

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Approval of a Comprehensive Plan from)
Agriculture/Forestry Small Holding to Public, and Zone Change)
from AF-10 Agriculture/Forestry to PAI, Public Assembly) Ordinance 863
Institutional for Tax Lot 3203-103, Applicant Gibbs Cemetery,)
Planning Docket PAZ-05-10, and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 17, 2011, Commissioners Leslie Lewis and Kathy George being present, and Commissioner Mary P. Stern being excused.

IT APPEARING TO THE BOARD that Gibbs Cemetery applied for a Comprehensive Plan amendment from Agriculture/Forestry Small Holding to Public, and a zone change from AF-10, Agriculture/Forestry to PAI, Public Assembly Institutional for expansion of the existing cemetery by one half-acre on Tax Lot 3203-103, and

IT APPEARING TO THE BOARD that the Planning Commission heard this matter at a duly noticed public hearing on January 6, 2011, then voted unanimously to recommend approval. The Board heard this matter at a duly noticed public hearing on February 10, 2011, then voted 2-0 to approve the application (Commissioner Stern being excused). NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in Exhibit "A," the Findings for Approval, hereby incorporated into this Ordinance by this reference. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective immediately. A map is appended as Exhibit "B".

DONE this 17th day of February, 2011, at McMinnville, Oregon.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

(Excused)

REBEKAH STERN DOUGLASS County Clerk Chair MARY P. STERN

By *Anne Britt* Deputy Anne Britt *Leslie Lewis* Commissioner LESLIE LEWIS

APPROVED AS TO FORM: *Kathy George* Commissioner KATHY GEORGE

Rick Sanai
Rick Sanai, County Counsel

DOCKET NO.: PAZ-05-10

REQUEST: Approval of a Comprehensive Plan amendment from Agriculture/Forestry Small Holding to Public; a zone change from AF-10, Agriculture/Forestry to PAI, Public Assembly Institutional for expansion of the existing cemetery by one half of an acre.

APPLICANT: Gibbs Cemetery

TAX LOT: 3203-103

LOCATION: Approximately 750 feet northeast of the intersection of Leander Drive and Canter Lane, Newberg

CRITERIA: Sections 501, 801 and 1208.02 of the Yamhill County Zoning Ordinance. Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. OAR 660-12-0060 Transportation Planning Rule.

FINDINGS:

A. Background Facts:

1. Property Size: Approximately 0.5 acres of Tax Lot 3203-103.
2. Access: Leander Drive.
3. On-site Land Use: The 0.5 acres that is to be re-zoned is an orchard. There are no buildings on this portion of property.
4. Surrounding Land Use: The remainder of Tax Lot 3203-103 is an orchard with an open field near the center of the parcel. To the south of Tax Lot 3203-103 is a parcel zoned PAI and is approximately 1.46 acres and is the existing cemetery. To the west, across Leander Drive, is zoned VLDR-2.5, Very Low Density Residential and is made up of rural residential parcels of approximately two to three acres in size. To the south is a parcel zoned PWS, Public Works Safety and is the owned by the Sunridge Homeowners Association. Further to the south and east is zoned VLDR-2.5 and are rural residential parcels of approximately 2.5 acres.
5. Water: None will be needed for the proposed use.
6. Sewage Disposal: None on the subject parcel and a septic system is not needed for the proposed use.
7. Fire Protection: Newberg Rural Fire District

8. Soils: Yamhill County Soil Survey shows parcel is composed of Laurelwood Silt Loam (LuC) which is rated agriculture Class III, high-value farmland.
9. Previous Actions: In 2008, an application for a plan amendment and zoned change from EF-40, Exclusive Farm use to AF-10 was approved through Docket PAZ-01-08. In 2010, an application for a lot-line adjustment to transfer the 0.5 acres from 3203-103 to 3203-5400 in order to expand the cemetery was approved through Docket L-33-10.

B. Zone Change and Plan Amendment Provisions and Analysis

1. Approval of a request for a zone change must be based on compliance with the standards and criteria in YCZO Section 1208.02. These provisions are:
 - (A) *The proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.*
 - (B) *There is an existing demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*
 - (C) *The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.*
 - (D) *Other lands in the county already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.*
 - (E) *The amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.*
2. Regarding criterion (A) above, the Board finds that the applicant has addressed the Comprehensive Plan Goals and Policies.

Policy I.B.1.d.: No proposed rural area development shall require or substantially influence the extension of costly services and facilities normally associated with urban centers, such as municipal water supply and sanitary sewerage or power, gas and telephone services, nor shall it impose inordinate additional net costs on mobile, centralized public services, such as police and fire protection, school busing or refuse collection.

The zone change does not require the extension of utilities or services to the area as water and sewer are not needed for the proposed use.

Policy II.A.1.h.: No proposed rural area development shall substantially impair or conflict with the use of farm or forest land, or be justified solely or even primarily on the argument that the land is unsuitable for farming or forestry or, due to ownership, is not currently part of an economic farming or forestry enterprise.

It appears the proposed zone change would cause little interference with the use of other farm and forest land in the vicinity. The parcel is located in an area that is zoned for rural residential uses.

3. Regarding criterion (B), the Board finds that the applicant has shown there is an existing demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand that such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone, as required by YCZO 1208.02(B).

The application states the cemetery currently has less than 7% available sites that are not designated and the expansion will benefit several generations by being able to increase the number of burial sites. The Planning Department looked at existing PAI zones within Township 3 South, Range 2 West. It appears that there are four other PAI zones and all lots are currently developed with churches. The first two are Tax Lot 3208-2701 and Tax Lot 3207AA-100. Both of these parcels are approximately 2.5 miles from the subject parcel. The third is Tax Lot 3220-1100 which is approximately 3.75 miles away. The fourth parcel is made up of Tax Lots 3219-2100 and 2200 and is approximately 4.75 miles away.

4. Regarding criterion (C), the Board finds that the applicant has shown the proposed change to be appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district. The surrounding land uses are primarily rural residential. A cemetery does not generate a lot of traffic and does not create noise beyond what is normally expected in a rural residential area. Additionally, the expansion would not require any additional utilities or services.
5. Regarding criterion (D), the Board finds that the applicant has shown that other lands in the county already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors, as required by YCZO 1208.02(D). As stated in Finding B.3, other PAI zoned parcels were looked at within a 5 mile radius (within Yamhill County) of the subject parcel and four other parcels were found, however, these lots are currently being used for churches. While this is not an exhaustive study, the Planning Department is unaware of other available PAI zoned property within five miles of

the subject site.

6. Regarding the criterion (E), an exception is not required since the parcel is not located within a goal protected farm or forest zone.

C. Goal 12 (Transportation Rule) Provisions and Analysis

1. The provisions of the Transportation Planning Rule, implementing Goal 12, must be addressed. OAR 660-12-060 contains the provisions that must be met:
 - (1) *Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility. This shall be accomplished by either:*
 - (a) *Limiting allowed land uses to be consistent with the planned function, capacity and level of service of the transportation facility;*
 - (b) *Amending the TSP [Transportation System Plan] to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division; or,*
 - (c) *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*
 - (2) *A plan or land use regulation amendment significantly affects a transportation facility if it:*
 - (a) *Changes the functional classification of an existing or planned transportation facility;*
 - (b) *Changes standards implementing a functional classification system;*
 - (c) *Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or*
 - (d) *Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP.*
2. Regarding (1) and (2), the Public Works Department indicated there are no conflicts with the Public Works Department. As indicated in Finding B.4, a cemetery does not generate a lot of traffic. In addition, this cemetery is an expansion of an existing use, therefore, the plan amendment and zone change will not significantly affect the transportation facility. The request complies with OAR 660-12-060.

LIMITED USE OVERLAY:

1. Section 904.03 of the YCZO contains provisions for limited use overlays. It states:
 - (A) *When the Limited Use Overlay District is applied, the uses permitted in the underlying*

zone shall be limited to those specifically referenced in the ordinance adopting the Limited Use Overlay District.

- (B) The Limited Use Overlay District may be used to require conditional use approval for uses normally permitted outright.*
 - (C) Reasonable conditions may be imposed in the Limited Use Overlay District as are necessary to assure compliance with the provisions of the Comprehensive Plan and this ordinance.*
 - (D) Until the overlay has been removed or amended, the only permitted uses in an LU district shall be those specifically referenced in the adopting ordinance.*
2. Since the PAI zone allows other uses which have not been evaluated to determine whether they are appropriate to the area, it is appropriate to apply a Limited Use Overlay to limit uses on the rezoned area to a cemetery and related facilities.

CONCLUSIONS:

1. The request is for a Comprehensive Plan amendment and zone change from AF-10, Agriculture/Forestry to PAI, Public Assembly Institutional for expansion of the existing cemetery.
2. The proposed zone change is consistent with Comprehensive Plan goals and policies.
3. The proposed amendment is consistent with the zone change criteria of Section 1208.02.
4. The proposed amendment complies with the Transportation Planning Rule.

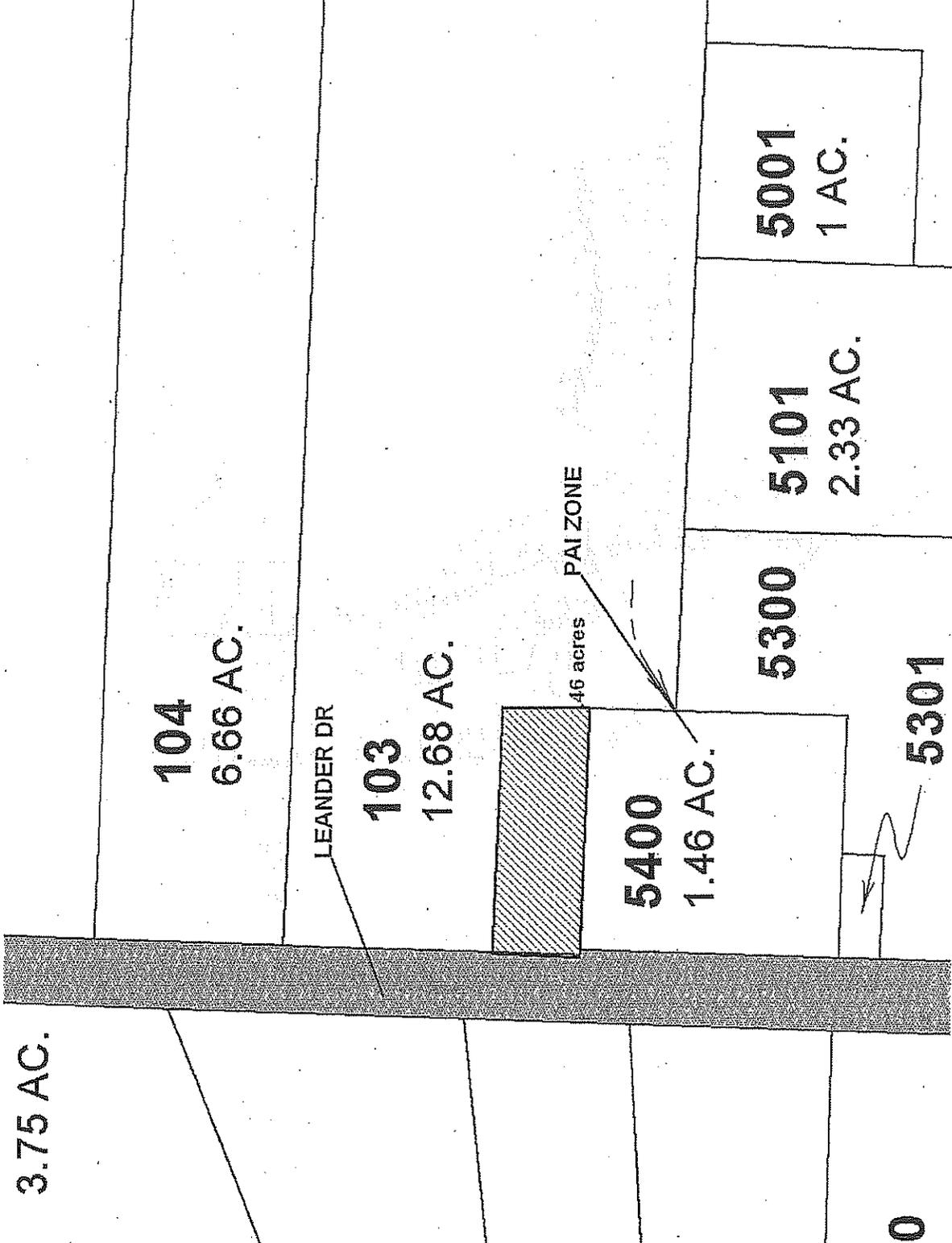
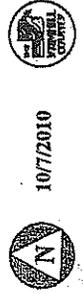
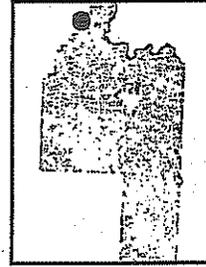
DECISION:

The Board hereby approves the request by the Gibbs Cemetery for a Comprehensive Plan map amendment from Agriculture Forestry Small Holding to Public and a zone change from AF-10, Agriculture/Forestry to PAI, Public Assembly Institutional on a 0.5 acre portion Tax Lot 3203-103 with a limited use overlay. Uses shall be limited to a cemetery and related facilities.

ORDINANCE 863 GIBBS CEMETERY EXHIBIT "B"

PAZ-05-10

- City UCB
- County Parks
- Nearby Reserve Area
- Taxlots
- Cartographic Arrows
- sight of ways
- taxlot lines
- taxlot polygons



1 in. = 140 ft.

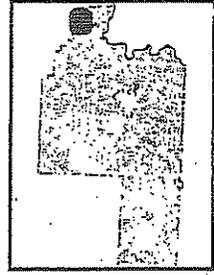
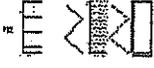
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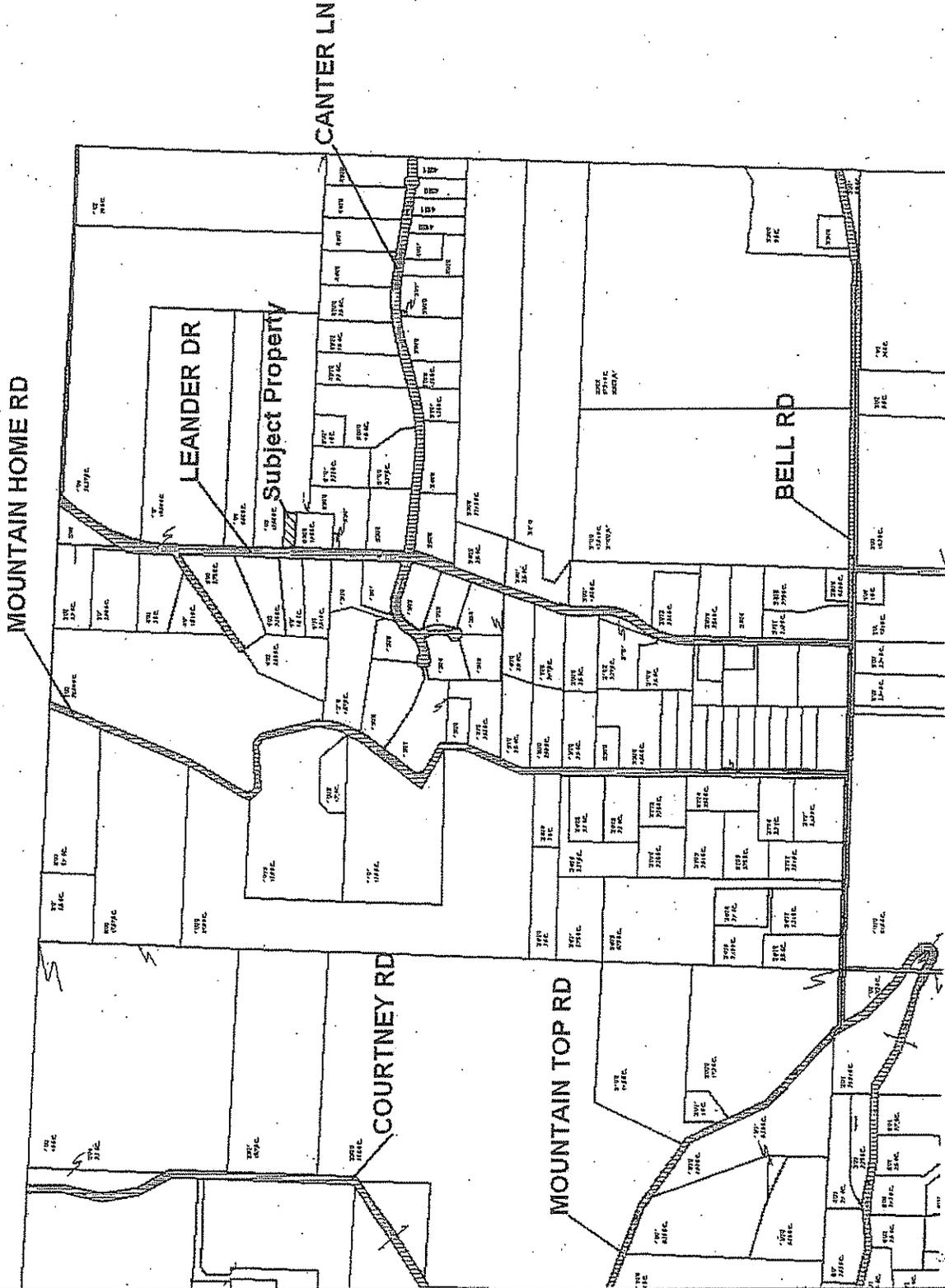
- City UGB
- County Parks
- Nevberg Reserve Area
- Theaters
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- right of ways
- lot lot lines
- lot lot polygons



10/7/2010



1 in. = 1000 ft.



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