THE EFFECTIVE DATE OF THIS ORDINANCE IS December 31, 2010

ORDINANCE NO. 10-31-566

RE: An Ordinance to Amend Certain Sections of Chapter 1-19 of the Frederick County Code (Zoning Ordinance)

BACKGROUND

The Board of County Commissioners (Board) has determined that it is appropriate and in the best interests of the citizens of Frederick County to amend certain sections of Chapter 1-19 of the Frederick County Code (the "Zoning Ordinance") to: (1) provide for additional business opportunities for commercial schools and satellite campus sites for schools; (2) provide for additional opportunities for private schools in the same zoning districts in which public schools are permitted; (3) provide for additional business opportunities for equestrian facilities; and (4) protect and preserve the life, safety and welfare of the residents of the County by increasing the height above flood level for construction in flooding related areas from one (1) foot to two (2) feet.

The Board held worksessions on the proposed zoning text amendments on June 29, 2010, July 1, 2010, and October 5, 2010. On November 17, 2010, the Frederick County Planning Commission held a public hearing and recommended approval of the text amendments.

On December 21, 2010, the Board held a duly-advertised public hearing on the proposed text amendments at which time the public had an opportunity to provide comments.

NOW THEREFORE BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Chapter 1-19 of the Frederick County Code be, and is hereby amended and adopted as more fully shown on Exhibit A attached hereto.

AND BE IT FURTHER ENACTED AND ORDAINED that the effective date of this Ordinance shall be December 31, 2010.

The undersigned hereby certify that this Ordinance was approved and adopted on the 21st day of December, 2010.

ATTEST:

Barry L. Stanton
County Manager

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

Blaine R. Young (SEAL)
President

MJC 12/21/10

PROPOSED ZONING TEXT AMENDMENT FOR FLOODPLAIN, COMMERCIAL & BUSINESS SCHOOLS, PUBLIC & PRIVATE SCHOOLS, AND BOARDING STABLES

ARTICLE V: ZONING MAP AND DISTRICTS
Division 2. Zoning Districts

§ 1-19-5.260. EUCLIDEAN INSTITUTIONAL ZONING DISTRICT (Ie).

The Euclidean Institutional Zoning District is established to provide for college or university, ~~elementary or secondary~~ **PUBLIC** school within the Agricultural Zoning District, private school, private school in conjunction with a place of worship, or residential treatment center in conjunction with a private school within the Agricultural or Resource Conservation Zoning Districts, and a continuing care retirement community (CCRC) within the Agricultural and R1 Zoning Districts, in existence or with final site development plan approval on June 15, 2009. (See also § 1-19-8.480.)

ARTICLE V: ZONING MAP AND DISTRICTS
Division 3. Use Table
§1-19-5.310. USE TABLE

[(A) remains unchanged]

	Zoning Districts													
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	HS	GC	ORI	LI	GI
Commercial Business and Personal Services														
Commercial ~~or business schools~~ **SCHOOL OR EDUCATION PROGRAM**											PS	**PS**	**PS**	
Institutional														
Private school			~~E~~ **PS**	~~E~~ **PS**	~~E~~ **PS**	~~E~~ **PS**	~~E~~ **PS**	~~E~~ **PS**	~~E~~ **PS**		**T**	**T**	~~E~~ **T**	
Governmental and Nongovernmental Utilities														
~~Elementary or secondary school~~ **PUBLIC SCHOOL**	-	-	PS	PS	PS	PS	PS	PS	PS	-	T	**T**	T	~~T~~
Animal Care and Service														
~~Boarding stable~~	~~P~~	~~P~~	-	-	-	-	-	-	-	-	~~PS~~	-	-	-
~~Commercial boarding stable~~	~~E~~	~~PS~~	-	-	-	-	-	-	-	-	~~PS~~	-	-	-

PROPOSED ZONING TEXT AMENDMENT FOR FLOODPLAIN, COMMERCIAL & BUSINESS SCHOOLS, PUBLIC & PRIVATE SCHOOLS, AND BOARDING STABLES

(B) *Permitted uses and required development review for limited zoning districts.*

(1) *Euclidean Institutional Zoning District (Ie).* The following uses are permitted within the Euclidean Institutional Zoning District:

(a) College or university, ~~elementary or secondary~~ **PUBLIC** school, private school, private school in conjunction with a place of worship, or residential treatment center in conjunction with a private school, a continuing care retirement community (CCRC), and agricultural activities as defined in § 1-19-11.100, subject to all other requirements of this chapter. The continued or further application of this zoning district to land uses not meeting these standards is not permitted. Caretaker residence in conjunction with a permitted use is specifically allowed as an accessory use. (See also § 1-19-8.480.)

ARTICLE VI: DISTRICT REGULATIONS
Division 2. Parking and Loading
§ 1-19-6.220. PARKING SPACE REQUIREMENTS AND DIMENSIONS

[(A) remains unchanged]

Commercial Business and Personal Services	
Bank, financial institution, and similar uses	1 for each 150 square feet of floor area excluding storage area
Commercial~~, business, technical or trade school~~ **SCHOOL OR EDUCATION PROGRAM**	1 for each 3 students

[(B) through (H) remains unchanged]

PROPOSED ZONING TEXT AMENDMENT FOR FLOODPLAIN, COMMERCIAL & BUSINESS SCHOOLS, PUBLIC & PRIVATE SCHOOLS, AND BOARDING STABLES

ARTICLE VIII: SPECIFIC USE REGULATIONS
Division 2. Accessory Uses

1-19-8.230.1 **RESERVED**~~-Horse tack and saddlery shop accessory to a commercial boarding stable in the Agricultural District~~

§ 1-19-8.230.1. **RESERVED**~~-HORSE TACK AND SADDLERY SHOP ACCESSORY TO A COMMERCIAL BOARDING STABLE IN THE AGRICULTURAL DISTRICT.~~

~~The following provisions shall apply to a horse tack and saddlery shop accessory to a commercial boarding stable in the Agricultural District.~~

~~(A) The horse tack and saddlery shop shall not utilize more than 25% of the commercial boarding stable main building floor area.~~

~~(B) The minimum lot area, lot width, yard setbacks, and height requirements are the same as required for animal care and services uses in § 1-19-6.100.~~

~~(C) No parking, storage, or display is permitted within the required setbacks.~~

ARTICLE VIII: SPECIFIC USE REGULATIONS
Division 3. Special Exception Uses

1-19-8.344 **RESERVED**~~-Commercial boarding stable in the RC District~~

§ 1-19-8.344. **RESERVED**~~-COMMERCIAL BOARDING STABLE IN THE RC DISTRICT.~~

~~The following provisions shall apply to commercial boarding stables in the RC District.~~

~~(A) The minimum lot area, lot width, yard setbacks and height shall be as provided for animal care and service uses in the table in § 1-19-6.100.~~

~~(B) The subject property must have frontage and access on a public road with a minimum pavement width of 20 feet.~~

~~(C) Within the RC District, the requirements of § 1-19-7.200 of this Code will be met.~~

~~(D) One freestanding sign no more than 15 feet in height and 25 square feet in area is permitted and shall be subject to the normal setback requirement for natural resources uses.~~

ARTICLE VIII: SPECIFIC USE REGULATIONS
Division 4. Permitted Uses

§ 1-19-8.480. USES PERMITTED IN THE EUCLIDEAN INSTITUTIONAL (Ie) ZONING DISTRICT.

[(A) through (C) remains unchanged]

(D) A private school, private school in conjunction with a place of worship, residential treatment center in conjunction with a private school, ~~elementary or secondary~~**PUBLIC** school with Euclidean Institutional Zoning shall be permitted to expand subject to the site plan review process (§ 1-19-3.300 through § 1-19-3.300.4) and must meet the following requirements:

(1) The proposed use(s) meets the definition of:

(a) Private school; or

(b) Private school in conjunction with a place of worship; or

(c) Residential treatment center in conjunction with a private school;

(d) ~~elementary or secondary~~**PUBLIC** school; or

(e) Agricultural activities as defined in § 1-19-11.100; and

(2) All other requirements of this chapter are met.

ARTICLE IX: ENVIRONMENTAL REGULATIONS
Division 1. Floodplain District Regulations

§ 1-19-9.100. FLOODPLAIN DISTRICT.

[(A) remains unchanged]

[(B) (1) through (B) (6) remains unchanged]

(B) (7) Any dispute of the FEMA floodplain shall be appealed to Federal Emergency Management Agency through the Zoning Administrator~~, while disputes regarding flooding soils shall be appealed to the Natural Resources Conservation Service, through the Zoning Administrator~~. Disputes regarding wetlands shall be appealed to the Maryland Department of the Environment.

§ 1-19-9.110. ACTIVITIES WITHIN FLOODPLAIN DISTRICT.

[(A) remains unchanged]

[(B) (1) through (B) (6) remains unchanged]

(B)(7) *Flooding soils.* No new development shall be permitted in areas of flooding soils unless approved through a mitigation process including the following:

(b) Determination of buildable areas by the Division of Permitting and Development Review ~~in consultation with the Soil Conservation District and the Natural Resources Conservation Service~~.

(c) Submission by the applicant of a mitigation plan for approval by the Division of Permitting and Development Review ~~in consultation with the Soil Conservation District and the Natural Resources Conservation Service~~.

[(C) through (D) remains unchanged]

ARTICLE IX: ENVIRONMENTAL REGULATIONS
Division 3. Wet Soils

§ 1-19-9.300. STRUCTURES WITH BASEMENTS NEAR WET SOILS.

(A)(1) No zoning certificate or building permit shall be issued for construction of a residential structure with a basement if proposed on or within 100 feet of "wet soils" until a soils delineation report is prepared by a licensed soils scientist or professional engineer registered in the State of Maryland. The soils report shall be submitted for review ~~by the SCD~~ prior to the Zoning Administrator's approval of the certificate or permit unless such a report was completed at an earlier stage of the development review process.

[(A) (2) remains unchanged]

ARTICLE X: OPTIONAL METHODS OF DEVELOPMENT
Division 9. Institutional Floating Zoning District

§ 1-19-10.900. INSTITUTIONAL FLOATING ZONING DISTRICT (I).

(A) *Purpose and intent.*

(1) The Institutional District is a floating zone established to provide for the location and development of large-scale public and private institutional uses including public airports, college or universities, private schools, or ~~elementary or secondary~~**PUBLIC** schools in areas with an agricultural/rural or institutional County Comprehensive Plan land use designation. Institutional uses fulfill the important function of providing for the educational, health, and social well-being of residents. However, large institutional facilities, because of their size, scale, and intensity, may create adverse impacts on surrounding properties and neighborhoods. These adverse impacts include noise, significant traffic volumes, and consumption of large areas of land for parking, infrastructure, and related facilities. Review and siting of these facilities through a floating zone process will maintain the purpose of the agricultural/rural areas identified by the County Comprehensive Plan by directing development to areas contiguous to concentrations of growth rather than where only services intended for rural and agricultural activities have been provided, will mitigate or minimize impacts to surrounding properties and mitigate or avoid traffic congestion which improves pedestrian and roadway safety.

[(B) through (E) remains unchanged]

(F) *Land use.* Land uses permitted within the Institutional Zoning District are limited to the following:

(1) Public airports

(2) College or university

(3) Private school

(4) ~~elementary or secondary~~**PUBLIC** school

[(G) through (H) remains unchanged]

ARTICLE XI: DEFINITIONS
Division 1. Definitions

1-19-11.100 DEFINITIONS

[(A) through (B) remains unchanged]

AGRICULTURAL ACTIVITY. Land used exclusively as a bona fide agricultural operation by the owner or tenant. The use of land for agricultural purposes includes farming, viticulture (grape production), fish culture, animal and poultry husbandry, and **EQUINE ACTIVITIES.** ~~the~~ ~~n~~**N**ecessary accessory uses such as packing, treating, or storing of produce, composting and power generation from farm animal waste **ARE ALLOWED**~~;~~ provided that the operation of the accessory use is clearly incidental to the agricultural activity. The business of intensive swine feeding operations, garbage feeding of hogs, fur farms or the raising of animals for use in medical or other tests or experiments, commercial slaughtering of livestock, poultry, fish or meat processing is excluded from this definition.

COMMERCIAL SCHOOL OR EDUCATION PROGRAM. **EDUCATION OR TRAINING IN BUSINESS, TECHNICAL, TRADE, COMMERCE, LANGUAGE, OR OTHER SIMILAR SPECIALTY SCHOOLS OR SATELLITE UNIVERSITY OR COLLEGE LOCATED IN AN OFFICE-TYPE SETTING.**

EQUINE ACTIVITIES. **EQUINE ACTIVITIES INCLUDE TEACHING EQUESTRIAN SKILLS, PARTICIPATING IN EQUESTRIAN COMPETITIONS, EXHIBITIONS OR OTHER DISPLAYS OF EQUESTRIAN SKILL, AS WELL AS THE CARING FOR, BREEDING, BOARDING, RIDING, OR TRAINING HORSES. ARENAS ARE PERMITTED IN CONJUNCTION WITH AN EQUINE ACTIVITY, SHALL NOT BE LOCATED IN THE FRONT YARD, AND SHALL BE SETBACK 100 FEET FROM ALL PROPERTY LINES. LIGHTING FOR OUTDOOR ARENAS SHALL NOT EXCEED 30 FEET IN HEIGHT AND IS SUBJECT TO SECTION 1-19-6.500 LIGHTING TYPE AND ILLUMINATION STANDARDS.**

FLOOD PROTECTION ELEVATION (FPE). The elevation of the base flood plus ~~1 foot~~ **2 FEET** freeboard.

PROPOSED ZONING TEXT AMENDMENT FOR FLOODPLAIN, COMMERCIAL & BUSINESS SCHOOLS, PUBLIC & PRIVATE SCHOOLS, AND BOARDING STABLES

SATELLITE UNIVERSITY OR COLLEGE. **A SATELLITE BRANCH OR CAMPUS OF A COLLEGE OR UNIVERSITY THAT IS PHYSICALLY DETACHED FROM THE MAIN UNIVERSITY OR COLLEGE AREA THAT DOES NOT INCLUDE ADMINISTRATIVE OFFICES AND LIVING QUARTERS, AND IS SMALLER THAN THE MAIN CAMPUS OF AN INSTITUTION.**

SCHOOL, PRIVATE. A private educational program for students for the teaching of children ~~or adults~~ including primary and secondary schools~~, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities~~.

SCHOOL, PUBLIC. An educational program for students approved by the Maryland State Department of Education for the teaching of children or adults including elementary and secondary schools, and similar facilities. Charter schools funded by the state are included in this definition.

~~*STABLE, BOARDING.* The use of property which may include accessory structure(s) for housing, sheltering, feeding and care of a maximum of 20 horses or ponies for a fee. A minimum of 1½ acres per horse shall be provided. Associated riding, jumping, individual instruction for those animals boarded at the stable, and unlit outdoor arenas are permitted.~~

~~*STABLE, COMMERCIAL BOARDING.* The use of property which may include accessory structure(s) for housing, sheltering, feeding and care of horses or ponies for a fee. A minimum of 1½ acres per horse shall be provided. Associated individual and group instruction in riding, jumping and showing for those animals boarded at the stable, and arenas with outdoor lighting are permitted. Such operations may also include a horse tack and saddlery shop. (See § 1-19-8.230.1.)~~