

Conclusions:

- The 5 acre minimum appears to be an arbitrary number, chosen to keep projects on the larger side as opposed to single homes designated “elderly housing.” This is based on staff review of the minutes and an email from Brooks More.
- Under the existing ordinance, there are about 240 properties that are 5 or more acres within the RCCF Overlay district, meaning they are eligible to take advantage of these standards.
 - If the minimum lot size were changed to 200,000 square feet, then 19 more properties (259 total) would be added.
 - Only 5 of these are undeveloped.
 - 24 more properties (264 total) would be eligible if the minimum lot size was 4.5 acres
- In summary, changing the minimum lot size to either of these numbers would not seem to reach a tipping point at which there would be a rash of applications for small (under 4-5 units) Assisted Living Facilities or Retirement Communities.

Retirement Community and Care Facility Overlay District – Excerpts from LUOC Minutes

7/21/10

The C-1 zone is the only District that allows a progression from housing for older persons, to assisted living, to a nursing facility. However, in the C-1 District, Housing for Older Persons is only allowed on the first floor if the units meet Federal affordable housing guidelines. The LUOC will continue this discussion at its next meeting.

8/4/10

The Committee discussed the need for:

- Clarity regarding differing definitions of housing.
- Reevaluation of the zones where those uses would be allowed, as well as the standards for each zone.
- The size of any proposed facility may be impacted by the lack of sewer availability and the need for extensive septic treatment systems.
- There is no definition for assisted housing of people younger than 55 years.
- By its nature housing for older persons is discriminatory because it is age restricted. To be able to do that it must meet federal guidelines.

9/1/10

The Committee discussed definitions for various types of residential care.

- The creation of retirement community overlay districts was a possibility.

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- Currently there was no zoning district in Windham that would allow a progression of care from independent living to assisted living to nursing care in one place. The Committee would like to allow this type of elderly housing community.
- What was the impact to neighbors, i.e. ambulances, fire engines, increased traffic? As a result, buffering would be an important consideration.
- Some housing should be age-restricted so the residents could more easily establish a sense of community.

There were three categories that developed:

1. Senior housing, 55 and older, unassisted living. This would not be desirable in the Enterprise Development or Industrial zones, but would work well in Commercial I and Commercial II areas.
2. Under 55, assisted living. This would not be desirable in the Industrial or Enterprise Development zones.
3. Over 55, assisted living. This would not be desirable in the Industrial, Enterprise Development, or Farm Residential zones. There was discussion about encouraging it along major roads, which ran through the Farm zone.

9/15/10

The Committee reviewed proposed changes to Section 300, definitions for types of elderly housing. Previously the Committee had thought definitions for differing types of housing should be combined. The Committee reconsidered.

The Committee reviewed standards.

- Parking requirements. It was important to include staff and visitor parking in the minimum requirements. It was also noted that the need for parking spaces may vary according to the abilities of residents.
- Setbacks would vary according to the facility. It was suggested that the setbacks should be reduced from what was currently proposed.

Discussion occurred regarding requirements for location of the facilities. Some issues to be resolved were:

- The requirement for such facilities to be on public water.
- Would such facilities be allowed on private roads and if so, how close to a public road may they be required to be?
- Was there adequate land remaining in town to accommodate such facilities and where was it located?

10/6/10

Parking standards were discussed:

- ❖ Employee parking should be included for each type of use.
- ❖ There was an assumption that those living in smaller dwelling units would have fewer vehicles to park.
- ❖ There was some concern that a developer would use the minimum standard to save money and there would not be enough parking.

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- ❖ The minimum standard per dwelling unit should be increased for each additional bedroom and one space per employee would be required based on the largest shift.

Concern was expressed that it would be hard to have a community on a five acre lot if 20,000 square feet was required per dwelling unit.

- ❖ The minimum required per dwelling unit should be reduced from 20,000 square feet, but the minimum requirement would be added to for each extra bedroom.
- ❖ The density requirement for a retirement community should be different than for assisted living and nursing care.
- ❖ There should be a limit on the allowable number of bedrooms in a unit.
- ❖ State and federal laws regarding septic requirements would have some effect on the allowable density.
- ❖ There should be an incentive offered for providing retirement, assisted living and nursing care in one facility.

10/20/10

The Committee continued its discussion of a new overlay zone for retirement communities and care facilities.

Density standards:

- ❖ Units would be limited to three or fewer bedrooms; density would vary according to the number of bedrooms per unit.
- ❖ Density would depend on the underlying zoning district so as not to allow so many units that it was out of character with the surrounding area.

Water supply requirement:

- ❖ Based on standards of the Maine Health and Human Services Department, a well could be considered a public water supply if it served 25 people and had 15 connections. There would be monitoring and maintenance requirements.
- ❖ It was suggested that retirement communities could be served by a well. All other types of uses in the overlay zone would have to obtain water from a public utility connection such as the Portland Water District.

There would be a provision regarding properties within 1,000 feet of a road. If there was a portion of the lot that exceeded that distance all of the property could still be used.

If a property were split between two or more zoning districts, the Land Use Ordinance states that the less restrictive zone could not apply more than 50 feet into the more restrictive zone. If the restrictive was to apply for more than 50 feet into the property it had to be appealed to the Zoning Board of Appeals.

11/3/10

The Committee discussed the proposed 20,000 square foot per unit density in the Farm District and 15,000 square foot per unit density in the Farm Residential districts. Several members reasoned that this density would not allow enough density for the construction of an elderly housing project.

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Peter Busque made a motion to allow a density of 5,000 square feet per unit with a required 100 foot buffer in the Farm and Farm Residential districts.

2/16/11

Staff has finalized the Housing for Older Persons recommendation for submittal to the Town Council. The Committee is proposing an overlay zone that includes both ordinance standards and a zoning map amendment. The Committee reviewed its recommendation and decided to move forward with the submission to the Town Council.

5/18/11

Housing for Older Persons was presented to the Town Council. The Town Council had sent it back to the LUOC for clarification of some points.

The Town Council reviewed the LUOC's recommendation at its May 17th meeting. The Council requested several revisions and returned the issue to the LUOC. The issues to be discussed are as follows:

- Older Persons housing types currently allowed in the zoning districts should be continued. These uses would meet the zoning district standards. Conversely, the proposed overlay zone will focus on larger older persons housing projects.
- "Retirement Community" should be added as a use in all residential districts (at the density standard of those districts).
- Update the district table.
- Limit the maximum number of beds in boarding homes outside of the overlay district.
- Limit the hours of solid waste removal from dumpsters, in the overlay district.
- Require screening for parking of more than five vehicles.
- Require lighting to use a 90 degree cut off fixture.

The Committee discussed the Council's request and also other issues with the draft recommendation. The LUOC requested that staff address the following:

- The standards need to clarify that the standards of the overlay zone override the more stringent standards of the underlying zoning district.
- In cases where the underlying zoning district has an equal or more stringent setback requirement, the setback standard in the overlay district should be removed.
- On a corner lot, the project should have the flexibility to choose the front lot for setback and building orientation.

7/20/11

Section D (5) (d) should be changed to allow elderly housing on first floor for all properties that qualify for the RCCFO District.

10/23/12

Adopted by Town Council