



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/18/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Polk County Plan Amendment
DLCD File Number 004-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, June 29, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jerry Sorte, Polk County
Jon Jinings, DLCD Community Services Specialist
Gary Fish, DLCD Transportation Planner
Katherine Daniels, DLCD Farm/Forest Specialist

Gary Fish, DLCD Transportation Planner

<paa> YA

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **Polk County**

Local file number: **PA 10-04, ZC 10-04, LLA 10-10**

Date of Adoption: **6/6/2012**

Date Mailed: **6/8/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: 4/12/2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Ordinance 12-03 permits the Buena Vista Cemetery parcel to expand in size through a property line adjustment. It also permits approximately 5.16 acres of the parcel to change from Agriculture to Public on the Comprehensive Plan Map and from Exclusive Farm Use (EFU) to Public and Private Cemeteries (PC) and Limited Use Overlay (LU) on the Zoning Map. The LU zone restricts the use of the 5.16 acres to cemetery use. Ordinance Number 12-03 also amends the text of the Comprehensive Plan in order to adopt a "Reasons" exception to Statewide Planning Goal 3.

Does the Adoption differ from proposal? **Yes**

The adopted ordinance added the LU zone to the expansion area. The area subject to the Comprehensive Plan Map and text amendments and the Zoning Map amendment was reduced in size.

Plan Map Changed from: **Agriculture**

to: **Public**

Zone Map Changed from: **EFU**

to: **PC and LU**

Location: One property north of 11000 Riverview St, Independence Acres Involved: **Approx 5.16**

Specify Density: Previous: **80 acre min parcel size** New: **No min parcel size**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
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Was an Exception Adopted? YES NO Goal 3 Exception

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 004-10 (18236) [17074]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Jerry Sorte**

Phone: **(503) 623-9237** Extension:

Address: **850 Main Street**

Fax Number: **503-623-6009**

City: **Dallas**

Zip: **OR**

E-mail Address: **sorte.jerry@co.polk.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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3
4
5 **BEFORE THE BOARD OF COMMISSIONERS**
6 **FOR THE COUNTY OF POLK, STATE OF OREGON**
7

8 In the Matter Of Property Line Adjustment LLA)
9 10-10, Plan Amendment PA 10-04, and Zone Change)
10 ZC 10-04 on the Properties Located at T9S, R4W,)
11 Section 23, Tax Lots 101, 200, 301, and 300)
12
13

14 **ORDINANCE NO. 12-03**
15

16 **WHEREAS**, Property Line Adjustment LLA 10-10, Plan Amendment PA 10-04, and
17 Zone Change ZC 10-04, were submitted in order to expand the Buena Vista Cemetery. The
18 applications were originally submitted on March 24, 2010. The original applications were
19 considered by the Hearings Officer at a public hearing held on July 27, 2010, and the Hearings
20 Officer recommended denial of the applications. The Board of Commissioners held a public
21 hearing on August 25, 2010 that was continued until September 8, 2010. The applications were
22 then remanded back to staff at the request of the applicant. The Board held another public
23 hearing December 14, 2011, at which time the applicant requested that the hearing be continued
24 until February 8, 2012 so that the applicant could modify their original proposal and submit
25 revised applications. Due notice of such public hearings was given, and the hearing provided an
26 opportunity for public comments and testimony.; and
27

28 **WHEREAS**, the applicant amended Plan Amendment PA 10-04 and Zone Change ZC
29 10-04 on January 18, 2012. The amendments reduced the amount of acreage that would be
30 redesignated on the Comprehensive Plan Map and Zoning Map; and
31

32 **WHEREAS**, the Board of Commissioners held a public hearing on February 8, 2012 in
33 order to consider the revised applications. The Board received a recommendation in support of
34 Property Line Adjustment LLA 10-10, Plan Amendment PA 10-04, and Zone Change ZC 10-04
35 from Polk County Planning staff based upon the findings and evidence in the record; and
36

37 **WHEREAS**, on February 8, 2012, the Board of Commissioners publicly deliberated and
38 unanimously passed a motion to approve Property Line Adjustment LLA 10-10, Plan
39 Amendment PA 10-04, and Zone Change ZC 10-04 ; now therefore,
40

41 **THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**
42

43 Sec. 1. That Polk County adopts the findings for Property Line Adjustment LLA
44 10-10, Plan Amendment PA 10-04 and Zone Change ZC 10-04 shown on Exhibit C, and
45 approves those applications. Property Line Adjustment LLA 10-10 is approved subject to the
46 following conditions:
47

1/44

- 1 1. Proposed "Parcel 1" shall contain approximately 7.12 acres. Proposed "Parcel
2 2" shall contain approximately 38.14 acres. The resulting properties shall be
3 substantially configured as presented on Exhibit A.
4
- 5 2. No additional parcels or lots shall be created as a result of this property line
6 adjustment.
7
- 8 3. The property owner of "Parcel 1" shall submit to the Polk County Clerk's Office
9 for recording a restrictive covenant (Exhibit B) that prohibits the property from
10 being partitioned along the zoning boundary until such time as each parcel
11 would comply with the minimum standards for the creation of a parcel in each
12 zone. The property owner shall pay the applicable recording fees. The property
13 owner shall submit copies of the recorded restrictive covenant to the Planning
14 Division for inclusion in file LLA 10-10 upon recording the document.
15
- 16 4. The adjusted property line shall be established in a location that ensures that all
17 existing buildings and structures comply with the setback requirements of PCZO
18 Chapter 112.
19
- 20 5. The property owners shall complete the property line adjustment and survey of
21 the adjusted property lines as required by State and County law. The property
22 owners shall submit to the Polk County Clerk's Office for recording in the deed
23 history of the subject properties the original documents transferring the subject
24 area. The property owners shall pay the applicable recording fees. The property
25 owners shall submit copies of the recorded documents that complete the
26 property line adjustment to the Planning Division for inclusion in file LLA 10-
27 10 upon recording the documents.
28
- 29 6. Both parcels shall have frontage along a public road or access to a public road
30 via a recorded easement. Any new easement for ingress or egress shall be at
31 least 40-feet wide, unless an exception to the easement width has been granted
32 pursuant to PCSO 91.800.
33
- 34 7. The adjusted property line shall allow a property line setback of ten (10) feet
35 from any part of an existing septic drain field system. Staff recommends that
36 the property owners reserve a future septic drainfield repair area for the existing
37 septic system on Parcel 2.
38

39 Sec. 2. That Polk County amends the Polk County Comprehensive Plan Map for
40 an approximately 5.16 acre portion of "Parcel 1" from Agriculture to Public as shown on Exhibit
41 D-1 and Exhibit D-2. The line that divides the portion of Tax Lot 301 in T9S, R4W, Section 23
42 between the area designated Public and the area that remains designated Agriculture is more
43 particularly described on Exhibit D-2.
44

45 Sec. 3. That Polk County adopts as part of the Polk County Comprehensive Plan
46 text a "Reasons" exception to Oregon Statewide Planning Goal 3 for the approximately 5.16-acre

1 portion of "Parcel 1" that would be designated Public on the Polk County Comprehensive Plan
2 Map. Polk County amends Appendix F of the Polk County Comprehensive Plan to include the
3 "Reasons" exception findings shown on Exhibit E.


4
5 Sec. 4. That Polk County amends the Polk County Zoning Map for an
6 approximately 5.16-acre portion of "Parcel 1" from Exclusive Farm Use (EFU) to Public and
7 Private Cemeteries (PC) and Limited Use Overlay (LU) as shown on Exhibit F-1 and Exhibit F-
8 2. The line that divides the portion of Tax Lot 301 in T9S, R4W, Section 23 between the area
9 zoned PC and LU and the area that remains zoned EFU is more particularly described on Exhibit
10 F-2. The limited use overlay shall restrict use of that portion of the subject property to a
11 cemetery.

12
13 Sec. 5. Applications Plan Amendment PA 10-04, Zone Change ZC 10-04, and
14 Property Line Adjustment LLA 10-10 were evaluated concurrently, and approval of each
15 application is dependent upon approval of the other two. Therefore; all three applications must
16 become effective in order to implement this approval

17
18 Sec. 6. An emergency is declared, and the provisions of this ordinance become
19 effective upon its adoption.

20
21 Dated this 6th day of June 2012 at Dallas, Oregon.

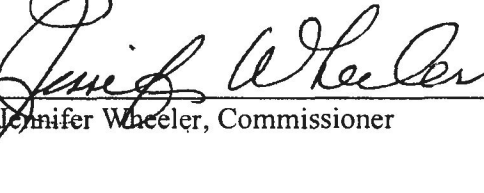
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23 POLK COUNTY BOARD OF COMMISSIONERS

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27 Mike Ainsworth, Chair

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31 Craig Pope, Commissioner

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35 Jennifer Wheeler, Commissioner

36 Approved as to form:

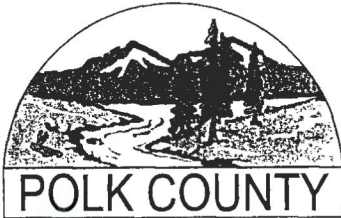
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39 David Doyle
40 County Counsel

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42 First Reading: June 6, 2012

43 Second Reading: June 10, 2012

44 Recording Secretary: Deathera Alvarez



POLK COUNTY

COMMUNITY DEVELOPMENT

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338
503-623-9237 * FAX 503-623-6009

AUSTIN MCGUIGAN
Director

LAND CONSERVATION
AND DEVELOPMENT

JUN 11 2012

DEPT OF

NOTICE OF LAND USE DECISIONS

The Polk County Board of Commissioners approved the following applications:

APPLICANT: Frank Walker & Associates

OWNER: Parcel 1: Hilltop Cemetery Maintenance District
Parcel 2: Michael & Barbara Powers

TYPE OF APPLICATIONS: The applicant has applied for the following applications in order to expand the Buena Vista Cemetery.

1. Property line adjustment to transfer 3.55 acres from Parcel 2 to Parcel 1. The final configuration of proposed Parcel 1 would contain approximately 7.12 acres, and proposed Parcel 2 would contain approximately 38.40 acres. Parcels 1 and 2 are located in the Exclusive Farm Use (EFU) Zone.
2. Comprehensive Plan Map amendment to change the designation of approximately 5.16 acres of proposed Parcel 1 from Agriculture to Public.
3. Comprehensive Plan text amendment to adopt a "Reasons" exception to Statewide Planning Goal 3 for approximately 5.16 acres of proposed Parcel 1.
4. Zoning Map amendment to change the zoning of approximately 5.16 acres of proposed Parcel 1 from EFU to the Public and Private Cemeteries (PC) and Limited Use Overlay Zone (LU).

PROPERTY LOCATION: Parcel 1: One property north of 11000 Riverview St, Independence, OR (Assessment Map T9S, R4W, Section 23, Tax Lots 101 and 200).

Parcel 2: 11000 Riverview St, Independence, OR (Assessment Map T9S, R4W, Section 23, Tax Lot 300).

FILE NUMBERS: LLA 10-10, PA 10-04, ZC 10-04

REVIEW AND DECISION CRITERIA: Polk County Zoning Ordinance (PCZO) Sections 111.140, 111.275, 115.050, Oregon Administrative Rules (OAR) 660-004-0018, 660-004-0020, 660-004-0022, 660-012-0060, Oregon Statewide Planning Goals; Polk County Subdivision and Partition Ordinance Section 91.960

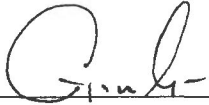
POLK COUNTY CONTACT: Jerry Sorte; Phone: (503) 623-9237, Fax: (503) 623-6009

The Board of Commissioners adopted ORDINANCE NO. 12-03 which includes findings in support of amendments to the Polk County Comprehensive Plan Map, Zoning Map, and Comprehensive Plan text.

The implementing ordinance and documents are available in the file at the Planning Division, Polk County Courthouse, 850 Main Street, Dallas. The amendments are available for review, and copies may be purchased for cost at the Community Development Department.

Objectors may appeal to the Land Use Board of Appeals as provided by ORS 197.825 through 197.830. A decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days after the mailing of the decision. Contact LUBA (550 Capitol Street NE, Suite 235, Salem, Oregon 97310, 503-373-1265) for appeal procedures. The adoption was completed and becomes effective immediately unless the decision is appealed as allowed by law.

EFFECTIVE DATE: June 6, 2012.



Austin McGuigan, Planning Director

6/8/12





Date

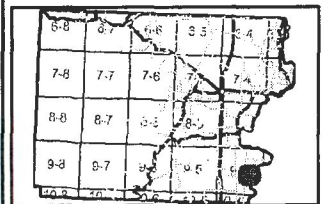
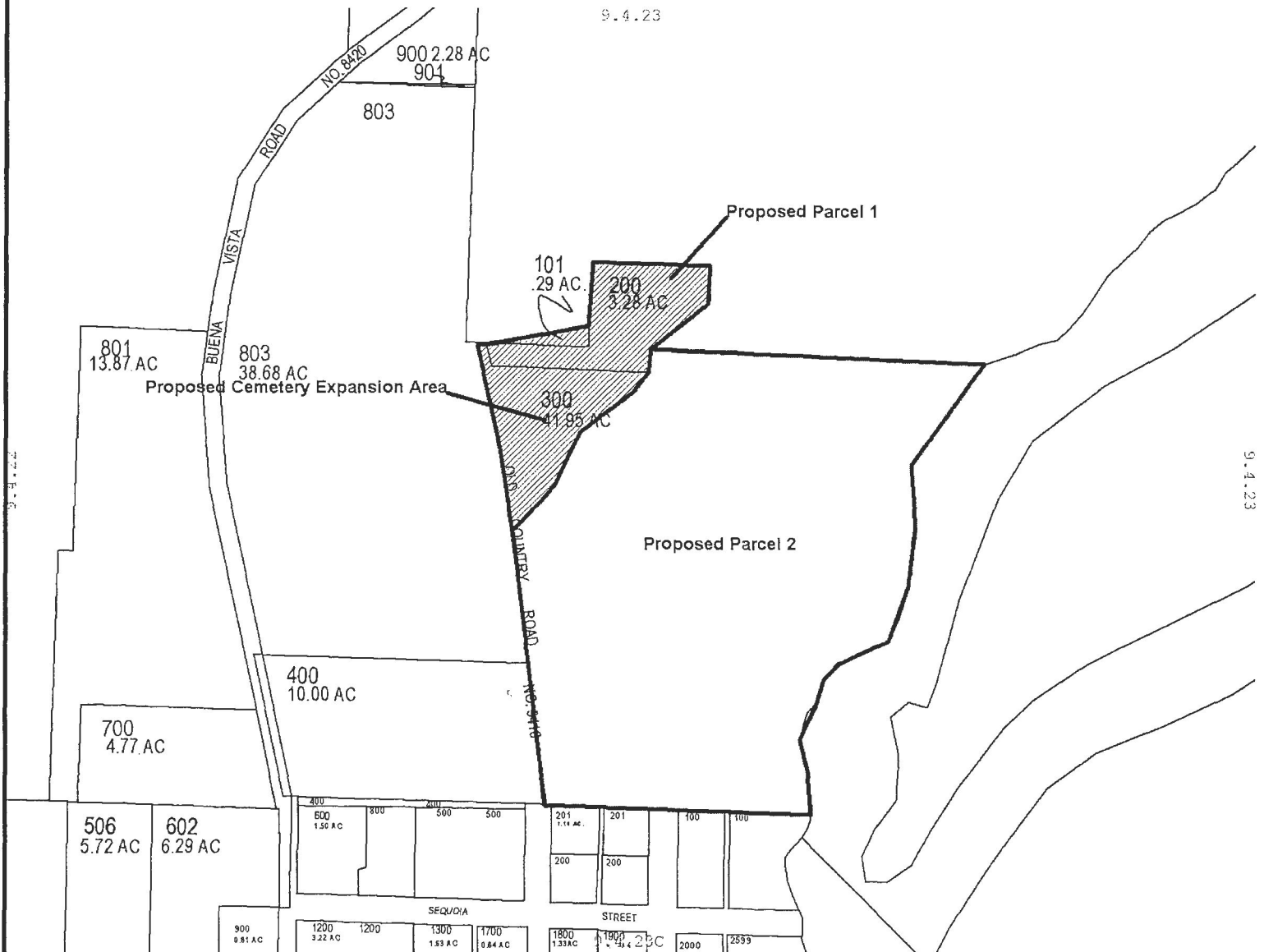
A copy of the file, all documents and evidence, and the applicable criteria are available for inspection at no cost and will be provided at the Community Development Department (Polk County Courthouse, 850 Main Street, Dallas, Oregon 97338 (503-623-9237) for the cost of copying. Failure of an issue to be raised in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this Notice of Decision, it must promptly be forwarded to the purchaser.

Proposed Configuration

Community Development

-  Taxlot10
-  Taxlot Arrows10
-  Taxlot Boundary6
-  taxlot10



This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

1 in. = 500 ft



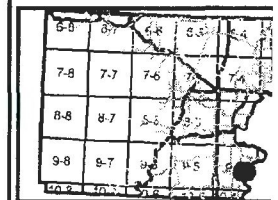
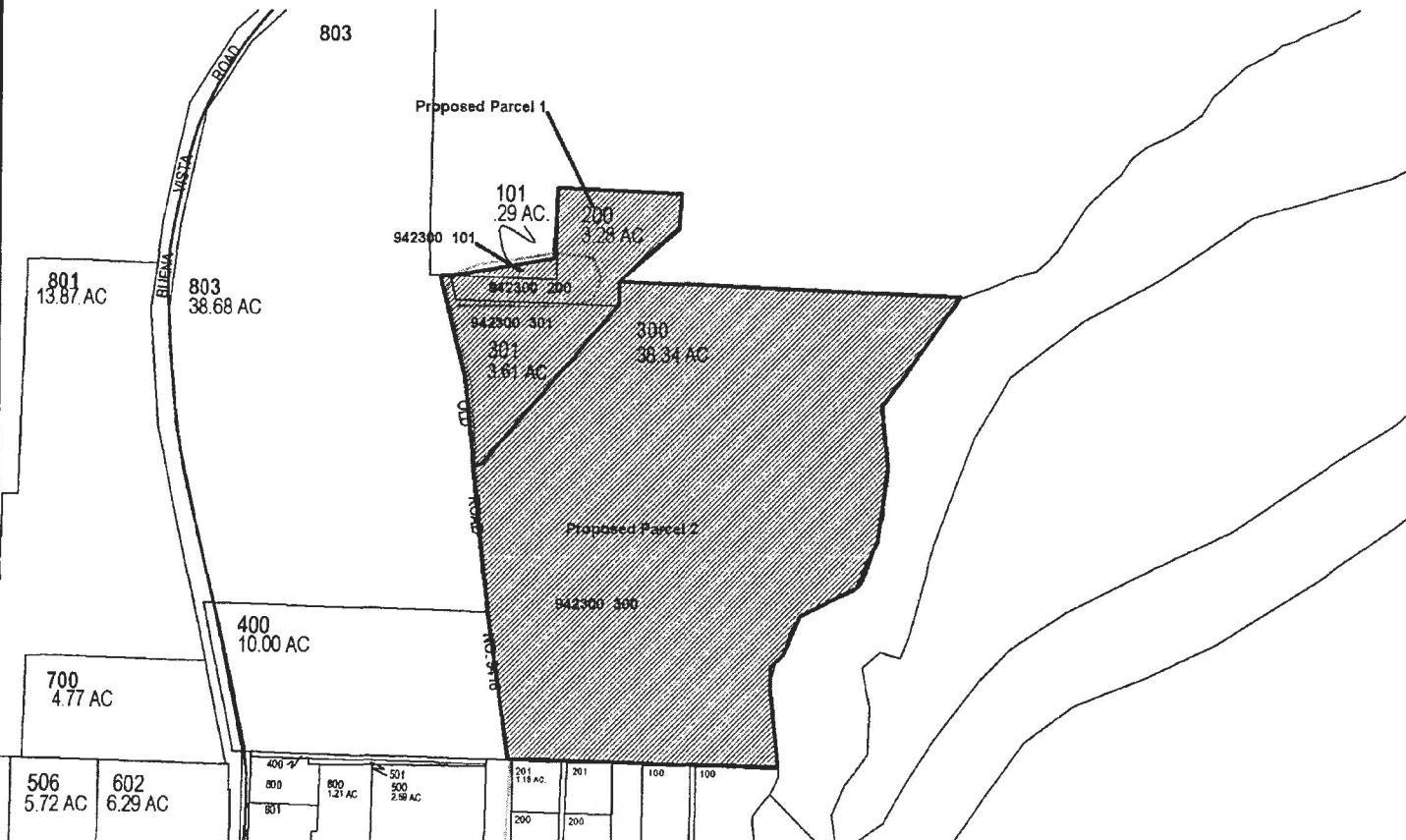
7/1/2010



Parcel Configurations Approved by LLA 10-10

Community Development

- Roads**
- GRAVEL
 - CO-GRAVEL
 - PAVED
- Taxlot12**
- Taxlot Arrows12
 - Taxlot Boundary12
 - taxlot12



This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

1 in. = 550 ft.



HR/H

RESTRICTIVE COVENANT

Owner: Hilltop Cemetery Maintenance District
File Number: LLA 10-10
Request: Property Line Adjustment
Location: T9S, R4W, Section 23, Tax Lots 101, 200 and 301

Be it known to all that the undersigned, being the legal owner(s) of the real property described below, hereby consent and covenant as follows:

In recognition of the above referenced application for a property line adjustment authorizing a split-zoned parcel, the undersigned will treat the parcel described below as a single unit of land. The property owner shall not create, nor apply to Polk County to create any additional parcels as a result of the presence of multiple zoning designations, until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone.

Legal Description: See Exhibit A

This covenant shall be binding upon the undersigned and their heirs, successors, and assigns as a covenant running with the land or released by Polk County and/or as otherwise noted above.

	<u>Owner(s) Signature</u>	<u>Printed Name(s)</u>	<u>Address</u>
1.	_____	_____	_____
2.	_____	_____	_____

State of Oregon)
County of Polk) ss

On _____, 20____, before me a notary public personally appeared by above-named _____ and acknowledged the foregoing instrument to be a voluntary act and deed.

Before me: _____ Notary Public of Oregon My Commission Expires: _____	This space Reserved For use by the Polk County Recorder
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AFTER RECORDING, RETURN TO: Community Development Department Polk County Courthouse, Dallas, Oregon 97338

5/14

Findings to Support Property Line Adjustment LLA 10-10, Plan Amendment PA 10-04, and
Zone Change ZC 10-04

I. REVIEW & DECISION CRITERIA

The review and decision criteria for a property line adjustment are provided under Polk County Subdivision and Partition Ordinance (PCSO) Sections 91.960(2), (3), and (5). The review and decision criteria for a Polk County Comprehensive Plan (PCCP) Map amendment and a zone change are provided under Polk County Zoning Ordinance (PCZO) Sections 115.050 and 111.275. Under these provisions, the Hearings Officer conducts a public hearing pursuant to PCZO 111.190 and 115.030 and makes a recommendation to the Polk County Board of Commissioners. The Polk County Board of Commissioners conducts a public hearing pursuant to PCZO 111.200 and 115.030 and makes a final local decision. Findings and analysis are included below.

1. Findings for Property Line Adjustment; File LLA 10-10:

A. GENERAL STANDARDS. Except for those exclusions noted in Section (1) above, all property line adjustments shall meet the following criteria:

1. The adjustment shall be consistent with the Comprehensive Plan and meet the intent and purpose of the zone; and [PCSO 91.960(2)(a)]

(a) It is the intent of the Agriculture Plan designation to preserve agricultural areas and separate them from conflicting non-farm uses. Toward that end, the County will discourage the division of parcels and the development of non-farm uses in a farm area (Only those non-farm uses considered essential for agriculture will be permitted). [PCCP Section 4]

(b) The purpose and intent of the Exclusive Farm Use (EFU) Zoning District is to conserve agricultural lands, consistent with the Goals and Policies of the Polk County Comprehensive Plan. This objective is achieved by establishing clear standards for the use and development of designated agricultural lands. The Exclusive Farm Use Zoning District will be applied to lands defined as "agricultural lands" by Oregon Administrative Rule (OAR) 660-33-020(1). Within the Exclusive Farm Use Zoning District, the use and development of land is subject to review and authorization as provided by Polk County's land use regulations and as may further be indicated in State and federal laws. [PCZO 136.010]

Findings: The applicant has concurrently applied for three applications, which together would expand the Buena Vista Cemetery property by 3.55 acres, and the area authorized for new cemetery lots by 1.59 acres. Property line adjustment application LLA 10-10 is an application to transfer 3.55 acres from Parcel 2 (the Power's property) to Parcel 1 (the Cemetery property), and constitutes the first step toward expanding the Buena Vista Cemetery. This adjustment would increase the size of Parcel 1, which contains the Buena Vista Cemetery, and decrease the size of Parcel 2, which is used for farm use. Both parcels are currently designated Agriculture on the Comprehensive Plan Map and Exclusive Farm Use (EFU) on the Zoning Map.

Parcel 1 currently contains 3.57 acres and is the location of the Buena Vista Cemetery. Parcel 2 contains approximately 41.95 acres and contains one dwelling. If this application is approved and implemented, proposed Parcel 1 would contain 7.12 acres and Parcel 2 would contain 38.4 acres.

Under applications PA 10-04 and ZC 10-04, the applicant has concurrently applied to change the Comprehensive Plan Map designation of 1.59 acres of proposed Parcel 1, the Cemetery property,

from Agriculture to Public and to change the zoning from EFU to Public and Private Cemeteries (PC). This area consists of the current Buena Vista Cemetery (T9S, R4W, Section 23, Tax Lots 101 and 200) and 1.59 acres of the area that would be transferred from Parcel 2 to Parcel 1 (T9S, R4W, Section 23, Tax Lot 301). As required under state law, the applicant has also applied for a Comprehensive Plan text amendment to adopt a "Reasons" exception to Statewide Planning Goal 3 for that area that would be zoned PC.

The proposed property line adjustment would remove approximately 1.59 acres of land from agricultural production for cemetery use. The applicant is proposing to establish an apiary farm use on the remaining area transferred to Parcel 1. The applicant provided a draft lease agreement for apiary farm use that would create an approximately 1.59 acre lease area within the remaining 1.96 acre area that would continue to be designated Agriculture in the Comprehensive Plan. Raising honey bees is defined as Farm Use in ORS 215.203, which is a use consistent with the intent and purpose of the Agriculture Comprehensive Plan designation. However, since the proposed property line adjustment would result in 1.59 acres of land being removed from farm use, approval of this property line adjustment should be contingent on the applicant gaining approval of Comprehensive Plan Amendment PA 10-04 and zone change ZC 10-04. The Comprehensive Plan Amendment criteria, including the criteria for a "Reasons" exception to Goal 3 described in OAR, provides standards for a Comprehensive Plan amendment from Agriculture to Public. Compliance with those criteria would justify expanding the cemetery into farm land. Staff recommends a condition of approval that makes approval of property line adjustment LLA 10-10 contingent on approval of PA 10-04 and ZC 10-04. With this condition, the application complies with this criterion.

2. **The adjustment shall not decrease required setbacks, access, yard areas, lot widths or other standards of the zone; and [PCSO 91.960(2)(b)]**

Findings: Based on a review of the applicant's plot plan, the area that would be transferred from Parcel 2 to Parcel 1 is vacant. Proposed Parcel 1 would be zoned PC and EFU if PA 10-04 and ZC 10-04 are approved, and proposed Parcel 2 would continue to be zoned EFU. The new property line would be in excess of 30 feet from any structure, and the adjustment would not change the access location to either parcel. The applicant has not proposed any new buildings or structures with these applications. Any future structural development would need to comply with the standards of the zone. Staff recommends a condition of approval that requires the new property line to be located so that all existing buildings and structures comply with the requirements of each parcel's zone.

3. **All parcels will retain any on-site septic system and associated repair area on the parcel it serves; and [PCSO 91.960(2)(c)]**

Findings: As noted by the Environmental Health Division, the County does not have septic records for the subject parcels. Parcel 2 contains a dwelling, and consequently, must contain a septic system. Based on a review of the 2008 Polk County aerial photograph, the dwelling on Parcel 2 is located more than 500 feet from the proposed property line. The applicant did not note the location of the septic system on the plot plan. Consequently, Staff recommends a condition of approval that the applicant locate the new property line so that it is at least 10 feet from any part of an existing septic system. The septic system that serves Parcel 2 must be located on proposed Parcel 2; otherwise the applicant should be required to record a septic easement. Staff recommends that the owners of Parcel 2 designate a repair area for the septic system on that property.

4. **The adjustment will create no additional parcel(s); and [PCSO 91.960(2)(d)]**

Findings: The proposed property line adjustment would increase the size of Parcel 1 and decrease the size of Parcel 2. The proposed configuration would not create any additional parcels.

5. **The adjustment will not create a split-zoned parcel(s) that does not comply with the standards for creation of a parcel in each zone unless the property**

owner provides for the recording of a restrictive covenant in the deed records for the subject property that prohibit the property from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone; and [PCSO 91.960(2)(e)]

Findings: Parcels 1 and 2 are both located in the EFU zone. The applicant is proposing to change the Comprehensive Plan map and zoning designations of a portion of proposed Parcel 1 in conjunction with this application. If PA 10-04 and ZC 10-04 are approved, approximately 5.19 acres of 7.12 acre proposed Parcel 1 would be zoned PC. The applicant's proposal would create a split-zoned parcel. As a result, the owner of Parcel 1 would be required to record a restrictive covenant in the deed records for the subject property that prohibit the property from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone.

- 6. A property line adjustment where one or both of the properties involved are smaller than the minimum lot or parcel size for the applicable zone may be approved where: [PCSO 91.960(2)(f)]**
 - a. Both properties are located entirely outside the corporate limits of a city; and**
 - b. One or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable zone; or**
 - c. Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment.**

Findings: Both Parcels 1 and 2 are located outside of the corporate limits of a city, and in the EFU zone. Both parcels are smaller than the minimum parcel size of the zone and would remain smaller than the minimum parcel size of the zone if this application is approved and completed. The application complies with this criterion.

B. ADJUSTMENTS IN RESOURCE ZONES. Except for those exclusions noted in Section (1) above, property line adjustments must meet the General Standards listed in (2) above. In addition, on land in a farm or forest zone (EFU, TC, FF and FFO), a property line adjustment under Section (2), subsection (f) may not be used to:

- 1. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B));**
- 2. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B)); or**
- 3. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B)). [PCSO 91.960(3)]**

Findings: This proposal would decrease the size of Parcel 2, which contains a dwelling, and increase the size of Parcel 1, which would be vacant. Proposed Parcel 1 would contain approximately 7.12 acres, which is smaller than the 160 acres needed to qualify for a dwelling under the acreage standard of PCZO 136.040(D). The application complies with this criterion.

- C. ADJUSTMENTS IN COMMERCIAL, INDUSTRIAL, AND PUBLIC ZONES. Except for those exclusions in Section (1) above, a property line adjustment between parcels in a commercial, industrial, or public zone must meet the General Standards listed in (2) above. In addition, the applicant(s) must demonstrate that the adjustment would retain all parcels of adequate size, as detailed by the applicant and determined by the Planning Director, to provide adequate area for the intended or existing structures and uses, setbacks, parking, access, landscaping, and spacing required for water supply and on-site sewage disposal (including repair area). [PCSO 91.960(5)]**

Findings: The applicant is proposing to increase the size of Parcel 1 and concurrently change the Comprehensive Plan Map and Zoning Map designations of a portion of that property to Public and PC respectively. The proposed zoning for the property would allow a portion of proposed Parcel 1 to be used for a cemetery. Proposed Parcel 1 would become larger, and access to the property would remain the same. Based on a review of the plot plan, all existing buildings and structures would retain adequate setbacks to comply with the requirements of the PCZO. Future development would need to comply with the development standards in PCZO Chapter 112.

Staff believes that the applicant has adequately addressed the review and decision criteria for a property line adjustment. As discussed above, approval of the property line adjustment should be contingent upon approval of the Comprehensive Plan amendment PA 10-04 and zone change ZC 10-04. Those applications are discussed in the subsections below.

2. Findings for Comprehensive Plan Map Amendment; File PA 10-04:

Amendments to the Comprehensive Plan Map must meet one or more of the following criteria: [PCZO 115.050(A)]

- A. The Comprehensive Plan designation is erroneous and the proposed amendment would correct the error, or [PCZO 115.050(A)(1)]**
- B. The Comprehensive Plan Designation is no longer appropriate due to changing conditions in the surrounding area; and [PCZO 115.050(A)(2)]**

Findings: The Buena Vista Cemetery has existed at its current 3.57 acre location since the 1840s and is not affiliated with a church. The Hilltop Cemetery District is one of nine taxing cemetery districts within Polk County. The cemetery property is currently zoned EFU and designated Agriculture on the Comprehensive Plan map. As such, the Buena Vista Cemetery is currently a legal non-conforming use. The only zoning district in Polk County that permits cemeteries that are not affiliated with a church is the Public Cemetery (PC) Zoning District which implements the Public Comprehensive Plan designation. As a result, the applicant is proposing to change the Comprehensive Plan Designation to Public and zoning to Public and Private Cemeteries (PC). In addition to changing the Comprehensive Plan Designation and zoning of the cemetery parcel, the applicant is also proposing to expand the cemetery into an approximately 1.59 acre area adjacent to the south property boundary and change the Comprehensive Plan Designation and zoning of that area to Public and PC as well. The Buena Vista cemetery has had only one minor expansion during the 164 years of its history, and this proposal will likely be a long-term solution. The Cemetery District already has reservations for all but a few lots in that cemetery, and within a few years all allocations will be gone. The size of the expansion is slightly less than half the size as the existing cemetery: 3.57 acres compared to 1.59 acres. The applicant contends that the Agriculture Comprehensive Plan designation is no longer appropriate for the proposed expansion area because the cemetery can only logically expand in this direction and still have adequate buffering from adjoining uses.

The applicant states that the farm use of the 1.59 acres being contemplated for expansion, while

still appropriate for crops, is a very small and irregularly configured field size. The cherry orchard that was formerly located on this site was too small to be a profitable operation, particularly in light of changing markets in the cherry-growing industry. Other cherry growers in the Willamette Valley were interviewed to determine why their cherry orchards had failed, and it was due to decreasing demand for cherry products and overseas competition. You-pick operations are only sustainable at or near urban and high-traffic locations. This small isolated orchard was actually larger at one time, but the trees to the south and east failed. The Cemetery District and the property owner believe now is the opportune time for the cemetery to expand, given the lack of inventory for burial plots and the extremely poor market conditions the cherry industry is experiencing. Another changing condition is that cherry processors are located farther from remote sites such as this one at Buena Vista. The West Salem plants are the nearest ones to Independence; and, while trucking costs are not prohibitive, the type of cherries grown at this location are no longer merchantable because of their lack of adaptability from one market (preserved) to another (fresh). Most cherry processors will only work on a contract basis with cherry growers, and this field was not large enough to supply a processor at a local processing facility.

In addition, applicant argues, the ability to preserve crops in cold storage for long periods of time carries over inventories from one crop year to another, reducing the requirement for annual crops. The same is true of the pear and apple industries.

The applicant is proposing to establish an apiary farm use on the remaining 1.96 acre area transferred to cemetery ownership, but not proposed for cemetery use, plan amendment or zone change.

The applicant is proposing this Comprehensive Plan amendment in order to establish appropriate zoning for and increase the size of the existing Buena Vista Cemetery. According to the information in the application, demand for burial plots is projected to exceed supply and that has created a need for additional land to accommodate the Buena Vista Cemetery. The proposed property line adjustment, PCCP Map amendment, and Zoning Map amendment would increase the size of the existing cemetery by approximately 44%.

The application complies with this criterion.

C. The purpose of the Comprehensive Plan will be carried out through approval of the proposed Plan Amendment based on the following: [PCZO 115.050(A)(3)]

- 1. Evidence that the proposal conforms to the intent of relevant goals and policies in the Comprehensive Plan and the purpose and intent of the proposed land use designation. [PCZO 115.050(A)(3)(a)]**
 - (a) The purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. These include schools, parks fire stations, hospitals, cemeteries and other public buildings. Adequate public facilities are essential to well ordered community life, sustaining and enhancing the health, safety, educational and recreational aspects of rural living. [PCCP Section 4]**

Findings: The purpose of the Public Plan Designation is to recognize existing cemeteries. The proposed applications would provide an appropriate public zoning for the existing Buena Vista Cemetery and the proposed expansion area. The applicant has concurrently applied for a "Reason's" exception to Statewide Planning Goal 3; therefore, the Polk County Agriculture Plan designation goals and policies are not applicable to this request. The proposed applications would facilitate expansion of the existing cemetery. Staff has not identified any other goals or policies in the PCCP that are applicable to this request.

- 2. Compliance with Oregon Revised Statutes, statewide planning goals and related administrative rules which applies to the particular property(s) or situations. If an exception to one or more of the goals is necessary, the**

exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply; and [PCZO 115.050(A)(3)(b)]

Findings: The applicant provided the following bulleted findings to address the Oregon Statewide Planning Goals.

1. Goal 1. Citizen Involvement. Both of the proposed land use actions are subject to written notice to property owners within a statutorily defined area. The Comprehensive Plan Amendment and Zone Change will be published in newspaper of local circulation at least three weeks prior to the Planning Commission Public Hearing. Neighboring landowners within the Notice Area will receive mailed notices of the proposed land use actions. The Property Line Adjustment will be noticed concurrently with the Comprehensive Plan Amendment and Zone Change.
2. Goal 2. Land Use Planning. The Exception Standards contained in ORS 197, ORS 215, and OAR 660-004-0000 will be addressed in the section of this application referred to as the "narrative report." OAR 660-004-001 sets forth the criteria and expectations process to certain goals, notably Goal 3 for Agriculture and Goal 4 for Forestry. For the purpose of this application, a Reasons Exception is being sought under OAR 660-004-0018(4).
3. Goal 3. Agricultural Lands. The purpose of Statewide Goal 3 is to preserve the maximum amount of farm land in the largest blocks possible for the production of food and fiber (ORS 215.243. The agricultural policy under ORS 215.243 recognizes that open land used for agriculture is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic, and economic asset to all of the people of the state regardless of where they live. In preserving the maximum amount of the limited supply of agricultural land, it is necessary to preserve such land in large blocks necessary for maintaining the agricultural economy of the state. Expansion of activities not related to the farm use of the land is discouraged, while incentives and privileges are offered to keep land in agricultural use.

The subject property that is being added to the cemetery is being adjusted from a 41.95-acre parcel to a 3.58-acre parcel. Both parcels involved in this proceeding are below the 80 acre minimum lot size for the Exclusive Farm Use Zone. The cemetery is already built and committed to a use not permitted in the zone, which makes it nonconforming. Tax Lot 300, though containing agricultural land based on soil type, has significant areas that are unusable for agricultural purposes, such as steep slopes and water bodies. It is the proponents' position that while [1.59] acres of agricultural land is needed to expand the cemetery, Tax Lot 300 as a whole is not a highly productive agricultural unit compared to others that are immediately adjacent or nearby. Tax Lot 300 has steep hillsides, riparian margins, water bodies, building compounds, and areas on non-agriculturally classified soils that render approximately 50% of the site unusable for commercial agricultural purposes. The proponents also assert that this area is already impacted by non-farm uses, including the Unincorporated Community Center of Buena Vista, the park, and nearby houses. While it is still the objective to preserve the maximum amount of agricultural land possible, it must also be recognized that Tax Lot 300 is already impacted by other activities that affect the cost and practices of conducting farming.

4. Goal 4. Forest Lands. With respect to zoning, no zoned forest lands are found in the vicinity of the subject property; however, the steep bluffs above the Willamette River are heavily wooded with Douglas fir and hard woods because these areas are so steep they have never been cleared for farming. None of the areas that are currently forested on either parcel will be impacted by the proposed cemetery expansion; and, in fact, the trees will be preserved for aesthetic qualities. The proposed boundary of the expansion area follows along the edge of timber rather than through timbered areas. This goal has limited applicability to this application since the forested portions of both properties are not the predominate use. Figure 4, Overstory Vegetation Map, represents the areas in both properties that are currently under forest cover.

5. Goal 5. Open Spaces, Scenic and Historic Areas, and Natural Resources. The Buena Vista Cemetery, though not on the Historic Register, is nevertheless a very historic site since it contains pioneer graves dating back to the 1840s. The expansion of the cemetery will result in a greater amount of open space and a greater horizon of views to the southwest. The proponents believe that the cemetery expansion will actually enhance open space and the preservation of historic and natural resources by maintaining the timbered buffer and maintaining the active status of the cemetery.
6. Goal 6. Air, Water and Land Resources Quality. The proposed cemetery use has a very limited impact on air, water, and land resource qualities. Historically, the cemetery has been very well tended with landscaped lawns and small, unobtrusive gravel roadways. The expansion of the cemetery should not degrade air resources since traffic generation is very low at cemetery sites except for specific funeral processions and memorial holidays. No water resources are available for the cemetery, including for lawn watering. Materials and machinery necessary for maintaining the cemetery are housed in shipping containers along an obscure edge of the cemetery grounds. Cemeteries by their very nature are not a high impact use with respect to air, water, and land resource qualities. The fact that the subject cemetery is small reduces impact to land resource qualities. The amount of land being requested for expansion and the infrequency of expansion result in a positive finding for impact on land resource quality. A positive finding can be made that the air, water, and land resource quality will not be significantly affected to the degree that mitigation will be required.
7. Goal 7. Areas Subject to Natural Disasters and Hazards. The cemetery occupies a hilltop area with very steep bluffs on the eastern boundary of the existing and proposed cemetery configuration. The cemetery itself is not within a geologic slope hazard area nor in an area subject to slides, but the portion of Tax Lot 300 to the south along Riverview Street has experienced headward erosion and geologic instability. The structures on the cemetery property are not large enough to trigger landslides or failure in highly compressible soils.

According to the Soil Survey for Polk County Area, Oregon, four soil mapping units have been identified in the expanded cemetery tract. The Power's property has four soils mapping units, and the existing cemetery has three mapping units. The large number of soil mapping units converging in such a small area underscore the difficulty in managing this land for resource purposes. The soils on the subject property are shown in Figure 5, Soils Map.

The most challenging soil mapping unit is number 78, Xerochrepts and Haploxerolls. During field investigations of the properties, it was noted that the slopes are so variable and steep that it is impossible to farm this land. It is a strip of this mapping unit that segregates the proposed [property line adjustment] area of 3.55 acres from the rest of the Power's property. These soils, which encapsulate the expansion area to the east and south, do not meet the statutory definition of agricultural soils for Western Oregon.

The other soil mapping units do meet the statutory definition of agricultural soils despite the fact that they occur within a small area. The variability of soils over such a small area makes it difficult to apply single management practices based on a host of variables (soil depth, permeability, available water capacity, soil reaction, pH, shrink-swell potential, and erosion factors). All factors considered, the expansion area can at best be treated as a small pocket of high-value soil surrounded by areas of more challenging soils for agricultural purposes.

8. Goal 8. Recreational Needs. This particular goal has very limited applicability to this proposal, although a growing body of interest related to history and genealogy makes pioneer cemeteries points of interest.
9. Goal 9. Economy of the State. This goal has no applicability to this proposal.

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10. Goal 10. Housing. This goal has no applicability to this proposal.
11. Goal 11. Public Facilities and Services. The cemetery has no public facilities except for the county road leading to the cemetery. Riverview Street is a county road that receives minimal maintenance because it only serves the cemetery and two residences north of Buena Vista. No other public facilities and services except for fire and police are necessary for the cemetery.
12. Goal 12. Transportation. The cemetery is served by a public road that appears to be adequate for the type of traffic that cemeteries generate. Riverview Street is a narrow two-lane road that leads to the one-way loop road at the cemetery. The one-way loop road within the cemetery serves as a parking area during funeral events. Traffic is often managed during events to maintain an orderly procession. The hearse is the lead vehicle, and traffic is directed by the local funeral home to allow all cars to enter and exit in an orderly manner. During most burial services, the loop road provides parking that is outside of the right-of-way of Riverview Street; thus, there is no need for parking on the public right-of-way.

The rate of burials has been decreasing in recent years because there are only a few available lots left in the cemetery.
13. Goal 13. Energy Conservation. This goal has very limited applicability to this case since the cemetery does not require any energy resources.
14. Goal 14. Urbanization. This goal has no applicability to this proposal.
15. Goal 15. Willamette River Greenway. The Willamette River is located east of the Powers' property and forms the eastern boundary. The actual greenway; however, is not located in the area affected by the proposed Comprehensive Plan Amendment and Zone Change, nor will the cemetery expansion impact the steep bluff above the greenway.

The applicant is proposing a property line adjustment, Comprehensive Plan Map amendment, and zone change in order to expand the Buena Vista Cemetery and designate the cemetery Public on the Comprehensive Plan Map and Public and Private Cemeteries on the Zoning Map. The applicant has submitted findings to support a "Reason's" exception to Goal 3. Those findings are included in Section I, subsection 3 below.

The subject property is accessed from Riverview Street, which is a local road as identified on Figure 3 of the Polk County Transportation Systems Plan. A cemetery is a use that typically receives low amounts of traffic, and staff has not requested that the applicant prepare a traffic impact analysis to project the traffic impacts to the road system if these applications are approved. Staff does not believe that the proposed Comprehensive Plan amendment and zone change would result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. If the applicant proposes a new access location to Riverview Street, an access permit from the Polk County Public Works Department may be required.

With respect to Goal 14, Staff does not believe that expanding the existing cemetery, and designating and zoning the property accordingly on the Comprehensive Plan and Zoning Maps, would amount to establishing an urban use on rural lands. Although the expanded cemetery would be located outside of an incorporated city or urban growth boundary, Staff does not believe the expanded cemetery would be an inherently urban use. Based on the information in the application, the Buena Vista Cemetery primarily provides burial plot availability to the surrounding rural community.

The applicant has addressed all applicable Oregon Statewide Planning Goals. An exception to Oregon Statewide Planning Goal 3 is necessary to approve a "Reasons" exception. The applicant is proposing the Public and Private Cemeteries (PC) Zoning District. The applicant has submitted findings to justify an exception to Statewide Planning Goal 3. The Oregon Statewide Planning Goal 3 exception is addressed in subsection 3, below.

The application complies with this criterion.

3. Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land. [PCZO 115.050(A)(3)(c)]

Findings: The subject property is not located within an urban growth boundary or within an incorporated city. As a result, no intergovernmental agreements are applicable to this application. This criterion is not applicable to the proposed amendment.

3. Findings for a Statewide Planning Goal 3 Exception; File PA 10-04:

- A. When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception; [OAR 660-004-0018(4)(a)]**

Findings: According to PCZO 170.020, the PC zone allows three specific uses: a cemetery, a dwelling for the caretaker or watchman, and specific renewable energy systems that would serve the uses on the property. The Board of Commissioners unanimously passed a motion at their February 8, 2011 hearing to apply the Limited Use Overlay Zone to the portion of Parcel 1 that would be zoned PC, in order to restrict the use of that portion of Parcel 1 to a cemetery.

- B. "Reasons justify why the state policy embodied in the applicable goals should not apply"; The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land and why the use requires a location on resource land; [OAR 660-004-0020(2)(a)]**

Findings: The applicant provided the following bulleted statements as findings:

Assumptions Set Forth In This Exception

The Buena Vista Cemetery is part of the Hilltop Cemetery District, which is a public entity; and, as such, the District has an obligation to provide adequate burial space for the public.

1. The cemetery has been in existence since 1846, has not expanded substantially, and there is a demonstrated public need for the expansion.
2. The cemetery is non-church-affiliated, and therefore an expansion is not permitted in the Exclusive Farm Use Zone.
3. The only opportunity to expand is onto land that is zoned Exclusive Farm Use; consequently, Exceptions to Statewide Goals 3 and 4 are required.
4. The proposed expansion can only be onto prime farm land because exceedingly steep topography to the south and east prohibits normal and necessary expansion.
5. The potential expansion of the cemetery to the west or north would interrupt large fields; whereas the expansion to the south would be into a farm field that is 3.55 acres in size.
6. The potential expansion of the cemetery to the west would result in the cemetery being split by a public road.
7. The proposed expansion area was most recently planted in cherry trees that have been removed due to age and disease.
8. The owners of the property onto which the cemetery is proposed to expand are willing sellers.
9. The cemetery property and the adjoining property onto which the expansion would occur are currently under the minimum parcel size of the EFU zone.
10. The capital fixity of the cemetery precludes consideration of moving this facility to a location within an urban growth boundary. The prospect of relocating a cemetery is very

untenable.

11. The search for "alternative sites" must be restricted to the Hilltop Cemetery District only because this is a distinct taxing district as shown in Figure 6, Map of Hilltop Cemetery District.

C. **"Areas which do not require a new exception cannot reasonably accommodate the use":** [OAR 660-004-0020(2)(b)]

1. **The exceptions shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;** [OAR 660-004-0020(2)(b)(A)]

2. **To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:** [OAR 660-004-0020(2)(b)(B)]

a. **Can the proposed use be reasonably accommodated on non-resource land that would not require an exception, including increasing the density of uses on non-resource land? If not, why not?** [OAR 660-004-0020(2)(b)(B)(i)]

b. **Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to non-resource uses, not allowed by this applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?** [OAR 660-004-0020(2)(b)(B)(ii)]

c. **Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?** [OAR 660-004-0020(2)(b)(B)(iii)]

d. **Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?** [OAR 660-004-0020(2)(b)(B)(iv)]

3. **This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.** [OAR 660-004-0020(2) (b) (C)]

Findings: The applicant states that the cemetery has an obligation to maintain their existing facilities at the same location because of limited operating budgets. The cemeteries in the Hilltop District are taxpayer supported, and their revenue is derived from Polk County's tax base; therefore, any alternative sites outside of the Cemetery District are prohibited from being considered. The search must, therefore, be confined to areas within the Hilltop Cemetery District (see Figure 6 of the application, Map of Hilltop Cemetery District).

The applicant states that the key words in this criterion are "reasonably accommodated." The applicant's analysis found that the City of Independence has no appropriately sized or drained lands to accommodate the use. No Unincorporated Community Centers are nearby except Buena

Vista, and no parcels large enough to accommodate the projected need for burial plots are available. The larger parcels contained within Independence and Monmouth are zoned for industrial uses, and commitments are already in place for some of the industrially-zoned land, particularly in Monmouth. In addition, the applicant states that the urban growth boundary for Monmouth falls within the Fir Crest Cemetery District and therefore cannot be considered for an expansion for the Buena Vista Cemetery, which is in a different taxing district. None of the sites visited by the District's representative were suitable because they were in flood plains, wetlands, or generally poorly drained areas. Other potential parcels lack the necessary access for a cemetery until other areas closer to the existing street network are built up.

In its letter of May 18, 2010, DLCD stated that "The alternatives analysis for sites that do not require an exception to Goal 3 is inadequate to support a reasons exception for the subject site. The narrative indicates that the applicant made a decision to not consider sites within nearby urban growth boundaries, unincorporated communities, or other areas that already have an exception to Goal 3." In materials submitted for the Record on June 16, 2010, the applicant said there were no uncommitted areas within Independence that did not have drainage problems. In materials submitted on June 1, 2010, the applicant had stated that the only zone within the boundaries of the cemetery district that permits cemetery lots is the Public Service zone in Independence, but there is no land in that district vacant and available. On January 18, 2012 the applicant provided the following additional bulleted statements to support their alternatives analysis:

1. The Hilltop Cemetery District is one of nine taxing cemetery districts within Polk County, Oregon.
2. The Hilltop Cemetery District has two operating cemeteries: Buena Vista and Hilltop.
3. The Hilltop Cemetery on Corvallis Road is 12.7 acres and is comprised of Tax Lots 300 and 400.
4. The larger Tax Lot (300) is 8.7 acres and has no cemetery lots for sale.
5. The occupied burial plots in Tax Lot 300 now exceed 90 percent of capacity.
6. The smaller Tax Lot (400) is 4.25 acres and was added to the cemetery through a land use approval in 1992.
7. The process of improving Tax Lot 400 has already begun, and more than 100 cemetery lots were recently sold in a single transaction.
8. The area north of the road that bisects Tax Lot 400 already contains 12 burial plots.
9. The majority of burial plots sold at the Hilltop Cemetery are cemetery district residents or their close family members, but the majority are from the urban part of the district rather than from the local farming families and their descendants.
10. The majority of burial plots sold at the Buena Vista Cemetery are to farm families who live south and east of Independence and to close relatives of these farm families living elsewhere in the district and outside of the district.
11. As late as 2004, the Hilltop Cemetery District had no burial plots available at the Buena Vista Cemetery.
12. The Buena Vista Cemetery gained 56 burial plots after 2004 by abandoning the old carriage road, and the number of available burial plots now stands at 26.
13. The Cemetery Board now has a policy of not selling burial plots at the Buena Vista Cemetery to parties living outside of the district because so few lots are available.
14. The Polk County Zoning Ordinance makes no provision for non-church affiliated cemeteries in any zoning category.

15. The alternative areas considered for non-church affiliated cemeteries were limited to lands within the Hilltop District and lands inside the urban growth boundaries since no zone in unincorporated areas of Polk County allows non-church affiliated cemeteries.
16. The only zone in the Hilltop Cemetery District that allows non-church affiliated cemeteries is the Public Service (PS) Zone within the corporate limits of Independence, Oregon.
17. The areas zoned PS in Independence are all built and committed to other uses such as parks and schools.
18. The Hilltop Cemetery is the main cemetery for the urban portion of the district, namely Independence.
19. The Hilltop Cemetery serves the large urban population of Independence and Monmouth, whereas the Buena Vista Cemetery is a pioneer cemetery (in operation since 1846) and principally serves a rural population consisting of area farmers, their extended families, and former hop farm workers who want Buena Vista as a final resting place.
20. The Hilltop Cemetery was enlarged in 1992 only in reference to the particular need of that facility and not that of the Hilltop Cemetery District as a whole or the Buena Vista Cemetery in particular.
21. The Hilltop Cemetery District has adopted a policy of giving preference to district residents rather than out-of-district residents for purchase of cemetery lots in order to preserve family plots.
22. Pursuant to OAR 660-004-022(b)(A), the Hilltop Cemetery District Board and their representative have examined locations which do not require a new exception and why these areas which do not require an exception cannot reasonably accommodate the proposed use. The potential for alternative sites not requiring an exception are extremely limited by three factors: 1) The Polk County Zoning Ordinance has no provisions in any zoning category for non-church affiliated cemeteries except for the PC zone; 2) the City of Independence has one zone that allows cemeteries through a conditional use permit, but all of the appropriately zoned sites are built or committed to other permitted uses; and 3) the search for alternative sites is limited to the coterminous boundaries of the cemetery district only because it is a public taxing district.
23. The Hilltop Cemetery Board is an elected body entrusted to operate the cemeteries within their district and to provide a choice of where people want to be buried.
24. The Hilltop Cemetery Board delegates sales of burial plots exclusively to the Farnstrom Mortuary in Independence to provide choice of location, but has taken sole authority over the Buena Vista Cemetery because of the very low number of plots available. Sales are made by priority in this order: 1) Cemetery District residents, 2) Polk County residents, and 3) residents living outside the district but who have family members in the cemetery.
25. The Hilltop Cemetery Board has a three-tiered pricing system to encourage district sales by the order of priority listed in 24 above.
26. The principal broker for cemetery plots in the Hilltop Cemetery District is Farnstrom Mortuary in Independence, Oregon.
27. The Buena Vista Cemetery has a very limited number of lots available for sale according to Ben Farnstrom.
28. The Buena Vista Cemetery has an average of five burials per year, and three occurred in 2009 according to Ben Farnstrom.
29. The Buena Vista Cemetery needs to either expand or be closed for burial in the next five years if expansion is disapproved based on the current rate of lot sales.
30. The majority of the requests for burial plots in the district are at Hilltop Cemetery.

The applicant states that Buena Vista Cemetery has only one public facility right now, and that is Riverview Street. No additional public facilities or services are or will be required.

The applicant states that the location of the cemetery next to an Unincorporated Community Center (Buena Vista) on a well-drained hilltop location is the optimum site in the entire cemetery district. Any other site within the district would result in a cemetery in the middle of prime farm land rather than contiguous to an Unincorporated Community Center on the edge of a large farming area (see Figure 8 of the application, Buena Vista UCC Boundary). When examining alternative sites, factors such as access, configuration, size, drainage, wetness, topography, soils, and public facilities were considered. According to the applicant, no one location in areas not requiring an exception was deemed to meet all of the above locational factors. Based on the applicant's analysis and the circumstances presented, no other site within the Cemetery District could reasonably accommodate the cemetery use proposed in this application.

- D. 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. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts; [OAR 660-004-0020(2)(c)]**

Findings: The applicant states that the proposed cemetery expansion will have impacts, but measures will be taken to mitigate those impacts. The long-term environmental impacts will be the loss of 1.59 acres, in addition to the existing 3.57 acre cemetery parcel, of high value farmland to a use that is permanent. Once allocated for use as a cemetery, it would be difficult to re-establish the agricultural use of the land; however, the scale of this impact is confined to a small isolated corner of a 41-acre property where no further expansions could be reasonably contemplated. A cemetery poses an exceptional circumstance where a "Reasons" exception must be applied. The loss of the farm land comprises less than 0.1% of all of the farm lands in Polk County. The cemetery use of the 3.57 acre property dates from 1846 which far precedes modern zoning to preserve the maximum amount of farmland, so the impact of losing the land is one that has no specific mitigation for replacement; but the condition of the land will be maintained and enhanced through landscaping and maintenance of soils. Farming the land indefinitely could have a greater environmental impact than using it as a cemetery because farm land is cultivated and exposed to the effects of wind and water. This 1.59 acre area proposed for the cemetery expansion is highly restricted by very steep topography on the east and south and a drainage that is cutting headward at the extreme southwest corner of this site. The applicant contends that the cemetery would actually arrest any further erosion and headward movement of this draw by having 100% basal coverage of grass. It would therefore be beneficial rather than detrimental with respect to soil loss and erosion. Cemeteries often become excellent wildlife habitats because wildlife trees are planted there to provide shade and beauty. A full developed cemetery with trees

and lawns is more wildlife friendly than a plowed field where strong pesticides, herbicides, and other amendments could be used. According to the applicant, the cherry trees that were planted in the cemetery expansion area required sprays such as Malathion that have long-term adverse effects on the environment. The applicant stated that the cemetery would not employ the use of herbicides and pesticides.

The expanded cemetery would require no greater expenditure for public facilities than currently exists. The cemetery has no water for irrigation, electrical power to provide lighting or gate controls, no telephone lines, internet cables, storm drainage facilities, public water, or structures that would require fire protection. The only improvement to the cemetery is Riverview Street, which is a one-lane gravel road this is under the jurisdiction of Polk County. The cemetery lies at the northern terminus of this road. No residences or farm fields rely on this road for access once one reaches the cemetery boundary. A positive finding can be made that currently, the cemetery and the uses associated with the cemetery require no public facilities and services above those that already exist.

Another impact that warrants examination is the effect of having a larger cemetery than currently exists with respect to increased traffic. At the present time the cemetery has a traffic management program to accommodate larger gatherings. The funeral home directors, particularly Farnstrom's Mortuary in Independence, provide instruction on traffic management at funeral service. The hearse leads the procession to the cemetery, and attendees are directed where to park in order to prevent blockage of traffic. Occasionally, other parties may be present at the cemetery in addition to a funeral procession, and the circumferential road within the cemetery must be kept available for traffic flow.

The Farnstrom Mortuary was contacted by the applicant to provide clarification on traffic management, and they found that there were only two funerals and burials in 2009. The owner and operator of the mortuary, Ben Farnstrom, stated that they have never had a traffic issue at the cemetery even though at times nearly all of the available parking was utilized. They have never had to resort to parking along Riverview Street. In Mr. Farnstrom's words, they have "absolutely no traffic challenges at this site." He did not foresee their having any challenges with the expansion of the site. He said that this is a small rural cemetery, and that occasionally another funeral home may preside over burial, but that they have very few there themselves owing to the fact that it is rural and isolated.

Within the above criterion is a requirement to demonstrate that the impacts from expanding this cemetery would be no more adverse at this location than if it were located in an area requiring a goal exception other than at this site. No other site was identified within the confines of the Hilltop Cemetery District with an equivalent of favorable conditions including its location next to an unincorporated rural center, at the end of a dead-end road, that only has one public service, and that is buffered on nearly every side from productive resource land.

The expansion of the cemetery would not have any anticipated impact on the water table since no water is withdrawn to maintain the cemetery. The lawns are not watered, and no restrooms are currently present for public use or for employees of the Cemetery District.

The applicant contends that, from a law enforcement perspective, this cemetery is ideally located because there is only one way in and one way out. Anyone going to the cemetery must pass by several residences in Buena Vista in order to reach the cemetery. According to the applicant, other cemeteries, including the Hilltop Cemetery on Corvallis Road, have been targets for drug dealers and vandals. In fact, when the Hilltop Cemetery expansion occurred in the 1990s, neighbors alerted the Cemetery Board that drug dealing and trespass were occurring on a regular basis. Drug paraphernalia was found in the cemetery, and a decision was made by the Cemetery Board to gate the cemetery and post it for no trespassing after dark. The Buena Vista Cemetery is more ideally suited for police reconnaissance because it is on the end of a one-lane public gravel road. Neighbors are also very alert to anyone entering the cemetery after dark. Therefore, no additional special services are required for the cemetery because of its location.

Overall, the applicant concludes, this site is far superior to any other potential sites examined within the Cemetery District. A positive finding should therefore be made that the long-term environmental, economic, social, and energy consequences along with measures designed to reduce impact, are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal Exception.

- E. **“The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts”. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. “Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. [OAR 660-004-0020(2)(d)]**

Findings: The applicant states that this criterion requires findings that impacts can be mitigated rather than showing that no impact occur. The expansion area is bordered on the west by a public right-of-way that is 60 feet wide and on the south and east by a steep hillside, a portion of which is heavily timbered. The expansion area is also bordered by steep and heavily timbered lands on the east. It is difficult to envision how the expansion of the cemetery would have any measurable adverse impacts to adjoining uses given these above factors. The nearest improvement to the east across the Willamette River is 5,000 feet away, and the nearest improvement due north of the cemetery is a farm house that is 2,500 feet away. The nearest residence directly west of the cemetery is more than one-quarter mile away, and only one residence is located on 40 acres that directly abuts the cemetery to the south. All these above referenced dwellings are resource related. The nearest non-resource dwellings are located one-quarter mile away to the south on Riverview Street. The cemetery site is an isolated location that is adequately buffered on all sides. The steep topography on the south and east in particular conceal the cemetery from public view from those directions. It is also impossible to see the cemetery from the north and west owing to topographic considerations. The existing cemetery has been historically compatible with all surrounding uses. According to the applicant, the local mortuary has never had a documented interference with traffic and farm machinery, nor have any low enforcement actions resulted from illegal activities at the cemetery. According to the applicant, the cemetery is so safe that the need to gate cemetery has not yet arisen. A sign is located at the entrance to the cemetery that is closed after dark. According to the applicant, anyone passing by the nine houses on Riverview Street would be viewed with suspicion if they were there after dark. The applicant concludes that the cemetery is, therefore, in a very defensible location with respect to law enforcement issues.

On January 18, 2012, the applicant provided the following additional bulleted statements to further support their impact analysis:

Access

1. The Buena Vista Cemetery is located at the dead end of a county road known as Riverview Street in Buena Vista, Oregon.
2. The only access to the cemetery is via Riverview Street which is a one-lane gravel road contained within an 80-foot right-of-way.
3. The right-of-way is wide enough to accommodate cemetery traffic and farm traffic.
4. The director of Farnstrom Mortuary confirmed that they have never had any conflict with farm equipment before, during or after graveside funeral services.
5. The director of Farnstrom Mortuary stated that funeral processions are led by a hearse and that traffic controls are implemented during graveside services including one-way processions in and one-way out.

Impacts

Exhibit C to Ordinance No. 12-03

1. The proposed cemetery expansion will not result in any significant adverse impacts to adjoining farming operations.
2. The proposed cemetery expansion has a significant tree and topographic buffer to the south and east ranging from 40 feet to 400 feet wide. This buffer consists of mature timber that is sight obscuring.
3. The existing cemetery also has a significant buffer on the east and north which consists of thick timber and steep topography.
4. The buffers that surround the proposed cemetery expansion and the existing cemetery effectively negate any potential reciprocal adverse impacts between the farming operations in the area and the cemetery.
5. The right-of-way for Riverview Street is 80 feet wide for the entire frontage of both the exiting and proposed cemetery. This buffer is wider than most public right-of-way and does serve to segregate the cemetery use from adjoining farm use to the west.
6. The farming operations that are closest to the cemetery on the west and north are exclusively for grain and grass seed production.
7. The grass seed operations have a relatively low impact on surrounding uses because of the manner in which farming practices are conducted. Grass seed requires plowing and disking once every three to five years for disease control since field burning has been severely curtailed.
8. Grass seed operations are usually rotated into oats and wheat for one year before grass seed is replanted.
9. The ground where grass seed is rotated with grain crops is plowed in the late summer or fall every three to five years when rotation occurs.
10. Dust generated from field plowing is one of the impacts that could create incompatibility between the cemetery and adjoining farms; however, graveside services are infrequent. They would not likely coincide with the plowing since only an average of five services per year occur at the cemetery according to Ben Farnstrom of Farnstrom Mortuary in Independence, Oregon.
11. Other farm practices that could potentially create incompatibility are hours of operation and noise. Grass seed harvesting can only be done when the seed heads are dry, so it is often done at night rather than during the mid-day hours when funeral services would be likely to occur.
12. According to Ben Farnstrom of Farnstrom Mortuary in Independence, Oregon, there has never been an incident where a graveside service interrupted a farming practice or where a farming practice adversely affected a graveside service.
13. The higher impact farming practices from grass seed practices and grain occur between June and September. Much of the rest of the year only a few low impact activities, such as weed removal performed by manual spot spraying, are conducted.
14. The farming activities that can potentially affect the cemetery operation occur on a property owned by the Wells Living Trust. No other farm operators in the area have properties adjoining the cemetery except for the Powers, who are a party to the Property Boundary Adjustment Application.
15. The impacts generated by the cemetery operation that could potentially interrupt farming practices are funeral processions and graveside services. According to Ben Farnstrom, traffic entering the cemetery is exclusively on Riverview Street, and the hearse leads the procession to the exact spot in the cemetery where the service is going to be held. No cars are allowed to be parked on the Riverview Street right-of-way regardless of where the

service occurs in the cemetery. No documented restriction to moving farm equipment has ever occurred at this site.

16. To minimize impacts to adjoining farming operations the funeral procession is led into and out of the cemetery by the funeral director, and access is one-way in and one-way out exclusively.
17. The Buena Vista Cemetery occasionally conducts military funerals with gun salutes; however, no sensitive animal operations or houses are close enough to be impacted by this rare occurrence.
18. The Buena Vista Cemetery maintains daylight hours for cemetery visits. Due to the remote location of the cemetery, no gates or fences surround it, such as is the case at the Hilltop Cemetery.
19. Maintenance activities associated with the cemetery consist of grass mowing and debris removal. These activities are conducted by the maintenance staff on weekdays during daylight hours.
20. The Buena Vista Cemetery has no power, water, sewage disposal, or storm drainage; nor are any permanent structures located there. Maintenance equipment is stored in a metal shipping container in an obscure location on the east side of the old cemetery.
21. Graves are excavated at the site by a backhoe; but, as stated previously, an average of only five burials occur per year. Excavations are so infrequent, therefore, that no impacts are felt by adjoining farming operations.
22. The Buena Vista Cemetery, which is located at a dead-end on Riverview Street, has no documented evidence of vandalism or crime, such as has occurred at the Hilltop Cemetery on Corvallis Road. The Hilltop Cemetery developed such a serious problem with drug dealing that the cemetery had to be gated and fenced, and specific patrols had to be requested in order to stop those activities. The local residents police the Buena Vista Cemetery themselves, so no impact occurs to local law enforcement.
23. A positive finding can be made that the Buena Vista Cemetery has coexisted with farming activities for 167 years without any reciprocal adverse impacts.

The applicant promises that the proposed expansion will continue those measures that have kept the cemetery compatible with adjacent uses for so long, and any prospective roads that may be planned for the cemetery expansion will be posted.

F. For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following: [660-004-0022(1)]

- 1. There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either**
- 2. A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or**
- 3. The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.**

Findings: On January 18, 2012, the applicant provided the following bulleted statements as findings for "demonstrated need":

Exhibit C to Ordinance No. 12-03

1. The Buena Vista Cemetery has an extremely local demand for burial plots based on the fact that 105 of 107 cemetery lot sales dating back to 1990 are from families that either live in Buena Vista, formerly lived in Buena Vista but have family buried in the cemetery or live within the cemetery district. Only two of the plots have sold to persons from outside of the district.
2. The other cemetery in the district (Hilltop Cemetery) by contrast has had only 64 in district sales since 1990 and 292 burial plot sales originating from outside the district.
3. The percentage of sales to in district residents for Buena Vista Cemetery is 98% compared to 21.9% for the Hilltop Cemetery.
4. The Buena Vista Cemetery had no burial plots available from 1994 through 2004 because all available lots were allocated. The cemetery was able to market 81 plots from 2005 through 2010 only because the district board vacated the old carriage roads within the cemetery.
5. The Buena Vista Cemetery now only has six plots available and based on the twenty year absorption rate has only a one year supply left (107 plots sold divided by 21 years = 5.1 plots annually).
6. The Hilltop Cemetery has available plots for sale but the rural residents in and around Buena Vista and their families have clearly demonstrated through the sales data of plots that they have no desire to purchase plots at Hilltop Cemetery. This is due to a strong commitment to have burial in the same cemetery as family members.
7. The Buena Vista Cemetery Board will as a matter of policy discourage any prospective sale of burial plots to parties outside of the Cemetery district in order to maintain availability of plots for local residents.

The applicant also provided the following bulleted statements as findings to substantiate that the proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site:

1. The existing cemetery is without question a valuable asset to the citizens of Buena Vista having been in existence since 1846. Some families have eight generations of family members buried there. The inability to expand the cemetery means family members will have to go elsewhere for burial, which is unacceptable to them.
2. The proposed use or activity is not really a proposed use, it is an existing use that has a strong historical and cultural inertia behind it. By locating the needed cemetery plots directly adjacent to the existing cemetery, family members can continue to be buried in the same cemetery.
3. The special feature is the existence of a historical cemetery with a strong cross section of early historic settlers. Siting an expanded facility at other than a contiguous location would adversely affect the existing cemetery by decreasing interest in visiting it and maintaining it.
4. The special feature of being on a high bluff above the Willamette River surrounded by tall timber on the east and south places the cemetery at the best view site in Buena Vista. This cemetery has a commanding view of the quilted farm use pattern that is unique amongst all cemeteries in Polk County. No other cemetery in Polk County has the commanding view on a bluff directly above the Willamette River.
5. The Hilltop Cemetery Board believes the best way to keep this cemetery viable is to continue to have local families retain this as a final resting place. Denial of this application would eventually result in the cemetery being only a maintenance burden to the district with no ability to generate revenues for the district.
6. The Hilltop Cemetery Board Members past and present own burial plots in the cemetery and their family members are buried here. They are closely attuned to the families in the

area and they want the cemetery to expand to meet their future needs. The families are also concerned that the cemetery be expanded so they can be buried in the same cemetery as their family members.

7. The fact that 98% of the plots sold in the last twenty years have been to in district and Buena Vista residents attests to the special features of this cemetery. The demand is clearly here if the plots are made available.

The applicant contends that Buena Vista Cemetery has demand for burial plots from those with family buried in Buena Vista Cemetery and from those living within the cemetery district. The applicant sites in district sales data for Buena Vista Cemetery and Hilltop Cemetery as evidence of this demand. The application does establish those with family buried at Buena Vista as a unique subset of the population whose demand for burial plots can only be met by expanding the Buena Vista Cemetery. The applicant states that there are only six burial plots available at this time in Buena Vista Cemetery, which, coupled with the existing and anticipated demand, creates the need for additional plots to serve those with family buried in Buena Vista Cemetery. The applicant conceded that there was not currently a demonstrated need for 3.55 additional acres of land for cemetery use. As a result, the applicant is now requesting 1.59 acres of area to be used for additional cemetery space. If we assume that 30% of the area would be needed for infrastructure including lighting, roads, walkways and space between burial areas, that would leave approximately 1.1 acres for burial plots. Assuming one burial plot occupies 60 square feet (12'x 5'), the expansion would allow an additional 798 burial plots. The applicant states that the cemetery expansion area also incorporates some existing burial sites that were established independent of the cemetery and would further limit the available area for new burial plots. The applicant does not provide demand data to demonstrate the planning horizon that the expansion area is intended to meet or evidence as to how many applicants for burial lots in the existing Buena Vista Cemetery could reasonably be accommodated at Hilltop Cemetery. The application lacks the level of sophistication needed to demonstrate beyond a reasonable doubt that that the existing or anticipated demand for burial plots warrants a 1.59 acre expansion. However, the exception process does not require that the evidence establish a determination that is beyond dispute that any reasonable alternative is possible. On its face, the application appears sensible. The applicant has stated that there is demand for plots specifically at Buena Vista Cemetery from those with relatives buried there and it is a reasonable observation that families expand exponentially over time increasing demand year over year. In addition, an application to expand on to less than one acre could limit the ability to establish other amenities that are typical of cemetery sites that may be required or needed in the future to provide safety and sanitation, such as restrooms and drinking fountains, due to a lack of area for an onsite septic system.

4. Findings for Zone Change; File ZC 10-01:

- A. A zone change is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Hearings Officer or the Planning Commission. Such change shall be an ordinance enacted by the Board of Commissioners after proceedings have been accomplished in accordance with the provisions of this chapter. [PCZO 111.140]**

Findings: The authorizations for a zone change and a Comprehensive Plan Map and text amendment are provided under Polk County Zoning Ordinance (PCZO) Sections 111.275, and 115.050, subject to recommendation by the Hearings Officer after holding a public hearing pursuant to PCZO 111.190 and 115.030 and decision by the Polk County Board of Commissioners after holding a public hearing pursuant to PCZO 111.200 and 115.030. Planning Department staff reviews the proposed zone change. Staff prepares a report and recommendation for the Hearings Officer and the Hearings Officer makes a recommendation to the Polk County Board of Commissioners for a final local decision. The application is following the proper review process and meets this criterion.

- B. Pursuant to Section 111.160, a zone change may be approved, provided that the**

request satisfies all applicable requirements of this ordinance, and provided that with written findings, the applicant(s) clearly demonstrate compliance with the following criteria:

- 1. The proposed zone is appropriate for the comprehensive plan land use designation on the property and is consistent with the purpose and policies for the applicable comprehensive plan land use classification; [PCZO 111.275 (A)]**
 - a. The purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. These include schools, parks fire stations, hospitals, cemeteries and other public buildings. Adequate public facilities are essential to well ordered community life, sustaining and enhancing the health, safety, educational and recreational aspects of rural living. [PCCP, Section 4]**

Findings: As described in Section 4 of the PCCP, the purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. The applicant seeks to use the subject property as a cemetery. The proposed cemetery expansion would allow the Buena Vista Cemetery to serve the rural community into the future. The proposed Public Plan designation and PC zoning are the appropriate designations to accommodate a cemetery.

The application complies with this criterion.

- 2. The proposal conforms with the purpose statement of the proposed zone; [PCZO 111.275 (B)]**

Findings: The applicant proposes applying the PC Zoning District, if an approval of the proposed amendment to the Comprehensive Plan map and text is granted. The PC would be an appropriate zone to implement the Public Comprehensive Plan land use designation. Unlike most zones in Polk County, there is no purpose statement listed for the public zones in PCZO Chapter 170. Consequently, it is reasonable to substitute the purpose and intent of the Public land use designation listed in Section 4 of the PCCP, which states:

The purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. These include schools, parks fire stations, hospitals, cemeteries and other public buildings. Adequate public facilities are essential to well ordered community life, sustaining and enhancing the health, safety, educational and recreational aspects of rural living.

The proposed PC Zone would allow the applicant to establish a cemetery on the subject property. As described in the application, the proposed cemetery would provide a public service. The public service that would be provided by the proposed, expanded cemetery would be consistent with the purpose statement of the Public lands designation.

The application complies with this criterion.

- 3. The uses allowed in the proposed designation will not significantly adversely affect allowed uses on adjacent lands; [PCZO 111.275(C)]**

Findings: Based on a review of the 2008 Polk County Aerial Photograph and the applicant's statement, contiguous properties are used for agricultural purposes. The subject property is accessed from Riverview Street, and approximately ¼ mile north of the Buena Vista Unincorporated Community. Riverview Street ends adjacent to the subject property. The lack of through connectivity limits the traffic on Riverview Street to local traffic only. Based on a review of the 2008 Polk County Aerial Photograph, the only properties north of the Buena Vista Unincorporated Community that have driveway access to Riverview Street are Parcel 1 (the cemetery property) and Parcel 2.

The applicant is proposing a property line adjustment, Comprehensive Plan amendment, and zone change in order to increase the size of the existing Buena Vista Cemetery. The proposed expansion is intended to accommodate the long term demand for burial plots at the proposed cemetery. According to the information in the application, the Buena Vista Cemetery has few offsite impacts. Burial services at the cemetery would occasionally result in traffic congestion along Riverview Street. Staff believes that the traffic impacts associated with the expanded cemetery would be similar to the traffic impacts that currently occur. Cemeteries are unique, in that a larger facility, does not necessary translate into a proportionally equivalent increase in traffic. The temporary surges in traffic experienced with burial services are one time events, and Staff is not aware of any reasons why an increase in supply of burial plots would increase the demand for those plots. A larger cemetery with more gravesites would presumably increase the amount of daily visitor traffic. Based on the information provided by the applicant, traffic levels associated with citizens visiting the cemetery are relatively low. A 1.59 acre increase to the cemetery size would not produce traffic that would act to negatively impact surrounding properties. Due to low traffic volumes on Riverview Road, the Public Works Department has indicated that road improvements should not be required if these applications are approved.

Staff has not identified any other significant offsite impacts that would occur if the Buena Vista Cemetery expansion is approved. The cemetery would not produce significant noise, dust, or other emissions. In consideration of the above factors, the proposed, expanded cemetery would not significantly adversely affect allowed uses on adjacent lands. Staff finds that the proposed zone change and Comprehensive Plan amendment are appropriate when taking into account surrounding land uses. As a result, staff finds that the application meets this criterion.

4. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; [PCZO 111.275(D)]

Findings: The applicant is proposing to change the zoning of the subject property to PC which would allow the subject property to be used for a cemetery and a dwelling for a caretaker or a watchman. The applicant indicates that the cemetery would not require electricity, water, or other public utilities. The applicant does not address the potential needs of a dwelling for a caretaker or watchman. The subject property is located in the area served by the Luckiamute Domestic Water Cooperative. If the applicant plans to obtain water from a community water system, a "Statement of Water Availability" shall be submitted prior to building permit issuance. The applicant should also be required to comply with all applicable state and federal water laws. There have been no identified effects on local schools as a result of the proposed change. Polk County Fire District Number 1 and the Polk County Sheriff Department provide emergency services at the subject property. Riverview Street, a local road as identified in Figure 3 of the Polk County Transportation Systems Plan, provides access to the subject property.

Based on the above information, Staff concludes that there are adequate public facilities, services, and transportation networks in place to serve the proposed cemetery. Approval of this proposed zone change and Comprehensive Plan amendment would not authorize the applicant to establish a use that would exceed transportation, water and/or sewage disposal services until such services are planned or available. The application would meet this criterion.

5. The proposed change is appropriate taking into consideration the following:
a. Surrounding land uses,

Findings: As discussed above, based on a review of the 2008 Polk County Aerial Photograph, the subject property is surrounded by properties used for agricultural purposes. A cemetery is a low impact use that brings occasional traffic congestion to the road system. There is no evidence in the record to indicate that occasional traffic congestion would be detrimental to neighboring properties. The proposed zone change would be appropriate in consideration of surrounding land uses.

b. The density and pattern of development in the area,

an exception to Goal 3.” In materials submitted for the Record on June 16, 2010, the applicant said there were no uncommitted areas within Independence that did not have drainage problems. In materials submitted on June 1, 2010, the applicant had stated that the only zone within the boundaries of the cemetery district that permits cemetery lots is the Public Service zone in Independence, but there is no land in that district vacant and available. On January 18, 2012 the applicant provided the following additional bulleted statements to support their alternatives analysis:

1. The Hilltop Cemetery District is one of nine taxing cemetery districts within Polk County, Oregon.
2. The Hilltop Cemetery District has two operating cemeteries: Buena Vista and Hilltop.
3. The Hilltop Cemetery on Corvallis Road is 12.7 acres and is comprised of Tax Lots 300 and 400.
4. The larger Tax Lot (300) is 8.7 acres and has no cemetery lots for sale.
5. The occupied burial plots in Tax Lot 300 now exceed 90 percent of capacity.
6. The smaller Tax Lot (400) is 4.25 acres and was added to the cemetery through a land use approval in 1992.
7. The process of improving Tax Lot 400 has already begun, and more than 100 cemetery lots were recently sold in a single transaction.
8. The area north of the road that bisects Tax Lot 400 already contains 12 burial plots.
9. The majority of burial plots sold at the Hilltop Cemetery are cemetery district residents or their close family members, but the majority are from the urban part of the district rather than from the local farming families and their descendants.
10. The majority of burial plots sold at the Buena Vista Cemetery are to farm families who live south and east of Independence and to close relatives of these farm families living elsewhere in the district and outside of the district.
11. As late as 2004, the Hilltop Cemetery District had no burial plots available at the Buena Vista Cemetery.
12. The Buena Vista Cemetery gained 56 burial plots after 2004 by abandoning the old carriage road, and the number of available burial plots now stands at 26.
13. The Cemetery Board now has a policy of not selling burial plots at the Buena Vista Cemetery to parties living outside of the district because so few lots are available.
14. The Polk County Zoning Ordinance makes no provision for non-church affiliated cemeteries in any zoning category.
15. The alternative areas considered for non-church affiliated cemeteries were limited to lands within the Hilltop District and lands inside the urban growth boundaries since no zone in unincorporated areas of Polk County allows non-church affiliated cemeteries.
16. The only zone in the Hilltop Cemetery District that allows non-church affiliated cemeteries is the Public Service (PS) Zone within the corporate limits of Independence, Oregon.
17. The areas zoned PS in Independence are all built and committed to other uses such as parks and schools.

18. The Hilltop Cemetery is the main cemetery for the urban portion of the district, namely Independence.
19. The Hilltop Cemetery serves the large urban population of Independence and Monmouth, whereas the Buena Vista Cemetery is a pioneer cemetery (in operation since 1846) and principally serves a rural population consisting of area farmers, their extended families, and former hop farm workers who want Buena Vista as a final resting place.
20. The Hilltop Cemetery was enlarged in 1992 only in reference to the particular need of that facility and not that of the Hilltop Cemetery District as a whole or the Buena Vista Cemetery in particular.
21. The Hilltop Cemetery District has adopted a policy of giving preference to district residents rather than out-of-district residents for purchase of cemetery lots in order to preserve family plots.
22. Pursuant to OAR 660-004-022(b)(A), the Hilltop Cemetery District Board and their representative have examined locations which so not require a new exception and why these areas which do not require an exception cannot reasonably accommodate the proposed use. The potential for alternative sites not requiring an exception are extremely limited by three factors: 1) The Polk County Zoning Ordinance has no provisions in any zoning category for non-church affiliated cemeteries except for the PC zone; 2) the City of Independence has one zone that allows cemeteries through a conditional use permit, but all of the appropriately zoned sites are built or committed to other permitted uses; and 3) the search for alternative sites is limited to the coterminous boundaries of the cemetery district only because it is a public taxing district.
23. The Hilltop Cemetery Board is an elected body entrusted to operate the cemeteries within their district and to provide a choice of where people want to be buried.
24. The Hilltop Cemetery Board delegates sales of burial plots exclusively to the Farnstrom Mortuary in Independence to provide choice of location, but has taken sole authority over the Buena Vista Cemetery because of the very low number of plots available. Sales are made by priority in this order: 1) Cemetery District residents, 2) Polk County residents, and 3) residents living outside the district but who have family members in the cemetery.
25. The Hilltop Cemetery Board has a three-tiered pricing system to encourage district sales by the order of priority listed in 24 above.
26. The principal broker for cemetery plots in the Hilltop Cemetery District is Farnstrom Mortuary in Independence, Oregon.
27. The Buena Vista Cemetery has a very limited number of lots available for sale according to Ben Farnstrom.
28. The Buena Vista Cemetery has an average of five burials per year, and three occurred in 2009 according to Ben Farnstrom.
29. The Buena Vista Cemetery needs to either expand or be closed for burial in the next five years if expansion is disapproved based on the current rate of lot sales.
30. The majority of the requests for burial plots in the district are at Hilltop Cemetery.

The applicant states that Buena Vista Cemetery has only one public facility right now, and that is Riverview Street. No additional public facilities or services are or will be required.

The applicant states that the location of the cemetery next to an Unincorporated Community Center (Buena Vista) on a well-drained hilltop location is the optimum site in the entire cemetery district. Any other site within the district would result in a cemetery in the middle of prime farm land rather than contiguous to an Unincorporated Community Center on the edge of a large farming area (see Figure 8 of the application, Buena Vista UCC Boundary). When examining alternative sites, factors such as access, configuration, size, drainage, wetness, topography, soils, and public facilities were considered. According to the applicant, no one location in areas not requiring an exception was deemed to meet all of the above locational factors. Based on the applicant's analysis and the circumstances presented, no other site within the Cemetery District could reasonably accommodate the cemetery use proposed in this application.

- D. 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. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts; [OAR 660-004-0020(2)(c)]**

Findings: The applicant states that the proposed cemetery expansion will have impacts, but measures will be taken to mitigate those impacts. The long-term environmental impacts will be the loss of 1.59 acres, in addition to the existing 3.57 acre cemetery parcel, of high value farmland to a use that is permanent. Once allocated for use as a cemetery, it would be difficult to re-establish the agricultural use of the land; however, the scale of this impact is confined to a small isolated corner of a 41-acre property where no further expansions could be reasonably contemplated. A cemetery poses an exceptional circumstance where a "Reasons" exception must be applied. The loss of the farm land comprises less than 0.1% of all of the farm lands in Polk County. The cemetery use of the 3.57 acre property dates from 1846 which far precedes modern zoning to preserve the maximum amount of farmland, so the impact of losing the land is one that has no specific mitigation for replacement; but the condition of the land will be maintained and enhanced through landscaping and maintenance of soils. Farming the land indefinitely could have a greater environmental impact than using it as a cemetery because farm land is cultivated and exposed to the effects of wind and water. This 1.59 acre area proposed for the cemetery

expansion is highly restricted by very steep topography on the east and south and a drainage that is cutting headward at the extreme southwest corner of this site. The applicant contends that the cemetery would actually arrest any further erosion and headward movement of this draw by having 100% basal coverage of grass. It would therefore be beneficial rather than detrimental with respect to soil loss and erosion. Cemeteries often become excellent wildlife habitats because wildlife trees are planted there to provide shade and beauty. A full developed cemetery with trees and lawns is more wildlife friendly than a plowed field where strong pesticides, herbicides, and other amendments could be used. According to the applicant, the cherry trees that were planted in the cemetery expansion area required sprays such as Malathion that have long-term adverse effects on the environment. The applicant stated that the cemetery would not employ the use of herbicides and pesticides.

The expanded cemetery would require no greater expenditure for public facilities than currently exists. The cemetery has no water for irrigation, electrical power to provide lighting or gate controls, no telephone lines, internet cables, storm drainage facilities, public water, or structures that would require fire protection. The only improvement to the cemetery is Riverview Street, which is a one-lane gravel road this is under the jurisdiction of Polk County. The cemetery lies at the northern terminus of this road. No residences or farm fields rely on this road for access once one reaches the cemetery boundary. A positive finding can be made that currently, the cemetery and the uses associated with the cemetery require no public facilities and services above those that already exist.

Another impact that warrants examination is the effect of having a larger cemetery than currently exists with respect to increased traffic. At the present time the cemetery has a traffic management program to accommodate larger gatherings. The funeral home directors, particularly Farnstrom's Mortuary in Independence, provide instruction on traffic management at funeral service. The hearse leads the procession to the cemetery, and attendees are directed where to park in order to prevent blockage of traffic. Occasionally, other parties may be present at the cemetery in addition to a funeral procession, and the circumferential road within the cemetery must be kept available for traffic flow.

The Farnstrom Mortuary was contacted by the applicant to provide clarification on traffic management, and they found that there were only two funerals and burials in 2009. The owner and operator of the mortuary, Ben Farnstrom, stated that they have never had a traffic issue at the cemetery even though at times nearly all of the available parking was utilized. They have never had to resort to parking along Riverview Street. In Mr. Farnstrom's words, they have "absolutely no traffic challenges at this site." He did not foresee their having any challenges with the expansion of the site. He said that this is a small rural cemetery, and that occasionally another funeral home may preside over burial, but that they have very few there themselves owing to the fact that it is rural and isolated.

Within the above criterion is a requirement to demonstrate that the impacts from expanding this cemetery would be no more adverse at this location than if it were located in an area requiring a goal exception other than at this site. No other site was identified within the confines of the Hilltop Cemetery District with an equivalent of favorable conditions including its location next to an unincorporated rural center, at the end of a dead-end road, that only has one public service, and that is buffered on nearly every side from productive resource land.

The expansion of the cemetery would not have any anticipated impact on the water table since no water is withdrawn to maintain the cemetery. The lawns are not watered, and no restrooms are currently present for public use or for employees of the Cemetery District.

The applicant contends that, from a law enforcement perspective, this cemetery is ideally located because there is only one way in and one way out. Anyone going to the cemetery must pass by several residences in Buena Vista in order to reach the cemetery. According to the applicant, other cemeteries, including the Hilltop Cemetery on Corvallis Road, have been targets for drug dealers and vandals. In fact, when the Hilltop Cemetery expansion occurred in the 1990s, neighbors alerted the Cemetery Board that drug dealing and trespass were occurring on a regular basis. Drug paraphernalia was found in the cemetery, and a decision was made by the Cemetery Board to gate the cemetery and post it for no trespassing after dark. The Buena Vista Cemetery is more ideally suited for police reconnaissance because it is on the end of a one-lane public gravel road. Neighbors are also very alert to anyone entering the cemetery after dark. Therefore, no additional special services are required for the cemetery because of its location.

Overall, the applicant concludes, this site is far superior to any other potential sites examined within the Cemetery District. A positive finding should therefore be made that the long-term environmental, economic, social, and energy consequences along with measures designed to reduce impact, are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal Exception.

- E. **“The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts”.** The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. **“Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.** [OAR 660-004-0020(2)(d)]

Findings: The applicant states that this criterion requires findings that impacts can be mitigated rather than showing that no impact occur. The expansion area is bordered on the west by a public right-of-way that is 60 feet wide and on the south and east by a steep hillside, a portion of which is heavily timbered. The expansion area is also bordered by steep and heavily timbered lands on the east. It is difficult to envision how the expansion of the cemetery would have any measurable adverse impacts to adjoining uses given these above factors. The nearest improvement to the east across the Willamette River is 5,000 feet away, and the nearest improvement due north of the cemetery is a farm house that is 2,500 feet away. The nearest residence directly west of the cemetery is more than one-quarter mile away, and only one residence is located on 40 acres that directly abuts the cemetery to the south. All these above referenced dwellings are resource related. The nearest non-resource dwellings are located one-quarter mile away to the south on Riverview Street. The cemetery site is an isolated location that is adequately buffered on all sides. The steep topography on the south and east in particular conceal the cemetery from public view from those directions. It is also impossible to see the cemetery from the north and west owing to topographic considerations. The existing cemetery has been historically compatible with all surrounding uses. According to the applicant, the local mortuary has never had a documented interference with traffic and farm machinery, nor have any law enforcement actions resulted from illegal activities at the cemetery. According to the applicant, the cemetery is so safe that the need to gate cemetery has not yet arisen. A sign is located at the entrance to the cemetery that is closed after dark. According to the applicant, anyone passing by the nine houses on Riverview Street would be viewed with suspicion if they were there after dark. The applicant concludes that the cemetery is, therefore, in a very defensible location with respect to law enforcement issues.

On January 18, 2012, the applicant provided the following additional bulleted statements to further support their impact analysis:

Access

1. The Buena Vista Cemetery is located at the dead end of a county road known as Riverview Street in Buena Vista, Oregon.
2. The only access to the cemetery is via Riverview Street which is a one-lane gravel road contained within an 80-foot right-of-way.
3. The right-of-way is wide enough to accommodate cemetery traffic and farm traffic.
4. The director of Farnstrom Mortuary confirmed that they have never had any conflict with farm equipment before, during or after graveside funeral services.
5. The director of Farnstrom Mortuary stated that funeral processions are led by a hearse and that traffic controls are implemented during graveside services including one-way processions in and one-way out.

Impacts

1. The proposed cemetery expansion will not result in any significant adverse impacts to adjoining farming operations.
2. The proposed cemetery expansion has a significant tree and topographic buffer to the south and east ranging from 40 feet to 400 feet wide. This buffer consists of mature timber that is sight obscuring.
3. The existing cemetery also has a significant buffer on the east and north which consists of thick timber and steep topography.
4. The buffers that surround the proposed cemetery expansion and the existing cemetery effectively negate any potential reciprocal adverse impacts between the farming operations in the area and the cemetery.
5. The right-of-way for Riverview Street is 80 feet wide for the entire frontage of both the exiting and proposed cemetery. This buffer is wider than most public right-of-way and does serve to segregate the cemetery use from adjoining farm use to the west.
6. The farming operations that are closest to the cemetery on the west and north are exclusively for grain and grass seed production.
7. The grass seed operations have a relatively low impact on surrounding uses because of the manner in which farming practices are conducted. Grass seed requires plowing and discing once every three to five years for disease control since field burning has been severely curtailed.
8. Grass seed operations are usually rotated into oats and wheat for one year before grass seed is replanted.
9. The ground where grass seed is rotated with grain crops is plowed in the late summer or fall every three to five years when rotation occurs.
10. Dust generated from field plowing is one of the impacts that could create incompatibility between the cemetery and adjoining farms; however, graveside services are infrequent. They would not likely coincide with the plowing since only an average of five services

per year occur at the cemetery according to Ben Farnstrom of Farnstrom Mortuary in Independence, Oregon.

11. Other farm practices that could potentially create incompatibility are hours of operation and noise. Grass seed harvesting can only be done when the seed heads are dry, so it is often done at night rather than during the mid-day hours when funeral services would be likely to occur.
12. According to Ben Farnstrom of Farnstrom Mortuary in Independence, Oregon, there has never been an incident where a graveside service interrupted a farming practice or where a farming practice adversely affected a graveside service.
13. The higher impact farming practices from grass seed practices and grain occur between June and September. Much of the rest of the year only a few low impact activities, such as weed removal performed by manual spot spraying, are conducted.
14. The farming activities that can potentially affect the cemetery operation occur on a property owned by the Wells Living Trust. No other farm operators in the area have properties adjoining the cemetery except for the Powers, who are a party to the Property Boundary Adjustment Application.
15. The impacts generated by the cemetery operation that could potentially interrupt farming practices are funeral processions and graveside services. According to Ben Farnstrom, traffic entering the cemetery is exclusively on Riverview Street, and the hearse leads the procession to the exact spot in the cemetery where the service is going to be held. No cars are allowed to be parked on the Riverview Street right-of-way regardless of where the service occurs in the cemetery. No documented restriction to moving farm equipment has ever occurred at this site.
16. To minimize impacts to adjoining farming operations the funeral procession is led into and out of the cemetery by the funeral director, and access is one-way in and one-way out exclusively.
17. The Buena Vista Cemetery occasionally conducts military funerals with gun salutes; however, no sensitive animal operations or houses are close enough to be impacted by this rare occurrence.
18. The Buena Vista Cemetery maintains daylight hours for cemetery visits. Due to the remote location of the cemetery, no gates or fences surround it, such as is the case at the Hilltop Cemetery.
19. Maintenance activities associated with the cemetery consist of grass mowing and debris removal. These activities are conducted by the maintenance staff on weekdays during daylight hours.
20. The Buena Vista Cemetery has no power, water, sewage disposal, or storm drainage; nor are any permanent structures located there. Maintenance equipment is stored in a metal shipping container in an obscure location on the east side of the old cemetery.
21. Graves are excavated at the site by a backhoe; but, as stated previously, an average of only five burials occur per year. Excavations are so infrequent, therefore, that no impacts are felt by adjoining farming operations.
22. The Buena Vista Cemetery, which is located at a dead-end on Riverview Street, has no documented evidence of vandalism or crime, such as has occurred at the Hilltop

Cemetery on Corvallis Road. The Hilltop Cemetery developed such a serious problem with drug dealing that the cemetery had to be gated and fenced, and specific patrols had to be requested in order to stop those activities. The local residents police the Buena Vista Cemetery themselves, so no impact occurs to local law enforcement.

23. A positive finding can be made that the Buena Vista Cemetery has coexisted with farming activities for 167 years without any reciprocal adverse impacts.

The applicant promises that the proposed expansion will continue those measures that have kept the cemetery compatible with adjacent uses for so long, and any prospective roads that may be planned for the cemetery expansion will be posted.

F. For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following: [660-004-0022(1)]

- 1. There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either**
- 2. A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or**
- 3. The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.**

Findings: On January 18, 2012, the applicant provided the following bulleted statements as findings for "demonstrated need":

1. The Buena Vista Cemetery has an extremely local demand for burial plots based on the fact that 105 of 107 cemetery lot sales dating back to 1990 are from families that either live in Buena Vista, formerly lived in Buena Vista but have family buried in the cemetery or live within the cemetery district. Only two of the plots have sold to persons from outside of the district.
2. The other cemetery in the district (Hilltop Cemetery) by contrast has had only 64 in district sales since 1990 and 292 burial plot sales originating from outside the district.
3. The percentage of sales to in district residents for Buena Vista Cemetery is 98% compared to 21.9% for the Hilltop Cemetery.
4. The Buena Vista Cemetery had no burial plots available from 1994 through 2004 because all available lots were allocated. The cemetery was able to market 81 plots from 2005 through 2010 only because the district board vacated the old carriage roads within the cemetery.
5. The Buena Vista Cemetery now only has six plots available and based on the twenty year absorption rate has only a one year supply left (107 plots sold divided by 21 years = 5.1 plots annually).

6. The Hilltop Cemetery has available plots for sale but the rural residents in and around Buena Vista and their families have clearly demonstrated through the sales data of plots that they have no desire to purchase plots at Hilltop Cemetery. This is due to a strong commitment to have burial in the same cemetery as family members.
7. The Buena Vista Cemetery Board will as a matter of policy discourage any prospective sale of burial plots to parties outside of the Cemetery district in order to maintain availability of plots for local residents.

The applicant also provided the following bulleted statements as findings to substantiate that the proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site:

1. The existing cemetery is without question a valuable asset to the citizens of Buena Vista having been in existence since 1846. Some families have eight generations of family members buried there. The inability to expand the cemetery means family members will have to go elsewhere for burial, which is unacceptable to them.
2. The proposed use or activity is not really a proposed use, it is an existing use that has a strong historical and cultural inertia behind it. By locating the needed cemetery plots directly adjacent to the existing cemetery, family members can continue to be buried in the same cemetery.
3. The special feature is the existence of a historical cemetery with a strong cross section of early historic settlers. Siting an expanded facility at other than a contiguous location would adversely affect the existing cemetery by decreasing interest in visiting it and maintaining it.
4. The special feature of being on a high bluff above the Willamette River surrounded by tall timber on the east and south places the cemetery at the best view site in Buena Vista. This cemetery has a commanding view of the quilted farm use pattern that is unique amongst all cemeteries in Polk County. No other cemetery in Polk County has the commanding view on a bluff directly above the Willamette River.
5. The Hilltop Cemetery Board believes the best way to keep this cemetery viable is to continue to have local families retain this as a final resting place. Denial of this application would eventually result in the cemetery being only a maintenance burden to the district with no ability to generate revenues for the district.
6. The Hilltop Cemetery Board Members past and present own burial plots in the cemetery and their family members are buried here. They are closely attuned to the families in the area and they want the cemetery to expand to meet their future needs. The families are also concerned that the cemetery be expanded so they can be buried in the same cemetery as their family members.
7. The fact that 98% of the plots sold in the last twenty years have been to in district and Buena Vista residents attests to the special features of this cemetery. The demand is clearly here if the plots are made available.

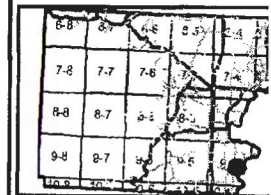
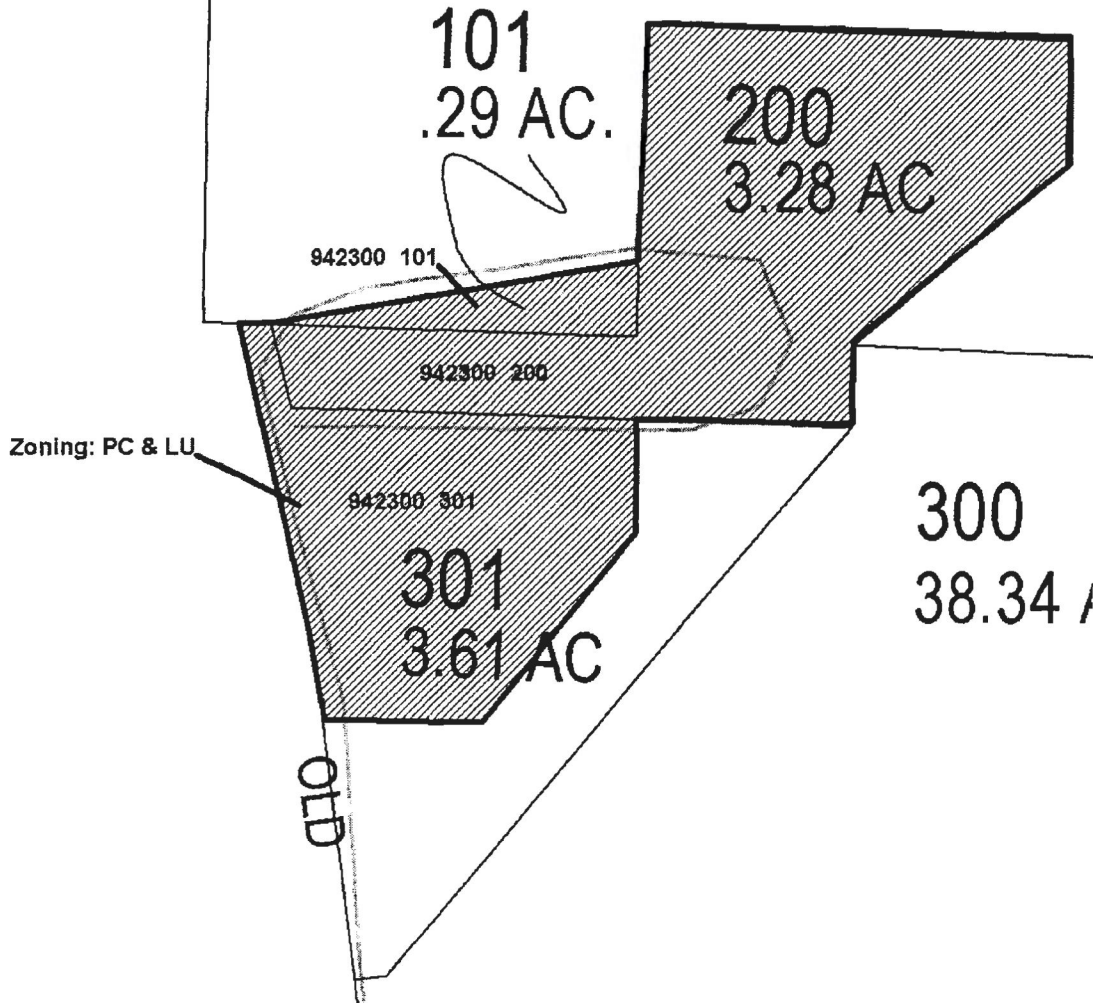
The applicant contends that Buena Vista Cemetery has demand for burial plots from those with family buried in Buena Vista Cemetery and from those living within the cemetery district. The applicant sites in district sales data for Buena Vista Cemetery and Hilltop Cemetery as evidence of this demand. The application does establish those with family buried at Buena Vista as a unique subset of the population whose demand for burial plots can only be met by expanding the Buena

Vista Cemetery. The applicant states that there are only six burial plots available at this time in Buena Vista Cemetery, which, coupled with the existing and anticipated demand, creates the need for additional plots to serve those with family buried in Buena Vista Cemetery. The applicant conceded that there was not currently a demonstrated need for 3.55 additional acres of land for cemetery use. As a result, the applicant is now requesting 1.59 acres of area to be used for additional cemetery space. If we assume that 30% of the area would be needed for infrastructure including lighting, roads, walkways and space between burial areas, that would leave approximately 1.1 acres for burial plots. Assuming one burial plot occupies 60 square feet (12' x 5'), the expansion would allow an additional 798 burial plots. The applicant states that the cemetery expansion area also incorporates some existing burial sites that were established independent of the cemetery and would further limit the available area for new burial plots. The applicant does not provide demand data to demonstrate the planning horizon that the expansion area is intended to meet or evidence as to how many applicants for burial lots in the existing Buena Vista Cemetery could reasonably be accommodated at Hilltop Cemetery. The application lacks the level of sophistication needed to demonstrate beyond a reasonable doubt that the existing or anticipated demand for burial plots warrants a 1.59 acre expansion. However, the exception process does not require that the evidence establish a determination that is beyond dispute that any reasonable alternative is possible. On its face, the application appears sensible. The applicant has stated that there is demand for plots specifically at Buena Vista Cemetery from those with relatives buried there and it is a reasonable observation that families expand exponentially over time increasing demand year over year. In addition, an application to expand on to less than one acre could limit the ability to establish other amenities that are typical of cemetery sites that may be required or needed in the future to provide safety and sanitation, such as restrooms and drinking fountains, due to a lack of area for an onsite septic system.

Polk County Map

Community Development

- Roads
 - GRAVEL
 - CO-GRAVEL
 - PAVED
- Taxlot12
 - Taxlot Arrows12
 - Taxlot Boundary12
 - taxlot12



5/24/2012

POLK COUN

1 in. = 160 ft.

This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

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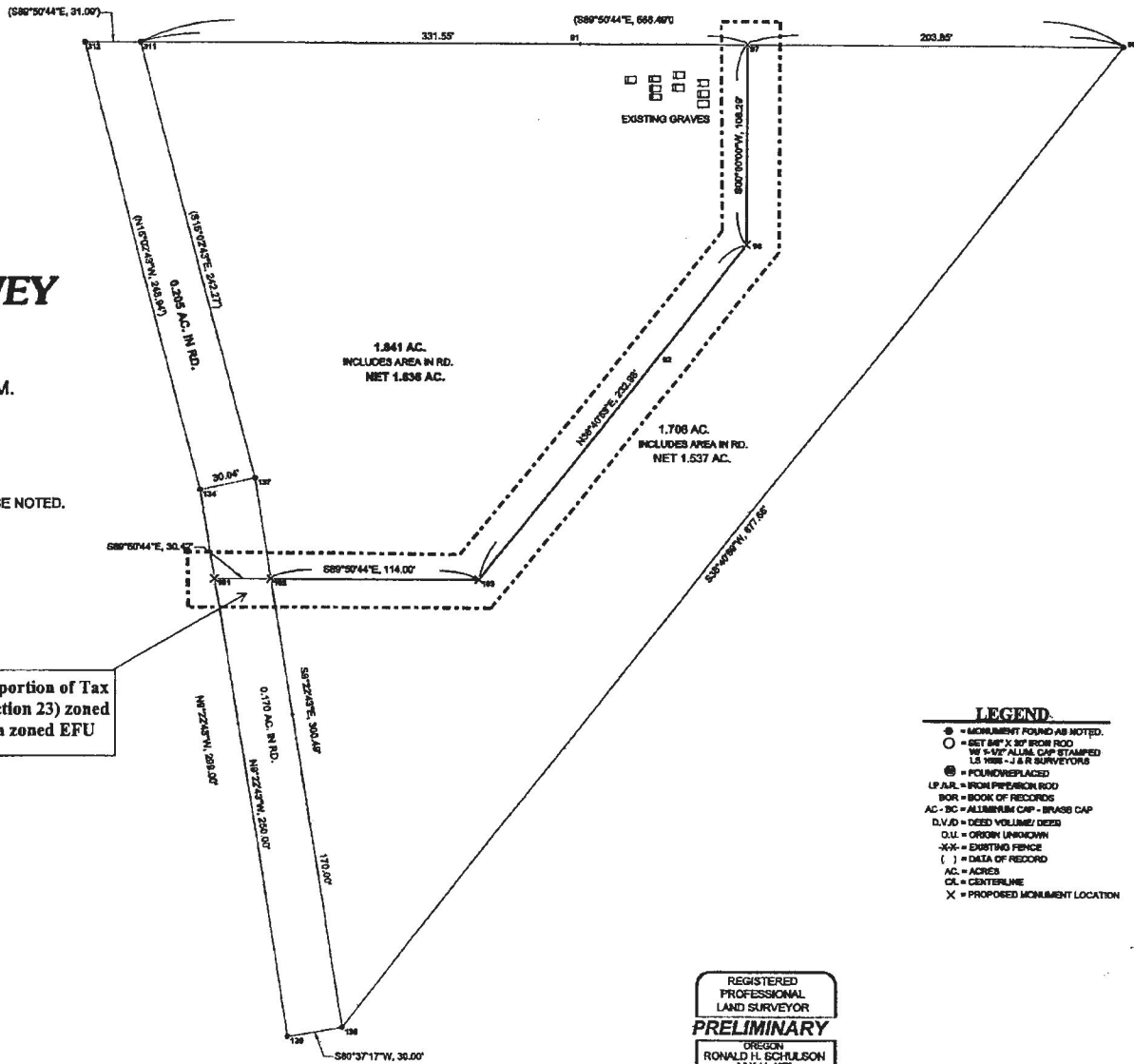
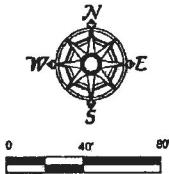
RECEIVED
MAY 18 2012
POLK COUNTY
COMMUNITY DEVELOPMENT

**PROPOSED
RECORD OF SURVEY**

PREPARED FOR
BUENA VISTA CEMETERY
LOCATED IN
REASON B. HALL DLC NO. 66
NW 1/4 SEC. 23, T. 9 S., R. 4 W., W.M.
POLK COUNTY, OREGON
MAY 18, 2012

RECORD DATA PER CS 15493 UNLESS OTHERWISE NOTED.

Line that separates the portion of Tax Lot 301 (T9S, R4W, Section 23) zoned PC and LU and the area zoned EFU



- LEGEND.**
- = MONUMENT FOUND AS NOTED.
 - = SET 4 1/2\"/>

REGISTERED
PROFESSIONAL
LAND SURVEYOR
PRELIMINARY
OREGON
RONALD H. SCHULSON
JULY 14, 1978
L.S. 1655
RENEWAL 8-30-2012

I&R NO. 12 - CAD BY:

I & R SURVEYORS, P.O. BOX 418 DALLAS, OR. 97338, Ph.# (503)623-4003

44/44

Exhibit F-2 to Ordinance No. 12-03

1
2
3
4
5 **BEFORE THE BOARD OF COMMISSIONERS**
6 **FOR THE COUNTY OF POLK, STATE OF OREGON**
7

8 In the Matter Of Property Line Adjustment LLA)
9 10-10, Plan Amendment PA 10-04, and Zone Change)
10 ZC 10-04 on the Properties Located at T9S, R4W,)
11 Section 23, Tax Lots 101, 200, 301, and 300)
12

13
14 **ORDINANCE NO. 12-03**
15

16 **WHEREAS**, Property Line Adjustment LLA 10-10, Plan Amendment PA 10-04, and
17 Zone Change ZC 10-04, were submitted in order to expand the Buena Vista Cemetery. The
18 applications were originally submitted on March 24, 2010. The original applications were
19 considered by the Hearings Officer at a public hearing held on July 27, 2010, and the Hearings
20 Officer recommended denial of the applications. The Board of Commissioners held a public
21 hearing on August 25, 2010 that was continued until September 8, 2010. The applications were
22 then remanded back to staff at the request of the applicant. The Board held another public
23 hearing December 14, 2011, at which time the applicant requested that the hearing be continued
24 until February 8, 2012 so that the applicant could modify their original proposal and submit
25 revised applications. Due notice of such public hearings was given, and the hearing provided an
26 opportunity for public comments and testimony.; and
27

28 **WHEREAS**, the applicant amended Plan Amendment PA 10-04 and Zone Change ZC
29 10-04 on January 18, 2012. The amendments reduced the amount of acreage that would be
30 redesignated on the Comprehensive Plan Map and Zoning Map; and
31

32 **WHEREAS**, the Board of Commissioners held a public hearing on February 8, 2012 in
33 order to consider the revised applications. The Board received a recommendation in support of
34 Property Line Adjustment LLA 10-10, Plan Amendment PA 10-04, and Zone Change ZC 10-04
35 from Polk County Planning staff based upon the findings and evidence in the record; and
36

37 **WHEREAS**, on February 8, 2012, the Board of Commissioners publicly deliberated and
38 unanimously passed a motion to approve Property Line Adjustment LLA 10-10, Plan
39 Amendment PA 10-04, and Zone Change ZC 10-04 ; now therefore,
40

41 **THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**
42

43 Sec. 1. That Polk County adopts the findings for Property Line Adjustment LLA
44 10-10, Plan Amendment PA 10-04 and Zone Change ZC 10-04 shown on Exhibit C, and
45 approves those applications. Property Line Adjustment LLA 10-10 is approved subject to the
46 following conditions:
47

- 1 1. Proposed "Parcel 1" shall contain approximately 7.12 acres. Proposed "Parcel
2 2" shall contain approximately 38.14 acres. The resulting properties shall be
3 substantially configured as presented on Exhibit A.
4
- 5 2. No additional parcels or lots shall be created as a result of this property line
6 adjustment.
7
- 8 3. The property owner of "Parcel 1" shall submit to the Polk County Clerk's Office
9 for recording a restrictive covenant (Exhibit B) that prohibits the property from
10 being partitioned along the zoning boundary until such time as each parcel
11 would comply with the minimum standards for the creation of a parcel in each
12 zone. The property owner shall pay the applicable recording fees. The property
13 owner shall submit copies of the recorded restrictive covenant to the Planning
14 Division for inclusion in file LLA 10-10 upon recording the document.
15
- 16 4. The adjusted property line shall be established in a location that ensures that all
17 existing buildings and structures comply with the setback requirements of PCZO
18 Chapter 112.
19
- 20 5. The property owners shall complete the property line adjustment and survey of
21 the adjusted property lines as required by State and County law. The property
22 owners shall submit to the Polk County Clerk's Office for recording in the deed
23 history of the subject properties the original documents transferring the subject
24 area. The property owners shall pay the applicable recording fees. The property
25 owners shall submit copies of the recorded documents that complete the
26 property line adjustment to the Planning Division for inclusion in file LLA 10-
27 10 upon recording the documents.
28
- 29 6. Both parcels shall have frontage along a public road or access to a public road
30 via a recorded easement. Any new easement for ingress or egress shall be at
31 least 40-feet wide, unless an exception to the easement width has been granted
32 pursuant to PCSO 91.800.
33
- 34 7. The adjusted property line shall allow a property line setback of ten (10) feet
35 from any part of an existing septic drain field system. Staff recommends that
36 the property owners reserve a future septic drainfield repair area for the existing
37 septic system on Parcel 2.
38

39 Sec. 2. That Polk County amends the Polk County Comprehensive Plan Map for
40 an approximately 5.16 acre portion of "Parcel 1" from Agriculture to Public as shown on Exhibit
41 D-1 and Exhibit D-2. The line that divides the portion of Tax Lot 301 in T9S, R4W, Section 23
42 between the area designated Public and the area that remains designated Agriculture is more
43 particularly described on Exhibit D-2.
44

45 Sec. 3. That Polk County adopts as part of the Polk County Comprehensive Plan
46 text a "Reasons" exception to Oregon Statewide Planning Goal 3 for the approximately 5.16-acre

2/4/4

1 portion of "Parcel 1" that would be designated Public on the Polk County Comprehensive Plan
2 Map. Polk County amends Appendix F of the Polk County Comprehensive Plan to include the
3 "Reasons" exception findings shown on Exhibit E.
4

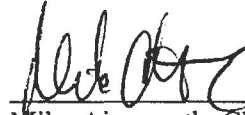
5 Sec. 4. That Polk County amends the Polk County Zoning Map for an
6 approximately 5.16-acre portion of "Parcel 1" from Exclusive Farm Use (EFU) to Public and
7 Private Cemeteries (PC) and Limited Use Overlay (LU) as shown on Exhibit F-1 and Exhibit F-
8 2. The line that divides the portion of Tax Lot 301 in T9S, R4W, Section 23 between the area
9 zoned PC and LU and the area that remains zoned EFU is more particularly described on Exhibit
10 F-2. The limited use overlay shall restrict use of that portion of the subject property to a
11 cemetery.
12

13 Sec. 5. Applications Plan Amendment PA 10-04, Zone Change ZC 10-04, and
14 Property Line Adjustment LLA 10-10 were evaluated concurrently, and approval of each
15 application is dependent upon approval of the other two. Therefore; all three applications must
16 become effective in order to implement this approval
17

18 Sec. 6. An emergency is declared, and the provisions of this ordinance become
19 effective upon its adoption.
20

21 Dated this 6th day of June 2012 at Dallas, Oregon.
22

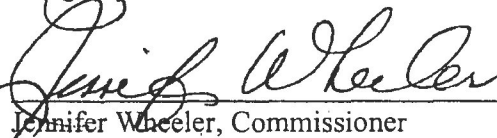
23 POLK COUNTY BOARD OF COMMISSIONERS

24 
25

26 _____
27 Mike Ainsworth, Chair

28 
29

30 _____
31 Craig Pope, Commissioner

32 
33

34 _____
35 Jennifer Wheeler, Commissioner

36 Approved as to form:

37 
38 _____

39 David Doyle
40 County Counsel
41

42 First Reading: June 6, 2012

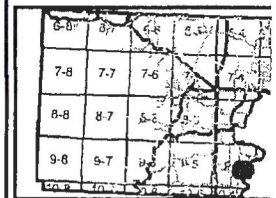
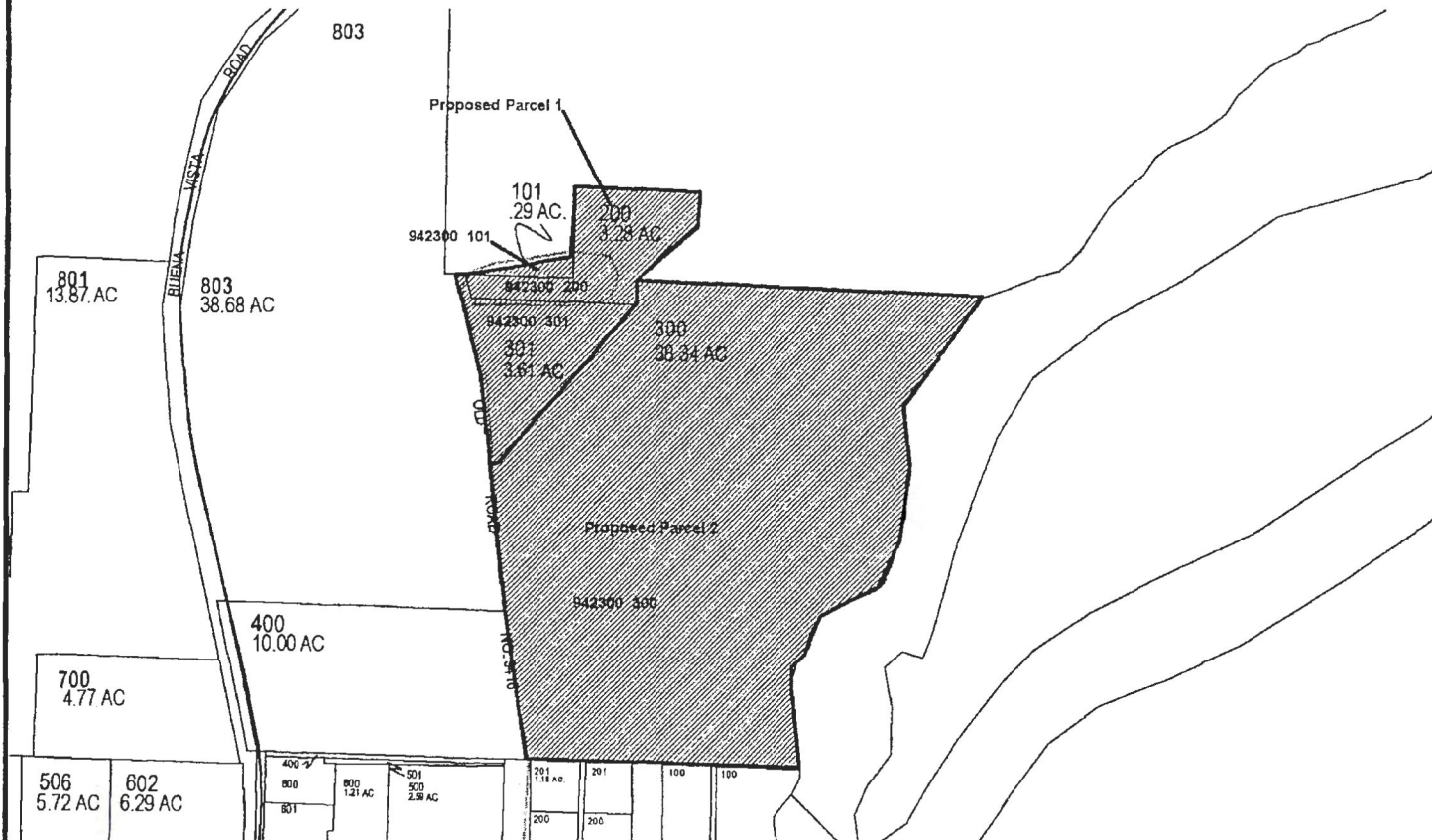
43 Second Reading: June 6, 2012

44 Recording Secretary: Katherine Alaraz

Parcel Configurations Approved by LLA 10-10

Community Development

- Roads**
- GRAVEL
- CO-GRAVEL
- PAVED
- Taxlot12**
- Taxlot Arrows12
- Taxlot Boundary12
- taxlot12



2/13/2012



1 in. = 550 ft.

Exhibit A to Ordinance No. 12-03

This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

HP/H

RESTRICTIVE COVENANT

Owner: Hilltop Cemetery Maintenance District
File Number: LLA 10-10
Request: Property Line Adjustment
Location: T9S, R4W, Section 23, Tax Lots 101, 200 and 301

Be it known to all that the undersigned, being the legal owner(s) of the real property described below, hereby consent and covenant as follows:

In recognition of the above referenced application for a property line adjustment authorizing a split-zoned parcel, the undersigned will treat the parcel described below as a single unit of land. The property owner shall not create, nor apply to Polk County to create any additional parcels as a result of the presence of multiple zoning designations, until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone.

Legal Description: See Exhibit A

This covenant shall be binding upon the undersigned and their heirs, successors, and assigns as a covenant running with the land or released by Polk County and/or as otherwise noted above.

Owner(s) Signature Printed Name(s) Address

- 1. _____
- 2. _____

State of Oregon)
County of Polk) ss

On _____, 20____, before me a notary public personally appeared by above-named _____ and acknowledged the foregoing instrument to be a voluntary act and deed.

Before me: _____ Notary Public of Oregon My Commission Expires: _____	This space Reserved For use by the Polk County Recorder
---	---

AFTER RECORDING, RETURN TO: Community Development Department Polk County
Courthouse, Dallas, Oregon 97338

5/14

Findings to Support Property Line Adjustment LLA 10-10, Plan Amendment PA 10-04, and
Zone Change ZC 10-04

I. REVIEW & DECISION CRITERIA

The review and decision criteria for a property line adjustment are provided under Polk County Subdivision and Partition Ordinance (PCSO) Sections 91.960(2), (3), and (5). The review and decision criteria for a Polk County Comprehensive Plan (PCCP) Map amendment and a zone change are provided under Polk County Zoning Ordinance (PCZO) Sections 115.050 and 111.275. Under these provisions, the Hearings Officer conducts a public hearing pursuant to PCZO 111.190 and 115.030 and makes a recommendation to the Polk County Board of Commissioners. The Polk County Board of Commissioners conducts a public hearing pursuant to PCZO 111.200 and 115.030 and makes a final local decision. Findings and analysis are included below.

1. Findings for Property Line Adjustment; File LLA 10-10:

- A. GENERAL STANDARDS. Except for those exclusions noted in Section (1) above, all property line adjustments shall meet the following criteria:**
- 1. The adjustment shall be consistent with the Comprehensive Plan and meet the intent and purpose of the zone; and [PCSO 91.960(2)(a)]**
 - (a) It is the intent of the Agriculture Plan designation to preserve agricultural areas and separate them from conflicting non-farm uses. Toward that end, the County will discourage the division of parcels and the development of non-farm uses in a farm area (Only those non-farm uses considered essential for agriculture will be permitted). [PCCP Section 4]**
 - (b) The purpose and intent of the Exclusive Farm Use (EFU) Zoning District is to conserve agricultural lands, consistent with the Goals and Policies of the Polk County Comprehensive Plan. This objective is achieved by establishing clear standards for the use and development of designated agricultural lands. The Exclusive Farm Use Zoning District will be applied to lands defined as "agricultural lands" by Oregon Administrative Rule (OAR) 660-33-020(1). Within the Exclusive Farm Use Zoning District, the use and development of land is subject to review and authorization as provided by Polk County's land use regulations and as may further be indicated in State and federal laws. [PCZO 136.010]**

Findings: The applicant has concurrently applied for three applications, which together would expand the Buena Vista Cemetery property by 3.55 acres, and the area authorized for new cemetery lots by 1.59 acres. Property line adjustment application LLA 10-10 is an application to transfer 3.55 acres from Parcel 2 (the Power's property) to Parcel 1 (the Cemetery property), and constitutes the first step toward expanding the Buena Vista Cemetery. This adjustment would increase the size of Parcel 1, which contains the Buena Vista Cemetery, and decrease the size of Parcel 2, which is used for farm use. Both parcels are currently designated Agriculture on the Comprehensive Plan Map and Exclusive Farm Use (EFU) on the Zoning Map.

Parcel 1 currently contains 3.57 acres and is the location of the Buena Vista Cemetery. Parcel 2 contains approximately 41.95 acres and contains one dwelling. If this application is approved and implemented, proposed Parcel 1 would contain 7.12 acres and Parcel 2 would contain 38.4 acres.

Under applications PA 10-04 and ZC 10-04, the applicant has concurrently applied to change the Comprehensive Plan Map designation of 1.59 acres of proposed Parcel 1, the Cemetery property,

from Agriculture to Public and to change the zoning from EFU to Public and Private Cemeteries (PC). This area consists of the current Buena Vista Cemetery (T9S, R4W, Section 23, Tax Lots 101 and 200) and 1.59 acres of the area that would be transferred from Parcel 2 to Parcel 1 (T9S, R4W, Section 23, Tax Lot 301). As required under state law, the applicant has also applied for a Comprehensive Plan text amendment to adopt a "Reasons" exception to Statewide Planning Goal 3 for that area that would be zoned PC.

The proposed property line adjustment would remove approximately 1.59 acres of land from agricultural production for cemetery use. The applicant is proposing to establish an apiary farm use on the remaining area transferred to Parcel 1. The applicant provided a draft lease agreement for apiary farm use that would create an approximately 1.59 acre lease area within the remaining 1.96 acre area that would continue to be designated Agriculture in the Comprehensive Plan. Raising honey bees is defined as Farm Use in ORS 215.203, which is a use consistent with the intent and purpose of the Agriculture Comprehensive Plan designation. However, since the proposed property line adjustment would result in 1.59 acres of land being removed from farm use, approval of this property line adjustment should be contingent on the applicant gaining approval of Comprehensive Plan Amendment PA 10-04 and zone change ZC 10-04. The Comprehensive Plan Amendment criteria, including the criteria for a "Reasons" exception to Goal 3 described in OAR, provides standards for a Comprehensive Plan amendment from Agriculture to Public. Compliance with those criteria would justify expanding the cemetery into farm land. Staff recommends a condition of approval that makes approval of property line adjustment LLA 10-10 contingent on approval of PA 10-04 and ZC 10-04. With this condition, the application complies with this criterion.

2. **The adjustment shall not decrease required setbacks, access, yard areas, lot widths or other standards of the zone; and [PCSO 91.960(2)(b)]**

Findings: Based on a review of the applicant's plot plan, the area that would be transferred from Parcel 2 to Parcel 1 is vacant. Proposed Parcel 1 would be zoned PC and EFU if PA 10-04 and ZC 10-04 are approved, and proposed Parcel 2 would continue to be zoned EFU. The new property line would be in excess of 30 feet from any structure, and the adjustment would not change the access location to either parcel. The applicant has not proposed any new buildings or structures with these applications. Any future structural development would need to comply with the standards of the zone. Staff recommends a condition of approval that requires the new property line to be located so that all existing buildings and structures comply with the requirements of each parcel's zone.

3. **All parcels will retain any on-site septic system and associated repair area on the parcel it serves; and [PCSO 91.960(2)(c)]**

Findings: As noted by the Environmental Health Division, the County does not have septic records for the subject parcels. Parcel 2 contains a dwelling, and consequently, must contain a septic system. Based on a review of the 2008 Polk County aerial photograph, the dwelling on Parcel 2 is located more than 500 feet from the proposed property line. The applicant did not note the location of the septic system on the plot plan. Consequently, Staff recommends a condition of approval that the applicant locate the new property line so that it is at least 10 feet from any part of an existing septic system. The septic system that serves Parcel 2 must be located on proposed Parcel 2; otherwise the applicant should be required to record a septic easement. Staff recommends that the owners of Parcel 2 designate a repair area for the septic system on that property.

4. **The adjustment will create no additional parcel(s); and [PCSO 91.960(2)(d)]**

Findings: The proposed property line adjustment would increase the size of Parcel 1 and decrease the size of Parcel 2. The proposed configuration would not create any additional parcels.

5. **The adjustment will not create a split-zoned parcel(s) that does not comply with the standards for creation of a parcel in each zone unless the property**

owner provides for the recording of a restrictive covenant in the deed records for the subject property that prohibit the property from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone; and [PCSO 91.960(2)(e)]

Findings: Parcels 1 and 2 are both located in the EFU zone. The applicant is proposing to change the Comprehensive Plan map and zoning designations of a portion of proposed Parcel 1 in conjunction with this application. If PA 10-04 and ZC 10-04 are approved, approximately 5.19 acres of 7.12 acre proposed Parcel 1 would be zoned PC. The applicant's proposal would create a split-zoned parcel. As a result, the owner of Parcel 1 would be required to record a restrictive covenant in the deed records for the subject property that prohibit the property from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone.

6. **A property line adjustment where one or both of the properties involved are smaller than the minimum lot or parcel size for the applicable zone may be approved where: [PCSO 91.960(2)(f)]**
 - a. **Both properties are located entirely outside the corporate limits of a city; and**
 - b. **One or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable zone; or**
 - c. **Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment.**

Findings: Both Parcels 1 and 2 are located outside of the corporate limits of a city, and in the EFU zone. Both parcels are smaller than the minimum parcel size of the zone and would remain smaller than the minimum parcel size of the zone if this application is approved and completed. The application complies with this criterion.

B. ADJUSTMENTS IN RESOURCE ZONES. Except for those exclusions noted in Section (1) above, property line adjustments must meet the General Standards listed in (2) above. In addition, on land in a farm or forest zone (EFU, TC, FF and FFO), a property line adjustment under Section (2), subsection (f) may not be used to:

1. **Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B));**
2. **Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B)); or**
3. **Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B)). [PCSO 91.960(3)]**

Findings: This proposal would decrease the size of Parcel 2, which contains a dwelling, and increase the size of Parcel 1, which would be vacant. Proposed Parcel 1 would contain approximately 7.12 acres, which is smaller than the 160 acres needed to qualify for a dwelling under the acreage standard of PCZO 136.040(D). The application complies with this criterion.

- C. ADJUSTMENTS IN COMMERCIAL, INDUSTRIAL, AND PUBLIC ZONES. Except for those exclusions in Section (1) above, a property line adjustment between parcels in a commercial, industrial, or public zone must meet the General Standards listed in (2) above. In addition, the applicant(s) must demonstrate that the adjustment would retain all parcels of adequate size, as detailed by the applicant and determined by the Planning Director, to provide adequate area for the intended or existing structures and uses, setbacks, parking, access, landscaping, and spacing required for water supply and on-site sewage disposal (including repair area). [PCSO 91.960(5)]**

Findings: The applicant is proposing to increase the size of Parcel 1 and concurrently change the Comprehensive Plan Map and Zoning Map designations of a portion of that property to Public and PC respectively. The proposed zoning for the property would allow a portion of proposed Parcel 1 to be used for a cemetery. Proposed Parcel 1 would become larger, and access to the property would remain the same. Based on a review of the plot plan, all existing buildings and structures would retain adequate setbacks to comply with the requirements of the PCZO. Future development would need to comply with the development standards in PCZO Chapter 112.

Staff believes that the applicant has adequately addressed the review and decision criteria for a property line adjustment. As discussed above, approval of the property line adjustment should be contingent upon approval of the Comprehensive Plan amendment PA 10-04 and zone change ZC 10-04. Those applications are discussed in the subsections below.

2. Findings for Comprehensive Plan Map Amendment; File PA 10-04:

Amendments to the Comprehensive Plan Map must meet one or more of the following criteria: [PCZO 115.050(A)]

- A. The Comprehensive Plan designation is erroneous and the proposed amendment would correct the error, or [PCZO 115.050(A)(1)]**
- B. The Comprehensive Plan Designation is no longer appropriate due to changing conditions in the surrounding area; and [PCZO 115.050(A)(2)]**

Findings: The Buena Vista Cemetery has existed at its current 3.57 acre location since the 1840s and is not affiliated with a church. The Hilltop Cemetery District is one of nine taxing cemetery districts within Polk County. The cemetery property is currently zoned EFU and designated Agriculture on the Comprehensive Plan map. As such, the Buena Vista Cemetery is currently a legal non-conforming use. The only zoning district in Polk County that permits cemeteries that are not affiliated with a church is the Public Cemetery (PC) Zoning District which implements the Public Comprehensive Plan designation. As a result, the applicant is proposing to change the Comprehensive Plan Designation to Public and zoning to Public and Private Cemeteries (PC). In addition to changing the Comprehensive Plan Designation and zoning of the cemetery parcel, the applicant is also proposing to expand the cemetery into an approximately 1.59 acre area adjacent to the south property boundary and change the Comprehensive Plan Designation and zoning of that area to Public and PC as well. The Buena Vista cemetery has had only one minor expansion during the 164 years of its history, and this proposal will likely be a long-term solution. The Cemetery District already has reservations for all but a few lots in that cemetery, and within a few years all allocations will be gone. The size of the expansion is slightly less than half the size as the existing cemetery: 3.57 acres compared to 1.59 acres. The applicant contends that the Agriculture Comprehensive Plan designation is no longer appropriate for the proposed expansion area because the cemetery can only logically expand in this direction and still have adequate buffering from adjoining uses.

The applicant states that the farm use of the 1.59 acres being contemplated for expansion, while

still appropriate for crops, is a very small and irregularly configured field size. The cherry orchard that was formerly located on this site was too small to be a profitable operation, particularly in light of changing markets in the cherry-growing industry. Other cherry growers in the Willamette Valley were interviewed to determine why their cherry orchards had failed, and it was due to decreasing demand for cherry products and overseas competition. You-pick operations are only sustainable at or near urban and high-traffic locations. This small isolated orchard was actually larger at one time, but the trees to the south and east failed. The Cemetery District and the property owner believe now is the opportune time for the cemetery to expand, given the lack of inventory for burial plots and the extremely poor market conditions the cherry industry is experiencing. Another changing condition is that cherry processors are located farther from remote sites such as this one at Buena Vista. The West Salem plants are the nearest ones to Independence; and, while trucking costs are not prohibitive, the type of cherries grown at this location are no longer merchantable because of their lack of adaptability from one market (preserved) to another (fresh). Most cherry processors will only work on a contract basis with cherry growers, and this field was not large enough to supply a processor at a local processing facility.

In addition, applicant argues, the ability to preserve crops in cold storage for long periods of time carries over inventories from one crop year to another, reducing the requirement for annual crops. The same is true of the pear and apple industries.

The applicant is proposing to establish an apiary farm use on the remaining 1.96 acre area transferred to cemetery ownership, but not proposed for cemetery use, plan amendment or zone change.

The applicant is proposing this Comprehensive Plan amendment in order to establish appropriate zoning for and increase the size of the existing Buena Vista Cemetery. According to the information in the application, demand for burial plots is projected to exceed supply and that has created a need for additional land to accommodate the Buena Vista Cemetery. The proposed property line adjustment, PCCP Map amendment, and Zoning Map amendment would increase the size of the existing cemetery by approximately 44%.

The application complies with this criterion.

C. The purpose of the Comprehensive Plan will be carried out through approval of the proposed Plan Amendment based on the following: [PCZO 115.050(A)(3)]

- 1. Evidence that the proposal conforms to the intent of relevant goals and policies in the Comprehensive Plan and the purpose and intent of the proposed land use designation. [PCZO 115.050(A)(3)(a)]**
 - (a) The purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. These include schools, parks fire stations, hospitals, cemeteries and other public buildings. Adequate public facilities are essential to well ordered community life, sustaining and enhancing the health, safety, educational and recreational aspects of rural living. [PCCP Section 4]**

Findings: The purpose of the Public Plan Designation is to recognize existing cemeteries. The proposed applications would provide an appropriate public zoning for the existing Buena Vista Cemetery and the proposed expansion area. The applicant has concurrently applied for a "Reason's" exception to Statewide Planning Goal 3; therefore, the Polk County Agriculture Plan designation goals and policies are not applicable to this request. The proposed applications would facilitate expansion of the existing cemetery. Staff has not identified any other goals or policies in the PCCP that are applicable to this request.

- 2. Compliance with Oregon Revised Statutes, statewide planning goals and related administrative rules which applies to the particular property(s) or situations. If an exception to one or more of the goals is necessary, the**

exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply; and [PCZO 115.050(A)(3)(b)]

Findings: The applicant provided the following bulleted findings to address the Oregon Statewide Planning Goals.

1. Goal 1. Citizen Involvement. Both of the proposed land use actions are subject to written notice to property owners within a statutorily defined area. The Comprehensive Plan Amendment and Zone Change will be published in newspaper of local circulation at least three weeks prior to the Planning Commission Public Hearing. Neighboring landowners within the Notice Area will receive mailed notices of the proposed land use actions. The Property Line Adjustment will be noticed concurrently with the Comprehensive Plan Amendment and Zone Change.
2. Goal 2. Land Use Planning. The Exception Standards contained in ORS 197, ORS 215, and OAR 660-004-0000 will be addressed in the section of this application referred to as the "narrative report." OAR 660-004-001 sets forth the criteria and expectations process to certain goals, notably Goal 3 for Agriculture and Goal 4 for Forestry. For the purpose of this application, a Reasons Exception is being sought under OAR 660-004-0018(4).
3. Goal 3. Agricultural Lands. The purpose of Statewide Goal 3 is to preserve the maximum amount of farm land in the largest blocks possible for the production of food and fiber (ORS 215.243. The agricultural policy under ORS 215.243 recognizes that open land used for agriculture is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic, and economic asset to all of the people of the state regardless of where they live. In preserving the maximum amount of the limited supply of agricultural land, it is necessary to preserve such land in large blocks necessary for maintaining the agricultural economy of the state. Expansion of activities not related to the farm use of the land is discouraged, while incentives and privileges are offered to keep land in agricultural use.

The subject property that is being added to the cemetery is being adjusted from a 41.95-acre parcel to a 3.58-acre parcel. Both parcels involved in this proceeding are below the 80 acre minimum lot size for the Exclusive Farm Use Zone. The cemetery is already built and committed to a use not permitted in the zone, which makes it nonconforming. Tax Lot 300, though containing agricultural land based on soil type, has significant areas that are unusable for agricultural purposes, such as steep slopes and water bodies. It is the proponents' position that while [1.59] acres of agricultural land is needed to expand the cemetery, Tax Lot 300 as a whole is not a highly productive agricultural unit compared to others that are immediately adjacent or nearby. Tax Lot 300 has steep hillsides, riparian margins, water bodies, building compounds, and areas on non-agriculturally classified soils that render approximately 50% of the site unusable for commercial agricultural purposes. The proponents also assert that this area is already impacted by non-farm uses, including the Unincorporated Community Center of Buena Vista, the park, and nearby houses. While it is still the objective to preserve the maximum amount of agricultural land possible, it must also be recognized that Tax Lot 300 is already impacted by other activities that affect the cost and practices of conducting farming.

4. Goal 4. Forest Lands. With respect to zoning, no zoned forest lands are found in the vicinity of the subject property; however, the steep bluffs above the Willamette River are heavily wooded with Douglas fir and hard woods because these areas are so steep they have never been cleared for farming. None of the areas that are currently forested on either parcel will be impacted by the proposed cemetery expansion; and, in fact, the trees will be preserved for aesthetic qualities. The proposed boundary of the expansion area follows along the edge of timber rather than through timbered areas. This goal has limited applicability to this application since the forested portions of both properties are not the predominate use. Figure 4, Overstory Vegetation Map, represents the areas in both properties that are currently under forest cover.

5. Goal 5. Open Spaces, Scenic and Historic Areas, and Natural Resources. The Buena Vista Cemetery, though not on the Historic Register, is nevertheless a very historic site since it contains pioneer graves dating back to the 1840s. The expansion of the cemetery will result in a greater amount of open space and a greater horizon of views to the southwest. The proponents believe that the cemetery expansion will actually enhance open space and the preservation of historic and natural resources by maintaining the timbered buffer and maintaining the active status of the cemetery.
6. Goal 6. Air, Water and Land Resources Quality. The proposed cemetery use has a very limited impact on air, water, and land resource qualities. Historically, the cemetery has been very well tended with landscaped lawns and small, unobtrusive gravel roadways. The expansion of the cemetery should not degrade air resources since traffic generation is very low at cemetery sites except for specific funeral processions and memorial holidays. No water resources are available for the cemetery, including for lawn watering. Materials and machinery necessary for maintaining the cemetery are housed in shipping containers along an obscure edge of the cemetery grounds. Cemeteries by their very nature are not a high impact use with respect to air, water, and land resource qualities. The fact that the subject cemetery is small reduces impact to land resource qualities. The amount of land being requested for expansion and the infrequency of expansion result in a positive finding for impact on land resource quality. A positive finding can be made that the air, water, and land resource quality will not be significantly affected to the degree that mitigation will be required.
7. Goal 7. Areas Subject to Natural Disasters and Hazards. The cemetery occupies a hilltop area with very steep bluffs on the eastern boundary of the existing and proposed cemetery configuration. The cemetery itself is not within a geologic slope hazard area nor in an area subject to slides, but the portion of Tax Lot 300 to the south along Riverview Street has experienced headward erosion and geologic instability. The structures on the cemetery property are not large enough to trigger landslides or failure in highly compressible soils.

According to the Soil Survey for Polk County Area, Oregon, four soil mapping units have been identified in the expanded cemetery tract. The Power's property has four soils mapping units, and the existing cemetery has three mapping units. The large number of soil mapping units converging in such a small area underscore the difficulty in managing this land for resource purposes. The soils on the subject property are shown in Figure 5, Soils Map.

The most challenging soil mapping unit is number 78, Xerochrepts and Haploxerolls. During field investigations of the properties, it was noted that the slopes are so variable and steep that it is impossible to farm this land. It is a strip of this mapping unit that segregates the proposed [property line adjustment] area of 3.55 acres from the rest of the Power's property. These soils, which encapsulate the expansion area to the east and south, do not meet the statutory definition of agricultural soils for Western Oregon.

The other soil mapping units do meet the statutory definition of agricultural soils despite the fact that they occur within a small area. The variability of soils over such a small area makes it difficult to apply single management practices based on a host of variables (soil depth, permeability, available water capacity, soil reaction, pH, shrink-swell potential, and erosion factors). All factors considered, the expansion area can at best be treated as a small pocket of high-value soil surrounded by areas of more challenging soils for agricultural purposes.

8. Goal 8. Recreational Needs. This particular goal has very limited applicability to this proposal, although a growing body of interest related to history and genealogy makes pioneer cemeteries points of interest.
9. Goal 9. Economy of the State. This goal has no applicability to this proposal.

Exhibit C to Ordinance No. 12-03

10. Goal 10. Housing. This goal has no applicability to this proposal.
11. Goal 11. Public Facilities and Services. The cemetery has no public facilities except for the county road leading to the cemetery. Riverview Street is a county road that receives minimal maintenance because it only serves the cemetery and two residences north of Buena Vista. No other public facilities and services except for fire and police are necessary for the cemetery.
12. Goal 12. Transportation. The cemetery is served by a public road that appears to be adequate for the type of traffic that cemeteries generate. Riverview Street is a narrow two-lane road that leads to the one-way loop road at the cemetery. The one-way loop road within the cemetery serves as a parking area during funeral events. Traffic is often managed during events to maintain an orderly procession. The hearse is the lead vehicle, and traffic is directed by the local funeral home to allow all cars to enter and exit in an orderly manner. During most burial services, the loop road provides parking that is outside of the right-of-way of Riverview Street; thus, there is no need for parking on the public right-of-way.

The rate of burials has been decreasing in recent years because there are only a few available lots left in the cemetery.
13. Goal 13. Energy Conservation. This goal has very limited applicability to this case since the cemetery does not require any energy resources.
14. Goal 14. Urbanization. This goal has no applicability to this proposal.
15. Goal 15. Willamette River Greenway. The Willamette River is located east of the Powers' property and forms the eastern boundary. The actual greenway; however, is not located in the area affected by the proposed Comprehensive Plan Amendment and Zone Change, nor will the cemetery expansion impact the steep bluff above the greenway.

The applicant is proposing a property line adjustment, Comprehensive Plan Map amendment, and zone change in order to expand the Buena Vista Cemetery and designate the cemetery Public on the Comprehensive Plan Map and Public and Private Cemeteries on the Zoning Map. The applicant has submitted findings to support a "Reason's" exception to Goal 3. Those findings are included in Section I, subsection 3 below.

The subject property is accessed from Riverview Street, which is a local road as identified on Figure 3 of the Polk County Transportation Systems Plan. A cemetery is a use that typically receives low amounts of traffic, and staff has not requested that the applicant prepare a traffic impact analysis to project the traffic impacts to the road system if these applications are approved. Staff does not believe that the proposed Comprehensive Plan amendment and zone change would result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. If the applicant proposes a new access location to Riverview Street, an access permit from the Polk County Public Works Department may be required.

With respect to Goal 14, Staff does not believe that expanding the existing cemetery, and designating and zoning the property accordingly on the Comprehensive Plan and Zoning Maps, would amount to establishing an urban use on rural lands. Although the expanded cemetery would be located outside of an incorporated city or urban growth boundary, Staff does not believe the expanded cemetery would be an inherently urban use. Based on the information in the application, the Buena Vista Cemetery primarily provides burial plot availability to the surrounding rural community.

The applicant has addressed all applicable Oregon Statewide Planning Goals. An exception to Oregon Statewide Planning Goal 3 is necessary to approve a "Reasons" exception. The applicant is proposing the Public and Private Cemeteries (PC) Zoning District. The applicant has submitted findings to justify an exception to Statewide Planning Goal 3. The Oregon Statewide Planning Goal 3 exception is addressed in subsection 3, below.

The application complies with this criterion.

3. Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land.
[PCZO 115.050(A)(3)(c)]

Findings: The subject property is not located within an urban growth boundary or within an incorporated city. As a result, no intergovernmental agreements are applicable to this application. This criterion is not applicable to the proposed amendment.

3. Findings for a Statewide Planning Goal 3 Exception; File PA 10-04:

- A. When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception; [OAR 660-004-0018(4)(a)]**

Findings: According to PCZO 170.020, the PC zone allows three specific uses: a cemetery, a dwelling for the caretaker or watchman, and specific renewable energy systems that would serve the uses on the property. The Board of Commissioners unanimously passed a motion at their February 8, 2011 hearing to apply the Limited Use Overlay Zone to the portion of Parcel 1 that would be zoned PC, in order to restrict the use of that portion of Parcel 1 to a cemetery.

- B. "Reasons justify why the state policy embodied in the applicable goals should not apply"; The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land and why the use requires a location on resource land; [OAR 660-004-0020(2)(a)]**

Findings: The applicant provided the following bulleted statements as findings:

Assumptions Set Forth In This Exception

The Buena Vista Cemetery is part of the Hilltop Cemetery District, which is a public entity; and, as such, the District has an obligation to provide adequate burial space for the public.

1. The cemetery has been in existence since 1846, has not expanded substantially, and there is a demonstrated public need for the expansion.
2. The cemetery is non-church-affiliated, and therefore an expansion is not permitted in the Exclusive Farm Use Zone.
3. The only opportunity to expand is onto land that is zoned Exclusive Farm Use; consequently, Exceptions to Statewide Goals 3 and 4 are required.
4. The proposed expansion can only be onto prime farm land because exceedingly steep topography to the south and east prohibits normal and necessary expansion.
5. The potential expansion of the cemetery to the west or north would interrupt large fields; whereas the expansion to the south would be into a farm field that is 3.55 acres in size.
6. The potential expansion of the cemetery to the west would result in the cemetery being split by a public road.
7. The proposed expansion area was most recently planted in cherry trees that have been removed due to age and disease.
8. The owners of the property onto which the cemetery is proposed to expand are willing sellers.
9. The cemetery property and the adjoining property onto which the expansion would occur are currently under the minimum parcel size of the EFU zone.
10. The capital fixity of the cemetery precludes consideration of moving this facility to a location within an urban growth boundary. The prospect of relocating a cemetery is very

untenable.

11. The search for "alternative sites" must be restricted to the Hilltop Cemetery District only because this is a distinct taxing district as shown in Figure 6, Map of Hilltop Cemetery District.

C. "Areas which do not require a new exception cannot reasonably accommodate the use": [OAR 660-004-0020(2)(b)]

1. The exceptions shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified; [OAR 660-004-0020(2)(b)(A)]
2. To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed: [OAR 660-004-0020(2)(b)(B)]
 - a. Can the proposed use be reasonably accommodated on non-resource land that would not require an exception, including increasing the density of uses on non-resource land? If not, why not? [OAR 660-004-0020(2)(b)(B)(i)]
 - b. Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to non-resource uses, not allowed by this applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not? [OAR 660-004-0020(2)(b)(B)(ii)]
 - c. Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not? [OAR 660-004-0020(2)(b)(B)(iii)]
 - d. Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not? [OAR 660-004-0020(2)(b)(B)(iv)]
3. This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding. [OAR 660-004-0020(2) (b) (C)]

Findings: The applicant states that the cemetery has an obligation to maintain their existing facilities at the same location because of limited operating budgets. The cemeteries in the Hilltop District are taxpayer supported, and their revenue is derived from Polk County's tax base; therefore, any alternative sites outside of the Cemetery District are prohibited from being considered. The search must, therefore, be confined to areas within the Hilltop Cemetery District (see Figure 6 of the application, Map of Hilltop Cemetery District).

The applicant states that the key words in this criterion are "reasonably accommodated." The applicant's analysis found that the City of Independence has no appropriately sized or drained lands to accommodate the use. No Unincorporated Community Centers are nearby except Buena

Vista, and no parcels large enough to accommodate the projected need for burial plots are available. The larger parcels contained within Independence and Monmouth are zoned for industrial uses, and commitments are already in place for some of the industrially-zoned land, particularly in Monmouth. In addition, the applicant states that the urban growth boundary for Monmouth falls within the Fir Crest Cemetery District and therefore cannot be considered for an expansion for the Buena Vista Cemetery, which is in a different taxing district. None of the sites visited by the District's representative were suitable because they were in flood plains, wetlands, or generally poorly drained areas. Other potential parcels lack the necessary access for a cemetery until other areas closer to the existing street network are built up.

In its letter of May 18, 2010, DLCD stated that "The alternatives analysis for sites that do not require an exception to Goal 3 is inadequate to support a reasons exception for the subject site. The narrative indicates that the applicant made a decision to not consider sites within nearby urban growth boundaries, unincorporated communities, or other areas that already have an exception to Goal 3." In materials submitted for the Record on June 16, 2010, the applicant said there were no uncommitted areas within Independence that did not have drainage problems. In materials submitted on June 1, 2010, the applicant had stated that the only zone within the boundaries of the cemetery district that permits cemetery lots is the Public Service zone in Independence, but there is no land in that district vacant and available. On January 18, 2012 the applicant provided the following additional bulleted statements to support their alternatives analysis:

1. The Hilltop Cemetery District is one of nine taxing cemetery districts within Polk County, Oregon.
2. The Hilltop Cemetery District has two operating cemeteries: Buena Vista and Hilltop.
3. The Hilltop Cemetery on Corvallis Road is 12.7 acres and is comprised of Tax Lots 300 and 400.
4. The larger Tax Lot (300) is 8.7 acres and has no cemetery lots for sale.
5. The occupied burial plots in Tax Lot 300 now exceed 90 percent of capacity.
6. The smaller Tax Lot (400) is 4.25 acres and was added to the cemetery through a land use approval in 1992.
7. The process of improving Tax Lot 400 has already begun, and more than 100 cemetery lots were recently sold in a single transaction.
8. The area north of the road that bisects Tax Lot 400 already contains 12 burial plots.
9. The majority of burial plots sold at the Hilltop Cemetery are cemetery district residents or their close family members, but the majority are from the urban part of the district rather than from the local farming families and their descendants.
10. The majority of burial plots sold at the Buena Vista Cemetery are to farm families who live south and east of Independence and to close relatives of these farm families living elsewhere in the district and outside of the district.
11. As late as 2004, the Hilltop Cemetery District had no burial plots available at the Buena Vista Cemetery.
12. The Buena Vista Cemetery gained 56 burial plots after 2004 by abandoning the old carriage road, and the number of available burial plots now stands at 26.
13. The Cemetery Board now has a policy of not selling burial plots at the Buena Vista Cemetery to parties living outside of the district because so few lots are available.
14. The Polk County Zoning Ordinance makes no provision for non-church affiliated cemeteries in any zoning category.

15. The alternative areas considered for non-church affiliated cemeteries were limited to lands within the Hilltop District and lands inside the urban growth boundaries since no zone in unincorporated areas of Polk County allows non-church affiliated cemeteries.
16. The only zone in the Hilltop Cemetery District that allows non-church affiliated cemeteries is the Public Service (PS) Zone within the corporate limits of Independence, Oregon.
17. The areas zoned PS in Independence are all built and committed to other uses such as parks and schools.
18. The Hilltop Cemetery is the main cemetery for the urban portion of the district, namely Independence.
19. The Hilltop Cemetery serves the large urban population of Independence and Monmouth, whereas the Buena Vista Cemetery is a pioneer cemetery (in operation since 1846) and principally serves a rural population consisting of area farmers, their extended families, and former hop farm workers who want Buena Vista as a final resting place.
20. The Hilltop Cemetery was enlarged in 1992 only in reference to the particular need of that facility and not that of the Hilltop Cemetery District as a whole or the Buena Vista Cemetery in particular.
21. The Hilltop Cemetery District has adopted a policy of giving preference to district residents rather than out-of-district residents for purchase of cemetery lots in order to preserve family plots.
22. Pursuant to OAR 660-004-022(b)(A), the Hilltop Cemetery District Board and their representative have examined locations which do not require a new exception and why these areas which do not require an exception cannot reasonably accommodate the proposed use. The potential for alternative sites not requiring an exception are extremely limited by three factors: 1) The Polk County Zoning Ordinance has no provisions in any zoning category for non-church affiliated cemeteries except for the PC zone; 2) the City of Independence has one zone that allows cemeteries through a conditional use permit, but all of the appropriately zoned sites are built or committed to other permitted uses; and 3) the search for alternative sites is limited to the coterminous boundaries of the cemetery district only because it is a public taxing district.
23. The Hilltop Cemetery Board is an elected body entrusted to operate the cemeteries within their district and to provide a choice of where people want to be buried.
24. The Hilltop Cemetery Board delegates sales of burial plots exclusively to the Farnstrom Mortuary in Independence to provide choice of location, but has taken sole authority over the Buena Vista Cemetery because of the very low number of plots available. Sales are made by priority in this order: 1) Cemetery District residents, 2) Polk County residents, and 3) residents living outside the district but who have family members in the cemetery.
25. The Hilltop Cemetery Board has a three-tiered pricing system to encourage district sales by the order of priority listed in 24 above.
26. The principal broker for cemetery plots in the Hilltop Cemetery District is Farnstrom Mortuary in Independence, Oregon.
27. The Buena Vista Cemetery has a very limited number of lots available for sale according to Ben Farnstrom.
28. The Buena Vista Cemetery has an average of five burials per year, and three occurred in 2009 according to Ben Farnstrom.
29. The Buena Vista Cemetery needs to either expand or be closed for burial in the next five years if expansion is disapproved based on the current rate of lot sales.
30. The majority of the requests for burial plots in the district are at Hilltop Cemetery.

The applicant states that Buena Vista Cemetery has only one public facility right now, and that is Riverview Street. No additional public facilities or services are or will be required.

The applicant states that the location of the cemetery next to an Unincorporated Community Center (Buena Vista) on a well-drained hilltop location is the optimum site in the entire cemetery district. Any other site within the district would result in a cemetery in the middle of prime farm land rather than contiguous to an Unincorporated Community Center on the edge of a large farming area (see Figure 8 of the application, Buena Vista UCC Boundary). When examining alternative sites, factors such as access, configuration, size, drainage, wetness, topography, soils, and public facilities were considered. According to the applicant, no one location in areas not requiring an exception was deemed to meet all of the above locational factors. Based on the applicant's analysis and the circumstances presented, no other site within the Cemetery District could reasonably accommodate the cemetery use proposed in this application.

- D. 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. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts; [OAR 660-004-0020(2)(c)]**

Findings: The applicant states that the proposed cemetery expansion will have impacts, but measures will be taken to mitigate those impacts. The long-term environmental impacts will be the loss of 1.59 acres, in addition to the existing 3.57 acre cemetery parcel, of high value farmland to a use that is permanent. Once allocated for use as a cemetery, it would be difficult to re-establish the agricultural use of the land; however, the scale of this impact is confined to a small isolated corner of a 41-acre property where no further expansions could be reasonably contemplated. A cemetery poses an exceptional circumstance where a "Reasons" exception must be applied. The loss of the farm land comprises less than 0.1% of all of the farm lands in Polk County. The cemetery use of the 3.57 acre property dates from 1846 which far precedes modern zoning to preserve the maximum amount of farmland, so the impact of losing the land is one that has no specific mitigation for replacement; but the condition of the land will be maintained and enhanced through landscaping and maintenance of soils. Farming the land indefinitely could have a greater environmental impact than using it as a cemetery because farm land is cultivated and exposed to the effects of wind and water. This 1.59 acre area proposed for the cemetery expansion is highly restricted by very steep topography on the east and south and a drainage that is cutting headward at the extreme southwest corner of this site. The applicant contends that the cemetery would actually arrest any further erosion and headward movement of this draw by having 100% basal coverage of grass. It would therefore be beneficial rather than detrimental with respect to soil loss and erosion. Cemeteries often become excellent wildlife habitats because wildlife trees are planted there to provide shade and beauty. A full developed cemetery with trees

and lawns is more wildlife friendly than a plowed field where strong pesticides, herbicides, and other amendments could be used. According to the applicant, the cherry trees that were planted in the cemetery expansion area required sprays such as Malathion that have long-term adverse effects on the environment. The applicant stated that the cemetery would not employ the use of herbicides and pesticides.

The expanded cemetery would require no greater expenditure for public facilities than currently exists. The cemetery has no water for irrigation, electrical power to provide lighting or gate controls, no telephone lines, internet cables, storm drainage facilities, public water, or structures that would require fire protection. The only improvement to the cemetery is Riverview Street, which is a one-lane gravel road this is under the jurisdiction of Polk County. The cemetery lies at the northern terminus of this road. No residences or farm fields rely on this road for access once one reaches the cemetery boundary. A positive finding can be made that currently, the cemetery and the uses associated with the cemetery require no public facilities and services above those that already exist.

Another impact that warrants examination is the effect of having a larger cemetery than currently exists with respect to increased traffic. At the present time the cemetery has a traffic management program to accommodate larger gatherings. The funeral home directors, particularly Farnstrom's Mortuary in Independence, provide instruction on traffic management at funeral service. The hearse leads the procession to the cemetery, and attendees are directed where to park in order to prevent blockage of traffic. Occasionally, other parties may be present at the cemetery in addition to a funeral procession, and the circumferential road within the cemetery must be kept available for traffic flow.

The Farnstrom Mortuary was contacted by the applicant to provide clarification on traffic management, and they found that there were only two funerals and burials in 2009. The owner and operator of the mortuary, Ben Farnstrom, stated that they have never had a traffic issue at the cemetery even though at times nearly all of the available parking was utilized. They have never had to resort to parking along Riverview Street. In Mr. Farnstrom's words, they have "absolutely no traffic challenges at this site." He did not foresee their having any challenges with the expansion of the site. He said that this is a small rural cemetery, and that occasionally another funeral home may preside over burial, but that they have very few there themselves owing to the fact that it is rural and isolated.

Within the above criterion is a requirement to demonstrate that the impacts from expanding this cemetery would be no more adverse at this location than if it were located in an area requiring a goal exception other than at this site. No other site was identified within the confines of the Hilltop Cemetery District with an equivalent of favorable conditions including its location next to an unincorporated rural center, at the end of a dead-end road, that only has one public service, and that is buffered on nearly every side from productive resource land.

The expansion of the cemetery would not have any anticipated impact on the water table since no water is withdrawn to maintain the cemetery. The lawns are not watered, and no restrooms are currently present for public use or for employees of the Cemetery District.

The applicant contends that, from a law enforcement perspective, this cemetery is ideally located because there is only one way in and one way out. Anyone going to the cemetery must pass by several residences in Buena Vista in order to reach the cemetery. According to the applicant, other cemeteries, including the Hilltop Cemetery on Corvallis Road, have been targets for drug dealers and vandals. In fact, when the Hilltop Cemetery expansion occurred in the 1990s, neighbors alerted the Cemetery Board that drug dealing and trespass were occurring on a regular basis. Drug paraphernalia was found in the cemetery, and a decision was made by the Cemetery Board to gate the cemetery and post it for no trespassing after dark. The Buena Vista Cemetery is more ideally suited for police reconnaissance because it is on the end of a one-lane public gravel road. Neighbors are also very alert to anyone entering the cemetery after dark. Therefore, no additional special services are required for the cemetery because of its location.

Overall, the applicant concludes, this site is far superior to any other potential sites examined within the Cemetery District. A positive finding should therefore be made that the long-term environmental, economic, social, and energy consequences along with measures designed to reduce impact, are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal Exception.

- E. **“The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts”. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. “Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. [OAR 660-004-0020(2)(d)]**

Findings: The applicant states that this criterion requires findings that impacts can be mitigated rather than showing that no impact occur. The expansion area is bordered on the west by a public right-of-way that is 60 feet wide and on the south and east by a steep hillside, a portion of which is heavily timbered. The expansion area is also bordered by steep and heavily timbered lands on the east. It is difficult to envision how the expansion of the cemetery would have any measurable adverse impacts to adjoining uses given these above factors. The nearest improvement to the east across the Willamette River is 5,000 feet away, and the nearest improvement due north of the cemetery is a farm house that is 2,500 feet away. The nearest residence directly west of the cemetery is more than one-quarter mile away, and only one residence is located on 40 acres that directly abuts the cemetery to the south. All these above referenced dwellings are resource related. The nearest non-resource dwellings are located one-quarter mile away to the south on Riverview Street. The cemetery site is an isolated location that is adequately buffered on all sides. The steep topography on the south and east in particular conceal the cemetery from public view from those directions. It is also impossible to see the cemetery from the north and west owing to topographic considerations. The existing cemetery has been historically compatible with all surrounding uses. According to the applicant, the local mortuary has never had a documented interference with traffic and farm machinery, nor have any low enforcement actions resulted from illegal activities at the cemetery. According to the applicant, the cemetery is so safe that the need to gate cemetery has not yet arisen. A sign is located at the entrance to the cemetery that is closed after dark. According to the applicant, anyone passing by the nine houses on Riverview Street would be viewed with suspicion if they were there after dark. The applicant concludes that the cemetery is, therefore, in a very defensible location with respect to law enforcement issues.

On January 18, 2012, the applicant provided the following additional bulleted statements to further support their impact analysis:

Access

1. The Buena Vista Cemetery is located at the dead end of a county road known as Riverview Street in Buena Vista, Oregon.
2. The only access to the cemetery is via Riverview Street which is a one-lane gravel road contained within an 80-foot right-of-way.
3. The right-of-way is wide enough to accommodate cemetery traffic and farm traffic.
4. The director of Farnstrom Mortuary confirmed that they have never had any conflict with farm equipment before, during or after graveside funeral services.
5. The director of Farnstrom Mortuary stated that funeral processions are led by a hearse and that traffic controls are implemented during graveside services including one-way processions in and one-way out.

Impacts

1. The proposed cemetery expansion will not result in any significant adverse impacts to adjoining farming operations.
2. The proposed cemetery expansion has a significant tree and topographic buffer to the south and east ranging from 40 feet to 400 feet wide. This buffer consists of mature timber that is sight obscuring.
3. The existing cemetery also has a significant buffer on the east and north which consists of thick timber and steep topography.
4. The buffers that surround the proposed cemetery expansion and the existing cemetery effectively negate any potential reciprocal adverse impacts between the farming operations in the area and the cemetery.
5. The right-of-way for Riverview Street is 80 feet wide for the entire frontage of both the existing and proposed cemetery. This buffer is wider than most public right-of-way and does serve to segregate the cemetery use from adjoining farm use to the west.
6. The farming operations that are closest to the cemetery on the west and north are exclusively for grain and grass seed production.
7. The grass seed operations have a relatively low impact on surrounding uses because of the manner in which farming practices are conducted. Grass seed requires plowing and disking once every three to five years for disease control since field burning has been severely curtailed.
8. Grass seed operations are usually rotated into oats and wheat for one year before grass seed is replanted.
9. The ground where grass seed is rotated with grain crops is plowed in the late summer or fall every three to five years when rotation occurs.
10. Dust generated from field plowing is one of the impacts that could create incompatibility between the cemetery and adjoining farms; however, graveside services are infrequent. They would not likely coincide with the plowing since only an average of five services per year occur at the cemetery according to Ben Farnstrom of Farnstrom Mortuary in Independence, Oregon.
11. Other farm practices that could potentially create incompatibility are hours of operation and noise. Grass seed harvesting can only be done when the seed heads are dry, so it is often done at night rather than during the mid-day hours when funeral services would be likely to occur.
12. According to Ben Farnstrom of Farnstrom Mortuary in Independence, Oregon, there has never been an incident where a graveside service interrupted a farming practice or where a farming practice adversely affected a graveside service.
13. The higher impact farming practices from grass seed practices and grain occur between June and September. Much of the rest of the year only a few low impact activities, such as weed removal performed by manual spot spraying, are conducted.
14. The farming activities that can potentially affect the cemetery operation occur on a property owned by the Wells Living Trust. No other farm operators in the area have properties adjoining the cemetery except for the Powers, who are a party to the Property Boundary Adjustment Application.
15. The impacts generated by the cemetery operation that could potentially interrupt farming practices are funeral processions and graveside services. According to Ben Farnstrom, traffic entering the cemetery is exclusively on Riverview Street, and the hearse leads the procession to the exact spot in the cemetery where the service is going to be held. No cars are allowed to be parked on the Riverview Street right-of-way regardless of where the

service occurs in the cemetery. No documented restriction to moving farm equipment has ever occurred at this site.

16. To minimize impacts to adjoining farming operations the funeral procession is led into and out of the cemetery by the funeral director, and access is one-way in and one-way out exclusively.
17. The Buena Vista Cemetery occasionally conducts military funerals with gun salutes; however, no sensitive animal operations or houses are close enough to be impacted by this rare occurrence.
18. The Buena Vista Cemetery maintains daylight hours for cemetery visits. Due to the remote location of the cemetery, no gates or fences surround it, such as is the case at the Hilltop Cemetery.
19. Maintenance activities associated with the cemetery consist of grass mowing and debris removal. These activities are conducted by the maintenance staff on weekdays during daylight hours.
20. The Buena Vista Cemetery has no power, water, sewage disposal, or storm drainage; nor are any permanent structures located there. Maintenance equipment is stored in a metal shipping container in an obscure location on the east side of the old cemetery.
21. Graves are excavated at the site by a backhoe; but, as stated previously, an average of only five burials occur per year. Excavations are so infrequent, therefore, that no impacts are felt by adjoining farming operations.
22. The Buena Vista Cemetery, which is located at a dead-end on Riverview Street, has no documented evidence of vandalism or crime, such as has occurred at the Hilltop Cemetery on Corvallis Road. The Hilltop Cemetery developed such a serious problem with drug dealing that the cemetery had to be gated and fenced, and specific patrols had to be requested in order to stop those activities. The local residents police the Buena Vista Cemetery themselves, so no impact occurs to local law enforcement.
23. A positive finding can be made that the Buena Vista Cemetery has coexisted with farming activities for 167 years without any reciprocal adverse impacts.

The applicant promises that the proposed expansion will continue those measures that have kept the cemetery compatible with adjacent uses for so long, and any prospective roads that may be planned for the cemetery expansion will be posted.

F. For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following: [660-004-0022(1)]

- 1. There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either**
- 2. A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or**
- 3. The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.**

Findings: On January 18, 2012, the applicant provided the following bulleted statements as findings for "demonstrated need":

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1. The Buena Vista Cemetery has an extremely local demand for burial plots based on the fact that 105 of 107 cemetery lot sales dating back to 1990 are from families that either live in Buena Vista, formerly lived in Buena Vista but have family buried in the cemetery or live within the cemetery district. Only two of the plots have sold to persons from outside of the district.
2. The other cemetery in the district (Hilltop Cemetery) by contrast has had only 64 in district sales since 1990 and 292 burial plot sales originating from outside the district.
3. The percentage of sales to in district residents for Buena Vista Cemetery is 98% compared to 21.9% for the Hilltop Cemetery.
4. The Buena Vista Cemetery had no burial plots available from 1994 through 2004 because all available lots were allocated. The cemetery was able to market 81 plots from 2005 through 2010 only because the district board vacated the old carriage roads within the cemetery.
5. The Buena Vista Cemetery now only has six plots available and based on the twenty year absorption rate has only a one year supply left (107 plots sold divided by 21 years = 5.1 plots annually).
6. The Hilltop Cemetery has available plots for sale but the rural residents in and around Buena Vista and their families have clearly demonstrated through the sales data of plots that they have no desire to purchase plots at Hilltop Cemetery. This is due to a strong commitment to have burial in the same cemetery as family members.
7. The Buena Vista Cemetery Board will as a matter of policy discourage any prospective sale of burial plots to parties outside of the Cemetery district in order to maintain availability of plots for local residents.

The applicant also provided the following bulleted statements as findings to substantiate that the proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site:

1. The existing cemetery is without question a valuable asset to the citizens of Buena Vista having been in existence since 1846. Some families have eight generations of family members buried there. The inability to expand the cemetery means family members will have to go elsewhere for burial, which is unacceptable to them.
2. The proposed use or activity is not really a proposed use, it is an existing use that has a strong historical and cultural inertia behind it. By locating the needed cemetery plots directly adjacent to the existing cemetery, family members can continue to be buried in the same cemetery.
3. The special feature is the existence of a historical cemetery with a strong cross section of early historic settlers. Siting an expanded facility at other than a contiguous location would adversely affect the existing cemetery by decreasing interest in visiting it and maintaining it.
4. The special feature of being on a high bluff above the Willamette River surrounded by tall timber on the east and south places the cemetery at the best view site in Buena Vista. This cemetery has a commanding view of the quilted farm use pattern that is unique amongst all cemeteries in Polk County. No other cemetery in Polk County has the commanding view on a bluff directly above the Willamette River.
5. The Hilltop Cemetery Board believes the best way to keep this cemetery viable is to continue to have local families retain this as a final resting place. Denial of this application would eventually result in the cemetery being only a maintenance burden to the district with no ability to generate revenues for the district.
6. The Hilltop Cemetery Board Members past and present own burial plots in the cemetery and their family members are buried here. They are closely attuned to the families in the

area and they want the cemetery to expand to meet their future needs. The families are also concerned that the cemetery be expanded so they can be buried in the same cemetery as their family members.

7. The fact that 98% of the plots sold in the last twenty years have been to in district and Buena Vista residents attests to the special features of this cemetery. The demand is clearly here if the plots are made available.

The applicant contends that Buena Vista Cemetery has demand for burial plots from those with family buried in Buena Vista Cemetery and from those living within the cemetery district. The applicant sites in district sales data for Buena Vista Cemetery and Hilltop Cemetery as evidence of this demand. The application does establish those with family buried at Buena Vista as a unique subset of the population whose demand for burial plots can only be met by expanding the Buena Vista Cemetery. The applicant states that there are only six burial plots available at this time in Buena Vista Cemetery, which, coupled with the existing and anticipated demand, creates the need for additional plots to serve those with family buried in Buena Vista Cemetery. The applicant conceded that there was not currently a demonstrated need for 3.55 additional acres of land for cemetery use. As a result, the applicant is now requesting 1.59 acres of area to be used for additional cemetery space. If we assume that 30% of the area would be needed for infrastructure including lighting, roads, walkways and space between burial areas, that would leave approximately 1.1 acres for burial plots. Assuming one burial plot occupies 60 square feet (12'x 5'), the expansion would allow an additional 798 burial plots. The applicant states that the cemetery expansion area also incorporates some existing burial sites that were established independent of the cemetery and would further limit the available area for new burial plots. The applicant does not provide demand data to demonstrate the planning horizon that the expansion area is intended to meet or evidence as to how many applicants for burial lots in the existing Buena Vista Cemetery could reasonably be accommodated at Hilltop Cemetery. The application lacks the level of sophistication needed to demonstrate beyond a reasonable doubt that that the existing or anticipated demand for burial plots warrants a 1.59 acre expansion. However, the exception process does not require that the evidence establish a determination that is beyond dispute that any reasonable alternative is possible. On its face, the application appears sensible. The applicant has stated that there is demand for plots specifically at Buena Vista Cemetery from those with relatives buried there and it is a reasonable observation that families expand exponentially over time increasing demand year over year. In addition, an application to expand on to less than one acre could limit the ability to establish other amenities that are typical of cemetery sites that may be required or needed in the future to provide safety and sanitation, such as restrooms and drinking fountains, due to a lack of area for an onsite septic system.

4. Findings for Zone Change; File ZC 10-01:

- A. **A zone change is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Hearings Officer or the Planning Commission. Such change shall be an ordinance enacted by the Board of Commissioners after proceedings have been accomplished in accordance with the provisions of this chapter. [PCZO 111.140]**

Findings: The authorizations for a zone change and a Comprehensive Plan Map and text amendment are provided under Polk County Zoning Ordinance (PCZO) Sections 111.275, and 115.050, subject to recommendation by the Hearings Officer after holding a public hearing pursuant to PCZO 111.190 and 115.030 and decision by the Polk County Board of Commissioners after holding a public hearing pursuant to PCZO 111.200 and 115.030. Planning Department staff reviews the proposed zone change. Staff prepares a report and recommendation for the Hearings Officer and the Hearings Officer makes a recommendation to the Polk County Board of Commissioners for a final local decision. The application is following the proper review process and meets this criterion.

- B. **Pursuant to Section 111.160, a zone change may be approved, provided that the**

request satisfies all applicable requirements of this ordinance, and provided that with written findings, the applicant(s) clearly demonstrate compliance with the following criteria:

1. **The proposed zone is appropriate for the comprehensive plan land use designation on the property and is consistent with the purpose and policies for the applicable comprehensive plan land use classification; [PCZO 111.275 (A)]**
 - a. **The purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. These include schools, parks fire stations, hospitals, cemeteries and other public buildings. Adequate public facilities are essential to well ordered community life, sustaining and enhancing the health, safety, educational and recreational aspects of rural living. [PCCP, Section 4]**

Findings: As described in Section 4 of the PCCP, the purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. The applicant seeks to use the subject property as a cemetery. The proposed cemetery expansion would allow the Buena Vista Cemetery to serve the rural community into the future. The proposed Public Plan designation and PC zoning are the appropriate designations to accommodate a cemetery.

The application complies with this criterion.

2. **The proposal conforms with the purpose statement of the proposed zone; [PCZO 111.275 (B)]**

Findings: The applicant proposes applying the PC Zoning District, if an approval of the proposed amendment to the Comprehensive Plan map and text is granted. The PC would be an appropriate zone to implement the Public Comprehensive Plan land use designation. Unlike most zones in Polk County, there is no purpose statement listed for the public zones in PCZO Chapter 170. Consequently, it is reasonable to substitute the purpose and intent of the Public land use designation listed in Section 4 of the PCCP, which states:

The purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. These include schools, parks fire stations, hospitals, cemeteries and other public buildings. Adequate public facilities are essential to well ordered community life, sustaining and enhancing the health, safety, educational and recreational aspects of rural living.

The proposed PC Zone would allow the applicant to establish a cemetery on the subject property. As described in the application, the proposed cemetery would provide a public service. The public service that would be provided by the proposed, expanded cemetery would be consistent with the purpose statement of the Public lands designation.

The application complies with this criterion.

3. **The uses allowed in the proposed designation will not significantly adversely affect allowed uses on adjacent lands; [PCZO 111.275(C)]**

Findings: Based on a review of the 2008 Polk County Aerial Photograph and the applicant's statement, contiguous properties are used for agricultural purposes. The subject property is accessed from Riverview Street, and approximately ¼ mile north of the Buena Vista Unincorporated Community. Riverview Street ends adjacent to the subject property. The lack of through connectivity limits the traffic on Riverview Street to local traffic only. Based on a review of the 2008 Polk County Aerial Photograph, the only properties north of the Buena Vista Unincorporated Community that have driveway access to Riverview Street are Parcel 1 (the cemetery property) and Parcel 2.

The applicant is proposing a property line adjustment, Comprehensive Plan amendment, and zone change in order to increase the size of the existing Buena Vista Cemetery. The proposed expansion is intended to accommodate the long term demand for burial plots at the proposed cemetery. According to the information in the application, the Buena Vista Cemetery has few offsite impacts. Burial services at the cemetery would occasionally result in traffic congestion along Riverview Street. Staff believes that the traffic impacts associated with the expanded cemetery would be similar to the traffic impacts that currently occur. Cemeteries are unique, in that a larger facility, does not necessary translate into a proportionally equivalent increase in traffic. The temporary surges in traffic experienced with burial services are one time events, and Staff is not aware of any reasons why an increase in supply of burial plots would increase the demand for those plots. A larger cemetery with more gravesites would presumably increase the amount of daily visitor traffic. Based on the information provided by the applicant, traffic levels associated with citizens visiting the cemetery are relatively low. A 1.59 acre increase to the cemetery size would not produce traffic that would act to negatively impact surrounding properties. Due to low traffic volumes on Riverview Road, the Public Works Department has indicated that road improvements should not be required if these applications are approved.

Staff has not identified any other significant offsite impacts that would occur if the Buena Vista Cemetery expansion is approved. The cemetery would not produce significant noise, dust, or other emissions. In consideration of the above factors, the proposed, expanded cemetery would not significantly adversely affect allowed uses on adjacent lands. Staff finds that the proposed zone change and Comprehensive Plan amendment are appropriate when taking into account surrounding land uses. As a result, staff finds that the application meets this criterion.

4. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; [PCZO 111.275(D)]

Findings: The applicant is proposing to change the zoning of the subject property to PC which would allow the subject property to be used for a cemetery and a dwelling for a caretaker or a watchman. The applicant indicates that the cemetery would not require electricity, water, or other public utilities. The applicant does not address the potential needs of a dwelling for a caretaker or watchman. The subject property is located in the area served by the Luckiamute Domestic Water Cooperative. If the applicant plans to obtain water from a community water system, a "Statement of Water Availability" shall be submitted prior to building permit issuance. The applicant should also be required to comply with all applicable state and federal water laws. There have been no identified effects on local schools as a result of the proposed change. Polk County Fire District Number 1 and the Polk County Sheriff Department provide emergency services at the subject property. Riverview Street, a local road as identified in Figure 3 of the Polk County Transportation Systems Plan, provides access to the subject property.

Based on the above information, Staff concludes that there are adequate public facilities, services, and transportation networks in place to serve the proposed cemetery. Approval of this proposed zone change and Comprehensive Plan amendment would not authorize the applicant to establish a use that would exceed transportation, water and/or sewage disposal services until such services are planned or available. The application would meet this criterion.

5. The proposed change is appropriate taking into consideration the following:
a. Surrounding land uses,

Findings: As discussed above, based on a review of the 2008 Polk County Aerial Photograph, the subject property is surrounded by properties used for agricultural purposes. A cemetery is a low impact use that brings occasional traffic congestion to the road system. There is no evidence in the record to indicate that occasional traffic congestion would be detrimental to neighboring properties. The proposed zone change would be appropriate in consideration of surrounding land uses.

b. The density and pattern of development in the area,

26/44

Findings: The proposed zone change from EFU to PC would increase the density potential of the subject property. Staff believes that a cemetery is different from commercial, industrial, or residential uses in that if the subject property was to be partitioned, the smaller parcels combined would most likely contain a comparable number of burial plots. Consequently, higher density does not equate to a significant increase in offsite impacts to the neighborhood.

- c. Any changes which may have occurred in the vicinity to support the proposed amendment. [PCZO 111.275(E)(1-3)]**

Findings: The applicant has not identified any changes that have occurred in the vicinity to support the proposed amendment.

- 6. The proposal complies with any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land; and [PCZO 111.275(F)]**

Findings: The subject property is not located within an Urban Growth Boundary. This criterion is therefore not applicable to this request.

- 7. The proposal complies with Oregon Revised Statutes, all applicable statewide planning goals and associated administrative rules. If an exception to one or more of the goals is necessary, the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply. [PCZO 111.275(G)]**

Findings: An exception to Oregon Statewide Planning Goal 3 is necessary in order to approve the proposed zoning of the subject property. As described above, the applicant has demonstrated compliance with the criteria for a Goal 3 exception.

The application complies with this criterion.

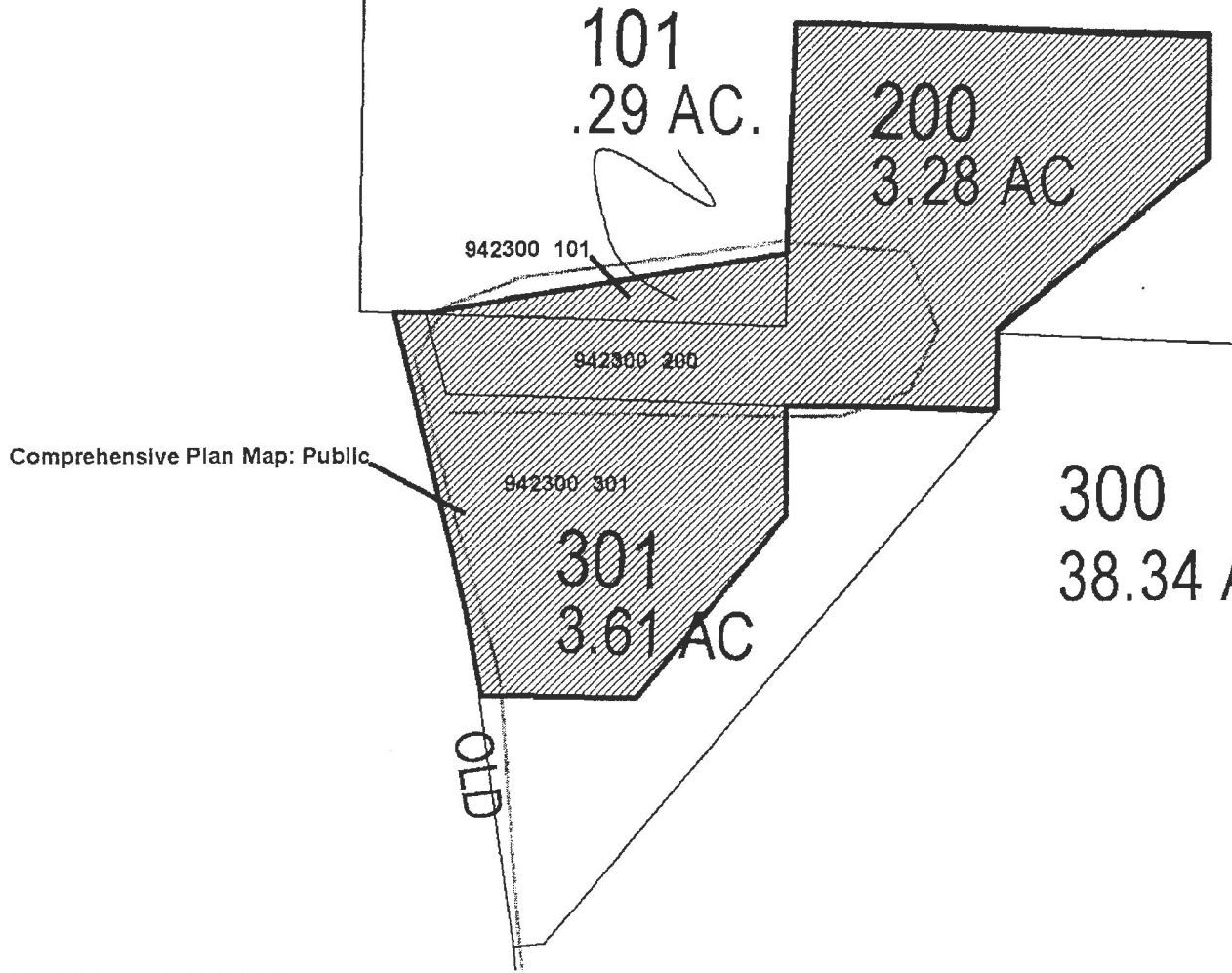
II. CONCLUSION

Based on the information submitted into the record, the applicant provided findings to address the Review and Decision Criteria listed in Section I above.

Polk County Map

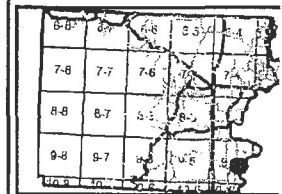
Community Development

- Roads**
- GRAVEL
 - CO-GRAVEL
 - PAVED
- Taxlot12**
- Taxlot Arrows12
 - Taxlot Boundary12
 - taxlot12



This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

1 in. = 160 ft.



5/24/2012



38/14

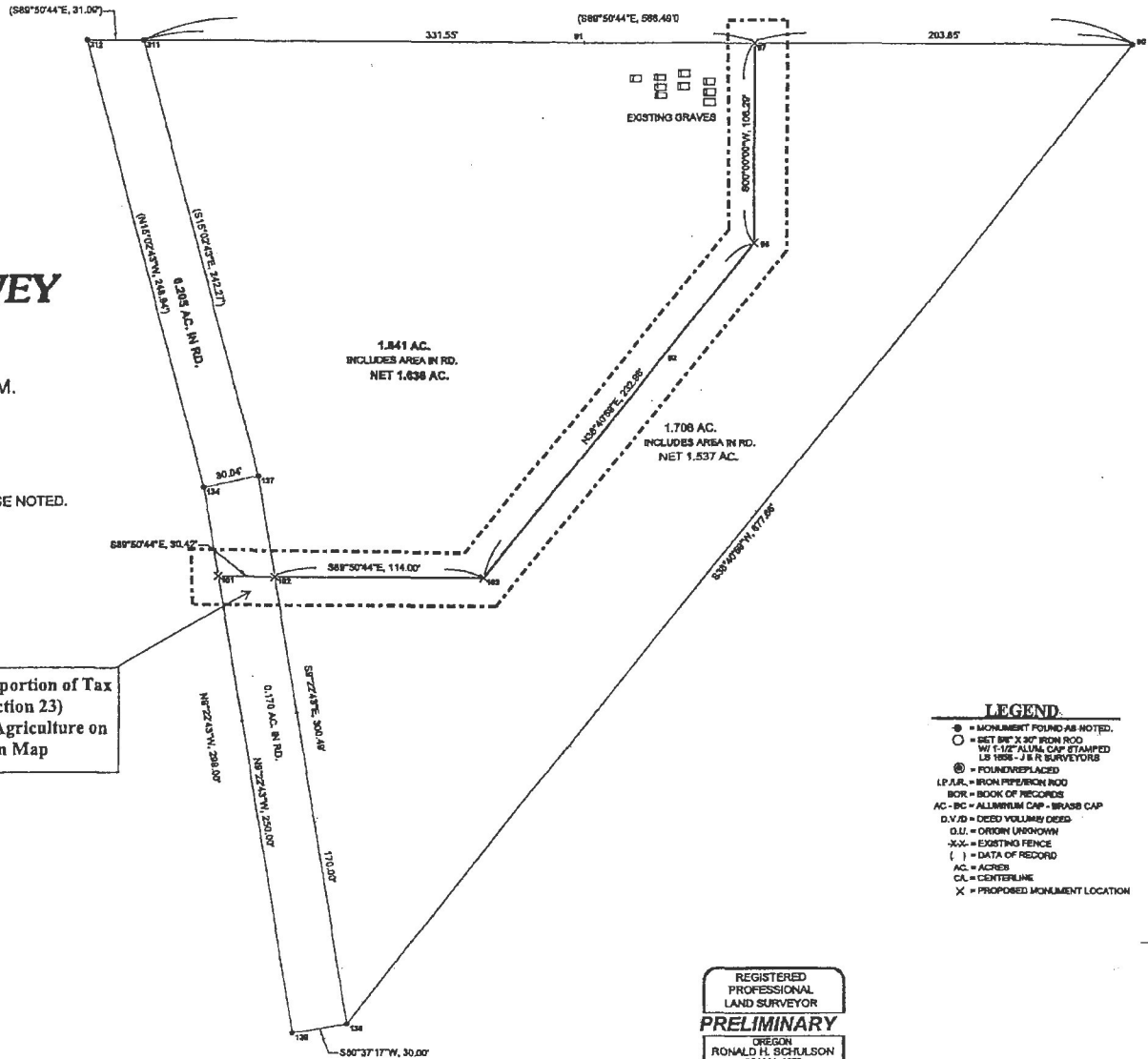
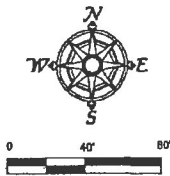
RECEIVED
MAY 18 2012
POLK COUNTY
COMMUNITY DEVELOPMENT

**PROPOSED
RECORD OF SURVEY**

PREPARED FOR
BUENA VISTA CEMETERY
LOCATED IN
REASON B. HALL DLC NO. 66
NW 1/4 SEC. 23, T. 9 S., R. 4 W., W.M.
POLK COUNTY, OREGON
MAY 18, 2012

RECORD DATA PER CS 15493 UNLESS OTHERWISE NOTED.

Line that separates the portion of Tax Lot 301 (T9S, R4W, Section 23) designated Public and Agriculture on the Comprehensive Plan Map



- LEGEND**
- = MONUMENT FOUND AS NOTED.
 - = SET 8\"/>

REGISTERED
PROFESSIONAL
LAND SURVEYOR
PRELIMINARY
OREGON
RONALD H. SCHULSON
JULY 14, 1978
LS. 1558
RENEWAL 6-30-2012

J&R NO. 12- - CAD BY:

J & R SURVEYORS, P.O. BOX 418 DALLAS, OR. 97338, Ph.# (503)623-4003

29/1/14

Exhibit D-2 to Ordinance No. 12-03

DATE: June 6, 2012

SUBJECT: Plan Amendment 10-04, Zone Change 10-04, and Property Line Adjustment LLA 10-10. Approved by Ordinance No. 12-03.

PROPERTY ADDRESS: One property north of 11000 Riverview Street, Independence, Oregon.

PROPERTY LOCATION: This reasons exception applies to an approximately 5.16 acre portion of the 7.12 acre subject property which contains the Buena Vista Cemetery. The subject property is located approximately 0.2 mile north of the Buena Vista Unincorporated Community (T9S, R4W, Section 23, Tax Lots 101, 200, and 301).

REQUEST: These applications consist of a property line adjustment, a Polk County Comprehensive Plan (PCCP) Map amendment from Agriculture to Public, and a zone change from Exclusive Farm Use (EFU) to Public and Private Cemeteries (PC) and the Limited Use Overlay (LU) Zones. The applicant is also requesting a text amendment to the PCCP in order to adopt a "Reasons" exception to Statewide Planning Goal 3. The proposed limited use overlay would permit the subject property to be used only for a cemetery. The PCCP Map amendment, zone change, and reasons exception apply to an approximately 5.16 acre portion of the subject 7.12 acre property. That area is depicted on the attachments to Ordinance No. 12-03.

CRITERIA: When taking an exception to a statewide planning goal where reasons justify an exception, the applicable criteria are listed in Oregon Administrative Rule (OAR) 660-004-0018, 660-004-0020, 660-004-0022, and 660-012-0060. The criteria are listed below followed by the findings adopted by the Board of Commissioners to address those criteria.

- A. When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception; [OAR 660-004-0018(4)(a)]**

Findings: According to PCZO 170.020, the PC zone allows three specific uses: a cemetery, a dwelling for the caretaker or watchman, and specific renewable energy systems that would serve the uses on the property. The Board of Commissioners unanimously passed a motion at their February 8, 2011 hearing to apply the Limited Use Overlay Zone to the portion of Parcel 1 that would be zoned PC, in order to restrict the use of that portion of Parcel 1 to a cemetery.

- B. "Reasons justify why the state policy embodied in the applicable goals should not apply"; The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land and why the use requires a location on resource land; [OAR 660-004-0020(2)(a)]**

Findings: The applicant provided the following bulleted statements as findings:

Assumptions Set Forth In This Exception

The Buena Vista Cemetery is part of the Hilltop Cemetery District, which is a public entity; and, as such, the District has an obligation to provide adequate burial space for the public.

1. The cemetery has been in existence since 1846, has not expanded substantially, and there is a demonstrated public need for the expansion.
2. The cemetery is non-church-affiliated, and therefore an expansion is not permitted in the Exclusive Farm Use Zone.
3. The only opportunity to expand is onto land that is zoned Exclusive Farm Use; consequently, Exceptions to Statewide Goals 3 and 4 are required.
4. The proposed expansion can only be onto prime farm land because exceedingly steep topography to the south and east prohibits normal and necessary expansion.
5. The potential expansion of the cemetery to the west or north would interrupt large fields; whereas the expansion to the south would be into a farm field that is 3.55 acres in size.
6. The potential expansion of the cemetery to the west would result in the cemetery being split by a public road.
7. The proposed expansion area was most recently planted in cherry trees that have been removed due to age and disease.
8. The owners of the property onto which the cemetery is proposed to expand are willing sellers.
9. The cemetery property and the adjoining property onto which the expansion would occur are currently under the minimum parcel size of the EFU zone.
10. The capital fixity of the cemetery precludes consideration of moving this facility to a location within an urban growth boundary. The prospect of relocating a cemetery is very untenable.
11. The search for "alternative sites" must be restricted to the Hilltop Cemetery District only because this is a distinct taxing district as shown in Figure 6, Map of Hilltop Cemetery District.

C. "Areas which do not require a new exception cannot reasonably accommodate the use": [OAR 660-004-0020(2)(b)]

1. **The exceptions shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified; [OAR 660-004-0020(2)(b)(A)]**
2. **To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed: [OAR 660-004-0020(2)(b)(B)]**
 - a. **Can the proposed use be reasonably accommodated on non-resource land that would not require an exception, including increasing the density of**

uses on non-resource land? If not, why not? [OAR 660-004-0020(2)(b)(B)(i)]

- b. Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to non-resource uses, not allowed by this applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?** [OAR 660-004-0020(2)(b)(B)(ii)]
 - c. Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?** [OAR 660-004-0020(2)(b)(B)(iii)]
 - d. Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?** [OAR 660-004-0020(2)(b)(B)(iv)]
- 3. This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.** [OAR 660-004-0020(2) (b) (C)]

Findings: The applicant states that the cemetery has an obligation to maintain their existing facilities at the same location because of limited operating budgets. The cemeteries in the Hilltop District are taxpayer supported, and their revenue is derived from Polk County's tax base; therefore, any alternative sites outside of the Cemetery District are prohibited from being considered. The search must, therefore, be confined to areas within the Hilltop Cemetery District (see Figure 6 of the application, Map of Hilltop Cemetery District).

The applicant states that the key words in this criterion are "reasonably accommodated." The applicant's analysis found that the City of Independence has no appropriately sized or drained lands to accommodate the use. No Unincorporated Community Centers are nearby except Buena Vista, and no parcels large enough to accommodate the projected need for burial plots are available. The larger parcels contained within Independence and Monmouth are zoned for industrial uses, and commitments are already in place for some of the industrially-zoned land, particularly in Monmouth. In addition, the applicant states that the urban growth boundary for Monmouth falls within the Fir Crest Cemetery District and therefore cannot be considered for an expansion for the Buena Vista Cemetery, which is in a different taxing district. None of the sites visited by the District's representative were suitable because they were in flood plains, wetlands, or generally poorly drained areas. Other potential parcels lack the necessary access for a cemetery until other areas closer to the existing street network are built up.

In its letter of May 18, 2010, DLCD stated that "The alternatives analysis for sites that do not require an exception to Goal 3 is inadequate to support a reasons exception for the subject site. The narrative indicates that the applicant made a decision to not consider sites within nearby urban growth boundaries, unincorporated communities, or other areas that already have

an exception to Goal 3.” In materials submitted for the Record on June 16, 2010, the applicant said there were no uncommitted areas within Independence that did not have drainage problems. In materials submitted on June 1, 2010, the applicant had stated that the only zone within the boundaries of the cemetery district that permits cemetery lots is the Public Service zone in Independence, but there is no land in that district vacant and available. On January 18, 2012 the applicant provided the following additional bulleted statements to support their alternatives analysis:

1. The Hilltop Cemetery District is one of nine taxing cemetery districts within Polk County, Oregon.
2. The Hilltop Cemetery District has two operating cemeteries: Buena Vista and Hilltop.
3. The Hilltop Cemetery on Corvallis Road is 12.7 acres and is comprised of Tax Lots 300 and 400.
4. The larger Tax Lot (300) is 8.7 acres and has no cemetery lots for sale.
5. The occupied burial plots in Tax Lot 300 now exceed 90 percent of capacity.
6. The smaller Tax Lot (400) is 4.25 acres and was added to the cemetery through a land use approval in 1992.
7. The process of improving Tax Lot 400 has already begun, and more than 100 cemetery lots were recently sold in a single transaction.
8. The area north of the road that bisects Tax Lot 400 already contains 12 burial plots.
9. The majority of burial plots sold at the Hilltop Cemetery are cemetery district residents or their close family members, but the majority are from the urban part of the district rather than from the local farming families and their descendants.
10. The majority of burial plots sold at the Buena Vista Cemetery are to farm families who live south and east of Independence and to close relatives of these farm families living elsewhere in the district and outside of the district.
11. As late as 2004, the Hilltop Cemetery District had no burial plots available at the Buena Vista Cemetery.
12. The Buena Vista Cemetery gained 56 burial plots after 2004 by abandoning the old carriage road, and the number of available burial plots now stands at 26.
13. The Cemetery Board now has a policy of not selling burial plots at the Buena Vista Cemetery to parties living outside of the district because so few lots are available.
14. The Polk County Zoning Ordinance makes no provision for non-church affiliated cemeteries in any zoning category.
15. The alternative areas considered for non-church affiliated cemeteries were limited to lands within the Hilltop District and lands inside the urban growth boundaries since no zone in unincorporated areas of Polk County allows non-church affiliated cemeteries.
16. The only zone in the Hilltop Cemetery District that allows non-church affiliated cemeteries is the Public Service (PS) Zone within the corporate limits of Independence, Oregon.
17. The areas zoned PS in Independence are all built and committed to other uses such as parks and schools.

18. The Hilltop Cemetery is the main cemetery for the urban portion of the district, namely Independence.
19. The Hilltop Cemetery serves the large urban population of Independence and Monmouth, whereas the Buena Vista Cemetery is a pioneer cemetery (in operation since 1846) and principally serves a rural population consisting of area farmers, their extended families, and former hop farm workers who want Buena Vista as a final resting place.
20. The Hilltop Cemetery was enlarged in 1992 only in reference to the particular need of that facility and not that of the Hilltop Cemetery District as a whole or the Buena Vista Cemetery in particular.
21. The Hilltop Cemetery District has adopted a policy of giving preference to district residents rather than out-of-district residents for purchase of cemetery lots in order to preserve family plots.
22. Pursuant to OAR 660-004-022(b)(A), the Hilltop Cemetery District Board and their representative have examined locations which do not require a new exception and why these areas which do not require an exception cannot reasonably accommodate the proposed use. The potential for alternative sites not requiring an exception are extremely limited by three factors: 1) The Polk County Zoning Ordinance has no provisions in any zoning category for non-church affiliated cemeteries except for the PC zone; 2) the City of Independence has one zone that allows cemeteries through a conditional use permit, but all of the appropriately zoned sites are built or committed to other permitted uses; and 3) the search for alternative sites is limited to the coterminous boundaries of the cemetery district only because it is a public taxing district.
23. The Hilltop Cemetery Board is an elected body entrusted to operate the cemeteries within their district and to provide a choice of where people want to be buried.
24. The Hilltop Cemetery Board delegates sales of burial plots exclusively to the Farnstrom Mortuary in Independence to provide choice of location, but has taken sole authority over the Buena Vista Cemetery because of the very low number of plots available. Sales are made by priority in this order: 1) Cemetery District residents, 2) Polk County residents, and 3) residents living outside the district but who have family members in the cemetery.
25. The Hilltop Cemetery Board has a three-tiered pricing system to encourage district sales by the order of priority listed in 24 above.
26. The principal broker for cemetery plots in the Hilltop Cemetery District is Farnstrom Mortuary in Independence, Oregon.
27. The Buena Vista Cemetery has a very limited number of lots available for sale according to Ben Farnstrom.
28. The Buena Vista Cemetery has an average of five burials per year, and three occurred in 2009 according to Ben Farnstrom.
29. The Buena Vista Cemetery needs to either expand or be closed for burial in the next five years if expansion is disapproved based on the current rate of lot sales.
30. The majority of the requests for burial plots in the district are at Hilltop Cemetery.

The applicant states that Buena Vista Cemetery has only one public facility right now, and that is Riverview Street. No additional public facilities or services are or will be required.

The applicant states that the location of the cemetery next to an Unincorporated Community Center (Buena Vista) on a well-drained hilltop location is the optimum site in the entire cemetery district. Any other site within the district would result in a cemetery in the middle of prime farm land rather than contiguous to an Unincorporated Community Center on the edge of a large farming area (see Figure 8 of the application, Buena Vista UCC Boundary). When examining alternative sites, factors such as access, configuration, size, drainage, wetness, topography, soils, and public facilities were considered. According to the applicant, no one location in areas not requiring an exception was deemed to meet all of the above locational factors. Based on the applicant's analysis and the circumstances presented, no other site within the Cemetery District could reasonably accommodate the cemetery use proposed in this application.

- D. 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. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts; [OAR 660-004-0020(2)(c)]**

Findings: The applicant states that the proposed cemetery expansion will have impacts, but measures will be taken to mitigate those impacts. The long-term environmental impacts will be the loss of 1.59 acres, in addition to the existing 3.57 acre cemetery parcel, of high value farmland to a use that is permanent. Once allocated for use as a cemetery, it would be difficult to re-establish the agricultural use of the land; however, the scale of this impact is confined to a small isolated corner of a 41-acre property where no further expansions could be reasonably contemplated. A cemetery poses an exceptional circumstance where a "Reasons" exception must be applied. The loss of the farm land comprises less than 0.1% of all of the farm lands in Polk County. The cemetery use of the 3.57 acre property dates from 1846 which far precedes modern zoning to preserve the maximum amount of farmland, so the impact of losing the land is one that has no specific mitigation for replacement; but the condition of the land will be maintained and enhanced through landscaping and maintenance of soils. Farming the land indefinitely could have a greater environmental impact than using it as a cemetery because farm land is cultivated and exposed to the effects of wind and water. This 1.59 acre area proposed for the cemetery

expansion is highly restricted by very steep topography on the east and south and a drainage that is cutting headward at the extreme southwest corner of this site. The applicant contends that the cemetery would actually arrest any further erosion and headward movement of this draw by having 100% basal coverage of grass. It would therefore be beneficial rather than detrimental with respect to soil loss and erosion. Cemeteries often become excellent wildlife habitats because wildlife trees are planted there to provide shade and beauty. A full developed cemetery with trees and lawns is more wildlife friendly than a plowed field where strong pesticides, herbicides, and other amendments could be used. According to the applicant, the cherry trees that were planted in the cemetery expansion area required sprays such as Malathion that have long-term adverse effects on the environment. The applicant stated that the cemetery would not employ the use of herbicides and pesticides.

The expanded cemetery would require no greater expenditure for public facilities than currently exists. The cemetery has no water for irrigation, electrical power to provide lighting or gate controls, no telephone lines, internet cables, storm drainage facilities, public water, or structures that would require fire protection. The only improvement to the cemetery is Riverview Street, which is a one-lane gravel road this is under the jurisdiction of Polk County. The cemetery lies at the northern terminus of this road. No residences or farm fields rely on this road for access once one reaches the cemetery boundary. A positive finding can be made that currently, the cemetery and the uses associated with the cemetery require no public facilities and services above those that already exist.

Another impact that warrants examination is the effect of having a larger cemetery than currently exists with respect to increased traffic. At the present time the cemetery has a traffic management program to accommodate larger gatherings. The funeral home directors, particularly Farnstrom's Mortuary in Independence, provide instruction on traffic management at funeral service. The hearse leads the procession to the cemetery, and attendees are directed where to park in order to prevent blockage of traffic. Occasionally, other parties may be present at the cemetery in addition to a funeral procession, and the circumferential road within the cemetery must be kept available for traffic flow.

The Farnstrom Mortuary was contacted by the applicant to provide clarification on traffic management, and they found that there were only two funerals and burials in 2009. The owner and operator of the mortuary, Ben Farnstrom, stated that they have never had a traffic issue at the cemetery even though at times nearly all of the available parking was utilized. They have never had to resort to parking along Riverview Street. In Mr. Farnstrom's words, they have "absolutely no traffic challenges at this site." He did not foresee their having any challenges with the expansion of the site. He said that this is a small rural cemetery, and that occasionally another funeral home may preside over burial, but that they have very few there themselves owing to the fact that it is rural and isolated.

Within the above criterion is a requirement to demonstrate that the impacts from expanding this cemetery would be no more adverse at this location than if it were located in an area requiring a goal exception other than at this site. No other site was identified within the confines of the Hilltop Cemetery District with an equivalent of favorable conditions including its location next to an unincorporated rural center, at the end of a dead-end road, that only has one public service, and that is buffered on nearly every side from productive resource land.

The expansion of the cemetery would not have any anticipated impact on the water table since no water is withdrawn to maintain the cemetery. The lawns are not watered, and no restrooms are currently present for public use or for employees of the Cemetery District.

The applicant contends that, from a law enforcement perspective, this cemetery is ideally located because there is only one way in and one way out. Anyone going to the cemetery must pass by several residences in Buena Vista in order to reach the cemetery. According to the applicant, other cemeteries, including the Hilltop Cemetery on Corvallis Road, have been targets for drug dealers and vandals. In fact, when the Hilltop Cemetery expansion occurred in the 1990s, neighbors alerted the Cemetery Board that drug dealing and trespass were occurring on a regular basis. Drug paraphernalia was found in the cemetery, and a decision was made by the Cemetery Board to gate the cemetery and post it for no trespassing after dark. The Buena Vista Cemetery is more ideally suited for police reconnaissance because it is on the end of a one-lane public gravel road. Neighbors are also very alert to anyone entering the cemetery after dark. Therefore, no additional special services are required for the cemetery because of its location.

Overall, the applicant concludes, this site is far superior to any other potential sites examined within the Cemetery District. A positive finding should therefore be made that the long-term environmental, economic, social, and energy consequences along with measures designed to reduce impact, are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal Exception.

- E. **“The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts”.** The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. **“Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.** [OAR 660-004-0020(2)(d)]

Findings: The applicant states that this criterion requires findings that impacts can be mitigated rather than showing that no impact occur. The expansion area is bordered on the west by a public right-of-way that is 60 feet wide and on the south and east by a steep hillside, a portion of which is heavily timbered. The expansion area is also bordered by steep and heavily timbered lands on the east. It is difficult to envision how the expansion of the cemetery would have any measurable adverse impacts to adjoining uses given these above factors. The nearest improvement to the east across the Willamette River is 5,000 feet away, and the nearest improvement due north of the cemetery is a farm house that is 2,500 feet away. The nearest residence directly west of the cemetery is more than one-quarter mile away, and only one residence is located on 40 acres that directly abuts the cemetery to the south. All these above referenced dwellings are resource related. The nearest non-resource dwellings are located one-quarter mile away to the south on Riverview Street. The cemetery site is an isolated location that is adequately buffered on all sides. The steep topography on the south and east in particular conceal the cemetery from public view from those directions. It is also impossible to see the cemetery from the north and west owing to topographic considerations. The existing cemetery has been historically compatible with all surrounding uses. According to the applicant, the local mortuary has never had a documented interference with traffic and farm machinery, nor have any law enforcement actions resulted from illegal activities at the cemetery. According to the applicant, the cemetery is so safe that the need to gate cemetery has not yet arisen. A sign is located at the entrance to the cemetery that is closed after dark. According to the applicant, anyone passing by the nine houses on Riverview Street would be viewed with suspicion if they were there after dark. The applicant concludes that the cemetery is, therefore, in a very defensible location with respect to law enforcement issues.

On January 18, 2012, the applicant provided the following additional bulleted statements to further support their impact analysis:

Access

1. The Buena Vista Cemetery is located at the dead end of a county road known as Riverview Street in Buena Vista, Oregon.
2. The only access to the cemetery is via Riverview Street which is a one-lane gravel road contained within an 80-foot right-of-way.
3. The right-of-way is wide enough to accommodate cemetery traffic and farm traffic.
4. The director of Farnstrom Mortuary confirmed that they have never had any conflict with farm equipment before, during or after graveside funeral services.
5. The director of Farnstrom Mortuary stated that funeral processions are led by a hearse and that traffic controls are implemented during graveside services including one-way processions in and one-way out.

Impacts

1. The proposed cemetery expansion will not result in any significant adverse impacts to adjoining farming operations.
2. The proposed cemetery expansion has a significant tree and topographic buffer to the south and east ranging from 40 feet to 400 feet wide. This buffer consists of mature timber that is sight obscuring.
3. The existing cemetery also has a significant buffer on the east and north which consists of thick timber and steep topography.
4. The buffers that surround the proposed cemetery expansion and the existing cemetery effectively negate any potential reciprocal adverse impacts between the farming operations in the area and the cemetery.
5. The right-of-way for Riverview Street is 80 feet wide for the entire frontage of both the exiting and proposed cemetery. This buffer is wider than most public right-of-way and does serve to segregate the cemetery use from adjoining farm use to the west.
6. The farming operations that are closest to the cemetery on the west and north are exclusively for grain and grass seed production.
7. The grass seed operations have a relatively low impact on surrounding uses because of the manner in which farming practices are conducted. Grass seed requires plowing and discing once every three to five years for disease control since field burning has been severely curtailed.
8. Grass seed operations are usually rotated into oats and wheat for one year before grass seed is replanted.
9. The ground where grass seed is rotated with grain crops is plowed in the late summer or fall every three to five years when rotation occurs.
10. Dust generated from field plowing is one of the impacts that could create incompatibility between the cemetery and adjoining farms; however, graveside services are infrequent. They would not likely coincide with the plowing since only an average of five services

per year occur at the cemetery according to Ben Farnstrom of Farnstrom Mortuary in Independence, Oregon.

11. Other farm practices that could potentially create incompatibility are hours of operation and noise. Grass seed harvesting can only be done when the seed heads are dry, so it is often done at night rather than during the mid-day hours when funeral services would be likely to occur.
12. According to Ben Farnstrom of Farnstrom Mortuary in Independence, Oregon, there has never been an incident where a graveside service interrupted a farming practice or where a farming practice adversely affected a graveside service.
13. The higher impact farming practices from grass seed practices and grain occur between June and September. Much of the rest of the year only a few low impact activities, such as weed removal performed by manual spot spraying, are conducted.
14. The farming activities that can potentially affect the cemetery operation occur on a property owned by the Wells Living Trust. No other farm operators in the area have properties adjoining the cemetery except for the Powers, who are a party to the Property Boundary Adjustment Application.
15. The impacts generated by the cemetery operation that could potentially interrupt farming practices are funeral processions and graveside services. According to Ben Farnstrom, traffic entering the cemetery is exclusively on Riverview Street, and the hearse leads the procession to the exact spot in the cemetery where the service is going to be held. No cars are allowed to be parked on the Riverview Street right-of-way regardless of where the service occurs in the cemetery. No documented restriction to moving farm equipment has ever occurred at this site.
16. To minimize impacts to adjoining farming operations the funeral procession is led into and out of the cemetery by the funeral director, and access is one-way in and one-way out exclusively.
17. The Buena Vista Cemetery occasionally conducts military funerals with gun salutes; however, no sensitive animal operations or houses are close enough to be impacted by this rare occurrence.
18. The Buena Vista Cemetery maintains daylight hours for cemetery visits. Due to the remote location of the cemetery, no gates or fences surround it, such as is the case at the Hilltop Cemetery.
19. Maintenance activities associated with the cemetery consist of grass mowing and debris removal. These activities are conducted by the maintenance staff on weekdays during daylight hours.
20. The Buena Vista Cemetery has no power, water, sewage disposal, or storm drainage; nor are any permanent structures located there. Maintenance equipment is stored in a metal shipping container in an obscure location on the east side of the old cemetery.
21. Graves are excavated at the site by a backhoe; but, as stated previously, an average of only five burials occur per year. Excavations are so infrequent, therefore, that no impacts are felt by adjoining farming operations.
22. The Buena Vista Cemetery, which is located at a dead-end on Riverview Street, has no documented evidence of vandalism or crime, such as has occurred at the Hilltop

Cemetery on Corvallis Road. The Hilltop Cemetery developed such a serious problem with drug dealing that the cemetery had to be gated and fenced, and specific patrols had to be requested in order to stop those activities. The local residents police the Buena Vista Cemetery themselves, so no impact occurs to local law enforcement.

23. A positive finding can be made that the Buena Vista Cemetery has coexisted with farming activities for 167 years without any reciprocal adverse impacts.

The applicant promises that the proposed expansion will continue those measures that have kept the cemetery compatible with adjacent uses for so long, and any prospective roads that may be planned for the cemetery expansion will be posted.

F. For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following: [660-004-0022(1)]

- 1. There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either**
- 2. A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or**
- 3. The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.**

Findings: On January 18, 2012, the applicant provided the following bulleted statements as findings for "demonstrated need":

1. The Buena Vista Cemetery has an extremely local demand for burial plots based on the fact that 105 of 107 cemetery lot sales dating back to 1990 are from families that either live in Buena Vista, formerly lived in Buena Vista but have family buried in the cemetery or live within the cemetery district. Only two of the plots have sold to persons from outside of the district.
2. The other cemetery in the district (Hilltop Cemetery) by contrast has had only 64 in district sales since 1990 and 292 burial plot sales originating from outside the district.
3. The percentage of sales to in district residents for Buena Vista Cemetery is 98% compared to 21.9% for the Hilltop Cemetery.
4. The Buena Vista Cemetery had no burial plots available from 1994 through 2004 because all available lots were allocated. The cemetery was able to market 81 plots from 2005 through 2010 only because the district board vacated the old carriage roads within the cemetery.
5. The Buena Vista Cemetery now only has six plots available and based on the twenty year absorption rate has only a one year supply left (107 plots sold divided by 21 years = 5.1 plots annually).

6. The Hilltop Cemetery has available plots for sale but the rural residents in and around Buena Vista and their families have clearly demonstrated through the sales data of plots that they have no desire to purchase plots at Hilltop Cemetery. This is due to a strong commitment to have burial in the same cemetery as family members.
7. The Buena Vista Cemetery Board will as a matter of policy discourage any prospective sale of burial plots to parties outside of the Cemetery district in order to maintain availability of plots for local residents.

The applicant also provided the following bulleted statements as findings to substantiate that the proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site:

1. The existing cemetery is without question a valuable asset to the citizens of Buena Vista having been in existence since 1846. Some families have eight generations of family members buried there. The inability to expand the cemetery means family members will have to go elsewhere for burial, which is unacceptable to them.
2. The proposed use or activity is not really a proposed use, it is an existing use that has a strong historical and cultural inertia behind it. By locating the needed cemetery plots directly adjacent to the existing cemetery, family members can continue to be buried in the same cemetery.
3. The special feature is the existence of a historical cemetery with a strong cross section of early historic settlers. Siting an expanded facility at other than a contiguous location would adversely affect the existing cemetery by decreasing interest in visiting it and maintaining it.
4. The special feature of being on a high bluff above the Willamette River surrounded by tall timber on the east and south places the cemetery at the best view site in Buena Vista. This cemetery has a commanding view of the quilted farm use pattern that is unique amongst all cemeteries in Polk County. No other cemetery in Polk County has the commanding view on a bluff directly above the Willamette River.
5. The Hilltop Cemetery Board believes the best way to keep this cemetery viable is to continue to have local families retain this as a final resting place. Denial of this application would eventually result in the cemetery being only a maintenance burden to the district with no ability to generate revenues for the district.
6. The Hilltop Cemetery Board Members past and present own burial plots in the cemetery and their family members are buried here. They are closely attuned to the families in the area and they want the cemetery to expand to meet their future needs. The families are also concerned that the cemetery be expanded so they can be buried in the same cemetery as their family members.
7. The fact that 98% of the plots sold in the last twenty years have been to in district and Buena Vista residents attests to the special features of this cemetery. The demand is clearly here if the plots are made available.

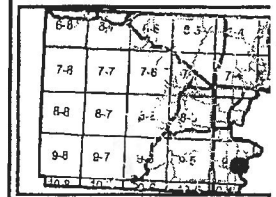
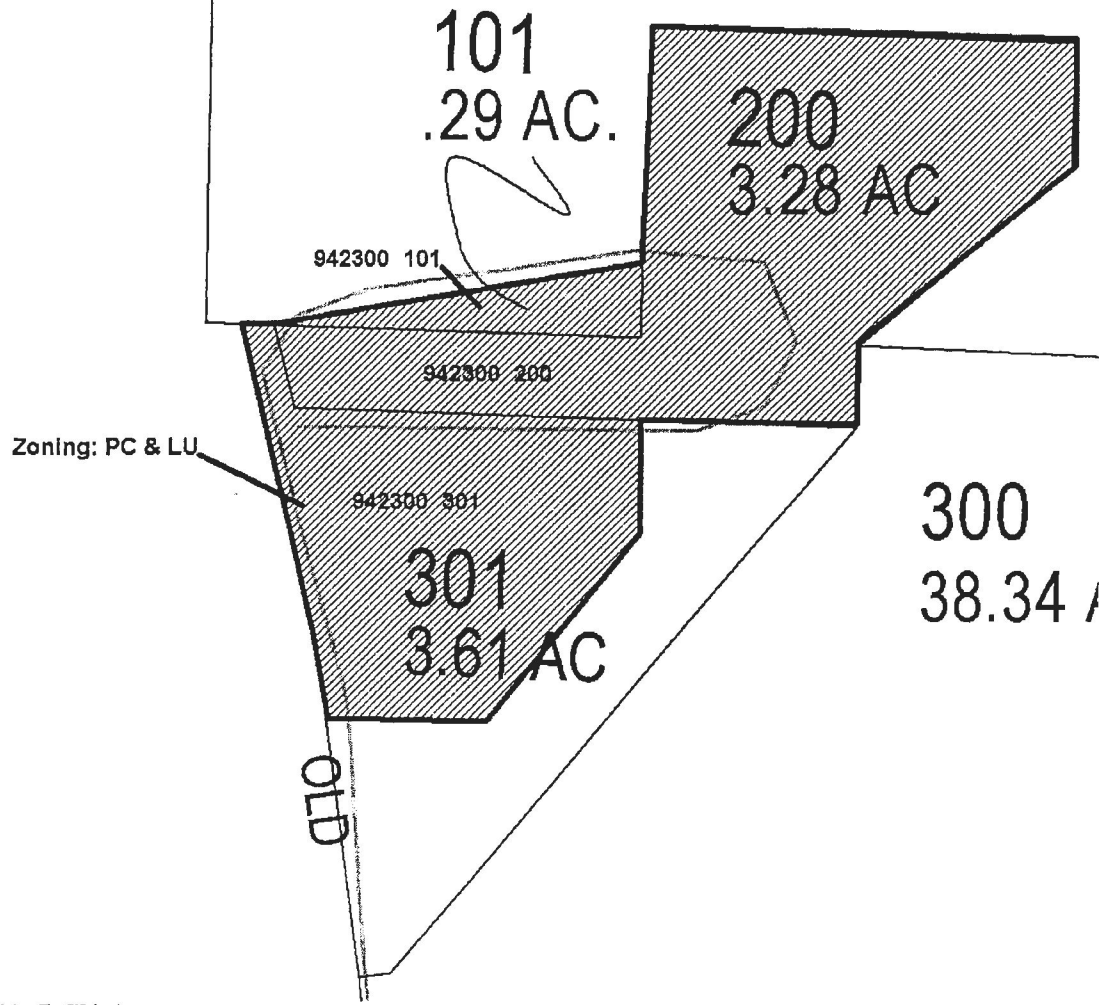
The applicant contends that Buena Vista Cemetery has demand for burial plots from those with family buried in Buena Vista Cemetery and from those living within the cemetery district. The applicant sites in district sales data for Buena Vista Cemetery and Hilltop Cemetery as evidence of this demand. The application does establish those with family buried at Buena Vista as a unique subset of the population whose demand for burial plots can only be met by expanding the Buena

Vista Cemetery. The applicant states that there are only six burial plots available at this time in Buena Vista Cemetery, which, coupled with the existing and anticipated demand, creates the need for additional plots to serve those with family buried in Buena Vista Cemetery. The applicant conceded that there was not currently a demonstrated need for 3.55 additional acres of land for cemetery use. As a result, the applicant is now requesting 1.59 acres of area to be used for additional cemetery space. If we assume that 30% of the area would be needed for infrastructure including lighting, roads, walkways and space between burial areas, that would leave approximately 1.1 acres for burial plots. Assuming one burial plot occupies 60 square feet (12'x 5'), the expansion would allow an additional 798 burial plots. The applicant states that the cemetery expansion area also incorporates some existing burial sites that were established independent of the cemetery and would further limit the available area for new burial plots. The applicant does not provide demand data to demonstrate the planning horizon that the expansion area is intended to meet or evidence as to how many applicants for burial lots in the existing Buena Vista Cemetery could reasonably be accommodated at Hilltop Cemetery. The application lacks the level of sophistication needed to demonstrate beyond a reasonable doubt that the existing or anticipated demand for burial plots warrants a 1.59 acre expansion. However, the exception process does not require that the evidence establish a determination that is beyond dispute that any reasonable alternative is possible. On its face, the application appears sensible. The applicant has stated that there is demand for plots specifically at Buena Vista Cemetery from those with relatives buried there and it is a reasonable observation that families expand exponentially over time increasing demand year over year. In addition, an application to expand on to less than one acre could limit the ability to establish other amenities that are typical of cemetery sites that may be required or needed in the future to provide safety and sanitation, such as restrooms and drinking fountains, due to a lack of area for an onsite septic system.

Polk County Map

Community Development

- Roads**
- GRAVEL
 - CO-GRAVEL
 - PAVED
- Taxlot12**
- Taxlot Arrows12
 - Taxlot Boundary12
 - taxlot12



1in. = 160 ft.

5/24/2012

POLK COUNTY

This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

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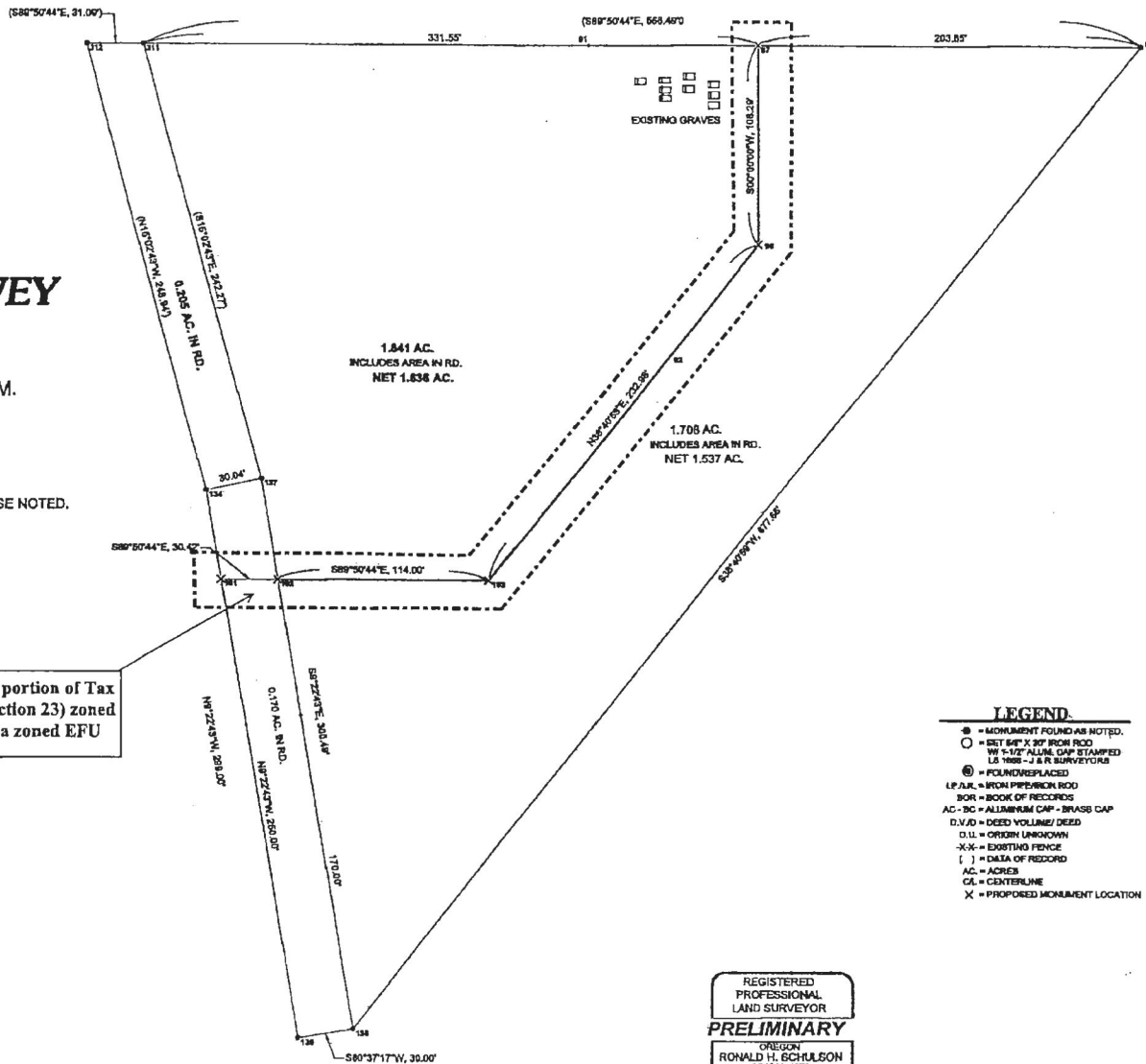
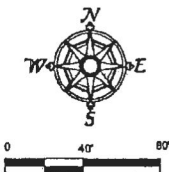
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MAY 18 2012
POLK COUNTY
COMMUNITY DEVELOPMENT

**PROPOSED
RECORD OF SURVEY**

PREPARED FOR
BUENA VISTA CEMETERY
LOCATED IN
REASON B. HALL DLC NO. 66
NW 1/4 SEC. 23, T. 9 S., R. 4 W., W.M.
POLK COUNTY, OREGON
MAY 18, 2012

RECORD DATA PER CS 15493 UNLESS OTHERWISE NOTED.

Line that separates the portion of Tax Lot 301 (T9S, R4W, Section 23) zoned PC and LU and the area zoned EFU



- LEGEND**
- = MONUMENT FOUND AS NOTED.
 - = SET 6/8" X 30" IRON ROD WITH 1/2" ALUM. CAP STAMPED LS 1988 - J & R SURVEYORS
 - ⊙ = FOUND REPLACED
 - IP.F.P. = IRON PIPE/IRON ROD
 - BOR = BOOK OF RECORDS
 - AC-BC = ALUMINUM CAP - BRASS CAP
 - D.V.D = DEED VOLUME/ DEED
 - D.U. = ORDER UNKNOWN
 - X-X- = EXISTING FENCE
 - [] = DATA OF RECORD
 - AC. = ACRES
 - CL = CENTERLINE
 - X = PROPOSED MONUMENT LOCATION

REGISTERED
PROFESSIONAL
LAND SURVEYOR
PRELIMINARY
OREGON
RONALD H. SCHULSON
JULY 14, 1978
LS 1658
RENEWAL 8-30-2012

J & R SURVEYORS, P.O. BOX 418 DALLAS, OR. 97338, Ph.# (503)623-4003

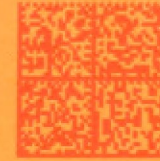
J&R NO. 12- - CAD BY:

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Polk County
Community Development
Polk County Court House
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Dallas, Oregon 97338

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DLCD
Plan Amendment Specialist
635 Capitol ST NE, Suite 150
Salem, OR 97301