

Type: CRP
Recorded: 08/30/2024 at 08:45:44 AM
Fee Amt: \$0.00 Page 1 of 5
Gaston, NC
Susan S. Lockridge Register of Deeds
BK 5502 PG 390-394

TITLE: ZONING TEXT AMENDMENT: TEXT-24-04-26-00012 - MAY GREEN PROPERTIES (APPLICANT); TO CONSIDER PROPOSED TEXT AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO): CHAPTER 5 (PERMIT AND MODIFICATION PROCEDURES); SECTION 5.15.1 (MINOR MODIFICATION TABLE); AND CHAPTER 13 (SUBDIVISION REGULATIONS); SECTION 13.27 (PUBLIC UTILITIES AND SERVICES)

WHEREAS, the County Ordinance (approved April 24, 2008), sets forth Amendment procedures in Chapter 5, requiring a public hearing by the Commission, with said hearing being conducted August 27, 2024 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 Gaston County Planning Board met during its regular meeting on July 29, 2024, and reviewed proposed text amendments and approved as 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 amendments to amend UDO Chapter 5 (Permit and Modification Procedures); Section 5.15.1 (Minor Modification Table); and Chapter 13 (Subdivision Regulations); Section 13.27 (Public Utilities and Services) on July 29, 2024, based on: staff recommendation; the request is reasonable and in the public interest as it is consistent with the goals and vision of the Comprehensive Land Use Plan as the proposed text amendment meets Goal 6 (Improve the image of Gaston County both to current and potential residents, focusing on retaining and increasing the population of young professionals) and Goal 7 (Emphasize the importance of our natural resources through highlighting natural environments and encouraging the use of environmental recreation) of the Comprehensive Land Use Plan, as the text changes will provide developers more opportunities to preserve the natural features of subdivisions and keep them more “rural” in feel.

Motion: Sadler Second: Marcantel Vote: Unanimous
Aye: Brooks, Crane, Harris, Horne, Hurst, Marcantel, Sadler, Vinson
Nay: None
Absent: Houchard, Magee
Abstain: None

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	CCloninger	AFraley	BHovis	KJohnson	TKeigher	RWorley	Vote
2024-280	08/27/2024	BH	AF	A	A	A	A	A	A	A	U

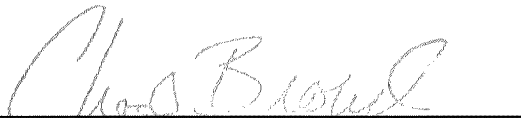
DISTRIBUTION:
Laserfiche Users

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

NOW, THEREFORE, BE IT ORDAINED by the County Commission, upon consideration of the proposed amendments, public hearing comment and Planning Board and Planning staff recommendation, the County Commission considers this action to be reasonable and in the public interest and finds the proposed amendments to be consistent with the County's Comprehensive Land Use Plan. It is consistent with the goals and vision of the Comprehensive Land Use Plan as the proposed text amendment meets Goal 6 (Improve the image of Gaston County both to current and potential residents, focusing on retaining and increasing the population of young professionals) and Goal 7 (Emphasize the importance of our natural resources through highlighting natural environments and encouraging the use of environmental recreation) of the Comprehensive Land Use Plan, as the text changes will provide developers more opportunities to preserve the natural features of subdivisions and keep them more "rural" in feel.

The County Commission hereby approves, effective with the passage of the Ordinance the amendments to UDO Chapter 5 (Permit and Modification Procedures); Section 5.15.1 (Minor Modification Table); and Chapter 13 (Subdivision Regulations); Section 13.27 (Public Utilities and Services).

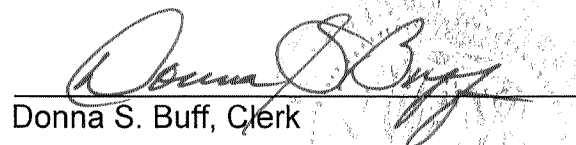
The County Manager is authorized to make necessary notifications in this matter to appropriate parties.



Chad Brown, 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: TEXT-24-04-26-00012 - May Green Properties (Applicant); To Consider Proposed Text Amendments to the Unified Development Ordinance (UDO): Chapter 5 (Permit And Modification Procedures); Section 5.15.1 (Minor Modification Table); and Chapter 13 (Subdivision Regulations); Section 13.27 (Public Utilities and Services) (*Attached*), as adopted by the Board of Commissioners on August 27, 2024 and is to be set forth in the Gaston County Unified Development Ordinance (UDO) upon adoption.



Donna S. Buff, Clerk

SEAL

Sec. 5.15.1 Development and zoning district standards.

- B. *Minor Modifications Allowed.* Table 5.15-1 indicates those minor modifications that are suitable for approval by the Administrator.

TABLE 5.15-1: Minor Modification Table		
Standard That May be Modified	Modification Allowed	Subsection
Façade and HVAC Encroachment- Placement of Eaves, Gutters, Cornices, Bay Windows, and HVAC Equipment	An eave, bay window or external HVAC equipment may extend into the required front, side or rear yard by no greater than three feet, but in no case closer than five feet to an adjoining property line. ¹	
Handicap Ramp Encroachment- Placement of Handicap Ramps	A ramp designed to accommodate handicapped persons may extend into a required front, side or rear yard, but in no case closer than five feet to an adjoining property line. ¹	
Uncovered and Unenclosed Decks, Porches and Terraces	Such decks, porches and terraces which are not in any part more than six feet above the finished grade level shall not project more than 25 percent into any required yard setback. ¹	
At-grade Driveways, Paths, Walks or Uncovered Concrete Slabs	May be placed in any required setback.	
Other Yard or Height Encroachments	One foot or ten percent of the required yard standard, whichever is less. ^{1, 2}	
Reduction in the Required Amount of Landscaping or Buffering Plant Materials	Refer to Section 11.1.2.F.	
Accessory Structures	An accessory structure may exceed its maximum area requirement by up to three percent.	
Nonconforming Uses	Expansion of nonconforming use per Sections 3.5.1(C) and Section 3.5.4(C)	5.15.1.B.1.
Nonconforming Structures	Expansion of certain nonconforming structures in accordance with Section 3.5.5.B.	5.15.1.B.2.
Family Care Homes	Provision for two or more family care homes to be located within one-half mile of each other per Section 8.1.6	5.15.1.B.3.
Extended Operating Hours	Extend operating hours for certain non-residential uses in Residential zoning districts per Section 9.20.	5.15.5.B.4.

Streetlights in Subdivisions	Additional streetlights may be required for public safety in the reasonable determination of public safety officials with authority.	
¹ In no case shall the Administrator have the authority herein to allow for a building encroachment into any of the following: 1. Street or railroad right-of-way; 2. Street or utility easement; 3. Designated floodplain or floodway areas; 4. Encroachment into another lot or parcel; 5. Encroachment into land that lies in another local government's planning jurisdiction, unless approval from that local government is given to do so.		
² The Administrator shall only be able to grant such modification if the petitioner can demonstrate that the modification required was not the result of a deliberate action to circumvent the terms of this Ordinance.		

Sec. 13.27 Public utilities and services.

- A. All public utilities and service lines shall be below ground to the point of service. This includes, but is not limited to, lines for electric service, cable service, telephone service, water service, and wastewater services.
- B. Easements shall be provided for storm and sanitary sewers, water lines, and other utilities in such widths, and at such locations as may be required by the County in order to properly serve the lot and adjoining realty; but in no event shall the County require less than easements of ten feet in width along all rear lines and exterior side lot lines, and five feet in width along each side of all interior side lot lines.
- C. No principal or accessory structure may be placed within a utility easement.
- D. Streetlights shall be installed by the subdivider, owner, or developer in all subdivisions of six or more lots via underground distribution along all proposed streets and along all adjoining streets at the developer's expense. The placement of streetlights shall be at 200-300 foot intervals in subdivisions with lots less than one (1) acre in size and 300-400 foot intervals in subdivisions with lots greater than 1 acre in size.
 - 1. All streetlights shall meet Section 9.13: Outdoor Lighting.
 - 2. All addressing for new subdivisions shall meet Section 14-191 in the County Code of Ordinances.
 - 3. Amenity Centers and facilities for public use shall have adequate lighting so that public safety is ensured.
 - 4. Light fixtures shall be decorative in appearance. Wooden poles are prohibited.
 - 5. The County will not accept responsibility for the streetlights. A maintenance plan must be noted in the approved site plan for the subdivision.

GASTON COUNTY TEXT AMENDMENT APPLICATION

TEXT-24-04-26-00012

STAFF REPORT

APPLICATION SUMMARY

Request:

To Consider Proposed Text Amendments to the Unified Development Ordinance (UDO): Chapter 5 (Permit and Modification Procedures); Section 5.15.1 (Minor Modification Table); and Chapter 13 (Subdivision Regulations); Section 13.27 (Public Utilities and Services)

Applicant(s):

May Green Properties (Tom Smith)

COMPREHENSIVE LAND USE PLAN

Comprehensive Land Use Plan

The proposed text amendment meets Goal 6 (*Improve the image of Gaston County both to current and potential residents, focusing on retaining and increasing the population of young professionals*) and Goal 7 (*Emphasize the importance of our natural resources through highlighting natural environments and encouraging the use of environmental recreation*) of the Comprehensive Land Use Plan, as the text changes will provide developers more opportunities to preserve the natural features of subdivisions and keep them more “rural” in feel.

Staff Recommendation:

Staff recommends approval of the text amendment as amended.

STAFF SUMMARY

Prepared By: Jamie Mendoza Kanburoglu, Director of Planning and Zoning

The applicant reached out to staff earlier this year to share concerns with the current regulations for streetlights in subdivisions. Currently, any subdivisions with more than six lots in the Urban Standards Overlay zoning district require street lights every 200’.

The applicant initially requested to change this measurement to 400’ and then later requested to change it to an average of 400’. Planning and Zoning staff is not supportive of the average method as it would create additional measuring and calculations to be completed during the site plan review process. Instead, staff have created their own proposed version of the text, which allows for a range of distances between streetlights based on the acreage of the proposed lots within the subdivision. Staff also recommends the addition of a minor modification in Chapter 5 which would require additional street lights for public safety purposes.

PLANNING BOARD DECISION

Scheduled Meeting Date: July 29, 2024 – The Planning Board unanimously recommended approval of the text amendment request as amended.

Attachments: Application, Proposed Text Amendment



GASTON COUNTY PLANNING BOARD

Statement of Consistency

In considering text amendment TEXT-24-04-26-00012, the planning board finds:

1. This is a reasonable request and in the public interest; and
2. It is consistent with the goals and vision of the comprehensive land use plan as the proposed text amendment meets Goal 6 (Improve the image of Gaston County both to current and potential residents, focusing on retaining and increasing the population of young professionals) and Goal 7 (Emphasize the importance of our natural resources through highlighting natural environments and encouraging the use of environmental recreation) of the Comprehensive Land Use Plan, as the text changes will provide developers more opportunities to preserve the natural features of subdivisions and keep them more "rural" in feel.

These findings are supported by a 8-0 vote by the Gaston County Planning Board during its July 29, 2024, meeting.



GASTON COUNTY Department of Building & Development Services

Street Address: 128 W. Main Avenue, Gastonia, North Carolina 28052 Phone: (704) 866-3195
Mailing Address: P.O. Box 1578, Gastonia, N.C. 28053-1578 Fax: (704) 866-3966

GASTON COUNTY TEXT AMENDMENT APPLICATION

Complete by either typing or printing legibly

Applicant ☒ Planning Board ☐ Board of Commission ☐ Other local agency ☐

A. *APPLICATION INFORMATION

Application Number: TEXT-

Name of Applicant: May Green Properties

(Print Full Name)

Mailing Address: 6121 Charlotte Hwy York SC 29745

(Include City, State and Zip Code)

Telephone Numbers: 803-230-4938

(Area Code) Business

803-230-4938

(Area Code) Home

* The applicant may be any owner of a legal or equitable interest in a piece of property located within the geographical boundaries of the Gaston County UDO.

B. PROPERTY INFORMATION (if applicable)

Location of Property: Patrick Road

PID: 193994

C. PROPOSED TEXT CHANGE (specify section of Ordinance) 13,27

Describe proposed new text (provide an attachment if necessary).

Low Impact developments with a minimum of one acre lots shall have a lighting plan associated with this development. The lights shall have an average of 400ft in separation.

APPLICATION CERTIFICATION

(I/We), the undersigned being the property owner/authorized submitter, hereby certify that the information submitted on the application and any applicable documents is true and accurate.

Thomas F. Smith
Signature of property owner or authorized submitter

4/25/2024
Date

OFFICE USE ONLY

OFFICE USE ONLY

OFFICE USE ONLY

Date Received: _____ Application Number: TEXT- _____ Fee: \$ _____

Received by Member of Staff: _____ Date of Payment: _____
(Initial)

☐ Notarized Authorization

☐ Payment of Fee

Public Hearing Date: _____ Planning Board Recommendation: _____ Commissioner's Decision: _____

Rev 8/23

Sec. 5.15.1 Development and zoning district standards.

A. Purpose.

1. As part of the review and approval process set forth in the Ordinance, the Administrator is hereby authorized to approve minor modifications to certain development standards where such modifications are incidental and do not have significant impact on adjacent properties. The "minor modification" process is seen as a way to:
 - a. Grant minor modifications that would not significantly alter the relationship of a building or structure to neighboring properties;
 - b. Allow building encroachments into required setbacks that may be commonly found elsewhere in the County;
 - c. Address minor and insignificant construction errors which have occurred in the past and which could only otherwise be alleviated through the issuance of a variance.
2. The list of situations for which the Administrator is authorized to apply a "minor modification" is listed in Section 5.15.1 (B). Unless specifically listed there (or elsewhere in the Ordinance) any other modifications to the terms of this Ordinance shall require the issuance of a variance by the Board of Adjustment.

- B. *Minor Modifications Allowed.* Table 5.15-1 indicates those minor modifications that are suitable for approval by the Administrator.

TABLE 5.15-1: Minor Modification Table		
Standard That May be Modified	Modification Allowed	Subsection
Façade and HVAC Encroachment- Placement of Eaves, Gutters, Cornices, Bay Windows, and HVAC Equipment	An eave, bay window or external HVAC equipment may extend into the required front, side or rear yard by no greater than three feet, but in no case closer than five feet to an adjoining property line. ¹	
Handicap Ramp Encroachment- Placement of Handicap Ramps	A ramp designed to accommodate handicapped persons may extend into a required front, side or rear yard, but in no case closer than five feet to an adjoining property line. ¹	
Uncovered and Unenclosed Decks, Porches and Terraces	Such decks, porches and terraces which are not in any part more than six feet above the finished grade level shall not project more than 25 percent into any required yard setback. ¹	
At-grade Driveways, Paths, Walks or Uncovered Concrete Slabs	May be placed in any required setback.	
Other Yard or Height Encroachments	One foot or ten percent of the required yard standard, whichever is less. ^{1, 2}	

Reduction in the Required Amount of Landscaping or Buffering Plant Materials	Refer to Section 11.1.2.F.	
Accessory Structures	An accessory structure may exceed its maximum area requirement by up to three percent.	
Nonconforming Uses	Expansion of nonconforming use per Sections 3.5.1(C) and Section 3.5.4(C)	5.15.1.B.1.
Nonconforming Structures	Expansion of certain nonconforming structures in accordance with Section 3.5.5.B.	5.15.1.B.2.
Family Care Homes	Provision for two or more family care homes to be located within one-half mile of each other per Section 8.1.6	5.15.1.B.3.
Extended Operating Hours	Extend operating hours for certain non-residential uses in Residential zoning districts per Section 9.20.	5.15.5.B.4.
<u>Streetlights in Subdivisions</u>	<u>Additional streetlights may be required for public safety in the reasonable determination of public safety officials with authority.</u>	
¹ In no case shall the Administrator have the authority herein to allow for a building encroachment into any of the following: 1. Street or railroad right-of-way; 2. Street or utility easement; 3. Designated floodplain or floodway areas; 4. Encroachment into another lot or parcel; 5. Encroachment into land that lies in another local government's planning jurisdiction, unless approval from that local government is given to do so.		
² The Administrator shall only be able to grant such modification if the petitioner can demonstrate that the modification required was not the result of a deliberate action to circumvent the terms of this Ordinance.		

1. Expansion of a Nonconforming Use [Sections 3.5.1.C. and 3.5.4.C].
 - a. The nonconforming use will not occupy any additional lands beyond the boundaries of the lot upon which said nonconforming use was located as of the date said use became nonconforming. The lot boundaries to be used to determine this shall be those existing at the time the use became nonconforming; and
 - b. The expansion will not result in a negative effect on any adjoining property; and
 - c. The expansion will be in harmony with the general purpose and intent of this Ordinance and will not be harmful to the neighborhood or otherwise be detrimental to the public welfare.
2. Expansion of a Nonconforming Structure [Section 3.5.5.B.].
 - a. The expansion will not result in a negative effect on any adjoining property.
 - b. The expansion will be in harmony with the general purpose and intent of this Ordinance and will not be harmful to the neighborhood or otherwise be detrimental to the public welfare.
3. Family care homes to be within one-half mile of each other (per Section 8.1.6).

-
- a. Such reduced separation will not result in the clustering of family care homes that could promote the segregating and isolation of handicapped persons instead of the integration and interaction of handicapped persons with the community mainstream.
 4. Extended operating hours for certain non-residential uses in residential zoning districts (per Section 9.20).
 - a. The nature of the use is such that limiting the hours of operation for that use in that particular location would result in a practical difficulty or unnecessary hardship; and
 - b. The use is in such location that it would not have a significant negative impact on surrounding and/or nearby property owners and cannot yield a reasonable return or cannot be put to reasonable use unless relief is granted; and
 - c. In balancing the public interest and the interest of the property owner, the grant of relief in the form of extended operating hours is required by considerations of justice and equity.
 - C. *Procedures.* The Administrator may approve a minor modification in conjunction with a site plan review, the issuance of a zoning permit, or certificate of compliance. The Administrator may not approve a request for a minor modification in cases where the development application must go to the Board of Commission or Board of Adjustment for approval or to another approval body even in cases where the requested modification is small enough to be granted by the Administrator. In such cases, the Administrator shall transmit his/her recommendations with respect to the minor modification and the designated approval body shall have the authority to approve such minor modification in conjunction with their approval process.
 - D. *Approved final subdivision plats.*
 1. *Purpose.* The Administrator is hereby authorized to approve minor modifications to approved and recorded final plats where such modifications are incidental and do not have significant impact on affected and adjacent properties. Such modifications shall not result in any lessening of any requirements that are otherwise called for in this Ordinance. Rather, the minor modification process is designed to address minor infrastructural changes that may not have been anticipated at the time of final plat approval.

NOTE: *Changes to a subdivision plat that involve the combination or recombination of lots, where the resultant lots are not increased and meet all of the Ordinance requirements, shall not be considered a "subdivision" per NCGS 160D-802. Provisions for making such changes are addressed in Section 13.2 of this Ordinance.*
 2. *Types of subdivision plat modifications allowed.* Changes to a recorded subdivision plat that may be authorized by the Administrator include those that are a result of minor field alterations to accommodate physical site conditions involving interior features of the site design that involve the relocation of streets, easements, utilities and other infrastructural improvements.
 3. *Process.*
 - a. The applicant shall present a copy of the recorded subdivision plat along with a paper copy of the modified plat with: (i) the modifications clearly identified and labeled, and (ii) the lots that are affected by such modifications. A written statement that gives reason as to why such modifications are needed shall accompany this.
 - b. If any of the lots so identified have been sold to other parties, a signed statement from each of the affected property owners shall accompany such plat. Each such statement shall: (i) list the modifications that are proposed and (ii) indicate their agreement with and support of the proposed subdivision plat modifications.

Once this information has been received, the Administrator shall have the ability to administratively approve the subdivision plat, send the plat to the TRC for their review and decision, or reject the plat amendment. The plat amendment may be approved by the Administrator (and/or the TRC) if determined that the proposed amendment(s): (i) does not violate any of the standards contained in this ordinance; (ii) will be beneficial to the residents of the subdivision and/or the community as a whole; and, (iii) will create conditions essential to the public health, welfare or safety.

Sec. 13.27 Public utilities and services.

- A. All public utilities and ~~services-service~~ lines ~~will-shall~~ be below ground to the point of service. This includes, but is not limited to, lines for electric service, cable service, telephone service, water service, and wastewater services.
- B. Easements shall be provided for storm and sanitary sewers, water lines, and other utilities in such widths, and at such locations as may be required by the County in order to properly serve the lot and adjoining realty; but in no event shall the County require less than easements of ten feet in width along all rear lines and exterior side lot lines, and five feet in width along each side of all interior side lot lines.
- C. No principal or accessory structure may be placed within a utility easement.
- D. ~~Inside the Urban Standards Overlay District, streets lights will~~ Streetlights shall be installed by the subdivider, owner, or developer in all subdivisions of six or more lots via underground distribution along all proposed streets and along all adjoining streets at the developer's expense. Distances between streetlights shall not exceed 200 feet. The placement of streetlights shall be at 200-300 foot intervals in subdivisions with lots less than one (1) acre in size and 300-400 foot intervals in subdivisions with lots greater than 1 acre in size. Street light intensity and placement shall be determined by the County in conjunction with the utility provider.
 - 1. All streetlights shall meet Section 9.13: Outdoor Lighting.
 - 2. All addressing for new subdivisions shall meet Section 14-191 in the County Code of Ordinances.
 - 3. Amenity Centers and facilities for public use shall have adequate lighting so that public safety is ensured.
 - 4. Light fixtures shall be decorative in appearance. Wooden poles are prohibited.
 - ~~4-5.~~ The County will not accept responsibility for the streetlights. A maintenance plan must be noted in the approved site plan for the subdivision.



Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

Building and Development Services

Board Action

File #: 24-365

Public Hearing - RE: Commissioner Brown - Building & Development Services - Zoning Text Amendment: TEXT-24-04-26-00012 - May Green Properties (Applicant); To Consider Proposed Text Amendments to the Unified Development Ordinance (UDO): Chapter 5 (Permit and Modification Procedures); Section 5.15.1 (Minor Modification Table); and Chapter 13 (Subdivision Regulations); Section 13.27 (Public Utilities and Services)

STAFF CONTACT

Jamie Kanburoglu - Director of Planning and Zoning - 704-862-5510

BACKGROUND

The Unified Development Ordinance (approved April 24, 2008), sets forth procedures for amendment procedures in Chapter 5, requiring a 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 TEXT-24-04-26-00012 - May Green Properties (Applicant); To Consider Proposed Text Amendments to the Unified Development Ordinance (UDO): Chapter 5 (Permit and Modification Procedures); Section 5.15.1 (Minor Modification Table); and Chapter 13 (Subdivision Regulations); Section 13.27 (Public Utilities and Services). A public hearing was advertised and held on August 27, 2024, with the public hearing comments being on file in the Board of Commission Clerk's Office. Planning Board recommendation was provided on July 29, 2024, 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 would allow for a change in distance requirements between streetlights in subdivisions. The Planning Board reviewed the amendments at its last regular Planning Board meeting (July 29, 2024) and recommended approval of the text as amended (8-0) to move them to the public hearing process.

ATTACHMENTS

Ordinance, Staff Report & Application Packet

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	CCLoninger	AFrale	BHovis	KJohnson	TKeigher	RWorley	Vote
2024-280	08/27/2024	BH	AF	A	A	A	A	A	A	A	U

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