

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS

Land Use Hearing of April 29, 2025
9:00 a.m., Room 130, Umatilla County Courthouse
Pendleton, Oregon

Commissioners Present: Chair Cindy Timmons, Vice-Chair Dan Dorran and Commissioner John Shafer

County Counsel Doug Olsen

Guests Present: Robert Waldher, Umatilla County Community Development Director; Megan Davchevski, Umatilla County Planning Manager; Kyla Baumgartner, PO Box 86 Echo OR 97826, Rock Solid Sand & Gravel Admin; Janna Coleman, 33896 E Walls Rd Hermiston OR97838, Girth Dog LLC Member; Carla McLane, 170 Van Buren Dr. Umatilla OR 97882, Girth Dog Consultant; Sarah Curtiss, Stoel Rives, 760 SW Ninth Ave 3000, Portland OR 97205, Girth Dog Counsel; Craig Coleman, 33896 E Walls Rd Hermiston OR 97838 Girth Dog, Applicant; Bob Coleman, Girth Dog LLC Admin;

Video link or Calling in: Mark Bastasch, Jacobs, acoustic engineer; Chad Darby, Maul Foster Alongi, air quality specialist; Emily Schimelpfenig, Stoel Rives

CALL TO ORDER: Chair Timmons called the Land Use Public Hearing before the Umatilla County Board of Commissioners to order at 9:01 a.m.

She read the opening statement as follows; the Board's role today is to conduct a public hearing concerning a request to address the remanded issues from the Land Use Board of Appeals decision for applicant Girth Dog LLC.

The hearing will begin by asking staff to summarize the application. I will then ask the applicant to testify followed by those in favor of the application. Then, any persons in opposition or who have questions or concerns will also have a chance to speak. If there is opposition or questions, staff may respond to them. The Commissioners also may ask the staff and witness questions throughout the hearing, until the record closes.

Any person with an interest in today's agenda may offer relevant oral and/or written testimony. But please only speak when you are identified for that purpose. When you testify, please begin by clearly stating your name and address. If you represent someone else, please say so. If you have any exhibits you want us to consider, such as a copy of your testimony, photographs, petitions, or other documents or physical evidence, please provide it to me or the staff. It will be marked as part of the record.

Chair Timmons called for abstentions, bias, conflict of interest, declaration of ex-parte contact & objections to jurisdiction. There were none.

The following declaration was read:

- a. The agenda identifies the applicable, substantive criteria for evaluating the request. Staff will review these criteria.
- b. All testimony and evidence must be directed toward these criteria.
- c. Failure to raise an issue with sufficient detail to afford the decision-making body and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Remand Hearing – Girth Dog LLC Amendment – Public Hearing - Chair Timmons called for staff report. Staff report presented by Megan Davchevski, Umatilla County Planning Manager. The request is to address the Remand issued by LUBA, No. 2023-33 on October 25, 2023. The previous application, under County permits #Z-322-22, #T-092-22 and #P-135-22 was approved by the County to add Tax Lots 900, 1100, 1200, 1300, and 1800 of Assessor's Map 4N 27 36 to the Umatilla County list of Large Significant Sites, providing necessary protections under Goal 5 including limiting conflicting uses within the impact area, applying the Aggregate Resource Overlay Zone to the subject property, and allowing mining, processing, and stockpiling of gravel and sand materials at the site. Both concrete and asphalt batch processing are requested for approval. Neighbors in opposition of the request appealed the County's decision to the Land Use Board of Appeals (LUBA). LUBA found that the County, in its decision, made four assignments of error, and remanded the matter to the county to address the errors. They were regarding Analysis of Conflicts, Conflict Minimization, ESEE Analysis and Transportation Impacts. The sixth assignment of error dealt with the reclamation plan and LUBA found that the applicant did not supply a conceptual site reclamation plan as required in the administrative rule

Staff believe that the applicant has addressed the remand as required and provided additional and supporting documents. Notice of the applicant's request was mailed on April 9, 2025 to nearby property owners, necessary agencies and participants of the previous land use hearings. Notice of today's Board of Commissioner hearing was published in the East Oregonian on April 6, 2025. The criteria of approval are found in Oregon Administrative Rules 660 division 23 sections 40, 50, 660 division 23 subsection 183, 5 and 7 and the County's development code section 152.487.488.

The applicant has provided additional information by submitting a dust and noise analysis, updated traffic impact analysis to account for water suppression trucks, mining operations and reclamation plan and identified a post mining use with a conceptual site plan. Staff have drafted supplemental findings of fact and conclusion of law and have proposed subsequent modifications and removal of conditions to eliminate conflict.

Staff received three letters after compiling the packets, all three have been distributed to the Board and will need to be entered into the record. Some modified conditions of approval require an annual review. In approving a recent similar request the Board imposed that the site be reviewed for

compliance for three years, if operation was consistently compliant the need to continue the annual review process would expire. This concluded the staff report.

Chair Timmons called for proponents, applicant and/or representative. A representative came forward as the consultant for the applicant, Carla McLane. An analysis was completed after working with experts in both dust and noise, they are in attendance virtually. A reclamation plan was also submitted as part of the record.

Sarah Stauffer Curtiss, Girth Dog LLC counsel, outlined the recommended changes that are before the Board. The desired outcome is to make things clear and align with the State's processes. The first item to address is the noise levels as the requirements are different for daytime versus nighttime. Clarification was given on the noise requirements, the prediction is to be at 54 dBA coming in under the 55 dBA state noise standard.

The berm conditions were discussed, clarifying that the berms would move with mining operations, block by block. The berms will maintain a perimeter where the mining will take place. Commissioner Dorran asked how the egress and regress points will be established. The perimeter berms will stay in place and the working berm will be moved to the next block as the mining moves forward. Visuals were referenced.

The dust control condition includes some minor clarifications. The applicant is committed to comply with DEQ emissions testing requirements. Commissioner Dorran suggested using cleaner language to describe the emissions testing methods that will be performed. Sand and gravel pits are extremely complaint driven and the importance of following standards and regulations is emphasized in the instance that a complaint is filed.

The applicant questioned the annual review requirement added to the conditions. As drafted, there is not a time limit for how long the annual review would be required, the staff report referenced a similar example of three years if consistently compliant. She recommended removal of this requirement. Commissioner Dorran explained the importance of the review and that it entails similar reporting documents that will already be done through DOGAME and DEQ. Ms. Curtiss asked that the language clarify a timeline for the annual report and some detail as to what that entails.

Commissioner Dorran questioned the applicant about removing chemical dust abatement from the application. Craig Coleman, the applicant, stated that previously issues arose around chemical dust abatement, if it is going to cause a holdup he would prefer to remove it. Chad Darby, Dust Expert, reports that paving is not a dust control issue.

Chair Timmons called for other proponents. There were none. Call for opponents, none. Call for comments from public agencies, none. Call for rebuttal, none. Call for request for continuance or to keep the record open.

Commissioner Shafer moved to adopt exhibits 1, 2 & 3 into the record. Seconded by Commissioner Dorran. Carried, 3-0. The public hearing closed by Chair Timmons at 9:41 am.

Commissioner Dorran moved to approve the application and incorporate the applicant's proposed changes as presented with the modifications discussed to include clarity on noise, dust mitigation, use of arrows on the berm map and to include an annual review for 3 years to discontinue with consistent compliance with dust and noise mitigation. Seconded by Commissioner Shafer. Carried, 3-0.

Commissioner Dorran moved to approve the Girth Dog LLC, Goal 5 amendment and authorize mining of the site, Ordinance No. 3025-04. Seconded by Commissioner Shafer. Carried, 3-0.

Hearing adjourned by Chair Timmons at 09:43 a.m.

Kelsey Bailey

Executive Secretary – Board of Commissioners