

**MAYOR**  
Michael L. Alvarez

**MAYOR PRO TEM**  
David L. Cohn



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

Indian Trail Town Council Meeting  
October 09, 2012  
Civic Building  
6:30 p.m.

1. **CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE**
2. **ADDITIONS AND DELETIONS** **action**
3. **MOTION TO APPROVE AGENDA** **action**
4. **PARK, TREE & GREENWAY COMMITTEE APPOINTMENT**
  - Dhruv Bhatt
5. **PRESENTATIONS**
  - a. [National Community Planning Month Proclamation](#)
  - b. [Stormwater Advisory Committee Annual Report](#)
6. **PUBLIC COMMENTS**
7. **CONSENT AGENDA** **action**
  - a. [Approval of 2012 Record Retention Schedule](#)
  - b. [Approval of draft minutes for September 11, 2012](#)
  - c. [Annexation 132 - 1007 Garden Oaks and 8011 Fountainbrook Dr.-](#)
    - Resolution directing the Clerk to investigate Annexation Petition
    - Certificate of Sufficiency
    - Resolution fixing the date of the Public Hearing for Annexation 132
  - d. [Annexation 133 - Helmsville Road](#)
    - Resolution directing the Clerk to investigate Annexation Petition
    - Certificate of Sufficiency
    - Resolution fixing the date of the Public Hearing for Annexation 133

**8. PUBLIC HEARINGS**

**action**

*– Please adhere to the following guidelines:*

- ***Proceed to the podium, and state your name and address clearly;***
- ***Be concise; avoid repetition; limit comments to three (3) minutes or less;***
- ***Designate a spokesperson for large groups***

**a. ZT2012-004 Public Notice**

A request to amend Chapter 310 to enhance the Town’s public hearing noticing Requirements related to land use decision. Applicant: Town of Indian Trail;  
Location: Town-wide

**b. CZ2009-003A 215 Rowell Drive**

A request to modify the architectural requirements associated with the original rezone Approved to Conditional Zoning Regional Business District (CZ-RBD)  
Location: 215 Rowell Drive; Applicant: Rick Strawn Tax Parcel 07-084-405G

**c. ZM2012-003 Unionville Indian Trail Road:**

A request to rezone three parcels within the Downtown Overlay (O-DD) from Light Industrial (L-I) to General Business District (GBD). Location: 124, 200, And 222 Unionville Indian Trail Road. Applicant: Town of Indian Trail.  
Tax Parcels: 07-111-007A, 07-105-012B, and 07-105-012

**9. BUSINESS ITEMS**

*None*

**10. DISCUSSION ITEMS**

*None*

**11. MANAGERS REPORT**

**12. COUNCIL COMMENTS**

**13. CLOSED SESSION**

**action**

**14. ADJOURN**

**action**

**To speak concerning an item on the Agenda, please print your name and address on the sign up sheet on the table prior to the meeting. Each speaker will be limited to 3 minutes.  
AS A COURTESY, PLEASE TURN CELL PHONES OFF WHILE MEETING IS IN PROGRESS**

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



## Community Planning Month Proclamation

**WHEREAS**, change is constant and affects all cities, towns, suburbs, counties, boroughs, townships, rural areas, and other places; and

**WHEREAS**, community planning and plans can help manage this change in a way that provides better choices for how people work and live; and

**WHEREAS**, community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and

**WHEREAS**, the full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and

**WHEREAS**, the month of October is designated as National Community Planning Month throughout the United States of America and its territories, and

**WHEREAS**, The American Planning Association and its professional institute, the American Institute of Certified Planners, endorse National Community Planning Month as an opportunity to highlight the contributions sound planning and plan implementation make to the quality of our settlements and environment; and

**WHEREAS**, the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the Town of Indian Trail; and

**WHEREAS**, we recognize the many valuable contributions made by professional community and regional planners of the Town of Indian Trail and extend our heartfelt thanks for the continued commitment to public service by these professionals;

**NOW, THEREFORE**, BE IT RESOLVED THAT, the month of October 2012 is hereby designated as **Community Planning Month** in the Town of Indian Trail in conjunction with the celebration of National Community Planning Month.

Adopted this 9<sup>th</sup> Day of October 2012.

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

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



## Town of Indian Trail

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### Memo

TO: Mayor and Town Council

FROM: Scott J. Kaufhold, P.E., Director of Engineering and Public Works 

DATE: 9/19/12

COUNCIL DATE: 9/25/12

SUBJECT: Stormwater Advisory Committee Annual Report

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### General Information:

In accordance with the regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, the Town of Indian Trail has been permitted to discharge runoff from its municipal storm sewer system since October, 2005. This National Pollution Discharge Elimination System Permit requires that the Town of Indian Trail develop a Stormwater Management Program (SWMP) responsible for implementing ordinances, policies, and procedures to improve local water quality.

The Stormwater Advisory Committee was established as an entity responsible for the oversight of the SWMP. The goal of the annual report presented by the Stormwater Advisory Committee is to inform Town Council of key actions and issues and the status of the annual work program.

STATE OF NORTH CAROLINA  
TOWN OF INDIAN TRAIL

RESOLUTION #



## MUNICIPAL

### Records Retention and Disposition Schedule

The records retention and disposition schedule and retention governing the records series listed herein are hereby approved. In accordance with the provision of Chapters 121 and 132 of the General Statutes of North Carolina, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. It is further agreed that these records may not be destroyed prior to the time periods state; however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is review and updated.

Approved this 9<sup>th</sup> day of October, 2012

APPROVED: \_\_\_\_\_  
Michael L. Alvarez, Mayor

Attest: \_\_\_\_\_  
Peggy Piontek, Town Clerk



**Town of Indian Trail**  
**Minutes of Town Council**  
**September 11, 2012**  
**Civic Building**  
**6:30 P.M.**

The following members of the governing body were present:

Mayor: Michael L. Alvarez

Council Members: Robert Allen, Christopher King, Darlene Luther, and David Waddell.

Absent Members: David Cohn, Planning Director Shelley DeHart, and Director of Human Resources Miriam Lowery.

Staff Members: Town Manager Joe Fivas, Town Clerk Peggy Piontek, Town Attorney Keith Merritt, Director of Community & Economic Development Kelly Barnhardt, Finance Director Marsha Sutton, Tax Collector Janice Cook, Director of Engineering and Public Works Scott Kaufhold , and Senior Planner Rox Burhans .

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

Mayor Alvarez called the meeting to order and asked the Sun Valley ROTC to lead in the Pledge of Allegiance.

**ADDITIONS AND DELETIONS**

Darlene Luther made a motion to approve deleting item 10a Pathways 2 Progress Initiative  
Motion Passed 4 - 1 with David Cohn opposing.

**MOTION TO APPROVE AGENDA**

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

**PRESENTATIONS**

- a. Proclamation for September 11th

Mayor Alvarez read the Proclamation

Mayor Alvarez handed the gavel over to Council Member Allen for the presentation from ROTC

- b. Sun Valley ROTC Presentation

Mr. Allen thanked the Mayor and expressed his excitement on this matter and invited Commander Russell up for their presentation to Council and the Indian Trail VFW.

The members of Sun Valley JROTC presented Council Member Allen with an American Flag. John Eigenbrode of the Indian Trail VFW presented the JROTC with a certificate for meritorious and distinguished service in furthering the aims and ideals of the Veterans of Foreign Wars of the United States. The JROTC presented the VFW with a donation check for the Vietnam Moving Wall.

- c. Recognition of Town Clerk

Mr. Fivas presented to Peggy Piontek a plaque acknowledging her designation as a North Carolina Certified Municipal Clerk.

Mayor Alvarez announced that Councilman Cohn is not in attendance this evening.

**PUBLIC COMMENTS**

Cathi Higgins, 3004 Clover Hill Rd. Indian Trail, NC expressed her concern about security in the building during meetings, due the unusual behavior of some of the citizens attending the meeting. Ms Higgins summed up by stating: reflecting on this day we should be proactive.

Shirley Howe, 6205 Clearwater Drive, Indian Trail, NC expressed her concern as it pertains to the safety of those attending the meetings and suggesting a discussion in open session and providing direction to Mr. Fivas with improvements and to move forward implementing them.

Severin Jacobsen, 3905 Waters Reach Lane, Indian Trail, NC, congratulated and thanked Ms. Piontek for her service reflecting on her duties as Interim Town Manager. Mr. Jacobsen advised there are several areas that are located in Indian Trail but fall under the jurisdiction of Union County that do not have

sidewalks which is a safety issue and should be addressed with Union County for the school children. He suggested writing a strong letter to the County stating this.

Keith Adams a representative of Common Heart located at 116 Business Park Drive, Indian Trail, NC informed every one of their deeds and invited all Council and audience to attend their festival, advising there is a fund raiser dunking booth available for volunteers.

Michael Faulkenberry, Picketts Circle, Indian Trail, NC stated Mr. Allen does not have permission to record him and put it on You Tube. He addressed a matter that was put on Mayor Alvarez's face book and an editorial Mayor Alvarez placed in the Enquirer Journal. He advised he has emailed the Mayor about it and expects a response. He inquired why Mayor Alvarez will not debate with Mr. Quinn. He requested that Mayor Alvarez prove all matters in his editorial.

### **COMMITTEE APPOINTMENTS**

#### **a. Public Safety Committee**

Christopher King made a motion to approve David Drehs to the Public Safety Committee Motion Failed 2 - 2 with Robert Allen, and Darlene Luther opposing. Mayor Alvarez broke the tie in favor of appointing Mr. Drehs to the committee.

Darlene Luther made a motion to approve appointing Steven Long to the Public Safety Committee. Motion Passed 3 - 1 with David Waddell opposing.

#### **b. Transportation Committee**

Christopher King made a motion to approve appointing Steven Long to the Transportation Committee as a regular seat. Motion Passed 3 - 1 with David Waddell opposing.

#### **c. Stormwater Committee**

David Waddell made a motion to approve appointing Ben Lanzillotta to the Stormwater Committee as a regular seat Council voted unanimously in favor of the motion.

### **CONSENT AGENDA**

- a. Approval of August 8, 2012 Special Meeting Minutes & August 14, 2012 Regular Meeting Minutes
- b. Bond Reimbursement Resolution
- c. Budget Amendments
- d. Memorandum of Agreement for Regional Hazardous Mitigation Plan

Robert Allen made a motion to approve the Consent Agenda.

Mr. Waddell requested removing item b for further discussion and explanation.

Mr. Allen withdrew his motion

Mr. Fivas explained the reasoning for the Bond Reimbursement Resolution.

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

Christopher King made a motion to approve Bond Reimbursement Resolution.  
Motion Passed 3 - 1 with David Waddell opposing.

## **PUBLIC HEARINGS**

### a. ZT2012-005 Contractors Office Uses:

Mr. Burhans explained that the proposed amendments will modify the UDO by enabling Contractor Office uses to have outdoor operations within the Downtown Overlay District (O-DD). These uses are currently allowed within the O-DD, however, there is no provision for any outdoor operations. The amendments specifically contemplate the following: Outdoor operations associated with Contractor Office uses are only permitted on properties with a base zoning district of GBD or RBD. These are intense commercial districts located in the outlying areas of the Downtown Overlay District; and requests for outdoor operations associated with Contractor Office uses will require a Special Use Permit approval by the Board of Adjustments in a public hearing.

Mr. Burhans advised that this matter was heard by the Planning Board on August 21, 2012 and after a general discussion the Board motioned to make the following findings:

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

1.3.2 of the Comprehensive Plan – *Land Use*; the proposed UDO ordinance amendment will promote an expanded tax base by providing greater opportunities for Building Contracting/Construction Office uses within downtown Indian Trail in a manner that avoids potential land use conflicts with neighboring properties.

1.3.4 of the Comprehensive Plan-*Downtown Revitalization*; the proposed UDO ordinance amendment will help increase the viability of downtown properties by providing an opportunity for Building Contracting/Construction Office uses to have outdoor operations at appropriate locations.

2. This UDO ordinance amendment is in the best interest of the public because it creates regulations establishing the appropriate location and procedural review for outdoor operations associated with Building Contracting/Construction Office uses within the Downtown Overlay District.

The Planning Board transmitted a unanimous recommendation to approve.

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

Robert Allen made a motion to concur with the Planning Board findings and approve as presented. Council voted unanimously in favor of the motion.

b. ZT2012-006 Wholesale Vehicle Sales

Mr. Burhans presented the proposed amendments will modify the UDO by enabling Wholesale Vehicle Sales uses to locate in all commercial zoning districts. As defined by the UDO, Wholesale Vehicle Sales are limited to office and administrative activities only. These uses typically contemplate business-to-business distributorships and similar businesses. There is no allowance for onsite vehicle storage, sales, or repair activities. The proposed amendments are intended to treat Wholesale Vehicle Sales uses consistently with conventional office uses by allowing them in all business and commercial districts.

Mr. Burhans advised this proposed amendment was heard by the Planning Board on August 21, 2012 and after a general discussion the Board motioned to make the following findings and transmit a unanimous recommendation to approve.

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

1.3.2 Of the Comprehensive Plan – *Land Use*; the proposed UDO ordinance amendments will help promote a greater mix of land uses by enabling Wholesale Heavy and Light Equipment Sales/Rental uses to locate in all business and commercial zoning districts. The proposed amendments will also expand the tax base by increasing the number of potential locations these uses may locate within Indian Trail.

2. This UDO ordinance amendment is in the best interest of the public because it establishes regulations ensuring Wholesale Heavy and Light Equipment Sales/Rental uses are permitted in the appropriate Indian Trail zoning districts. The amendments also correct an error within the UDO that will ensure the vehicle sales lot standards apply in the industrial zoning districts.

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

Darlene Luther made a motion concur with the Planning Board findings and approve as presented. Motion Passed 3 - 1 with David Waddell opposing.

**BUSINESS ITEMS**

*None*

**DISCUSSION ITEMS**

a. Pathways 2 Progress Initiative

*This matter was deleted as a result of a motion made under Additions and Deletions.*

b. Update on Park Designs

Mr. Fivas advised that staff would like to have the designs for Council review at the next meeting. Staff conducted a presentation for the Park Trees & Greenway Committee (PT&GC) resulting in some valuable feedback from them. As a result of conversations with Carolina Courts adjustments have been made to the design of the 51 acre park and both Carolina Courts and the PT&GC have expressed their comfort with the small adjustments. For the larger park there's a meeting set up with PT&GC on September 24th to discuss the designs. The biggest change in the design of this park as a result of feedback is to develop the furthest south side of the park into more of an ecological area, referring to Squirrel Lake Park as an example. Mr. Fivas stated that staff will be coming to Council for input on applying for PARTF Grants, advising that Matthews received this grant for Squirrel Lake Park and we would like to emulate some of their ideas/activities into our park like rain gardens, a kids fishing pond, and butterfly gardens.

c. Update on Street Projects

Mr. Fivas explained the benefits of having a Public Works Department and provided an update on several ongoing projects: Clearwater Drive dilapidated house, Beacon Hill Road reconstruction, nuisance home in Beacon Hills.

d. Update on Sidewalk Projects

Mr. Fivas presented an update on current sidewalk projects located at: Poplin Road, Unionville Indian Trail Road sidewalk project starts at Wal-Mart Shopping Center and goes to Brittany Downs the Right Of Way has been cleared and 80% of cost is being paid by federal grants, Wesley Chapel Stouts and Old Monroe Road sidewalk project, Sun Valley new sidewalk at theatre, Chestnut Lane sidewalk connecting to the Austin Village Center, Callonwood, Brookhaven and Chestnut Place subdivisions, Chestnut Lane road widening although a benefit to our residents this project is not being done by the Town.

Mr. Fivas provided additional updates on other projects: Old Monroe Road widening is still in discussion on specifics with NCDOT and first leg of Chestnut Parkway is in design, we need to spend time on solutions and resolutions to issues on Sardis Road Church Road and Unionville Indian Trail Road, currently working on issues for Rogers Road and Wesley Chapel Stouts Road needs various turn lanes.

Mr. Fivas concluded by saying there are many projects both actively being worked on and scheduled for the near future making the most efficient and economical use of the newly formed Public Works Department and tax dollars.

e. Naming of Parks

Mr. Fivas reminded Council this was discussed at the last meeting and several conversations with individual Council Members, staff and the Park, Trees and Greenway Committee resulted in feedback that the time table set up to do the naming with the schools effectively and right would not work out in time frame we originally provided. Mr. Fivas recommended that we set the naming issue aside, see the results of the referendum and revisit it after the election in November. By consensus Council agreed with Mr. Fivas.

- f. Safety and Security concerns by residents, Council Members and staff - this item was requested by Council Member Allen

Mr. Allen referred to the meeting held on April 19, 2011 when Council addressed this item; although some improvements were made countermeasures were superficial and grossly inadequate in his opinion. He feels the concerns are being greatly marginalized we are being placated as to additional procedures and systems. Since then there has been two Mayors, several former Council Members, and residents all having expressed their concerns about safety. He requested that we go into Closed Session to discuss contracting a private third party firm located outside the immediate area with the necessary credentials and experience to assess, formulate and implement adequate security measures to protect our residents, staff and Elected Officials that attend these meetings.

#### **MANAGERS REPORT**

Mr. Fivas advised that the Public Safety Committee has provided staff with a draft of an animal control ordinance. He commented that the solid waste program has distributed approximately 26,000 cans; services are being implemented fairly well and complimented both staff and Waste Pro on the handling of this massive conversion. Both the services and trash cans have been well received by the residents. He reminded Council and residents that the Town is compensated for the old containers so be sure to put them out in front of their house for Waste Pro to pick up.

#### **COUNCIL COMMENTS**

Mr. King and Mr. Allen had no comments this evening.

Mayor Alvarez thanked everyone for coming and considering the date he asked that people thank and appreciate those individuals whose job it is to run into danger for our protection. He congratulated the entire area both in Charlotte and surrounding for doing a great job during the Democratic National Convention.

Mr. Waddell stated that if you're willing to trade your liberties for security you don't deserve either. He is confident that Union County Sheriff's Office is more than capable of securing this building, and he is anxious to hear any legitimate concerns he has not been privy to. He expressed his heartfelt gratitude for law enforcement, fire, emergency service, and those who responded to the tragedy of 9/11 and

requested that they be kept in everyone's hearts and prayers. Let's not lose sight this is a free nation and unfortunately things cannot be prevented no matter how much law enforcement you have in place.

Ms. Luther stated that this is a hard topic but it's open and honest and gave credit to those that stood up and spoke about it as it took a lot of courage because it is a subject that could be taken personally. Although we do not expect anything to happen, we are all pretty wise enough to say that we need to take proactive measures in case it does so that we and the people attending these meetings are protected.

**CLOSED SESSION**

Robert Allen made a motion to enter closed session for NCGS143-318.11(a)(9) To discuss and take action regarding plans to protect public safety as it relates to existing of potential terrorist activity and to receiving briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken in response to such activity.

Motion Passed 3 - 1 with David Waddell opposing.

Christopher King made a motion to approve going back into open session.

Council voted unanimously in favor of the motion.

**ADJOURN**

Christopher King made a motion to adjourn

Council voted unanimously in favor of the motion.

APPROVED:

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Michael L. Alvarez

Attest:

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Peggy Piontek, Town Clerk

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE**  
**A PETITION RECEIVED UNDER G.S. 160A-31**

**WHEREAS**, petition # 132 requesting annexation of an area described in said petition was received on the 9th day of October, 2012, by the Town Council; and

**WHEREAS**, N.C.G.S. Chapter 160A, Article 4A, Parts 1 and 4 provide that the sufficiency of the petition shall be investigated by the Town Clerk of the Town of Indian Trail, North Carolina before further annexation proceedings may take place; and

**WHEREAS**, the Town Council of the Town of Indian Trail, North Carolina deems it advisable to proceed in response to this request for annexation;

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

The Town Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Town Council the result of the investigation.

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Michael Alvarez, Mayor

ATTEST:

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Peggy Piontek, Town Clerk

**CERTIFICATE OF SUFFICIENCY**  
**ANNEXATION PETITION 132**  
**07-091-032 and 07-097-047**

**To the Town Council of the Town of Indian Trail, North Carolina:**

I, Peggy S. Piontek, Town Clerk, do hereby certify that I have investigated the petitions attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Indian Trail, North Carolina, this the 9th day of October, 2012.

\_\_\_\_\_  
Peggy S. Piontek, Town Clerk



**PETITION REQUESTING A CONTIGUOUS ANNEXATION**

DATE: 9-27-12

To the Town Council of the Town of Indian Trail, North Carolina:

1. We, the undersigned owners of real property, respectfully request that the area described in paragraph 2 below be annexed to the Town of Indian Trail, North Carolina.
2. The area to be annexed is contiguous to the primary limits of the Town of Indian Trail, North Carolina and the boundaries of such territory are as follows:

SEE ATTACHED DESCRIPTION OF BOUNDARIES  
(Copy of Deed or other source containing legal description of properties requesting annexation)

NAME (print or type)	ADDRESS	SIGNATURE
1. <u>AMERICA CEPEDA</u>	<u>8011 FOUNTAINBROOK DR INDIAN TRAIL 28079</u>	<u>America Cepeda</u>
2. <u>Gonzalo Cepeda</u>	<u>8011 Fountainbrook Dr. Indian Trail 28079</u>	<u>Gonzalo Cepeda</u>
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

5508  
0746

FILED  
UNION COUNTY, NC  
**CRYSTAL CRUMP**  
**REGISTER OF DEEDS**

FILED Mar 21, 2011  
AT 09:52 am  
BOOK 05508  
START PAGE 0746  
END PAGE 0747  
INSTRUMENT # 07019  
EXCISE TAX \$372.00  
TAK

Excise Tax \$ 372.00

Tax Lot No. Parcel Identifier No. 07-091-032

Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
by \_\_\_\_\_

Mail after recording to GRANTEE *Ret to:*  
This instrument was prepared by McMILLAN & TERRY, P.A./jo  
Brief description for the Index

Lot 1, Block 23, THE GARDENS AT BRANDON OAKS

**NORTH CAROLINA SPECIAL WARRANTY DEED**

THIS DEED made March 18, 2011, by and between

GRANTOR	GRANTEE
<p>D.R. Horton, Inc.</p> <p>(a Delaware corporation)</p> <p>5402 Casper Drive Charlotte, NC 28214</p>	<p>GONZALO CEPEDA and wife, AMERICA CEPEDA</p> <p>8011 Fountainbrook Drive Indian Trail, NC 28079</p>

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the township of County, City of Indian Trail, Union County, North Carolina and more particularly described as follows:

BEING all of Lot 1 in Block 23 of THE GARDENS AT BRANDON OAKS, Phase 9, Map 6, as shown on a plat thereof recorded in Plat Cabinet L at File 39 in the Office of the Register of Deeds for Union County, North Carolina; LESS AND EXCEPT that interest conveyed by Mineral Deed recorded in Book 6379 at Page 670 in the aforesaid Registry.

All or a portion of the property herein conveyed \_\_\_ includes or X does not include the primary residence of the Grantor(s).

The property hereinabove described was acquired by Grantor by instrument recorded in Book 5300, Page 419.

A map showing the above described property is recorded in Plat Book L, page 39.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

**All such valid and enforceable easements, restrictions and rights of way of record and the lien of ad valorem taxes for the current year which the grantee herein assumes and agrees to pay.**

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

D.R. Horton, Inc.

By: Paul R. Kwiatkowski  
PAUL R. KWIATKOWSKI, ASSISTANT VICE PRESIDENT

SEAL-STAMP



NORTH CAROLINA, Mecklenburg County.

I, a Notary Public of Mecklenburg County, North Carolina, certify that PAUL R. KWIATKOWSKI, ASSISTANT VICE PRESIDENT, either being personally known to me or proven by satisfactory evidence (said evidence being a driver's license) personally came before me this day and acknowledged that he is ASSISTANT VICE PRESIDENT of D.R. Horton, Inc., a Delaware corporation, and that he, as Vice President, being authorized to do so, voluntarily executed the foregoing on behalf of said corporation for the purposes therein stated.

Witness my hand and official stamp or seal, this 18th day of March, 2011.

My commission expires: 4/6/13  
Kerry S. Graham  
KERRY S. GRAHAM, Notary Public

The foregoing Certificate(s) of \_\_\_\_\_ is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof \_\_\_\_\_ REGISTER OF DEEDS FOR \_\_\_\_\_ COUNTY  
By \_\_\_\_\_ Deputy/Assistant - Register of Deeds

# PETITION REQUESTING A CONTIGUOUS ANNEXATION

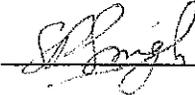
DATE: 8/29/2012

To the Town Council of the Town of Indian Trail, North Carolina:

1. We, the undersigned owners of real property, respectfully request that the area described in paragraph 2 below be annexed to the Town of Indian Trail, North Carolina.
2. The area to be annexed is contiguous to the primary limits of the Town of Indian Trail, North Carolina and the boundaries of such territory are as follows:

**SEE ATTACHED DESCRIPTION OF BOUNDARIES**

(Copy of Deed or other source containing legal description of properties requesting annexation)

NAME (print or type)	ADDRESS	SIGNATURE
1. Sachwinder Singh	1007 Garden Oak Dr.	
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

5356  
0529

FILED  
UNION COUNTY, NC  
**CRYSTAL CRUMP  
REGISTER OF DEEDS**

FILED Jul 01, 2010  
AT 12:03 pm  
BOOK 05356  
START PAGE 0529  
END PAGE 0530  
INSTRUMENT # 16117  
EXCISE TAX (None)  
JT

Excise Tax \$557.00

Tax Lot No. \_\_\_\_\_ Parcel Identifier No. 07-091-047

Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
by \_\_\_\_\_

Mail after recording to **GRANTEE**  
This instrument was prepared by **McMILLAN & TERRY, P.A./jo**  
Brief description for the Index

Lot 15, BRANDON OAKS

**NORTH CAROLINA SPECIAL WARRANTY DEED**

THIS DEED made **June 30, 2010**, by and between

GRANTOR	GRANTEE
<p><b>D.R. Horton, Inc.</b>  (a Delaware corporation)  PO Box 668608 Charlotte, NC 28266</p>	<p><b>SACHWINDER SINGH and wife, KAMALJIT SINGH</b>  1007 Garden Oak Drive Indian Trail, NC 28079</p>

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the township of County, City of **Indian Trail, Union County, North Carolina** and more particularly described as follows:

**BEING all of Lot 15 in Block 24 of The Gardens at Brandon Oaks, Phase 9, Map 6, as shown on a 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 map reference is hereby made.**

All or a portion of the property herein conveyed \_\_\_ includes or X does not include the primary residence of the Grantor(s).

The property hereinabove described was acquired by Grantor by instrument recorded in Book 5300, Page 419.

A map showing the above described property is recorded in Plat Book L, page 39.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

**All such valid and enforceable easements, restrictions and rights of way of record and the lien of ad valorem taxes for the current year which the grantee herein assumes and agrees to pay.**

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

D.R. Horton, Inc.

By: *Paul R. Kwiatkowski*  
PAUL R. KWIATKOWSKI, ASSISTANT VICE PRESIDENT

SEAL-STAMP



NORTH CAROLINA, Mecklenburg County.

I, a Notary Public of Mecklenburg County, North Carolina, certify that PAUL R. KWIATKOWSKI, ASSISTANT VICE PRESIDENT, either being personally known to me or proven by satisfactory evidence (said evidence being a driver's license) personally came before me this day and acknowledged that he is ASSISTANT VICE PRESIDENT of D.R. Horton, Inc., a Delaware corporation, and that he, as Vice President, being authorized to do so, voluntarily executed the foregoing on behalf of said corporation for the purposes therein stated.

Witness my hand and official stamp or seal, this 30th day of June, 2010.

My commission expires: 4/6/13 *Kerry S. Graham*  
KERRY S. GRAHAM, Notary Public

The foregoing Certificate(s) of \_\_\_\_\_ is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof \_\_\_\_\_

REGISTER OF DEEDS FOR \_\_\_\_\_ COUNTY

By \_\_\_\_\_ Deputy/Assistant - Register of Deeds

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION  
OF ANNEXATION 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 23rd day of October, 2012.

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

**See Attached Metes and Bounds- Annexation 132**

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

## ANNEXATION 132

**Track 1-** Being all of Lot 1 Block 23 of Brandon Oaks Phase 9 Map 5 as recorded in the Union County Register of Deeds Office in Plat Cabinet K File 161. 0.217 Acres Annexation

**Commencing** at a pipe found at the southeast corner of Lot 47 Block 20 of Brandon Oaks Phase 9 Map 5 as recorded in the Union County Register of Deeds Office in Plat Cabinet K File 161, thence N57-24-02E 301.69' to a point, the southwest corner of Lot 52 Block 20 of Brandon Oaks Phase 9 Map 5 as recorded in the Union County Register of Deeds Office in Plat Cabinet K File 161 thence N48-24-30W 693.28' to a point, the southeast corner of Lot 1 Block 23 of Brandon Oaks Phase 9 Map 5 and the **Point of Beginning**.

Thence from said **Point of Beginning**, with the southern line of Lot 1 Block 23 of Brandon Oaks Phase 9 Map 5 as recorded in the Union County Register of Deeds Office in Plat Cabinet K File 161 S38-58-47W 79.00' to a point, the southwest corner of Lot 1 Block 23 on the right-of-way of Canopy Drive; Thence with the right-of-way of Canopy Drive N46-21-16W 107.39 to a point; thence with the arc of a curve to the right having a radius of 25.00' an arc length of 37.23' (subtended by chord N03-41-14W 33.89') to a point on the southern right-of-way of Fountainbrook Drive; Thence with the right-of-way of Fountainbrook Drive N38-58-47E 45.35' to a point; Thence S51-01-13E 130.00' to a point, the **Point of Beginning**.

Being all of Lot 1 Block 23 of Brandon Oaks Phase 9 Map 5 as recorded in the Union County Register of Deeds Office in Plat Cabinet K File 161. 0.217 Acres as shown on the Annexation Exhibit of Brandon Oaks a Portion of Phase 9 by Yarbrough-Williams & Houle Inc, dated 10-01-2012.

**Track 2-** Being all of Lot 15 Block 24 of Brandon Oaks Phase 9 Map 6 as recorded in the Union County Register of Deeds Office in Plat Cabinet L File 39. 0.205 Acres Annexation

**Commencing** at a pipe found at the southeast corner of Lot 47 Block 20 of Brandon Oaks Phase 9 Map 5 as recorded in the Union County Register of Deeds Office in Plat Cabinet K File 161, thence N57-24-02E 301.69' to a point, the southwest corner of Lot 52 Block 20 of Brandon Oaks Phase 9 Map 5 as recorded in the Union County Register of Deeds Office in Plat Cabinet K File 161 thence N00-48-10E 472.24' to a point, the northwest corner of Lot 15 Block 24 of Brandon Oaks Phase 9 Map 6 and the **Point of Beginning**.

Thence from said **Point of Beginning**, with the northern line of Lot 15 Block 24 of Brandon Oaks Phase 9 Map 6 as recorded in the Union County Register of Deeds Office in Plat Cabinet L File 39 N33-32-57E 134.55' to a point, the northeast corner of Lot 15 Block 24 on the right-of-way of Garden Oak Drive; Thence with the right-of-way of Garden Oak Drive with the arc of a curve to the left having a radius of 795.00' an arc length of 56.63' (subtended by chord S58-29-30E 56.62') to a point; Thence continuing with the right-of-way of Garden Oak Drive S60-31-56E 5.96' to a point, the southeastern corner of Lot 15 Block 24 of Brandon Oaks Phase 9 Map 6; Thence with the southern line of Lot 15 Block 24 S29-28-04W 132.20' to a point, the southwest corner of Lot 15 Block 24; Thence with the western line of Lot 15 Block 24 N60-31-56W 72.12' to a point, the **Point of Beginning**.

Being all of Lot 15 Block 24 of Brandon Oaks Phase 9 Map 6 as recorded in the Union County Register of Deeds Office in Plat Cabinet L File 39. 0.205 Acres as shown on the Annexation Exhibit of Brandon Oaks a Portion of Phase 9 by Yarbrough-Williams & Houle Inc, dated 10-01-2012.



**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE**  
**A PETITION RECEIVED UNDER G.S. 160A-31**

**WHEREAS**, petition requesting annexation of an area described in said petition was received on the 9th day of October, 2012, by the Town Council; and

**WHEREAS**, N.C.G.S. Chapter 160A, Article 4A, Parts 1 and 4 provide that the sufficiency of the petition shall be investigated by the Town Clerk of the Town of Indian Trail, North Carolina before further annexation proceedings may take place; and

**WHEREAS**, the Town Council of the Town of Indian Trail, North Carolina deems it advisable to proceed in response to this request for annexation;

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

The Town Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Town Council the result of the investigation.

\_\_\_\_\_  
Michael Alvarez, Mayor

ATTEST:

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

# PETITION REQUESTING A CONTIGUOUS ANNEXATION

DATE: 8/15/2012

To the Town Council of the Town of Indian Trail, North Carolina:

1. We, the undersigned owners of real property, respectfully request that the area described in paragraph 2 below be annexed to the Town of Indian Trail, North Carolina.
2. The area to be annexed is contiguous to the primary limits of the Town of Indian Trail, North Carolina and the boundaries of such territory are as follows:

SEE ATTACHED DESCRIPTION OF BOUNDARIES  
(Copy of Deed or other source containing legal description of properties requesting annexation)

NAME (print or type)	ADDRESS	SIGNATURE
1. <u>Gayle R. Gullett</u>	<u>8 Badger Dr, Taylors, SC</u>	<u>Gayle R. Gullett</u>
2. <u>Barbara W. Gullett</u>	<u>8 Badger Dr, Taylors, SC</u>	<u>Barbara W. Gullett</u>
3. <u>James M. Gullett</u>	<u>2009 Kenway Dr., Matthews, NC</u>	<u>James M. Gullett</u>
4. <u>Suzanne H. Gullett</u>	<u>2009 Kenway Dr., Matthews, NC</u>	<u>Suzanne H. Gullett</u>
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

and others, and bounded as follows, viz:

BEGINNING at a point in State Road No. 1551, commonly called Helmsville Road, said point being approximately 1700 feet from U. S. Highway No. 74, common corner with the I. F. Plyler, Jr. and the Worth S. Helms property and runs thence North 29 deg. 15 min. 05 sec. West 66.51 feet to a stone in the Plyler Cora Miller corner; thence North 3 deg. 45 min. 35 sec. West 415.10 feet to an iron pin; thence North 51 deg. 14 min. 55 sec. West 462.13 feet to the center line of Spring Branch as witnessed by an old pin on the South side of the Branch; thence down and with the center line of Spring Branch five calls as follows: 1st. North 71 deg. 44 min. 40 sec. East 26.34 feet; 2nd. North 50 deg. 04 min. 30 sec. East 55 feet; 3rd. North 51 deg. 03 min. 30 sec. West 51.50 feet; 4th. North 23 deg. 55 min. 30 sec. East 35 feet; 5th. North 40 deg. 23 min. 40 sec. East 63.22 feet to a point in the center line of Crooked Creek; thence North 2 deg. 53 min. 20 sec. East 739.48 feet to an old iron rod crossing an iron pipe witness 30 feet from the Beginning; ~~thence South 61 deg. 43 min. 30 sec. East 336 feet to an iron pipe crossing~~ the James Frank Sustar corner 59.93 feet from the Beginning as witnessed by an iron pipe; thence South 6 deg. 49 min. 10 sec. East 732.57 feet crossing Crooked Creek to an old flat iron; thence South 67 deg. 29 min. 30 sec. East 290 feet to an iron pipe near Crooked Creek; thence North 88 deg. 48 min. 30 sec. East 285 feet to an iron pipe set on the South bank of Crooked Creek; thence South 60 deg. 43 min. 30 sec. East 38.59 feet to an iron rod found on the South bank of Crooked Creek, now or formerly Melvin T. Graham corner; thence South 66 deg. 19 min. 45 sec. East 104.73 feet to an old axle on the South bank of Crooked Creek; thence South 6 deg. 51 min. 10 sec. East 811.07 feet crossing Helmsville Road to an iron rod on the Southern edge of the road in the line of the property formerly deeded to W. A. Helms; thence along and with the old line near the Southern edge of Helmsville Road (S. R. #1551) 1st. North 76 deg. 44 min. 15 sec. West 175.41 feet to an old iron rod; 2nd. North 76 deg. 40 min. 10 sec. West 85.23 feet to an old iron rod; 3rd. North 77 deg. 7 min. 35 sec. West 192.87 feet to an old iron pipe; 4th. North 77 deg. 7 min. 0 sec. West 91.99 feet to an old iron pipe; 5th. North 76 deg. 39 min. 35 sec. West 339.39 feet to the railroad spike in State Road No. 1551, point of Beginning and containing 23.39 acres as surveyed by Edward L. Killough, July 6, 1977 and being the Monroe Kinsey Heirs property in Vance Township as platted and recorded

**CERTIFICATE OF SUFFICIENCY**

**To the Town Council of the Town of Indian Trail, North Carolina:**

I, Peggy S. Piontek, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Indian Trail, North Carolina, this the 9th day of October, 2012.

---

Peggy S. Piontek, Town Clerk

# PETITION REQUESTING A CONTIGUOUS ANNEXATION

DATE: 8/15/2012

To the Town Council of the Town of Indian Trail, North Carolina:

1. We, the undersigned owners of real property, respectfully request that the area described in paragraph 2 below be annexed to the Town of Indian Trail, North Carolina.
2. The area to be annexed is contiguous to the primary limits of the Town of Indian Trail, North Carolina and the boundaries of such territory are as follows:

SEE ATTACHED DESCRIPTION OF BOUNDARIES  
(Copy of Deed or other source containing legal description of properties requesting annexation)

NAME (print or type)	ADDRESS	SIGNATURE
1. <u>Gayle R. Gullett</u>	<u>8 Badger Dr, Taylors, SC</u>	<u>Gayle R. Gullett</u>
2. <u>Barbara W. Gullett</u>	<u>8 Badger Dr, Taylors, SC</u>	<u>Barbara W. Gullett</u>
3. <u>James M. Gullett</u>	<u>2009 Kenway Dr., Matthews, NC</u>	<u>James M. Gullett</u>
4. <u>Suzanne H. Gullett</u>	<u>2009 Kenway Dr., Matthews, NC</u>	<u>Suzanne H. Gullett</u>
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

and others, and bounded as follows, viz:

BEGINNING at a point in State Road No. 1551, commonly called Helmsville Road, said point being approximately 1700 feet from U. S. Highway No. 74, common corner with the I. F. Plyler, Jr. and the Worth S. Helms property and runs thence North 29 deg. 15 min. 05 sec. West 66.51 feet to a stone in the Plyler Cora Miller corner; thence North 3 deg. 45 min. 35 sec. West 415.10 feet to an iron pin; thence North 51 deg. 14 min. 55 sec. West 462.13 feet to the center line of Spring Branch as witnessed by an old pin on the South side of the Branch; thence down and with the center line of Spring Branch five calls as follows: 1st. North 71 deg. 44 min. 40 sec. East 26.34 feet; 2nd. North 50 deg. 04 min. 30 sec. East 55 feet; 3rd. North 51 deg. 03 min. 30 sec. West 51.50 feet; 4th. North 23 deg. 55 min. 30 sec. East 35 feet; 5th. North 40 deg. 23 min. 40 sec. East 63.22 feet to a point in the center line of Crooked Creek; thence North 2 deg. 53 min. 20 sec. East 739.48 feet to an old iron rod crossing an iron pipe witness 30 feet from the Beginning; ~~thence South 61 deg. 43 min. 30 sec. East 336 feet to an iron pipe crossing~~ the James Frank Sustar corner 59.93 feet from the Beginning as witnessed by an iron pipe; thence South 6 deg. 49 min. 10 sec. East 732.57 feet crossing Crooked Creek to an old flat iron; thence South 67 deg. 29 min. 30 sec. East 290 feet to an iron pipe near Crooked Creek; thence North 88 deg. 48 min. 30 sec. East 285 feet to an iron pipe set on the South bank of Crooked Creek; thence South 60 deg. 43 min. 30 sec. East 38.59 feet to an iron rod found on the South bank of Crooked Creek, now or formerly Melvin T. Graham corner; thence South 66 deg. 19 min. 45 sec. East 104.73 feet to an old axle on the South bank of Crooked Creek; thence South 6 deg. 51 min. 10 sec. East 811.07 feet crossing Helmsville Road to an iron rod on the Southern edge of the road in the line of the property formerly deeded to W. A. Helms; thence along and with the old line near the Southern edge of Helmsville Road (S. R. #1551) 1st. North 76 deg. 44 min. 15 sec. West 175.41 feet to an old iron rod; 2nd. North 76 deg. 40 min. 10 sec. West 85.23 feet to an old iron rod; 3rd. North 77 deg. 7 min. 35 sec. West 192.87 feet to an old iron pipe; 4th. North 77 deg. 7 min. 0 sec. West 91.99 feet to an old iron pipe; 5th. North 76 deg. 39 min. 35 sec. West 339.39 feet to the railroad spike in State Road No. 1551, point of Beginning and containing 23.39 acres as surveyed by Edward L. Killough, July 6, 1977 and being the Monroe Kinsey Heirs property in Vance Township as platted and recorded

UNION COUNTY NC 10/22/2001  
\$40.00  
STATE OF NORTH CAROLINA  
Real Estate Excise Tax

Filed for record  
Date 10-22-2001  
Time 12:25 o'clock P.m.  
JUDY G. PRICE, Register of Deeds  
Union County, Monroe, North Carolina

Recording Time, Book and Page

Excise Tax \$40.00

Tax Lot No. 07-048-018 Parcel Identifier No.  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

Mail after recording to GRANTEE  
This instrument was prepared by Michael J. Kammy, Attorney 16493

Brief Description for the index 23.39 Acres, Vance Twp.

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 12<sup>th</sup> day of October, 2001, by and between

GRANTOR	GRANTEE
MIRAIM DIANE GULLEY ZEBKE and husband, BARRY G. ZEBKE	GAYLE R. GULLEY (Married)
	Grantee's Address: 8 Badger Drive Taylors, SC 29687

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all of Grantor's interest in and to that certain lot or parcel of land situated in the City of , Vance Township, County, North Carolina and more particularly described as follows:

[SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN.]

The property hereinabove described was acquired by Grantor by instrument recorded in Book 453, Page 639.

A map showing the above described property is recorded in Plat Book , Page .

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

All easements, restrictions and rights of way of record and the lien for the ourrant year ad valorem taxes which have been prorated at closing and assumed by the Grantee(s) herein.

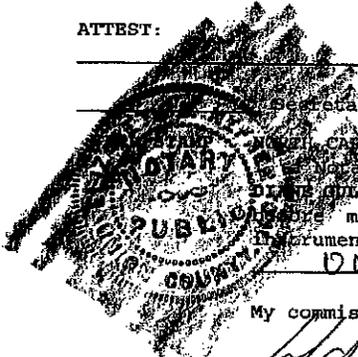
Grantor, Barry G. Zebke, does not give any warranties, but executes this Deed only to convey any and all rights he may aquired in the property by virtue of his marriage to Miriam Diane Gulley Zebke.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

\_\_\_\_\_  
(Corporate Name) Miriam Diane Gulley Zebke (SEAL)  
MIRIAM DIANE GULLEY ZEBKE

By: \_\_\_\_\_  
\_\_\_\_\_  
President Barry G. Zebke (SEAL)  
BARRY G. ZEBKE

ATTEST: \_\_\_\_\_ (SEAL)  
\_\_\_\_\_  
Secretary (Corporate Seal)



CAROLINA, Mecklenburg County.  
I, \_\_\_\_\_ Notary Public of the County and State aforesaid, certify that MIRIAM DIANE GULLEY ZEBKE and husband, BARRY G. ZEBKE, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 12 day of Oct, 2001.

My commission expires: My Commission Expires February 26, 2003  
Yvonne B. King Notary Public

SEAL-STAMP NORTH CAROLINA, Mecklenburg County.  
I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, personally came before me this day and acknowledged that he/she is \_\_\_\_\_ Secretary of \_\_\_\_\_, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by him/her as its \_\_\_\_\_ Secretary. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: / / \_\_\_\_\_ Notary Public

The foregoing Certificate(s) of Elizabeth B. Hefner, NP

is/are certified to be correct. This instrument and this certificate are duly registered at the date and in the Book and Page shown on the first page hereof.

JUDY G. PRICE REGISTER OF DEEDS FOR Union COUNTY  
By Sherena Ciocca Deputy/Assistant-Register of Deeds.

## Exhibit A

BEGINNING at a point in State Road No. 1551, commonly called Helmsville Road, said point being approximately 1700 feet from U.S. Highway No. 74, common corner with the I.F. Plyler, Jr. and the Worth S. Helms property and runs thence North 29 deg. 15 min. 05 sec. West 66.51 feet to a stone in the Plyler-Cora Miller corner; thence North 3 deg. 45 min. 35 sec. West 415.10 feet to an iron pin; thence North 51 deg. 14 min. 55 sec. West 462.13 feet to the center line of Spring Branch as witnessed by an old pin on the South side of the Branch; thence down and with the center line of Spring Branch five calls as follows: 1<sup>st</sup> North 17 deg. 44 min. 40 sec. East 26.34 feet; 2<sup>nd</sup>. North 50 deg. 04 min. 30 sec. East 55 feet; 3<sup>rd</sup>. North 51 deg. 03 min. 30 sec. West 51.50 feet; 4<sup>th</sup>. North 23 deg. 55 min. 30 sec. East 35 feet; 5<sup>th</sup>. North 40 deg. 23 min. 40 sec. East 63.22 feet to a point in the center line of Crooked Creek; thence North 2 deg. 53 min. 20 sec. East 739.48 feet to an old iron rod crossing an iron pipe witness 30 feet from the Beginning; thence South 61 deg. 43 min. 30 sec. East 336 feet to an iron pipe crossing the James Sustar corner 59.93 feet from the beginning as witnessed by an iron pipe; thence South 6 deg. 49 min. 10 sec. East 732.57 feet crossing Crooked Creek to an old flat iron; thence South 67 deg. 29 min. 30 sec. East 290 feet to an iron pipe near Crooked Creek; thence North 88 deg. 48 min. 30 sec. East 285 feet to an iron pipe set on the South bank of Crooked Creek; thence South 60 deg. 43 min. 30 sec. East 38.59 feet to an iron rod found on the South bank of Crooked Creek, now or formerly Melvin T. Graham corner; thence South 66 deg. 19 min. 45 sec. East 104.73 feet to an old axle on the South bank of Crooked Creek; thence South 6 deg. 51 min. 10 sec. East 811.07 feet crossing Helmsville Road to an iron rod on the Southern edge of the road in the line of the property formerly deeded to W.A. Helms; thence along and with the old line near the Southern edge of Helmsville Road (S.R. #1551) 1<sup>st</sup>. North 76 deg. 44 min. 15 sec. West 175.41 feet to an old iron rod; 2<sup>nd</sup>. North 76 deg. 40 min. 10 sec. West 85.23 feet to an old iron rod; 3<sup>rd</sup>. North 77 deg. 7 min. 35 sec. West 192.87 feet to an old iron pipe; 4<sup>th</sup>. North 77 deg. 7 min. 0 sec. West 91.99 feet to an old iron pipe; 5<sup>th</sup>. North 76 deg. 39 min. 35 sec. West 339.39 feet to the railroad spike in State Road No. 1551, point of Beginning and containing 23.39 acres as surveyed by Edward L. Killough, July 6, 1977 and being the Monroe Kinsey Heirs property in Vance Township as platted and recorded in the Office of the Register of Deeds of Union County. For further reference see deed recorded in Deed Book 87, page 521 and the Wills of Monroe Kinsey and wife, Ibbie Kinsey.

And being the same property inherited by Edna Moore Gulley from James S. Galley. For additional reference, also see Deed recorded in Deed Book 453 at Page 639 whereby Edna Moore Gulley conveyed all of her interest to her two daughters, Jacqueline Gulley Brewer and Miraim Diane Gulley Zebke. Said daughters may also have inherited interest in said property from their father, James S. Gulley.

74148

UNION COUNTY NC 10/22/2001  
\$40.00



Real Estate  
Excise Tax

Filed for record  
Date 10.22.2001  
Time 1:25 o'clock PM  
JUDY G. PRICE, Register of Deeds  
Union County, Monroe, North Carolina

Recording Time, Book and Page

Excise Tax \$40.00

Tax Lot No. 07-048-018 Parcel Identifier No.  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

Mail after recording to GRANTEE  
This instrument was prepared by Michael J. Kemmy, Attorney 16493

Brief Description for the index 23.39 Acres, Vance Twp.

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 12<sup>th</sup> day of October, 2001, by and between

GRANTOR  
JACQUELINE GULLEY (Unmarried)  
[formerly JACQUELINE GULLEY BREWER]

GRANTEE  
JAMES M. GULLEY (Married)  
  
Grantee's Address:  
2009 Kimway Drive  
Matthews, NC 28105

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all of Grantor's interest in and to that certain lot or parcel of land situated in the City of , Vance Township, County, North Carolina and more particularly described as follows:

[SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN.]



## Exhibit A

BEGINNING at a point in State Road No. 1551, commonly called Helmsville Road, said point being approximately 1700 feet from U.S. Highway No. 74, common corner with the I.F. Plyler, Jr. and the Worth S. Helms property and runs thence North 29 deg. 15 min. 05 sec. West 66.51 feet to a stone in the Plyler-Cora Miller corner; thence North 3 deg. 45 min. 35 sec. West 415.10 feet to an iron pin; thence North 51 deg. 14 min. 55 sec. West 462.13 feet to the center line of Spring Branch as witnessed by an old pin on the South side of the Branch; thence down and with the center line of Spring Branch five calls as follows: 1<sup>st</sup> North 17 deg. 44 min. 40 sec. East 26.34 feet; 2<sup>nd</sup>. North 50 deg. 04 min. 30 sec. East 55 feet; 3<sup>rd</sup>. North 51 deg. 03 min. 30 sec. West 51.50 feet; 4<sup>th</sup>. North 23 deg. 55 min. 30 sec. East 35 feet; 5<sup>th</sup>. North 40 deg. 23 min. 40 sec. East 63.22 feet to a point in the center line of Crooked Creek; thence North 2 deg. 53 min. 20 sec. East 739.48 feet to an old iron rod crossing an iron pipe witness 30 feet from the Beginning; thence South 61 deg. 43 min. 30 sec. East 336 feet to an iron pipe crossing the James Sustar corner 59.93 feet from the beginning as witnessed by an iron pipe; thence South 6 deg. 49 min. 10 sec. East 732.57 feet crossing Crooked Creek to an old flat iron; thence South 67 deg. 29 min. 30 sec. East 290 feet to an iron pipe near Crooked Creek; thence North 88 deg. 48 min. 30 sec. East 285 feet to an iron pipe set on the South bank of Crooked Creek; thence South 60 deg. 43 min. 30 sec. East 38.59 feet to an iron rod found on the South bank of Crooked Creek, now or formerly Melvin T. Graham corner; thence South 66 deg. 19 min. 45 sec. East 104.73 feet to an old axle on the South bank of Crooked Creek; thence South 6 deg. 51 min. 10 sec. East 811.07 feet crossing Helmsville Road to an iron rod on the Southern edge of the road in the line of the property formerly deeded to W.A. Helms; thence along and with the old line near the Southern edge of Helmsville Road (S.R. #1551) 1<sup>st</sup>. North 76 deg. 44 min. 15 sec. West 175.41 feet to an old iron rod; 2<sup>nd</sup>. North 76 deg. 40 min. 10 sec. West 85.23 feet to an old iron rod; 3<sup>rd</sup>. North 77 deg. 7 min. 35 sec. West 192.87 feet to an old iron pipe; 4<sup>th</sup>. North 77 deg. 7 min. 0 sec. West 91.99 feet to an old iron pipe; 5<sup>th</sup>. North 76 deg. 39 min. 35 sec. West 339.39 feet to the railroad spike in State Road No. 1551, point of Beginning and containing 23.39 acres as surveyed by Edward L. Killough, July 6, 1977 and being the Monroe Kinsey Heirs property in Vance Township as platted and recorded in the Office of the Register of Deeds of Union County. For further reference see deed recorded in Deed Book 87, page 521 and the Wills of Monroe Kinsey and wife, Ibbie Kinsey.

And being the same property inherited by Edna Moore Gulley from James S. Galley. For additional reference, also see Deed recorded in Deed Book 453 at Page 639 whereby Edna Moore Gulley conveyed all of her interest to her two daughters, Jacqueline Gulley Brewer and Miraim Diane Gulley Zebke. Said daughters may also have inherited interest in said property from their father, James S. Gulley.

---

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION  
OF ANNEXATION 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 23<sup>th</sup> day of October, 2012.

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

**See Attached Metes and Bounds- Annexation 133**

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

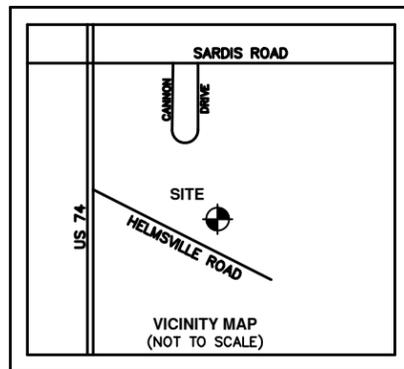
ATTEST:

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

## Exhibit A

BEGINNING at a point in State Road No. 1551, commonly called Helmsville Road, said point being approximately 1700 feet from U.S. Highway No. 74, common corner with the I.F. Plyler, Jr. and the Worth S. Helms property and runs thence North 29 deg. 15 min. 05 sec. West 66.51 feet to a stone in the Plyler-Cora Miller corner; thence North 3 deg. 45 min. 35 sec. West 415.10 feet to an iron pin; thence North 51 deg. 14 min. 55 sec. West 462.13 feet to the center line of Spring Branch as witnessed by an old pin on the South side of the Branch; thence down and with the center line of Spring Branch five calls as follows: 1<sup>st</sup> North 17 deg. 44 min. 40 sec. East 26.34 feet; 2<sup>nd</sup>. North 50 deg. 04 min. 30 sec. East 55 feet; 3<sup>rd</sup>. North 51 deg. 03 min. 30 sec. West 51.50 feet; 4<sup>th</sup>. North 23 deg. 55 min. 30 sec. East 35 feet; 5<sup>th</sup>. North 40 deg. 23 min. 40 sec. East 63.22 feet to a point in the center line of Crooked Creek; thence North 2 deg. 53 min. 20 sec. East 739.48 feet to an old iron rod crossing an iron pipe witness 30 feet from the Beginning; thence South 61 deg. 43 min. 30 sec. East 336 feet to an iron pipe crossing the James Sustar corner 59.93 feet from the beginning as witnessed by an iron pipe; thence South 6 deg. 49 min. 10 sec. East 732.57 feet crossing Crooked Creek to an old flat iron; thence South 67 deg. 29 min. 30 sec. East 290 feet to an iron pipe near Crooked Creek; thence North 88 deg. 48 min. 30 sec. East 285 feet to an iron pipe set on the South bank of Crooked Creek; thence South 60 deg. 43 min. 30 sec. East 38.59 feet to an iron rod found on the South bank of Crooked Creek, now or formerly Melvin T. Graham corner; thence South 66 deg. 19 min. 45 sec. East 104.73 feet to an old axle on the South bank of Crooked Creek; thence South 6 deg. 51 min. 10 sec. East 811.07 feet crossing Helmsville Road to an iron rod on the Southern edge of the road in the line of the property formerly deeded to W.A. Helms; thence along and with the old line near the Southern edge of Helmsville Road (S.R. #1551) 1<sup>st</sup>. North 76 deg. 44 min. 15 sec. West 175.41 feet to an old iron rod; 2<sup>nd</sup>. North 76 deg. 40 min. 10 sec. West 85.23 feet to an old iron rod; 3<sup>rd</sup>. North 77 deg. 7 min. 35 sec. West 192.87 feet to an old iron pipe; 4<sup>th</sup>. North 77 deg. 7 min. 0 sec. West 91.99 feet to an old iron pipe; 5<sup>th</sup>. North 76 deg. 39 min. 35 sec. West 339.39 feet to the railroad spike in State Road No. 1551, point of Beginning and containing 23.39 acres as surveyed by Edward L. Killough, July 6, 1977 and being the Monroe Kinsey Heirs property in Vance Township as platted and recorded in the Office of the Register of Deeds of Union County. For further reference see deed recorded in Deed Book 87, page 521 and the Wills of Monroe Kinsey and wife, Ibbie Kinsey.

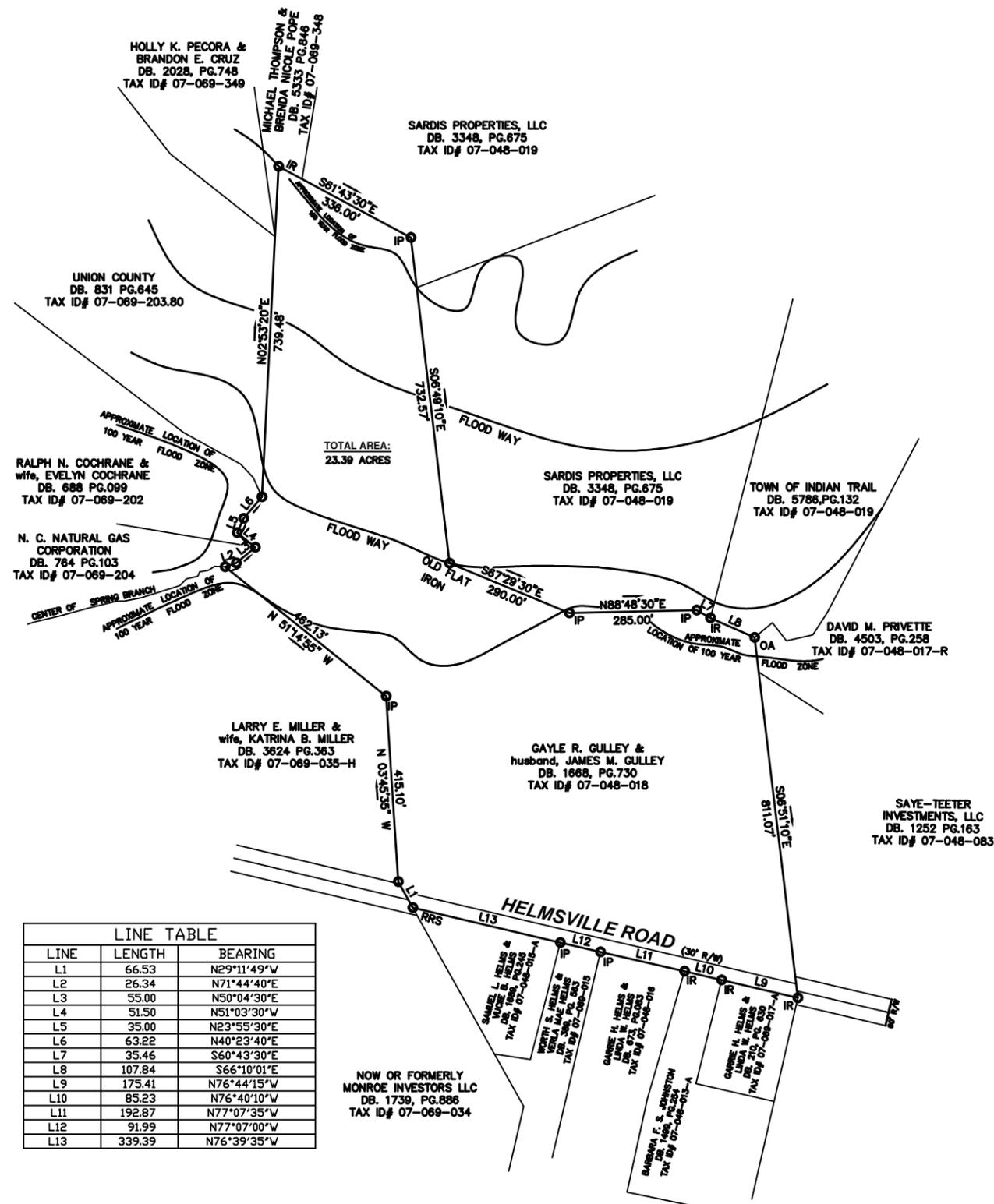
And being the same property inherited by Edna Moore Gulley from James S. Galley. For additional reference, also see Deed recorded in Deed Book 453 at Page 639 whereby Edna Moore Gulley conveyed all of her interest to her two daughters, Jacqueline Gulley Brewer and Miraim Diane Gulley Zebke. Said daughters may also have inherited interest in said property from their father, James S. Gulley.



**SURVEYOR CERTIFICATE**

STATE OF NORTH CAROLINA  
COUNTY OF UNION  
THE UNDERSIGNED SURVEYOR, BEING DULY SWORN DEPOSES AND SAYS  
THAT THE PLAT UPON WHICH THIS CERTIFICATE APPEARS WAS PREPARED  
IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; IS IN ALL RESPECTS  
CORRECT ACCORDING TO THE BEST OF HIS KNOWLEDGE AND BELIEF,  
AND WAS PREPARED FROM AN ACTUAL SURVEY MADE UNDER HIS  
SUPERVISION WITH A MAXIMUM LINEAR ERROR OR CLOSURE OF 1:10000  
AND A MAXIMUM FIELD ERROR OF CLOSURE OF 7.5 SECONDS PER ANGLE

SIDNEY M. SANDY  
NCPLS L1396



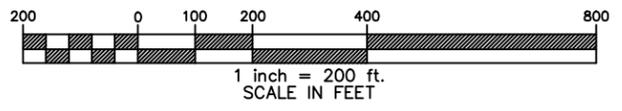
LINE	LENGTH	BEARING
L1	66.53	N29°11'49"W
L2	26.34	N71°44'40"E
L3	55.00	N50°04'30"E
L4	51.50	N51°03'30"W
L5	35.00	N23°55'30"E
L6	63.22	N40°23'40"E
L7	35.46	S60°43'30"E
L8	107.84	S66°10'01"E
L9	175.41	N76°44'15"W
L10	85.23	N76°40'10"W
L11	192.87	N77°07'35"W
L12	91.99	N77°07'00"W
L13	339.39	N76°39'35"W

- LEGEND**
- IP=IRON PIN
  - RRS=RAIL ROAD SPIKE
  - OA=OLD AXLE
  - IR=IRON ROD
  - R/W=RIGHT-OF-WAY
  - DB=DEED BOOK
  - PG=PAGE

**OFFICIAL CERTIFICATION**

STATE OF NORTH CAROLINA  
COUNTY OF UNION  
I, THE UNDERSIGNED MAYOR OF THE TOWN OF INDIAN TRAIL HEREBY CERTIFY THAT THE MAP REFLECTS THE TERRITORY WHICH WAS ANNEXED INTO THE TOWN OF INDIAN TRAIL BY ANNEXATION ORDINANCE #133 WHICH WAS ADOPTED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2012 AND THE INDIAN TRAIL MUNICIPAL LIMITS WHICH CORRESPOND TO THE EFFECTIVE DATE OF \_\_\_\_\_ 2012

\_\_\_\_\_  
MICHAEL ALVAREZ, MAYOR DATE \_\_\_\_\_  
\_\_\_\_\_  
TOWN CLERK DATE \_\_\_\_\_



**ANNEXATION INTO THE TOWN OF INDIAN TRAIL**  
**ANNEXATION ORDINANCE NO. 133**  
TOWN OF INDIAN TRAIL  
VANCE TOWNSHIP, UNION COUNTY, N.C.  
TAX ID#: 07-048-018

**S. M. SANDY SURVEYING**  
1833 WESLEY CHAPEL ROAD  
INDIAN TRAIL, NC 28079  
PHONE. (704) 289 - 8040

DATE: 09-24-12  
SCALE: 1"=200'  
ACAD FILE: HR-GRG



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 October 9, 2012 Town Council Public Hearing**

<b>Case: ZT 2012-004 Amendment of UDO Chapter 310 Public Hearing</b>			
<b>Reference Name</b>	<b>Public Notice Amendment</b>		
<b>Planning Board Meeting Date</b>	September 18, 2012		
<b>Members Present</b>	Chair Cowan <input checked="" type="checkbox"/>	Jan Brown <input type="checkbox"/>	Larry Miller <input checked="" type="checkbox"/>
	Vice-Chair Higgins <input checked="" type="checkbox"/>	Kelly D' Onofrio <input checked="" type="checkbox"/>	Robert Rollins <input type="checkbox"/>
	Sidney Sandy <input type="checkbox"/>	Cheryl Mimy Alternate 1 <input checked="" type="checkbox"/>	Steve Long Alternate 2 <input checked="" type="checkbox"/>
	Alan Rosenberg Alternate 3 <input checked="" type="checkbox"/>		
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Motion</b>	Recommend approval to Town Council		
<b>Member Making the Motion</b>	Boardmember Higgins		
<b>Second the Motion</b>	Boardmember Rosenberg		
<b>Vote</b>	All seated members voted in favor of the Motion		

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

**Town Council Action:** *Receive transmittal report and public testimony and:*

1. *Concur with the findings and transmittal of the Planning Board to approve; or*
2. *Concur with the findings and approve as modified by Council; or*
3. *Do not make the findings and disapprove the amendment.*

## **Executive Summary**

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

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

## **Planning Board**

This proposed amendment was heard by the Planning Board on August 16, 2012, and again on September 18, 2012 after additional work with the Town Attorney was complete. After receiving the modified draft and general discussion, the Board motioned to make the findings and transmit a unanimous recommendation to approve. The draft findings for Council consideration are noted below:

1. The proposed UDO amendment is consistent with the following goals:
  - 1.3.2 of the Comprehensive Plan – *Land Use*; because this amendment encourages public participation in land use decisions by informing and engaging residents within the project area promoting land use compatibility.
- 2 This UDO ordinance amendment is in the best interest of the public because it enhances public noticing requirements and information dissemination thus encouraging public participation in the land use decision process.

## **Staff Contact**

Shelley DeHart, AICP

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

704 821-5401

Attachment 1- Planning Board Report

Attachment 2- Draft Ordinance

TC ATTACHEMENT 1 – PLANNING BOARD REPORTS

# Town of Indian Trail

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## Memo

**TO:** Planning Board  
**FROM:** Shelley DeHart, AICP  
**DATE:** September 4, 2012  
**SUBJECT:** ZT 2012-004 Noticing Requirements



---

The Planning Board heard this item at its August 16, 2012 public meeting. After discussions, the Board voted to continue this item to the September meeting allowing staff additional time to work with the Town Attorney on additional requirements for specific types of Rezone applications.

Based on the discussion, the Board requested to:

- Establish a minimum notification area of 400-feet for all applications (other than below);
- For rezone applications that change the existing zoning from one land use category to another (e.g. Residential to Commercial, Commercial to Industrial) thus intensifying the future use:
  - Require a community meeting be held prior to the Planning Board meeting; and
  - Require a 500-ft minimum notification area (mailed notice).

### **Proposed Draft Ordinance Amendment:**

#### **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 (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, the owner of the subject parcel of land, *(and) the owners of all parcels of land and established Home Owner Associations abutting subject parcel that lie within 400 feet as measured from the exterior boundaries of the subject property.*
  2. *Property 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 10 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. The planning staff will also post notices of the public hearing in the vicinity of the property that is subject to a public hearing and will take any other action deemed by the planning staff to be useful or appropriate to give notice of the public hearing on any proposed amendment.
- F. The newspaper and mailed notice required or authorized by this section will:
1. state the date, time, and place of the public hearing;
  2. summarize the nature and character of the proposed project associated with the public hearing;
  3. if a proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
  4. state that the full text of an amendment or copies of application forms can be obtained from the planning department; and
  5. state that substantial change in the proposed amendment may be made following the public hearing.
- G. The required posted notices will indicate the following:
1. type of application filed;
  2. link to the Town website, containing the information for the time, date and place of the public hearing, as well as all information on the application filed.
  3. a phone number to contact the Town.
  4. Note – such public notice sign postings shall be placed on the affected property(ies) once a complete project application (i.e., SUP, zoning map amendment, etc.) is received by the Town.

**Town Attorney:** The Town Attorney has reviewed the draft ordinance amendment and all comments have been incorporated herein.

**Required Planning Board Action:** Staff recommends the Board receive the amended report and after deliberations make the required findings as found in Attachment 1, and recommend approval to the Town Council.

**Attachment 1- PB Staff report for August 16, 2012**



Town of  
**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

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

### Project Summary

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

### Areas of Analysis:

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

### Analysis

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

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

**Administrative Changes**

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

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

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

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

**Rezone Notification Requirements**

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

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

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

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

### **Proposed Amendment of Chapter 310**

#### **610.030 Required Notice for Public Hearings**

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

type of application filed;

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.

a phone number to contact the Town.

Note – such public notice sign postings shall be placed on the affected property(ies) once a complete project application (i.e., SUP, zoning map amendment, etc.) is received by the Town.

*H. The Planning Director and/ or the authorized hearing body shall have the authority to require a neighborhood meeting and/ or expand the mail notification boundary to a maximum of 1000 feet if it finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Planning Director or Board shall consider, among other factors, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in questions.\**

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

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

### **Required Consistency Findings**

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

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

1.3.2 of the Comprehensive Plan – *Land Use*; because this amendment encourages public participation in land use decisions by informing and engaging residents within the project area promoting land use compatibility.

2.This UDO ordinance amendment is in the best interest of the public because it enhances public noticing requirements and information dissemination thus encouraging public participation in the land use decision process.

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

### **Staff Contact**

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

### Attachments:

Attachment 1- Sample Notice

Attachment 2-Draft Ordinance – *Removed – See New Draft Ordinance*

# **ATTACHMENT ONE**



Town of  
**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

**NOTICE EXAMPLE**

**PUBLIC MEETING NOTICE**

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

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

**What is a Zoning Map Amendment or Rezoning?**

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

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

# ZM2012-002 LOCATION MAP



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

# NOTICE EXAMPLE

**PB Attachment 2 – New Draft Ordinance- SEE TC ATTACHEMENT 2**



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

**Section 2 - Section 310.030 Chapter 310 of the UDO is amended as follows:**

**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 (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, the owner of the subject parcel of land, *(and) the owners of all parcels of land and established Home Owner Associations abutting subject parcel that lie within 400 feet as measured from the exterior boundaries of the subject property.*
  - 2.** *Property 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 10 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.** The planning staff will also post notices of the public hearing in the vicinity of the property that is subject to a public hearing and will take any other action deemed by the planning staff to be useful or appropriate to give notice of the public hearing on any proposed amendment.
- F.** The newspaper and mailed notice required or authorized by this section will:
- 1.** state the date, time, and place of the public hearing;
  - 2.** summarize the nature and character of the proposed project associated with the public hearing;
  - 3.** if a proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
  - 4.** state that the full text of an amendment or copies of application forms can be obtained from the planning department; and
  - 5.** state that substantial change in the proposed amendment may be made following the public hearing.

**G.** The required posted notices will indicate the following:

- 1.** type of application filed;
- 2.** link to the Town website, containing the information for the time, date and place of the public hearing, as well as all information on the application filed.
- 3.** a phone number to contact the Town.
- 4.** Note – such public notice sign postings shall be placed on the affected property(ies) once a complete project application (i.e., SUP, zoning map amendment, etc.) is received by the Town.

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

SO ORDAINED THIS 9TH DAY OF OCTOBER, 2012.

THE TOWN COUNCIL OF INDIAN TRAIL

By \_\_\_\_\_  
Honorable Michael L. Alvarez, Mayor

Attest:

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



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

PLANNING AND NEIGHBORHOOD SERVICES

**Planning Board Transmittal for the October 9, 2012 Town Council Public Hearing**

<b>Case: CZ2009-003A 215 Rowell Drive</b>			
<b>Reference Name</b>	<b>Architectural Modification at 215 Rowell Drive</b>		
<b>Planning Board Meeting Date</b>	September 18, 2012		
<b>Members Present</b>	Chair Cowan <input checked="" type="checkbox"/>	Jan Brown <input type="checkbox"/>	Larry Miller <input checked="" type="checkbox"/>
	Vice-Chair Higgins <input checked="" type="checkbox"/>	Kelly D' Onofrio <input checked="" type="checkbox"/>	Robert Rollins <input type="checkbox"/>
	Sidney Sandy <input type="checkbox"/>	Cheryl Mimy <input checked="" type="checkbox"/> Alternate 1	Steve Long <input checked="" type="checkbox"/> Alternate 2
	Alan Rosenberg <input checked="" type="checkbox"/> Alternate 3		
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
<b>Motion</b>	Recommend approval to Town Council		
<b>Member Making the Motion</b>	Boardmember Higgins		
<b>Second the Motion</b>	Boardmember Mimy		
<b>Vote</b>	Motion passed with 4-3 vote		

**Purpose of the Amendment:** A request to modify the original Conditional Zoning (CZ2009-003) for the parcel located at 215 Rowell Drive. The original approval included an architectural rendering that is proposed for modification as part of this rezoning. The property is currently under development.

**Town Council Action:** *Receive transmittal report and public testimony and:*

1. *Concur with the findings and transmittal of the Planning Board to approve; or*
2. *Concur with the findings and approve as modified by Council; or*
3. *Do not make the findings and disapprove the amendment.*

## **Executive Summary**

The property is currently zoned Conditional Zoning Regional Business District (CZ-RBD). The site plan was approved in March 2009 and the conditional zoning was approved in May 2010. Each approval included an architectural rendering consisting of brick and stucco along the 300 foot side façade/wall facing the parking lot. The proposed rezoning request only involves an architectural change to the side façade/wall to include three 50 foot segments of brick and stucco, with the remainder consisting of metal panels (see enclosed photographs). The proposed modification would comply with current Unified Development Ordinance (UDO) standards. No other modifications are proposed.

## **Planning Board**

This proposed amendment was heard by the Planning Board on September 18, 2012. After receiving the report and hearing staff's analysis, the Board questioned the reason for the modification. They were concerned about setting a precedent about changing prior approvals. The Board eventually motioned to make the findings and transmit a recommendation to approve. The draft findings for Council consideration are noted below:

1. The proposed UDO amendment is consistent with the following goals:
  - 1.3.2 of the Comprehensive Plan – *Land Use*; The existing conditional zoning district meets the goal of land use by avoiding land use conflicts between neighboring properties. The proposed change promotes new businesses by allowing the construction to be completed in harmony with existing development.
- 2 The request for this zoning reclassification is a reasonable request and is the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of Land Use and is consistent with the adopted plans within the Town of Indian Trail.

## **Staff Contact**

Craig Thomas

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

(704) 821-5401

Attachment 1- Planning Board Report

Attachment 2- Draft Ordinance

**TC ATTACHMENT 1**  
Planning Board Staff Report



PO Box 2430  
 Indian Trail, NC 28079  
 Telephone (704) 821-5401  
 Fax (704) 821-9045

**PLANNING AND DEVELOPMENT DEPARTMENT**

## Conditional Zoning Staff Report

<b>Case: CZ 2009-003A 215 Rowell Drive</b>		
<b>Reference Name</b>	Rowell Drive Architectural Modification	
<b>Request</b>	Proposed Zoning	Conditional Zoning - Regional Business District (CZ – RBD)
	Proposed Use	Commercial
<b>Existing Site Characteristics</b>	Existing Zoning	Conditional Zoning - Regional Business District (CZ – RBD)
	Existing Use	Vacant Building under construction
	Site Acreage	3.16 acres
<b>Applicant</b>	Rick Strawn	
<b>Submittal Date</b>	7/26/12	
<b>Location</b>	215 Rowell Drive	
<b>Tax Map Number</b>	07-084-405G	
<b>Plan Consistency</b>	Town of Indian Trail Comprehensive Plan	Highway 74 Corridor
		Consistent with Request
<b>Recommendations &amp; Comments</b>	Planning Staff	Recommends approval for CZ2009-003A Modification

### Project Summary

Request: To modify the original conditional rezone (CZ2009-003) of the parcel at 215 Rowell Drive. The request is a modification to the approved architectural elevation for the property currently under development.

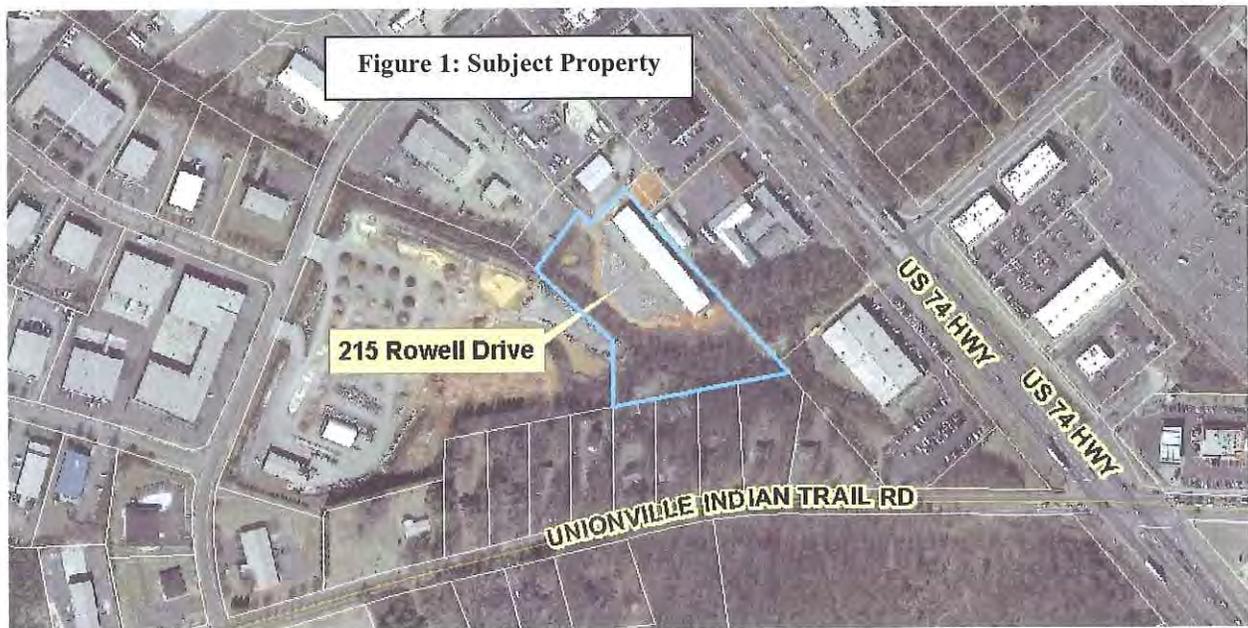
### Staff Recommendation

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

## General Information

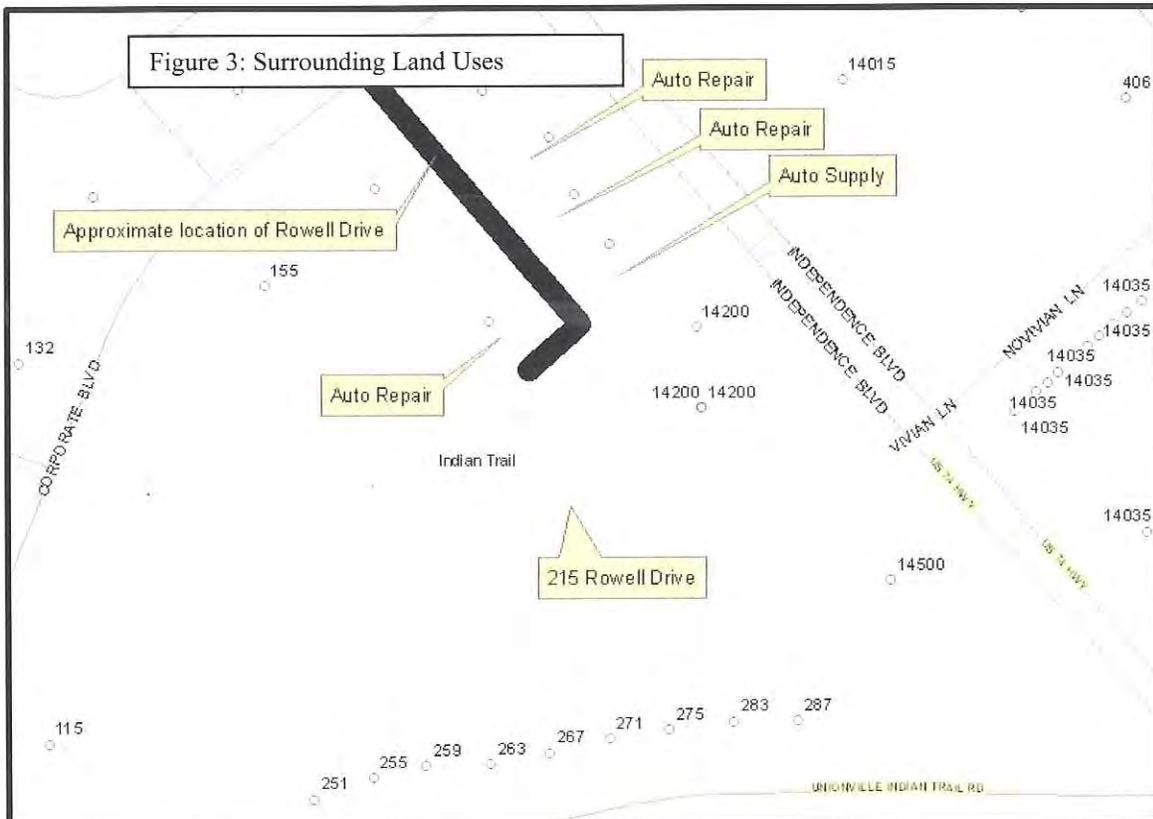
The subject property is approximately 3.16 acres located at the end of Rowell Drive. There are a variety of businesses in close proximity including restaurants, auto repair, recreation, office, and assorted retail sales. Rowell Drive is a private road situated adjacent to Highway 74 off of Corporate Boulevard (Figure 1). The site plan was approved in March 2009 and a Conditional Zoning CZ2009-003 was approved in May 2010. Both approvals included an architectural rendering consisting of brick, glass and stucco along the 300 foot façade facing the parking lot (Figure 2, Attachment 2).

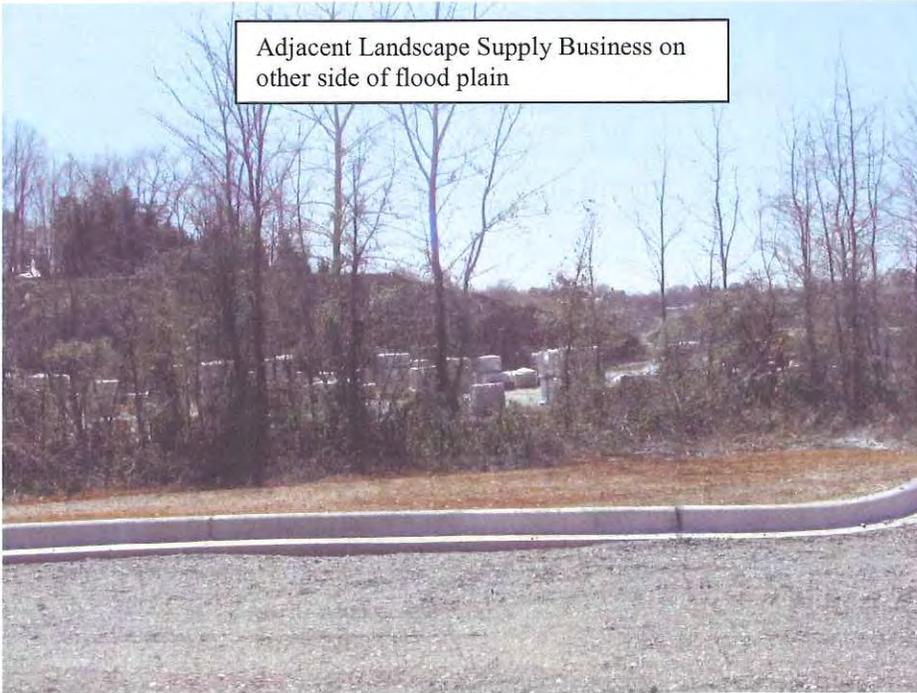
The site began development in 2010 and is nearing completion. The building was built with a brick and stucco finish along the shorter side facing Rowell Drive, but the majority of the long side facing the parking lot was constructed with metal siding. The applicant has submitted photographs of the building as an updated elevation for consideration of approval (Attachment 1).



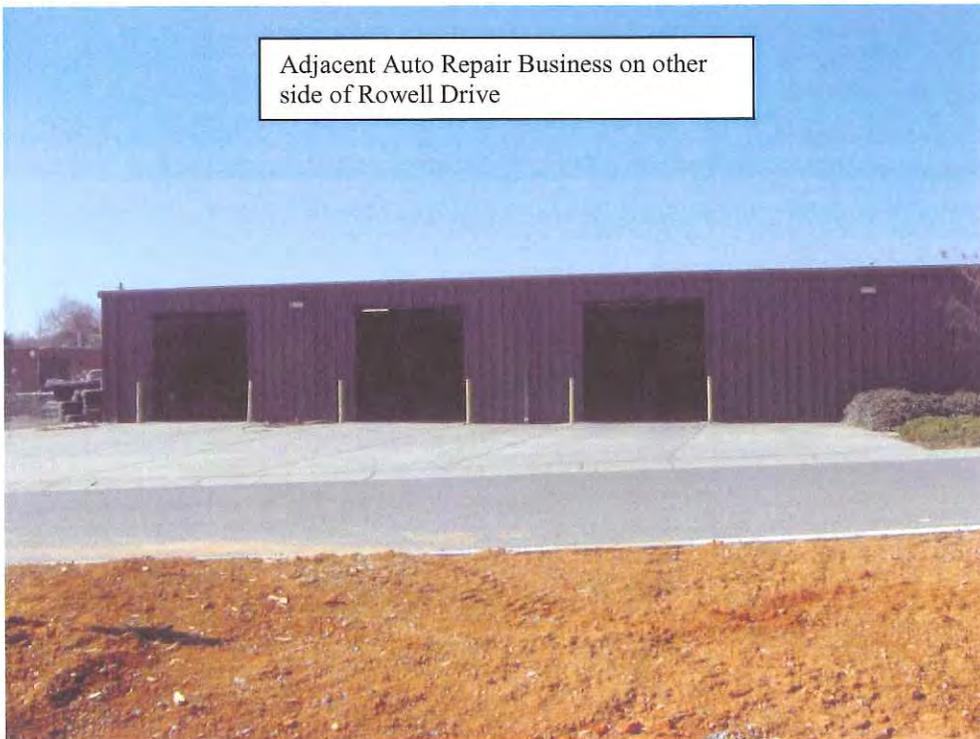


The property is located behind The Crystal Shoppe near several commercial properties including a restaurant, a landscaping supply company, and a number of auto repair businesses (Figure 3).



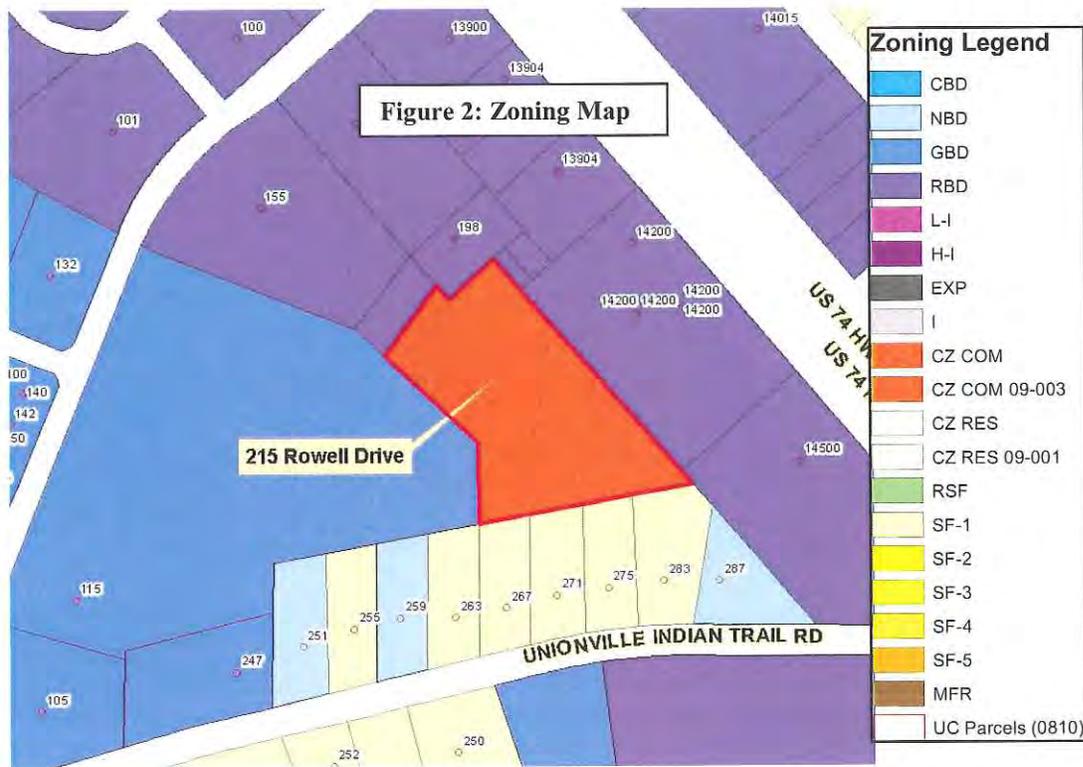


The applicant has stated the reasoning for the architectural change is twofold. First, the building is located at the end of Rowell Drive. The only side visible from Rowell Drive had the brick and stucco architectural enhancements. It is not visible from Highway 74. Second, it is compatible with the architectural styles of the surrounding buildings.



## Zoning Information

The subject property is a Conditionally Zoned Regional Business District. This district is intended to accommodate a wide variety of commercial businesses and services along major transportation routes. The surrounding properties adjacent to Highway 74 are zoned Regional Business District. There is also some General Business District along Corporate Boulevard and Residential SF-1 along Unionville Indian Trail Road.



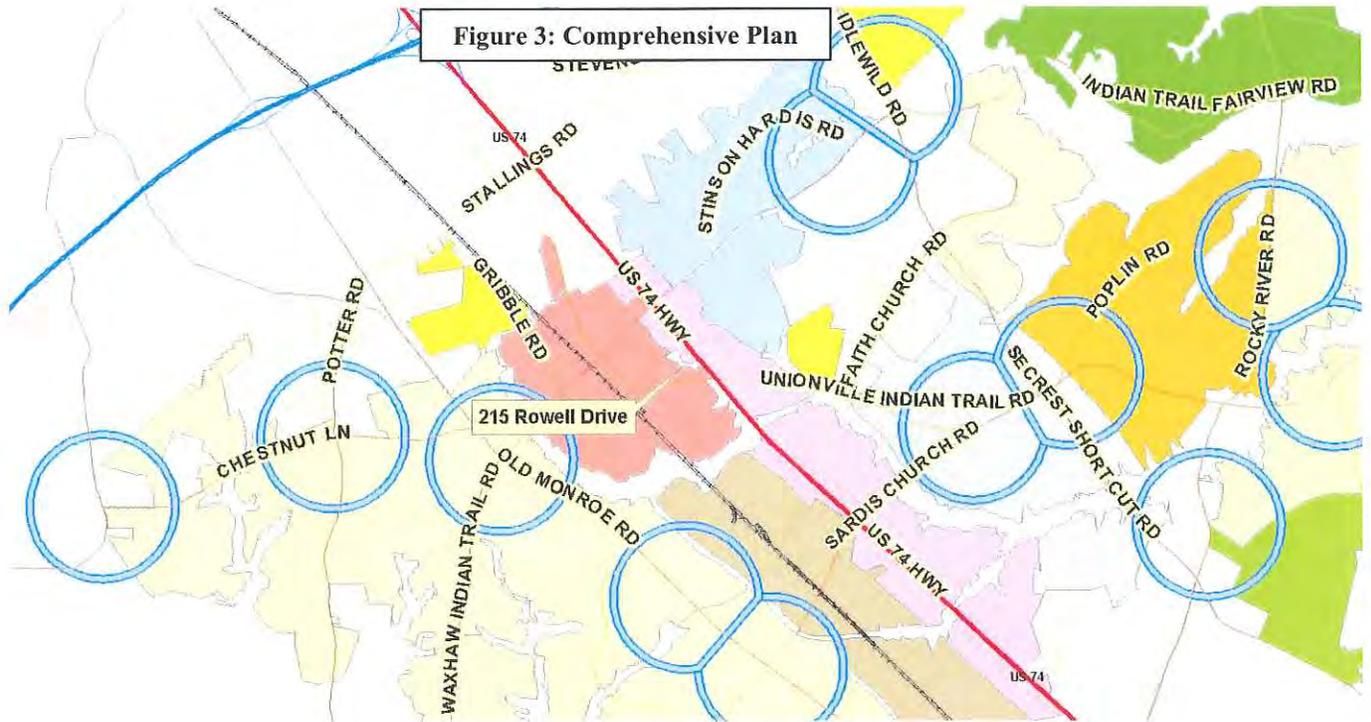
## Site Characteristics

The subject property consists of 3.16 acres. There is some floodplain on the western side of the property that remains undisturbed. The remainder of the property consists of a 15,000 square foot building, sidewalk, general circulation area, 50 parking spaces, dumpster enclosure, rain gardens, and landscaping.

## Plan Consistency

### *Comprehensive Plan*

The property is located within Highway 74 Business Corridor land use area of the Indian Trail Comprehensive Plan (see Figure 3). This corridor is an area of town where typical uses are high-traffic generators found near major thoroughfares not appropriate for residential areas. The intent of the corridor is to provide convenient shopping opportunities and expand the tax revenue base.



All Corridors and Villages within the Comprehensive Plan identify a future land use make-up. The table below provides the current make-up and future build out.

**Highway 74 Corridor Land Use Calculations**

Land Use	Current Base	Percent Base	Flexibility Factor
Medium Density Residential	7.6%	5%	+/-2
High Density Residential	3.1%	5%	+/-2
Multi-Family Residential	0.2%	5%	+/-2
Parks/Open Space/ Agriculture/ Forest	0.2%	5%	
Institutional	0.9%	5%	
Retail	60.3%	40%	-10
Office		10%	+/-5
Boulevards/Thoroughfares	9.0%	10%	
Industrial	3.4%	15%	+/-5

The rezone request would not result in any percentage changes to the land use calculation. The request is consistent with the Comprehensive Plan in the land use calculation areas and location criteria for commercial development.

## **Action Required**

The Planning Board must make findings prior to motioning for recommendation. The findings must be made that the proposed amendment is both reasonable and consistent with the Comprehensive Plan. Staff is of the opinion the goals of the Comprehensive Plan are satisfied as follows:

**Goal 1.3.2 Land Use:** A mix of different types of land uses and the avoidance of potential land use conflicts between neighboring properties and surrounding properties.

The existing conditional zoning district meets the goal of land use by avoiding land use conflicts between neighboring properties. The proposed change promotes new businesses by allowing the construction to be completed in harmony with existing development.

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

## **Recommendation**

Planning Staff believes that the findings can be made to support the petition requesting an architectural modification to the originally approved Conditional Zoning (CZ2009-003).

### **Staff Contact**

Craig Thomas

Junior Planner

(704) 821-5401 ext. 238

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

**Attachment 1** - Application including Pictures

**Attachment 2** – Architectural Rendering

**Attachment 3** – Draft Ordinance

**Attachment One**  
Application

## CONDITIONAL ZONING APPLICATION

**Submittal Requirements**

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

**General Information**

Project Address 215 ROWELL DRIVE

City INDIAN TRAIL State NC Zip 28079

Tax Parcel ID 07-084-4059 Zoning Designation B-4

Total Acres 3.16 Impervious Area 0.92 AC

Project Description REVISION TO CU PLAN - BUILDING FACADE

**Contact Information - Applicant**

Name RICK STRAWN

Address 13417 INDEPENDENCE BLVD

City INDIAN TRAIL State NC Zip 28079

Phone 704-882-4777 Fax 704-882-4762

Email \_\_\_\_\_

**Contact Information - Property Owner**

Name SAME AS ABOVE

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

### CONDITIONAL ZONING APPLICATION



Email \_\_\_\_\_

#### Applicant's Certification

Signature Ricky C. Strawn Date 7-11-2012

Printed Name/Title Ricky C. STRAWN / owner

Signature of Notary Public Deborah G. Crisp Date 7-11-2012

Notary Seal



#### Property Owner's Certification

Signature Ricky C. Strawn Date 7-11-2012

Printed Name/Title Ricky C. STRAWN / owner

Signature of Notary Public Deborah G. Crisp Date 7-11-2012



TOWN OF INDIAN TRAIL OFFICE USE ONLY	
CASE NUMBER: <u>CZ2009-003A</u>	<u>R-000391</u>
DATE RECEIVED: <u>7/26/12</u>	AMOUNT OF FEE: <u>NA</u>
RECEIVED BY: <u>CAT</u>	RECEIPT #: _____



## Construction Materials Engineering & Consulting, PC

NC Engineering License # C-3512 - SC COA # 4239

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July 18, 2012

Craig Thomas  
Planner  
Town of Indian Trail

RE: Letter of Intent for 215 Rowell Drive

Mr. Thomas:

This letter is written for Rick Strawn for the amendment of the conditional use permit previously issued. The item for amendment includes the change of the approved architectural façade on the building in the loading area of the building. Pictures are used as a reference to the change.

Respectfully Submitted,

James P Magennis, PE  
President



**Attachment Two**  
Architectural Rendering



# Conceptual Elevation

JURBAN HEIGHTS LOT 6  
SCALE: 1/16" = 1'-0"

URBAN ARCHITECTURAL GROUP, P.A.



**TC ATTACHMENT 2**  
Draft Ordinance



WHEREAS, the Town Council held a public hearing on October 9, 2012 to consider said request, received public testimony, and recommendation of approval from the Planning Board; and

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

**NOW, THEREFORE, IT SHALL BE ORDAINED** by the Town of Indian Trail Town Council that:

Section 1 CZ 2009-003A rezone petition be granted and the Zoning Map shall be amended to reflect the Conditional Zoning Regional Business (CZ2009-003A) zoning designation for parcel 07-084-405G.

**AND IT IS SO ORDAINED** this 9<sup>th</sup> day of October, 2012.

TOWN OF INDIAN TRAIL COUNCIL

\_\_\_\_\_  
Honorable Michael 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 October 9, 2012 Town Council Public Hearing**

<b>Case: ZM2012-003 Unionville Indian Trail Road Rezoning</b>			
<b>Reference Name</b>	<b>Unionville Indian Trail Road</b>		
<b>Planning Board Meeting Date</b>	September 18, 2012		
<b>Members Present</b>	Chair Cowan <input checked="" type="checkbox"/>	Jan Brown <input type="checkbox"/>	Larry Miller <input checked="" type="checkbox"/>
	Vice-Chair Higgins <input checked="" type="checkbox"/>	Kelly D' Onofrio <input checked="" type="checkbox"/>	Robert Rollins <input type="checkbox"/>
	Sidney Sandy <input type="checkbox"/>	Cheryl Mimy Alternate 1 <input checked="" type="checkbox"/>	Steve Long Alternate 2 <input checked="" type="checkbox"/>
	Alan Rosenberg Alternate 3 <input checked="" type="checkbox"/>		
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Motion</b>	Recommend approval to Town Council		
<b>Member Making the Motion</b>	Boardmember Miller		
<b>Second the Motion</b>	Boardmember Long		
<b>Vote</b>	All seated members voted in favor of the motion		

**Purpose of the Amendment:** A request to rezone three parcels on Unionville-Indian Trail Road located within the Downtown Overlay (O-DD) from Light Industrial (L-I) to General Business District (GBD). The proposed rezoning is an attempt to assign a more appropriate zoning classification to the three parcels.

**Town Council Action:** *Receive transmittal report and public testimony and:*

1. *Concur with the findings and transmittal of the Planning Board to approve; or*
2. *Concur with the findings and approve as modified by Council; or*
3. *Do not make the findings and disapprove the amendment.*

## **Executive Summary**

The proposed rezoning is an attempt to assign a more appropriate zoning classification to the three parcels. Staff is of the opinion General Business District is more compatible with existing land uses, the future land uses called for in the Comprehensive Plan, and the overall concept of the Downtown Village.

## **Planning Board**

This proposed amendment was heard by the Planning Board on September 18, 2012. After receiving the report, hearing staff's analysis, and general discussion, the Board motioned to make the findings and transmit a unanimous recommendation to approve. The draft findings for Council consideration are noted below:

1. The proposed UDO amendment is consistent with the following goals:
  - 1.3.1 of the Comprehensive Plan – *Quality of Life*; because the proposed rezoning will promote a better quality of life for our residents by eliminating potential industrial land uses not compatible with the downtown Indian Trail environment.
  - 1.3.4 of the Comprehensive Plan – *Downtown Revitalization*; because the proposed rezoning to GBD within the O-DD overlay will more closely resemble the existing land uses and be more compatible with the location criteria designated for the Downtown Village.
  
- 2 The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes the goals of the adopted Indian Trail Comprehensive Plan in the areas of *Quality of Life* and *Downtown Revitalization* and is consistent with the adopted plans within the Town of Indian Trail.

## **Staff Contact**

Craig Thomas

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

(704) 821-5401

Attachment 1- Planning Board Report

Attachment 2- Draft Ordinance

**TC ATTACHMENT 1**  
Planning Board Staff Report



PO Box 2430  
 Indian Trail, NC 28079  
 Telephone (704) 821-5401  
 Fax (704) 821-9045

PLANNING AND DEVELOPMENT DEPARTMENT

## Zoning Map Amendment Staff Report

<b>Case: ZM 2012-003 Unionville Indian Trail Road</b>		
<b>Reference Name</b>	Light Industrial Rezoning within Downtown Overlay	
<b>Request</b>	Proposed Zoning	General Business District within Downtown Overlay (GBD/O-DD)
	Proposed Use	Office
<b>Existing Site Characteristics</b>	Existing Zoning	Light Industrial within Downtown Overlay (L-I/O-DD)
	Existing Use	Office
	Site Acreage	4.88 acres
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	7/31/2012	
<b>Location</b>	124, 200, and 222 Unionville Indian Trail Road	
<b>Tax Map Number</b>	07-111-007A, 07-105-012B, and 07-105-012	
<b>Plan Consistency</b>	Town of Indian Trail Comprehensive Plan	Downtown Indian Trail
		Consistent with Request
<b>Recommendations &amp; Comments</b>	Planning Staff	Recommends approval for GBD/O-DD

### Project Summary

**Request:** To rezone three parcels (approx. 4.88 acres) within the Downtown Overlay from Light Industrial (L-I/O-DD) to General Business District (GBD/O-DD). Subject properties are located on Unionville Indian Trail Road between Highway 74 and Indian Trail Road (see Figure 1).

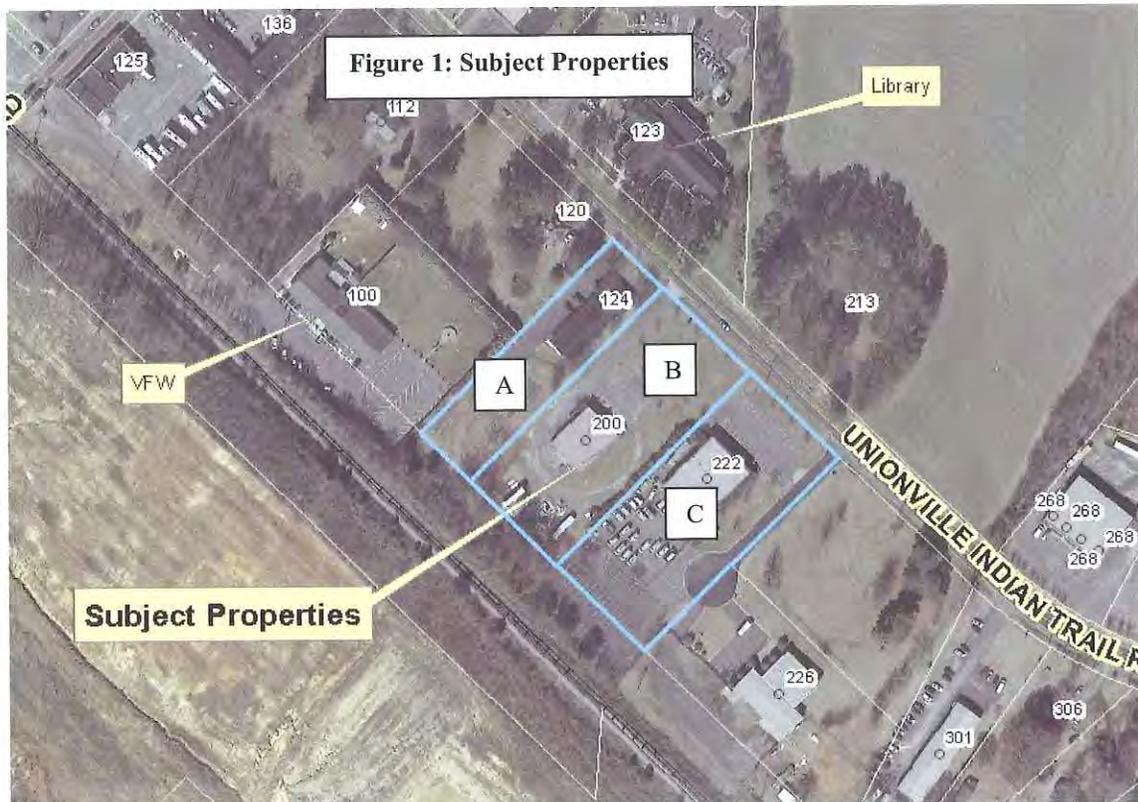
### Staff Recommendation

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

### General Information

The subject properties are located along Unionville Indian Trail Road in close proximity to the library, VFW post, and are within the Downtown area (Figure 1). The parcels are located in the

southwestern portion of the Downtown Village as identified in the Comprehensive Plan. Staff recognizes this as an opportunity to assign a more appropriate zoning classification based on the current land uses as well as future land uses. The parcels are currently zoned for industrial uses such as warehouse, light manufacturing, distribution, assembly, and processing. Each property is fully developed and used mostly for offices. The intent of the proposed rezoning is to more correctly align the land use classifications with the vision of the Downtown Village in the Comprehensive Plan.



*For reference purposes only:*

- Lot A 124 Unionville Indian Trail Road
- Lot B 200 Unionville Indian Trail Road
- Lot C 222 Unionville Indian Trail Road

### **Zoning Information**

The subject properties are currently zoned Light Industrial within the Downtown Overlay. The proposal requests the subject properties to remain in the Downtown Overlay yet rezone to General Business District (GBD). The GBD district is intended to accommodate a wide variety of commercial, financial, business services, and office services.

Many of the dimensional requirements would change as a result of the rezoning (Table 1). The reduced minimum setback requirements in the GBD zoning would allow greater flexibility if any

of the properties were ever to expand. It would also bring an existing non-conforming lot into conformity for the front and side setbacks on Lot A (Table 2)

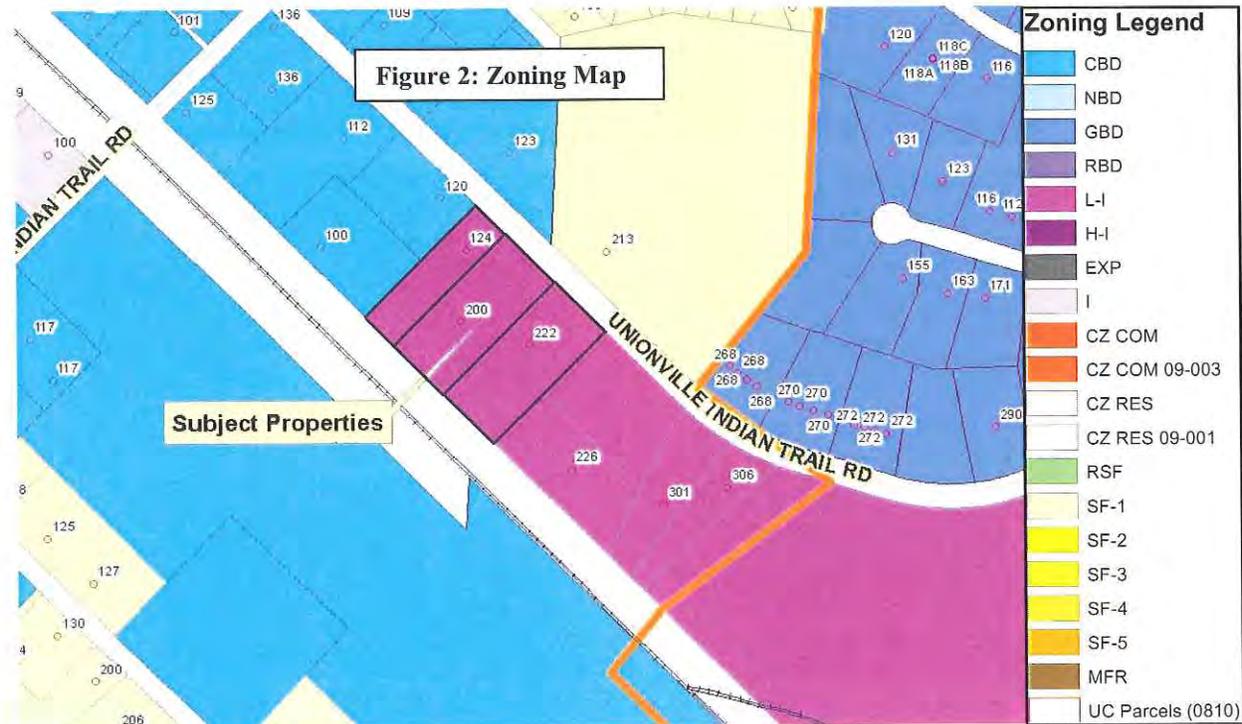
**TABLE 1: DIMENSIONAL REQUIREMENT COMPARISON**

	<b>Light Industrial</b>	<b>General Business District</b>
Lot Width (feet)	100	60
Front Setback (feet)	50	25
Rear Setback (feet)	50	12.5
Side Yard (feet)	20 (not abutting residential)	10 (not abutting residential)

**TABLE 2: APPROXIMATE DIMENSIONS OF SUBJECT PROPERTIES**

	<b>Lot A</b>	<b>Lot B</b>	<b>Lot C</b>
Lot Width (feet)	100	170	175
Front Setback (feet)	35	190	100
Rear Setback (feet)	210	110	180
Side Yard (feet)	35 and 20	40 and 65	25 and 75

There are a variety of land uses and zoning classifications in the surrounding area, including Central Business District to the west, Residential (SF-1) to the north, and Light Industrial to the east (Figure 2). The rezoning request is actually a “down zoning” from a more intense classification to less intense. The result is a smoother transition from the downtown area to more intense uses associated with and located closer to the Highway 74 corridor.



**Site Characteristics**

The subject properties total 4.88 acres in size. They range in size from almost 1 acre to just more than 2 acres. There are three adjacent parcels that all back up to the railroad. The sites are fully developed and utilized in a mostly office environment, uses that are typically suited for business zoning rather than industrial. The subject properties are somewhat distinct in that the orientation of the parking is to the side (Lot A), front (Lot B), or rear (Lot C) depending on the parcel.

	<b>Property Owner/Land Use</b>
124 Unionville Indian Trail Road	Souder Properties/Multi-Tenant Office
200 Unionville Indian Trail Road	Spartan Properties/Office
222 Unionville Indian Trail Road	Simpson Electric/Office

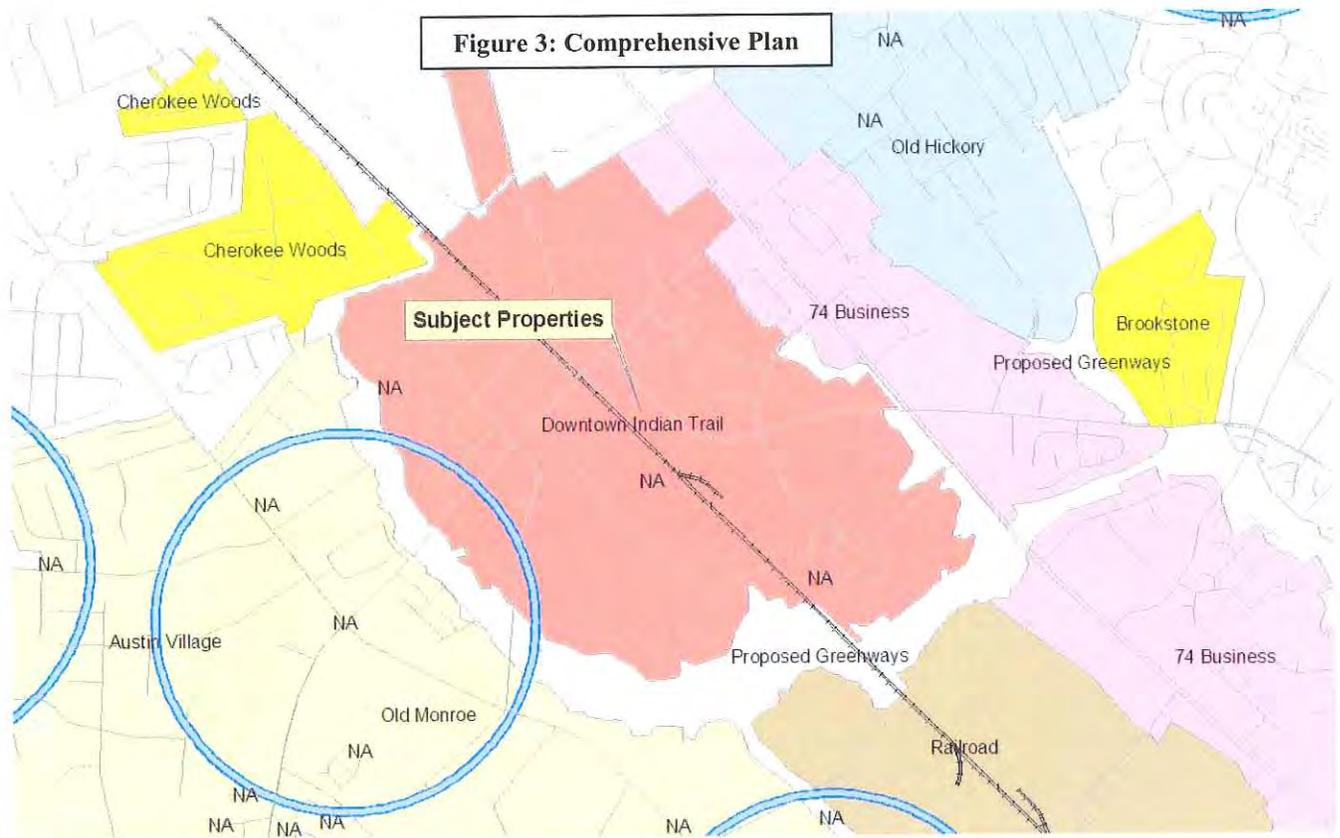
**Letters of support**

We have received letters of support from two of the property owners (Attachment 2) and are awaiting written documentation from the third. Based on conversations staff has had and the letters of support, each property owner is in full support of the rezoning request.

**Plan Consistency**

*Comprehensive Plan*

The property is located within Downtown Indian Trail land use area of the Indian Trail Comprehensive Plan (see Figure 3). This village is an area of town where the goal is to create a distinct core to represent the town’s identity. The intent of the Downtown Village is to incorporate common urban designs to attract it residents while recognizing the importance of economic development. Some of the general principles applicable to the Downtown Village are to provide a variety of land uses, direct development toward existing communities, and make fair and predictable land use decisions.



All Villages within the Comprehensive Plan identify a future land use make-up. The table below provides the current make-up and future build out.

**Downtown Village Land Use Calculations**

Land Use	Current Base	Percent Base	Flexibility Factor
Medium Density Residential	42.42%	22%	
High Density Residential	4.95%	22%	
Multi-Family Residential	0%	12%	+3
Parks/Open Space/ Agriculture/ Forest	0.46%	10%	
Institutional	1.50%	8%	
Retail	14.66%	3%	+/-1
Office	0.56%	3%	+/-1
Boulevards/Thoroughfares	3.29%	5%	
Industrial	14.57%	15%	-3

This particular village calls for some industrial in the future land use, however not in this particular location. These three parcels are located in the southwest portion of the Downtown Village, but the Comprehensive Plan states industrial uses should be limited to the northeast area of the village. The proposed petition, if approved, would decrease the amount of industrial land

uses while remaining within the office threshold. The current base for the Industrial land use would decrease to 14% and the Office land use would increase to 1.1%. The rezone request is consistent with the Comprehensive Plan in the land use calculation areas and location criteria for commercial development.

### **Action Required**

The Planning Board must make findings prior to motioning for recommendation. The findings must be made that the proposed amendment is both reasonable and consistent with the Comprehensive Plan. Staff is of the opinion the goals of the Comprehensive Plan are satisfied as follows:

***Goal 1.3.1 Quality of Life: A more sustainable quality of life to the residents of Indian Trail by promoting a unique identity within the Town of Indian Trail for all residents.***

The proposed rezoning will promote a better quality of life for our residents by eliminating potential industrial land uses not compatible with the downtown Indian Trail environment.

***Goal 1.3.4 Downtown Revitalization: The downtown area should be a focal point for its residents while promoting existing and future businesses.***

The proposed rezoning to GBD within the O-DD Overlay will more closely resemble the existing land uses and be more compatible with the location criteria designated for the Downtown Village.

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

### **Recommendation**

Planning Staff believes that the findings can be made to support the petition requesting a rezone from Light Industrial to General Business District within the Downtown Overlay.

### **Staff Contact**

Craig Thomas  
Junior Planner  
(704) 821-5401 ext. 238  
[cat@planning.indiantrail.org](mailto:cat@planning.indiantrail.org)

Attachment 1 - Application  
Attachment 2 - Letters of Support  
Attachment 3 - Draft Ordinance

**Attachment One**  
Application

## ZONING MAP AMENDMENT APPLICATION



### Submittal Requirements

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

### General Information

Project Address 200 Unionville-Indian Trail Road

City Indian Trail State NC Zip 28079

Tax Parcel ID 07-105-012B Zoning Designation LI

Total Acres 1.92 Impervious Area \_\_\_\_\_

Project Description Rezone to GBD

### Contact Information – Applicant

Name Town of Indian Trail

Address P.O. Box 2430

City Indian Trail State NC Zip 28079

Phone 704-821-5401 Fax 704-821-9045

Email cat@planning.indiantrail.org

### Contact Information – Property Owner

Name Spartan Properties, LLC

Address 200 W. Unionville-Indian Trail Road

City Indian Trail State NC Zip 28079

Phone 704-821-5599 Fax 704-821-5597

Email dhelfrich@cwc-development.com

ZONING MAP AMENDMENT APPLICATION



Applicant's Certification

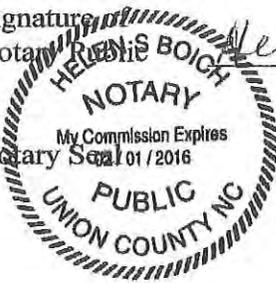
Signature [Handwritten Signature] Date 7/31/2012

Printed Name/Title Keith Sorensen, Planning Technician

Signature [Handwritten Signature] Date 7/31/2012

Notary Public

Notary Seal



Property Owner's Certification

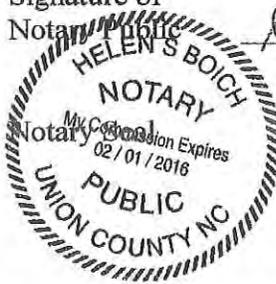
Signature [Handwritten Signature] Date 7-31-12

Printed Name/Title JANET HELFRICH, Secretary

Signature of Notary Public [Handwritten Signature] Date 7/31/2012

Notary Public

Notary Seal



TOWN OF INDIAN TRAIL OFFICE USE ONLY

Case Number: ZM2012-003

Date Received: 7/31/2012 Amount of Fee: Exempt

Received By: K. Sorensen Receipt #: \_\_\_\_\_

**Attachment Two**  
Letters of Support

August 2, 2012

Rox Burhans, Senior Planner  
Town of Indian Trail  
P.O. Box 2430  
Indian Trail, North Carolina 28079

**Re: Rezoning of 124 Unionville-Indian Trail Rd. To General Business District (GBD)**

Dear Mr. Burhans:

This is a follow up to our earlier conversation regarding the Town's proposed rezoning along Unionville-Indian Trail Road. I am the owner of the property located at 124 Unionville-Indian Trail Road (parcel 0711007A) and fully support the Town's proposed rezoning of my property from Light Industrial (LI) to GBD.

Please feel free to contact me at 704-293-3686 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Souder". The signature is fluid and cursive, with a large loop at the end.

Steve Souder  
Souder Properties Inc.

SPARTAN PROPERTIES, LLC  
200 Unionville-Indian Trail Rd. W.  
Indian Trail, NC 28079-9509

July 30,2012

Town of Indian Trail  
Planning and Development Department  
PO Box 2430  
Indian Trail, NC 28079

I, manager of Spartan Properties, LLC, am in support of the proposed rezoning to the General Business District (GBD) and do not have any concerns with the Town of Indian Trail pursuing the proposed rezoning to GBD.

Regards,

David Helfrich  
Managing Member

A handwritten signature in black ink, appearing to read 'D. Helfrich', is written over the typed name and title.

200 W. Unionville Indian Trail Road  
Indian Trail, NC 28079-9509  
Phone: (704) 821-5599 Fax: (704) 821-5597

**TC ATTACHMENT 2**  
Draft Ordinance



Trail Comprehensive Plan in the areas of Quality of Life and Downtown Revitalization and is consistent with the adopted plans within the Town of Indian Trail.

WHEREAS, the Town Council held a public hearing on October 9, 2012 to consider said request, received public testimony, and recommendation of approval from the Planning Board; and

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

**NOW, THEREFORE, IT SHALL BE ORDAINED** by the Town of Indian Trail Town Council that:

Section 1      ZM 2012-003 rezone petition be granted and the Zoning Map shall be amended to reflect the General Business District/Downtown Overlay (GBD/O-DD) zoning designation for parcels 07-111-007A, 07-105-012, and 07-105-012B.

**AND IT IS SO ORDAINED** this 9<sup>th</sup> day of October, 2012.

TOWN OF INDIAN TRAIL COUNCIL

\_\_\_\_\_  
Honorable Michael Alvarez, Mayor

Attest:

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