

MALHEUR COUNTY COURT MINUTES
May 29, 2024

The regularly scheduled meeting of the County Court was called to order by Judge Dan Joyce at 9:00 a.m. in the County Court Office with Commissioner Ron Jacobs and Commissioner Jim Mendiola present. Members of the media, public and staff had the opportunity to join the meeting electronically or in-person. Staff present in the meeting room was Economic and Community Development Director Taylor Rembowski. Notice of the meeting was posted on the County website, Courthouse bulletin board and emailed to the Argus Observer, Malheur Enterprise and those persons who have requested notice. The meeting was audio recorded. The agenda is recorded as instrument # 2024-1550

FIRST PUBLIC HEARING - ORDINANCE NO. 236 - GERULF PAPA

Present for the first public hearing for consideration of Ordinance No. 236 - An Ordinance for a Post Acknowledgment Plan Amendment (PAPA) to Expand an Existing Mining Site by Adding 63.34 acres of Tax Lot 500, Map 17S47ED001 of the Malheur County Assessor's Office as a Significant Aggregate Site within Malheur County's Comprehensive Plan, Goal 5, Mineral and Aggregate Inventory were Planning Manager Kelcie Haueter, Applicant Chad Gerulf and Property Owner Steve Gerulf. Notice of the hearing was published in the Argus Observer. Planning Department File No. 2024-03-001. Applicant is Chad Gerulf. Property Owner is Steven and Barbara Gerulf Trust.

Judge Joyce opened the hearing and asked for any abstentions, potential or actual conflicts of interest, ex parte communications or site visits to be divulged from the members of the Court. There were none.

Judge Joyce asked for any objections to the jurisdiction. There were none.

Judge Joyce asked if there were any objections to any member of the County Court hearing the matter. There were none.

Judge Joyce stated: Failure to raise an issue may preclude raising it before LUBA (Land Use Board of Appeals). Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the County Court to respond to the issue may preclude an action for damages in Circuit Court.

Judge Joyce asked for a Staff Report.

Planning Manager Kelcie Haueter read the Staff Report. Planning Department File No. 2024-03-001: Application for addition of expanded mining site to Malheur County inventory of significant Goal 5 resources. Property Owner Steven and Barbara Gerulf Trust, 618 Railroad Avenue, Ontario, OR 97914. Applicant Chad Gerulf, 408 Stanton Boulevard, Ontario, OR 97914.

Proposed Action: Recommendation to the County Court a PAPA amendment to designate a total of 63.34 acres as a Goal 5 significant aggregate resource. The existing 10-acre site had been listed on the Malheur County's Goal 5 significant aggregate resource inventory.

Property Identification: Tax Lot 500, Assessor's Map 17S47E, Malheur County Reference No. 6908.

Property Location and Directions: West of the intersection of Highway 201 and Stanton Boulevard in Ontario, Oregon.

Zoning: C-A 1 Exclusive Farm Use.

Parcel Size: The parcel size is 133.92 acres. The proposed mining site will be on approximately 63.34 acres, as identified in the site legal description submitted by the Applicant. Testing of aggregate for quality and quantity was performed on area identified as approximately 65 acres, which is the proposed Goal 5 significant resource site.

Parcel Use: Existing aggregate site on approximately 10 acres. The rest of the property is used for farming and residential purposes.

Surrounding Use: Farm and rural residential.

Access: No new access is proposed for this action. The existing access point off Stanton Boulevard will continue to be used. Most of the product will be hauled down Stanton Boulevard to Highway 201.

Sanitation Requirements: The site is equipped with permanent restroom facilities that meet all regulatory requirements. Up to six employees will be employed on site.

Fire Protection: The parcel is within the Ontario Rural Fire Protection District.

Natural Hazards: Parcel is not in the 100-year floodplain.

Water Rights: There are 50.3 acres of water rights attached to the property. A domestic well is used for the residence that is onsite.

Zoning History: The existing single-family dwelling was constructed in 1940. In 1998, a previous property owner (Joe Stirm) obtained a permit for mining and processing of aggregate resources for 10 acres. In 2002, an application for a conditional use permit for a hot asphalt plant was denied. In 2006, a Measure 37 application was submitted by the same previous owner. In 2007, Mr. Stirm applied for a conditional use permit for two non-farm dwellings and two non-farm partitions. In 2020, a property line adjustment was processed and an accessory building was constructed in 2022.

Testimony was heard for quality, quantity and location; Planning Commission members recommended approval; and there was no opponent testimony. This is the first of two hearings.

Chad Gerulf explained that the property was surveyed by an Oregon licensed surveyor. Atlas Technical Consultants provided a quality analysis. Six pits were done with an excavator and a drilling company came out to the property; a geologist was on site the entire time who pulled samples as the digging took place. The Abrasion Test resulted in a maximum of 18.38% loss; the ODOT (Oregon Department of Transportation) maximum is 35%. The Soundness Test showed a maximum of 1.6% loss for coarse material and 3.2% for the fine aggregate material; ODOT maximum specifications are 12%. The Air Degradation Test showed a maximum percent passing of 6.1%; the ODOT maximum passing percentage is 30%.

The quantity analysis was also performed by Atlas. A minimum of 500,000 tons is required; the estimated quantity is 2,772,495 tons.

Commissioner Jacobs asked about the water rights on the property. Mr. Gerulf explained the water rights will be kept current and will be used again. Mr. Gerulf is aware of the 5-year non-use provision in water rights.

There was no opponent testimony.

There was no public agency testimony. Ms. Haueter noted that there are public agency letters in the Planning Commission file (concerning the Conditional Use Permit, not the PAPA) and those are available on the County website.

Judge Joyce closed the hearing. The second hearing is June 12, 2024 at 9:00 a.m.

CROSSING PERMITS

Commissioner Mendiola moved to approve the following Crossing Permits to Idaho Power: Permit #46-24 for replacement of a pole on Airport Road #1100; Permit #47-24 for replacement of a pole on Foothill Drive #869; Permit #48-24 for replacement of a pole on Frontier Land #873; Permit #49-24 for replacement of a pole on Hope Road #569; Permit #50-24 for replacement of a pole on Kochsmeier Road #509; Permit #51-24 for replacement of a pole on Recla Drive #1113; Permit #52-24 for maintenance on Clark Boulevard #857; Permit #53-24 for maintenance on Morgan Avenue #926; Permit #54-24 for maintenance on Onion Avenue #1102; Permit #55-24 for maintenance on Siphon Drive #646; Permit #56-24 for maintenance on SW 4th Street #940; Permit #57-24 for maintenance on Lincoln Drive #903; Permit #58-24 for maintenance on Railroad Avenue #874; Permit #59-24 for maintenance on Alameda Drive #863; and Permit #60-24 for maintenance on Butler Boulevard #887. Commissioner Jacobs seconded and the motion passed unanimously. Original permits will be kept on file at the Road Department.

INTERIM HEALTH DEPARTMENT DIRECTOR

Commissioner Mendiola moved to appoint Rebecca Stricker as Interim Health Department Director, effective May 28, 2024. Commissioner Jacobs seconded and the motion passed unanimously. See instrument # 2024-1551 for letter of appointment. Agreement between Malheur County Court and Rebecca Stricker for Interim Malheur County Health Department Director recorded as instrument # 2024-1602

COURT ADJOURNMENT

Judge Joyce adjourned the meeting.