

Community Engagement/Communication, and Economic Development; and improves town development processes and requirements;

WHEREAS, the Planning Board transmits a recommendation to approve to the Town Council;

WHEREAS, the Town Council held a public hearing on December 10, 2024, to consider said request and recommendation of approval from the Planning Board;

WHEREAS, the Town Council made the required findings.

NOW, THEREFORE, IT SHALL BE ORDAINED by the Town Council of the Town of Indian Trail, North Carolina hereby takes the following action:

Section 1 – Makes the required findings as stated herein; and

Section 2 – Approves ZT 2024-0128 Zoning Text Amendment petition thereby granting the amendment to the Unified Development Ordinance to incorporate revisions to transfer the Board of Adjustment duties to the Planning Board, remove the Planning Board alternates, rename the Planning Board to the Planning and Zoning Board, and revise the Planning Board By-Laws identified in Exhibits 1 and 2:

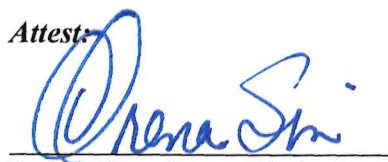
Section 3 – This ordinance shall be effective immediately upon adoption.

AND IT IS SO ORDAINED this 10th Day of December 2024.

TOWN OF INDIAN TRAIL COUNCIL


David Cohn, Mayor

Attest:


Trena Sims, Town Clerk



Approved as to Form:


Melanie Cox, Town Attorney

Exhibit 1

The amendment includes changes to revise, remove and/or add language as shown in the following two exhibit sections:

Each of the two lettered sections have a "Reason for Proposed Additions and Revisions" and the "Proposed Additions and Revisions". The two amendment sections are as follows:

- A. MOVE QUASI-JUDICIAL VARIANCES AND APPEALS TO PLANNING BOARD
- B. REMOVAL OF PLANNING BOARD ALTERNATES

For ease of reference, new text is referenced in green font. Deletions will appear in red but with a strikethrough line or lines such as "~~revised text~~". Other notes to the reader will be highlighted.

A. MOVE QUASI-JUDICIAL VARIANCES AND APPEALS TO PLANNING BOARD

REASON FOR PROPOSED ADDITIONS AND REVISIONS

The current Board of Adjustment does not hear many cases each year. This results in several negative issues such as not using the board members' time efficiently; difficulty filling board positions in both the Board of Adjustment and the Planning Board; and the challenge of a low utilized board remembering previous training since not utilizing their knowledge very often. As a part of transferring the duties of the Board of Adjustment, the Planning Board will be renamed the "Planning and Zoning Board" (PZB).

PROPOSED ADDITIONS AND REVISIONS

DIVISION 100 INTRODUCTORY PROVISIONS

Chapter 120 General Rules of Language and Interpretation

120.030 Miscellaneous Terminology Rules

- A. [NO CHANGES TO A THRU D AND G THRU L.]
- E. The term "Planning and Zoning Board" shall mean the "Planning and Zoning Board of Indian Trail, North Carolina".
- ~~F. The term "Board of Adjustment" shall mean the "Board of Adjustment of Indian Trail, North Carolina".~~

Chapter 130 Comprehensive Plan, Other Plans and Studies

- A. Plans shall be adopted by Town Council with the advice and consultation of the Planning and Zoning Board.
- B. [NO CHANGES TO B THRU H.]

Chapter 150 Official Zoning Map

150.040 Interpretation of Zoning District Boundaries

- A. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Planning Director shall employ the following rules of interpretation:
 - 1. [NO CHANGES TO 1 THRU 6.]
 - 7. **Interpretation**
In the event any uncertainty exists with respect to the intended boundaries as shown on the official zoning map, the Planning Director is authorized to interpret the boundaries. Where an individual is not in agreement with the interpretation, the ~~Board of Adjustment~~ **Planning and Zoning Board convening as a quasi-judicial proceeding** shall have the authority to hear appeals to said interpretation of zoning district boundaries in accordance with G.S. 160D-405 as per Chapter ~~240~~ **230**, ~~"Board of Adjustment"~~ **"Planning and Zoning Board"**.

DIVISION 200 REVIEW AND DECISION-MAKING BODIES

Chapter 210 Executive Summary of Duties and Responsibilities

Table 200-1: Executive Summary of Duties and Responsibilities

Procedure	Planning and Zoning Board	Board of Adjustment
Town Council Decisions		
[NONE OF THE TOWN COUNCIL DUTIES ARE PROPOSED TO CHANGE.]		
Board of Adjustment Planning and Zoning Board Quasi-Judicial Decisions		
Administrative Appeals	Decision (Quasi-judicial proceedings)	Decision
Variances	Decision (Quasi-judicial proceedings)	Decision
Appeal of Any Denial of a Final Plat	Decision (Quasi-judicial proceedings)	Decision
Planning Director Decisions		
Final Plat, Major	Appeal (Quasi-judicial proceedings)	Appeal
Minor Plat	Appeal (Quasi-judicial proceedings)	Appeal
Site Plan Review	Appeal (Quasi-judicial proceedings)	Appeal
Written Interpretations	Appeal (Quasi-judicial proceedings)	Appeal
Ordinance Enforcement	Appeal (Quasi-judicial proceedings)	Appeal
Interpretation	Appeal (Quasi-judicial proceedings)	Appeal
Development Agreement Notice of Breach	Appeal (Quasi-judicial proceedings)	Appeal
Administrative Decisions		
Zoning Compliance Permits	Appeal (Quasi-judicial proceedings)	Appeal
Sign Permits	Appeal (Quasi-judicial proceedings)	Appeal
Master Sign Plan	Appeal (Quasi-judicial proceedings)	Appeal
Stormwater Permits	Appeal (Quasi-judicial proceedings)	Appeal
Temporary Use Permits	Appeal (Quasi-judicial proceedings)	Appeal
All Other Administrative Permits		

Note: Only showing necessary portions of the table columns and rows to depict the changes.

Chapter 220 Indian Trail Town Council

220.020 Powers and Duties

- A. [NO CHANGES TO A AND B.]
- C. The Town Council shall take final actions regarding the text of this ordinance, the official zoning map, decisions regarding ~~conditional uses and~~ Conditional Zoning Districts and appointments to the Planning and Zoning Board, ~~Board of Adjustment~~, and advisory committees.

220.030 Appointments

- A. Planning and Zoning Board
 - 1. The Town Council will appoint all members of the seven-member Planning and Zoning Board ~~plus alternates~~, and each member must reside within the Town of Indian Trail.
 - 2. The Town Council may remove any member for cause.

~~B. Board of Adjustment~~

- ~~1. The Town Council will appoint all members of the seven regular Board of Adjustment members; each member must reside within the Town of Indian Trail.~~
- ~~2. The Town Council may remove any member for cause.~~

Chapter 230 Planning and Zoning Board

230.010 Appointment and Terms of Planning and Zoning Board Members

- A. There will be a ~~p~~Planning ~~b~~Board consisting of seven (7) regular members and three (3) alternate members.
 - 1. Planning and Zoning ~~b~~Board regular members as well as alternates will be appointed for terms as designated by the Town Council.
 - 2. If a regular ~~p~~Planning ~~b~~Board member or an alternate member moves outside the Town of Indian Trail that will constitute a resignation from the ~~p~~Planning ~~b~~Board.
 - 3. All members appointed to the Planning and Zoning Board shall, before entering their duties, qualify by taking an oath of office pursuant to G.S. 160D-309.

230.020 Meetings of the Planning and Zoning Board

- A. The ~~p~~Planning and Zoning ~~b~~Board will establish a regular meeting schedule and will meet frequently enough so that it can take action in conformity with Section 410.120, "Applications to be Processed Exeditiously".
- B. **Primary Function as a Non-Quasi-Judicial Board**
~~Since the planning board does not exercise the broad, quasi-judicial, discretionary authority characteristic of the board of adjustment, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Section 310.080, "Special Requirements for Quasi-Judicial Hearings", of this ordinance. However, it~~ The Planning and Zoning Board will conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas to provide sound recommendations to Town Council for non-quasi-judicial matters.
- C. **Secondary Function as a Quasi-Judicial Board**
 Some requests require ~~Since the p~~Planning and Zoning ~~b~~Board ~~does not~~ to exercise the broad, quasi-judicial, discretionary authority characteristic of ~~the a~~ board of adjustment, . The Planning and Zoning Board shall ~~it need not~~ conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Section 310.080, "Special Requirements for Quasi-Judicial Hearings", ~~of this ordinance. However, it will conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.~~
- D. **Tertiary Function as Tree Advisory Committee**
 The Tree Advisory Committee is a non-quasi-judicial function of the Planning and Zoning Board. As mentioned in Section 8110.010 Modifications of DIVISION 800 LANDSCAPING, the Tree Advisory Committee makes recommendations to Planning Department staff regarding all alternate tree protection/planting plans, plant materials, planting standards, or reforestations.
- E. ~~C~~ Minutes must be kept of all board proceedings. Quasi-Judicial minutes should be kept separate from the other Board minutes.
- F. ~~D~~ All board meetings will be open to the public.
- G. ~~E~~ Whenever the board is called upon to make recommendations concerning zoning map amendment proposals ~~or decisions concerning appeal and variance proposals~~, notice must be given as provided in Section 310.030, "Required Notice for Public Hearings".

230.030 Quorum

A quorum for the Planning and Zoning Board shall consist of four (4) members.

230.040 Participating and Voting

- A. Non-Quasi-Judicial Proceedings
 - 1. A majority of the Board members shall be required for any matter.

2. A member shall not vote on any decision where the outcome of the matter being considered under the following circumstances:
 - a. If the member is reasonably likely to receive a direct, substantial, and readily identifiable financial impact from the outcome of the matter at issue;
 - b. If participation in the matter might give the appearance of a conflict of interest;
 - c. If, during any zoning or text amendment, a member has such close family, business, or other associational relationship with the landowner or applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest (Close family relationship includes spouse, parent, child, brother, sister, grandparent, or grandchild, including step, half, and in-law relationships.); or
 - d. If a member was not present at the public hearing at which evidence relevant to the matter at issue was taken.

B. Quasi-Judicial Proceedings

1. The concurring vote of four-fifths of the Board members will be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.
2. Once a member is physically present at a quasi-judicial meeting, any subsequent failure to vote will be recorded as an affirmative vote unless the member has been excused in accordance with paragraph "3." below.
3. A member may be excused from participating in or voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - a. If the member is reasonably likely to receive a direct, substantial, and readily identifiable financial impact from the outcome of the matter at issue;
 - b. If participation in the matter might give the appearance of a conflict of interest;
 - c. If a member has such close family, business, or other associational relationship with the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest (Close family relationship includes spouse, parent, child, brother, sister, grandparent, or grandchild, including step, half, and in-law relationships.); or
 - d. If a member was not present at the public hearing at which evidence relevant to the matter at issue was taken.

C. Resolution of Objection

The remaining members of the board shall, by majority vote, rule on an objection if raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself.

230.030 050 Powers and Duties of the Planning and Zoning Board

The Planning and Zoning Board will have the following powers and duties:

A. Tree Advisory Committee

Members of the Planning and Zoning Board will serve as the Tree Advisory Committee. The Tree Advisory Committee will review and provide recommendations for Alternative Landscape Plans in accordance with DIVISION 800, "Landscaping", of this ordinance;

B. Major Subdivision Preliminary Plats

The Planning and Zoning Board will review and make recommendations to the Town Council on preliminary plat applications for major subdivisions when associated with Conditional Zoning Districts;

C. Text Amendments

The Planning and Zoning Board will review and make recommendations to the Town Council on amendments to the text of this ordinance;

D. Official Zoning Map

The Planning and Zoning Board will review and make recommendations to the Town Council on amendments to the Official Zoning Map;

E. Conditional Zoning District

The Planning and Zoning Board will review and make recommendations to the Town Council on applications for a Conditional Zoning District;

F. Planned District Review

The Planning and Zoning Board will review and make recommendations to the Town Council on Planned District applications;

G. Comprehensive Plan Administration

The Planning and Zoning Board will be responsible for the preparation of a comprehensive plan and all plan amendments and will make recommendations to the Town Council on policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;

H. Promoting Town Beautification Programs

The Planning and Zoning Board will initiate, promote and assist in the implementation of programs of general community beautification in the Town's planning jurisdiction;

I. Community Design and Appearance

The Planning and Zoning Board will provide leadership and guidance in matters of area or community design and appearance to individuals, and to public and private organizations and agencies;

J. Studies

The Planning and Zoning Board will prepare studies of the visual characteristics and problems of the planning jurisdiction, including surveys and inventories of an appropriate nature and will recommend standards and policies of design for the entire area, any portion or neighborhood thereof or any project to be undertaken;

K. Plans

The Planning and Zoning Board will prepare plans for the improved appearance of the planning jurisdiction, setting forth desirable standards and goals for the aesthetic enhancement of the municipality; of any part thereof within its area of planning and zoning jurisdiction, including public ways and areas, open spaces and public and private buildings and projects; and

L. Quasi-Judicial Proceedings

The Planning and Zoning Board will hear and decide the following:

1. Appeals from any order, decision, requirement, or interpretation made by the Planning Director, as provided in Section 380.010, "~~Board of Adjustment~~ Planning and Zoning Board Hearings on Appeals".
2. Applications for variances, as provided in Section 380.020, "~~Board of Adjustment~~ Planning and Zoning Board Hearings on Variances".
3. Any other matter the Board is required to act upon by any other Town of Indian Trail ordinance.
4. The Board may propose rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance to be approved by Town Council.

M. ~~L.~~ Other Responsibilities

The Planning and Zoning Board will have any other duties assigned by the Town Council.

N. ~~M.~~ Staff

The Planning Department will serve as staff to the Planning and Zoning Board for these board duties.

230.040 Advisory Committees

- A. The Town Council may appoint one or more individuals, with respect to a particular subject area, to assist the Planning and Zoning Board. The Council may appoint advisory committees to consider the thoroughfare plan, housing plans, economic development plans, etc.
- B. Members of advisory committees may sit as nonvoting members of the Planning and Zoning Board lending their talents, energies, and expertise when relevant issues are being considered. All formal recommendations to the Town Council will be made only by members of the Planning and Zoning Board

- C. The ~~p~~Planning and Zoning ~~b~~Board may appoint such standing or ad hoc subcommittees of its own members to consider particular issues or types of issues and may also appoint ad hoc advisory committees consisting of non-~~p~~Planning and Zoning ~~b~~Board members to assist it in its work.

~~Chapter 240 Board of Adjustment~~

~~240.010 Appointment and Terms of Board of Adjustment~~

- ~~A. The Board of Adjustment will consist of seven regular members appointed by the Town Council. All regular members must reside within the Town of Indian Trail.~~
- ~~B. Board of adjustment regular members will be appointed for terms as determined by the Town Council.~~
- ~~C. Members may be reappointed to successive terms without limitation.~~
- ~~D. All members appointed to the Board of Adjustment shall, before entering their duties, qualify by taking an oath of office pursuant to G.S. 160D-309.~~

~~240.020 Meetings of the Board of Adjustment~~

- ~~A. The Board of Adjustment will establish a regular meeting schedule and will meet frequently enough so that it can take action in conformity with Section 410.120, "Applications to be Processed Expeditiously".~~
- ~~B. The board will conduct its meetings in accordance with the quasi-judicial procedures set forth in Section 310.080.~~
- ~~C. All meetings of the board will be open to the public, and whenever feasible the agenda for each board meeting will be made available in advance of the meeting.~~

~~240.030 Quorum~~

~~A quorum for the Board of Adjustment will consist of four members.~~

~~240.040 Participating and Voting~~

- ~~A. The concurring vote of four-fifths of the members of the Board of Adjustment will be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.~~

~~B. Once a member is physically present at a Board of Adjustment meeting, any subsequent failure to vote will be recorded as an affirmative vote unless the member has been excused in accordance with paragraph 3 below.~~

~~C. A member may be excused from participating in or voting on a particular issue by majority vote of the remaining members present under the following circumstances:~~

- ~~1. If the member is reasonably likely to receive a direct, substantial, and readily identifiable financial impact from the outcome of the matter at issue;~~
- ~~2. If participation in the matter might give the appearance of a conflict of interest;~~
- ~~3. If a member has such close family, business, or other associational relationship with the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest (Close family relationship includes spouse, parent, child, brother, sister, grandparent, or grandchild, including step, half, and in-law relationships.); or~~
- ~~4. If a member was not present at the public hearing at which evidence relevant to the matter at issue was taken.~~

~~240.050 Powers and Duties of Board of Adjustment~~

~~The board of adjustment will hear and decide:~~

~~A. Appeals from any order, decision, requirement, or interpretation made by the Planning Director, as provided in Section 380.010, "Board of Adjustment Hearings on Appeals".~~

~~B. Applications for variances, as provided in Section 380.020, "Board of Adjustment Hearings on Variances".~~

~~C. Any other matter the board is required to act upon by any other Town of Indian Trail ordinance.~~

~~D. The board may propose rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance to be approved by Town Council.~~

DIVISION 300 DEVELOPMENT REVIEW PROCEDURES

Chapter 310 Hearing Procedures

310.010 Required Hearings

Public hearings are held by Town Council and the ~~Board of Adjustment~~ **Planning and Zoning Board** convening as a quasi-judicial proceeding to officially render a decision on some applications. A public hearing will be required for the following applications to appear before the following approval bodies:

Table 300-1: Required Hearings by Application Type

Application for Approval	Board of Adjustment Planning and Zoning Board	Town Council
Official Map Amendment		X
Text Amendment		X
Appeal of Administrative Decision	X	
Preliminary Plan Approval, Major Subdivision (if associated with Conditional Zoning District)		X
Variance	X	
Conditional Zoning District		X
Annexation		X
Development Agreement		X

Note: No Public Hearings held by Planning Board when convened for non-quasi-judicial proceedings.

310.030 Required Notice for Public Hearings

- A. [NO CHANGES TO A THRU B AND D THRU H.]
- C. Mailed notice for all public hearings shall:
 - 1. [NO CHANGES TO 1 THRU 3.]
 - 4. Rezoning petitions proposing to change the zoning classification from one land use category to another, intensifying the use (e.g. Residential to Commercial, Commercial to Industrial), shall require:
 - a. A 500-foot public hearing mail notification area mailed and processed as set forth herein; and
 - b. One community meeting to be held prior to the petition being scheduled for discussion by the Planning and Zoning Board. The community meeting shall be advertised by sign posting of the subject property and notice mailed to owners of all parcels of land and established Home Owners Associations that lie within 500-feet as measured from the exterior boundaries of the subject property in the same manner as Section 310.030.C.

310.060 Modification of Application at Public Hearing

The applicant may agree to modify his application, including the plans and specifications submitted, in response to questions or comments by persons appearing at the public hearing or to suggestions or recommendations by the Town Council, or Planning and Zoning Board, or Board of Adjustment.

- A. [NO CHANGES TO A AND B.]

310.070 Continuation of Public Hearings

A public hearing may be continued without further notification, so long as the motion to continue such hearing, made in open session, specifies the date and time when the hearing will be continued. However the following limitations and conditions have been adopted to prevent problems created by last-minute and repeated requests for continuances.

- A. If an applicant wishes to request a continuance, then the Planning Director must receive a request for continuance and the reasons for the request, in writing, or have such request received in the mail at the Town of Indian Trail Planning Department, addressed to the attention of the Planning Director no less than seven (7) business days prior to the scheduled hearing.
- B. Upon receipt of such a properly filed request for a continuance, the Planning Director will have the authority to continue the case to a regularly scheduled meeting if the applicant establishes to the satisfaction of the Planning Director that there is just cause for granting a continuance. If the Planning Director denies a continuance, then the applicant can request a continuance from the Planning and Zoning Board ~~or Board of Adjustment~~ based on just cause, but the applicant must be prepared to have the appeal heard if either of the Boards denies the request. Three votes of the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding are required in order to grant a continuance and four votes of the Planning and Zoning Board in non-quasi-judicial proceedings are required.
- C. If the applicant wishes to file a second request for a continuance, or any subsequent request for a continuance, then the applicant must properly comply with the same procedure as stated above. However, the Planning Director will have the authority to request sufficient information from the applicant either justifying or corroborating such a request for a continuance and the applicant is expected to provide the information to the Planning Director before the day of the scheduled hearing. The applicant or the applicant's representative must appear before the Planning and Zoning Board ~~or Board of Adjustment~~ at the scheduled hearing to request a continuance. The Planning Director will be given an opportunity to report on the information provided by the applicant to support the granting of the continuance and the Planning Director will have the right to make a recommendation on the request. A vote of the majority of the Planning and Zoning Board ~~or Board of Adjustment~~ members is required in order to grant a continuance. The Board will not grant the continuance unless there are exceptional, extenuating reasons justifying a continuance that must be stated in the minutes. In appearing before the Planning and Zoning Board ~~or Board of Adjustment~~, the applicant must be fully prepared to have the case proceed if the request for continuance is denied.
- D. If an applicant fails to properly comply with the procedure described herein, then the case must be heard as scheduled. If the applicant fails to appear for the hearing or appears and does not elect to proceed, then the application will be automatically be deemed to be denied. The applicant will be entitled to file an entirely new application and pay a new filing fee, as if no application had been filed before. If the application is an appeal of a notice of violation, and the 30 days have transpired since the date of the notice of violation, then the 30 days will have expired and the Planning and Zoning Board ~~or Board of Adjustment~~ will not have jurisdiction to hear an appeal on the notice of violation. While the Planning and Zoning Board ~~or Board of~~

~~Adjustment~~ will not have jurisdiction if the 30 days have expired on an appeal from a notice of violation, in all other circumstances, the Planning and Zoning Board ~~or Board of Adjustment~~ does retain authority for some extraordinary situations to grant a continuance to hear the case. In order to grant a continuance to hear such a case, there must be a majority of the vote by the Planning and Zoning Board ~~or Board of Adjustment~~ finding either:

1. [NO CHANGES TO 1 AND 2.]

310.080 Special Requirements for Quasi-Judicial Hearings

A public hearing on a variance request or administrative appeal will be considered a quasi-judicial hearing and must follow statutory procedures (G.S. 160D-102 (28)).

- A. [NO CHANGES TO A THRU D.]

F. Judicial Review of Quasi-Judicial Final Decisions

1. Every final decision of a quasi-judicial body (i.e., ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding) shall be subject to review by the Superior Court by proceedings in the form of certiorari pursuant to G.S. 160D-102 and 160D-1402.
2. [NO CHANGES TO 2 THRU 3.]

Chapter 320 Zoning Map and Ordinance Text Amendments

320.010 General Procedures

- A. Amendments to the text of this ordinance or to the zoning map may be made in accordance with the provisions of this Chapter.
- B. The term "major map amendment" will refer to an amendment initiated by the Town Council, ~~p~~Planning and Zoning ~~b~~Board, or planning staff that addresses a zoning reclassification action directly affecting more than 50 different property owners. In the case of a major map amendment, notification shall be provided per G.S. 160D-601.
- C. Amendments to the Town's comprehensive plan may be made in accordance with this Chapter. The Town Council may consider amendments to the comprehensive plan not in association with a zoning map amendment with a recommendation from the Planning and Zoning Board. The Town Council may also consider amendments to the Comprehensive Plan when zoning map amendments are in significant conflict with the plan, as determined by the Planning Director. When required, an application for a comprehensive plan amendment must be submitted and reviewed concurrently with an application for a zoning map amendment. Otherwise, in the event of inconsistency with the Comprehensive Plan, the Comprehensive Plan will be automatically amended as part of the rezoning action in accordance with G.S. 160D-604 and 160D-605.

320.020 Initiation of Amendments

An amendment to the text of this ordinance or to the zoning map or to the Town's comprehensive plan may be initiated by the Town Council, the Planning and Zoning Board, the planning staff, or any other interested person. If an amendment to the zoning map or the ordinance proposes to down-zone property, the request may only be initiated by the landowner(s) written consent or the Town pursuant to G.S. 160D-601 and S.L. 2019-111, Pt. I. A rezoning/zoning map amendment application must include:

- A. [NO CHANGES TO A THRU C AND F.]
- D. Notice of the Planning and Zoning Board's consideration of a proposed minor map amendment must be sent to the owner of the property to be rezoned and to adjoining property owners as provided in subsection 310.030, C.
- E. Unless the Town Council finds that there have been substantial changes in conditions or circumstances bearing on the application, the Town will not accept for consideration a petition for a text or map amendment for one (1) year from the date the petition is submitted if:
 - 1. The Town Council has denied a previous rezoning request for the same property or has approved a rezoning to a more restrictive classification than requested, or the applicant has withdrawn a previous request after consideration of such request by the Planning and Zoning Board, or
 - 2. The Town Council has denied a substantially similar request for a text amendment.

320.030 Planning and Zoning Board Consideration of Proposed Amendments

- A. Every proposed map or text amendment or amendment to the comprehensive plan will be referred to the Planning and Zoning Board for its consideration, comments and provide a written recommendation to Town Council regarding adoption of the proposal.
- B. The Planning and Zoning Board shall advise and provide written comment on whether the proposed action is consistent with the adopted Comprehensive Plan and any other officially adopted plan that is applicable pursuant to G.S. 160D-604 (d). A Planning and Zoning Board recommendation that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by Town Council.
- C. The Planning and Zoning Board will endeavor to review the proposed amendment in such a timely fashion that any recommendations it may have can be presented to the Town Council at the public hearing on the amendment. However, if the Planning and Zoning Board is not prepared to make recommendations at the public hearing, it may request the Town Council to delay final action on the amendment until such time as the Planning and Zoning Board can present its recommendations.
- D. The Town Council may not take final action approving a proposed amendment until it has received the recommendation of the Planning and Zoning Board or until 45 days have passed

since the proposal was heard by the Planning and Zoning Board, whichever occurs first. However, the Town Council is not bound by the recommendations, if any, of the Planning and Zoning Board.

Chapter 330 Conditional Zoning Districts

330.020 Application Procedures

All applications must include a conceptual plan, drawn to scale, and supporting text that, if approved, will become a part of the Ordinance amendment. The conceptual plan, drawn by an architect, landscape architect, professional surveyor, or engineer licensed to practice in North Carolina, shall include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that are in addition to all Ordinance requirements, will govern the development and use of the property.

A. [NO CHANGES TO A, B AND D.]

C. **Additional Requirements**

When reviewing an application to rezone property to a conditional zoning district, the Planning and Zoning Board and/or Town Council may request additional information (in addition to that required in Section 330.020, as they deem necessary).

E. **Community Meeting**

Once the conceptual plan and the required number of associated documents have been submitted to the Town and the required fees have been paid, the applicant shall schedule and hold a community meeting in coordination with the Town planning staff. Such meetings shall occur prior to the petition being scheduled on the Planning and Zoning Board agenda. The community meeting is designed to provide a framework for creating a shared vision with community involvement directed by the applicant in accordance with the following requirements:

1. [NO CHANGES TO 1 THRU 5.]

F. **Planning Director Review**

Within 30 days of the submission of a revised application or revised conceptual plan or within 60 days following the community meeting where no revised application is submitted, the Planning Director will make comments and suggestions for revisions. If the planning director does not forward comments to the applicant by the end of these time periods, the application shall be scheduled on the Planning and Zoning Board agenda. If the Planning Director provides the applicant with comments on the application, the applicant shall have 10 days after receiving those comments to inform the director whether the application will be further revised. If the applicant informs the Planning Director that the application will not be further revised, the director shall schedule the application on the Planning and Zoning Board agenda. If the applicant informs the director the application will be further revised, the director shall not submit the current application to the Planning and Zoning Board. Once the applicant submits a revised application, it shall be subject to review in accordance with this section.

330.030 Planning Board Review

- A. The Planning and Zoning Board will review the application for consistency with this ordinance and all adopted town plans.
- B. The Planning and Zoning Board will consider applications in a timely fashion and will forward a written recommendation to the Town Council for its consideration within the time frame authorized.
- C. In response to suggestions made by the Planning and Zoning Board, the applicant may revise the application before it is submitted to Council.

330.040 Town Council Decision

- A. [NO CHANGES TO TEXT IN A.]
 - 1. [NO CHANGES TO 1 THRU 3.]
 - 4. Submit the application to the Planning and Zoning Board for further study. The Planning and Zoning Board shall have up to thirty (30) days from the date of such submission to make a report to the Town Council. Once the Planning and Zoning Board issues its report, or if no report is issued within that time period, the Town Council may take action on the application.
- B. [NO CHANGES TO B AND C.]
- D. **Town Council's Public Hearing**

The Town Council shall conduct a public hearing on the application. Notice of the public hearing shall be as provided in Section 310.030. Once the public hearing is conducted, the Town Council shall be in a position to take action on the rezoning. Staff reports regarding the application shall be furnished to the applicant, the Planning Board and Town Council prior to the Planning Board and Town Council taking action on the application.
- E. **Conditions of Approval for Petition**
 - 1. In approving a petition for the reclassification of a piece of property to a conditional zoning district (CZ), the Planning and Zoning Board may recommend, and the Town Council may request that reasonable and appropriate conditions be attached to approval of the petition.
 - 2. [NO CHANGES TO 2 THRU 6.]

330.050 Effect of Approval: Zoning Map Designation

[NO CHANGES TO PARAGRAPH TEXT.]

A. Changes to an Approved Conditional Zoning District

[NO CHANGES TO PARAGRAPH TEXT.]

1. [NO CHANGES TO 1 THRU 6.]

7. The administrative decision may be appealed to the ~~Board of Adjustment~~ **Planning and Zoning Board in a quasi-judicial proceeding**. An appeal may be filed within a 30-day period after the notice of determination. Town staff must presume that a notice sent by mail is received on the third (3rd) business day after the mailing.

B. [NO CHANGES TO B THRU D.]

Chapter 350 Planned Development Review and Approval (PUD, TND, MXD, CSD and OSD)

350.050 Site/Development Plan

A suitable site/development plan will be submitted by the applicant for review by the Planning Director and the Planning **and Zoning** Board, and approval by the Town Council. Specifically, such plan will include the following elements, where applicable:

A. [NO CHANGES TO A.]

Chapter 360 Subdivisions

360.010 Major Subdivisions

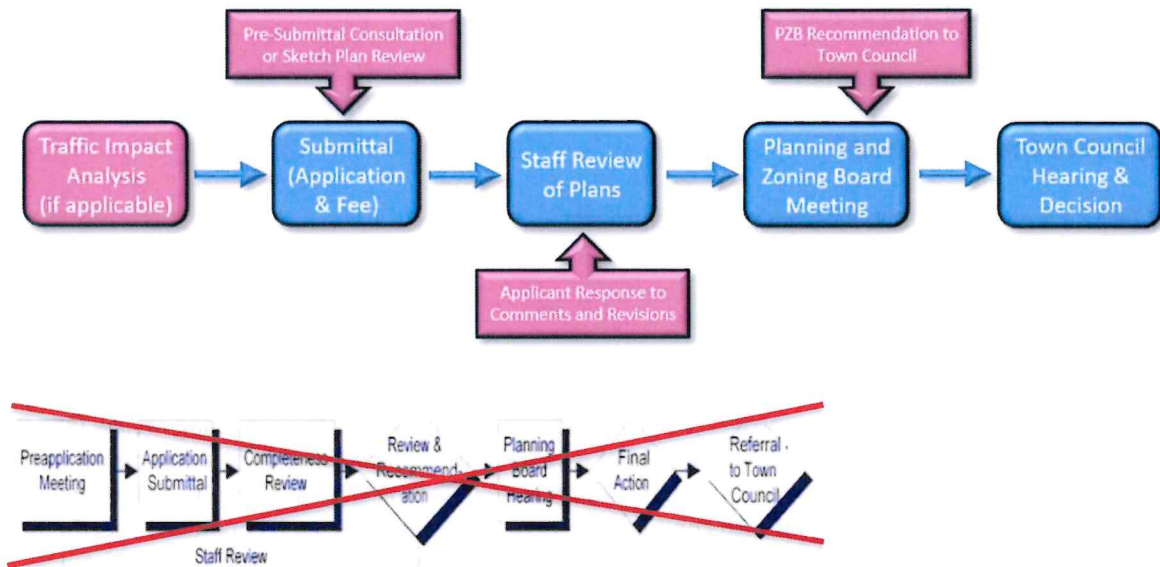
Major subdivision review is a 4 stage review process. These steps will include:

A. [NO CHANGES TO A, AND C THRU E.]

B. Submittal of a preliminary plan. A plan must be submitted in accordance with specific development standards as listed in subsection 360.030F. Initially, the plan is reviewed by the TRC to determine whether or not it complies with the requirements of the UDO. If the preliminary plan is associated with a proposed Conditional Zoning District, it will be forwarded to the Planning **and Zoning** Board for a recommendation to the Town Council. After reviewing the comments from the TRC and Planning **and Zoning** Board, the Town Council shall approve, approve conditionally, or disapprove the plan. If the plan is associated with a conventional subdivision, the Planning Director will approve, approve conditionally, or disapprove the plan.

360.030 Preliminary Plan

Figure 300-1: Preliminary Plat (Major Subdivisions)



Preliminary plans may be referred to Town Council on appeal. Planning and Zoning Board review and recommendation as illustrated above is required for any subdivision approval that is part of an application for a conditional zoning district but is not required for conventional subdivision.

A. Review Procedure

1. If associated with a Conditional Zoning request, the applicant or authorized agent must submit PDF file copies of the preliminary plan to the Planning Department at least 21 days prior to a regular meeting of the Planning and Zoning Board. During this period, the TRC must evaluate the plan to determine whether or not it meets the requirements of this ordinance. The TRC may receive comments from other persons or agencies before making their final recommendations. After the TRC determines that the plan meets the requirements of this ordinance, it notifies the Planning Director that the Conditional Zoning Application may proceed in accordance with Section 330.020 D and ultimate consideration by the Town Council.
2. If preliminary plan is associated with a Conventional Subdivision, the applicant or agent shall submit copies to the TRC for review and recommendation to the Planning Director.

B. [NO CHANGES TO B THRU D, F AND G.]

E. TRC Submission to Director of Planning

The TRC shall evaluate the preliminary plan to determine whether or not it meets the requirements of this ordinance. After review by the TRC, the Planning Director shall approve,

approve conditionally, or disapprove the preliminary plan for Conventional Subdivisions, or forward the recommendation of the TRC to the Planning and Zoning Board and Town Council if associated with a Conditional Zoning request. If approved or approved conditionally, the Planning Director or Town Council approval must be incorporated onto the drawings by the applicant and must provide the following:

1. [NO CHANGES HERE.]

Chapter 370 Site Plan Review

370.040 Review Comments, Responses and Approvals

- A. [NO CHANGES TO A, B AND D.]

- C. **Approval by Planning Director**

Site plans submitted for review under this Section will be processed and the applicant notified in writing of such approval, approval with conditions, not approved with continuing review (see B, Review Comments), or denial. In the case of a denial, the applicant may appeal this denial to the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial procedure. The Planning Director may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into complete compliance with this UDO. If the proposed site plan is determined to be consistent with all applicable provisions of this UDO, the Planning Director will approve the site plan and so advise the applicant in writing. The site plan development approval is attached to and runs with the land unless the approval expires.

Chapter 380 Appeals and Variances

380.010 ~~Board of Adjustment~~ Planning and Zoning Board Hearings on Appeals

- A. An appeal from any final order, interpretation or decision of the Planning Director may be taken to the ~~Board of Adjustment~~ Planning and Zoning Board by any person with standing pursuant to G.S. 160D-1402 (d). An appeal is taken by filing with the Town Clerk a written notice of appeal specifying the grounds therefore.
- B. The official who made the decision shall give notice to the owner of property that is the subject of the decision and to the party who sought the decision, if different from the owner.
- C. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Town staff shall presume that a notice sent by mail is received on the third (3rd) day after the mailing.
- D. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six (6) inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the appeal. The posting of signs is not the only form of constructive notice. Any such posting shall be

the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

- E. Whenever an appeal is filed, the official making the decision must, at once, transmit to the ~~Board of Adjustment~~ **Planning and Zoning Board** all the documents and exhibits constituting the record relating to the action appealed from. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- F. Pursuant to G.S. 160D-405 (f), an appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the Board after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and Board shall meet to hear the appeal at the next scheduled meeting after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations the appellant or Town may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.
- G. Subject to the provision of subdivision (F) of this subsection, the ~~Board of Adjustment~~ **Planning and Zoning Board** shall hear and decide the appeal within a reasonable time.
- H. Planning Department Staff shall submit the required public hearing notifications in accordance with the table in Section 310.020 Summary of Notice Required and applicable paragraphs in Section 310.030 Required Notice for Public Hearings.
- I. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.
- J. The ~~Board of Adjustment~~ **Planning and Zoning Board** may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and will make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board will have all the powers of the officers from whom the appeal is taken.

- K. When hearing an appeal pursuant to G.S. 160D-947 (e) or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided G.S. 160D-1402 (k).
- L. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

380.020 ~~Board of Adjustment~~ Planning and Zoning Board Hearings on Variances

- A. An application for a variance to the ~~Board of Adjustment~~ Planning and Zoning Board will be made by filing a copy of the completed application in the office of the Planning Director.
- B. A variance may be granted by the ~~board of adjustment~~ Planning and Zoning Board after a public hearing has been held in a quasi-judicial manner and advertised in accordance with Section 310.030. When unnecessary hardships would result from carrying out the strict letter of the Unified Development Ordinance, the ~~Board of Adjustment~~ Planning and Zoning Board shall vary any of the provisions on the ordinance upon a showing of all of the following:
 - 1. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; and
 - 2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability; and
 - 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship; and
 - 4. The requested variance is consistent with the spirit, purpose and intent of the regulation, such that public safety is secured and substantial justice is achieved; and
 - 5. The variance will neither result in the extension of a nonconforming situation in violation of DIVISION 1400, Nonconformities nor authorize the initiation of a nonconforming use of land.
- C. No change in permitted uses may be authorized by a variance.
- D. Appropriate conditions may be imposed on any variance, by the ~~Board of Adjustment~~ Planning and Zoning Board, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use for development may provide for the variances

consistent with the provisions of the subsection. A variance may be issued for an indefinite duration or for a specified duration only.

1. The nature of the variance and any conditions attached to it must be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.

380.030 Hearings on Appeals or Variances

The ~~Board of Adjustment~~ **Planning and Zoning Board** will hear and decide all appeals, and variance requests, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 310.030, and obtain the necessary information to make sound decisions.

A. Burden of Proof in Appeals and Variances

1. When an appeal is taken to the ~~Board of Adjustment~~ **Planning and Zoning Board** in accordance with Chapter 380 (Appeals and Variances), the Planning Director will have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who will also have the burden of persuasion.
2. The burden of presenting evidence sufficient to allow the ~~Board of Adjustment~~ **Planning and Zoning Board** to reach the conclusions set forth in Section 380.020B, as well as the burden of persuasion on those issues remains with the applicant seeking the variance.
3. The applicant has the burden of producing competent, material, and substantial evidence establishing that the applicant's proposed use will not substantially injure the value of adjoining or abutting property and will be in general conformity with the comprehensive plan, thoroughfare plan, or other plans or policies officially adopted by the Town Council. The burden of proof will be on anyone in opposition of the application to establish by competent, material, and substantial evidence that the applicant's use will materially endanger the public health or safety and will not be in harmony with the area in which it is to be located.

B. Board Action on Appeals and Variances

1. With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from will include, insofar as practicable, a statement of the specific reason or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the votes necessary for adoption, then a motion to uphold the decision appealed from will be in order.
2. Before granting a variance, the board must take a separate vote and vote affirmatively on each of the six required findings stated in Section 380.020B. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Section

380.020B will include a statement of the specific reasons or findings of fact supporting such motion. Said approved variance shall be recorded at the Union County Registrar of Deeds within 60 days from the date of approval.

3. A motion to deny a variance may be made on the basis of findings regarding any one or more of the criteria set forth in Section 380.020B. Insofar as practicable, such a motion will include a statement of the specific reasons or findings of fact that support it.

380.040 Reconsideration of ~~Board of Adjustment~~ Planning and Zoning Board Action

- A. Whenever the ~~Board of Adjustment~~ Planning and Zoning Board disapproves an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board for at least twelve (12) months or unless the applicant clearly demonstrates that:
 1. Circumstances affecting the property that is the subject of the application have substantially changed; or
 2. New information is available that could not with reasonable diligence have been presented with as part of the previous application. A request to be reheard on this basis must be filed with the Planning Director within the time period specified within the rules of procedure of the ~~Board of Adjustment~~ Planning and Zoning Board.
- B. Notwithstanding Subsection A above, the Town Council or ~~Board of Adjustment~~ Planning and Zoning Board may at any time consider a new application affecting the same property as an application previously denied if the new application is one that differs in some substantial way from the one previously considered.

Chapter 390 Development Agreements

390.040 Effect of Approval

- A. [NO CHANGES TO A, C, D AND E.]
- B. **Breach of Agreement and Cure**
 1. If at any time the Town finds and determines that the developer has committed a material breach of the agreement, the Town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach pursuant to G.S. 160D-1008.
 2. If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the development agreement; provided, the notice of termination or modification may be appealed to the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding.

3. A development agreement may specify other penalties for breach in lieu of termination, including but not limited to, penalties allowed for violation of a development regulation.
4. A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

DIVISION 400 ADMINISTRATIVE AND GENERAL PERMIT REQUIREMENTS

Chapter 410 General Permit Requirements

410.070 Use, Occupancy, or Sale Before Completion of Development

- A. [NO CHANGES TO A AND B.]
- C. When the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding or Town Council imposes additional requirements upon the permit recipient in accordance with this UDO or when the developer proposes in the plans submitted to any permit issuing authority (Planning Director, Planning and Zoning Board, or ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding) to install amenities beyond those required by this ordinance, the permit issuing authority or the Planning Director may authorize the applicant to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed. The early commencement of the use or occupancy of the building will occur only if permit issuing authority or Planning Director specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if authority or Planning Director concludes that compliance will be ensured as the result of any one or more of the following:
 1. [NO CHANGES TO 1 THRU 4.]

410.090 Expiration of Permits

- A. Zoning permits or approvals not otherwise specified in this ordinance (i.e. sign permits, residential zoning permits, accessory structure permits, etc.) are valid for six (6) months.
- B. Unless otherwise specified in this ordinance for individual permit or approval types, the permit issuing authority may extend for a period up to six (6) months from the date when a permit would otherwise expire pursuant to this Chapter if it concludes that:
 1. The permit has not yet expired;
 2. The permit recipient has proceeded with due diligence and in good faith; and

3. Conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six (6) months upon the same findings. All such extensions may be granted without resorting to the formal processes and fees required for a new permit.
 4. For purposes of this section, the permit within the jurisdiction of the Town Council or ~~the Board of Adjustment~~ resulting from quasi-judicial proceedings of the Planning and Zoning Board is issued when the Town Council or ~~Board of Adjustment~~ Planning Board in a quasi-judicial proceeding votes to approve the application and issue the permit. A permit within the jurisdiction of the Planning Director is issued when the earlier of the following takes place:
 - a. A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant.
 - b. The Planning Director notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner, so it can be recorded if required.
- C. [NO CHANGES TO C.]

410.110 Amendments to and Modifications of Permits

- A. [NO CHANGES TO A AND B.]
- C. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the ~~board of adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding, new conditions may be imposed in accordance with Section 330.050 (Effect of Approval; Zoning Map Designation), but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.
1. The administrator will determine whether amendments to and modifications of permits fall within the categories set forth in subsections A and B above.
 2. A developer requesting approval of changes must submit a written request for such approval to the ~~administrator~~ Planning Director, which request will identify the changes. Approval of all changes must be given in writing.

Chapter 420 Certificate of Zoning Compliance

420.010 Zoning Permit Issuance

The Planning Director will issue the zoning permit unless he/she finds, after reviewing the application and consulting with the applicant that:

- A. [NO CHANGES TO A, B, AND D.]
- C. If completed as proposed in the application, the development will not comply with one or more requirements of this ordinance (not including those requirements for which a variance has been granted; circumstances where the Town Council or **board of adjustment Planning and Zoning Board in a quasi-judicial proceeding** have granted discretionary approvals; or circumstances where the applicant is not required to comply as specified in DIVISION 1400, Nonconformities).

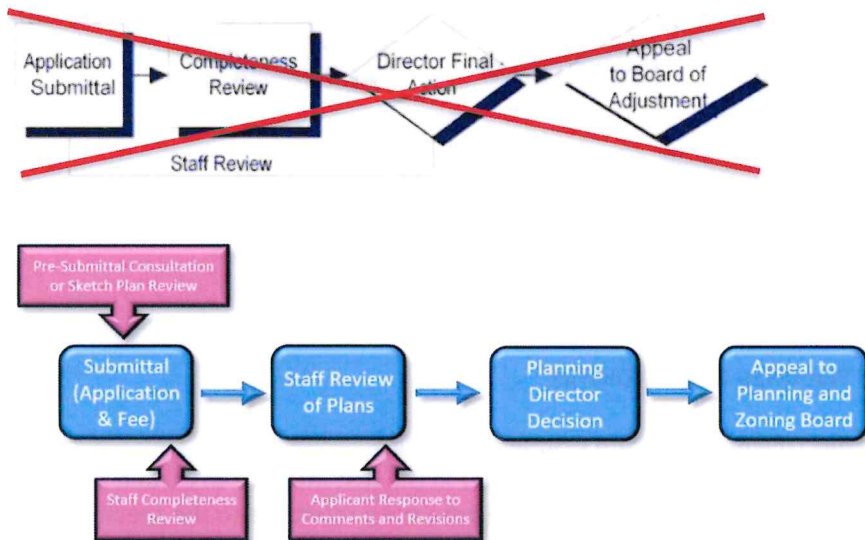
Chapter 430 Master Signage Plans

430.010 Master Signage Plans Required

A master signage plan will be submitted to the Town for developments containing more than one lot, tenant, or principal structure. Within a development the coordination of styles and colors will be used to ensure continuity. A master signage plan will include the following in booklet form:

- A. [NO CHANGES TO A THRU G.]

Figure 400-1: Master Signage Plan



Chapter 440 Temporary Use Permit

440.030 Submission Requirements

[NO CHANGES TO INTRODUCTION PARAGRAPH.]

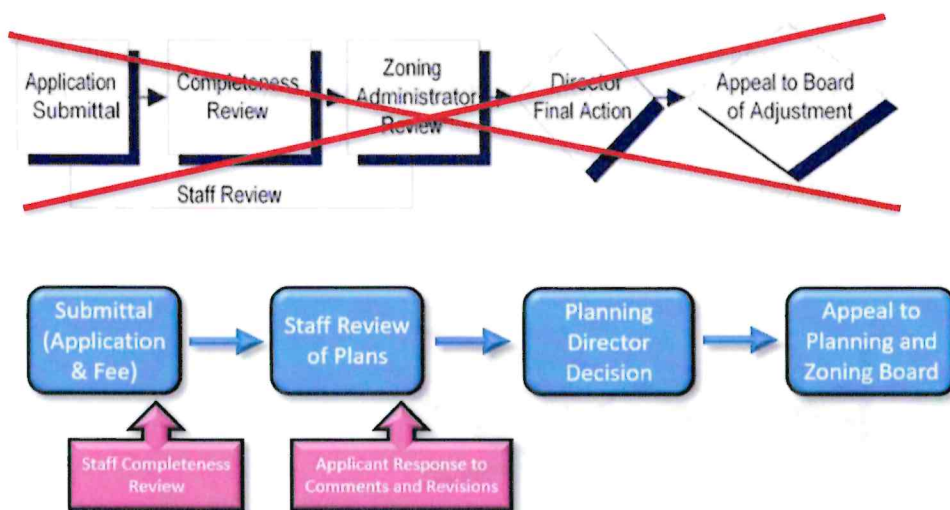
- A. [NO CHANGES TO A THRU C.]

- D. Any applicant denied a permit by the Planning Director will be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the **Board of Adjustment Planning and Zoning Board in a quasi-judicial proceeding**.

440.060 Appeals

Appeals of temporary use permits denied by the Planning Director will be taken to the **Board of Adjustment Planning and Zoning Board in a quasi-judicial proceeding** within 30 days of mailing of the denial, in accordance with the procedures in Chapter 380.

Figure 400-2: Temporary Use Permit



DIVISION 600 SPECIAL PURPOSE DISTRICTS AND OVERLAYS

Chapter 650 Flood Plain and Floodway Overlay District

650.010 Location Of Boundaries Of Floodplain And Floodway Districts

As used in this Section, the terms floodplain and floodway refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of these terms. These terms also refer to overlay zoning districts floodplains shown on the maps referenced in Section 150.010, which boundaries are intended to correspond to the actual, physical location of floodways and floodplains. Therefore, the administrator and Engineering Director are authorized to make necessary interpretations as to the exact location of the boundaries of floodways or floodplains if there appears to be a conflict between a mapped boundary and actual field conditions. Such interpretations, like other decisions of the administrator, may be appealed to the **board of adjustment Planning and Zoning Board in a quasi-judicial proceeding** in accordance with the applicable provisions of this ordinance.

DIVISION 700 SUPPLEMENTARY USE REGULATIONS

Chapter 780 Home Occupations

780.070 Revocation and Permits

- A. The Planning Director shall have the authority to revoke a home occupation permit, upon a determination that the use as operated or maintained creates one or more of the following conditions:
1. A nuisance, or other undesirable condition interfering with the public health, safety or general welfare;
 2. A violation of the provisions of this title or any other applicable law or ordinance, or a violation of the conditions imposed upon the home occupation permit.
 3. The applicant may appeal the Planning Director's decisions to the ~~Board of Adjustment~~ **Planning and Zoning Board in a quasi-judicial proceeding.**
- B. **Additional Requirements**
If the applicant is not the property owner, then a signature from the property owner is required to consent to the home occupation.

Chapter 7160 Wireless Communication Antennas and Towers

7160.010 Purpose

[NO CHANGES TO INTRODUCTION PARAGRAPHS.]

- A. **Location and Installation of New Antennas**
1. **Co-location on an existing tower**
 - a. [NO CHANGES TO a AND b.]
 - c. Stealth wireless communications facilities shall be designed to accommodate the collocation of other antennas whenever feasible and aesthetically appropriate as determined by the ~~Board of Adjustment~~ **Planning and Zoning Board in a quasi-judicial proceeding** or Planning Director.
 2. [NO CHANGES TO 2.]
- B. [NO CHANGES FOR B THRU D.]

DIVISION 800 LANDSCAPING

Chapter 8110 Modifications, Denials, Inspections and Emergencies

8110.010 Modifications

Alternate tree protection/planting plans, plant materials, planting standards or reforestation may be used where it would be unreasonable or impractical to strictly apply the tree protection/planting requirements. Such situations may be the result of streams, natural rock formations, topography, or other physical conditions; utility easements, a unified development design, or unusual site conditions. An alternate plan may be approved as part of a Conditional Zoning or when:

- A. **[NO CHANGES FOR A THRU D.]**
- E. Any decision of the Planning Director regarding alternate methods of compliance may be appealed to the ~~Board of Adjustment~~ **Planning and Zoning Board in a quasi-judicial proceeding.**

Chapter 8120 Penalties, ~~Hearings~~ **Variances and Appeals**

8120.020 ~~Hearings~~ **Variances and Appeals**

A. Variances

A request for a variance from the ~~Board of Adjustment~~ **Planning and Zoning Board in a quasi-judicial proceeding** shall be made by filing a copy of the completed application with the Planning Department. A variance may be granted by the ~~Board of Adjustment~~ **Planning and Zoning Board** after a public hearing has been held in a quasi-judicial manner and advertised in accordance with the UDO and only if it concludes that the strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety, and welfare secured, and substantial justice done.

B. Appeals

An appeal from any final order or decision by the Planning Director may be taken to the ~~Board of Adjustment~~ **Planning and Zoning Board in a quasi-judicial proceeding** by any person aggrieved. An appeal is taken by filing with the Planning Director a written notice of appeal specifying the grounds therefore. An appeal must be taken within 30 days after the date of the decision or order appealed from. **See Chapter 380 Appeals and Variances for appeal requirements.**

DIVISION 900 SIGNS

Chapter 9110 Freestanding and Ground Mounted Signs

9110.090 Banner Display With Existing Monument Sign

The Planning Director may grant an exception to the criteria in Section 9110.110 for the use of a banner display structure with an existing monument sign subject to the following:

A. [NO CHANGES FOR A THRU D.]

E. The decision of the Planning Director may be appealed to the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding.

Chapter 9160 Administration, Enforcement, Appeals and Penalties

9160.020 Appeals

Violation notices and compliance orders issued by the sign enforcement officer may be appealed to the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding within 30 working days of receipt of notice. Pending appeal, the time limits set out in the notice or order shall be suspended. If the ~~Board of Adjustment~~ Planning and Zoning Board finds that the action of the sign enforcement officer has been taken for good cause and in accordance with this Chapter, it shall so declare and the time period for compliance shall run from the issuance of that board's finding. If the ~~Board of Adjustment~~ Planning and Zoning Board sustains the appeal of the petitioner, no further action will be taken by the sign enforcement officer.

9160.040 Table of Sign Requirements

A. [NO CHANGES FOR A AND C THRU E.]

B. Uses not indicated shall be placed in the category having similar uses by action of the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding. At such time, sign requirements for such uses shall be established.

DIVISION 1000 PARKING

Chapter 1020 Off-Street Parking Requirements

1020.020 Parking Determinations Based On Need

A. [NO CHANGES FOR A AND B.]

C. If the applicant does not wish to accept the Planning Director's decision and requirements, the applicant may appeal the determination of the Director to the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding as outlined in Chapter 380.

Chapter 1080 Flexibility in Administration Authorized

1080.010 Parking Determinations Based on Need

A. [NO CHANGES FOR A AND B.]

C. If the applicant does not wish to accept the Planning Director's decision and requirements, the applicant may appeal the determination of the Director to the ~~Board of Adjustment~~ Planning and Zoning Board in a quasi-judicial proceeding.

DIVISION 1100 SUBDIVISION REGULATIONS

Chapter 1110 General Provisions

1110.090 Street and Sidewalk Improvements

A. [NO CHANGES FOR A THRU P AND R THRU T.]

Q. Curb, Gutter and Sidewalk

1. [NO CHANGES TO 1 THRU 4 AND 6 THRU 8.]

5. The Planning Director, Planning and Zoning Board, or Town Council may require pedestrian crosswalk improvements when blocks exceed 600 feet in width or whenever deemed necessary to provide safe and adequate pedestrian circulation or access to schools, playgrounds, shopping areas, or community facilities.

Q. Street Lights

1. Street lights shall be provided in all new subdivisions. Lighting fixtures shall be of a common theme, decorative cutoff type, and shall comply with the lighting standards for public and private roadways as established in Lighting Standards (see Chapter 1330) of this Unified Development Ordinance. Fixtures shall be mounted on a free-standing non-wood pole, approved by the Town. The poles and fixtures shall be painted black unless otherwise approved by the Planning and Zoning Board.

2. [NO CHANGES TO 2 AND 3.]

Chapter 1160 Park, Recreation, and Open Space Dedication or Fees in Lieu

1160.020 Payments of Fees in Lieu of Land Dedication

A. The payment of fees, in lieu of the dedication of land under Section 1160.010 above, may occur at the request of the applicant or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, will be made by the Town Council (for Conditional Zoning Districts) after having received a recommendation from the Planning and Zoning Board and the Town's Parks, Arts, Recreating and Culture Advisory Committee and having evaluated the proposed dedication and the relationship such dedication would have with the Town's overall recreational needs.

B. The Planning and Zoning Board may recommend approval, denial or approval with conditions of a preliminary plat based on the required open space dedication of this Section. Preference will be given to projects that provide open space on-site in the form of a land dedication. The final decision to either accept land for recreational purposes or to accept a fee in lieu of land will be the jurisdiction of the Town Council.

- C. [NO CHANGES FOR C AND D.]

Chapter 1170 Improvement Guarantees

1170.060 Legal Provisions

- A. [NO CHANGES FOR A THRU C, AND E.]

- D. **Variances**

Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this Ordinance would cause an unnecessary hardship, the ~~Board of Adjustment~~ **Planning and Zoning Board through a quasi-judicial proceeding** may authorize minor adjustments to the terms of this Ordinance only to the extent that is absolutely necessary and not to an extent which would violate the intent of the Ordinance. **See Chapter 380 Appeals and Variances for appeal requirements.**

DIVISION 1300 GENERAL DEVELOPMENT AND DESIGN STANDARDS

Chapter 1330 Lighting Standards

1330.070 Standards for Specific Uses

- A. [NO CHANGES FOR A, AND C THRU F.]

- B. **General Outdoor Sporting Facility/Performance Area Lighting Standards**

1. The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed eighty (80) feet from finished grade unless approved prior to construction by the ~~Board of Adjustment~~ **Planning and Zoning Board in a quasi-judicial proceeding** or Town Council.

2. [NO CHANGES TO 2 THRU 4.]

Chapter 13120 Driveway, Street and Sidewalks

13120.020 Requirements

Driveways, streets and sidewalks shall comply with the following:

- A. [NO CHANGES TO A THRU M.]

- N. Applicants may apply for a variance to the ~~Board of Adjustment~~ **Planning and Zoning Board.**

DIVISION 1600 TERMINOLOGY AND MEASUREMENTS

Chapter 1620 Definitions

1620.010 Definitions – “A”

Appeal

An action requesting reversal or modification of a decision made by the Planning Director based on his/her interpretations of the code. Appeals are made to the Town ~~Board of Adjustment~~ Planning and Zoning Board.

1620.020 Definitions – “B”

~~Board of Adjustment~~

~~A board appointed by the Town Council to hear, decide, or recommend on applications for variances, and appeals from decisions of the Planning Director or designated staff.~~

1620.200 Definitions – “T”

Tree Advisory Committee

A council-appointed committee that consists of seven (7) members from the Town of Indian Trail Planning and Zoning Board assisting in the planning and management of the Indian Trail community forest and the administration of the Tree Preservation and Protection and Landscaping Ordinances.

1620.220 Definitions – “V”

Variance, Zoning

Relief from or variation of the zoning-related provisions of this ordinance, other than use regulations. Variances are requested through the Town Planning and Zoning Board. See Chapter 380 Appeals and Variances for appeal requirements.

B. REMOVAL OF PLANNING BOARD ALTERNATES

REASON FOR PROPOSED ADDITIONS AND REVISIONS

Staff has found that with seven members there has not been a need for the alternate members. Also, alternate members are a challenge to fill and, when they are not regularly used, they may feel their volunteer time is not being used wisely.

PROPOSED ADDITIONS AND REVISIONS

DIVISION 200 REVIEW AND DECISION-MAKING BODIES

Chapter 230 Planning Board

230.010 Appointment and Terms of Planning Board Members

- A. There will be a planning board consisting of seven (7) regular members ~~and three (3) alternate members.~~
 1. Planning board regular members ~~as well as alternates~~ will be appointed for terms as designated by the Town Council.
 2. If a regular planning board member ~~or an alternate member~~ moves outside the Town of Indian Trail that will constitute a resignation from the planning board.
 3. All members appointed to the Planning Board shall, before entering **into** their duties, qualify by taking an oath of office pursuant to G.S. 160D-309.

This concludes the additions and revisions to the UDO.



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

PLANNING AND ZONING BOARD BY-LAWS

ARTICLE I Establishment

1. The Indian Trail Planning and Zoning Board, having been created by the Indian Trail Town Council "Council," shall be hereafter referred to as the "Planning and Zoning Board."
2. The Planning and Zoning Board shall be considered a "public body" and is subject to all rules and regulations for public bodies contained in North Carolina's Open Meetings regulation (i.e., Chapter 143, Article 33C of the North Carolina General Statutes).

ARTICLE II Duties and Powers

1. The primary objective of the Planning and Zoning Board is to develop and maintain a continuing cooperative planning program to benefit the residents and businesses of the Town of Indian Trail.
2. The purposes of the Planning and Zoning Board are as follows.
 - a. To provide guidance studies of the Town and its surrounding areas;
 - b. To assist in the development and/or recommendation of policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
 - c. To keep Council and the general public informed and advised regarding planning, growth, and development related trends and issues;
 - d. To review and make recommendations to Council regarding proposed changes to Indian Trail Unified Development Ordinance (UDO) and zoning map;
 - e. To review and make recommendations to Council regarding the Land Use Plan;
 - f. To elect officers from its membership; and
 - g. To perform any other related duties contained in the UDO or as directed by Council.

ARTICLE III Appointment and Terms

1. The Planning and Zoning Board shall consist of seven (7) regular members and no alternates, all of whom are required to be residents of the Town of Indian Trail during their terms of service, and who have been duly appointed by Council.

2. All Regular Planning and Zoning Board members shall be appointed for a three (3)-year terms and shall be staggered. The new Seats added, Seats 6 & 7, will be initially staggered in relation to the existing seats but will be re-appointed for three-year terms. Terms will expire on June 30 of each year. Terms are as follows:

Existing Seats

Seats 1, 5	Term Ending June 30, 2021
Seats 3	Term Ending June 30, 2022
Seat 4	Term Ending June 30, 2022
Seat 2	Term Ending June 30, 2023

Seats Added

Seat 6	Term Ending June 30, 2022
Seat 7	Term Ending June 30, 2023

At term expiration, all seats shall be renewed for a period of three (3) years.

3. If a vacancy on the Planning and Zoning Board occurs, by reason of death, resignation, change of residence, Council removal, or any other cause, the seat shall be filled by Council in an expeditious manner for the duration of the unexpired term.
4. The Town Clerk shall be responsible for maintaining a current list of Planning and Zoning Board members, including the effective date of their appointment and expiration date of their term. The Clerk shall keep Council informed as to when any term is to expire, at least sixty (60) days prior to the expiration date.
5. In light of the complex and specialized nature of the Planning and Zoning Board's area of responsibilities, preference on appointment to the Planning and Zoning Board will be given to individuals with a professional background in one of the following fields: real estate, law, municipal planning or administration, construction, engineering, land surveying, landscape architecture and architecture.

**ARTICLE IV
Alternate Members**

1. The Planning and Zoning Board will not have alternates.

**ARTICLE V
Election of Officers**

1. A Chair and Vice-Chair shall be elected by the regular Planning and Zoning Board members. Each officer shall serve for a one-year term but may be elected by the Planning and Zoning Board membership for successive terms to the same office. Annually, in the first regular meeting of the Planning and Zoning Board held in July, a Chair and Vice-Chair shall be elected. Each Officer shall serve from July 1 until June 30, for as long as they are re-appointed by members, or until relieved of duties as herein provided.

2. The Chair shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Planning and Zoning Board during open session. The Vice-Chair shall serve as acting Chair in the absence of the Chair, and at such times, he/she shall have the same powers and duties as the Chair.
3. In the event of the absence of both the Chair and the Vice-Chair from a Planning and Zoning Board meeting, the members may elect a temporary Chair for that meeting and proceed with the order of business.

ARTICLE VI
Secretarial Services

1. The Town Council shall appoint to have secretarial duties performed for the Planning and Zoning Board. Said person(s) (hereafter referred to as the "Secretary"), subject to the direction of the Chair, shall take minutes and keep all records. Minutes related to the Planning and Zoning Board in quasi-judicial proceedings shall be adequately noted separate from non-quasi-judicial proceedings. The Secretary shall keep in a permanent volume the minutes of every meeting of the Planning and Zoning Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Planning and Zoning Board, and all votes of members of the Planning and Zoning Board upon any resolution or upon the final determination of any question, indicating the names resolution or upon the final determination of any question, indicating the names of member absent. The Planning and Zoning Board minutes shall be kept at Indian Trail Town Hall and shall be available for inspection during normal working hours. An electronic copy of the Minutes and formal documentation incorporated as part of the Minutes shall be forwarded to the Town Clerk for permanent electronic storage.

ARTICLE VII
Rules of Conduct for Members

1. Members of the Planning and Zoning Board may be removed by Council for cause, including violation of the rules stated below herein.
2. In order for the Planning and Zoning Board to carry out its duties and responsibilities, it is necessary for all members to attend Planning and Zoning Board meetings.

Any Member may be removed by Council from the Planning and Zoning Board for the following reasons:

- a. A Member is absent for three consecutive regular meetings,
- b. A Member fails to attend a minimum of thirty percent of meetings within a twelve-month period, or
- c. The Planning and Zoning Board Chair makes a recommendation in writing (via e-mail under their account) to Council regarding the removal of a Member for duly cited causes.

Should a Member be removed from the Planning and Zoning Board, a replacement shall be recommended to the Town Council by the Planning and Zoning Board Chair for appointment by Town Council for the remainder of the term.

3. A member shall be excused from voting on a particular issue by a majority vote of the remaining regular members present under the following circumstances, if the:
 - a. Member has a direct, substantial, and readily identifiable financial interest or impact in the outcome of the matter at hand; or
 - b. Member has a close familial¹, business, or other associational relationship with the landowner of a property subject to a rezoning petition or the applicant for a text amendment; or
 - c. Matter at hand involves the member's own official conduct; or
 - d. Member has such close personal ties to the applicant that he/she cannot reasonably be expected to exercise sound and impartial judgment on behalf of the public's interest.

4. Conflicts of Interest in Quasi-Judicial Proceedings – A Planning and Zoning Board member exercising quasi-judicial functions pursuant to this set of by-laws and the Town of Indian Trail Unified Development Ordinance (UDO) shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to the following:
 - a. Undisclosed ex parte communications;
 - b. A close familial, business, or other associational relationship with an affected person; or
 - c. A financial interest in the outcome of the matter; or
 - d. A member having a fixed opinion prior to hearing the matter that is not susceptible to change.

5. If a Planning and Zoning Board member determines that he/she may have a conflict of interest on a particular issue, he/she shall declare the nature of such conflict and ask to be excused from voting on the issue related to such conflict. The remaining regular members, by majority vote, shall determine whether such conflict exists and whether said member may excuse himself from further deliberations on said matter. If a member is excused from voting, he/she shall seat him/herself in the audience and not participate in any further discussion on said matter or he/she shall remove him/herself from the meeting room during all deliberation pertaining to such matter. In no instance may a member be excused from voting merely due to an unwillingness to vote on the issue at hand and where no conflict of interest is found to exist.

6. A challenge to the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Planning and Zoning Board. Such a challenge may be an appeal for a review of the findings of the Planning and Zoning Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenge made to the Planning and Zoning Board shall be supported by competent evidence and shall be submitted at a properly convened meeting of the Planning and Zoning Board. The Planning and Zoning Board shall hear all evidence and shall, by majority vote of the remaining regular members, make the final determination as to the existence of a conflict of interest.

7. In the event a Planning and Zoning Board member is found to have a conflict of interest and is excused from voting by the Planning and Zoning Board, he/she shall not be required to vote and shall not be counted. Challenges may not be presented to the Planning and Zoning Board for

¹ Note that a Familial Relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. (G.S. 160D-109(f))

potential conflicts of interest after the subject matter involving the potential conflict of interest has been heard and voted on by the Planning and Zoning Board.

8. Discussion of Quasi-Jurisdictional Proceedings Cases – Board members shall refrain from discussing upcoming matters of quasi-judicial business with any parties, including other Planning and Zoning Board members, prior to the meeting at which such items are to be publicly discussed; provided however, that members may receive and/or seek general technical information pertaining to the case from the Secretary, Town Manager, Town Attorney or Planning Director prior to the Planning and Zoning Board quasi-judicial meeting at which the case is to be heard. The Planning and Zoning Board also has the discretion to call forth any witnesses for a particular case by subpoena power, if necessary.

ARTICLE VIII Meetings

1. Regular meetings of the Planning and Zoning Board shall be held on the third Tuesday of each month at 6:00 pm at the Indian Trail Town Hall, provided that the meetings may be held at any other convenient place in the Town nearby area if directed by the Chair ~~man~~ in advance of the meeting. Each member shall receive an agenda packet for each meeting by mail or hand delivery at least forty-eight (48) hours prior to the meeting. An agenda notice shall be placed at the Indian Trail Town Hall at least forty-eight (48) hours prior to the meeting and on the Town's website.
2. Special meetings of the Planning and Zoning Board may only be called by the Chair or the Planning Director. At least forty-eight (48) -hour- notice of the time and place of special meetings shall be given, by the Secretary, to each member of the Planning and Zoning Board. Notice of such meeting shall also be placed at the Indian Trail Town Hall at least forty-eight (48) hours prior to the meeting and on the Town's website.
3. Whenever there is no business to come before the Planning and Zoning Board, or whenever so many regular members notify the secretary of their inability to attend that a quorum will not be available, the Chair may dispense with a regular meeting by having the Secretary give written or oral notice to all members prior to the set time for the meeting. Notice of meeting cancellation shall also be posted at Indian Trail Hall and on the Town's website.

ARTICLE IX Quorum and Voting

1. No more than a total of seven (7) regular members may vote on any matter.
2. A quorum of the Planning and Zoning Board shall be required before any vote is taken. A quorum shall consist of four (4) regular members.
3. During a quasi-judicial meeting, a variance requires a four-fifths concurring vote. All other quasi-judicial matters, including an appeal, requires a majority vote. Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.
4. Unexcused Planning and Zoning Board members present at a duly convened meeting shall not be required to vote and shall not be counted when determining a majority vote.

5. Voting, at the discretion of the Chair, shall be by voice or show of hands. All matters to be voted on by the Planning and Zoning Board shall be by duly made motion and second.
6. Aside from making and seconding motions, the Chair shall be able to vote on all matters.
7. It is the duty of all regular Planning and Zoning Board members to vote on all issues coming before the Planning and Zoning Board unless such member has been specifically excused from voting on an issue. Any non-excused member who is present and abstains from voting shall be counted as having made a vote in the affirmative on the issue at hand.
8. All meetings shall be open to the public. The order of business at regular meetings shall generally be as follows:
 - a. Determination of Quorum
 - b. Call to Order
 - c. Approval of Minutes of Previous Meetings
 - d. Unfinished Business
 - e. New Business
 - f. Other Business Adjournment
 - g. Planning Report
 - h. Adjournment
9. Items of business for discussion at the meeting shall appear on the agenda. Business which is not identified on the agenda may be considered only after approval of a majority vote of the regular membership.

ARTICLE X
Adoption of Amendments

1. Council shall have the authority to adopt and amend these By-Laws. These Rules shall always be consistent with all Ordinances of Indian Trail and the State of North Carolina. Should any provision of these Rules be inconsistent with such Ordinances or laws of the State of North Carolina, said Ordinances and laws shall take precedence.

TOWN OF INDIAN TRAIL



David Cohn, Mayor

Attest:



Trena Sims, Town Clerk



Previous Amendments
11/13/2028; 5/26/2020

