

Motion and
Statement of Consistency with Comprehensive Plan
UDO-255

I move that the following statement be adopted in support of a **Motion to Approve** Zoning Text Amendment UDO-255.

The zoning text amendment, proposed by Friendly People That Care, LLC to Amend Table B.2-6 of the Unified Development Ordinances (UDO) to allow the uses Habilitation Facilities A, B, and C in additional zoning districts, is in conformance with the recommendations of the Legacy Comprehensive Plan and is reasonable and in the public interest because:

1. The proposed text amendment will expand the range of zoning districts which will allow Habilitation Facilities A, B, and C to include the General Office (GO) zoning district, since Habilitation Facilities are often located in office-type buildings and are classified as low-intensity uses and since their impact on surrounding properties should be no greater than a comparable office use such as a medical office;
2. In addition, since Habilitation Facilities A and B each serve fewer handicapped persons than Habilitation Facilities C, the planning staff proposes allowing Habilitation Facilities A and B in all zoning districts that currently allow Habilitation Facilities C, with planning staff review, which zoning districts include, CPO, PB, LB, HB, GB, CB, MRB-S, CI, IP, C, and MU-S districts; and
3. This proposed text amendment would make it easier to establish a care facility for handicapped persons by limiting unnecessary rezoning requests and simplifying the review process for Habilitation facilities.

Based on the foregoing Statement, I move adoption of UDO-255.

Second:

Vote:

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: February 9, 2015 **AGENDA ITEM NUMBER:** _____

SUBJECT:-

- A. Public Hearing on Zoning Text Amendment Proposed by Friendly People That Care to Amend Table B.2-6 of the *Unified Development Ordinances* to Allow the Uses “Habilitation Facility A, B, and C” in Additional Zoning Districts (UDO-255)

- B. Ordinance Revising Chapter B of the Unified Development Ordinances to Allow the Uses “Habilitation Facility A, B, and C” in Additional Zoning Districts

COUNTY MANAGER’S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended approval of the rezoning text amendment.

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

January 23, 2015

Bryce A. Stuart Municipal Building
100 E. First Street
P.O. Box 2511
Winston-Salem, NC 27102
CityLink 311 (336.727.8000)
Fax 336.748.3163
www.cityofws.org/planning

Friendly People That Care
Angela Curry
424 Suite A West Mountain Street
Kernersville, NC 27284

RE: ZONING TEXT AMENDMENT UDO-255

Dear Ms. Curry:

The attached report of the Planning Board to the Forsyth County Board of Commissioners is sent to you at the request of the Commissioners.

When the text amendment is scheduled for public hearing, you will be notified by the Clerk to the County Commissioners of the date on which the Commissioners will hear this petition.

A. Paul Norby, FAICP
Director of Planning and Development Services

Attachment

pc: Clerk to the County Commissioners
Spencer Bennett, 1065 Englewood Drive, Winston-Salem, NC 27106
Angela Curry, 6215 Glen Way Drive, Winston-Salem, NC 27107
Larry Curry, 6215 Glen Way Drive, Winston-Salem, NC 27107
George Bryan, 1326 Glade Street, Winston-Salem, NC 27101

UDO-255
AN ORDINANCE REVISING
CHAPTER B OF THE UNIFIED DEVELOPMENT ORDINANCES
TO ALLOW THE USES “HABILITATION FACILITY A, B, AND C” IN
ADDITIONAL ZONING DISTRICTS

Be it ordained by the Board of Commissioners of Forsyth County, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

Section 1. Chapter B – Zoning Ordinance, Article II – Zoning Districts, Official Zoning Maps and Uses is amended as follows:

Chapter B – Zoning Ordinance
Article II – Zoning Districts, Official Zoning Maps and Uses

2-4 Permitted Uses

INSTITUTIONAL AND PUBLIC USES																																				
	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S ¹ (W)	E	LI	GI	CI	IP	C	MU-S	CONDS	
Habilitation Facility A (Lo)	A	A	A	A	A	A	A	A	A	A	A	P Z	P Z	P Z				Z	Z		Z	Z		Z	Z	Z	Z				Z	P Z	Z	Z	Z	3 5
Habilitation Facility B (Lo)												P Z	P Z	P Z				Z	Z		Z	Z		Z	Z	Z	Z				Z	P Z	Z	Z	Z	3 6
Habilitation Facility C (Lo)												A	A	A				Z	Z		P Z	Z		P Z	P Z	P Z	Z				Z	Z	Z	Z	Z	3 6

Z = Permit From Zoning Officer
P = Planning Board Review

A = Board of Adjustment Special Use Permit
E = Elected Body Special Use Permit

¹ See Section B.2-1.3(E)(3)

² See Section B.21.3(G)(3)

³ See Section B.2-5.67

⁴ Per Section B.2-1.3(L), Major Retail & Business District (MRB-S)

⁵SUP not required if requirements of Section B.2-5.2(A) are met

⁶See Section B.2-5.65.

This Table should be used in conjunction with Sections B.2-4.1 through B.2-4.6.

Section 2. This ordinance shall be effective upon adoption.

STAFF REPORT

DOCKET # UDO-255

STAFF: [Kirk Ericson](#)

REQUEST

This text amendment is proposed by Friendly People That Care Group Home and Provider Services to amend chapter B of the *Unified Development Ordinances* (UDO) to allow the use “Habilitation C” in the General Office (GO) zoning district.

BACKGROUND

The use “Habilitation C” describes any facility where thirteen or more handicapped persons receive habilitation services, rehabilitation services, or engage in recreational activities regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. Handicapped persons are defined in the UDO as persons with physical or mental impairments that do not include addiction or illegal use of controlled substances and do not include individuals considered dangerous to others.

Currently, Habilitation C facilities are only allowed in dense multifamily zoning districts (with Board of Adjustment review); Pedestrian Business (PB), Highway Business (HB), General Business (GB) and Central Business (CB) districts with Planning Board review; and the Major Retail Business (MRB-S), Central Industrial (CI), Campus (C), and Mixed Use (MU-S) districts with approval from the zoning officer (staff review). The petitioner wishes to expand this list of allowed districts to include the General Office (GO) zoning district.

ANALYSIS

Staff believes that Habilitation C would be an appropriate use to allow in the GO zoning district. Such facilities are often found in office-type buildings, and no overnight accommodations are provided by these facilities. As such, the impact of Habilitation C facilities on surrounding properties should be no greater than a comparable office use such as a medical office. The UDO classifies both Habilitation C and Office land uses as low-intensity uses. Staff believes this use should be allowed in GO zoning with approval from the zoning officer (the same review process specified in the UDO for other office uses).

In addition to allowing Habilitation C facilities in GO districts, staff believes that since these uses are less intense than many uses allowed in other zoning districts by right, additional changes to how and where habilitation facilities are permitted should be made at this time. Staff recommends changing the current Planning Board site plan review requirements for the PB, HB, GB, and CB districts to zoning officer review. The impacts of Habilitation C facilities on adjoining properties are no greater than other uses allowed in these districts with zoning officer review, and removing the Planning Board review component will also help simplify the process for permitting Habilitation C facilities in the community. Additionally, the Corporate Park Office (CPO), Limited Business (LB), and Institutional and Public (IP) districts should be added to the group of zoning districts Habilitation C is allowed in.

Appendix A shows a list of uses similar to Habilitation Facility C which are currently allowed with only zoning permit review in the aforementioned districts. Such uses include offices, government offices, museums or art galleries, colleges, child care drop-in facilities, funeral homes, public recreation facilities, libraries, neighborhood churches, and vocational or professional schools. The appendix also shows uses currently allowed with only zoning permit review in these districts which are more intense and impactful on surrounding properties than Habilitation Facility C. Such uses include retail stores, shopping centers, convenience stores, food or drug stores, restaurants without drive-throughs, banks, and police or fire stations.

Staff also recommends making changes to where the similar but smaller uses “Habilitation A” and “Habilitation B” are allowed. These uses are identical to Habilitation C, except Habilitation A facilities may only serve eight or less handicapped persons, and Habilitation B facilities may only serve nine to twelve handicapped persons. Although these uses are less intense than Habilitation C, the UDO currently allows only the more intense Habilitation C facilities in business zoning districts. Staff proposes allowing both Habilitation A and B facilities in the CPO, GO, PB, LB, HB, GB, CB, MRB-S, CI, IP, C, and MU-S districts with zoning officer review (**Appendix A** shows a list of uses currently allowed in these districts with zoning officer review which are similar to or more intense than Habilitation Facility A and B). Additionally, staff recommends changing the current Planning Board review requirement for Habilitation A and B facilities in multifamily districts to a zoning officer review requirement.

Staff believes these ordinance changes will expand the range of appropriate zoning districts which habilitation facilities may be located in, making it easier to establish a care facility for handicapped persons by limiting unnecessary rezoning requests and simplifying the review process for such facilities.

RECOMMENDATION

APPROVAL

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Request Summary

- Petitioner: Friendly People That Care Group Home and Provider Services
- Request: Allow the use Habilitation Facility C in the General Office (GO) zoning district

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Background

- Habilitation C facilities provide habilitation, rehabilitation services, or recreational activities for 13 or more handicapped persons
- These facilities are licensed by the State and do not provide room and board
- Currently, Habilitation C facilities are allowed in multifamily zoning districts with Board of Adjustment review; certain business districts with Planning Board review; and a few other districts with staff review
- The petitioner wishes to allow this use in GO zoning with staff review

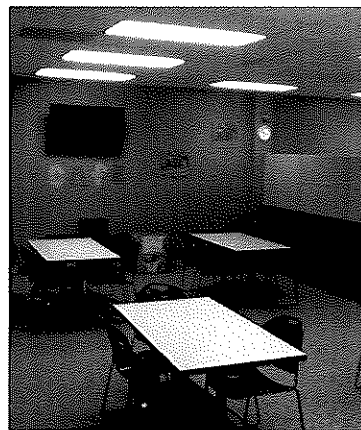
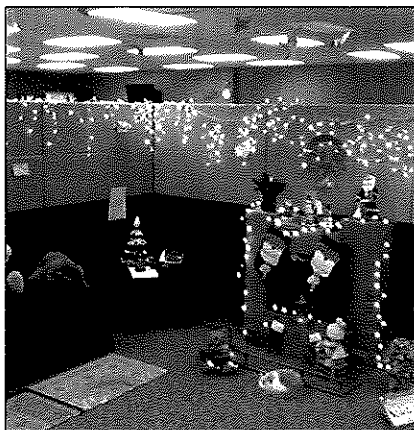
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Analysis

- Staff believes that Habilitation Facility C would be appropriate in the GO district with staff review
- These facilities are often found in office-type buildings, and no residential accommodations are provided
- The UDO classifies both Habilitation Facility C and Office uses as low-intensity uses
- The impact of Habilitation C facilities on surrounding properties should be no greater than a comparable office use such as a medical office

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Analysis



Habilitation Facility C Interior Photos

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Analysis

- In addition to allowing Habilitation C in GO zoning, staff believes additional changes to how and where habilitation facilities are permitted should also be made
- Staff recommends changing the Planning Board site plan review requirements for the PB, HB, GB, and CB districts to zoning staff review

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Analysis

- The impacts of Habilitation C on adjoining properties is no greater than other uses allowed in these districts with staff review, and removing the PBR requirement will help streamline the process of developing Habilitation C facilities in the community
- Additionally, CPO, LB, and IP should be added to the group of zoning districts which allow Habilitation C

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Analysis

- Staff also recommends allowing Habilitation Facility A and Habilitation Facility B in additional zoning districts
- These uses are the same as Habilitation C, except they serve fewer people
- The UDO currently allows only the more intense Habilitation C use in business zoning districts
- Staff proposes allowing Habilitation A and B facilities in all districts that allow Habilitation C, with zoning staff review

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Analysis

- These ordinance changes will make it easier to provide care for handicapped persons by expanding the range of appropriate zoning districts habilitation facilities may be located in and simplifying the review process

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Recommendation

- Staff Recommendation: **Approval**

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-255
DECEMBER 11, 2014**

Kirk Ericson presented the staff report.

PUBLIC HEARING

FOR:

Spencer Bennett, 1065 Englewood Drive, Winston-Salem, NC 27106

- General Office zoning already permits Recreational Services, Adult Day Care, and Vocational Training facilities. Other permitted uses include Fraternity or Sorority, Funeral Home, Hospital, and Hospice Care.
- This amendment is really just adding what should already be there.

Angela Curry, 6215 Glen Way Drive, Winston-Salem, NC 27107

- I own Friendly People That Care.
- There is a great demand for this service.
- We'd like to expand our business to help meet this need.

Larry Curry, 6215 Glen Way Drive, Winston-Salem, NC 27107

- I support this request.

AGAINST:

George Bryan, 1326 Glade Street, Winston-Salem, NC 27101

- We were concerned about the definition of handicapped. You've answered that.
- The intent of this text amendment is great. It makes sense now.
- There was a chart attached to this initially where you changed the way things were done in other zoning districts.
- There are some zoning districts very close to neighborhoods where neighbors would like input when the use changes. Those are Pedestrian Business and Institutional and Public.
- I'd encourage you to leave those as they are currently.

Kirk Ericson explained that the way this is currently, the approval is a Planning Board Review which simply makes sure the ordinance requirements are met. Staff felt this was something that could be done in the Inspections office where you go to get your permit. The zoning officer would make that determination.

Arnold King: Mr. Bryan, there would not have been a public hearing anyway. Now we are just letting staff do our work for us.

WORK SESSION

During discussion by the Planning Board, the following points were made:

Melynda Dunigan: What is the definition of handicapped? Paul Norby read the definition provided in the UDO.

Melynda Dunigan: The definition of Habilitation C is 13 or more persons. Does that mean there is no limit? Kirk Ericson: Correct. Arnold King: Is there a cap based on square footage? Chris Murphy: There is a licensing requirement. You have to have at least 100 square feet of heated space for each person enrolled and at least 100 square feet per person with a minimum of 4,000 square feet of outdoor space.

Allan Younger: This amendment seems to make a lot of sense. What am I missing? What is the potential downside to this? Kirk Ericson: Staff couldn't really find any downside which is why we supported the text amendment. The only difference from an office is that Habilitation Facilities have outdoor space requirements. Chris Murphy: Outdoor space can be green space where folks can go sit. It doesn't have to be developed.

Melynda Dunigan: I had some of the same concerns about PB and IP but also about LB. It's primarily about Habilitation C because of the number of clients that could be impacting nearby residents. It's good to have another layer of review. I don't have a problem for Habilitation A or B, but for Habilitation C it should be Planning Board not just Zoning Officer with the numbers we're talking about. I don't have a problem with the petitioner's request. This is perfectly compatible with the General Office District.

Arnold King asked Kirk Ericson: Again, all we would review would be the site plan, right? Kirk Ericson: Right. Again staff's purpose in expanding this request to other districts is that there's something like the office use already allowed in these districts with just the Zoning Officer's approval. You could have a much larger office building than one of these facilities. We were trying to provide more standardization for similar situations.

Clarence Lambe: If this passes a property owner will come to Inspections to get a zoning permit for the new use which includes a small fee and doesn't require them to get on a calendar for approval. Kirk Ericson: Exactly. Just to streamline the process to provide the community services needed by the handicapped population in a more timely manner.

Chris Murphy: They would still have to do a site plan. Clarence Lambe: Or find a survey which could then be used.

Clarence Lambe: The demand is truly great. I think we ought to allow this use. This comes from a person who has three Habilitation C tenants in two different office parks. This process is currently burdensome and cumbersome and does need to be streamlined.

Paul Mullican: I agree with that.

Arnold King: These are already allowed in multifamily districts, right? Staff responded that they are allowed in multifamily districts with Board of Adjustment approval. Arnold King: We're talking about them being allowed in PB when they're already allowed in multifamily.

MOTION: Clarence Lambe moved approval of the text amendment.

SECOND: Paul Mullican

VOTE:

FOR: Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Barry Lyons, Paul Mullican, Brenda Smith, Allan Younger

AGAINST: Melynda Dunigan

EXCUSED: None

A. Paul Norby, FAICP

Director of Planning and Development Services

Appendix A

Uses Similar to or More Intense Than Habilitation Facility A, B, and C Currently Allowed In Districts Where These Uses Are Proposed								
Zoning District	CPO	GO	PB	LB	HB	GB	CB	IP
Use								
<i>Similar Uses Allowed With a Zoning Permit</i>								
Offices	X	X	X	X	X	X	X	--
Government Offices, Neighborhood Organization, or Post Office	X	X	X	X	X	X	X	X
Museum or Art Gallery	--	X	X	X	X	X	X	X
College or University	X	X	X	--	X	X	X	X
Child Care, Drop-In	X	X	X	X	X	X	X	X
Funeral Home		X	X	X	X	X	--	X
Recreation Facility, Public	X	X	X	X	X	X	X	X
Library, Public	--	X	X	X	X	X	X	X
School, Vocational or Professional	X	X	X	X	X	X	X	--
Church or Religious Institution, Neighborhood	X	X	X	X	X	X	X	X
<i>More Intense Uses Allowed With a Zoning Permit</i>								
Retail Store	--	--	X	X	X	X	X	--
Shopping Center	--	--	X	X	X	X	X	--
Convenience Store	--	--	X	X	X	X	--	--
Food or Drug Store	--	--	X	X	X	X	X	--
Restaurant (Without Drive-Through Service)	X	--	X	X	X	X	X	--
Banking and Financial Services	X	X	X	X	X	X	X	--
Police or Fire Station	X	X	X	X	X	X	X	X