



DIVISION OF PLANNING FREDERICK COUNTY, MARYLAND

Winchester Hall 12 East Church Street Frederick, Maryland 21701 (301) 600-1138

To: Board of County Commissioners

FROM: Larry Smith, Zoning Administrator; Shawna Lemonds, Principal Planner

DATE: September 22, 2008

RE: Agricultural and Resource Conservation Zoning District
Draft Text Amendment

ISSUE

Staff requests direction from the BOCC on potential text amendments to the zoning ordinance related to the Agricultural and Resource Conservation zoning districts.

After reviewing the regulations several areas have been identified where updates and changes will provide a clearer, more concise set of regulations for implementation by the County and the general public.

BACKGROUND

In July of 2003 the Citizens Zoning Review Committee (CZRC) Report was transmitted 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 prior BOCC then reviewed the report and voted on those recommendations to provide direction to Staff.

In September of 2007, the current BOCC provided additional direction to Staff regarding the permitted uses in the Agricultural and Resource Conservation zoning districts as well as the appropriate scale and intensity for those uses. Based on the background information, direction, and the existing purpose statements for the zoning districts, Staff provided several recommendations regarding changes to land uses, definitions, and processes within the zones.

The BOCC conducted worksessions on April 10, April 17, and May 6, 2008 to review and provide direction on Staff recommendations. In addition Staff conducted worksessions with the Frederick County Planning Commission (FCPC) on April 16, and May 21, 2008. This effort has resulted in a draft text amendment to the zoning ordinance.

The draft text amendment includes updates and edits to the Zoning Ordinance including Section 1-19-4 to improve the clarity of existing definitions and propose new definitions to reflect existing permitted uses, new uses, and related terms. Updates have also been made to Section 1-19-289 Use Regulations For Specific Zoning Districts to add or remove specific uses or provide for a change in processing. Existing special exception criteria related to the A and RC zoning districts were also updated to reflect the edits and/or additions.

In conjunction with updates to existing definitions and permitted uses within the Ag and RC zoning districts, the Open Space Recreation and Institutional floating zones were created. Specifically identified uses were then moved to the Institutional or Open Space Recreation floating zones. Euclidean Institutional and Euclidean Open Space Recreation zoning districts were also created to provide for the continued existence of specifically identified, existing, land uses as of the approval date of the creation of the Institutional and Open Space Recreation floating zones.

Regulations have been developed to permit individual power generation devices including solar collection systems, solar array, and wind energy systems. Edits were also made to existing language within the PUD floating zone to accommodate Continuing Care Retirement Communities (CCRCs).

Lastly, regulations have been amended and added to this project to define and separate Landscape Contractor from Nursery Uses and indicate the appropriate districts for operation of those uses. The regulations include several definitions, edits and additions to Supplementary District Regulations for the commercial and industrial districts, and special exception criteria.

The Text Amendment Overview section below provides a summary of the proposed changes. The summary includes the Zoning Ordinance Section and heading followed by a description for each proposed change. BOCC comment or direction on a specific recommendation has been included within the summary. In an effort toward brevity, a majority of the specific extensive land use discussions included in previous staff reports were not included here. Updates have been provided to explain how the edits and amendments have been achieved. Within the attached draft text amendment, Exhibit 1, proposed new text is shown in bold with text to be deleted shown in strikethrough.

STAFF RECOMMENDATION

Staff requests direction regarding the proposed text amendment to the Zoning Ordinance, including edits to the Agricultural and Resource Conservation Zoning District regulations, and the creation of the Institutional and Open Space/Recreation floating zones.

EXHIBITS

Exhibit #1: *Draft* text amendment

TEXT AMENDMENT OVERVIEW

ARTICLE I: IN GENERAL

Sec. §1-19-4 Definitions.

This Section has been updated to remove or edit existing definitions and add new definitions related to the recommended changes to the A and RC zoning districts. Included are definitions for existing uses not previously defined, new uses, and related terms. Existing definitions for uses recommended for removal from Section 1-19-289 have been deleted.

Several items requested in a Staff Report provided by the Office of Economic Development (OED) have been addressed through updates to definitions. A minimum lot size of 10 acres has been added to the definition of Farm Winery as initially requested and then further refined during subsequent discussions with Planning Division Staff. Farm composting and power generation of farm animal waste have been added to the definition of Agricultural Activity which will provide a processing mechanism for these uses within the County. Agricultural Activity is a principal permitted use subject to design regulations in all zoning districts.

Based on initial direction given at a worksession held on April 10, 2008, and a subsequent April 17 BOCC discussion and vote on Staff recommendations, Guest Farm and Bed and Breakfast have been added as permitted uses within the Zoning Ordinance.

Both uses have been defined within Section 1-19-4. Guest Farm, as defined, permits temporary accommodations in no more than 4 guest rooms, which may include meals, on a Farm which is further defined as not less than 25 acres where an Agricultural Activity is actively conducted. The term Guest Farms has been added to the definition of Agritourism Enterprise which will provide a processing mechanism within the Use Regulations for Specific Zoning Districts. Agritourism Enterprise is a principal permitted use subject to design regulations in all zoning districts.

'Bed and breakfast' has been added to Section 1-19-289 as a separate use replacing 'Boarding house or tourist home'. A further discussion of this use is provided within the heading of Transient Housing below.

Definitions and graphics have been provided in this section to facilitate and guide the processing of Solar Collection Systems and Wind Energy Systems. The graphic applying to a Wind Energy System is located within Section 1-19-4 with the graphic pertaining to the calculation and placement of a Solar Array located in Section 1-19-202.

ARTICLE II: ADMINISTRATION AND ENFORCEMENT

DIVISION 2 APPEALS, VARIANCES, ETC.

Sec. §1-19-48 Special Exceptions.

This section of the zoning ordinance contains the general special exception criteria that a development must meet for the Board of Appeals to approve a project. The criteria are general in nature and apply to all uses permitted as a special exception through the zoning ordinance. These criteria are in addition to the specific criteria for various uses contained within Article VI Special Development Provisions Division 3 Special Exception Uses.

As requested, Staff reviewed Section 1-19-48(B)(3) regarding conflicts in comparing a potential special exception use with a use that does not require a special exception. Existing language has been replaced with new language that 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 §1-19-48 (F) to address incidental accessory uses to a special exception, and remove outdated wording. These changes will clarify the intent, approval process, and location in the zoning ordinance for accessory uses incidental to a special exception.

ARTICLE III PROVISIONS APPLICABLE TO ALL DISTRICTS
DIVISION 5. OFF-STREET PARKING AND LOADING FACILITIES
Sec. §1-19-168 Parking Space Requirements

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 Section 1-19-183 and Unlisted Uses within Section 1-19-288(C) Specific District Regulations.

DIVISION 6. SIGNS
Sec. §1-19-183 Signs Permitted and Regulated in the Zoning Districts

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 Section 1-19-183 Signs Permitted and Regulated in the Zoning Districts. Sign provisions have been added to existing and new special exception criteria to provide consistency with existing special exception provisions. For the remaining permitted uses, sign provisions have been added to Section 1-19-183.

Sign regulations provided in Section 1-19-393 Country Inns in RC and A Districts, and Section 1-19-379 Tent Campgrounds in A and RC Districts were updated to reflect consistency with other sign regulations for permitted special exception uses in the A and RC zoning districts.

Within Section 1-19-183A 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 Section 1-19-288 for Unlisted Uses and in Section 1-19-168 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 Section 1-19-304.

DIVISION 7. ACCESSORY USES AND STRUCTURES

Sec. §1-19-196 Accessory Structure Definition and Location

Sec. §1-19-197 Accessory Use Purpose and Intent

Changes to Section 1-19-196 and 1-19-197 separate the accessory structure regulations and definition from accessory uses, as well as providing regulations to address the height and location of accessory structures.

Edits to Section 1-19-197 provide direction on uses that would be customarily associated with a principal use permitted within a zoning district, but where specific regulations are required. In these cases, the accessory use would be approved only when the regulations have been met. Language within this Section has been updated to provide a purpose and intent statement to clarify what uses are included in this Section, why they are listed, and what differentiates them from all other customary uses permitted in the zone.

Sec. §1-19-198 Accessory Uses on Residential Properties

This Section identifies customary accessory uses permitted on residential properties including home occupations. Changes to the home occupation standards in Section 1-19-198 (A)(5)(a)(2) were made to provide for antique shops as home occupations in the A and RC zoning districts. 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.

Sec. §1-19-202 Accessory Uses in All Zoning Districts

This Section provides direction on uses that would be customarily associated with a principal use permitted within all zoning districts, but where specific regulations are required. Several existing uses have been permitted in all zoning districts but were not necessarily grouped within this heading. Those uses have been moved to this overall heading for the purpose of providing clarity in processing. In the future new accessory uses permitted in all zoning districts but requiring specific regulations will be added to this Section.

Within this Section regulations have been developed for individual power generation devices. These devices include solar collection systems, solar array, and wind energy systems. During their review of the Zoning Ordinance the CZRC recommended that the County encourage alternate forms of electricity production including private windmills that include performance measures. Based on discussion of this topic during worksessions with the BOCC, Staff has created provisions to address individual power generation devices. These recommendations were developed based on research and review of several existing ordinances within other jurisdictions as well as a State of Maryland Model Ordinance created by the Maryland Department of Energy.

To address individual power generation devices several changes were made within the Zoning Ordinance. The Section 1-19-205 heading has been deleted for accessory use of communication antenna as they are permitted in all zoning districts and should be included with other uses permitted in this same manner. Provisions for Solar Collection Systems mounted on a roof or exterior wall, ground mounted Solar Array, and Limited Wind Energy Systems have been created to permit these uses within any zoning district. As proposed, ground mounted Solar Array and Limited Wind Energy Systems are permitted within all zoning districts subject to specific requirements including setbacks, height, location, and safety measures.

Ground mounted Solar Array are limited to the same setback and size restrictions as accessory structures on residential properties. The same graphic added to Section 1-19-198 for accessory structure calculation on residential properties has been edited to apply to Solar Array and added within this Section.

Regulations provide that each property is eligible for two Limited Wind Energy Systems. Limited Wind Energy Systems under 10 feet in height and located on a principal or accessory structure will be permitted in all zoning districts. All other Limited Wind Energy Systems must adhere to specifically identified requirements including setbacks, maximum height (provided within the definition), location, safety, and abandonment. In addition, a graphic was added to Section 1-19-4 'Wind Energy System, Limited' to provide clarity in the application of the terms included within this Section of regulations.

Sec. §1-19-204 Vocational/Sports Training Facilities in the Limited Industrial (LI) District

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

Sec. §1-19-205 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

'Storage tanks, gasoline' has been removed from Section 1-19-289 Use Regulations for Specific Zoning Districts. The use has been added as a permitted accessory use on Farm lots and within the GC, HS, LI, and GI zoning districts. Existing special exception criteria were deleted in Section 1-19-395 and transferred to this Section to regulate the tanks as accessory uses.

Sec. §1-19-206 Crematory Accessory to a Cemetery/Memorial Garden in the A and R1 Districts

The heading for this Section has been updated to reflect the changes to 'Cemetery/memorial garden' within Section 1-19-289. 'Cemetery/memorial garden' has been removed as a principal permitted use in the RC zoning district and will be permitted only as an accessory to 'Place of Worship' in this zoning district. For these reasons the heading of this Section has been updated to clarify that crematory as an accessory to Cemetery/Memorial Garden is permitted solely in the A and R1 zoning districts.

A discussion of Cemetery/Memorial Garden is provided within the heading of Section 1-19-289 Use Regulations for Specific Zoning Districts located below.

Sec. §1-19-207 Accessory Uses in the Agricultural or Resource Conservation Districts

This is a new Section that has been added to differentiate between accessory uses that are permitted in the Agricultural and/or RC zoning districts and those permitted in other zoning districts. Separating these uses from others by providing a new heading will facilitate the location of a specific regulation within the zoning ordinance.

'Horse tack and saddlery shop' 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 Section 1-19-398 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 Section 1-19-200 Commercial and Industrial Districts. Existing regulations in, 1-19-200, provide for retail sales as a customary accessory use within commercial and industrial zoning districts.

DIVISION 8. OTHER REQUIREMENTS

Sec. §1-19-214 Exemption of Essential Services

Staff has made an effort to clarify and define solid waste operations within the use regulations. The changes include providing definitions within Section 1-19-4 and edits to Section 1-19-214. Section 1-19-214 provides guidance on the exemption of essential services but does not address solid waste. As provided in the County Code 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 1-19-214 to reflect these existing provisions in the County Code.

ARTICLE IV: ZONING DISTRICTS AND MAP GENERALLY

DIVISION 2. ZONING DISTRICTS

Sec. §1-19-238 Resource Conservation Zoning District (RC).

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 1-19-238 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 reflects the provisions within Section 1-19-302, (B)(2), *recently updated*, of the zoning ordinance.

Sec. §1-19-244 Euclidean Institutional Zoning District (Ie)

Sec. §1-19-245 Euclidean Open Space Recreation Zoning District (OSRe)

As part of this text amendment, Euclidean Institutional and Open Space Recreation zoning districts have been created to provide for the continued existence of specifically identified, existing, land uses as of the approval date of the creation of the Institutional and Open Space Recreation floating zones.

This new Section provides a purpose statement for the Euclidean Institutional and Open Space Recreation zoning districts. Through application of these Euclidean districts, the existing uses not meeting the new floating zone criteria will be permitted to remain, continue functioning, and expand within the regulations that are proposed within Section 1-19-415 (B). New uses establishing in the future will be permitted solely through the floating zoning districts.

ARTICLE V: DISTRICT REGULATIONS
DIVISION 2. SPECIFIC DISTRICT REGULATIONS
Sec. §1-19-288 Generally.

Staff has recognized that the zoning ordinance does not address the situation where a specific use is not listed in the use regulations contained in Section 1-19-289. Language has been added to Section 1-19-288 to address unlisted uses and clarify the process for determining whether a specific request is permitted or prohibited by the zoning ordinance. The original draft language has been reworded to increase clarity based on input provided by the BOCC during worksessions.

Sec. §1-19-289 Use Regulations for Specific Zoning Districts.
(A) Permitted Uses and Required Development Review

Staff reviewed the CZRC Final Report recommendations, votes by the prior BOCC on the CZRC recommendations, direction given by the current BOCC on 9/11/07 and worksessions held in 2008. Each use was reviewed 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 Regulations in Section 1-19-289 are discussed below.

Natural Resources Uses

Commercial Greenhouses and Nurseries

As directed by the BOCC, Staff has made an effort to define and separate Landscape Contracting from Nursery uses through several edits to the zoning ordinance.

The 'Commercial greenhouses and nurseries' use has been deleted within the Use Regulations and 'Nursery Retail', 'Nursery Wholesale', and 'Landscaping Contractor' have been added as new 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.

'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 and land intensive 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 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. As noted in previous staff reports, 'Landscaping contractor' is not recommended as a permitted use in the Resource Conservation zoning district. Definitions for each use have been added to §1-19-4, as well as the related term Yard Storage.

Existing Supplementary District Regulations in Section 1-19-304 General Commercial, Highway Service and 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 Section 1-19-377 Commercial Greenhouses or Nurseries in RC or A Districts has been edited to remove the RC district, and apply to Landscape Contractors. 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 frontage and access requirements.

These changes will identify 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

'Farm Winery Tasting Room' has been removed as a permitted use in the RC zoning district. On 9/11/07 the BOCC discussed removing 'Farm winery tasting room' as a permitted use within the RC district because the use is a retail operation.

Roadside Stands – retail and wholesale

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 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 Section 1-19-4 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 in the R1, R3, VC, HS, and GC subject to site development plan approval (PS).

Forestry

A separate listing for 'Forestry' has been maintained in the Use Regulations and a definition has been added to Section 1-19-4.

Sawmill

'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 1-19-4. Special Exception approval criteria have been created in a new Section 1-19-380, utilizing Section 1-19-404 Solid Waste Operation criteria as a basis.

Residential Uses

Caretaker Apartment and Accessory Apartment

Minor edits have been made to Section 1-19-289 to simplify the 'Caretaker Apartment' land use and definitions have been provided within Section 1-19-4 for 'Accessory apartment' and 'Caretaker Apartment'.

Transient Housing

Boarding House or Tourist Home

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 Section 1-19-4.

Based on BOCC direction at a worksession on April 17, 2008 Bed and Breakfast will be permitted subject to site development plan approval (PS) in the A, RC, 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 have been added to a new Division within the Zoning Ordinance titled Permitted Uses proposed as Section 1-19-415 further discussed below.

Travel Trailer Park and Tent Campground

'Travel trailer park' and 'Tent campground' were reviewed and compared. Although similar uses, Staff believes that when located in the A or RC zoning districts, the uses should function differently. Both uses have been moved from the category of Transient Housing within Section 1-19-289 to the category of Open Space and Institutional. 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.

'Tent campground' remains a special exception in both the A and RC zoning districts. Changes have been made to the criteria within Section 1-19-379 to add a minimum lot size, to 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 1-19-322. The text that has been added to insure that clearing and site disturbance are minimized was originally included within the clustering provisions found within §1-19-302. Although the overall clustering provisions were recently removed from the ordinance, the specific language regarding clearing and site disturbance established steps 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 1-19-4.

'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. It has been defined in Section 1-19-4 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 1-19-378 as well as the heading to reflect the new use title.

Existing criteria have been edited to combine §1-19-378 (C) & (H) into one regulation and parking requirements have been added to Section 1-19-168.

Within Section 1-19-320 the proposed Open Space Recreation floating zone, a minimum lot size of 10 acres has been added (1-19-320 (B)(2)) to provide consistency with 'Tent campground', 'Rustic retreat/camp/outdoor club' (Section 1-19-387) and Mobile Home Park floating zone requirements (Section 1-19-322). Additional requirements for site separation and provision of a recreational green area have been added to Recreational Vehicle Campground (1-19-320 (H)(2)).

Commercial Uses - Retail

Antique, Artisan and Craft Shops

Existing special exception criteria within Section 1-19-380 limit 'Antique, artisan and craft shops' within the A and RC zoning district, however, the restriction to location within a structure existing as of 1/24/77 only applies within the RC district. 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.

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 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 §1-19-198 (A)(5)(c)(3) the provisions permit an increased accessory structure size for the A and RC zone.

For these reasons 'Antique, artisan and craft shops' has been removed as a primary permitted use in the A and RC zones and will be permitted solely as a home occupation.

The Use Regulations in Section 1-19-289 have been updated to reflect this change and special exception criteria in Section 1-19-380 have been deleted. Edits have been made to the Home Occupation definition within Section 1-19-4, and Section 1-19-198 Accessory Uses on Residential Properties to specifically permit antique shops in the A and RC Districts as a home occupation.

In a related issue previously identified by Staff, the 'Hobby/craft shop/gallery' use 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 'Museums', which are permitted in the VC, HS, and GC. 'Museum/gallery' and 'Hobby shop' have been defined and added to Section 1-19-4.

Farm Equipment Sales or Service

'Farm equipment sales or service' special exception criteria in Section 1-19-382 have been updated to include provisions similar to those for Automobile Repair Shops' (see Section 1-19-399). 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 1-19-382 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'.

In addition the Section 1-19-382 heading has been edited to refer to 'Agricultural products processing' rather than 'Agricultural wholesaling or processing'.

Horse Tack and Saddlery Shop

In a related issue it was identified that as an independent primary use, 'Horse tack and saddlery shop' would be commercial in nature with fairly limited special exception criteria, and would typically 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 zone and 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 Section 1-19-4, changes in processing are reflected in the Use Regulations in Section 1-19-289 and the Accessory Use regulations in a new Section 1-19-207 Accessory Uses in the Agricultural or Resource Conservation Zoning Districts.

Pet Store and Pet Training/Day Care/Grooming Facility

As discussed in previous staff reports, 'Pet training/daycare/grooming facility' has been added to the use regulations 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. In addition, as a retail establishment 'Pet store' has been moved from the category of 'Animal Care and Service' to 'Commercial Uses – Retail'. Placing these uses in the commercial category is consistent with the past practice of separating animal related retail uses from animal care and service uses.

Commercial Business and Personal Services

Country Inn

The definition of Country Inn within Section 1-19-4 has been updated. The new definition provides a distinction between a Country Inn and a Bed and Breakfast.

In a related issue several sign regulations have been updated to provide consistency for uses permitted within the A and RC zoning districts. The existing special exception criteria within Section 1-19-393 have been reduced from 30 square feet to 25 square feet to provide consistency with other special exception uses within the A and RC zoning districts.

Wholesaling and Processing

Explosive Materials Storage

'Explosive Materials Storage' was reviewed as a permitted special exception use in the A zone.

On 9/11/07, the BOCC discussed removing this use from the A zone and permitting it in the General Industrial (GI) zone instead. However, the location of GI near General Commercial zoning districts and high population areas within our 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 Regulations. The special exception criteria located in Section 1-19-402 have 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 primary permitted use in the GI zone as provided in Section 1-19-370 (l)(2)(b) Industrial District Performance Standards.

Automobile and Related Services

Automobile Repair or Service Shop

This use was discussed by the CZRC and the BOCC for removal as a permitted use in the A zone but no consensus was reached. However, Staff has recognized that many of the historically established auto repair facilities in the A zone are closing or relocating. As a primary permitted use, construction or use of a primary commercial structure for this purpose is expected and the definition permits major repair or body work as well as retail sales. Existing special exception criteria in Section 1-19-399 do not limit the size of the primary structure, but do address screening, landscaping, and intensity by requiring a screened parking area for no more than 5 vehicles.

'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 zone.

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 Section 1-19-399 have been edited to reflect this change.

Storage Tanks, Gasoline

The existing regulations permit gasoline storage tanks as a stand-alone primary use in the Agricultural district. 'Storage Tanks, Gasoline' have been removed as a primary permitted use as a special exception in the A, R1, R3, R5, R8, R12, R16, HS, GC, LI, and GI and a definition has been added to Section 1-19-4.

The use has been added to Section 1-19-205 as a permitted accessory use on Farm Lots as well as in the HS, GC, LI and GI zoning districts utilizing the criteria previously listed in Section 1-19-395.

School Bus Parking

As a special exception use as provided in Section 1-19-408 '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 Section 1-19-399 Automobile Repair Shop in the Agricultural zone, the criteria for 'School bus parking' have been clarified and updated to include language to address screening and parking outside of established setbacks. Lastly, 'School bus parking' has been re-located from the category of Animal Care and Service within Section 1-19-289 Use Regulations to the category of Automobile and Related Services.

Animal Care and Service

Kennel, and Animal Hospital or Veterinary Clinic

Several housekeeping edits have been made to the existing special exception criteria for 'Kennels, Animal hospitals or veterinary clinics' in Section 1-19-385 including the reference in the heading and in item (B) to kennels in the RC. 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 has been added to the special exception criteria. Sign regulations have been added to provide consistency with other uses permitted within the Agricultural zoning district. Lastly, 'Animal boarding place' in Section 1-19-4 Definitions has been removed and the definition for Kennel has been updated.

Riding Stable – Commercial or Club

To clearly identify the small scale boarding stable not currently identified in Section 1-19-289 and clarify the components of the larger commercial operation 'Boarding stable' and 'Commercial boarding stable' have replaced 'Riding stable – commercial or club'. 'Boarding stable' is permitted subject to design regulations (P) in both the A and RC zones. The commercial riding stable is permitted as a special exception in the RC zone and permitted subject to site development plan approval (PS) in the A zone. Section 1-19-4 definitions have been updated to reflect both types of stables. Through the definitions the intensity is regulated through a minimum lot size per horse. The review criteria in Section 1-19-407B continue to apply however, the heading has been updated, and sign regulations have been added for consistency.

Commercial Amusements

Motorcycle Hill Climb

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 zone. Section 1-19-289 has been updated to reflect his change. 'Motorcycle hill climb' will remain as a temporary use in the GI zoning district.

Golf Course and Country Club

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 zones changes have been made to Section 1-19-289. 'Golf course and country club' has been removed from the use table and replaced with 'Golf course'. The new use has been defined to include country club, pro shop and other ancillary uses as customary accessory uses to a golf course. This use is permitted through the Open Space Recreation floating zone acting as a transition between growth areas and Agricultural uses. 'Golf course' continues as currently permitted in the residential zones.

'Outdoor recreation center' has been added as a new use in Section 1-19-289 to clarify the location of the many golf related uses within the use regulations. 'Outdoor recreation center' has been defined as the use of property for a golf driving range, chip and putt, miniature golf, batting cage/range, or putting green. Due to the increased need for land area when co-locating these uses, 'Outdoor recreation center' is permitted through the Open Space Recreation floating zone in Section 1-19-320 (F) when either a golf driving range or chip and putt are located together with any of the other permitted uses. The use is also permitted subject to site development plan approval (PS) in the GC, LI, and GI without co-location restrictions allowing one or more of the uses to develop together or independently. The separate listings for golf driving range, chip and putt, miniature golf, batting cage/range have been removed from Section 1-19-289. However, separate definitions have remained to provide clarity during processing. These changes will eliminate the confusion of where and why golf related uses have been permitted or prohibited in specific zones.

Zoological Gardens

Use regulations in Section 1-19-289 have been edited to replace 'Zoological gardens' with 'Zoo/botanical garden/arboretum' and a definition has been added to in Section 1-19-4.

'Zoo/botanical garden/arboretum' continues to be permitted in the HS and GC zoning districts and is also permitted through the Open Space Recreation floating zone.

Sports training facility

'Sports training facility' as a special exception in the A zone included a definition and criteria in Section 1-19-410. Specific issues were raised regarding the amount of impervious surface permitted, as well as a very large minimum lot size of 50 acres. Permitted uses include field athletics but also rather intensive indoor sports. The definition of the use permits enclosed facilities with the only limitation being the 7 acre maximum building/enclosed area/impervious lot coverage criterion. Staff reviewed this use with an attempt to identify which uses would be appropriately located in the A zone while furthering the intent of the zone and providing opportunities for sporting and recreational activities.

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 Section 1-19-4 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 use will continue to be permitted subject to site development plan approval (PS) in the GC and LI zones but has been removed as a special exception in the Agricultural zoning district.

The 'Outdoor sports recreation facility' has been defined in Section 1-19-4, and will be permitted solely through the Open Space Recreation Floating Zone (Section 1-19-320). The outdoor use provides for outdoor recreation on non-governmental lands with limited modification of a site. Outdoor sports recreation facility uses would include activities such as field sports, paintball, laser tag, hiking, and bicycling.

The special exception criteria in Section 1-19-410 have been deleted as the use will be required to meet the floating zone regulations including a minimum lot size of 25 acres for this use, as well as the overall approval criteria and general development standards.

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.

For clarification purposes, the definition and text relating to Vocational/Sports training facilities located in Section 1-19-4 and 1-19-204 have been deleted.

Open Space Institutional

Airport, Public

The Use Regulations in Section 1-19-289 have been edited to require processing of 'Airport, public' through the institutional floating zone (Section 1-19-319) due to the complex and high intensity nature of this type of development.

Cemetery/Memorial Gardens

'Cemetery/memorial gardens' has been removed as a principal permitted use in the RC zoning district and permitted within this zone only as an accessory to a 'Place of worship'. These changes are reflected in edits to Section 1-19-289, deletion of Section 1-19-407E, and the addition of language in Section 1-19-207 Accessory Uses in the Agricultural or Resource Conservation Zoning Districts.

As requested, Staff considered how a 'Natural cemetery' or burial would be processed. 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 1-19-289 and defined in §1-19-4. The existing definition is general in nature and would apply to both the conventional cemetery memorial garden as well as the natural method.

Fairground

A definition for 'Fairground' has been added to Section 1-19-4. The use has been removed as a principal permitted use in the A zone and added as a permitted use in the Open Space Recreation 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 Regulations a carnival is listed separately and permitted as a temporary use in the Agricultural district.

A limited number of fairgrounds (likely only one) will ever be developed within the County but event centers will continue to be developed as the County grows. 'Place of assembly/event complex' has been created as a new use to address the creation of new event centers as well as the growing desire to locate large places of worship on a regional scale. 'Place of assembly/event complex' will be defined to include religious, cultural, or social activities on a regional scale conducted either indoor or outdoor. The definition also provides that these uses are larger than 25,000 square feet of total floor area, or exceed 300 peak hourly traffic trips, or 900 maximum daily traffic trips. Due to the intensity and impact associated with 'Place of assembly/event complex' it will be permitted through the Institutional floating zone. The 'Place of assembly/event complex' use is intended to work together with Place of Worship, Civic Community Center and Civic Service club to address scale and intensity thresholds for these types of uses within Agricultural designated lands. A further discussion of these uses is provided under the heading of Place of Worship below.

Governmental, civic, nonprofit parks, recreation or educational areas

Existing uses listed in Section 1-19-289 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 the use 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 (E). Existing special exception criteria contained in Section 1-19-407 provide regulations which for the most part are duplications of existing language in other Sections of the zoning ordinance and have been deleted.

Trap, skeet, rifle, archery ranges, and hunting, fishing and gun clubs

'Trap, skeet, rifle, archery ranges, and hunting, fishing and gun clubs' and 'Hunting and fishing clubs without shooting ranges' were discussed by Staff to address 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'. The use will remain a special exception in the A and RC zones. Edits to the existing criteria (Section 1-19-390) 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 Section 1-19-48 of the zoning ordinance. Within this section, a special exception is required to comply with §1-19-48 (B)(3) which includes language to address noise, a requirement that remains within the text changes proposed within this text amendment.

As requested, Staff researched lead free ammunition/projectile regulations. In 2007, the State of California enacted a requirement for the use of nonlead centerfire rifle and pistol ammunition when taking big game and coyote within areas specified as California condor range (effective July 1, 2008).

Hunting and Fishing Clubs Without Shooting Ranges

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

Institutional

Child care centers, Nursery school, Nursery school day care

Within Section 1-19-289 Use Regulations, '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. The use 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. The use has been removed as a principal permitted use through special exception in the A zone.

In-home child care provides this needed service without permitting commercial construction in the A zone. 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 child care home includes the provision that the use may be permitted as a home occupation.

Existing special exception criteria in Section 1-19-388 have been updated for changes in the Agricultural zone, however, they continue unchanged as they apply to other zoning districts. For clarification purposes, language within Section 1-19-388 (A) specifically addressing child care when associated with places of worship has been added to existing special exception provisions in Section 1-19-407C that will continue to be utilized for the newly created 'Place of worship' in the Agricultural zone see Place of Worship discussion below.

Civic Service Clubs and Civic Community Center

'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. An expanded discussion of these uses is included within the heading of Place of Worship below.

Group Home and Assisted Living Facility

'Assisted living facility' has been added along with the current listing of 'Nursing home' and 'Group home' within the use regulations. 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.

After further study and consideration Staff would recommend processing any new requests for CCRC's through the existing PUD regulations. Due to the specific nature of the Institutional floating zone, in addressing large scale institutional uses in areas with an Agricultural land use designation, development of CCRCs will be best addressed through the PUD process. CCRCs should be located in areas with water, sewer, and other public services. For these reasons, the proposed institutional floating zoning district would not be the best processing mechanism for this use.

These changes follow the recommendations made by the CZRC that nursing homes and similar facilities be located closer to transportation and other services, and that higher density districts are more appropriate. A detailed discussion of the updates to the PUD regulations to accommodate the development of CCRCs can be found within the heading of Section §1-19-321 Planned Unit Development located below.

Places of worship

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 location of a large-scale facility of this type must be carefully considered.

To provide a standard for adequate review and siting of large institutional places of assembly, Staff has created 'Place of assembly/event complex' permitted through the Institutional floating zone. This new use will work together with 'Place of worship', 'Civic community center', and 'Civic service club' and specific threshold standards to differentiate between the large-scale and small-scale facility. As provided within the proposed definitions and edits to existing special exception criteria in Section 1-19-407C, 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 will be permitted as a special exception in the Agricultural zoning district and include 'Place of worship', 'Civic community center, and 'Civic service club'.

The recommended daily and peak hour threshold standards are meant to be applied concurrently with the application of the square foot threshold. The threshold of 25,000 square feet is based upon the same number previously identified in zoning ordinance updates for neighborhood scale facilities of this type, as well as review of existing places of worship across the County. The peak hour traffic and maximum daily traffic trip thresholds were derived by review and analysis of the data provided in the Institute of Transportation Engineers (ITE) Trip Generation manual (7th Edition). The manual provides an average number of daily and hourly trips per 1000 square feet for related uses with specific studies available for Places of Worship and Civic Community Centers. Based on these studies a comparison of the number of trips generated by these types of uses was made. This data is also currently utilized for calculations contained in traffic impact studies required for Adequate Public Facilities Ordinance (APFO) review. Places of Worship studies were chosen to generate the threshold numbers due to the fact that Places of Worship are the highest generators of traffic within the identified group of uses to which the thresholds will apply.

It should be noted that the ITE studies include a number of different daily and peak hour scenarios by weekday and weekend day for Places of Worship. Due to this variation, the Place of Worship trip generation values chosen were specific to the daily and peak hour trip generation studies available for Sunday. The resulting threshold numbers of 900 daily trips and 300 peak hour trips reflect the application of the ITE peak hour and daily traffic generation values applied to a proposed 25,000 square foot facility.¹

Once the thresholds were established, Staff compared the peak hourly and maximum daily traffic trip thresholds to previously submitted traffic impact studies for related uses during application of the APFO standards. The results from these comparisons support the recommended threshold numbers.

The established threshold requirements were added to Section 1-19-407C along with other edits and updates. The heading has been edited to apply to civic community center and civic service club in the Agricultural zone and to place of worship in the A and RC zones. The special exception criteria were also updated to include the criteria previously located in Section 1-19-388(A) to provide for child care associated with places of worship. Other requirements include limitations on parking to that number required by the zoning ordinance, frontage and access on an arterial or collector, and limitations on accessory uses to those that are customarily incidental to the principal use requesting approval.

The large-scale facility has been added to the Use Regulations as 'Place of assembly/event complex' and will be processed through the Institutional floating zone.

¹ It should be noted that a strict application of the Sunday daily trip generator for Place of Worship would result in 915.75 trips generated, while the strict application of the Sunday peak hour threshold would result in 294 trips per Sunday peak hour.

The changes to the processing of the small scale facilities, and updates to Section 1-19-407C special exception criteria will work together with 'Place of assembly/event complex' to separate and define intensity and scale limitations for these types of uses. Definitions have been provided in Section 1-19-4 for 'Place of assembly/event complex', 'Place of worship', 'Civic community center', and 'Civic service club'.

Lastly, as noted in previous staff reports, Section 1-19-289 Use Regulations have been updated to reflect the processing of 'Place of worship' as permitted subject to site development plan approval (PS) in the R-3 zone, consistent with other residential zones.

Private schools

Staff has defined 'Private schools' and public schools within Section 1-19-4. 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. To reflect this change, the special exception criteria in Section 1-19-391 for Private Schools have been edited, and Section 1-19-394 has been deleted.

Camps and retreats

'Camps and retreats' has been replaced with 'Rustic retreat/camp/outdoor club' within the Use Regulations in Section 1-19-289. The use remains a special exception in the RC and A districts, and a definition has been provided in Section 1-19-4. The use has been moved in Section 1-19-289 Use Regulations from the Institutional category to the Open Space and Institutional category where 'Tent campground' and other open space uses are located.

Within the County, these uses are permitted only in the RC and A district 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.

As requested, Staff reviewed existing camps within the County for review of a maximum square footage requirement. Based upon available information for the total estimated building square footage it was found that the camps vary in the types of buildings and activities provided as well as the number of parcels included in the overall camp. Because of these factors, total building square footage also varied between an estimated 10,670 square feet on two parcels totaling 63.77 acres, to 127,900 square feet on 8 parcels totaling 450 acres. Individual building sizes also varied.

Although 'Rustic retreat/camp/outdoor club' is a resource dependent use, an overall maximum building floor area would compliment the existing special exception criteria in Section 1-19-387 that currently provide for an overall density of no more than 3 persons per acre. The 3 persons per acre requirement together with the minimum lot size of 10 acres has provides for a low level of development as compared to the overall site acreage. However, the existing requirements do not address individual building size or scale and massing concerns.

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, a 5,000 square foot total floor area for individual buildings has been added to the existing special exception criteria. This number is based on Staff research of existing buildings on developed camp sites of which, several exceed this square footage but many fall well below.

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. Criteria to provide for an owner/caretaker apartment/dwelling has been added to the special exception criteria for 'Rustic retreat/camp/outdoor club'.

Fire and rescue service

'Fire and rescue service' has been amended 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. The processing of 'Community fire and rescue service' remains unchanged.

Governmental and Nongovernmental Utilities

College or University

Due to the size and intensity of the 'College or university' land use it will be reviewed and processed through the Institutional floating zone. The floating zone process will provide the appropriate review and approval for this type of use.

Within the new Section 1-19-319 Institutional floating zone requirements, 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 Section 1-19-319(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 Section 1-19-319(H)(1)(a). Specific parameters have also been outlined within Section 1-19-319(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

'Limited wood waste recycling facility' and 'Unlimited wood waste recycling facility' have replaced 'Yard Waste' within the Use Regulations category of Solid Waste Operations. A definition based on the State definition for Natural Wood Waste Recycling Facility, has been added to Section 1-19-4. 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 1-19-404. 'Unlimited wood waste recycling facility' would be processed through the solid waste floating zone.

ARTICLE V: DISTRICT REGULATIONS

DIVISION 2. SPECIFIC DISTRICT REGULATIONS

Sec. §1-19-289 Use Regulations for Specific Zoning Districts.

(B) Permitted Uses and Required Development Review for Limited Zoning Districts

This new paragraph has been created to provide a location for the creation of the Euclidean Institutional and Euclidean Open Space Recreation zoning districts within the Use Regulations for Specific Zoning Districts. This text is complementary to the purpose statements for these districts provided in Section 1-19-244 and 1-19-245.

ARTICLE V: DISTRICT REGULATIONS

DIVISION 4. SPECIAL DEVELOPMENT DISTRICT REGULATIONS

Sec. §1-19-319 Institutional Floating Zoning District (I).

Sec. §1-19-320 Open Space/Recreation Floating Zoning District (OSR).

Both Euclidean and floating Open Space Recreation and Institutional zoning districts have been created. 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 of those land uses not meeting the newly established floating zone criteria for 'Place of assembly/event complex', 'College/university', 'Recreational vehicle campground', 'Golf course', 'Outdoor recreation center', or 'Outdoor sports recreation facility'. The Euclidean districts would be applied during the Comprehensive Plan update process to those uses having been formally recognized as existing within the Agricultural Zoning District prior to the creation of the Institutional and Open Space/Recreation Floating Zoning Districts.

The new floating zone text provides purpose and intent statements outlining the type of development they will address and what purpose they will provide. Within the size and location standards the developments will be directed to areas adjacent to concentrations of growth rather than permitting development of these 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, 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 Section 1-19-70 through 1-19-75 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 1-19-4 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 1-19-289 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.

The alternative to creation of the Euclidean Institutional and Euclidean Open Space/Recreation zoning districts is to permit property owners to request application of the new floating zoning districts or to allow them to become non-conforming uses. The proposed floating zone criteria include requirements that existing uses most likely will not meet. Although non-conforming status is not necessarily desired, it does afford an existing development several opportunities to continue and even expand operations. Within Section 1-19-119 a nonconforming use in this particular situation would be in existence at the time of amendment of the chapter, but that does not comply with the regulations of the district in which it is located. The Board of Appeals may grant a special exception to a nonconforming use including a change of use to another nonconforming use (if the request meets specific requirements), and an expansion to a nonconforming use or structure (limited to the lot as existing in January of 1977). Additional acreage or units may not be added to a nonconforming use, but several provisions have been made for their continued existence as long as the use has not ceased for one year or more.

As an alternative to nonconforming status, the Euclidean zoning districts have been created and regulations have been provided within Section 1-19-415 to address potential future expansion of land uses receiving the Euclidean Institutional or Euclidean Open Space Recreation zoning districts.

Sec. §1-19-319 Institutional (I).

The Institutional floating zone has been created to address large-scale public and private institutional uses including airports, place of assembly/event complex, and educational institutions. This process also provides for place of worship, civic community center and civic service clubs larger than 25,000 square feet of total floor area, or which would produce more than 300 peak hourly traffic trips, or 900 maximum daily traffic trips to apply for development approval.

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.

Although many jurisdictions have created Institutional zoning districts that are widely applied, the proposed district is limited to three major types of land uses in areas with the Agricultural/Rural or Institutional land use designation. The intent is to address a specific deficiency that has been identified through our land use processes while continuing to permit small-scale uses through well established and functioning Euclidean regulations.

For these reasons, 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 Section §1-19-319 (H) provides specific requirements for the College or University land use.

Sec. §1-19-320 Open Space/Recreation (OSR).

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 1-19-320 (H) specific requirements for the Fairground and Recreational Vehicle Campground land uses have been provided.

Sec. §1-19-321 Planned Unit Development

This 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, Section 1-19-321 (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 could address, through the Adequate Public Facilities Ordinance (APFO) Age Restricted Community (ARC) provisions, the need for these 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 ARC provide a minimum of amenities.

Recent text amendments have clarified when this type of development would or would not be exempt from the APFO. By definition in the Code of Maryland a CCRC is defined as providing service to "...individuals who are: 60 years old or older" (COMAR 32.02.01.01), however, APFO exemption is provided only for ARCs with residents who are 62 years old or older.

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.

Within the PUD, employment and commercial uses could be located within an area designated as the Mixed Use Town Center or Mixed Use Village Center. Designation of this area would allow for flexibility in design requirements and meet the intent of providing for a community theme, efficient use of land, provision of suitable amenities for the center, and/or to create a community which reduces reliance on vehicular transportation. This flexibility may provide for a development option that has not yet been market tested.

The PUD provisions within Section 1-19-321 have been amended to specifically include CCRCs, and a definition has been added to Section 1-19-4. The setback and density provisions are based on previous special exception criteria for development of nursing homes. A limited level of commercial/employment uses are permitted through identifying customary 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.

ARTICLE VI. SPECIAL DEVELOPMENT PROVISIONS (Cont'd)

DIVISION 3 SPECIAL EXCEPTION USES

Sec. §1-19-378 through 1-19-410

These Sections within the zoning ordinance provide regulations for a specific use permitted as a special exception within a specific zoning district. These regulations in addition to those within Section 1-19-48 must be met for special exception approval. These regulations have been edited and updated for specific uses within the A and RC zoning districts, or as needed to implement other described changes discussed within the individual use text provided under the heading of Article V: District Regulations, Division 2. Specific District Regulations or in Section 1-19-289 Use Regulations for Specific Zoning Districts discussed above.

DIVISION 4 SITE PLAN REVIEW

Sec. §1-19-415 PERMITTED USES

This is a new Section within the Zoning Ordinance created to provide for specific regulations related to a use permitted subject to site development plan approval. The regulations created for a Bed and Breakfast have been added to this Section and require a minimum lot size, maximum length of stay for guests, and outline the use of amenities and the provision of meals.

Specific regulations for uses permitted subject to site development plan approval is not a new concept within the Zoning Ordinance, however, these regulations have not been previously grouped in one location. Existing examples of this type include regulations for Shopping Centers located in Section 1-19-305, Contractor's Office and Storage in the LI District located in Section 1-19-310, Self Storage Units located in Section 1-19-314, Landfills/Borrow Pits located in Section 1-19-362 & 1-19-363, Townhouse Development located in Section 1-19-426 through 1-19-432, and Communications Towers located in Section 1-19-440 & 1-19-441. Creating a single heading and eventually grouping these items by processing mechanism is similar to the organizational pattern that is established within the Zoning Ordinance for Special Exception Uses.

In addition to the Bed and Breakfast provisions, regulations have been added to address existing uses within the Euclidean Institutional or Open Space Recreation zones. The proposed regulations outline the process for continued operation and/or expansion of the uses formally recognized as existing within the Agricultural zoning district prior to the creation of the floating zoning districts.

PUD/MXD

Although the concept of reviewing and addressing the deficiencies within the PUD and MXD regulations was presented as a portion of the Ag/RC project, Staff requests that this portion of the project move forward separately.

Staff will continue to move forward on the overall update to the MXD/PUD floating zones, however, separating this element from the Ag/RC project will provide clarity to the public hearing process.

As the intensive research and writing portion of the project began, it became clear that decisions and direction resulting from the Comprehensive Plan Update process may produce a need for specific changes to the zoning ordinance. To provide the necessary tools to achieve the development that is envisioned during the update process, as well as providing overall organization to existing optional methods of development Staff is requesting direction on several options.

Option A updates to the existing PUD and MXD regulations include a requirement for a mixture of housing types, and a minimum percentage mixture of residential and commercial land uses within an MXD project (*LEED ND requires a *minimum* of 25% residential and 25% non-residential). Specific provisions from the Community Design Guidelines and Development Principles document could be transferred into the zoning ordinance as development standards that *must be met* for project approval. Other recommended updates to consider include:

- Require analysis of availability of services for PUDs that do not propose including a commercial component as part of the development (*LEED ND *Diversity of Uses*)
- Set maximum parking standards to include a minimum percentage of compact spaces and bicycle parking (LEED ND *Reduced Parking Footprint*)
- Require pervious parking surfaces/bioswales/bioretenion projects where parking is proposed beyond the maximum standards (LEED ND *Stormwater Management*)
- Require utilization of stormwater treatment for parking lot runoff utilizing practices that can be integrated into required landscaping areas and traffic islands (LEED ND *Stormwater Management*)
- Require parking lot landscaping
- Require development to link streets and roadways to existing and planned street network (LEED ND *Street Network, Access to Surrounding Vicinity*)
- Require applicant to provide analysis of coordination with existing or planned transit facilities at project location (LEED ND *Transit Facilities, Transportation Demand Management*)
- Provide reduction in green area requirement for utilization of green roof or other pervious surfaces (LEED ND *Stormwater Management and Heat Island Reduction*)
- Require demonstration of on-site pedestrian network linking buildings and parking and connecting to existing or planned off-site pedestrian improvements
- Require pervious surfaces for on-site pedestrian connections
- Require central location of community facilities
- Require provision of both large community parks as well as smaller neighborhood parks (LEED ND *Access to Public Spaces, Access to Active Spaces*)
- Create design standards to include maximum block length, varied facades, and a diversity of architecture (LEED ND *Walkable Streets*)

- Require noise attenuation through physical structures (walls, fences, berms and landscaping), use of acoustical related building materials, and/or increased setbacks when adjacent to Highways or Interstates
- Require a community outreach meeting as part of Phase I approval (LEED ND *Community Outreach and Involvement*)
- Require incorporation of LEED Certified Green Buildings (LEED ND *LEED Certified Green Buildings*)

*Elements included in the Leadership in Energy and Environmental Design for Neighborhood Development (LEED ND) Pilot Version Rating System. LEED for Neighborhood Development is a pilot rating system that integrates the principles of smart growth and green building into a national system for neighborhood design. The pilot program is a collaboration among the US Green Building Council, the Congress for New Urbanism, and the Natural Resources Defense Council. The post-pilot version of the rating system is expected to be available to the public in 2009 (www.usgbc.org).

Option B includes all of the updates in Option A but rather than implementing individual green infrastructure elements into the floating zone criteria a separate stand alone document would be created summarizing the development standards. This document would be similar to the Community Design Guidelines and Development Principles adopted in 2002 with a specific focus on low impact development, LEED, and other environmentally sensitive development options. In addition, Staff would coordinate with the Office of Sustainability and other County Staff members recently LEED certified.

Option C includes reorganization of the floating zones and other optional methods of development that would correspond and include input provided during the Comprehensive Plan update process. This reorganization would include the components outlined in Option A and B above, as directed by the BOCC.

Staff review of the current optional methods of development resulted in several conclusions. The PUD and MXD regulations are similar in many respects and could be combined into one Planned Development option with a project following either the Planned Employment or Planned Residential path. This would simplify existing regulations into one floating zone process with specific aspects identified during the re-zoning process.

In addition, the current zoning ordinance includes a Planned Industrial/Commercial Development process that is under-utilized and presently an option does not exist for mixed-use development on a parcel less than 50 acres in size. The existing MXD regulations intended for large Greenfield sites will not easily accommodate redevelopment or infill development opportunities that have been identified in the past, and will be identified during the Comprehensive Plan update process and Communities and Corridors studies.

These existing regulations should be thoroughly reviewed and researched for consideration of infill and redevelopment as well as the replacement of Planned Industrial/Commercial with a Euclidean Mixed Use zoning district, similar in concept to the existing VC regulations, to be applied to parcels of land less than 50 acres identified during the Communities and Corridors studies.

The Mixed Use for parcels of land less than 50 acres could be applied as a traditional zoning district or as an optional method of development. As a Euclidean zoning district or optional method of development, the Mixed Use for smaller parcels could be applied to land use designations of GC, ORI, and LI where specifically identified through the Comprehensive Plan update process and subsequent Communities and Corridors studies. The optional method of development would permit the property to move forward with the current zoning and land use designation, for instance GC, or utilize the available Mixed Use regulations.

STAFF RECOMMENDATION

Staff requests direction regarding the proposed amendments to the Agricultural and Resource Conservation Zoning District regulations, creation of the Institutional and Open Space Recreation floating zones and the MXD and PUD floating zone options.