



P.O. Box 2430

Indian Trail, North Carolina 28079

**PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT**

## Zoning Staff Report

<b>Case: ZT 2016-004 Private Roads</b>		
<b>Reference Name</b>	Amendment of UDO Chapter 1110	
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	September 6, 2016	
<b>Location</b>	Town-wide	
<b>Tax Map Number</b>	N/A	
<b>Plan Consistency</b>	Town of Indian Trail Comprehensive Plan	Consistent With Goals of the Adopted Comprehensive Plan
<b>Recommendations &amp; Comments</b>	Planning Staff	Recommends Approval of Proposed Text Amendment.

### Project Summary

This is a request to amend Chapter 1110 of the Unified Development Ordinance (UDO) to prohibit new construction of private roads except when subject to conditional zoning approval in the instances of business and/or industrial parks.

**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/Overview

This request is initiated by the Town Council to prohibit new construction of private roads except when subject to conditional zoning approval in the instances of business and/or industrial parks. Section 1110.090(D) of the UDO allows private streets to be platted in a subdivision with guarantees and/or surety after the issuance of a Zoning Permit for the subdivision. In addition Section 1110.090(C) pertains to the required number of entrances needed for a new subdivision based on lot number. This section does not currently address gated subdivisions, which by their nature necessitate private streets.

In the past, private streets that have remained private, such as First Avenue, with no ability for acceptance by the Town have suffered from lack of maintenance and upkeep. The intent is to promote high quality development of the Town's transportation system and to provide avenues of remediation for infrastructure issues.

While a subdivision is in development, the street network remains developer-owned with guarantees

held as maintenance surety for a period of three years to allow the infrastructure to go through several freeze-thaw cycles. In order to release the surety, the Town will conduct another inspection and request any repairs as needed before the streets are taken over by the Town. Once all the repairs are made and the road has passed all inspections from the town, the surety is released and the road becomes a Town-owned road. This process will not change through the adoption of this proposed text amendment prohibiting new private roads. All subdivisions with new road networks will still be required to post maintenance sureties and maintain ownership over the road until the Town deems that all development and improvement requirements have been met. This text amendment does, however, prohibit the development of new private roads that could have in the past remained private.

This text amendment is applied to all new development with the exception of business and/or industrial parks. In this instance, applicants must receive conditional zoning approval from the Town Council to construct private roads. Business parks are definite in UDO Section 1620.140 as a defined area of land with multiple employment-generating establishments in fields such as manufacturing, processing and assembly, warehousing, distribution and service enterprises, office, and ancillary service establishments. Business parks are typically defined by common or shared development features that may include, but are not limited to architectural design, landscaping, signage, roadway access, stormwater management, and other features. A single, standalone building located outside a park environment would not be considered a business park.

This proposed text amendment also does not apply to private driveways found in commercial developments, which are roadways serving two or fewer lots, building sites, or other division of land and not intended to be public ingress or egress.

Based on staff's findings, we offer the following modifications for the Board's consideration. For ease of reference, proposed new text is referenced in red/underlined font and deletions are referenced in ~~strikethrough~~ font.

## **Division 1100. Subdivision Regulations**

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### **Chapter 1110. General Provisions**

#### **1110.090 Street and Sidewalk Improvements**

##### **C. Access to Subdivision Lots**

Every major subdivision with more than 50 lots and/or building units must have at least two entrances, 200 lots or more shall have at least three, to the subdivision that afford reasonable means of ingress and egress for emergency vehicles as well as for all residents/visitors who need or desire access to the subdivision. These two entrances shall be on different roads wherever feasible.

Regardless of the number of lots, residential streets and their corresponding entrances shall not be gated or otherwise restricted to public access.

##### **D. Private Streets**

1. Private streets may be platted subject to conditional zoning approval and only within a business and/or industrial park.

2. Private streets allowed pursuant to Section 1110.090(D)(1) above may be platted in a subdivision with guarantees and/or surety as required by this section and only after the issuance of a Zoning Permit for the subdivision. A construction bond in the amount of the cost of construction plus twenty-five percent must be posted, and can be reduced to ten percent once construction is complete and the road has passed the inspections from the Town. The reduced surety will be held in the form of a maintenance surety for a period of three years to allow the infrastructure to go through several freeze-thaw cycles. In order to release the surety, the Town will conduct another inspection and request any repairs needed. The surety will be released once all repairs are made.

### **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 of the Comprehensive Plan:
  - **Land Use and Housing Goals #5 and #6:** The proposed text will ensure high quality design because all new roads will be required to become Town-owned roads and must therefore be constructed to Town standards. In addition, the proposed text will limit instances where private roads are allowed so that the land development and road acceptance process will be efficient and predictable and will encourage community investment.
2. This UDO ordinance amendment is in the best interest of the public because it requires a high quality of design and construction of road networks in new subdivisions because of the requirement that all new roads become Town-owned roads after the three year surety period per UDO Section 1110.090(D)(2).

Staff recommends that the Planning Board make the required consistency findings and recommend adoption of this UDO Text Amendment ZT2016-004 as presented.

#### **Staff Contact**

Julia Zweifel,  
704-821-5401  
jzweifel@admin.indiantrail.org

Attachment 1: Application

Attachment 2: Ordinance



**ATTACHMENT ONE**  
Application

# **ATTACHMENT TWO**

Ordinance

STATE OF NORTH CAROLINA )

TOWN OF INDIAN TRAIL )      **ORDINANCE #**

**AN ORDINANCE AMENDING CHAPTER 1100, SUBDIVISION REGULATIONS,  
OF THE INDIAN TRAIL UNIFIED DEVELOPMENT ORDINANCE (UDO)  
RELATED TO PRIVATE STREETS IN  
INDIAN TRAIL, NORTH CAROLINA**

**WHEREAS**, the Town is the applicant for ZT 2016-004 requesting to amend Chapter 1110 Subdivision Regulations, to prohibit the construction of private roads and related changes within the Unified Development Ordinance (UDO); and

**WHEREAS**, this Zoning Amendment (ZT 2016-004) was duly noticed in compliance with North Carolina General Statutes; and

**WHEREAS**, the amendment was heard by Planning Board on September 20, 2016 in a public meeting; and

**WHEREAS**, the Planning Board after hearing the amendment and deliberations made the following findings and recommended approval to the Town Council:

1. The proposed UDO amendment is consistent with the following goals of the Comprehensive Plan:
  - **Land Use and Housing Goals #5 and #6:** The proposed text will ensure high quality design because all new roads will be required to become Town-owned roads and must therefore be constructed to Town standards. In addition, the proposed text will limit instances where private roads are allowed so that the land development and road acceptance process will be efficient and predictable and will encourage community investment.
2. This UDO ordinance amendment is in the best interest of the public because it requires a high quality of design and construction of road networks in new subdivisions because of the requirement that all new roads become Town-owned roads after the three year surety period per UDO Section 1110.090(D)(2).

**WHEREAS**, the Town Council received the Planning Board transmittal in the required public hearing held on September 20, 2016, and after receiving the transmittal, public comment, and deliberation, voted to approve the amendment with the required findings and amendment recommendation as transmitted by the Planning Board.

NOW THEREFORE, BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL,  
NORTH CAROLINA HEREBY TAKES THE FOLLOWING ACTION:

**Section 1 – UDO CHAPTER 1100 is hereby Approved as shown in Exhibit A of this Ordinance;**

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

SO ORDAINED THIS 20<sup>TH</sup> DAY OF SEPTEMBER, 2016. THE TOWN COUNCIL OF  
INDIAN TRAIL

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

Attest:

\_\_\_\_\_  
Kelley Southward, Town Clerk

APPROVED AS TO FORM:

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

# ZT2016-004 EXHIBIT A

## **Division 1100. Subdivision Regulations**

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#### **1110.090 Street and Sidewalk Improvements**

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