

**NOTICE OF APPEAL  
TO THE TILLAMOOK COUNTY**

OFFICE USE ONLY

Hearing Scheduled \_\_\_\_\_

Public Notice Completed \_\_\_\_\_

Property Owner Notice Completed \_\_\_\_\_

Fee Paid \_\_\_\_\_

**APPELLANT:**

1. Name Oregon Coast Alliance, Mary Voboril, Jeff Bryner

*Only personal names. If you are also representing an organization, place its name on line number 4.*

2. Address see attached

3. Telephone (Daytime) see attached

4. Representing Sean T. Malone, Attorney at Law, representing all appellants. See attached.

*Place your organizations name here IF you are an official representative of an organization that has authorized this appeal. Proof of such authorization must be shown by the time of the public hearing. (You need not represent an organization in order to file an appeal.)*

5. Date of Planning Department / Planning Commission Decision (circle one)

Date of Planning Commission Decision - November 14, 2019, mailed November 19, 2019

6. Action Appealed (e.g. Variance, Condition Use Permit, etc.)

Similar use determination and conditional use permit - #851-19-000105-PLNG

7. Decision Appealed (Denied, Granted) appeal of #851-19-000105-PLNG

8. Name of Applicant Edge Cable Holdings, USA, LLC

9. Additional Comments See attached.

*You will be notified by mail of the date and time set for the public hearing before the Planning Commission.*

Date 11/27/19

Signature \_\_\_\_\_



# Sean T. Malone

## Attorney at Law

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Eugene, OR 97401

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November 27, 2019

### Via Hand Deliver and Email

Sarah Absher, Planning Director  
Tillamook County Department of Community Development  
1510-B Third Street  
Tillamook, OR 97141  
[sabsher@co.tillamook.or.us](mailto:sabsher@co.tillamook.or.us)  
(503) 842-3408 x 3317

Re: appeal of #851-19-000105-PLNG

### Appellants' names, addresses, phone numbers:

Oregon Coast Alliance  
PO Box 857  
Astoria OR 97103  
(503) 391-0210

Mary Voboril  
5800 Irish Ave.  
Cloverdale, OR 97112  
(503) 965-7245  
Email: [sailordiver@yahoo.com](mailto:sailordiver@yahoo.com)

Jeff Bryner  
2303 N. Wygant St.  
Portland, OR 97217  
(503) 708-8500  
email: [jeff@jeffbryner.com](mailto:jeff@jeffbryner.com)

Appellant's legal counsel:

Sean T. Malone  
Attorney at Law  
259 E. 5<sup>th</sup> Ave, Ste 200-C  
Eugene OR 97401

Date of Planning Commission Decision:

November 14, 2019 and mailed November 19, 2019

Action Appealed and Decision Appealed:

Similar use determination and conditional use permit - #851-19-000105-PLNG

Name of Applicant:

Edge Cable Holdings, USA, LLC

Additional comments/Reasons for Appeal:

Appellants provide the following non-exhaustive list of reasons for appeal to be heard *de novo* before the Board of Commissioners:

- The proposed use is not listed as a conditional use in the RR-2 zone, under TCLUO 6.040(1). Because the use is not listed as an allowed use in the applicable zone, the use is not allowed as a matter of law.
- The proposed use is not a "similar use" under the County's land use ordinance. Neither the applicant nor Facebook are considered a public utility under the common definition of "public utility." Neither the applicant nor Facebook are "necessary to protect the public health, safety, and welfare" of the people to be served under Goal 11. The County's decision therefore violates the county's land use ordinance.
- The county's interpretation of the similar use standard misconstrues the applicable standard and Goal 11, including the determination that public ownership is irrelevant to the inquiry and that the fiber optic cable meets the definition of "transmission line."
- The parcel is not suitable for the proposed use. The proposed use essentially industrializes small parcels zoned rural residential. The proposed use presents a variety of impacts not otherwise experienced in the same zone, including

industrialization, noise, traffic, vibrations, continued maintenance, and other impacts.

- The proposed use will alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The proposed use essentially industrializes residential land to the detriment of the surrounding property owners that are using the property consistent with the zone's purpose.
- The use is not consistent with applicable goals and policies of the Comprehensive Plan, including Tillamook Comprehensive Plan Goal 11, Element: Public Services: The applicant is not providing a public service and, indeed, is a private company. The goal contemplates planning public services in accordance with a "community's need," but the community has not established a need for the proposed use.

Appeal fee of \$250:

A check for the appeal fee will be hand delivered along with this appeal narrative and the appeal form.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean T. Malone". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Sean T. Malone  
Attorney for Appellants