

THE EFFECTIVE DATE OF THIS ORDINANCE IS MAY 14, 2010

ORDINANCE NO. 10-18-533

RE: Amending the IE Zoning District and Deleting the OSRE from the Zoning Ordinance and Establishing by Legislative Decree that Certain Existing Uses in the AG District are Deemed Conforming

On June 4, 2009, the Board of County Commissioners adopted Ordinance No. 09-21-525 (Zoning Text Amendment 09-03).

The purpose of this Ordinance was to provide conforming status to certain existing land uses previously permitted in the Agriculture and Resource Conservation Districts, by creating new zoning districts -- Euclidean Institutional (IE) and Euclidean Open Space Recreation (OSRE).

During the Countywide Comprehensive Plan update and Countywide Comprehensive Rezoning, however, it has become apparent to the Board that certain changes to these two zoning districts are necessary to effectuate the Board's intent in enacting Ordinance No. 09-21-525.

The Board finds it necessary and proper, and in the best interest of the health, safety and welfare of the residents of Frederick County to amend the IE zoning district to provide clarification regarding permitted uses and processing, provide for minimum height and setback standards [and to provide for, and adopt requirements to govern, limited subdivision potential] in these zoning districts.

The Board has further determined to delete the OSRE zoning district from the Zoning Ordinance.

The Board hereby legislatively decrees the following: 'Golf Courses and Country Clubs' and 'Outdoor Recreation Centers' in the Agricultural zoning district, and Zoo/Botanical Gardens/Arboretums' in the Highway Service Zoning District in existence or with final site development plan approval as of April 8, 2010 shall be deemed conforming uses in the zoning districts which they are designated on the zoning map as part of Ordinance No. 10-05-540. Those properties deemed conforming as part of this ordinance may continue under the provisions of the zoning law in effect for 'Golf Courses and Country Clubs' in the Agricultural zoning district, and 'Zoo/Botanical Gardens/Arboretums' in the Highway Service Zoning District as of June 14, 2009. 'Outdoor Recreation Centers' deemed conforming as part of this ordinance may continue under provisions of the zoning law in effect for 'Golf Driving Range' in the Agricultural zoning district as of June 14, 2009 to include the use of property for golf driving range, chip and putt, miniature golf, batting cage/range, or putting green or any combination of these uses.

The Frederick County Planning Commission held a duly advertised public hearing on April 21, 2010 and recommended approval of the proposed amendment.

The Board of County Commissioners held a duly advertised public hearing on May 4, 2010. The public had an opportunity to comment at this public hearing.

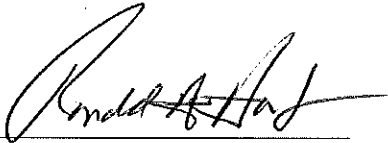
NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that the Zoning Ordinance be amended as shown on the attached Exhibit 1.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on the 14th day of May, 2010.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 4th day of May, 2010.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND



Ronald A. Hart
County Manager



Jan H. Gardner
President

MJC 6/17/10

EXHIBIT 1

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, continuing care retirement community (CCRC), private school, and elementary or secondary school land uses in existence or with final site development plan approval, within the Agricultural Zoning District, private school within the Agricultural or Resource Conservation Zoning District, and a CCRC within the Agricultural and R1 Zoning District on June 15, 2009.~~

THE EUCLIDEAN INSTITUTIONAL ZONING DISTRICT IS ESTABLISHED TO PROVIDE FOR COLLEGE OR UNIVERSITY, ELEMENTARY OR SECONDARY 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)

~~§1-19-5.270 EUCLIDEAN OPEN SPACE RECREATION ZONING DISTRICT (OSRe)~~

~~The Euclidean Open Space Recreation Zoning District is established to provide for recreational vehicle campground, fairground, golf course, golf driving range, and miniature golf land uses in existence or with final site development plan approval, within the Agricultural Zoning District on June 15, 2009.~~

DIVISION 3. USE TABLE

§ 1-19-5.310. USE TABLE.

[(A) remains unchanged]

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

(1) *Euclidean Institutional Zoning District (Ie).* ~~The Euclidean Institutional Zoning District is established to provide for college or university, continuing care retirement community (CCRC), private school, and elementary or secondary school land uses in existence or with final site development plan approval, within the Agricultural Zoning District, private school within the Agricultural or Resource Conservation Zoning District, and a CCRC within the Agricultural and R1 Zoning District on June 15, 2009.~~ **THE FOLLOWING USES ARE PERMITTED WITHIN THE EUCLIDEAN INSTITUTIONAL ZONING DISTRICT:**

(a) COLLEGE OR UNIVERSITY, ELEMENTARY OR SECONDARY 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)

~~(2) — Euclidean Open Space Recreation Zoning District (OSRe). The Euclidean Open Space Recreation Zoning District is established to provide for recreational vehicle campground, fairground, golf course, golf driving range, and miniature golf land uses in existence or with final site development plan approval, within the Agricultural Zoning District on June 15, 2009. The continued or further application of this zoning district to land uses not meeting these standards is not permitted.~~

§ 1-19-8.480. USES PERMITTED IN THE EUCLIDEAN INSTITUTIONAL (Ie) ~~OR EUCLIDEAN OPEN SPACE RECREATION (OSRe) ZONING DISTRICTS.~~

~~Uses permitted in the Euclidean Institutional or Euclidean Open Space Recreation Zoning Districts shall be permitted subject to (A), or (B), or (C), below~~ **THE FOLLOWING PROVISIONS SHALL APPLY TO PERMITTED USES WITHIN THE EUCLIDEAN INSTITUTIONAL ZONING DISTRICT.:**

(A) HEIGHT, AND FRONT, SIDE, AND REAR YARD REQUIREMENTS FOR THE EUCLIDEAN INSTITUTIONAL ZONING DISTRICT ARE AS FOLLOWS:

MAXIMUM HEIGHT 30'

MINIMUM SETBACK REQUIREMENTS

FRONT 40'
SIDE 50'
REAR 50'

(B) SUBDIVISION OCCURRING AFTER MAY 14, 2010 WITHIN THE EUCLIDEAN INSTITUTIONAL ZONING DISTRICT IS PERMITTED ONLY AS FOLLOWS:

(1) SUBDIVISION OF 3 LOTS WILL BE PERMITTED TO BE SUBDIVIDED OFF AN ORIGINAL TRACT OF LAND. FOR THE PURPOSES OF THIS SECTION, AN ORIGINAL TRACT OF LAND SHALL BE AS DESCRIBED IN THE COUNTY LAND RECORDS AS OF AUGUST 18, 1976.

(2) FOR ALL PARCELS CREATED OR RESULTING FROM SUBDIVISION, MINIMUM LOT AREA AND LOT WIDTH SHALL BE AS FOLLOWS:

MINIMUM LOT AREA 5 ACRES

MINIMUM LOT WIDTH 300'

(AC) COLLEGE OR UNIVERSITY, OR CONTINUING CARE RETIREMENT COMMUNITY (CCRC) LAND USES WITHIN THE EUCLIDEAN INSTITUTIONAL ZONING DISTRICT AS PROVIDED IN §1-19-5.310(B)(1) ~~Land uses permitted in the Euclidean Institutional or Euclidean Open Space Recreation Zoning Districts in existence or with final site development plan approval within the Agricultural Zoning District, private school within the Agricultural or Resource Conservation Zoning District, and a continuing care retirement community within the Agricultural and R1 Zoning District, on June 15, 2009 shall be~~ ARE permitted to expand subject to the site plan review process (§1-19-3.300 THROUGH §1-19-3.300.4) based on AND MUST MEET the following requirements:

- (1) The expansion shall not include acreage beyond that originally designated as Euclidean Institutional or Euclidean Open Space Recreation; and
- (2) The proposed expansion shall not include non-conforming uses, structures, or lots; and
- (3) ~~Within the Euclidean Open Space Recreation Zoning District the proposed use(s) and the existing use(s) meet the definition of:~~
 - ~~(a) Recreational vehicle campground; or~~
 - ~~(b) Fairground; or~~
 - ~~(c) Outdoor recreation center; or~~
 - ~~(d) Golf course.~~
- (4) ~~Within the Euclidean Institutional Zoning District~~ The proposed use(s) and the existing use(s) meetS the definition of:
 - (a) College or university; or
 - (b) Continuing care retirement community;; or
 - (c) **AGRICULTURAL ACTIVITIES AS DEFINED IN §1-19-11.100; AND**
- (4) **ALL OTHER REQUIREMENTS OF THIS CHAPTER ARE MET.**

~~(B) The proposed expansion is a principal permitted natural resource use in the Agricultural Zoning District as provided within § 1-19-5.310 Use Table; or~~

(CD) A private school, PRIVATE SCHOOL IN CONJUNCTION WITH A PLACE OF WORSHIP, RESIDENTIAL TREATMENT CENTER IN CONJUNCTION WITH A PRIVATE SCHOOL, elementary or secondary 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 SCHOOL; OR**
 - (e) **AGRICULTURAL ACTIVITIES AS DEFINED IN §1-19-11.100; AND**
- (2) **ALL OTHER REQUIREMENTS OF THIS CHAPTER ARE MET.**