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 Recorded: 11/18/2020 at 10:15:55 AM  
 Fee Amt: \$0.00 Page 1 of 10  
 Gaston, NC  
 Susan S. Lockridge Register of Deeds  
 BK **5174** PG **2017-2026**

**RESOLUTION TITLE: ZONING TEXT AMENDMENT: ZTA20-04, GASTON COUNTY PLANNING BOARD (APPLICANT); TO CONSIDER PROPOSED TEXT AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO): CHAPTER 2 (DEFINITIONS): TABLE 2.7-1; CHAPTER 5 (PERMIT AND MODIFICATION PROCEDURES): SECTIONS 5.16.2, 5.16.3, 5.16.5, 5.16.6; CHAPTER 8 (SUPPLEMENTAL REGULATIONS): SECTION 8.1.17; CHAPTER 9 (GENERAL PROVISIONS): SECTION 9.26(B)**

WHEREAS, the County Ordinance (approved April 24, 2008), sets forth Amendment procedures in Chapter 5, requiring a joint public hearing by the Planning Board and Commission, with said hearing being conducted November 10, 2020 to take public comment (comments are on file in the Commission Clerk's Office as a part of the minutes of the meetings); and,

WHEREAS, the Text Amendments are requested by the Gaston County Planning Board as the amendments relate to minor modifications and changes to the UDO; and,

WHEREAS, the Gaston County Planning Board met during its regular meeting on October 27, 2020, and reviewed proposed text amendments and approved a recommendation to move the proposed amendments to the public hearing format for the Board of Commissioners consideration; and,

WHEREAS, the Planning Board recommended approval of the text amendment to amend UDO Chapter 2 (Definitions): Table 2.7-1; Chapter 5 (Permit and Modification Procedures): Sections 5.16.2, 5.16.3, 5.16.5, 5.16.6; Chapter 8 (Supplemental Regulations): Section 8.1.17; Chapter 9 (General Provisions): Section 9.26(B), on November 10, 2020, based on: public hearing comment and staff recommendation, the request is reasonable and in the public interest and is in accordance with the County's Comprehensive Land Use Plan. The text amendments align language for Private Residential Quarters with general statutes, and make modifications to the Zoning Map Amendment Process, to the Unified Development Ordinance (UDO). These changes will help enable Gaston County to grow in an orderly manner and improve the quality of life for the residents of Gaston County, all of which are goals of the Gaston county Comprehensive Land Use Plan.

Motion: Vinson Second: Harris Vote: Unanimous  
 Aye: Brooks, Hurst, Harris, Hollar, Horne, Vinson  
 Nay: None  
 Absent: Ally, Houchard, Sain  
 Abstain: None

10 RECORDING NC  
 REVENUE \_\_\_\_\_  
 NSF ☐  
 ROTC ☐ PQ ☐ CS ☐  
 Mail: Donna Buff

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	JBrown	AFraley	BHovis	TKelgher	TPhilbeck	RWorley	Vote
2020-317	11/10/2020	RW	BH	A	A	A	A	A	A	A	U

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A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS


Zoning Text Amendment: ZTA20-04, Gaston County Planning Board (Applicant); To Consider Proposed Text Amendments to the Unified Development Ordinance (UDO): Chapter 2 (Definitions): Table 2.7-1; Chapter 5 (Permit and Modification Procedures): Sections 5.16.2, 5.16.3, 5.16.5, 5.16.6; Chapter 8 (Supplemental Regulations): Section 8.1.17; Chapter 9 (General Provisions): Section 9.26(B)  
Page 2

NOW, THEREFORE, BE IT RESOLVED that after consideration of the proposed amendments, public hearing comment and Planning Board recommendation.

The Commission considers this action to be reasonable and in the public interest and finds the proposed amendments to be consistent with the Comprehensive Land Use Plan. The text amendments align language for Private Residential Quarters with general statutes, and make modifications to the Zoning Map Amendment Process, to the Unified Development Ordinance (UDO). These changes will help enable Gaston County to grow in an orderly manner and improve the quality of life for the residents of Gaston County, all of which are goals of the Gaston county Comprehensive Land Use Plan.

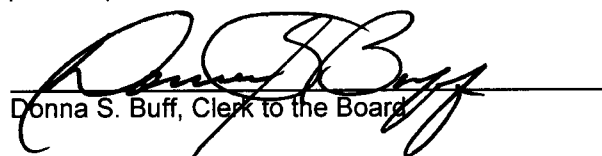
The Commission hereby approves the amendments to UDO Chapter 2 (Definitions): Table 2.7-1; Chapter 5 (Permit and Modification Procedures): Sections 5.16.2, 5.16.3, 5.16.5, 5.16.6; Chapter 8 (Supplemental Regulations): Section 8.1.17; Chapter 9 (General Provisions): Section 9.26(B), effective with the passage of this Resolution.

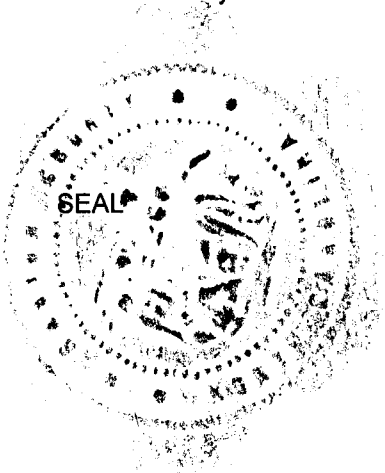
The County Manager is authorized to make necessary notifications in this matter to appropriate parties.

  
\_\_\_\_\_  
Tracy L. Philbeck, Chairman  
Gaston County Board of Commissioners

Certification

I, Donna S. Buff, Clerk to the Gaston County Board of Commissioners, do hereby certify that the above is a true and accurate copy of the Zoning Text Amendment: ZTA20-04, Gaston County Planning Board (Applicant); To Consider Proposed Text Amendments to the Unified Development Ordinance (UDO) Chapters 2, 5, 8, and 9 (*Attached*), as adopted by the Board of Commissioners on November 10, 2020 and is to be set forth in the Gaston County Unified Development Ordinance (UDO) upon adoption.

  
\_\_\_\_\_  
Donna S. Buff, Clerk to the Board



<div>TABLE 2.7-1</div> <div>DEFINED TERMS</div>		
Term	Use Table Subcategory*	Definition
Private Residential Quarters	Residential	A subordinate dwelling that is either attached to or separate from the principal residential structure. A private residential quarters structure shall not be constructed on a lot until construction of the principal dwelling structure has commenced.

## SECTION 5.16

## CHANGES TO THE OFFICIAL ZONING MAP

### 5.16.2

### INITIATION OF A ZONING MAP AMENDMENT

- A. Any person, board, department or commission may apply for a change in zoning district boundaries (rezoning), with the following limitations:

1. Applications for conditional rezoning as set forth in subsection 5.16.5 of this ordinance may be initiated only by the property owner or his authorized agent (refer to section 5.1);

### 5.16.3

### ZONING MAP AMENDMENT PROCESS – GENERAL DISTRICT REZONING

When considering a petition for the reclassification of property to a general zoning district (i.e. other than a conditional district), neither the Planning Board nor the Board of Commissioners shall evaluate the petition base on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district.

- C. Submittal and Review Procedures

1. In order for an amendment to the official zoning map to be made by the Board of Commissioners, the Planning Board shall have had an opportunity to review and make a recommendation on the application. Such Planning Board review shall take place after a public meeting is held by the Planning Board to discuss the proposal. Before making an amendment to the official zoning map, the Board of Commissioners shall hold a legislative hearing to receive public comment. This legislative hearing, once opened, may be continued to a later date. Any complete application shall be submitted to the Administrator at least thirty (30) working days prior to the legislative hearing. Notification of the legislative hearing shall be as follows:
  - a. A notice shall be published in a newspaper having general circulation in Gaston County once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five

(25) days prior to the date established for the legislative hearing.

- b. A notice of the proposed zoning map change shall be sent by first class mail by the Administrator to the applicant and owners of all adjacent properties as indicated on the most up-to-date records of the Gaston County Tax Department at least ten (10) but not greater than twenty-five (25) days prior to the legislative hearing.
  - c. The Administrator shall post at least one (1) notice on the site proposed for rezoning or an adjacent public street or highway right-of-way at least ten (10) days prior to the legislative hearing. Where multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons. Such notice shall state the case number, the legislative hearing date, time at which it is to be held, and contact telephone number. The notice shall be removed only after final action has been taken on the matter.
2. Any legislative hearing notice published or mailed shall state the nature of the legislative hearing, the date, time, and place at which the hearing is to occur, and who to call and/or see for more information.
  3. The first class mail notice required per subsection 5.16.3(C)(1)(b) may be waived if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners. Under such circumstances, the county may elect to mail such first class notices or elect to publish notice of the hearing as provided in G.S. § 160D-601. The advertisement shall not be less than one-half of a newspaper page in size. The newspaper advertisement shall be effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper's circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. In addition to the newspaper notice, the county shall post one (1) or more prominent signs on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning.

**D. Planning Board Action**

1. Once the Planning Board public meeting has been concluded, the Planning Board shall have thirty (30) days to submit a recommendation to the Board of Commissioners regarding the proposed change. Said recommendation shall address whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the Board of Commissioners and any other officially adopted plan that is applicable along with other matters that the Planning Board deems appropriate and a statement as to why the Planning Board considers its recommendation to be reasonable and in the public interest. If a recommendation is not made during said time period, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board.
2. The Planning Board recommendation shall be as follows:
  - a. Grant the rezoning as requested;
  - b. Grant the rezoning with a reduction of the area requested;
  - c. Grant the rezoning to a more restrictive general zoning district or districts;
  - d. Grant the rezoning with a combination of subsections (b) and (c) above; or,
  - e. Deny the rezoning.

3. The list of general zoning districts in descending order of restrictiveness is as follows, with RLD being the most restrictive and I-3 being the least restrictive:
- a. RLD (most restrictive)
  - b. R-1
  - c. R-2
  - d. R-3
  - e. RS-20
  - f. RS-12
  - g. RS-8
  - h. RMF
  - i. OM
  - j. TMU
  - k. OLC
  - l. O-1
  - m. NBS
  - n. C-1
  - o. CBD
  - p. UMU
  - q. C-2
  - r. C-3
  - s. GPX
  - t. I-U
  - u. I-1
  - v. I-2
  - w. I-3 (least restrictive)

E. Governing Board Action

Once the legislative hearing has been conducted and: (i) the Planning Board has submitted its recommendation, or (ii) the thirty (30) day review period has expired, whichever comes first, the Board of Commissioners shall render a decision on the petition. The decision of the Board of Commissioners shall be in the form of any of the various options listed in subsection 5.16.3(D)(2) and (3). Alternately, the Board of Commissioners may send the application back to the Planning Board for further study and consideration. (Note: such resubmittal by the Board of Commissioners to the Planning Board may not occur more than one (1) time for any rezoning request.) If a resubmittal to the Planning Board occurs, the Planning Board shall hear the case and have an additional thirty (30) day period (from the date it re-reviewed the application) to resubmit a recommendation to the Board of County Commissioners. Any final decision made by the Board of Commissioners shall be accompanied by a statement that addresses: (i) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable, and (ii) other matters that the board of

commissioners deems appropriate, and (iii) why it considers the action taken to be reasonable and in the public interest.

**F. Petition Withdrawal**

An applicant who has submitted a complete application for a zoning map amendment may withdraw that application prior to a final decision being rendered by the Board of Commissioners. Such withdrawal may be made under the following guidelines:

1. If said petition is withdrawn at least two (2) working days prior to the Board of Commissioners' legislative hearing, a similar application shall not be accepted by the Administrator within one hundred-eighty (180) days of the date of withdrawal.
2. Otherwise, if said petition is withdrawn less than two (2) working days prior to a final decision being rendered, a similar application shall not be accepted by the Administrator within one (1) year of the date of withdrawal.
3. Notwithstanding the above, the Administrator may allow a similar application to be submitted prior to the expiration of said time periods having first determined:
  - a. There has been a significant change in the zoning district classification of an adjacent piece of property;
  - b. The board of commissioners has adopted a plan that changes public policy regarding how the property affected by the proposed change would be developed;
  - c. Construction or expansion of a road, water line, sewer line, or other such facility has occurred to serve the property and can comfortably accommodate the proposed zoning classification;
  - d. There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies the waiver of said time restrictions. This, however, shall not include a change in property ownership; or,
  - e. The proposed zoning map amendment is substantially different from that which was previously proposed and, if such amendment were approved, would effect a change substantially different than that contained in the previous application.
4. Notwithstanding the above, any amendment petition initiated by the Planning Board of Board of Commissioners shall be exempt from any time restraints on resubmittal.

**5.16.5 ZONING MAP AMENDMENTS – CONDITIONAL DISTRICTS (CD)**

**A. Application**

2. No application shall be considered complete unless it is accompanied by a fee, in accordance with a fee schedule approved by the governing board for the submittal of an application for rezoning to ta CD district. Said fee shall be waived for any application submitted by any official or agency acting on behalf of Gaston County of the State of North Carolina.
3. The Administrator may require the petitioner to submit more than one (1) copy of the rezoning application in order to have enough copies available to circulate to other government agencies for review and comment. When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and

its relationship to the surrounding area. Therefore, the Planning Board or Board of Commissioners may request additional information as they deem necessary.

4. The deadline for submittal shall be forty five (45) working days prior to the public meeting with the Planning Board. Applications with proposed projects comprised of fifty (50) acres or more shall have a deadline submittal of ninety (90) working days prior to the public meeting with the Planning Board.

B. Public Information Meeting

1. Once the complete application has been submitted to the Administrator and fees paid prior to the public meeting on the rezoning request, two (2) Public Information Meetings (PIMs) shall be scheduled and held. Such meetings shall occur prior to any recommendation by the Planning Board and approval by the Board of Commissioners. The PIM is designed to provide a framework for creating a shared vision with community involvement directed by the applicant in accordance with the following requirements:

c. Notice of the PIM shall, at a minimum, be given as follows:

- iv. A PIM notification sign shall be posted by the county in a conspicuous place at the property not less than ten (10) days prior to the PIM. The sign shall indicate date, time, and location(s) of the PIM. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the PIM.

D. Plans and Other Information to Accompany Petition

2. Other information may be required by the Administrator relative to the rezoning request.

DI. Legislative Hearing Notification Requirements

1. Before any property is rezoned to a CD district, the Planning Board shall have had an opportunity to review and make a recommendation on the application. Such Planning Board review shall take place after the PIMs are completed and a public meeting has been held by the Planning Board. The Board of Commissioners shall hold a legislative hearing and receive public comment prior to rezoning a CD district. Notification of the legislative hearing shall be as follows:
  - a. A notice shall be published in a newspaper having general circulation in Gaston County once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the legislative hearing.
  - b. A notice of the proposed zoning map change shall be sent by first class mail by the Administrator at least ten days prior to the legislative hearing to the applicant and owners of all adjacent properties as indicated on the most up-to-date records of the Gaston County Tax Department.
  - c. The Administrator shall post at least one (1) notice on the site proposed for rezoning or an adjacent public street or highway right-of-way at least ten (10) days prior to the Board of Commissioners legislative hearing. Where multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the county shall post sufficient

notices to provide legislative hearing and its date, time, and location at which it is to be held. The notice shall be removed only after final action has been taken on the matter. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the conditional district zoning requested.

2. Any legislative hearing notice published or mailed shall state the nature of the public legislative hearing, the date, time, and place at which the hearing is to occur, and who to call and/or visit for more information.

F. Planning Board Review

The Planning Board shall have at least thirty (30) days to make a recommendation on the proposed change, said thirty (30) days being measured from the date of the closing of the Planning Board public meeting. Any such Planning Board recommendation shall be accompanied by statement that address: (i) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable; (ii) other matters that the Planning Board deems appropriate; and, (iii) why it considers the action taken to be reasonable and in the public interest. If a recommendation is not made during said time period, the application shall be forwarded to the Board of Commissioners without a recommendation.

G. Action by County Board of Commissioners

A decision pertaining to conditional zoning districts is a legislative process subject to judicial review procedures and standard of review as applied to general use district zoning decisions. Once the legislative hearing has been held, the Board of Commissioners shall take action on the petition. The legislative hearing, once opened, can be continued to a later date and action taken at that time. The Board of Commissioners shall have the authority to:

3. Approve the application with modifications that are mutually agreed to by the applicant and the Board of Commissioners. Such conditions shall be in compliance with subsection F herein.
4. Submit the application to the Planning Board for further study. The Planning Board shall have up to thirty (30) days from the date of such submission to make a report to the Board of Commissioners. If no report is issued, the governing board can take final action on the petition. The governing board reserves the right to schedule and advertise a new legislative hearing based on the Planning Board's report.

- H. In approving a petition for the reclassification of a property to a CD district, the Planning Board may recommend, and the Board of Commissioners may require that reasonable and appropriate conditions be attached to approval of the petition. Such conditions shall be limited to those that address the conformance of the development and use of the site to county ordinances and officially adopted comprehensive land use plan or other plan, and those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this ordinance that pertain to that development: (i) analyze whether the rezoning is consistent with an adopted comprehensive plan and any other officially adopted plan; (ii) other matters that the board of commission deems appropriate; and (iii) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each final decision relative to the CD rezoning request.



**5.16.6****PROCEDURES**

- B. The application shall be accompanied by a plan, drawn to scale, that includes or is accompanied by the following:
11. A list, if any, of all additional development conditions or standards that differs from those that would normally apply to that use.
  12. The Administrator reserves the right to waive the depiction of some or all of the information contained in subsections 5 through 10 above, when, in his opinion, such information would serve no meaningful purpose for the particular CD zoning district requested. Notwithstanding, if the Administrator determines that additional information as set forth in subsections 5 through 10 above is needed to render a recommendation or decision on the application, s/he may require the applicant to submit such additional information.

**8.1.17****PRIVATE RESIDENTIAL QUARTERS**

Private residential quarters shall be permitted as an accessory use to any single-family detached dwelling unit (excluding manufactured homes) in accordance with the following requirements:

- A. The private residential quarters may be attached to or separate from the principal dwelling unit. Except in a TND, the private residential quarters may be located in a separate accessory structure if the area of the lot is at least one-hundred fifty (150) percent that of the smallest approved lot size for the TND.

Example: The smallest lot is five thousand (5,000) square feet. The minimum lot size for the lot containing the PRQ to be in an accessory structure shall be a minimum of seven thousand five hundred (7,500) square feet.

- B. Detached private residential quarters shall be served by the same driveway accessing the principal structure.
- C. The ground floor area of the private residential quarters shall be no greater than fifty (50) percent of the ground floor area of the principal dwelling unit or 1000 sq ft whichever is less.



- D. Detached private residential quarters shall be located in the rear or side yard. The structure must meet a fifteen (15) feet rear and side setback requirement (except in a TND) and shall not exceed the height of the principal dwelling unit. Attached units shall observe the setback requirements of

the principal structure.



- E. No more than one (1) private residential quarter shall be allowed per lot.
- F. A private residential quarter shall have at least one (1) off-street parking space.
- G. A manufactured home shall not be used as a private residential quarter.

#### **SECTION 9.26 TRAFFIC IMPACT ANALYSIS (TIA) REQUIREMENTS**

##### **B. Traffic Impact Analysis (TIA) Process**

The first step in the TIA process is the preparation of a scoping report. The report will include a site plan, quantitative description of the proposed development and land use along with a vicinity map. The scoping report will be used to determine if a TIA is needed and if there are any safety issues associated with the development. The County, a Transportation Consultant for the County, the Applicant, the Gaston-Cleveland-Lincoln Metropolitan Planning Organization (GCLMPO), and NCDOT staff may participate in this initial step.

Traffic Impact Analysis (TIA) is required when a proposed development or redevelopment will generate one hundred (100) or more new peak hour trips or the total added volume is equal to one thousand (1,000) vehicles per day, based on the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual, and that generally would have a significant impact on existing Level of Service (LOS) or anytime, regardless of estimated trip count, at the request of the Subdivision Administrator.



# Gaston County

Gaston County  
Board of Commissioners  
www.gastongov.com

## Building and Development Services Board Action

File #: 20-509

Commissioner Philbeck - Building & Development Services - Zoning Text Amendments: ZTA20-04 Gaston County Planning Board (Applicant); To Consider Proposed Text Amendments to the Unified Development Ordinance (UDO): Chapter 2 (Definitions): Table 2.7-1; Chapter 5 (Permit and Modification Procedures): Sections 5.16.2, 5.16.3, 5.16.5, 5.16.6; Chapter 8 (Supplemental Regulations): Section 8.1.17; Chapter 9 (General Provisions): Section 9.26(B)

### STAFF CONTACT

Joseph B. Sciba - Director - 704-866-3970

### BACKGROUND

The Unified Development Ordinance (approved April 24, 2008), sets forth procedures for amendment procedures in Chapter 5, requiring a joint public hearing by the Planning Board and Commission. A recommendation on the amendments is provided by the Planning Board, with final action on said amendments by the Commission, to consider text amendments to Application Number ZTA20-04 Gaston County Planning Board (Applicant), to request the Board of Commission to consider approval of the proposed text amendments to the UDO: Chapter 2 (Definitions): Table 2.7-1; Chapter 5 (Permit and Modification Procedures): Sections 5.16.2, 5.16.3, 5.16.5, 5.16.6; Chapter 8 (Supplemental Regulations): Section 8.1.17; Chapter 9 (General Provisions): Section 9.26(B). A joint public hearing was advertised and held on November 10, 2020 with the Public Hearing comments being on file in the Board of Commission Clerk's Office. Planning Board recommendation was provided on the same date, and the Commission is requested to consider the public hearing comment, Planning Board recommendation and other pertinent information, then (approve), (disapprove) or (modify) the zoning text amendments. The proposed amendments align language for Private Residential Quarters with general statutes; and, makes modifications to the Zoning Map Amendment Process. The Planning Board reviewed the amendments at its last regular Planning Board meeting (10/27/2020) and unanimously recommended to move them to the public hearing process.

### ATTACHMENTS

Resolution - ZTA20-04; Zoning Text Amendments - ZTA20-04

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	JBrown	AFraley	BHovis	Keigher	Philbeck	RWorley	Vote
2020-317	11/10/2020	RW	BH	A	A	A	A	A	A	A	U

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