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disabilities or rehabilitative needs. For the purposes of this study, staff also includes nursing homes within the umbrella of elder care uses as they provide nursing, rehabilitation, and other health-related services as in-patient care on a continuing basis.

The study's scope encompasses several objectives:

- Increasing the number of zoning districts which allow elder care as a permitted use;
- Permit elder care facilities which provide a continuum of care, from independent living through to nursing care and other forms of long-term care;
- Ensure the ACZO's definitions can be easily understood and reflect current trends in elder care community development;
- Provide a methodology for evaluating development intensity; and,
- Ensure that the ACZO's parking standards adequately account for the anticipated parking demand generated by employees, visitors, first responders, paratransit, and other types of vehicular users.

Per the study's anticipated project schedule, staff will conduct further community engagement this summer, then use this feedback in the development of draft text. This draft will be presented to ZOCO in October 2019.

On July 13, 2019, the County Board adopted a resolution authorizing the County Manager to advertise for public hearings in September for an initial phase of this study. This initial phase would permit assisted living facilities and nursing homes in a limited number of additional zoning districts. The initial phase would incorporate use standards for maximum height, maximum FAR, and minimum lot size for assisted living facilities and nursing homes in the RA8-18 district, and adjust the *assisted living facilities* definition in Article 18 (Terms Defined) to better align with the Code of Virginia's definition for such facilities.

## **Background**

*Institutional Homes:* Staff began the scoping process for this study by conducting a historical review of older editions of the ACZO to understand how elder care uses have, or have not, been regulated through zoning standards.

Residential facilities operated for the support and care of seniors are first alluded to in the 1930 ACZO, which aggregated such facilities with hospitals and sanitariums and required County Board approval prior to establishment<sup>2</sup>. This type of use was permitted in all zoning districts. The 1950 ACZO included the first definition for a more specific use called an

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<sup>2</sup> "Hospital or sanitariums, not treating contagious diseases and not for the care of epileptic or drug or liquor patients, charitable institutions which are not of a correctional nature and which are not intended for the care of insane or feeble-minded patients; provided that any building so used shall be set back not less than one hundred (100) feet from any lot line or street line, and provided further that the exterior appearance of the building shall be in keeping with the residential section in which it is located and that both the appearance and the location shall be approved by the Board of Supervisors of Arlington County."

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*institutional home*. Institutional homes were defined at the time as places “for the care of babies, children, pensioners or old people, except those for correctional or mental cases.”

The definition was revised in 1977 to describe “a place for the care, including day care, of dependent children and persons needing assistance in the activities of normal daily living because of age or disability.” This phrasing remained in the ACZO up until the County Board approved the 2013 reformatting of the ACZO. In addition, institutional homes remained a permitted use, with County Board use permit approval required, in virtually all zoning districts up to the 2013 ACZO reformat<sup>3</sup>. This permitted elder care providers to submit use permit applications for a variety of elder care uses in numerous locations throughout Arlington.

The existing elder care uses currently in operation in Arlington County were approved through the special exception site plan and use permit processes as institutional homes. Staff has compiled a compendium of development history information on these uses in Attachment 1.

*Parking*: Staff also reviewed the older ACZO editions to see how parking requirements for elder care uses have evolved over time. Staff initially found parking for elder care first referenced, indirectly, in the 1950 ACZO. At the time, “hospitals and welfare institutions” were required to provide one parking space for every 800 square feet of gross floor area.

This standard was removed and replaced by the time the 1969 ACZO was adopted. The 1969 ACZO required one parking space for every four beds and one space for every two employees. Doctors were excluded from the employee calculation, because the ACZO further required one space for “each doctor assigned to the staff”. The 1969 parking standard applied to “hospitals, rest homes, nursing homes, sanitariums, convalescent homes, and institutions.”

The 1969 parking standard was in effect at the time of the ACZO reformat and carried forward into the new ACZO. It remains effective in the current ACZO. Outside of the special exception site plan review process, the ACZO does not permit modifications of this parking requirement for elder care uses.

## ***Regulatory Changes with ACZO Reformat***

As part of the ACZO reformatting initiative in 2013-2015, the *institutional home* definition was removed from the ACZO. The new ACZO’s definitions, listed in the new Article 18, included the following definitions for elder care uses which reference specific types of residential settings:

- *Assisted living facility*. A building or group of buildings designed for limited care and assistance of ambulatory persons, with spouses or companions when applicable, but not including any facility licensed as a nursing home or health care facility by the state. A facility providing assisted living care but also licensed by the state as a nursing home or other health care facility shall be considered a nursing home under the zoning ordinance.

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<sup>3</sup> Institutional homes were not permitted in the MU-VS, C-O-Crystal City, and C-TH zoning districts in the pre-2013 ACZO but were permitted in all other districts.

- *Group home.* A residential facility in which more than eight individuals with mental illness, intellectual disability or developmental disability reside, with one or more resident counselors or other staff persons; provided that, for the purposes of this definition and the use of the term within the zoning ordinance, “mental illness or developmental disability” shall not include current illegal use of or addiction to a controlled substance as defined in Va. Code § 54.1-3401; all as provided in Va Code § 15.2-2291.A.
- *Nursing home.* A facility licensed by the state as a health care facility for chronic or convalescent patients or the aged or infirm in which three or more persons are received, kept or provided with food, shelter and care, but not including hospitals, medical clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

The reformatted ACZO also overhauled how permitted land uses were listed as either by-right, permitted as a special exception, or prohibited. To determine whether a particular use was permitted in an individual zoning district, staff would need to first consult the district standards for the particular zoning district, and then refer to a preceding district’s use standards. The reformatting initiative replaced this reference system with tables that listed all the permitted uses in broad categories – public (P), residential (R), multiple-family (RA), commercial/mixed use (C), and industrial (M) districts.

Whereas institutional homes had been permitted in all but three zoning districts prior to the reformatting initiative, only *group homes* were permitted in the new use tables with County Board use permit approval in those same districts. *Nursing homes* were only permitted in S-D, C-O-1.0, C-O-1.5 and C-O-2.5 with the County Board’s approval of a site plan, and *assisted living facilities* were only permitted in the S-D district with site plan approval. The S-D district also required County Board use permit approval.

Based on a review of project documents from the reformatting initiative as well as conversations with staff involved with the ACZO reformat, these recommendations for the new use tables were part of a broader objective to delete outmoded zoning terms and update them with more modern terminology. Staff also used the terminology and references to nursing homes, convalescent homes, housing facilities for the elderly found in the pre-2013 edition of the ACZO in determining how the three new elder care definitions would be listed in the new use tables.

## ***Scope of Study***

Staff’s background research to develop the study’s scope revealed a series of deficiencies in the ACZO which unreasonably complicate and restrict the establishment of additional elder care uses in Arlington County. These deficiencies are further outlined below.

**Issue:** Elder care uses are only permitted in a limited number of zoning districts.

*Why is this an issue?:* As previously discussed, Arlington County’s population of residents aged 60 and older is expected to grow in the coming decades. Currently, only the S-D district allows

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assisted living facilities, and only the S-D, C-O-1.0, C-O-1.5 and C-O-2.5 districts allow nursing homes. To meet the increased demand for elder care uses, and to allow a broader geographic distribution of elder care uses throughout the County, more zoning districts must be permitted to allow elder care uses.

This status quo excludes numerous zoning districts which, when compared to the variety of multifamily residential, commercial, and mixed uses already permitted in the ACZO's use tables, would be suitable for elder care uses.

*Approach:* Staff will review the use tables for the Public (P), Multifamily (RA), and Commercial/Mixed Use (C) districts as part of this study to determine which districts would be appropriate for the inclusion of elder care uses. Staff will evaluate and recommend whether such uses should be permitted by right, by special exception site plan and/or use permit, or if the use should remain prohibited.

Staff would also account for recent trends in elder care development which blend different residential settings within a single facility. Such blending has been described as a continuum of care, where residents have a variety of living quarters available based on their individual needs and levels of independence. Staff supports zoning standards which allow this blending to minimize the need for relocating residents to a different facility and to support the County's broader goals of enabling aging in place.

In the development of the study's scope, staff considered whether to include an evaluation of the County's Residential (R) districts for potential inclusion of elder care uses. Given the lower density residential development pattern presumed by the General Land Use Plan (GLUP) for much of the County's R district-zoned acreage, staff would need to develop supplementary use standards for elder care use development in lower density residential neighborhoods to maintain compatibility with adjacent residences. This additional work would have unreasonably increased the study period, and thus staff chose to focus the study's recommendations on P, RA, and C districts.

Similarly, due to the scarcity of Industrial (M) zoned acreage, and due to the inappropriateness inherent in siting elder care communities adjacent to industrial land uses, staff excluded consideration of elder care uses in M districts.

**Issue:** The ACZO's zoning districts do not regulate development intensity in a uniform fashion. While some districts have standards for the allowed maximum number of dwelling units per acre (du/ac), others use floor area ratio (FAR) for setting a maximum development threshold.

**Issue:** Since the living quarters in most elder care uses typically do not have all of the features of a standard dwelling unit, du/ac is an inappropriate methodology for evaluating the development intensity of a proposed elder care use.

*Why are these issues?:* Elder care uses provide residential living quarters with supportive services and amenities. These can typically include a common dining area, personal care services, gathering/activity space, and clinic space for medical care visits. Most residential living

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quarters in elder care communities have very limited, if any at all, space devoted to cooking and preparing meals. Such living quarters may not be considered dwelling units per the definition specified in Article 18 (Definitions) of the ACZO, since areas for living, sleeping, eating, cooking, and sanitation must all be present for the living quarters to be considered a dwelling unit<sup>4</sup>.

Most of the ACZO's RA districts use du/ac for measuring development intensity, while most of the C districts rely on either solely FAR or a combination of du/ac for residential uses and FAR for nonresidential uses. The S-D, C-O-1.0, C-O-1.5 and C-O-2.5 all specify a maximum FAR for elder care uses in their use standards separate from the maximum FAR specified for office, commercial, multifamily, and hotel uses.

The ACZO would benefit from a standardized methodology across all zoning districts which provides ease of administration for staff and predictability for providers during the development review process. Using du/ac as the sole methodology to regulate development intensity creates inherent challenges with adequately assessing the land use characteristics and impacts associated with elder care communities. The parking demand and vehicular traffic patterns for elder care uses differ notably from one-, two-, and multifamily development, and staff will need to evaluate these issues further.

*Approach:* Staff will continue exploring the use of FAR as the standard measurement of development intensity for elder care uses. If FAR was the preferred alternative, staff would examine each of the applicable zoning districts to determine which districts would need adjustments to their use standards for incorporating FAR for elder care uses. Staff may also consider an omnibus use standard in Article 12 (Use Standards) which establishes FAR as the standard measurement across all zoning districts.

**Issue:** The ACZO's parking table, listed in §14.3.7, is not optimized for effective administration of parking requirements for elder care uses. Only nursing homes are explicitly listed in the parking table, and other elder care uses are parked at the rate specified for *hospitals, rest homes, sanitariums, convalescent homes & institutions* per interpretation by the Zoning Administrator.

*Why is this an issue?:* As previously discussed, the parking rate used for elder care uses dates back to at least the 1969 edition of the ACZO. The scale and nature of elder care has changed significantly in the past 50 years, and the modern land use characteristics of today's assisted living facilities, nursing homes, and continuing care retirement communities could not have been accounted for in the development of the 1969 parking rate. This parking standard also was adopted prior to Arlington's transformation into a much more transit rich environment that now gives elder care employees and visitors greater access and choice of transportation options.

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<sup>4</sup> Staff evaluated whether to include *independent living communities* as an elder care use during the scoping of this study. Staff consider independent living as a form of age-restricted multifamily housing; while residential developments described as independent living communities often have additional residential amenities for their older residents in comparison with a standard multifamily development without age restrictions, such uses do not have the integrated care programming that comes with residence at an assisted living center or nursing home. For these reasons, staff has not included independent living communities within the scope of this study.

In addition, elder care uses can blend different types of care and/or serve older residents with specific needs that vary from facility to facility. This variety would lend itself to a more flexible approach to reviewing parking requirements on a case-by-case basis, particularly with the understanding that the parking impacts may vary based on the specifics of the elder care development's composition. While residential parking demand would be negligible given that most older residents rarely have cars, elder care uses can have parking associated with multiple staff shifts to manage as well as elevated levels of visitor activity.

*Approach:* In consultation with project team members from the Department of Environmental Services (DES), staff expects to develop a new parking rate for elder care uses that accounts for the anticipated parking demand generated by employees, visitors, emergency medical services, health care providers, paratransit, and any other vehicular activity. Staff will also evaluate the feasibility of incorporating standards which would allow modifications of the minimum parking requirement when a provider can demonstrate that a reduced parking amount would not create adverse impacts on the surrounding neighborhoods or transportation network.

**Issue:** The definition for *assisted living* precludes an elder care provider's ability to provide a continuum of care within a single facility by excluding nursing facility care.

**Issue:** The ACZO's residential use categories refer to assisted living facilities with individual dwelling units as household living, and assisted living facilities without individual dwelling units as group living.

*Why are these issues?:* The ACZO's definitions and use categories do not reflect current development trends for elder care uses. The *assisted living* definition prevents the pairing of such services with those of a nursing home. Based on staff's initial research, staff sees several positive benefits to enabling the grouping of such services.

In addition, the references to assisted living facilities with or without individual dwelling units create an unnecessary complexity in the ACZO. Based on staff's research, assisted living facilities do not have living quarters which meet the ACZO's definition for dwelling units because they do not have kitchens or cooking implements. Residential communities with individual dwelling units for older persons are typically described as *independent living communities*, a term not used or defined in the ACZO. Independent living communities, which would be multifamily developments with an age-restriction limited to just older residents, will provide residents with additional amenities but not to the level of care and support of an elder care provider. Staff considers independent living communities as a form of multifamily development already acknowledged as a household living use in §12.2.3.A(2) in the ACZO.

*Approach:* Staff will propose revisions to the existing ACZO definitions to add flexibility for allowing elder care uses which provide continuums of care. Staff will recommend companion edits to the residential use categories so that elder care uses are correctly categorized.

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## ***Engagement Process***

Expanding the number of elder care communities in Arlington County would have broad effects on the County's residents. Achieving the study's objectives would enable the approval and establishment of additional assisted living facilities, nursing homes, and similar communities and provide greater housing choices for Arlington seniors. Such choices would allow Arlington residents who need assistance with ADLs to remain in Arlington and not leave the County simply due lack of suitable housing options.

Given these broad implications, staff will use tools primarily from the *Involve* level of engagement.

Staff has placed an overview of the study's scope, including the study schedule and key meeting dates, on the County's Zoning Studies website. Staff contact information can be found here, along with a comment submission inbox and other informational resources. Staff will continue its standard outreach procedures to email subscribers who have signed up for updates related to ZOCO meetings and zoning ordinance amendments.

Staff has made an introductory briefing to the Commission on Aging in April 2019 and plans to present staff's recommendations for ACZO text at the Commission on Aging's October meeting. Staff will also brief the Citizens Advisory Commission on Housing and the Disability Advisory Commission in November.

Staff also plans to hold a community forum in September to share information on the study's initial findings, as well as to collect community feedback on potential options for achieving the study's objectives of expanding elder care uses to additional zoning districts. This community forum will likely be coupled with a Countywide survey, available online and promoted via several engagement outlets, to test and corroborate staff's research and assumptions on future demand for elder care.

Moreover, staff has incorporated stakeholder interviews with elder care providers as part of the initial phase of the study. These interviews have informed staff of current development trends in elder care uses so that staff recommendations can be structured to provide reasonable clarity and predictability to the development review process for future elder care communities. The study's project team has visited two existing elder care communities and plans to make additional site visits to add to this knowledge base.

Feedback collected at commission meetings on topics outside of the study's scope or on items which are not incorporated into staff's recommendations will be documented in a comment/response matrix that accompanies the staff reports reviewed by the Planning Commission and County Board.

## ***Anticipated Schedule***

### *Initial Phase*

- July 17, 2019: ZOCO Meeting
- September 9, 2019 (tent.): Planning Commission final consideration and recommendation
- September 21, 2019 (tent.): County Board final consideration and action

### *Community Forum*

- September 2019 (open to all members of the public)

### *Review of Study's Recommendations*

- October 15, 2019: ZOCO Meeting
- October 21, 2019: Commission on Aging
- November 7, 2019: Citizens Advisory Commission on Housing (info item)
- November 19, 2019: Disability Advisory Commission

### *Adoption of Study's Recommendations*

- November 16/19, 2019: County Board Request to Advertise
- December 2/4, 2019: Planning Commission final consideration and recommendation
- December 14/17, 2019: County Board final consideration and action

## ***Attachments***

- Attachment 1: Development Approval Information for Arlington County Elder Care Uses