

Drawn By: Starla Rogers

Return to: City of Concord ROD Box      PINs: 4681-94-6153, 4691-03-0484, 4681-72-7234,  
4681-71-4316, and 4681-91-3041

**ORD. #20-23**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP  
OF THE CITY OF CONCORD, NORTH CAROLINA  
FOR PROPERTY LOCATED GENERALLY WEST SIDE OF ODELL SCHOOL ROAD,  
SOUTH OF UNTZ ROAD**

WHEREAS, the City of Concord, North Carolina, pursuant to the authority conferred by the North Carolina General Statutes 160A-364 enacted an Official Zoning Ordinance for the City of Concord, North Carolina and the Area of Extraterritorial Jurisdiction on July 28, 1977; and

WHEREAS, the City of Concord, North Carolina, pursuant to the authority conferred by North Carolina General Statute 160A-364 through 160A-366 and 160A-381 through 160A-392 may from time to time as necessary amend, supplement, change, modify or repeal certain of its zoning regulations and restrictions and zone boundaries; and

WHEREAS, the City of Concord, North Carolina, pursuant to the authority conferred by North Carolina General Statute, Chapter 160A, Art. 19, Session Laws of 1993, Chapter 247, House Bill 575 and Section 3.2.4.B.2 of the Concord Development Ordinance does hereby allow the Planning and Zoning Commission to be final approval authority for zoning changes of land, provided that at least three-fourths of the members present vote in the affirmative, and no appeal of the decision is taken; and

WHEREAS, Section 3.2.4.B.5 of the Concord Development Ordinance specifies that any person aggrieved by the decision of the Planning and Zoning Commission shall have the right to appeal the decision to the City Council within fifteen days of the decision of the Planning and Zoning Commission decision by giving written notice to the Administrator; and

WHEREAS, Section 3.2.4.B.2 of the Concord Development Ordinance specifies that a final approval decision shall not be in effect until the fifteen day appeal period expires;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Concord, North Carolina:

SECTION 1. That the P&Z Commission held duly advertised a public hearing on January 21, 2020. At the close of the public hearing on January 21, 2020, the P&Z Commission adopted the following "Statement of Zoning Consistency" as required by NC Gen Stat 160A-383.

- The subject property is approximately 275.60 acres.
- The 2030 Land Use Plan designates the subject property as “Suburban Neighborhood,” is zoned RL (Residential Low Density), and is largely vacant aside from older farm structure.
- The proposed zoning amendment is consistent with the 2030 Land Use Plan as RV and conditional district variations are corresponding zoning classifications to the Suburban Neighborhood land use category. The Suburban Neighborhood land use category is intended to accommodate both larger lot and smaller lot subdivisions such as the 7,500 sf lot sizes permitted under RV zoning and the current request. The request meets LUP Objective 2.2 by the interconnected street design, resulting in a minimal number of cul-de-sacs. Furthermore, a stub street has been provided to the vacant property to the North, requiring future development to connect to the subject neighborhood. The site design shows compatibility with Objective 4.1 due to the large amount of buffering, and specifically undisturbed buffering between the existing subdivisions to the south and west. Although the lots in the proposed subdivision are smaller than some of the lots to the south and west, the distance and amount of undisturbed buffering eliminates any incompatibility. Furthermore, although the subject property is not within the Conservation area of the 2030 Land Use Plan, the 101.07 acres of contiguous undisturbed open space provides habitat conservation as well as tree preservation which is encouraged within the Conservation land use category and throughout the City.
- The zoning amendment is reasonable and in the public interest because the petition allows a zoning that serves to preserve a substantial amount of open space. The proposed open space serves to accommodate preservation of a large amount of environmentally sensitive lands and provides contiguous habitat conservation. The petition also proposes clustered design, minimizing the amount of infrastructure (streets, water, sewer, stormwater, etc.) needed to serve the site. The reduced impervious surface associated with the limited street network, in comparison to the amount of streets/sidewalk/curb/gutter needed to accommodate a by right development, decreases the amount of potential stormwater associated with the site after development. Furthermore, the enhanced stormwater retention facilities (designed above requirements for a by right development) will further protect downstream properties.

The P&Z Commission then voted to approve the zoning map amendment, by simple majority (5-1), from Residential Low Density (RL) to Residential Village Conditional District (RV-CD) with the following conditions:

1. Project shall comply with the “Annsborough Park Rezoning” plans, sheets RZ-000 through RZ-015, dated 01/08/2020.
2. The development shall adhere to the following residential design criteria:
  - All front elevations shall be constructed of one or a combination of the following materials: fiber cement board, stucco, brick, stone, glass, wood, or faced concrete block. Artificial materials which closely resemble these materials shall also be allowed. Vinyl may only be utilized for soffits, trim and window treatments.
  - All other sides of the homes will be constructed of fiber cement board at a minimum, and may be brick or stone.
  - Multiple colors of fiber cement board, stone and brick are encouraged between units to ensure variety.
  - 25-year architectural shingle is required. Metal roofing material may be used over porches and windows to provide additional architectural detail.
  - All roof pitches, with the exception of covered porches, shall be a minimum 6:12.
3. COS areas 1-5 will each feature an improved surface walking trail within the area designated as Common open space and will include a minimum of two (2) benches

each and at least one dog pot (dog waste basket and plastic bag dispensary for dog waste).

4. Project shall comply with the Common Open Space and Amenity Site Plan renderings dated 01/13/2020.
5. The development will contain a no fewer than 125, 65-foot wide lots.
6. The SCMs (BMPs) shall be designed to detain the 100 year, 24 hour storm event to predevelopment rates in addition to the City's minimum standards.
7. All BMPs will be designed to meet the criteria of section CDO 10.5.4. The developer shall incorporate native plants into the BMP landscaping plan.
8. "Grading limits between the undisturbed common open space and the rear lot lines of lots 202-225 will be a maximum of 150ft."
9. The two access points on Odell School Road shall be located in accordance with the "Annsborough Park Rezoning" plans, sheets RZ-000 through RZ-015, dated 01/08/2020. Request for Entrance #2 location adjustment by 100ft north or 100ft south is dependent on NCDOT and City of Concord review and approval. Requests to relocate access points beyond this scope shall require a modification to the zoning through the public hearing process.
10. Developer is responsible for acquiring any offsite utility easements associated with the public water line extension.
11. Approval of a preliminary plat is required.
12. Full water modeling and calculations shall be submitted with first site plan for technical review.
13. All homes in the subdivision shall be constructed with an approved sprinkler system.
14. Amenity Center shall be constructed with an approved sprinkler system.
15. Amenity Center shall have an approved fire alarm system installed.
16. If any buildings exceed 30 feet as measured at the gutter line, then all access roads leading up to that structure shall be measured at 26ft in width.
17. Hydrant at end of the street identified as Tullymore on the site plan shall be within 200 Feet of cul-de-sac
18. The street identified on the plan as McCall Street Mini Circle Turning Radius needs to be adjusted for ladder truck. Truck turning radius must stay within street not beyond curb and sidewalk in accordance with City Staff notes on submitted plans.
19. The street identified on the plan as Annsborough Drive Right Turn Ingress turning radius needs to be adjusted for ladder truck. Truck turning radius must stay within street not beyond curb and sidewalk in accordance with City Staff notes on submitted plans.
20. The street identified on the plan as Seaford Drive Left Turn Ingress turning radius needs to be adjusted for ladder truck. Truck turning radius must stay within street not beyond curb and sidewalk in accordance with City Staff notes on submitted plans.
21. The minimum diameter for a cul-de-sac shall be 96 ft. as outlined in Figure D103.1 of the NC Fire Code. All cul-de-sac designs in community shall meet this standard as a minimum.

SECTION 2. That the City Council held a duly advertised public hearing on March 12, 2020. At the close of the public hearing, the City Council adopted the following "Statement of Zoning Consistency" as required by NC Gen. Stat 160A-382(b).

- The subject property is approximately 275.60 acres.
- The 2030 Land Use Plan designates the subject property as "Suburban Neighborhood," is zoned RL (Residential Low Density), and is largely vacant aside from older farm structure.
- The proposed zoning amendment is consistent with the 2030 Land Use Plan as RV and conditional district variations are corresponding zoning classifications to the Suburban Neighborhood land use category. The Suburban Neighborhood land use category is intended to accommodate both larger lot and smaller lot subdivisions such as the 7,500 sf lot sizes permitted under RV zoning and the current request. The request meets LUP Objective

2.2 by the interconnected street design, resulting in a minimal number of cul-de-sacs. Furthermore, a stub street has been provided to the vacant property to the North, requiring future development to connect to the subject neighborhood. The site design shows compatibility with Objective 4.1 due to the large amount of buffering, and specifically undisturbed buffering between the existing subdivisions to the south and west. Although the lots in the proposed subdivision are smaller than some of the lots to the south and west, the distance and amount of undisturbed buffering eliminates any incompatibility. Furthermore, although the subject property is not within the Conservation area of the 2030 Land Use Plan, the 101.07 acres of contiguous undisturbed open space provides habitat conservation as well as tree preservation which is encouraged within the Conservation land use category and throughout the City.

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The City Council then voted to **APPROVE** the map amendment subject to the following conditions, which have been offered by the petitioner and/or mutually agreed upon during the course of the hearing:

1. Project shall comply with the "Annsborough Park Rezoning" plans, sheets RZ-000 through RZ-015, dated 01/08/2020.
2. The development shall adhere to the following residential design criteria:
  - All front elevations shall be constructed of one or a combination of the following materials: fiber cement board, stucco, brick, stone, glass, wood, or faced concrete block. Artificial materials which closely resemble these materials shall also be allowed. Vinyl may only be utilized for soffits, trim and window treatments.
  - All other sides of the homes will be constructed of fiber cement board, at a minimum, and may be brick or stone.
  - Multiple colors of fiber cement board, stone and brick are encouraged between units to ensure variety.
  - 25-year architectural shingle is required. Metal roofing material may be used over porches and windows to provide additional architectural detail.
  - All roof pitches, with the exception of covered porches, shall be a minimum 6:12.
3. COS areas 1-5 will each feature an improved surface walking trail within the area designated as Common open space and will include a minimum of two (2) benches each and at least one dog pot (dog waste basket and plastic bag dispensary for dog waste).
4. Project shall comply with the Common Open Space and Amenity Site Plan renderings dated 01/13/2020.
5. The development will contain no fewer than 125, 65-foot wide lots.
6. The SCMs (BMPs) shall be designed to detain the 100 year, 24 hour storm event to predevelopment rates in addition to the City's minimum standards.
7. All BMPs will be designed to meet the criteria of section CDO 10.5.4. The developer shall incorporate native plants into the BMP landscaping plan.
8. "Grading limits between the undisturbed common open space and the rear lot lines of lots 202-225 will be a maximum of 150ft."
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10. Developer is responsible for acquiring any offsite utility easements associated with the public water line extension.
11. Approval of a preliminary plat is required.
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13. All homes in the subdivision shall be constructed with an approved sprinkler system.
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16. If any buildings exceed 30 feet as measured at the gutter line, then all access roads leading up to that structure shall be measured at 26ft in width.
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20. The street identified on the plan as Seaford Drive Left Turn Ingress turning radius needs to be adjusted for ladder truck. Truck turning radius must stay within street not beyond curb and sidewalk in accordance with City Staff notes on submitted plans.
21. The minimum diameter for a cul-de-sac shall be 96 ft. as outlined in Figure D103.1 of the NC Fire Code. All cul-de-sac designs in community shall meet this standard as a minimum.
22. No more than 300 homes shall be built on the site.
23. A deed restriction shall be placed on the common open space identified as "undisturbed" by any future Grantor of the common open space when it is transferred to the homeowners association that will own the common open space of Annsborough Park. The deed restriction shall indicate, in reference to the "undisturbed" buffer/open space area, that: the property defined as such shall disallow any owner of the property from "from disturbing the property in any manner that which would cause the Property not to be in compliance as an Undisturbed Open Space." The deed restriction shall also state that "restriction shall constitute a restriction running with the land and be binding upon Grantee, their respective successors in interest, assigns, heirs and personal representatives, having or hereafter acquiring any right, title or interest in and to all or any portion of the Property. The benefits of this restriction shall inure to the owners of any property that adjoins the Property ("Adjoining Properties"), their respective successors in interest and assigns, having or hereafter acquiring any right, title or interest in and to any Adjoining Properties. This restriction shall be enforceable by any owner of any Adjoining Properties."
24. The sewer easement proposed on the southwest side of the property, within the area described as "undisturbed," shall generally be located in the area indicated on the "Annsborough Park Rezoning" plans, sheets RZ-000 through RZ-015, dated 01/08/2020, with final location determination being decided upon between the City and developer during the construction drawing phase of development.
25. No bonds, escrow or other surety from the developer for the purpose of securing streets, water and sewer infrastructure in the second phase of development shall be released until the deed restriction set forth in condition number 23 above has been filed at the Cabarrus County Register of Deeds.

SECTION 3: That the Official Zoning Map is hereby amended by rezoning from Residential Low Density (RL) to Residential Village Conditional District (RV-CD) for the area described as follows:

BEGINNING AT A COMPUTED POINT IN ODELL SCHOOL ROAD, SAID POINT HAVING NC GRID CORRDINATES OF N 612,171.10 E 1,490,829.52, AT ITS INTERSECTION WITH THE DIVISION LINE BETWEEN LANDS OF FAYE G. GOODNIGHT & WILLIAM OTTO GOODNIGHT, III AS RECORDED IN DEED BOOK 5615 PAGE 83 ON THE SOUTH AND LANDS OF RUC HOLDINGS ULC AS RECORDED IN DEED BOOK 13075 PAGE 312 AND WALTON NORTH CAROLINA, LLC AS RECORDED IN DEED BOOK 9917 PAGE 247 ON THE NORTH; THENCE ALONG WESTERLY ALONG SAID DIVISION LINE N 84° 41' 08" W PASSING THROUGH A FOUND REBAR/ANGLE IRON AT 18.08 FEET, A TOTAL DISTANCE OF 1310.03 FEET TO A FOUND 2 INCH IRON PIPE; THENCE S 5° 37' 22" E FOR A DISTANCE OF 1138.65 FEET TO A FOUND ½ INCH REBAR IN THE NORTH LINE OF LOT 188 POPLAR WOODS PHASE 2 MAP 2 (PLAT BOOK 37 PAGE 46); THENCE ALONG THE NORTHERLY LINE OF LOT 188 POPLAR WOODS PHASE 2, NORTHERLY TERMINUS OF CHATHAM OAKS DRIVE, NORTHERLY LINE OF LOT 89 POPLAR WOODS PHASE 2 MAP 2, NORTHERLY LINE OF LOTS 58 & 58 POLAR WOODS PHASE 2 MAP 1 (PLAT BOOK 35 PAGE 54 & PLAT BOOK 37 PAGE 29) S 47° 36' 21" W FOR A DISTANCE OF 585.03 FEET TO A FOUND 5/8 INCH AND 3/8 INCH REBAR BEING THE NORTHEAST CORNER OF TRACT 6 DEWEY GENE WHITTINGTON HEIRS AS RECORDED IN PLAT BOOK 38 PAGE 90; THENCE ALONG THE NORTHERLY LINE OF TRACT 6, TRACT 5, TRACT 2 & TRACT 1 GENE WHITTINGTON HEIRS AND LOTS 23, 24, 25, 26, 27, 28 & 29 POPLAR TRAILS PHASE ONE AS RECORDED IN PLAT BOOK 14 PAGE 73 N 83° 54' 10" W FOR A DISTANCE OF 3482.04 FEET TO A FOUND 1 INCH REBAR IN THE WESTERLY LINE OF LOT 128 POPLAR TRAILS PHASE IV, SECTION 2 AS RECORDED IN PLAT BOOK 20 PAGE 13; THENCE ALONG THE WESTERLY LINE OF LOTS 128, 129, 130, 131 & 132 POPLAR TRAILS PHASE IV, SECTION 2 N 9° 19' 26" E FOR A DISTANCE OF 845.06 FEET TO A FOUND 5/8 INCH REBAR IN THE NORTHERLY LINE OF LOT 133 POPLAR TRAILS PHASE IV, SECTION 2; THENCE ALONG THE NORTHERLY LINE OF LOTS 133, 134, 135, 136 & 137 POPLAR TRAILS PHASE IV, SECTION 2 N 82° 10' 34" W FOR A DISTANCE OF 1139.14 FEET TO A FOUND EYE BOLT IN THE WESTERLY LINE OF LOT 139 POPLAR TRAILS PHASE IV, SECTION 3 AS RECORDED IN PLAT BOOK 20 PAGE 14; THENCE ALONG THE WESTERLY LINE OF LOTS 139, 140, 141, 143 & 144 POPLAR TRAILS PHASE IV, SECTION 2 N 2° 55' 41" W FOR A DISTANCE OF 953.77 FEET TO A FOUND 2" IRON PIPE IN THE SOUTHERLY LINE OF LANDS OF UNICA, U.B.O. AS RECORDED IN DEED BOOK 1817 PAGE 242; THENCE ALONG SAID SOUTHERLY LINE OF UNICA, U.B.O. S 84° 10' 51" E FOR A DISTANCE OF 2267.94 FEET TO A FOUND 5/8 INCH REBAR; THENCE N 11° 08' 13" E FOR A DISTANCE OF 485.44 FEET TO A FOUND ¾ INCH REBAR IN THE SOUTHERLY LINE OF LANDS OF W.H. ALLISON AS RECORDED IN DEED BOOK 278 PAGE 176; THENCE ALONG SAID SOUTHERLY LINE OF W.H. ALLISON, SOUTHERLY LINE OF WILLIAM HAROLD ALLISON AS RECORDED IN DEED BOOK 5812 PAGE 364 AND SOUTHERLY LINE OF KRISTEN L. BRICKMAN & JASON R. BRICKMAN AS RECORDED IN DEED BOOK 10521 PAGE 188 N 88° 16' 26" E FOR A DISTANCE OF 1175.35 FEET TO A FOUND ¾ INCH REBAR IN THE SOUTHERLY LINE OF LANDS OF FRANKIE LEE ALLISON & CATHERINE F. ALLISON AS RECORDED IN DEED BOOK 10522 PAGE 2322; THENCE N 78° 36' 05" E FOR A DISTANCE OF 1121.76 FEET TO A FOUND ¾ INCH REBAR; THENCE N 10° 58' 09" W FOR A DISTANCE OF 597.80 FEET TO A FOUND 5/8 INCH REBAR IN THE SOUHTERLY LINE OF LANDS OF PAUL W. YOW & BRENDA F. YOW AS RECORDED IN DEED BOOK 437 PAGE 198; THENCE N 49° 29' 08" E PASSING THROUGH A ½ INCH IRON PIPE AT 764.88 FEET FOR A TOTAL DISTANCE OF 796.14 FEET TO A POINT IN ODELL SCHOOL ROAD; THENCE ALONG ODELL SCHOOL ROAD THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1.) S 59° 26' 40" E FOR A DISTANCE OF 124.43 FEET TO A POINT, 2.) S 50° 15' 01" E FOR A DISTANCE OF 308.30 FEET TO A POINT IN THE NORTHWESTERLY LINE OF LANDS OF NICHOLAS L. HOYT & BRITTANY LYNN BEGLEY AS RECORDED IN DEED BOOK 13382 PAGE 17; THENCE ALONG LANDS OF NICHOLAS L. HOYT & BRITTANY LYNN THE FOLLOWING THREE (3) COURSES AND DISTANCES: 1.) S 48° 33' 00" W FOR A DISTANCE OF 230.17 FEET TO A FOUND ¾ INCH REBAR,

2.) S 29° 43' 30" E FOR A DISTANCE OF 147.20 FEET TO A FOUND 5/8 INCH REBAR, 3.) N 72° 13' 46" E FOR A DISTANCE OF 249.33 FEET TO A POINT IN ODELL SCHOOL ROAD; THENCE ALONG ODELL SCHOOL ROAD S 17° 57' 40" E FOR A DISTANCE OF 997.67 FEET TO A POINT; THENCE ALONG THE NORTHERLY LINE OF LANDS OF DARYL E. GRAVES & SHARONDA GRAVES AS RECORDED IN DEED BOOK 8142 PAGE 139 AND THE NORTHERLY LINE OF LANDS OF DANIEL JONATHAN GARCIA & CHERYL GARCIA AS RECORDED IN DEED BOOK 7890 PAGE 12 S 72° 16' 00" W PASSING THROUGH A 5/8 INCH REBAR AT 29.80 FEET, A 5/8 INCH REBAR AT 290.45 FEET AND 3/4 INCH REBAR AT 499.97 FEET FOR A TOTAL DISTANCE OF 580.26 FEET TO A FOUND REBAR; THENCE CONTINUING ALONG THE WESTERLY AND SOUTHERLY LINE OF LANDS OF JONATHAN GARCIA & CHERYL GARCIA THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1.) S 17° 45' 00" E FOR A DISTANCE OF 149.97 FEET TO A FOUND REBAR, 2.) N 72° 15' 06" E FOR A DISTANCE OF 290.42 FEET TO A FOUND 5/8 INCH REBAR BEING THE NORTHWEST CORNER OF LANDS OF BILLY R. FISHER JR AS RECORDED IN DEED BOOK 6843 PAGE 81; THENCE S 17° 45' 00" E FOR A DISTANCE OF 150.15 FEET TO A FOUND 3/8 INCH REBAR BEING THE NORTHWEST CORNER OF LANDS OF RICHARD C. PETHEL, JR. & VANESSA L. PETHEL AS RECORDED IN DEED BOOK 6137 PAGE 341; THENCE ALONG LANDS OF RICHARD C. PETHEL, JR. & VANESSA L. PETHEL THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1.) S 22° 23' 46" E FOR A DISTANCE OF 161.30 FEET TO A FOUND 3/4 INCH REBAR, 2.) N 72° 09' 00" E FOR A DISTANCE OF 41.48 FEET TO A FOUND 5/8 INCH REBAR BEING THE NORTHWEST CORNER OF LANDS OF PEGGY OVERCASH SMITH & ERIC TODD SMITH AS RECORDED IN DEED BOOK 1793 PAGE 28; THENCE ALONG LANDS OF PEGGY OVERCASH SMITH & ERIC TODD SMITH THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1.) S 13° 25' 49" E PASSING THROUGH A 3/4 INCH PIPE IN CONCRETE AT 15.02 FEET FOR A TOTAL DISTANCE OF 179.75 FEET TO A FOUND 3/4 INCH REBAR, 2.) N 72° 17' 55" E PASSING THROUGH A 3/4 INCH REBAR AT 217.46 FEET FOR A TOTAL DISTANCE OF 249.40 FEET TO A POINT IN ODELL SCHOOL ROAD; THENCE ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1248.67 FEET, AN ARC LENGTH OF 493.50 FEET AND WHOSE LONG CHORD BEARS S 3° 03' 44" E FOR A DISTANCE OF 490.29 FEET TO THE POINT AND PLACE OF BEGINNING , CONTAINING 12,004,876 SQUARE FEET OR 275.594 SCRES OF LAND, MORE OR LESS.

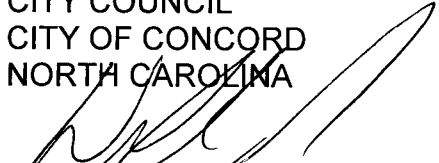
SECTION 4. That the establishment of this district and subsequent issuance of Zoning Clearance Permits are hereby authorized.

SECTION 5. That the above described property shall be perpetually bound to the uses authorized in the Concord Development Ordinance, as such may be amended from time to time and as provided for under Article 3 of the Concord Development Ordinance.

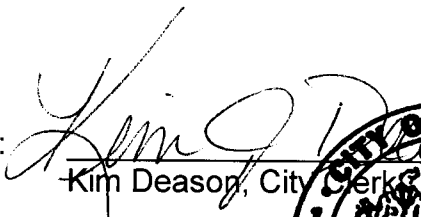
SECTION 6. That the effective date hereof is the 12<sup>th</sup> day of March, 2020

Adopted this 12<sup>th</sup> day of March, 2020

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

  
William C. Dusch, Mayor

ATTEST:

  
Kim Deason, City Clerk



  
Lerie Kolczyński, City Attorney