

MAYOR
Michael L Alvarez

MAYOR PRO TEM



TOWN COUNCIL
Robert Allen
David L. Cohn
Gordon B. Daniels
Christopher M. King
Darlene Luther
Gary M. Savoie
David K. Waddell

Indian Trail Town Council Meeting
December 10, 2013
Civic Building
6:30 p.m.

1. CALL MEETING TO ORDER & PLEDGE OF ALLEGIANCE

2. PRESENTATIONS

- a) Presentation of Chestnut Square Park Dedication Plaque

3. ADDITIONS AND DELETIONS

4. MOTION TO APPROVE AGENDA

5. PUBLIC COMMENTS

6. CONSENT AGENDA

- a) [Approval of the November 26, 2013 draft minutes](#)
- b) [Approval of Arbor Day Proclamation](#)
- c) [Annexation # 139](#)
 - Rescind Resolution #R131126-2
 - Adopt Resolution # R131210-1 setting the Public Hearing for January 14, 2014

7. PUBLIC HEARINGS

- a) [ZT 2013-004 Changes to Board of Adjustment Requirements:](#)

This is a request to amend the Unified Development Ordinance – Divisions 200 & 300 to be in compliance with changes in State law. Applicant: Town of Indian Trail;
Location: Town Wide

- b.) [ZT2013-003 Flood Damage Reduction Ordinance:](#)

This is a request to amend Chapter 1360-Flood Damage Reduction Ordinance of the UDO to reflect recent changes to a Flood Insurance Study and Digital Flood Insurance

Rate Maps within our areas. Applicant: Town of Indian Trail

8. BUSINESS

- a) Council consideration of approval of bylaws and membership into the Alliance for South Charlotte Communities – *requested by Council Member Luther*
- b) Leash Law violation reporting process – *requested by Council Member Luther*

9. PRESENTATION TO OUTGOING COUNCIL MEMBERS

10. COUNCIL COMMENTS

11. RECESS

12. OATH OF OFFICE

Councilmember Elect Gordon B. Daniels
Councilmember Elect Gary M. Savoie

13. APPOINTMENTS

- a) Mayor Pro Tem
- b) Charlotte Regional Transportation Planning Organization Representative
- c) Charlotte Regional Transportation Planning Organization Alternate
- d) Council of Governments Representative
- e) Council of Governments Alternate
- f) Alliance for South Charlotte Communities Representative

14. DISCUSSION

- a) Discuss the formation of a Civility Policy for Elected Officials – *requested by Council Member Daniels*

15. COUNCIL COMMENTS

16. CLOSED SESSION

17. 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.



Town of Indian Trail
Minutes of Town Council
November 26, 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 Attorney Keith Merritt, Town Clerk Peggy Piontek, Director of Community & Economic Development Kelly Barnhardt, Planning Director Shelley DeHart, and Director of Engineering and Public Works Scott Kaufhold .

CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Alvarez called the meeting to order and led in the Pledge of Allegiance. Mayor Alvarez announced that Council Member Luther is not attending tonight's meeting and Council Member Allen may not be in attendance.

ADDITIONS AND DELETIONS

David Waddell made a motion to approve deleting item 9a, Overview of the 2011 Town Survey Results.

Council voted unanimously in favor of the motion.

David Waddell made a motion to approve adding as item 9a Carolina Courts Pass Registration.

Council voted unanimously in favor of the motion.

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

Art Spurr, 4100 Woodcreek Court, Indian Trail, NC requested that if Council directs committees to research and provide suggestions or policies on matters, they make sure that the committees are given information that ensures enforceability. It would save much time and effort for the committees.

CONSENT AGENDA

- a. Approval of draft minutes for November 12, 2013 meeting
- b. Recycling at Chestnut Square Park
- c. Council Approval of Bill of Sale for water line on Oakwood Lane (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**)
- d. Approval of the Town Council Meeting Schedule for 2014 (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**)
- e. Sardis Church Road Sidewalk Agreement (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**)
- f. Annexation # 139:
 - * A resolution directing the Town Clerk to investigate the sufficiency of the proposed voluntary annexation petition (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**)
 - * A Certificate of Sufficiency (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**)
 - * A resolution setting the public hearing date for the annexation to

December 10, 2013 **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**

David Cohn made a motion to approve the Consent Agenda.
Motion Passed 2 - 1 with David Waddell opposing.

PUBLIC HEARINGS

a. Spanish Moss Road Traffic Calming

Mr. Fivas stated this is an opportunity for Council to get some feedback from public; no action is required this evening. Staff will provide additional information at a future meeting.

Mayor Alvarez opened the public comments portion of the hearing.

Jeanine Oberhofer, 1026 Spanish Moss Road, Indian Trail stated that she is not sure what additional information Council is looking for. The residents on the street are split on preference, realizing that a permanent closure is not possible, temporary closure would be ideal. They would like three speed tables, instead of two, as people were speeding between the two.

Council conducted a lengthy discussion with Ms. Oberhofer.

Mayor Alvarez closed the public comments portion of the hearing.

BUSINESS ITEMS

- a. Release of Closed Session Minutes from Special Meeting of August 8, 2011 This matter was requested by Council Member Waddell

Mr. Merritt advised this matter needs to be addressed in Closed Session

David Waddell made a motion to approve moving item 8a to Closed Session.
Council voted unanimously in favor of the motion.

DISCUSSION ITEMS

- a. Overview of 2011 Town Survey Results - *this matter was removed as a result of a motion made in Additions and Deletions.*
- a. Carolina Courts Pass Registration - *this matter was added as a result of a motion made in Additions and Deletions*

Director of Community & Economic Development Kelly Barnhardt explained the process involved for residents to obtain a recreational pass for Carolina Courts.

MANAGERS REPORT

Mr. Fivas reminded everyone about the parade and tree lighting being held on December 8th, there will also be a dedication of the plaque on Chestnut Square Park. He reviewed trash pickup delay due to holiday. He there are some public hearings coming up and there is information on Facebook and our website about the Monroe Bypass project.

COUNCIL COMMENTS

Mr. Waddell thanked Union County Sheriff's Office for their dedication and service, commented on a thank you type event conducted by some residents for them. He wanted to express his thanks to them and also the staff that works hard every day to keep things rolling.

Mayor Alvarez thanked the deputies for working on holiday. In the future he would like to recommend Public Safety Committee to get ideas on how to keep parks safe with law enforcement. He suggested that the upcoming agendas include a section with a brief 3 minute report from the committees. Mayor Alvarez commented on Carolina Courts and Nana's Soul food ribbon cutting, and congratulated staff for a great job. He wished everyone a wonderful Thanksgiving with your families and think of those who cannot be with theirs.

Mr. King wished everyone a happy Thanksgiving.

Mr. Cohn wished everyone a happy Thanksgiving, welcomed Lindsey Edmunds to the staff and acknowledged that Stan Musial is her grandfather.

CLOSED SESSION

Christopher King made a motion to enter closed session NCGS 143-318.11(a)(1) Under the North Carolina General Statutes or regulations

NCGS 143-318.11 (a)(3) Consult with the Attorney to protect the attorney-client privilege

NCGS 143-318.11 (a)(5) To establish or instruct the staff or agenda concerning the negotiation of the price and terms of a contract concerning the acquisition of real property located on Old Monroe Road

NCGS 143-318.11 (a)(6) To consider the qualifications, competence, performance, condition of appointment of a public officer or employee or prospective public officer or employee

Council voted unanimously in favor of the motion.

David Cohn made a motion to approve going back into Open Session.
Council voted unanimously in favor of the motion.

ADJOURN

David Cohn made a motion to adjourn
Motion Passed 2 - 1 with David Waddell opposing.

APPROVED:

DRAFT

Michael L. Alvarez

Attest:

Peggy Piontek, Town Clerk



Arbor Day

INDIAN TRAIL NORTH CAROLINA

Whereas, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

Whereas, Arbor Day is now observed throughout the Nation and the world; and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

Whereas, trees in our town increase property values, enhance the economic vitality of business areas, and beautify our community; and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal.

Now, Therefore, I, Michael L. Alvarez, Mayor of the Town of Indian Trail, do hereby proclaim April 20th, 2013, as Arbor Day in the Town of Indian Trail, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and

Furthermore, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Dated this 20th day of April, 2013

Town of Indian Trail

Memo

TO: Mayor and Town Council

FROM: Shelley DeHart, AICP
Director of Planning

DATE: December 3, 2013

MEETING DATE: December 10, 2013

SUBJECT: Resolution Fixing the Public Hearing Date for Annexation 139



On November 26th, 2013, the Indian Trail Town Council approved Resolution # R131126-2 which fixed the public hearing date for annexation petition #139 to tonight's meeting (December 10, 2013). Due to unforeseen circumstances, the public hearing will need to be rescheduled for the January 14, 2014 Council Meeting. The new public hearing date will be advertised in compliance with North Carolina General Statutes.

Town Council Action:

1. Rescind Resolution R131126-2 (Attachment 1).
2. Adopt a new resolution fixing the public hearing date for Annexation 139 to January 14, 2014 (Attachment 2).

R131126-2

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION # 139 PURSUANT TO G.S. 160A-31**

WHEREAS, petition requesting annexation of the areas described herein have been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made;

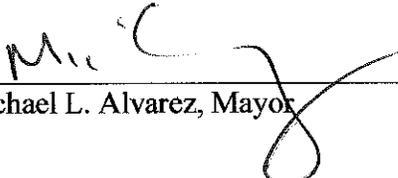
NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Indian Trail, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at Town of Indian Trail Civic Building at 6:30 P.M. on the 10nd day of December, 2013.

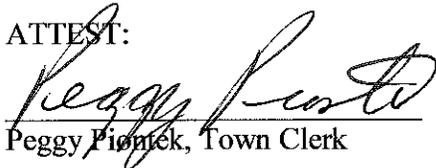
Section 2. The area proposed for annexation is described as follows:

BEING all of Lot 2 in Block 23 of THE GARDENS AT BRANDON OAKS, Phase 9, Map 6, as shown on plat thereof recorded in Plat Cabinet L at File 39 in the Office of the Register of Deeds for Union County, North Carolina, to which reference is hereby made.

Section 3. Notice of the public hearing shall be published in a newspaper having general circulation in the Town of Indian Trail, North Carolina, at least ten (10) days prior to the date of the public hearing.



Michael L. Alvarez, Mayor

ATTEST:


Peggy Piontek, Town Clerk

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

RESOLUTION FIXING A NEW DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION # 139 PURSUANT TO G.S. 160A-31

WHEREAS, petition requesting annexation of the areas described herein have been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made; and

WHEREAS, Resolution –R131126-2 was adopted on November 26, 2013 fixing the public hearing date for said annexation to December 10, 2013; and

WHEREAS, unforeseen circumstances has caused a need to fix a new public hearing date for annexation petition #139;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Indian Trail, North Carolina on December 10, 2013 that:

Section 1. Resolution #R-131126-2 is hereby rescinded.

Section 2. A public hearing on the question of annexation of the area described herein will be held at Town of Indian Trail Civic Building at 6:30 P.M. on the 14th day of January, 2014.

Section 3. The area proposed for annexation is described as follows:

BEING all of Lot 2 in Block 23 of THE GARDENS AT BRANDON OAKS, Phase 9, Map 6, as shown on plat thereof recorded in Plat Cabinet L at File 39 in the Office of the Register of Deeds for Union County, North Carolina, to which reference is hereby made.

Section 4. Notice of the public hearing shall be published in a newspaper having general circulation in the Town of Indian Trail, North Carolina, at least ten (10) days prior to the date of the public hearing.

Michael L. Alvarez, Mayor

ATTEST:

Peggy Piontek, Town Clerk



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 Town Council Meeting

Case: ZT 2013-004 Amendment of UDO Related to the Board of Adjustment			
Reference Name	Changes to Board of Adjustment Requirements		
Planning Board Meeting Date	November 19, 2013		
Members Present	Chair Cowan <input checked="" type="checkbox"/>	Jan Brown <input checked="" type="checkbox"/>	Vice Chair Larry Miller <input type="checkbox"/>
	Cathi Higgins <input type="checkbox"/>	Kelly D' Onofrio <input type="checkbox"/>	Robert Rollins <input checked="" type="checkbox"/>
	Sidney Sandy <input checked="" type="checkbox"/> Alternate 3	Cheryl Mimy <input checked="" type="checkbox"/> Alternate 1	Steve Long <input type="checkbox"/> Alternate 2
	Alan Rosenberg <input type="checkbox"/>		
Case Found Complete	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
Motion	Recommend approval to Town Council with draft findings		
Member Making the Motion	Boardmember Rollins		
Second the Motion	Boardmember Sandy		
Vote	All seated members voted in favor of the Motion		

Purpose of the Amendment: This is a request to amend Chapter 230 Participating and Voting, Chapter 310 Required Findings, Chapter 380 Hearings on Appeals, and Chapter 390 Interpretations to be in compliance with Session Law 2013-126; as passed by the General Assembly to update procedures for the Board of Adjustment.

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.

Analysis

The proposed changes are based on the need for the Town's UDO to be updated to maintain compliance with recent State law. . The changes will help clarify some ambiguity in how the board should make decisions and procedural topics. Staff has reviewed the Session Law and reviews by legal and planning peers regarding how to incorporate these changes into the UDO. The Indian Trail Town Attorney has also reviewed the proposed UDO amendments.

Planning Board

The Planning Board met on November 19, 2013 to hear the proposed amendment in a public meeting. The Board had no questions or concerns regarding the amendment. The Board then made the following findings and unanimously voted to transmit a recommendation to approve:

1. The proposed UDO amendment is consistent with the following statement:

Goal #3 Land Use (from recently updated Comprehensive Plan)

Promote high quality development through efficient and predictable land development process.

2. This UDO ordinance amendment is in the best interest of the public because it makes important changes to provide a predictable process when dealing with existing and future development in Indian Trail. With outdated, awkward and confusing language being removed the changes help to modernize all ordinances across the state so that all board of adjustments are following a standardized and up-to-date process.

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.*

Staff Contact

Kevin Icard, AICP, CZO
Associate Planner
kicard@planning.indiantrail.org

Attachment 1 – Planning Board Report

Attachment 2 – Draft Ordinance

Town Council Attachment 1 – Planning Board Report



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

Zoning Staff Report

Case: ZT 2013-004 Amendment of UDO Related to the Board of Adjustment		
Reference Name	Changes to Board of Adjustment Requirements	
Applicant	Town of Indian Trail	
Submittal Date	11/5/13	
Location	Town-wide	
Tax Map Number	N/A	
Plan Consistency	Town of Indian Trail Comprehensive Plan	Consistent With Request
Recommendations & Comments	Planning Staff	Recommends Approval of Proposed Text Amendment.

Project Summary

A request to amend multiple sections of the Unified Development Ordinance (UDO) specifically in Divisions 200 & 300. The proposed amendments to the UDO are in response to a recently passed Bill in the North Carolina General Assembly, Session Law 2013-126 – **An Act to Clarify and Modernize Statutes Regarding Zoning Boards of Adjustments** (Attachment 1). It is important to recognize that proposed ordinance amendment ZT2013-004 is required to continue the Town’s compliance with State law. All other NC local governments engaged in making quasi judicial decisions will need to undertake similar amendments to their respective ordinances.

Staff Recommendation- Staff recommends based on the guidance of the adopted plans that the text amendment be supported by recommending its approval to the Town Council.

Analysis

The proposed changes are based on the need for the Town’s UDO to be updated to maintain compliance with recent State law. . The changes will help clarify some ambiguity in how the board should make decisions and procedural topics. Staff has reviewed the Session Law and

reviews by legal and planning peers regarding how to incorporate these changes into the UDO. The Indian Trail Town Attorney has also reviewed the proposed UDO amendments.

Required Consistency Findings

The Planning Board is required to make two consistency findings, one for consistency with Town adopted plans and another regarding the benefit of the public (section 320.050). The current request before the planning board is unique in that it does not alter design guidelines or uses in the UDO, rather it focuses on administrative changes that are designed to modernize the rules and guidelines used by the Board of Adjustment.

Staff is of the opinion the following findings can be made:

1. The proposed UDO amendment is consistent with the following statement:

Goal #3 Land Use (from recently updated Comprehensive Plan)

Promote high quality development through efficient and predictable land development process.

2. This UDO ordinance amendment is in the best interest of the public because it makes important changes to provide a predictable process when dealing with existing and future development in Indian Trail. With outdated, awkward and confusing language being removed the changes help to modernize all ordinances across the state so that all board of adjustments are following a standardized and up-to-date process.

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

Staff Contact

Kevin Icard, AICP, CZO

Associate Planner

kicard@planning.indiantrail.org

Attachment 1: Draft Ordinance – See Attachment 2 for TC Report

Town Council Attachment 2 – Draft Ordinance

NOW THEREFORE, BE IT ORDAINED ON DECEMBER 10, 2013 BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA HEREBY TAKES THE FOLLOWING ACTION:

Section 1 – UDO CHAPTERS; 230 PARTICIPATING AND VOTING, CHAPTER 310 REQUIRED FINDINGS, CHAPTER 380 HEARINGS ON APPEALS AND CHAPTER 390 INTERPRETATIONS are hereby amended as shown in Exhibit A of this Ordinance;

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

SO ORDAINED THIS 10TH DAY OF DECEMBER, 2013.

THE TOWN COUNCIL OF INDIAN TRAIL

By _____
Honorable Michael L. Alvarez, Mayor

Attest:

Peggy Piontek, Town Clerk

Exhibit A

DIVISION 200. REVIEW AND DECISION-MAKING BODIES

Chapter 210.	Indian Trail Town Council	2-1
210.010	Responsibility	2-1
210.020	Powers and Duties	2-1
210.030	Appointments.....	2-1
210.040	Legislative Acts.....	2-1
Chapter 220.	Planning Board	2-1
220.010	Appointment and Terms of Planning Board Members	2-1
220.020	Meetings of the Planning Board	2-2
220.030	Powers and Duties of the Planning Board.....	2-2
220.040	Advisory Committees.....	2-3
Chapter 230.	Board of Adjustment	2-3
230.010	Appointment and Terms of Board of Adjustment	2-3
230.020	Meetings of the Board of Adjustment	2-3
230.030	Quorum.....	2-4
230.040	Participating and Voting.....	2-4
230.050	Powers and Duties of Board of Adjustment.....	2-4
230.060	Board of Adjustment Jurisdiction over Uses Otherwise Permissible with a Zoning Permit	2-5
Chapter 240.	Director of Planning and Development	2-5
240.010	Designation.....	2-5
240.020	Responsibility	2-5
240.030	Powers and Duties	2-5
Chapter 250.	Zoning Administrator	2-6
250.010	Designation.....	2-6
250.020	Powers and Duties	2-6
Chapter 260.	Town Engineer	2-7
260.010	Designation.....	2-7
260.020	Powers and Duties	2-7
Chapter 270.	Technical Review Committee	2-7
270.010	Designation.....	2-7
270.020	Powers and Duties	2-8

Chapter 210. Indian Trail Town Council

210.010 Responsibility

The Town Council will be responsible for final actions regarding the text of this UDO, the Official Zoning Map, decisions regarding conditional uses and Conditional Zoning Districts and appointments to the Planning Board, Board of Adjustment, and Citizen Advisory Committee.

210.020 Powers and Duties

The Town Council will have the powers and duties as set forth in this UDO:

210.030 Appointments

A. Planning Board

1. The Town Council will appoint all members of the seven-member Planning Board plus alternates, each member must reside within the Town of Indian Trail;
2. The Town Council may remove any member for cause.

B. Board of Adjustment

1. The Town Council will appoint the five regular members plus alternates of the Board of Adjustment, who must reside within the Town of Indian Trail.
2. The Town Council may remove any member for cause.

210.040 Legislative Acts

A. Text Amendments

The Town Council, acting in its legislative capacity, will hear and approve, approve with modifications or deny proposed Text Amendments to this UDO in accordance with Chapter 320, Procedures for Text Amendments.

B. Official Zoning Map Amendments

The Town Council, acting in its legislative capacity, will hear and approve, approve with conditions or deny proposed Official Zoning Map amendments for both general districts and conditional zoning district rezoning in accordance with Chapter 320, Amendments In General.

C. Conditional Zoning

The Town Council will review applications for conditional zoning approvals in accordance with Chapter 330. Conditional zoning applications will include all applications for planned developments approvals consistent with Chapter 340, Review and Approval of Planned Developments.

D. Appeals of Actions on Final Plats

The Town Council will be responsible for hearing and taking action on any appeals of the Director of Planning and Development's decisions on major final plats and minor subdivision plats.

Chapter 220. Planning Board

220.010 Appointment and Terms of Planning Board Members

- A. There will be a planning board consisting of seven (7) regular members and three (3) alternate members.
 1. Planning board regular members as well as alternates will be appointed for terms as designated by the Town Council.

2. If a regular planning board member or an alternate member moves outside the Town of Indian Trail that will constitute a resignation from the planning board.

220.020 Meetings of the Planning Board

- A. The planning board will establish a regular meeting schedule and will meet frequently enough so that it can take action in conformity with Section 410.030 (Applications to be Processed Expeditiously).
- B. Since the planning board does not exercise the broad, quasi-judicial, discretionary authority characteristic of the board of adjustment, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Section 310.080 of this ordinance. However, it will conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.
- C. Minutes must be kept of all board proceedings.
- D. All board meetings will be open to the public.
- E. Whenever the board is called upon to make recommendations concerning zoning map amendment proposals notice must be given as provided in Section 310.030, Required Notice for Public Hearings.

220.030 Powers and Duties of the Planning Board

The Planning Board will have the following powers and duties:

- A. **Major Subdivision Preliminary Plats**
The Planning Board will review and make recommendations to the Town Council on preliminary plat applications for major subdivisions when associated with Conditional Zoning Districts;
- B. **Text Amendments**
The Planning Board will review and make recommendations to the Town Council on amendments to the text of this UDO;
- C. **Official Zoning Map**
The Planning Board will review and make recommendations to the Town Council on amendments to the Official Zoning Map;
- D. **Conditional Zoning District**
The Planning Board will review and make recommendations to the Town Council on applications for a Conditional Zoning District;
- E. **Planned District Review**
The Planning Board will review and make recommendations to the Town Council on Planned District applications;
- F. **Comprehensive Plan Administration**
The Planning Board will be responsible for the preparation of a comprehensive plan and all plan amendments and will make recommendations to the Town Council on policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
- G. **Promoting Town Beautification Programs**
The Planning Board will initiate, promote and assist in the implementation of programs of general community beautification in the Town's planning jurisdiction;

H. Community Design and Appearance

The Planning Board will provide leadership and guidance in matters of area or community design and appearance to individuals, and to public and private organizations and agencies;

I. Studies

The Planning Board will prepare studies of the visual characteristics and problems of the planning jurisdiction, including surveys and inventories of an appropriate nature and will recommend standards and policies of design for the entire area, any portion or neighborhood thereof or any project to be undertaken;

J. Plans

The Planning Board will prepare plans for the improved appearance of the planning jurisdiction, setting forth desirable standards and goals for the aesthetic enhancement of the municipality; of any part thereof within its area of planning and zoning jurisdiction, including public ways and areas, open spaces and public and private buildings and projects; and

K. Other Responsibilities

The Planning Board will have any other duties assigned by the Town Council.

L. Staff

The Planning Department will serve as staff to the Planning Board.

220.040 Advisory Committees

- A. From time to time, the Town Council may appoint one or more individuals to assist the planning board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Council may appoint advisory committees to consider the thoroughfare plan, housing plans, economic development plans, etc.
- B. Members of such advisory committees may sit as nonvoting members of the planning board when such issues are being considered and lend their talents, energies, and expertise to the planning board. However, all formal recommendations to the Town Council will be made by the planning board.
- C. The planning board may appoint such standing or ad hoc subcommittees of its own members to consider particular issues or types of issues and may also appoint ad hoc advisory committees consisting of non-planning board members to assist it in its work.

Chapter 230. Board of Adjustment

230.010 Appointment and Terms of Board of Adjustment

- A. There will be a board of adjustment consisting of five regular members and three alternates all appointed by the Town Council. All regular members and alternates must reside within the Town of Indian Trail.
- B. Board of ~~a~~ Adjustment regular members and alternates will be appointed for terms as determined by the Town Council.
- C. Members may be reappointed to successive terms without limitation.

230.020 Meetings of the Board of Adjustment

- A. The ~~board of adjustment~~ *Board of Adjustment* will establish a regular meeting schedule and will meet frequently enough so that it can take action in conformity with Section 410.130, (Applications to be Processed Expeditiously).
- B. The board will conduct its meetings in accordance with the quasi-judicial procedures set forth in Section 310.080.

- C. All meetings of the board will be open to the public, and whenever feasible the agenda for each board meeting will be made available in advance of the meeting.

230.030 Quorum

~~A vote of at least four-fifths of the members of the board of adjustment will be required to pass upon any matter presented to the board.~~ A quorum for the ~~b~~ Board of ~~a~~ Adjustment will consist of four members (including alternates sitting in lieu of regular members).

230.040 Participating and Voting

- A. The concurring vote of four-fifths of the members of the Board of Adjustment will be necessary to *grant a variance*. ~~reverse any order, requirement, decision or determination of the Director of Planning and Development or other administrative official. The four-fifths voting requirement shall apply uniformly to all decisions of the Board of Adjustment, pursuant to NCGS § 160a-388(e). A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.~~
- B. Once a member is physically present at a Board of Adjustment meeting, any subsequent failure to vote will be recorded as an affirmative vote unless the member has been excused in accordance with paragraph 3 below.
- C. ~~A member may be excused from participating in or voting on a particular issue by majority vote of the remaining members present under the following circumstances: A member of any board exercising quasi-judicial functions pursuant to this UDO shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to the following:~~
 - 1. ~~if the member has a direct financial interest in the outcome of the matter at issue~~ a member having a fixed opinion prior to hearing the matter that is not susceptible to change;
 - 2. if participation in the matter might give the appearance of a conflict of interest *undisclosed ex parte communications*;
 - 3. if a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest *a close familial, business, or other associational relationship with an affected person*; or
 - 4. if a member was not present at the public hearing at which evidence relevant to the matter at issue was taken *a financial interest in the outcome of the matter*.
 - 5. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

230.050 Powers and Duties of Board of Adjustment

The board of adjustment will hear and decide:

- A. Appeals from any order, decision, *or* requirement, ~~or interpretation~~ made by the Administrator, as provided in Section 380.010.
- B. Applications for variances, as provided in Section 380.020.
- C. Applications for special use permits.

- ~~D.~~ Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Chapter 390.
- ~~E.~~ D. Any other matter the board is required to act upon by any other Town of Indian Trail ordinance.
- ~~F.~~ E. The board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance.

230.060 Board of Adjustment Jurisdiction over Uses Otherwise Permissible with a Zoning Permit

Notwithstanding any other provisions of this Chapter, whenever the Table of Permissible Uses (located in Division 500 of this UDO) provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special use permit shall nevertheless be required if the Director of Planning and Development and/or his or her designee finds that the proposed use would have an extraordinary impact on neighboring properties or general public. In making this determination, the Director of Planning and Development and/or his or her designee shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

Chapter 240. Director of Planning and Development

240.010 Designation

The Town Manager will designate the Director of Planning and Development for the Town of Indian Trail. Where this UDO assigns a responsibility, power, or duty to the Director of Planning and Development, the Director of Planning and Development may delegate that responsibility.

240.020 Responsibility

The Director of Planning and Development will have the primary responsibility for administering and enforcing this UDO except as otherwise specifically provided.

240.030 Powers and Duties

The Director of Planning and Development will have the following powers and duties:

A. Administration and Enforcement

The Director of Planning and Development will administer and enforce the provisions of this UDO;

B. Interpretation

The Director of Planning and Development will make written interpretations of this UDO setting forth the reasons and explanation therefore, and will forward same to the Town Attorney;

C. Zoning Compliance Permit

The Director of Planning and Development or the Director's designee will approve or disapprove zoning compliance permit applications;

D. Site Plan Review

The Director of Planning and Development, as chair of the Technical Review Committee, will review and approve, approve with conditions or disapprove site plans;

E. Technical Review Committee

The Director of Planning and Development will be responsible for all final decisions of the Technical Review Committee;

F. Minor Subdivision Plats

The Director of Planning and Development, as chair of the Technical Review Committee, will approve, approve with conditions or deny minor subdivision plats.

G. Final Plats

The Director of Planning and Development, as chair of the Technical Review Committee, will approve, approve with conditions, or deny major subdivision final plats.

H. Major Subdivision Preliminary Plats

The Director of Planning and Development will review and approve, approve with conditions, or deny major subdivision preliminary plats for conventional subdivision;

I. Variances

The Director of Planning and Development will review variance requests;

J. Special Use Review

The Director of Planning and Development will review special use requests;

K. Text Amendments

The Director of Planning and Development will review amendments to the text of this UDO;

L. Official Zoning Map Amendments (Rezoning)

The Director of Planning and Development will review amendments to the Official Zoning Map;

M. Conditional Zoning District

The Director of Planning and Development will review conditional district zoning applications;

N. Planned Development Review

The Director of Planning and Development will review planned development applications;

O. Other Duties

The Director of Planning and Development will perform other duties imposed under the provisions of the Town of Indian Trail UDO, as amended from time to time.

Chapter 250. Zoning Administrator

250.010 Designation

The Town Manager will designate the Zoning Administrator for the Town of Indian Trail.

250.020 Powers and Duties

The Zoning Administrator will have the following powers and duties:

A. Temporary Use Permits

The Zoning Administrator will review, approve, approve with conditions or deny temporary use permit applications;

B. Building Permits

The Zoning Administrator will issue a zoning certification for all building permits;

C. Certificate of Occupancy

The Zoning Administrator will issue certificates of occupancy.

D. Sign and Master Sign Permits

The Zoning Administrator will approve, approve with conditions or disapprove sign permit applications and applications for master sign permits;

E. Sign Permits

The Zoning Administrator is responsible for administering and enforcing sign permits, including:

1. The issuance of a violation notice.
2. To issue a compliance order for any sign or sign structure not corrected within the time allotted under the violation notice or for a prohibited sign or any temporary portable sign not permitted.
3. The issuance of an unsafe sign notice.

F. Other

Enforcement actions on all zoning violations.

Chapter 260. Town Engineer

260.010 Designation

The Town Manager will designate the Town Engineer for the Town of Indian Trail.

260.020 Powers and Duties

The Town Engineer will have the following powers and duties:

A. Subdivision Plats

As a member of the Technical Review Committee, the Town Engineer will review and comment on all preliminary and final plats, both minor and major; and

B. Stormwater Development Permits

The Town Engineer will issue all stormwater permits and watershed protection occupancy permits. A record of all permits will be kept on file and will be available for public inspection during regular office hours. The Town Engineer will undertake to monitor land use activities within the watershed areas to the extent reasonably practicable, to identify situations that may pose a threat to water quality, and report all significant findings to the Watershed Review Board.

C. Site Plan Review

The Town Engineer will review and make recommendations on major and minor site plans.

D. Planned Development Review associated with Conditional Zoning District

As a member of the Technical Review Committee, the Town Engineer will review all planned development applications associated with a Conditional Zoning request.

E. Inspection of Roads within the Town Limits

The Town Engineer has the authority to inspect all roads and associated drainage facilities, both public and private, during construction and upon approval. Additionally, The Town Engineer has the authority to require roads to be built to the standards of the Town of Indian Trail and/or NCDOT (whichever applies) for roads and as-built upon completion and issue a final approval for roads.

Chapter 270. Technical Review Committee

270.010 Designation

The Town Manager will designate a Technical Review Committee consisting of the Director of Planning and Development, the Town Engineer, the Zoning Administrator, and any other Town professional the

Town Manager deems necessary for the professional review, so long as executive, planning and engineering divisions are represented. The Director of Planning and Development will serve as chair of the Committee and be responsible for all final decisions of the Committee.

270.020 Powers and Duties

The Technical Review Committee (through its chair, the Director of Planning and Development) has the following powers and duties:

A. Minor Subdivision Plats

The Technical Review Committee, through its chair, the Director of Planning and Development, will approve, approve with conditions or deny minor subdivision plats.

B. Stormwater Management Permits

The Technical Review Committee working with the Town Engineer will review all stormwater permits.

C. Final Plats

The Technical Review Committee, through its chair, the Director of Planning and Development, will approve, approve with conditions or deny major subdivision final plats.

D. Site Plan Approval

The Technical Review Committee, through its chair, the Director of Planning and Development, will approve, approve with conditions or deny site plans.

Table 2-1: Summary of Duties and Responsibilities

Procedure	Zoning Administrator	Town Engineer	Director of Planning and Development	Technical Review Committee	Planning Board	Board of Adjustment	Town Council
Town Council Decisions							
Conditional Zoning			Review	Review	Review		Decision
Official Map Amendments			Review	Review	Review		Decision
Appeal of Any Denial of a Final Plat							Decision
Text Amendments			Review	Review	Review		Decision
Comprehensive Plan Amendments			Review	Review	Review		Decision
Specific Plans and their amendments			Review	Review	Review		Decision
Board of Adjustment Decisions							
Administrative Appeals			Review			Decision	
Variances			Review			Decision	
Interpretations			Review			Decision	
Special Uses			Review			Decision	
Director of Planning and Development Decisions							

Procedure	Zoning Administrator	Town Engineer	Director of Planning and Development	Technical Review Committee	Planning Board	Board of Adjustment	Town Council
Final Plat, Major			Decision	Review			Appeal
Minor Plat			Decision	Review			Appeal
Site Plan Review			Decision	Review		Appeal	
Written Interpretations			Decision	Review		Appeal	
Ordinance Enforcement			Decision	Review		Appeal	
<i>Interpretation</i>			<i>Decision</i>			<i>Appeal</i>	
Administrative Decisions							
Zoning Compliance Permits	Decision					Appeal	
Sign Permits	Decision					Appeal	
Master Sign Plan	Decision		Review			Appeal	
Stormwater Permits		Decision				Appeal	
Temporary Use Permits	Decision					Appeal	

DIVISION 300. DEVELOPMENT REVIEW PROCEDURES

Chapter 310.	Hearing Procedures.....	3-1
Chapter 320.	Zoning Map and Development Ordinance Text Amendments	3-6
Chapter 330.	Conditional Zoning Districts.....	3-8
Chapter 340.	Planned Development Review and Approval (PUD, TND, MXD, CSD and OSD) 3-14	
Chapter 350.	Subdivisions.....	3-16
Chapter 360.	Special Use Permits	3-25
Chapter 370.	Site Plan Review	3-27
Chapter 380.	Appeals and Variances	3-28
Chapter 390.	Interpretations	3-31

Chapter 310. Hearing Procedures

310.010 Required Hearings

A public hearing will be required for development review as shown in the Table below.

Application for Approval	Board of Adjustment	Planning Board	Town Council
Official Map Amendment			X
Text Amendment			X
Appeal of Administrative Decision	X		
Special Use Permits	X		
Preliminary Plat Approval, Major Subdivision (if associated with Conditional Zoning District)			X
Variance	X		
Map and Code Interpretations	X		
Conditional Zoning District			X

310.020 Summary of Notice Required

Notice will be required for development review as shown in the Table below.

Procedure	Published	Posted	Mailed
Official Map Amendment	X	X	X
Text Amendment	X	X	X
Appeal of Administrative Decision	X	X	X
Special Use Permits	X	X	X
Preliminary Plat Approval, Major Subdivision	X	X	X
Variance	X	X	X
Conditional Zoning District	X	X	X

310.030 Required Notice for Public Hearings

- A. Public hearing notifications shall be in accordance with the table in 310.020.
- B. A notice for any public hearing *as referenced in table 310.020* (including the zoning map amendments) will be published once a week for two successive weeks in a newspaper having general circulation in the county. The notice will be published for the first time not less than ten days and not more than twenty-five days before the date fixed for the hearing. With respect to major map amendments, notification of such changes will be in accordance with G.S. 160A-384.
- C. Mailed notice for all public hearings shall:
 1. Be sent by the Town by first class mail to the ~~applicant~~ *person or entity whose appeal, application or request is the subject of the hearing*, the owner of the subject parcel of land, and the owners of all parcels of land and established Home Owner Associations that lie within 400 feet as measured from the exterior boundaries of the subject property.
 2. ~~P~~ *In the absence of evidence to the contrary, p*roperty owners shall be identified from the county tax listings and notice mailed to the last addresses listed for such owners on the county tax abstracts.

3. The notice shall be mailed *at 10 days but not more than 25 days* prior to the proposed public hearing in accordance with 310.050. The person or persons mailing such notices will certify to the decision making authority that fact, and such certificate will be deemed conclusive in the absence of fraud. With respect to major map amendments, notification of such changes will be in accordance with G.S. 160A-384.
4. Rezoning petitions proposing to change the zoning classification from one land use category to another, intensifying the use (e.g. Residential to Commercial, Commercial to Industrial), shall require:
 - a. A 500-foot public hearing mail notification area mailed and processed as set forth herein; and
 - b. One community meeting to be held prior to the petition being scheduled for discussion by the Planning Board. The community meeting shall be advertised by sign posting of the subject property and notice mailed to owners of all parcels of land and established Home Owners Associations that lie within 500-feet as measured from the exterior boundaries of the subject property in the same manner as Section 310.030 C.
- D. Request for mailed notification of a public hearing by parties not identified in 310.030C shall be honored if written request has been submitted to the Planning and Development Department prior to the 10-day notification deadline.
- E. *At least 10 days but not more than 25 days prior to the hearing, ~~the planning staff~~ Town* will also *prominently* post ~~notices~~ a notice of the public hearing ~~in the vicinity of the property on the site~~ that is subject to a public hearing *or on an adjacent street or highway right of way*, and will take any other action deemed by the planning staff to be useful or appropriate to give notice of the public hearing on any proposed amendment.
- F. The newspaper and mailed notice required or authorized by this section will:
 1. state the date, time, and place of the public hearing;
 2. summarize the nature and character of the proposed project associated with the public hearing;
 3. if a proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
 4. state that the full text of an amendment or copies of application forms can be obtained from the planning department; and
 5. state that substantial change in the proposed amendment may be made following the public hearing.
- G. The required posted notices will indicate the following:
 1. type of application filed;
 2. link to the Town website, containing the information for the time, date and place of the public hearing, as well as all information on the application filed.
 3. a phone number to contact the Town.
 4. Note – such public notice sign postings shall be placed on the affected property(ies) once a complete project application (i.e., SUP, zoning map amendment, etc.) is received by the Town.

310.040 Constructive Adequacy of Notice

Minor defects in notice will not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Failure of a party to receive written notice will not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date and place of a hearing and the location of the subject property will be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body will make a formal finding regarding whether there was substantial compliance with the notice requirements of this UDO before proceeding with the hearing.

310.050 Computation of Time

Whenever the Zoning Administrator or other person is required to take certain action (e.g., mailing or publishing a notice) on or before a specified number of days prior to the occurrence of an event (e.g., a public hearing), then in computing such period, the day of the event shall not be included but the day of the action shall be included. For example, if notice of a public hearing is required to be published at least ten days before the hearing, then notice published on the first of the month would be satisfactory for a hearing on the eleventh.

310.060 Modification of Application at Public Hearing

The applicant may agree to modify his application, including the plans and specifications submitted, in response to questions or comments by persons appearing at the public hearing or to suggestions or recommendations by the Town Council, Planning Board, or Board of Adjustment.

- A.** Unless such modifications are so substantial that the approving authority cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the approving authority may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Planning Department.
- B.** Where deemed appropriate by the affected decision-making body, modifications may be referred back to the recommending body for review, prior to further consideration. The decision-making body will choose one of the following options:
 - 1.** continue the hearing to a new date and time certain within 45 days in accordance with the provisions of below;
 - 2.** close the hearing and re-publish notice of any future hearing in accordance with this section.

310.070 Continuation of Public Hearings

A public hearing may be continued without further notification, so long as the motion to continue such hearing, made in open session, specifies the date and time when the hearing will be continued. However the following limitations and conditions have been adopted to prevent problems created by last-minute and repeated requests for continuances.

- A.** If an applicant wishes to request a continuance, then the office of the Zoning Administrator or Director of Planning and Development must receive a request for continuance and the reasons for the request, in writing, or have such request received in the mail at the Town of Indian Trail Planning Department, addressed to the attention of the Zoning Administrator no less than 7 business days prior to the scheduled hearing.
- B.** Upon receipt of such a properly filed request for a continuance, the Zoning Administrator or Director will have the authority to continue the case to a regularly scheduled meeting if the applicant establishes to the satisfaction of the Zoning Administrator that there is just cause for granting a continuance. If the Zoning Administrator denies a continuance, then the applicant can request a continuance from the Planning Board or Board of Adjustment based on just cause, but the applicant must be prepared to have the appeal heard if either of the Boards denies the request. ~~Three votes of the Zoning Board of Adjustment are required in order to~~

~~grant a continuance and four votes of the Planning Board are required.~~ (COMMENT: This is being eliminated since the majority is now the rule except for variances.)

- C.** If the applicant wishes to file a second request for a continuance, or any subsequent request for a continuance, then the applicant must properly comply with the same procedure as stated above. However, the Zoning Administrator will have the authority to request sufficient information from the applicant either justifying or corroborating such a request for a continuance and the applicant is expected to provide the information to the Zoning Administrator before the day of the scheduled hearing. The applicant or the applicant's representative must appear before the Planning Board or Zoning Board of Adjustment at the scheduled hearing to request a continuance. The Zoning Administrator will be given an opportunity to report on the information provided by the applicant to support the granting of the continuance and the Zoning Administrator will have the right to make a recommendation on the request. A vote of the majority of the Planning Board or Zoning Board of Adjustment members is required in order to grant a continuance. The Board will not grant the continuance unless there are exceptional, extenuating reasons justifying a continuance that must be stated in the minutes. In appearing before the Planning Board or Board of Adjustment, the applicant must be fully prepared to have the case proceed if the request for continuance is denied.
- D.** If an applicant fails to properly comply with the procedure described herein, then the case ~~must~~ *may* be heard as scheduled. If the applicant fails to appear for the hearing or appears and does not elect to proceed, then the application will be automatically be deemed to be denied. The applicant will be entitled to file an entirely new application and pay a new filing fee, as if no application had been filed before. If the application is an appeal of a notice of violation, and the 30 days have transpired since the date of the notice of violation, then the 30 days will have expired and the Planning Board or Zoning Board of Adjustment will not have jurisdiction to hear an appeal on the notice of violation. While the Planning Board or Zoning Board of Adjustment will not have jurisdiction if the 30 days have expired on an appeal from a notice of violation, in all other circumstances, the Planning Board or Zoning Board of Adjustment does retain authority for some extraordinary situations to grant a continuance to hear the case. In order to grant a continuance to hear such a case, there must be a majority of the vote by the Planning Board or Zoning Board of Adjustment finding either:
1. that there are highly unusual circumstances justifying the Board to grant the continuance, and
 2. that there is a most compelling reason of justice to so hear the case or the Zoning Administrator recommends that a continuance should be granted in the best interest of an efficient and effective way of dealing with the issues raised by the case.

310.080 Special Requirements for Quasi-Judicial Hearings

A public hearing on a variance request, administrative appeal, or special use permit will be considered a quasi-judicial hearing.

A. Evidence

1. All persons who intend to present evidence to the Board (rather than arguments only) will be sworn.

2. All findings and conclusions relevant to the permit or appeal decision (crucial findings) will be based upon reliable evidence. Competent evidence (evidence admissible in a Court of Law) will be preferred whenever reasonably available, ~~but in no case may crucial findings be based solely upon unqualified testimony or evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.~~ *but shall not preclude reliance by the Board of Adjustment on evidence that would not be admissible under the rules of evidence if (i) the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the Board of Adjustment to rely upon it.*

B. Record

1. A tape recording or other audio record will be made of all public hearings required by Section 310.010 and such recordings will be kept for at least two years. Accurate minutes will also be kept of all such proceedings, but a transcript need not be made.
2. All documentary evidence presented at a hearing as well as all other types of physical evidence will be made a part of the record and will be kept by the Town for at least two years, whenever practical.

C. Written Decision

1. Within 30 calendar days after a final decision is made by the Town Council, Planning Board, Board of Adjustment, or other review body under the requirements of this UDO, a copy of the written decision will be sent to the applicant or appellant. A copy of the notice will be filed in the Office of the Director of Planning and Development, where it will be available for public inspection during regular office hours. *The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material and substantial evidence in the record.*
2. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards.
3. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies.
4. The decision of the board shall be delivered by personal delivery, electronic mail or by first-class mail to the applicant, property owner and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.
5. **2.** The written decision will also state the review body's findings, conclusions, and supporting reasons or facts whenever this UDO requires these as a prerequisite to taking action.

D. Judicial Review of Quasi-Judicial Final Decisions

1. Every final decision of a quasi-judicial body (i.e., Board of Adjustment) shall be subject to review by the Superior Court by proceedings in the form of certiorari *pursuant to G.S.160A-393.*
2. The petition for ~~the writ of certiorari must be filed~~ *review shall be filed* with the Union County Clerk of *Superior Court* ~~within~~ *by the later of* thirty (30) days after ~~or later of~~ *the following occurrences the decision is effective or after a written copy of the quasi-*

~~judicial body decision has been filed in the Town Hall; given in accordance with 310.080 (c);~~

- ~~a. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition~~
- ~~b. A written copy of the quasi-judicial body has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and other aggrieved party who has filed a written request for such copy at the hearing of the case.~~

3. A copy of the writ of certiorari shall be served upon the Town of Indian Trail.

Chapter 320. Zoning Map and Development Ordinance Text Amendments

320.010 General Procedures

- A.** Amendments to the text of this ordinance or to the zoning map may be made in accordance with the provisions of this Chapter.
- B.** The term "major map amendment" will refer to an amendment initiated by the Town Council, planning board, or planning staff that addresses a zoning reclassification action directly affecting more than 50 different property owners.
- C.** Amendments to the Town's comprehensive plan may be made in accordance with this Chapter. The Town Council may consider amendments to the comprehensive plan not in association with a zoning map amendment, as may be required from time to time, with a recommendation from the Planning Board. The Town Council may also consider amendments to the Comprehensive Plan when zoning map amendments are in significant conflict with the plan, as determined by the Director of Planning and Development. When required, an application for a comprehensive plan amendment must be submitted and reviewed concurrently with an application for a zoning map amendment.

320.020 Initiation of Amendments

- A.** An amendment to the text of this ordinance or to the zoning map or to the Town's comprehensive plan may be initiated by the town council, the planning board, the planning staff, or any other interested person.
- B.** Any petition for rezoning property must be signed by the petitioner, who will indicate the capacity in which he filed the petition. In the event the party filing the petition is someone filing the same on behalf of the owner, such party must attach his authority to execute said petition on behalf of the owner to the petition. An application for rezoning must be accompanied by a survey and legal description of the property to be rezoned if the applicant is seeking to have rezoned less than an entire lot or tract or if the planning and development director determines that such information is otherwise necessary to provide sufficient public notice of the area requested for rezoning.
- C.** Notice of the planning board's consideration of a proposed minor map amendment must be sent to the owner of the property to be rezoned and to adjoining property owners as provided in subsection 310.030F.
- D.** Unless the Town Council finds that there have been substantial changes in conditions or circumstances bearing on the application, the Town will not accept for consideration a petition for a text or map amendment if:

1. within one year prior to the date the petition is submitted, the Town Council has denied a previous rezoning request for the same property or has approved a rezoning to a more restrictive classification than requested, or the applicant has withdrawn a previous request after consideration of such request by the planning board, or
2. within one year prior to the date the petition is submitted, the Town Council has denied a substantially similar request for a text amendment.

E. Providing Actual Notice in Zoning Map Amendments.

Except for a town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the Town Council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing, as provided by NCGS 1A-1, Rule 4(J). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with NCGS 1A-1, Rule 4(j1).

320.030 Planning Board Consideration of Proposed Amendments

- A.** Every proposed map or text amendment or amendment to the comprehensive plan will be referred to the planning board for its consideration.
- B.** The planning board will endeavor to review the proposed amendment in such a timely fashion that any recommendations it may have can be presented to the Town Council at the public hearing on the amendment. However, if the planning board is not prepared to make recommendations at the public hearing, it may request the Town Council to delay final action on the amendment until such time as the planning board can present its recommendations.
- C.** The Town Council may not take final action approving a proposed amendment until it has received the recommendation of the planning board or until forty-five days have passed since the proposal was heard by the planning board, whichever occurs first. However, the Town Council is not bound by the recommendations, if any, of the planning board.

320.040 Council Action on Amendments

- A.** At the conclusion of the public hearing on a proposed amendment, the Council may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.
- B.** The Council is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.
- C.** Voting on amendments to this ordinance will proceed in the same manner as other ordinances.

320.050 Ultimate Issue before Council on Amendments

In deciding whether to adopt a proposed amendment to this ordinance, the central issue before the Council is whether the proposed amendment is consistent with the Town of Indian Trail's comprehensive plan or any specific area plan and whether the proposed amendment advances the public health, safety or welfare. In particular, when considering proposed map amendments the Town Council will evaluate:

- A.** The range of uses that may occur under the proposed amendment versus the range of uses that may occur under the existing zoning classification. The Council will not rely upon any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification.

- B. The impact of the proposed change on the public at large versus any advantages or disadvantages to the individual requesting the change.
- C. The existing land uses within the general vicinity of the property and the zoning classifications of property within the general vicinity of the subject property.
- D. The suitability of the subject property for the uses permitted under the existing zoning classification.
- E. The extent that the amendment may adversely affect the operation of public facilities or services including roadways, storm water management facilities, sewer and water services, and police and fire protection.
- F. Consistency with the Indian Trail Comprehensive plan and small area plan if applicable.

Chapter 330. Conditional Zoning Districts

330.010 Purpose and General Requirements

Conditional zoning district is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not possible when rezoning to a general district. Additional standards and regulations may be attached to a proposed development to ensure compatibility with the surrounding uses and with applicable adopted plans in accordance with requirements of this section. This section sets forth the types of conditional zoning districts and explains their relationship to the general use districts. The procedure for approving a conditional zoning districts rezoning is set forth in this Chapter.

- A. Each planned development identified in Section 340.030 will have a corresponding conditional zoning district.
- B. Conditional zoning districts will be designated only in accordance with the procedures and requirements set forth in Section 310.030 of this Ordinance, and may not contain conditions which are less restrictive than this Ordinance or other applicable state and/or federal laws.
- C. No use will be permitted within a conditional district except pursuant to the conditions imposed on the conditional zoning districts approval. The permitted uses must be ones that this Ordinance allows in the corresponding general use district.
- D. All standards and requirements that apply to the corresponding general use or planned district will apply to the conditional zoning districts.
- E. A property may be rezoned to a conditional zoning district only in response to and consistent with a petition submitted by the owners of all the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information and text describing the project, specifying the intended uses of the property, and describing the rules, regulations, and conditions that in addition to the general district use conditions, will apply to the proposed development.

330.020 Application Procedures

All applications must include a conceptual plan, drawn to scale, and supporting text that, if approved, will become a part of the Ordinance amendment. The conceptual plan, drawn by an architect, landscape architect, professional surveyor, or engineer licensed to practice in North Carolina, shall include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that are in addition to all Ordinance requirements, will govern the development and use of the property.

- A. The applicant shall, at a minimum, include as part of the application, each of the items listed below

- 1.** A boundary survey showing the total acreage, present zoning classifications, date, and north arrow.
- 2.** Legal description of the property (ies).
- 3.** The owners' names, addresses, and the tax parcel numbers of all adjoining properties within five hundred (500) feet of the subject parcel. The information shall be provided in a digital format and typed on address labels.
- 4.** All existing or proposed easements, reservations, and rights-of-way on the property (ies) to be rezoned.
- 5.** Existing location of buildings on the parcel.
- 6.** Lot sizes for residential uses and proposed out parcels if applicable.
- 7.** Proposed principal uses: For residential uses this shall include the number of units and an outline of the area(s) where the structures will be located. For non-residential uses, designate the area(s) within the development where particular types of uses that will occur with reference made to the list of uses found in the applicable zoning district.
- 8.** Traffic impact analysis/study for the proposed service area as required by the Town's Guide for the Preparation of Traffic Impact Studies document. In addition, traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space dimensions and locations (for all shared parking facilities) along with typical street cross-sections. The traffic impact analysis/study shall receive a preliminary approval by the Town prior to the community meeting being scheduled. The Town Engineer shall be authorized to require revisions to the preliminary approved TIA if it is determined that modifications to the proposed project (between the community meeting and public hearing) may result in other significant impacts.
- 9.** Detailed information on the number, height, size and location of structures.
- 10.** All proposed setbacks, buffers, screening and landscaping required by these regulations or otherwise proposed by the applicant shall be delineated on a conceptual plan. Actual approval of landscaping plans shall be part of the site plan review process.
- 11.** Generalized traffic, parking, and circulation plans.
- 12.** All existing and proposed points of access to public streets.
- 13.** A detailed description of all proposed phasing of development for the project.
- 14.** Number, location, type, and size of all signs proposed to be erected by the developer at entrances to the site. Additionally, a general description of other proposed signs including number, location, type and size of all commercial signs. Actual approval of signs shall be part of the site plan review process.
- 15.** Conceptual renderings of the proposed development delineating the exterior treatments of the principal structures including proposed materials and general architectural design shall be in compliance with the Statement of Integrity and Design. Actual approval of all proposed buildings shall be part of the site plan review process.

16. Approximately identify all environment constraints on the subject property including but not limited to the following: flood plain, ponds, streams, and wetlands. Approximately delineate areas within the regulatory floodplain as shown on the official Flood Insurance Rate Maps (F.I.R.M.) published by the Federal Emergency Management Agency (F.E.M.A.)
17. Existing and proposed topography at two-foot contour intervals or less.
18. Scale and physical relationship of buildings relative to abutting properties. This may be accomplished by providing existing and proposed topographic elevation cross-sections of the site showing proposed structures relative to existing adjacent properties.
19. Letter of water and sewer availability from Union County Public Works.
20. Detailed information of measures that will be taken in order to comply with the Post Construction Ordinance. Prior to submitting an application for a conditional zoning district the applicant/property owner will need to have a consultation meeting with the Storm Water Administrator.

B. Conceptual Plans

Conceptual plans, including all additional information shown on it, shall constitute part of the petition for rezoning to a conditional zoning district. The Planning Director may, on a case by case basis and within his/her sole discretion, specify how many copies of the application the applicant must submit in order to initiate the review. No application shall be deemed complete unless accompanied by a fee in accordance with the most recently adopted fee schedule adopted by the Town Council.

C. Additional requirements

When reviewing an application to rezone property to a conditional zoning district, the Planning Board and/or Town Council may request additional information (in addition to that required in Section 330.020, as they deem necessary.

D. Technical Review Committee

The TRC shall review and comment on the proposed project to insure all of the Town ordinances are being complied with. Once the TRC comments are addressed and the project is resubmitted the community meeting may be scheduled.

E. Community Meeting

Once the conceptual plan and the required number of associated documents have been submitted to the Town and the required fees have been paid, the applicant shall schedule and hold a community meeting in coordination with the Town planning staff. Such meetings shall occur prior to the petition being scheduled on the Planning Board agenda. The community meeting is designed to provide a framework for creating a shared vision with community involvement directed by the applicant in accordance with the following requirements:

1. The applicant shall provide an agenda, schedule, location, and list of participants such as landscape architects, engineers, etc. to answer questions from citizens and service providers for the project in cooperation with the planning staff. This information shall be provided to the Town prior to the community meeting notification being mailed.

- 2.** The community meeting shall be a minimum of 4 hours. Two hours shall be scheduled during normal business hours to allow service providers (such as NCDOT, utilities, NCDENR) to participate as needed and to allow for citizens to drop in at a convenient time throughout the period. It is strongly recommended that this portion of the community meeting take place at the proposed development site. In addition, a 2 hour evening period shall be scheduled at the Indian Trail Town Hall or other nearby location agreed upon by the applicant and planning staff. This meeting shall also be conducted in a drop in format.
- 3.** Notice of community meetings shall at a minimum, be given as follows:

 - a.** A public notice shall be sent by the Town of Indian Trail to a newspaper having general circulation in the town not less than 10 days or more than 25 days prior to the date of the community meeting.
 - b.** A notice shall be sent by first class mail by the Town of Indian Trail to the property owner(s) affected by the proposed zoning change and to the owners of all properties that lie within 500 feet as measured from the exterior boundaries of the proposed development. The applicant shall furnish the Town with mailing labels that depict the names and addresses of the owners (or “Current Resident”) of all properties within said 500 foot area. Such notice shall be sent not less than 10 days prior to the date of the community meeting. The notification shall contain information regarding the community meeting time and location(s) as well as a general description of the proposal. The community meeting notice shall contain an information sheet with a general description of the conditional zoning process and timeline.
 - c.** A community meeting notification sign shall be posted by the Town in a conspicuous place at the property not less than 10 days prior to the community meeting.
 - d.** All conceptual plans submitted and reviewed during the community meeting process shall conform to all current Town Ordinances. In addition, a disclaimer statement shall be added to all community meeting notifications indicating that the proposed application and conceptual plan in no way has been endorsed or approved by the Town of Indian Trail.
 - e.** The applicant shall reimburse the Town for all expenses incurred to provide the notifications required by this Section.
- 4.** Town staff shall keep notes of citizen comments received during the community meeting. In addition, all service provider comments shall be recorded by the Town, including but not limited to, all correspondence, reports, and oral comments by service providers. After Town review, the information will be available at Town Hall and at subsequent meetings concerning the project. When practical, comments, ideas, and suggestions should be incorporated by the developer into the proposed development.
- 5.** Following the community meeting, the applicant shall have the opportunity to make changes to the application to take into account information and comments received. Revised copies of the conceptual plan shall be submitted to the Planning Director for review. No additional fee shall be required for making such changes provided the Planning Director receives the revised conceptual plan within 30 days following the community meeting. If a revised conceptual plan is not received within the 30 day period, or if the applicant otherwise notifies the Planning Director in writing that no revised conceptual plan will be submitted, the Planning Director shall review the original application submitted.

F. Planning Director Review

Within 30 days of the submission of a revised application or revised conceptual plan or within 60 days following the community meeting where no revised application is submitted, the Planning Director will make comments and suggestions for revisions. If the planning director does not forward comments to the applicant by the end of these time periods, the application shall be scheduled on the Planning Board agenda. If the Planning Director provides the applicant with comments on the application, the applicant shall have 10 days after receiving those comments to inform the director whether the application will be further revised. If the applicant informs the Planning Director that the application will not be further revised, the director shall schedule the application on the Planning Board agenda. If the applicant informs the director the application will be further revised, the director shall not submit the current application to the Planning Board. Once the applicant submits a revised application, it shall be subject to review in accordance with this section.

330.030 Planning Board Review

- A.** The Planning Board will review the application for consistency with this UDO and all adopted town plans.
- B.** The Planning Board will consider applications in a timely fashion and will forward a written recommendation to the Town Council for its consideration within the time frame authorized.
- C.** In response to suggestions made by the Planning Board, the applicant may revise the application before it is submitted to Council.

330.040 Town Council Decision

- A.** Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standards of review as apply to legislative general use district zoning decisions. Conditional zoning district decisions shall be made in consideration of the adopted Comprehensive Plan and other adopted land use policy documents and/or ordinances. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each application for a rezoning to a conditional district. Once the public hearing has been held, the Town Council shall take action on the petition. The Town Council shall have the authority to:
 - 1.** Approve the application as submitted.
 - 2.** Deny approval of the application.
 - 3.** Approve the application with modifications that are agreed to by the applicant.
 - 4.** Submit the application to the Planning Board for further study. The Planning Board shall have up to thirty (30) days from the date of such submission to make a report to the Town Council. Once the Planning Board issues its report, or if no report is issued within that time period, the Town Council may take action on the application.

B. Town Council's Public Hearing

The Town Council shall conduct a public hearing on the application. Notice of the public hearing shall be as provided in Section 310.030. Once the public hearing is conducted, the Town Council shall be in a position to take action on the rezoning. Staff reports regarding the application shall be furnished to the applicant, the Planning Board and Town Council prior to the Planning Board and Town Council taking action on the application.

C. Conditions of Approval for Petition

In approving a petition for the reclassification of a piece of property to a conditional zoning district, the Planning Board may recommend, and the Town Council may request that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall relate to the relationship of the proposed use to the surrounding property,

proposed support facilities (e.g., parking areas, pedestrian circulation systems), screening and landscaping, timing of development, street and right-of-way improvements, water and sewer improvements, provision of open space, and other matters that the Planning Board or Town Council may find appropriate or the applicant may propose. Such conditions to approval may include but not limited to dedication of right-of-way or easements for streets and/or utilities to serve the development. In no instance shall any of these conditions be less restrictive than any requirements of this UDO. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this Ordinance that apply to that development. The applicant shall have notice of and a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Council. The Town Council may not impose any condition(s) that are not agreed to by the applicant.

330.050 Effect of Approval; Zoning Map Designation

If a petition for a conditional zoning district is approved, the development and use of the property shall be governed by the ordinance requirements applicable to the district's zoning classification, the approved conceptual plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation followed by the letters CZ. If a petition is approved, the Planning Director shall record with the Register of Deeds the approved conditional zoning district.

A. Changes to an Approved Conditional Zoning District

Except as provided in this section, a request to change the conceptual plan or the conditions governing an approved conditional zoning district shall be processed in accordance with this Ordinance as a new application to rezone property to a conditional zoning district. The Planning Director shall have the authority to approve an administrative amendment to an approved conditional zoning district conceptual plan or to the governing conditions without the requested change having to be approved as a new application in accordance with this ordinance. Such administrative amendments shall include only those changes that:

1. Do not significantly alter the conceptual plan or its conditions;
2. Do not significantly impact abutting properties and
3. Do not increase the amount of residential development or the maximum number of allowed residential dwelling units.
4. Any request for an administrative amendment shall be in writing, signed by the property owner, and it shall detail the requested change. The applicant must provide any additional information requested by the Planning Director. Accompanying the written request must be the applicable fee for administrative review that is required by the Town of Indian Trail fee schedule.
5. Any decision by the Planning Director to approve or deny a request for an administrative amendment must be in writing and must state the grounds for approval or denial. The Planning Director shall always have the discretion to decline to exercise the authority delegated by this section if he or she is uncertain if the requested change would qualify as an administrative amendment or because the Planning Director determines that a public hearing and Town Council consideration is appropriate under the circumstances. If the Planning Director declines to exercise the authority delegated by this section, the applicant can only apply for a rezoning in accordance with Chapter 320 of this Ordinance.

B. Revocation of Conditional Zoning District

The purpose of this section is to put a time limit on the approval if the project does not move forward in a timely manner. The Town Council may act to revoke the conditional zoning

district designation if the applicant fails to apply for the necessary building permits within two (2) years. The applicant may apply to the Town Council for approval to extend the two (2) year period, however, only one extension may be granted.

C. Petition Withdrawal

An applicant who has submitted a complete application for a conditional zoning district may withdraw the application prior to a final decision being rendered. However, if so withdrawn, a similar petition submitted by that property owner/or his agent shall not be accepted by the Zoning Administrator within one year of the date of withdrawal

D. Petition Resubmission

If a petition for a conditional zoning district is denied by the Town Council, a similar application shall not be accepted by the Planning Director for a period of one year following the date of denial.

Chapter 340. Planned Development Review and Approval (PUD, TND, MXD, CSD and OSD)

340.010 Purpose and Intent

Planned development is a concept that is intended to encourage innovative land planning and site design concepts that achieve a high level of environmental sensitivity, aesthetics, high quality development, and other community goals by:

- A.** reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- B.** allowing greater freedom in selecting the means to provide access, open space and design amenities; and
- C.** promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses.

340.020 Applicability

- A.** The requirements of this Section and applicable requirements found in Division 600 will apply to all proposed Planned Development (PD). The PD is established as a conditional zoning district approved by the Town Council. These planned developments will be affixed to the Official Zoning Map only as CZ in accordance with the procedures in Chapter 340 when an application for the respective development, meeting the requirements of this Section, is approved.

340.030 Submission Requirements

In order to qualify for a planned development zoning classification, a proposed development must first meet the following requirements:

- A.** The proposed minimum standards for each type of Planned Development as follows:

Planned Development Type	Section
Planned Unit Development	Chapter 660
Traditional Neighborhood Development	Chapter 670
Mixed Unit Development	Chapter 680
Cluster or Open Space Subdivision	Chapter 1210

- B.** A pre-application conference will be required;

340.040 Approval Process

Approval of a planned development shall be in accordance with Chapter 330 of this UDO.

340.050 Site/Development Plan

A suitable site/development plan will be submitted by the applicant for review by the Director of Planning and Development and the Planning Board, and approval by the Town Council. Specifically, such plan will include the following elements, where applicable:

A. Site Plan

The site plan (drawn to scale by a registered civil engineer, registered landscape architect, or registered architect) on sheet(s) no larger than 24 x 36 inches will include the following elements:

1. the exact dimensions of the parcel of land under consideration including total acreage and current zoning classifications;
2. zoning and current use classifications of adjacent properties and the identification of adjacent property owners;
3. a schematic representation of general types and locations of land uses including parcel boundaries with acreage;
4. the general density and intensity of the proposed uses including maximum gross density of the entire planned development and maximum and net densities of individual parcels within the planned development;
5. building setbacks for all parcels (both residential and nonresidential);
6. proposed open spaces or parks and common open spaces with acreage delineations;
7. storm drainage plan showing conceptual storm drainage system plan;
8. utility plan showing conceptual water and wastewater system plan;
9. phasing plan showing conceptual delineation of areas to be constructed in phases or sections and the sequential order that will be followed in the development;
10. hydrology plan showing streams, wetlands, floodplains, stream corridor buffers, proposed water bodies or impoundment areas.
11. landscape concept plan;
12. design guidelines for the development;
13. vehicular and pedestrian circulation plan showing primary and secondary traffic circulation patterns with traffic volumes analysis, and all proposed sidewalk or greenways planned for the development ; and
14. any other information required by the Director of Planning and Development during the pre-application conference.
15. Any information required by Section 330.020.

340.060 Detailed Development Plan

Following the establishment of a planned development conditional zoning district and approval of a the conceptual site plan, a detailed development plan must be reviewed and approved by the Director of Planning and Development in accordance with the procedures and requirements for the site plan process as set forth in Chapter 370 (Site Plan Review) and the following requirements:

A. Detailed Development Plan Contents

A detailed development plan must contain the same information required for a site plan or major subdivision plan, as set forth in Section 340.030.

B. Subdivision Consistency Required

The subdivision of lots will be consistent with the terms of the conditional zone.

340.070 Minor Changes to Detailed Development Plan

- A.** The Director of Planning and Development is authorized to approve minor changes to a detailed development plan issued pursuant to this Section. Minor changes include those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development. All other changes are major changes and can only be approved by the Town Council pursuant to the provisions applicable to the issuance of the original Planned Development Conditional Zoning District. Without limiting the generality of the foregoing, changes in phasing schedules are minor changes, while the following constitute major changes:
- 1.** any proposed increase in density, floor area, or impervious surface area limitations;
 - 2.** any changes in uses authorized under the planned development conditional zone;
 - 3.** substantial changes in pedestrian or vehicular access or circulation plans;
 - 4.** substantial changes in stormwater drainage plans;

340.080 Development in a PD District

- A.** Following approval of the detailed development plan, any lot that is subdivided may be developed in accordance with the provisions of the conditional zone and other applicable provisions of this UDO upon issuance of a certificate of zoning compliance.
- B.** All further development must conform to the standards adopted for the district regardless of any changes in ownership. Any proposed changes in the district will be treated as amendments to this UDO and must be considered in accordance with procedures set forth in this Section for initial establishment of the district.
- C.** In any event where it is determined by the Town Council that development in the Planned District is not in accordance with the standards adopted for that district, the Town Council will be empowered to amend the Official Zoning Map to place parts or all of the property in the Planned District in another zoning classification deemed by the Town Council to be more appropriate.

340.090 Performance Guarantee

Before approval of a Planned District, the Town Council may require a contract with safeguards satisfactory to the Town Attorney guaranteeing completion of the development plan in a period to be specified by the Council, but which period will not exceed five years unless extended by the Town Council for due cause shown. Such guarantee may include the submission of a performance bond in an amount as set by the Town Council.

Chapter 350. Subdivisions

350.010 Major Subdivisions

Major subdivision review is a 4 stage review process. These steps will include:

- A.** Preparation and submittal of an informal sketch plan and the review of this plan by the Technical Review Committee (TRC). The purpose of this informal process is not to approve any plans but to provide an opportunity to exchange information between the developer and the TRC.
- B.** Submittal of a preliminary plan. A plan must be submitted in accordance with specific development standards as listed in subsection 350.030F. Initially, the plan is reviewed by the TRC to determine whether or not it complies with the requirements of the UDO. If the preliminary plan is associated with a proposed Conditional Zoning District, it will be forwarded to the Planning Board for a recommendation to the Town Council. After

reviewing the comments from the TRC and Planning Board, the Town Council shall approve, approve conditionally, or disapprove the plan. If the plan is associated with a conventional subdivision, the Planning and Development Director will approve, approve conditionally, or disapprove the plan.

- C.** After approval of the preliminary plan, the applicant may submit the construction drawings for review and approval by the Indian Trail Planning Department. Prior to any development, all construction plans shall be approved by the proper regulatory agencies. A zoning certification will be issued upon receipt of all required approvals and such certification will authorize the construction to proceed.
- D.** Within 24 months of the preliminary plan approval by the Town Council or Planning and Development Director, the applicant shall submit a final plat and an as-built drawing showing completion of the subdivision according to the preliminary plan and construction drawings. The final plat shall be reviewed by the TRC and approved by the Planning Department. Only after the final plat has been approved by the Planning Department and recorded at the Union County Register of Deeds office shall any of the lots be transferred or conveyed. The plat must be recorded within 30 days after approval by the governing body. Two copies of the recorded plat and an electronic version (AutoCAD – .dwg or .dxf) shall be submitted to the Indian Trail Planning Department for their records.
- E.** In the case of minor subdivisions, as defined in Section 350.140B, applications may be processed under an abbreviated review procedure. The minor subdivision plat shall be reviewed and approved by the Planning Department. The applicant, if in disagreement with the decision of the Planning Director, may appeal the Director’s decision to the Indian Trail Town Council.

350.020 Sketch Design Plan Review

- A.** The sketch plan review is an informal process that allows an exchange of information between the developer and the TRC. No formal application or fee is required. However, plans should be on the same size paper and scale as required for preliminary plans and final plats. Twelve paper copies shall be submitted to the TRC a minimum of two weeks prior to meeting with the developer. The TRC and developer shall review the project to evaluate its feasibility in light of the Town's development practices and requirements. Once the review process has been completed, one copy shall be returned to the applicant and one copy retained by the TRC.
- B.** Review of the sketch design plan shall not in any way be construed as constituting an official action of approval for recording of the subdivision by the Town of Indian Trail.

350.030 Preliminary Plan

Figure 1: Preliminary Plat (Major Subdivisions)



Preliminary plans may be referred to Town Council on appeal. Planning Board review and recommendation as illustrated above is required for any subdivision approval that is part of an application for a conditional zoning district but is not required for conventional subdivision.

A. Review Procedure

1. If associated with a Conditional Zoning request, the applicant or authorized agent must submit copies of the preliminary plan to the TRC at least 21 days prior to a regular meeting of the Planning Board. During this period, the TRC must evaluate the plan to determine whether or not it meets the requirements of this ordinance. The TRC may receive comments from other persons or agencies before making their final recommendations. After the TRC determines that the plan meets the requirements of this ordinance, it notifies the Director of Planning and Development that the Conditional Zoning Application may proceed in accordance with Section 330.020 B (E) and ultimate consideration by the Town Council.
2. If preliminary plan is associated with a Conventional Subdivision, the applicant or agent shall submit compiles to the TRC for review and recommendation to the Director of Planning and Development.

B. Number of Copies and Graphic Media

Twelve black or blue line prints of the proposed subdivision must be submitted as well as an electronic copy in an AutoCAD revision compatible with the Town's.

C. Scale and Size of Sheets

The preliminary plan must be at a suitable scale to assure legibility and should be drawn on a sheet (s) with an outside dimension of not more than required by Union County Register of Deeds and shall include a 1 1/2" inch border on the left side and a 1/2" border on the remaining sides.

D. Administrative Fees

At the time of submission of the preliminary plan, the applicant must pay to the Town of Indian Trail a filing fee as established by the Town Council. In addition, the Town must be reimbursed by the applicant for all costs associated with the Town's engineering and other related consulting services with respect to review of the preliminary plat prior to preliminary plat approval.

E. TRC Submission to Director of Planning

The TRC shall evaluate the preliminary plan to determine whether or not it meets the requirements of this ordinance. After review by the TRC, the Director of Planning and Development shall approve, approve conditionally, or disapprove the preliminary plan for Conventional Subdivisions, or forward the recommendation of the TRC to the Planning Board and Town Council if associated with a Conditional Zoning request.. If approved or approved conditionally, the Director of Planning and Development or Town Council shall certify their approval on 3 paper copies of the plan. This certification must be incorporated onto the drawings by the applicant and must provide the following:

1. That the Indian Trail Director of Planning and Development or the Town Council approves or approves conditionally the subdivision. If approved conditionally, the specific conditions must be listed. Such approvals or conditional approvals must be signed and dated by the authorizing authority.

F. Contents Required

The preliminary plan shall depict or contain the information specified in Section 350.130. Plans not illustrating or containing the information required for Section 350.130 shall be returned to the applicant or authorized agent for completion and resubmission.

G. Disposition of Copies

If the preliminary plan is approved or approved conditionally, approval and conditions must be noted on at least 3 copies of the plan permitting authority. One copy shall be returned to the applicant and 2 copies shall be retained by the Indian Trail Planning Department. If the

preliminary plan is disapproved, the permitting authority shall specify the reasons for such action in writing. One copy of such reasons shall be returned to the applicant and 1 copy retained by the Indian Trail Planning Department.

350.040 Improvement Plans Approved Prior to Construction

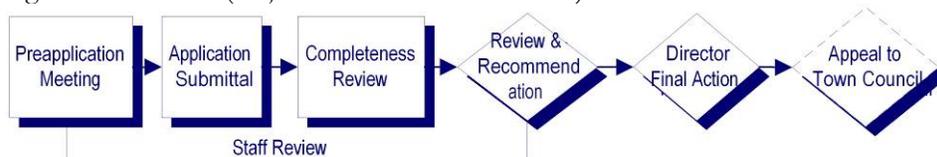
All site improvements shall be in accordance with the Town of Indian Trail standards. Before a final plat is eligible for approval by the Planning and Development Department, all improvements shall be installed and completed. All plans and specifications for site improvements, including but not limited to grading, drainage, sidewalks, utilities (water and sewer), and street improvements shall be inspected and approved by the proper agency prior to acceptance.

350.050 Final Plat Review

The Planning Director will approve all final plats provided that the final plat is consistent with the plat approved under the preliminary plat approval process. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plat, provided that all required improvements have been installed as called for in the approved preliminary plat or a surety bond or similar financial instrument has been approved by the Town Engineer in accordance with **Error!**

Reference source not found., Improvement Guarantees for the subdivision.

Figure 2: Final Plat (Major and Minor Subdivisions)



- A. The Planning Director must determine whether or not the final plat substantially agrees with the approved preliminary plan. If substantial differences exist, the plat shall be resubmitted as a new preliminary plan. Prior to the approval of a final plat, the Planning Director will determine that:
 - 1. any required sureties are in place;
 - 2. a letter of Public Works approval submitted;
 - 3. any subdivision Code, Covenants, and Restrictions (CC&R's) have been recorded.
- B. The Planning Director must approve or disapprove the final plat within 30 days after the Director has determined that a complete final plat application has been submitted.

350.060 Certifications Required From Applicant

Before the Planning Director accept a final plat, the following certifications shall appear on all copies of the final plat:

A. Certificate of Ownership and Dedication

- 1. The applicant must certify that they are the owner of the property shown and described, which is located in the Corporate Limits of the Town of Indian Trail and that the plan of subdivision establishes minimum building setback lines, and street dedications, walks, parks, and other sites and easements to public or private use as noted consistent with the requirements of this ordinance. Furthermore, the applicant must dedicate all sanitary sewer and water lines to the appropriate agency.
- 2. All such certifications must be dated, signed, and notarized by a notary public.

B. Certificate of Survey and Survey Accuracy

1. The professional surveyor must certify as to the accuracy and detail of surveys of properties that are part of a subdivision and to the source of information for which the survey is based. The surveyor must certify that the survey map was prepared in accordance with G.S. 47-30 as amended.
2. The surveyor must sign, seal, and date the survey and they must include their professional registration or license number.
3. All signatures of professional surveyors must be witnessed by a notary public.

C. Division of Highways District Engineer Certificate

1. The District Engineer of the NC Division of Highways must certify that the streets on this plat designated as public are or will be in accordance with the minimum right-of-way and construction standards established by the Board of Transportation for acceptance on the state highway system.
2. The District Engineer should further certify that the streets on the plat designated as private streets do not satisfy the minimum right-of-way and construction standards established by the Board of Transportation and that such streets will not be accepted on the state highway system.

D. Certification NCDOT District Engineer and Town Engineer for Roads

1. The District Engineer of the NC Division of Highways must certify that the streets on this plat designated as public are or will be in accordance with the minimum right-of-way and construction standards established by the Board of Transportation for acceptance on the state highway system.
2. The Town Engineer should further certify that the streets on the plat designated as private streets have been designed to satisfy the minimum right-of-way and construction standards established by the Town of Indian Trail Land Development Standards for private streets. These streets will not be accepted on the Town roadway system the Town is not liable for the maintenance and repair of the streets.
3. The Town Engineer for the Town of Indian Trail must certify that the streets on this plat are designated as public are or will be in accordance with the minimum right-of-way and construction standards established by the Town of Indian Trail in the Town Land Development Standards for acceptance on the Town roadway system.

E. Certification by the Planning Director

1. The Planning Director must certify that the final plat satisfies all the requirements of this Ordinance.
2. The Planning Director must certify that all streets, utilities, and other required improvements shown on the plat have been installed or completed in a acceptable manner or that their installation or completion (within twenty-four months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with the Town of Indian Trail specifications and standards, and the filing fee for this plat has been paid. The Planning Director will certify the approval of the final plat and such certification will be valid provided the plat is recorded with Union County Register of Deeds within thirty (30) days.

350.070 Number of Copies and Graphic Media

Seven copies of the final plat must be submitted: the original, 3 Mylar copies, and 3 blue line paper copies. The Mylar must be 3 ml. and suitable for reproduction. The original and 3 reproducible copies must each have original signatures. The final plat must be drawn on a sheet with an outside dimension of not more than required by Union County Register of Deeds and shall include a 1 ½” border on the left side and a 1/2” border on the remaining sides. The final plat shall be submitted electronically in an AutoCAD version compatible with the Town’s software. All mapping requirements shall be in compliance with this Chapter, Union County Mapping Requirements, and N.C. G. S. 47-30.

350.080 Plat Prepared by Licensed Surveyor

The final plat must be prepared by a surveyor licensed and registered to practice in the State of North Carolina. The final plat will substantially conform to the preliminary plat as it was approved. It must also conform to the provisions of plats, subdivisions, and mapping requirements as set forth in General Statutes 47-30, as amended, and the "Standards of Practice of Land Surveying in North Carolina".

350.090 Administrative Fees

At the time of submission of the final plat, the applicant or his authorized agent must pay the Town of Indian Trail a filing fee as established by the Indian Trail Town Council. In addition, the Town must be reimbursed by the applicant for all costs associated with the Town’s engineering and other related consulting services with respect to review of the final plat and inspection of infrastructure improvements prior to final plat approval.

350.100 Content Required

The final plat shall depict or contain the information specified in Section 350.130. (Plats not illustrating or containing the information required in Section 350.130 shall be returned to the applicant or authorized agent for completion and resubmission.

350.110 Disposition of Final Plats

The original and 3 Mylar copies shall be signed and executed as required for recording by the Register of Deeds Office of Union County within 30 days after approval by the Planning Director. The original copy shall be returned to the applicant, 2 Mylar copies shall be recorded at the Register of Deeds Office, and 2 copies shall be returned to the Indian Trail Planning Department.

350.120 Resubdivision Procedures

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

350.130 Information Required for Preliminary Plans & Final Plats

The preliminary plan and final plats shall depict or contain the information indicated in the following table. An X indicates that the information is required.

Table 3-1: Submission Requirements: Preliminary and Final Plats

Submittal Information	Preliminary Plat	Final Plat
Title Block	All required	All required
Name of subdivision		
Name of Owner/Applicant		
Location and Street Address		
Scale and North Arrow		
Graphic Bar Scale, if applicable		
Name, address, phone of preparer		
Vicinity map	X	X

Submittal Information	Preliminary Plat	Final Plat
Corporate or jurisdictional boundaries, if relevant	X	X
Names, addresses, and professional registrations seals of land surveyors, architects, landscape architects, and professional engineers responsible for preparation of the plans.		X
Dates of preparation and submittal	X	X
Clear and accurate boundaries with bearings and distances shown (drawn to scale)	X	X
Clear and accurate boundaries of lots to be subdivided with bearings and distances shown (drawn to scale)		X
Names of adjacent property owners	X	X
Names of adjoining subdivisions	X	X
Minimum setback lines	X	X
Zoning classification of tract being subdivided and adjoining properties	X	X
Existing properties lines	X	X
Existing buildings, water courses, railroads, bridges, culverts, storm drains, other structures on the property or immediately adjacent		X
Proposed lot lines, lot and block numbers all with exact dimensions	X	X
Lots numbered consecutively	X	X
Wooded areas, heritage trees, marshes, rock outcroppings, ponds, lakes, streams, streambeds, and natural features		X
Exact boundaries of flood hazard, floodway, or flood fringe areas from the community's FEMA maps or other approved maps	X	X
Street information including: Proposed streets Existing and platted streets Right-of-way location/dimensions Pavement widths/typical sections Approximate grades Design/engineering data for corners and curves Typical street cross sections Street names	All required	All required
Location and dimension of: Utility and other easements Natural buffers Pedestrian or bicycle paths Parks and recreation areas School sites Land to be dedicated to public use Designation of ownership for common Stormwater Facilities and maintenance responsibility Areas to be used for non-residential use Designation of ownership for common open spaces and recreation facilities	All required	All required
Utility Layouts: Sanitary sewers Storm sewers Other drainage facilities Water distribution lines Natural gas lines	All required	All required

Submittal Information	Preliminary Plat	Final Plat
Telephone lines Electrical lines Cable TV Fiber optics/ other communication		
Site Calculations: Total Acreage of Subdivision Acreage of Park/Recreation Space Acreage of non-residential use Total number of Parcels Dimensions of smallest lot Linear feet in streets	All required	All required
Historical properties identified on the National Register of Historic Places	X	X
Location and descriptions of all monuments, markers, or control points	X	X

350.140 Minor Subdivisions, Lot Line Adjustments or Lot Recombinations*

A. Purpose

An abbreviated process shall be permitted to simplify and speed up the review procedure for handling minor subdivisions, lot line adjustments, or lot recombinations without undermining the objectives of the subdivision regulations. Lot recombinations are not subject to approval or disapproval by the Town however the process shall be consistent with this section to ensure accurate records are maintained by Union County and the Town of Indian Trail.

B. Minor Subdivision, Lot Line Adjustment or Recombination Defined

A minor subdivision is a subdivision of land that does not involve any of the following:

1. the creation of more than a total of five lots since 1978;
2. the creation of any new public streets or street right-of-ways;
3. the extension of water and sewer system facilities operated by the Union County Public Works Department;
4. the installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private waste water plant or a private water supply system for more than one lot or building site.
6. A lot line adjustment is the relocation of an existing lot line or lines to a new location that does not result in:
 - a. the creation of a new lot in addition to the existing lots;
 - b. the modification of an existing lot to a new configuration that does not meet the minimum standards of this ordinance.
7. A recombination or combination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality.

C. Procedure

1. The developer shall submit a sketch development plan to the TRC. At this stage the TRC and the developer shall informally review the proposal.

2. After this initial review has been completed, the applicant or authorized representative shall prepare a final plat as specified in Section 350.140E and submit it to the TRC.
3. Before granting an approval, the TRC Chairman shall refer the application to the Union County Public Works or the Union County Environmental Health for a written approval as to the proposed water supply and sewage treatment systems as well as the other appropriate county departments and agencies for their review. All such agencies shall be given a reasonable period to submit their recommendations to the TRC Chairman.
4. The TRC shall approve or disapprove the plat.
5. If the applicant is denied, the chairman of the TRC shall promptly furnish the applicant with a written statement of the reasons for disapproval. If the applicant disagrees with the decision of the Planning Director the applicant may appeal to the Indian Trail Town Council at their next regular meeting.

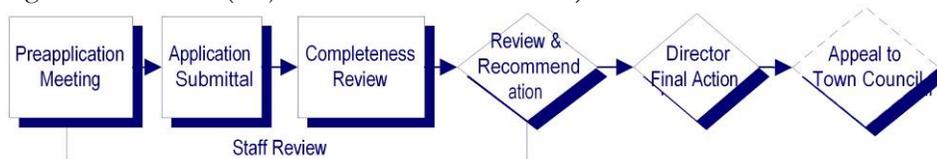
D. Certification

In the abbreviated procedure, the certifications for the final plats shall be the same as required in the normal review procedure as specified in Section 350.060. The certification of approval shall appear on the original and three (3) Mylar copies and include certification from the Director of Planning and Development Director that the minor subdivision, lot line adjustment, or lot recombination shown on the plat is in compliance with the Indian Trail Unified Development Ordinance and such certification will be valid provided the subdivision is recorded in the Office of the Union County Register of Deeds within thirty days.

E. Final Plat

Planning and Development Director will approve or disapprove subdivision final plats in accordance with the provisions of this section.

Figure 3: Final Plat (Major and Minor Subdivisions)



1. The applicant for subdivision final plat approval will submit to the Director a final plat, drawn to scale and otherwise acceptable to the Union County Register of Deed's Office for recording purposes. When more than one sheet is required to include the entire subdivision, all sheets will be made of the same size and will show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The applicant will also submit six prints of the plat.
2. In addition to the appropriate endorsements, as provided in Section 350.060, the final plat will contain the information required in Section 350.130.
3. The Planning and Development Director must approve the proposed plat unless she/he finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this ordinance or that the final plat differs substantially from the plans and specifications approved in conjunction with the compliance permit that authorized development of the subdivision.
4. If the final plat is denied by the Planning and Development Director, the applicant must be furnished with a written statement of the reasons for the disapproval.

5. Approval of a final plat is contingent upon the plat being recorded within ninety days after the approval certificate is signed by the Planning and Development Director or his/her designee. Upon final plat approval the Planning and Development Director or their designee the applicant will have the plat recorded in the Union County Registry and a fee will be paid by the applicant to the Town of Indian Trail.

F. Appeal of Director of Planning and Development Director's Decision

Appeals from the decision of the Planning and Development Director will be taken to the Indian Trail Town Council. The person filing the appeal may not file a revised preliminary plan for the portion of the subject site affected by the appeal until the completion of the appeal to the Town Council or any final judicial determination. The Planning and Development Director may approve a preliminary plan for that portion of the property not affected by the action of the appeal.

Chapter 360. Special Use Permits

360.010 General Procedures

A complete application for a special use permit will be submitted to the Board of Adjustment by filing a copy of the application with the administrator. Such application shall be accompanied with a written consulting report from a North Carolina State Certified Real Estate Appraiser that conforms to Standard 5 of the Uniform Standards of Professional Appraisal Practice, except in the case of temporary event uses.

360.020 Consideration of Complete Applications

Subject to subsection C, the Board of Adjustment will issue the special use permit for a completed application unless if it concludes, based upon the information submitted at the hearing, that:

- A. The permit is not within its jurisdiction according to the table of permissible uses; or
- B. The application is incomplete; or
- C. If completed as proposed in the application, the development will not comply with one or more requirements of this ordinance (not including those the applicant is not required to comply with under the circumstances specified in **Error! Reference source not found.**, Nonconformities).

360.030 Considerations of Public Health, Safety, and Welfare

The Board of Adjustment's authority in the review of special use permit applications is broad and the board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed development will:

- A. not materially endanger the public health or safety; and
- B. not substantially injure the value of adjoining or abutting property; and
- C. be in harmony with the area in which it is to be located; and
- D. be in general conformity with the Town of Indian Trail Comprehensive Plan or other adopted plans.

360.040 Burden of Proof

The applicant has the burden of producing competent, material, and substantial evidence establishing that the applicant's proposed use will not substantially injure the value of adjoining or abutting property and will be in general conformity with the land use plan, thoroughfare plan, or other plans or policies officially adopted by the Town Council. The burden of proof will be on anyone in opposition of the application to establish by competent, material, and substantial evidence that the applicant's use will materially endanger the public health or safety and will not be in harmony with the area in which is to be located.

360.050 Staff Report

When presented to the Board of Adjustment, the application for a special use permit, respectively, will be accompanied by a report setting forth the staff's proposed findings concerning the application's compliance with subsection 360.020 and subsection 360.030 of this ordinance, as well as any staff recommendations for additional requirements to be imposed by the board of adjustment.

360.060 Board of Adjustment Action on Special Use Permits

The Board of Adjustments must conduct a public hearing on the requested special use permit in a quasi-judicial manner. Such public hearing will be advertised as prescribed in Section 310.030.

360.070 Conditions on Special Use Approvals

In approving for a special use permit, the Board of Adjustment may attach ~~fair and~~ reasonable *and appropriate* conditions to the approval. Any conditions will relate to the relationship of the proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and landscaping areas, the timing of development, and other matters that the Board of Adjustment may find appropriate or the petitioner may propose. Such conditions to approval may include dedication of rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed use. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial of the special use permit application by the Board of Adjustment. In no instance will such conditions be less restrictive than any requirements that would pertain to that particular development found in the zoning district in which the property is located. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in the Ordinance that pertain to that development.

360.080 Criteria for Approving Special Use Applications

In considering whether to approve an application for a special use permit, the Board of Adjustment will review and evaluate the following:

- A.** Whether the application is complete. If the Board of Adjustment concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application will be denied. A motion to this effect will specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. If a motion to this effect is not made, this will be taken as an affirmative finding by the board that the application is complete.
- B.** The Board of Adjustment will consider whether the application complies with all of the applicable requirements of this ordinance. If a motion to this effect passes, the Board of Adjustment need not make further findings concerning such requirements. If such a motion fails or is not made, then a motion will be made that the application be found not in compliance with one or more requirements of this ordinance. Such a motion will specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application. It will be conclusively presumed that the application complies with all requirements not found by the board to be unsatisfied through this process. If the Board of Adjustment concludes that the application fails to meet one or more of the requirements of this ordinance, the application will be denied.
- C.** If the Board of Adjustment concludes that all such requirements are met, it will issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in Section 360.030. Such a motion will propose specific findings, based upon the evidence submitted, justifying such a conclusion.

Chapter 370. Site Plan Review

370.010 Applicability

Once a site plan application is determined complete, all proposed development will be consistent with the approved site plan. The Director of Planning and Development, upon recommendation of the Technical Review Committee, will approve all site plans, with or without conditions.

370.020 Pre-application Conference

Prior to the submission of an application for site plan approval, all potential applicants are strongly encouraged to request a pre-application conference with Town staff. The purpose of the conference is to respond to any questions which the applicant may have regarding any application procedures, standards, or regulations required by this UDO. Upon receipt of such request, the Town staff will afford the potential applicant an opportunity for such a pre-application conference at the earliest reasonable time. The Director of Planning and Development has the authority to require a pre-application conference based on anticipated impacts the project may have on surrounding properties.

370.030 Application Requirements

The required details for a site plan will be consistent with those required by Section 340.050A of this ordinance. The Director of Planning and Development may also require the following when deemed necessary:

A. Traffic Impact Analysis

A traffic impact analysis may be required in accordance with the Town of Indian Trail's Traffic Impact Analysis policy and **Error! Reference source not found.**

B. Environmental Impact Analysis

An environmental impact analysis may be required if it is determined sensitive resources may be impacted as a result of the development.

C. Waiver of Application Requirements

The Director of Planning and Development will have the authority to waive any of the application requirements when he determines that the requisite information is not necessary to understand the application and the application complies with this UDO.

D. Approval by Director of Planning and Development

Site plans submitted for review under this Section will be processed and the applicant notified in writing of such approval, approval with conditions, or denial. In the case of a denial, the applicant may appeal this denial to the Zoning Board of Adjustment. The Director of Planning and Development may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into complete compliance with this UDO. If the proposed site plan is determined to be consistent with all applicable provisions of this UDO, the Director of Planning and Development will approve the site plan and so advise the applicant in writing.

E. Expiration of Approval

An approved site plan will expire two years from the date of approval unless the proposed development is pursued as set forth below:

- 1.** A complete building permit application has been submitted or, if no building permit is required, a certificate of occupancy has been issued; or
- 2.** In case of projects that are to be built out in phases, the applicant may submit a schedule for construction subject to review and approval by the Director of Planning and Development. The Director may approve a schedule if it is determined that the applicant will comply with the intent of this Section and the Director determines that the applicant plans to diligently pursue the development.

Chapter 380. Appeals and Variances

380.010 Board of Adjustment Hearings on Appeals

- A. An appeal from any final order, *interpretation* or decision of the Zoning Administrator or Director of Planning may be taken to the ~~Board of a~~ *Board of Adjustment* by ~~the Town and by~~ any person *with standing pursuant to G.S. 160A-393 (d) aggrieved*. An appeal is taken by filing with the ~~administrator~~ *Town Clerk* a written notice of appeal specifying the grounds therefore.
- B. *The official who made the decision shall give written notice to the owner of property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.*
- C. *The owner or other party shall have* ~~An appeal must be taken within~~ *thirty days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. after the date of the decision or order appealed from.*
- D. *It shall be conclusively presumed that all persons with standing to appeal have constructive notice of decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.*
- E. ~~Whenever an appeal is filed, #The administrator~~ *official making the decision must, at once shall, transmit to the Board of Adjustment all the papers documents and exhibits constituting the record upon which the action appealed from is taken. relating to the action appealed from. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.*
- F. ~~An appeal stays all actions by the administrator seeking enforcement of or compliance with the order or decision appealed from, unless the administrator certifies to the board of adjustment that (because of facts stated in the certificate) a stay would, in the Administrator's opinion, cause imminent peril to life or property. In that case, proceedings will not be stayed except by order of the board of adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrator. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and Board of Adjustment shall meet to bear the appeal within 15-days after such a request is file. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an applicant for may request and board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.~~
- G. *Subject to the provision of subdivision (F) of this subsection, the Board of Adjustment shall bear and decide the appeal within a reasonable time.*
- H. *The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.*

- I. The board of adjustment may reverse or affirm (wholly or partly) or may modify the ~~order, requirement or decision or determination~~ appealed from and ~~will shall~~ make any order, requirement, decision or determination that ~~in its opinion~~ ought to be made in the case before it. ~~To this end, #The board will shall~~ have all the powers of the ~~officers from whom the appeal is taken. Official who made the decision. Before making any interpretation, the Board of Adjustment will have advertised a public hearing in accordance with Section 310.080 and conducted such public hearing in a quasi-judicial manner.~~
- J. *When bearing an appeal pursuant to G.S. 160A-400.9 (e) or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided G.S. 160A-393(k).*
- K. *The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. (The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.)*

380.020 Board Hearings on Variances

- A. An application for a variance to the Board of Adjustment will be made by filing a copy of the completed application in the office of the ~~a~~ Administrator. Applications will be handled in the same manner as applications for special use permits in conformity with the provisions of Chapter 360.
- B. A variance may be granted by the Board of Adjustment after a public hearing has been held in a quasi-judicial manner and advertised in accordance with Section 310.030. ~~if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. The Board may reach these conclusions if it finds that~~ *When unnecessary hardships would result from carrying out the strict letter of the Unified Development Ordinance, the Board of Adjustment shall vary any of the provisions on the ordinance upon a showing of all of the following:*
 - 1. ~~if the applicant complies strictly with the provisions of the ordinance, he/she can make no reasonable use of his property~~ Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
 - 2. ~~the hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;~~ The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
 - 3. ~~the hardship relates to the applicant's land, rather than personal circumstances;~~ The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;
 - 4. ~~the hardship is unique, or nearly so, rather than one shared by many surrounding properties;~~ The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved;
 - 5. the hardship is not the result of the applicant's own actions; and
 - 6. The variance will neither result in the extension of a nonconforming situation in violation of **Error! Reference source not found.**, Nonconformities nor authorize the initiation of a nonconforming use of land.

- C.** *No change in permitted uses may be authorized by a variance.*
- D.** ~~In granting variances, the board of adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.~~ *Appropriate conditions may be imposed on any variance, by the Board of Adjustment, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.*
1. A variance may be issued for an indefinite duration or for a specified duration only.
 2. The nature of the variance and any conditions attached to it must be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.

380.030 Hearings on Appeals or Variances

The board of adjustment will hear and decide all appeals, *and* variance requests, *and requests for interpretations* as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 310.030, and obtain the necessary information to make sound decisions.

A. Burden of Proof in Appeals and Variances

1. When an appeal is taken to the Board of Adjustment in accordance with Chapter 380 (Appeals), the administrator will have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who will also have the burden of persuasion.
2. The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 380.020B, as well as the burden of persuasion on those issues remains with the applicant seeking the variance.

B. Board Action on Appeals and Variances

1. With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from will include, insofar as practicable, a statement of the specific reason or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the votes necessary for adoption, then a motion to uphold the decision appealed from will be in order.
2. Before granting a variance, the board must take a separate vote and vote affirmatively on each of the six required findings stated in Section 380.020B. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Section 380.020B will include a statement of the specific reasons or findings of fact supporting such motion. Said approved variance shall be recorded at the Union County Registrar of Deeds within 60 days from the date of approval.
3. A motion to deny a variance may be made on the basis of findings regarding any one or more of the criteria set forth in Section 380.020B. Insofar as practicable, such a motion will include a statement of the specific reasons or findings of fact that support it.

4. The Board of Adjustment may make a ruling on an interpretation as provided in Chapter 390 without having first approved any prescribed findings of fact. The record of the proceedings of the Board of Adjustment will clearly state, however, the grounds upon which the Board of Adjustment made their decision.

Chapter 390.— Interpretations

390.010— Authority of the Board

~~The board of adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the administrator, they will be handled as provided in Section 380.010.~~

390.020— Application

~~An application for a map interpretation must be submitted to the board of adjustment by filing a copy of the application with the administrator in the inspections department. The application must contain sufficient information to enable the board to make the necessary interpretation.~~

390.030— Criteria for Making Interpretations

~~Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules will apply:~~

- ~~**A.** boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads will be construed to follow such centerlines;~~
- ~~**B.** boundaries indicated as approximately following lot lines, Town limits or extraterritorial boundary lines will be construed as following such lines, limits or boundaries.~~
- ~~**C.** Boundaries indicated as approximately parallel to the centerlines of streets or other rights-of-way will be construed as being parallel thereto and at such distance there from or indicated on the zoning map.~~
- ~~**D.** Boundaries indicated as following shorelines will be construed to follow such shorelines, and in the event of change in the shoreline will be construed as following such shorelines;~~
- ~~**E.** where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary will be determined by measurement, using the scale of the Official Zoning Map (see Section 140.040, Lots Divided by District Lines);~~
- ~~**F.** where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property will apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.~~

~~**390.040** Interpretations of the location of Floodway and Floodplain boundary lines may be made by the Stormwater administrator as provided in Section 140.~~

~~**390.050** Prior to making a decision on an interpretation, the Board of Adjustment will conduct a quasi-judicial public hearing and advertise that public hearing in accordance with Section 310.030.~~



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 December 10, 2013 Town Council Public Hearing

Case: ZT 2013-003 Flood Damage Reduction Ordinance Amendment			
Reference Name	General Housekeeping Amendment of Chapter 1360		
Planning Board Meeting Date	November 19, 2013		
Members Present	Chair Cowan <input checked="" type="checkbox"/>	Jan Brown <input checked="" type="checkbox"/>	Vice Chair Larry Miller <input type="checkbox"/>
	Cathi Higgins <input type="checkbox"/>	Kelly D' Onofrio <input type="checkbox"/>	Robert Rollins <input checked="" type="checkbox"/>
	Alan Rosenberg <input type="checkbox"/>	Cheryl Mimy <input checked="" type="checkbox"/> Alternate 1	Steve Long <input type="checkbox"/> Alternate 2
	Sidney Sandy <input checked="" type="checkbox"/> Alternate 3		
Case Found Complete	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
Motion	Recommend approval to Town Council with draft findings		
Member Making the Motion	Boardmember Sandy		
Second the Motion	Boardmember Brown		
Vote	All seated members voted in favor of the Motion		

Purpose of the Amendment: This is a request to amend Chapter 1360 – Flood Damage Reduction Ordinance for the purpose referencing an updated Flood Insurance Study (FIS) and Digital Flood Insurance Rate Maps (DFIRM) dated February 19, 2014 within the Chapter.

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.*

Analysis

This request is a simple housekeeping exercise to reference newly adopted FIS and DFIRM within this Chapter. The amendment is required by the State so the Town can retain its flood insurance program. Exhibit A of the attached draft ordinance provides the draft amendment of Chapter 1360 of the UDO consistent with requirements of the State.

Planning Board

The Planning Board met on November 19, 2013 to hear the proposed amendment in a public meeting. The Board had no questions or concerns regarding the amendment. The Board then made the following findings and unanimously voted to transmit a recommendation to approve:

1. The proposed UDO amendment is consistent with the following goal:

1.3.5 of the Comprehensive Plan- *Utilities*; because it will update mapping references keeping regulations current to help protect life and property as it relates to the Special Flood Hazard Areas and stormwater requirements promoting best management practices within the Town.
2. This UDO ordinance amendment is in the best interest of the public because it maintains current regulations within the Unified Development Ordinance intended to protect the public and enhances customer service by providing clear and concise regulations within the Town.

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.*

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 Staff Report

Case: ZT 2013-003 Amendment of UDO Related to Flood Damage Reduction		
Reference Name	General Housekeeping of Chapter 1360	
Applicant	Town of Indian Trail	
Submittal Date	October 2013	
Location	Town-wide	
Tax Map Number	N/A	
Plan Consistency	Town of Indian Trail Comprehensive Plan	Consistent With Request
Recommendations & Comments	Planning Staff	Recommends Approval of Proposed Text Amendment.

Project Summary

This is a request to amend Chapter 1360 – Flood Damage Reduction Ordinance for the purpose referencing an updated Flood Insurance Study (FIS) and Digital Flood Insurance Rate Maps (DFIRM) dated February 19, 2014 within the Chapter.

Staff Recommendation- Staff recommends based on the guidance of the adopted plans that the text amendment be supported by recommending its approval to the Town Council

Analysis

This request is a simple housekeeping exercise to reference newly adopted FIS and DFIRM within this Chapter. No other modifications are proposed. Exhibit A- of the attached draft ordinance provides the draft amendment of Chapter 1360 of the UDO.

Required Consistency Findings

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

4. The proposed UDO amendment is consistent with the following goal:

1.3.5 of the Comprehensive Plan- *Utilities*; because it will update mapping references keeping regulations current to help protect life and property as it relates to the Special Flood Hazard Areas and stormwater requirements promoting best management practices within the Town.
5. This UDO ordinance amendment is in the best interest of the public because it maintains current regulations within the Unified Development Ordinance intended to protect the public and enhances customer service by providing clear and concise regulations within the Town.

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

Staff Contact

Shelley DeHart, AICP

Director of Planning

srd@planning.indiantrail.org

Attachment 1: Draft Ordinance- See Attachment 2 for TC Report

Town Council Attachment 2 – Draft Ordinance

NOW THEREFORE, BE IT ORDAINED ON DECEMBER 10, 2013 BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA HEREBY TAKES THE FOLLOWING ACTION:

Section 1 – UDO CHAPTER 1360 is hereby amended as shown in Exhibit A of this Ordinance;

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

SO ORDAINED THIS 10TH DAY OF DECEMBER, 2013.

THE TOWN COUNCIL OF INDIAN TRAIL

By _____
Honorable Michael L. Alvarez, Mayor

Attest:

Peggy Piontek, Town Clerk

Chapter 1360. Flood Damage Reduction Ordinance

1360.010 Statutory Authorization

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare. Consistent with the requirements and standards of the North Carolina General Statutes the Town Council of Indian Trail, North Carolina has adopted the following standards in order to reduce property loss and damage associated with flooding. A complete Table of Contents for this Chapter is provided in Appendix 3 of this UDO.

1360.020 Purpose

- A.** The Special Flood Hazard Area (SFHA) of the Town is subject to periodic inundation that could result in loss of life and property, hazards to public health and safety, disruption of commerce and governmental services, damage to and disruption of public utilities, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These losses and hazards are caused by the cumulative effect of obstructions in SFHAs, which increase flood heights and velocities, and by the occupancy in flood-prone areas by uses that are vulnerable to floods, or hazardous to other properties, because they are inadequately elevated, flood proofed, or otherwise protected from flood damages. Therefore, the regulations set forth in this section are designed to:
- 1.** restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
 - 2.** require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
 - 3.** control the alteration of natural SFHAs, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
 - 4.** prevent or control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
 - 5.** prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.
- B.** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the SFHA will be free from flooding or flood damages. Neither shall this section create liability on the part of the Town or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

1360.030 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. *Accessory structure* (appurtenant structure) means a structure located on the same parcel of property as the principal Structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory Structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
2. *Addition* (to an existing building) means an extension or increase in the floor area or height of a building or structure.
3. *Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.
4. *Area of shallow flooding* means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
5. *Areas of Special Flood Hazard* see *special flood hazard area* (SFHA).
6. *Basement* means any area of the building having its floor subgrade (below ground level) on all sides.
7. *Base Flood* means the flood having a one (1) percent chance of being equaled or exceeded in any given year.
8. *Base Flood Elevation (BFE)* means a determination of the water surface elevations of the base flood as published in the *flood insurance study*. When the BFE has not been provided in a *SFHA*, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the *freeboard*, establishes the *regulatory flood protection elevation*.
9. *Buildings* see *structure*.
10. *Chemical storage facility* means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
11. *Development* means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
12. *Disposal* means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.
13. *Elevated building* means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
14. *Encroachment* means the advance or infringement of uses, fill, excavation, buildings, Structures or development into a SFHA, which may impede or alter the flow capacity of a SFHA. Building renovations contained within the existing building footprint area are not considered an encroachment.

15. *Existing manufactured home park or manufactured home subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.
16. *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. the overflow of inland or tidal waters; and/or
 - b. the unusual and rapid accumulation of runoff of surface waters from any source.
17. *Flood boundary and floodway map* (FBFM) means an official map of a community, issued by the Federal Emergency Management Agency, on which the SFHAs and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the *flood insurance rate map* (FIRM).
18. *Flood hazard boundary map* (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the SFHAs have been defined as Zone A.
19. *Flood insurance* means the insurance coverage provided under the National Flood Insurance Program.
20. *Flood Insurance Rate Map* (FIRM) means an official map of a community, issued by the Federal Emergency Management Agency, on which both the SFHAs and the risk premium zones applicable to the community are delineated.
21. *Flood insurance study* (FIS) means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes *flood insurance rate maps* (FIRMs) and *flood boundary and floodway maps* (FBFMs), if published.
22. *Flood prone area* see *floodplain*.
23. *Floodplain* means any land area susceptible to being inundated by water from any source.
24. *Floodplain administrator* is the individual appointed to administer and enforce the floodplain management regulations. For the purposes of this ordinance, *floodplain administrator* is synonymous with *storm water administrator*.
25. *Floodplain development permit* means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.
26. *Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the SFHAs, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

- 27.** *Floodplain management regulations* means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
- 28.** *Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to Structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
- 29.** *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- 30.** *Flood zone* means a geographical area shown on a *flood hazard boundary map* or *flood insurance rate map* that reflects the severity or type of flooding in the area.
- 31.** *Freeboard* means the height added to the *base flood elevation* (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and *floodway* conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The *base flood elevation* plus the *freeboard* establishes the *regulatory flood protection elevation*.
- 32.** *Hazardous waste management facility* means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
- 33.** *Highest adjacent grade (HAG)* means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the *structure*.
- 34.** *Historic structure* means any *structure* that is:
- a.** listed individually in the National Register of Historic Places (a listing maintained by the US Department Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
 - b.** certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c.** individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
 - d.** certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”. Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.
- 35.** *Lowest adjacent grade (LAG)* means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

- 36.** *Lowest floor* means lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's *lowest floor* provided that such an enclosure is not built so as to render the Structure in violation of the applicable non-elevation design requirements of this ordinance.
- 37.** *Manufactured home* means a *structure*, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term *manufactured home* does not include a *recreational vehicle*.
- 38.** *Manufactured Home Park or Subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 39.** *Market value* means the building value, not including the land value and that of any accessory Structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.
- 40.** *Mean Sea Level* means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the SFHAs, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.
- 41.** *New Construction* means *structures* for which the *start of construction* commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such *structures*.
- 42.** *Non-Encroachment Area* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.
- 43.** *Post-FIRM* means construction or other development for which the *start of construction* occurred on or after the effective date of the initial *flood insurance rate map*.
- 44.** *Pre-FIRM* means construction or other development for which the *start of construction* occurred before the effective date of the initial *flood insurance rate map*.
- 45.** *Principally Above Ground* means that at least 51% of the actual cash value of the *structure* is above ground.
- 46.** *Public safety and/or nuisance* means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- 47.** *Recreational vehicle (RV)* means a vehicle, which is:
- a.** built on a single chassis;
 - b.** 400 square feet or less when measured at the largest horizontal projection;
 - c.** designed to be self-propelled or permanently towable by a light duty truck; and
 - d.** designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

48. *Reference level* is the bottom of the lowest horizontal structural member of the *lowest floor* for *structures* within all *SFHAs*. Reference level also defined as the bottom of the lowest horizontal structural member of the lowest floor for structures within all *SFHAs*.
49. *Regulatory flood protection elevation* means the *base flood elevation* plus the *freeboard*. In *SFHAs* where *base flood elevations* (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In *SFHAs* where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.
50. *Remedy a violation* means to bring the *structure* or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the Structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the *structure* or other development.
51. *Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
52. *Savage yard* means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.
53. *Solid waste disposal facility* means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a) (35).
54. *Solid waste disposal site* means, as defined in NCGS 130A-290(a) (36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
55. *Special flood hazard area (SFHA)* means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 1360.040B of this ordinance. Riverine SFHAs are shown on new format FIRMs as Zones A, AE, AH, AO, AR, and A99. Older FIRMs may have numbered A Zones (A1-A30).
56. *Start of Construction* includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a Structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main Structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
57. *Storm Water Administrator* is the individual appointed by the Town Manager to administer and enforce the floodplain management regulations and the Post-Construction Storm Water Ordinance in the Town of Indian Trail.

58. *Structure* means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
59. *Substantial damage* means damage of any origin sustained by a *structure* during any one-year period whereby the cost of restoring the *structure* to its before damaged condition would equal or exceed 50 percent of the market value of the Structure before the damage occurred. See definition of *substantial improvement*.
60. *Substantial improvement* means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a Structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the *structure* before the *start of construction* of the improvement. This term includes *structures* which have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include either:
- a. any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b. any alteration of a *historic structure* provided that the alteration will not preclude the structure's continued designation as a *historic structure*.
61. *Variance* is a grant of relief from the requirements of this ordinance.
62. *Violation* means the failure of a Structure or other development to be fully compliant with the community's floodplain management regulations. A *structure* or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 1360.100 and Sections 1360.120 is presumed to be in violation until such time as that documentation is provided.
63. *Water surface elevation (WSE)* means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the SFHAs.
64. *Watercourse* means a lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

1360.040 General Provisions

A. Lands to Which this Ordinance Applies

This ordinance shall apply to all SFHAs within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of the Town of Indian Trail and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

B. Basis for Establishing the Special Flood Hazard Areas.

The SFHAs are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its ~~Flood Insurance Study (FIS) dated February 19, 2014 and its accompanying Flood Insurance Rate Maps (FIRM), for Union County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Indian Trail are also adopted by reference and declared a part of this ordinance,~~ dated October 16, 2008, which are adopted by reference and declared to be a part of this ordinance.

- ~~1. The initial Flood Insurance Rate Maps for the jurisdictional areas at the initial date are entitled: Union County Unincorporated Area and the Town of Indian Trail, dated July 18, 1983.~~

1360.050 Establishment of Floodplain Development Permit

A floodplain development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within SFHAs determined in accordance with the provisions of Section 1360.040B of this ordinance.

1360.060 Compliance

No structure or land within a Special Flood Hazard Area shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations. It is the property owners' and/or developers' responsibility to ensure all other ordinances are met including but not limited to the Post-Construction Storm Water Ordinance, Erosion and Sedimentation requirements, and Federal Water Pollution Control Act of 1972 ("Clean Water Act").

1360.070 Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

1360.080 Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

- A. considered as minimum requirements;
- B. liberally construed in favor of the governing body; and
- C. deemed neither to limit nor repeal any other powers granted to the Town under State statutes.

1360.090 Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Indian Trail from taking such other lawful action as is necessary to prevent or remedy any violation.

1360.100 Administration

A. Designation of Storm Water Administrator

The Town Manager designates the Indian Trail Town Engineer as the Storm Water Administrator. The Storm Water Administrator, and his or her designees, is the person with the authority to administer, implement and enforce the provisions of this ordinance. The Storm Water Administrator, and his or her designees, administers the Flood Damage Reduction Ordinance as well as the Post Construction Ordinance.

B. Duties and Responsibilities of the Storm Water Administrator

The Storm Water Administrator shall perform, but not be limited to, the following duties:

1. Review all floodplain development applications and issue permits for all proposed development within SFHAs to assure that the requirements of this ordinance have been satisfied.
2. Review all proposed development within SFHAs to assure that all necessary local, state and federal permits have been received.

- 3.** Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- 4.** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- 5.** Prevent encroachments into the SFHAs, floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 1360.120A, Section 1360.120A.18, and Section 1360.150 are met.
- 6.** Obtain actual elevation (in relation to mean sea level) of the Reference Level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Section 1360.110D
- 7.** Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved Structures and utilities have been floodproofed, in accordance with the provisions of Section 1360.110D.
- 8.** Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 1360.110D.
- 9.** When floodproofing is utilized for a particular Structure, obtain certifications from a registered professional engineer in accordance with the provisions of Section 1360.110D and 1360.120B.2.
- 10.** Where interpretation is needed as to the exact location of boundaries of the SFHAs, Floodways, or Non-Encroachment Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- 11.** When Base Flood Elevation (BFE) data has not been provided, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with Floodway data or Non-Encroachment Area data available from a Federal, State, or other source, including data developed pursuant to Section 1360.130B.2, in order to administer the provisions of this ordinance.
- 12.** When Base Flood Elevation (BFE) data is provided but no Floodway or Non-Encroachment Area data has been provided in accordance with Section 1360.040B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- 13.** When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- 14.** Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Storm Water Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Storm Water Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Storm Water Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
17. Revoke floodplain development permits as required. The Storm Water Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
18. Make periodic inspections throughout the SFHAs within the jurisdiction of the community.
19. Follow through with corrective procedures of Section 1360.160.
20. Review, provide input, and make recommendations for variance requests.
21. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 1360.040B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Change (LOMC), Letters of Map Revision Based on Fill (LOMR-F), and Letters of Map Revision (LOMR).

1360.110 Floodplain Development Application, Permit and Certification Requirements

- A. Any development in a special flood hazard area is required to have a floodplain development permit prior to the actual start of construction.
- B. Application for a floodplain development permit shall be made to the Storm Water Administrator prior to any development activities located within SFHAs. The following items shall be presented to Storm Water Administrator to apply for a floodplain development permit:
 1. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed Structures, utility systems,

9. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report, on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation. The engineering report will include all applicable calculations, hydrologic and hydraulic models, and must be signed and sealed by a North Carolina registered professional engineer.

C. The Floodplain Development Permit shall include, but not be limited to:

1. A detailed narrative of the development to be permitted under the Floodplain Development Permit.
2. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 1360.040B.
3. The regulatory flood protection elevation required for the reference level and all attendant utilities.
4. The regulatory flood protection elevation required for the protection of all public utilities.
5. All certification submittal requirements with timelines.
6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
7. The flood openings requirements, if in Zones A, AO, or AE.
8. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

D. Certification Requirements.

1. Elevation Certificates

- a. A floor elevation or flood proofing certification must be submitted to the Storm Water Administrator within seven (7) calendar days of establishment of the lowest floor elevation, or flood proofing by whatever construction techniques. It shall be the duty of the permit holder to submit to the Storm Water Administrator a certification of the elevation of the lowest floor, flood proofed elevation, as built, in relation to mean sea level after construction is complete, prior to the issuance of a certificate of occupancy. Said certification shall be prepared by or under the direct supervision of a North Carolina registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a North Carolina professional engineer and certified by same. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Storm Water Administrator shall, in a timely manner, review the floor elevation survey as submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work completed by the permit holder prior to Storm Water Administrator approval, shall be at the permit holder's own risk.

- b. A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Storm Water Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Storm Water Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

2. Floodproofing Certificate

- a. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Storm Water Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer and certified by same. The Storm Water Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- 3. If a manufactured home is placed within Zone A, AO, or AE, and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 1360.120B.3.
- 4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit
- 5. Certification Exemptions. The following Structures, if located within Zone A, AO, or AE, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - a. Recreational vehicles meeting requirements of Section 1360.120B.6;
 - b. Temporary structures meeting requirements of Section 1360.120B.7; and
 - c. Accessory structures less than 150 square feet meeting requirements of Section 1360.120B.8.

E. Expiration of Floodplain Development Permit

Floodplain Development Permits issued pursuant to this ordinance expire two years after the date of issuance unless: 1) the work has commenced within two (2) years after the date of

issuance, or 2) the issuance of the permit is legally challenged in which case the permit is valid for two (2) years after the challenge has been resolved.

1360.120 Provisions for Flood Hazard Reduction

A. General Standards

In all SFHAs, the following provisions are required:

1. The Town of Indian Trail has prohibited most development in all studied and non-studied SFHAs. No encroachments, including fill, new construction, stormwater detention, substantial improvements and other developments shall be permitted within any portion of SFHAs unless a variance is granted, with the following exceptions:
 - a. The development is for roads, greenway trails, boardwalks, pedestrian crossings, agricultural uses, forestry, parks, playground or other park related equipment, fences, ~~provided that at least (min) eighty (80) percent of the fence shall be open area), and shall be elevated at a minimum, one (1) foot above the ground,~~ public utilities and facilities such as wastewater utility lines, storm drainage construction and repair with approval by the Storm Water Administrator, gas, electrical, water systems and similar uses that are located and constructed to minimize flood damage.
2. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the Structure.
3. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
4. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
5. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
9. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of new construction as contained in this ordinance.
10. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the SFHAs, provided there is no additional encroachment below the SFHAs, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

11. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted.
12. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
13. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
14. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
15. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
16. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
17. When a structure is located in multiple SFHAs or in a special flood hazard area with multiple base flood elevations, the provisions for the more restrictive special flood hazard area and the highest base flood elevation shall apply.
18. For projects granted a variance, a “No-Impact” certification is required from a North Carolina registered professional engineer. “No-Impact” means no increase in flood elevations greater than zero (0.00) feet, no decrease in flood elevations of more than one-tenth (0.10) of a foot, and no increase in floodway or non-encroachment area widths.

B. Specific Standards

The following specific standards apply to projects that have been granted a development variance or meet the criteria as identified in Section 1360.120A. In all SFHAs where base flood elevation (BFE) data has been provided, as set forth in Section 1360.040B, the following provisions, in addition to the provisions of Section 1360.120A, are required:

1. Residential Construction.

New construction and substantial improvement of any residential Structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 1360.03049 of this ordinance. The regulatory flood protection elevation being the base flood elevation plus two (2.0) feet of freeboard.

2. Non-Residential Construction.

New construction and substantial improvement of any commercial, industrial, or other non-residential Structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 1360.03049 of this ordinance. Structures located in A, AE, and AO, and Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the Structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer shall

certify that the standards of this subsection are satisfied. Such certification shall be provided to the Storm Water Administrator along with the operational and maintenance plans.

3. Manufactured Homes.

- a.** New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 1360.03049 of this ordinance.
- b.** Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- c.** All enclosures or skirting below the lowest floor shall meet the requirements of Section 1360.120B.4.
- d.** An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Storm Water Administrator and the local Emergency Management coordinator.

4. Elevated Buildings.

Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- a.** shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- b.** shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;
- c.** shall include, in Zones A, AO, and AE, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or meet or exceed the following minimum design criteria:
 - (1)** a minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (2)** the total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (3)** if a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

- (4) the bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- (5) flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- (6) enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

5. Additions/Improvements.

- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing Structure are:
 - (1) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (2) A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.
- b. Additions to post-FIRM structures with no modifications to the existing Structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (1) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - (2) A substantial improvement, the existing Structure and the addition and/or improvements must comply with the standards for new construction.

6. Recreational Vehicles.

Recreational vehicles shall either:

- a. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- b. Meet all the requirements for new construction.

7. Temporary Non-Residential Structures.

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Storm Water Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Storm Water Administrator for review and written approval:

- a. a specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

- b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;
- c. the time frame prior to the event at which a Structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- d. a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- e. designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

8. Accessory Structures.

When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

- a. accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- b. accessory structures shall not be temperature-controlled;
- c. accessory structures shall be designed to have low flood damage potential;
- d. accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. accessory structures shall be firmly anchored in accordance with the provisions of Section 1360.120A.2;
- f. all service facilities such as electrical shall be installed in accordance with the provisions of Section 1360.120A.5; and
- g. flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 1360.120B.4.c.
- h. an accessory Structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory Structures in accordance with Section 1360.110D.

9. Parking Lots.

All parking areas for new or substantially improved non-single family habitable buildings must be at an elevation such that water depths would be less than six (6.0) inches deep in any parking space during the occurrence of a FEMA base flood.

1360.130 Standards for Floodplains without Established Base Flood Elevations

Within the SFHA designated as Approximate Zone A and established in Section 1360.040B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 1360.120A, shall apply:

- A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, or minimum stream buffer requirements, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- B.** The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
- 1.** When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Section 1360.120A and Section 1360.120A.18.
 - 2.** When Floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within Floodway and Non-Encroachment areas shall also comply with the requirements of Section 1360.120A.18 and Section 1360.150.
 - 3.** All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than one (1) acre or has more than ten (10) lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with Section 1360.040B and utilized in implementing this ordinance.
 - 4.** When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Section 1360.03049. All other applicable provisions of Section 1360.120 shall also apply.

1360.140 Standards for Riverine Floodplains with BFE but without Established Floodways or Non-Encroachment Areas

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- A.** Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community. For projects granted a variance, a "No-Impact certification is required per Section 1360.130A.18

1360.150 Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the SFHAs established in Section 1360.040B. The Floodways and Non-Encroachment Areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions shall apply to all development within such areas:

- A.** No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that such Encroachment would not result in any increase in the FEMA Base Flood Elevations during the occurrence of a FEMA Base Flood. Such analysis shall be performed and certified by a North Carolina registered professional engineer and reviewed by the Storm Water Administrator. Any encroachment that would cause a rise in the FEMA Base Flood Elevation or an increase in the FEMA Floodway width during the occurrence of the FEMA Base Flood will require notification of impacted property owners, and a Conditional Letter of Map Revision (CLOMR) from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and

approved by FEMA and a Letter of Map Revision (LOMR) issued before a Certificate of Occupancy will be issued.

- B.** For projects granted a variance, a “No-Impact” certification is required per Section 1360.130A.18.
- C.** If Section 1360.120A, Section 1360.120B.1, and Section 1360.150 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- D.** No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - 1.** the anchoring and the elevation standards of Section 1360.120B.3; and
 - 2.** the no encroachment standard of Section 1360.120A, Section 1360.120B.1, and Section 1360.150A.

1360.160 Corrective Procedures

- A.** Violations to be corrected: When the Storm Water Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- B.** Actions in event of failure to take corrective action: If the owner of a building or property shall fail to take prompt corrective action, the Storm Water Administrator shall give the owner written notice, by certified or registered mail to the owner’s last known address or by personal service, stating:
 - 1.** that the building or property is in violation of the floodplain management regulations;
 - 2.** that a hearing will be held before the Storm Water Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - 3.** that following the hearing, the Storm Water Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- C.** Order to take corrective action: If, upon a hearing held pursuant to the notice prescribed above, the Storm Water Administrator shall find that the building or development is in violation of the Flood Damage Reduction Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Storm Water Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- D.** Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Storm Water Administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Storm Water Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E.** Failure to comply with order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the Board of Adjustment following an appeal, the owner shall be guilty of a misdemeanor and subject to the penalties contained in Section 1360.090.

1360.170 Appeals and Variances

A. Authority of Board of Adjustment.

1. The Board of Adjustment shall hear and decide appeals from any order, decision, determination or interpretation made by the Storm Water Administrator pursuant to or regarding these regulations.
2. The Board of Adjustment shall hear and decide petitions for variances from the requirements of this ordinance.

B. Initiation and Filing of Appeal.

1. An appeal of an order, decision, determination or interpretation made by the Storm Water Administrator, may be initiated by any person aggrieved by any officer, department, board or bureau of the town.
2. A notice of appeal in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Storm Water Administrator, within 20 days of the order, decision, determination or interpretation and must be accompanied by a nonrefundable filing fee as established by the Town Council. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section and the Board of Adjustment shall have no jurisdiction to hear the appeal.

C. Standards and Hearing Procedure.

1. The Board of Adjustment will conduct the hearing on an appeal of an order, decision, determination or interpretation of these regulations in accordance with its normal hearing procedures.
2. At the conclusion of the hearing, the Board of Adjustment may reverse or modify the order, decision, determination or interpretation under appeal upon finding an error in the application of these regulations on the part of the Storm Water Administrator who rendered the decision, determination or interpretation. In modifying the decision, determination or interpretation, the Board will have all the powers of the officer from whom the appeal is taken.

D. Initiation and Filing of Variance Petition.

1. A petition for Variance may be initiated only by the owner of the affected property, or an agent authorized in writing to act on the owner's behalf.
2. A petition for a Variance from these regulations in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Storm Water Administrator, and be accompanied by a nonrefundable filing fee as established by the Town Council.

E. Factors for Consideration and Determination of Completeness

1. In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:
 - a. danger that materials allowed to be placed in the special flood hazard area as a result of the variance may be swept onto other lands to the injury of others during a base flood;
 - b. danger to life and property due to flooding or erosion damage from a base flood;

- c. susceptibility of the proposed facility and its contents to flood damage and the effect of such damage during the base flood;
 - d. importance of the services provided by the proposed facility to the community;
 - e. necessity to the facility of a waterfront location, where applicable;
 - f. availability of alternative locations, not subject to flooding or erosion damage during a base flood, for the proposed use;
 - g. compatibility of the proposed use with existing and anticipated development;
 - h. relationship of the proposed use to the Town of Indian Trail and Union County floodplain management guidance documents, Union County Flood Hazard Mitigation Plans, the Union County Greenway Plan, and any other adopted land use plans for that area;
 - i. safety of access to the property in times of a base flood for ordinary and emergency vehicles;
 - j. expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters during a base flood expected at the site; and
 - k. costs of providing governmental services during and after flood events, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
2. A written report addressing each of the above factors shall be submitted with the application for a Variance.
 3. Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
 4. Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Conditions for Variances.

1. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
2. Variances shall not be issued within any designated floodway or non-encroachment area if the Variance would result in any increase in flood levels during the FEMA base flood discharge unless the requirements of Section 1360.150 are met.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued prior to approval of a floodplain development permit.

G. Standards for Granting Variance.

1. Variances shall only be issued upon:
 - a. a showing of good and sufficient cause;
 - b. a determination that failure to grant the variance would result in exceptional hardship; and

C. Severability

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

1360.190 Effective Date

~~This Chapter shall become effective on February 19, 2014 and the Flood Insurance Rate Maps (FIRMs) as compiled and dated February 19, 2014 are hereby adopted and shall serve as the base information for the enforcement of this chapter~~

~~This Chapter shall become effective on October 16, 2008 and the Flood Insurance Rate Maps (FIRMs) as compiled and dated October 16, 2008 are hereby adopted and shall serve as the base information for the enforcement of this chapter.~~

1360.200 Adoption Certification

This Section of the Indian Trail Unified Development Ordinance represents and a true and correct copy of the Flood Damage Reduction Ordinance as adopted by the Town Council of Indian Trail, North Carolina, on the 1~~2~~⁴th day of ~~October~~^{February}, 20~~14~~⁰⁸.

Formatted: Font: Garamond, Not Italic



TO: Mayor and Town Council

FROM: Joseph A. Fivas, Town Manager

DATE: December 10th, 2013

SUBJECT: The Alliance for South Charlotte Communities

The Indian Trail Town Council met with Stallings, Mint Hill, and Matthews elected officials last year to discuss the formation of a group to assist with economic development marketing, better communications between the Towns, and creating future development partnerships in the future. All four local governments approved to move forward on this partnership.

The Indian Trail Town Council appointed Darlene Luther to spearhead the Indian Trail efforts to organize and partner with these communities. After many meetings over the last year, all of the communities have agreed to form the Alliance of South Charlotte Communities.

Attached are the bylaws for the organization of a future entity. Once formed in January, the group will determine future funding, corporate status, and refine the mission of the organization. All of the Town's will agree to pay \$4,000 to begin the initial implementation. The purposes of this organization shall be as set forth in the Articles of Incorporation. The general purpose is to retain and attract new investment and strong employment in the communities south of Charlotte. This can be done with marketing, communicating with local partners, collecting data, assisting small businesses, partnering on transportation issues, and advocating to regional, state, and federal leaders.

Attached is a draft of the bylaws for the future organization called the Alliance of South Charlotte Communities.

jaf

-BYLAWS-

THE ALLIANCE OF SOUTH CHARLOTTE COMMUNITIES

ARTICLE I. PURPOSES

The purposes of this organization shall be as set forth in the Articles of Incorporation. However, the general purpose is to retain and attract new investment and strong employment in the communities south of Charlotte. This can be done with marketing, communicating with local partners, collecting data, assisting small businesses, partnering on transportation issues, and advocating to regional, state, and federal leaders, and any other purposes deemed necessary by the Board of Directors. The words Alliance and corporation have the same meaning for the purpose of this document.

ARTICLE II. OFFICES

2.01 Principal and Business Office. The Alliance may have such principal and other business offices within the State of North Carolina, as the Board of Directors may designate or as the business of the Alliance may require from time to time.

2.02 Registered Office. The registered office of the Alliance required by the North Carolina Business Corporation Law to be maintained in the State of North Carolina may be, but need not be; identical with the principal office in the State of North Carolina, and the address of the registered office may be changed from time to time by the Board of Directors. The business office of the registered agent of the Alliance shall be identical to such registered office.

ARTICLE III. BOARD OF DIRECTORS

3.01 The business and affairs of the Alliance shall be managed by its Board of Directors. The Board of Directors shall consist of three appointments from the Town of Stallings, Town of Mint Hill, Town of Matthews, and Town of Indian Trail. The three appointments consist of: One (1) elected official, and the Town Manager, or his/her designee, and one (1) at-large selection by elected body from each Town. These members shall have a 2-year staggered terms.

Any additional communities that wish to become an Alliance member shall make application to Alliance. An application shall be approved by a 2/3 vote of Board of Directors.

3.02 Annual Meetings. The annual meeting of the Board of Directors of this Alliance shall be held in January each year on a date, time and place to be

determined by the Board at their December meeting. The first organizational meeting shall be organized by the Town of Matthews.

3.03 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or Secretary or any two directors. The President or Secretary calling any special meeting of the Board of Directors may fix any place within North Carolina as the place for holding any special meeting of the Board of Directors called by them. If no other place is fixed, the place of the meeting shall be at the principal office of the Alliance.

3.04 Notice. Notice of each meeting of the Board of Directors shall be given by written notice delivered personally or mailed, or given by telegram, E-mail, fax, private courier or other means, to each director at his home or business address, not less than 48 hours prior to the time of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, E-mail, fax, private courier or other means, such notice shall be deemed to be delivered when said notice is sent by telegram, E-mail or fax to the home or office, or when personally delivered to the home or office address or to the number on file with the company. Whenever any notice whatever is required to be given to any director of the Alliance under the Articles of Incorporation or Bylaws or any provision of law, a waiver thereof in writing, signed at any time, whether before or after the time of meeting, by the director entitled to such notice, shall be deemed equivalent to the giving of such notice. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting and objects thereto to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

3.05 Quorum. Except as otherwise provided by law or by the Articles of Incorporation or elsewhere in these Bylaws, a majority of the total number of directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but a majority of the directors present, though less than a quorum, may adjourn the meeting from time to time without further notice.

3.06 Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by the Articles of Incorporation or these Bylaws.

3.07 Conduct of Meetings. The President, and in his absence, the Vice President, and in their absence any director chosen by the directors present shall call the meeting of the Board of Directors to order and shall act as

Chairman of the meeting. The Secretary of the corporation shall act as secretary of all meetings of the Board of Directors, but in the absence of the Secretary, the presiding officer may appoint any Assistant Secretary or any director or other person present to act as secretary of the meeting.

3.08 Resignation, Removal. A director may resign at any time by filing his written resignation with the Secretary of this Alliance. A director may be removed from the appointment only by their elected body. A Board member who shall fail to attend 75% of regular and special meetings during a one-year period may be recommended by Board for removal.

3.09 Vacancies. Vacancies shall be filled by representative communities.

3.10 Presumption of Assent. A director of the Alliance who is present at a meeting of the Board of Directors or any committee thereof of which he is a member at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment. Such right to dissent shall not apply to a director who voted in favor of such action.

3.11 Committees. The Board of Directors of this Alliance may by resolution adopted by a majority of the total Board of Directors designate such committees for such purposes and with such authority as the resolution may provide, and appoint such members of the Board of Directors of the Alliance to serve on said committee as the resolution may designate.

There shall be the following standing committees: Executive, Finance, Legislative, and Public Relations. There shall be an Executive Director selected by the Board of Directors. Executive Director can be an employee from Alliance members. Use of ad hoc committees shall be encouraged. Committees may consist of Directors and Advisors to the Board. Advisors may vote on committee. All Committees are under supervision of the Board of Directors, and Committee actions may be overruled by the Board of Directors.

The persons to serve on the committees shall be nominated by the President and approved by the Board of Directors. The standing committees shall be appointed at the annual meeting. All committee appointments shall be for one year. If a vacancy occurs the Board shall elect a new member. Minutes shall be kept for all meetings and shall be placed on file in the Executive Director's office within one week of such meetings.

(A) Executive: The Executive Committee shall consist of the President, Vice President, Secretary, and Treasurer. The Executive Committee may exercise delegated powers and perform the duties of the Board of Directors between

meetings of the Board, but shall not amend the Bylaws, or make rules or regulations governing nominations for appointments.

(B) Finance: Finances, a function of the Executive Committee, shall prepare an annual budget, with the assistance of the Executive Director, for approval by the Board of Directors. They shall examine the monthly financial status and perform such other duties as may be prescribed by the Board of Directors.

(C) Legislative: The Legislative Committee shall review local, state, and federal law and make any recommendations for legislative action to Board of Directors.

(D) Public Relations: The Public Relations Committee will act as liaison to other groups and create any written publications as deemed necessary by the Board of Directors.

(E) Ad Hoc: Ad hoc Committees may be appointed and terminated at any time, by the President, according to needs of the Alliance.

3.12 Unanimous Consent Without Meeting. Any action required or permitted by the Articles of Incorporation or Bylaws or any provision of law to be taken by the Board of Directors at a meeting or by resolution may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of the directors then in office. These decisions in 3.12 cannot include the spending of funds.

3.13 Advisors to the Board. The Board of Directors may invite up to 8 various organizations and/or individuals, including, but not limited, to utilities, financial institutions, education, professional associations, governmental agencies, and others, to join as Advisors to The Economic Alliance of South Charlotte Communities. However, their participation at the Board of Director meetings shall be without voting privileges.

ARTICLE IV. OFFICERS

4.01 Number. The principal officers of the Alliance shall be a President, Vice-President, Secretary and a Treasurer, each of whom shall be elected by the Board of Directors from its members. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors.

4.02 Election and Term of Office. The officers of the Alliance shall be elected by the Board of Directors at their annual meeting held in the month of January each year. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until his successor shall have been duly elected or until his prior death, resignation or removal.

4.03 Removal. Any officer or agent may be removed by the Board of Directors whenever in its judgment the best interests of the Alliance will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. The Board of Directors may also make recommendation to the municipality for the removal of an officer or agent, but such recommendation shall be without prejudice to the contract rights, if any, of the person so discussed. Election or appointment shall not of itself create contract rights.

4.04 Vacancies. A vacancy in any principal office because of death, resignation, removal, disqualification or otherwise, shall be filled by the representing community.

4.05 President. The President shall be the principal executive officer of the corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Alliance. He shall, when present, preside at all meetings of the Board of Directors. He shall have authority to sign, execute and acknowledge, on behalf of the corporation, all deeds, mortgages, bonds, stock certificates, contracts, leases, reports and all other documents or instruments necessary or proper to be executed in the course of the Alliance's regular business, or which shall be authorized by resolution of the Board of Directors; and, except as otherwise provided by law or the Board of Directors, he may authorize the Vice-President or other officer or agent of the Alliance to sign, execute and acknowledge such documents or instruments in his place and stead. In general he shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

4.06 Vice-President. In the absence of the President or in the event of his death, inability or refusal to act, or in the event for any reason it shall be impracticable for the President to act personally, the Vice-President shall perform the duties of the President and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties and have such authority as from time to time may be delegated or assigned to him by the President or by the Board of Directors. The execution of any instrument of the corporation by the Vice-President shall be conclusive evidence, as to third parties, of his authority to act in the stead of the President.

4.07 The Secretary. The Secretary shall: (a) keep the minutes of the meeting of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized; (d) in general perform all duties incident to the office of

Secretary and have such other duties and exercise such authority as from time to time may be delegated or assigned to him by the President or by the Board of Directors. The Secretary may delegate minutes to Executive Director, but the Secretary is responsible for content.

4.08 The Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Alliance; (b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositories as shall be selected by the Board of Directors; and (c) in general perform all of the duties incident to the Office of Treasurer and have such other duties and exercise such other authority as from time to time may be delegated or assigned to them by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. The Treasurer may delegate finances to the Executive Director, but the Treasurer is responsible for financial books.

4.09 Other Officers. All other officers shall have such duties and responsibilities as from time to time may be assigned to them by the President or Board of Directors.

4.10 Indemnification. The Alliance shall indemnify any director or officer, or former director or officer of the Alliance, against recovery he becomes obligated to pay, and reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of any civil, criminal or administrative action suit or proceeding in which he is made a party or with which he is threatened by reason of being or having been or because of any act as such director or officer, within the course of his duties or employment, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for misconduct in the performance of his duties, and also except any action brought by this corporation against a director or officer. The corporation may also reimburse any director or officer for the reasonable costs of settlement of any such action, suit or proceeding, if it shall be found by a majority of a committee composed of the directors not involved in the matter of controversy (whether or not a quorum) that it was in the interest of the corporation that such settlement be made and that such director or officer was not guilty of misconduct. The Alliance may take out liability insurance to cover some or all of the obligations placed on the Alliance by the above provisions, and if such insurance is in force, the individual and the Alliance shall first look to the insurance carrier under their coverage. The right of indemnification herein provided shall extend to the estate, personal representative, administrator guardian and conservator of any deceased or former director or officer or person who himself would have been entitled to indemnification. Such rights of indemnification and reimbursement shall not

be deemed exclusive of any other rights to which such director or officer may be entitled.

ARTICLE V. CONTRACTS, LOANS, CHECKS, AND DEPOSITS;

SPECIAL CORPORATE ACTS

5.01 Contracts. The Board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute or deliver any instrument in the name of and on behalf of the corporation, and such authorization may be general or confined to specific instances. In the absence of other designation, all deeds, mortgages and instruments of assignment or pledge made by the Alliance shall be executed in the name of the Alliance by the President or the Vice-President and by the Secretary or Treasurer; the Secretary when necessary or required shall affix the corporate seal thereto; and when so executed no other party to such instrument or any third party shall be required to make any inquiry into the authority of the signing officer or officers.

5.02 Loans. No indebtedness for borrowed money shall be contracted on behalf of the Alliance and no evidences of such indebtedness shall be issued in its name unless authorized by or under the authority of a resolution of the Board of Directors. Such authorization may be general or confined to specific instances.

5.03 Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by or under the authority of a resolution of the Board of Directors.

5.04 Deposits. All funds of the Alliance not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as may be selected by or under the authority of a resolution of the Board of Directors.

ARTICLE VI. MISCELLANEOUS

6.01 Fiscal Year. The fiscal year of the corporation shall commence the first day of July and end the 30th day of June in each year.

6.02 Financing. The Board of Directors shall develop a long term financing method within 5 months of their first meeting. This financing method shall be presented and approved by the Town of Mint Hill, Town of Stallings, Town of Matthews, and the Town of Indian Trail. The first year these Towns will contribute \$4,000 for start-up costs for the Alliance. The \$4,000 shall only be

used for legal costs, administrative costs, start-up costs, and general meeting costs. Town's may be allowed to donate in-kind services.

6.02 Corporate Seal. The Directors may but do not have to direct the Secretary at some time in the future to acquire a corporate seal. Until such time as that action is taken, this Alliance will not have a seal.

6.03 Open Meetings. The Alliance shall follow the Open Meetings law from the state of North Carolina. The minutes shall be available at member's place of daily business as designated by each Town.

6.04 Amendment. All or any portion of these Bylaws may be amended or repealed by a resolution passed by the affirmative vote of at least 2/3 of all of the Board of Directors then in office provided, however, that no amendment to the Bylaws may be made that are in conflict with the Articles of Incorporation.

Mayor of Stallings

Adopted:_____

Mayor of Matthews

Adopted:_____

Mayor of Indian Trail

Adopted:_____

Mayor of Mint Hill

Adopted:_____

Stallings Finance

Adopted: _____

Matthews Finance

Adopted: _____

Indian Trail Finance

Adopted: _____

Mint Hill Finance

Adopted: _____

STATE OF NORTH CAROLINA

COUNTY OF UNION

TOWN OF INDIAN TRAIL

OATH OF OFFICE

“I, _____, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith and that I will faithfully discharge the duties of my office as Council Member, so help me God”

-

, Council Member

Official Administering Oath

Date: