



Committee PHED
Staff: Jeffrey L. Zyontz, Senior Legislative Analyst
Purpose: To receive testimony – no vote expected
Keywords: #Residential Care, #Retirement Community

AGENDA ITEM 9
January 19, 2021
Public Hearing

SUBJECT

ZTA 20-08, Residential Care Facility - Continuing Care Retirement Community

EXPECTED ATTENDEES

NA

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

NA

DESCRIPTION/ISSUE

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 while also requiring assisted living services.

SUMMARY OF KEY DISCUSSION POINTS

ZTA 20-08 would establish the circumstances under which independent living units would be permitted within the Continuing Care Retirement Community use. The Zoning Ordinance currently allows independent living units and residential care facilities in a multi-unit building type if approved as a conditional use.

This report contains:

ZTA 20-08
Planning Board request for introduction

Pages

©1-3
©4-6

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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:

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

15 * * *

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

18
19 This is a correct copy of Council action.

20
21 _____
22 Selena Mendy Singleton, Esq.
23 Clerk of the Council

December 3, 2020

The Honorable Tom Hucker, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

Re: Planning Board Recommendation to County Council for Introduction of a Zoning Text Amendment to amend the Zoning Ordinance (Chapter 59) to define the term Continuing Care Retirement Community.

Dear Mr. Hucker:

On October 29, 2020, by a vote of 5-0, the Board recommended transmitting the attached Zoning Text Amendment (ZTA) to the County Council for introduction. The ZTA would allow the possibility that a senior living project with stand-alone units located in buildings separate from the associated services could be considered for approval pursuant to the Zoning Ordinance's Conditional Use requirements.

Background

In 2017, Montgomery Planning's *Meeting the Needs of Older Adults in Montgomery County*¹ study found that there was a growing need to provide housing that meets the needs of the older adult population in Montgomery County, as the number of older adults will grow significantly in Montgomery County in the years to come. The study also highlighted the already critical role that the eight existing Continuing Care Retirement Communities (CCRCs) play in housing Montgomery County's seniors and the need to increase the number and diversity of age-restricted facilities. CCRCs provide the ability to age in place, as they typically provide long-term uninterrupted care for its residents.

Since the establishment of the residential care use categories for seniors, the world of continuing care has changed and evolved. We're seeing a desire to provide more independent living units and more dwelling unit options. The Zoning Code currently allows (through conditional use approval) independent living units and residential care facilities in a multi-unit building type.

¹ Meeting the Needs of Older Adults in Montgomery County, <https://montgomeryplanning.org/wp-content/uploads/2018/06/Meeting-the-Housing-Needs-of-Older-Adults-in-Montgomery-County-Final5-24-18.pdf>

Although not defined in our code, Continuing Care Retirement Communities (CCRC) also tend to fall within this category of building type. In addition, and because a CCRC is currently only defined in the state code where the uses required include assisted living and nursing care, 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. As such, the Planning Board recognizes the need to create something new that is related to the type of housing that the development industry is trying to build and *is building* in other parts of the country.

The definition for a Continuing Care Retirement Community (CCRC) that we've recommended is one option. It allows for more flexibility and more diversity in the types of dwelling units that could be included in a continuing care facility. The concern that's been raised by some is that we are trying to apply an existing term – CCRC – that has particular requirements at the state level, to this new product that would not have the same requirements. To that end, it may be better to create a new use altogether that really defines and describes the product we desire. However, at this juncture, we are recommending the adoption of a definition for the term "Continuing Care Retirement Community." Should the County Council decide that it would be better to establish a new term for this use, our staff is available to work with Council staff to accomplish this task.

Proposed ZTA

For purposes of evaluating Montgomery County land use, the proposed straightforward ZTA adds a definition for a CCRC to the Zoning Ordinance, thus clarifying the intent by the Planning Department of allowing for more flexibility in senior living unit types while also requiring assisted living services, at a minimum.

The proposed ZTA will simply allow a senior living project with stand-alone units located in buildings separate from the associated services to be considered for approval pursuant to the Zoning Ordinance's Conditional Use requirements. As such, an applicant desiring to develop a senior living project with these characteristics must still satisfy all of the conditional use requirements, including a demonstration of compatibility with the surrounding area, and obtain approval from the Zoning Hearing Examiner after presentation of the Conditional Use case.

Finally, and as noted above, the ZTA will allow for more context sensitive design that should be encouraged, especially given the emphasis on compatibility in connection with a Conditional Use. Thus, instead of only allowing a multi-family building type, independent living units comprised of much less intensive building types (e.g. detached houses, duplexes, townhomes) would be permitted. By definition, these building types are much more compatible

with the surrounding lower density residential zones in which many senior living projects are located and should be a permitted senior living product type.

The Planning Board and its staff will be available to assist the Council in the review of the proposed zoning code revisions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Casey Anderson', written in a cursive style.

Casey Anderson
Chair

CA:GR:aj

Attachments:

Proposed ZTA to define the term Continuing Care Retirement Community

cc: Montgomery County Planning Board
Tanya Stern, Deputy Director, Montgomery Planning
Gwen Wright, Director, Montgomery Planning