

IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON

FILED  
YAMHILL COUNTY OREGON

83-186

FOR THE COUNTY OF YAMHILL

MAY 6 11 43 AM '83

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

CHARLES STERN  
COUNTY CLERK  
DEPUTY

In the Matter of an Ordinance to )  
Amend the Yamhill County Compre- )  
hensive Plan of 1974 for a 20,000 )  
square foot portion of Tax Lot )  
4316-1300 for use as a cable )  
communications site. )

ORDINANCE NO. 335

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON, (the Board) on the 4th day of May, 1983, sat for the transaction of County business, in regular session, Commissioners Robin J. Hamblet, Dave Bishop and Ted Lopuszynski being present.

WHEREAS, the Board of Commissioners enacted Ordinance No. 62 on the 25th day of September, 1974, adopting the Yamhill County Comprehensive Plan; and

WHEREAS, Liberty Communications, Inc. has applied for an amendment to the Yamhill County Comprehensive Plan, 1974, to change the Plan Map designation for a parcel within the Dayton Urban Growth Boundary from "Residential" to "Public Facility" in conjunction with an amendment to the Yamhill County Zoning Map, on a 20,000 square foot portion of a larger 16 acre parcel, located approximately 1/4 mile east of the City of Dayton more particularly described as Tax Lot 4316-1300; and

WHEREAS, The Urban Area Growth Management Agreement jointly adopted by the Dayton City Council and Board of Commissioners in 1979 states that plan amendment requests within the Dayton UGB, but outside of the City limits, shall be considered at a joint public hearing of the Dayton and Yamhill County Planning Commissions; and

WHEREAS, a joint public hearing was held on the 21st day of April, 1983, and each Planning Commission unanimously recommended approval of the Plan Amendment/Zone Change request; and

WHEREAS, the Dayton City Council, on the 2nd day of May, 1983, approved the requested Plan Amendment and recommended that the Board approve the zone change; and

WHEREAS, the Board on the 4th day of May, 1983, held a public hearing as required by ORS 215.060 on the proposed Plan Amendment and voted to approve the application based on the findings attached hereto as Exhibit "A" which, by this reference, are made a part hereof.

NOW, THEREFORE, IT IS HEREBY ORDAINED that the Yamhill County Comprehensive Plan Map of 1974, be and hereby is amended to designate a 20,000 square foot portion of Tax Lot 4316-1300 as shown on the sketch plan attached hereto as Exhibit "B" and by this reference made a part hereof, as "Public Facility."

This Ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared, shall be effective upon passage hereof.

DONE, this 4th day of May, 1983, at McMinnville, Oregon

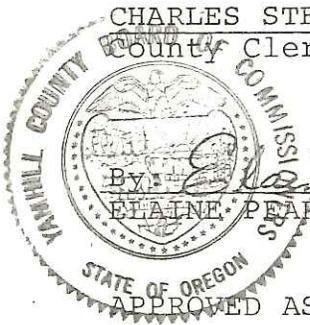
ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN  
County Clerk

Chairman

ROBIN J. HAMBLET



By: Elaine Pearcey  
ELAINE PEARCEY, Deputy

Commissioner

DAVE BISHOP  
DAVE BISHOP

APPROVED AS TO FORM:

FOR

John M. Garretson  
Daryl S. Garretson  
County Counsel

Commissioner

Ted Lopuszynski  
TED LOPUSZYNSKI

EXHIBIT "A"

FINDINGS FOR APPROVAL OF PLAN AMENDMENT/ZONE CHANGE REQUEST

DOCKET PA-124-83/Z-233-83

Findings of Fact

1. The applicant has requested a Plan Amendment/Zone Change from "Residential/EF-40" to "Public Facility/PWS" on a 20,000 square foot portion of a larger 16.76 acre parcel for the purpose of establishing a cable communications facility.
2. The proposed cable communications site is located within the Dayton Urban Growth Boundary (UGB) but outside of the Dayton City limits. Under the terms of the Management Agreement adopted by the City of Dayton and Yamhill County, plan amendment requests within the UGB must be reviewed at a joint hearing of the City and County Planning Commissions. Subsequent to the joint hearing, the City Council and Board of Commissioners must concur in a decision to amend the Comprehensive Plan Map.
3. The applicant has addressed Yamhill County Comprehensive Plan goals and policies, zone change criteria and Goal 2 exceptions criteria. Additionally, the applicant has submitted a geotechnical assessment of the proposed cable communications site and a site profile sketch.
4. Facilities proposed to be located at the site include an earth receiving station for satellite signals, a 50 foot tower for receiving off-air broadcast TV stations from Portland and Salem, and a single story structure (22' x 30') for housing equipment and receiving gear.
5. Liberty Communications, Inc., has been awarded the cable TV franchise for the Cities of Newberg, Dundee, Lafayette, McMinnville and Dayton. At present, Liberty's cable communication facilities are located in Newberg. However, the application indicates that the close proximity of the Newberg communications site to the Chehalem Mountains interferes with signal quality. Consequently, Liberty began a search for a new cable communications site either within or adjacent to one of the franchise service areas.
6. Liberty evaluated potential cable communications sites for compliance with the following criteria: (a) The site must be nearly equidistant between the McMinnville and Newberg service areas; (b) The site must be near the cable routing connecting the cities; (c) The site must have a direct line of access to a relay station on Chehalem Mountain; and (d) The site must be free of terrestrial microwave interference to satellite signal reception.
7. The application indicates that Liberty tested the suitability of more than 20 potential sites using "on site" field measurements and engineering studies. The applicant states that the subject site outside of Dayton met the four criteria outlined above. Further, future development in the area will not interfere with the reception of broadcast television and satellite signals.

8. The applicant states that the proposed communications site outside of Dayton would provide Newberg, Dayton, Dundee, Lafayette and McMinnville with the best available signal and also increase Liberty's regional interconnect capacity; thereby enhancing the quality and volume of educational, institutional, civic and other local access programming.
9. The proposed cable communications site is located just inside the Dayton UGB, northwest of the intersection of Neck Road and Water Street. The site fronts on Water Street to the Southwest and is bounded on the northeast by the Yamhill River. The northeast portion of the site slopes steeply to the Yamhill River. The site is located outside of the boundaries of the 100 year floodplain.
10. If the requested Plan Amendment/Zone Change is approved, the applicant proposes to relocate the existing tower and satellite dish located in Newberg to the subject parcel outside of Dayton. The portion of the parcel supporting the cable communication facilities would be leased from the owner of the 16.76 acre parcel. Partitioning is not anticipated.
11. The geotechnical assessment prepared by CH2M Hill recommends that the facilities be located at the northwestern portion of the site, and as close as possible to Neck road. The engineer concludes that construction of the proposed facilities as recommended should have no significant impact on the stability of the existing slope.
12. Soils on the subject property include agricultural Class II Aloha silt loam adjacent to Water Street and Class VI Terrace escarpments adjacent to the Yamhill River. Aloha soils are used for vegetable and berry crops, orchards, small grains and hay and pasture plants. Slopes adjacent to the river range from 20 to 40%. The soil material on the Terrace escarpments is silty and sandy and supports brush, ash, oak and Douglas fir. These vegetated slopes adjacent to the river are well suited to wildlife use.
13. Adjacent parcels inside of the Dayton UGB are designated for residential use on the Dayton Comprehensive Plan. The city limits of Dayton parallels the north side of Neck Road and abuts the northwest boundary of the subject property. Adjacent parcels within the city limits are zoned R-1.
14. Parcels to the east of the proposed cable communications site lie outside of the UGB and are designated AFLH/EF-40. Larger parcel agricultural uses predominant to the east of the UGB.
15. The proposed facilities would be unmanned with no employees working permanently on the site. The applicant anticipates 2 to 3 employee trips weekly to the site for repair, maintenance and security. The application indicates that no sewer or water facilities will be required to accommodate the proposed use.
16. The following public agency responses have been received as of this writing:
  - A. Dayton Rural Fire District - No conflicts.
  - B. City of McMinnville (Airport Commission) - No conflicts.
  - C. Continental Telephone - No conflicts.
  - D. County Sanitarian - No conflicts, provided there is no sewage flow.
17. The Dayton PAC reviewed this proposal April 14, 1983 and recommended approval of the Plan Amendment/Zone Change.

Conclusionary Findings for Approval

1. The proposed site would facilitate and improve cable television services to the City of Dayton and Yamhill County. This will improve the extent and quality of educational programming, will enhance the use of cable as a public facility by improving the quality and extent of regional interconnect services and will improve local and county-wide communication services.
2. The subject request would place the cable communications site at a location that will have a minimum impact on surrounding land uses and will provide a buffer to facilitate an efficient transition from rural to urban land uses.
3. No development would occur within the floodplain and vegetation adjacent to the river would not be disturbed with construction of the cable communications site.
4. The amount of agricultural land to be taken out of production is minimal, cannot be efficiently utilized and is not currently in production.
5. The proposed property is of an adequate size and shape for a cable communications site and streets will adequately serve the type of traffic that will be generated by such use.
6. The proposed use is consistent with the purpose of the PWS District as set forth in Section 804 and is also listed as a permitted use in that District. The site profile sketch submitted by the applicant demonstrates compliance with the standards of the PWS District.
7. The applicant has demonstrated that there is an existing need for the proposed use in that: (a) Liberty has experienced problems with signal interference at the existing cable communications site in Newberg; (b) Liberty's service area has expanded with the award of recent franchises and the proposed cable communications site outside of Dayton would provide Newberg, Dayton, Dundee, Lafayette and McMinnville with the best available signal; (c) By utilizing the subject site, Liberty would be able to dramatically increase incoming and outgoing access programming, thus improving the diversity of its services to Yamhill County residents; and (d) There are no other cable communication sites located in the area. The use is a consequence of technological change which could not have been anticipated by designating sites in advance of need.
8. The proposed zone change to PWS is timely in that the addition of the Dayton, Lafayette and McMinnville franchises have given Liberty the opportunity to plan on a regional scale. A new communications site would be required to serve the McMinnville franchise area, and Liberty wanted to improve the quality of signal to the other cities served. Liberty tested the signal quality at several alternative sites prior to selecting the Dayton site as the preferred alternative. McMinnville must receive service by the summer of 1983 under the terms of the franchise agreement; therefore, it is necessary for Liberty to pursue a plan amendment/zone change without delay.
9. There are no other lands currently zoned PWS which are available to accommodate the proposed use in that Yamhill County does not zone land PWS in advance of a specific development proposal. Zone changes to PWS are evaluated on a site specific basis for compatibility with the Comprehensive Plan and adjacent development patterns.

EXHIBIT "B"

COMPREHENSIVE PLAN AMENDMENT ADOPTED BY THE  
YAMHILL COUNTY BOARD OF COMMISSIONERS  
May 4, 1983

TO CHANGE THE COMPREHENSIVE PLAN DESIGNATION  
FROM "Residential" TO "Public Facility"  
and  
TO CHANGE THE OFFICIAL ZONING MAP  
FROM "EF-40" TO "PWS"

Applicant: Liberty Communications, Inc.  
Address: P.O. Box 409  
Newberg, OR 97132  
Phone: 538-7480  
Tax Lot: 4316-1300  
Docket No: PA-124-83/Z-233-83

