

ORDINANCE NO. 076156

AN ORDINANCE EXPANDING THE CLUSTER OPPORTUNITY ZONE TO INCLUDE THAT PORTION OF THE SW¼ OF SECTION 30 LYING NORTH OF THE PULLMAN AIRPORT ROAD, TOWNSHIP 15N, RANGE 46E.W.M., WHITMAN COUNTY, WA. This change is consistent with the Whitman County Comprehensive Plan and Zoning Ordinance.

BE IT ORDAINED and enacted by the Board of County Commissioners of Whitman County, State of Washington, it having been determined by the Board after hearing the Planning Department's Recommendations and Findings of Fact, after the Board's public hearing and adoption of Findings of Fact.

PASSED AND APPROVED by the Board of Whitman County Commissioners of Whitman County, Washington, on the 15th day of December 2014.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Arthur D Swannack, Chairman

ATTEST:

Dean Kinzer, Commissioner

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

Chapter 19.12 - CLUSTER RESIDENTIAL DISTRICT
(Adopted 12/22/2003; Ordinance #0061970)

Section 19.12.010 - Declaration of Intent.

The Cluster Residential District provides minimum standards for specified areas in order to allow more non-farm rural residential places while at the same time protecting the ability of other, neighboring agricultural producers to continue farming and raising livestock.

Section 19.12.020 - Permitted Uses.

- A. One single-family dwelling per buildable lot;
- B. Accessory structures to a permitted use;
- C. Temporary stands for sale of agricultural non-livestock products produced on the premises;
- D. Home-based businesses utilizing only those accessory buildings and structures permitted under this chapter, and which from the premises' property line cannot be seen or heard or felt or smelled and will not have customer visits. (For more information on home-based businesses permitting, see Chapter 19.56.) (Revised April 21, 2008; Resolution No. 068024)
- E. Agricultural activities including but not limited to cropping and grazing of livestock.
- F. Level 1 and level 2 Electric Vehicle Charging Stations.
(Revised 10/17/11, Ordinance # 072330)

Section 19.12.030 - Zone and Lot Size Requirements, and House to Acreage Ratios.

- A. The minimum zone size for a short plat consisting of four buildable lots shall be 20 acres. The minimum zone size for a long plat consisting of at least six buildable lots shall be 60 acres.

- B. This zone must be capable of creating at least four lots that are suitable for building a single-family residence.
- C. Lots may be as small as ½ acre as long as the short plat ratio of at least 5 acres per residence is maintained, or the long plat ratio of at least 10 acres per residence is maintained.

Section 19.12.040 - Yard Requirements.

The minimum setback for all principal and accessory uses and structures shall be twenty feet on all sides, provided that a minimum setback of thirty-five feet shall be required for any yard adjacent to the right-of-way of any state or county roadway designated as a primary or secondary arterial in the Comprehensive Plan. To facilitate setback location, measurement may be made from the centerline of the road. The front yard setback shall be half the distance of that specific right-of-way width, plus thirty-five feet, as measured from the road centerline.

Section 19.12.050 - Height of Buildings.

The maximum height of buildings and structures in this district shall be thirty-five feet as measured from the average of the highest and lowest natural grade points of the foundation, to the top of the roof.

Section 19.12.070 - Short Plat and Long Plat Subdivisions.

Whitman County shall accept no short plat or subdivision for residential use within this Cluster Residential District unless such plat complies with this chapter:

A. Short plats:

1. A short plat in this zoning district must create four buildable lots in a zone of at least 20 acres; additional non-buildable lots, to be held in common ownership by a homeowners' association and not certified as eligible residential parcels, may also be created. The short plat shall identify any non-buildable lots as non-buildable and include a note stating that no residences may be constructed on parcels so labeled.
2. The four buildable lots must meet code requirements so that they are eligible for residential building permits. These lots must be platted, and the plat must show the private road right-of-way, drain field locations, well locations and utility easements. Road construction must be completed to each lot prior to the issuance of any building permit. Proof of adequate, potable water is required prior to approval of the short plat.
3. Minimum lot size shall be ½ acre and there is no maximum lot size.
4. If land is not held in common ownership, easements for roads and utilities must be provided. Road and utility construction and maintenance agreements are required.
5. Cluster Residential Districts, once created and platted, shall not be further subdivided unless the zoning classification is changed or the land is annexed. Minor boundary line adjustments may be allowed as long as these changes do not jeopardize the integrity of each lot as a building site nor the accessory systems developed to support the plat.
6. Prior to approval of the plat, the land owner shall file with the County Auditor a deed restriction and/or easement of acceptance of agricultural operations document. This document shall also be printed on the plat or adequately referenced so that future buyers have opportunity to be aware of this deed restriction and/or easement. Applicants for any residential building permit shall sign and file a

form that indicates they are aware of the deed restrictions and/or easements. Documents that in the future convey the land to new owners shall also acknowledge the existence of these filed documents. The deed restriction and/or easement sample is attached to the last part of this chapter.

7. Once an area has been successfully zoned Cluster Residential District, the process of platting may be initiated and completed. Upon successful completion of platting, the lots may be conveyed and building permits sought.

B. Long plats:

1. A long plat must create at least six buildable lots in a zone of at least 60 acres; additional non-buildable lots, to be held in common ownership by a homeowners' association and not certified as eligible residential parcels, may also be created. The preliminary and final plats shall identify any non-buildable lots as non-buildable and include a note stating that no residences may be constructed on parcels so labeled.
2. For each additional buildable lot, the zone size must be expanded by 10 acres, so that the ratio of 10 acres per residence is maintained.
3. The six or more buildable lots must meet code requirements so that they are eligible for residential building permits. These lots must be platted, and the plat must show the private road right-of-way, drain field locations, well locations and utility easements. Since a long plat can be phased, road construction must be completed to each lot prior to approval of that phase of the long plat, (the Final Plat). Proof of adequate, potable water is required prior to approval of the Final Plat, although a developer may wish to assure an adequate supply of potable water earlier in the process.
4. Minimum lot size shall be $\frac{1}{2}$ acre and there is no maximum lot size.
5. If land is not held in common ownership, easements for roads and utilities must be provided. Road and utility construction and maintenance agreements are required.
6. Cluster Residential Districts, once created and platted, shall not be further subdivided unless the zoning classification is changed or the land is annexed. Minor boundary line adjustments may be allowed as long as these changes do not jeopardize the integrity of each lot as a building site nor the accessory systems developed to support the plat.
7. Prior to approval of the plat, the landowner shall file with the County Auditor a deed restriction and/or easement of acceptance of agricultural operations document. This document shall also be printed on the plat or adequately referenced so that future buyers have opportunity to be aware of this deed restriction and/or easement. Applicants for any residential building permit shall sign and file a form that indicates they are aware of the deed restrictions and/or easements. Documents that in the future convey the land to new owners shall also acknowledge the existence of these filed documents. The deed restriction and/or easement sample is attached to the last part of this chapter.
8. Once an area has been successfully zoned Cluster Residential, the process of platting may be initiated and completed. Upon successful completion of platting, the lots may be conveyed and building permits sought.

Section 19.12.080 - Conditional Uses and Administrative Uses.

Because of considerations of traffic, noise, lighting, hazards, health and environmental issues, the following uses shall not be permitted in the Cluster Residential District unless a conditional use permit authorizing such use has been granted by the Board of Adjustment:

- A. Home-based businesses that exceed the threshold of a permitted use may be allowed as an administrative use or a conditional use. (For more information on home-based businesses permitting, see Chapter 19.56.) (Revised April 21, 2008; Resolution No. 068024)
- B. An Administrative Use Permit is required for a Level 3 Electric Vehicle Charging Station. (Revised 10/17/11, Ordinance # 072330)

Section 19.12.90 Special Features for Cluster Residential District, (CRD)

PURPOSE: This section establishes potential locations for and allows for the creation of Cluster Residential Districts, (CRD), designed to foster creative, efficient, and comprehensive site development, intended for special site locations, conditions and circumstances, in concert with WCO Chapter 18.50, Subdivision Ordinance, and:

- A. Produce a non-farm rural residential development which would be better than traditional, scattered houses, through variety in design, placement of buildings, and use of undeveloped natural areas, in order to capitalize on the special features of the individual site;
- B. Permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient, aesthetic, and desirable use of undeveloped areas, while at the same time harmonizing with adjoining development;
- C. Ensure preservation of important natural habitat, and important ecosystems;
- D. Preserve and enhance special site features including areas of cultural significance and, habitat, wetlands and; compliance with the County's critical areas ordinances.
- E. Maximize use of alternative energy sources and energy-efficient structures, while employing strategies for conservation of water and other resources.
- B. There is created the possibility for a Cluster Residential District within specific areas of Whitman County, hereafter termed CRD Opportunity Areas, as follows:

The areas that may be converted from Agricultural District to the Cluster Residential District are those quarter-sections (a $\frac{1}{4}$ section equaling about 160 acres) that are within $\frac{1}{2}$ mile of the Pullman city limits, and that part of the SW $\frac{1}{4}$ of Section 30 lying north of Pullman Airport Road, Township 15N, Range 46E.W.M., Whitman County, WA; except existing Districts other than Agricultural, such as Highway/Waterway Commercial, Heavy Commercial, Airport Commercial, Light Industrial, Heavy Industrial and the Pullman-Moscow Corridor District, which are as follows:

- Township 15 Range 45 all of 28;
parts of the NE, SE, SW, and NW $\frac{1}{4}$ s of 29;
N $\frac{1}{2}$ and parts of SE and SW $\frac{1}{4}$ s of 30;
- Township 15 Range 44 SE $\frac{1}{4}$ of 25, E $\frac{1}{2}$ and SW $\frac{1}{4}$ s of Section 36;
- Township 15 Range 45 parts of the NW, SW and SE $\frac{1}{4}$ s of 31;
NE $\frac{1}{4}$ and part of NW $\frac{1}{4}$ of 36;
S $\frac{1}{2}$ and NW $\frac{1}{4}$ of 25;
S $\frac{1}{2}$ of 26; S $\frac{1}{2}$ of 27;
part of N $\frac{1}{2}$ of 34;
- Township 14 Range 44 NW $\frac{1}{4}$ and parts of SW, NE, and SE $\frac{1}{4}$ s of 1;
NE $\frac{1}{4}$ and part of SE $\frac{1}{4}$ of 12;
NE $\frac{1}{4}$ of Section 13;
- Township 14 Range 45 N $\frac{1}{2}$ of 18;
parts of the NW and SW $\frac{1}{4}$ s of 6;
parts of NW, NE, SE, and SW $\frac{1}{4}$ s of 7;
parts of NW, NE, SE, and SW $\frac{1}{4}$ s of 8;
N $\frac{1}{2}$ of 17;

NW¼ of Section 16;
W½ and part of NE¼ of 9;
N ½ of 10;
parts of the NW and NE¼s of 11; and
part of the south half of the SW¼ of Section 2.
(A map has been produced to show these areas.)

2. Land within the above-described general areas may be considered for rezoning to Cluster Residential District. (Any area defined by interlocal agreement between the county and the city of Pullman that describes city expansion areas [adjacent to water and sewer line potential extensions] will be excluded from this zone.) The process by which this zone may be created is as follows:
 - a. The proposed Cluster Residential District zone change shall be at least 1,000 feet distant from any commercial agricultural land and any other commercial or industrial zone or existing conditional use that may have compatibility issues with the proposed Cluster Residential development, unless the owner(s) of said lands sign a waiver that they do not object to the establishment of such a zone.
 - b. If no waiver is obtained, the zone change application may still be presented to the Planning Commission public hearing, but the burden of proof that said development would not negatively affect the adjacent agricultural land operations, commercial or industrial land use shall rest with the zone change applicant. The applicant must to the satisfaction of the Planning Commission, cogently explain how the proposed zone change and development would not hamper or curtail current agricultural, commercial or industrial practices, such as but not limited to prevailing wind problems, aerial applicator flight patterns required by topography, odor, noise, livestock, hours of operation and so forth.
 - c. The applicant shall hold a meeting, with planning staff present, to discuss concerns with neighboring land owners, farm operators and residents before the hearing. Planning staff shall take notes at this meeting.
 - d. The site plan prepared as part of the zone change application shall designate an area for the shared well, or for individual wells on each lot.
 - e. The site plan prepared as part of the zone change application shall show preliminary County Environmental Health information that potential residential sites will have access to area and soils adequate to be permitted for septic system drain fields, sufficient for each proposed residential building site.
 - f. The zone change application must show that the proposed access from an improved county road or state highway can be obtained from the appropriate government agency.
 - g. The internal road that serves the lots shall be a shared private road. In general, this road shall be designed to stay on one of the land's contours. It shall be engineered to County standards, or as approved by the County Engineer, and shall meet fire code requirements.
 - h. The dwelling area is defined as the area of a parcel of land in which building construction can occur, such as the area suitable for structures and landscaping. Wells, drain fields, driveways, the internal road, and so forth could be allowed within the buffer area, but must maintain the required 20-foot setback from the zone perimeter.
 - i. The buffer from perimeter of the Cluster Residential zone to the lots, or the dwelling area within each lot, shall be a horizontal 200-foot distance of pasture, hay or native vegetation in those cases where the exterior Cluster Residential zone boundary is adjacent to lands in commercial agricultural use.
 - j. Compliance with the County's critical areas ordinances will direct development away from flood hazard and wetland areas, and will protect

the aquifers. The Building and Fire Codes will guide development with regards to steep slopes and geologically hazardous soils. Structures built on 1:3 slopes or steeper are subject to additional Building Code provisions.

- k. Prior to the zone change public hearing, within county jurisdiction, notice shall be mailed to land owners within 1,000 feet of the proposed zone boundaries. Within city jurisdiction the notice distance shall be 300 feet. The property shall be posted with a public notice and the notice shall be published.
 - l. Prior to approval of any short plat survey or preliminary long plat survey, any Declaration of Covenants, Conditions and Restrictions (CCR) associated with said subdivision shall be reviewed by the County Planner for inclusion of
 - i. Regulations controlling assessments for the improvement and maintenance of shared infrastructure such as driveways and water systems.
 - ii. Regulations controlling amendment of the CCR document;
 - m. The CCR document may include other restrictions, such as those addressing type of construction, which are not required by Whitman County.
3. Special requirements within the zone:
- a. A grading permit shall be required prior to the disturbance of any vegetation and soils. Grading shall disturb the minimum area needed for the developments. It may be necessary for a grading permit to be issued prior to each new proposed development if the development occurs in phases or over time. The grading permit requirement shall be enforced through the Building Code.
 - b. Structures shall be located so that their highest point shall be lower than elevation of the highest ridgeline or hilltop within one-half mile of the building site.
 - c. Prior to the issuance of a building permit, in consultation with the appropriate Fire District, fuel breaks shall be designed to protect structures. It shall be the responsibility of each home owner and/or resident to implement and maintain the fuel break in such condition as to protect structures from wildfire damage. Whitman County shall have no liability for any wildfire damage.
 - d. Any development that is planned to meet State Department of Ecology storm water requirements shall be presented to Whitman County as part of the plat design. Although this is not a County requirement, this will involve land use, so the details of that development and/or the structures required shall be provided to Whitman County. In some cases, it may be possible to combine this with, for example, a fire flow storage system.
 - e. Outdoor lighting shall be of full cut-off design.
4. The deed restriction and/or easement sample as stated below shall be used when Cluster Residential Districts are created, and when there is a residential building permit and/or conveyance of Cluster Residential District lot ownership:
- a. Acknowledgement

COUNTY OF WHITMAN
STATE OF WASHINGTON
CERTIFICATION OF ADJACENT AGRICULTURAL USE

The undersigned do hereby certify to be the owner(s) of the hereinafter legally described real property and do hereby acknowledge that the proposed development is within the vicinity of property utilized for commercial agricultural purposes. Persons who may reside or work in any of the proposed structures may be subjected to inconvenience or discomfort arising from the pursuit of agricultural operations, including but not limited

to plowing, seeding, application of agricultural chemicals (herbicides, pesticides, and fertilizer), cultivation, harvesting, the keeping of livestock, employment and use of labor, the operation of machinery, the transport or relocation of farm machinery or farm products, the storage of crops, and other accepted and customary agricultural activities conducted in accordance with federal and state laws. These normal agricultural practices that occur any time of day and any day of the week generate dust, fumes, smoke, noise and odor, and may slow traffic, or otherwise conflict with residential property uses. Whitman County has established agriculture as a priority use on agricultural lands (Ordinance No. 044668, February 4, 1991). Residents of property within the vicinity of agricultural lands should be prepared to accept such inconvenience or discomfort from normal, necessary farm and ranch operations. In the event of conflict, the residential property owner recognizes the preference to resolve it in favor of farm and ranch practices. The party(ies) who sign this acknowledgement, and their successors, hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on agricultural land that may conflict with the use of this property for residential purposes.

This statement of acknowledgement shall be recorded with the Whitman County Auditor, and shall be binding on the undersigned, any future owners, encumbrances, their successors, heirs, or assignees.

Legal description of land: _____

A certification by the property owner is necessary to obtain approval for a zone change to Cluster Residential District, and prior to all building permits issued within this District. Whitman County Zoning Ordinance Section 19.12.080 (1)(f) and (2)(f)

I certify that I am / we are the owner(s) of the land described hereon.

Printed name of land owner: _____

Land owner signature: _____ Date: _____

ACKNOWLEDGMENT

STATE OF WASHINGTON)
) SS
COUNTY OF WHITMAN)

On this ____ day of _____, 20____, before _____ a Notary Public in and for the aforesaid state, personally appeared before me _____; to me known to be the person(s) who executed the foregoing certificate and that they signed the same as their free and voluntary act and deed in witness whereof, and date above written.

Notary Public In and For the State of Washington
Residing at _____
My commission expires: _____

The following steps are required for this compliance:

1. ____ Completing and signing this Certification.
2. ____ Obtaining Planning Office review
3. ____ Filing this Certification with the County Auditor
4. ____ Providing proof from the County Auditor for the Planning and/or Building Inspection office(s) that this Certification has been filed.

The existence of this Certification must be conveyed to each future owner of this property.

(Revised 4/30/07 Ordinance #066838, effective 5/15/07)