



Town of  
**INDIAN TRAIL**  
north carolina

Indian Trail, North Carolina 28079

Telephone 704-821-5401

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**PLANNING BOARD TRANSMITTAL**

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

<b>Reference Name</b>	Case: ZT 2010-013 Business and Commercial Zoning District		
<b>PB Meeting Date</b>	October 27, 2010		
<b>Members Present</b>	Chair Whitehurst <input checked="" type="checkbox"/>	Gary Vaughn <input checked="" type="checkbox"/>	Larry Miller <input checked="" type="checkbox"/>
	Vice Chair Cowan <input checked="" type="checkbox"/>	Kathy Broom <input checked="" type="checkbox"/>	Robert Rollins <input checked="" type="checkbox"/>
	Sidney Sandy <input checked="" type="checkbox"/>	Cathi Higgins <input checked="" type="checkbox"/> Alternate – <b>in Audience</b>	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 with a modification.		
<b>Member making the motion</b>	Chair Whitehurst		
<b>Second the motion</b>	Board member Vaughn		
<b>Vote</b>	7-0		

**Background**

A request to amend Sections 520.030-Lot and Building Standards and 520.020 (G) Use Table of the Unified Development Ordinance, to allow for addition commercial uses and additional building height in various commercial zoning districts. The Planning Board heard this request on October 27th, 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.*

## **Request**

This is a request to allow flexibility of building height within non-residential zoning districts by establishing a setback distance to building height ratio. The taller the building the larger the setback requirement. This flexibility will assist in fulfilling the vision of the comprehensive plan by supporting uses, such as hotels and corporate office buildings, with flexible regulations in the appropriate districts.

The second component of this request is to amend the use table to include a theater uses within our commercial districts.

## **Planning Board**

The Planning Board heard this request at its October 27, 2010 meeting. The Board discussed the proposed theater use and voiced potential noise impact concerns regarding the possibility of an outdoor theater. The Board requested the use of outdoor theaters require a Special Use Permit. This allows adjacent property owners to be notified and the use be considered on a case by case basis. The Board made the required draft findings and therefore transmits a recommendation to approve as modified.

### *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 adding entertainment uses where appropriate and allowing flexibility in building height protecting neighboring residential uses.
2. This UDO ordinance amendment is in the best interest of the public because it promotes uses and building heights consist with the vision of the Comprehensive Plan.

Staff recommends the Council receive report, public testimony, make the required findings as transmitted by the Planning Board, and approve as presented.

## **Staff Contact**

Shelley DeHart, AICP  
704 821-5401 ext 225

Attachment 1 – Planning Board Staff Report  
Attachment 2 – Draft Ordinance

**TC ATTACHMENT 1**



# Town of INDIAN TRAIL north carolina

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PLANNING AND DEVELOPMENT DEPARTMENT

## Zoning Staff Report

<b>Case: ZT 2010-013 Amendment of Chapter 520 Business and Commercial Zoning Districts</b>		
<b>Reference Name</b>	Use and Height Amendment	
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	08/01/2010	
<b>Location</b>	Town wide	
<b>Tax Map Number</b>	n/a	
<b>Plan Consistency</b>	Comprehensive Plan	
<b>Recommendations &amp; Comments</b>	Planning Staff	Recommend approval to Town Council.

### Project Summary

A request to amend Sections 520.030-Lot and Building Standards and 520.020 (G) Use Table of the Unified Development Ordinance, to allow for addition commercial uses and additional building height in the Regional Business District and Village Center Overlay Zone.

### Analysis

The Unified Development Ordinance Chapter 520 outlines the various business and commercial uses and building standards for all commercially zoned areas in the Town. Chapter 520.020 (G) is the Use Table and Chapter 520.030 – Lot and Building Standards provides specifics to building heights.

### Building Heights

The maximum height of structures within all commercially zoned areas is 40-feet excluding the Central Business District (located within the Downtown Area) which is a maximum of 50-feet in height. A review of the Town’s Comprehensive Plan reveals that the UDO’s maximum height of 40-feet will likely limit the opportunities for the planned entertainment, hospitality, corporate office and mixed use development in the Town’s non-residential zoning districts. Staff is proposing the following amendment to Section 520.030:

***B. Building Height:*** No structure shall exceed a height of 40 feet, except as provided in this Section or elsewhere in these regulations.

1. *Except as provided for in this Section, a building in any non-residential district may be erected to a height in excess of 40 feet, provided the minimum yard setbacks are increased 1 foot for every 2 feet of building height in excess of the 40 feet.*
2. *A building which abuts a residential use or residential zoning district may not be erected to a height in excess of 40 feet, unless minimum yard setbacks abutting the residential use or zoning district is increased 1 foot for every foot of building height in excess of 40 feet.*
3. *Multi-family structures cannot exceed a maximum height of 60 feet in any district.*
4. *The height limitation established in subsection (1) above shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.*

This allows for flexibility in design while considering potential impacts to adjacent properties.

**Commercial Uses**

We have had various inquiries over the years on hospitality and or entertainment uses. Many of the typical uses associated with hospitality and entertainment were added with the adoption of the UDO accept for one – Theaters. Within land use classifications, theaters are categorized in two basic theater categories 1) Motion Picture Theater, and 2) Theatrical Stage (Playhouse).

Staff is proposing the following addition to Chapter 520.020 (G) Use Table

Use Category	CBD	NBD	GBD	RBD	O-VCD	O-DD
<i>Theater, -- Motion Picture</i>			<i>P</i>	<i>P</i>	<i>P</i>	
<i>Theatrical Playhouse (Excluding Adult Use)</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>

**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:
  - 1.2.3 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 adding entertainment uses where appropriate and allowing flexibility in building height protecting neighboring residential uses.
2. This UDO ordinance amendment is in the best interest of the public because it promotes uses and building heights consist with the vision of the Comprehensive Plan.

**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)

STATE OF NORTH CAROLINA )  
 )  
 TOWN OF INDIAN TRAIL )

ORDINANCE #

**AN ORDINANCE AMENDING CHAPTER 520 OF THE INDIAN TRAIL  
 UNIFIED DEVELOPMENT ORDINANCE (UDO),  
 INDIAN TRAIL, NORTH CAROLINA**

**WHEREAS**, the Town is the applicant for ZT 2010-013 requesting to amend Sections 520.030-Lot and Building Standards and 520.020 (G) Use Table of the Unified Development Ordinance; and

**WHEREAS**, this Zoning Amendment (ZT 2010-013) was duly noticed in compliance with North Carolina General Statutes; and

**WHEREAS**, the amendment was heard by Planning Board on October 19, 2010 in a public meeting; and

**WHEREAS**, the Planning Board after hearing the amendment and deliberations made the following findings and recommended approval to the Town Council:

1. The proposed UDO ordinance amendments are consistent with goal 1.3.2 Land Use of the Comprehensive Plan because it will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties by adding entertainment uses where appropriate and allowing flexibility in building height protecting neighboring residential uses.
2. This UDO ordinance amendment is in the best interest of the public because it promotes uses and building heights consist with the vision of the Comprehensive Plan; and

**WHEREAS**, the Town Council received the Planning Board transmittal for a recommendation of approval in the required public hearing held on November 9, 2010 and after receiving the transmittal, public comment, and deliberation, concur with the required findings and amendment recommendation as transmitted by the Planning Board.

NOW THEREFORE, BE IT ORDAINED ON NOVEMBER 9TH, 2010 BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA HEREBY TAKES THE FOLLOWING ACTION:

**Section 1** – The use table located in Section 520.020 (G) shall be amended as follows:

Use Category	CBD	NBD	GBD	RBD	O-VCD	O-DD	Use Standard
<i>Theater, -- Motion Picture</i>			<i>P/SUP</i>	<i>P/SUP</i>	<i>P/SUP</i>		<i>SUP for Outdoor</i>
<i>Theatrical Playhouse (Excluding Adult Use)</i>	<i>P/SUP</i>	<i>P/SUP</i>	<i>P/SUP</i>	<i>P/SUP</i>	<i>P/SUP</i>	<i>P/SUP</i>	<i>SUP for Outdoor</i>

**Section 2** – Section 520.030 shall be amended to include subsection B as follows:

**B. Building Height:** *No structure shall exceed a height of 40 feet, except as provided in this Section or elsewhere in these regulations.*

- 1. Except as provided for in this Section, a building in any non-residential district may be erected to a height in excess of 40 feet, provided the minimum yard setbacks are increased 1 foot for every 2 feet of building height in excess of the 40 feet.*
- 2. A building which abuts a residential use or residential zoning district may not be erected to a height in excess of 40 feet, unless the minimum yard setbacks abutting the residential use or zoning district is increased 1 foot for every foot of building height in excess of 40 feet.*
- 3. Multi-family structures cannot exceed a maximum height of 60 feet in any district.*
- 4. The height limitation established in subsection (1) above shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.*

**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