



**P.O. Box 2430  
Indian Trail, North Carolina 28079**

**PLANNING AND NEIGHBORHOOD SERVICES**

## **Zoning Staff Report**

<b>Case: ZT 2016-009 Existing Car Wash Uses within Old Monroe Village Center Overlay</b>		
<b>Reference Name</b>	Amendment of UDO Chapter 520 and new Chapter 7220	
<b>Applicant</b>	Charles A. Howard, II Autobell Car Wash	
<b>Submittal Date</b>	8.29.16	
<b>Location</b>	Old Monroe Village Center	
<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 520 new Chapter 7220 to the Unified Development Ordinance (UDO) to allow the expansion of existing car wash uses within the Old Monroe Village Center Overlay only.

**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 was initiated by Charles A. Howard, II of Autobell Car Wash in order to permit the expansion of existing car wash uses within the Old Monroe Village Center Overlay in the Town of Indian Trail. The intent from Autobell Car Wash is to combine the existing Autobell Car Wash parcel (parcel 07114018A) with the property directly to the north being rezoned under ZM2016-002 (parcel 07114018) in order to expand the site and accommodate a finishing area (i.e., hand drying and detailing).

## Outline of Text Amendment

- **Chapter 520.020:** lists existing car wash uses within the Old Monroe Village Center Overlay as a permitted use.
- **Chapter 7220:** further clarifies that any existing permitted car wash use within the Old Monroe Village Center has full rights to expand and allows the combination of adjacent parcels of land for said expansion as long as all other sections of the UDO are met.

With regard to the proposed amendment, staff worked with the applicant to craft language that would make existing car wash uses a permitted use within the Old Monroe Village Center only. Under the current UDO, car washes are not permitted within any Village Center Overlay. The existing Autobell Car Wash use was permitted prior to the adoption of the UDO in December 2008. In order for Autobell to be able to expand, this text amendment is needed to give it full rights as a permitted use.

To date, there exist two (2) car wash uses within the Old Monroe village center overlay which have been in existence before any UDO requirements in our current code. See the table below. In this case, said uses become permitted uses with full rights to expand and rebuild in the case of a natural disaster. Below is a table of the two (2) parcels with existing car wash uses within the Old Monroe Village Center. Again, this amendment proposes language that legitimizes the uses below, as they have been in existence before UDO requirements were established.

Parcel	Current Use
07114018A	Car Wash use for Autobell Car Wash
07114073	Car Wash use for Exxon gas station at the corner of Indian Trail Road and Old Monroe Road

Based on staff's findings, we offer the modifications attached to the Draft Ordinance 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. The proposed language is found in Attachment 2, Exhibit A.

### 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:

*Economic Development Goals #1 and 6: The proposed amendment helps create a more balanced tax base and promotes a diverse local economy by allowing*

*business growth and expansion in the appropriate commercial area within the Town.*

2. This UDO ordinance amendment is a reasonable request and is in the public interest because it promotes business expansion and growth within an area of the Town that is compatible with surrounding uses.

Staff recommends that the Planning Board make the required consistency findings and recommend adoption of this UDO Text Amendment ZT2016-009 as presented.

**Staff Contact**

Gretchen Coperine, AICP, Senior Planner  
704-821-5401  
[gcoperine@planning.indiantrail.org](mailto:gcoperine@planning.indiantrail.org)

Attachment 1: Application

Attachment 2: Draft Ordinance: Exhibit A, Draft Language

**ATTACHMENT 1 - APPLICATION**

**UDO TEXT AMENDMENT  
APPLICATION**

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Subject Section of the UDO:

Name Business & Community Zoning Districts

Chapter: 520.020 G

Purpose: Exemptions or exceptions to prohibition of car washes  
located in VC overlay

Contact Information – Applicant

Name Autobell Car Wash

Address 1521 East Third Street

City Charlotte State NC Zip 28204

Phone 704/731-2051 Fax 704/333-0526

Email chuck@autobell.com

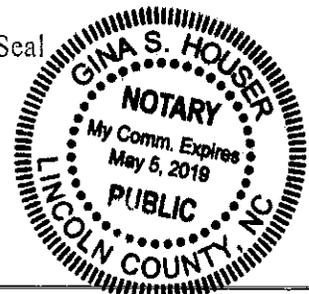
Applicant's Certification

Signature *Charles A. Howard* Date 8/18/2016

Printed Name/Title Charles A. Howard, II, President

Signature of Notary Public *Gina S. Houser* Date 8/18/16

Notary Seal



TOWN OF INDIAN TRAIL OFFICE USE ONLY

CASE NUMBER: ZT2016-008

DATE RECEIVED: 8-26-16

AMOUNT OF FEE: \$550-

RECEIVED BY: Gretchen Capecino

RECEIPT #: \_\_\_\_\_

**HRL** | HELMS ROBISON & LEE, PA  
Attorneys at Law

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August 26, 2016

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<sup>♦</sup> Licensed in NC & SC

**VIA CERTIFIED MAIL #9414 7118 9956 3694 1102 17**

Town of Indian Trail  
Planning & Neighborhood Services  
PO Box 2430  
Indian Trail, NC 28079

Re: Letter of Intent Regarding Proposed Rezoning of Parcel #07114018  
and UDO Text Amendment Application

To Whom It May Concern:

I have been retained by my client, Autobell Car Wash, Inc. ("Autobell"), in connection with the enclosed Zoning Map Amendment Application and enclosed UDO Text Amendment Application for Parcel #07114018 in Indian Trail, North Carolina.

CAH Holdings, LLC is the current owner, and a sister company to Autobell, of Parcels #07114018A and #07114018 in Indian Trail, North Carolina. As you may be aware, Autobell currently operates a car wash facility on Parcel #07114018A, the street address of which is 4416 Old Monroe Road, Indian Trail, North Carolina ("Monroe Road location"). Since Autobell opened its doors at the Monroe Road location on February 25, 2009, the business has been successfully meeting the car washing needs of the surrounding community while hiring local workers. In fact, business at the Monroe Road location has increased drastically since it was opened, to the point where Autobell is now in need of additional space to keep up with current demand. In particular, the current "finishing area" (the area where vehicles are hand dried and detailed) of the Monroe Road location is not adequate in size to meet customer demand. In the hopes of being able to expand its finishing area in the future, Autobell acquired the parcel of real property adjacent to the Monroe Road location, Parcel #07114018, on February 11, 2016.

Under the Town of Indian Trail Unified Development Ordinance ("UDO"), the Monroe Road location (Parcel #07114018A), and all contiguous parcels, are zoned General Business District. In contrast, Parcel #07114018 is zoned Single Family, Low Density ("SF-1"). Since Autobell opened the Monroe Road location, the Town of Indian Trail created a Village Center Overlay zoning district that encompasses both parcels at issue, as well as the nearby intersection of Old Monroe Road and Waxhaw-Indian Trail Road. Prior to the creation of the Village Center Overlay zoning district, a car wash was a permitted use for properties zoned General Business District. However, a car wash such as Autobell is now a non-conforming use in the Village Center Overlay, a classification that greatly complicates Autobell's desire to expand its "finishing area" onto Parcel #07114018.

Through its enclosed applications, Autobell seeks two things: (1) a rezoning of Parcel #07114018 from SF-1 to General Business District and (2) either an exemption/exclusion of the prohibition of an expansion of a non-conforming use or a text amendment to the UDO reclassifying a car wash as a Permitted or Special Use within a Village Center Overlay zoning district.

As mentioned above, Autobell seeks to rezone Parcel #07114018 from SF-1 to General Business District. Currently, Parcel #07114018 is the only property located near the intersection of Old Monroe Road and Waxhaw-Indian Trail Road that is zoned in anything other than a business classification. In fact, the property immediately adjacent to Parcel #07114018, and the only other residential home close to the intersection (Parcel #07114019; 4324 Old Monroe Road) is zoned General Business District. Currently, Parcel #07114018 is the lone island of Residential zoning in a sea of General Business zoning as every other property in the general proximity of the intersection of Old Monroe Road and Waxhaw-Indian Trail Road is currently zoned General Business District. The rezoning of Parcel #07114018 would bring uniformity to the area, would be in conformity with the current development of the intersection, and would achieve the goals set forth in the UDO.

In addition to the rezoning request detailed above, Autobell is also submitting an application for an exemption/exclusion of prohibition of an expansion of a non-conforming use or text amendment to the UDO reclassifying a car wash as a Permitted or Special Use within a Village Center Overlay. As detailed above, Autobell desperately needs additional space for its "finishing area" and employee parking. Assuming that Autobell's rezoning request is approved, Autobell would like to use Parcel #07114018 to create additional space for its "finishing area" and employee parking. However, such a use is not permitted under the current UDO because a non-conforming use is not permitted to expand in any way. In order to utilize Parcel #07114018 as its expanded "finishing area", Autobell requests that it be given an exemption/exclusion from the prohibition on the expansion of a non-conforming use or, alternatively, that the text of the UDO be amended to reclassify a car wash located in a Village Center Overlay as a Permitted or Special Use.

Autobell sincerely hopes that the Town of Indian Trail would give due consideration to the applications contained herein. Should the Town of Indian Trail have any questions regarding any of the information contained in the enclosed applications or in this letter, please do not hesitate to contact me at (704) 289-4577.

Yours truly,

HELMS ROBISON & LEE, P.A.



Stephen M. Bennett

/smb



# NORTH CAROLINA

## Department of The Secretary of State

To all whom these presents shall come, Greetings:

I, **ELAINE F. MARSHALL**, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION  
OF  
AUTOBELL CAR WASH, INC.

the original of which is now on file and a matter of record in this office.



IN WITNESS WHEREOF, I have hereunto  
set my hand and affixed my official seal at the  
City of Raleigh, this 29th day of January, 2003

*Elaine F. Marshall*

Secretary of State

137167

FILED

ARTICLES OF INCORPORATION OF

SEP 3 9 46 AM 1968 AUTOBELL CAR WASH, INC.

THAD EURE  
SECRETARY OF STATE  
NORTH CAROLINA

signed, being natural persons of the age of Twenty-one (21) years or more, do hereby associate ourselves into a business corporation under the laws of the State of North Carolina, as contained in Chapter 55 of the General Statutes of North Carolina, entitled "Business Corporation Act," and the several amendments thereto, and to that end hereby set forth:

ARTICLE I

The name of the corporation shall be Autobell Car Wash, Inc.

ARTICLE II

The period of duration of the corporation shall be perpetual.

ARTICLE III

The purposes for which this corporation is organized are:

1. To engage in the construction, installation, sale, purchase, leasing, maintenance, and franchising of a car-washing business. To buy, sell, maintain, repair, operate, lease, and franchise facilities for the washing, waxing, cleaning, or servicing in any nature or manner automobiles, trucks, and vehicles of any and every type, description or form.
2. To engage in any other lawful activity including, but not limited to, constructing, manufacturing, or otherwise producing and repairing, servicing, storing, or otherwise caring for any type of structure, commodity, or livestock whatsoever; buying, leasing, processing, selling, brokering, or distributing any type of property whether real or personal; extracting and processing natural resources; transporting freight and passengers by land, sea or air; collecting and disseminating information or advertisement through any medium whatsoever; performing personal services of any nature; and entering into or serving any type of management or investigative, advisory, promotional, protective, insurance, guarantyship, suretyship, fiduciary or representative capacity or relationship for any person, persons or corporations whomsoever.
3. The purposes enumerated above shall be construed liberally in respect to all items; specifically, the purposes enumerated above are to be construed

in their broadest possible sense and it is not intended, nor shall it be so construed, as to limit the corporation to these purposes but the corporation shall have as a purpose to engage in any activity not in conflict with the laws of this State.

#### ARTICLE IV

The aggregate number of shares which the corporation shall have authority to issue is Ten Thousand (10,000) shares which shall be of one common class and of Ten Dollars (\$10.00) par value each.

#### ARTICLE V

The minimum amount of consideration which the corporation shall commence business with is Five Hundred Dollars (\$500.00).

#### ARTICLE VI

There shall be no limitation of the shareholders' pre-emptive right to acquire additional shares of the corporation.

#### ARTICLE VII

The address of the initial registered office of the corporation is 812 Atandó Avenue, Charlotte, Mecklenburg County, North Carolina, and the name of the initial registered agent is Fred H. Shivadecker.

#### ARTICLE VIII

The number of Directors of the corporation shall be fixed from time to time as prescribed by the By-laws but shall not be less than three (3).

The number of Directors constituting the initial Board of Directors shall be four (4); the names and addresses of the persons who are to serve as Directors until the first meeting of the shareholders or until their successors are elected and qualified are:

<u>NAMES</u>	<u>ADDRESSES</u>
Fred H. Shivadecker	4146 Sheradon Drive, Charlotte, Mecklenburg County, North Carolina
Charles Andrew Howard	7910 East Lane Drive, Charlotte, Mecklenburg County, North Carolina
James Ray Costin	2830 Belvedere Avenue, Charlotte, Mecklenburg County, North Carolina
Robert J. MacNaughton	3121 Airlie Street, Charlotte, Mecklenburg County, North Carolina

ARTICLE IX

The names and addresses of all the incorporators are:

<u>NAMES</u>	<u>ADDRESSES</u>
Fred H. Shivadecker	4146 Sheradon Drive, Charlotte, Mecklenburg County, North Carolina
Charles Andrew Howard	7910 East Lane Drive, Charlotte, Mecklenburg County, North Carolina
James Ray Costin	2830 Belvedere Avenue, Charlotte, Mecklenburg County, North Carolina
Robert J. MacNaughton	3121 Airlie Street, Charlotte, Mecklenburg County, North Carolina

IN TESTIMONY WHEREOF, we have hereunto set our hands and seals, this the 30<sup>th</sup> day of August, 1968, A.D.

Fred H. Shivadecker (SEAL)  
Charles A. Howard (SEAL)  
Robert J. MacNaughton (SEAL)  
J. R. Costin (SEAL)

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

This is to certify that on this the \_\_\_ day of August, 1968, before me, a Notary Public, personally appeared Fred A. Shivadecker, Charles A. Howard, James Ray Costin, and Robert J. MacNaughton, who I am satisfied are the persons named in and who executed the foregoing Articles of Incorporation of Autobel Car Wash, Inc., and I having first made known to them the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed for the purposes and uses therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this the 30<sup>th</sup> day of August, 1968.

Alvin H. Mitchell  
Notary Public

My Commission Expires: 1-21-69





**Section 1 – UDO Chapters 520, Business and Commercial Zoning Districts and add new Chapter 7220, Existing Car Wash Uses within the Old Monroe Village Center Overlay Zone (O-VC); and**

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

SO ORDAINED THIS \_\_\_ DAY OF November 2016. THE TOWN COUNCIL OF  
INDIAN TRAIL

By \_

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

Attest:

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

APPROVED AS TO FORM:

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

# ZT2016-009 EXHIBIT A

## 520.020 Business and Commercial Zoning Districts

Car Wash	-	-	P	P	<u>P*</u>	-	<u>*See Chapter 7220 for existing car wash uses within the Old Monroe Village Center Overlay.</u>  <u>New car wash uses in Village Center Overlays are otherwise prohibited.</u>
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### Chapter 7220. Existing Car Washes within the Old Monroe Village Center Overlay

The following regulations shall only apply to Car Wash uses within the Old Monroe Village Center Overlay legally permitted on or before December 30, 2008.

- A. Any car wash use within the Old Monroe Village Center Overlay legally permitted on or before December 30, 2008 shall be considered a permitted use.

Notwithstanding any applicable designation or classification under Chapter 520.020 of the Unified Development Ordinance, the owner of any permitted car wash use legally permitted on or before December 30, 2008 shall be allowed to expand the current permitted car wash use onto, or utilize in furtherance of that permitted car wash use, any adjoining parcels of real property acquired after December 30, 2008 if the owner of the legally permitted car wash complies with all other provisions of this Unified Development Ordinance.