

January 24, 2019

**Butte-Silver Bow Planning Board
Courthouse - 3rd Floor - Room 312
Council Chambers**

MEMBERS PRESENT: Janet Lindh, Patty Hamblock, Bart Riley, Josh O'Neill,
Jeremy Salle and Jim Clary

ABSENT: Steve Hess, Mike Kerns, Tim Schrapps

STAFF: Lori Casey, Planning Director
Dylan Pipinich, Senior Planner
Roxie Larson, Secretary

M I N U T E S

- I. **Call to Order** - The meeting was called to order at 5:30 P.M.
- II. **Roll Call of Board Members** – Having a majority of the Planning Board members in attendance, a quorum was established.
- III. **Approval of the Minutes** – The minutes of the December 20, 2018 Planning Board meeting were approved by Mr. Salle and seconded by Mrs. Hamblock. The voice vote in favor of the motion was unanimous.
- IV. **Public Comment/Board Action**

- A. **OLR Minor Subdivision** – Ms. Casey gave a brief report which is made a part of these minutes.

Ms. Lindh explained this was not a public hearing, but we are taking public comment.

Mr. Ray Ueland stated I live at 2432 Prevost Trail and I own the Metals Sports Bar in Butte. I sit on the Board of Directors of the Our Lady of the Rockies. We are excited about receiving a preliminary plat for Our Lady of the Rockies Minor Subdivision. Previously, as Ms. Casey said we have received a conditional approval of a Special Use Permit #13585 to establish a recreational development with the base of the tram and also a gift shop and reception hall. The total subdivision is 47

acres, 34.78 with the Sisters of Charity and they have donated to us 10 acres originally and then 2.32 acres. Tonight specific information on the tram facility is not available.

Mr. Bob Lienemann stated I live at 3227 State Street in Butte, Montana. One thing is there seems to be some confusion the Special Use Permit 13585 only allows for the location of the tram base and that is specific based on Jon Sesso's recommendations at that meeting back in 2011. So I kind of thought this meeting would take up from where the Board of Adjustment left off. Do you have a copy of 13585?

Ms. Casey stated Mr. Lienemann yes we do and the language from that for this application came directly from their approval letter from the Zoning Board of Adjustment that did say recreational facility.

Mr. Lienemann stated but go to page 43. Would you read that please?

Ms. Casey stated I want to be very clear this is not about the Special Use Permit. These are the minutes and I will read them to accommodate Mr. Lienemann but the fact is that the Zoning Board of Adjustment and the letter that went out to the Lady of the Rockies with their conditions and their approval is what was approved that night. I will read it just to accommodate Mr. Lienemann.

"Mr. Sesso stated that the public comment that they heard from the opposition was in fact, as it always was, based more on the unknowns than in opposition to what was known but at the same time, this hearing was simply and solely about the question of "where" – "where" the tram would be based. He said short of holding it in abeyance because quite frankly there was a meeting in two weeks and then they go back to the monthly meetings in September."

So, I don't believe that indicates tram base only the meeting was solely about where the location of the facility would be.

Mr. Lienemann stated the location of the facility but there is no mention Lori, excuse me. There is no mention in there of the reception hall, the kitchen and evidentially there are going to be some other out buildings but none of that was discussed at that meeting and as far as I am concerned it is unresolved. In your description in tonight's staff analysis, I am going to jump down here, it stated in Butte-Silver Bow's staff analysis under the heading of the OLR Minor Subdivision. The minor subdivision is proposing to create 2 tracts of record ranging in size from 12.32 acres to 34.78 acres for a total of 47.10 acres. One tract will be for a multi-functional recreational facility that will house the Lady of the Rockies gift shop, offices, reception hall and the tram base

and the other tract will contain the existing health care facility. It should not read this way. It should read one tract will be for the location of the tram base within this subdivision and the other tract will contain the existing health care facility. The remainder of the allowable uses within the tram portion of this subdivision are yet to be decided. Therefore, the words multifunctional recreational facility that will house the Lady of the Rockies gift shop, offices and reception hall should be deleted. The reason this wording needs to be deleted is because all that was approved in the Special Use Permit #13585 on August 4, 2011 was the tram base location.

Ms. Lindh stated Mr. Lienemann you are bringing up a lot of concerns that we as a Planning Board haven't been a part of that took place with the Zoning Board of Adjustment quite a while ago. The application will have to develop a project application and we don't have all those details right now. I hear your concern about the purposes of what that tract would be for, but our purpose tonight is to decide whether or not the applicant has followed the rules of submitting the request to create this Minor Subdivision into 2 tracts.

Mr. Lienemann stated but if this is approved under the title that it is under right now tonight, you can't approve it, but recommend approve that means in my estimation that you are approving the multifunctional recreational facility, the kitchen, the whole nine yards and that is the only reason I am requesting that be deleted. It is not going to change the outcome of this hearing it is just that technically you are approving or recommending to approve the whole nine yards which did not take place in 2011.

Ms. Lindh stated but I think you can understand that we don't know what their plan is yet because that hasn't been submitted.

Mr. Lienemann stated I understand that.

Ms. Lindh stated some of those things may transpire and some may not.

Ms. Casey stated maybe to provide some clarification I will read the proposal from the staff report of August 4, 2011. The applicants are proposing to develop a multifunctional recreational facility for the community with the base of the tram as the centerpiece. In addition to the tram base the facility will include a gift shop, office and a reception hall. The primary purpose of the tram is to shuffle the community to the Our Lady of the Rockies statue and chapel. However, the tram will also provide riders the opportunity to access the Continental Divide by

trail. The site plan also shows a parking area and a caretaker's house and that is a direct read from the proposal of the staff report.

Mr. Lienemann stated I agree with that proposal but that is not what transpired that night. You were there Lori.

Ms. Casey stated Mr. Lienemann, yes I was. I think we are getting into something beyond the scope. I can also read you the approval letter that was sent to the Lady of the Rockies on August 5, 2011 which give them all of that information.

Mr. Lienemann stated that is not what they voted on that night at the Board of Adjustment. They voted on what Jon Sesso referred to as the where and that was it.

Ms. Casey stated the where for the facility is what they voted on. We can ask the applicant this is really about the subdivision. I was just trying to give the Board more information, if the druthers are to take the multifunctional facility out. Generally, as you know you deal with land with at this Board and not with what is going on the land to the extent it does not remove the applicant's right. The rights that they have are before the Zoning Board. We certainly could remove that to move this on tonight under a land use subdivision question.

Ms. Lindh stated Mr. Lienemann I think you have expressed your concerns very well and we will take them into consideration but our focus tonight is to decide whether or not this application should move forward or not. So I would appreciate if we could give some other folks a chance to express their concerns as well.

Mr. Lienemann stated I have some additional things. I am going to start from the the top this time. Please refer to page 2 of the staff analysis, 2nd paragraph titled Growth Policy. This paragraph states this proposal is determined to be in compliance with the Butte-Silver Bow Growth Policy by providing infill development. I cannot find where Butte-Silver Bow has ever adopted in-fill development in our present Zoning Ordinance. Therefore, in-fill development cannot be used to justify this subdivision as it presently does not exist in our Zoning Ordinance. Now I will read a portion of the Montana Code Annotated 2017. It is highlighted on you copies that says the Growth Policy is not a regulatory document. It does not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law. So what they are saying is first you have to have a law before you can use it. Butte-Silver Bow has never done that. I stand corrected if I am wrong but I sure can't find it in our ordinance. Moving on. There has been discussion within the neighborhood of an

interpretive center rather than a reception hall be incorporated into the Lady of the Rockies plan. I feel this proposal is a great idea as it would be an allowable use within a R-1 residential zone. Also it would provide a setting where the Lady of the Rockies story can be told and preserved. It would eliminate unwanted noise around the retirement and residential homes in the immediate area. Noise is a major bone of contention with those residents that presently reside in the area. I would think that the daily admission fees and the additional charitable donations would more than offset any revenue derived from the reception hall. The R-1 zoning for the property would not have to change. We do not want to see any commercial use of this property. We feel that adding an interpretive center enhances the possibility of the Lady of the Rockies to actually become a destination location within our community. Ask yourself if you would go to another city to view their newest reception hall that will probably be closed the day you arrive. If this change were to be made I feel that most residents including myself would be in favor of the Lady of the Rockies facility and its proposed location. Thank you.

Mr. Frank Murphy stated I would like to present this letter from my neighbors.

Mr. Frank Murphy stated I live at 3535 Continental Drive. I am kind of confused on Tract 1 and Tract 2 as the zones that would be designated for these two tracts. Can you explain that to me a little better please?

Ms. Casey stated so what you see outlined in green is zoned open space developable. So the Skyline Park and a portion of this area that the OLR Tract is on is zoned open space developable. What you see in the light yellow is zoned R-1 Single Family Residential. So part of their property to this point would be zoned in open space recreational developable and then as it extends there may be a section that is in the R-1. Then what we refer to as a dog-leg piece goes down to Continental and is R-1.

Mr. Murphy questioned so it remains R-1, the hospital and everything?

Ms. Casey stated yes. The larger 34-acre tract is all in the R-1.

Mr. Murphy stated thank you. This goes back to the meeting of 2011 the Zoning Board of Adjustment meeting. They were required to meet with residents regarding the tram. Nothing has taken place at this point and what I was getting at is basically a lot of the people that are living on Continental Drive where this road will come out there was never a meeting set up with them to get their input or that from the

Lady of the Rockies. There has been no meeting whatsoever of the people in the Columbia Gardens Estates for the tram itself. This is something that is very necessary I believe. People should have their input and a meeting should be arranged between the group with the people that are involved. The people down on the road where it comes out on Continental Drive. A separate meeting of the people in the Columbia Gardens addition. Again, if I am right on this at the Board of Adjustment meeting at the Serbian Hall the requirement was that the whole project was to be started at the same time that is the tram office, etc. The proposal site has changed from that meeting also. In that meeting the Chief Executive had drawn a picture of what the proposed site would be and if you look up at the picture up there it actually, I am using the Columbia Gardens Estates as the north boundary and it cut straight down into the open portion above the Skyline Park. That has been changed and there are different people involved in that also that should be notified and met with as far as the Lady of the Rockies. I will have to agree with Mr. Lienemann on part of this with the reception center per se. There are currently three (3) reception centers or halls on Continental Drive, the Serbian Church Hall, the East Side Athletic Club and the McQueen Club. I believe myself that an interpretive center would be more value to the community than a reception hall. The Chief Executive states that the tram would bring more people into Butte but doesn't believe that tourists would venture uptown without some information of history that the town has to offer, which is the Mining Museum, Mineral Museum, Clark Mansion, Archives, Speculator Mine Disaster and you can go on from there, even the architecture of the town. There are two main entrances that the tourists will use to get to the tram. One is off the Interstate down Harrison and proceed up Amherst to the tram. The other is the Continental Drive exit off I-90 which brings them straight north to the tram. Those coming off the Interstate will probably utilize services on south Harrison. Those coming off Continental Drive may use the services on Continental Drive that being gas stations and grocery store. In order to get these people interested in Butte and what it has to offer I believe and interpretive center is more necessary than a reception hall. This would also give uptown business a chance to profit from the interpretive center. There are also infrastructure considerations that must be done in the future such as traffic lights, school zones, excess traffic and this is where the information of people they are required to meet with would help to guide the project. Thank you.

Ms. Lindh stated thank you Mr. Murphy I am sure the applicant is listening to your comments. She then asked if there were any additional comments.

Mr. Dan Strizic stated I reside at 3235 Wharton Street. My family home is at 2245 Fairway Avenue which is directly adjacent to the Hillcrest Subdivision. I am a former Commissioner of District #2 which is just outside the District. I realize what the meeting is for to create the subdivision. I come here to speak tonight to caution. I think because of what is being done there, which is a great idea, Butte needs everything we can get. I am the biggest proponent of that. However, in that area it would have far reaching implications just creating the subdivision and I am sure the applicants know the hurdles because after the Columbia Garden Estates went in that is why you have a number of these people here tonight. There were several issues with that subdivision that are still ongoing today. If anybody drives down Continental you see a retention pond that sits where the sidewalk for the children to walk to Hillcrest is. It is about 2 feet into that sidewalk area. There are certain things that happen that probably shouldn't have been there. These guys have a big hurdle to go through and I just want you to think about that. There are a lot of things. Mr. Murphy mentioned traffic. Continental is getting worse and worse obviously because of the growth out there. This as you know the more cars the merrier right that's great but that creates problems. A traffic study was done for the Columbia Garden Estates and they did it at the end of June which doesn't include school. Two of the major schools in Butte, Montana are in that area. Hillcrest is 2 blocks to the south of where this entrance would be and Whittier is about 3 blocks to the west. Those are huge issues. So those are things that I just bring up because things are going to happen. This isn't just a minor subdivision if you will because we know what is going to be there. They are going to have to jump the hurdles. Good luck to them. That is a tough thing with any development. I don't care if you are just doing housing or whatever. Lori went over the conditions, the road, they are going to have to do a traffic study and that could have serious implications just to get out onto Continental depending on what they are going to estimate for the amount of traffic that is going to be there. So things will hopefully be considered and it can all be worked out if it is done properly. The other thing is the conditions are set and the ordinances are enforced so it should be good. You guys get to make a big decision. I appreciate your time. Thank you.

Ms. Lindh asked if there were any other comments.

Mr. Tom Jonart stated I live at 3461 Ottawa in the Columbia Garden Estates. I worked for the Highway Department for 30 years. This idea is a great deal but the problem is do they have the funding to even start this? To me this seems like we are putting the cart before the horse. Why are we talking about rezoning something when they don't even know if they have enough money to build this? I can't see

building a convention center when we don't have the tram first. Like Dan said the traffic on Continental is getting ridiculous. We don't need another convention center, a drunk hall. We have got the East Side, McQueen Club and we have the Serbian Church. If they have the money for the tram fine. We can do this housing or convention center later. I don't even know if they have done an engineering study. How high are they going to have to put these pillars? I know for a fact they said they can't have any pillars on the state right-of-way. They haven't got the okay from the state and they haven't gotten the okay from the Federal Government. Why are they rezoning something?

Ms. Lindh asked if there were any more comments.

Mr. Tim Dick stated I live at 3916 Elizabeth Warren. I also sit on the Board of Directors for the Lady of the Rockies. Just to answer some of the issues that have been raised here particularly the last one. This is exactly the opposite of the cart before the horse this is the horse before the cart. If we don't have the subdivision then we don't have the property in place and it is hard to get engineering done. It is hard to raise funds and get a plan. This simply is all we are asking to do. The Lady of the Rockies has followed the law and all the steps necessary to get approval for this Minor Subdivision and that is all we are asking for at this point. All the impacts and all that is going to happen with this is the trail we are required to have an easement for the trail and we are required to put sidewalks, curb and gutter in and that sounds like a great benefit. That is what you are approving tonight. The rest of the things will enable the Lady of the Rockies once we get approved to develop a plan, get money and move forward. You can't do it without the land. This is a good project for Butte. I certainly agree with that. We can't do it until we have the property. Until it is set up and we can move forward. So that is what this Board is asked to do is to follow the law and comply with everything. That is what I am asking. Thank you.

Ms. Lindh asked if there were any more comments.

Mr. Tom Jonart stated we already have three (3) facilities right now here in Butte. The YMCA never going to be finished. Phase II and Phase III will never make it. They are barely keeping the doors open. We have the MAC Center it has never been finished. We have the High Altitude Speed Skating Center never finished and we as the taxpayers pay for that. Is that what is going to happen they build this Convention Center and they can't get the tram to go and we have another building that the county will have to pay for just like the Montana Power building.

Ms. Lindh stated I hear your concerns. She then asked if there were any additional comments.

Mr. Lienemann stated I am sure the lack of residents from the Columbia Garden Estates are sure this will get jammed down their throat one way or another and so they elected to not attend this meeting.

Ms. Lindh stated whatever action we take our recommendation will go to Council, so there will be another opportunity to speak there.

Mr. O'Neill stated I move to approve the OLR Minor Subdivision with the 9 conditions as stated in the staff analysis.

Mr. Clary seconded the motion.

The voice vote in favor of the motion was unanimous.

V. **Other Business:** Growth Policy update. Ms. Casey gave a brief report of the progress of the Growth Policy update.

VI. **Adjournment** – The meeting adjourned at 6:00 P.M.

BY: _____
Janet Lindh, Chairman
Butte-Silver Bow Planning Board

ATTEST: _____
Lori Casey, Secretary
Butte-Silver Bow Planning Board