



DIVISION OF PLANNING FREDERICK COUNTY, MARYLAND

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TO: Board of County Commissioners

FROM: Eric Soter, Director, Division of Planning

DATE: May 13, 2009

RE: A and RC Zoning District Use Regulations and Definitions (ZT-09-03)

ISSUE

In July of 2003, the Citizens Zoning Review Committee (CZRC) delivered a report to the Board of County Commissioners (BOCC). The CZRC represented a diverse group of stakeholders from the County who met over several months and reviewed the zoning ordinance by theme. The CZRC Report summarizes recommended amendments and revisions to the Zoning Ordinance that were identified by the Committee. The Report provides the basis for review of themes, additional research, and eventual presentation of recommendations to the BOCC for text amendments to the zoning ordinance.

In April of 2007, the BOCC initiated their FY2007 – FY2011 Strategic Plan. A key objective of the Land Use Goal was to *examine the zoning ordinance to determine priorities and initiate a phased approach for zoning text amendments*. In the summer of 2007 staff presented a thematic/topical approach to phase an overall rewrite. The first theme identified as part of the re-write process is the Agricultural (A) and Resource Conservation (RC) zoning districts Use Table and Definitions.

Over the past several months the BOCC and the Frederick County Planning Commission (FCPC) have held several worksessions to prepare a draft text amendment to the zoning ordinance to address this first theme.

On April 23, 2009 the BOCC voted to initiate a text amendment and send the A/RC Use and Definitions Text Amendment ZT-09-03 to public hearing for a FCPC recommendation and ultimately a BOCC decision.

A Planning Commission Transmittal Memo has not been included with the attached staff report and text document as the FCPC public hearing is scheduled to be held on May 27, 2009. Staff intends to deliver the Transmittal Memo at the agenda briefing to be held on May 28, 2009.

BACKGROUND

The A/RC Use and Definitions text amendment project began with review of the CZRC report which provided the basis for initial recommendations, additional research, and eventual presentation of recommendations to the BOCC. Prior BOCC votes on the CZRC recommendations were also reviewed.

In September of 2007 the current BOCC provided direction to Staff regarding the permitted uses in the Agricultural (A) and Resource Conservation (RC) zoning districts as well as the appropriate scale and intensity for those uses.

Based on this information as well as the existing purpose statements for the A and RC zoning districts, Staff reviewed definitions, the Use Table, and existing special exception criteria within the zoning ordinance. Recommendations were made to provide definitions for all existing and proposed uses permitted within the A and RC zoning districts and definitions for related terms. In addition, Staff made recommendations for editing the Use Table to remove or add specific uses as permitted within the A or RC zoning districts, and change the processing of specific uses. This resulted in the A/RC Use and Definitions *Draft Text Amendment*.

Over the past year, Staff has conducted worksessions with the BOCC on April 10th, April 17th, May 6th, September 30th, November 13th of 2008, as well as February 24th, April 7th, and April 23rd of 2009 to provide for review and direction on the draft text amendment. Worksessions with the FCPC were held on April 16th and May 21st of 2008, and April 22nd of 2009.

Public input has been received throughout the year long process, both during worksessions and through letters and e-mail which has resulted in several edits to the draft text amendment.

In October of 2008 two Community Outreach Meetings were held with the general public. On October 20, 2008 the Community Outreach Meeting focused on places of worship, civic community centers, civic service clubs, and the Institutional and Open space Recreation floating zoning districts. Approximately 200 people attended the meeting held on October 20th. The Community Outreach meeting held on October 22, 2008 focused on landscape contractors, nursery land uses, and golf related land uses. Approximately 30 people attended the meeting held on October 22nd to discuss and provide input regarding general changes to the Agricultural and Resource Conservation zoning districts and specifically those changes related to landscape contractor and nursery uses.

In addition, due to public concern about the impact the proposed text amendment would have on places of assembly, the BOCC created a Place of Assembly workgroup. The BOCC met with the workgroup to review and consider the recommendations provided by the workgroup. After review of the recommendations and discussions with the workgroup, The BOCC directed Staff to make limited changes to those portions of the text amendment related to Place of Assembly.

The extensive review, worksessions, and public input over the last year has resulted in ZT-09-03 A/RC Use Table and Definitions, a text amendment to update and edit the provisions within the zoning ordinance regulating development within the Agricultural and Resource Conservation zoning districts. The text amendment creates both floating and Euclidean zoning districts for Open Space Recreation and Institutional uses. These changes result in regulations that more closely reflect the zoning district purpose statements and provide a clearer more concise set of regulations for implementation by Staff and the general public.

TEXT AMENDMENT OVERVIEW

The Text Amendment Overview section below contains a summary of the proposed changes. The summary includes the Zoning Ordinance Section and heading followed by a description for each proposed change.

Page numbers follow the zoning ordinance section number to provide the location of the related section within Exhibit – 1 A/RC Use and Definitions Text Amendment (ZT-09-03). Within the text amendment proposed new text is shown in **BOLD CAPS** with text to be deleted shown in ~~strikethrough~~.

ARTICLE III: REVIEW AND APPROVAL PROCEDURES
DIVISION 2. SPECIAL EXCEPTIONS, VARIANCES, AND APPEALS
§1-19-3.210 Special Exceptions [Page 1]

This section of the zoning ordinance contains the general special exception criteria that a development must meet to receive approval from the Board of Appeals. The criteria are general in nature and apply to all uses permitted as a special exception through the zoning ordinance. These criteria are to be applied in addition to the specific criteria for various uses contained within Article VIII Specific Use Regulations Division 3. Special Exception Uses.

Edits to this section address conflicts that have resulted in the past when comparing a potential special exception use with a use that does not require a special exception. Existing text in §1-19-3.210 (B)(3) has been deleted. Proposed new language will address adverse impacts of a proposed special exception use at a particular location compared to other possible locations.

Additional edits within this Section include updates to §1-19-3.210 (F). Existing outdated text has been removed. Proposed text provides for customary incidental accessory uses in conjunction with a special exception. These changes will clarify the intent, approval process, and location in the zoning ordinance for accessory uses incidental to a special exception.

ARTICLE IV: REGULATIONS APPLICABLE TO ALL DISTRICTS
DIVISION 1. GENERALLY
§1-19-4.110 Exemption of Essential Services [Page 1]

Throughout the text amendment, solid waste operations have been clarified and defined. The changes include providing definitions within Section 1-19-11.100 and edits to Section 1-19-4.110. Section 1-19-4.110 provides guidance on the exemption of essential services but does not address solid waste. As provided in the Code of Public Local Laws of Frederick County Part II, Section 2-13-3(d)(5)(iii) “That in exercising the powers granted by this chapter, the board is not subject to the provisions of any planning regulations or zoning ordinances enacted under the provisions of Article 66B of the Annotated Code of Maryland.” Language has been added to Section 1-19-4.110 to reflect these existing provisions in the Code of Public Laws.

DIVISION 3. ACCESSORY STRUCTURES
§1-19-4.300 Definition
§1-19-4.300.1 Location [Page 2]
§1-19-4.300.2 Accessory Structures on Residential Properties [Page 3]

Edits to these sections include a minor update to the heading in §1-19-4.300, and adding new text that provides regulations to address the height and location of accessory structures. The proposed regulations will provide general direction regarding all accessory structures, as well as those located specifically on residential properties.

ARTICLE V: ZONING MAP AND DISTRICTS

DIVISION 2. ZONING DISTRICTS

§1-19-5.210 Resource Conservation Zoning District (RC) [Page 3]

In addition to other criteria, the RC zoning district has been applied to specific areas of 100-year floodplain across the County. However, the purpose statement for the RC district within Section 1-19-5.210 does not list floodplain among the other environmentally sensitive areas within the Resource Conservation zone. This language has been edited to specifically list FEMA floodplain which is consistent with the past application of the RC zoning district as well as the Supplementary District Regulations §1-19-7.200 of the zoning ordinance.

DIVISION 2. ZONING DISTRICTS

§1-19-5.260 Euclidean Institutional Zoning District (Ie) [Page 3]

§1-19-5.270 Euclidean Open Space Recreation Zoning District (OSRe) [Page 4]

As part of this text amendment, Euclidean Institutional and Euclidean Open Space Recreation zoning districts have been created to provide for the continued existence of specifically identified land uses in existence or with final site development plan approval on the effective date of the ordinance.

These new sections provide purpose statements for the Euclidean Institutional and Euclidean Open Space Recreation zoning districts. Through application of these Euclidean districts, the existing uses will be permitted to remain, continue functioning, and expand within the regulations that are proposed within §1-19-8.480 which are discussed below. New uses establishing in the future will be permitted solely through the floating zoning districts or as otherwise permitted by the zoning ordinance.

DIVISION 3. USE TABLE

§1-19-5.300 Generally [Page 4]

The Zoning Ordinance does not address the situation where a specific use is not listed in the Use Table reflected in Section §1-19-5.300. Language has been added to §1-19-5.300 to address unlisted uses and clarify the process for determining whether a specific request is permitted or prohibited by the zoning ordinance.

§1-19-5.310 Use Table [Page 5]

Edits were made to the Use Table to add or remove uses and/or change the processing of specific uses. In addition, each use was reviewed and considered for change based on the existing definitions for the A and RC zoning districts, as well as the ability to identify scale and intensity parameters that would enable the use to function in a compatible manner within the zoning district.

Individual uses and associated changes to the Use Table in §1-19-5.310 are discussed below.

Natural Resources Uses

Commercial Greenhouses and Nurseries [Pages 5, 8, & 10]

In an effort to define and separate landscape contracting from nursery uses, and provide a more simplified approval process for a purely nursery wholesale and/or nursery retail uses, several edits have been made within the text amendment.

The 'Commercial greenhouses and nurseries' use has been deleted within the Use Table and replaced with 'Nursery retail', 'Nursery wholesale', and 'Landscape contractor' uses. Within the Commercial Uses – Retail category, 'Hardware' has been edited to reflect 'Hardware/garden center', and 'Landscaping contractor' has been added to the category of Commercial Business and Personal Services. As a more intensive use, Landscape Contractor is not recommended as a permitted use in the RC zoning district.

'Nursery Retail' is permitted subject to site development plan approval (PS) in the RC, A, GC, LI, and GI zoning districts due to its higher land use intensity level and the associated customer traffic. 'Nursery Wholesale' as an agriculturally related operation is permitted subject to design regulations (P) in the RC, A, GC, LI, and GI zoning districts. As a commercial retail operation, 'Hardware/garden center' is permitted subject to site development plan approval (PS) in the VC and GC zoning districts. Lastly 'Landscaping contractor' is permitted as a special exception in the A zoning district and with site development plan approval in the GC, LI and GI zones. Definitions for each use have been added to §1-19-11.100, as well as the related term Yard Storage.

Existing Supplementary District Regulations in §1-19-7.510 General Commercial and Highway Service and in §1-19-7.600 Industrial Districts have been edited to include language requiring that storage and operations shall be conducted within these districts in completely enclosed buildings. Storage outdoors may be permitted only when completely screened.

Existing special exception criteria in §1-19-8.331 Commercial Greenhouses or Nurseries in RC or A Districts has been edited to remove the RC district, and apply to Landscape Contractor. Several threshold requirements have been added to define scale and intensity in the Agricultural zoning district. The thresholds address building square footage, impervious surface area, public road and access requirements.

The changes made to these various sections establish parameters for landscape contractor and nursery uses within the Agricultural zoning district where the purpose is to preserve productive agricultural land and the character and quality of the rural environment and to prevent urbanization where roads and other public facilities are scaled to meet only rural needs.

Farm Winery Tasting Room [Page 6]

As a retail operation, 'Farm Winery Tasting Room' has been removed as a permitted use in the RC zoning district.

Farm Brewery and Farm Brewery Tasting Room [Page 6]

As a similar use to 'Farm Winery', 'Farm Brewery' and 'Farm Brewery Tasting Room' have been added as permitted uses to the Use Table following the same review and approval process as established for wineries.

The scale and intensity of the 'Farm Brewery' land use is restricted through the definition that has been provided in §1-19-11.100 which limits the brewery to no more than 15,000 barrels of malt beverages per year, and at least a majority of one of the primary grains must be produced on the farm.

Roadside Stands – retail and wholesale [Page 6]

The CZRC and BOCC recommended changes to ‘Roadside Stands – retail and wholesale’ to permit small scale mom and pop operations by right with a square footage maximum. This has been accomplished by replacing the existing use with ‘Limited roadside stand’ and ‘Commercial roadside stand’.

Rather than all roadside stands permitted subject to site development plan approval, ‘Limited roadside stand’ has been created to represent the mom and pop operation as a principal permitted use subject to design regulations (P) in the A and RC zones and limited to no more than 300 square feet which may incorporate a structure. This facilitates the operation of small-scale roadside stands through a less onerous review process while still providing for the appropriate review of the larger operation.

‘Commercial roadside stand’ maintains the larger commercial operation as a principal permitted use subject to site development plan approval (PS) in the A and RC zones. Within §1-19-11.100 the original definition of ‘roadside stand’ has been utilized for both types of roadside stands with an addition of a maximum structure size for the smaller operation. Both uses continue as currently permitted in the R1, R3, VC, HS, and GC subject to site development plan approval (PS).

Forestry [Page 6]

A separate listing for ‘Forestry’ has been maintained in the Use Table and a definition has been added to §1-19-11.100.

Sawmill [Page 6]

‘Sawmill’ has moved from permitted subject to site development plan approval (PS) to permitted as a special exception (E) in the A and RC zoning districts. In addition, a definition has been added to Section 1-19-11.100. Special Exception approval criteria have been created in a new Section 1-19-8.347, utilizing existing Solid Waste Operation special exception criteria as a basis.

Residential Uses

Caretaker residence and Accessory Apartment [Page 7]

The ‘Caretaker residence’ land use has been expanded as a permitted use subject to site development plan approval (PS) within the A and RC zoning district, and a definition has been provided within §1-19-11.100. As a related term, a definition for ‘Accessory apartment’ has also been provided.

Transient Housing

Boarding House or Tourist Home [Page 7]

As outdated terms, ‘Boarding house or tourist home’ have been replaced by ‘Bed and breakfast’. Existing definitions have been deleted and a new definition has added to §1-19-11.100.

Bed and Breakfast is permitted subject to site development plan approval (PS) in the RC, A, VC, and GC zoning districts. As provided within the definition, the use will be permitted in an owner occupied residence with not more than four guest rooms. Specific regulations related to a ‘Bed and breakfast’ have been added within §1-19-8.410 of a new division titled Permitted Uses further discussed below.

Related Issue: During discussion of residential uses the BOCC directed Staff to create provision for a dude ranch/guest farm type establishment within the A and RC zoning districts. To that end, 'Guest Farm' was created as an alternative to other residential accommodations available within the zoning ordinance.

Rather than being listed in the Use Table, 'Guest Farm' is defined within §1-19-11.100 and has also been added as a permitted use through the definition of 'Agritourism Enterprise'. Approval of a 'Guest Farm' would be reviewed through the process established for 'Agritourism Enterprise' in §1-19-5.310 Use Table.

Travel Trailer Park and Tent Campground [Pages 7 & 15]

Both 'travel trailer park' and 'tent campground' have been moved from the category of Transient Housing to the category of Open Space and Institutional. 'Travel trailer park' has been replaced with the term 'recreational vehicle campground'.

With the removal of these two uses from this category, the title of the category has been updated from Transient Housing to Temporary Housing to better reflect the intent of the use category. Further discussion of these land uses has been provided within the heading of Tent Campground and Recreational Vehicle Campground below.

Commercial Uses - Retail

Antique, Artisan and Craft Shops [Page 7]

Antique, artisan and craft shops are currently permitted as a special exception in the Agricultural and Resource Conservation zoning districts. However, under current regulations, a new primary commercial use could be constructed in the Agricultural zone without size limitations other than minimum lot size, setbacks, and height requirements for a single-family dwelling. Existing criteria (§1-19-8.323) restrict development to a structure existing as of 1/24/77 but only applies this restriction within the RC district.

For these reasons 'Antique, artisan and craft shops' has been removed as a principal permitted use in the A and RC zones and will be permitted solely as a home occupation. As a special exception the use is a primary commercial use, as a home occupation the use is reduced to a secondary or accessory use with several limitations. The existing home occupation standards limit the size and intensity of the use and structure but provide a range of options depending on the specific type of home occupation that develops. In addition, within existing §1-19-8.240 (A)(5)(c)(3) the provisions permit an increased accessory structure size for the A and RC zone.

The Use Table has been updated to reflect this change and special exception criteria in §1-19-8.323 have been deleted. Edits have been made to the Home Occupation definition within §1-19-11.100 and to §1-19-8.240 Accessory Uses on Residential Properties to specifically permit antique shops in the A and RC Districts as a home occupation.

In a related issue the term 'Hobby/craft shop/gallery' as a permitted use within the Use Table has been edited to provide clarity and eliminate duplication with the 'Antique, artisan and craft shops' listing. 'Hobby shop' has been retained as separate use. As craft shop is listed within 'Antique, artisan and craft shops', it has been removed from the 'Hobby shop' listing. 'Gallery' has been added to 'museum', which is permitted in the VC, HS, and GC. 'Museum/gallery' and 'Hobby shop' have been defined and added to §1-19-11.100.

Farm Equipment Sales or Service [Page 8]

'Farm equipment sales or service' is permitted as a special exception in the Agricultural zone. The CZRC recommended strengthening the special exception criteria.

'Farm equipment sales or service' special exception criteria in §1-19-8.334 have been updated to include provisions similar to those for 'Automobile repair shop'. Parking has been limited to areas outside of setbacks, landscaping includes screening where adjacent to a residential use or zoning district, and the use has been limited to arterials rather than merely paved surfaces. The existing special exception criteria in Section 1-19-8.334 also apply to feed or grain mills in the A district, and agricultural wholesaling or processing in the A and RC districts, however, the new provisions were specifically created to apply only to 'Farm equipment sales or service'.

The heading in §1-19-8.334 has been updated to reflect 'Agricultural products processing' rather than 'Agricultural wholesaling or processing' which is consistent with the term found within the Use Table. A definition for 'Farm Equipment sales or service' has been added to §1-19-11.100.

Horse Tack and Saddlery Shop [Page 8]

As a principal permitted use, 'Horse tack and saddlery shop' would be commercial in nature with fairly limited special exception criteria permitting commercial development within the Agricultural zoning district. Typically a 'Horse tack and saddlery shop' would locate in a commercial area or associated with a riding stable or similar use. For these reasons the use was removed as a principal permitted use in the A zoning district and has been permitted as an accessory use to a commercial boarding stable similar to Carroll County.

A definition for 'Horse tack and saddlery shop' has been added to §1-19-11.100. Changes in processing are reflected in the Use Table in §1-19-5.310 and the creation of §1-19-8.230.1 Horse Tack and Saddlery Shop Accessory to a Commercial Boarding Stable in the Agricultural District. The accessory use regulations are discussed further within a heading of the same title located below.

Pet Store and Pet Training/Day Care/Grooming Facility [Page 9]

As a retail establishment 'Pet store' has been moved from the category of 'Animal Care and Service' to 'Commercial Uses – Retail'.

A new use, 'Pet training/daycare/grooming facility', has been added to the Use Table under the category of 'Commercial Uses – Retail' and permitted subject to the site development plan approval (PS) process in the VC and GC zoning districts. Although currently permitted as an accessory to a principal permitted use, requests for this type of use as an independent facility has increased. As a commercial development 'Pet training/daycare/grooming facility' is not recommended as a permitted use within the A or RC zoning districts, however, permitting these type of uses as a customary accessory use to a kennel or veterinary clinic will continue.

Placing these uses in the commercial category of the Use Table is consistent with the past practice of separating animal related retail uses from animal care and service uses.

Commercial Business and Personal Services

Landscape Contractor [Page 10]

'Landscaping contractor' has been added to the category of Commercial Business and Personal Services. As a more intensive use, Landscape Contractor is not recommended as a permitted use in the RC zoning district.

The use will remain permitted by special exception in the Agricultural zoning district with modifications to the special exception criteria. A further discussion of this topic is provided above under the heading of Commercial Greenhouses and Nurseries.

Country Inn [Page 11]

The definition of 'Country inn' within §1-19-11.100 has been updated. The new definition provides a distinction between a 'Country inn' and a 'Bed and breakfast' and more accurately reflects activities associated with a 'Country inn'.

Sign regulations have been updated throughout the special exception criteria to provide consistency for those uses permitted within the A and RC zoning districts. The existing sign regulations within §1-19-8.333 Country Inns in RC and A Districts have been reduced from 30 square feet to 25 square feet which is consistent with other special exception uses within the A and RC zoning districts.

Wholesaling and Processing

Explosive Materials Storage [Page 11]

At the time of initial BOCC discussion regarding permitted uses within the A and RC zoning districts 'Explosive material storage' was considered for removal from the A zoning district and instead, permitting it in the General Industrial (GI) zone. However, the location of GI near GC zoning districts and high population areas within the growth areas raises concerns with the inherent volatility of the products associated with the use. As the County population has grown tremendously in the past years it is a challenge to locate this use appropriately to protect the citizenry and personal property of County residents. For these reasons the use has been removed from the Use Table in §1-19-5.310. The related special exception criteria located in §1-19-8.351 have also been deleted.

Removal of this use eliminates the concentrated, large storage facility as a primary use. However, the use of detonable materials continues to be permitted and regulated as an accessory to a principal permitted use in the GI zone as provided in §1-19-7.610 (l) Industrial District Performance Standards.

Automobile and Related Services

Automobile Repair or Service Shop [Page 12]

'Automobile repair or service shop' was discussed by the CZRC and the prior BOCC for removal as a permitted use in the Agricultural zoning district but no consensus was reached. However, as a principal permitted use, new commercial construction for this purpose would be permitted. The current definition of 'Automobile repair or service shop' permits major repair or body work as well as retail sales.

'Automobile repair or service shop' is also permitted in the Village Center zoning district which provides for a more appropriate location for this type of use. Village Center zoning is located throughout the County and would serve those areas outside of the larger population centers replacing the need for permitting the use in the A zoning district.

For these reasons 'Automobile repair or service shop' has been removed as a principal permitted use in the Agricultural zone. Existing special exception criteria in §1-19-8.325 have been edited to reflect this change.

Storage Tanks, Gasoline [Page 12]

The existing regulations permit gasoline storage tanks as a stand-alone principal permitted use as a special exception in the Agricultural district. It was recommended by both the CZRC and the BOCC that the use should be removed as a principal permitted use and permitted only as an accessory use.

Removal of this use will not have a detrimental effect on existing or future agricultural operations and would reduce confusion. If removed as a principal permitted use as a special exception, a gasoline storage tank would continue to be permitted as an accessory use to existing and future agricultural uses. Adding a definition will reduce confusion as Section 1-19-11.100 defines gasoline but not 'Storage tanks, gasoline'.

Therefore, 'Storage tanks, gasoline' has been removed as a principal permitted use as a special exception in the Use Table §1-19-5.310. Section 1-19-8.211 has been created to permit 'Storage tanks, gasoline' as an accessory use on Farm Lots as well as in the HS, GC, LI and GI zoning districts utilizing the previous special exception criteria which have been deleted from §1-19-8.335. A definition has been added to Section 1-19-11.100.

School Bus Parking [Pages 12 & 13]

As a special exception use as provided in §1-19-8.346 'School bus parking' is a fairly low intensity income generating source on A zoned property. The CZRC recommended adding performance standards to the special exception criteria. Utilizing the criteria in §1-19-8.325 'Automobile repair shop', the criteria for 'School bus parking' have been clarified and updated to include language to require screening and parking outside of established setbacks. Lastly, 'School bus parking' has been re-located from the category of Animal Care and Service within §1-19-5.310 Use Table to the category of Automobile and Related Services. The use does not apply to a single bus driven daily by a school bus driver to and from the individual's residence.

Animal Care and Service

Kennel, and Animal Hospital or Veterinary Clinic [Page 12]

Several housekeeping edits have been made to the existing special exception criteria for 'Kennels, animal hospitals or veterinary clinics' in Section 1-19-8.338 including removal of the reference in the heading and in subsection (B) to kennels in the RC. These updates were necessary to reflect how the use is currently permitted within the Use Table and is not based on a proposed change to processing within the text amendment.

Sign regulations were added to the special exception criteria for consistency with other special exception uses in the RC and A Districts.

Based on past limits set by the Board of Appeals and concerns associated with facilities containing animals numbering in the hundreds, (proper care/noise/traffic/waste management) a maximum of 100 animals at one location within the Agricultural zoning district has been added to the special exception criteria.

'Animal boarding place' in §1-19-11.100 Definitions, has been removed and the definition for 'Kennel' has been updated to reflect the current listings within the Use Table. Definitions for 'Animal hospital/veterinary clinic' and 'Veterinary clinic' were also added.

Riding Stable – Commercial or Club [Page 13]

Updates have been made to §1-19-5.310 Use Table to provide for a small scale boarding stable operation to be approved through a less onerous review process and to differentiate the small stable from a larger commercial operation.

'Riding stable commercial or club' has been replaced with 'Boarding stable' and 'Commercial boarding stable'. 'Boarding stable', the small scale operation, is permitted subject to design regulations (P) in both the A and RC zoning districts. 'Commercial boarding stable' continues to be permitted as a special exception in the RC and permitted subject to site development plan approval (PS) in the A zoning district.

Section 1-19-11.100 Definitions has been updated to reflect both types of stables. The intensity of the two operations is regulated through a minimum lot size per horse, as well as other parameters outlined within the definitions. The review criteria in §1-19-8.344 continue to apply however, the heading has been updated, and sign regulations have been added for consistency.

Commercial Amusements

Motorcycle Hill Climb [Page 13]

As a commercial operation with considerable noise, soil erosion, and intensity issues, 'Motorcycle hill climb' has been removed as a permitted use in the A zoning district. §1-19-5.310 has been updated to reflect his change. 'Motorcycle hill climb' will remain as a temporary use in the GI zoning district.

Golf, Driving Range, Miniature Golf, Golf Course and Country Club, Batting Cage, and Chip and Putt Golf Course [Pages 13 & 14]

After review of the several types of golf and golf related uses provided in the zoning ordinance and the purpose and intent of the A and RC zoning district, changes have been made to §1-19-5.310 for these uses. 'Golf course and country club' has been removed from the use table and replaced with 'Golf course'. A definition for 'Golf Course' has been added to §1-19-11.100 to include country club, pro shop and other ancillary uses as customary accessory uses to a golf course.

'Golf course' has been removed as a permitted use within the Agricultural zoning district. However, 'Golf course' has been added as a permitted use in the Open Space Recreation floating zone which would be applied to the Agricultural land use designation. As a permitted land use within the Open Space Recreation floating zoning district golf courses would act as a transition between growth areas and Agricultural uses. 'Golf course' continues as currently permitted in the residential zoning districts.

To provide consistency and clarification regarding the location of the many golf related uses as well as batting cage within the various zoning districts, 'Outdoor recreation center' has been created as a new use within the Use Table. 'Outdoor recreation center' has been permitted within the GC, LI, and GI zoning districts and the separate entries have been removed from the Use Table.

'Outdoor recreation center' has been defined within §1-19-11.100 as the use of property for a golf driving range, chip and putt, miniature golf, batting cage/range, or putting green or any combination of these uses. Separate definitions for golf driving range, chip and putt, miniature gold, and batting cage/range have remained to provide clarity during processing.

In addition, 'Outdoor recreation center' is permitted through the Open Space Recreation floating zone in §1-19-10.1000 when either a golf driving range or chip and putt are located together with any of the other permitted uses. Within the GC, LI, and GI zoning districts the use has been permitted without co-location restrictions allowing one or more of the uses to develop together or independently.

These changes will eliminate the confusion of where and why golf related uses and batting cage, have been permitted or prohibited in specific zones. In addition, the proposed Euclidean Open Space Recreation zoning district will provide conforming status for existing facilities as further discussed under the heading of Division 9 Institutional Floating Zoning District (I) below.

Zoological Gardens [Page 14]

'Zoological gardens' has been replaced with 'Zoo/botanical garden/arboretum' within the Use Table in §1-19-5.310. 'Zoo/botanical garden/arboretum' continues to be permitted in the HS and GC zoning districts and has been included as a permitted use within the Open Space Recreation floating zone in §1-19-10.1000. A definition of 'Zoo/botanical garden/arboretum' has been added to in §1-19-11.100.

Sports training facility [Page 14]

'Sports training facility', as a special exception in the Agricultural zoning district included a definition and criteria in §1-19-8.349. During review and discussions regarding permitted land uses within the A and RC zoning districts, specific issues were raised regarding the amount of impervious surface permitted for this particular use, as well as a very large minimum lot size of 50 acres. Existing language permits field athletics associated with a 'Sports training facility' but also permits rather intensive indoor sports. The current definition of 'Sports training facility' permits enclosed facilities which would be limited only by the 7 acre maximum building/enclosed area/impervious lot coverage special exception criterion. 'Sports training facility' and the related regulations were reviewed to identify which uses would be appropriately located in the A zone while furthering the intent of the zoning district and providing opportunities for sporting and recreational activities.

The CZRC supported the expansion of commercial recreation with a separation of indoor and outdoor commercial amusement and an improved definition providing specificity. The Committee also recommended that environmental as well as human impacts should be taken into consideration.

The existing use has been replaced with 'Indoor sports recreation facility' and 'Outdoor sports recreation facility'.

The 'Indoor sports recreation facility' has been defined in §1-19-11.100 as a building to include uses such as a sports-plex for soccer or lacrosse, racquet sports (including tennis), rock climbing, gymnastics, lasertag, and other similar uses. The indoor use may also include associated outdoor recreation fields. The use will continue to be permitted subject to site development plan approval (PS) in the GC and LI zones but as a commercial development it has been removed as a special exception in the Agricultural zoning district.

'Outdoor sports recreation facility' has been created and will be permitted solely through the Open Space Recreation floating zoning district, and a definition has been added to §1-19-11.100. The outdoor use provides for recreational activities where clearing is minimized including but not limited to field sports, paintball, laser tag, orienteering, hiking, horseback riding, or, bicycling.

The special exception criteria in §1-19-8.349 have been deleted as the use will be required to meet the floating zone regulations including a minimum lot size of 25 acres in §1-19-10.1000(B)(2), as well as the overall approval criteria and general development standards.

For clarification purposes, the definition and text relating to Vocational/Sports training facilities in the LI zoning district which is located in §1-19-11.100 and §1-19-8.250.2 have been deleted.

Open Space Institutional

Airport, Public [Page 14]

The Use Regulations in §1-19-5.310 have been edited to require processing of 'Airport, public' through the institutional floating zone (§1-19-10.900) due to the complex and high intensity nature of this type of development. A definition has been provided in §1-19-11.100.

Cemetery/Memorial Gardens [Page 14]

The CZRC recommended that Cemetery/memorial gardens should be limited in the RC zoning district. Areas with RC zoning reflect mountain areas, rural woodlands, and cultural, scenic, and recreation resource areas and as well as low intensity uses and activities which are compatible with the goal of resource conservation.

For these reasons, 'Cemetery/memorial gardens' has been removed as a principal permitted use in the RC zoning district and permitted within this zone as an accessory to a 'Place of worship'. This change provides for a limitation on the use as a commercial development, but also provides for the use as relatively low intensity. Edits have been made to Section 1-19-5.310 Use Table, deletion of §1-19-8.328 special exception criteria, and the addition of language in §1-19-8.230.2 Cemetery/Memorial Garden Accessory to a Place of Worship in the RC District.

A 'Natural cemetery' or burial was also considered as part of the review for permitted uses within the A and RC zoning districts. A natural cemetery or burial is an alternative to conventional burial methods including biodegradable burial products. Natural cemeteries utilize natural methods of burial with a location that emphasizes the natural environment or landscape.

After review of the zoning ordinance it was determined that a natural cemetery would be processed within the currently established 'Cemetery/memorial gardens' use as listed in Section 1-19-5.310 and defined in §1-19-11.100. The existing definition and permitted processing is general in nature and would apply to both the conventional cemetery memorial garden as well as the natural method.

Fairground [Page 15]

It is recognized that a conventional agriculturally based 'Fairground' acts in support of agricultural activities conducted in Frederick County. However, it is also recognized that this particular use is large, and intensive with regards to traffic, noise, lighting, and other potential negative impacts to surrounding property owners.

In addition, the CZRC recommended that 'Fairground' should be permitted by a special exception rather than permitted subject to site development plan approval as the use has changed from the agricultural focus to more of a commercial enterprise. The BOCC discussed this use as permitted within the contemplated Open Space zoning district which became a floating zone within this text amendment.

For these reasons 'Fairground' has been removed as a permitted use in the Agricultural zoning district and has been permitted in the Open Space Recreation (OSR) floating zone.

The definition of a Fairground provides a distinction from a carnival such as those associated with a fire and rescue service. Within the Use Table a carnival is listed separately and permitted as a temporary use in the Agricultural district.

Specific provisions have been added to the Open Space Recreation floating zoning district in §1-19-10.1000 to address specifics associated with the development of a fairground. During worksessions regarding the text amendment the BOCC directed Staff to work with fairground representatives to edit and expand these provisions to better reflect on-going and anticipated activities associated with this use.

Based on this input, several edits were made to the proposed regulations. Within §1-19-10.1000, subsection (B)(1)(b) size and location criteria have been edited to provide the option that the applicant will upgrade the roadway to at least collector status classification requirements as part of the development process to meet this minimum threshold requirement. In addition, the BOCC may waive this requirement where the tract of land is within [one or two miles] of a grade separated interchange on a controlled access freeway/expressway.

Subsection (B)(1)(C) size and location criterion has been edited to provide the option that the tract of land receiving the OSR floating zoning district is within [one or two] miles of an interchange on a controlled access freeway/expressway, rather than limited solely to 'within or contiguous to a community growth boundary' as previously proposed. Through the public hearing process, the BOCC will establish whether the location shall be within one, or two, miles of an interchange.

Subsection (B)(2) has been edited to reflect a maximum lot size of 200 acres rather than the previously proposed 100 acres. Regulations provide for an applicant to request an increased acreage where the increased size is required to meet the needs of the proposed development.

Subsection (G)(2)(c) has been edited to clarify that overflow parking shall not be required to meet the minimum parking area landscaping requirements. This same clarification has been made to Subsection (H)(1)(d).

Subsection (H)(1)(c) has been edited to provide for the BOCC to make a determination of hours of operation and number of days per event rather than specifying set requirements. The edited text permits limits on hours of operation and days per event to be reviewed on an application by application basis which enables the BOCC to address unique circumstances related to the proposed development.

In addition, the proposed 'Fairground' definition in §1-19-11.100 'has been edited to better reflect on-going activities at the existing Fairground site and potential activities associated with future development applications.

Governmental, civic, nonprofit parks, recreation or educational areas [Page 15]

Existing uses listed in §1-19-5.310 such as 'Public buildings and properties', and proposed uses such as 'Rustic retreat/camp/outdoor club', 'Outdoor sports recreation facility', and 'Indoor sports recreation facility', adequately address the uses that may be included in this term. For these reasons 'Governmental, civic, nonprofit parks, recreation or educational areas' has been deleted from the use regulations.

In recognizing that County parks will now be processed through 'Public buildings and properties', changes have been made to permit this use in the RC zone subject to site development plan approval (PS) rather than as a special exception. Existing special exception criteria contained in §1-19-8.343 provide regulations which for the most part are duplications of existing language in other Sections of the zoning ordinance and have been deleted.

The incorporation of public parks into 'Public buildings and properties' as proposed, may cause duplicative review by the Planning Commission where a Master Plan has been approved by the BOCC. Currently, public parks are reviewed and planned through a Master Plan process that includes a review by the Planning Commission for consistency with the Comprehensive Plan. Processing of public parks through the site plan review process, subsequent to an approved Master plan, would require a public parks plan to return to the Planning Commission a second time. To address this issue, text would be added to the site plan review section of the zoning ordinance as part of on-going updates. The text would provide for a staff level site plan review of public parks where a Master Plan has been approved by the BOCC. The option would exist for Planning Commission review to be utilized in the event that Staff identifies a need for that increased level of review.

Trap, skeet, rifle, archery ranges, and hunting, fishing and gun clubs [Page 15]

'Trap, skeet, rifle, archery ranges, and hunting, fishing and gun clubs' and 'Hunting and fishing clubs without shooting ranges' were reviewed and separated into those uses involving a shooting range and those without. 'Shooting range/club – trap, skeet, rifle, archery' has replaced 'Trap, skeet, rifle, archery ranges, and hunting, fishing and gun clubs'.

In general, the CZRC recommended that the special exception criteria be updated and surrounding uses should be considered with respect to compatibility and safety. The use will remain a special exception in the A and RC zones. Edits to the existing special exception criteria in §1-19-8.355 include the addition of safety requirements to address, lead containment, setbacks, and fired projectiles leaving the shooting range.

The Frederick County Noise Ordinance adopted in May of 2007, is based on State noise regulations contained in the Maryland Annotated Code. These regulations, as amended, do not prohibit trapshooting, skeet shooting, or other target shooting between specified hours by a shooting sports club that is chartered and in operation as of July 1, 2001.

Therefore, a new shooting range/club will be required to comply with Maximum Allowable Noise Levels (dBA) for Receiving Land Use categories of 65 dBA day maximum/55 dBA night maximum for residential, 75 dBA maximum for day and night for Industrial, and a maximum of 67 day and 62 night for Commercial. In addition as a special exception, a new shooting range/club would also be required to meet the general special exception criteria contained in §1-19-3.210 of the zoning ordinance. Within this section, a special exception is required to comply with §1-19-3.210 (B)(3) which includes language to address noise, a requirement that remains within the text changes proposed within this text amendment.

Hunting and Fishing Clubs Without Shooting Ranges [Page 15]

'Hunting and fishing clubs without shooting ranges' have been incorporated into 'Rustic retreat/camp/outdoor club', an edited use discussed below.

Tent Campground and Recreation Vehicle Campground [Page 15]

'Tent campground' remains a special exception in both the A and RC zoning districts. Based on the review of land uses permitted within the A and RC zoning districts and the purpose statements for those districts, changes have been made to the special exception criteria within §1-19-8.354 Tent Campground in A and RC Districts, to add a minimum lot size, standardize the density, update sign provisions, address impervious surface and parking, and provide guidance on achieving minimized clearing and site disturbance when developing in the RC zone. The minimum lot size is established based on the minimum lot size in the RC zone and also follows the minimum lot size for Mobile Home Parks as provided in Section 1-19-10.600. The text that has been added to ensure that clearing and site disturbance are minimized was originally included within the RC clustering provisions found within §1-19-7.200. Although the overall clustering provisions were recently removed from the ordinance, the specific language regarding clearing and site disturbance established guidance in reducing the impact of development in the Resource Conservation areas and has therefore been included here. A definition for 'Tent campground' has been added to Section 1-19-11.100.

Within §1-19-5.310 Use Table, 'Travel trailer park' has been replaced with 'Recreational vehicle campground' to reflect a use that may include other recreational amenities such as a swimming pool, limited entertainment activities, and/or concessions.

'Recreational vehicle campground' has been defined in §1-19-11.100 and permitted through the Open Space/Recreation floating zone with the intent to identify an appropriate location that can accommodate the increased traffic, parking needs, and necessary open space for camp sites and other amenities. The use continues to be permitted as a special exception in the Highway Service zoning district with text changes to the existing special exception criteria in Section 1-19-8.356 Recreational Vehicle Campground in the HS District, as well as the heading to reflect the new use title.

Existing criteria have been edited to combine §1-19-8.356 (C) & (H) into one regulation and parking requirements have been added to §1-19-6.220.

Within Section 1-19-10.1000 the proposed Open Space Recreation floating zone, a minimum lot size of 10 acres has been added (§1-19-10.1000 (B)(2)) to provide consistency with 'Tent campground', 'Rustic retreat/camp/outdoor club' (§1-19-8.327) and Mobile Home Park floating zone requirements (§1-19-10.600). Additional requirements for site separation and provision of a recreational green area have been added to Recreational Vehicle Campground (§1-19-10.1000 (H)(2)).

Rustic Retreat/Camp/Outdoor Club [Page 15]

The CZRC recommended that 'Camps and retreats' continue as a special exception, however, they should be broken out to distinguish between rustic retreats versus the corporate retreats in order to subject them to different standards, and allow them to be better defined. In addition, a recommendation was also made that the density be reviewed, along with road standards, and adding Clubs with outdoor activities which should have more restrictive standards. The BOCC provided additional direction, namely that environmental impacts, intensity, and the relationship of this use with the intent of the zoning districts should be considered.

Based on this information, 'Camps and retreats' has been replaced with 'Rustic retreat/camp/outdoor club' within the Use Table in §1-19-5.310. The use remains a special exception in the RC and A districts, however, it has been moved in §1-19-5.310 from the Institutional category to the Open Space and Institutional category where 'Tent campground' and other open space uses are located.

Within the County, 'Rustic retreat/camp/outdoor club' are permitted only in the RC and A districts and as such, an expectation exists that the resources available within these districts are integral to the seasonal activities and amenities that are provided in this rural setting. Based on these factors a definition has been provided in §1-19-11.100.

Based on the purpose and intent statements of the A and RC zoning districts of permitting low intensity uses and activities which are compatible with the goal of resource conservation, preserving productive agricultural land and the character and quality of the rural environment, and to prevent urbanization, recommendations regarding changes to the special exception criteria were provided.

Initial drafts of the text amendment recommended edits to the special exception criteria to include a maximum total square footage for a large building and a maximum total square footage for each additional building which would have applied to new construction. In addition to the individual building square footage, existing special exception criteria were edited to include provisions for parking not to exceed the maximum number of required spaces co-located with any required access paving to meet paving requirements, limiting permanent residential occupancy, and providing for preservation of the natural landscape. Based on past requests, criteria to provide for an owner/caretaker apartment/dwelling were added to the special exception criteria.

Throughout the draft process representatives of camps and retreats within the County have provided feedback regarding the proposed amendments including concerns regarding a maximum total square footage, location of required parking, and the number of caretaker residence(s) that may be permitted. Based on this feedback updates and edits have been made to the text amendment.

At the April 7th worksession as directed by the Board, Staff provided edits to the special exception criteria including limiting the development of impervious surface associated with 'Rustic retreat/camp/outdoor club' rather than including a maximum amount of total building square footage. The analysis of existing facilities through site plans, contact with existing camps and retreats, and review of the purpose statements of the Agricultural and Resource Conservation zoning districts resulted in a recommendation to:

- Establish a maximum amount of impervious surface per acre; and
- Establish an upper limit of total permitted impervious surface which would be dependent on the lot size

The impervious surface provisions were added within the special exception criteria in §1-19-8.327 subsection (D). Other edits include subsection (G) where the word 'drive' was added to clarify that required parking shall be co-located with the 'access drive' rather than adjacent to the 'access' from a public road as previously proposed. Lastly, a new subsection (K) was created to apply language preserving the site in its natural state insofar as practical to both the Agricultural and Resource Conservation zoning districts rather than only to the Resource Conservation zoning district as previously proposed.

Institutional

Child care centers, Nursery school, Nursery school day care [Page 15 & 16]

Within §1-19-5.310 Use Table multiple entries for 'Child care centers', 'Nursery school', and 'Nursery school day care' have been consolidated. 'Nursery school or day care' in the Governmental and Nongovernmental Utilities category has been deleted and 'Nursery school' and 'Child care centers' have been combined in the Institutional category. 'Child care center/nursery school' continues as a special exception in the LI and R1 through R8 residential zones, and permitted subject to site development plan approval in the R12, R16, VC, and GC zone. As a commercial development the use has been removed as a principal permitted use through special exception in the Agricultural zoning district.

In-home child care provides this needed service without permitting commercial construction in the Agricultural zoning district. In-home care of children is permitted and regulated by the State and is also permitted as a home occupation within the County. In Maryland, family child care is regulated by the State through the Code of Maryland Regulations COMAR 13A.14.01. The State requires a specific process to be followed and permits 8 children in a family child care home. As a home occupation the scale and size of the use would be limited while still providing a needed service in the outlying areas. The definition of family day care home in §1-19-11.100 includes the provision that the use may be permitted as a home occupation.

Existing special exception criteria in §1-19-8.329 have been updated for changes in the Agricultural zone, however, they continue unchanged as they apply to other zoning districts.

Civic Service Clubs and Civic Community Center [Page 16]

'Civic service clubs' and 'Civic community center' have been removed as permitted subject to site development plan approval in the Agricultural zoning district and are permitted by special exception. Definitions have been added to §1-19-11.100. Further discussion of these uses is contained under the heading of Place of Worship below.

Group Home and Assisted Living Facility [Page 16]

'Assisted living facility' has been added to §1-19-5.310 Use Table along with the current listing of 'Nursing home'. 'Group home' has been edited to separate the small scale facility from the larger facility. Each use is distinct and has been listed separately as well as defined. Due to their similarity, assisted living facilities are permitted utilizing the same process as a nursing home. The processing of a small private group home is permitted through the same process as a single family residence. In addition, a 'Large group home' has been added to the use table to reflect larger facilities and is permitted through the same process as group home prior to this update.

Place of worship [Page 16]

Development of large-scale institutional and place of assembly uses may result in significant impacts on the surrounding neighborhood including noise, lighting, and the generation of a significant amount of traffic. The CZRC noted concerns about places of worship and a need for performance standards specifically: adequacy of health and safety issues as well as scale and compatibility with the surrounding community. Due to the purpose and location of the RC and A districts the needed services for a large scale facility of this type will not be widely available within these zoning districts. Incorrect siting of these types of uses can work to undermine and degrade the purpose and intent of these districts through the consumption of large areas of land for parking and related facilities as well as the resulting strain on public facilities in areas designed to meet only rural needs.

Although these types of facilities are desired and supported within the County, the expansion of a traditional neighborhood-scale facility into a large-scale facility including non-customarily incidental accessory uses must be carefully considered and appropriately sited.

To provide a standard for adequate review and siting of large institutional places of assembly, this topic was discussed, reviewed and revisited numerous times throughout the past year. The BOCC considered places of assembly including 'Place of worship', 'Civic community center', and 'Civic service club' as similar land uses within the Agricultural zoning district and provided direction to staff regarding initial recommendations regarding the creation of specific threshold standards to differentiate between the large-scale and traditional neighborhood-scale facility. As originally proposed, the changes to definitions and existing special exception criteria in §1-19-8.340 would have established thresholds requiring the neighborhood-scale facilities to receive approval through the special exception process with the larger facilities receiving approval solely through the Institutional floating zoning district.

Thresholds would have established that buildings associated with a small scale facility shall not exceed 25,000 square feet of total floor area including accessory structures, or exceed 300 peak hour traffic trips, or 900 maximum daily traffic trips. The small scale facilities would have been permitted as a special exception in the Agricultural zoning district and similarly apply to 'Place of worship', 'Civic community center, and 'Civic service club'.

Due to public concern about the impact the proposed text amendment changes would have on places of assembly, In addition to the community outreach meetings held in October of 2008, the BOCC created a Place of Assembly workgroup.

The BOCC appointed the Place of Assembly workgroup of 14 members consisting of representatives from place of worship, planning and development, and land use attorney communities. The intent of the workgroup was to discuss issues of concern in order to improve understanding, seek common ground, and build consensus.

The workgroup met on January 12th, January 26th, February 9th, and February 23rd of 2009 to address the scope of work outlined by the Board which included discussion and consideration of the following topics:

- Maintaining the existing site plan process for houses of worship under a certain size or intensity of use;
- Discuss the appropriate measure to define "larger" houses of worship or places of assembly such as square footage, traffic trips, type of uses, and scale and intensity of use;
- Discuss the pros and cons of floating zones and special exceptions;
Road standards;
- Proximity to population centers or growth areas; and,
- Grandfathering of existing uses.

The workgroup meeting over the four dates, reviewed and discussed the scope of work as outlined by the Board. Resulting from these discussions the workgroup formulated recommendations for the Board's consideration in regards to the proposed draft text amendment.

After review of the Place of Assembly workgroup recommendations and consideration of the proposed thresholds, the BOCC directed Staff at the April 7th worksession, and provided further clarification on April 23rd, to make changes to the proposed text amendment.

As directed, the current text amendment:

- Maintains the definitions for 'Place of worship', 'Civic community center' and 'Civic service club' as proposed (§1-19-11.100)
- Adds 'Place of worship' as a permitted use subject to site development plan approval (PS) in the LI zoning district (§1-19-5.310)
- Maintains the current processing of 'Place of worship' (§1-19-5.310)
- Permits customarily incidental accessory uses in conjunction with 'Place of worship' and provides that those uses that are determined to be non-customarily incidental shall be allowed as provided through the Use Table for the Agricultural or Resource Conservation zoning districts (§1-19-8.340 and 1-19-8.490)
- Permits 'Civic community center' and 'Civic service club' by special exception within the A zoning district (§1-19-5.310 and 1-19-8.340)

In addition, on April 23rd the BOCC directed Staff to make further changes to the proposed special exception criteria in §1-19-8.340 to remove the proposed requirement that 'Civic community center' and 'Civic service club' in the Agricultural zoning district, and 'Place of worship' in the RC must have frontage and access on a public road designated at least a collector. Separate sign regulations were removed, as was exemption language related to child care centers or nursery schools which is consistent with other amendments made to principal permitted uses within the Use Table as part of this text amendment process. The change to special exception text regarding child care centers or nursery schools would not apply to Sunday school operations or other operations deemed to be customarily incidental to a 'Place of worship' as determined by the zoning administrator.

Lastly, the BOCC directed that the existing processing within the R3 zoning district be maintained based on past history associated with this processing.

The overall changes to the text amendment are consistent with the recommendations provided by the Place of Assembly workgroup regarding currently contemplated text amendment edits including:

- That the Board define "Place of Worship" as: "A facility or building(s) for the primary purpose of assembly for religious worship. Accessory uses may be limited to those customarily associated with a place of worship as provided within this Chapter (see Article VIII. Division 2. Accessory Uses) or as approved by the Zoning Administrator."
- Zoning Ordinance §1-19-5.310 should note "PS" under "R3" and "LI" for Places of Worship to reflect Places of Worship are permitted in the R3 and LI Zoning Districts.
- Zoning Ordinance §1-19-8.329 should remain unchanged to reflect the current regulations governing child care centers or nursery schools on premises owned or leased by a religious organization.
- Any other possible changes to A/RC shall maintain the current regulations governing accessory uses customarily associated with a Place of Worship.
- That the Board exempt Places of Worship from any changes to the development review process and maintain the existing development review process governing Places of Worship.

Private schools [Page 16]

Definitions have been provided for private school and public school within §1-19-11.100. To provide consistency between public and private schools, 'Private schools' has been removed as a permitted use in the RC zoning district. In addition, these types of uses should be directed to population centers rather than in rural areas identified for resource conservation or agricultural operations. For these reasons, 'Private schools' and 'Elementary or secondary school' have also been removed as a permitted use within the Agricultural zoning district.

However, both 'Private schools' and 'Elementary or secondary school' have been added as permitted uses in the Institutional floating zoning district as proposed in §1-19-10.900 on land with an Agricultural/Rural land use designation. The floating zoning district will provide for the appropriate siting of these large institutional facilities near population centers that they serve and which is consistent with priority funding area requirements. In conjunction with these changes, special exception criteria in §1-19-8.341 for Private Schools have been edited, and criteria in §1-19-8.347 for Schools in the RC district have been deleted.

Fire and rescue service [Page 16]

'Fire and rescue service' has been edited to reflect 'Community fire and rescue service' representing non-governmental uses. Governmental fire and rescue service have been included in the 'Public buildings and properties' use. 'Community fire and rescue service' has been removed as a permitted use in the RC zoning district in keeping with the purpose statement and other changes to the processing of similar land uses within this zoning district.

Governmental and Nongovernmental Utilities

Public Buildings and Properties [Page 17]

General updates have been made to the Use Table to better define the processing of public buildings and properties through this entry.

Processing in the RC zoning district has been edited from a special exception to permitted subject to site development plan approval as discussed above under the heading of Governmental, civic, nonprofit parks, recreation or educational areas.

College or University [Page 17]

Due to the size and intensity of the 'College or university' land use it has been removed as a permitted use within the Agricultural zoning district and will be permitted through the Institutional floating zone. The floating zone process will provide the appropriate review and approval for the development of this type of use.

Within the Institutional floating zone requirements proposed in §1-19-10.900, discussed more broadly within the heading of the same title located below, specific development standards have been created to address the College or University use. As part of the overall floating zone application requirements in §1-19-10.900 (E)(2)(e), a listing of incidental accessory uses and activities that will be conducted in conjunction with the primary use will be provided.

These uses will be reviewed and approved through the rezoning process. In an attempt to provide clarity to this process, several incidental accessory uses have been specifically outlined in §1-19-10.900(H)(1)(a). Specific parameters have also been outlined within §1-19-10.900(H)(1)(b) for additional uses that may be expected to develop as part of a college or university complex. Land uses that fall beyond these specific development standards will need to be approved through other established land use processes.

Solid Waste Operations

Yard Waste [Page 18]

'Limited wood waste recycling facility' and 'Unlimited wood waste recycling facility' have replaced 'Yard Waste' within the category of Solid Waste Operations in §1-19-5.310 Use Table.

A definition based on the State definition for Natural Wood Waste Recycling Facility, has been added to Section 1-19-11.100. Both uses continue to be permitted in the A and GI zoning districts. The 'Limited wood waste recycling facility' would be processed as a special exception utilizing existing criteria in Section 1-19-8.348 Solid Waste Operation. 'Unlimited wood waste recycling facility' would be processed through the solid waste floating zone.

§1-19-5.310 (B) Permitted Uses and Required Development Review for Limited Zoning Districts [Page 19]

This new subsection was created to provide a location for the creation of the Euclidean Institutional and Euclidean Open Space Recreation zoning districts within the Use Table. This text is complementary to the purpose statements for these districts provided in §1-19-5.260 and §1-19-5.270.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. DESIGN REQUIREMENTS AND MODIFICATIONS

§1-19-6.100 Design Requirements for Specific Districts [Page 20]

In an on-going effort to correct errors in the zoning ordinance Staff has identified that the asterisks in the heading of this section of the zoning ordinance should be removed.

These asterisks related to a note that led to clustering provisions within the Resource Conservation zoning district. These clustering provisions have been deleted from the zoning ordinance as part of a previous text amendment, therefore, the asterisks serve no purpose and make reading the design requirements table confusing. Staff recommends deleting the incorrect asterisks as they appear in the heading of this table.

Other changes to this section of the zoning ordinance provide standardization and continuity of location and land use terms between this section and the Use Table found in §1-19-5.310.

DIVISION 2. PARKING AND LOADING

§1-19-6.220 Parking Space Requirements [Page 29]

The parking regulations have been updated to specifically list several existing uses without parking regulations, add regulations for new uses, and update general categories to reflect other changes made to the A and RC zoning districts.

New parking requirements are based upon a review of a combination of the Parking Generation Manual (3rd Edition) published by the Institute of Transportation Engineers (ITE), parking requirements in other jurisdictions, and parking required as part of past project approvals.

The parking regulations have also been updated to include language to permit the Planning Commission to make a determination of parking requirements when a specific use or related use has not been listed. This language is similar to what has been provided for Signs within §1-19-6.320 and Unlisted Uses within §1-19-5.300(E) Use Table Generally.

DIVISION 3. SIGNS

§1-19-6.320 Signs Permitted and Regulated in the Zoning District [Page 31]

The sign regulations have been updated to specifically list several existing uses without sign regulations, add regulations for new uses, and update general categories to reflect other changes made to the A and RC zoning districts.

Sign provisions for permitted uses in the A and RC zoning districts are provided in both the special exception criteria as well as in §1-19-6.320 Signs Permitted and Regulated in the Zoning District. Sign provisions have been added to existing and new special exception criteria for those uses permitted by special exception which is consistent with existing special exception provisions. For the remaining permitted uses, sign provisions have been added to §1-19-6.320.

Within §1-19-6.320A language has been added to permit the Zoning Administrator to make a determination of sign type when a specific sign has not been listed, similar to what has been proposed in §1-19-5.300 (E) for Unlisted Uses and in §1-19-6.220 for parking requirements.

Notations at the end of the sign regulations table were added to clarify that sign regulations also exist within the Special Exception criteria, as well as, providing a cross-reference to existing language within §1-19-7.510 and §1-19-7.600.

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 5. COMMERCIAL DISTRICTS

§1-19-7.510 General Commercial, Highway Service

DIVISION 6. INDUSTRIAL DISTRICTS

§1-19-7.600 Industrial Districts [Page 35]

As discussed above within the Commercial Greenhouses and Nurseries heading, additions were made to these two existing sections to provide for storage and screening of outdoor operations.

Article VIII. SPECIFIC USE REGULATIONS

DIVISION 2. ACCESSORY USES

§1-19-8.200 Purpose and Intent

§1-19-8.205 Accessory Uses in All Zoning Districts

§1-19-8.205.1 Customary Accessory Uses

§1-19-8.205.2 Communication Antenna

§1-19-8.205.3 Farm Tenant Houses

§1-19-8.211 Gasoline Storage Tanks with a Capacity Between 270 Gallons and 1,100 Gallons as an Accessory Use on Farm Lots and in the HS, GC, LI, and GI Districts

[Page 35 & 36]

§1-19-8.200 through 1-19-8.205.3 have been renumbered to provide for a new heading in §1-19-8.200 . The new heading and text provide direction on the purpose and intent for this portion of the zoning ordinance addressing accessory uses. Accessory uses are customarily associated with a principal use permitted within a zoning district, but this portion of the zoning ordinance provides additional requirements for the accessory uses that have been listed. Where additional requirements are provided, the accessory use would be approved only when the regulations have been met. The purpose and intent statement clarifies what uses are included in this Section, why they are listed, and what differentiates them from all other customary uses permitted in the zone.

§1-19-8.205 provides for those uses that would be customarily associated with a principal use permitted within all zoning districts. 'Customary accessory uses', 'Communication antenna', 'Farm tenant houses' continue to be permitted under this new section number.

'Storage tanks, gasoline' has been added as an accessory use within a new section 1-19-8.211 and has been removed from §1-19-5.310 Use Table as a principal permitted use. These changes are discussed further within the heading of Storage Tanks, Gasoline above.

§1-19-8.220 Accessory Use of a Crematory [Page 37]

Animal Incinerator operations have been added as a permitted accessory use to a Cemetery/Memorial Garden in the Agricultural zoning district. Currently, Animal Incinerator is permitted only as an accessory to an Animal Hospital or Veterinary Clinic in the Agricultural zoning district through the special exception process. Due to similarities between an animal incinerator and a crematory, edits were made to the existing accessory use criteria within this section to provide for location of an animal incinerator.

The heading in this section has been updated, and provisions for an animal incinerator have been added.

§1-19-8.230 Accessory Uses in the Agricultural or Resource Conservation Districts [Page 37]

This is an existing section that is being utilized for the first time with the addition of requirements for 'Horse tack and saddlery shop accessory to a commercial boarding stable' and 'Cemetery/memorial garden accessory to a place of worship in the RC district'. The section heading was added to differentiate between accessory uses that are permitted in the Agricultural and/or RC zoning districts and those permitted in other zoning districts.

§1-19-8.230.1 Horse Tack and Saddlery Shop Accessory to a Commercial Boarding Stable in the Agricultural Districts [Page 37]

As discussed under the heading of Horse Tack and Saddlery Shop above, 'Horse tack and saddlery shop' in §1-19-5.310 has been removed as permitted by special exception in the Agricultural district and added as an accessory use to a 'commercial boarding stable' within this Section. The existing special exception criteria have been deleted in §1-19-8.337 and added to this new section. This use as an accessory to a commercial boarding stable will be limited to 25% of the main building floor area similar to provisions within §1-19-8.250.1 Customary Accessory Uses in commercial and industrial districts. Existing regulations in, §1-19-8.250.1, provide for retail sales as a customary accessory use within commercial and industrial zoning districts.

§1-19-8.230.2 Cemetery/Memorial Garden Accessory to a Place of Worship in the RC District [Page 38]

This section has been added to implement the changes as discussed under the heading of Cemetery/Memorial Gardens above, where 'Cemetery/memorial garden' has been removed as permitted in the Resource Conservation zoning district and added as an accessory use to a 'Place of worship'.

§1-19-8.240 Accessory Uses on Residential Properties [Page 38]

This Section identifies customary accessory uses permitted on residential properties including home occupations. Changes to the home occupation standards in Section 1-19-8.240 (A)(5)(a)(2) were made to provide for antique shops as home occupations in the A and RC zoning districts as discussed under the heading of Antique, Artisan, and Craft Shops above. In addition, a graphic was provided at the end of this Section to accompany regulations and clarify the process for calculating the maximum accessory structure size and location requirements on residential properties.

§1-19-8.250.2 Vocational/Sports Training Facilities in the Limited Industrial (LI) District [Page 39]

Language within this Section has been deleted as it conflicts with other provisions implemented by this text amendment and will no longer apply

DIVISION 3. SPECIAL EXCEPTION USES

§1-19-8.323 through 1-19-8.356 [Pages 40-56]

Edits and updates were made to these sections to implement the various changes as described above. In addition, updates were made to standardize sign requirements for those uses permitted by special exception. Edits and updates were also made to further implement CZRC recommendations and BOCC direction regarding permitted uses in the Agricultural and Resource Conservation zoning districts.

DIVISION 4. PERMITTED USES

§1-19-8.410 Bed and Breakfast [Page 56]

This new section was created to implement the changes as discussed under the heading of Boarding House or Tourist Home above. The provisions within this section provide standards to address scale and intensity for Bed and Breakfast development permitted subject to site development plan approval (PS) in the RC, A, VC, and GC zoning districts.

§1-19-8.480 Uses Permitted in the Euclidean Institutional (Ie) or Open Space Recreation (OSRe) Zoning Districts [Page 56]

This new section establishes parameters for the future expansion of those uses permitted within the Euclidean Institutional (Ie) and Euclidean Open Space Recreation (OSRe) zoning districts. The Euclidean Institutional (Ie) and Euclidean Open Space Recreation (OSRe) zoning districts were created to provide conforming status to those specific uses as described in §1-19-5.310 (B)(1) and (2) previously permitted within the Agricultural and/or Resource Conservation zoning districts. Further discussion of these zoning districts is provided below.

§1-19-8.490 Place of Worship [Page 58]

This new section establishes parameters for the future expansion of places of worship permitted subject to site development plan approval (PS) within the Agricultural zoning district. Further discussion of Place of Worship is provided under the Place of Worship heading above.

ARTICLE X: OPTIONAL METHODS OF DEVELOPMENT DIVISION 7. PLANNED UNIT DEVELOPMENT DISTRICT (PUD) §1-19-10.700.2 General Provisions [Page 58]

This existing section has been updated to accommodate the development of Continuing Care Retirement Communities (CCRCs).

A CCRC is a residential form of development with varying components of commercial, quasi-public, and office research elements. As noted in previous Staff reports on the topic, §1-19-10.700 (F)(6) provides that when specific criteria are met quasi-public uses (including: health care facilities, nursing homes, and senior centers) are permitted with Planning Commission approval within a PUD.

In addition, by the very nature that a CCRC provides a mixture of residential housing types, a CCRC could be processed independently as a PUD rather than just a component.

The PUD development review process provides the review for design and public facility components of the project as well as the needed flexibility for a project of this size.

The PUD process requires projects to locate within an area with a land use designation allowing for the proposed development density. This option also addresses compatibility concerns as the project would be located in an area intended for residential development and commercial accessory uses would be limited by the size of the PUD.

The CCRC processed within a PUD requires the facilities to be located in an area that will be served by both public water and sewer within a designated growth area and not allow the use to be located within an area to be served by well or septic. In addition, the APFO requires that an Age Restricted Communities provide a minimum of amenities.

The level of intensity is a consideration when allowing a CCRC to locate in all residential zones. The traffic and overall intensity may increase, as the size of the development and the number of commercial and employment components increase. The PUD process ties development of commercial, industrial, and office/research uses to a particular threshold. Commercial uses are permitted as approved by the Planning Commission for PUD developments containing 500 or more dwelling units, with limited industrial and office/research uses permitted for developments of 1,000 or more dwelling units. Therefore, as the number of units increases (possibly including commercial/office research uses) the density of the development will require location in an area designated for that increased density/intensity.

The PUD provisions within §1-19-10.700 have been amended to specifically include CCRCs, and a definition has been added to §1-19-11.100. The setback and minimum lot size provisions are based on previous special exception criteria for development of nursing homes. A limited level of commercial/employment uses are permitted through identifying incidental accessory uses for this type of development. Lastly, minor edits were made to the existing quasi-public criteria to provide clarity and separation for quasi-public uses that are identified during Phase I or Phase II of the PUD process.

DIVISION 9. INSTITUTIONAL FLOATING ZONING DISTRICT (I)

DIVISION 10. OPEN SPACE RECREATION FLOATING ZONING DISTRICT (OSR)

Both Euclidean and floating Open Space Recreation and Institutional zoning districts have been created as part of this text amendment. The Euclidean zoning districts will recognize existing land uses while the floating zoning districts provide a review and approval process for establishing new uses.

The Euclidean districts are intended to provide for the continued existence and conforming status of those land uses as described within §1-19-5.310 (B)(1) and (2) of the text amendment. The Euclidean districts would be applied during the comprehensive rezoning as part of the Comprehensive Plan update process, to those uses as listed in §1-19-5.310 (B)(1) and (2) existing or with final site development plan approval on the effective date of the ordinance. Future expansion of these uses would be provided for in §1-19-8.480 as discussed above.

The new floating zone text provides purpose and intent statements outlining the type of development the zone will address and what purpose they will provide. Within the size and location standards the developments will be directed to concentrations of growth rather than permitting development of large-scale facilities where services intended for rural and agricultural activities have been provided.

The approval criteria provide a framework to review the proposed development for adherence to the purpose and intent of the Agricultural land use designation including: scale and compatibility, safe and efficient facilities both on-site and as the development relates to the surrounding area, as well as considering the impacts on the natural environment.

The review and approval process for the Institutional and Open Space Recreation floating zones will follow the process outlined in §1-19-3.110.1 through §1-19-3.110.6 similar to the Mobile Home Park floating zone, the Mineral Mining floating zone and the Solid Waste floating zone. The Phase I Justification and floating zone reclassification is followed by a Phase II Execution, providing for the applicable subdivision or site development plan approval process. This process reflects the fact that the developments proposed within these floating zones will for the most part include a single land use with less density and complexity than other floating zone developments.

General development standards within the floating zones provide for implementation of the approval criteria. The specific development standards provide regulations applicable to a single land use to address unique scale or intensity factors. Increased setbacks have been created to protect existing Agricultural Activities and existing residential uses, from new development approved through the floating zones. The setbacks support the Agricultural Preservation Policies contained within the existing Countywide Comprehensive Plan, specifically on page 4-45 in item E.4 which states “Agricultural businesses and industries shall be actively promoted in Agricultural-designated areas in order to support Frederick County’s farming economy and farming communities. Agricultural businesses shall be protected from intruding land uses.” These setback depths were created based on existing special exception criteria requirements for setbacks adjacent to existing residential uses as well as a review of regulations implemented within other jurisdictions. The required landscaping components are flexible yet provide a barrier intended to buffer adjacent agricultural uses from the proposed development.

In addition to the increased setbacks, development approved through the floating Institutional and Open Space Recreation zones will be required to utilize Environmental Site Design (ESD) techniques, including bioretention, as the first option for stormwater collection in all required parking areas. ESD and Bioretention have been defined in Section 1-19-11.100 based on the definition contained in the State of Maryland Stormwater Design Manual.

Parking lots collect grease, oil, antifreeze and other chemicals which are then transported to waterways during rain events or through melting snow. Bioretention utilizes soil and plants to filter stormwater providing an alternative to the typical stormwater detention pond. The use of bioretention integrates the absorption of parking lot runoff into landscape islands to treat stormwater and reduce pollutants. Bioretention also provides animal habitat, shade and improves parking lot aesthetics.

In conjunction with bioretention, a minimum standard for parking lot landscaping has been provided for the floating zones. This landscaping will act to soften the development against the surrounding area as well as provide shade, reducing the heat emitted by the parking lot surface. Both bioretention and parking lot landscaping will lower the impact of a large scale facility in an agricultural surrounding.

The permitted land uses within the Institutional and Open Space Recreation floating zones are not listed within the Use Regulations in Section 1-19-5.310 due to the fact that the land uses represented in the table are those permitted in the Euclidean zoning districts. As with other optional methods of development within the zoning ordinance, these processes and the uses permitted within the districts are set out only within the descriptive portion of the floating zone text.

§1-19-10.900 Institutional Floating Zoning District (I). [Page 67]

The Institutional floating zone has been created to address large-scale public and private institutional uses including airports and educational institutions.

The floating zone process establishes review and siting for these types of uses through requirements that will direct them to an appropriate location, and address adverse impacts through mitigation or avoidance.

The Institutional land use designation will continue to be applied more widely than the Institutional floating zoning district similar to the application of the Resource Conservation land use designation. Existing Euclidean zoning districts will continue to be applied to those properties with an institutional designation but not on the identified land use list for the institutional floating zone. As has been determined in the past, these zoning districts will be established based on similarity and appropriateness to neighboring land uses and zoning districts. The broader institutional land use designation will reflect the fact that the use is recognized within the overall institutional umbrella, but has been established in a process other than the floating zone. This broad use of the institutional designation will allow Staff to conduct analysis of human services and make necessary decisions or recommendations regarding institutional uses.

In addition to the general regulations within the Institutional floating zone, proposed §1-19-10.900 (H) provides specific development requirements for the College or University land use.

In response to public comment received regarding the size and location requirements the BOCC directed Staff to make edits to the requirements in §1-19-10.900 (B)(1)(c) to permit the tract of land receiving the Institutional floating zone to be within ½ mile of a community growth boundary or contiguous or within, rather than limited to ‘contiguous or within a community growth boundary’ as previously proposed. In addition, language has been added to §1-19-10.900 (G)(2)(c) (1) to clarify that the overflow parking is not subject to parking lot landscaping requirements.

§1-19-10.1000 Open Space/Recreation Floating Zoning District (OSR). [Page 75]

The Open Space Recreation floating zone has been created to address the need for siting and review of large-scale recreational uses. The size and location criteria for these uses are similar to the institutional floating zone but with the idea that these uses will provide a transition between growth areas and existing agricultural uses.

The land uses permitted within the Open Space Recreation floating zone will most likely be large manicured and highly landscaped areas including the use of fertilizers. These areas will benefit from a nutrient management plan which is a site specific plan for fertilization of plant materials. The plan provides for fertilization on the site to maximize use, plant health, and minimize environmental impacts. Although the Maryland Department of Agriculture regulates and provides recommendations for nutrient management of golf course turf areas, the program would be complimented by a site development specific nutrient management plan addressing all landscaping factors rather than just turf areas. In addition, this requirement would apply to all uses within this floating zone rather than just golf course uses.

The requirement of a nutrient management plan as part of the Open Space Recreation floating zone application process will ensure that the use of these fertilizers adheres to the best management practices that are outlined by the University of Maryland Cooperative Extension for turf areas, but will also require that a plan is developed based on the unique characteristics of the proposed development site. While most nutrient management plans for landscaping address only turf areas, the Open Space Recreation floating zone requirements also include tree, shrub, and flower beds.

In addition to the general regulations within the Open Space Recreation floating zone, within proposed Section 1-19-10.1000 (H) specific requirements for the Fairground and Recreational Vehicle Campground land uses have been provided.

In response to public comment received regarding the size and location requirements the BOCC directed Staff to edit the requirements in §1-19-10.1000 (B)(1)(b) to permit the applicant to upgrade the roadway to meet the requirements, and to permit the BOCC to modify or waive the requirement where the tract of land receiving the Open Space Recreation floating zone is within [one or two miles] of a grade separated interchange on a controlled access freeway/expressway. The BOCC also directed Staff to add a requirement that the tract of land receiving the Open Space Recreation District not be permitted within a Priority Preservation Area which has been located in §1-19-10.1000 (B)(1)(e). Edits were also made to the requirements in §1-19-10.1000 (B)(1)(c) to permit the tract of land receiving the Open Space Recreation floating zone to be within [one or two miles] of a grade separated interchange on a controlled access freeway/expressway, or is within or contiguous to a community growth boundary rather than limited to ‘within or contiguous to a community growth boundary’ as previously proposed.

In addition, the minimum lot size for Fairground has been increased in §1-19-10.1000 (B)(2) from 100 acres to 200 acres, and language has been added to §1-19-10.1000 (G)(2)(c)(1) and (H) (1) (d) to clarify that the overflow parking is not subject to parking lot landscaping requirements.

ARTICLE XI: DEFINITIONS

§1-19-11.100 Definitions [Page 83]

Definitions have been provided for all existing and proposed uses permitted within the Agricultural and Resource Conservation zoning districts, as well as related terms.

TRANSITIONAL PROVISIONS

At the direction of the BOCC transitional provisions have been included in the ordinance as requested during public comment at the April 7, 2009 worksession.

STAFF RECOMMENDATION

Staff recommends approval of ZT-09-03 Ag/RC Use and Definitions Text Amendment.

EXHIBITS

Exhibit #1: ZT-09-03 Ag/RC Use and Definitions Text Amendment