

MEMORANDUM

April 14, 2021

TO: PHED Committee

FROM: Livhu Ndou, Legislative Attorney
Pamela Dunn, Senior Legislative Analyst

SUBJECT: Zoning Text Amendment 20-08, Residential Care Facility – Continuing Care Retirement Community

PURPOSE: Worksession #1 for ZTA 20-08¹

Expected Participants:

Casey Anderson, Chair, Montgomery County Planning Board
Jason Sartori, Chief, Countywide Planning and Policy, Planning Department
Ben Berbert, Planner Coordinator, Countywide Planning and Policy, Planning Department

Background

Zoning Text Amendment (ZTA) 20-08, lead sponsor Council President at the request of the Planning Board, was introduced on December 8, 2020. ZTA 20-08 would add a definition for a Continuing Care Retirement Community to the Zoning Ordinance to allow for flexibility in senior-living unit types that are associated with developments that also provide assisted living services.

Relevant Definitions

The Zoning Ordinance currently allows independent living units and residential care facilities in a multi-unit building type if approved as a conditional use. As this ZTA would add definitions to the Zoning Ordinance, the following existing definitions are helpful:

- Section 3.3.2.E.1 defines a “**Residential Care Facility**” as a group care or similar arrangement for the care of persons in need of personal services, supervision, or assistance essential for

¹ The PHED worksession for this ZTA was originally scheduled for April 5, 2021. This staff memorandum is largely the same as the last staff memorandum except for “Proposed Amendment” number four, and analysis of that amendment.

sustaining the activities of daily living, or for the protection of the individual, in which: a) the facility must meet all applicable Federal, State, and County certificate, licensure, and regulatory requirements; b) resident staff necessary for operation of the facility are allowed to live on-site; and c) the number of residents includes members of the staff who reside at the facility, but does not include infants younger than two months old. Residential Care Facility includes a nursing home, an assisted living facility, a continuing care retirement community, a hospice, and a group home. Residential Care Facility does not include a Hospital (see Section 3.4.6, Hospital) or Independent Living Facility for Seniors or Persons with Disabilities (see Section 3.3.2.C, Independent Living Facility for Seniors or Persons with Disabilities).

- Section 3.3.2.C.1 defines “**Independent Living Facility for Seniors or Persons with Disabilities**” as a building containing dwelling units and related services for senior adults or persons with disabilities. Independent Living Facility for Seniors or Persons with Disabilities includes meal preparation and service, day care, personal care, nursing or therapy, or any service to the senior adult or disabled population of the community that is an ancillary part of one of these operations.
- The current Zoning Ordinance does not include a definition for continuing care retirement community. However, “**Continuing care in a retirement community**” is defined under State law, Maryland Code Human Services Title Section 10-401, as:

“Continuing care in a retirement community” means providing shelter and providing either medical and nursing or other health related services or making the services readily accessible through the provider or an affiliate of the provider, whether or not the services are specifically offered in the written agreement for shelter: (1) to an individual who is at least 60 years of age and not related by blood or marriage to the provider; (2) for the life of the individual or for a period exceeding 1 year; and (3) under one or more written agreements that require a transfer of assets or an entrance fee notwithstanding periodic charges.

- Section 59.1.4.1 defines “**Dwelling Unit**” as “a building or portion of a building providing complete living facilities for not more than one household, including, at a minimum, facilities for cooking, sanitation, and sleeping.”

Planning Board and Planning Staff Recommendations

ZTA 20-08 was introduced at the request of the Planning Board. The Planning Board’s December 2020 memorandum noted that the development community is “limited in its ability to provide various options in building type (detached residential, duplex, townhouse and apartment) and varying levels of medical services associated with these structures.” The proposed stand-alone units under the new definition in ZTA 20-08 would still require conditional use approval, which ensures compatibility with the surrounding area and could be beneficial for lower-density residential zones.

The Planning Board did note that the ZTA as introduced provided a definition for “continuing care retirement community”, a term already defined under State law, and thus could lead to confusion for applicants who are trying to meet both Montgomery County and the State’s legal requirements. Subsequently, the Planning Board and Planning Staff recommended using the term “senior care

community” and adding a separate definition for continuing care retirement community that meets the State’s definition.

Public Hearing

A public hearing was held on January 19, 2021. Testimony from the Greater South Glen Neighborhood Association and the West Montgomery County Citizens Association was in opposition. Testimony from Lerch, Early, & Brewer and the Planning Board was in support.

Opposition testified that independent and assisted senior living should not be combined. Opposition testified that ZTA 20-08 is unnecessary because residential care facilities already allow a wide range of housing styles. Opposition testified that the ZTA as currently written does not guarantee the sharing of facilities. Opposition expressed concern that fee simple duplexes and triplexes would be built in low-density zones where they are currently not permitted. Opposition testified that seniors interested in senior living are typically doing so because they are no longer interested in the burdens of homeownership, and that allowing the units to be owned in fee simple would complicate the ownership of the conditional use rights.

Testimony in support emphasized that conditional use approval would still be required in order to ensure compatibility. Supporters testified that the lack of diverse housing options meant many seniors would move to other counties, causing a loss of tax dollars in Montgomery County. Supporters also testified that there is no justification for regulating the building form and tenure type of senior housing, and that over-regulation would cost seniors flexibility and lifestyle choice.

Proposed Amendments

1. ZTA 20-08 as originally introduced defined “Continuing Care Retirement Community” as:

A community providing a continuum of residential occupancy and health care services for seniors. This community must include assisted living and residential independent dwelling units and may also include memory care and/or skilled nursing in one or more buildings of any structure type. The health care and services component of the community may be located in a structure physically separated from the independent dwelling units.

The proposed amendment would instead make this the definition for a new term in the Zoning Ordinance—“Senior Care Community”. [Lines 19-24]

2. A “Continuing Care Retirement Community” would be defined as “a type of Residential Care Facility structured in a manner consistent with the Annotated Code of Maryland (COMAR) 32.02.01”. [Lines 9-11]
3. A “Senior Care Community” would be listed as a type of Residential Care Facility under Section 3.3.2.E [Lines 43-45]; and be placed under the same age restrictions as a continuing care retirement community. [Lines 105-106, 116-117]
4. Setback requirements for all building types would be the minimum setbacks required in the R-30 zone, or a minimum setback of 20 feet to abutting lots, whichever is greater. [Lines 92-99]

Analysis

The current Zoning Ordinance assumes all residential care facilities are multi-unit structures, such as an apartment building. ZTA 20-08 would allow a wider variety of building types for Residential Care Facilities by allowing the construction of campus-like communities with a varying level of associated medical services. The ZTA does this by adding a new term—Senior Care Community. ZTA 20-08 would also clarify the definition of Continuing Care Retirement Community, which is listed under Section 3.3.2.E and other parts of the Zoning Ordinance but not clearly defined.

With the allowance of more building types, an amendment regarding setbacks was deemed necessary. Council Staff chose the R-30 zone because it provides reasonable setbacks for all building types. To ensure compatibility in lower-density zones, a minimum setback of 20 feet to abutting lots would be required where greater than the R-30 provisions.

ZTA 20-08 would provide seniors with more flexibility in choosing a type of housing in Montgomery County. Because a Senior Care Community would still be considered under Residential Care Facility, the conditional use standards of 7.3.1.E. would apply. Specifically, the Hearing Examiner would need to find that the proposed development: conforms with the applicable master plan; is harmonious with the surrounding neighborhood; and will have adequate public services and facilities.

The proposed language states that the community “*must* include assisted living *and* residential independent dwelling units”, and that it “*may* also include memory care *and/or* skilled nursing”. So, while assisted living will be mandatory, memory care or skilled nursing will not be.

ZTA 20-08 is silent as to whether the independent units will be in fee simple or some other land tenure, as this is outside the scope of the Zoning Ordinance. However, the developments will be subject to the conditional use standards of 7.3.1.H through 7.3.1.L, which outline the duration and amendment process for any conditional use.

Council Staff recommends approval of this ZTA with amendments.

This packet contains

ZTA 20-08, with amendments

Planning Board and Planning Staff recommendation

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© 9-21

Zoning Text Amendment No.: 20-08
Concerning: Residential Care Facility
– Continuing Care
Retirement Community
Draft No. & Date: 4 – 4/13/21
Introduced: December 8, 2020
Public Hearing: January 19, 2021
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- define the term Continuing Care Retirement Community; and
- generally amend the provisions for Residential Care Facilities

By amending the following sections of the Montgomery County Zoning Ordinance,
Chapter 59 of the Montgomery County Code

Division 1.4.	“Defined Terms”
Section 1.4.2.	“Specific Terms and Phrases Defined”
Division 3.3.	“Residential Uses”
Section 3.3.2.	“Group Living”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-1 is amended as follows:**

2 **Division 1.4. Defined Terms**

3 * * *

4 **Section 1.4.2. Specific Terms and Phrases Defined**

5 In this Chapter, terms that are not specifically defined have their ordinary meaning.
6 The following words and phrases have the meanings indicated.

7 * * *

8 **Construction Administration or Sales Office:** See Section 3.5.15.A.1

9 **Continuing Care Retirement Community:** A type of Residential Care Facility
10 structured in a manner consistent with the Annotated Code of Maryland (COMAR)
11 32.02.01.][A community providing a continuum of residential occupancy and
12 health care services for seniors. This community must include assisted living and
13 residential independent dwelling units and may also include memory care and/or
14 skilled nursing in one or more buildings of any structure type. The health care and
15 services component of the community may be located in a structure physically
16 separated from the independent dwelling units.]]

17 * * *

18 **Senior Adult:** A person who is 62 years of age or older.

19 **Senior Care Community:** A community providing a continuum of residential
20 occupancy and health care services for seniors. This community must include
21 assisted living and residential independent dwelling units and may also include
22 memory care and/or skilled nursing in one or more buildings of any structure type.
23 The health care and services component of the community may be located in a
24 structure physically separated from the independent dwelling units.

25 * * *

26 **Sec. 2. DIVISION 59-3 is amended as follows:**

27 **Division 3.3.2. Group Living**

28 * * *

29 **E. Residential Care Facility**

30 **1. Defined, In General**

31 Residential Care Facility means a group care or similar arrangement
32 for the care of persons in need of personal services, supervision, or
33 assistance essential for sustaining the activities of daily living, or for
34 the protection of the individual, in which:

- 35 a. the facility must meet all applicable Federal, State, and County
- 36 certificate, licensure, and regulatory requirements;
- 37 b. resident staff necessary for operation of the facility are allowed
- 38 to live on-site; and
- 39 c. the number of residents includes members of the staff who
- 40 reside at the facility, but does not include infants younger than
- 41 2 months old.

42 Residential Care Facility includes a nursing home, an assisted living
43 facility, a ~~continuing~~ Continuing ~~care~~ Care ~~retirement~~
44 Retirement ~~community~~ Community, a hospice, ~~and~~ a group
45 home, and a Senior Care Community. Residential Care Facility does
46 not include a Hospital (see Section 3.4.6, Hospital) or Independent
47 Living Facility for Seniors or Persons with Disabilities (see
48 Section 3.3.2.C, Independent Living Facility for Seniors or Persons
49 with Disabilities).

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51 **2. Use Standards**

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53 **c. Residential Care Facility (Over 16 Persons)**

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- ii. Where a Residential Care Facility (Over 16 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:
 - (a) The facility may provide ancillary services such as transportation, common dining room and kitchen, meeting or activity rooms, convenience commercial area or other services or facilities for the enjoyment, service or care of the residents. Any such service may be restricted by the Hearing Examiner.
 - (b) A group home for children must provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children who will use the facility.
 - (c) Where residential dwelling units are provided:
 - (1) the maximum residential density per lot area is 15 units per acre or the maximum density allowed in the zone, whichever is greater; and
 - (2) the minimum green area is 50%.
 - (d) Where facility size is based on the number of beds, not dwelling units, the following lot area is required:
 - (1) In the R, RC, and RNC zones, 2,000 square feet per bed or 5 acres, whichever is greater.

81 (2) In all other zones, the minimum lot area is 2
82 acres or the following, whichever is greater:
83 [(i)](A) in RE-2, RE-2C, RE-1, and R-
84 200 zone: 1,200 square feet per bed;
85 [(ii)](B) in R-60, R-90, and R-40 zone:
86 800 square feet per bed;
87 [(iii)](C) in TLD, TMD, THD, R-30, and
88 R-20 zone: 600 square feet per bed;
89 and
90 [(iv)](D) in R-10: 300 square feet per
91 bed.

92 (e) Principal building setbacks for all building types
93 must meet the minimum setbacks required under
94 the standard method of development for the
95 subject building type in the R-30 zone (see Section
96 4.4.14.B.3, Placement), or a [[The]] minimum
97 [[side]] setback [[is]] of 20 feet[.]to abutting lots
98 not included in the application, whichever is
99 greater.

100 [(f)] In the R-10 and R-20 zones, the development
101 standards of the apartment building type apply,
102 except as modified by Section 3.3.2.E.2.c.]]

103 [(g)](f) Independent dwelling units must satisfy the
104 MPDU provisions of Chapter 25 (Section 25.A-5).

105 [(h)](g) In a continuing care retirement community
106 and a senior care community, occupancy of any
107 independent dwelling unit is restricted to persons

- 108 62 years of age or older, with the following
109 exceptions:
110 (1) the spouse of a resident, regardless of age;
111 (2) another relative of a resident, 50 years of
112 age and older;
113 (3) the resident widow, widower, or other
114 surviving relative of a resident who dies
115 while residing at the continuing care
116 retirement community or the senior care
117 community[,] is allowed to remain even
118 though the resident widow, widower, or
119 other surviving relative has not reached the
120 age of 62.

121 A minimum of 80% of the dwelling units must be
122 occupied by at least one person per unit who is 55
123 years of age or older.

124 ~~[(i)]~~(h) Height, density, coverage, and parking
125 standards must be compatible with surrounding
126 uses; the Hearing Examiner may modify any
127 standards to maximize the compatibility of the
128 building with the residential character of the
129 surrounding neighborhood.

130 ~~[(j)]~~(i) In the AR zone, this use may be prohibited
131 under Section 3.1.5, Transferable Development
132 Rights.

133 * * *

134 **Sec. ~~[[2]]3.~~ 3. Effective date.** This ordinance becomes effective 20 days after
135 the date of Council adoption.

136

137 This is a correct copy of Council action.

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139 _____

140 Selena Mendy Singleton, Esq.

141 Clerk of the Council

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MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIR

January 15, 2021

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Zoning Text Amendment No. 20-08

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 20-08 at its regular meeting on January 14, 2021. By a vote of 5:0, the Planning Board recommends approval of the ZTA to adopt a definition for the term Continuing Care Retirement Community (CCRC), and made additional modifications to define the term Senior Care Community, and to add Senior Care Community to the list of allowed Residential Care Facilities.

The ZTA was first proposed by the Planning Board by a similar 5:0 vote at its meeting on October 29, 2020, which recommended establishing a definition of a CCRC. The intent of the text amendment is to define a new category of Residential Care Facility that provides more flexibility to developers and future residents in the type of dwellings available for residential care, including providing for independent dwelling units in single-family detached and attached housing, in addition to the previously allowed multi-unit living. These new options provide some privacy for senior adults who only need partial care, and it provides more opportunities for finding compatibility with surrounding development.

The modified version of ZTA 20-08, as recommended by the Board, does define a CCRC under Section 1.4.2., but references the state definition of a CCRC in the COMAR. A new use, Senior Care Community, would be added to the definition section, utilizing the same definition that was provided for a CCRC in the introduced ZTA. The Board finds this less confusing for future applicants that may be navigating both the County Code and the State Code when receiving final approval for their projects.

The Planning Board continues to support the definition for the new Senior Care Community because it clarifies that multiple building types may be utilized within the community, and explicitly states that the associated care services may be located in a building on-site separate from the buildings containing the independent dwelling units. This allows the flexibility desired in designing these Residential Care Facilities from both future residents and existing adjacent communities.

The Board recommends an additional text change not part of ZTA 20-08 as introduced; adding the term Senior Care Community to the definition of Residential Care Facilities in Section 3.3.2.E. of the Zoning Ordinance. An amendment was not previously needed here because this section already references a CCRC. Upon recommending a new defined term of Senior Care Community, it became necessary to add that text to the list of allowed facilities as a Residential Care Facility.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, January 14, 2021.



Casey Anderson
Chair

CA:BB:aj

As Modified by Planning Board

Zoning Text Amendment No.: 20-08
Concerning: Residential Care Facility
– Continuing Care
Retirement Community
Draft No. & Date: 1 – 9/21/20
Introduced: December 8, 2020
Public Hearing:
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- define the term Continuing Care Retirement Community; and
- generally amend the provisions for Residential Care Facilities

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3 * * *

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6 The following words and phrases have the meanings indicated.

7 * * *

8 **Construction Administration or Sales Office:** See Section [3.5.15.A.1](#)

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11 (COMAR) 32.02.01.]]A community providing a continuum of residential
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13 assisted living and residential independent dwelling units and may also include
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15 The health care and services component of the community may be located in a
16 structure physically separated from the independent dwelling units.]]

17 * * *

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24 structure physically separated from the independent dwelling units.

25 * * *

26 **Sec. 2. DIVISION 59-3 is amended as follows:**

27 **Division 3.3.2. Group Living**

28 * * *

29 **E. Residential Care Facility**

30 **1. Defined, In General**

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- 35 a. the facility must meet all applicable Federal, State, and County
- 36 certificate, licensure, and regulatory requirements;
- 37 b. resident staff necessary for operation of the facility are allowed to live
- 38 on-site; and
- 39 c. the number of residents includes members of the staff who reside at
- 40 the facility, but does not include infants younger than 2 months old.

41 Residential Care Facility includes a nursing home, an assisted living
42 facility, a continuing care retirement community, a hospice,[[and]] a
43 group home, and a Senior Care Community. Residential Care Facility
44 does not include a Hospital (see Section 3.4.6, Hospital) or Independent
45 Living Facility for Seniors or Persons with Disabilities (see Section
46 3.3.2.C, Independent Living Facility for Seniors or Persons with
47 Disabilities).

48 * * *

49 **Sec. [[2]]3. Effective date.** This ordinance becomes effective 20 days after
50 the date of Council adoption.

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52 This is a correct copy of Council action.

53

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55 Selena Mendy Singleton, Esq.
56 Clerk of the Council



Zoning Text Amendment (ZTA) No. 20-08, Residential Care Facility – Continuing Care Retirement Community

BB

Benjamin Berbert, Planner Coordinator, CP&P, benjamin.berbert@montgomeryplanning.org, 301-495-4644

JS

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Completed: 01/07/21

Description

ZTA 20-08 would provide a definition for the term Continuing Care Retirement Community as a type of Residential Care Facility.

Summary

Staff recommends approval of ZTA No. 20-08, with amendments, to define a Continuing Care Retirement Community, and to also add a definition for a Senior Care Community as a type of Residential Care Facility. The submitted ZTA initially intended to only define Continuing Care Retirement Communities, however this term is a state regulated term, therefore Staff proposes the term Senior Care Community as an alternative for the desired use type. This ZTA would allow a wider variety of building types for Residential Care Facilities to be built in a campus-like setting providing an alternative to apartment-like living for seniors.

Background/Analysis

The Planning Board, at its meeting dated October 29, 2020, voted 5-0 to transmit a recommendation to the County Council to introduce a ZTA that would define a Continuing Care Retirement Community for the purposes of allowing a senior living project with some amount of stand-alone or one-family type dwelling units. This ZTA, No. 20-08 is the corresponding ZTA to this request.

Residential Care Facilities, covered in Section 3.3.2.E of the Zoning Ordinance, is a type of group care designed for persons in need of some or full assistance in personal services and daily living and currently includes nursing homes, assisted living facilities, continuing care retirement communities, hospice, and group homes. These uses generally require a conditional use approval by the Hearing Examiner through a public hearing process.

Rationale for ZTA Introduction

Montgomery County has seen a steady supply of new Residential Care Facilities constructed, but most have been for seniors requiring advanced levels of nursing care and memory care services, located in apartment buildings where the provided services are housed within the primary structure. Staff has been approached multiple times in recent years by applicants looking to provide communities for seniors that offer a wider variety of housing types and assistance levels within one contained “campus” setting. Some dwellings would be provided under the previously seen model with high levels of care provided in an

apartment building with services within the building, while other more independent units could be built in proximity to the main care giving facility. The goal would be to provide varying levels of care in different types of structures, including detached and attached one-family dwelling types, and apartment building types. Residents needing less intensive care may benefit from the added privacy provided by single-family dwellings, while still having the access and peace of mind knowing necessary services are located within the community.

Staff believes the intent of allowing a Residential Care Facility with some amount of single-family housing units was intended in the Zoning Ordinance by allowing a Continuing Care Retirement Community (CCRC) as an option. However, the Zoning Ordinance never defined a CCRC, leaving the Hearing Examiner's office to rely on the State of Maryland definition of a CCRC, which pertains to financing and operations of such communities rather than the land use composition of them.¹ Defining a CCRC (or similar term) would provide the option for some amount of single-family dwelling types to be included within a Residential Care Facility as part of a Conditional Use approval. This new housing option would afford a level of privacy for seniors who need some but not full assistance. The new building types may also help in context to provide better compatibility with surrounding development than an apartment building type would

ZTA 20-08

ZTA 20-08 as introduced by the Council makes one change to the Zoning Ordinance; adding a definition for a Continuing Care Retirement Community under Section 1.4.2 Specific Terms and Phrases Defined. The following is the proposed text:

Continuing Care Retirement Community: A community providing a continuum of residential occupancy and health care services for seniors. This community must include assisted living and residential independent dwelling units and may also include memory care and/or skilled nursing in one or more buildings of any structure type. The health care and services component of the community may be located in a structure physically separated from the independent dwelling units.

However, as stated earlier, Staff is proposing a modification to the submitted ZTA. Because a CCRC is a defined term with the State of Maryland, there is concern that it would be confusing for Montgomery County to offer up its own, separate definition since applicants for senior housing may be wanting to apply both with the county for this new type of development, and with the state for a CCRC financing structure.

Staff suggests a few modifications. First, the term for a CCRC should still be defined since it is used in the Zoning Ordinance, but should have the following definition:

Continuing Care Retirement Community: A type Residential Care Facility structured in a manner consistent with the Annotated Code of Maryland (COMAR) 32.02.01

¹ Maryland Code Human Services Title Section 10-401 provides: (g) "Continuing care in a retirement community" means providing shelter and providing either medical and nursing or other health related services or making the services readily accessible through the provider or an affiliate of the provider, whether or not the services are specifically offered in the written agreement for shelter: (1) to an individual who is at least 60 years of age and not related by blood or marriage to the provider; (2) for the life of the individual or for a period exceeding 1 year; and (3) under one or more written agreements that require a transfer of assets or an entrance fee notwithstanding periodic charges.

Second, a new term, called a “Senior Care Community” should be defined and added to Section 1.4.2 using the same definition proposed by the ZTA for CCRC’s:

Senior Care Community: A community providing a continuum of residential occupancy and health care services for seniors. This community must include assisted living and residential independent dwelling units and may also include memory care and/or skilled nursing in one or more buildings of any structure type. The health care and services component of the community may be located in a structure physically separated from the independent dwelling units.

By adding a new defined term, one additional change would be needed to the Zoning Ordinance, in Section 3.3.2.E.1 Defined, In General, to add the term Senior Care Community to the list of included types of Residential Care Facilities:

E. Residential Care Facility

1. Defined, In General

Residential Care Facility means a group care or similar arrangement for the care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual, in which:

- a. the facility must meet all applicable Federal, State, and County certificate, licensure, and regulatory requirements;
- b. resident staff necessary for operation of the facility are allowed to live on-site; and
- c. the number of residents includes members of the staff who reside at the facility, but does not include infants younger than 2 months old.

Residential Care Facility includes a nursing home, an assisted living facility, a continuing care retirement community, a hospice[, and]] a group home, and a Senior Care Community.

Residential Care Facility does not include a Hospital (see Section 3.4.6, Hospital) or Independent Living Facility for Seniors or Persons with Disabilities (see Section 3.3.2.C, Independent Living Facility for Seniors or Persons with Disabilities).

This proposed change to the submitted ZTA still provides all the same flexibilities that were contemplated when the Board first transmitted the request to the Council, but clarifies the distinction between state and county defined terms.

Conclusion

Staff believes that ZTA 20-08, as modified with a new separate term for Senior Care Community, still meets all of the identified intents for the ZTA. Applicants will be able to provide new Residential Care Facility communities that provide a wider range of unit types for different desires and required levels of care, which will be better for future residents and potentially an improvement on compatibility.

Attachment

1. ZTA No. 20-08 as introduced.

Zoning Text Amendment No.: 20-08
Concerning: Residential Care Facility
– Continuing Care
Retirement Community
Draft No. & Date: 1 – 9/21/20
Introduced: December 8, 2020
Public Hearing:
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- define the term Continuing Care Retirement Community; and
- generally amend the provisions for Residential Care Facilities

By amending the following sections of the Montgomery County Zoning Ordinance,
Chapter 59 of the Montgomery County Code

Division 1.4. “Defined Terms”
Section 1.4.2. “Specific Terms and Phrases Defined”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-1 is amended as follows:

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

In this Chapter, terms that are not specifically defined have their ordinary meaning. The following words and phrases have the meanings indicated.

* * *

Construction Administration or Sales Office: See Section [3.5.15.A.1](#)

Continuing Care Retirement Community: A community providing a continuum of residential occupancy and health care services for seniors. This community must include assisted living and residential independent dwelling units and may also include memory care and/or skilled nursing in one or more buildings of any structure type. The health care and services component of the community may be located in a structure physically separated from the independent dwelling units.

* * *

Sec. 2. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council