

Graham Community LUAC Meeting  
Highlights of comments heard – March 10, 2015

**1) Clarification of what happens when a business (or use) becomes “nonconforming” because of regulation or zoning changes. What alterations and expansions are allowed for commercial uses when they become non-conforming?**

*Because homes and related garages, sheds, and barns are allowed in either zone, these “nonconforming” standards **don’t apply and aren’t needed**. These rules apply to uses that would not be allowed in a changed zone.*

How was the use allowed prior to change in regulation?	How is the use allowed after a change in regulation?	Status of Use
Use Permit	Prohibited	Use is nonconforming with specific conditions. The use is still controlled by conditions of approval. Minor changes are not considered nonconforming, however, major changes are subject to nonconforming standards and original conditions.
	Outright	Use still subject to original approval until said approval is relinquished.
	Use Permit	Original use permit still governs the use. Expansions are subject to amendment criteria. If use now requires a different type of use permit, a new application is not necessary unless a major amendment is proposed. See note (1)
Outright	Prohibited	Use is nonconforming and subject to nonconforming standards.
	Outright	Use is permitted and subject to all applicable development standards.
	Use Permit	Use is <u>not</u> nonconforming. For uses requiring an Administrative, Conditional Use or Public Facilities Permit, a one-time expansion of a structure shall be allowed on the occupied parcel if it does not exceed 25 percent of the floor area of the structure, and is not more than 2,500 square feet; provided the one-time expansion, as determined by the Director, does not outwardly increase noise, glare, or dust or alter the hours of operation. Any expansion in excess of the above-referenced standards shall require the appropriate permit. For other Use Permits, any further expansion will require the necessary permit.
Nonconforming	Prohibited	Use is still nonconforming.
	Outright	Use is now permitted and subject to all applicable development standards.
	Use Permit	Any further expansion will require the necessary permit. This use is <u>not</u> nonconforming.

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An owner, their tenant, or future owner may continue using the property as it was legally doing before the change. The rules that clarify that are found in the Pierce County Code (PCC):

PCC 18A.70.030 General Provisions.

C. Continuation of Use. A nonconforming use may be continued **by successive owners** or tenants provided the use is not discontinued for a period of two years.

There are different review processes for the expansion of a nonconforming use, depending on how much expansion is being requested. The approval processes become more complex as the amount of expansion requested increases. The ARL proposal would affect Rural Areas, so the column on the far right would apply. Again, residences are not nonconforming in this situation so the residential section would not apply.

18A.70.040 Expansion of a Nonconforming Use.

<b>Table 18A.70.040-1. Nonconforming Standards – Maximum Percent Expansion Allowed (1)</b>				
Use Categories	Zone Classifications			
	Employment Centers (2)	Urban Centers – Urban Districts (2)	Urban Residential (2)	Rural Area (2)
<b>Residential – Civic – Resource</b>				
Single Family Detached Two-Family Housing	Refer to PCC 18A.70.040 A.1. and 2. for expansion standards for single-family and two-family dwellings.			
Nonconforming use	5/10/15	5/10/15	5/15/20	10/25/more than
Nonconforming development	5/10/15	5/10/15	5/15/20	25/33/more than
<b>Office/Business – Commercial</b>				
Nonconforming use	5/15/40	5/15/40	5/10/15	10/25/more than
Nonconforming development	5/15/35	5/15/35	5/10/15	25/33/more than
<b>Utilities – Industrial</b>				
Nonconforming use	5/20/40	5/10/15	5/10/15	10/25/more than
Nonconforming development	5/20/35	5/10/15	5/10/15	25/33/more than
(1) The maximum expansion of a nonconforming use is permitted pursuant to PCC 18A.70.040 A.4.				
(2) Expansions numbers in Table indicate percentages: Permitted Outright/Administrative Nonconforming Use Permit/Nonconforming Use Permit.				



**2) What is the purpose of “Attachment B” to the staff report?** The Attachment B document is meant to track the recommendations of the LUAC as to where the various policies of the currently adopted Community Plan should reside. If they were requested to be retained, they are either in the draft Comprehensive Plan (noted using a red series of letters or numbers) or they are left in the Community Plan.

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**3) Parks – which projects are really identified to happen in the community?** *The following park facilities are in the Parks Recreation and Open Space Plan. They are all dependent of having funding available.*

*Frontier Park – Implement the master plan improvements*

*Proposed Lake Kapowsin Park – acquire, plan, and develop 100 -200 acres for a county park*

*Proposed County Park (Graham Community) - acquire, plan, and develop 100 -200 acres for a county park*

*Local park sites – to be determined – acquire new local park sites of 10 -15 acres in targeted regions. Graham may be determined to be one*

**4) Transportation - which projects are really identified to happen in the community? See attached list and graphic**

*The recommendations in the Plans tend to be broader corridor-based recommendations, rather than intersection specific. Project G7 on the table and map calls for widening and intersection improvements on 224<sup>th</sup> St from SR 7 to SR 161 and is given a Premier priority rating by the CPB. The 92<sup>nd</sup> Ave intersection is within these project limits. The recommendation to widen 224<sup>th</sup> to 4 or 5 lanes is questionable; given this is a rural area. More likely, additional signals and turn lanes would be the extent of the capacity improvements for motor vehicles. The draft Comprehensive Plan does not call for a widening to 4 or 5 lanes.*

*There is a project on the County's 2015-2020 Six-Year Transportation Improvement Program (TIP) to add a turn lane(s) at the 92<sup>nd</sup> Ave. intersection. This is the first year it has been placed on the TIP. Any improvement is likely a few years out. The improvement to 224<sup>th</sup> may consist of left turn pockets or a continuous left turn lane through a few blocks (would likely include 90<sup>th</sup> Ave as well). A traffic signal may or may not be in the future, but at least turn lanes would take the left turning traffic out of the travel lane.*

*The existing Comprehensive Plan includes a similar project to widen and improve intersections on the same section, although it is a bit more generic in that it doesn't specify a 4 to 5 lane section.*

**Is the installation of a light at 92<sup>nd</sup> and 224<sup>th</sup> on the list?** *See comments above.*

**4) For the proposed Rural 5, what is the minimum lot size you can have to get a DETACHED accessory dwelling unit?** *You would need to have at least 7-1/2 acres of land.*

**5) Accessory Dwelling Units (ADU) – the restriction of requiring DETACHED ADUs be counted towards the density the property is capable of supporting (based on the zone classification and regulations) is not a benefit to the rural area.** *(Heard as a comment, no answered provided)*

**6) Where is “common sense” in the proposal?** *(Heard as a comment, no answered provided)*

**7) The “Pepper property” amendment is not wanted in Graham community, and the change would fly in the face of Hearings Board decisions.**

*The Pepper lands are in the urban area of the Graham Community Plan. The suggested proposal changes the Land Use designation of the property from Moderate Density Single Family (MSF) to Mixed Use District (MUD) land use designation. Then within the MUD designation the suggestion is to change the zoning classification from Single Family (SF) to Moderate High Density Residential (MHR). Based on the review of the adopted Graham Community Plan policies there don't appear to be policies that would preclude the amendment. In addition the property directly accesses the State highway and is surrounded by more intense uses.*

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**8) The proposed update seems to be missing sections such as community character; the section that clarifies Graham is not like the South Hill community.** *The community character and the background information are part of the package and it is intended they will remain so.*

**9) Implication or consequences of policy/regulation changes on intent of original policies.** *For the existing policies the intent was not to modify them and change their meaning, but to “plain talk” so they would be easier to use by the public and the staff when reviewing applications.*

*The policies that were modified were done so either to address new State or local requirements or they were brought to the County’s attention during the public outreach process over the last year.*

**THE LUAC ALREADY MADE A RECOMMENDATION ON ARL CRITERIA SO THESE ANSWERS ARE FOR INFORMATION PURPOSES.**

**10) Rural Schools in the ARL designation**

**Could there be an option to allow expansion?** There currently is, and it would continue to exist, an option that allows expansion of “nonconforming” uses and structures. See the answer to #1 up above. It is allowed but depending on the amount of expansion, the process becomes more complicated.

**Could there be a criterion that allows school property that is identified in a Capital Facilities plan that is adopted by the County, to exclude the lands from ARL?** The LUAC may review or recommend additional criteria.

**11) What is the change to assessed values if a property changes from Rural to ARL?**

The Assessor/Treasurer’s staff responded:

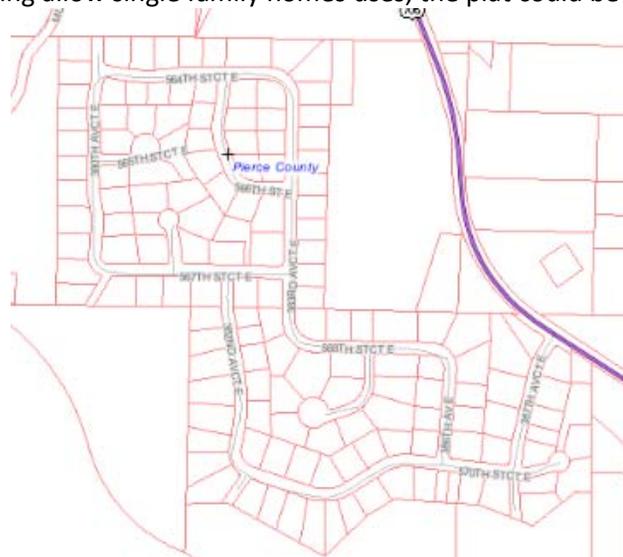
“A change in zoning may contribute to the assessed value of a property going up or down, when it’s allowable uses change, so that a buyer would be willing to pay more or less for it.”

“A specific property that is rezoned from rural to ARL may not change in value while another does, depending whether the market at that location reacts negatively, positively, or not at all to the change in allowable uses.”

**12) How would the uses that are currently allowed in McKenna Heights and Nisqually Park subdivisions be affected by a change from Rural to ARL?**

The plats are comprised of legally created lots that appear to be less than an acre in size. The current zoning for the Nisqually Park subdivision is Rural 40 and the currently zoning for McKenna Heights is Rural 10. Because of the size of the existing lots, they would not be able to further divide the property.

Those lots may be developed according to the plat agreement that is recorded at the Pierce County Auditors and with the individual plat covenants. Because both ARL and the Rural zoning allow single family homes uses, the plat could be developed under either zone classification.



Graphic of part of McKenna Heights for context:

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**13) Does a zoning change trump private covenants and restrictions that were part of the land purchase?** No. Private covenants are part of a contract a buyer agreed to when they purchased the property. They are in addition to any State or local laws. Someone owning property in a development that has covenants must comply with the government regulations and with the private covenants. If the covenants preclude certain uses, the local community's board would not allow the use to be constructed in the development.

**14) What is the effect of changing from one zone to another on those who participate in one of the Current Use Assessment taxation programs?** There is no effect. The established criteria for being in the Current Use Assessment taxation program are not governed by zone classification.

**15) The existing adopted ARL criteria have already been challenges and upheld by the Growth Management Hearings Board. So why is there a proposal to change the criteria?** That is true that the current criteria are appropriate. The concern conveyed by the County Council and by the County Executive was that the current criteria may be too limiting and didn't protect the economic vitality and the future of the agriculture industry in Pierce County. Staff was asked to look at the affect of removing the grass/legume criteria that currently exists as one of the criteria and take the adjusted criteria through the public process.

**16) Clarify what is the ultimate goal of ARL.** Under RCW 36.70A.060 (1) the State requires jurisdictions planning under GMA to conserve resource lands. (Resource land include mineral, agriculture, and forest lands) The WAC 365-196-480 section says "... designate natural resource lands of long-term commercial significance and adopt development regulations to assure their conservation."

**17) ARL – concerned the criteria would be inconsistently applied. Those with political contacts or funding would be excluded and the rest would have a negative impact.**

(Heard as a comment, no answered provided)

**18) ARL – is designed to allow LRI to expand.**

(Heard as a comment, no answered provided)

**19) ARL criteria suggested options for additional criteria:**

Maybe those who want to be in

Maybe those who are in Current Use

(Heard as a comment, no answered provided)