



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: TEXT AMENDMENT

Applicant: Morgan County Planning & Development
Applicant's Agent: N/A
Zoning Ordinance: Bostwick Zoning Ordinance Section 9.15 Family Burial Plots

Summary

The City of Bostwick has been approached about a family burial plot within city limits (see application for Garrison). Currently, the only cemeteries allowed in Bostwick are those associated with a church. The Bostwick Council has indicated that they are not opposed to allowing family burial plots, provided the language is appropriate for the city.

Current and Proposed Language

The Bostwick Zoning Ordinance lists "Cemetery, Religious Institution" as a conditional use in the AG, R1 and R2 zoning districts, and as a permitted use in the C1 zoning district.

See attached for proposed language.

Staff Comments

The proposed language is identical to that contained in the Morgan County Zoning Ordinance. The minimum acreage was left at 5 acres and the setbacks are the same, although there are limited properties in Bostwick that may qualify for these requirements. Staff feels that the setbacks are necessary to protect a cemetery from structure encroachment and to protect water quality.

Section 9.15 Family Burial Plots

This section provides the minimum specifications and requirements for a family burial plot. Requirements are imposed only to the extent necessary to protect the public health and from any significant effect on the neighborhood or area from which the family burial use is established.

9.15.1 Specifications and Requirements for Family Burial Plot

Application: A conditional use application shall be filed on forms prescribed by the Department of Planning and Development and shall include the required documentation as set forth in this Section.

Landowner Consent: The notarized signatures of the applicant and at least 51% of all record title holders shall appear upon the application.

Area and Setback Requirements: A family burial plot shall comply with the following requirements:

- **Minimum Size of Tract or Parcel:** The minimum size of the tract or parcel of contiguous land on which a family burial plot may be located shall be five (5) acres;
- The minimum setback from and property line shall be fifty (50) feet;
- The minimum setback line from any building or structure, regardless of property line, shall be one hundred (100) feet;
- The minimum setback from any water source or surface water shall be two hundred (200) feet.

Survey: Each Landowner is required to provide a survey, by a registered surveyor, containing a registration point and the boundaries of the family burial plot.

Perpetual Access: The landowner shall provide perpetual access to the City and immediate family and descendants of those persons interred in the burial plot. A minimum five (5) foot ingress-egress pedestrian access path shall be provided. The access path shall be delineated on the survey of the burial plot. The property owner shall provide a pedestrian access easement for the path.

Miscellaneous Requirements: All being interred in a family burial plot shall have an outer burial container or vault. All family burial plots shall be enclosed by a fence.

9.15.2 Duty to Preserve and Protect

The landowner, and all subsequent landowners, shall preserve and protect the cemetery or burial ground and keep safe from destruction, peril, or other adversity, and may include the placement of signs, markers or other such appropriate features so as to identify the site as a cemetery or burial ground and may include the cleaning, maintenance, and upkeep of the site so as to aid in its preservation and protection.

9.15.3 Maintenance Requirements

The landowner shall be responsible for the routine maintenance of the family burial plot. This maintenance shall include, but is not limited, to the following:

- Weeds shall be removed from the cemetery on a routine basis;
- All fencing shall be inspected for damage and repaired on a regular basis;

- All plantings or foliage within the burial plot shall be pruned and be generally left in its natural state;
- All debris or trash shall be removed from the burial plot on a regular basis.

9.15.4 Prohibited Location

No family burial plot shall be located within a floodplain.

9.15.5 Prohibited Uses

Solicitation or sale of any burial space or grave within a family burial plot shall be prohibited.

9.15.6 Deed Restriction

Upon establishment of a family burial plot, a deed restriction shall be recorded in the Morgan County Clerk's office acknowledging the location, size and ownership of the family burial plot.

