



**Town of  
INDIAN TRAIL**  
north carolina

Indian Trail, North Carolina 28079

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**PLANNING BOARD TRANSMITTAL**

**Planning Board Transmittal for the December 14<sup>th</sup>, 2010 Town Council Meeting**

<b>Reference Name</b>	<b>Case: ZT 2010-012 Accessory Apartment Amendments</b>		
<b>PB Meeting Date</b>	October 19, 2010		
<b>Members Present</b>	Chair Whitehurst <input checked="" type="checkbox"/>	Gary Vaughn <input checked="" type="checkbox"/>	Larry Miller <input type="checkbox"/>
	Vice-Chair Cowan <input checked="" type="checkbox"/>	Kathy Broom <input checked="" type="checkbox"/>	Robert Rollins <input type="checkbox"/>
	Sidney Sandy <input type="checkbox"/>	Cathi Higgins <input checked="" type="checkbox"/> Alternate	John Simulcik <input type="checkbox"/> Alternate
	Vacant Seat <input type="checkbox"/>		
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Motion</b>	Recommend approval as transmitted.		
<b>Member making the motion</b>	Board member Broom		
<b>Second the motion</b>	Board member Higgins		
<b>Vote</b>	5-0		

**Background**

A request to amend/add Sections 510.020(G), 710.070, and 1620.010 of the Unified Development Ordinance (UDO) to define accessory apartment uses and how these uses are to be regulated in the Town. The Planning Board heard this request on October 19<sup>th</sup>, 2010 and transmits a recommendation to approve.

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

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

## **Planning Board Meeting (October 19, 2010)**

The Planning Board heard this item at its October 19, 2010 meeting. In brief, this text amendment seeks to clarify and establish regulations and use categories for accessory apartments in the single-family residential zoning districts throughout the Town, along with defining what an accessory apartment is as a use.

The Planning Board did make one modification to the proposed UDO Section 710.070 use regulations for accessory apartments. The Board recommended that UDO Section 710.070(F)(4) be added to this amendment, which states that an accessory apartment use shall be constructed of the same building materials as the primary home.

This item was continued at the last Council meeting (11/09/10) to confirm consistency with all Union County and NC state requirements for accessory apartments in this text amendment.

In doing so, this text amendment now includes an additional provision under UDO Section 710.070(H), in that all accessory apartments permitted in the Town must also be in conformity with County, state, and federal building code requirements (See **Attachment 2** for reference).

### *Draft Findings:*

1. The following findings were made consistent with the Comprehensive Plan:
  - 1.3.1 of the Comprehensive Plan – Quality of Life; the proposed UDO amendment will help to make the UDO consistent with state, federal and other regulatory standards for accessory apartments and provide for the health, safety, and welfare of all Indian Trail citizens.
  - 1.3.2 of the Comprehensive Plan – Land Use; the proposed UDO amendment will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties and surrounding municipalities.
2. This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process, while providing a greater quality of life for all residents of the Town of Indian Trail.

## **Project Contact**

**Jonathon Edwards**

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**Attachment 1 – Planning Board Staff Report for October 19, 2010**

**Attachment 2 – Draft Ordinance**

**TOWN COUNCIL ATTACHMENT 1**



**Town of Indian Trail**  
**P.O. Box 2430**  
**Indian Trail, NC 28079**  
**(704) 821-5401 (Phone)**  
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**PLANNING DEPARTMENT**

## Zoning Staff Report

<b>Case: ZT 2010-012 Accessory Apartment Definition Amendments</b>		
<b>Reference Name(s)</b>	Addition of UDO Sections 510.020(G), 710.070, and 1620.010 Accessory Apartments	
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	October 19, 2010	
<b>Location</b>	Town-Wide	
<b>Tax Map Number</b>	N/A	
<b>Recommendations &amp; Comments</b>	<b>Planning Staff</b>	Recommend approval of the proposed UDO amendments to the Town Council

### Executive Summary

Staff is introducing this text amendment (ZT2010-012) relating to accessory apartment uses. The proposed amendments/additions are as follows:

- *Amend UDO Section 510.020(G) Table of Permissible Uses allowing for accessory apartments to be permitted by-right in all residential zoning districts.*
- *Add UDO Section 710.070, which will define how accessory apartments are to be treated as a use (will also be cross-referenced in the Use Table).*
- *Add UDO Section 1620.010, defining the term accessory apartment.*

### Analysis

#### Accessory Apartments as a Use

The first part of this amendment deals with how accessory apartments should be regulated as a use in the Town. Accessory apartments are typically uses that are incidental and secondary to a primary residential use, such as a single-family home. They are designed to serve as a semi-independent dwelling unit, with a full kitchen, bedroom, and bathroom facilities, usually having a secondary entrance. However, these uses are not to be confused with duplexes, which are two independent dwelling units usually contained within one residential structure.

Staff conducted research into several jurisdictions in North Carolina, as well as California, Florida, Georgia, Maryland, and Virginia regarding accessory apartment uses. In this research, there are two approaches that municipalities take in regulating these uses, and they are as follows:

- **Approach #1:** Accessory apartments (also known as dwelling units) are permitted by-right, subject to specific regulations on their usage in the same ordinance.
- **Approach #2:** Accessory apartments are treated as special use permits (SUP’s), with no specific regulations on their usage.

In looking at this use, staff has also received many recent requests on this type of use from Town residents. Currently, the Town’s UDO allows accessory apartments by-right only in the RSF (rural single-family) district, and by SUP in all other residential zoning districts.

Based on the research conducted, staff recommends Approach #1 for this use, where these uses are permitted by-right in all residential zoning districts, subject to specific regulations governing accessory apartments. The recommended amended use table, under UDO Section 510.020(G), is as follows:

**510.020(G) Table of Permissible Uses**

Use Category	Zoning District							Use Standard
	RSF	SF-1	SF-2	SF-3	SF-4	SF-5	MFR	
Two-family dwelling	S	-	-	-	-	-	P	
Multi-Unit (3 or more units)	-	-	-	-	-	-	P	
Townhouse	-	-	-	-	-	S	P	See Chapter 660
Boarding or Rooming Houses	P	-	-	-	-	-	S	
<b><u>Accessory Apartments</u></b>	P	§ <b><i>P</i></b>	§ <b><i>-</i></b>	See Chapter 710 <b><i>See Section 710.070</i></b>				

**Accessory Apartment Use Regulations**

The second part of this text amendment deals with the addition of a new section to UDO Chapter 710 regulating accessory uses and structures. In looking at accessory apartments as a use in other jurisdictions, those that do permit such uses by-right have specific regulations governing their usage. These regulations are put into place to keep accessory apartments as such, and not spill over into more of a duplex type of use.

Municipalities that permit accessory apartments by-right have adopted specific regulations for these uses, and some of these regulations include the following:

- Regulating the size/percentage of lot coverage of accessory apartments (usually found to be **no more** than 50% of the primary residence, or a specific square footage, whichever is less).
- Specifying what is and is not an accessory apartment (usually mentions a full kitchen, bedroom, and bathroom facilities).

- Limitation to **one (1)** accessory apartment use per residential lot, as well as allowing for at least one additional parking space for the use.
- Accessory apartments are *incidental* and *secondary* to a primary residential dwelling, and should never be used as a separate and independent second dwelling unit on a residential lot. This also means that such an accessory use cannot be subdivided or separated out in any way as a stand-alone dwelling unit.
- The exterior design and entry locations of an accessory apartment should have the appearance of a single-family dwelling at all times.

Based on research conducted into accessory apartments, staff recommends the following use specific regulations governing this type of use:

### **710.070 Accessory Apartment Use Standards**

The following regulations shall apply to all accessory apartment uses, as defined in UDO Section 1620.010:

- A.** Only one (1) accessory apartment may be permitted on a residential lot.
- B.** An accessory apartment may be attached to the primary residential dwelling unit, or in a detached structure, on the same residential lot, provided that all lot coverage and setbacks for such an apartment are met as stated in the UDO.
- C.** The primary residence or accessory apartment shall be occupied by an owner of the property.
- D.** Accessory apartments shall not be larger than 50 percent of the primary residence’s living area, or 900 square feet, whichever is smaller in size. Such uses shall also not exceed 25 feet in height or the height of the primary residence’s roof surface, whichever is less.
- E.** At least one (1) additional off-street parking space shall be provided for the accessory apartment. In addition, the following shall apply for parking:
  - 1.** There should be a minimum of three (3) off-street parking spaces present on a residential lot – two (2) spaces for the primary residence, and one (1) space for the accessory apartment.
  - 2.** Such additional parking shall be constructed of the same materials as was completed for any existing parking for the primary residence.
- F.** An accessory apartment’s exterior design and entry locations shall give the appearance of a single-family dwelling. This shall be accomplished by doing the following:
  - 1.** The entrance to the accessory apartment shall not be oriented in any such way as to directly face a public right-of-way.
  - 2.** If an accessory apartment is to be detached, then it shall be located behind the rear plane of the primary residence.
  - 3.** For an accessory apartment, additional screening and/or landscaping may be required by the Town as part of the site plan for the use.
- G.** Accessory apartments shall be not subdivided or otherwise separated in ownership from the primary residence.

### **Accessory Apartment Definition**

The final part of this UDO amendment will define the meaning of what an *accessory apartment* is as a use. At present, the term accessory apartment is included as a use category in UDO Section 510.020(G) for residentially-zoned districts, but it has never been clearly defined. This proposed addition will define this term in detail and provide for how it applies in terms of what may or may not be considered an accessory apartment in the Town. This use is defined as follows:

#### **1620.010 Accessory Apartment**

A residential addition for living purposes, whether attached or detached, that is incidental and subordinate to a principal residential dwelling unit characterized by the presence of separate sleeping quarters, bathroom facilities, and a full kitchen or food preparation facility.

#### **Required Consistency Findings**

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

1. The proposed UDO amendment is consistent with the following goals:
  - 1.3.1 of the Comprehensive Plan – Quality of Life; the proposed UDO amendment will help to make the UDO consistent with state, federal and other regulatory standards for accessory apartments and provide for the health, safety, and welfare of all Indian Trail citizens.
  - 1.3.2 of the Comprehensive Plan – Land Use; the proposed UDO amendment will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties and surrounding municipalities.
2. This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process, while providing a greater quality of life for all residents of the Town of Indian Trail.

#### **Staff Recommendation**

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

#### **Staff Contact**

Jonathon Edwards

Junior Planner

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**TOWN COUNCIL ATTACHMENT 2**



### 510.020(G) Table of Permissible Uses

Use Category	Zoning District							Use Standard
	RSF	SF-1	SF-2	SF-3	SF-4	SF-5	MFR	
Two-family dwelling	S	-	-	-	-	-	P	
Multi-Unit (3 or more units)	-	-	-	-	-	-	P	
Townhouse	-	-	-	-	-	S	P	See Chapter 660
Boarding or Rooming Houses	P	-	-	-	-	-	S	
<u>Accessory Apartments</u>	P	§ <u>P</u>	§ -	See Chapter 710 <u>See Section 710.070</u>				

Section 2 – Division 700, Section 710.070 is hereby added regarding the usage standards for accessory apartments.

### 710.070 Accessory Apartment Use Standards

The following regulations shall apply to all accessory apartment uses, as defined in UDO Section 1620.010:

- A. Only one (1) accessory apartment may be permitted on a residential lot.
- B. An accessory apartment may be attached to the primary residential dwelling unit, or in a detached structure, on the same residential lot, provided that all lot coverage and setbacks for such an apartment are met as stated in the UDO.
- C. The primary residence or accessory apartment shall be occupied by an owner of the property.
- D. Accessory apartments shall not be larger than 50 percent of the primary residence’s living area, or 900 square feet, whichever is smaller in size. Such uses shall also not exceed 25 feet in height or the height of the primary residence’s roof surface, whichever is less.
- E. At least one (1) additional off-street parking space shall be provided for the accessory apartment. In addition, the following shall apply for parking:
  1. There should be a minimum of three (3) off-street parking spaces present on a residential lot – two (2) spaces for the primary residence, and one (1) space for the accessory apartment.
  2. Such additional parking shall be constructed of the same materials as was completed for any existing parking for the primary residence.
- F. An accessory apartment’s exterior design and entry locations shall give the appearance of a single-family dwelling. This shall be accomplished by doing the following:
  1. The entrance to the accessory apartment shall not be oriented in any such way as to directly face a public right-of-way.
  2. If an accessory apartment is to be detached, then it shall be located behind the rear plane of the primary residence.
  3. For an accessory apartment, additional screening and/or landscaping may be required by the Town as part of the site plan for the use.

- 4. Accessory apartments shall be constructed of the same building materials as the primary home.
- G. Accessory apartments shall be not subdivided or otherwise separated in ownership from the primary residence.
- H. Accessory apartments permitted by the Town shall conform to all County, state, and/or federal building code requirements.

**Section 3 – Division 1600, Section 1620.010 – is hereby added to define the term accessory apartment.**

**1620.010 Accessory Apartment**

A residential addition for living purposes, whether attached or detached, that is incidental and subordinate to a principal residential dwelling unit characterized by the presence of separate sleeping quarters, bathroom facilities, and a full kitchen or food preparation facility.

**Section 4 - This ordinance shall be effective immediately upon adoption.**

SO ORDAINED THIS 14TH DAY OF DECEMBER, 2010.

THE TOWN COUNCIL OF INDIAN TRAIL

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

Attest:

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