

**MAYOR**  
Michael L Alvarez

**MAYOR PRO TEM**  
David L. Cohn



**TOWN COUNCIL**  
Robert W. Allen  
Christopher M. King  
Darlene T. Luther  
David K. Waddell

Indian Trail Town Council Meeting  
March 26, 2013  
Civic Building  
6:30 p.m.

1. **CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE**
2. **ADDITIONS AND DELETIONS** **action**
3. **MOTION TO APPROVE AGENDA** **action**
4. **ABC BOARD APPLICANTS INTERVIEWS**
  - a. Dr. Derek Hodgson
  - b. Robert Laatz
5. **PRESENTATIONS**
  - a. [Proclamation for Child Abuse Prevention Month](#)
  - b. [Conder Family Presentation](#)
6. **PUBLIC COMMENTS**
7. **CONSENT AGENDA** **action**
  - a. [Approval of March 7, 2013 draft minutes](#)
  - b. [Approval of March 12, 2013 draft minutes](#)
  - c. [Budget Amendments](#)
  - d. [Tax refunds over \\$500](#)
  - e. [Approval of 2013 Budget schedule](#)
8. **PUBLIC HEARINGS** **action**
  - a. [ZT2013-001 Automotive Repair in the GBD](#): This is a request to amend Chapter 520-Business and Commercial Zoning Districts to allow for motor vehicle repair shops (not including body work, parking and commercial repair) in the General Business Zoning

Districts (GBD) within the Town. Applicant: Town of Indian Trail - *This matter was continued from the March 12<sup>th</sup> meeting.*

**9. BUSINESS ITEMS**

**Second readings from the March 12, 2013 meeting**

- a. **ZM2012-006 Oakwood Lane Properties:** A request rezone three properties located at the end of Oakwood Lane from a single-family residential designation to the Institutional classification. These properties were purchased last July by the Town and have been identified as the future Sardis Park facility. Parcels 07048019L and 07048019K are newly annexed properties (Annexation Ordinance #134) and the remaining parcel is already within the Town's jurisdiction
- b. **CZ2012-001: Younts Miniature Golf:** A request to establish a Conditional General Business District (CZ-GBD) zoning classification to support development of a 36-hole miniature golf course. Existing Zoning: Single-Family Residential-1 (SF-1). Location: Younts Road; Applicant: Scott Merritt
- c. **ZT2012-007 Text Amendment UDO Chapter 710:** A request to modify UDO Chapter 710 to permit accessory residential uses within non-residential zoning districts. Location: Town-wide, Applicant: Town of Indian Trail
- d. **Council Consideration of Approval of Resolution for General Obligation Bond Issuance**

**10. DISCUSSION ITEMS**

- a. Council discussion of participation in the Economic Alliance of South Charlotte Communities
- b. Consider and discuss options for implementing a business friendly initiative – *This matter was requested by Council Member Waddell*

**11. MANAGERS REPORT**

**12. COUNCIL COMMENTS**

**13. CLOSED SESSION**

**action**

**14. ADJOURN**

**action**

**To speak concerning an item on the Agenda, please print your name and address on the sign up sheet on the table prior to the meeting. Each speaker will be limited to 3 minutes.**

**AS A COURTESY, PLEASE TURN CELL PHONES OFF WHILE MEETING IS IN PROGRESS**

*The Town of Indian Trail is committed to providing all citizens with the opportunity to participate fully in the public meeting process. Any person with a disability who needs an auxiliary aid or service in order to participate in this meeting may contact the Town Clerk at least 48 hours prior to the meeting. The e-mail address is [townclerk@admin.indiantrail.org](mailto:townclerk@admin.indiantrail.org); the phone number is 704-821-2541*



**April 2013**  
**Child Abuse Prevention Month &  
Sexual Assault Awareness Month  
Proclamation**

Whereas, preventing child abuse and neglect, and sexual violence is a community problem affecting both the current and future quality of life of our community;

Whereas, Union County Department of Social Services accepted 1,293 reports of child abuse representing over 2851 children in 2012;

Whereas, more than 635 victims and family members were served through Safe Alliance's Victim Advocacy and Clinical Services during FY2012;

Whereas, 98% of the children served by the Tree House Children's Advocacy Center were sexually abused by a trusted relative or other known person and 15% of the children served were sexually abused by other children in FY2012;

Whereas, 89% of sexual assault victims were under the age of 19; 63% of children served were under the age of 13; 23% were under the age of 5.

Whereas, child abuse and neglect not only cause immediate harm to children, but are also proven to increase the likelihood of criminal behavior, substance abuse, health problems, and risky behavior thereby increasing the cost of community support services;

Whereas, all citizens should be protected from sexual and physical violence;

Whereas, Safe Alliance's Victim and Clinical Services programs exists because of partnerships created among social service and healthcare agencies, schools, faith communities, civic organizations, law enforcement agencies, and supportive members of Union County;

Therefore, I do hereby proclaim

**April as Child Abuse Prevention Month & Sexual Assault**

**Awareness Month** and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in efforts to support families, thereby preventing & reporting child abuse and sexual violence thereby strengthening the communities in which we live.

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Signature

Date

# Certificate of Recognition

**WHEREAS**, the Conder Family was one of the first families that settled in the Indian Trail area, approximately 1750. The Conder Farm encompassed the area that is now Pebble Creek Golf Course, Harris Teeter Distribution Center and Radiator Specialty.

**WHEREAS**, Eli Conder was an early farmer and merchant in Indian Trail.

**WHEREAS**, Eli Conder's son, John Franklin Condor was born 8/6/1875.

**WHEREAS**, John Franklin Conder became a Town Commissioner in 1906. He was prominent in forming the first Indian Trail school in 1906.

**WHEREAS**, John Franklin wrote a letter to the North Carolina General Assembly requesting that the body pass a statute establishing Indian Trail as an Incorporated Town and that Bill was passed March 6, 1907.

**WHEREAS**, John Franklin became the first Mayor of the newly Incorporated Town of Indian Trail in 1907.

**WHEREAS**, John Franklin was appointed the first Indian Trail Postmaster in 1910 by the National Postmaster, Frank H. Hitchcock. The post office operated out of the corner of the Conder- Gurley Mercantile Store located at the corner of Indian Trail and Indian Trail Unionville Road.

**WHEREAS**, John Franklin continued to supply the needs of the community and to be politically involved in the county while operating the Conder and Gurley Mercantile Store.

**WHEREAS**, the descendants of Eli Condor continue to promote the Town of Indian Trail and Union County. A great deal of the development of the area is due to the work of this family.

**NOW, THEREFORE**, I, Mayor Michael J. Alvarez, along with the Indian Trail Town Council do hereby recognize The Conder Family as the first Historical Family of Indian Trail and do accept from the Indian Trail Arts and Historical Society the photo of John Franklin Conder and the copy of the original Act to Incorporate the Town of Indian Trail on March 6, 1906 to hang in a Town Hall office.

This 26th day of March, 2013

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Mayor Michael L. Alvarez



**Town of Indian Trail**  
**Minutes of Town Council Special Meeting**  
**March 7, 2013**  
**Civic Building**  
**6:30 P.M.**

The following members of the governing body were present:

Mayor Pro Tem: David Cohn

Council Members: Chris King and David Waddell.

Absent Members: Council Members Robert Allen, Darlene Luther and Mayor Michael L. Alvarez.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, and Town Attorney Keith Merritt.

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

Mayor Pro Tem Cohn led the Pledge of Allegiance and announced that Mayor Alvarez, Councilpersons Luther and Allen are not in attendance.

**COUNCIL CONSIDERATION OF APPROVAL OF LAW ENFORCEMENT AGREEMENT WITH UNION COUNTY SHERIFF'S OFFICE AND UNION COUNTY**

David Waddell made a motion to approve the Interlocal Agreement between the Town of Indian Trail, North Carolina, Union County North Carolina and Eddie Cathey, Sheriff of Union County.

Council voted unanimously in favor of the motion.

Mayor Pro Tem Cohn stated that Council heard the residents of Indian Trail. He advised all residents he spoke with or heard from stated they supported the Sherriff's Office and that's the reason the contract was approved this evening, because the residents spoke and told Council what they wanted.

Council Member King stated the contract is approved, it's done and let's move on. He informed Sheriff Cathey it's good doing business with him, they have another 4 years and it's time to move on.

Council Member Waddell thanked everyone for supporting Union County Sheriff's Office, there is some good that came out of the conflict, a lot of bridges have been made and he is encouraged to see everyone working together.

**ADJOURN**

Chris King made a motion to adjourn

Council voted unanimously in favor of the motion.

APPROVED:

\_\_\_\_\_  
David Cohn, Mayor Pro Tem

Attest:

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



**Town of Indian Trail**  
**Minutes of Town Council**

**March 12, 2013**

**Civic Building**

**6:30 P.M.**

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: David Cohn, Christopher King, and David Waddell.

Absent Members: Robert Allen and Darlene Luther.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Town Attorney Keith Merritt, Director of Community & Economic Development Kelly Barnhardt, Planning Director Shelley DeHart, Finance Director Marsha Sutton, Tax Collector Janice Cook, Director of Engineering and Public Works Scott Kaufhold, Director of Human Resources Miriam Lowery, Senior Planner Rox Burhans, and Public Information Officer/Events Coordinator Rebecca Carter.

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

Mayor Alvarez called the meeting to order, led in the Pledge of Allegiance, read announcements for Indian Trail's Birthday contest and party and announced Council Members Luther & Allen were not in attendance.

## **ADDITIONS AND DELETIONS**

*None*

## **MOTION TO APPROVE AGENDA**

Christopher King made a motion to approve the agenda.  
Council voted unanimously in favor of the motion.

## **PRESENTATIONS**

*None*

## **PUBLIC COMMENTS**

Shirley Howe, 6205 Clearwater Drive, Indian Trail, NC handed out documents to Council and addressed the issue of the special meeting held on February 16th. She questioned why there was an attempt to discuss a contract that was created by the Town Attorney when the Town Attorney was not present; stating the meeting should have been cancelled. Ms. Howe provided information pertaining to the Mayor and voting advising the rules for the Mayor are very different than the Council, as the Mayor can abstain to vote and the motion is defeated. Ms. Howe stated that the trauma of February 16th could have been avoided if this information was available. Mayor Alvarez read the information Ms. Howe provided.

Kathy Broom, 4103 Runaway Circle, Indian Trail, NC commented on the Special Meeting held on February 16th, stating it was planned and calculated and she was appalled by what she witnessed. She stated that there were two Council Members who thought they could pull off a vote without the public's input. Ms. Broom commented on statements made in the media by certain Elected Officials, stating that she was a witness and there was no threats or intimidations made by Lieutenant Coble. Ms. Broom stated that she has several questions for two of the Elected Officials and she would like an investigation. Ms. Broom stated she saw people who normally disagree with each other come together that day for the fight of a common cause. Ms. Broom expressed her thanks to a couple of Elected Officials, Sheriff Cathey and Lieutenant Coble.

Gary Evans, 4800 Mossy Cup Lane, Indian Trail, NC spoke about the Special Meeting on February 16th, advising that they are all obligated to be present at the meetings to cast their votes. He requested that one of the three Council Members who were there that day, make a motion to ask that the two absent Council Members and the Mayor submit their resignations. We deserve a government that is by the people and for the people.

Robin Fossdall, 1006 Coral Bell Court, Indian Trail, NC advised she attended an informal meeting with other residents of Indian Trail. Lieutenant Coble was invited to speak with them and after putting in a 12 hour day recognized the importance to attend and speak with them. Ms. Fossdall thanked Mr. Waddell, Cohn, and King for staying true to their convictions and putting the people first, Sheriff Cathey for standing up for the people of Indian Trail, and those Council and staff members who were in support of the previous contract for shining a light on themselves.

Roger Fish, 1101 Magna Lane, Indian Trail, NC spoke about the upcoming event to be held in the Cultural Arts Center hosted by Steven Houser on the History of Indian Trail, encouraging all to attend.

Michael Faulkenberry, 519 Picketts Circle, Indian Trail, NC recognized Chase Coble on his recent award, thanked the three Council Members who voted to renew the contract. Mr. Faulkenberry referred to a campaign flyer and asked the Town Attorney a question to which he replied he works for the Council and is unable to answer without their authority.

Gavin Dyer, 3606 Wonderland Drive, Indian Trail, NC advised that he started attending the meetings as a result of the Animal Control Ordinance and felt confidence in the Council during that time, but after reading articles by certain Council Members about the February 16th meeting, he thinks the Town Attorney should look into this to determine if Federal or State laws have been broken. Now that the issue is resolved and we renewed our agreement with the Sheriff's Office, he would like to see things settle down and get some normality back into the system. He inquired about the developers sign on the corner of Potters Road and Chestnut Lane, emailing all of the Council thanking those that replied and expressed disappointment in those that didn't. He asked Mr. Fivas the status and Mr. Fivas advised there were modifications done yesterday and suggested the conversation be continued after the meeting. He requested that the absent Council Members wages be suspended or ask them to resign gracefully.

John Quinn, resident of Mint Hill, commented on the Public Comment Policy and read a poem.

### **CONSENT AGENDA**

- a. Approval February 12, 2013 draft minutes
- b. Approval of February 16, 2013 draft minutes
- c. Approval of Month End Tax Report for February 2013
- e. Request for release of interest
- f. Budget Amendment **(COPY ATTACHED HERETO AND MADE A PART OF**

**THE RECORD)**

- g. Approval of Fence along Blythe Drive
- h. Resolution clarifying Ordinance MCA2013-1 **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**

Mr. Waddell requested that item d be pulled from the Consent Agenda and be placed under on discussion as item 9d.

Christopher King made a motion to approve the revised Consent Agenda.  
Council voted unanimously in favor of the motion.

**PUBLIC HEARINGS**

- a. ZM2012-006 Oakwood Lane Properties: A request rezone three properties located at the end of Oakwood Lane from a single-family residential designation to the Institutional classification. These properties were purchased last July by the Town and have been identified as the future Sardis Park facility. Parcels 07048019L and 07048019K are newly annexed properties (Annexation Ordinance #134) and the remaining parcel is already within the Town's jurisdiction

Ms. DeHart advised that the proposed amendment will modify the Town's Official Zoning Map by changing the zoning classification for these three parcels. Two of the three parcels have been recently annexed into the Town and therefore are required to have local jurisdictional zoning established per North Carolina General Statutes. The remaining subject property is being rezoned for the purpose of establishing consistent zoning for the future recombination of all three parcels into one parcel.

The Planning Board heard this matter on February 19, 2013 and after general discussion the Board motioned to make the following findings which were read into the record and transmit a unanimous recommendation to approve:

*Goal 1.3.1 Quality of Life* - the rezoning of these properties to institution provides the setting for an institutional use such as a public park and open space providing an enhanced quality of life for residents by providing both active and passive recreational opportunities.

*Goal 1.3.2 Land Use* - the rezoning of the subject properties will provide a mix of different types of land uses within the Sardis Interchange Mix Village consistent with the future land use vision of the Comprehensive Plan. It also provides a greater separation between land uses for the adjacent residential users as the Town carries out the park vision approved by voters land November. The request for this zoning reclassification is a reasonable request and is in the

public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of *Land Use* and is consistent with the adopted plans within the Town of Indian Trail.

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

David Cohn made a motion to approve the required findings as read into the record and found in the draft ordinance.

Motion Passed 2 - 1 with David Waddell opposing.

David Cohn made a motion to approve this Zoning Map amendment as presented.

Motion Passed 2 - 1 with David Waddell opposing.

b. CZ2012-001: Younts Miniature Golf: A request to establish a Conditional General Business District (CZ-GBD) zoning classification to support development of a 36-hole miniature golf course. Existing Zoning: Single-Family Residential-1 (SF-1). Location: Younts Road; Applicant: Scott Merritt

Mr. Burhans presented the proposed conditional rezoning is to support the development of a thirty-six (36)-hole miniature golf course. The approximately three (3) acre subject property is located on Younts Road, approximately 460-ft south of Brown Lane. The proposed development also contemplates development of a building to be utilized for accessory office and restaurant or food sale uses. Improvements to Younts Road will also be made by the project developer/applicant that include a road widening, curb and gutter, street trees, and a six (6)-ft sidewalk along the site's roadway frontage. The site's location on Younts Road is largely characterized by rural residential homes and agricultural/equestrian type uses. This rezoning would be the first introduction of non-residential zoning along this section of Younts Road.

As part of the conditional rezoning process, the applicant conducted two neighborhood meetings held on January 30, 2013 to discuss the proposed project with interested citizens. The conditional rezoning request was presented to the Planning Board at their February 19, 2013 meeting and the Board recommended approval subject to conditions as presented in the draft ordinance.

The following Findings made were read into the record as follows:

*Goal 1.3.2 Land Use* - The proposed conditional district will provide expanded recreational opportunities and a gathering place for Town residents, visitors, as well as current and future workers within the Old Hickory Business Park Corridor. The rezoning is subject to conditions to help avoid creating any land use impacts to neighboring properties. The proposed conditional

rezoning will also help create a more balanced tax base by helping facilitate development of a commercial use on an otherwise undeveloped property in a manner that is consistent with the Comprehensive Plan. The conditional rezoning will also result in the retention of an existing grove of trees that will be an amenity to the site, while helping preserve the Indian Trail community forest.

The Planning Board further found the request for this conditional zoning district is a reasonable request and is in the public interest because it helps create a mix of uses within the Old Hickory Business Park Corridor and includes elements that benefit the general public in the area tree preservation.

Council had a few questions and quick discussion on this item.

Mr. Merritt advised since we do not have a full Council, for an Ordinance to be adopted on a first reading you must have a 2/3 majority of Council to vote in favor of it, so even if it was unanimous this evening it would not fulfill the 2/3 requirement. Therefore it will come back for a second reading and voted on again at the next meeting and a simple majority at both reading will fulfill the requirements.

Mayor Alvarez opened the Public Comments portion of the hearing.

Gavin Dyer, 3606 Wonderland Drive, Indian Trail, NC inquired why not use existing properties instead of using countryside and perhaps cutting hours back over the weekend, and he feels no trees should be torn down.

Mayor Alvarez closed the Public Comments portion of the hearing.

David Waddell made a motion this Council makes the required consistency findings as read into the record and found in draft ordinance.

Council voted unanimously in favor of the motion.

David Waddell made a motion to approve this Zoning Map Amendment CZ2012-001 rezoning a 3 acre parcel 07-066-001A from SF-1 to a Condition Business Zoning District.

Council voted unanimously in favor of the motion.

- c. ZT2012-007 Text Amendment UDO Chapter 710: A request to modify UDO Chapter 710 to permit accessory residential uses within non-residential zoning districts. Location: Town-wide, Applicant: Town of Indian Trail

Mr. Burhans presented to Council the proposed UDO amendment is in response to inquiries from local property owners within the downtown community regarding having an allowance for residential uses within the non-residential zoning districts. The purpose of the amendment is to allow accessory residential uses in non-residential zoning districts within the Downtown Overlay District, while also allowing caretaker type residential uses within all non-residential zoning districts. The proposed standards that are a component of this amendment are to ensure accessory residential uses are in a form and scale that is acceptable and visually unobtrusive, while also meeting minimum requirements for health, safety and welfare. The following amendment to UDO Chapter 710 is required to implement this.

### **710.080 Accessory Residential Uses in Non-Residential Zoning Districts**

#### **A. Applicability**

Accessory residential uses shall be permitted on properties located in all business and commercial, industrial, and institutional zoning districts within the Downtown Overlay District, subject to the standards identified in subsections B.1 through B.6 below.

Accessory residential uses may also be permitted on properties located within all business and commercial, industrial, and institutional zoning districts outside the Downtown Overlay District, when utilized as a dwelling unit for an onsite caretaker or guard, subject to the standards identified in subsections B.1 through B.6 below.

#### **B. Standards**

1. There shall be no more than one (1) accessory residential use for each building and/or parcel of land; and
2. Accessory residential buildings or units shall be consistent in appearance with the primary building unless the accessory building is existing. Freestanding accessory residential buildings shall not exceed the height of the primary building's roof surface unless the accessory building is existing; and
3. Accessory residential uses shall have independent and private entrances, self-sufficient and private bathroom/sanitation facilities, and a self-sufficient and private kitchen or food preparation facility; and
4. The size of accessory residential uses shall be limited to 25 percent of the gross floor area of the principal building or buildings or fifteen hundred 1,500 sq. ft. of gross floor area for the accessory building or unit; whichever is smaller in size; and
5. Accessory residential uses made available for lease shall have a minimum lease term of thirty (30) consecutive days; and
6. Accessory residential uses shall comply with applicable County, State, and Federal building, fire, and environmental health code requirements.

This proposed amendment was heard by the Planning Board on January 24, 2013. The Board discussed the merits of increasing the minimum duration of a lease term for accessory units to 90-consecutive days versus the staff proposed 30-days (see standard no. 5 above). Mr. Gregory Rogers, owner of Call Printing spoke in favor of the proposed amendment. Mr. Call indicated a desire to construct an accessory apartment within his commercial building at 311 Indian Trail Road and thanked staff for bringing the proposed amendment before the Board. The Board

motioned to make the findings and transmit a unanimous recommendation to approve the proposed UDO amendment with modifications reflecting a minimum lease term of 90 consecutive days. Staff does not have any concerns with this modification and the proposed ordinance for ZT2012-007 reflects this modification.

The draft findings for Council consideration are noted below:

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 promote a greater mix of land uses by enabling accessory residential uses to locate in non-residential districts within the Downtown Overlay District. The proposed amendments will also help support a more balanced tax base by supporting individual businesses and industrial or office parks by enabling the use of onsite caretakers for facility maintenance, management, and/or security purposes; and

1.3.4 of the Comprehensive Plan- *Downtown Revitalization*; the proposed UDO ordinance amendment will help Downtown Indian Trail become a focal point within the community by promoting mixed-use development that will help create a lively and active environment. The proposed amendment will also help support Downtown Indian Trail merchants by helping expand the residential population within close proximity to downtown businesses; and

2. This UDO ordinance amendment is in the best interest of the public because it establishes regulations enabling accessory residential uses within Downtown Indian Trail, while also allowing Indian Trail businesses to utilize onsite caretakers subject to compliance with specific standards.

Mayor Alvarez opened and closed public comments as no one had signed up to speak.

Mr. Merritt advised the same 2/3 majority is required for this item as well, so it will also be brought back for a second reading.

David Waddell made a motion this zoning text amendment permitting accessory residential uses within non-residential zoning districts.

Council voted unanimously in favor of the motion.

David Waddell made a motion to approve this and makes the required findings as read into the record and found in draft ordinance

Council voted unanimously in favor of the motion.

d. ZT2013-001 Automotive Repair in the GBD: This is a request to amend Chapter 520- Business and Commercial Zoning Districts to allow for motor vehicle repair shops (not including body work, parking and commercial repair) in the General Business Zoning Districts (GBD)

within the Town. Applicant: Town of Indian Trail

Ms. DeHart presented to Council

The proposed amendment will modify the UDO by enabling Automotive Repair Shops (excluding body work, overnight parking, and commercial vehicle repair) within the General Business Zoning Districts (GBD), by Special Use Permit, throughout the Town of Indian Trail. This type of light vehicle repair shop use is currently allowed:

1. By right in the Regional Business District (RBD) which is located primarily along the Highway 74 corridor; and
2. By Special Use Permit in the Village Center Overlay Districts which are located throughout the town at the Village Centers.

For a use to be allowed within an "Overlay District" it must also be allowed in underlying zoning district. The primary commercial zoning classification found within our village centers is the General Business District (See Attachment 1-Zoning Map in Planning Board Report). Staff is of the opinion the absence of the use in the primary underlying zoning classification of the Village Centers was an oversight during the preparation of the UDO. Therefore it is proposed to allow the use by Special Use Permit consistent with the requirements of the Village Center Overlay District.

This proposed amendment was heard by the Planning Board on February 19, 2013, and after a general discussion the Board motioned to make the findings and transmit a unanimous recommendation to approve. The draft findings for Council consideration are noted below:

- **Goal 1.3.2 Land Use** - this amendment further expands the mix of different types of land uses while avoiding potential land use conflicts between uses it proposes to allow the use by Special Use Permit which requires a review and decision by the Indian Trail Board of Adjustments in a public forum; and
- It furthers the opportunity for a more balanced tax base by promoting the development of businesses and retail centers within the Town.

The request for the amendment of Section 520.020 G of Chapter 520 in the UDO to allow an Automotive Repair Shop (excluding body work, parking, and commercial repair) is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Land Use and provides consistency with the Unified Development Ordinance.

Mr. Waddell inquired about the limitations of work repair. There was a general discussion between him and Ms. DeHart about the size of allowable vehicles, requesting verbiage to be added to include commercial vehicles such as pickup trucks.

Ms. DeHart asked Mr. Merritt if this can be approved with this modification and when it comes back for the second reading we can have the specifics of the weight. Mr. Merritt advised it can be approved with the modification.

Christopher King made a motion continue to the next regularly scheduled meeting item 7d ZT2013-001 Automotive Repair.  
Council voted unanimously in favor of the motion.

## **BUSINESS ITEMS**

### a. Council Consideration of Approval of Rating Process Engagement Letter

Mr. Fivas explained there are two letters in the packets and referred to projects that the Council has directed staff to engage into and part of that process is the funding to implement them. The initial step is for Council to approve staff going to get a rating from rating agencies and approving the two agencies Moody's and Standard & Poor's. In order to sell these public bonds, the Town will need to receive a bond rating from at least two rating agencies. Mr. Fivas informed Council that there is a fee related to the engagement letter.

Christopher King made a motion to approve the engagement letters to Moody's and Standard & Poor. **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**

Motion Passed 2 - 1 with David Waddell opposing.

### b. Council Consideration of Approval of Project Manager for Chestnut Park

Council took and returned from a brief break.

Mr. Fivas provided the history of this matter and advised the staff is recommending the Town Council approve Site Solutions as the Park Project Manager for the 51 acre 'Chestnut' Park site. Site Solutions has had good success in developing parks of similar size, Site Solutions will also be working with local firm, Eagle Engineering and has staff living in Union County.

Mr. Williams, representing Site Solutions provided some history on his firm. Council had a general discussion on the park.

Christopher King made a motion to approve business item 8b the approval of the Project Manager for Chestnut Park.

Council voted unanimously in favor of the motion.

### c. Council Consideration of Approval of Carolina Courts Sub-Agreement

Mr. Fivas explained in August 2012, the Council approved the Public-Private Partnership Agreement between the Town of Indian Trail and Carolina Courts. Mr. Fivas explained that after Carolina Courts closes on the property, we will need to schedule a special meeting to finalize

the closing materials and authorize staff to close on the final project and then it will be complete and construction for them can begin.

There were items that were not covered in the main agreement that were necessary to create a sub agreement or "declaration" for the Town of Indian Trail. Such items covered in this sub agreement fall under commons areas, easements, liability insurance and other general legal issues. This sub agreement is necessary for the final approval and closing of Carolina Courts and its lender. Some of the issues he would like to make them aware of are: that we will partner with them on trash enclosure they will rent facility from us, some of their traffic will be using some of the park parking lot, they will pay us a monthly basis for the maintenance of it, they need to have certain insurances, modifications liens, enforcement powers.

Mr. Waddell expressed his concerns: the water & sewer permit for Carolina Courts, appears to be in Indian Trail's name? Mr. Fivas explained that how's the approved original agreement was structured, it's also for the capacity for the park that's there as well; it's also a timing and legal issue with the lenders. Mr. Merritt explained we are currently the property owners so we do the permitting. Mr. Waddell inquired who pays the utilities, Mr. Fivas explained the agreement was that we have it pad ready but they will pay their own utilities when the land is transferred to them. Mr. Waddell expressed concern about public funds going into the pad, how much of these funds are coming from bond monies and which bond are they coming from. Mr. Fivas replied no bond funds are being used for the development of the pad, just some of the street bond for the first part of the Chestnut Parkway. Mr. Waddell inquired if the parking lot will use bond funds, Mr. Fivas replied Council will make that determination when we get to that issue.

Mr. Cohn stated we do not always agree on everything, he sees a lot of misinformation on this and Council will be happy to discuss this with any of you. We pay taxes also and want to see what's best for our town. What is given away is expected to return 2-3X back.

Christopher King made a motion to approve item 8c. Approval of Carolina Courts Sub-Agreement subject to Carolina Courts meeting all other requirements at closing **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**

Council voted unanimously in favor of the motion.

d. Establish a date for a Special Meeting

Mr. Fivas stated he hopes to have it the middle of next week. By consensus Council decided Friday, March 22nd at 6 pm.

e. C-4957 Unionville Indian Trail Sidewalk Improvements Contract

Mr. Fivas advised this matter has been in the making for a long time, staff held a formal bid opening for this project and recommends Boggs Paving as the lowest responsible bidder. Council had a brief general discussion on this matter.

Christopher King made a motion to approve item 8e the Unionville Indian Trail Sidewalk Improvements Contract. **(COPY CAN BE FOUND IN FINANCE OR ENGINEERING OFFICES)** Council voted unanimously in favor of the motion.

f. Council Consideration of Approval of CEI Agreement for Unionville Indian Trail Sidewalk Improvements

Mr. Fivas explained there are requirements with the Grant process and one of them is for certified inspectors to inspect the work to ensure it's done to code compliance and if a mistake is made the grant funds will be denied. Alley, Williams, Carmen & King, Inc was recently chosen through the qualifications based selection process and staff submits recommendation of them.

Christopher King made a motion to approve business item 8f the approval of CEI Agreement for Unionville Indian Trail Sidewalk Improvements. **(COPY CAN BE FOUND IN FINANCE OR ENGINEERING OFFICES)** Council voted unanimously in favor of the motion.

g. Progress report of Sardis Park from Project Manager

Mr. Fivas advised that in January Council approved Woolpert as the Project Manager for this park, staff has met often with them and implemented Council direction to have the park plans ready to go and have some construction to being in May or June. This will be a fairly comprehensive overview, we will need feedback from Council and Mr. Pack is here to provide a progress report for Council.

Mr. Pack handed out a copy of the power point he presented that included the overview, process programming, theming, athletic complex, playground, dog park and schedule. A copy can be found in the packet. Council had a lengthy discussion on this matter ultimately agreeing with the ideas presented to them. Some of the topics discussed were: environmental study, downstream/upstream flow, shade, stone, salvage of trees and seating for adults in playground.

Mr. Fivas confirmed that Council is comfortable with the Project Manager moving forward and with the presented park design, advising we have some cleaning up to do, environmental issues and other issues. What we will do is work with Andrew on the next phase which is a scope of design and development. This will require decisions on fencing, drinking fountains etc.

h. Council Consideration of Approval of Scope of Work on Sardis Park

Mr. Fivas advised that one of the issues is the entrance and road that leads out there. We believe we should look and see if we need to make improvements to it. In front of you is an agreement for Boyle Consulting/Engineering that we want them to do a geotechnical evaluation of that road.

Mr. Fivas stated that the first question is do we want to make improvements to the road during initial phase? By consensus Council agreed.

Mr. Fivas explained the other document from Lawrence Associates is for the design based on the recommendation from the geotechnical evaluation.

Christopher King made a motion to approve business item 8h Boyle Consulting Engineering contract to conduct the necessary survey for \$2,000 (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**)

Motion Passed 2 - 1 with David Waddell opposing.

Christopher King made a motion to approve Lawrence Engineering for the second phase of the survey for \$29,000 (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**)

Motion Passed 2 - 1 with David Waddell opposing.

**DISCUSSION ITEMS**

a. Web inquiry and payment portal for tax accounts

Mr. Fivas advised for the convenience of our residents we're introducing the opportunity for them to review and pay their taxes on line.

b. Council discussion of participation in the Economic Alliance of South Charlotte Communities

Mr. Fivas recommend we table this item until Ms. Luther can be part of the discussion, as she is part of the Alliance.

c. Discussion on investigating options for Video recording of Council, Board and Committee meetings - this item was requested by Mayor Alvarez

Mayor Alvarez requested that Council please provide consensus on this matter. Mr. King was in favor, Mr. Cohn was not and Mr. Waddell inquired if Granicus currently provide it? Mr. Fivas replied yes, we'll look at the cost and explained Granicus and some of the issues involved.

By consensus Council agreed to have staff look into the cost

d. Resolution to assume maintenance of certain NCDOT streets

Mr. Waddell inquired what the advantage in taking these roads on is. Mr. Fivas provided an explanation.

Christopher King made a motion to approve item 9d Resolution to assume maintenance of certain NCDOT streets **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**  
Motion Passed 2 - 1 with David Waddell opposing.

**MANAGERS REPORT**

Mr. Fivas reminded everyone about the Hop to IT event; there will be a press event with Congressman Pittinger on a major announcement on some legislations details to follow. Mr. Fivas stated that our Clean up day and Sunset series are forthcoming and the information will be sent out to everyone.

**COUNCIL COMMENTS**

Mayor Alvarez had no comments.

Mr. Cohn stated that a gentleman stated this evening that he thought that the meeting on February 16th was like a Saturday Night Live skit he disagrees. To anyone in that room, he was not; it was not comical at all. We learned a lot of things about people's character that day and since then. He will never forget it and hopes nobody else does, there are a lot of lessons to be learned. He had other things but decided not to say them because we need to move on from that day. He's happy and proud that we have our Sheriff's contract and congratulated Lieutenant Coble for Officer of the Year. He apologized for some of the Council Members on some of the things they said and them not show up at a Council meeting speaks volumes. It's time to move on, celebrate four more years of the Sherriff's Department and let's not forget.

Mr. Waddell was hoping that Council Members Allen and Luther had shown up. He feels their shenanigans have gone on long enough, is going to ask them to apologize to the town and people and if they refuse he feels they should resign.

Mr. King congratulated Lieutenant Coble on his award. He is very excited about the renewal of the contract with the Sheriff's Office.

**CLOSED SESSION**

*None*

**ADJOURN**

Christopher King made a motion to adjourn  
Council voted unanimously in favor of the motion.

**APPROVED:**

\_\_\_\_\_  
**Michael L. Alvarez , Mayor**

Attest:

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



**TO:** Mayor and Town Council  
**FROM:** Joe Fivas  
**CC:** Marsha Sutton, Jennifer Smith  
**DATE:** March 20, 2013  
**SUBJECT:** Budget Amendments for March 26<sup>th</sup> Meeting

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1. Reallocate funds within Community and Economic Development department for new line item established for copy/print costs.
2. Reallocate funds within Powell Bill for CMAQ project.
3. Reallocate funds within Stormwater for membership dues budgeted in contract services.
4. Reallocate funds within Powell Bill for Oakwood Lane design fees approved by council 3/12/13.
5. Reallocate funds within Community and Economic Development department to establish event budget.

If Council has any questions, or would like to see any of the budget amendments, please contact the Finance Director at 704-821-5401.



**TO:** Mayor and Town Council  
**FROM:** Joe Fivas  
**DATE:** March 26, 2013  
**SUBJECT:** Tax Refunds greater than \$500

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Please find attached copies of tax refunds greater than \$500.00

1. FS Development Inc. - \$1,110.00 refunded to taxpayer as taxes were previously paid by attorney.
2. Federal National Mortgage - \$621.51 refunded to Corelogic as taxes were previously paid by attorney.
3. Paul Atkins - \$521.67 refunded to Corelogic as taxes were previously paid by Wells Fargo.
4. Pulte Group - \$1,304.57 refunded to Pulte Group for multiple parcels due to incorrect check amount sent for taxes due.
5. Virginia Parker - \$500.00 refunded to taxpayer as the amount was overpaid in error.
6. Bridgestone Americas Tire - \$24,509.74 refunded to Bridgestone. The tax bill was paid by Bridgestone in error as it did not belong to them. Bill was paid by the correct taxpayer, BG Union Town LLC, on 2/22/13.
7. Eliana Corrales - \$528.90 refunded to taxpayer as taxes were previously paid by mortgage company.

If you need any clarification on any of these items, please feel free to contact Marsha Sutton at (704) 821-5401.

**MAYOR**  
Michael L. Alvarez

**MAYOR PRO TEM**  
David L. Cohn

**TOWN MANAGER**  
Joseph A. Fivas



**TOWN COUNCIL**  
Robert W. Allen  
Christopher M. King  
Darlene T. Luther  
David K. Waddell

**TOWN CLERK**  
Peggy S. Piontek

March 26, 2013

**TO:** Mayor and Town Council

**FROM:** Joseph Fivas

**CC:** Marsha Sutton

**SUBJECT:** Proposed Budget Schedule

Please find attached a proposed Budget Schedule. These dates are tentative depending on Council's needs and direction. We want to be sure to get some dates out there for the upcoming budget season so we can get on everyone's calendar.

This is the same budget schedule emailed to you on January 10<sup>th</sup> and discussed at a previous council meeting.

Staff is asking Council to make a motion to approved the attached budget schedule as is or with any modifications as indicated.



## PROPOSED FISCAL YEAR 2013-2014 BUDGET SCHEDULE

**December 1, 2012** Initial Strategic Planning Session 9:00 to 1:00pm

**January TBD** If Council request an additional Strategic Planning Session may be held

**February TBD** Individual meetings with Council members as they request of Town Manager

**March 4** Staff will receive information as to estimating budget

**April 4** Information from Dept. Heads to Manager

**April 8 – 19** Review of budget information with Manager and Dept. Heads.

**May 6** Send proposed budget to Mayor and Council (draft)

**May 14** Regular Meeting – Budget Workshop with Mayor and Council **6:30pm**

**May 17** Proposed budget ready for public review on website, at Library, and at Town Hall (draft)

**May 28** Regular Meeting – Public Hearing **6:30pm**

**June 11** Regular Meeting – Budget Adopted **6:30pm**



Planning & Neighborhood Services  
PO Box 2430,  
Indian Trail, NC 28079  
704 821-5401

# Memo

To: Mayor and Town Council

From: Shelley DeHart, AICP

Date: March 18, 2013

Re: ZT 2013-001 Automotive Repair Shops in the General Business Zone

The Indian Trail Town Council held the public hearing for Zoning Text Amendment ZT-2013-001 on March 12, 2013. This amendment proposes to allow Automotive Repair Shops (excluding body work, overnight parking, and commercial vehicle repair) within the General Business Zoning Districts (GBD). During deliberations, the Council questioned how “commercial vehicle repair” was defined and voiced concern regarding restricting all types of commercial vehicle repair. The Council continued this item to the March 26<sup>th</sup> meeting requesting staff bring back information related to “commercial vehicle” classification.

Based on research, a vehicle is designated “commercial” when it is titled or registered to a company. This is a broad definition, as commercial vehicles may be fleet vehicles, company cars, or other vehicles used for business. A vehicle may be considered a commercial vehicle if:

- The title was placed in the name of a company or corporation;
- The vehicle is used for business but is in an individual’s name such as a sole proprietor;
- The vehicle is a leased vehicle and in the name of the financial institution that owns it;
- The vehicle exceeds a certain weight or class and therefore is “classified” as commercial even though it may not be commercially used or commercially owned. A weight rating of 26,001 pounds or more is always considered commercial.
- The vehicle is used to haul any hazardous material.

Examples of some commercial vehicles are: Trucks, Semi trucks (articulated lorry), Van, Coach, Bus, Taxicab, Trailers, and Box Trucks.

For simplicity, staff is proposing to utilize the “gross vehicle weight rating system” (GVWR) as the defining limit for the commercial vehicle repair in this amendment. This directly relates to a standard commercial truck classification that is determined based on the gross vehicle weight rating (GVWR). The classes range from 1-8 (see Attachment 1). Staff is proposing to limit commercial vehicle repair to vehicles with a maximum GVWR of 26,000 pounds which would eliminate the possibility for repair shops to service “Heavy Duty Trucks – Class 7 and 8” (as seen in attachment one) within the General Business District. The GVWR of 26,001 or more pounds is also the point at which the State of North Carolina requires a “commercial driver license.”

If the Council concurs with this recommendation, the modification will result in the following text amendment of Section 520.020 G:

<b>Vehicle Sales and Service</b>							
Auto Supply and Service	-	-	P	P	-	-	
Car Wash	-	-	P	P	-	-	
Heavy Equipment Sales/Rental	-	-	-	P	-	-	
Light Equipment Sales/Rental-Indoor	-	-	P	P	-	-	
Light Equipment Sales/Rental-Outdoor	-	-	-	P	-	-	
Motor Vehicle Repair Shop not including body work, parking, and limited commercial vehicle repair*		-	S	P	S	-	Commercial repair limited to gross vehicle weight ≤ 26,000 lbs
Motor Vehicle Repair Shop including body work, parking and commercial vehicle repair	-	-	-	P	-	-	
RV and Boat Storage	-	-	-	S	-	-	
Vehicle Storage and Towing	-	-	-	S	-	-	
Wholesale Distribution				P/S			Permitted by right for office/warehouse facilities built prior to adoption of UDO on December 30, 2008.

**Indian Trail Unified Development Ordinance**

12/31/2008

5-17

**Town Council Action:** *Receive report and after deliberations:*

- Make the required findings as read into the record
  - **Goal 1.3.2 Land Use** – this amendment further expands the mix of different types of land uses while avoiding potential land use conflicts between uses it proposes to allow the use by Special Use Permit which requires a review and decision by the Indian Trail Board of Adjustments in a public forum; and
  - It furthers the opportunity for a more balanced tax base by promoting the development of businesses and retail centers within the Town.
  - The request for the amendment of Section 520.020 G of Chapter 520 in the UDO to allow an Automotive Repair Shop (excluding body work, parking, and **limited** commercial repair) is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Land Use and provides consistency with the Unified Development Ordinance
- Motion to approve, approve with modification, or disapprove.

Attachment – 1 Commercial Vehicle Research

Attachment -2 New Draft Ordinance

Attachment -3- Planning Board Transmittal

*TOWN COUNCIL  
ATTACHMENT 1*

Classes	GVWR	Examples	Photos
<b>Light Duty</b>			
<b>Class 1</b>	0 to 6,000 lbs	Toyota Tacoma, Dodge Dakota	
<b>Class 2</b>	6,001 to 10,000lbs	Dodge Ram 1500 Ford F-150	
<b>Class 3</b>	10,001 to 14,000	Dodge Ram 3500 Ford F-350	
<b>Medium Duty</b>			
<b>Class 4</b>	14,001 to 16,000	Ford F-450 GMC Sierra 3500	
<b>Class 5</b>	16,001 to 19,500	Dodge Ram 5500 Ford F-550	
<b>Class 6</b>	19,501 to 26,000	GMC Topkick C6500; Ford F-650	
<b>Heavy Duty</b>			
<b>Class 7</b>	26,001 to 33,000	GMC c7500	
<b>Class 8</b>	Above 33,000	Includes tractor trailer trucks	



- It furthers the opportunity for a more balanced tax base by promoting the development of businesses and retail centers within the Town.
- The request for the amendment of Section 520.020 G of Chapter 520 in the UDO to allow an Automotive Repair Shop (excluding body work, parking, and **limited** commercial repair) is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Land Use and provides consistency with the Unified Development Ordinance.

NOW THEREFORE, BE IT ORDAINED ON MARCH 26, 2013 BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA HEREBY TAKES THE FOLLOWING ACTION:

**Section 1** – Council makes the required findings as entered into record and found herein; and

**Section 2** - Section 520.020G in Chapter 520 of the UDO is amended as follows:

*Chapter 520. Business and Commercial Zoning Districts*  
520.020. Allowed Uses

USE GROUP Use Category	Business and Commercial Districts						Use Standard
	CBD	NBD	GBD	RBD	O-VCD	O-DD	
Specific Use Type							
Picture							
Theatrical Playhouse (Excluding Adult Use)	P/S	P/S	P/S	P/S	P/S	P/S	SUP for Outdoor Use
Vehicle Sales and Service							
Auto Supply and Service	-	-	P	P	-	-	
Car Wash	-	-	P	P	-	-	
Heavy Equipment Sales/Rental (Retail)	-	-	-	P/S*	-	-	*See Chapter 7150
Heavy Equipment Sales/Rental (Wholesale)	P*	P*	P*	P*	P*	P*	*See Chapter 7150
Light Equipment Sales/Rental (Retail)	-	-	P/S*	P/S*	-	-	*See Chapter 7150
Light Equipment Sales/Rental (Wholesale)	P*	P*	P*	P*	P*	P*	*See Chapter 7150
Motor Vehicle Repair Shop not including body work, parking, and limited commercial vehicle repair*	-	-	S	P	S	-	Commercial Repair limited to gross vehicle weight ≤ 26,000 lbs
Motor Vehicle Repair Shop including body work, parking and commercial vehicle repair	-	-	-	P	-	-	

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

**AND IT SO ORDANIED** this 26<sup>th</sup> day of March 2013

Attest:

**TOWN COUNCIL OF INDIAN TRAIL**

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Peggy Piontek, Town Clerk

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Michael L. Alvarez, Mayor

APPROVED AS TO FORM:

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TOWN ATTORNEY



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

**Planning Board Transmittal for the March 12, 2013 Town Council Public Hearing**

<b>Case: ZT 2013-001 Amendment of Chapter 520 of the Unified Development Ordinance</b>			
<b>Reference Name</b>	<b>Automotive Uses in the General Business District</b>		
<b>Planning Board Meeting Date</b>	February 19, 2013		
<b>Members Present</b>	Chair Cowan <input checked="" type="checkbox"/>	Jan Brown <input checked="" type="checkbox"/> (In audience)	Larry Miller <input checked="" type="checkbox"/>
	Vice-Chair Higgins <input checked="" type="checkbox"/>	Kelly D' Onofrio <input checked="" type="checkbox"/>	Robert Rollins <input checked="" type="checkbox"/>
	Sidney Sandy <input type="checkbox"/>	Cheryl Mimy <input checked="" type="checkbox"/> Alternate 1	Steve Long <input checked="" type="checkbox"/> Alternate 2
	Alan Rosenberg <input type="checkbox"/> Alternate 3		
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Motion</b>	Recommend approval to Town Council with draft findings		
<b>Member Making the Motion</b>	Boardmember Mimy		
<b>Second the Motion</b>	Boardmember Higgins		
<b>Vote</b>	All seated members voted in favor of the Motion		

**Purpose of the Amendment:** To amend Chapter 520- Business and Commercial Zoning Districts to allow for motor vehicle repair shops (not including body work, parking and commercial repair) in the General Business Zoning Districts (GBD) within the Town. Staff is of the opinion the absence of this use within the GBD was an oversight during the development of the Unified Development Ordinance (UDO) in 2008 and therefore warrants this amendment. This use is currently allowed within the Regional Business District (RBD) by right and within the Village Center Overlay by Special Use Permit.

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

## Executive Summary

The proposed amendment will modify the UDO by enabling Automotive Repair Shops (excluding body work, overnight parking, and commercial vehicle repair) within the General Business Zoning Districts (GBD), by Special Use Permit, throughout the Town of Indian Trail. This type of light vehicle repair shop use is currently allowed:

1. By right in the Regional Business District (RBD) which is located primarily along the Highway 74 corridor; and
2. By Special Use Permit in the Village Center Overlay Districts which are located throughout the town at the Village Centers.

For a use to be allowed within an “Overlay District” is must also be allowed in underlying zoning district. The primary commercial zoning classification found within our village centers is the General Business District (See Attachment 1-Zoning Map in Planning Board Report). Staff is of the opinion the absence of the use in the primary underlying zoning classification of the Village Centers was an oversight during the preparation of the UDO. Therefore it is proposed to allow the use by Special Use Permit consistent with the requirements of the Village Center Overlay District.

## Planning Board

This proposed amendment was heard by the Planning Board on February 19, 2013, and after a general discussion the Board motioned to make the findings and transmit a unanimous recommendation to approve. The draft findings for Council consideration are noted below:

- **Goal 1.3.2 Land Use** – this amendment further expands the mix of different types of land uses while avoiding potential land use conflicts between uses it proposes to allow the use by Special Use Permit which requires a review and decision by the Indian Trail Board of Adjustments in a public forum; and
- It furthers the opportunity for a more balanced tax base by promoting the development of businesses and retail centers within the Town.

The request for the amendment of Section 520.020 G of Chapter 520 in the UDO to allow an Automotive Repair Shop (excluding body work, parking, and commercial repair) is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Land Use and provides consistency with the Unified Development Ordinance.

## Staff Contact

Shelley DeHart, AICP  
srd@planning.indiantrail.org

Attachment 1- Planning Board Report  
Attachment 2- Draft Ordinance

**TOWN COUNCIL ATTACHMENT -1  
PLANNING BOARD REPORT**



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

## Zoning Text Amendment Staff Report

<b>Case: ZT 2013-001 Amendment of Chapter 520</b>		
<b>Reference Name</b>	Automotive Uses in the General Business District	
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	01/23/2013	
<b>Location</b>	General Business Zoning District within the Town	
<b>Tax Map Numbers</b>	N/A	
<b>Plan Consistency</b>	Town of Indian Trail Comp. Plan	Consistent with Request
<b>Recommendations &amp; Comments</b>	Planning Staff	Recommends Approval of Text Amendment

### Project Summary

Request: To amend Chapter 520- Business and Commercial Zoning Districts to allow for motor vehicle repair shops (not including body work, parking and commercial repair) in the General Business Zoning Districts (GBD) within the Town. Staff is of the opinion the absence of this use within the GBD was an oversight during the development of the Unified Development Ordinance (UDO) in 2008 and therefore warrants this amendment. This use is currently allowed within the Regional Business District (RBD) by right and within the Village Center Overlay by Special Use Permit.

**Staff Recommendation-** Staff recommends the Planning Board receive the report and recommend approval to the Town Council as presented.

## Analysis

Staff has recently become aware of a discrepancy within the Commercial Use Table of the UDO found in Section 520.020 G as it relates to the use Automotive Repair Shop business – not including body work, parking and commercial vehicle repair. The UDO indentifies this use as allowed:

3. By right in the Regional Business District (RBD) which is located primarily along the Highway 74 corridor; and
4. By Special Use Permit in the Village Center Overlay Zoning Districts which are located throughout the town at the Village Centers.

It is with the allowed use in the Village Centers where staff believes an oversight occurred when preparing the Unified Development Ordinance. For a use to be allowed within an “Overlay District” is must also be allowed in underlying zoning district. The primary commercial zoning classification found within our village centers is the General Business District (See Attachment 1-Zoning Map). As seen in the table below, the use in not allowed within the GBD zoning district.

	CBD	NBD	GBD	RBD	O-VCD	O-DD	Use Standard
<b>Vehicle Sales and Service</b>							
Auto Supply and Service	-	-	P	P	-	-	
Car Wash	-	-	P	P	-	-	
Heavy Equipment Sales/Rental	-	-	-	P	-	-	
Light Equipment Sales/Rental-Indoor	-	-	P	P	-	-	
Light Equipment Sales/Rental-Outdoor	-	-	-	P	-	-	
Motor Vehicle Repair Shop not including body work, parking and commercial vehicle repair	-	-	-	P	S	-	
Motor Vehicle Repair Shop including body work, parking and commercial vehicle repair	-	-	-	P	-	-	
RV and Boat Storage	-	-	-	S	-	-	
Vehicle Storage and Towing	-	-	-	S	-	-	
Wholesale Distribution				P/S			Permitted by right for office/warehouse facilities built prior to adoption of UDO on December 30, 2008.

For consistency, staff is proposing that this use be allowed by Special Use permit because there are a few parcels zoned General Business located outside the village centers in close proximity to residential neighborhoods. Requiring a Special Use Permit for this use would ensure it would be evaluated on a case by case basis.

### **Comprehensive Plan Consistency**

Staff is of the opinion the amendment of Section 520.020 G, to allow Automotive Repair Shops excluding body work, parking, and commercial repair, would be consistent with the goals of the adopted Comprehensive Plan in the area of Land Use because:

- It provides a mix of different types of land uses and avoids potential land use conflicts between uses because this amendment proposes to allow the use by Special Use Permit which is a public process and decision by the Indian Trail Board of Adjustments; and
- It provides an opportunity for a more balanced tax base by promoting the development of businesses and retail centers.

### **Board Action**

The Planning Board must make findings in support or in opposition prior to motioning for recommendation. The findings must be made that the proposed amendment is both consistent with the Comprehensive Plan and a reasonable request. Staff is of the opinion the following goal can be found consistent with the Goals of the Comprehensive Plan:

- ***Goal 1.3.2 Land Use*** – this amendment further expands the mix of different types of land uses while avoiding potential land use conflicts between uses it proposes to allow the use by Special Use Permit which requires a review and decision by the Indian Trail Board of Adjustments in a public forum; and
- It furthers the opportunity for a more balanced tax base by promoting the development of businesses and retail centers within the Town.

The request for the amendment of Section 520.020 G of Chapter 520 in the UDO to allow an Automotive Repair Shop (excluding body work, parking, and commercial repair) is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Land Use and provides consistency with the Unified Development Ordinance.

### **Recommendation**

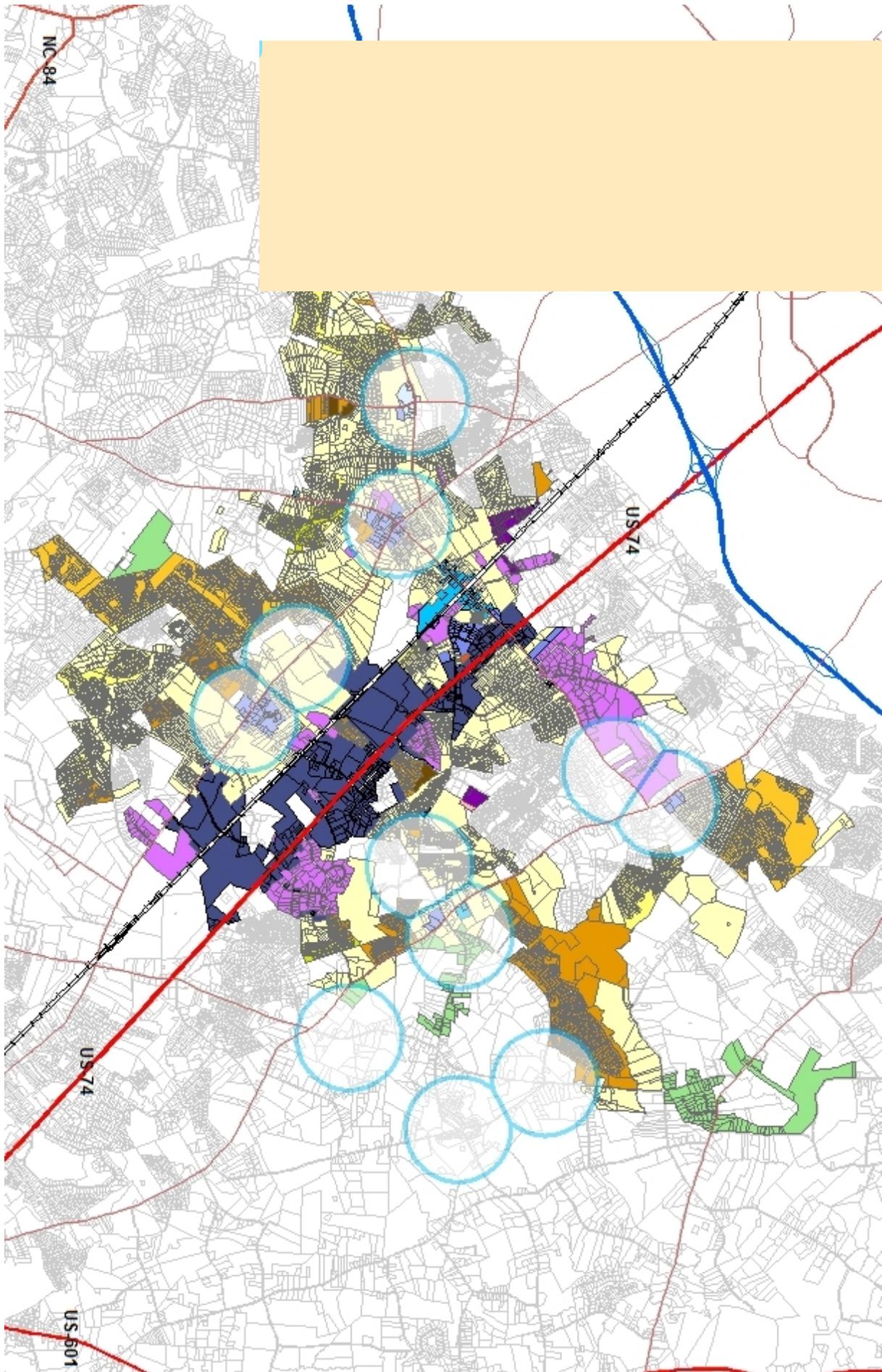
The Planning Staff believes that the findings can be made to support the text amendment.

#### **Staff Contact**

Shelley DeHart, AICP  
704 821-5401  
srd@planning.indiantrail.org

**Attachments 1** – Zoning Map  
**Attachment 2-** Draft Ordinance

**PB ATTACHMENT ONE: ZONING MAP**



**PB ATTACHMENT TWO: DRAFT ORDINANCE  
SEE TOWN COUNCIL ATTACHEMENT – 2**

**TOWN COUNCIL ATTACHMENT 2  
DRAFT ORDINANCE**

STATE OF NORTH CAROLINA )  
 )  
TOWN OF INDIAN TRAIL )

ORDINANCE #

**AN ORDINANCE AMENDING CHAPTER 520 BUSINESS AND COMMERCIAL ZONING DISTRICTS OF THE INDIAN TRAIL UNIFIED DEVELOPMENT ORDINANCE (UDO) RELATED TO ALLOWED COMMERCIAL USES IN INDIAN TRAIL, NORTH CAROLINA**

**WHEREAS**, the town is the applicant for ZT 2013-001 requesting to amend Section 520.020 G of Chapter 520 for the purpose of correcting a discrepancy in the allowed use of an Automotive Repair Shop, not including body work, parking, and commercial repair, within the General Business Zoning Districts of the Town; and

**WHEREAS**, this Zoning Amendment (ZT 2013-001) was duly noticed in compliance with North Carolina General Statutes; and

**WHEREAS**, the amendment was heard by Planning Board on February 19, 2013 and 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:

This amendment is consistent with the following goals of the adopted Comprehensive Plan in the area of Goal **1.3.2 Land Use** – because it further expands the mix of different types of land uses while avoiding potential land use conflicts between uses it proposes to allow the use by Special Use Permit which requires a review and decision by the Indian Trail Board of Adjustments in a public forum. It furthers the opportunity for a more balanced tax base by promoting the development of businesses and retail centers within the Town; and

The request to amend Section 520.020 G of Chapter 520 in the UDO to allow an Automotive Repair Shop (excluding body work, parking, and commercial repair) is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Land Use and provides consistency with the Unified Development Ordinance.

**WHEREAS**, the Town Council received the Planning Board transmittal for a recommendation of approval in the required public hearing held on March 12, 2013 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 MARCH 12, 2013 BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA HEREBY TAKES THE FOLLOWING ACTION:

**Section 1** – Council makes the required findings as entered into record and found herein; and

**Section 2** - Section 520.020G in Chapter 520 of the UDO is amended as follows:

	CBD	NBD	GBD	RBD	O-VCD	O-DD	Use Standard
<b>Vehicle Sales and Service</b>							
Auto Supply and Service	-	-	P	P	-	-	
Car Wash	-	-	P	P	-	-	
Heavy Equipment Sales/Rental	-	-	-	P	-	-	
Light Equipment Sales/Rental-Indoor	-	-	P	P	-	-	
Light Equipment Sales/Rental-Outdoor	-	-	-	P	-	-	
Motor Vehicle Repair Shop not including body work, parking and commercial vehicle repair	-	-	S	P	S	-	
Motor Vehicle Repair Shop including body work, parking and commercial vehicle repair	-	-	-	P	-	-	
RV and Boat Storage	-	-	-	S	-	-	
Vehicle Storage and Towing	-	-	-	S	-	-	
Wholesale Distribution				P/S			Permitted by right for office/warehouse facilities built prior to adoption of UDO on December 30, 2008.

**Indian Trail Unified Development Ordinance**

12/31/2008

5-17

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

**AND IT SO ORDANIED** this 12<sup>th</sup> day of March 2013

Attest:

**TOWN COUNCIL OF INDIAN TRAIL**

---

Peggy Piontek, Town Clerk

---

Michael L. Alvarez, Mayor

APPROVED AS TO FORM:

---

TOWN ATTORNEY



Planning & Neighborhood Services  
PO Box 2430, Indian Trail, NC 28079  
704 821-5401

# Memo

To: Mayor and Town Council

From: Shelley DeHart, AICP

Date: March 18, 2013

Re: Second Reading of Ordinance for ZM2012-006 Oakwood Lane Properties

The Indian Trail Town Council held the public hearing for Zoning Map Amendment ZM-2012-006 on March 12, 2013. This amendment is a request to rezone three properties (07048019L; 07048019K; 07048017) from a single family residential zoning classification to the Indian Trail Institutional zoning classification. At the conclusion of deliberations, the Council approved the first reading (introduction) of the draft ordinance approving ZM2012-006. Pursuant to North Carolina General Statute §160A-75, a second reading of the associated draft ordinance is required by Council to approve. The project analysis is provided in attachment two of this report.

Required Action by Council: *Receive the report and at the conclusion of deliberations:*

- **Make the Required Findings – Draft Findings as Transmitted by Planning Board**
  - **Goal 1.3.1 Quality of Life** – the rezoning of these properties to institutional provides the setting for an institutional use such as a public park and open space providing an enhanced quality of life for residents by providing both active and passive recreational opportunities; and
  - **Goal 1.3.2 Land Use** – the rezoning of the subject properties will provide a mix of different types of land uses within the Sardis Interchange Mix Village consistent with the future land use vision of the Comprehensive Plan. It also provides a greater separation between land uses for the adjacent residential users as the Town carries out the park vision approved by voters last November; and
  - The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian

Trail Comprehensive Plan in the areas of *Land Use* and is consistent with the adopted plans within the Town of Indian Trail.

- **Motion to Approve or Disapprove ZM 2012-006 as presented in the second reading.**

Attachment 1- Draft Ordinance

Attachment 2- Planning Board Transmittal





WHEREAS, the Town Council held a public hearing on March 12, 2013 to consider said request and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council made the required findings a voted to approve ZM2012-006 resulting in the "First Reading" of this ordinance: and

WHEREAS, the Town Council heard the second reading of this ordinance to approve ZM2012-006 on March 26, 2013, made the required findings as entered into this ordinance, and approved the project.

**NOW, THEREFORE, IT SHALL BE ORDAINED** by the Town Council of the Town of Indian Trail, North Carolina hereby takes the following action:

**Section 1** – Makes the required findings as stated herein; and

**Section 2** - Approves ZM 2012-006 Zoning Petition thereby granting the Zoning Map amendment to establish an Institutional Zoning District on parcel numbers 07048019K, 07048019L, and 07048017.

**Section 2** – This ordinance shall be effective immediately upon adoption.

**AND IT IS SO ORDAINED** this 26<sup>th</sup> day of March, 2013.

**TOWN OF INDIAN TRAIL COUNCIL**

Attest:

---

Peggy Piontek, Town Clerk

---

Michael L. Alvarez, Mayor

APPROVED AS TO FORM:

---

TOWN ATTORNEY

TOWN COUNCIL ATTACHMENT 2 – PB TRANSMITTAL



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

**Planning Board Transmittal for the March 12, 2013 Town Council Public Hearing**

<b>Case: ZM2012-006 Zoning Map Amendment Oakwood Lane Properties</b>			
<b>Reference Name</b>	<b>Sardis Park</b>		
<b>Planning Board Meeting Date</b>	February 19, 2013		
<b>Members Present</b>	Chair Cowan <input checked="" type="checkbox"/>	Jan Brown <input checked="" type="checkbox"/> (In audience)	Larry Miller <input checked="" type="checkbox"/>
	Vice-Chair Higgins <input checked="" type="checkbox"/>	Kelly D' Onofrio <input checked="" type="checkbox"/>	Robert Rollins <input checked="" type="checkbox"/>
	Sidney Sandy <input type="checkbox"/>	Cheryl Mimy <input checked="" type="checkbox"/> Alternate 1	Steve Long <input checked="" type="checkbox"/> Alternate 2
	Alan Rosenberg <input type="checkbox"/> Alternate 3		
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Motion</b>	Recommend approval to Town Council with draft findings		
<b>Member Making the Motion</b>	Boardmember Miller		
<b>Second the Motion</b>	Boardmember Long		
<b>Vote</b>	All seated members voted in favor of the Motion		

**Purpose of the Map Amendment:** To rezone (reclassify) three properties located at the end of Oakwood Lane from a single-family residential designation to the Institutional classification. These properties were purchased last July by the Town and have been identified as the future Sardis Park facility. Parcels 07048019L and 07048019K are newly annexed properties (Annexation Ordinance #134) and the remaining parcel is already within the Town's jurisdiction.

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

## **Executive Summary**

The proposed amendment will modify the Town's Official Zoning Map by changing the zoning classifications for three properties located at the end of Oakwood Lane (See map in Attachment 1- Planning Board Report). Two of the three parcels have been recently annexed into the Town (January 8, 2013) and therefore are required to have local jurisdictional zoning established per North Carolina General Statutes. The remaining subject property is being rezoned for the purpose of establishing consistent zoning for the future recombination of all three properties into one parcel. Please see "Attachment 1" for a complete analysis.

## **Planning Board**

This proposed amendment was heard by the Planning Board on February 19, 2013, and after a general discussion the Board motioned to make the findings and transmit a unanimous recommendation to approve. The draft findings for Council consideration are noted below:

*Goal 1.3.1 Quality of Life* – the rezoning of these properties to institutional provides the setting for an institutional use such as a public park and open space providing an enhanced quality of life for residents by providing both active and passive recreational opportunities.

*Goal 1.3.2 Land Use* – the rezoning of the subject properties will provide a mix of different types of land uses within the Sardis Interchange Mix Village consistent with the future land use vision of the Comprehensive Plan. It also provides a greater separation between land uses for the adjacent residential users as the Town carries out the park vision approved by voters last November.

The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of *Land Use* and is consistent with the adopted plans within the Town of Indian Trail.

## **Staff Contact**

Shelley DeHart, AICP  
srd@planning.indiantrail.org

Attachment 1- Planning Board Report

Attachment 2- Draft Ordinance

**TOWN COUNCIL ATTACHMENT ONE  
PLANNING BOARD REPORT**



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

## Zoning Map Amendment Staff Report

<b>Case: ZM 2012-006 Oakwood Lane Properties</b>		
<b>Reference Name</b>	Sardis Park	
<b>Request</b>	Proposed Zoning	Institutional
	Proposed Use	
<b>Existing Site Characteristics</b>	Existing Zoning	R-20 (Union County) & SF-1 Single-family – IT Zoning
	Existing Use	vacant
	Site Acreage	138.92 acres (approx.)
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	11/15/2012	
<b>Location</b>	End of Oakwood Lane	
<b>Tax Map Numbers</b>	07048019L; 07048019K; 07048017	
<b>Plan Consistency</b>	Town of Indian Trail Comp. Plan	Interchange Mix – Village Center
		Consistent with Request
<b>Recommendations &amp; Comments</b>	Planning Staff	Recommends Approval for Institutional Zoning

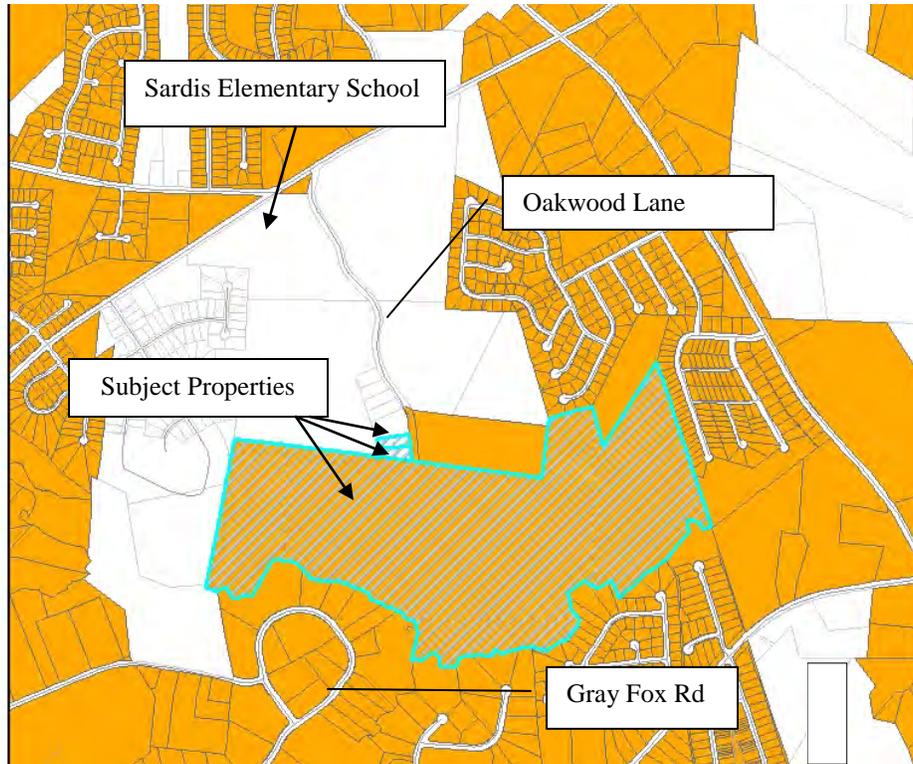
### Project Summary

Request: To rezone three properties located at the end of Oakwood Lane from a single-family residential designation to the Institutional classification. These properties were purchased last July by the Town and have been identified as the future Sardis Park facility. Parcels 07048019L and 07048019K are newly annexed properties (Annexation Ordinance #134) and the remaining parcel is already within the Town’s jurisdiction.

**Staff Recommendation-** Staff recommends the Planning Board receive the report and recommend approval to the Town Council as presented.

## General Information

This rezone request consists of three properties. Two of the three parcels have been recently annexed into the Town (January 8, 2013) and therefore are required to have local jurisdictional zoning established within 60-days per North Carolina General Statutes. The remaining subject property is being rezoned for the purpose of establishing consistent zoning for the future recombination of all three properties into one parcel. The map and corresponding table provides a summary of parcel data.

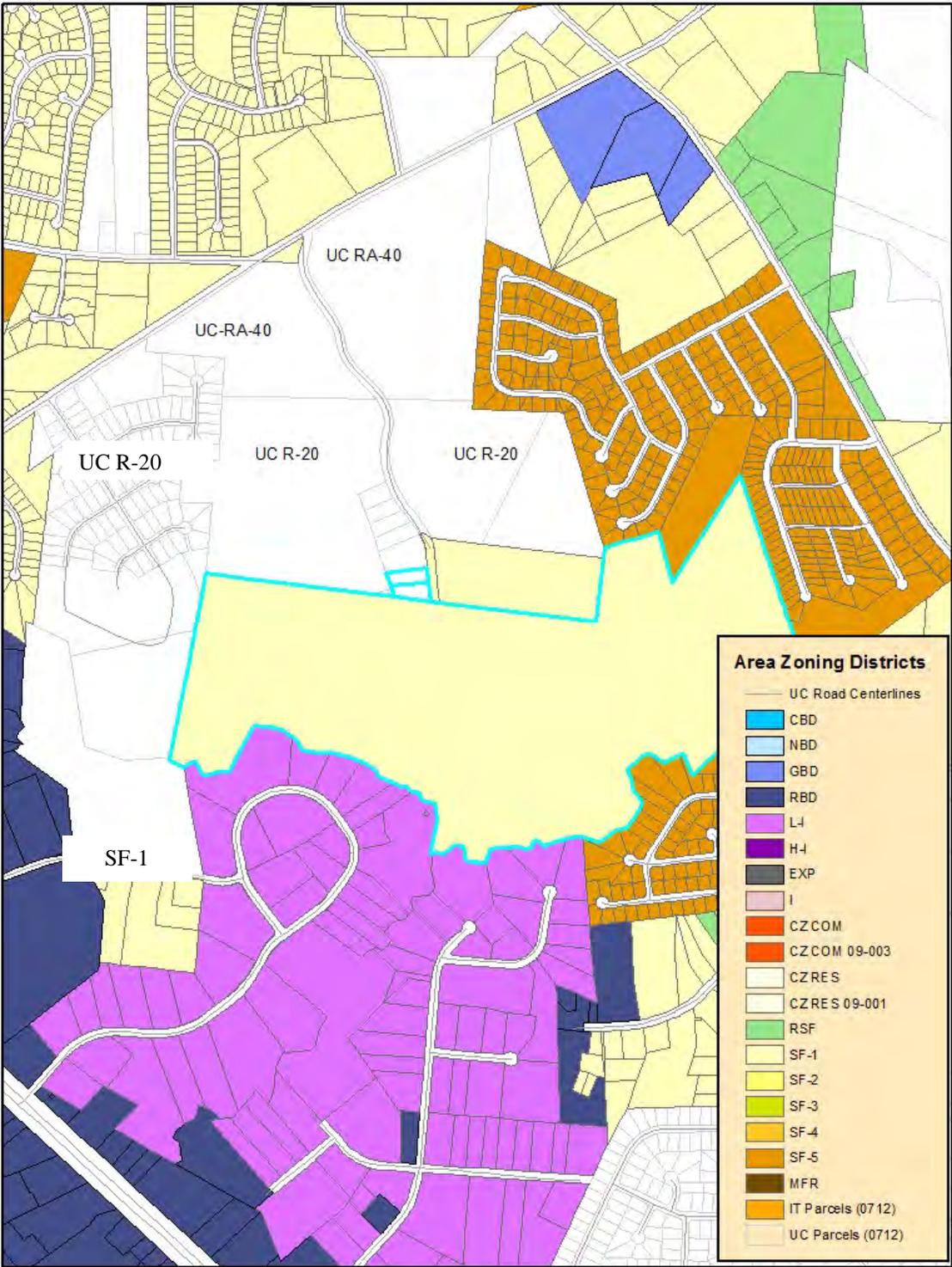


<i>Parcel Number</i>	<i>Acreage</i>	<i>Old Zoning</i>	<i>Proposed Zoning</i>	<i>Purpose</i>
<i>07048019L</i>	.54	R-20 UC	Institutional	Newly Annexed
<i>07048019K</i>	.55	R-20 UC	Institutional	Newly Annexed
<i>07048017</i>	137.8	SF-1 IT	Institutional	Consistent Zoning

## Zoning Information

All three properties are currently zone as a single-family residential classification. This application proposes to rezone these properties to an Institutional Classification. This classification is intended to act as a buffer between residential districts and more intense classifications such as commercial or industrial zoning districts. This classification is also typically used for government agency owned and operated properties as well. These properties were associated with the recent park bond referendum that was passed by the voters last November.

The map below provides the zoning district information in the project area.



**TABLE1: DIMENSIONAL REQUIREMENT COMPARISON**

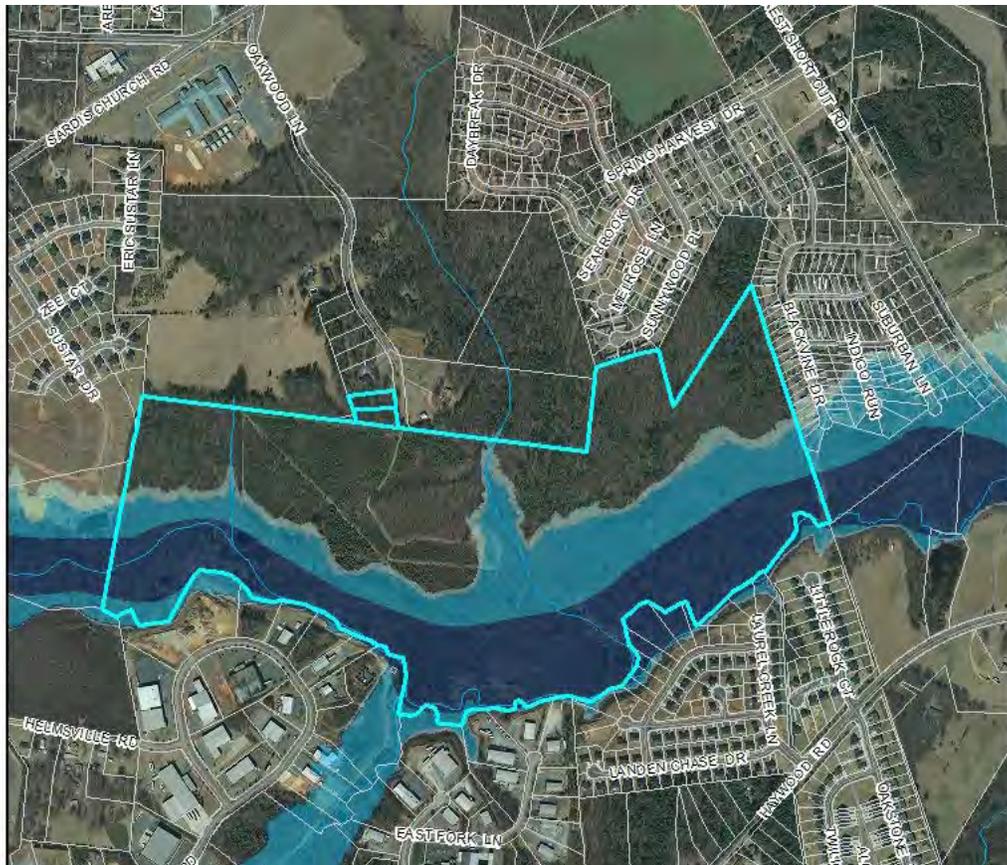
	<b>Institutional District</b>	<b>Union County R-20 District</b>	<b>IT Single-Family 1 SF-1</b>
Lot Width	100-ft	60-ft.	100-ft
Front Setback	50-ft	20-ft.	40-ft
Rear Setback	50-ft.	15-ft.	40-ft
Side Yard	20-ft. 25-ft abutting a residential district	5-ft/10-ft Streetside Min. 10-ft building separation	15- ft

Based on the comparison table above, the Institutional District has the larger dimensional/separation requirements between the existing zoning classifications. Land uses in the area are:

- *Low Density Single- Family (UC RA-40 & R-20) to the north and west*
- *Light Industrial to the south (LI)*
- *Moderate to high density Single-family to the south and east (SF-3 and SF-5)*
- *Other institutional uses: Sardis Elementary School, Sardis Baptist Church, and Sardis*

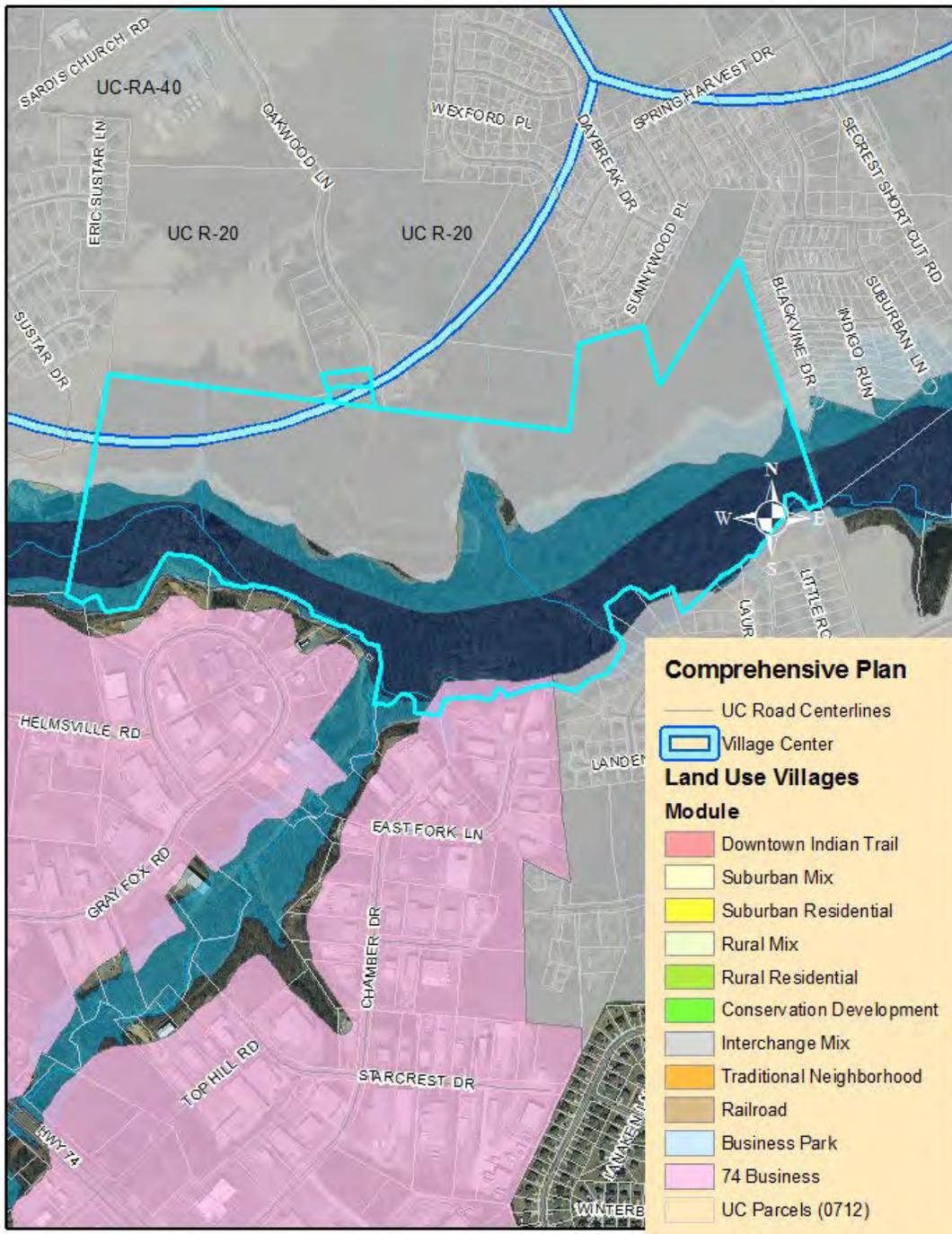
**Site Characteristics**

There is an existing dilapidated house that sits on the shared property line of the two newly annexed properties. The remaining property is undeveloped and has a large amount of floodplain and floodway in the southern area of the property. The map below provides an aerial view of the subject properties.



# Plan Consistency

## Comprehensive Plan



The properties are located within the Sardis Interchange Mix Village land use area of the Indian Trail Comprehensive Plan (see map above). This Village is based on its location between two major highways, with a few major boulevards or thoroughfares feeding into it. These properties are also on the fringe of a Village Center. The Village Center is identified for more intense uses

within the Village which can range from retail, office, and even multi-family residential. The future land uses for this Village are identified as follows:

**Sardis Interchange Mix Land Uses**

<b>Land Use</b>	<b>Current Base</b>	<b>Percent Base</b>	<b>Flexibility Factor</b>
Low Density Residential	2.35%	5%	+3
Medium Density Residential	31.92%	40%	+/-5
High Density Residential	22.59%	15%	-5
Multi-Family Residential	0%	15%	-5
Parks/Open Space/ Agriculture/ Forest	4.89%	5%	-
Institutional	.68%	5%	+2
Retail	1.05%	6%	-
Office	0%	4%	-
Boulevards/Thoroughfares	7.93%	5%	-
Industrial- Village Center Only at Monroe Connector Interchange- LC9	0%	-	-

This application proposes to rezone a total of 138.89 acres thus changing the future land use from the Medium Density Residential category to Institutional. Staff has determined however that the floodway/floodplain area (approximately 70 acres) has already been accounted for in the Parks/Open Space/Agriculture/Forest category. Therefore, the Institutional category will increase by 67 acres resulting in a 5 ½ percent increase for a total land use percentage of 6.3 in the Institutional use category. This increase is within the flexibility factor of the village which is 7 percent.

**Action Required**

The Planning Board must make findings prior to motioning for recommendation. The findings must be made that the proposed amendment is both reasonable and consistent with the Comprehensive Plan. Staff is of the opinion the following goal can be found:

**Goal 1.3.1 Quality of Life** – the rezoning of these properties to institutional provides the setting for an institutional use such as a public park and open space providing an enhanced quality of life for residents by providing both active and passive recreational opportunities.

**Goal 1.3.2 Land Use** – the rezoning of the subject properties will provide a mix of different types of land uses within the Sardis Interchange Mix Village consistent with the future land use vision of the Comprehensive Plan. It also provides a greater separation between land uses for the adjacent residential users as the Town carries out the park vision approved by voters last November.

The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of *Land Use* and is consistent with the adopted plans within the Town of Indian Trail.

## **Recommendation**

The Planning Staff believes that the findings can be made to support the petition requesting a rezone to an Institutional Zoning Classification on the subject properties.

## **Staff Contact**

**Shelley DeHart, AICP**

704 821-5401 ext 225

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

Attachments:

Attachment 1- Application

Attachment 2 – Institutional Use Table and SF-1 Use Table

Attachment 3 – Draft Ordinance

**PB ATTACHMENT ONE: APPLICATION**

# ZONING MAP AMENDMENT APPLICATION



## Submittal Requirements

- Completed Application
- Notarized signatures of applicant and property owner
- Letter of Intent
- Fees associated with review

## General Information

Project Address Sardis Park Oakwood Lane,

City Indian Trail State NC Zip 28079  
07048019L, 07048019K 07048017

Tax Parcel ID \_\_\_\_\_ Zoning Designation Institutional

Total Acres 138.922 Impervious Area \_\_\_\_\_

Project Description Sardis Park Rezone

## Contact Information – Applicant

Name Town of Indian Trail; Joseph Fivas

Address 130 Blythe Dr, Indian Trail; PO Box 2430

City Indian Trail State NC Zip 28079

Phone 704 821-5401 Fax 704 821-9045

Email srd@planning.indiantrail.org

## Contact Information – Property Owner

Name Town Of Indian Trail; Joseph Fivas

Address 130 Blythe Dr; PO Box 2430

City Indian Trail State NC Zip 28079

Phone 704 821-5401 Fax \_\_\_\_\_

Email Townmanager@admin.indiantrail.org

ZONING MAP AMENDMENT APPLICATION



**Applicant's Certification**

Signature J. Amber Fives Date 11/15/12  
Printed Name/Title Town Manager

Signature of Notary Public Wendy S. Boich Date 11/15/2012



**Property Owner's Certification**

Signature Same As Above Date \_\_\_\_\_

Printed Name/Title \_\_\_\_\_

Signature of Notary Public \_\_\_\_\_ Date \_\_\_\_\_

Notary Seal

**TOWN OF INDIAN TRAIL OFFICE USE ONLY**

Case Number: ZM 2012-004

Date Received: 11/15/2012

Amount of Fee: N/A

Received By: [Signature]

Receipt #: N/A

R 000 424



**PB ATTACHMENT TWO: USE TABLES**

**C. Signs**

(See Sign Regulations, DIVISION 900)

**D. Accessory Uses and Structures**

(See Supplementary Use Regulations, DIVISION 700)

**Chapter 540. Institutional District**

The I, Institutional district is intended to provide a transition zone between residential and business or industrial districts and to accommodate a moderate to high intensity mixture of institutional uses. Within this district, uses such as schools, hospitals, government buildings, churches, and public utility buildings may be allowed. Land designated I, Industrial District shall normally be served with public water and sewer services and has direct access to major or minor thoroughfares.

**540.010 Allowed Uses**

The use table below identifies permitted, special, prohibited and other uses authorized within the zoning districts identified. The uses identified are subject to compliance with all other applicable standards or requirements of this UDO.

**A. Permitted Uses**

Uses identified with a “P” are permitted by-right in the subject zoning district, subject to compliance with all other applicable standards of this UDO.

**B. Special Uses**

Uses identified with an “S” may be allowed if reviewed and approved in accordance with the special use procedures of Chapter 360, subject to compliance with all other applicable standards of this UDO.

**C. Planned Developments**

Uses identified with a “PD” may be allowed if reviewed and approved in accordance with the planned development procedures of Chapter 340.

**D. Prohibited Uses**

Uses identified with a “-” are expressly prohibited. Uses that are not listed in the table are also prohibited.

**E. Use Standards**

The use standards column of the following Use Table identifies use-specific standards that apply to some uses. Compliance with such standards is required regardless of whether the use is “Permitted” or a “Special Use”.

**F. Parking Standards**

The “parking standards” column of the following Use Table contains a reference to the applicable off-street parking ratio for the listed use. Off-street parking regulations are contained in DIVISION 1000.

**G. Use Table and Standards**

Use Group	Zoning District	Use Standard
<b>Specific Use Type</b>	<b>I District</b>	
Civic and Public Uses		
Convention Facility	Conditional Zoning District	
Government Office	P	
Hospital	Conditional Zoning	

	District	
Laboratory	P	
Library	P	
Museums	P	
Non-profit Agency/Office	P	
Public Parks and Open Spaces	P	
Public Utility, Major	Conditional Zoning District	
Public Utility, Minor	P	
Recreation facilities -- private golf courses and country clubs	S	
Community Service Uses	P	
Day Care Facility	P	
Cemetery or Mausoleum	P	
College or University	Conditional Zoning District	
Community Service Center	P	
Convalescent and Nursing Home	P	
Religious Assembly	P	
Schools, Public* or Private	P	See 540.010
Social Service Agencies	P	

**H. Intensity, Dimensional and Design Standards**

All development shall be subject to the Intensity, Dimensional and Design Standards of this Section.

Lot and Building Standards (Institutional Districts)	I District
<b>Lot Size</b>	
Minimum lot area (square feet)	NA
Minimum lot width (feet)	100
<b>Building Setbacks</b>	
Building setback from front property line	50
Building setback from rear lot line	50
Side setback-not abutting residential district	20
Side setback abutting residential district	25
Maximum permitted building height	100

**I. Building Size**

Buildings with total floor area of more than 25,000 square feet shall require special use permit unless planned development approval is required.

**J. Building Design Standards**

New buildings must comply with the Integrity and Design Standards, 1220.040C.

**K. Signs**

All signs shall comply with the standards the Sign Regulations, DIVISION 900.

do not detract from the quality of the neighborhood as a place for peaceful, quiet and aesthetically- pleasing residential living. When evaluating an application for the MFR zoning district, emphasis shall be given to the location of the proposed district relative to adjoining developed property to ensure that such district is carefully located and achieves a satisfactory relationship with the surrounding properties.

**510.020 Allowed Uses**

The use table below identifies permitted, special, prohibited and other uses authorized within the zoning districts identified. The uses identified are subject to compliance with all other applicable standards or requirements of this UDO.

**A. Permitted Uses**

Uses identified with a “P” are permitted by-right in the subject zoning district, subject to compliance with all other applicable standards of this UDO.

**B. Special Uses**

Uses identified with an “S” may be allowed if reviewed and approved in accordance with the special use procedures of Chapter 360, subject to compliance with all other applicable standards of this UDO.

**C. Planned Developments**

Uses identified with a “PD” may be allowed if reviewed and approved in accordance with the Conditional Zoning procedures of Chapter 330 and Chapter 340.

**D. Prohibited Uses**

Uses identified with a “-” are expressly prohibited. Uses that are not listed in the table are also prohibited.

**E. Use Standards**

The use standards column of the following Use Table identifies use-specific standards that apply to some uses. Compliance with such standards is required regardless of whether the use is “Permitted” or a “Special Use”.

**F. Parking Standards**

The “parking standards” column of the following Use Table contains a reference to the applicable off-street parking ratio for the listed use. Off-street parking regulations are contained in DIVISION 1000.

**G. Residential Districts Use Table**

Use Group	Zoning District							Use Standard
Use Category	RSF	SF-1	SF-2	SF-3	SF-4	SF-5	MFR	
Specific Use Type								
<b>Household/Family Living</b>								
Single-Family Detached (Site Built or Modular)	P	P	P	P	P	P	-	
Single-Family (Class A Manufactured Homes)	P	S	P* (O-MHP overlay only)	-	See Section 1310.050 standards			

**Chapter 510. Residential Districts**

510.020. Allowed Uses

Use Group	Zoning District							Use Standard
Use Category	RSF	SF-1	SF-2	SF-3	SF-4	SF-5	MFR	
Single-Family (Class B Manufactured Home)	P	S	-	-	-	-	-	See Section 1310.050 standards
Single-Family (Class C Manufactured Home)	-	-	-	-	-	-	-	
Single Family (Class D Manufactured Home)	-	-	-	-	-	-	-	
Two-Family Dwelling	S				-	-	P	
Multi-Unit (3 or more units)	-	-	-	-	-	-	P	
Townhouse	-	-	-	-	-	S	P	See Chapter 660
Boarding or Rooming Houses	P	-	-	-	-	-	S	
Accessory Apartments	P	P	P	P	P	P	-	See Chapter 710.070
<b>Group Living</b>								
Family homes, Small	P	P	P	P	P	P	P	
Family homes, Large	S	S	S	S	S	S	S	
Halfway house	S		-	-	-	-	-	
Homes for the handicapped, aged or infirm	S	S	S	S	S	S	S	
Nursing care or skilled care facility	S	S	S	S	S	S	S	
Senior Housing, Independent living	P	S	S	S	S	S	S	
Group Living Not Otherwise Classified	S	S	S	S	S	S	S	
<b>Public and Civic</b>								
Colleges and Universities		-	-	-	-	-	-	
Recreational Buildings, Boy and Girls Clubs	S							
Golf-driving ranges	S		-	-	-	-	-	Accessory to residential subdivision
Skateboard parks, water slides, basketball courts	S	S	S	S	S	S	S	Accessory to residential subdivision
Privately-owned campgrounds	S	-	-	-	-	-	-	
Privately-owned	S	S	S	S	S	S	S	

**Chapter 510. Residential Districts**

**510.020. Allowed Uses**

Use Group	Zoning District							Use Standard
Use Category	RSF	SF-1	SF-2	SF-3	SF-4	SF-5	MFR	
recreation facilities such as golf-courses, and country clubs								
Public parks and open spaces	P	P	P	P	P	P	P	
Libraries	S							
Day Care (child/ adult care)								
Day care home (1-5 enrollees)	P	P	P	P	P	P	P	
Day Care Center (6+ enrollees)	S	S	S	S	S	S	S	Complies with state licensing rules
Hospital	S	-	-	-	-	-	-	
Religious Assembly	P	P	P	P	P	P	P	
School	P	P	P	P	P	P	P	
Utilities, Minor	P	P	P	P	P	P	P	
Utilities, Major	S	S	S	S	S	S	S	
<b>Agricultural and Other</b>								
Agricultural Operations without livestock	P	P	P	P	P	P	P	10 acre minimum except in RSF District
Agricultural Operations with livestock	P	-	-	-	-	-	-	
Animal Foster Care	P	S	S	S	-	-	-	Must meet definition under UDO Section 1610.080K.5
Animal Services -- veterinarian offices, kennels, and boarding facilities	S	-	-	-	-	-	-	
Greenhouse or Nursery	P							
Silver Culture Operations	P			-	-	-	-	
Horseback Riding Stables	P	S		-	-	-	-	
Wireless Communication Facilities								

Use Group	Zoning District							Use Standard
Use Category	RSF	SF-1	SF-2	SF-3	SF-4	SF-5	MFR	
Co-located on existing building, structure, or tower	P	P	P	P	P	P	P	See Chapter 7160
Free-standing Tower	S	-	-	-	-	-	-	See Chapter 7160

**510.030 Development Types**

Different development options are offered in the R districts as a way of promoting a wide variety of housing options and lifestyle choices. The development options described in this section may be used at the property owner’s election.

**A. Conventional Development**

“Conventional development” is a term used to describe lot-by-lot development on lots that have been lawfully established. It is, in effect, any development that occurs outside of an approved open space development, cluster development or master planned development. Lot and building standards for conventional development can be found in Sec. 510.040 (Table 510.040B ).

**B. Open Space Development**

The open space development option allows smaller lots and other flexible lot and building standards in exchange for the provision of common open space that is not typically provided in a conventional development. An open space development shall be reviewed and approved in accordance with Chapter 330 “Conditional Zoning District” and the requirements of DIVISION 1200. Lot and building standards for open space development can be found in Sec. 510.040 (Table 510.040B.) Additional open space development standards are included in the Subdivision Review Chapter.

**C. Cluster Development**

The cluster development option allows even greater flexibility in exchange for the provisions of a greater amount of common open space than required for open space developments. A cluster development shall be reviewed and approved in accordance with Chapter 330 “Conditional Zoning District” and the requirements of DIVISION 1200. Lot and building standards for cluster development can be found in Sec. 510.040 (Table 510.040B). Additional cluster development standards are included in the Subdivision Review Chapter.

**D. Planned Unit Development**

The planned unit development (PUD) option is available to accommodate new mixed-use communities, innovative development proposals or unique site conditions that cannot be readily addressed by other available development options. Planned developments shall be reviewed and approved in accordance with Chapter 330 “Conditional Zoning District”. The flexibility inherent in the planned unit development plan option is intended to be granted only in exchange for development projects that contain amenities, design features and/or environmental design that are not do not typically occur through other development options. Planned unit development regulations are included in General Review Procedures Chapter.

**510.040 Lot and Building Standards**

**A. General**

1. This section establishes basic lot and building standards for all development in R districts. The standards that apply vary on the basis of zoning, building type and development type.

2. All residential and nonresidential development in R districts must comply with the lot and building standards of Table B, except as otherwise expressly provided in this ordinance.
3. Rules for measuring compliance with the lot and building standards established in Table 510.040B and applicable exceptions to the standards can be found in General Review Procedures Chapter.

**B. Lot Size, Density, Setback and Height Table**

Lot and Building Standards	RSF	SF-1	SF-2	SF-3	SF-4	SF-5	MFR
<b>Conventional Development</b>							
<b>Lot Size</b>							
Minimum lot area (sq. ft.)	40,000	20,000	15,000	12,000	10,000	8,000	
Minimum lot area per unit (sq. ft.)	40,000	20,000	15,000	12,000	10,000	8,000	3,350
Minimum lot frontage (feet)	120	100	80	80	60	60	
Maximum lot depth to width ratio	4	NA	NA	NA	NA	NA	NA
Minimum Front Setback (feet)							
Boulevards and Thoroughfares	50	50	40	40	40	30	30
All other streets	40	40	30	30	30	25	25
Minimum rear setback (feet)	40	40	40	40	40	30	30
Minimum side setback	15	15	12	12	10	10	10
Maximum building height	35	35	35	35	35	35	40
<b>Cluster Development</b>							*See Chapter 1210
<b>Overall site area</b>							
Minimum site area (acres)	10	10	10	10	NA	NA	NA
Minimum open space (% of site)*	15%/20%	15%/20%	15%/20%	15%/20%	NA	NA	NA
Minimum site area per unit (sq. ft.)	40,000	20,000	15,000	12,000	NA	NA	NA
<b>Lot Size</b>							
Minimum lot area (square feet)	30,000	15,000	12,000	10,000	NA	NA	
Minimum Lot frontage (feet)	100	80	70	60	NA	NA	
Minimum Front Setback							
Arterials and Boulevards	40	40	30	30	NA	NA	

**Chapter 510. Residential Districts**  
**510.050. Other Applicable Regulations**

<b>Lot and Building Standards</b>	<b>RSF</b>	<b>SF-1</b>	<b>SF-2</b>	<b>SF-3</b>	<b>SF-4</b>	<b>SF-5</b>	<b>MFR</b>
All other streets	20	20	20	20	NA		
Minimum Rear Setback	20	20	20	20	NA	NA	
Minimum Side* Setback	12	12	12	12	NA	NA	See Section 1210.060
Maximum Building Height	35	35	35	35	NA	NA	
Open Space Development							
Overall site area							
Minimum site area (acres)	25	25	25	25	NA	NA	NA
Minimum open space (% of site)	25%	25%	25%	25%	NA	NA	NA
Minimum site area per unit (sq. ft.) Community Water and Waste Water	20,000	15,000	12,000	10,000	NA	NA	NA
Minimum site area per unit (sq. ft.) Private Water and Waste Water	20,000	15,000	12,000	10,000	NA	NA	NA
Lot Size							
Minimum lot area (square feet)	20,000	15,000	12,000	10,000	NA	NA	NA
Minimum Lot frontage (feet)	100	75	60	60	NA	NA	NA
Minimum Front Setback							
Arterials and Boulevards	40	40	30	30	NA	NA	NA
All other streets	20	20	20	20			NA
Minimum Rear Setback	20	20	20	20	NA	NA	NA
Minimum Side* Setback	12	12	6	6	NA	NA	See Section 1210.060
Maximum Building Height	35	35	35	35	NA	NA	NA

**510.050 Other Applicable Regulations**

Uses and development in R districts are subject to other standards including the following:

**PB ATTACHMENT THREE: DRAFT ORDINANCE  
SEE TOWN COUNCIL ATTACHMENT- 2**

**TOWN COUNCIL ATTACHMENT TWO**

STATE OF NORTH CAROLINA)

ORDINANCE #

TOWN OF INDIAN TRAIL )

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF INDIAN TRAIL REZONING PARCELS 07048019L, 07048019K, AND 07048017 (OWNED BY THE TOWN OF INDIAN TRAIL) LOCATED AT THE END OF OAKWOOD LANE FROM A SINGLE-FAMILY RESIDENTIAL DESIGNATION (UC-R-20 & SF-1) TO AN INSTITUTIONAL ZONING DISTRICT IN THE TOWN OF INDIAN TRAIL, UNION COUNTY, NORTH CAROLINA**

WHEREAS, the Town of Indian Trail has petitioned to establish zoning (Institutional District) for two newly annexed properties (07048019L & 07048019K) in compliance with the North Carolina General Statutes and rezone parcel 07048017 from Indian Trail SF-1 to an Institutional classification for consistency. All three properties were part of a land purchase by the Town of Indian Trail last July and are the subject of a future public park (Sardis Park) approved by the voters last November; and

WHEREAS, this Zoning Map Amendment (ZM2012-006) was duly noticed in compliance with North Carolina General Statutes; and

WHEREAS, a public meeting was held by the Planning Board on February 19, 2013 to consider this zoning map amendment; and

WHEREAS, the Planning Board found the proposed map amendment is consistent with the following goals of the Comprehensive Plan:

***Goal 1.3.1 Quality of Life*** – the rezoning of these properties to institutional provides the setting for an institutional use such as a public park and open space providing an enhanced quality of life for residents by providing both active and passive recreational opportunities.

***Goal 1.3.2 Land Use*** – the rezoning of the subject properties will provide a mix of different types of land uses within the Sardis Interchange Mix Village consistent with the future land use vision of the Comprehensive Plan. It also provides a greater separation between land uses for the adjacent residential users as the Town carries out the park vision approved by voters last November.

WHEREAS, the Planning Board further found this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of *Land Use* and is consistent with the adopted plans within the Town of Indian Trail.

WHEREAS, after making the draft findings the Planning Board unanimously approved the motion to transmit a recommendation to approve to the Town Council; and

WHEREAS, the Town Council held a public hearing on March 12, 2013 to consider said request and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council concurred with the Planning Board's consistency findings and hereby endorses said findings; and

**NOW, THEREFORE, IT SHALL BE ORDAINED** by the Town Council of the Town of Indian Trail, North Carolina hereby takes the following action:

**Section 1** – Makes the required findings as stated herein; and

**Section 2** - Approves ZM 2012-006 Zoning Petition thereby granting the Zoning Map amendment to establish an Institutional Zoning District on parcel numbers 07048019K, 07048019L, and 07048017.

**Section 2** – This ordinance shall be effective immediately upon adoption.

**AND IT IS SO ORDAINED** this 12<sup>th</sup> day of March, 2013.

**TOWN OF INDIAN TRAIL COUNCIL**

Attest:

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Peggy Piontek, Town Clerk

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Michael L. Alvarez, Mayor

APPROVED AS TO FORM:

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TOWN ATTORNEY



Planning & Neighborhood Services  
PO Box 2430, Indian Trail, NC 28079  
704 821-5401

# Memo

To: Mayor and Town Council

From: Rox Burhans, AICP

Date: March 18, 2013

Re: **Request for Deferral to April 9, 2013 TC Meeting-** Second Reading of Ordinance for CZ2012-001 Younts Miniature Golf

The Indian Trail Town Council held the public hearing for Conditional Zoning Map Amendment CZ-2012-001 on March 12, 2013. This amendment is a request to conditionally rezone one parcel (parcel no. 07066001A) from Single-Family Residential-1 to the General Business District-Conditioned to support development of a miniature golf course use. At the conclusion of deliberations, the Council approved the first reading (introduction) of the draft ordinance approving CZ2012-001. Pursuant to North Carolina General Statute §160A-75, a second reading of the associated draft ordinance is required by Council to approve.

The applicant (Scott Merritt) is requesting Town Council defer second reading of the ordinance approving CZ2012-001 to the April 9, 2013 Town Council meeting. The applicant would like the additional time to refine infrastructure cost estimates prior to having the property rezoned and ultimately purchasing the property. Town staff has no concerns with the deferral request.



Planning & Neighborhood Services  
PO Box 2430, Indian Trail, NC 28079  
704 821-5401

# Memo

To: Mayor and Town Council

From: Rox Burhans, AICP

Date: March 18, 2013

Re: Second Reading of Ordinance for ZT2012-007 Accessory Residential Uses

The Indian Trail Town Council held the public hearing for Zoning Text Amendment ZT-2012-007 on March 12, 2013. This is a request to amend Chapter 710 *Accessory Uses and Structures* of the Unified Development Ordinance (UDO) to permit accessory residential uses within non-residential zoning districts. At the conclusion of deliberations, the Council approved the first reading (introduction) of the draft ordinance approving ZT2012-007. Pursuant to North Carolina General Statute §160A-75, a second reading of the associated draft ordinance is required by Council to approve. The associated analysis is provided in attachment two of this report.

Required Action by Council: *Receive the report and at the conclusion of deliberations:*

- **Make the Required Findings – Draft Findings as Transmitted by Planning Board**
  - **Goal 1.3.2 Land Use:** The proposed UDO ordinance amendments will help promote a greater mix of land uses by enabling accessory residential uses to locate in non-residential districts within the Downtown Overlay District. The proposed amendments will also help support a more balanced tax base by supporting individual businesses and industrial or office parks by enabling the use of onsite caretakers for facility maintenance, management, and/or security purposes; and
  - **Goal 1.3.4 Downtown Revitalization:** The proposed UDO ordinance amendment will help Downtown Indian Trail become a focal point within the community by promoting mixed-use development that will help create a lively and active environment. The proposed amendment will also help support Downtown Indian Trail merchants by helping expand the residential population within close proximity to downtown businesses; and

- The request for this UDO amendment is in the best interest of the public because it establishes regulations enabling accessory residential uses within Downtown Indian Trail, while also allowing Indian Trail businesses to utilize onsite caretakers subject to compliance with specific standards.
- **Motion to Approve or Disapprove ZT 2012-007 as presented in the second reading.**

Attachment 1- Draft Ordinance

Attachment 2- Planning Board Transmittal



STATE OF NORTH CAROLINA )

TOWN OF INDIAN TRAIL )

ORDINANCE #

**AN ORDINANCE AMENDING CHAPTER 710 ACCESSORY USES AND STRUCTURES OF THE INDIAN TRAIL UNIFIED DEVELOPMENT ORDINANCE (UDO) RELATED TO ACCESSORY RESIDENTIAL USES IN INDIAN TRAIL, NORTH CAROLINA**

WHEREAS, the Town is the applicant for ZT 2012-007 requesting to amend sections of Chapter 710 Accessory Uses and Structures of the UDO to allow accessory residential uses in non-residential zoning districts within the Downtown Overlay District and to allow accessory residential uses for onsite caretakers in all non-residential zoning districts; and

WHEREAS, this Zoning Amendment (ZT 2012-007) was duly noticed in compliance with North Carolina General Statutes; and

WHEREAS, the amendment was heard by Planning Board on January 24, 2013 in a public meeting; and

WHEREAS, the Planning Board found the proposed map amendment is consistent with the following goals of the Comprehensive Plan:

- 1.3.2 of the Comprehensive Plan – *Land Use*; the proposed UDO ordinance amendments will help promote a greater mix of land uses by enabling accessory residential uses to locate in non-residential districts within the Downtown Overlay District. The proposed amendments will also help support a more balanced tax base by supporting individual businesses and industrial or office parks by enabling the use of onsite caretakers for facility maintenance, management, and/or security purposes; and
- 1.3.4 of the Comprehensive Plan- *Downtown Revitalization*; the proposed UDO ordinance amendment will help Downtown Indian Trail become a focal point within the community by promoting mixed-use development that will help create a lively and active environment. The proposed amendment will also help support Downtown Indian Trail merchants by helping expand the residential population within close proximity to downtown businesses; and

WHEREAS, the Planning Board further found the request for this amendment is a reasonable request and in the best interest of the public because it establishes regulations enabling accessory residential uses within Downtown Indian Trail, while also allowing Indian Trail businesses to utilize onsite caretakers subject to compliance with specific standards; and

WHEREAS, after making the draft findings the Planning Board unanimously voted to approve the motion to transmit a recommendation to approve to the Town Council; and

WHEREAS, the Town Council held a public hearing on March 12, 2013 to consider said request and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council concurred with and endorsed the Planning Board's consistency findings and the Town Council approved the first reading of the draft ordinance approving ZT2012-007; and

WHEREAS, the Town Council held a second public meeting on March 26, 2013 to consider said request and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council further concurred with and endorsed the Planning Board's consistency findings and the Town Council approved the second reading of the ordinance approving ZT2012-007; and

**NOW THEREFORE, BE IT ORDAINED** ON MARCH 26, 2013 BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA HEREBY TAKES THE FOLLOWING ACTION:

**Section 1** – Council makes the required findings as entered into the record and found herein; and

**Section 2** – UDO CHAPTER 710 is amended as follows:

**710.080 Accessory Residential Uses in Non-Residential Zoning Districts**

**A. Applicability**

Accessory residential uses shall be permitted on properties located in all business and commercial, industrial, and institutional zoning districts within the Downtown Overlay District, subject to the standards identified in subsections B.1 through B.6 below.

Accessory residential uses may also be permitted on properties located within all business and commercial, industrial, and institutional zoning districts outside the Downtown Overlay District, when utilized as a dwelling unit for an onsite caretaker or guard, subject to the standards identified in subsections B.1 through B.6 below.

**B. Standards**

1. There shall be no more than one (1) accessory residential use for each building and/or parcel of land; and
2. Accessory residential buildings or units shall be consistent in appearance with the primary building unless the accessory building is existing. Freestanding accessory residential buildings shall not exceed the height of the primary building's roof surface unless the accessory building is existing; and
3. Accessory residential uses shall have independent and private entrances, self-sufficient and private bathroom/sanitation facilities, and a self-sufficient and private kitchen or food preparation facility; and
4. The size of accessory residential uses shall be limited to 25 percent of the gross floor area of the principal building or buildings or fifteen hundred 1,500 sq. ft. of gross floor area for the accessory building or unit; whichever is smaller in size; and
5. Accessory residential uses made available for lease shall have a minimum lease term of ninety (90) consecutive days; and
6. Accessory residential uses shall comply with applicable County, State, and Federal building, fire, and environmental health code requirements.

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

**AND IT IS SO ORDAINED** this 26<sup>th</sup> day of March, 2013.

**TOWN OF INDIAN TRAIL COUNCIL**

Attest:

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Peggy Piontek, Town Clerk

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Michael L. Alvarez, Mayor

APPROVED AS TO FORM:

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TOWN ATTORNEY





**INDIAN TRAIL**  
 north carolina  
 P.O. Box 2430  
 Indian Trail, North Carolina 28079  
 Telephone (704) 821-5401  
 Fax (704) 821-9045  
**PLANNING AND NEIGHBORHOOD SERVICES**

**Planning Board Transmittal for the March 12, 2013 Public Hearing**

<b>Case: CZ 2012-001 Younts Miniature Golf</b>			
<b>Reference Name</b>	<b>Younts Road Miniature Golf</b>		
<b>Planning Board Meeting Date</b>	February 19, 2013		
<b>Members Present</b>	Chair Cowan <input checked="" type="checkbox"/>	Jan Brown <input checked="" type="checkbox"/> (Present non-voting)	Larry Miller <input checked="" type="checkbox"/>
	Vice-Chair Higgins <input checked="" type="checkbox"/>	Kelly D' Onofrio <input checked="" type="checkbox"/>	Robert Rollins <input checked="" type="checkbox"/>
	Sidney Sandy <input type="checkbox"/>	Cheryl Mimy <input checked="" type="checkbox"/> Alternate 1	Steve Long <input checked="" type="checkbox"/> Alternate 2
	Alan Rosenberg <input type="checkbox"/> Alternate 3		
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Motion</b>	Recommend approval to Town Council with Modifications		
<b>Member Making the Motion</b>	Boardmember Higgins		
<b>Second the Motion</b>	Boardmember Mimy		
<b>Vote</b>	6 to 1 Recommendation to Approve.		

**Request:** This is a request to establish a Conditional General Business District (CZ-GBD) zoning district on Parcel #07066001A to support development of a thirty-six (36) hole miniature golf course and related improvements located on Younts Road.

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

## **Executive Summary**

The proposed conditional rezoning is to support the development of a thirty-six (36)-hole miniature golf course (see Attachment 1 for concept plan). The approximately three (3) acre subject property is located on Younts Road, approximately 460-ft south of Brown Lane. The proposed development also contemplates development of a building to be utilized for accessory office and restaurant or food sale uses. Improvements to Younts Road will also be made by the project developer/applicant that include a road widening, curb and gutter, street trees, and a six (6)-ft sidewalk along the site's roadway frontage. The site's location on Younts Road is largely characterized by rural residential homes and agricultural/equestrian type uses. This rezoning (if approved) would be the first introduction of non-residential zoning along this section of Younts Road.

As part of the conditional rezoning process, the applicant conducted two neighborhood meetings held on January 30, 2013 to discuss the proposed project with interested citizens (12-total attendees). The conditional rezoning request was presented to the Planning Board at their February 19, 2013 meeting and the Board recommended approval subject to conditions as further described below.

## **Planning Board**

This project was heard by the Planning Board at its February 19, 2013 public meeting. After receiving the report, the Board inquired about several aspects of the project such as the design concept for the golf course area, whether special events would be conducted at the facility, potential noise impacts, the type of fencing to be used and its location, and the equestrian activities conducted on adjacent parcels. Mr. Scott Merritt (rezoning applicant) responded to questions and indicated the concept for the golf course is still in development, however, a beach theme may be used. Mr. Merritt further indicated that the marketing plans are still in development, however, special events may be conducted with a focus on the youth. He further clarified that any outdoor noise would be at a volume similar to elevator music. Staff clarified that fencing has been incorporated as a condition of approval and it will enclose the entire recreation area. The fencing was incorporated as a result of feedback from the community meetings to avoid conflicts between customers/children and the horses that graze on the adjacent parcels. The fencing will also provide the applicant with overall site control/security. The Board also inquired about the Town's future vision for this area as it relates to the Comprehensive Plan. Staff provided an overview of the Town's long term vision for this area as a future Business Park Corridor, as further described in the Comprehensive Plan (see Attachment 1).

The public comment portion of the meeting was opened and two members of the public provided feedback on the proposed rezoning. Ms. June Bayless who owns approximately 7-acres of undeveloped property located directly across from the subject property (Parcel #07066001C) expressed concerns related to traffic, potential diminished property values, and lighting. Ms. Penny Primm of 3601 Bessant Street in Lake Park lives in the vicinity of the rear of the subject property and expressed concerns about lighting, safety issues associated with the existing Younts Road curvature, aesthetic issues, and impacts to the nearby grazing animals. A digital audio recording of the Planning Board discussion can be found on the Town's website here on [Granicus](#).

Following the Planning Board meeting, staff received a telephone call from Mr. James Swanger, owner of property located at 2401 Younts Road. Mr. Swanger voiced his support for the proposed rezoning in light of the challenges of constructing residential development in this area due to a lack of sewer infrastructure and soil percolation difficulties.

Based on the Planning Board discussion, draft conditions #8 (Lighting) and #10 (Fencing) were modified to require additional shielding on perimeter light fixtures and to require fencing around the proposed stormwater pond.

After deliberations the Board motioned to make the findings and transmit a recommendation to approve as conditioned. The Draft Conditions are:

1. *Permitted Uses:* Permitted outdoor uses within the recreation area of the subject property will be limited to miniature golf and similar outdoor recreation activities with no greater impact. Permitted indoor uses within the proposed building shall be limited to office, restaurant without drive-thru, food and beverage retail sales (not including liquor sales/ABC Store), and accessory retail sales associated with the miniature golf/recreational use.
2. *Hours of Operation:* Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m. This restriction shall be eliminated in the event that adjacent properties are rezoned to non-residential zoning districts.
3. *Required Parking:* In Phase 1, paved parking shall be provided at a minimum rate of 2-stalls per golf hole. Accessory uses associated with the proposed office/restaurant building will be included within this rate. Overflow parking will be provided within the potential future Phase 2 parking area and will be graded and improved with a temporary surface to be approved by the Town. Additional bicycle parking exceeding UDO requirements will also be provided. Prior to the construction of the second 18 holes of golf, a parking analysis of the peak parking requirements of the first 18 holes will be provided to the Town to determine if the 2 spaces per hole parking rate is sufficient for the need. If not, a higher parking ratio may be required by the Town, prior to the Phase 2 course expansion.
4. *Noise:* The use of outdoor speakers and/or an intercom system shall be prohibited within the parking lot and other non-recreation areas of the site unless needed for emergency purposes. Use of speakers on the building for background music is acceptable. All reasonable efforts shall be made to limit noise from being audible offsite.
5. *Cross Access:* A pedestrian and vehicular cross access easement (min. 24' in width) shall be provided to adjacent parcels 07066001D, 07066002A, and/or 07066001 to interconnect the proposed parking area with the adjacent sites. The Planning Director may waive the cross access easement requirement in the event future adjacent uses are deemed by the Planning Director to be incompatible with the miniature golf use.
6. *Right of Way Dedication:* ROW shall be dedicated across the subject property's Younts Road frontage to the North Carolina Department of Transportation to achieve a 35-ft ROW measured from the existing Younts Road centerline (unless Town and/or NCDOT species additional ROW is needed). ROW shall be dedicated prior to any issuance of a Zoning Compliance for the subject property.
7. *Frontage Improvements:* The subject property's Younts Road frontage shall be improved with curb, gutter, 6-ft. wide sidewalk, street trees, and any additional improvements required by the Town and/or NCDOT.
8. *Lighting:* A lighting plan/photometric study shall be required for the parking and recreational areas. Light fixtures, including those utilized in the outdoor recreation area shall be limited to

20-ft in height. Taller fixtures within the recreation area meeting UDO requirements may be permitted if it can be demonstrated by the lighting plan that there will be no negative impacts to nearby properties. Pole or building mounted lights on the perimeter of the recreational area and those used to provide site/area lighting shall not have an angled orientation and shall utilize full cut off fixtures to minimize glare and lighting spillover. Perimeter light fixtures located adjacent to residential properties shall also include cut off shields.

9. *Tree Retention:* To the extent shown on the plans, the existing stand of trees located in the northwest corner of the site shall generally be left in an undisturbed condition and protected with a tree protection easement. Removal of small trees, invasive vegetation, underbrush, and vines is permitted to help create a usable, park like setting for customers. Clearing to install ROW improvements, the septic system leach field, and/or to maintain minimum sight distance is also permitted. Construction adjacent to the tree retention area and installation of septic system improvements within the retention area shall utilize best management practices to minimize damage or removal of the trees. Any removal of heritage trees or trees needed to meet min. tree canopy requirements shall be mitigated in accordance with UDO requirements. A tree protection easement shall be recorded prior to issuance of a Zoning Compliance for the subject property.
10. *Fencing:* Fencing meeting UDO Section 710.050 standards shall be installed around the perimeter of the recreation area. Fencing shall be a min. height of 5-ft. and be comprised of a powder coated aluminum material or an equivalent approved by the Town of Indian Trail. Chain link fencing is not permitted. Fencing meeting UDO 710.050 and related State and Town stormwater requirements shall also be provided around all stormwater ponds.
11. *Concept Plan:* The site shall be developed as generally depicted on the submitted Concept Plan. The proposed building shall be designed as generally depicted in the submitted building rendering (Attachment 2). The building shall be constructed primarily of cementitious siding (i.e. Hardi) and a standing seam metal roof.

The draft Findings made were as follows:

*Goal 1.3.2 Land Use* - The proposed conditional district will provide expanded recreational opportunities and a gathering place for Town residents, visitors, as well as current and future workers within the Old Hickory Business Park Corridor. The rezoning is subject to conditions to help avoid creating any land use impacts to neighboring properties. The proposed conditional rezoning will also help create a more balanced tax base by helping facilitate development of a commercial use on an otherwise undeveloped property in a manner that is consistent with the Comprehensive Plan. The conditional rezoning will also result in the retention of an existing grove of trees that will be an amenity to the site, while helping preserve the Indian Trail community forest.

The Planning Board further found the request for this conditional zoning district is a reasonable request and is in the public interest because it helps create a mix of uses within the Old Hickory Business Park Corridor and includes elements that benefit the general public in the area tree preservation.

#### **Staff Contact**

Rox Burhans, AICP  
[rburhans@planning.indiantrail.org](mailto:rburhans@planning.indiantrail.org)  
(704) 821-5401

Attachment 1- Planning Board Report  
Attachment 2- Draft Ordinance





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 Indian Trail, North Carolina 28079  
 Telephone (704) 821-5401

PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT

## Conditional Zoning Staff Report

<b>Case: CZ 2012-001</b>			
<b>Reference Name</b>	Younts Miniature Golf		
<b>Request</b>	Proposed Zoning	Conditional Zoning General Business District (GBD) GBD-CZ	
	Proposed Uses	Miniature Golf/Outdoor Recreation	
<b>Existing Site Characteristics</b>	Existing Zoning	Single Family Residential-1	
	Existing Use	Vacant	
	Site Acreage	3.12 acres	
<b>Applicant</b>	Scott Merritt		
<b>Submittal Date</b>	June 29, 2012		
<b>Location</b>	Younts Road, Indian Trail		
<b>Tax Map Number(s)</b>	07066001A		
<b>Plan Consistency</b>	Comprehensive Plan	Designation	Business Park
		Consistent with Request	Yes
<b>Recommendations &amp; Comments</b>	Planning Staff	Recommends approval of a Conditional Zoning District	

### Project Summary

This is a request to establish a Conditional General Business District (CZ-GBD) zoning district to support development of a thirty-six (36) hole miniature golf course and related improvements. The approx. three (3) acre subject property is located on Younts Road, approximately 460-ft south of Brown Lane. The proposed development also contemplates development of a building to be utilized for accessory office and restaurant or food sale uses. Improvements to Younts Road will also be made by the project developer/applicant that include a road widening, curb and gutter, street trees, and a six (6)-ft sidewalk along the site's roadway frontage.

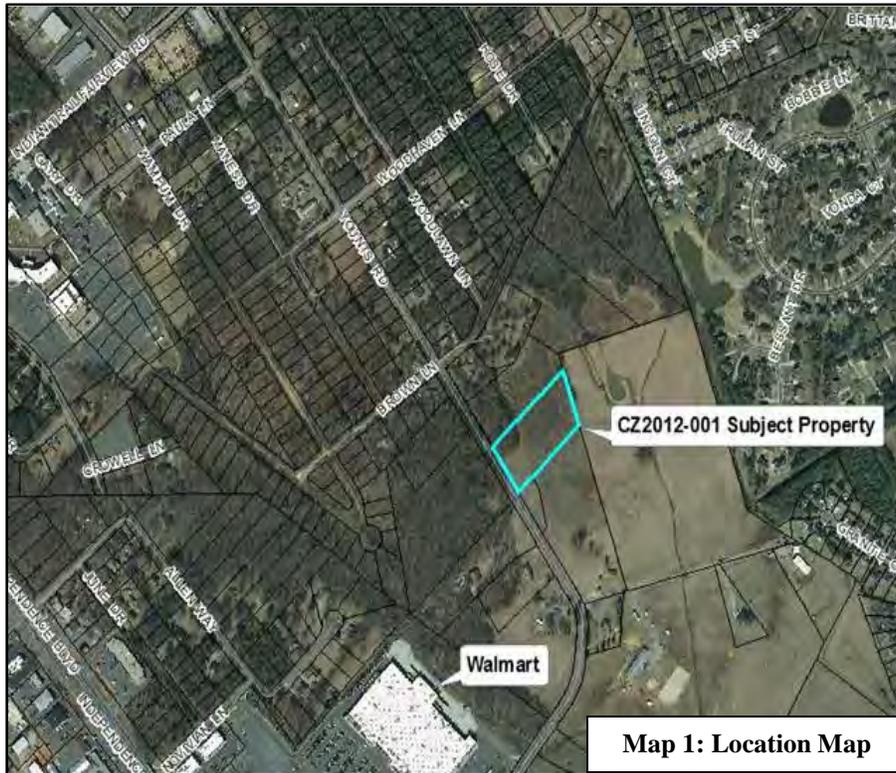
### Recommendation

Staff is of the opinion the necessary findings can be made to support a Conditional Zoning request.

## Analysis

### *Site Characteristics and Surrounding Zoning*

As reflected in Maps 1 and 2 below, the proposed rezoning (if approved) would be the first introduction of commercial zoning/uses along this section of Younts Road. The subject property is surrounded by undeveloped properties, some of which are utilized as a horse pasture. Existing large lot homes are located on the western side of Younts Road, generally across from the subject property.



As reflected in Map 2 below, the subject property is surrounded by the SF-1 zoning district, which is a low-density residential zoning classification. The nearby Walmart site is zoned Regional Business District (RBD), which is the most intense commercial zoning district in the Town



**Concept Plan**

Attachment 1 (below) reflects the Concept Plan that is a required element of the conditional rezoning application submittal. The Concept Plan reflects development of a thirty six (36) hole miniature golf course and an accessory building to be utilized for office and food service/restaurant uses. Most of the existing site has been previously cleared of trees with the exception of a small grove in the northwest corner. The following will provide a brief overview of key elements of the Concept Plan.

1. *Site Layout:* The site layout generally places the parking in the front of the site closest to Younts Road with the miniature golf course in the rear of the site. This layout will help reduce any potential impacts to existing residential uses by placing the recreational area away from existing homes along Younts Road.
2. *Phasing:* The facility will be built in phases with the first eighteen (18) holes and the proposed building to be constructed in Phase I. The remaining course will be developed in the future.
3. *Road/Frontage Improvements:* As previously described, the site’s approx. 265-ft of roadway frontage with Younts Road will be improved with a road widening, curb and gutter, a six (6)-ft sidewalk, and street trees. Younts Road is currently a two-lane ditch section roadway with no sidewalk. The applicant will also dedicate a min. ROW of 35-ft from the existing road centerline to accommodate the frontage improvements.
4. *Parking:* Parking will be provided at a rate of approximately two paved stalls per-hole with an additional area set-aside for overflow parking. The paved parking area will be improved with curb and gutter. The adequacy of the parking rate will be monitored by the applicant and the Town during Phase I operations prior to any site plan approval for future recreation area expansions. Cross access areas will be set-aside within the parking lot to enable drivers to cross between abutting parking areas in the future without using Younts Road.
5. *Tree Retention:* The site contains an existing grove of trees in the northwest corner of the site (between Younts Road and Phase 2 parking area). As reflected in the Concept

Plan, most of this area will be set-aside within a tree protection easement to ensure retention of the existing, large trees. The applicant intends on clearing the underbrush and the small trees to create a park-like setting under the mature tree canopy for customer use.



***Architectural Design***

The proposed architecture of the building contemplates a rustic design that is intended to reflect the character of the surrounding area and the overall theme for the golf course. As reflected in the rendering below, the building will feature cementitious siding (i.e. Hardi siding), a standing seam metal roof, a working fireplace and chimney, rafter tails and wall brackets along the underside of the roof, and other unique architectural details characteristic of the area.



## **Draft Conditions**

Conditions of approval have been developed in order to ensure the proposed rezoning is consistent with the Comprehensive Plan and the underlying intent of the General Business District. The applicant has agreed to comply with the conditions noted below.

1. *Permitted Uses:* Permitted outdoor uses within the recreation area of the subject property will be limited to miniature golf and similar outdoor recreation activities with no greater impact. Permitted indoor uses within the proposed building shall be limited to office, restaurant without drive-thru, food and beverage retail sales (not including liquor sales/ABC Store), and accessory retail sales associated with the miniature golf/recreational use.
2. *Hours of Operation:* Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m. This restriction shall be eliminated in the event that adjacent properties are rezoned to non-residential zoning districts.
3. *Required Parking:* In Phase 1, paved parking shall be provided at a minimum rate of 2-stalls per golf hole. Accessory uses associated with the proposed office/restaurant building will be included within this rate. Overflow parking will be provided within the potential future Phase 2 parking area and will be graded and improved with a temporary surface to be approved by the Town. Additional bicycle parking exceeding UDO requirements will also be provided. Prior to the construction of the second 18 holes of golf, a parking analysis of the peak parking requirements of the first 18 holes will be provided to the Town to determine if the 2 spaces per hole parking rate is sufficient for the need. If not, a higher parking ratio may be required by the Town, prior to the Phase 2 course expansion.
4. *Noise:* The use of outdoor speakers and/or an intercom system shall be prohibited within the parking lot and other non-recreation areas of the site unless needed for emergency purposes. Use of speakers on the building for background music is acceptable. All reasonable efforts shall be made to limit noise from being audible offsite.
5. *Cross Access:* A pedestrian and vehicular cross access easement (min. 24' in width) shall be provided to adjacent parcels 07066001D, 07066002A, and/or 07066001 to interconnect the proposed parking area with the adjacent sites. The Planning Director may waive the cross access easement requirement in the event future adjacent uses are deemed by the Planning Director to be incompatible with the miniature golf use.
6. *Right of Way Dedication:* ROW shall be dedicated across the subject property's Younts Road frontage to the North Carolina Department of Transportation to achieve a 35-ft ROW measured from the existing Younts Road centerline (unless Town and/or NCDOT species additional ROW is needed). ROW shall be dedicated prior to any issuance of a Zoning Compliance for the subject property.
7. *Frontage Improvements:* The subject property's Younts Road frontage shall be improved with curb, gutter, 6-ft. wide sidewalk, street trees, and any additional improvements required by the Town and/or NCDOT.
8. *Lighting:* A lighting plan/photometric study shall be required for the parking and recreational areas. Light fixtures, including those utilized in the outdoor recreation area shall be limited to 20-ft in height. Taller fixtures within the recreation area meeting UDO requirements may be permitted if it can be demonstrated by the lighting plan that there will be no negative impacts to nearby properties. Pole or building mounted lights on the perimeter of the recreational area and those used to

provide site/area lighting shall not have an angled orientation and shall utilize full cut off fixtures to minimize glare and lighting spillover.

9. *Tree Retention:* To the extent shown on the plans, the existing stand of trees located in the northwest corner of the site shall generally be left in an undisturbed condition and protected with a tree protection easement. Removal of small trees, invasive vegetation, underbrush, and vines is permitted to help create a usable, park like setting for customers. Clearing to install ROW improvements, the septic system leach field, and/or to maintain minimum sight distance is also permitted. Construction adjacent to the tree retention area and installation of septic system improvements within the retention area shall utilize best management practices to minimize damage or removal of the trees. Any removal of heritage trees or trees needed to meet min. tree canopy requirements shall be mitigated in accordance with UDO requirements. A tree protection easement shall be recorded prior to issuance of a Zoning Compliance for the subject property.
10. *Fencing:* Fencing meeting UDO Section 710.050 standards shall be installed around the perimeter of the recreation area. Fencing shall be a min. height of 5-ft. and be comprised of a powder coated aluminum material or an equivalent approved by the Town of Indian Trail. Chain link fencing is not permitted.
11. *Concept Plan:* The site shall be developed as generally depicted on the submitted Concept Plan. The proposed building shall be designed as generally depicted in the submitted building rendering (Attachment 2). The building shall be constructed primarily of cementitious siding (i.e. Hardi) and a standing seam metal roof.

The Town Council may act to revoke the conditional zoning district designation if the applicant fails to meet the terms of the district.

#### **Comments from Outside Agencies**

The Town routed plans to solicit comments from outside agencies. No substantive comments were received.

#### **Community Meetings**

The applicant held two community meetings as required by UDO Section 330.020. The purpose of the meetings is to address comments and concerns from surrounding property owners. Notices for the community meetings consisted of advertising in the newspaper, sending first class mailed notices to the property owners and surrounding properties within 500 feet (approx. 28-notices), and posting a sign on the site. The first community meeting was held at the Lake Park Community Center on January 30, 2013 from 10:00 a.m. to 12:00 p.m. The second community meeting was held on January 30, 2013 at the Indian Trail Civic Building from 5:00 p.m.-7:00 p.m. Staff was contacted by one nearby resident prior to the community meetings. This resident attended the daytime community meeting. The following will provide a brief overview of the discussion at the community meetings.

- *Daytime Meeting:* This meeting was attended by eight (8) members of the public. Questions raised included concerns about children/customers being able to harass horses that graze on the adjacent property to the south and west. Concerns about lighting impacting residential properties on the opposite side of Younts Road were also raised. The applicant indicated onsite fencing could be utilized to prevent any interaction between customers and horses. Fencing has been incorporated as a condition of approval. In regards to lighting, the applicant indicated that while the

lights may be visible from across the street, the illumination will not spillover onto these properties. Town staff further clarified the UDO lighting requirements that help prevent lighting spillover, the proposed hours of operation (8:00 a.m. to 10:00 p.m.), and how the site orientation (parking in front, recreation area in rear) will help minimize any issues with recreation lights impacting residences on Younts Road. Other questions raised were regarding how the site was selected, will there be any other uses onsite, and the envisioned success of the business. The applicant indicated the site was chosen due to its rural character and accessibility, the only other uses of the property will be accessory food service uses in the building, and the business will be a family operation and there is a need for wholesome family entertainment. Attendees also inquired about whether Younts Road would be widened and if there is any impact to their property. The applicant stated the road may be widened slightly (amongst other frontage improvements) and the proposed rezoning would only affect the subject property.

- *Evening Meeting:* This meeting was attended by four (4) members of the public. Questions raised during this discussion were similar to the morning meeting. Questions not previously raised included what the Town’s plans were for this area and if this proposed use will be seasonal in nature. In response, Town staff discussed the community’s vision for this area as reflected in the comprehensive plan (see below). The applicant indicated the outdoor aspects of the business may close from Thanksgiving thru February depending on actual weather conditions/temperatures.

### Plan Consistency

The property is located in the Old Hickory Business Park Corridor of the Comprehensive Plan. This corridor provides significant employment opportunities within the community by housing major employers that need convenient transportation, high quality services, and a worker-friendly environment. The corridor also provides for supporting uses such as retail and lodging opportunities. Table 1 below provides a summary of the existing and envisioned land use mix for the corridor.

The proposed miniature golf/outdoor recreation use is in keeping with the support uses intended to create a worker-friendly environment that also meets the needs of area residents. The proposed facility would be categorized as a retail type use and would increase the retail land use category to approximately 19.67 acres or 1.8% of total land use, which is consistent with the vision of the Business Park Corridor.

Corridor	Land Use	Sq. Feet	Acres	Current Base	Percent Base	Flex
Old Hickory	Med. Density Res.	7,819,908.87	179.52	16.49%	5%	+/- 2
	High Density Res.	7,090,664.09	162.78	14.95%	10%	+/- 2
	Multi-Family Res.				5%	+/- 2
	Parks/Open Space/Agriculture/Forest				5%	
	Institutional	104,420.71	2.40	0.22%	5%	+/- 2
	Retail	726,092.81	16.67	1.53%	5%	+/- 1
	Office				30%	+/- 5
	Industrial	18,446,045.94	423.46	38.90%	25%	+/- 5
Boulevards/Thoroughfares	3,655,693.24	83.92	7.71%	10%		

## **Action Required**

The Planning Board must adopt a statement of consistency and reasonableness prior to making a motion for recommendation. The finding must be made that the proposed amendment is both reasonable and consistent with the Comprehensive Plan. Staff is of the opinion the goals of the Comprehensive Plan are satisfied as follows:

*Goal 1.3.2 Land Use* - The proposed conditional district will provide expanded recreational opportunities and a gathering place for Town residents, visitors, as well as current and future workers within the Old Hickory Business Park Corridor. The rezoning is subject to conditions to help avoid creating any land use impacts to neighboring properties. The proposed conditional rezoning will also help create a more balanced tax base by helping facilitate development of a commercial use on an otherwise undeveloped property in a manner that is consistent with the Comprehensive Plan. The conditional rezoning will also result in the retention of an existing grove of trees that will be an amenity to the site, while helping preserve the Indian Trail community forest.

The request for this conditional zoning district is a reasonable request and is in the public interest because it helps create a mix of uses within the Old Hickory Business Park Corridor and includes elements that benefit the general public in the area tree preservation.

## **Recommendation**

Staff is of the opinion that the findings can be made to support a conditional zoning district for the subject property. The proposed conditional rezone is consistent with the Town's Comprehensive Plan.

**Attachment 1** – Application

**Attachment 2** – Concept Plan

**Attachment 3** – Draft Ordinance

## **Staff Contact**

Rox Burhans, AICP

704 821-5401

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

**PB Attachment 1**  
Application

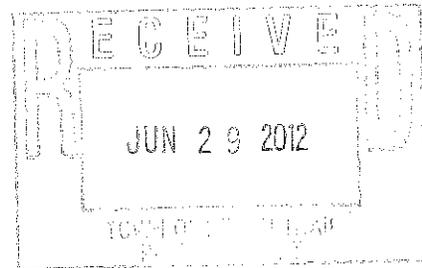
R-000382

# CONDITIONAL ZONING APPLICATION



Town of  
**INDIAN TRAIL**  
north carolina

**PLANNING AND DEVELOPMENT DEPARTMENT**  
PO Box 2430  
Indian Trail, NC 28079  
Telephone (704) 821-5401  
Fax (704) 821-9045



**ONLY COMPLETE APPLICATIONS ACCEPTED**

Processing Fee \$800.00

Notification Fee \$2.50 per adjoining property owner

Date Received

C-29-12

CONDITIONAL ZONING APPLICATION



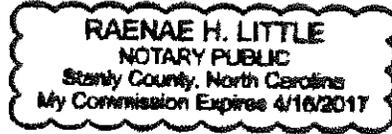
Applicant's Certification

Signature [Signature] Date 6-27-12

Printed Name/Title Scott Merritt

Signature of Notary Public [Signature] Date 6-27-12

Notary Seal



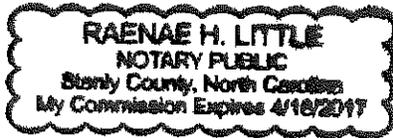
Property Owner's Certification

Signature [Signature] Date 6-26-12

Printed Name/Title Dennis W. Moser, Member Manager

Signature of Notary Public [Signature] Date 6-26-12

Notary Seal



TOWN OF INDIAN TRAIL OFFICE USE ONLY

CASE NUMBER: \_\_\_\_\_

DATE RECEIVED: 6-29-2012

AMOUNT OF FEE: waived / BFA

RECEIVED BY: K. Sorensen

RECEIPT #: \_\_\_\_\_



## CONDITIONAL ZONING APPLICATION

### Submittal Requirements

- Completed Application
- Notarized signatures of applicant and property owner
- Letter of Intent
- 8 copies of Concept Plan (must be drawn to scale by architect, landscape architect, professional surveyor, or engineer licensed in North Carolina)
- Boundary Survey (acreage, current zoning, location of existing buildings, setbacks)
- List, address labels, and digital copy of all adjoining property owners within 500 feet of subject parcel
- Traffic Impact Analysis, if necessary
- Statement of Appraisal, if necessary
- Fees associated with review

### General Information

Project Address Younts Rd  
 City INDIAN TRAIL State NC Zip 28079  
 Tax Parcel ID 07066001A Zoning Designation \_\_\_\_\_  
 Total Acres 3.12 to Rd C/L Impervious Area 1.25 Ac.  
 Project Description Mini Golf

### Contact Information - Applicant

Name Scott A Merritt  
 Address 5105 Sugar and Wine Rd.  
 City Monroe State NC Zip 28110  
 Phone 980-722-7810 Fax \_\_\_\_\_  
 Email MerrittLand@Windstream.net

### Contact Information - Property Owner

Name Younts Road Partners, LLC  
 Address 1% The Moser Group Inc 231 Post Office Dr B 8  
 City INDIAN TRAIL State NC Zip 28079  
 Phone 704-882-1700 Fax 704-882-2220  
 Email dmoser@themosergroupinc.com



**Trails Miniature Golf**

**Scott Merritt**

**P.O.Box 456**

**Indian Trail ,NC 28079**

**980-722-7810**

## **Business Proposal for Trails Miniature Golf Course**

### **The Business**

Trails Miniature golf course is going to be a natural looking miniature golf course that will act as the initial anchor. Family entertainment is a highly profitable industry that has been growing rapidly over the past several years. This is due largely to a trend within the country to return to family values. The initial profit centers will be the golf course, ice cream and bakery.

### **Marketing**

While families with children will act as an anchor, seniors, teens, and corporate customers will add significant income. There will be a variety of fun promotions keeping the business profitable during the entire season. While our marketing plan is devised from other successful plans in the industry, there will be some additions as we start the business.

### **Management**

Scott and Amy Merritt have successful experience in small business ownership, personal management, and financial management. The miniature golf course operates with only two people during the day and two to four during peak hours. The low personnel requirements makes management easy and keeps employee cost at a minimum.

### Trails miniature golf course success sheet

1 Our business will be highly visible; the hours of operation during the peak season which is {May1st thru November 30<sup>th</sup>} will be 10 AM to 11PM

2 Friendly, happy employees providing superior customer service

3 A safe, clean environment that the community will be proud of

4 Have fun while delivering a quality product

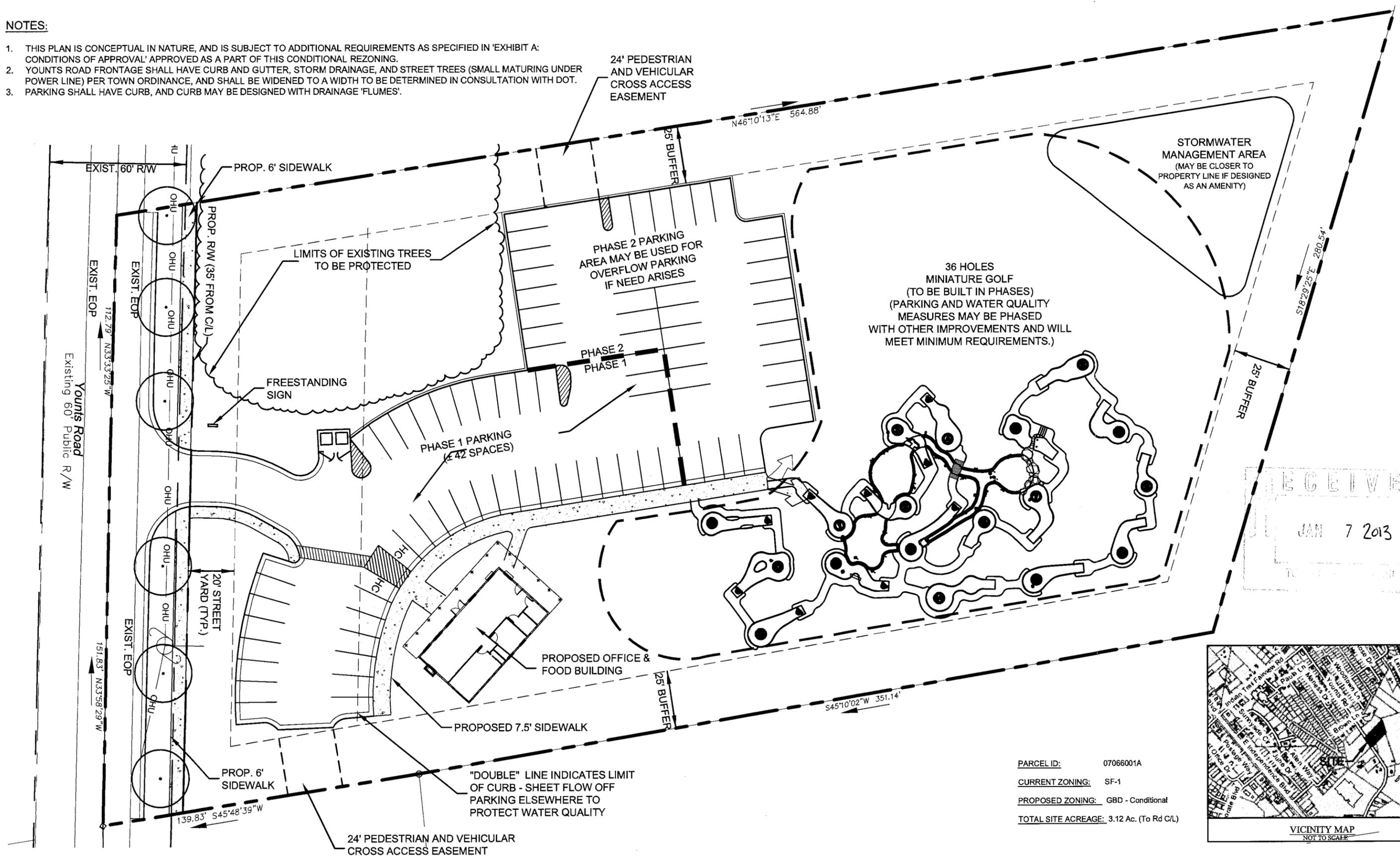
### Our Objective

Our objective is to provide a safe, relaxing setting for a family, and friends to enjoy quality time together, while participating in a fun exciting outdoor activity.

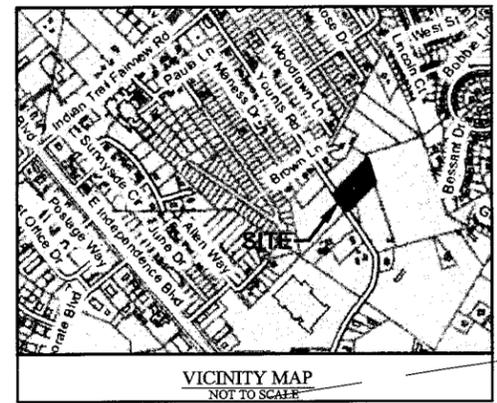
**PB Attachment 2**  
Concept Plan

**NOTES:**

1. THIS PLAN IS CONCEPTUAL IN NATURE, AND IS SUBJECT TO ADDITIONAL REQUIREMENTS AS SPECIFIED IN 'EXHIBIT A: CONDITIONS OF APPROVAL' APPROVED AS A PART OF THIS CONDITIONAL REZONING.
2. YOUNTS ROAD FRONTAGE SHALL HAVE CURB AND GUTTER, STORM DRAINAGE, AND STREET TREES (SMALL MATURING UNDER POWER LINE) PER TOWN ORDINANCE, AND SHALL BE WIDENED TO A WIDTH TO BE DETERMINED IN CONSULTATION WITH DOT.
3. PARKING SHALL HAVE CURB, AND CURB MAY BE DESIGNED WITH DRAINAGE 'FLUMES'.



RECEIVED  
JAN 7 2013



PARCEL ID: 07066001A  
 CURRENT ZONING: SF-1  
 PROPOSED ZONING: GBD - Conditional  
 TOTAL SITE ACREAGE: 3.12 Ac. (To Rd C/L)



TRAILS MINIATURE GOLF  
EXTERIOR VIEW

**TOWN COUNCIL ATTACHMENT 2**

STATE OF NORTH CAROLINA )  
 )  
TOWN OF INDIAN TRAIL )

ORDINANCE #

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF INDIAN TRAIL REZONING PARCEL 07066001A – LOCATED ON YOUNTS ROAD FROM SF-1 (SINGLE FAMILY RESIDENTIAL-1 ) TO CZ-GBD (CONDITIONAL ZONING GENERAL BUSINESS DISTRICT) IN THE TOWN OF INDIAN TRAIL, UNION COUNTY, NORTH CAROLINA**

WHEREAS, the property owner Younts Road Partners, LLC (Dennis W. Moser, Member Manager) and designated applicant – Scott Merritt, petitioned to rezone tax parcel 07066001A from SF-1 (Single Family Residential District-1) to CZ-GBD (Conditional Zoning District-General Business) classification; and

WHEREAS, this Conditional Zoning Amendment (CZ2012-001) was duly noticed in compliance with North Carolina General Statutes; and

WHEREAS, two community meetings were held on January 30, 2013; and

WHEREAS, a public meeting was held by the Planning Board on February 19, 2013 to consider this conditional zoning request; and

WHEREAS, the Planning Board found the proposed map amendment is consistent with the following goal of the Comprehensive Plan:

*Goal 1.3.2 Land Use* - The proposed conditional district will provide expanded recreational opportunities and a gathering place for Town residents, visitors, as well as current and future workers within the Old Hickory Business Park Corridor. The rezoning is subject to conditions to help avoid creating any land use impacts to neighboring properties. The proposed conditional rezoning will also help create a more balanced tax base by helping facilitate development of a commercial use on an otherwise undeveloped property in a manner that is consistent with the Comprehensive Plan. The conditional rezoning will also result in the retention of an existing grove of trees that will be an amenity to the site, while helping preserve the Indian Trail community forest.

WHEREAS, the Planning Board further found the request for this conditional zoning district is a reasonable request and is in the public interest because it helps create a mix of uses within the Old Hickory Business Park Corridor and includes elements that benefit the general public in the area tree preservation.

WHEREAS, after making the draft findings the Planning Board voted 6 to 1 to approve the motion to transmit a recommendation to approve as conditioned to the Town Council; and

WHEREAS, the Town Council held a public hearing on March 12, 2013 to consider said request and recommendation of approval from the Planning Board; and

WHEREAS, the Town Council concurred with the Planning Board's consistency findings and hereby endorses said findings; and

**NOW, THEREFORE, IT SHALL BE ORDAINED** by the Town Council of the Town of Indian Trail, North Carolina hereby takes the following action:

**Section 1** – Council makes the required findings as entered into the record and found herein; and

**Section 2** – Approves CZ 2012-001 Conditional Zoning Petition thereby granting the Zoning Map amendment to establish a Conditional General Business Zoning District on parcel number 07066001A subject to the following conditions:

1. *Permitted Uses:* Permitted outdoor uses within the recreation area of the subject property will be limited to miniature golf and similar outdoor recreation activities with no greater impact. Permitted indoor uses within the proposed building shall be limited to office, restaurant without drive-thru, food and beverage retail sales (not including liquor sales/ABC Store), and accessory retail sales associated with the miniature golf/recreational use.
2. *Hours of Operation:* Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m. This restriction shall be eliminated in the event that adjacent properties are rezoned to non-residential zoning districts.
3. *Required Parking:* In Phase 1, paved parking shall be provided at a minimum rate of 2-stalls per golf hole. Accessory uses associated with the proposed office/restaurant building will be included within this rate. Overflow parking will be provided within the potential future Phase 2 parking area and will be graded and improved with a temporary surface to be approved by the Town. Additional bicycle parking exceeding UDO requirements will also be provided. Prior to the construction of the second 18 holes of golf, a parking analysis of the peak parking requirements of the first 18 holes will be provided to the Town to determine if the 2 spaces per hole parking rate is sufficient for the need. If not, a higher parking ratio may be required by the Town, prior to the Phase 2 course expansion.
4. *Noise:* The use of outdoor speakers and/or an intercom system shall be prohibited within the parking lot and other non-recreation areas of the site unless needed for emergency purposes. Use of speakers on the building for background music is acceptable. All reasonable efforts shall be made to limit noise from being audible offsite.
5. *Cross Access:* A pedestrian and vehicular cross access easement (min. 24' in width) shall be provided to adjacent parcels 07066001D, 07066002A, and/or 07066001 to interconnect the proposed parking area with the adjacent sites. The Planning Director may waive the cross access easement requirement in the event future adjacent uses are deemed by the Planning Director to be incompatible with the miniature golf use.
6. *Right of Way Dedication:* ROW shall be dedicated across the subject property's Younts Road frontage to the North Carolina Department of Transportation to achieve a 35-ft ROW measured from the existing Younts Road centerline (unless Town and/or NCDOT species additional ROW is needed). ROW shall be dedicated prior to any issuance of a Zoning Compliance for the subject property.
7. *Frontage Improvements:* The subject property's Younts Road frontage shall be improved with curb, gutter, 6-ft. wide sidewalk, street trees, and any additional improvements required by the Town and/or NCDOT.
8. *Lighting:* A lighting plan/photometric study shall be required for the parking and recreational areas. Light fixtures, including those utilized in the outdoor recreation area shall be limited to

20-ft in height. Taller fixtures within the recreation area meeting UDO requirements may be permitted if it can be demonstrated by the lighting plan that there will be no negative impacts to nearby properties. Pole or building mounted lights on the perimeter of the recreational area and those used to provide site/area lighting shall not have an angled orientation and shall utilize full cut off fixtures to minimize glare and lighting spillover. Perimeter light fixtures located adjacent to residential properties shall also include cut off shields.

9. *Tree Retention:* To the extent shown on the plans, the existing stand of trees located in the northwest corner of the site shall generally be left in an undisturbed condition and protected with a tree protection easement. Removal of small trees, invasive vegetation, underbrush, and vines is permitted to help create a usable, park like setting for customers. Clearing to install ROW improvements, the septic system leach field, and/or to maintain minimum sight distance is also permitted. Construction adjacent to the tree retention area and installation of septic system improvements within the retention area shall utilize best management practices to minimize damage or removal of the trees. Any removal of heritage trees or trees needed to meet min. tree canopy requirements shall be mitigated in accordance with UDO requirements. A tree protection easement shall be recorded prior to issuance of a Zoning Compliance for the subject property.
10. *Fencing:* Fencing meeting UDO Section 710.050 standards shall be installed around the perimeter of the recreation area. Fencing shall be a min. height of 5-ft. and be comprised of a powder coated aluminum material or an equivalent approved by the Town of Indian Trail. Chain link fencing is not permitted. Fencing meeting UDO 710.050 and related State and Town stormwater requirements shall also be provided around all stormwater ponds.
11. *Concept Plan:* The site shall be developed as generally depicted on the submitted Concept Plan. The proposed building shall be designed as generally depicted in the submitted building rendering (Attachment 2). The building shall be constructed primarily of cementitious siding (i.e. Hardi) and a standing seam metal roof.

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

**AND IT IS SO ORDAINED** this 12<sup>th</sup> day of March, 2013.

**TOWN OF INDIAN TRAIL COUNCIL**

Attest:

---

Peggy Piontek, Town Clerk

---

Michael L. Alvarez, Mayor

APPROVED AS TO FORM:

---

TOWN ATTORNEY

**MAYOR**  
Michael L. Alvarez

**MAYOR PRO TEM**  
David L. Cohn

**TOWN MANAGER**  
Joseph A. Fivas



**TOWN COUNCIL**  
Robert W. Allen  
Christopher M. King  
Darlene T. Luther  
David K. Waddell

**TOWN CLERK**  
Peggy S. Piontek

March 26, 2013

TO: Mayor and Town Council

FROM: Joseph Fivas

CC: Marsha Sutton

SUBJECT: Resolution of the Town Council of the Town of Indian Trail North Carolina Providing for the Issuance of \$8,000,000 General Obligation Bond, Series 2013

Please find attached the “Resolution of the Town Council of the Town of Indian Trail North Carolina Providing for the Issuance of \$8,000,000 General Obligation Bond, Series 2013. This resolution requests the LGC to sell the bonds on behalf of the Town, sets forth the details of the bond issuance and authorizes the delivery and final execution of required documents. Also, all expenses associated with the bond issuance will be deducted prior to the allocation of bond proceeds on behalf of the Town. The resolution directs:

“Section 15. The Mayor, the Town Manager, The Town Clerk and the Finance Director, individually and collectively, are hereby authorized and directed to cause the 2013 Bonds to be prepared and, when they shall have been duly sold by the Local Government Commission, to execute the 2013 Bonds and to turn the 2013 Bonds over to the registrar and transfer agent of the Town for delivery through the facilities of The Depository Trust Company, New York, DTC, to the purchaser or purchaser to whom they may be sold by the Local Government Commission.”

Staff is asking Council to make a motion to approve the attached resolution.

**STATE OF NORTH CAROLINA)**  
**TOWN OF INDIAN TRAIL )**      **RESOLUTION #**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF \$8,000,000 GENERAL OBLIGATION BOND, SERIES 2013**

*WHEREAS*, the Bond Order (as defined below) has been adopted, and it is desirable to make provision for the issuance of the Bond authorized by the Bond Order;

*NOW, THEREFORE, BE IT RESOLVED* by the Town Council of the Town of Indian Trail, North Carolina (the “*Town Council*”) as follows:

**Section 1.** For purposes of this Resolution, the following words will have the meanings ascribed to them below:

“*Bond Orders*” means (1) the Bond Order relating to the Street Projects (as defined herein) which was adopted by the Town Council on July 12, 2011 and approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held on November 8, 2011, (2) the Bond Order relating to the Old Monroe Road Projects (as defined herein) which was adopted by the Town Council on July 12, 2011 and approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held on November 8, 2011 and (3) the Bond Order relating to the Parks and Recreation Projects (as defined herein) which was adopted by the Town Council on June 26, 2012 and approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held on November 6, 2012.

“*Federal Securities*” means (a) direct obligations of the United States of America for the timely payment of which the full faith and credit of the United States of America is pledged; (b) obligations issued by any agency controlled or supervised by and acting as an instrumentality of the United States of America, the timely payment of the principal of and interest on which is fully guaranteed as full faith and credit obligations of the United States of America (including any securities described in (a) or (b) issued or held in the name of the Trustee in book-entry form on the books of the Department of Treasury of the United States of America), which obligations, in either case, are held in the name of a trustee and are not subject to redemption or purchase prior to maturity at the option of anyone other than the holder; (c) any bonds or other obligations of the State of North Carolina or of any agency, instrumentality or local governmental unit of the State of North Carolina which are (1) not callable prior to maturity or (2) as to which irrevocable instructions have been given to the trustee or escrow agent with respect to such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified, and which are rated by Moody’s, if the 2013 Bonds are rated by Moody’s, and S&P, if the 2013 Bonds are rated by S&P, within the two highest rating categories and which are secured as to principal, redemption premium, if any, and interest by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) or (b) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate; or (d) direct evidences of ownership of

proportionate interests in future interest and principal payments on specified obligations described in (a) held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in (a), and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated.

“*Moody’s*” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “*Moody’s*” will be deemed to refer to any other nationally recognized rating agency other than S&P designed by the Town.

“*Old Monroe Road Projects*” means widening Old Monroe Road in the Town of Indian Trail from two lanes to four lanes, including acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading, improving or beautifying of such thoroughfare, the cost of related studies, plans and design, acquiring, constructing, reconstructing, improving or beautifying sidewalks, curbs, gutters, drains, bridges, overpasses, underpasses, grade crossings, turn lanes and other traffic control measures and providing related landscaping, lighting and traffic controls, signals and markers; and the acquisition of land, rights-of-way and easements in land required therefor.

“*Park and Recreation Projects*” means the acquisition, construction, renovation, improvement and equipping of parks and recreation facilities for a park located at 304 Matthews-Indian Trail Road and another community park to be designated by the Town, including the acquisition of land, rights-of-way and easements related thereto, if necessary.

“*Projects*” means the Old Monroe Road Projects, the Street Projects and the Park and Recreation Projects.

“*S&P*” means Standard & Poor’s Ratings Services, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “*S&P*” will be deemed to refer to any other nationally recognized rating agency other than Moody’s designed by the Town.

“*Street Projects*” means acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading, improving or beautifying streets, roads and intersections, including the cost of related studies, plans and design; acquiring, constructing, reconstructing, improving or beautifying sidewalks or walkways, curbs, gutters, drains, bridges, overpasses, underpasses and grade crossings and providing related landscaping, lighting and traffic controls, signals and markers; and the acquisition of land, rights-of-way and easements in land required therefor.

“*2013 Bonds*” means the Town’s General Obligation Bonds, Series 2013 authorized under the Bond Order.

**Section 2.** The Town shall issue \$8,000,000 in total aggregate principal amount of its 2013 Bonds.

**Section 3.** The 2013 Bonds shall be dated their date of issuance and pay interest semiannually on May 1 and November 1, beginning November 1, 2013. The 2013 Bonds are being issued to provide funds (1) to finance the capital costs of the Projects pursuant to and in accordance with the respective Bond Orders and (2) to pay the costs of issuing the 2013 Bonds.

**Section 4.** The Town Council has ascertained and hereby determines that the average period

of usefulness of the capital projects being financed by the proceeds of the 2013 Bonds is not less than 25 years computed from the date of issuance of the 2013 Bonds.

**Section 5.** The 2013 Bonds are payable in annual installments on May 1 in each year, as follows:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2014	\$405,000	2024	\$405,000
2015	405,000	2025	405,000
2016	405,000	2026	400,000
2017	405,000	2027	400,000
2018	405,000	2028	400,000
2019	405,000	2029	400,000
2020	405,000	2030	400,000
2021	405,000	2031	400,000
2022	405,000	2032	400,000
2023	345,000	2033	400,000

**Section 6.** The 2013 Bonds are to be numbered from “R-1” consecutively and upward. All 2013 Bonds shall bear interest from their date at a rate or rates which shall be hereafter determined on the sale thereof computed on the basis of a 360-day year of twelve 30-day months.

**Section 7.** The 2013 Bonds are to be registered as to principal and interest, and the Finance Director of the Town is directed to maintain the registration records with respect thereto. The 2013 Bonds shall bear the original or facsimile signatures of the Mayor and Town Clerk of the Town. An original or facsimile of the seal of the Town is to be imprinted on each of the 2013 Bonds.

**Section 8.** The 2013 Bonds will initially be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York (“DTC”), and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the 2013 Bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the 2013 Bonds will be payable to DTC or its nominee as registered owner of the 2013 Bonds in immediately available funds. The principal of and interest on the 2013 Bonds will be payable to owners of 2013 Bonds shown on the records of DTC at the close of business on the 15th day of the month preceding an interest payment date or a bond payment date. The Town will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the 2013 Bonds or (b) the Finance Director of the Town determines that the continuation of the book-entry system of evidence and transfer of ownership of the 2013 Bonds would adversely affect the interests of the beneficial owners of the 2013 Bonds, the Town will discontinue the book-entry system with DTC in accordance with the rules and procedures of DTC. If the Town fails to identify another qualified securities depository to replace DTC, the Town will authenticate and deliver replacement bonds in accordance with the rules and procedures of DTC.

9. The 2013 Bonds maturing on or before May 1, 2023 will not be subject to redemption prior to maturity. The 2013 Bonds maturing after May 1, 2023 will be subject to redemption prior to maturity, at the option of the Town, from any moneys that may be made available for such purpose, either

in whole or in part on any date on or after May 1, 2023, at the redemption price of the principal amount of 2013 Bonds to be so redeemed, plus accrued interest to the redemption date.

If less than all of the 2013 Bonds are called for redemption, the Town shall select the maturity or maturities of the 2013 Bonds to be redeemed in such manner as the Town in its discretion may determine and DTC and its participants shall determine which of the 2013 Bonds within a maturity are to be redeemed in accordance with its rules and procedures; provided, however, that the portion of any 2013 Bond to be redeemed shall be in principal amount of \$5,000 or integral multiples thereof and that, in selecting 2013 Bonds for redemption, each 2013 Bond shall be considered as representing that number of 2013 Bonds which is obtained by dividing the principal amount of such 2013 Bond by \$5,000. Whenever the Town elects to redeem 2013 Bonds, notice of such redemption of 2013 Bonds, stating the redemption date, redemption price and any conditions to the redemption and identifying the 2013 Bonds or portions thereof to be redeemed by reference to their numbers and further stating that on such redemption date there shall become due and payable on each 2013 Bond or portion thereof so to be redeemed, the principal thereof, and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the 2013 Bonds, by prepaid certified or registered United States mail (or by such other means as permitted by DTC's rules and procedures), at the address provided to the Town by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of the 2013 Bonds, the Town will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of the 2013 Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the Town. The Town will also mail or transmit by facsimile or in electronic format a copy of the notice of redemption within the time set forth above (1) to the Local Government Commission of North Carolina (the "*Local Government Commission*") and (2) to the Municipal Rulemaking Securities Board through the EMMA system.

**Section 10.** The 2013 Bonds and the provisions for the registration of the 2013 Bonds and for the approval of the 2013 Bonds by the Secretary of the Local Government Commission are to be in substantially the form set forth in Exhibit A hereto.

**Section 11.** The Finance Director of the Town is hereby authorized to execute a non-arbitrage certificate with respect to the 2013 Bonds in order to comply with Section 148 of the Code and the applicable Income Tax Regulations thereunder.

The Town designates the 2013 Bonds as a "*qualified tax-exempt obligation*" eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations in accordance with the provisions of Section 265(b)(3) of the Code. The Town does not reasonably anticipate issuing more than \$10,000,000 of qualified tax-exempt obligations as described in such Section 265(b)(3), including all entities which issue obligations on behalf of the Town and all subordinate entities of the Town, during calendar year 2013 and will not designate more than \$10,000,000 of qualified tax-exempt obligations pursuant to such Section 265(b)(3) during calendar year 2013.

**Section 12.** The Finance Director is hereby directed to create and establish a special fund to be designated "*Town of Indian Trail, North Carolina General Obligation Bonds, Series 2013 Project Fund*" (the "*Project Fund*") and may establish separate accounts with the Project Fund related to each of the Projects or otherwise track the expenditures related to each of the Projects. The Finance Director shall deposit the proceeds from the sale of the 2013 Bonds in the Project Fund. The Finance Director shall invest and reinvest any moneys held in the Project Fund as permitted by the laws of the State of North Carolina and the income, to the extent permitted by the Code, is to be retained in the Project Fund and

applied with the proceeds of the 2013 Bonds to pay the costs of the Projects, as directed by the Finance Director. The Finance Director shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom so as to satisfy the requirements of the laws of the State of North Carolina and to assure that the Town maintains its covenants with respect to the exclusion of the interest on the 2013 Bonds from gross income for purposes of federal income taxation.

**Section 13.** Actions taken by officials of the Town to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.

**Section 14.** The Local Government Commission is hereby requested to sell the 2013 Bonds through a competitive sale to the bidder whose bid results in the lowest interest cost to the Town, determined on the basis of the net interest cost method.

**Section 15.** The Mayor, the Town Manager, the Town Clerk and the Finance Director, individually and collectively, are hereby authorized and directed to cause the 2013 Bonds to be prepared and, when they shall have been duly sold by the Local Government Commission, to execute the 2013 Bonds and to turn the 2013 Bonds over to the registrar and transfer agent of the Town for delivery through the facilities of DTC to the purchaser or purchasers to whom they may be sold by the Local Government Commission.

**Section 16.** The form and content of the Notice of Sale and the Preliminary Official Statement to be dated on or about April 5, 2013 together with the final Official Statement related to the 2013 Bonds are in all respects authorized, approved and confirmed, and the Mayor, the Town Manager, the Town Clerk and the Finance Director, individually and collectively, are authorized, empowered and directed to execute and deliver the Official Statement in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as shall to the Mayor, the Town Manager, the Town Clerk and the Finance Director seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the approval of the Board of any and all changes, modifications, additions or deletions therein from the form and content of the Official Statement presented to the Board.

**Section 17.** The Mayor, the Town Manager, the Town Clerk and the Finance Director, individually and collectively, are authorized and directed to execute and deliver for and on behalf of the Town any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated hereinabove or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

**Section 18.** The Town agrees, in accordance with Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (the “SEC”) and for the benefit of the Registered Owners and beneficial owners of the 2013 Bonds, as follows:

- (1) by not later than seven months after the end of each Fiscal Year to the Municipal Securities Rulemaking Board (the “MSRB”) in an electronic format as prescribed by the MSRB, the audited financial statements of the Town for the preceding Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the Town for such Fiscal Year to be replaced subsequently by audited financial statements of the Town to be delivered within 15 days after such audited financial statements become available for distribution;

(2) by not later than seven months after the end of each Fiscal Year to the MSRB, the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the captions “**THE TOWN--DEBT INFORMATION**” and “**--TAX INFORMATION**” (excluding information on overlapping units) in the Official Statement referred to in Section 16;

(3) in a timely manner not in excess of 10 business days after the occurrence of the event, to the MSRB, notice of any of the following events with respect to the 2013 Bonds:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (c) unscheduled draws on the debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (e) substitution of any credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material events affecting the tax status of the 2013 Bonds;
- (g) modification of the rights of the beneficial owners of the 2013 Bonds, if material;
- (h) call of any of the 2013 Bonds, if material, and tender offers;
- (i) defeasance of any of the 2013 Bonds;
- (j) release, substitution or sale of any property securing repayment of the 2013 Bonds, if material;
- (k) rating changes;
- (l) bankruptcy, insolvency, receivership or similar event of the Town;
- (m) the consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to such actions, other than pursuant to its terms, if material; and
- (n) appointment of a successor or additional trustee or the change of name of a trustee, if material; and

(4) in a timely manner to the MSRB, notice of the failure by the Town to provide the required annual financial information described in (1) and (2) above on or before the date specified.

The Town agrees that its undertaking under this Paragraph is intended to be for the benefit of the registered owners and the beneficial owners of the 2013 Bonds and is enforceable by any of the registered owners and the beneficial owners of the 2013 Bonds, including an action for specific performance of the Town's obligations under this Paragraph, but a failure to comply will not be an event of default and will not result in acceleration of the payment of the 2013 Bonds. An action must be instituted, had and maintained in the manner provided in this Paragraph for the benefit of all of the registered owners and beneficial owners of the 2013 Bonds.

All documents provided to the MSRB as described in this Paragraph shall be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB. The Town may discharge its undertaking described above by providing such information in a manner the SEC subsequently authorizes in lieu of the manner described above.

The Town may modify from time to time, consistent with the Rule, the information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the Town, but:

- (1) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the Town;
- (2) the information to be provided, as modified, would have complied with the requirements of the Rule as of the date of the Official Statement, after taking into account any amendments or interpretations of the Rule as well as any changes in circumstances;
- (3) any such modification does not materially impair the interest of the registered owners or the beneficial owners, as determined by nationally recognized bond counsel or by the approving vote of the registered owners of a majority in principal amount of the 2013 Bonds.

Any annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Paragraph terminate on payment, or provision having been made for payment in a manner consistent with the Rule, in full of the principal of and interest on the 2013 Bonds.

**Section 19.** Those portions of this Resolution other than Paragraph 18 may be amended or supplemented, from time to time, without the consent of the owners of the 2013 Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the owners of the 2013 Bonds and would not cause the interest on the 2013 Bonds to be included in the gross income of a recipient thereof for federal income tax purposes. This Resolution may be amended or supplemented with the consent of the owners of a majority in aggregate principal amount of the outstanding 2013 Bonds, exclusive of 2013 Bonds, if any, owned by the Town, but a modification or amendment (1) may not, without the express consent of any owner of 2013 Bonds, reduce the principal amount of any 2013 Bond, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification and (2) as to an amendment to Paragraph 18, must be limited as described therein.

Any act done pursuant to a modification or amendment consented to by the owners of the 2013 Bonds is binding on all owners of the 2013 Bonds and will not be deemed an infringement of any of the provisions of this Resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this Resolution, and after consent has been given, no owner of a 2013 Bond has any right or interest to object to the action, to question its propriety or to enjoin or restrain the Town from taking any action pursuant to a modification or amendment.

If the Town proposes an amendment or supplemental resolution to this Resolution requiring the consent of the owners of the 2013 Bonds, the Registrar shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed amendment to be sent to each owner of the 2013 Bonds then outstanding by first-class mail, postage prepaid, to the address of such owner as it appears on the registration books; but the failure to receive such notice by mailing by any owner, or any defect in the mailing thereof, will not affect the validity of any proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the principal office of the Registrar for inspection by all owners of the 2013 Bonds. If, within 60 days or such longer period as shall be prescribed by the Town following the giving of such notice, the owners of a majority in aggregate principal amount of 2013 Bonds then outstanding have consented to the proposed amendment, the amendment will be effective as of the date stated in the notice.

**Section 20.** Nothing in this Resolution precludes (a) the payment of the 2013 Bonds from the proceeds of refunding bonds or (b) the payment of the 2013 Bonds from any legally available funds.

If the Town causes to be paid, or has made provisions to pay, on maturity or on redemption before maturity, to the owners of the 2013 Bonds the principal of the 2013 Bonds (including interest to become due thereon), through setting aside trust funds or setting apart in a reserve fund or special trust account created pursuant to this Resolution or otherwise, or through the irrevocable segregation for that purpose in some sinking fund or other fund or trust account with an escrow agent or otherwise, moneys sufficient therefor, including, but not limited to, interest earned or to be earned on Federal Securities, the Town shall so notify Moody's and S&P, and then such 2013 Bonds shall be considered to have been discharged and satisfied, and the principal of the 2013 Bonds (including and interest thereon) shall no longer be deemed to be outstanding and unpaid; provided, however, that nothing in this Resolution requires the deposit of more than such Federal Securities as may be sufficient, taking into account both the principal amount of such Federal Securities and the interest to become due thereon, to implement any such defeasance.

If such a defeasance occurs and after the Town receives an opinion of a nationally recognized accounting firm that the segregated moneys or Federal Securities together with interest earnings thereon are sufficient to effect a defeasance, the Town shall execute and deliver all such instruments as may be necessary to effect such a defeasance and desirable to evidence such release, discharge and satisfaction. The Town shall make provisions for the mailing of a notice to the owners of the 2013 Bonds that such moneys are so available for such payment.

**Section 21.** If any one or more of the agreements or provisions herein contained is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever is held invalid, then such covenants, agreements or provisions are null and void and separable from the remaining agreements and provisions and will in no way affect the validity of any of the other agreements and provisions hereof or of the 2013 Bonds authorized hereunder.

**Section 22.** All resolutions or parts thereof of the Town Council in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 23.** This Bond Resolution is effective on its adoption.

**PASSED, ADOPTED AND APPROVED** this 26th day of March, 2013.

**APPROVED**

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**Michael L. Alvarez, Mayor**

Attest

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Peggy Piontek, Town Clerk

STATE OF NORTH CAROLINA            )  
  )  
COUNTY OF UNION                    )            SS:

I, *Peggy Piontek*, Town Clerk of the Town of Indian Trail, North Carolina, *DO HEREBY CERTIFY* the attached to be a true and correct copy of a Resolution entitled, **“RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF \$8,000,000 GENERAL OBLIGATION BOND, SERIES 2013”** adopted by the Town Council of the Town of Indian Trail, North Carolina at a meeting held on the 26th day of March, 2013.

***IN WITNESS WHEREOF***, I have hereunto set my hand and affixed the corporate seal of said Town, this the 26th day of March, 2013.

(SEAL)

\_\_\_\_\_  
Town Clerk  
Town of Indian Trail, North Carolina

APPENDIX A

FORM OF 2013 BOND

No. R-

\$

UNITED STATES OF AMERICA  
STATE OF NORTH CAROLINA  
TOWN OF INDIAN TRAIL

INTEREST

<u>RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
	MAY 1	, 2013	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: DOLLARS

GENERAL OBLIGATION BOND, SERIES 2013

*THE TOWN OF INDIAN TRAIL, NORTH CAROLINA* (the “Town”) acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, upon surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this 2013 Bond until it shall mature at the Interest Rate per annum specified above, payable on November 1, 2013 and semiannually thereafter on May 1 and November 1 of each year. Principal of and interest on this 2013 Bond are payable in immediately available funds to The Depository Trust Company (“DTC”) or its nominee as registered owner of the 2013 Bonds and is payable to the owner of the 2013 Bonds shown on the records of DTC at the close of business on the 15<sup>th</sup> day of the month preceding an interest payment date or a bond payment date. The Town is not responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

This 2013 Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act, the Bond Order adopted by the Town Council on June 26, 2012 and approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held on November 6, 2012. The 2013 Bonds are being issued to provide funds (1) to finance the capital costs of acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading, improving or beautifying streets, roads and intersections, including the cost of related studies, plans and design; acquiring, constructing, reconstructing, improving or beautifying sidewalks or walkways, curbs, gutters, drains, bridges, overpasses, underpasses and grade crossings and providing related landscaping, lighting and traffic controls, signals and markers; and the acquisition of land, rights-of-way and easements in land required therefor, (2) to finance the capital costs of widening Old Monroe Road in the Town of Indian Trail from two lanes to four lanes, including acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading, improving or beautifying of such thoroughfare, the cost of related studies, plans and design, acquiring, constructing, reconstructing, improving or beautifying sidewalks, curbs, gutters, drains, bridges, overpasses, underpasses, grade crossings, turn lanes and other traffic control measures and providing related landscaping, lighting and traffic controls, signals and markers; and the acquisition of land, rights-of-way and easements in land required therefor, (3) to finance the capital costs of the acquisition, construction, renovation, improvement and equipping of parks and recreation facilities for a park located at 304

Matthews-Indian Trail Road and another community park to be designated by the Town, including the acquisition of land, rights-of-way and easements related thereto, if necessary and (4) to pay the costs of issuing the 2013 Bonds.

The 2013 Bonds maturing on or before May 1, 2023 will not be subject to redemption prior to maturity. The 2013 Bonds maturing after May 1, 2023 will be subject to redemption prior to maturity, at the option of the Town, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after May 1, 2023. 2013 Bonds called for redemption will be redeemed at the redemption price of the principal amount of 2013 Bonds to be so redeemed, plus accrued interest to the redemption date.

If less than all of the 2013 Bonds are called for redemption, the Town shall select the maturity or maturities of the 2013 Bonds to be redeemed in such manner as the Town in its discretion may determine and DTC and its participants shall determine which of the 2013 Bonds within a maturity are to be redeemed in accordance with its rules and procedures; provided, however, that the portion of any 2013 Bond to be redeemed shall be in principal amount of \$5,000 or integral multiples thereof and that, in selecting 2013 Bonds for redemption, each 2013 Bond shall be considered as representing that number of 2013 Bonds which is obtained by dividing the principal amount of such 2013 Bond by \$5,000. Whenever the Town elects to redeem 2013 Bonds, notice of such redemption of 2013 Bonds, stating the redemption date, redemption price and any conditions to the redemption and identifying the 2013 Bonds or portions thereof to be redeemed by reference to their numbers and further stating that on such redemption date there shall become due and payable on each 2013 Bond or portion thereof so to be redeemed, the principal thereof, and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the 2013 Bonds, by prepaid certified or registered United States mail (or by such other means as permitted by DTC's rules and procedures), at the address provided to the Town by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of the 2013 Bonds, the Town will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of the 2013 Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the Town.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this 2013 Bond, exist, have been performed and have happened, and that the amount of this 2013 Bond, together with all other indebtedness of the Town, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the Town are hereby pledged to the punctual payment of the principal of and interest on this 2013 Bond in accordance with its terms.

This 2013 Bond shall not be valid or become obligatory for any purpose until the certification hereon shall have been signed by an authorized representative of the Local Government Commission.

*IN WITNESS WHEREOF*, the Town has caused this 2013 Bond to bear the original or facsimile of the signatures of the Mayor of the Town and the Town Clerk of the Town and an original or facsimile of the seal of the Town to be imprinted hereon and this 2013 Bond to be dated their date of issuance.

(SEAL)

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Town Clerk

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Mayor

Date of Execution:

The issue hereof has been approved under the provisions of The Local Government Bond Act.

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Secretary of the Local Government Commission

**FORM OF ASSIGNMENT**

**ASSIGNMENT**

*FOR VALUE RECEIVED* the undersigned hereby sells, assigns and transfers unto

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(Please print or typewrite Name and Address,  
including Zip Code, and Federal Taxpayer Identification or  
Social Security Number of Assignee)

---

the within 2013 Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

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Attorney to register the transfer of the within 2013 Bond on the books kept for registration thereof,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_  
Signature guaranteed by:

---

NOTICE: Signature must be guaranteed by  
a Participant in the Securities Transfer  
Agent Medallion Program (“Stamp”) or  
similar program.

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NOTICE: The signature to this assignment must  
correspond with the name as it appears on the  
face of the within Bond in every particular,  
without alteration, enlargement or any change  
whatever.

**TRANSFER FEE MAY BE REQUIRED**

