



**Town of INDIAN TRAIL**  
north carolina

Indian Trail, North Carolina 28079

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**PLANNING BOARD TRANSMITTAL**

**Planning Board Transmittal for the February 22<sup>nd</sup>, 2011 Town Council Meeting**

<b>Reference Name</b>	Case: ZT 2010-017 Public Noticing Requirements Amendment		
<b>PB Meeting Date</b>	January 18, 2011		
<b>Members Present</b>	Chair Whitehurst <input checked="" type="checkbox"/>	Gary Vaughn <input checked="" type="checkbox"/>	Larry Miller <input checked="" type="checkbox"/>
	Vice-Chair Cowan <input checked="" type="checkbox"/>	Kathy Broom <input checked="" type="checkbox"/>	Robert Rollins <input type="checkbox"/>
	Sidney Sandy <input checked="" 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 w/modifications as transmitted		
<b>Member making the motion</b>	Board member Sandy		
<b>Second the motion</b>	Board member Higgins		
<b>Vote</b>	7-0		

**Background**

A request to amend Section 310.030(G) of the Unified Development Ordinance (UDO) relating to posted sign notice requirements in the Town. The Planning Board heard this request on January 18<sup>th</sup>, 2011 and transmits a recommendation to approve this text amendment.

**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 (January 18, 2011)**

The Planning Board heard this item at its January 18, 2011 regular meeting. In brief, this text amendment seeks to provide greater efficiency and public noticing of all Town public meetings and/or hearings, especially with the posting of signs for such meetings. By doing so, the Town will be able to provide greater public noticing, while still complying with all of the public notice requirements mandated by North Carolina law.

The Planning Board did hear this item, and unanimously recommended approval of this text amendment to the Town Council, along with making the following findings:

### *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 public noticing requirements 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**

**Junior Planner**

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

### Town Council Attachments:

TC Attachment 1 – Town Council Staff Report for February 22, 2011

TC Attachment 2 – Draft Ordinance

**TC ATTACHMENT 1**



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

## Zoning Staff Report

<b>Case: ZT 2010-017 Public Noticing Requirements Amendment</b>		
<b>Reference Name(s)</b>	Amendment of UDO Section 310.030(G)	
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	February 22, 2011	
<b>Location</b>	Town-Wide	
<b>Tax Map Number</b>	N/A	
<b>Recommendations &amp; Comments</b>	<b>Planning Staff</b>	Approval of the proposed UDO amendments

### Executive Summary

A request to amend Section 310.030(G) – Required Notice for Public Hearings – to require that the posting of all required Public Hearing signs be erected upon associated applications being deemed complete by the Town. This will result in earlier notification to the general public about a proposed project or projects scheduled for a future public hearing.

### Analysis

#### **I. NC State Statutes on Public Noticing**

The basis for any public hearing notice in North Carolina law starts with North Carolina General Statute (NCGS) Section 160A-384. Under this statute, it prescribes what needs to be done in terms of noticing any public hearing by a local body of government. The basic requirements are a mailed notice, a legal ad published in a local newspaper of general circulation, and the posting of a sign on the subject property or within the vicinity, if multiple parcels are involved.

#### **II. UDO Public Hearing Sign Posting Requirements**

The Town currently requires three parts to providing public notice for any public hearing as follows:

- **Mailed Notice:** Like state law, first-class mailed notice is provided to all adjacent property owners, while conditional zoning requires notices to all property owners within 500 feet of a proposed project. This shall be done no shorter than 10 days before the hearing, and no earlier than 25 days before the hearing. At present, the department’s policy is to notify adjacent property owners prior to the Planning Board meeting, which exceeds state law.

- **Legal Notice:** Like state law, provide a legal notice for a newspaper of general circulation in the area where the proposed item will be heard for at least two consecutive weeks. Similar to mailed notice, this shall be done no shorter than 10 days before the hearing, and no earlier than 25 days before the hearing.
- **Posting of Signs:** Must be posted on or near the vicinity of the subject property for the public hearing, indicating the type of application involved, a phone number to contact the Town, and the date, time and place of the public hearing.

Discussion has recently arisen regarding earlier notification at project sites for the general public. Based on the research conducted, staff recommends amending the ordinance requiring basic information on the sign, such as the project number, phone number, and Town website link (consistent with state law), and that signs be placed when the application is filed as “complete” with the Town. By doing this modification, such as the City of Charlotte and other municipalities now do, this will enable the public to get and receive greater notice of upcoming projects and further enable the Town to provide more timely and efficient noticing to the public. Based on this, UDO Section 310.030(G) is hereby amended as follows:

### **310.030(G) Sign Posting Requirements**

- 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.*

### **Required Consistency Findings**

The Town Council 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 and other regulatory standards for public noticing, 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 Town Council make the required consistency findings and adopt this UDO ordinance amendment as transmitted by the Planning Board.

**Staff Contact**

Jonathon Edwards

Junior Planner

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

**TC ATTACHMENT 2**



H. 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 2 - This ordinance shall be effective immediately upon adoption.**

SO ORDAINED THIS 22ND DAY OF FEBRUARY, 2011.

THE TOWN COUNCIL OF INDIAN TRAIL

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

Attest:

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