

FILED

83-187 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 )  
Implement Planning Commission )  
Resolution No. 83-3 Authorizing )  
an Amendment to the Yamhill )  
County Zoning Ordinance, No. 310, )  
1982, requested by Liberty Com- )  
munications, Inc. )

ORDINANCE NO. 336

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, Ordinance No. 138 of the Board, dated the 1st day of June, 1977, designated the Yamhill County Planning Commission as the hearings body for determining whether requests for amendment to the Yamhill County Zoning Ordinance shall be granted or denied; and

WHEREAS, pursuant to Ordinance No. 138 and ORS 215.402 to 215.422, such decisions by the Planning Commission to approve or deny requests for amendment to the Zoning Ordinance are final unless an aggrieved party appeals the Planning Commission's decision to the Board within fifteen days or unless the Board in its discretion elects to review the decision on its own motion within fifteen days; and

WHEREAS, the Yamhill County Planning Commission has adopted a resolution approving an amendment to the Zoning Ordinance upon the application of the above-named corporation, a copy of which is attached hereto and by this reference incorporated as if fully set forth herein; and

WHEREAS, more than fifteen days have elapsed since this decision was announced by the Yamhill County Planning Commission and no appeals to or reviews by the Board have been requested;

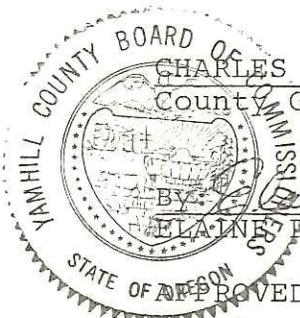
NOW, THEREFORE, based upon and for the reasons set forth in the attached Resolution, IT IS HEREBY ORDAINED that the Official Zoning Map of the Yamhill County Zoning Ordinance be and hereby is amended consistent with and as set forth in the attached Resolution of the Yamhill County Planning Commission.

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 hereby.

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

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS



CHARLES STERN  
County Clerk

BY: Elaine Pearcey  
ELAINE PEARCEY, Deputy

APPROVED AS TO FORM:  
FOR Daryl S. Garrettson  
County Counsel

Robin J. Hamblet  
Chairman ROBIN J. HAMBLET

Dave Bishop  
Commissioner DAVE BISHOP

Ted Lopuszynski  
Commissioner TED LOPUSZYNSKI

In the Matter of an Amendment to the )  
Yamhill County Zoning Ordinance, ) RESOLUTION NO. 83-3  
Ordinance No. 310, 1982 as requested )  
by Liberty Communications, Inc.

THE PLANNING COMMISSION of Yamhill County, Oregon, on the 21st day of April, 1983, sat for the transaction of County business at a regularly scheduled session. Planning Commissioners Sadler, Schatz, Grimm, Weidemann, Bennette, Stockhoff, Miller, Bunn and Treadway were present.

WHEREAS, the Yamhill County Board of Commissioners adopted the Yamhill County Zoning Ordinance, 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, 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 Liberty Communications, Inc. 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 "EF-40" to "PWS" for a parcel described as being a 20,000 square foot portion of a 16.76 acre tract; and

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

WHEREAS, the Planning Commission, on the 21st day of April, 1983 held a public hearing as required by ORS 215.223 and 215.416 on the proposed amendment and voted to approve 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 20,000 square foot portion of Yamhill County Tax Lot 4316-1300 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 21st day of April, 1983.

AYES: Sadler, Schatz, Grimm, Weidemann, Bennette, Stockhoff,  
Miller, Bunn and Treadway

NAYES: None

ABSTENTIONS: None

Approved by the Chairman on this 9th day of May, 1983

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 9th day of May, 1983

ATTEST:

YAMHILL COUNTY PLANNING COMMISSION

  
\_\_\_\_\_  
Lynn Steiger  
Planning Director

  
\_\_\_\_\_  
Dick Sadler, Chairman

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

