

MEMO

To: George Flores, Director of Development Services
From: Terri Hogan, AICP, Deputy Director of Planning/Zoning Administrator
Date: January 16, 2019
Re: Interpretation 19-01: Louis B. Hazelton Memorial Cemetery

Purpose:

To determine if the Louis B. Hazelton Memorial Cemetery shown below and located at 23100 W. Broadway Road under two parcels (APN 504-22-019 and APN 504-22-023) can be considered a legal non-conforming use and if any additional zoning entitlement is required.



Background:

- Prior to annexation, the cemetery was established in 1938 by the American Legion Hazelton-Butler Post #53 and its' auxiliary and then ownership was transferred to the Town of Buckeye in 1947.
- **February 18, 2003:** The Town Council annexed via Ordinance No. 07-03 both parcels and the property was designated as Planned Residential Zoning on the Land Use District Map under the Town of Buckeye Development Code adopted August 19, 1996 (revised December 2001 and March 2003).
- **March 18, 2003:** The Town Council adopted via Resolution No. 25-03 the Louis B. Hazelton Memorial Cemetery Master Plan.

Analysis:

The 1996 Development Code states the following:

Section 7-1-6 Newly Annexed Property:

Within six (6) months of annexation, all areas within such annexation shall be given a Land Use District classification by Town Council.

- A. Land Use Map – Upon the annexation of any area, the Town shall prepare a land use map which shall be prima facie evidence of the manner in which a building or land was being used at the time of annexation. The map shall be certified by the Administrator.*
- B. Status of Existing Uses – A use or activity conducted contrary to the Maricopa County Zoning Ordinance or development regulations on the effective date of annexation, and constituting a legal non-conforming use under the county regulations, shall be entitled to be considered a legal non-conforming use under this Code.*

For the purposes of the 1996 Code, Land Use District meant zoning district in current day terms and the land was designated PR or Planned Residential. The PR zone did not permit cemetery as a use and upon consultation with Maricopa County, staff understands that the Maricopa County Zoning Ordinance requires a Special Use Permit for cemeteries, but by policy exempts governmental uses from compliance with MCZO.

In addition, the adopted cemetery master plan meets the criteria for the 1996 Development Code's Area Plan, a policy document, under Section 7-3-2, the statutorily allowance for Specific Plan, a policy and regulatory document, allowed under ARS 9-461-08, and the many components necessary for a phased site plan which were not clearly defined at the time. Further, Phase 1 of this plan has since commenced.

Interpretation:

Staff has determined that per the 1996 Development Code, the existing cemetery use for both properties was established through the annexation process. Therefore, the cemetery use on both properties is considered legal non-conforming under that Code and no further zoning entitlement is required unless an expansion from the original annexed boundary is proposed.

Further, staff has also determined that 2003 Master Plan, which is both a policy and regulatory document and has commenced, constitutes a vested site plan and no further site plan submittal is required unless an amendment to the approved layout is proposed.

It is important to note that any construction permits, civil or building, will be required as the site continues to develop.

Attachments:

- Ordinance No. 07-03
- Resolution No. 25-03
- Louis B. Hazelton Memorial Cemetery Master Plan March 2003