

DURHAM



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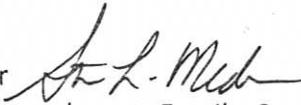
CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: January 22, 2013

To: Thomas J. Bonfield, City Manager

Through: Keith Chadwell, Deputy City Manager

From: Steven L. Medlin, AICP, Planning Director 

Subject: Unified Development Ordinance Text Amendment, Family Care and Group Homes (TC1200011)

Summary. On September 10, 2012, the Planning Department was directed by the Joint City-County Committee (JCCC) to prepare a text amendment to the Unified Development Ordinance (UDO) establishing a 375-yard (1,125 foot) separation requirement for family care and group homes. This text amendment would amend Article 5, Use Regulations, to establish the separation requirement.

Recommendation. Staff recommends approval. The Durham Planning Commission will hold a public hearing on this text amendment on January 8, 2013. Staff will update the City Council regarding the Planning Commission's recommendation at the time of the hearing.

Background. Citizens have raised concerns with elected officials regarding the proliferation and concentration of family care home and group home facilities in specific parts of the City. At the September 5, 2012, Joint City-County Planning Committee (JCCPC) and September 10, 2012, JCCC meetings, elected officials received information regarding current numbers and locations of these facilities, along with both state and federal legal constraints in regulating them. Comparable land use regulations from other jurisdictions in North Carolina were also reviewed to determine what regulations survived court scrutiny. As a result, the JCCC directed the Planning Department to amend the UDO to establish separation requirements for family care and group homes similar to those established by the City of Raleigh. The Joint City-County Planning Committee reviewed this text amendment on December 5, 2013, and approved it to move forward through the public hearing adoption process.

Issues. Family care homes and group homes are regulated by state and federal legislation. In North Carolina, family care homes are specifically defined and regulated in N.C.G.S. § 168-22. This legislation mandates family care homes to be treated as single-family residences, to be permitted in any zoning district that allows

single-family residences, caps the number of individuals living in the home to six, limits the residents to those suffering from physical, mental, or emotional disabilities, and allows a maximum separation requirement of one-half mile from each family care home.

Facilities of more than six individuals or facilities that do not house individuals that meet the disability requirements of the statute would not qualify as family care homes, and thus are not as strictly regulated by the state for zoning purposes. The federal Fair Housing Act (FHA) does regulate group living arrangements, mandating "reasonable accommodation" must be provided to individuals with handicaps or disabilities. This is a broad mandate and has been used to challenge separation requirements for group home facilities established by other North Carolina jurisdictions.

Durham's UDO does not have separation requirements for family care or group home facilities. Upon analysis of other jurisdictions and court rulings, the JCCC determined that a separation requirement of 375 yards (1,125 feet) between family care homes, and the same separation requirement for group homes from other group or family care homes, would be reasonable and withstand court scrutiny if challenged. This separation standard represents an appropriate balance between not concentrating such facilities in neighborhoods and providing reasonable accommodation.

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Attachments:

Attachment A: An Ordinance To Amend the Unified Development Ordinance Regarding Family Care and Group Homes (TC1200011), Mark-up Version

Attachment B: An Ordinance To Amend the Unified Development Ordinance Regarding Family Care and Group Homes (TC1200011), Clean Version

Attachment C: N.C.G.S. § 168-22

Attachment D: Regulation of Group Homes in Durham County Memorandum, August 30, 2012, Durham County Attorney's Office