



## DIVISION OF PLANNING FREDERICK COUNTY, MARYLAND

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To: Board of County Commissioners

FROM: Eric Soter, Director, Division of Planning

DATE: February 12, 2009

RE: BOCC direction regarding A and RC Zoning District Use Regulations and Definitions provided during the November 13, 2008 Worksession

The Board of County Commissioners (BOCC) conducted worksessions on April 10, April 17, May 6, September 30, and November 13, 2008 to review Staff recommendations and a draft text amendment applying to land uses permitted within the Agricultural (A) and Resource Conservation (RC) zoning districts. A summary of direction given by the BOCC during the November 13<sup>th</sup> worksession and the resulting changes to the text amendment has been provided below. The summary has been organized by Zoning Ordinance section number. Page numbers follow the zoning ordinance section number to provide the location of the related section within the A/RC Use and Definitions *Draft Text Amendment*.

As directed by the BOCC on November 13<sup>th</sup> all amendments to the A and RC zoning districts related to Place of Worship, Civic Service Club, and Civic Community Center have been removed from the overall A and RC draft text amendment and will move forward in a separate Place of Assembly draft text amendment.

Exhibit 1-A/RC Use and Definitions *Draft Text Amendment*, and Exhibit 2-Place of Assembly *Draft Text Amendment* have been attached for review of the edits made to accomplish the direction given at the November 13<sup>th</sup> worksession. Within Exhibit 2, those portions of the text amendment that are included in the overall A/RC Use and Definitions *Draft Text Amendment* have remained in **BOLD CAPS**, with new text to address place of assembly land uses in **BOLD CAPS UNDERLINED**. At the point that proposed text in the overall A/RC Use and Definitions *Draft Text Amendment* is adopted, the **BOLD CAPS** for those portions will be removed from the place of assembly text amendment.

### **SUMMARY OF CURRENT EDITS**

In addition to the specific removal of language related to Place of Assembly land uses, minor edits were made to Exhibit 1-A/RC Use and Definitions *Draft Text Amendment* to provide consistency within the Zoning Ordinance and to improve clarity in processing. The accessory structure setback language has been modified to provide more flexibility while maintaining the intent, and to better reflect new headings created as part of the Zoning Ordinance reorganization and renumbering. The supplementary district regulations regarding commercial and industrial districts storage and operation screening requirements have been modified to provide that the requirements shall be determined at the time of site development plan review. Text was added to the Institutional and Open Space Recreation Floating Zoning Districts, where applicable, to provide that the General and Specific Development Standards are to be met at the time of site development plan review. Edits to specific sections of the zoning ordinance have been summarized below.

**Section 1-19-5.260 Euclidean Institutional Zoning District (Ie) & Section 1-19-5.270 Euclidean Open Space Recreation Zoning District (OSRe) [pg. 3]**

The purpose statement of the Euclidean Institutional Zoning District in Section 1-19-5.260 and Euclidean Open Space Recreation Zoning District in 1-19-5.270 have been simplified for ease of understanding and application. If adopted, the Euclidean Institutional and Euclidean Open Space Recreation Zoning Districts may be applied to the specified land uses in existence or with *final* site development plan approval within the Agricultural Zoning District on the effective date of the ordinance.

Reference to Civic Community Center, Civic Service Club, and Place of Worship as permitted land uses within the Euclidean Institutional Zoning District have been removed from the A/RC *Draft* text amendment and included in the Place of Assembly *Draft* text amendment.

**Section 1-19-5.310 Use Table (A) & (B) [pg. 15, 16, & 18]**

In Section 1-19-5.310 (A) Use Table, proposed changes in processing for Civic Community Center, Civic Service Club, and Place of Worship have been removed from the A/RC *Draft* text amendment and included in the Place of Assembly *Draft* text amendment. In Section 1-19-5.310 (B) the text providing for the creation of the Euclidean Institutional and Euclidean Open Space Zoning Districts has been simplified for ease of understanding and application.

**Section 1-19-6.100 Design Requirements for Specific Districts [pg.19]**

In an on-going effort to correct errors in the zoning ordinance Staff has identified that the asterisks in the heading of this section of the zoning ordinance should be removed. These asterisks related to a note that led to clustering provisions within the Resource Conservation zoning district. These clustering provisions have been deleted from the zoning ordinance as part of a previous text amendment, therefore, the asterisks serve no purpose and make reading the design requirements table confusing. Staff recommends deleting the incorrect asterisks as they appear in the heading of this table.

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

**Section 1-19-6.220 Parking Space Requirements [pg. 28]**

Parking requirements recommended for Civic Community Center and Civic Service Club have been removed from the A/RC *Draft* text amendment and included in the Place of Assembly *Draft* text amendment.

**Section 1-19-6.320 Signs Permitted and Regulated in the Zoning District [pg. 30]**

A proposed terminology change from 'Churches' to 'Place of Worship' in this Section to provide for consistency with Section 1-19-5.310 Use Table has been removed from the A/RC *Draft* text amendment and included in the Place of Assembly *Draft* text amendment.

**Section 1-19-8.327 Rustic Retreat/Camp/Outdoor Club in the RC and A Districts [pg. 43]**

Text has been added to this section for consideration by the BOCC that was proposed in correspondence staff received from the public regarding the topic of Rustic Retreat/Camp/Outdoor Club. The proposed language in red text within 1-19-8.327 (D) provides that buildings '*constructed or receiving final site development plan approval after the effective date of the ordinance*' shall be limited to one structure not to exceed 25,000 square feet of total floor area, with each additional structure not to exceed 5,000 square feet of total floor area.

**Section 1-19-8.340 Civic Community Center and Civic Service Club in the A District and Place of Worship in the RC and A Districts [pg. 49]**

Changes proposed for the special exception criteria to address Civic Community Center, Civic Service Club, and Place of Worship land uses in the A and RC zoning districts have been removed from the *A/RC Draft* text amendment and included in the *Place of Assembly Draft* text amendment.

**Section 1-19-8.480 Uses Permitted in the Euclidean Institutional or Open Space Recreation Zoning Districts [pg. 57]**

Text to provide for Civic Community Center, Civic Service Club, and Place of Worship as permitted uses within the Euclidean Institutional zoning district has been removed from the *A/RC Draft* text amendment and included in the *Place of Assembly Draft* text amendment.

**Section 1-19-10.900 Institutional Floating Zoning District(I) [pg. 71, 80, 82]**

Text has been added to this section for consideration by the BOCC to address concerns identified in correspondence staff received from the public regarding the timing of application of the General Development Standards and Specific Development Standards contained within the proposed Institutional and Open Space Recreation Floating Zoning Districts. Red text reflects language that has been added to 1-19-10.900 (G) and 1-19-10.1000 (G) & (H) that provides for application of these standards at the time of site development plan review.

Place of Assembly/Event Complex has been removed as a permitted land use in the Institutional Floating Zoning District within Section 1-19-10.900 (F) the *A/RC Draft* text amendment and included in the *Place of Assembly Draft* text amendment.

**Section 1-19-11.100 Definitions [pg. 86 & 90]**

Definitions for Civic Community Center, Civic Service Club, Place of Assembly/Event Complex, and Place of Worship have been removed from the *A/RC Draft* text amendment and included in the *Place of Assembly Draft* text amendment.

Text has been added to this section within the *Place of Assembly Draft* text amendment for consideration by the BOCC to address concerns identified in correspondence staff received from the public regarding the topic of Rustic Retreat/Camp/Outdoor Club. The proposed language in red text has been added to the definition of 'Place of Assembly', clarifying that the land use does not include overnight lodging and specifically does not include Rustic Retreat/Camp/Outdoor Club. The addition of this text will differentiate between the two land uses and provide an important distinction in the operation of the uses.

**OUTSTANDING ISSUES**

**Animal Incinerator [pg. 39]**

In a related issue, it has been requested that Animal Incinerators be permitted as an accessory use to Cemetery/Memorial Garden. Currently, Animal Incinerator is permitted only as an accessory to an Animal Hospital or Veterinary Clinic in the Agricultural zoning district through the special exception process.

Due to similarities between an animal incinerator and a crematory, edits may be made to the criteria within Section 1-19-8.220 in addition to those currently proposed as part of the overall *A/RC* text amendment, to provide for animal incinerator as an accessory use to a Cemetery/Memorial garden in the Agricultural zoning district.

An existing definition for Animal Incinerator in Section 1-19-11.100 may also be updated to reflect these changes. The following changes would be necessary to permit an animal incinerator as an accessory to a cemetery/memorial garden in the Agricultural zoning district:

§1-19-8.220. **ACCESSORY USE OF A CREMATORY**

(A) Crematory operations are permitted as an accessory use to cemetery/memorial gardens or funeral home. **ANIMAL INCINERATOR OPERATIONS ARE PERMITTED AS AN ACCESSORY USE TO CEMETERY/MEMORIAL GARDEN IN THE A DISTRICT.**

(B) Crematory **AND ANIMAL INCINERATOR** operations as an accessory use to a cemetery/memorial gardens requires a minimum lot size of 15 acres.

(C) Crematory **AND ANIMAL INCINERATOR** operations as an accessory use to a cemetery/memorial gardens requires all yard setbacks be a minimum of 50 feet.

(D) Crematory **AND ANIMAL INCINERATOR** operations must comply with all state and federal regulations including all licensing requirements.

§1-19-11.100. DEFINITIONS.

**ANIMAL INCINERATOR.** A facility for the disposal of animal remains that is operated as an accessory to an animal hospital or veterinary clinic in the Agricultural Zoning District and that complies with the special exception criteria set forth in §1-19-8.338 of the zoning ordinance- **OR AS AN ACCESSORY TO A CEMETERY/MEMORIAL GARDEN IN THE AGRICULTURAL ZONING DISTRICT AND THAT COMPLIES WITH §1-19-8.220.**

**Public Parks**

Currently, public parks are reviewed and planned through a Master Plan review process that includes a review by the Planning Commission for consistency with the Comprehensive Plan. At the time of development review, public parks are processed through the 'Governmental, civic, nonprofit parks, recreation or educational areas' land use term within the Use Table of the zoning ordinance. Since most parks are developed on lands with Agricultural zoning they have been permitted subject to design regulations, 'P', a staff level review. However, in the Resource Conservation (RC), Village Center (VC), and Office/Research Industrial (ORI) zoning districts they are permitted subject to site development plan approval, 'PS', requiring Planning Commission review. As earlier proposed, incorporation of public parks into the land use term of 'Public buildings and properties', and the edit from 'E' special exception in the RC zoning district to 'PS', would require review subject to site development plan approval, 'PS', in all zoning districts.

The incorporation of public parks into 'Public buildings and properties', as proposed by Staff throughout the update process, achieves consolidation of similar land uses, simplification of the Use Table, and consistent processing.

As part of on-going staff discussions with other Divisions regarding changes to the Ag/RC zoning districts it has been recognized that the site development plan review process may cause duplicative review by the Planning Commission. The existing differences between processing as 'P' in the A zoning district and 'PS' in the RC, VC, and ORI have not been an issue up to this point as most parks have recently been located in the A zoning district.

Planning Staff has reviewed these concerns, and options have been provided below to address the issue.

One option is to remove ‘Governmental, civic, nonprofit parks, recreation or educational areas’ from the Use Table of the zoning ordinance and replace it with ‘Public parks’ as a separate land use while maintaining the existing review process. These changes would maintain the existing process of a staff level review for development within the A zoning district but the conflict would remain in the RC, VC, and ORI zoning districts where Planning Commission review would be required. To address this processing inconsistency, the remaining districts could be edited to provide for staff level review. However, this option does not achieve consolidation of like terms/uses, simplification of the use table, and achieving consistent land use processes for public buildings and properties.

A second option would continue with the incorporation of public parks into ‘Public buildings and properties’ as proposed by Staff, with language added to the site plan review section of the zoning ordinance to address the processing issue. The text to be added to the site plan review section, would provide for a staff level site plan review of public parks where a Master Plan has been approved by the BOCC. The option would exist for Planning Commission review to be utilized in the event that Staff identifies a need for that increased level of review.

This second option would accommodate both the desire to simplify and consolidate like uses within the Use Table of the Zoning Ordinance, as well as provide for appropriate review of public park development.

The changes to the site plan review portion of the zoning ordinance would be included in the theme-based update approach. Staff anticipates rewrite of the site plan review portion of the zoning ordinance as the next theme and we have begun initial review and discussion of conceptual changes. The objective of overall updates to this portion of the zoning ordinance is to formalize a staff level review process that has been long standing policy within the Division of Permitting and Development Review. This staff level review provides for expedient processing of applications where a Planning Commission review would be overly burdensome for the applicant with respect to processing time, and overly burdensome to the Planning Commission with respect to the low level of change and scrutiny of detail.

### **STAFF RECOMMENDATION**

Staff requests direction regarding the Place of Assembly *Draft* text amendment, the proposed changes to Cemetery/Memorial Garden/Animal Incinerator, and whether the A/RC *Draft* text amendment should move forward to public hearing in its current form or with additional changes as directed by the BOCC.

### **EXHIBITS**

- Exhibit 1: A/RC Use and Definitions *Draft* Text Amendment
- Exhibit 2: Place of Assembly *Draft* Text Amendment