee for review. Upon review of the alternate plan, the Committee may recommend that the Director of Planning and Development approve the alternative buffering and screening upon finding that the proposal will afford a degree of buffering and screening, in terms of height, separation, and opacity that is equivalent to or exceeding that provided by the applicable 15, 25, or 50-foot and greater buffer standards of this section. *The Planning Director may not take final action approving an alternative plan until a recommendation from the committee is received or until fourth-five (45) days have passed since the proposal was heard by the committee, whichever is first.*

**Section 2** – Section 880.040 shall be 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.
2. The Planning Director approves an alternate plan that proposes different plant materials or methods provided that the quality, effectiveness, durability, and performance are equivalent to that required by this ordinance. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement, coverage, location of plantings on the lot, and the level of screening, height, spread and canopy of the plantings at maturity.

*The Planning Director may not take final action approving an alternative plan until a recommendation from the committee is received or until fourth-five (45) days have passed since the proposal was heard by the committee, whichever is first.*

3. In order to allow planting to occur at the optimal time, the Planning Director may allow for a delay in the installation of the required plantings after the approval of a tree protection or planting plan provided the applicant provides an acceptable form of performance bond, letter of credit, or other type of surety that will insure future installation of the required trees.
4. The Planning Director may grant relief on the tree canopy cover requirements (Chapter 840) if enforcing the minimums would require planting new trees to a degree that would cause undue burden to the property owner counter to the purposes of this UDO. This applies to already existing land uses seeking to change or expand.
5. Any decision of the Planning Director regarding alternate methods of compliance may be appealed to the Board of Adjustment.

**Section 3** - This ordinance shall be effective immediately upon adoption.

SO ORDAINED THIS 9TH DAY OF NOVEMBER, 2010.

THE TOWN COUNCIL OF INDIAN TRAIL

By \_\_\_\_\_  
Honorable John J. Quinn, Mayor

Attest:

\_\_\_\_\_  
Peggy Piontek, Town Clerk