

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

84-295

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance to)
Implement Planning Commission Re-)
solution 84-17 Authorizing an)
Amendment to the Yamhill County)
Zoning Ordinance No. 310, 1982,)
Requested by Victor G. and Kathy)
G. Hopper)

ORDINANCE NO. 377

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 27th day of June, 1984, sat for the transaction of County business, in special session, Commissioners David E. Bishop, Ted Lopuszynski and Robin J. Hamblet being present.

WHEREAS, pursuant to ORS 215.402 to 215.422 and 1301.01(c) (8) of the Yamhill County Zoning Ordinance No. 310, decisions by the Yamhill County Planning Commission to approve or deny requests for amendment to the Zoning Ordinance are final unless an aggrieved party appeals to the Board within fifteen days from the date of the Planning Commission hearing, or unless the Board in its discretion elects, pursuant to Section 1301.05 of said Ordinance to review the decision on its own motion within 15 days; and

WHEREAS, Victor G. and Kathy G. Hopper have filed an application with the Yamhill County Planning Department to change the zone on a 5,625 square foot portion of Yamhill County Tax Lot 5416-604 as set forth on a sketch plan attached hereto as Exhibit "B" and by this reference made a part hereof, requesting that the zone designation on said parcel be changed from "VLDR-5" to "PWS"; and

WHEREAS, on the 3rd day of May, 1984, the Yamhill County Planning Commission held a public hearing and voted to approve the change in zoning on said parcel, said decision being reflected in the attached Resolution 84-17, identified as Exhibit "A" of this Ordinance and incorporated herein by this reference, as if fully set forth herein; and

WHEREAS, more than 15 days have elapsed since this decision was announced by the Planning Commission and no appeals to or reviews by the Board have been requested, NOW THEREFORE, based upon and for the reasons set forth in the attached Resolution 84-17, identified as Exhibit "A" of this Ordinance, and based upon the findings attached thereto,

IT IS HEREBY ORDAINED BY THE BOARD as follows:

Section 1. That the official Zoning Map of the Yamhill County Zoning Ordinance be and hereby is amended consistent with and as set forth in the attached Resolution 84-17 of the Yamhill County Planning Commission to incorporate the change on the area identified in the attached sketch map, identified as Exhibit "B" and incorporated herein by this reference from "VLDR-5" to "PWS".

Section 2. This Ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County and an emer-

gency having been declared to exist, shall be effective upon passage hereof.

DONE this 27 day of June, 1984 at McMinnville, Oregon

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN

County Clerk

By:

Deputy ELAINE PEARCEY

APPROVED AND SET TO FORM BY:

JOHN M. GRAY, JR.

Assistant County Counsel



Chairman

DAVID E. BISHOP

Date: 6-27-84

Commissioner

TED LOPUSZYNSKI

Date: 6-27-1984

Commissioner

ROBIN J. HAMBLET

Date: 6-28-84

In the Matter of an Amendment to the)
Yamhill County Zoning Ordinance, No.)
310, 1982, as requested by Victor) RESOLUTION NO. 84-17
and Kathy Hopper)

THE PLANNING COMMISSION of Yamhill County, Oregon, on the 3rd day of May, 1984, sat for the transaction of County business at a regularly scheduled session. Planning Commissioners Sadler, Treadway, Bunn, Weidemann, Philpott, Bennette, Stockhoff and Miller were present.

WHEREAS, the Yamhill County Board of Commissioners adopted the Yamhill County Zoning Ordinance, No. 310, 1982, on the 1st day of December, 1982, being the Yamhill County Zoning Ordinance text and Official Zoning Map; and

WHEREAS, ORS 215.020 provides that a governing body may create a county planning commission and, pursuant to ORS 215.406 may designate the planning commission to serve as a hearings officer with all the power and duties of a hearing officer as prescribed by ORS 215.010 and 215.402 to 215.422; and

WHEREAS, the Yamhill County Board of Commissioners created the Yamhill County Planning Commission by adoption of an unnumbered Board Order on the 6th day of November, 1957 and designated that planning commission as the hearings body for petitions for amendments to the Yamhill County Zoning Ordinance, No. 310, 1982 by adoption of Ordinance No. 138 on the 1st day of June, 1977; and

WHEREAS, it appears to the Planning Commission that a petition submitted on behalf of Victor and Kathy Hopper has been filed with the Yamhill County Department of Planning and Development, pursuant to Section 1207 of Ordinance No. 310 to amend said Ordinance, and change the Official Zoning Map designation from VLDR-5 to PWS on a parcel described as a 5625 square foot tract; and

WHEREAS, the Amity Planning Advisory Committee reviewed the amendment request at a public meeting and recommended approval of the request; and

WHEREAS, the Planning Commission, on the 3rd day of May held a public hearing as required by ORS 215.223 and 215.416 on the proposed amendment and voted to recommend approval of the request based on the findings and conclusions attached hereto as Exhibit "A" and by this reference made a part hereof;

NOW THEREFORE, IT IS HEREBY RESOLVED that the Official Zoning Map be and hereby is amended to show the Zoning Designation on a 5625 square foot portion of Yamhill County Tax Lot 5416-604 as PWS as shown on the sketch plan attached hereto as Exhibit "B" and by this reference made a part hereof.

This resolution shall be in force and effect from and after the date the change is properly recorded on the Official Zoning Map. The Yamhill County Planning Director be and hereby is directed and authorized to amend said Official Zoning Map in conformance with this Ordinance.

DONE this 3rd day of May, 1984

AYES: Treadway, Sadler, Bunn, Weidemann, Philpott, Bennette,
Stockhoff, Miller

NAYES: _____

ABSTENTIONS: _____

Approved by the Chairman on this 3rd day of May, 1984.

ATTEST:

Lynn Steiger
Planning Director

YAMHILL COUNTY PLANNING COMMISSION

Dick Sadler, Chairman

EXHIBIT "A"

Findings of Fact

1. The applicant has requested a Plan Amendment/Zone Change from "Agriculture/Forestry Large Holding" to "Public Facilities" and from AF-20 to PWS on a 5,625 square foot portion of a 5 acre tract for the purpose of establishing a cable communications facility.
2. The proposed site is located less than 1 mile north of the Amity Urban Growth Boundary at an elevation determined to be appropriate to develop signal strength necessary for the cable system to serve the City of Amity. The elevation is approximately 530 feet.
3. Facilities proposed to be located at the site include a 13' by 15' building for housing equipment and receiving gear, and a 16' diameter receiving antenna. All utilities necessary to operate the facilities exist on the site.
4. The applicant has submitted information addressing the relevant County criteria for a plan amendment/zone change (see attached). No justification for taking an exception to applicable goals has been submitted.
5. Eagle Cable Systems, Inc. has leased the 75' by 75' area from the landowners/applicant and Eagle Cable Systems will be responsible for the proposed transmission facilities. Additionally, Eagle Cable Systems, Inc. has received a franchise from the City of Amity for the purpose of providing Amity with cable service. The City of Amity has set a 1984 deadline for installation of the cable system to meet the goals and objectives of the citizens of the community.
6. The applicant has indicated that the proposed site best suits the needs for providing Amity with cable service for the following reasons:
 - a. The site is near the crest of the Amity Hill and, therefore, has the proper elevation to receive transmissions from the Portland metropolitan area.
 - b. The site has enough clear space to allow installation of a disk antenna without obstructions blocking the antenna.
 - c. The site is close to the City of Amity and, therefore, meets the criteria of cost effectiveness for short line runs from the antenna to the user.
7. Although there are several existing PWS zoned sites in the County, they are all devoted to existing uses and are unavailable for further development. Additionally, there are only 2 PWS sites within a close proximity to Amity and these sites are devoted to existing uses and are at elevations more than 200 feet lower than the subject site.
8. A dwelling is presently located on the subject 5 acres. A small vineyard exists on the property; however, the proposed cable facilities will be sited in such a manner as to not remove any vineyard from production.
9. Soils on the subject property are agricultural Class IV, Steiwer silty clay loam and Yamhill silt loam. These soils have very severe agricultural limitations due to erosion potential.

10. Zoning in the area is predominantly AF-20 and EF-40 and surrounding parcels range in size from approximately 2 acres to over 150 acres. Parcels that abut the subject property on 3 sides are under 10 acres in size. A 155 acre farm parcel abuts the subject property on the north. A large wooded area buffers the subject property from the cultivated portion of the abutting 155 acre parcel. Other uses in the area include woodlots, small-scale farm uses, nonfarm dwellings and Amity Vineyards.
11. The subject property is accessed by a gravelled road with a 10' by 12' travel surface. The applicant has indicated that the proposed use should have no impact on traffic generation in the area after the initial construction of the facilities. The facilities are self-operating and will probably not require any more than 1 vehicle trip every 2 to 3 months.
12. The following public agency comments have been received:
 - a. Fire Chief, Amity Rural Fire District - No conflicts with the District's interests.
 - b. City of Amity - No conflicts with the City's interests.
 - c. Amity School District - No conflicts with the District's interests.
 - d. County Sanitarian - No conflicts with Environmental Health's interests.
 - e. County Engineer - The location of the road fronting the south side of the subject parcel has been disputed over the last several years with, in at least 1 instance, a well probably being drilled within the right-of-way. Confirmation of road location prior to construction of any improvements would be a reasonable precaution.
13. The Amity PAC reviewed the application at their meeting of April 23, 1984 and unanimously recommended approval of the application.

Approval

The following conclusionary findings can be made for approval of the application:

1. The facility would be consistent with the applicable goals and policies of the County Comprehensive Plan in that:
 - a. The cable facilities do not require the extension of urban services to the site; and

- b. The amount of agricultural Class IV land being taken out of production is less than 6,000 square feet and the existing vineyard on the parcel will remain in production without interference from the proposed cable facilities. Further, the characteristics of the proposed use are such that the overall "Agriculture/Forestry Large Holding" plan designation for the surrounding area will be unaffected.
2. There is a demonstrable need for the amendment to accommodate the proposed cable facilities in that the City of Amity has, after public review and input, passed a cable television ordinance and granted a franchise to Eagle Cable Systems, Inc. for the purpose of providing the City of Amity with cable service by 1984. Such a cable communication service has been determined to be needed by the City of Amity to meet certain communication goals and objectives of the citizens of the community.
3. The proposed amendment is timely considering the following:
 - a. The City of Amity has set a 1984 deadline for installation of a cable system and acquisition of a site that is properly zoned is a necessary step toward finalizing the process;
 - b. A long term lease has already been entered into between the landowner/applicant and Eagle Cable Systems, Inc; and
 - c. All necessary utilities are currently provided to the site.
4. In that the only PWS zoned lands in the County are devoted to existing land uses, there are no developable PWS zones available to accommodate the proposed use. Further, since the proposed cable facilities are dependent upon certain locational criteria for technical and economic reasons and because the applicant has indicated that this site was chosen for its proximity to Amity, its relatively high elevation and the unobstructed terrain around the parcel, the subject property is well suited for the proposed use.
5. The following findings can be made in support of taking an exception to the applicable County goals:
 - a. The County resource goals should not apply to the subject site in that the City of Amity has determined that installation of a cable system is necessary to meet certain community goals and objectives and this site has been chosen as the best site to provide Amity residents with cable service; the amount of land area affected is under 6,000 square feet and therefore, the amount of land removed from potential agricultural or timber production is very minimal; and the characteristics of the proposed use are such that there will be very minimal impact on surrounding lands and, as such the overall agricultural plan for the area will not be altered by this proposal.

- b. There are no areas in the County that can reasonably accommodate the use and that do not require a new exception, in that the facility requires a Public Facilities plan designation and all lands that are so designated in the County are devoted to existing uses and unavailable for development. Further, the proposed facilities have certain locational requirements which limit the area from which sites can be chosen and lands in the vicinity of the subject property are generally plan designated "Agriculture/Forestry Large Holding" and, therefore, would also require an exception to accommodate the proposed use.
- c. The long term environmental, economic, social and energy consequences resulting from the use of the proposed site are not significantly more adverse than would typically result from this same proposal being located in other areas requiring an exception in that the estimated consequences resulting from use of the subject property for the proposed use are considered very minimal. It is anticipated that the proposed use of the site will have virtually no impact on existing agricultural land uses in the area and the overall land use pattern of the area will be unchanged by this proposal.
- d. The proposed use will be compatible with other adjacent uses in that there are expected to be no increases in traffic and no generation of noise or pollution as a result of the proposed facilities being placed on the site. Further, the proposed zone requires site design review prior to construction on the property and appropriate screening provisions, etc. can be imposed through that process.

SKETCH PLAN FOR COMPREHENSIVE PLAN AMENDMENT

EXHIBIT "B"

TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION
FROM "Agriculture/Forestry Large Holding"
TO "Public Works Safety"
and
TO CHANGE THE OFFICIAL ZONING MAP
FROM "AF-20" TO "PWS"

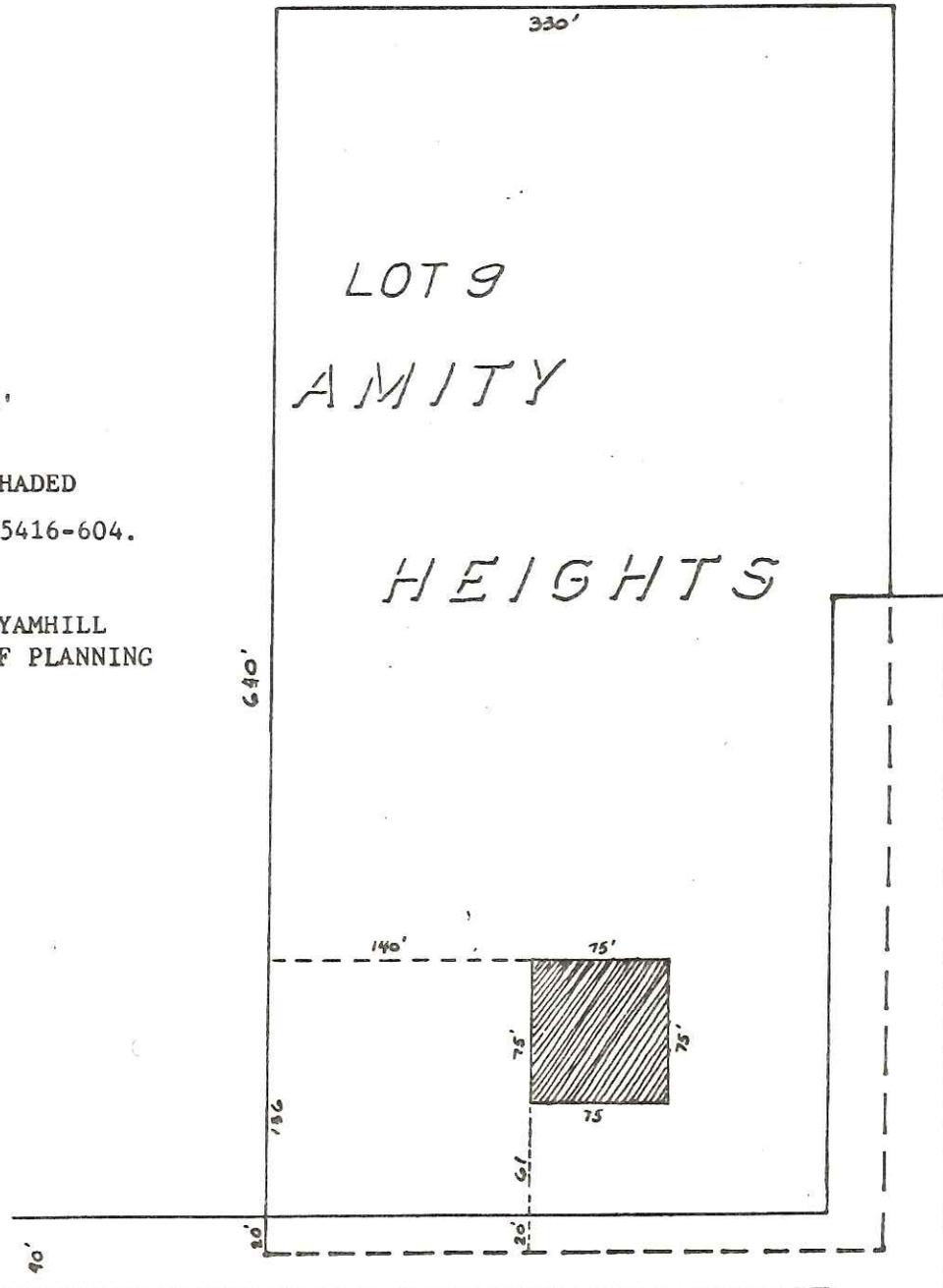
Applicant: Victor G. & Kathy G. Hopper
Address: Rt.1, Box 48, Amity, OR97101
Telephone: 835-3711
Tax Lot No.: 5416-604
Docket No.: PA-135-84/Z-250-84



Scale: 1" = 100'

CHANGE APPLIES TO SHADED
PORTION OF TAX LOT 5416-604.

SKETCH PREPARED BY YAMHILL
COUNTY DEPARTMENT OF PLANNING
& DEVELOPMENT.



LEGAL DESCRIPTION

Being a part of Lot 9, Amity Heights Addition to the City of Amity, Yamhill County, Oregon, and more particularly described as follows:

Beginning at the Southwest corner of the aforesaid Lot 9 of Amity Heights, thence east, along the southern boundary line of said lot 140 feet: thence north, parallel to the west boundary line of said lot 156 feet to the True Point of Beginning; thence east, parallel to the southern boundary line of said Lot 9, 75 feet; thence south, parallel to the western boundary line of said Lot 9, 75 feet, thence west, parallel to the southern boundary line of said Lot 9, 75 feet; thence north, parallel to the western boundary line of said Lot 9, 75 feet to the True Place of Beginning.

Together with an easement for ingress, egress and transmission of utilities along, across and under Lessor's property to and from the above-described parcel.