



Town of  
**INDIAN TRAIL**  
north carolina

Indian Trail, North Carolina 28079

Telephone 704-821-5401

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**PLANNING BOARD TRANSMITTAL**

**Planning Board Transmittal for the Town Council Meeting**

<b>Reference Name</b>	<b>Case: CZ 2009-002</b>		
<b>Meeting Date</b>	July 20, 2010		
<b>Members Present</b>	Chair Russell Whitehurst <input checked="" type="checkbox"/>	Gary Vaughn <input checked="" type="checkbox"/>	Vincent Howard <input checked="" type="checkbox"/>
	Vice Chair Patricia Cowan <input checked="" type="checkbox"/>	Kathy Broom <input checked="" type="checkbox"/>	Robert Rollins <input checked="" type="checkbox"/>
	John Simulcik <input checked="" type="checkbox"/>	Larry Miller <input checked="" type="checkbox"/>	Robert Wilber <input type="checkbox"/>
<b>Case Found Complete</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Motion</b>	Recommend to Town Council Disapproval of Amendment as presented		
<b>Member making the motion</b>	Vice Chair Cowan		
<b>Second the motion</b>	Board Member Simulcik		
<b>Vote</b>	6-1 (Whitehurst)		

**Background**

The conditional zoning request was initiated by the developer, Reece Gibson, to consider new elevations submitted by builders in addition to Greg Williams in the Chestnut Place subdivision. Persis Nova and Brookwood have submitted elevations for consideration by Town Council. The conditional zoning request only applies to the undeveloped lots in Chestnut Place.

**Town Council Action**

Receive the Planning Board Transmittal, public testimony, and motion to:

- Concur with the transmittal of the Planning Board that the findings cannot be made and disapprove CZ2009-002; or
- Consider new finding, and if the findings can be made, approve CZ2009-002; or
- Send back to the Planning Board if more information is needed.

## **Background**

The reason for the conditional zoning request stems from a condition of the original Special Use approval, SUP2004-011M, which states:

*“The responsible party shall submit the portfolio prepared by Mr. Greg Williams for the Statement of Integrity and Design approval by the Planning Staff during the Site Plan Review Process. Any change in builders shall require a new portfolio be submitted to the Town Council for approval.”*

The applicant is only processing the conditional zoning request as a means to comply with the Special Use provision and not change any other conditions of the original approval.

## **Analysis**

As part of the conditional zoning procedure, the applicant held two mandated community meetings. Each meeting was well attended. Residents tended to discuss outstanding issues in the neighborhood related to appearance, detention pond, playground, and overall maintenance. Yet when the topic of the new elevations was considered, the residents generally agreed on which elevations may or may not be acceptable.

The conditional zoning case went to the Planning Board on May 18, 2010. The board requested some more information from staff and another community meeting to be held. A third community meeting was held on June 7, 2010 where many of the same issues were discussed. As a result of this meeting, the applicant agreed to place some proposed conditions on the project in hopes of alleviating concerns about the continuity of the neighborhood. The case then went to the Planning Board again on June 15, 2010 where the board again asked for some more information. Following the June meeting, the applicant removed some of the previously proposed conditions, preferring instead for the board to only consider the elevations. On July 20, 2010, the Planning Board heard the case and voted to recommend disapproval as proposed to the Town Council.

## **Discussion Items at July Planning Board Meeting**

- **Legal Advice:** In response to a request from the applicant, the Town Attorney advised the conditional zoning is the best course of action. He also advised against imposing any additional conditions since the conditional zoning process is merely to comply with a condition of the original Special Use Permit.
- The Board reviewed photographs supplied by the builders of homes they have built in the Charlotte area. The photographs were supplied at the request of the Board at a prior meeting. The purpose was to provide a visual representation of the type of homes the builders may build in Chestnut Place. Persis Nova provided the photographs in time for the Board’s packet, but Brookwood provided the photographs at the meeting. The Board was generally concerned some of the photographs were not supplied ahead of time.
- The Board was also concerned that all the work and negotiations were ignored by the applicant. Some of the conditions that had been agreed upon were removed prior to the meeting from the request. The applicant has since agreed to include some of the negotiations (Attachment 1) as part of the conditional zoning approval.
- **Legal Question:** The applicant’s attorney was asked why some of the original conditions were not included and would they be agreeable to adding them back. His response was, “No, not at this time”.

The findings presented to the Planning Board were as follows:

### *Proposed Findings*

- *Goal 1.3.1 Quality of Life:* The proposed conditional zoning district will meet the goal of quality of life by providing Indian Trail with a unique identity in a key area of town.
- The request for this conditional zoning district is a reasonable request and is in the public interest because it promotes the goals of the adopted Comprehensive Plan in the area of Quality of Life and is consistent with the adopted plans within the Town.

### **Planning Board Recommendation**

Planning Board voted 6-1 to recommend disapproval, with Mr. Whitehurst opposed. The Planning Board was unable to make the consistency findings based on Quality of Life. The Board was of the opinion that the introduction of the elevations provided by the proposed new builders would not provide a unique identity to Chestnut Place and therefore does not promote the goals of the Comprehensive Plan. Likewise, the Board was of the opinion the request is neither reasonable nor in the public's best interest.

### **Modified Application**

In a letter received from the applicant on July 28, 2010 (Attachment 1), the application has changed to include some specifics regarding the elevations. The applicant is not making any modifications to the original approvals SUP2004-011 and SUP2004-011M. The modifications he has proposed are part of the Conditional Zoning process and are in response to citizens concerns and the Planning Board's response. The request includes the following items that, if approved, will appear on the face of the permit:

- The same elevation shall not be placed beside or directly across from one another.
- To date, there are 15 lots remaining to be developed in Chestnut Place. A minimum of 60%, or 9 lots, shall be constructed with crawl spaces.
- To date, there are 15 lots remaining to be developed in Chestnut Place. A minimum of 60%, or 9 lots, shall be constructed with side load garages. The third car module available on some elevations is not considered a front load garage.
- The applicant shall comply with all of the conditions of SUP2004-011 and SUP2004-011M.

### **Town Council Action**

Receive the Planning Board Transmittal, public testimony, and motion to:

- Concur with the transmittal of the Planning Board that the findings cannot be made and disapprove CZ2009-002; or
- Consider new finding, and if the findings can be made, approve CZ2009-002; or
- Send back to the Planning Board if more information is needed.

Attachment 1 - Letter from applicant dated July 28, 2010

Attachment 2 - Draft Ordinance

Attachment 3 - Planning Board Staff Reports

### **Staff Contact**

Craig Thomas

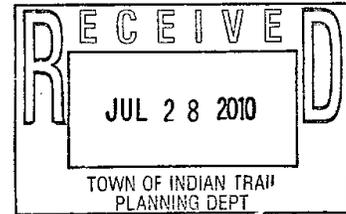
Junior Planner

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

704-821-5401

**TC ATTACHMENT 1:**  
**Letter dated July 28, 2010**

Reece Gibson Developer  
4512 River Road  
Stanfield, NC 28163



To: Shelly DeHart  
From: Reece Gibson  
Subject: Chestnut Place  
Date: July 28, 2010

Draft Conditions Added to Balance of Lots in Indian Trail

1. In addition to the previously approved elevations submitted by Greg Williams, the following shall be added as approved elevations.

- a. David
- b. Stephanie
- c. Stephanie Costal Series
- d. Shelter Cove
- e. Druid Hills
- f. Delaney
- g. Greywell
- h. Lake Placid
- i. Chapman
- j. Greythorne
- k. Walnut Grove
- l. Mallory
- m. Sullivan

2. The same elevation shall not be placed beside or directly across from one another.

3. To date, there are 15 lots remaining to be developed in Chestnut Place. A minimum of 60%, or 9 lots, shall be constructed with crawl spaces.

4. To date, there are 15 lots remaining to be developed in Chestnut Place, A minimum of 60%, or 9 lots, shall be constructed with side load garages. The third car module available on some elevations is not considered a front load garage.

As the Town of Indian Trail requested, I agree only to the above. This applies Persis Nova & Brookwood as well as other builders. I will not have to go through this process again.

*Reece Gibson*

Sincerely, Reece Gibson



WHEREAS, the Planning Board voted to recommend disapproval to the Town Council and therefore transmits its recommendation, and

WHEREAS, the Town Council held a public hearing on August 10, 2010 to consider said request and recommendation of disapproval from the Planning Board; and

WHEREAS, the Town Council concurs 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 CZ 2009-002 Conditional Zoning Petition not be granted and the Zoning Map shall not be amended to reflect a CZ (Conditional Zoning Residential) designation for tax parcels (see attached).

**AND IT IS SO ORDAINED** this 10<sup>th</sup> day of August, 2010.

TOWN OF INDIAN TRAIL COUNCIL

Attest:

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
TOWN ATTORNEY

# **Exhibit A**

## **Tax Parcels for CZ2009-002**

07-147-605  
07-147-606  
07-147-607  
07-147-610  
07-147-611  
07-147-612  
07-147-613  
07-147-618  
07-147-619  
07-147-625

07-147-737  
07-147-739  
07-147-740  
07-147-741  
07-147-742

**TC ATTACHMENT 3:**  
**Planning Board Staff Reports**