

FACILITY: Public hearing was long and contentious

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been added, and they recommended approval.

Cox spoke, informing the commissioners that he is ready to go. The state has given its approval and all he needs is the green light from them.

Because the site plan has changed, some modification of the master plan for the entire MMV project is necessary and therein lie the grounds for Adolf's contention that MMV should have to create an entirely new master plan. That would mean a costly and time-consuming effort.

Pinnacle's attorney, Michael Repucci of Boulder, Colorado, read into the record a multipage letter which he handed to the commissioners just before taking his place at the microphone.

He contended that MMV's application was deficient and should be denied. He also stated that the commissioners must follow the code. He asked for fair and equal treatment for his client and encouraged the commissioners to show no favoritism. It is not clear where any potential favoritism lies, given that Adolf's project has already received City approval.

Responding to an email query from *The Nugget*, Adolf wrote: "We do not have a problem with competition. We want fair and equal treatment for all, government transparency, no favoritism, and consistency in following established procedures and due process.

"We went the extra mile to be as you say 'greenlighted with no difficulties or obstructions.' We actually had to do a lot to get the 'greenlight' with impact studies, FAA, ODA, traffic study, master plan, added civil engineering, and so forth. All of that at a large financial cost to us and extended time.

"Mainly the difference is that we followed the Sisters Development Code with the heart to be in compliance from the start..."

Repucci contended that the changes to the MMV site plan constituted major modifications and that substantial adverse impacts to the surrounding property required a completely new master plan for the entire property.

"The application is faulty to the core," Repucci testified.

Besides a new master plan, he requested new impact studies be done.

One significant area of contention involved the use of different terminology

in referring to the facility — assisted living facility, senior living center, housing with services, and memory care.

Applicant and opposition, of course, had differing views on the subject and each spent time bolstering their own case. Interpretation of terminology could have a bearing on whether the plan meets code.

Repucci warned the commissioners that if they approved the application, "My client will be deprived of his rights and will be entitled to an award of attorney fees and damages."

Raising the specter of a possible legal action elicited loud boos of disapproval from the audience.

Repucci asked that the hearing be continued to a date that will allow his client to gather further information.

Six members of the Lovegren family each spoke or provided written testimony in support of Repucci's testimony. Adolf had earlier identified Pam Lovegren as one of his local financial backers.

In closing comments, Kallberg pointed out that this is going to be a \$13 million building constructed by Cox, who has a proven track record with his other six facilities.

"We are penalizing the seniors over terminology. We want something for our seniors so they don't have to leave Sisters," Kallberg said.

"What's the matter with competition?" he continued. "Both facilities would be great additions to the community."

The chamber erupted with applause when Kallberg said, "We don't have an attorney out of Colorado. We're trying... Come with us but don't just bash us... Let's get it on."

Commissioner Daryl Tewalt began the commission's deliberations by stating, "I don't see the merit in asking for a whole new master plan... I'm ready to approve it (the application)."

Commissioner Jack Nagel pointed out that Adolf had very easily received approval for his project, and he saw no merit to a threatened lawsuit.

Commissioner Bob Wright saw no problem, as recently passed state legislation guarantees that both facilities can be licensed as assisted living facilities. He concluded, "Let competition reign."

Commissioner Roy Dean was not comfortable approving the application due to the risk of a threatened lawsuit. He was concerned that if there was blanket approval that evening, it might open up the possibility of questions later. He encouraged MMV to come back with a new master plan for the entire property so as to not put themselves or the City at risk.

Commissioner Jeff Seymour, the newly chosen vice chair, stated he was "100 percent in favor of the project." He cautioned, however, there is a code that acts as a platform and framework for their decisions. He noted the failure of process within the City over the past 18 months.

"If we proceed in approving the application as written, we're going to be contributing

to the problems (with process) of the last 18 months," he cautioned. "There is something bigger at work here than just this application."

He wondered if there were conditions and changes the commission could recommend as part of the approval.

Commissioner Wright suggested it would be better if the applicant were to remove or change the contentious issues and bring it back.

Tewalt moved that the application be approved with conditions. Yes votes came from chairman David Gentry, Tewalt, Nagel and Wright. Seymour abstained, Dean voted no, and the application was approved.

One procedural glitch is sure to be noted. Despite the fact that Repucci asked for the hearing to be continued, Gentry gaveled it closed. Sisters City Attorney Steve Bryant was not present at the hearing to provide legal advice to the commissioners. Adolf's attorney has broached the argument that Bryant has a conflict of interest because his law firm Bryant Emerson, LLP, represents Ageia Health Services and Kevin Cox in disputes with Adolf and Pinnacle Alliance Group in regard to MMP.

While the planning commission's actions turn on a green light for the MMP project to move forward, it appears inevitable that more land use and legal procedure is on the horizon.

Nugget Newspaper editor Jim Cornelius contributed to this story.

Rodeo was wild, drinking was mild

The rodeo action was wild, but the cowboys in town kept the action outside the arena under control this year.

The Deschutes County Sheriff's Office participated in a traffic safety campaign increasing traffic patrols during the Sisters Rodeo to focus on DUII enforcement.

As a result of this enforcement, the following citations/warnings/arrests were made in addition to those made during general patrols:

- DUII: 1
- Reckless Driving: 1
- Open Container: 1
- Speeding: 6
- Other: 6

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Sisters Saver

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