

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 a Comprehensive Plan Amendment from)
Agriculture Forestry Large Holding to Public)
and Zone Change from EF-80 Exclusive Farm Use)
to PAI Public Assembly, Institutional, to Allow Expansion) ORDINANCE 758
of the Evergreen Memorial Park Cemetery, Taking an)
Exception to Goal 3, Tax Lots 4410-200 and 4410-500,)
Applicant Evergreen Memorial Park Cemetery Association,)
Docket PAZ-07-04, and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 9, 2004, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

IT APPEARING TO THE BOARD that the Evergreen Memorial Park Cemetery Association applied to the Department of Planning (Planning Docket PAZ-07-04) for a Comprehensive Plan map amendment from Agriculture Forestry Large Holding to Public and Zone Change from EF-80 Exclusive Farm Use to PAI Public Assembly, Institutional, to allow expansion of the Evergreen Memorial Park Cemetery on Tax Lots 4410-200 and 4410-500, and an Exception to Goal 3.

IT APPEARING TO THE BOARD that the Matter was heard by the Yamhill County Planning Commission on December 2, 2004, which voted 7-0 to recommend approved of the application; the Board held a duly noticed public hearing on January 20, 2004, heard testimony and considered the evidence, deliberated and voted to approve the application, and directed staff to prepare the necessary findings for approval; NOW, THEREFORE,

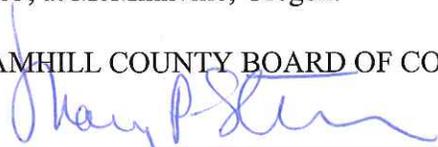
IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been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

DONE this 9th day of February, 2005, at McMinnville, Oregon.

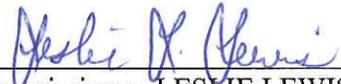
ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

Jan Coleman
County Clerk


Chair MARY P. STERN

By 
Deputy Anne Britt


Commissioner LESLIE LEWIS

APPROVED AS TO FORM


Commissioner KATHY GEORGE


Rick Sanai, Assistant County Counsel

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**EXHIBIT A
FINDINGS AND CONCLUSIONS
(PAZ-07-04)**

I. GENERAL FACTUAL FINDINGS

1. **Property size:** Approximately 76.67 acres.
2. **Access:** The properties border State Highways 99W and 47.
3. **On-site Land Use:** The property is located north and east of the existing cemetery. Most of the property appears to be an open field with grass and grain crops similar to that found in the surrounding area. The northwestern part of the property has a small ravine which drains into the North Yamhill River.
4. **Surrounding Zoning and Land Use:** The property to the north and west is zoned EF-80 Exclusive Farm Use and contains farm uses like grass and grain crops. The area to the east is a mixture of EF-80 Exclusive Farm Use and VLDR 2.5 Very Low Density Residential. Property to the southwest contains the existing cemetery, which is zoned "PAI" Public Assembly Institutional. Land to the south, across Highway 99W is zoned a mixture of VLDR 2.5 Very Low Density Residential and NC Neighborhood Commercial. The VLDR zone contains rural residential uses. The NC Neighborhood Commercial zone contains a variety of commercial uses, the largest of which is a Honda car dealership.
5. **Water:** Water will be provided from an existing well.
6. **Sewage Disposal:** Future bathroom facilities would need to be served by an on-site septic system.
7. **Fire Protection:** McMinnville Rural Fire District
8. **Soils:** The Yamhill County Soil Survey shows that approximately 6.9 acres (less than 10 %) is non-high value farmland. The remainder of the property is composed of Amity and Woodburn soils (Am and WuB respectively), with an agricultural capability of Class II. Class II soils are classified as high-value farmland.
9. **Taxes:** The parcel has a cemetery tax exemption status.
10. **Previous Actions:** Tax Lot 4410-500 had an application for a plan amendment filed in 1975 (Docket PA-15-75). It appears that this application expired. On Tax Lot 4410-200 there was an application for a conditional use for a separation which divided off 10 acres. Lastly, on March 16, 2000 the Planning Director issued a letter acknowledging that there appeared to be a mistake made when the zoning was applied in 1976. It appeared that a major portion of Evergreen Memorial Park, which had been platted, was not zoned PAI Public Assembly, Institutional. The Director offered to request the Board of

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Commissioners to initiate a legislative plan amendment on Tax Lot 4410-500. Instead, the applicant has opted to apply for a rezoning on both Tax Lots 4410-200 and the remainder of -500.

11. The original Plat for Evergreen Memorial Park was approved in 1923, revised during October, 1937 and revised for a second time on May 16, 1972. No substantive change has been made to the Plat of the Park for the past thirty-two years.

12. The Park continues to be utilized on a daily basis with funeral services, burials, memorial services and Holiday observances occurring regularly. The utilization of Park area continues to occur at an increasing rate, leaving less and less area reserved for future generations. The Park now spans the ancestry of four generations of McMinnville families and families from and surrounding areas. It is the largest operating cemetery in Yamhill County, with increasing demands for cemetery plots, reservations, and family plots.

13. The Evergreen Memorial Park Association has long owned adjacent acreage held in reserve for future expansion of the Park Area. The reserved acreage was acquired twenty years ago, in anticipation of future Park expansion as the need arises, but is not properly zoned or designated for cemetery use. It is necessary to obtain approval of a PAI zoning designation, in order to permit platting of additional Park land in conjunction with planned cemetery improvements over the next several years.

14. The present farming and forestry uses would continue until displaced by cemetery uses over time. The Plat of the Park would be gradually revised beginning with an Amendment during the 2007-2010 period to accommodate increasing population and demographic trends.

15. The existing Plan designation for the property was assigned under different ownership, and was superficially appropriate for the uses of the 1970's era, however the initial designation was inappropriate in two respects:

- a) First, the initial designation erroneously failed to include the entire then platted cemetery within the PAI designation. Applicant and staff discovered this error some time after the adoption of the initial designation and concur that the error most probably occurred through oversight.
- b) Second, The designation has failed, however, to accommodate the long term needs of the larger community's primary cemetery resource. The twenty year planning horizon of the Oregon land use system is not well adapted to the memorial needs of the community. Planning staff have long discussed with Park managers, the need to consider the multi-generational nature of Evergreen Memorial Park, and ways to implement the goal of assuring a final resting place for multiple additional generations, close to their ancestors.

16. In 1974, McMinnville was a community of approximately 7,000 persons at the center of a mid-county population of approximately 20,000. Today, McMinnville has grown to 29,200 and mid-county population is approaching 50,000. Additionally, the impact on demand for cemetery space of the "baby boomer" generation will begin to appear over the next five years.

17. The Park has been a good neighbor over the past ninety years, and has little or no impact on surrounding agricultural, resource, residential and horticultural uses in the vicinity. The normal panoply of cemetery activities will continue, including funerals, memorial services, interments, and veterans and other holiday memorial activities, as well as daily grave side visits and ongoing maintenance activities. On site supervision is maintained on a twenty-four hour basis.

18. No additional or different impacts from those already existing at the Park are anticipated. The area owned by the Park and proposed for PAI status would be gradually absorbed into the cemetery as needed, while remaining in the existing farm use until needed. Surrounding properties would not experience increased noise, and access would be through Park entrances on 99w and Highway 47. Existing uses by surrounding neighbors, which vary from Resource to Residential, and Railroad to Horticulture have all been compatible with the low impact character of the Park, and Park activities.

19. Existing public services are to the site adequate, except for any new handicapped, or rest room facilities which may be required in the future in connection with cemetery activities.

20. One purpose of the PAI zone is to provide for the legitimate demand and public need for active and existing public cemetery facilities. Because of the large area often consumed by memorial spaces, the rural PAI zone exists partially to meet the memorial needs of areas encompassing multiple cities and rural residential populations. The PAI zone thus serves a shared inter-Urban and Rural need for memorial spaces, as well as the common desire for sites to maintain their multi-generational character and function.

21. Another purpose of the PAI Zone is to assure adequate care and maintenance of park sites established for public purposes. The aggregation of cemetery services assists in this goal by augmenting the Perpetual Care Trust Funds which are dedicated to providing perpetual care at Evergreen Memorial Park.

22. Due to the nature of memorial parks, other than closed historical facilities, they cannot be moved. As such, to continue the use of the Park, it is necessary to expand onto adjoining land to provide current and future generations proximity to their ancestors and descendants. While an "annex" located on a remote parcel may serve the needs of a new-comer to the area, it cannot serve the multi-generational purpose which lies at the heart of every active cemetery.

Planning staff indicates that no other suitable PAI zoned county land is available and in proximity to the existing Park.

II. ZONING ORDINANCE CRITERIA

B. Zone Change, Exception and Plan Amendment Findings

1. The zone change portion of the request must comply 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**, an exception to Statewide Planning Goal 3 is needed so, Comprehensive Plan goals and policies related to agricultural lands are applicable. The application addresses most Plan goals and policies related to Public Land, Facilities and Services. Those findings are incorporated here by reference. Other Plan goals and policies, which staff feels, may be pertinent are:

Oregon Statewide Planning Goals and Guideline - Goal 9 - Economics, which states "To provide adequate opportunities throughout the State for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens . . . Comprehensive plans and policies will contribute to a stable and healthy economy in all regions of the State."

This application promotes additional economic activity associated with the expansion of an existing cemetery.

The Yamhill County Comprehensive Plan, Section II, Goal 2, Policy a. states:

Yamhill County will continue to preserve those areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.

In the Soil Survey of Yamhill Area, Oregon, the map shows that the soils present on the tract are agricultural Class II farmland. The county decision-makers will need to determine whether it is more important to save this property for farm use or allow it to be used to expand an existing cemetery. (It should be noted that the remainder of Tax Lot 4410-500 has had platted cemetery lots since the mid 1970's and the Planning Director has determined that Yamhill County was in error in not previously designating this tax lot as PAI.)

Yamhill County Revised Goals and Policies, G.IV.A.1. To develop a timely, orderly and efficient arrangement of public services and facilities to serve as a framework for urban and rural development, including public lands and buildings, parks and recreation areas and facilities, schools, police and fire protection, domestic water supply, sanitary and storm sewerage and other drainage facilities, and power, gas and telephone services. (166)

The proposed plan and a zone change will have no adverse effect upon public services as existing facilities are on the site and are adequate. If anything, the applicant is providing a public service by providing a place of interment for deceased persons for future generations.

3. **Regarding criteria 1208.02 (B) and (D)**, County Planning staff conducted a survey of lots within a within a 3- mile radius, covering approximately 27 sq. miles, from the subject property. The survey found three existing "PAI" zoned properties within the surveyed area. The three properties are listed below:

Tax Lot	Owner	Acreage
4306-1700	Rebeka Lodge	2.65 acres
4317DD-2800	Dayton School District	9 acres
4401-1800/1801	Lodge #3	3.5 acres

The application involves over 76 acres of land. As noted above, there are no properties zoned PAI anywhere near that size. In addition, county planning staff called the city of McMinnville and asked whether there was 76 acre of land in the city limits which was suitable for a cemetery. Ron Pomeroy, Senior Planner, responded that they did not have a parcel of that size zoned for a cemetery. He indicated that parcels of that size are located in the Urban Growth Boundary along Highway 18. He said that those properties along Highway 18 are plan designated LI Light Industrial and have an overlay zone which encourages uses to be related to the McMinnville airport. Based on this evidence, there are no other available "PAI" zoned properties that would be suitable for a cemetery. Additionally, it should be considered that the intent of this application is to expand the existing cemetery, which has been at the present location for more than 90 years. The impacts of this cemetery, although low, are already established. Opening another cemetery away from this established location would cause greater impacts than allowing expansion at this established location.

4. **Regarding criterion 1208.02(C)**, the proposed use will not affect the neighboring properties in the area. This cemetery has co-existed peacefully with the neighboring uses for decades. The public services, necessary for the future cemetery, are similar to those needed for the existing use and are already available. The proposed zone change should have no adverse effect upon public services.

5. **Exception requirements findings, criterion 1208.02 (E)**, are as follows:

A. Goal Exception Provisions and Analysis

1. Oregon Administrative Rule (OAR) 660-04 contain the requirement for taking goal exceptions. This area is zoned EF-80 Exclusive Farm Use. As such it is subject to protection under Goal 3. An exception to Goal 3 must be taken for the 76.67 acre site. Since the property is not built and committed to other uses a "reasons" exception is required.

2. OAR 660-04-020 contains four factors that must be addressed when taking an exception to a goal. They are:

- (a) *Reasons justify why the state policy embodied in the applicable goals should not apply.*
- (b) *Areas which do not require a new exception cannot reasonably accommodate the use.*
- (c) *The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would*

typically result from the same proposal being located in other areas requiring a Goal exception.

- (d) *The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*

3. Regarding factor (a), OAR 660-04-022 states that the reasons justifying why the state policy embodied in the goal should not apply include, but are not limited to, that there is a demonstrated need for the cemetery, and either: 1) a resource upon which the facility is dependent can be reasonably obtained only at the exception site and the facility requires a location near the resource; or 2) the facility has special features or qualities that necessitate its location on or near the proposed exception site. The request does not comply with 1). The request complies with 2) - due to its location adjacent to the existing cemetery.

4. Factor (b) was discussed previously. There are three other areas within a three mile radius that would not require a new exception. However, none of these areas is near the size necessary to accommodate the use and all of the areas appear to have existing public assembly uses established on them.

5. Regarding factor (c), approval of the goal exception for the proposed uses will not result in any significant long-term environmental, economic, social or energy consequences to the area. Denial of the use would have a significant social consequence. Typically, families want their family members to be buried together. Denial of this use would not eliminate the need for a cemetery. It would require location of a cemetery in another location. The result would be generations of families having to find other locations for burial. The social consequences would cause a hardship.

6. With regard to factor (d) the existing use has been compatible with other agricultural uses occurring in the area. There is no reason to believe that the expansion would not be just as compatible with other uses occurring in the immediate area.

6. **Limited Use Overlay Provisions**

OAR 660-04-18(3)(a) states that when a reasons exception is taken, plan and zone designations must limit uses to only those that are justified in the exception. 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.*

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 farm, forest, cemetery and related facilities.

III. COMPREHENSIVE PLAN GOALS AND POLICIES

SECTION IV. Public Land, Facilities, and Services

Policy: **The county sees a need to integrate public facilities and services in an effort to eliminate costs and conserve energy.**

Related Findings:

1. Evergreen Memorial Park is a singular public assembly and memorial area serving the entire mid County area.
2. Memorial parks are a unique quasi-public service not usually owned by public bodies.
3. Evergreen Memorial Park encompasses four generations of family burials serving multiple political jurisdictions.
4. Public bodies have not planned for or determined to provide public memorial park space.
5. No alternative areas are available and suitable to expand the existing Evergreen Memorial Park

Policy: **The joint acquisition and use of school and park sites can represent a substantial economic benefit to the cities and the county.**

Related Findings:

1. Significant maintenance and operating expenses militate toward development and use of regional cemeteries.
2. Cities and Yamhill County do not presently have the financial resources to own and manage a major, active cemetery providing public service and assembly.
3. Current demographic and population projections anticipate a three to four-fold increase in the need for cemetery services during the next eighty years.
4. Cemetery services are a common need of both rural and urban residents.
5. The present quasi-public organization and operation of Evergreen Memorial Park operate entirely with private funding.

Policy: **There are a number of sites of historic and archaeological significance worthy of preservation within the county.**

Related Findings:

1. A cursory examination of Evergreen Memorial Park discloses its significant value as a Yamhill County historical site.
2. To prevent the closure of the Park for new burials and enclosures, a gradual expansion of area useable for cemetery activities is needed.
3. The multi-generational nature of the Park is a major anthropological asset to County historians.

Policy: **It is a concern of the county to regulate public and quasi-public institutional uses within rural areas of the county.**

Related Findings:

1. The County has a legitimate interest in assuring the future availability of cemetery plots and activities within the mid-county area.
2. The location of the Park near to Highway 47 and Highway 99w is a major advantage to a regional mid-county facility available for

public service.

3. Health, water quality and safety concerns are legitimate county interests in connection with the future development of the park.
4. Public prohibitions and protections against private burials on non-regulated burial sites are a legitimate basis for assuring an adequate present and future supply of burial and cemetery activity locations.

Goal Statement: To develop a timely, orderly and efficient arrangement of public services and facilities to serve as a framework for urban and rural development, including public lands and buildings, parks and recreation areas and facilities, schools, police and fire protection, domestic water supply, sanitary and storm sewerage and other drainage facilities, and power, gas and telephone services. (166)

Related Findings:

1. Memorial parks are a legitimate type of public assembly sites, established as a permitted use in a county PAI zone. By their nature, active Memorial Parks require extremely long term planning horizons to assure continuity of service.
2. Evergreen Memorial Park started providing service in 1923, and contains as many as four generations of hundreds of local families.
3. Additional area adjacent to the Park was acquired in 1985 to serve the long term expansion needs of the Park.
4. The last revision to the park Plat occurred in 1973.
5. The next revision to the Park Plat is expected to occur before 2010.
6. Additional Plat revisions will occur as necessary, and subject to conditions of approval appropriate to those future requests.
7. The area proposed for amendment to PUBLIC/PAI status should provide additional are for cemetery activities for three to six additional generations.

Policy: Yamhill County will coordinate with the cities and appropriate local, state, and federal agencies in providing for the health and service needs of the public, particularly the needs of the disadvantaged, including the young, the elderly and the handicapped.

Related Findings:

1. The existing Park is presently a model of handicapped accessibility. The entire complex is on a single level, with no stairs required.

2. Evergreen Memorial Park has consistently donated cemetery area and services for burial of indigent residents.
3. Public agencies do not have the facilities or funding to serve the burial needs of disadvantaged persons.
4. Prompt interment of the deceased has long been a primary health need and requirement of local governments.

Policy: Yamhill County will work with cities within the county, the Yamhill County Historical Society, the Oregon Historical Society, the Oregon State Museum of Anthropology, the State Historical Preservation Officer, the Heritage and Conservation Administration, and all other interested groups to identify and preserve sites of historic or archaeological interest.

Related Findings:

1. Evergreen Memorial Park Association is a non-profit corporation dedicated to the long term operation and maintenance of the Park.
2. The Park's historical importance is unquestioned and significant.
3. Proper preservation of the site requires access by present and future generations of descendants.
4. Slow and managed growth of the cemetery property is important to the maintenance of this service for mid-county residents.
5. Respect for the ancestors and descendants of mid-county residents requires the long term access of the Park to acreage presently owned by the Cemetery Association.

IV. TRANSPORTATION PLANNING RULE

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 use is for expansion of an existing cemetery so the traffic impacts are already existing. There are no known transportation issues with the existing use. Neither the Oregon Department of Transportation nor the Public Works Department raised concerns that existing and proposed cemetery facilities would exceed the capacity of the road.

COMPREHENSIVE PLAN AMENDMENT FROM
AGRICULTURE/FORESTRY LARGE HOLDING TO PUBLIC

ZONE CHANGE FROM EF-80 EXCLUSIVE FARM USE
TO PAI PUBLIC ASSEMBLY/INSTITUTIONAL USE



Legend

 Area Subject to Amendment



ORDINANCE No.: 757

EXHIBIT "B"

Bo. 05-89