Pursuant to NRS 239B.030, the undersigned affirms that the following document does not contain the social security number of any person.

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IN THE SUPREME COURT OF THE STATE OF NEVADA

COMSTOCK RESIDENTS ASSOCIATION, JOE McCARTHY

Appellants,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED

Respondents,

_____/

No. 68433
District Court Case No. 14-CV-00128

JOINT APPENDIX

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Background and Purpose

Comstock Mining, Inc. has submitted a Master Plan Amendment and Zoning Change Application to Lyon County for approximately 87 acres of private land generally located north and west of State Highway 341 within and adjacent to the town site of Silver City, Nevada. The application is being considered by the Lyon County Planning Commission and Board of County Commissioners. The company requests changes to the 2010 Lyon County Comprehensive Master Plan and to the Zoning Maps associated with the Lyon County Code of Ordinances, Title 10 – Land Use Regulations.

According to the application, Comstock Mining is seeking these changes "for the purpose of pursuing continued mineral exploration, development, and the economic mining potential of the subject property"[1] prior to proceeding with actual mining activities. The requested Master Plan and Zoning changes would allow mining as a special use, where it is not now allowed.

The purpose of this analysis is to review and evaluate the changes proposed by Comstock Mining in light of the goals, policies, and intent of the Comprehensive Master Plan and Zoning Ordinances. Because the intent to pursue mining on the lands has been expressly stated by Comstock Mining, this evaluation will also examine whether the intended use of the lands for mining and the associated impacts from that use are generally consistent with the Lyon County Master Plan and Zoning Ordinances.

Historical Land Use Planning and Zoning in the Silver City Area

The use of land in the Silver City area was shaped by the discovery of gold in Dayton, Nevada in 1849, and the subsequent discovery of Silver in Virginia City in 1859. The rush to locate and patent mining claims, then develop underground mines, resulted in a fractured land ownership pattern with a variety of uses intermixed on the landscape. The town of Silver City was surveyed, patented, and developed well before the existence of local, state, or federal zoning, planning, parceling, and environmental regulations. The town's historical significance can be attributed to these factors, as can the mix of land uses and lot sizes that are uncommon in modern communities.

The Comstock Mining District represents a truly unique piece of the cultural history of Nevada and of the nation. The site of the single most productive mining strike in history, the Comstock brought tens of thousands of people to Nevada, generated enormous wealth, and created the towns of Virginia City, Gold Hill, and Silver City, the second metropolitan center in the Far West at the time. The Virginia and Truckee Railroad (recently restored by Carson City) was constructed to service the mines, and important advances in unionizing and labor standards occurred in the Comstock during the 1860s. The Comstock also generated significant technological achievements in the mining industry that were later incorporated worldwide. Because of the Comstock, Nevada became a territory in 1861 and a state on October 31, 1864.

Recognizing its critical cultural value to the citizens of Nevada and the nation, the United States first designated the Virginia City Historic District (including Silver City which was created as a Town Site in 1873) as a National Historic Monument on July 4, 1961. In 1969, the Nevada Legislature enacted Chapter 384 of the Nevada Revised Statutes to create the Virginia City Historic District, subsequently renamed the Comstock Historic District. Nevada's Comstock Historic District Act is the only Comstock-specific legislation designed to protect this important and unique site of Nevada and national heritage.

In the Comstock Historic District Act, the Nevada Legislature decreed that it is "the public policy of the State of Nevada to promote the educational, cultural, economic and general welfare and safety of the public through the preservation and protection of the structures, sites and areas of historic interest and scenic beauty" of the Comstock Historic District. Efforts have been made through the decades since the designation to preserve the character of the Silver City community and landscape to reflect the community's roots in the historical mining era.

As modern planning and zoning emerged for the Silver City area, it retained this historical backdrop as its foundation, and overlaid a modern transect of desired development. The Silver City Town Site has been envisioned consistently as having a commercial core with a small industrial zone which includes some historic mills and mines, all surrounded by residential development. Beyond the boundaries of the Town Site, land use has consistently been designated for less dense development and open space. Using different designations with different names, this basic concept has carried through generations of land use plans and continues today.

1971 GENERAL PLAN

Modern planning and zoning really began in the Silver City area with the Lyon County General Plan, which was prepared and adopted in 1971 in response to growing population trends in the County. The plan was comprised of six elements, including a Land Use Plan, a Community Facilities Plan, a Transportation Plan, a Recreation Plan, individual Area Plans (including the Dayton-Silver City Area Plan), and an Implementation Plan. Each of these elements was crafted through an extensive public process.[2]

Some of the features of these elements that are relevant to the changes that are being proposed today are described below. The 1971 Plan divided uses broadly between "living uses", containing essentially residential uses, and "non-living" uses, which include commercial, service and industrial uses, stating that "some separation of these two basic functions is desirable for community balance and living conditions"[2]. Silver City was identified as an "urbanizing area" surrounded by rural residential lands and open space. Open Space was described as "one of the most important" uses of land in Lyon County, and included the high mountain and difficult terrain west of SR 341 and 342 outside the Silver City town site.[2]

Mining was recognized as an important land use in the 1971 Plan, consistent with the concept of separation of "living" and "non-living" areas. For these reasons, county permits for mining were only issued as a special use to allow the Planning Commission and Board of County Commissioners to maintain this desired separation.

The Recreation Plan element of the 1971 Plan further embraced the concept of open space as critical to preserving recreation resources and adding to the quality of life in county residents. The recreation program was seen as focusing on the preservation of open space including areas of historic or cultural significance, and the Plan stated that "development that would change the natural features or reduce the primary importance of the area"[2] should be prohibited.

The Dayton-Silver City Area Plan was one of five areas in Lyon County requiring special planning approaches in the 1971 Plan. It identified Silver City as a significant recreational, historical and cultural attraction, stating that the "historic core areas of Dayton and Silver City should be preserved".[2] Silver City was identified as an urbanizing area that would include light commercial and residential uses, the surrounding steep mountainous areas were designated for open space, and the more gentle terrain was designated for low density residential use.

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1973 ZONING ORDINANCES

Implementation of the Lyon County General Plan of 1971 resulted in the adoption of zoning maps and ordinances in 1973 reflecting the goals, policies and land use decisions of the General Plan. Exhibit 1, Silver City Zoning Map[3], shows the following zoning designations for the Silver City area.[4]

- **RR-1 – First Rural Residential.** One-acre minimum lot size. Permitted uses are single family dwellings, agricultural uses, recreational and educational uses and certain commercial, public and industrial activities subject to issuance of a Special Use Permit. This zoning designation remains largely unchanged since 1973 in a small portion in the northeast of the Silver City town site.

- **RR-5 – Fifth Rural Residential.** Twenty-acre minimum lot size. Permitted uses are single-family dwellings, agricultural uses, recreational and educational uses, and mining activities subject to issuance of a Special Use Permit. Lands with this zoning designation are outside the boundary of the Silver City Town Site, reflecting a less dense, more rural character, and were consistent with the Open Space designation of the 1971 General Plan.

- **NR-1 – Single Family Non-rural Residential.** 7,000 square feet minimum lot size. Single family residences and some related activities are permitted. This zoning designation made up the vast majority of the Silver City Town Site in 1973, as it does today, with minor modifications. This is a reflection of the "urbanizing area" designation of the 1971 General Plan.

- **C-2 – General Commercial.** Retail and wholesale business activities are permitted except for obnoxious activities such as junkyards and salvage operations. This zoning designation has been in place along both sides of Main Street (SR 342) through the Silver City town site since at least 1973 and remains to this day. This designation is consistent with the definition of an urbanizing area.

- **M-1 – General Industrial.** Most industrial land uses are permitted. Obnoxious or dangerous uses such as chemical manufacturing or processing, sand and gravel extraction and mining require issuance of a special use permit. This industrial zone has been in place since 1973 and remains along both sides of the SR 342 corridor south of downtown Silver City and the intersection of American Flat Road.

At some point after this zoning map was produced, the zoning of two parcels that extended beyond the boundaries of the Silver City Town Site into the open space lands surrounding the Town Site, were changed from RR-5 to NR-1 as depicted on the Comstock Mining application and on the current Lyon County GIS data base. Comstock Mining states that this zoning was "adopted in the mid-1970s"[5] The two parcels are the large Kossuth Lode and Alhambra Lode patented claims that extend outside the Town Site and are labeled Parcels 1 and 3 in the Comstock Mining change application.

1986 PLAN AMENDMENT AND ZONE CHANGE PROPOSAL

In 1986, Nevex Gold Company submitted an application for a master-plan amendment, zoning change request, and a special use permit for an open pit mine, spoil piles, and haul roads on 20 acres of land that are a portion of the same lands that are being proposed today by Comstock Mining for Master Plan Amendment and Zoning Change. As with Nevex, Comstock Mining intends to mine these lands, but unlike Nevex, Comstock Mining has chosen to sequence their approvals by waiting to submit a Special Use Permit application for the open pit mine until after a decision is made by Lyon County on their request for changes to the Master Plan and Zoning Maps.

In 1986, the Lyon County Planning Commission denied the planning and zoning changes and the Special Use Permit, and the Lyon County Board of Commissioners upheld that decision on appeal.

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The same rationale for change offered by Nevex in 1986 is being offered by Comstock Mining today.[6] After a lengthy hearing in which arguments were made by the mining company and opponents, much of it citing the goals, policies, and intent of the 1971 General Plan and the 1973 Zoning Ordinances, the Lyon County Board of Commissioners voted 4 to 1 to uphold the Planning Commission's denial of the master plan and zoning changes, and to deny the Special Use Permit. The following motion was made by Commissioner Cummings and includes the findings made by the Board that were the basis for the Board's denial: [6]

> I hereby move to deny the request for rezoning by Nevex Gold, inc., based upon the following findings of fact which I find to be supported by substantial evidence in the record as follows:
>
> 1) After a four hour presentation on June 17 [1986], the Planning Commission, by vote of five to two, recommended denial of the Nevex rezoning request considered today.
>
> 2) In reference to requirements for zoning established by NRS Section 278 and 250, we find (A) that the Nevex rezoning request does not comply with the Lyon County Master Plan. (B) The proposed rezoning does not promote the conservation of open space or protect the natural and scenic resources from unreasonable impairment. (C) The proposed rezoning would have both a long-term adverse financial impact to Silver City and the Comstock National Historic Landmark. (D) The proposed rezoning does not promote the health and general welfare of the Silver City area. (E) The proposed rezoning is not compatible with the Silver City area and does not encourage the most appropriate use of land in the Silver City Townsite.
>
> 3) There is no land in the Silver City Town site zoned RR-5, and the present zoning is predominantly residential in nature.
>
> 4) The proposed rezoning would significantly harm the integrity of the Comstock Historic District and the National Landmark District.
>
> 5) The proposed rezoning violates the following expressed goals: (A) to manage national resources in a beneficial way. (B) To improve neighborhood stability and increase property values by preventing incompatible and disruptive land uses.

This action by Lyon County is significant to the current proposal by Comstock Mining, because the County has already addressed this issue and as described previously and below, the goals, policies and intent of the Lyon County Master Plan, have remained in place or even strengthened on these lands in the intervening 27 years.

1990 LYON COUNTY MASTER PLAN

Lyon County developed a new Master Plan that was approved by the Board of County Commissioners in February 1990 and published in July 1990. Lyon County approved two goals for Silver City in the 1990 Master Plan:

> **Goal #1** – To maintain, promote, and secure the historic character of the community and to prevent the destruction or degradation of the historic character. Objective: Lyon County should support the Comstock Historic District Commission in its legislative mission.
>
> **Goal #2** – Lyon County should review all new development proposals with the intent to protect the riparian ecology associated with Gold Canyon and American Ravine, with the intent of protecting water quality, minimizing flooding, erosion and sedimentation, and preserving natural drainage, habitat, and aesthetic functions.[7]

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Under Community Design, the 1990 Plan referenced the long history of Silver City and stated:

> Silver City is totally contained within the Comstock Historic District, and has an active advisory board. The mining history of the area and the structures from that era are an understandable source of pride. A key concern of the residents is preserving the existing historic character of the area.[8]

Under Land Use, the 1990 Plan again focused briefly on Silver City, expressing a vision of the present and the future of the community:

> State Route 341 (becoming 342 at the truck route south of town) carried tourist traffic to and from Virginia City through the original commercial district of Silver City. Silver City is located entirely within the Comstock Historic District and is the scenic route through the District. Some of the original commercial buildings are still standing, portraying an historic atmosphere that tourists enjoy.
>
> The prominent elements of this mountainside mining town are the headworks of the Dayton Shaft, west of the highway, and at the site of the Donovan Mill, at the south end of the town. The process buildings, vats and machinery of the Dayton Mill have been standing pretty much as they were since the closure of the mill in 1957; however, the mill is still considered to be a viable industrial property and future operations may occur.
>
> East of the highway and the commercial district are a few older residences that are occupied in a random fashion. There are some new homes mixed with many older homes. An active effort to restore the old Cemetery is being undertaken by many volunteer citizens. The old school facility is being used as a community hall. Many of the parcels in Silver City do not have residential or commercial units on them.[9]

Accompanying the Master Plan were seven land use maps, including one labeled "Carson Plains, Book II" in which Silver City was mapped (see Exhibit 2). As with previous land use designations, Silver City was designated primarily as Medium Density Residential, with the exception of the Commercial Land Use strip along Main Street that remained from the 1971 General Plan. Medium Density Residential was defined as:

> Lot and parcel sizes would include the basic "estate" zone districts" from 12,000 square feet to ½ acre. Population projections in this land use will consider an average of three (3) family units per acre.[10]

Lands outside the Silver City Town Site were designated Open Space (see Fig. 2), defined as follows for private lands:

> Any private lands within this designation should be entitled to a single family unit for each existing parcel. All other land use activities should be covered in the current code (as they may apply).[11]

The 1990 plan was completed and implemented just before the residential boom that began in the 1990s along the US 50 corridor east of Carson City in Lyon County.

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2002 WEST CENTRAL LYON COUNTY LAND USE PLAN

As increased growth and development pressures began to occur in the 1990s along the US 50 corridor in Lyon County east of Carson City, the Board of County Commissioners saw the need to update the Master Plan for this area. A public process began in January 2000, culminating with the West Central Lyon County Land Use Plan and map that were approved by the Board of Commissioners in November 2002.[12] This plan looked closely at the Mound House area, the Dayton Valley Area, and Silver City, acknowledging the unique land characteristics and development issues those communities were facing.

The plan concludes that Silver City has the potential for continued limited growth with only half of the potential home sites developed. The plan for slow growth of the community was acknowledged, as was the historic nature of the town's architecture and the context of the community within the Comstock Historic District and the Virginia City National Historic Landmark. In the plan, Lyon County stated that Silver City did not have the kind of development potential they saw in Dayton Valley, but instead hoped for gradual residential and commercial growth of Silver City while maintaining the community's historical integrity.[13]

Lyon County adopted 10 Goals for Silver City that articulated future direction and continuation of earlier policies set out in previous master plans as follows:[14]

1) To recognize, enhance, and protect the unique character of Silver City. *Among the actions set forth to implement this Goal was "to maintain that scale and primary residential character by retaining the existing Master Plan designation and zoning categories".*

2) To preserve the scale of the community by architectural review that is sensitive to how new structures fit into the existing fabric. *Among the actions set forth to implement this Goal was "to preserve the existing pedestrian character by maintaining alleys, soft paving approaches, and relatively narrow streets."*

3) To promote the revitalization of the commercial corridor by promoting reinvestment.

4) To preserve and strengthen the existing infrastructure, i.e., water, roadways, drainage, and public facilities. *Among the actions set forth to implement this Goal was "Lyon County shall provide an infrastructure inventory and deficiency evaluation and report. Lyon County shall provide a long term if modest capital improvement commitment (i.e., 20 years) that methodically addresses these deficiencies."Also included was an action "to implement and actively oversee the 'dark sky' ordinance."*

5) To focus on encouraging tourist-oriented historic activities that do not degrade the quality of life keying Silver City's uniqueness. *Among the actions set forth to implement this Goal was "to actively support the efforts of residents to preserve and improve their property."*

6) To recognize and support improvements to and maintenance of historic transportation routes, railroad connections, and other public facilities that link Silver City to its surroundings.

7) To promote the preservation of existing public facilities.

8) To limit earth disturbance or above-ground mining activities that create visual scarring or that disrupt the fabric of the community. *The only action set forth to implement this Goal was "Lyon County shall establish a land use policy that*

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minimizes the impact of mining and other significant earth-disturbing activities that degrade quality of life."

9) To encourage continued citizen participation in the planning process.

10) To maintain the primary focus of the community as residential. *The only action set forth to implement this Goal was "to urge the Board of County Commissioners to carefully consider all zone changes or Master Plan amendments that would substantially alter the character and identity of Silver City."*

Taken together, these 10 Goals clarified Lyon County's vision for the future of Silver City. The Land Use Plan further addressed the land use designations and zoning for Silver City as follows:

> Currently there are three General Land Use categories that guide future infill development of Silver City. The predominant land use is residential and the land use category affects about 80 percent of the total land. The zoning classifications of NR-1 and RR-1 have been assigned to the properties and this is a typical low traditional density residential community. The second classification is General Commercial of C-2 that forms a one-block deep corridor on either side of Highway 342 through the center of town. The third is an M-1, industrial land use classification that occupies a southern central position around historically valuable mine and mill properties.[12]

The area surrounding the Silver City Town Site continued to be designated Open Space (Public and Private) in the Land Use Plan and no change in zoning was recommended. Exhibit 3 depicts the map that accompanied the 2002 West Central Lyon County Land Use Plan, reflecting the land use designations for Silver City and the surrounding lands as Lyon County entered the third millennium.[12]

Existing Planning and Zoning

With this backdrop of historical planning and zoning, it should be mentioned that while land uses and zoning remained consistent for Silver City, much of the rest of Lyon County was rapidly undergoing urbanization, population growth, and agricultural land conversion. These later changes, and the wide diversity of land use issues throughout the county, led to the decision by the Lyon County Board of Commissioners to develop a new county-wide Comprehensive Land Use Plan, and a new Land Use and Development Code to implement that plan.

2010 COMPREHENSIVE MASTER PLAN

After an extensive public outreach effort that lasted approximately four years, the Board of County Commissioners approved the new Comprehensive Master Plan on December 23, 2010. It addresses the diversity of communities within Lyon County and the diversity of issues faced by those communities. It is intended to benefit "county residents and landowners by ensuring that land use decisions are rational, democratic, and predictable". [Page 1.7 – *The bracketed page numbers that follow reference the specific pages cited in the 2010 Comprehensive Master Plan.*][15] The Master Plan is intended to guide the County in making decisions about future development, and to help residents "understand the County's position on proposed changes in land use, zoning, development regulations, and broader policy issues." [pg. 1.7]

The Master Plan is a general policy document, serving as a guide for the future development of property. Zoning maps and regulations, however, provide specific requirements for the development of a property, and have the force of regulation. "When changing the zoning of a particular property, it

must be consistent with the Master Plan Land Use Map. That is to say, the Land Use Map contained in this Master Plan should guide future re-zoning decisions." [pg. 1.9]

Lyon County has adopted a "vision that is founded on the premise that the health of the County and the quality of life of its residents depend on the balancing of multiple factors, including environmental, economic and community/social considerations. These components are interrelated and essential to the continued health and sustainability of the community." [pg. 2.2] This commitment to achieving all three components of the County's wealth – environmental, economic, and social – is confirmed throughout the Master Plan, and recognizes that all three can be attained without sacrificing any one of them.

Based on the vision, the County has set specific goals and policies within the following eight Guiding Principles:

- Land Use, Economy and Growth (LU)
- Transportation (TR)
- Community Character and Design (CC)
- Natural Resources and Environment (NR)
- Parks, Recreation and Open Space (PR)
- Public Facilities/Services (FS)
- Regional Coordination (RC)
- Communities and Planning (CP)

The Master Plan contains policies and goals that are County-wide in nature as well as specific to its eight diverse communities, including Silver City. The following excerpts from the Master Plan are relevant to the proposed Master Plan Amendment and Zoning Change application submitted by Comstock Mining and currently being considered by the Lyon County Planning Commission and Board of Commissioners. In its application, Comstock Mining has made proposed findings to support its requested changes, based on its burden of proof that the changes to both the Master Plan and the current Zoning Maps are needed.

> **Policy LU 1.1:** Follow development patterns as established on Countywide Land Use Plan or a more specific Community Plan. [pg. 3.4]

The Community Plan envisioned for Silver City has not yet been initiated by Lyon County. Until a Community Plan is adopted, the Countywide Land Use Plan will be the guide. [pg. 3.18]

> **Policy LU 1.4:** Locate industrial development as designated on County-wide Land Use Plan or determined by criteria. Industrial uses, including extractive industries, will occur in areas that are designated on the County-wide Land Use Plan. New industrial uses should only be located in areas that do not adversely impact existing residential settlements. [pg. 3.5]

The Strategies for implementing this policy include developing a set of siting criteria and performance standards, but these have not yet been developed.

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> **Policy CC 1.3:** Design Tailored to Communities. New development in Lyon County should address and respect the unique character of communities within the county. Strategies: develop Community Plans to identify typical or desirable design elements that maintain or promote the community's desired image. Adopt County-wide standards that allow the flexibility to address specific design needs for individual communities in Lyon County. [pg.5.3]

In Silver City, this means maintaining the historic character of development in the Town Site, continuing the architectural standards within the Comstock Historic District, retaining or restoring existing historic structures, and limiting new development to those proposals that fit with the historic image of Silver City.

> **Goal CC-3: Heritage** (under Community Character and Design, Chapter 5). Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for residents and visitors to learn about and celebrate our heritage.
>
> **Policy CC-3.1:** Maintain and restore historic resources. Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts. Strategies: Revise zoning to encourage historic use and development patterns including mixed-use structures and districts. **Within historic districts, promote historic design elements, features, and context, and prohibit building design that compromises the integrity of the historic community character. Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district. Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.** [pg. 5.4 (emphasis added)]

This policy speaks directly to the Comstock Historic District and the Virginia City National Historic Landmark that encompass Silver City and the surrounding area and addresses the overall context of the historic district, not just lands within the district itself.

> **Goal NR 9: Mining and Resource Extraction** (under Natural Resources and Environment, Chapter 6). Lyon County will promote the continued development of mineral and aggregate resources **while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.** Policy NR-9.3: Mitigate Operations. To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, etc. [pgs. 6.8-6.9 (emphasis added)]

The application for Master Plan Amendment and Zoning Map changes from Comstock Mining states the changes are "for the purpose of pursuing mineral exploration, development and the economic mining potential of the subject property."[18] While limited mineral exploration can be conducted on the property now, it is understood that actual mining could only occur after the Master Plan is amended, the current Zoning is changed, and, if these were to be successful, a Special Use Permit would have to be applied for and issued to the applicant.

Lyon County's Policy (NR-9.1) is to guide new residential, commercial, and industrial development away from existing mining activity. [p. 6.8] However, the reciprocal policy is inherent in Goal NR-9 and Policy NR-9.3 (quoted above) in that it requires avoidance or mitigation of adverse operational impacts of mining activities on existing residential, commercial and industrial activities as well as on

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the visual character of the area. Silver City is an existing community with residential, commercial and industrial areas that would be adversely affected by the mining activities envisioned by Comstock Mining similar to the impacts anticipated for the proposed Nevex mine in 1986.[17]

> Goal CP-1: Support Diversity. Lyon County will celebrate and support the diversity of character among communities in the county. Policy CP-1.1: Recognize Diversity of Communities. Lyon County planning efforts and regulations will consider the unique aspects of communities in the county, and will allow for variation and exceptions to address key aspects of their diversity. Goal CP-3: Community Plans. Lyon County will support community-based planning efforts that elaborate community-specific goals that are developed with strong public consensus. [pgs. 10.2-10.3]

The communities within the Comstock Historic District, including Silver City, are the oldest in Lyon County, representing a unique aspect of historic development within the County. Embracing the historic character of Silver City and supporting planning actions and designations that are consistent with Silver City's heritage is consistent with the intent of this Goal. It is anticipated that the Community Plan process will begin soon for Silver City, which is identified as one of eight existing, established communities in Lyon County for which a Community Plan is required under the Comprehensive Master Plan. Because the Community Plan is intended to tier off the Comprehensive Master Plan, maintaining the Master Plan decisions for Silver City is critical to the continuity and consistency of this process.[18]

LAND USE PLAN

The 2010 Comprehensive Master Plan contains a Land Use Plan that includes County-wide Land Use Plan Maps to guide land uses throughout Lyon County. It also includes a Character District Map to guide the kinds of development appropriate for each of the eight communities that have been identified for Community Plans. The Land Use Plan portion of the Comprehensive Master Plan states that:

> The County's geographic planning areas have been assembled into several "communities" that reflect for each, a sense of place, identity and character. The successful implementation of this Comprehensive Plan will require that these differences be respected and integrated into each of the community plans envisioned by this Plan. [pg. 3.1.1]

As with prior land use plans in Lyon County, this Land Use Plan embraces the historic nature and slow pace of development in Silver City, acknowledging that:

> Over the past 10 years residential infill and limited commercial endeavors have occurred on existing historic properties in Silver City. The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims.
>
> Silver City has a strong sense of identity and prides itself on its cohesive small town atmosphere. The community treasures its historic buildings and landscape features, as evidenced by the preservation and rehabilitation of many original structures. New construction is regulated for exterior architectural features by the Comstock Historic District Commission. [pg. 3.1.3]

The Character Districts established in the Land Use Plan reflect this by designating the entire area within the Silver City Community Boundary, including the Town Site, as a Historic District, defined as follows:

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> Historic Districts include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote "historic" architectural design elements. Tools might include mixed-use, design guidelines and conservation easements. [pg.3.16]

The lands within the Community Boundary for Silver City are all designated as an Historic Character District. These lands will also be the subject of a Community Plan for Silver City, containing the Silver City Town Site, plus some additional surrounding lands (see Exhibit 4, County-wide Land Use Map - Silver City). The lands owned by Comstock Mining that are proposed for a Master Plan Amendment and Zoning Map Change are all included within the Community Boundary. Therefore, all of the Comstock Mining lands included in its application are within the Historic Character District. [19]

In addition to the Character Districts, the Land Use Plan Map for Silver City establishes Land Use Categories. In keeping with the historical pattern of planning and zoning for Silver City, the lands proposed for Master Plan Amendment and Zoning Map Change are generally divided between a Suburban Residential designation within the Town Site boundary, and a Resource designation outside that boundary (see Fig. 4).

The Suburban Residential designation under the Land Use Plan can include Medium Density Residential, High Density Residential or Residential Mixed-Use in a Community Plan. Prior to completion of the Community Plan, only the County-wide Land Use Plan designation applies (Suburban Residential). However, the previous Land Use Plan (West Central Lyon County Final Land Use Plan, 2002) designated the lands within the Silver City Town Site owned by Comstock Mining as Medium Density Residential (a category that does not exist in the County-wide Land Use Plan, only in Community Plans). Until the Community Plan is completed, it is reasonable to assume that a similar designation is intended for these lands. This is defined by the Land Use Plan (for Community Plans) as follows: [20]

> Medium-density residential neighborhoods should contain a mix of housing types in a neighborhood setting. Each neighborhood should have a recognizable center. Centers will vary in size and composition, but may include a combination of higher-density residential uses, parks and/or recreation facilities, or civic uses.
>
> Neighborhoods should contain connective open spaces that unify the development and provide transitions between other areas and uses.

Under the Land Use Plan these lands would typically be comprised of residential zoning where mining would not be allowed. Comstock Mining proposes to change this Suburban Residential designation within the Silver City Town Site to Rural Residential which typically includes zoning such as RR-3 and RR-5 where mining could be allowed under a Special Use Permit. Rural Residential planning and zoning (except RR-1) have never been included within the Silver City Town Site. During preparation of the Comprehensive Master Plan, Comstock Mining, then a lease holder of the lands, unsuccessfully argued that these lands within the Town Site be designated as Resource.[21]

The Resource designation under the Land Use Plan applies to those Comstock Mining lands outside the Silver City Town Site boundary. This designation includes:

> Private properties located within Bureau of Land Management (BLM) and Forest Service lands as in-holdings or in very rural and/or remote areas of the County away from developed lands or existing utilities and roads that are currently vacant or primarily vacant.....While properties are entitled to general rural residential

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> development based upon current zoning, maintaining these properties as open lands where possible is desirable [pg. 3.29]

Under the Land Use Plan, mining may be permitted as a Special Use on Resource lands. Comstock Mining is proposing to retain this Resource designation on Parcel 1 of its application, which extends outside of the Silver City Town Site boundary. However, Comstock Mining proposes to change the Land Use Plan designation from Resource to Rural Residential on its Parcel 3, which is the other parcel that extends outside the Silver City Town Site boundary, a designation that, combined with an RR-3 proposed zoning change, would still allow mining as a Special Use. It should be noted that when Comstock Mining requested changes to the Comprehensive Master Plan during its preparation in 2010, they stated that "the Company respectfully agrees with the designation" of Resource for those lands south of the Silver City town line, including Parcel 3.[21]

The Land Use Plan allows a number of options for development that would maintain the rural character of Lyon County, while allowing landowners to obtain equity for their lands. One of those options is called "Clustering" in the Land Use Plan. Clustering of development on lands within the Silver City Town Site could direct new residential development to more appropriate building sites, allowing steep slopes to be protected.[22] Clustering would allow multiple lots owned by Comstock Mining or any other owner within the Community Boundary of Silver City, for example, to be clustered onto less steep lands close to the neighborhood center that would be appropriate for residential building sites. Clustering residential development, which could be incentivized by Lyon County as envisioned in the Land Use Plan, would allow Comstock Mining to maximize flexibility for future residential development if plans for mining the land are not successful. The proposed zoning change, a "down zoning," however, would reduce the development potential and, therefore, the value of the land for residential development in the future.

LYON COUNTY ZONING CODE AND MAP

The current zoning map for the area being proposed for change by Comstock Mining is portrayed in its application as Sheet 4 of 7.[23] The subject area currently includes three relevant zoning designations that are described under the current zoning ordinances of Lyon County, excerpts of which are as follows: [24]

> **NR-1 Single-Family Nonrural Residential District.** Required lot area is a minimum of 6,000 square feet with no more than one single-family dwelling on any lot or parcel. Permitted uses are single family dwellings and associated uses. Special uses that may be permitted include child care facilities, churches, group care facilities, parks, public utility serving centers, recreational areas, residential industry and schools. On lots that are over 20,000 square feet, Special Uses that may be permitted include private golf, swimming, tennis and similar clubs, sanitariums, and other like uses. Mining would not be allowed.
>
> **RR-5 Fifth Rural Residential District.** Required lot area is a nominal 20 acres minimum, with no more than one dwelling allowed for each 20 acres in lot size, with structures at least 50 feet apart. Permitted uses on lots with the required area and width include barnyard animals, buildings, coops and pens or other such structures including corrals for horses; buildings for sale and display of products grown or raised on premises; home occupations; single-family dwellings of a permanent nature including accessory buildings, and hunting and fishing lodges, wildlife refuges and game farms.
>
> Special Uses that may be permitted include airports; kennels; cemeteries; churches; dude or guest ranches; race tracks and commercial stables; recreational and

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educational uses and buildings; residential industries; rest homes; tennis, golf civic or country clubs, utility and public uses and serving centers; mining, including extraction and/or processing of rock, sand, gravel, asphalt and like earth products including topsoil stripping; rifle and archery ranges; trapshoots; campgrounds; commercial farrowing pens and feedlots; commercial wind energy conversion systems; and on agricultural lands, buildings for use as farm labor housing.

M-1 General Industrial District. Required lot area is 7,000 square feet minimum. A wide range of general commercial and industrial uses are allowed in this zoning district. Mining and milling are allowed by Special Use Permit.

All of the lands owned by Comstock Mining within the project boundary described in its revised Master Plan Amendment and Zoning Map Change application are currently zoned NR-1 with the exception of lands in portions of lots 105 and 106 in the north corner of Parcel 5 of the application, which are zoned M-1. [Note: Inclusion of the M-1 lands may simply be a mapping error in the application since the Parcel 5 description included in the application does not correspond to the map, and Comstock Mining previously tried to avoid split-zoning of lots in its revised Reversion to Acreage application for Parcel 6 that was approved by Lyon County on October 8, 2013.] Lands surrounding the project boundary outside the Silver City Town Site are currently zoned RR-5. As stated by Comstock Mining in its application, these zoning maps and designations have been in place with minor language amendments since "the mid-1970s".

Comstock Mining is requesting that the Parcel 1, currently zoned NR-1 and extending outside the Silver City Town Site be changed to RR-5, a designation that would allow mining as a Special Use. This would be consistent with the RR-5 zoning on surrounding lands outside the Town Site. Comstock Mining is requesting a change in zoning for Parcels 2 – 6 from NR-1 to RR-3. This zoning designation is excerpted from the Lyon County Code as follows: [24]

RR-3 Third Rural Residential District (5 acres). Required lot size is a nominal five acre minimum, with no more than one dwelling allowed for each 5 acres in lot size, with structures at least 50 feet apart. Allowed uses are the same as described for RR-5 above. Special Uses are the same as RR-5, except that commercial wind conversion systems and farm labor housing would not be allowed on RR-3. Mining would be allowed as a Special Use.

There has never been RR-3 or higher zoning within the Silver City Town Site, which includes Parcels 2, 4, 5 and 6. Parcel 3 is outside but adjacent to the Town Site boundary and is surrounded by RR-5 zoning on lands outside the Town Site.

An overlay to the zoning on all these lands comes from the Land Use Regulations of Title 10, Lyon County Code, which imposes specific requirements for Special Use Permits within the Comstock Historic District. These are included in Chapter 10 of Title 10, "Mining in the Comstock Historical District." Additional development restrictions would also be imposed on those Comstock Mining lands that cross the public rights-of-way of State Routes 341 and 342 in Parcels 1 and 6.

DRAFT LAND USE AND DEVELOPMENT CODE

Implementation of the 2010 Comprehensive Master Plan requires revision of Lyon County's development regulations and standards to achieve the goals and policies of the Plan. The County is in the process of updating the Land Use and Development Code, including zoning ordinances and maps. These will become Title 15 of the Lyon County Code, updating and replacing the existing zoning. These changes are currently in draft form, and are an implementation priority for the County, along with development of the Community Plans.[25]

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The Land Use and Development Code is comprised of four parts: Part 1 is Administration; Part 2 is Development Regulations, currently focusing only on developing flood-prone lands; Part 3 is Zoning Regulations; and Part 4 is Land Division Regulations. These ordinances are not yet approved, but are are available on the Lyon County web site. This discussion will focus only on the draft Zoning Regulations.[26]

The Zoning Regulations implement the new Comprehensive Master Plan, and upon approval, will be determined by the Board of County Commissioners to be consistent with the Master Plan. As such, the proposed zoning corresponds to the Land Use Plan decisions for both Character Districts and Land Use Categories. No zoning maps are yet available, but it is assumed that the zoning maps will correspond with the Land Use Plan maps in the Master Plan, and as implemented in future Community Plan maps.

All lands currently under consideration for Master Plan Amendment and Zoning Change are within the designated Historic Character District. In terms of Land Use Categories, they are generally divided between a Suburban Residential designation within the Town Site boundary, and a Resource designation outside that boundary (see Fig. 4). There are a number of new Zoning Districts identified in the draft Zoning Regulations, generally fine-tuning the existing zoning to better implement the Land Use Plan, including mixed use centers, tourist commercial, and additional lot size categories for suburban and rural residential uses. Special Use Permits have been replaced by Conditional Use Permits where allowed.

As shown in Table 15.3000-3 of the Draft Zoning Regulations for allowed uses in Historic Character Districts, there are four possible residential district designations in the Community Plan based on minimum lot sizes: Suburban Residential (SR) – 1, SR – 12,000 (ft.²), and SR-9,000. There is also a possible Neighborhood Residential (NR) designation that allows a minimum lot size of 4,500 square feet. Historic Character Districts may also include the Non-residential Districts of Tourist Commercial Historic (TC-H) and Public/Quasi Public Uses, and also Commercial Mixed Use zoning (CMU-H). According to the table, "resource extraction and processing", which includes "mining, sand, gravel, and mineral" use types, are not allowed anywhere in the Historic Character District and would not be allowed on any of the lands being proposed for Master Plan Amendment and Zoning Map Change.

The Land Use Categories that split the subject lands at the Town Site boundary do not allow mining in any of the Suburban Residential or Commercial zoning districts, just as it is not allowed under current zoning rules within the Silver City Town Site. On the Resource lands outside the Town Site, mining would be allowed on RR-10 and RR-20 lands, new designations based on minimum lot sizes on rural residential lands. RR-20 is similar to the current RR-5 zone; there is no current equivalent to the RR-10 zone. Similarly, while there is also no proposed equivalent to the NR-1 zoning now in effect on the subject lands, the NR zone is close to the same, but with a 4,500 ft.² minimum lot size instead of 6,000 ft.².

Environmental Considerations

Because mining is the intended use of the lands and the motivation behind the requested Master Plan Amendment and Zoning Change, it is prudent to briefly consider some of the environmental factors that should be weighed now in general terms. It is assumed that the lands in this application would be mined and the ore removed for processing at Comstock Mining's existing mill site in American Flat in Storey County. Open pit mining would likely involve stripping the top soil for use as berms around the pit and for later use in reclamation, as well as drilling, blasting (when and where required), loading, and hauling of ore and waste materials.

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Within the Comstock Historic District, Lyon County has special provisions for mining that would be applied at the time of considering a Special Use Permit. These are in addition to other federal and state environmental regulations and standards. Lyon County Code[27] requires that:

> Particular consideration shall be given to the following factors:
>
> 1. The effect of the proposed operation on drainage and water supply.
>
> 2. The possibility of soil erosion as a result of the proposed operation.
>
> 3. The potential resultant degree and effect of dust and noise.
>
> 4. The potential resultant impact upon tourism, historic, archeological and cultural resources, recreational areas, agriculture, and public health and safety.
>
> 5. The practical possibility of reclamation of the site and the adequacy of proposed mitigation of impacts.
>
> 6. The effect of the proposed operation on natural beauty, character, tax base, economy, adopted general plan, land value and land uses in the area.

In addition, if and when a Special Use Permit is considered, the following findings must be made for proposed mining within the Comstock Historic District pursuant to Lyon County Code, Title 10, Chapter 10. These would apply to the Comstock Mining lands, and are unique in Lyon County because they specifically seek to protect the surrounding property owners, the neighborhood, and the historical context of the area.[27]

> 1. That the proposed mining activity will not be detrimental to public health, safety and welfare or injurious to the neighborhood.
>
> 2. That the applicant has shown that reasonable steps can be taken to protect land, air, and water resources of both the applicant's property and those of the surrounding property owners.
>
> 3. That scenic, historic, recreational, archeological, and agricultural values of the applicant's property and those of the surrounding property owners are protected.
>
> 4. That, notwithstanding adverse findings on one or more of the above paragraphs 1 through 3, the proposed mining activity is proposed by adding to the tax base, providing additional employment and otherwise contributing to the economic welfare of Lyon County.

It should also be noted that extensive environmental analysis was provided to Lyon County in 1986 for the Special Use Permit application submitted by Nevex Gold Company for a portion of the lands that are now being considered for a Master Plan Amendment and Zoning Change.[17] Noise, air quality, water quality, soils and reclamation were all studied for that 1986 proposal, which was ultimately denied by the Lyon County Planning Commission. The denial was upheld by the Board of County Commissioners. While mining techniques and environmental regulations have changed somewhat in the intervening years, the nature of the impacts and the needs for mitigation remain essentially unchanged. We have reviewed these analyses and find them competent and that they provide useful and relevant information to assess the potential impacts of Comstock Mining's current proposal.

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CARSON RIVER MERCURY SUPERFUND SITE

Portions of the land being considered in the application for Master Plan Amendment and Zoning Change are part of the Carson River Mercury Superfund Site Operable Unit 1 (OU-1). This includes mercury-contaminated soils at former mill sites and mercury contamination in waterways adjacent to the mill sites. OU-1 generally consists of the tailings and soil contamination near the mills where mercury was used to separate silver and gold from the ore. Contamination at the sites, including the Dayton Consolidated Mill which is located on the Comstock Mining property, is a legacy of the Comstock mining era of the late 1800s. The U.S. Environmental Protection Agency (EPA) and the Nevada Division of Environmental Protection (NDEP) are working together on a long-term sampling and response plan, with an objective to reduce human health risks from the contamination. The proposed clean-up or stabilization of these sites as part of any mining activity would be of particular concern to both agencies, Comstock Mining, and near-by residents.[28]

AIR QUALITY

Mining operations can generate dust from mining and mineral processing operations and associated truck traffic, releasing particulates, nitrous oxide, sulfur dioxide and carbon monoxide from the equipment used to mine and process ore minerals. These emissions can generate smog and other forms of air pollution that may impact local air quality. Most air emissions are regulated by the U.S. Environmental Protection Agency under its ambient air-quality standards. Best practices at mine sites involve evaluating the level of likely emissions, taking steps to reduce or eliminate them through the use of management practices or controls, and monitoring the sources from which they may be generated to ensure compliance with regulatory standards.[29]

These are reinforced by the 2010 Comprehensive Master Plan which states as a Goal that "Lyon County residents will breathe clean air", going on to say that as a policy, "Lyon County will seek to maintain and improve the quality of our air" by requiring "compliance with federal and state air pollutant emissions standards".[30]

Due to the proximity to the residential area in Silver City of the Comstock Mining lands, this may prove to be challenging to reconcile with an open pit mine. The predominant winds are from the west and south, which would blow emissions and dust from the mining operations toward the populated areas of Silver City. Exhibit 5 depicts the wind rose for Reno-Tahoe airport, approximately 17 air miles to the northwest, showing the cumulative annual wind directions and wind speeds for this part of Nevada. While there are localized differences in wind speeds and directions resulting from topography, this is the closest wind data collection point to Silver City and is considered representative of wind characteristics in the region.[31]

NOISE

Impacts from noise would be anticipated from any mining operation and, due to the proximity of residences in Silver City to the lands being considered for mining, would need to be evaluated in any Special Use Permit application. Drilling, blasting, crushing, operation of heavy equipment, and hauling of ore and waste products can generate high noise levels during mine operations. Numerous variables affect the noise levels including proximity of residences, topography, atmospheric conditions, whether windows are open or closed, and the hours, days and seasons of mine operations.

WATER QUALITY

Some individual mine sites may have increased concentrations of specific metals and salts in water used in – or runoff from – mine sites. Acid mine drainage is a phenomenon that can occur when rock containing sulfides is exposed to air and water. The water can become acidic and often carries

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elevated levels of toxic metals. Acid mine drainage occurs most frequently in association with metals mines [such as gold and silver mines] and can affect water quality. Pit lakes, another water quality concern during and after mine closure, are created when mining is completed in a pit and dewatering pumps are turned off, allowing groundwater to flow back into the pit. Similar concerns about the acidity and concentration of heavy metals in these water bodies arise in association with metals mines. Changes in water quality and quantity can affect not only human health but also wildlife habitat and ecosystem health. Environmental impact assessment processes often intensively focus on bio-diversity issues in Nevada, and as a consequence, operating plans require significant dedication to design of mitigation and management efforts.[29]

Lyon County has adopted a policy for Water Supply and Quality in the 2010 Comprehensive Master Plan: "Recognizing that clean water is a precious resource necessary to maintain our health, economy, and quality of life, Lyon County will protect the water supply and encourage efficient use of water resources."[32]

Site-specific analysis of surface waters and sub-surface waters in relation to any proposed mining activity would need to be undertaken to determine the extent of potential impacts to surface and groundwater quality and the appropriate mitigation measures that would be required.

RECLAMATION

Before any ground is disturbed, mining companies must ensure that adequate funds are available to complete reclamation and remediation of exploration and mining sites. In the subject area, this process takes the form of bonds and sureties held by the Nevada Division of Environmental Protection. This is intended to protect the public, should a company be unable to fulfill the activities required for reclamation and the safe closure of a mine, by having funds available to complete these tasks. Bond amounts are determined through development of comprehensive reclamation plans that detail the engineering, construction and environmental costs required to physically and chemically stabilize, reclaim and restore areas disturbed by mining.[29]

Lyon County also has imposed separate reclamation requirements for lands that are mined within the Comstock Historic District (see Title 10, Chapter 10, Lyon County Code). Reclamation plans for the site would need to address soil erosion and slope stability, invasive species control, chemical alteration of the soils and revegetation concerns, surface runoff, groundwater contamination, surface drainage of Gold Creek and its tributaries, the disposition of the existing mine and historic mill sites on the property, and the close proximity to scenic vistas from SR 341 and 342, the gateway tourist entrance to Virginia City and the Comstock Historic District.

Conclusion

Lyon County has consistently acted through its land use planning and policies, as well as its zoning decisions, to designate lands within the Silver City Town Site for medium density residential uses surrounding a commercial core area. The County has also consistently planned for rural uses and open space outside the Town Site boundary. These designations have used different language and different terminology, but all arrive at the same result: residential uses surrounding a commercial core within the Silver City Town Site, and open space outside the Town Site. Extending the RR-5 zoning (or creating new RR-3 zoning) within the Town Site would be out of keeping with the vision and values expressed by Lyon County over decades of planning.

The importance and special meaning of the Comstock Historic District and the Virginia City National Historic Landmark cannot be overstated. In its 2010 Comprehensive Master Plan, Lyon County created a Historic Character District so as to retain the cultural heritage of Silver City and parts of Dayton. Lyon County's ordinances also reflect the special consideration given this area by creating

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separate rules for any proposed mining of these lands, and for their protection and reclamation. Retaining the current land use designations, zoning, and restrictions of this area is essential to retaining the historic values and cultural heritage of Silver City.

Finally, in 1986, the Lyon County Board of Commissioners already rejected a similar proposal on the same lands with the following findings: the rezoning request does not comply with the Lyon County Master Plan; does not promote the conservation of open space or protect the natural and scenic resources from unreasonable impairment; would have both a long-term adverse financial impact to Silver City and the Comstock National Historic Landmark; does not promote the health and general welfare of the Silver City area; is not compatible with the Silver City area and does not encourage the most appropriate use of land in the Silver City Town Site.[6]

Endnotes

1 Comstock Mining, Inc. revised Master Plan Amendment and Zone Change Request, prepared by Manhard Consulting, Ltd., October 11, 2013.

2 Quotes from the Lyon County General Plan, 1971, were included in Milton Sharp, Sharp & Associates, Land-Use Planning and Zoning Analysis, Nevex Gold Company Applications for Master Plan Amendment and Special Use Permit, June 12, 1986.

3 Map provided by the Lyon County Planning Department.

4 Portions of these summaries were taken from Milton Sharp, Sharp & Associates, Land-Use Planning and Zoning Analysis, Nevex Gold Company Applications for Master Plan Amendment and Special Use Permit, June 12, 1986.

5 Page 2, Comstock Mining, Inc. revised Master Plan Amendment and Zone Change Request, prepared by Manhard Consulting, Ltd., October 11, 2013.

6 Transcript of Lyon County Board of Commissioners hearing of Nevex Gold Company's appeal of a Lyon County Planning Commission hearing, 1986.

7 Page 9, Lyon County Master Plan, July 1990.

8 ibid, page 25.

9 ibid, page 54.

10 ibid, page 251.

11 ibid, page 251.

12 West Central Lyon County Final Land Use Plan, prepared by RPE Engineering and Planning, approved by the Lyon County Board of Commissioners, November 2002.

13 Pages 13 – 15, West Central Lyon County Final Land Use Plan, 2002.

14 Pages 16 – 17, West Central Lyon County Final Land Use Plan, 2002.

15 Lyon County Comprehensive Master Plan, December 23, 2010.

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[16] Page 3, Comstock Mining, Inc. revised Master Plan Amendment and Zone Change Request, prepared by Manhard Consulting, Ltd., October 11, 2013.

[17] Resource Concepts, Inc, Nevex Gold Company Master Plan Amendment and Special Use Application – Reclamation, Noise, Air Quality and Water Quality Analysis, June 11, 1986.

[18] Chapter 10, Communities and Planning and Chapter 11, Implementation, of the Lyon County Comprehensive Master Plan identify the development of Community Plans as a high priority for Lyon County.

[19] A portion of land that comprises that part of the Alhambra Lode parcel that is in the E½ of the NE¼ of Section 17, T21E, R16N is included within the Community Plan boundary, though it is outside the Silver City Town Site. Most, but not all, of this land is shown as public land managed by the Bureau of Land Management, according to LR2000, the BLM data base, last published February 14, 2011. Efforts to confirm this land ownership with BLM are pending. It is presumed that Comstock Mining owns the mineral estate underlying this parcel since they show it as their property in the application.

[20] Pages 3.30-3.31, Lyon County Comprehensive Master Plan, December 23, 2010.

[21] Letter from Corrado Lee Gasperis, President and CEO of Comstock Mining, Inc., to Chairman Joe Mortensen, Lyon County Board of Commissioners, Subject: "Final draft – County Wide Component of the Comprehensive Master Plan Request for Resource Land Designation for Specific Mining Properties", December 13, 2010.

[22] Clustering is described on page 3 1 of the Lyon County Comprehensive Master Plan, 2010.

[23] Page 18, Comstock Mining, Inc. revised Master Plan Amendment and Zone Change Request, prepared by Manhard Consulting, Ltd., October 11, 2013.

[24] Lyon County Code, Title 10, Chapter 3, Residential Districts and Chapter 4, Nonresidential Districts.

[25] Page 11.6, Lyon County Comprehensive Master Plan, December 23, 2010.

[26] Lyon County Code, Title 15 (Working Draft), Part III, Zoning regulations, October 9, 2013.

[27] Lyon County Code Title 10, Chapter 10, Mining in Comstock Historical District.

[28] Carson River Mercury Superfund Site, U.S. Environmental Protection Agency, Region 9, Summary of Five-Year Review of OU-1 in Nevada, February 2013.

[29] Nevada Mining Association web site (www.nevadamining.org) "Issues and Policy", October 31, 2013.

[30] Pages 6.4-6.5, Lyon County Comprehensive Master Plan, December 23, 2010.

[31] Wind Rose Plot, Station #23185 – Reno/Cannon Airport, Nevada, 1/1/1990 – 12/31/1990, source: Lake Environmental.

[32] Page 6.4, Lyon County Comprehensive Master Plan, December 23, 2010.

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Exhibits

Exhibit 1 Silver City Zoning Map, 1971.

Exhibit 2 Portion of Carson Plains, Book II map, from 1990 Master Plan.

Exhibit 3 Land Use Map, 2002 West Central Lyon County Land Use Plan

Exhibit 4 County-wide Land Use Map - Silver City, 2010 Comprehensive Master Plan

Exhibit 5 Wind Rose Plot, Station # 23185 – Reno/Cannon Airport, Nevada, 1/1/1990 – 12/31/1999, source: Lake Environmental.

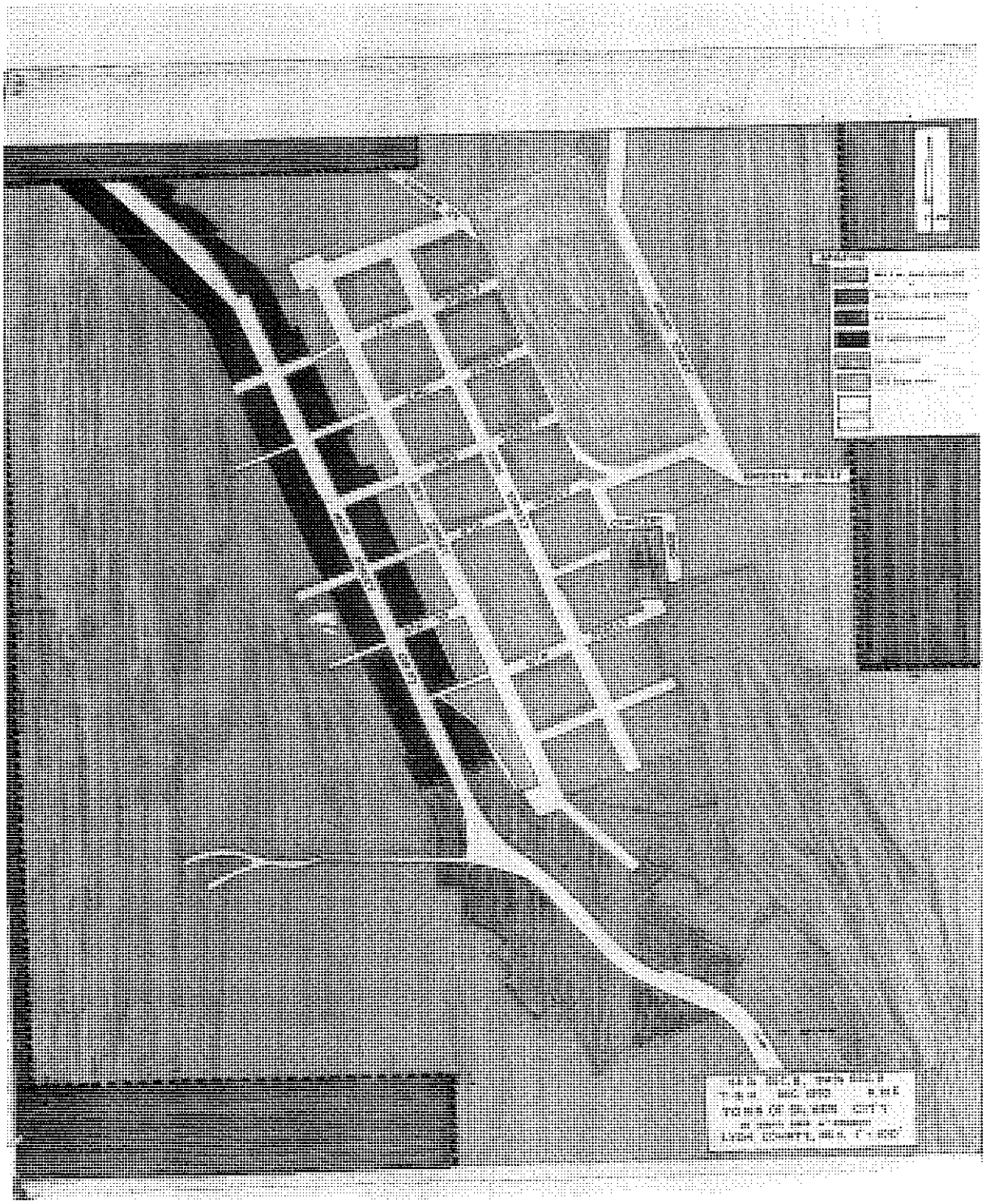

Exhibit 1 Silver City Zoning Map, 1971

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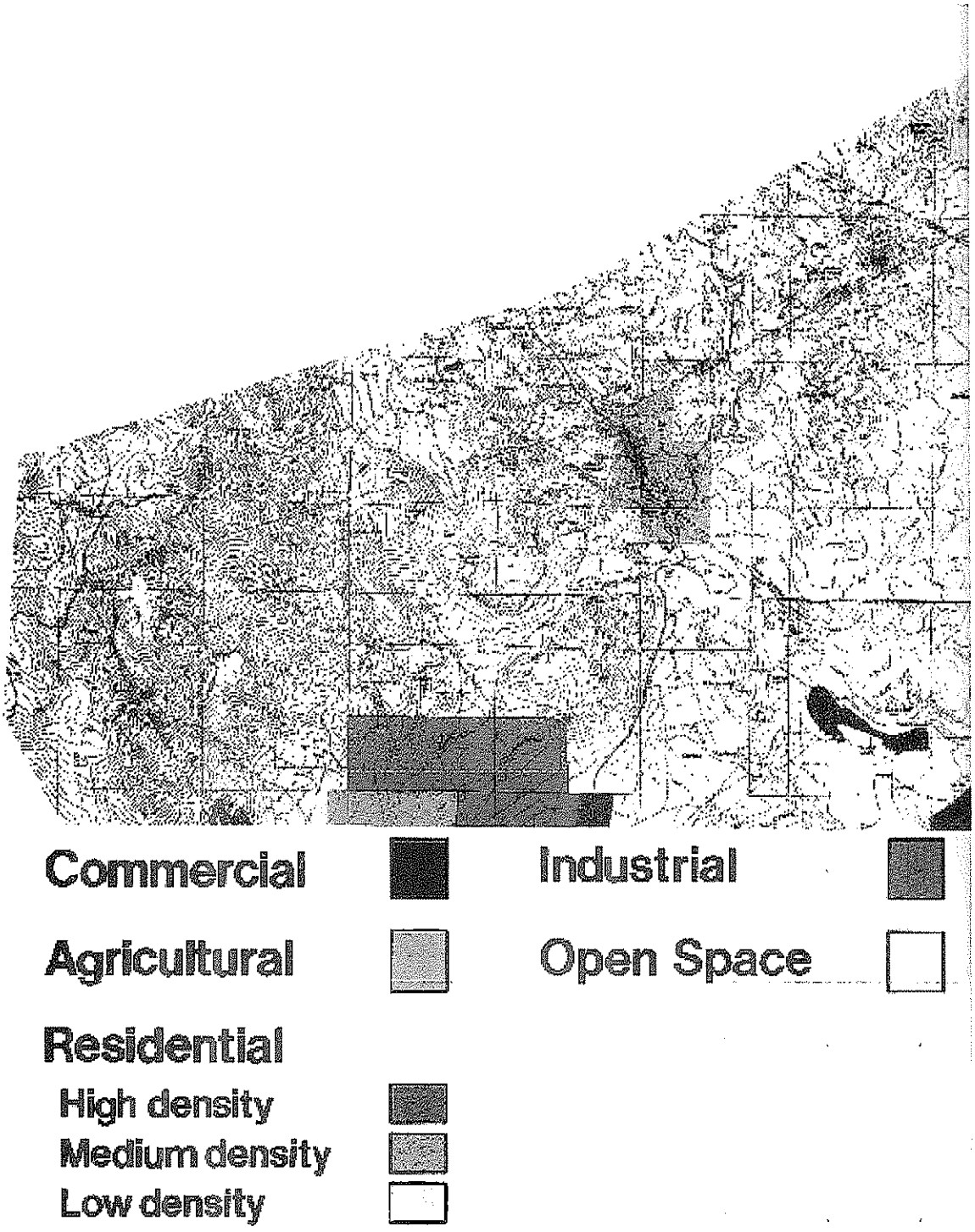

Exhibit 2 Portion of Carson Plains, Book II map from 1990 Master Plan.

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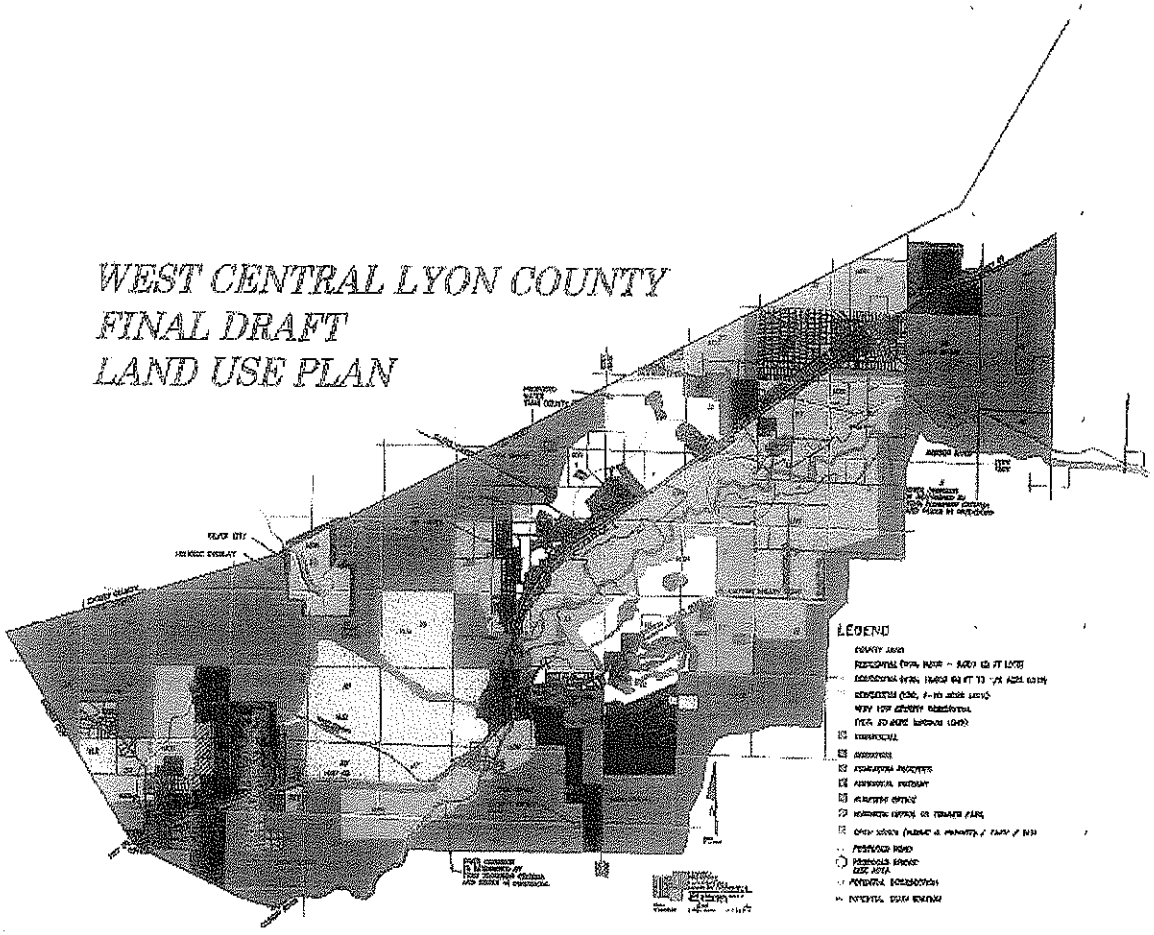

Exhibit 3 Land Use Map, 2002 West Central Lyon County Land Use Plan

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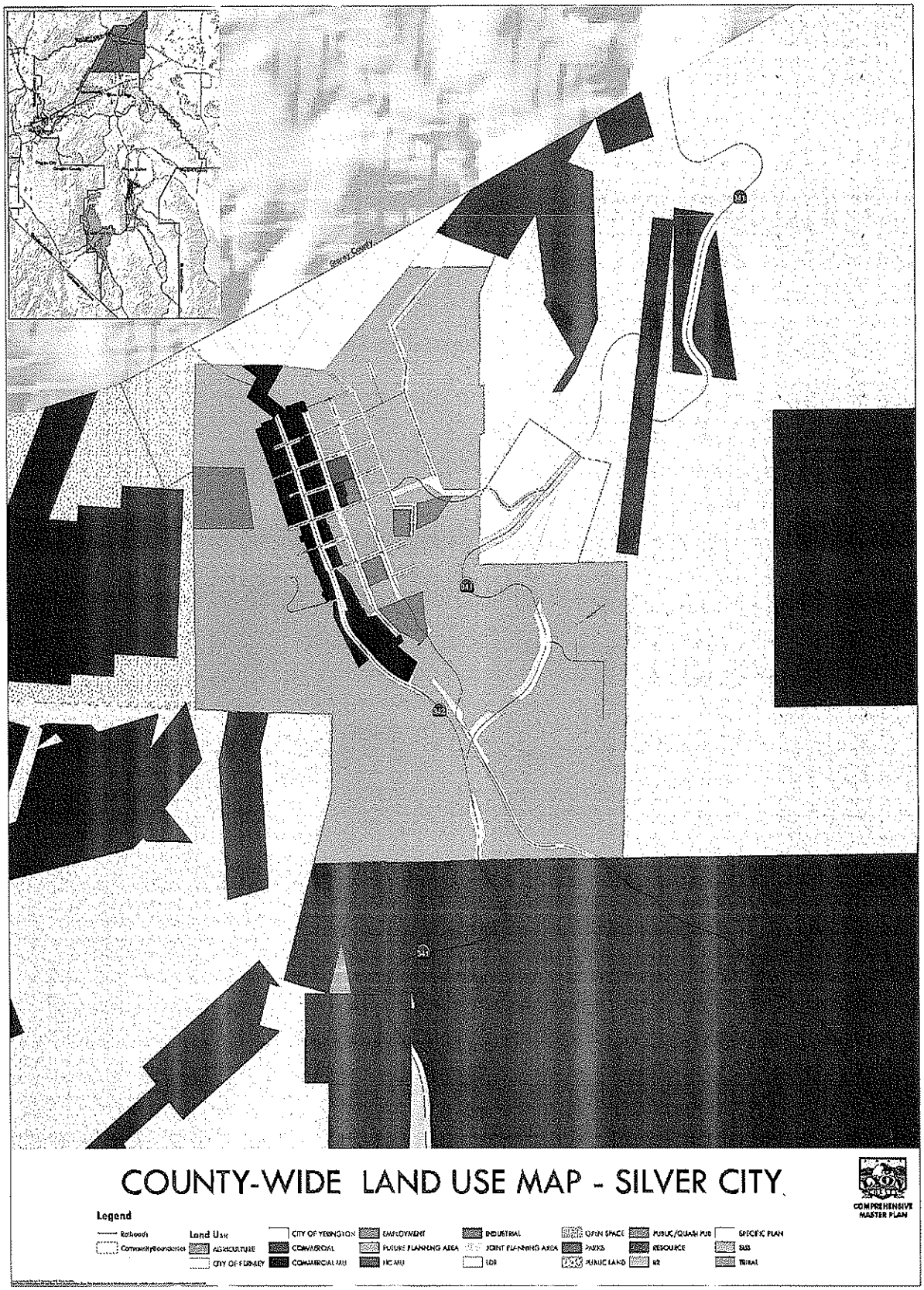

Exhibit 4 County-wide Land Use Map - Silver City, 2010 Comprehensive Master Plan

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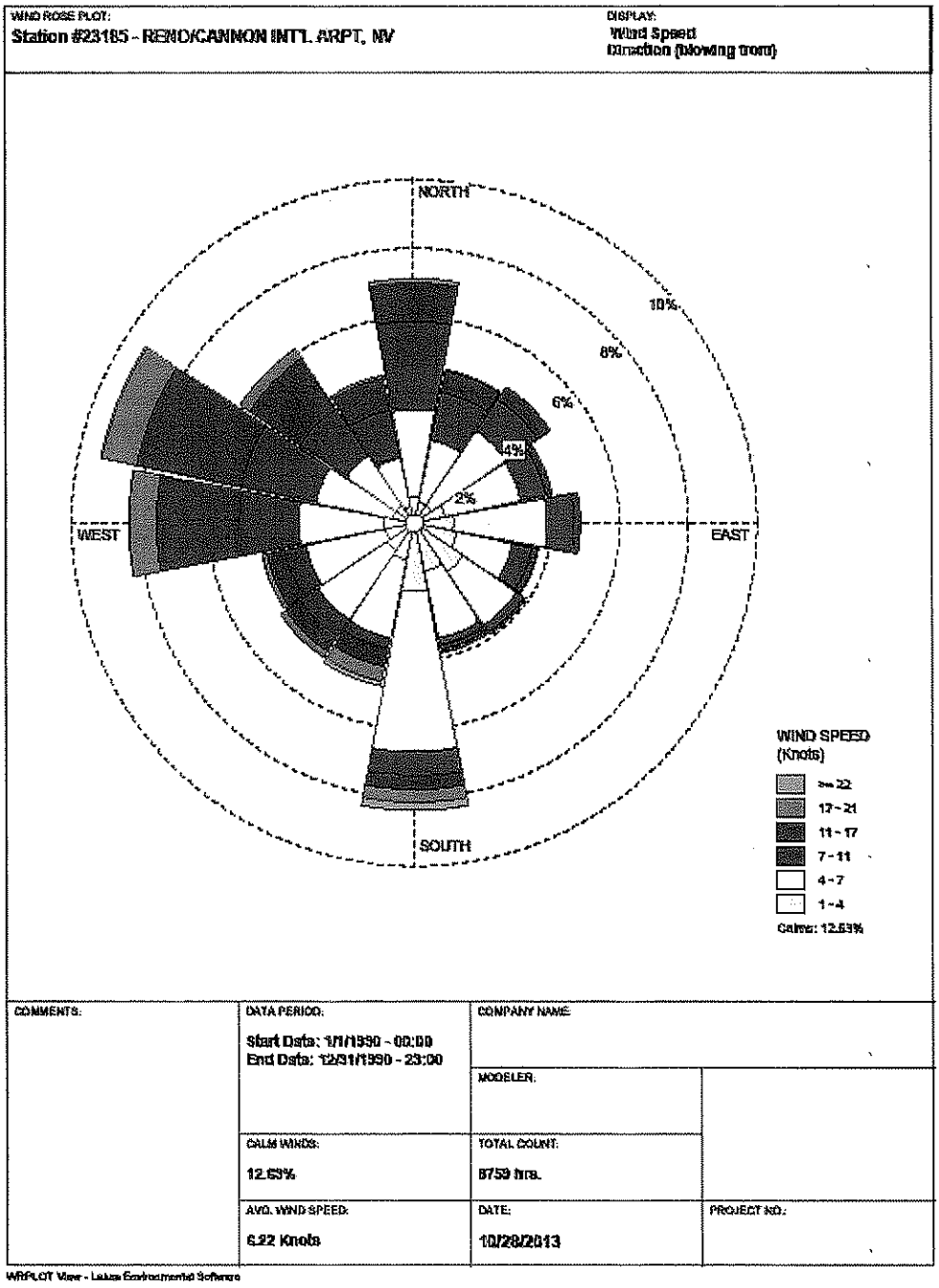

Exhibit 5 Wind Rose Plot: Station #23185 – Reno/Cannon Airport, Nevada, 1/1/1990 – 12/31/1990, source: Lake Environmental.

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Qualifications of Preparers

Qualifications of Preparers

Ascent Environmental, Inc. is an environmental planning and natural resources consultancy with offices in Stateline, Nevada and Sacramento, California. Ascent provides clients with personally engaged professionals dedicated to meeting higher standards by applying leading-edge thinking to resolve their important environmental issues. Over 35 Ascent professionals provide environmental planning and analysis services, National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) compliance, natural resources management, strategic regulatory guidance, climate change/greenhouse gas (GHG) analyses, sustainability planning, outdoor recreation planning, air quality and noise analyses, and GIS services to projects and clients in the Western U.S. We have a long and successful history of working on environmental and natural resources projects that are controversial and complex. We do not avoid projects that may face public scrutiny, opposition, polarized stakeholders, complicated regulatory challenges, or potential litigation. We apply our skills in coordination with our clients to develop strategic approaches, weigh advantages and disadvantages, and provide recommendations that achieve the requirements of applicable laws and regulations and meet the needs of our clients.

JOHN SINGLAUB

Project Manager and Senior Analyst

John Singlaub is a senior environmental planner with extensive experience in natural resources management topics affecting the U.S. West. With over 30 years of experience, he is an expert in land management policy development and implementation, natural resources management planning, National Environmental Policy Act compliance, and federal land management planning and permitting. His experience includes a wide range of environmental topics such as endangered and threatened species, scenic resources, land use plans and policies, outdoor recreation, water quality, impacts of mining, fire management, and public outreach. John left the Tahoe Regional Planning Agency (TRPA) in 2009, after serving five years as the Executive Director. TRPA is the bi-state planning and regulatory agency responsible for the protection and restoration of Lake Tahoe. Prior to that, John served for 25 years as a planner and manager for the Bureau of Land Management (BLM), most recently as the District Manager for BLM in Carson City, Nevada. John holds a Bachelor of Arts in Geography from the University of California, Los Angeles and a Master of Planning from the University of Virginia.

SYDNEY B. COATSWORTH, AICP

Principal in Charge

Ms. Coatsworth is an environmental planner with over 25 years of experience in environmental compliance, planning, technical analysis, and public outreach programs for a wide variety of projects. Her practice includes projects pertaining to surface and groundwater resources and supply, wastewater treatment facilities, floodplain management, renewable energy facilities, pipelines and other linear facilities, urban development, affordable housing, natural resources management, and environmental policy and regulation. She is an expert and educator in environmental compliance pursuant to NEPA, CEQA, and TRPA laws and regulations for professional associations and client agencies. Sydney specializes in managing large-scale and complex environmental compliance projects and has overseen the preparation of hundreds of environmental documents and technical analyses. She holds a Bachelor of Arts in Earth Science from California State University, Northridge and a Master of Arts in Geography, with emphasis in Geomorphology, from the University of California, Los Angeles.

JA0781 14 CV 000128 - 000676
LYON COUNTY

James P. Barker, Ph.D.
4523 Hells Bells Road
Carson City, Nevada 89701

John L. Marshall
570 Marsh Avenue
Reno, Nevada 89509

November 4, 2013

Dear Mr. Marshall:

Per your request to provide an analysis regarding the history and current status of the Virginia City National Historic Landmark and the potential effects of mining within the Silver City town boundaries at the Dayton Consolidated Mill Site, I am providing the following information for your review.

The Virginia City National Historic Landmark

In 1961, an area of 14,700 acres including Virginia City, Gold Hill, Silver City and Dayton was designated as the Virginia City National Historic Landmark by the Secretary of the Interior. This formal designation recognized the Comstock's national importance in the history of the American West and the history of mining. By receiving this designation, the Virginia City National Historic Landmark was acknowledged as one of our nation's most important historic and cultural resources.

In a letter dated March 3, 1988, Ron James, Deputy State Historic Preservation Officer, notified then Secretary of the Interior Hodel (Attached) that "The Virginia City Historic Landmark District is endangered because of previous open pit mining which has limited the visual integrity of the District and which destroyed and continues to threaten contributing cultural resources within the District."

In response to this notification, the National Park Service assessed the status of the Landmark (Leo Barker, 1988). In his analysis Barker (1988:30) found that "Historic landscapes—the tailings, dumps, prospects, roads, walls, adits, complex ruins, and other alterations of and structural associations on the land—have been neglected in preservation planning on the Landmark. Historic land alterations in and around historic sites are now recognized as integral parts of historic properties, because they reflect significant changes in land use and because they constitute the connective tissue that often supports and defines the historic character and integrity of a place."

Because of this neglect, "cumulative post World War II open pit mining and related mill site activities have severely impacted the historic landscape of the Virginia City National Historic Landmark District" (Barker 1988:30). In addition, Barker (1988:26-27) argued that "Historic landscapes, archeological sites, and historic buildings are threatened . . . by the removal and reprocessing of historic tailings, the opening of new surface mine sites, and by the creation of new landform features—large open pits and heap leach processing sites—that are incompatible with the character of the Landmark."

The importance of maintaining the integrity of the historic landscape was again addressed in the latest update of the Virginia City Historic District Amendment – 1991 (Attached) wherein Ron James, the State Historic Preservation Officer at the time, reiterated and formalized these same

considerations, arguing that the historic *landscape* of the district is an integral setting for its built environment. Specifically he noted:

> (1) "... hundreds of acres of cultural landscape which, between 1859 and 1942, played an integral role in the history of mining on the Comstock."
>
> (2) "... the landscape in the District, both the rural and built-up sections, portrays the evolving and cyclical industrial, commercial, and social patterns relating to mining activity, the central, significant focus of Comstock history up to 1942."
>
> (3) "Scattered across the natural landscape of this predominantly rural historic district are countless cultural landscape features (mill tailings, mine dumps, sunken shafts, dark adit openings, cemeteries, abandoned railroad and road beds), historic structures (headframes, ore rockers, mill leaching tanks, and water tanks and flumes), and archaeological sites (the honeycomb network of underground mining tunnels, partially or totally buried mining equipment and parts of buildings, stone embankments and foundations) that provide visual testimony to the important role of mining in Comstock history up to World War II."
>
> (4) "Contributing buildings have retained substantial integrity of setting (taking into account the evolution of both natural and cultural landscape features that invariably has taken place over the eighty-two year period of significance), feeling, and association."

In this nomination amendment, Mr. James makes a strong argument for the significance of the historic landscape within the Virginia City National Historic Landmark.

Lyon County Comprehensive Master Plan

The current Lyon County Comprehensive Master Plan (2010) discusses existing historic district designations that include and surround Silver City as planning tools to preserve its "existing historic character." The Plan notes that "Silver City, situated in lower Gold Canyon, represents the first settlement in Nevada based on mining activity" and now comprises an historic town site that is an integral part of the Virginia City National Historic Landmark and the Comstock Historic District. Slow growth allows Silver City to treasure "its historic buildings and landscape features" as a way to maintain a strong sense of identity and pride in its cohesive small town atmosphere.

As noted in the Lyon County Comprehensive Master Plan, during the planning process "residents and property owners expressed considerable interest in maintaining their many diverse communities and improving community aesthetics" and that preserving the County's rural character is a core value of a majority of Lyon County residents." The Master Plan argues that a community's unique character "is defined by its design, its viewsheds, its gathering places, and its historic and cultural resources, as well as by environmental characteristics such as natural quiet and dark night skies." The Plan further notes that "maintaining this character is important—not only for promoting economic development and diversification, but also for protecting our living spaces, quality of life and open lands."

The current Lyon County Comprehensive Master Plan defines a set of guiding principles with which land use will be managed. These include but are not limited to:

(1) Lyon County will respect and promote the distinct character and heritage of its communities, strive to retain its rural and agricultural culture and promote cohesive and high quality development to improve the overall image and function of its communities; and

(2) The proximity of the natural environment will continue to be an important part of life in Lyon County, where residents will enjoy sustainable supplies of clean water for drinking and agriculture; clean air; wildlife; access to rivers, lakes and public lands; scenic views, and dark night skies. Lyon County will work to reduce or mitigate natural hazards such as wildfire, flooding, earthquakes and dust.

Based on these principles, one planning goal (CC 3: Heritage) states, "Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for residents and visitors to learn about and celebrate our heritage." Associated with this goal is a policy (CC 3.1: Maintain and Restore Historic Resources) that "Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts." Specifically, within historic districts, like Silver City, the County will:

- Revise zoning to encourage historic use and development patterns including mixed-use structures and districts.

- Promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.

- Limit new land uses that would pose a risk to historic structures or the historic character of the district.

- Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.

Other sections of the Master Plan define additional principles, goals and policies guiding development in historic districts, particularly as they relate to the historic landscape. These include:

Policy LU 1.4: New industrial uses should only be located in areas that do not adversely impact existing residential settlements.

Natural Resources and Environment: The proximity of the natural environment will continue to be an important part of life in Lyon County, where residents will enjoy sustainable supplies of clean water for drinking and agriculture; clean air; wildlife; access to rivers, lakes and public lands; scenic views, and dark night skies.

Goal NR 8 Views: Lyon County will protect scenic views of mountain backdrops and nighttime views of stars.

Policy NR 8.1: Mountain Backdrop: Recognizing that views of the mountains in and around the county provide a unique scenic value for residents and visitors, Lyon County will strive to preserve such views.

Goal NR 9: Mining and Resource Extraction: Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR 9.3: Mitigate Operations: To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, and so forth.

Discussion

Historic structures do not exist in a vacuum, and land use planning decisions are made in a real world where communities are more than the sum of their parts. Historic districts necessarily include buildings and structures *in their historically derived landscape*. Further, as shown throughout the Lyon County Master Plan, both visitors and residents are drawn to historic communities exactly for the historic nature of the landscape in which they are found. If the historic nature of the landscape is degraded, it will become less valued.

The existing zoning preserves the nature and pace of development in Silver City in ways that are compatible with the historic landscape. Given the very pointed language in the Lyon County Master Plan pertaining to historic districts and community character, Comstock Mining Inc. is obligated to show that its proposed Master Plan change and zoning change will not adversely impact the historic integrity of Silver City. Comstock Mining's implied goal in seeking the change in land use and zoning is to conduct mining in the town limits. However, they offer no evidence to support the compatibility of their proposed project with the existing historic landscape, nor do they address adverse impacts to the landscape, viewshed, historic integrity, and community values in Silver City implicit in the change. To avoid further damage to the Virginia City National Historic Landmark in general, and specifically to the historic integrity of Silver City, requires maintaining and supporting the protections imbedded in the existing Lyon County Master Plan.

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Sincerely,

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Bio

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Pat Barker, Ph.D.

Personal Information

Address: 4523 Hells Bells Road, Carson City, Nevada 89701,
(775) 883-7790; Cell: 775 721-0110, email: barkerj@unr.edu
DOB: 12/16/46, Reno, Nevada; U.S. Citizen; Married, No Children; Viet Nam veteran

Professional Preparation

Orange Coast College	Anthropology A.A.	1972
California State University, Long Beach	Anthropology B.A.	1974
University of California, Riverside	Anthropology M.A.	1977
University of California, Riverside	Anthropology Ph.D.	1982

Appointments

Research Associate, Anthropology, University of California, Davis, 2009-Present
Research Associate, Anthropology, Nevada State Museum, Carson City, Nevada, 2000-Present
Senior Archaeologist, ASM Affiliates, Reno, Nevada, 2008-Present
Senior Archaeologist, Progressive Adaptations, Carson City, Nevada, 2006-Present
Adjunct Professor, Anthropology, University of Nevada, Reno, Nevada, 1998-Present
Nevada State Archaeologist, Bureau of Land Management, Reno, Nevada, 1988-2006 (Retired)
Resource Area Archaeologist, Bureau of Land Management, Barstow, Ca, 1986-1988
Chief, Alcohol Dependence Program, VA Medical Center, Reno, Nevada, 1985-1986
Coordinator, Alcohol Dependence Program, VA Medical Center, Reno, Nevada, 1982-1985
Graduate Student, University of California, Riverside, California 1974-1982
Assistant Editor, Journal of California and Great Basin Anthropology, 1980-1982

Publications

2013 *Points in Time: Direct Radiocarbon Dates on Great Basin Projectile Point*s, with Geoffrey Smith, Eugene M. Hattori, Anan Raymond, and Ted Goebel. American Antiquity 78(3):580-594.

2011 *Looting at Elephant Mountain Cave,* with Cynthia Pinto-Ellis and David Valentine. Nevada Archaeologist 24:1-11

2009a *The Process Made Me Do It: or Would a Reasonably Intelligent Person Agree that CRM is Reasonably Intelligent.* In L. Sebastian and W. Lipe, eds. Archaeology and Public Policy: A New Vision for the Future. Santa Fe: School of Advanced Research. Pp 65-90.

2009a *Great Basin Sandals*, with Tom Connolly. In C. Fowler and D. Fowler, eds. The Great Basin: People and Places in Ancient Times. Santa Fe: School of Advanced Research. Pp 69-74.

2009c *Woven Sandals as Boundary Markers Between the Great Basin and Southwest Culture Areas.* In B. Hockett, ed. Past, Present and Future Issues in Great Basin Archaeology: Papers in

Honor of Don D. Fowler, Bureau of Land Management, Nevada, Cultural Resource Series 20:125-145.

2008 *Forum: Who Makes it Heritage?* Invited Comment. Heritage Management 1(1)110-112

2006 *Long Term Fire History in Great Basin Sagebrush Reconstructed from Macroscopic Charcoal in Spring Sediments,* with Scott Mensing and Stephanie Livingston. Western North American Naturalist, 66(1) 64-77.

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1996 *Archaeological Contributions to Ecosystem Management.* SAA Bulletin 14(2):18-21.

1995 *Legal Implications of the Numic Expansion.* with Cynthia Pinto. In, Across the West: Human Population Movement and the Expansion of the Numa. D. Madsen and D. Rhode, eds. Salt Lake City: University of Utah Press. Pp 16-19.

Honors
President's Honor List, CSULB, 1972-73, Fall 1973
Society for California Archaeology, Student Prize Paper, 1973
Outstanding Graduate in Anthropology, CSULB, 1974
Regents Fellow, UCR, 1975-1976
VA Outstanding Performance Award, 1983, 1984, 1985
BLM, Group Achievement Award, 1987, 1992
National Take Pride in America Award for *Adventures in the Past Exhibit,* 1991
BLM Sustained Performance Award 1992, 1999, 2000, 2006

Professional Associations
Nevada Archaeological Association
Society for American Archaeology
Nevada Rock Art Association

Service
Nevada Archaeological Association, Board of Directors, 1990-1992
President, Board of Directors, Nevada Rock Art Foundation, 2009-2012
President, Great Basin Anthropology Association, 2012-Present

Referees
Robert L. Bettinger, Ph.D., Department of Anthropology, University of California, Davis, California 95616 (916) 752-0551

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November 1, 2013

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P.O. Box 425
Silver City, Nevada 88428

RE: Comstock Mining, Inc.'s Zoning Change Request

Dear Mr. McCarthy,

This letter is in response to your request that we address the likely impact on the local real estate market as a result of Comstock Mining, Inc.'s request to rezone 89± acres in Silver City, Nevada to zoning classifications which will allow mining activities, including Open Pit Mines. This letter will set forth some preliminary research conducted to assist me in determining if there could be an adverse impact to the local real estate market as a result of the proposed zoning change.

The clients for this consulting assignment are Gayle Sherman and Joe McCarthy on the behalf of the citizens of Silver City, Nevada. The intended users of this consulting report include the clients, their representatives, the Lyon County Planning Commission and the Lyon County Board of Commissioners. The intended use of this consultation report is to assist the Lyon County Planning Commission and the Lyon County Board of Commissioners in determining that the proposed zoning change request will have an impact on the adjacent,

property owners in Silver City. This consultation report involves an effective date of October 18, 2013, which is the date that this consultant conducted a physical inspection of Silver City and the surrounding areas.

The scope of work completed for this preliminary consultation report involved the inspection described above of the Silver City area, meetings and interviews with Silver City residents and property owners, interviews with brokers familiar with the local real estate market and interviews with other knowledgeable parties. Based upon these investigations and further being based upon my experience, I have concluded that the proposed mining zone change request could have a material impact on the Silver City property values. As this initial scope of work was limited to the investigation set forth above, I have not completed an in-depth data investigation and analysis which would allow me to form a more precise estimate of the potential percentage impact on property values as a result of the zoning change and possibility of an Open Pit Mine on the property across the highway.

Silver City is located north of Moundhouse and south of Virginia City and Gold Hill. Silver City is generally located north of the intersections of State Routes 342 and 341 and south and east of Devil's Gate. Based upon the best information available to these consultants, Silver City had an estimated population of 180 people in 2011. In 2000, the population was reported to be 170 and in 2010 the population was reported to be 179 people. Silver City is essentially a historic mining town which has evolved into a permanent residential community. Many of the homes are older which have been renovated, while there are a number of newer homes which have been constructed over the past decade. Residents consist of retirees, professionals and others who typically work in the Carson City or Reno areas and commute to their residence. The residents are drawn to this area due to its rural, peaceful location which is within reasonable commuting distance of major metropolitan areas.

Silver City has a Community Hall, a Community Park and a very active Citizen's Group. The citizens have monthly dinners in which all citizens are invited to attend. In

addition, they have a number of special events. As a result, Silver City is a tight knit community in which everyone seems to know everyone else.

Comstock Mining, Incorporated is currently petitioning Lyon County to change the zoning on 89± acres from NR-1 to RR-3 and RR-5. It is our understanding that under the new zoning classifications, the property owner would be allowed to conduct mining operations on the property. It is further our understanding that the allowed mining operations would include Open-Pit Mining. The property in question is located on the west side of State Route 342 (Main Street) across from the junction with State Route 341 (Truck Route), north to Peddler Road.

As Silver City and the requested zone change property are on facing walls of a canyon area, a mine on the requested property would be highly visible from Silver City. Furthermore, Silver City could experience considerable noise and disruption from truck traffic, drilling, mining, dust and night lighting. In order to determine how the market would perceive a mining operation in this real estate market, this consultant has conducted interviews with a number of property owners, knowledgeable parties in the area, and local Realtors. Set out following are summary discussions of the interviews with each of the parties interviewed,

Chris and Bonnie Brown have lived on their property in Silver City since 1975. It was originally the French Mill. They indicated that they have experienced very intense noise from the drilling rigs which reportedly operate from 6 a.m. to 6 p.m. They pointed out that the canyon reflects the noise in their direction. They also had experienced truck traffic noise including the Jake Breaks, back-up horns on heavy equipment, and the trucks moving equipment 24 hours a day. They also reported that they can hear the steel tracks on the heavy tractors. These homeowners also reported that they had heard that Comstock Mining had found good minerals at a depth of 800 feet. They felt that this would result in a fairly large pit being developed across the street from their property. They were also concerned that the mining activity upstream could result in contamination of the stream which passes through

their property. These property owners stated that they were very uncertain about the future because of the proposed mine. They felt that it would result in a loss in value to their property and would reduce the overall quality of life in Silver City. They stated that, at this point in time, they are reluctant to make additional investments in their property due to the uncertainty of the zoning request.

Darlene Cobbey has owned her 6 acre property in Silver City since 1981. She stated that she has experienced dust from the mining operations, and heavy truck traffic noise. At one point, Ms. Cobbey stated that trucks from Coons Construction Company, Cruz Construction Company and Cinderlite in Carson City were hauling material for the mine with trucks passing her property every 20 seconds. Darlene was also concerned that Comstock Mining may be utilizing water from Marlette Lake. She felt that due to the conditions which she has experienced and the pending zoning change request, that it would be very difficult to sell her property.

I next spoke with Robin Cobbey of Gold Hill. She indicated that she had lived in Gold Hill for over 30 years and that David Toll had lived on the property for in excess of 50 years. They are located across the street from Comstock Mining's existing operation. Robin indicated that they do experience truck noise, dust, and have also been kept awake at night due to the flashing lights on equipment. Robin indicated that they own a pink house across from the turnoff to the mine and that she has had a hard time renting it due to the adjacency to the mine. She had at one time rented the house for $800 per month and has now had to reduce the rent to $700 per month (a 12.50% reduction), which she attributes to the mining activity. She also stated that they had another residence which they rented for $600 per month and have now had to reduce the rent to $500 per month (a 16.67% reduction). Robin indicated that they were planning to install solar panels on their home and to rebuild their kitchen. Due to the uncertainty of the mining activity, they have put their plans on hold. In closing, Robin stated that due to the uncertainties involved, they could not sell their home at the present time

and that if a mining operation were expanded that they would no longer desire to live in the area.

I next interviewed Judy Olson. Judy indicated that she and her husband Chad had purchased their lot in 2007 and subsequently spent over $500,000 building an excellent quality single family residence. The residence was designed in a manner to maximize the views to the south and west. They were attracted to the area as it is close to their business in Carson City, yet it provides a rural, quiet and peaceful location. She indicated that they felt that the fact that Silver City was in a historic mining district, would protect them from future mining activities. Judy reported that when drilling activities are occurring on the 89± acres, they typically cannot go outside because the noise is so loud. She also reported that they experience noise from the backup horns on heavy equipment, and are concerned about water quality and quantity. She pointed out that they enjoy the night skies and are afraid that lighting from Comstock Mining will impact the quality of the night skies. Finally, Judy indicated that they were considering the purchase of an adjacent property to protect their privacy. They have recently told the sellers that they are not interested. She also stated that she and her husband will not spend another dime on the property until the mining issue is resolved.

Bob Elston and Cashion Calloway have owned their property in Silver City since 1971. They indicated that when drilling was occurring on the 89± acres, they could not go outside. They have felt the blasting from the Lucerne Pit and experienced lights at night. They also stated that the highway can be closed in Silver City for up to 30 minutes when the mining company is blasting. They have experienced noise from the backup beepers, the heavy equipment and have also experienced dust from the blasting. They stated that Silver City is a very quiet town with typically the loudest sound being the crickets at night. They felt that the Community Center, the monthly town meetings and the activities result in a very close-knit community. They stated that crime has never been a problem in their community and that many people do not lock their doors. They also stated that as they have no air

conditioning, they leave their windows open at night which results in the noise being a greater disturbance. They also pointed out that in the past some of the heavy trucks were speeding through town. However, apparently the mining company has spoken to the drivers and it has not been much of a problem lately. They were concerned about mercury contamination and noted that the area is identified as a Superfund Site. They stated that they would not spend another dime on their property due to these mining issues and that mining on the 89± acres would significantly impact the value of their property.

Gerald Antinoro owns a house on Keystone Circle across from the Lucerne Pit in the Gold Hill area. Gerald is the current sheriff of Storey County. He stated that the existing mining does not impact his day to day life. He also stated that several seismic tests conducted near his residence showed no disturbance. Jerry indicated that he does not particularly like the mining, but understands their operations. He indicated that they could hear some of the drilling from a rig across the highway from their property. He also pointed out that two smaller drilling rigs, which operated on adjacent lots to his, were no problem at all. He does have some concerns relative to heavy metals and the release of toxic materials. He would prefer underground mining to open pit mining. He also expressed concerns as to the certainty of the mines being properly restored and reclaimed at the end of their mining operations. He finally stated that it would be difficult to sell his house due to the ongoing mining issues.

Next, I interviewed Marcey Newell, formerly of Lakeside Properties. Marcey stated that she had sold Lot 6 on Keystone Circle to Comstock Mining on February 7, 2012 for $25,000. This property had previously sold on January 21, 2005 for $57,000. She stated that she was not aware of the current issues as she has moved to California and is no longer selling real estate.

I next spoke with Bob Fredlund of Coldwell Banker Select Real Estate. Bob has been a Realtor in the area for a number of years and is very knowledgeable in the local market. He felt that it would be unlikely that non-mining related people would move to Silver City

because of the pending mine. He further felt that it would be very hard to sell existing homes and that it would definitely impact values.

I next spoke with Karen Woodmansee. Karen has been a Realtor in the area for a long period of time and is a journalist. It was her opinion that the proposed mining projects would diminish the desirability and values of properties in the Silver City area. She expressed concern about the heavy truck noise, dust, view impacts, and noise from blasting. She further stated that the only people who would buy in Silver City would be miners. She stated that she had a house listed on Main Street in Silver City for an estate and could not sell it. She also stated that, for the years 2010, 2011 and 2012, she could not sell a single family residence in Gold Hill or Silver City. Karen stated that she typically acted as the buyer's agent. She said typically the only active buyer in the area is Comstock Mining. Finally, she closed by stating that she definitely felt that the proposed mining activity would have a negative impact on property values in the area.

I next spoke with Steve Lincoln of RE/Max Realty. Steve has been a Realtor active in the area for many years. It was his opinion that the increased jobs created by the mine could boost the demand for housing in the area. On the other hand, he felt that the other factors associated with the mines would result in a reduction in values.

I next spoke with Mr. Mike Enright of Valley Realty. Mike has been a Realtor in the area for over 17 years. Mike explained that he does not have a bias against mining, however, he does feel that the proposed mine will negatively impact the property values in Silver City. Mr. Enright reported that he had two people call on a listing he had advertised in the Homes and Lands Magazine. He said that when both parties discovered that the properties were located in Silver City, they lost interest due to their concerns relative to mining. Mike stated that he had handled two sales in Silver City in 2012. One of the buyers bought a home which was separated from the mine by a small ridge and was therefore removed from the mining. This home was purchased by a retired couple. The second residence was purchased by a

tattoo artist who wanted to be near Virginia City, but not in Virginia City. Mr. Enright felt that the mining activity would be unsightly and would create noise and dust for Silver City. It was his opinion that the mining activity would reduce property values in Silver City between 10% and 20%.

I also spoke with Mr. Mike Ramos of Coldwell Banker Select Real Estate. Mike has been an active Realtor in the area for a number of years. He stated that he handled the sale of the Cabin in the Sky Property to Comstock Mining. He also stays in touch with Comstock Mining making sure that they are aware of any listings he has in the Silver City and Gold Hill areas. He felt that the mining will generate jobs which could result in increased demand for housing. He did feel that the mining activity could affect the visual appeal of the area and could impact the desirability of Silver City.

I finally spoke with Jim Allander. He has owned a house adjacent to the Comstock Mining Company's Mill Site in American Flat for over 12 years. Their house is immediately above and adjacent to the Mill Site. He stated that they have gotten used to the noise and other inconveniences of the milling operation. He did state that there is constant noise with work typically beginning at 5:15 a.m. During our telephone conversation, I could hear the backup horns from heavy equipment in the background. Jim confirmed that it was from heavy equipment operating on the adjacent mill site. Jim stated that he felt it would be very difficult on the people of Silver City, should a mining operation occur on the 89± acres.

In summary, I have interviewed in excess of 15 individuals who either own property in Silver City or are real estate professionals who are knowledgeable about real estate values and trends in the local market. Many of the people interviewed expressed concerns regarding the impacts from mining on the adjacent property. Their concerns focused around noise associated with the mining operation, noise and traffic from trucking, noise from blasting, dust from the mining operations, and the visual impact on the aesthetic beauty of the area resulting from open pit mining. Many of the property owners expressed the opinion that they

were not willing to spend an additional dime on their property until such time as it was determined that a mining operation would not occur on the adjacent property. Almost all of the individuals interviewed indicated that, in all likelihood, it would be very difficult for them to sell their homes due to the concerns of future mining. There were several instances where buyers had elected not to consider Silver City or Gold Hill due to these concerns.

Several of the parties interviewed indicated that the increased mining activity could result in additional job opportunities for the area which would then drive demand for residential housing. In the end, even these parties expressed concerns that it would be difficult to sell a house due to the uncertainty of the mining activity. In several instances, the neutral parties indicated that they did have business dealings with Comstock Mining. Several additional parties requested that I not include them in the survey as they had business dealings with Comstock Mining.

Several of the Realtors interviewed indicated that, in their opinion, the mining activity would have a definite negative impact on property values in the Silver City area. In one instance, the Realtor stated that he felt the diminution in value would be between 10% and 20%.

Finally, I have relied upon my forty years of experience in real estate appraising in Northern Nevada, as well as my educational background and experience. It is my observation that the proposed zone change property is located on the west face of the canyon area, while Silver City is located on the east face. As a result, noise will easily be transmitted from the mine site to Silver City which will reduce the peace and quiet of the residential neighborhood. The sources of the noise will include increased trucking, drilling, the operation of heavy equipment, the backup horns for the heavy equipment, and numerous other sources. In addition, the night lighting on the site could result in inconveniences to the residents in Silver City. Dust from the mining operation could also impact the residential properties. Finally, it

is felt that the scarring from an Open Pit Mining operation would impact the aesthetic beauty of the area.

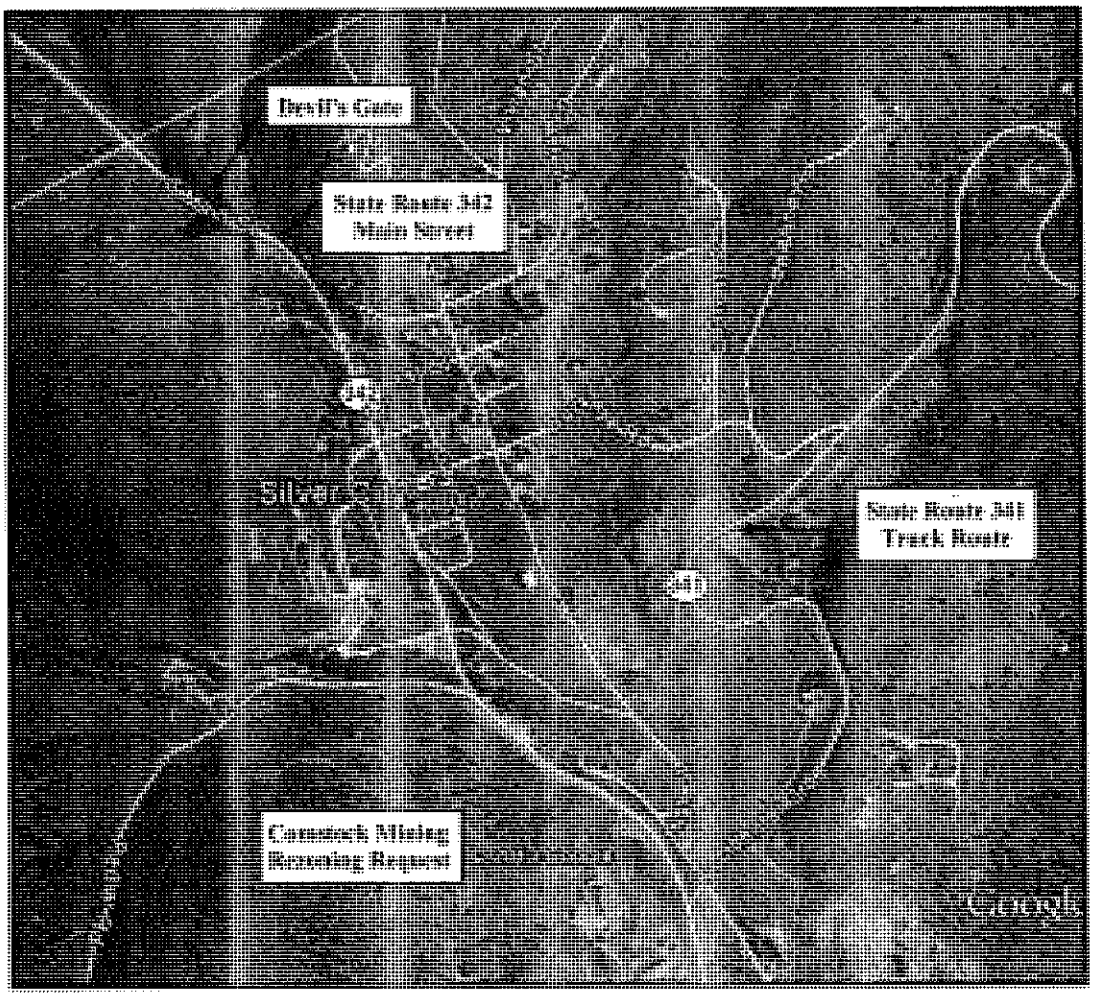
In conclusion, based upon the numerous interviews conducted by this consultant, and relying upon my 40+ years of experience and professional training in real estate, it is this consultant's opinion that proposed Open Pit Mining on the 89± acres across from Silver City would have a material negative impact on residential property values.

I hope this letter is of assistance and should you have any questions, please do not hesitate to contact me.

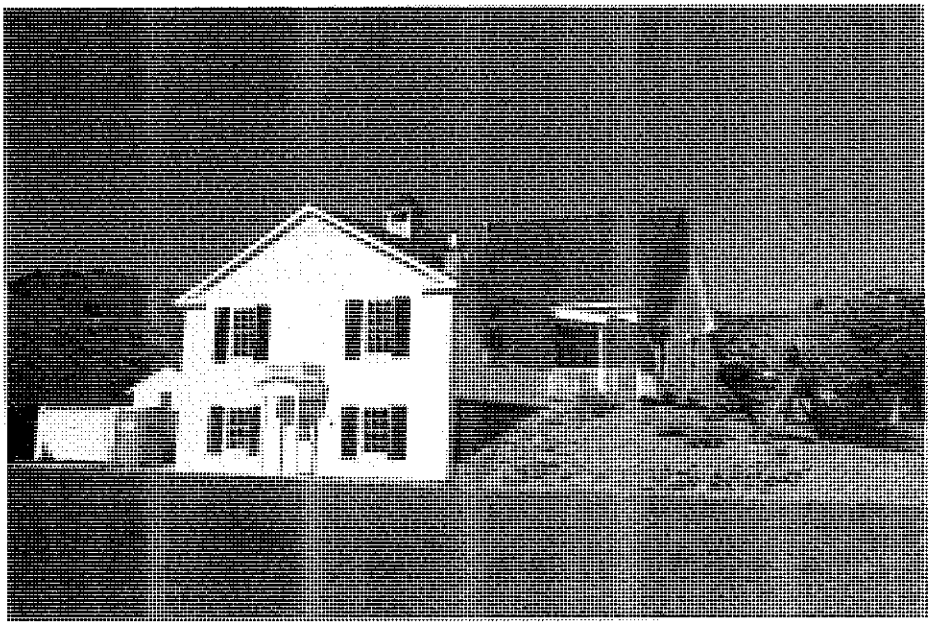
Respectfully submitted,

Stephen R. Johnson, MAI, SREA
Nevada Certified General Appraiser
License Number A.0000003-CG

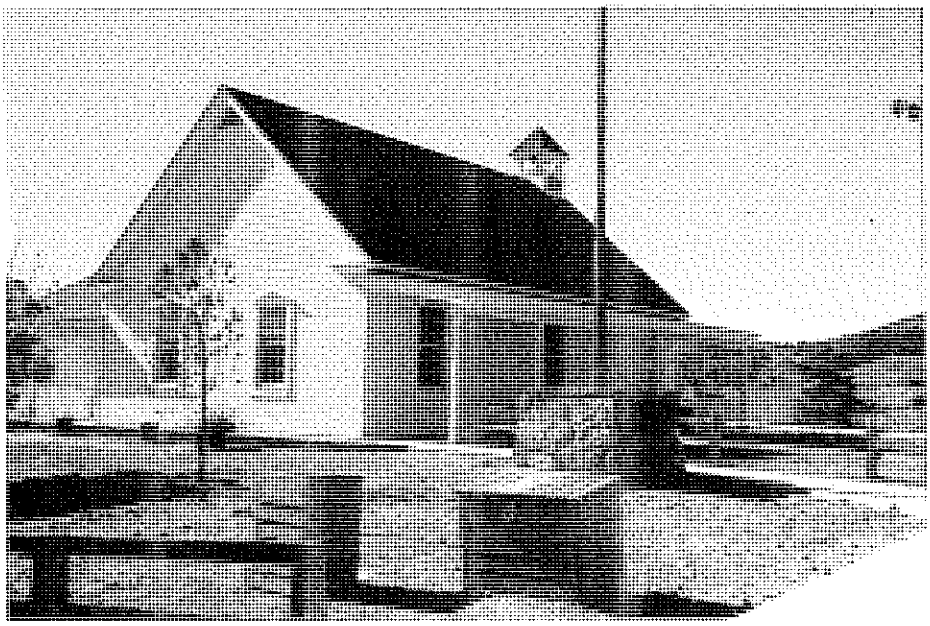
SILVER CITY, NEVADA MAP



PHOTOGRAPHS

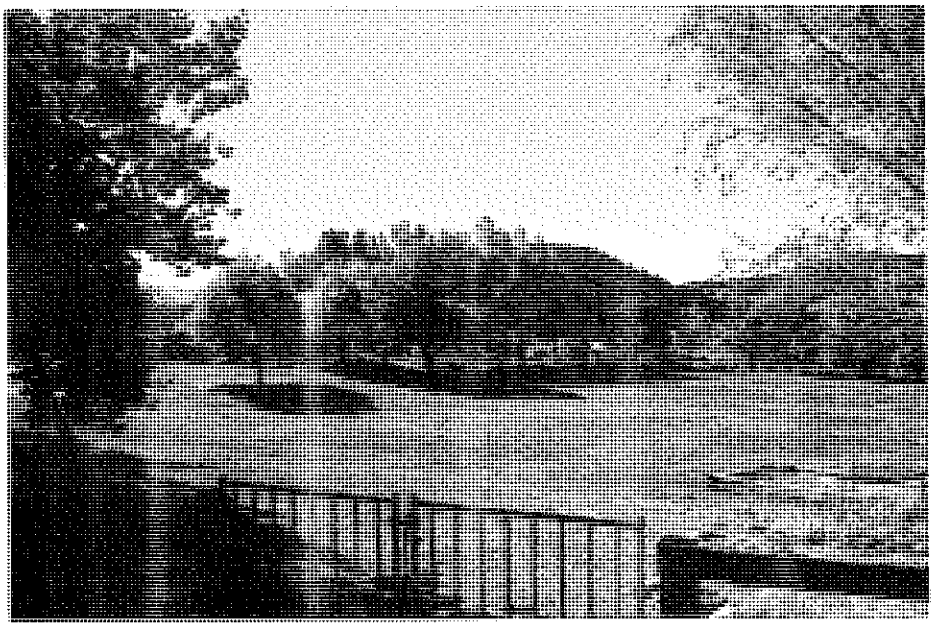


VIEW OF SILVER CITY COMMUNITY CENTER

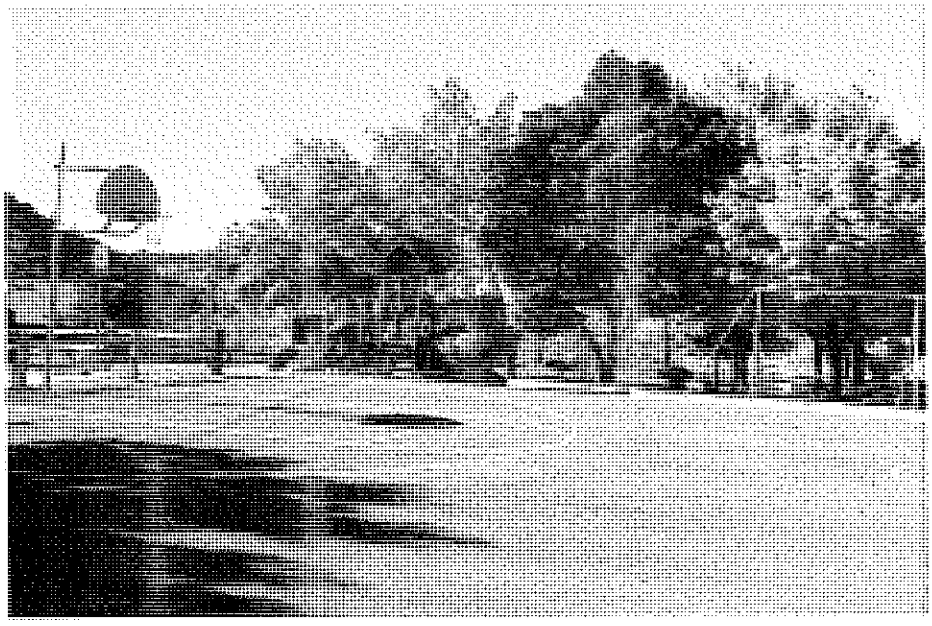


VIEW OF THE SILVER COMMUNITY CENTER

PHOTOGRAPHS

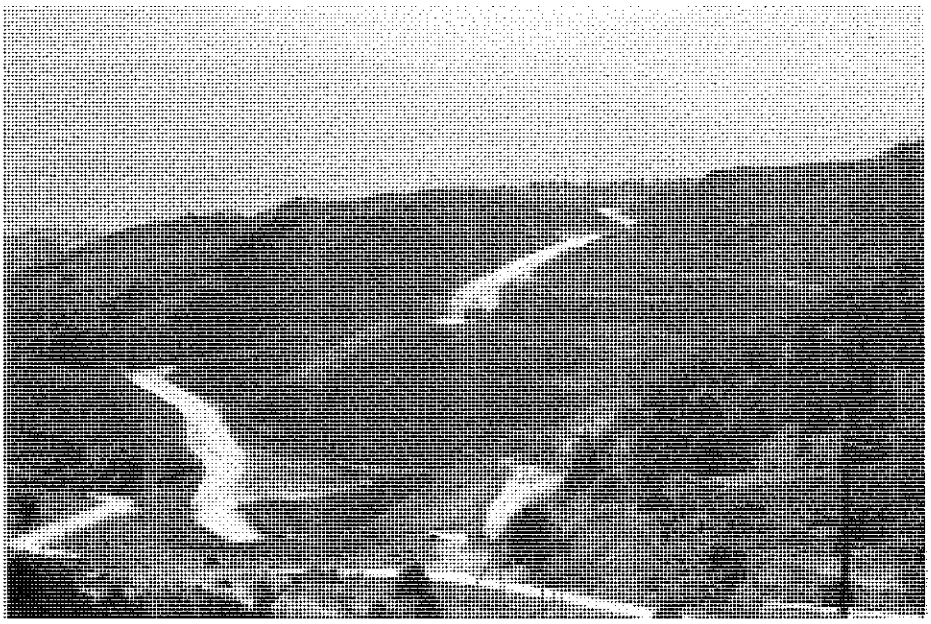


VIEW OF THE COMMUNITY PARK



VIEW OF THE PLAYGROUND AT THE SILVER CITY COMMUNITY PARK

PHOTOGRAPHS

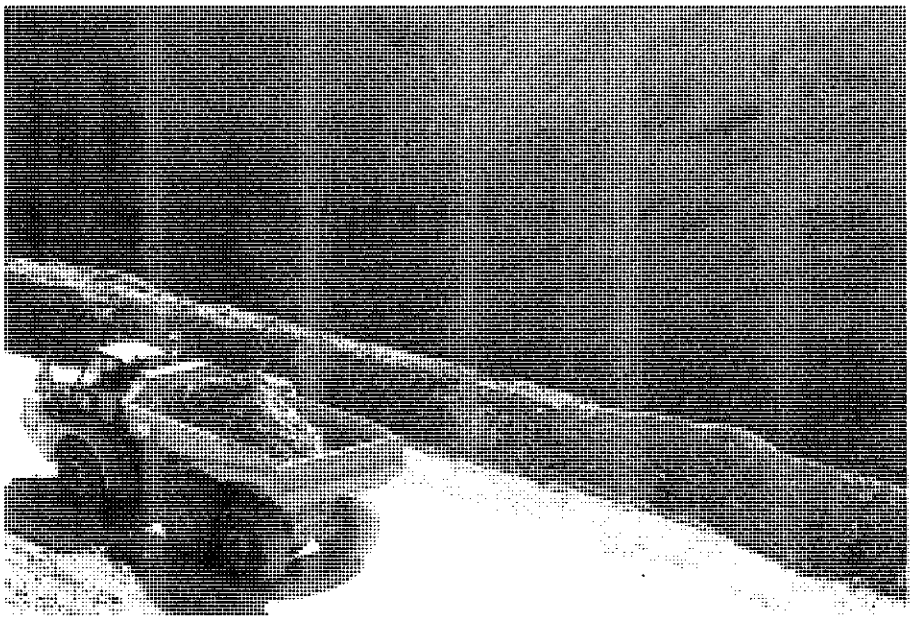


VIEW OF COMSTOCK MINING'S LUCERNE PIT

VIEW OF THE LUCERNE PIT MINING OPERATION SITUATED ON THE WEST SIDE OF STATE ROUTE 342

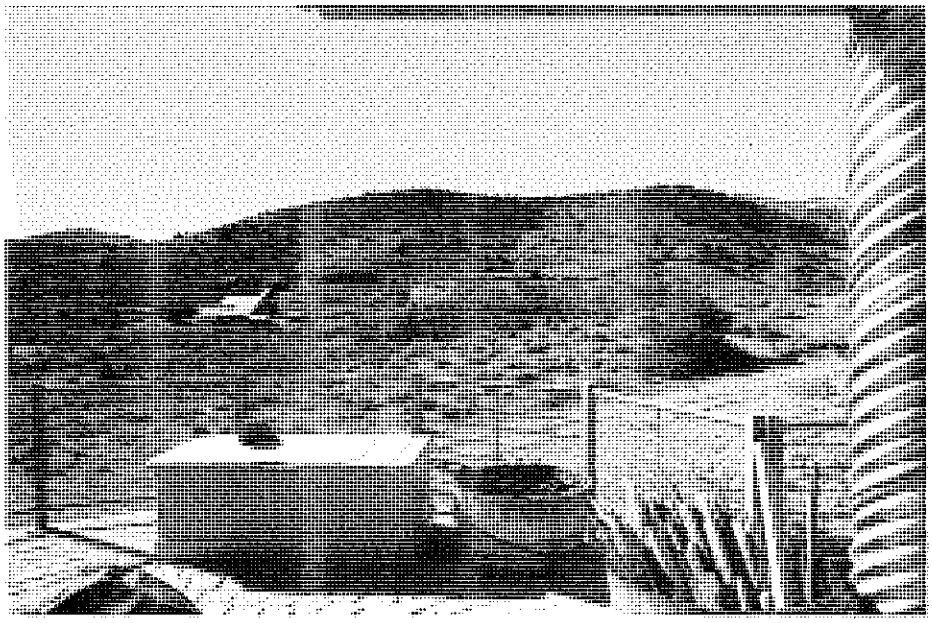
PHOTOGRAPHS

VIEW OF A DUMP TRUCK USED IN THE MINING OPERATION

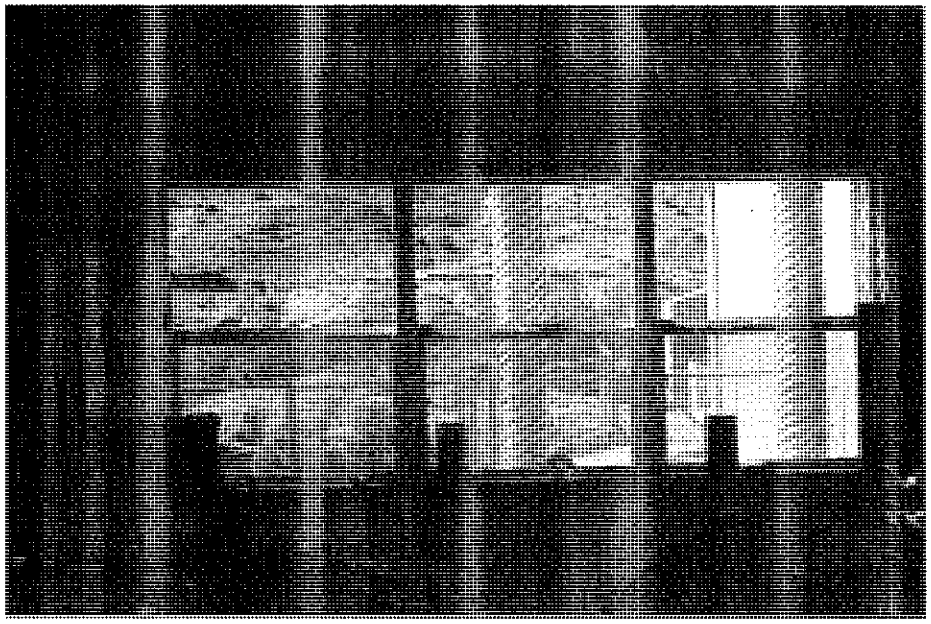


ANOTHER VIEW OF A DUMP TRUCK HAULING MATERIAL

PHOTOGRAPHS

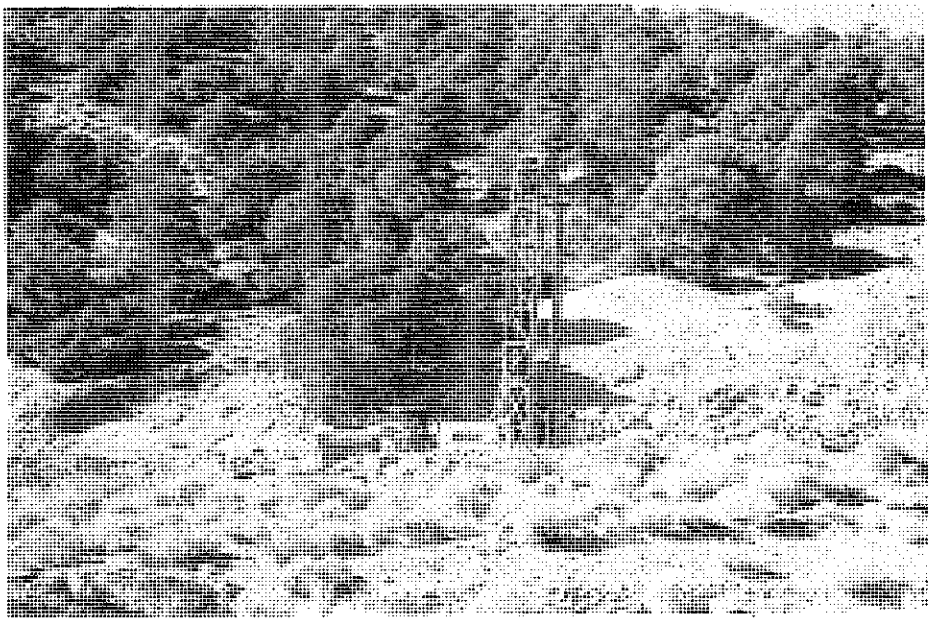


VIEW OF THE 89± ACRE PROPERTY FROM THE OUTDOOR DECK OF THE McCARTHY RESIDENCE

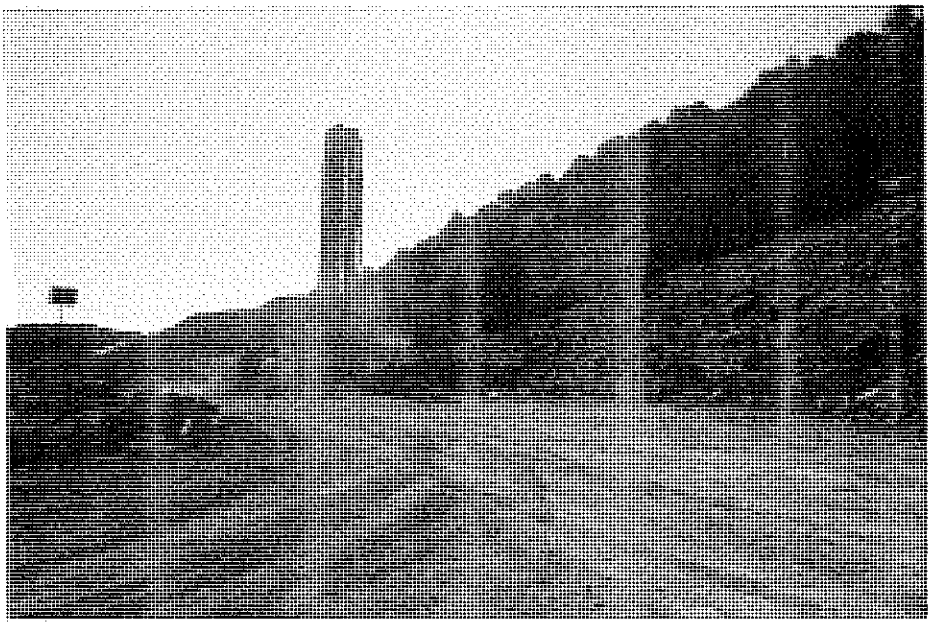


A VIEW OF THE 89± ACRE PROPERTY FROM INSIDE THE McCARTHY RESIDENCE

PHOTOGRAPHS

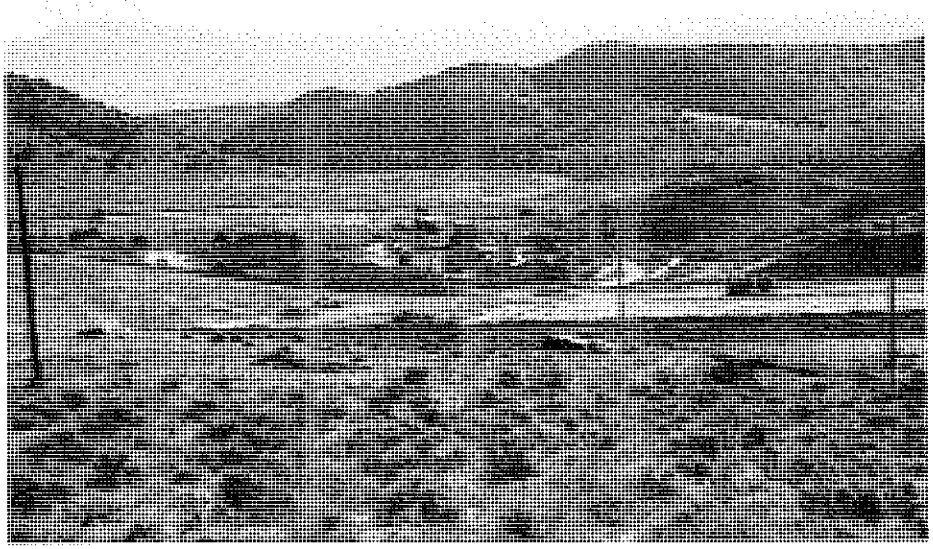


VIEW OF A DRILLING RIG LOCATED ON THE EAST SIDE OF STATE ROUTE 342

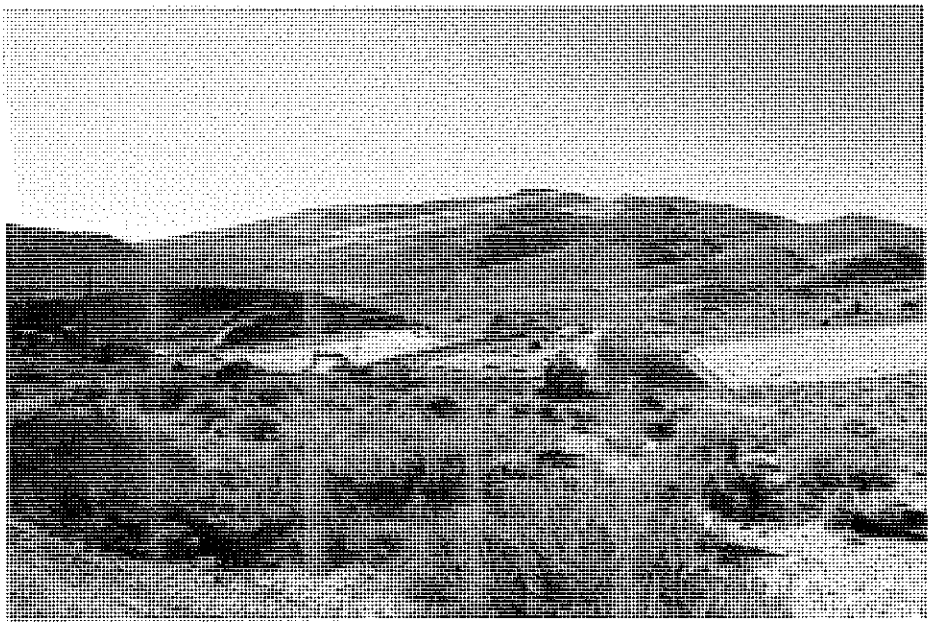


VIEW OF AN OPERATING DRILLING RIG

PHOTOGRAPHS

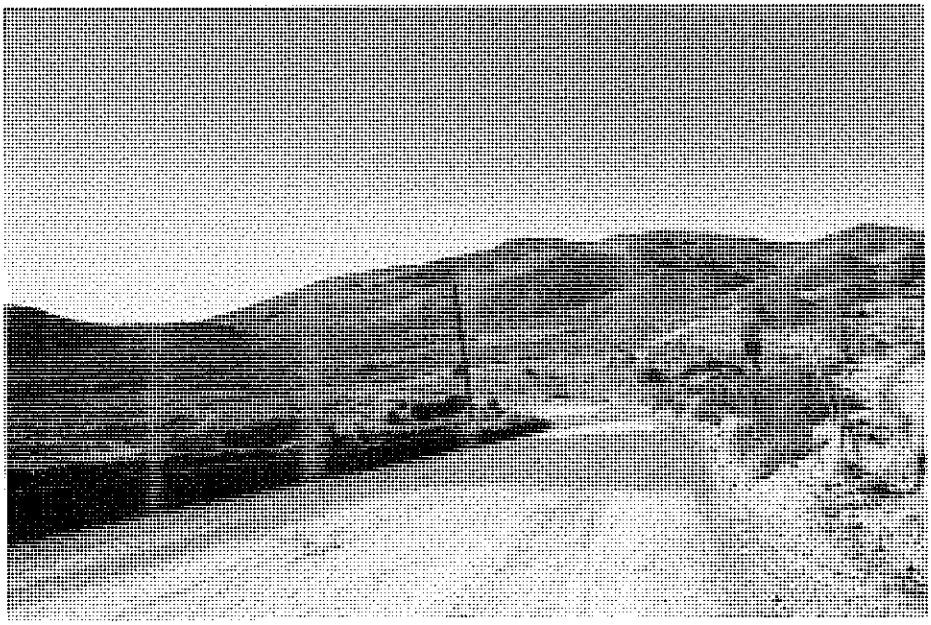


VIEW OF THE MILLING OPERATION IN AMERICAN FLAT



ANOTHER VIEW OF THE MILLING OPERATION

PHOTOGRAPHS



VIEW OF THE HAUL ROAD IN THE AMERICAN FLAT AREA

VIEW OF HEAVY TRUCK EQUIPMENT ON THE HAUL ROAD

CONSULTANT'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, conclusions, and recommendations.
- I have no present or prospective interest in the properties that are the subject of this report, and I have no personal interest with respect to the parties involved.
- I have performed no services, as an appraiser or in any other capacity, regarding the properties that are the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of the stipulated result, or the occurrence of a subsequent event directly related to the intended use of this consulting assignment.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have made a personal inspection of Silver City and the surrounding areas that are the subject of this report.
- No one provided significant real property appraisal or appraisal consulting assistance to the person signing this certification.

Respectfully submitted,

Stephen R. Johnson, MAI, SREA
Nevada Certified General Appraiser
License Number A.0000003-CG

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Professional Designations

MAI - Member Appraisal Institute (Certified through 2013)	1976
SREA - Senior Real Estate Analyst; Society of Real Estate Appraisers	1984

State Licensing and Certification

Certified General Appraiser-State of Nevada License #A.0000003-CG (Certified through 04/30/2015)	1991
Certified General Appraiser-State of California License #AG007038 (Certified through 06/18/2015)	1992

Association Memberships and Affiliations

Member Reno Board of Realtors	
Member Nevada Association of Realtors	
International Right-of-Way Association	
Member Nevada State Board of Equalization - (Appointed by Governor Richard Bryan, January 1984 & 1988)	1984-1991
(Appointed by Governor Kenny C. Guinn, March 2000 & 2004)	2000-2008
Member Nevada Commission of Appraisers of Real Estate - (Appointed by Governor Bob Miller, August 7, 1989)	1989-1994
Commissioner, Nevada Commission of Appraisers of Real Estate (Appointed by Governor Jim Gibbons, 2009)	2009-Present
President, Nevada Commission of Appraisers of Real Estate (Appointed by Governor Sandoval, 2012)	2012-2013

Offices Held

Chairman, National Ethics Administration Division	1995
Vice Chairman, National Ethics Commission	1993/94
Regional Member, Ethics Administration Appraisal Institute, Region 1	1989-1992
President, Sierra-Nevada Chapter #60, AIREA -	1989
Vice President, Sierra-Nevada Chapter #60, AIREA -	1988
Secretary, Sierra-Nevada Chapter #60, AIREA -	1987
Vice Governor District 3 (Northern California & Nevada) Society of Real Estate Appraisers (SREA) -	1980-1981
Past President & Membership Chairman - Reno/Carson/Tahoe Chapter #189	
Member 1976 Young Men's Council, SREA, Atlanta, Georgia	

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Offices Held (continued)

Discussion Leader 1977 Young Men's Council, SREA, Las Vegas, Nevada	
Elected 1 of 2 National Representatives to the Inter-National Board of Governors of the SREA, representing the Young Men's Council -	1977
International Professional Practice Committee, SREA -	1978-1981
International Conference Committee, SREA -	1978 & 1979
National Candidates Guidance Committee of the American Institute of Real Estate Appraisers (AIREA) -	1978-1981
Chairman National Division of Member and Chapter Services, AIREA -	1981
Board of Directors Northern California Chapter #11, AIREA -1	1980
Admissions Committee, Sierra-Nevada Chapter #60, AIREA	
Board of Directors, Sierra-Nevada Chapter #60, AIREA	1984-1986
Board of Directors, Reno-Carson-Tahoe Chapter	

Appraisal Experience

Independent Fee Appraiser	1976 to present
President, Stephen R. Johnson & Associates	1976-1992
President, Johnson - Wright & Associates	
President, Johnson - Perkins & Associates	1994 to present
(Staff of 11 Appraisers)	
Alves Appraisal Associates	1972-1976
Alves-Kent Appraisal Associates	1970-1972

Qualified as an Expert Witness

Nevada District Courts:
Washoe County, Carson City, Douglas County, and Elko County
U.S. Bankruptcy Courts:
Reno, Las Vegas, Sacramento, and Los Angeles
U.S. District Court, San Francisco, California
United States Tax Court
Arizona Superior Court, Maricopa County, Phoenix
Douglas County Board of Equalization
Washoe County Board of Equalization
Nevada State Board of Equalization
King County Superior Court, Seattle, Washington

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Formal Education

Reno High School Graduate -	1966
Bachelor of Science Degree in Business Administration Majoring in Real Estate, from the University of Nevada, Reno -	1972

Appraisal Education

University of Nevada:	
B.A. 430 Real Estate Evaluation	1970
B.A. 432 Real Estate Appraisal Problems	1971
American Institute of Real Estate Appraisers:	
Course 1A Basic Appraisal Principles, Methods & Techniques, San Francisco, CA	1972
Course 1B Capitalization Theory & Techniques, San Francisco, California	1973
Course 2 Urban Properties, San Francisco, California	
Course 6 Investment Analysis, Memphis, Tennessee	1976
Society of Real Estate Appraisers:	
Course 301 Special Applications of Appraisal Analysis, Pomona, California	1974
Uniform Appraisal Standards for Federal Land Acquisitions	June 2009
Numerous Continuing Education Seminars and Courses	

Appraisal Instructor

Nevada Association of Realtors
Department of Commerce, Real Estate Division, State of Nevada
- Appraisal "A" Residential Appraising
- Appraisal "B" Apartment and Commercial Property Appraising

Western Nevada Community College
- R.E. 206 Real Estate Appraising

Northern Nevada Real Estate School
- Real Estate Appraisal

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON
REPRESENTATIVE APPRAISAL CLIENTS AND PROPERTIES

BARTON MEMORIAL HOSPITAL
CITY OF RENO
CITY OF SPARKS
COLONIAL BANK
R.J.B. DEVELOPMENT COMPANYCARSON CITY
DOUGLAS COUNTY
LINCOLN COUNTY
LYON COUNTY
WASHOE COUNTY
MINERAL COUNTY
EMERALD BAY POST OFFICE
NEVADA STATE PARK SYSTEM
NEVADA STATE DEPT. OF TRANSPORTATION
NEVADA STATE DIVISION OF LANDS
NEVADA ATTORNEY GENERAL'S OFFICE
U.S. DEPARTMENT OF NAVY
U.S. FOREST SERVICE
FNMA - REGIONAL OFFICE
INTERNAL REVENUE SERVICE
FEDERAL TRADE COMMISSION
WASHOE COUNTY REGIONAL TRANS.
RENO TAHOE AIRPORT AUTHORITY
TAHOE REGIONAL PLANNING AGENCY
CALIFORNIA ATTY GENERAL'S OFFICE
CALIFORNIA TAHOE CONSERVANCY
CITY OF SOUTH LAKE TAHOE
PLACER COUNTY REDEVELOPMENT AGENCY
NEW HAMPSHIRE DEPARTMENT OF JUSTICE
MISSOURI HWY AND TRANS. DEPT COMMISSION
IDAHO TRANSPORTATION DEPARTMENT
COLONIAL BANK
PLUMAS BANK
SECURITY BANK OF NEVADA
LIBERTY BANK
FIRST INDEPENDENT BANK OF NV
NORTHERN NEVADA BUSINESS BANK
NEVADA STATE BANK
UNION BANK
VALLEY BANK OF NEVADA
BANK OF AMERICA
THE BANK OF CALIFORNIA
CROCKER NATIONAL BANK
WELLS FARGO BANK
B OF A TRUST DEPARTMENT
FIRST FEDERAL SAVINGS & LOAN
FIRST WESTERN SAVINGS & LOAN
AMERICAN SAVINGS AND LOAN
NEVADA SAVINGS & LOAN
DILORETO CONST. & DEVELOPMENT
DERMODY PROPERTIES
TRAMMELL CROW CO.
MCKENZIE PROPERTIES
HOMEWOOD HIGH & DRY MARINA
TAHOE KEYS MARINA
TAHOE CITY MARINA
WASHOE MEDICAL CENTER
PLAZA RESORT CLUB
ROYAL BANK OF SCOTLAND
CARSON-TAHOE HOSPITAL
JOHNNY RIBEIRO BUILDER
KEEVER CONSTRUCTION COMPANY
SIERRA PACIFIC POWER COMPANY
SOUTH LAKE TAHOE PUBLIC UTILITY DIST.
TAHOE DOUGLAS SEWER DISTRICT
GLENBROOK WATER COMPANY
TAHOE PARK WATER COMPANY
NORTH FOOTHILL APARTMENTS
MEADOWOOD APARTMENTS
WOODSIDE VILLAGE APARTMENTS
SIERRA WOODS APARTMENTS
AMESBURY PLACE APARTMENTS
SUNDANCE APARTMENTS
KEYSTONE SQUARE SHOPPING CTR.
POZZI MOTORS
CARSON CITY DATSUN-AMC-JEEP
LEMMON VALLEY LAND COMPANY
CONSOLIDATED FREIGHTWAYS
RINGSBY UNITED
SYSTEMS 99
EASTMAN KODAK
HALLMARK CARDS
OSCAR MEYER AND COMPANY
GENERAL ELECTRIC
CHEMETRO
CITY SERVICES MINERAL CO.
SUPERIOR OIL COMPANY
TRAVELERS INSURANCE
FARMERS INSURANCE COMPANY
FIRST AMERICAN TITLE CO. OF NV.
FIDELITY TITLE INSURANCE CO
MERRILL LYNCH RELOCATION
YOUNG ELECTRIC SIGN COMPANY
THE TRUST FOR PUBLIC LANDS
THE TRUCKEE DONNER LAND TRUST
THE CONSERVATION FUND
THE NATURE CONSERVANCY
SUGAR BOWL SKI RESORT
THE FEATHER RIVER LAND TRUST
SKI INCLINE RESORT
KIRKWOOD ASSOCIATES
NORTHSTAR
SQUAW VALLEY U.S.A.
LEWIS HOMES OF NEVADA
SYNCON HOMES
MGM GRAND HOTEL CASINO & THEME PARK
EL DORADO HOTEL - CASINO
COMSTOCK HOTEL – CASINO
LAKESIDE INN HOTEL - CASINO
RAMADA EXPRESS HOTEL - CASINO

JOHNSON~PERKINS & ASSOCIATES, INC.
REAL ESTATE APPRAISERS & CONSULTANTS
Main Office: 295 Holcomb Avenue, Suite 1 ▪ Reno, Nevada 89502 ▪ Telephone (775) 322-1155
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Karen K. Sanders
Gregory D. Ruzzine
Chad Gerken

November 1, 2013

Gayle Sherman
P.O. Box 425
Silver City, Nevada 88428

RE: Comstock Mining, Inc.'s Zoning Change Request

Dear Mr. McCarthy,

This letter is in response to your request that we address the likely impact on the local real estate market as a result of Comstock Mining, Inc.'s request to rezone 89± acres in Silver City, Nevada to zoning classifications which will allow mining activities, including Open Pit Mines. This letter will set forth some preliminary research conducted to assist me in determining if there could be an adverse impact to the local real estate market as a result of the proposed zoning change.

The clients for this consulting assignment are Gayle Sherman and Joe McCarthy on the behalf of the citizens of Silver City, Nevada. The intended users of this consulting report include the clients, their representatives, the Lyon County Planning Commission and the Lyon County Board of Commissioners. The intended use of this consultation report is to assist the Lyon County Planning Commission and the Lyon County Board of Commissioners in determining that the proposed zoning change request will have an impact on the adjacent

property owners in Silver City. This consultation report involves an effective date of October 18, 2013, which is the date that this consultant conducted a physical inspection of Silver City and the surrounding areas.

The scope of work completed for this preliminary consultation report involved the inspection described above of the Silver City area, meetings and interviews with Silver City residents and property owners, interviews with brokers familiar with the local real estate market and interviews with other knowledgeable parties. Based upon these investigations and further being based upon my experience, I have concluded that the proposed mining zone change request could have a material impact on the Silver City property values. As this initial scope of work was limited to the investigation set forth above, I have not completed an in-depth data investigation and analysis which would allow me to form a more precise estimate of the potential percentage impact on property values as a result of the zoning change and possibility of an Open Pit Mine on the property across the highway.

Silver City is located north of Moundhouse and south of Virginia City and Gold Hill. Silver City is generally located north of the intersections of State Routes 342 and 341 and south and east of Devil's Gate. Based upon the best information available to these consultants, Silver City had an estimated population of 180 people in 2011. In 2000, the population was reported to be 170 and in 2010 the population was reported to be 179 people. Silver City is essentially a historic mining town which has evolved into a permanent residential community. Many of the homes are older which have been renovated, while there are a number of newer homes which have been constructed over the past decade. Residents consist of retirees, professionals and others who typically work in the Carson City or Reno areas and commute to their residence. The residents are drawn to this area due to its rural, peaceful location which is within reasonable commuting distance of major metropolitan areas.

Silver City has a Community Hall, a Community Park and a very active Citizen's Group. The citizens have monthly dinners in which all citizens are invited to attend. In

addition, they have a number of special events. As a result, Silver City is a tight knit community in which everyone seems to know everyone else.

Comstock Mining, Incorporated is currently petitioning Lyon County to change the zoning on 89± acres from NR-1 to RR-3 and RR-5. It is our understanding that under the new zoning classifications, the property owner would be allowed to conduct mining operations on the property. It is further our understanding that the allowed mining operations would include Open-Pit Mining. The property in question is located on the west side of State Route 342 (Main Street) across from the junction with State Route 341 (Truck Route), north to Peddler Road.

As Silver City and the requested zone change property are on facing walls of a canyon area, a mine on the requested property would be highly visible from Silver City. Furthermore, Silver City could experience considerable noise and disruption from truck traffic, drilling, mining, dust and night lighting. In order to determine how the market would perceive a mining operation in this real estate market, this consultant has conducted interviews with a number of property owners, knowledgeable parties in the area, and local Realtors. Set out following are summary discussions of the interviews with each of the parties interviewed.

Chris and Bonnie Brown have lived on their property in Silver City since 1975. It was originally the French Mill. They indicated that they have experienced very intense noise from the drilling rigs which reportedly operate from 6 a.m. to 6 p.m. They pointed out that the canyon reflects the noise in their direction. They also had experienced truck traffic noise including the Jake Breaks, back-up horns on heavy equipment, and the trucks moving equipment 24 hours a day. They also reported that they can hear the steel tracks on the heavy tractors. These homeowners also reported that they had heard that Comstock Mining had found good minerals at a depth of 800 feet. They felt that this would result in a fairly large pit being developed across the street from their property. They were also concerned that the mining activity upstream could result in contamination of the stream which passes through

their property. These property owners stated that they were very uncertain about the future because of the proposed mine. They felt that it would result in a loss in value to their property and would reduce the overall quality of life in Silver City. They stated that, at this point in time, they are reluctant to make additional investments in their property due to the uncertainty of the zoning request.

Darlene Cobbey has owned her 6 acre property in Silver City since 1981. She stated that she has experienced dust from the mining operations, and heavy truck traffic noise. At one point, Ms. Cobbey stated that trucks from Coons Construction Company, Cruz Construction Company and Cinderlite in Carson City were hauling material for the mine with trucks passing her property every 20 seconds. Darlene was also concerned that Comstock Mining may be utilizing water from Marlette Lake. She felt that due to the conditions which she has experienced and the pending zoning change request, that it would be very difficult to sell her property.

I next spoke with Robin Cobbey of Gold Hill. She indicated that she had lived in Gold Hill for over 30 years and that David Toll had lived on the property for in excess of 50 years. They are located across the street from Comstock Mining's existing operation. Robin indicated that they do experience truck noise, dust, and have also been kept awake at night due to the flashing lights on equipment. Robin indicated that they own a pink house across from the turnoff to the mine and that she has had a hard time renting it due to the adjacency to the mine. She had at one time rented the house for $800 per month and has now had to reduce the rent to $700 per month (a 12.50% reduction), which she attributes to the mining activity. She also stated that they had another residence which they rented for $600 per month and have now had to reduce the rent to $500 per month (a 16.67% reduction). Robin indicated that they were planning to install solar panels on their home and to rebuild their kitchen. Due to the uncertainty of the mining activity, they have put their plans on hold. In closing, Robin stated that due to the uncertainties involved, they could not sell their home at the present time

and that if a mining operation were expanded that they would no longer desire to live in the area.

I next interviewed Judy Olson. Judy indicated that she and her husband Chad had purchased their lot in 2007 and subsequently spent over $500,000 building an excellent quality single family residence. The residence was designed in a manner to maximize the views to the south and west. They were attracted to the area as it is close to their business in Carson City, yet it provides a rural, quiet and peaceful location. She indicated that they felt that the fact that Silver City was in a historic mining district, would protect them from future mining activities. Judy reported that when drilling activities are occurring on the 89± acres, they typically cannot go outside because the noise is so loud. She also reported that they experience noise from the backup horns on heavy equipment, and are concerned about water quality and quantity. She pointed out that they enjoy the night skies and are afraid that lighting from Comstock Mining will impact the quality of the night skies. Finally, Judy indicated that they were considering the purchase of an adjacent property to protect their privacy. They have recently told the sellers that they are not interested. She also stated that she and her husband will not spend another dime on the property until the mining issue is resolved.

Bob Elston and Cashion Calloway have owned their property in Silver City since 1971. They indicated that when drilling was occurring on the 89± acres, they could not go outside. They have felt the blasting from the Lucerne Pit and experienced lights at night. They also stated that the highway can be closed in Silver City for up to 30 minutes when the mining company is blasting. They have experienced noise from the backup beepers, the heavy equipment and have also experienced dust from the blasting. They stated that Silver City is a very quiet town with typically the loudest sound being the crickets at night. They felt that the Community Center, the monthly town meetings and the activities result in a very close-knit community. They stated that crime has never been a problem in their community and that many people do not lock their doors. They also stated that as they have no air

conditioning, they leave their windows open at night which results in the noise being a greater disturbance. They also pointed out that in the past some of the heavy trucks were speeding through town. However, apparently the mining company has spoken to the drivers and it has not been much of a problem lately. They were concerned about mercury contamination and noted that the area is identified as a Superfund Site. They stated that they would not spend another dime on their property due to these mining issues and that mining on the 89± acres would significantly impact the value of their property.

Gerald Antinoro owns a house on Keystone Circle across from the Lucerne Pit in the Gold Hill area. Gerald is the current sheriff of Storey County. He stated that the existing mining does not impact his day to day life. He also stated that several seismic tests conducted near his residence showed no disturbance. Jerry indicated that he does not particularly like the mining, but understands their operations. He indicated that they could hear some of the drilling from a rig across the highway from their property. He also pointed out that two smaller drilling rigs, which operated on adjacent lots to his, were no problem at all. He does have some concerns relative to heavy metals and the release of toxic materials. He would prefer underground mining to open pit mining. He also expressed concerns as to the certainty of the mines being properly restored and reclaimed at the end of their mining operations. He finally stated that it would be difficult to sell his house due to the ongoing mining issues.

Next, I interviewed Marcey Newell, formerly of Lakeside Properties. Marcey stated that she had sold Lot 6 on Keystone Circle to Comstock Mining on February 7, 2012 for $25,000. This property had previously sold on January 21, 2005 for $57,000. She stated that she was not aware of the current issues as she has moved to California and is no longer selling real estate.

I next spoke with Bob Frechlund of Coldwell Banker Select Real Estate. Bob has been a Realtor in the area for a number of years and is very knowledgeable in the local market. He felt that it would be unlikely that non-mining related people would move to Silver City

because of the pending mine. He further felt that it would be very hard to sell existing homes and that it would definitely impact values.

I next spoke with Karen Woodmansee. Karen has been a Realtor in the area for a long period of time and is a journalist. It was her opinion that the proposed mining projects would diminish the desirability and values of properties in the Silver City area. She expressed concern about the heavy truck noise, dust, view impacts, and noise from blasting. She further stated that the only people who would buy in Silver City would be miners. She stated that she had a house listed on Main Street in Silver City for an estate and could not sell it. She also stated that, for the years 2010, 2011 and 2012, she could not sell a single family residence in Gold Hill or Silver City. Karen stated that she typically acted as the buyer's agent. She said typically the only active buyer in the area is Comstock Mining. Finally, she closed by stating that she definitely felt that the proposed mining activity would have a negative impact on property values in the area.

I next spoke with Steve Lincoln of RE/Max Realty. Steve has been a Realtor active in the area for many years. It was his opinion that the increased jobs created by the mine could boost the demand for housing in the area. On the other hand, he felt that the other factors associated with the mines would result in a reduction in values.

I next spoke with Mr. Mike Enright of Valley Realty. Mike has been a Realtor in the area for over 17 years. Mike explained that he does not have a bias against mining, however, he does feel that the proposed mine will negatively impact the property values in Silver City. Mr. Enright reported that he had two people call on a listing he had advertised in the Homes and Lands Magazine. He said that when both parties discovered that the properties were located in Silver City, they lost interest due to their concerns relative to mining. Mike stated that he had handled two sales in Silver City in 2012. One of the buyers bought a home which was separated from the mine by a small ridge and was therefore removed from the mining. This home was purchased by a retired couple. The second residence was purchased by a

tattoo artist who wanted to be near Virginia City, but not in Virginia City. Mr. Enright felt that the mining activity would be unsightly and would create noise and dust for Silver City. It was his opinion that the mining activity would reduce property values in Silver City between 10% and 20%.

I also spoke with Mr. Mike Ramos of Coldwell Banker Select Real Estate. Mike has been an active Realtor in the area for a number of years. He stated that he handled the sale of the Cabin in the Sky Property to Comstock Mining. He also stays in touch with Comstock Mining making sure that they are aware of any listings he has in the Silver City and Gold Hill areas. He felt that the mining will generate jobs which could result in increased demand for housing. He did feel that the mining activity could affect the visual appeal of the area and could impact the desirability of Silver City.

I finally spoke with Jim Allander. He has owned a house adjacent to the Comstock Mining Company's Mill Site in American Flat for over 12 years. Their house is immediately above and adjacent to the Mill Site. He stated that they have gotten used to the noise and other inconveniences of the milling operation. He did state that there is constant noise with work typically beginning at 5:15 a.m. During our telephone conversation, I could hear the backup horns from heavy equipment in the background. Jim confirmed that it was from heavy equipment operating on the adjacent mill site. Jim stated that he felt it would be very difficult on the people of Silver City, should a mining operation occur on the 89± acres.

In summary, I have interviewed in excess of 15 individuals who either own property in Silver City or are real estate professionals who are knowledgeable about real estate values and trends in the local market. Many of the people interviewed expressed concerns regarding the impacts from mining on the adjacent property. Their concerns focused around noise associated with the mining operation, noise and traffic from trucking, noise from blasting, dust from the mining operations, and the visual impact on the aesthetic beauty of the area resulting from open pit mining. Many of the property owners expressed the opinion that they

were not willing to spend an additional dime on their property until such time as it was determined that a mining operation would not occur on the adjacent property. Almost all of the individuals interviewed indicated that, in all likelihood, it would be very difficult for them to sell their homes due to the concerns of future mining. There were several instances where buyers had elected not to consider Silver City or Gold Hill due to these concerns.

Several of the parties interviewed indicated that the increased mining activity could result in additional job opportunities for the area which would then drive demand for residential housing. In the end, even these parties expressed concerns that it would be difficult to sell a house due to the uncertainty of the mining activity. In several instances, the neutral parties indicated that they did have business dealings with Comstock Mining. Several additional parties requested that I not include them in the survey as they had business dealings with Comstock Mining.

Several of the Realtors interviewed indicated that, in their opinion, the mining activity would have a definite negative impact on property values in the Silver City area. In one instance, the Realtor stated that he felt the diminution in value would be between 10% and 20%.

Finally, I have relied upon my forty years of experience in real estate appraising in Northern Nevada, as well as my educational background and experience. It is my observation that the proposed zone change property is located on the west face of the canyon area, while Silver City is located on the east face. As a result, noise will easily be transmitted from the mine site to Silver City which will reduce the peace and quiet of the residential neighborhood. The sources of the noise will include increased trucking, drilling, the operation of heavy equipment, the backup horns for the heavy equipment, and numerous other sources. In addition, the night lighting on the site could result in inconveniences to the residents in Silver City. Dust from the mining operation could also impact the residential properties. Finally, it

is felt that the scarring from an Open Pit Mining operation would impact the aesthetic beauty of the area.

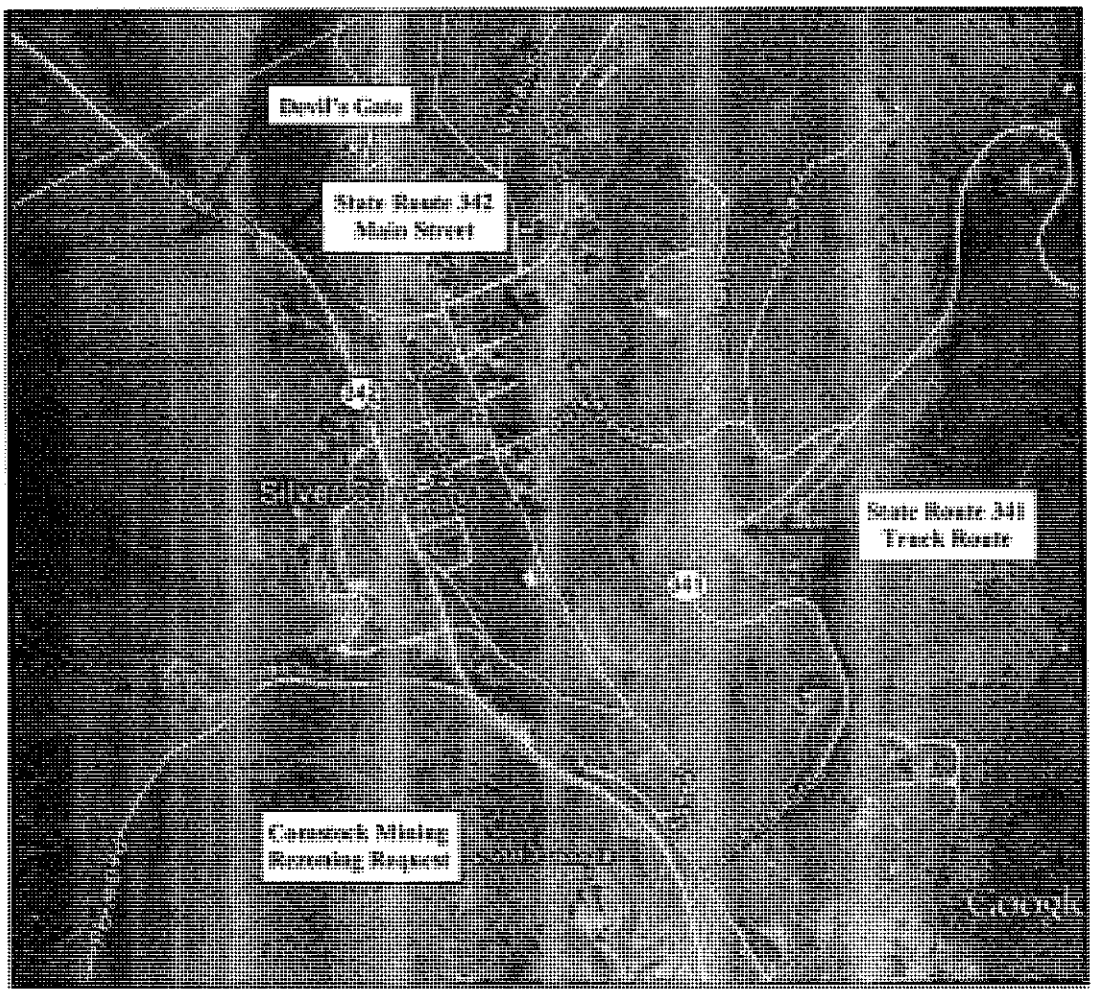
In conclusion, based upon the numerous interviews conducted by this consultant, and relying upon my 40+ years of experience and professional training in real estate, it is this consultant's opinion that proposed Open Pit Mining on the 89± acres across from Silver City would have a material negative impact on residential property values.

I hope this letter is of assistance and should you have any questions, please do not hesitate to contact me.

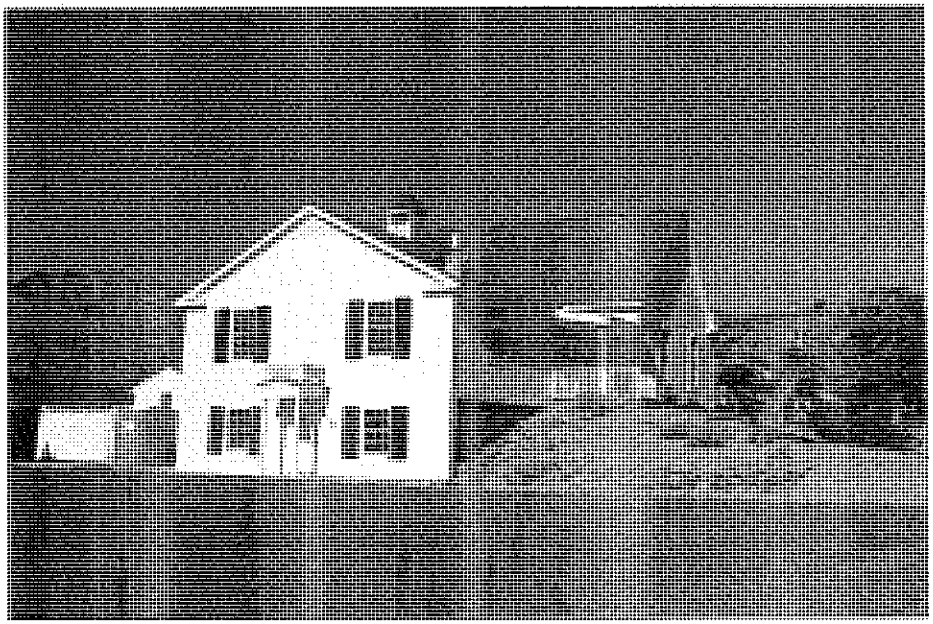
Respectfully submitted,

Stephen R. Johnson, MAI, SREA
Nevada Certified General Appraiser
License Number A.0000003-CG

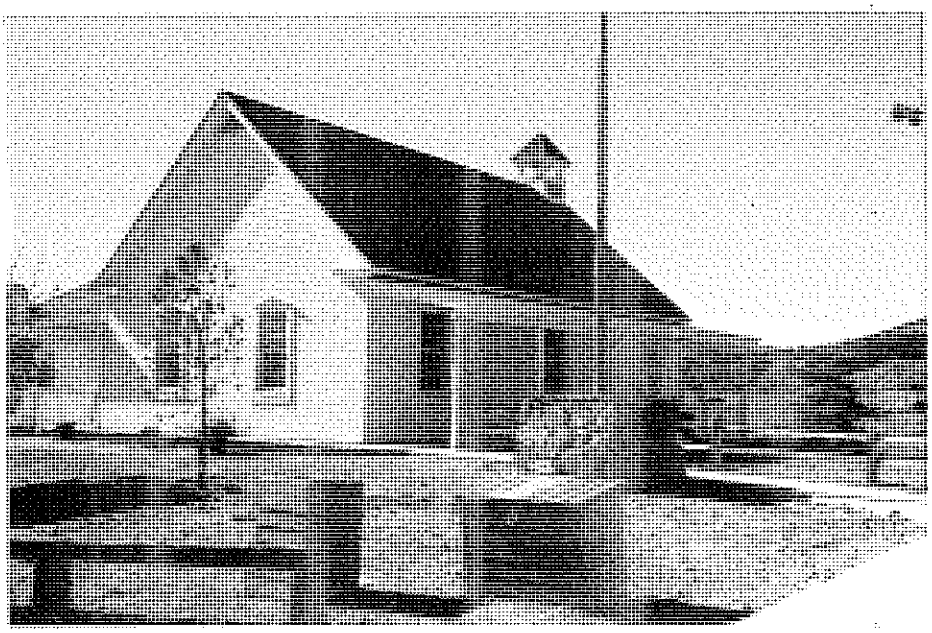
SILVER CITY, NEVADA MAP



PHOTOGRAPHS



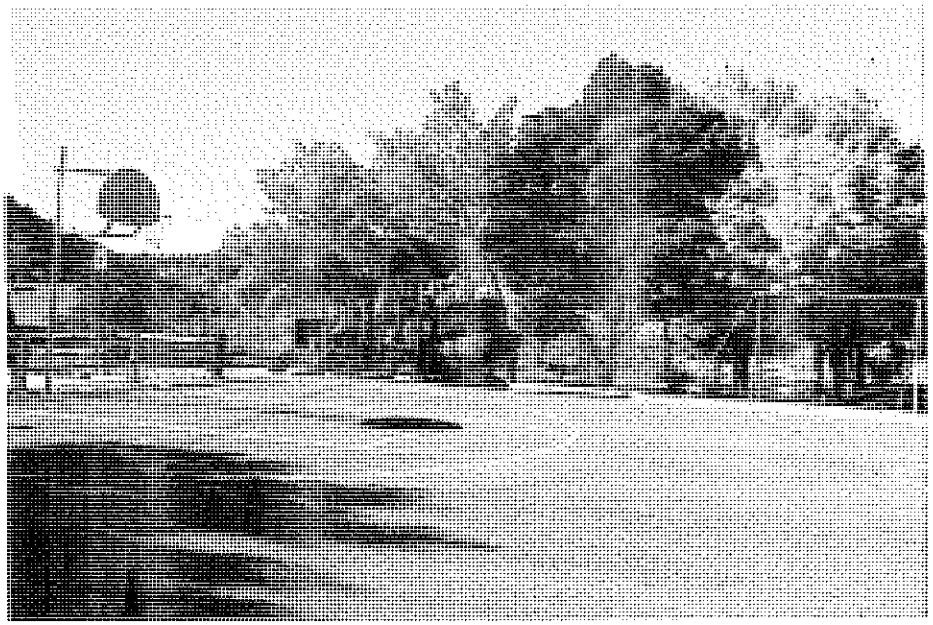
VIEW OF SILVER CITY COMMUNITY CENTER



VIEW OF THE SILVER COMMUNITY CENTER

PHOTOGRAPHS

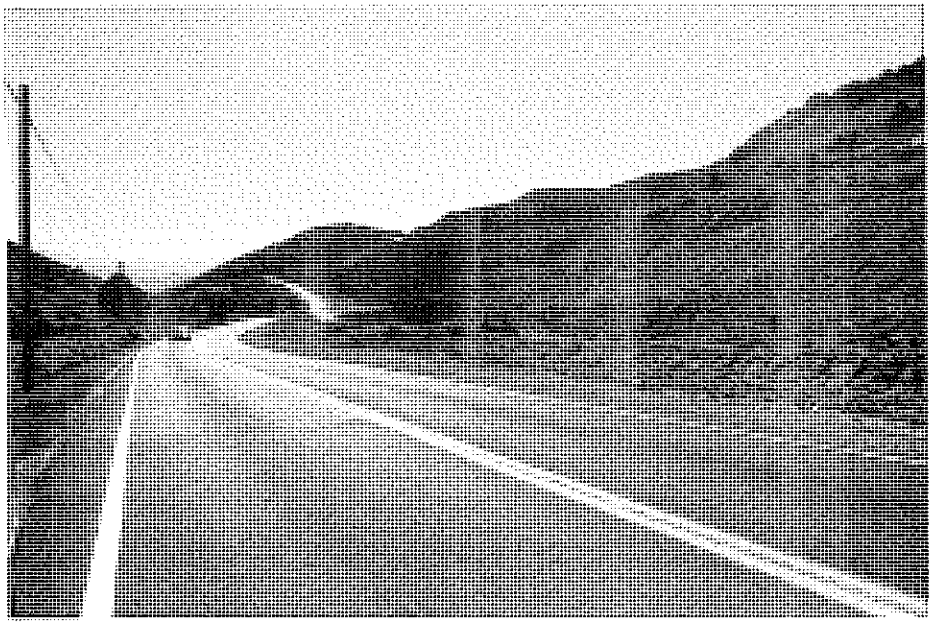
VIEW OF THE COMMUNITY PARK



VIEW OF THE PLAYGROUND AT THE SILVER CITY COMMUNITY PARK

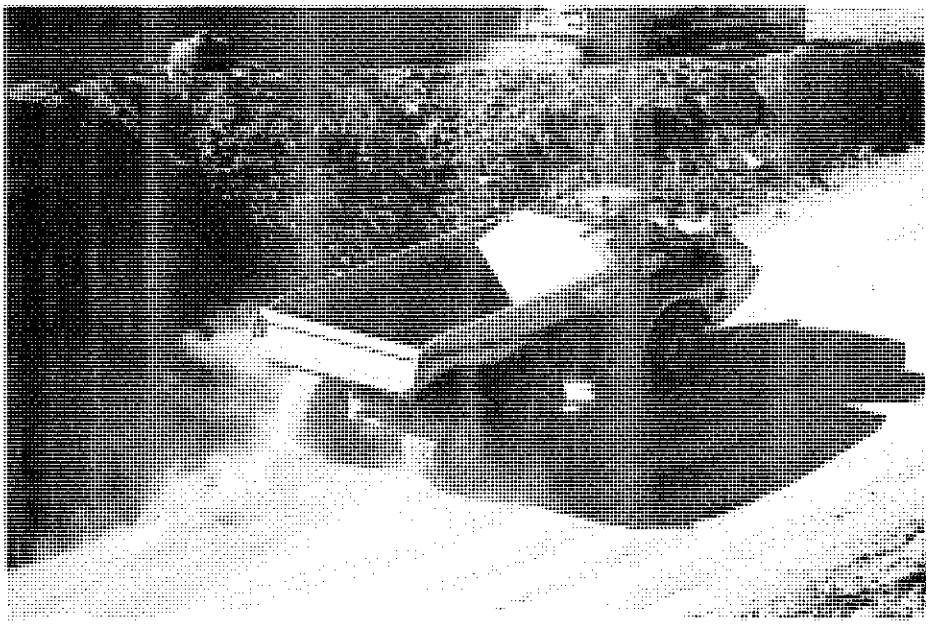
PHOTOGRAPHS

VIEW OF COMSTOCK MINING'S LUCERNE PIT

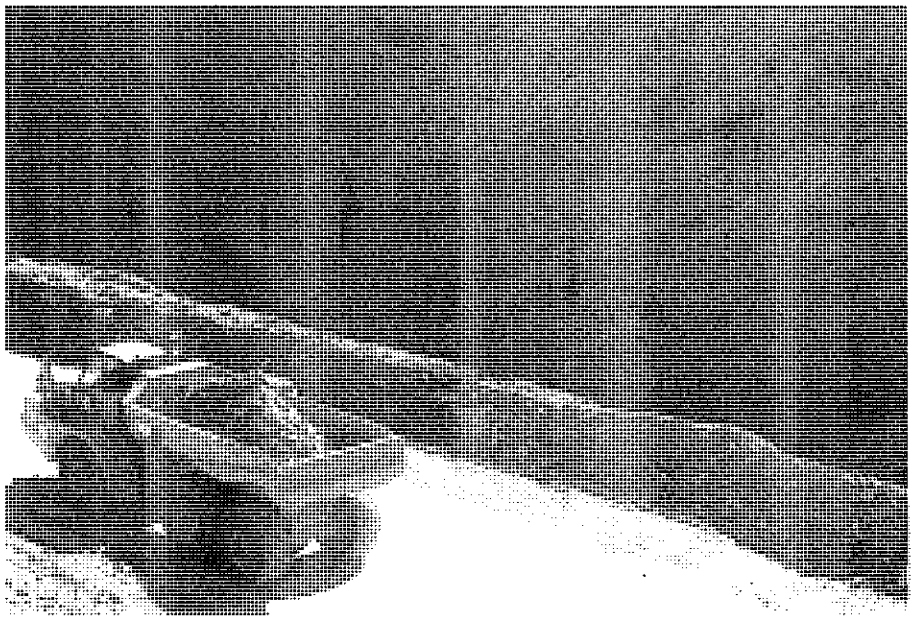


VIEW OF THE LUCERNE PIT MINING OPERATION SITUATED ON THE WEST SIDE OF STATE ROUTE 342

PHOTOGRAPHS

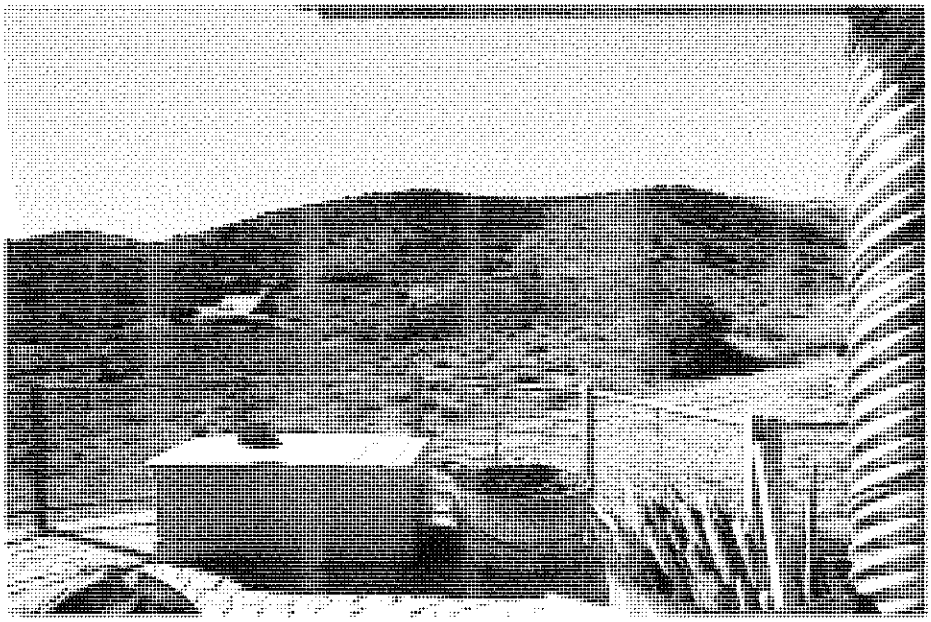


VIEW OF A DUMP TRUCK USED IN THE MINING OPERATION

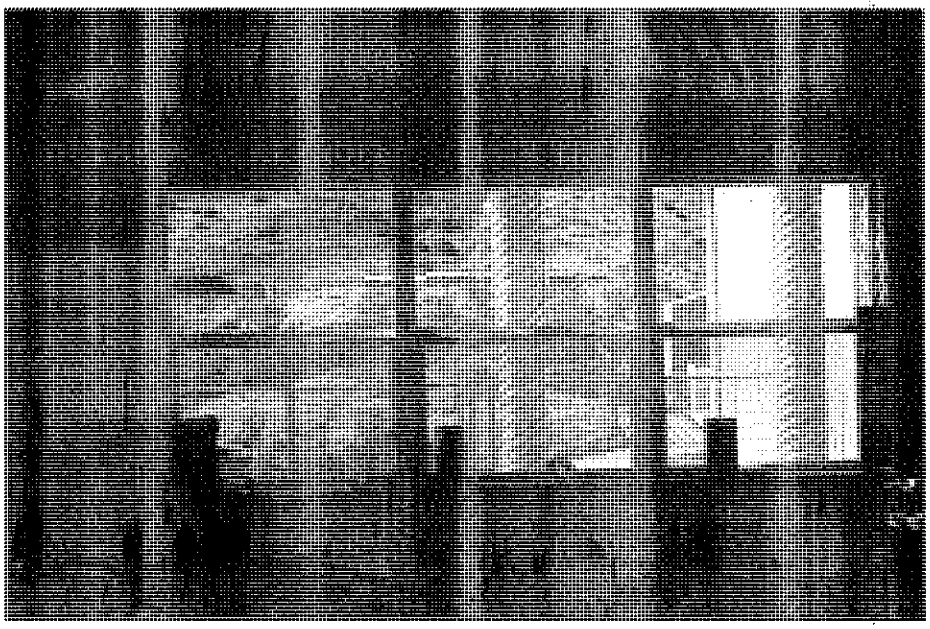


ANOTHER VIEW OF A DUMP TRUCK HAULING MATERIAL

PHOTOGRAPHS

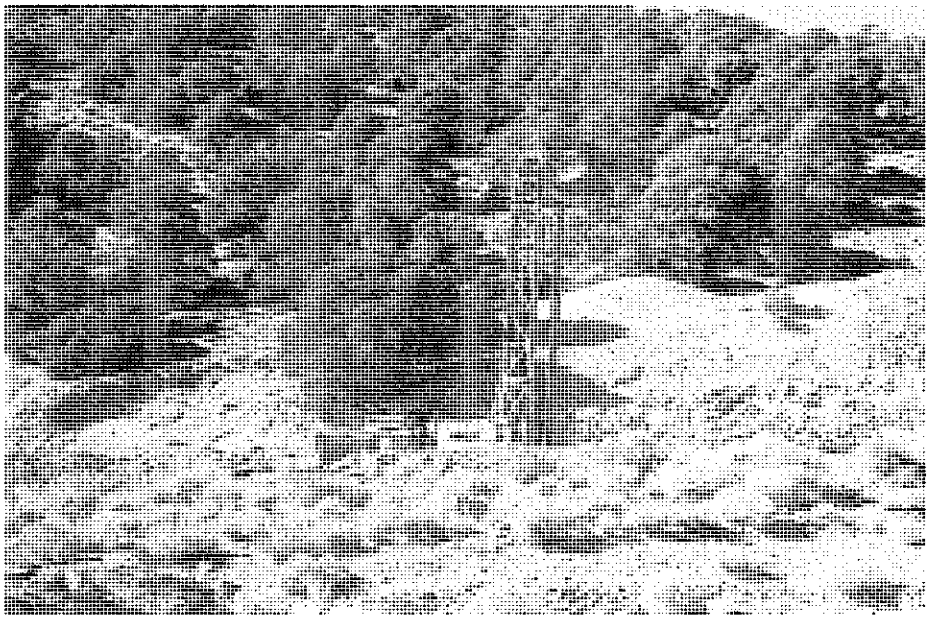


VIEW OF THE 89± ACRE PROPERTY FROM THE OUTDOOR DECK OF THE McCARTHY RESIDENCE

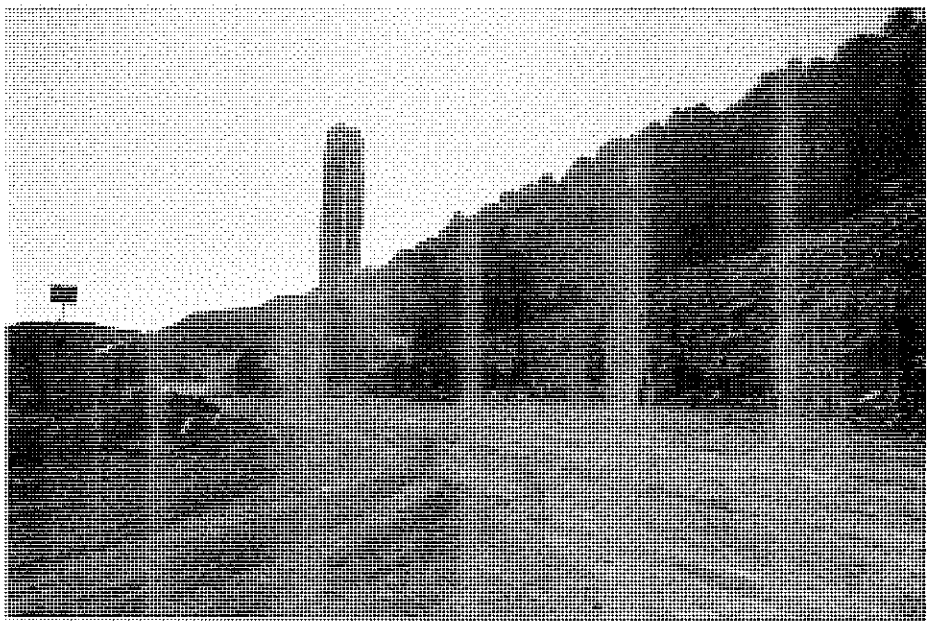


A VIEW OF THE 89± ACRE PROPERTY FROM INSIDE THE McCARTHY RESIDENCE

PHOTOGRAPHS

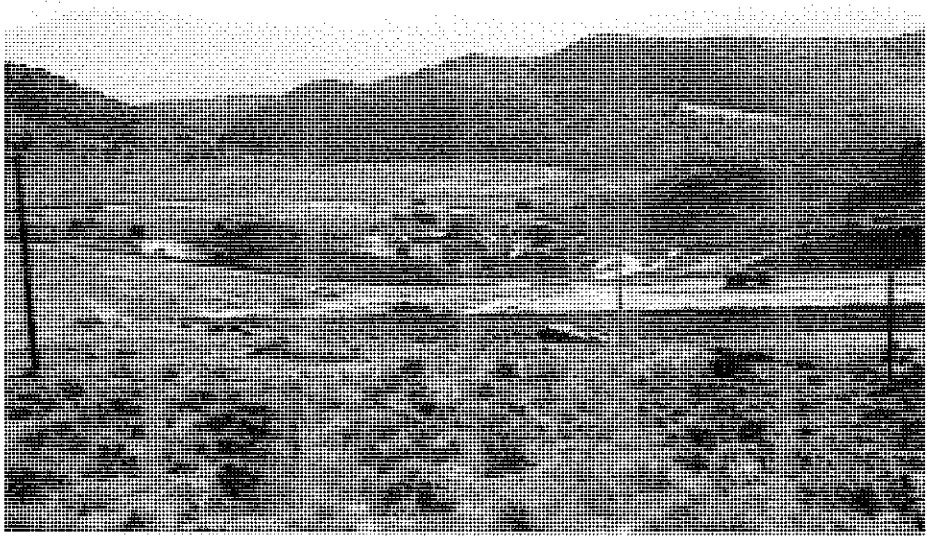


VIEW OF A DRILLING RIG LOCATED ON THE EAST SIDE OF STATE ROUTE 342



VIEW OF AN OPERATING DRILLING RIG

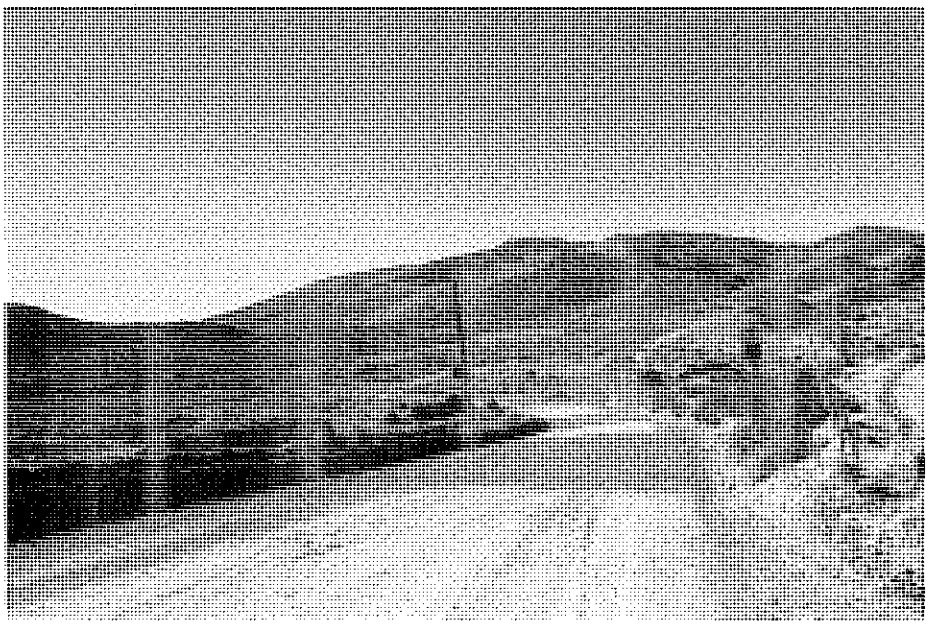
PHOTOGRAPHS



VIEW OF THE MILLING OPERATION IN AMERICAN FLAT

ANOTHER VIEW OF THE MILLING OPERATION

PHOTOGRAPHS



VIEW OF THE HAUL ROAD IN THE AMERICAN FLAT AREA

VIEW OF HEAVY TRUCK EQUIPMENT ON THE HAUL ROAD

CONSULTANT'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, conclusions, and recommendations.
- I have no present or prospective interest in the properties that are the subject of this report, and I have no personal interest with respect to the parties involved.
- I have performed no services, as an appraiser or in any other capacity, regarding the properties that are the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of the stipulated result, or the occurrence of a subsequent event directly related to the intended use of this consulting assignment.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have made a personal inspection of Silver City and the surrounding areas that are the subject of this report.
- No one provided significant real property appraisal or appraisal consulting assistance to the person signing this certification.

Respectfully submitted,

Stephen R. Johnson, MAI, SREA
Nevada Certified General Appraiser
License Number A.0000003-CG

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Professional Designations

MAI - Member Appraisal Institute (Certified through 2013)	1976
SREA - Senior Real Estate Analyst; Society of Real Estate Appraisers	1984

State Licensing and Certification

Certified General Appraiser-State of Nevada License #A.0000003 CG (Certified through 04/30/2015)	1991
Certified General Appraiser-State of California License #AG007038 (Certified through 06/18/2015)	1992

Association Memberships and Affiliations

Member Reno Board of Realtors	
Member Nevada Association of Realtors	
International Right-of-Way Association	
Member Nevada State Board of Equalization - (Appointed by Governor Richard Bryan, January 1984 & 1988)	1984-1991
(Appointed by Governor Kenny C. Guinn, March 2000 & 2004)	2000-2008
Member Nevada Commission of Appraisers of Real Estate - (Appointed by Governor Bob Miller, August 7, 1989)	1989-1994
Commissioner, Nevada Commission of Appraisers of Real Estate (Appointed by Governor Jim Gibbons, 2009)	2009-Present
President, Nevada Commission of Appraisers of Real Estate (Appointed by Governor Sandoval, 2012)	2012-2013

Offices Held

Chairman, National Ethics Administration Division	1995
Vice Chairman, National Ethics Commission	1993/94
Regional Member, Ethics Administration Appraisal Institute, Region 1	1989-1992
President, Sierra Nevada Chapter #60, AIREA -	1989
Vice President, Sierra-Nevada Chapter #60, AIREA -	1988
Secretary, Sierra-Nevada Chapter #60, AIREA -	1987
Vice Governor District 3 (Northern California & Nevada) Society of Real Estate Appraisers (SREA) -	1980-1981
Past President & Membership Chairman - Reno/Carson/Tahoe Chapter #189	
Member 1976 Young Men's Council, SREA, Atlanta, Georgia	

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Offices Held (continued)

Discussion Leader 1977 Young Men's Council, SREA, Las Vegas, Nevada	
Elected 1 of 2 National Representatives to the Inter-National Board of Governors of the SREA, representing the Young Men's Council -	1977
International Professional Practice Committee, SREA -	1978-1981
International Conference Committee, SREA -	1978 & 1979
National Candidates Guidance Committee of the American Institute of Real Estate Appraisers (AIREA) -	1978-1981
Chairman National Division of Member and Chapter Services, AIREA -	1981
Board of Directors Northern California Chapter #11, AIREA -1	1980
Admissions Committee, Sierra Nevada Chapter #60, AIREA	
Board of Directors, Sierra-Nevada Chapter #60, AIREA	1984-1986
Board of Directors, Reno-Carson-Tahoe Chapter	

Appraisal Experience

Independent Fee Appraiser	1976 to present
President, Stephen R. Johnson & Associates	1976-1992
President, Johnson - Wright & Associates	
President, Johnson - Perkins & Associates	1994 to present
(Staff of 11 Appraisers)	
Alves Appraisal Associates	1972-1976
Alves-Kent Appraisal Associates	1970-1972

Qualified as an Expert Witness

Nevada District Courts:
Washoe County, Carson City, Douglas County, and Elko County
U.S. Bankruptcy Courts:
Reno, Las Vegas, Sacramento, and Los Angeles
U.S. District Court, San Francisco, California
United States Tax Court
Arizona Superior Court, Maricopa County, Phoenix
Douglas County Board of Equalization
Washoe County Board of Equalization
Nevada State Board of Equalization
King County Superior Court, Seattle, Washington

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Formal Education

Reno High School Graduate -	1966
Bachelor of Science Degree in Business Administration Majoring in Real Estate, from the University of Nevada, Reno -	1972

Appraisal Education

University of Nevada:	
B.A. 430 Real Estate Evaluation	1970
B.A. 432 Real Estate Appraisal Problems	1971
American Institute of Real Estate Appraisers:	
Course 1A Basic Appraisal Principles, Methods & Techniques, San Francisco, CA	1972
Course 1B Capitalization Theory & Techniques, San Francisco, California	1973
Course 2 Urban Properties, San Francisco, California	
Course 6 Investment Analysis, Memphis, Tennessee	1976
Society of Real Estate Appraisers:	
Course 301 Special Applications of Appraisal Analysis, Pomona, California	1974
Uniform Appraisal Standards for Federal Land Acquisitions	June 2009
Numerous Continuing Education Seminars and Courses	

Appraisal Instructor

Nevada Association of Realtors
Department of Commerce, Real Estate Division, State of Nevada
- Appraisal "A" Residential Appraising
- Appraisal "B" Apartment and Commercial Property Appraising

Western Nevada Community College
- R.E. 206 Real Estate Appraising

Northern Nevada Real Estate School
- Real Estate Appraisal

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON
REPRESENTATIVE APPRAISAL CLIENTS AND PROPERTIES

BARTON MEMORIAL HOSPITAL
CITY OF RENO
CITY OF SPARKS
COLONIAL BANK
R.J.B. DEVELOPMENT COMPANYCARSON CITY
DOUGLAS COUNTY
LINCOLN COUNTY
LYON COUNTY
WASHOE COUNTY
MINERAL COUNTY
EMERALD BAY POST OFFICE
NEVADA STATE PARK SYSTEM
NEVADA STATE DEPT. OF TRANSPORTATION
NEVADA STATE DIVISION OF LANDS
NEVADA ATTORNEY GENERAL'S OFFICE
U.S. DEPARTMENT OF NAVY
U.S. FOREST SERVICE
FNMA - REGIONAL OFFICE
INTERNAL REVENUE SERVICE
FEDERAL TRADE COMMISSION
WASHOE COUNTY REGIONAL TRANS.
RENO TAHOE AIRPORT AUTHORITY
TAHOE REGIONAL PLANNING AGENCY
CALIFORNIA ATTY GENERAL'S OFFICE
CALIFORNIA TAHOE CONSERVANCY
CITY OF SOUTH LAKE TAHOE
PLACER COUNTY REDEVELOPMENT AGENCY
NEW HAMPSHIRE DEPARTMENT OF JUSTICE
MISSOURI HWY AND TRANS. DEPT COMMISSION
IDAHO TRANSPORTATION DEPARTMENT
COLONIAL BANK
PLUMAS BANK
SECURITY BANK OF NEVADA
LIBERTY BANK
FIRST INDEPENDENT BANK OF NV
NORTHERN NEVADA BUSINESS BANK
NEVADA STATE BANK
UNION BANK
VALLEY BANK OF NEVADA
BANK OF AMERICA
THE BANK OF CALIFORNIA
CROCKER NATIONAL BANK
WELLS FARGO BANK
B OF A TRUST DEPARTMENT
FIRST FEDERAL SAVINGS & LOAN
FIRST WESTERN SAVINGS & LOAN
AMERICAN SAVINGS AND LOAN
NEVADA SAVINGS & LOAN
DILORETO CONST. & DEVELOPMENT
DERMODY PROPERTIES
TRAMMELL CROW CO.
MCKENZIE PROPERTIES
HOMEWOOD HIGH & DRY MARINA
TAHOE KEYS MARINA
TAHOE CITY MARINA
WASHOE MEDICAL CENTER
PLAZA RESORT CLUB
ROYAL BANK OF SCOTLAND
CARSON-TAHOE HOSPITAL
JOHNNY RIBEIRO BUILDER
KEEVER CONSTRUCTION COMPANY
SIERRA PACIFIC POWER COMPANY
SOUTH LAKE TAHOE PUBLIC UTILITY DIST.
TAHOE DOUGLAS SEWER DISTRICT
GLENBROOK WATER COMPANY
TAHOE PARK WATER COMPANY
NORTH FOOTHILL APARTMENTS
MEADOWOOD APARTMENTS
WOODSIDE VILLAGE APARTMENTS
SIERRA WOODS APARTMENTS
AMESBURY PLACE APARTMENTS
SUNDANCE APARTMENTS
KEYSTONE SQUARE SHOPPING CTR.
POZZI MOTORS
CARSON CITY DATSUN-AMC-JEEP
LEMMON VALLEY LAND COMPANY
CONSOLIDATED FREIGHTWAYS
RINGSBY UNITED
SYSTEMS 99
EASTMAN KODAK
HALLMARK CARDS
OSCAR MEYER AND COMPANY
GENERAL ELECTRIC
CHEMETRO
CITY SERVICES MINERAL CO.
SUPERIOR OIL COMPANY
TRAVELERS INSURANCE
FARMERS INSURANCE COMPANY
FIRST AMERICAN TITLE CO. OF NV.
FIDELITY TITLE INSURANCE CO
MERRILL LYNCH RELOCATION
YOUNG ELECTRIC SIGN COMPANY
THE TRUST FOR PUBLIC LANDS
THE TRUCKEE DONNER LAND TRUST
THE CONSERVATION FUND
THE NATURE CONSERVANCY
SUGAR BOWL SKI RESORT
THE FEATHER RIVER LAND TRUST
SKI INCLINE RESORT
KIRKWOOD ASSOCIATES
NORTHSTAR
SQUAW VALLEY U.S.A.
LEWIS HOMES OF NEVADA
SYNCON HOMES
MGM GRAND HOTEL CASINO & THEME PARK
EL DORADO HOTEL - CASINO
COMSTOCK HOTEL – CASINO
LAKESIDE INN HOTEL - CASINO
RAMADA EXPRESS HOTEL - CASINO

Silver City petition

October 4, 2013

Lyon County Planning Commissioners
27 South Main Street
Yerington, Nevada, 89447

Re: Comstock Mining Inc. Application for Reversion to Acreage (PLZ-13-0044)

Dear Commissioners:

Attached, please find a petition from the residents of Silver City and adjacent areas, directed to yourselves and the Lyon County Commissioners. The purpose of the petition is to inform you of the opinions of the signers regarding the above referenced application.

On August 12, 2013 Comstock Mining Inc., submitted the above application and a master plan and zoning change application to the Lyon County Planning Department. Copies were also provided to the Silver City Advisory Board. The applications were placed on the agenda for the September 3, 2013 town meeting. Copies of the applications were obtained and reviewed by residents of Silver City during the week of August 18, 2013.

From August 31st to September 3rd, the residents of Silver City signed the attached petition. The petition currently contains 104 signatures. As a point of reference, according to the Lyon County website, Silver City has a total of 146 registered voters. As one of the residents who walked the town, informing citizens of the applications for both the reversion to acreage and the master plan and zoning change, I can state that the people I spoke to were eager to sign and thus communicate their feelings to you.

The signers presented the petition to the Silver City Advisory Board at the town meeting of September 3, 2013, requesting that the Board convey this petition to the Planning and County Commissioners.

As Comstock Mining was not prepared to share their plans with the approximately 80 attendees at the town meeting, both applications were agendized for the October 1st Silver City Town Advisory Board meeting. Once again, the Silver City Community Center was packed with attendees, anxious to hear from Comstock Mining what their intentions are for the Dayton Consolidated. For the residents who live less than 250 feet away from the area that is to be reverted, this was an important chance to communicate to Mr. DeGasperis, CEO of Comstock Mining, that his plans could result in making their residences unlivable. Unfortunately Comstock Mining's total presentation was less than five minutes in duration and provided no information regarding the plans for the reverted acreage.

The Silver City Town Board then voted to reaffirm the town's recommendation to the Planning Commission and the County Commissioners i.e., that this application for a reversion to acreage at the Dayton Consolidated is a detriment to the quality of life, health and the historic integrity of Silver City.

As you deliberate, please keep in mind that the Reversion to Acreage application is designed to pave the way for mining within Silver City Town limits. I am requesting on behalf of the signers of the petition that you deny Comstock Mining's application.

Alternatively, please consider a continuance of this application until after the decision has been made on the master plan and zoning change. There is so much at stake for all of us who live in Silver City. Surely there is no harm to Comstock Mining if this decision is delayed until after the master plan and zoning change has been decided.

Sincerely,

Gayle Sherman

Gayle Sherman
100 Grant Street
Silver City, Nevada 89428

9-9-13

Petition from
Silver City and Adjacent Lyon County Residents
To the Lyon County Planning Commission and Board of Commissioners

Whereas the residents of Silver City, Lyon County, Nevada and its environs value the quality of life of their community,

And, whereas Silver City residents have worked hard for decades to foster and protect that quality of life in ways that allow sustainable growth, protect the integrity of historic resources, increase property values, encourage community spirit, and provide for a stable economic base.

And, whereas Silver City residents have contributed to, actively participated in the development of, and fully agree with the present Lyon County Master Plan and zoning ordinances which promote a balance of residential and commercial land uses appropriate for the preservation of the character of Silver City.

We the undersigned, petition the Lyon County Planning Commission and the Lyon County Board of Commissioners to deny Comstock Mining Inc.'s August 7, 2013 Reversion to Acreage Application and Comstock Mining Inc.'s August 12, 2013 application for a Master Plan Amendment and Zone Change. We the undersigned believe the approval of these applications is detrimental to the quality of life, health, and the historic integrity of the Town Site of Silver City and its vicinity.

	Printed Name	Physical Address	Signature	Date
1	CASWOOD CALLAWAY	500 HIGH STREET SILVER CITY, NV 89428		8.31.13
2	Michele Buske	245 4th St. Silver City NV. 89428		8/31/13
3	William Roseveare	145 High St. Silver City NV 89428		8/31/13
4	SHEREE Roseveare	145 High St Silver City NV 89428		8/31/13
5	Allen McCabe	320 First St Silver City NV 89428		8/31/13
6	SUSAN McCabe	320 first St Silver City, NV 89428		8/31/13
7	[illegible]	420 High St Silver City, NV 89428		8-31-13
8	Katherine Backlund	420 High St Silver City, NV 89428		8-31-13
9	MOLLY ALEXANDER	750 HIGH ST " " "		8/31/13
10	Allison Woodman	150 Main St, Silver City NV 89428		8/31/13
11	Alan Jackson	150 Main " " "		8-31-13
12	Tom Byron	4th HIGH ST. SILVER CITY 89428		9/1/13
13	LILA LINDSAY	250 High St. Silver City, NV 89428		9/1/13
14	Linda Hicks	1300 High ST "Silver City, NV		9-1-13
15	Todd Hicks	" " " "		9-1-13
16	RENATE VICTOR	230 Second Street, Silver City, NV		9.1.13
17	Rachel Berry	2654th St Silver City NV 0		9-1-13
18	Ron Victor	230 2nd St, Silver City		9-1-13
19	Douglas Honesco	550 Buckeye St. Silver City, NV		9-2-13
20	Dawn Nichols	550 Buckeye St. Silver City, NV		9-2-13
21	JoAnn Shea	#2 Radere Rd. Dayton		9-2-13

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	Printed Name	Physical Address	Signature	Date
1	Kay Kramer	245 4th ST SILVER CITY NV		9/2/13
2	STEVE BROWN	1530 DAYTON TAL ROAD SC		9-10-13
3	Fred Swanson	450 1st St. Silver City, NV		9-4-13
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	Printed Name	Physical Address	Signature	Date
1	Kirk Gomez	480 High st. Silver City		8-29-13
2	Terri Gomez	480 High St. Silver City	Terri Gomez	8-29-13
3	Robert Easton	500 High St. SILVER CITY		8/29/13
4	Alex Marberry	50 Cromer st silver city		8/29/13
5	Mary MacDonald	50 Cromer St. Silver City	Mary C. MacDonald	8/31/13
6	Carmen Erisman	50 Cromer St Silver City	Carmen Erisman	8/31/13
7	RON RENO	375 CROMER, SILVER CITY		8/31/13
8	Mona Reno	375 Cromer, Silver City	Mona Reno	8-31-13
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Petition from
Silver City and Adjacent Lyon County Residents
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	Printed Name	Physical Address	Signature	Date
1	BONNIE BROWN	1530 DAYTON TOLL RD. · SILVER CITY		8-31-13
2	CHRIS BROWN	〃		〃
3	LORRAINE RICHMOND	27 THE GOLDEN RD. SILVER CITY		8/31/13
4	[illegible]	〃 〃 〃		〃
5	Gail Bradley	387 Buckeye St Silver City		8-31-13
6	Robert Royce Bradley	387 Buckeye St, Silver City		8/31/13
7	Karen West	575 Buckeye St, Silver City		8/31/13
8	Kip Allander	200 Grant St, Silver city NV		8/31/13
9	CLEO ROSS	275 MAIN · SILVER CITY, NV		8-31-13
10	MARGARET COBBEY	1000 MAIN ST. SILVER CITY, NV		8/31/13
11	Emily Cobbey	1000 MAIN ST. SILVER CITY		8/31/13
12	BRUCE BROWN	1560 Dayton Toll Rd Silver City		9/1/13
13	Kelly Kotik	305 Main St #2, Silver city		9/2/13
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Petition from
Silver City and Adjacent Lyon County Residents
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	Printed Name	Physical Address	Signature	Date
1	Carol Brown	900 SR 341, Silver City, NV	Carol Brown	8-31-13
2	Don Brown	" " "	Don Brown	8-31-13
3	Stephen Crawford	1045 Highway 341 Silver City No.		8-31-13
4	Louise Crawford	1045 Hwy 341 Silver City NV	Louise Crawford	8-31-13
5	Deborah Nesbitt	1465 Dayton Toll Rd	Deborah Nesbitt	8/31/13
6	Hernan H Mesones	1465 Dayton Toll Rd NV	Hernan H Mesones	8/31/13
7	Carol Goodwin	1410 Dayton Toll Rd, Silver City, NV 89428	Carol Goodwin	8/31/13
8	Judie Wysocki	1000 Hwy 341 Silver City NV 89428	Judie Wysocki	8/31/13
9	Kris Coston	1275 Bowman Toll Silver City NV 89428		8/31/13
10	Laura Coston	1275 Bowman Toll Silver City NV 89428	Laura Coston	8/31/13
11	Joe McCarthy	1200 Highway 341 Silver City NV 89428		8-31-13
12	Ann McCarthy	1200 Highway 341 Silver City NV 89428		8-31-13
13	Diane Kotik	1500 Dayton Toll Silver City NV 89428	Diane Kotik	8-31-13
14	Lanny Kotik	1500 Dayton Toll Silver City NV 89428		8-31-13
15	Chad Olson	386 Hwy 341 Silver City, NV 89428		9-1-13
16	Judi Olson	386 Hwy 341 Silver City NV 89428		9-1-13
17	William Goodwin	1410 Dayton Toll Rd Silver City NV 89428		9-2-13
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	Printed Name	Physical Address	Signature	Date
1	Sherri Fletcher	180 2nd St	Sherri Fletcher	8/31/13
2	[illegible]	20 [illegible] GRAY ST	[illegible]	8/31/1[illegible]
3	LISA COOKE	150 GRAY ST	[illegible]	8-31-17
4	Patricia Allander	30 Third St	[illegible]	8/31/17
5	Deborah Hosford	426 Main St Silver City NV 89428	[illegible]	8/31/17
6	JAMES B RANSKETH	575 GRAY ST SILVER CITY NV 89428	[illegible]	8/31/17
7	DOS WORKS	#3 PEDLAR, SILVER CITY NV 89428	[illegible]	8/31/13
8	VALERIE COFFEY	1000 MAIN ST SILVER CITY NV 89428	[illegible]	8/31/13
9	John Coffey	1000 Main St. Silver City Nv 89428	[illegible]	8/31/13
10	Gayle Sherman	100 Grant St Silver City NV	[illegible]	8/31/13
11	Donald Swan Works	#3 Pedlar Rd Silver City Nev.	[illegible]	8/31/13
12	SUSAN Stornetta	680 American Flat Rd Silver City NV	Susan Stornetta	8-31-13
13	Thomas Ross	250 Main St S.C.	[illegible]	8-31-13
14	Susie Shreves	107 Grant SC	[illegible]	8-31-13
15	ROBERT SHREVES	107 GRANT ST SC	[illegible]	8-31-13
16	Janet Hess RN	30 VIVIAN ST - SC	[illegible]	8/31/13
17	DANIEL ROSI	" " " "	[illegible]	8/31/13
19	Margaret Burns	480 Buckeye St. Silver City, NV	[illegible]	9/1/13
20	SANDRA BUNKLEY	351 Gray St. Silver City	[illegible]	9/1/13
21	Gabriela Sosa	30 third St SC NV 89428	[illegible]	9/1/13

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	Printed Name	Physical Address	Signature	Date
1	Suzanne M. Cassidy	50 Main St. Silver City, NV 89428	Suzanne M. Cassidy	08/31/13
2	Cayen Cassidy	50 main St. Silver City, NV 89428		08/31/13
3	Kyle Buker	305 #2 Main Street Silver City 89428		08/31/13
4	ALISHA GAILIN	27 MAIN ST SILVER CITY NV 89428		8/31/13
5	Patty Marshall	20 Main St Silver City, NV 89428	Patty Marshall	8/31/13
6	Kris Anderton	55 Main St. Dayton 89403		8/31/13
7	ROGER STEVENS	70 MAIN ST SILVER CITY, NV		8/31/13
8	Cynthia Fleharty	50 Vivian St. Silver City, NV 89428		8.31.13
9	BEAU GUTHRIE	160 GRANT ST. SILVER CITY 89428		9/1/13
10	Peter Rose	1 Rose's Rd Silver City, NV		9/1/13
11	Nikki de Leon	4 Rose's Rd. Silver City NV		9/1/13
12	D. Patrick	40 Main St Silver City		9/1/13
13	Theo McCormick	142 High St. Silver City, NV 89428		9/1/13
14	Natalie Isaac	142 High St Silver City NV 89428		9/1/13
15	Karen Krejeski	490 Vivian Silver City NV 89428	Karen Krejeski	9/1/13
16	Daniel Hammel	305 #1 main st silver city NV 89428		9/1/13
17	SCOTT MOUNT	490 VIVIAN ST SILVER CITY NV 89428	Scott Mount	9/2/13
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	Printed Name	Physical Address	Signature	Date
1	Cathy Wallenbrock	75 Gay ST, Silver City, NV	Cathy Wallenbrock	8/24/13
2	Mariah Mena	75 Gay St, Silver City, NV	Mariah Mena	8-30-13
3	Ken Ferguson	5109 Agate Dr Grants Pass OR	Ken Ferguson	8-31-13
4	Shelly Klepper	220 Holiday Ln. Talent Oregon	Shelly Klepper	8/31/13
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6	Note:	these signers do not live in Silver City		
7		and were not counted as a part of the		
8		104 signers		
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	Printed Name	Physical Address	Signature	Date
1	Vickie Shoup	1450 Dayton Toll Rd. Silver City, NV 89428	Vickie Shoup	9/4/13
2	DAN SHOUP	1450 DAYTON TOLL RD SILVER CITY NV 89428	Daniel Shoup	9/4/13
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2002 West Central Lyon County Land Use Plan

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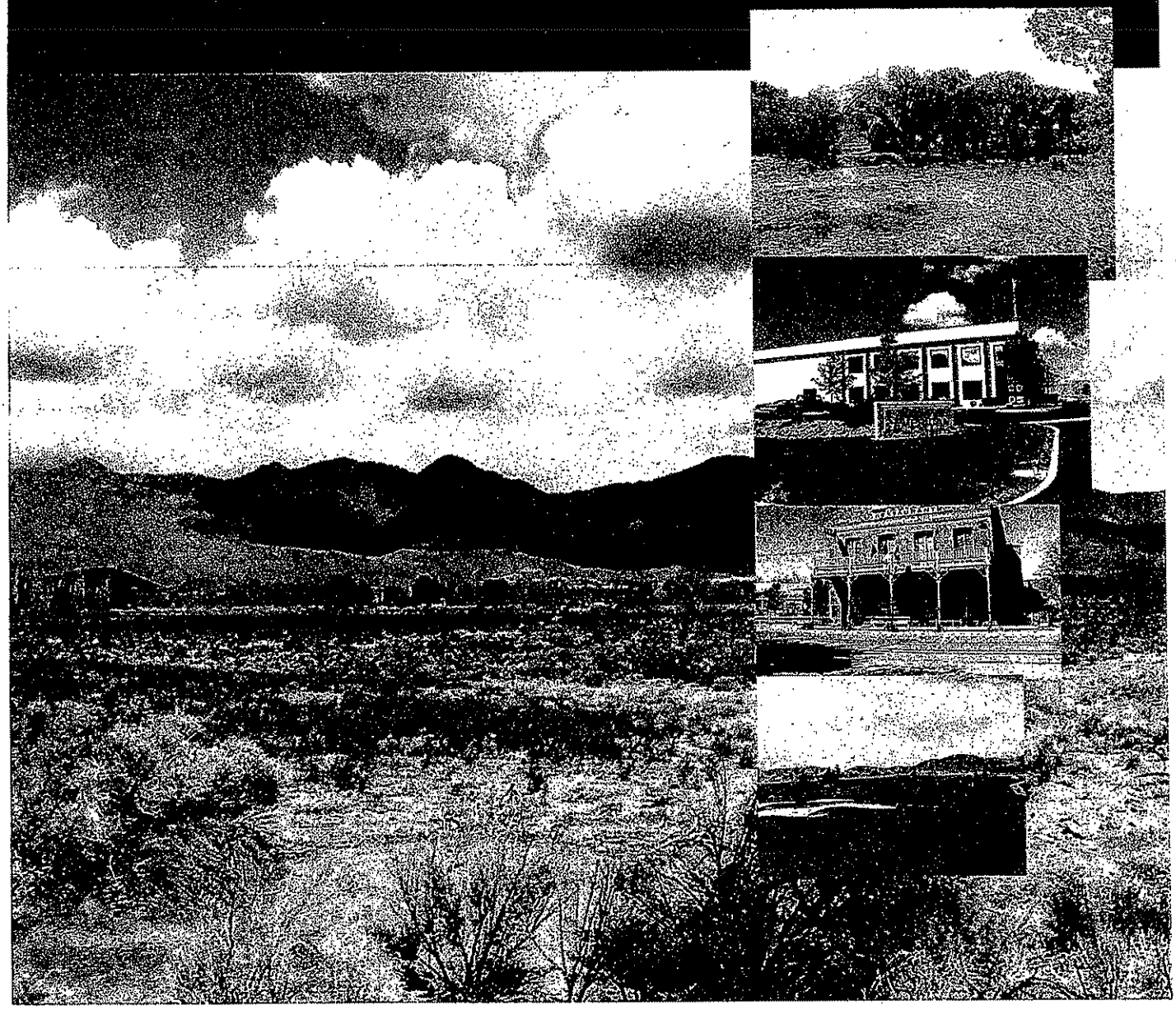
LYON COUNTY

WEST CENTRAL LYON COUNTY
FINAL LAND USE PLAN



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LYON COUNTY

FINAL

Central Lyon County
Land Use Plan

Introduction

In January 2000, the Lyon County Board of County Commissioners approved a Professional Services Agreement with FPE Engineering & Planning to compose a Land Use Plan for the Dayton, Moundhouse, and Silver City portions of Lyon County. A 13-member panel, known as the Master Plan Advisory Committee, chaired by William Miles was put in place to oversee the consultants work. This draft represents the summation and conclusion of approximately two (2) years of work by both the consultants and the committee.

The committee initially held a series of technical workshops with the various providers of public facilities and services covering areas such as public safety, fire, public works, utilities, transportation, parks, schools, etc. The committee also heard from federal agencies such as the Bureau of Land Management.

The three (3) areas addressed in the context of the Land Use Plan are the Dayton Valley Area, The Moundhouse area and Silver City. All there have unique land use characteristics and developmental issues.

Dayton

This is a community with a couple of identities. One is the older core with the desire to preserve its historic character, scale, and proportion. Currently, it is mixed in use with residential and commercial uses side by side. The older core has a tremendous historic connection to the Comstock Lode and is both part of the historic district and has landmark status. These designations have brought mixed blessings. The core buildings and general condition of the buildings has a historic proportion and is a point of community pride. On the other hand, it appears that there has been little or no re-investment in the community. A part of the problem could be a lack of market demand for the setting or, a lack of coherent rules and general direction.

The core also has the typical issues in regards to lack of structures conforming with modern seismic requirements because of the lack of reinforced steel in the frames. There is also not a coherent parking program for current intensification or special events.

Dayton has two identities. The one previously outlined is a historic core and the other is that of a growing suburban community on the State Highway 50 corridor. Within this context there are four distinct areas.

The "new town" created around the Arnold Palmer Golf Course. This is a mixed use area but has many of the components of the community in the form of the High School, Library, Senior Citizens Center, Golf Course, and a variety of housing and some employment in the form of industrial.

The second area is located north and west of the Highway 50 corridor and is a traditional single family community with predominantly 6,000 square foot lots, a general commercial corridor, and neighborhood facilities. This area is healthy and appears to be growing at a strong clip. The affordability of the housing product and its proximity to Carson City employment as well as being relatively out in the country make it appealing. The primary landowner developers of Landmark Homes have huge plans for an additional 6,000 dwelling units within their buildout program. This appears to be an area where land use conflict is at a minimum. This speaks to the fact that the developer has done his homework, the housing product is well received, and the intensity is compatible with the surroundings.

Also aside, the "new town" has a perceived unit capacity of 3,000 additional units but the infrastructure constraints appear to be more significant. Mr. John Evasovic has spoken to the issue of some major drainage improvements within the industrial context. There appear to be some utility capacity constraints as well.

The third area can be generally described as the river district. This is an area along the Carson River which has large lot single family homes a safe distance from the floodway - flood plain.

There are also large ranches in this corridor. The owners of these lands have reasonable developmental expectations based on the development of surrounding properties, and existing master plan designations.

WEST CENTRAL LYON COUNTY
FINAL DRAFT
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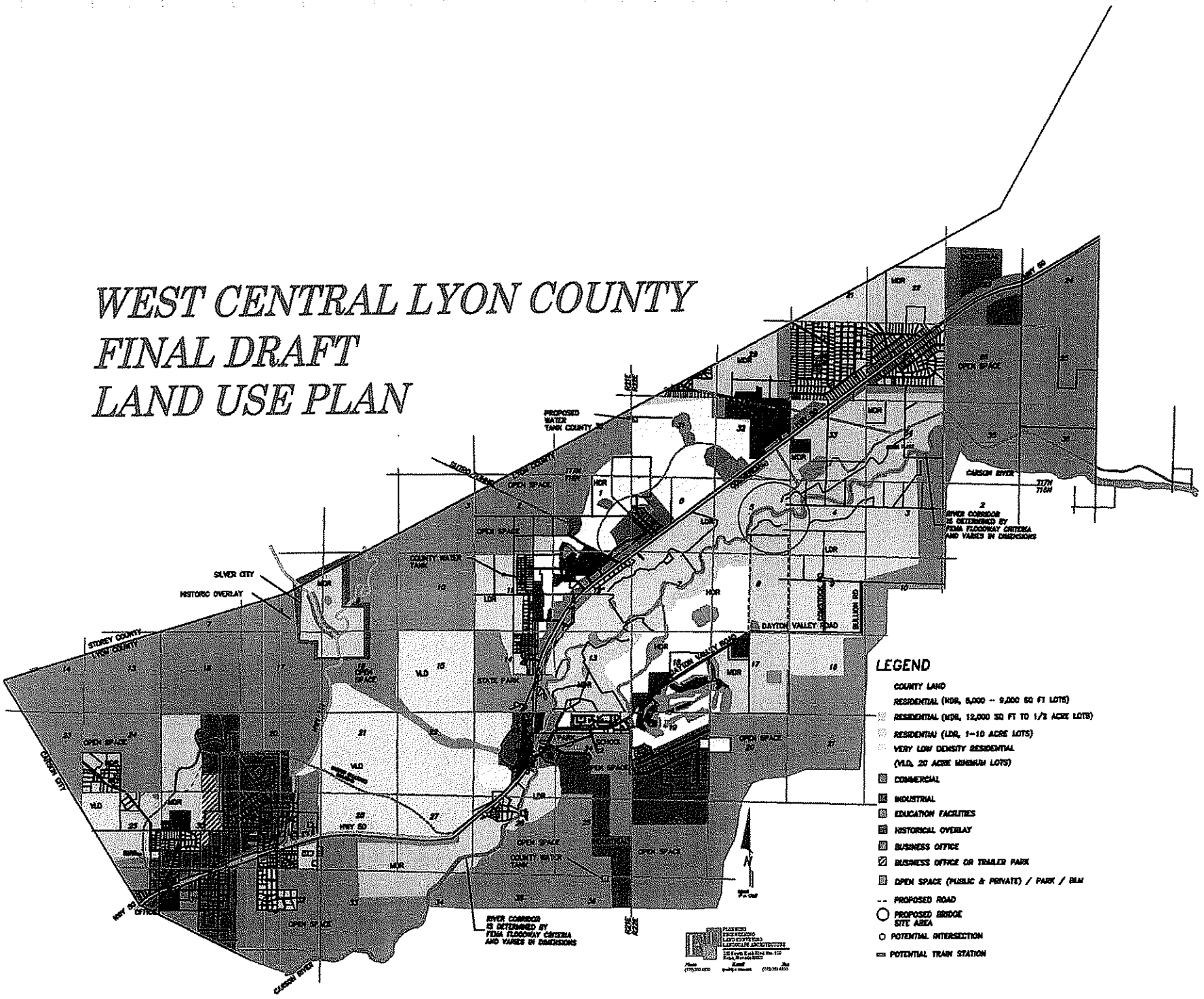

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Moundhouse
Master Plan Goals

What should the goals of the land Use component of the Master Plan be for Moundhouse?

Goal 1: To create an orderly pattern that protects existing uses and allows for a constructive build out scenario.

Actions:

- To evaluate the existing Lyon County developmental requirements in light of Moundhouse industrial development and to strengthen design review.
- To consider a zoning/code enforcement program that cleans up certain eyesores and substandard properties.

Goal 2: To create better boundaries between the various land use districts.

Actions:

- To promote landscape and perimeter wall buffers between the various use districts. This is strongly recommended where industrial buts up against residential. These buffers between private property can be 20' - 40" with trees and masonry walls.

Goal 3: To better define the Highway 50 corridor as it traverses the community.

Actions:

- To define the land use mix in the industrial commercial land use.
- To establish the depth of the industrial commercial corridor along Highway 50.
- To determine appropriate signage along Highway 50 relative to land use.
- To study the existing driveway pattern and with NDOT determine if there is any opportunity for consolidation of driveways, better setbacks for future developments, and shared driveways.
- To determine as in the case of Dayton, what the roadway section should be, relative to the following:
    1. right-of-way
    2. turning pockets
    3. bicycle paths/pedestrian corridor
    4. landscaping
    5. deceleration lanes

Goal 4: To upgrade or remove land uses that are detrimental to the highest and best uses of land within the community

Actions:

- To work with Lyon County Administration to do the following:
    1. Clarify and define what constitutes a zoning violation.
    2. Incorporate the language into ordinance with enforcement power.
    3. Secure support from the District/County Attorney as to seeking compliance with the ordinance.
    4. Approach the property owners and business owners about property maintenance standards should be followed.
    5. Secure a commitment from Lyon County to fund a code enforcement program.

Silver City

Silver City was first settled by placer miners working in Gold Canyon in the late 1850s. It was the second community to be settled in the area after the discovery of placer gold near Dayton in 1849. Numerous mining claims were and are located in and about the town but, perhaps, its major contribution to the development of the Comstock Lode was as a supply and freighting center. As such, it is an integral part of the Comstock Lode and the history of Nevada.

The town is located about 4 miles northwest of Dayton and 3 miles south of Virginia City. Both State Highways 341 and 342 pass through the community. Highway 342 begins in Silver City and follows a very steep route up Gold Canyon to Virginia City. Highway 341 connects with U.S. Highway 50 four miles south of town and, after passing through the town, follows a more moderate grade to Virginia City and beyond to Reno.

The residential component of the community has approximately 200 home-sites or lots, of which approximately 100 are developed. The architecture of the area has a historic leaning and is somewhat eclectic. The Community is located within the state Comstock Historic District and the federal Virginia City National Historic Landmark District (see: http://tps.or.nps.gov/nhi). The Comstock Historical District Commission was formed (N.R.S. 384) in 1971 by the Nevada Legislature and is responsible for maintaining the historical integrity of the exterior facade of buildings and other structures in the District. The commission acts as an architectural review board and a Certificate of Appropriateness must be received before exterior repair, remodel, restoration or new work is started on any building in the District.

In addition to the two state highways there are only about 1500 feet of paved streets in the town and some of the old roads are hardly more than tracks weaving around sagebrush and rock outcroppings. Before additional streets are paved it will be necessary to develop a storm drainage system since flooding often accompanies summer thunderstorms. During winter and when covered with snow and/or ice some of these roads are very hazardous.

The water supply of the community is a part of the Virginia City water supply system, maintained and operated by the Storey County Public Works Department. Although few serious problems have resulted from this arrangement, some residents believe that ultimate control of the town's water system should be exercised by Lyon County elected officials. The original system was constructed in the 1870's; repairs and upgrading have been undertaken on an "as needed" basis and it should be recognized that the needs of Storey County water consumers are, due to political necessity, paramount to those of Silver City. At present Story County allows only two "will serve" water permits per year to the town. A Nevada supreme Court decision (Franktown Water Agreement).

Significant capital improvements will be required to the existing system sometime in the near future and Lyon County officials should be prepared to help finance these improvement. Since Storey County's policy of allowing only two "will serve" water permits per year to Silver City, it appears that the available water will allow for the infill development of existing lots.

The town does not have a community sewage collection system or treatment facility. Septic tanks on individual parcels are used throughout the town. Even with highly mineralized ground, no significant problems have occurred to date. With a limited and widespread number of potential building lots

available, this situation should not change in the future. However, future clean water or other environmental legislation could foreseeable create problems for owners of existing septic systems.

As with Virginia City, portions of Dayton, and Moundhouse, there are railroad corridors, historic trails, and old wagon roads into and through the community that physically form a connection to the mining past. These transportation routes comprise an important element in the historic fabric of the community. Protection of these corridors and rail right-of-ways must be perpetuated.

The northern boundary of Silver City approximates the boundary between Lyon and Storey counties. Geographically and historically, the town is more closely aligned to Virginia City than the burgeoning community of Dayton.

The Community Center located in the original 1867 School House adjacent to the historic town park. Recently completely renovated, this is the symbolic and cultural center of the community and a source of pride to residents. About 1/4 mile to the south of the Community Center is Silver City's new three-bay firehouse manned by solely volunteer firefighters. The town's cemetery is well maintained and contains graves dating back to 1857, two years before the discovery of the Comstock Lode and seven years prior to Nevada achieving statehood.

Two canyons (American Ravine and Gold Canyon) traverse Silver City. The head of American Ravine is in American Flat, about two miles to the west of the town. Numerous springs in American Flat and in the ravine provide a fairly steady flow of water sufficient in quantity to provide the kids in town their first experience with a fishing pole; in the past the stream has been stocked by Nevada Fish and Game. There are no flood cone designations on this creek.

The head of Gold Canyon is in Gold Hill about three miles to he north. Water flows in the bed of the canyon very rarely and it can be completely dry for several years running. Occasional flash flooding during summer thunderstorms has resulted in about a mile of the normally dry streambed being designated a 100 year flood zone by the Federal Emergency Management Agency (see: Lyon Co., Nevada, Unincorporated Areas, Panel 137, Community Panel Number 320029 0137 B). Gold Canyon continues southeasterly to Dayton, about five miles distant.

Discovering gold in the creek gravels in 1849 at Dayton, early placer miners and prospectors followed this canyon upward to Gold Hill where the momentous discovery of the Comstock Lode was made. The southern portion of the creek, below town, offers a potential recreation amenity and there is considerable support in the town for a historic trail leading up the canyon from Dayton to Silver City. Most of the riparian land, outside the town limits, is presently undeveloped.

Currently there are three General Land Use categories that guide future infill development of Silver City. The predominant land use is residential and this land use category affects about 80 percent of the total land. The zoning classifications of NR-1 and RR-1 have been assigned to the properties and this is a typical low traditional density residential community. The second classification is General Commercial of C-2 that forms a one block deep corridor on either side of Highway 342 through the center of town. The third is a M-1, industrial land use classification that occupies a southern central position around historically valuable mine and mill properties.

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Analysis

The community has some unique characteristics which are the direct result of the discovery in 1859 and development of the Comstock Lode. The town was surveyed, patented and developed well before the existence of local, state and federal government imposed zoning, parceling, and environmental regulations. A considerable part of the town's historical significance can be attributed to this fact and whish results in an intermix of land uses and lot sizes not to be found in 20th century communities.

Patented and unpatented mining claims exist within and adjacent to the town boundaries which act to limit potential growth. Topographic and geological factors also create barriers to profitable land development of the type transforming the Dayton Valley.

Silver City's water suppler, Storey County Public Works Department, limits the number of new hook-ups to two per year. Sewage disposal is limited to septic tanks and only on those parcels having soils which meet Nevada State Environmental Health percolation rates.

The community has retained much of its historic heritage. The commercial corridor, along Hwy 342, has seen better days but there are functioning businesses. Some financial planning and support by the county would benefit the commercial district.

The industrial land classification of M-1 at the southern entrance of the town site gives pause for reflection in that it is an entrance corridor to the community. The initial view is of the buildings and hoisting frame of the historic 'Dayton Consolidated Mine and Mill'. Several hundred yards further is the mill property. The buildings on both of these properties are in a state of deterioration. These properties are of significant historical value. Restoration or renovation of these properties would definitely enhance the historic fabric and economic potential of the community.

Silver City appears to have a high percentage of eclectic and unique housing constructed since the 1960's. Most of this housing is out of the viewshed of the major arteries leading to Virginia City and the corridor used by visiting tourists largely reflects the historic nature of the area.

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Silver City Master Plan Goals

What should the goals of the land use component of the Master Plan be for Silver City?

Goal 1: To recognize, enhance, and protect the unique character of Silver City.

Actions:

- To generate architectural guidelines and building codes that compliment and promote the current character of this community.
- To maintain that scale and primary residential character by retaining the existing Master Plan designation and zoning categories.
- To notify the Silver City Town Advisory Board of building restoration/improvement programs which would be of benefit to the community and property owners.

Goal 2: To preserve the scale of the community by architectural review that is sensitive to how new structures fit into the existing fabric.

Actions:

- To compliment the existing architectural review (Comstock Historic District Commission) by generating, at some point in time, desirable visual representations.
- To preserve the existing pedestrian character by maintaining alleys, soft paving approaches, and relatively narrow streets.

Goal 3: To promote the revitalization of the commercial corridor by promoting reinvestment.

Actions:

- To address the commercial corridor to potential users encouraging some mixed uses, i.e., commercial, professional, office, and housing.
- To request from Lyon County to create a Loan or incentive program for commercial rehabilitation. This program can focus on needed structural repairs, seismic retrofits, historical building facades, etc. This would be architecturally consistent with adopted standards.
- To ensure that all county departments notify the Silver City Town Advisory Board of new, expanded or otherwise modified development programs of potential benefit to the town and commercial property owners.

Goal 4: To preserve and strengthen the existing infrastructure, i.e., water, roadways, drainage and public facilities.

Actions:

- Lyon County shall provide an infrastructure inventory and deficiency evaluation and report.
- To determine design criteria for street pavement sections, drainage improvements, pedestrian connections, etc.
- Lyon County shall provide a long term if modest capital improvement commitment (i.e., 20 years) that methodically addresses these deficiencies.
- To implement and actively oversee the 'dark sky' ordinance.

Goal 5: To focus on encouraging tourist oriented historic activities that do not degrade the quality of life keying on Silver City's uniqueness.

Actions:

- To pursue any complimentary historical experiences, I.E., walking tours, hiking trails, significant building identification, history/information kiosk, etc.
- To actively support the efforts of residents to preserve and improve their property.
- To advertise community activities that promote the historical authenticity of the community.

Goal 6: To recognize and support improvements to and maintenance of historical transportation routes, railroad connections, and other public facilities that link Silver City to its surroundings.

Actions:

- To document corridor connections to Virginia City, Moundhouse, and Dayton of the various railroad corridors that traverse the area.
- To document and preserve historic transportation routes, i.e. Dayton-Silver City Toll Road, Virginia & Truckee Ry right-of-way.
- To include a Gold Canyon historic interpretative trail in the county Recreation Plan.
- Include final restoration of Silver City's original firehouse in budgetary considerations as appropriate and support efforts to utilize this structure as a cultural resource for the benefit of the community.

Goal 7: To promote the preservation of existing public facilities.

Actions:

- To critically evaluate those essential public facilities and the types of physical/preservationist up-grades that they require.
- To pursue a variety of funding sources, i.e., CDBG, State of Nevada, EDA, etc., that can be used to preserve, improve and upgrade public facilities.

Goal 8: To limit any earth disturbance or above ground mining activities that create visual scaring or that disrupt the fabric of the community.

Actions:

- Lyon County shall establish a land use policy that minimizes the impact of mining and other significant earth disturbing activities that degrade quality of life.

Goal 9; To encourage continued citizen participation in the planning process.

Actions:

- To continue the broad based citizen participation process in terms of high levels of participation and involvement in what occurs in the community.

Goal 10: To maintain the primary focus of the community as residential.

Actions:

- To urge the Board of County Commissioners to carefully consider all zone changes or Master Plan amendments that would substantially alter the character and identity of Silver City.

Goal 5: To work with the existing utility providers within Lyon County or with adjoining communities to correct the sanitary sewer/water supply issues long term in the community.

Actions:

- To coordinate with Lyon County utilities in terms of creating an equitable solution to the long term utilities needs of Moundhouse including:
    1. Exploring the possibility of constructing a sewer line pumping effluent to Dayton.
    2. Exploring same with Carson City.
- To coordinate with State Environmental Protection Services relative to water quality/groundwater protection standards relative to future development.

Goal 6: To continue the industrial employment base, strengthen the newly developing areas and generally upgrade developmental expectations in this area.

Actions:

- To evaluate developmental standards within the industrial districts relative to the following:
    1. allowable uses
    2. uses requiring a Special Use Permit
    3. prohibited uses
    4. parking requirements
    5. landscaping requirements
    6. building types

Goal 7: To protect the historic rail corridors that exist within the community and their linkages to Virginia City - Carson - Dayton.

Actions:

- To identify and protect those Historic Rail corridors that exist and to establish corridor connections or linkages that are currently missing.
- To determine what future facilities may be appropriate in the Moundhouse venue that connect with Silver City, Dayton, and eventually Carson City.

Goal 8: To promote an industrial commercial land use classification that takes into account the industrial nature of the corridor but does it within a Highway commercial context.

Actions:

- To evaluate sample ordinances that create an industrial and commercial district and to tailor make a district that meets the needs of Moundhouse. This would include residents, business owners, land owners, and people traversing the central corridor.

Goal 9: To incorporate in all new developments better buffer standards specifically between residential and industrial as well as along Highway 50. These standards should focus upon:

- appropriate wall treatments
- appropriate landscaping widths
- appropriate landscaping materials
- open space buffer with natural materials

Goal 10: To respect the role that mining has played in the history of the community.

The existing development along the river district is somewhat west of the main course of the Carson River and is elevated from the flood plain. It is also physically depressed from Highway 50 corridor noise and visual impacts. It is a unique and somewhat cloistered community. This area has had some more divisive public hearing debate and testimony relating to lot size and transitional zoning. The Rolling A Ranch generally abuts it and there is impetus to acquire a significant portion of Rolling A for permanent open space.

The fourth area is known as the Mark Twain Stagecoach area. This area is at the northwest edge of the Dayton corridor and some of this area physically overlaps with Storey County. This area has ranchette type of housing with a mix of well and poorly maintained properties. The political boundary with Storey County causes some public service and safety concerns because most of the impacts accrue to Lyon County but none of the tax revenue. The development of this area does appear to have a builder operating on an ongoing basis.

A major issue is the commercial corridor and the depth of the corridor to the transitional or adjoining uses. It is prudent to limit the number of access points along such a corridor. Since it operates as a state highway its primary function is to carry traffic through the area at a high speed. This goal runs counter to the local residents wanting ease of transition access and safe pedestrian speeds. A primary focus of the land use plan effort will be the determination of how much commercially designated land will be required for the 20 year horizon. What distance requirements will be established by NDOT for intersections, depth of corridor, and public improvements along corridor.

During the final hearings it was reiterated that the Dark Sky ordinance be implemented. This ordinance is intended to limit light pollution and the cumulative effect of man made lighting on the night sky.

Town of Dayton
Master Plan Goals

What should the goals of the land use component of the Master Plan be for the Town of Dayton?

Goal 1: To provide for the orderly growth of the Town of Dayton in keeping with the natural and environmental constraints of the area.

Actions:

- To promote planned development or developments that take into account topographic variations, flooding issues, common open space, and adjoining uses.
- To allow for developments that are mixed use in nature that incorporate neighborhood services such as support commercial or offices within a residential concept.
- To insure that utilities are adequately sized and installed in relation to the build out of a specific development.
- To promote a land development pattern the reflects the surrounding and adjoining uses, incorporates buffers and creates a coherent pattern.
- To evaluate existing regulatory conditions as to the placement and conditioning of multi-family developments especially within existing single-family areas.

Goal 2: To coordinate the sizing and installation of necessary utilities to support the plan area growth at build-out.

Actions:

- To evaluate the existing capital improvements program and utility program in light of the land use program.
- To identify locations for water tanks, sewer lift stations, future sewer ponds, etc, in light of the infrastructure sizing requirements and location of development.
- To determine the appropriate utility corridors, right-of-way, and easements necessary to accomplish the goals of the plan and protect them.
- To establish the proper river/bridge crossing in light of the need to establish a 2nd connection from east to west across the river.

Goal 3: To preserve the environmental setting of the community by protecting the river corridor in terms of limiting any development in the floodway and minimizing impacts in the floodplain. Also, protecting scenic vistas and natural features by limiting physical development that results in scarring.

Actions:

- That Lyon County work with FEMA, the State and the Army Corps of Engineers to develop a corridor protection program to preserve open space, identify/protect flood prone areas, and to allow for a system that allows for development but that protects the river corridor.
- To establish on-site density transfer from areas that are "non" developable to areas that are. This is particularly important in the river corridor area. It is also important when the community moves into the foothills.

The example of this on site density transfer would be if the acreage is, for example 600 acres and that the intensity allowable relative to density is two units per acre, that the development would be allowed 1,200 units. The projected areas would not be penalized relative to land use intensity and the intensity is transferred to the more developable portions of the site.

- To work with Bureau of Land Management to establish an open space plan that takes into account protection of the foothills and mountains in the Dayton Valley. This plan would create linkages in the open space along the river up into the foothills.

Goal 4: Providing for a variety of housing in the community to address the needs of all segments of the Dayton community.

Actions:

- To critically evaluate the existing lot size categories, allowable uses, developmental controls within the existing Lyon County regulations.
- To determine which housing types are to be encouraged in specific areas given surrounding land uses, topography, etc.

Goal 5: To create a permanent open space program that protects environmentally sensitive areas, allows for neighborhood park, and allows for community park facilities that appear the 20 year need.

Actions:

- To create a system that allows for open space to be protected that does the following:
  1. not unduly burden the public
  2. has a maintenance and funding source
  3. is a combination of privately and publically maintained lands
  4. to encourage the utilization of conservation easements to protect open space but to also compensate landowners for some land value
  5. to locate neighborhood parks that are convenient to existing and future neighborhoods
  6. that the Board of County Commissioners establishes a park district and create an ordinance creating a park construction tax for the purposes of open space in residential areas.
  7. to create an open space network that connects the river, through developments to the foothills, where possible.
  8. to work with BLM to identify properties to be converted from BLM to Lyon County, Nature Conservancy, State lands, or other methods of permanent open space.
  9. to establish equitable funding systems for identification, acquisition and perpetuation of regional open space.
  10. that all developments provide a minimum of 20 percent open space.

11. that Lyon county create a landscaping ordinance that specifies that residential, commercial or industrial development have amounts of open space. Recommended minimums are:
    - Residential 20%
    - Multi-family 25%
    - Professional Office 25%
    - Commercial 15%
    - Industrial 10%
    - Public Facilities 20%

Goal 6: To allow for a transportation network that allows for a coherent 20 year build out in the community.

Actions:

- To protect all proposed transportation corridors in light of future private and public land use actions.
- To work closely with NDOT. To define the Highway 50 corridor including:
    1. protected right-of-way necessary for plan build out.
    2. exploration of frontage road potential along Highway 50 corridor.
    3. definition of the roadway section of Highway 50 allowing for:
        a. ultimate right-of-way
        b. pedestrian/bicycle lane
        c. openings to cross streets
        d. deceleration lanes
        e. landscaping buffer
        f. soundwalls for residential developments
- Connection of Master Plan roadway corridors with capital improvement program.
- Develop an understanding of long term of the cost of roadway improvements in today's dollars for 20 year projection.
- Coordinate with NDOT relative to the 2nd bridge crossing as to its location in relation to Highway 50.
- Model traffic projections from land use to determine required land widths and other potential forms of transportation improvements.

Goal 7: To protect and enhance the existing historical context and identity of the community in its relationship to the Comstock as well as its connections to other component parts of the Comstock within Lyon County (Silver City) and outside (Virginia City).

Actions:

- To establish a mixed use zoning classification for historical Dayton that allows for the combination of commercial, retail, public facilities, residential, and even to allow for residential above and commercial below in the same structures.
- To preserve the existing character and identity of the Historic Core of Dayton by promoting in-fill that is historically authentic.
- To preserve the character by promoting infrastructure design that is compatible with the existing.
- To promote the availability of off street parking by acquiring vacant lots in concert with the plan and landscaping/paving/striping and providing it to the general public.

- To develop a "main street" program that promotes small business, historic rehabilitation complimentary street furniture, lighting, and the like in a Handbook available to all private development and followed by the public agencies.
- To pursue securing grant monies to allow for facade loans to property/business owners to upgrade their properties.
- To promote the location of public facilities that compliment the long term strengthening of the historic Comstock theme. These facilities could include:
    1. replication of structures/business operating in the 19th century
    2. a train station connected back to the Virginia City/Moundhouse program
- To secure architectural services from professional who can work with private landowners to refine their developmental concepts.
- To do a complete infrastructure inventory to determine what deficiencies exist and which should be corrected by the public and which should be privately corrected as a condition of approval.

Goal 8: To allow for the orderly placement and coordination of necessary public facilities, i.e., schools, fire stations, governmental permitting offices, courts, senior citizens facilities, libraries that create and enhance the "quality of life" of Dayton.

Actions:

- To have any or all plans indicating future potential public facilities reviewed by the appropriate agencies, i.e., School Board, Board of Directors of the Fire District, as well as the Board of County Commissioners.
- To recommend to the Lyon County Board of County Commissioners that a permit center be set-up in Dayton that has public information relating to planning/zoning, permit processing and any other land use information pertinent to this portion of the County. It is further recommended that a satellite planning, building, development review office be set up in Dayton to respond to the needs of the public where much of Lyon County's growth is occurring.
- That the Dayton utilities incorporate prior to public review and approval by the board of the County Commissioners the location of proposed/required public infrastructure.
- That the County Commissioners evaluate growth demands upon existing facilities such as the Senior Citizens center and develop a facilities plan.
- That purveyors of private utilities such as Sierra Pacific Power, the telephone, and cable companies utilize the plan map to determine their future needs relative to utility growth.

Goal 9: To encourage "Smart Growth" initiatives that conserve land, protect open space, and reduce energy consumption.

Actions:

- To promote land use decisions that reduce unnecessary trips leading to unnecessary consumption of fuel.
- To limit construction in the flood plain and eliminate it in the floodway. To future refine Carson River hydrology in anticipation of the next flood.
- To promote entrance statements, landscape buffers and other quality of line design measures public or privately designed.
- To maximize the utilization of the existing state park within the plan area boundaries.
- To promote the existing industrial/employment/business center and create a similar

complimentary employment center on the west side of Highway 50.

Goal 10: To disseminate the contents of the plan to elicit broad based understanding and support for the contents of the plan.

Actions:

- To disseminate the contents of the plan during the next few months through newspapers, school bulletins, radio, television, and town meetings so that the public has a strong understanding of the plan contents.

Goal 11: To promote coordination of the plan contents with various regulatory agencies that affect the future development of the community including:

1. Nevada Department of Transportation
2. Subconservancy District
3. Comstock Historic District
4. Dayton Fire District

Actions:

- To make available plan contents to the various agencies for their review and comment prior to public approval of the plan.

Goal 12: To encourage the creation of an equitable impact fee system.

Actions:

- To evaluate the infrastructure requirements necessary to support the 20 year plan build-out and to address needs for water, sewer, storm drainage, transportation, police, fire, and public works.
- That the infrastructure be sized properly and that the fee system allow for credits for over sized installations.

Dayton Master Plan Conclusions

- The agricultural base of the community is gradually being converted to suburban land uses.
- The water rights must be protected relative to retention in the basin.
- There is a critical need to create a corridor plan for Highway 50 and the land uses that front/interface on a cooperative basis between the Nevada Department of Transportation and Lyon County.
- There is a critical need to define the river corridor relative to open space, flood control, and adequate setbacks of development.
- The Dayton area is projected to grow in a mixed use pattern with a forecast population of 30,000 to 35,000 within the 20 year horizon.
- The historic connection of the Comstock with Silver City, Dayton, and Moundhouse connecting by Historic Railroad corridors and significant places compliments the existing character and enhances tourism.
- Neighborhood parks should be located in newly developing residential areas at a size of three (3) to five (5) acres. These should be placed approximately in relation to 400 to 500 homes. The committee strongly urges the County Commission to adopt the park construction tax for this plan area.
- That the County Commission seriously study existing animal migration patterns within Dayton Valley, Moundhouse, and Silver Springs and seek measures that protect these corridors.
- That Lyon County put in place land use review mechanisms that allow for planned unit developments that promotes privately provided, dedicated open space.

Moundhouse

The Moundhouse Community has been an industrial area since the early Comstock mining boom. The flattened land between the mines and the river became a staging area for oar processing for the Comstock. Today, the area is a mixture of older industrial, mining uses, a variety of residential housing, and newer industrial uses with an industrial, commercial strip bisecting the area.

Moundhouse has a number of land use challenges. First, there is a need to create a clear corridor definition along the Highway 50 interface. This condition warrants the creation of an industrial, commercial zoning category.

Second, the quality of residential housing must be elevated by better conditioning, approval conditions, and code enforcement policies for existing properties.

Third, the residential and industrial uses require better buffers. This is especially true in the south Moundhouse area with its wrecking and junk yards.

Fourth, like Silver City and Dayton, the Comstock historic connection must be maintained to establish linkage and future tourism activities. Hence, the identification of existing and proposed railroad corridors and train station locations.

Fifth, it is the stated goal of the Advisory Committee that the brothel, as land use, be located on the south-side of Highway 50. This means that within the Moundhouse area that any future expansions or additions be limited to the area south of Highway 50 in the industrial zone.

Sixth, the Moundhouse area will also have protected open space corridors to allow for access to the foothills, animal migration, and an open space buffer.

Seventh, it is urged that Lyon County soon approach BLM to earmark and identify properties that should be preserved for permanent open space.

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LYON COUNTY

1986 Nevex Hearing

Planning Commission Minutes

June 17, 1986
Dayton, Nevada

The Lyon County Planning Commission met this day at the Dayton High School, Dayton, Nevada, to continue the May 20th special meeting. Members present were Ray Tamagni, Beverly Landolt, Georgia Fulstone, Maryanna Hamer, Kathy Jensen, Charles Lawson, Nancy Dallas, Public Works Director Bill German, Planning Secretary Linda Glock, District Attorney Bill Rogers and ex-officio member Commissioner Roland Adams. Chairman Lawson called the meeting to order at 7:45 P.M.

NEVEX GOLD COMPANY - CHANGE OF LAND

NEVEX GOLD COMPANY - SPECIAL USE PERMIT

The Commission had agreed to consider these items together at the May 20 meeting.

Richard Harris and William Parks were present representing the applicant.

Chairman Lawson asked Mr. Rogers to say a few words before the Silver City Resident's response to the Nevex application was heard.

Mr. Rogers said that there had been a preliminary question that had been raised after his reading of the Silver City Resident's response to the Nevex application, that he felt should be addressed by the Planning Commission before considering any more testimony in the Nevex matter. Mr. Rogers said that the issue that had been raised was whether the application was a Master Plan Amendment or not. Mr. Rogers said that a Master Plan Amendment requires that a 2/3 majority of the Commission vote in favor of the amendment ie., 5 members of the Commission in order for it to be approved and would be required in addition to the change of land. Mr. Rogers said that in staff's presentation to the Commission on this application made last month, they did not consider this to be a Master Plan Amendment but simply a re-zoning. Mr. Rogers then asked Bill German to explain to the Commission why he believed this to be the case.

Mr. German said that the Planning Technician reviewed the Master Plan, the General Plan Map, and the application and determined that the application was not a Master Plan Amendment

because it was surrounded on two sides by RR-5 zoning.

At this time, Mr. Gary Owen, counsel for the Silver City residents asked to be heard. Mr. Owen cited two sections of the Lyon County Code: 20.03.020, "This title to be known as the "Land Use Ordinance of the County of Lyon, and the use of the map of the county hereby made a part, are adopted as consituting a part of the master plan of the county pursuant to the provisions of Chapter 278, Nevada Revised Statutes."; 20.90.010, This title and land use maps may be amended, repealed or supplemented by the board of county commissioners. Any such amendment shall be considered an amendment to the master plan and shall be accomplished in the manner required by Chapter 278 Nevada Revised Statutes. Mr. Owen said that under those circumstances he wanted to make it a matter of record that the Silver City residents would consider this a Master Plan Amendment. Mr. Owen also said that one of their witnesses, Mr. Sharp, would address this matter in his presentation.

At this time, Mr. Richard Harris asked to be heard. Mr. Harris said that based on the staff report presented to the Commission, this area was bounded by RR-5 land or "mountainous-forest" and as such did not constitute a Master Plan Amendment. Mr. Harris also directed the Commission's attention to the fact that material submitted by the Silver City Residents' consultant, Mr. Sharp, showed mountainous-forest region cutting directly in front of the Gold Canyon Mine property verifying the fact that a change of land to RR-5 would not be a Master Plan Amendment.

Chairman Lawson then called for a motion on whether the application should be considered as a Master Plan Amendment. Maryanna Hamer moved to consider the application as a change of land application only. Georgia Fulstone seconded and the vote was as follows: Nancy Dallas, Georgia Fulstone, Maryanna Hamer, Kathy Jensen, Beverly Landolt in favor of the motion, Ray Tamagni opposed to the motion, Chairman Charles Lawson did not vote.

Chairman Lawson then opened the meeting to the Silver City Residents' presentation.

John Cobbey, Chairman of the Silver City Advisory Council spoke first. Mr. Cobbey thanked the Commission for giving the Silver City Residents an opportunity to be heard. Mr. Cobbey wanted the Commission and public in general to be aware that the Silver City Residents were not opposed to mining and did not consider this a referendum against the mining industry. Mr. Cobbey said that there was no opposition against Nevex' Haywood-Santiago mine but because the Gold Canyon Project was inside the Silver City Townsite the residents felt that it would be right in their backyards. Mr. Cobbey told the Commission that in Nevex' presentation in May, it was suggested that a denial of this application would be a signal to the mining industry that Lyon County was against mining. Mr. Cobbey said that the Silver City residents did not believe this to be the case. Mr. Cobbey said that the Silver City Residents would present facts to help the Commission make their decision.

Next to speak was Gary Owen, legal counsel for the Silver City Residents. Mr. Owen gave a brief description of the speakers for the evening. Mr. Owen then asked that the record reflect the Commission's receipt of a booklet entitled: Silver City Residents Association Response to Nevex Gold Company, Inc.'s Proposed Gold Canyon Mine Project dated June 17, 1986. Mr. Owen then presented Mr. Miller.

Chairman Lawson asked for a minute to review correspondence that had been received on record in reference to the application. Mr. Lawson said that the Commission had received 19 letters in opposition to the application, 2 in favor, and 2 asking for careful study of the application.

Mr. Miller then began his presentation. Mr. Miller's presentation gave a brief history of the area and a description of the location as well as some interviews with local residents in the direct vicinity of the proposed mine site. (This slide presentation is on file and available for inspection in the offices of the Lyon County Planning Commission.)

Next in the presentation was Mr. Milton Sharp, a professional engineer. Mr. Sharp explained that the Lyon County

General Plan was adopted in 1973 in accordance with NRS 278. He said that the master plan was drafted in 1971 by Raymond Smith and consisted of a report and a map Mr. Sharp said that it was important to remember that the master plan consisted of more than just the map. In adopting the master plan, Mr. Sharp said, the County Commissioners noted 6 elements of the master plan which could be considered in adoption of that plan two of which were: the map and the report. Mr. Sharp said that both the report and the map should be considered in any change of land application such as the one before the Commission this evening. Mr. Sharp said that in the report under "Recommendations", the author suggested that each change of land application be considered in relation to the general plan and changes should be made as desired. Mr. Sharp explained that in 1973, zoning, as an integral part of the master plan, was adopted, as an implementation of the indications presented in the master plan. Zoning, he said, translates the master plan into land use classifications, defining more precisely the actual uses which can be applied to a specific parcel of land. Mr. Sharp said that tonight, the Commission was dealing with the scope of the master plan process. Mr. Sharp said that first for consideration of an application like the one presented by Nevex, would be whether the application conforms to the master plan. If it does the Commission should move directly to zoning, if it doesn't then the master plan should be amended. Secondly, zoning should be considered as an implementation of the master plan and thirdly such things as special use permits should be considered, which give more control over the land use.

Next Mr. Sharp reviewed the Lyon County Master Plan. First, was the land use plan map. Mr. Sharp said that the land use map was a representation of everything that was in the master plan, but of necessity it was on a small scale so that the size of the map could be controlled, and also of necessity, the delineation of land use is not precise. That is why, according to Mr. Sharp, there was a text supplied with the map to clarify the application of the land use map. Mr. Sharp said that the master plan defines

areas of living, recreation, and specifically mining which are isolated from living areas by broad bands of open space and agricultural areas. Mr. Sharp said that the Silver City area was listed on the general plan as an "urbanizing area" and by no stretch of the imagination could it be considered an area suitable for mining. Mr. Sharp also said that the general plan, in reference to residential areas, should be ridgidly enforced once adopted. Mr. Sharp said that open space was recognized in the general plan as one of the most important areas in Lyon County. Mr. Sharp also said that the master plan recognizes mining as an important part of the master plan but indicates that the special use permit is a major part of controlling mining operations. He also said that that general plan recognized recreational areas as a major force in Lyon County's economy, and would be something to offset the boom or bust economy that is consistent with the mining industry. Mr. Sharp said that historical cultural sites were included in the recreational areas, and that Silver City was recognized as one of the old ghost town areas within Lyon County. Mr. Sharp said that the general plan indicated the need to preserve open spaces as well as historic and cultural areas, and also indicated the need to keep mining and industrial lands from intruding on residential areas. Mr. Sharp said that the master plan recognizes portions of Dayton and Silver City for potential residential development as well as cultural and historical uses and it recognizes the open space around Dayton and Silver City as an important resource that should be reserved.

In reference to zoning, Mr. Sharp said that a change of zone could not be considered if it is contrary to the master plan. He said that when Lyon County adopted the master plan it adopted residential zoning for the entire Silver City townsite and to adopt RR-5 zoning for that area would introduce an entirely different zoning for the townsite. Mr. Sharp said that this type of zone change would be spot zoning, the intrusion of an incompatible land use form into an area of predominantly residential zoning.

In reference to the approval of a Special Use Permit for the operation of the mine, Mr. Sharp said that the ordinance referred to a whole list of items which must be considered when approving a special use permit for a mining operation. One of the items, he said, was the environmental considerations which he felt were not fully addressed by Nevex Corporation. Mr. Sharp wished to discuss what findings were necessary before approval of a special use permit of this type. One finding is that the use is necessary to the public health, convenience, safety and welfare to the public. Another finding is that the applicant must submit information to show that the operation will not result in material damage or prejudice to other properties and Mr. Sharp did not feel Nevex could establish this. Findings under Section 20.68 indicate that the applicant must show that the activity will not be detrimental to the health, safety or welfare and will not be injurious to the neighborhood and Mr. Sharp felt that the mining company must fully establish this. Another finding is that the applicant must show reasonable step will be taken to protect the land and Mr. Sharp said that the information submitted by Nevex must do this. Mr.
Sharp said that even though there may be adverse effects from the mining operation, the ordinance provides that the County may still issue the special use permit if there is overiding economic benefits for the County. Mr. Sharp said that he didn't think this application could prove an overiding economic benefit. Mr. Sharp said that the temporary economic benefit should be weighed against the long-term result of a big hole in the ground.

Mr. Sharp then addressed the questions of whether you could take away the rights of the miner/property owner. Mr. Sharp said that answer to that questions is "no", but in allowing the property owner to use his land, you should not have to violate master plans, rights of other property owners. The term "reasonable land use" in relation to the zoning of the surrounding area should be considered. Mr. Sharp indicated that the surroundings were beautifully suited for residences and that there was plenty of water supplied to Silver City by the Virginia City water company.

Mr. Lawson asked if there was a committment from Virginia City Water to serve Silver City. Mr. Sharp said that it was his understanding that additional water was available to serve new development in Silver City. Mr. Sharp concluded by saying that the only way he thought this application could be considered was as an amendment to the master plan, and the only way a special use permit could be issued was if the company responded to all the findings as presented in the ordinances.

Chairman Lawson asked if there were any questions from the Commission. There being none, Gary Owen presented Ana Koval who was to present a history on the Comstock area.

Ms. Koval said that the Comstock Lode was the first major silver strike in the American West. She said that the Comstock had historic significance due to the amount of gold and silver that was mined there. She felt that the Comstock had a significant effect on organizing the Nevada territory in 1861 and its realization as a state in 1864. The Comstock helped to finance the Union in the Civil War, it helped to build transcontinental railroads and steamship lines, the transcontinental cable and also to build San Francisco in the 1860's. In 1961 an area of 14,700 acres including Virginia City, Gold Hill, Silver City, and Dayton was designated as the Virginia City National Historic Landmark by the Secretary of the Interior. There are buildings, structures and sites commemorating historical events that changed the course of American History. Of the 1,069 National Historic Landmarks in the United States, Nevada has only 5. Ms. Koval said that the Virginia City Landmark was the most visible and most visited by locals and tourists and has the most potential to teach people the history of the area. The National Park Service, she said, at the direction of the Secretary of the Interior monitors the National Historic Landmarks and prepares an annual report on threatened National Historic Landmarks. The Virginia City Landmark has been included in the 1984 and 1985 reports on threatened and damaged landmarks, with severe site erosion listed as the primary reason. Ms. Koval read the following excerpt from the report: "Portions of the town of Gold Hill and historic roads

that link the settlements are in danger of sliding into a large open-pit. Four inch tunneled cracks divide the road bed. Estimates indicate that the collapse of this historic landmark could occur at any time. The mountain adjacent to Virginia City is slumping into the pit as well." Further, Ms. Koval said, the report reccomends, "The repair of the walls of the open-pit to prevent the collapse of the surrounding land and slumping of the mountainside and a comprehensive plan that incorporates mining activities and cultural concerns. The crown point in repairing the open-pit because of its threat to the road and its scarring of the landscape puts the entire area in jeopardy of losing its landmark status. This open-pit mine is not the only threat to the district but represents the most visible of recent examples selected by the National Park Service."

Ms. Koval said that of the 22 tax-act rehabilitation projects started since 1976, eight are located in the Comstock District and represent $1,598,000.00 of investment in the historic resources of the district.

Gary Owen then extended counsel for Nevex, Richard Harris, a moment to address the Commission.

Mr. Harris said that a number of family-people with small children had come in behalf of the Nevex application and since the hour was getting late, Mr. Harris asked if all those in favor of the application would rise.

Mr. Owen then introduced Dr. Donald Fowler, Professor of History at the University of Nevada, Reno who was to address the Commission on the impact of this project on the integrity of the Comstock district.

Dr. Fowler said that he was a Professor of Historic Preservation and that he was speaking as an individual and did not represent UNR. Dr. Fowler said that he would like to raise, for the Commission's consideration, three major points.

First, the establishment of a National Historic/State Historic District on the Comstock (the area is both), has several long-range implications, 1) the citizens recognize that the place designated has historic significance and great meaning to

the State and the Nation, 2) a historic district retains its importance insofar as it retains its integrity. Integrity means retention and concentration of structures from a historic period and retention of historic landscape or setting, 3) a proposed change in a historic district must be very carefully considered in light of these principles.

Secondly, citizens delegate responsibility for the integrity of the historic district to the historic district commissions and elected officials. It is incumbent upon all elected officials to act in such a manner as to preserve the historic district to the best of their abilities.

Third, the major problem with any project of this size within or adjacent to a historic district has to do with secondary impacts. Secondary impacts must be taken into account. There are hundreds of precedents on the national, state and local levels where government entities must require secondary impacts be given full and due consideration and assessment before a project is permitted to proceed. Dr. Fowler said that Nevex' application had addressed primary impacts in some detail, however from a Historic District Commission standpoint he would like to see the secondary impacts addressed in some detail, particularly in regards to blasting. Dr. Fowler said it was unclear to him how blasting would effect historic structures and other prehistoric areas that are known to be in the secondary impact area. Dr. Fowler said that he did not think that Nevex had thouroughly addressed secondary impact.

Dr. Fowler said his final point is the integrity of historic resources. Integrity of the Comstock Historic District has already been seriously compromised by the open-pit mining that has occurred. Both the Comstock Historic District and the Lyon County Commission should give serious thought to whether further impairment of the district should be allowed. Dr. Fowler said that tourists come to spend money at historic landmarks and should this be compromised, the tourist dollars may stop.

Gary Owen then introduced John McLain of Resource Concepts Inc., who was to address the reclamation aspects of the Nevex

proposal.

Mr. McLain showed some slides concerning what reclamation should be all about. Mr. McLain gave an overview of the area. Mr. McLain discussed improper drainage which often occurs around open-pit mines when reclamation processes are not performed correctly. Mr. McLain said that reclamation is a science and seed selection should be undertaken very carefully. When you blend plants together, selection, not only of the adaptive materials but the knowledge of how to put them in the ground, whether with drill seeding, broadcasting, whether harrowing the seed in a knowledge of what to do, the rates to use, how to mix them all are critical to the success of reclamation. The reclamation involves not scalping the land but taking only what you have too, minimal disturbance. Mr. McLain said that the steeper the slope, the more difficult the reclamation.

Mr. McLain than discussed some of the areas in which the reclamation description of Nevex was lacking. One was the description of the existing environment of the area where the mine is proposed. There is no description of the soils and according to Mr. McLain this information is provided free from the Soil Conservation Service. Mr. McLain said that this information is vital to any reclamation. The plant life in the area and what can be used for reclamation was not discussed in detail in the application. Seeding procedures were much lacking in planning. The species list was highly questionable, of which half was acceptable. As an example, alfalfa was to be used in the reclamation and alfalfa is an irrigated crop and would not live in the water-barren area of the mine. Mr. McLain said that a species called high-crested wheatgrass was mentioned and that he couldn't find such a species description anywhere. Mr. McLain mentioned two other unacceptable species. Mr. McLain said that the seeding rates were also unaceptable. Mr. McLain said that Nevex' plan to plant two trees for every one removed does not consititute a viable reclamation process. Mr. McLain said there was no consideration of soil nutrients, or drainage. Mr. McLain said that in conclusion the applicant's treatment of reclamation

falls short of acceptable procedures for reclamation. Mr. McLain said that he felt that it was very difficult to reduce the visual impact that an open-pit mine would produce by berms or vegetation.

Mr. Owen then introduced Marvin Tebeau who was to address the application's ramifications on noise and water and air quality.

Mr. Tebeau introduced himself as being employed by Resource Concepts of Carson City who had been asked to review the Nevex application. Mr. Tebeau said that the applicant had mentioned three documents and has relied on these documents for their noise calculations. These documents are: "The Handbook of Noise Control", by Harris, "Noise Control", by OSHA, and "Protective Noise Levels" a condensed version of a much lengthier work by the EPA.

There are numerous factors that will effect the noise as it is perceived in the local community. The distance of the receptor from the equipment, the elevation of the equipment from the residents, issues with respect to the site, whether equipment will be working simultaneously or not, whether residents have their doors or window open. Two other factors that Mr. Tebeau said Nevex did not address were, the attitude of the residents to the noise source, and, whether the noise level was historically at a level that the residents were used to. Mr. Tebeau said that this area is documented as a rural environment and that the overall cumulative noise level would average at 50 decibels. The noise level that would be perceived by the closest residents from the proposed mine site was determined by Nevex by taking readings off of some of the equipment that would be used. One reading was taken from a 50 ton haul truck which was rated at 92 decibels at 50 feet. Nevex, said Tebeau, went on to make some estimates at 30, 60, 120, 240, 480, 960 feet from the 50 ton haul truck. OSHA says that there will be a 6 decibel decrease for each doubling of distance, from the noise source. Mr. Tebeau said that State Highway figures divide the decrease figures into two categories, hard-site and soft-site. Hard-site would reflect a

decrease figure of 3 decibels and soft-site would reflect a decrease figures of 4.5 decibels. Mr. Tebeau said that using these figures and taking into consideration Nevex' estimate of 62 decibels at 960 feet, he figures a soft-site estimate at 69.5 decibels and a hard-site would be approximately 77 decibels. Mr. Tebeau said that there were numerous residences within the 1000 foot range of the pit.

The next question, said Mr. Tebeau, is what effect would the noise have on the environment. According to the EPA anything over 55 decibels starts to annoy people and interrupt communication. Anytime you exceed 70 decibels, said Mr. Tebeau, you begin to impair people's hearing. The applicant has failed to give an average of what the noise level would be according to Mr. Tebeau, that is, there is no summation of what the noise level would be during operating hours or what the Silver City Residents would be subject to at night. Mr. Tebeau said that he assumes that during operating hours the nearest resident would be subject to 65 decibels and during all hours the nearest resident would be subject to somewhere around 45 decibels that includes nighttime hours.

Next Mr. Tebeau addressed air and water. Charles Lawson then interrupted Mr. Tebeau to request a 5 minute break.

When the meeting resumed, Mr. Tebeau said that the applicant utilized another EPA document. The figures reflect that moving haul trucks up and down the roads for distances of 27,000 miles would produce 2.2 tons of dust and the applicant says this could be reduced to 0.7 tons by using water and chemicals on the road and minimizing the speed of the trucks. Mr. Tebeau said that these are meaningless numbers because the State uses the number of micrograms per cubic meter and 0.7 tons is a completely different number. The only way air quality could be measured is by the amount of particulates in the air which would require filters at the site itself unless compared to such industries as coal mining. In determining the air quality also, wind and particle size conditions would have to be taken into consideration.

With respect to water, Mr. Tebeau said that Mr. McLain had

covered a good portion of that in his presentation. The water quality considerations have to do with run-off below and above the site and Mr. Tebeau said that the ordinances expressly request the applicant to deal with soil erosion which he feels the applicant has not done.

Gary Owen then presented Dr. Jeanne Wendel, Professor of Economics at the University of Nevada, Reno.

Dr. Wendel said that there were three points that she wanted to address. One was the effect of the proposed mine on Lyon County's economy. Dr. Wendel said that the Nevex application cited two beneficial effects from the proposed mining operation, increased taxes and increased business inside the County. Dr. Wendel said she would like to address the taxes first. She said that estimating taxes was a vague thing. In their application, Nevex had estimated on paying 18,000 dollars in assessed taxes and 49,000 dollars in Workmans Compensation. Dr. Wendel said that it was hard to consider Workmans Compensation as a benefit to the County since most of the employees would be from the County and that dollar amount would go towards off-setting the costs asssociated with employment like unemployment or sickness and injury. Nevex had also estimated 25,000 dollars in personal property taxes and sales taxes estimated at 60,000 dollars. Dr. Wendel said that she would comment on the personal property taxes later but that she could not see how Nevex computed the sales tax because the number was not 5.75% of their estimated purchases, nor was it 5.75% of the 80% of purchases they intended on making in Lyon County. Based on Mining Association information, said Dr. Wendel, half of all mining companies' purchases occur out-of-state. Dr. Wendel said that she would expect the amount of purchases within Lyon County to be much lower than 80%. Dr. Wendel said that it is true that equipment that is purchased outside of the state and then brought into the state is subject to sales tax and use at the sales tax rate. But, she said, it was hard to come up with a number like 60,000 dollars when they hadn't determined where they were going to buy their equipment. Even if the 60,000 dollar figure is correct

only 25% goes directly to the County, the balance goes into a State pool and gets redistributed based on sales tax base. Another figure in the application was bullion tax. Nevex had estimated 65,000 dollars in tax Dr. Wendel said this was a fluctuating figure based on the price of gold and the actual amount of gold that they recovered from the mine. Dr. Wendel said that Nevex only paid 1300 dollars in bullion tax last year.

Dr. Wendel then presented her figures for taxes. She said that Workmans Compensation would be -0- because there would be costs to off-set that, giving them their personal property tax figure and sales tax figure it would make the total 90,000 dollars which reduces their figure by 42%. In their application Nevex says that whatever the bottom line in taxes for them, it should be multiplied by two because whatever they spend they estimate the contractor to spend. Dr. Wendel said that a contractor would probably not be charged personal property tax or unemployment or Workman's Compensation tax, or Lyon County taxes. The bottom line, said Dr. Wendel, is that Nevex' estimated taxes are quite high. Dr. Wendel said there was a note in the financial part of the application that would be of interest: " Recovery of the vested cost is dependent on the ultimate amount of gold or silver recovered from the property and the ability of the company to conduct operations profitably, both of which are uncertain at this time".

The next point is the amount of business activity that will be stimulated inside Lyon County. The applicant's estimate is 11.5 million dollars of new business for Lyon County. This was determined by figuring the estimated amount of purchases at 3 million dollars, multiplying it by two because the contractor would spend at least that much, and then multiplying it by a factor of 1.9 giving them 11.5 million dollars. Dr. Wendel said that a multiplyer like the 1.9 used is based on the presumption that if x amount of dollars is spent inside the County then the recipient of that money will turn around and spend it inside the County also. But, said Dr. Wendel, if you have a small rural area it is hard to determine what portion will be respent inside

Lyon County. The 1.9 multiplyer used, came from the Dept. of Commerce who uses that figure as an average. Dr. Wendel said that the 6 million dollar figure was incorrect as she had shown earlier, the contractor probably will not spend as much as the applicant so the 3 million dollar figure should not be multiplied by two.

The last point, according to Dr. Wendel, is that you can't look at the benefits to the County unless you examine the costs to the County. Dr. Wendel said that if the new mining activity choked off residential growth the County may be losing long-range benefits. Silver City's total assessed value in 1981 was 94,000 dollars, 1984 750,000 dollars, 1985 it was over 1 million dollars. Dr. Wendel also pointed out that people who move to Silver City don't work in Lyon County. Dr. Wendel cited a report prepared for Houston in 1980 that pointed out that half of the income in Lyon County comes from people who live in Lyon County but work outside of Lyon County and, she said, this is Lyon County's most important industry. She said that the proposed mine site could also possibly hurt the tourist industry in that area. Also, if the amount of gold estimated by Nevex is not there, reclamation may not be possible due to lack of funds which would seriously hinder the residential and tourist potential of the area. Dr. Wendel said that also, it must be kept in mind that the total amount of taxes must be averaged over the operating life of the mine and that the building of three or four new homes a year at an average of $80,000 per home would produce comparable taxes to what the mine would average. Also, Lyon property taxes are long-term income while the mine taxes would be short-term income. The applicant has said that the mine will not hurt property values and Dr. Wendel said that her common sense told that this could not possibly be the case due to the amount of noise, dust and scarring of the land that would occur.

As far as risks were concerned, Dr. Wendel said that the homeowners were in the position where they had everything to lose and nothing to gain. Dr. Wendel indicated that she had talked to a mining engineer who indicated to her that the location of ore

reserves were a hard thing to forecast. In conclusion, Dr. Wendel said that if the whole thing proved not to be as profitable as expected by Nevex, who was going to fill in the hole and repair the damage that was done by the mine?

Beverly Landolt then asked Dr. Wendel where she got her figures on 3 homes being built in Silver City per year, if this came from the building department. Dr. Wendel said she took an average of the increase in assessed valuation for the Silver City area. Charles Lawson asked if the monetary property value loss in relation to the decibel level emitted from the mine would continue after the mine closed. Dr. Wendel said she thought it would depend on what the place looked like when they were done. Charles Lawson asked if the property value loss would just be a matter of the noise or not. Dr. Wendel said that she felt property value loss would be through noise and dust pollution but the only part she could document was the noise portion.

Gary Owen then introduced two community members of Silver City who were to give specific examples of the economic impact on the community.

Sandra McCormick, a Silver City resident for 16 years, was first to speak. Mrs. McCormick said that she invested her inheritance on the advise of an investment counselor in a Federal Tax Act Rehabilitation Project in Silver City thinking it to be a low-risk investment for her because of the landmark status of the area. Mrs. McCormick bought a historical house in the landmark district area. Mrs. McCormick successfully completed the restoration of the house to her monetary benefit. To her, said Mrs. McCormick, the investment in this house was like social security or an IRA. When Mrs. McCormick heard about the proposed Gold Canyon mine project, she returned to her investment counselor for his advise. He stated that if the mine was to go forward she should, 1) attempt to sell the property, or 2) take the loss, even though it would 25% of the project cost. Mrs. McCormick assessed her investment at 32,000 dollars.

The next speaker was Gayle Sherman, Silver City resident for 10 years. Mrs. Sherman was attempting to move to Carson City and

put her Silver City house up for sale for 75,000. dollars. Right after putting her house up for sale she got some interested buyers. Before the deal went through the application for the Nevex mine was announced and shortly thereafter the buyers had backed out of the deal. Mrs. Sherman then read a letter from the buyers as to why they backed out of the deal which specifically indicated the open-pit mine proposal as the reason why they backed out.

Mr. Owen then introduced Mimi Rodden who was to discuss visual impacts on the area from the open-pit mine.

Ms. Rodden cited the County's past experience with Anaconda and Houston Oil and Minerals. Ms. Rodden then showed some slides on how the pit would look when it's created and how it looks now. Ms. Rodden showed the views from several different residences. Ms. Rodden then showed several existing open-pit mine sites. After the slide presentation Ms. Rodden suggested careful consideration of the application.

Gary Owen then spoke. Mr. Owen asked that those in opposition to the application please rise. Mr. Owen indicated that he respectfully disagreed with the Commission's decision not to consider this application as a master plan amendment and said that a master plan amendment includes a zoning change. Mr. Owen then said that the area was not "mountainous-forest" as suggested by Nevex but was urbanizing area specifically NR-1 that meant residential use on 7,000 square foot lots. Mr. Owen said that not only did the zone have to change but the master plan had to be amended before the application could proceed. Mr. Owen said that the Lyon County master plan was the result of long and careful deliberation. Mr. Owen indicated that this change of land would be spot zoning. Mr. Owen said that there is no other area zoned RR-5 within the Silver City townsite and this type of change would be spot zoning.

Mr. Owen said that Nevex had indicated that if the Commission could not prove that the project was detrimental to the health, safety and welfare of the community then it "shall" be approved. Mr. Owen said that these determinations were

discretionary and only if the Commission felt the applicant had successfully responded to all the requirements did they have to grant the application. Mr. Owen said that he felt the application was inadequate in that respect.

The next hurdle to cross in Mr. Owen's opinion was the problem of the special use permit. Mr. Owen said that once again the action to approve the permit was discretionary. Mr. Owen said that the Nevex application was inadequate in this area also. Mr. Owen said that Nevex had not demonstrated that it would not damage the community as shown in the discussion on noise and dust. Mr. Owen then reviewed the possible problems with noise and dust control. Mr. Owen then said that Nevex had not proved that it would not damage the archeological value of the area and he then reviewed portions of Dr. Fowler's testimony. Mr. Owen referred to section 20.68.050(c) that provided for protection of historic areas. Mr. Owen said that the reclamation plan was full of mis-assumptions and then he reviewed portions of Mr. McLain's testimony. Mr. Owen said that the applicant had not shown that they would not hurt the environment. Mr. Owen said that the applicant said there "should" be no adverse effect on water quality. Mr. Owen described that as a "leap of faith". Mr. Owen said the Nevex application concludes that the mine "will have a minimal effect on tourism", yet there is no analysis of this. On economic impact the Nevex application says it "should be positive", which Mr. Owen described as a broad statement. Also, he said, though Nevex claims there would be no adverse effect on property values, he believes that this conclusion was proved invalid by tonight's presentation. Mr. Owen said that he felt the tax base would depreciate rather than appreciate due to temporary noise and dust and permanent scars on the land. Mr. Owen said that Lyon County would lose not gain and be left with a gaping pit and a safety hazard in a historical, tourist area.

In summation, Mr. Owen said that his clients were not anti-miniming or anti-open-pit mining. He said that they simply wanted to see mining be located in an area where it was best suited, not in a residential area. He said that he felt Lyon County would

not gain as much as it would lose. Mr. Owen said that by denying this application, Lyon County would not be making an anti-mine statement as Nevex argues, but would be stating the County's desire to have planned sensible growth. Mr. Owen then concluded his presentation.

Chairman Lawson then opened up the floor to anyone else opposed to the application. Mr. Miller, a 15 year resident of Silver City, said that all the people who stood up in favor of the Nevex application earlier in the evening were not residents of Silver City. Mr. Miller said that those people had nothing to lose if the application passed. Bonnie Brown spoke next, a Silver City resident who lived within 800 feet of the proposed mine. Ms. Brown submitted a written statement from Dorothy Colley and Diane Gordon on their experience with the Houston Oil and Mineral Company after that company ceased mining operations in Silver City and an account of their loss. Also, Ms. Brown, mentioned the problems that Storey County had after Houston Oil and Mineral left. She said that Storey County was left with a slumping pit, a crumbling road, endangered wildlife, damaged residences, an unmonitored toxic tailing pond that poisoned water in Silver City and went into the Carson River. She said Houston would never pay for this damage. She asked that the Commission weigh all the benefits against all the detriments and consider all the people in the County that would be effected by this application. Next to speak was Robert Kirkland, Silver City resident who said he worked in Reno. Mr. Kirkland said that he felt the reclamation project would be much more expensive than the 50,000 dollar bond the company was willing to provide. Mr. Kirkland said that if the price of gold went down in the next four years, the County would be left holding the bag and if the price of gold went up in a few years, Nevex would want to come in and tear up all the reclamation they had completed. Molly Allier was next to speak, a 14 year resident of Silver City. Ms. Allier said that she and her two children lived in beauty, which is essential to the human spirit. She said her house looks out directly onto Grizzly Peak where the mine would be. Ms. Allier

asked the Commission not to do this to her.

Larry Wahrenbrock of the Comstock Historic District Commission spoke next. Mr. Wahrenbrock said that the Historic Commission asked that one of the conditions placed on the special use permit, should it be granted, be that Nevex get approval from the Historic Commission prior to start of operations. Mr. Wahrenbrock said that a letter from the Historic Commission to this affect would be forthcomming.

Next to speak was Bob Elston, 16 year resident of Silver City. Mr. Elston said that it had been asked why someone would move to an area like Silver City when they knew it had a history of being a mining community. Mr. Elston said that Silver City is zoned residential. Mr. Elston said that his business was in Lyon County and he employed several people and that he has made an investment in Lyon County and will continue to make an investment in Lyon County but is opposed to this application.

Next, Chairman Lawson asked that Richard Harris, counsel for Nevex speak.

Mr. Harris said that he received the response from the Silver City residents on June 13th and that his initial reaction was of disappointment that the residents had spent so much time and effort in a negative approach to the application. He said that this document indicates a resounding "no" to the the Nevex application. Mr. Harris said that there could have been a proposed list of conditions to be placed on Nevex, also there was a comment from Resource Concepts on the costliness of the reclamation project, yet there was no mention of the amount of the bond or an alternate proposal given. Mr. Harris said that Nevex was willing to submit a detailed reclamation plan to County specifications and provide adequate financial assurances for the reclamation. Mr. Harris said that there was detailed criticism in the response to the point that Nevex did not provide engineering details of culverts that were to be installed. Mr. Harris said that this was more than the ordinances called for. Mr. Harris said that, for instance, if Mr. Dini were to expand his casino operation, it would be necessary for him to apply for a special

use permit and come before the Planning Commission with a detailed concept of the proposed expansion. Mr. Harris said that if he understood the process correctly, Mr. Dini would not have to, at this time, submit an architectural plan for his expansion. He felt that Mr. Dini would submit these plans after the special use permit approval. Mr. Harris said that Nevex was planning something similar, submit a detailed concept and then work out the rest of the details after approval of the special use permit. Mr. Harris then submitted, "Exhibits and Comments responding to the Silver City Residents' Response to the Nevex application". Mr. Harris said that although he would read the entire material, he would like to direct the Commission's attention to a couple of things. One was Nevex' exhibit #2, air quality registration certificate #1204 issued by the Nevada Division of Environmental Protection on May 19, 1986, and exhibit #3 an agreement between Nevex and the Air Qualiy Division to perform a TSP monitoring program, exhibit #4 a letter from H. Van Drielen approving the Nevex plan for drainage of the Gold Canyon mine. Mr. Harris said that these documents directly address concerns of Resource Concepts on environmental protection. Exhibit #5 a letter from the Nevada Dept. of Wildlife stating their willingness to cooperate with Nevex, exhibit #6 computer-generated summaries of actual expenditures by Nevex in Lyon County in 1984 and 1985. Blasting was addressed in exhibit #7 with a statement by Blasting and Vibration Consultants, Inc. saying that blasting would be well below the level of possible damage to the structures, and a scientific study on the effects of blasting to the surrounding area. Exhibit #8, a professional resume of William Kimmel, the expert appraiser retained by Nevex to determine the effect of the mine on property values in Silver City.

Next Mr. Harris read some of Nevex' comments to Silver City Residents' objections. Under objections to the special use permit, Silver City Residents (SCRA) claimed that Nevex did ot discuss the ramifications of draining the pit into the Dayton mine, Nevex' comments are that the Dayton Mine is already partially filled with underground water, the proposed pit bottom is

below the water level, and the Div. of Water Quality has asked Nevex to provide drainage holes if necessary which Nevex has agreed to do. Another SCRA objection was that the mine will have a negative impact on tourism. The Nevex comment is that Silver City is not a tourist destination having no motels, restaurants or other facilities to produce income and that Nevex' Haywood-Santiago mine conducts guided tours through its facility and such a tour would be offered through the Gold Canyon mine also. The SCRA objection that the mine will endanger the V&T right-of-way and Dayton Mine due to truck traffic and blasting was addressed in the blasting study and the mine operation will be an enlargement of the existing Dayton pit and is compatible with the District's history of surface mining.

Mr. Harris said that in Mr. Sharp's testimony he indicated that there would no significant economic benefits to Lyon County and a finding of overriding economic benefit cannot be justified. Mr. Harris said he could find nothing in the ordinance suggesting that an overriding economic benefit must be proved, and that Mr. Parks would address the economic impact in his presentation.

Mr. Harris then addressed the landmark status of the Comstock area. He said that of the seven specific projects undertaken in the Comstock District none of the projects were in Silver City, and of the $1,598,000 in tax act rehabilitation money only 3% has been spent in Silver City.

In reference to the objections concerning reclamation, Mr. Harris said that some of their comments would require so detailed a study as would be far beyond the scope required by the ordinance 20.68. There is though, he said, comments addressing these concerns regarding slope, adequate water supply, and dust control. A detailed comparison of the Houston pit and the proposed Gold Canyon pit is supplied showing that there is an entirely different geologic circumstance which would not result in the same problems as are evident with the Houston situation.

In reference to the objections concerning noise, Mr. Harris said that SCRA had suggested that a different decibel factor should be used to compute the noise levels and Nevex' comments

are that the factor used was a result of Federal Highway Administation's information.

Mr. Harris said that there was a great deal said of the appropriateness or inappropriateness of the seeding process that Nevex decided to use. Mr. Harris said that Nevex went to the range officer of the BLM for the appropriate kind of seeds and seeding methods to be used in the reclamation. Mr. Harris said that the BLM had jurisdiction over these areas and therefore, Nevex felt it appropriate to ask the BLM.

In reference to the economic questions, Mr. Harris introduced the Nevex comptroller, Henry Streich.

Mr. Streich introduced himself as Vice-President of Nevex and as having a background as a CPA. Mr. Streich said that the first point he wanted to address was in regard to the comment made by Dr. Wendel regarding the .5% of sales tax that actually went to Lyon County. Mr. Streich said that he was told by the State Tax Dept. that during the years that Nevex has operated, the disbursements to Lyon County had exceeded the amounts that they would have collected as a 5.75% sales tax due to purchases made in the surrounding area, Carson and Reno, etc. in the way of goods and services. These purchases benefit the whole area and supply a good economic base. Mr. Streich said that Nevex tries to purchase as much as possible inside Lyon County, as their records show and since many of the goods are delivered right into Lyon County, Lyon County is assured of getting credit for that sales tax.

Mr. Streich said that there was a generality made in the SCRA response that only half of the goods purchased by mining companies come from local suppliers. Mr. Streich said that according to their records which the Commission has in their hands, in excess of 75% of Nevex' purchases were made inside the State of Nevada.

In reference to the doubling of the cost estimates to reflect the contractor's expense Mr. Streich said that Nevex expected the contractor's cost to be approximately $3 million but they were in negotiation with a mining contractor and though that

number could change this was the estimate at this time.

In reference to unemployment and workmans compensation and whether it should be counted or not Mr. Streich said that if it wasn't a tax support it was indeed some payment to someone, whether in the form of benefits or paper-handling some of which he was sure would find its way to Lyon County. Mr. Streich said that he would also like to state for the record that the occurence rate for both of those areas has been substantially less then the premiums paid into those funds. Mr. Streich said that Nevada law required the contractor to pay both workmans compensation and unemployment for anyone hired in the State.

In reference to the table that showed the increase in property taxes for the three homes that would be built per year, Mr. Streich said that he understood the table to reflect taxes on the home improvement portion of the tax. He said that the County was already getting taxes on the real estate portion, and that wouldn't change. He said he had a hard time understanding how 30 new homes could produce $51,000. to the tax base while from records he could obtain 50 to 60 homes now existing only supply about $11,000. to that base. Mr. Streich said that for a true comparison a depreciation rate would have to be worked into that figure.

Charles Lawson asked what Mr. Streich had said the taxes paid by Silver City were. Mr. Streich said that for the home improvement portion its $500,000. Beverly Landolt asked if that was for one year. Mr. Streich said yes. Georgia Fulstone said that she had talked to Joe Parr, Lyon County Clerk/Treasurer, that morning and he told her that the net proceeds from the new tax rate on the new tax bills that were comming out would be $17,600. plus annually. Mrs. Fulstone said that that was the net tax that Lyon County would derive in Silver City and she wanted to know if she and Mr. Streich were talking about the same tax. Mr. Streich said that the number he gave them was the home improvement portion alone. Maryanna Hamer asked if that was personal property tax. Mr. Streich said that was correct.

Mr. Harris then directed the Commission's attention to Page

14 of their response to the SCRA response in which they endorsed the testimony of Mr. Sharp in reference to planning and zoning. The Lyon County General Plan recognizes that the "precise zoning for mining is not always possible because of the location of mineral resources hidden or beneath non-exploited areas cannot be determined". Also he said, that the decision to allow mining activities has to be made on a case-by-case basis according to the General Plan. Mr. Harris said that the Gold Canyon mine is a rare example not easily found and one of the few in the state. Mr. Harris then re-iterated that he was disappointed by the response to the Nevex application because they SCRA failed to even try to work out problems to overcome their objections to the mine. Mr. Harris said that that was what planning and zoning was all about, compromising. Mr. Harris asked that the SCRA meet Nevex halfway.

Then Mr. Harris introduced William Parks, President of Nevex who was to discuss the economic benefits of the operation.

Mr. Parks expressed his disappointment that the SCRA did not offer any constructive comments towards a workable plan to develop the Gold Canyon mine. He said that many of the people who were opposing the Haywood-Santiago mine were also opposing this one. Mr. Parks gave the Haywood-Santiago mine as an example of a successful cooperation effort between the mining company, the County and the community. Mr. Parks said that Nevex has, since last August, and will be willing to discuss any concerns of the Silver City residents in regards to the mine and will doing everything possible to alleviate their fears.

Mr. Parks then said that he would like to show the economic benefit to Lyon County. Mr. Parks said that there were currently jobs for 14 people, many of whom were here tonight. He said that there would be 30 to 35 jobs available. $212,000. in tax would go from Nevex to Lyon County in addition to whatever the contractor would pay. There would be approximately $575,000. in expenditures by Nevex and the contractor in Lyon County, Carson and Reno. Mr. Parks said that every effort would be made to spend money in Lyon County.

Mr. Parks said that he is sure that everyone wishes that Nevex would just go away and that he himself had spent a great deal of time in Nevada trying to get the Nevex operation going in the face of strong opposition. But an ore body is where it is and can't be relocated, he said.

Mr. Parks said that Mr. Sharp, in his presentation, had paraphrased the Lyon County General Plan in a manner totally agreeable to Nevex and that he would like to read that now:

> The county will protect its valuable mining industry and encourage its orderly development. Potential problems of air, water and land pollution are recognized and proper controls will be established to insure mining activities which will, in turn, protect the future of the mining industry.

Mr. Parks said that it was in this spirit that Nevex carefully prepared and presented its application. Mr. Parks thanked the Commission for their effort and attention towards the application. He said it was an important project for Nevex and their employees in this area. Mr. Parks then urged the Commission to approve the Nevex change of land application and special use permit.

Georgia Fulstone then addressed Mr. Parks. She said that the economic benefits to Lyon County were very important in the approval of this application. She said that several different tax figures were mentioned this evening and she had mixed emotions about the figures that were presented. Mrs. Fulstone said that she didn't understand taxes very well, but she was under the impression that there was a tax due to Lyon County from Nevex that had something to do with the sales from the mine. She wanted to know why that tax wasn't paid, if it had something to do with the mining operation not being successful or what. Mr. Parks said that Nevex was billed a net proceeds tax on May 25 or 26 which amounted to approximately $1,250.00. Mr. Parks said that he wasn't quite sure how that figure was arrived at but that Nevex would probably be paying it the end of June. Mrs. Fulstone asked if the tax was due annually. Mr. Parks said that it was. Mr.

Parks said that if anyone wanted any financial information from Nevex they would be more than happy to provide that information. Mr. Parks directed the Commission's attention to the accounts payable print-out that had been provided to them and indicated that the amounts paid to Lyon County were on that sheet. Mrs. Fulstone said that if the main thrust of the taxes was not from proceeds from the gold sale, than did that mean that most tax money came from property tax. Mr. Parks said that the property tax paid was approximately $6700.00 but that a lot of money comes from the net proceeds tax and that Nevex was working at improving the net proceeds from the mine they were currently operating. Mr. Parks felt though, that the figures they had estimated for Gold Canyon were accurate based on $343.00/oz. Beverly Landolt asked if Nevex' projection of $60,000. in taxes was for net proceeds for this project only for each year. Mr. Parks said that it was for the total life of the project. Mrs. Landolt asked how many years we were looking at. Mr. Parks said that Nevex believed there was approximately 600,000 pounds of ore and they were negotiating with the contractor for 2 or 3 years. He said that economically it would be preferable for the 2 year figure. Mrs. Landolt then asked if the figures presented were not distorted since there is quite a difference between 2 or 3 years. Mr. Parks said that even though the actual mining would only take place for 2 or 3 years, the processing, which results in the net proceeds, would take 4 or better years, and the processing would take place at the Haywood-Santiago site.

Chairman Lawson then asked Mr. Harris if he had any more to add. Mr. Harris said no.

Chairman Lawson then asked if those in favor would present their comments. Don Dondero was first to speak. He said he was a property owner in the Silver City area. Mr. Dondero said that his family had owned mining claims in that area for generations. Mr. Dondero felt that if Nevex was refused, then his property would be without value. He asked if the Commission would consider the application in relation to other than residential property owners. Mrs. Fulstone asked Mr. Dondero to point out his

property on the map. Mr. Dondero pointed to an area east of the proposed site.

Beverly Landolt then directed another question at Mr. Parks. Mrs. Landolt asked if Nevex was going to post a bond and for how much. Mr. Parks said yes, it would be a $50,000. bond. Mr. Parks said that Nevex felt that amount would be adequate for the reclamation but that they would be doing on-going reclamation throughout the mining process. Ray Tamagni then asked if Mr. Parks was skinning down the operation since he had just mentioned a figure of 600,000 tons of ore and in the application it read 550,000 tons of ore and 900,000 tons of waste. Mr. Parks said no, that he wasn't perfectly accurate earlier and that the waste was there and it did have to be mined.

Bill Rogers asked if it could be noted for the record, that a copy of the map used in the presentation, the Lyon County General Plan and a copy of Raymond Smith's recommendations for the Lyon County General Plan are on file as a part of the official records of this meeting.

Gary Owen then asked to have some rebuttal time. Mr. Owen said that the reason that the SCRA didn't recommend a list of conditions or offer some compromise on the Nevex application was because they felt that the burden rested with the applicant. They felt that the applicant should satisfy the Commission as to their responsibility and the worthiness of the project. Also, Mr. Owen warned the Commission against perceptual approval, that an application of this nature should be a very detailed representation of the operation. Mr. Owen said that Nevex had referenced the expenditures made by the Haywood-Santiago mine and reminded the Commission that the location of the proposed mine was indeed a residential area and any expenditures made by the Haywood-Santiago mine should not be used as a barometer for possible benefits from the proposed Gold Canyon Mine. Mr. Owen said that Nevex mentioned that it got a seeding list from BLM, and Mr. Owen said that the BLM does not do the kind of reclamation work that is needed here. A reference was made to current assessment, said Mr. Owen, those figures take into local homes

and of course there are some homes that are not local that are higher. Mr. Owens said that his projections were based on current assessments. Finally, Mr. Owen made reference to Mr. Harris' request for compromise, coordination, and combination which Mr. Owen said could never replace compliance which he said was not presented by Nevex' application.

Chairman Lawson then closed the meeting to further testimony. Mr. Lawson then said that the first matter before the Commission was the matter of the change of land application filed by Nevex Gold Company. Chairman Lawson called for a motion or comments.

Georgia Fulstone said that she went up to Silver City to view the site. Mrs. Fulstone said that she felt the proposed mine site was not suitable for NR-1 zoning because the hill would not accomodate the 120 dwellings that could possibly be put there, with the NR-1 zoning. Mrs. Fulstone said that she thought Mr. Smith, in making his master plan recommendation, saw the canyon and the existing houses and lots, and then outlined the townsite and just made the entire area NR-1. Mrs. Fulstone said that she felt that changing the area the RR-5 would be a positive step from a planning point of view and would not be spot zoning because the area is only surrounded on a couple of sides by NR-1 and by RR-5 on the other sides. Mrs. Fulstone said that if the Commission was just looking at a zone change she would be in favor of it because she could find no reason to deny it.

Beverly Landolt then said that even under the NR-1 zoning 120 houses would not fit the area.

Georgia Fulstone said that she felt the zoning was unrealistic for the area.

Maryanna Hamer then said that she agreed with some of the things Mrs. Fulstone said and didn't agree with others. She said she felt the area was not surrounded by RR-5 but had mostly NR-1 surrounding it. Also, she that she understood that the Commission was considering two applications but it was hard for her to look at only one of those applications without thinking about what is comming up next for consideration, if the zoning

request was approved. Mrs. Hamer said that if the zoning request were denied then the special use permit application would not be necessary and if the application was approved then the next logical step would be to consider the special use permit application. She said that since most of the presentation given were two-fold in this respect, she couldn't sever the two in her mind. Mrs. Hamer said that she felt that mining and agriculture were the backbone of Nevada and Lyon County but that she didn't believe that that was the true issue before the Commission tonight. She said that she felt none of the Commission members were anti-mining having grown up with it all their lives, that in fact most were probably very pro-mining, but the real question in her own mind was would the economic gains outweigh the environmental damage, air-water quality and noise pollution, and property damage. She said she felt that the largest single investment a person would make in their lifetime is the purchase of their home and she couldn't take that lightly. Maryanna Hamer said she felt it would be spot zoning.

Chairman Lawson then said that he felt the building department would not allow that many homes to be built on that terrain. Mrs. Fulstone asked how the building department could stop them since the zoning was in place. Mr. Lawson said it may be physically impossible or too expensive due to the terrain. Mrs. Landolt said that someone building there by cutting into the mountain would scar the hillside as well as the mine would. Mrs. Fulstone said that the hillside was already scarred due to mining that had been going on for 100 years there. Mrs. Fulstone said she felt that the zoning for that area was not appropriate.

Ray Tamagni said that he agreed with the comments presented and that he had worked for Anaconda for a number of years so he knew that open-pits were not a pretty sight. He said he made a living while he was there at Anaconda and that open-pit mining is the modern way of mining. Mr. Tamagni said he didn't like what it did to the environment though, and especially water quality, and that Mason Valley is just beginning to see what's going to come out of their area. Mr. Tamagni said that sometimes the

State, in their water quality programs, tends to overlook a problem until something shows up in a domestic well or on the surface and then decides to come in to straighten things up.

Mrs. Fulstone said that she didn't feel that Mr. Tamagni should be comparing Anaconda to the proposed Gold Canyon site. Mr. Tamagni said that the fact remains that there is a pit in Mason Valley that there isn't an answer for yet.

Ray Tamagni then moved to deny the application by Nevex Gold company for a change of land to change the zone from NR-1 (Single Family) to RR-5 (20 acres) on approximately 20 acres located in the NW1/4 NW1/4 Sec. 16, T.16N., R.21E., MDB&M in Silver City, because he felt it would be spot zoning at this time.

Kathy Jensen seconded the motion.

Chairman Lawson then asked for any further comments.

Georgia Fulstone said that she would vote against the motion because she did not feel that NR-1 is appropriate for that area.

Chairman Lawson then called for a vote by individual.

The vote was as follows: Ray Tamagni, aye; Beverly Landolt, aye; Georgia Fulstone, nay; Maryanna Hamer, aye; Kathy Jensen, aye; Nancy Dallas, nay.

Bill Rogers then asked for the chair to vote for the record.

Charles Lawson, aye.

Nevex was then informed of their right to appeal the vote.

Chairman Lawson then called for consideration of the application for a special use permit by Nevex Gold Company. Chairman Lawson called for a motion on the application.

Nancy Dallas then moved to deny the application filed by Nevex Gold Company for a special use permit for an open pit mining operation to be located in a portion of the NW1/4 Sec. 16, T.16N., R.21E., MDB&M in Silver City, because of inappropriate zoning.

Kathy Jensen seconded the motion, and it carried unanimously.

Planning Secretary Linda Glock then informed Nevex of their right to appeal.

There being no further business before the Commission

Chairman Lawson adjourned the meeting.

(A verbatim tape recording has been made of these proceedings and is on file at the offices of the Lyon County Planning Commission.)

Chairman, Charles Lawson

ATTEST:

Secretary

1986 Nevex Hearing

County Commission Minutes

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LYON COUNTY

FINANCIAL REPORT.

County Clerk Joe Parr told the Board that the total County balance is $3,744,386.88.

PERSONNEL OFFICE.

Personnel Officer Kathie Harrison presented a hire slip for Sara Mudge as a replacement dispatcher.

Ms. Harrison told the Board that Road Superintendent Jim Purrell has hired a high school boy to work for two weeks until school starts. This is on the On-The-Job Training Program.

BOOK 2, PAGE 129

NEVEX GOLD COMPANY PLANNING COMMISSION APPEAL.

This being the time publicly noticed for this hearing, Chairman Manor stated that Mr. Stephen Peek, representing Nevex Gold Company, would be allowed to give his presentation on Nevex and then Mr. Gary Owens, representing Silver City Residents Association would be allowed to make his presentation. She then stated that each person wishing to speak would sign a list expressing their desire to speak. They would then be called upon and would have three minutes to speak. Closing arguments from both sides would then be heard.

Mr. Stephen Peek, representing Nevex Gold Company, addressed the Board. Mr. Peek made the following presentation (verbatim from the tape recording of the meeting):

"Madam Chair, Members of the Commission, my name is Stephen Peek. I represent Nevex Gold Company, the applicant for a Change of Land Use for an area in the Silver City Townsite. I know that we are item number four on the agenda and that item number five on the agenda is the appeal of Nevex Gold Company of the Special Use Permit application. I would like first to address the Commission procedurally to find out if during the course of the presentation it would make good sense for us to present both the zone change application, as well as the application for the Special Use Permit, in a combined framework to the Commission. The reason why I ask that question of you is certainly, everybody here in the audience, as well as the Commission, knows that the purpose of the Change of Land Use is coupled with an application to extract gold and silver laden ore from Grizzly Hill. Without addressing that issue I think we don't really get to the guts of why we're here, which is the Land Use Change, as well as the Special Use Permit. I ask that only of the Commission as to what is their pleasure, I can only address the Change of Land Use first if you wish, or I can do a combination of both."

Chairman Manor asked District Attorney Bill Rogers if the project would have something to do with the merits of the Zone Change?

Mr. Rogers told the Board that the preliminary question that the Board must address is the Zone Change question. He stated that without the Zone Change, there need not be any consideration of the Special Use Permit Application. He further stated that the other point is that the Planning Commission has never considered the merits of the Special Use Permit because their preliminary action in recommending denial of the re-zoning precluded their consideration of the Special Use Permit on the merits. Mr. Rogers suggested that the Board, as a preliminary matter, consider the re-zoning as it stands alone. He went on to say that in the event the re-zoning is denied, the issue dies in that the Board cannot, at that point, grant the Special Use Permit. Mr. Rogers further recommended that in the event the Board grants the zoning, the Board should refer the

atter back to the Planning Commission for consideration for the merits of the Special Use ermit.

The Board members agreed with the District Attorney that the Zone Change only hould be considered at this time.

Mr. Peek asked if it was his understanding that the hearing would solely address he Change of Land Use itself, and not the issue of the project?

The Board confirmed that this was the case.

Mr. Peek continued with his opening statement as follows (verbatim from the tape ecording of the meeting):

"I stand before you representing Nevex Gold Company as the applicant for a Change f Land Use of an approximately thirty acre site in the southwest Section of the Silver ity Townsite. The Change of Land Use that is requested is a change from NR-1, or one welling per seven-thousand square feet, to RR-5, or one dwelling unit per twenty acres. ith me as well today, and who will also make part of the presentation, is Jim DeAquilera f the Planning Group. Jim and his company are primarily responsible for the preparation f what you have been given, which is a Supplemental Summary and some Technical ppendices, which were handed out to the Commission late last week and to the Silver City esidents Association as well. First, I think the discussion of the Silver City Townsite nd its historical interest is important, as well as a discussion of the property and the roperty's historical interest is important. The proposed Change of Land Use is what has een termed by all of us as the Grizzly Hill. It is just that. It is a hillsite, itting below the hillside is the site of the Dayton Mill and part of the Dayton Mine and he mine shaft that was dug in the 1870's to the depth of 700 vertically and an incline of ome 1,020 feet. It is a property and an area that has been mined in the 1870's, and it as again mined in the 1930's and in the 1940's. The hillside itself, I think, is escribed aptly by Milton Sharpe in his response on behalf of the Silver City Residents ssociation. I'm quoting from Mr. Sharpe's presentation: 'The topography: The terrain is ite rugged, ground slopes are generally quite steep. Soils: Surface mantle is probably ite shallow underlined by massive rock formations. Access: The property is generally ccessible from State Highway 341 and 342. Because of the steepness of the terrain, vehi-ular access would be somewhat difficult. Water supply: Silver City is provided with ter from the Virginia City Water Company. Water to accomodate additional development is vailable and water mains are located at State Highway 341'. I don't know whether water s available for maximum density of the property which is about 200, well, 150 to 200 elling units is what the property would allow. I'm not sure that it has that kind of pability in the water system, but certainly water is available. 'Utilities: Power is vailable in the vicinity. Waste Water Disposal: There are no sewage collection and eatment facilities at Silver City. Development of individual sewage treatment units ill be difficult because of the soil condition.' Again, I doubt very seriously that the operty could support its maximum density as NR-1, which if you assume seven dwelling nits, five to seven dwelling units per acre, would get you 150 to 200 dwelling units. Drainage Erosion Control: Because of the steepness of the terrain and the soil con-ition, drainage and erosion control must be carefully considered in design of any deve-opment proposal. Development: Potential of the property is certainly limited by ysical and environmental features. Intensive urbanizations will not be feasible, but

access availability, water supply availability and power supply provide possibilities fc development which might not be feasible for more remotely located properties. I thin that's an excellent summary of the physical topography and condition of the site itself It is adjoined from the South by RR-5 property, and is adjoined on the West by RR-5 pro perty. There is a natural physical barrier on the North of the property, which is th North slope and the peak of Grizzly Hill. It is bounded by physical constraints on th East side of the property, separating it from living and non-living areas, by State Rout 341. Certainly in the development of any property one has to consider the physica constraints. I think that Jim DeAguilera, who will follow me, will present to you in hi presentation a very good description of the physical characteristics of the property, an the limitations that the property, in its presently zoned use, have. I think as I wa coming down here this morning I was thinking to myself, and likewise while I was up on th property visiting, that given the physical characteristics of the property, the only thin that I could see for development to the maximum density would be a condominium project clustered in some area right along the highway on what is the level site. That doesn' make any sense to me because that would require a sewage disposal, a large urban sewag disposal system, and also, as I was thinking, if you were to put a condominium project o cluster development there to the maximum use, you would certainly have to take out th Dayton Mill. That doesn't make any sense to me because that's an important historica structure that should be maintained and needs to be protected. Then I got thinking if yo were to go up and do what I've seen happen in other jurisdictions is to just sort of flat- ten the hillside. That doesn't make any sense to me either. Even then you wouldn't be able to get enough dwelling units per acre to justify that. So, with that in mind in some of those spots, I am going to turn the podium over to Jim DeAguilera from the Planning Group."

Commissioner Adams asked if Mr. Peek would be addressing the specific issues o why the Planning Commission recommended denial of the proposed Change of Land?

Mr. Peek stated that this would be addressed by Mr. DeAguilera. He furthe stated that if the Board focuses on the reason for denial, which is the spot zoning issue Mr. DeAguilera would address that.

Mr. Jim DeAguilera, the Planning Group, addressed the Board. Mr. DeAguilera gav a presentation as follows: (verbatim from the tape of the meeting) "My name is Ji DeAguilera and I am President of the Planning Group, City and Regional Planners. Our com- pany prepares general plans, zoning ordinances, environmental impact reports for Citie and Counties. We worked with the MX Oversite Committee. We were selected in Nationa Competition to prepare the general plans for Moapa and Virgin Valleys, for example. W prepared the general plan for a small community that received the American Planni Association award for the outstanding general plan last year. General Plans and Zoni are kind of our business, as well as environmental impact reports. My office and my resi- dence is in Reno, Nevada. We were asked to look at this question of general plan an zoning compatibility of this proposed mining operation, by the mining company and thei attorney. Since we frequently represent Cities and Counties, we tend to approach the sub- ject in the same way, whether we're hired by a developer, a mine company or a City o County. We try to look at the situation in the same fashion. With respect to th question of zoning, first of all, zoning, of course as you know, must be compatible wit

the general plan. The Planning Commission, and your Planning Staff, have determined that the requested re-zoning is, in fact, compatible with the General Plan. Your General Plan contains two major land use categories, the category of Urbanizing Area and the category of Mountain and Forest Area. Those two categories, or land use districts, are shown on the map portion of your General Plan. General Plans, and the one that was prepared for your county by Raymond Smith and is a very comprehensive plan, General Plans consist of two parts. They have a map, they have the written text. The principal of planning and planning law is that the two must be compatible, that is you must refer to the report or the text, to the policy statements, to the goals and objectives in the text to arrive at what a piece of land should be shown for on the map. In that regard we've gone through your General Plan and we've identified numerous of poli-cies and statements of support for mineral extraction in your county, and certainly your county has a long history of mineral extraction activities, and certainly there is support for mining in your General Plan, as one would expect to find in a county such as yours. In fact, the property that's being considered for the re-zoning, as shown on one of the plates, or exhibits, in your General Plan, as an area having Silver resources, plate three of your General Plan. The other thing that we've picked up as we've read your General Plan is the notion, the concept, the policy that development in your county must be consistent with the physical limitations of the land to support the development being proposed. There are three things that kind of stand out in reading your General Plan: the protection of natural scenic resources, the preservation of historic sites and the promotion of tourism and industry, and the responsible extraction of mineral resources is called out as one of the important goals of your General Plan. It's interesting from a land use planning standpoint when we talk about the notion of compatible land use planning. Almost every use of the land, the county Commissioners and the county Planning Commission can select where that use should be located in order to have compatible land use planning. Mineral Extractions are an exception to that rule. Minerals must be extracted, obviously, where the mineral is at. You can't simply say we don't want you to mine here, we'd rather you'd mine over here because it's more compatible from a land use standpoint. It's an exception to this rule of placing land uses in a way that they are automatically compatible. Minerals must be extracted where the mineral is at. In looking at this question of zoning for this property we did, as Stephen pointed out, pick up on the fact that the property right now is zoned to permit seven-thousand square foot lots. Residential development with seven-thousand square foot lots. The proposed zoning, on the other hand, of RR-5 would limit the density of the development to twenty acre minimum parcel sizes for residential development. Under either case the physical limitations, the steepness of the property, the past mining of the property, we believe do not render the land suitable for residential development of any significant intensity. Our conclusion, after reviewing your General Plan, reviewing your Zoning Ordinance and looking at the property as planners, is that the property is not appropriately zoned right now, irrespective of the question of mining. We think that's probably the simplest decision that you have in front of you in the next few days or few weeks. The property is clearly not appropriately zoned for residential seven-thousand square foot lots. It is what we call in planning and planning law an internal inconsistency within your zoning and your General Plan. That is, to have property zoned in a way that's not compatible with your own General Plan, is in fact contrary to good

planning and contrary to planning law as well. It's called an internal inconsisten within your zoning and General Plan. Steve has touched upon the fact that we looked the property with respect to its potential for residential development according to t existing zoning of seven-thousand square foot lots. The provisions for water and sew service limit its suitability for that kind of use. The site has drainage problems th would affect its suitability for that kind of use. Very importantly, the past mini activities on the site have created a situation where if it were developed for residenti development, there could be settling problems with the underground mining and shafts th exist on the property. There may also be various traces of mineral resources on the pr perty that would affect its suitability for residential development as well, althou those studies have not been done. Site access and road maintenance are questions abo the property's suitability for seven-thousand square foot lots, and again, the sept systems that would have to be used are questionable. Certainly the steepness of the pr perty is the main objection to development of the property for seven-thousand square fo lots. So in conclusion, I'll leave some time for questions, our professional judgment and we've been doing City Planning for a long time, is the property is not properly zon right now, and that's probably the easiest question that we were asked to address. Th questions of mining and visual impacts of mining, the impacts on the community and th people who live there, those are more difficult questions to deal with and we will have t deal with those next."

Chairman Manor thanked Mr. DeAguilera and asked if there were any questions fro the Board.

Commissioner Adams asked Mr. DeAguilera if he would go so far as to say that mining operation should be placed in the middle of the City of Los Angeles, since h talked about compatible land uses and not being able to apply that to minerals an mining.

Mr. DeAguilera qualified the statement by saying that there are ways in which th impacts of mining activity on adjacent land uses can be mitigated. He stated that h could go into that in considerable detail when the Special Use Permit is addressed. H said that the question of whether you would mine for mineral resources in the middle o Los Angeles would depend on the value of the resource being mined, the community o nations need for that resource. He stated that if it were a time of war and there was mineral resource in the middle of Los Angeles that was critical to extract for nationa defense, then yes, there would be a plan prepared to extract the resource out of th middle of Los Angeles.

There were no further questions from the Board of Mr. DeAguilera at this time. Mr. DeAguilera did note that he has visuals which portray before and after mining. H further noted that he could forego reviewing the after mining pictures. The Board ther reviewed the pictures of the property as they relate to the zoning of the property.

Commissioner Cummings asked if the mining operation would affect the top of th hill.

Mr. DeAguilera stated that the mining operation would not, however, a residentia development might, since that would be the best building site.

Commissioner Adams asked if Mr. DeAguilera agrees or disagrees with the incon- sistencies as to where the top line of the pit will be with regards to visual impact or

Silver City.

Mr. DeAguilera stated that he has super-imposed on the photographs exactly what that would consist of. He further stated that he was reluctant to get ahead of himself in the presentation. He then, upon the Board's direction, presented the pictures. The pictures showed the burm and the extent of the scar. He stated that Silver City would not see the pit, however, they would see the henches and the cut slope, which would be revegitated. He stated that there was too much confusion at the Planning Commission and it was not good for either side to have that type of confusion going on.

Commissioner Cummings asked Mr. DeAguilera, as a Planner, how many homes the area would support?

Mr. DeAguilera stated that it would depend on how much the hill was graded. He further stated that there is about thirty-five acres involved in the re-zoning request and at seven-thousand square foot lots, taking out at least twenty to twenty five percent for roads. He stated that it would take a lot of grading.

Commissioner Cummings asked if he agreed that the seven-thousand square foot lots would be feasible in the area?

Mr. DeAguilera stated that the economics would be real questionable. He further stated that from an environmental standpoint the impacts would be tremendous.

Chairman Manor asked what Mr. DeAguilera would consider feasible for residential development on the property?

Mr. DeAguilera stated that he feels the twenty acre minimum parcel size is probably close. Mr. DeAguilera told the Board that he was trying to avoid getting into the Special Use Permit. He also told the Board that he would get into it if they wished.

Commissioner Cummings stated that he did not wish for this to happen. He noted that the Board was just curious.

There were no further questions from the Board for Mr. DeAguilera at this time.

Mr. Peek again addressed the Board as follows (verbatim from the tape recording of the meeting): "An issue that was touched on by the Planning Commission, and one of the primary basis for their denial, was the issue of Spot Zoning. Spot Zoning, certainly I think that Mr. Owens in his remarks, in his written remarks, is somewhat descriptive, which is that it's zoning for the benefit of one, rather than zoning for the benefit of the general public. The focus, I think, that was made in the opposition was that surrounding the site, and by definition of the Town Site, created an area that was solely residential and solely urbanizing for solely high density residential, and that any time you allow an encroachment into that residential community, you were creating spot zoning. That is a very loose definition of spot zoning. Spot zoning to me, and what I have seen historically, and I think you would all agree, is that if I wanted to take a part of this residential area and I wanted to put up a 7-11 or I wanted to put up a Raley's Grocery Store or I wanted to put up a Cleaners and I needed commercial zoning when there was already commerical zoning along the Main Street, that would be because it was surrounded entirely by NR-1 or similar urban uses, would be Spot Zoning. It would be solely for the benefit of that one individual enterprise in that solely residential community. That, I think, is probably the best example of Spot Zoning, but what we have here is RR-5 immediately adjacent to the South of the property and we have RR-5 immediately adjacent to the West of the property. So it is not spot zoning. It's, certainly one could argue, an

encroaching zoning, to encroach by enlarging, or preserving, more of the open space i what could be termed an Urbanizing area. But then let's focus on the physical constraint of the property to conclude the analysis as to whether or not is is Spot Zoning. We knc that to the South of the property, and we saw that in the view from the South, we saw tha it is mountainous, we saw that we are looking at Grizzly Hill. We know that this are extends up along the lower portions, or almost up to the top of Grizzly Hill, an extending all the way down to the lower portions. If you continue the zoning in the wa it is, I suppose you could hang 150 houses someplace on this site, but I don't think tha makes any sense to do this. I say hang because that's the only way I could see doing it It is consistent with the zoning that is along the line to the West. That's the lin we're talking about. The Section line that is in question runs right down through here or right through this area." (Referring to map). "On the other side of that is RR-5, o the other side of that is RR-5. The other line, which runs on the South, is in this are here." (Again, referring to map). "This is RR-5, and extending on further to the South So it's on the other side of what would be the ridge line. That is RR-5. It is con sistent with that area to the South of it. The physical constraints, the topography o the property, one could argue, could allow, maybe three dwelling units per acre, ten acr parcels, twenty dwellings. Twenty acre, which might get one or two dwelling per acre That, to me, does not make any sense, to allow it to continue in the urban area, becaus it's not an urban area. It doesn't have the physical properties which allow for it to b developed into anything other than the rural setting that is presently there. Silve City, as you can see from the photographs, when you look from the Knapp Residence, yo don't look at five or six residences in front of Mr. Knapp's house, or Mr. Young's house Or when you're looking at it from the Town Site, you don't see an urban area, you see essentially, a rural area. Grizzly Hill is that character and that character should b maintained, and it is not, in my judgment, spot zoning. It is actually, as Mr. DeAguiler said, an internal inconsistency in the General Plan that should be rectified. If ther are no more questions, that would conclude our presentation solely on the Land Uses. know, as Mr. DeAguilera says, it's hard to really stand before you and not talk about what we all know is going to happen to the property. But, certainly we appreciate anc understand what Mr. Rogers is saying, while I think it might of helped for all of us tc do that, we have to go by the rules that you have outlined, and I would hope the Silver City Resident's Association will do the same when they make their presentation, and stick solely to the issue of the zoning."

There were no questions of Mr. Peek.

Chairman Manor then called for the Silver City Residents Association presentation to the Board.

Mr. John Cobbey, Chairman of the Silver City Town Board, addressed the Board. Mr. Cobbey stated that the residents of Silver City are unified and overwhelmingly opposed to both the requested zoning change and the potential for having an open pit in the middle of their town. He further stated that they simply feel that an open pit operation in the middle of town is not compatible with the lives that the residents want to lead. He said that the town is not anti-mining, and they resent any attempts to portray them in that light. He went on to say that the residents do not feel that a vote by the County Commissioners to deny mining, or deny the zoning change, is going to be construed by the

rest of the mining industry as somehow being anti-mining. He said that the mining industry does not view it that way either. He also said that statements have been made by some that the residents of Silver City are somehow "Johnny-Come-Lately's" who chose to move into a mining camp and now that they are there, don't want to see mining come in. Mr. Cobbey stated that the opposite is true. He further stated that Nevex came in as a "Johnny Come Lately" because when they started their operation, they were most certainly aware of the zoning requirements of the area, and also the requirements of the Special Use permit. Mr. Cobbey concluded by saying that the information that will be presented to the Board today will be adequate for a decision both to deny the zoning change and later, if it had to go that far, the Special Use Permit.

Mr. Gary Owens, representing the Silver City Residents Association, addressed the Board. Mr. Owens stated that the speakers would be addressing both the current zoning of the property, NR-1, and the requested zoning, RR-5, and the permitted uses in the zoning districts. He further stated that there would be testimony on what mining is and what the impacts of mining are. He said that if the Chair felt this out of order, they would respect the Chair's gavel and not address it. He asked the members of the public and the members of the Silver City Residents Association, and others opposed to the application to please stand. Several members of the audience stood.

At this point a slide presentation, prepared by the Silver City Residents association, was shown to the Board and those in attendance.

Mr. Gary Owen the introduced Ms. Mimi Rodden from the President's Council on Historic Preservation.

Ms. Rodden stated that in response to the applicant's zoning request, she suggested that not only the residents of the area would be affected, but also many other historical places. She stated that the Council does not oppose mining, just destruction of the environment caused by modern technology. She stated that there are less than one thousand historical landmarks in the United States, with five being located in Nevada. She reminded the Board that the Comstock Historic area was one of the first mentioned when the program began in 1961. She stated that it is comprised of 14,760 acres and it is important because of the entire area. Virginia City, Silver City, Gold Hill and Dayton comprise the living areas of the district. Many people in the area and many visitors to the area drive by the large pit in Gold Hill daily. She stated that each day we are reminded of the magnitude of the destruction that modern technology does bring to the land, and what is produced by modern mining methods. She said that we are reminded also of the permanancy of the disseminations visible. She also said that open pits are not always safe, pretty, appropriate or necessary. She stated that often when mining in a highly sensitive area, sensitive to the entire world, one has to use special techniques. Ms. Rodden then presented and made comments on slides of the following areas: The overall view of Virginia City, the modern view of Virginia City, the Mexican Mine Site, the Yellowjacket Mine Shaft, the Sutro Tunnel Site, an image of dredge tailings at the mouth of Six Mile Canyon, a typical vertical shaft, a picture of the Houston Oil and Mineral Pit at Gold Hill in 1980, the Gypsum mine at Mound House, United Mining Pit in Virginia City in 1985, the Haywood Santiago Pit, Houston Oil and Minerals Pit in Gold Hill in 1985, the overall District looking up Gold Canyon. She then showed computer generated views of the potential of the zoning question. The slides showed the current view of the proposed pit

site and the view after mining activity has taken place. Ms. Rodden stated that the historic importance of the district is something that is not only the responsibility of the residents of Nevada, but also the responsibilityof all the people in America who care about the history and what it can teach to the children. She further stated that for that reason, this has been designated a National Historical Landmark. Ms. Rodden reminded the Board that there have been some lessons in the recent past, a situation with the Fernley Cement Plant a few years ago, the mining operation of Anaconda in Yerington, the pit filling with water and the alterations to the ground water system. She said that we have had to deal with Houston Oil and Mineral's Operation in Virginia City and Gold Hill with the slippage of the road, the blasting activity that affected the lifestyles. She further stated that it has undermined the integrity of the historic district and altered the way people can live and the way in which they have traditionally lived. She noted that many people had to leave the area. She said that the blasting, the haul roads, the heavy equipment necessary for mining all are things that are measured impacts to the historic integrity of the district. She said that she thinks that the Board should be looking at the secondary impacts of such an activity. She also said that the obvious things are talked about frequently, but the secondary impacts are just as important and they will certainly have a dramatic impact on the economy. She noted that tourism is still the main bloodstream of the State of Nevada and all the tourists who come to Northern Nevada go to see Virginia City and the district. She asked that the Board consider that this has long range impact and it is not the beginning of something small. She asked how long the activity would last in the area, how long the changes would last in the area. She suggested that they would last more than the physical activity of mining. She asked if it is a price the County and residents are willing to pay, or is it too great a price. She asked what the possible areas of mitigation would be to reduce the impact to the National Landmark District.

Commissioner Adams noted that Ms. Rodden said she does not oppose mining. He asked if she had a chance to review the Nevex application with respect to their proposed mitigation measures?

Ms. Rodden replied that she had. She stated that she believes the relocation of the buildings to be unacceptable from a sound preservation view because you cannot relocate something for the convenience of something else. She further stated that the suggested avenues for mitigation for mining are purse-string and are not appropriate for the retention of the integrity of the District and that is where there is a serious problem.

Commissioner Adams asked if for some chance they (Nevex) purported to be able to 100% mitigate the situation as a result of their operation, would Ms. Rodden change her mind?

Ms. Rodden stated that she would like to know how one mitigates a visual scar that is so obvious for such a long distance in a short period of time. She further stated that perhaps the ideal mitigation would be shaft mining, which is not economically practical, so that the compromise would be reached. She noted that we are talking about a very large visual scar, the relocation of a number of buildings, the impact of the haul roads and a number of other things, the blasting, the noise, and the dust. She did say that they could water, they could replant, they could even build a burm to hide a portion

of the scar, but it would be a number of years before there would be any vegetation on the ourm, and the scar still exists in the background. She stated that it is a difficult uestion. She further stated that she has reviewed the additional information provided by Nevex and she does not find it to be sufficient.

Commissioner Cummings asked if Ms. Rodden is suggesting that the Historical andmark will be destroyed or just endangered?

Ms. Rodden stated that it is endangered now, and has been endangered since 1981 r 1982, by those people who set the standards, that being the National Park Service. She urther stated that it is endangered for a number of reasons, the primary reason being the isual scar of the huge pit in Gold Hill, the subsidence of the road, the sloping of the it, the removal of the families from the seven structures that bordered on the pit ecause they couldn't exist there with the blasting and the noise. She stated that it ltered the integrity of the district enough to put the district on notice. She further tated that the district is very closely monitored and watched.

Mr. Owens then told the Board that he has available Mr. John McClain and Mr. arvin Teheau from Resource Concepts, Inc., who would be happy to answer questions egarding reclamation, dust and noise. He stated that they would not be testifying. Mr. ens introduced the next speaker, Mr. William Jenkins, a real estate appraiser.

Mr. Jenkins gave a presentation on the land values in Silver City and how they ill be affected by the Open Pit Mining Operation. Mr. Jenkins presentation was also pre- nted to the Board in written form and is on file as an Exhibit in this matter. Mr. nkins, in addition to reading his written presentation, stated that an important thing out a mining operation in Silver City is that it would wipe out any possibility for con- ntional type financing in the town. He further stated that when someone submits an plication to a lender it goes along with an appraisal. A very important part of the praisal is a section that talks about neighborhood and site, and refers to zoning, and nts to know if a use change is underway, whether there are protections from detrimental nditions and things like that. He said that any appraiser would have to note that there s a mining operation. He went on to say that this would scare the reviewers, however, here is nothing in writing that says they could not approve that loan, but common sense uld tell them that residential uses and heavy industrial uses don't mix and there would e nothing to tell them otherwise. In conclusion, Mr. Jenkins stated that the Nevex ople have been saying that the subject property cannot be built to a density of seven- ousand square feet and certainly they are right. Mr. Jenkins went on to state that he s looked at the property and just from standing across the street looking at topos and ps, he can identify at least seven homesites. He said that if it was properly engi- ered, there could be a lot more, maybe twice as much, without disturbing any of the storic structures on the property, including the Dayton Mill Site. He did note that ptic tanks are a difficulty throughout the Comstock, but they always manage to get them . He further noted that there is plenty of water to support seven to fifteen homesites the property, and if seven homesites were put in it would be a development of one home- te per five acres, which would be permissable under the NR-1 zoning, but not permissable der the RR-5. He stated that there is definitely a residential use for the property, t not condominiums or a full density of one unit per seven-thousand square feet.

Commissioner Adams noted that Mr. Jenkins stated that the zoning is not proper as

it currently exists.

Mr. Jenkins stated that the zoning is proper, very proper. He further state that if there was to be one unit per five acres, that would be compatible with the NR- zoning, it would be allowable to do that. But if there was RR-5 zoning, it could not b done.

Public Works Director Bill German pointed out that what Mr. Jenkins is implyin is that the highest and best use of the NR-1 cannot be obtained on this particular pro- perty.

Mr. Jenkins stated that the highest and best use is seven to fifteen homes on th property, which can be done on the NR-1 zoning, but not on the RR-5.

Commissioner Adams asked Mr. Jenkins if he agrees that the Spot Zoning issue which was the dominant issue with regard to the Planning Commission recommendation, is a appropriate reason for their action on the zoning?

Mr. Jenkins stated that in that it would be an isolated decision, yes, for th benefit of one piece of property.

Commissioner Adams noted that there was some information in the applicant booklets that he recalled was some references to assessed values and values of the Silve City properties during the early eighties, that reflects a record that values did no decrease, that they in fact increased during the time that there was an increased activity in mining. He asked if Mr. Jenkins was aware of this?

Mr. Jenkins stated that his figures for Silver City show a reappraisal i 1983-1984 and there was a significant rise in the values in Silver City.

Chairman Manor stated that she felt that all areas in the State increased i value at that time. She further stated that it was an indicator of the market, no necessarily mining activity.

Mr. Peek noted that the values went up during the time that the mining was goin on at Gold Hill.

Commissioner Adams stated that the only reason he made that reference is becaus it appears to be the center of some argument with regard to economics. He further state that he knows that he has read information in the Silver City response with regard t questions on those values.

Mr. Jenkins stated that the reappraisals were before the pit in Gold Hill wa started.

Commissioner Adams indicated that the question is do those activities and wil this activity affect the values of Silver City as a result of an approval.

Mr. Jenkins stated that it would. He promised that the opening up of a non- compatible industrial type use would impact financing and would wipe out any new construc- tion.

Commissioner Adams asked Mr. Jenkins if he would object to an open pit mine wa out in the sagebrush, away from the Silver City Townsite?

Mr. Jenkins stated that he would not object, that he would be for it completely. He said that the company should be encourage to mine, just not in Silver City.

Commissioner Cummings noted that there was mention of an appraisal at Gold Hil prior to the pit, he inquired of Mr. Jenkins regarding this.

Mr. Jenkins stated that he spoke with Jack Flanigan who said that the appraisal

was done right before the pit got started.

Commissioner Cummings asked if there was an appraisal after the pit was opened up?

Mr. Jenkins stated that there is one in the process of being done right now and Mr. Flanigan stated that there isn't a whole lot of activity and that the sales are really "flat".

Commissioner Cummings asked if that would affect, or is currently affecting, financing in Gold Hill?

Mr. Jenkins stated that he is not aware of any financing that has gone through since the operation started. He noted that he has just spoke with Mr. Flanigan, he has not done a comprehensive study of the area.

Commissioner Cummings asked if Mr. Jenkins has a percentage of growth for Silver City?

Mr. Jenkins told the Board that he looked at the rise in assessed value starting in 1983-84 and ending in appraisal year 1986-87, a span of three years, which showed an increase of 37%. He said that the obvious thing to do would be to divide it by five since it represents an entire appraisal cycle and that shows a 7 to 10% per year increase in assessed value. Mr. Jenkins noted that he looked to see if that was an isolated phenomena, and indeed, it was right in line with Central Lyon County, per charts provided by the Assessor's Office. He stated that this is an astronomical rate of growth. He further stated that as Carson City grows, the market for Silver City will grow.

There were no further questions for Mr. Jenkins.

Mr. Owens introduced the next speaker, Dr. Jeanne Wendel, a Professor of Economics.

Dr. Wendel presented and commented on slides of charts. The charts indicated the following items: Assessment values. On this item, Dr. Wendel indicated that she had also spoke with Mr. Flanigan and he indicated to her that the appraisal values in Gold Hill had nothing to do with the mining. There was some discussion about the appraisals of Mr. Benjamin Wesners property. Dr. Wendel then went over a slide regarding the value of these. She stated that Nevex has given figures for a number of jobs, employment, taxes generated, benefits that would come from having a more industrial type of use in the neighborhood. She further stated that she felt the taxes, jobs and personal income were were not overwhelming in comparison to the rest of the County. She then commented on the fact that on Nevex' Geologist's Report, under the category 'Ore Reserve Classification', it has just one sentence: "Under the definition cited above this reserve is classified possible". She stated that reserves can be classified as proven, probable nf possible. She further stated that the Securities and Exchange Commission would not allow the use of the words Ore or Reserve in a Security and Exchange Commission filing in connection with possible reserves because they view them as so "ify" that they would view that as misleading the public. She said that this indicated how risky or how unlikely or how low quality the information is indicating that there is even something on the property.

Commissioner Adams asked if Dr. Wendel was trying to make a point that the Nevex employment and tax revenue figures are insignificant?

Dr. Wendel stated that her point was that all businesses generate taxes, employment and income, but that Nevex is a small business. A business employing ten to

fifteen people is a small business. She went on to say that the taxes that they are paying are not an overwhelming dollar amount. She noted that ten to fifteen jobs, gain them or lose them, "it's not the end of the world".

Mr. Owen told the Board that this would conclude the case of the Silver City Residents Association. He further noted that he would reserve his time to present a closing argument subsequent to the public testimony.

This was acceptable to the Board. Chairman Manor then told those in attendance that the meeting would recess for five minutes and all those wishing to speak would be asked to print their name on a sheet and they would be called to testify.

A recess was taken.

Back in session, Chairman Manor presiding.

The first member of the public to speak was Gayle Sherman, a ten year resident of Silver City. Mrs. Sherman told the Board that she recently tried to sell her property and home in Silver City. She stated that the buyers backed out due to the proposed mine. Mrs. Sherman was opposed to the Nevex Project.

Commissioner Cummings asked how far Mrs. Sherman's home is from the proposed pit site?

Mrs. Sherman stated that her home is about mile from the site and her dining room faces the site.

Sandra McCormick, a sixteen year resident of Silver City, addressed the Board. Mrs. McCormick told the Board she has invested her inheritance in a Federal Tax Act Rehabilitation Project in Silver City. She stated that the house which she has had rehabilitated must remain rented for five years. She further stated that this investment is suhstitute for an IRA or Social Security. Mrs. McCormick told the Board that the open pi mining project could seriously affect her investment. Mrs. McCormick was opposed to th Nevex project.

Casey Mulhern, an employee of Nevex Gold Company, presented a song, which h wrote, regarding the mining project. Mr. Mulhern was in favor of the Nevex project.

Bob Elston, a sixteen year resident of Silver City, addressed the Board. Mr Elston stated that he has a business in the community. He further stated that he ha invested a large amount of money in his home and in his business. He noted that he woul not have done that if he did not have the protection of the NR-1 zoning. Mr. Elston wa opposed to the Nevex project.

Jeff Smith, an employee of Nevex Gold Company, addressed the Board. Mr. Smith told the Board that Nevex may not employ as many people as the University of Nevada, bu they are people nonetheless, and their jobs are important to them and their families. He went on to say that mining has made significant contributions in the past to the State an to Lyon County. He stated that he believes it can again make significant contributions Mr. Smith told the Board that if the employees of Nevex are going to lose their jobs now because mining has become unfashionable, then he hoped that someone would be ready to pledge their support to the employees and their families.

Lori Costen, Silver City Resident and Vice-Chairman of the Silver City Town

Board, addressed the Board. Ms. Costen noted that the last time she was before the Board it was to discuss the Silver City Town Budget. She stated that the decision the Board makes today will impact Silver City far more than any budget. Ms. Costen told the Board that it has been said that the Lyon County Mining Ordinance will kill mining in Nevada. She indicated that this is not true. Ms. Coston was opposed to the Nevex project.

Susan Stornetta, Silver City resident, addressed the Board. Mrs. Stornetta told the Board that her home is her major life investment and the zoning change that is proposed will threaten her property value. She stated that it is insulting that Nevex wants to mine such a low grade ore body just in order to keep the mill going and to employ the people who come down from Montana, at a time when they can't strip mine coal in Montana. She stated that the people who are involved in mining could find ore somewhere else and continue to come here and keep the mill going. She indicated that the ore body is not that intense. Mrs. Stornetta was opposed to the Nevex project.

Bonnie Brown, a thirteen year resident of Silver City, addressed the Board. Mrs. Brown told the Board that her family has a house directly across the highway from the proposed pit. She asked that the zoning change not be approved. She stated that they live in the narrow part of the canyon and look directly up the hillside at the old structures and the headframes. She went on the say that since they are within the townsite, that residential property is very important to them. She stated that her family would certainly prefer housing. Mrs. Brown was opposed to the Nevex project.

Jonathan Davis, an eight year resident of Silver City, addressed the Board. Mr. Davis told the Board that he was a member of the Citizens Panel that wrote the Special Use Permit Ordinance in Lyon County. Mr. Davis stated that since that time he has been harassed about the ordinance. He stated that he brings over $80,000.00 a year into Lyon County by commuting daily to Reno. He further stated that he bought his house in 1979 for $50,000.00 and is currently involved in rebuilding it for an additional $20,000.00. Mr. Davis stated that at present it is not legal to mine the rock, nor is it possible to make a profit on gold and silver in Grizzly Hill. He further stated that at present a lot of people have invested legally in Silver City. He said that the Board has before it a group of speculators who, although they know it is not legal to do it, are asking the Board to change the law so "they can make a buck". Mr. Davis said that it would be changed at the expense of those who have legally made their investments. Mr. Davis was opposed to the Nevex project.

Darrell Scholle, an employee of Nevex Gold Company, addressed the Board. Mr. Scholle noted that he is not from Montana, he has been a resident of Lyon County for two years. He stated that if he doesn't have his job to support his wife and two children, who will support them? Mr. Scholle stated that he does not understand how the land value can go down when the County is and will continue to grow. On the subject of the open pit, Mr. Scholle told the Board that he has one near his home in Dayton, and does not mind the affects of it. Mr. Scholle was in favor of the Nevex project.

Edward Burnet, a one year resident of Silver City, addressed the Board. Mr. Burnet told the Board that he had an opportunity to move to Silver City and purchase a house. He noted that it is a lease option deal and he is concerned about being able to eventually finance. Mr. Burnet was opposed to the Nevex project.

Ted Lord, six year resident of Silver City, addressed the Board. Mr. Lord told

the Board that he purchase a home in Silver City and spent $40,000.00 remodeling an adding on and decided at that time it was appropriate to refinance because the home me all the Uniform Building Codes. He stated that he contacted four lending institutions i the State of Nevada. He further stated that they told him that everything was fine excep for that the home is in a mining town and they don't lend in mining towns. Mr. Lord sai that he told them it was zoned residential and they said the zoning could be changed. H indicated that he then contacted a mortgage broker who suggested that he try a Californi Institution. He said that they did find a Mortgage Company in California who lent him th money. He went on to say that since then, when the pit issue came up, he contacted FHA t see their feelings about it. He said that they would not loan there if there is activ mining going on. Mr. Lord asked for a letter to that affect and FHA refused. He state that he contacted FHA Legal Counsel in San Francisco and they told him that legally the cannot deny the loan for that reason, unless the pit is on the actual property, but emo tionally they would because there is a loophole that says the application won't meet th requirements of FHA and they are not required to go into detail. Mr. Lord was opposed t the Nevex project.

Mr. Allen Frenzel, a six year Silver City resident, addressed the Board. Mr. Frenzel told the Board that he lives on Dayton Toll Road just across from the propose mine site. He stated that he does not care about the property values. He told the Boar that he likes to hear the sound of chickens next door, not the sound of bulldozers. Mr. Frenzel was opposed to the Nevex project.

Mike Donovan, a Silver City resident, addressed the Board. Mr. Donovan told the Board that he has an existing mill in Silver City. He stated that he has a house that has been in his family since 1907. Mr. Donovan stated that the house is under a VA loan. He pointed out that all the people living in Silver City chose to move into a town that was a mining town prior to their coming there. He stated that no one can tell him the value and history of his mill, of his father and grandfather and what mining means to the State of Nevada. He noted that you look at what mining does for the rest of the State. He said that most of the rest of the counties have some mining going. He noted that the mining community of Silver City was there long before any of the people who live there now were even born. He stated that there is more mining in the State of Nevada than there is in most of the Western States because of Nevada's attitude toward mining. He told the Board that they have a choice to make, and it's far reaching beyond this project. He stated that the people made their choices and they should have to live with it instead of trying to change everything that is around them. Mr. Donovan was in favor of the Nevex project.

Chairman Manor then called for Mr. Gary Owen, representing the Silver City Residents Association, to give his closing remarks.

Mr. Owen made the following closing statement (verbatim from the tape recording of the meeting): "Madam Chair and Members of the County Commission, again, my name is Gary Owen. I'm the attorney for the Silver City Residents Association and we are here in opposition to the appeal filed by the Nevex Mining Company. Prior to my substantive remarks, I would ask that the administrative record of this proceeding reflect the following documents, if I have the concurrence of the Commission: 1) The Nevex application, consisting of two volumes and two volumes of supplemental documents which were recently filed; 2) The Silver City Residents Association response to the original applica-

tion and Mr. Jenkins Report which was filed with you today; 3) The summary transcript, excellently prepared by Ms. Glock, of the Planning Commission meeting June 17, 1986, tape recordings of that Planning Commission meeting which I have to submit to you, and I will do so after this meeting, maps, graphics, photographs of the Planning Commission hearing and the hearing today, introduced and discussed, all correspondence to the Board of County Commissioners and the Planning Commission and finally the Master Plan of Lyon County, 701 Planning Project dated August 1971 and the zoning map related thereto. Those I request be in the administrative record for the purpose of the consideration of the zoning as opposed to the Special Use Permit. It's going to be somewhat difficult, but that's the relevant matter that we're looking at here today. Is that acceptable Madam Chairman?"

The Board agreed with these exhibits and ordered them marked and admitted into the record.

Mr. Owen continued as follows: "Let's talk about planning and zoning. That's what we're here today for. The rezoning request that's before you today must be consistent with the goals and policies and the standards of your Master Plan. We respectfully submit it is not, that the zoning NR-1 is, and to do that we don't refer to what the witness for the appellant, Mr. DeAguilera, refers to as several themes involving planning and zoning in Lyon County. Well, we can all extract themes from a General Plan, but this General Plan isn't built on just themes, it's built on some specifics. Now let's take a look at those just for a moment here. First of all, the plan sets forth land use standards, one referred to earlier by Mr. Jenkins, 'objectionable, hazardous, dangerous and incompatible uses of land should be prevented from intruding upon residential uses' - page 48. Also on page 48 - 'new development should be specifically oriented to unique topographic and landscape concerns with a strong emphasis on averaging densities, and I would like you to recall that specifically and with emphasis, 'averaging density'. Number three, Industrial lands - 'You should reserve the land properly zoned for industry in relation to other uses and avoid intrusion industry into incompatible or other uses, such as residences' - page 49. The plan also, in Chapter 9, identifies the problems. Of course, it was forseeable back in 1971, that Lyon County, a county growing at that point and this point, at tremendous rate, was going to have some population problems. So the question is is what's the quality of the growth going to be. Well, on page 67 of the plan it says, 'only ordered development is necessary to equate to this growth, and need not be subsurbient to it. It is therefore stipulated that county policy will be oriented to proper and intelligent development and not exploitation'. Now let's check into the goals and policies of the plan, set forth in Chapter 11. Page 101 - Goal - 'Encourage and require community development in keeping with the Countys adopted General Plan'. The Planning Commission, when it took it's action in June, did not say that the General Plan and this zoning request are consistent. The transcript, which will be before you, of that meeting, says that by amending the zoning, we're not changing the Master Plan. That's all they said. They never made a finding of consistency and there's no way you can make those words out of what the words are in that transcript. Goals and Policies, Number P - Protect the environment, encourage community attractivness by developing methods to enhance visual appeal, control unsightly conditions, especially if visible from highways', These again are plans and goals from your Master Plan Text. C - 'Protect open view,' this is on page 101, 'Water sheds, natural and manmade amenities from development that

would destroy ecological values and reduce the county's desirability to the local resident and tourist.' Page 103 said, if we're going to go through this planning excercise, basically, the zoning ordinance we had back then isn't going to cut it. So we're going to have to review that zoning ordinance and come up with a new ordinance, and that's what happened. That new ordinance prescribed the exact zoning which is present on this property today, NR-1, and one thing that hasn't really been touched on too much, thus far, is that NR-1 property is within the Townsite, the townsite boundaries of Silver City. The RR-5 that you see there on the west and on the south, assuming up is north, which it isn't (referring to map), anyway, the RR-5 adjacent, that's outside the town boundaries. I think that is an extremely significant point for you to consider today. Do you think the zoners wanted a mine in the Town site. Had they wanted a mine in the townsite, don't you think they would have zoned it appropriately. They did not, and I submit their act speaks for itself. It was a purposeful act of zoning and planning. Page 103 and 104, again the Goals and Policies - 'Encourage use of natural resources to meet tourist needs by way of historical sites and increased tourist use.' We all know the importance, both federally and statewide, as Ms. Rodden testified, to the historic district and it's amenities in the Comstock. It's one of the very few in the United States. It has a dignity equal to that of the Statue of Liberty. It has a dignity that is a very important part of our nation. It has a dignity very important to this State. It has a dignity important to the western United States and, I submit, to this country as a whole. Again, Goal and Policy, page 105 - 'Keep non-compatible and disruptive land uses be phased out of residential zones. The county should provide zoning and other regulation to improve neighborhood stability and increase property values and desirability'. That's why we had discussion today about property values and desirability. That's certainly germane to a zoning and planning excercise. That's what is before you today, as opposed to the use permit. We must always consider the stability and the property values that are going to result, one way or another, from a zoning or a re-zoning. Now let's talk about what the RR-5 request does and how it squares with the standards and the comments and the plans and goals of your plan. Let's see how they square. Does the land use plan and the General Plan allow mining in Silver City. NR-1 speaks for itself, the answer to that is no. I submit that was a deliberate planning act to protect the townsite of Silver City, its residents, it commercial development along the strip and its ability to grow as an urbanizing area which was recognized at Plate 12 on page 70 of the Master Plan. It is an urbanizing area It was recognized as that in 1971 and I submit to you, that's what it is today. Secondly with the proposed pit, which is in generic terms, an RR-5 matter, because the RR-5 permits mining, is that going to have any proximity to the homes in the area, because your plan requires a separation of 'living and non-living areas'. I would submit to you there's no separation. If you look at this map and see the outline of the subject property, there's no separation between that property and the residences and commercial businesses in Silver City. You have, in essence then, an urbanizing area into which this application would encroach with a massive industrial project. The pit, therefore, equals intrusion into designated and developing residential area. It's one of the specific concerns of your Master Plan. The pit, or excuse me, RR-5 zoning, in this case, which permits mining as we all know, would conflict with the historical emphasis for a tourist attraction and economy in this area. The lifeblood, the economy of the Comstock, at this point in time, is

tourism. The economy is dependent upon people driving up there and having an ambience and an experience of wow, this happened back when and this is important. I'd like my kids to learn about this. I'd like to know about it myself. I want to come back someday. I might spend some bucks here. I might want to come here and live here. I might want to even restore one of these dwellings. If you're going to have that kind of emphasis, which your plan has, to allow mining within that very sight, I would respectfully submit you'll deviate from the historical emphasis your plan prescribes. Damages to individual appeal of Silver City, I think the graphics themselves speak to that issue. Now let's talk about whether NR-1 is a proper zone. We've had quite a bit of discussion about that. Is this really an appropriate zone for this property? First of all, the NR-1 zoning was a purposeful endeavor by this body after lengthy hearings. There's a Court Case, the Griffin Case, that attests to it. Hearings which said, basically, in this instance it seems to make more sense to have it NR-1 than something else. I'd wonder why. I haven't read all those transcripts, but it seems to me we have a townsite here. We have a intrical unit. We have a unit of an urbanizing area. Would it make sense to zone that for something that would allow mining. I submit not, and I submit that's why it didn't have it. The zoning NR-1 permits single family dwellings on lots in excess of seven-thousand square feet. I emphasize "in excess of". No one, nowhere, can tell you that you have to put one house on every seven-thousand square feet of that land. That's just not proper planning, it's not done. I would submit to you that most planning entities, the applicants before them, probably come in with a compromise on the density. Rarely do you see the maximum density allowed unless it's just absolutely sterling and there's no questions about it. Usually you come in, okay, the maximum is so many units, but we're going to go in for less. Therefore, that's a minimum. Seven-thousand square feet is a minimum. It's not a must. It doesn't say thou shalt develop this every seven-thousand square feet for a home. Now, the mine site, as I understand it today, maybe I have a misimpression, I thought the zone request was for twenty acres. I guess it's more like thirty five. But nevertheless, we've also been told about a twenty-five acre buffer site, which is just to the north. That's about a forty acre parcel, apparently owned by Mr. De La Mare, that's involved in this entire process, because the position of Nevex is if we're going to have this mine on this site we're going to buffer it and make a living versus non-living buffer by this twenty-five acres. It's interesting to note in their papers, however, that they concede that the twenty-five acre so called buffer site, can itself be used for residences. So you ask yourself - now wait a minute, we've got forty acres. Can't we use this for residences. Oh, but look, you can't handle quite the number of units over here because this is steep on the Nevex Pit site. You have a section of your ordinance which addressed that problem directly. Section 20.69.100 of your zoning ordinance. It says 'Areas over two acres which are difficult of optimum use, due to topographic nature, may be subdivided into lots or parcels of average density, equal to the respective zone classifications provided you don't exceed a certain minimum lot size'. I short, you could take the immanence off the steep property and put them down on the lower and flatter lands and give this land a manifestly reasonable use. Granted, it may not be the total number of units if you took seven-thousand square feet and divided it into this total acreage, but I submit to you you have a reasonable beneficial use. This section allows you to average densities. The plan even envisioned you averaging densities. So what you do is you take the units off a place

where they might not fit exactly right and you put them in another place and you give the a little break on the density. It's kind of like a P.U.D. I'm not suggesting P.U.D.s o condominiums, because I submit this parcel to be used for single families, very easily That is a reasonable use. In response to Mr. German's remark about what was the highes and best use, the law is clear as enunciated by the highest Court in this land, tha zoning need not effect the highest and best use. It must effect only a reasonable use and without a doubt, you have a reasonable use here under your current zoning constitu tion. Further, the emphasis upon whether NR-1 is appropriate versus RR-5, is a bit of bogus issue. I use bogus in all respect, simply to mean that that isn't really the point The point of this is are we going to allow a mine here. It's not whether we're going t allow more residential units or a different residential zoning. The point is are we goin to zone this land RR-5 for a mine. We can't possibly divorce our minds from the fact tha this is for a mine, even though we're not into the merits of the permit, but the applica tion speaks of a rezoning for e mine. That has nothing to do with how many residentia units make sense in NR-1, or how many residential units make sense in another one. Th point is you need not require that this land be used for a mine, and that the zonin application, the zoning of NR-1 is entirely appropriate to keep it that way, and rezoning that says you must use this for a mine, I submit to you, is not a proper applica tion. Regarding the spot zoning issue, to which Mr. Peek eluded, I think he, respect fully, agrees to a degree with what I said. I won't say he conceded anything. Briefly, do think it's spot zoning because you can't ignore the townsite boundaries. The RR-5 lan is outside the townsite boundaries. This is an encroachment inside the townsite boun daries for one purpose, that's to put a mine on it. That, for the benefit of a singl party, in this case Nevex Gold Company, I respectfully submit to you, could be upheld a spot zoning. It's certainly not to the public benefit. That's one of the criteria. Is zoning for the public beneficial, or is it private? Madam Chairman, my time shows me fou minutes. Correct me if I'm wrong. Therefore, I would submit to you that RR-5 zonin violates your very Master Plan, without a doubt. Now, in conclusion, Nevex, not th Silver City residents, but Nevex, bears the burden in this case. I would submit to yo they have a very heavy burden because we have a lengthy planning process here. It's take over a decade to come to this. This wasn't done by some whimsical thought. NR-1 wasn' just thrown in there because, hey that sounds great. That was a deliberate process an Nevsx has to prove to you why that process wasn't carried out correctly. I would submi that its a very heavy burden and it would be difficult to me. Your action, or course as you well know, is discretionary. Nothing says you have to grant this permit. I won't dwell on that because I'm sure you're more familiar with that part of the law than I am. Let's talk about mining though, generically, in terms of an RR-5 zoning. Mining is never given, legally it's not a given here because it's not zoned for it. Practically, and we discussed earlier, the economic practicability of residences, so I think I can just chat a moment about the economic practicability of mining. Mining is something that's somewhat speculative. I think we can all agree to that. I'm not sure I'm convinced that this is nothing more than pure speculation, from the standpoint of the economic structure and pro- ductivity of this mining versus the economic productivity of the residences. It's a risky request to have you rezone this land. Who bears the risk? Nevex bears a portion of it, I'm sure. They are going to invest time and money, and already have substantially. They

have excellent counsel and they are doing their very best. But do the people of Silver City and the people of Lyon County bear a risk? Absolutely. They bear the greater risk because this mining, if this zone were allowed, you're going to look at short term mining windfall and perhaps a problem, at the expense of a permanent scar damaging the tourist industry, the history, the lives and property of people who live in that area. There's where the risk really lies. In short, this is the very exploitation, I would submit, that your plan prohibits. If you deny this request, lady and gentlemen, you don't send an anti-mining message to the county, to the state and to the nation that Nevada and Lyon County is anti-mining. You don't do that at all. What you say is you want orderly, well planned sensible growth. This has an historical ambience to it that the normal mining situation just doesn't have. Mining has it's place and is an important thing in out state. Not for this place and not this time. Now, if you grant the permit or if you grant the change of zone, you're going to convey exactly the contrary message. You're going to tell the people of this state, of this county and maybe of the nation, because historical people all over the United States are interested in this, you're going to tell them that the tide of boom-bust is right back into Lyon County and you may be powerless to stand that tide. Finally, we ask for a vote for Lyon County's land, it's people, it's future and it's past. That's my conclusion Madam Chairman. We respectfully request that you deny the permit for the zone change. I'll be glad to answer any questions."

The Board reserved their questions until after Mr. Peek made his closing statement.

Mr. Stephen Peek, representing Nevex Gold Company, made the following closing statement (verbatim from the tape recording of the meeting): "Madam Chairman, my presentation in rebuttal is going to be broken into two sections, one will be presented by Mr. DeAguilera, addressing specifically the planning and the zoning issues. He is the expert in that field, I am not. I'm going to turn the podium over to him, allow him fifteen minutes and at the conclusion of his, take another fifteen minutes, because by my calculations we have about a half an hour left. If you think that's too much....."

Chairman Manor indicated to Mr. Peek that he has forty five minutes to make his presentation.

Mr. DeAguilera made the following remarks to the Board: (verbatim from the tape recording of the meeting): "Madam Chairman, Members of the Commission, this is a really tough one. I've been a City Planner, on the other side of the fence, as you are public servants, I was a City Planner for eleven years and sat through a hundred of these zoning hearings or more. This is one of the toughest ones I can remember sitting through. There are very legitimate concerns on both sides of these issues. I'm glad, personally, that we're hearing only zoning and not mixing in the mine project, because that makes if even much more complicated, so my job is easier because we're talking zoning, rather than the mining project itself, I'm glad for that. The zoning issue, it was stated by the appraiser and eluded to by the attorney that the zoning that exists now on this property which allows seven-thousand square foot lots as a maximum density was intentionally put here to preclude certain uses, specifically mining, I guess. This notion of zoning to preclude uses has a term and it's called exclusionary zoning. It's a legal term and it's term used in the planning profession as well. City Planners do not support exclusionary zoning. It's been used for a variety of purposes, some of them not very honorable pur-

poses, but the concept of zoning to exclude uses is not really good planning, and it's no
what city planning is all about. Can you imagine that, since we refer to the Master Pla
as a vision of what the community should be twenty years in the future, let's turn tha
around then, let's say the zoning and the Master Plan are based on what we don't want t
happen. So now the Master Plan is a vision of what we don't want to be happening twent
years in the future. Well, you can see that would turn the whole notion of planning ar
the General Plan, the Master Plan, upside down. The notion of zoning to exclude certai
uses is not what zoning is about, and not what Master Planning is about. The Master Pla
is a vision of what we expect and want to have sometime in the future. Ten or twent
years, whatever the plan is set on. I think that Mr. Smith, who is a very well know
planner, understood that fact as well. I think there was an oversite when this propert
was zoned to allow seven-thousand square foot lots. Now, if we were talking about a pro
perty that was zoned to allow five acre lots, and then we were talking about is the righ
density five acre lots or ten acre lots, then this would all make a little bit more sense
that, in fact, maybe it was zoned, but not quite correctly, and maybe it's okay to have i
zoned for five acre lots instead of ten acre lots. We're talking about some property her
that's zoned to allow seven-thousand square foot lots. Now we can say, well, but w
really don't plan to have seven-thousand square foot lots there, and you can build on fiv
acre lots even though the zoning allows seven-thousand square foot lots, and let's con
sider the planning logic to that for a moment. Let's say that we zoned this land, or an
land in your community, for seven-thousand square foot lots, but we really know that th
physical limitations of the land dictate that the zoning, that the use of the land, shoul
be five or ten acre lots, as was referred to by the Appraiser as maybe being the right us
for the land. Can you imagine that when Master Plans are prepared, and they show a den
sity, seven-thousand square foot lots for example, the School Districts, the Fir
Districts, the Water District, where thare's Sewer Districts the Sewer Districts, th
Power Companies, every single public agency that has to individually Master Plan fo
intrastructure, for power lines, for sewer, water, for police protection, fire protection
all of them then go off and base their plans on the density that you showed on your Maste
Plan. You showed seven-thousand square foot lots and now everybody is out there plannin
for growth at seven-thousand square foot lots and everybody invests all this money i
intrastructure for seven-thousand square foot lots and then the developer comes in an
say, oh, I only want to build five acre lots so I don't need all your services. Her
we've left all these public agencies holding the bag. They've invested all this money i
intrastructure to support a density that they were told, by the Planning Agency, was bein
Master Planned, but no, we really didn't mean that. What we really meant was five acr
lots. That's just not the way planning works. In fact, you have two other zonin
district classifications: one, the RR-3 and one, the RR-4, that specifically allow fiv
to ten acre lots. But this zoning for seven-thousand square foot lots as repreaented, fo
the purpose of excluding certain uses, knowing that the density couldn't happen anyway, o
if it did happen, the environmental consequences would be so severe that we wouldn't wan
it to happen anyway, I'm talking about the grading and the visual impacts of developin
this land for seven-thousend square foot lots, would be very horrendous as well. I
doesn't make sense. The fact is there was an error made in zoning this property fo
seven-thousand square foot lots. It should not be zoned for seven-thousand square foo

lots, that error should be corrected procedurally, irrespective of the issue of the mine itself. The mining issue will come up in a Special Use Permit hearing, and there have been preparations made for that Special Use Permit hearing. Our company has prepared erosion control plans, visual impact exhibits, which we have not presented because you said you wanted to do the zone first. When we get to that point we will present those things and we'll see how well we can mitigate the impacts of this mine. That's going to be the difficult problem, is mitigating the impacts of this mine. Nobody is ignoring that. We just haven't gotten there yet, but to state that the seven-thousand square foot lot zoning of this property is correct, it can't be justified on the basis of any legitimate city planning principal. The notion of spot zoning has been addressed. The RR-5 zoning that's being requested is adjacent to RR-5 zoning, again, the underpinning of your General Plan and the underpinning, in fact, of Nevada State planning law, is that development should occur which is commensurate with the physical limitations of the land. This land, the physical limitations, won't allow this land to be properly developed, environmentally soundly developed, for seven-thousand square foot lots. With respect to this notion of spot zoning, as I said, we're adjacent to property that's adjacent to RR-5, so it's not spot zoning. Furthermore, the notion of spot zoning is a notion that goes back many years in planning, to times before we had Master Plans. We would zone and that would be the only thing we had. Ever since there have been Master Plans, if the zoning is compatible with the Master Plan it is, by definition, not spot zoning. In this case the rezoning of this property to RR-5 is compatible with the Master Plan, and, in fact, is dictated by the Master Plan. I don't really see an alternative, except to zone this to RR-5, because it's not properly zoned right now, according to the Master Plan, and according to State Planning Law in Nevada. So spot zoning is really not an issue here and it really has not been an issue in the planning profession, ever since the requirement for Master Plan and that zoning conform to the Master Plan. If you conform to the Master Plan, it's not going to be spot zoning. The Master Plan provided for it. There is a separation proposed between living spaces and the mine, of some twenty acres and it's been pointed out that that twenty acres is not included in the zone change. I suppose that you could initiate, of your own accord, a rezoning of that twenty acres to a lower density, or you could, I suppose, ask the applicant what their thoughts are about backing up this proposal with this twenty acre area becoming a buffer. That could be worked out. The last point is the notion of this transferring density, the attorney pointed out that your zoning ordinance allows for the transfer of the density off the steeper areas onto the flatter areas and that's the way in which you can define this zoning to be compatible with the General Plan. That is, you would transfer the seven-thousand square foot lot density to a flatter area. There's not very many flat areas, but beside that, we're dealing with such a large density allocation in seven-thousand square foot lots. If we're dealing with five acre or ten acre lot zoning and you transfer it and you have a few units in a relatively flatter spot, maybe you could get away with transferring the density and determining that the zoning is compatible with the Master Plan. My conclusion, my staffs conclusion, we talked about this within our company at length and we're all city planners, is that we can tell you with certainty the zoning that you have there right now is not compatible with your Master Plan as your Master Plan is written. It should be changed and then we'll have a tougher issue to deal with, and that's the mine. Thank you.

Mr. Owen, with Mr. Peek's concurrence, entered two additional documents into t record: The General Plan Map of Lyon County and the Land Use Plan.

Mr. Stephen Peek, representing Nevex Gold Company, made the following closi statement (verbatim from the tape recording of the meeting): "Madam Chairman, Members the Commission, once again, my name is Stephen Peek. I represent Nevex Gold Company, w is the applicant for the Change of Land Use from NR-1 to RR-5. As you know, when we fir got up this morning, about five hours ago, and addressed this Board, my first question you was do you wish to hear item four and five together, because it certainly made significant difference in the way we made our presentation. The consensus of the Board that time, as was the advice of the District Attorney, that only item four was the ite that was going to be heard. Item four on your agenda is the Appeal of Nevex Gold Compar from a denial of a Change of Land. We made our presentation based upon the Board and th Boards direction. In opposition we saw a slide show. What did we see in the slide show What I saw, most importantly, was a mining area. A mining district. Albeit, historic i nature, but still an area where mining has occured since the early 1860's, and actuall long back before that. Some would have you believe that mining has stopped in this area but no, mining has not stopped in this area, in fact, mining has continued to occur. think you all saw throughout that presentation of the slide show a mining area. What els did we see after that? We listened to a presentation about the historical nature of th Comstock District and the fact that it is designated as a National Historic Landmark an the fact that it is on an endangered list because of the work of Houston Oil Company a the Con-Imperial Pit. I thought to myself, though, well wait a minute. I'm not Housto Oil Company. I'm Nevex Gold Company. Why should I get tarred by the same brush a Houston Oil. Then I reminded myself that I was here only on the zone change, the zon application. Then I thought, with respect to the historic district, that it would b appropriate to remind those who made the presentation from the historic district, that the historic districts created under Nevada Revised Statute, Chapter 384, provide as follows, under 384.005, which created Historic Districts, 'This section is not intended to discourage the exploration, development or extraction of mineral resources'. That was when the State of Nevada created the Comstock Historic District. They didn't deny the availability of those areas for continued mining. Also, as I stood before you, I looked up there to the Lyon County Flag and it's seal and I see that one third of that consists of mining. Mining has been an important part of this County and this County's development. When I was growing up I spent an awful lot of time at Talapoosa, Ramsey, up at Churchill Butte, Como, and those areas that are early mining areas in Lyon County. Then we heard from the appraiser who told us he did not feel it suitable for zoning because it should exclude uses rather than permit uses. It was negative in character rather than positive in nature. But the conclusion, of course, that the appraiser drew, and by the way, he's the same appraiser that did the appraisal, or excuse me, worked for Mr. Alves, who did the appraisal of Mr. Wesners house in 1981 when Mr. Alves, and Mr. Jenkins worked for him, appraised Mr. Wesners house at $165,000.00. He's now telling us that when he worked for Mr. Alves and he was appraising for Houston Oil, that Mr. Wesners house had a lot of value. Now, he's on the other side and he's telling you that the values are very suspect. I placed before you an exhibit that show the Gold Hill area and what has happened to assessed values in the Gold Hill area. It's the same exhibit which is [illegible]

showed you earlier. What it shows is that there has been an increase in assessed valuations in the Gold Hill area during the operation of the Con-Imperial Pit from 1979 to 1982. I grant you, and I know that we all can argue back and forth as to whether there was a reappraisal or not a reappraisal, the fact of the matter is values increased during that operation of the Gold Hill property, the Con-Imperial Pit. They didn't decline, there is a decline in value, and now there's a leveling off of that. One thing I think is notably absent, as well, is Mr. Wesners appraisal that he presently has, which I'm sure that if it said that it's only worth $05,000.00 because the Gold Hill Mine, or the Con-Imperial Pit, is located close to his property, Mr. Wesner would have presented that as a piece of evidence to you. But I think he, like everybody else, recognizes that there are many factors that go into a valuation of property. But if it were solely that which caused the reduction, I know Mr. Wesner would have that appraisal right here for you today, but he doesn't. What else did the appraiser say? He said that the property probably, in his judgment, would allow seven to fourteen dwelling units. He first said seven, then when pressed, got up to fourteen dwelling units. That, I guess, is approximately RR-3 zoning, which is one dwelling unit per five acres. I think that he's probably in the ballpark at someplace around one to seven dwelling units on that property because of the physical constraints of the property. Perhaps we should be talking about RR-3. But one of the things I found consistent as a thread, throughout the presentation, and which I find consistent in evaluating material, is that Silver City, contrary to Raymond Smiths remarks that it is an urbanizing area, is not an urbanizing area. I know, as I stand here before you today, that if I were an attorney representing an applicant for one hundred and fifty dwelling units on this property, that this same body would be gathered here to oppose the application, because it doesn't make sense to put that many dwelling units on that size of a parcel. Even if you were to average the density and try to build in the lower part of it, it would not allow for that kind of development. Now I have the photographs before you. The view of the Buckeye Mine, which is to the East and South of the townsite. You see, over here to my right, you don't see an urban setting. What you see is a rural setting. Then you look at the view from the Town Hall, which is located in the center of town, looking southward toward the mine, you see houses, yes, but what is notably absent is the urban atmosphere. I thought, in listening to Mr. Owen and others, that I was talking about downtown Reno, but I'm not. I'm talking about an area that is rural in character and rural in nature. It certainly has an ambience. It has a character and quality of life that we all recognize is important to these residents. But to stand before all of us and to say that it is properly zoned at NR-1, which we all know is improper, I think doesn't make sense. What else you note about the character and the size of the property is the steepness of it. Also, the existence of disturbed sites already on the property. The existence of the Dayton Mill and the Headframe of historical significance. It isn't going to be removed. Then you have, over here on my left (referring to pictures) and your right, the other review from the south, as you come up the hill. You're not coming up into an urban area. In fact, I don't see a house in that photograph, and that's taken from the South, looking at Grizzly Hill on your left. You don't see an urban area. You don't even see an urbanizing area. What you see is a hillside, rather steep in character, which is consistent with the development of low density residential. Then we heard, of course, lastly, from our friends who talked, again, about the appraised

values, and I don't know that either one wins those kinds of issues on the apprais value, but I do know one thing is that we're talking about a Change of Land Use firs The mining and the mine comes afterwards. The mine comes by Special Use Permit and addressed in the sound discretion of this Board as to whether, if the property has t zoning, should you allow a mine. There are areas within your ordinance of evaluating t application. So, will the Change of Land Use reduce the values in the area? I subm that it will not, standing alone. Let's address that issue solely, not the issue of, ju because it permits by Special Use Permit, a mine, that it should be denied. That is n good planning and should not be a reason for your denial. The Master Plan that we ta about. The Master Plan, I think, is important to all of us because it is a guide. M Owen quotes from the Master Plan about character, of topographic considerations, histor cal preservation, scenic preservation, because what we have is borrowed open space her Mr. De La Mares property is borrowed open space. It's being used by everybody to enj the ambience of their own property. But let's look at the goals and policies. In Chapt Eleven, 'Mineral resources should be properly managed and appropriate means be develop to insure proper mining and milling operations and restoration of areas to a conditi compatible with the surrounding region'. So it's consistent with the General Pla 'Mining should be recognized as a major factor in this county's economy and it's continu growth. The potential problems of air, water and land pollution should be recognized that proper controls be established to insure proper mining activities. That's aga addressed in the Special Use Permit, where you have those kinds of controls inherent a as part of your statute. Again, reading the recommendations in your goals and policie 'Mineral productivity should be recognized as a legal use, subject to Special Use Permit review and performance standards in any area of the County'. One area where it certainl would be permitted is in that area where historically there has been mineral extracti for the last hundred years. I say the last hundred years because mining has not stoppe in this area and, in fact, this site was mined thirty-six years ago, thirty-eight year ago, in 1948. 1949 was the last mining operation on this site. The milling continue until 1950. Again, one of the conclusions, item #4, 'Agriculture and mining will continu to be the dominant employment and economic elements in the County, although there is strong potential for future industrial park activities, especially for warehousing, ligh manufacturing and related activities', one of those items in your General Plan. One o the key issues too, I think that Mr. German raised and I agree with Mr. Germans comment which is, is it a proper zoning if the property itself, if the physical constraints on th site limit the development of the property to its highest and best use. I submit to yo the answer to that is it is improper zoning if it does not allow it to be developed to it highest and best use. We can't talk about averaging because we all know, as you look a it here in the view from the Townsite, from the Buckeye Mine and from the Knapp residence that there isn't a site there that would allow development of anywhere between 120 to 15 or 60 single family clustered homes, because that's the averaging of the density that would be permitted on that site. We all know that's a ludicrous development of that piec of property. To say that, well you can, it's only a minimum, begs the question, becaus the real issue is, if the highest and best use is about seven dwelling units per acre a the most, then that should be the more appropriate zoning, whether that be RR-3 or RR-5 That is in keeping with the rural character of Silver City. In conclusion, then, I woul

isk that you overturn the denial of the Change of Land Use by the Lyon County Planning Commission, and change the land use from it's current NR-1 to RR-5, as being consistent with the unique topographic characteristics and the rural setting of Silver City, and lastly, consistent with the historical mining, and I'm not afraid to stand here and say mining. Mining is important to this community, mining is important to Lyon County and mining can occur in a responsible manner. It does not have to be the example of Houston Minerals and the Con-Imperial Pit. It can be done in a responsible fashion, and we don't have to talk about strip mining, because strip mining happens to be the bad word. Let's use the word strip mine. Let's tall about a responsible open pit operation that takes into consideration the needs and concerns of the neighborhood, and whatever concerns there are, that it can be mitigated against. Thank you very much."

Commissioner Adams stated that the problem he has is the legal status of the townsite boundary because apparently, in trying to decipher the determination as made by the Planning Commission, it was very important what part the townsite boundary played with respect to the spot zoning. Mr. Adams further stated that if it is looked at from a merit of graphic zoning, this is not spot zoning since it is adjoined on the west and the south by RR-5.

Mr. Owen stated that if the townsite boundary, which represents the town of Silver City, is used that there is indeed a spot zoning issue because of a RR-5, per-missive mining, zone located in the townsite. He went on the say that there is no RR-5 in the townsite. It is mostly NR-1, with a little commercial and limited amount of light industrial.

Mr. Peek stated that he does not know what created the configuration of the boun-daries of the townsite of Silver City when it was created some years ago. He said that, as to spot zoning, the fact that there is a townsite and the fact that there is a rural area outside it, should not have any effect on the issue of spot zoning. Mr. Peek stated that spot zoning because there is a townsite, is not an issue. He noted that there is RR-5 adjoining the property on the south, and there is RR-5 adjoining it on the west. He further stated that it is a zoning that is proper in Lyon County. He said that when they refer to "spot zoning for the benefit of one", then every zone change is for the benefit of one, but the physical characteristics and constraints of the property must be taken into consideration in evaluating the zone change. He went on to say that just because it's in the townsite does not make it right, it also doesn't make it spot zoning it it is changed.

Commissioner Adams stated that he did not have time to review the minutes of the Planning Commission word for word, however, he was aware that it had a great part in the i

Mr. Owens stated that the matter before the Board today is a De Novo Review, that the Planning Commission decision does not bind the Board. They can look at the evidence and make their own decision. He stated that the planners of Lyon County felt, back in the 1970's, that it made sense to draw specific zoning configurations within the townsite boundary. He further stated that he feels that it was a purposeful, intelligent decision.

District Attorney Bill Rogers stated that it is true that the boundaries as shown on the map are the boundaries of the historical townsite that has existed for over a hundred years. He further stated that it is the boundary which was adopted by the Coun

in the early 1970's as a zoning boundary, however, as a legal significance, it is the service area in which, under the prior water agreements, a person is entitled to hook onto the water which comes down from Virginia City, and ultimately through the flume from Marlette Lake. He stated that it has an ongoing legal significance in that it is available for more dense development in that a person can hook onto the existing water system, and that's the only real legal significance, other than the historical aspect.

Commissioner Adams stated that in his judgment he would look at this and say that, on the face, it is not spot zoning.

Mr. Owen stated that this is a very unique situation with respect to the townsite and the services within the townsite.

Commissioner Cummings asked a question of Mr. DeAguilera. He asked if he (Mr. DeAguilera) had indicated that the seven-thousand square foot zoning was exclusionary?

Mr. DeAguilera stated that if the zoning was purposely put there to keep certain uses out, then it would be exclusionary zoning, the use of zoning to keep certain things out.

Commissioner Cummings indicated that he got the impression that Mr. DeAguilera felt it was put there purposely for exclusionary purposes.

Mr. DeAguilera told Commissioner Cummings that this was represented by several people who testified in opposition to the zone change, that there was a purposeful act of zoning this property to seven-thousand square foot lots for the purpose of keeping certain uses out. Mr. DeAguilera reiterated that this is not good planning.

Commissioner Cummings asked if they were five acre lots, wouldn't that be exclusionary with respect to mines?

Mr. DeAguilera again stated that if the purpose of the zoning was there to keep something out, then that is exclusionary zoning. He further stated that planning should be done on the basis of what is desired there in the future and what the physical constraints and opportunities of the landscape dictate and can be used for.

Commissioner Cummings stated that he understands planning to have exclusionary clauses, that this is the purpose of it.

Mr. DeAguilera stated that this exclusionary planning has been criticized by the Courts and the planning profession. He further stated that planning should be used as a positive thing, not a negative.

Commissioner Cummings stated that there is some talk about the proposed buffer zone. He asked if this is the De La Mare Land?

Mr. Peek stated that there are two potential buffer zone, one portion belonging to Mr. De La Mare and one portion belonging to BLM. Mr. Peek showed the Board, on the map, that the buffer zone exists on the north side of the proposed property, on the north face of Grizzly Hill. He also noted that the Dayton Hill Site would serve as a buffer, and would retain its historical significance. He noted that it would not allow any development to occur.

Commissioner Adams pointed out that it would be a graphic buffer, but not necessarily a visual buffer.

Mr. Peek agreed, stating that it would be a buffer, along with State Route 341, between living and non-living areas.

Mr. Owen stated that on Page 22 of the Nevex Supplement is the following

paragraph, "In addition to the above listed mitigation measures, a twenty-five acre portion of the property abutting the existing residential and commercial area to the north of the mining site will not be disturbed. While currently zoned for seven-thousand square foot lots, it is unlikely that the property, because of the character and the topography, will ever be developed at that density. That area will have to separate the living areas from the non-living areas as required by the General Plan." Mr. Owen stated that this is private land, not BLM land.

Commissioner Adams stated that the best of both worlds would be for the land to be already zoned RR-5 and no mining allowed by Special Use Permit, however, it's not that way. Mr. Adams stated that the Board must deal in terms of a density that he cannot see happening. He wondered if the residents might face the same environmental threat from a heavy residential development on that site as they feel they will face from the mine. He noted that after a development, the residents would look out on a lot of homes on the hillside, where with the mine, they would look out on an area, supposedly mitigated by the mining Company.

Mr. Owen disagreed with Commissioner Adams that the impacts are anywhere near what they would be from the mining project. He also disagreed that every seven-thousand square feet would have to be used. Mr. Owen stated that it very rarely occurs when a developer comes in and gets everything.

Mr. Peek stated that there are tunnels and stopes on the property as it now exists. He further stated that for anyone to suggest that it would make good economic, practical or safety sense to put a residential development on the property, without destroying the existing shafts, would not make good planning sense.

Chairman Manor then stated that enough testimony had been heard. She asked for any feelings from the Board.

Commissioner Cummings made the following statement (verbatim from the tape recording of the meeting): "I have listened to nearly a years worth of input, and this is probably the most difficult, easily the most difficult issue, that's faced me since I've been on the Board. I feel that there is certain quality to both arguments and I really feel that I've made friends on both sides of this issue, and there are no bad guys as far as I'm concerned, on this issue. I'm sure there's one side that won't consider me a friend after this motion but that's not the way I feel. I hereby move to deny the request for rezoning by Nevex Gold, Inc., based upon the following findings of fact, which I find to be supported by substantial evidence in the record as follows: After a four hour presentation on June 17, the Planning Commission, by vote of five to two, recommended denial of the Nevex rezoning request considered today. Two: In reference to requirements for zoning established by NRS Section 278 and 250, we find A) that the Nevex rezoning request does not comply with the Lyon County Master Plan. B) The proposed rezoning does not promote the conservation of open space or protect the natural and scenic resources from unreasonable impairment. C) The proposed rezoning would have both an immediate and long-term adverse financial impact to Silver City and the Comstock National Historical Landmark. D) The proposed rezoning does not promote the health and general welfare of the Silver City area. E) The proposed rezoning is not compatible with the Silver City area and does not encourage the most appropriate use of land in the Silver City Townsite. Item 3) There is no land in Silver City Townsite zoned RR-5, and the present zoning is

predominantly residential in nature. 4) The proposed rezoning would significantly harm the integrity of the Comstock Historic District and the National Landmark District. 6) The proposed rezoning violates the following expressed goals: A) To manage national resources in a beneficial way. B) To improve neighborhood stability and increase property values by preventing incompatible and disruptive land uses."

Commissioner Ward seconded the motion. Chairman Manor called for the question on the motion.

Commissioner Adams stated that he would respectfully disagree with some of the points made in the motion and clarified the fact that he feels the issue of spot zoning was wrongfully interpreted by the Planning Commission. He further stated that when RR-5 is contiguous to the property, it cannot be considered spot zoning. He also stated that the zoning is being used as a hammer with respect to the proposed request. He further stated that the Special Use Permit process is a much more applicable way for the Board to address the basic issue of the mining project itself. He told the Board that they were making a mistake and would have to deal with it in the future.

Chairman Manor asked for a poll of the Board: Lommori - Aye. Cummings - Aye. Ward - Aye. Adams - No. Manor - Aye.

There being no further business to come before the Board, recess was declared.

(A verbatim tape recording of this meeting has been made and by reference becomes part.)

BOARD OF LYON COUNTY COMMISSIONERS

ATTEST:

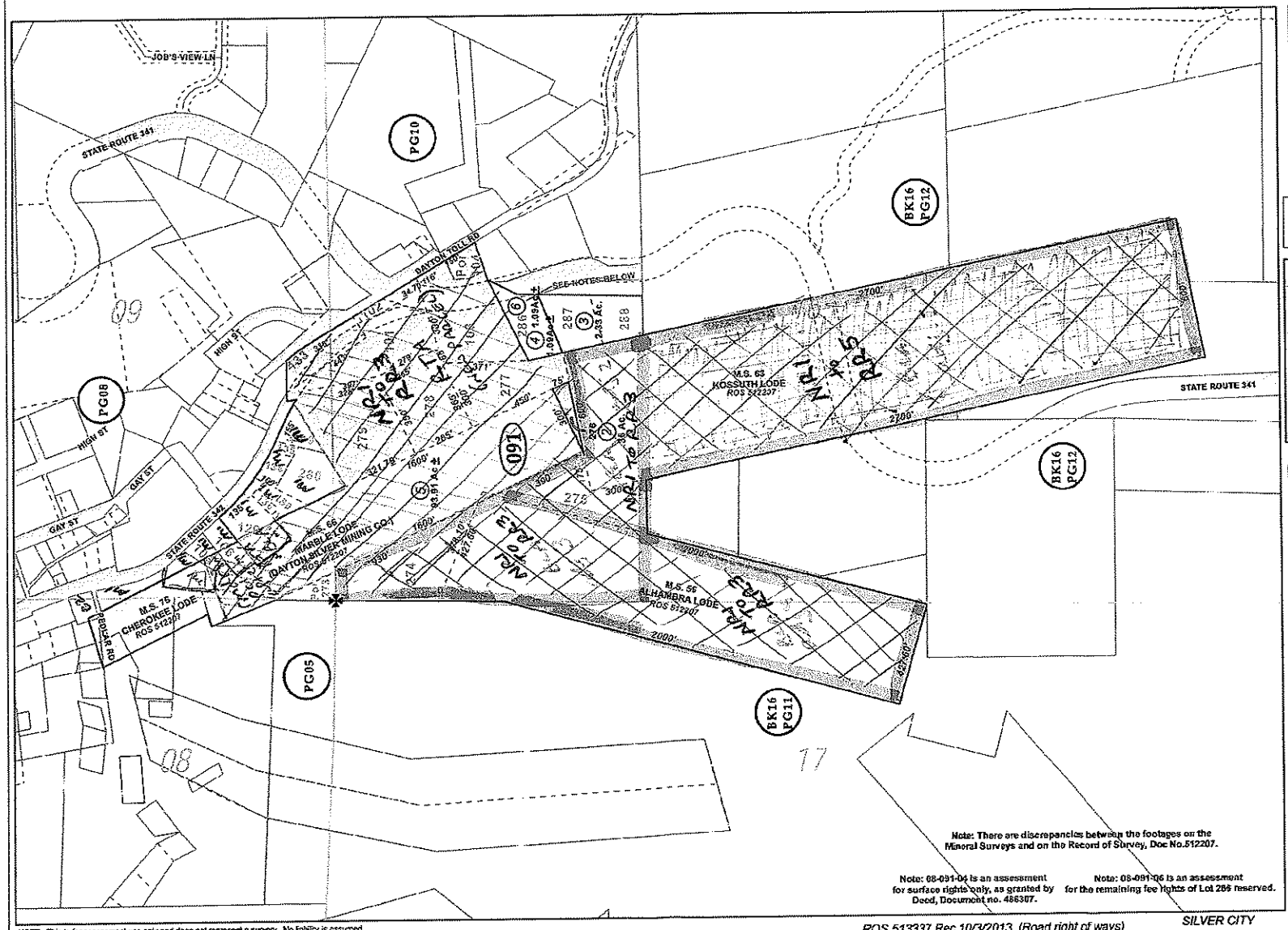
Andrea Manor- Chairman

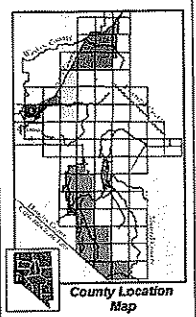
W. J. Parr - Lyon County Clerk

JA0939 14 CV 000128 - 000834 LYON COUNTY

Portion SW1/4 Section 9 & Portion NW 1/4 Section 16, T16N - R21E, MD&M

8-09





Scale: 1" = 400'

Revised: October 3, 2013

Note: There are discrepancies between the footages on the Mineral Surveys and on the Record of Survey, Doc No.512207.

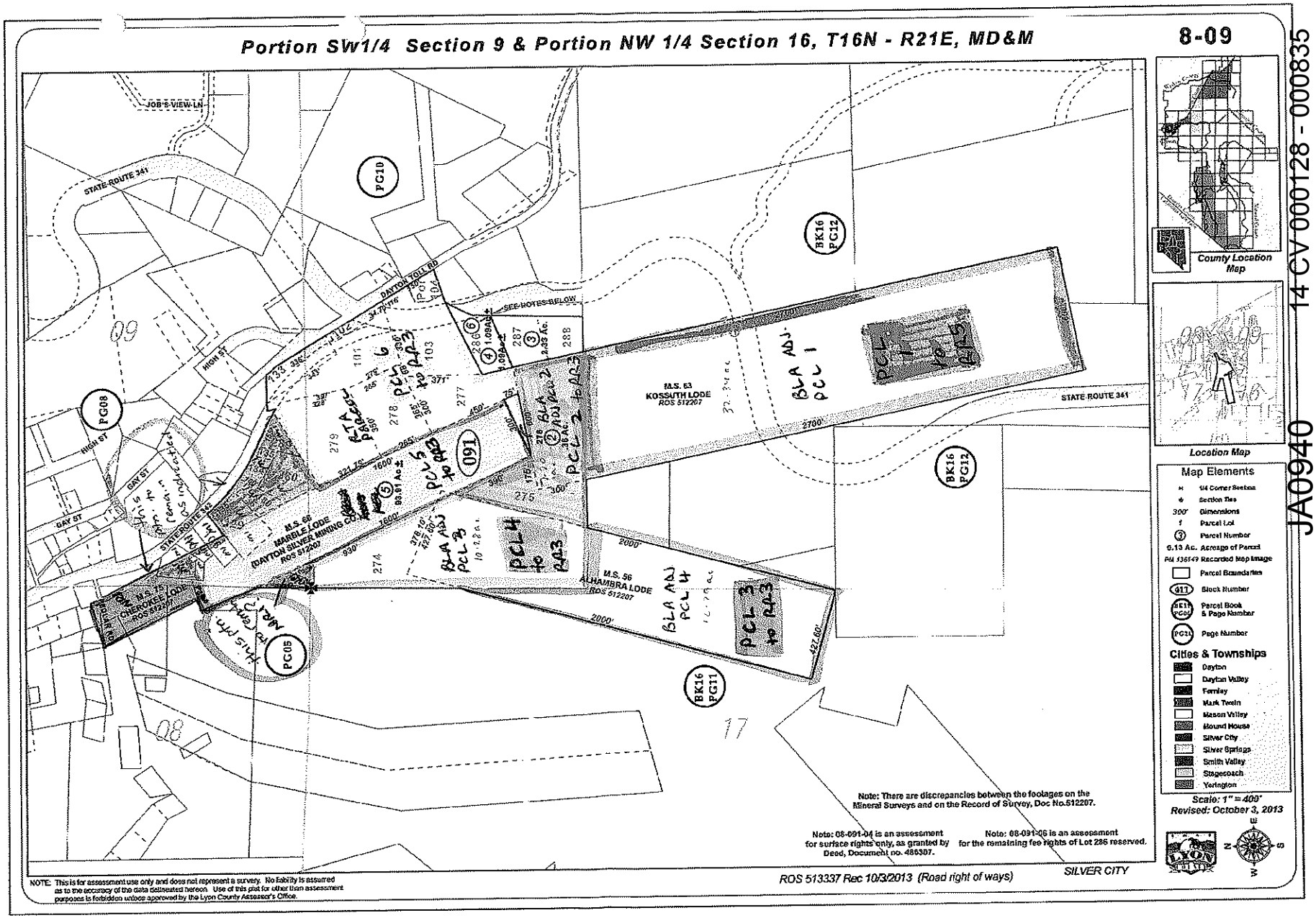
Note: 08-091-04 is an assessment for surface rights only, as granted by Deed, Document no. 486307.

Note: 08-091-06 is an assessment for the remaining fee rights of Lot 284 reserved.

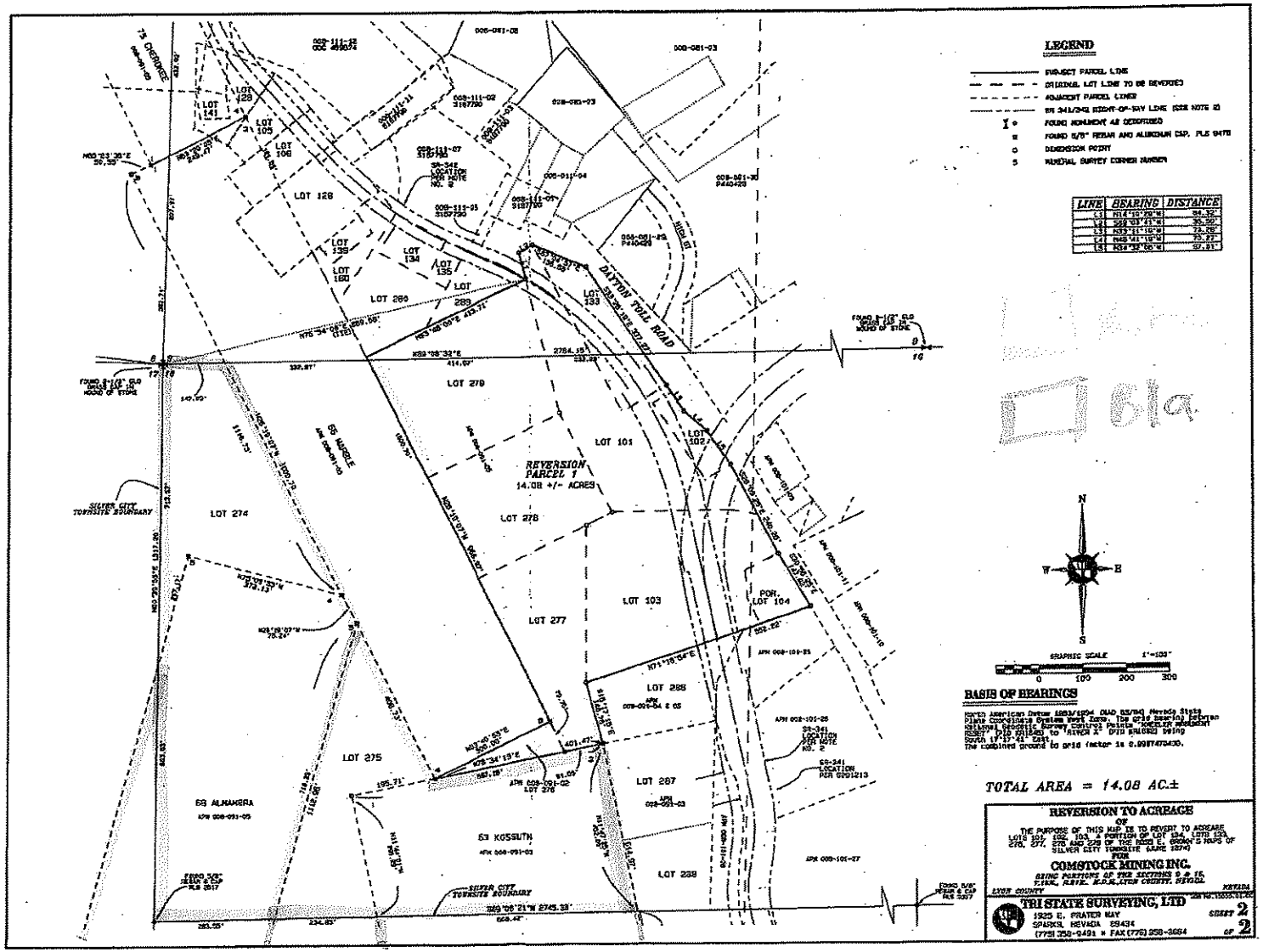
ROS 513337 Rec 10/3/2013 (Road right of ways)

SILVER CITY

NOTE: This is for assessment use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon. Use of this plat for other than assessment purposes is forbidden unless approved by the Lyon County Assessor's Office.



JA0940 14 CV 000128 - 000835 LYON COUNTY



FOR REVIEW ONLY

Treasurer' Receipt
LYON COUNTY
LYON COUNTY TREASURER

No. 118166
Date: 10/04/13

Received From:

COMSTOCK MINING, LLC
PO BOX 1118

VIRGINIA CITY, NV 89440

For: CMI-MPA ******2,250.00

Fund	Fund Description	Account	Description	Amount
001	GENERAL FUND	001-000-32120-000	PLANNING & ZONING FEES	2,250.00CR

Receipt No. 118166 Fiscal Year: 2014 ******2,250.00

Bank	Bank Description	Amount
102	WELLS FARGO BANK	2,250.00

Receipt No. 118166 Fiscal Year: 2014 Bank Account Total: ******2,250.00

Check amount 2,250.00 ABA# 11-24 Check# 6800 Payer COMSTOCK MINING

Total Cash: **********.00
Total Checks: ******2,250.00
Total Non Cash:**********.00
Credit Cards: **********.00
Total Other: **********.00

Treasurer

tumphries

Deputy

COMSTOCK MINING, LLC

006800

08/09/2013 Lyon Cou Clerk Treasurer

Date	Type	Reference	Original Amount	Balance Due	Payment
08/06/2013	Bill	Master Plan Adj	2,250.00	2,250.00	2,250.00
		Check Amount			2,250.00

100000 Banks:Wells I

2,250.00

14 CV 000128 - 000837
LYON COUNTY

Treasurer' Receipt
LYON COUNTY
LYON COUNTY TREASURER

No. 118165
Date: 10/04/13

Received From:

COMSTOCK MINING, LLC
PO BOX 1118

VIRGINIA CITY, NV 89440

For: CMI-ZON ******1,000.00

Fund	Fund Description	Account	Description	Amount
001	GENERAL FUND	001-000-32120-000	PLANNING & ZONING FEES	1,000.00CR

Receipt No. 118165 Fiscal Year: 2014 ******1,000.00

Bank	Bank Description	Amount
102	WELLS FARGO BANK	1,000.00

Receipt No. 118165 Fiscal Year: 2014 Bank Account Total: ******1,000.00

Check amount 1,000.00 ABA# 11-24 Check# 6826 Payer COMSTOCK MINING

Total Cash: **********.00
Total Checks: ******1,000.00
Total Non Cash:**********.00
Credit Cards: **********.00
Total Other: **********.00

Treasurer

Deputy

COMSTOCK MINING, LLC

006826

08/15/2013 Lyon Cou Clerk Treasurer

Date	Type	Reference	Original Amount	Balance Due	Payment
08/15/2013	Bill	ZoneChange Submit 2	1,000.00	1,000.00	1,000.00

Check Amount

RECEIVED
AUG 21 2013
LYON COUNTY PLANNING

100000 Banks:Wells I

1,000.00

14 CV 000128 - 000838
LYON COUNTY

LYON COUNTY
PLANNING DEPARTMENT
27 SOUTH MAIN STREET
YERINGTON, NEVADA 89447
(775) 463-6592 (775) 463-5305 FAX
EMAIL: planning@lyon-county.org

ROBERT G. LOVEBERG
PLANNING DIRECTOR

August 22, 2013

Comstock Mining, Inc.
P.O. Box 1118
Virginia City, NV 89440

Re: Master Plan Amendment application fee

Dear applicant:

Please find enclosed your check #006801, in the amount of $3,375.00, which was submitted in payment of your Master Plan Amendment application on August 12, 2013.

We recalculated the amount necessary for submittal and have received your replacement check #006826, in the amount of $1,000.00, and are hereby returned your original check to you.

If you have questions or concerns please feel free to contact this office.

Sincerely,

Kerry Page

Kerry Page
Planning Assistant

Encl.: Comstock Mining, Inc., Check #006801

COMSTOCK MINING, LI
PO BOX 1118
VIRGINIA CITY, NV 89440
775-847-5272

WELLS FARGO Wells Fargo Bank,

006801
11-24/1210

08/09/2013

PAY TO THE ORDER OF Lyon County Clerk Treasurer

$ **3,375.00

Three thousand three hundred seventy-five and 00/100********** DOLLARS

Lyon County Clerk Treasurer
27 South Main Street
Yerington, NV 89447

MEMO

⑈006801⑈ ⑆121000248⑆ 4123820920⑈

COMSTOCK MINING, LLC

006801

08/09/2013 Lyon County Clerk Treasurer

Date	Type	Reference	Original Amount	Balance Due	Payment
08/06/2013	Bill	Zone Change Submit	3,375.00	3,375.00	3,375.00
		Check Amount			3,375.00

RECEIVED
AUG 15 2013
LYON COUNTY PLANNING

100000 Banks:Wells I 3,375.00

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Sheree Roseveare	145 High St, Silver City
	shereerose@att.net
William Roseveare	Same as above.
Cynthia Etchegoin	PO Box 203 Silver City, NV 89428
Stephen R. Johnson	245 Holcomb Ave, Suite I Reno, Nevada 89502 JPARENTE@JOHNSONPERKINS.COM
Erich Obermayr	
John Bennetts	
Scott Jolcolle	Box 1298 Fallon 89406
Lee Bonner	
Mandy Mangosing	

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
BONNIE BROWN	1530 DAYTON TOLL RD, SILVER CITY, NV 89428

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Margaret Burns	480 Buckeye Rd - P.O. Box 249 Silver City, NV 89428
Erich Obermayr	"
Susan McCabe	320 1st Street PO Box 534 Silver City, NV 89428
Allen McCabe	
JoAnn Shea	#2 Radere Rd. Dayton 89403
MARCIA LITSINGER	11625 STALLION SPRINGS CIRCLE STAGECOACH, NV 89429
Stephen E. Litsinger	11625 Stallion Springs Circle Stagecoach NV 89429 stevechurchillbutte@gmail.com
Christy McGill	125 Hillcrest, Dayton NV 89403
Canyon Cassidy	50 main st., Silver City NV 89

Please Print

LYON COUNTY PLANNING COMMISSION
~~PUBLIC COMMENT SIGN IN SHEET~~

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Suzanne Cassidy	info@nevadacassidys.com
CATHY WAHRENBROCK	P.O. Box 369 Silver City, NV 89428 847-7302
Clay Mitchell	PO Box 115 Virginia City, NV 89440 clay@crownpointmill.com
Mark Joseph Phillips	PO BOX 1092 Virginia City NV 89440
JANET McFALL	137 Creekside DR DAYTON NV 89403 775-848-3555
William McFall	137 Creekside DR Dayton, NV 89403 775-224-2480
Roger Drum	PO Box 125 Silver City NV 89428 775 636 5235
Olivia J Amos	395 Dayton Valley Rd. Dayton NV 89403
Dillon Jones	676 Teakwood Rd. Dayton, NV 89403 775-884-3905

Please Print

LYON COUNTY PLANNING COMMISSION
~~PUBLIC COMMENT SIGN IN SHEET~~

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Dee Westmoreland	674 Teakwood Rd Dayton 89403 (775)297-5730 westy4890@yahoo.com
Paul G. Eades	P.O. Box 572 Dayton 89403 (775) 246-3187 paul.eades9@gmail.com
DAVID TOLL	PO Drawer F Virginia City NV 89440 775-847-0222
GRAHAME H. ROSS	275 MAIN ST. Silver City NV. 89428 775-847-0215
Robin Cobbey	PO Box 675 VC 89440
Joe McCarthy	PO Box 351 SC. Silver City, NV 89428 775-720-0331 1200paydirt@gmail.com
Ann Price McCarthy	P.O. Box 351 SC NV 89428 annpricemccarthy@gmail.com
David Moore/Barbara Peck	Box 532, Dayton NV 89403 775-246-9653 bpecknv@yahoo.com
DARLENE COBBEY	PO Box 135 1000 MAIN ST. SILVER CITY dcobbey@gmail.com

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Alexis Dillon	PO Box 423 Silver City 89428
Lila Lindsay	P.O. Box 248, Silver City, NV 89428
Cynthia Etchegoin	PO BOX 203 Silver City NV 89428
Walter J Mueller	PO Box 319 Dayton NV
Kirk Gomez	460 High St Silver City
Ronald L. Reno, PhD. RPA	Box 550 Silver City, NV 89428 775 847-0577
Mary C. MacDonald Beautiful Food Farm	Box 36 Silver City NV 89428 (775) 847-7159
Janet Hess Rose	P.O. 156 Silver City NV. 89428 775. 847. 0772
Molly Allander	Bx 85 Silver City

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Evangeline Elston	Po Box 500 Silver City, NV 8942 530-632-3798
C Callaway	POB 580 89428
Allison Woodman Woodman	PO Box 354 Silver City NV 89428
Chad Olson	PO Box 214 Silver City, NV 89428 287-2999
Judi Olson	PO Box 214 Silver City, NV 89428 220-5777
Wayne Bachand	PO Box 552 Silver City, NV 89428
Ken DeHart	P.O. Box 142 Yerington, NV. 89447 Effective 11-1-13 P.O. Box 825 Virginia City 89440
Madison Woodman	1150 Main St. Silver City NV 89428
Jim Wheeler	Nevada State Assemblyman

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
John L. Marshall	johnmarshall@charter.net
John Singlaub	singlaub@gmail.com
Robert Egston	rgelston@gmail.com
Steve Parrish	445gj65@att.net
RANDY HARRIS	485 MAIN ST. SILVER CITY
Thomas Demolski	#41 Hwy 341 Mound House NV
Carolee de Gosperis	1475 MAIN ST. Gardnerville NV 89440
S. SUMNERS	3235 Eastlake Blvd Washoe Valley NV

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: NOVEMBER 12, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Canyon Cassidy	webmaster@nevadacassidys.com Silver City, NV
DARLENE COBBAGE	1100 MAIN ST SILVER CITY dcobbage@gmail.com
Bernard & Karen Wiesner	bwiesnergoldhill@sbcglobal.net 980 So. E ST. Gold Hill NV 89440
Craig Dimetras	jd@dimetras-oneill.com
Gayle Sherman	PO B 29 Silver City NV 89428 gales@cobis.com
JUDI OLSON	POB 214 SILVER CITY, NV 89428 judiolson@hotmail.com
Chad Olson	PoB 214 Silver City, NV 89428 amotostuff@gmail.com
Wil + Carol Godwin	1410 Dayton Toll Road Box 481 SilverCity, NV 89428 godwinsilvercity@aol.com
Scott A Firestone	P.O. Box 933 DAYTON NV 89403. SCTT223RUS@GMAIL.COM

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: NOVEMBER 12, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Cynthia Etchegoin	PO Box 203 Silver City NV (775) 847 0430 CETCHEGOIN@nvdetr.org
William Roseveare	P.O. Box 396 Silver City Nv. 775-847-7150
Don Worpe	P.O Box 13 Silver City NV
Diane Kotik	Box 506 Silver City NV dlkotik5@aol.com
Meg Burns	PO Box 249 Silver City NV 89428 847-7563
Allison Woodman	PO Box 345 Silver City, NV 89426 721-1008
Samuel M. Crawford	PO Box 5 S.C. NV. 89428 — No comments
Natalie Lacer 142 High St. Silver City, NV Suzanne M Cassidy	PO Box 528 Silver City, NV 89428
Robert Royce Bradley	P.O. Box 488, Silver City NV 89428

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: NOVEMBER 12, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
JOE SBRAGIA	BOX 134 DAYTON NV. 89403 - (775) 230-4851
Robert Elston	PO Box 500 Silver City, 89428 775 847 9404
STEPHEN R. JOHNSON	295 HOLCOMB AVE. SUITE A RENO, NEVADA 89502 775-322-1155
SCOTT JOLCOVEK	SJOLCOVEK@AOL.COM
Tommy W. Cartwright	775-721-0107 PO Box 552 Silver City, NV 89428
Wayne Bachand	
CHRIS BROWN + BONNIE BROWN	P.O. Box 102 SILVER CITY NV 89428
Pat Barker	4523 Hells Bells CARSON CITY 89704

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: NOVEMBER 12, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Donald Shane Sanderlin	Shane@Xtremebullets.com
Rick Christian, Driven Surveying	
Doug Ray	
John Marshall	johnmarshall@charter.net
John Singlaub	singlaub@gmail.com
MARC ROTTER	MROTTER@MANHARD.COM
Craig Lamitus	for Lone Gold

Please Print

Manhard CONSULTING LTD

Civil Engineering
Surveying
Water Resources Management
Water & Wastewater Engineering
Supply Chain Logistics
Construction Management
Environmental Sciences
Landscape Architecture
Land Planning

January 8, 2014

Mr. Rob Loveberg
Planning Director
Lyon County Planning Department
27 S. Main Street
Yerington, Nevada 89447

Re: Comstock Mining Master Plan Amendment & Zone Change Request

Mr. Loveberg:

On behalf of Comstock Mining, Manhard Consulting is submitting this package with revised material on the Comstock Mining Master Plans Amendment and Zone Change request to conform to the Lyon County Board of Commissioners approval on January 2, 2014.

Following is a summary of the revised request pursuant to the Lyon County Board of Commissioners approval:

1. A Master Plan Amendment request from Suburban Residential to Rural Residential on 27.00 acres.
2. A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres.
3. A Zoning Map Amendment request from NR1 to RR3 on 39.29 acres.
4. A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.
5. The total acreage for the request is revised to 71.63 acres.

Attached you will find the following documents:

- Revised Page 1 of the Narrative with updated acreage for the parcels.
- Revised Exhibit 2 – Parcel Exhibit
- Revised Exhibit 5 – Proposed Master Plan Map
- Revised Exhibit 6 – Proposed Zoning Map
- A revised legal description removing Parcel 6 and modifying the boundary of Parcel 5.

I will also email a GIS shape file with the revised proposed boundaries for the County to use in updating their GIS maps.

If you have any questions or require additional information, please feel free to contact me directly.

Sincerely,

Andrew Motter, P.E.
Senior Project Manager

Manhard Consulting, Ltd.
9850 Double R Boulevard, Suite 101 • Reno, Nevada 89521
tel: (775) 746-3500 • fax: (775) 746-3520 • www.manhard.com
ARIZONA • CALIFORNIA • COLORADO • GEORGIA • ILLINOIS • INDIANA • NEVADA

Project Location

The property included with this application request is generally located north and west of State Highway 341 adjacent to the town site of Silver City. See Figure 1 Vicinity Map and Figure 2 Parcel Exhibit for additional detail.

Master Plan Land Use & Zoning Designations

Table 1: Current Land Use Designations (Ref. Figure 3 and Figure 4)

Parcel	Master Plan	Zoning	Land Use
1	Resource	NR1	Vacant
2	Suburban Residential	NR1	Vacant
3	Resource	NR1	Vacant
4	Suburban Residential	NR1	Vacant
5	Suburban Residential	NR1	Vacant

Table 2: – Proposed Land Use Designations (Ref. Figure 5 and Figure 6)

Parcel	Master Plan	Zoning	Area
1	Resource	RR-5	32.34 AC
2	Rural Residential	RR-3	7.20 AC
3	Rural Residential	RR-3	12.29 AC
4	Rural Residential	RR-3	10.28 AC
5	Rural Residential	RR-3	9.52 AC

Manhard CONSULTING LTD

Civil Engineers · Surveyors · Water Resource Engineers · Water & Wastewater Engineers
Construction Managers · Professional Land Surveyors · Landscape Architects · Planners

COMSTOCK MINING INC.

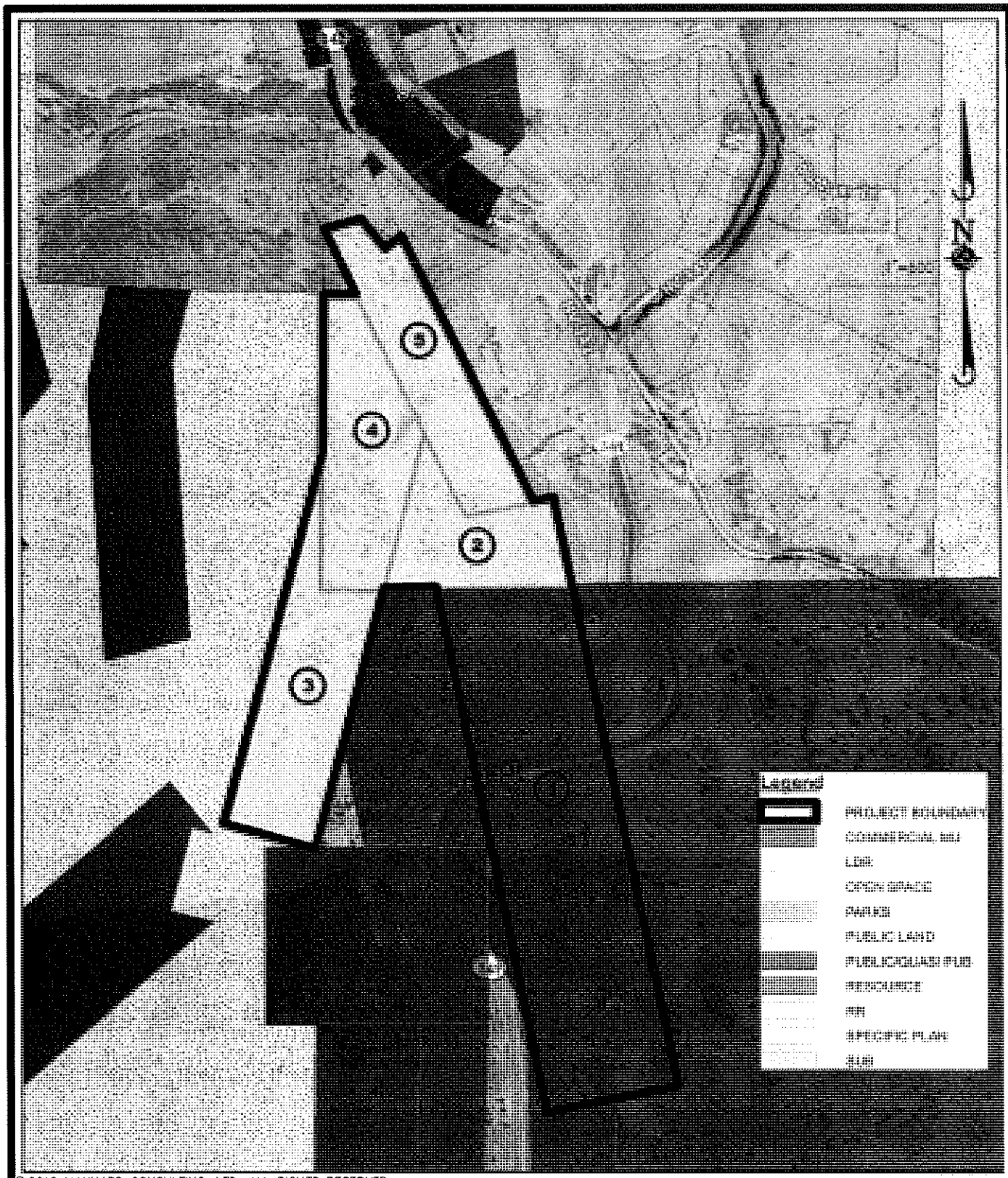
PARCEL EXHIBIT

FIGURE 2

DRAWN:	MRM
CHECKED:	JMM
DATE:	12/6/2013
SCALE:	1"=400'

SHEET 1 OF 1

CMILCH



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Manhard CONSULTING LTD
9850 Double R Blvd, Suite 101, Reno, NV 89521 tel: (775) 746-3500 fax: (775) 746-3520 www.manhard.com
Civil Engineers · Surveyors · Water Resources Engineers · Water & Wastewater Engineers
Construction Managers · Environmental Scientists · Landscape Architects · Planners

COMSTOCK MINING INC.

PROPOSED MASTER PLAN MAP

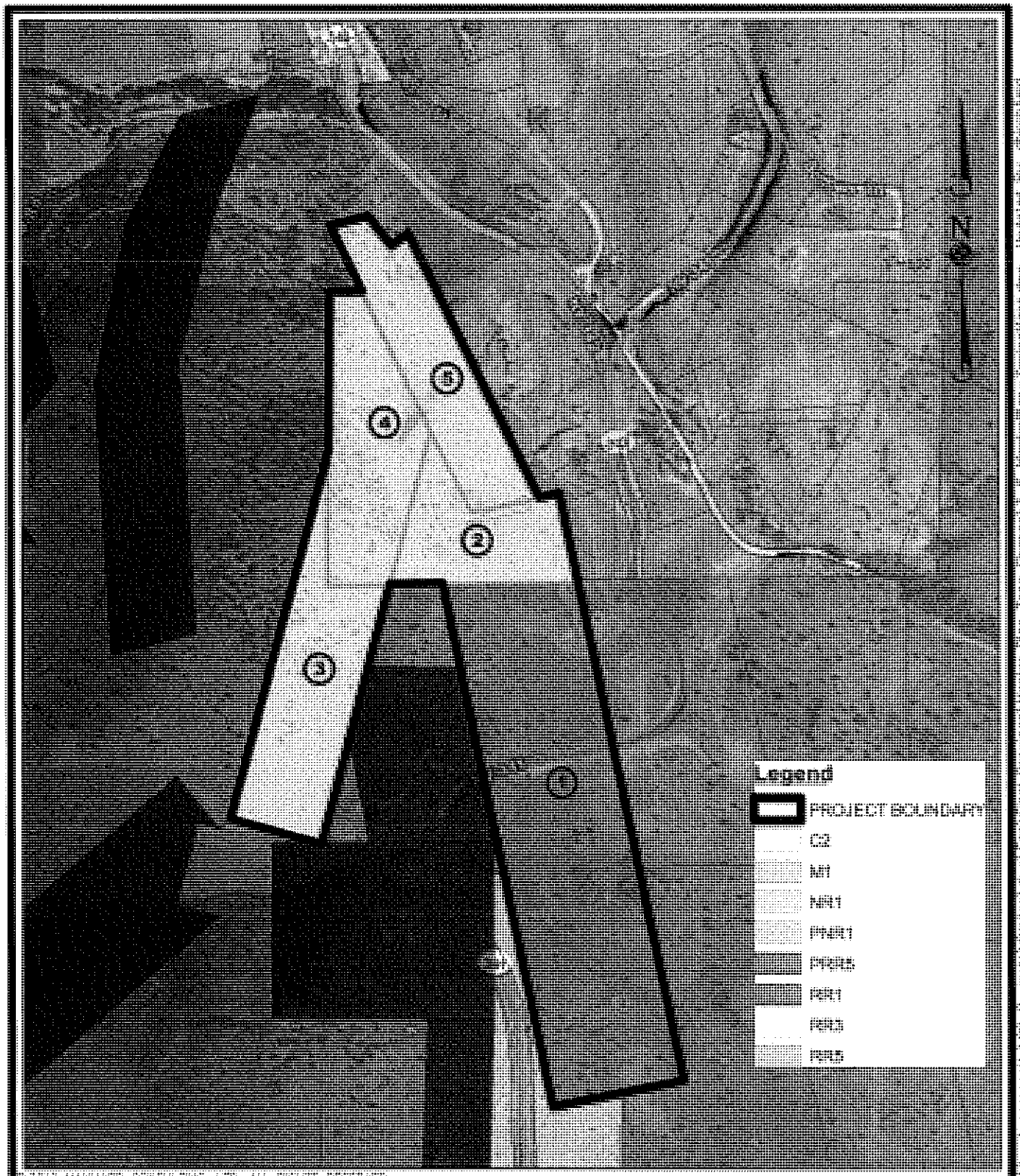
FIGURE 5

PROJ. MGR.:	AWM
DRAWN BY:	DCB
DATE:	7/24/2013
SCALE:	1"=600'

SHEET 5 OF 7

CMILCN

17:46 Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\3-6_MasterPlan-ZoningMaps.dwg Updated By: dbirchfield



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Manhard CONSULTING

COMSTOCK MINING INC.
PROPOSED ZONING MAP
FIGURE 6

SHEET 6 OF 7

TRI STATE SURVEYING, LTD.
1925 E. Prater Way, Sparks, Nevada 89434
Telephone (775) 358-9491 ♦ FAX (775) 358-3664
Toll Free: 1-800-411-3752

Land Information Solutions

January 8, 2014
Project No. 10055.01.CC

Parcel Descriptions

All those certain parcel situate within portions of Sections Eight (8), Nine (9), Sixteen (16) and Seventeen (17), Township Sixteen (16) North, Range Twenty-One (21) East, Mount Diablo Meridian, Lyon County, Nevada, being more particularly described as follows:

Parcel 1:

All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying southerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 2:

All that All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying northerly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 275 as shown on said Official Map of the TOWNSITE of SILVER CITY.

Parcel 3:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying southerly, westerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 4:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying northerly, easterly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 274 as shown on said Official Map of the TOWNSITE of SILVER CITY.

Parcel 5:

All that certain Parcel situate within portions of the Southeast One-Quarter (SE1/4) of Section Eight (8), the Southwest One-Quarter (SW1/4) of Section Nine (9) and the Northwest One-Quarter (NW1/4) of Section Sixteen (16), Township Sixteen (16) North, Range Twenty-One (21) East, Mount Diablo Meridian, Lyon County, Nevada, being all of Lot 276 as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876 and a portion of Mineral Survey 66, Marble Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 66 (Office No. 189), Marble Lode (Dayton Silver Mining Co's). Devils Gate Mining District, by J. H. Eaton, March 1873, being more particularly described as follows:

BEGINNING at a point on the westerly line of said Mineral Survey 66, from which the corner common to said Sections 8, 9, and 16 bears South 00°49'16" West, 291.13 feet;

THENCE from the POINT OF BEGINNING, leaving said westerly line, North 74°31'34" East, 175.32 feet to the northwest corner of Lot 129 as shown on said Official Map of the TOWNSITE of SILVER CITY;

THENCE along the westerly line of said Lot 129, South 38°41'19" East, 170.64 feet to the southwest corner of said Lot 129;

THENCE along the southerly line of said Lot 129, North 51°18'41" East, 93.42 feet to the intersection of said southerly line and the easterly line of the above mentioned Mineral Survey 66;

THENCE leaving said southerly line and along said easterly line, South 26°19'07" East, 1244.41 feet to the southeast corner of said Mineral Survey 66, being the northeasterly corner of the above mentioned Lot 276;

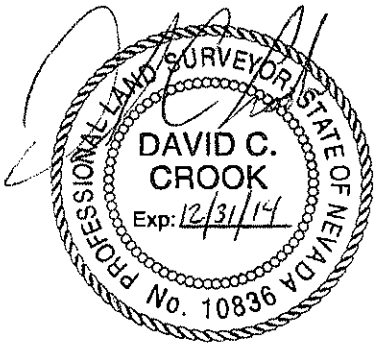
THENCE leaving said easterly line of Mineral Survey 66, along the easterly line of said Lot 276, South 26°19'07" East, 79.76 feet to the southeast corner of said Lot 276, being on the northerly line of General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874;

THENCE along the southerly line of said Lot 276, being coincident with said northerly line, South 78°34'13" West, 310.42 feet to the most western corner of said Lot 276, also being the southwest corner of said Mineral Survey 66;

THENCE leaving said southerly line and said northerly line, along the westerly line of said Mineral Survey 66, North 26°19'07" West, 1424.07 feet to the POINT OF BEGINNING.

Said Parcel 5 contains 9.52 acres, more or less.

The Basis of Bearings for this description is the North American Datum 1983/1994 (NAD 83/94) Nevada State Plane Coordinate System West Zone. The grid bearing between National Geodetic Survey Control Points "WHEELER MONUMENT RESET" (PID KR1645) to "RIVER X" (PID KR1662) being South 17°17'41" East.



Date 01/08/2014
David C. Crook, P.L.S.
Nevada Certificate No. 10836

LYON COUNTY
PLANNING DEPARTMENT

27 SOUTH MAIN STREET
YERINGTON, NEVADA 89447
(775) 463-6592 (775) 463-5305 FAX

ROBERT G. LOVEBERG
PLANNING DIRECTOR

NOTICE OF APPLICATION AND PUBLIC HEARING

PLZ-13-0050	Master Plan Amendment
Meeting Date:	November 12, 2013
Applicant:	Comstock Mining, Inc.
Property Owner:	Same
Area Location:	Silver City
Parcel Number:	(APN's) 08-091-05 & 08-091-02
Existing Zoning:	NR-1 (Non-Rural Residential-6,000 sq. ft. minimum)
Existing Master Plan:	Suburban Residential and Resource
Proposed Master Plan:	Rural Residential
Request:	To change the Master Plan Designation from Suburban Residential to Rural Residential on approximately 42.57 acres and from Resource to Rural Residential on approximately 12.29 acres
Location:	Off of Highway 341, Silver City, NV

Dear Affected Property Owner:

An application for the above referenced project is on file at the Lyon County Planning Department offices at 27 South Main Street, Yerington, NV. This file may be reviewed at this location during regular office hours (8:00 a.m. to 5:00 p.m.), Monday through Friday, except legal holidays, or upon request, a copy can be delivered via electronic mail. To request a copy of the supporting materials for this agenda item please contact Kerry Page at kpage@lyon-county.org or call 775-463-6592.

Planning Commission Hearing:

Date:	Tuesday, November 12, 2013 ***(this matter may be continued to another meeting date without additional notice)***
Time:	9:00 a.m.
Location:	Board of Commissioners Chambers 27 South Main Street, Yerington, Nevada

Interested persons may appear at the meeting to present oral comments to the Planning Commission. Written comments may be submitted by mail to Lyon County Planning Department, 27 South Main Street, Yerington, NV 89447, by fax to (775) 463-6596, or send an e-mail to: planning@lyon-county.org. Written comments must be received before the date of the meeting to be considered by the Planning Commission. For further information, please contact the Lyon County Planning Department at (775) 463-6592.

Comments (additional comments may be provided separately):

LYON COUNTY
PLANNING DEPARTMENT

27 SOUTH MAIN STREET
YERINGTON, NEVADA 89447
(775) 463-6592 (775) 463-5305 FAX

ROBERT G. LOVEBERG
PLANNING DIRECTOR

NOTICE OF APPLICATION AND PUBLIC HEARING

PLZ-13-0051 Zone Change

Meeting Date: December 10, 2013 *(continued from the November 12, 2013 Planning Commission meeting)*

Applicant: Comstock Mining, Inc.

Property Owner: Same

Area Location: Silver City

Parcel Number: (APN's) 08-091-05 & 08-091-02

Existing Zoning: NR-1 (Non-Rural Residential-6,000 sq. ft. minimum)

Proposed Zoning: RR-3 (Rural Residential-5 acre minimum) and RR-5 (Rural Residential - 20 acre minimum)

Existing Master Plan: Suburban Residential

Request: To change the Zoning Designation from NR-1 (Non-Rural Residential - 6,000 sq. ft. minimum) to RR-3 (Rural Residential-5 acre minimum) on 54.86 acres and RR-5 (Rural Residential - 20 acre minimum) on 32.34 acres

Location: Off of Highway 341, Silver City, NV

Dear Affected Property Owner:

An application for the above referenced project is on file at the Lyon County Planning Department offices at 27 South Main Street, Yerington, NV. This file may be reviewed at this location during regular office hours (8:00 a.m. to 5:00 p.m.), Monday through Friday, except legal holidays, or upon request, a copy can be delivered via electronic mail. To request a copy of the supporting materials for this agenda item please contact Kerry Page at kpage@lyon-county.org or by calling 775-463-6592.

Planning Commission Hearing:

Date: Tuesday, December 10, 2013 ***(this matter may be continued to another meeting date without additional notice)***

Time: 9:00 a.m.

Location: Board of Commissioners Chambers
27 South Main Street, Yerington, Nevada

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Comments (additional comments may be provided separately):

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PLANNING DEPARTMENT

27 SOUTH MAIN STREET
YERINGTON, NEVADA 89447
(775) 463-6592 (775) 463-5305 FAX

ROBERT G. LOVEBERG
PLANNING DIRECTOR

NOTICE OF APPLICATION AND PUBLIC HEARING

PLZ-13-0051	Zone Change
Meeting Date:	November 12, 2013
Applicant:	Comstock Mining, Inc.
Property Owner:	Same
Area Location:	Silver City
Parcel Number:	(APN's) 08-091-05 & 08-091-02
Existing Zoning:	NR-1 (Non-Rural Residential-6,000 sq. ft. minimum)
Proposed Zoning:	RR-3 (Rural Residential-5 acre minimum) and RR-5 (Rural Residential - 20 acre minimum)
Existing Master Plan:	Suburban Residential

Request: To change the Zoning Designation from NR-1 (Non-Rural Residential - 6,000 sq. ft. minimum) to RR-3 (Rural Residential-5 acre minimum) on 54.86 acres and RR-5 (Rural Residential - 20 acre minimum) on 32.34 acres

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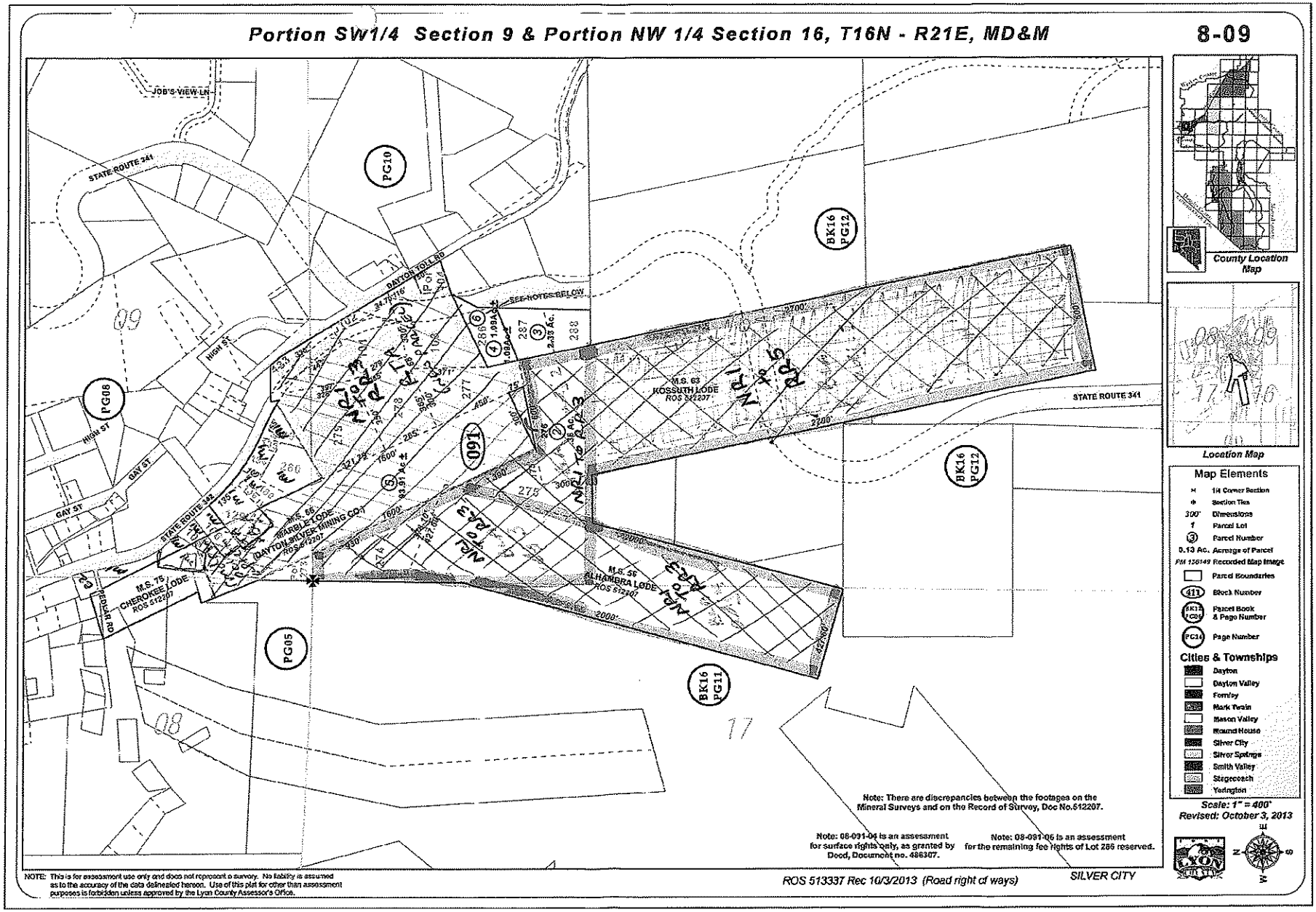
Comments (additional comments may be provided separately):



JA0969
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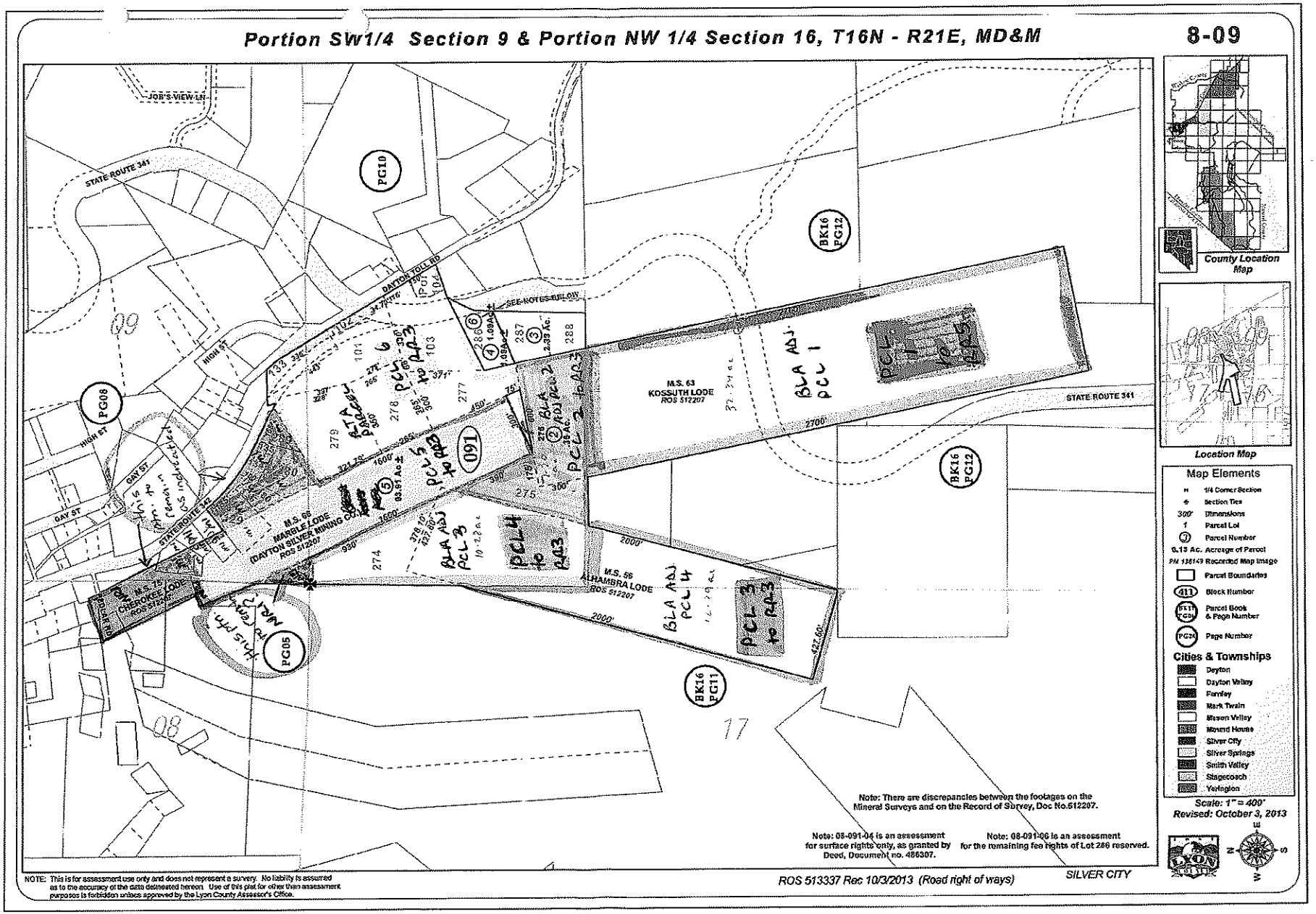
LYON COUNTY



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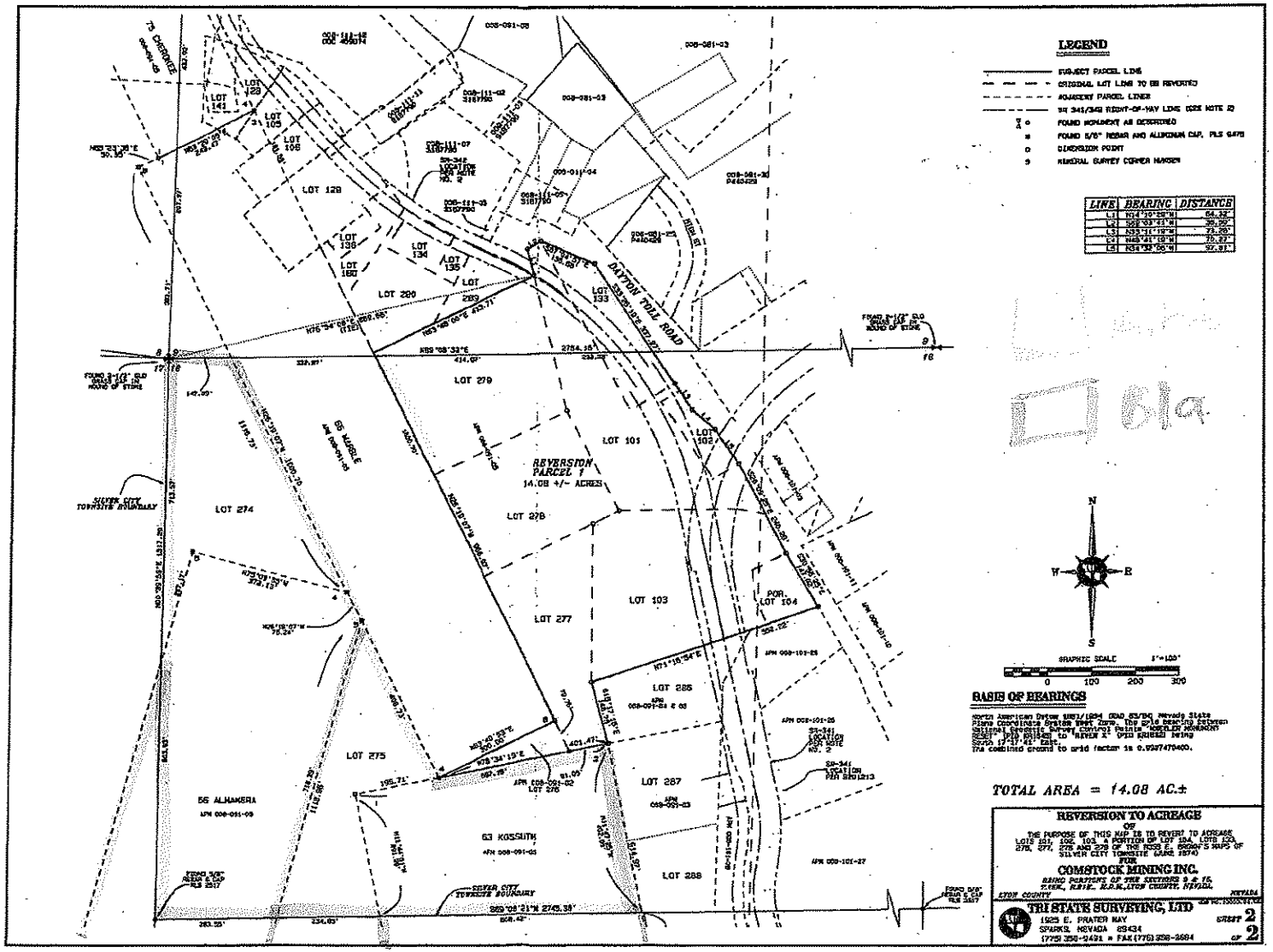
LYON COUNTY



FOR REVIEW ONLY

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LYON COUNTY

MATERIALS PROVIDED TO

THE PLANNING COMMISSION

FOR THEIR MEETING OF

NOVEMBER 12, 2013

REGARDING

COMSTOCK MINING, INC.

MASTER PLAN AMENDMENT

AND **ZONE CHANGE**

LYON COUNTY
PLANNING DEPARTMENT
27 SOUTH MAIN STREET, YERINGTON, NEVADA 89447
(775) 463-6592 (775) 463-5305 FAX

ROBERT G. LOVEBERG
PLANNING DIRECTOR

CORRECTED STAFF REPORT

Lyon County Planning Commission

PLZ-13-0050	Master Plan Amendment from Resource to Rural Residential and Suburban Residential to Rural Residential
Meeting Date:	November 12, 2013
Owners:	Comstock Mining, Inc.
Applicant:	Same
Area Location:	Silver City
Parcel Number(s):	(APNs) 08-091-02 & 08-091-05
Current Master Plan Designation:	Resource and Suburban Residential
Proposed Master Plan Designation:	Rural Residential
Existing Zoning:	NR-1, Single-Family Nonrural Residential (6,000 square foot minimum)
Proposed Zoning:	RR-3, Third Rural Residential (5 acre minimum), and RR-5, Fifth Rural Residential (20 acre minimum)
Case Planner:	Rob Loveberg
Planning Director Approval:	RGL

Request

The applicant is requesting a master plan amendment from Resource to Rural Residential on approximately 12.29 acres outside of the Silver City town site and an amendment from Suburban Residential to Rural Residential on approximately 42.57 acres within the Silver City town site. See the enclosed applicant's revised submittal for more detailed information and the applicant's justification.

A zone change from NR-1, Single-Family Nonrural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum), and to RR-5, Fifth Rural Residential (20 acre minimum), was submitted concurrently with this request. A request for a reversion to acreage involving property included in the requested master plan amendment and zone change was also submitted concurrently and has been heard by the Planning Commission.

Current and Proposed Master Plan Designations:

Master Plan Designation	Current		Proposed	
	Acreage	Percentage	Acreage	Percentage
Resource	12.29±	22.4%	0	0%
Rural Residential	0	0%	54.86±	100%
Suburban Residential	42.57±	77.6%	0	0%
TOTAL	54.86±	100%	54.86±	100%

Background:

The applicant submitted requests for a master plan amendment, a zone change and a reversion to acreage in August 2013 in accordance with the requirements of Title 10.12.09 of the Lyon County Code. Subsequent to the submittal, Lyon County Planning staff discovered that certain zoning information provided to the applicant was incorrect. The applicant revised the requests for the master plan amendment, zone change and reversion to acreage to reflect the corrected information. This report is based on the revised application information.

The Lyon County Comprehensive Master Plan, County-wide Component, was adopted by the Board of Commissioners on December 23, 2010. The residential densities for the following Comprehensive Master Plan land use designations are:

- Resource – 1 dwelling per 40 acres,
- Rural Residential – 1 dwelling per 20 acres to 1 dwelling per 5 acres, and
- Suburban Residential – 1 dwelling per acre to 18 dwellings per acre

The characteristics used to describe the three pertinent land use designations are as follows:

- Resource – Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grazing, mining and large scale energy, general rural residential development at very low densities. Within communities uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.
- Rural Residential – Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".
- Suburban – Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Examples of uses: Single-family residences, duplexes and attached housing.

The Lyon County Master Plan, County-wide Component, land use designation "Rural Residential" is consistent with the following Lyon County residential zoning districts: RR-3, Third Rural Residential District (5 acre minimum), RR-4, Fourth Rural Residential District (10 acre minimum) and RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Resource" land use designation is consistent with the following Lyon County zoning district: RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Suburban Residential" land use designation is consistent with the following Lyon County zoning districts: E-1, First Estates Residential (12,000 square foot minimum), E-2, Second Estates Residential (one-half acre minimum), NR-1, Single-Family Nonrural Residential (6,000 square foot minimum), NR-2, Multiple Residence Nonrural Residential (8,000 square foot minimum) and NR-3, Single-Family Nonrural Residential (9,000 square foot minimum).

Property Information:

Location:

The parcels are located westerly of State Route 341 and 342, in the area of the southwesterly corner of the Silver City town site.

Size:

The subject properties total approximately 87.2 acres according to the Lyon County Assessor's files. The requested master plan amendment involves 56.86 acres of the total.

Land Use

The subject properties are generally undeveloped, with a historic mill site and buildings on a portion of the property near and visible from State Route 341 and 342 as well as a large portion of Silver City.

Subject Property and Surrounding Area Land Use

	Current Master Plan	*Zoning*	*Current Land Use*
Subject Property	Resource Suburban Residential	NR-1	Undeveloped and Historic Mill
North	Commercial Mixed Use Suburban Residential	M-1 NR-1	Historic Residential and Undeveloped
South	Public Lands Resource	RR-5	Undeveloped
East	Resource Suburban Residential	NR-1 RR-5	Historic Residential and Undeveloped
West	Public Lands Suburban Residential Resource	NR-1 RR-5	Historic Residential and Undeveloped

It should be noted that not all zoning districts are consistent with their respective master plan land use designations. A master plan designation is an expression of the county's long-term expectations for development within a particular area.

Physical and Topographic Attributes:

According to information submitted by the applicant, the subject parcels vary from 0% - 10% slopes to slopes greater than 30%. A portion of APN 08-091-05 along State Route 342 has an area of AE flood zone.

Access:

Current access to the subject properties is via State Route 341 and State Route 342.

Historic District:

The parcels are within the Comstock Historic District.

Public Facilities and Services:

The portion of subject properties within the Silver City town site are within the service area of the Storey County Public Works Department, Virginia City Water System. The parcels are not currently served by the municipal water system and significant improvements will be necessary to bring water services to the subject properties.

No municipal sewer system currently serves the Silver City area. Immediate development would require the installation of individual sewer disposal systems (ISDS) for residential development, or on-site sewer disposal systems (OSDS) or package sewer treatment plant for non-residential development. The Silver City area is not generally well suited for ISDS or OSDS, and a long term solution for waste water treatment would be the extension of a municipal sewer system. Densities as contemplated in the County's Comprehensive Master Plan would contribute to the cost effectiveness of a sewer system.

The Central Lyon County Fire Protection District provides fire and emergency medical service from the volunteer fire station located at 745 High Street, Silver City, approximately 455 feet to the northeast of the site and career station at 231 Coral Drive, Dayton, approximately 3.5 miles easterly of the site. The Lyon County Sheriff's Department maintains a substation at 801 Overland Loop, Dayton, approximately 6 miles northeast of the site.

Water Rights:

Water rights information has not been provided. It is anticipated that potential development will bring necessary water rights for the portions of the parcels outside of the water system service area when required for development.

Summary of Applicant's Justification:

The applicant includes the following arguments in support of the requested master plan amendments:

- A reduction in the potential residential development density provides a "more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure and also clean up and align certain parcels that currently have "split" master plan designations."
- "For more than a century the subject property has been used for mining, mine exploration and/or mine development."
- "The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles."
- "In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning."
- The "zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts."

The applicant believes that "the community Character District of Suburbanizing, the Community Plan Land Use Designation of High Density, Density of 5 to 18 dwelling units per acre, the

Examples of Uses and the Description/ Characteristics and the current Suburban Residential master plan designation" are inconsistent with the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU1: Orderly Growth Patterns – Direct and manage development in the county that it is orderly and fiscally responsible.
- Goal LU2: Services Coordinated with Growth – Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

The applicant believes that the requested master plan amendments are consistent with and supported by the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU3: Diverse Economy – The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.
- Goal NR9: Mining and Resource Extraction – Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

The revised application submittal, dated October 11, 2013, contains the applicant's detailed request and justification. One must examine the revised information for the complete justification and a full understanding of the applicant's views.

Staff Review and Comments:

Applicant's Request

As specified in the applicant's justification statement "[t]he application is requesting a "down zone" at both the master plan and zoning levels." If approved, the applicant's master plan amendment requests would result in a decrease in planned residential density. The current master plan designation and zoning allow development at densities that are less than the maximum density permitted by the master plan land use designation and the zoning district.

The applicant's justification states that "[t]he applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property." If approved, the amendments set the stage for zone change requests that may permit uses, such as mining, not currently permitted on the subject parcels.

Access:

Access to the subject properties would be from State Route 341 and 342. Specific access would need to be created based on the type and density/intensity of development. No plan for development of access, intersections and/or ingress and egress points from the subject parcels has been provided.

Comstock Historic District:

Silver City and the subject parcels are within the boundaries of the Comstock Historic District. The District comprises an effort to maintain the historic character and integrity of the Comstock.

The State Historic Preservation Office describes the Comstock Historic Commission as follows:

The Comstock Historic District Commission was created by Nevada Revised Statute 384 and dates to 1969. The state agency encourages the preservation and promotion of historic resources with the Virginia City National Landmark District, which the state refers to as the Comstock Historic District. The Commission provides permits for projects dealing with the exteriors of all buildings within the district, the construction of new structures, and work affecting pavement or fencing. The Commission also takes a proactive role in encouraging archaeological investigations and cemetery restoration within the district.

The District has authority over the exteriors of existing and new structures located on the subject parcels. The visual aspects of the built environment is one very important aspect of efforts to maintain the integrity and historic context of the Comstock. Another important aspect is the visual landscape of the Historic District.

The historic nature of the Comstock and Silver City was identified by the community as being very important during the preparation of the Comprehensive Master Plan. The importance of the community's historic component has remained consistently important during community meetings and discussions regarding land use issues.

Land Use:

The subject parcels are generally undeveloped with an area containing a historic mill site and multiple historic structures. The property appears to have had periodic mineral exploration within the past approximately 40 or more years, and intermittent mining activities in the more distant past.

The current Resource land use designation, which applies to 12.29 acres of the subject parcels, has the following attributes as described in Chapter3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – Resource (private)
- Density range – *1 du per 40 acres or one-sixteenth of a section as described by a government land office survey, or per existing parcel if less than 40 acres or one-sixteenth of a section*
- Characteristics – *Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grazing, mining and large scale energy, general rural residential development at very low densities. Within communities, uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.*

The current Suburban Residential land use designation, which applies to 42.57 acres of the subject parcels, has the following attributes as described in Chapter3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – *Medium Density Residential, High Density Residential and Residential Mixed-Use.*
- Density range – *1 du per acre to 18 du per acre.*
- Characteristics –
    - *Medium Density Residential, High Density Residential - Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and*

lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Examples of uses: Single-family residences, duplexes and attached housing.

- *Residential Mixed-Use – This category is designed to create opportunities for higher-density neighborhoods in a suburban-setting to promote neighborhoods with a mix of types and intensities in close proximity to commercial and commercial mixed-use districts. Examples of uses: A range of medium to high-density residential housing types with open space, parks, schools, and other public uses.*

The proposed Rural Residential land use designation, which is proposed to apply to 54.86 acres of the subject parcels, has the following attributes as described in Chapter 3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – *General Rural and Rural Residential*
- Density range – *1 du per 20 acres to 1 du per 5 acres*
- Characteristics – *Characteristics: Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".*

The principal purpose of land-use regulation and zoning is to limit conflicts between incompatible land-uses. As a general rule, commercial and industrial uses are more compatible with higher density residential uses, particularly if they back up to them or if they are separated by a street. All master plan land use designations, zone changes, and special uses should be reviewed to ensure that existing and proposed land uses are compatible.

Past Lyon County Master Plans

Information regarding past master plan land use designations, goals and actions provide some context and insight for the current Comprehensive Master Plan provisions that pertain the subject parcels. From Planning staff's review of past documents, including the 1970s Lyon County Master Plan, zoning map circa the 1970s, the 1990 Lyon County Master Plan and the 2002 West Central Lyon County Final Land Use Plan, it appears that the County has been consistent in its planning approach, intended land use and zoning application.

Below are information, goals and actions from past master plans that illustrate the County's and Community's planning desires for Silver City.

1971 Lyon County General Plan

On the 1971 General Plan Map, Silver City is shown as an Urbanizing Area and the Mining Industry land use is not depicted in the Silver City area.

1990 Lyon County Master Plan – Silver City

Goal #1 To maintain, promote, and secure the historic character of the community and to prevent the destruction or degradation of the historic character.

2002 West Central Lyon County Final Land Use Plan – Silver City Master Plan Goals

Goal 1: To recognize, enhance, and protect the unique character of Silver City.
Actions:

- To maintain that scale and primary residential character by retaining the existing Master Plan designation and zoning categories.

Goal 8: To limit any earth disturbance or above ground mining activities that create visual scaring or that disrupt the fabric of the community.
Actions:

- Lyon County shall establish a land use policy that minimizes the impact of mining and other significant earth disturbing activities that degrade quality of life.

Goal 10: To maintain the primary focus of the community as residential.
Actions:

- To urge the Board of Commissioners to carefully consider all zone changes or Master Plan amendments that would substantially alter the character and identity of Silver City.

2010 Comprehensive Master Plan, County-wide Component

A consideration of the various and often competing provisions of the County's Comprehensive Master Plan is an essential aspect of the consideration of any master plan amendment request.

The applicant has provided information in the submitted, revised application materials regarding their opinions on the compatibility and importance of their master plan amendment request with the current County Comprehensive Master Plan, County-wide Component. The information includes discussions of the relevance of various goals, policies, strategies and land use designations. Please refer to the enclosed applicant's revised submittal for the complete text of the applicant's information.

Lyon County Planning staff compiled a listing of County Comprehensive Master Plan County-wide Component information that it considered relevant for background and for the analysis of the applicant's request. This list is enclosed with this report as Attachment 1.

Below are the Comprehensive Master Plan goals, policies and strategies identified by the County Planning staff with brief discussions.

Goal LU 1: Orderly Growth Patterns: Direct and manage development in the county so that it is orderly and fiscally responsible.

Policy LU 1.1: Follow Development Patterns as Established on Countywide Land Use Plan or a More Specific Community Plan

Future development of Lyon County will be consistent with the Countywide Land Use Plan or a more specific Community Plan, if one has been adopted. The Countywide Land Use Plan will guide future growth and development by defining appropriate land use types, densities, and character in different locations including cities and towns, suburbanizing areas, rural areas, farm and ranch land, hillsides, and public lands. The county's future urban and suburban growth will develop largely around existing communities.

Strategies:

- *Use the Countywide Land Use Plan and adopted Community Plans as a guide for decision-making on development approvals.*

- *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

The current County-wide Land Use Plan should be used to guide the decision regarding the applicant's requested master plan amendment. The current Land Use Plan is consistent with the identified long term development goals for Silver City and consistent with approximately 40 years of County master planning efforts and community input.

The applicant believes that the requested reduction in residential development potential provides for more orderly and fiscally responsible growth, and is more aligned with potential-to-actual development ratio and infrastructure availability.

The existing land use designation includes densities starting from one acre per dwelling unit and provides for density that could improve the potential for the expansion of infrastructure within Silver City.

Policy LU 1.4: Locate industrial development as designated on County-wide Land Use Plan or determined by criteria.

Industrial uses, including extractive industries, will occur in areas that are designated on the County-wide Land Use Plan. New industrial uses should only be located in areas that do not adversely impact existing residential settlements.

Strategies:

- *Consider developing a set of siting criteria to be used in determining the suitability of sites for industrial and extraction uses.*
- *Establish performance standards in areas of noise, odor, dust, traffic generation, etc.*

The potential for the location of a mining use within Silver City, where it was not identified in the Comprehensive Master Plan Land Use Plan, should be carefully considered. The County has not yet developed a set of siting criteria. The Comprehensive Master Plan policy discussion states that new industrial uses, which would include extractive industries, should only be located in areas that do not adversely impact existing residential settlements.

Goal LU 3: Diverse Economy: The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economic Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near to population centers.

The county will support economic diversification throughout the county to more fully utilize the broad range of skills, knowledge and abilities inherent in our workforce.

The requested master plan amendment would provide the basis for a zone change that could allow for the expansion of mining. Such a use has the potential for expanding employment opportunities. A mining use that adversely impacts existing Silver City businesses or tourism could also have an adverse impact on the economy and employment within the community.

The applicant states that: "The master plan change would allow for continued mineral exploration on the subject property helping to identify economic assets while employing local residents in primary jobs."

Policy LU 3.2: Business and Industry Locations that are Consistent with Future Land Use Plan

Encourage commercial and industrial development to locate in designated locations shown on the Future Land Use Plan, where public facilities exist or are planned to accommodate such development cost-effectively. The County-wide Land Use Plan will reserve adequate lands for jobs and industry.

Strategies:

- *Use the Countywide Land Use plan and Community Plans as a guide to determine appropriate locations for business and industry.*

The County-wide Land Use Plan should be used as a guide to determine appropriate locations for business and industry, including mining. The current County-wide Land Use Plan designations for the Silver City community do not identify lands for industry or mining within the community boundaries.

Goal CC 1: Quality Design: New development in Lyon County will improve the appearance and function of our communities.

Policy CC 1.1: Quality New Development

New development in the communities of Lyon County should create inviting places for locals and visitors to live, shop, eat, visit, and do business.

Policy CC 1.3: Design Tailored to Communities

New development in Lyon County should address and respect the unique character of communities within the county.

Consideration should be made to whether or not the proposed master plan amendment would improve the appearance and function of the Silver City community, and address and respect the community's unique character. The existing community development pattern is not inconsistent with the current master plan designation. The proposed decreased residential density does not follow the original town lot development pattern, but would not be inconsistent with the development pattern of parcels outside of the original town map area.

The establishment of uses that would be permitted through the concurrent zone change request may not be consistent with this goal and its policies.

Goal CC 3: Heritage: Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for resident and visitors to learn about and celebrate our heritage.

Policy CC 3.1: Maintain and Restore Historic Resources

Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts.

Strategies:

- *Revise zoning to encourage historic use and development patterns including mixed-use structures and districts.*
- *Support organizations in the county that apply for historic designation or grant funding for inventory or rehabilitation of historic structures, efforts to identify receiving sites for historic structures that cannot be maintained in their original locations, and similar historic preservation purposes and efforts.*

- *Work with knowledgeable organizations and individuals to ensure that building and development standards allow for adaptive reuse of valued historic structures, including those without official historic designation.*
- *Within historic districts, promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.*
- *Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district.*
- *Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.*

Staff is concerned that the requested master plan amendment, concurrent zone change request and the applicant's stated purpose for both could result in development directly contrary to this goal, policy and strategies. Silver City is a unique, historic community within Lyon County that lies within a historic district which contributes to its character and quality of life.

The following strategies are particularly relevant to the requested master plan amendment:

- *Within historic districts, promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.*
- *Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district.*
- *Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.*

Goal NR 3: Adequate, Clean Water: Adequate water supply will be available for current and future needs in Lyon County, including safe, healthy drinking water for all Lyon County residents.

Policy NR 3.1: Water Supply and Quality

Recognizing that clean water is a precious resource necessary to maintain our health, economy, and quality of life, Lyon County will protect the water supply and encourage efficient use of water resources.

Strategies:

- *Maintain and expand the piped municipal water and sewer systems within community core and urbanizing areas of the County as designated on the Future Land Use map.*

Consideration should be given to whether or not the change in development potential and pattern would have a positive or negative impact on the future expansion of the Salver City water system.

Goal NR 9: Mining and Resource Extraction: Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR 9.1: Guide Development

Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Strategies:

- *Consider the location of known resources when reviewing new development.*

Policy NR 9.3: Mitigate Operations

To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, etc.

Strategies:

- *Promote "limited impact"/environmentally safe resource extraction practices to protect the natural environment, enhance the quality of life of residents, and limit impacts on present and future public facilities and services.*

Policy NR 9.4: Mitigate long-term impacts

To the extent possible, Lyon County will promote long-term reclamation and rehabilitation of extractive sites.

Strategies:

- *Require resource extraction projects to submit detailed long-term reclamation and reuse plans and to provide adequate funding mechanisms to implement plans*

The future potential for mineral exploration and extraction operations should be considered for the requested master plan amendment and concurrent zone change requests.

Staff does not believe that the existing master plan land use designation or planned residential development within the Silver City community boundaries should be considered as development that should be guided away from mineralized areas. The Comprehensive Master Plan was created based on the concept of recognizing and developing the existing community core areas. Silver City is one of those areas.

The applicant believes that the existing Suburban Residential land use designation is inconsistent with the mining claims associated with the subject parcels and not appropriate with traditional land planning principles.

Goal FS 1: Provision of Services: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

Strategies:

- *Develop a Capital Improvements Plan and budget for Lyon County utility system expansion that is consistent with the Land Use Map in this Plan.*
- *Revise the County's development regulations in order to create incentives to build according to the Land Use map in this Plan.*
- *Require the developer to pay the full cost of utility system extension, in order to discourage inefficient utility system development, and provide for reimbursement mechanisms where appropriate.*

Silver City has an existing municipal water system. In keeping with this goal and strategies, the future improvement and expansion of the water system has been envisioned by Lyon County Public Works Department for some time.

Silver City has extensive limitations for individual and on-site sewer disposal systems. Additional large lot residential parcels requiring septic systems may be contrary to long term water quality and may reduce the opportunity for a future connection to a municipal sewer system.

Water system improvements are needed for the community and a sewer system may be necessary in the future. Cost effective improvement and expansion will be influenced by Silver City's the long term development potential.

Goal CP 1: Support Diversity: Lyon County will celebrate and support the diversity of character among communities in the county.

Policy CP 1.1: Recognize Diversity of Communities

Lyon County planning efforts and regulations will consider the unique aspects of communities in the county, and will allow for variation and exceptions to address key aspects of their diversity.

In considering the requested master plan amendment, Silver City's unique character, development pattern, historic location and dependence on the historic landscape should be recognized and supported.

Goal CP 3: Community Plans: Lyon County will support community-based planning efforts that elaborate community-specific goals and that are developed with strong public consensus.

Policy CP 3.1: Support Community Planning Efforts

Lyon County will encourage and offer guidance for community-based planning efforts, with the goal of ensuring that such an effort will result in a document that identifies the unique needs and values of the community in a manner that can be integrated with county-wide planning, regulations, and policies.

Over the past approximately 40 years, the Silver City community has actively participated in several master plan efforts, the results of which appear to be very consistent. During the development of the Comprehensive Master Plan, County-wide Component, the community was very active. Goals, policies, strategies and land use designations affecting Silver City were developed with strong public consensus.

Goal CP 4: Advisory Councils: County staff will confer with the applicable Community Advisory Council when developing programs or policies to address community-specific issues.

Policy CP 4.1: Confer with Community Advisory Councils

When developing a program or policy intended to address a community-specific issue, such as those listed in this Comprehensive Master Plan and in adopted community plans, county staff will confer with the applicable Community Advisory Council before finalizing a decision.

The Silver City Advisory Board has been very active in discussing, reviewing and commenting on the requested master plan amendment and zone change applications. The Advisory Board's comments should be considered in the review and deliberation regarding the requested master plan amendment.

Zoning:

The subject parcels are currently zoned NR-1, Single-Family Nonrural Residential District. A review of the County's zoning maps and zoning information for the subject parcels shows that the current zoning is consistent with zoning dating back to the 1970s.

The NR-1 zoning permits:

- Parcel size of 6,000 square feet or larger;
- Permitted uses consisting of single-family dwellings, detached guest building and accessory uses, garden houses, playhouses, tennis courts and "home occupations;"
- Special uses consisting of child care facilities, churches, group care facilities, parks, public utility serving centers, recreational areas, residential industry, schools, sanitariums and other like uses; and
- Special uses on parcels having a minimum area of 21,000 square feet consisting of private golf, swimming, tennis and similar clubs.

If the Planning Commission adopts the applicant's request for master plan amendments to the Rural Residential land use designation, the applicant's requested zone changes, contained in the concurrent zone change application, would become consistent with the County's Comprehensive Master Plan. If the Planning Commission does not adopt the requested master plan amendments, the applicant's requested zone changes will not be consistent with the County's Comprehensive Master Plan.

Guidance for Reviewing and Granting a Master Plan Amendment

The Lyon County Comprehensive Master Plan, County-wide Component, Chapter 11, Implementation, provides the following guidance for reviewing and granting a master plan amendment:

> *The public and the County may initiate Plan Amendments in accordance with the provisions of Lyon County Code. All Plan Amendments shall be considered by the Planning Commission and Board of County Commissioners pursuant to their respective powers. Based on its consideration of the recommendations from staff, advisory councils, boards and commissions, and evidence from public hearings, the Planning Commission could then adopt the Plan Amendment (with or without further revisions) or deny the Amendment. Any action on a Plan Amendment by the Planning Commission would be followed by County Commissioners action including, if applicable, its approval of the Plan Amendment. When considering a plan amendment, the County should consider whether:*
>
> 1. *The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;*
> 2. *The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;*
> 3. *The proposed amendment will have no major negative impacts on transportation, services, and facilities;*
> 4. *The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;*
> 5. *Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and*
> 6. *The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.*

Requirements for Granting a Master Plan Amendment:

Chapter 10.12.09(F) of the Lyon County Code requires that:

When making an approval, modification or denial of an amendment to the Master Plan land use map or text, the Commission and the Board shall, at a minimum, make one of the following findings of fact:

A. *Consistency with the Master Plan.*

1. *Approval: The applicant has demonstrated that the amendment is in substantial compliance with and promotes the Master Plan goals, objectives and actions.*
2. *Denial: The proposed amendment is not in substantial compliance with, nor does it promote the Master Plan goals, objectives and actions.*

B. *Compatible Land Uses.*

1. *Approval: The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses.*
2. *Denial: The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land uses.*

C. *Response to Change Conditions.*

1. *Approval: The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land.*
2. *Denial: The proposed amendment does not identify and respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.*

D. *No Adverse Affects.*

1. *Approval: The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.*
2. *Denial: The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and would adversely impact the public health, safety or welfare.*

E. *Desired Pattern of Growth.*

1. *Approval: The proposed amendment will promote the desired pattern for the orderly physical growth of the County, allows infrastructure to be extended in efficient increments and patterns, maintains relatively compact development patterns, and guides development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.*
2. *Denial: The proposed amendment does not promote the desired pattern for the orderly physical growth of the County. The proposed amendment does not allow infrastructure to be extended in efficient increments and patterns, does not maintain relatively compact development patterns, and does not guide development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.*

Summary:

A master plan amendment is the most discretionary decision that the Planning Commission and Board of Commissioners can make regarding land use. After master plan decisions, the Planning Commission's and Board of Commissioners' breadth of discretion becomes more and more constrained until there is relatively little discretion in the matter of conditional and permitted uses.

The County's Comprehensive Master Plan is a long term plan for the development of the County and its individual communities. Decisions on master plan land use designations should be made with deliberate consideration of long term needs, opportunities, community aspirations, community stability, compatibility, and community character. To be most effective, master plans should be amended infrequently when there are compelling justifications which reflect long term community goals and interests.

In short, the prime considerations the Planning Commission needs to determine are whether the proposed master plan amendments:

- ✓ Are needed,
- ✓ Are compatible with the area and Comprehensive Master Plan,
- ✓ Will have no major negative impacts,
- ✓ Will have minimal effect on and will be compatible with services,
- ✓ Will promote the public welfare, and
- ✓ Are consistent with the Comprehensive Master Plan goals and policies.

Staff Recommendation:

Staff would generally recommend that the most appropriate process for making a land use designation decision would be as part of the preparation of a Community Plan for Silver City as envisioned in the Comprehensive Master Plan. However, the Comprehensive Master Plan and County Code provide a process for the master plan amendment now before the County.

Staff recommends denial of the requested master plan amendments based on the guidance provided by the Comprehensive Master Plan, County-wide Component, including the adopted Land Use Plan, the majority of applicable goals, policies and strategies, Silver City's unique and historic character, and the County's lengthy, consistent master plan record of land use planning for Silver City.

Alternative Findings and Motions:

The alternative motions suggested below are offered for Planning Commission consideration.

Alternative for Denial:

If the Commission determines that the request for a Master Plan Amendment should be denied, the Commission must make findings supporting a denial. The Planning Commission may wish to consider a motion similar to the following:

The Lyon County Planning Commission finds that:

A. The proposed amendment is not in substantial compliance with, nor promotes the Master Plan goals, objectives and actions in that it is not in keeping with the majority of applicable guiding principles, goals, policies, strategies and community description contained in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

B. The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land use in that the amendment would change the planned character and intensity of residential development and enables the potential development of a land use incompatible with the actual and planned adjacent and predominant residential land uses.

C. The proposed amendment fails to identify or respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.

D. The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and will adversely impact the public health, safety or welfare.

E. The proposed amendment does not promote the desired pattern for the orderly physical growth of the County as set forth for the Silver City community in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

F. The existing Comprehensive Master Plan and/or any related element thereof is not in need of the proposed amendment.

G. The proposed amendment is not compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan, particularly those related to Silver City.

H. The proposed amendment will have effects on service provision, including adequacy or availability of facilities and services, and is not compatible with existing and planned service provision.

I. Deviation from the strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

J. The proposed Plan amendment will not promote the public welfare and will be inconsistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.

Based on the above findings, the Lyon County Planning Commission denies the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050).

Alternative for Approval:

If the Commission desires to approve the requested Master Plan amendment from Low Density Residential to Commercial, the Commission must make findings supporting the proposed expansion of the Commercial Master Plan Classification on the subject parcels. The Commission may wish to consider a motion similar to the following:

The Lyon County Planning Commission finds that:

A. The applicant has demonstrated that the amendment is in substantial compliance with and promotes the Master Plan goals, objectives and actions in that it is in keeping with applicable guiding principles, goals, policies, strategies.

B. The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses in that the amendment would decrease the intensity of residential development.

C. The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land.

D. The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.

E. The proposed amendment will promote the desired pattern for the orderly physical growth of the County, maintains relatively compact development patterns, and guides development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.

F. The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan.

G. The proposed amendment will have no major negative impacts on transportation, services, and facilities.

H. The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision.

I. Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

Based on the aforementioned findings, the Lyon County Planning Commission approves the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050).

Alternative for Continuance:

If the Commission determines that additional information, discussion and public review are necessary for a more thorough review of the proposed Master Plan Amendment, the Commission should make appropriate findings and move to **continue** the Public Hearing with a specific time period for the applicant to provide additional specific information necessary for the analysis of the request. The Planning Commission may wish to consider a motion similar to the following:

The Lyon County Planning Commission finds that:

A. Additional information, discussion and public review are necessary for a more thorough review of the proposed Master Plan Amendment.

Based on the above findings and with the applicant's concurrence, the Lyon County Planning Commission continues the hearing for the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050), for __ days.

Attachment 1

Lyon County Comprehensive Master Plan, County-wide Component
Excerpts and Relevant Information

Chapter 1: Introduction

Plan Use

The Comprehensive Master Plan will be used as a decision-making tool by residents, landowners, developers, the County Planning Department, Planning Commission, and Board of Commissioners. The Plan does not change existing zoning or solve all of the county's problems; instead, it serves as a handbook for implementing the county vision. It specifies policy guidelines that respect the individual, reinforce community values, support healthy functioning communities, and advocate quality of life.

The Plan is a catalyst and guide to the establishment, or revision, of mechanisms to implement the selected goals and policies. These mechanisms include development codes and other planning tools such as zoning and subdivision codes, zoning maps, capital improvements programs, Community Plans for the eight identified communities within the County, and other specific "action items."

About Master Plans Generally

The Comprehensive Master Plan is an official public document adopted by the Lyon County Planning Commission and Board of Commissioners. The Plan is a general, long-range, policy and implementation guide for elected and appointed officials in making choices concerning the overall needs, growth and development of the county and its communities. It outlines Lyon County's vision and goals for the future.

The Plan is comprehensive because the elements cover a broad range of development and growth issues which can be influenced significantly by the County Planning Commission, Board of Commissioners and other governing authorities and agencies. The Plan is general because the recommendations are broad. The plan is long-range because consideration is given to the problems and opportunities which may arise over the next twenty or so years. The Plan is dynamic because there will be amendments to adapt to new situations and meet new challenges over time.

The written guiding principles, goals, policies and strategies, in combination with the Land Use Map, provide guidance for decisions affecting growth, the use and development of land, preservation of open space and the expansion of public facilities and services. The Comprehensive Master Plan written policy recommendations and maps should be used together when making decisions. It is also recognized that this document should be reviewed annually at a public hearing and revised as needed to reflect the availability of new implementation tools, changes in State and Federal law, changes in funding sources, the results of monitoring the effectiveness of existing policies and the impacts of past decisions, as well to reflect changes in the community's vision for the future.

How Does Zoning Relate to The Master Plan?

County zoning regulations consist of both a zoning map and a written ordinance that divides the county into zoning districts, including various residential, commercial, and industrial districts. The zoning regulations describe what type of land use and specific activities are permitted in each district, and also regulate how buildings, signs, parking, and other construction may be placed on a lot. The zoning regulations also provide procedures for re-zoning and other planning applications.

The zoning map and zoning regulations provide specific requirements for development of property, while the Master Plan provides a guide for the future development of the property. When changing the zoning of a particular property, it must be consistent with the Master Plan Land Use Map. That is to say, the Land Use Map contained in this Master Plan should guide future re-zoning decisions.

Consistency Between the Master Plan And Zoning

Master plan land use category designations shown on a Land Use Map are not the same as zoning. The adoption of a master plan and Land Use Map does not change a property's zoning.

Master plans are advisory in nature, serving to guide the community at a policy level and to guide future development decisions. Zoning is regulatory in nature, generally serving to implement the master plan and specify permitted uses, allowed densities and development standards.

In many instances, land use category designations on a Land Use Map may not directly correspond to a property's underlying zoning. Unless the County chooses to pro-actively re-zone properties that are not consistent with the Land Use Map, properties retain their underlying zoning. If a property owner desires to change zoning to be consistent with the Land Use Map, the property owner will be required to request re-zoning of the property as part of the development process to bring it into compliance with the Master Plan. There is no requirement in Nevada State law requiring that the zoning of properties be brought into compliance with the Master Plan and its Land Use Map.

Underlying zoning was reviewed and considered throughout the development of, this Master Plan to ensure that consistency between planned land uses and zoning could be maintained to the maximum extent feasible. In some instances, land use designations do differ, however, as was necessary to meet the broader objectives of the Master Plan. Re-zoning may be required should the properties develop or redevelop in the future. It should be noted that in many of the cases where inconsistencies do exist, planned land use categories (e.g., mixed-use land use designations) and zoning that would subsequently be required, would allow a much broader range of uses than are allowed today.

Process for Plan Development and Adoption

This County-wide Component of the Comprehensive Master Plan is the culmination of four years of dialogue and analysis that has included a wide array of participants including the Board of Commissioners, the Planning Commission, community advisory councils, County staff and the community at large. A series of community meetings, open house events and workshops were held throughout the county to obtain citizen input and recommendations, including eight meetings on issues identification in March 2007, eight community meetings and 2 joint Planning Commission/Board of Commissioners sessions on

Chapter 2: Vision and Guiding Principals

The Vision, Guiding Principles, and Goals, Policies and Strategies of the Lyon County Comprehensive Master Plan will guide the County in its decisions, and as new development or changes occur, help to maintain and enhance the qualities that make Lyon County a great place in which to live, work, and play.

- *The Lyon County Vision Statement sets out a desired picture of the future of Lyon County. It represents a future toward which the County will strive.*

- *Guiding Principles represent the broad values and ideals for the County.*
- *Goals are statements about what the County aims to achieve over the life of the Comprehensive Plan. Goals are intended to give decision-makers and citizens a clear idea about the County's intended direction.*
- *Policies provide ongoing guidance for elected and appointed officials, staff, and administrators as these community leaders make decisions about specific development, programs, and capital investments in the County.*
- *Strategies list detailed actions and methods for implementing the plan. We have listed a range of possible strategies to be considered. Some strategies will be possible to accomplish in the near term, while others will be on-going, or will take place later in the life of the Comprehensive Master Plan.*

How Did We Get Here?

The Vision, Guiding Principles, Goals, Policies, and Strategies in this document are based on public comments gathered in a series of open houses and workshops held in communities throughout Lyon County, in meetings with community advisory councils, and on comments and direction provided by the Planning Commission and Board of County Commissioners. Feedback from these meetings was first distilled into a draft Vision, Guiding Principles, and Goals document that was reviewed by the Planning Board and Board of County Commissioners in September, 2007. Subsequently, comments and concerns and detailed policy direction, in the form of policies and strategies, have been addressed in numerous drafts and updates during 2008, 2009 and 2010.

Overall Vision for Lyon County

A Vision statement is an overall image of what the community wants to be and how it wants to look in the future. It describes the kind of community that residents, business owners, and leaders want their county to become. The Vision for Lyon County describes the community's collective values and aspirations and creates an image of the County based upon what it is today and what residents would like it to be in the future. The Vision is founded on the premise that the health of the County and the quality of life of its residents depend on the balancing of multiple factors, including environmental, economic and community/social considerations. These components are interrelated and essential to the continued health and sustainability of the community. Addressing these factors in a comprehensive manner provides a balanced and flexible basis for formulating the County's Comprehensive Master Plan.

Lyon County Vision

Lyon County will guide growth and change to meet the needs of current and future residents, building on its heritage, and exploring new and innovative techniques to address challenges. The diverse communities within Lyon County will work together to meet shared goals while respecting and promoting the individual character of each community. Residents will enjoy an excellent quality of life characterized by: diverse lifestyle opportunities, quality housing choices, plenty of clean air and water, access to open lands, recreation and wildlife, outstanding public schools, an efficient transportation network, a safe community, and a range of employment and occupational choices. Our rural character, and agricultural and mining heritage, will continue to be a strong part of Lyon County's identity.

Guiding Principals

Eight broad "Guiding Principles" have been identified as the basic beliefs behind the overall County Vision and this Comprehensive Master Plan. The Principles reflect the community's vision at a broad policy level and describe the community's aspirations; highlighting areas where the County has opportunities to build on its strengths—as well as those areas where a change in policy direction is needed to improve a condition that is not consistent with the Vision.

Chapter 3: Land Use, Economy and Growth

Land use patterns in Lyon County have not only been shaped by County regulations and development decisions, but also by physical factors such as topography and water availability. Throughout most of its history, Lyon County has been characterized by a number of compact communities and rural settlements spread over a landscape of valleys and mountains, farm/ranch lands, rivers, and extensive undisturbed areas. For years, the County has been noted for its rural character and image, its historical heritage, and its slow-paced rural way of life.

The rapid growth in the region has brought changes to the County: changes welcomed by many, lamented by others, but of concern to all. Inevitably, in such a process, Lyon County and its communities have been affected by development, increased traffic volumes, encroachment into floodplains, services stretched to meet needs, and a declining agricultural land base.

Future development will be influenced by factors such as population trends, employment growth, and water availability. Lyon County desires to be able to provide employment opportunities for its residents as well as a diverse choice of housing types, commercial services, recreational opportunities and community character.

The County's purpose is not to restrict future growth but to direct it in a way that minimizes negative impacts while offering residents a range of choices and promoting job creation. The County seeks to successfully accommodate growth and consciously decide how development should occur to achieve a more efficient pattern for future development. Lyon County intends to ensure the county's long-term viability by using methods to guide new development to locations where adequate public infrastructure such as roads, water, sewer, schools, and related facilities, is available or can be provided most efficiently and cost effectively, promoting infill development, and providing incentives for quality development.

Lyon County sees more growth and development occurring in and around the existing community cores (its towns and established settlement areas) with more focus on balancing residential, employment, and retail land uses. Less growth is desired in the remote unincorporated areas (outside of community cores). The County also desires to continue agricultural production and the retention of agricultural lands, but allow residential development especially in alternative rural patterns such as clustering, through incentives and density transfer mechanisms. Incentives and density transfer mechanisms are also desired to promote alternative development patterns and the conservation of areas of environmental significance or hazardous features.

Guiding Principal: ***Lyon County will grow in an orderly fashion concentrating development within designated community cores, maintaining the diversity characterized by its settlement patterns and landscapes, providing jobs as well as housing, and sustaining quality public services and facilities.***

Goal LU 1: Orderly Growth Patterns: Direct and manage development in the county so that it is orderly and fiscally responsible.

Policy LU 1.1: Follow Development Patterns as Established on Countywide Land Use Plan or a More Specific Community Plan

Future development of Lyon County will be consistent with the Countywide Land Use Plan or a more specific Community Plan, if one has been adopted. The Countywide Land Use Plan will guide future growth and development by defining appropriate land use types, densities, and character in different locations including cities and towns, suburbanizing areas, rural areas, farm and ranch land, hillsides, and public lands. The county's future urban and suburban growth will develop largely around existing communities.

Strategies:

- *Use the Countywide Land Use Plan and adopted Community Plans as a guide for decision-making on development approvals.*
- *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

Policy LU 1.4: Locate industrial development as designated on County-wide Land Use Plan or determined by criteria.

Industrial uses, including extractive industries, will occur in areas that are designated on the County-wide Land Use Plan. New industrial uses should only be located in areas that do not adversely impact existing residential settlements.

Strategies:

- *Consider developing a set of siting criteria to be used in determining the suitability of sites for industrial and extraction uses.*
- *Establish performance standards in areas of noise, odor, dust, traffic generation, etc.*

Goal LU 3: Diverse Economy: The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economic Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near to population centers.

The county will support economic diversification throughout the county to more fully utilize the broad range of skills, knowledge and abilities inherent in our workforce.

Policy LU 3.2: Business and Industry Locations that are Consistent with Future Land Use Plan

Encourage commercial and industrial development to locate in designated locations shown on the Future Land Use Plan, where public facilities exist or are planned to accommodate such development cost-effectively. The County-wide Land Use Plan will reserve adequate lands for jobs and industry.

Strategies:

- *Use the Countywide Land Use plan and Community Plans as a guide to determine appropriate locations for business and industry.*

Goal LU 5: Encourage Resource Sensitive Growth: Development will be designed to reduce energy use and minimize environmental impacts.

Overall Land Use Plan Approach – Community Core Concept

Early in the process of developing this Master Plan and based on input from the community and county leadership, an overall approach for future growth and development in the county was identified and is referred to as the Community Core Concept. Under this approach, Lyon County would see more growth and development occurring in and around the existing community cores (its towns and established settlement areas) with more focus on balancing residential, employment, and retail land uses. The concept encourages less growth in the remote unincorporated areas (outside of community cores). The agricultural areas around Smith and Mason Valleys would primarily continue for agricultural production, but would allow residential development especially in alternative rural patterns such as clustering, through such mechanisms as transfer of development rights and non-contiguous density transfers. In addition, the concept promotes alternative development and conservation approaches for areas of environmental significance or hazardous features, such as steep slopes, wetlands, or floodplains.

Community Description

Chapter 3, Land Use, states that "community descriptions should serve as a general guide when considering the implications of the Master Plan County-wide Component on individual communities." The description of Silver City is as follows:

Silver City

Silver City, situated in lower Gold Canyon, represents the first settlement in Nevada based on mining activity. The town is located about 4 miles northwest of Dayton, the site of Nevada's first gold discovery, and 3 miles south of Virginia City along Highways 341 and 342. Approximately 200 home-sites and 100 houses, along with some historic commercial and industrial buildings, comprise the historic town site which is an integral part of the Comstock Historic District – a National Landmark Historic District.

Over the past 30 years residential infill and limited commercial endeavors have occurred on existing historic properties in Silver City. The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims. The existing water service infrastructure dates to the late nineteenth century, when a water system to supply the mining operations and settlement demands of the Comstock communities was constructed. This aging water system and a lack of a sewer system limit growth in Silver City. Additionally, title issues due to the historic nature of the town site and complications based in local zoning and building codes, have limited development.

Silver City has a strong sense of identity and prides itself on its cohesive small town atmosphere. The community treasures its historic buildings and landscape features, as evidenced by the preservation and rehabilitation of many original structures. New construction is regulated for exterior architectural features by the Comstock Historic District Commission.

Character Districts

Character District Map Description

"Character" can generally be thought of as the look or feel of a place, including: the built environment, land use patterns, street patterns, open lands, and general density or

intensity and type of uses. The purpose of the Character Districts Map is to help define, maintain, or enhance desired character of development or intensity in particular areas of the county.

Five Character Districts

Character Districts provide guidance to the type, intensity, density, and general development standards for uses intended to occur within their boundaries. They control and modify the land use designations to achieve the type and character of development desired in communities. These Districts are defined areas within communities. A community may have one or more Character Districts within its boundary. The following character districts are described in the sections that follow:

- *Rural districts,*
- *Suburbanizing districts,*
- *Historic districts,*
- *Future Plan Areas, and*
- *General County.*

Rural Districts

Rural Districts include those areas that are predominately low density residential development with limited neighborhood commercial uses. They may or may not have agricultural land uses or grazing lands. Improvement standards will reflect the "rural" character of the area. Rural districts are not likely to have municipal water and sewer. Roads are likely to have dirt shoulders, some equestrian paths as well as bike facilities within road rights-of-way.

Suburbanizing Districts

Suburbanizing Districts include those areas that are predominately medium to high density residential development with regional/community commercial, neighborhood, industrial and employment uses. Improvement standards will reflect the "suburban" character of these areas and will include requirements for municipal water and sewer, roadway design appropriate to the planned land uses, landscaping of public areas, and pedestrian facilities (sidewalks and paths). Roads are likely to have some bike and pedestrian facilities within road rights-of-way or separate paths.

Historic Districts

Historic Districts include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote "historic" architectural design elements. Future historic districts could also be designated where the intent is to promote new compatible development that is in keeping with the "historic" development patterns and architectural design elements to create more vitality. Tools might include mixed-use, design guidelines and conservation easements.

General County

Lands outside the boundaries of defined community boundaries are classified as General County. These lands are rural or resource lands or public lands, and are intended to remain largely undeveloped or with very low intensity development within the Master Plan's planning horizon. The development standards applicable to General County lands are the same as those for Rural Character Districts.

County-wide Land Use Plan Map(s)

The intent of the County-Wide Land Use Plan Map(s) is to show the generalized land use patterns for the entire County and the land use designations for lands outside of defined communities. This Plan map(s) provides an overall view of the County's desired development pattern. The county-wide categories, which are very general and the broadest categories to be mapped, encompass the more specific community plan land use designations, as shown in the land use categories table in this section. The County-wide Land Use Plan map(s) provides broad direction for the land uses intended within communities and the County. (Note: The Land Use Plan designations are shown in the blue column in the master table beginning on page 3.28.) Until a Community Plan is adopted, the County-wide Land Use Plan will be the guide.

Land Use Categories shown are generally consistent with Lyon County zoning and do not remove or vastly change owner entitlements to properties. However, some categories suggest a slight refocus of future development patterns to better achieve Comprehensive Plan Goals. For example, the intent for lands designated as "Highway Corridor Mixed-Use" is to gradually transition away from the strip commercial pattern along the county's highways to become a more cohesive mix of uses with offices, residential, and commercial that is focused in centers. Likewise, some of the lands in Smith Valley that are zoned for Rural Residential are shown as Agriculture, because the intent is that they are part of a larger agricultural area where options for landowners to conserve lands, do clustered development, or transfer density to more concentrated rural development areas is desirable. The Agriculture designation does not imply a change in potential development units from current zoning.

Proposals for development must be consistent with the categories and centers shown on the County-wide Land Use Plan or applicable Community Land Use Plan, or be consistent with locational criteria for centers described later in this chapter. The plan amendment procedures section of this plan describes what developers must do when a proposal is not consistent with the land uses defined herein.

County-wide Land Use Categories Table [Excerpts]

Countywide Land Use Category	Community Plan Land Use Categories	Density Range	Description/ Characteristics and Examples of Uses
AGRICULTURE AND RESOURCE LANDS			
Resource	✓ Resource (private)	1 du per 40 acres or one-sixteenth of a section as described by a government land office survey, or per existing parcel if less than 40 acres or one-sixteenth of a section	Characteristics: Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grozing, mining and large scale energy, general rural residential development at very low densities. Within communities uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.
RESIDENTIAL			
Rural Residential	✓ General Rural ✓ Rural Residential	1 du per 20 acres to 1 du per 5 acres	Characteristics: Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by

Countywide Land Use Category	Community Plan Land Use Categories	Density Range	Description/ Characteristics and Examples of Uses
			municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".
Suburban Residential	✓ Medium Density Residential ✓ High Density Residential	1 du per acre to 18 du per acre.	Characteristics: Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Exomples of uses: Single-family residences, duplexes and attached housing.
	✓ Residential Mixed-Use	3 du per acre to 18 du per acre.	Characteristics: This category is designed to create opportunities for higher-density neighborhoods in a suburban-setting to promote neighborhoods with a mix of types and intensities in close proximity to commercial and commercial mixed-use districts. Examples of uses: A range of medium to high-density residential housing types with open space, parks, schools, and other public uses.

Chapter 5: Community Character and Design

Lyon County features a rich mosaic of communities, residents, and physical attributes. Residents and property owners have expressed considerable interest in maintaining their many diverse communities and improving community aesthetics. A community's character is defined by its design, its viewsheds, its gathering places, and its historic and cultural resources, as well as by environmental characteristics such as natural quiet and dark night skies. Maintaining this character is important—not only for promoting economic development and diversification, but also for protecting our living spaces, quality of life and open lands. In addition, preserving rural character is a core value of a majority of Lyon County residents.

This Chapter describes the factors that combine to create community character in our county. It also discusses the Guiding Principle, goals, policies and other mechanisms that help us to protect the community characteristics we value. This Community Character and Design Chapter seeks to define, preserve, and enhance the quality of the places where we live, work, and enjoy our leisure time. Its goals include protecting the unique characteristics of our communities.

Each community has distinct features that contribute to its physical character. Many of these features reflect common values for preserving a community's rural character, appearance, natural resources, open spaces, recreation areas, scenic views, vegetation, historic architecture, development patterns, and activity centers. These features promote quality of life and economic well-being. Preserving them should not prohibit

Pursuant to NRS 239B.030, the undersigned affirms that the following document does not contain the social security number of any person.

JOHN L. MARSHALL
SBN 6733
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Reno, Nevada 89509
Telephone: (775) 303-4882
Attorney for Petitioners Comstock Residents Association & Joe McCarthy

IN THE SUPREME COURT OF THE STATE OF NEVADA

COMSTOCK RESIDENTS ASSOCIATION, JOE McCARTHY

Appellants,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED

Respondents,

_____/

No. 68433
District Court Case No. 14-CV-00128

JOINT APPENDIX

VOLUME 5

PAGES 0625-0750

Docket 68433 Document 2015-37507

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Comm. Keller made a motion to approve the Master Plan Amendments from Resource to Rural Residential on approximately 12.29 acres and from Suburban Residential to Rural Residential on approximately 42.57 acres for Comstock Mining, Incorporated as set forth in the written and graphic information contained in the revised Master Plan Amendment application and supporting documents received by Lyon County planning department on October 18, 2013 (APNs 08-091-02 and 08-091-05)(PLZ-13-0050). Excluding, without prejudice, eight of the nine previously approved on October 18, 2013 reversion to acreage application for Silver City town sites APN 08-091-05 and 08-091-02. Town sites to be excluded are 101, 102, 103, 104, 133, 277, 278 and 279, a total of approximately 13.72 acres and an additional 1.77 acres from the north end of parcel 08-091-05 known as the "Marble Lode". As depicted on the revised map presented this day January 2, 2014. To hereby be made part of the record and to include findings A through I as follows: A. The applicant has demonstrated that the amendment is an substantial compliance with and promotes the Master Plan goals, objectives and actions in that it is in keeping with applicable guiding principle, goals, policies and strategies. B. The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses in that the amendment would decrease the intensity of residential development. C. The proposed amendment has demonstrated in response to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land. D. The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions and will not adversely impact the public health, safety or welfare. E. The proposed amendment will promote the desired pattern for the orderly physical growth of the County, maintains relatively compact development patterns, and guides development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services. F. The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan. G. The proposed amendment will have no major negative impacts on transportation services, and facilities. H. The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision. I. Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with key elements and policies of the plan. Comm. Mortensen seconded the motion for discussion. The motion passed 4 – 1. Comm. Arellano voted nay.

For Possible Action: COMSTOCK MINING, INC – ZONE CHANGE - Request to change the zoning from NR-1 (Non-Rural Residential - 6,000 sq. ft. lot size) and RR-5 (Fifth Rural Residential - 20 acre minimum) to RR-3 (Third Rural Residential-5 acre minimum) on approximately 54.86 acres and RR-5 (Fifth Rural Residential - 20 acre minimum) on approximately 32.34 acres, of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0051

***Planning Commission Recommendation*: Based on the recommended findings, the Planning Commission passed a motion to recommend denial of the Zone Change request for Comstock Mining, Inc. on APN's 08-091-05 & 08-091-02, by a unanimous vote of those members present: 6 ayes; 0 nay; 1 absent (Paul Lanning).**

Comm. Keller moved to approve the Zone Change request from NR-1, Single-Family Non-Rural Residential (6,000 Square foot minimum) to RR-3, Third Rural Residential District (five-acre minimum) on approximately 54.86 acres and the $$-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Incorporated as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 and 08-091-05) (PLC-13-0051). Excluding eight of the nine previously approved on October 8, 2013 reversion to acreage application for Silver City town sites APNs 08-091-05 and 08-091-02. Town sites to be excluded, without prejudice, are 101, 102, 103, 104, 133, 277, 278 and 279, a total of approximately 13.72 acres at 1.77 acres from the north end of parcel 08-091-05 known as the "Marble Lode". As depicted on the revised map presented this day, January 2, 2014, to be hereby made part of the record. Comm. Hastings seconded and the motion passed 5 – 0.

solution instead of replacing it. He would like to bring the flows into either the Rolling A treatment station in Dayton or to Carson City. The study would give them the minimum and maximum pipe sizing equipment needs for the project.

JoJo Myers business development specialist for the Northern Nevada Development Authority explained that NNDA would use the CDBG grant funds to create a Prosperity Plan for Lyon County using the same expertise as used in Douglas County. It takes approximately $100,000 to create the plan.

Maureen Williss explained the $100,000 would be used to create three jobs.

Mathew Mortensen and Kirk Swanson presented on behalf of Silver Springs Mutual Water Co. They are seeking grant funds for water resource planning and upgrades to the system. The wells are 60 years old. They explained the need for replacement wells and needed improvements. Mr. Swanson also explained the need to hold on to the water rights and a need for drought planning in the Silver Springs area.

Maureen Williss said the last grant to be presented is the Rural Continuum of Care Grant. It is a set-a-side grant and does not compete against the regular grants.

Martha Turner, Director of Housing Programs with Nevada Rural Housing Authority and co-chair of the Rural Nevada Continuum of Care presented. She explained that continuum of care covers the entire state with the exception of Washoe and Clark County. The grant provides assistance to help prevent homelessness. The request they will be submitting to HUD will be just over $700,000 this year. The Rural Continuum of Care Grant request will be for $43,666. There will be matching funds of just over $25,000.

There were questions and comments from the board.

Maureen Williss explained Set-Aside grant programs.

REGULAR AGENDA

27. For Possible Action - Approve a resolution concerning the financing of sewer projects; directing the Clerk to notify the Lyon County Debt Management Commission of the County's proposal to issue general obligations therefor; providing certain details in connection therewith; providing for the reimbursement of expenditures from the proceeds of bonds; and providing the effective date hereof

Josh Foli, Comptroller, explained the need for the resolution. He said it needs to be approved now in order for it to be ready to move forward in the spring or summer. Josh Foli explained the funding will come through the state revolving fund.

Comm. Fierro moved to approve a resolution concerning the financing of sewer projects; directing the Clerk to notify the Lyon County Debt Management Commission of the County's proposal to issue general obligations therefor; providing certain details in connection therewith; providing for the reimbursement of expenditures from the proceeds of bonds; and providing the effective date hereof. Comm. Keller seconded and the motion passed unanimously 5 – 0.

28. For Possible Action: To move the Board of County Commissioners Meeting from Yerington to Silver City, NV when the Comstock Mining, Inc. Master Plan Amendment and Zone Change come before the Board of Commissioners

Jeff Page explained that no planning issues can be acted on with the exception of Silver City issues. He prefers that the meeting be held in the commissioners chambers in Yerington.

Comm. Mortensen asked if there was a motion to move the meeting to Silver City. He also said if there is no motion, then no further action needs to be taken.

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Comm. Mortensen asked for public comment. There was no public comment.

Erich Obermayr chair of Silver City Advisory Board said he respects the decision of the board. He also expressed that holding the meeting in Silver City would allow more citizens of Silver City to attend.

There was no motion to move the meeting to Silver City.

29. Commissioner Comments

Comm. Fierro said he and Comm. Mortensen will be going on the quarterly jail inspection following the meeting.

30. For Possible Action: Approve Minutes of November 21, 2013

Comm. Keller moved to approve the minutes of November 21, 2013. Comm. Hastings seconded and the motion passed unanimously 5 – 0.

31. Public participation

Jeff Page, County Manager, reminded the board the Christmas luncheon will be held December 19, 2013 following the commissioner's meeting.

32. Adjourn

The meeting was adjourned.

LYON COUNTY BOARD OF COMMISSIONERS

JOE MORTENSEN, Chairman

ATTEST

NIKKI BRYAN, Lyon County Clerk/Treasurer

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The Honorable Board of Lyon County Commissioners met this day in regular session with the following present: Chairman Joe Mortensen, Vice-chair Ray Fierro, Commissioners Virgil Arellano, Vida Keller and Bob Hastings. Also present: County Manager Jeff Page, Deputy District Attorney Moreen Scully and Deputy Clerk Donna MacGill.

1. Public participation

Greg Kantz said he is a resident of Lyon County, a business owner in Lyon County, an employer in Lyon County and a candidate for Lyon County Sheriff in 2014. He read an email he sent to Maureen Williss and thanked Maureen Williss for her prompt response. He discussed the use of the sheriff's department uniform for campaigning. He said another candidate has been using his uniform and he also intends to use his. Mr. Kantz would like the county manager's office to speak to the ethics commission for a formal ruling.

2. For Possible Action: Review and adoption of agenda

Comm. Arellano moved to adopt the agenda as presented. Comm. Fierro seconded and the motion passed 5 – 0

3. For Possible Action: Elect Board of County Commissioners Chair and fix the term of office for the Chair as required by NRS 244.070

Comm. Hastings moved to elect Comm. Mortensen to remain as Board Chair for the 2014 calander year. Comm. Fierro seconded and the motion passed 5 – 0.

4. For Possible Action: Elect the Board of County Commissioners Vice Chair and fix the term of office for the Vice Chair as required by NRS 244.070

Comm. Arellano moved to elect Comm. Fierro to remain as Board Vice-Chair for the 2014 calendar year. Comm. Mortensen seconded and the motion passed 5 – 0.

JA0629

5. Presentation of awards and/or recognition of accomplishments

There were no awards or recognition of accomplishments.

6. Commissioners/County Manager comment

Comm. Fierro wished everyone a Happy New Year and asked everyone to be respectful to each other during the contentious issue to be heard later in the agenda.

Comm. Arellano said he will be attending a meeting in Washington D.C. regarding Senate Bill 279/House Resolution 596 for distribution of revenues for renewable energy projects on public lands and also wildlife management conservation. He will also be addressing the Pumpkin Hollow/Lyon County Conservation Act. He was also approached by Assemblyman Grady and State Senator Settlemeyer regarding a meeting in Winnemucca concerning the listing for the DEIS and the sage grouse issue. He will be attending a state land use planning committee in Las Vegas on February 7th.

Comm. Mortensen, Comm. Hastings, Comm. Keller and County Manager, Jeff Page, had no comments.

7. Elected Official's report

There were no elected official's reports.

8. Appointed Officials comments

Edrie LaVoie said to save the date on January 31st. NACO and the Governor's Commission on Aging will be sponsoring a webinar to educate all of commissioners throughout Nevada on the growing aging population and the lack of resources to meet those needs.

Time Specific – 9:15 A.M. - For Possible Action: Approve the Fiscal Year 2013 Consolidated Annual Financial Report

Jim Sciarani presented FY2013 financial statements. He explained the sole purpose of hiring an audit firm is to issue an opinion on the financial statements. The opinion was a clean and unmodified opinion stating these financial statements present fairly the results of operation and the financial position of the county at June 30, 2013. Mr. Sciarani explained various areas of the financial statements and gave an overview of the General Fund and Enterprise Funds.

Comm. Arellano moved to approve the Fiscal Year 2013 Consolidated Annual Financial Report. Comm. Hastings seconded and the motion passed 5 – 0.

9. Advisory Board reports

There were no advisory board reports.

****CONSENT AGENDA****

10. For Possible Action: Approval of changes on Assessor's tax roll due to corrections in assessments and review of tax roll changes

There were no tax roll changes.

11. For Possible Action: Review and possible approval of business license applications:

- **a. Norris, Byron; Norris, Alicia; *B & D Handyman;* 5535 Shoshone Dr., Stage Coach, NV; Re-Open Account Handyman Services**
- **b. Hoekstra, Michael A.; US2C Holdings LLC; *Bay Swiss Manufacturing;* 5 Airpark Vista Blvd., Dayton, NV; Machining and Manufacturing of Aerospace Assembly Components. Change of Ownership**
- **c. Bell, Laura; Bell, Rick; *Source One Property Services;* 4345 Dayton Ave., Silver Springs, NV; Handyman Services**
- **d. Groff, David J.; Garber, Charles W.; Clark, Fred E.; *The Webstaurant Store, Inc.;* 111 Airpark Vista Dr., Dayton, NV; Distribution Center for Food Service Equipment and Supplies**

12. For Possible Action: Approve the use of up to $8,025 of Central Lyon County Park Tax reserves to upgrade the new 3 color LED message boards that are located at Our Park in Dayton

13. For Possible Action: Appoint six (6) members to the Smith Valley Park and Recreation Board, with terms expiring December 31, 2015

14. For Possible Action – Approve loan resolution in the amount of $6,920,000 with USDA in regards to the Dayton Septic Project

15. For Possible Action – Approve grant agreement not to exceed $4,985,500 with USDA in regards to the Dayton Septic Project

16. For Possible Action - Appoint Sciarani & Co. as the auditor for Lyon County for fiscal years 2014 – 2016

17. For Possible Action: Approval of Agreement with Satellite Tracking of People, LLC for electronic monitoring services for Juvenile Probation Office (JPO)

18. For Possible Action: Review and accept travel claims

Travel claims totaled $2,522.28 and registrations totaled $1695.00.

19. For Possible Action: Review and accept County claims and financial report

County claims totaled $599,052.32 and payroll totaled $1,004,575.01.

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Comm. Fierro moved to approve the consent agenda as presented. Comm. Keller seconded and the motion passed 5 – 0.

****END OF CONSENT AGENDA****

PUBLIC HEARING ON PLANNING ITEMS

20. **For Possible Action: McFARLAND CASCADE HOLDINGS, INC / NEVADA WOOD PRESERVING – SPECIAL USE PERMIT MODIFICATION DUE TO NEW OWNERSHIP – Request for a Special Use Permit for the continued operation of an existing wood treatment plant and continue the use of a mobile home for watchman's quarters under new ownership on 16 lots totaling approximately 106.34 acres; located at 1680 Spruce Avenue, Silver Springs (APN's 18-430-01 through 18-430-10; 18-430-16 through 20; and 18-430-23) (PLZ-13-0057)**

***Planning Commission Recommendation*: Based on the recommended findings, the Planning Commission recommended approval of the request for a Special Use Permit modification subject to 18 approval conditions, by a unanimous vote of those members present: 6 ayes; 0 nays; 1 absent (Paul Lanning).**

Rob Loveberg presented and recommended approval.

Comm. Fierro moved to approve the special use permit with the following findings: A. is a continuation of a previously approved and operating use through Lyon County's special use permit process. B. at the specified location is consistent with the general purpose and intent of the applicable M-1 General Industrial district regulations; C. will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and is compatible with and preserves the character and integrity of adjacent development and neighborhoods or includes improvements or modifications either on-site or within the public right-of-way to mitigate development related to adverse impact such as noise, vibrations, fumes, odors, dust, glare or physical activity; D. will not be detrimental to the public health, safety, convenience and welfare; and E. will not result in material damage or prejudice to other property in the vicinity; and subject to conditions of approval 1 through 18 as follows:

1. The special use permit is subject to annual review by Lyon County.
2. The applicant shall meet all Environmental Protection Agency and State Fire Marshal requirements.
3. The applicant shall provide the county with a disposal plan for the waste generated by the operation and update the plan annually.
4. The applicant shall keep two self-contained breathing apparatus' on the premises in case of emergency in conformance with the requirements of the Central Lyon County Fire Protection District.
5. The applicant shall erect and maintain a security fence totaling 6' in height topped with 1' of barbed wire.
6. The applicant shall provide security lighting and any new or replacement outdoor lighting shall be in compliance with Chapter 10.20 of the Lyon County Code.
7. The applicant shall provide and maintain an in-house fire control system pursuant to the requirements of the Central Lyon County Fire Protection District.
8. The applicant shall obtain a will serve letter from the local water company and install piping to the Central Lyon County Fire Protection District's satisfaction.
9. The applicant shall provide classes on handling of the chemicals used in the operation under emergency circumstances, for the Central Lyon County Fire Protection District.
10. The operation can be inspected by the Public Works Department or the Central Lyon County Fire Protection District at any time during operating hours.
11. The disposal of waste from the operation is to be handled by a licensed hazardous material carrier.

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12. The applicant shall maintain a Lyon County business license for the use while occupying the premises.

13. The facility shall meet all Lyon County building codes.

14. The applicant shall remove all unused and inoperable machinery and equipment and all unused or unusable tanks from the property, or locate all unused and inoperable machinery and equipment and all unused or unusable tanks at a central location that is screened from public view by a combination of vegetative screening, fencing and/or terrain modification approved by the Planning Director.

15. The applicant shall comply with Lyon County's 1996 drainage guidelines. The property owner shall be responsible for maintenance of all roads, walks and drainage facilities within the development, as well as the storm water detention facilities, if applicable, whether it is onsite or offsite. Lyon County shall have no financial responsibility for maintenance of these facilities.

16. The applicant shall comply with all State, County, federal and special district rules and regulations as they apply to this special use permit

17. No change in the terms and conditions of the special use permit, as approved shall be undertaken without first submitting the changes to Lyon County and having them modified through a public hearing process.

18. The substantial failure to comply with any conditions imposed on the issuance of a special use permit or the operation of a special use in a manner that endangers the health, safety or welfare of Lyon County or its residents or the violation of ordinances, regulations or laws in the special use or the non-use of the permit for a year, may result in the institution of revocation proceedings.

Comm. Keller seconded and the motion passed unanimously 5 – 0.

21. **For Possible Action: DEMOLSKI, THOMAS / STOVER, LARRY, TRS., ETAL – SPECIAL USE PERMIT – Request for a Special Use Permit to utilize an existing mobile home for watchman's quarters in conjunction with a contractor's equipment yard, on approximately 1.53 acres; located at 41 Highway 341, Mound House (APN 16-194-07) PLZ-13-0056**

***Planning Commission Recommendation*: Based on the recommended findings, the Planning Commission recommended approval of the request for a Special Use Permit subject to 12 approval conditions, by a unanimous vote of those members present: 6 ayes; 0 nays; 1 absent (Paul Lanning).**

Rob Loveberg presented and recommended approval with the conditions.

Comm. Fierro moved to approve the special use permit with findings A through D as follows: A. is consistent with the general purpose and intent of the applicable zoning district regulations; B. will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and is compatible with and preserves the character and integrity of adjacent development and neighborhoods or includes improvements or modifications either on-site or within the public right-of-way to mitigate development related to adverse impact such as noise, vibrations, fumes, odors, dust, glare or physical activity; C. will not be detrimental to the public health, safety, convenience and welfare; and D. will not result in material damage or prejudice to other property in the vicinity; and also subject to 12 conditions as follows:

1. The applicant shall comply with all State, County, federal and special district rules and regulations as they apply to this special use permit.

2. The applicant shall comply with all applicable fire, building, zoning and improvement code requirements.

3. The applicant shall acquire all State, County and special purpose district permits and obtain all necessary public inspections.

4. If outdoor lighting is provided, it shall comply with the outdoor lighting requirements of Chapter 10.20 of the Lyon County Code.

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5. The applicant shall remove all unused and inoperable machinery and equipment from the property or locate all unused and inoperable machinery and equipment at a central location that is screened from public view by a combination of vegetative screening, fencing and terrain approved by the Planning Director.
6. The applicant shall comply with Lyon County's 1996 drainage guidelines. The property owner shall be responsible for maintenance of all roads, walks and drainage facilities within the parcel, as well as the storm water detention facilities, if applicable, whether it is onsite or offsite. Lyon County shall have no financial responsibility for maintenance of these facilities.
7. The applicant shall maintain a Lyon County business license for the use while occupying the premises.
8. All of the requirements placed on the special use permit by the County Building Official, Central Lyon County Fire Protection District, Planning Director, and other agencies with jurisdiction shall be met prior to the applicant commencing use of the site.
9. The use is subject to the continuous maintenance of an M-1 use that demonstrates the need for the watchman's quarters. The watchman's quarters use shall be discontinued and the manufactured home removed within thirty (30) calendar days if an M-1 use requiring the watchman's quarters is discontinued.
10. No change in the terms and conditions of the special use permit, as approved shall be undertaken without first submitting the changes to Lyon County and having them modified through a public hearing process.
11. The substantial failure to comply with any conditions imposed on the issuance of a special use permit or the operation of a special use in a manner that endangers the health, safety or welfare of Lyon County or its residents or the violation of ordinances, regulations or laws in the special use or the non-use of the permit for a year may result in the institution of revocation proceedings.
12. The special use permit is subject to annual review by Lyon County.

Comm. Keller seconded and the motion passed unanimously 5 – 0.

Public Hearing - 9:30 A.M. – For Possible Action: COMSTOCK MINING, INC – MASTER PLAN AMENDMENT – Request to change the Master Plan from Resource land use designation and Suburban Residential land use designation to Resource land use designation on approximately 32.34 acres and Rural Residential land use designation on approximately 54.86 acres of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0050

***Planning Commission Recommendation*: Based on the recommended findings, the Planning Commission passed a motion to deny the Master Plan Amendment request for Comstock Mining, Inc. on APN's 08-091-05 & 08-091-02, by a majority vote of 5 ayes; 1 nay (George Mortensen); 1 absent (Paul Lanning).**

Comm. Arellano requested that both of these items regarding the Master Plan and Zoning change be heard concurrently with separate actions.

Jeff Page, County Manager, disclosed that Comm. Keller called to request meeting with him and Comm. Mortensen to discuss possible compromise to Comstock Mining's application. Following that meeting, Mr. Page met with Comstock Mining and Comm. Mortensen to discuss a possible compromise to reduce the view shed.

Comm. Keller read a full disclosure into the record and presented copy to the clerk for a permanent part of the record.

Comm. Hastings also read his disclosure statement into the record and presented copy to the clerk of the board.

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Comm. Fierro, Comm. Arellano and Comm. Mortensen also presented their disclosures for the record.

Jeff Page reported that correspondences received as of December 31st at 3:00 p.m. are on the website.

Rob Loveberg, Planning Director, said the planning commission recommended denial of the zone change and denied the master plan amendment.

There were many citizens who were opposed to the changes and many who were in favor of the changes.

Mark Rotter of Manhard Construction was representing Comstock Mining and explained they have been operating in the area for 10 years and currently employ over 110 employees. They have invested over $80 million over the last three years and $3 million with Lyon County contractors. They have spent $2 million on environmental and cultural studies and $2.5 million on soil testing. He also showed a power point presentation. What they are proposing is to be able to look at the possibility to mining the area. They would need to have a land use that would allow mining.

Those speaking on behalf of the citizens of Silver City and in opposition to the changes were as follows:

Erich Obermayr, Chairman of the Silver City Citizens Advisory Board, presented. The citizen advisory board recommended denial, as it is the wishes of the majority of the residents. The citizens feel it would affect the quality of their day to day life in Silver City.

John Marshall representing the Comstock Residents Association showed a video and spoke on behalf of the Silver City residents.

John Singlaub, Senior Analyst for Ascent Environmental Company, also showed a power point presentation and spoke on behalf of the residents opposed to the changes.

The board of commissioners had questions.

Comm. Keller explained that she spoke with Mr. Rotter to review some maps and go over some concerns regarding the view shed. She also said she spoke to many Silver City residents. She reminded everyone we are here for a master plan amendment and zone change and there is no special use permit being acted on today.

Comm. Keller made a motion to approve the Master Plan Amendments from Resource to Rural Residential on approximately 12.29 acres and from Suburban Residential to Rural Residential on approximately 42.57 acres for Comstock Mining, Incorporated as set forth in the written and graphic information contained in the revised Master Plan Amendment application and supporting documents received by Lyon County planning department on October 18, 2013 (APNs 08-091-02 and 08-091-05)(PLZ-13-0050). Excluding, without prejudice, eight of the nine previously approved on October 18, 2013 reversion to acreage application for Silver City town sites APN 08-091-05 and 08-091-02. Town sites to be excluded are 101, 102, 103, 104, 133, 277, 278 and 279, a total of approximately 13.72 acres and an additional 1.77 acres from the north end of parcel 08-091-05 known as the "Marble Lode". As depicted on the revised map presented this day January 2, 2014. To hereby be made part of the record and to include findings A through I as follows: A. The applicant has demonstrated that the amendment is in substantial compliance with and promotes the Master Plan goals, objectives and actions in that it is in keeping with applicable guiding principle, goals, policies and strategies. B. The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses in that the amendment would decrease the intensity of residential development. C. The proposed amendment has demonstrated in response to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land. D. The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions and will not adversely impact the public health, safety or welfare. E. The proposed amendment will promote the desired pattern for the orderly physical growth of the County, maintains relatively compact development patterns, and guides

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LYON COUNTY

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development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services. F. The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan. G. The proposed amendment will have no major negative impacts on transportation services, and facilities. H. The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision. I. Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with key elements and policies of the plan. Comm. Mortensen seconded the motion for discussion.

Those opposed:

Janet Rose
Carol Godwin
Ann Price McCarthy – Retired lawyer – She said there is a letter in the record from Richard Keith Corbin where he has violated a number of Supreme Court rules.
Gayle Sherman – presented signed petition
John Hadder – Great Basin Resource Watch
Joe McCarthy
Dan Shoup
Robert Elston on behalf of Dr. Barker
Bonnie Brown
Kathy McIntosh – in favor of jobs but not surface mining
Thomas Cutts
Shawn Griffin – opposed to open pit mining
Patty Marshall
Jack Richmond
Barbara Peck
Chris Brown
Ron James
John Cobbey
Ron Reno
Mark Joseph Phillips
Austin Crouch
Chad Olson
Allison Woodman
Madison Woodman
Margaret Burns
Paulla Comley – against open pit mining

Those in favor:

Tom Cartwright – Mason Valley resident
Mark Turner
Marty Hanna
Lynette Patmor
John Bennetts
John Parrish
John Currie
Serge Marchale
Carl Miller
Rita Wheeler
Pierre Dermy
Joey Moore
Tony Verde
Larry Moore
Charles Kirkness
Paul Eades
Steven Saylor
Frank Pedlar
Randy Harris
Joe McGinley

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LYON COUNTY

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Scott Jolcover
Josh Hutchison
Mendy Elliott on behalf of Ty Cobb

END PUBLIC COMMENT

Comm. Mortensen read letters from Allison Woodman and David Chapman into the record stating they were opposed to changes.

Comm. Arellano said there have been a considerable number of comments from the Lyon County citizens regarding the Master Plan Amendment. He explained that a Master Plan Amendment is a land use issue. This Master Plan Amendment would affect the entire community. He does hope that Comstock Mining is successful but he could not support the motion.

Comm. Fierro said this has been a difficult decision for him being both pro mining and pro historic preservation. He said the commissioners cannot condition a Master Plan Amendment or a Zone Change. Any continuance needs to come from the applicant. He also commented on the industrial zoning that currently exists in Silver City.

Comm. Keller explained that zoning changes and Master Plan changes happen about every 10 to 20 years in a county. The motion she presented included a compromise.

Comm. Hastings also commented on Master Plan changes in order for a community to have the opportunity to grow.

Comm. Mortensen felt that reducing the density would be beneficial. The commissioners can place conditions at the time of a Special Use Application.

Mr. John Marshall presented some closing arguments against approval of the Master Plan Amendment. He feels a better course of action would be to attempt to work out a solution that is agreeable to both sides.

There were comments from the commissioners.

Mark Rotter from Manhard Consulting explained that Comstock Mining does not have a plan. This step would allow them the opportunity to explore a plan for future needs. The conditions would happen during the Special Use Permit application as previously mentioned by Comm. Fierro.

Comm. Keller said the motion stated earlier in the meeting applies to the 9:30 a.m. public hearing for possible action for the Comstock Mining Incorporated Master Plan Amendment. They have been listening to the Master Plan Amendment and comments about the Zone Change concurrently. The motion is for the Master Plan Amendment Only.

Comm. Mortensen called for the vote. The motion passed 4 – 1. Comm. Arellano voted nay.

Rob Loveberg, Planning Director, explained the commissioners' decision on the Master Plan Amendment is a final action but it needs to be sent back to the planning commission for a report. The commissioners' action on the Zone Change is a final action and does not need to be sent back to planning.

For Possible Action: COMSTOCK MINING, INC – ZONE CHANGE - Request to change the zoning from NR-1 (Non-Rural Residential - 6,000 sq. ft. lot size) and RR-5 (Fifth Rural Residential - 20 acre minimum) to RR-3 (Third Rural Residential-5 acre minimum) on approximately 54.86 acres and RR-5 (Fifth Rural Residential - 20 acre minimum) on approximately 32.34 acres, of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0051

***Planning Commission Recommendation*: Based on the recommended findings, the Planning Commission passed a motion to recommend denial of the Zone Change request for Comstock Mining, Inc. on APN's 08-091-05 & 08-091-02, by a unanimous vote of those members present: 6 ayes; 0 nay; 1 absent (Paul Lanning).**

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LYON COUNTY

Comm. Keller moved to approve the Zone Change request from NR-1, Single-Family Non-Rural Residential (6,000 Square foot minimum) to RR-3, Third Rural Residential District (five-acre minimum) on approximately 54.86 acres and to RR-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Incorporated as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 and 08-091-05) (PLC-13-0051). Excluding, without prejudice, eight of the nine previously approved on October 8, 2013 reversion to acreage application for Silver City town sites APNs 08-091-05 and 08-091-02. Town sites to be excluded are 101, 102, 103, 104, 133, 277, 278 and 279, a total of approximately 13.72 acres at 1.77 acres from the north end of parcel 08-091-05 known as the "Marble Lode". As depicted on the revised map presented this day, January 2, 2014, to be hereby made part of the record. The Lyon County board of Commissioners finds that: A. The applicant has demonstrated that the zone change is in substantial compliance with and promote the Lyon County Comprehensive Master Plan, Countywide Component goals, policies and strategies. B. The applicant has demonstrated that the proposed zoning will promote development that is commensurate with the charter and physical limitations of the land. Comm. Hastings seconded and the motion passed 5 – 0.

**__END OF PLANNING APPLICATIONS__ **

__REGULAR AGENDA__

22. For Possible Action: Appoint County Commissioners and staff to the following Boards, Commissions, or Committees for calendar year 2014:

After discussion amoung to commissioners appointments were made to the following Boards, Commissions or Committees for calendar year 2014 as follows:

A.	**Planning Commission (Ex-Officio)**	**Comm. Keller/Alt-Comm. Hasting**
B.	**Comstock Historic District**	**Comm. Fierro**
C.	**Debt Management Commission**	**Comm. Mortensen**
D.	**Mason Valley Conservation District**	**Comm. Arellano**
E.	**Smith Valley Conservation District**	**Comm. Arellano**
F.	**Dayton Valley Conservation District**	**Comm. Fierro**
G.	**Nevada Public Agency Insurance Pool**	**Comm. Arellano**
H.	**Nevada Association of Counties**	
	1. Board of Directors-	**Comm. Hastings**
	2. Legislative Committee -	**Comm. Keller & Comm. Arellano**
	3. Public Lands and Natural Resources Committee	**Comm. Keller & Comm. Arellano**
I.	**Local Emergency Planning Committee**	**Comm. Hastings**
J.	**Northern Nevada Development Authority**	**Comm. Keller**
K.	**Western Nevada Development District**	**Comm. Mortensen**
L.	**Nevada WORKS**	**Comm Hastings/Alt-Comm Keller**
M.	**State Land Use Planning Advisory Committee (SLUPAC)**	**Comm. Arellano**
N.	**Walker River Irrigation District**	**Comm. Arellano**
O.	**Carson Water Subconservancy District**	**Comm. Fierro**
P.	**Lyon County Room Tax Board**	**Comm. Mortensen**
Q.	**Nevada Commission for the Reconstruction of the V & T Railway**	**Comm. Hastings**
R.	**Quarterly Jail Inspection**	**Comm. Fierro/Alt. Comm. Keller**
S.	**Truckee Canal Safety Commission**	**Comm. Mortensen**
T.	**Lyon County Regional Transportation Commission**	**Comm. Fierro**
U.	**LCEA Labor Negotiations Team**	**Comm. Hastings**
V.	**LCSEA Labor Negotiations Team**	**Comm. Mortensen**
W.	**Quad County Legislative Coalition**	**Comm. Mortensen & Comm. Fierro**
X.	**Carson Area Metropolitan Planning Organization**	**Comm. Fierro/Alt-Mike Workman**

JA0637

23. Commissioner Comments

Comm. Arellano asked about the open meeting violation regarding employee bonuses.

Comm. Fierro read a letter into the record from Bennett Medical Supply stating they will no longer be a part of the St. Mary's Health Plan after January 1, 2014.

Comm. Mortensen thanked everyone for their cooperation and consideration during today's meeting.

24. For Possible Action: Approve Minutes of December 5 & 19, 2013

Comm. Fierro moved to approve the minutes of December 5, 2013 and December 19, 2013 as presented. Comm. Keller seconded and the motion passed unanimously 5 – 0.

25. Public participation

Keith Trout feels the meeting should have been moved to another venue such as the school gym or the school multipurpose room.

26. Adjourn

The meeting was adjourned.

LYON COUNTY BOARD OF COMMISSIONERS

_____

JOE MORTENSEN, Chairman

ATTEST

_____

NIKKI BRYAN, Lyon County Clerk/Treasurer

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LYON COUNTY

JA0638

Gmail by Google

Maureen Williss <mwilliss@lyon-county.org>

Planning Final Action 01/02/2014

4 messages

Maureen Williss <mwilliss@lyon-county.org> Wed, Jan 8, 2014 at 9:15 AM
To: Allen Veil <aveil@lyon-county.org>, Donna MacGill <dmacgill@lyon-county.org>, Dustin Homan <dhoman@lyon-county.org>, Erin Singley <esingley@lyon-county.org>, John Gillenwater <jgillenwater@centralfirenv.org>, Kerry Page <kpage@lyon-county.org>, Linda Whalin <lwhalin@lyon-county.org>, Mike Workman <mworkman@lyon-county.org>, Nick Malarchik <nmalarchik@lyon-county.org>, Nikki Bryan <nbryan@lyon-county.org>, Rob Loveberg <rloveberg@lyon-county.org>, Shawn Keating <skeating@lyon-county.org>, Melinda Cash <jcash8888@aol.com>, Erich Obermayer <eober@historicinsight.com>, Erich Obermayr <historicinsight@gbis.com>

Please see attached.

Thanks

--
Maureen Williss
Office Manager
County Manager/
County Commission Office
775-463-6531

plngltr 010214.pdf
136K

Maureen Williss <mwilliss@lyon-county.org> Wed, Jan 22, 2014 at 8:58 AM
To: Steve Rye <srye@lyon-county.org>

[Quoted text hidden]

plngltr 010214.pdf
136K

Steve Rye <srye@lyon-county.org> Wed, Jan 22, 2014 at 9:02 AM
To: Maureen Williss <mwilliss@lyon-county.org>

Thanks Maureen

Steve Rye
Lyon County District Attorney's Office
775-463-6511

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[Quoted text hidden]

Steve Rye <srye@lyon-county.org> Wed, Jan 22, 2014 at 10:24 AM

JA0639 14 CV 00128 - 000534
LYON COUNTY

To: John Marshall <johnmarshall@charter.net>
Cc: Maureen Williss <mwilliss@lyon-county.org>, Kerry Page <kpage@lyon-county.org>

John,

This letter would be the notice and I would consider the date of the email, January 8, 2014, as the filing date with the clerk's office. Please let me know if you have questions.

Steve Rye
Lyon County District Attorney's Office
775-463-6511

This email is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and email and delete all copies of this message. Thank you.

---------- Forwarded message ----------
From: **Maureen Williss** <mwilliss@lyon-county.org>
[Quoted text hidden]

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BOARD OF COUNTY COMMISSIONERS

LYON COUNTY NEVADA

27 South Main Street
Yerington, Nevada 89447
Phone: (775)463-6531 Fax: (775)463-5305

Virgil Arellano
Ray Fierro
Bob Hastings
Vida Keller
Joe Mortensen

Jeff Page, County Manager

January 7, 2014

Corrado DeGasperis
Comstock Mining, Inc.
P.O. Box 1118
Virginia City, NV 89440

Re: Notice of Final Action

Dear Applicants:

At their regularly scheduled meeting of January 2, 2014, the Lyon County Board of Commissioners considered the following planning application:

COMSTOCK MINING, INC – MASTER PLAN AMENDMENT – Request to change the Master Plan from Resource land use designation and Suburban Residential land use designation to Resource land use designation on approximately 32.34 acres and Rural Residential land use designation on approximately 54.86 acres of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0050

The Board of Commissioners by majority approved your Master Plan Amendment with the following motion and vote:

Comm. Keller made a motion to approve the Master Plan Amendments from Resource to Rural Residential on approximately 12.29 acres and from Suburban Residential to Rural Residential on approximately 42.57 acres for Comstock Mining, Incorporated as set forth in the written and graphic information contained in the revised Master Plan Amendment application and supporting documents received by Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05)(PLZ-13-0050). Excluding, without prejudice, eight of the nine previously approved on October 8, 2013 reversion to acreage application for Silver City town sites APN 08-091-05 and 08-091-02. Town sites to be excluded are 101, 102, 103, 104, 133, 277, 278 and 279, a total of approximately 13.72 acres and 1.77 acres from the north end of parcel 08-091-05 known as the "Marble Lode". As depicted on the revised map presented this day January 2, 2014. To hereby be made part of the record and to include findings A through I as follows:

A. The applicant has demonstrated that the amendment is an substantial

compliance with and promotes the Master Plan goals, objectives and actions in that it is in keeping with applicable guiding principle, goals, policies, strategies.

B. The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses in that the amendment would decrease the intensity of residential development.
C. The proposed amendment has demonstrated and responds to changed conditions of further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land.
D. The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions and will not adversely impact the public health, safety or welfare.
E. The proposed amendment will promote the desired pattern for the orderly physical growth of the County, maintains relatively compact development patterns, and guides development of the County based on the least amount of natural resources impairment and the efficient expenditure of funds for public services.
F. The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan.
G. The proposed amendment will have no major negative impacts on transportation services, and facilities.
H. The proposed amendment will have minimal effect on service provision, including adequacy or availability off facilities and services, and is compatible with existing and planned service provision.
I. Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Planning Commission. Joe Mortensen seconded and the motion passed 4 – 1. Comm. Arellano voted nay.

If you have any questions or concerns, please call me at 463-6531.

Sincerely,

Maureen Williss
Office Manager
Lyon County Commissioners/
County Manager's Office

C: Manhard Consulting, Inc., Attn: Mark Rotter, 9850 Double R Blvd., Suite 101, Reno, NV 89521
Silver City Advisory Council, Attn: Erich Obermayr, P.O. Box 249, Silver City, NV 89428

BOARD OF COUNTY COMMISSIONERS

LYON COUNTY NEVADA

27 South Main Street
Yerington, Nevada 89447
Phone: (775)463-6531 Fax: (775)463-5305

Virgil Arellano
Ray Fierro
Bob Hastings
Vida Keller
Joe Mortensen

Jeff Page, County Manager

January 7, 2014

Corrado DeGasperis
Comstock Mining, Inc.
P.O. Box 1118
Virginia City, NV 89440

Re: Notice of Final Action

Dear Applicant:

At their regularly scheduled meeting of January 2, 2014, the Lyon County Board of Commissioners considered the following planning application:

COMSTOCK MINING, INC – ZONE CHANGE (for possible action) - Request to change the zoning from NR-1 (Non-Rural Residential - 6,000 sq. ft. lot size) and RR-5 (Fifth Rural Residential - 20 acre minimum) to RR-3 (Third Rural Residential-5 acre minimum) on approximately 54.86 acres and RR-5 (Fifth Rural Residential - 20 acre minimum) on approximately 32.34 acres, of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0051

The Board of Commissioners unanimously approved your zone change application with the following motion and vote:

Comm. Keller moved to approve the Zone Change request from NR-1, Single-Family Non-Rural Residential (6,000 Square foot minimum) to RR-3, Third Rural Residential District (five-acre minimum) on approximately 54.86 acres and the RR-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Incorporated as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 and 08-091-05) (PLC-13-0051). Excluding eight of the nine previously approved on October 8, 2013 reversion to acreage application for Silver City town sites APNs 08-091-05 and 08-091-02. Town sites to be excluded, without prejudice, are 101, 102, 103, 104, 133, 277, 278 and 279, a total of approximately 13.72 acres at 1.77 acres from the north end of

parcel 08-091-05 known as the "Marble Lode". As depicted on the revised map presented this day, January 2, 2014, to be hereby made part of the record. Comm. Hastings seconded and the motion passed 5 – 0.

If you have any questions or concerns, please call me at 463-6531.

Sincerely,

Maureen Williss
Office Manager
Lyon County Commissioners/
County Manager's Office

C: Manhard Consulting, Inc., Attn: Mark Rotter, 9850 Double R Blvd., Suite 101, Reno, NV 89521
Silver City Advisory Council, Attn: Erich Obermayr, P.O. Box 249, Silver City, NV 89428

BOARD OF COUNTY COMMISSIONERS

LYON COUNTY NEVADA

27 South Main Street
Yerington, Nevada 89447
Phone: (775)463-6531 **Fax:** (775)463-6533

Virgil Arellano
Ray Fierro
Bob Hastings
Vida Keller
Joe Mortensen

Jeff Page, County Manager

January 7, 2014

McFarland Cascade Holdings, Inc.
Attn: Ian Jones
1640 East Marc
Tacoma, WA 98421

Re: Notice of Final Action

Dear Applicants:

At their regularly scheduled meeting of January 2, 2014, the Lyon County Board of Commissioners considered the following planning application:

McFARLAND CASCADE HOLDINGS, INC / NEVADA WOOD PRESERVING – SPECIAL USE PERMIT MODIFICATION DUE TO NEW OWNERSHIP *(for possible action) – Request for a Special Use Permit for the continued operation of an existing wood treatment plant and continue the use of a mobile home for watchman's quarters under new ownership on 16 lots totaling approximately 106.34 acres; located at 1680 Spruce Avenue, Silver Springs (APN's 18-430-01 through 18-430-10; 18-430-16 through 20; and 18-430-23) (PLZ-13-0057)*

The Board of Commissioners unanimously approved your special use request based on the recommended findings and subject to the following conditions:

1. The special use permit is subject to annual review by Lyon County.
2. The applicant shall meet all Environmental Protection Agency and State Fire Marshal requirements.
3. The applicant shall provide the county with a disposal plan for the waste generated by the operation and update the plan annually.
4. The applicant shall keep two self-contained breathing apparatus' on the premises in case of emergency in conformance with the requirements of the Central Lyon County Fire Protection District.

5. The applicant shall erect and maintain a security fence totaling 6' in height topped with 1' of barbed wire.

6. The applicant shall provide security lighting and any new or replacement outdoor lighting shall be in compliance with Chapter 10.20 of the Lyon County Code.

7. The applicant shall provide and maintain an in-house fire control system pursuant to the requirements of the Central Lyon County Fire Protection District.

8. The applicant shall obtain a will serve letter from the local water company and install piping to the Central Lyon County Fire Protection District's satisfaction.

9. The applicant shall provide classes on handling of the chemicals used in the operation under emergency circumstances, for the Central Lyon County Fire Protection District.

10. The operation can be inspected by the Public Works Department or the Central Lyon County Fire Protection District at any time during operating hours.

11. The disposal of waste from the operation is to be handled by a licensed hazardous material carrier.

12. The applicant shall maintain a Lyon County business license for the use while occupying the premises.

13. The facility shall meet all Lyon County building codes.

14. The applicant shall remove all unused and inoperable machinery and equipment and all unused or unusable tanks from the property, or locate all unused and inoperable machinery and equipment and all unused or unusable tanks at a central location that is screened from public view by a combination of vegetative screening, fencing and/or terrain modification approved by the Planning Director.

15. The applicant shall comply with Lyon County's 1996 drainage guidelines. The property owner shall be responsible for maintenance of all roads, walks and drainage facilities within the development, as well as the storm water detention facilities, if applicable, whether it is onsite or offsite. Lyon County shall have no financial responsibility for maintenance of these facilities.

16. The applicant shall comply with all State, County, federal and special district rules and regulations as they apply to this special use permit

17. No change in the terms and conditions of the special use permit, as approved shall be undertaken without first submitting the changes to Lyon County and having them modified through a public hearing process.

18. The substantial failure to comply with any conditions imposed on the issuance of a special use permit or the operation of a special use in a manner that endangers the health, safety or welfare of Lyon County or its residents or the violation of ordinances, regulations or laws in the special use or the non-use of the permit for a year, may result in the institution of revocation proceedings.

If you have any questions or concerns, please call me at 463-6531.

Sincerely,

Maureen Williss
Office Manager
Lyon County Commissioners/
County Manager's Office

C: Gordon Silver, C/O Brett Scolari, 100 West Liberty Street, Suite 940, Reno, NV 89501

BOARD OF COUNTY COMMISSIONERS

LYON COUNTY NEVADA

27 South Main Street
Yerington, Nevada 89447
Phone: (775)463-6531 **Fax:** (775)463-6533

Virgil Arellano
Ray Fierro
Bob Hastings
Vida Keller
Joe Mortensen

Jeff Page, County Manager

January 7, 2014

Thomas Demolski
213 Wheel Rd.
Incline Village, NV 89451

Re: Notice of Final Action

Dear Applicant:

At their regularly scheduled meeting of January 2, 2014, the Lyon County Board of Commissioners considered the following planning application:

DEMOLSKI, THOMAS / STOVER, LARRY, TRS., ETAL – SPECIAL USE PERMIT (for possible action) – Request for a Special Use Permit to utilize an existing mobile home for watchman's quarters in conjunction with a contractor's equipment yard, on approximately 1.53 acres; located at 41 Highway 341, Mound House (APN 16-194-07) PLZ-13-0056

The Board of Commissioners unanimously approved your special use request based on the recommended findings and subject to the following conditions:

1. The applicant shall comply with all State, County, federal and special district rules and regulations as they apply to this special use permit.

2. The applicant shall comply with all applicable fire, building, zoning and improvement code requirements.

3. The applicant shall acquire all State, County and special purpose district permits and obtain all necessary public inspections.

4. If outdoor lighting is provided, it shall comply with the outdoor lighting requirements of Chapter 10.20 of the Lyon County Code.

5. The applicant shall remove all unused and inoperable machinery and equipment from the property or locate all unused and inoperable machinery and equipment at a central location that is screened from public view by a combination of vegetative screening, fencing and terrain approved by the Planning Director.

6. The applicant shall comply with Lyon County's 1996 drainage guidelines. The property owner shall be responsible for maintenance of all roads, walks and drainage facilities within the parcel, as well as the storm water detention facilities, if applicable, whether it is onsite or offsite. Lyon County shall have no financial responsibility for maintenance of these facilities.

7. The applicant shall maintain a Lyon County business license for the use while occupying the premises.

8. All of the requirements placed on the special use permit by the County Building Official, Central Lyon County Fire Protection District, Planning Director, and other agencies with jurisdiction shall be met prior to the applicant commencing use of the site.

9. The use is subject to the continuous maintenance of an M-1 use that demonstrates the need for the watchman's quarters. The watchman's quarters use shall be discontinued and the manufactured home removed within thirty (30) calendar days if an M-1 use requiring the watchman's quarters is discontinued.

10. No change in the terms and conditions of the special use permit, as approved shall be undertaken without first submitting the changes to Lyon County and having them modified through a public hearing process.

11. The substantial failure to comply with any conditions imposed on the issuance of a special use permit or the operation of a special use in a manner that endangers the health, safety or welfare of Lyon County or its residents or the violation of ordinances, regulations or laws in the special use or the non-use of the permit for a year may result in the institution of revocation proceedings.

12. The special use permit is subject to annual review by Lyon County.

If you have any questions or concerns, please call me at 463-6531.

Sincerely,

Maureen Williss
Office Manager
Lyon County Commissioners/
County Manager's Office

C: Patrice A. Malailua, P.O. Box 50515, Sparks, NV 89434
Mound House Advisory Council, Melinda Cash, 16 Lemon Rd, Carson City, NV 89706
Lyon County Building Department

COMSTOCK MINING INC

RECEIVED
DEC 13 2010
LYON CO. COMM.

December 13, 2010

Chairman Joe Mortensen
Lyon County Board of Commissioners
Lyon County Administrative Complex
27 South Main St.
Yerington, NV 89447

RE: Final Draft - County Wide Component of the Comprehensive Master Plan
Request for Resource Land Use Designation for Specific Mining Properties

Dear Chairman Mortensen,

Comstock Mining, Inc., (the Company) in conjunction with Mr. and Mrs. Allan G. Fiegehen and Ida Consolidated Mines Inc., respectfully request that the following parcel be re-designated into the "Resource" category for the purpose of its Land Use Designation in the County Wide Component of the Comprehensive Master Plan. This parcel is a portion of a contiguous, 182 acre block of private property in Lyon County (together with surrounding unpatented mining claims, collectively the "Dayton Resource Area") that was acquired by the Company for its mineral resource potential. The approximate location of the property is highlighted on the attached copy of your "County-Wide Land Use Map – Silver City".

The specific parcel number requested to be re-designated in the "Resource" category is:
APN 008-091-01 (portion north of Silver City town line)

The following adjacent parcels appear on this map to be already categorized as "Resource" in your draft document. The Company respectfully agrees with this designation, but we would like to make sure that the entirety of these parcels is categorized as "Resource".

APN 008-091-01 (portion south of Silver City town line)
APN 016-121-01
APN 016-101-08
APN 016-111-02
APN 016-111-03

PO Box 1118 • 1200 American Flat Rd • Virginia City, NV 89440 Main (775) 847-5272 • Facsimile (800) 750-5740

APN 016-121-10
APN 016-121-11
APN 016-121-12
APN 016-121-22
APN 016-121-23
APN 016-121-24
APN 016-121-25

The Company's request for re-designation of the parcel is based on the presence of valuable mineral resources on this property. To quote from Chapter 6, "Natural Resources and Environment" of the Master Plan Final Draft, Policy NR 9.1, "Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist."

These properties demonstrably contain significant mineral resources. Most of this property gained the status of "Patented Mining Claim" and was transferred from federal ownership to private land ownership after proving the presence of valuable minerals to the satisfaction of the federal government. On August 31, 2010, Behre Dolbear, a respected, independent Mineral Industry Advisor hired by the Company, issued a technical report on the Company's mining projects (see the full Technical Report as Appendix A, attached). Among other findings, the report validated a measured, indicated, and inferred resource in the Dayton Resource Area containing 199,000 ounces of gold and containing 1,570,000 ounces of silver . The Company believes the potential of the Dayton Resource Area far exceeds the aforementioned resource and that the completion of our exploration, resource planning, and ultimate implementation of the Company's mine plans will not only create meaningful, long-term jobs in Lyon County but result in millions of dollars in direct tax revenue for the county during the life of the mine. Comstock Mining Inc. acquired this package of property through a lease agreement in November 2008, and two separate exploration licenses in July and August 2010, all with definitive options to purchase the patented and unpatented mining claims and patented town site lots. The agreement between the Company and the current owners was based on the presence of valuable minerals, and the expectation that the Company would be able to profitably mine the valuable minerals contained on the property.. We believe the Resource category is the proper designation for these properties, and that any designation of this property that hinders the ability to extract

the minerals will result in a significant loss of value for both the Company and the current owners.

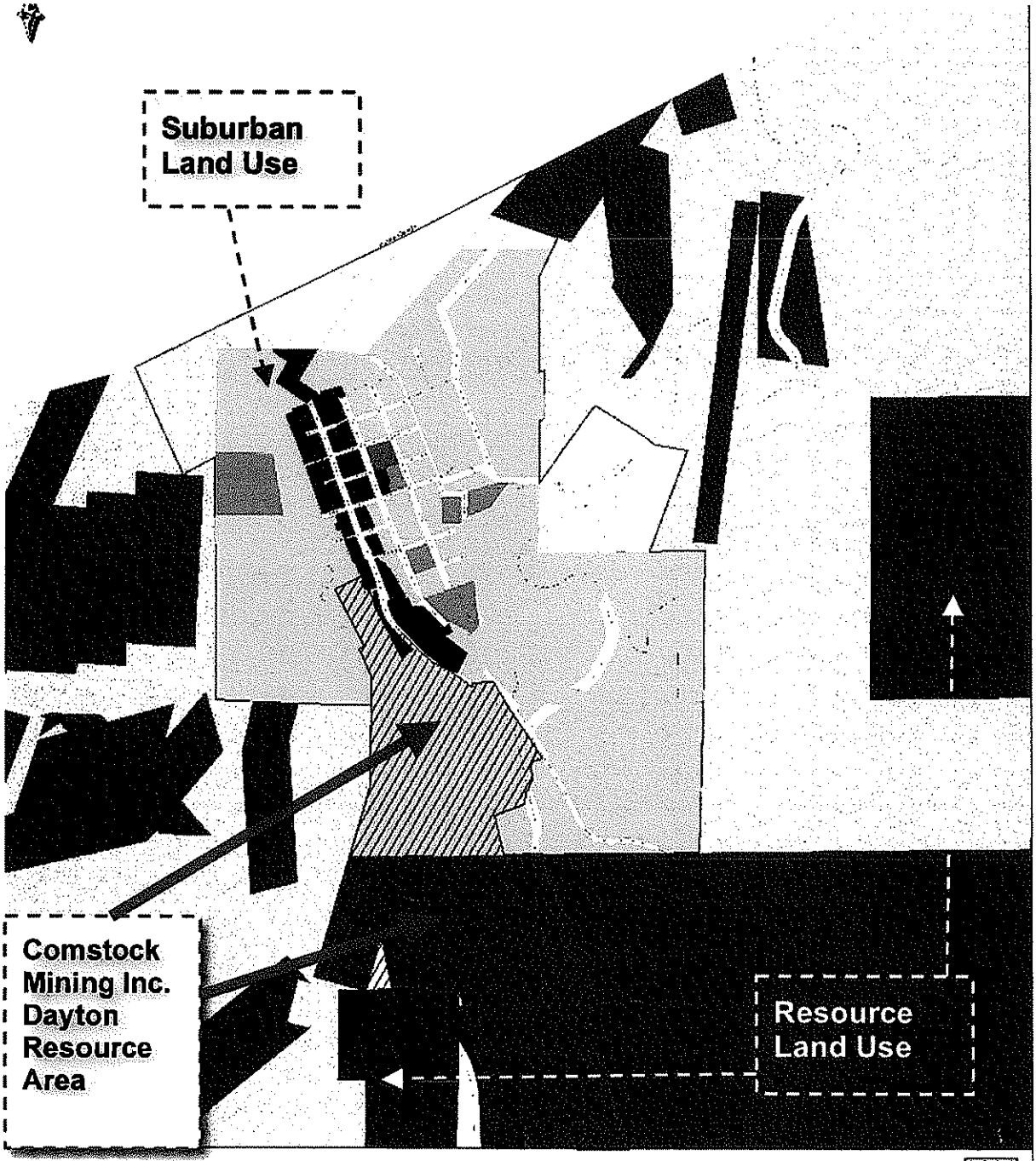
We recognize the time, energy and effort expended in bringing the Draft - County Wide Component of the Comprehensive Master Plan to its current stage. We recently acquired the rights to these properties and regret that our request is being made in the latter stages of the draft approval process.

On December 7, 2010 our Senior Engineer, Dennis Anderson, P.E. and I attended the Silver City Advisory Council meeting for the purpose of introducing the Company and ourselves and advising the Council that we planned on submitting this request for Resource Categorization into your process. We also discussed our current mineral exploration drill program with the council members and all others in attendance. We are on their agenda for an introductory presentation of the Company on January 4, 2011, at 7 pm. We appreciate the Silver City Advisory Council's openness and willingness to engage in dialog about mineral resource exploration and development in northern Lyon County, the Silver City area and Storey County.
Please feel free to call me with any questions or clarifications needed regarding our reasonable request for an appropriate land use designation as "Resource" on mineral lands, which is consistent with the historic and present use of the properties. Thank you for your consideration of our request and we look forward to business opportunities and continued open communication with and in Lyon County over the coming years.

Sincerely yours,

Corrado De Gasperis
President and Chief Executive Officer
Comstock Mining Inc.

cc: Silver City Advisory Council
Chairman Virgil Arellano, Lyon County Planning Commission
Mr. Bill Nance, Comstock Mining Inc. Board Chairman



COUNTY-WIDE LAND USE MAP - SILVER CITY

MASTER PLAN AMENDMENT AND ZONE CHANGE APPLICATION FOR COMSTOCK MINING PROPERTY

SILVER CITY, LYON COUNTY, NEVADA

PREPARD FOR:

COMSTOCK MINING

Comstock Mining Inc.
P.O Box 1118
Virginia City, Nevada 89440

PREPARED BY:

Manhard CONSULTING

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AUGUST 2013

rec'd 8/11/2013

14 CV 000128 - 000549
LYON COUNTY

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Project Location

The property included with this application request is generally located north and west of State Highway 341 adjacent to the town site of Silver City. See Figure 1 Vicinity Map and Figure 2 Parcel Exhibit for additional detail.

Master Plan Land Use & Zoning Designations

Table 1: Current Land Use Designations (Ref. Figure 3 and Figure 4)

Parcel	Master Plan	Zoning	Land Use
1	Resource	NR1	Vacant
2	Suburban Residential	NR1	Vacant
3	Resource	NR1	Vacant
4	Suburban Residential	NR1	Vacant
5	Suburban Residential	NR1	Vacant
6	Suburban Residential	NR1	Vacant / Abandoned Mining Facilities

Table 2: – Proposed Land Use Designations (Ref. Figure 5 and Figure 6)

Parcel	Master Plan	Zoning	Area
1	Resource	RR-5	32.34 AC
2	Rural Residential	RR-3	7.20 AC
3	Rural Residential	RR-3	12.29 AC
4	Rural Residential	RR-3	10.28 AC
5	Rural Residential	RR-3	11.01 AC
6	Rural Residential	RR-3	14.08 AC

54.86 ac

87.70 ac

Table 3: Surrounding Property Designations

Location	Master Plan	Zoning	Land Use
North	Suburban Residential & Commercial Mixed Use	M1 & NR1	Vacant / Silver City Town Site
South	Resource, Open Space & Future Planning Area	RR5 & C2	Vacant
East	Resource & Suburban Residential	RR5 & NR1	Vacant / Silver City Town Site
West	Open Space & Suburban Residential	RR5 & NR1	Vacant

Application Request

This application includes the following requests:

1. A Master Plan Amendment request from Suburban Residential to Rural Residential on 42.57 acres.
2. A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres.
3. A Zoning Map Amendment request from NR1 to RR3 on 54.86 acres.
4. A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.

Justification

The application is requesting a "down zone" at both the master plan and zoning levels. These amendments modify the residential development potential of the property from its current allowed density of 655 total dwelling units to a maximum yield of a more rurally representative 10 dwelling units. If approved, these proposed requests change the master plan and zoning designations from "Suburban Residential and NR1" to "Rural Residential, RR3 and RR5." This would provide a more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure and also clean up and align certain parcels that currently have "split" master plan designations.

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. Regardless of the

rationale, the designations have rendered the subject property unproductive for any activity other than mineral exploration for the last 40 years.

The applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property. Prior to proceeding with actual mining activities, the applicant would be required to obtain a special use permit from Lyon County. Such a permit would then address all manners of land use and include relevant conditions to limit the impacts and effects of potential or proposed mining activities. In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning.

A change in the master plan and zoning designations from Suburban Residential and NR1 to Rural Residential, RR3 and RR5 will not only support the productive evaluation of existing mineral potential but will, more importantly, also bring the property into conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure and services, while helping to further promote the goals, policies, and strategies of the Lyon County Master Plan.

The Lyon County Master Plan Community Description for Silver City states," *The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims. The existing water service infrastructure dates back to the late nineteenth century, when a water system to supply the mining operations and settlement demands of the Comstock communities was constructed. This aging water system and a lack of sewer system limit growth in Silver City."*

The Lyon County Master Plan includes five types of Character Districts, Rural, Suburbanizing, Historic, Future Plan Areas and General County. These Character Districts provide guidance to the type, intensity, density, and general development standards for uses intended to occur within their boundaries.

As defined in the Master Plan, Suburbanizing Districts, *"include areas that are predominately medium to high density residential development with regional/community commercial, neighborhood, industrial and employment uses. Improvement standards will reflect the "suburban" character of these areas and will include requirements for municipal water and sewer, roadway design appropriate to the planned uses, landscaping of public areas, and pedestrian facilities (sidewalks and paths). Roads are likely to have some bike and pedestrian facilities within the rights-of-way or separate paths."*

As defined in the Master Plan, Rural Districts, *"include those areas that are predominately low density residential development with limited neighborhood commercial uses. They may or may not have agricultural land uses or grazing lands. Improvement standards will reflect the "rural" character of the area. Rural districts are not likely to have municipal water and sewer. Roads are likely to have dirt shoulders, some equestrian paths as well as bike facilities within the road rights-of-way.*

As defined by the Master Plan, Historic Districts, *"include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote "historic" architectural design elements. Future historic districts could also be designated where the intent is to promote new compatible development that is in keeping with the "historic" development patterns and architectural design elements to create more vitality."*

As defined by the Master Plan, General County includes, *"Lands outside the boundaries of defined community boundaries are classified as General County. These lands are rural or resource lands or public lands, and are intended to remain largely undeveloped or with very low intensity development within the Master Plan's planning horizon."*

Table 4: Lyon County Land Use Categories

Land Use Category	Community Plan Land Use Designation	Density Range/ Size	Examples of Uses	Description/ Characteristics	Current Zoning Districts
Suburban Residential	High Density Residential	5 to 18 Dwelling Units per acre	Apartments, duplexes, fourplexes, condominiums and townhomes. Single Family Residential detached units at 5 to 10 dwelling units per acre.	High density residential is typically found in suburbanizing districts. High density residential should be located near major transportation facilities, near commercial uses, or civic centers and near parks	NR1 NR2 NR3 MHP
Rural Residential	Rural Residential	1 du per 5 to<20 acres	Single-family residences, "farmettes" and "ranchettes", etc.	Typically found in rural districts and on the suburbanizing fringe. Lot size and layout varies. Typically not served by municipal utilities, depending on location in suburbanizing district.	RR3 RR4

According to the Lyon County Character Districts Map, the subject property appears to reside within both the Historic and General County Districts. Despite this apparent inconsistency of Character Districts, the land use and zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts. Clearly, the proposed land use and zoning designation are much more compatible and consistent with the Historic and General County Districts than the master plan designation of Suburban Residential which is currently assigned to the majority of the subject property.

Provided is the Silver City Community Description from the Lyon County Master Plan and the Master Plan's definitions for the types of residential Character Districts, also provided in Table 3: Lyon County Land Use Categories, is an excerpt from the Lyon County Master Plan comparing the current Land Use Category, Suburban Residential to the requested Land Use Category Rural Residential.

The community Character District of Suburbanizing, the Community Plan Land Use Designation of High Density, Density of 5 to 18 dwelling units per acre, the Examples of Uses and the Description/ Characteristics and the current Suburban Residential master plan designation and NR1 zoning designation are inconsistent with the following goals, policies and strategies of the current Lyon County Master Plan and conversely, these of goals, policies and strategies actually promote the proposed master plan and zoning modification requests from Suburban Residential and NR1 to Rural Residential, RR5 and RR3.

Goal LU1: *Orderly Growth Patterns*

Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a demand base zoning strategy nor is it based on any current or realistic population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability.

Policy LU1.2: *Residential development Patterns in Neighborhoods*

New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

Development of the property at its current NR1 density would be out of character with the existing "neighborhood" of Silver City. A reduction in development potential is a more appropriate development pattern and more compatible with existing and historic uses.

Goal LU2: Services Coordinated with Growth

Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

According to the master plan "Suburban Residential" areas should be located near major transportation facilities, near commercial uses, or civic centers and near parks. The subject property is rural in nature and adequate facilities to accommodate such high density residential would be impractical to develop and completely out of character with the existing community. Therefore a reduction in development potential is warranted and appropriate.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

The subject property, although designated Suburban Residential, does not have adequate municipal water or sewer in close proximity and facility plans are not currently in place to allow for development to occur concurrently. A reduction in allowable units would be more consistent with the current and future services of the area.

Goal LU3: Diverse Economy

The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: *Work with Economic development agencies and community groups to identify economic assets and development opportunities.*

The master plan change would allow for continued mineral exploration on the subject property helping to identify economic assets while employing local residents in primary jobs.

Goal NR9: *Mining and Resource Extraction*

Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 *Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.*

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning.

Master Plan Amendment Findings:

1. ***Consistency with the Master Plan:***

   The proposed amendment is in substantial compliance with and promotes the following master plan goals, objectives and actions:

   Goal LU1: Orderly Growth Patterns

   Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

Policy LU1.2: Residential development Patterns in Neighborhoods
New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

Goal LU2: Services Coordinated with Growth
Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal LU3: Diverse Economy
The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base
The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: Work with Economic development agencies and community groups to identify economic assets and development opportunities.

Goal NR9: Mining and Resource Extraction
Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development
New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

2. ***Compatible Land Uses:***

The proposed amendment is compatible with the actual and planned adjacent uses, and reflects a logical change in land uses.

The proposed amendment to Rural Residential is consistent with the current and future development character of Silver City. The current Suburban Residential designation promotes high-density residential development on a property that is constrained by topography and infrastructure availability; and accordingly, has resulted in little to no productive use. The proposed Rural Residential designation according to the master plan is a more logical fit defined as, *"Typically found in rural districts and on the suburbanizing fringe."*

3. ***Response to Change Conditions:***

The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the master plan was adopted by the board, and the requested amendment represents a more desirable use of the land.

A change in the master plan designation from Suburban Residential to Rural Residential represents a more desirable use of land because it will bring the property in conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure and services. In addition, the proposed changes will allow for the exploration and evaluation of existing patented mining claims with potential for significant benefit to the County and community, while consistently promoting the goals, policies, and strategies of the Lyon County Master Plan.

4. ***No Adverse Effects:***

The proposed amendment will not adversely affect the implementation of the master plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.

The amendment request will not adversely affect the implementation of the master plan or negatively impact public health, safety and welfare. The

amendment proposes a significant enhancement in nature and type of development potentials of the property while continuing to maintain the goals, objectives and actions of the current master plan and will have no foreseeable impact on public health, safety or welfare.

5. ***Desired Pattern of Growth:***

   The proposed amendment will promote the desired pattern for the orderly physical growth of the county, allows infrastructure to be extended in efficient increments and patterns, maintains relatively compact development patterns, and guides development of the county based on the least amount of natural resource impairment and efficient expenditure of the funds for public services.

   The proposed request to change the master plan designation from Suburban Residential to Rural Residential represents a desired pattern of growth by providing a realistic current and long range land use strategy based on actual development potential, considering factors like topography and proximity to adequate infrastructure. Although the potential use of the subject property for mining activities would necessarily involve the extraction of natural resources, we do not believe this would result in any impairment to the water resources and other resources that are important to existing residents and businesses in the area, and, we believe existing constraints or negative impacts would be reduced by the proposed amendments. The proposed Master Plan Amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of funds for public services.

Master Plan Amendment Process and Procedures Findings:

1. ***The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;***

   For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. In the event that mining activities are ultimately not pursued on the subject property, or even if they are pursued, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land

uses and post-mining land opportunities, than the current master plan designation.

2. ***The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;***

   The proposed amendment to Rural Residential is consistent with the current and future development character of Silver City. The current Suburban Residential designation promotes high-density residential development on a property that is constrained by topography and infrastructure availability; and accordingly, has been put to little or no productive use. The proposed Rural Residential designation according to the master plan is a more logical fit defined as, *"Typically found in rural districts and on the suburbanizing fringe"* and is supportive of the goals and policies identified above.

3. ***The proposed amendment will have no major negative impacts on transportation, services, and facilities;***

   The proposed amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the preservation of natural resources and efficient expenditure of funds for public services.

4. ***The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;***

   The proposed request to change the master plan designation from Suburban Residential to Rural Residential will actually have a positive effect on service provision by providing a realistic, more flexible, current and long range land use strategy based on actual development potential, considering factors like topography, surrounding uses and proximity to adequate infrastructure.

5. ***Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and***

   The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a demand based zoning strategy nor is it based on any current or realistic population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability.

6. ***The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.***

   The amendment proposes a significant increase in consistency between the actual and potential use of the subject property and the land use designation.

The proposed land use designation is consistent with the realistic development potential of the subject property while supporting the goals, objectives and actions of the current master plan. The requested designation will have no negative impact on public health, safety or welfare.

Zone Change Findings:

1. ***Consistency with the Master Plan Land Use Map.***

   The proposed zone change is not only in substantial conformance with the proposed master plan amendment request but the requested modifications will actually help correct existing conformance issues between the Lyon County Master Plan and Zoning Code.

2. ***Consistency with the Master Plan goals, policies and strategies.***

   The proposed zoning map amendment is in substantial compliance with and promotes the following master plan goals, objectives and actions:

   Goal LU1: Orderly Growth Patterns

   Direct and manage development in the county so that it is orderly and fiscally responsible.

   Strategies: Establish a demand based zoning strategy based on realistic population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

   Policy LU1.2: Residential development Patterns in Neighborhoods

   New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

   Goal LU2: Services Coordinated with Growth

   Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

   Policy LU 2.1 Residential Development in Areas with Services

   Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

   Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal LU3: Diverse Economy

The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: Work with Economic development agencies and community groups to identify economic assets and development opportunities.

Goal LU5: Encourage Resource Sensitive Growth

Development will be designed to reduce energy use and minimize environmental impacts.

Goal NR9: Mining and Resource Extraction

Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

3. ***Consistency with the desired pattern for the orderly physical growth of the County and maintains compact development patterns.***

The proposed request to change the zoning designation from NR1 to RR3 and RR5 represents a desired pattern of growth by providing a realistic, current and long range zoning strategy based on actual development potential considering factors like topography, existing uses and proximity to adequate infrastructure.

4. ***Contributes to the timely, orderly and efficient arrangement of transportation and other public facilities and services.***

   The proposed zoning will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of funds for public services.

5. ***Promotes development that is commensurate with the character and physical limitations of the land.***

   The proposed RR5 and RR3 designations will significantly reduce the development potential of the property not only taking into consideration the character and physical limitations of the land (i.e. topography and surrounding densities) but also reducing the need for additional infrastructure.

6. ***Promotes the protection and/or enhancement of existing neighborhoods and communities.***

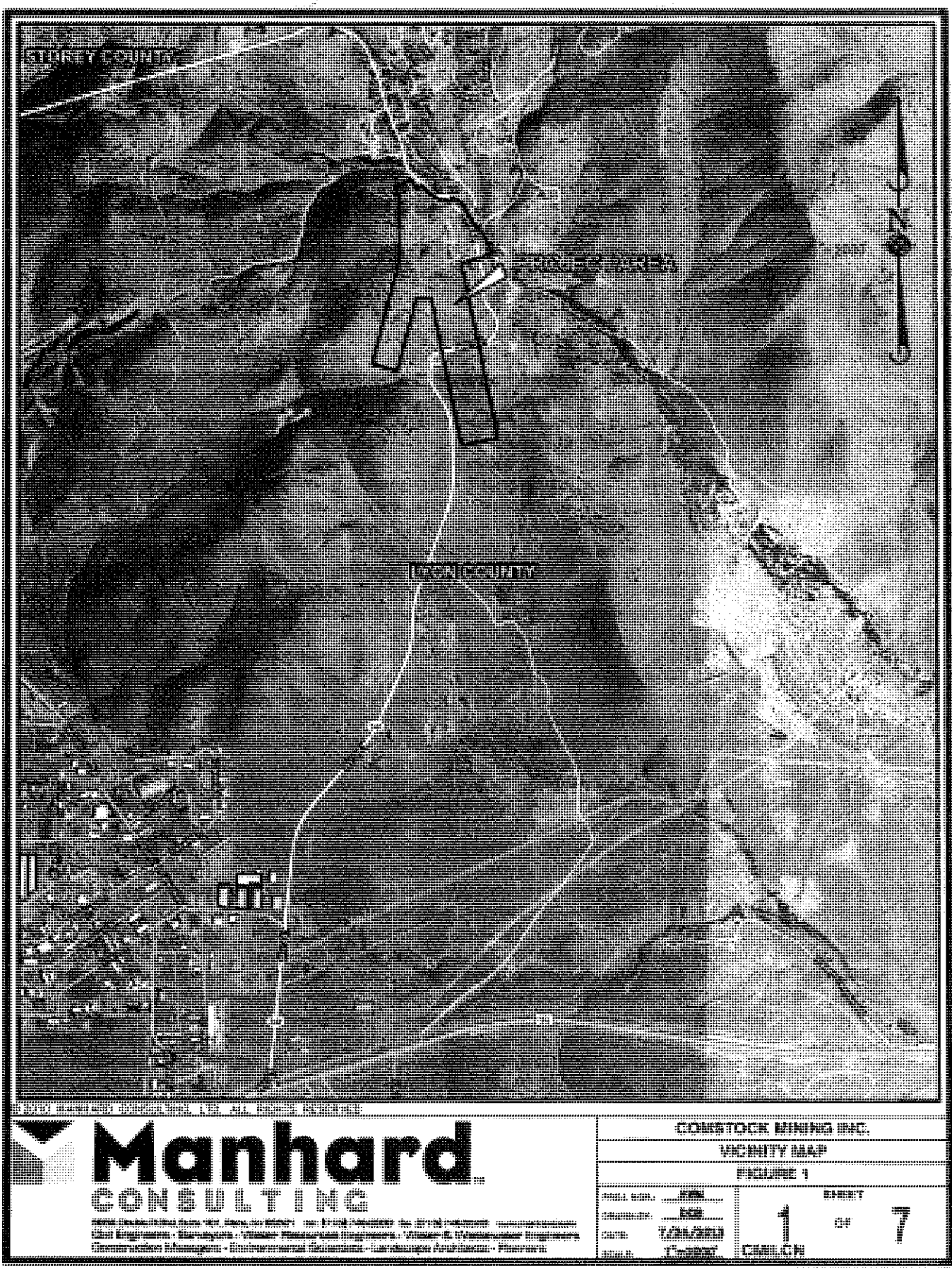
   The proposed zoning map amendment is consistent with the current and future development character of Silver City. The current NR1 designation promotes high density residential on a property that is constrained by topography and infrastructure availability.

7. ***No detrimental impacts to other properties in the vicinity.***

   The proposed zoning map amendment is sensitive to and compatible with the current and future development character of Silver City. The current NR1 designation promotes high density residential that is not only out of character with the rural nature of the area, but does not take into consideration the fact that the property is constrained by topography and infrastructure availability.

8. ***No adverse impacts to the public health, safety and welfare.***

   The proposed zone change will have no impacts to public health, safety and welfare, and although the potential use of the subject property for mining activities would necessarily involve the extraction of natural resources, this will not result in any impairment to the water resources and/or other resources that are important to existing residents and businesses in the area.



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COMSTOCK MINING INC.
VICINITY MAP
FIGURE 1

SHEET 1 OF 7

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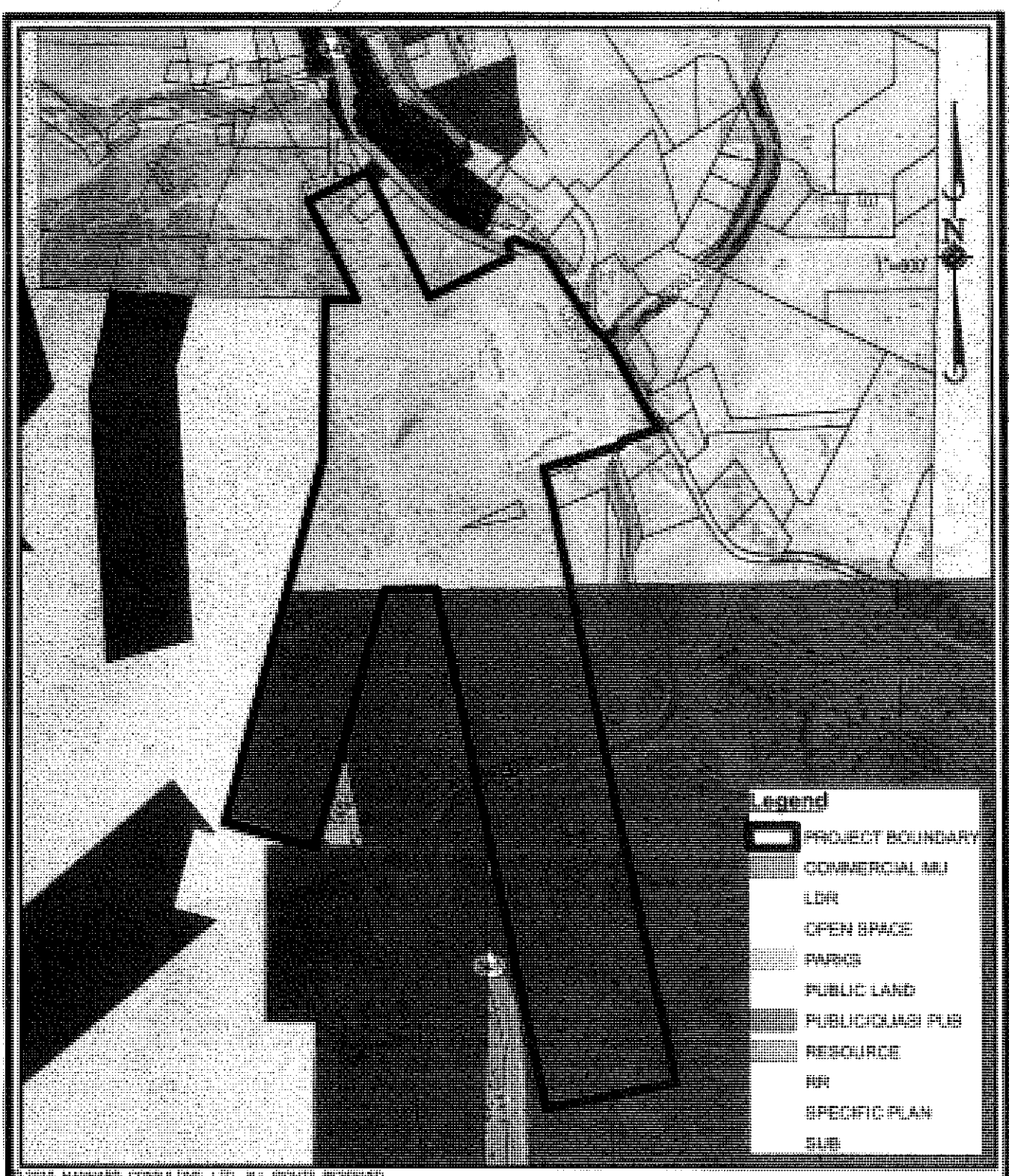
COMSTOCK MINING INC.
PARCEL EXHIBIT
FIGURE 2
2 OF 7
CARSON



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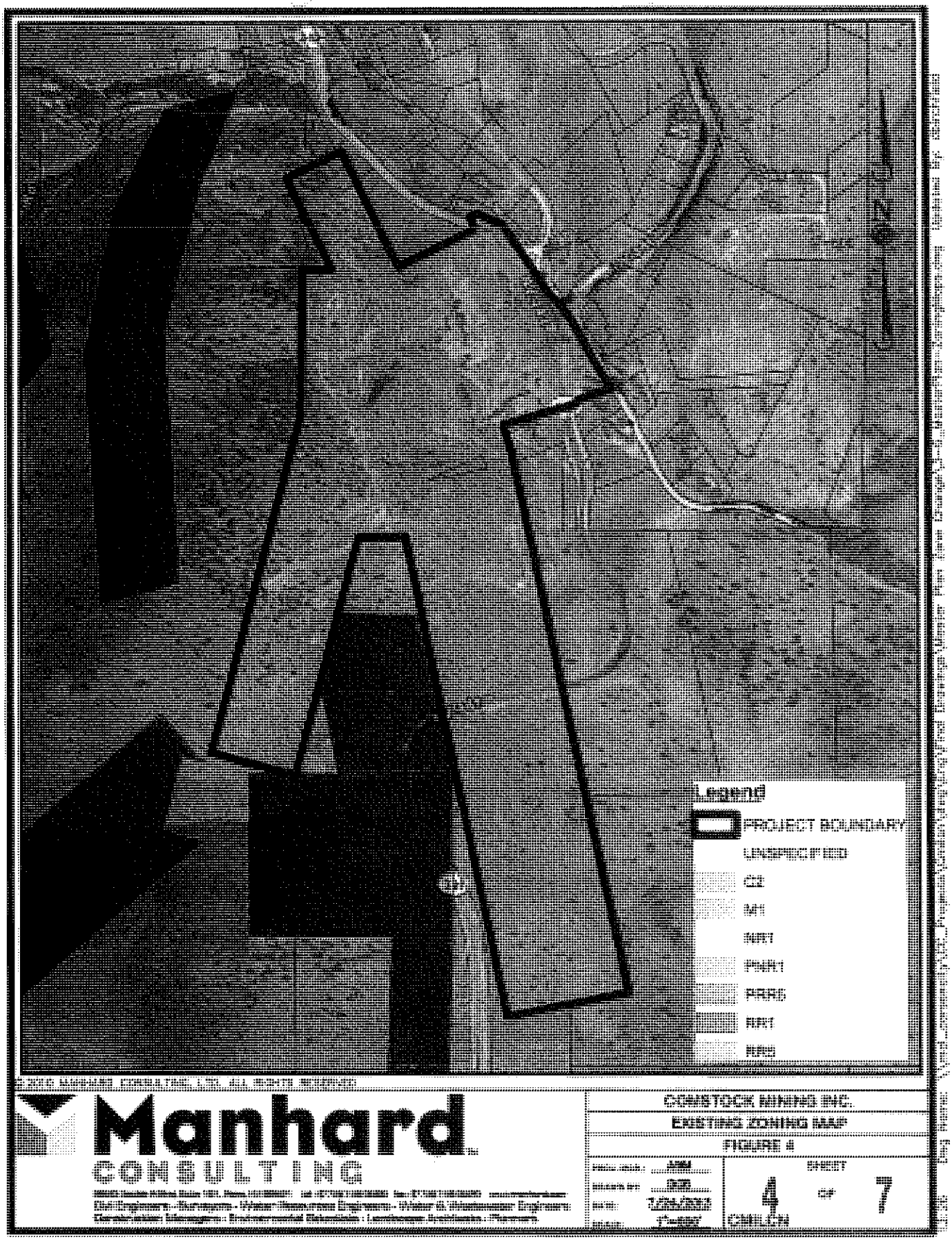
COMSTOCK MINING INC.
EXISTING MASTER PLAN MAP
FIGURE 3

SHEET 3 OF 7



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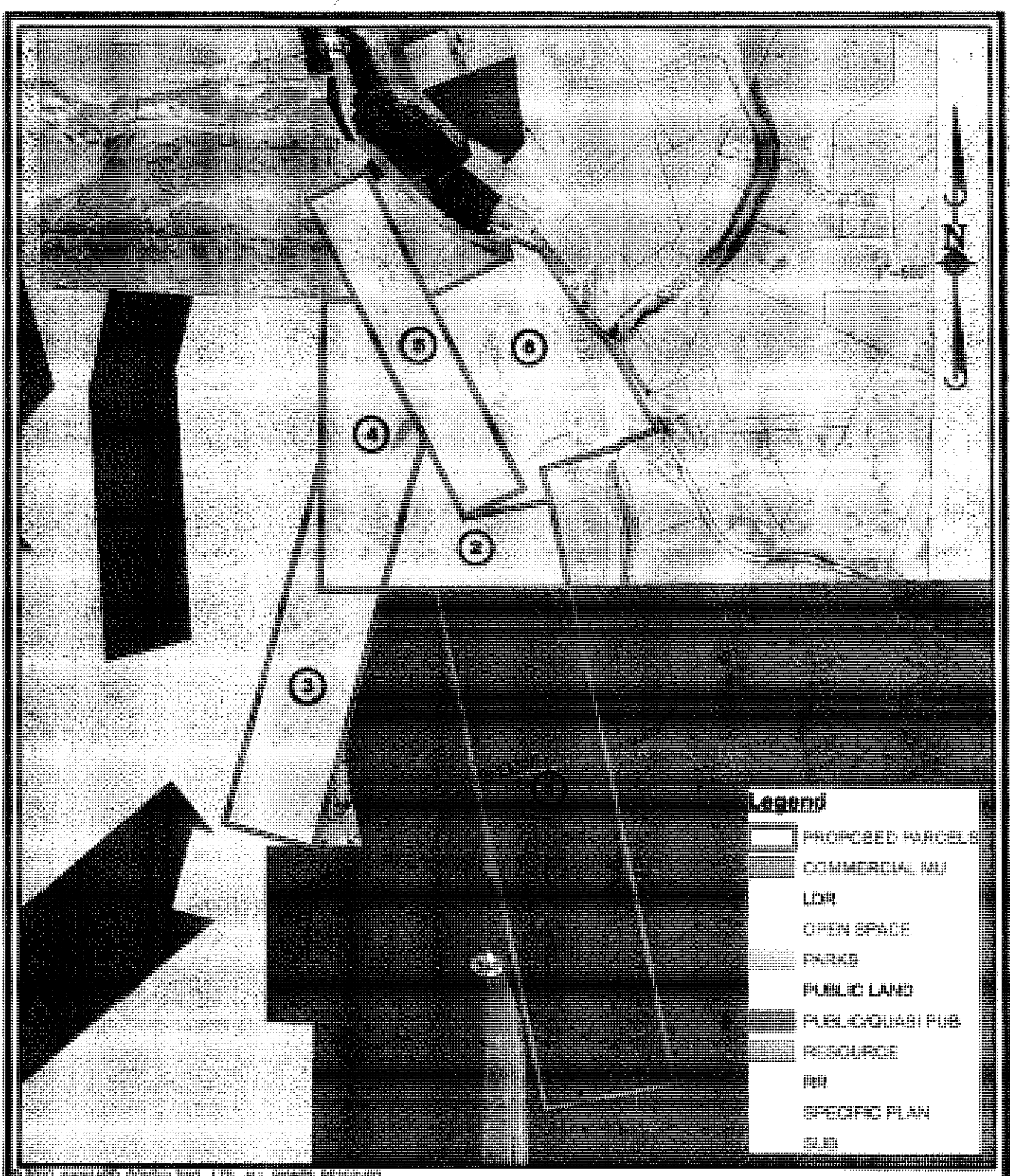
COMSTOCK MINING INC.
EXISTING ZONING MAP
FIGURE 4

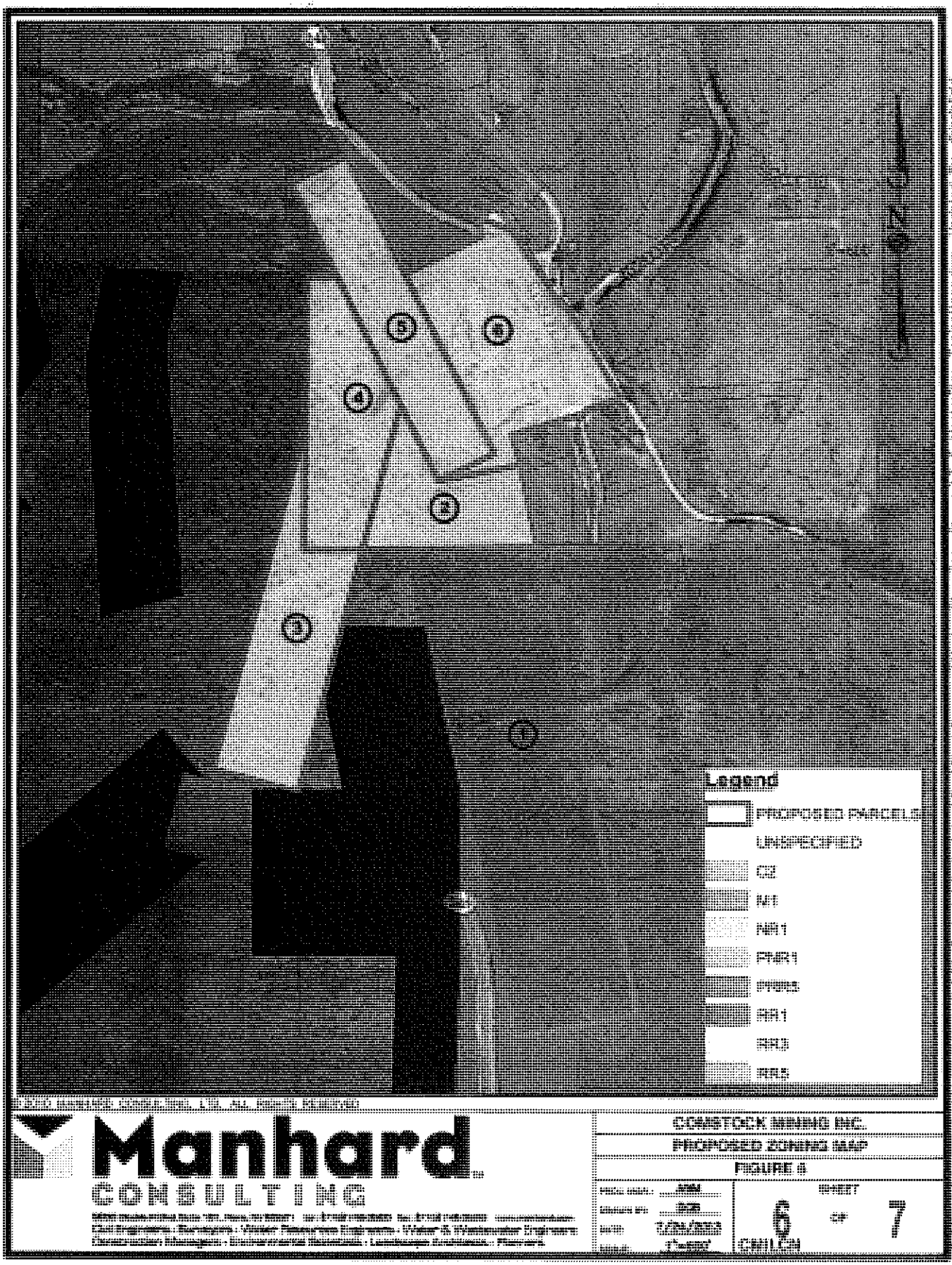
SHEET 4 OF 7



Manhard CONSULTING

COMSTOCK MINING INC.
PROPOSED MASTER PLAN MAP
FIGURE 5

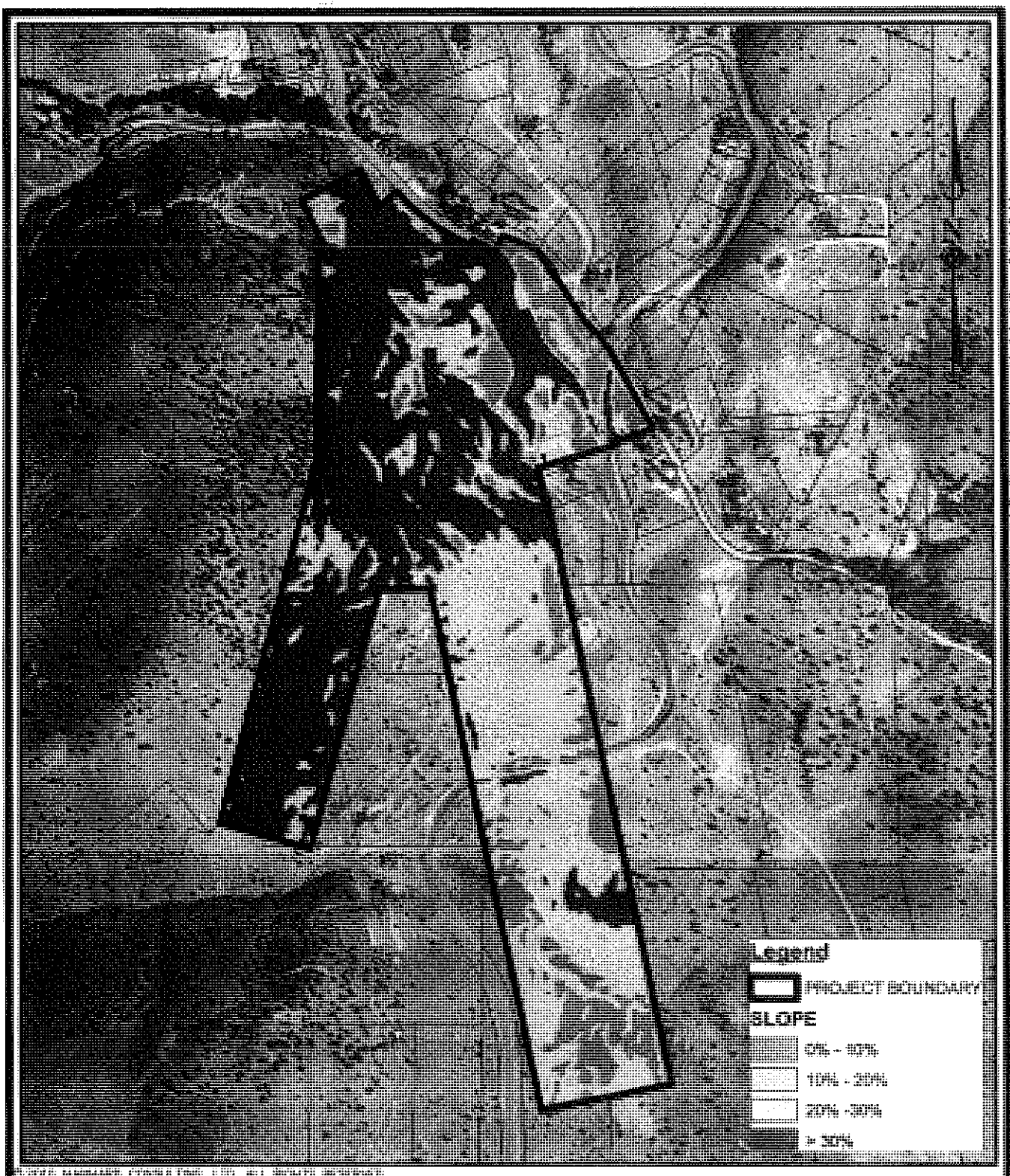
SHEET 5 OF 7



Manhard CONSULTING

COMSTOCK MINING INC.
PROPOSED ZONING MAP
FIGURE 6

SHEET 6 OF 7



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Manhard CONSULTING

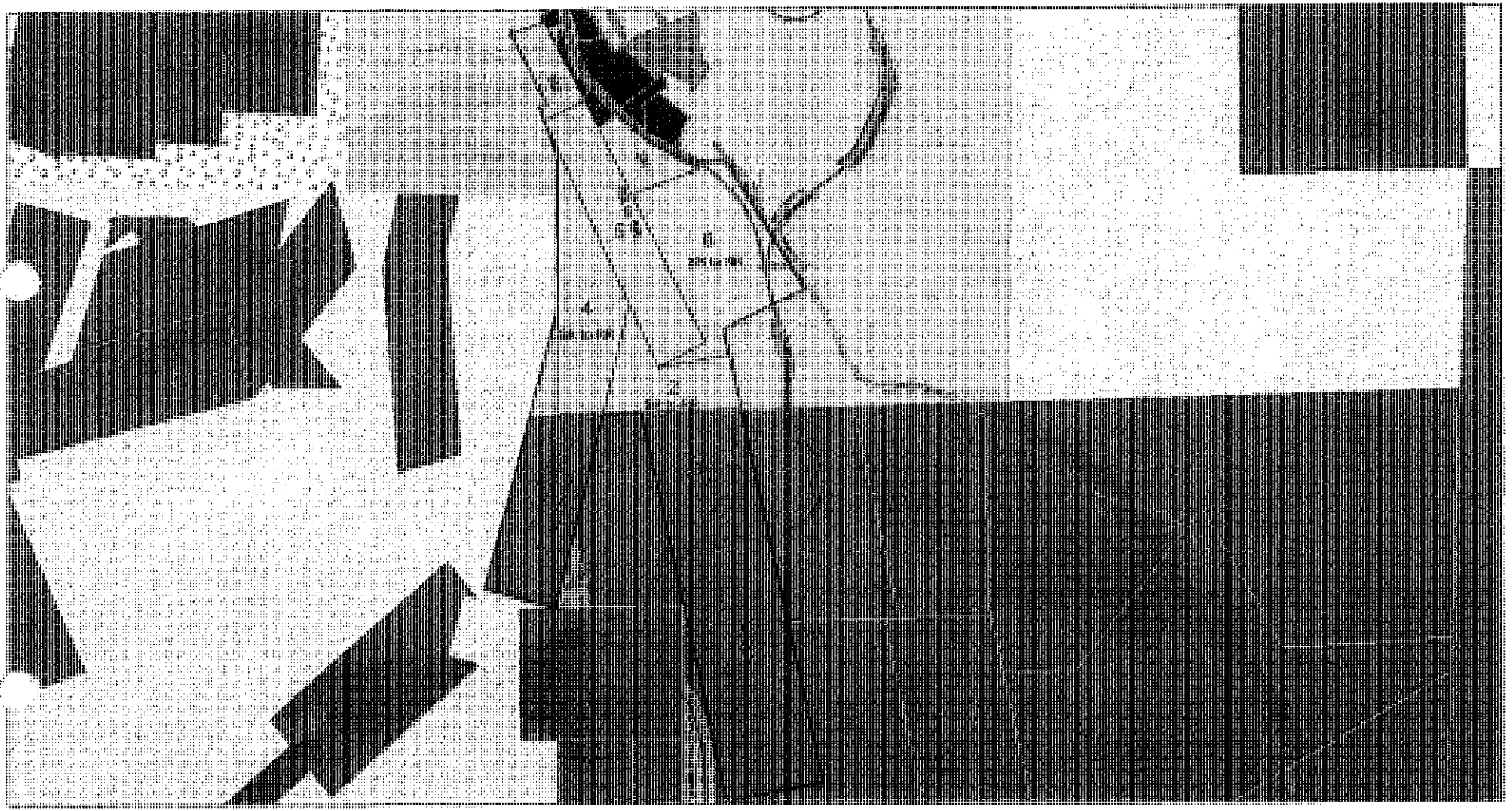
COMSTOCK MINING INC.

EXISTING SLOPE MAP

FIGURE 7

SHEET 7 OF 7

APPENDIX



October 21, 2013

- Admin Building
- Community Center
- Human Services
- Library
- Maintenance
- Medical
- Museum
- Recreation

1:8,910

0 0.1 0.2 0.4 mi

0 0.175 0.35 0.7 km

Sources: Esri, USGS, NOAA

12.29
42.58
54.87

LYON COUNTY
PLANNING DEPARTMENT

27 SOUTH MAIN STREET, YERINGTON, NEVADA 89447
VOICE: (775) 463-6592 • FAX: (775) 463-6596

DEVELOPMENT APPLICATION

This form must be completed and all requested information incorporated, as prescribed by the application submission requirements for each application type, before the application is deemed complete and accepted for processing by Lyon County.

Application Type (check all that apply)

☐ Abandonment	☐ Extension of Time Request	☐ Reimbursement Agreement
☐ Amended Map	☐ Hardship Exception Permit	☐ Reversion to Acreage
☐ Appeal of Administrative Decision	☐ Improvement Plan for Land Division	☐ Site Improvement Plan
☐ Appeal of Planning Commission Decision	☐ Improvement Standards Variance or Waiver	☐ Special Use Permit
☐ Approval Condition Amendment	☒ Master Plan Map Amendment	☐ Specific Plan
☐ Boundary Line Adjustment	☐ Master Plan Text Amendment	☐ Street Name Request
☐ Certificate of Amendment	☐ Mobile Home Park/Recreational Vehicle Park	☐ Subdivision Map, Tentative
☐ Continuation of Planning Application	☐ Parcel Map	☐ Subdivision Map, Final
☐ Development Agreement	☐ Parcel Map, Final	☐ Variance ☐ Administrative
☐ Development Agreement, Revision	☐ Parcel Map Waiver	☐ Wireless Communication Facility
☐ Division of Land into Large Parcels, Tentative Map Waiver	☐ Planned Unit Development, Final	☐ Wireless Communication Facility, Modification
☐ Division of Land into Large Parcels, Tentative Map	☐ Planned Unit Development, Tentative	☐ Zoning Determination
☐ Division of Land into Large Parcels, Final Map	☐ Pre-Application Conference	☒ Zoning Map / Text Change

General Information

Assessor's Parcel number(s)	Acreage	Assessor's Parcel number(s)	Acreage
Por. of 008-091-05	+/- 86.84 AC		
008-091-02	+/- 0.36 AC		

Applicant Name(s): ☒ Same as Owner ☐ Other (Insert name(s)):

Community: ☐ Dayton ☐ Fernley ☐ Mark Twain ☐ Mason Townsite ☐ Mason Valley ☐ Mound House ☒ Other County ☒ Silver City ☐ Silver Springs ☐ Smith Valley ☐ Stagecoach

Previous applications filed on this site:

Project Name (if applicable):

Project Information

Project or Request Description: Comstock Mining is requesting a Master Plan Amendment and Zone Change on a portion of Lyon County APN 008-091-05 and APN 008-091-02. APN 008-091-05 inlcudes 14 legal parcels (3 patented claim parcels and 11 Silver City town lots) which are a portion of this request. The Master Plan Amendment request is to change 42.57 acres within the Silver City town limits from Suburban Residential to Rural Residential and 12.29 acres in unincorporated Lyon County from Resource to Rural Residential. The Zone Change request is to change 42.577 acre within the Silver City town limits from NR-1 zoning to RR-3 zoning and 44.63 acres in unincorporated Lyon County from NR-1 Zoning to RR-3 and RR5 Zoning.

Project Area (square feet or acres): +/- 87.20 AC Number of proposed units: Smallest parcel size:

Uses proposed (check all that apply): ☐ Single Family Residential ☐ Multi-Family Residential ☐ Commercial ☐ Industrial

Project Location

Project Street Address: State Route 341

Primary Access: State Route 341 and State Route 342 Section(s)/Township/Range: Sect. 8,9,16,17 T16N R21E

Approximately feet ☐north ☐south of *(street name)*

Approximately feet ☐east ☐west of *(street name)*

If within a Subdivision, Name: Lot: Block:

Project Location (with point of reference to primary access, major cross streets or area locator): A portion of the property is located within the Silver City Town limits adjacent to State Route 342 and a portion is in unincorporated Lyon County adjacent to State Route 341.

Other Information

Current Master Plan designation(s):	Suburban Residential, Resource
Proposed Master Plan designation(s):	Rural Residential
Current Zoning designation(s):	NR1
Proposed Zoning designation(s):	RR-3 and RR-5
Floodplain designation (from FIRM maps):	Zone AE, Unshaded Zone X
Road/street surface of frontage/access:	Paved highway for frontage and dirt road for access to a portion.

Applicant Information	
Applicant/Developer	**Professional Consultant/Representative**
Name: Same as Property Owner	Name: Manhard Consulting Ltd.
Address:	Address: 9850 Double R Blvd., Suite 101
City: State: Zip:	City: Reno State: NV Zip 89521
Phone: Fax:	Phone: 775-746-3500 Fax: 775-746-3520
Cell: Contact:	Cell: Contact: Andrew Motter, P.E
Email:	Email: amotter@manhard.com
Property Owner	**Other Person(s) to be Contacted**
Name: Comstock Mining Inc.	Name: Comstock Mining Inc.
Address: 1120 American Flat Rd.	Address: 1120 American Flat Rd.
City: Virginia City State: NV Zip: 89440	City: Virginia City State: NV Zip 89440
Phone: 775-847-5272 Fax: 775-847-7118	Phone: 775-847-5272 Fax: 775-847-7118
Cell: Contact: Corrado DeGasperis	Cell: Contact: Scott Jolcover
Email: degasperis@comstockmining.com	Email: sjolcover@comstockmining.com

The receipt of an application at the time of submission does not imply the application complies with all requirements of the Lyon County Code or Lyon County Planning Department, or that it is deemed complete and will be processed.

Property Tax Status:

As per Lyon County Code Title 10, Section 10.12.05, a signature is required from the Lyon County Clerk's Office showing the taxes are paid current on the subject property.

I, Nikki Bryan, hereby certify that all required property taxes are paid current on APN(s): 008-091-02, 008-091-05

By: _____ _____
Deputy Clerk Date

Applicant's Affidavit (Complete if different from Property Owner):

I, _____ (Printed name), being duly sworn, depose and say that I am the applicant of the described project and/or request, and all the statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of the Lyon County Planning Department staff.

_____ _____
Signature of Applicant Date

Subscribed and sworn to before me this _____ day of _____, _____

_____
Notary Public in and for said county.

(Notary stamp

Property Owner's Affidavit:

I, Corrado De Gasperis (Printed name), being duly sworn, depose and say that I am an owner* in fee of the described property involved in this application, that I have knowledge of, and agree to, the filing of this application, and that the statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I acknowledge that I am aware of the "right to farm" policy of the county and have been provided with a copy of a statement (attached to this application form) containing substantially the disclosure set forth in Chapter 10.15 of the Lyon County Code. I understand that no assurance or guarantee can be given by members of the Lyon County Planning Department staff.

(*A separate Affidavit must be provided by each property owner)

_____ 08/07/2013
Signature of Property Owner Date

Subscribed and sworn to before me this 7TH day of AUGUST, 2013
BY CORRADO DE GASPERIS ***
Notary Public in and for said county.
_____

STATE: NEVADA COUNTY: STOREY

(Notary stamp
ANETA KUZNICKA-BERGE
Notary Public, State of Nevada
Appointment No. 12-8415-2
My Appt. Expires Dec 16, 2015

TRI STATE SURVEYING, LTD.
1925 E. Prater Way, Sparks, Nevada 89434
Telephone (775) 358-9491 ♦ FAX (775) 358-3664
Toll Free: 1-800-411-3752

Land Information Solutions

October 18, 2013
Project No. 10055.01.CC

Parcel Descriptions

All those certain parcel situate within portions of Sections Eight (8), Nine (9), Sixteen (16) and Seventeen (17), Township Sixteen (16) North, Range Twenty-One (21) East, Mount Diablo Meridian, Lyon County, Nevada, being more particularly described as follows:

Parcel 1:

All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying southerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 2:

All that All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying northerly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 275 as shown on said Official Map of the TOWNSITE of SILVER CITY. Lot 276

Parcel 3:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying southerly, westerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 4:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying northerly, easterly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 274 as shown on said Official Map of the TOWNSITE of SILVER CITY.

(excluding that ptn. that may overlap onto M.S. 66 Marble Lode pat.?)

Parcel 5:

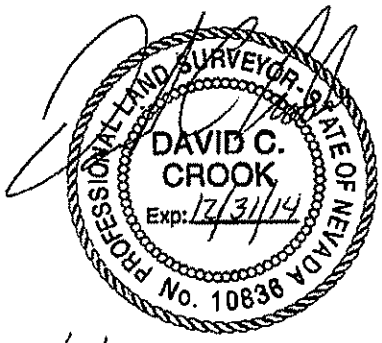
All of Mineral Survey 66, Marble Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 66 (Office No. 189), Marble Lode (Dayton Silver Mining Co's). Devils Gate Mining District, by J. H. Eaton, March 1873, together with that portion of Lot 129 of the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, lying inside of said Marble Lode.

+ excluding those portions of lots 105, 106, 128 & 141 that may overlap onto M.S.66 Marble Lode.

08-111-13 08-111-14 08-111-09 08-111-10

Parcel 6:

All of Lots 101, 102, 103, 133, 276, 277, 278 and 279, said Lots being as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876 and a portion of Lot 104 of said Official Map of the TOWNSITE of SILVER CITY, being shown on Record of Survey Map No. 291213, recorded in the office of the County Recorder of Lyon County on February 21, 2003.



Date 10/18/2013
David C. Crook, P.L.S.
Nevada Certificate No. 10836

Manhard CONSULTING

COMSTOCK MINING INC.
PHOTO LOCATIONS

SHEET 1 OF 1

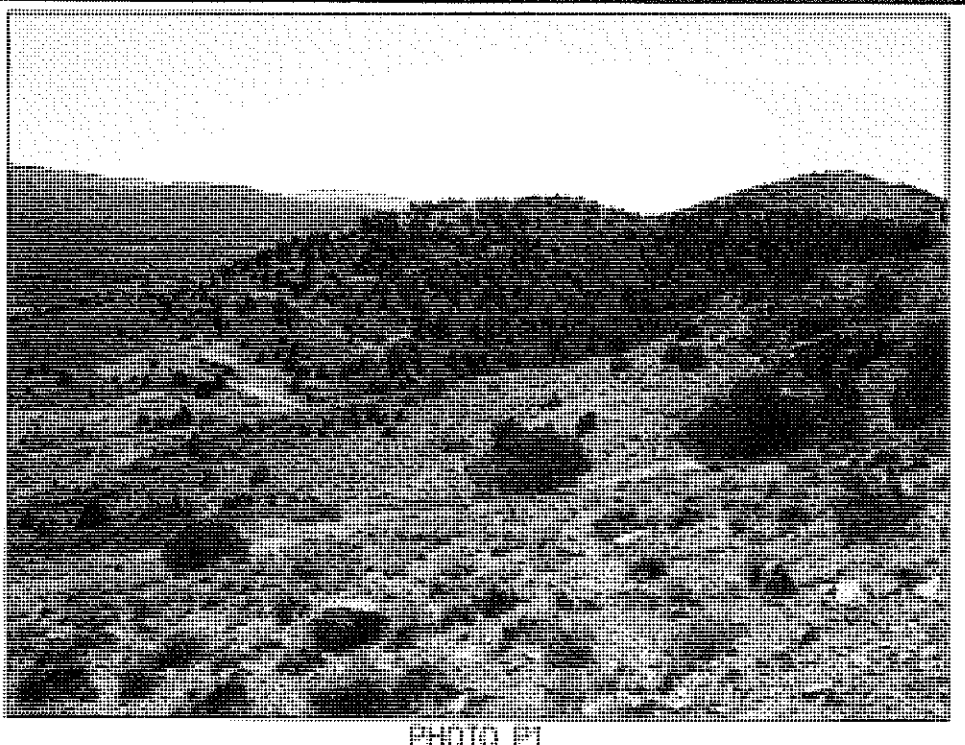


PHOTO P1

PHOTO P2

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Civil Engineers - Surveyors - Water Resources Engineers - Water & Wastewater Engineers
Construction Managers - Environmental Scientists - Landscape Architects - Planners

COMSTOCK MINING INC.

SITE PHOTOS

PROJ. MGR.:	AWM
DRAWN BY:	AWM
DATE:	8/8/2013
SCALE:	

SHEET 1 OF 1

CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amotter 17:30

PHOTO P3

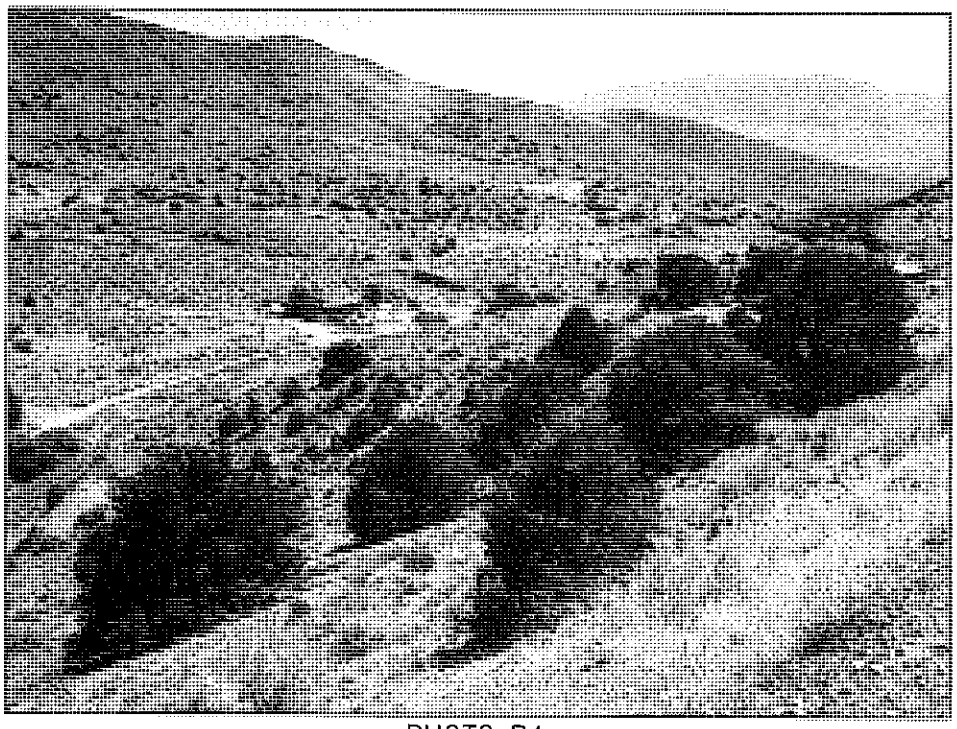

PHOTO P4

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Construction Managers - Environmental Scientists - Landscape Architects - Planners

COMSTOCK MINING INC.

SITE PHOTOS

PROJ. MGR.:	AWM
DRAWN BY:	AWM
DATE:	8/6/2013
SCALE:	

SHEET 1 OF 1

CMILCN

17:30 Dwg Name: \\mci_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amotter

PHOTO P5

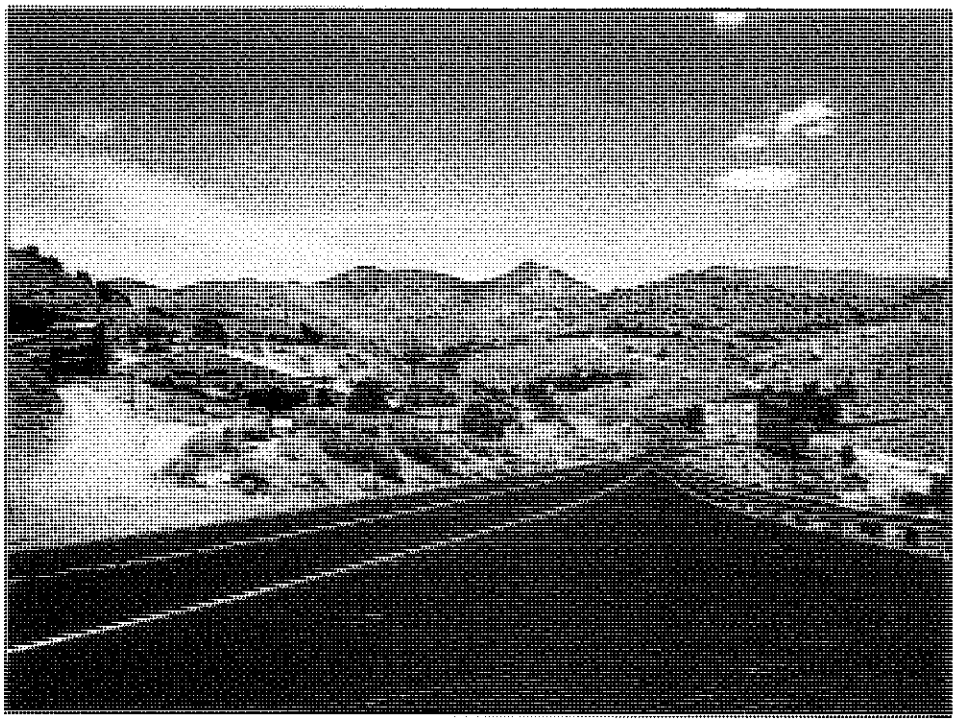

PHOTO P6

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COMSTOCK MINING INC.

SITE PHOTOS

PROJ. MGR.: AWM	SHEET 1 OF 1
DRAWN BY: AWM	
DATE: 8/8/2013	
SCALE:	CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amotter 17:30

LYON COUNTY
PLANNING DEPARTMENT
27 SOUTH MAIN STREET, YERINGTON, NEVADA 89447
(775) 463-6592 (775) 463-5305 FAX

ROBERT G. LOVEBERG
PLANNING DIRECTOR

August 14, 2013

Mr. Andrew Motter, P.E.
Manhard Consulting, Ltd.
9850 Double R Boulevard, Suite 101
Reno, Nevada 89521

RE: Comstock Mining Master Plan Amendment and Zone Change Applications

Dear Andrew:

This is to confirm receipt of the applications referenced above. The applications have been reviewed for completeness with the following findings:

- The check for the zone change application fee is made out for the amount of $3,375 which is substantially greater than the required fee of $1,000. Please remit a new check in the amount of $1,000 to replace the original check. We will return the original check after receiving the new check.
- Full size maps were not required pursuant to our discussion prior to the application submittal. If there is a need for any full sized maps due to other agency, official or public requests, we will request that full size copies be made available.
- Reduced maps (11" x 17") were not submitted. Please provide two 11" x 17" copies of each map. An electronic file version of each map that can be printed in 11" x 17" format would be greatly appreciated.
- The vicinity map is not suitable for use in a public notice printed in black and white. An additional vicinity map more suited for public notice use would be appreciated.

Upon receipt of the corrected application fee and 11" x 17" maps, the application will be considered to be complete for processing. Please submit the required items by Monday August 19, 2013.

A determination of completeness is a determination that all required components of the application have been submitted and that the application may proceed through the review process. Additional information and/or clarification may be requested as staff completes its review of the application.

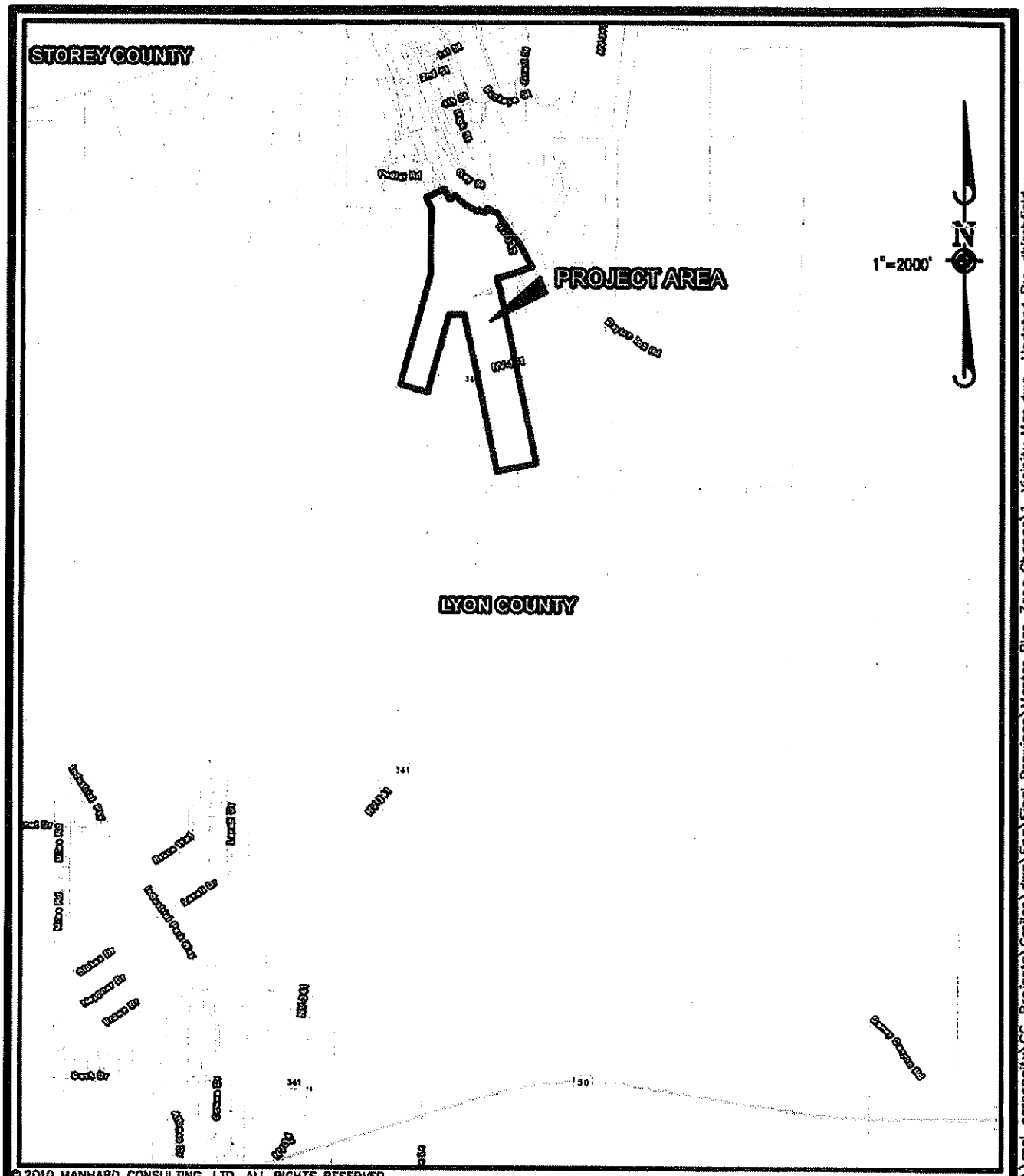
After the applications are deemed complete, a public hearing by the Planning Commission will be scheduled for November 12, 2013 (per Chapter 10.12.09 of the Lyon County Code). Once the agenda has been set you will receive official notice of the public hearing. Please contact the Silver City and Mound House Advisory Boards to determine the specific date and time of their review of these requests.

Please contact me at 775-463-6592 or rloveberg@lyon-county.org if you have any questions.

Sincerely,

Robert G. Loveberg
Planning Director

cc: Corrado DeGasperis
file



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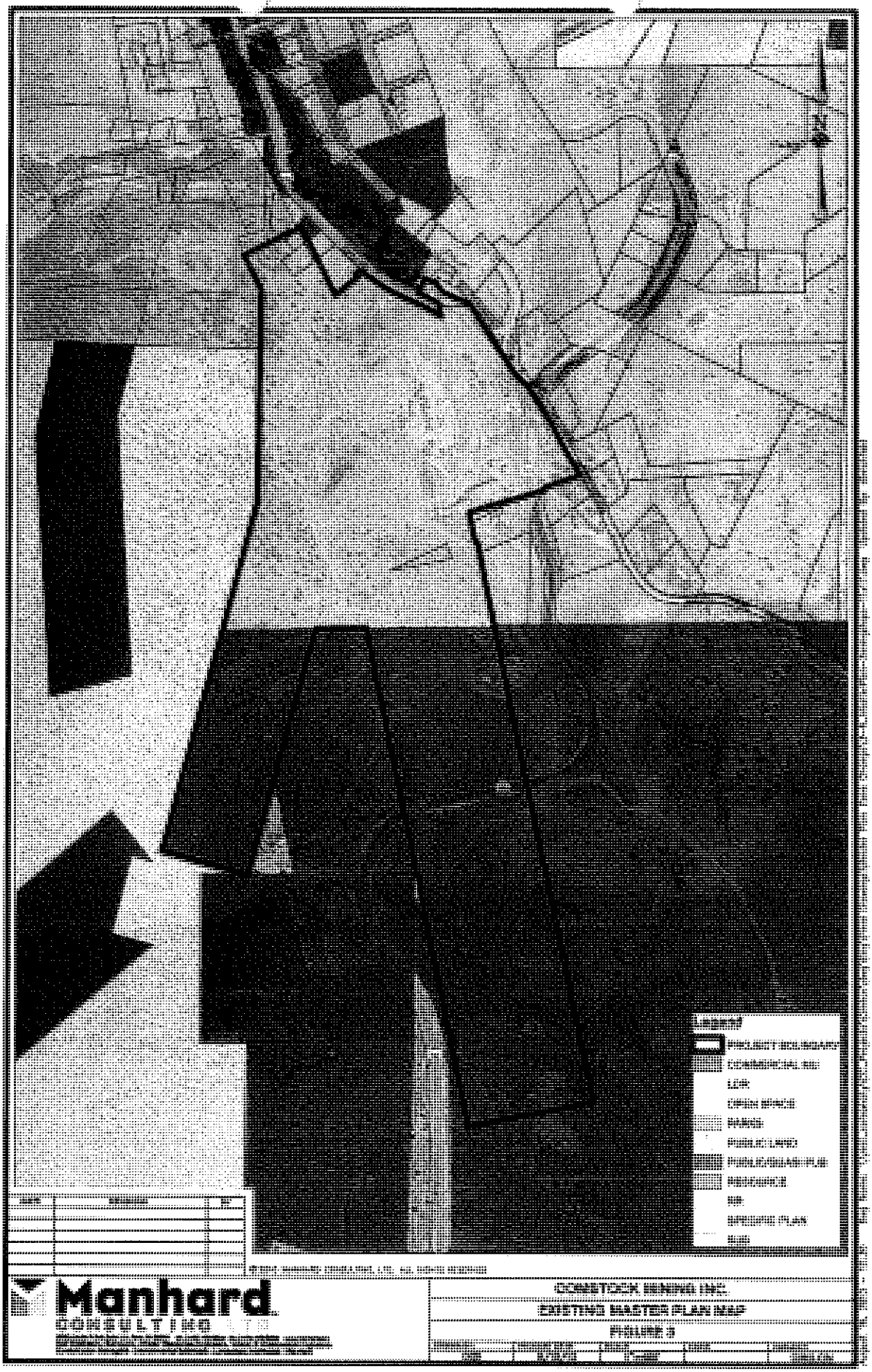
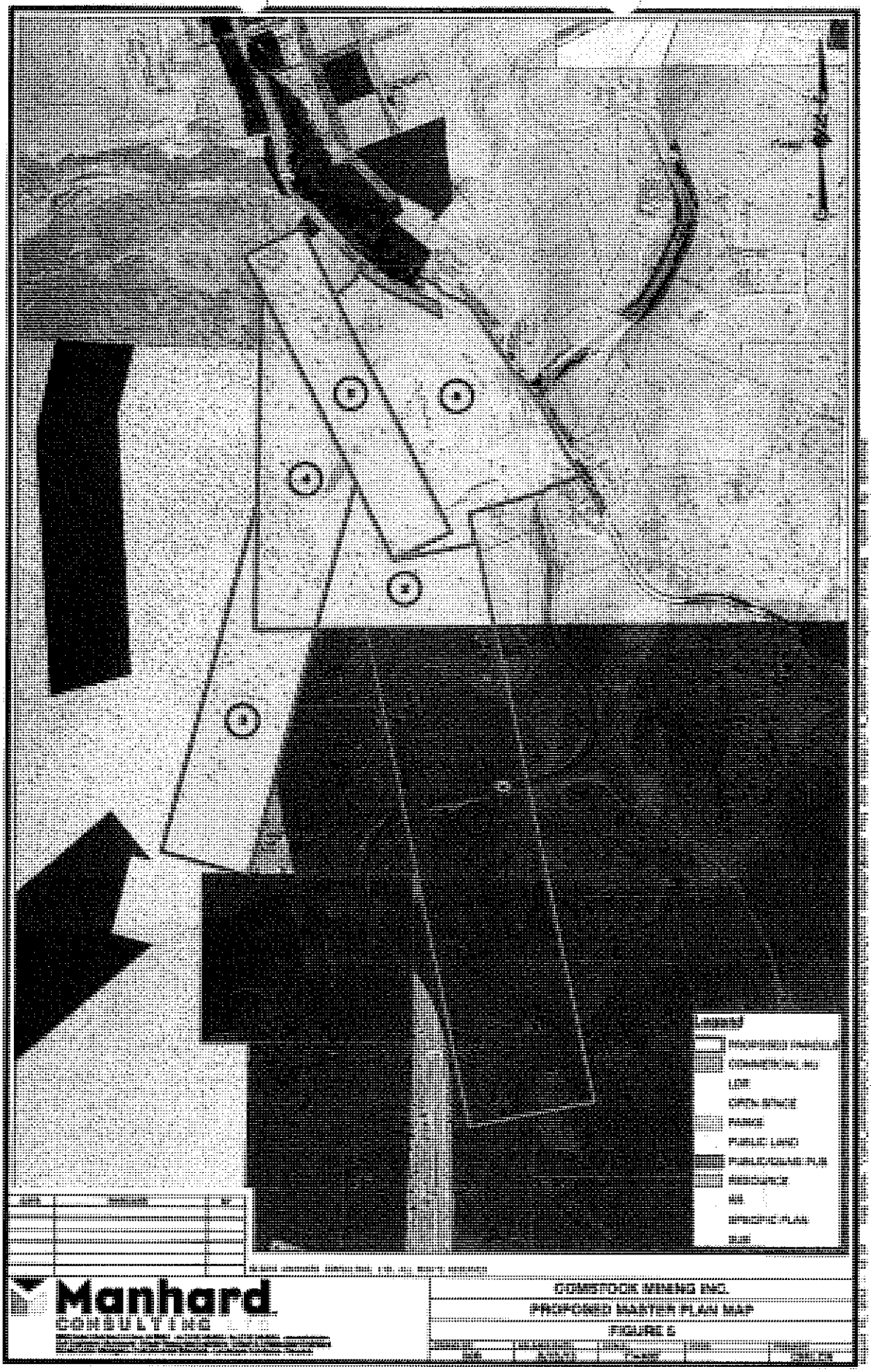
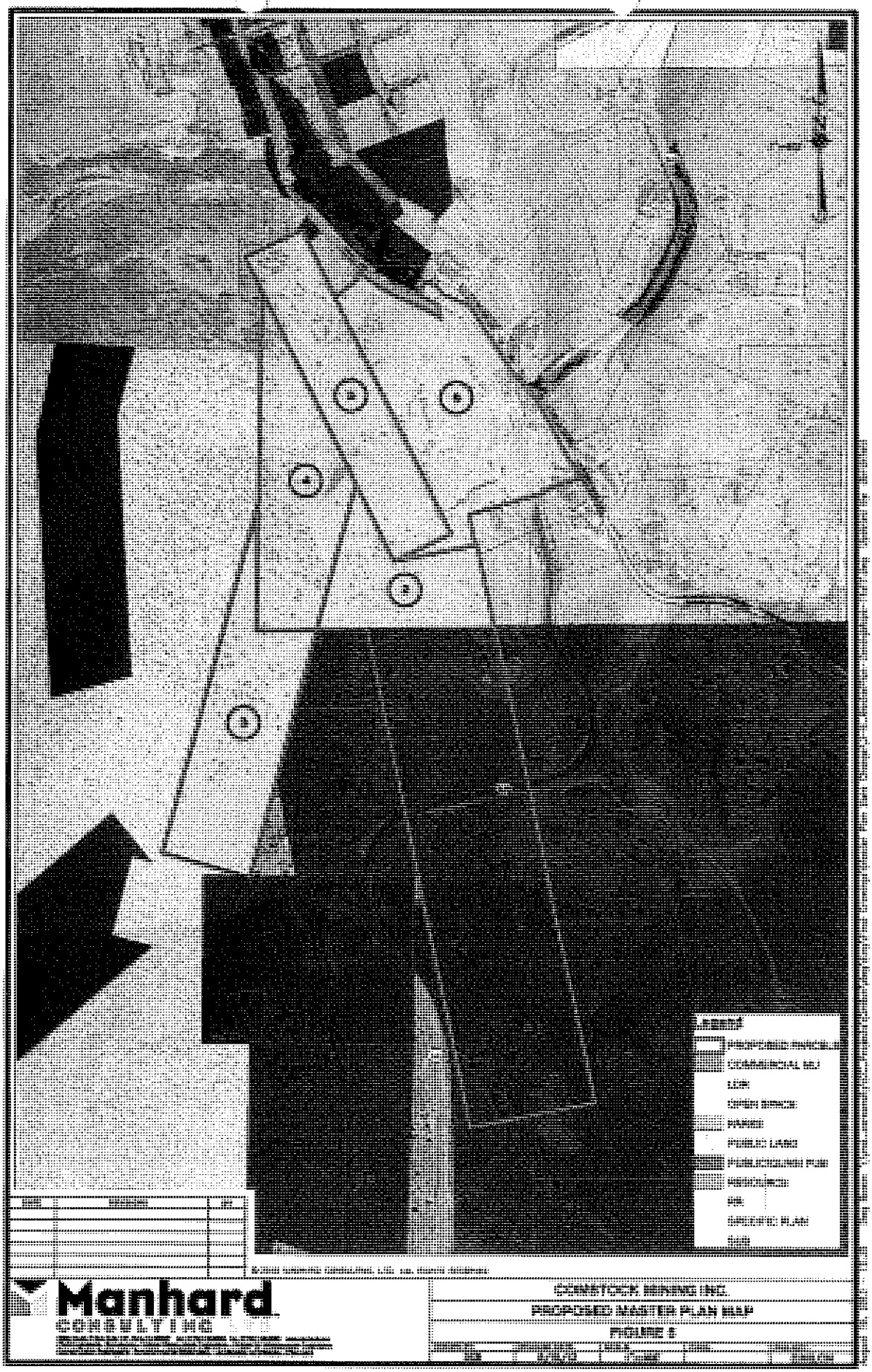
COMSTOCK MINING INC.	
VICINITY MAP	
FIGURE 1	
PROJ. MGR.: AWM	SHEET 1 OF 7
DRAWN BY: DCB	
DATE: 7/24/2013	
SCALE: 1"=2000'	CMILCN

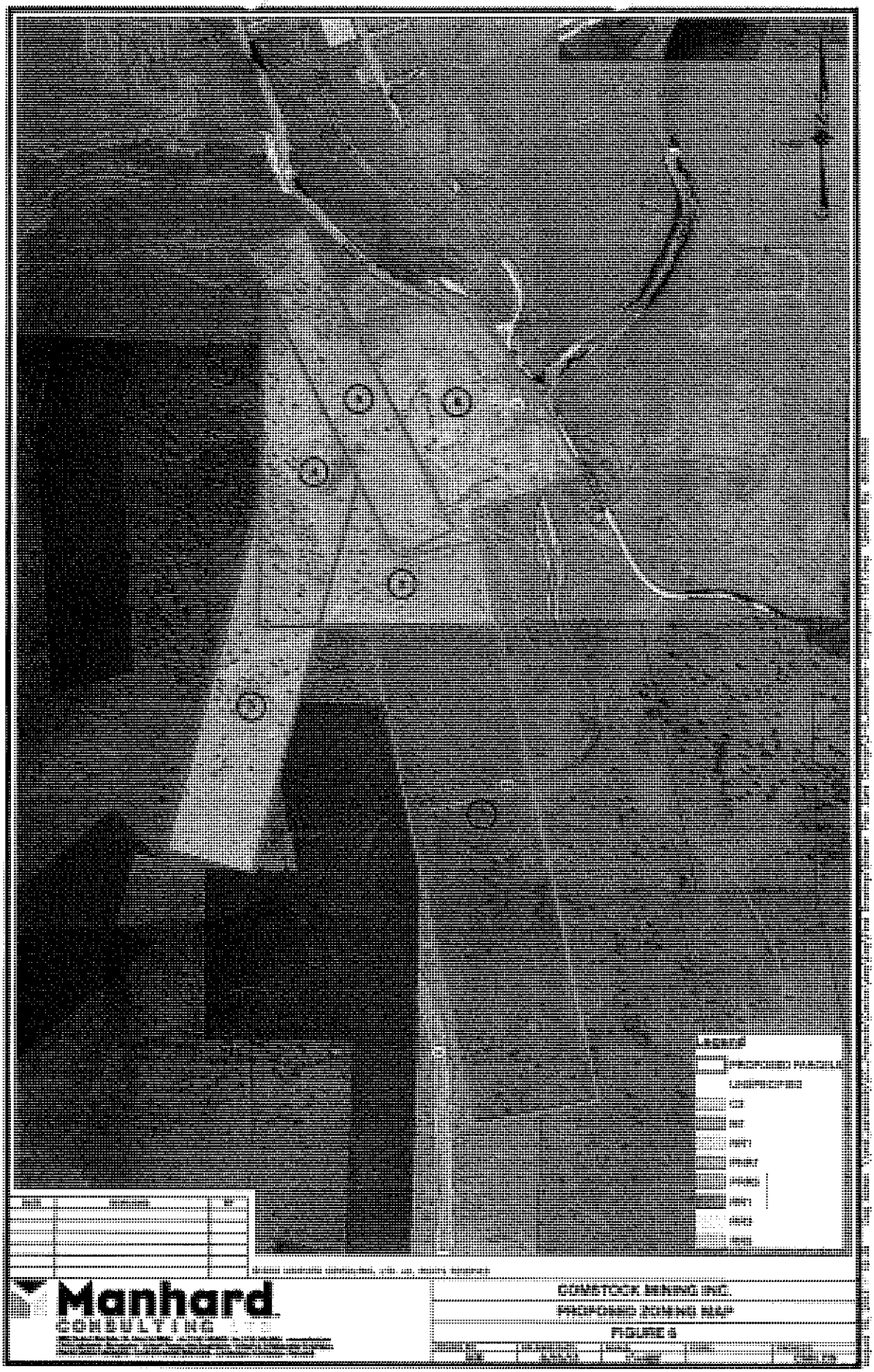
Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\1-Vicinity Map.dwg Updated By: dbirchfield 11:29


Manhard
CONSULTING
COMSTOCK MINING INC.
EXISTING MASTER PLAN MAP
FIGURE 3

Manhard
CONSULTING


Manhard
CONSULTING
COMSTOCK MINING INC.
PROPOSED MASTER PLAN MAP
FIGURE 5


Manhard
CONSULTING
COMSTOCK MINING INC.
PROPOSED MASTER PLAN MAP
FIGURE 2


Manhard
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COMSTOCK MINING INC.
PROPOSED ZONING MAP
FIGURE 5

Manhard CONSULTING LTD

Civil Engineering
Surveying
Water Resources Management
Water & Wastewater Engineering
Supply Chain Logistics
Construction Management
Environmental Sciences
Landscape Architecture
Land Planning

August 16, 2013

Mr. Rob Loveberg
Planning Director
Lyon County Planning Department
27 S. Main Street
Yerington, Nevada 89447

Re: Comstock Mining Master Plan Amendment & Zone Change Request

Mr. Loveberg:

On behalf of Comstock Mining, we appreciate your consideration of the enclosed application. The property included with this application request is generally located north and west of State Highway 341 adjacent to and within the town site of Silver City.

This application includes the following requests:

1. A Master Plan Amendment request from Suburban Residential to Rural Residential on 44.67 acres.
2. A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres.
3. A Zoning Map Amendment request from NR1 to RR3 on 56.96 acres.
4. A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.

Due to the fact that the zone change and master plan amendment requests are being submitted simultaneously, we understand that the zone change request will not be considered by the commission within forty five (45) days after the application is filed with the administrator in accordance with Lyon County Code (10.12.07c).

If you have any questions or require additional information, please feel free to contact me directly.

Sincerely,

Andrew Motter, P.E.
Senior Project Manager

Manhard Consulting, Ltd.
9850 Double R Boulevard, Suite 101 • Reno, Nevada 89521
tel: (775) 746-3500 • fax: (775) 746-3520 • www.manhard.com
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MASTER PLAN AMENDMENT AND ZONE CHANGE APPLICATION FOR COMSTOCK MINING PROPERTY

SILVER CITY, LYON COUNTY, NEVADA

PREPARD FOR:

COMSTOCK MINING

Comstock Mining Inc.
P.O Box 1118
Virginia City, Nevada 89440

PREPARED BY:

Manhard CONSULTING LTD

Manhard Consulting Inc.
9850 Double R Blvd.
Reno, NV 89521

AUGUST 2013

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Master Plan & Zoning Designation 1
Application Request 2
Justification 2
Master Plan Amendment Findings 7
Master Plan Amendment Process and Procedure Findings 10
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Table 2: Proposed Land Use Designations 1
Table 3: Surrounding Property Designations 2
Table 3: Lyon County Land Use Categories 4

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Figure 2: Parcel Exhibit
Figure 3: Existing Master Plan Map
Figure 4: Existing Zoning Map
Figure 5: Proposed Master Plan Map
Figure 6: Proposed Zoning Map
Figure 7: Existing Slope Map

Appendix:

Development Application
Owners Affidavit
Legal Descriptions
Site Photographs

Project Location

The property included with this application request is generally located north and west of State Highway 341 adjacent to the town site of Silver City. See Figure 1 Vicinity Map and Figure 2 Parcel Exhibit for additional detail.

Master Plan Land Use & Zoning Designations

Table 1: Current Land Use Designations (Ref. Figure 3 and Figure 4)

Parcel	Master Plan	Zoning	Land Use
1	Resource	NR1	Vacant
2	Suburban Residential	NR1	Vacant
3	Resource	NR1	Vacant
4	Suburban Residential	NR1	Vacant
5	Suburban Residential	NR1	Vacant
6	Suburban Residential	NR1	Vacant / Abandoned Mining Facilities

Table 2: – Proposed Land Use Designations (Ref. Figure 5 and Figure 6)

Parcel	Master Plan	Zoning	Area
1	Resource	RR-5	32.34 AC
2	Rural Residential	RR-3	7.20 AC
3	Rural Residential	RR-3	12.29 AC
4	Rural Residential	RR-3	10.28 AC
5	Rural Residential	RR-3	11.01 AC
6	Rural Residential	RR-3	16.18 AC

Table 3: Surrounding Property Designations

Location	Master Plan	Zoning	Land Use
North	Suburban Residential & Commercial Mixed Use	M1 & NR1	Vacant / Silver City Town Site
South	Resource, Open Space & Future Planning Area	RR5 & C2	Vacant
East	Resource & Suburban Residential	RR5 & NR1	Vacant / Silver City Town Site
West	Open Space & Suburban Residential	RR5 & NR1	Vacant

Application Request

This application includes the following requests:

1. A Master Plan Amendment request from Suburban Residential to Rural Residential on 44.67 acres.
2. A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres.
3. A Zoning Map Amendment request from NR1 to RR3 on 56.96 acres.
4. A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.

Justification

The application is requesting a "down zone" at both the master plan and zoning levels. These amendments modify the residential development potential of the property from its current allowed density of 655 total dwelling units to a maximum yield of a more rurally representative 12 dwelling units. If approved, these proposed requests change the master plan and zoning designations from "Suburban Residential and NR1" to "Rural Residential, RR3 and RR5." This would provide a more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure and also clean up and align certain parcels that currently have "split" master plan designations.

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. Regardless of the

rationale, the designations have rendered the subject property unproductive for any activity other than mineral exploration for the last 40 years.

The applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property. Prior to proceeding with actual mining activities, the applicant would be required to obtain a special use permit from Lyon County. Such a permit would then address all manners of land use and include relevant conditions to limit the impacts and effects of potential or proposed mining activities. In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning.

A change in the master plan and zoning designations from Suburban Residential and NR1 to Rural Residential, RR3 and RR5 will not only support the productive evaluation of existing mineral potential but will, more importantly, also bring the property into conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure and services, while helping to further promote the goals, policies, and strategies of the Lyon County Master Plan.

The Lyon County Master Plan Community Description for Silver City states," *The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims. The existing water service infrastructure dates back to the late nineteenth century, when a water system to supply the mining operations and settlement demands of the Comstock communities was constructed. This aging water system and a lack of sewer system limit growth in Silver City."*

The Lyon County Master Plan includes five types of Character Districts, Rural, Suburbanizing, Historic, Future Plan Areas and General County. These Character Districts provide guidance to the type, intensity, density, and general development standards for uses intended to occur within their boundaries.

As defined in the Master Plan, Suburbanizing Districts, *"include areas that are predominately medium to high density residential development with regional/community commercial, neighborhood, industrial and employment uses. Improvement standards will reflect the "suburban" character of these areas and will include requirements for municipal water and sewer, roadway design appropriate to the planned uses, landscaping of public areas, and pedestrian facilities (sidewalks and paths). Roads are likely to have some bike and pedestrian facilities within the rights-of-way or separate paths."*

As defined in the Master Plan, Rural Districts, *"include those areas that are predominately low density residential development with limited neighborhood commercial uses. They may or may not have agricultural land uses or grazing lands. Improvement standards will reflect the "rural" character of the area. Rural districts are not likely to have municipal water and sewer. Roads are likely to have dirt shoulders, some equestrian paths as well as bike facilities within the road rights-of-way.*

As defined by the Master Plan, Historic Districts, *"include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote "historic" architectural design elements. Future historic districts could also be designated where the intent is to promote new compatible development that is in keeping with the "historic" development patterns and architectural design elements to create more vitality."*

As defined by the Master Plan, General County includes, *"Lands outside the boundaries of defined community boundaries are classified as General County. These lands are rural or resource lands or public lands, and are intended to remain largely undeveloped or with very low intensity development within the Master Plan's planning horizon."*

Table 4: Lyon County Land Use Categories

Land Use Category	Community Plan Land Use Designation	Density Range/ Size	Examples of Uses	Description/ Characteristics	Current Zoning Districts
Suburban Residential	High Density Residential	5 to 18 Dwelling Units per acre	Apartments, duplexes, fourplexes, condominiums and townhomes. Single Family Residential detached units at 5 to 10 dwelling units per acre.	High density residential is typically found in suburbanizing districts. High density residential should be located near major transportation facilities, near commercial uses, or civic centers and near parks	NR1 NR2 NR3 MHP
Rural Residential	Rural Residential	1 du per 5 to<20 acres	Single-family residences, "farmettes" and "ranchettes", etc.	Typically found in rural districts and on the suburbanizing fringe. Lot size and layout varies. Typically not served by municipal utilities, depending on location in suburbanizing district.	RR3 RR4

According to the Lyon County Character Districts Map, the subject property appears to reside within both the Historic and General County Districts. Despite this apparent inconsistency of Character Districts, the land use and zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts. Clearly, the proposed land use and zoning designation are much more compatible and consistent with the Historic and General County Districts than the master plan designation of Suburban Residential which is currently assigned to the majority of the subject property.

Provided is the Silver City Community Description from the Lyon County Master Plan and the Master Plan's definitions for the types of residential Character Districts, also provided in Table 3: Lyon County Land Use Categories, is an excerpt from the Lyon County Master Plan comparing the current Land Use Category, Suburban Residential to the requested Land Use Category Rural Residential.

The community Character District of Suburbanizing, the Community Plan Land Use Designation of High Density, Density of 5 to 18 dwelling units per acre, the Examples of Uses and the Description/ Characteristics and the current Suburban Residential master plan designation and NR1 zoning designation are inconsistent with the following goals, policies and strategies of the current Lyon County Master Plan and conversely, these of goals, policies and strategies actually promote the proposed master plan and zoning modification requests from Suburban Residential and NR1 to Rural Residential, RR5 and RR3.

Goal LU1: *Orderly Growth Patterns*

Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a demand base zoning strategy nor is it based on any current or realistic population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability.

Policy LU1.2: Residential development Patterns in Neighborhoods

New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

Development of the property at its current NR1 density would be out of character with the existing "neighborhood" of Silver City. A reduction in development potential is a more appropriate development pattern and more compatible with existing and historic uses.

Goal LU2: Services Coordinated with Growth

Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

According to the master plan "Suburban Residential" areas should be located near major transportation facilities, near commercial uses, or civic centers and near parks. The subject property is rural in nature and adequate facilities to accommodate such high density residential would be impractical to develop and completely out of character with the existing community. Therefore a reduction in development potential is warranted and appropriate.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

The subject property, although designated Suburban Residential, does not have adequate municipal water or sewer in close proximity and facility plans are not currently in place to allow for development to occur concurrently. A reduction in allowable units would be more consistent with the current and future services of the area.

Goal LU3: Diverse Economy

The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: *Work with Economic development agencies and community groups to identify economic assets and development opportunities.*

The master plan change would allow for continued mineral exploration on the subject property helping to identify economic assets while employing local residents in primary jobs.

Goal NR9: *Mining and Resource Extraction*

Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 *Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.*

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning.

Master Plan Amendment Findings:

1. ***Consistency with the Master Plan:***

   The proposed amendment is in substantial compliance with and promotes the following master plan goals, objectives and actions:

   Goal LU1: Orderly Growth Patterns

   Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

Policy LU1.2: Residential development Patterns in Neighborhoods
New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

Goal LU2: Services Coordinated with Growth
Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal LU3: Diverse Economy
The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base
The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: Work with Economic development agencies and community groups to identify economic assets and development opportunities.

Goal NR9: Mining and Resource Extraction
Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development
New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

2. ***Compatible Land Uses:***

The proposed amendment is compatible with the actual and planned adjacent uses, and reflects a logical change in land uses.

The proposed amendment to Rural Residential is consistent with the current and future development character of Silver City. The current Suburban Residential designation promotes high-density residential development on a property that is constrained by topography and infrastructure availability; and accordingly, has resulted in little to no productive use. The proposed Rural Residential designation according to the master plan is a more logical fit defined as, *"Typically found in rural districts and on the suburbanizing fringe."*

3. ***Response to Change Conditions:***

The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the master plan was adopted by the board, and the requested amendment represents a more desirable use of the land.

A change in the master plan designation from Suburban Residential to Rural Residential represents a more desirable use of land because it will bring the property in conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure and services. In addition, the proposed changes will allow for the exploration and evaluation of existing patented mining claims with potential for significant benefit to the County and community, while consistently promoting the goals, policies, and strategies of the Lyon County Master Plan.

4. ***No Adverse Effects:***

The proposed amendment will not adversely affect the implementation of the master plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.

The amendment request will not adversely affect the implementation of the master plan or negatively impact public health, safety and welfare. The

amendment proposes a significant enhancement in nature and type of development potentials of the property while continuing to maintain the goals, objectives and actions of the current master plan and will have no foreseeable impact on public health, safety or welfare.

5. ***Desired Pattern of Growth:***

   The proposed amendment will promote the desired pattern for the orderly physical growth of the county, allows infrastructure to be extended in efficient increments and patterns, maintains relatively compact development patterns, and guides development of the county based on the least amount of natural resource impairment and efficient expenditure of the funds for public services.

   The proposed request to change the master plan designation from Suburban Residential to Rural Residential represents a desired pattern of growth by providing a realistic current and long range land use strategy based on actual development potential, considering factors like topography and proximity to adequate infrastructure. Although the potential use of the subject property for mining activities would necessarily involve the extraction of natural resources, we do not believe this would result in any impairment to the water resources and other resources that are important to existing residents and businesses in the area, and, we believe existing constraints or negative impacts would be reduced by the proposed amendments. The proposed Master Plan Amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of funds for public services.

Master Plan Amendment Process and Procedures Findings:

1. ***The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;***

   For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. In the event that mining activities are ultimately not pursued on the subject property, or even if they are pursued, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land

uses and post-mining land opportunities, than the current master plan designation.

2. ***The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;***

   The proposed amendment to Rural Residential is consistent with the current and future development character of Silver City. The current Suburban Residential designation promotes high-density residential development on a property that is constrained by topography and infrastructure availability; and accordingly, has been put to little or no productive use. The proposed Rural Residential designation according to the master plan is a more logical fit defined as, *"Typically found in rural districts and on the suburbanizing fringe"* and is supportive of the goals and policies identified above.

3. ***The proposed amendment will have no major negative impacts on transportation, services, and facilities;***

   The proposed amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the preservation of natural resources and efficient expenditure of funds for public services.

4. ***The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;***

   The proposed request to change the master plan designation from Suburban Residential to Rural Residential will actually have a positive effect on service provision by providing a realistic, more flexible, current and long range land use strategy based on actual development potential, considering factors like topography, surrounding uses and proximity to adequate infrastructure.

5. ***Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and***

   The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a demand based zoning strategy nor is it based on any current or realistic population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability.

6. ***The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.***

   The amendment proposes a significant increase in consistency between the actual and potential use of the subject property and the land use designation.

The proposed land use designation is consistent with the realistic development potential of the subject property while supporting the goals, objectives and actions of the current master plan. The requested designation will have no negative impact on public health, safety or welfare.

Zone Change Findings:

1. ***Consistency with the Master Plan Land Use Map.***

   The proposed zone change is not only in substantial conformance with the proposed master plan amendment request but the requested modifications will actually help correct existing conformance issues between the Lyon County Master Plan and Zoning Code.

2. ***Consistency with the Master Plan goals, policies and strategies.***

   The proposed zoning map amendment is in substantial compliance with and promotes the following master plan goals, objectives and actions:

   Goal LU1: Orderly Growth Patterns

   Direct and manage development in the county so that it is orderly and fiscally responsible.

   Strategies: Establish a demand based zoning strategy based on realistic population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

   Policy LU1.2: Residential development Patterns in Neighborhoods

   New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

   Goal LU2: Services Coordinated with Growth

   Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

   Policy LU 2.1 Residential Development in Areas with Services

   Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

   Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal LU3: Diverse Economy

The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: Work with Economic development agencies and community groups to identify economic assets and development opportunities.

Goal LU5: Encourage Resource Sensitive Growth

Development will be designed to reduce energy use and minimize environmental impacts.

Goal NR9: Mining and Resource Extraction

Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

3. ***Consistency with the desired pattern for the orderly physical growth of the County and maintains compact development patterns.***

The proposed request to change the zoning designation from NR1 to RR3 and RR5 represents a desired pattern of growth by providing a realistic, current and long range zoning strategy based on actual development potential considering factors like topography, existing uses and proximity to adequate infrastructure.

4. ***Contributes to the timely, orderly and efficient arrangement of transportation and other public facilities and services.***

   The proposed zoning will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of funds for public services.

5. ***Promotes development that is commensurate with the character and physical limitations of the land.***

   The proposed RR5 and RR3 designations will significantly reduce the development potential of the property not only taking into consideration the character and physical limitations of the land (i.e. topography and surrounding densities) but also reducing the need for additional infrastructure.

6. ***Promotes the protection and/or enhancement of existing neighborhoods and communities.***

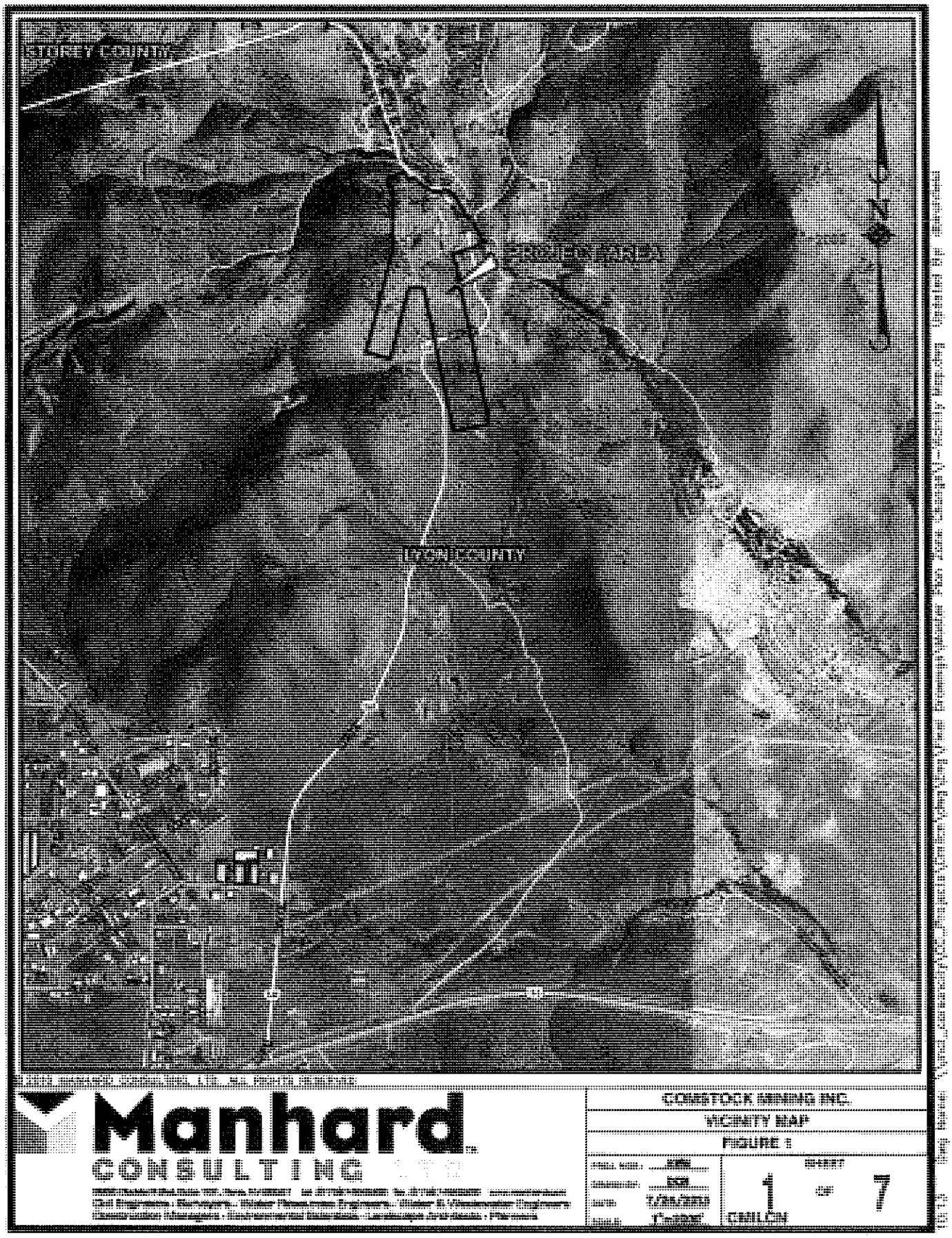
   The proposed zoning map amendment is consistent with the current and future development character of Silver City. The current NR1 designation promotes high density residential on a property that is constrained by topography and infrastructure availability.

7. ***No detrimental impacts to other properties in the vicinity.***

   The proposed zoning map amendment is sensitive to and compatible with the current and future development character of Silver City. The current NR1 designation promotes high density residential that is not only out of character with the rural nature of the area, but does not take into consideration the fact that the property is constrained by topography and infrastructure availability.

8. ***No adverse impacts to the public health, safety and welfare.***

   The proposed zone change will have no impacts to public health, safety and welfare, and although the potential use of the subject property for mining activities would necessarily involve the extraction of natural resources, this will not result in any impairment to the water resources and/or other resources that are important to existing residents and businesses in the area.



Manhard CONSULTING

COMSTOCK MINING INC.
VICINITY MAP
FIGURE 1

SHEET 1 OF 7

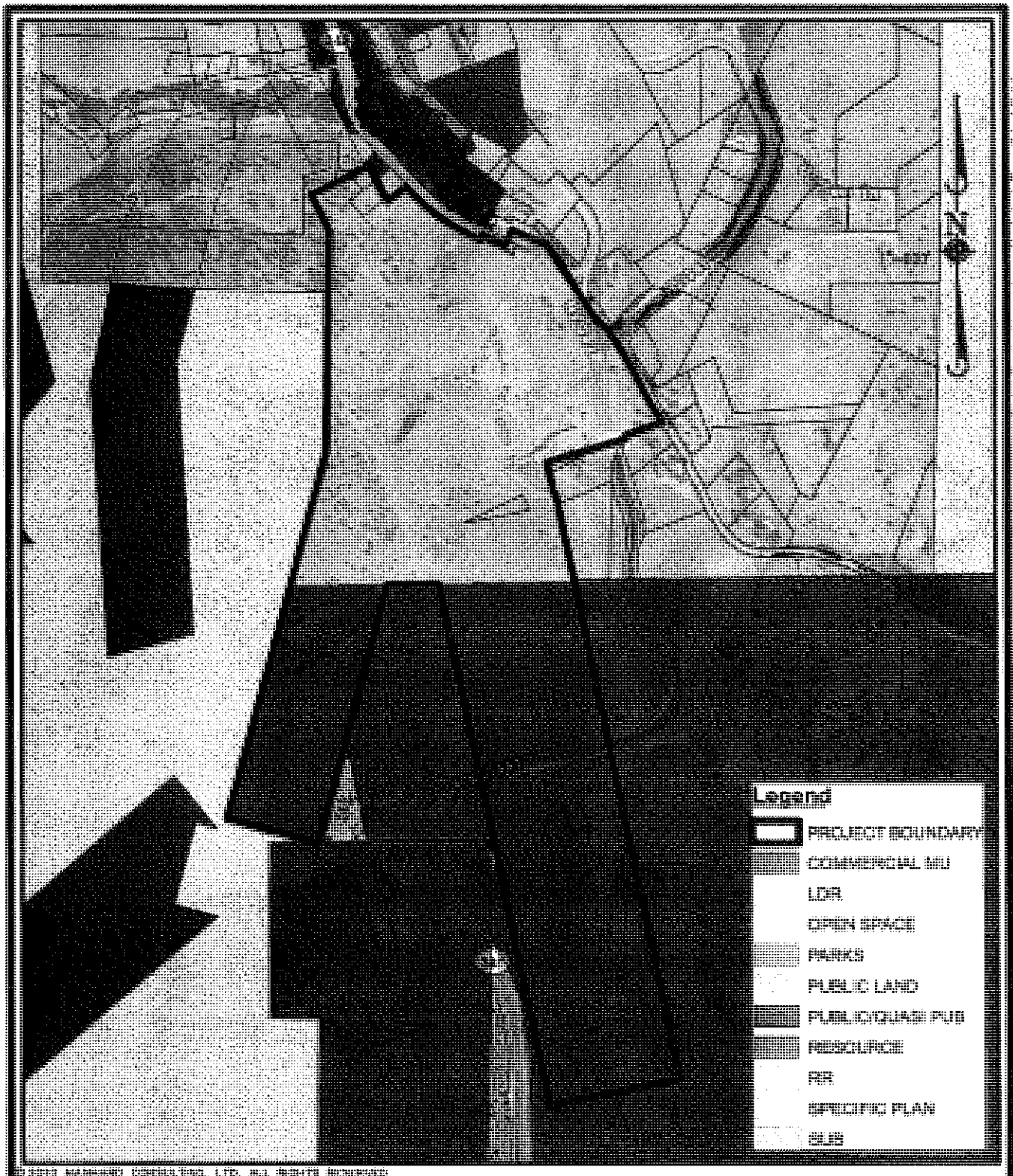
Manhard CONSULTING

COMSTOCK MINING INC.

PARCEL EXHIBIT

FIGURE 2

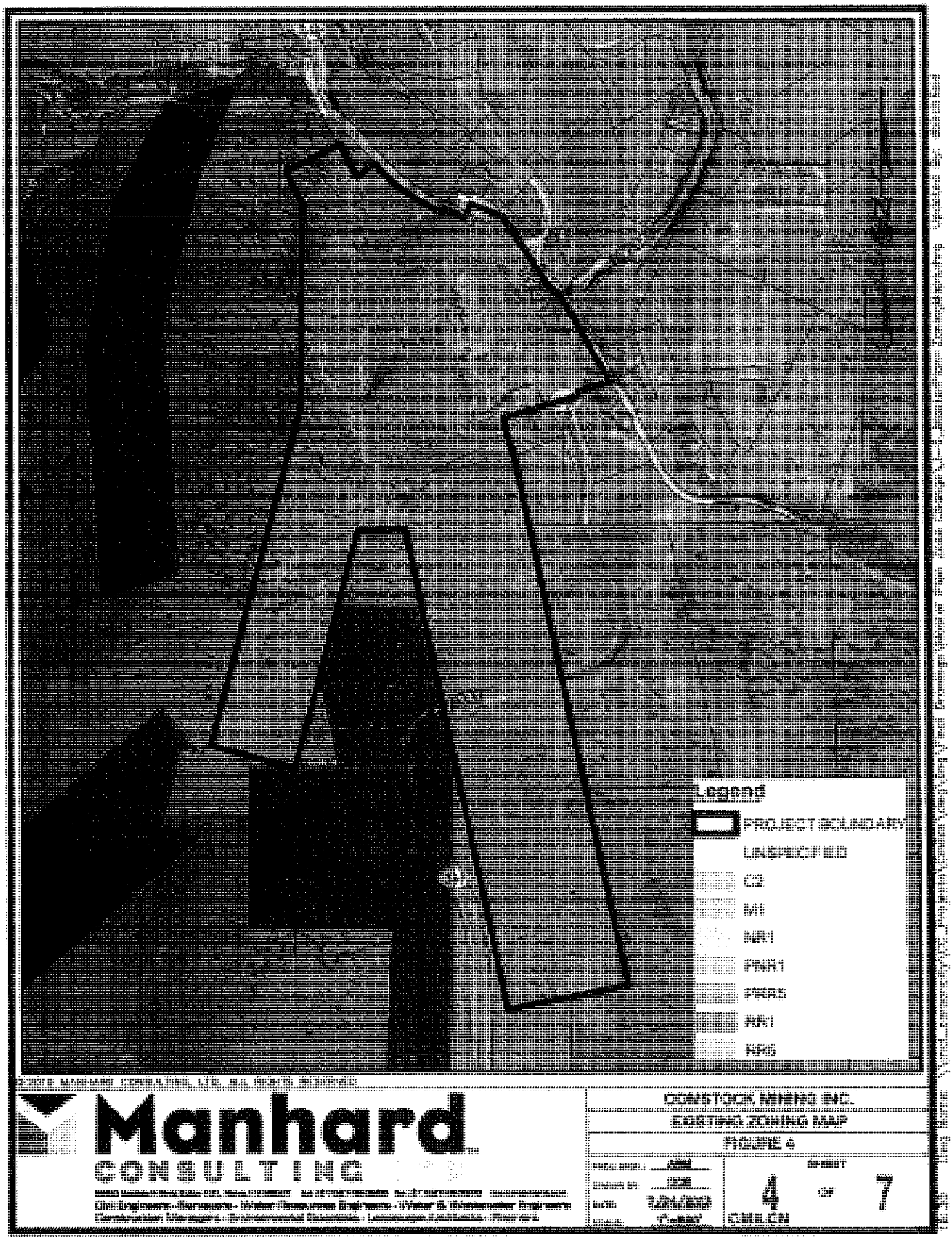
SHEET 2 OF 7

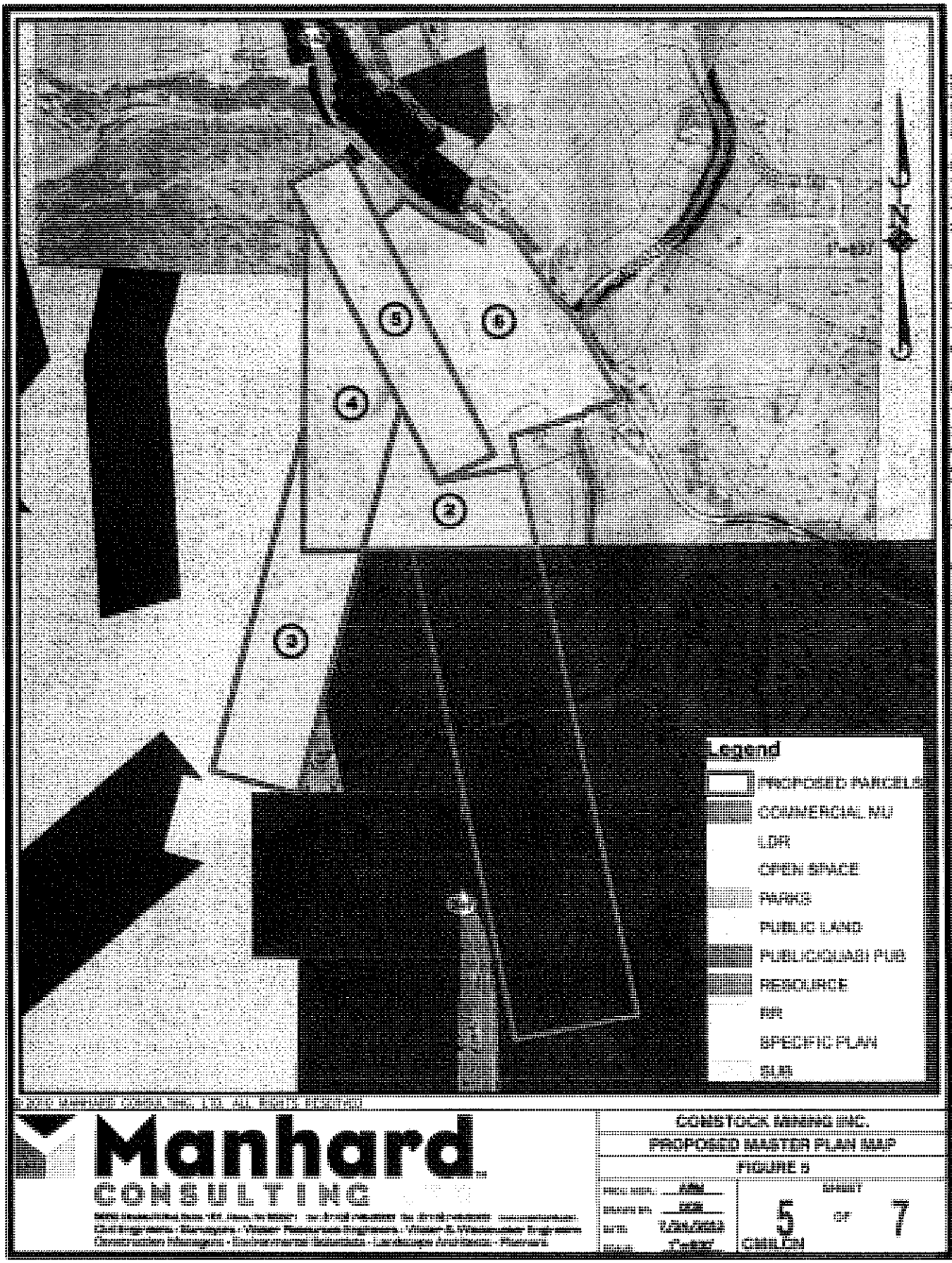


Manhard CONSULTING

COMSTOCK MINING INC.
EXISTING MASTER PLAN MAP
FIGURE 3

SHEET 3 OF 7


Legend
PROJECT BOUNDARY
UNSPECIFIED
C2
M1
MR1
PNR1
PRES
RR1
RR5
Manhard
CONSULTING
COMSTOCK MINING INC.
EXISTING ZONING MAP
FIGURE 4
4
OF
7



Manhard CONSULTING

COMSTOCK MINING INC.

PROPOSED MASTER PLAN MAP

FIGURE 5

SHEET 5 OF 7

Legend
PROPOSED PARCELS
UNSPECIFIED
C2
M1
NR1
PNR1
RR5
RR1
RR3
RR6
COMSTOCK MINING INC.
PROPOSED ZONING MAP
FIGURE 6
SHEET
6 OF 7
CARSON

Manhard CONSULTING

COMSTOCK MINING INC.
EXISTING SLOPE MAP
FIGURE 7
SHEET 7 OF 7

APPENDIX

LYON COUNTY
PLANNING DEPARTMENT
27 SOUTH MAIN STREET, YERINGTON, NEVADA 89447
VOICE: (775) 463-6592 • FAX: (775) 463-6596

For Office Use Only
Date
Received by
File Number

DEVELOPMENT APPLICATION

This form must be completed and all requested information incorporated, as prescribed by the application submission requirements for each application type, before the application is deemed complete and accepted for processing by Lyon County.

Application Type (check all that apply)

☐ Abandonment	☐ Extension of Time Request	☐ Reimbursement Agreement
☐ Amended Map	☐ Hardship Exception Permit	☐ Reversion to Acreage
☐ Appeal of Administrative Decision	☐ Improvement Plan for Land Division	☐ Site Improvement Plan
☐ Appeal of Planning Commission Decision	☐ Improvement Standards Variance or Waiver	☐ Special Use Permit
☐ Approval Condition Amendment	☒ Master Plan Map Amendment	☐ Specific Plan
☐ Boundary Line Adjustment	☐ Master Plan Text Amendment	☐ Street Name Request
☐ Certificate of Amendment	☐ Mobile Home Park/Recreational Vehicle Park	☐ Subdivision Map, Tentative
☐ Continuation of Planning Application	☐ Parcel Map	☐ Subdivision Map, Final
☐ Development Agreement	☐ Parcel Map, Final	☐ Variance ☐ Administrative
☐ Development Agreement, Revision	☐ Parcel Map Waiver	☐ Wireless Communication Facility
☐ Division of Land into Large Parcels, Tentative Map Waiver	☐ Planned Unit Development, Final	☐ Wireless Communication Facility, Modification
☐ Division of Land into Large Parcels, Tentative Map	☐ Planned Unit Development, Tentative	☐ Zoning Determination
☐ Division of Land into Large Parcels, Final Map	☐ Pre-Application Conference	☒ Zoning Map / Text Change

General Information

Assessor's Parcel number(s)	Acreage	Assessor's Parcel number(s)	Acreage
Por. of 008-091-05	+/- 88.94 AC		
008-091-02	+/- 0.36 AC		

Applicant Name(s): ☒ Same as Owner ☐ Other (insert name(s)):

Community: ☐ Dayton ☐ Fernley ☐ Mark Twain ☐ Mason Townsite ☐ Mason Valley ☐ Mound House ☒ Other County ☒ Silver City ☐ Silver Springs ☐ Smith Valley ☐ Stagecoach

Previous applications filed on this site:

Project Name (if applicable):

Project Information

Project or Request Description: Comstock Mining is requesting a Master Plan Amendment and Zone Change on a portion of Lyon County APN 008-091-05 and APN 008-091-02. APN 008-091-05 inlcudes 20 legal parcels (3 patented claim parcels and 17 Silver City town lots) which are a portion of this request. The Master Plan Amendment request is to change 44.67 acres within the Silver City town limits from Suburban Residential to Rural Residential and 12.29 acres in unincorporated Lyon County from Resource to Rural Residential. The Zone Change request is to change 44.67 acre within the Silver City town limits from NR-1 zoning to RR-3 zoning and 44.63 acres in unincorporated Lyon County from NR-1 Zoning to RR-3 and RR5 Zoning.

Project Area (square feet or acres): +/- 89.30 AC Number of proposed units: Smallest parcel size:

Uses proposed (check all that apply): ☐ Single Family Residential ☐ Multi-Family Residential ☐ Commercial ☐ Industrial

Project Location

Project Street Address: State Route 341

Primary Access: State Route 341 and State Route 342 Section(s)/Township/Range: Sect. 8,9,16,17 T16N R21E

Approximately feet ☐north ☐south of *(street name)*

Approximately feet ☐east ☐west of *(street name)*

If within a Subdivision, Name: Lot: Block:

Project Location (with point of reference to primary access, major cross streets or area locator): A portion of the property is located within the Silver City Town limits adjacent to State Route 342 and a portion is in unincorporated Lyon County adjacent to State Route 341.

Other Information

Current Master Plan designation(s):	Suburban Residential, Resource
Proposed Master Plan designation(s):	Rural Residential
Current Zoning designation(s):	NR1
Proposed Zoning designation(s):	RR-3 and RR-5
Floodplain designation (from FIRM maps):	Zone AE, Unshaded Zone X
Road/street surface of frontage/access:	Paved highway for frontage and dirt road for access to a portion.

Applicant Information	
Applicant/Developer	**Professional Consultant/Representative**
Name: Same as Property Owner	Name: Manhard Consulting Ltd.
Address:	Address: 9850 Double R Blvd., Suite 101
City: State: Zip:	City: Reno State: NV Zip 89521
Phone: Fax:	Phone: 775-746-3500 Fax: 775-746-3520
Cell: Contact:	Cell: Contact: Andrew Motter, P.E
Email:	Email: amotter@manhard.com
Property Owner	**Other Person(s) to be Contacted**
Name: Comstock Mining Inc.	Name: Comstock Mining Inc.
Address: 1120 American Flat Rd.	Address: 1120 American Flat Rd.
City: Virginia City State: NV Zip: 89440	City: Virginia City State: NV Zip 89440
Phone: 775-847-5272 Fax: 775-847-7118	Phone: 775-847-5272 Fax: 775-847-7118
Cell: Contact: Corrado DeGasperis	Cell: Contact: Scott Jolcover
Email: degasperis@comstockmining.com	Email: sjolcover@comstockmining.com

The receipt of an application at the time of submission does not imply the application complies with all requirements of the Lyon County Code or Lyon County Planning Department, or that it is deemed complete and will be processed.

Property Tax Status:

As per Lyon County Code Title 10, Section 10.12.05, a signature is required from the Lyon County Clerk's Office showing the taxes are paid current on the subject property.

I, Nikki Bryan, hereby certify that all required property taxes are paid current on APN(s): 008-091-02, 008-091-05

By: _____ Date _____
Deputy Clerk

Applicant's Affidavit (Complete if different from Property Owner):

I, _____ (Printed name), being duly sworn, depose and say that I am the applicant of the described project and/or request, and all the statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of the Lyon County Planning Department staff.

Signature of Applicant _____ Date _____

Subscribed and sworn to before me this _____ day of _____, _____

Notary Public in and for said county.

(Notary stamp)

Property Owner's Affidavit:

I, Corrado De Gasperis (Printed name), being duly sworn, depose and say that I am an owner* in fee of the described property involved in this application, that I have knowledge of, and agree to, the filing of this application, and that the statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I acknowledge that I am aware of the "right to farm" policy of the county and have been provided with a copy of a statement (attached to this application form) containing substantially the disclosure set forth in Chapter 10.15 of the Lyon County Code. I understand that no assurance or guarantee can be given by members of the Lyon County Planning Department staff.

(*A separate Affidavit must be provided by each property owner)

Signature of Property Owner _____ Date 08/01/2013

STATE: NEVADA COUNTY: STOREY

Subscribed and sworn to before me this 1ST day of AUGUST, 2013

BY CORRADO DE GASPERIS ***

Notary Public in and for said county.

(Notary stamp)
ANETA KUZNICKA-BERGE
Notary Public, State of Nevada
Appointment No. 12-6415-2
My Appt. Expires Dec 18, 2015

TRI STATE SURVEYING, LTD.
1925 E. Prater Way, Sparks, Nevada 89434
Telephone (775) 358-9491 ♦ FAX (775) 358-3664
Toll Free: 1-800-411-3752

Land Information Solutions

August 15, 2013
Project No. 10055.01.CC

Parcel Descriptions

All those certain parcel situate within portions of Sections Eight (8), Nine (9), Sixteen (16) and Seventeen (17), Township Sixteen (16) North, Range Twenty-One (21) East, Mount Diablo Meridian, Lyon County, Nevada, being more particularly described as follows:

Parcel 1:

All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying southerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 2:

All that All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying northerly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 275 as shown on said Official Map of the TOWNSITE of SILVER CITY.

Parcel 3:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying southerly, westerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 4:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying northerly, easterly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 274 as shown on said Official Map of the TOWNSITE of SILVER CITY.

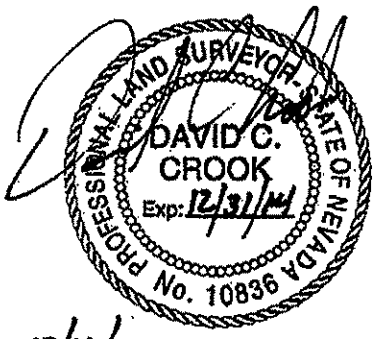
FOR REVIEW ONLY

Parcel 5:

All of Mineral Survey 66, Marble Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 66 (Office No. 189), Marble Lode (Dayton Silver Mining Co's). Devils Gate Mining District, by J. H. Eaton, March 1873, together with that portion of Lot 129 of the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, lying inside of said Marble Lode.

Parcel 6:

All of Lots 101, 102, 103, 133, 134, 135, 136, 180, 276, 277, 278, 279, 280 and 289, said Lots being as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876 and a portion of Lot 104 of said Official Map of the TOWNSITE of SILVER CITY, being shown on Record of Survey Map No. 291213, recorded in the office of the County Recorder of Lyon County on February 21, 2003.



Date 08/16/2013
David C. Crook, P.L.S.
Nevada Certificate No. 10836

Manhard CONSULTING

COMSTOCK MINING INC.
PHOTO LOCATIONS

SHEET 1 OF 1

CMILLCH

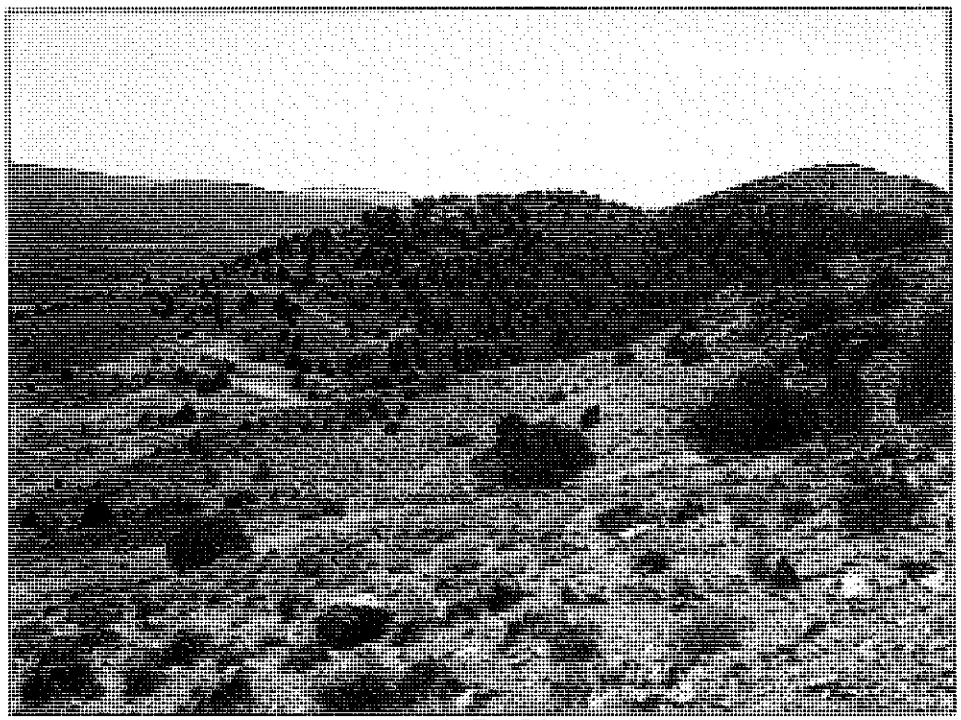


PHOTO P1

PHOTO P2

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COMSTOCK MINING INC.

SITE PHOTOS

PROJ. MGR.:	AWM
DRAWN BY:	AWM
DATE:	8/8/2013
SCALE:	

SHEET 1 OF 1

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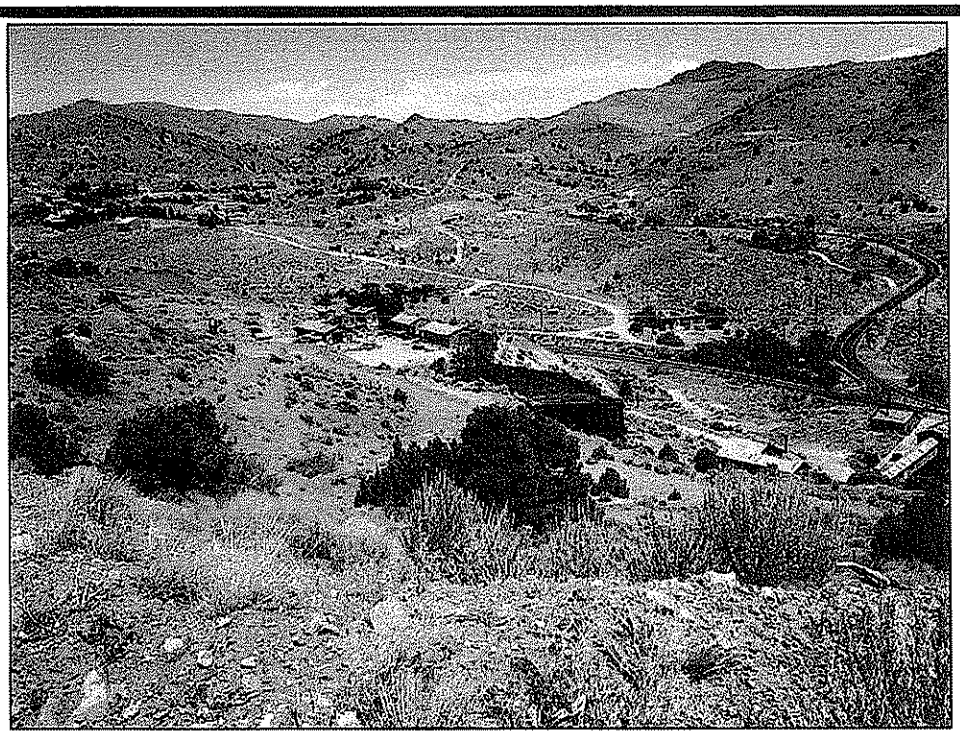

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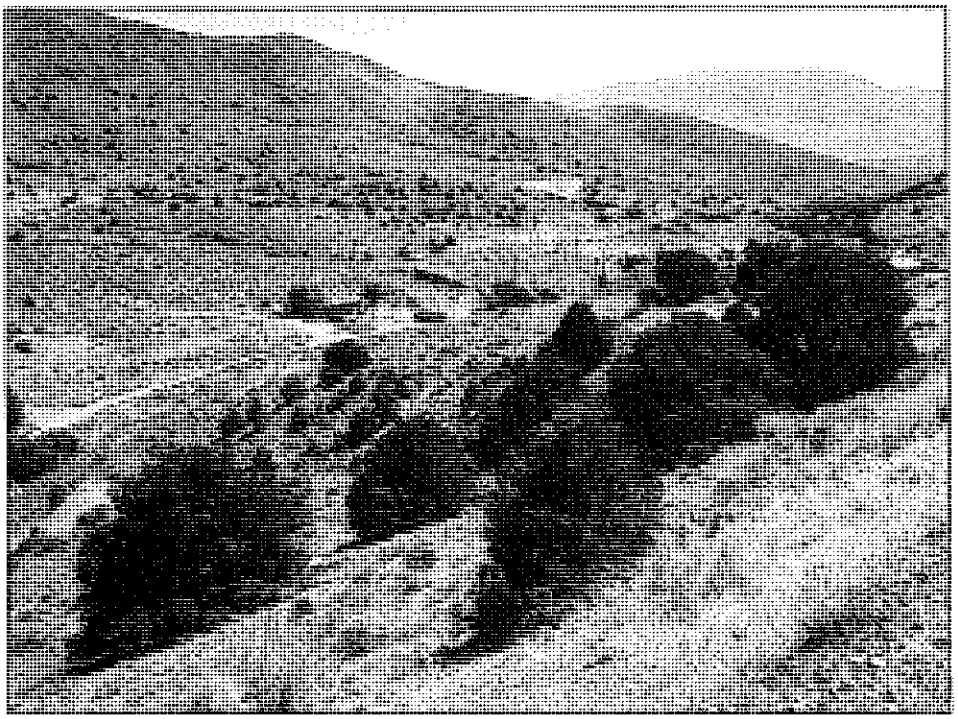

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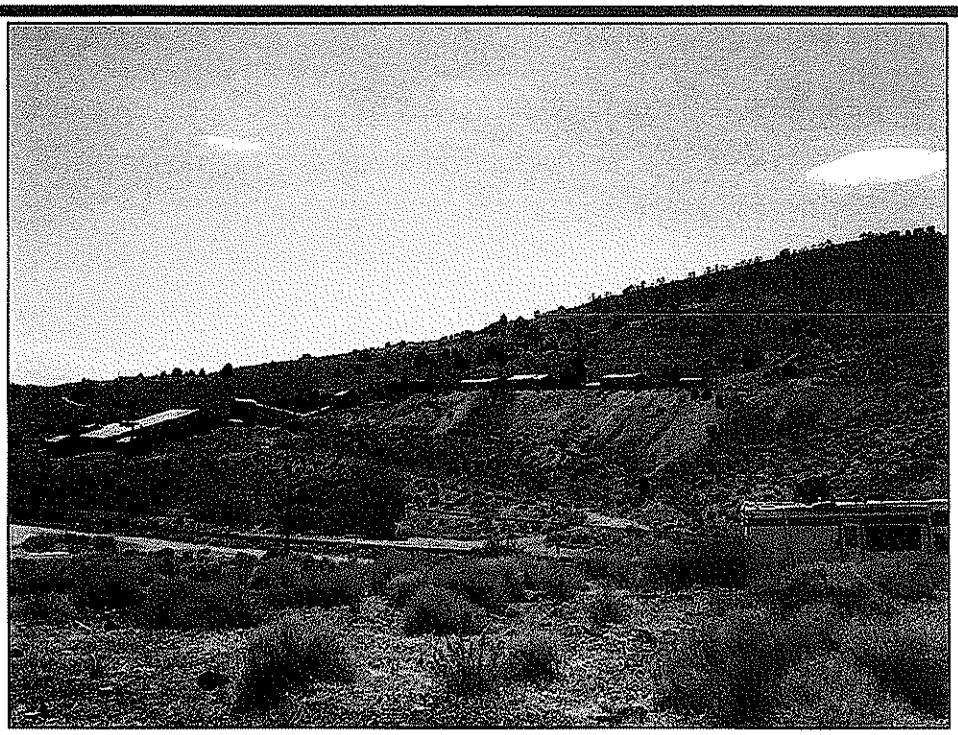
SITE PHOTOS

PROJ. MGR.: AWM
DRAWN BY: AWM
DATE: 8/8/2013
SCALE:

SHEET 1 OF 1

CMILCN

17:30 Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amotter



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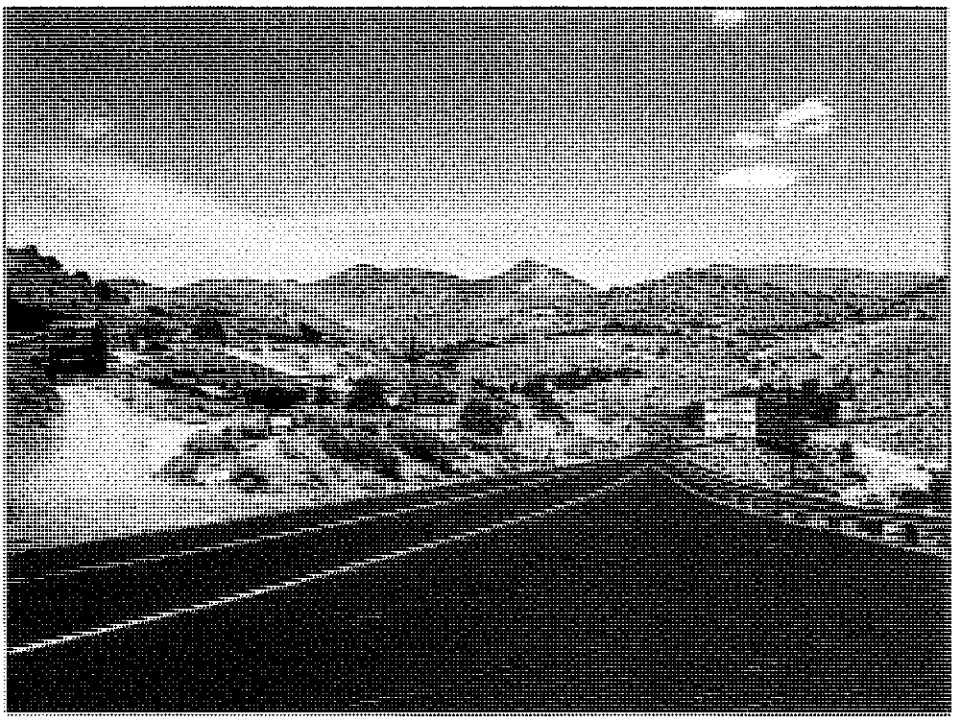

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SCALE:	

SHEET 1 OF 1

CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amotter 17:30

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Sheree Rosevear	145 High St, Silver City
	shereerose@att.net
William Rosevear	Same as above.
Cynthia Etchegoin	PO Box 203 Silver City, NV 89428
Stephen R. Johnson	795 Holcomb Ave, Suite I Reno, Nevada 89502 JPAREDOC JOHNSONPERKINS.COM
Erich Obermayr	
John Bennetts	
Scott Jolcolle/R	Box 1298 Carson 89702
Lee Bonner	
Mandy Manzoni	

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
BONNIE BROWN	1530 DAYTON TOLL RD, SILVER CITY, NV 89428

Please Print

LYON COUNTY PLANNING COMMISSION
PUBLIC COMMENT SIGN IN SHEET

Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Margaret Burns	480 Buckeye Rd - P.O. Box 249 Silver City, NV 89428
Erich Obermayr	"
Susan McCabe	320 1st Street PO Box 534 Silver City, NV 89428
Allen McCabe	
JoANN Shea	~~#2~~ Radere Rd. DAYTON 89403
MARCIA LITSINGER	11625 STALLION SPRINGS CIRCLE STAGECOACH, NV 89429
Stephen E. Litsinger	11625 Stallion Springs Circle Stagecoach NV 89429 stevechurchillbutte@gmail.com
Christy McGill	125 Hillcrest, Dayton NV 89403
Canyon Cassidy	50 main st., Silver City NV 894

Please Print

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Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
Suzanne Cassidy	info@nevadacassidys.com
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Mark Joseph Phillips	PO BOX 1092 VirginiaCity NV 89440
JANET McFALL	137 Creekside DR DAYTON NV 8940 >> 775-848-3555
William McFall	137 Creekside DR DAYTON, NV 89403 775-324-2480
Roger Drum	PO Box 125 Silver City NV 89428 775 636 5235
Olivia J Amos	395 Dayton Valley Rd. Dayton NV 89403
DILLON JONES	676 Teakwood Rd. Dayton, NV 89403 775-884-3905

Please Print

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Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
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DAVID TOLL	PO Drawer F Virginia City NV 89440 775.847-0227
GRAHAME H. ROSS	275 MAIN ST. Silver City NV. 89428 775.847-0215
Robin Cobbey	PO Box 675 VC 89440
Joe McCarthy	PO Box 351 Silver City, NV 89428 775-720-0331 1200paydirt@gmail.com
Ann Price McCarthy	P.O. Box 351 SC NV 89428 annpricemccarthy@gmail.com
David Moore/Barbara Peck	Box 532, Dayton NV 89403 775-246-9653 bpecknv@yahoo.com
DARLENE COBBEY	PO BOX 135, 1000 MAIN ST. SILVER CITY dcobbey@gmail.com

Please Print

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Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
ALEXIS DILLON	PO Box 423 Silver City 89428
Lila Lindsay	P.O. Box 248, Silver City, NV 89428
Cynthia Etchegoin	PO BOX 203 Silver City NV 89428
Walter J Mueller	PO Box 319 Dayton NV
Kirk Gomez	380 High St Silver City
RONALD L. RENO, PHD. RPA	Box 550 Silver City, NV 89428 775 847-0577
Mary C. MacDonald Beautiful Food Farm	Box 36 Silver City NV 89428 (775) 847-7159
Janet Hess Rose	P.O. 156 Silver City NV. 89428 775. 847. 0772
MOLLY ALLANDER	BX 85 SILVER CITY

Please Print

LYON COUNTY PLANNING COMMISSION
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Date: DECEMBER 10, 2013

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A Callaway	POB 580 89428
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Chad Olson	PO Box 214 Silver City, NV 89428 287-2999
Judi Olson	POB 214 SILVER CITY, NV 89428 220-5777
Wayne Bachand	PO Box 552 Silver City, NV 89428
Kev DeHart	P.O. Box 142 YERINGTON, NV, 89447 WASHOE 11-1-13 PO. BOX 825 VIRGINIA City 89440
Madison Woodman	1150 Main St. Silver City NV 89428
Jim Wheeler	Nevada State Assemblyman

Please Print

LYON COUNTY PLANNING COMMISSION
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Date: DECEMBER 10, 2013

Name (Please Print) or leave a business card	Address and Telephone No. or email address if preferred
John L. Marshall	johnmarshall@charter.net
John Singlaub	singlaub@gmail.com
Robert Elston	rgelston@gmail.com
Steve Parrish	445gj65@att.net
RANDY HARRIS	485 MAIN St. SILVER CITY
Thomas Dermodsky	#41 Hwy 341 Mound House NV
Carolee De Gosperis	1475 MAIN ST. GOLD HILL NV 89440
S. SUMNERS	3235 Fairlane Blvd Virginia Valley NV
[illegible]	[illegible]

Please Print

BOUND MATERIALS PERSONALLY DELIVERED TO

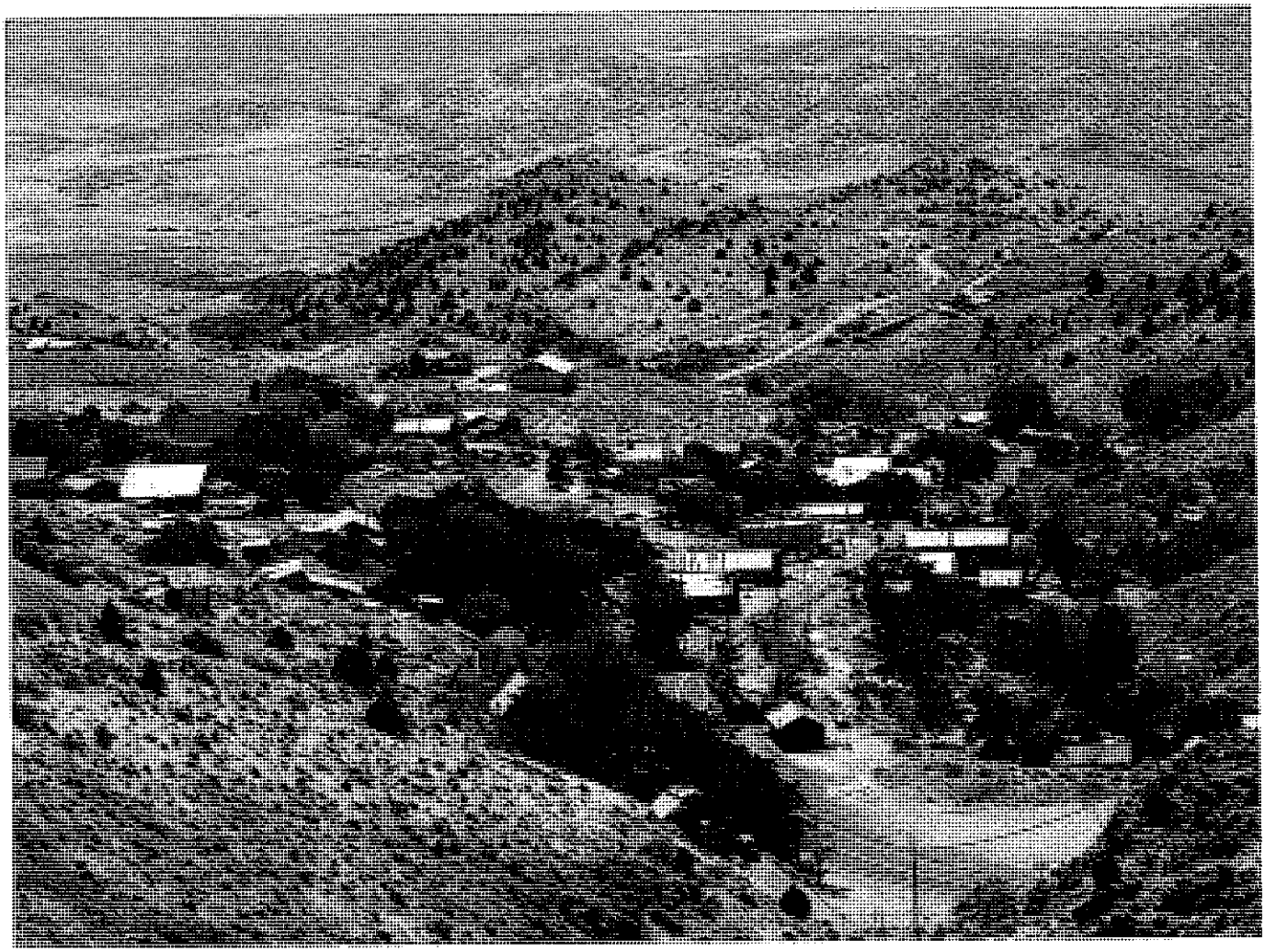
PLANNING COMMISSION MEMBERS

BY GAYLE SHERMAN AND BONNIE BROWN, MEMBERS OF THE

COMSTOCK RESIDENTS ASSOCIATION

PRIOR TO NOVEMBER 12, 2013 PLANNING COMMISSION MEETING

Silver City Residents Response to the Comstock Mining Inc. Application for a Master Plan Amendment and Zoning Change



November 12, 2013

14 CV 000128 - 000632
LYON COUNTY

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LEGAL ANALYSIS

Author: John Marshall

PLANNING ANALYSIS.....Tab A

Author: John Singlaub

HISTORIC ANALYSIS.....Tab B

Author: Pat Barker

REAL ESTATE ANALYSIS.....Tab C

Author: Steve Johnson

ADDENDUM.....Tab D

Silver City petition

2002 West Central Lyon County Land Use Plan

1986 Nevex Hearing Planning Commission Minutes

1986 Nevex Hearing County Commission Minutes

Silver City Presentation to Lyon County

1. Silver City Residents Video
2. Silver City Presentation

John L. Marshall
ATTORNEY AT LAW

570 Marsh Avenue
RENO, NV 89509

Telephone:
(775) 303-4882
Facsimile:
(775) 201-0193

johnmarshall@charter.net

November 6, 2013

Lyon County Planning Commissioners
27 South Main Street
Yerington, Nevada 89447

Re: Comstock Mining Inc. Application for Master Plan Amendment and Zoning Change (PLZ-13-0050, 0051)

Dear Commissioners:

Citizens of Silver City respectfully request that you deny Comstock Mining Incorporated's ("CMI") application for a Master Plan Amendment and Zone Change, filed by CMI for "the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property" (Application at p. 3), which lies principally within the Silver City town site. Over the last 40 years, Lyon County has addressed the exact same planning issue before you today: whether the land should remain suburban resedientially zoned, or whether master plan and zoning amendments should be allowed to permit mining within the town site. Each time, the County and its staff have weighed the considerations and found that the master plan and zoning designation should maintain the town of Silver City as an important Lyon County suburban town. The Town Board and over 75% of Silver City citizens simply ask that you make the same determination today as past Planning Commissioners and County Commissioners have uniformly done.

Although nothing has changed, other than a new landowner, Comstock Mining Inc. requests that Lyon County again consider whether mining should occur within the Silver City town site. Make no mistake, this application is about mining. CMI is refreshingly candid about its purposes here, as no actual land developer would seek such a down-zone that limits the property's residential development potential.

CMI's candor, however, does not replace sensible planning. As described below, CMI's application fails to carry the applicant's burden to demonstrate why the recently adopted Master Plan should be so radically altered, particularly given the repeated affirmation of the current designations and the utter lack of changed circumstances.

To aid Planning Commissioners in their review of the CMI application, citizens of Silver City engaged a number of highly qualified experts to review and comment on the proposal. Their reports, appended hereto as Attachments A, B, and C, are briefly reviewed here and referenced below during discussion of the failure of CMI to carry its burden to justify its application.

Ascent Environmental, Inc. is one of the premier companies practicing land use consulting in Nevada and California. As indicated in their statement of qualifications, Ascent has prepared many analyses of land use plans and projects on behalf of local governments and private companies.

Johnson-Perkins and Associates' report examines the impact CMI's mining proposals have had on Silver City. Johnson-Perkins is the leading real estate appraisal firm in Northern Nevada, and the credentials of the report's author, Stephen Johnson, speak for themselves.

Dr. Pat Barker, a leading Nevada archeologist, has considerable experience with the Comstock Historic District and the Virginia City National Historic Landmark. His report examines the impacts that mining on CMI's property would have on the Landmark.

We have also provided each Commissioner the transcripts of the 1986 Lyon County Planning Commission and County Commission hearings on Nevex Gold Company's applications to seek the same changes that CMI seeks today.

Lastly, we submit for the Planning Commission's consideration information provided to Lyon County in opposition to the Nevex Gold application. These legal, planning, historical, environmental, and economic analyses are just as valid today as they were in 1986.

A. The History of Consistent Master Planning and Zoning for Silver City and CMI Property

As carefully described in Ascent's report, Lyon County has been making Master Plan and Zoning decisions regarding Silver City and Grizzly Hill since the early 1970's as urban residential. (See Ascent Report (Attachment A) at 2-3.) Since that time, Lyon County has repeatedly reaffirmed the appropriateness of that basic designation. In 1986, Lyon County denied Nevex Gold's application to rezone the same property to allow for mining. (Ascent Report at 3-4.) In 1990, Lyon County adopted a new Master Plan that again reaffirmed the prior designations. (Ascent Report at 4-5.) In 2002, Lyon County adopted the West Central Lyon County Land Use Plan that continued earlier policies and made specific direction to recognize, enhance, and protect the unique character of Silver City. (Ascent Report at 6-7.) In 2010, over CMI's opposition, Lyon County again affirmed the

designations in its new Master Plan for Silver City and the subject property. (Ascent Report at 7-10.) Time after time, Lyon County, including this Planning Commission, has considered the appropriate Master Plan and Zoning designation for the Silver City town site, including CMI's property, and has consistently and uniformly determined to maximize the residential flexibility of the area and preclude industrial uses such as mining.

We urge the Commissioners to review the Ascent Report (Attachment A hereto) before continuing with this letter, as the report presents a comprehensive review of the history and currently applicable Master Plan and Zoning issues raised by CMI's application.

B. CMI Bears a High Burden of Proof

Lyon County's repeated and consistently articulated position on the appropriate designations for the CMI property increases the already heavy burden placed on CMI. Under standard zoning law, CMI bears the burden of proof to demonstrate that a change to a Master Plan and Zoning should occur. (*Coronet Homes, Inc. v. McKenzie*, 84 Nev. 250 (1968).) However, in addition to this standard burden, where an agency has consistently applied its discretion in a particular way, it cannot reverse course without the applicant demonstrating what has changed in order to justify such a policy reversal. (See e.g., *Northwest Environmental Defense Center v. Bonneville Power Administration*, 477 F.3d 668, 690 (9th Cir. 2007); *Ramasrakash v. Federal Aviation Authority*, 346 F.3d 1121, 1130 (D.C. Cir., 2003).) Thus, CMI must not only demonstrate how it meets each and every requirement but also must justify how changed circumstances should cause Lyon County to reverse its longstanding position. As demonstrated below, CMI's bare-bones application meets neither standard.

C. CMI's Thin Application Fails to Demonstrate Changed Circumstances

Comstock Mining Inc.'s October 11, 2013, application package contains a single report from Manhard Consulting. The Manhard Report itself contains scant analysis of the planning issues and instead repeats stock conclusory and self-serving phrases denigrating the past efforts of Lyon County to plan for and protect its citizens.

1. Silver City is a residential community of mixed uses and densities

Contrary to what the Manhard Report suggests, Silver City is a residential community. It is no longer a mining community and has not been a mining town for more than 60 years. This fact was officially recognized as early as 1971 when the Lyon County Board of Commissioners, in its general plan, identified Silver City and the areas immediately surrounding it as "suburbanizing." This valid description of the town of Silver City was reaffirmed in 1986 in the Nevex Gold Company's Master Plan amendment

and Zoning change denial; in 2002 in the West Central Lyon County Land Use Plan; and in the 2010 Comprehensive Master Plan. Based on these affirmative decisions, it is easy to see that the current application misrepresents the goals and strategies of more than 40 years of Lyon County master planning. And in doing so, the CMI application mischaracterizes both the town of Silver City and the subject property that sits within its boundaries.

Today, Silver City is made up of a growing residential base that includes professional and technical employers and employees, working artists, home-offices, and retirees. Silver City is principally a suburban residential town where many residents commute for work or shopping to the nearby population centers of the Dayton Valley, Carson City, and Reno/Sparks. The town could be described a viable mixed-use economy that lends itself to an excellent quality of life for its current residents. By unfortunately adding potential industrial uses within the town borders, Lyon County risks losing that burgeoning mixed-use economy, long-term residents, new business, and tourists. Eighty percent (80%) of Silver City's zoning is suburban, all within the Silver City town limits. The town limits, by definition, are the boundary between residential or commercial areas and undeveloped or sparsely occupied land outside of town. That distinction was made in the first Lyon County General Plan, developed in 1971, which designated the area within the Silver City town limits as residential, with the exception of a commercial area along Main Street and a small light-industrial area at the south end of Main Street. The current 2010 Comprehensive Master Plan continues this designation. Both master plans were developed in consultation with current residents, business owners, and the communities of Lyon County. Both master plans concluded that the Silver City town limits and residential land use were congruent.

2. **Current Master Plan and Zoning provides maximum flexibility to landowners to promote and protect town**

The current zoning permits homes, community centers, gathering centers and parks, and mixed use. The maximum density under NR-1 is high density, which has aided in the residential development of Silver City since it began its transformation from a ghost town in the 1950's to the residential community it is today. The NR-1 zoning greatly helped to protect the town's integrity, and helped it grow and prosper into a safe, quiet community to live in, raise a family, and build a business.

Since 1971, more than 35 homes have been built in and around Silver City. In addition, numerous older, historic buildings have been restored for residential use. There was a wave of impressive new home construction in the 2000's until the recession slowed investment. The 2011 exploratory drilling program on Grizzly Hill by CMI, which hinted at future mining, has stopped all residential real estate development cold.

D. CMI's Gamble On Its Property Need Not Be Rewarded

Comstock Mining Inc. has long been aware of the zoning and land use decisions on these lands. Before purchasing the property in 2012, they were leasing the property, and in 2010 they proposed changes to the Comprehensive Master Plan before it was approved. Comstock Mining did their due diligence, and knowing what the restrictions against mining were, purchased the lands, assuming Lyon County would change the rules on their behalf. To reward CMI's speculation to the detriment of Lyon County citizens would be an unfortunate precedent for planning, and zoning, for Silver City and Lyon County. As described in detail in the 1986 materials, CMI has no reasonable investment-backed expectations to a change in Master Plan designation and zoning, as it acquired the property with full or constructive knowledge of Lyon County's past actions regarding the site and thereby purchased it at price presumably reflective of its current zoning. (See Gary Owen Legal Analysis at 19-24.)

E. CMI's Application Results in Illegal Spot Zoning

In 1986, both the Lyon County Planning Commission and the County Commission found that the Nevex Gold application, indistinguishable from CMI's present one, resulted in illegal spot zone by treating one property differently than similarly situated property. (See Planning Commission 1986 Transcript; County Commission 1986 Transcript. As described to Lyon County back then:

> Spot zoning is "zoning with disregard for the welfare of the whole community, for the benefit of a few or in violation of a comprehensive plan." *Save a Valuable Environment v. City of Bothel*, 576 P.2d 401, 405 (Wash. 1978). Such zoning is arbitrary and capricious, as it disregards the emphasis upon consistency of rezoning with existing land uses. *Id.* Moreover, spot zoning aside, granting of Nevex' application for a master-plan amendment would be per se arbitrary and capricious in that, under the circumstances of this case, it would fail "to serve the welfare of the community as a whole." *Id.* It would represent, instead, a blatant disregard of adverse environmental [and other] effects and potentially severe financial burdens on the Silver City community. (1986 Legal Analysis by Gary A. Owen at 7.)

We respectfully submit that CMI's application presents exactly the same legal infirmity today as it did in 1986 and should be similarly rejected.

G. CMI's Application Should Be Denied Because Lyon County Could Not Issue a Special Use Permit Consistent With Its Sunergy World Decision

Just a few months ago, in March and April of 2013, the Lyon County Planning Commission and then the County Commission voted unanimously to deny Sunergy World LLC a special use permit ("SUP") to construct a passive solar array east of MacKenzie Lane in southeast Mason Valley. A group of local citizens opposed Sunergy World's application and filed a petition with 79 signatures in opposition. The citizens contended that the solar array would adversely affect neighboring property values, viewsheds, wildlife, and other issues, and the Commissioners so found. (See Lyon County Planning Commission Minutes from March 12, 2013, at 5-10; County Commission Minutes from April 4, 2013, at 176-177.)

An SUP for mining by CMI would have substantially greater impacts on the local citizens of Silver City than the solar array on the residents of southeast Mason Valley. As detailed above, a mine directly across from Silver City and adjacent to residential property will crush home values, destroy the peace and quiet, eviscerate the viewshed, and destroy the close-knit spirit of a unique community. (See also Kona Gold SUP Application Staff Report (PLZ-13-0013) (November 12, 2013) at 12 (Recommending denial of SUP near Highway 341 because "[t]he impacts of the Mill Site on surrounding properties, and the potential negative impacts to public health, safety, welfare and the neighborhood are of particular concern."). Since Lyon County denied a harmful but more benign SUP, it could not consistently approve a more devastating one. Since an SUP for mining is highly unlikely, a Master Plan amendment and Zone change application facilitating that SUP should be denied as simply futile.

Put another way, approval of the Master Plan amendment, Zone change, and/or an SUP for a mine in Silver City would wholly undercut Lyon County's defense in the pending litigation over its denial of the Sunergy World SUP.

H. CMI's October 11, 2013, Application Must Be Heard in March 2014

Comstock Mining Inc. submitted a new application for a Master Plan Amendment and Zone Change on October 11, 2013, replacing its August 2013 application. Under Lyon County Code § 10.12.09(C)(4)(b)(4), that application can only be heard at the March 2014 Planning Commission meeting.

Conclusion

Silver City represents a unique and vibrant part of Lyon County. For more than 40 years, Lyon County has sought to enhance and protect the Silver City community from incompatible uses in order to foster its growth. CMI's application threatens to undermine Silver City's progress for the company's short-term, speculative profit without concern for the larger community. We therefore urge you to deny CMI's application and maintain Lyon County and Silver City for its citizens.

Sincerely,

John L. Marshall
Attorney for Comstock Residents Association

Comstock Mining Master Plan Amendment and Zone Change Request
Silver City, Nevada

Land Use Planning, Zoning, and Environmental Analysis

Prepared for:
Comstock Residents Association

Prepared by:
Ascent Environmental, Inc.
128 Market Street, Suite 3E
PO Box 5022
Stateline, Nevada 89449

November 4, 2013

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JA0749 14 CV 000128 - 000644
LYON COUNTY

Pursuant to NRS 239B.030, the undersigned affirms that the following document does not contain the social security number of any person.

JOHN L. MARSHALL
SBN 6733
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Reno, Nevada 89509
Telephone: (775) 303-4882
Attorney for Petitioners Comstock Residents Association & Joe McCarthy

IN THE SUPREME COURT OF THE STATE OF NEVADA

COMSTOCK RESIDENTS ASSOCIATION, JOE McCARTHY

Appellants,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED

Respondents,

_____/

No. 68433
District Court Case No. 14-CV-00128

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QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Professional Designations

MAI - Member Appraisal Institute (Certified through 2013)	1976
SREA - Senior Real Estate Analyst; Society of Real Estate Appraisers	1984

State Licensing and Certification

Certified General Appraiser-State of Nevada License #A.0000003-CG (Certified through 04/30/2015)	1991
Certified General Appraiser-State of California License #AG007038 (Certified through 06/18/2015)	1992

Association Memberships and Affiliations

Member Reno Board of Realtors	
Member Nevada Association of Realtors	
International Right-of-Way Association	
Member Nevada State Board of Equalization -	1984-1991
(Appointed by Governor Richard Bryan, January 1984 & 1988)	
(Appointed by Governor Kenny C Guinn, March 2000 & 2004)	2000-2008
Member Nevada Commission of Appraisers of Real Estate -	1989-1994
(Appointed by Governor Bob Miller, August 7, 1989)	
Commissioner, Nevada Commission of Appraisers of Real Estate	2009-Present
(Appointed by Governor Jim Gibbons, 2009)	
President, Nevada Commission of Appraisers of Real Estate	2012-2013
(Appointed by Governor Sandoval, 2012)	

Offices Held

Chairman, National Ethics Administration Division	1995
Vice Chairman, National Ethics Commission	1993/94
Regional Member, Ethics Administration	
Appraisal Institute, Region I	1989-1992
President, Sierra-Nevada Chapter #60, AIREA -	1989
Vice President, Sierra-Nevada Chapter #60, AIREA -	1988
Secretary, Sierra-Nevada Chapter #60, AIREA -	1987
Vice Governor District 3 (Northern California & Nevada)	
Society of Real Estate Appraisers (SREA) -	1980-1981
Past President & Membership Chairman -	
Reno/Carson/Tahoe Chapter #189	
Member 1976 Young Men's Council, SREA, Atlanta, Georgia	

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Offices Held (continued)

Discussion Leader 1977 Young Men's Council, SREA, Las Vegas, Nevada	
Elected 1 of 2 National Representatives to the Inter-National Board of Governors of the SREA, representing the Young Men's Council -	1977
International Professional Practice Committee, SREA -	1978-1981
International Conference Committee, SREA -	1978 & 1979
National Candidates Guidance Committee of the American Institute of Real Estate Appraisers (AIREA) -	1978-1981
Chairman National Division of Member and Chapter Services, AIREA -	1981
Board of Directors Northern California Chapter #11, AIREA -	1980
Admissions Committee, Sierra-Nevada Chapter #60, AIREA	
Board of Directors, Sierra-Nevada Chapter #60, AIREA	1984-1986
Board of Directors, Reno-Carson-Tahoe Chapter	

Appraisal Experience

Independent Fee Appraiser	1976 to present
President, Stephen R. Johnson & Associates	1976-1992
President, Johnson - Wright & Associates	
President, Johnson - Perkins & Associates (Staff of 11 Appraisers)	1994 to present
Alves Appraisal Associates	1972-1976
Alves-Kent Appraisal Associates	1970-1972

Qualified as an Expert Witness

Nevada District Courts:
Washoe County, Carson City, Douglas County, and Elko County
U S. Bankruptcy Courts:
Reno, Las Vegas, Sacramento, and Los Angeles
U S. District Court, San Francisco, California
United States Tax Court
Arizona Superior Court, Maricopa County, Phoenix
Douglas County Board of Equalization
Washoe County Board of Equalization
Nevada State Board of Equalization
King County Superior Court, Seattle, Washington

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON

Formal Education

Reno High School Graduate -	1966
Bachelor of Science Degree in Business Administration Majoring in Real Estate, from the University of Nevada, Reno -	1972

Appraisal Education

University of Nevada:	
B.A. 430 Real Estate Evaluation	1970
B.A. 432 Real Estate Appraisal Problems	1971
American Institute of Real Estate Appraisers:	
Course 1A Basic Appraisal Principles, Methods & Techniques, San Francisco, CA	1972
Course 1B Capitalization Theory & Techniques, San Francisco, California	1973
Course 2 Urban Properties, San Francisco, California	
Course 6 Investment Analysis, Memphis, Tennessee	1976
Society of Real Estate Appraisers:	
Course 301 Special Applications of Appraisal Analysis, Pomona, California	1974
Uniform Appraisal Standards for Federal Land Acquisitions	June 2009
Numerous Continuing Education Seminars and Courses	

Appraisal Instructor

Nevada Association of Realtors
Department of Commerce, Real Estate Division, State of Nevada
Appraisal "A" Residential Appraising
Appraisal "B" Apartment and Commercial Property Appraising
Western Nevada Community College
R.E. 206 Real Estate Appraising
Northern Nevada Real Estate School
Real Estate Appraisal

QUALIFICATIONS OF APPRAISER
STEPHEN R. JOHNSON
REPRESENTATIVE APPRAISAL CLIENTS AND PROPERTIES

BARTON MEMORIAL HOSPITAL
CITY OF RENO
CITY OF SPARKS
COLONIAL BANK
R J B DEVELOPMENT COMPANYCARSON CITY
DOUGLAS COUNTY
LINCOLN COUNTY
LYON COUNTY
WASHOE COUNTY
MINERAL COUNTY
EMERALD BAY POST OFFICE
NEVADA STATE PARK SYSTEM
NEVADA STATE DEPT OF TRANSPORTATION
NEVADA STATE DIVISION OF LANDS
NEVADA ATTORNEY GENERAL'S OFFICE
U.S. DEPARTMENT OF NAVY
U.S. FOREST SERVICE
FNMA - REGIONAL OFFICE
INTERNAL REVENUE SERVICE
FEDERAL TRADE COMMISSION
WASHOE COUNTY REGIONAL TRANS
RENO TAHOE AIRPORT AUTHORITY
TAHOE REGIONAL PLANNING AGENCY
CALIFORNIA ATTY GENERAL'S OFFICE
CALIFORNIA TAHOE CONSERVANCY
CITY OF SOUTH LAKE TAHOE
PLACER COUNTY REDEVELOPMENT AGENCY
NEW HAMPSHIRE DEPARTMENT OF JUSTICE
MISSOURI HWY AND TRANS DEPT COMMISSION
IDAHO TRANSPORTATION DEPARTMENT
COLONIAL BANK
PLUMAS BANK
SECURITY BANK OF NEVADA
LIBERTY BANK
FIRST INDEPENDENT BANK OF NV
NORTHERN NEVADA BUSINESS BANK
NEVADA STATE BANK
UNION BANK
VALLEY BANK OF NEVADA
BANK OF AMERICA
THE BANK OF CALIFORNIA
CROCKER NATIONAL BANK
WELLS FARGO BANK
B OF A TRUST DEPARTMENT
FIRST FEDERAL SAVINGS & LOAN
FIRST WESTERN SAVINGS & LOAN
AMERICAN SAVINGS AND LOAN
NEVADA SAVINGS & LOAN
DILORETO CONST & DEVELOPMENT
DERMODY PROPERTIES
TRAMMELL CROW CO
MCKENZIE PROPERTIES
HOMEWOOD HIGH & DRY MARINA
TAHOE KEYS MARINA
TAHOE CITY MARINA
WASHOE MEDICAL CENTER
PLAZA RESORT CLUB
ROYAL BANK OF SCOTLAND
CARSON-TAHOE HOSPITAL
JOHNNY RIBEIRO BUILDER
KEEVER CONSTRUCTION COMPANY
SIERRA PACIFIC POWER COMPANY
SOUTH LAKE TAHOE PUBLIC UTILITY DIST
TAHOE DOUGLAS SEWER DISTRICT
GLENBROOK WATER COMPANY
TAHOE PARK WATER COMPANY
NORTH FOOTHILL APARTMENTS
MEADOWOOD APARTMENTS
WOODSIDE VILLAGE APARTMENTS
SIERRA WOODS APARTMENTS
AMESBURY PLACE APARTMENTS
SUNDANCE APARTMENTS
KEYSTONE SQUARE SHOPPING CTR.
POZZI MOTORS
CARSON CITY DATSUN-AMC-JEEP
LEMMON VALLEY LAND COMPANY
CONSOLIDATED FREIGHTWAYS
RING$BY UNITED
SYSTEMS 99
EASTMAN KODAK
HALLMARK CARDS
OSCAR MEYER AND COMPANY
GENERAL ELECTRIC
CHEMETRO
CITY SERVICES MINERAL CO
SUPERIOR OIL COMPANY
TRAVELERS INSURANCE
FARMERS INSURANCE COMPANY
FIRST AMERICAN TITLE CO. OF NV.
FIDELITY TITLE INSURANCE CO
MERRILL LYNCH RELOCATION
YOUNG ELECTRIC SIGN COMPANY
THE TRUST FOR PUBLIC LANDS
THE TRUCKEE DONNER LAND TRUST
THE CONSERVATION FUND
THE NATURE CONSERVANCY
SUGAR BOWL SKI RESORT
THE FEATHER RIVER LAND TRUST
SKI INCLINE RESORT
KIRKWOOD ASSOCIATES
NORTHSTAR
SQUAW VALLEY U.S.A.
LEWIS HOMES OF NEVADA
SYNCON HOMES
MGM GRAND HOTEL CASINO & THEME PARK
EL DORADO HOTEL - CASINO
COMSTOCK HOTEL - CASINO
LAKESIDE INN HOTEL - CASINO
RAMADA EXPRESS HOTEL - CASINO

James P. Barker, Ph.D.
4523 Hells Bells Road
Carson City, Nevada 89701

John L. Marshall
570 Marsh Avenue
Reno, Nevada 89509

November 4, 2013

Dear Mr. Marshall:

Per your request to provide an analysis regarding the history and current status of the Virginia City National Historic Landmark and the potential effects of mining within the Silver City town boundaries at the Dayton Consolidated Mill Site, I am providing the following information for your review.

The Virginia City National Historic Landmark

In 1961, an area of 14,700 acres including Virginia City, Gold Hill, Silver City and Dayton was designated as the Virginia City National Historic Landmark by the Secretary of the Interior. This formal designation recognized the Comstock's national importance in the history of the American West and the history of mining. By receiving this designation, the Virginia City National Historic Landmark was acknowledged as one of our nation's most important historic and cultural resources.

In a letter dated March 3, 1988, Ron James, Deputy State Historic Preservation Officer, notified then Secretary of the Interior Hodel (Attached) that "The Virginia City Historic Landmark District is endangered because of previous open pit mining which has limited the visual integrity of the District and which destroyed and continues to threaten contributing cultural resources within the District."

In response to this notification, the National Park Service assessed the status of the Landmark (Leo Barker, 1988). In his analysis Barker (1988:30) found that "Historic landscapes—the tailings, dumps, prospects, roads, walls, adits, complex ruins, and other alterations of and structural associations on the land—have been neglected in preservation planning on the Landmark. Historic land alterations in and around historic sites are now recognized as integral parts of historic properties, because they reflect significant changes in land use and because they constitute the connective tissue that often supports and defines the historic character and integrity of a place."

Because of this neglect, "cumulative post World War II open pit mining and related mill site activities have severely impacted the historic landscape of the Virginia City National Historic Landmark District" (Barker 1988:30). In addition, Barker (1988:26-27) argued that "Historic landscapes, archeological sites, and historic buildings are threatened . . . by the removal and reprocessing of historic tailings, the opening of new surface mine sites, and by the creation of new landform features—large open pits and heap leach processing sites—that are incompatible with the character of the Landmark."

The importance of maintaining the integrity of the historic landscape was again addressed in the latest update of the Virginia City Historic District Amendment – 1991 (Attached) wherein Ron James, the State Historic Preservation Officer at the time, reiterated and formalized these same

considerations, arguing that the historic *landscape* of the district is an integral setting for its built environment. Specifically he noted:

> (1) ". . . hundreds of acres of cultural landscape which, between 1859 and 1942, played an integral role in the history of mining on the Comstock."
>
> (2) ". . . the landscape in the District, both the rural and built-up sections, portrays the evolving and cyclical industrial, commercial, and social patterns relating to mining activity, the central, significant focus of Comstock history up to 1942."
>
> (3) "Scattered across the natural landscape of this predominantly rural historic district are countless cultural landscape features (mill tailings, mine dumps, sunken shafts, dark adit openings, cemeteries, abandoned railroad and road beds), historic structures (headframes, ore rockers, mill leaching tanks, and water tanks and flumes), and archaeological sites (the honeycomb network of underground mining tunnels, partially or totally buried mining equipment and parts of buildings, stone embankments and foundations) that provide visual testimony to the important role of mining in Comstock history up to World War II."
>
> (4) "Contributing buildings have retained substantial integrity of setting (taking into account the evolution of both natural and cultural landscape features that invariably has taken place over the eighty-two year period of significance), feeling, and association."

In this nomination amendment, Mr. James makes a strong argument for the significance of the historic landscape within the Virginia City National Historic Landmark.

Lyon County Comprehensive Master Plan

The current Lyon County Comprehensive Master Plan (2010) discusses existing historic district designations that include and surround Silver City as planning tools to preserve its "existing historic character." The Plan notes that "Silver City, situated in lower Gold Canyon, represents the first settlement in Nevada based on mining activity" and now comprises an historic town site that is an integral part of the Virginia City National Historic Landmark and the Comstock Historic District. Slow growth allows Silver City to treasure "its historic buildings and landscape features" as a way to maintain a strong sense of identity and pride in its cohesive small town atmosphere.

As noted in the Lyon County Comprehensive Master Plan, during the planning process "residents and property owners expressed considerable interest in maintaining their many diverse communities and improving community aesthetics" and that preserving the County's rural character is a core value of a majority of Lyon County residents." The Master Plan argues that a community's unique character "is defined by its design, its viewsheds, its gathering places, and its historic and cultural resources, as well as by environmental characteristics such as natural quiet and dark night skies." The Plan further notes that "maintaining this character is important—not only for promoting economic development and diversification, but also for protecting our living spaces, quality of life and open lands."

The current Lyon County Comprehensive Master Plan defines a set of guiding principles with which land use will be managed. These include but are not limited to:

(1) Lyon County will respect and promote the distinct character and heritage of its communities, strive to retain its rural and agricultural culture and promote cohesive and high quality development to improve the overall image and function of its communities; and

(2) The proximity of the natural environment will continue to be an important part of life in Lyon County, where residents will enjoy sustainable supplies of clean water for drinking and agriculture; clean air; wildlife; access to rivers, lakes and public lands; scenic views, and dark night skies. Lyon County will work to reduce or mitigate natural hazards such as wildfire, flooding, earthquakes and dust.

Based on these principles, one planning goal (CC 3: Heritage) states, "Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for residents and visitors to learn about and celebrate our heritage." Associated with this goal is a policy (CC 3.1: Maintain and Restore Historic Resources) that "Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts." Specifically, within historic districts, like Silver City, the County will:

- Revise zoning to encourage historic use and development patterns including mixed-use structures and districts.

- Promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.

- Limit new land uses that would pose a risk to historic structures or the historic character of the district.

- Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.

Other sections of the Master Plan define additional principles, goals and policies guiding development in historic districts, particularly as they relate to the historic landscape. These include:

Policy LU 1.4: New industrial uses should only be located in areas that do not adversely impact existing residential settlements.

Natural Resources and Environment: The proximity of the natural environment will continue to be an important part of life in Lyon County, where residents will enjoy sustainable supplies of clean water for drinking and agriculture; clean air; wildlife; access to rivers, lakes and public lands; scenic views, and dark night skies.

Goal NR 8 Views: Lyon County will protect scenic views of mountain backdrops and nighttime views of stars.

Policy NR 8.1: Mountain Backdrop: Recognizing that views of the mountains in and around the county provide a unique scenic value for residents and visitors, Lyon County will strive to preserve such views.

Goal NR 9: Mining and Resource Extraction: Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR 9.3: Mitigate Operations: To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, and so forth.

Discussion

Historic structures do not exist in a vacuum, and land use planning decisions are made in a real world where communities are more than the sum of their parts. Historic districts necessarily include buildings and structures *in their historically derived landscape*. Further, as shown throughout the Lyon County Master Plan, both visitors and residents are drawn to historic communities exactly for the historic nature of the landscape in which they are found. If the historic nature of the landscape is degraded, it will become less valued.

The existing zoning preserves the nature and pace of development in Silver City in ways that are compatible with the historic landscape. Given the very pointed language in the Lyon County Master Plan pertaining to historic districts and community character, Comstock Mining Inc. is obligated to show that its proposed Master Plan change and zoning change will not adversely impact the historic integrity of Silver City. Comstock Mining's implied goal in seeking the change in land use and zoning is to conduct mining in the town limits. However, they offer no evidence to support the compatibility of their proposed project with the existing historic landscape, nor do they address adverse impacts to the landscape, viewshed, historic integrity, and community values in Silver City implicit in the change. To avoid further damage to the Virginia City National Historic Landmark in general, and specifically to the historic integrity of Silver City, requires maintaining and supporting the protections imbedded in the existing Lyon County Master Plan.

Reference

Barker, Leo, 1988. "Over the Lode: An Investigation of the Status of the Virginia City National Historic Landmark District, Also Known as the Comstock Historic District, Nevada." National Park Service, San Francisco.

I hope this information meets your needs. If you have any questions, please do not hesitate to contact me at 883-7790.

Sincerely,

James P. Barker, Ph.D.
Nevada State Archaeologist, Bureau of Land Management, Retired

Bio

Pat Barker was born in Reno. He earned a Ph.D. in Anthropology in 1982 from the University of California, Riverside. In 1986, he began work as an archaeologist for the Bureau of Land Management and two years later became the archaeologist for the BLM Nevada State Office. During his tenure in the state office, Dr. Barker developed guidelines for conducting cultural resource inventories and for evaluation eligibility for the National Register. He negotiated a statewide protocol agreement with the Nevada State Historic Preservation Office (SHPO) for compliance with the National Historic Preservation Act (NHPA). He was a founding member of the BLM National Preservation Board and helped develop the BLM's cultural resource manual series. Dr. Barker has negotiated at least 30 programmatic agreements to facilitate NHPA compliance for proposed land uses, mainly mining developments. Since retiring from the BLM in 2006, he has worked as a consultant on several projects, including the Ruby Pipeline, the American Flats demolition environmental assessment, the Virginia City sewer expansion programmatic agreement, and the Nevada Test Site rail corridor environmental impact statement. Dr. Barker also was a Research Associate in Anthropology at the Nevada State Museum and at UC Davis; past president of the Board of Directors of the Nevada Rock Art Foundation; and president of the Great Basin Anthropology Association. He teaches a graduate seminar on Historic Preservation Law and Policy at the University of Nevada, Reno.

Pat Barker, Ph.D.

Personal Information

Address: 4523 Hells Bells Road, Carson City, Nevada 89701,
(775) 883-7790; Cell: 775 721-0110; email: barkerj@unr.edu
DOB: 12/16/46, Reno, Nevada; U.S. Citizen; Married, No Children; Viet Nam veteran

Professional Preparation

Orange Coast College	Anthropology A.A.	1972
California State University, Long Beach	Anthropology B.A.	1974
University of California, Riverside	Anthropology M.A.	1977
University of California, Riverside	Anthropology Ph.D.	1982

Appointments

Research Associate, Anthropology, University of California, Davis, 2009-Present
Research Associate, Anthropology, Nevada State Museum, Carson City, Nevada, 2000-Present
Senior Archaeologist, ASM Affiliates, Reno, Nevada, 2008-Present
Senior Archaeologist, Progressive Adaptations, Carson City, Nevada, 2006-Present
Adjunct Professor, Anthropology, University of Nevada, Reno, Nevada, 1998-Present
Nevada State Archaeologist, Bureau of Land Management, Reno, Nevada, 1988-2006 (Retired)
Resource Area Archaeologist, Bureau of Land Management, Barstow, Ca, 1986-1988
Chief, Alcohol Dependence Program, VA Medical Center, Reno, Nevada, 1985-1986
Coordinator, Alcohol Dependence Program, VA Medical Center, Reno, Nevada, 1982-1985
Graduate Student, University of California, Riverside, California 1974-1982
Assistant Editor, Journal of California and Great Basin Anthropology, 1980-1982

Publications

2013 *Points in Time: Direct Radiocarbon Dates on Great Basin Projectile Point*s, with Geoffrey Smith, Eugene M. Hattori, Anan Raymond, and Ted Goebel. American Antiquity 78(3):580-594.

2011 *Looting at Elephant Mountain Cave,* with Cynthia Pinto-Ellis and David Valentine. Nevada Archaeologist 24:1-11

2009a *The Process Made Me Do It: or Would a Reasonably Intelligent Person Agree that CRM is Reasonably Intelligent.* In L. Sebastian and W. Lipe, eds. Archaeology and Public Policy: A New Vision for the Future. Santa Fe: School of Advanced Research. Pp 65-90.

2009a *Great Basin Sandals,* with Tom Connolly. In C. Fowler and D. Fowler, eds. The Great Basin: People and Places in Ancient times. Santa Fe: School of Advanced Research. Pp 69-74.

2009c *Woven Sandals as Boundary Markers Between the Great Basin and Southwest Culture Areas.* In B. Hockett, ed. Past, Present and Future Issues in Great Basin Archaeology: Papers in

Honor of Don D. Fowler, Bureau of Land Management, Nevada, Cultural Resource Series 20:125-145.

2008 *Forum: Who Makes it Heritage?* Invited Comment. Heritage Management 1(1)110-112

2006 *Long Term Fire History in Great Basin Sagebrush Reconstructed from Macroscopic Charcoal in Spring Sediments*, with Scott Mensing and Stephanie Livingston. Western North American Naturalist, 66(1) 64-77.

2004 *Basketry Chronology of the Early Holocene in the Northern Great Basin*, with Tom Connolly. University of Oregon Anthropological Papers 62:241-250.

1996 *Archaeological Contributions to Ecosystem Management*. SAA Bulletin 14(2):18-21.

1995 *Legal Implications of the Numic Expansion*. with Cynthia Pinto. In, Across the West: Human Population Movement and the Expansion of the Numa. D. Madsen and D. Rhode, eds. Salt Lake City: University of Utah Press. Pp 16-19.

Honors
President's Honor List, CSULB, 1972-73, Fall 1973
Society for California Archaeology, Student Prize Paper, 1973
Outstanding Graduate in Anthropology, CSULB, 1974
Regents Fellow, UCR, 1975-1976
VA Outstanding Performance Award, 1983, 1984, 1985
BLM, Group Achievement Award, 1987, 1992
National Take Pride in America Award for *Adventures in the Past Exhibit*, 1991
BLM Sustained Performance Award, 1992, 1999, 2000, 2006

Professional Associations
Nevada Archaeological Association
Society for American Archaeology
Nevada Rock Art Association

Service
Nevada Archaeological Association, Board of Directors, 1990-1992
President, Board of Directors, Nevada Rock Art Foundation, 2009-2012
President, Great Basin Anthropology Association, 2012-Present

Referees
Robert L. Bettinger, Ph.D., Department of Anthropology, University of California, Davis, California 95616 (916) 752-0551

David Hurst Thomas, Ph.D., Curator, North American Archaeology, American Museum of Natural History, New York, New York 10024 (212) 769-5890

PowerPoint presentation by JOHN SINGLAUB, ASCENT ENVIRONMENTAL, INC.

14 CV 00128 - 000407
LYON COUNTY

PROPOSED MASTER PLAN AND ZONING CHANGE COMSTOCK MINING, INC. SILVER CITY, NEVADA

ASCENT ENVIRONMENTAL

JA0513 14 CV 00128 - 000408 LYON COUNTY

PRESENTED BY:

JOHN SINGLAUB
ASCENT ENVIRONMENTAL, INC.

LYON COUNTY PLANNING COMMISSION

DECEMBER 2013

SILVER CITY
TOWN SITE

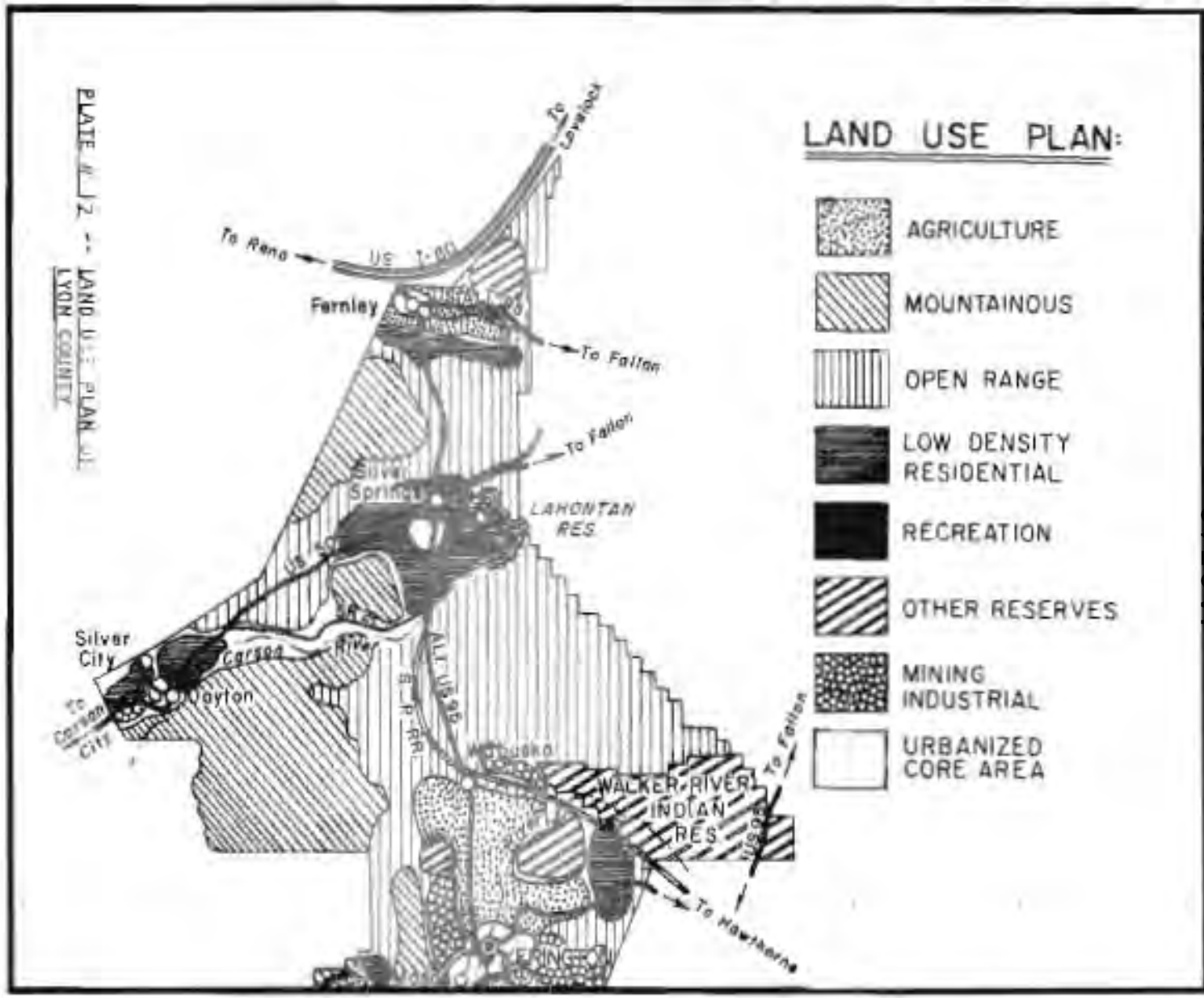
ASCENT ENVIRONMENTAL

History of Planning for Silver City

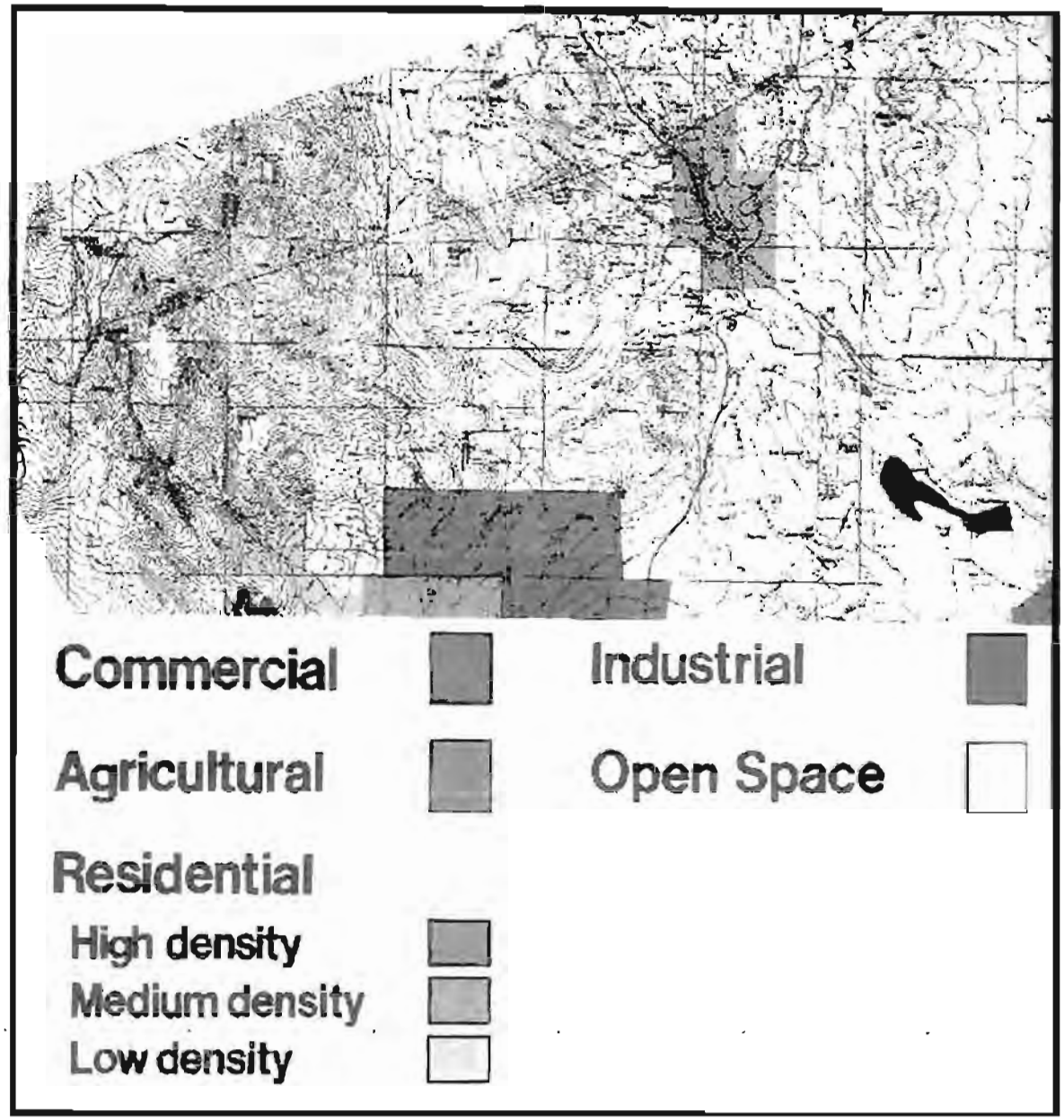
Plan Name	Inside Town Site	Outside Town Site
1971 General Plan	Urbanizing area with light commercial and residential uses	Mountainous areas: Open Space; gentle terrain: Low Density Residential
1990 Master Plan	Medium Density Residential with Commercial core	Open Space
2002 West Central Lyon County Land Use Plan	Medium Density Residential with Commercial Core	Open Space
2010 Comprehensive Master Plan	Suburban Residential with Commercial Core	Resource

14 CV 00128 - 000410
LYON COUNTY
JA0515

1971 Land Use Plan Map (Excerpt)



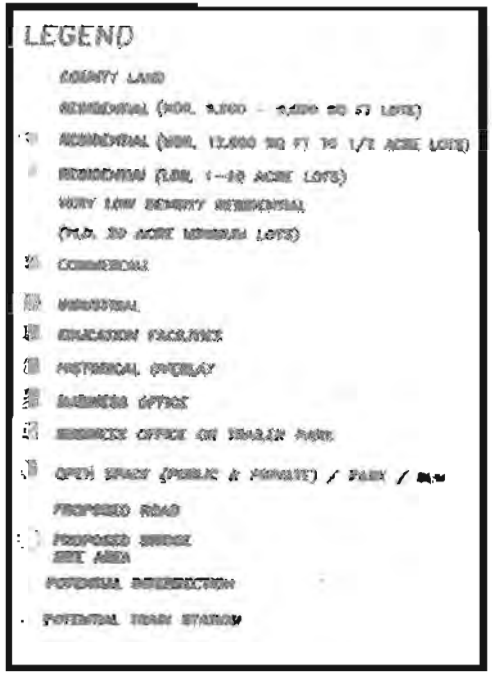
JA05516 14 CV 00128 - 000411 LYON COUNTY

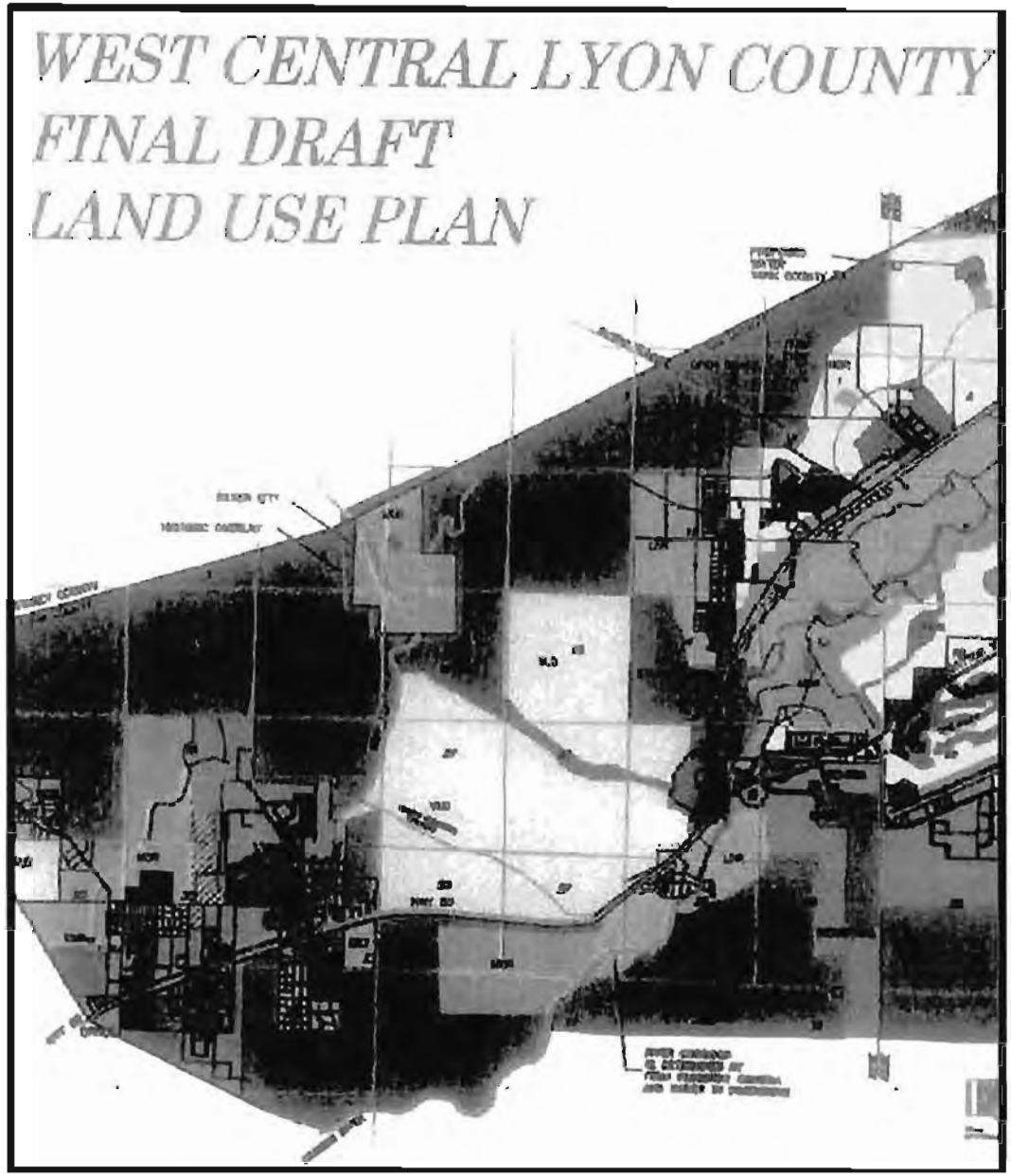


1990 Land Use Plan Map (Excerpt)

14 CV 00128 - 000412
LYON COUNTY
JA0517

2002 Land Use Plan Map (Excerpt)





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LYON COUNTY
JA0518

ASCENT ENVIRONMENTAL

2010 County-Wide Land Use map – Silver City

14 CV 00128 - 000414
LYON COUNTY
JA0519

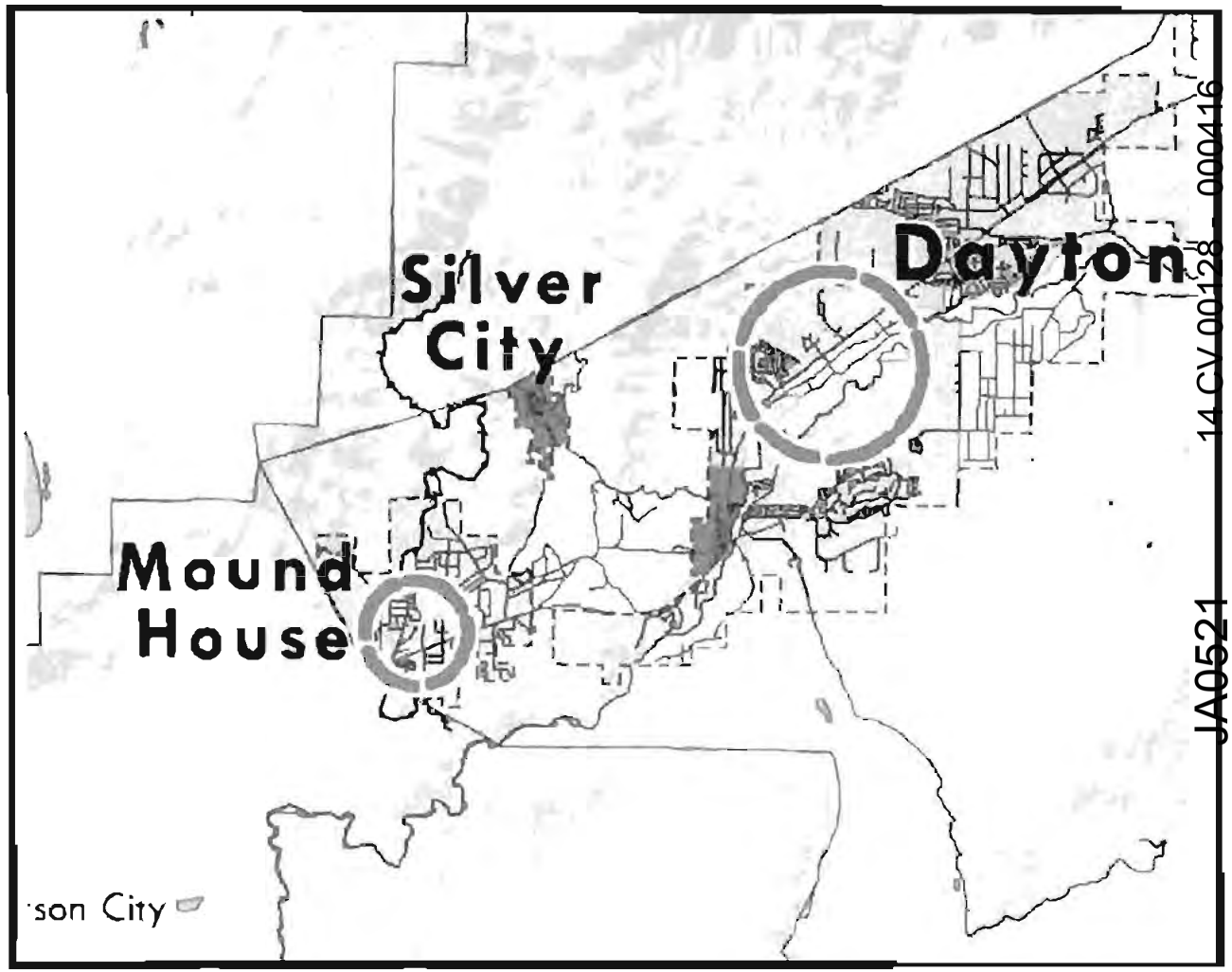
ASCENT

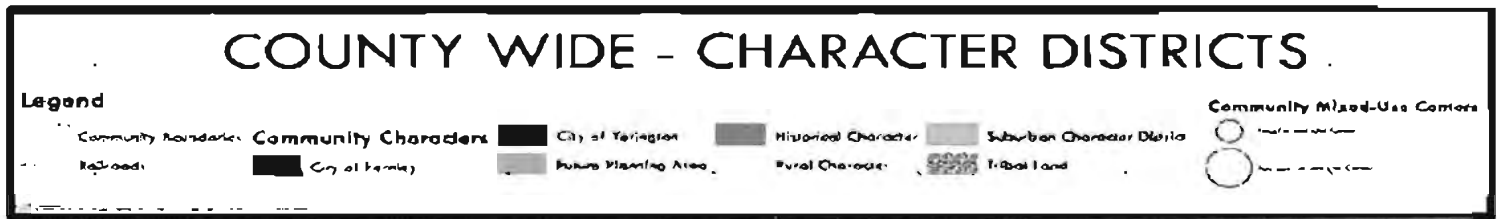
PROVISIONS OF 2010 PLAN FOR SILVER CITY

- One of 8 Communities designated for future Community Plan; all CMI lands within Community Boundary. Celebrate diversity of character among communities in Lyon County.
- Designated as Historic Character District; preserve historic character and context.
- Suburban Residential designation to be fine-tuned in Community Plan.
- Resource designation outside Town Site may include rural residential or open lands.
- Opportunity for "Clustering" of parcels with incentives. Possibility of mixed-use center.

14 CV 00128 - 000415
LYON COUNTY
JA0520

2010 COUNTY-WIDE CHARACTER DISTRICTS MAP (EXCERPT)





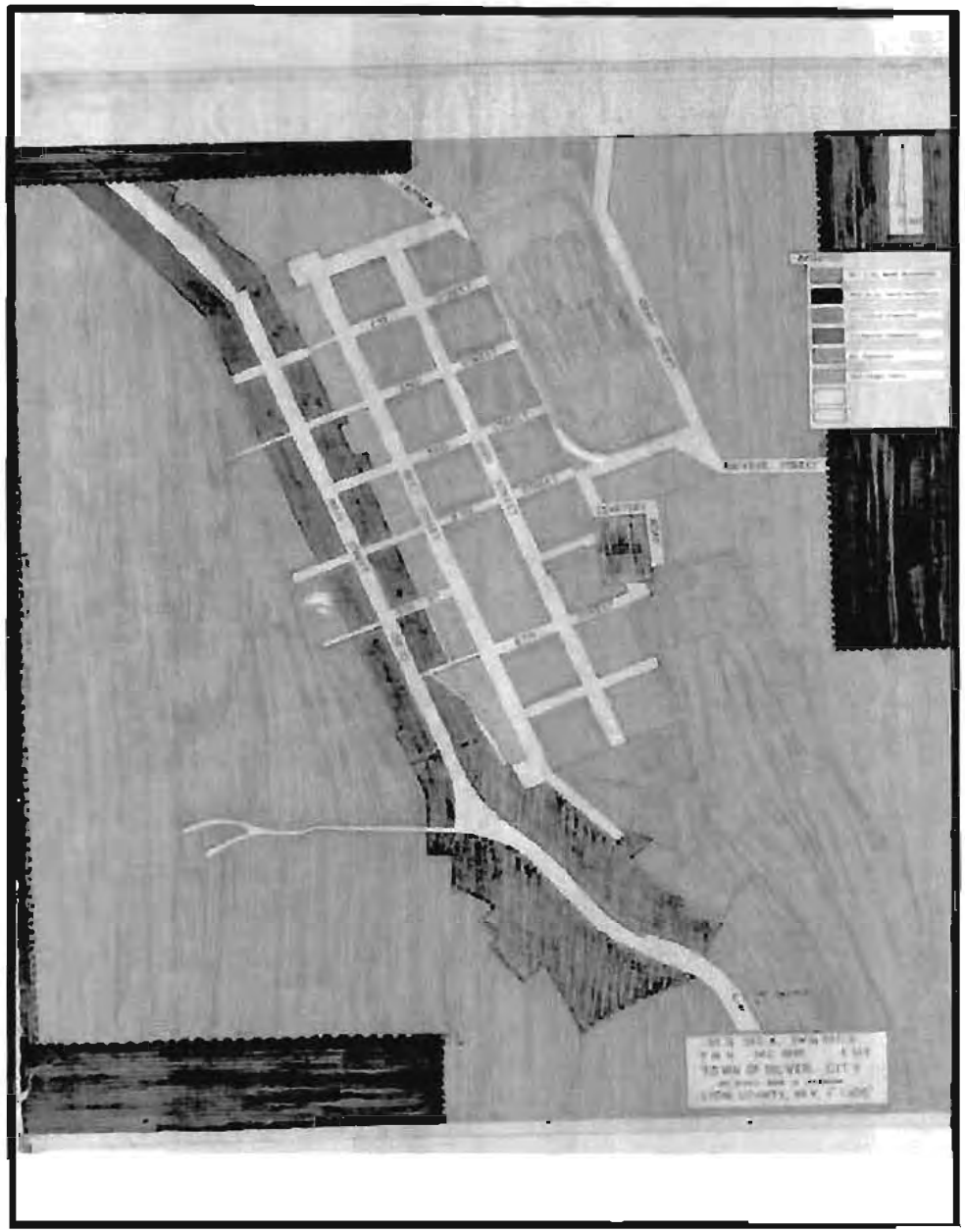
LYON COUNTY
14-CV-00128 - 000416
JA0521

ZONING

- NR-1, Single-family, Non-rural Residential with 6,000 sq. ft. min. lot size within Town Site and on CMI lands that extend outside Town Site. Mining not permitted.
- M-1 General Industrial District on northern edge of CMI lands. Mining by Special Use Permit.
- RR-5 Fifth Rural Residential, 20 acre nominal min. lot size outside Town Site. Mining by Special Use Permit.

14 CV 00128 - 000417
LYON COUNTY
JA0522

1970s Zoning Map of Silver City



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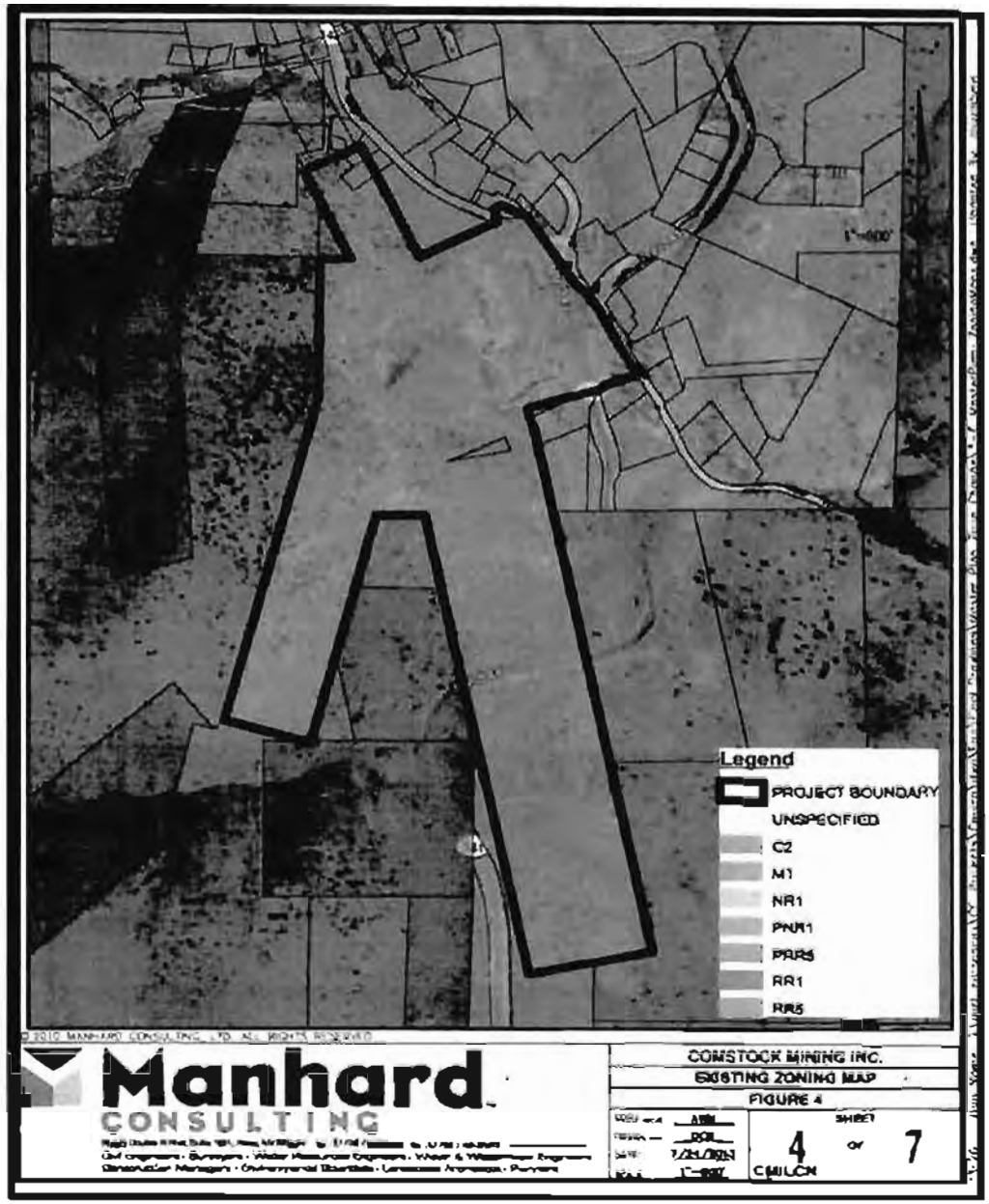
LYON COUNTY
JA0523

ASCENT ENVIRONMENTAL

CURRENT ZONING

(AS COMPILED BY MANHARD CONSULTING FOR COMSTOCK MINING, INC.)



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LYON COUNTY
JA0524

ENVIRONMENTAL CONSIDERATIONS

SHOULD MINING BE PERMITTED

- Carson River Mercury Superfund Site Operable Unit 1: known mercury contamination at former mill sites, including Dayton Con.
- Air Quality: Mining operations can generate dust and truck traffic releasing particulates, nitrous oxide, sulfur dioxide, carbon monoxide.
- Noise: Drilling, blasting, crushing ore, heavy equipment, hauling of ore and waste near residences.
- Water quality: Acid mine drainage, concentration of toxic metals, pollution of surface and groundwater.
- Reclamation: Special considerations in place in Lyon County for Comstock Historic District.

14 CV 00128 - 000420
LYON COUNTY
JA0525

CONCLUSIONS

- Lyon County has consistently planned and zoned for medium density residential uses within Silver City, surrounding a commercial core. Also consistently planned and zoned for resource or open space outside the Town Site.
- Maintaining historic character and context in Comstock Historic District has always been Lyon County priority.
- Lyon County already denied master plan amendment, zoning change and mining special use permit for these same lands in 1986, citing inconsistency with land Use plan and zoning.

14 CV 00128 - 000421
LYON COUNTY
JA0526

THANK YOU

JOHN SINGLAUB
SENIOR ANALYST/PROJECT MANAGER
ASCENT ENVIRONMENTAL, INC.
STATELINE, NEVADA

JOHN.SINGLAUB@ASCENTENVIRONMENTAL.COM

(775) 721-5694

JA00527 14 CV 00128 000422 LYON COUNTY

DVD attached - KP

Video presentation by ROBERT ELSTON

14 CV 00128 - 000423
LYON COUNTY

Video presentation by ROBERT ELSTON

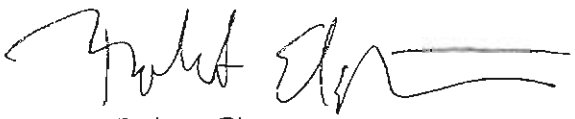
Robert Elston
P.O. Box 500
Silver City, Nevada 89428

December 10, 2013

Chairman Davies, Members of the Planning Commission:

In this video, Silver City residents describe impacts of exploration and mining on their lives and property. In the recent past, they experienced several months of Comstock Mining's exploratory drilling within the southern town limits. They are presently experiencing impacts from operations at the Lucerne Pit to the north just outside of town. These heavy industrial activities, including the planned mining of the Dayton Consolidated by Comstock Mining, are not what Silver City wants in town and are inharmonious with the Lyon County Comprehensive Master Plan, developed with the participation of Silver City residents.

Sincerely yours,



Robert Elston

PowerPoint presentation provided by

COMSTOCK MINING, INC

14 CV 00128 - 000426
LYON COUNTY

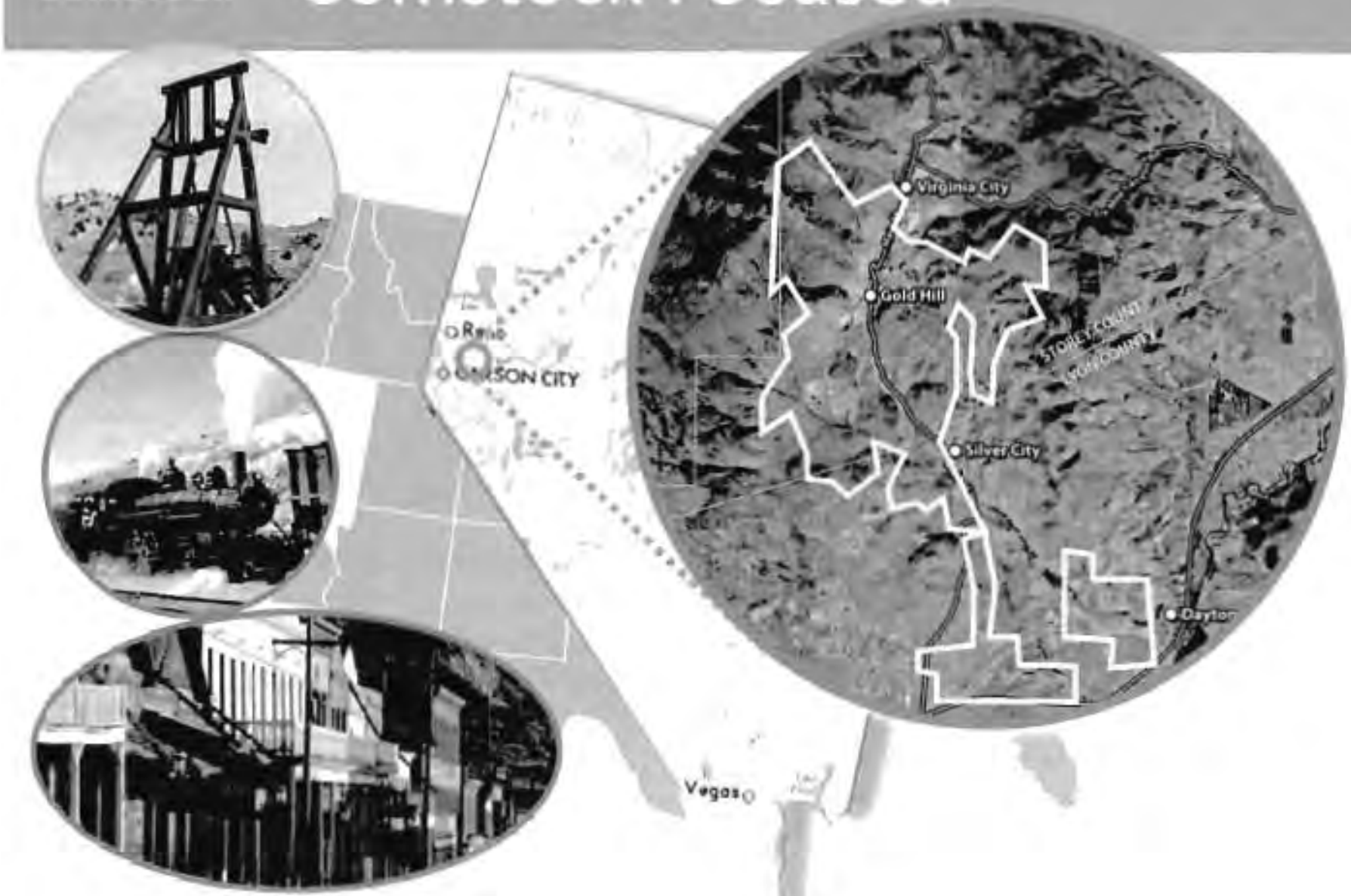
COMSTOCK

CREATING POSSIBILITIES

Lyon County Planning Commission

December 10, 2013

Comstock Focused



COMSTOCK
NYSE: LODE

InterGroup
NASDAQ: INTG

The InterGroup Corporation

The InterGroup Properties

Diverse Land Uses and Responsible Development

COMSTOCK

Continuing InterGroup's Progress

COMSTOCK

Comstock Headquarters

COMSTOCK

Tremendous Cultural Resources

The Gold Hill Hotel

Community Development Planning Could Only Enhance

COMSTOCK "Down Zone" Request

We are requesting a "down zone" at both the Master Plan and Zoning levels Map. These amendments are requested for the purpose of:

a) Providing a more practical and productive current and long term land use and zoning strategy based on topography, ***actual*** development potential (***not presumed***) and proximity to infrastructure; and

b) "Pursuing continued mineral exploration and assessing the economic mining ***potential*** of the subject property;" and

c) Correcting parcels that have split and or erroneous master plan and zoning designations.

Rigorous legal and land diligence of historical, factual public records and has now clarified many previously unclear issues.

COMSTOCK Master Plan Map Amendment

Parcel	Current Master Plan	Proposed Master Plan	Present Land Use
1	Resource	Resource	Vacant
2	Suburban Residential	Rural Residential	Vacant
3	Resource	Rural Residential	Vacant
4	Suburban Residential	Rural Residential	Vacant
5	Suburban Residential	Rural Residential	Vacant
6	Suburban Residential	Rural Residential	Vacant

- A Master Plan Amendment request from Suburban Residential to Rural Residential on 42.57 acres
- A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres

COMSTOCK Zoning Map Amendment

Parcel	Current Zoning	Proposed Zoning	Present Land Use
1	NR1	RR-5	Vacant
2	NR1	RR-3	Vacant
3	NR1	RR-3	Vacant
4	NR1	RR-3	Vacant
5	NR1	RR-3	Vacant
6	NR1	RR-3	Vacant

- A Zoning Map Amendment request from NR1 to RR3 on 54.86 acres.
- A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.

COMSTOCK Most Practical Land Use Possibilities

Staff report incorrectly and unfairly assumes mining as the as the ultimate end use and dismisses the justification that the master plan changes conforms with basic land planning principles of:

a) Location, Topography & Density

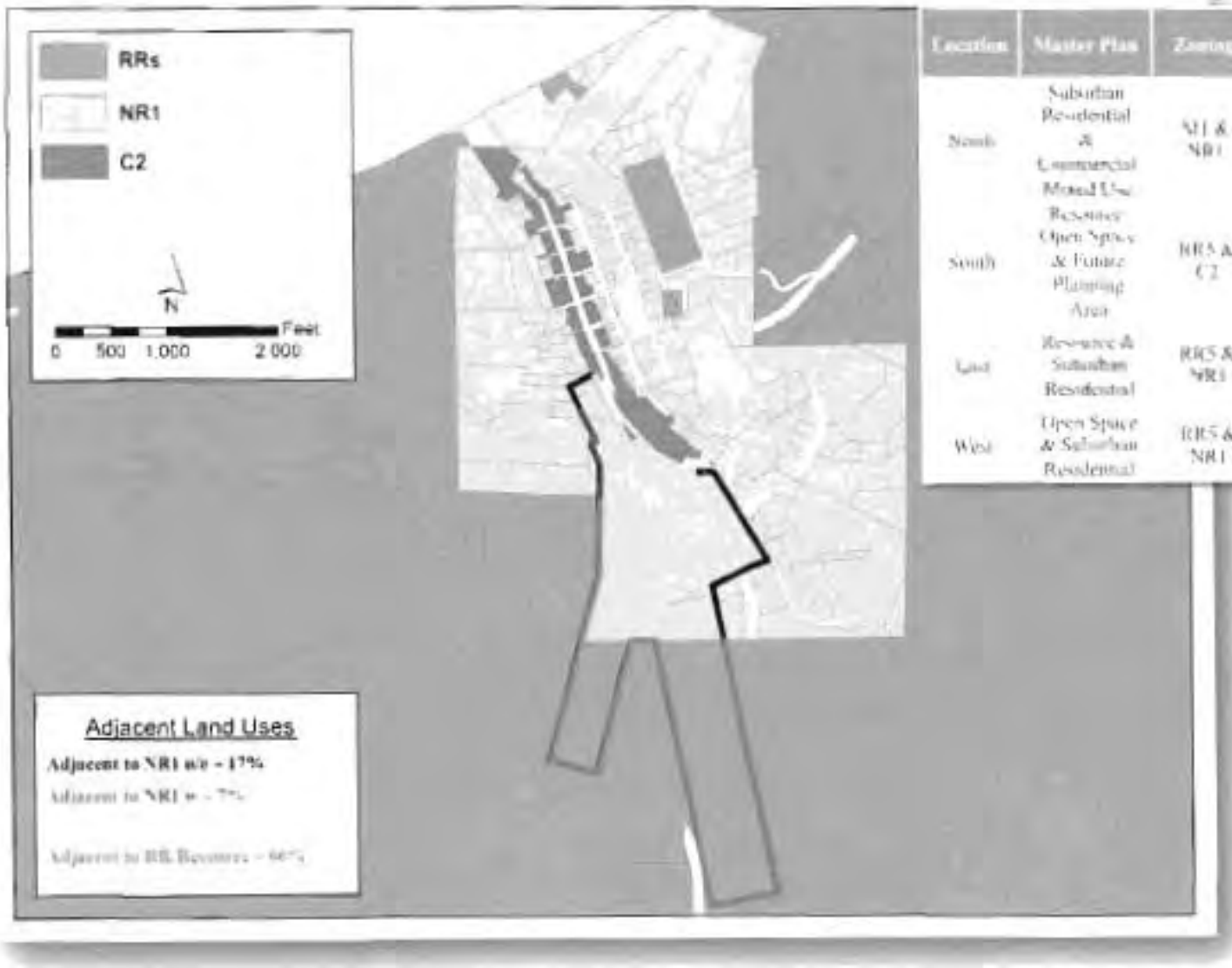
b) Availability of Infrastructure & Services

c) Promoting the Lyon County goals, policies and strategies

Farther, staff states that the County has "relatively little discretion in the matter of conditional and permitted uses." This is misleading since the County does in fact have very broad discretion with regard to conditional uses, which most of the possible land uses would be, and the County has WIDE latitude in imposing very specific conditions on such a permit.

We must emphasize that a Conditional SUP, not this application, will ultimately determine what land uses are appropriate AND what conditions would be necessary depending on the specific opportunity and circumstances surrounding those possible uses!

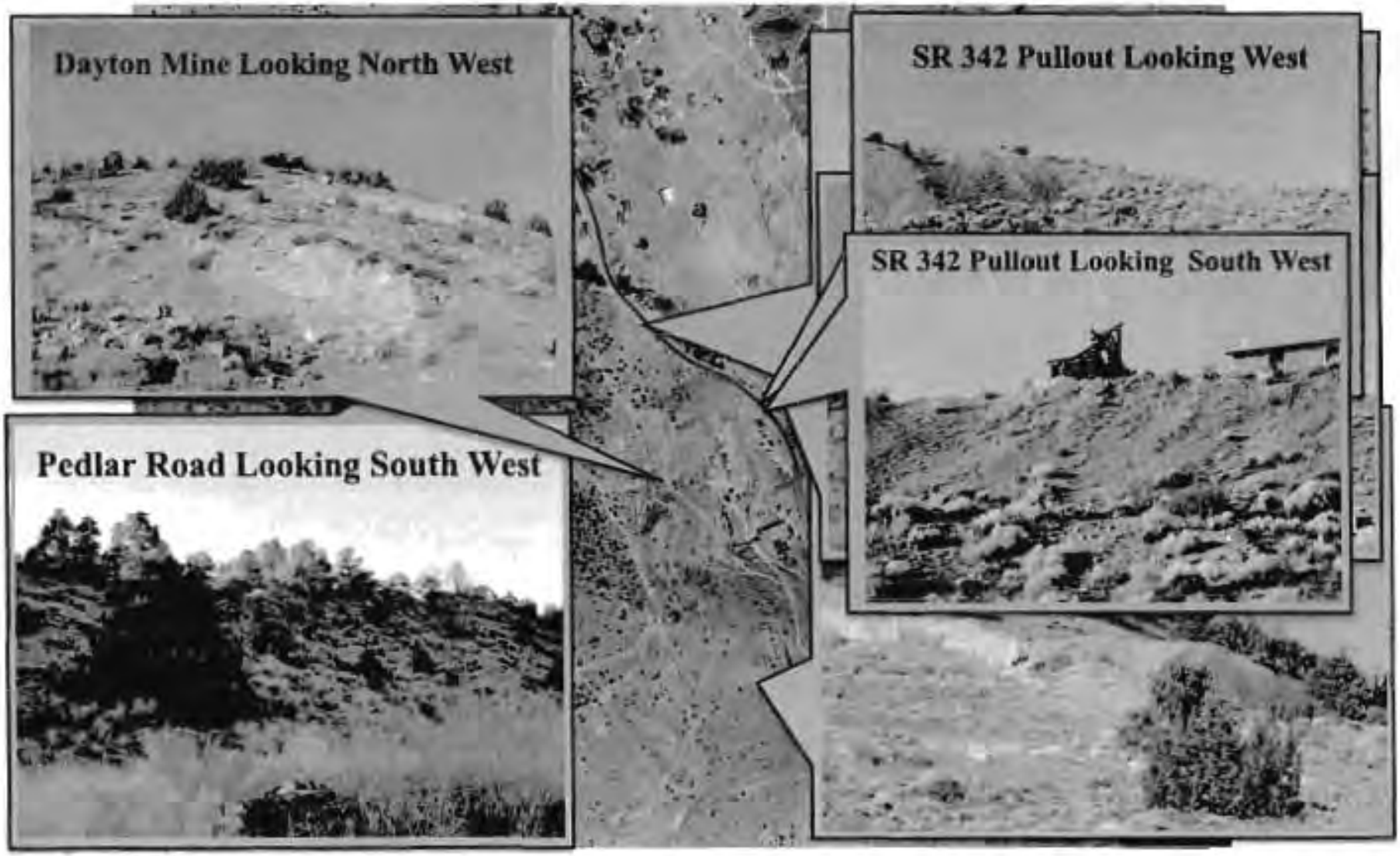
COMSTOCK Adjacent Land Uses



Location	Master Plan	Zoning	Present Land Use
North	Suburban Residential & Commercial Mixed Use Reserve	MU & NR1	Vacant Silver City Town Site
South	Open Space & Future Planning Area	RR5 & C2	Vacant
East	Resource & Suburban Residential	RR5 & NR1	Vacant - Silver City Town Site
West	Open Space & Suburban Residential	RR5 & NR1	Vacant

COMSTOCK

Dayton Consolidated Surface Topography



COMSTOCK Special Use Permits

- Staff Report stated that "County has 'relatively little discretion in the matter of conditional and permitted uses'"

This seems more than misleading! For the Record, we understand:

- That these requests, if approved, *in no way entitle us* to engage in any of the aforementioned land use activities.
- That the County does in fact have **very broad discretion with regard to conditional uses**, that applies to the potential land use activities on this property.
- That if the special use permit process disallows certain types of mining that the proposed amendments (and corrections), if approved, *still provide a more extensive and appropriate long range plan for orderly and practical* of the property.
- That the special use permit process, not these applications, ultimately governs what type of land uses are appropriate for the property.

We are fully committed to a Community Development Planning Process before submitting any Special Use Permits for any land uses.

COMSTOCK

When we remember we are all mad, the mysteries disappear and life stands explained. --Mark Twain

What we have failed to see is that the history of Silver City didn't begin 40 years ago, when a number of new residents moved into a historical mining district and attempted to plan away the area's original use.

Community Planning is critical and should be collaborative and focus on proper growth, sustainability and positive change, and it most be done openly, inclusively and ethically. It should never result in knowingly or unknowingly taking someone's pre-existing rights. Diligence is critical when dealing with such complexities.

COMSTOCK 150 Year Multi-use, Diverse Mining District

Forty-two years of Lyon County planning in a 150 year multi-use, diverse mining district that has continuously reinvented itself:

- Focused on creating a residential and commercial community within the Silver City Town Site.
- Master Plan Process missed (ignored or erroneously excluded) patented mining claims explicitly excluded from the Town Site when planning and drawing the boundaries.
- Further zoned "suburban" residential even beyond the erroneous Town Site boundaries, targeted patented mining claims.
- Parcels that include patented mining claims ***should have never been legally included*** within the Silver City Town Site definition.
- During the 2010 master planning process, someone modified (unauthorized change) the Federal Land Records system, incorrectly and further perpetuating the exclusion of these claims.

COMSTOCK

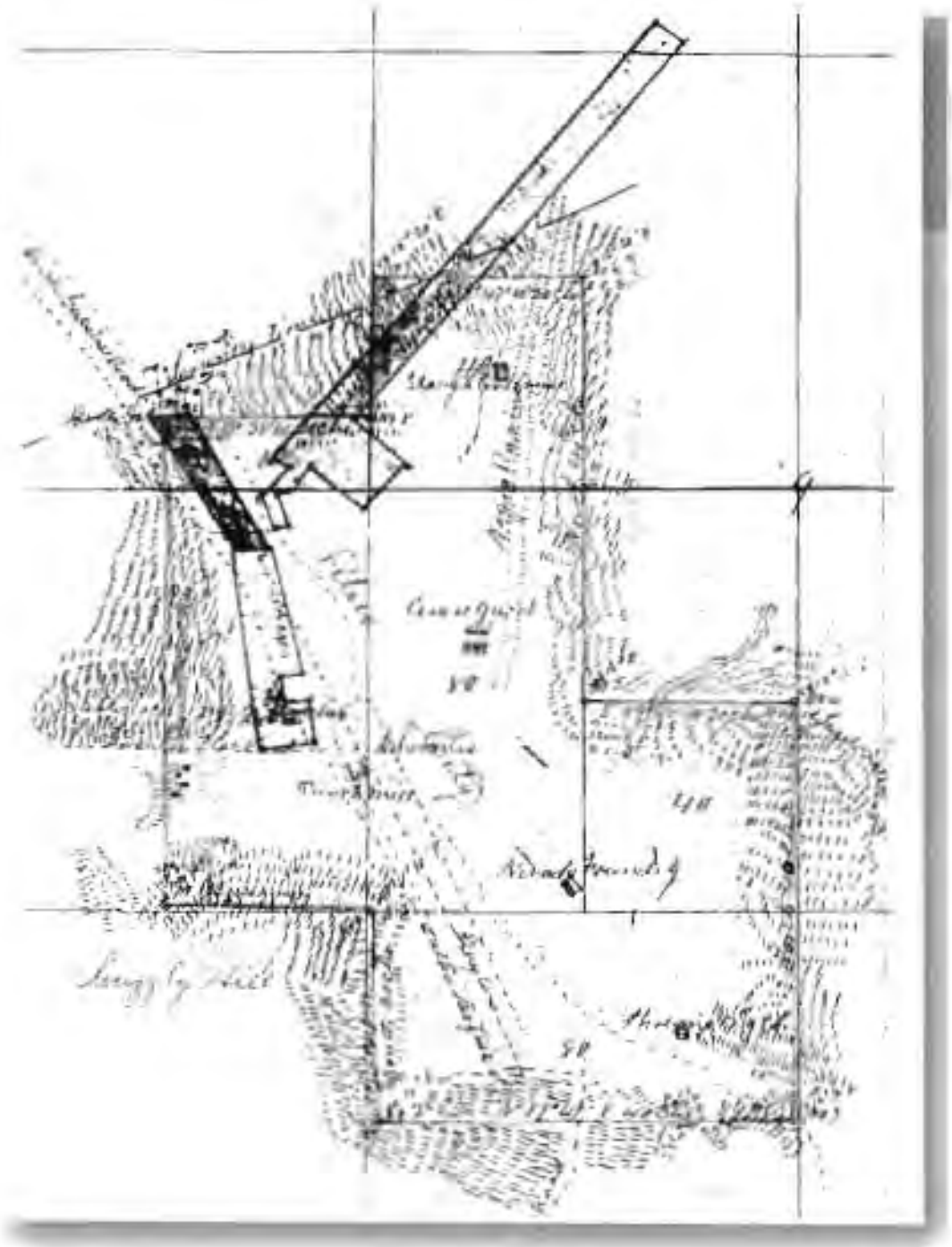
Planning Process Progressively Misrepresent Legal Town Site Boundary

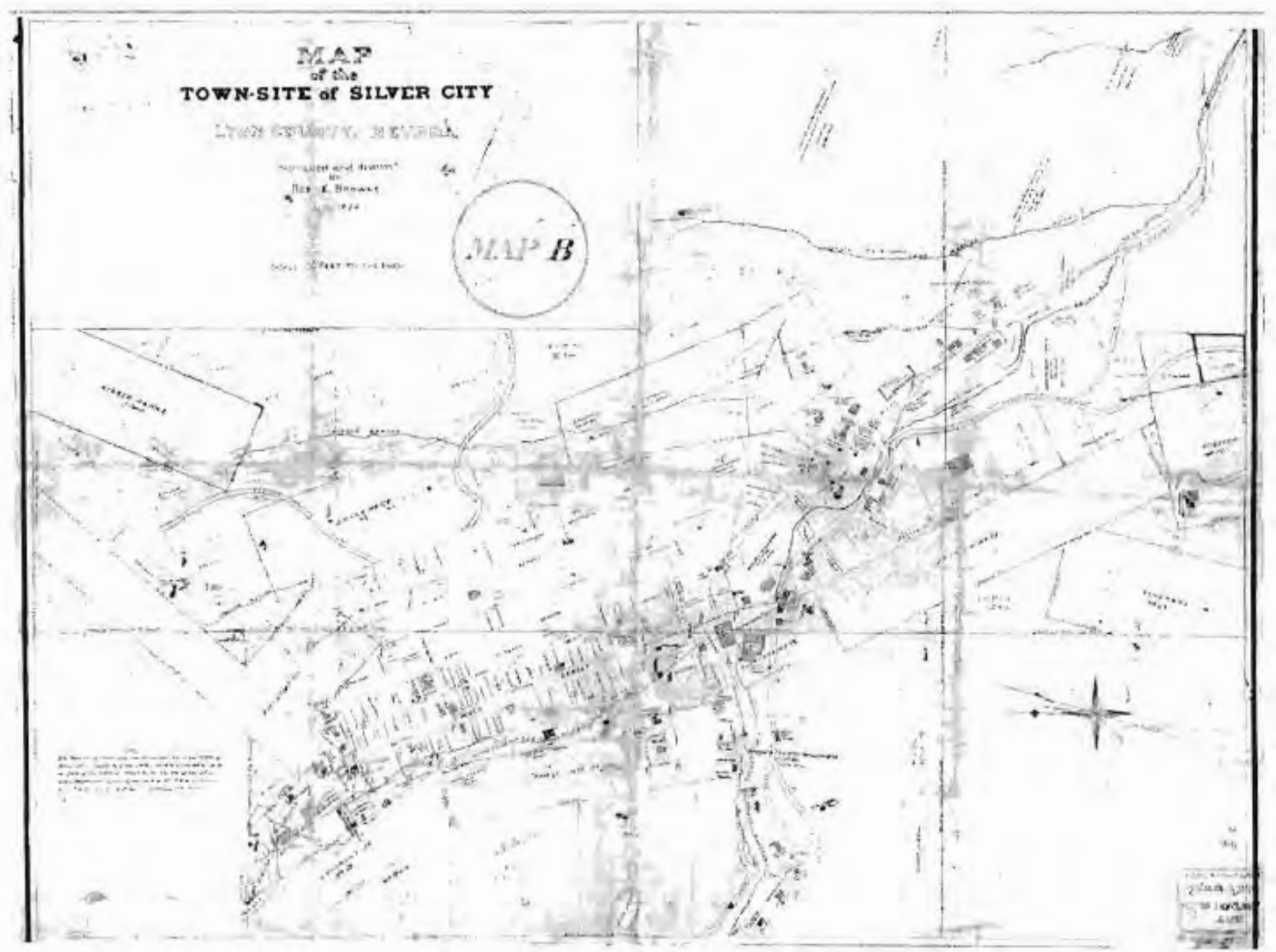
COMSTOCK

Let's Recap from the Beginning...

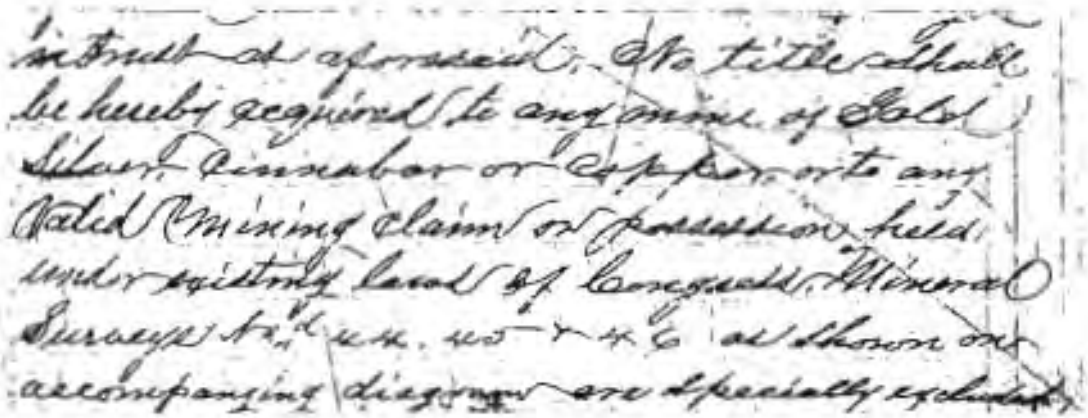
Cert 433 Lyon Co.

December 8, 1873




MAP
of the
TOWN-SITE of SILVER CITY
MAP B

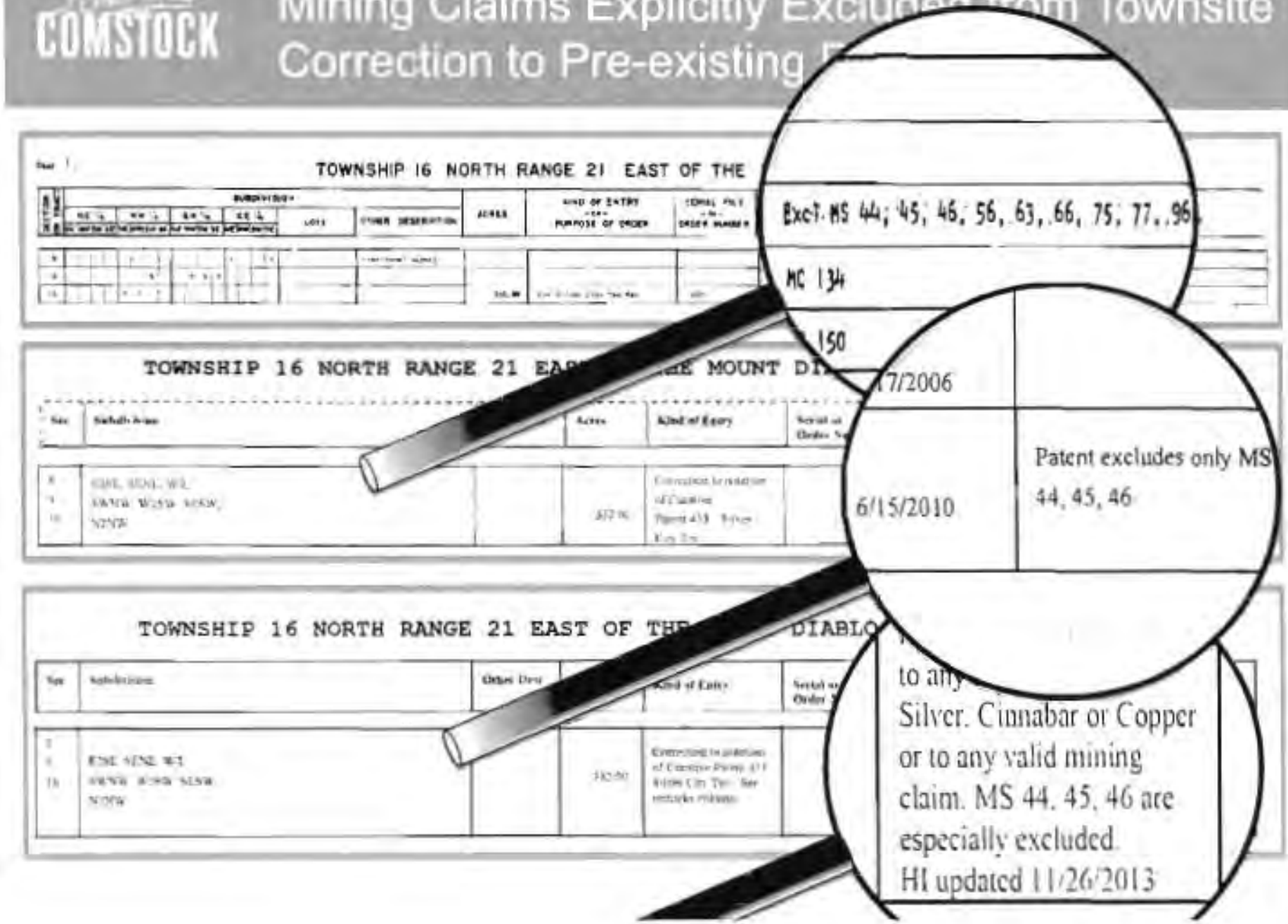
COMSTOCK Patent – Silver City Town Site



Certificate #433
Issued January 12, 1876

"No title shall be hereby acquired to any mine of Gold, Silver, Cinnabar or Copper, or to any valid mining claim or possession held under existing laws of Congress. Mineral Surveys No. 44, 45 & 46 as shown on accompanying diagram are especially excluded."

Mining Claims Explicitly Excluded from Townsite Correction to Pre-existing



COMSTOCK Patent – Golden Eagle Lode Mining Claim

Expressly excepting and excluding from these presents all that portion of the ground herein before described embraced in said southeast quarter of the southeast quarter of said section eight, Silver City Townsite, and also all that portion of said Golden Eagle vein or lode, and of all veins, lodes and ledges, throughout their entire depth the tops or apexes of which lie inside of such excluded ground; said lot No 157 extending one thousand feet in length along said Golden Eagle vein or lode; the granted premises in said lot containing nine acres and sixteen hundredths of an acre of land more or less

Mineral Certificate #443
Issued November 16, 1892

THE UNITED STATES OF AMERICA

"Expressly excepting and excluding from these presents all that portion of ground, herein before described, embraced in said southeast quarter of the southeast quarter of said section eight, Silver City Townsite, and also all that portion of said Golden Eagle vein or lode, and of all veins, lodes and ledges, throughout their entire depth the tops or apexes of which lie inside of such excluded ground; said lot No. 157 extending one thousand feet in length along said Golden Eagle vein or lode; the granted premises in said lot containing nine acres and sixteen hundredths of an acre of land, more or less."

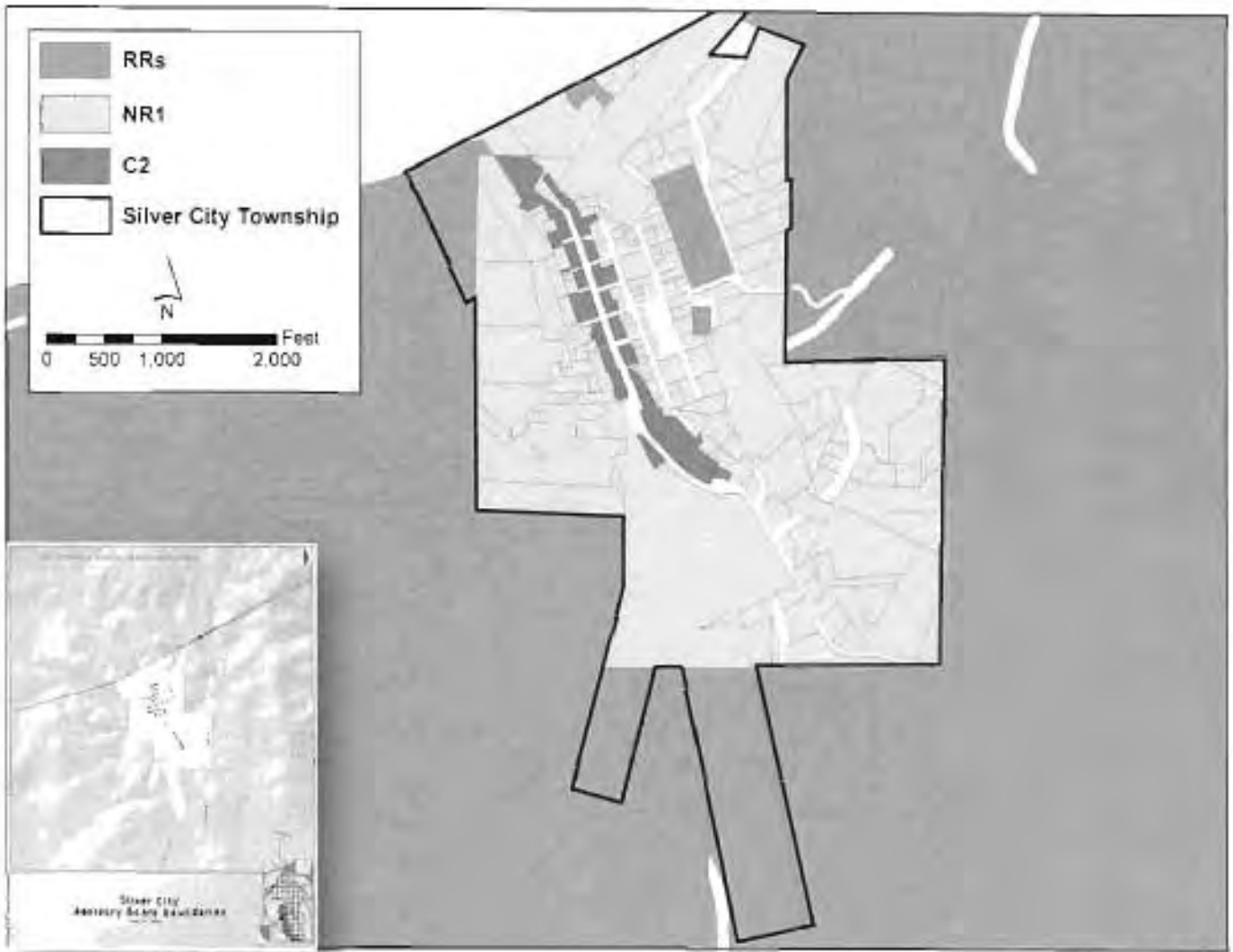
COMSTOCK Patent - Comstock Silver Leaf Lode Mining Claim

Mineral Certificate #355
Issued August 17, 1905

THE UNITED STATES OF AMERICA.

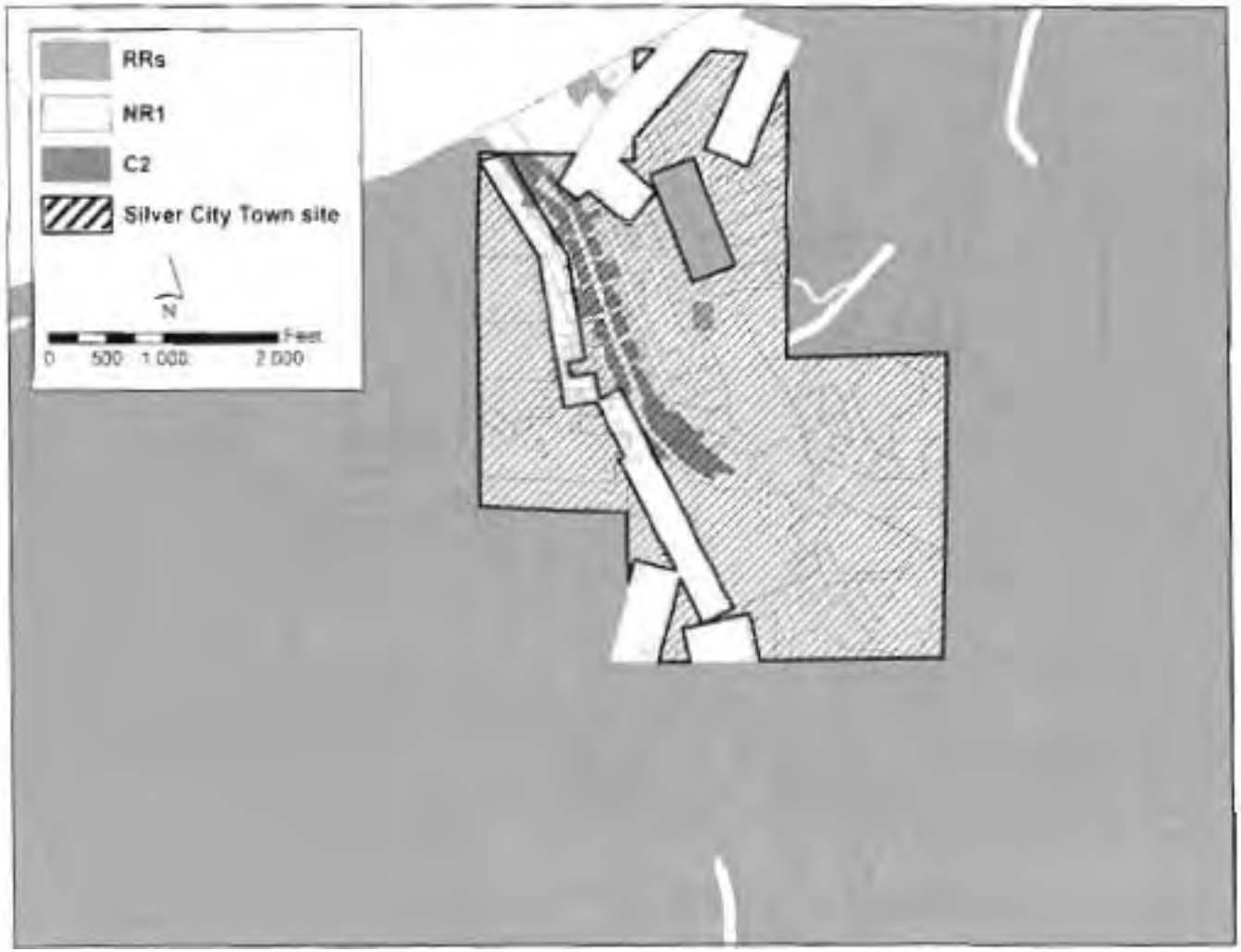
"Expressly excepting and excluding from these presents all that portion of the ground, herein before described, embraced in said Silver City Townsite, and also all that portion of said Comstock Silver Leaf vein or lode, and of all veins, lodes and ledges throughout their entire depth, the tops or apexes of which lie inside of such excluded ground: said lot No. 122 extending one thousand feet in length along said Comstock Silver Leaf vein or lode; the granted premises in said lot containing eight acres and eight hundred and thirty one hundredths of an acre of land, more or less."

COMSTOCK Inaccurate Town Site Boundary

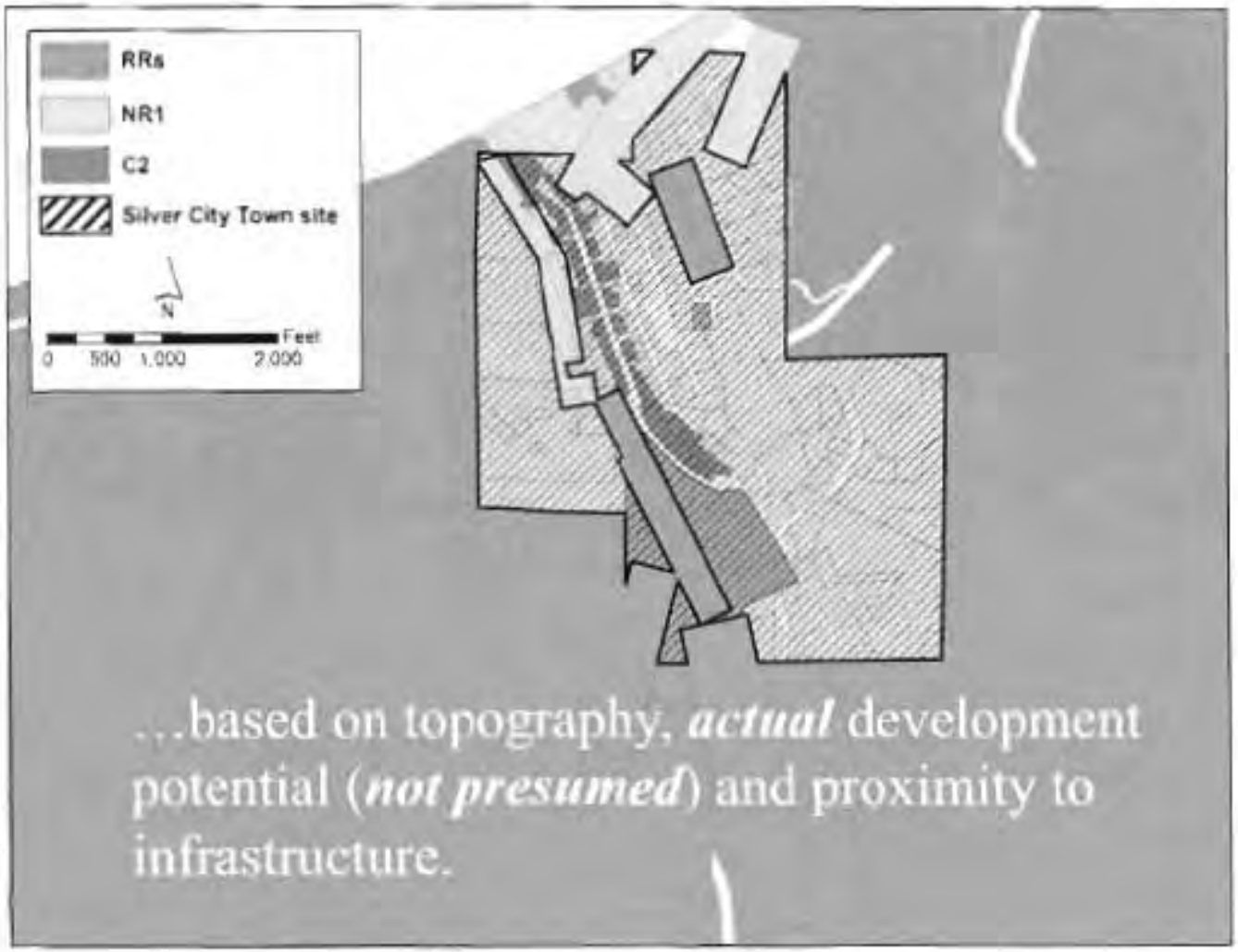


COMSTOCK

Actual Silver City Legal Town Site Boundary



COMSTOCK Optimizes Practical and Productive Land Uses...



...based on topography, ***actual*** development potential (***not presumed***) and proximity to infrastructure.

The Comstock Character

Historic Designation should support, not cloud, the planning process.

Management of the Historic District should include:

- Undertakings on structures and archeology
- Long-term effects of an undertaking on landscape

COMSTOCK The Comstock Character

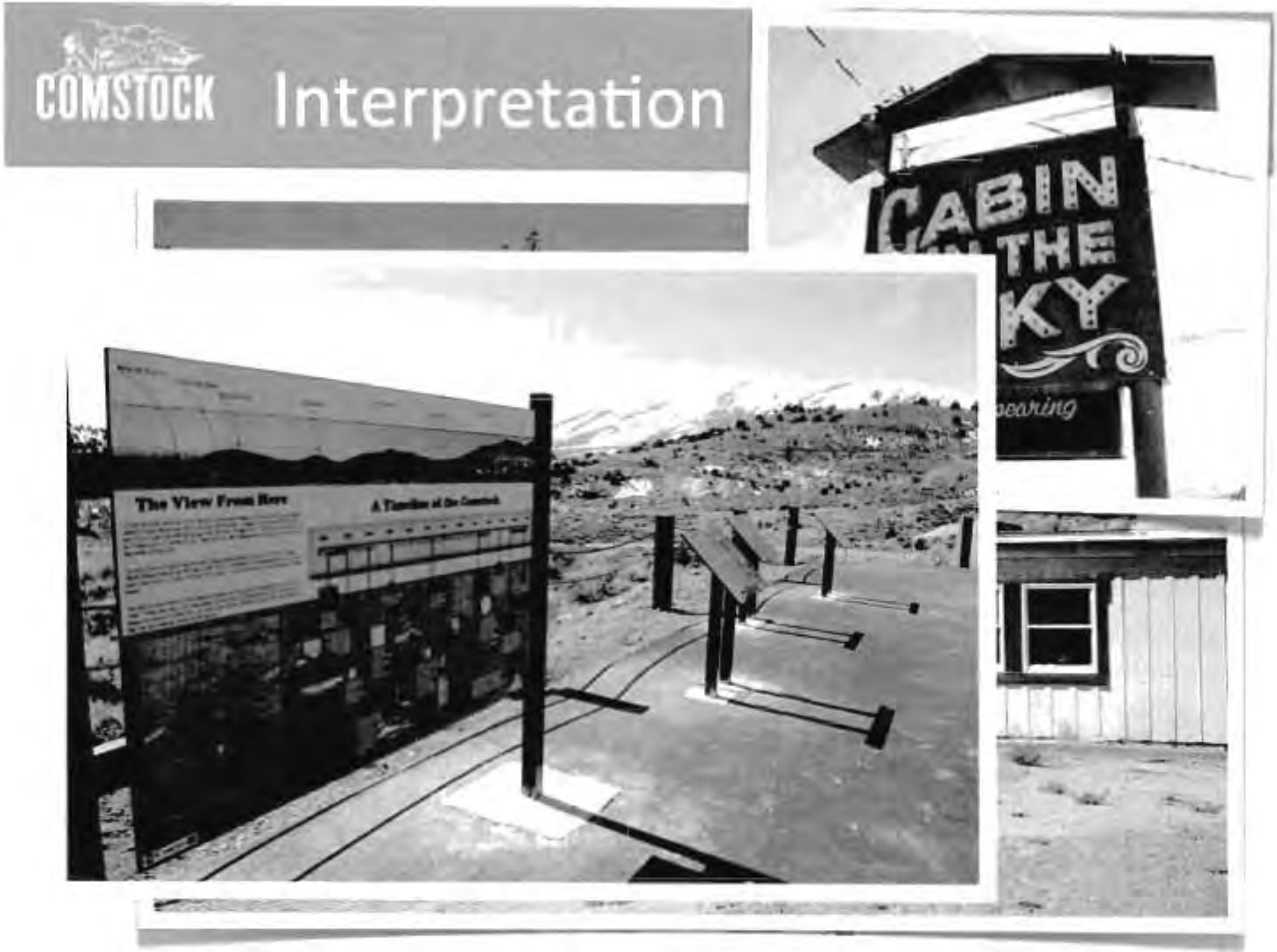
Comstock Foundation for History & Culture supports:

- Long-range plans to address the preservation for historic structures;
- Fully document or mitigate archeological or surface resources affected by any undertakings;
- Long-term planning for the reclamation of the landscape; and
- Development of a sustainable healthy economy.

Issues of Historic Resources stand apart from the other important aspects of a community's character.

COMSTOCK

Preservation


COMSTOCK
Interpretation
CABIN
THE
KY
The View From Here

COMSTOCK

Tragic Losses of Cultural Resources

COMSTOCK

Tragic Losses of Cultural Resources

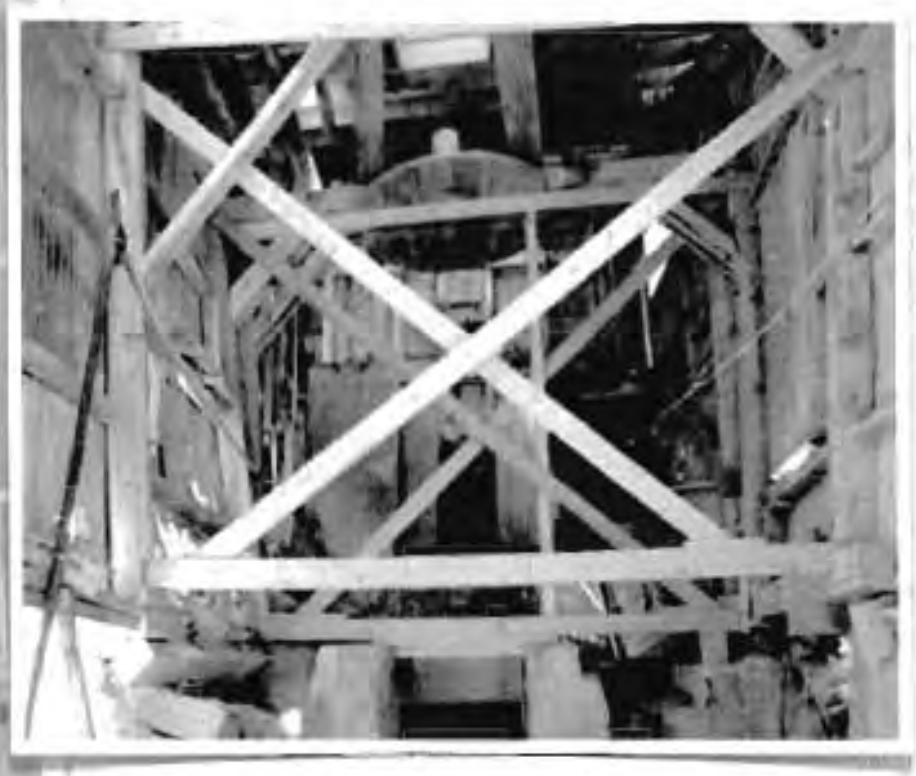
COMSTOCK

Arrested Decay

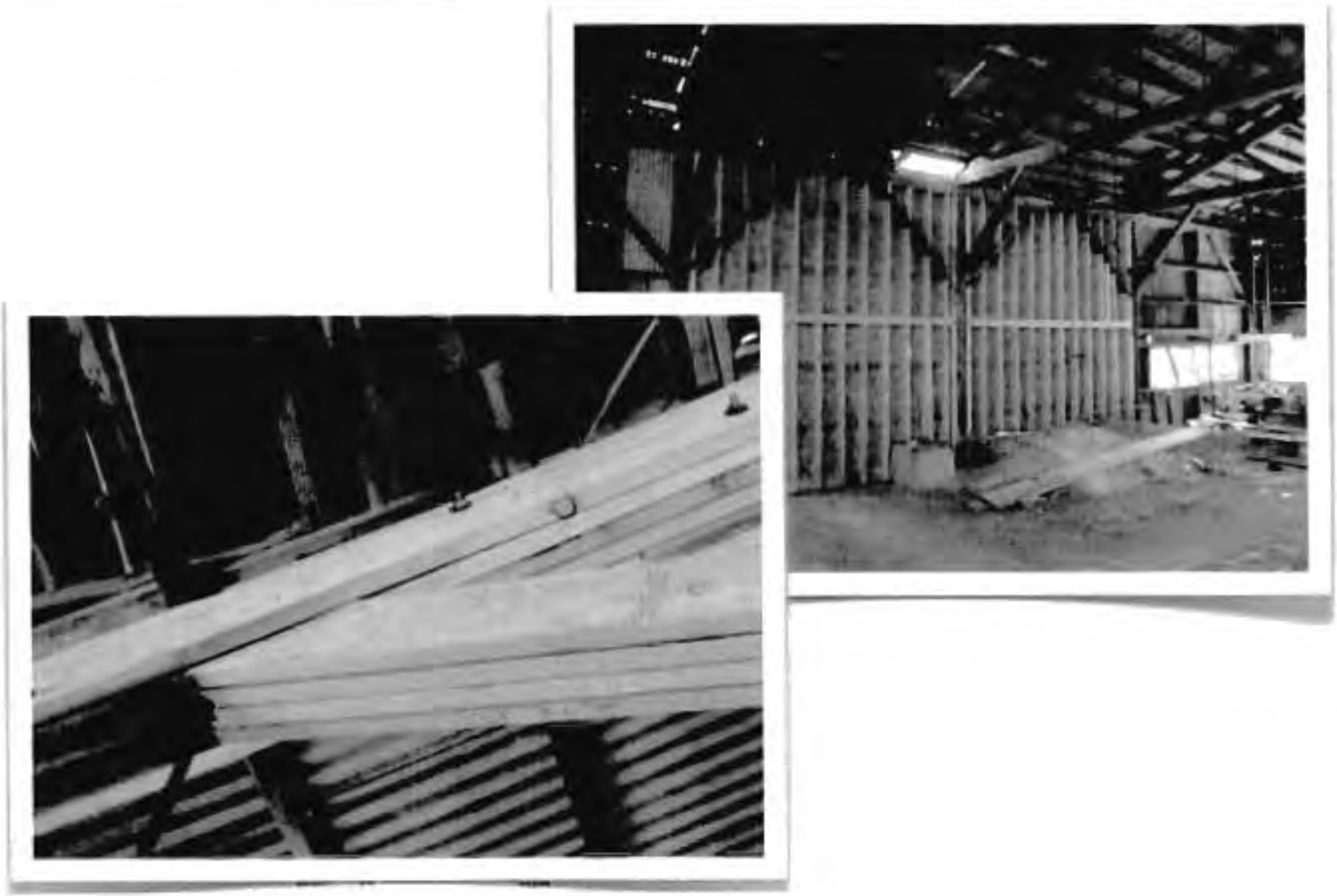
Accelerated Decay

COMSTOCK

From Decay to Preservation



COMSTOCK Preservation

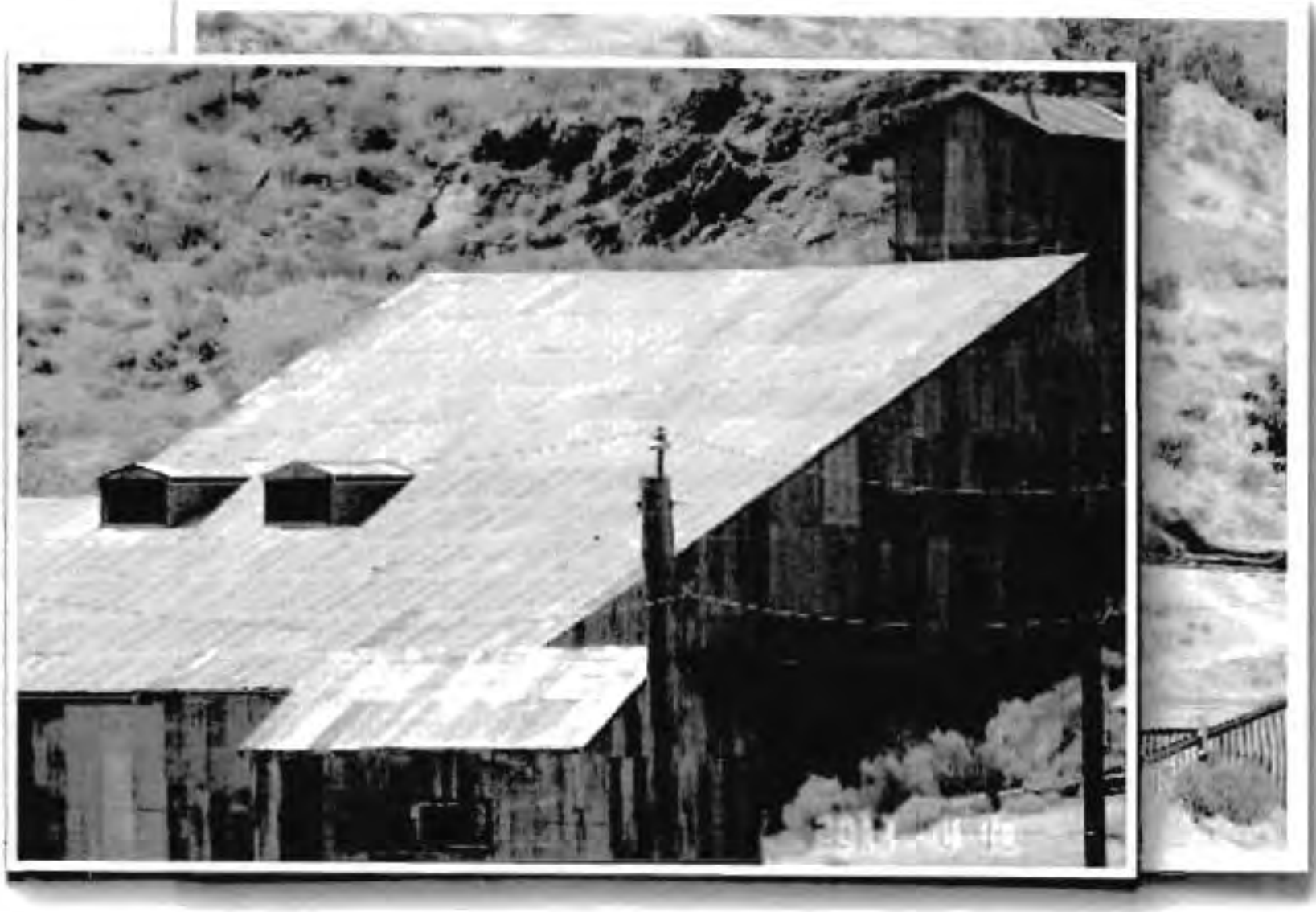


COMSTOCK

Preservation

COMSTOCK

Preservation



COMSTOCK Preservation

COMSTOCK Advanced Restoration

COMSTOCK

Donovan Mill Remains At Risk

COMSTOCK

Comstock Historic Mining District

COMSTOCK Master Plan Map Amendment Findings

- Proposed Amendment Supports History, Law and County Goals and corrects a fundamental, persistent error in the map:
  - The existing MP map does not conform with legal precedent, needs correcting;
  - The amendment (and correction) is compatible with surrounding adjacent areas, consistent with historical designations;
  - The amendment (and correction) is compatible with the goals and policies of the Comprehensive Master Plan (that we fully support);
  - The amendment (and correction) has no major impact or negative impacts on transportation, services and facilities;
  - Strict adherence to the existing map perpetuates an unintended, undesired and erroneous result not in keeping with the spirit and the letter of the Plan; and
  - The amendment and correction of the Master Plan map positions the community for real, transparent, collaborative and inclusive Community development planning, for the best, long term growth and sustainability.

We must re-emphasize that a Conditional SUP, not this application, ultimately determines appropriate land uses of this property.

COMSTOCK Zoning Plan Map Amendment Findings

- Proposed Amendment Supports History, Law and County Goals and corrects a fundamental, persistent error in the map:
  - Consistency with amended Master Plan Land Use Map;
  - Consistency with master plan goals, strategies and policies;
  - Consistency with desired pattern for orderly physical growth;
  - Contributes to the timey, orderly and efficient public services;
  - Promotes development that is commensurate with the character and physical limitations of the land (and historical legal designations);
  - Promotes the protection and enhancement of existing neighborhoods or communities;
  - No detrimental impacts to other properties in the vicinity; and
  - No adverse impacts to public safety, health and welfare.

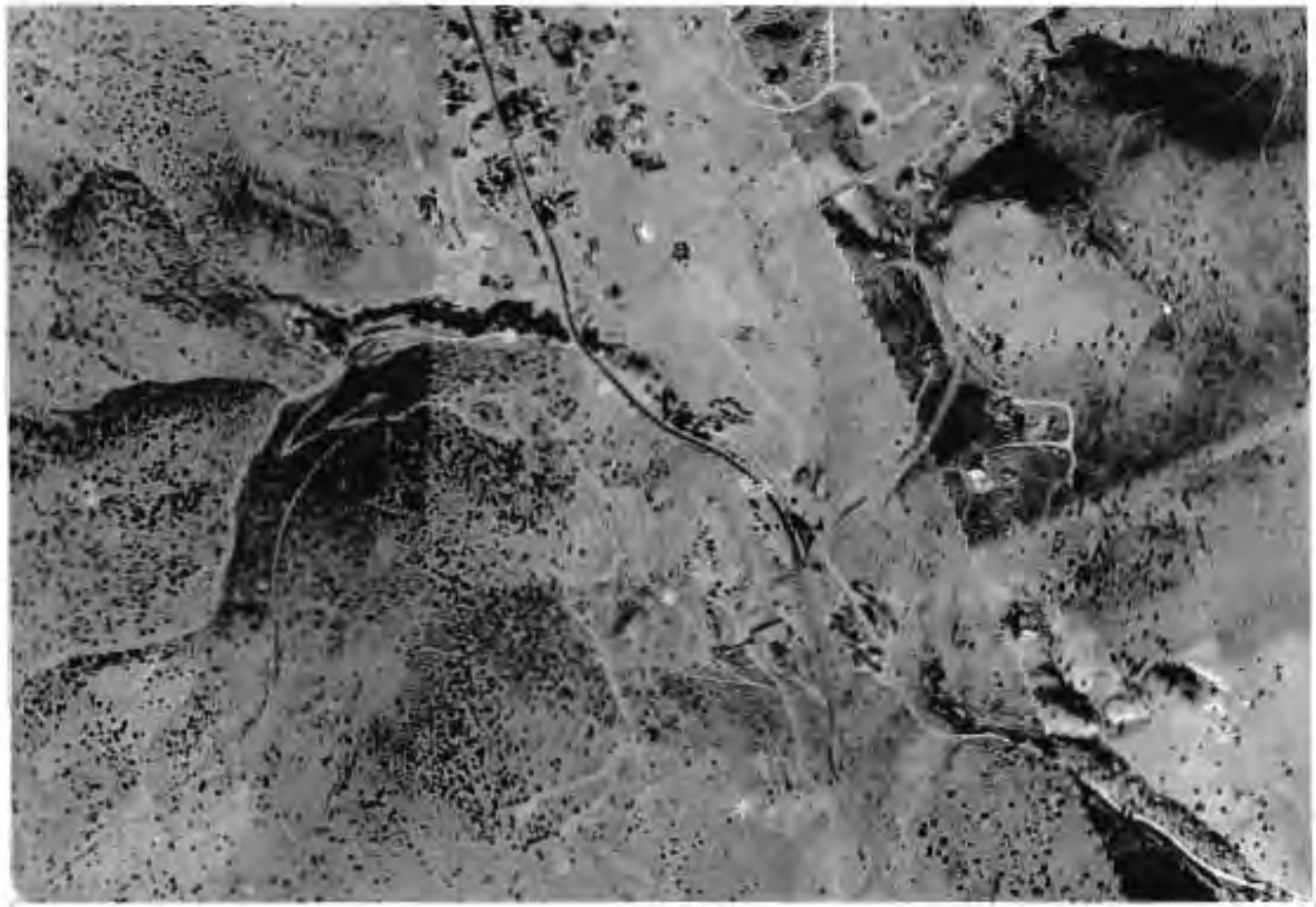
We must re-emphasize that a Conditional SUP, not this application, ultimately determines appropriate land uses of this property.

COMSTOCK Conclusion

- Request MPA, as applied for, correcting important property right boundaries, consistent with historical and most practical uses as well as published Master Plan Goals and Strategies
- Request conforming Zone changes, as applied for, with MPA.
- Emphasize that we cannot incorrectly or unfairly assume nature, timing, extent or even certainty of the ultimate end use.

The County does in fact have **very broad discretion with regard to conditional uses,** that applies to the potential land use activities on this property.

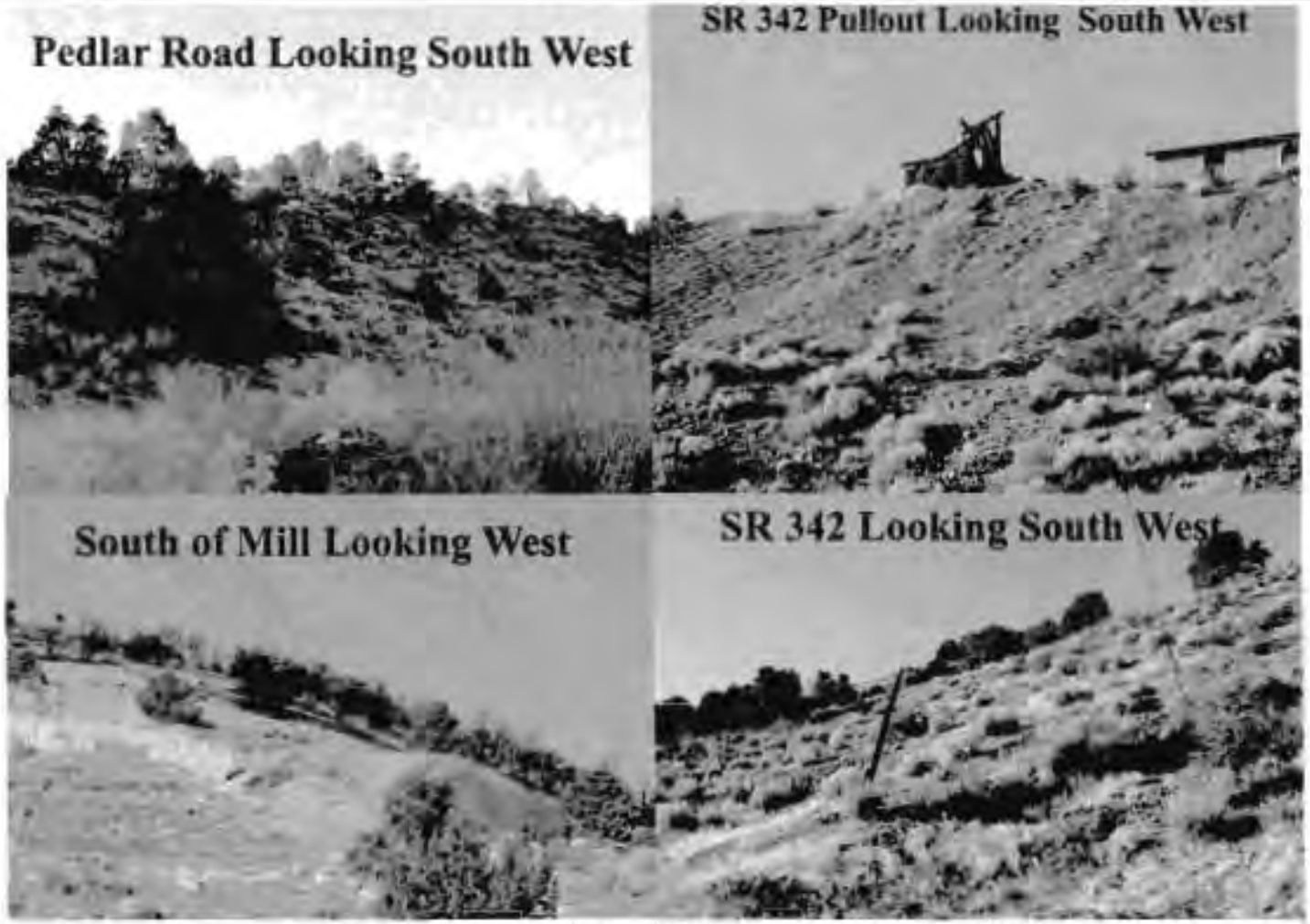
COMSTOCK Dayton Consolidated Surface Topography



Dayton Consolidated Surface Topography
Wasn't, Isn't and Never Will Support Dense Residential Development

COMSTOCK

Appendix



Dayton Consolidated Surface Topography
Wasn't, Isn't and Never Will Support Dense Residential Development

COMSTOCK Appendix: Master Plan Map Findings

The existing Comprehensive Master Plan and zoning districts allowed in it lead to the proposed amendments:

- The entire subject property has been identified as Rural Residential for many years, and has been the subject of several master plan amendments and zone changes. Surrounding land development has been primarily Suburban Residential and Rural Residential. The proposed Rural Residential master plan designation is consistent with the existing master plan designations and zoning districts in the area.

The proposed amendments are consistent with the remaining elements of the Comprehensive Master Plan:

- The proposed amendments to change the master plan designation to Rural Residential and zone change to RR-5 are consistent with the goals and policies of the Comprehensive Master Plan.

Goal LU1: Orderly Growth Patterns

- [illegible]

Goal LU2: Services Coordinated with Growth

- [illegible]

Policy LU 2.1 Residential Development to Occur with Services

- [illegible]

Goal LU3: Diverse Economy

- [illegible]

Policy LU 3.1 Diverse Economic Base

- [illegible]

Goal NR9: Mining and Resource Extraction

- Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflicts between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems expanded only where they are cost effective.

Policy FS 1.1: Location of New Development

- [illegible]
  - *Consistency with the desired pattern for the orderly physical growth of the County and maintains compact development patterns.*
  - *The proposed request to change the master plan designation from Suburban Residential to Rural Residential will actually have a positive effect on the service provision by providing realistic current and long range land use strategy based on actual development potential, considering factors like topography and proximity to adequate infrastructure.*
  - *Promotes the protection and enhancement of existing neighborhoods and communities.*
- [illegible]
  - *No detrimental impacts to other properties in the vicinity.*
- [illegible]
  - *The application proposes a specific enhancement in nature and type of development potentials of the property while continuing to meet/exceed the goals, objectives and actions of the current master plan and will have no foreseeable impact on public health, safety or welfare.*

COMSTOCK Appendix: Master Plan Map Findings

- The proposed amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of public funds for public services.
  - *The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision.*
- The proposed request to change the master plan designation from Suburban Residential to Rural Residential will actually have a positive effect on service provision by providing a realistic current and long range land use strategy based on actual development potential considering factors like topography and proximity to adequate infrastructure.
  - *Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and*
- The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a planned based zoning strategy or is based on any current population projections. The reduction in development potential is consistent with potential for actual development rates and infrastructure availability.
  - *The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.*
- The amendment proposes a significant reduction in density and type of development potential that currently exists and is consistent with many of the goals, objectives and policies of the Comprehensive Master Plan as well as being consistent with public health, safety and welfare.

Appendix: Zoning Map Amendment Findings

- Consistency with the Master Plan Land Use Map
  - The proposed zoning map amendment is consistent with the proposed master plan amendment request. As a reminder this zoning map amendment request, if approved, will reduce the overall allowable density of the property and limit the allowable uses permitted by right. These uses include:
  - Single family dwellings of a permanent nature and accessory buildings and uses thereto
  - Barns and animals' buildings, coops, pens or other structures used for the housing of animals
  - Farms for the raising or growing and marketing on a commercial scale
  - Home occupations as defined in Title 10
  - Hunting and fishing lodges, wildlife refuges, and game farms
- Consistency with the Master Plan goals, policies and objectives
  - The proposed zoning map amendment is in consistent with and promotes the following master plan goals, objectives and actions.

Goal LU1: Orderly Growth Patterns

- Direct and manage development in the county in a manner that is orderly and fiscally responsible
- Strategies: Establish a demonstrated zoning strategy based on population projections, environmental parameters and development land suitability analysis, and the need for services

Goal LU2: Services Coordinated with Growth

- Future residential development will be coordinated with the development of schools, parks, fire, sheriff and other public services

Policy LU 2.1 Residential Development in Areas with Services

- Direct and schedule development to occur in Subdivisions, Planned Unit Developments and Commercial Subdivisions that are contiguous to existing developed areas and that can be efficiently served with water and sewer facilities
- Strategies: Ensure that plans are in place for required services to be provided concurrently with the proposed development

Goal NR9: Mining and Resource Extraction

- Lyon County will promote the continued development of mineral and aggregate resources while working to minimize conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems expanded only where they are cost effective.

Policy FS 1.1: Location of New Development

- [illegible]
- *Consistent with the desired pattern for the orderly physical growth of the County and maximizes compact development patterns*
- [illegible]
- *Contributes to the timely orderly and efficient arrangement of transportation and other public facilities and services*
- [illegible]
- *Promotes development that is commensurate with the character and physical limitations of the land*
- [illegible]
- *Promotes the general intent and character of existing neighborhoods and communities*
- [illegible]
- *No detrimental impacts to other properties in the vicinity*
- [illegible]
- *No adverse impacts to the public health safety and welfare*
- [illegible]

COMSTOCK

CREATING POSSIBILITIES

Lyon County Planning Commission

December 10, 2013

LETTERS RECEIVED

SINCE

12/11/2013

PLANNING COMMISSION

MEETING

December 20, 2013

Lyon County Board of Commissioners
27 S. Main Street
Yerington, NV 89447
Re: MASTER PLAN AMENDMENT & ZONING CHANGE - Comstock Mining, Inc.

(I request that this letter be read into the record of the application hearing as a public comment)

Dear Commissioners,

I was born in Carson City, Nevada and grew up in Virginia City, I now live in Silver City. I manage a small family business also located in Silver City. Throughout my youth I watched as thousands of visitors came annually through the corridor that runs through Silver City to Virginia City. Because of this we decided to expand our business and began developing plans to build a small storefront on the Comstock Highway (State Route 341). This is when we found out about the Lyon County Master Plan. We decided to get involved and the town's residents rallied together and began working with the planning department to create a mixed use, residential/commercial designation for the properties bordering HWY 341. It was because of this that we installed underground power hook-ups and began to look at building codes, permits and weighing costs of materials for the project. Not long after Comstock Mining showed up at a town hall meeting and presented their plans for Silver City. CMI showed us their plans for mining exploration and the creation of mines north of town and at the southern end of Silver City. The blood ran out of our faces...

The hard work that the town's people had achieved while working with the Lyon County Planners was now in threat and our long term investments and lively hood now stand in the balance. As CMI started mining exploration, the commercial viability of the properties on 341 from Silver City to Virginia City began to dwindle. The regular crowds of tourists and history enthusiasts visits that had been increasing in number to the Comstock were now fading. Businesses started closing, renters moved out. By 2011 the whole corridor went mostly vacant. CMI began to buy up the now vacant properties at a huge discount. The effect of their industrial activities had dropped property values so much that CMI could easily buyout most of the historic buildings on the Comstock. They like to promote themselves as "revitalizing the Comstock", however from my perspective, and having grown up on the Comstock... Their effects are the opposite.

The Lyon County Master Plan states that it should, "Establish appropriate zoning districts, such as mixed-use commercial, employment, etc." and create "a more cohesive mix of uses" (Highway Corridor Mixed-Use – Chapter 3). Based on these two elements stated in the Master Plan, CMI's Master Plan amendment and Zoning change application is <u>not appropriate and inconsistent</u> with the Lyon County Master Plan and Zoning in Silver City. The possible revenues mining in Silver City "might" bring to the county, would be far less than what a variety of small businesses and residents can bring. Mixed use commercial and residential zoning is what land uses are designated in the current master plan and this is consistent with today's zoning for Silver City. These land uses as described within the Comprehensive Master Plan will bring long term growth to Lyon County. By changing the Master Plan or Zoning you will be allowing industrial activities into Silver City. Into a mixed use commercial and residential designated township. Adding industrial use into the picture will stifle diverse commercial and residential viability that the planning and zoning upholds and that residents of Silver City asked for during earlier planning stages. Furthermore changing the Master Plan and Zoning as it is before you will create an unwanted precedent by overturning the planning board decision. Doing so could later be seen as an invitation to industries to erode the well researched and community backed Comprehensive Master Plan and the Zoning in Lyon County.
It is for these reasons that I ask you to <u>deny this application</u>.

Thank You,

Canyon Cassidy
PO Box 528
Silver City, NV 89428
(775) 847-0753

Gmail by Google

Fwd: In Support of Silver City

Jeff Page <jpage@lyon-county.org> Thu, Dec 19, 2013 at 1:06 PM
To: bocc@lyon-county.org, Maureen Williss <mwilliss@lyon-county.org>

Jeffery A. Page
Lyon County Manager
27 South Main Street
Yerington, NV 89447
(775) 463-6531 Office
(775) 302-7088 Cell

---------- Forwarded message ----------
From: "Virgil Arellano" <varellano@lyon-county.org>
Date: Dec 19, 2013 11:40 AM
Subject: Fwd: In Support of Silver City
To: "Jeff Page" <jpage@lyon-county.org>
Cc:

---------- Forwarded message ----------
From: "Evangeline Elston" <evangelineelston@yahoo.com>
Date: Dec 19, 2013 11:08 AM
Subject: In Support of Silver City
To: "jmortensen@lyon-county.org" <jmortensen@lyon-county.org>, "bhastings@lyon-county.org" <bhastings@lyon-county.org>, "lrfierro@lyon-county.org" <lrfierro@lyon-county.org>, "varellano@lyon-county.org" <varellano@lyon-county.org>, "vkeller@lyon-county.org" <vkeller@lyon-county.org>
Cc: "Robert Elston" <rgelston@gmail.com>

Dear Lyon County Board of Commissioners: Chairman Mortenson, Commissioner Hastings, Commissioner Fiero, Commissioner Arellano, Commissioner Keller,

I grew up in Silver City and have just moved back to the area. I support Silver City residents and the Lyon County Planning Commission in opposing Comstock Mining Inc.'s application for a change in the Master Plan and Zoning, and I urge you to do the same.

Changing the Master Plan and zoning from Suburban Residential to Rural Residential would open a Pandora's box, not only allowing mining, but a host of other inharmonious uses (feed lot, race track, etc.) with residential life that would remain in place indefinitely, whether or not Comstock Ming Inc. (CMI) ever mines there.

The language in the current County Master Plan (CMP) reflects inputs from and values of Silver City residents regarding preservation and enhancement of quality of life, environment, historic values and community.

In 1986 the Lyon County Planning Commission and Board of Commissioners denied an application by Nevex Gold to change the Master Plan and zoning of the same property because the change does not comply with the Master Plan. The 1986 BOC found that the requested change of CMP and zoning:

Did not conserve open space or protect natural/scenic resources; Would have immediate and long-

term adverse economic effects to Silver City and Historic Landmark; Did not promote health and general welfare of Silver City; Was not compatible with Silver City Area – didn't encourage most appropriate land use; Present zoning predominately residential in nature; Rezoning would significantly harm the integrity of the Historic District & Landmark; Would violate goals of responsible management of national resources, improvement of neighborhood stability, and increased property values.

For these reasons, please vote to deny Comstock Mining Inc.'s application to change the County Master Plan and zoning and preserve the health and well-being of the residents of Silver City, the town and the environment.

P.S. I request that my letter be read into the minutes of the January 2, 2014 meeting of the Board of Commissioners.

Thank you kindly,

Evangeline Elston

Evangeline Presents

530-632-3798

evangelineelston@yahoo.com

booking, promotion, radio

Jeff Page <jpage@lyon-county.org> Sat, Dec 21, 2013 at 9:14 AM
To: Maureen Williss <mwilliss@lyon-county.org>

Please add to agenda backup for CMI

[Quoted text hidden]

Gmail by Google

Fwd: To Lyon County Board of Commissioners re Silver City

Jeff Page <jpage@lyon-county.org> Thu, Dec 19, 2013 at 1:05 PM
To: ECC <ecc@lyon-county.org>, Maureen Williss <mwilliss@lyon-county.org>

Jeffery A. Page
Lyon County Manager
27 South Main Street
Yerington, NV 89447
(775) 463-6531 Office
(775) 302-7088 Cell

---------- Forwarded message ----------
From: "Virgil Arellano" <varellano@lyon-county.org>
Date: Dec 19, 2013 12:09 PM
Subject: Fwd: To Lyon County Board of Commissioners re Silver City
To: "Jeff Page" <jpage@lyon-county.org>
Cc:

---------- Forwarded message ----------
From: "Susie Glaze" <hilonesome@aol.com>
Date: Dec 19, 2013 11:49 AM
Subject: To Lyon County Board of Commissioners re Silver City
To: <jmortensen@lyon-county.org>, <bhastings@lyon-county.org>, <lrfierro@lyon-county.org>, <varellano@lyon-county.org>, <vkeller@lyon-county.org>
Cc: <evangelineelston@yahoo.com>

September 19, 2013

Dear Lyon County Board of Commissioners:

I support Silver City residents and the Lyon County Planning Commission in opposing Comstock Mining Inc.'s application for a change in the Master Plan and Zoning, and I urge you to do the same.

Changing the Master Plan and zoning from Suburban Residential to Rural Residential would open a Pandora's box, not only allowing mining, but a host of other inharmonious uses (feed lot, race track, etc.) with residential life that would remain in place indefinitely, whether or not CMI ever mines there.

The language in the current County Master Plan (CMP) reflects inputs from and values of Silver City residents regarding preservation and enhancement of quality of life, environment, historic values and community.

In 1986 the Lyon County Planning Commission and Board of Commissioners denied an application by Nevex Gold to change the Master Plan and zoning of the same property because the change does not comply with the Master Plan. The 1986 BOC found that the requested change of CMP and zoning: Did not conserve open space or protect natural/scenic resources; Would have immediate and long-term adverse economic effects to Silver City and Historic Landmark; Did not promote health and general welfare of Silver City; Was not compatible with Silver City Area – didn't encourage most appropriate land use; Present zoning predominately residential in nature; Rezoning would significantly harm the integrity of the Historic District & Landmark; Would violate goals of responsible management of national resources, improvement of neighborhood stability, and increased property values.

For these reasons, please vote to deny Comstock Mining Inc.'s application to change the County Master Plan and zoning and preserve the health and well-being of the residents of Silver City, the town and the environment.

Thank you for your time and attention.

Sincerely,
Susie Glaze, Los Angeles

P.S. I request that my letter be read into the minutes of the January 2, 2014 meeting of the Board of Commissioners.

Jeff Page <jpage@lyon-county.org> Sat, Dec 21, 2013 at 9:15 AM
To: Maureen Williss <mwilliss@lyon-county.org>

Please add to the agenda backup for cmi

[Quoted text hidden]

Please read this letter into the minutes for the Lyon County Commission Meeting scheduled for January 2, 2014.

2308 Linden Lane
Silver Spring, MD 20910

December 18, 2013

Lyon County Board of Commissioners
Joe Mortensen, Chairman
27 S. Main Street
Yerington, NV 89447

Dear Commissioners,

My name is Malala Elston. I am the daughter of forty year Silver City residents, Bob and Cashion. Currently, I live in the Washington DC, but one day I plan to return permanently. In the meantime, my children and I spend a great deal of time going back and forth. I understand that Comstock Mining Inc. applied for a change in the Master Plan and zoning that the Lyon County Planning Commission denied. If approved by the County Board, it would allow CMI to mine the property in south Silver City under a special use permit.

While I recognize that SC has a mining history, the vast majority of its good citizens were never motivated to make lives there by the promise of a mining resurgence. In fact, most SC residents would not have purchased property, built homes, or worked diligently to build a productive and wholesome community, if they had suspected that a large mining project would be in their future.

As you know, strong communities are the result of the concern and dedication of citizens working together to build and maintain positive relationships and institutions that reflect a value system. They do not simply materialize as a result of limited economic opportunity. Exemplary communities are in short supply in America, yet, Silver City can be counted among them.

This is because its residents pay taxes, volunteer in the fire department, build infrastructure, create local jobs, teach in Lyon County schools, lead important social initiatives, and contribute in many other ways to the greater good. Their investment can continue to play forward, reflecting positively on Lyon County as a whole, only if mining is not allowed to transform the community into a development casualty.

Should CMI prevail in bringing mining within the town residential limits, property values will plummet, depriving residents of the economic leverage they are counting on to retire, or send their kids to college, or pay medical bills, or pass on to future generations. Those who can leave, will; while others will be forced to endure in the noisy, dirty, dangerous, ugly environment created by CMI. Given their enormous contribution to the wellbeing of Lyon County over a *lifetime*, divesting these fine people of their property values and quality of life is wrong.

I implore the Board of Commissioners to support Silver City by upholding the Planning Commission's decision to deny CMI's Master Plan and zoning change request.

Respectfully,

Malala Elston

December 20, 2013

Virgil Arellano
38 Nadel Lane
Yerington, NV
89444

Dear Commissioner Arellano,

I'm writing to you with a sense of urgency today; asking you to please do the right thing and stand with the residents of Silver City, by opposing the Comstock Mining Incorporated's application to change the Master Plan and Zoning, from Suburban Residential to Rural Residential. Please consider the negative impacts that changing the Plan and Zoning would have on this historic region and the health of both the environment and the residents there.

The current County Master Plan, re-enforced in 1986 by this very entity, reflects the current values of Silver City residents regarding preservation and quality of life; now and for the future. The current plan ensures the protection of open space, natural and scenic resources, and the economic benefits that go along with the endemic beauty of the area. Rezoning would damage the integrity of this Historic District and Landmark, and would have significant negative impacts on property values, creating an unstable economic environment. The negative health effects already experienced by Silver City residents from existing mining in the area would be doubled.

Please put yourself in the shoes of the people of Silver City who have invested their lives in their community and homes. Would you yourself want a mine as your neighbor? I urge you to oppose this change to the Master Plan.

Very Sincerely,

Katie Thomas
Sacramento, CA
Proud former resident of Nevada

PS I request that my letter be read aloud at the January 2, 2014 meeting of the Board of Commissioners. Thank you.

December 23, 2013

Mr. Joe Mortensen, Chair
Lyon County Commissioners

Dear Mr. Mortensen:

Three years ago we was shocked when Comstock Mining came to our Silver City Town Advisory meeting and informed us that they intended to pit mine in the same spot that Nevex Mining attempted to mine 26 years ago. That certainly got the attention of our town and we have been united in upholding what we feel are our personal property rights.

We have worked diligently on the Master Plan and zoning for our community to insure the needs, quality of life, and the distinct character of the town were preserved. Now, to have Comstock Mining say they feel the Master Plan and zoning is not putting their land to its most advantageous use is disingenuous at best. Under present zoning, lot size is not an issue for residential development.

Regardless of the importance of mining in our great state, allowing this type of business to operate within our town boundaries, indeed, directly across the street from our house is unconscionable. The requested change from Comstock Mining would have immediate and long-term adverse economic effects to Silver City and the Virginia City National Historic Landmark and it will not promote the health and general welfare of its citizens.

I urge you to agree with recommendation of the Planning Commission and preserve the present master plan and zoning.

Sincerely yours,
Darlene and John Cobbey
P.O. Box 135, 1000 Main Street
Silver City, Nevada 89428
775-847-0639

cc: Mrs. Vida Keller
Mr. Bob Hastings
Mr. Virgil Arellano
Mr. Ray Fierro

We request that our letter be read into the record of the application hearing as a public comment.

December 23, 2013

RE: CMI application to amend to the Comprehensive Master Plan within Silver City

Dear Lyon County Board of Commissioners:

This letter is in response to a proposal by CMI to amend the current Master Plan in and around the town of Silver City. We feel the current plan should remain intact to conserve open space and protect natural/scenic resources of Silver City. Although mining may be a short-term activity, if the current plan is amended, there would be long-term adverse economic effects to Silver City and the Historic Landmark. The amended plan would not promote health and general welfare of Silver City. Present zoning is predominately residential in nature and rezoning this area would result in significant harm to the integrity of the Historic District & Landmark, violate goals of responsible management of national resources, degrade the improvement of neighborhood stability, and decrease property values. The present plan and zoning status for Silver City should not be amended.

We have experienced negative impacts from CMI mining activities at their Lucerne Pit including but not limited to: blasting, dust and the operation (noise) associated with the operation of their heavy equipment. Constant noise is now common in the form of back up horns on equipment, drilling, dozer blading, and loading and unloading of rock. Cumulative effects of blasting have the potential to degrade the foundations of houses in the Silver City community.

The following is a list of mining activities that would have a direct adverse effect to the quality of life within Silver City (lighting associated with night time drilling and shallow blasting, increased heavy vehicle traffic including haul trucks and equipment as well as mining staff who do not adhere to the speed limit). If the master plan was changed to allow these short-term mining activities, several families adjacent to the mining activity would be forced to abandon their homes. The long term effects to the community outweigh the short term prosperity to a small number of people that would be employed by CMI. Lyon County and specifically Silver City would lose in the long run from lost property values.

In summary, the present Comprehensive Master Plan and Zoning Plan works well for the Silver City community and should not be changed to allow a short-term mining venture. We ask you to please submit this letter for the record that we do not favor a change to the current plan.

Sincerely

Allen and Susan McCabe
320 First Street
Silver City, NV 89428

Silver City home owners since 1990

Gmail by Google

Fwd: my town

Jeff Page <jpage@lyon-county.org> Tue, Dec 24, 2013 at 11:04 AM
To: Maureen Williss <mwilliss@lyon-county.org>

Jeffery A. Page
Lyon County Manager
27 South Main Street
Yerington, NV 89447
(775) 463-6531 Office
(775) 302-7088 Cell

---------- Forwarded message ----------
From: "Virgil Arellano" <varellano@lyon-county.org>
Date: Dec 24, 2013 10:04 AM
Subject: Fwd: my town
To: "Jeff Page" <jpage@lyon-county.org>
Cc:

---------- Forwarded message ----------
From: "Chapman, David Jason" <djchapman@walshgroup.com>
Date: Dec 24, 2013 10:02 AM
Subject: my town
To: "jmortensen@lyon-county.org" <jmortensen@lyon-county.org>, "bhastings@lyon-county.org" <bhastings@lyon-county.org>, "varellano@lyon-county.org" <varellano@lyon-county.org>, "vkeller@lyon-county.org" <vkeller@lyon-county.org>
Cc: "evangelineelston@yahoo.com" <evangelineelston@yahoo.com>

My name is David Chapman, I grew up in Silver City, and also raised my kids ,a few years there , unfortunately I had to move because of work.

•

I support Silver City residents and the Lyon County Planning Commission in opposing Comstock Mining Inc.'s application for a change in the Master Plan and Zoning,

I would like the future residents the same experience , of peaceful surroundings, beautiful scenery , and mountains for hiking, nature watching , and just to look at .

Thank you for your time

P.S. I request that my letter be read into the minutes of the January 2, 2014 meeting of the Board of Commissioners. Sincerely, DAVID CHAPMAN

Dear Lyon County Commissioners, Dec. 23, 2013

I have lived and worked in Nevada for nearly three decades, and my husband and I own our home and land in Silver City, Nevada. I oppose Comstock Mining Inc's application to change the Master Plan and zoning in Silver City not due to any "anti-mining" sentiment, but because the changes could open the door to all sorts of possible industrial uses within our long-established town site, including surface mining, airports; rifle ranges; commercial feedlots, etc. None of these would be appropriate land use within or adjacent to the Silver City town site, which has had the same boundaries since the 1800's and consistent land use planning for at least 40 years. Changing the zoning and Master Plan would be a capricious move, reducing Silver City to a "sacrifice zone" so that its wealth can be extracted for the enrichment of residents of New York, San Francisco and other nations. Changing the zoning and Master Plan for the benefit of this company would also damage Lyon County's reputation as a county with consistent zoning and smart Master Planning.

In addition, please consider that the residents of Silver City comprise an unusually productive, innovative, entrepreneurial, community-oriented group that contributes enormously to long term wealth creation in Lyon County and surrounding regions. Our long-term investments in and contributions to the region should be considered through the lens of modern recommendations for smart economic development.

Silver City residents are an asset to Lyon County. An unusually high percentage have skills, awards, and/or degrees in law, archeology, computer programming, visual art, music, theatre, jewelry making, pottery, photography, film making, teaching, academic research, web design, etc. Furthermore, an unusually high percentage of the residents own small businesses and pursue entrepreneurial endeavors in a wide range of specialties. Although you may see few storefronts in Silver City, many residents maintain professional artist studios, operate small businesses from home offices, or own small businesses in nearby towns that generate tax revenue. A number of the artists residing in Silver City have pieces in the permanent collection of the Nevada Museum of Art, one even has work in the Smithsonian, while most continue to have solo and group exhibitions across Nevada and the U.S. - private collectors are eager to buy their work. Many residents of the town have published important research in multiple subjects and are respected experts in their fields.

Lyon County Needs People With Diverse Skills and Expertise: An informal survey of Silver City's adult population shows that about 70% are in the "creative class", a socioeconomic class understood to be a key driving force for economic development today in the U.S. This grouping includes those in science, computer programming and research, as well as those in arts, design, media, etc. This class is also composed of knowledge-based workers in the legal and education sectors, as well as business, finance and healthcare. Jobs and economic growth tend to follow areas with a strong Creative Class concentration.

Breaking this observation down further, about 30% of Silver City's residents are artists, performers, musicians, photographers, potters, or craftspeople; about 15% own small businesses; about 10% work in the archaeology field; and about 15% are writers, attorneys, computer programmers, teachers, web designers, publishers, professors, nurses, etc. People with these sorts of skills tend to create an economic development "multiplier effect" due to their long-term investment in their region and civic service contributions.

In many economic development studies in the last ten years, including a 2002 study by American economist Richard Florida, the Creative Class is noted as a leading force of economic growth due to

their ability to spur regional economic growth through innovation, and to attract human capital. An empirical study of 90 countries by Rindermann, Sailer and Thompson in 2009 demonstrated that high-ability classes like the Creative Class contribute greatly to economic growth, stable democratic development, and government effectiveness, rule of law, and liberty.

Civic Service: In addition, an unusually high percentage of Silver City residents contribute to local, regional and statewide boards, volunteer associations and professional organizations that contribute to the well-being of the Lyon County region, including the Governor-appointed statewide Teachers and Leaders Council; statewide Nevada Association of School Boards directors; Lyon County School District board of trustees; Silver City Community Partners; Carson City Symphony; Arts4Nevada Advisory Committee; Nevada Arts Council Community Catalysts; Silver City Community Garden Committee; Comstock Cemetery Board; Silver City Volunteer Fire Department; Stronger Economies Together Agribusiness Workgroup covering a 10 county region including Lyon County; Lyon County Parks board; etc.

Silver City Improvements 1940's to Present: From the 1940's until the 1970's, Silver City suffered slow decay and little care was taken of its historic school house, cemetery, or fire trucks, and there was low community involvement in the town council or regional boards. Since the 1970's, the town has steadily been infused with new residents who have contributed to steady, positive growth, and numerous improvements to the community have taken place. This thriving and close-knit community within a National Historic Landmark District hosts regular town "get togethers", including annual Christmas, Easter and Thanksgiving celebrations, summer BBQ's and old fashioned ice cream socials. The town boasts an historic cemetery, a volunteer library, a lovely park, an organic community garden, a beautiful community center with free Tai Chi and yoga classes, a monthly community dinner in which everyone pitches in with ingredients and clean-up duties, a post office, a volunteer fire department, and an enviable educational summer children's program that is free to youngsters in the entire Comstock region. The town also attracts a good deal of tourism to the region – it is home to the famous Silver City Fireman's Ball and annual Ferrari Races. It's historic buildings and sites attract plein air painters and photographers from around the West.

Consistent Land Use: As you know, Silver City is an historical community – the town site was established in the 1800's. The town has had consistent land use planning for more than 40 years, with the 2010 Master Plan reaffirming that the town is residential, and not suitable for industrial development. In 1986 Lyon County denied Nevex a similar request for mining activity on the same property Comstock Mining Inc. is now seeking Master Plan and zoning changes for.

Conclusion: Short term gain for long term devastation of the historic value, environment, and aesthetic appeal of this National Historic Landmark is short sighted and ill advised. Furthermore, driving away most of Silver City's Creative Class and small business owners, who are an important source of innovation and economic growth and civic service to the entire region, makes no sense in terms of economic development. Lastly, for Lyon County to thrive economically, businesses, homeowners, and potential investors and developers need to trust that zoning and Master Plan decisions in Lyon County will be predictable rather than reactive or capricious.

Sincerely,
Quest Lakes, resident of Silver City
P.O. Box 123
Silver City, Nevada 89428
847-0742

Gmail by Google

Maureen Williss <mwilliss@lyon-county.org>

Fwd: Application for Comprehensive Master Plan and Zoning Change for Silver City

Jeff Page <jpage@lyon-county.org> Mon, Dec 23, 2013 at 8:22 PM
To: Maureen Williss <mwilliss@lyon-county.org>

Another one

Jeffery A. Page
Lyon County Manager
27 South Main Street
Yerington, NV 89447
(775) 463-6531 Office
(775) 302-7088 Cell

---------- Forwarded message ----------
From: "Virgil Arellano" <varellano@lyon-county.org>
Date: Dec 23, 2013 8:22 PM
Subject: Fwd: Application for Comprehensive Master Plan and Zoning Change for Silver City
To: "Jeff Page" <jpage@lyon-county.org>
Cc:

---------- Forwarded message ----------
From: "Allison Woodman" <awoodman@health.nv.gov>
Date: Dec 23, 2013 5:46 PM
Subject: Application for Comprehensive Master Plan and Zoning Change for Silver City
To: "jmortensen@lyon-county.org" <jmortensen@lyon-county.org>
Cc: "bhastings@lyon-county.org" <bhastings@lyon-county.org>, "rfierro@lyon-county org" <rfierro@lyon-county.org>, "varellano@lyon-county.org" <varellano@lyon-county.org>, "vkeller@lyon-county.org" <vkeller@lyon-county org>

Allison Woodman, PO Box 354, Silver City NV 89428

Joe Mortensen, Chairman of Lyon County Board of Commissioners

Lyon County Board of Commissioners

27 S. Main Street, Yerington, NV 89447

Dear Chairman of the Board and Lyon County Board of Commissioners,

Please read this statement into the record at the County Commission meeting on Jan. 2 regarding Comstock Mining's request to change the County Master Plan and zoning.

My name is Allison Woodman and I live at 1150 Main Street, Silver City NV. I am writing to plead with you to

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LYON COUNTY

reject Comstock Mining's request to change the County's Comprehensive Master Plan and Zoning for Silver City. The current agreed upon Master Plan best suites the majority of inhabitants of the town and area for its' current use, a residential neighborhood. We love our Community and the surrounding landscape and view the way it is. My family and I live directly across the street from where Comstock Mining has repeatedly expressed the intent to open pit mine. I would be horribly, impacted from industrial activity of any kind in that area but especially open pit mining. My property value would be lost and even worse, the health of myself and family, including a small child, would be very negatively impacted.

We have already suffered a negative impact caused by Comstock Mining's activities, both by their current open pit mine just outside of town and by the exploratory drilling that went on in Silver City at the Dayton Mill sight. I have deep concerns about the dirt at that Mill site, that is a known Super fund site, being moved and pushed around and blowing down on my house and family and as well as my neighbors. I had expressed these concerns to Comstock Mining multiple times over the past few years and they (Corardo) simply turn their back to me. We had observed clouds of dirt rolling down the mountain towards us and knew that even what we could not see was being blown on us near daily. When the drilling was going on we could not even be outside and hear each other and could still hear it inside the house. It's the first thing we heard as we woke and the last thing we heard in the evening. Blasting has literally shook the windows of my house. Not too long after the bull dozing and pushing dirt around had begun I developed a swollen lymph node on my right collar bone area that extensive medical testing did not explain. I believe it is from breathing toxins introduced into the air by the mining and drilling activity, it has mostly subsided since they moved off the Dayton Mill site. If Mining is allowed at that site so close to us, my home and family would be showered with even more dirt and toxic contaminants on a daily basis. In addition to the toxic dirt, the very loud noise and lights and beeping and blasting, day in and day out would ruin the quality of life I deliberately moved to Silver City to enjoy. My home is the investment of my lifetime. At 52 and 58 yrs. old, myself and my husband cannot recoup the loss of the value of our home. We would be forced to walk away for our health and safety, and for reasonable peace. We would not be able to start over; it would be total and devastating loss we would not be able to recover from. Please protect our precious Community and our rights to property and quality of life in and around our homes.

Sincerely

Allison Woodman

Cc: Bob Hastings; Ray Fiero; Virgil Arellano; Vida Keller

Gmail by Google

Maureen Williss <mwilliss@lyon-county.org>

Fwd: Please uphold the Lyon Co. Planning Commission decision

Jeff Page <jpage@lyon-county.org> Mon, Dec 23, 2013 at 8:24 PM
To: Maureen Williss <mwilliss@lyon-county.org>

And another

Jeffery A. Page
Lyon County Manager
27 South Main Street
Yerington, NV 89447
(775) 463-6531 Office
(775) 302-7088 Cell

---------- Forwarded message ----------
From: "Virgil Arellano" <varellano@lyon-county.org>
Date: Dec 23, 2013 8:23 PM
Subject: Fwd: Please uphold the Lyon Co. Planning Commission decision
To: "Jeff Page" <jpage@lyon-county.org>
Cc:

---------- Forwarded message ----------
From: "Robert Elston" <rgelston@gmail.com>
Date: Dec 23, 2013 2:06 PM
Subject: Please uphold the Lyon Co. Planning Commission decision
To: "Joe Mortensen" <jmortensen@lyon-county.org>
Cc: "Bob Hastings" <bhastings@lyon-county.org>, "Ray Fierro" <rfierro@lyon-county.org>, "Virgil Arellano" <varellano@lyon-county.org>, "Vida Keller" <vkeller@lyon-county.org>

Joe Mortensen, Chairman Lyon County Board of Commissioners

Dear Chairman Mortensen:

I urge you and the Board of Commissioners to deny the application for change of Master Plan and zoning on Property in Silver City submitted by Comstock Mining Inc. (CMI).

At the December 10 Lyon County Planning Commission, strong recommendations of Planning Staff and expert testimony supported denial, and the Planning Commission voted accordingly.

An overwhelming majority of Silver City residents, property owners and business operators oppose the CMI application.

Whether or not CMI ever operates a mine there or remains the property owner, changing the Master Plan and zoning would allow a multitude of inharmonious uses in the future.

The fact is, CMI does not require a change in Master Plan and zoning to continue exploratory drilling on the property, and if they did decide to create a residential development, they could do so at any desired density under existing zoning.

I hope that you will give greater consideration to the desires of people who live and work in Silver City and Lyon

County (your constituents) than to a corporate entity financed from outside the state and based in another county.

Please have this read into the official record.

Sincerely yours,

Robert Elston

;=;@ ;=;@ ;=;@ ;=;@ ;=;@ ;=;@ ;=;@
Robert G. Elston
P. O. Box 500
Silver City, NV 89428
Phone: 775-847-9404
Fax: 775-847-0699
;=;@ ;=;@ ;=;@ ;=;@ ;=;@ ;=;@ ;=;@

RECD DEC 2 3 2013

Dear Lyon County Commissioners,

I am writing you as a proud Lyon County resident and native Nevadan. My family moved to Silver City in 1972 from Reno. I am a Computer Programmer by trade and have a Lyon County Business License in Silver City. I also hold a contractor's license in the State of Nevada. I served for 4 years on the Silver City Town Advisory Board. I am currently serving as an elected Lyon County School Board member as well as a Director on the Nevada Association of School Boards. I am currently a Governor-appointed member of the State of Nevada Teacher and Leaders Council.

I am not anti-mining and I support mining in Nevada. I am against surface mining in and adjacent to residential areas.

I would like to request that you **do not** approve the Master Plan and Zoning change requested by Comstock Mining Inc.

My family moved to Silver City in 1972 and while living in a rental house purchased a building lot from the Lyon County in a tax lien sale. My father built the house I live in now and I now own another lot in Silver City that I would like to build on. I felt secure in buying my family home in 1985 and investing in a building lot in Silver City in the 1990's because of the Master Plan and the County Commissioners decision to deny Nevex permission to mine this same property in the 1980's.

This proposed Master Plan change is not consistent with the residential nature of our town and could allow the property to be used in the future for such things as large scale energy production, gravel pits and other industrial uses. This is clearly not compatible with our residential community. This type of zoning is categorized in the current master plan characteristics as "...located in very remote or rural parts of the County, and outside of community boundaries (Chapter 3.20 Lyon County Master Plan Adopted 2010). I don't think Silver City can be defined as 'very remote' or 'as a rural' location.

I would also like you to consider Silver City's location inside of the Comstock Historic District. As a landowner in the district, I'm very aware that this area has some of the strongest land use restrictions placed on private property by the Federal and State governments in the United States, resulting in my having to use an authorized color of paint for my house or use specific approved siding or window materials for new construction, repairs or remodeling. Silver City residents are forced to comply with the regulations of and get permits from the Comstock Historic District to do any building or remodeling such as fixing a roof, installing a shed or putting up a fence - all of this is to protect the Comstock Historic District visually. It is important to note the District's regulation of my property was not done by deed restriction or voluntary forfeiture, but is the direct result of Federal and State laws. This change of zoning for the purpose of strip mining as Comstock Mining has proposed is not in any way consistent with the intentions of the Historic District. Again, I beg you to not allow this zoning change as it will create an environment where I will have to get permission to paint my house on my own property while my industrial neighbor will be allowed to freely strip mine on his property.

Huston Oil and Mineral company's surface mining in Gold Hill during the 1970's and 80's left a huge scar in the historic district and resulted in the National designation of the Historic District as

'threatened'. Lyon County at that time wisely refused to allow industrial scale surface mining in Silver City and in the interim has evolved a Master Plan that supports Silver City as a residential area and not as a resource area. Based on this promise by the county's Master Plan, my family and I invested in real estate in Silver City and have been pleased with the growth of the community and our investments until this recent mining threat.

The Historic District is listed as Threatened:

> 'The cumulative effect of contemporary surface mines within the central corridor of the district has been a gradual destruction and disintegration of the historic landscape that constitutes the visual heart of the historic district.'
>
> http://tps.cr.nps.gov/nhl/detail.cfm?ResourceId=322&ResourceType=District

When I purchased my property in Silver City I was aware of the restrictions placed on me by the Historic District and the Lyon County Master Plan. I accepted these restrictions on my residential property. When CMI purchased property in Silver City they knew the Historic District, Master Plan and Zoning existed and they also knew the previous owners attempt to mine the property failed because of the Master Plan. Yet they still insist it is their right to change the Master Plan and zoning so they can surface mine the property. The county is not taking away CMI's rights to their property when CMI knew their rights were restricted when they bought the property, just as I knew my property restrictions when I bought my property.

Of course my property values have already been damaged by the 'possibility' of an industrial strip mine within and adjacent to Silver City. The fear of this mine has virtually stopped all real estate sales in town. The only purchases on the Comstock I'm aware of have been made by Comstock Mining or its principals during this threat.

In my opinion Comstock Mining has taken advantage of the depressed property values they created by purchasing non- mining properties throughout the Comstock. They don't make a secret of also being a real estate investment group. I purchased a building lot in Silver City many years ago and have been saving money for years to fulfill our dream of building a new home. Unfortunately until the threat of a strip mine is gone, I don't foresee myself or anyone else building new residential houses in the threatened Silver City area. The Master Plan is supposed to provide for some certainty so landowners can safely invest in building new or improving upon existing homes without the worry of new unplanned industrial neighbors.

If you stand on the road next to the operating mine at the nearby Lucerne Pit, you can get an idea of what it would be like to live with the mine next to your home. The noise and the dust would make it miserable and would force those who are able to to move away from the area. This decision to rezone and the opening of a strip mine would certainly result in many long time residents being forced to leave for their health and piece of mind. No one wants their neighborhood to turn into an industrial area. Some homes in the proposed mine area would be within 200 feet of the mine property.

Here is an example of the dust created by Comstock Mining at the Lucerne Pit just over the Lyon County line in Storey County. Now imagine this same dust cloud in a residential neighborhood.

http://youtu.be/MP2RpHaXPco

Miners often tell me I should have known better that to move to a historic mining area and not expect a mine to open next door. While it's true Silver City grew out of the Comstock mining boom of the 1800's, it doesnt' follow that current industrial mining practices should be allowed within or adjacent to our residential town. Silver City was officially surveyed and mapped in the 1860's as a residential town-site. Many areas in the state have historic uses that are no longer allowed due to subsequent residential property development. Land use planning and master plans exist so that compatible uses are grouped together and future uses are planned for wisely.

People sometimes accuse residents of Silver City as being anti-mining. The truth is that Silver City has co-existed with many mines over the 40 years I have lived here. Many underground mines have operated in and around Silver City over the years with cooperation from the town. Even surface mines have coexisted near Silver City. The Plum Mining project in lower Gold Hill for example was not protested by the citizens of Silver City in the 2000's and Plum Mining was considered part of our community because they selected a non residential area of the Comstock to mine and worked with the community to minimize problems. While the Comstock Mining operations in lower Gold Hill have minimally affected residential neighborhoods in Lyon County, it is the plan they put forward for Silver City that alarmed residents. Comstock Mining started its conversation with Silver City asserting that somehow surface mining was going to be compatible with our residential neighborhood.

When Comstock Mining came to Silver City in 2011 with big plans to help the community by surface mining within and adjacent to the town Mr. Corrado Degasperas seemed shocked that the town did not welcome this 'revitalization' with open arms. One reason why we responded negatively to Comstock Mining's proposal was because we actually read the materials they were using to sell stock in the company. These materials certainly caused concern because they stated among other things that:

ii) The project will involve re-aligning State Route 342, addressing the Billie the Kid open pit unauthorized excavation[2], developing a mine and the infrastructure (*i.e.*, cyanide, heap leaching, tailings impoundments) on historic lands, and re-location of certain landowners. Entering a public review process may draw attention to certain aspects of the Project that may cause specific concerns.

The section quoted above was from a document paid for by Comstock Mining and prepared by Behre Dolbear & Company (USA) INC. Phone (303) 620-0020. Behre Dolbear Group Inc. is one of the oldest, continuously operating, mineral industry advisory firms in the world. As far as I can tell this document was used by Comstock Mining to raise over 80 million dollars selling stock. This shows the implied threat to landowners and caused Silver City to mobilize in the Nevada legislature to support a successful bill that ended the right of Eminent Domain for private mining companies in the last legislative session.

Please review the CMI report yourself by following this link to the full document:

https://www.dropbox.com/s/ucuwohhtgfd9mc1/ComstockMineProject20100831.pdf

Some argue that it is worth changing the Master Plan for the all the taxes our county would get from surface mining. From my research it appears that ALL the mining activity in Lyon County paid the county a total of approximately $49,000 in net proceeds taxes for the year 2012-2013. Comstock Mining paid $1,528 in net profits of mining tax to Storey County in the 12-13 period on a Gross Yield of $3,242,767. It was testified to at the Planning Commission Meeting that the Town of Silver City paid over $70,000 in property taxes in the same period. It is very hard to argue the benefits of this Master Plan and Zoning change in terms of net proceeds of mining tax paid to the county. If you are going to argue for financial benefits to the county from this Master Plan change you must explain where this tax money will come from. The report below by the Nevada Department of Taxation, on page 39, shows the sad truth about Lyon County's minimal mining revenue.

http://minerals.state.nv.us/forms/mining/NetProceedsReports/NetProceeds2012-13_NPM_Bulletin_Final.pdf

At the Planning Commission Meeting on Dec. 10, 2013, Scott Jolcover, a principle in Comstock Mining, testified by threatening to sue the Lyon County government in federal court if they did not approve his request for a Master Plan change. He made reference to a mysterious federal law or regulation that according to him makes mining exempt from county land use planning or any other restrictions. I have found no evidence to back up his claims that the county has no right to interfere in any way with surface mining in Nevada. As far as I know land use planning law favors the consistent application of regulations and restrictions in a community. It would seem the safest way to avoid losing a dispute over this Master Plan change would be to deny it and to follow the Master Plan as was done in the Nevex decision. It is very hard to imagine the county losing in court over denying this Master Plan change.

This Master Plan and zoning change would affect Silver City negatively. Please do not approve it. Let's let Silver City continue to grow houses and small businesses.

Sincerely,

Theo McCormick
Post Office Box 123
Silver City, NV 89428
775 291 2468

Gmail by Google

Fwd: CMI Letter to supporters

Jeff Page <jpage@lyon-county.org> Tue, Dec 24, 2013 at 9:30 PM
To: Maureen Williss <mwilliss@lyon-county.org>

Another

Jeffery A. Page
Lyon County Manager
27 South Main Street
Yerington, NV 89447
(775) 463-6531 Office
(775) 302-7088 Cell

---------- Forwarded message ----------
From: "Theo McCormick" <Theo@theodata.com>
Date: Dec 24, 2013 9:07 PM
Subject: CMI Letter to supporters
To: <jpage@lyon-county.org>
Cc:

Hi Jeff,

I hope you have a great Christmas and New Year. I hope you know we appreciate what you do for the county. I can only imagine the job you have managing our county and how rarely anyone says thanks. Thanks Jeff!

FYI - This is a letter CMI sent out to their supporters after their denial at the planning meeting.

Letter

https://dl.dropboxusercontent.com/u/18768901/CMI_Letter.PDF

Thanks,

Theo McCormick
775 291 2468

COMSTOCK
MINING

P.O. Box 1118
Virginia City
NV 89440

775.583.5151

December 17, 2013

It's been a year of meaningful growth and progress for Comstock Mining, and I am proud of what our team has accomplished working with the community.

Today, with more than 110 employees, one full year of responsible gold and silver production, upgrades and celebrations at the Gold Hill Hotel, Nevada's oldest continuously operating hotel, and a multitude of historic preservation projects underway, we are proving that responsible economic development can support and enhance an existing tourism industry and unique, historic quality of life.

The year ahead holds great opportunity, as well as some challenges – and we need your help.

As you may know, our company has over 1,600 acres of land in Lyon County, and on January 2 the Lyon County Board of Commissioners will hear our request to modify the master plan map and related zoning for a portion of these properties, allowing us to assess and invest in further development opportunities.

We are not requesting any approvals for mining at this time. We simply need to know that our property rights will not be compromised with inappropriate zoning regulations.

This hearing follows a Planning Commission meeting earlier this month, in which our request was denied as opponents promoted harsh and misleading disinformation about our plans.

We are optimistically looking forward to the leadership of the Board to allow for more possibilities, including mineral exploration and assessments of mineral and post-mineral developments. At stake are long-term and well-paying jobs, business growth and tax revenues for the county. And it's not just about economic development.

As a company, we are passionate about preserving the historic and cultural resources of the Comstock. To that end, in July, we established the Comstock Foundation for History and Culture and have dedicated a 1% royalty from our operations to preserve, protect, restore and enhance the Comstock.

Led by state historian Ron James, the foundation is actively saving historic structures around the Comstock, providing emergency funds where needed, and guiding information kiosks and

interpretations for celebrating the unique history of the area. This is truly a special place with a rich mining history, and we are committed to carrying on its legacy.

The land we are looking to explore is in a historic mining area, originally zoned for resource development and worked continuously for decades. Yet, over the years, a series of planning decisions have rezoned portions of these properties to exclude mining in the area, including property rights that were legally excluded from the Silver City town site. These actions have taken away the county's ability to assess the opportunities and possible benefits of these properties, as the zoning has left them completely unproductive for decades.

Our request before the Board is simple: realign zoning and allow for assessing the possibilities responsibly. This will result in millions of dollars of investments, and even removing some of the historically perceived risks of mercury, before any permits for any uses would even be requested.

Certainly there are those opposed to any productive activities in the area, but it's not either-or, we don't have to choose between economic development and the quality of our community or way of life. We can accomplish both with collaborative development plans and the highest standards of community sustainability.

Comstock Mining owns the properties under consideration. Changing the zoning does not provide any approvals for any land uses. On the contrary, we would still need to undergo months if not years of extensive planning and review with multiple opportunities for public input. We believe property rights should be respected and planning should be inclusive.

Can we count on your support? Here are the details.

Board of Commissioners Hearing
County Administration Building
Thursday, January 2 @ 9:00 AM
27 South Main Street, Yerington

Pre-hearing Breakfast
Giuseppe's Steakhouse at Dini's Lucky Club
Thursday, January 2 @ 7:30 AM
45 North Main Street, Yerington

My team and I will be in touch in the coming days to see if you can join us January 2. We would be most grateful for your participation. If you have any questions in the meantime or would like to RSVP, please call (775) 847-4755.

Wishing your whole family a wonderful holiday, and a healthy and happy New Year.

Sincerely,

Corrado De Gasperis
President & CEO
Comstock Mining Inc.
Gold Hill Hotel Inc.

BOC 01/02/2014
Meeting
Sign-In Sheet

(6) NAME John Hodder - Great Basin Resource Watch
- Public Comment M.P Amend.
40 Randy Harris Comment
John Parrish - Comment
STEVEN SAYLOR - COMMENT
MARK TURNER - Comment
John Currie - Comment
JOHN COBBEY Comment
Barbara Peck - comment + letter
Robert Elston - comment & letter
Bonnie Borden - comment + letter
(3) Carol Goodwin - comment
Marilyn Lindsey - Comment
Ron Rem - Silver City
Chad Olson - "
GASHION CALLAWAY - " COMMENT
A Woodman - Silver City
Madison Woodman - Silver City
DANIEL SHOUP SILVER CITY
John Mitchell - CRA
(23) John Singlaub singlaub@gmail.com
CARL MILLER & RETAIL 775-220-4817
Ann Price McCarthy - Silver City
(2) Jared Kodl
(1) Tommy W. Barthuly 463-915-3
(4) Ann Price McCarthy 7757217251
(5) Gayle Sherman 775-847-0651
(7) Joe McCarthy 775-720-0331

January 2, 2014

BOC 01/02/2014
Meeting
Sign-In Sheet

8	DAN SHOUP	SILVER CITY	847-7761
9	MARK TURNER	Carson City	745-0881
10	MARY HANNA	FERNLEY	8356663
11	Robert Slater	Silver City	8479404
12	DANIELLE BOWEN	SILVER CITY	847-0431
13	Lynette L. Palmer	Dayton, N	818 312-2845
14	John Trammell	Silver City NV	847-0931
15	Kathy M. Whitsk	Silver Springs	577 4590
16	Thom Cuttle	Silver City	720 5796
17	Shawn Griffin	Virginia City	8432335
18	Patty Marshall	Silver City	89428
19			
20		Reno.	852-9337
21	John Currie	Reno	240-7290
22	SERGE MARCHIALE	SILVERCITY	847 0682
24	Rita Wheeler	Silver City	847 0682
25	Barbara Peck	Dayton	246-9653
26	Pierre Derry	RENO NV	771-970-5473.
27	Joey Moore	Dayton NV	775-230-4574
28	TONY VERDE	RENO	775-722-4824
29	CHRIS BROWN	SILVER CITY	847 0431
30	Joy Moore	Dayton	220-4781
31	Lorraine Richmond	Silver City	560-4434
32	CHARLES KONKONESS	VC	220-7306
33	PAUL EADES	DAYTON VALLEY	246-3187/720 8566
34	STEVEN SAYLOR	DAYTON	246-0659
35		Silver City	847-0320
36	Ron James	Comstock Fourdrinier Corp Hist. Society	443-7803
37		Silver City	847-0634

BOC 01/02/2014
Meeting
Sign-In Sheet

	Name	~~Phone #~~ (Location)	Phone #
38	Ron Reno	Silver City	847-0577
39	Mark Joseph Phillips	Storey County PO Box 1092 VC NV 89440	
41	AUSTIN CROUCH	SILVER CITY	775 400 4354
42	Chad Olson	Silver City, NV	775-287-2999
43	JOE MCCARTHY	MGA	829-2245
44	Allison Woodman	Silver City NV	721-1004
45	Madison Woodman	Silver City NV	11
46	SCOTT JOLCOVER	SILVER CITY	MARNO HOUSE CC 742 9694
47	John [illegible]	Carson City, Nv	
48	Margaret Burns	Box 249 Silver City NV 89428	
49	Paula Conley	PO Box 912 Silver City 89428	246-3428
50	Mendy Elliott on behalf of Lyons Cobb - 1320 Rue St Storey Rue St		

BOB HASTINGS - DISCLOSURE STATEMENT 1/2/14

At this time I would like to disclose the following items:

1) In November 2013 my wife, Nadine, was hired by Comstock Mining Inc. to assist with an event held at the Dayton Community Center. She was hired on a one time basis to assist with the set-up and clean-up of the event and was paid $225.

2) My daughter's boyfriend currently works for Comstock Mining Inc. I in no way assisted in getting him the position nor do I receive any benefit, financial or otherwise, from his position. His hire was based in his prior experience in the Industrial excavation field.

In addition, though it s not required under NRS 281A.420 subsection 2A, I will disclose that my campaign in 2012 did receive campaign contributions from Comstock Mining Inc. and companies associated with its shareholders. These donations have been on the public record since before my election in November of 2012.

In these matters I have sought counsel from both the Director Nevada Commission on Ethics and the Lyon District Attorney and believe myself to be fully disclosed and legal under the law.

January 2, 2014

Board of County Commissioners Meeting

Vida Keller, Lyon County Commissioner

Full disclosure on agenda item;

Public hearing 9:30 AM

Comstock mining Incorporated

Master Plan Amendment and Zone change request

I was appointed by the governor of the state of Nevada, Brian Sandoval, to sit on the mining sector Council for the Gov.'s office For Economic Development. To fulfill my obligations to the state of Nevada, I have been on numerous tours and investors meetings regarding mining operations and their needs for further development. This is to include both Nevada Copper in Lyon County and Comstock Mining in Storey County.

I have also attended Silver City Advisory Board Meetings to listen to the concerns about mining operations.

My husband Scott Keller was under contract with Comstock Mining Incorporated for one year from November 2011 to November 2012, as a project manager to restore historical structures in nature. Just prior to that contract, he worked for Priceless Construction on a one-time repair (that Comstock Mining Incorporated didn't own, but precurred the funding for) the Dayton Mill in Lyon County. Priceless Construction is owned and operated by my brother-in-law Rick Keller. The citizens of Silver City were very upset that part of the building had already collapsed, so with the funding from Comstock Mining Incorporated, Priceless Construction did some emergency repairs to prevent the historic buildings from further structural failure. Scott Keller was then contracted to identify future restorations needed in Storey County. Comstock Mining Incorporated, as a part of their mining efforts in Storey County, committed a percentage of proceeds to establish a nonprofit foundation that restores and maintains historical properties and culture. In April of 2013, the Comstock Foundation for History and Culture established a new contract with Scott Keller to restore projects in Storey County. This includes the restoration of the Yellow Jacket Head frame and identifying other projects for future consideration for restoration. Current projects include restoration at the Gold Hill Depot, St. Mary's Art Center, 4th Ward school and others.

Scott Keller's current contract has and does not rely on any future land use, exploration or mining in Lyon County by Comstock Mining.

The Comstock Foundation for History and Culture is a nonprofit organization that receives proceeds from mining in Storey County and other various fundraising efforts.

All of these projects are in direct correlation with Scott Keller's work history and continued career as a carpenter, contractor and consultant. His contract is based on his experience and expertise in this career field.

Any decision today for or against the proposed agenda item has no present or future decrease or added benefit to Scott Keller.

In preparing this disclosure today, I have personally sought out the advice of legal counsel from the Lyon County Dist. Atty. Bob Auer and the advice from Caren Cafferata Jenkins, Executive Director of the Nevada Commission on Ethics.

I also refer to NRS281A.420 requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements.

My decision to not abstain on the matter before us comes directly out of NRS 281A.420 4;

4. In Interpreting and applying the provisions of subsection 3:

(a) it must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person where the resulting benefit or detriment accruing to the other person, is not greater than the accruing to any other member of any general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

(b) The Commission must give appropriate weight and proper difference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provide the public officer is properly disclose the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interest of another person in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice and governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance any gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

In conclusion;

1. Scott Keller is working in his normal course of business.
2. There is no additional benefit to Scott Keller's contract by any decision made here today.
3. There is an expected performance required by an elected official to vote or otherwise act upon a matter once full disclosure has been made.

Therefore I, Vida Keller, declare I am fully capable as an elected Lyon County Commissioner of exercising independence of judgment based on the facts disclosed here today.

BOB HASTINGS - DISCLOSURE STATEMENT 1/2/14

At this time I would like to disclose the following items:

1) In November 2013 my wife, Nadine, was hired by Comstock Mining Inc. to assist with an event held at the Dayton Community Center. She was hired on a one time basis to assist with the set-up and clean-up of the event and was paid $225.

2) My daughter's boyfriend currently works for Comstock Mining Inc. I in no way assisted in getting him the position nor do I receive any benefit, financial or otherwise, from his position. His hire was based in his prior experience in the Industrial excavation field.

In addition, though it s not required under NRS 281A.420 subsection 2A, I will disclose that my campaign in 2012 did receive campaign contributions from Comstock Mining Inc. and companies associated with its shareholders. These donations have been on the public record since before my election in November of 2012.

In these matters I have sought counsel from both the Director Nevada Commission on Ethics and the Lyon District Attorney and believe myself to be fully disclosed and legal under the law.

January 2, 2014

Board of County Commissioners Meeting

Vida Keller, Lyon County Commissioner

Full disclosure on agenda item;

Public hearing 9:30 AM

Comstock mining Incorporated

Master Plan Amendment and Zone change request

I was appointed by the governor of the state of Nevada, Brian Sandoval, to sit on the mining sector Council for the Gov.'s office For Economic Development. To fulfill my obligations to the state of Nevada, I have been on numerous tours and investors meetings regarding mining operations and their needs for further development. This is to include both Nevada Copper in Lyon County and Comstock Mining in Storey County.

I have also attended Silver City Advisory Board Meetings to listen to the concerns about mining operations.

My husband Scott Keller was under contract with Comstock Mining Incorporated for one year from November 2011 to November 2012, as a project manager to restore historical structures in nature. Just prior to that contract, he worked for Priceless Construction on a one-time repair (that Comstock Mining Incorporated didn't own, but precurred the funding for) the Dayton Mill in Lyon County. Priceless Construction is owned and operated by my brother-in-law Rick Keller. The citizens of Silver City were very upset that part of the building had already collapsed, so with the funding from Comstock Mining Incorporated, Priceless Construction did some emergency repairs to prevent the historic buildings from further structural failure. Scott Keller was then contracted to identify future restorations needed in Storey County. Comstock Mining Incorporated, as a part of their mining efforts in Storey County, committed a percentage of proceeds to establish a nonprofit foundation that restores and maintains historical properties and culture. In April of 2013, the Comstock Foundation for History and Culture established a new contract with Scott Keller to restore projects in Storey County. This includes the restoration of the Yellow Jacket Head frame and identifying other projects for future consideration for restoration. Current projects include restoration at the Gold Hill Depot, St. Mary's Art Center, 4th Ward school and others.

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All of these projects are in direct correlation with Scott Keller's work history and continued career as a carpenter, contractor and consultant. His contract is based on his experience and expertise in this career field.

Any decision today for or against the proposed agenda item has no present or future decrease or added benefit to Scott Keller.

In preparing this disclosure today, I have personally sought out the advice of legal counsel from the Lyon County Dist. Atty. Bob Auer and the advice from Caren Cafferata Jenkins, Executive Director of the Nevada Commission on Ethics.

I also refer to NRS281A.420 requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements.

My decision to not abstain on the matter before us comes directly out of NRS 281A.420 4;

4. In Interpreting and applying the provisions of subsection 3:

(a) it must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person where the resulting benefit or detriment accruing to the other person, is not greater than the accruing to any other member of any general business, profession, occupatian or group that is affected by the matter. The presumption set forth in this poragraph does not affect the applicability of the requirements set forth in subsectian 1 reloting to the disclosure of the acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

(b) The Commission must give appropriate weight and proper difference to the public policy of this State which fovors the right of o public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise oct upon a matter, provide the public officer is properly disclose the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interest af another person in the manner required by subsection 1. Becouse abstention by a public officer disrupts the normol course of representative government and deprives the public and the public officer's constituents of a voice and governmental affoirs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance any gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

In conclusion;

1. Scott Keller is working in his normal course of business.
2. There is no additional benefit to Scott Keller's contract by any decision made here today.
3. There is an expected performance required by an elected official to vote or otherwise act upon a matter once full disclosure has been made.

Therefore I, Vida Keller, declare I am fully capable as an elected Lyon County Commissioner of exercising independence of judgment based on the facts disclosed here today.

Public Hearing - 9:30 A.M. – For Possible Action: COMSTOCK MINING, INC – MASTER PLAN AMENDMENT – Request to change the Master Plan from Resource land use designation and Suburban Residential land use designation to Resource land use designation on approximately 32.34 acres and Rural Residential land use designation on approximately 54.86 acres of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0050

***Planning Commission Recommendation*: Based on the recommended findings, the Planning Commission passed a motion to deny the Master Plan Amendment request for Comstock Mining, Inc. on APN's 08-091-05 & 08-091-02, by a majority vote of 5 ayes; 1 nay (George Mortensen); 1 absent (Paul Lanning).**

Comm. Keller made a motion to approve the Master Plan Amendments from Resource to Rural Residential on approximately 12.29 acres and from Suburban Residential to Rural Residential on approximately 42.57 acres for Comstock Mining, Incorporated as set forth in the written and graphic information contained in the revised Master Plan Amendment application and supporting documents received by Lyon County planning department on October 18, 2013 (APNs 08-091-02 and 08-091-05)(PLZ-13-0050). Excluding, without prejudice, eight of the nine previously approved on October 8, 2013 reversion to acreage application for Silver City town sites APN 08-091-05 and 08-091-02. Town sites to be excluded are 101, 102, 103, 104, 133, 277, 278 and 279, a total of approximately 13.72 acres and 1.77 acres from the north end of parcel 08-091-05 known as the "Marble Lode". As depicted on the revised map presented this day January 2, 2014. To hereby be made part of the record and to include findings A through I as follows: A. The applicant has demonstrated that the amendment is an substantial compliance with and promotes the Master Plan goals, objectives and actions in that it is in keeping with applicable guiding principle, goals, policies, strategies. B. The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses in that the amendment would decrease the intensity of residential development. C. The proposed amendment has demonstrated and responds to changed conditions of further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land. D. The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions and will not adversely impact the public health, safety or welfare. E. The proposed amendment will promote the desired pattern for the orderly physical growth of the County, maintains relatively compact development patterns, and guides development of the County based on the least amount of natural resources impairment and the efficient expenditure of funds for public services. F. The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan. G. The proposed amendment will have no major negative impacts on transportation services, and facilities. H. The proposed amendment will have minimal effect on service provision, including adequacy or availability off facilities and services, and is compatible with existing and planned service provision. I. Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan. Comm. ?? seconded and the motion passed 4 – 1. Comm. Arellano voted nay.

Pursuant to NRS 239B.030, the undersigned affirms that the following document does not contain the social security number of any person.

JOHN L. MARSHALL
SBN 6733
570 Marsh Avenue
Reno, Nevada 89509
Telephone: (775) 303-4882
Attorney for Petitioners Comstock Residents Association & Joe McCarthy

IN THE SUPREME COURT OF THE STATE OF NEVADA

COMSTOCK RESIDENTS ASSOCIATION, JOE McCARTHY

Appellants,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED

Respondents,

_____/

No. 68433
District Court Case No. 14-CV-00128

JOINT APPENDIX

VOLUME 3

PAGES 0375-0500

ALPHABETICAL INDEX TO JOINT APPENDIX

Document (date filed)	Volume:Page
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Comstock Residents Association's Opening Brief on Petition for Judicial Review (12/16/2014)	28:3837
Comstock Residents Association's Opposition Brief in Support of Petition for Judicial Review (1/9/2015)	28:3894
Comstock Residents Association's Reply Brief in Support of Motion to Augment Record (1/9/2015)	28:3888
Comstock Residents Association's Reply Brief in Support of Petition for Judicial Review (1/20/2015)	28:3926
CRA's Notice of Supplemental Authority re Motion to Amend (10/14/2014)	28:3754
CRA's Reply to Lyon County and CMI's Oppositions to Motion to Amend Complaint/Petition (8/5/2014)	27:3746
Joinder to Defendant Lyon County Board of Commissioners' Motion to Dismiss (6/13/2014)	27:3648
Joint Opposition of Respondents Lyon County Board of Commissioners and Comstock Mining Incorporated to Motion to Augment Record (1/2/2015)	28:3881
Lyon County Board of Commissioners' Answer to Complaint (3/27/2014)	1:0038
Lyon County Board of Commissioners' Motion to Dismiss or, in the Alternative, Motion for Partial Summary Judgment (6/10/2014)	1:0082

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Lyon County Board of Commissioners' Opposition to Motion to Amend Complaint/Petition (7/29/2014) 27:3721

Lyon County Board of Commissioners' Reply to Opposition to Motion to Dismiss (7/29/2014) 27:3730

Lyon County's Objection to Court's Consideration of CRA's Supplemental Authority (10/16/2014) 28:3757

Memorandum of Points and Authorities in Opposition to Comstock Residents Association's Opening Brief in Support of Petition for Judicial Review (1/12/2015) 28:3905

Memorandum of Points and Authorities in Opposition to Petition for Judicial Review (12/15/2014) 28:3785

Memorandum of Points and Authorities in Reply to Comstock Residents Association's Opposition Brief in Support of Petition for Judicial Review (1/16/2015) 28:3917

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Notice of Assignment by Clerk [Senior Judge Estes] (6/10/2014) 1:0079

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Order of Recusal [Judge Aberasturi] (5/2/2014) 1:0076

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Record on Appeal (6/10/2014) 1:0102

Supplement to Record on Appeal (1/2/2015) 28:3877

Gmail by Google

Kerry Page< kpage@lyon-county.org>

Letter

1 message

Jen< McMahon1971@aol.com> Mon, Dec 9, 2013 at 4:59 PM
To: "kpage@lyon-county.org" <kpage@lyon-county.org>

Dear Mr. Loveberg,

I am a Dayton business owner, and I am in support of Comstock Mining's zone and master plan applications that will be heardTuesday, December 10th at the Lyon County Planning Commission.. Comstock Mining impresses me as a business because they hold a strong vision for a sustainable Lyon County. I am in favor of attracting more businesses to Lyon County, and attracting opportunities that will offer primary jobs that will meet the needs of our local residents. This county needs to promote diversification and not limit industries based upon assumptions.
Thank you for your time and consideration upon this matter.

Respectfully submitted,

Janine S. McMahon
Proprietor

Bloomers Florist
Where Floral Dreams Come True!

DAYTON
CHAMBER OF COMMERCE
MAKING A DIFFERENCE SINCE 1983

Lyon County Planning Commission
27 S. Main Street
Yerington, NV 89447
Cc: Larry Wahrenbrock, Chairman

December 9, 2013

Subject: Lyon County Master Plan and Zoning Change Request

The Dayton Area Chamber of Commerce fully supports Comstock Mining in their efforts and commitment to strengthen economic development opportunities through their investment in Lyon County.

This area has very high unemployment and has been hit harder than most counties in the region. Comstock Mining has generated jobs and will continue being responsible for adding jobs and helping close the unemployment gaps and reducing county deficits. But this cannot be done if the Lyon County Planning Commission does not seriously consider the change in the Master Plan from the current Suburban Residential and NR1 Zoning Designation to Rural Residential and RR3 and RR5 Zoning Designations. This type of disconnect, not only effects the financial burden for Comstock Mining, but it also effects the residents of Lyon County.

The Dayton Chamber works very closely with economic development initiatives and realizes that in today's economic downturns, we (Lyon County) must evaluate, re-evaluate, modify, or eliminate antiquated means of business to embrace more realistic and viable business strategies. Lyon County must align with economic values, meet short and long term goals, recognize existing infrastructure opportunities and threats, and create a plan for a long lasting, sustainable economy.

Every organization should be key components to a stronger, healthier region, so the Dayton Area Chamber of Commerce, sincerely ask the Lyon County Planning Commission to give serious consideration to both the change from Suburban to Rural Residential and the Zoning Request. These changes are positive, necessary, good business, and great for community development.

Sincerely,

The Board of Directors
The Dayton Area Chamber of Commerce

#1 + 2

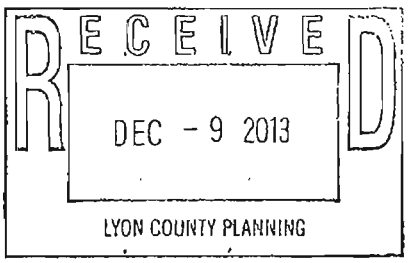
Kerry Page< kpage@lyon-county.org>

Comstock Mining Zoning Change for 12-10-13 hearing

1 message

LYN L PATMOR< l.patmor@sbcglobal.net> Mon, Dec 9, 2013 at 2:43 PM
Reply-To: LYN L PATMOR <l.patmor@sbcglobal.net>
To: "kpage@lyon-county.org" <kpage@lyon-county.org>

Lynette L. Patmor
409 Armstrong Court
Dayton, NV 89403



December 9, 2013

Lyon County Commissioner Chuck Davies
27 S. Main Street
Yerington, Nevada

Dear Commissioner Davies:

I am a resident of Dayton in Lyon County and have decided to live here for the rest of my life. What attracted me to the area is its rich Comstock and emigrant trail history, the Pony Express, wild horses, the people, options to find gold or silver and the balance between nature and commerce.

I'm asking you to recommend that the planning commissioners approve Comstock Mining's applications today. I am favorably impressed with the management and operations of Comstock Mining and I am certain they will greatly benefit Lyon County. As you know, Nevada has the reputation of being a business friendly state and many businesses across the country are downsizing or closing due to factors outside of their control. It seems the Lyon County Commissioners have control over the decision to allow Comstock Mining's request to change zoning. Please make it happen. Approving Comstock Mining's request to change the zoning from NR-1 and RR-5 to RR-3 and other requests seem to be a step in the right direction for Lyon County, Nevada. I want to see my local area prosper and fully recover from the previous economic depression.

JA0377 14 CV 00128 000272
LYON COUNTY

My home is parcel number 029-221-05, a single family residence on a privately owned airport and across the runway from commercial property. It is also my desire that in the near future, many of the vacant commercial properties will sell to businesses that will prosper here in Dayton and Lyon County.

We invest our tax dollars for the education of our children. When these children graduate, they typically must leave Dayton to find work. We are losing our greatest resource due to the lack of businesses and jobs. In Dayton, there are so few job opportunities for our community members. I want money created in Lyon County to stay in Lyon County. You can help make it happen.

Please approve Comstock Mining's applications today.

Sincerely,

Lynette L. Patmor (approved by electronic email sent via l.patmor@sbcglobal.net)

JA0378 14 CV 00128 - 000273
LYON COUNTY

#1+2.

RECEIVED
DEC - 9 2013
LYON COUNTY PLANNING

December 9, 2013

Lyon County Planning Commission
c/o Kerry Page

Dear Commissioners:

When evaluating development in historic districts a number of questions are often asked, and many of these grow out of assumptions about what historic designation means or implies. Historic designation can cloud the planning process with an emotionally-charged atmosphere, too often based on what historic designation seems to be about rather than what it actually involves.

As Dr. Pat Barker pointed out in his November 4, 2013 letter to John L. Marshall, the Lyon County "Master Plan argues that a community's unique character 'is defined by its design, its viewsheds, its gathering places, and its historic and cultural resources, as well as by environmental characteristics such as natural quiet and dark night skies.' The plan further notes that 'maintaining this character is important – not only for promoting economic development and diversification, but also for protecting our living spaces, quality of life and open lands.'" It is important to note, as Dr. Barker and the Master Plan do, that issues associated with historic resources stands apart from other aspects of the community's character. "Viewsheds" and "design" do, in fact, tie back to the management of historic resources, but the other issues are better regarded as general quality of life issues that can be part of the planning process for any community, new or old. Subjects not evoked necessarily by history designation include consideration of "its gathering places, ..., as well as by environmental characteristics such as natural quiet and dark night skies." These issues, while valid for a planning activity to consider, are largely separate from the concerns that affect the management of the historic district.

Issues that are directly associated with the management of the historic district include the effect of an undertaking on structures and archaeology and the long-term effect of an undertaking on the landscape. The Comstock Foundation for History and Culture can support undertakings that 1. Avoid or preserve historic structures (or have long-range plans to address the preservation of historic structures); 2. Fully-document or mitigate archaeological or surface resources that may be affected by an undertaking; and 3. Have long-range plans for the reclamation of the landscape. This could be taken to condemn residential development, because the construction of new housing typically destroys archaeological resources, causes an effect on the historic landscape that will never be reversed, and reduces the percentage of historic structures in relation to new construction. Nevertheless, certain development, particularly involving private real estate, is to be expected when dealing with a healthy economy and with a living, functioning historic district.

With this in mind, the Comstock Foundation for History and Culture looks to the local planning process to support development projects – including mining – that feature positive answers to the following questions:

1. Are historic structures being avoided or sensitively moved and preserved in the face of development?
2. Are archaeological and surface resources being recorded and collected before surface disturbance?
3. Are changes to the landscape being mitigated through a reclamation program?

This last point is problematic from the point of view of managing the historic district that coincides with the Comstock Mining District: the landscape of the district (whether considered as a mining district or a historic district) shows the effects of extensive land modification throughout its history. This includes open-pit mining, which has been a common practice on the Comstock since 1859. A comprehensive reclamation program following any proposed mining venture may obliterate an important, recent phase of mining-related landscape modification. For this reason, the Comstock Foundation requests consideration for the preservation of some aspects of the land alteration associated with current mining as part of the documentation of the industry's effect during each decade.

If there is a fourth consideration here, it would be for the development of a healthy economy. While parts of the Comstock Historic District function as bedroom communities with residents employed outside the district, the district is at its healthiest when it supports its own businesses and means for employment. Development that can support high-paying jobs within the district directly and indirectly enhance the preservation of historic resources. Coincidentally, while working with the tourism industry of the Comstock Historic District for three decades, I have found that visitors to the district are overwhelmingly excited and intrigued by the idea of current mining projects. The lure of bullion, which attracted tourists in the 1860s and 1870s, has the same effect in the twenty-first century, and its positive effect on the economy is not to be discounted. A healthy economy – based on tourism or something else – is the best means to maintain the historic resources of the Comstock.

Please let me know if you have any questions,

Ronald M. James
Executive Director
Comstock Foundation for History and Culture
ron@comstockfoundation.org

#1+2

Gmail by Google

Kerry Page< kpage@lyon-county.org>

Comstock Mining application

1 message

Janet McFall< janet.mcfall@gmail.com> Mon, Dec 9, 2013 at 6:45 AM
To: kpage@lyon-county.org, Janet McFall <janet.mcfall@gmail.com>

To: Chairman Chuck Davies and Lyon County Planning Commissioners
27 South Main Street
Yerington, Nevada 89447

We raised our children in Spring Creek, NV. Mining helped Spring Creek grow from a rural, dirt road, no services area to a community. Mining built the Spring Creek schools and Mining funded school sports. Mining helped the community add a new grocery, restaurant, post office and small shops. Mining filled the existing homes and created more building, and gave us jobs.

I bought my home in Dayton 7 years ago and my two children now have their homes and families in Dayton as well. I support the proposal that Comstock mining has before the Commissioners and hope to see mining help Dayton and surrounding areas prosper as we watched it prosper in Spring Creek, NV.

Here are points that I agree with:

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles.

Lyon County should promote the continued development of mineral and aggregate resources as a primary industry for the county.

Lyon County should guide development away from areas where minerals and aggregate extraction where significant resources are known to exist. Suburban residential zoning makes no sense for this large parcel with a history of mining.

Urban development should occur in areas that are served by existing utility systems to avoid distant and costly extensions. Again, high density zoning is not feasible for this large parcel located in a rural setting.

In summary, mining in Silver City/Dayton Nevada areas will benefit the people, the community, the schools and the businesses. Let's help this rural community grow!

Thank you,
Janet McFall
775-848-3555
137 Creekside Drive
Dayton, Nv 89403

RECEIVED
DEC - 9 2013
LYON COUNTY PLANNING

JA0381 14-CV-00128 - 000276
LYON COUNTY

Gmail by Google

Kerry Page< kpage@lyon-county.org>

Affected Property Owner

1 message

SJolcover@aol.com< SJolcover@aol.com> Mon, Nov 11, 2013 at 3:23 PM
To: planning@lyon-county.org
Cc: jpage@lyon-county.org

Our Property, Donovan Mill, LLC APN's 08-091-05 and 08-091-02, is**directly** across SR 342 from the North End of the applicants property. This area has been stagnant of business or resource development for over 30 years that I know of. As land and building owners directly affected by this application I can not emphasize enough our support of the applicants legal right to be heard on this application, and our support of the Lyon County Planning Commissioners voting in favor of both the Master Plan Amendment and the Zone Change so the applicant may attempt to determine the highest and best use of their land within their legal property rights. There is nothing in the approval of the applicants wishes that creates a condition of negatively impacting health, safety and welfare of the land owners in the area.

kind regards,

Scott Jolcover and Paul Thompson,
Managing Members,
Donovan Mill LLC

JA0382 14 CV 00188 - 000277
LYON COUNTY

#1+2

Gmail by Google

Kerry Page< kpage@lyon-county.org>

Letter of Support for Comstock Mining

1 message

Jeanne Broughton< jeanne@niia.org> Mon, Dec 9, 2013 at 4:14 PM
To: "kpage@lyon-county.org" <kpage@lyon-county.org>

Dear Planning Commissioner,

I am a longtime Lyon County resident of Dayton and I am writing in support of Comstock Mining's application for a Master Plan and Zoning request for change. I have toured the area the company is wanting to have changed. The lots have topography issues and are in an area of historical mining. I cannot understand why it was zoned for suburban residential. I would like to recommend this be changed to a more appropriate zoning that will allow Comstock Mining to use it to it full potential.

I would like to see them be able to proceed with development of the property for mining as it is clearly not a residential area. Comstock Mining is an active community member and employs many people from Lyon County. I would like to see them continue to employ more residents from Lyon County and this could help further that goal.

Sincerely,

Jeanne Broughton

NIIA Membership Services

jeanne@niia.org

775-882-1366

775-883-0524

Home Email & Phone

jeannemariedayton@charter.net

775-846-3408

JA0383 14-CV-00128 000278
LYON COUNTY

#1+2

RECEIVED
DEC - 9 2013
LYON COUNTY PLANNING

December 7, 2013

Lyon County Planning Commission

27 S. Main Street

Yerington, Nevada 89447

RE: Parcel Number 008-072-11

Dear Lyon County Planning Commission Members:

My name is James Page, I am the owner, along with my wife and two sons, all registered voters, of the Grant Lode Patented mining claim, MS#96. According to my research you cannot place a Government Trustee Townsite, as Silver City is, over a Patented, or unpatented claim that was located prior to the Townsite. I built our home on this claim 38 years ago. My wife and I have raised our three children in this community and supported most of the various mining ventures over those years. In April 1994 I subdivided 1.5 Acres and sold it to Eric Obermyer and Margaret Burns.

There were deed restrictions attached to the sale of the aforementioned property. The buyers were well aware of the Historical Mining that had occurred and could take place again in this designated Mining District. Furthermore, under the land purchase agreement signed by Eric Obermyer and Margaret Burns they acknowledged by their signatures the following:

Land Use Restrictions: Buyer shall satisfy himself through independent sources of information, other than the principals or attorney for Sellers in this transaction, whether any public or private action in the form of a vote, initiative, referendum, local ordinance, law, or other measure presently in force or contemplated by a governing or other body may halt entirely or otherwise restrict Buyer's use of the subject property for any improvement or other use, and Buyer acknowledges that he has not relied on any advice or representations by the principals or their attorney in this transaction for such independent information to any extent. This provision shall also extend to flood zone restrictions.

Mr. Obermyer sitting on the Silver City Town Advisory Board has a duty to fairly represent ALL the citizens of Silver City, both pro-mining residents as well as anti-mining residents.

I am writing this letter because I feel our strong support of the mining activity is not being fairly conveyed to the Lyon County Planning Commission and the Lyon County Commissioners. We see jobs and economic benefits to our immediate area and we urge you to give positive consideration to Comstock Mining's Master Plan Amendment and Zone change request.

Thank you for your time and consideration in this most important matter.

James E. Page
And Family

Subject: Letter to LCPC
Date: Monday, December 9, 2013 11:33 PM
From: Kim Fegert <ghsteadyworker@yahoo.com>
Reply-To: Kim Fegert <ghsteadyworker@yahoo.com>
To: Julie Draksler <Julie_draksler@symmetryholdings.com>

Honorable Commissioners:

I am writing in support of Comstock Mining Inc.'s applications for zoning changes pertaining to their property holdings in Lyon County.

It is my understanding that their proposal to mine is related to property of which its historic use has always in the past been mining, as is evidenced by the abundant mine workings in the areas in question. While other surface uses can be sought and determined by human efforts, only Nature determines, much at random, by the way, where the miner can ply his trade. It would be wonderful to be able to plan a mineral discovery much the way one would plan a housing development or freeway, but, planetary physics finds opinions quite irrelevant.

I am the former child of a historically active mining area in White Pine County, where entire towns were moved or abandoned to allow the logical pursuit of mineral resources. After provisions were made for relocation of families and businesses, and legal compensation was made for property acquired, no one found any great lasting distress as the end result. Further, as a Gold Hill resident, I have a front row seat to the past and current mining in Storey County, and, I am not even mildly aware of the operation save glancing at the progress, so little is the impact on my life.

I have seen no evidence that anything as radical as what the towns of Ruth, Reiptown, and Kimberly have experienced is even remotely envisioned in the current proposal. In fact, endless new regulations exist to prevent such schemes. Rather, apparently there is an effort to foul legitimate mineral reserves with the idea of impractical housing developments. That indicates to me an illogical move in reverse of what is in the best interest of cash-strapped areas of Northwestern Lyon County, although, one only has to look a little further west to see an example of mining and residents co-existing voluntarily - the residents chose to live next to an existing operation.

It seems to me the best way to proceed is responsible development of the mineral resources at hand to bolster the regional economy rather than allow currently non-existent developments to create a further drain on County resources.

Respectfully, Kim Fegert, Gold Hill

Gmail

Kerry Page< kpage@lyon-county.org>

Fwd: Needs to be sent kpage@lyon-county.org

1 message

Daniel Howerton< ctr.constr@gmail.com> Mon, Dec 9, 2013 at 7:50 PM
To: kpage@lyon-county.org

Comstock Mining Zoning Application

To whom it may concern,

It has come to my attention that Comstock Mining has applied for a zoning and master plan change for its property in Lyon County. The parcels that Comstock Mining is requesting be changed are in an area that would be troublesome for high density housing development and for that matter any residential housing The property has mainly vacant and is surrounded by public lands or land that is reserved for mining. It is a hilly area and has no available utilities. If there are other uses for this property it should be explored.

I believe the company is in its rights to request a zoning change in order to utilize their property to its fullest. As a business owner I would hope that Lyon County would see that beneficial land use is a high priority and that all private landowners can use their property to its fullest. Comstock Mining is asking for a zoning that could help promote growth in our county and could result in a great opportunity for jobs, which are needed.

Please consider approving Comstock Mining's applications for a zoning and master plan change.

Daniel J Howerton CE
CTR Construction Co.
Dayton, NV
775/241-2099

Julie D. Draksler

PO Box 1156
Virginia City, NV 89440
Phone: 917 865 0146 Fax: 800 750 5740
E-Mail: jddraksler@yahoo.com

December 6, 2013

Lyon County Planning Commission
Yerington, NV

Dear Commissioners:

I am a resident and homeowner in Storey County and I work in both Storey County and Lyon County as a Marketing and Communications Consultant. I have participated in committee groups with Northern Nevada Development Authority (NNDA) as well as supporting the growth of Nevada Business and Industry sector.

I support the efforts of Comstock Mining Inc. and would urge you to approve the Master Plan changes as well as the Zoning Changes as proposed by Comstock Mining Inc. The land in question is too mountainous for anything other than growing weeds or mining, the water system there seems to be strained with current residences and any other land use would not seem in the best interest of the County.

The team at Comstock Mining Inc. has taken on a monumental commitment to bring jobs to both counties and revive a limping area mining industry while preserving and restoring the Comstock's historical mining relics. I believe this team at Comstock Mining has more planned for community development and the mining proceeds pay for it. It seems short sided for those hundred-year-old mine sites to remain restricted from their intended use; MINING. The Comstock Lode is a national treasure, literally, and not just for its viewshed!

Some of the Community, Business & Industry projects I have worked on with CMI are as follows:

St. Mary's Art Center, fund drive for a new boiler

Fourth Ward School, fund drive for continued restoration

Dayton Valley Days Street Festival, community event

National Night Out, Sheriff's community event

Comstock Cemetery Foundation, gravestone project

NNDA's ROI, Business & Industry symposium

Reno's Sheep Dip, fund drive community event

Sincerely,

Julie D. Draksler
Marketing and Communications Professional Consultant

Dear Planning Commission,

I have been a resident of Gold Hill for only 15 months, but in that time I have fallen in love with the community and surroundings. I am honored to call this area home. I work for Comstock Mining Inc and I have observed how Comstock has interacted with the community and has done everything in its power to be good responsible neighbors. I have worked at other mines where that is not the case. I have seen "Big" mines move a community to their own gain. Comstock Mining Inc has not been like that. The Management team has gone out into the community and asked for their input, and has tirelessly worked on solutions that would benefit both parties. I am in favor of the zoning change as it will be a win-win for both sides. Comstock Mining Inc is dedicated to responsible mining, and reclaiming the land that has been mined. I intend to live here in Gold Hill for the rest of my life, and I am proud to have Comstock Mining Inc as my neighbor. My sincerest hope is that you will approve the zoning change that Comstock Mining Inc has requested.

Sincerely,

Phill Searles

12/9/13

To whom it may concern:
My name is Kari Randle. I am the Laboratory Team Lead for Comstock Mining. I want to take a moment to share my experience while working here with you.

First of all I was working a job before Comstock Mining that did not allow me any finical freedom and was my motivation for changing my job of 8yrs. As a single mother this was very challenging and sometimes impossible to pay my bills and child care with my former income. Since working at Comstock I am able to make a livable wage that allows me to pay my bills and give back to my community. I am able to contribute to our local economy and try to support our local small business. I have been given some great opportunities as an employee of Comstock Mining that I would not have received anywhere else. I have had great mentors from within the industry and the opportunities to work with several other laboratories. I have been given training and advancement opportunities from the day I walked in the door. I have been given opportunities to work on project management, environmental training, RICRA training, opacity training, SPC training, Montor Pro training, site training, safety training, and the list goes on.
I also believe that our company cares and is concerned for the environment and the community. I have seen Comstock Mining do more than say they want to make a difference for the community and environment. They live it. I feel that Comstock mining does live out these values every day. I feel we always continue to improve and have a bright future in this area. I'm very proud to work for a company that has values I believe in and does its best to be honorable and ethical in a time many companies choose not too.

Sincerely,
Kari Randle
Comstock Lab
Team Lead
Comstock Mining Inc.

775-847-5272 x191 (o)
775-230-5381 (c)
775-847-4762 (f)
1200 American Flat Road
PO Box 1118
Virginia City, NV 89440

NYSE MKT: LODE

#5 - #6

#1 + 2

November 8, 2013

Lyon County Planning Commission
27 South Main Street
Yerington, Nevada 89447
Via: planning@lyon-county.org

Re: Comstock Mining Inc.

Dear Commissioners:

I am writing as a former long-time resident of Silver City and current property owner in Silver City, as well as a Lyon County business owner and former owner of the Dayton Consolidated Mine, in order to show my support of Comstock Mining Inc. and what they are proposing for the Master Plan.

I strongly urge the Commission to support the Master Plan amendment and Zone Change application filed by Comstock Mining Inc. in order to properly align the zoning of the parcels submitted before you so that planning will be consistent with the area and with the property's former use.

Respectfully submitted,

Art Wilson
President

ART WILSON CO.
Art Wilson, President
P.O. Box 20160 ~ Carson City, Nevada, 89721 ~ Ph. (775) 882-0700, ext. 105 ~ Fax (775) 882-0790

12-9-13

My name is Las Swanson. My father has resided in Silver City for the past 35 years. During most of that time, my involvement with the town was as a visitor from Carson. About three years ago, I moved to Silver myself and became a resident. It is, without question, one of the most charming and unique places I've ever known. Most of Silver's residents are very protective and, if they perceive a threat, can react with rabid ferocity and bared teeth. I am no different and offer no apologies. We are just protecting the home we love.

I do NOT support mining. I do, however, support the right of a landowner to utilize their property as they desire. One of Silver's finest qualities is the diversity of its citizenry and the level of tolerance afforded towards one another. Live and let live seems to be an underlying principal. It seemed unfair to apply that principal across the board to all of my neighbors with the exception of Comstock Mining so, with an open mind, I sought my own information in order to assess, for myself, the perceived threat to my community.

To date, aside from that annoying beeping noise that sometimes comes from their equipment, I can find no justified objection to the operations of Comstock Mining. The blast lasts all of about 2 seconds and unless I stop what I'm doing and go outside to listen, I don't hear a thing. Blast dust, I've observed, goes up or the other way. I've never experienced any dust problem at my house from mining operations. Instead of irresponsibly exposing us to toxins as I was told, my inquiries have revealed how Comstock consistently goes above and beyond what may be required by any regulatory agency despite any additional time and/or expense which may be incurred. Based on my observations, "above and beyond" is the corporate philosophy that pervades and underlies most company actions and decisions. Rigid and scrupulous compliance, responsible mining and service to community are core values.

How do I know so much about this company? I watch them from the inside. I was so impressed by their ethics and integrity that I accepted a position within the company. I have total access and can still find nothing which poses a threat to me, my father, our home or the future of Silver. When I look beyond the misinformation that is spread and base my decisions on facts, my only remaining objection is the beeping. And honestly, that noise is less annoying than some of our other neighborhood noises.

This is historically a mining district. That's what they do here-scoot the dirt around for mining. Whether we're cutting pads for homes, constructing railroad routes, cutting roads or riding dirt bikes and quads, we're moving dirt around and changing the landscape. Comstock does that same thing although on a larger scale. And, while the rest of us do what we want with reckless abandon, Comstock carefully considers the effect of their actions on the environment and the community and actively engages in steps to restore areas they have disturbed.

I have no objection to the change Comstock Mining is requesting. Their actions and operations have demonstrated a commitment to responsible mining with respect for historical and community considerations. I have no reason to believe they will behave or operate any

differently in the future. They have an affection for this area and look for the best possible long term beneficial property outcomes.....future land use after reclamation is tied into improving the community thus insuring property values, etc.

Since this is a mining district and we've been poorly abused by other mining companies in the past, I actually prefer to see Comstock Mining Company develop this resource area because of their demonstrated commitment to preserving and protecting historical dignity and community values.

Comstock Mining Company has gone to great lengths to be a good neighbor. Through the creation of jobs, economic revitalization, community outreach, historic restoration, community service and continued operation of the Gold Hill Hotel, they have single-handedly done more for our community than any other group or organization that I'm aware of. In return for all they've done and their commitment to environment and community, I'm willing to listen to the beeping and support them in this requested change of land use. I encourage others to do so as well.

Thank you.

Las Swanson
Silver City resident

LYON COUNTY
PLANNING DEPARTMENT

27 SOUTH MAIN STREET
YERINGTON, NEVADA 89447
(775) 463-6592 (775) 463-5305 FAX

ROBERT C. LOVERRO
PLANNING DIRECTOR

NOTICE OF APPLICATION AND PUBLIC HEARING

PLZ-13-0051	Zone Change
Meeting Date:	November 12, 2013
Applicant:	Comstock Mining, Inc.
Property Owner:	Same
Area Location:	Silver City
Parcel Number:	(APN's) 08-091-05 & 08-091-02
Existing Zoning:	NR-1 (Non-Rural Residential-6,000 sq. ft. minimum)
Proposed Zoning:	RR-3 (Rural Residential-5 acre minimum) and RR-5 (Rural Residential - 20 acre minimum)
Existing Master Plan:	Suburban Residential

Request: To change the Zoning Designation from NR-1 (Non-Rural Residential - 6,000 sq. ft. minimum) to RR-3 (Rural Residential-5 acre minimum) on 54.86 acres and RR-5 (Rural Residential - 20 acre minimum) on 32.34 acres

Location: Off of Highway 341, Silver City, NV

Dear Affected Property Owner:

An application for the above referenced project is on file at the Lyon County Planning Department offices at 27 South Main Street, Yerington, NV. This file may be reviewed at this location during regular office hours (8:00 a.m. to 5:00 p.m.), Monday through Friday, except legal holidays, or upon request, a copy can be delivered via electronic mail. To request a copy of the supporting materials for this agenda item please contact Kerry Page at kpage@lyon-county.org or by calling 775-463-6592.

Planning Commission Hearing:

Date: Tuesday, November 12, 2013 *(this matter may be continued to another meeting date without additional notice)*

Time: 9:00 a.m.

Location: Board of Commissioners Chambers
27 South Main Street, Yerington, Nevada

Interested persons may appear at the meeting to present oral comments to the Planning Commission. Written comments may be submitted by mail to Lyon County Planning Department, 27 South Main Street, Yerington, NV 89447, by fax to (775) 463-6596, or send an e-mail to: planning@lyon-county.org. Written comments must be received before the date of the meeting to be considered by the Planning Commission. For further information, please contact the Lyon County Planning Department at (775) 463-6592.

Comments (additional comments may be provided separately):

FRANK PEDLAR

SEE OTHER SHEETS.

My name is Frank Pedlar.

My family moved to Silver City in the early 1930's to mine.

My wife, daughter and I currently live in Silver City.

We have 5 houses and 57 acres. My daughter's house ajoins the Dayton Consolided on Dayton Toll Road. My property joins the mine further North. We are not just close to the mine, but own some of the same property as the mine. A portion of nine town lots that we own, overlay the Dayton Consolidated patents.

It appears we are dealing more with amotion and fear rather than facts. A lot of the roomers going around are unjustified and designed to scare. An example of this is the picture of the North side of Grizzly Hill with a large open pit. There is no pit here and this property does not belong to the mine, but myself. (See picture by the Comstock Residence Association)

The town of Silver City is patent #433. The rights of the residents and the mine are clear. The patent was put into effect by the president of the United States [Ulysses S. Grant]. Remember there are 9 (nine) patented lode mining claims [MS# 44, 45, 46, 56, 63, 66, 75, 77, 96.] that were issued with no mineral reservations and no U. S. reservations. Where as the Silver City townsite patent was issued with mineral reservations and U. S. reservations to protect the inhabitance.

Comstock Mining has and is restoring several Historic buildings that were about to fall down.

I have no problem with this change to the master plan.

Thank you.

This is what we have now

This is what we'll have if CMI mines here

Mining in Silver City

Comstock Mining has submitted a master plan and zoning change to Lyon County, which if approved, would open the way for mining operations within the Silver City town limits. The application covers more than 55 acres surrounding the Dayton Consolidated mill site, literally across the highway from residents in the southern portion of Silver City. Imagine the current Comstock Mining operation north of Devil's Gate transplanted to the Dayton Consolidated mill site. If you are troubled by the damage done to the historic viewshed along Highway 342 in Gold Hill, and dismayed by the noise, blasting and dust we already experience in Silver City, think what life will be like with mining in Silver City's "front yard." Unless we take action, Silver City residents will be wedged between a pit there and a southern mining project with dust and noise from blasting and haul trucks times two. It is easy to understand the devastating effects mining in Silver City would have on our quality of life, health, environment and property values, not to mention the historic landscape of the Virginia City National Historic Landmark.

The coming months will be a critical period in the history of Silver City. We will either remain a quiet, residential community or our town will be transformed into an industrial site. The good news is that Lyon County decision-makers have supported Silver City residents under similar circumstances in the past. In 2986, Nilwest Mining proposed master plan and zoning changes in an attempt to pit mine the very same location. Because everyday citizens like you worked hard, spoke up and showed up at meetings, the Lyon County Commissioners denied the mining company's request. However, that was 27 years ago. This time it will take an even higher level of commitment and action on the part of all of us in the Silver City community who care about preserving our quality of life.

What You Can Do

On September 3, 2013, the Silver City Advisory Board has the master plan and zoning change for the Dayton Consolidated on the agenda. The meeting is at 7PM at the Silver City Schoolhouse. Your attendance at this meeting is extremely important for providing input to the members of the Town Board.

On September 10, 2013, the Lyon County Planning Commissioners will hear a request from Comstock Mining to consolidate acreage at the Dayton Consolidated Mill Site to pave the way for their upcoming master plan/zoning change. The meeting will be held in Yerington, Nevada at 27 S. Main Street and will begin at 9am. It is important that residents of our community concerned about mining in Silver City attend this meeting and clearly communicate their opinions regarding this issue.

In November of 2013, the Lyon County Planning Commissioners will hear Comstock Mining's master plan and zoning change request. Residents of Silver City have begun work on a presentation to inform, educate and present a counter point-of-view to the members of the Planning Commission. In December of 2013, the Lyon County Commissioners will consider the Planning Commissioners' recommendation on the master plan and zoning change and their decision will be final. The dates of these important meetings will be made available once they are scheduled. Your attendance at both of these meetings will be critical.

The Lyon County Commissioners need to hear from you regarding mining in Silver City. Here are their addresses, phone numbers and e-mail. Please contact them and tell them how mining in Silver City would affect your quality of life.

Bob Hastings PO Box Dayton, NV 89403 775-246-8000 bhastings@lyon-county.org	Vida Keller PO Box 303 Silver Springs, NV 89429 775-577-5000 vkeller@lyon-county.org	Ray Eberle [illegible] Keystone Drive Dayton, NV 89403 775-246-0556 reberle@lyon-county.org
Virgil Anderson 311 Nevel Lane Yerington, NV 89447 775-245-0330 vanderson@lyon-county.org	Jay Mortensen 680 Miller Lane Fernley, NV 89408 775-575-4778 jmortensen@lyon-county.org	

If you need a ride to the meeting on September 10, 2013, would like to make a donation or volunteer to support our community, or if you need more information, please call Gayle Sherman at 847-0851.

FROM THE DESK OF
STEVEN SAYLOR

T: 775-246-0232 F: 775-246-0266

#1+2

November 11, 2013
LYON COUNTY
PLANNING COMMISSION
27 South Main Street
Yerington, NV 89447

RE: Special Use Permit / Comstock Mining

Dear Planning Commissioners,

We are writing in regards to the Special Use Application being considered for Comstock Mining.

It is our understanding that the zoning for mining in the proposed area is not inconsistent with their application. Further it gives property owners their inherent right to the highest and best use of their property.

I have taken advantage of their offer to have the public come and tour their mining site and processing center in Storey County. I have found they have gone above and beyond the existing requirements and regulations currently in place for the BLM, NDEP, NDOT, and MSHA.

We have also attended several of their public awareness meetings for the public in Dayton and have found them very forth coming with their plans and intentions. The public record shows that what they say they are doing and have done is supported in documentation and their actions.

They are also actively restoring and preserving the historic structures in our area. They are also offering funding for our local historic preservation efforts and others.

In closing, the economic impact in our county will be enhanced through jobs creating payroll and taxes to the county.

Thank you all for your time and consideration.

Sincerely yours,

Steven & Johnye Saylor

LETTERS OF OPPOSITION

- Letter from Erich Obermayr – 12/8/13
- Letter from Erich Obermayr – 11/11/13
- Letter from Ron Reno, Ph.D., RPA – 11/14/13
- Letter from Christopher & Bonnie Brown - 12/9/13
- Letter from Allison Woodman – 11/7/13
- Letter from Great Basin Resource Watch – 12/10/13
- Letter from Sheree Rosevear – 12/7/13
- Letter from William Rosevear – 12/7/13
- Email from Karen West – 12/9/13
- Email from Laura Tennant – 12/9/13
- Email from Allen and Susan McCabe – 12/7/13
- Email from Susie Glaze – 12/19/13
- Email from Chad & Judi Olson with spreadsheet – 12/6/13

December 8, 2013

To the Lyon County Planning Commission:

The following includes some supplementary information to my November 11, 2013 submittal to the Planning Commission regarding Comstock Mining's Master Plan Amendment and Zone Change application for their property in Silver City.

This supplementary information in based on re-examination of documents at the Nevada State Library and Archives cited on the November 11 submittal, an interview with Mr. John Bennetts of Silver City, and the September 22, 2011 Reclamation Permit for exploration on the Dayton property, filed by Comstock Mining Inc. with the Nevada Department of Conservation.

The purpose of this supplemental work was to further examine the repeated statement in the application that:

> *For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940s and 1960s, while some form of active exploration and development activity has continued from the 1970s through today.*

The re-examination of the reports by the State of Nevada documenting mining and milling operations in the state focused on the Alhambra, Oest, and Kossuth claims which are included in the application but which lie for the most part south of the Silver City town limits. The only reference found to any of the three claims was an entry for 1982, I.D. # 1828, Oest Corporation, Billy Varga President, Oest Mine; underground gold and silver mine with four employees. The Oest Mine is well removed from the Dayton Mine proper, approximately 0.15 miles southwest of the Silver City town limits.

Mr. Bennetts is a lifelong Silver City resident, and his family has been involved in mining in the Silver City area for generations. Mr. Bennetts is very knowledgeable on the subject. In the interview, Mr. Bennetts recalled that mining did continue at the Dayton for a number of years after Dayton Consolidated shut down in 1950. These activities ceased by 1955. Mr. Bennetts pointed out that the subsequent owners did maintain a continuous presence on the property until the early 1980s, in the form of taxes paid and occasional assessment work. A hired watchman has been on the property ever since. He also recalled that during the 1960s the owners did engage in limited work on the property. According to Mr. Bennetts, the most significant event during this time was the leasing of the Dayton property to Kenneco Minerals and Union Pacific Minerals, in the early 1980s. Their exploratory drilling project established proven reserves which then became the basis for the proposed Nevex open pit mine.

Comstock Mining's Reclamation Permit, also addressed previous work on the Dayton

property. To quote from page 5 of the report:

> *Operations [at the Dayton Mine] resumed on a limited basis using surface mining practices to develop an open pit in the late 1940s, by 1950 the mining and processing ended.*

The report does not mention any further mining on the property, but does refer to an exploratory drilling program in 1976 which is apparently the same drilling mentioned by Mr. Bennetts.

This supplemental information adds detail to my submittal of Nov. 11, but does not change my basic point, although I would say the sporadic, abbreviated efforts of the 1960s were apparently done by the owners of the property themselves.

Thanks for your time and consideration.

Erich Obermayr
Box 249
Silver City, NV 89428
eober@historicinsight.com

#1+2

November. 11, 2013

To the Lyon County Planning Commission:

I am submitting the following for your examination and consideration with respect to Items 5 and 6 on the Planning Commission meeting agenda for November 12, 2013. These agenda items include a request for a Master Plan Amendment and Zone Change for property owned by Comstock Mining, Inc. within and adjacent to Silver City.

The following is based on research conducted by Erich Obermayr at the Nevada State Library and Archives and University of Nevada Special Collection between October 28 and November 8, 2013. This research addressed the oft-repeated statement from the above application that:

> *For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940s and 1960s, while some form of active exploration and development activity has continued from the 1970s through today.*

The conclusion from the above mentioned research is that the last *significant* "active mining and development" at the Dayton property occurred in the late 1940s and ended by 1950. This is based on an examination of reports by the State of Nevada documenting mining and milling operations in the state. These reports include *Nevada Mines, Mills, and Smelters* and *Report of the State Inspector of Mines*, both compiled by the State Inspector of Mines (prior to 1972); and *Nevada Industrial Commission Directory of Active Mining Operations by Counties* and *State of Nevada Department of Industrial Relations Directory of Nevada Mine Operations Active During [the] Calendar* Year (1973-2007). Reports from the years 1973, 1995, 1996, and 1998 were not available.

The original Dayton Mine was one of the first in the Silver City area, with substantial production from 1870 to 1875. The mine was then idle from 1880 until it was reopened in the 1930s. The Dayton Mill was built in 1934, and the Dayton Consolidated Mines Company processed ore from their numerous properties in the area as well as the Dayton Mine. The Dayton Mine was closed by war regulations in 1942. The Dayton Consolidated Mines Company then resumed operations in 1948 (*Mineral Resources of Storey and Lyon Counties, Nevada.* University of Nevada Bulletin, Geology and Mining Series No. 49. March 1950).

The 1949 *Nevada Mines, Mills, and Smelters* (p 10) lists the Dayton Consolidated Mine Company as operating a flotation and cyanide mill in Lyon County, and conducting underground mining at the Keystone Mine in Storey County (p 13). The report does not specifically mention activity at the Dayton Mine, however the mill is listed as "producing." The combined 1949-50 *Mines, Mills, and Smelters in Operation* repeats the same information. A November 1950 draft Dayton Consolidated Mines Company letter to stockholders (UNR Special Collections 88-47/3) and a general production report from the Dayton Mill from December 1948 (UNR Special Collections 88-47/3) indicate there was production during this time from the Dayton property. The

production report lists tonnage from the Dayton Cut, the "Wedge" (noted as "Dayton Surface"), as well as the Oest Mine (located south of the Dayton property but controlled by the company [See *Comstock Notes*, a Dayton Consolidated Mines Company prospectus, UNR Special Collections TN 433 N3 D3]). The stockholders letter recounts activity from 1948 through 1950, which included the blocking out and development of ore bodies at depth in company properties. It does not specify whether this refers to the Dayton Mine or the Keystone Mine in Storey County. The letter concludes with the point that the company has exhausted its working capital and without additional financing current bondholders will take over the property. It is not known whether this effort was successful.

The 1951-52 *Report of the State Inspector of Mines* has no activity listed for the Dayton Consolidated Mines Company. Subsequent reports, as referred to above, covering the period from 1952 to 2007, make no mention of mining or milling on the Dayton property. The statement in the application that "active mining and development" occurred on the Dayton property in the 1960s is not supported by the state reports as, again, there is no mention of mining activity on the property during that time.

It should be noted that the reports referenced above may not include mines operated solely by the owner or leasee, without any additional employees. It is possible that individual owners may have mined somewhere on the property at some time during the last sixty-plus years. There was also apparently exploratory drilling on the Dayton property in conjunction with the Nevex Mining Co. project in 1986, as well as the more recent Comstock Mining Inc. exploratory drilling in 2011 and 2012.

The very general statements about the property's use in the application are not necessarily inaccurate. However, since they lack any supporting documentation, it is impossible to assess their veracity. For example, the reference to "active mining" during the 1960s is contradicted by the state agency reports. And while the owners themselves may have occasionally undertaken small scale mining activity on the property, this is impossible to confirm without documentation.

The statements are not accurate in their implication that mining activity has been more or less continuous since the 1940s. It would be more correct to say there has been no verified mining activity, aside from two exploration projects and possibly other sporadic, abbreviated efforts, since productive mining on the property ceased in 1950.

Thankyou for your consideration.

Erich Obermayr
Box 249
Silver City, NV 89428
eober@historicinsight.com

Ron Reno, Ph.D., RPA

P.O. Box 550
375 Croner
Silver City, Nevada 89428
rlreno@gbis.com
775 847-0577

November 14, 2013

County Commissioner

Re: **ZONING CHANGES AND POSSIBLE OPEN PIT MINING IN SILVER CITY TOWNSITE**

Dear Commissioner:

I am very concerned about possible adverse effects to the Silver City community in which I have lived for about 30 years and to the Virginia City National Historic Landmark of which it is a part.

My relation to Silver City is unusual. I lived here in a rental and did not invest my life savings into a house until after the NEVEX open-pit mine proposal was denied by Lyon County. I am fully aware of the dangers of moving into a mining area. Without that decision, plus the assumed protection from living in a National Landmark I would never have invested here and run my business from this location. I moved to the Comstock due to an active interest in its history and resources extending back to the 1950s. However, the main point I want to make is not the personal loss involved, although life in town for many will become untenable, probably resulting in many long-term friends and neighbors moving away. Instead I want to talk about the Landmark in my professional capacity.

Since all of you are relatively new to the Commission, you may not know me. I last had extensive interaction with the Commission during the lengthy effort to rebuild the Schoolhouse Community Center. In the course of that project I became an unpaid County employee (the County still owes me $1.00) as I took over many aspects of coordination, design, and construction oversight. The unique result is something the County should be extremely proud of.

I have worked in the mining industry extensively since 1979 all over the state. My role has been to facilitate the required permitting processes by providing cultural resources services. One of these services is assessing impacts and significance of historic resources. Since I work on permitted mines, I am regarded by the State of Nevada as a miner, which I am proud of. I am far from anti-mining. I moved into the premier landmark in Nevada which celebrates the contribution of mining to the birth of the state. I have worked on permitting for three small open-pit mines in or adjacent to the Landmark

sharing information and ideas with their cultural resources contractors. Where CMI or any other mining or earth-changing developments need to be watched is where this company or other companies may have an unrealistic view of what kinds of impacts can be mitigated or reclaimed. Some losses simply can't be mitigated in any useful way.

In conclusion, I recommend not allowing zoning changes or permits to any applicant that may result in major alterations to the area within the Silver City Townsite. The Townsite limits include mining patents, but this does not mean that unrestricted mining activity should be allowed in this area. Other options should be explored if necessary, including underground mining, which CMI is considering as a further phase of its present operation in Storey County.

Thank you for your consideration. Please feel free to contact me if you want to discuss this matter further.

Sincerely,

#1+2

P.O. Box 102 1530 Old Dayton Toll Road, Silver City NV, 89428-0102

RECEIVED
DEC - 9 2013
LYON COUNTY PLANNING

December 5, 2013

Lyon County Planning Commissioners
27 South Main Street
Yerington, NV 89447

Re: December 10, 2013 Planning Commission Meeting: Agenda Items: #1-2: **Request**: Comstock Mining Inc. (CMI), Master Plan and zoning change within Silver City town site.

Dear Commission Members:

We request that the Commission deny the mining company request that will essentially allow a proposed, undefined, open pit mine to be dug within the Silver City town site. Silver City is an historic town that is also an integral part of the Virginia City National Historic Landmark and Nevada State Comstock Historic District.

This is a letter from the hearts of two 40-year Silver City residents. We live less than 600 feet from the requested Master Plan and zoning change properties. We are considered 'Affected Property Owners' by Lyon County.

Our property is located in Gold Canyon, a small canyon adjacent to Nevada Highway 341, on the Old Dayton Toll Road. We are the last customers on the historic Virginia City water syphon water line. We built our family home and raised our children on the old Phoenix/French Mill site, one of the first mills on the Comstock. The mill, which burned down in 1900, was powered by huge water wheel. We bought the property from Roland and Bernice Bonham, a Comstock miner who worked small digs with his brother, and worked at the Dayton Consolidated Mill, and his wife, a teacher. They were the direct descendants of the Greely French family. When the mines played out, the family moved on.

When we moved here Silver City was, and still is, a small town that afforded us a chance to have a good life for our family in a nurturing community that was quiet and safe. We both come from large industrial areas, and in Silver City we experienced for the first time, **Community**. A sense of community is extremely rare, and is something some of the small rural towns in Nevada continue to have. It is precious. We live in a community of folks who may not agree on many things, but if anyone is in need, folks will help. The modern spirit of the town was built upon the reconstruction of the fire department, with training and equipment acquisition through community fundraising, and the school house. Today these are still the essential foundations of our town, our community.

Silver City was historically, a working man's mill town. Small, modest houses, businesses and mills typified town buildings, in contrast to the wealthier towns of Gold Hill and Virginia City. As part of the Historic District, all town construction must comply with building and land use constraints characterized by the original buildings. The zoning determines what may transpire in the businesses. When we first built our house, we had to get a 'Certificate of Appropriateness' for even our chicken house. To comply with historical visual architecture, the houses continue to be modest in appearance. Inside our houses one will find rich, culturally interesting décor and well as a truly diverse, intelligent, creative and nurturing population. It is home.

The residents of the town have been very actively involved in the development of the County Master Plan. Since the modern zoning was established, land use designations haven't changed. The town's character and economic values have remained constant with non-industrial, residential zoning. We all have jobs (e.g. federal, state, teaching, history/geology, archaeology, masonry, mining, truck driving, artistic/creative, bartending, consulting, landscaping, mental and handicapped services, construction). We vote and pay our taxes as good citizens.

As the County seal shows, historical Lyon County economy was based primarily upon agriculture, ranching and mining with discrete residential and commerce, railroad communities. Those same strong economic foundations hold true today with more recent, global commerce of warehousing, transportation, small manufacturing, subdivision development, energy production and recreation to name a few.

In 1986, when the Nevex Mining Company applied for zoning change and SUP for mining within Silver City, the Lyon county Planning Commission and County Commissioners found the in-town Dayton Consolidated Mill site inappropriate for modern mining; lawfully guided by the established Master Plan. Lyon County then went on to facilitate that company to work in adjacent properties, which were found appropriate within the county.

The current disruption of our lives by the exploration of the Dayton Properties by CMI has overwhelmed our community. We have been constantly impacted by the sound and vibration caused the drilling, blasting, 24 hour heavy equipment movement, dust and road closures for the past two years. This disruption is written off as just 'exploration.' Many residents have lost heart, yes 'heart.'

The land use changes applied for will allow uses totally unsuitable for property within a town. Our health, economic well-being, is at stake. We and some of our neighbors will no longer be able to live on our property if the zoning changes allow an open pit or other massive industrial uses to the property. We honestly don't have the means to easily move.

We ask ourselves, will this entire town be sacrificed for the latest of many opportunists who have been sold this property over the last years.....sacrificed for a newly fabricated entity that wants to make money, even if it is just on paper?

We respectfully request that today your reasonable, lawful, far thinking judgment be applied to these unsuitable and inappropriate applications. We trust that an honest, balanced equitable decision will be made.

We thank you for your service to our communities.

Sincerely,

Christopher Brown *Bonnie Brown*

775-847-0431

bandcbrown@gbis.com

#1+2.

November 7, 2013

To the Lyon County Planning Commission

I am Allison Woodman and I live on Main Street in Silver City NV, USA. I sought out to live in a small, quiet, rural community and found, then purchased my historical home using our life savings. It is the biggest investment we have made in our lives and was our dream to own our home. Alan and I have poured all we had and so much work into the property to make it more comfortable and increase the value of our investment. Alan did much of the very hard work himself and I will never forget him saying, "I don't care if I have to dig it out with a spoon; it's ours." We have raised our Granddaughter in the home. It's her home, the only home she has ever known. All of our hand prints are in the repaired foundation. The bottom dropped out of the housing market and times got hard but we've tenaciously hung on. The value to us, having our own home and living in and being part of the Community in Silver City is about so much more than money.

We and many of our neighbors live directly across the road from where Comstock Mining proposes to open pit mine. The impact on all of us of open pit mining in our community and so close to our homes would be devastating. For my family, the value in our investment we have worked so hard for would be a total loss. We would be financially ruined. At 58 and 52 years old, Alan and I cannot just start over somewhere else. We would not be able to remain in a home where our child would be breathing in dirt from a superfund site on a daily basis and we would not be able to sell it. We would have to disrupt our lives, pull our child out of her school in Dayton and walk away from our home and our dream. We don't have the time left or resources to recover from such a loss. This is not an outcome that is out of anyone's control. We have invested within a historically protected, residential community. We have all been contributing citizens of Lyon County before Comstock Mining became. We are asking the Commission to maintain the residential zoning for our community and protect our rights and the integrity of the historical town and landscape.

In 2010 Comstock Mining came to our little town meeting and announced how much acreage they had newly acquired, how much money their out of town investors had, and of their intent to open pit mine within our community. I was alarmed and dismayed when Comstock Mining began moving bulldozing dirt around on the hill across the street. I was assured that testing on the soil would be made. I still have not received the information regarding the results of those tests over 3 years later, although I have asked repeatedly. The last I saw were men in hazmat suits on that hillside. Our quality of life and possibly our health has been negatively impacted by the drilling activity. Several months into the pushing around dirt to make roads and drilling pads, with the disturbed soil blowing down upon us, I developed a swollen lymph node in my neck that cannot be explained after multiple tests and much expense and my child had and sometimes still has a chronic cough. I am angry and afraid.

I am more than just saddened and dismayed by the open pit mine just outside the gates of our town. The activity has had a negative impact on us from the dirt, the noise, the ruining of a newly paved road, the presence of industrial traffic, and most of all the ruined landscape replaced by a growing gaping hole. The area they have destroyed is about the size of our town. I cannot imagine having that within

our town and living directly across from another growing, gapping, hole and constant noise, blastings, lights, industrial traffic, and especially so much dirt blowing onto and into us.

Lyon County can find a way to develop sustainable economy without the gamble of open pit mining within the small historical and residential community of Silver City.

Mining can be a good and productive part of Nevada economy but it should not be, should never be within very close proximity to any community.

Sincerely,

Allison Woodman

GREAT BASIN RESOURCE WATCH

Working with Communities to Protect Their Land Air and Water

236 Keystone Ave. Reno, NV 89503
775-348-1986, www.gbrw.org

December 10, 2013

Lyon County Planning Commission
Lyon County Administrative Complex
27 South Main Street
Yerington, Nevada 89447

Re: Comstock Mining, Inc. – Master Plan Amendment and Comstock Mining, Inc. – Zone Change

Dear Commissioners,

Great Basin Resource Watch (GBRW) is a non-profit organization founded in 1994 by a coalition of environmental, Native American, and scientific community representatives. We are a regional organization working with communities of the Great Basin to protect their land, air, and water from the adverse effects of resource extraction and use, and other industrial development.

GBRW has been following and been engaged with the Comstock community for the past four years. The situation in the Comstock is somewhat unique with the appearance of large-scale mining in a rural residential area, and whether this kind of mining can coexist with the existing lifestyle and other aspects of the area such as the historical significance of the Comstock is at stake here. Decisions that are made here in Lyon County has the potential of setting a precedent to be carried to other places throughout the United States.

There are a couple considerations that GBRW would like to forward that may not be within the comments of other individuals and organizations. To date there has not been an overall environmental analysis of the impacts of the actions Comstock Mining Inc. (CMI) and future actions under its mine plan. Normally the federal government will require a full environmental impact statement when an action such as that being conducted by CMI is proposed on federal land. Since, CMI has carefully avoided federal land there has been no such analysis. Without this kind of analysis it is not clear how CMI's mining activity will impact the region and thus whether it is consistent with the goals of the master plan.

A comprehensive environmental review includes a cumulative impact analysis. One aspects of the cumulative analysis is how the project under consideration combines with other projects in the region for an overall impact. In addition this analysis recognizes how impacts to one resource could affect other resources, so there is a cross or interdependent analysis. To our knowledge this kind of analysis has not been done.

Another very important aspect of the cumulative analysis is an examination of foreseeable future actions or projects that can result in an additive impact. This component of cumulative analysis is critical to the planning process. To

our knowledge CMI has not been required to submit foreseeable actions, or even a specific Plan of Operations, since no environmental impact statement has been required.

Therefore, any changes to the master plan without a comprehensive environmental review on the CMI mine plan seems premature. In our view CMI appears to be putting this commission in an untenable position of making a very important decision with incomplete information – near blind decision making.

One of the stated goals in the 2010 Master Plan:

> ***Goal CP 3: Community Plans: Lyon County will support community-based planning efforts that elaborate community-specific goals and that are developed with strong public consensus.***

This goal clearly articulates the need for a high level of community engagement to create a supermajority community agreement on any changes to the master plan. It is our view that neither of these has been realized. Meaningful community engagement requires access to information. In this situation there remains incomplete public information regarding CMI's mine plan. If CMI wishes a significant master plan change, then to satisfy the community agreement goal, CMI needs to submit to a complete environmental review, which would include the mine Plan of Operations that the federal government requires for an environmental impact statement. At this time there is clearly nothing close to consensus on the proposed amendment.

Lyon County does have the authority to require a complete environmental review or impact statement. Existing federal law does not undermine this authority. GBRW most strongly urges the county to require something similar to an environmental impact statement before making any changes to the master plan. The process of completing the environmental review will also help considerably to satisfy the community engagement goal and allow the community to find some consensus on any master plan changes as they relate to the activities of CMI. CMI will most likely view such a requirement as unreasonable, but it is CMI that is "opening the door" to the need for an environmental impact review in the request for amending the master plan.

In our work for the past 19 years on mining activities in the Great Basin it is very clear that an environmental impact statement is vital and quite common. In general, the federal government sees that the environmental review as set forth by the National Environmental Polity Act (NEPA) as necessary for any large-scale mine project. Not only are modern mining operations such as CMI's activities of regional significance but typically involve multiple expansions over the years, and thus eventually have a very large footprint. The community needs to be fully aware of the future plans for mining so that appropriate planning is possible.

GBRW wishes the county and community well in this process.

Sincerely,

John Hadder, Director

Great Basin Resource Watch

Great Basin Resource Watch is a tax-exempt (501(c)3) organization

12/7/13

To: Lyon County Planning Commissioners

My name is Sheree Roseveare, a resident & business owner in Silver City. I am very opposed to any changes to the Lyon County Master Plan that change the zoning of lots from residential to usable for mining. Isn't it enough that the citizens ~~voted~~ voiced their opinions in dozens of meetings to get what we have now? Please protect the citizens of Silver City. Storey County has already taken away our fresh, clean air with the approval of mining just outside (for now!) our city limit (feet not miles from it!). Please deny Comstock Mining or any other

group that tries to undo all yours and our hard work - especially since it could shorten all our life spans due to pollution, traffic, noise and blasting. Please think of us and imagine you lived here.

Sincerely,
Sheree Rosevear

Sheree Rosevear
PO Box 496
Silver City, NV
89428

12/7/13

My name is William Rosevear. I am a resident and business owner in Silver City. I am a native Nevadan, as were my parents. My grandfather came over from Cornwall to work the mines. He later became the mayor of Ely.

During the summer, my friends and I used to explore the mines in the hills surrounding Ely. I remember tunnels with the ore cars still on the tracks. There were chambers with tools, jackets, helmets with carbide lights, and boxes of blasting caps. They were left just like everyone walked off the job and never came back. We were just crazy kids and were all lucky we didn't get killed. But Ely was a "company" town and these were just some of the dangers.

But unlike Ruth, McGill, Round Mountain, Weed Heights, Silver City is not a company town. A master plan was made to protect the residents of Silver City. Please don't change it!

Mining makes bad neighbors!

William Rosevear
William Rosevear

14 CV 00128 - 000308
LYON COUNTY

Gmail

Kerry Page< kpage@lyon-county.org>

Planning Comm. Meeting Tomorrow

1 message

karenk.5@netzero.com< karenk.5@netzero.com> Mon, Dec 9, 2013 at 12:10 PM
To: kpage@lyon-county.org

Carrie would you please pass this email on to all the Commissioners regarding their meeting tomorrow.

My name is Karen West. I have lived in Silver City since 1978 and have owned property in Silver City since 1980.

My home over looks the south end of town.

I strongly urge you to turn down the requests of Comstock Mining for zoning and master plan changes which are on the agenda of your meeting.

I, along with so many others do not want mining within the city limits along with traffic, noise, pollution, destruction of natural land etc

I have had the Consolidated Mine as part of the scenery from my home since 1980 and think it is wonderful.

A pit is certainly not scenery and will not help my property value.

I would be at the meeting, but have to work

Please don't let Comstock Mining ruin our town.

Sincerely,

Karen West

P.O. Box 74
Silver City, NV 89428

775-847-0207

NetZero now offers 4G mobile broadband. Sign up now.

JA0414 14 CV 00128 000309
LYON COUNTY

Gmail

Kerry Page< kpage@lyon-county.org>

PLAN COM MEETING TOMORROW

1 message

Laura Tennant< l10ant38@gmail.com> Mon, Dec 9, 2013 at 7 53 PM
To: Kerry Page <kpage@lyon-county.org>

Dear Kerry and Lyon County Planning Commissioners.

Since the early 1990s when Lyon County formed its first master plan, and since then when new master plans were written, and/or adopted, citizens were involved with writing the master plan(s), attending hours and hours of time at meetings, with the final result being citizens, our town boards, master plan committees and county agreeing to maintain the historical character and integrity of the territory from the lower corridor of Gold Canyon in Dayton through the town of Silver City.

This is not an anti-mining issue—this is a undoubtedly a Nevada historical preservation matter. Please don't change the master plan and set a precedent that could lead to the demise of rare tangible assets of Nevada's earliest history

Please read this statement into the record.

Respectfully submitted.

Laura Tennant, local historian

--
Laura Tennant
Dayton Courier columnist
Historical Society of Dayton Valley historian
P.O. Box 143
Dayton, NV 89403
775-246-3256

JA0415 14-CV-00128 - 000310
LYON COUNTY

#1 of 2

Gmail by Google

Kerry Page< kpage@lyon-county.org>

Mining in Silver City

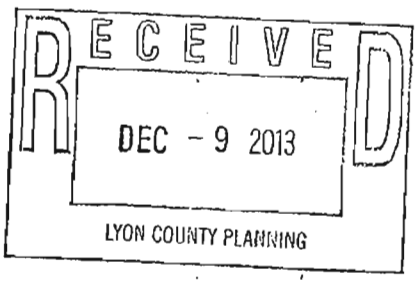
1 message

allen mccabe< twotrowels@gmail.com> Sat, Dec 7, 2013 at 9:27 AM
To: kpage@lyon-county.org

We have owned a home in Silver City since 1990 and do not have any desire to move. We oppose any mining activities within or adjacent to Silver City. We feel if mining is allowed, the present state of the town will be totally degraded and will become not a desirable location to live. Please deny CMI and opportunity to begin mining activities around Silver City.

Thank you for you time

allen and susan mccabe
silver city, nv home owners



Gmail

Kerry Page< kpage@lyon-county.org>

Fwd: To Lyon County Board of Commissioners re Silver City

Jeff Page < jpage@lyon-county.org> Thu, Dec 19, 2013 at 1:05 PM
To: ECC <ecc@lyon-county.org>, Maureen Williss <mwilliss@lyon-county.org>

Jeffery A. Page
Lyon County Manager
27 South Main Street
Yerington, NV 89447
(775) 463-6531 Office
(775) 302-7088 Cell

---------- Forwarded message ----------
From: "Virgil Arellano" <varellano@lyon-county.org>
Date: Dec 19, 2013 12:09 PM
Subject: Fwd: To Lyon County Board of Commissioners re Silver City
To: "Jeff Page" <jpage@lyon-county.org>
Cc:

---------- Forwarded message ----------
From: "Susie Glaze" <hilonesome@aol.com>
Date: Dec 19, 2013 11:49 AM
Subject: To Lyon County Board of Commissioners re Silver City
To: <jmortensen@lyon-county.org>, <bhastings@lyon-county.org>, <lrfierro@lyon-county.org>, <varellano@lyon-county.org>, <vkeller@lyon-county.org>
Cc: <evangelineelston@yahoo.com>

September 19, 2013

Dear Lyon County Board of Commissioners:

I support Silver City residents and the Lyon County Planning Commission in opposing Comstock Mining Inc.'s application for a change in the Master Plan and Zoning, and I urge you to do the same.

Changing the Master Plan and zoning from Suburban Residential to Rural Residential would open a Pandora's box, not only allowing mining, but a host of other inharmonious uses (feed lot, race track, etc.) with residential life that would remain in place indefinitely, whether or not CMI ever mines there.

The language in the current County Master Plan (CMP) reflects inputs from and values of Silver City residents regarding preservation and enhancement of quality of life, environment, historic values and community.

In 1986 the Lyon County Planning Commission and Board of Commissioners denied an application by Nevex Gold to change the Master Plan and zoning of the same

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LYON COUNTY

property because the change does not comply with the Master Plan. The 1986 BOC found that the requested change of CMP and zoning: Did not conserve open space or protect natural/scenic resources; Would have immediate and long-term adverse economic effects to Silver City and Historic Landmark; Did not promote health and general welfare of Silver City; Was not compatible with Silver City Area – didn't encourage most appropriate land use; Present zoning predominately residential in nature; Rezoning would significantly harm the integrity of the Historic District & Landmark; Would violate goals of responsible management of national resources, improvement of neighborhood stability, and increased property values.

For these reasons, please vote to deny Comstock Mining Inc.'s application to change the County Master Plan and zoning and preserve the health and well-being of the residents of Silver City, the town and the environment.

Thank you for your time and attention.

Sincerely,
Susie Glaze, Los Angeles

P.S. I request that my letter be read into the minutes of the January 2, 2014 meeting of the Board of Commissioners.

JA0418 14-CV-00128 - 000313
JA0418
LYON COUNTY

Gmail by Google

Kerry Page< kpage@lyon-county.org>

CMI Master Plan & Zoning Change

1 message

Chad Olson < amotostuff@gmail.com> Fri, Dec 6, 2013 at 11:43 AM
To: kpage@lyon-county.org

Dear Kerry & Planning Commission,

Please include this information for the Planning Commissioners consideration for the upcoming hearing on CMI Master Plan & Zoning Change - Tuesday, Dec 10th, 2013.

Attached are two spread sheets containing property and tax information that Judi compiled from the Lyon County website. The first, LCPropertyTaxes1314.xls, contains information about each parcel in the Silver City area that would be affected by the zoning changes Comstock Mining wants. It shows how much each parcel is valued at (land and improvements/homes) and how much property taxes each pays and what year homes were built.

For the 2013-14 year, Lyon County will collect over $76,000 in property taxes from these parcels. We'd also like to note that even though our land valuations were halved this year, our improvement valuations have increased. We have been bucking the trend of declining property valuations of our neighbors in Dayton.

By evaluating the year built data, you can see the slow but steady growth of homes in the area. This growth is consistent with the goals of the Master Plan. We also noticed that during the period of 1985-1988 there were no houses built. This was the time when Nevex was proposing to mine this same parcel. Also note that since CMI has started exploratory drilling on this parcel there have been no new homes built. We feel that changing the Master Plan and therefore allowing CMI to proceed will continue to have a negative effect on the growth of the Silver City area.

The second spread sheet, CMI_Taxes_Paid1314.xls, shows all 20 parcels that CMI owns in Lyon county and how much they have paid this year in property taxes, please note that all 20 total $2;383.54. Judi & I built our home here in 2008. We as property owners just for our one 2.8 acre parcel paid $2,562.95 this year, we paid $179.41 more that all 20 of CMI's parcels put together. If you look at the other houses built over the last 10 years, you will recognize significant value being added to the county's tax roles.

Please, we urge you not to change the Master Plan and allow CMI's plans to proceed and devalue our investments in the community and our contributions to the county.

Thank you,

Chad & Judi Olson

386 Hwy 341

Silver City, NV 89428

(775)287-2999

---

2 attachments

LCPropertyTaxes1314.xls
58K

CMI_Taxes_Paid1314.xls
20K

JA0420 14 CV 00128 - 000315
LYON COUNTY

Parcel	Name	Address	Year Built	2013-14 Tax Valuation-Land	2013-14 Tax Valuation-Improvements	2013-14 Tax Total Valuation	2013-14 Taxes Paid
008-023-07	ACOSTA, ANTHONY A	370 THIRD ST	1989	7,086	89,314	96400	970.55
008-081-16	ALAHAN, DURVASA & ISANI			11,257		11257	121.4
008-013-04	ALLANDER, KIP K			12,829		12829	137.73
008-071-15	ALLANDER, KIP K ET AL	200 GRANT ST	1999	24,429	152,326	176755	1,895.15
008-071-04	ALLANDER, KIP O			25,114		25114	237.98
008-051-02	ALVAREZ, MARTA L	50 MAIN ST	1920	5,743	42,057	47800	501.27
008-051-06	ALVAREZ, MARTA L			17,343		17343	186.63
008-061-04	ALVAREZ, MARTA L			2,029	3,451	5480	34.77
008-024-03	ATAMAN, KATHRYN	380 HIGH ST	1956	4,514	31,457	35971	378.93
008-031-01	BACHAND, WAYNE A & MARIE	430 HIGH ST	1956	7,886	56,477	64363	690.57
008-017-02	BENNETT, KATHRYN NOEL			10,143		10143	109.06
008-041-04	BENNETTS, HARRY ET AL			1,514		1514	16.98
008-071-08	BENNETTS, HARRY R			1,429		1429	0
008-017-03	BENNETTS, HARRY R	145 MAIN ST	1940	8,114	6,191	14305	138.52
008-041-02	BENNETTS, HARRY R ET AL		1940	743	2,997	3740	40.83
016-101-13	BENNETTS, JOHN & JO RITA	415 HWY 341 MS#4573		48,537		48537	0
008-042-05	BENNETTS, JOHN & JO RITA			3,000	3,189	6189	67.08
008-042-07	BENNETTS, JOHN & JO RITA			10,114	5,380	15494	158.11
008-041-01	BENNETTS, JOHN ET AL	440 MAIN ST	1900	9,057	80,920	89977	932.63
008-042-01	BENNETTS, JOHN P			4,743		4743	51.39
016-101-04	BENNETTS, JOHN P & JO RITA			1,429		1429	16
008-037-01	BENNETTS, JOHN P ET AL	GAY ST		5,571		5571	60.46
008-025-03	BENNETTS, JOHN PALSGROVE			1,886		1886	20.96
008-041-05	BENNETTS, JOHN PALSGROVE ET AL	180 FIFTH ST	1935	4514	20,271	24785	266.4
008-041-06	BENNETTS, JOHN PALSGROVE ET AL			5,257		5257	56.88
008-042-02	BENNETTS, JOHN PALSGROVE ET AL		1950	3,371	2,106	5477	59.45
008-081-03	BENNETTS, JOHN ROBERT & JO RITA			20,829		20829	223.98
016-101-01	BENNETTS, JOHN/BENNETTS, HARRY			1429		1429	16
008-101-27	BONHAM, ROBERT C ET AL	1505 DAYTON TOLL RD PAR A		9,857		9857	106.4
008-101-28	BONHAM, ROBERT C ET AL			1,771		1771	19.74
008-081-08	BOTTRELL, STEVE	HWY 341 PAR 1		6,743		6743	73.02
008-081-09	BOTTRELL, STEVE	HWY 341 PAR 2		3,943		3943	43.01
016-101-17	BRADLEY, ROBERT ROYCE & GAIL	387 HWY 341	2006	17,257	137,671	154928	1,608.60
008-101-02	BRIGHT, MELVILLE K ET AL			2,457		2457	27.08
008-061-26	BROWN, BRANDON D & STACY L			13,629		13629	146.82
008-101-19	BROWN, CHRIS & BONITA TRS	1560 DAYTON TOLL RD PAR A	1940	11371	14,471	25842	277.73

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Parcel	Name	Address	Year Built	2013-14 Tax Valuation-Land	2013-14 Tax Valuation-Improvements	2013-14 Tax Total Valuation	2013-14 Taxes Paid
008-101-21	BROWN, CHRIS & BONITA TRS	1480 DAYTON TOLL RD PAR 2		8200		8200	88.64
008-101-20	BROWN, CHRIS & BONITA TRS	1530 DAYTON TOLL RD PAR B	1968	11657	92,854	104511	1,101.38
008-081-25	BROWN, RICHARD D & CAROL L	900 HWY 341	1982	17,657	109,389	127046	1,362.39
008-081-27	BROWN, RICHARD D & CAROL L			9,486		9486	102.42
008-022-04	BUNCH, RICK E	160 HIGH ST	1900	4,514	24,434	28948	311.01
008-037-06	BUSK, MICHELE TR	265 FOURTH ST	1930	6,743	32,386	39129	419.37
008-072-21	BYRON, GEORGE T	4 HIGH ST	2008	1,543	45,971	47514	353.08
008-072-22	BYRON, GEORGE T			5,143		5143	55.66
008-081-21	CARPENTER-COSTON, KRISTOPHER S			11,257		11257	121.4
008-081-23	CARPENTER-COSTON, NATHAN AARON			11,257		11257	121.4
016-101-06	CARRINGTON, ROBERT G			1429		1429	16
008-051-07	CASSIDY, THOMAS K & SUZANNE M	50 FIRST ST	1920	3,829	20,997	24826	266.82
008-051-08	CASSIDY, THOMAS K & SUZANNE M			5,514	749	6263	67.87
008-018-01	CASSIDY, THOMAS K & SUZANNE M			2,257	1,366	3623	39.58
008-035-02	CENTRAL LYON COUNTY FIRE DIST	745 HIGH ST		7,829		7829	
008-036-01	CENTRAL LYON COUNTY FIRE DIST	675 HIGH ST	1991	20,229	103,820	124049	
008-027-02	CHRISTY, REBECCA K	FIRST ST		943		943	10.86
008-111-03	COBBEY, JOHN E & DARLENE A TRS			1,114		1114	12.69
008-111-05	COBBEY, JOHN E & DARLENE A TRS			11,714		11714	125.83
008-111-06	COBBEY, JOHN E & DARLENE A TRS	HWY 342		1,371		1371	15.39
008-111-07	COBBEY, JOHN E & DARLENE A TRS	1000 MAIN ST	1900	10,086	58,580	68666	736.69
008-081-29	COBBEY, JOHN TRS ET AL	1175 HIGH ST PAR 1		5,629		5629	61.08
008-081-30	COBBEY, JOHN TRS ET AL	1150 HIGH ST PAR 2		10,371		10371	111.91
016-101-08	COMSTOCK MINING INC			3,814		3814	41.46
008-081-20	COMSTOCK MINING INC			19,686		19686	211.74
008-042-06	COMSTOCK MINING INC			8,371		8371	90.14
008-043-01	COMSTOCK MINING INC			5,800		5800	62.69
008-043-02	COMSTOCK MINING INC			4,629		4629	50.36
008-091-02	COMSTOCK MINING INC			1,343		1343	15.14
008-091-06	COMSTOCK MINING INC			886		886	10.24
008-091-05	COMSTOCK MINING INC			43,286	7,729	51015	547.51
008-061-08	COMSTOCK MINING INC			8,886		8886	95.63
008-027-01	COOKE, LISA	GAY ST LOTS	1999	5,629	139,700	145329	1,339.62
008-101-03	COSTON, KRISTOPHER & LAURA			3,114		3114	34.13
008-081-22	COSTON, KRISTOPHER & LAURA	1275 BONHAM TR PAR 1C	1940	11,257	25,777	37034	397.67
008-081-28	CRAWFORD, LOUISE M & STEPHEN E	PAR 3		5,886		5886	63.83
008-081-10	CRAWFORD, STEPHEN E & LOUISE M	HWY 341 PAR 3		4,514		4514	49.13

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Parcel	Name	Address	Year Built	2013-14 Tax Valuation-Land	2013-14 Tax Valuation-Improvements	2013-14 Tax Total Valuation	2013-14 Taxes Paid
008-081-11	CRAWFORD, STEPHEN E ET AL	1105 HWY 341 PAR 4	1940	6,086	44,123	50209	538.87
008-015-04	CROUCH, MERTON / MARSHALL, PAT	305 MAIN ST	1900	6,771	23,177	29948	321.73
008-051-01	CROUCH, MERTON E			4,857		4857	52.81
008-015-03	CROUCH, MERTON E	70 FOURTH ST	1900	4,857	10,094	14951	160.99
008-091-04	CUTTS, THOMAS	1425 HWY 341		7,943		7943	85.88
008-043-06	DONOVAN MILL LLC			16,343		16343	175.25
008-111-11	DONOVAN MILL LLC	C/O SCOTT JOLCOVER		13,657		13657	146.58
008-111-12	DONOVAN MILL LLC			22,343		22343	239.32
008-043-03	DRESSLER, CHAD	655 GAY ST	1956	3,743	10,443	14186	152.79
008-032-01	ELSTON, ROBERT G ET AL	520 HIGH ST	1940	7,600	60,926	68526	735.19
016-101-15	ENLOE, JIM V & MURIEL A	390 HWY 341		22,971		22971	246.95
016-101-16	ENLOE, JIM V & MURIEL A			26,029		26029	279.72
008-071-09	ETCHEGOIN, CYNTHIA C	50 VIVIAN ST	1982	9,714	108,917	118631	1,246.27
008-012-04	FLETCHER, SHERI D ET AL	180 SECOND ST	1953	5,629	36,183	41812	448.87
008-025-01	GANNON, GORDON J	320 GAY ST	1940	4,514	22,006	26520	284.98
008-071-01	GARCIA, KAREN C	575 BUCKEYE ST	1982	11,286	137,060	148346	1,529.03
008-101-11	GODWIN, WILLIAM H & CAROL A	1410 DAYTON TOLL RD PAR 3	1945	9,057	30,626	39883	426.06
008-045-04	GOLD HILL HOTEL INC	445 MAIN ST	1930	4,514	38,294	42808	439.37
008-031-02	GOMEZ, KIRK R / ELMORE, TERRI L	480 HIGH ST	2004	8,657	265,086	273743	2,518.32
008-071-17	GUTHRIE, PRICE E	160 GRANT ST	2001	16,514	60,729	77243	828.62
008-045-03	HERRON, CHARLES W & CORINE	435 MAIN ST	1900	3,000	40,943	43943	439.34
008-018-02	HERRON, CHARLES W & MARY CORINE	75 MAIN ST	1900	12,229	1,020	13249	140.94
008-101-01	HICKS, GEORGE T ET AL	1300 HWY 341	1981	10,543	121,237	131780	1,374.42
008-072-24	HOLLERBACH, MARK			21,629		21629	231.7
016-101-02	IDA CONSOLIDATED MINES		1981	1600	3,940	5540	60.13
008-051-05	IDA CONSOLIDATED MINES			4,171	4,894	9065	92.82
008-043-05	IDA CONSOLIDATED MINES			4,514		4514	49.13
008-111-02	JOHNSON, RICHARD & LINDA			6,229		6229	67.51
008-101-23	KNAPP, WILLIAM M ET AL			7,571		7571	81.90
008-101-22	KOTIK, LARRY L & DIANE L	1500 DAYTON TOLL RD PAR 3	1981	13,286	79,631	92917	996.61
008-037-07	KRAMER, KENNETH ET AL TRS	245 FOURTH ST	1997	8,686	112,951	121837	1,200.35
008-037-08	KRAMER, KENNETH ET AL TRS			4,714		4714	50.53
008-021-01	LA CROIX, JULIE/MILES, GEORGE M	40 HIGH ST	1950	5,771	52,346	58117	620.45
008-023-01	LAUFER, PETER & SHEILA SWAN	230 HIGH ST	1952	3,743	1,594	5337	57.95
008-072-23	LAUGHLIN, CHANDLER ATCHISON TR			2,086		2086	23.1
008-014-02	LAUGHLIN, CHANDLER ATCHISON TR	175 THIRD ST	1935	4,514	23,400	27914	299.93
008-014-03	LAUGHLIN, CHANDLER ATCHISON TR	370 GAY ST	1938	3,743	37,554	41297	415.11

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Parcel	Name	Address	Year Built	2013-14 Tax Valuation-Land	2013-14 Tax Valuation-Improvements	2013-14 Tax Total Valuation	2013-14 Taxes Paid
008-014-05	LAUGHLIN, CHANDLER ATCHISON TR	MAIN ST	1900	3,743	37,191	40934	407.46
008-014-04	LAUGHLIN, SEAN			4,686		4686	50.79
008-014-01	LAUGHLIN, SEAN CURTIS	300 MAIN ST		11,543	5,286	16829	171.63
008-023-06	LINDSAY, LILA JEAN TR	250 HIGH ST	1900	3,743	22,071	25814	277.42
016-101-12	LIVINGSTON, PAUL & BECCA	400 HWY 341 MS#4573	2004	25,914	84,720	110634	1,095.55
008-027-04	LOGG, JOHN / PEARSON, EDWIN O			943		943	10.86
008-041-03	LUND, LA VERNE ET AL			686		686	8.1
008-025-04	LUND, LA VERNE ET AL			1,886		1886	58.38
008-081-01	LYON COUNTY			14,457		14457	
008-072-07	MAC DONALD, MARY C	50 CRONER ST	1974	13,114	43,414	56528	568.94
008-028-02	MAIN, STEVE R	270 FIRST ST	1900	8,571	48,437	57008	611.75
008-028-03	MAIN, STEVE R			7,171		7171	77.61
008-051-03	MARSHALL, PATRICIA C	20 MAIN ST	1900	5,943	52,060	58003	595.31
008-045-02	MARTIN, LEONARD J ET AL	425 MAIN ST	1858	3,000	18,223	21223	226.27
008-017-04	MASONIC HALL	175 MAIN ST	1910	6,771	32,540	39311	0
008-022-02	MAYER, MARIE L	FIRST ST		5,629		5629	61.08
008-072-01	MAYER, MARIE LOUISE TR			16,943		16943	182.34
008-021-03	MC CABE, ALLEN M & SUSAN J	320 FIRST ST	2001	6,486	93,391	99877	999.98
008-101-24	MC CARTHY, JOSEPH S & ANN P TRS	1400 DAYTON TOLL RD PAR 1		22,800		22800	245.11
008-101-29	MC CARTHY, JOSEPH S & ANN P TRS			12,543		12543	135.18
008-081-18	MC CARTHY, JOSEPH S & ANN P TRS	1300 HWY 341 PAR 3	2006	24,600	211,071	235671	2,333.94
008-081-17	MC CARTHY, JOSEPH S & ANN P TRS			18,743		18743	201.63
008-072-02	MC CORMICK, KRISTEN			13,629		13629	146.82
008-072-06	MC CORMICK, THEO MICHAEL	45 FIRST ST	1972	7,229	42,774	50003	459.19
008-072-05	MC CORMICK, THEO/ISAAC, NATALIE			8,286		8286	89.55
008-072-04	MC KEE, MARY SELDON	470 FIRST ST		7,886		7886	85.27
008-101-26	MESONES, DEBORAH VACCA ET AL	1465 DAYTON TOLL RD PAR 2 ADJ	1950	15,429	94,651	110080	1,180.55
008-071-18	MILES, JOHN D & ANN M	130 GRANT ST	2001	13,686	60,803	74489	799.1
008-072-15	MOUNT, FELIX SCOTT ET AL	490 VIVIAN ST	1976	13,571	105,751	119322	1,271.85
008-071-02	NICHOLSON, ADA DEBORAH	550 BUCKEYE ST	1950	11,286	48,077	59363	636.98
008-022-03	NICHOLSON, JAMES J ET AL	380 SECOND ST	1984	5,629	79,291	84920	872.57
008-072-18	OBERMAYR, ERICH A ET AL	480 BUCKEYE ST	1998	18,743	108,943	127686	1,366.47
016-101-14	OLSON, CHAD M & JUDITH L	386 HWY 341	2007	18,400	238,437	256837	2,562.95
008-017-01	ONLY LAND LLC			2,343		2343	25.86
008-072-16	PAGE, DANIEL E	410 FIRST ST		14,371		14371	154.78
008-072-25	PAGE, JAMES E & ANGIE B	435 FIRST ST	1975	27,229	164,683	191912	2,057.60
008-072-26	PAGE, JAMES E & ANGIE B	420 BUCKEYE ST ADJ E		24,371		24371	261.96

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Parcel	Name	Address	Year Built	2013-14 Tax Valuation-Land	2013-14 Tax Valuation-Improvements	2013-14 Tax Total Valuation	2013-14 Taxes Paid
008-022-01	PARRISH, HAROLD D TR	130 HIGH ST	2004	4,514	123,514	128028	1,147.45
008-011-07	PATRICK, JOHN RANDOLPH ET AL	90 MAIN ST	1900	8,000	16,017	24017	258.16
008-073-01	PEDLAR, FRANK & CORAL			12,114		12114	130.59
008-111-09	PEDLAR, FRANK & CORAL	MAIN ST		6,771		6771	73.05
008-111-10	PEDLAR, FRANK & CORAL			1,371		1371	15.39
008-111-13	PEDLAR, FRANK & CORAL	MAIN ST		7,000		7000	75.49
008-111-14	PEDLAR, FRANK & CORAL	MAIN ST		8,514		8514	91.66
008-061-06	PEDLAR, FRANK & CORAL			14,229		14229	0
008-051-11	PEDLAR, FRANK WALTER & CORAL E			2,257		2257	24.94
008-051-12	PEDLAR, FRANK WALTER & CORAL E	100 PEDLAR RD	1915	10,657	36,946	47603	510.94
008-051-14	PEDLAR, FRANK WALTER & CORAL E			4,400		4400	47.91
008-051-15	PEDLAR, FRANK WALTER & CORAL E			6,486		6486	70.28
008-051-17	PEDLAR, FRANK WALTER & CORAL E	120 PEDLAR RD	1920	3,600	12,643	16243	174.84
008-051-21	PEDLAR, FRANK WALTER & CORAL E			14,600		14600	157.23
008-051-22	PEDLAR, FRANK WALTER & CORAL E			1,886		1886	20.96
008-051-26	PEDLAR, FRANK WALTER & CORAL E			1,886		1886	20.96
008-051-27	PEDLAR, FRANK WALTER & CORAL E			2,086		2086	23.10
008-051-28	PEDLAR, FRANK WALTER & CORAL E	400 AMERICAN RAVINE	1920	6,914	21,669	28583	307.09
008-044-01	PEDLAR, FRANK WALTER & CORAL E			2,543		2543	28
008-044-03	PEDLAR, FRANK WALTER & CORAL E	675 MAIN ST	1942	5,629	20,640	26269	282.29
008-045-01	PEDLAR, FRANK WALTER & CORAL E			2,857		2857	31.37
008-045-08	PEDLAR, FRANK WALTER & CORAL E			1,343		1343	15.14
008-101-25	PEDLAR, WALTER FRANK & CORAL	1445 DAYTON TOLL RD PAR 1 ADJ	1950	9,629	48,443	58072	623.14
008-021-02	RENO, RONALD L & RAMONA L	375 CRONER	1989	5,771	112,554	118325	1,149.62
008-071-12	RICHMOND, JOHN L & LORRAINE	27 THE GOLDEN RD	1999	22,286	79,489	101775	1,091.54
008-071-19	ROSE, DANIEL GEORGE & JANET P	30 VIVIAN ST	1997	11,457	104,311	115768	1,195.95
008-011-09	ROSE, PETER A TR	GAY ST	1900	8,829	48,477	57306	614.94
008-027-03	ROSEVEAR, WILLIAM E & SHEREE L	145 HIGH ST	1949	6,143	23,357	29500	316.92
008-016-01	ROSS, CLEO			1,886		1886	20.96
008-016-02	ROSS, CLEO	215 MAIN ST	1958	3,743	52,723	56466	600.58
008-017-05	ROSS, CLEO			7,200	637	7837	83.62
008-017-06	ROSS, CLEO			2,257		2257	24.94
008-016-04	ROSS, GRAHAME & SARA	285 MAIN ST	1940	5,057	7,889	12946	139.5
008-013-03	ROSS, GRAHAME A TR	230 MAIN ST	1952	19,800	94,729	114529	1,140.47
008-016-03	ROSS, GRAHAME A TR			12,171		12171	130.71
008-011-06	SATYACHETANA INTERNATIONAL	70 MAIN ST	1920	6,057	60,357	66414	691.03
008-071-13	SHERMAN, GAYLE	100 GRANT ST	1948	13,114	34,751	47865	513.76

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Parcel	Name	Address	Year Built	2013-14 Tax Valuation-Land	2013-14 Tax Valuation-Improvements	2013-14 Tax Total Valuation	2013-14 Taxes Paid
008-071-07	SHIELDS, ROBERT E ET AL	90 GRANT ST	1944	10,171	33,720	43891	471.17
008-101-10	SHOUP, DANIEL L & VICKIE JO	1450 DAYTON TOLL RD PAR 4	1945	8,743	29,114	37857	406.49
008-061-03	SMITH, FRANK D & BEVERLY L			1,429		1429	16
008-011-02	SNELL, WILLIAM A & MARGARET			5,057		5057	54.95
008-051-16	STEIN, BARBARA L ET AL	80 PEDLAR RD	1945	4,857	11,751	16608	178.76
008-051-13	STEIN, THOMAS			3,657		3657	39.95
008-035-03	STEINBERG, LARRY SETH ET AL			1,314		1314	14.84
008-043-04	STEINBERG, LARRY SETH ET AL	705 GAY ST	1930	5,686	18,843	24529	263.64
008-071-16	STORNETTA, SUSAN / ALLANDER, J	200 GRANT ST	1981	13,000	89,171	102171	1,095.79
008-072-08	SWANSON, FREDERICK O	440 FIRST ST	1983	9,971	98,669	108640	1,004.74
008-042-03	SWANSON, FREDERICK OSCAR TR			571		571	6.87
008-042-04	SWANSON, FREDERICK OSCAR TR	575 GAY ST	1940	3,743	15,386	19129	205.76
008-043-08	SWOBE, JANET Q ET AL			1,971		1971	21.8
008-013-01	SZEKELY, GUS J	225 GAY ST	1957	3,743	44,211	47954	502.11
016-101-07	UNITED MINING CORPORATION			1429		1429	16
016-101-09	UNITED MINING CORPORATION			4,286		4286	46.51
008-072-10	UNITED MINING CORPORATION			1,429		1429	16
008-091-03	UNITED MINING CORPORATION			7,000		7000	75.77
008-061-05	UNITED MINING CORPORATION			13,714		13714	147.17
008-018-04	UNKNOWN OWNER			3,171		3171	34.62
016-101-11	USA-BUREAU OF LAND MANAGEMENT			6,086		6086	0
016-101-10	V & T MANAGEMENT LLC			1,429		1429	16
008-027-05	VICTOR, RON & RENATE	230 SECOND ST	1960	5,629	18,311	23940	257.33
008-011-01	WAHRENBROCK, LAWRENCE A	75 GAY ST & FR 209	1940	6,143	25,486	31629	339.74
008-101-17	WALTS, ANN ET AL			3,229		3229	35.35
008-101-18	WALTS, ANN ET AL			17,086		17086	183.87
008-018-03	WARE, SUSAN B TR	95 MAIN ST		13,571		13571	145.67
008-023-02	WARREN, MARK / WARREN MARK R	375 SECOND ST	2003	5,629	76,660	82289	882.69
008-071-03	WELBORN, TOBY/GARCIA, C AMANDA			24,629		24629	228.61
008-015-02	WILLIAMSON, BEATRICE E TR ET AL			12,743		12743	136.81
008-045-07	WILLIAMSON,ELDON KENNETH ETALTR	485 MAIN ST	1940	4,514	27,383	31897	340.83
008-012-05	WILLIAMSON,ELDON KENNETH ETALTR	170 MAIN ST	1900	16,543	3,834	20377	212.32
008-033-01	WILSON, ART			5,257		5257	57.09
008-034-01	WILSON, ART	750 HIGH ST	1940	6,943	11,354	18297	196.85
008-044-02	WILSON, ART & MARIA C TRS			16,229	703	16932	180.81
008-051-18	WORKS, DONALD SWAN SR			1,886		1886	20.96
008-051-19	WORKS, DONALD SWAN SR	150 PEDLAR RD	1920	5,486	25,369	30855	256.11

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Parcel	Name	Address	Year Built	2013-14 Tax Valuation-Land	2013-14 Tax Valuation-Improvements	2013-14 Tax Total Valuation	2013-14 Taxes Paid
008-051-20	WORKS, DONALD SWAN SR			3,657		3657	39.95
008-051-23	WORKS, DONALD SWAN SR			3,771		3771	41.17
008-072-11	WURGAFT, ROBERT L			1,429		1429	16
008-061-09	WURGAFT, ROBERT L			1,429		1429	16
008-081-14	WYSOCKI, JUDIE L			2,743		2743	30.15
008-081-24	WYSOCKI, JUDIE LYNN	1000 HWY 341 PAR 1A	1996	23,029	121,591	144620	1,550.74
008-024-02	YOUNG, R A			4,514		4514	49.13
008-024-01	YOUNG, W A			7,886		7886	85.27

2013-14 Tax Valuation-Land	2013-14 Tax Valuation-Improvements	2013-14 Tax Total Valuation	2013-14 Taxes Paid
1,948,617	5,781,720	7,730,337	76,928

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Comstock Mining Parcels in Lyon County

Parcel Number	Taxes paid
008-042-06	90.14
008-043-01	62.69
008-043-02	50.36
008-061-08	95.63
008-081-20	211.74
008-091-02	15.14
008-091-05	547.51
008-091-06	10.24
016-101-08	41.46
016-111-02	61.77
016-111-03	16
016-121-01	16
016-121-02	250.84
016-121-10	31.07
016-121-11	8.71
016-121-12	1.36
016-121-22	242.36
016-121-23	242.05
016-121-24	242.05
016-121-25	242.05
Total	2383.54

25.0 ADDITIONAL REQUIREMENTS FOR TECHNICAL REPORTS ON DEVELOPMENT PROPERTIES AND PRODUCTION PROPERTIES

25.1 MINING OPERATIONS

25.1.1 Operations

The Comstock Mine will be a hard rock operation, mined by one or more open pits, encompassing several of the previously-mined smaller pits and some of the old underground workings.

Mining will proceed in three phases. The first phase, called the "Starter Pit(s)," is restricted to patented (private) land controlled by Comstock Mining. This has the advantage of a simplified permit process, with modifications to existing permits to allow the addition of a small milling circuit to the existing heap leach processing. Concurrent with planning and construction for opening the Starter Pit(s), development drilling and detailed mine planning will proceed for the "Expanded Pit" phase. The Expanded Pit will approximately double production, for both mill ore and heap leach ore. The Expanded Pit will also include unpatented mining claims controlled by Comstock Mining. In order to mine all of the mineral reserves in the Comstock Mine Project, State Route 342 must be relocated. A final, "Ultimate Pit," phase will continue after the road has been relocated.

Extraction of ore and waste materials from the proposed open pit mine will be by conventional drill and blast mining techniques using front shovel/truck operations. The initial mine operation is scheduled for eight hours per day, five days per week. Mining will be carried out in 10-foot lifts, with final high-wall catch benches left every 40 feet.

25.2 RECOVERABILITY

Column leach testing of the high-grade and low-grade composites yielded heap leach gold recoveries at a <½ inch crush size of 93.8% (high-grade) and 76.2% (low-grade). Silver recoveries will vary from 83.8% to 50.6% for the high-grade and low-grade ores, respectively. The head grades for the high-grade and low-grade composites are 0.239 opt Au, 5.966 opt Ag, and 0.024 opt Au, 0.668 opt Ag, respectively.

25.3 MARKETS

The Comstock Mine Project expects to produce only gold and silver. No marketing activities are anticipated to be required.

25.4 CONTRACTS

The Comstock Mine Project has not yet entered into any refining, sales, hedging or forward sales contracts or other arrangements as of the date of this report.

25.5 ENVIRONMENTAL CONSIDERATION

The purpose of the Environmental Consideration section of this Report is to summarize the Environmental, Safety, and Community aspects of the Comstock Mine Project to determine if there are any significant unresolved environmental liabilities that could lead to significant costs and to determine if there are any fatal flaws that may affect the ability to proceed to the next stage of permitting.

The development of the Comstock Mine Project Environmental Health and Safety Management System (EHSMS) is at an early stage. The main document including the Environment Policy is located at the mine site. The Environmental Health and Safety (EHS) Policy contains provisions that the Company will conduct its activities in compliance with all environmental laws and regulations. The Policy also applies to the Company's contractors. During the operational phase of the test mine, the Comstock Mine Project undertook a formal risk assessment process to evaluate and rank potential site risks. Since the temporary closure period has been in effect, there has been little work on the EHSMS. The current Comstock Mine Project effort is to maintain compliance with existing permits, regulatory requirements and prepare for the next phase of operations.

25.5.1 Environment Permitting

During the test mine operation between 2004 to 2007, the Comstock Mining acquired the necessary operating permits for the Billie the Kid Mine and its leaching operation. In 2007, the Company invoked a voluntary temporary closure mode while continuing with advanced exploration and preliminary engineering. During early 2009, a portion of the Billie the Kid waste rock storage area was reclaimed. No other site work was performed for the balance of the year.

In 2009, the Company began to acquire and amend permits in anticipation of resuming operations in 2011. The Comstock Mine Project permitting strategy is comprised of four elements:

1) Maintain and comply with existing permits
2) Where possible, revise and amend permits, allowing for resumption of operations at the nominal rate of 2,400 tpd. The increased production rate will require the construction of new facilities and the expansion of existing infrastructure
3) Prepare a NDEP and BLM compliant plan of operation and reclamation plan and submit for agency approval
4) Plan and commence the NEPA process to include non-patented lands as part of the design to expand the operations

25.5.2 Permits

The following shows the current status of state, federal, and county permits either acquired or still required for the Comstock Mine Project (see Table 25.1).

25.5.2.1 Nevada Permits

Nevada Permits – Permits acquired or in process to operate at 2,400 tpd.

Water Pollution Control Permit (WPCP) – The Bureau of Mining Regulation and Reclamation issues the WPCP. The Comstock Mine Project applied for a major modification of their WPCP (NEV 2000109) seeking authorization to process up to 720,000 tons of ore per year. The permit was issued on October 28, 2009 for a five-year term.

Air Quality Permit – The Bureau of Air Pollution Control issues the Air Quality Operating Permit. The application to amend the Air Quality Operating Permit (AP 1041-0936.01) was submitted in early 2010. This permit modification is being updated with the assistance of Alissa Dickerson, Consulting Atmospheric Scientist with Enviroscientists, Inc. In addition to revising and submitting an application for

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TABLE 25.1
PERMIT STATUS – COMSTOCK MINING APPLICABLE PERMIT AND REGULATORY COMPLIANCE SURVEY

Regulatory Agency	Laws, Regulation, Permit Document	Requirements	Permit Number
Nevada Department of Wildlife	Industrial Artificial Pond Permit	Permit required to operate ponds and impound solution containing chemicals but causing no harm or danger to wildlife	S24167
Nevada Department of Environmental Protection	Water Pollution Control Permit	Permit required to ensure that ground water quality will not be degraded and public safety and health will be protected	NEV2000109
Nevada Department of Environmental Protection	Reclamation Permit	Permit required to guarantee the surety amount for reclamation of the project	#0196
Nevada Department of Environmental Protection	Storm Water General Permit	Control and reduce pollution from storm water discharge associated with industrial activity from metal mining	NVR 050000
Nevada Department of Environmental Protection	Air Quality Permit	Permit to maintain quality of air and reduce pollutants with strict adherence to all conditions and regulations	AP1041-0936
State of Nevada – Division of Minerals	Laws Regulating Permit NRS 513.380 and NRS 513.094	Reporting of discovery of dangerous conditions as a result of past mining practices	
State of Nevada – Fire Marshall	Hazardous Material Permit	Storage of hazardous material and chemicals on site – MSDS	Hazmat #1458-2906
State of Nevada Department of Conservation and Natural Resources Division of Water Resources	Water Use Permit	Permission to use and appropriate water for the purpose of mining and processing	#71246-T

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TABLE 25.1
PERMIT STATUS – COMSTOCK MINING APPLICABLE PERMIT AND REGULATORY COMPLIANCE SURVEY

Regulatory Agency	Laws, Regulation, Permit Document	Requirements	Permit Number
State of Nevada – Department of Taxation	State Business License	License to conduct business activities in the state of Nevada	#040378800
Storey County Building and Planning Department	Special Use Permit	Permit to allow 24 hours - 365 day operation of mining, processing, drilling and blasting, and exploration drilling for the project - Must be in compliance with State, Federal and local codes.	SUP 2000-222A
Storey County Code Enforcement Department	Excavation Permit	Permit to excavate mining property and ensure that prehistoric or historic remains be preserved when discovered during excavation	
Storey County Sheriff's Department	County Business License	License to conduct business activities in Storey County, Nevada	#040378800
Lyon County – Fire Protection	Cyanide Tank Permit	Permit to allow storage of "special" Cyanide holding tank within Storey County - double walled, contained	#APN0433115
U.S. Federal Government MSHA – Mine Safety and Health	Health and Safety Regulations Employment and Production	Training and Compliance during operations; Tracking of employment and production reporting	MSHA #26-01871
U.S. Bureau of Land Management	Road and Water Line Right-of-Way	Permit granting right-of-way over federal land for road use from Hwy 341 to fee land property. Right-of-way for above-ground water line from water well to fee land property	N-78108 2800

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the Air Quality Permit, an Air Quality Mercury Emissions permit is being prepared with engineering being provided by Warren Barber, President of Scotia International of Nevada, Inc. (SION). The estimate for the additional engineered control equipment for compliance under the new mercury program is estimated to be in the range of US$325K. Engineering for the new system is necessary for inclusion in the permit application. Three meetings have been held with the consultants to keep the process moving along.

Water Use Permit – For the past decade, PMC has been permitted (#71246-T0) to use water for mining and processing. Water consumption, when operations resume at the higher production rate, will increase. Two additional wells will need to be drilled. According to the available data and discussions with Comstock Mining staff, securing the additional water resources should not be problematic.

Storm Water Permit – Comstock Mining has obtained from the Nevada Department of Environment a Storm Water General Permit (NVR 050000). The 2009 annual report was submitted in April 2010, and an annual inspection by the regulators will occur in July 2010. This permit will expire on June 1, 2012. This permit needs to be amended once there is a resumption of operations.

25.5.2.2 Nevada Permits

Nevada Permits – Current – may need amendment prior to resuming operations.

Mine Reclamation Permit – The Comstock Mine Project has obtained Mining Reclamation Permit (#0196) issued by the Nevada Department of Environmental Protection. This permit describes the reclamation requirements for the operation. The permit limits the size of the leach pad to five panels, at a maximum height of 40 feet. Currently, only three of the panels have ore placed on them (approximately 500, 000 tons). Since the 13-acre pad is designed with five panels for a height of 105 feet and a total capacity of 2.4 million tons of ore, the reclamation permit will need to be revised to cover the greater height. Four processing and water management ponds (pregnant pond, barren pond, overflow pond, and storm water pond) are located next to the heap pad. Once the operation decision has been made, the leach pad will have to be redesigned to control run-off and maintain heap stability. The Comstock Mine Project will need to seek an amendment to this permit. The current amount of financial surety is US$1,170,782 to reclaim the 103 acres of disturbed area. The permit allows for 10 acres to be disturbed as part of an exploration drilling program. A major modification and permit amendment will be required when operations resume. The amendment process will trigger a public notice. The Comstock Mine Project estimates the incremental cost of providing additional financial assurance for the expansion will be US$500,000 to US$1,000,000. In addition to the bond increase, the reclamation permit amendment will require a significant amount of engineering effort and operational documentation. The annual mine reclamation bond premium of US$94,352.07 was paid on June 29, 2010 and keeps the project in good standing through the end of June 2011, at which time annual bond premium is due again. Comstock Mining is in the process of the routine three-year update on the Mine Reclamation Permit.

Industrial Artificial Pond Permit – The Nevada Department of Wildlife has issued an Industrial Artificial Pond Permit (S24167). This permit will be updated once operations resume.

Water Pollution Control Permit – The Comstock Mine Project has a groundwater quality permit (NEV2000109) used to prevent the degradation of water for public safety and health.

Currently, the Comstock Mine Project is in compliance with the above noted permits. These permits require the submission of additional details prior to starting operations. The permits contain typical and standard provisions that do not place any anomalous or additional prohibitions on the Company. The

Comstock Mine Project participated in the Environmental Protection Agency Toxic Release Inventory Audit and will be applying for a special mercury air emission permit issued by the Nevada State Department of Environment.

In early 2009, The Comstock Mine Project received several Notices and Letters of reprimand from regulatory authorities notifying the Company that it was late on the submission of annual reports or summaries, as required by permit conditions and/or regulations. By the end of 2009, all administrative requirements had been addressed.

Nevada Division of Minerals: The Abandoned Mine Lands Program – The Abandoned Mine Lands Program as administered by the Nevada Division of Minerals required abatement of a hazardous mine opening at the Occidental Mine shaft. This hazard was mitigated within the required timeline and reporting is being sent to the Nevada Division of Minerals to close the compliance issue.

Mine Hazardous Materials Reporting with the Nevada State Fire Marshal and Storey County – The State Fire Marshal's office was officially notified of the senior management change at the Plum Mine. Corrado DeGasperis, President/CEO authorized Dennis Anderson as the contact person and manager of the reporting to the State Fire Marshal. The 2010 update was managed on-line by Dennis Anderson in April 2010.

25.5.2.3 Federal Permits

Rights of Way – Currently, the Comstock Mine Project has obtained a road right of way for the operations from the Bureau of Land Management (BLM). There is a small annual fee associated with this permit.

National Environmental Policy Act (NEPA) – The Company intends to submit the Plan of Operations to the BLM in late 2010. This plan will include a detailed description of all mining and processes. The Comstock Mine Project is proposing a two-phase program. The first phase of the project will be developed on private land. During the second phase, the project will extend onto government lands. The Plan will be submitted to the BLM and will trigger the NEPA process.

There are three levels of NEPA review:

i) **Categorical Exclusion** – These are activities, usually identified in Policy or Regulations, with known minor individual or cumulative environmental effects. These activities will not require further investigations or assessment.

ii) **Environmental Assessment** – An environmental assessment determines if a proposed activity could cause environmental effects. If no significant impacts are identified then the NEPA review process is completed. However, if significant environmental effects are identified, then an Environmental Impact Statement needs to be completed.

iii) **Environmental Impact Statement (EIS)** – An Environmental Impact Statement identifies project interactions that could cause a significant environmental impact. The EIS process includes public review and the participation of numerous government authorities. Once the EIS is completed, a Record of Decision is issued.

An Environmental Assessment normally takes up to two years; then, if an EIS is triggered, another three years are required to complete this process and obtain a Record of Decision. Occasionally, a Proponent will by-pass the environmental assessment phase if they suspect the project will cause or could cause a

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significant environmental effect. The Comstock Mine Project has determined that the proposed project (on government lands) will likely cause a significant effect (aesthetics and line of sight on Historic lands) and, therefore, will proceed directly to the EIS phase.

Two factors that need to be considered when the project triggers the EIS process are:

i) Since the project is located on historic lands, other federal and state departments (for example, the U.S. National Park Service) that may not normally participate in a mine review may become involved. Also, the Project will be subject to the National Historic Preservation Act and the Nevada State Historic Preservation Office. Their participation, and unfamiliarity with mining, creates uncertainty.

ii) The project will involve re-aligning State Route 342, addressing the Billie the Kid open pit unauthorized excavation[2], developing a mine and the infrastructure (*i.e.*, cyanide, heap leaching, tailings impoundments) on historic lands, and re-location of certain landowners. Entering a public review process may draw attention to certain aspects of the Project that may cause specific concerns.

Bureau of Land Management, Drilling Notice – The only federal permit under 43 CFR 3089 (Federal Mining Regulations on Public Land) held by Comstock Mining is with the BLM. This permit is a Notice Level (less than five acres disturbance authorization). Dennis Anderson, Senior Engineer is the authorized signature for Comstock Mining on the permit. An issue with drilling on federal land prior to receiving the Drill Notice is being managed by Dennis Anderson. This minor error occurred by drilling on a 2.5-acre fraction of federal land that lies between patented mining claims where drilling is permitted. The land where the drilling occurred has county registered town site lots that overlay the federal lands. The lot is leased by Comstock Mining. Upon discovery of the error, Comstock Mining disclosed the error to the BLM and prepared the Drilling Notice application for the disturbance after the fact. Comstock Mining along with their consultant ESA, is working with the Carson District of the BLM on this minor drill site permit issue.

25.5.2.4 County Permits

The Storey County Building and Planning Department has issued a Special Use Permit for the operation of this mine. The County has issued excavation permits, cyanide tank permits, and business permits. These permits may require amendments to accommodate the proposed expansion once operations resume, and depending upon the construction of a mill facility. If the Storey County Special Use Permit requires amendment, the process will take about 60 to 90 days to advance through the government and public process. Throughout 2009, the Storey County Building Department has undertaken inspections of the site. No significant variances have been identified. Currently, all County permits are held within Storey County; however, permits may be required from Lyon County during the phase of operation that will include any mining activities within Lyon County.

25.5.2.5 Environmental Issues

Sulfidic Oxidation – Sulfidic oxidation of waste rock, ore stockpiles, tailings, or pit walls can lead to a long-term liability. Permit NEV 2000109 requires the Comstock Mine Project to perform acid neutralization and acid generation tests on the waste rock. The results have consistently shown that the

[2]See Summary, paragraph vii

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waste rock is non-reactive[3]. The ratio of net neutralization potential compared with net acid generating potential is at least 7:1, well within the ratio of 3:1 to 5:1 used as a guide to assess acid generating potential. There has been no testing from the pit walls. However, from the available data, there is little likelihood of a significant risk of acid mine drainage occurring at the site.

Ore and Waste Rock Mineralization – The mercury mineral cinnabar is associated with the mineral deposit. The Comstock Mine Project participated in the Environmental Protection Agency mercury inventory study[4]. No analyses of other potential contaminants such as antimony, arsenic, and cadmium were available. The Comstock Mine Project staff indicated the Comstock ore deposits are noted for the lack of rogue metals/metalloids.

Hydrogeology – The hydrogeological regime of the mine area has not been characterized in detail or modeled to assess water flow patterns and groundwater quantity. The groundwater table is estimated to be approximately 300 to 500 feet below the Lucerne open pit. Billie the Kid is 150 feet above the Lucerne Pit. Available data indicate the proposed pit depths will not intercept groundwater. The Comstock Mining staff believe the pit will remain dry during closure. If a pond does form during closure, the Comstock Mining indicated a portion of the Pit will be backfilled.

Realignment of Route 342 – The pit design will encroach upon the exiting corridor of State Route 342. The Comstock Mine Project is proposing a two-stage route alteration. The first stage will be done on Comstock Mine Project land, and the second stage will occur after the NEPA process. The Comstock Mining staff have been in contact with the Nevada Department of Transport (NDOT) and have hired a consultant to assist in this matter. As part of the re-alignment, the Comstock Mining has proposed that NDOT manage the engineering of the road.

Historical Contamination – The property is located in an area of past mining activity. Along with the historical assets are potential environmental, health, and safety liabilities. If the Comstock Mine Project intrudes onto some of these sites, there is a possibility that the Company will assume, at least in part, the cost of site remediation. For example, adjacent to the current mill is the "HOM 30-acre Tailings Impoundment Area." This tailings area has recently been successfully reclaimed by another party. Although no immediate plans are proposed for the site, the area could be used as an additional leach pad location or the tailings could be reprocessed. Another concern is that the Comstock Mine Project could incorporate properties that are part of the Carson River Mercury Superfund Site (the only site in Nevada listed on the Superfund National Priorities List – (NPL)). Although the remediation plan for the NPL site concluded no further clean-up work is required, disturbing past workings could trigger further remediation measures. Therefore, the Comstock Mining must take a cautious approach when purchasing and developing past workings, including waste rock storage areas, mine workings, and tailings impoundment areas.

Encroachment on BLM Land – During the development of the Billie the Kid pit, PMC extended the length of the Pit onto BLM lands. Also, the waste rock storage area was over-built onto BLM land. PMC notified BLM of these two trespasses. On July 31, 2008, PMC sent a letter to BLM notifying them of the removal of the waste rock from federal lands and their intention to contour and vegetate the same area. This work was completed in early 2009. The Company intends to address the pit encroachment during the NEPA process.

[3]The Fact Sheet for Permit NEV 2000109 prepared by the Nevada Department of Environmental Protection states: "Continued characterization of the waste rock has not indicated acid generating potential."
[4]See Permitting Summary on page 3 of this Report

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Second Encroachment on BLM Land – During the 2007 exploration program, PMC mistakenly transgressed onto BLM land without the proper authorization. PMC notified BLM of the violation. The Comstock Mine Project has applied for Notice to Explore on BLM land and to rectify the previous transgression. The permit application is currently under review and its progress is slow, as a result of concern over the loss of historic and cultural resources during the past exploration drilling campaign. The Company will be conducting a further archaeological study in hopes of addressing the concern. Company staff indicated that a fine or mitigation may be levied against the Company. The licensing administrator at BLM considers the incident a "minor matter under resolution."[5]

25.6 TAXES

25.6.1 Taxes

The Project is subject to ST&S sales tax on materials, supplies, and services; to Nevada Minerals Tax; and to Federal Income Tax (which is not applicable for the first 4 to 5 years of operation because of loss carry-forwards). Comstock Mining has accounted for these taxes in their financial spreadsheet calculations.

25.6.2 Royalties

Comstock Mining has used an average 5% royalty deduction in their financial spreadsheet. The terms of the royalty agreements were not reviewed.

25.7 CAPITAL AND OPERATING COST ESTIMATES

A preliminary pre-feasibility study is required to establish new capital and operating costs, thus allowing calculation of reserves that conform to NI 43-101 guidelines.

25.8 ECONOMIC ANALYSIS

The cash flow spreadsheet included with the Mineral Reserves Declaration Report for The Comstock Mine Project, provided by Comstock Mining, was examined.

Behre Dolbear compiled cash flow spreadsheet (without changing Comstock Mining's capital and operating costs) and achieved comparable results: Net present value (NPV) at 8% discount rate of US$81,760,997, whereas Comstock reported US$85,609,954, a difference of 4.5%. Behre Dolbear's calculation of rate of return is 52.5%, while Comstock Mining's is 53.4%. It should be noted that these economic analyses did not include the resources in the new Dayton area.

It should also be noted by the reader that these economic analyses were made on the Comstock Mine mineral resources, and not on reserves. They should not be given significant weight, until such time as reserves can be calculated, and costs, etc., used can be verified by at least a preliminary pre-feasibility study.

25.9 MINE LIFE

Comstock Mining's preliminary estimate of mine life is 25 years.

[5]The view was confirmed during a telephone conversation with BLM staff.

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CERTIFICATE OF QUALIFICATIONS

Michael D. Martin

I, Michael D. Martin of 499, Crawford St., Golden, Colorado, USA certify that:

1. I am a Senior Associate, Behre Dolbear and Company, (USA) Inc., 999, Eighteenth Street, Suite 1500, Denver, Colorado, 80202.
2. I am a graduate of Cambridge University, England with an M.A. (Science) in 1955 and of the Royal School of Mines, London University, England with a B.Sc. (Min. Eng.) in 1953.
3. I am a member of SME and a Qualified Professional (QP) member – Mining, of the Mining and Metallurgical Society of America, QP Member number 01326QP.
4. I have practiced my profession continuously since 1953 and have been involved in management and mining engineering activities for copper, molybdenum, gold, silver, and iron ore projects. As a result of my experience and qualifications I am a Qualified Professional as defined by National Instrument 43-101 and am a Qualified Person (Professional) for this Instrument.
5. I have read the definition of "qualified person" as set out in National Instrument 43-101 (NI 43-101) and certify that by reason of my education, affiliation with a professional association (as defined in NI 43-101) and past relevant work experience, I fulfill the requirements to be a "qualified person" for the purposes of NI 43-101.
6. I am responsible for Sections 1.0 to 2.0, parts of Section 3.0, Sections 4.0 to 8.0, 21.0, 20.2, and parts of Sections 23.0 to 24.0, Sections 25.2 and 25.6 of the Technical Report on the Comstock Mine, Gold Hill, Nevada, USA, dated 31 August 2010.
7. I visited the Comstock Mine Property on January 6-7, 2010.
8. I have had no prior involvement with the property that is the subject of the Technical Report.
9. To the best of my knowledge, information, and belief, my contributions to the Technical Report contain all scientific and technical information that is required to be disclosed to make the report not misleading.
10. I am independent of Comstock Mining, Inc. as set out in Section 1.4 of National Instrument 43-101.
11. I have read National Instrument 43-101 and the Technical Report has been prepared in compliance with National Instrument 43-101 and form 43-101F1.
12. I consent to the filing of this Technical Report with any stock exchange and other regulatory authority and any publication by them, including electronic publication in the public company files on their websites accessible by the public.

Dated 31 August 2010

"Signed and Sealed"

Michael D. Martin, QP

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CERTIFICATE OF QUALIFICATIONS

Mark A. Anderson

I, Mark A. Anderson of 8735 Blue Pine Way, Reno, Nevada, 89523, USA certify that:

1. I am an independent consulting metallurgical engineer providing mineral processing services to the mining and mineral processing community.
2. I graduated from Michigan Technological University with a B.S. degree in Metallurgical Engineering in 1961.
3. I am a member of SME and a Qualified Professional (QP) member – Metallurgy of the Mining and Metallurgical Society of America, QP Member Number 01081QP.
4. I have practiced my profession continuously since 1961 and have been involved in the engincering and management of mineral processing and extractive metallurgy for copper, molybdenum, gold, silver, iron ore, and industrial minerals projects. In addition, I have managed project due diligence studies of minerals projects internationally. As a result of my experience and qualifications, I am a Qualified Professional as defined by National Instrument 43-101 and am a Qualified Person (Professional) for this Instrument.
5. I have read the definition of "qualified person" as set out in National Instrument 43-101 (NI 43-101) and certify that by reason of my education, affiliation with a professional association (as defined in NI 43-101) and past relevant work experience, I fulfill the requirements to be a "qualified person" for the purposes of NI 43-101.
6. I am responsible for Sections 3.9 to 3.11, Section 18.0, and Section 23.3 of the Technical Report on the Comstock Mine, Gold Hill, Nevada, USA, dated 31 August 2010.
7. I visited the Comstock Mine Property on January 6-7, 2010.
8. I have had no prior involvement with the property that is the subjeet of the Technical Report.
9. To the best of my knowledge, information, and belief, my contributions to the Technical Report contain all scientific and technical information that is required to be disclosed to make thc report not misleading.
10. I am independent of Comstock Mining, Inc. as set out in Section 1.4 of National Instrument 43-101.
11. I have read National Instrument 43-101, and the Technical Report has been prepared in compliance with National Instrument 43-101 and Form 43-101F1.
12. I consent to the filing of this Technical Report with any stock exchange and other regulatory authority and any publication by them, including electronic publication in the public company files on their websites accessible by the public.

Dated 31 August 2010

"Signed and Sealed"

Mark A. Anderson, QP

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CERTIFICATE OF QUALIFICATIONS

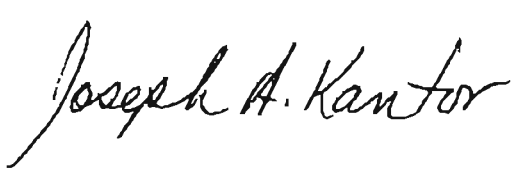
Joseph A. Kantor

I, Joseph A. Kantor of 6608 Ivy Street, Anacortes, Washington, 98221, USA certify that:

1. I am an independent consulting geologist providing exploration services to the mineral exploration community.
2. I graduated from Michigan Technological University with a B.S. degree in Geology in 1966 and an M.S. degree in 1968.
3. I am a member of SME and a Qualified Professional (QP) member – Geology, of the Mining and Metallurgical Society of America, QP Member Number 01309QP.
4. I have practiced my profession continuously since 1966 and have been involved in projects and evaluations exploring for precious and base metals in the United States, Canada, Kazakhstan, and elsewhere. As a result of my experience and qualifications, I am a Qualified Professional as defined by National Instrument 43-101 and am a Qualified Person (Professional) for this Instrument.
5. I have read the definition of "qualified person" as set out in National Instrument 43-101 (NI 43-101) and certify that by reason of my education, affiliation with a professional association (as defined in NI 43-101), and past relevant work experience, I fulfill the requirements to be a "qualified person" for the purposes of NI 43-101.
6. I am responsible for the preparation of Section 3.0, Sections 9.0 to 17.0, and Section 19.0 of the Technical Report of the Comstock Mine, Gold Hill, Nevada, USA, dated 31 August 2010 (The Technical Report).
7. I visited the Comstock Mine Property on June 7, 2010 and July 23, 2010.
8. I have had no prior involvement with the property that is the subject of the Technical Report.
9. To the best of my knowledge, information, and belief, my section of the Technical Report contains all scientific and technical information that is required to be disclosed to make the report not misleading.
10. I am independent of Comstock Mining, Inc. as set out in Section 1.4 of National Instrument 43-101.
11. I have read National Instrument 43-101, and the Technical Report has been prepared in compliance with National Instrument 43-101 and Form 43-101F1.
12. I consent to the filing of this Technical Report with any stock exchange and other regulatory authority and any publication by them, including electronic publication in the public company files on their websites accessible by the public.

Dated 31 August 2010

"Signed and Sealed"



Joseph A. Kantor, QP

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CERTIFICATE OF QUALIFICATIONS

Robert Edwin Cameron

I, Robert Edwin Camcron of 200 Dubois St, Black Hawk, Colorado, USA certify that:

1. I am a Consultant to, Behre Dolbear and Company, (USA) Inc., 999, Eighteenth Street, Suite 1500, Denver, Colorado, 80202.
2. I am a graduate of The University of Utah with a Ph.D. (Mining Engineering) in 1985, M.S.(Mining Engineering) in 1980 and a B.S. (Mining Engineering) in 1977.
3. I am a Qualified Professional (QP) member – Mining, of the Mining and Metallurgical Society of America, QP Member number 01357QP and a Registered member of SME.
4. I have practiced my profession continuously since 1977 and have been involved in resource estimation, geostatistics, and mining engineering activities for copper, molybdenum, gold, silver, coal and iron ore projects. As a result of my experience and qualifications I am a Qualified Professional as defined by National Instrument 43-101 and am a Qualified Person (Professional) for this Instrument.
5. I have read the definition of "qualified person" as set out in National Instrument 43-101 (NI 43-101) and certify that by reason of my education, affiliation with a professional association (as defined in NI-43-101) and past relevant work experience, I fulfill the requirements to be a "qualified person" for the purposes of NI 43-101.
6. I am responsible for parts of Section 3.0 and Section 19.0 of the Technical Report on the Comstock Mine, Gold Hill, Nevada, USA, dated 31 August 2010.
7. I visited the Comstock Mine Property on August 10-12, 2009 and July 23-24, 2010.
8. Prior involvement with the property that is the subject of the Technical Report involved a previous independent technical assessment for a third party in 2009.
9. To the best of my knowledge, information, and belief, my contributions to the Technical Report contain all scientific and technical information that is required to be disclosed to make the report not misleading.
10. I am independent of Comstock Mining, Inc. as set out in Section 1.4 of National Instrument 43-101.
11. I have read National Instrument 43-101 and the Technical Report has been prepared in compliance with National Instrument 43-101 and Form 43-101F1.
12. I consent to the filing of this Technical Report with any stock exchange and other regulatory authority and any publication by them, including electronic publication in the public company files on their websites accessible by the public.

Dated 31 August 2010

"Signed and Sealed"

Robert Cameron

Robert Cameron, Ph.D., QP

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APPENDIX 1.0
COMSTOCK MINE PROJECT MINING CLAIMS

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APPENDIX 1.0
Comstock Mine Project Mining Claims
Comstock Mine Project - Patented Mining Claims

Portions of Section 4, 5,6,7,8, and 9, Township 16 North, Range 21 East
Portions of Section 31, 32, and 33, Townsbip 17 Northb, Range 21 East
Comstock Mining District, Storey County Nevada

TABLE A1.1
"CMP PATENTED MINING CLAIMS"

CLAIM NAME	USMS Number	Patent Number	Acres	Patent Date	Lessor
DEAN LODE	37	156		11/25/1870	LODE (Obester)
ROCK ISLAND	38	215		05/11/1870	Railroad & Gold
KNICKERBOCKER (N half)	39			06/21/1870	Railroad & Gold
JUSTICE LODE	48	69	19.23	02/28/1870	DWC
FRONT LODE A/B	49A/B			09/21/1870	DWC
ECHO	50	144			LODE (Obester)
GRANVILLE (Lady Washington)	51	353	5.59	04/27/1872	Sutro
SAVAGE (Below 1000' Sutro level)	51	63		02/04/1870	Railroad & Gold
FRANKEL	52	357		04/30/1872	Railroad & Gold
WOODVILLE LD	53	353		10/18/1873	DWC
JOSEPH TRENCH	53	125	0.74		Sutro
BURKE/HAMILTON	54	130	1.48		Sutro
KEYSTONE LODE	55	785	12.12	03/02/1874	DWC
CHALLENGE	55	131	1.85	01/11/1870	Sutro
EMPIRE North	56	149	2.4		Sutro
EMPIRE South	57	150	0.74		Sutro
BACON	58	128	1.68	06/11/1870	Sutro
BACON	59	129	0.74		Sutro
CONFIDENCE	60	68	4.84	02/15/1870	Sutro
CHOLLAR POTOSI (Below 1000' Sutro)	61	61		02/04/1870	Railroad & Gold
GOULD & CURRY	62	64	25.33	02/04/1870	Sutro / Railroad & Gold
COMSTOCK LD /ALPHA	63	142	9	09/21/1870	Sutro
WM. SHARON	64			09/21/1870	Sutro
SEG. BELCHER	64				Sutro
ALTA LODE	65			03/26/1877	Sutro
EXCEQUER	66	216		05/11/1871	Sutro

CLAIM NAME	USMS Number	Patent Number	Acres	Patent Date	Lessor
ST LOUIS	67	1073	18.74	10/17/1874	LODE (Obester)
KENTUCK	69	9922	2	01/12/1885	Sutro
COMSTOCK LODE (Bullion)	79	1254			Sutro
BELCHER	80				Sutro
TARTO LODE	84				LODE (Donovan)
JULIA LODE	84			10/18/1873	Sutro
LA CATA LODE	85	643	13.77	10/18/1873	Sutro
HARTFORD	86	3061	15.21	02/04/1879	LODE (Donovan)
SARAH ANN LODE	86	644	13.77	10/18/1873	Sutro
SO. COMSTOCK	88	1066		10/17/1874	LODE / DWC
WARD	90		7.1	07/21/1875	Sutro
GREEN LODE	95	125	17.21	06/04/1875	LODE (Obester)
MEMPHIS LODE	100	1436	13.64	07/29/1875	DWC
CAPITAL LODE	101	2611	9.18	12/22/1877	Sutro
N. OCCIDENTAL (New Brunswick)	112	4922	7.46	08/1881	LODE (Obester)
PRIDE OF WASHOE	114	26417	25.25	01/18/1896	Garret
CHONTA LODE	117	2438	6.69	08/11/1877	DWC
NIAGRA	125	2351		07/03/1877	LODE / DWC
GIBBS	126/107			09/23/1876	Railroad & Gold
HOLMAN LODE	129	16755	8.84	11/05/1890	DWC
WHITE LODE	131	16696	11.94	10/20/1890	DWC
LUCERNE LODE (SILVERHILL)	140	4286	10.64		LODE (Obester)
CLIFF HOUSE	144	6916	17.55	12/15/1888	DWC
GROSH Consolidated Mining	145	3161	15.5		Sutro
GROSH	146				Sutro
GROSH	147				Sutro
S. OCCIDENTAL	154	20959	20.64	04/23/1892	LODE (Obester)
CULVER	178				Railroad & Gold
CULVER ADDITION	179/142				Railroad & Gold
YELLOW JACKET	192	9918	7.47	01/12/1885	Sutro
IMPERIAL	193	9919	4.35	Jan. 1885	Sutro
CROWN POINT	194	9920	3.23	01/12/1885	Sutro
KENTUCK	195	9921		07/12/1885	Sutro
E. NORTH OCCIDENTAL	201	21508		06/23/1892	LODE (Obester)

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CLAIM NAME	USMS Number	Patent Number	Acres	Patent Date	Lessor
SUCCOR LODE	1723	26692	4.84	03/28/1896	LODE (Donovan)
COREY JAY BOER	1980	3704	7.058	09/02/1903	DWC
BLACK BIRD	1896	33721	11.11	04/06/1901	DWC
SO ALAMO LD	1897	33722	13.736	04/06/1901	DWC
E. ALAMO LD	1898	33733	13.474	04/06/1901	DWC
SEBASTAPOL	2023	38822		05/16/1904	DWC
LEDGE LODE	2022				DWC
BELLS HILL	2023	38822		05/16/1904	DWC
GERMAN	2023	38822	8.362	05/16/1904	DWC
OVERLAND	2025	39507		08/08/1094	DWC
WEDGE	2025	39507	1.72	08/08/1904	DWC
OLYMPIA	3760	365185		11/14/1913	LODE (Donovan)
HARDLUCK	4728	1114943		10/15/1942	LODE (Donovan)
FRIENDSHIP	4728				LODE (Donovan)
BROWN LODE	4728				LODE (Donovan)
BILLIE THE KID	5011				LODE (Obester)
EDWARDS	155-200				LODE (Obester)
OCCIDENTAL (Brunswick)	71A&89			06/25/1884	LODE (Obester)
ALHAMBRA	56	768			Gold Lock
CHEROKEE	75	786			Gold Lock
KOSSUTH	63	1180			Gold Lock
MARBLE (Dayton)	66	652			Gold Lock
METROPOLTIAN	63				Ida Consolidated

Comstock Mine Project – Unpatented Mining Claims

Portions of Section 4, 5,6,7,8, and 9, Township 16 North, Range 21 East
Portions of Section 31, 32, and 33, Township 17 North, Range 21 East
Comstock Mining District, Storey County Nevada

TABLE A1.2
"CMP UNPATENTED MINING CLAIMS"

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC275502	ALTA # 5	07/22/1983	J. Obester
NMC275503	ALTA # 6	07/22/1983	J. Obester
NMC275504	ALTA # 7	07/22/1983	J. Obester
NMC275505	ALTA # 8	07/23/1983	J. Obester
NMC275506	ALTA # 9	07/23/1983	J. Obester
NMC275507	ALTA # 10	07/26/1983	J. Obester
NMC275509	ALTA # 12	07/26/1983	J. Obester
NMC705397	ALTO NO. 9	09/23/1994	Railroad & Gold
NMC705390	ANGELS NO. 1	07/22/1994	Railroad & Gold
NMC705391	ANGELS NO. 2	07/22/1994	Railroad & Gold
NMC705392	ANGELS EAST ANNEX	07/22/1994	Railroad & Gold
NMC416049	BIG MIKE	04/07/1987	LODE (Donovan)
NMC300858	BRUNSWICK #1	12/24/1983	J. Obester
NMC300859	BRUNSWICK #2	12/24/1983	J. Obester
NMC300860	BRUNSWICK #4	12/24/1983	J. Obester
NMC416048	CLIFF HOUSE FRACTION	04/07/1987	LODE (Donovan)
NMC821729	COMSTOCK #1	10/16/2000	
NMC821730	COMSTOCK #2	10/16/2000	
NMC821731	COMSTOCK #3	10/16/2000	
NMC821735	COMSTOCK #7	10/16/2000	
NMC821736	COMSTOCK #8	10/16/2000	
NMC821737	COMSTOCK #9	10/16/2000	
NMC821739	COMSTOCK #11	10/16/2000	
NMC821740	COMSTOCK #12	10/16/2000	
NMC821741	COMSTOCK #13	12/01/2000	
NMC821742	COMSTOCK #14	10/18/2000	
NMC821743	COMSTOCK #15	10/18/2000	
NMC821744	COMSTOCK #16	10/16/2000	
NMC821745	COMSTOCK #17	12/01/2000	

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC821746	COMSTOCK #18	12/01/2000	
NMC871492	COMSTOCK 115	04/08/2004	
NMC871493	COMSTOCK 116	04/08/2004	
NMC871494	COMSTOCK 117	04/08/2004	
NMC871495	COMSTOCK 118	04/08/2004	
NMC871496	COMSTOCK 119	04/08/2004	
NMC871497	COMSTOCK 120	04/08/2004	
NMC871498	COMSTOCK 121	04/08/2004	
NMC871499	COMSTOCK 122	04/08/2004	
NMC871500	COMSTOCK 123	04/08/2004	
NMC871501	COMSTOCK 124	04/08/2004	
NMC871502	COMSTOCK 125	04/08/2004	
NMC871503	COMSTOCK 126	04/08/2004	
NMC871504	COMSTOCK 127	04/08/2004	
NMC871505	COMSTOCK 128	04/08/2004	
NMC871506	COMSTOCK 129	07/01/2004	
NMC871507	COMSTOCK 130	07/01/2004	
NMC871508	COMSTOCK 131	07/01/2004	
NMC871509	COMSTOCK 132	07/01/2004	
NMC871510	COMSTOCK 133	07/01/2004	
NMC871511	COMSTOCK 134	07/01/2004	
NMC871512	COMSTOCK 135	07/01/2004	
NMC871513	COMSTOCK 136	07/01/2004	
NMC871514	COMSTOCK 137	07/01/2004	
NMC871515	COMSTOCK 138	07/01/2004	
NMC871516	COMSTOCK 139	07/01/2004	
NMC871517	COMSTOCK 140	07/01/2004	
NMC871518	COMSTOCK 141	07/01/2004	
NMC871519	COMSTOCK 142	07/01/2004	
NMC983353	COMSTOCK LODE 100	12/21/2007	
NMC983354	COMSTOCK LODE 101	12/21/2007	
NMC983355	COMSTOCK LODE 102	12/21/2007	
NMC983356	COMSTOCK LODE 103	12/21/2007	
NMC983357	COMSTOCK LODE 104	12/21/2007	
NMC983358	COMSTOCK LODE 105	12/21/2007	

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC983359	COMSTOCK LODE 106	12/21/2007	
NMC983360	COMSTOCK LODE 107	12/21/2007	
NMC983361	COMSTOCK LODE 108	12/21/2007	
NMC983362	COMSTOCK LODE 109	12/21/2007	
NMC983363	COMSTOCK LODE 110	12/21/2007	
NMC983364	COMSTOCK LODE 111	12/21/2007	
NMC983365	COMSTOCK LODE 112	12/21/2007	
NMC983366	COMSTOCK LODE 113	12/21/2007	
NMC983367	COMSTOCK LODE 114	12/21/2007	
NMC983368	COMSTOCK LODE 115	12/21/2007	
NMC983369	COMSTOCK LODE 116	12/21/2007	
NMC983370	COMSTOCK LODE 117	12/21/2007	
NMC983371	COMSTOCK LODE 118	12/21/2007	
NMC983372	COMSTOCK LODE 119	12/21/2007	
NMC983373	COMSTOCK LODE 120	12/21/2007	
NMC983374	COMSTOCK LODE 121	12/21/2007	
NMC983375	COMSTOCK LODE 122	12/21/2007	
NMC983376	COMSTOCK LODE 123	12/21/2007	
NMC983377	COMSTOCK LODE 124	12/21/2007	
NMC983378	COMSTOCK LODE 125	12/21/2007	
NMC983379	COMSTOCK LODE 126	12/21/2007	
NMC983380	COMSTOCK LODE 127	12/21/2007	
NMC983381	COMSTOCK LODE 128	12/21/2007	
NMC983382	COMSTOCK LODE 129	12/21/2007	
NMC983383	COMSTOCK LODE 130	12/21/2007	
NMC983384	COMSTOCK LODE 131	12/21/2007	
NMC983385	COMSTOCK LODE 132	12/21/2007	
NMC983386	COMSTOCK LODE 133	12/21/2007	
NMC983386	COMSTOCK LODE 133	12/21/2007	
NMC983387	COMSTOCK LODE 134	12/21/2007	
NMC983388	COMSTOCK LODE 135	12/21/2007	
NMC983389	COMSTOCK LODE 136	12/21/2007	
NMC983390	COMSTOCK LODE 137	12/21/2007	
NMC983391	COMSTOCK LODE 138	12/21/2007	
NMC983392	COMSTOCK LODE 139	12/21/2007	

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC983393	COMSTOCK LODE 140	12/21/2007	
NMC983394	COMSTOCK LODE 141	12/21/2007	
NMC983395	COMSTOCK LODE 142	12/21/2007	
NMC983396	COMSTOCK LODE 143	12/21/2007	
NMC983397	COMSTOCK LODE 144	12/21/2007	
NMC983398	COMSTOCK LODE 145	12/21/2007	
NMC983399	COMSTOCK LODE 146	12/21/2007	
NMC983400	COMSTOCK LODE 147	12/21/2007	
NMC983401	COMSTOCK LODE 148	12/21/2007	
NMC983402	COMSTOCK LODE 149	12/21/2007	
NMC983403	COMSTOCK LODE 150	12/21/2007	
NMC983404	COMSTOCK LODE 151	12/21/2007	
NMC983405	COMSTOCK LODE 152	12/21/2007	
NMC983406	COMSTOCK LODE 153	12/21/2007	
NMC983407	COMSTOCK LODE 154	12/21/2007	
NMC983408	COMSTOCK LODE 155	12/21/2007	
NMC983409	COMSTOCK LODE 156	12/21/2007	
NMC983410	COMSTOCK LODE 157	12/21/2007	
NMC983411	COMSTOCK LODE 158	12/21/2007	
NMC983412	COMSTOCK LODE 159	12/21/2007	
NMC983413	COMSTOCK LODE 160	12/21/2007	
NMC983414	COMSTOCK LODE 161	12/21/2007	
NMC983415	COMSTOCK LODE 162	12/21/2007	
NMC983416	COMSTOCK LODE 163	12/21/2007	
NMC983417	COMSTOCK LODE 164	12/21/2007	
NMC983418	COMSTOCK LODE 165	12/21/2007	
NMC983419	COMSTOCK LODE 166	12/21/2007	
NMC983420	COMSTOCK LODE 167	12/21/2007	
NMC983421	COMSTOCK LODE 168	12/21/2007	
NMC992973	COMSTOCK LODE 169	07/10/2008	
NMC992974	COMSTOCK LODE 172	04/25/2008	
NMC992975	COMSTOCK LODE 173	04/25/2008	
NMC992976	COMSTOCK LODE 174	04/25/2008	
NMC992977	COMSTOCK LODE 175	04/25/2008	
NMC992978	COMSTOCK LODE 176	04/25/2008	

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC992979	COMSTOCK LODE 177	04/25/2008	
NMC992980	COMSTOCK LODE 179	04/25/2008	
NMC992981	COMSTOCK LODE 180	04/25/2008	
NMC992982	COMSTOCK LODE 181	04/25/2008	
NMC992983	COMSTOCK LODE 182	04/25/2008	
NMC992984	COMSTOCK LODE 183	04/25/2008	
NMC992985	COMSTOCK LODE 184	04/25/2008	
NMC116353	COOK & GREY	11/09/1953	DWC
NMC116369	CUMBERLAND FRAC	09/28/1931	DWC
NMC116359	CUMBERLAND #2	08/19/1901	DWC
NMC116360	CUMBERLAND #3	06/21/1902	DWC
NMC416043	ECHO ST LOUIS FRAC	04/07/1987	LODE (Donovan)
NMC116356	FLORA TEMPLE	09/17/1957	DWC
NMC965375	GHOST 1	09/30/2007	
NMC965376	GHOST 2	09/30/2007	
NMC965377	GHOST 3	09/30/2007	
NMC965378	GHOST 4	09/30/2007	
NMC965379	GHOST 5	09/30/2007	
NMC965380	GHOST 6	09/30/2007	
NMC965381	GHOST 7	09/30/2007	
NMC965382	GHOST 8	09/30/2007	
NMC965383	GHOST 9	09/30/2007	
NMC965384	GHOST 10	09/30/2007	
NMC965385	GHOST 11	09/30/2007	
NMC416041	GREEN ST. LOUIS FRAC	04/07/1987	LODE (Donovan)
NMC676492	HARTFORD LUCERNE FR	03/04/1993	LODE (Donovan)
NMC416042	HARTFORD SOUTH EXTEN	04/07/1987	LODE (Donovan)
NMC416040	HARTFORD ST.LOUIS FR	04/07/1987	LODE (Donovan)
NMC705395	HAWK	09/26/1994	Railroad & Gold
NMC705396	HAWK FRACTION	09/26/1994	Railroad & Gold
NMC705400	IONA		Railroad & Gold
NMC416044	JUSTICE LUCERNE FRAC	04/07/1987	LODE (Donovan)
NMC416046	JUSTICE WOODVILLE FR	04/07/1987	LODE (Donovan)
NMC705388	LATIGO		Railroad & Gold
NMC705389	LATIGO NO. 2	09/27/1994	Railroad & Gold

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC810323	LEE #2	11/03/1999	
NMC810324	LEE #3	11/03/1999	
NMC810321	LEE #5	11/03/1999	
NMC814553	LEE #8	01/29/2000	
NMC814554	LEE #9	01/29/2000	
NMC1003426	LORING #1	11/24/2008	
NMC1003427	LORING #2	11/24/2008	
NMC1003428	LORING #3	11/24/2008	
NMC1003429	LORING #4	11/24/2008	
NMC1003430	LORING #5	11/24/2008	
NMC1003431	LORING #6	11/24/2008	
NMC1003432	LORING #7	11/24/2008	
NMC1003433	LORING #8	11/24/2008	
NMC1003434	LORING #9	11/24/2008	
NMC1003435	LORING #10	11/24/2008	
NMC1003436	LORING #11	11/24/2008	
NMC1003437	LORING #12	11/24/2008	
NMC1003438	LORING #13	11/24/2008	
NMC1003439	LORING #14	11/24/2008	
NMC1003440	LORING #15	11/24/2008	
NMC1003441	LORING #16	11/24/2008	
NMC1003442	LORING #17	11/24/2008	
NMC1003443	LORING #18	11/24/2008	
NMC1003444	LORING #19	11/24/2008	
NMC1003445	LORING #20	11/24/2008	
NMC1003446	LORING #21	11/24/2008	
NMC1003447	LORING #22	11/24/2008	
NMC705403	MARYLAND FRACTION	09/26/1994	Railroad & Gold
NMC705393	MERRILITE	09/23/1994	Railroad & Gold
NMC705394	MERRILITE NORTH ANNEX	07/22/1994	Railroad & Gold
NMC416047	NEW DEAL FRACTION	04/07/1987	LODE(Donovan)
NMC705982	NEW FLORA TEMPLE	08/09/1994	DWC
NMC1000122	OMAHA FRACTION #1	10/30/2008	
NMC1000123	OMAHA FRACTION #2	11/08/2008	
NMC1000124	OMAHA FRACTION #3	10/30/2008	

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC1000125	OMAHA FRACTION #4	10/30/2008	
NMC1000126	OMAHA FRACTION #5	10/30/2008	
NMC1000127	OMAHA FRACTION #6	10/30/2008	
NMC1000128	OMAHA FRACTION #7	10/30/2008	
NMC1000129	OMAHA FRACTION #8	10/30/2008	
NMC1000130	OMAHA FRACTION #9	10/30/2008	
NMC1000131	OMAHA FRACTION #10	10/30/2008	
NMC1000132	OMAHA FRACTION #11	10/30/2008	
NMC1000133	OMAHA FRACTION #12	10/30/2008	
NMC1000134	OMAHA FRACTION #13	10/30/2008	
NMC1000135	OMAHA FRACTION #14	10/30/2008	
NMC1000136	OMAHA FRACTION #17	10/30/2008	
NMC1000137	OMAHA FRACTION #18	10/30/2008	
NMC1000138	OMAHA FRACTION #19	10/30/2008	
NMC1000139	OMAHA FRACTION #20	10/30/2008	
NMC1000140	OMAHA FRACTION #21	10/30/2008	
NMC1000141	OMAHA FRACTION #22	10/30/2008	
NMC1000142	OMAHA FRACTION #23	10/30/2008	
NMC1000143	OMAHA FRACTION #24	10/30/2008	
NMC705401	ORO PLATO	09/27/1994	Railroad & Gold
NMC116358	OVERLAND	04/30/1875	DWC
NMC116362	OVERLAP	10/01/1921	DWC
NMC116363	OVERLAP #1	10/01/1921	DWC
NMC555211	OVERLAP #3	04/24/1989	DWC
NMC704516	OVERMAN 1	08/27/1994	
NMC705402	OWL	09/26/1994	Brandon
NMC884216	PLUM	11/19/2004	
NMC416045	SOUTH COMSTOCK ST. LOUIS	04/07/1987	LODE (Donovan)
NMC416033	VINDICATOR #8	04/06/1987	LODE (Donovan)
NMC1015613	WEST LODE 59	09/09/2009	
NMC1015630	WEST LODE 77	09/09/2009	
NMC1015631	WEST LODE 78	09/09/2009	
NMC1015632	WEST LODE 79	09/09/2009	
NMC1015648	WEST LODE 96	09/09/2009	
NMC1015649	WEST LODE 97	09/09/2009	

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC1015650	WEST LODE 98	09/09/2009	
NMC1015651	WEST LODE 99	09/09/2009	
NMC1015666	WEST LODE 115	09/09/2009	
NMC1015667	WEST LODE 116	09/09/2009	
NMC1015668	WEST LODE 117	09/09/2009	
NMC1015669	WEST LODE 118	09/09/2009	
NMC1015670	WEST LODE 119	09/09/2009	
NMC1015691	WEST LODE 203	09/10/2009	
NMC1015692	WEST LODE 204	09/10/2009	
NMC1015693	WEST LODE 205	09/10/2009	
NMC1015694	WEST LODE 206	09/10/2009	
NMC1015696	WEST LODE 223	09/10/2009	
NMC1015697	WEST LODE 224	09/10/2009	
NMC1015698	WEST LODE 225	09/10/2009	
NMC1015699	WEST LODE 226	09/10/2009	
NMC1015700	WEST LODE 227	09/10/2009	
NMC1015701	WEST LODE 228	09/10/2009	
NMC1015702	WEST LODE 229	09/10/2009	
NMC1015703	WEST LODE 243	09/10/2009	
NMC1015704	WEST LODE 244	09/10/2009	
NMC1015705	WEST LODE 245	09/10/2009	
NMC1015706	WEST LODE 246	09/10/2009	
NMC1015707	WEST LODE 247	09/10/2009	
NMC1015708	WEST LODE 248	09/10/2009	
NMC1015709	WEST LODE 249	09/10/2009	
NMC1015710	WEST LODE 250	09/10/2009	
NMC1015711	WEST LODE 263	09/10/2009	
NMC1015712	WEST LODE 264	09/10/2009	
NMC1015713	WEST LODE 265	09/10/2009	
NMC1015714	WEST LODE 266	09/10/2009	
NMC1015715	WEST LODE 267	09/10/2009	
NMC1015716	WEST LODE 268	09/10/2009	
NMC1015717	WEST LODE 269	09/10/2009	
NMC1015718	WEST LODE 270	09/10/2009	
NMC1015719	WEST LODE 301	09/09/2009	

Serial Num	Claim Name/Number	Loc Date	Lessor
NMC1015720	WEST LODE 302	09/09/2009	
NMC1015721	WEST LODE 303	09/09/2009	
NMC705398	WEST NICK	07/21/1994	Railroad & Gold
NMC705399	WEST NICK NO. 1	09/26/1994	Railroad & Gold
NMC792526	WFR #1	09/01/1998	New Daney
NMC792527	WFR #2	09/01/1998	New Daney
NMC792528	WFR #3	09/01/1998	New Daney
NMC792531	WFR #6	09/01/1998	New Daney
NMC792534	WFR #9	09/01/1998	New Daney
NMC792535	WFR #10	09/01/1998	New Daney
NMC792536	WFR #11	09/01/1998	New Daney
NMC116351	WINDY FRACTION	11/09/1953	DWC
NMC705983	WOODVILLE EXTENSION	08/10/1994	DWC
NMC108753	PEACH	08/19/1925	Ida Consolidated
NMC108755	WEDGE	08/19/1925	Ida Consolidated

SILVER CITY ADVISORY BOARD COMMENTS AND MEETING MINUTES

14 CV 00128 - 000350
LYON COUNTY

Citizen Advisory Board
Letter of Transmittal

Advisory Board: Silver City

Date: Oct 7, 2013

Item of Concern:

1) Revised Application for Reversion to Acreage on Comstock Mining, Inc. property in Silver City, Agenda Item 2, Lyon County Planning Commission Meeting Oct. 8, 2013.

2) Request to the Lyon County Planning Commission and Lyon County Board of Commissioners that future meetings regarding Comstock Mining, Inc.'s applications for Master Plan Amendments and Zone Changes for property in Silver City be held at the Silver City Community Center.

Has the Advisory Board agendized this and taken action? Yes X No___

If yes, what action has been taken?

1) The Silver City Citizen Advisory Board voted unanimously to recommend that the Lyon County Planning Commission reject this application or, if the applicant requests, grant a continuance.
The primary reason given during discussion for this recommendation is that the purpose of the application is to create a large parcel of land that will conform to a separate application for a master plan amendment and zone change for the property. The master plan amendment and zone change have not yet been approved, so it would be premature to grant this reversion to acreage. Questions were also raised regarding the appropriateness of combining the small parcels in question, which date to the original Silver City townsite and reflect the existing subdivision of nearby property; questions were also raised regarding these parcels and the results and/or potential mitigation measures associated with the recent testing program within the Carson River Mercury Superfund Site.

2) The Silver City Citizen Advisory Board voted unanimously to request that the Lyon County Planning Commission and Lyon County Board of Commissioners hold future meetings regarding Comstock Mining, Inc.'s applications for Master Plan Amendments and Zone Changes for property in Silver City at the Silver City Community Center.
The reasons discussed for this request included the fact that these land use issues are of critical importance to Silver City and its residents. Attendance at Advisory Board meetings at which these issues have been discussed—between 60 and 80 people—has reflected residents' high level of concern. Holding these meetings in Silver City would not only allow for maximum participation, but would also save residents from having to making a 180 mile round trip to Yerington. A number of residents also expressed their willingness to help defray costs or do anything necessary to expedite holding these meetings in Silver City.

Does the Advisory Board want this item brought before the Board of Commissioners?

Yes___ No X

What, if any, recommendation does the Advisory Board have

None beyond the recommendations listed above.

Mail to: Lyon County Managers Office, 27 S. Main Street, Yerington, NV 89447
Email to: mwilliss@lyon-county.org

Silver City Citizen Advisory Board Meeting MINUTES AMENDED
Silver City Community Center in Silver City, Nevada
Tuesday August 6, 2013 at 7:00pm

Call to Order: Cal opened the meeting, Cal and Pam present

Public Participation: Jack Richmond, Bob Hastings, Ray Fierro, Deputy McDaniel, John Hartley, Mike Workman, Julie Workman, Frank Pedlar, Elaine Bardull-Spencer, Lois Swanson, Larry Warhenbrack

For Possible Action: Approve Agenda: Pam motioned, Cal seconded, all in favor motion passes

For Possible Action: Approval of the June 4 meeting minutes, June 27 workshop minutes, and July 2meeting Minutes: Pam motioned to table meeting minutes September 3 2013, Cal seconded, all in favor, motion passes

Correspondence: none

Reports: (No Action)
Commissioners: Ray Fierro opened the Commissioner's report by asking if the town board is enjoying the new meeting recorders. Pam thanked him with great gratitude. One of the issues in the county relates to the increase of accidents on the Hwy 50 corridor and the county's attempt to address this problem. He impressed driver safety responsibility. Cal mentioned the increased presence of law enforcement on the corridor. Ray reiterated the county's approaches to addressing traffic issues. He also mentioned the planning department's development code work and presenting to town boards about the changes and updates. The codes and ordinances need to be consistent with the master plan. Ray has recommended changes and the commissioners are looking forward to public input. Ideas are to promote commercial and business endeavors. Public comment reverted to traffic issues and asked if the head light requirements were mandatory. The response was yes.
Mr. Bob Hastings, present as well, added an announcement about the kid safety rally at Smith's the following Saturday. He also announced his town hall with John Stevens regarding the LC Board of Education to address questions, answers and visions about the school district. It will be at Dayton High School on Thursday August 8, 2013. Cal thanked the commissioners
Lyon County Sheriff's Department: Deputy McDaniel reported on calls in Lyon County. He addressed the speeding issues on the corridor. The county has a grant to put more LE on the roads. He shared the break down on calls for service and provided the board of the statistics. Commissioner Fierro asked about gang activity and graffiti. Deputy McDaniel referred him to the gang unit in Lyon County. Pam asked what kinds of felonies occur in Lyon County. Deputy McDaniel shared that he doesn't have the specific breakdown, but he could obtain it. She then asked if we have a lot of burglary in Lyon County. Deputy McDaniel shared that they broke a burglary ring and he took a few burglary calls recently mostly related to people leaving their homes/cars unlocked. People are taking guns, jars of change and particular items not necessarily turning houses upside down. Deputy McDaniel announced the upcoming Lyon County Sheriff's Office Citizens Academy on Tuesday evenings September 3 through October 15 at the Silver Springs Senior Center Hillyard Hall 2945 Ft. Churchill Road to help citizens learn about the county's law enforcement and sign up for a ride along (depending on eligibility). The academy intends to share what to look for and when to call. He left some fliers for the academy and Pam offered to post at the Post Office. Cal thanked the deputy.
Lyon County Planning Commission: none
Silver City Fire Department: none
Lyon County Parks and Recreation: Jack Richmond reported that the board did not have a meeting.
County Officials: Mike Workman introduced himself and shared that he had his crew came up and repaired the fence at the park. He asked if there is any issue in the future to let him know as soon as possible. He thanked Cal for reporting the septic or grease trap issue at the Community Center and requested that he be informed if any issues like this occur so he can be proactive and take care of things as early as possible. He will put it on a routine check too. He shared that he is working on repairing shingles on the Community Center also. He then brought up the High Street alignment project or ROW project. The BOC approved the project. Big hitters sat down at the table to figure out how to address this issue. They are finishing up on the deeds and titles to work forward. A few minor issues needed to be addressed, quit claims, etc are being addressed. He showed a parcel map of how they are working on the property lines to resolve the adjustments. They worked on a ROW for the cemetery. Behind the project is mounds of paper work. This started as a cemetery expansion project and now they are resolving property line issues. Buckeye is the next project. Later this fall he hopes to address other abandonments and road adjustments

that need to be addressed. In regards to the cemetery, Workman is working on access and expansion by starting with the paper work. He will make sure all the required permits from various agencies are obtained and consult the cemetery committee. This will take time. Pam asked what needed to be done to request grading Buckeye near the stop sign. He said they are a three to four weeks behind but she could email him a request.

Advisory Board Member Comments: Cal shared that Patty Marshall found some maps in belongings of Merk's. She would like to get the maps in the proper place. Someone had suggested to him that maybe the State Library and Archives. He asked if anyone has ideas. The maps are surveying maps. Patty doesn't want them in boxes and accessible to the public. Lois Swanson suggested that CMI scan them to make electronic copies. Cal shared the Patty is amiable to the mining company having them only because of her son. Elaine suggested the state archive. Cal mentioned that there are costs associated with this agency. Commissioner Fierro suggested Dayton Historic Society. Pam asked if the county would be interested. Workman shared that the county can digitize them and will work with the Recorder's office to scan and return to owner. Another public comment suggested UNR and Cal echoed UNR's Bureau of Mining. Workman shared that it may be helpful for addressing issues related to property lines in Silver City. Pam opined that the county would be the appropriate place, especially because it is a public agency with responsibilities to the public. Workman shared that the county would certainly help to preserve the information contained in the documents/maps.

Public Comment and Participation: Lois Swanson shared that her father Fred took out the antique PO boxes and would like them to be stored in the Community Center inside a cabinet. Pam asked Workman about the process for getting them stored in the Community Center. He shared a potential process
Lois also shared that she has firewood starter from the mill she would like to share with those in the community that would need it. Cal would like to put a hole at the PO but PO staff are limiting what can go up. Lois asked Will and Sheri if they could put up at DoolDads. Lois also asked if there are still areas in town that need weeding.

For Possible Action: Requests for Use of the Community Center: none

New Business

Presentation by John Hartely, Chair, Lyon County Democratic Central Committee (No Action): Mr. Hartley introduced himself with the Lyon County Democratic Central Committee. He is generating awareness of the committee and involvement of Lyon County Democrats. He invited them to their meetings the second Tuesday of each month at the Dayton Public Library. They are trying to involve democrats in Silver City and Mound House. They are getting ready for upcoming campaigns. He referenced their facebook site. The group is focusing on library issues, public lands bill, mining impacts. He shared the upcoming September 8 Dini picnic at the Dayton State Park. Pam Thanked John.

For Possible Action: past and future workshops regarding concerns about the effects of mining on Silver City and its residents: Cal brought up the workshop last Wednesday. He shared his concern that there hasn't been much community participation, possibly because of the summer. He deferred to Pam about the next workshop, as she would like a workshop on reclamation. Elaine from CMI suggested that we move forward to a workshop in August and August 29 was decided by the board. Pam made a motion to set the next workshop for August 29 on Reclamation. Cal asked if there would be any comment from the community. Lois and Elaine concurred. Jack Richmond asked for specifics. Pam shared that she is concerned about the hole in Gold Hill, CMI's reclamation plan, the budget including expenditures and revenues, and community concerns that the hole will be left with out remedy. Elaine inquired if Pam would like to see the budget in addition to the plan. Pam shared that she would like to see what funds are available, to be available, the costs for the plan, etc. Elaine assured they would bring in the necessary parties to address the whole reclamation project. Elaine added she would like community input and hopes there will be people in attendance. Elaine added that CMI would send out invitations to residents to come. Pam inquired if the letter would be to residents, not particular names to protect privacy. Elaine agreed. Pam also added that if people choose not to attend, at least the board would be there to hear what CMI has to share. Public comment was then shared that community is skeptical of CMI and do not believe that they will not uphold anything they say and therefore haven't been attending. Pam thanked the public participant for commenting because the board and others have been curious. Elaine segwayed into inquiring as to how the board and CMI would be sharing with the community the solutions to the concerns that lay at the heart of the workshops. CMI would like the community to know what they are working on. Pam shared that she had a list of what was addressed on blasting. There is intentions to create a summary for the community and make a report to the commissioners. Erich may be sending

an e-blast to the community. Elaine offered CMI to mail out a community summary prepared by the board. Public comment was made on how to format the summary for the community and share it with them. Pam asked commissioners present. Commissioner Hastings suggested a report to the commissioners in September. Elaine brought up revisiting the original list. Pam shared that list: noise, dust, blasting, quality of life concerns, property value depreciation, fragmented regulatory oversight, lack of information about short and long term plans, pressure to change land use designations from Erich's list and Pam's list also included reclamation and CMI involving the community in their plans for the area of Silver City. Commissioner Hastings suggested finishing out the workshops and then providing the BOC and planning commission with a comprehensive report while maintaining updates to the community. Commissioner Fierro suggested to use information from the comprehensive report to share through media sources and mailings offered by CMI. Pam offered to put together a report on blasting, noise and dust and then would need Erich and Cal to look over. Cal commented to CMI about their help doing this. He continued that the next step is to get it out to the community. Elaine then shared the previous powerpoint of the VibraTech presentation to the board. Pam then reviewed the last workshops. She listed possible solutions such as the following for blasting: moving the blasting traffic stop that has occurred twice now, blasting only on one day so people can be aware, the signs to notice the community of the blasting (however CMI is awaiting permits for signs) – signs to be posted at Devils gate/in town near Post Office/and junction 341 and 342, gathering data on blasting vibrations and Erich has agreed to a monitor in his home (he has a portable one), Erich requested a map of where the blasts occur and CMI is working on that, Dave Thomas will be presenting at the September meeting the 3D model of the underground structures, and the evaluations of the homes by home owner's insurance of a baseline for possible damage as a result of blasting effects within the identified radius. In respect to noise and dust – CMI will install a dust monitor at the pit and one request about noise came from Pam (partly in due because of lack of community participation) was to have an hour later start on weekdays and weekends. However, Pam didn't feel comfortable that a request come just from her. Erich was going to ask the community and Elaine suggested getting information from the community at the reclamation workshop regarding requests to reduce noise. Pam summarized that following the next workshop there should be a summary for the community and then after the workshops conclude there would be a comprehensive report for the BOC. Comment from the public about the good work on communication and coordination between the board and CMI. Pam restated the motion for the reclamation workshop on August 29, Cal seconded, all in favor, motion passes.

Old Business

For Possible Action: Ferrari Club of American 2013 Hillclimb (Sept 14 and 15, 2013). Dennis Chiodo of the Ferrari Club will be in attendance: Dennis Chiodo was not present. Pam asked commissioners present if they were approved. Commissioner Hastings confirmed and shared that BOC put requirements of previous races on the upcoming race.

For Possible Action: Lyon County Strategic Plan

Cal inquired about this agenda item. Pam shared the county manager asked it to be on town board agendas. Pam asked Commissioner Fierro to update us on the plan. He shared that this was the BOC's method for obtaining community input on the plan. Pam asked if there was an updated version and suggested it sent out to the community. Pam asked if they will be finalizing the plan by the end of the year and Commissioner Fierro replied that was the intentions.

Cal moved to Larry Warenbrack since he showed up if there was anything pressing on the planning commissioners. He said the last agenda was light. However, there is a solar project coming up in Mason Valley that may be of concerns.

Public Comment and Participation:

Adjournment: Pam motioned to adjourned, Cal seconded, all in favor, motion passes.

Silver City Citizen Advisory Board
Workshop MINUTES AMENDED

Silver City Community Center in Silver City, Nevada
Wednesday, July 31, 2013, at 7:00pm

Call to Order: Erich welcomed everyone. Cal, Erich, and Pam present

Approval of Agenda: Cal motioned, Erich seconded, all in favor, motion passes

Public Participation: John R. Odom, Roger Drum, Frank Pedlar, Ray Fierro, Las Swanson, David Thomas, Todd Chelini, Rita Wheeler, Dawn MCranfield, Elaine Bardull-Spencer, John Bennett

Public Comment and Participation:

Workshop. The subject of the workshop is Silver City residents' concerns regarding noise and dust associated with Comstock Mining Inc.'s operations in the area of the Lucerne Pit, and their effects on Silver City. In addition, there may also be follow up discussion regarding the June 27, 2013 blasting workshop. The purpose of these workshops is to define and clarify residents' concerns, and to explore with Comstock Mining, Inc. possible remedies for these concerns.
Erich introduced agenda item by sharing the topics addressed thus far. First, CMI moved the traffic stop to Devil's Gate by a request of Erich from a complaint by a resident on Main Street. He deferred to Cal who spoke to the resident and now the traffic backed up in front of her house is causing fumes to continue to go in her house. Cal mentioned that she also commented that blasting is quieter. Elaine asked if she recognized that the traffic stop had moved. Cal shared yes, but the problem continues. Erich asked if CMI could move the stop to the north end of chain-up area. Public comments included that DOT has been stopping traffic in that area as well and traffic in this area is high because of the summer months. Erich then listed the next topic, notification of blasting. We were with the understanding that blasting will be on only one day a week. Dave Thomas responded that it could be accommodated if it is a wish of the community. Erich asked if as the town board could we request the blasting to occur on only one day a week. Dave Thomas said that they decide a blast based on wind and time of day. Pam commented that the blasting be confined to one day so residents are clearly aware. Dave also shared that CMI is waiting for DOT to approve posting signs. She asked where the locations would be. Dave Thomas said one at Devil's Gate and 341-342 intersection. He also offered possibly in middle of town at the Post Office. The signs will be facing in town. Security guard will update the signs. Erich reiterated that blasting one day a week would be our request. The day of week not critical. Pam inserted that one day a week with multiple blasts on one day if needed. Commissioner Fierro suggested putting a flag on the sign when there is new information. Dave Thomas said CMI could do that the day of the blast. Erich then mentioned the topic of data on blasting. He confirmed that according to the previous presentation it is unlikely that blasting affects structures. However, the blasting affects interrupting people's lives. He has started collecting anecdotal data from residents. He shared some of the comments he has collected so far gathered onto a document. Comments ranged from nothing to major effects. He then requested a map of where the blasts occur. Dave Thomas said he could provide a map of each blast. He also shared that he has 3D model of the underground structures. He offered to share it at a town meeting or workshop. Erich also mentioned a resident collecting data on blasting using a portable monitor. Dave Thomas mentioned setting a couple monitors in town, which then would feed data into his system. Erich requested a permanent monitor. Dave Thomas hoped to have a representative sample of data from various areas of town. Pam asked where the resident lived that provided a comment on Erich's document. It was concluded on the east part of town and the comments are subjective. Discussion ensued about the how the sounds of the blasting vary depending on the area of town. Commissioner Fierro asked about the type of sound the monitors pick up. Todd Chelini shared the sounds it picks up comparing it to picking up a jarring earthquake but no a rolling earthquake. Elaine offered to provide the board with a copy of the VibraTech powerpoint. Erich requested a print copy. Other notes Erich had addressed a third party evaluation of houses within 1000 feet of blasting. He asked if CMI could get a third party to evaluate homes

Elaine shared that would be VibraTech. Dave Thomas said he would have to talk to VibraTech and the home would have to be within the 1000 feet. Erich suggested that it would be offered to the community. Erich reiterated the importance the company is outside of CMI. VibraTech is a third party. Erich wants to present a rational approach to people's complaints. Elaine commented that whether it is VibraTech or a person's insurance company at least it would serve as a baseline. Erich's other topic referenced the 3D model and CMI would like to present it at the September meeting. Dave Thomas offered that anyone could come up and look at it beforehand. Pam thanked CMI for their cooperation.

Dave Thomas then provided a presentation on noise and dust. He introduced CMI staff associated with blasting. He shared his perspective of teamwork and how Silver City and CMI can make the best for both entities. He shared that he can accommodate things the community wants if he knows what the community wants. He planned to talk about air quality and mine operations. Air quality issues: CMI is regulated by NDEP. CMI has an air quality permit to construct and now that they are in operations, the permit was converted into a federal permit called a 'classified operations permit' governed by the EPA. In order to transition from a state permit to federal permit CMI had to do a series of tests, which were just done in July. They 'passed' all their tests. They have 14 sources with 14 separate permits. EPA checks 14-point sources with mechanical devices at pit operations, another operations site, processing plant, and lab. Pam asked what it means to pass a test. Dave explained that they met set regulatory requirements based on state and federal guidelines. Dave used an example of testing for mercury. CMI also has an approved dust abatement plan based on regulations and operating under a permit. Dave explained this using the dust from trucks as an example. They are required to use 23,000 gallons of water per day. They put an average of 68,000 on the road per day. Pam asked if it is reclaimed water. Dave replied no, that the water comes from two sources, Storey County through the Washoe County watershed at 72,000 gallons per minute into a fire pond for processing and then CMI uses water at night that is put back into the ponds for a closed system. They lose about 50,000 gallons a day to evaporation transmission on an 80 degree day. Then they have their own well pumping called WS4 180 gallons per minute generally used for surface mining operations for dust abatement program and for process water for washing things down. Sometimes the county has problems with their pipes. They monitor the well regularly. Because of the wind they increase watering the roads. Cal asked about the water tank near Delmar bend. Dave confirmed the tank is theirs, CMI doesn't have many water rights in that area, and they are in the process of transferring water rights. They have applied with the state to do this. Erich asked about the dust standards in comparison to unpopulated areas. Dave replied that there are no differences in standards between populated areas and unpopulated areas. Commissioner Fierro commented about the treated affluent water: Carson City is using all that is available. He then asked Dave if the water from Storey County that they are using is potable. Dave replied that it meets drinking water standards but there would need to be put through a process. Commissioner Fierro was curious as to why drinking water that can be used for citizens is being put on roads. Dave retorted that CMI is going to help Storey County upgrade their water system. CMI could only get wastewater from Virginia Highlands. Comments made that water is scarce Dave then shared a project in Russia where he brought in 30,000 people to a community of 750 people. Dave then went on to explain the ore processing process in relation to testing carbon and capturing mercury. Dave also shared other sources tested. Dave moved on to noise and brought up the community's previous complaints about noise from drilling exploration, noting that they can do a better job in the future. Dave then shared that CMI commissioned a study to monitor the noise from equipment and regulations state not to exceed 80 decibels. Dave brought up that issues have been with mornings, weekends, and holidays. He offered to reduce noise at certain times. Pam shared that mornings have been a concern from her house, as early as 6:00am. Dave then shared the morning schedule and noise usually starts around 6:30am. Dave offered to move noisier equipment to later, like after 8:00am. Dave admitted in regards to holidays that he has no empathy and loves to work so he works his guys on holidays. Erich shared complaints about holidays. Dave offered to be flexible and limit noise on certain holidays and early hours. Dave did comment that he doesn't want to give the community an inch and they take a mile. Dave shared that his flexibility depends on productivity. Pam shared that she doesn't want CMI to make accommodations according to her needs and wants the community to provide input. However, with the lack of participation from the community in these workshops it is difficult to determine community input. Public commented about doing a survey. However, Erich has a method for gathering community input and solicited people to provide him with their email address so he can add them to his email list. In respect to this issue of noise, Erich shared that he would present to the community what CMI is willing to be flexible. Erich restated that this area is not the middle of Nevada and people here are openly exposed to the effects of mining. He reiterated the excessive noise from exploratory drilling and compared it the world's largest jackhammer. It was concluded that CMI would start a little later and avoid holidays for now. Dave offered to change the operations to minimize impact and allow people to complain about particular noise in order to address it. CMI wants to go above and beyond. Pam asked Erich how long it would take to gather community input. He said by the next workshop in August. Dave shared that they

added two water trucks this year. Erich brought the upper road that isn't watered. Dave replied that the road is BLM property and they can't put water trucks on that road. Erich then asked if CMI is collecting data and monitoring dust offsite. Dave replied yes. Elaine has been talking with people. What came out of it was putting a naturally occurring sap (Pam asked Dave to confirm it was not chemical and he said not chemical!) type material on the roads to reduce dust. Erich then shared an anecdotal data that a person has noticed large dust particles in their home lately and asked if the CMI monitoring system can tell how much dust is leaving the site. The system is not a feedback system, it just tells how CMI needs to be proactive and 'CMI chooses to be more proactive and preventative', and how much of the road has been disturbed and what to do. Erich asked if it takes into account the amount of dust that occurs when CMI is moving materials around. Dave replied that CMI has a separate system to monitor such as the crusher. Erich restated his reference was to the areas where the trucks are. Erich asked if there was a way to measure the amount of dust caused by CMI operations. Dave reminded that there is no baseline. Dave then offered anyone to come to him about questions, concerns, etc. Comment came from the public participation concerning why 'concerned citizens' are not present. This individual was bombarded by citizens' concerns and he told them to come to this workshop. This person was extremely concerned about people's lack of participation. Pam pointed out that it is extremely disappointing there isn't public participation tonight. This person asked if people knew about th workshop and Erich confirmed yes. Erich pointed out meeting fatigue. Cal pointed out people take opportunity when the can. Elaine suggested that at some time there needs to be a summary for the community and the information put in people's mailboxes. It was then reiterated the need to put together the workshop solution outcomes. Erich said we will need to put together a summary for the community and at a town meeting put together a report for the commissioners. Public comment that the board or CMI needs to put together something and put in their mail boxes so residents don't have excuses as to not knowing what is going on. Erich did share that sometimes the mailbox is not the answer because things are often subject to context. However, the board is doing what they can. Public comment that the workshop has been very productive and this person reiterated that it is bothersome that people can scream and yell outside of the meetings yet not participate in a productive process as these workshops. Pam asked if we could conclude a format for summarizing the workshops. Erich replied that we should present specific things accomplished at the next town meeting. Cal shared that having the town board's summary and CMI's summary would be helpful.
Pam shared her idea for the next workshop and for it to focus on reclamation, the whole picture. Erich reminded that the board can't make a decision at the workshop and suggested deciding at the next town meeting.

Public Comment and Participation: Cal had a public comment from the party last Saturday with the water running out of the sewer. He shared that Mike Workman will be out to address it.

Adjournment: Pam motioned, Cal seconded, all in favor, motion passes

Silver City Citizen Advisory Board Meeting MINUTES AMENDED
Silver City Community Center in Silver City, Nevada
Tuesday July 2, 2013 at 7:00pm

Call to Order
Erich welcomed everyone, all members present

Approve Agenda
Pam motioned to approve the agenda, Cal seconded, all in favor, motion passes

Public participants:
Bob Hastings, Bob Kielty, John Gillenwater, Patricia Allander, Robin D. Hall, Jack Richmond, Elaine Barksdill-Spencer, Larry Waherbrack, Lois Swanson

Approval of the May 7 and May 29 minutes meeting minutes
Erich had amendments to the meeting minutes of both May 7 and May 29 provided in notes on a copy of the meeting minutes. Cal motioned to approve the meeting minutes of May 7 and May 29 with corrections. Erich seconded, all in favor, motion passes.

Correspondence
Erich shared correspondence from County Manager Jeff Page regarding a leadership conference July 19-21. The county manager additionally corresponded on changes to the open meeting law that included but not limited to a note to add a contact person for supporting material and beginning January 2014 the CAB agendas will need to be posted on the state website. Another correspondence shared by Erich was a request from a town resident for the town board to send a thank you to all the agencies who responded to the recent Silver City fire.

Reports
Commissioners
Commissioner Hastings was present to report. Hastings reported that the Board of Commissioners will be providing the Lyon County CABs a digital recorder to replace the methods for recording the meetings using cassette tapes. He also thanked the Silver City Volunteer Fire Department and all other agencies involved for protecting the town and additional threatened during the recent fire. There was also mention of upcoming lands use changes

Lyon County Sheriff's Department
Deputy Hall reported on the crime in Lyon County the previous month.

Lyon County Planning Commission: (Kona Gold, same as before, under the Planning Commission, although this time it is scheduled for the July 9 Planning Commission Meeting)
Erich mentioned the Kona Gold special use permit request before the Board of Commissioners again. Community concerns include noise issues, a crusher on site, and use of a jaw crusher. Kona Gold has required paperwork submitted to the county but a there are still a couple 'wrinkles' they need to iron out with their application. This item was not agendized as an action item therefore no action was taken.

Silver City Fire Department
Chief Patricia Allander was present and introduced Chief Gillenwater and Bob Kielty to report on the recent Silver City fire that threatened the town and residential structures. Kielty reported the fire was 100% contained and crews were still cleaning up. At the time of the meeting, the fire was again under Central Lyon County Fire District jurisdiction. The cause of the fire was still under investigation. Erich requested a list of all agencies that helped with the fire. Chief Gillenwater reported the state mutual plan and interagency cooperation that occurred during this fire demonstrated how well it has come along over the past ten years. Five counties were involved, one state helicopter, air tankers from California and Stead.

Lyon County Parks and Recreation

Jack Richmond from the LC Parks and Rec board reported that the county is looking for volunteers for weed eradication. There was a request for tree trimming.

County Officials
There were no county officials present.

Advisory Board Member Comments
Erich noticed that Gordy Gannon was very ill at home in Canada. He is doing well and trying to come back the beginning of August.

Public Comment and Participation:
There were no public comments

Requests for Use of the Community Center
There were no requests for use of the community center

New Business
Discussion and possible action RE: June 27, 2013 workshop, and future workshops regarding concerns about the effects of mining on Silver City and its residents
Erich updated the meeting participants on the June 27 workshop. Erich recommended people note affects of blasting if they are home during a blast from Comstock Mining. Elaine from CMI mentioned the blasting notification, monitors for residents' homes, and home evaluations. Concerns were expressed that the Bureau of Mines standards were too general for assessing impacts of blasting on structures. Erich requested that CMI provide third party for pre-evaluations of homes. Concerns expressed regarding structural damage and the impact of noise. From the workshop, Erich wants to work toward gathering people's perceptions of the effects of blasting to use as qualitative data for helping to conclude solutions. Maybe there could be a way to correlate perceived effects of blasting with size of blast. Maybe there could be a way to influence CMI to address more impacts of blasting. Elaine of CMI asked why there was so little participation in the workshop by residents. Erich and a community member suggested the influence summer months and meeting fatigue or fatigue on the mining issue. Another concern brought up involved blasting effects on the underground structures characteristic of the historical mining on the Comstock. Brandon MacDougall of CMI is making a 3D map of the historical underground structures. Erich requested more information on it. Erich pressed that residents monitor what happens at and to their homes from blasting and report to him.
The points concluded from the workshop included the following: (1) move traffic stops caused from blasting operations more north to reduce gas fumes into nearby home; (2) increased use and promotion of CMI email notification system for informing about the blasting where, when, and number of holes; (3) identify homes most affected by blasting and install CMI's portable monitors; (4) post signs with notification of blasting information, and (5) CMI would restrict blasting to one day a week.
Erich motioned to set another workshop on July 31, 2013 to discuss noise and dust. Pam seconded, all in favor, motion passes.

Discussion and possible action RE: Lyon County BOC agenda item for July 5, 2013 Commission meeting "To amend and approved (sic) amendments to Lyon County Administration Policy and Procedures 1-3 General Responsibilities in reference to Board of Commissioners appointment to various Boards, Commissions and Committees"
Commissioner Hastings shared that the amendments primarily intended to address concerns with the Library and Fair boards because these boards have budgets. The amendments make all county boards consistent also. Erich voiced concerns regarding how "special interests" would be defined. The conclusion was the language in the amendment is boilerplate language

Old Business
Discussion and possible action RE: Lyon County Strategic Plan
Erich shared that he went to the recent county strategic planning meeting to promote Silver City as a quiet residential area. Comment made that there are intentions with the plan to develop business opportunities in the county.

Discussion and possible action RE: Ferrari Club of America request for the Lyon County Commissioners' approval of their plans and dates for the 2013 Hillclimb (September 14 and 15, 2013

Erich referenced the 2012 conditions the county required of the club for the race. Erich spoke to Dennis from the club and the club didn't follow the conditions. Chief Patricia Allander shared that there were not any problems with the Ferrari Club last year. Most of the complaints that have occurred in the past were associated with a different club that came to the area only once. Erich shared that Dennis will be at the August town board meeting.

Public Comment and Participation

There were no public comments and participation

Adjournment

Pam motioned to adjourn, Erich seconded, all in favor, motion passes.

Silver City Citizen Advisory Board
Workshop MINUTES AMENDED

Silver City Community Center in Silver City, Nevada
Thursday, June 27, 2013, at 7:00pm

Call to Order: Erich called the meeting to order, all members present

Approval of Agenda: Cal motioned and Erich seconded, all in favor, motion passes

Participants: Brandon MacDougall, David Thomas, Bob Hastings, Irish Thom Cutts, Randy Harris, Frank Pedlar, Bud Enlon, Lane Ramirez, Larry Wahrenbrock, Grahme Ross, Sara Ross, Todd Chelin, Cody Luftis, John Bennetts, Olivia Amos, Rachel Yelderman, Gayle Sherman, Elaine Barkdull-Spencer, Serge Marchale, Corrado DeGasperis

Public Comment and Participation, none

Workshop

The subject of the workshop is Silver City residents' concerns regarding blasting in the area of Comstock Mining Inc.'s Lucerne Pit, and its effects on Silver City. Examples of topics for discussion might include vibration, noise, dust, potential subsidence, etc. It is the Advisory Board's intention to limit today's discussion to blasting-related effects only (and to address other mining related issues at later workshops.) The purpose of the workshop is to define and clarify residents' concerns, and to explore with Comstock Mining, Inc. possible remedies for these concerns

Erich explained that the intention is to start from facts and known points and move from there. Elaine Barkdull-Spencer opened with a presentation from Ethan and Doug (did not sign public participant sheet) of Vibra Tech. She also introduced Rachel, CMI Environmental Specialist, and Todd and Cody, blasting operations managers and staff. The intentions of the CMI presentation is to share the blasting operations and procedures, Vibra Tech responsibilities, and then to hear from Silver City residents about their concerns. Doug from Vibra Tech shared history of Vibra Tech, blasting criteria/regulations, threshold/vibration damage/measuring, and blasting operations/monitoring procedures.

Rachel Yelderman presented on the environmental monitoring, measuring, and regulating for blasting operations

Dave Thomas presented on blasting regulator procedures and operations and complaint process.

Todd and Cody presented on the CMI blasting operations.

Erich started the questions, regarding discussion on structure damage, he inquired about blasting effects on the quiet nature of Silver City and the disruption of day-to-day lives. He also asked if there was a way to blast that reduces noise and vibration. Erich mentioned that he receives residents' comments about blasting effects. There is concern of residents about unexpected blasting. Doug referred to this as the 'startle factor' and said prior notification of blasting helps to reduce the startle factor. Is there a way to blast that minimizes noise and vibrations and how residents perceive blasting effects. Doug responded that educating people on the blasting. There is recognition that perceptions of blasting are subjective. Dave Thomas suggested that there is a way to reduce the number of holes blasted at once in relation to wind conditions. Wind is a major factor influencing blasting affects. Doug MacDougall is the one that plans the blasts and CMI has been refining and reducing blasting designs that produce similar results. Comments ensued relating to the diversity of people's exposure, perception, and reactions to effects of blasting. It was concluded that structural effects are minimal. Dave Thomas suggested that people with major concerns agree to have a blasting monitor put in their home. Doug MacDougall informed that Vibra Tech has a mobile unit. Question arose about quantifying residents' perceptions of blasting and monitoring their experience. Question asked about Vibra Tech's experience of monitoring effects on historical structures

Doug of Vibra Tech responded that Bureau of Mines looks at differing types of structures when setting criteria. Erich would like for us to get back to what we perceive as a disruptive blast, how we measure that and see how CMI stays below that. Dave Thomas asked for open communication, calls when there is a disruptive blast. Erich acknowledged complaints are subjective. However, Silver City residents pride themselves in living a quiet life so blasting effects disturbs this. Another resident complaint shared involved traffic stops in front of a home and gas fumes entering the house. CMI agreed to move the traffic stop further north to the chain up area with intentions to prevent idle car fumes entering the complainer's home. Pam inquired if Vibra Tech has experience with blasting monitoring and the impacts of blasting on the underground structures such as like that of the Comstock. Doug of Vibra Tech responded touching on the difference between measuring vibrations on the surface versus underground. Doug MacDougall shared the CMI model based on historic maps and data of the underground structures of the Comstock. Conclusion is to implement more notification of blasting: signs, calls, emails; and reducing blasting to one day a week; and installing monitors in homes for objective data collection.

Public Comment and Participation: none

Adjournment: Pam motioned, Cal seconded, all in favor, motion passes

October 4, 2013

Lyon County Planning Commissioners
27 South Main Street
Yerington, Nevada, 89447

Re: Comstock Mining Inc. Application for Reversion to Acreage (PLZ-13-0044)

Dear Commissioners:

Attached, please find a petition from the residents of Silver City and adjacent areas, directed to yourselves and the Lyon County Commissioners. The purpose of the petition is to inform you of the opinions of the signers regarding the above referenced application.

On August 12, 2013 Comstock Mining Inc., submitted the above application and a master plan and zoning change application to the Lyon County Planning Department. Copies were also provided to the Silver City Advisory Board. The applications were placed on the agenda for the September 3, 2013 town meeting. Copies of the applications were obtained and reviewed by residents of Silver City during the week of August 18, 2013.

From August 31st to September 3rd, the residents of Silver City signed the attached petition. The petition currently contains 104 signatures. As a point of reference, according to the Lyon County website, Silver City has a total of 146 registered voters. As one of the residents who walked the town, informing citizens of the applications for both the reversion to acreage and the master plan and zoning change, I can state that the people I spoke to were eager to sign and thus communicate their feelings to you.

The signers presented the petition to the Silver City Advisory Board at the town meeting of September 3, 2013, requesting that the Board convey this petition to the Planning and County Commissioners.

As Comstock Mining was not prepared to share their plans with the approximately 80 attendees at the town meeting, both applications were agendized for the October 1st Silver City Town Advisory Board meeting. Once again, the Silver City Community Center was packed with attendees, anxious to hear from Comstock Mining what their intentions are for the Dayton Consolidated. For the residents who live less than 250 feet away from the area that is to be reverted, this was an important chance to communicate to Mr. DeGasperis, CEO of Comstock Mining, that his plans could result in making their residences unlivable. Unfortunately Comstock Mining's total presentation was less than five minutes in duration and provided no information regarding the plans for the reverted acreage.

The Silver City Town Board then voted to reaffirm the town's recommendation to the Planning Commission and the County Commissioners i.e., that this application for a reversion to acreage at the Dayton Consolidated is a detriment to the quality of life, health and the historic integrity of Silver City.

As you deliberate, please keep in mind that the Reversion to Acreage application is designed to pave the way for mining within Silver City Town limits. I am requesting on behalf of the signers of the petition that you deny Comstock Mining's application.

Alternatively, please consider a continuance of this application until after the decision has been made on the master plan and zoning change. There is so much at stake for all of us who live in Silver City. Surely there is no harm to Comstock Mining if this decision is delayed until after the master plan and zoning change has been decided.

Sincerely,

Gayle Sherman

Gayle Sherman
100 Grant Street
Silver City, Nevada 89428

9-9-13

Petition from
Silver City and Adjacent Lyon County Residents
To the Lyon County Planning Commission and Board of Commissioners

Whereas the residents of Silver City, Lyon County, Nevada and its environs value the quality of life of their community,

And, whereas Silver City residents have worked hard for decades to foster and protect that quality of life in ways that allow sustainable growth, protect the integrity of historic resources, increase property values, encourage community spirit, and provide for a stable economic base.

And, whereas Silver City residents have contributed to, actively participated in the development of, and fully agree with the present Lyon County Master Plan and zoning ordinances which promote a balance of residential and commercial land uses appropriate for the preservation of the character of Silver City.

We the undersigned, petition the Lyon County Planning Commission and the Lyon County Board of Commissioners to deny Comstock Mining Inc.'s August 7, 2013 Reversion to Acreage Application and Comstock Mining Inc.'s August 12, 2013 application for a Master Plan Amendment and Zone Change. We the undersigned believe the approval of these applications is detrimental to the quality of life, health, and the historic integrity of the Town Site of Silver City and its vicinity.

	Printed Name	Physical Address	Signature	Date
1	CASHMON CALLAWAY	500 HIGH STREET SILVER CITY, NV 89428		8.31.13
2	Michele Buske	245 4th St. Silver City NV. 89428		8/31/13
3	William Roseveare	145 High st. Silver City NV 89428		8/31/13
4	SHEREE Roseveare	145 High St Silver City NV 89428		8/31/13
5	Allen MCabe	320 First St Silver City NV 89428		8/31/13
6	SUSAN MCabe	320 first St Silver City, NV 89428		8/31/13
7	Wayne Bachand	420 Hight St, Silver City, NV 89428		8-31-13
8	Catherine Bachand	420 High St. Silver City, NV 89428		8-31-13
9	MOLLY ALEXANDER	750 HIGH ST " " "		8/31/13
10	Allison Woodman	1150 N Main St, Silver City NV 89428		8/31/13
11	Alan Jackson	1150 Main " " "		8-31-13
12	Tom Byron	4 HIGH ST. SILVER CITY 89428		9/1/13
13	LILA LINDSAY	250 High St. Silver City, NV 89428		9/1/13
14	LINDA HICKS	1300 HIGH ST SILVER CITY, NV		9-1-13
15	Todd Hicks	" " " "		9-1-13
16	RENATE VICTOR	230 Second Street Silver City, NV		9.1.13
17	Rachel Berry	3654th St Silver City NV		9.1.13
18	Ron Victor	230 2nd St Silver City		9-1-13
19	Douglas Honesco	550 Buckeye St. Silver City, NV		9-2-13
20	Dorothy Nicholson	550 Buckeye St. Silver City, NV		9-2-13
21	JoAnn Shea	#2 PRadeRe Rd. DayTON		9-2-13

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	Printed Name	Physical Address	Signature	Date
1	Ken Keamon	345 4th ST SILVER CITY NV		9/2/13
2	STEVE BROWN	1530 DAYTON TAL ROAD SC		9-10-13
3	Fred Swanson	450 1st St. Silver City, NV		9-4-13
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	Printed Name	Physical Address	Signature	Date
1	Kirk Gomez	480 High st. Silver City		8-29-13
2	Teri Gomez	480 High St. Silver City	Teri Gomez	8-29-13
3	Robert Elston	500 High St. Silver City		8/29/13
4	Alex Martinez	50 Croner st silver city		8/29/13
5	Mary MacDonald	50 Croner St. Silver City	Mary K. MacDonald	8/31/13
6	Carmen Erisman	50 Croner St Silver City	Carmen L. Erisman	8/31/13
7	Ron Reno	375 Croner, Silver City		8/31/13
8	Mona Reno	375 Croner, Silver City	Mona Reno	9-1-13
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	Printed Name	Physical Address	Signature	Date
1	BONNIE BROWN	1530 DAYTON TOLL RD. SILVER CITY	Bonnie Brown	8-31-13
2	CHRIS BROWN	"	Chris Brown	"
3	LORRAINE RICHMOND	27 THE GOLDEN RD. SILVER CITY	Lorraine Richmond	8/31/13
4	[illegible]	" " "	[illegible]	"
5	Gail Bradley	387 Buckeye St Silver City	Gail Bradley	8-31-13
6	Robert Roque Bradley	387 Buckeye St, Silver City	Robert Roque Bradley	8/31/13
7	KAREN West	575 Buckeye St, Silver City	Karen West	8/31/13
8	KIP Allander	200 Grant St, Silver city NV	Kip Allander	8/31/13
9	CLEO ROSS	275 MAIN · SILVER CITY, NV	Cleo Ross	8-31-13
10	MARGARET COBBEY	1000 MAIN ST. SILVER CITY, NV	Margaret Cobbey	8/31/13
11	Emily Cobbey	1000 Main St, Silver City	Emily Cobbey	8/31/13
12	Bruce Brown	1560 Dayton Toll Rd Silver City	Bruce Brown	9/1/13
13	Kelly Kotik	305 Main St #2, Silver city	Kelly Kotik	9/6/13
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	Printed Name	Physical Address	Signature	Date
1	Carol Brown	900 SR 341, Silver City, NV	Carol Brown	8-31-13
2	DONALD BROWN	" " "	DONALD BROWN	8-31-13
3	Stephen Crawford	1045 Highway 341 Silver City No.		8-31-13
4	LOUISE CRAWFORD	1045 HIGHWAY 341 SILVER CITY NV	Louise Crawford	8-31-13
5	DEBORAH MASONES	1465 DAYTON TOLL RD SC NV	Deborah Masones	8/31/13
6	HERNAN H MESONES	1465 Dayton Toll Rd NV	Hernan H Mesones	8/31/13
7	Carol Godwin	1410 Dayton Toll Rd, Silver City NV 89428	Carol Godwin	8/31/13
8	Judie Wysocki	1000 Hwy 341 Silver City NV 89428	Judie Wysocki	8/31/13
9	Kris Coston	1275 Bonham Trl. Silver City NV 89428		8/31/13
10	Laura Coston	1275 Bonham Trl. Silver city NV 89428	Laura Coston	8/31/13
11	Joe McCarthy	1200 Highway 341 Silver City NV 89428		8-31-13
12	Ann McCarthy	1200 Highway 341 Silver City NV 89428		8-31-13
13	Diane Kotik	1500 Dayton Toll Silver City NV 89428	Diane Kotik	8-31-13
14	Larry Kotik	1500 Dayton toll Silver City NV 8948		8-31-13
15	Chad Olson	386 Hwy 341 Silver City, NV 89428		9-1-13
16	JUDI OLSON	386 Hwy 341 Silver City NV 89428		9-1-13
17	WILLIAM GODWIN	1410 DAYTON TOLL RD SILVER CITY NV 89428		9-2-13
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	Printed Name	Physical Address	Signature	Date
1	Sheri Fletcher	180 2nd St	Sheri Fletcher	8/31/13
2	[illegible]	20 [illegible] Gay St	[illegible]	8/31/13
3	Lisa Cooke	150 Gay St	[illegible]	8-31-13
4	Patricia Allander	30 Third St	[illegible]	8/31/13
5	Deborah Hosking	425 Main St Silver City NV 89428	[illegible]	8/31/13
6	James B Gamsteth	575 Gay st Silver City NV 89428	[illegible]	8/31/13
7	Don Works	#3 Pedlar, Silver City NV 89428	Don Works	8/31/13
8	Darlene Cobey	1000 Main St Silver City NV 89428	[illegible]	8/31/13
9	John Cobey	1000 Main St. Silver City Nv 89428	[illegible]	8/31/13
10	Gayle Sherman	100 Grant St Silver City NV	[illegible]	8/31/13
11	Donald Swan Works	#3 Pedlar Rd Silver City Nev.	[illegible]	8/31/13
12	Susan Stornetta	680 American Flat Rd Silver City NV	Susan Stornetta	8-31-13
13	Thomas Ross	250 Main St S.C.	[illegible]	8-31-13
14	[illegible]	107 Grant SC	[illegible]	8-31-13
15	Robert Shields	107 Grant St SC	[illegible]	8-31-13
16	Jane Hess Ross	30 Vivian St - SC	[illegible]	8/31/13
17	Daniel Ross	" " " "	[illegible]	8/31/13
[redacted]				
19	Margaret Burns	480 Buckeye St. Silver City NV	[illegible]	8/1/13
20	Sandra Bunker	351 Gay St. Silver City	[illegible]	9/1/13
21	Gabriel Sosa	30 third St SC NV 89428	[illegible]	9/1/13

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	Printed Name	Physical Address	Signature	Date
1	Suzanne M. Cassidy	50 Main St. Silver City, NV 89428	Suzanne M. Cassidy	08/31/13
2	Casey Cassidy	50 main St. Silver City, NV 89428		08/31/13
3	Kyle Baker	305 #2 Main Street Silver City 89428		08/31/13
4	ALISHA BAKLIN	272 MAIN ST SILVER CITY NV 89428		8/31/13
5	Patty Marshall	20 main St Silver City, NV 89428	Patty Marshall	8/31/13
6	Kris Anderton	55 Main St. Dayton 89403		8/31/13
7	ROSCOE ETCHEVERRY	70 MAIN ST SILVER CITY, NV		8/31/13
8	Cynthia Fellerson	50 Vivian St. Silver City NV 89428		8.31.13
9	BEAU GUTHRIE	160 GRANT ST. SILVER CITY 89428		9/1/13
10	Peter Rose	1 Roses Rd Silver City, NV		9/1/13
11	Nikki de LEON	1 Rose's Rd. Silver City NV		9/1/13
12	D. Patrick	90 Main St Silver City		9/1/13
13	Theo McCormick	142 High st. Silver City, Nv 89428		9/1/13
14	Natalie Isaac	142 High St Silver City NV 89428		9/1/13
15	Karen Krejeski	490 Vivian Silver City NV 89428	Karen Krejeski	9/1/13
16	Daniel Hammel	305 #1 main st Silver City NV 89428		9/1/13
17	SCOTT MOUNT	490 VIVIAN ST SILVER CITY NV 89428	Scott Mount	9/2/13
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	Printed Name	Physical Address	Signature	Date
1	CATHY WAHRENBROCK	75 GAY ST, Silver City, NV	Cathy Wahrenbrock	8/31/13
2	Mariah Mesa	75 Gay St, Silver City, NV	Mariah Mesa	8-30-13
3	Ken Ferguson	5109 Azalea Dr Grants Pass OR	Ken Ferguson	8-31-13
4	Shelly Kleppe	220 Holiday Ln. Talent Oregon	Shelly Kleppe	8/31/13
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6	Note:	these signers do not live in Silver City		
7		and were not counted as a part of the		
8		104 signers		
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	Printed Name	Physical Address	Signature	Date
1	Vickie Shoup	1450 Dayton Toll Rd. Silver City NV 89428	Vickie Shoup	9/4/13
2	DAN SHOUP	1450 DAYTON TOLL RD SILVER CITY NV 89428	Daniel Shoup	9/4/13
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JOHNSON-PERKINS & ASSOCIATES, INC.
REAL ESTATE APPRAISERS & CONSULTANTS

Main Office: 295 Holcomb Avenue, Suite 1 ■ Reno, Nevada 89502 ■ Telephone (775) 322-1155
Lake Tahoe Office: P.O. Box 11430 ■ Zephyr Cove, Nevada 89448 ■ Telephone (775) 588-4787
FAX: Main Office (775) 322-1156 ■ Lake Tahoe Office (775) 588-8295
E-mail: jpareno@johnsonperkins.com ■ jpatahoe@johnsonperkins.com

Stephen R. Johnson, MAI, SREA
Reese Perkins, MAI, SRA
Cynthia Johnson, SRA
Cindy Lund Foggi, MAI
Scott Q. Griffin, MAI
Daniel B. Oaks, MAI
Benjamin Q. Johnson, MAI

Koren K. Sanders
Gregory D. Rozzine
Chad Gerken

November 1, 2013

Gayle Sherman
P.O. Box 425
Silver City, Nevada 88428

RE: Comstock Mining, Inc.'s Zoning Change Request

Dear Mr. McCarthy,

This letter is in response to your request that we address the likely impact on the local real estate market as a result of Comstock Mining, Inc.'s request to rezone 89± acres in Silver City, Nevada to zoning classifications which will allow mining activities, including Open Pit Mines. This letter will set forth some preliminary research conducted to assist me in determining if there could be an adverse impact to the local real estate market as a result of the proposed zoning change.

The clients for this consulting assignment are Gayle Sherman and Joe McCarthy on the behalf of the citizens of Silver City, Nevada. The intended users of this consulting report include the clients, their representatives, the Lyon County Planning Commission and the Lyon County Board of Commissioners. The intended use of this consultation report is to assist the Lyon County Planning Commission and the Lyon County Board of Commissioners in determining that the proposed zoning change request will have an impact on the adjacent

property owners in Silver City. This consultation report involves an effective date of October 18, 2013, which is the date that this consultant conducted a physical inspection of Silver City and the surrounding areas.

The scope of work completed for this preliminary consultation report involved the inspection described above of the Silver City area, meetings and interviews with Silver City residents and property owners, interviews with brokers familiar with the local real estate market and interviews with other knowledgeable parties. Based upon these investigations and further being based upon my experience, I have concluded that the proposed mining zone change request could have a material impact on the Silver City property values. As this initial scope of work was limited to the investigation set forth above, I have not completed an in-depth data investigation and analysis which would allow me to form a more precise estimate of the potential percentage impact on property values as a result of the zoning change and possibility of an Open Pit Mine on the property across the highway.

Silver City is located north of Moundhouse and south of Virginia City and Gold Hill. Silver City is generally located north of the intersections of State Routes 342 and 341 and south and east of Devil's Gate. Based upon the best information available to these consultants, Silver City had an estimated population of 180 people in 2011. In 2000, the population was reported to be 170 and in 2010 the population was reported to be 179 people. Silver City is essentially a historic mining town which has evolved into a permanent residential community. Many of the homes are older which have been renovated, while there are a number of newer homes which have been constructed over the past decade. Residents consist of retirees, professionals and others who typically work in the Carson City or Reno areas and commute to their residence. The residents are drawn to this area due to its rural, peaceful location which is within reasonable commuting distance of major metropolitan areas.

Silver City has a Community Hall, a Community Park and a very active Citizen's Group. The citizens have monthly dinners in which all citizens are invited to attend. In

addition, they have a number of special events. As a result, Silver City is a tight knit community in which everyone seems to know everyone else.

Comstock Mining, Incorporated is currently petitioning Lyon County to change the zoning on 89± acres from NR-1 to RR-3 and RR-5. It is our understanding that under the new zoning classifications, the property owner would be allowed to conduct mining operations on the property. It is further our understanding that the allowed mining operations would include Open-Pit Mining. The property in question is located on the west side of State Route 342 (Main Street) across from the junction with State Route 341 (Truck Route), north to Peddler Road.

As Silver City and the requested zone change property are on facing walls of a canyon area, a mine on the requested property would be highly visible from Silver City. Furthermore, Silver City could experience considerable noise and disruption from truck traffic, drilling, mining, dust and night lighting. In order to determine how the market would perceive a mining operation in this real estate market, this consultant has conducted interviews with a number of property owners, knowledgeable parties in the area, and local Realtors. Set out following are summary discussions of the interviews with each of the parties interviewed.

Chris and Bonnie Brown have lived on their property in Silver City since 1975. It was originally the French Mill. They indicated that they have experienced very intense noise from the drilling rigs which reportedly operate from 6 a.m. to 6 p.m. They pointed out that the canyon reflects the noise in their direction. They also had experienced truck traffic noise including the Jake Breaks, back-up horns on heavy equipment, and the trucks moving equipment 24 hours a day. They also reported that they can hear the steel tracks on the heavy tractors. These homeowners also reported that they had heard that Comstock Mining had found good minerals at a depth of 800 feet. They felt that this would result in a fairly large pit being developed across the street from their property. They were also concerned that the mining activity upstream could result in contamination of the stream which passes through

their property. These property owners stated that they were very uncertain about the future because of the proposed mine. They felt that it would result in a loss in value to their property and would reduce the overall quality of life in Silver City. They stated that, at this point in time, they are reluctant to make additional investments in their property due to the uncertainty of the zoning request.

Darlene Cobbey has owned her 6 acre property in Silver City since 1981. She stated that she has experienced dust from the mining operations, and heavy truck traffic noise. At one point, Ms. Cobbey stated that trucks from Coons Construction Company, Cruz Construction Company and Cinderlite in Carson City were hauling material for the mine with trucks passing her property every 20 seconds. Darlene was also concerned that Comstock Mining may be utilizing water from Marlette Lake. She felt that due to the conditions which she has experienced and the pending zoning change request, that it would be very difficult to sell her property.

I next spoke with Robin Cobbey of Gold Hill. She indicated that she had lived in Gold Hill for over 30 years and that David Toll had lived on the property for in excess of 50 years. They are located across the street from Comstock Mining's existing operation. Robin indicated that they do experience truck noise, dust, and have also been kept awake at night due to the flashing lights on equipment. Robin indicated that they own a pink house across from the turnoff to the mine and that she has had a hard time renting it due to the adjacency to the mine. She had at one time rented the house for $800 per month and has now had to reduce the rent to $700 per month (a 12.50% reduction), which she attributes to the mining activity. She also stated that they had another residence which they rented for $600 per month and have now had to reduce the rent to $500 per month (a 16.67% reduction). Robin indicated that they were planning to install solar panels on their home and to rebuild their kitchen. Due to the uncertainty of the mining activity, they have put their plans on hold. In closing, Robin stated that due to the uncertainties involved, they could not sell their home at the present time

and that if a mining operation were expanded that they would no longer desire to live in the area.

I next interviewed Judy Olson. Judy indicated that she and her husband Chad had purchased their lot in 2007 and subsequently spent over $500,000 building an excellent quality single family residence. The residence was designed in a manner to maximize the views to the south and west. They were attracted to the area as it is close to their business in Carson City, yet it provides a rural, quiet and peaceful location. She indicated that they felt that the fact that Silver City was in a historic mining district, would protect them from future mining activities. Judy reported that when drilling activities are occurring on the 89± acres, they typically cannot go outside because the noise is so loud. She also reported that they experience noise from the backup horns on heavy equipment, and are concerned about water quality and quantity. She pointed out that they enjoy the night skies and are afraid that lighting from Comstock Mining will impact the quality of the night skies. Finally, Judy indicated that they were considering the purchase of an adjacent property to protect their privacy. They have recently told the sellers that they are not interested. She also stated that she and her husband will not spend another dime on the property until the mining issue is resolved.

Bob Elston and Cashion Calloway have owned their property in Silver City since 1971. They indicated that when drilling was occurring on the 89± acres, they could not go outside. They have felt the blasting from the Lucerne Pit and experienced lights at night. They also stated that the highway can be closed in Silver City for up to 30 minutes when the mining company is blasting. They have experienced noise from the backup beepers, the heavy equipment and have also experienced dust from the blasting. They stated that Silver City is a very quiet town with typically the loudest sound being the crickets at night. They felt that the Community Center, the monthly town meetings and the activities result in a very close-knit community. They stated that crime has never been a problem in their community and that many people do not lock their doors. They also stated that as they have no air

conditioning, they leave their windows open at night which results in the noise being a greater disturbance. They also pointed out that in the past some of the heavy trucks were speeding through town. However, apparently the mining company has spoken to the drivers and it has not been much of a problem lately. They were concerned about mercury contamination and noted that the area is identified as a Superfund Site. They stated that they would not spend another dime on their property due to these mining issues and that mining on the 89± acres would significantly impact the value of their property.

Gerald Antinoro owns a house on Keystone Circle across from the Lucerne Pit in the Gold Hill area. Gerald is the current sheriff of Storey County. He stated that the existing mining does not impact his day to day life. He also stated that several seismic tests conducted near his residence showed no disturbance. Jerry indicated that he does not particularly like the mining, but understands their operations. He indicated that they could hear some of the drilling from a rig across the highway from their property. He also pointed out that two smaller drilling rigs, which operated on adjacent lots to his, were no problem at all. He does have some concerns relative to heavy metals and the release of toxic materials. He would prefer underground mining to open pit mining. He also expressed concerns as to the certainty of the mines being properly restored and reclaimed at the end of their mining operations. He finally stated that it would be difficult to sell his house due to the ongoing mining issues.

Next, I interviewed Marcey Newell, formerly of Lakeside Properties. Marcey stated that she had sold Lot 6 on Keystone Circle to Comstock Mining on February 7, 2012 for $25,000. This property had previously sold on January 21, 2005 for $57,000. She stated that she was not aware of the current issues as she has moved to California and is no longer selling real estate.

I next spoke with Bob Fredlund of Coldwell Banker Select Real Estate. Bob has been a Realtor in the area for a number of years and is very knowledgeable in the local market. He felt that it would be unlikely that non-mining related people would move to Silver City

because of the pending mine. He further felt that it would be very hard to sell existing homes and that it would definitely impact values.

I next spoke with Karen Woodmansee. Karen has been a Realtor in the area for a long period of time and is a journalist. It was her opinion that the proposed mining projects would diminish the desirability and values of properties in the Silver City area. She expressed concern about the heavy truck noise, dust, view impacts, and noise from blasting. She further stated that the only people who would buy in Silver City would be miners. She stated that she had a house listed on Main Street in Silver City for an estate and could not sell it. She also stated that, for the years 2010, 2011 and 2012, she could not sell a single family residence in Gold Hill or Silver City. Karen stated that she typically acted as the buyer's agent. She said typically the only active buyer in the area is Comstock Mining. Finally, she closed by stating that she definitely felt that the proposed mining activity would have a negative impact on property values in the area.

I next spoke with Steve Lincoln of RE/Max Realty. Steve has been a Realtor active in the area for many years. It was his opinion that the increased jobs created by the mine could boost the demand for housing in the area. On the other hand, he felt that the other factors associated with the mines would result in a reduction in values.

I next spoke with Mr. Mike Enright of Valley Realty. Mike has been a Realtor in the area for over 17 years. Mike explained that he does not have a bias against mining, however, he does feel that the proposed mine will negatively impact the property values in Silver City. Mr. Enright reported that he had two people call on a listing he had advertised in the Homes and Lands Magazine. He said that when both parties discovered that the properties were located in Silver City, they lost interest due to their concerns relative to mining. Mike stated that he had handled two sales in Silver City in 2012. One of the buyers bought a home which was separated from the mine by a small ridge and was therefore removed from the mining. This home was purchased by a retired couple. The second residence was purchased by a

tattoo artist who wanted to be near Virginia City, but not in Virginia City. Mr. Enright felt that the mining activity would be unsightly and would create noise and dust for Silver City. It was his opinion that the mining activity would reduce property values in Silver City between 10% and 20%.

I also spoke with Mr. Mike Ramos of Coldwell Banker Select Real Estate. Mike has been an active Realtor in the area for a number of years. He stated that he handled the sale of the Cabin in the Sky Property to Comstock Mining. He also stays in touch with Comstock Mining making sure that they are aware of any listings he has in the Silver City and Gold Hill areas. He felt that the mining will generate jobs which could result in increased demand for housing. He did feel that the mining activity could affect the visual appeal of the area and could impact the desirability of Silver City.

I finally spoke with Jim Allander. He has owned a house adjacent to the Comstock Mining Company's Mill Site in American Flat for over 12 years. Their house is immediately above and adjacent to the Mill Site. He stated that they have gotten used to the noise and other inconveniences of the milling operation. He did state that there is constant noise with work typically beginning at 5:15 a.m. During our telephone conversation, I could hear the backup horns from heavy equipment in the background. Jim confirmed that it was from heavy equipment operating on the adjacent mill site. Jim stated that he felt it would be very difficult on the people of Silver City, should a mining operation occur on the 89± acres.

In summary, I have interviewed in excess of 15 individuals who either own property in Silver City or are real estate professionals who are knowledgeable about real estate values and trends in the local market. Many of the people interviewed expressed concerns regarding the impacts from mining on the adjacent property. Their concerns focused around noise associated with the mining operation, noise and traffic from trucking, noise from blasting, dust from the mining operations, and the visual impact on the aesthetic beauty of the area resulting from open pit mining. Many of the property owners expressed the opinion that they

were not willing to spend an additional dime on their property until such time as it was determined that a mining operation would not occur on the adjacent property. Almost all of the individuals interviewed indicated that, in all likelihood, it would be very difficult for them to sell their homes due to the concerns of future mining. There were several instances where buyers had elected not to consider Silver City or Gold Hill due to these concerns.

Several of the parties interviewed indicated that the increased mining activity could result in additional job opportunities for the area which would then drive demand for residential housing. In the end, even these parties expressed concerns that it would be difficult to sell a house due to the uncertainty of the mining activity. In several instances, the neutral parties indicated that they did have business dealings with Comstock Mining. Several additional parties requested that I not include them in the survey as they had business dealings with Comstock Mining.

Several of the Realtors interviewed indicated that, in their opinion, the mining activity would have a definite negative impact on property values in the Silver City area. In one instance, the Realtor stated that he felt the diminution in value would be between 10% and 20%.

Finally, I have relied upon my forty years of experience in real estate appraising in Northern Nevada, as well as my educational background and experience. It is my observation that the proposed zone change property is located on the west face of the canyon area, while Silver City is located on the east face. As a result, noise will easily be transmitted from the mine site to Silver City which will reduce the peace and quiet of the residential neighborhood. The sources of the noise will include increased trucking, drilling, the operation of heavy equipment, the backup horns for the heavy equipment, and numerous other sources. In addition, the night lighting on the site could result in inconveniences to the residents in Silver City. Dust from the mining operation could also impact the residential properties. Finally, it

is felt that the scarring from an Open Pit Mining operation would impact the aesthetic beauty of the area.

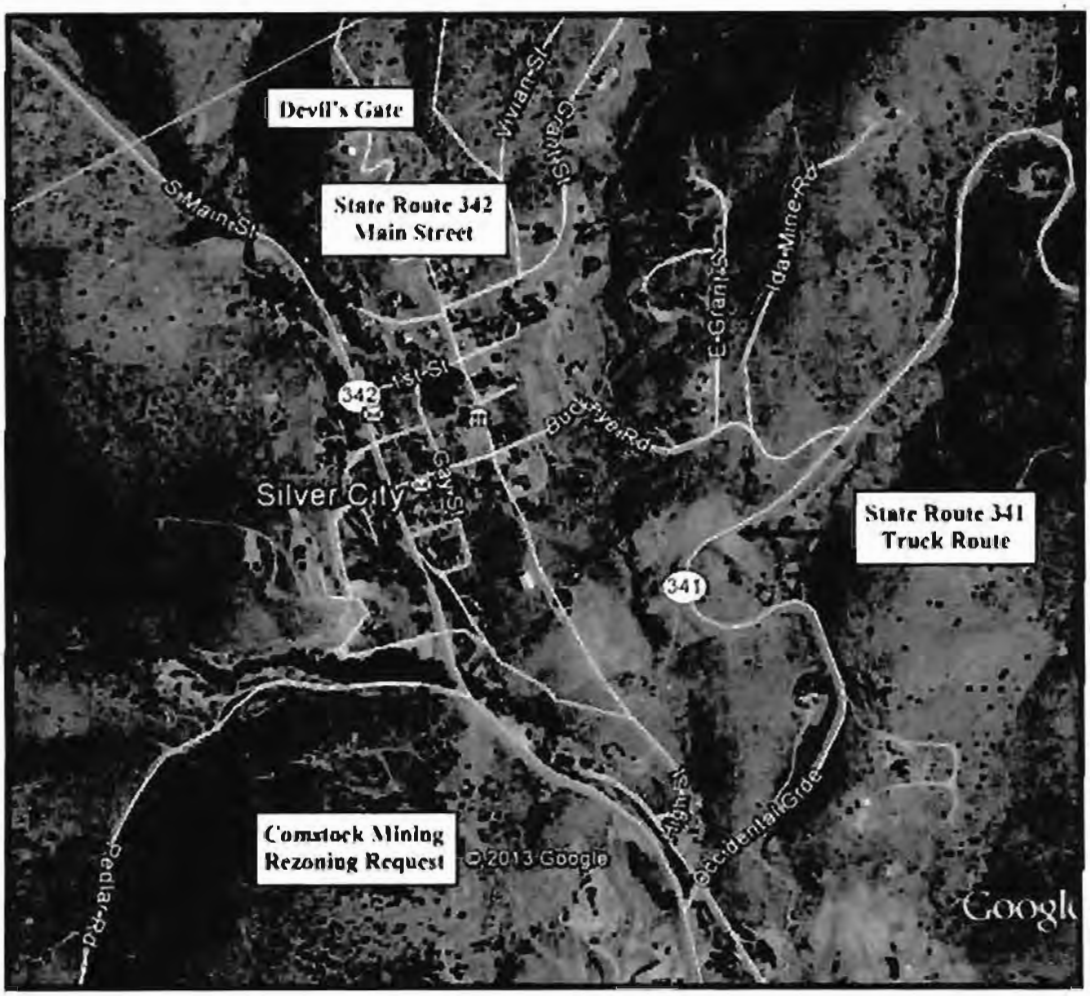
In conclusion, based upon the numerous interviews conducted by this consultant, and relying upon my 40+ years of experience and professional training in real estate, it is this consultant's opinion that proposed Open Pit Mining on the 89± acres across from Silver City would have a material negative impact on residential property values.

I hope this letter is of assistance and should you have any questions, please do not hesitate to contact me.

Respectfully submitted,

Stephen R. Johnson, MAI, SREA
Nevada Certified General Appraiser
License Number A.0000003-CG

SILVER CITY, NEVADA MAP



PHOTOGRAPHS

VIEW OF SILVER CITY COMMUNITY CENTER

VIEW OF THE SILVER COMMUNITY CENTER

PHOTOGRAPHS

VIEW OF THE COMMUNITY PARK

VIEW OF THE PLAYGROUND AT THE SILVER CITY COMMUNITY PARK

PHOTOGRAPHS

VIEW OF COMSTOCK MINING'S LUCERNE PIT

VIEW OF THE LUCERNE PIT MINING OPERATION SITUATED ON THE WEST SIDE OF STATE ROUTE 342

PHOTOGRAPHS

VIEW OF A DUMP TRUCK USED IN THE MINING OPERATION

ANOTHER VIEW OF A DUMP TRUCK HAULING MATERIAL

PHOTOGRAPHS

VIEW OF THE 89± ACRE PROPERTY FROM THE OUTDOOR DECK OF THE McCARTHY RESIDENCE

A VIEW OF THE 89± ACRE PROPERTY FROM INSIDE THE McCARTHY RESIDENCE

PHOTOGRAPHS

VIEW OF A DRILLING RIG LOCATED ON THE EAST SIDE OF STATE ROUTE 342

VIEW OF AN OPERATING DRILLING RIG

PHOTOGRAPHS

VIEW OF THE MILLING OPERATION IN AMERICAN FLAT

ANOTHER VIEW OF THE MILLING OPERATION

PHOTOGRAPHS

VIEW OF THE HAUL ROAD IN THE AMERICAN FLAT AREA

VIEW OF HEAVY TRUCK EQUIPMENT ON THE HAUL ROAD

CONSULTANT'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, conclusions, and recommendations.
- I have no present or prospective interest in the properties that are the subject of this report, and I have no personal interest with respect to the parties involved.
- I have performed no services, as an appraiser or in any other capacity, regarding the properties that are the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of the stipulated result, or the occurrence of a subsequent event directly related to the intended use of this consulting assignment.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have made a personal inspection of Silver City and the surrounding areas that are the subject of this report.
- No one provided significant real property appraisal or appraisal consulting assistance to the person signing this certification.

Respectfully submitted,

Stephen R. Johnson, MAI, SREA
Nevada Certified General Appraiser
License Number A.0000003-CG

Pursuant to NRS 239B.030, the undersigned affirms that the following document does not contain the social security number of any person.

JOHN L. MARSHALL
SBN 6733
570 Marsh Avenue
Reno, Nevada 89509
Telephone: (775) 303-4882
Attorney for Petitioners Comstock Residents Association & Joe McCarthy

IN THE SUPREME COURT OF THE STATE OF NEVADA

COMSTOCK RESIDENTS ASSOCIATION, JOE McCARTHY

Appellants,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED

Respondents,

_____/

No. 68433
District Court Case No. 14-CV-00128

JOINT APPENDIX

VOLUME 2

PAGES 0251-0374

Docket 68433 Document 2015-37507

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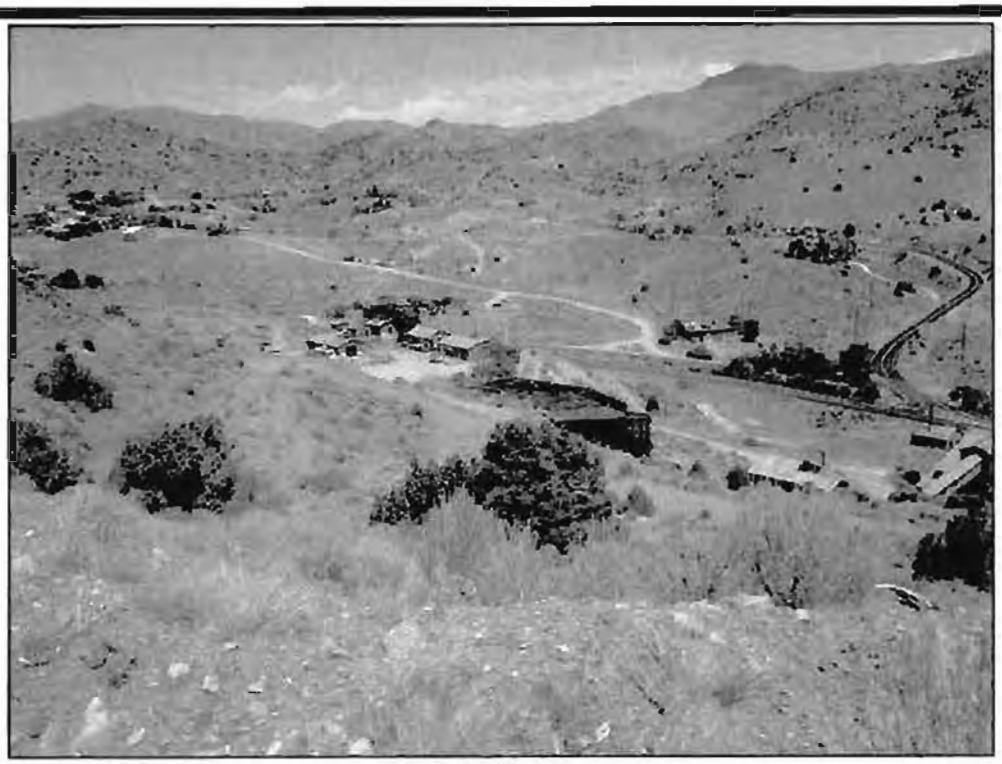

PHOTO P3

PHOTO P4

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Civil Engineers · Surveyors · Water Resources Engineers · Water & Wastewater Engineers
Construction Managers · Environmental Scientists · Landscape Architects · Planners

COMSTOCK MINING INC.

SITE PHOTOS

PROJ. MGR.: AWM
DRAWN BY: AWM
DATE: 6/19/2013
SCALE:

SHEET 1 OF 1

CMILCN

17:30 Dwg Name: \\mal_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amoller

PHOTO P5

PHOTO P6

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Manhard CONSULTING

Civil Engineers - Surveyors - Water Resource Engineers - Water & Wastewater Engineers
Construction Managers - Environmental Scientists - Landscape Architects - Planners

COMSTOCK MINING INC.

SITE PHOTOS

PROJ. MGR.	ANM
DESIGN BY:	ANM
DATE:	8/8/2013
SCALE:	

SHEET 1 OF 1

CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Carlton\Eng\Dwg Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amoller 17:30

COMSTOCK

September 30, 2013

Dear Chairman Davies and Planning Board Commissioners,

As you are aware, Comstock Mining has been working with the Lyon County Planning Department on a number of important planning related applications, mainly associated with the zoning of certain lands in Lyon County, in and around the historic mining district. It is important that you know that Comstock's intentions are to always be thorough, transparent and consistent.

In cooperation with the Lyon County Planning Department and with their advisement, we scheduled a thorough review process, including advisory board reviews in both Silver City and Mound House, a planning commission meeting in November, and hopefully, a subsequent audience with the Commission.

Unfortunately, despite our communicated intent to present formally on October 1, 2013 to the Silver City Town Advisory Board, the board noticed both of our applications as items for its September 3rd agenda and with only a few days advanced notice voted that night to advise a rejection of our applications. We were both stunned and disappointed that an organized group of participants rejected any dialogue or any consideration, showing a paradigm against any objective discussion and prejudging any possible outcome. We were equally disappointed to have been met with extremely inaccurate allegations, unprofessionalism and in some regard, unrestricted aggression.

We are aware that a request has been made to hold future meetings regarding Comstock Mining applications for master plan amendments and zone changes in Silver City at the Community Center.

Comstock is committed to following the process through and will present the applications at the October 1st Silver City Town Advisory Board meeting, despite their premature decisions, as scheduled and we look forward to the planning commission's deliberations; however, as the applicant we would prefer that the planning commission host its meeting in its customary site in Yerington where the recording system and audio visual equipment are available, and due process can occur for Lyon County. We are not opposed to an evening meeting, if it is more convenient for the public. Ultimately, we believe when we are able to properly present and demonstrate the unique approach of our company, and the incredible potentials for benefiting our Community and County, constant special meetings and non-routine venues will prove disrupting and prohibitively costly for the County and our company.

We sincerely appreciate your consideration of these important matters

Kindest regards,

Corrado De Gasperis
President and Chief Executive Officer

Cc: Rob Loveberg, Lyon County Planner
Jeff Page, Lyon County Manager
Lyon County Board of Commissioners

P.O. Box 1118 • 1200 American Flat Road • Virginia City, NV 89440 Direct (775) 848-5310 • Facsimile (775) 847-4762

ORIGINAL

BACK-UP

MATERIALS

SUBMITTED BY

APPLICANT

ON

AUGUST 16, 2013

Manhard CONSULTING LTD

Civil Engineering
Surveying
Water Resources Management
Water & Wastewater Engineering
Supply Chain Logistics
Construction Management
Environmental Sciences
Landscape Architecture
Land Planning

August 16, 2013

Mr. Rob Loveberg
Planning Director
Lyon County Planning Department
27 S. Main Street
Yerington, Nevada 89447

Re: Comstock Mining Master Plan Amendment & Zone Change Request

Mr. Loveberg:

On behalf of Comstock Mining, we appreciate your consideration of the enclosed application. The property included with this application request is generally located north and west of State Highway 341 adjacent to and within the town site of Silver City.

This application includes the following requests:

1. A Master Plan Amendment request from Suburban Residential to Rural Residential on 44.67 acres.
2. A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres.
3. A Zoning Map Amendment request from NR1 to RR3 on 56.96 acres.
4. A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.

Due to the fact that the zone change and master plan amendment requests are being submitted simultaneously, we understand that the zone change request will not be considered by the commission within forty five (45) days after the application is filed with the administrator in accordance with Lyon County Code (10.12.07c).

If you have any questions or require additional information, please feel free to contact me directly.

Sincerely,

Andrew Motter, P.E.
Senior Project Manager

Manhard Consulting, Ltd.
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tel: (775) 746-3500 • fax: (775) 746-3520 • www.manhard.com
ARIZONA • CALIFORNIA • COLORADO • GEORGIA • ILLINOIS • NEVADA • TEXAS

MASTER PLAN AMENDMENT AND ZONE CHANGE APPLICATION FOR COMSTOCK MINING PROPERTY

SILVER CITY, LYON COUNTY, NEVADA

PREPARD FOR:

COMSTOCK MINING

Comstock Mining Inc.
P.O Box 1118
Virginia City, Nevada 89440

PREPARED BY:

Manhard CONSULTING LTD

Manhard Consulting Inc.
9850 Double R Blvd.
Reno, NV 89521

AUGUST 2013

14 CV 00128 - 000151
LYON COUNTY

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Development Application
Owners Affidavit
Legal Descriptions
Site Photographs

Project Location

The property included with this application request is generally located north and west of State Highway 341 adjacent to the town site of Silver City. See Figure 1 Vicinity Map and Figure 2 Parcel Exhibit for additional detail.

Master Plan Land Use & Zoning Designations

Table 1. Current Land Use Designations (Ref. Figure 3 and Figure 4)

Parcel	Master Plan	Zoning	Land Use
1	Resource	NR1	Vacant
2	Suburban Residential	NR1	Vacant
3	Resource	NR1	Vacant
4	Suburban Residential	NR1	Vacant
5	Suburban Residential	NR1	Vacant
6	Suburban Residential	NR1	Vacant / Abandoned Mining Facilities

Table 2: – Proposed Land Use Designations (Ref. Figure 5 and Figure 6)

Parcel	Master Plan	Zoning	Area
1	Resource	RR-5	32.34 AC
2	Rural Residential	RR-3	7.20 AC
3	Rural Residential	RR-3	12.29 AC
4	Rural Residential	RR-3	10.28 AC
5	Rural Residential	RR-3	11.01 AC
6	Rural Residential	RR-3	16.18 AC

Table 3: Surrounding Property Designations

Location	Master Plan	Zoning	Land Use
North	Suburban Residential & Commercial Mixed Use	M1 & NR1	Vacant / Silver City Town Site
South	Resource, Open Space & Future Planning Area	RR5 & C2	Vacant
East	Resource & Suburban Residential	RR5 & NR1	Vacant / Silver City Town Site
West	Open Space & Suburban Residential	RR5 & NR1	Vacant

Application Request

This application includes the following requests:

1. A Master Plan Amendment request from Suburban Residential to Rural Residential on 44.67 acres.
2. A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres.
3. A Zoning Map Amendment request from NR1 to RR3 on 56.96 acres.
4. A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.

Justification

The application is requesting a "down zone" at both the master plan and zoning levels. These amendments modify the residential development potential of the property from its current allowed density of 655 total dwelling units to a maximum yield of a more rurally representative 12 dwelling units. If approved, these proposed requests change the master plan and zoning designations from "Suburban Residential and NR1" to "Rural Residential, RR3 and RR5." This would provide a more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure and also clean up and align certain parcels that currently have "split" master plan designations.

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. Regardless of the

rationale, the designations have rendered the subject property unproductive for any activity other than mineral exploration for the last 40 years.

The applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property. Prior to proceeding with actual mining activities, the applicant would be required to obtain a special use permit from Lyon County. Such a permit would then address all manners of land use and include relevant conditions to limit the impacts and effects of potential or proposed mining activities. In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning.

A change in the master plan and zoning designations from Suburban Residential and NR1 to Rural Residential, RR3 and RR5 will not only support the productive evaluation of existing mineral potential but will, more importantly, also bring the property into conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure and services, while helping to further promote the goals, policies, and strategies of the Lyon County Master Plan.

The Lyon County Master Plan Community Description for Silver City states," *The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims. The existing water service infrastructure dates back to the late nineteenth century, when a water system to supply the mining operations and settlement demands of the Comstock communities was constructed. This aging water system and a lack of sewer system limit growth in Silver City."*

The Lyon County Master Plan includes five types of Character Districts, Rural, Suburbanizing, Historic, Future Plan Areas and General County. These Character Districts provide guidance to the type, intensity, density, and general development standards for uses intended to occur within their boundaries.

As defined in the Master Plan, Suburbanizing Districts, *"include areas that are predominately medium to high density residential development with regional/community commercial, neighborhood, industrial and employment uses. Improvement standards will reflect the "suburban" character of these areas and will include requirements for municipal water and sewer, roadway design appropriate to the planned uses, landscaping of public areas, and pedestrian facilities (sidewalks and paths). Roads are likely to have some bike and pedestrian facilities within the rights-of-way or separate paths."*

As defined in the Master Plan, Rural Districts, *"include those areas that are predominately low density residential development with limited neighborhood commercial uses. They may or may not have agricultural land uses or grazing lands. Improvement standards will reflect the "rural" character of the area. Rural districts are not likely to have municipal water and sewer. Roads are likely to have dirt shoulders, some equestrian paths as well as bike facilities within the road rights-of-way.*

As defined by the Master Plan, Historic Districts, *"include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote "historic" architectural design elements. Future historic districts could also be designated where the intent is to promote new compatible development that is in keeping with the "historic" development patterns and architectural design elements to create more vitality."*

As defined by the Master Plan, General County includes, *"Lands outside the boundaries of defined community boundaries are classified as General County. These lands are rural or resource lands or public lands, and are intended to remain largely undeveloped or with very low intensity development within the Master Plan's planning horizon."*

Table 4: Lyon County Land Use Categories

Land Use Category	Community Plan Land Use Designation	Density Range/ Size	Examples of Uses	Description/ Characteristics	Current Zoning Districts
Suburban Residential	High Density Residential	5 to 18 Dwelling Units per acre	Apartments, duplexes, fourplexes, condominiums and townhomes. Single Family Residential detached units at 5 to 10 dwelling units per acre.	High density residential is typically found in suburbanizing districts. High density residential should be located near major transportation facilities, near commercial uses, or civic centers and near parks	NR1 NR2 NR3 MHP
Rural Residential	Rural Residential	1 du per 5 to<20 acres	Single-family residences, "farmettes" and "ranchettes", etc.	Typically found in rural districts and on the suburbanizing fringe. Lot size and layout varies. Typically not served by municipal utilities, depending on location in suburbanizing district.	RR3 RR4

According to the Lyon County Character Districts Map, the subject property appears to reside within both the Historic and General County Districts. Despite this apparent inconsistency of Character Districts, the land use and zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts. Clearly, the proposed land use and zoning designation are much more compatible and consistent with the Historic and General County Districts than the master plan designation of Suburban Residential which is currently assigned to the majority of the subject property.

Provided is the Silver City Community Description from the Lyon County Master Plan and the Master Plan's definitions for the types of residential Character Districts, also provided in Table 3: Lyon County Land Use Categories, is an excerpt from the Lyon County Master Plan comparing the current Land Use Category, Suburban Residential to the requested Land Use Category Rural Residential.

The community Character District of Suburbanizing, the Community Plan Land Use Designation of High Density, Density of 5 to 18 dwelling units per acre, the Examples of Uses and the Description/ Characteristics and the current Suburban Residential master plan designation and NR1 zoning designation are inconsistent with the following goals, policies and strategies of the current Lyon County Master Plan and conversely, these of goals, policies and strategies actually promote the proposed master plan and zoning modification requests from Suburban Residential and NR1 to Rural Residential, RR5 and RR3.

Goal LU1: *Orderly Growth Patterns*

Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a demand base zoning strategy nor is it based on any current or realistic population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability.

Policy LU1.2: *Residential development Patterns in Neighborhoods*

New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

Development of the property at its current NR1 density would be out of character with the existing "neighborhood" of Silver City. A reduction in development potential is a more appropriate development pattern and more compatible with existing and historic uses.

Goal LU2: Services Coordinated with Growth

Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

According to the master plan "Suburban Residential" areas should be located near major transportation facilities, near commercial uses, or civic centers and near parks. The subject property is rural in nature and adequate facilities to accommodate such high density residential would be impractical to develop and completely out of character with the existing community. Therefore a reduction in development potential is warranted and appropriate.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

The subject property, although designated Suburban Residential, does not have adequate municipal water or sewer in close proximity and facility plans are not currently in place to allow for development to occur concurrently. A reduction in allowable units would be more consistent with the current and future services of the area.

Goal LU3: Diverse Economy

The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: *Work with Economic development agencies and community groups to identify economic assets and development opportunities.*

The master plan change would allow for continued mineral exploration on the subject property helping to identify economic assets while employing local residents in primary jobs.

Goal NR9: *Mining and Resource Extraction*

Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 *Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.*

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning.

Master Plan Amendment Findings:

1. ***Consistency with the Master Plan:***

   The proposed amendment is in substantial compliance with and promotes the following master plan goals, objectives and actions:

   Goal LU1: Orderly Growth Patterns

   Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

Policy LU1.2: Residential development Patterns in Neighborhoods
New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

Goal LU2: Services Coordinated with Growth
Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal LU3: Diverse Economy
The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base
The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: Work with Economic development agencies and community groups to identify economic assets and development opportunities.

Goal NR9: Mining and Resource Extraction
Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development
New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

2. ***Compatible Land Uses:***

The proposed amendment is compatible with the actual and planned adjacent uses, and reflects a logical change in land uses.

The proposed amendment to Rural Residential is consistent with the current and future development character of Silver City. The current Suburban Residential designation promotes high-density residential development on a property that is constrained by topography and infrastructure availability; and accordingly, has resulted in little to no productive use. The proposed Rural Residential designation according to the master plan is a more logical fit defined as, *"Typically found in rural districts and on the suburbanizing fringe."*

3. ***Response to Change Conditions:***

The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the master plan was adopted by the board, and the requested amendment represents a more desirable use of the land.

A change in the master plan designation from Suburban Residential to Rural Residential represents a more desirable use of land because it will bring the property in conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure and services. In addition, the proposed changes will allow for the exploration and evaluation of existing patented mining claims with potential for significant benefit to the County and community, while consistently promoting the goals, policies, and strategies of the Lyon County Master Plan.

4. ***No Adverse Effects:***

The proposed amendment will not adversely affect the implementation of the master plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.

The amendment request will not adversely affect the implementation of the master plan or negatively impact public health, safety and welfare. The

amendment proposes a significant enhancement in nature and type of development potentials of the property while continuing to maintain the goals, objectives and actions of the current master plan and will have no foreseeable impact on public health, safety or welfare.

5. ***Desired Pattern of Growth:***

   The proposed amendment will promote the desired pattern for the orderly physical growth of the county, allows infrastructure to be extended in efficient increments and patterns, maintains relatively compact development patterns, and guides development of the county based on the least amount of natural resource impairment and efficient expenditure of the funds for public services.

   The proposed request to change the master plan designation from Suburban Residential to Rural Residential represents a desired pattern of growth by providing a realistic current and long range land use strategy based on actual development potential, considering factors like topography and proximity to adequate infrastructure. Although the potential use of the subject property for mining activities would necessarily involve the extraction of natural resources, we do not believe this would result in any impairment to the water resources and other resources that are important to existing residents and businesses in the area, and, we believe existing constraints or negative impacts would be reduced by the proposed amendments. The proposed Master Plan Amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of funds for public services.

Master Plan Amendment Process and Procedures Findings:

1. ***The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;***

   For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. In the event that mining activities are ultimately not pursued on the subject property, or even if they are pursued, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land

uses and post-mining land opportunities, than the current master plan designation.

2. ***The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;***

   The proposed amendment to Rural Residential is consistent with the current and future development character of Silver City. The current Suburban Residential designation promotes high-density residential development on a property that is constrained by topography and infrastructure availability; and accordingly, has been put to little or no productive use. The proposed Rural Residential designation according to the master plan is a more logical fit defined as, *"Typically found in rural districts and on the suburbanizing fringe"* and is supportive of the goals and policies identified above.

3. ***The proposed amendment will have no major negative impacts on transportation, services, and facilities;***

   The proposed amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the preservation of natural resources and efficient expenditure of funds for public services.

4. ***The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;***

   The proposed request to change the master plan designation from Suburban Residential to Rural Residential will actually have a positive effect on service provision by providing a realistic, more flexible, current and long range land use strategy based on actual development potential, considering factors like topography, surrounding uses and proximity to adequate infrastructure.

5. ***Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and***

   The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a demand based zoning strategy nor is it based on any current or realistic population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability.

6. ***The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.***

   The amendment proposes a significant increase in consistency between the actual and potential use of the subject property and the land use designation.

The proposed land use designation is consistent with the realistic development potential of the subject property while supporting the goals, objectives and actions of the current master plan. The requested designation will have no negative impact on public health, safety or welfare.

Zone Change Findings:

1. ***Consistency with the Master Plan Land Use Map.***

   The proposed zone change is not only in substantial conformance with the proposed master plan amendment request but the requested modifications will actually help correct existing conformance issues between the Lyon County Master Plan and Zoning Code.

2. ***Consistency with the Master Plan goals, policies and strategies.***

   The proposed zoning map amendment is in substantial compliance with and promotes the following master plan goals, objectives and actions:

   Goal LU1: Orderly Growth Patterns

   Direct and manage development in the county so that it is orderly and fiscally responsible.

   Strategies: Establish a demand based zoning strategy based on realistic population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

   Policy LU1.2: Residential development Patterns in Neighborhoods

   New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

   Goal LU2: Services Coordinated with Growth

   Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

   Policy LU 2.1 Residential Development in Areas with Services

   Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

   Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal LU3: Diverse Economy

The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: Work with Economic development agencies and community groups to identify economic assets and development opportunities.

Goal LU5: Encourage Resource Sensitive Growth

Development will be designed to reduce energy use and minimize environmental impacts.

Goal NR9: Mining and Resource Extraction

Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

3. ***Consistency with the desired pattern for the orderly physical growth of the County and maintains compact development patterns.***

The proposed request to change the zoning designation from NR1 to RR3 and RR5 represents a desired pattern of growth by providing a realistic, current and long range zoning strategy based on actual development potential considering factors like topography, existing uses and proximity to adequate infrastructure.

4. ***Contributes to the timely, orderly and efficient arrangement of transportation and other public facilities and services.***

   The proposed zoning will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of funds for public services.

5. ***Promotes development that is commensurate with the character and physical limitations of the land.***

   The proposed RR5 and RR3 designations will significantly reduce the development potential of the property not only taking into consideration the character and physical limitations of the land (i.e. topography and surrounding densities) but also reducing the need for additional infrastructure.

6. ***Promotes the protection and/or enhancement of existing neighborhoods and communities.***

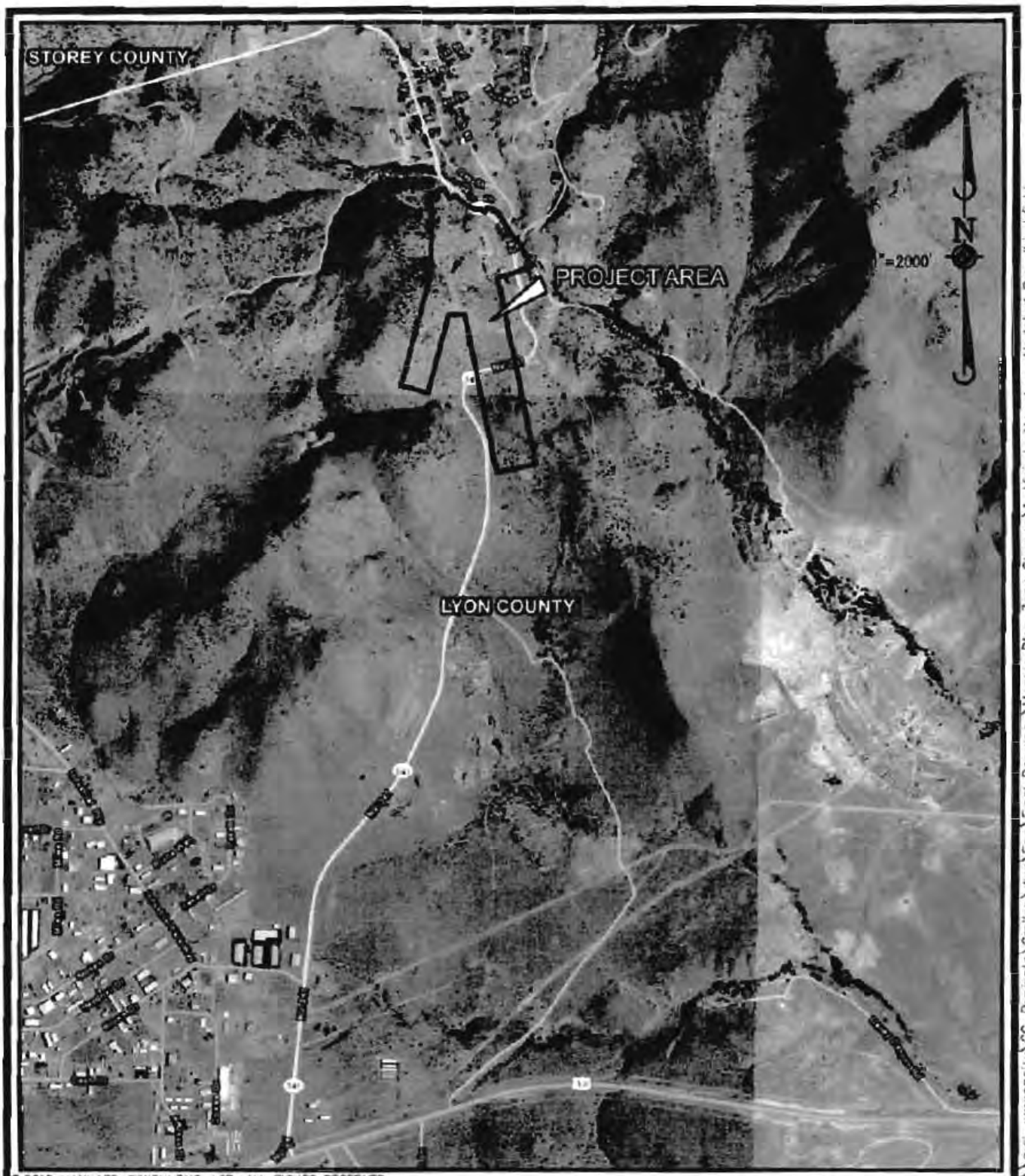
   The proposed zoning map amendment is consistent with the current and future development character of Silver City. The current NR1 designation promotes high density residential on a property that is constrained by topography and infrastructure availability.

7. ***No detrimental impacts to other properties in the vicinity.***

   The proposed zoning map amendment is sensitive to and compatible with the current and future development character of Silver City. The current NR1 designation promotes high density residential that is not only out of character with the rural nature of the area, but does not take into consideration the fact that the property is constrained by topography and infrastructure availability.

8. ***No adverse impacts to the public health, safety and welfare.***

   The proposed zone change will have no impacts to public health, safety and welfare, and although the potential use of the subject property for mining activities would necessarily involve the extraction of natural resources, this will not result in any impairment to the water resources and/or other resources that are important to existing residents and businesses in the area.



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COMSTOCK MINING INC.	
VICINITY MAP	
FIGURE 1	
PROJ. MGR.: AMM	SHEET 1 OF 7
DRAWN BY: DCB	
DATE: 7/24/2013	
SCALE: 1"=2000'	CMILCN

Dwg Name: \\nrc_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\1-Vicinity Map.dwg Updated By: dbirchfield 10.13

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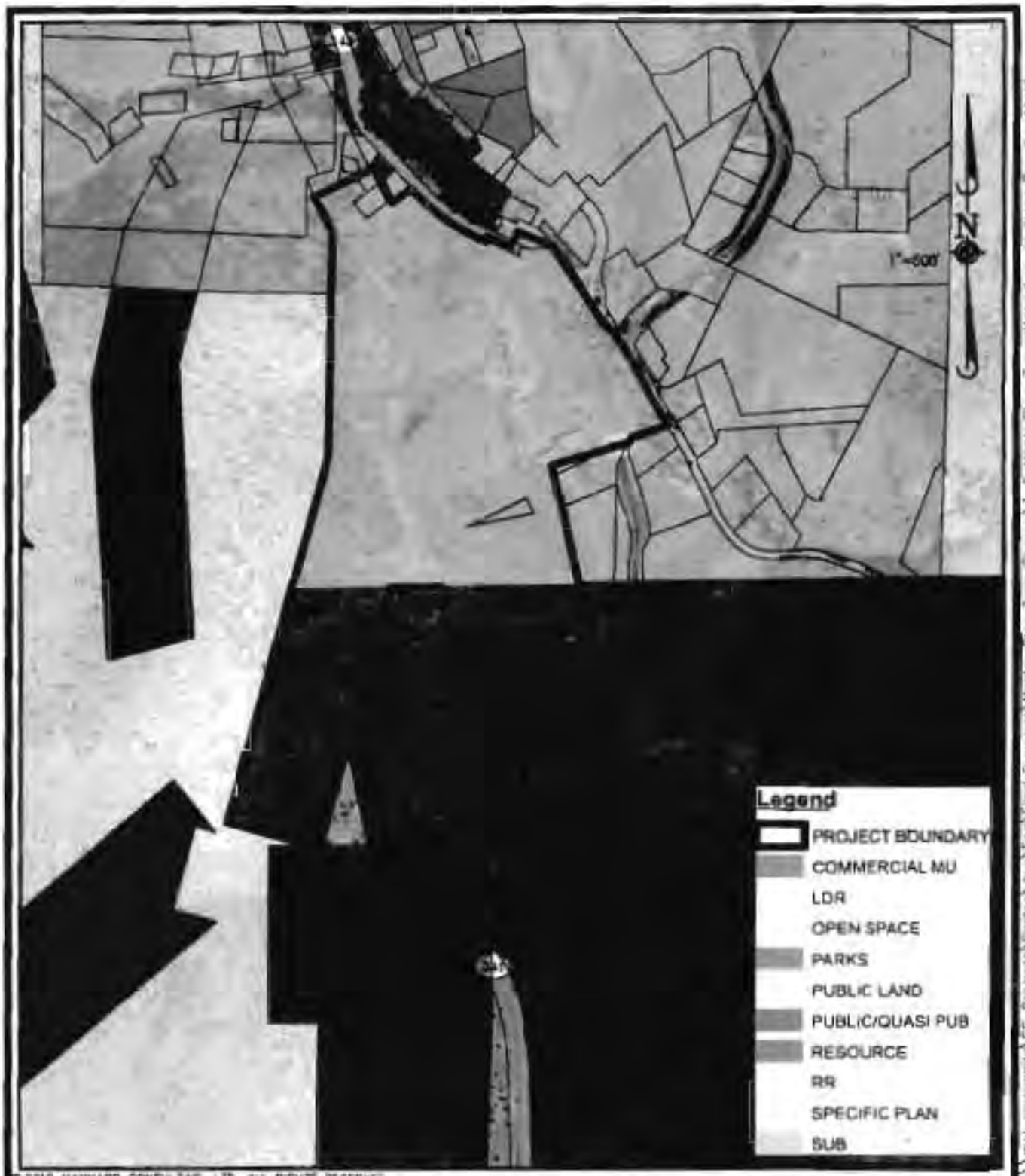
COMSTOCK MINING INC.
PARCEL EXHIBIT
FIGURE 2

PROJ. MGR.: AWM
DRAWN BY: AWM
DATE: 7/24/2013
SCALE: 1"=600'

SHEET 2 OF 7
CMILCN

17:17 Dwg Name \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\2-Property Exhibit.dwg Updated By: amotter



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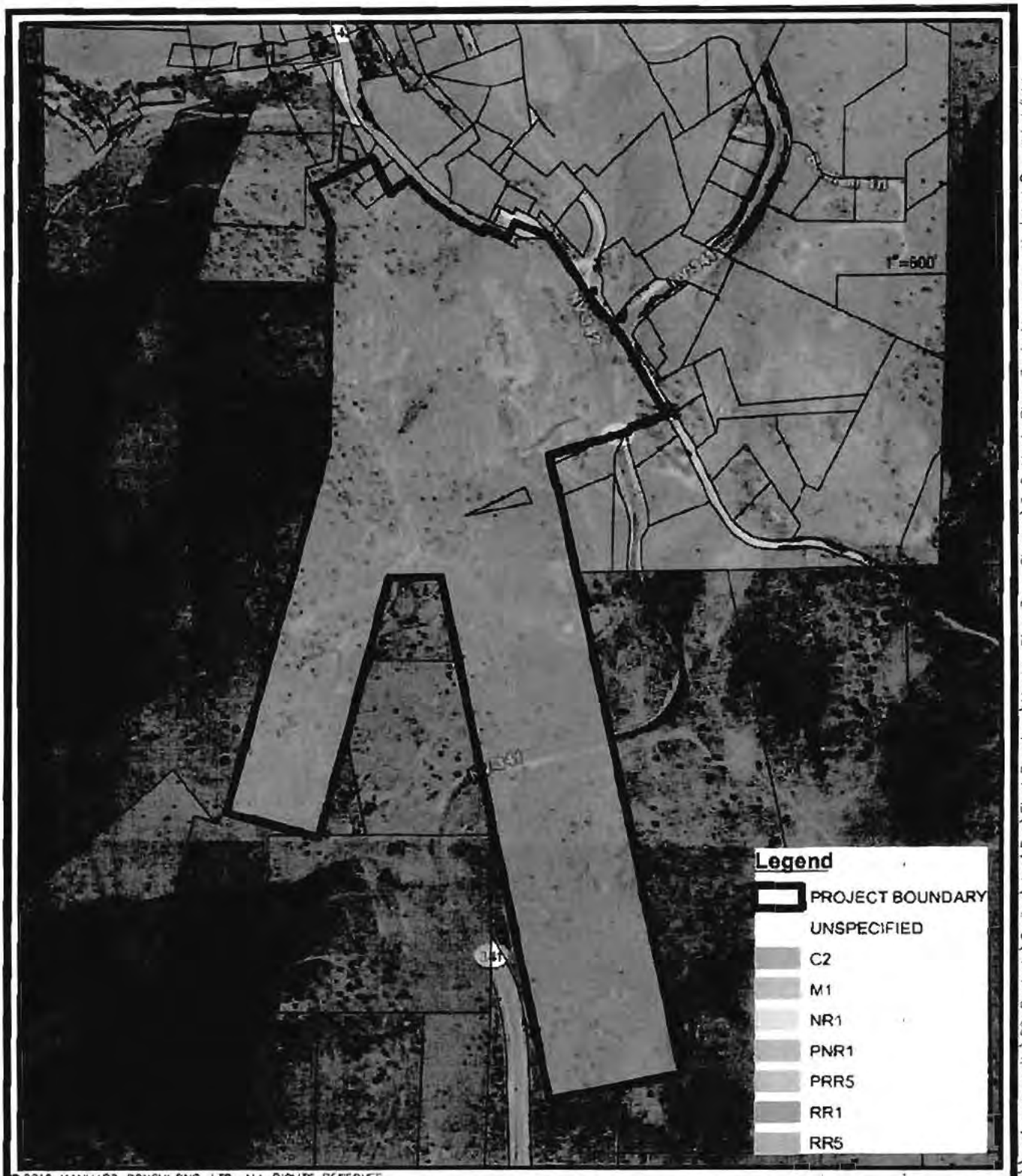
COMSTOCK MINING INC.
EXISTING MASTER PLAN MAP
FIGURE 3

PROJ. MGR.	ANM
DRAWN BY	DCB
DATE	7/24/2013
SCALE	1"=600'

SHEET 3 OF 7
CMILCN



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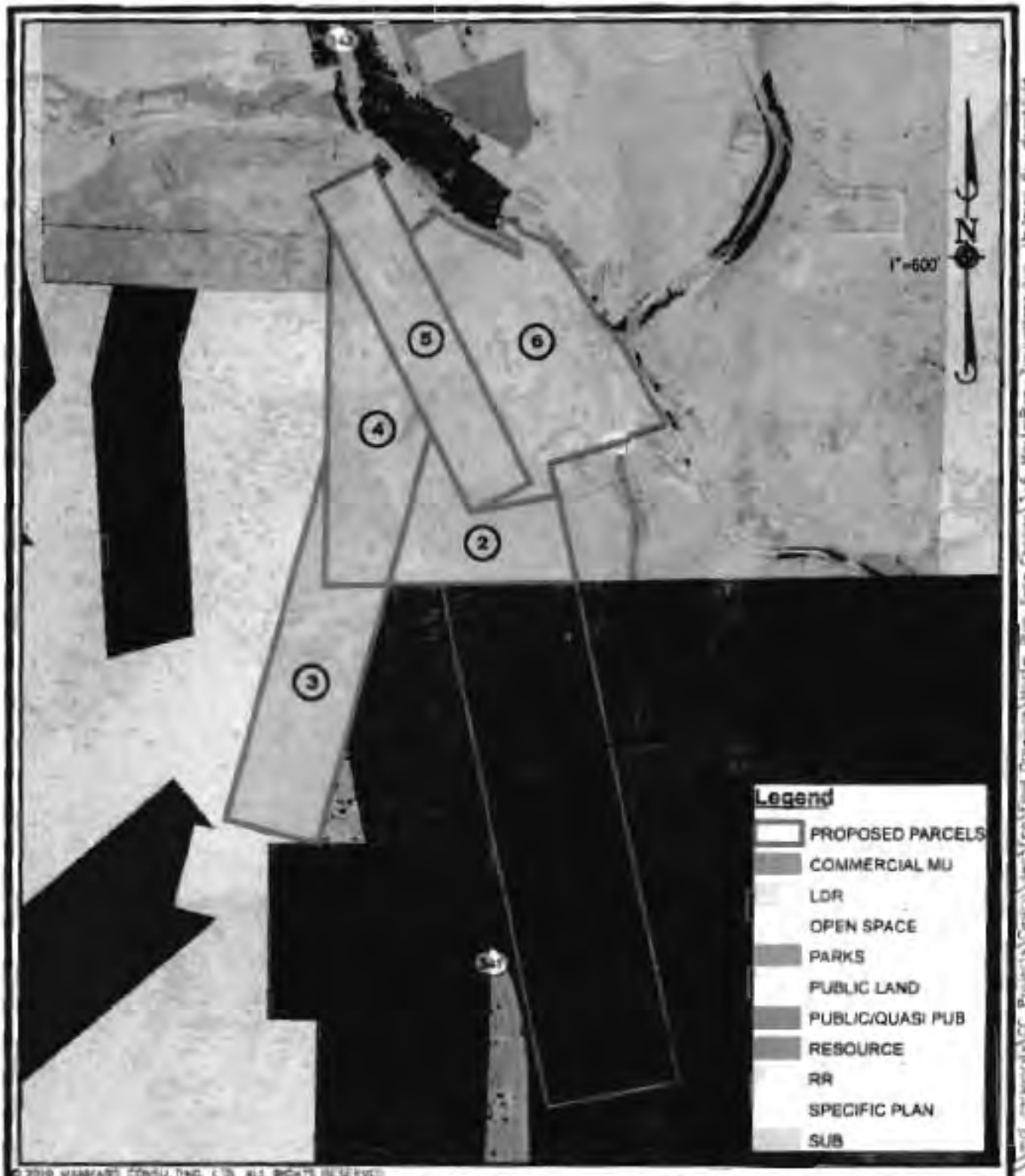
COMSTOCK MINING INC.	
EXISTING ZONING MAP	
FIGURE 4	
PROJ. MGR.: AWM	SHEET 4 OF 7
DRAWN BY: DCB	
DATE: 7/24/2013	
SCALE: 1"=600'	CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\3-6_MasterPlan-ZoningMaps.dwg Updated By: dbirchfield 16:30



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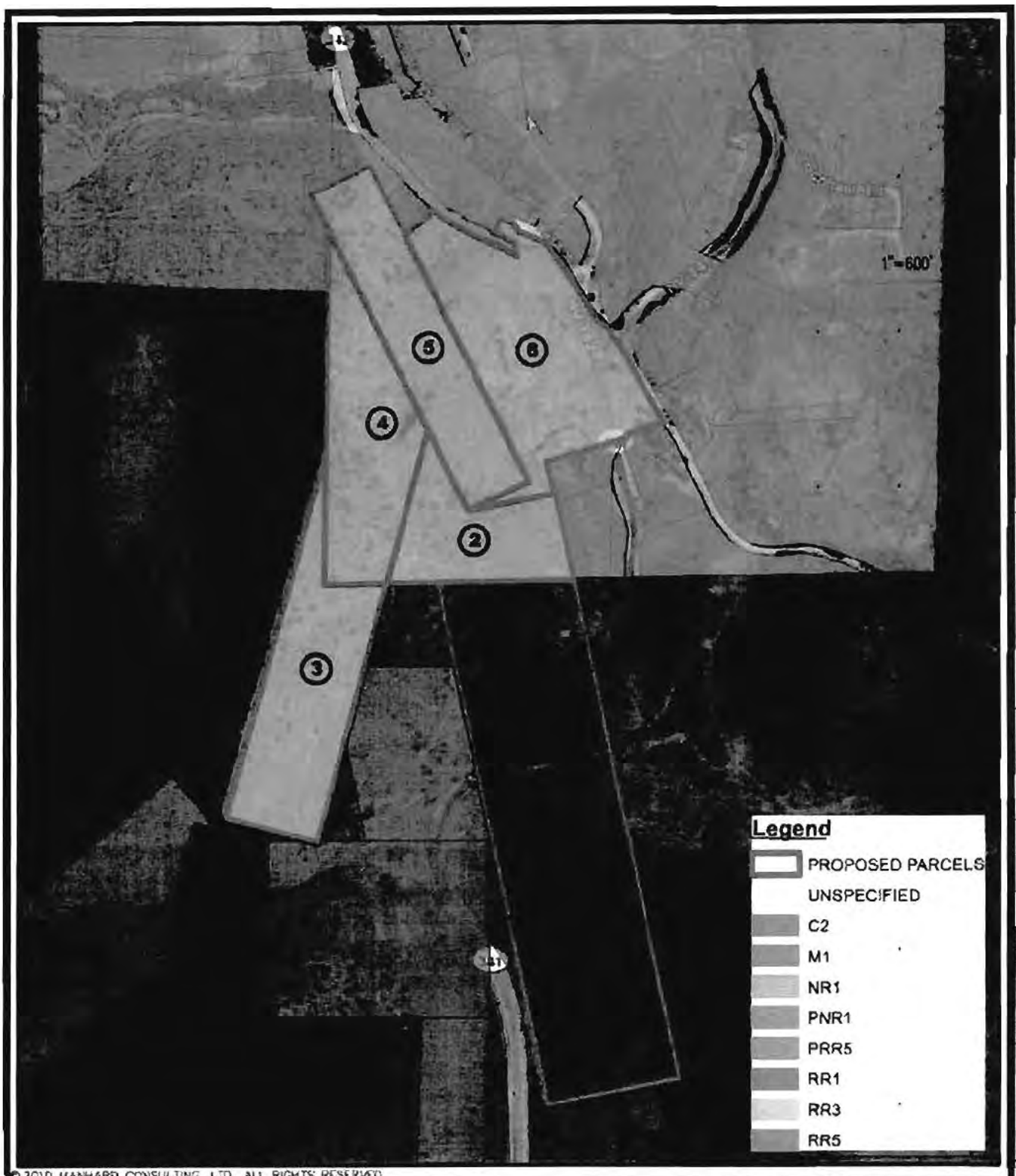
COMSTOCK MINING INC.
PROPOSED MASTER PLAN MAP
FIGURE 5

DRAWN BY: DCB
DATE: 7/24/2019
SCALE: 1"=600'

SHEET 5 OF 7
CMILCN



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COMSTOCK MINING INC.
PROPOSED ZONING MAP
FIGURE 6

PROJ. MGR.: AWM
DRAWN BY: DCB
DATE: 7/24/2013
SCALE: 1"=600'

SHEET 6 OF 7
CMILCN

16:30 Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\3-6_MasterPlan-ZoningMaps.dwg Updated By: dbirchfield

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COMSTOCK MINING INC.	
EXISTING SLOPE MAP	
FIGURE 7	
PROJ. MGR.: AMW	SHEET 7 OF 7
DRAWN BY: DCB	
DATE: 7/24/2013	
SCALE: 1"=600'	CMILCN

Dwg Name: \\mcl_carsonclty\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\7-Slope Map.dwg Updated By: dsorchfield 17:31

APPENDIX

LYON COUNTY
PLANNING DEPARTMENT

(775) 463-6592 • FAX (775) 463-6592

For Office Use Only
Date
Received by
File Number

DEVELOPMENT APPLICATION

This form must be completed and all requested information incorporated, as prescribed by the application submission requirements for each application type, before the application is deemed complete and accepted for processing by Lyon County.

Application Type (check all that apply)

- ☐ Abandonment
- ☐ Amended Map
- ☐ Appeal of Administrative Decision
- ☐ Appeal of Planning Commission Decision
- ☐ Approval Condition Amendment
- ☐ Boundary Line Adjustment
- ☐ Certificate of Amendment
- ☐ Continuation of Planning Application
- ☐ Development Agreement
- ☐ Development Agreement, Revision
- ☐ Division of Land into Large Parcels, Tentative Map Waiver
- ☐ Division of Land into Large Parcels, Tentative Map
- ☐ Division of Land into Large Parcels, Final Map
- ☐ Extension of Time Request
- ☐ Gambling Exception Permit
- ☐ Improvement Plan for Land Division
- ☐ Improvement Standards Variance or Waiver
- ☒ Master Plan Map Amendment
- ☐ Master Plan Text Amendment
- ☐ Mobile Home Park/Recreational Vehicle Park
- ☐ Parcel Map
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- ☐ Planned Unit Development, Final
- ☐ Planned Unit Development, Tentative
- ☐ Pre-Application Conference
- ☐ Reimbursement Agreement
- ☐ Reversion to Acreage
- ☐ Site Improvement Plan
- ☐ Special Use Permit
- ☐ Specific Plan
- ☐ Street Name Request
- ☐ Subdivision Map, Tentative
- ☐ Subdivision Map, Final
- ☐ Variance ☐ Administrative
- ☐ Wireless Communication Facility
- ☐ Wireless Communication Facility, Modification
- ☐ Zoning Determination
- ☒ Zoning Map / Text Change

General Information

Assessor's Parcel number(s)	Acreage	Assessor's Parcel number(s)	Acreage
Por. of 008-091-05	+/- 88.94 AC		
008-091-02	+/- 0.36 AC		

Applicant Name(s): ☒ Same as Owner ☐ Other (insert name(s))

Community: ☐ Dayton ☐ Fernley ☐ Mark Twain ☐ Mason Townsite ☐ Mason Valley ☐ Mound House ☒ Other County ☒ Silver City ☐ Silver Springs ☐ Smith Valley ☐ Stagecoach

Previous applications filed on this site:

Project Name (if applicable):

Project Information

Project or Request Description: Comstock Mining is requesting a Master Plan Amendment and Zone Change on a portion of Lyon County APN 008-091-05 and APN 008-091-02. APN 008-091-05 inlcudes 20 legal parcels (3 patented claim parcels and 17 Silver City town lots) which are a portion of this request. The Master Plan Amendment request is to change 44.67 acres within the Silver City town limits from Suburban Residential to Rural Residential and 12.29 acres in unincorporated Lyon County from Resource to Rural Residential. The Zone Change request is to change 44.67 acre within the Silver City town limits from NR-1 zoning to RR-3 zoning and 44.63 acres in unincorporated Lyon County from NR-1 Zoning to RR-3 and RR5 Zoning.

Project Area (square feet or acres): +/- 89.30 AC Number of proposed units: Smallest parcel size:

Uses proposed (check all that apply): ☐ Single Family Residential ☐ Multi Family Residential ☐ Commercial ☐ Industrial

Project Location

Project Street Address: State Route 341

Primary Access: State Route 341 and State Route 342 Section(s)/Township/Range: Sect. 8,9,16,17 T16N R21E

Approximately ____ feet ☐ north ☐ south of ____ (street name)

Approximately ____ feet ☐ east ☐ west of ____ (street name)

If within a Subdivision, Name: Lot: Block:

Project Location (with point of reference to primary access, major cross streets or area locator): A portion of the property is located within the Silver City Town limits adjacent to State Route 342 and a portion is in unincorporated Lyon County adjacent to State Route 341.

Other Information

Current Master Plan designation(s):	Suburban Residential, Resource
Proposed Master Plan designation(s):	Rural Residential
Current Zoning designation(s):	NR1
Proposed Zoning designation(s):	RR-3 and RR-5
Floodplain designation (from FIRM maps):	Zone AE, Unshaded Zone X
Road/street surface of frontage/access:	Paved highway for frontage and dirt road for access to a portion

Applicant Information

Applicant/Developer			Professional Consultant/Representative		
Name: Same as Property Owner			Name: Manhard Consulting Ltd.		
Address:			Address: 9850 Double R Blvd., Suite 101		
City:	State:	Zip:	City: Reno	State: NV	Zip 89521
Phone:	Fax:		Phone: 775-746-3500	Fax: 775-746-3520	
Cell:	Contact:		Cell:	Contact: Andrew Motter, P.E	
Email:			Email: amotter@manhard.com		
Property Owner			**Other Person(s) to be Contacted**		
Name: Comstock Mining Inc.			Name: Comstock Mining Inc.		
Address: 1120 American Flat Rd.			Address: 1120 American Flat Rd.		
City: Virginia City	State: NV	Zip 89440	City: Virginia City	State: NV	Zip 89440
Phone: 775-847-5272	Fax: 775-847-7118		Phone: 775-847-5272	Fax: 775-847-7118	
Cell:	Contact: Corrado DeGasperis		Cell:	Contact: Scott Jolcover	
Email: degasperis@comstockmining.com			Email: sjolcover@comstockmining.com		

The receipt of an application at the time of submission does not imply the application complies with all requirements of the Lyon County Code or Lyon County Planning Department, or that it is deemed complete and will be processed.

Property Tax Status:

As per Lyon County Code Title 10, Section 10.12.05, a signature is required from the Lyon County Clerk's Office showing the taxes are paid current on the subject property.

I, Nikki Bryan, hereby certify that all required property taxes are paid current on APN(s): 008-091-02, 008-091-05

By: _____ _____
Deputy Clerk — Date

Applicant's Affidavit (Complete if different from Property Owner):

I, _____ (Printed name), being duly sworn, depose and say that I am the applicant of the described project and/or request, and all the statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of the Lyon County Planning Department staff.

_____ _____
Signature of Applicant — Date

Subscribed and sworn to before me this _____ day of _____, _____

_____
Notary Public in and for said county.

(Notary stamp)

Property Owner's Affidavit:

I, Corrado De Gasperis (Printed name), being duly sworn, depose and say that I am an owner* in fee of the described property involved in this application, that I have knowledge of, and agree to, the filing of this application, and that the statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I acknowledge that I am aware of the "right to farm" policy of the county and have been provided with a copy of a statement (attached to this application form) containing substantially the disclosure set forth in Chapter 10.15 of the Lyon County Code. I understand that no assurance or guarantee can be given by members of the Lyon County Planning Department staff.

(*A separate Affidavit must be provided by each property owner)

_____ 08/07/2013
Signature of Property Owner — Date

Subscribed and sworn to before me this 7th day of AUGUST, 2013
BY CORRADO DE GASPERIS ***
Notary Public in and for said county.

STATE: NEVADA COUNTY: DOUGLAS

(Notary stamp)
ANETA KUZNICKA-BERGE
Notary Public, State of Nevada
Appointment No. 12-8416-2
My Appt. Expires Dec 16, 2015

TRI STATE SURVEYING, LTD.
1925 E. Prater Way, Sparks, Nevada 89434
Telephone (775) 358-9491 ♦ FAX (775) 358-3664
Toll Free: 1-800-411-3752

Land Information Solutions

August 15, 2013
Project No. 10055.01.CC

Parcel Descriptions

All those certain parcel situate within portions of Sections Eight (8), Nine (9), Sixteen (16) and Seventeen (17), Township Sixteen (16) North, Range Twenty-One (21) East, Mount Diablo Meridian, Lyon County, Nevada, being more particularly described as follows:

Parcel 1:

All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying southerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 2:

All that All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying northerly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 275 as shown on said Official Map of the TOWNSITE of SILVER CITY.

Parcel 3:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying southerly, westerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 4:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying northerly, easterly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 274 as shown on said Official Map of the TOWNSITE of SILVER CITY.

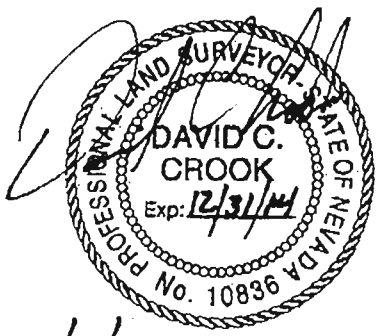
FOR REVIEW ONLY

Parcel 5:

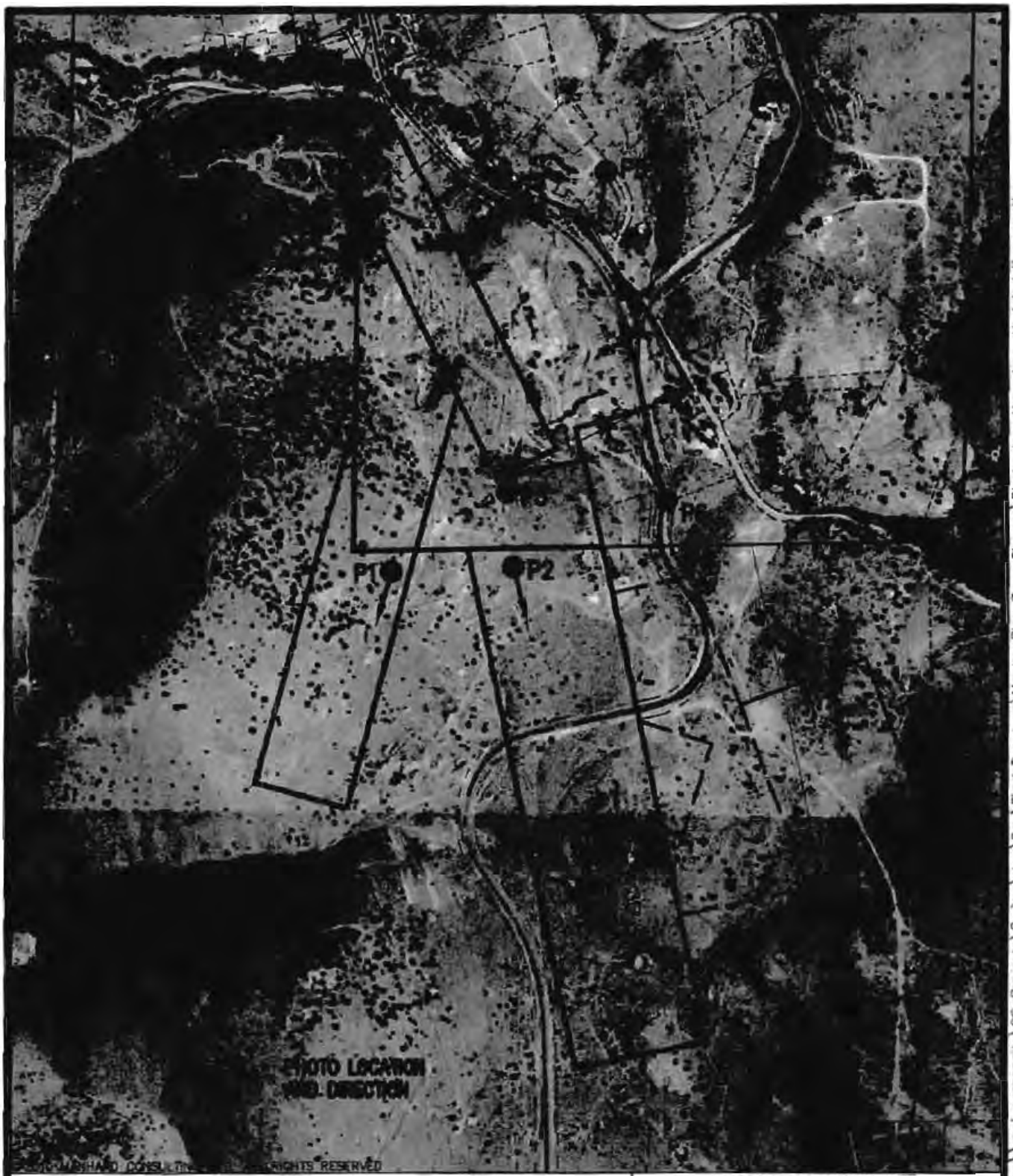
All of Mineral Survey 66, Marble Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 66 (Office No. 189), Marble Lode (Dayton Silver Mining Co's). Devils Gate Mining District, by J. H. Eaton, March 1873, together with that portion of Lot 129 of the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, lying inside of said Marble Lode.

Parcel 6:

All of Lots 101, 102, 103, 133, 134, 135, 136, 180, 276, 277, 278, 279, 280 and 289, said Lots being as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876 and a portion of Lot 104 of said Official Map of the TOWNSITE of SILVER CITY, being shown on Record of Survey Map No. 291213, recorded in the office of the County Recorder of Lyon County on February 21, 2003.



Date 08/16/2013
David C. Crook, P.L.S.
Nevada Certificate No. 10836



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Construction Managers - Environmental Scientists - Landscape Architects - Planners

COMSTOCK MINING INC.

PHOTO LOCATIONS

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DRAWN BY:	AWM
DATE:	8/8/2013
SCALE:	1"=600'

SHEET 1 OF 1

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13:04 Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amoltor

PHOTO P1

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SITE PHOTOS

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DRAWN BY: AWM
DATE: 8/8/2013
SCALE:

SHEET 1 OF 1

CMILCN

17:30 Dwg Name: \\nci_carsonci1\CC_Projects\Comstock\Dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amaster

PHOTO P3

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DATE: 5/8/2013
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DATE: 8/8/2013
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BEHRE DOLBEAR TECHNICAL REPORT

COMSTOCK MINE PROJECT

GOLD HILL, NV

AUGUST 31, 2010

14 CV 00128 - 000183
LYON COUNTY

BEHRE DOLBEAR

founded 1911 MINERALS INDUSTRY ADVISORS

COMSTOCK MINING, INC.

TECHNICAL REPORT ON THE COMSTOCK MINE PROJECT GOLD HILL, NEVADA, USA

(BEHRE DOLBEAR PROJECT 10-100)

AUGUST 31, 2010

PREPARED BY:

MR. MIKE MARTIN
MR. JOSEPH KANTOR
MR. MARK ANDERSON
DR. ROBERT CAMERON

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3.0 SUMMARY

3.1 INTRODUCTION

Behre Dolbear & Company, Ltd. (Behre Dolbear) has been retained by Comstock Mining, Inc. (Comstock Mining) formerly GoldSpring, Inc. (GoldSpring) to prepare a Technical Report on the Comstock Mine Project, 100% owned or leased by Comstock Mining. Comstock Mining is in the process of formulating operational and financial planning for the property. To date, Comstock Mining has completed development drilling, preliminary mine planning, operational planning, and financial analysis and has undertaken considerable permitting work, as described briefly in this report, on the Comstock Mine property.

The purpose of this report is to provide an updated independent review and critique of the mineral resource estimates at the property, together with a statement and review of the work already done by Comstock Mining and its other consultants on the preliminary planning and analysis. Since the original Behre Dolbear report, the following has occurred: additional drilling has been completed and more historic drilling data has been located; the formerly leased Obester and Donovan properties have been purchased; the Dayton Resource Area has been acquired in two separate transactions; and new resource models were developed for the resource areas incorporating the new and historic drilling data, revised geologic models and new information obtained on the Dayton Resource Area.

This report is written in compliance with NI 43-101 Standards of Disclosure for Mineral Projects.

3.2 LOCATION

The Comstock Mine Project owned by Comstock Mining, Inc. is located in Storey and Lyon Counties, Nevada, approximately 3 miles south of Virginia City and 30 miles southeast of Reno, Nevada. Access to the property is by State Route 342, a paved highway. The Project includes the Lucerne Resource Area which contains the previously-mined Lucerne, Hartford and Billie the Kid pits and the historic Justice, Keystone and Woodville mines; the Plum Mine infrastructure which is an existing open pit gold and silver mine and heap leach facility that will be redesigned and constructed to accommodate new ore; the newly acquired Dayton Resource Area involving the historic Dayton, Alhambra and Kossuth mines; the Spring Valley exploration target; and the Northern Extension exploration target.

3.3 OWNERSHIP

As of July 30, 2010, the Comstock Mine Project consists of 5,892 acres of active lode mining claims in the Comstock and Silver City Mining Districts. The acreage is comprised of 892 acres of patented claims (private lands) and 5,000 acres of unpatented claims, Bureau of Land Management (BLM) administered. A complete list of all the claims is given in Appendix 1.0.

3.4 GEOLOGY

The Comstock District is located within the western portion of the Basin and Range Province of Nevada, between Reno and Carson City. The majority of the epithermal ore bodies occur as veins, breccia zones, and stockworks hosted in three major structural zones: the northeast striking, southeast dipping Comstock and Occidental fault zones, and the northwest striking, northeast dipping Silver City fault zone. The principal host rocks are Miocene-aged volcanics, volcanoclastic units, and various phases of quartz diorite/quartz porphyry to andesite porphyry as stocks, dikes, and plugs. Mineralization is related to

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several overlapping, superimposed hydrothermal events with both high and low sulfidation styles of alteration. Some of the magmatic events were directly associated with hydrothermal activity.

Because of the Comstock District's historic significance during the American Civil War and its world-class bonanza precious metal grades, the geology is well known and has been studied in detail by many researchers. Detailed surface mapping and the careful logging of reverse circulation drill chips and diamond drill core by the Comstock Mining staff have enhanced their understanding of the Comstock Mine Project geology.

Placer gold deposits were discovered in 1850 and the lode gold-silver deposits were discovered in 1859. Production since 1950 has been intermittent. Over 8.2 million ounces of gold and over 192 million ounces of silver were produced prior to 1965 (Bonham, 1969).

3.5 MINERALIZATION

Mineralization within the project drill area is gold enriched, with silver to gold ratios of approximately 10:1. This compares to ratios of silver to gold of 100:1 over the Comstock bonanza ore bodies. Drilling has outlined gold and silver mineralization over a strike distance in excess of 1 mile, with in-fill drilling on 50- to 70-foot centers over 0.6 of a mile. The bulk of the exploration drilling is in the Billie the Kid and Lucerne pit areas, a lateral distance of about 0.6 mile. Mineralization is open-ended to the north and south along strike and down dip to the east.

3.6 MINERAL RESERVES AND RESOURCES

3.6.1 Drilling, Sampling, and Assaying

A total of 719 RC and core holes, drilled in the Lucerne Resource Area by Comstock Mining and their predecessors, have defined mineral resources at the Lucerne and Billie the Kid open pits together with those along strike and down-dip. Sampling was undertaken using a wet rotary splitter. Two equal splits plus duplicates on 100-foot intervals were collected, with the samples being secured with good chain of title from the drill site to the primary assay laboratory. For the Comstock Mining exploration and development campaigns, all drilling, surface and down-hole surveying, hole abandonment, geologic logging, sampling, and assays were performed to industry-recognized standards. Eight HQ and PQ size core holes were drilled primarily for metallurgical and geotechnical purposes.

Further south, another 252 holes were drilled at the Dayton-Alhambra-Kossuth claims in the Dayton Resource Area. Drilling, during the 1970s and 1990s, was accomplished by a combination of angle core and conventional rotary, in-fill air track, and RC twin and exploratory drill holes.

3.6.2 Resource and Reserves

Based on a gold cutoff of 0.007 ounce per ton, the estimated Measured and Indicated Resources for the Lucerne Resource Area are approximately 26,540,000 tons, with an average gold grade of 0.028 ounce per ton and an average silver grade of 0.354 ounce per ton. The estimated Measured and Indicated Resources for the Dayton Resource Area are approximately 4,970,000 tons, with an average gold grade of 0.034 ounce per ton and an average silver grade of 0.244 ounce per ton. The total Measured and Indicated Resources at the Comstock Mine Project are approximately 31,510,000 tons, with an average gold grade of 0.029 ounce per ton and an average silver grade of 0.336 ounce per ton.

There is an additional Inferred Resource of 12,660,000 tons in the Lucerne Model, with an average gold grade of 0.023 ounce per ton and an average silver grade of 0.252 ounce per ton, and 1,210,000 tons in the Dayton Model, with an average gold grade of 0.026 ounce per ton and an average silver grade of 0.298 ounce per ton. The total Inferred Resources at the Comstock Mine Project are approximately 13,870,000 tons, with an average gold grade of 0.023 ounce per ton and an average silver grade of 0.256 ounce per ton. The estimated in-situ resource for the Comstock Mine Project are shown in **Error! Reference source not found.**.

Behre Dolbear believes that the resource model and classifications are appropriate and NI 43-101 Technical Report compliant.

TABLE 3.1
COMSTOCK MINE PROJECT RESOURCE SUMMARY

	Tons	Au (opt)	Ag (opt)	Total Au (ounces)	Total Ag (Ounces)
MEASURED + INDICATED RESOURCE					
Lucerne Model	26,540,000	0.028	0.354	731,000	9,380,000
Dayton Model	4,970,000	0.034	0.244	168,000	1,210,000
Total	**31,510,000**	**0.029**	**0.336**	**899,000**	**10,590,000**
INFERRED RESOURCE					
Lucerne Model	12,660,000	0.023	0.252	291,000	3,190,000
Dayton Model	1,210,000	0.026	0.298	31,000	360,000
Total	**13,870,000**	**0.023**	**0.256**	**322,000**	**3,550,000**

3.7 EXPLORATION

After studying all of the information provided by Comstock Mining, including the vertical cross-sections through the expanded pit area, Behre Dolbear believes that further drilling outside the presently planned ultimate pit limits is likely to result in developing substantial additional resources.

The potential for substantial additional resources, based upon the presence of underground workings, mineralized outcrops, historic drilling, and geologic mapping, is particularly encouraging northward in the area Comstock Mining terms the "Northern Extension"; in the area northeast of the Lucerne and Billie the Kid pits; in the East Side target; in the Dayton-Alhambra-Kossuth area; and to the south in the Spring Valley area. The northerly extension of mineralization beyond the Lucerne/Billie the Kid area has an estimated strike length of 2,700 feet. Comstock Mining has inventoried a number of "Historic Resources" through the review of technical reports written by previous mine operators in this "Northern Extension" area. The Historic Resource is estimated at 2,460,000 tons, with a grade of 0.053 ounce of gold per ton and 1.472 ounce of silver per ton. Although the data are historic and potential resources are non-compliant with NI 43-101 Technical Report requirements, they offer a reasonable expectation of potential mineralization.

The south end of the historic Lucerne pit has multiple cross-cutting, northeasterly striking structures. The projection of these structures intersecting the Gold Canyon Fault (the most easterly fault of the Silver City

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fault zone) has been designated the East Side target. Drilling at the East target returned "better than expected" grades and thicknesses of mineralization along the targeted intersections of northwest striking, northeast dipping and northeast striking, southeast dipping fault zones. This successful drilling campaign has substantially elevated the priority and potential at the East Side target.

Comstock Mining has recently acquired the Dayton-Alhambra-Kossuth properties. Previous drilling and underground development have outlined three separate gold resource areas along the projection of the Silver City fault zone. Mineralization is open-ended based upon previous drilling and could extend further south into the Spring Valley area.

Early results from drilling south of the Dayton Resource Area, in the Spring Valley area, are also encouraging, with "ore-grade" mineralization encountered at very shallow depths.

3.8 PROJECT ECONOMICS

The cash flow spreadsheet included with the Mineral Reserves Declaration Report for The Comstock Mine Project, provided by GoldSpring, was examined.

Behre Dolbear compiled a cash flow spreadsheet (without changing GoldSpring's capital and operating costs) and achieved comparable results: Net present value (NPV) at 8% discount rate of US$81,760,997, whereas GoldSpring reported US$85,609,954, a difference of 4.5%. Behre Dolbear's calculation of rate of return is 52.5%, while GoldSpring's is 53.4%. It should be noted that these economic analyses did not include the resources in the new Dayton Resource Area.

It should also be noted by the reader that these economic analyses were made on the Comstock Mine Project mineral resources, and not on reserves. They should not be given significant weight, until such time as reserves can be calculated, and costs, etc., used can be verified by at least a preliminary pre-feasibility study.

3.9 CONCLUSIONS

Behre Dolbear believes the Comstock Mine Project represents a well-explored epithermal precious metal deposit within a world-class mining district. The deposit is hosted in structurally prepared rocks within the northwest striking, northeast dipping Silver City fault zone. Grades and extent of mineralization are enhanced where this fault zone is intersected by east-west and northeast striking faults. The geology of the project area is well described and understood through vigorous surface mapping and drill hole logging. The density of geologic data is high, and the reliability is excellent, particularly in the various Starter Pits. Additional drilling is required in the Expanded Pit area. Drilling and assaying followed accepted industry-standard methods, and the evaluation of QA/QC results is very good. Additional Project needs include continued in-fill drilling in the Expanded Pit area, continuation of a geotechnical/metallurgical large-diameter drill core program, completion of an EIS, and re-location of a state route. Exploration opportunities to expand the known mineralization down-dip and along strike to the north, south, and northeast are outstanding and have the potential of doubling the estimated Measured and Indicated Resource.

3.9.1 Recommendations

3.9.1.1 Geology and Mineral Resources

- Comstock Mining completed in the first half of 2010 an 8-hole geotechnical/metallurgical core drilling program. One HQ3 oriented hole, two HQ holes, and five PQ holes were completed. Results on the geotechnical holes demonstrate that hanging wall rock at the Luceme pit in the vicinity of the state route is very incompetent and that pit walls may need to be 30° or less adjacent to the road. It is recommended that this program be expanded to ensure sufficient geotechnical and metallurgical data are acquired concerning the other Starter Pits and the Expanded Pit scenario.
- Following acquisition of all data from the 2010 core drilling program, Comstock Mining should carry out at least a preliminary pre-feasibility study to establish new capital and operating costs and thus be able to calculate reserves that conform to NI 43-101 Technical Report requirements.
- Comstock Mining should move as rapidly as possible towards completing an Environmental Impact Statement (EIS) for the expansion towards production from the Expanded Pit. Dr. Cameron (2009) recommended budgeting additional funds for this task. Behre Dolbear concurs with this recommendation. It should be noted, however, that an EIS sometimes takes longer to complete and costs more than expected.
- Comstock Mining should initiate a condemnation drilling program on potential sites for a relocation of State Route 342.
- Weights of each RC drill sample were recorded. From a limited review of drill logs, there is a wide range of recorded weights from 2 pounds to at least 16 pounds. It is recommended that in the future, whatever additional sampling data are needed to compare RC drill hole recovery weights and percentage recovery to grade be collected whenever possible. This could be combined with a twin program of core versus RC drilling in various locations.
- Drilling to the east of the Luceme pit (East Side target) has encountered very encouraging assay results. Exploration drilling should continue with expectations of expanding resources along the northeast striking structures.
- With the Dayton-Alhambra-Kossuth properties now acquired by Comstock Mining, in-fill and confirmatory drilling is necessary to upgrade the characterization of this resource. Furthermore, additional drilling in the southern part of this resource (between Kossuth and Alhambra) should help to define the location of the various parallel faults within the Silver City fault zone. This in turn will aid in future drill hole planning immediately to the south in the Spring Valley target area.
- Initial drilling in the Spring Valley area, south of Silver City, intersected significant mineralization at very shallow depths. Behre Dolbear recommends that a series of trenches be dug along strike and across the dip of the interpreted mineralized zones. The trenches can be mapped and sampled, photographed if necessary, and closed to prevent possible accidents.
- Preliminary investigations on ground magnetic surveys in the Spring Valley area suggest that mineralized structures may be reflected by magnetic anomalies. Behre Dolbear suggests that additional fill-in magnetic survey lines be completed to test this possibility.

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3.9.1.2 Mining

- It is recommended that slope stability studies be performed by an independent consultant to ascertain the correct safe slope for the pit for use in further engineering work and project feasibility.

3.9.1.3 Processing

- Additional metallurgical testing will be required to guide the final design and capital cost estimates for the processing facilities to maximize the recovery of gold and silver. Drill core samples from the spring 2010 drilling program have been submitted to McClelland Laboratories for metallurgical testing, but the test results are not complete at the date of this report. The samples tested in the work completed by McClelland Laboratories were obtained from RC cuttings. Drill core samples, representative of the resources to be processed, need to be subjected to both column leach testing, simulated Counter Current Decantation (CCD) leach testing, and Grind, Cyanide, Leach, Precipitation, Agglomeration (GCLPA) testing. It is entirely possible that crush sizes in heap leach could exceed ½ inch, thereby making the process economics very favorable even when considering slightly lower gold and silver recoveries. This may prove to be very favorable if a single treatment option such as "whole ore leach" were to be chosen.
- Behre Dolbear recommends additional testing, prior to detailed engineering, to verify the bulk densities at the Dayton Resource Area.

4.0 INTRODUCTION

On May 17, 2010, Behre Dolbear & Company Ltd (Behre Dolbear) issued a Technical Report (NI 43-101) based on land positions and gold resources that were current at the Comstock Mine Project, 100% owned or leased by GoldSpring Inc. (GoldSpring) as of January 2010. Behre Dolbear has been retained by Comstock Mining, Inc. (formerly GoldSpring) in July 2010 to prepare an updated Technical Report (NI 43-101) on the Comstock Mine Project to include new drilling on the existing land holdings plus the addition of certain land acquisitions that have occurred since January 2010. Comstock Mining is in the process of formulating operational and financial planning for the property. To date, Comstock Mining has completed development drilling, preliminary mine planning, operational planning, and financial analysis, plus considerable permitting work, as described briefly in this report on the Comstock Mine Project property.

The purpose of this report is to provide an independent review and critique of the mineral resources at the property, together with a statement and review of the work already done by Comstock Mining and its other consultants on the preliminary planning and analysis. This report is written in compliance with NI 43-101 Standards of Disclosure for Mineral Projects.

The principal sources of the information and data contained in this report are:

- The current senior staff of Comstock Mining, Inc. (see Section 5.0)
- "Mineral Reserves Declaration Report for the Comstock Mine Project" by Dennis Anderson, P.E., Senior Engineer, GoldSpring, Inc., June 30, 2009
- "Review of the Reserves Calculations at GoldSpring, Inc.'s Comstock Mine Project, Gold Hill, Nevada" by Robert Cameron, Ph.D, Robert Cameron Consulting, September 17, 2009
- "Technical Report on the Comstock Mine Project, Gold Hill Nevada, USA," by Behre Dolbear & Company (USA), Inc., May 17, 2010

This report was prepared by five persons and critically reviewed for quality control by a sixth person. Three of these five individuals visited the property in January 2010, and the other two visited the property in June and July 2010. Mr. Michael Martin, mining engineer and report manager, is the Qualified Person who wrote the mining and certain other sections and visited the Comstock Mine property and Company offices from January 6-8, 2010. Mr. Mark Anderson, metallurgist, is the Qualified Person who wrote the metallurgical and processing sections and visited the Comstock Mine property and Company offices from January 6-7, 2010. The Qualified Person who wrote the geology, resource, and reserves sections of the report, Mr. Joseph Kantor, visited the Comstock mine property and company offices on June 7, 2010 and July 23, 2010. Dr. Robert Cameron, who reviewed the new resource model prepared by Comstock Mining in July 2010, visited the Comstock Mine Property most recently from July 23-24, 2010. Mr. William Napier, environmental specialist, under the supervision of Mr. Michael Martin, wrote the permitting, etc. section and visited the Comstock Mine property and Company offices from January 6-8, 2010. Mr. William Jennings, financial analyst, reviewed Comstock Mine Project financial analysis provided in the May 17, 2010 report and included for completeness in this report did not visit the mine site or Company offices.

Mr. Derek Rance, P.Eng., performed critical quality control and the technical review of this document.

5.0 RELIANCE ON OTHER EXPERTS

The current information and data contained in this report, or used in its preparation, were in part provided by the following Comstock Mine Project personnel and consultants:

- Mr. Laurence Martin, C.P.G., Chief Geologist, Comstock Mining, Inc.
- Mr. Dennis Anderson, P.E., Senior Engineer, Comstock Mining, Inc.
- Mr. Michael Norred, President, Techbase International, Ltd.
- Dr. Robert Cameron, Robert Cameron Consulting
- Mr. Gary Giroux, Giroux Consultants, Ltd.

It is important to note that the status of the owned and leased patented and unpatented claims that constitute the Comstock Mine Project, as described in this report, has not been verified. It is recommended that a comprehensive legal review be performed as to the status of these leases. Also, no attempt has been made to confirm the legality of licenses conferring the rights to mine, explore, and produce gold, silver, and other metal products, and accordingly the Qualified Persons disclaim any responsibility or liability in connection with such information or data. Figure 5.1 illustrates the Comstock Mine Project land holdings. The topography base map is the USGS Virginia City, 7½-minute quadrangle sheet, 1:24,000 scale, and portions of the Flowery Peak, New Empire, and Dayton quadrangle sheets. Individual land leases, patents, or mineral entry claims are color coded as per legend description.

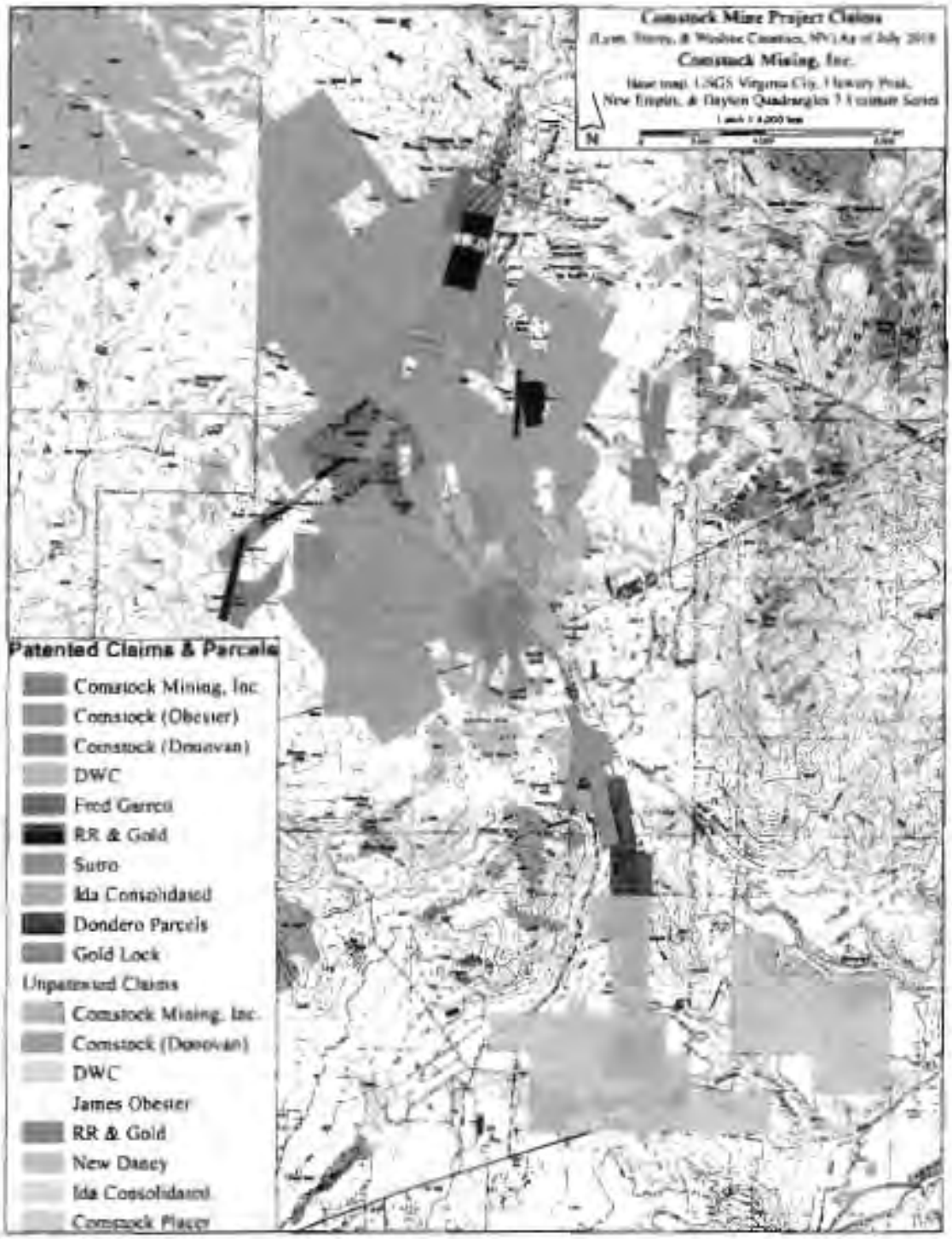

Figure 5.1. Comstock Mine Project land holdings

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6.0 PROPERTY DESCRIPTION AND LOCATION

The Comstock Mine Project is located in Storey and Lyon Counties, Nevada, approximately 3 miles south of Virginia City and 30 miles southeast of Reno, Nevada. The Comstock Mine Project includes the Lucerne Resource Area which contains the previously-mined Lucerne, Hartford and Billie the Kid pits and the historic Justice, Keystone and Woodville mines; the Plum Mine infrastructure which is an existing open pit gold and silver mine and heap leach facility that will be redesigned and constructed to accommodate new ore; the newly acquired Dayton Resource Area involving the historic Dayton, Alhambra and Kossuth mines; the Spring Valley exploration target; and the Northern Extension exploration target.

The Comstock Mine Project main mining areas are located in portions of Sections 5, 6, and 8, Township 16 North, Range 21 East, Mount Diablo Baseline and Meridian (MDB&M), Storey County, Nevada and in portions of Sections 16 and 17 in Lyon County, Nevada. The mine site is adjacent to State Route 342 and south of the towns of Gold Hill and Virginia City, Nevada. The Comstock Mine Project is located on both private lands and public lands administered by the BLM. The location of the Project is shown in Figure 6.1.

Between 2003 and 2006, the Plum Mining Company (PMC), now owned by Comstock Mining, developed and operated an open pit gold mine and heap leach operation on their properties. A mining contractor mined and crushed the ore. PMC personnel operated the heap leach pad and Merrill-Crowe recovery plant between 2004 and 2006. During this period, approximately 500,000 tons were mined from the Billie the Kid open pit, and approximately 12,400 ounces of gold and 53,000 ounces of silver were recovered. The project was put on "care and maintenance" status in March 2007, when the focus of the project turned to mineral exploration. Following suspension of operations, PMC acquired additional properties in and around the historic Comstock Mining District and compiled historic information and performed geologic reconnaissance on the expanded land holdings.

In the Lucerne Resource Area, Comstock Mining designed and implemented a closely-spaced (50- to 75-foot centers) drill program to adequately define and categorize the mineralized material as mineable resources. In addition, several drill holes were allocated to test selected target areas along prominent mineralized trends. Over 122,700 feet of reverse-circulation (RC) drilling had been completed between 2007 and May 2010. This definition drilling campaign resulted in the delineation of open pit gold resources that are the subject of this report.

The objective of the development drilling is to provide information necessary for detailed mine planning that will enable the project to resume precious metals production in 2011. Concurrently, metallurgical testing is being conducted to provide information necessary for processing and design factors. The Comstock Mine Project property boundary is centered along strike of the southern portion of the Comstock-Davidson fault and the Silver City fault, shown on Figure 6.2.

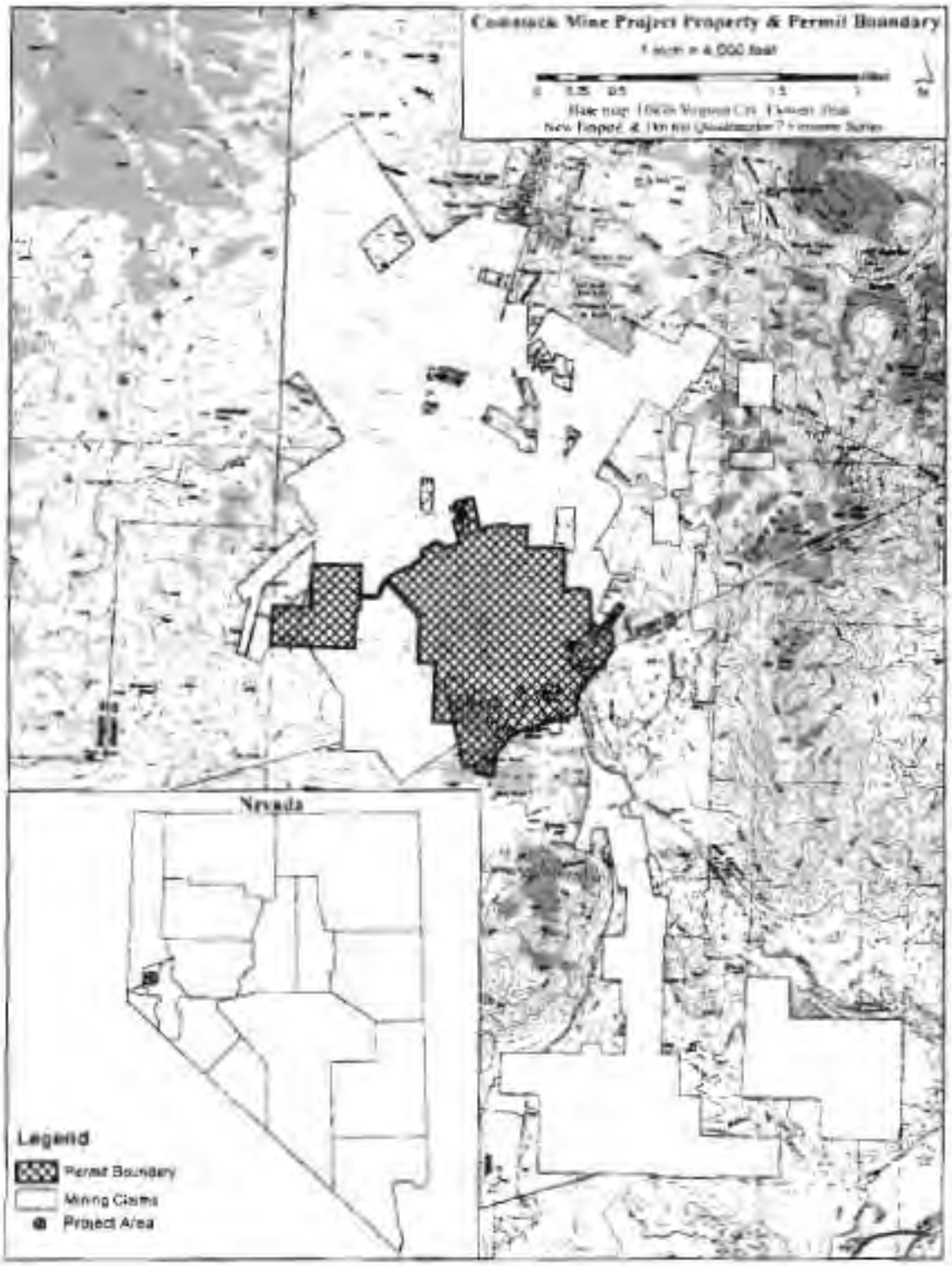

Figure 6.1. Comstock Mine Project location

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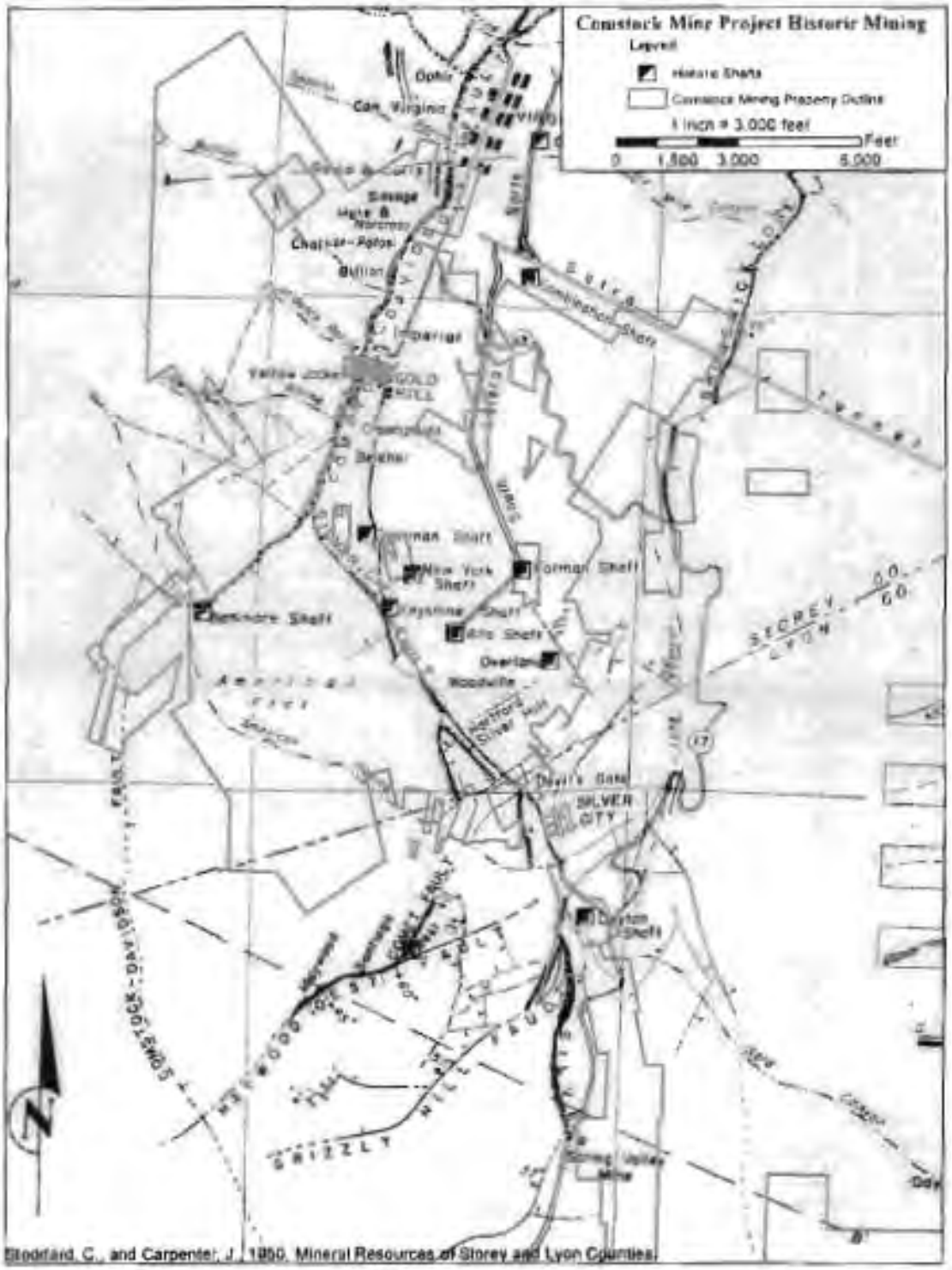

Figure 6.2. Comstock Mining Dstrict historic mining areas

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The Comstock Mine Project incorporates multiple historic mines along the strike of the Silver City fault, including the New York shaft, Keystone mine and Keystone open pit, Justice mine, Alta shaft, Lady Washington mine, Waller Defeat workings, Woodville mine, Lucerne open pit, Succor mine, Drysdale mine, Silver Hills mine, Billie the Kid open pit, and Dayton-Alhambra-Kossuth mines. Drilling was concentrated in the Lucerne pit area as it extends northeasterly beyond the Woodville shaft and northwesterly toward the Justice shaft. Centered in the Lucerne open pit and west of the Billie the Kid open pit, geologic mapping and sampling, coupled with limited drilling peripheral to the resource area, has identified favorable geology, both northerly and southerly. The northern projection of this mineralization includes the Justice and Keystone mine areas.

After suspending mining operations in 2006, PMC acquired additional surface and mineral rights in the Comstock and Silver City Mining Districts for the Comstock Mine Project. As of the date of this report, Comstock Mining controls approximately 892 acres of patented mining claims and 5,000 acres of unpatented claims, for a total of 5,892 acres (see list of claims in Table A1.1). The Comstock Mine Project exploration program has conducted surface geochemistry, geology mapping, and rock chip and shallow auger sampling that has identified a number of favorable target areas. The Comstock Mine Project has consolidated exploration and historic production records using Techbase software to generate a computer model of the Comstock and Silver City Mining Districts, with the objective of delineating additional geologic targets and identifying promising areas that were not previously been fully evaluated.

7.0 ACCESSIBILITY, CLIMATE, LOCAL RESOURCES, INFRASTRUCTURE, AND PHYSIOGRAPHY

All-weather access to the Comstock Mine Project is via Nevada State Route 341 from Reno, Nevada to Virginia City, Nevada, a distance of roughly 30 miles. State Route 342, south from Virginia City, provides access to the site, and continues to connect with U.S. Highway 50 and Carson City, approximately 12 miles to the southwest.

The mine office, shop, lab, and process facility is located in Section 6, Township 16 North, Range 21 East, Mount Diablo Baseline and Meridian (MDB&M), Storey County, Nevada, approximately 1.5 miles west of Gold Hill on private land. Access to the facility from State Route 342 is via American Flat road, an all-weather improved gravel road.

The Bureau of Land Management (BLM)-permitted haul road right-of-way starts at the mine site in Section 8, Township 16 North, Range 21 East, MDB&M, and traverses portions of Sections 5, 6, and 8, Township 16 North, Range 21 East and terminates at the Process Facility in Section 6, Township 16 North, Range 21 East, MDB&M. The haul road right-of-way traverses both private (patented) land and public lands administered by the BLM. Legal access to the plant is granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761), as is access across BLM administered sections.

The climate is typical of middle latitude, semiarid lands where evaporation potential exceeds precipitation throughout the year. The Sierra Nevada Mountain Range (Sierras) to the west effectively limits the flow of Pacific moisture into the Great Basin. The mean annual precipitation is about 6 to 18 inches, much of which is snow. The mean annual temperature is about 42°F to 50°F. Runoff is rapid from the mountains, where streams are dry most of the year. The soils generally are well-drained. The vegetation is abundant sagebrush with sparse trees.

The nearest towns are Gold Hill and Virginia City, approximately 1.5 miles and 3.5 miles, respectively, east of the mine office, but both towns have many vacant buildings and very limited resources. Reno, only 30 miles away, and Carson City, 12 miles away, have major resources of all kinds.

Infrastructure at the mine site is limited to local water and power and a few old buildings, although the mine offices are adequate for small- to moderate-size operations.

The topography in the Virginia range is moderately rugged, with elevations ranging from 4,500 to 7,853 feet. The average elevation of Virginia City is 6,200 feet. The Virginia City area is on the westernmost part of the Great Basin, which is a series of northerly trending, linear, fault block mountain ranges rising above intervening structural valleys. Front slopes are abrupt and back slopes are typically gentler. The block faulting began in the middle and late Tertiary period and continues to today.

8.0 HISTORY

Discovery of bonanza-grade silver and gold deposits under the present town of Virginia City in 1860 led to development of the Comstock Lode. Production records from 1859 to 1965 were compiled from the Nevada Bureau of Mines, Bulletin 70, 1969. The published production figures for the Comstock District are as follows: Gold 8,256,179 troy ounces; Silver 192,010,565 troy ounces; Copper 76,630 pounds; Lead 55,504 pounds.

The Lucerne Resource Area is centered at the Plum Mine open pit operation (2004-2006) that expanded the historic Billie the Kid and Lucerne open pits, shown on Figure 6.2. The Comstock Mine Project includes a number of additional historical mining operations along the strike of the Silver City fault zone, including the New York mine, Keystone mine and Keystone open pit, Justice cut, Justice mine, Alta shaft, Lady Washington mine, Waller Defeat workings, Woodville mine, Succor mine, Drysdale mine, and Silver Hills Mine. Recently, Comstock Mining has acquired the Dayton, Alhambra, and Kossuth mine properties in the Dayton Resource Area, which occupies a southern extension of the Silver City fault zone.

The collection of historic data and detailed geologic features is ongoing and will continue to update the database. Newly-acquired data and new concepts will possibly redefine and improve priority targets and exploration philosophy.

Prior to the commencement of the latest surface drilling campaign, Comstock Mining initiated a detailed review of previous geologic interpretations to develop new geologic concepts. In conjunction, the historic underground workings that could be reconciled for the entire Comstock District were digitized. The historic workings were reviewed and compared to the new geologic concepts. Multiple exploration targets for future drilling have been generated through this process. The historic underground workings for the Comstock District are illustrated in Figure 8.1. Note that the underground working depths are shown as "Depth in Feet Below Gould & Curry" in the legend of Figure 8.1. The "Gould & Curry" is one of the historic shafts in Virginia City. Starting with Becker (1882), the elevation of this shaft was used as the datum to tie all of the workings in the district together. On various underground maps, the depths of the workings were listed as "depth (depth GC)", where the first depth is from the original shaft for that mine, and depth GC is depth below the Gould & Curry collar.

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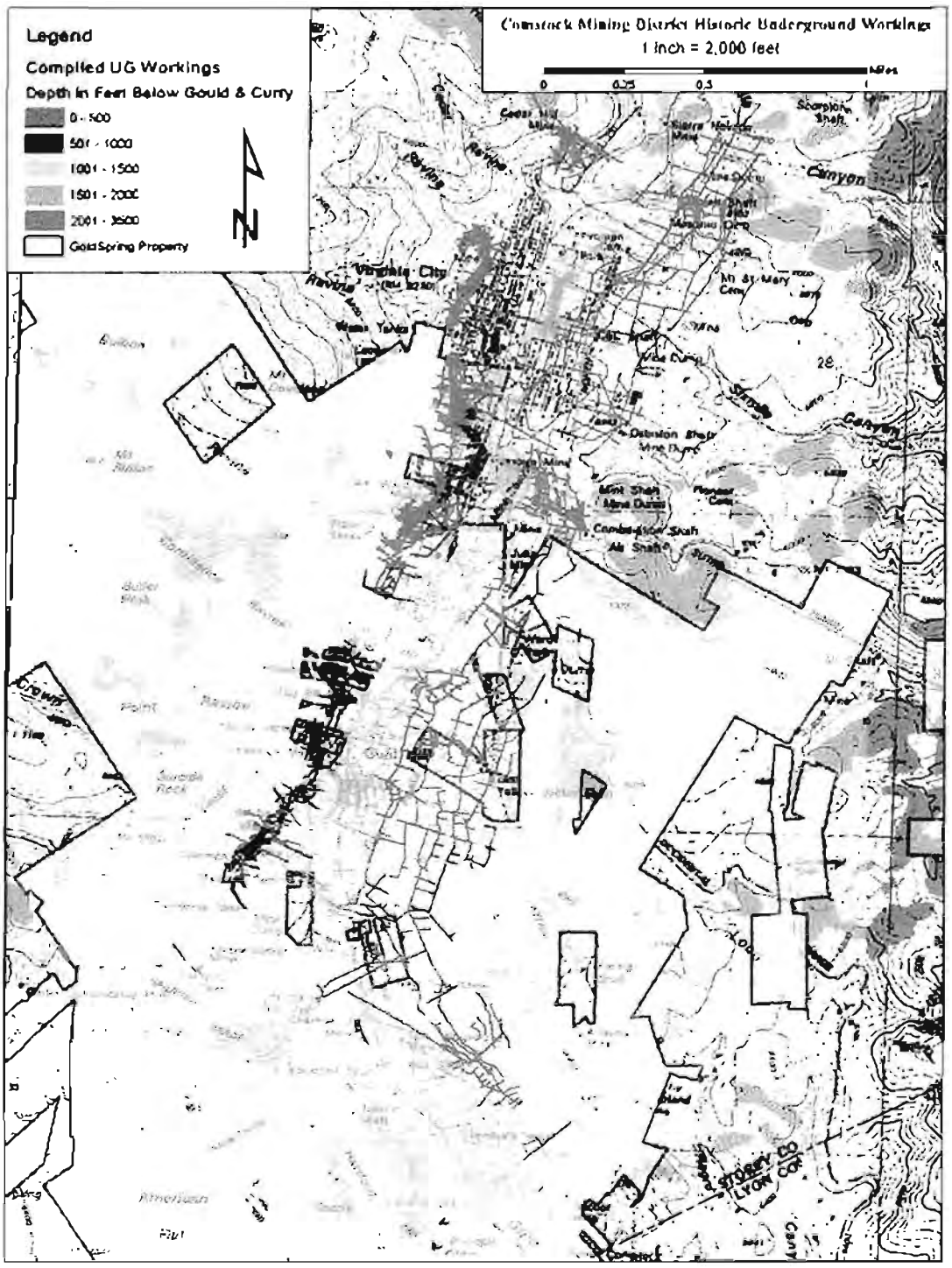

Figure 8.1. Comstock historic underground workings

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9.0 GEOLOGICAL SETTING

9.1 GEOLOGIC SETTING

Due to its bonanza grade and production of gold and silver ores, its historic significance prior to and during the U.S. Civil War, and its close proximity to major population centers, the world-class Comstock District is well represented in the geologic literature. The papers by Hudson (2003), Dr. Cameron (2009), and especially GoldSpring's "Mineral Reserves Declaration Report" (Anderson, 2009) were freely used by Behre Dolbear. Very recent reinterpretations on district-wide structural controls have been advanced by Comstock Mining (Martin, et al, 2010). Additional sources of information are available in the Section 23.0 (References).

The Comstock District is located within the western portion of the Basin and Range Province of Nevada, between Reno and Carson City. The district lies within a northwestern trending belt of Miocene andesitic rocks that have been block faulted, producing up-thrown horsts, and down-thrown grabens. The district exhibits classic hydrothermal alteration that extends well beyond the limits of known mineralization. Placer gold deposits were discovered in 1850, and the lode gold-silver deposits were discovered in 1859. The Comstock District, soon after became world-renowned and hosted bonanza precious metal ore bodies that have been studied by many geologists since 1864. The bulk of the production occurred within the years 1860-1880 and continuously, but at a lesser scale, until about 1950. Production since 1950 has been intermittent. Over 8.2 million ounces of gold and over 192 million ounces of silver were produced prior to 1965 (Bonham, 1969). Moderate amounts of copper and lead have also been recovered from various base metal rich deposits.

9.1.1 Regional Geology

Mesozoic metasedimentary and igneous rocks are overlain by Oligocene to Miocene ash-flow tuffs. A thick sequence of middle Miocene andesitic volcanic rocks and intrusions host the bulk of the hydrothermal alteration and ore deposits. Some of the magmatic events are directly associated with hydrothermal activity. Major northwest and northeast striking faults are the principal structural ore controls. Relatively recent geologic papers describe the district as hosting several superimposed hydrothermal systems. Pliocene to Holocene reactivation of faults offset many deposits and the associated hydrothermal alteration zoning. Figure 9.1 depicts the regional geology with the Comstock Mining property position as an overlay.

Comstock Mining, on the basis of detailed geologic mapping, digitized historic underground workings, locations of andesite dikes, stream patterns, topography, and aerial and satellite imagery, has recently proposed additional structural ore controls dominated by arcuate features and volcanic domes. Behre Dolbear, after discussing these new concepts with Comstock Mining personnel and visiting geologic exposures in the field, agrees that arcuate structures, intrusive rocks, and volcanic domes may well be very important ore-controlling structures in the district.

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Figure 9.1. 30 × 60 minute geologic map (NBMG 2009) and CMP property

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9.1.2 Regional Stratigraphy

The oldest rocks exposed in the Comstock District are siltstone and sandstone with minor interbedded limestone of the Lower Jurassic Gardnerville Formation (Hudson, 2003). These rocks are intruded by a fine-grained pyroxene gabbro that crops out intermittently over an area of 12 square miles. These older rocks are intruded by Cretaceous diorite, granodiorite, and granite stocks and dikes. In the southern part of the district, erosion created valleys and canyons filled with Oligocene to early Miocene felsic ash-flow tuffs. Bonham (1969) described this formation as the +1,000-feet-thick Hartford Hill Rhyolite, consisting of a few feet of basal conglomerate overlain by mostly welded ash-flow tuff and minor ash-fall tuff. More recently, the Hartford Hill Rhyolite has been renamed as the Santiago Canyon Tuff. According to Bonham, K-Ar dates indicate an age of about 23 million years, while Bingler (1979) suggests 20.5 to 21.8 million years. The source area (Bingler, 1979) is about 6 to 12 miles to the south.

Unconformably overlying the Santiago Canyon Tuff is a thick sequence of probably locally erupted andesite of the early Miocene Alta Formation, the major host rock in the district. The lower portion consists of nearly 1,000 feet of interbedded hornblende-augite, augite, and hornblende andesite flows, flow breccias, mudflow breccias, and minor volcanoclastic sedimentary rocks. Castor (2002) dated the lower Alta Formation from 17.58 to 18.2 million years. The upper portion of the Alta Formation, dated by Castor as 15.13 to 15.68 million years, consists of over 2,200 feet of hornblende and hornblende-pyroxene andesite flows and rare andesitic breccias. Between the upper and lower Alta Formation is the Sutro Member, consisting of 0 to 30 feet of lacustrine siltstone, sandstone, and conglomerate.

Intrusive into the older units is the Davidson Diorite, which consists of various phases of medium-grained, equigranular quartz diorite to andesite porphyry as stocks, dikes, and plugs. Similar intrusives occur to the west and east over an area about 7 miles long and 3 miles wide in a roughly east-west direction. Bonham describes a slightly older unit, the American Ravine Andesite Porphyry, but it is likely that this is part of the Davidson intrusive complex. The Davidson Diorite has yielded a wide range of K-Ar and fission-track ages that overlap the K-Ar age of the Alta Formation.

Unconformably overlying the Alta Formation is the Kate Peak Formation, informally divided into a hydrothermally altered lower member and an essentially unaltered upper member of similar composition and texture (Hudson, 2003). The formation consists of hornblende andesite to dacite porphyry flows and intrusives, commonly with phenocrysts of augite and/or biotite, and rarely traces of quartz. The lower member dikes and plugs crop out over much of the district but appear to be concentrated near the productive part of the Comstock Lode. The early intrusive phases, primarily plugs of the lower member, appear to lack strong structural control, but many of the dikes parallel or intrude the Comstock, Silver City, and Occidental Lodes, suggesting concurrent faulting and intrusion initiated later during Kate Peak Formation magmatism. Following extensive alteration related to the emplacement of the lower member, the area was eroded, with an unknown thickness of rock removed, and the upper member was emplaced on what appears to be a surface of relatively low relief (Hudson, 2003). More than 1,500 feet of flows and lahars of the upper member are preserved in fault blocks in the eastern portion of the district, but in most of the district, only a few erosional remnants remain.

The next youngest Cenozoic unit is the Knickerbocker Andesite. It occurs in the south end of the district as intrusive masses and flows and as dikes in the Kate Peak Formation. Remnants of a flow of McClellan Peak Olivine Basalt of Pleistocene age occur in the American Flat area in the southern portion of the district. Locally, Pleistocene and Recent alluvium cover older rocks.

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9.1.3 Regional Structure

Rocks in the Comstock District are cut by numerous Late Cenozoic normal faults before, during, and after mineralization. The major pre-mineralization and syn-mineralization faults are the east-dipping Comstock, Silver City, and Occidental fault zones. Numerous other faults localize minor alteration and small ore bodies. Recent drilling at Comstock Mine Projects suggests that northeast striking, southeast dipping faults play a more important role in localizing higher-grade mineralization than was previously believed.

The Comstock fault zone is the major and economically the most important structure in the district. It is traceable for more than 7 miles. Conventional interpretations state that the northern portion strikes N15°E, changing to N65°E at the north edge of American Flat, and then turns abruptly south striking N5°W. For most of its strike length, the fault zone is bounded by nearly parallel faults, and most of the Comstock Lode is confined between these parallel faults, known to miners as the "west wall" and "east wall." Below the depth of 125 feet, the fault zone dip is 40° to the east and gradually flattens to 35° to the east. The horizontal distance between the two "walls" at the surface is commonly more than 450 feet, but at depth, the true width between the two "walls" ranges from 0 to about 150 feet.

The Silver City fault zone is the major northwesterly striking structure in the district. From its intersection with the Comstock fault zone, near the Overman Mine, it strikes about N50°W for nearly 1.5 miles before curving to a more northerly strike. Historic mapping (Gianella, 1936) indicates that the Silver City fault zone, similar to the Comstock fault zone, is bounded by two parallel faults that dip as much as 65° northeast near the surface and flatten to about 40° northeast at depth. More detailed mapping by Comstock Mining geologists and others shows a more complicated structural pattern with four parallel faults.

The Occidental Lode (Brunswick Lode) roughly parallels the Comstock fault zone, having a general strike of N15°E and a dip of about 40° to the east. For most of its strike length, it consists of a single fault, but it splays into several branches at its southern end. Behre Dolbear believes these splays are an important structural component controlling mineralization in the Comstock Mine Project.

In a technical presentation at the 2010 Geological Society of Nevada Symposium, Comstock Mining personnel (Martin, et al., 2010) presented an alternative interpretation on the regional structural geology. Based upon digitized historic underground mine maps focused on levels and stopes, prominent topographic features, stream patterns, andesite dikes, and aerial and satellite images, Comstock Mining presented a case that district-wide mineralization is controlled in large part by arcuate structures and related volcanic (intrusive) domes. Such a theory has received little attention in the past. An exception, however, is Rea Gold's geologic staff, who recognized the importance of arcuate features during their evaluation of the Occidental (Brunswick) Lode (Rea Gold, 1983).

Comstock Mining (Martin, et al., 2010), from historic mining reports and reconciliation of digitized historic underground workings in the Comstock and Silver City lodes, recognized three main types of structurally controlled ore shoots: (1) dense development of stopes positioned parallel or along apparent arcuate/ring structures, (2) development of underground workings following the rake of mineralized structural intersections, and (3) concentrations of underground development along structural intersections among arcuate structures, lineaments, and normal faults. They also noted that similar to the general parallelism of the "east wall" and "west wall" controlling ore zones in the Comstock Lode, at least three of the four parallel fault members of the Silver City Fault zone also control mineralization. Furthermore, a single arcuate feature connects the Comstock and Silver City fault zones. Thus, rather than the

conventional conclusion that the Comstock Fault changes strike in the vicinity of American Flat to N45°E and then N5°W, they believe it follows the arcuate pattern and merges with the Silver City fault zone. The previously proposed southerly projections of the Comstock Fault into the American Flat area are reinterpreted as additional arcuate features. With this interpretation, at least part of the Silver City fault zone is earlier than or contemporaneous, with the arcuate feature, since the northwest striking Silver City fault zone continues northwestward as the Silver City Lineament. Figure 9.2 is a satellite image of the Comstock Mining District. Numerous other circular features, most sub-parallel to the principal arcuate feature hosting the Comstock and Silver City lodes, are depicted in Figure 9.3. Another interesting consequence of this interpretation is the location of the small Flowery Mining District, which is located (but not labeled) as the small circular feature that also lies on the edge of the large arcuate feature on the northeast corner of Figure 9.3.

Detailed geologic mapping has recognized that some of the small circular features shown in Figure 9.3 are intrusive monzonitic or rhyolitic plugs rather than rhyolitic flows. At least one of these intrusives plugs hosts disseminated molybdenite. As mapping and reinterpretations of the local geology continues, the importance of intrusive rhyolite and quartz porphyry dikes increases. Detailed mapping in the Lucerne pit clearly demonstrates that some of the extrusive Santiago Canyon tuff sequence is actually an intrusive rhyolite. Similarly, on the Dayton property, much of the mineralized Santiago Canyon tuff is now reinterpreted to be an intrusive rhyolite and quartz porphyry.

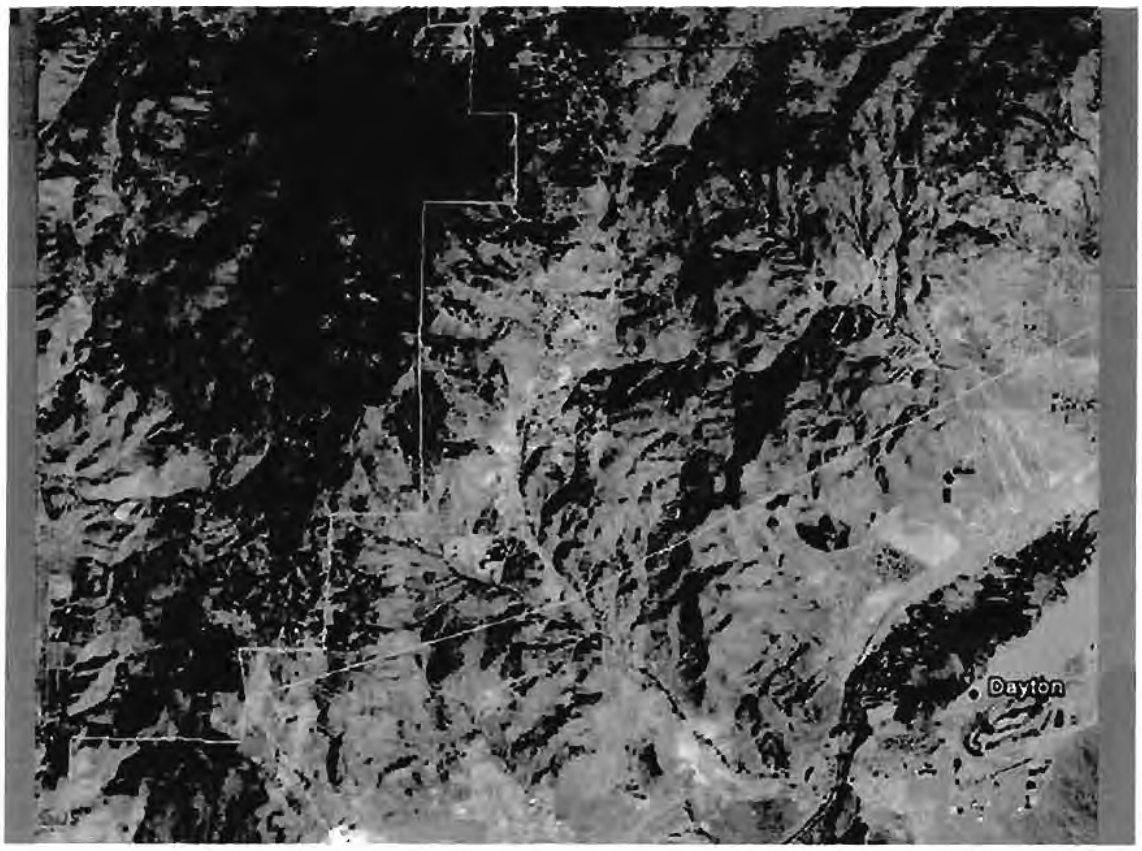

Figure 9.2. Satellite image of the Comstock Mining District (Google Earth)

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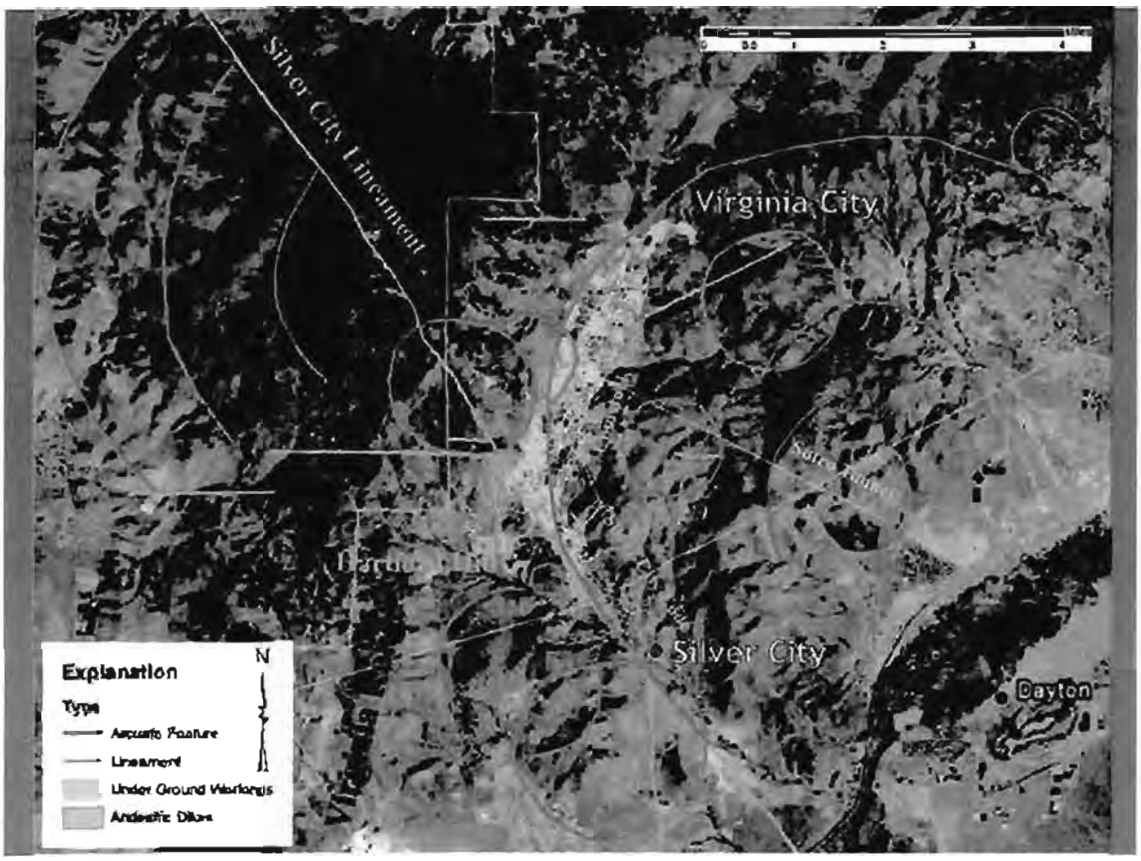

Figure 9.3. Arcuate, Circular, and Linear Features in the Comstock Mining District (Martin, 2010)

9.1.4 Regional Alteration

Studies of the complicated geology, mineralogy, and alteration in the Comstock District date back to the mid 1860s. The term "propylite" was first applied to rocks in the district, which Becker (1892) realized were altered andesite. Much more recently, Hudson (2003) recognized 12 spatially overlapping Miocene hydrothermal alteration assemblages or sub-assemblages, in the Comstock District. He assigned most of the assemblages to deep low-sulfidation or intermediate-moderate depth high-sulfidation alteration, using the classification scheme of Hedenquist, et al. (2000).

Hudson defined the various alteration suites by the presence of essential minerals, common minerals, and uncommon minerals. He characterized the high-sulfidation alteration suite as containing essential minerals of alunite, quartz, pyrophyllite, diaspore, kaolinite, dickite, and cristobalite; common minerals as pyrite and alunite; and hematite as an uncommon mineral. A combined high- and low-sulfidation assemblage includes the essential minerals illite, quartz, and muscovite; common minerals as pyrite and anhydrite; and smectite as an uncommon mineral. The low-sulfidation alteration is divided into three separate propylitic suites and a potassic suite. The essential propylitic minerals include chlorite, epidote, albite, calcite, and quartz; common minerals such as quartz, calcite, zeolites, smectite, K feldspar, illite, and pyrite; and uncommon actinolite and muscovite. The potassic suite is characterized by essential amounts of biotite and commonly contains quartz, pyrite, and pyrrhotite, with uncommon amounts of

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chalcopyrite. An in-depth study of the hydrothermal alteration suites is beyond the scope of this report. However, Hudson produced an interesting schematic longitudinal vertical projection along the plane of the Comstock Lode during mineralization reconstructing the positions of ore bodies, vein mineralogy, and general distribution of alteration assemblages (Figure 9.4). The deepest zone hosts quartz stockwork veins and massive quartz. This is followed upward by a zone of quartz-adularia stockwork veins and massive quartz. All the ore bodies are developed within the quartz-adularia stockwork-massive quartz zone, with the basal portions of ore bodies marked by massive calcite. The next shallower zone contains illite alteration ± anhydrite and in part is superimposed along the top of the quartz-adularia stockwork and massive quartz zone. A sericitic alteration suite is aerially limited between illite and quartz-adularia zones. He omitted near-surface alteration due to a lack of data.

The Comstock Mine Project deposits are hosted in the low-sulfidation potassic zone. Stockwork "ores" contain quartz-adularia ± sulfides and ± calcite. A key indicator of strong mineralization is the presence of manganese oxide minerals. Comstock Mining has recognized the same mineralogic suites and relationships with mineralization as Hudson, with the exception that massive calcite veins occur well above the base of mineralization. Behre Dolbear collected massive calcite from spoil piles in the Lucerne pit and from open pit exposures of the Dayton lode. Mineralization continues well below the pit bottom in both areas.

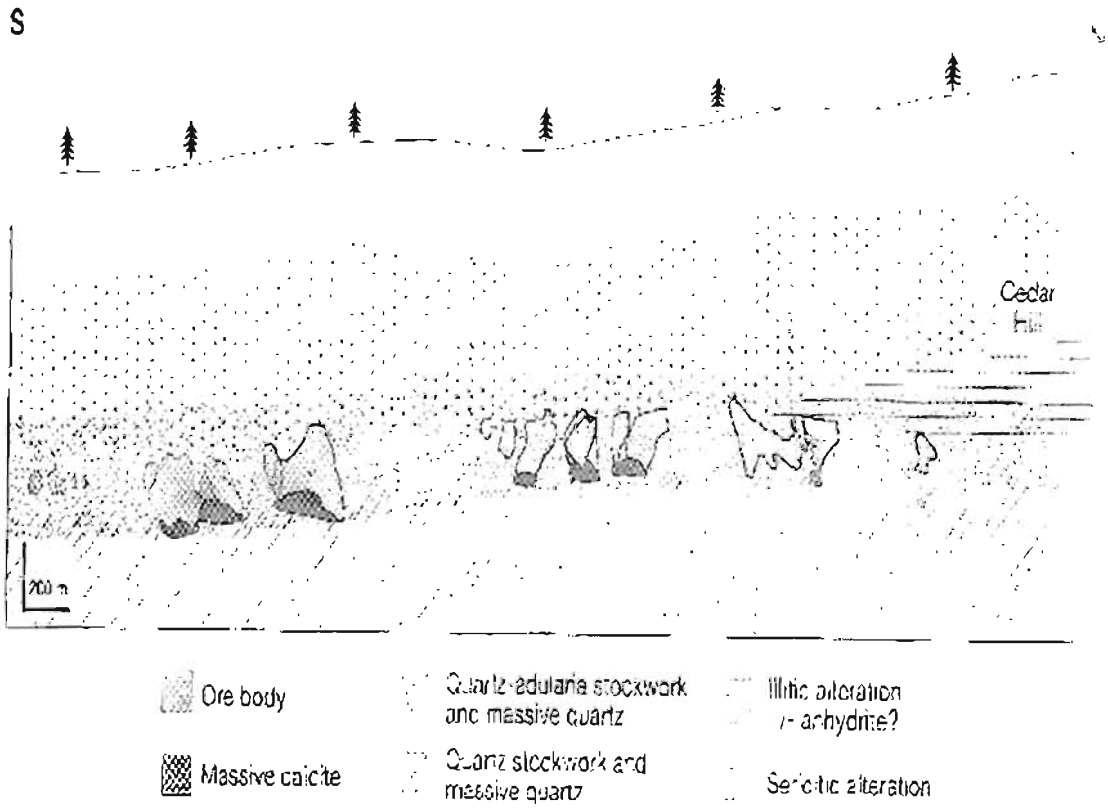

Figure 9.4. Schematic longitudinal vertical projection along the plane of the Comstock Lode prior to post-mineral displacement (Hudson, 2003)

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9.1.5 District Mineralization

The main ore zones in the Comstock District relate to the three main structural (fault) controls: the Comstock, Occidental, and Silver City fault zones. Mineral deposition occurred multiple times, with hydrothermal events superimposed on one another. K-Ar ages of alunite, adularia, and muscovite range from 12.7 to 16.3 Ma.

Gangue mineralogy and ore mineralogy are similar throughout the district, but mineral concentrations vary by individual lodes. The lodes are a combination of small, lenticular intermittent ore shoots contained within a much larger mass of lower-grade veins, breccias, and stockwork vein zones, complexly rearranged by post-mineralization faulting. With the recent increase in precious metal prices, some of the large masses of lower-grade mineralization may be economic.

Gangue mineralogy typically is quartz ± adularia, pyrite, calcite, and manganese oxides. District wide, the ore minerals consist of a base metal-precious metal suite, with some minerals found in each lode and others not known or recognized at all. The most common include sphalerite, chalcopyrite, galena, pyrite, acanthite, gold, and electrum. Minor minerals include stephanite, aguilarite, jalpaite, miargyrite, pearcite, polybasite, proustite, pyrargyrite, pyromorphite, sternbergite, stromeyerite, tetrahedrite, and uytenbogaardite (Terrill, 1914; Bastin, 1923; Coats, 1936; Barton, et al., 1978; Vikre, 1989). Native silver, covellite, chalcocite, and chlorargyrite were found in oxidized and partly oxidized zones (Bastin, 1923).

Figure 9.5 identifies many of the historic mines and shafts with an overlay of the Comstock Mining property position. Note that the Brunswick Lode on the upper right is equivalent to the Occidental Lode.

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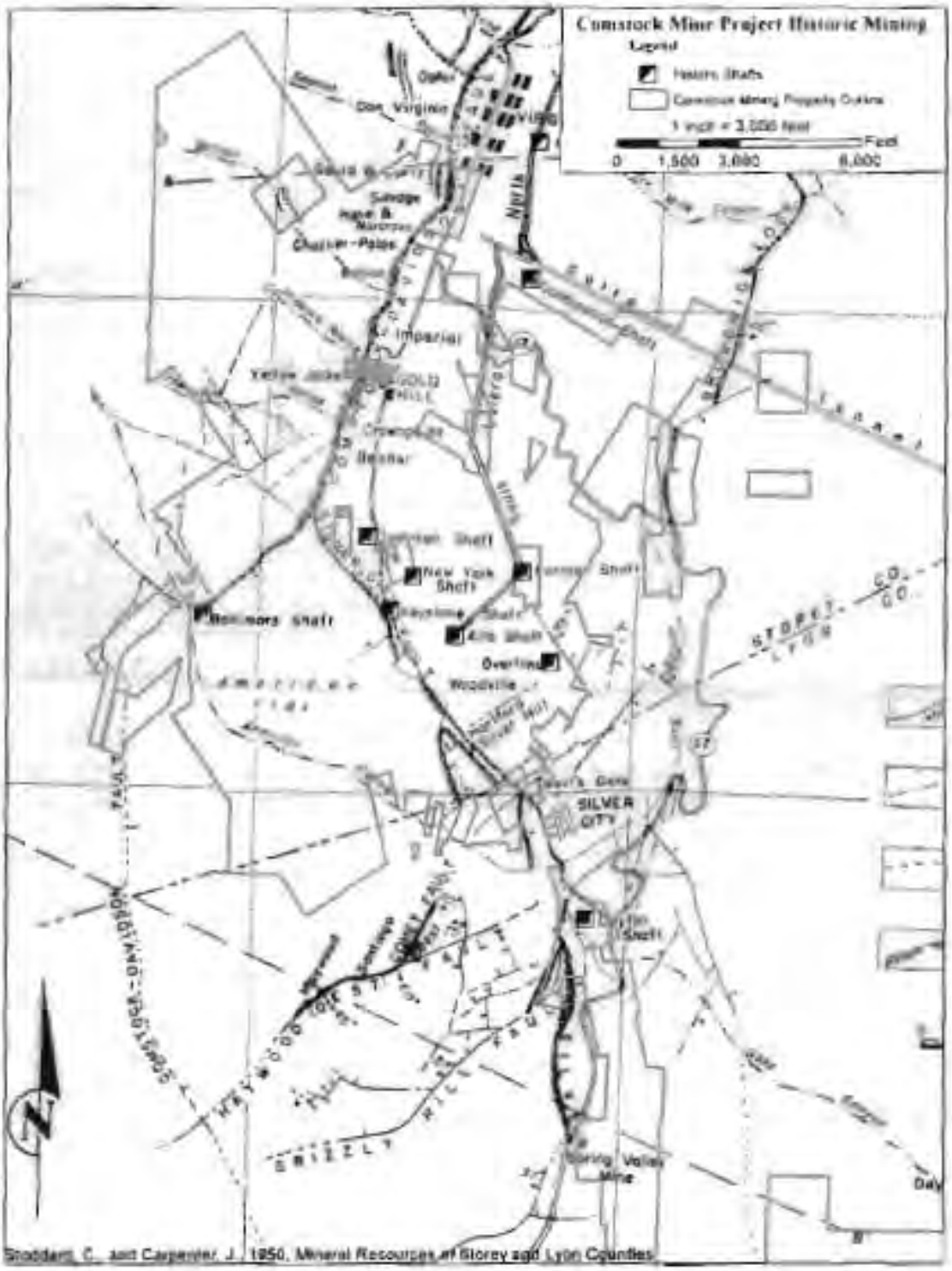

Figure 9.5. Comstock Mining District historic mining areas

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9.2 PROPERTY GEOLOGICAL SETTING

9.2.1 Lucerne Resource Area

Much of the detailed descriptions of the property geology are based upon the Mineral Reserves Declaration Report (Anderson, 2009). Behre Dolbear has not attempted to reconstruct the geologic scenario. Nonetheless, based upon historic third-party data and a review of the geologic model cross sections, the Comstock Mining interpretations appear valid. It is obvious that significant effort was spent in a successful attempt to unravel the complex three-dimensional structural fabric.

The Comstock Mine Project is located in the southern portion of the Comstock District, where mineralization is hosted by the northwest striking, northeast dipping Silver City fault zone and its cross-cutting intersections with northeast and east-west striking faults. Where mineralization outcropped along the Silver City fault zone, several shallow open pits were developed, such as the Lucerne, Billie the Kid, Justice Cut, Keystone, and Overman pits.

New mapping and structural interpretations by the Comstock Mining staff have appreciably added to the understanding of the multiple sub-parallel, moderate- to low-angle brecciated fault zones that are collectively part of the historic Silver City fault zone. The newly recognized sub-parallel individual faults from east to west are the Gold Canyon fault, the Silver City fault, the Billie the Kid fault, and the Drysdale fault. The spacing between these northwesterly striking faults is about 150 feet, while thicknesses of mineralization along individual faults range from 40 to 120 feet. Figure 9.6 shows the location of the four parallel faults comprising the Silver City fault zone in a view looking south towards the Billie the Kid pit. Figure 9.7 is a photo looking south that shows the exposure of the Silver City fault at the southern end of the Lucerne pit.

Importantly, the precious metal mineralized zones are enhanced in volume and grade by cross-cutting east-west and northeast striking structures. As noted in older publications, the Occidental fault zone splays into several individual quartz-calcite structures to the south as shown in blue in the southeast portion of Figure 9.8 (Hudson, 2003). The northwesterly of these splays is the Woodville vein. Behre Dolbear speculates that the southerly extensions of some of these structures are the northeast striking faults that intersect the Silver City fault zone in the vicinity of the Lucerne and Billie the Kid bulk tonnage deposits. The importance of these intersections cannot be overstated for they created the zones of weakness that allowed for hydrothermal fluid flow, stockwork veins, and the potential for bulk tonnage mineralization. Continuity of mineralization within the low-grade envelope is good, as is continuity of narrow higher-grade zones.

Drilling in 2010 on the east side of State Route 342 has intersected very significant mineralization along these northeast striking faults.

Additionally, it has been recently recognized that precious metal mineralization within the Billie the Kid and Lucerne deposits is also spatially related to an east dipping quartz porphyry intrusive dike, which parallels or occupies moderate- to low-angle structures within the Silver City fault zone. The dike intruded along a single structure and then by post dike faulting or post fault intrusion crossed into the next low-angle structure up-gradient. Figure 9.9 depicts the project geology with the most recent stratigraphic column.

Figure 9.6. Location of the four parallel faults defining the Silver City fault zone

Figure 9.7. Exposure of the eastward dipping Silver City fault

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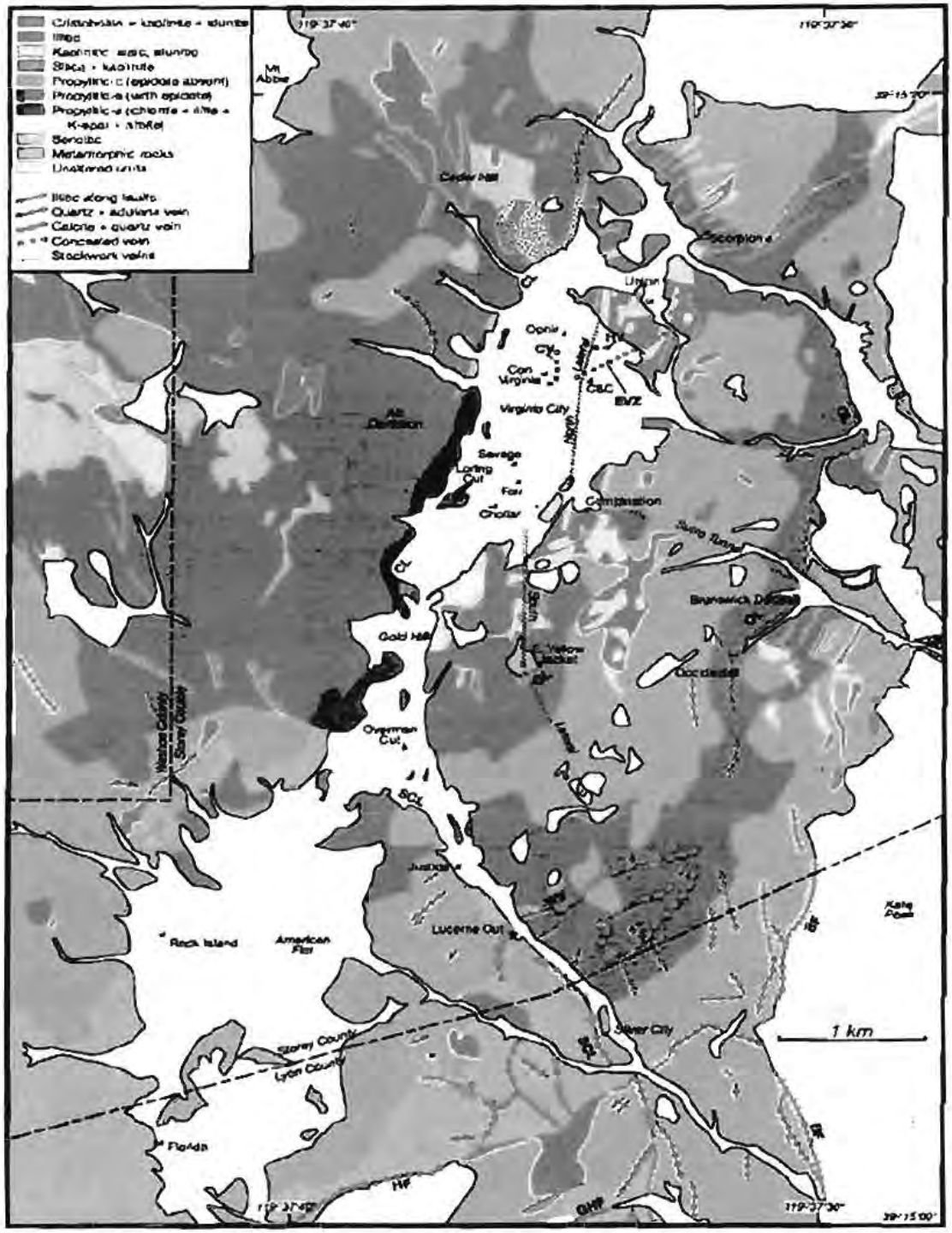

Figure 9.8. **Map of the Comstock District showing veins and general distribution of alteration assemblages (Hudson, 2003)**
Note: OL is Occidental Lode. Splays are shown in blue.

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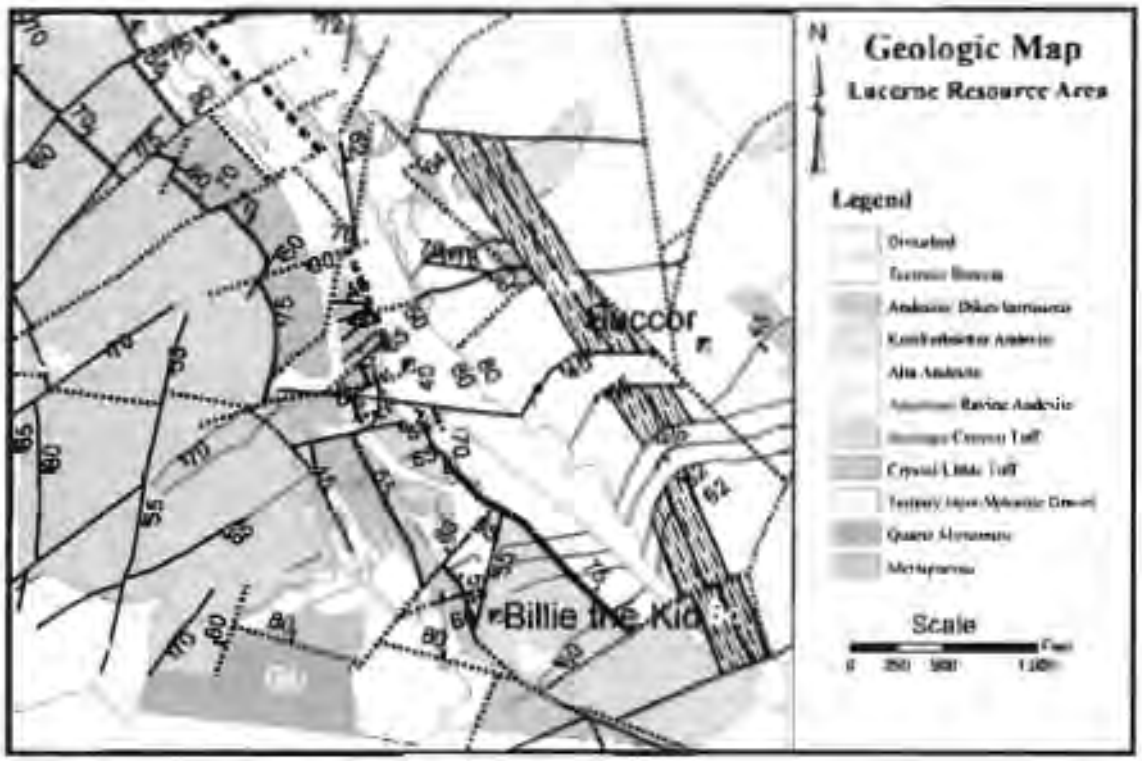

Figure 9.9. Local geologic map with stratigraphic column

9.2.2 Dayton Resource Area

The same package of rock units that host mineralization further north in the Lucerne and Billie the Kid resource areas, also host substantial gold mineralization on the Dayton, Alhambra, and Kossuth mine properties adjacent to and south of Silver City. Excellent exposure of mineralized rhyolite is present in the Dayton adit. These properties were drilled by Minerals Engineering Company (MECO) in 1974-1975; Houston Oil and Minerals in 1978-1979; and Rea Gold in 1994. Comstock Mining has recently acquired these patented mineral properties.

The hanging wall of the Dayton deposit is Alta andesite. Locally, it is cut by quartz veins hosting gold mineralization. The footwall is Mesozoic metavolcanic rocks that appear to be relatively barren. Behre Dolbear speculates that the hanging and footwall contacts are likely the Silver City and Billie the Kid members of the Silver City fault zone, respectively. Historically, the Dayton deposit was considered hosted totally in Santiago Canyon tuff; however, a more recent interpretation by Comstock Mining staff suggests that the tuff is actually intrusive rhyolite and quartz porphyry. Behre Dolbear would suggest that dikes of rhyolite and quartz porphyry likely intrude into the Santiago Canyon tuff so that all three rock types are probably present. As elsewhere on the property, the intersection of northeast striking and northwest striking faults is the location of enhanced mineralization.

After additional confirmatory and in-fill drilling is completed at the Dayton-Alhambra-Kossuth deposits, it should be expected that this resource characterization will be up-graded. Nonetheless, review of the recent geologic model cross sections utilizing all the existing drilling clearly demonstrates continuity of mineralization within the low-grade envelope. Internally, continuity of mineralization in higher-grade

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zones is also good, as shown in Figure 9.10, which depicts the results of MECO's drilling along section C-C'. In Figure 9.10, vertical drill holes are conventional rotary drill holes and angle holes are core holes.

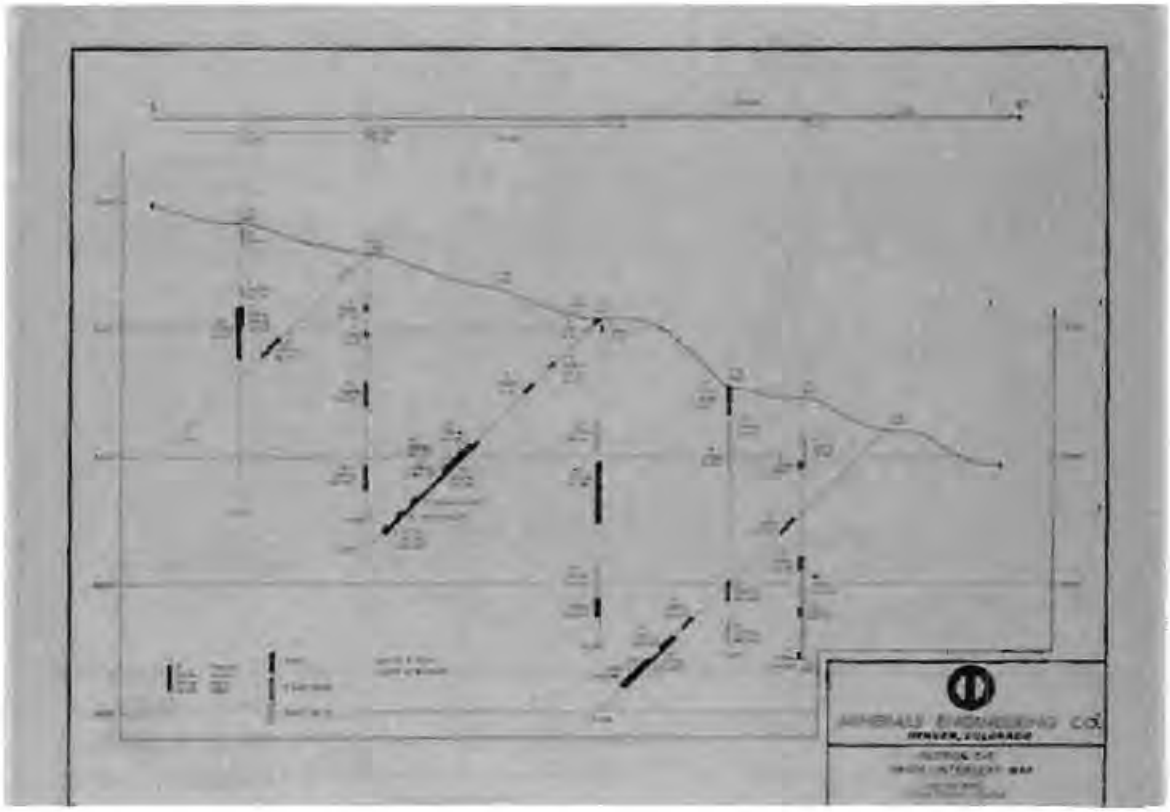

Figure 9.10. MECO drill cross section C-C' highlighting higher-grade gold mineralization

Behre Dolbear inspected the Dayton adit, which was excavated in the 1960s by Consolidated Eldorado. The adit starts in hanging wall Alta andesite and passes into Santiago Canyon tuff (and intrusive rhyolite and quartz porphyry). As the contact is approached, there is an obvious increase in quartz veining. The mineralized zone contains much quartz veining, quartz-calcite stockworks and crusts and fracture fillings with manganese oxides. The highest grades are associated with the manganese oxides. Behre Dolbear did not undertake any sampling, but past sampling within the tunnel returned very similar results. The car load samples, taken by Consolidated Eldorado, showed 261 feet, having an average grade of 0.068 oz Au/t. Nevex, in 1986, sampled the westernmost 205 feet on the north face and returned an average grade of 0.054 oz Au/t. MECO sampled the westernmost 226 feet on the south face and returned an average grade of 0.064 oz Au/t. Figure 9.11 shows a portion of the surface exposure of the Dayton lode exposure. Figure 9.12 shows a close-up of cockscomb quartz and breccia features from the Dayton lode.

Figure 9.11. Dayton lode exposure showing cockscomb quartz and breccia

Figure 9.12. Close-up of cockscomb and vuggy quartz and breccia textures from the Dayton lode

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10.0 DEPOSIT TYPES

10.1 DEPOSIT TYPE

The deposit is similar to other Miocene-aged, volcanic-related, precious metal bonanza and bulk tonnage epithermal systems. Pre-mineral volcanism included ash-fall, ash-flow, and intrusive activity followed by several periods of andesitic magmatic events. Three major structural features, the Comstock, Occidental, and Silver City fault zones, offset the volcanic and minor volcanoclastic units and were critical to ground preparation for later mineralizing events. Pre-mineralized barren quartz, alunite, pyrophyllite, and clay alteration (high-sulfidation style) is zoned outward from mostly discontinuous, crudely radial fractures associated with andesitic intrusions. Blanket-like cristobalite, alunite, and kaolinite alteration exposed at the periphery of the district may be linked to pre-ore alteration near the paleo water table. Later, large tonnages of low-grade, precious metal-bearing massive quartz, quartz-adularia, and quartz-calcite were deposited in major fault zones that also localized the younger bonanza-grade deposits. Quartz-chlorite-illite-localized muscovite (sericite) alteration (deep low-sulfidation style) developed coeval with vein deposition. Propylitic alteration, evidenced by much chlorite and epidote, formed haloes around the higher-temperature portion of veins. Adularia and bladed calcite indicate boiling events during the deep low-sulfidation activity. The main stage of gold-silver-copper-zinc-lead bonanza ores was deposited late in the low-sulfidation event in dilatant zones in the major fault zones. Widespread lower-grade mineralization was developed at intersections with cross-cutting structures and in large envelopes surrounding the higher-grade veins. Precious metal-bearing massive calcite and quartz-calcite veins and stockwork veins developed in the lower portions of many deposits. Finally, Pliocene to Holocene reactivation of faults displaced and offset many deposits, redistributing both economic mineralization and hydrothermal alteration zones.

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11.0 MINERALIZATION

Mineralization within the Comstock Mine Project drill area (Figure 11.1).is gold-enriched, with silver to gold ratios of approximately 10:1. This compares to ratios of silver to gold of 100:1 over the Comstock bonanza ore bodies. Drilling has outlined gold and silver mineralization over a NW-SE strike distance in excess of 1 mile, with in-fill drilling on 50- to 70-foot centers over 0.6 mile of that distance. The bulk of the exploration drilling is in the Billie the Kid and Lucerne pit areas, a distance of about 0.6 mile. Precious metal mineralization is controlled by northwesterly striking, northeastward dipping faults and is enhanced at the intersections with northeast and east-west striking faults. The spacing between the northwesterly striking faults is about 150 feet, while thicknesses of mineralization along individual faults range from 40 to 120 feet in the Lucerne Resource Area and up to 200 feet in the Dayton Resource Area. Importantly, the precious metal mineralized zones are enhanced in volume and grade by cross-cutting east-west and northeast striking structures.

Gold and silver mineralization in the project area typically occurs within late-stage manganiferous calcite-quartz and drusy quartz filling faults, fractures, breccia zone, and stockwork veinlets. Drilling results from 2007-2008 show that precious metal mineralization is strongly related to cockscomb and vuggy quartz veining, with or without limonite, and locally can have a high percentage of disseminated goethite after pyrite. Coarse, bladed calcite may or may not occur in quartz-mineralized zones, but drusy quartz and micro calcite veining occurring together has been a visual indicator of elevated gold-silver grades during geologic logging of the drill holes. Figure 11.2 shows typical quartz stockwork, vuggy quartz, and breccia/vein textures. Calcite-dominated vein fillings with sulfides and associated elevated precious metal grades have been identified in the deeper drill intercepts. The majority of the mineralization in the resource area is hosted within the Alta Formation and quartz porphyry. Deeper drilling has identified structurally controlled mineralization hosted within the older volcanic rocks, possibly the Santiago Canyon tuff, which also hosts near surface gold mineralization in the Dayton area.

It is obvious from a cursory study of the level block model plan sections that contiguous mineralized blocks (both higher- and lower-grade zones) strike both northwesterly and northeasterly, paralleling the principal pre-existing fault zones. In addition, in some cases, zones of similar-grade material terminate along northeast striking features, undoubtedly representing younger movement on northeast striking fault zones. Overall continuity of mineralization is stronger in the northwesterly direction, as would be expected since the primary structural control is the northwesterly striking Silver City fault zone.

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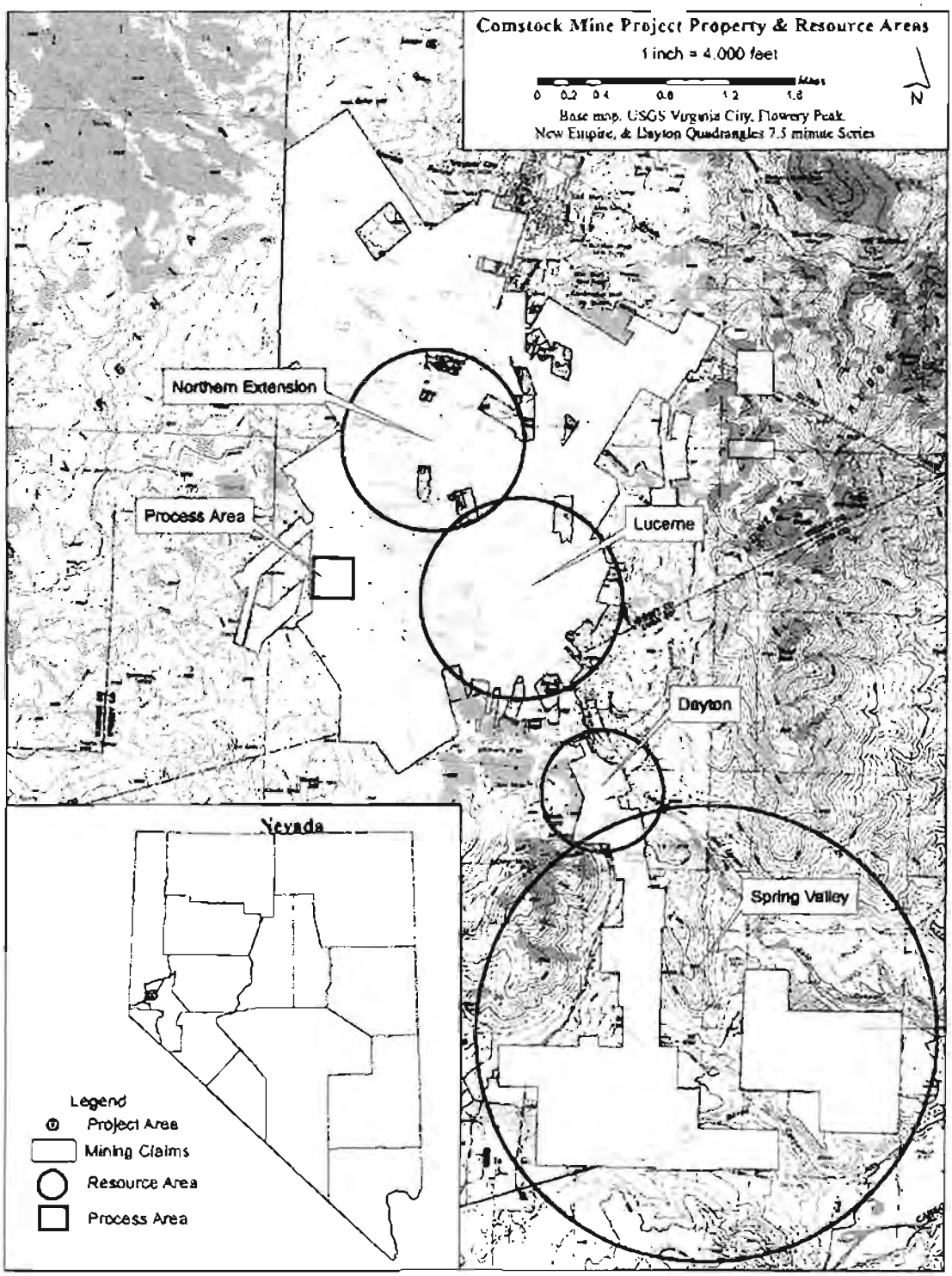

Figure 11.1. Location of Comstock Mine Project Resource Areas

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Figure 11.2. Typical quartz stockwork, vuggy quartz, and vein/breccia textures

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12.0 EXPLORATION

Within the Lucerne Resource Area, a closely spaced drilling campaign on 50- to 75-foot centers was designed and implemented to expand and define the deposit at the Lucerne and Billie the Kid pits. Limited drilling northeasterly of the Lucerne open pit beyond the Woodville shaft and northwesterly toward the Justice shaft indicates that similar volcanic stratigraphy and mineralized structural trends continue. South of the Lucerne open pit and west of the Billie the Kid open pit, geologic mapping and limited drilling have identified similar mineralization continuing to the south. Detailed reviews of historic mine reports continue to identify new target areas based on prospective veins, structures, and geology in old underground workings. Comstock Mining has also conducted surface geochemical surveys (rock chip and shallow auger sampling), geologic mapping, and limited exploration drilling that have identified multiple favorable targets.

12.1 2010 EXPLORATION PROGRAM

Comstock Mining during the spring of 2010 completed 51 reverse circulation drill holes for a total footage of 29,913 feet. The drill hole locations were selected to test areas along mineralized trends with limited subsurface geologic information and targeted specific areas of structural complexity. Two of the higher priority areas that were targeted during the 2010 spring drilling program were the East Side and the Lucerne-Woodville.

The Lucerne-Woodville drilling explored the strike extent of the Silver City fault zone between the Lucerne pit and the Woodville shaft. Nineteen reverse circulation drill holes were completed for a total of 12,369 feet. Twelve of the nineteen drill holes intercepted significant precious metal mineralization. Table 12.1 summarizes the results of ten holes, which demonstrate the length and grade of mineralization that has been encountered in the favorable host rocks and areas of structural complexity. Drill hole P10-05 intercepted four specific zones that reflect the current structural model of multiple sub-parallel faults collectively delineating the Silver City fault zone.

The south end of the historic Lucerne pit has multiple cross-cutting, northeasterly striking structures. The projection of these structures intersecting the Gold Canyon Fault (the most easterly fault of the Silver City fault zone) has been designated the East Side target. Seven reverse circulation drill holes were positioned to test the target, and a total of 4,879 feet of drilling was completed. Not only did the drilling at the East Side target return six of the seven drill holes with significant precious metal mineralization, the assay results were "better than expected" at the targeted intersections of northwest striking, northeast dipping and northeast striking, southeast dipping fault zones. This successful drilling campaign has substantially elevated the priority and potential to the northeast of the Lucerne pit at the East target. Table 12.1 summarizes some of the "better than expected" 2010 drill holes at the East Side target.

TABLE 12.1
SUMMARY OF "BETTER THAN EXPECTED" 2010 EAST SIDE TARGET DRILLING

Hole Number	Depth From (ft)	Depth To (ft)	Thickness of Intercept (ft)	Grade in Ounce of Gold per Ton	Grade in Ounce of Silver per Ton
P10-14	75	160	85	0.066	0.859
	320	420	100	0.072	0.362
P10-16	110	195	85	0.216	0.243
P10-26	405	560	155	0.042	0.212
P10-51	170	305	135	0.043	0.601

Each of the holes shown in Table 12.1 and Table 12.2 had additional mineralized intercepts that are not shown. All thicknesses are measured down the length of the drill hole.

TABLE 12.2
HIGHLIGHTS OF 2010 LUCERNE-WOODVILLE RC DRILLING

Hole Number	Depth From (ft)	Depth To (ft)	Thickness of Intercept (ft)	Grade in Ounce of Gold per Ton	Grade in Ounce of Silver per Ton
P10-05	100	245	145	0.052	0.227
	280	320	40	0.034	0.227
	415	460	45	0.026	0.064
	605	635	30	0.076	0.070
P10-06	60	225	165	0.048	0.205
	300	320	20	0.099	0.131
P10-08	60	125	65	0.051	0.459
P10-09	100	460	360	0.028	0.546
P10-10	100	225	125	0.055	0.124
P10-21	25	225	200	0.110	0.575
P10-22	185	255	70	0.069	1.310
P10-23	205	400	195	0.079	0.197
P10-26	405	560	155	0.042	0.212
P10-36	365	420	55	0.161	4.069

12.2 2009 DRILLING PROGRAM – SPRING VALLEY

A small portion of the 2009 exploration drilling campaign was focused to the south of Silver City in the Spring Valley area, where at least three mineralized fault zones are exposed in road cuts (Figure 12.1 and Figure 12.2). The three mineralized fault zones are likely the southern extension of the Gold Canyon, Billie the Kid, and Silver City faults and are immediately south of the block of patented claims that cover the Dayton, Kossuth, and Alhambra mines. Figure 12.3 is a geologic map showing major structures projecting into the alluvial-covered Spring Valley and continuing to the Daney mine far to the south.

Figure 12.4 is a photo looking south towards Spring Valley taken from an outcropping quartz vein between the Kossuth and Alhambra shafts. The initial drill results in the Spring Valley area were very successful. Drill hole SV09-05 was drilled N60°W at -60° and intersected 0.157 oz Au/t from 40-85 feet (45'). Other intercepts in this drill hole include 0.013 oz Au/t from 100-140 feet (40') and 0.017 oz Au/t

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from 350-420 feet (70'). This angle hole was drilled westward near the projected intersection of a northerly-southerly fault zone and a northeast striking fault. Hole SV09-04, drilled north of SV09-05, collared in a gold placer that is interpreted as the weathered surface exposure of the strong mineralization in SV09-05. Although SV09-05 is an excellent exploration hole, questions remain as to the true width and strike length of the intersected mineralized zones.

As seen in Figure 12.5, drill hole SV09-05 (now reclaimed) collared in a topographic flat area where bedrock is covered by a very thin veneer of alluvial material. The hole was drilled from the foreground to the background and terminated prior to the highway in the background.

Preliminary investigations on ground magnetic surveys in the Spring Valley area suggest that mineralized structures may be reflected by magnetic anomalies. Behre Dolbear suggests that additional fill-in magnetic survey lines be completed to confirm the relationship and aid in defining drill targets in covered areas.

Figure 12.1. Road cut exposure of easterly-most mineralized fault zone in northern Spring Valley

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Figure 12.2. Road cut exposure of centrally located mineralized fault zone in northern Spring Valley

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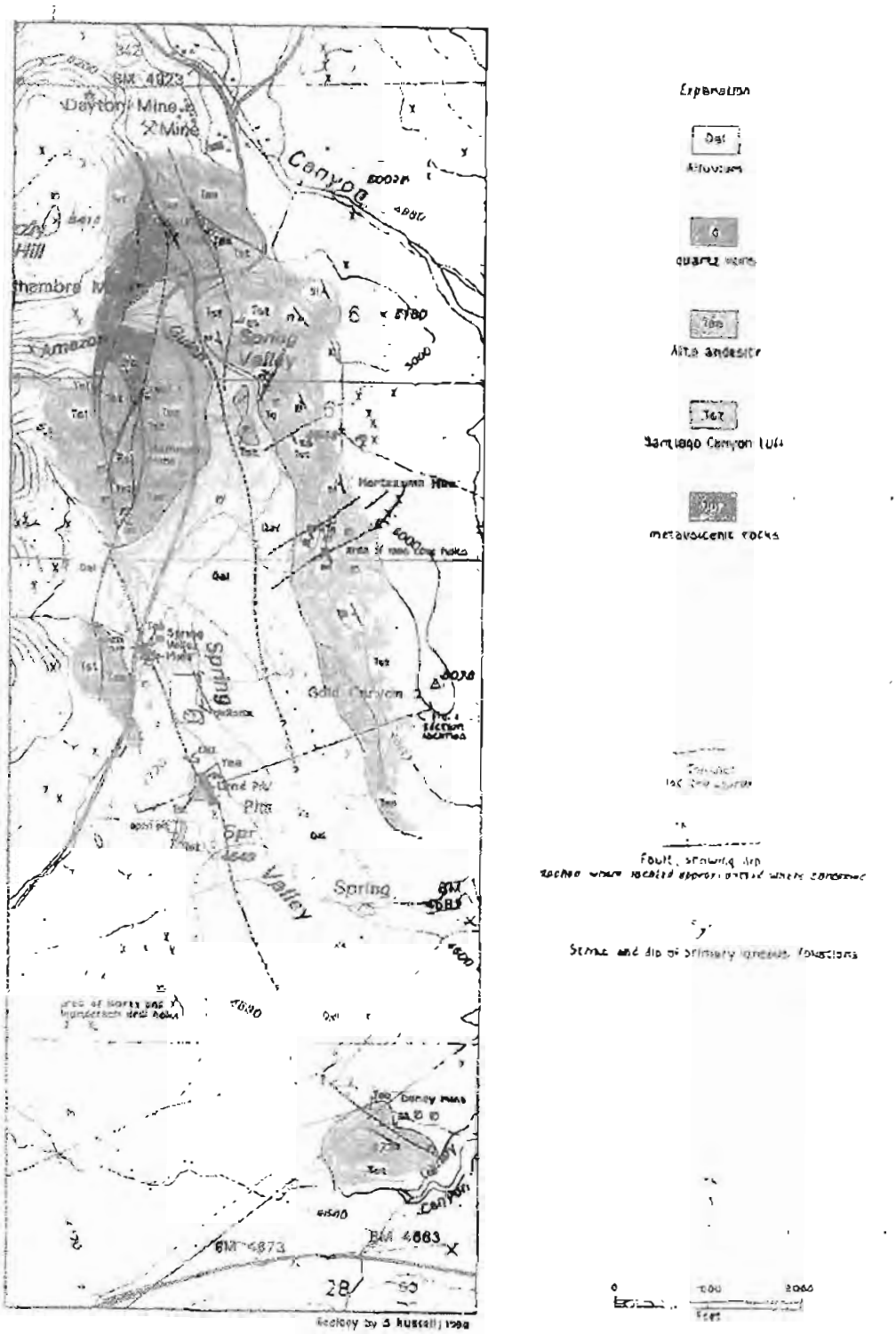

Figure 12.3. Geologic map of the Spring Valley area

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Figure 12.4. Photo looking south towards Spring Valley from quartz vein outcrop between Kossuth and Alhambra shafts

Figure 12.5. Photo of drill site of SV09-05

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12.3 DAYTON RESOURCE AREA

Recently, Comstock Mining acquired additional land including the Dayton Consolidated, Alhambra, and Kossuth patented claims in Lyon County. During the period 1974-1975, MECO drilled 18 angle core holes and 66 conventional rotary holes at Dayton and Alhambra. In 1978-1979, Houston Oil and Gas drilled 141 air track holes, mostly as in-fill holes at Dayton. In 1994, REA Gold Corp drilled 26 RC holes at Kossuth and Alhambra. MECO drilled to a depth of about 300 feet below surface and mineralization remained open-ended. Houston's air track drill could not penetrate beyond about 150 feet, thus many holes terminated in mineralization. Similarly, mineralization at Kossuth and Alhambra remained open-ended. Thus, because of open-ended mineralization at Dayton, Alhambra, and Kossuth, along with the initial favorable results in Spring Valley, Behre Dolbear recognizes that substantial potential for further expansion of resources is highly likely in the Dayton Resource Area, south to Spring Valley and beyond.

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13.0 DRILLING

All pre-2009 information in this section was derived from the "Mineral Reserve Declaration Report" dated June 2009. Behre Dolbear did not observe any of the drilling or sampling campaigns, including the 2010 campaign, and so, cannot independently verify the accuracy of the information. In December 2007, GoldSpring commissioned an exploration drilling program in the Lucerne open pit area. The goal was to test down dip and expand along strike the mineralization from the Lucerne pit, operated by Rea Gold Corporation from 1992-1994. Prior to the December 2007 drilling campaign, records exist for 512 drill holes. GoldSpring drilled 182 holes between December 2007 and February 2009 (Cameron, 2009). During the Spring 2010 drilling campaign, another 8 core and 51 RC holes were drilled.

With the recent acquisition of the Dayton-Alhambra-Kossuth property, a second drilling database was generated. This database contains records for 252 drill holes that were drilled by Houston Oil and Minerals, MECO, and Rea Gold Corporation between 1974 and 1995.

13.1 PRE COMSTOCK MINING DRILLING

Comstock Mining has generated two drilling databases: one for the Lucerne Resource Area and a second for the new Dayton Resource Area. The databases contain both present and past historic drilling on the Comstock Mine Project property.

The current programs in the Lucerne area began in 2007 and have continued into the spring of 2010 and are well documented. Some 512 earlier drill holes have been entered into the Lucerne database, but the data may not be complete for all holes.

No recent drilling has been conducted on the Dayton property. The current drilling is primarily historic, having been completed between 1975 and 1995. Table 13.1 lists all of the different drill hole series currently in the two databases.

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TABLE 13.1
DRILL HOLE SERIES IN THE DATABASE

Drill Hole Series	Number of Holes	Drill Hole Series	Number of Holes
Lucerne Database			
97-x	12	L07-xx	6
BK-xx-0	11	L08-xx	99
D90-x	10	L91-xx	164
DK91-x	6	L92-xx	37
E08-xx	45	L93-xx	16
HL-xx-xx	71	L94-xx	4
HLA-x	71	L98-xx	12
HO-x	4	LHRC-x	2
J03-x	10	O-xx-xx	13
K-xx	29	ORC-xx	28
K08-xx	1	P09-xx	22
K09-xx	3	SV09-xx	6
L-x	12	PC-10-xx	8
		P10-10-xx	51
Subtotal Number of Holes Lucerne Area			**753**
Dayton Database			
D75-xx	84	D94-xx	26
HDA-xx	142		
Subtotal Number of Holes Dayton Area			**252**
Total Number of Holes			**1,005**

13.2 RECENT DRILLING CAMPAIGNS AND PROCEDURES

The current campaigns for the Comstock Mine Project, starting in December 2007, total 241 holes and are designated by a letter followed by the year (E08, K08, K09, L07, L08, P09, P10, PC10, and SV09). The initial 182 RC holes (through February 2009) totaled 92,790 feet and cost an average of $31.90 per foot. This all-in cost included the drilling, dozer and support equipment, and down hole surveying, as well as primary and check assays. The drilling campaign was conducted utilizing standard RC drill equipment. The early 2008 campaign (actually started in December 2007) was contracted to Drift Exploration, located in High River, Alberta, Canada, who operated two MPD-1000 track mounted drill rigs. In October 2008, the program was accelerated with the addition of two rigs, a Schramm 685 truck mounted and a MPD-1500 track mounted rig, contracted from DeLong Drilling and Construction of Winnemucca, Nevada (DeLong).

In 2010, DeLong was again contracted for RC drilling, and a Schramm 685 and MPD-1500 were utilized. A total of 51 RC drill holes totaling 29,913 feet at an average cost of $26.80 per foot were completed during the Spring 2010 drilling campaign. A coring program with two separate goals was initiated in 2010. HQ and HQ-3 core was used to gather geotechnical information on the rock quality for the proposed Lucerne starter pit high wall along the highway corridor. The larger-diameter PQ core was drilled to sample various ore types for metallurgical testing. Coring was contracted to KB Drilling of Virginia City, Nevada, who used a modified track mounted Versa Dill kmB 1.4s capable of drilling 3,500 to 4,000 feet of H-size core and nearly 2,000 feet of P-size core.

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13.2.1 RC Drilling

Hole diameters vary by the drill rig used for any particular hole. For the Schramm 685, the diameter is 5¾ inches; for the MPD-1500, the diameter is 5¼ to 5⅜ inches; and for the MPD-1000, the diameter is 5⅛ inches to 5¼. Occasionally, holes were necessarily reduced in diameter to complete the hole. At each site, surface casing was set to protect the collar from collapsing. The holes were cased to bedrock. All holes drilled through mine dumps or mine fill areas were cased through the loose material until competent rock was intersected. Water, on-demand drilling mud, and hole conditioners were added to suppress silica dust and maintain the integrity of the hole. Holes were advanced using hammer bits. When adverse conditions were encountered, a tri-cone bit was used to complete the drill hole.

After completion of the drill hole and down hole survey, the hole was abandoned by pumping bentonite (expanding clays) slurry from the bottom of the hole to within 10 feet of the surface in accordance with the NDEP and Nevada Division of Water Resources (NDWR) drill hole abandonment regulations. The remainder of the hole was surface plugged with 10 feet of Portland cement.

Each drill crew consisted of a driller and two driller's helpers. The helpers had multiple tasks. In addition to assisting in mechanical drill duties, they were also responsible for sample bag labeling (including duplicates), chip tray numbering, sample and chip tray collection, and sample storage on site. The helpers were also responsible for keeping a clean and safe work site and cleaning the wet rotary splitter or dry Jones splitter.

Figure 13.1 shows the location of drill samples, while Figure 13.2 depicts the location of historic underground workings in relation to the development drill holes.

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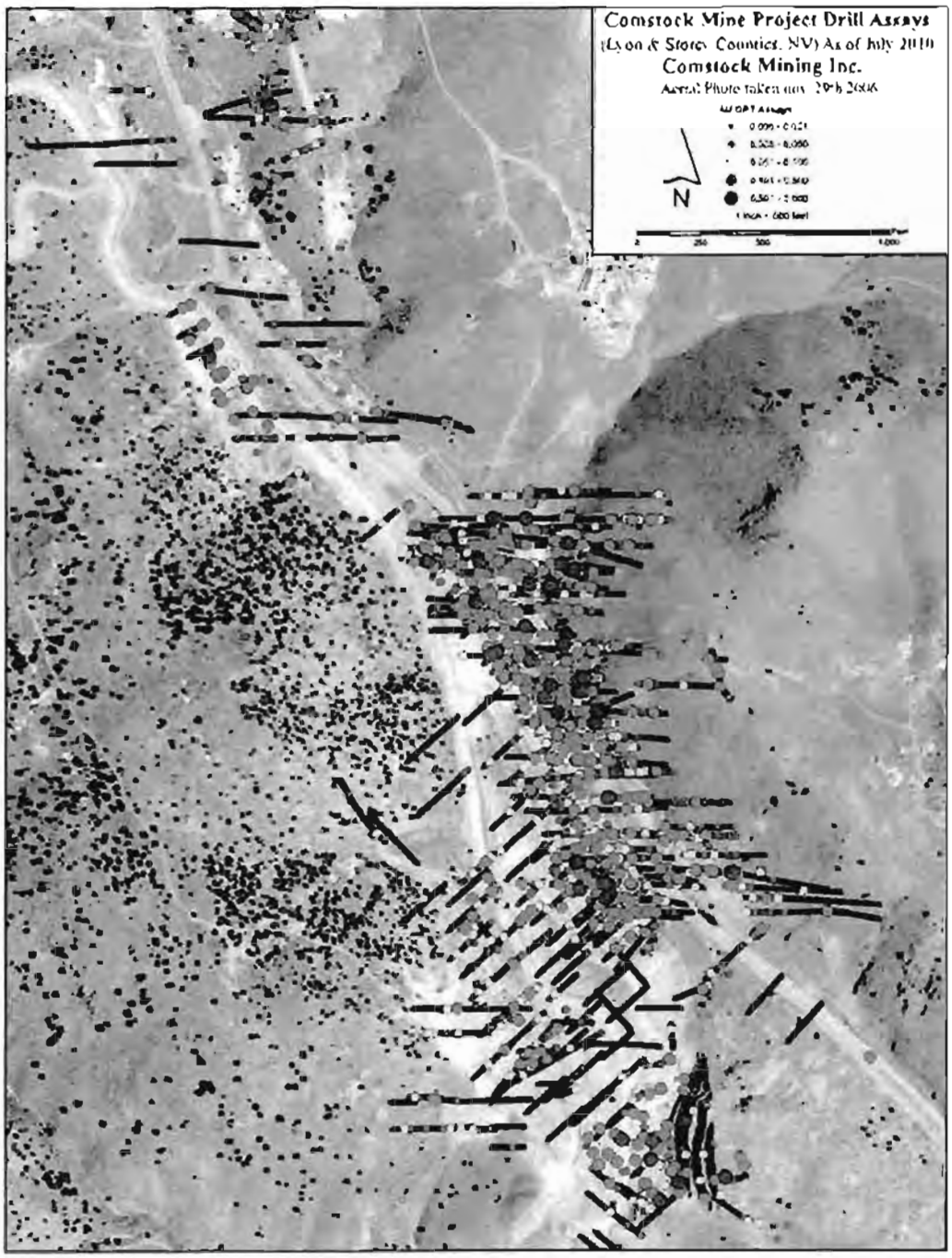

Figure 13.1. Location map of drill samples

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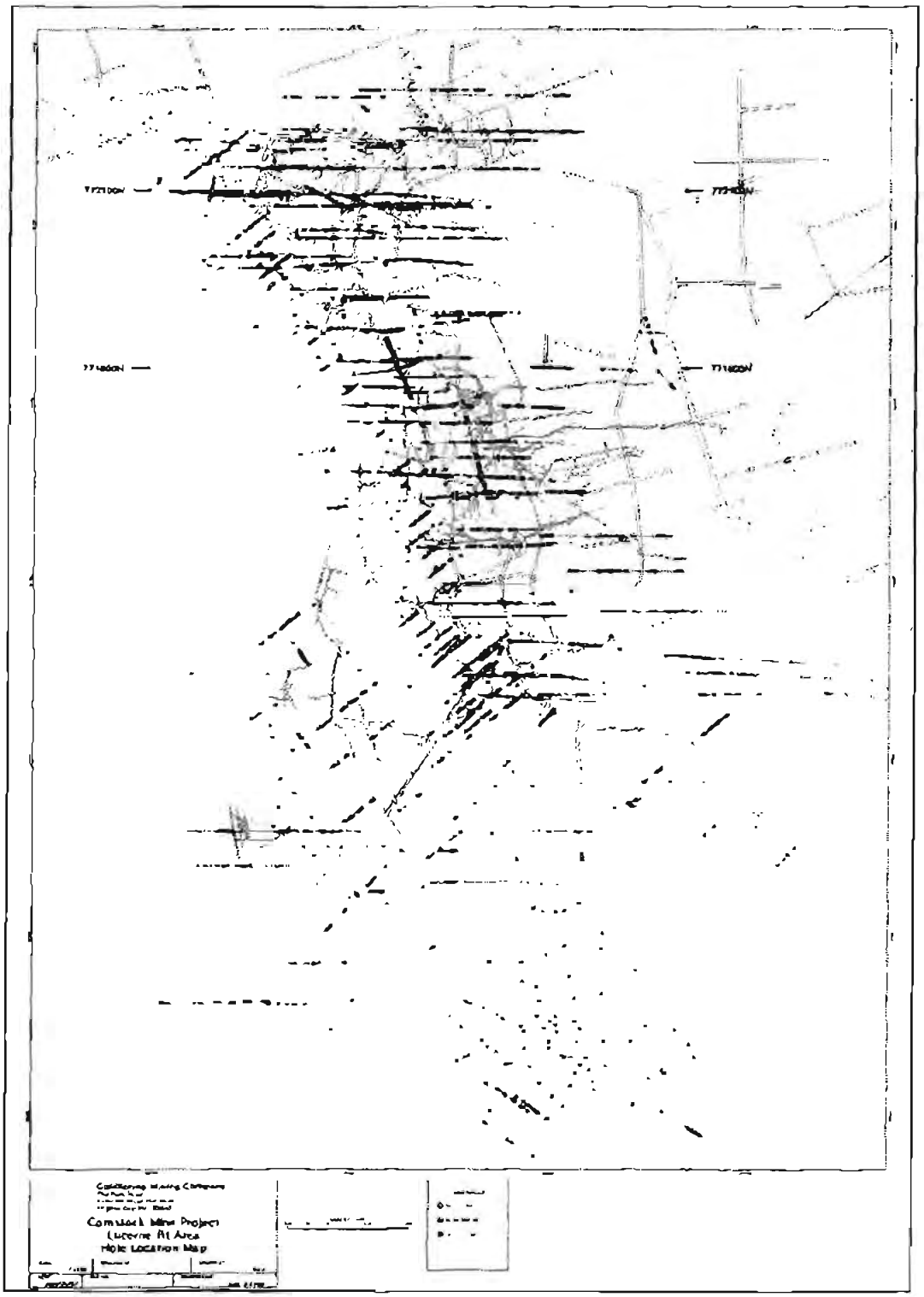

Figure 13.2. Historic underground workings and development drill holes

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13.2.2 Core Drilling

HQ-size core is smaller than PQ-size core. HQ, HQ-3, and PQ core diameter is approximately 2.5 inches (63.5 mm), 2.405 inches (61.1 mm), and 3.267 inches (83 mm), respectively. Two HQ, one HQ-3, and five PQ holes were drilled in 2010.

The HQ and HQ3 core was drilled for geotechnical purposes, while the PQ core was drilled for metallurgical sample material. From the PQ core high-, medium-, and low-grade examples from andesite, rhyolite, metavolcanic, and vein material were chosen by the geologist who logged the core and transported to the McClellan metallurgical laboratory in Reno by the mine staff.

HQ core holes PC10-01 and PC10-02 were located and drilled adjacent to Nevada State Route 342. The initial mine plan for the proposed starter pit would have a high wall located in near proximity to the HQ core holes. The collected core displays geological attributes of the in-situ rock qualities.

Both core holes PC10-01 and PC10-02 were drilled vertically. PC10-01 bottomed at a depth of 428 feet, while PC10-02 bottomed at 140 feet, where it terminated in an open stope. Immediately after passing through the surface fill material, both holes intersected long, continuous intervals of highly fractured and brecciated rock. Such continuous zones of fractured material would not have the structural integrity required for an engineered open pit high angle high wall design located in proximity to the highway.

Core hole PC10-03 was located within the mid portion of the proposed starter pit and completed to a depth of 229 feet at azimuth 60° and down hole angle of -55°. PC10-03 was oriented HQ3 core. Orientation was gained by the use of the Reflex Act electronic core orientation device.

The following "working principle" is quoted from the Reflex Act manual. "Every minute during the drilling process, whilst the tool is down hole, the accelerometers sense the 'low side' of the core tube and record the position in its memory. On completion of the drilling run, the tool is returned to the surface and the driller enters the time at which the core was broken. The tool recalls the associated accelerometer information from its memory and guides the user to position the core so that the same 'low side' position is reproduced on the surface. In layman's terms, the tool is acting as an electronic plumb bob."

Once the core tube is returned to the surface and positioned correctly, the split tube is opened and the core is scribed along the axis of the low side of the core. The core is then placed into corrugated waxed cardboard core boxes, and plastic depth indicators are labeled with the appropriate measured drill depths. All of the core was photographed and logged geologically. The oriented core was also geomechanically logged.

13.3 DRILL HOLE COLLAR SURVEYS

Collar coordinates for GoldSpring's 2007-2009 drilling campaigns were surveyed utilizing GPS equipment, accurate to within one centimeter. From 2007 through October 2008, the surveys were performed by Telesto Nevada, Inc. From November 2008 through 2009, the surveys were completed by GoldSpring's in-house surveyor. Once a proposed drill hole collar was marked, a Brunton compass, set to a 15½ degree East magnetic declination, was used to align a string line upon the drill pad's surface. Once the string line was positioned on the correct azimuth, the string line was used as a guide for painted stripes, providing an accurate azimuth alignment to aid the driller positioning the rig. In 2010, Tri State Surveying, of Carson City, Nevada surveyed and flagged the proposed drill site locations. After the drill

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holes were completed, Tri-State returned and surveyed the as-built drill hole collar. This procedure was scheduled at the end of each 10-day RC drill shift.

The collar coordinates for the recent Dayton-Alhambra-Kossuth acquisition have been entered into the database using the information supplied by Gold Lock, based on maps from drilling and exploration in the 1980s and 1990s that used a Dayton coordinate system. The Dayton system is based on NAD27 Nevada state plane, west zone coordinates, but with the high order digits (1.6 million) dropped from the northing. Comstock Mining plans to update and tie this drilling into the NAD83 Nevada State Plane, Western Zone, feet (NV83-WF) at the rest of the mining areas in the near future.

13.4 DOWN HOLE SURVEYING

The early drilling in the Lucerne Resource Area did not include down hole surveys. In the 2007/2008 program, four or five holes were surveyed down hole and found to have drifted about 13 feet in 800 feet of depth. After October 7, 2008, and continuing through the 2010 drilling campaign, drill holes were down hole surveyed, if the target depth was in excess of 500 feet. International Directional Services (IDS) from Winnemucca, Nevada completed the down hole surveys. The down hole surveys, noted on many of the drill holes surveyed after October 7, 2008, were similar to the few holes surveyed earlier in 2008. In 2010, IDS down hole surveyed 21 RC holes. Most surveyed holes turned clockwise and dropped (steepened) up to 10° in 800 feet.

The drilling in the Dayton Resource Area did not include down-the-hole surveys. The air-track holes, completed in the 1970s, are vertical and are so entered. For the inclined drilling from 1975 and 1994 programs, that were relatively shallow, the azimuth and dip were measured at the collar.

13.5 LOGGING

RC drill holes are logged from small, washed, representative chip samples from each 5-foot interval. The samples are stored in plastic containers, and the containers are marked with hole numbers and drill intervals and stored for future reference. Each container has 20 separate storage compartments (representing 100 feet of drilling). Comstock Mining geologists logged each hole from the chips and recorded the data on paper forms, which were later entered into a spreadsheet format. Geologic information on rock type, faulting, veining, alteration, iron and manganese oxidation, and sulfides was imported into Techbase for each down hole interval.

Data from the historic drill logs were recast into the new format logging sheets and entered into the Techbase database.

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14.0 SAMPLING METHOD AND APPROACH

14.1 SAMPLING PROCEDURE

RC drill samples were collected from the surface to the hole bottom, by passing the entire sample stream every 5 feet into a wet rotary splitter. The wet rotary splitter contains removable pie-shaped platelets that allow flexibility in the size of the representative split collected. The platelets were added or removed, subject to down hole drilling conditions. The intent was to maintain a consistent volumetric split at the exit end of the sample collection port. A simple "Y"-shaped exit tube allowed for the collection of two 5- to 10-pound samples, that were collected in clean 5-gallon buckets and then poured into pre-labeled 15-inch × 17-inch cloth sample bags. The "Y" tube was leveled whenever necessary to produce an approximately 50-50 split between the two buckets. The buckets were rinsed with fresh water with the water being poured into their respective sample bags; thus, cleaning the bucket and recombining the fines with the larger sample. The sample bags were tied and placed into larger 24 inches × 36 inches "rice bags" (4 to 6 samples per rice bag). The "rice bags" were then placed into a crib or crate that was provided by the principal assay lab: American Assay Laboratories of Sparks, Nevada (AAL). The cribs were transported daily to GoldSpring's office complex for storage in capped plastic bins for pickup by AAL. The cribs had hinged lids that were locked after the drill shift and unlocked just prior to shipping offsite. AAL was scheduled to pick up the sample cribs near the end of a 10-day drilling shift or AAL-convenient interim period. Predominantly one hole was placed in the shipping crib, but if additional crib room was needed to ship a few samples from another drill hole, a plastic liner separated the two sample sets. The second sample (or second split) was collected by CMP personnel, who perform "in-house" analyses (drying, crushing, cyanide soluble extraction, and atomic absorption analyses for gold and silver reported in ounce of gold per ton). For additional quality control checks, a duplicate sample was collected from the rotary splitter each 100 feet beginning at a depth of 50 feet.

Down hole contamination is not unusual during RC drilling, particularly in broken ground. This is particularly noticeable at rod changes. To minimize or eliminate potential down hole contamination, at the end of each 20-foot drill rod cycle, the hole was allowed to circulate and the driller stabilized the hole by reaming and dressing the walls of the last 20 feet drilled. When the next 20-foot rod was added, drill rotation was started and down the hole pressures were allowed to stabilize hole conditions. A screen was placed over the discharge of the splitter and was checked for debris that would have its origin up hole. The sample container was repositioned under the wet rotary splitter only when the driller observed a clean return in the screen.

This procedure takes little time but is very successful in minimizing down hole contamination. Discussions with Comstock Mining indicate that excessive water, which would have overflowed the 5-gallon buckets, was rarely encountered; thus, loss of fine material is not an issue.

Normally, these RC drilling and drill sampling procedures provide a good representative sample. Poor recovery areas are easily identified. Individual high-grade veins that are less than 5 feet in the down hole direction are diluted with wall rock material.

The drill holes were mostly vertical or angled. Most angle holes were drilled across expected structures in an attempt to provide a true width of mineralization. Some holes were drilled in a generalized down dip direction, over emphasizing the actual true width. During three-dimensional resource modeling, apparent widths of higher-grade mineralization were taken into account.

15.0 SAMPLE PREPARATION, ANALYSES, AND SECURITY

15.1 SAMPLE PREPARATION

As described in Section 14.1, the original RC samples were split into two 5- to 10-pound samples, utilizing a wet rotary splitter. One set was shipped to AAL, the primary commercial laboratory. AAL sample preparation procedures are as follows:

- samples are bar-coded and weighed at reception
- batch size is 50 samples, which are racked to minimize sample swapping
- samples are dried and individually transferred to various sized stainless steel pans
- dried samples are jaw crushed (>85% 6-mesh to >95% 10-mesh)
- samples are Jones riffle split
- 1- to 4-pound splits are pulverized in a Vertical Spindle Pulverizer to 120 to 150 mesh or to 200 mesh, if requested
- a 1-pound pulp is placed in a 3-inch × 5-inch labeled pulp packet

Only limited descriptions of the sampling and QA/QC procedures, followed by historic operators, are available. Based on review of the summary reports, the sampling done prior to Comstock Mining appears to Comstock Mining to have been handled by analytical, geological, and engineering employees, and professional mining consultants. Comstock Mining concluded that it was not unreasonable to expect that these persons used sampling techniques that were in accordance with industry-accepted protocols.

15.2 ASSAY PROCEDURES

For the Comstock Mining samples, 30-gram (1-assay ton) pulp charges were standard. AAL also offers 15-gram (½-ton) and 60-gram (2-assay ton) options. The sample is mixed with 100 to 180 grams of flux and fused. The assayer makes notes on the quality of each fusion. A lead button is separated and the assayer reports any low weights or slag composition problems. The button is cupelled and the bead is weighed gravimetrically or parted (AAS/ICP). The solution is examined for any undissolved prill, and solution is read AAS/ICP. The results are recorded to enable fire assay personnel to discard any crucible that has a sample >2 pm.

For the Dayton database, the assays for the D75 and D75C MECO holes were performed using AA methods at Rocky Mountain Geochemical, with check fire assays at Hunter labs. The HDA series holes were fire assayed by Houston Oil and Minerals's (Houston Minerals) in-house labs in Tonopah and in American Flats. Houston Mineral's practice during that era was to send randomly selected samples to outside labs as a check. The D94 holes drilled by Rae Gold were assayed at Chemex. The procedure at Chemex included duplicate analysis of randomly selected samples. It also included retesting high-grade assays using fire assay with a gravimetric finish as a check of the original fire assay with AA finish.

15.3 QUALITY ASSURANCE/QUALITY CONTROL

For the Comstock Mining drilling campaigns, numerous check samples were conducted to ensure quality control on assay results. Duplicate RC samples were collected from every hole every 100 feet starting at 50 feet and were shipped to AAL for analysis. Commercial standards with various gold concentrations (as pre-packaged pulps) were inserted into the sample stream at the pulp stage. Blanks were also added to check AAL results. AAL also inserted their own internal standards and check samples. AAL has a 3-step quality control procedure. Step 1 includes two standards and one blank per batch of 50 assays. AAL

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requires 90% to 110% of accepted standard value for the sample results to be valid. They require that the blank be less than twice the detection limit for low-level results to be valid. QA charting is continuously updated. The second step quality control is a duplicate run of samples called control (4 per 50 assays). In the initial stages of a project, if a control shows a variation of >20%, AAL analyzes a group of samples around and including the control to determine if there was an analytical problem, a swap, or a sampling problem. If there is an analytical problem, the problem batch is rerun. If there is a sample preparation problem, the samples are re-prepared and analyzed in their entirety. The third pass quality control is to repeat any unusual results. This includes low results in high value areas and high results in low value areas.

Throughout the 2007 to 2010 drill programs, a series of check samples were collected for comparison between AAL and ALS Chemex Laboratory of Sparks, Nevada. Figure 15.1 shows a reasonable agreement between the two laboratories. The mean gold value for the set of samples assayed by AAL was 0.0193 ounce of gold/ton, while the mean value for the ALS Chemex set was 0.0194 ounce of gold/ton.

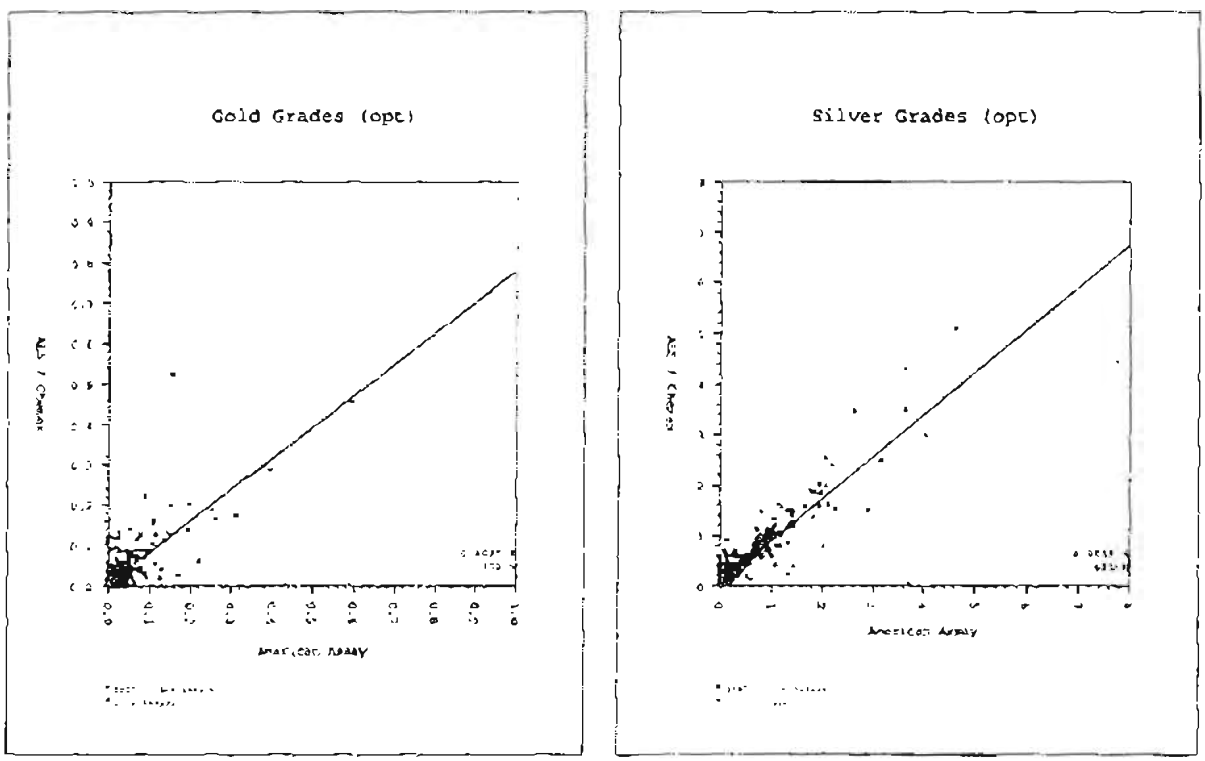

Figure 15.1. Check assay comparisons between American Assay and ALS Chemex Laboratories

For the Dayton database, the QA/QC procedures were minimal but met acceptable industry practices at the time. Houston Minerals used their own in-house assaying and sent randomly selected samples to outside labs as a check, according to the geologist involved with the drilling. Unfortunately, these data are not available. The procedures used by Rea Gold at Chemex included duplicate analysis of randomly-selected samples. It also included retesting high-grade assays using fire assay with a gravimetric finish as a check of the original fire assay with AA finish. An analysis of this check data found no evidence of bias in the assays. MECO holes were assayed using AA methods at Rocky Mountain Geochemical, with check

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fire assays at Hunter labs. A comparison was made of the original and check assays, which found good correlation for the gold assays.

Behre Dolbear would recommend against using the Houston Minerals data for Measured or Indicated resource calculations without further verification of the assay data. The Houston Minerals drilling data are, however, consistent in grade and variation with grade and variation seen in adjacent areas and along the Silver City fault; therefore, Behre Dolbear believes that it is useful in projecting the exploration potential and estimating an inferred resource when the drilling density warrants and is verified with adjacent drilling.

15.4 LAB CERTIFICATION

AAL (incorporated in 1987) is ISO 17025 certified and is a reputable laboratory under the Mineral Exploration Best Practices Guidelines. AAL has participated in all CANMET-PTP MAL studies (certification analyses) twice a year since their inception in 1998. They also participate twice a year in GEOSTATS, SMA (US and Canada), and IOAG.

15.5 SECURITY

Drill samples were secured in a locked crib each night after the drill shift was completed and remained secure until samples were picked up by AAL. Once samples were in possession of AAL, the lab handled security with their normal procedures. Pulps and RC chip trays are stored at the Comstock office complex.

There is no information concerning sample security on the Dayton information.

15.6 OTHER ASSAYING

On occasion, some samples were submitted to ALS Chemex for their 32-element ICP assay procedure. The results are to be used for mostly environmental purposes, *i.e.*, acid generation potential of waste rock dumps.

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16.0 DATA VERIFICATION

GoldSpring's 2009 resource and reserve modeling and calculations were reviewed in detail by Dr. Robert Cameron, Ph.D., in September 2009 (Cameron, 2009). At that time, Dr. Cameron reviewed the geologic, drilling, sampling, and assaying data. The additional information provided for this update report was again reviewed in detail by Behre Dolbear utilizing Dr. Cameron and Mr. Joseph Kantor.

Dr. Cameron, in 2009, concluded that a great deal of time was spent understanding the three-dimensional geologic conditions and "ore" controls and that the Comstock geologic model supports the resource model. In particular, the structural control by northwest striking, northeast dipping, and northeast striking, southeast dipping fault zones and their intersections is demonstrated in variography studies. For the 2010 update, the new drilling was utilized to further refine the geologic model and controls to the block model. After reviewing the geologic cross sections (east-west and north-south) and the resource block model in section and plan used for the 2010 update, Behre Dolbear concurs that the new geologic model is well supported by the geologic data.

Dr. Cameron also concluded that the drilling, sampling, sample preparation, and assaying met industry standards. If the drilling procedures were conducted strictly in accordance with those described in the Anderson (2009) report, then they were to industry standards. The RC samples chain of title is reasonable, and the sample collection technique is to industry standards. AAL, the primary assay contractor, and ALS Chemex, used generally on check samples are well-respected assay laboratories. Dr. Cameron physically spot checked assay certificates and compared them to the electronic data and found no errors in 2009. He again spot checked the data entry in 2010 and found some minor errors in data entry of the newly acquired data for the Dayton property, which were corrected prior to developing the resource block model.

In June 2010, during Mr. Kantor's site visit, chip tray samples were compared to the written geologic logs for approximately six RC drill holes. In all cases, geologic descriptions matched the chip tray samples. During Mr. Kantor's second site visit in July 2010, the Dayton adit was examined. Obvious quartz veining, quartz-stockwork, and abundant seams and fracture fillings with manganese oxide are present throughout the mineralized zone. The highest-grade mineralization consistently correlated with strong zones of manganese oxide minerals. Furthermore, a comparison of assays from the north and south side walls of the adit showed reasonably good correlation for the location of higher-grade mineralized zones. Similarly, a comparison of surface sampling results at a small open cut on the Dayton property showed highest grades directly related to concentrations of quartz and quartz-calcite veining.

17.0 ADJACENT PROPERTIES

No adjacent properties were reviewed. In a district as large as the Comstock District, there are undoubtedly other patented and unpatented mining properties within the area.

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18.0 MINERAL PROCESSING AND METALLURGICAL TESTING

The metallurgical testing initiated by Comstock Mining in January 2010 has not been completed, as of the review for this resource update report and, hence, this section has not changed.

Comstock Mining has utilized the services of McClelland Laboratories in Sparks, Nevada to provide base metallurgical testing on samples of RC cuttings. The base testing included bottle roll tests on a multitude of samples representing the three rock types: Alta Andesite, Rhyolite, and Metavolcanic. Results of the bottle roll tests indicated favorable gold recoveries utilizing cyanide leaching. With the successful conclusion of bottle roll tests, column leach tests were performed on composites of high-grade and low-grade ores. The bottle roll tests were performed at a particle size of <½ inch and achieved gold recoveries in the range of 48.5% to 87.9% at cycle times of approximately 96 hours. Currently, several flow sheets for gold recovery have been proposed, including low-grade heap leaching, gravity separation of the sized high-grade ore along with cyanidation of the gravity tails, and pulp agglomeration of the leach tailings with the combined heap leaching of the low-grade ore. With mostly favorable cyanide leach results, the one anomalous test is a geotechnical failure of the pulp agglomerated leach tails with low-grade ore when predicted heap construction reaches 30 feet. This test, however, was preliminary and was based on RC drill cuttings. Comstock Mining plans additional tests using drill core to clarify the preliminary results.

In addition to bottle roll and column leach tests, the various ore types and composites have been subjected to the following metallurgical evaluations:

- Grind versus Recovery Cyanidation tests, which ground the sample to <100 mesh and <200 mesh Tyler followed by 96 hours of leaching. For all ore types tested, the samples exhibited very little sensitivity to grind.
- Bond Crusher Impact Analysis – 8.77
- Bond Abrasion Index – 0.0807
- Bond Grindability Index – 15.7 kWHr/st

The samples tested indicate that the Comstock Mine Project ores will have moderate crushing and grinding resistance.

18.1 RECOVERABILITY

Column leach testing of the high-grade and low-grade composites indicates that the resources at the Comstock Mine Project will have heap leach gold recoveries at a < ½-inch crush size of 93.8% for high-grade and 76.2% for low-grade. Silver recoveries will vary from 83.8% to 50.6% for the high-grade and low-grade ores, respectively. The head grades for the high-grade and low-grade composites are 0.239 opt Au, 5.966 opt Ag, and 0.024 opt Au, 0.668 opt Ag, respectively.

The pulp agglomeration testing indicated a gold recovery of 87.0% in the low-grade/cyanide tailings column. Silver recovery was 61.2% under the same conditions.

The combined gravity concentration, high-grade leach, pulp agglomeration test (GCLPA) indicated a possible recovery of 98.4% for gold and 81.6% for silver. It should be mentioned that this technique would be the most capital intensive and would require a thorough geotechnical evaluation and design to support stacking the pulp agglomerated low-grade feed.

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The recovery in the gravity circuit shown by Comstock Mining is high, but the grade of the gravity concentrate is too low to smelt (smeltable gravity concentrates typically grade 5,000 to 15,000 opt). If the gravity concentrates are cleaned up (increased in grade), the gold recovery will drop significantly. While the gravity tailings will be placed in the cyanide leach or on the heap, additional testing is required to indicate the true overall recovery of gold in the circuits being proposed.

18.2 METALLURGICAL MINERALOGY

Comprehensive mineralogy on all ore types and metallurgical products has not been completed, as of this date. Preliminary examination has the gold being present as free gold and electrum, with a maximum particle size of approximately 65 mesh or less. Silver is present primarily in electrum and minor amounts as argentite (acanthite) Ag_2S. The reduced silver recoveries under cyanidation, as compared to gold, are probably due to manganese interference with the leaching process.

18.3 POSSIBLE PLANT DESIGN

Comstock Mining is in possession, on site, of various pieces of mineral processing equipment. Among these are the crushing-agglomeration-belt conveying system previously used by PMC to construct the pads that currently exist on the property controlled by Comstock Mining. The plant was operating satisfactorily when shut down, but no detailed mechanical analysis of the mechanical and electrical components is currently available. In addition, Comstock Mining has secured the agglomeration drum, belt mixers, and conveyor system from the Gooseberry Mine, and some of this equipment may be used in the final plant design. A final flow sheet incorporating this equipment, however, has not yet been completed.

In addition, the Merrill-Crowe zinc precipitation plant constructed by PMC is still existent at the site. The plant has the potential to support a 3,000-stpd, low-grade ore, heap leach operation and appears to be in good condition. Detailed plant design is required prior to recommendation of the use of the plant in any future operations. The proposed program of flow sheet development and plant design has been outlined by Comstock Mining.[1] The suggested program includes:

1) Completion of a process development and metallurgical testing program that allows a final process design flow sheet to be created. This includes the use of drill core samples to form metallurgical composites and the resolution of geotechnical heap leach issues.
2) Production of fixed design criteria that outline all of the basic process and production criteria.
3) Creation of a final process flow sheet and final draft material balance for the plant and for all of the service facilities.
4) Vendor selection and sizing of all process equipment.
5) Production of a detailed material balance for all processes and services.
6) Production of layout drawings (plan and elevation) for all plant processes, including services. This will include preliminary site preparation plans as well as leach pad and ponds.
7) Production of final piping and instrumentation drawings (P&IDs).
8) Production of electrical single-line diagrams.
9) Vendor selection and sizing of all electrical equipment.

[1]Stillar, Steve, Memorandum to Kim Drossulis, Telesto Nevada, Inc., Project Development, March 26 2009

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10) Detailed design (portions of which can be started without completing all of the previous nine steps).
   a) site grading and drainage
   b) leach pad and ponds
   c) building and facility foundations
   d) equipment foundations
   e) buildings
   f) structural engineering
   g) pumps and piping
   h) electrical systems and wiring plans
   i) instrumentation systems

Completion of steps 1 through 9 above, will – when combined with complete geology, mineral resource and reserves, mining plans, metallurgical plans, environmental permitting, marketing, land tenure, and financial analysis – provide the essential components of an acceptable feasibility study.

19.0 MINERAL RESOURCE ESTIMATES

19.1 INTRODUCTION

Two geologic and grade block models were generated to estimate the resource at the Comstock Mine Project. One model was generated for the Lucerne area and another model for the Dayton area. Behre Dolbear reviewed the Comstock Mining resource modeling and calculations for the two geologic block models. The modeling work was completed by Mr. Mike Norred of Techbase International, Ltd. All factors, *i.e.*, capping, variograms, density, electronic database, block models and parameters, and Kriging and estimation methods were discussed with Mr. Norred. In addition, Behre Dolbear has visually compared assay cross sections to both block model sections and plans and finds the block model reasonable. Higher-grade blocks are bounded by structure and have strike directions both northwesterly and northeasterly, mimicking the recognized structural controls.

For the resource update, the original geologic and block models were updated to incorporate the new 2010 drilling data within the Lucerne, Billie the Kid, and Justice pit (Lucerne Model), which lies primarily within Storey County. A second geologic and block model was generated for the recently acquired Dayton-Alhambra-Kossuth property. This property is offset a bit south of the Lucerne model along the Silver City fault and lies within Lyon County. This model has been designated the Dayton model and was based on the older NAD27 Nevada state plane, west zone coordinates.

19.2 CAPPING OF ASSAY GRADES

No capping of assay grades was performed for the resource calculations. It is a common practice to cap high-grade gold and silver assays to eliminate over estimation of metal content due to outliers; the lack of high-grade continuity between drill holes; and structural controls of high-grade intersects. Based upon variography studies, continuity of grade is good in the down dip direction. During the resource modeling, higher-grade mineralization was constrained by the model and by structural intersections. Higher-grade values do not cross bounding structures, as is demonstrated in the plan block model. Geologic logging also confines the higher-grade mineralization to vein material. The Kriging techniques, utilized by Comstock Mining, have minimized outlier effects. Furthermore, considering that the Project is located within the Comstock District, noted for its bonanza-grade veins, the lack of capping high-grade values is not expected to make an appreciable difference in the resource, as sufficient modeling techniques were employed to minimize any over-extrapolation of the high-grade values.

19.3 BULK DENSITY DETERMINATION

Tonnage factors were provided for resource estimations by Comstock Mining. The tonnage factors were based upon GoldSpring's experience during previous mining in the project area and tests performed by MacTec, Inc. A tonnage factor of 12.9 in-place cubic feet per ton was used for both mineralized and unmineralized material, and 13.5 cubic feet per ton was used for fill material. These factors are in line with results of a 2007 geotechnical test by MacTec, Inc. (Cameron, 2009). Comstock Mining is planning additional tests prior to detailed engineering, including whole-rock densities for core samples in order to confirm or fine-tune the factors based upon rock types. The density and tonnage factors, used by Comstock Mining, are typical for epithermal precious metal deposits in volcanic rocks and represent little risk to the overall resource determination.

The tonnage factors used for the Dayton model were the same as those used for the Lucerne model since the material at the Dayton area is almost identical to that found in the Lucerne area.

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19.4 ELECTRONIC DATABASE

Techbase International, Ltd. was retained to build the computerized database to capture all the geologic data related to the project, including both the historic and newly acquired information. Under the direction of Mr. Norred, the database was designed to include not only the Comstock Mine Project data but also the data on all the Company's property holdings and surrounding areas in the Comstock Mining District. The Lucerne and Dayton areas are currently contained in two separate databases. Behre Dolbear was given a copy of the electronic database for both areas. The databases are very similar in structure and contain:

- topography
- drill hole locations and down hole surveys
- assays
- geologic logs
- property boundaries
- old mine workings

Both of the two separate databases were examined by Behre Dolbear in this review. The first was the updated database containing the new 2010 drill data completed by Comstock Mining. The second database contained the drilling data acquired with the recent purchase of the Dayton-Alhambra-Kossuth property. Behre Dolbear did not perform a complete database audit but spot checked the accuracy of the assay and geologic logs from a few selected drill holes and found no data entry errors.

19.5 ESTIMATION PROCEDURES

Comstock Mining utilized a computerized block model for their resource estimate in both the Lucerne and Dayton areas. Mr. Norred developed the block models and grades using the Techbase computerized mine design package, which is an industry-accepted, commercially available software. The methods used for the two models were slightly different but employed standard Kriging estimation methods. The methods utilized for the Lucerne update model were based on new indicator variography used to better isolate and constrain the high-grade portions of the deposit. The Dayton model employed the same techniques used for the 1999 Lucerne model, since the indicator variography has not been completed for that area. The stages undertaken for estimation were:

- the drill hole database was compiled and verified
- Techbase was used to plot drill hole and topographic information for verification or location data
- geologic controls were established by generating mineralized envelopes
- 10-foot composites were generated for the drilling contained within the mineralized envelopes
- variography analysis was conducted
- block grades were estimated using block Kriging on the blocks within the mineralized envelope
- blocks were tagged and categorized as "Measured, Indicated or Inferred"
- adjustments to each of the blocks were made using plots of the old underground workings to account for tonnage already removed by historic mines
- grade and tonnages were summarized

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19.6 MINERALIZED ENVELOPES

Mineralization in the project area is controlled by three separate structural patterns. The most important is the northwest striking, northeast dipping Silver City fault zone. Mineralization also spreads out along east-west and northeast striking faults and is enhanced at fault intersections. Gold and silver mineralization is not limited to a single host rock but for the most part is confined to the Alta Formation and an intrusive unit. Deeper mineralization is also found in the Santiago Tuff. The Santiago Tuff and intrusive rhyolite also hosts the mineralization in the Dayton Resource Area. Higher-grade precious metal values are surrounded by lower-grade values. This geological interpretation allows the treatment of the mineralized zones to be considered as an envelope, which has been used to limit the grade model.

East-west sections were plotted showing gold grades, rock types, faulting, and veining. Intersections of the underground workings with the sections were also plotted. Geologic contacts were drawn on each section and reviewed. Then an outline was drawn on the section, generally following the east-dipping Silver City fault zone, and expanded, particularly along east-west and northeast striking faults, to include all samples with gold grades >0.005 ounce per ton. The underground workings provided geologic inference for extending the mineralized envelopes. The resulting mineralized envelope was then digitized for each cross section. The same process was repeated on north-south sections, guided by the east-west section envelopes.

Level maps were plotted for each 10 feet vertically through both of the Comstock Mine Project resource areas. Drill hole intercepts, underground workings, and the trace of the east-west and north-south section mineralized envelopes were plotted. An outline of the mineralized envelope on each section was drawn and digitized. Mineralized envelope outlines were also digitized on each level, as were envelopes for any overburden, mine dump, or backfilled areas. The outlines were used to assign a code for each 5-foot assay, indicating whether it was inside or outside the mineralized envelope.

19.7 VARIOGRAPHY

The experimental variograms in the project area were calculated for a series of directions before selecting the set of three orthogonal directions showing the greatest continuity. Theoretically, the three sets should mimic the principal fault controls in the project area. The direction of greatest continuity is north 65° east, dip 50°, which is essentially down the dip of the Silver City fault zone. The next-greatest continuity was found in the direction north 25° west, sub-parallel to the strike of the Silver City fault zone, with the third direction at north 65° east dip minus 40°, perpendicular to the plane of the fault zone.

Comstock Mining retained the help of Mr. Gary Giroux, a geostatistical consultant from Vancouver, British Columbia, Canada to perform a variography study on the drilling results in the Lucerne Resource Area. Mr. Giroux analyzed the assay data using both classical statistics and geostatistics. He evaluated data populations by rock type, location within the resource area (domain), and grade ranges. He modeled variograms for all samples, and separately for just those samples inside the mineralized zone, which avoided dilution with the unmineralized country rock. Variograms were also modeled using a high-grade indicator approach. First, the natural grade populations in the data were identified. A grade of 0.124 ounces of gold per ton was chosen as a natural break between the "low-grade" and "high-grade" populations. A variogram for an indicator (Au >= 0.124 oz/ton) and variograms for low (< 0.124 oz/ton) and high (>= 0.124 oz/ton) gold grades were each modeled for those samples within the mineralized zone.

Behre Dolbear has reviewed the variography work completed by Comstock Mining and Mr. Giroux and believes that the three-dimensional variography models selected for the work are appropriate for the

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modeling strategies employed for the deposits. The parameters for the modeled variograms are shown in Table 19.1.

TABLE 19.1
VARIOGRAM ELLIPSOID FOR THE BLOCK MODELS

	Sill	Major Axis Range	Semi-Major Axis Range	Minor Axis Range
DAYTON MODEL				
Gold		**N65E 50° dip**	**N25W**	**N65E -40° dip**
Nugget	0.0015			
Spherical	0.0015	65	40	20
Spherical	0.0012	160	130	50
Silver		**N35E 50° dip**	**N55W**	**N35E -40° dip**
Nugget	0.20			
Spherical	0.30	20	15	50
Spherical	0.36	310	320	140
LUCERNE MODEL				
Indicator		**N55E 50° dip**	**N35W**	**N55E -40° dip**
Nugget	1.40			
Spherical	0.43	12	60	30
Spherical	0.14	160	170	50
LG Gold		**N65E 50° dip**	**N25W**	**N65E -40° dip**
Nugget	0.28			
Spherical	0.30	34	18	28
Spherical	0.12	160	160	80
HG Gold		**N60W 50° dip**	**N30E**	**N60W -40° dip**
Nugget	0.09			
Spherical	0.05	10	10	20
Spherical	0.10	60	120	30
Silver		**N65E 50° dip**	**N25W**	**N65E -40° dip**
Nugget	0.20			
Spherical	0.34	45	25	36
Spherical	0.22	260	280	84

GoldSpring's personnel note that the nugget value for gold is 40% of the total sill, and the nugget value for silver is 25% of the total sill, which are both reasonable for a precious metals deposit. The directions of continuity for silver were found to be the same as for gold, although it appears correlated over a maximum distance of 280 feet versus 160 feet for gold. One interpretation for this finding is that the silver mineralization is more related to the east-west and northeast trending faults, rather than the Silver City fault zone.

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19.8 BLOCK MODEL PARAMETERS

A three-dimensional block model was chosen as the numerical model to represent the deposit in order to estimate the resources and reserves at the Comstock Mine Project. The region selected for the Lucerne model is the area of closely spaced development drilling, centered on the Lucerne Pit. The block model is 4,110 feet × 4,510 feet × 1,200 feet and contains 22,243,320 blocks and the coordinates conform to NV83-WF state plane coordinates. The region selected for the Dayton model conforms to a previous block model generated in 1994 and is based on the Dayton modified NAD27 Nevada state plane, west zone coordinates. Table 19.2 shows the major parameters that define the block models in three-dimensional space.

TABLE 19.2
BLOCK MODEL PARAMETERS

	Number of Blocks	Size (feet)	Minimum	Maximum	Distance (feet)
LUCERNE MODEL					
Columns (E-W)	411	10	2,320,395	2,324,505	4,110
Rows (N-S)	451	10	14,768,995	14,773,505	4,510
Levels	120	10	4,629	5,820	1,200
DAYTON MODEL					
Columns (E-W)	91	10	201,045	201,955	910
Rows (N-S)	196	10	41,845	43,805	1,960
Levels	120	10	4,629	5,820	1,200

The Comstock Mine Project block models were created with 10-foot cubic blocks. The 10-foot level size matches the proposed mining lift height (40-foot benches, taken in 10-foot lifts). The 10-foot × 10-foot block size in plan approximates the selective mining unit derived from the blast hole spacing. The range of elevations included in the Lucerne block model starts at an elevation of 5,820 feet, which includes all of the terrain in the modeled area. It extends down to an elevation of 4,620 feet, which is approximately the bottom of the deepest drill holes from the 2007-2009 drilling program. The range of elevations included in the Dayton block model starts at an elevation of 5,410 feet and extends to an elevation of 4,740 feet.

Geology was then assigned to the blocks in the block models, based on geological outlines drawn for each level of the model. Each block was assigned a material type: FILL for overburden, dump, and backfill material; ZON for blocks within the mineralized envelope; or blank for un-mineralized country rock. A block fraction was also calculated for each block, representing the proportion of each block below the current topography.

19.9 KRIGING DETAILS

19.9.1 Kriging Lucerne Resource Area

The Kriging strategy used for the Lucerne area is designed to estimate the gold grades using a high-grade indicator approach, and the silver grades were estimated using Ordinary Kriging using a global variogram.

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Modeling was performed separately for each of three domains, or sub-areas within the Lucerne block model. This was done to prevent estimation across post-mineral faults that offset the mineralization. The three domains were the Lucerne-Woodville, Hartford, and Justice-Keystone areas.

The high-grade indicator approach used for the gold values began by assigning an indicator variable, which is a zero-one value for each sample. Samples with a gold grade >= 0.124 oz per ton were assigned an indicator value of one. Samples with a gold grade <0.124 oz per ton were assigned an indicator value of zero. The indicator values were modeled into each block, producing a value between zero and one, which was interpreted as the proportion of that block above 0.124 oz per ton. The samples with indicator zero were used to estimate a value into each block for the low-grade portion of that block, and the samples with indicator one were used to estimate a value into each block for the high-grade portion of that block. The average grade for the block was calculated as the indicator times the grade of the high-grade fraction plus one minus the indicator times the grade of the low-grade faction:

$$IND_hg \times AU_hg + (1 - IND_hg) \times AU_lg$$

Within each domain, a strategy was designed to estimate the blocks through a series of successively increasing search radii. These were set at 50%, 90%, 120%, 170%, 230%, and 300% of the variogram range ellipsoid. At each set of distances, the strategy required at least four samples, and a maximum of twelve, with no more than three samples from any drill hole. The practical effect of this limit was to make sure that each block was estimated as an interpolation between at least two drill holes, rather than extrapolating from a single drill hole. The initial search radius at half the variogram range helps to preserve the short-range variability of the mineral deposit, while also limiting the influence of any single drill hole. Expanding the search a step at a time introduces additional data only when needed to estimate a block.

For the FILL blocks, which include overburden, mine dumps, pit backfill, and stope backfill, a different strategy was used. Since backfilled material may have come from different distances, it is not geostatistically correlatable, so a Kriging approach is not valid. Instead, the FILL blocks were estimated as the moving average of up to the 10 closest samples within 50 feet of the block center.

In addition to the estimated gold and silver grades, the distance to the nearest sample was found for each block. The shell, or search radius, that first produced an estimate for the gold grade was also stored for each block. These results were used later to assign resource and reserve classifications to each block.

19.9.2 Kriging Dayton Resource Area

The Ordinary Kriging strategy used for the Dayton area is designed to estimate the blocks through a series of successively increasing search radii. These were set at 50%, 80%, 120%, 170%, 230%, and 300% of distances approximating the variogram range. At each set of distances, the strategy required at least four samples, and a maximum of 12, with no more than three samples from any drill hole. The practical effect of this limit was to make sure that each block was estimated as an interpolation between at least two drill holes, rather than extrapolating from a single drill hole. The initial search radius at half the variogram range helps to preserve the short-range variability of the mineral deposit, while also limiting the influence of any single drill hole. Expanding the search, a step at a time introduces additional data only when needed to estimate a block.

For the FILL blocks, which include overburden, mine dumps, pit backfill, and stope backfill, a different strategy was used. Since backfilled material may have come from different distances, it is not

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geostatistically correlatable, so a Kriging approach is not valid. Instead, the FILL blocks were estimated as the moving average of up to the 10 closest samples within 50 feet of the block center.

In addition to the estimated gold and silver grades, the distance to the nearest sample was found for each block. An average distance to the two nearest drill holes was also found and calculated as a percentage of the variogram range. These results were used later to assign resource and reserve classifications to each block.

Behre Dolbear reviewed the Kriging techniques and concluded that the techniques used by Comstock Mining for Kriging should produce a reasonable estimate of the resource based on the available data.

19.10 BLOCK MODEL RESULTS

The global estimation results from the Kriging work were reported by GoldSpring for their two block models. A summary of the results is shown in Table 19.3 and Table 19.4, which show the estimated Measured, Indicated, and Inferred resource within the block models above selected gold cutoff values measured. This simple summary includes all Measured, Indicated, and Inferred material within the mineralized envelope without consideration of metal prices or other economic factors; and thus, it should be considered as a global mineral inventory tabulation.

TABLE 19.3
IN-SITU GEOLOGIC RESOURCE SUMMARY FOR THE LUCERNE MODEL AT VARIOUS CUTOFFS

Au Cutoff	Measured			Indicated			Inferred		
	Tons	Au (opt)	Ag (opt)	Tons	Au (opt)	Ag (opt)	Tons	Au (opt)	Ag (opt)
0.005	12,416,233	0.029	0.370	16,902,168	0.023	0.306	14,073,468	0.021	0.238
0.007	11,223,122	0.031	0.394	15,322,217	0.025	0.324	12,662,791	0.023	0.252
0.010	9,587,327	0.035	0.430	12,775,857	0.029	0.356	10,692,495	0.026	0.273
0.020	5,876,573	0.048	0.533	6,782,809	0.041	0.441	4,280,785	0.043	0.249
0.030	3,902,922	0.060	0.615	3,997,641	0.053	0.496	3,034,053	0.050	0.242
0.040	2,704,928	0.071	0.678	2,489,973	0.064	0.551	2,035,932	0.058	0.231
0.050	1,903,810	0.081	0.727	1,638,216	0.074	0.595	1,243,244	0.066	0.250
0.060	1,357,296	0.092	0.788	1,057,630	0.085	0.656	747,785	0.074	0.244
0.070	958,418	0.104	0.860	666,283	0.097	0.720	246,199	0.089	0.397
0.080	695,462	0.115	0.922	438,834	0.108	0.754	134,817	0.102	0.475
0.100	375,692	0.137	1.026	203,831	0.130	0.891	48,058	0.121	0.562

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TABLE 19.4
IN-SITU GEOLOGIC RESOURCE SUMMARY FOR THE
DAYTON MODEL AT VARIOUS CUTOFFS

Au Cutoff	Measured			Indicated			Inferred		
	Tons	Au (opt)	Ag(opt)	Tons	Au (opt)	Ag (opt)	Tons	Au (opt)	Ag (opt)
0.005	2,268,225	0.034	0.256	2,852,510	0.032	0.227	1,275,642	0.025	0.290
0.007	2,206,184	0.035	0.260	2,756,404	0.033	0.231	1,208,159	0.026	0.298
0.010	2,060,295	0.037	0.267	2,551,401	0.035	0.237	1,040,559	0.028	0.315
0.020	1,441,486	0.046	0.293	1,801,858	0.044	0.263	563,896	0.040	0.374
0.030	942,726	0.057	0.311	1,165,196	0.054	0.287	317,282	0.052	0.403
0.040	595,411	0.071	0.328	730,173	0.066	0.312	181,662	0.065	0.417
0.050	382,919	0.085	0.348	494,552	0.076	0.343	117,578	0.077	0.449
0.060	260,295	0.099	0.363	349,547	0.085	0.378	75,567	0.089	0.499
0.070	190,778	0.112	0.369	181,993	0.106	0.414	51,628	0.100	0.544
0.080	145,174	0.124	0.382	127,103	0.120	0.463	38,165	0.110	0.585
0.100	87,280	0.147	0.416	69,520	0.146	0.581	19,166	0.131	0.663

19.11 BLOCK MODEL CHECKS

Behre Dolbear reviewed the cross sections and the construction of the mineralized envelopes for the two models developed by Comstock Mining. Behre Dolbear also performed independent calculations of the block model grades to verify the grade and tonnages reported by Comstock Mining. Nearest Neighbor, Inverse Distance, and Kriging calculations were used to check block grade estimates developed by Comstock Mining. Behre Dolbear believes that the Comstock Mining model is a reasonable estimate of the grades and potential gold and silver within both models. Behre Dolbear has also reviewed each block model section and plan map for continuity and comparison to drill hole penetrations and found no obvious flaws. An example of a block model section is shown in Figure 19.1 . Figure 19.1 is an expanded portion of east-west section 771,600 North that combines independently produced structural interpretations and mineral block envelopes from the block model. Superimposing the two revealed that the mineral grades honor the structural interpretation.

Another test of a modeling procedure is to compare the statistics of the modeled grades to the original assays. With the skewed, or lognormal, distribution of grades typical of precious-metals deposits, it is expected that as the volume represented by the samples increases, the variance decreases, and often the mean of those samples decreases as well. Table 19.5 and Table 19.6 present the statistics for the samples within the mineralized zone, the composites within the zone, and the modeled 10 × 10 × 10-foot blocks within the mineralized zone. Note that the standard deviation for the gold grades decreases from the original assay values, to the 10-foot composites, and then to the blocks in both models.

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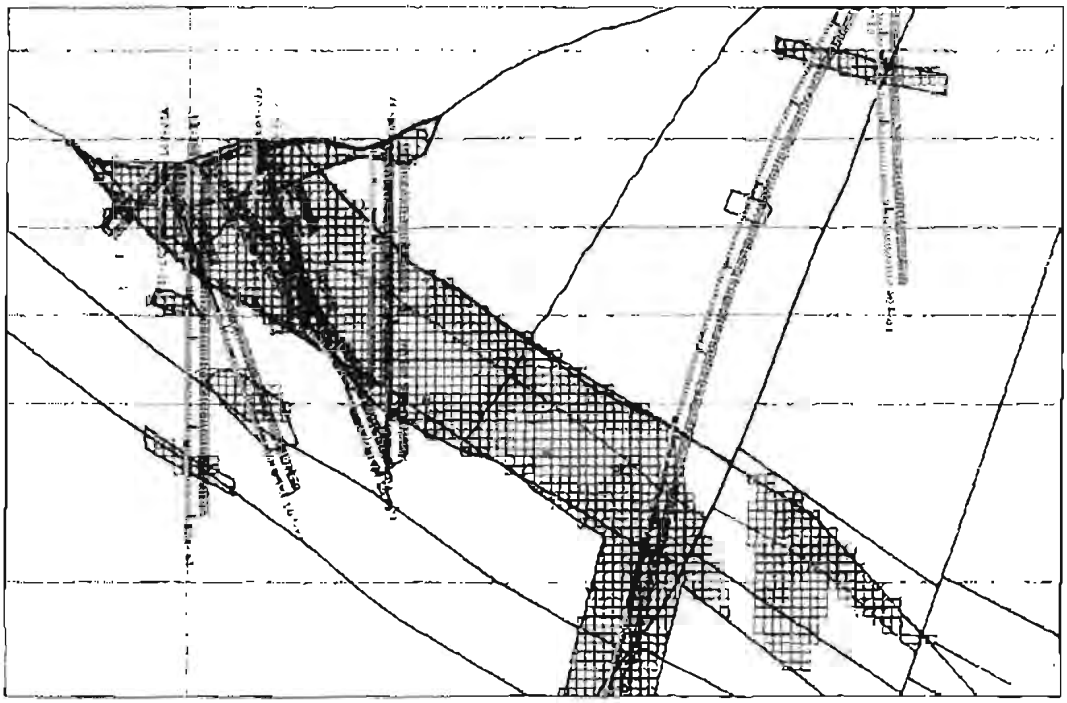

Figure 19.1. Section 771,600 North with modeled blocks and structural interpretation

TABLE 19.5
LUCERNE MODEL COMPARISON OF ASSAYS WITH COMPOSITES AND BLOCK GRADES

	5' Assays		10' Composites		10 × 10 × 10' Blocks	
	Au	Ag	Au	Ag	Au	Ag
Number	18,952	18,445	10,001	9,724	688,347	729,229
Mean	0.027	0.314	0.027	0.322	0.027	0.253
Std Dev	0.066	0.677	0.056	0.603	0.028	0.312
Variance	0.005	0.458	0.003	0.363	0.001	0.097
Maximum	1.937	42.921	1.347	23.709	0.538	15.098
Minimum	0.000	0.000	0.000	0.000	0.000	0.002
Range	1.937	42.921	1.347	23.709	0.538	15.095
Coef Var	253.7	215.3	211.5	187.1	104.1	123.1
Std Err	0.0005	0.005	0.0006	0.0061	0.0000	0.0004

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TABLE 19.6
DAYTON MODEL COMPARISON OF ASSAYS WITH COMPOSITES AND BLOCK GRADES

	Assays		5' Composites		10 × 10 × 10' Blocks	
	Au	Ag	Au	Ag	Au	Ag
Number	3,492	3,462	3,855	3,844	84,510	84,510
Mean	0.030	0.267	0.030	0.278	0.030	0.245
Std Dev	0.057	0.348	0.057	0.353	0.027	0.193
Variance	0.003	0.121	0.003	0.125	0.001	0.037
Maximum	1.196	6.680	1.196	6.680	0.526	3.245
Minimum	0.000	0.000	0.000	0.010	0.001	0.024
Range	1.196	6.680	1.196	6.670	0.525	3.221
Coef Var	190.4	130.3	186.4	126.8	91.0	79.1
Std Err	0.0010	0.0000	0.0009	0.0057	0.0001	0.0007

19.12 RESOURCE CATEGORIZATION

Definitions of the various categories of mineral resources and minerals reserves under NI 43-101 Technical Report requirements are shown below.

Mineral Resources

Inferred Mineral Resource

An 'Inferred Mineral Resource' is that part of a Mineral Resource for which quantity and grade or quality can be estimated on the basis of geological evidence and limited sampling and reasonably assumed, but not verified, geological and grade continuity. The estimate is based on limited information and sampling gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes.

Indicated Mineral Resource

An 'Indicated Mineral Resource' is that part of a Mineral Resource for which quantity, grade or quality, densities, shape and physical characteristics, can be estimated with a level of confidence sufficient to allow the appropriate application of technical and economic parameters, to support mine planning and evaluation of the economic viability of the deposit. The estimate is based on detailed and reliable exploration and testing information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes that are spaced closely enough for geological and grade continuity to be reasonably assumed.

Measured Mineral Resource

A 'Measured Mineral Resource' is that part of a Mineral Resource for which quantity, grade or quality, densities, shape, and physical characteristics are so well established that they can be estimated with confidence sufficient to allow the appropriate application of technical and economic parameters, to support production planning and evaluation of the economic viability of the deposit. The estimate is based on detailed and reliable

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exploration, sampling and testing information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes that are spaced closely enough to confirm both geological and grade continuity.

The term Mineral Resource covers mineralization and natural material of intrinsic economic interest which has been identified and estimated through exploration and sampling and within which Mineral Reserves may subsequently be defined by the consideration and application of technical, economic, legal, environmental, socio-economic and governmental factors. The phrase 'reasonable prospects for economic extraction' implies a judgement by the Qualified Person in respect of the technical and economic factors likely to influence the prospect of economic extraction. A Mineral Resource is an inventory of mineralization that under realistically assumed and justifiable technical and economic conditions might become economically extractable. These assumptions must be presented explicitly in both public and technical reports.

In the Comstock Mining block models, the confidence or resource category of the estimated grades was determined based on distance and on the number of different drill holes used to estimate that grade. Each block was tagged with a numeric code based on the information as to a potential resource category. The general rules for tagging the blocks were:

- Blocks within the mineralized envelope and with samples from the two closest drill holes within 50% of the variogram range for the gold assays were considered "Measured."
- Blocks within the mineralized envelope and with samples from the two closest drill holes between 50% and 90% of the gold variogram range were considered "Indicated." Any blocks estimated as backfill are included in the Indicated category.
- Blocks within the mineralized envelope but with a distance to the two closest drill holes farther than 90% of the gold variogram range were considered "Inferred."

A cutoff of 0.007 opt of gold was selected by Comstock Mining to summarize the mineral resource within their block models. The cutoff was identified by Comstock Mining to have "reasonable prospects for economic extraction" at the Comstock Mine Project using a current selling price of US$1,200 per ounce of gold and US$18 per ounce of silver. Behre Dolbear believes this is a reasonable cutoff to use for the resource summary.

Based on a gold cutoff of 0.007 ounce per ton, the estimated Measured and Indicated Resources for the Lucerne Model are approximately 26,540,000 tons, with an average gold grade of 0.028 ounce per ton and an average silver grade of 0.354 ounce per ton as shown in Table 19.7. The estimated Measured and Indicated Resources for the Dayton Model are approximately 4,970,000 tons, with an average gold grade of 0.034 ounce per ton and an average silver grade of 0.244 ounce per ton as shown in Table 19.8. The total Measured and Indicated Resources at the Comstock Mine Project are approximately 31,510,000 tons, with an average gold grade of 0.029 ounce per ton and an average silver grade of 0.336 ounce per ton.

There is an additional Inferred Resource of 12,660,000 tons in the Lucerne Model, with an average gold grade of 0.023 ounce per ton and an average silver grade of 0.252 ounce per ton and 1,210,000 tons in the Dayton Model, with an average gold grade of 0.026 ounce per ton and an average silver grade of 0.298 ounce per ton. The total Inferred Resources at the Comstock Mine Project are approximately 13,870,000 tons, with an average gold grade of 0.023 ounce per ton and an average silver grade of 0.256 ounce per ton.

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TABLE 19.7
LUCERNE MODEL IN-SITU GEOLOGIC RESOURCES AT 0.007 OPT AU CUTOFF

	Tons	Au (opt)	Ag (opt)	Contained Au (oz)	Contained Ag (oz)
Measured	11,220,000	0.031	0.394	348,000	4,420,000
Indicated	15,320,000	0.025	0.324	383,000	4,960,000
Measured and Indicated	26,540,000	0.028	0.354	731,000	9,380,000
Inferred	12,660,000	0.023	0.252	291,000	3,190,000

TABLE 19.8
DAYTON MODEL IN-SITU GEOLOGIC RESOURCES AT 0.007 OPT AU CUTOFF

	Tons	Au (opt)	Ag (opt)	Contained Au (oz)	Contained Ag (oz)
Measured	2,210,000	0.035	0.260	77,000	570,000
Indicated	2,760,000	0.033	0.231	91,000	640,000
Measured and Indicated	4,970,000	0.034	0.244	168,000	1,210,000
Inferred	1,210,000	0.026	0.298	31,000	360,000

19.13 RESERVE STATEMENT

Proven or Probable Reserves cannot be stated under NI 43-101 Technical Report requirements at this time. Comstock Mining is currently completing a pre-feasibility study, the necessary mine design work, metallurgical testing, cost and capital estimation, and permitting that is required to create a NI 43-101 compliant reserve.

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20.0 OTHER RELEVANT DATA AND INFORMATION

20.1 NORTHERN EXTENSION HISTORIC RESOURCE

Mineralization related to the Silver City fault zone does not terminate in the immediate densely drilled Lucerne and Billie the Kid area. On the contrary, the historic Justice, Keystone, and New York mines are just to the north and are reported to have been mining the same zone. The density of the underground workings in this area is similar to that in the Lucerne and Billie the Kid portion of the structure (see Figure 9.5 for locations of nearby historic mines). Preliminary geologic mapping by Comstock Mining geologists indicates that the Justice and Keystone open cuts were made on the outcrop of what Comstock Mining identifies as the Billie the Kid fault. Comstock Mining has data from 69 historic drill holes, drilled in the Northern Extension area. A number of these holes were used in a Northern Extension Historic Resource estimation.

Comstock Mining has inventoried a number of "Historic Resources" through the review of technical reports written by previous mine operators in the Northern Extension area. Comstock Mining has documented the date and source of these Historic Resources. The relevance, reliability, and comparison to current categories is not available. Behre Dolbear has not done sufficient work to verify the Historic Resource estimate. Comstock Mining is not treating it as a current resource estimate. The Historic Resource estimate cannot be relied upon; however, it provides a reasonable expectation of potential mineralization since mineralized outcrops, underground workings, and past drilling confirm the existence of mineralization. Table 20.1 shows the Northern Extension Historic Resource.

TABLE 20.1
NORTHERN EXTENSION HISTORIC RESOURCE

Description	Historic Resource		
	Tons	Au (opt)	Ag (opt)
Overman Pit (Remaining Mineralization on West Side of Pit)	70,000	0.080	1.400
Tailings from Caledonia/Overman Mill	30,000	0.020	0.400
HOM/UMC Tailings Impoundment from Con-Imperial and Loring Pits (1978-1984)	1,350,000	0.030	0.500
Gold Hill Pit (UMC 1985 Exploration Summary)	726,000	0.067	2.348
Con Imperial Underground (UMC 1985 Exploration Summary)	235,000	0.140	4.550
Yellow Jacket Dump (UMC 1985 Exploration Summary)	38,000	0.045	1.140
Gold Hill Dump (UMC 1985 Exploration Summary)	6,250	0.069	2.060
Total	**2,455,250**	**0.053**	**1.472**

20.2 NORTHERN EXTENSION EXPLORATION POTENTIAL

The northerly extension of mineralization beyond the Lucerne/Billie the Kid area has an estimated strike length of 2,700 feet. A portion of this extension is included in the Comstock Mining block model. This

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Inferred Resource is already included within the Inferred Resource category. Beyond the limits of the block model, Comstock Mining has proposed an exploration potential with as much as 19,000,000 tons with an average resource grade similar to already established resources. This mathematical calculation is based upon the resource of 9,135 tons per strike-length-foot over the densely drilled Lucerne and Billie the Kid areas. It should be noted that this assessment is purely conceptual in nature; that there has been insufficient exploration to define a mineral resource; and that it is uncertain if further exploration will indeed result in a mineral resource. However, it provides a reasonable expectation of potential mineralization since mineralized outcrops, underground workings, and past drilling confirm the existence of mineralization.

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21.0 CONCLUSIONS

The Qualified Person believes that the Comstock Mine Project represents an epithermal precious metal deposit within a world-class mining district. The deposit is hosted in structurally prepared rocks within the northwest striking, east dipping Silver City fault zone. Grades and extent of mineralization are enhanced where this fault zone is intersected by east-west and northeast striking faults. The geology of the project area is well described and understood through extensive surface mapping and drill hole logging. The density of geologic data is high and the reliability is excellent, particularly in the Starter Pit areas. Additional drilling is required in the Expanded Pit area. Drilling and assaying followed accepted industry-standard methods, and the evaluation of QA/QC results is very good. Due to a number of factors, most importantly the lack of a Preliminary Feasibility Study, all of the mineralization is classified as Measured, Indicated, and Inferred Resources, with none fulfilling the NI 43-101 Technical Report requirements for Reserve status. Additional project needs include continued in-fill drilling in the Expanded Pit area; continuation of a geotechnical/metallurgical large-diameter drill core program; completion of an EIS; and relocation of a State Route 342. Exploration opportunities to expand the known mineralization down-dip and along strike to the north, northeast, and south are outstanding and have the potential of doubling the estimated Measured and Indicated Resource.

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22.0 RECOMMENDATIONS

22.1 GEOLOGY AND MINERAL RESOURCES

Comstock Mining has now completed an 8-core-hole geotechnical/metallurgical core drilling campaign. Behre Dolbear recommends:

- Comstock Mining should carry out at least a preliminary pre-feasibility study to establish new capital and operating costs and thus be able to calculate reserves that conform to NI 43-101 Technical Report requirements.
- Comstock Mining should move as rapidly as possible towards completing an Environmental Impact Statement (EIS) for the expansion towards production from the Expanded Pit. Dr. Cameron recommended budgeting additional funds for this task. Behre Dolbear concurs with this recommendation. It should be noted, however, that EISs frequently take longer to complete and cost more than expected.

22.2 MINING

- It is recommended that slope stability studies be performed by an independent consultant to ascertain the correct safe slope for the pit for use in further engineering work and project feasibility.

22.3 PROCESSING

- Additional metallurgical testing will be required to guide the final design and capital cost estimates for the processing facilities to maximize the recovery of gold and silver. The samples tested in the work completed by McClelland Laboratories, detailed in prior paragraphs, were obtained from RC cuttings. Drill core samples, representative of the resources to be processed, need to be subjected to both column leach testing, simulated Counter Current Decantation (CCD) leach testing, and Grind, Cyanide, Leach, Precipitation, Agglomeration (GCLPA) testing. It is entirely possible that crush sizes in heap leach could exceed ½ inch, thereby, making the process economics very favorable even when considering slightly lower gold and silver recoveries. This may prove to be very favorable if a single treatment option such as "whole ore leach" were to be chosen.

- Behre Dolbear recommends additional testing, prior to detailed engineering, to verify the bulk densities at the Dayton Resource Area.

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23.0 REFERENCES

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23.2 MAPS

1) Comstock Lode Project, GoldSpring's Permit Area. Drawn by J.L. Merchant, Dated 01/07/10.
2) Comstock Lode Project, GoldSpring's Claims, Drawn by J.L. Merchant, Dated 01/07/10.
3) Comstock Mining Corporation, Proposed Open Pit Expansion, Undated.
4) Review of Maps of the Site of PMC's Head Office, Reno, Nevada: Figure 1 – Location Map; Figure 2 – Overview of Hartford Complex; Figure 3 – Site Map; Figure 4 – Mine Pit and Process Facility.
5) MECO drill hole cross sections including sections A-A', B-B', C-C', D-D', E-E', F-F', G-G', H-H', and I-I'.

23.3 OTHER DOCUMENTS

1) Mineral Reserves Declaration Report for the Comstock Mine Project by D. Anderson, P.E., Senior Engineer, GoldSpring, Inc., June 30, 2009.
2) Modification to the Class II Air Quality Operating Permit, March 3, 2009.
3) Nevada Bureau of Mines and Geology, Special Publication L-6 (revised to May 2009; additional update July 2009), State and Federal Permits Required in Nevada Before Mining or Milling Can Begin, Compiled by Doug Driesner, Nevada Division of Minerals.

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4) 2008 Vegetation Baseline Report, Comstock Mine, Storey and Lyon Counties, Nevada, Jacquelyn G. Picciani, Consultant, 3530 Deodar Street, Silver Springs, Nevada, 89429.
5) Review of All Environmental and Health and Safety Files Located at the PMC Site Office, Virginia City, Nevada.
6) Review of the Environmental Impact Statement, dated mid 1990s, Located at the PMC Site Office in Virginia City, Nevada.
7) State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection, Bureau of Mining Regulation and Reclamation: Water Pollution Permit; Permit Number – NEV2000109-2009.
8) Fact Sheet Pursuant to NAC 445A.401, Water Pollution Permit NEV2000109-2009.

23.4 INTERNET SITES

Comstock Mining Website, State of Nevada Website, SHPO Website, Environmental Associations.

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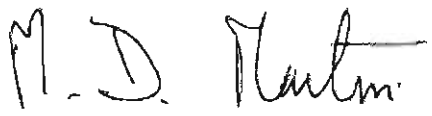
24.0 DATE AND SIGNATURE PAGE

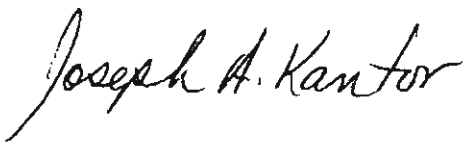
The undersigned prepared this Technical Report, titled **Technical Report on the Comstock Mine Project, Gold Hill, Nevada, USA**; dated 31 August 2010.

The format and content of the report are intended to conform to Form 43-101F1 of National Instrument 43-101 (NI 43-101) of the Canadian Securities Administrators.

Signed and Sealed



Michael D Martin, Q.P. (Mining) — 31 August 2010 Date



Joseph A Kantor, Q.P. (Geology) — 31 August 2010 Date

Mark A. Anderson, Q.P. (Metallurgy) — 31 August 2010 Date

Robert Cameron, Ph.D., QP
(Geostatics and Ore Resources) — 31 August 2010 Date

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LETTERS OF SUPPORT

- Email from Janine McMahon – 12/9/13
- Letter from Dayton Chamber of Commerce – 12/9/13
- Email from Lynette Patmor – 12/9/13
- Letter from Ronald James, Comstock Foundation for History and Culture – 12/9/13
- Email from Janet McFall – 12/9/13
- Email from Scott Jolcover & Paul Thompson – 11/11/13
- Email from Jeanne Broughton – 12/9/13
- Letter from James Page – 12/9/13
- Letter from Kim Fegert – 12/9/13
- Email from Daniel Howerton – 12/9/13
- Letter from Julie Draksler – 12/6/13
- Letter from Phill Searles – 12/9/13
- Letter from Kari Randle – 12/9/13
- Letter from Art Wilson – 11/8/13
- Letter from Las Swanson – 12/10/13
- Letter from Frank Pedlar – 11/9/13
- Letter from Steven Saylor – 11/11/13

Pursuant to NRS 239B.030, the undersigned affirms that the following document does not contain the social security number of any person.

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Dec 09 2015 08:41 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

COMSTOCK RESIDENTS ASSOCIATION, JOE McCARTHY

Appellants,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED

Respondents,

_____/

No. 68433
District Court Case No. 14-CV-00128

JOINT APPENDIX

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Comstock Residents Association's Opening Brief on Petition for Judicial Review (12/16/2014)	28:3837
Comstock Residents Association's Opposition Brief in Support of Petition for Judicial Review (1/9/2015)	28:3894
Comstock Residents Association's Reply Brief in Support of Motion to Augment Record (1/9/2015)	28:3888
Comstock Residents Association's Reply Brief in Support of Petition for Judicial Review (1/20/2015)	28:3926
CRA's Notice of Supplemental Authority re Motion to Amend (10/14/2014)	28:3754
CRA's Reply to Lyon County and CMI's Oppositions to Motion to Amend Complaint/Petition (8/5/2014)	27:3746
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COURT ADMINISTRATOR
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IN THE THIRD JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR LYON COUNTY

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY

Plaintiffs/Petitioners,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED

Defendants/Respondents,
_____/

Case No.: 14-CV-00128

Dept. No.: II

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF/ PETITION FOR WRIT OF MANDATE OR JUDICIAL REVIEW

I. INTRODUCTION

1. Plaintiffs/Petitioners Comstock Residents Association ("CRA") members, Gayle Sherman and Joe McCarthy are residents of the Comstock including Silver City, Lyon County, Nevada. In this lawsuit they challenge the January 2, 2014 action of the Defendant Lyon County Board of Commissioners ("BOC") to reverse decades of prior precedent – and contrary to the recommendation of its own Planning Commission and professional planning staff – and grant a version of Defendant Comstock Mining Incorporation's ("CMI") application to allow mining uses within Silver City. Because Lyon County provided no basis to depart from its prior

precedent, acted contrary to law and without proper notice and record support, and was unduly influenced, Plaintiffs/Petitioners ask that Lyon County BOC's January 2, 2014 action be reversed.

II. PARTIES

2. Plaintiff/Petitioner CRA is a not-for-profit organization incorporated in Nevada and through its members appeared at appropriate public hearings and objected to the CMI's application to allow mining uses within Silver City. Members of CRA live, work, recreate and/or commute in the Comstock Historic District in general and more specifically in Silver City.

3. Plaintiff/Petitioner Gayle Sherman lives in Silver City at 100 Grant Street. Ms. Sherman first purchased her home in 1976 and lived there for many years until she had to sell her home to pay for her son's college education. Ms. Sherman repurchased her old home in 2001 after, and in express reliance upon, Lyon County's 1986 denial of Nevex Gold's application to make the same land uses changes as CMI obtained.

4. Plaintiff/Petitioner Joe McCarthy and his wife Ann purchased land from 2003 to 2006 and built their Silver City home in 2006 and have been living there since 2007. Prior to purchasing their land and building their house, Mr. and Ms. McCarthy diligently researched the applicable land uses allowed within Silver City and specifically determined that mining was not a permitted use on lands within Silver City now owned by CMI.

5. Defendant Lyon County Board of Commissioners is the governing body of a subdivision of the State of Nevada and pursuant to NRS Chapter 278 possesses the authority and responsibility to regulate land use for the benefit of the public within Lyon County, Nevada.

6. Defendant CMI, a mining corporation, owns and or controls lands within the Comstock generally and specifically within and adjacent to Silver City. In 2013, CMI applied

to Lyon County to amend the Lyon County Master Plan and applicable zoning for "the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property." In order to mine its property within Silver City, CMI needed to undue years of prior planning and reverse multiple Lyon County BOC decision. CMI's application sought to change the long-standing aster Plan land use designations and zoning for their property in and adjacent to Silver City from its current Suburban Residential (where mining is not permitted) designation to Rural Residential (where mining is permitted). CMI's application to add mining uses by seeking a Master Plan amendment and Zoning change is referred to herein as CMI's "2013 Application."

III. BACKGROUND

A. The Comstock Historic District, Silver City and Lyon County's Prior Land Use Decisions

7. The Virginia City National Historic Landmark represents a truly unique piece of Nevada and national cultural history. The site of the single most productive mining strike in history, the Comstock brought tens of thousands of people to Nevada, generated enormous wealth and created the towns of Virginia City, Gold Hill and Silver City, the second largest metropolitan center in the Far West at the time. The Virginia and Truckee Railroad (recently restored as a recreational/tourist railroad) was constructed to service the mines, and important advances in unionizing and labor standards occurred in the Comstock during the 1860's. The Comstock also generated significant technological achievements in the mining industry later incorporated worldwide. Because of the Comstock, Nevada became a territory in 1861 and a state on October 31, 1864.

8. Recognizing its critical cultural resource value to the citizens of Nevada and the Nation, the United States first designated the Virginia City Historic District as a National Historic Landmark on July 4, 1961.

9. The National Park Service lists the site as in a threatened condition as a result of recent surface mining:

> Several contributing buildings, a portion of the historic highway at Greiner's Bend, and the entire mountainside adjacent to Gold Hill are in danger of sliding into an inactive mining pit developed in the 1970s. **The cumulative effect of contemporary surface mines within the central corridor of the district has been a gradual destruction and disintegration of the historic landscape that constitutes the visual heart of the historic district.**

10. In 1969, the Nevada Legislature enacted Chapter 384 of the Nevada Revised Statutes to create the Comstock Historic District ("CHD"). The Comstock Historic District Act, as NRS 384.010 to 384.210 is known, is the only Comstock-specific legislation designed to protect this amazing site of Nevada history and national heritage.

11. In the Comstock Historic District Act, the Nevada Legislature decreed that it is "the public policy of the State of Nevada to promote the educational, cultural, economic and general welfare and safety of the public through the preservation and protection of the structures, sites and areas of historic interest and scenic beauty" of the CHD. NRS 384.020 (emphasis added).

12. Silver City, Nevada, is one of the few residential communities identified in Lyon County. It is one of two communities Lyon County dedicated as a living, historic community.

13. As modern planning and zoning emerged for the Silver City area, it retained this historical backdrop as its foundation, and overlaid a modern transect of desired development. The Silver City Town Site has been envisioned consistently as having a commercial core with a small industrial zone which includes some historic mills and mines, all surrounded by residential development. Beyond the boundaries of the Town Site, land use has consistently been designated for less dense development and open space. Using different designations with different names, this basic concept has carried through generations of land use plans and continues today.

14. In 1971, Lyon County enacted its first master plan and related zoning. It planned and zoned Silver City like all the other towns in the county: urban appropriate uses and densities within the town and rural uses and densities outside of town.

15. Since Lyon County's original planning for Silver City it has consistently and uniformly determined that the basic urban/rural distinction meets the needs of the Silver City community and the county as a whole.

16. In 1986, Nevex Mining Company applied to Lyon County to change the land use and zoning designations for property within Silver City from urban uses to rural uses to allow mining within the town (Nevex applied at the same time for a special use permit to mine). The Lyon County Commission denied Nevex's proposed land use and zone changes specifically finding that Nevex's application for more rural uses and densities violated its Master Plan and was otherwise inappropriate.

17. In 1986, the Lyon County BOC, offered a long, comprehensive list of "findings of fact" supporting the denial, including that, "[t]he proposed rezoning violates the following expressed goals of the county's master plan: To manage natural resources in a beneficial way;

To improve neighborhood stability and increase property values by preventing incompatible and disruptive land use." Other specific findings include:

a. After a four hour presentation on June 17 [1986], the Planning Commission, by vote of five to two, recommended denial of the Nevex rezoning request considered today.

b. In reference to requirements for zoning established by NRS Section 278 and 250, we find (A) that the Nevex rezoning request does not comply with the Lyon County Master Plan. (B) The proposed rezoning does not promote the conservation of open space or protect the natural and scenic resources from unreasonable impairment. (C) The proposed rezoning would have both a long-term adverse financial impact to Silver City and the Comstock National Historic Landmark. (D) The proposed rezoning does not promote the health and general welfare of the Silver City area. (E) The proposed rezoning is not compatible with the Silver City area and does not encourage the most appropriate use of land in the Silver City Townsite.

c. There is no land in the Silver City Town site zoned RR-5, and the present zoning is predominantly residential in nature.

d. The proposed rezoning would significantly harm the integrity of the Comstock Historic District and the National Landmark District.

e. The proposed rezoning violates the following expressed goals: (A) to manage national resources in a beneficial way. (B) To improve neighborhood stability and increase property values by preventing incompatible and disruptive land uses.

18. In 1990, Lyon County affirmed its 1986 decision when it adopted a new Master Plan and maintained the same urban/rural land use designations for Silver City.

19. Lyon County approved two goals for Silver City in the 1990 Master Plan:

Goal #1 – To maintain, promote, and secure the historic character of the community and to prevent the destruction or degradation of the historic character. Objective: Lyon County should support the Comstock Historic District Commission in its legislative mission.

Goal #2 – Lyon County should review all new development proposals with the intent to protect the riparian ecology associated with Gold Canyon and American Ravine, with the intent of protecting water quality, minimizing flooding, erosion and sedimentation, and preserving natural drainage, habitat, and aesthetic functions.

20. In 2002, Lyon County again examined the appropriate land use designations for Silver City and its environs and in the West Central Lyon County Land Use Plan again designated Silver City as appropriate for urban uses and densities.

21. The West Central Lyon County Land Use Plan concludes that Silver City has the potential for continued limited growth with only half of the potential home sites developed. The plan for slow growth of the community was acknowledged, as was the historic nature of the town's architecture and the context of the community within the Comstock Historic District and the Virginia City National Historic Landmark. In the plan, Lyon County stated that Silver City did not have the kind of development potential they saw in Dayton Valley, but instead hoped for gradual residential and commercial growth of Silver City while maintaining the community's historical integrity.

22. In the West Central Lyon County Land Use Plan, the Lyon County BOC adopted specific goals for Silver City that articulated future direction and continuation of earlier policies set out in previous master plans as follows:

a. To recognize, enhance, and protect the unique character of Silver City. Among the actions set forth to implement this Goal was "to maintain that scale and primary residential character by retaining the existing Master Plan designation and zoning categories."

b. To preserve the scale of the community by architectural review that is sensitive to how new structures fit into the existing fabric. Among the actions set forth to implement this Goal was "to preserve the existing pedestrian character by maintaining alleys, soft paving approaches, and relatively narrow streets."

c. To promote the revitalization of the commercial corridor by promoting reinvestment.

d. To preserve and strengthen the existing infrastructure, i.e., water, roadways, drainage, and public facilities. Among the actions set forth to implement this Goal was "Lyon County shall provide an infrastructure inventory and deficiency evaluation and report. Lyon County shall provide a long term if modest capital improvement commitment (i.e., 20 years) that methodically addresses these deficiencies." Also included was an action "to implement and actively oversee the 'dark sky' ordinance."

e. To focus on encouraging tourist-oriented historic activities that do not degrade the quality of life central to Silver City's uniqueness. Among the actions set forth to implement this Goal was "to actively support the efforts of residents to preserve and improve their property."

f. To limit earth disturbance or above-ground mining activities that create visual scarring or that disrupt the fabric of the community. The only action set forth to implement this Goal was "Lyon County shall establish a land use policy that minimizes the impact of mining and other significant earth-disturbing activities that degrade quality of life."

g. To maintain the primary focus of the community as residential. The only action set forth to implement this Goal was "to urge the Board of County Commissioners to carefully consider all zone changes or Master Plan amendments that would substantially alter the character and identity of Silver City."

23. Because of its historic value and scenic beauty, Storey County recently prohibited new open pit mines within its portion of the heart of the Comstock –following Highway 342 from just north of Silver City through Gold Hill and into Virginia City.

B. Development and Adoption of the 2010 Lyon County Comprehensive Master Plan

24. In December 2010, Lyon County adopted a new, fully vetted County-wide Comprehensive Master Plan (2010 Comprehensive Master Plan). For the fifth time, it specifically considered the appropriate land uses for Silver City.

25. During the development of the 2010 Comprehensive Master Plan, numerous public hearings and community workshops were held throughout Lyon County. The community workshops concentrated on developing the county-wide land use map as well as the language to be included in the text. Development of the 2010 Comprehensive Master Plan was a standing item on Lyon County Planning Commission meetings from September of 2005 to it adoption in late 2010.

26. The 2010 "Comprehensive Master Plan is the culmination of four years of dialogue and analysis that has included a wide array of participants including the Board of Commissioners, the Planning Commission, community advisory councils, County staff and the community at large. A series of community meetings, open house events and workshops were held throughout the county to obtain citizen input and recommendations, including eight meetings on issues identification in March 2007, eight community meetings and two joint Planning Commission/Board of Commissioners sessions on community vision in April and

September 2007, six meetings in November 2008 in goals and policies, fourteen meetings in January, April and May 2009 on land use maps, six meetings in July 2009 on land use goals and policies, and finally eleven sessions in October 2009 and March 2010 on the overall County-wide Comprehensive Plan." 2010 Comprehensive Master Plan at 1.10-1.11.

27. On December 23, 2010, the Lyon County Board of Commissioners held a public hearing to consider adopting the 2010 Comprehensive Master Plan. The only public comment at the December 23, 2010 BOC hearing were Silver City residents that expressly supported the proposed the Master Plan as it applied to Silver City as recommended by the Planning Commission. Lyon County Board of Commissioners thereafter unanimously adopted the same planning designations for Silver City.

28. The 2010 Comprehensive Master Plan states that it "represents a future vision of Lyon County along with recommendations for achieving that vision. The ideas of the Plan are a distillation of the community's many desires, tempered by what seems necessary, feasible, and reasonable."

29. The 2010 Comprehensive Master Plan is organized in two tiers: a County-wide Component and more specific Community Plans.

30. The County-wide Component of the 2010 Comprehensive Master Plan provides for the overall foundation and framework for directing the County's future growth and development. The County-wide Component is the umbrella document that applies to all of the unincorporated area of Lyon County. It represents the overall vision, goals and policy direction, generalized land use patters for the entire County, and the land use designations for lands outside of defined communities. The County wide-Component provides guidance for the preparation of the more specific Community Plans.

31. The Community Plan tier of the 2010 Comprehensive Master Plan presents the specific vision, goals and policy direction, and land use pattern for each identified community as determined through the community planning process. Community Plans are designated for existing established communities. These maps provide detailed views of the community's desired growth and development for the future taking into consideration each community's unique character, opportunities and constraints. The County will work with each community to complete Community Plans, including Community Land Use Plans in each community.

32. Lyon County intended the 2010 Master Plan to at least "serve for about 10 years." 2010 Comprehensive Master Plan at 1.8.

33. The 2010 Comprehensive Master Plan "is comprehensive because the elements cover a broad range of development and growth issues which can be influenced significantly by the County Planning Commission, Board of Commissioners and other governing authorities and agencies. The Plan is general because the recommendations are broad. The plan is long-range because consideration is given to the problems and opportunities which may arise over the next twenty or so years. The Plan is dynamic because there will be amendments to adapt to new situations and meet new challenges over time." 2010 Comprehensive Master Plan at 1.8.

34. No new situation or new challenge has presented itself in Silver City since the adoption of the 2010 Comprehensive Master Plan.

35. The 2010 Comprehensive Master Plan contains policies and goals that are County-wide in nature as well as specific to its eight diverse communities, including Silver City. The following excerpts from the Master Plan are relevant to CMI's 2013 Application.

a. Policy LU 1.1: "Follow development patterns as established on Countywide Land Use Plan or a more specific Community Plan. The Community Plan

envisioned for Silver City has not yet been initiated by Lyon County." Until a Community Plan is adopted, the Countywide Land Use Plan will be the guide.

b. Policy LU 1.4: "Locate industrial development as designated on County-wide Land Use Plan or determined by criteria. Industrial uses, including extractive industries, will occur in areas that are designated on the County-wide Land Use Plan. New industrial uses should only be located in areas that do not adversely impact existing residential settlements."

c. Policy CC 1.3: "Design Tailored to Communities. New development in Lyon County should address and respect the unique character of communities within the county. Strategies: develop Community Plans to identify typical or desirable design elements that maintain or promote the community's desired image. Adopt County-wide standards that allow the flexibility to address specific design needs for individual communities in Lyon County." In Silver City, this means maintaining the historic character of development in the Town Site, continuing the architectural standards within the Comstock Historic District, retaining or restoring existing historic structures, and limiting new development to those proposals that fit with the historic image of Silver City.

d. Goal CC-3: Heritage (under Community Character and Design, Chapter 5). "Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for residents and visitors to learn about and celebrate our heritage."

e. Policy CC-3.1: "Maintain and restore historic resources. Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts. Strategies: Revise zoning to encourage historic use and development patterns including mixed-use structures and districts. Within historic districts, promote historic design elements, features, and context, and prohibit building design that compromises the integrity of the historic community character. Within historic districts, limit new land uses that

would pose a risk to historic structures or the historic character of the district. Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts."

f. Goal NR 9: Mining and Resource Extraction (under Natural Resources and Environment, Chapter 6). Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

g. Policy NR-9.3: Mitigate Operations. "To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, etc." Silver City is an existing community with residential, commercial and industrial areas that would be adversely affected by the mining activities envisioned by CMI there were similar to the impacts anticipated for the proposed Nevex mine in 1986.

h. Goal CP-1: Support Diversity. "Lyon County will celebrate and support the diversity of character among communities in the county."

i. Policy CP-1.1: "Recognize Diversity of Communities. Lyon County planning efforts and regulations will consider the unique aspects of communities in the county, and will allow for variation and exceptions to address key aspects of their diversity."

j. Goal CP-3: Community Plans. "Lyon County will support community-based planning efforts that elaborate community-specific goals that are developed with strong public consensus."

36. The communities within the Comstock Historic District, including Silver City, are the oldest in Lyon County, representing a unique aspect of historic development within the

County. Embracing the historic character of Silver City and supporting planning actions and designations that are consistent with Silver City's heritage is consistent with the intent of this Goal. It is anticipated that the Community Plan process will begin soon for Silver City, which is identified as one of eight existing, established communities in Lyon County for which a Community Plan is required under the Comprehensive Master Plan. Because the Community Plan is intended to tier off the Comprehensive Master Plan, maintaining the Master Plan decisions for Silver City is critical to the continuity and consistency of this process.

37. As with prior land use plans in Lyon County, the 2010 Comprehensive Master Plan embraced the historic nature and slow pace of development in Silver City, acknowledging that: "Over the past 30 years residential infill and limited commercial endeavors have occurred on existing historic properties in Silver City. The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims."

38. The 2010 Comprehensive Master Plan also states "Silver City has a strong sense of identity and prides itself on its cohesive small town atmosphere. The community treasures its historic buildings and landscape features, as evidenced by the preservation and rehabilitation of many original structures. New construction is regulated for exterior architectural features by the Comstock Historic District Commission."

39. The 2010 Comprehensive Master Plan establishes the entire area within the Silver City Community Boundary as an Historic Character District, defined as follows: "Historic Districts include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote 'historic' architectural design elements. Tools might include mixed-use, design guidelines and conservation easements."

40. The lands within the Community Boundary for Silver City will also be the subject of a Community Plan for Silver City. The lands owned by CMI that are proposed for the Master Plan Amendment and Zoning Map Change are all included within the Community Boundary. Therefore, all of the Comstock Mining lands included in its application are within the Historic Character District.

41. In addition to the Character Districts, the Land Use Plan Map for Silver City establishes Land Use Categories. In keeping with the historical pattern of planning and zoning for Silver City, the lands proposed for Master Plan Amendment and Zoning Map Change are generally divided between a Suburban Residential designation within the Town Site boundary, and a Resource designation outside that boundary.

42. CMI proposes to change this Suburban Residential designation within the Silver City Town Site to Rural Residential which typically includes zoning such as RR-3 and RR-5 where mining could be allowed under a Special Use Permit. Rural Residential planning and zoning (except RR-1) have never been included within the Silver City.

43. CMI's owns or controls over 6,000 acres of land outside of Silver City in the Comstock, a significant portion of which are classified as appropriate for mining.

44. Prior to adoption of the 2010 Comprehensive Master Plan Defendant CMI, objected to the proposed land use designations for their property within Silver City – which they desired to mine. Lyon County rejected CMI's request.

C. Public Reliance on Stable Silver City Master Planning

45. Over the years, Nevada citizens purchased/and or invested in property and businesses within and around Silver City as a result of, and in reliance on, these public, deliberate and consistent land use decisions.

46. For example, after Lyon County 1971 Master Plan, Chris and Bonnie Brown purchased land and built their home in 1977. As described above, Gayle Sherman moved a house to her Silver City lot and in 1984 undertook an extensive remodel. In 1985, Darlene and John Cobbey purchased a lot on Main Street, Silver City, with historic structures and made extensive restorations and renovations of them.

47. After Lyon County BOC denied Nevex Gold's application to change the Silver City land use to allow mining, citizen investment continued. In 1987 Karen Kreyeski purchased her home on Vivian Street and under took a major remodel including the addition of a master suite, detached garage and utility room. In 1990, Dan and Janet Rose purchased land on Vivian Street and built a house thereon shortly after.

48. In 1992, after Lyon County adopted the revised Master Plan in 1990, Deborah Nicholson purchased her home on Buckeye Street in Silver City as did Wil and Carol Godwin in 1999 on Dayton Toll Road. In 2001, Gayle Sherman repurchased her home on Grant Street and Jeff Nicholson and Jean Legassick purchased their house on 2nd Street.

49. In 2002, Lyon County confirmed the land use for Silver City in the West Central Lyon County Master Plan and Jack and Lorraine Richmond purchased their on The Golden Road. In 2004 Suzanne Cassidy purchased her historic home on Main Street as did Allison Woodman and Allen Jackson. In 2006, Chad and Judi Olsen purchased land and built their home. In 2007, Cyndy Etchegoin purchased her home and Joe and Ann McCarthy built their home on land acquired from 2003 to 2007.

50. As residents bought and invested in Silver City, the community grew as well. In the late 1960's in Silver City began a slow change from the old to the new as an influx of young people bought land in what was truly a ghost town. The few remaining mining widows were respectfully integrated into the newcomer's enthusiasm and interests. The Fire Department

was revitalized as was the town advisory council. Houses were restored and newly built, children were born and families established. In this rebirth of Silver City, the blending of the old-timers and the newcomers resulted in a refreshing freedom of expression and robust community involvement. The Silver City Schoolhouse became the Silver City Community Center, the heart of a unique town life that values individual independence and treasures the collective act of building a community from the bones of the past.

51. In the 1980's and the 1990's more homes were built as more newcomers (this time artists, teachers and archeologists) found the charms of small town life attractive. When the Silver City Community Center burned to the ground in 2003, the community rallied around the restoration and rebuilding of the center, donating thousands of hours to reclaim artifacts, restore the building and navigate political obstacles that impeded the historically accurate rebuild of the center. With stubborn perseverance, the Silver City Community Center was lovingly and carefully rebuilt and the community became stronger for it. It is now a place reserved for spirited local governance, fellowship and fun and is the physical embodiment of Silver City's journey from ghost town to thriving community.

D. Advent of CMI's Unprecedented Money Influence in the Comstock

52. Since its recent entry into the Comstock, CMI has sought to purchase influence in a variety of ways, initiated in Storey County and then perfected in Lyon County. In Storey County where it needed various special land use permits, CMI contributed to County Commissioner election campaigns and hired the father of the sole planner employed by Storey County.

53. Once it had received the approvals it needed in Storey County, CMI turned its attention to Lyon County as it needed to change the Silver City land use designations in order to mine on that portion of its ownership in Lyon County.

54. In December 2010, when it adopted the 2010 Master Plan and ignored CMI's first reclassification request, the Lyon County BOC consisted of Chairman Joe Mortenson, Vice-chair Chuck Roberts, and Commissioners Phyliss Hunewill, Ray Fierro and Larry McPherson. Vice-chair Chuck Roberts represented District I, which includes Silver City. Commissioner Roberts made clear that he favored maintaining the longstanding land use designations in Silver City. As a result of the 2010 election, Vida Keller replaced Commissioner Larry McPherson.

55. In order to gain the vote of the District I Commissioner, CMI needed to replace Vice Chair Roberts. Vice chair Roberts came up for reelection in 2012.

56. In the 2012 election, CMI threw its huge corporate and unprecedented support behind Bob Hastings, the challenger to Commissioner Roberts.

57. CMI and its related companies contributed $17,500 in cash to Bob Hastings to insure his election. CMI's cash contributions were approximately 60 percent Mr. Hastings' cash contributions that year.

58. CMI's cash contributions to Mr. Hastings election campaign in 2012 were unprecedented in scale. According to Nevada Secretary of State records, CMI's cash contribution to Bob Hastings dwarfed all prior contributions to any candidate from a single interest by 350 percent.

59. CMI cash contribution to Bob Hastings was more than any other Lyon County BOC candidate has ever raised in **total** contributions (cash and in kind) in any other BOC election. The average Lyon County BOC candidate since 2008 has raised $7,379 in these other races according to reports posted by the Nevada Secretary of States. CMI's $17,500 contribution more than doubled this average campaign fund raising.

60. CMI's contribution to Bob Hastings equaled the total amount of cash contributions raised by Vice-chair Roberts during the 2012 District I race. Without CMI's cash contributions, Mr. Roberts would have outraised Mr. Hastings in all contributions by $25,716 to $12,059.

61. Plaintiffs/Petitioners are informed and believe that CMI also contributed to Mr. Hastings' campaign significantly in other ways. During the 2012 campaign, CMI held "Community Open Houses" within Mr. Hastings' election district, and provided free food, drinks and music. At these "Open Houses," CMI, Plaintiffs/Petitioners are informed and believe, introduced Mr. Hastings, allowed him to speak and promote his election.

62. In the November 2012 election, Bob Hastings defeated Mr. Roberts in the election for District I Commissioner.

63. After CMI's overwhelming support for Commissioner Hastings and in opposition to a perceived opponent provided the following blunt message to the other BOC members: if CMI perceives a commissioner as unfriendly to its position, CMI will fund an opponent who is friendly.

64. CMI also makes strategic hiring decisions of those related to important decision makers, as it did in Storey County.

65. In Lyon County, CMI hired either Keller Rebuilders (owned by Commissioner Keller and her husband) or Commissioner Keller's husband directly to work CMI owned or controlled buildings and structures in the Comstock. CMI thereafter created a foundation, apparently only supported by CMI contributions, and hired either Keller Rebuilders or Commissioner Keller's husband to continue work on CMI owned or controlled buildings and structures in the Comstock. Commissioner Keller's husband is currently working for CMI's foundation on a one year contract. This contract began in the Spring of 2013 and is therefore

due to expire in the Spring of 2014. When Commissioner Keller considered CMI's 2013 Application, her husband's employment contract was due to expire shortly thereafter.

66. According to her Nevada Financial Disclosure Forms, in 2013 and 2014 Ms. Keller received income from only four sources: Lyon County ($26,136 annually), Priceless Realty Inc., Keller Rebuilders/Consulting, and Lakeview Plaza LLC. Plaintiffs/Petitioners are informed and believe that Commissioner Keller and her husband owe Lyon County over $8,000 in real property taxes.

67. Plaintiffs/Petitioners are concerned that if Commissioner Keller and her husband sole source of income outside of their contracts with CMI is Commissioner Keller's Lyon County salary, Ms. Keller's possess a powerful incentive to maintain good relations with CMI and improve CMI's business opportunities.

68. CMI also employed Commissioner Hasting's wife in relation to certain events it put on.

69. CMI also hired Commissioner Hasting's daughter's boyfriend as an equipment operator.

70. In addition to directly hiring family members, CMI contributes to causes favored by Commissioners. For example, Commissioner Hastings has stated, "Comstock Mining has worked with me to help support several charities, including the Mason Valley Boys & Girls Clubs – Dayton Units."

E. With Influence In Place, CMI Applies to Change Silver City Land Uses Designations

71. In August 2013, CMI applied to Lyon County to change the land use designations and zoning within Silver City from more urban to more rural which would allow industrial uses, such as mining, which heretofore had been prohibited.

72. CMI, a mining company, filed its 2013 Application in order to mine the property, stating the application was for "the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property."

73. CMI's 2013 Application was, for all intents and purposes, the same application for land use designation changes filed by Nevex Gold and rejected by Lyon County in 1986.

74. CMI's 2013 Application contained no expert reports and based its request for zoning change primarily on an assertion that all prior Lyon County land use decisions had been in error.

75. CMI's 2013 Application failed to specify any change in conditions in Silver City or Lyon County.

76. CMI's 2013 Application failed to address the express policies in the 2010 Master Plan that were contrary to CMI's request to locate an industrial use, such as mining, with Silver City.

77. The citizens of Silver City overwhelmingly oppose CMI's 2013 Application. Approximately 75 percent of the 146 registered voters in Silver City oppose CMI's 2013 Application and signed a petition to that effect.

78. Lyon County has created a system of town advisory councils to provide input of the directly affected communities on issues of concern.

79. In September 2013, the Silver City Advisory Council considered CMI's 2013 Application and unanimously voted to recommend that it be denied.

F. Lyon County Planning Staff and Planning Commission Reject CMI's Application

80. Upon receipt of CMI's 2013 Application, Lyon County Planning Department staff began to analyze it and compare it to the policies and guidance contained in the 2010 Master Plan.

81. In addition, Plantiffs/Petitioners completed a thorough legal, planning, environmental, economic and historical evaluation of CMI's 2013 Application. Plaintiffs/Petitioners submitted their final collated expert report to Lyon County. The final report established not only consistency of Lyon County's many prior decisions on the same question, but also inconsistency, and adverse economic, environmental, and social impacts of CMI's proposed industrial uses within Silver City.

82. Upon an exhaustive review of the CMI's 2013 Application and Plaintiffs/Petitioners' final report, Lyon County's professional planning staff recommended that CMI's application be denied, based on the following considerations:

a. Industrial land uses requested by the application were in conflict with multiple 2010 Master Plan policies.

b. No change in conditions has occurred to justify so altering the longstanding land use designations within Silver City.

c. The proposed reduction in density would make needed town infrastructure improvements less likely.

d. As envisioned by the 2010 Master Plan, a land use change of such a magnitude should be considered, if at all, during the development of the Silver City Community Plan.

83. Lyon County originally agendized CMI's 2013 Application for October 8, 2013.

84. After CMI received Lyon County planning staff's Staff Report recommending denial of CMI's 2013 Application, Plaintiffs/Petitioners are informed and believe that CMI contacted upper level Lyon County management and held a meeting attended by both members of the Planning Commissioners and BOC and the Lyon County Manager. Lyon County has never disclosed what was discussed at this meeting.

85. A large number of Silver City residents attended the October 8, 2013 Planning Commission meeting.

86. After the Planning Commission had already approved its agenda for the day, while keeping the public at the meeting for more than an hour, CMI and Lyon County staff announced that they had agreed to seek a continuance to the next Planning Commission meeting in November. Although CMI and Lyon County both had advance knowledge of their proposed request, neither party alerted Silver City residents or their representatives of the likely continuance of the hearing for which residents travelled to Yerington to participate in.

87. November 12, 2013, the Lyon County Planning Commission held a public hearing on CMI's 2013 Application.

88. During its presentation on its application, CMI provided no expert testimony to counter or address the evidentiary record created by Plaintiffs/Petitioners and the Lyon County Planning Department. Instead, CMI presented a totally new presentation, not provided to any one in advance, regarding exact boundaries of the original Silver City town site. The Planning Commission chastised CMI for the introduction of last minute information not shared with the obviously interested parties.

89. Both Commissioner Hastings and Keller attended the November 2013 Planning Commission during the hearing on CMI's 2013 Application.

90. After hearing hours of public testimony, the Planning Commission adopted the recommendation of its professional staff and recommended – by a 4 to 1 vote – that the BOC deny CMI's application.

91. In making its recommendation, the Planning Commission found the following:

"A. The proposed amendment is not in substantial compliance with, nor promotes the Master Plan goals, objectives and actions in that it is not in keeping with the

majority of applicable guiding principles, goals, policies, strategies and community description contained in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

B. The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land use in that the amendment would change the planned character and intensity of residential development and enables the potential development of a land use incompatible with the actual and planned adjacent and predominant residential land uses.

C. The proposed amendment fails to identify or respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.

D. The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and will adversely impact the public health, safety or welfare.

E. The proposed amendment does not promote the desired pattern for the orderly physical growth of the County as set forth for the Silver City community in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

F. The existing Comprehensive Master Plan and/or any related element thereof is not in need of the proposed amendment.

G. The proposed amendment is not compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan, particularly those related to Silver City.

H. The proposed amendment will have effects on service provision, including adequacy or availability of facilities and services, and is not compatible with existing and planned service provision.

I. Deviation from the strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

J. The proposed Plan amendment will not promote the public welfare and will be inconsistent with the goals and policies of the Comprehensive Master Plan and the elements thereof, and

K. The burden of proof has not been met by the applicant in their application to warrant a change in the Master Plan at this time."

92. The Planning Commission's findings mirrored the BOC's 1986 findings on the similar Nevex Gold Master Plan amendment application.

93. For at least the last two years, the Lyon County BOC has upheld every positive recommendation of the Lyon County Planning Commission.

G. Without Explanation, Lyon County BOC Reverses its Own Prior Findings, its Professional Staff and Planning Commission Recommendations and Approves CMI's Application

94. Lyon County agendized CMI's 2013 Application to be heard by the BOC at its January 2, 2014 meeting.

95. At the beginning of the January 2, 2014 meeting, Commissioner Keller announced she had a new action for consideration by the BOC. Commissioner Keller indicated she had contacted BOC members and CMI to discuss her proposal. Although Commissioner Keller characterized the new proposal as a "compromise" offered on behalf of the Silver City residents, she never contacted any representative of the Silver City Town Board or concerned residents to discuss the new alternative.

96. On January 1, 2014, Commissioner Keller and her husband, a CMI employee, met privately with BOC Chair Joe Mortensen and the Lyon County Manager. Plaintiffs/Petitioners are informed and believe that Commissioner Keller, her husband, Commissioner Mortensen and the County Manager then met with CMI's CEO and its consultant. Despite meeting the day before with CMI's CEO and its consultant, Commissioner Keller informed the public during the January 2 meeting that she had only been working with CMI's consultant.

97. Commissioner Keller has had extensive contacts with CMI. Commissioner Keller refused to meet with representatives of Silver City despite repeated invitations.

98. Even though they had advance knowledge of the new proposal, no BOC member or Lyon County staff contacted Silver City residents or their known representatives to either discuss the proposal or provide any notice of the intent to introduce it during the January 2, 2014 hearing.

99. Commissioner's Keller's new proposed action substantially modified the boundaries of the proposed area for land use designation changes. Commissioner Keller's new action represents a substantial, and heretofore undisclosed amendment to CMI's 2013 Application.

100. CMI's 2013 Application proposed to change land use designations for their ownership within Silver City. The proposed change in land use and zoning designation would permit CMI to pursue further permits for a range of new using including industrial type uses such a mining, feed lots, etc. Some of these uses were classified as "allowed," which means that CMI could pursue themwith an ordinary permit application. Other of the new uses, such as the industrial one including mining, could only be pursued after obtaining a "special" use permit.

101. When Lyon County's professional planning staff assessed the appropriateness of CMI's application, it analyzed the full range of potential uses, including special uses such as mining, that could occur under the proposed land use changes.

102. In direct contravention to their professional planning staff analysis and the BOC's many prior considerations of the same basic planning decision such as the 1986 Nevex Gold application, BOC members in favor of the application determined that they could only consider the allowed uses during their discussion of CMI's 2013 Application. These members determined that they could not consider the potential impacts of special uses, such as mining and other industrial uses, at this stage in the land use planning determination.

103. During the January 2, 2014 hearing, CMI presented no expert testimony to counter the factual record regarding the adverse impacts of its 2013 Application. The record is devoid of any evidence of actual benefits to the public resulting from the 2013 Application. The record is also devoid of any changed circumstances in Silver City or its environs to justify a change in Lyon County's long-standing and consistent land use policies for Silver City.

104. After public comment, the BOC held an abbreviated discussion consistent with their constrained view of the allowable impacts to consider and voted, 4 to 1 to overturn the Silver City Advisory Council, its professional planning staff recommendation, and the recommendation of its Planning Commission, and grant Commissioner Keller's new amended CMI 2013 Application.

105. The findings made by the BOC on January 2, 2014 to approve the revised CMI application are legally and factually inconsistent with the Lyon County BOC's prior decisions approving the 1971 Master Plan, the 1986 denial of the same application by Nevex Gold, approving the 1990 Lyon County Master Plan, approving the 2002 Lyon County West Central Master Plan and the 2010 Lyon County Comprehensive Master Plan.

106. The Lyon County BOC did not refer the amended 2013 Application for a Master Plan amendment to its Planning Commission for a report prior to taking action on the application.

107. Instead, Lyon County BOC referred the amended Master Plan amendment to the Planning Commission for a report **after** the BOC approved the amendment.

H. Adverse Effects of BOC's Action on Silver City Residents

108. CRA members, who include many Silver City residents, and Gayle Sherman and Joe McCarthy will be adversely affected by the BOC's approval of the CMI's revised 2013 in the following ways:

a. Plaintiffs/Petitioners did not receive prior notice and an opportunity to prepare for the actual application acted on by the BOC on January 2, 2014.

b. Plaintiffs/Petitioners were excluded from communications between BOC members that would otherwise have been public.

c. CMI's existing mineral exploration in Silver City and surface mining in the adjacent Lucerne Pit. CMI's past and present exploration and mining activities cause degraded visual conditions, loud industrial noises within a quiet residential area, dust and dirt on roads and in the air, and increased traffic on nearby roads including trucks and other industrial equipment. The change in land use designations and zoning from prohibiting industrial uses such as mining in Silver City will likely cause these present adverse effects to increase.

d. The change in land use designations and zoning from prohibiting industrial uses such as mining to allowing it under a special use permit will reduce the value of Plaintiffs/Petitioners' property.

e. Surface mining, made possible by the change in land use will exacerbate and accelerate the destruction of the CHD. Road building, cuts and fills, trenching, drill pads, and subsequent associated surface mining activities, as noted by the National Park Surface individually and cumulatively degrade the unique character of the CHD. In addition, the noise associated with the proposed activities will substantially alter the character of the CHD. As CRA members have testified, the construction, drilling and other activities associated with CMI's past and current mineral exploration and mining have significantly altered the aural landscape in the CHD and efforts to attenuate have proven unsuccessful.

f. Mining operations can generate dust from mining and mineral processing operations and associated truck traffic, releasing particulates, nitrous oxide, sulfur dioxide, and carbon monoxide from the equipment used to mine and process ore minerals. These emissions can generate smog and other forms of air pollution that may impact local air quality. Mine sites can also have increased concentrations of specific metals and salts in water used in – or runoff from – mine sites. Acid mine drainage is a phenomenon that can occur when rock containing sulfides is exposed to air and water. The water can become acidic and often carries elevated levels of toxic metals. Acid mine drainage occurs most frequently in association with metals mines [such as gold and silver mines] and can affect water quality. Pit lakes, another water quality concern during and after mine closure, are created when mining is completed in a pit and dewatering pumps are turned off, allowing groundwater to flow back into the pit. Similar concerns about the acidity and concentration of heavy metals in these water bodies arise in association with metals mines. Changes in water quality and quantity can affect not only human health but also wildlife habitat and ecosystem health. Environmental impact assessment processes often intensively focus on bio-diversity issues in Nevada, and as a

consequence, operating plans require significant dedication to design of mitigation and management efforts.

g. The change in land use to rural versus urban densities will it more difficult for infrastructure improvement for Silver City that would improve the citizens' quality of life.

I. Timely Commencement of this Action

109. On January 8, 2014, the Office Manager to the Lyon County Commissioners and County Manager distributed to CMI and a Silver City Town Advisory Board member an email with the subject line "Planning Final Action 01/02/2014." The email attached letters dated January 7, 2014 that describes the BOC's final action granting Commissioner Keller's revised CMI 2013 Application. While no evidence exists that this notice of final action has been filed with the Clerk of the Lyon County or another entity identified by Lyon County as clerk to the BOC, Lyon County contends that "the date of the email, January 8, 2014, [is] the filing date with the clerk's office" sufficient to trigger the NRS 278.0235 25-day limitation period.

110. Plaintiffs/Petitioners file this action within 25 days of Lyon County's January 8, 2014 notice of final action.

FIRST CAUSE OF ACTION

(Violations of Nevada Open Meeting Law)

111. Plaintiffs/Petitioners re-allege and incorporate by reference Paragraphs 1 through 110 inclusive, of this Complaint/Petition, as if fully set forth below.

112. Nevada's Open Meeting Law, NRS Chapter X, requires that Lyon County BOC give proper notice of what it will consider taking action at each meeting.

113. Nevada Open Meeting Law also outlaws BOC members from deliberating outside of noticed public meetings.

114. Lyon County BOC violated both Nevada Open Meeting requirements by failing to agendize the action actually taken and deliberating on the action outside of a public hearing.

115. Since Lyon County BOC approval of Commissioner Keller's proposal violated Nevada's Open Meeting Law, it is void.

116. A real, live and present controversy exists between Plaintiffs/Petitioners and Defendants/Respondents.

SECOND CAUSE OF ACTION

(Denial of Due Process)

117. Plaintiffs/Petitioners re-allege and incorporate by reference, Paragraphs 1 through 116 of this Complaint, as if fully set forth below.

118. The Due Process Clause of the United States and Nevada Constitutions, as well as Nevada Ethics in Government Act, guarantee citizens that decisions made by government officials shall be free from undue influence. These laws provide that where a reasonable person would perceive a conflict of interest on the part of government official when he or she considers a matter, the government official must recuse himself or herself from consideration of that matter.

119. Commissioner Keller received income from CMI before and during her consideration of that company's application to expand its mining opportunities and thereby expand resources available to continue to hire Commissioner Keller's husband.

120. Commissioner Keller's receipt of money from CMI in this instance disqualifies her from participating in the consideration of CMI's 2013 Application.

121. CMI's unprecedented and outsized cash contributions to Commissioner Hasting's election campaign, as well as CMI's employment of Commissioner Hastings' wife and daughter's boyfriend and CMI's contributions to Commissioner Hastings' preferred charities, also poses a perceived or actual conflict of interest and disqualifies him from participating in the consideration of CMI's 2013 Application.

122. Plaintiffs/Petitioners' due process rights were therefore violated by the participation of Commissioners Keller and Hastings during consideration of CMI's 2013 Application.

THIRD CAUSE OF ACTION

(Abuse of Discretion)

123. Plaintiffs/Petitioners re-allege and incorporate by reference Paragraphs 1 through 122 inclusive, of this Complaint/Petition, as if fully set forth below.

124. Pursuant to the Nevada Revised Statutes, Lyon County possesses the authority to control land uses within its boundaries. The Nevada Legislature empowered counties to regulate land uses for the public health, convenience, safety and welfare and promotion of the general good of its communities through NRS Chapter 278.

125. On each and every of the five separate occasions in which it addressed the exact same land use designation question (the most recent being in 2010), the Lyon County BOC found that the appropriate land use designation for the CMI's parcels in Silver City was urban and not industrial. In 1986, Lyon County BOC expressly found that the land use designations request by CMI in its 2013 Application were contrary to the good of the community and contrary to the 2010 Comprehensive Master Plan.

126. Since 2010, no changes in circumstances have occurred to justify a change in land use designations.

127. The revised CMI 2013 Application substantially conflicted with the adopted 2010 Comprehensive Master Plan.

128. The record before the Lyon County BOC fails to contain the evidence necessary to support the findings made by the BOC on January 2, 2014, that directly contradicted the findings made by the BOC on the five prior times it addresses the same question.

129. The Lyon County BOC abused its discretion when it refused to consider the full range of uses contemplated CMI's 2013 Application.

130. Spot zoning is "zoning with disregard for the welfare of the whole community, for the benefit of a few or in violation of a comprehensive plan." *Save a Valuable Environment v. City of Bothel*, 576 P.2d 401, 405 (Wash. 1978). Such zoning is arbitrary and capricious, as it disregards the emphasis upon consistency of rezoning with existing land uses. Lyon County

BOC's action approving CMI's amended 2013 Application constitutes illegal spot zoning as it disregards the welfare of the whole community to the benefit of a mining company.

131. Lyon County BOC's action approving CMI's amended 2013 Application was therefore contrary to law.

FOURTH CAUSE OF ACTION

(Violation of NRS 278.220)

132. Plaintiffs/Petitioners re-allege and incorporate by reference Paragraphs 1 through 131 inclusive, of this Complaint/Petition, as if fully set forth below.

133. NRS 278.220(4) mandates that "[n]o change in or addition to the master plan or any part thereof, as adopted by the planning commission, made be made by the governing board in adopting the same until the proposed change or addition has been referred to the planning commission for a report thereon . . . ."

134. When the Lyon County BOC revised and then adopted CMI's Application it made a change and/or an addition to the master plan that had not been heard by the Planning Commission.

135. Instead, the Lyon County BOC first acted upon the changed/added proposed Master Plan amendment and then referred the amendment to the Planning Commission for a *post hoc* report.

136. Lyon County BOC therefore violated NRS 278.220(4).

REQUEST FOR RELIEF

WHEREFORE, as a result of the approval of the revised CMI 2013 Application, Plaintiffs/Petitioners request judgment in their favor as follows:

1. That the Court declare that Lyon County BOC violated the Nevada Open Meeting Law;

2. That the Court declare that Lyon County BOC denied Plaintiffs/Petitioners their due process rights;

3. That the Court declare that Lyon County BOC abused its discretion and/or acted contrary to law;

4. That the Court declare that Lyon County BOC violated NRS 278.220 by failing to refer the revised proposed Master Plan amendment to its Planning Commission prior to adopting it;

5. That the Court mandate that the adoption by Lyon County BOC of the revised 2013 Application is null and void.

6. That this Court issue an injunction enforcing the declarations issued above;

7. For Plaintiffs/Petitioners costs associated with this action;

8. To the extent permitted by law, for an award of reasonable attorneys' fees; and,

9. For such other and further relief as the Court may deem just and proper.

Dated: January 31, 2014.

Respectfully submitted,

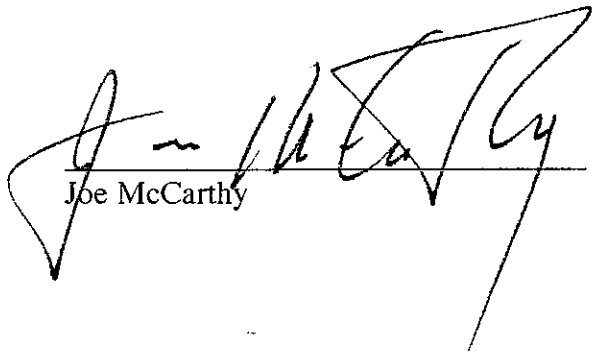
By _____
John L. Marshall, SBN 6733
570 Marsh Avenue
Reno, NV 89509
775.303.4882

Attorney for Plaintiffs/Petitioners CRA, Gayle Sherman, Joe McCarthy

AFFIDAVIT/VERIFICATION

I, Joe McCarthy, a member of the Board of Directors of Plaintiff CRA and a named Plaintiff/Petitioner, have read the foregoing Complaint/Petition and know the contents thereof; that the contents thereof were prepared with the assistance and advice of counsel for CRA. The contents of the Complaint, subject to inadvertent or undiscovered errors, are based upon and therefore limited by the records and information still in existence, presently recollected and thus far discovered in the course of preparation of this Complaint, are true to the best of my knowledge, information and belief. I reserve the right to make any changes in the contents of this Complaint if it appears at any time that omissions or errors have been made or that more accurate information becomes available.

Dated: January 31, 2014.



Joe McCarthy

Case No. 14-CV-00128

Dept. No. II

The undersigned hereby affirms this document does not contain a social security number.

FILED

2014 MAR 27 AM 8:48

TANYA SCERINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY,

Plaintiffs/Petitioners,

vs.

LYON COUNTY BOARD OF COMMISSIONERS;COMSTOCK MINING INCORPORATED,

Defendants/Respondents,

LYON COUNTY BOARD OF COMMISSIONERS ANSWER TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF/ PETITION FOR WRIT OF MANDATE OR JUDICIAL REVIEW

Defendant LYON COUNTY BOARD OF COMMISSIONERS (referred to as COUNTY), by and through ROBERT L. AUER, Lyon County District Attorney, and STEPHEN B. RYE, Chief Deputy District Attorney, hereby answers Plaintiffs/Petitioners Complaint for Declaratory and Injunctive Relief/Petition for Writ of Mandate or Judicial Review, as follows:

1. County is without sufficient information or knowledge to form a belief as to whether the Plaintiffs are residents of the Comstock or Silver City, Lyon County, Nevada, and therefore deny the same. As to the remaining averments contained in Paragraph 1 of the Complaint, they are conclusions and are therefore not required to be answered. To the extent an answer is required, COUNTY denies the same.

2. As to Paragraph 2, COUNTY is without sufficient information of knowledge to form a belief as to the veracity of said averments, and therefore denies the same.

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3. As to Paragraph 3, COUNTY is without sufficient information of knowledge to form a belief as to the veracity of said averments and therefore denies the same.

4. As to Paragraph 4, COUNTY is without sufficient information of knowledge to form a belief as to the veracity of said averments and therefore denies the same.

5. COUNTY admits Paragraph 5.

6. With respect to Paragraph 6, COUNTY admits that CMI owns and/or controls land in the Comstock and that CMI applied to Lyon County to amend the Master Plan and zoning on a portion of property in Lyon County. To the extent any answer is required as to the remaining averments in Paragraph 6, COUNTY denies the same.

7. Paragraph 7 of the Complaint contains historical information, conclusions and opinions and no answer is required. COUNTY generally agrees with the information contained in Paragraph 7, but neither admits or denies the same and is without sufficient information or knowledge to admit the statements contained therein.

8. COUNTY is without sufficient information to either admit or deny the averments in Paragraph 8, and therefore COUNTY denies the same to the extent any admission or denial is required.

9. As to Paragraph 9, COUNTY is without sufficient information or knowledge to either admit or deny the averments/statements contained therein, and therefore, to the extent any answer is required, COUNTY denies the same.

10. Paragraph 10 contains opinions and conclusion which require no answer. To the extent any answer is required, COUNTY is without sufficient information to either admit or deny the averments/statements contained in Paragraph 10, and therefore denies the same.

11. COUNTY admits that a portion NRS 384.020 is recited in Paragraph 11. COUNTY is without sufficient information or knowledge to either admit or deny that the Legislature decreed that portion of the statute, and therefore COUNTY denies the same.

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12. As to the averments of Paragraph 12, COUNTY is without sufficient information or knowledge to either admit or deny the averments, and therefore denies the same.

13. Paragraph 13 contains opinions and conclusions, and therefore no answer is required. To the extent an answer is required, COUNTY admits that beyond the boundaries of the townsite, land use has been designated for less dense development and open space, and COUNTY denies the remaining averments.

14. As to Paragraph 14, COUNTY admits that Lyon County enacted its first master plan in 1971. COUNTY denies the remaining averments in Paragraph 14.

15. As to the averments of Paragraph 15, COUNTY is without sufficient information or knowledge to either admit or deny the averments, and therefore denies the same.

16. As to the averments of Paragraph 16, COUNTY admits that Nevex applied to Lyon County in 1986. As to the remaining averments in Paragraph 16, COUNTY denies the same.

17. As to Paragraph 17, COUNTY admits that the Board of County Commissioners made several findings with respect to the Nevex application. To the extent Paragraph 17 quotes findings from the Board of County Commissioners, COUNTY admits those findings. Because Paragraph 17 is incomplete in regards to the decision of the Board of County Commissioners, and contains statements of opinion, COUNTY denies any remaining allegations in Paragraph 17.

18. COUNTY denies the averments in Paragraph 18.

19. As to Paragraph 19, COUNTY admits that the 1990 Master Plan included the two goals listed.

20. As to Paragraph 20, COUNTY admits that Lyon County adopted the West Central Lyon County Land Use Plan in 2002. COUNTY denies the remaining allegations in Paragraph 20.

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21. As to the averments of Paragraph 21, they are opinions and/or conclusions and no answer is required. To the extent any answer is required, COUNTY admits that the 2002 West Central Master Plan was adopted, and the document speaks for itself. The COUNTY would deny the remaining allegations to the extent they are opinions and/or conclusions.

22. As to Paragraph 22, COUNTY admits that the COUNTY adopted the 2002 West Central Master Plan and that the document speaks for itself. As to the specific statements in Paragraph 22, COUNTY admits that some of those are included in the West Central Lyon County Land Use Plan, but the list is incomplete, and therefore, COUNTY denies that Paragraph 22 sets forth all of the County's goals for Silver City.

23. As to the averments of Paragraph 23, COUNTY is without sufficient information or knowledge to either admit or deny the averments, and therefore denies the same.

24. As to Paragraph 24, COUNTY admits that Lyon County adopted the 2010 Comprehensive Master Plan, County-wide Component, which included consideration and approval of master planning for Silver City. COUNTY is without sufficient information or knowledge to either admit or deny the remaining allegations, and therefore denies the same.

25. As to Paragraph 25, COUNTY admits that several hearings and workshops where held throughout the County. As to the remaining averments in Paragraph 25, COUNTY is without sufficient information or knowledge to either admit or deny the averments, and therefore denies the same.

26. COUNTY admits that the quoted language in Paragraph 26 is included in the 2010 Comprehensive Master Plan, County-wide Component. COUNTY is without sufficient information or knowledge to either admit or deny the remaining allegations and therefore denies the same.

27. As to Paragraph 27, COUNTY admits that the Lyon County Board of Commissioners held a hearing and adopted the 2010 Comprehensive Master Plan, County-wide Component, on December 23, 2010. As to the remaining averments, COUNTY is

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without sufficient information or knowledge to either admit or deny, and therefore denies the same.

28. COUNTY admits that the 2010 Comprehensive Master Plan, County-wide Component, includes the quoted language.

29. As to Paragraph 29, COUNTY admits that the 2010 Comprehensive Master Plan, County-wide Component, is intended to be organized into two tiers. COUNTY denies that the specific community plans have been completed.

30. COUNTY admits the averments of Paragraph 30.

31. COUNTY admits that the 2010 Comprehensive Master Plan, County-wide Component, states what is set forth in Paragraph 31 as it relates to the Community Plans on page 1.2 of the document. As to the remaining allegations, COUNTY is without sufficient information or knowledge to admit or deny, and therefore denies the same.

32. With respect to Paragraph 32, COUNTY admits the quoted language appears in the 2010 Comprehensive Master Plan, County-wide Component. To the extent required, COUNTY denies that it is a complete statement related to the Plan's Scope.

33. With respect to Paragraph 33, COUNTY admits the quoted language appears in the 2010 Comprehensive Master Plan, County-wide Component. COUNTY denies that it is a complete statement about Master Plans generally.

34. COUNTY denies Paragraph 34.

35. As to Paragraph 35, COUNTY admits that the 2010 Comprehensive Master Plan, County-wide Component, contains polices and goals that are County-wide in nature as well as specific to its eight diverse communities, including Silver City. With respect to the quoted language, COUNTY believes the 2010 Comprehensive Master Plan, County-wide Component, document speaks for itself.

36. As to Paragraph 36, COUNTY admits that Silver City is a community within the Comstock Historic District. To the extent the language is copied from the 2010

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Comprehensive Master Plan, County-wide Component, COUNTY admits that it is contained in the Master Plan, but denies that it is a complete statement regarding the community or the planning process. COUNTY denies the remaining allegations of Paragraph 36.

37. As to Paragraph 37, COUNTY admits that the quoted language appears in the 2010 Comprehensive Master Plan, County-wide Component, and the document speaks for itself. COUNTY denies the remaining allegations contained in Paragraph 37.

38. As to Paragraph 38, COUNTY admits that the quoted language appears in the 2010 Comprehensive Master Plan, County-wide Component, and the document speaks for itself.

39. As to Paragraph 39 COUNTY admits that the quoted language appears in the 2010 Comprehensive Master Plan, County-wide Component, and the document speaks for itself. As to the remaining allegations in Paragraph 39, COUNTY denies the same.

40. As to Paragraph 40, COUNTY is without sufficient information or knowledge to either admit or deny the allegations, and therefore COUNTY denies the same.

41. As to Paragraph 41, COUNTY admits that the Land Use Plan Map for Silver City establishes Land Use designations. COUNTY denies the remaining averments of Paragraph 41.

42. As to Paragraph 42, COUNTY admits that CMI applied for a change in zoning to rural residential, and that mining is a special use in certain rural residential zones. As to the remaining allegations, COUNTY denies the same.

43. As to the averments of Paragraph 43, COUNTY admits that CMI owns or controls land outside of Silver City. COUNTY is without sufficient information or knowledge to either admit or deny the remaining allegations, and therefore denies the same.

44. As to Paragraph 44, COUNTY admits that CMI submitted a letter regarding the 2010 Comprehensive Master Plan requesting a change of certain parcels to Resource

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designation. As to the remaining averments, LYON COUNTY is without sufficient information to admit or deny, and therefore denies the same.

45. As to Paragraph 45, COUNTY is without sufficient information or knowledge to admit or deny the averments, and therefore denies the same.

46. As to Paragraph 46, COUNTY is without sufficient information or knowledge to admit or deny the averments, and therefore denies the same.

47. As to Paragraph 47, COUNTY is without sufficient information or knowledge to admit or deny the averments, and therefore denies the same.

48. As to Paragraph 48, COUNTY is without sufficient information or knowledge to admit or deny the averments, and therefore denies the same.

49. As to Paragraph 49, COUNTY is without sufficient information or knowledge to admit or deny the averments, and therefore denies the same.

50. The averments contained in Paragraph 50 are conclusions and therefore are not required to be answered. To the extent an answer is required, COUNTY denies the same.

51. The averments contained in Paragraph 51 are conclusions and therefore are not required to be answered. To the extent an answer is required, COUNTY denies the same.

52. As to Paragraph 52, COUNTY is without sufficient information or knowledge to either admit or deny the averments, and therefore COUNTY denies the same.

53. As to Paragraph 53, COUNTY is without sufficient information or knowledge to either admit or deny the averments, and therefore COUNTY denies the same.

54. As to Paragraph 54, COUNTY admits that the Lyon County Board of Commissioners consisted of Joe Mortensen, Chuck Roberts, Phyllis Hunewill, Ray Fiero and Larry McPeherson, and Vida Keller now holds the seat previously held by Larry McPeherson. As to the remaining averments of Paragraph 54, COUNTY denies the same.

55. As to Paragraph 55, COUNTY admits that the District I County Commissioner was on the ballot in 2012. The remaining allegation is opinion or conclusions, and no answer

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is required. To the extent any answer is required COUNTY denies the remaining allegations in Paragraph 55.

56. As to Paragraph 56, COUNTY admits that CMI made donations to the campaign of Bob Hastings for County Commissioner. As to the remaining allegations, they are conclusions and opinions and no answer is required. In the event any answer is required, COUNTY denies the same.

57. As to Paragraph 57, COUNTY admits CMI made donations to the campaign of Bob Hastings for County Commissioner. As to the remaining allegations, they are conclusions or opinions, and no answer is required. To the extent any answer is required, COUNTY denies the same.

58. The averments in Paragraph 58 are opinions or conclusions, and therefore are not required to be answered. To the extent an answer is required, COUNTY is without sufficient information or knowledge to admit or deny, and therefore denies the same.

59. The averments of Paragraph 59 are opinions or conclusions, and therefore are not required to be answered. To the extent an answer is required, COUNTY is without sufficient information or knowledge to admit or deny the allegations, and therefore denies the same.

60. The averments of Paragraph 60 are opinions or conclusions, and therefore are not required to be answered. To the extent an answer is required, COUNTY is without sufficient information or knowledge to admit or deny the allegations, and therefore denies the same.

61. As to Paragraph 61, the allegations are unclear and confusing, and therefore are not required to be answered. To the extent an answer is required, COUNTY admits that Commissioner Hastings spoke at various events during the 2012 campaign, but COUNTY is without sufficient information or knowledge to either admit or deny that he spoke at the events referenced in Paragraph 61, and therefore COUNTY denies the same. As to the remaining

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allegations, COUNTY is without sufficient information to admit or deny the allegations, and therefore denies the same.

62. COUNTY admits Paragraph 62.

63. The averments in Paragraph 63 are opinions and conclusions and therefore no answer is required. To the extent any answer is required, COUNTY denies the same.

64. As to the averments of Paragraph 64, COUNTY is without sufficient information or knowledge to admit or deny the allegations, and therefore denies the same.

65. As to Paragraph 65, COUNTY admits that Commissioner Keller's husband has contracted with CMI Foundation, and Commissioner Keller disclosed this relationship at the Board of Commissioner hearing of the master plan and zone change applications, which are the subject to the Complaint on file herein. COUNTY is informed and believes that the contract with Keller Rebuilders is a two year contract, expiring in 2015. As to the remaining allegations, COUNTY is without sufficient information or knowledge to either admit or deny the allegations, and therefore denies the same.

66. As to Paragraph 66, COUNTY admits that Commissioner Keller's Financial Disclosure Form for 2013 and 2014 list income from those four sources. COUNTY denies the remaining averments in Paragraph 66.

67. As to Paragraph 67, COUNTY is without sufficient information or knowledge to know the concerns of the Plaintiffs, and therefore denies the same.

68. As to Paragraph 68, COUNTY admits that CMI paid Commissioner Hastings wife $225.00 to assist with clean up for a community event in Dayton on a one time basis. COUNTY denies the remaining allegations in Paragraph 68.

69. As to Paragraph 69, COUNTY admits that Commissioner Hastings' daughter's boyfriend is employed by CMI as an equipment operator.

70. As to Paragraph 70, COUNTY admits that CMI has contributed to various causes, some of which may be supported by County Commissioners, former or present.

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COUNTY is without sufficient information or knowledge admit or deny the quoted language, and therefore, denies the same.

71. As to Paragraph 71, COUNTY admits that CMI applied to change land use designations. COUNTY denies that the designations would allow industrial uses.

72. As to Paragraph 72, COUNTY admits that the quoted language was in the CMI application. COUNTY is without sufficient information or knowledge to admit or deny the remaining allegations, and therefore denies the same.

73. COUNTY denies Paragraph 73 of the Complaint.

74. COUNTY denies Paragraph 74 of the Complaint.

75. COUNTY denies Paragraph 75 of the Complaint.

76. COUNTY denies Paragraph 76 of the Complaint.

77. As to Paragraph 77, COUNTY is without sufficient information or knowledge to admit or deny the allegations, and therefore denies the same.

78. COUNTY admits Paragraph 78 of the Complaint.

79. COUNTY admits Paragraph 79 of the Complaint.

80. COUNTY admits Paragraph 80 of the Complaint.

81. The averments contained in Paragraph 81 are opinions or conclusions and no answer is required. To the extent an answer is required, COUNTY denies the same.

82. As to Paragraph 82, COUNTY admits that Lyon County Planning staff recommended that CMI's application be denied. The Lyon County Planning staff also provided alternative options for the Planning Commission and Board of County Commissioners. Because Paragraph 82 only references a portion of the staff report, and is incomplete, COUNTY denies the allegations contained therein.

83. As to Paragraph 83, COUNTY denies that the item was scheduled for hearing October 8, 2013.

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84. COUNTY is without sufficient information knowledge to admit or deny the allegations of Paragraph 84, and therefore denies the same. COUNTY admits that the Lyon County Manager and Planning Director met with representatives of CMI after Planning Staff made its recommendations.

85. As to Paragraph 85, it states a conclusion or opinion, and no answer is required. To the extent any answer is required, COUNTY admits that residents attended the October 8, 2013 meeting where the Planning Commission considered a Reversion to Acreage application filed by CMI, and COUNTY is without sufficient information or knowledge to know whether a "large" number attended, and therefore COUNTY denies the same.

86. As to Paragraph 86, COUNTY admits that County staff agreed to seek a continuance of the November Planning Commission consideration of the CMI application. COUNTY is without sufficient information or knowledge to either admit or deny the remaining allegations, and therefore, denies the allegations.

87. COUNTY admits Paragraph 87.

88. As to Paragraph 88, COUNTY admits that CMI presented information at the December 2013 Planning Commission Meeting which was not previously submitted to the Planning Commission. As to the remaining allegations, COUNTY is without sufficient information or knowledge to either admit or deny the allegations, or they are conclusions or opinions for which no answer is required. To the extent any answer is required, COUNTY denies the same.

89. As to Paragraph 89, COUNTY admits that Commissioner Hastings and Commissioner Keller attended the December Planning Commission meeting. Commissioner Hastings is the County Commissioner representative to the Planning Commission and Commissioner Keller is the alternate.

90. As to Paragraph 90, COUNTY admits that the Planning Commission voted to recommend denial of the CMI master plan amendment and zoning application by a vote of 5-1.

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91. As to Paragraph 91, COUNTY admits that the Planning Commission adopted the findings as reflected in the minutes and written findings of the Planning Commission.

92. COUNTY denies Paragraph 92.

93. As to Paragraph 93, COUNTY is without sufficient information or knowledge to either admit or deny the averments therein, and cannot determine what is meant by "positive" recommendation, and therefore, denies the same.

94. COUNTY admits Paragraph 94.

95. As to Paragraph 95, COUNTY admits that Commissioner Keller made statements at the January 2, 2014 BOC meeting, including that she had contacted individuals in regards to the application. COUNTY admits that Commissioner Keller never contacted any representative of the Silver City Town Board or concerned residents to discuss the new alternative. COUNTY denies the remaining allegations of Paragraph 95.

96. COUNTY admits that Commissioner Keller, her husband, the Lyon County Manager and Commissioner Mortensen met on January 1, 2014, and Commissioner Keller, her husband and the Lyon County Manager met with the CMI CEO and consultant. COUNTY denies the remaining allegations in Paragraph 96.

97. As to Paragraph 97, COUNTY admits that Commissioner Keller has had contact with representatives of CMI. COUNTY denies the remaining allegations of Paragraph 97.

98. As to Paragraph 98, COUNTY is without sufficient information or knowledge to either admit or deny the allegations, and therefore, denies the same.

99. COUNTY denies Paragraph 99.

100. As to Paragraph 100, COUNTY admits that the proposed change in land use contained in CMI's application would allow different or new land uses on the property, some by permitted use and some as special use, requiring a separate permit.

101. COUNTY admits Paragraph 101.

102. COUNTY denies Paragraph 102.

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103. As to Paragraph 103, it contains legal conclusions and no answer is required. To the extent any answer is required, COUNTY denies Paragraph 103.

104. As to Paragraph 104, COUNTY admits that the BOC voted 4-1 to approve the CMI application. COUNTY denies the remaining allegations in Paragraph 104.

105. As to Paragraph 105, the averments call for a legal conclusion or opinion, and no answer is required. In the event an answer is required, COUNTY is without sufficient knowledge or information to either admit or deny, and therefore, denies the same.

106. COUNTY admits Paragraph 106.

107. As to Paragraph 107, COUNTY admits, that per the Lyon County Code, the decision of the BOC was referred to the Planning Commission.

108. As to Paragraph 108, COUNTY is without sufficient information or knowledge to either admit or deny the averments in Paragraph 108, and therefore, denies the same.

109. As to Paragraph 109, COUNTY admits that an email was sent to various persons with a copy of the January 7, 2014, Notice of Final Action. As to the remaining averments in Paragraph 109, they are conclusions or opinions, and no answer is necessary. In the event any answer is required, COUNTY denies the remaining allegations of Paragraph 109.

110. COUNTY admits Paragraph 110.

111. COUNTY incorporates its answers to Paragraphs 1-110 herein.

112. COUNTY admits that the Nevada Open Meeting Law requires notice of what will be considered at each meeting. COUNTY is unaware of NRS Chapter X having any application to the Open Meeting Law, and therefore denies the same.'

113. COUNTY denies Paragraph 113.

114. COUNTY denies Paragraph 114.

115. COUNTY denies Paragraph 115.

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116. COUNTY denies Paragraph 116.

117. COUNTY incorporates by reference Paragraphs 1-116 of this answer.

118. COUNTY denies Paragraph 118.

119. COUNTY denies Paragraph 119.

120. COUNTY denies Paragraph 120.

121. COUNTY denies Paragraph 121.

122. COUNTY denies Paragraph 122.

123. COUNTY incorporates by reference Paragraphs 1-122 of this answer.

124. COUNTY admits Paragraph 124.

125. COUNTY denies Paragraph 125.

126. COUNTY denies Paragraph 126.

127. COUNTY denies Paragraph 127.

128. COUNTY denies Paragraph 128.

129. COUNTY denies Paragraph 129.

130. COUNTY denies Paragraph 130.

131. COUNTY denies Paragraph 131.

132. COUNTY incorporates Paragraphs 1-131 of this answer.

133. COUNTY denies Paragraph 133.

134. COUNTY denies Paragraph 134.

135. COUNTY denies Paragraph 135.

136. COUNTY denies Paragraph 136.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiffs/Petitioners have failed to state a claim upon which relief can be granted.

Second Affirmative Defense

Plaintiffs/Petitioners have failed to exhaust administrative remedies.

Third Affirmative Defense

Plaintiffs/Petitioners claim or claims are barred by the doctrine of unclean hands.

Fourth Affirmative Defense

Plaintiffs/Petitioners are precluded from seeking the relief sought because the decisions of the Board of County Commissioners are discretionary and cannot be reviewed by the Court.

Fifth Affirmative Defense

Planning decisions are legislative and cannot be reviewed pursuant to this Complaint.

Sixth Affirmative Defense

Plaintiffs/Petitioners claims are barred by NRS 41.032 as discretionary acts or acts authorized by statute.

Seventh Affirmative Defense

Plaintiffs/Petitioners claims, if any, are not caused by COUNTY, and are the result of actions of third parties.

Eighth Affirmative Defense

Plaintiffs/Petitioners are precluded from raising these claims by their own actions.

Ninth Affirmative Defense

Plaintiffs/Petitioners are estopped from raising these claims.

Tenth Affirmative Defense

Plaintiffs/Petitioners have waived any claims they have by their own actions or failure to act.

WHEREFORE, COUNTY respectfully requests and order form this Court as follows:

a. That Plaintiffs/Petitioners take nothing by way of the Complaint/Petition and that the Complaint/Petition be dismissed with prejudice.

b. That the Court award costs of suit to COUNTY along with reasonable attorney's fees, as permitted by law.

c. For such other relief as the Court deems proper in the premises.

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DATED this 26th day of March, 2014.

ROBERT L. AUER
DISTRICT ATTORNEY

By: _____
STEPHEN B. RYE
CHIEF DEPUTY DISTRICT ATTORNEY
31 South Main Street
Yerington, NV. 89447
775-463-6511

Attorney for Respondent/Defendant
Lyon County Board of Commissioners

Office of the District Attorney
Lyon County, State of Nevada
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Certificate of Service

The undersigned, an employee of the Lyon County District Attorney, certifies that on the 27th day of March, 2014, a copy of the foregoing was mailed, postage prepaid, by placing the same in the mail receptacle at Lyon County Administrative Offices, addressed to:

John L. Marshall, Esq.
570 Marsh Ave.
Reno, NV 89509

James R. Cavilia, Esq.
Allison, MacKenzie, Pavlakis
Wright & Fagan, Ltd.
402 N. Division Street
Carson City, NV 89703

Dated this 27th day of March, 2014.

Employee

Office of the District Attorney
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Case No. 14-CV-00128

Dept. No. II

The undersigned hereby affirms this document does not contain a social security number.

FILED

2014 MAR 28 AM 11:46

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

DeAnn Peeples DEPUTY

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE MCARTHY

Plaintiffs/Petitioners,

vs.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED

Defendants/Respondents,

COMSTOCK MINING INCORPORATED'S ANSWER TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF/PETITION FOR WRIT OF MANDATE OR JUDICIAL REVIEW

COMES NOW Defendant/Respondent, COMSTOCK MINING INC., a Nevada corporation (hereinafter "CMI"), by and through its counsel, ALLISON, MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD., and hereby answers Petitioners/Plaintiffs' Complaint for Declaratory and Injunctive Relief/Petition for Writ of Mandate or Judicial Review, as follows:

1. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegation in Paragraph 1 that Plaintiffs/Petitioners "Gayle Sherman and Joe McCarthy are residents of the Comstock including Silver City, Lyon County, Nevada," and therefore denies the same. Defendant/Respondent, CMI denies that any action taken by Defendant/Respondent, Lyon County Board of Commissioners (hereinafter "BOC") allows mining

uses within Silver City. To the extent that the remaining allegations of Paragraph 1 are conclusions, Defendant/Respondent, CMI is not required to answer. To the extent an answer is required, Defendant/Respondent, CMI denies the remaining allegations of Paragraph 1.

2. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 2, and therefore denies the same.

3. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 3, and therefore denies the same.

4. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 4, and therefore denies the same.

5. Defendant/Respondent, CMI admits that the Lyon County Commission is the governing body of Lyon County. To the extent that the remaining allegations of Paragraph 1 are conclusions, Defendant/Respondent, CMI is not required to answer. To the extent an answer is required, Defendant/Respondent, CMI denies the remaining allegations of Paragraph 5.

6. Defendant/Respondent, CMI admits that it owns property within Lyon County, Nevada near the area commonly known as Silver City and that CMI applied for an amendment to the Lyon County Master Plan as well as a zone change. CMI admits that the application filed with Lyon County states what it states. To the extent that the remaining allegations of Paragraph 6 are conclusions, Defendant/Respondent, CMI is not required to answer. To the extent an answer is required, Defendant/Respondent, CMI denies the remaining allegations of Paragraph 6.

7. The allegations of Paragraph 7 are generally conclusions are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 7, and therefore denies the same.

8. Defendant/Respondent, CMI admits that the Virginia City Historic District was designated as a Historic Landmark by the United States. To the extent that the remaining allegations of Paragraph 8 are conclusions, Defendant/Respondent, CMI is not required to answer. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge

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to form a belief as to the truth of the remaining allegations of Paragraph 8, and therefore denies the same.

9. The source of the purported quote set forth in the allegations contained in Paragraph 9 is unclear, and therefore Defendant/Respondent, CMI is not required to answer. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 9, and therefore denies the same.

10. The allegations of Paragraph 10 are generally conclusions are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 10, and therefore denies the same.

11. Defendant/Respondent, CMI admits that the cited statutory provision states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 11, and therefore denies the same.

12. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 12, and therefore denies the same.

13. The allegations of Paragraph 13 are conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 13, and therefore denies the same.

14. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 14, and therefore denies the same.

15. Defendant/Respondent, CMI denies the allegations contained in Paragraph 15.

16. Defendant/Respondent, CMI admits that Nevex Mining Company applied to Lyon County for land use and zoning changes in 1986, but CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 16, and therefore denies the same.

17. The allegations of Paragraph 17 are unclear, vague and generally state conclusions, and are therefore not required to be answered. To the extent an answer is required,

Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 17, and therefore denies the same.

18. Defendant/Respondent, CMI admits that a master plan was adopted by Lyon County in 1990. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 18, and therefore denies the same.

19. Defendant/Respondent, CMI admits that the 1990 Master Plan includes goals and that the 1990 Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 19, and therefore denies the same.

20. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 20, and therefore denies the same

21. Defendant/Respondent, CMI admits that the West Central Lyon County Land Use Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 21, and therefore denies the same.

22. Defendant/Respondent, CMI admits that the West Central Lyon County Land Use Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 22, and therefore denies the same.

23. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 23, and therefore denies the same.

24. Defendant/Respondent, CMI admits that a new master plan was adopted in 2010. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 24, and therefore denies the same.

25. Defendant/Respondent, CMI admits that the 2010 Master Plan was the subject of various hearings and workshops. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 25, and therefore denies the same.

26. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 26, and therefore denies the same.

27. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 27, and therefore denies the same.

28. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 28, and therefore denies the same.

29. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 29, and therefore denies the same.

30. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 30, and therefore denies the same.

31. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 31, and therefore denies the same.

32. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 32, and therefore denies the same.

33. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 33, and therefore denies the same.

34. Defendant/Respondent, CMI denies the allegations contained in Paragraph 34.

35. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 35, and therefore denies the same.

36. The allegations of Paragraph 36 are generally conclusions are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without

sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 36, and therefore denies the same.

37. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 37, and therefore denies the same.

38. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 38, and therefore denies the same.

39. Defendant/Respondent, CMI admits that the 2010 Lyon County Master Plan states what it states. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 39, and therefore denies the same.

40. The allegations contained in Paragraph 40 amount to speculation and legal conclusions, are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 40, and therefore denies the same.

41. Defendant/Respondent, CMI admits that the Lyon County Land Use Plan Map states what it states and depicts what it depicts. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 41, and therefore denies the same.

42. The allegations contained in Paragraph 42 are vague, lack specificity and call for speculation, are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 42, and therefore denies the same.

43. Defendant/Respondent, CMI admits that it owns real property in Lyon and Storey Counties, portions of which having zoning and land use designations that allowing mining activities. Defendant/Respondent, CMI denies the remaining allegations contained in Paragraph 43.

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44. Defendant/Respondent, CMI admits to having participated in the Lyon County administrative process prior to adoption of the 2010 Lyon County Master Plan. Defendant/Respondent, CMI denies the remaining allegations of Paragraph 44.

45. The allegations contained in Paragraph 45 are speculative and vague, and therefore Defendant/Respondent, CMI denies the same.

46. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 46, and therefore denies the same.

47. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 47, and therefore denies the same.

48. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 48, and therefore denies the same.

49. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 49, and therefore denies the same.

50. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 50, and therefore denies the same.

51. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 51, and therefore denies the same.

52. The allegations contained in Paragraph 52 are vague, unclear and lack specificity, and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, Defendant/Respondent, CMI admits that it has made various political contributions in various Nevada jurisdictions, including Storey County and that CMI has hired various individuals with connections to various Nevada jurisdictions, including Storey County, but CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 52, and therefore denies the same.

53. The allegations contained in Paragraph 53 are vague, unclear and lack specificity, and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations of Paragraph 53, and therefore denies the same.

54. Defendant/Respondent, CMI admits that the Lyon County Commissioners in 2010 are as alleged. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 54, and therefore denies the same.

55. Defendant/Respondent, CMI denies the allegations contained in Paragraph 55.

56. Defendant/Respondent, CMI denies the allegations contained in Paragraph 56.

57. Defendant/Respondent, CMI admits that it contributed $10,000.00 to Bob Hastings' campaign in 2013. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 57 and therefore denies the same.

58. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 58, and therefore denies the same.

59. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 59, and therefore denies the same.

60. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 60, and therefore denies the same.

61. Defendant/Respondent, CMI admits that CMI conducted various community events, including picnics and business mixers at which CMI presented information about its activities and generally invited all Lyon County Commissioner candidates to attend such events. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 61 and therefore denies the same.

62. Defendant/Respondent, CMI admits the allegations contained in Paragraph 62.

63. The allegations contained in Paragraph 63 are speculative and conclusory and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 63, and therefore denies the same

64. Defendant/Respondent, CMI denies the allegations contained in Paragraph 64.

65. Defendant/Respondent, CMI admits having contracted with entities related to James Scott Keller to undertake certain historic preservation/restoration work and that the Comstock

Foundation on History and Culture has also contracted with Mr. Keller and/or related entities to undertake such work. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 65 and therefore denies the same.

66. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 66, and therefore denies the same.

67. The allegations contained in Paragraph 66 are vague, unclear and relate to the concerns of Plaintiffs/Petitioners, and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 67, and therefore denies the same.

68. Defendant/Respondent, CMI admits to having hired Nadine Hastings to assist in cleaning up after a Town Hall meeting in Dayton in November, 2013. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 68 and therefore denies the same.

69. Defendant/Respondent, CMI admits to having hired Shawn Starks as an employee. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 69, and therefore denies the same.

70. Defendant/Respondent, CMI admits to contributing to various charitable causes in Storey and Lyon Counties, including the Mason Valley Boys & Girls Clubs. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 70 and therefore denies the same.

71. Defendant/Respondent, CMI admits to having filed an application with Lyon County to change the land used designations and zoning on portions of CMI's real property located in Lyon County. Defendant/Respondent, CMI denies the remaining allegations contained in Paragraph 71.

72. Defendant/Respondent, CMI admits that the purpose of its application was as stated in the application. Defendant/Respondent, CMI denies the remaining allegations contained in Paragraph 72.

73. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 73, and therefore denies the same.

74. Defendant/Respondent, CMI denies the allegations contained in Paragraph 74.

75. Defendant/Respondent, CMI denies the allegations contained in Paragraph 75.

76. Defendant/Respondent, CMI denies the allegations contained in Paragraph 76.

77. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 77, and therefore denies the same.

78. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 78, and therefore denies the same.

79. Defendant/Respondent, CMI admits that advisory councils exist in Lyon County. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 79, and therefore denies the same.

80. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 80, and therefore denies the same.

81. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 81, and therefore denies the same.

82. Defendant/Respondent, CMI admits that the Lyon County planning staff recommended denial of its application. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 82, and therefore denies the same.

83. Defendant/Respondent, CMI denies the allegations contained in Paragraph 83.

84. Defendant/Respondent, CMI admits to having had meetings with Lyon County officials with regard to its application. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 84, and therefore denies the same.

85. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 85, and therefore denies the same.

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86. Defendant/Respondent, CMI admits that the discussion before the Lyon County Planning Commission of its application was continued from November 12, 2013 to December 10, 2013. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 86, and therefore denies the same.

87. Defendant/Respondent, CMI admits that the Lyon County Planning Commission held a public hearing on CMI's Master Plan Amendment and Zone Change Application and that consideration of such application was continued to the December 10, 2013 meeting of the Lyon County Planning Commission.

88. Defendant/Respondent, CMI denies the allegations contained in Paragraph 88.

89. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 89, and therefore denies the same.

90. Defendant/Respondent, CMI admits that on December 10, 2013, the Lyon County Planning Commission voted 5 to 1 to deny CMI's application with Lyon County to change the land use designations and that the Lyon County Planning Commission voted 6 to 0 to deny CMI's application to change the zoning on portions of CMI's real property located in Lyon County. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 90, and therefore denies the same.

91. Defendant/Respondent, CMI admits that the written findings of the Lyon County Commission state what they state. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 91, and therefore denies the same.

92. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 92, and therefore denies the same.

93. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 93, and therefore denies the same.

94. Defendant/Respondent, CMI admits the allegations contained in Paragraph 94.

95. Defendant/Respondent, CMI admits that Commissioner Keller made statements at the January 2, 2014 Lyon County Commission meeting and that those statements are as set forth in

the record of that meeting. CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 95, and therefore denies the same.

96. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 96, and therefore denies the same.

97. Defendant/Respondent, CMI admits that its representatives have met with Vida Keller as well as other Lyon County officials. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 96, and therefore denies the same.

98. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 98, and therefore denies the same.

99. Defendant/Respondent, CMI admits that the proposal described by Commissioner Keller reduced the area proposed for a land use designation change. Defendant/Respondent, CMI denies the remaining allegations contained in Paragraph 99.

100. Defendant/Respondent, CMI admits that approval of CMI's application with Lyon County to change the land used designations and zoning on portions of CMI's real property located in Lyon County allows different uses than previously allowed on the subject property. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 100, and therefore denies the same.

101. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 101, and therefore denies the same.

102. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 102, and therefore denies the same.

103. The allegations in Paragraph 103 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 103.

104. Defendant/Respondent, CMI admits that on January 2, 2014, the Lyon County Commission voted 4 to 1 to approve CMI's application to change the land use designations and that the Lyon County Commission voted 5 to 0 to approve CMI's application to change the zoning on

portions of CMI's real property located in Lyon County. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 104, and therefore denies the same.

105. The allegations in Paragraph 105 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 105.

106. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 106, and therefore denies the same.

107. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 107, and therefore denies the same.

108. The allegations in Paragraph 108 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 108, and therefore denies the same.

109. Defendant/Respondent, CMI admits that it received correspondence on behalf of the Lyon County Board of Commissioners regarding final action on CMI's application to change the land used designations and zoning on portions of CMI's real property located in Lyon County containing notice of a final action. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations of Paragraph 109, and therefore denies the same.

110. Defendant/Respondent, CMI admits the allegations contained in Paragraph 110.

111. Defendant/Respondent, CMI incorporates each of its previous answers to the allegations contained in Paragraphs 1 through 110 inclusive, as though fully set forth herein.

112. The allegations in Paragraph 112 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 112.

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113. The allegations in Paragraph 113 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 113.

114. The allegations in Paragraph 114 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 114.

115. The allegations in Paragraph 115 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 115.

116. Defendant/Respondent, CMI denies the allegations contained in Paragraph 116.

117. Defendant/Respondent, CMI incorporates each of its previous answers to the allegations contained in Paragraphs 1 through 116 inclusive, as though fully set forth herein.

118. The allegations in Paragraph 118 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 118.

119. Defendant/Respondent, CMI denies the allegations contained in Paragraph 119.

120. The allegations contained in Paragraph 120 call for legal conclusions and therefore Defendant/Respondent, CMI denies the same.

121. The allegations in Paragraph 121 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 121.

122. The allegations in Paragraph 122 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 122.

123. Defendant/Respondent, CMI incorporates each of its previous answers to the allegations contained in Paragraphs 1 through 122 inclusive, as though fully set forth herein.

///

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124. The allegations in Paragraph 124 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI admits the allegations contained in Paragraph 124.

125. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 125, and therefore denies the same.

126. Defendant/Respondent, CMI denies the allegations contained in Paragraph 126.

127. Defendant/Respondent, CMI denies the allegations contained in Paragraph 127.

128. The allegations in Paragraph 128 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 128.

129. The allegations in Paragraph 129 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 129.

130. The allegations in Paragraph 130 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 130.

131. The allegations in Paragraph 131 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 131.

132. Defendant/Respondent, CMI incorporates each of its previous answers to the allegations contained in Paragraphs 1 through 131 inclusive, as though fully set forth herein.

133. The allegations in Paragraph 133 states a legal conclusion and are therefore not required to be answered. To the extent an answer is required Defendant/Respondent, CMI admits that the cited statutory provision states what it states.

134. The allegations in Paragraph 134 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 134.

///

135. Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of the allegations contained in Paragraph 135, and therefore denies the same.

136. The allegations in Paragraph 136 state legal conclusions and are therefore not required to be answered. To the extent an answer is required, Defendant/Respondent, CMI denies the allegations of Paragraph 136.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiffs/Petitioners have failed to state a claim upon which relief can be granted.

Second Affirmative Defense

Plaintiffs/Petitioners are precluded from relief because of Plaintiffs/Petitioners own actions.

Third Affirmative Defense

The claims of Plaintiffs/Petitioners in the Complaint pertain to the exercise or performance, or failure to exercise or perform discretionary functions or duties on the part of Respondent, Lyon County, its agents or employees and are precluded by NRS 41.032.

Fourth Affirmative Defense

Defendant/Respondent, CMI is without sufficient information and knowledge to form a belief as to the truth of each and every allegation not specifically denied or admitted.

Fifth Affirmative Defense

The Complaint/ Petition is an improper and inappropriate method or procedure to seek judicial review pursuant to NRS Chapter 278.

Sixth Affirmative Defense

The Complaint/Petition is subject to NRS 278.

Seventh Affirmative Defense

Land use and zoning changes are legislative actions.

Eighth Affirmative Defense

Plaintiffs/Petitioners are barred by the election of remedies from asserting claims other than those set forth in the Complaint/Petition.

WHEREFORE, Defendant/Respondent, CMI prays for judgment as follows:

1. That the Court dismiss with prejudice Plaintiffs/Petitioners' Complaint/Petition.

2. That Defendant/Respondent, CMI be awarded reasonable attorneys' fees and costs in defense of the Complaint/Petition.

3. For such other and further relief as the Court deems just and proper.

DATED on this 28th day of March, 2014.

ALLISON, MacKENZIE, PAVLAKIS,
WRIGHT & FAGAN, LTD.
P.O. BOX 646
Carson City, Nevada 89702
Phone (775) 687-0202
Fax (775) 882-7918

By: _____
James R. Cavilia, Esq.
Nevada State Bar No. 3921
Justin Townsend, Esq.
Nevada State Bar No. 12293
Attorneys for COMSTOCK MINING, INC.

CERTIFICATE OF SERVICE

Pursuant to NRCP Rule 5(b), I hereby certify that I am an employee of ALLISON, MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD., Attorneys at Law, and that on this date, I caused the foregoing document to be served to all parties to this action by:

✓ Placing a true copy thereof in a sealed postage prepaid envelope in the United States Mail in Carson City, Nevada [NRCP 5(b)(2)(B)]

_____ Hand-delivery

_____ Facsimile

_____ Federal Express, UPS, or other overnight delivery

_____ E-filing pursuant to Section IV of District of Nevada Electronic Filing Procedures [NRCP 5(b)(2)(D)]

fully addressed as follows:

John L. Marshall, Esq.
570 Marsh Avenue
Reno, NV 89509
Attorney for Plaintiffs/Petitioners, Comstock Residents Association, Gayle Sherman, Joe McCarthy

Stephen B. Rye, Esq.
Chief Deputy District Attorney
31 South Main Street
Yerington, NV 89447
Attorney for Respondent/Defendant, Lyon County Board of Commissioners

DATED this 28th day of March, 2014.

Nicole D. Kennedy

Nicole D. Kennedy

Case No. 2014-CV-00128

Dept. No. I

FILED
2014 MAY -2 AM 8:13
TANYA BOURNE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT
Andrea Andersen
DEPUTY

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

* * * * *

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY

Plaintiffs/Petitioners,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED,

Defendants/Respondents.
_____/

ORDER OF RECUSAL

On January 31, 2014, Plaintiffs/Petitioners COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY (collectively "Plaintiffs") filed a Complaint for Declaratory and Injunctive Relief/Petition for Writ of Mandate or Judicial Review. Plaintiffs challenge Defendant LYON COUNTY BOARD OF COMMISSIONERS's decision to grant a version of Defendant COMSTOCK MINING INCORPORATED's application to allow mining uses within Silver City.

Findings of Fact:

In paragraph 16 of their Complaint, Plaintiffs allege that,

> "In 1986, Nevex Mining Company Applied to Lyon County to change the land use and zoning designations for property within Silver City from urban uses to allow mining within the town (Nevex applied at the same time for a special use permit to mine). The Lyon County Commission denied Nevex's proposed land use and zone changes specifically finding that Nevex's application for more rural uses and densities violated its Master Plan and was otherwise inappropriate."

In paragraph 17 of the Complaint, Plaintiffs allege that,

> "In 1986, the Lyon County BOC, offered a long, comprehensive list of "findings of fact" supporting the denial, including that, "[t]he proposed rezoning violates the following express goals of the county's master plan: To manage natural resources in a beneficial way: To improve neighborhood stability and increase property values by preventing incompatible and disruptive land use." Other specific findings include:
>
> a. After a four hour presentation on June 17 [1986], the Planning Commission, by vote of five to two, recommend denial of the Nevex rezoning request considered today.
>
> b. In reference to requirements for zoning established by NRS Section 278 and 250, we find (A) that the Nevex rezoning request does not comply with the Lyon County Master Plan. (B) The proposed rezoning does not promote the conservation of open space or protect the natural and scenic resources from unreasonable impairment. (C) The proposed rezoning would have both a long term adverse financial impact to Silver City and the Comstock national Historic Landmark. (D) The proposed rezoning does not promote the health and general welfare of the Silver City area. (E) The proposed rezoning is not compatible with the Silver City area and does not encourage the most appropriate use of land in the Silver City Townsite.
>
> c. There is no land in the Silver City Town site zoned *RR-5, and the* present zoning is predominantly residential in nature.
>
> d. The proposed rezoning would significantly harm the integrity of the Comstock Historic District and the National Landmark District.
>
> e. The proposed rezoning violates the following expressed goals: (A) to manage national resources in a beneficial way. (B) To improve neighborhood stability and increase property values by preventing incompatible and disruptive land uses."

In paragraphs 18 and 19 of the Complaint, Plaintiffs allege that,

> "In 1990, Lyon County affirmed its 1986 decision when it adopted a new Master Plan and maintained the same urban/rural land use designations for Silver City. Lyon County approved two goals for Silver City in the 1990 Master Plan:

Goal #1- To maintain, promote, and secure the historic character of the community and to prevent the destruction or degradation of the historic center.
Objective: Lyon County should support the Comstock Historic District Commission in its legislative mission.
Goal #2-Lyon County should review all new development proposals with the intent to protect the riparian ecology associated with Gold Canyon and American Ravine, with the intent of protecting water quality, minimizing flooding, erosion and sedimentation, and preserving natural drainage, habitat, and aesthetic functions."

That at the time of the Nevex Mining Company's 1986 application to change the land use and zoning designation for property in Silver City, as alleged paragraphs 16 and 17 of the complaint, Judge William Rogers was the elected District Attorney for Defendant Lyon County, Nevada, one of the Defendants in this action. In his capacity as legal counsel for Lyon County, he met with the Lyon County Planning Commissioners, County Commissioners and County planning staff; and offered expert and legal advice in his capacity as the District Attorney.

William Roger was the elected District Attorney for Lyon County, Nevada in 1990, when Lyon County adopted a new Master Plan as alleged in paragraphs 18 and 19 of the Complaint. That Lyon County, Nevada is one of the Defendants in this action. In his capacity as legal counsel for Lyon County, he attended several meetings covering the creation of the revisions to the Master Plan and advised Lyon County staff, Planning Commissioners, and the Board of County Commissioners during the process.

That the contested allegations in paragraphs 16, 17, 18 and 19 of the Complaint, contain matters that William Rogers, as District Attorney for Lyon County, Nevada, participated personally and substantially as a lawyer and public official concerning the proceedings.

Conclusions of Law / Fact:

The Code of Judicial Conduct provides that, "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:...

The judge:

(a) served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy." Nevada State Supreme Court Code of Judicial Conduct, Canon 2.

Based upon the facts in controversy in the action and the prior involvement of William Rogers as the District Attorney for Lyon County, it is appropriate that he recuse himself from presiding on this matter. Therefore, Good Cause Appearing;

IT IS HEREBY ORDERED that William Rogers hereby recuses himself from presiding over the matter.

IT IS FURTHER ORDERED that this Courts Judicial Assistant make an application to the Nevada Supreme Court for the appointment of a Senior Judge to preside over this matter.

DATED this 2nd day of May, 2014.

HON. WILLIAM G. ROGERS
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I, Debbie Gilmore, am an employee of the HON. WILLIAM G. ROGERS, District Judge, and that on this date, pursuant to NRCP 5(b), I deposited for mailing at Yerington, Nevada, a true copy of the foregoing document addressed to:

John L. Marshall, Esq.
570 Marsh Avenue
Reno, NV 89509

James R. Cavilia, Esq.
Allison, MacKenzie, Pavlakis,
Wright & Fagan, Ltd.
402 N. Division Street
Carson City, NV 89703

Stephen B. Rye
Chief Deputy District Attorney
31 South Main Street
Yerington, NV 89447

DATED this 2nd day of May, 2014.

Dgilmore

Case No. 2014-CV-00128

Dept. No. II

FILED

2014 APR -1 PM 4:15

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Tanya Sceirine DEPUTY

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

* * * * *

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY

Plaintiffs/Petitioners,

v.

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED,

Defendants/Respondents.
_____/

ORDER OF RECUSAL AND ORDER TRANSFERRING TO DEPARTMENT I

On January 31, 2014, Plaintiffs/Petitioners COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY (collectively "Plaintiffs") filed a Complaint for Declaratory and Injunctive Relief/Petition for Writ of Mandate or Judicial Review. Plaintiffs challenge Defendant LYON COUNTY BOARD OF COMMISSIONERS's decision to grant a version of Defendant COMSTOCK MINING INCORPORATED's application to allow mining uses within Silver City.

Findings of Fact:

In Paragraphs 20 through 23 of their Complaint, Plaintiffs allege that in 2002, Lyon County created the West Central Lyon County Land Use Plan ("West Central Plan") designating Silver City as appropriate for urban uses and densities. Plaintiffs allege that the West Central Plan designated Silver City as a historic community and stated that the area *did not have the* same development potential as other Lyon County areas. Plaintiffs allege that the West Central Plan set forth a number of policies in order to preserve the historic nature of Silver City.

At the time Lyon County created the West Central Plan, Judge Leon Aberasturi served as the Lyon County District Attorney. Judge Aberasturi worked personally on the West Central Plan in his position as the District Attorney. Judge Aberasturi attended several meetings concerning the creation of the West Central Plan and advised Lyon County staff and the Board of Commissioners during the process.

Plaintiffs allege that in 2013 the Lyon County Board of Commissioners passed an amendment to the Master Plan. Plaintiffs allege that the 2013 Master Plan amendment conflicts with several prior plans, including the 2002 West Central Plan.

Conclusions of Law / Fact:

The Revised Nevada Code of Judicial Conduct Rule 1.2 states that all judges must avoid the "appearance of impropriety." Nevada Code of Judicial Conduct Rule 2.11(A) (6) states that a judge shall disqualify himself in any proceeding in which the judge's impartiality might reasonably be questioned.

Judge Aberasturi's involvement in the creating of the West Central Plan may create an appearance of impropriety. His knowledge and understanding of the discussions leading up to the passage of the West Central Plan might reasonably create a question as to his impartiality.

Judge Leon Aberasturi of Department II of the Third Judicial District Court, in order to

avoid the appearance of impropriety and promote public confidence in the independence, integrity, and impartiality of the judiciary, hereby recuses himself from presiding over this matter.

IT IS HEREBY ORDERED that this matter shall be transferred to Department I.

DATED this 1st day of April, 2014.

HON. LEON ABERASTURI
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I, Trudy Ingerson, am an employee of the Honorable LEON ABERASTURI, District Judge, and that on this date, pursuant to NRCP 5(b), I deposited for mailing at Yerington, Nevada, a true copy of the foregoing document addressed to:

John L. Marshall, Esq.
570 Marsh Avenue
Reno, NV 89509

James R. Cavilia, Esq.
Allison, MacKenzie, Pavlakis,
Wright & Fagan, Ltd.
402 N. Division Street
Carson City, NV 89703

Stephen B. Rye
Chief Deputy District Attorney
31 South Main Street
Yerington, NV 89447

DATED this 1st day of April, 2014.

Trudy Ingerson

Case No. 14-CV-00128

FILED

2014 JUN 10 AM 9:38

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT
DeAnn Peeples DEPUTY

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

* * *

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY,

Plaintiffs,

vs.

NOTICE OF ASSIGNMENT BY CLERK

LYON COUNTY BOARD OF COMMISSIONERS; COMSTOCK MINING INCORPORATED,

Defendants.

_____/

Honorable Leon A. Aberasturi and Honorable William Rogers having recused Department II and Department I from this case,

NOTICE IS HEREBY GIVEN that said matter is assigned to the Honorable Robert E. Estes, Senior Judge.

Dated: June 10, 2014.

Tanya Sceirine,
Clerk of the Court

By: DeAnn Peeples
Deputy Clerk

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCP 5(b), I, DeAnn Peeples, herby certify that I am an employee of TANYA SCEIRINE, CLERK OF COURT, and that on the 10th day of June, 2014, I placed in the U.S. Mail a true and correct copy of the Notice of Assignment by Clerk to the following parties:

John L. Marshall, Esq.
570 Marsh Avenue
Reno, Nevada 89509

James R. Cavilia, Esq.
Allison, MacKenzie, Pavlakis,
Wright & Fagan, Ltd.
402 N. Division Street
Carson City, Nevada 89703

Stephen B. Rye, Esq.
Chief Deputy District Attorney
31 S. Main Street
Yerington, Nevada 89447

Deputy Clerk

14-CV-00128

FILED

2014 JUN 10 AM 9:10

--FILED--
Administrative Office of the Courts
Date: 05/06/14
By: Deborah Cruz

SONIA SOLTERO
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT
DEPUTY

SUPREME COURT OF THE STATE OF NEVADA
ADMINISTRATIVE OFFICE OF THE COURTS

IN THE MATTER OF THE ASSIGNMENT OF A SENIOR JUDGE

Order No. 14-00439

MEMORANDUM OF TEMPORARY ASSIGNMENT

WHEREAS, the Honorable William G. Rogers, District Judge, is unable to hear the matter of *Comstock Residents Association v. Lyon Co. Board of Commissioners, et al.*, Case Number 14-CV-00128, now pending in the Third Judicial District, now therefore

IT IS HEREBY ORDERED that the Honorable Robert E. Estes, Senior Judge, is assigned to hear any and all matters in *Comstock Residents Association v. Lyon Co. Board of Commissioners, et al.*, Case Number 14-CV-00128, and he shall have authority to sign any orders arising out of this assignment. The Court shall notify the parties of the assignment and provide Senior Judge Robert E. Estes with any assistance as requested.

Entered this 6 day of May 2014.

NEVADA SUPREME COURT

By: _____, Justice

Copy: The Honorable Robert E. Estes, Senior Judge
The Honorable William G. Rogers, District Judge, Third Judicial District Court

Case No. 14-CV-00128

Dept. No. II

FILED

2014 JUN 10 AM 8:49

TANYA SCHERBA
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT
Tanya Scherba
DEPUTY

The undersigned hereby affirms this document does not contain a social security number.

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY,

Plaintiffs/Petitioners,

vs.

LYON COUNTY BOARD OF COMMISSIONERS;COMSTOCK MINING INCORPORATED,

Defendants/Respondents,

LYON COUNTY BOARD OF COMMISSIONERS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT

Defendant LYON COUNTY BOARD OF COMMISSIONERS (referred to as COUNTY), by and through ROBERT L. AUER, Lyon County District Attorney, and STEPHEN B. RYE, Chief Deputy District Attorney, hereby files this Motion to Dismiss or, in the alternative, Motion for Partial Summary Judgment. This motion is made and based upon the documents on file herein, the applicable law, the attached points and authorities, and any arguments at a hearing on this matter.

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Office of the District Attorney
Lyon County, State of Nevada
601 Overland Loop, Suite 308, Dayton, Nevada 89403 • 31 South Main Street, Yerington, Nevada 89447 • 565 East Main Street, Fernley, Nevada

DATED this 6th day of June, 2014.

ROBERT L. AUER
DISTRICT ATTORNEY

By: _____
STEPHEN B. RYE
CHIEF DEPUTY DISTRICT ATTORNEY
31 South Main Street
Yerington, NV 89447
775-463-6511

Attorney for Respondent/Defendant
Lyon County Board of Commissioners

Office of the District Attorney
Lyon County, State of Nevada
801 Overland Loop, Suite 308, Dayton, Nevada 89403 · 31 South Main Street, Yerington, Nevada 89447 · 565 East Main Street, Fernley, Nevada

MEMORANDUM OF POINTS AND AUTHORITIES

RELIEF REQUESTED

Lyon County requests that this Court grant a motion to dismiss or, in the alternative, summary judgment, in favor of Lyon County and against CRA as to First Cause of Action, Violation of Nevada Open Meeting Law; Second Cause of Action, Denial of Due Process; and the Fourth Cause of Action – Violation of NRS 278.220. Further Lyon County requests that this matter be limited to a judicial review as set forth herein.

BACKGROUND

Plaintiffs/Petitioners, COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, and JOE McCARTHY (hereinafter collectively "CRA"), allege four (4) causes of action against the County. First, CRA alleges that the County violated NRS 241, which is commonly referred to as Nevada's Open Meeting Law. Second, CRA alleges that the County denied CRA due process under the State and Federal Constitutions on the basis that two (2) individual members of the Board of Commissioners have allegedly illicit ties to Defendant/Respondent COMSTOCK MINING INC. (hereinafter "CMI"). Third, CRA alleges that the COUNTY abused its discretion in granting CMI's application for a Master Plan Amendment and Rezoning. Fourth, CRA alleges that the COUNTY violated NRS 278.220(4), which requires that the COUNTY submit to the planning commission any proposed change to a master plan adopted by the planning commission for a report thereon.

CRA's Complaint contains a mountain of factual allegations, many of which are irrelevant to its claims and are certainly irrelevant to the COUNTY's consideration of CMI's application. In short, the facts giving rise to CRA's claims are essentially (1) that CMI applied in 2013 for an amendment to the Lyon County Master Plan and the applicable zoning of certain real property situated within Lyon County near Silver City, (2) that CRA opposed the application, and (3) that after a public hearing, the COUNTY granted a slimmed down version of the application.

A record of the administrative proceedings involving CMI's application has been prepared and submitted to the Court and all of the parties hereto. The record contains documents paginated 14CV00128-000001 through 14CV00128-003050 and recordings of the

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public meetings held on this matter before the Lyon County Planning Commission (the "Commission") and the COUNTY (collectively, the "Record"). All factual allegations made herein concerning the Record will be referred thereto (for ease of reference, the case number portion of the aforementioned page numbers will be left off).

In or about August 2013, CMI submitted to the COUNTY a Master Plan Amendment and Zone Change Application (the "Application"). See Record, 000549-000581. The Application sought a change to the land use and zoning designations for six (6) parcels totaling approximately 87.2 acres adjacent to the town site of Silver City. Id. at 000551. The specific requests made in the Application were to amend the Lyon County Master Plan (the "Master Plan") by changing the land use designation from Suburban Residential to Rural Residential on approximately 42.57 acres and from Resource to Rural Residential on approximately 12.29 acres and to amend the zoning designation from NR1 to RR3 on 54.86 acres and from NR1 to RR5 on 32.34 acres. Id. at 000552.

The Application was made for the purpose of furthering mineral exploration efforts on the property. Id. at 000553. However, the proposed land use and zoning designations do not permit actual mining activities and CMI, if it determined from its mineral exploration that mining activities on the property would be appropriate, would still have to apply for and obtain a special use permit from the COUNTY. Id. CMI did not apply for a special use permit in connection with the Application and has not heretofore applied for a special use permit to conduct mining activities on the property.

The Planning Commission initially set CMI's Application for public hearing on November 12, 2013. Id. at 000582 & 001152-001154. The hearing before the Planning Commission was then continued to December 10, 2013. Id. at 001159-001161 & 001914. At the December 10, 2013 hearing, the Planning Commission voted 5-1 to recommend that the COUNTY deny the application for a master plan amendment and 6-0 to recommend that the COUNTY deny the application for a zoning change based upon the denial of the Master Plan Amendment. Id. at 001915-001921.

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The COUNTY then set CMI's Application for hearing before the Lyon County Board of Commissioners on January 2, 2014. Id. at 001166. All five County Commissioners were present and participated in the hearing. At the hearing, Commissioners Keller and Hastings read disclosures into the record disclosing in detail their respective involvement with CMI, and that they both had consulted with the Lyon County District Attorney and the Nevada Commission on Ethics prior to making the disclosures. Id. at 000515-000518.

The Record contains no reference to any objections made by any party prior to or during the hearing as to the participation of Commissioners Keller and Hastings in the hearing of and voting on CMI's Application. After full disclosure, and consideration of their ethical obligations, both Commissioners Keller and Hastings did participate in and vote thereon. Id. at 000528-000532. At the hearing CMI presented a revised map to the COUNTY indicating a reduction in the amount of acreage for which the amendments were sought. Id. After extensive comments from the public, both in support of and in opposition to the Application, and after consideration of the Commission's recommendations, and a comprehensive review of the record, the COUNTY voted 4-1 to approve the master plan amendment and 5-0 to approve the zoning change. Id. The total acreage subject to the amendment and zone change was reduced from 87.2 acres to 71.63 acres. Id. at 000528-000532 & 001735.

CRA filed its Complaint on January 31, 2014. The COUNTY hereby moves for dismissal of or alternatively for summary judgment on CRA's first, second and fourth causes of action based on the points and authorities set forth herein.

ARGUMENT

1. LEGAL STANDARD

Nevada Rules of Civil Procedure ("NRCP") Rule 12(b)(5) provides that the defense of "failure to state a claim upon which relief can be granted" may be made by motion. A motion to dismiss a claim under NRCP 12(b)(5) tests the legal sufficiency of the claim set out against the moving party and such a motion should be granted if it appears beyond doubt that the plaintiff is entitled to no relief under any set of facts that could be proved in

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support of the claim. Washoe Medical Center, Inc. v. Reliance Insurance Co., 112 Nev. 494, 915 P.2d 288 (1996).

Where a motion to dismiss pursuant to NRCP 12(b)(5) is supported by evidence outside of the pleadings and where the Court considers such evidence, the motion should be treated as one for summary judgment. Meyer v. Sunrise Hospital, 117 Nev. 313, 22 P.3d 1142 (2001). Summary judgment is governed by NRCP 56, which allows a defending party to move the Court for a judgment on any claim, or any part thereof, made against it. NRCP 56(b). Summary judgment should be granted if the pleadings and the evidence offered in support of the motion "show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." NRCP 56(c); See also Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d 1026 (2005).

A factual dispute is genuine for purposes of summary judgment when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party. Id. While the pleadings and other proof must be construed in a light most favorable to the nonmoving party, that party bears the burden to do more than simply show that there is some metaphysical doubt as to the operative facts in order to avoid summary judgment being entered in the moving party's favor. Id. A nonmoving party is not entitled to build a case on the gossamer threads of whimsy, speculation, and conjecture; instead a party opposing such a motion must set forth specific facts showing that there is a genuine issue for trial and the opponent must show it can produce evidence at trial to support its claim. Id.; Van Cleave v. Kietz-Mill Minit Mart, 97 Nev. 414, 633 P.2d 1220 (1981); Hickman v. Meadow Wood Reno, 96 Nev. 782, 617 P.2d 871 (1980).

2. CRA CANNOT CLAIM RELIEF FOR DISCRETIONARY ACTS AND CASE SHOULD BE LIMITED TO JUDICIAL REVIEW

NRS 41.032 states in pertinent part as follows:

> Except as provided in NRS 278.0233 no action may be brought...against an immune contractor or an officer or employee of the State or any of its agencies or political subdivisions which is: . . .
> 2. Based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the State or any of its

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agencies or political subdivisions or of any officer, employee or immune contractor of any of these, whether or not the discretion involved is abused.

NRS 278.0233 presents the only exception to the foregoing rule and specifically limits the causes of action that may be brought against Nevada political subdivisions, such as the COUNTY, to petitions for judicial review of allegations of abuse of discretion in land use planning and zoning matters. Redrock Valley Ranch, LLC v. Washoe County, 254 P.3d 641, 644 (Nev. 2011); see also City of Las Vegas v. Laughlin, 111 Nev. 557, 558, 893 P.2d 383, 384 (1995); NRS 278.0235; and NRS 278.3195.

In this case, CRA has sued for declaratory relief and an injunction, and has petitioned for writ of mandate or for judicial review. The Nevada Supreme Court has instructed that by statute, "an aggrieved party's challenge to zoning and planning decisions must now be presented by a petition for judicial review, rather than a petition for writ of mandamus." Kay v. Nunez, 122 Nev. 1100, 1102, 146 P.3d 801, 803 (2006). Where petitions for writ of mandate in zoning and planning cases were appropriately used prior to the enactment of NRS 278.3195 in 2001, the Supreme Court, in Kay, recognized that said statute contains the proper mechanism to invoke a district court's jurisdiction to examine a local government's planning and zoning decision. Id. at 805; see also City of Reno v. Citizens for Cold Springs, 236 P.3d 10, 14-15.

Moreover, in Citizens for Cold Springs, the complainants originally complained for declaratory relief and an injunction, but pursuant to the ruling in Kay, which was issued after the original complaint was filed in Citizens for Cold Springs, the complainants amended their complaint to petition for both a writ of mandate and for judicial review. Id. The City of Reno argued that the zoning ordinance in question was not subject to judicial review under NRS 278.3195 on the basis that its enactment of a zoning ordinance was a legislative act, and that, therefore, petition for writ of mandate was the appropriate mechanism. Id. However, the Supreme Court held that petition for judicial review was the proper mechanism for reviewing procedural actions of legislative entities who enact zoning amendments. Id.

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CRA has alleged that the COUNTY abused its discretion in granting CMI's Application. See Complaint, Third Cause of Action. Clearly, under applicable statutes, this Court is permitted to review the COUNTY's decision in order to determine whether the COUNTY abused its discretion. The COUNTY does not object to proceeding with judicial review pursuant to CRA's third cause of action. However, CRA's actions for declaratory relief, injunction, and petition for writ of mandate are not appropriate. Therefore, for this reason, CRA's first, second, and fourth causes of action should be dismissed.

In judicial review, the Court is limited to a review of the Record in deciding "whether substantial evidence supports the governing body's findings." Id. "Substantial evidence is that which a reasonable mind could accept as sufficient to support a conclusion." Id. (citing State, Emp. Security v. Hilton Hotels, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986)). The reviewing court is instructed not to substitute its own judgment for that of the governmental entity if substantial evidence supports that entity's actions. Id. at 15-16 (citing McKenzie v. Shelly, 77 Nev. 237, 240, 362 P.2d 268, 269 (1961).

This case ought to be a simple judicial review. For this reason, the COUNTY respectfully requests that this Court dismiss all causes of action except for CRA's Petition for Judicial Review in order that the Court may focus on a review of the Record in accordance with the standards set forth in the immediately preceding paragraph.

3. CRA HAS FAILED TO ALLEGE ANY VIOLATION OF THE NEVADA OPEN MEETING LAW

CRA alleges in its First Cause of Action that Lyon County violated the Nevada Open Meeting Law in two ways: (1) that the COUNTY did not properly notify the public of the actions it would consider at its January 2, 2014 meeting and (2) that it deliberated outside of said public meeting. See Complaint, ¶¶ 112-14. The Complaint fails to state a claim on both these issues.

CRA alleges in support of its first cause of action that at the January 2, 2014 meeting Commissioner Keller made a proposal to modify CMI's Application after discussing the same in a private meeting with her husband, with Commissioner Mortensen, with the Lyon

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County Manager, and with representatives from CMI and that said modification was not placed on the notice agenda for the meeting. See Complaint, ¶¶ 95-99. Even if the Court accepts these allegations as true, they do not at all give rise to a violation of NRS Chapter 241, and, as such, CRA's first cause of action should be dismissed.

Moreover, if, in consideration of summary judgment, the COUNTY were to admit each and every fact alleged in support of CRA's claim that the COUNTY violated NRS Chapter 241, there would be no material issues of genuine fact and summary judgment in favor of COUNTY would be required.

A. THE MEETING WAS PROPERLY NOTICED AND THE COUNTY ACTION WAS WITHIN THE SCOPE OF THE AGENDA ITEM AND NOTICE

The COUNTY agenda for CMI's Application and the notice of the January 2, 2014 meeting read as follows:

> COMSTOCK MINING, INC – MASTER PLAN AMENDMENT – Request to change the Master Plan from Resource land use designation and Suburban Residential land use designation to Resource land use designation on approximately 32.34 acres and Rural Residential land use designation on approximately 54.86 acres of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0050
>
> COMSTOCK MINING, INC. – ZONE CHANGE (for possible action) – Request to change the zoning from NR-1 (Non-Rural Residential – 6,000 sq. ft. lot size) and RR-5 (Fifth Rural Residential – 20 acre minimum) to RR-3 (Third Rural Residential – 5 acre minimum) on approximately 54.86 acres and RR-5 (Fifth Rural Residential – 20 acre minimum) on approximately 32.34 acres, of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ 13-0051

The Record at 001166. The Application called for land use and zoning changes affecting approximately 87.2 acres.

CRA alleges that the Board action during the meeting is a violation of NRS 241.020 because it was not specifically included in the agenda. In support, CRA alleges that "Commissioner Keller's new proposed action substantially modified boundaries of the proposed area for land use designation changes. Commissioner Keller's new action represents a substantial, and heretofore undisclosed amendment to CMI's 2013

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Application." Complaint, ¶ 99. However, CRA leaves out that the modified boundaries are actually a reduction in the amount of acreage affected, are entirely included within the acreage and parcels described in the notice, and do not affect any property outside of the originally proposed application or property referenced in the Agenda Items. The Record reflects that the Board approval excluded from the land included in the original CMI application approximately 15.49 acres of land in the Silver City view shed. The Record at 000529. The COUNTY approved zoning and master plan changes affecting approximately 71.63 acres, slightly less than the acreage proposed. Id. at 001735.

NRS 241.020(2) requires written notice to the public of all meetings. The notice must include an agenda consisting of a "clear and complete statement of the topics scheduled to be considered during the meeting." NRS 241.020(2)(d)(1). "The agenda requirement merely prohibits a public body from considering or taking action on items without providing proper notice." Schmidt v. Washoe County, 123 Nev. 128, 135, 159 P.3d 1099, 1104 (2007) (abrogated on other grounds) (holding that removal of an agenda item from consideration without prior notice or public comment does not violate the Open Meeting Law).

During the consideration of these two agenda items, the Board only discussed the proposed Master Plan Amendment and Zoning Change. The Board did not discuss matters not included within the description of the items. NRS 241.020(2)(c)(1) requires that discussion at a public meeting cannot exceed the scope of a clearly and completely stated agenda topic. Sandoval v. Bd. of Regents of Univ., 119 Nev. 148, 154, 67 P.3d 902, 905 (2003). The Board never exceeded the scope of the agenda topic. The Petitioners complain that the Board took action that was less than that stated on the Agenda. The Agenda provided notice that the Board would consider a Master Plan Amendment and Zone Change, and petitioners cannot claim they were not on notice that those items would be discussed. Nothing in Nevada's Open Meeting law precludes the Board from taking action less than that which is stated on the Agenda. The COUNTY did not entertain an amendment enlarging the scope of the Application or affecting property not included in the

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agenda or the materials that accompanied the agenda. The property affected by the COUNTY's decision was the same property that was described in the agenda. As such, there is no violation of NRS 241.020.

Here, the COUNTY merely reduced the scope and effect of an item on the agenda. Furthermore, the COUNTY offered the opportunity for public comment on the reduced acreage proposal. The Record contains no evidence that anyone objected to the reduction. The only objections noted in the Record are those in opposition to the entire Application.

B. THE COUNTY DID NOT MEET OR DELIBERATE OUTSIDE OF THE JANUARY 2, 2014 MEETING

The COUNTY properly agendized CMI's Application and no deliberations or meetings of the Board of Commissioners were had outside of the January 2, 2014 public hearing. The Nevada Open Meeting Law is not intended to prohibit every private discussion of a public issue, but rather, only prohibits collective deliberations or actions where a quorum is present. Dewey v. Redevelopment Agency of City of Reno, 119 Nev. 87, 94-95, 64 P.3d 1070, 1075 (2003)(citing *McKay v. Board of Cty. Comm'rs,* 103 Nev. 490, 495–96, 746 P.2d 124, 127 (1987).

"Meeting" for purposes of the Open Meeting Law is defined as a gathering of a quorum of the members of the public body is present to deliberate towards a decision. NRS 241.015(2) CRA argues that the COUNTY held a private meeting subject to NRS 241 when Commissioner Keller allegedly met with her husband, with Commissioner Mortensen, with the Lyon County Manager, and with representatives of CMI. Complaint, ¶ 96.

NRS 241.015(5) defines "Quorum" as a simple majority of the membership of a public body. The Board of Commissioners consists of five (5) commissioners. The meeting described in CRA's Complaint alleges that only two (2) commissioners were present. None of the other alleged attendees are members of the Board of Commissioners and their presence had no effect on whether a meeting of the Board of Commissioners occurred. Thus, a majority of the commissioners were not present at the alleged meeting. For this reason, a meeting of the COUNTY did not occur for purposes of NRS Chapter 241.

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Moreover, the commissioners that were allegedly present at the private meeting did not deliberate towards a decision. NRS 241.015(2) defines "Deliberate" as "to collectively examine, weigh and reflect upon the reasons for or against the action. The term includes, without limitation, the collective discussion or exchange of facts preliminary to the ultimate decision." In this case, there are no facts alleged or otherwise to support an assertion that any deliberations occurred at the private meeting alleged to have occurred by CRA. At most, CRA alleges that there were discussions by a group of people that included only two (2) of the (5) commissioners and others regarding CMI. There are no allegations that these discussions were had in moving towards reasoning for or against the action. There was certainly no collective examination, weighing, or reflection of reasons for or against the proposed action. Therefore, no deliberations occurred outside of the January 2, 2014 meeting. Even if the Court accepts that this alleged private meeting occurred, a meeting of the COUNTY did not occur for purposes of NRS 241, there was no quorum, and there were no deliberations. Any of these foregoing deficiencies is enough to demonstrate that a meeting did not occur in violation of NRS Chapter 241. CRA has failed to state any claim upon which relief can be granted for a violation of Nevada's Open Meeting Law.

4. CRA HAS NOT ESTABLISHED OR ALLEGED ANY VIOLATION OF DUE PROCESS, AND THEREFORE CRA IS NOT ENTITLED TO RELIEF AS REQUESTED IN THE SECOND CAUSE OF ACTION

CRA improperly frames its second cause of action as a claim for denial of due process and argues that the "Due Process Clause of the United States and Nevada Constitutions, as well as Nevada Ethics in Government Act, guarantee citizens that decisions made by government officials shall be free from undue influence." Complaint, ¶ 118. The due process clause of the United States Constitution actually states in relevant part that "[n]o person shall...be deprived of life, liberty, or property, without due process of law." United States Constitution, Fifth Amendment; See also, Fourteenth Amendment. Similarly, the due process clause found in Section 8 of the Nevada Constitution states that "[n]o person shall be deprived of life, liberty, or property, without due process of law."

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CRA leaps to the conclusion that the foregoing constitutional provisions are somehow tied to the junction of government decision-making and conflicts of interest and that within said provisions are guarantees about government decision-making being free from undue influence. The COUNTY is perplexed by CRA's reading and understanding of these important, but inapplicable provisions. CRA does not articulate in its Complaint how it reaches its conclusion regarding the constitutional due process clauses.

CRA might have attempted the tenuous argument that the COUNTY's action in approving CMI's Application somehow deprived CRA of some property right. At least that argument would have fit neatly under the plain language of the constitutional due process provisions. However, instead it argues that Commissioner Keller's and Commissioner Hasting's connections to CMI as outlined in its Complaint are indicative of improprieties for which they should have recused themselves from considering CMI's Application. See Complaint, ¶¶ 118-22. The due process clauses of the United States and/or the Nevada Constitutions are wholly inapplicable to said connections and do not of themselves require recusal where conflicts of interest arise.

The Nevada Ethics in Government Act is codified in NRS Chapter 281A. Like the constitutional due process clauses, the COUNTY has searched NRS Chapter 281A for guarantees that citizens will be free from unduly-influenced government decision-making and finds none. It is certainly a noble and worthy goal and one that the COUNTY supports. Nevertheless, CRA's argument that such a guarantee exists is wholly without support. Indeed, NRS 281A.020(2)(b) expressly states that the provisions of NRS 281A are "guidelines...required to show the appropriate separation between the roles of persons who are both public servants and private citizens" with a goal to "enhance the people's faith in the integrity and impartiality of public officers and employees." Therefore, there are no guarantees that public officials will always be impartial, but there are guidelines to ensure that such officials will strive for impartiality. The COUNTY and its individual commissioners adhered to these guidelines in this matter as will be shown herein.

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NRS 281A.420 contains requirements regarding disclosures of conflicts of interests. Subsection 1 thereof states that a public official should abstain from voting on a matter (a) regarding which the public officer "has accepted a gift or loan," (b) in which the public officer "has a significant pecuniary interest," or (c) which would be affected by the public officer's "commitment in a private capacity to the interests of another person" unless the public officer discloses information "sufficient to inform the public" of the effects of the proposed action on the loan, gift, pecuniary interest, or commitment to the interests of another person. Moreover, the disclosure(s) required in NRS 281A.420(1) must be made at the time the particular matter is being heard and in public.

A public official who properly discloses the items mentioned in NRS 281A.420(1) is permitted to deliberate and vote on the matter in question unless the "judgment of a reasonable person in the public officer's position would be materially affected by" the disclosed item(s). NRS 281A.420(3). A public official is presumed not to be materially affected by the gift, loan, significant pecuniary interest, or commitment to another's interests if the benefit to the public officer is not greater than that accruing to any other person affected by the matter in question. NRS 281.420(4).

Here, Commissioner Keller disclosed her husband's pecuniary interests in projects funded by CMI. See The Record at 000516. A plain reading of NRS 281A.420 would not likely lead to a conclusion that Commissioner Keller was required to disclose her husband's interests. Nevertheless, considering Nevada's community property laws and in order to avoid the appearance of impropriety, Commissioner Keller did disclose said interests. Having disclosed her husband's pecuniary interests, Commissioner Keller was free to deliberate in and vote on CMI's Application unless a reasonable person in her position would be materially affected by her husband's pecuniary interests.

CRA makes no allegations or arguments that Commissioner Keller was materially affected by her husband's pecuniary interests in projects funded by CMI. Moreover, CRA makes no allegations that the benefits to her husband exceed those of others receiving the same or similar benefits.

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Like Commissioner Keller, Commissioner Hastings disclosed perceived pecuniary interests in CMI held by his wife and his daughter's boyfriend. The Record at 000515. His wife's pecuniary interest amounted to a total of $225, which she was paid by CMI for assisting in the set-up and clean-up of a single event sponsored by CMI. Id. Such an amount certainly fails to rise the level of being a significant pecuniary interest in CMI.

Commissioner Hastings' daughter's boyfriend, Shawn Starks, is employed by CMI to work in one of its mines. Commissioner Hastings disclosed that Shawn Starks was hired on the basis of his prior experience with industrial excavation. Id. Certainly, Commissioner Hastings was not required to disclose pecuniary interests of Shawn Starks for which Commissioner Hastings derives absolutely no benefit. Nevertheless, in order to avoid the appearance of impropriety, Commissioner Hastings did disclose his relationship with Mr. Starks.

In contrast to the plain language of NRS 281.420(3), CRA argues that Commissioners Keller and Hastings should have recused themselves if "a reasonable person would perceive a conflict of interest on the part of government official when he or she considers a matter." Complaint, ¶ 118. This is a gross misrepresentation of the statutory standard guiding the recusal of Nevada public officials. The mere perception of a conflict of interest is not the standard set forth in any provision of NRS 281. Moreover, and to reiterate, CRA has made no arguments or allegations that Commissioners Keller and Hastings were materially affected by the pecuniary interests they disclosed. Indeed, CRA makes no allegations or arguments that said pecuniary interests even rise to the level of being significant as required under the statute.

In addition, CRA alleges that Commissioner Hastings was further disqualified by virtue of CMI's contributions to his election campaign in 2012. Complaint, ¶ 121. Nevada law on this issue is quite clear. NRS 281A.420(2)(a) states unequivocally that a public officer is not required to disclose "[a]ny campaign contributions that the public officer reported in a timely matter" pursuant to relevant statutes. Nevertheless, Commissioner Hastings did disclose CMI's contributions to his election fund.

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Moreover, the Nevada Attorney General has taken the position that campaign contributions are not conflicts of interest that require abstention from voting on matters relating to or affecting campaign contributors. See Nevada Attorney General's Opinion ("AGO") 1998-29. The Nevada Attorney General recognized that the Nevada legislature (in predecessor statutes to NRS 281A) has kept campaign contributions separate from conflicts of interests. Id. It found that the Legislature has not intended for campaign contributions to trigger a conflict of interest that might require abstention. Id. Revisions to the applicable conflict of interest statutes, including the addition of NRS 281A, since 1998 have not added anything to reverse or contradict this finding. Therefore, Commissioner Hastings was not required to disclose his campaign contributions during the January 2, 2014 hearing and there is no authority that required him to recuse himself from deliberating and voting on CMI's Application.

Furthermore, both Commissioners Keller and Hastings consulted the Lyon County District Attorney and the Nevada Commission on Ethics to ensure their disclosures were proper and that they were not required to recuse themselves from participating in the hearing of CMI's Application. The Record, 000515-000518.

Even accepting as true all of the facts alleged by CRA in support of its claim that Commissioners Keller and Hastings were unduly influenced by the pecuniary interests they disclosed and, in the case of Commissioner Hastings, by the campaign contributions made by CMI, there is no basis on which CRA might obtain the relief it seeks in its second cause of action. For these reasons, the Court should dismiss CRA's second cause of action.

Furthermore, CRA's second cause of action requires only the application of the provisions of NRS 281A to the facts. Cases involving statutory construction present questions of law appropriately determined by summary judgment. State Farm Mut. Auto Ins. Co. v. Cramer, 109 Nev. 704, 857 P.2d 751 (1993). Insofar as the facts alleged by CRA in support of its second cause of action do not give rise to a valid claim under NRS 281A, said cause of action is ripe for summary judgment.

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5. THE COURT CANNOT GRANT RELIEF UNDER NRS 278.220

NRS 278.220(4) states as follows:

> No change in or addition to the master plan or any part thereof, as adopted by the planning commission, may be made by the governing body in adopting the same until the proposed change or addition has been referred to the planning commission for a report thereon and an attested copy of the report has been filed with the governing body. Failure of the planning commission so to report within 40 days, or such longer period as may be designated by the governing body, after such reference shall be deemed to be approval of the proposed change or addition.

The statute does not dictate what remedy, if any, there is for a violation of this statute. Likewise, the statute makes no provision mandating that the governing body has to give any deference to the report called for. Indeed, as will be shown herein, the governing body, which in this case is the Board of Commissioners, has the ultimate authority to enact planning and zoning regulations regardless of reports and recommendations made by the Commission.

CRA's fourth cause of action seeks a declaration that the COUNTY violated NRS 278.220(4) and on that basis seeks further to overturn the COUNTY's action to approve CMI's Application. Whereas this cause of action calls for application of statute, it is purely a question of law for which summary judgment may be had. See State Farm, 109 Nev. 704. There are no genuine issues of material fact here. Again, all of the material facts are contained in the Record.

The Record reveals that "Rob Loveberg, Planning Director, explained the commissioners' decision on the Master Plan Amendment is a final action but it needs to be sent back to the planning commission for a report. The commissioners' action on the Zone Change is a final action and does not need to be sent back to planning." The Record at 000531. Director Loveberg correctly interpreted NRS 278.220(4). Only changes in or additions to master plans must go back to the Commission for a report. Changes or additions to zoning are not covered by this statute. Moreover, the statute does not require that the proposed master plan change go back to the Commission for a report prior to the Board of Commissioners voting on the proposed action. In any event, CRA concedes that the Board of Commissioners has submitted its final action regarding CMI's Application for a

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master plan amendment to the Commission for a report pursuant to NRS 278.220(4). See Complaint, ¶ 135.

Regardless of the timing of the submission of the master plan change back to the Commission for a report, under the Statute, the Commission has no authority to overturn or reject the Board of Commissioners' action. Indeed, NRS 278.010 empowers the Board of Commissioners "to regulate and restrict the improvement of land and to control the location and soundness of structures."

Ultimate authority for zoning and planning rests with the Board of Commissioners. In this case, the Commission made recommendations to the Board of Commissioners with regards to CMI's Application. Nevertheless, the Board of Commissioners is empowered by NRS 278 to make the final decision on CMI's Application. Falcke v. Douglas County, 116 Nev. 583, 590, 3 P.3d 661, 665 (2000) (noting in footnote no. 4 that the plain language of NRS 278.220 does not require that the governing body's decision comport with the planning commission's recommendation and citing 79-14 Op. Att'y Gen. 73 (1979) (concluding that the governing body "is not precluded from subsequently acting on a proposed amendment to the Master Plan which initially failed to obtain an affirmative two-thirds majority vote of the [Planning Commission]")); Lyon County Code 10.12.07; 10.12.09.

Furthermore, the matter of the master plan amendment approved by the Board of Commissioners has been referred back to the Commission for a report. Regardless of the Commission's report or lack thereof, the Board of Commissioners' action is final and is not subject to further amendment or binding action by the Planning Commission.

CRA seeks a declaration that the COUNTY violated NRS 278.220 and therefore to overturn the COUNTY's action to approve CMI's Application. A declaration that the COUNTY violated NRS 278.220 does not void the COUNTY's approval of CMI's Application. As such, there are no set of facts upon which CRA can obtain the requested relief. There are no genuine issues of fact and this cause of action is purely a matter of statutory application, which rightfully subjects CRA's fourth cause of action to summary judgment. For these reasons, CRA's fourth cause of action should be dismissed.

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Lyon County, State of Nevada
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CONCLUSION

Based on the foregoing, the COUNTY respectfully requests that this Court dismiss CRA's first, second, and fourth causes of action pursuant to NRCP 12(b)(5) for failure to state a claim upon which relief may be granted. In the alternative, the COUNTY requests that this Court grant its motion for summary judgment as to CRA's first, second, and fourth causes of action.

Dated this 6th day of June, 2014.

ROBERT L. AUER
DISTRICT ATTORNEY

By: _____
STEPHEN B. RYE
CHIEF DEPUTY DISTRICT ATTORNEY
31 South Main Street
Yerington, NV 89447
775-463-6511

Attorney for Respondent/Defendant

Lyon County Board of Commissioners

Office of the District Attorney
Lyon County, State of Nevada
801 Overland Loop, Suite 308, Dayton, Nevada 89403 · 31 South Main Street, Yerington, Nevada 89447 · 565 East Main Street, Fernley, Nevada

Certificate of Service

The undersigned, an employee of the Lyon County District Attorney, certifies that on the 9th day of June, 2014, a copy of the foregoing was mailed, postage prepaid, by placing the same in the mail receptacle at Lyon County Administrative Offices, addressed to:

John L. Marshall, Esq.
570 Marsh Ave.
Reno, NV 89509

James R. Cavilia, Esq.
Allison, MacKenzie, Pavlakis
Wright & Fagan, Ltd.
402 N. Division Street
Carson City, NV 89703

Dated this 9th day of June, 2014.

Employee

Office of the District Attorney
Lyon County, State of Nevada
801 Overland Loop, Suite 308, Dayton, Nevada 89403 · 31 South Main Street, Yerington, Nevada 89447 · 565 East Main Street, Fernley, Nevada

Case No. 14-CV-00128

Dept. No. II

The undersigned hereby affirms this document does not contain a social security number.

FILED

2014 JUN 10 AM 8:49

TANYA SCHULZ
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT
Tanya Schulz DEPUTY

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE McCARTHY,

Plaintiffs/Petitioners,

vs.

LYON COUNTY BOARD OF COMMISSIONERS;COMSTOCK MINING INCORPORATED,

Defendants/Respondents,

RECORD ON APPEAL

Defendant LYON COUNTY BOARD OF COMMISSIONERS (referred to as COUNTY), by and through ROBERT L. AUER, Lyon County District Attorney, and STEPHEN B. RYE, Chief Deputy District Attorney, hereby files its Record On Appeal, consisting of the following items:

1. Documents numbered 1-3050.
2. Copy of the audio recording of the County Commission Meeting July 2, 2014.
3. Copy of the audio recording for December 10, 2013 Planning Commission meeting.
4. Copy of the audio recording for the November 12, 2013 Planning Commission meeting.

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Office of the District Attorney
Lyon County, State of Nevada
601 Overland Loop, Suite 308, Dayton, Nevada 89403 - 31 South Main Street, Yerington, Nevada 89447 - 565 East Main Street, Fernley, Nevada

DATED this 6th day of June, 2014.

ROBERT L. AUER
DISTRICT ATTORNEY

By: _____
STEPHEN B. RYE
CHIEF DEPUTY DISTRICT ATTORNEY
31 South Main Street
Yerington, NV 89447
775-463-6511

Attorney for Respondent/Defendant
Lyon County Board of Commissioners

Office of the District Attorney
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AGENDA SUMMARY

Time Specific – 9:30 A.M.

MEETING DATE: January 2, 2014

TITLE:

COMSTOCK MINING, INC – MASTER PLAN AMENDMENT – Request to change the Master Plan from Resource land use designation and Suburban Residential land use designation to Resource land use designation on approximately 32 34 acres and Rural Residential land use designation on approximately 54.86 acres of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0050

COMSTOCK MINING, INC – ZONE CHANGE (for possible action) - Request to change the zoning from NR-1 (Non-Rural Residential - 6,000 sq. ft. lot size) and RR-5 (Fifth Rural Residential - 20 acre minimum) to RR-3 (Third Rural Residential-5 acre minimum) on approximately 54.86 acres and RR-5 (Fifth Rural Residential - 20 acre minimum) on approximately 32.34 acres, of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0051

SUMMARY: Comstock Mining, Inc. has applied for master plan amendments and zone changes in the area of Silver City. The requests were heard by the Lyon County Planning Commission at their meetings of November 12, 2013, and December 10, 2013.

The Planning Commission took the actions listed below.

Based on the stated findings, the Planning Commission passed a motion to deny the Master Plan Amendment request for Comstock Mining, Inc. on APN's 08-091-05 & 08-091-02, by a majority vote of 5 ayes; 1 nay (George Mortensen); 1 absent (Paul Lanning).

Based on the stated findings, the Planning Commission passed a motion to recommend denial of the Zone Change request for Comstock Mining, Inc. on APN's 08-091-05 & 08-091-02, by a unanimous vote of those members present: 6 ayes; 0 nay; 1 absent (Paul Lanning).

Enclosed are the Reports of Planning Commission Action for each request and the backup materials for the matters.

RECOMMENDED ACTION AND/OR ALTERNATIVES:

Alternative actions are included in the Report of Planning Commission Action for each request.

FINANCIAL DEPARTMENT COMMENTS:

APPROVED AS TO LEGAL FORM:

COUNTY MANAGERS COMMENTS:

FOR INFORMATION:

Rob Loveberg, Planning Director – 463-6592

LIST OF ATTACHMENTS:

Staff Reports with Backup Materials

STAFF REPORT

MASTER PLAN AMENDMENT

LYON COUNTY
PLANNING DEPARTMENT

ITEM # _____

Robert G. Loveberg
Planning Director

27 South Main Street · Yerington, Nevada 89447
(775) 463-6592 · (775) 463-3187 (fax)

REPORT OF PLANNING COMMISSION ACTION

PLZ-13-0050	Master Plan Amendment from Resource to Rural Residential and Suburban Residential to Rural Residential
Meeting Date:	January 2, 2014
Owners:	Comstock Mining, Inc.
Applicant:	Same
Area Location:	Silver City
Parcel Number(s):	(APNs) 08-091-02 & 08-091-05
Current Master Plan Designation:	Resource and Suburban Residential
Proposed Master Plan Designation:	Rural Residential
Existing Zoning:	NR-1, Single-Family Nonrural Residential (6,000 square foot minimum)
Proposed Zoning:	RR-3, Third Rural Residential (5 acre minimum), and RR-5, Fifth Rural Residential (20 acre minimum)
Case Planner:	Rob Loveberg
Planning Director Approval:	*RGL*

Request

The applicant is requesting a master plan amendment from Resource to Rural Residential on approximately 12.29 acres outside of the Silver City town site and an amendment from Suburban Residential to Rural Residential on approximately 42.57 acres within the Silver City town site. See the enclosed applicant's revised submittal for more detailed information and the applicant's justification.

A zone change from NR-1, Single-Family Nonrural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum), and to RR-5, Fifth Rural Residential (20 acres minimum), was submitted concurrently with this request. A request for a reversion to acreage involving property included in the requested master plan amendment and zone change was also submitted concurrently and has been heard and approved by the Planning Commission.

Current and Proposed Master Plan Designations:

Master Plan Designation	Current		Proposed	
	Acreage	Percentage	Acreage	Percentage
Resource	12.29±	22.4%	0	0%
Rural Residential	0	0%	54.86±	100%
Suburban Residential	42.57±	77.6%	0	0%
TOTAL	54.86±	100%	54.86±	100%

PLANNING COMMISSION ACTION

The Planning Commission passed a motion to deny the requests for master plan amendments on a vote of five (5) aye, one (1) nay and one (1) absent. The motion was based on the findings listed below.

A. The proposed amendment is not in substantial compliance with, nor promotes the Master Plan goals, objectives and actions in that it is not in keeping with the majority of applicable guiding principles, goals, policies, strategies and community description contained in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

B. The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land use in that the amendment would change the planned character and intensity of residential development and enables the potential development of a land use incompatible with the actual and planned adjacent and predominant residential land uses.

C. The proposed amendment fails to identify or respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.

D. The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and will adversely impact the public health, safety or welfare.

E. The proposed amendment does not promote the desired pattern for the orderly physical growth of the County as set forth for the Silver City community in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

F. The existing Comprehensive Master Plan and/or any related element thereof is not in need of the proposed amendment.

G. The proposed amendment is not compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan, particularly those related to Silver City.

H. The proposed amendment will have effects on service provision, including adequacy or availability of facilities and services, and is not compatible with existing and planned service provision.

I. Deviation from the strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

J. The proposed Plan amendment will not promote the public welfare and will be inconsistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.

K. The burden of proof has not been met by the applicant in their application to warrant a change in the Master Plan at this time.

Planning Commission Hearings

The Planning Commission conducted an initial hearing of the matter on November 12, 2013. Due to the fact that the Planning Department staff report on the matter was not distributed until the Friday before the Planning Commission hearing, the applicant requested a continuance of the matter to permit adequate time for review. Discussion and public comment was generally limited to the matter of the continuance request. The Planning Commission granted a continuance until the December 10, 2013 Planning Commission meeting. The staff report and backup materials, written public comments received and minutes of the November 12, 2013 Planning Commission meeting are included by reference and enclosed with this report.

The Planning Commission conducted an extensive hearing regarding the requested master plan amendments and zone changes at their meeting of December 10, 2013. The Commission decided to hear the matters together and act on them separately.

The applicant made a presentation (enclosed) which contained additional information not included in the application. Speakers representing the Comstock Residents Association highlighted comments made in their written comments (enclosed) and they played a DVD which contained comments by Silver City residents (enclosed). Public comment representing both pro and con viewpoints was provided. The applicant's representative also made closing remarks prior to the Planning Commission's deliberations.

The Planning Commission members were engaged throughout the hearing; asking questions, and seeking clarifications and greater details on certain points. As required by Chapter 10.12.09 (E)(3) of the Lyon County Code, the Commission reviewed the information, evidence and comments to determine if the proposed amendments were consistent with existing master plan goals, objectives and actions, or that the proposed amendments represented necessary and appropriate modifications of the goals, objectives and actions of the master plan. The Commission, after considering the application, passed a motion recommending denial of the requested master plan amendments. The motion included 11 findings which state why the Commission could not make the required findings for adoption of the amendments as required by 10.12.09 (E)(6) of the Lyon County Code.

The December 10, 2013 staff report and backup materials, application, presentations, written public comments, resident interviews DVD, and draft minutes of the December 10, 2013 Planning Commission meeting are included by reference and enclosed with this report.

ALTERNATIVE FINDINGS AND MOTIONS:

The alternative motions suggested below are offered for the Board of Commissioners' consideration.

Alternative for Denial:

If after the review of all of the information and comments presented the Board agrees with the action of the Planning Commission and determines that the request for a Master Plan Amendments should be denied, the Board must make findings supporting a denial. The Board of Commissioners may wish to consider a motion similar to the following:

The Lyon County Board of Commissioners finds that:

A. The proposed amendment is not in substantial compliance with, nor promotes the Master Plan goals, objectives and actions in that it is not in keeping with the majority of applicable guiding principles, goals, policies, strategies and community description contained in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

B. The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land use

in that the amendment would change the planned character and intensity of residential development and enables the potential development of a land use incompatible with the actual and planned adjacent and predominant residential land uses.

C. The proposed amendment fails to identify or respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.

D. The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and will adversely impact the public health, safety or welfare.

E. The proposed amendment does not promote the desired pattern for the orderly physical growth of the County as set forth for the Silver City community in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

F. The existing Comprehensive Master Plan and/or any related element thereof is not in need of the proposed amendment.

G. The proposed amendment is not compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan, particularly those related to Silver City.

H. The proposed amendment will have effects on service provision, including adequacy or availability of facilities and services, and is not compatible with existing and planned service provision.

I. Deviation from the strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

J. The proposed Plan amendment will not promote the public welfare and will be inconsistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.

Based on the above findings, the Lyon County Board of Commissioners denies the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050).

Alternative for Approval:

If after the review of all of the information and comments presented the Board disagrees with the action of the Planning Commission and desires to approve the requested Master Plan amendments from Resource and Suburban Residential to Rural Residential, the Board must make findings supporting the proposed Rural Residential land use designation on the subject parcels. The Board of Commissioners may wish to consider a motion similar to the following:

The Lyon County Board of Commissioners finds that:

A. The applicant has demonstrated that the amendment is in substantial compliance with and promotes the Master Plan goals, objectives and actions in that it is in keeping with applicable guiding principles, goals, policies, strategies.

B. The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses in that the amendment would decrease the intensity of residential development.

C. The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land.

D. The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.

E. The proposed amendment will promote the desired pattern for the orderly physical growth of the County, maintains relatively compact development patterns, and guides development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.

F. The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan.

G. The proposed amendment will have no major negative impacts on transportation, services, and facilities.

H. The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision.

I. Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

Based on the aforementioned findings, the Lyon County Board of Commissioners approves the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050).

Alternative for Continuance:

If the Board determines that additional information, discussion and public review are necessary for a more thorough review of the proposed Master Plan Amendment, the Board should make appropriate findings and move to **continue** the Public Hearing with a specific time period for the applicant to provide additional specific information necessary for the analysis of the request. The Board of Commissioners may wish to consider a motion similar to the following:

The Lyon County Board of Commissioners finds that:

A. Additional information, discussion and public review are necessary for a more thorough review of the proposed Master Plan Amendment.

Based on the above findings and with the applicant's concurrence, the Lyon County Board of Commissioners continues the hearing for the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050), for __ days.

INFORMATION AND COMMENTS

Background:

The applicant submitted requests for a master plan amendment, a zone change and a reversion to acreage in August 2013 in accordance with the requirements of Title 10.12.09 of the Lyon County Code. Subsequent to the submittal, Lyon County Planning staff discovered that certain zoning information provided to the applicant was incorrect. The applicant revised the requests for the master plan amendment, zone change and reversion to acreage to reflect the corrected information. This report is based on the revised application information.

The Lyon County Comprehensive Master Plan, County-wide Component, was adopted by the Board of Commissioners on December 23, 2010. The residential densities for the following Comprehensive Master Plan land use designations are:

- Resource – 1 dwelling per 40 acres,
- Rural Residential – 1 dwelling per 20 acres to 1 dwelling per 5 acres, and
- Suburban Residential – 1 dwelling per acre to 18 dwellings per acre

The characteristics used to describe the three pertinent land use designations are as follows:

- Resource – Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grazing, mining and large scale energy, general rural residential development at very low densities. Within communities uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.
- Rural Residential – Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".
- Suburban – Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Examples of uses: Single-family residences, duplexes and attached housing.

The Lyon County Master Plan, County-wide Component, land use designation "Rural Residential" is consistent with the following Lyon County residential zoning districts: RR-3, Third Rural Residential District (5 acre minimum), RR-4, Fourth Rural Residential District (10 acre minimum) and RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Resource" land use designation is consistent with the following Lyon County zoning district: RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Suburban Residential" land use designation is consistent with the following Lyon County zoning districts: E-1, First Estates Residential (12,000 square foot minimum), E-2, Second Estates Residential (one-half acre minimum), NR-1, Single-Family Nonrural Residential (6,000 square foot minimum), NR-2, Multiple Residence Nonrural Residential (8,000 square foot minimum) and NR-3, Single-Family Nonrural Residential (9,000 square foot minimum).

Property Information:

Location:

The parcels are located westerly of State Route 341 and 342, in the area of the southwesterly corner of the Silver City town site.

Size:

The subject properties total approximately 87.2 acres according to the Lyon County Assessor's files. The requested master plan amendment involves 56.86 acres of the total.

Land Use

The subject properties are generally undeveloped, with a historic mill site and buildings on a portion of the property near and visible from State Route 341 and 342 as well as a large portion of Silver City.

Subject Property and Surrounding Area Land Use

	Current Master Plan	*Zoning*	*Current Land Use*
Subject Property	Resource Suburban Residential	NR-1	Undeveloped and Historic Mill
North	Commercial Mixed Use Suburban Residential	M-1 NR-1	Historic Residential and Undeveloped
South	Public Lands Resource	RR-5	Undeveloped
East	Resource Suburban Residential	NR-1 RR-5	Historic Residential and Undeveloped
West	Public Lands Suburban Residential Resource	NR-1 RR-5	Historic Residential and Undeveloped

It should be noted that not all zoning districts are consistent with their respective master plan land use designations. A master plan designation is an expression of the county's long-term expectations for development within a particular area.

Physical and Topographic Attributes:

According to information submitted by the applicant, the subject parcels vary from 0% - 10% slopes to slopes greater than 30%. A portion of APN 08-091-05 along State Route 342 has an area of AE flood zone.

Access:

Current access to the subject properties is via State Route 341 and State Route 342.

Historic District:

The parcels are within the Comstock Historic District.

Public Facilities and Services:

The portion of subject properties within the Silver City town site are within the service area of the Storey County Public Works Department, Virginia City Water System. The parcels are not currently served by the municipal water system and significant improvements will be necessary to bring water services to the subject properties.

No municipal sewer system currently serves the Silver City area. Immediate development would require the installation of individual sewer disposal systems (ISDS) for residential development, or on-site sewer disposal systems (OSDS) or package sewer treatment plant for non-residential development. The Silver City area is not generally well suited for ISDS or OSDS, and a long term solution for waste water treatment would be the extension of a municipal sewer system. Densities as contemplated in the County's Comprehensive Master Plan would contribute to the cost effectiveness of a sewer system.

The Central Lyon County Fire Protection District provides fire and emergency medical service from the volunteer fire station located at 745 High Street, Silver City, approximately 455 feet to the northeast of the site and career station at 231 Coral Drive, Dayton, approximately 3.5 miles easterly of the site. The Lyon County Sheriff's Department maintains a substation at 801 Overland Loop, Dayton, approximately 6 miles northeast of the site.

Water Rights:

Water rights information has not been provided. It is anticipated that potential development will bring necessary water rights for the portions of the parcels outside of the water system service area when required for development.

Summary of Applicant's Justification:

The applicant includes the following arguments in support of the requested master plan amendments:

- A reduction in the potential residential development density provides a "more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure and also clean up and align certain parcels that currently have "split" master plan designations."
- "For more than a century the subject property has been used for mining, mine exploration and/or mine development."
- "The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles."
- "In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning."
- The "zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts."

The applicant believes that "the community Character District of Suburbanizing, the Community Plan Land Use Designation of High Density, Density of 5 to 18 dwelling units per acre, the

Examples of Uses and the Description/ Characteristics and the current Suburban Residential master plan designation" are inconsistent with the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU1: Orderly Growth Patterns – Direct and manage development in the county that it is orderly and fiscally responsible.
- Goal LU2: Services Coordinated with Growth – Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

The applicant believes that the requested master plan amendments are consistent with and supported by the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU3: Diverse Economy – The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.
- Goal NR9: Mining and Resource Extraction – Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

The revised application submittal, dated October 11, 2013, contains the applicant's detailed request and justification. One must examine the revised information for the complete justification and a full understanding of the applicant's views.

Staff Review and Comments:

Applicant's Request

As specified in the applicant's justification statement "[t]he application is requesting a "down zone" at both the master plan and zoning levels." If approved, the applicant's master plan amendment requests would result in a decrease in planned residential density. The current master plan designation and zoning allow development at densities that are less than the maximum density permitted by the master plan land use designation and the zoning district.

The applicant's justification states that "[t]he applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property." If approved, the amendments set the stage for zone change requests that may permit uses, such as mining, not currently permitted on the subject parcels.

Access:

Access to the subject properties would be from State Route 341 and 342. Specific access would need to be created based on the type and density/intensity of development. No plan for development of access, intersections and/or ingress and egress points from the subject parcels has been provided.

Comstock Historic District:

Silver City and the subject parcels are within the boundaries of the Comstock Historic District. The District comprises an effort to maintain the historic character and integrity of the Comstock.

The State Historic Preservation Office describes the Comstock Historic Commission as follows:

The Comstock Historic District Commission was created by Nevada Revised Statute 384 and dates to 1969. The state agency encourages the preservation and promotion of historic resources with the Virginia City National Landmark District, which the state refers to as the Comstock Historic District. The Commission provides permits for projects dealing with the exteriors of all buildings within the district, the construction of new structures, and work affecting pavement or fencing. The Commission also takes a proactive role in encouraging archaeological investigations and cemetery restoration within the district.

The District has authority over the exteriors of existing and new structures located on the subject parcels. The visual aspects of the built environment is one very important aspect of efforts to maintain the integrity and historic context of the Comstock. Another important aspect is the visual landscape of the Historic District.

The historic nature of the Comstock and Silver City was identified by the community as being very important during the preparation of the Comprehensive Master Plan. The importance of the community's historic component has remained consistently important during community meetings and discussions regarding land use issues.

Land Use:

The subject parcels are generally undeveloped with an area containing a historic mill site and multiple historic structures. The property appears to have had periodic mineral exploration within the past approximately 40 or more years, and intermittent mining activities in the more distant past.

The current Resource land use designation, which applies to 12.29 acres of the subject parcels, has the following attributes as described in Chapter3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – Resource (private)
- Density range – *1 du per 40 acres or one-sixteenth of a section as described by a government land office survey, or per existing parcel if less than 40 acres or one-sixteenth of a section*
- Characteristics – *Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grazing, mining and large scale energy, general rural residential development at very low densities. Within communities, uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.*

The current Suburban Residential land use designation, which applies to 42.57 acres of the subject parcels, has the following attributes as described in Chapter3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – *Medium Density Residential, High Density Residential and Residential Mixed-Use.*
- Density range – *1 du per acre to 18 du per acre.*
- Characteristics –
    - *Medium Density Residential, High Density Residential - Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and*

lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Examples of uses: Single-family residences, duplexes and attached housing.

- *Residential Mixed-Use – This category is designed to create opportunities for higher-density neighborhoods in a suburban-setting to promote neighborhoods with a mix of types and intensities in close proximity to commercial and commercial mixed-use districts. Examples of uses: A range of medium to high-density residential housing types with open space, parks, schools, and other public uses.*

The proposed Rural Residential land use designation, which is proposed to apply to 54.86 acres of the subject parcels, has the following attributes as described in Chapter 3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – *General Rural and Rural Residential*
- Density range – *1 du per 20 acres to 1 du per 5 acres*
- Characteristics – *Characteristics: Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".*

The principal purpose of land-use regulation and zoning is to limit conflicts between incompatible land-uses. As a general rule, commercial and industrial uses are more compatible with higher density residential uses, particularly if they back up to them or if they are separated by a street. All master plan land use designations, zone changes, and special uses should be reviewed to ensure that existing and proposed land uses are compatible.

Past Lyon County Master Plans

Information regarding past master plan land use designations, goals and actions provide some context and insight for the current Comprehensive Master Plan provisions that pertain the subject parcels. From Planning staff's review of past documents, including the 1970s Lyon County Master Plan, zoning map circa the 1970s, the 1990 Lyon County Master Plan and the 2002 West Central Lyon County Final Land Use Plan, it appears that the County has been consistent in its planning approach, intended land use and zoning application.

Below are information, goals and actions from past master plans that illustrate the County's and Community's planning desires for Silver City.

1971 Lyon County General Plan

On the 1971 General Plan Map, Silver City is shown as an Urbanizing Area and the Mining Industry land use is not depicted in the Silver City area.

1990 Lyon County Master Plan – Silver City

Goal #1 To maintain, promote, and secure the historic character of the community and to prevent the destruction or degradation of the historic character.

2002 West Central Lyon County Final Land Use Plan – Silver City Master Plan Goals

Goal 1: To recognize, enhance, and protect the unique character of Silver City.
Actions:

- To maintain that scale and primary residential character by retaining the existing Master Plan designation and zoning categories.

Goal 8: To limit any earth disturbance or above ground mining activities that create visual scaring or that disrupt the fabric of the community.
Actions:

- Lyon County shall establish a land use policy that minimizes the impact of mining and other significant earth disturbing activities that degrade quality of life.

Goal 10: To maintain the primary focus of the community as residential.
Actions:

- To urge the Board of Commissioners to carefully consider all zone changes or Master Plan amendments that would substantially alter the character and identity of Silver City.

2010 Comprehensive Master Plan, County-wide Component

A consideration of the various and often competing provisions of the County's Comprehensive Master Plan is an essential aspect of the consideration of any master plan amendment request.

The applicant has provided information in the submitted, revised application materials regarding their opinions on the compatibility and importance of their master plan amendment request with the current County Comprehensive Master Plan, County-wide Component. The information includes discussions of the relevance of various goals, policies, strategies and land use designations. Please refer to the enclosed applicant's revised submittal for the complete text of the applicant's information.

Lyon County Planning staff compiled a listing of County Comprehensive Master Plan County-wide Component information that it considered relevant for background and for the analysis of the applicant's request. This list is enclosed with this report as Attachment 1.

Below are the Comprehensive Master Plan goals, policies and strategies identified by the County Planning staff with brief discussions.

Goal LU 1: Orderly Growth Patterns: Direct and manage development in the county so that it is orderly and fiscally responsible.

Policy LU 1.1: Follow Development Patterns as Established on Countywide Land Use Plan or a More Specific Community Plan

Future development of Lyon County will be consistent with the Countywide Land Use Plan or a more specific Community Plan, if one has been adopted. The Countywide Land Use Plan will guide future growth and development by defining appropriate land use types, densities, and character in different locations including cities and towns, suburbanizing areas, rural areas, farm and ranch land, hillsides, and public lands. The county's future urban and suburban growth will develop largely around existing communities.

Strategies:

- *Use the Countywide Land Use Plan and adopted Community Plans as a guide for decision-making on development approvals.*

- *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

The current County-wide Land Use Plan should be used to guide the decision regarding the applicant's requested master plan amendment. The current Land Use Plan is consistent with the identified long term development goals for Silver City and consistent with approximately 40 years of County master planning efforts and community input.

The applicant believes that the requested reduction in residential development potential provides for more orderly and fiscally responsible growth, and is more aligned with potential-to-actual development ratio and infrastructure availability.

The existing land use designation includes densities starting from one acre per dwelling unit and provides for density that could improve the potential for the expansion of infrastructure within Silver City.

Policy LU 1.4: Locate industrial development as designated on County-wide Land Use Plan or determined by criteria.

Industrial uses, including extractive industries, will occur in areas that are designated on the County-wide Land Use Plan. New industrial uses should only be located in areas that do not adversely impact existing residential settlements.

Strategies:

- *Consider developing a set of siting criteria to be used in determining the suitability of sites for industrial and extraction uses.*
- *Establish performance standards in areas of noise, odor, dust, traffic generation, etc.*

The potential for the location of a mining use within Silver City, where it was not identified in the Comprehensive Master Plan Land Use Plan, should be carefully considered. The County has not yet developed a set of siting criteria. The Comprehensive Master Plan policy discussion states that new industrial uses, which would include extractive industries, should only be located in areas that do not adversely impact existing residential settlements.

Goal LU 3: Diverse Economy: The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economic Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near to population centers.

The county will support economic diversification throughout the county to more fully utilize the broad range of skills, knowledge and abilities inherent in our workforce.

The requested master plan amendment would provide the basis for a zone change that could allow for the expansion of mining. Such a use has the potential for expanding employment opportunities. A mining use that adversely impacts existing Silver City businesses or tourism could also have an adverse impact on the economy and employment within the community.

The applicant states that: "The master plan change would allow for continued mineral exploration on the subject property helping to identify economic assets while employing local residents in primary jobs."

Policy LU 3.2: Business and Industry Locations that are Consistent with Future Land Use Plan

Encourage commercial and industrial development to locate in designated locations shown on the Future Land Use Plan, where public facilities exist or are planned to accommodate such development cost-effectively. The County-wide Land Use Plan will reserve adequate lands for jobs and industry.

Strategies:

- *Use the Countywide Land Use plan and Community Plans as a guide to determine appropriate locations for business and industry.*

The County-wide Land Use Plan should be used as a guide to determine appropriate locations for business and industry, including mining. The current County-wide Land Use Plan designations for the Silver City community do not identify lands for industry or mining within the community boundaries.

Goal CC 1: Quality Design: New development in Lyon County will improve the appearance and function of our communities.

Policy CC 1.1: Quality New Development

New development in the communities of Lyon County should create inviting places for locals and visitors to live, shop, eat, visit, and do business.

Policy CC 1.3: Design Tailored to Communities

New development in Lyon County should address and respect the unique character of communities within the county.

Consideration should be made to whether or not the proposed master plan amendment would improve the appearance and function of the Silver City community, and address and respect the community's unique character. The existing community development pattern is not inconsistent with the current master plan designation. The proposed decreased residential density does not follow the original town lot development pattern, but would not be inconsistent with the development pattern of parcels outside of the original town map area.

The establishment of uses that would be permitted through the concurrent zone change request may not be consistent with this goal and its policies.

Goal CC 3: Heritage: Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for resident and visitors to learn about and celebrate our heritage.

Policy CC 3.1: Maintain and Restore Historic Resources

Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts.

Strategies:

- *Revise zoning to encourage historic use and development patterns including mixed-use structures and districts.*
- *Support organizations in the county that apply for historic designation or grant funding for inventory or rehabilitation of historic structures, efforts to identify receiving sites for historic structures that cannot be maintained in their original locations, and similar historic preservation purposes and efforts.*

- *Work with knowledgeable organizations and individuals to ensure that building and development standards allow for adaptive reuse of valued historic structures, including those without official historic designation.*
- *Within historic districts, promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.*
- *Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district.*
- *Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.*

Staff is concerned that the requested master plan amendment, concurrent zone change request and the applicant's stated purpose for both could result in development directly contrary to this goal, policy and strategies. Silver City is a unique, historic community within Lyon County that lies within a historic district which contributes to its character and quality of life.

The following strategies are particularly relevant to the requested master plan amendment:

- *Within historic districts, promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.*
- *Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district.*
- *Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.*

Goal NR 3: Adequate, Clean Water: Adequate water supply will be available for current and future needs in Lyon County, including safe, healthy drinking water for all Lyon County residents.

Policy NR 3.1: Water Supply and Quality

Recognizing that clean water is a precious resource necessary to maintain our health, economy, and quality of life, Lyon County will protect the water supply and encourage efficient use of water resources.

Strategies:

- *Maintain and expand the piped municipal water and sewer systems within community core and urbanizing areas of the County as designated on the Future Land Use map.*

Consideration should be given to whether or not the change in development potential and pattern would have a positive or negative impact on the future expansion of the Salver City water system.

Goal NR 9: Mining and Resource Extraction: Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR 9.1: Guide Development

Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Strategies:

- *Consider the location of known resources when reviewing new development.*

Policy NR 9.3: Mitigate Operations

To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, etc.

Strategies:

- *Promote "limited impact"/environmentally safe resource extraction practices to protect the natural environment, enhance the quality of life of residents; and limit impacts on present and future public facilities and services.*

Policy NR 9.4: Mitigate long-term impacts

To the extent possible, Lyon County will promote long-term reclamation and rehabilitation of extractive sites.

Strategies:

- *Require resource extraction projects to submit detailed long-term reclamation and reuse plans and to provide adequate funding mechanisms to implement plans*

The future potential for mineral exploration and extraction operations should be considered for the requested master plan amendment and concurrent zone change requests.

Staff does not believe that the existing master plan land use designation or planned residential development within the Silver City community boundaries should be considered as development that should be guided away from mineralized areas. The Comprehensive Master Plan was created based on the concept of recognizing and developing the existing community core areas. Silver City is one of those areas.

The applicant believes that the existing Suburban Residential land use designation is inconsistent with the mining claims associated with the subject parcels and not appropriate with traditional land planning principles.

Goal FS 1: Provision of Services: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

Strategies:

- *Develop a Capital Improvements Plan and budget for Lyon County utility system expansion that is consistent with the Land Use Map in this Plan.*
- *Revise the County's development regulations in order to create incentives to build according to the Land Use map in this Plan.*
- *Require the developer to pay the full cost of utility system extension, in order to discourage inefficient utility system development, and provide for reimbursement mechanisms where appropriate.*

Silver City has an existing municipal water system. In keeping with this goal and strategies, the future improvement and expansion of the water system has been envisioned by Lyon County Public Works Department for some time.

Silver City has extensive limitations for individual and on-site sewer disposal systems. Additional large lot residential parcels requiring septic systems may be contrary to long term water quality and may reduce the opportunity for a future connection to a municipal sewer system.

Water system improvements are needed for the community and a sewer system may be necessary in the future. Cost effective improvement and expansion will be influenced by Silver City's the long term development potential.

Goal CP 1: Support Diversity: Lyon County will celebrate and support the diversity of character among communities in the county.

Policy CP 1.1: Recognize Diversity of Communities

Lyon County planning efforts and regulations will consider the unique aspects of communities in the county, and will allow for variation and exceptions to address key aspects of their diversity.

In considering the requested master plan amendment, Silver City's unique character, development pattern, historic location and dependence on the historic landscape should be recognized and supported.

Goal CP 3: Community Plans: Lyon County will support community-based planning efforts that elaborate community-specific goals and that are developed with strong public consensus.

Policy CP 3.1: Support Community Planning Efforts

Lyon County will encourage and offer guidance for community-based planning efforts, with the goal of ensuring that such an effort will result in a document that identifies the unique needs and values of the community in a manner that can be integrated with county-wide planning, regulations, and policies.

Over the past approximately 40 years, the Silver City community has actively participated in several master plan efforts, the results of which appear to be very consistent. During the development of the Comprehensive Master Plan, County-wide Component, the community was very active. Goals, policies, strategies and land use designations affecting Silver City were developed with strong public consensus.

Goal CP 4: Advisory Councils: County staff will confer with the applicable Community Advisory Council when developing programs or policies to address community-specific issues.

Policy CP 4.1: Confer with Community Advisory Councils

When developing a program or policy intended to address a community-specific issue, such as those listed in this Comprehensive Master Plan and in adopted community plans, county staff will confer with the applicable Community Advisory Council before finalizing a decision.

The Silver City Advisory Board has been very active in discussing, reviewing and commenting on the requested master plan amendment and zone change applications. The Advisory Board's comments should be considered in the review and deliberation regarding the requested master plan amendment.

Zoning:

The subject parcels are currently zoned NR-1, Single-Family Nonrural Residential District. A review of the County's zoning maps and zoning information for the subject parcels shows that the current zoning is consistent with zoning dating back to the 1970s.

The NR-1 zoning permits:

- Parcel size of 6,000 square feet or larger;
- Permitted uses consisting of single-family dwellings, detached guest building and accessory uses, garden houses, playhouses, tennis courts and "home occupations;"
- Special uses consisting of child care facilities, churches, group care facilities, parks, public utility serving centers, recreational areas, residential industry, schools, sanitariums and other like uses; and
- Special uses on parcels having a minimum area of 21,000 square feet consisting of private golf, swimming, tennis and similar clubs.

If the Planning Commission adopts the applicant's request for master plan amendments to the Rural Residential land use designation, the applicant's requested zone changes, contained in the concurrent zone change application, would become consistent with the County's Comprehensive Master Plan. If the Planning Commission does not adopt the requested master plan amendments, the applicant's requested zone changes will not be consistent with the County's Comprehensive Master Plan.

Guidance for Reviewing and Granting a Master Plan Amendment

The Lyon County Comprehensive Master Plan, County-wide Component, Chapter 11, Implementation, provides the following guidance for reviewing and granting a master plan amendment:

> *The public and the County may initiate Plan Amendments in accordance with the provisions of Lyon County Code. All Plan Amendments shall be considered by the Planning Commission and Board of County Commissioners pursuant to their respective powers. Based on its consideration of the recommendations from staff, advisory councils, boards and commissions, and evidence from public hearings, the Planning Commission could then adopt the Plan Amendment (with or without further revisions) or deny the Amendment. Any action on a Plan Amendment by the Planning Commission would be followed by County Commissioners action including, if applicable, its approval of the Plan Amendment. When considering a plan amendment, the County should consider whether:*
>
> 1. *The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;*
> 2. *The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;*
> 3. *The proposed amendment will have no major negative impacts on transportation, services, and facilities;*
> 4. *The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;*
> 5. *Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and*
> 6. *The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.*

Requirements for Granting a Master Plan Amendment:

Chapter 10.12.09(F) of the Lyon County Code requires that:

When making an approval, modification or denial of an amendment to the Master Plan land use map or text, the Commission and the Board shall, at a minimum, make one of the following findings of fact:

A. Consistency with the Master Plan.

1. *Approval: The applicant has demonstrated that the amendment is in substantial compliance with and promotes the Master Plan goals, objectives and actions.*
2. *Denial: The proposed amendment is not in substantial compliance with, nor does it promote the Master Plan goals, objectives and actions.*

B. Compatible Land Uses.

1. *Approval: The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses.*
2. *Denial: The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land uses.*

C. Response to Change Conditions.

1. *Approval: The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land.*
2. *Denial: The proposed amendment does not identify and respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.*

D. No Adverse Affects.

1. *Approval: The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.*
2. *Denial: The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and would adversely impact the public health, safety or welfare.*

E. Desired Pattern of Growth.

1. *Approval: The proposed amendment will promote the desired pattern for the orderly physical growth of the County, allows infrastructure to be extended in efficient increments and patterns, maintains relatively compact development patterns, and guides development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.*
2. *Denial: The proposed amendment does not promote the desired pattern for the orderly physical growth of the County. The proposed amendment does not allow infrastructure to be extended in efficient increments and patterns, does not maintain relatively compact development patterns, and does not guide development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.*

Summary:

A master plan amendment is the most discretionary decision that the Planning Commission and Board of Commissioners can make regarding land use. After master plan decisions, the Planning Commission's and Board of Commissioners' breadth of discretion becomes more and more constrained until there is relatively little discretion in the matter of conditional and permitted uses.

The County's Comprehensive Master Plan is a long term plan for the development of the County and its individual communities. Decisions on master plan land use designations should be made with deliberate consideration of long term needs, opportunities, community aspirations, community stability, compatibility, and community character. To be most effective, master plans should be amended infrequently when there are compelling justifications which reflect long term community goals and interests.

In short, the prime considerations the Planning Commission needs to determine are whether the proposed master plan amendments:

- ✓ Are needed,
- ✓ Are compatible with the area and Comprehensive Master Plan,
- ✓ Will have no major negative impacts,
- ✓ Will have minimal effect on and will be compatible with services,
- ✓ Will promote the public welfare, and
- ✓ Are consistent with the Comprehensive Master Plan goals and policies.

Staff Recommendation:

Staff would generally recommend that the most appropriate process for making a land use designation decision would be as part of the preparation of a Community Plan for Silver City as envisioned in the Comprehensive Master Plan. However, the Comprehensive Master Plan and County Code provide a process for the master plan amendment now before the County.

Staff recommends denial of the requested master plan amendments based on the guidance provided by the Comprehensive Master Plan, County-wide Component, including the adopted Land Use Plan, the majority of applicable goals, policies and strategies, Silver City's unique and historic character, and the County's lengthy, consistent master plan record of land use planning for Silver City.

Attachment 1

Lyon County Comprehensive Master Plan, County-wide Component
Excerpts and Relevant Information

Chapter 1: Introduction

Plan Use

The Comprehensive Master Plan will be used as a decision-making tool by residents, landowners, developers, the County Planning Department, Planning Commission, and Board of Commissioners. The Plan does not change existing zoning or solve all of the county's problems; instead, it serves as a handbook for implementing the county vision. It specifies policy guidelines that respect the individual, reinforce community values, support healthy functioning communities, and advocate quality of life.

The Plan is a catalyst and guide to the establishment, or revision, of mechanisms to implement the selected goals and policies. These mechanisms include development codes and other planning tools such as zoning and subdivision codes, zoning maps, capital improvements programs, Community Plans for the eight identified communities within the County, and other specific "action items."

About Master Plans Generally

The Comprehensive Master Plan is an official public document adopted by the Lyon County Planning Commission and Board of Commissioners. The Plan is a general, long-range, policy and implementation guide for elected and appointed officials in making choices concerning the overall needs, growth and development of the county and its communities. It outlines Lyon County's vision and goals for the future.

The Plan is comprehensive because the elements cover a broad range of development and growth issues which can be influenced significantly by the County Planning Commission, Board of Commissioners and other governing authorities and agencies. The Plan is general because the recommendations are broad. The plan is long-range because consideration is given to the problems and opportunities which may arise over the next twenty or so years. The Plan is dynamic because there will be amendments to adapt to new situations and meet new challenges over time.

The written guiding principles, goals, policies and strategies, in combination with the Land Use Map, provide guidance for decisions affecting growth, the use and development of land, preservation of open space and the expansion of public facilities and services. The Comprehensive Master Plan written policy recommendations and maps should be used together when making decisions. It is also recognized that this document should be reviewed annually at a public hearing and revised as needed to reflect the availability of new implementation tools, changes in State and Federal law, changes in funding sources, the results of monitoring the effectiveness of existing policies and the impacts of past decisions, as well to reflect changes in the community's vision for the future.

How Does Zoning Relate to The Master Plan?

County zoning regulations consist of both a zoning map and a written ordinance that divides the county into zoning districts, including various residential, commercial, and industrial districts. The zoning regulations describe what type of land use and specific activities are permitted in each district, and also regulate how buildings, signs, parking, and other construction may be placed on a lot. The zoning regulations also provide procedures for re-zoning and other planning applications.

The zoning map and zoning regulations provide specific requirements for development of property, while the Master Plan provides a guide for the future development of the property. When changing the zoning of a particular property, it must be consistent with the Master Plan Land Use Map. That is to say, the Land Use Map contained in this Master Plan should guide future re-zoning decisions.

Consistency Between the Master Plan And Zoning

Master plan land use category designations shown on a Land Use Map are not the same as zoning. The adoption of a master plan and Land Use Map does not change a property's zoning.

Master plans are advisory in nature, serving to guide the community at a policy level and to guide future development decisions. Zoning is regulatory in nature, generally serving to implement the master plan and specify permitted uses, allowed densities and development standards.

In many instances, land use category designations on a Land Use Map may not directly correspond to a property's underlying zoning. Unless the County chooses to pro-actively re-zone properties that are not consistent with the Land Use Map, properties retain their underlying zoning. If a property owner desires to change zoning to be consistent with the Land Use Map, the property owner will be required to request re-zoning of the property as part of the development process to bring it into compliance with the Master Plan. There is no requirement in Nevada State law requiring that the zoning of properties be brought into compliance with the Master Plan and its Land Use Map.

Underlying zoning was reviewed and considered throughout the development of this Master Plan to ensure that consistency between planned land uses and zoning could be maintained to the maximum extent feasible. In some instances, land use designations do differ, however, as was necessary to meet the broader objectives of the Master Plan. Re-zoning may be required should the properties develop or redevelop in the future. It should be noted that in many of the cases where inconsistencies do exist, planned land use categories (e.g., mixed-use land use designations) and zoning that would subsequently be required, would allow a much broader range of uses than are allowed today.

Process for Plan Development and Adoption

This County-wide Component of the Comprehensive Master Plan is the culmination of four years of dialogue and analysis that has included a wide array of participants including the Board of Commissioners, the Planning Commission, community advisory councils, County staff and the community at large. A series of community meetings, open house events and workshops were held throughout the county to obtain citizen input and recommendations, including eight meetings on issues identification in March 2007, eight community meetings and 2 joint Planning Commission/Board of Commissioners sessions on

Chapter 2: Vision and Guiding Principals

The Vision, Guiding Principles, and Goals, Policies and Strategies of the Lyon County Comprehensive Master Plan will guide the County in its decisions, and as new development or changes occur, help to maintain and enhance the qualities that make Lyon County a great place in which to live, work, and play.

- *The Lyon County Vision Statement sets out a desired picture of the future of Lyon County. It represents a future toward which the County will strive.*

- *Guiding Principles represent the broad values and ideals for the County.*
- *Goals are statements about what the County aims to achieve over the life of the Comprehensive Plan. Goals are intended to give decision-makers and citizens a clear idea about the County's intended direction.*
- *Policies provide ongoing guidance for elected and appointed officials, staff, and administrators as these community leaders make decisions about specific development, programs, and capital investments in the County.*
- *Strategies list detailed actions and methods for implementing the plan. We have listed a range of possible strategies to be considered. Some strategies will be possible to accomplish in the near term, while others will be on-going, or will take place later in the life of the Comprehensive Master Plan.*

How Did We Get Here?

The Vision, Guiding Principles, Goals, Policies, and Strategies in this document are based on public comments gathered in a series of open houses and workshops held in communities throughout Lyon County, in meetings with community advisory councils, and on comments and direction provided by the Planning Commission and Board of County Commissioners. Feedback from these meetings was first distilled into a draft Vision, Guiding Principles, and Goals document that was reviewed by the Planning Board and Board of County Commissioners in September, 2007. Subsequently, comments and concerns and detailed policy direction, in the form of policies and strategies, have been addressed in numerous drafts and updates during 2008, 2009 and 2010.

Overall Vision for Lyon County

A Vision statement is an overall image of what the community wants to be and how it wants to look in the future. It describes the kind of community that residents, business owners, and leaders want their county to become. The Vision for Lyon County describes the community's collective values and aspirations and creates an image of the County based upon what it is today and what residents would like it to be in the future. The Vision is founded on the premise that the health of the County and the quality of life of its residents depend on the balancing of multiple factors, including environmental, economic and community/social considerations. These components are interrelated and essential to the continued health and sustainability of the community. Addressing these factors in a comprehensive manner provides a balanced and flexible basis for formulating the County's Comprehensive Master Plan.

Lyon County Vision

Lyon County will guide growth and change to meet the needs of current and future residents, building on its heritage, and exploring new and innovative techniques to address challenges. The diverse communities within Lyon County will work together to meet shared goals while respecting and promoting the individual character of each community. Residents will enjoy an excellent quality of life characterized by: diverse lifestyle opportunities, quality housing choices, plenty of clean air and water, access to open lands, recreation and wildlife, outstanding public schools, an efficient transportation network, a safe community, and a range of employment and occupational choices. Our rural character, and agricultural and mining heritage, will continue to be a strong part of Lyon County's identity.

Guiding Principals

Eight broad "Guiding Principles" have been identified as the basic beliefs behind the overall County Vision and this Comprehensive Master Plan. The Principles reflect the community's vision at a broad policy level and describe the community's aspirations; highlighting areas where the County has opportunities to build on its strengths—as well as those areas where a change in policy direction is needed to improve a condition that is not consistent with the Vision.

Chapter 3: Land Use, Economy and Growth

Land use patterns in Lyon County have not only been shaped by County regulations and development decisions, but also by physical factors such as topography and water availability. Throughout most of its history, Lyon County has been characterized by a number of compact communities and rural settlements spread over a landscape of valleys and mountains, farm/ranch lands, rivers, and extensive undisturbed areas. For years, the County has been noted for its rural character and image, its historical heritage, and its slow-paced rural way of life.

The rapid growth in the region has brought changes to the County: changes welcomed by many, lamented by others, but of concern to all. Inevitably, in such a process, Lyon County and its communities have been affected by development, increased traffic volumes, encroachment into floodplains, services stretched to meet needs, and a declining agricultural land base.

Future development will be influenced by factors such as population trends, employment growth, and water availability. Lyon County desires to be able to provide employment opportunities for its residents as well as a diverse choice of housing types, commercial services, recreational opportunities and community character.

The County's purpose is not to restrict future growth but to direct it in a way that minimizes negative impacts while offering residents a range of choices and promoting job creation. The County seeks to successfully accommodate growth and consciously decide how development should occur to achieve a more efficient pattern for future development. Lyon County intends to ensure the county's long-term viability by using methods to guide new development to locations where adequate public infrastructure such as roads, water, sewer, schools, and related facilities, is available or can be provided most efficiently and cost effectively, promoting infill development, and providing incentives for quality development.

Lyon County sees more growth and development occurring in and around the existing community cores (its towns and established settlement areas) with more focus on balancing residential, employment, and retail land uses. Less growth is desired in the remote unincorporated areas (outside of community cores). The County also desires to continue agricultural production and the retention of agricultural lands, but allow residential development especially in alternative rural patterns such as clustering, through incentives and density transfer mechanisms. Incentives and density transfer mechanisms are also desired to promote alternative development patterns and the conservation of areas of environmental significance or hazardous features.

Guiding Principal: ***Lyon County will grow in an orderly fashion concentrating development within designated community cores, maintaining the diversity characterized by its settlement patterns and landscapes, providing jobs as well as housing, and sustaining quality public services and facilities.***

Goal LU 1: Orderly Growth Patterns: Direct and manage development in the county so that it is orderly and fiscally responsible.

Policy LU 1.1: Follow Development Patterns as Established on Countywide Land Use Plan or a More Specific Community Plan

Future development of Lyon County will be consistent with the Countywide Land Use Plan or a more specific Community Plan, if one has been adopted. The Countywide Land Use Plan will guide future growth and development by defining appropriate land use types, densities, and character in different locations including cities and towns, suburbanizing areas, rural areas, farm and ranch land, hillsides, and public lands. The county's future urban and suburban growth will develop largely around existing communities.

Strategies:

- *Use the Countywide Land Use Plan and adopted Community Plans as a guide for decision-making on development approvals.*
- *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

Policy LU 1.4: Locate industrial development as designated on County-wide Land Use Plan or determined by criteria.

Industrial uses, including extractive industries, will occur in areas that are designated on the County-wide Land Use Plan. New industrial uses should only be located in areas that do not adversely impact existing residential settlements.

Strategies:

- *Consider developing a set of siting criteria to be used in determining the suitability of sites for industrial and extraction uses.*
- *Establish performance standards in areas of noise, odor, dust, traffic generation, etc.*

Goal LU 3: Diverse Economy: The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economic Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near to population centers.

The county will support economic diversification throughout the county to more fully utilize the broad range of skills, knowledge and abilities inherent in our workforce.

Policy LU 3.2: Business and Industry Locations that are Consistent with Future Land Use Plan

Encourage commercial and industrial development to locate in designated locations shown on the Future Land Use Plan, where public facilities exist or are planned to accommodate such development cost-effectively. The County-wide Land Use Plan will reserve adequate lands for jobs and industry.

Strategies:

- *Use the Countywide Land Use plan and Community Plans as a guide to determine appropriate locations for business and industry.*

Goal LU 5: Encourage Resource Sensitive Growth: Development will be designed to reduce energy use and minimize environmental impacts.

Overall Land Use Plan Approach – Community Core Concept

Early in the process of developing this Master Plan and based on input from the community and county leadership, an overall approach for future growth and development in the county was identified and is referred to as the Community Core Concept. Under this approach, Lyon County would see more growth and development occurring in and around the existing community cores (its towns and established settlement areas) with more focus on balancing residential, employment, and retail land uses. The concept encourages less growth in the remote unincorporated areas (outside of community cores). The agricultural areas around Smith and Mason Valleys would primarily continue for agricultural production, but would allow residential development especially in alternative rural patterns such as clustering, through such mechanisms as transfer of development rights and non-contiguous density transfers. In addition, the concept promotes alternative development and conservation approaches for areas of environmental significance or hazardous features, such as steep slopes, wetlands, or floodplains.

Community Description

Chapter 3, Land Use, states that "community descriptions should serve as a general guide when considering the implications of the Master Plan County-wide Component on individual communities." The description of Silver City is as follows:

Silver City

Silver City, situated in lower Gold Canyon, represents the first settlement in Nevada based on mining activity. The town is located about 4 miles northwest of Dayton, the site of Nevada's first gold discovery, and 3 miles south of Virginia City along Highways 341 and 342. Approximately 200 home-sites and 100 houses, along with some historic commercial and industrial buildings, comprise the historic town site which is an integral part of the Comstock Historic District – a National Landmark Historic District.

Over the past 30 years residential infill and limited commercial endeavors have occurred on existing historic properties in Silver City. The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims. The existing water service infrastructure dates to the late nineteenth century, when a water system to supply the mining operations and settlement demands of the Comstock communities was constructed. This aging water system and a lack of a sewer system limit growth in Silver City. Additionally, title issues due to the historic nature of the town site and complications based in local zoning and building codes, have limited development.

Silver City has a strong sense of identity and prides itself on its cohesive small town atmosphere. The community treasures its historic buildings and landscape features, as evidenced by the preservation and rehabilitation of many original structures. New construction is regulated for exterior architectural features by the Comstock Historic District Commission.

Character Districts

Character District Map Description

"Character" can generally be thought of as the look or feel of a place, including: the built environment, land use patterns, street patterns, open lands, and general density or

intensity and type of uses. The purpose of the Character Districts Map is to help define, maintain, or enhance desired character of development or intensity in particular areas of the county.

Five Character Districts

Character Districts provide guidance to the type, intensity, density, and general development standards for uses intended to occur within their boundaries. They control and modify the land use designations to achieve the type and character of development desired in communities. These Districts are defined areas within communities. A community may have one or more Character Districts within its boundary. The following character districts are described in the sections that follow:

- *Rural districts,*
- *Suburbanizing districts,*
- *Historic districts,*
- *Future Plan Areas, and*
- *General County.*

Rural Districts

Rural Districts include those areas that are predominately low density residential development with limited neighborhood commercial uses. They may or may not have agricultural land uses or grazing lands. Improvement standards will reflect the "rural" character of the area. Rural districts are not likely to have municipal water and sewer. Roads are likely to have dirt shoulders, some equestrian paths as well as bike facilities within road rights-of-way.

Suburbanizing Districts

Suburbanizing Districts include those areas that are predominately medium to high density residential development with regional/community commercial, neighborhood, industrial and employment uses. Improvement standards will reflect the "suburban" character of these areas and will include requirements for municipal water and sewer, roadway design appropriate to the planned land uses, landscaping of public areas, and pedestrian facilities (sidewalks and paths). Roads are likely to have some bike and pedestrian facilities within road rights-of-way or separate paths.

Historic Districts

Historic Districts include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote "historic" architectural design elements. Future historic districts could also be designated where the intent is to promote new compatible development that is in keeping with the "historic" development patterns and architectural design elements to create more vitality. Tools might include mixed-use, design guidelines and conservation easements.

General County

Lands outside the boundaries of defined community boundaries are classified as General County. These lands are rural or resource lands or public lands, and are intended to remain largely undeveloped or with very low intensity development within the Master Plan's planning horizon. The development standards applicable to General County lands are the same as those for Rural Character Districts.

County-wide Land Use Plan Map(s)

The intent of the County-Wide Land Use Plan Map(s) is to show the generalized land use patterns for the entire County and the land use designations for lands outside of defined communities. This Plan map(s) provides an overall view of the County's desired development pattern. The county-wide categories, which are very general and the broadest categories to be mapped, encompass the more specific community plan land use designations, as shown in the land use categories table in this section. The County-wide Land Use Plan map(s) provides broad direction for the land uses intended within communities and the County. (Note: The Land Use Plan designations are shown in the blue column in the master table beginning on page 3 28.) Until a Community Plan is adopted, the County-wide Land Use Plan will be the guide.

Land Use Categories shown are generally consistent with Lyon County zoning and do not remove or vastly change owner entitlements to properties. However, some categories suggest a slight refocus of future development patterns to better achieve Comprehensive Plan Goals. For example, the intent for lands designated as "Highway Corridor Mixed-Use" is to gradually transition away from the strip commercial pattern along the county's highways to become a more cohesive mix of uses with offices, residential, and commercial that is focused in centers. Likewise, some of the lands in Smith Valley that are zoned for Rural Residential are shown as Agriculture, because the intent is that they are part of a larger agricultural area where options for landowners to conserve lands, do clustered development, or transfer density to more concentrated rural development areas is desirable. The Agriculture designation does not imply a change in potential development units from current zoning.

Proposals for development must be consistent with the categories and centers shown on the County-wide Land Use Plan or applicable Community Land Use Plan, or be consistent with locational criteria for centers described later in this chapter. The plan amendment procedures section of this plan describes what developers must do when a proposal is not consistent with the land uses defined herein.

County-wide Land Use Categories Table [Excerpts]

Countywide Land Use Category	Community Plan Land Use Categories	Density Range	Description/ Characteristics and Examples of Uses
AGRICULTURE AND RESOURCE LANDS			
Resource	✓ Resource (private)	1 du per 40 acres or one-sixteenth of a section as described by a government land office survey, or per existing parcel if less than 40 acres or one-sixteenth of a section	Characteristics: Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grazing, mining and large scale energy, general rural residential development at very low densities. Within communities uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.
RESIDENTIAL			
Rural Residential	✓ General Rural ✓ Rural Residential	1 du per 20 acres to 1 du per 5 acres	Characteristics: Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by

Countywide Land Use Category	Community Plan Land Use Categories	Density Range	Description/ Characteristics and Examples of Uses
			municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".
Suburban Residential	✓ Medium Density Residential ✓ High Density Residential	1 du per acre to 18 du per acre.	Characteristics: Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and, connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Examples of uses: Single-family residences, duplexes and attached housing.
	✓ Residential Mixed-Use	3 du per acre to 18 du per acre.	Characteristics: This category is designed to create opportunities for higher-density neighborhoods in a suburban-setting to promote neighborhoods with a mix of types and intensities in close proximity to commercial and commercial mixed-use districts. Examples of uses: A range of medium to high-density residential housing types with open space, parks, schools, and other public uses.

Chapter 5: Community Character and Design

Lyon County features a rich mosaic of communities, residents, and physical attributes. Residents and property owners have expressed considerable interest in maintaining their many diverse communities and improving community aesthetics. A community's character is defined by its design, its viewsheds, its gathering places, and its historic and cultural resources, as well as by environmental characteristics such as natural quiet and dark night skies. Maintaining this character is important—not only for promoting economic development and diversification, but also for protecting our living spaces, quality of life and open lands. In addition, preserving rural character is a core value of a majority of Lyon County residents.

This Chapter describes the factors that combine to create community character in our county. It also discusses the Guiding Principle, goals, policies and other mechanisms that help us to protect the community characteristics we value. This Community Character and Design Chapter seeks to define, preserve, and enhance the quality of the places where we live, work, and enjoy our leisure time. Its goals include protecting the unique characteristics of our communities.

Each community has distinct features that contribute to its physical character. Many of these features reflect common values for preserving a community's rural character, appearance, natural resources, open spaces, recreation areas, scenic views, vegetation, historic architecture, development patterns, and activity centers. These features promote quality of life and economic well-being. Preserving them should not prohibit

development; however, the County needs to consider them to ensure that new development fits into the existing community fabric.

Guiding Principal: ***Lyon County will respect and promote the distinct character and heritage of its communities, strive to retain its rural and agricultural culture and promote cohesive and high quality development to improve the overall image and function of its communities.***

Goal CC 1: Quality Design: New development in Lyon County will improve the appearance and function of our communities.

Policy CC 1.1: Quality New Development

New development in the communities of Lyon County should create inviting places for locals and visitors to live, shop, eat, visit, and do business.

Policy CC 1.3: Design Tailored to Communities

New development in Lyon County should address and respect the unique character of communities within the county.

Goal CC 3: Heritage: Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for resident and visitors to learn about and celebrate our heritage.

Policy CC 3.1: Maintain and Restore Historic Resources

Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts.

Strategies:

- *Revise zoning to encourage historic use and development patterns including mixed-use structures and districts.*
- *Support organizations in the county that apply for historic designation or grant funding for inventory or rehabilitation of historic structures, efforts to identify receiving sites for historic structures that cannot be maintained in their original locations, and similar historic preservation purposes and efforts.*
- *Work with knowledgeable organizations and individuals to ensure that building and development standards allow for adaptive reuse of valued historic structures, including those without official historic designation.*
- *Within historic districts, promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.*
- *Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district.*
- *Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.*

Chapter 6: Natural Resources and Environment

Guiding Principal: ***The proximity of the natural environment will continue to be an important part of life in Lyon County, where residents will enjoy sustainable supplies of clean water for drinking and agriculture; clean air; wildlife; access to rivers, lakes***

and public lands; scenic views, and dark night skies. Lyon County will work to reduce or mitigate natural hazards such as wildfire, flooding, earthquakes and dust.

Goal NR 3: Adequate, Clean Water: Adequate water supply will be available for current and future needs in Lyon County, including safe, healthy drinking water for all Lyon County residents.

Policy NR 3.1: Water Supply and Quality

Recognizing that clean water is a precious resource necessary to maintain our health, economy, and quality of life, Lyon County will protect the water supply and encourage efficient use of water resources.

Strategies:

- *Maintain and expand the piped municipal water and sewer systems within community core and urbanizing areas of the County as designated on the Future Land Use map.*

Goal NR 9: Mining and Resource Extraction: Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR 9.1: Guide Development

Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Strategies:

- *Consider the location of known resources when reviewing new development.*

Policy NR 9.3: Mitigate Operations

To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, etc.

Strategies:

- *Promote "limited impact"/environmentally safe resource extraction practices to protect the natural environment, enhance the quality of life of residents, and limit impacts on present and future public facilities and services.*

Policy NR 9.4: Mitigate long-term impacts

To the extent possible, Lyon County will promote long-term reclamation and rehabilitation of extractive sites.

Strategies:

- *Require resource extraction projects to submit detailed long-term reclamation and reuse plans and to provide adequate funding mechanisms to implement plans*

Chapter 8: Public Facilities and Services

Lyon County desires to have adequate public facilities and services to support desirable land use and development patterns, to contribute to the quality of life and to encourage economic development. Ensuring that the provision of community facilities and services is phased with the demand or need is a major component of managing the future development and growth of communities.

Public facilities and services are those minimum facilities and services the County and other entities provide for the common good. Many entities provide community facilities and services — the County, state and federal agencies, special districts, and the private sector. Maintaining a high degree of coordination between these providers helps ensure that adequate facilities are available and improvements keep pace with development.

Generally, public facilities include land, buildings, equipment and whole systems of activity provided by the County on the behalf of the public. This Chapter addresses public facilities and services related to water and sewer systems, public safety, schools and libraries. The goals and policies are designed to ensure that we plan for adequate services and facilities, either during the land development process or through appropriate government programs.

Guiding Principal: ***Lyon County residents will have access to excellent schools and libraries, and effective response from well-equipped emergency services. The timing and location of future development will be coordinated with improvements to services and infrastructure to provide cost-effective services to existing and future residents.***

Goal FS 1: Provision of Services: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

Strategies:

- *Develop a Capital Improvements Plan and budget for Lyon County utility system expansion that is consistent with the Land Use Map in this Plan.*
- *Revise the County's development regulations in order to create incentives to build according to the Land Use map in this Plan.*
- *Require the developer to pay the full cost of utility system extension, in order to discourage inefficient utility system development, and provide for reimbursement mechanisms where appropriate.*

Chapter 10: Communities and Planning

Lyon County consists of several distinct and diverse communities. The diversity of these communities is reflected in their different growth patterns, character and personality. It is essential that the distinctive character of each identified community is established, maintained, and enhanced.

The Comprehensive Master Plan must address issues that are unique to each community, establish policies that apply strictly to the affected community and deal with issues that are special concerns to that community. The successful implementation of this Comprehensive Master Plan will require that community differences be respected and integrated into the Plan.

Guiding Principal: ***Through its Community Planning process, Lyon County will address individual community needs and desires while implementing county-wide policies and actions.***

Goal CP 1: Support Diversity: Lyon County will celebrate and support the diversity of character among communities in the county.

Policy CP 1.1: Recognize Diversity of Communities

Lyon County planning efforts and regulations will consider the unique aspects of communities in the county, and will allow for variation and exceptions to address key aspects of their diversity.

Goal CP 3: Community Plans: Lyon County will support community-based planning efforts that elaborate community-specific goals and that are developed with strong public consensus.

Policy CP 3.1: Support Community Planning Efforts

Lyon County will encourage and offer guidance for community-based planning efforts, with the goal of ensuring that such an effort will result in a document that identifies the unique needs and values of the community in a manner that can be integrated with county-wide planning, regulations, and policies.

Goal CP 4: Advisory Councils: County staff will confer with the applicable Community Advisory Council when developing programs or policies to address community-specific issues.

Policy CP 4.1: Confer with Community Advisory Councils

When developing a program or policy intended to address a community-specific issue, such as those listed in this Comprehensive Master Plan and in adopted community plans, county staff will confer with the applicable Community Advisory Council before finalizing a decision.

Community Plans

Community Plans comprise the second major component of the Lyon County Comprehensive Master Plan. These plans are essential in carrying out one of the Comprehensive Master Plan's fundamental goals – to recognize and promote the diversity and individual characters of the County's various communities.

Based on the framework established in the County-wide Component, the Community Plans address issues that are unique to each community. The Community Plans provide the specific vision, goals, policies, strategies and land use pattern for each identified community as determined through a community planning process. The Plans and maps contain the detailed information about each community and the views of the community's desired development for the future. They are intended to ensure that the distinctive character of each community is established, maintained, and enhanced.

Policies are established in the Community Plan that apply strictly to the defined community and deal with issues that are of special concern to that community. These may include policies that contain more detailed requirements for land use, development,

or public improvements than are identified in the chapters of the County-wide Component. The Community Plans may also contain detailed implementation measures. These action measures can address issues such as design standards and special use provisions. The goals and policies contained in the Master Plan's County-wide Component also apply to the areas covered by a Community Plan.

Community Plans are designated for the existing, established communities identified during development of the Comprehensive Master Plan. The County will work with the communities to complete Community Plans, including Community Land Use Plans, in each community.

Chapter 11: Implementation

Plan Amendment Process

For the Comprehensive Plan to function over time, Lyon County must be able to periodically review and update it to respond to significant trends or changes in the economic, physical, social, or political conditions.

Plan Amendment Process and Procedures

The public and the County may initiate Plan Amendments in accordance with the provisions of Lyon County Code. All Plan Amendments shall be considered by the Planning Commission and Board of County Commissioners pursuant to their respective powers. Based on its consideration of the recommendations from staff, advisory councils, boards and commissions, and evidence from public hearings, the Planning Commission could then adopt the Plan Amendment (with or without further revisions) or deny the Amendment. Any action on a Plan Amendment by the Planning Commission would be followed by County Commissioners action including, if applicable, its approval of the Plan Amendment. When considering a plan amendment, the County should consider whether:

1. *The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;*
2. *The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;*
3. *The proposed amendment will have no major negative impacts on transportation, services, and facilities;*
4. *The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;*
5. *Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and*
6. *The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.*

Summary of Priority Actions

To focus the County's efforts on actions that should be taken as soon as possible to ensure that future development decisions are consistent with the goals and policies

contained in this Plan and with the designations on the Land Use Map. Several priority actions are highlighted below. These are already underway or are anticipated to be underway shortly following the adoption of the Plan. The Priority Actions should be reviewed and updated periodically to reflect the County's accomplishments, available resources, and potential shifts in policy direction.

The priority actions listed below are recommended.

Prepare Community Plans

The implementation of the Comprehensive Master Plan framework requires the creation of Community Plans for each of the identified communities. These Plans are to be prepared through a community planning process directed by the County Planning Department. The Community Plans are intended to show the specific land use pattern for each identified community. The Plans will provide detailed views of the community's desired development pattern for the future.

Attachment 2

Past Lyon County Master Plans
Excerpts and Relevant Information

1971 Lyon County General Plan

On the 1971 General Plan Map, Silver City is shown as an Urbanizing Area and the Mining Industry land use is not depicted in the Silver City area.

1990 Lyon County Master Plan – Silver City

Goal #1: To maintain, promote, and secure the historic character of the community and to prevent the destruction or degradation of the historic character.

2002 West Central Lyon County Final Land Use Plan – Silver City Master Plan Goals

Goal 1: To recognize, enhance, and protect the unique character of Silver City.
Actions:

- To maintain that scale and primary residential character by retaining the existing Master Plan designation and zoning categories.

Goal 8: To limit any earth disturbance or above ground mining activities that create visual scaring or that disrupt the fabric of the community.
Actions:

- Lyon County shall establish a land use policy that minimizes the impact of mining and other significant earth disturbing activities that degrade quality of life.

Goal 10: To maintain the primary focus of the community as residential.
Actions:

- To urge the Board of Commissioners to carefully consider all zone changes or Master Plan amendments that would substantially alter the character and identity of Silver City.

STAFF REPORT

ZONE CHANGE

14 CV 00128 - 000039
LYON COUNTY

LYON COUNTY
PLANNING DEPARTMENT

ITEM # _____

REPORT OF PLANNING COMMISSION ACTION

PLZ-13-0051	Zone Change from NR-1, Single-Family Non-Rural Residential, to RR-3, Third Rural Residential, and RR-5, Fifth Rural Residential
Meeting Date:	January 2, 2014
Owners:	Comstock Mining, Inc.
Applicant:	Same
Area Location:	Silver City
Parcel Number(s):	(APNs) 08-091-02 & 08-091-05
Current Master Plan Designation:	Resource and Suburban Residential
Proposed Master Plan Designation:	Rural Residential
Existing Zoning:	NR-1, Single-Family Non-rural Residential (6,000 square foot minimum)
Proposed Zoning:	RR-3, Third Rural Residential (5 acre minimum), and RR-5, Fifth Rural Residential (20 acre minimum)
Case Planner:	Rob Loveberg

Planning Director Approval: *RGL*

Request:

The applicants are requesting a change of zoning from NR-1, Single-Family Non-rural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum) and RR-5, Fifth Rural Residential (20 acre minimum). The applicant is requesting to change 42.57 acres of NR-1 zoning within the Silver City town site to RR-3, and to change 44.63 acres of NR-1 zoned land outside of the town site to RR-3 and RR-5 zoning. See the enclosed applicant's revised submittal for more detailed information and the applicant's justification.

An application for a master plan amendment from Resource to Rural Residential and Suburban Residential to Rural Residential was submitted concurrently with this request. A request for a reversion to acreage involving property included in the requested zone change and master plan amendment was also submitted concurrently and has been heard and approved by the Planning Commission.

Current and Proposed Zoning:

Zoning District	Current		Proposed	
	Acreage	Percentage	Acreage	Percentage
NR-1, Single-Family Non-Rural Residential	87.2±	100%	0	0%
RR-3, Third Rural Residential	0	0%	54.86±	62.91%
RR-5, Fifth Rural Residential	0	0%	32.34±	37.09%
TOTAL	87.2±	100%	87.2±	100%

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission passed a motion recommending **denial** of the requested Zone Change on a vote of six (6) aye, zero (0) nay and one (1) absent. The motion was based on the findings listed below.

A. The proposed zoning is not in substantial compliance with the adopted Lyon County Comprehensive Master Plan, County-wide Component land use map.

B. The proposed zoning is not in substantial compliance with, nor does it sufficiently promote the Lyon County Comprehensive Master Plan, County-wide Component goals, policies and strategies.

Planning Commission Hearings

The Planning Commission conducted an initial hearing of the matter on November 12, 2013. Due to the fact that the Planning Department staff report on the matter was not distributed until the Friday before the Planning Commission hearing, the applicant requested a continuance of the matter to permit adequate time for review. Discussion and public comment was generally limited to the matter of the continuance request. The Planning Commission granted a continuance until the December 10, 2013 Planning Commission meeting. The staff report and backup materials, written public comments received and minutes of the November 12, 2013 Planning Commission meeting are included by reference and enclosed with this report.

The Planning Commission conducted an extensive hearing regarding the requested master plan amendments and zone changes at their meeting of December 10, 2013. The Commission decided to hear the matters together and act on them separately.

The applicant made a presentation (enclosed) which contained additional information not included in the application. Speakers representing the Comstock Residents Association highlighted comments made in their written comments (enclosed) and they played a DVD which contained comments by Silver City residents (enclosed). Public comment representing both pro and con viewpoints was provided. The applicant's representative also made closing remarks prior to the Planning Commission's deliberations.

The Planning Commission members were engaged throughout the hearing; asking questions, and seeking clarifications and greater details on certain points. After passing a motion to deny the requested master plan amendments, the Commission considered the zone change requests. The Commission passed a motion recommending denial of the requested zone changes based on the fact that the necessary master plan amendments were denied and the requested zoning would be inconsistent with the existing master plan.

The December 10, 2013 staff report and backup materials, application, presentations, written public comments, resident interviews DVD, and draft minutes of the December 10, 2013 Planning Commission meeting are included by reference and enclosed with this report.

ALTERNATIVE FINDINGS AND MOTIONS:

The alternative motions suggested below are offered for the Board of Commissioners' consideration.

Alternative for Denial where the Concurrent Master Plan Amendment was Denied

If the Board of Commissioners denied the concurrent request for a Master Plan amendment, the Board may take the following action:

The Lyon County Board of Commissioners finds that:

A. The proposed zoning is not in substantial compliance with the adopted Lyon County Comprehensive Master Plan, County-wide Component land use map.

B. The proposed zoning is not in substantial compliance with, nor does it sufficiently promote the Lyon County Comprehensive Master Plan, County-wide Component goals, policies and strategies.

Based on the above findings, the Lyon County Board of Commissioners denies the Zone Change request from NR-1, Single-Family Non-Rural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum) on approximately 54.86 acres and to RR-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Inc. as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 & 08-091-05) (PLZ-13-0051).

Alternative for Approval

If the Board of Commissioners approved a Master Plan Amendment to the Rural Residential land use designation and the Board desires to approve the requested Zone Change, the Board must make findings that support the proposed zoning districts on the subject parcels. The Board may wish to consider a motion similar to the following:

The Lyon County Board of Commissioners finds that:

A. The applicant has demonstrated that the zone change is in substantial compliance with and promotes the Lyon County Comprehensive Master Plan, County-wide Component goals, policies and strategies.

B. The applicant has demonstrated that the proposed zoning will promote development that is commensurate with the character and physical limitations of the land.

Based on the aforementioned findings, the Lyon County Board of Commissioners approves the Zone Change request from NR-1, Single-Family Non-Rural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum) on approximately 54.86 acres and to RR-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Inc. as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 & 08-091-05) (PLZ-13-0051).

Alternative for Continuance

If the Board determines that additional information, discussion and public review are necessary for a more thorough review of the proposed Zone Change, the Board should make appropriate findings and move to **continue** the Public Hearing with a specific time period for the applicant to provide additional specific information necessary for the analysis of the request. The Board may wish to consider a motion similar to the following:

The Lyon County Board of Commissioners finds that:

A. Additional information, discussion and public review are necessary for a more thorough review of the proposed Zone Change.

Based on the above findings and with the applicant's concurrence, the Board of Commissioners continues the Zone Change request from NR-1, Single-Family Non-Rural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum) on approximately 54.86 acres and to RR-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Inc. as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 & 08-091-05) (PLZ-13-0051) for __ days.

INFORMATION AND COMMENTS

Background:

The applicant submitted requests for a master plan amendment, a zone change and a reversion to acreage in August 2013 in accordance with the requirements of Title 10.12.09 of the Lyon County Code. Subsequent to the submittal, Lyon County Planning staff discovered that certain zoning information provided to the applicant was incorrect. The applicant revised the requests for the master plan amendment, zone change and reversion to acreage to reflect the corrected information. This report is based on the revised application information.

Chapter 10.12.07C of the Lyon County Code requires the Planning Commission to consider a request for a zone change within 45 days after the application is filed. In its application materials, the applicant acknowledged that the zone change request would not be considered within the 45 day period since the master plan amendment and zone change applications were submitted simultaneously and Lyon County Code request that the master Plan amendment be heard at the November Planning Commission meeting.

The Lyon County Master Plan, County-wide Component, land use designation "Rural Residential" is consistent with the following Lyon County residential zoning districts: RR-3, Third Rural Residential District (5 acre minimum), RR-4, Fourth Rural Residential District (10 acre minimum) and RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Resource" land use designation is consistent with the following Lyon County zoning district: RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Suburban Residential" land use designation is consistent with the following Lyon County zoning districts: E-1, First Estates Residential (12,000 square foot minimum), E-2, Second Estates Residential (one-half acre minimum), NR-1, Single-Family Non-Rural Residential (6,000 square foot minimum), NR-2, Multiple Residence Non-Rural Residential (8,000 square foot minimum) and NR-3, Single-Family Non-Rural Residential (9,000 square foot minimum).

Property Information:

Location:

The parcels are located westerly of State Route 341 and 342, in the area of the southwesterly corner of the Silver City town site.

Size:

The subject properties total approximately 87.2 acres according to the Lyon County Assessor's files.

Land Use

The subject properties are generally undeveloped, with a historic mill site and buildings on a portion of the property near and visible from State Route 341 and 342 as well as a large portion of Silver City.

Subject Property and Surrounding Area Land Use

	Current Master Plan	*Zoning*	*Current Land Use*
Subject Property	Resource Suburban Residential	NR-1	Undeveloped and Historic Mill
North	Commercial Mixed Use Suburban Residential	M-1 NR-1	Historic Residential and Undeveloped
South	Public Lands Resource	RR-5	Undeveloped
East	Resource Suburban Residential	NR-1 RR-5	Historic Residential and Undeveloped
West	Public Lands Suburban Residential Resource	NR-1 RR-5	Historic Residential and Undeveloped

It should be noted that not all of the zoning districts listed in the above table are consistent with their respective master plan land use designations. A master plan designation is an expression of the county's

long-term expectations for development within a particular area. It does not necessarily mandate that zoning be changed concurrent with the master plan designation (see Nevada Attorney General Opinion No. 84-6).

Physical and Topographic Attributes:

According to information submitted by the applicant, the subject parcels vary from 0% - 10% slopes to slopes greater than 30%. A portion of APN 08-091-05 along State Route 342 has an area of AE flood zone.

Access:

Current access to the subject properties is via State Routes 341 and 342.

Historic District:

The parcels are within the Comstock Historic District.

Public Facilities and Services:

The portions of subject properties within the Silver City town site are within the service area of the Storey County Public Works Department, Virginia City Water System. The parcels are not currently served by the municipal water system and significant improvements will be necessary to bring water services to the subject properties.

No municipal sewer system currently serves the Silver City area. Immediate development would require the installation of individual sewer disposal systems (ISDS) for residential development, or on-site sewer disposal systems (OSDS) or package sewer treatment plant for non-residential development. The Silver City area is not generally well suited for ISDS or OSDS, and a long term solution for waste water treatment would be the extension of a municipal sewer system. Densities as contemplated in the County's Comprehensive Master Plan would contribute to the cost effectiveness of a sewer system.

The Central Lyon County Fire Protection District provides fire and emergency medical service from the volunteer fire station located at 745 High Street, Silver City, approximately 455 feet to the northeast of the site and career station at 231 Coral Drive, Dayton, approximately 3.5 miles easterly of the site. The Lyon County Sheriff's Department maintains a substation at 801 Overland Loop, Dayton, approximately 6 miles northeast of the site.

Water Rights:

Water rights information has not been provided. It is anticipated that potential development will bring necessary water rights for the portions of the parcels outside of the water system service area when required for development.

Summary of Applicant's Justification:

The applicant includes the following arguments in support of the requested zone change:

- A reduction in the potential residential development density provides a "more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure."
- "For more than a century the subject property has been used for mining, mine exploration and/or mine development."
- The "NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles."
- The "zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning."
- The "zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts."

The applicant believes that the existing NR-1 zoning is inconsistent with the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU1: Orderly Growth Patterns – Direct and manage development in the county that it is orderly and fiscally responsible.
- Goal LU2: Services Coordinated with Growth – Future residential development will be coordinated with development of schools, parks, libraries, and other public services.
- Goal LU3: Diverse Economy –

The applicant believes that the requested zone change is consistent with and supported by the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU3: Diverse Economy – The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.
- Goal NR9: Mining and Resource Extraction – Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

The revised application submittal, dated October 11, 2013, contains the applicant's detailed request and justification. One must examine the revised information for the complete justification and a full understanding of the applicant's views.

Staff Review and Comments:

Applicant's Request

As specified in the applicant's justification statement "[t]he application is requesting a "down zone" at both the master plan and zoning levels." If approved, the applicant's zone change requests would result in a decrease in allowed residential density. The current zoning allows development at densities that are less than the maximum density permitted by the zoning district.

The applicant's justification states that "[t]he applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property." If approved, the zone changes set the stage for possible special use permit requests that may permit mining, not currently permitted on the subject parcels.

Consistency with the Master Plan

If the Board of Commissioners adopts the applicant's concurrent application for master plan amendments to the Rural Residential land use designation, the applicant's requested zone changes would be consistent with the County's master plan. If the Board of Commissioners does not adopt the applicant's concurrent master plan amendment application, the applicant's requested zone changes would not be consistent with the County's master plan.

Access:

Access to the subject properties would be from State Route 341 and 342. Specific access would need to be created based on the type and density/intensity of development. No plan for development of access, intersections and/or ingress and egress points from the subject parcels has been provided.

Land Use:

The current NR-1 zoning permits single family residential development at densities up to 7.26 dwellings per acre. Uses allowed with the issuance of a special use permit include: child care facilities, churches, croup care facilities, parks, public utility serving centers, recreational areas, residential industry, schools, and other like uses. Also allowed with a special use permit on parcels a minimum of twenty one thousand (21,000)

square feet in size are private golf, swimming, tennis and similar clubs, and sanitariums. The majority of the Silver City town site is zoned NR-1.

The requested RR-3 and RR-5 zoning permit single family detached dwellings at densities up to 0.2 and 0.05 dwellings per acre respectively. These zoning districts also permit farms, the raising of barnyard animals, the sale of products grown on the property, and hunting and fishing lodges, wildlife refuges and game farms. Uses allowed with the issuance of a special use permit include mining; airports; breeder's kennels, cemeteries; churches; dude or guest ranches; racetracks and commercial stables; recreational and educational uses; residential industry; rest home, convalescent home, nursing home, group care facilities, home for the aged and sanitariums; tennis, golf, civic or country clubs; utility and public uses and serving centers; rifle and archery ranges; trap shoots; campgrounds; and commercial farrowing pens and feedlots. The RR-5 zoning district also permits commercial wind energy conversion systems with the issuance of a special use permit.

Several of the uses permitted in the RR-3 and RR-5 zoning districts, by right or special use permit, would appear to be out of keeping with the existing and planned residential densities and commercial uses of Silver City. RR-3 zoning is not found in Silver City. A small area of RR-1 zoning exists within the town site. RR-5 zoning exists generally outside of the town site, with a small area of a patented claim shown on the County's GIS as overlapping NR-1 zoning and extending into the town site near the subject parcels.

The NR-1 zoning reflects Silver City's historic development density and pattern. The NR-1 zoning has been in place since the 1970s when zoning was adopted in Lyon County. NR-1 zoning has been consistent with the master plan designation for the subject properties and Silver City through the various County master plan efforts.

The applicant proposes to rezone the steepest areas of the parcels to RR-3, one dwelling per five acres, and the majority of the lowest sloped areas to RR-5, one dwelling per 20 acres. If topography was a determining factor in the justification of the zone change request, it would seem to be more logical that the steepest and most difficult land to develop would be zoned RR-5.

The current residential use and density of parcels north and east of the subject parcels have the potential to be negatively impacted by mining activities conducted on the subject parcels, or portions thereof, and consideration should be given to the compatibility of potential mining development. Should uses such as mining be approved in the future, increasing the intensity of use on the subject parcels, adverse effects on current residents may be expected by increasing traffic, noise, a change in the character of this residential area, and impacts to the visual character and integrity of the Historic District.

Land use regulations and zoning are community master plan implementation measures intended to help promote and produce the community envisioned by its citizens. The principal purpose of land-use regulation and zoning is to limit conflicts between incompatible land-uses. As a general rule, lower density and rural residential uses can be compatible with higher density residential uses if properly arranged, particularly if they back up to them or if they are separated by a street. However, higher intensity industrial and mining uses are generally incompatible with residential uses.

The Lyon County Comprehensive Master Plan and Lyon County Code include the compatibility of proposed land uses with their surrounding areas as a consideration for master plan amendments. All developments, special uses, and/or zone changes should be similarly reviewed to ensure that existing and proposed land uses are compatible.

Requirements for Granting a Zone Change Request:

NRS 278.250 grants authority to the County to establish zoning districts, and to regulate the use of land within those zoning districts provided the districts and uses are adopted in accordance with the Master Plan and are designed to achieve specific goals.

When making an approval, modification or denial of a zoning map or text, the Commission and the Board should, at a minimum, make one of the following findings of fact:

1. *Consistency with the Master Plan.*
    a. *Approval: The applicant has demonstrated that the zone change is in substantial compliance with and promotes the Master Plan goals, objectives and actions.*

b. *Denial: The proposed zone change is not in substantial compliance with, nor does it promote the Master Plan goals, objectives and actions.*

2. *Contributes to the timely, orderly and efficient arrangement of transportation and other public facilities and services.*
   a. *Approval: The proposed zoning is timely and contributes to the orderly and efficient arrangement of transportation and other public facilities and services.*
   b. *Denial: The proposed amendment would result in land uses which do not contribute to the timely, orderly and efficient arrangement of transportation and other public facilities and services.*
3. *Promotes development that is commensurate with the character and physical limitations of the land.*
   a. *Approval: The proposed zoning will promote development that is commensurate with the character and physical limitations of the land.*
   b. *Denial: The proposed zoning will not promote development that is commensurate with the character and physical limitations of the land.*
4. *Promotes the protection of existing neighborhoods and communities.*
   a. *Approval: The proposed zoning promotes the protection of existing neighborhoods and communities.*
   b. *Denial: The proposed zoning does not promote the protection of existing neighborhoods and communities.*

Attachments: *Staff report*
Planning Approval recommendation letter
Planning Commission minutes
Materials submitted by opponents and supporters
Supporting materials

PLANNING ACTION LETTER

LYON COUNTY
PLANNING DEPARTMENT
27 South Main Street
Yerington, Nevada 89447
(775) 463-6587 (775) 463-5325 Fax

December 10, 2013

Corrado DeGasperis
Comstock Mining, Inc.
P.O. Box 1118
Virginia City, NV 89440

Re: **COMSTOCK MINING, INC – MASTER PLAN AMENDMENT** – Request to change the Master Plan from Resource land use designation and Suburban Residential land use designation to Resource land use designation on approximately 32.34 acres and Rural Residential land use designation on approximately 54.86 acres of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0050

Dear Mr. DeGasperis:

The Lyon County Planning Commission, at a duly noticed public hearing held on Tuesday, December 10, 2013, considered the above-referenced application. The Planning Commission passed a motion to deny the Master Plan Amendment request for Comstock Mining, Inc. on APN's 08-091-05 & 08-091-02, based on the following findings:

A. The proposed amendment is not in substantial compliance with, nor promotes the Master Plan goals, objectives and actions in that it is not in keeping with the majority of applicable guiding principles, goals, policies, strategies and community description contained in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

B. The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land use in that the amendment would change the planned character and intensity of residential development and enables the potential development of a land use incompatible with the actual and planned adjacent and predominant residential land uses.

C. The proposed amendment fails to identify or respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.

D. The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and will adversely impact the public health, safety or welfare.

E. The proposed amendment does not promote the desired pattern for the orderly physical growth of the County as set forth for the Silver City community in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

F. The existing Comprehensive Master Plan and/or any related element thereof is not in need of the proposed amendment.

G. The proposed amendment is not compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan, particularly those related to Silver City.

H. The proposed amendment will have effects on service provision, including adequacy or availability of facilities and services, and is not compatible with existing and planned service provision.

I Deviation from the strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

J. The proposed Plan amendment will not promote the public welfare and will be inconsistent with the goals and policies of the Comprehensive Master Plan and the elements thereof, and

K. The burden of proof has not been met by the applicant in their application to warrant a change in the Master Plan at this time.

This is not the final hearing or action on this application. The Board of County Commissioners will hear these applications on January 2nd, 2014. Their office will notify you of this hearing.

If you have any questions or concerns please feel free to contact this office.

Sincerely,

Robert G. Loveberg,
Planning Director

cc: File
Manhard Consulting, Inc., Attn: Mark Rotter, 9850 Double R Blvd., Suite 101, Reno, NV 89521
Silver City Advisory Council, Attn: Erich Obermayr, P.O. Box 249, Silver City, NV 89428

LYON COUNTY
PLANNING DEPARTMENT

27 SOUTH MAIN STREET
YERINGTON, NEVADA 89447
(775) 463-6592 (775) 463-5305 FAX

ROBERT G. LOVEBERG
PLANNING DIRECTOR

December 10, 2013

Corrado DeGasperis
Comstock Mining, Inc.
P.O. Box 1118
Virginia City, NV 89440

Re: **COMSTOCK MINING, INC – ZONE CHANGE** - Request to change the zoning from NR-1 (Non-Rural Residential - 6,000 sq. ft. lot size) and RR-5 (Fifth Rural Residential - 20 acre minimum) to RR-3 (Third Rural Residential-5 acre minimum) on approximately 54.86 acres and RR-5 (Fifth Rural Residential - 20 acre minimum) on approximately 32.34 acres, of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0051

Dear Mr. DeGasperis:

The Lyon County Planning Commission, at a duly noticed public hearing held on Tuesday, December 10, 2013, considered the above-referenced application. The Planning Commission passed a motion to recommend denial of the Zone Change request for Comstock Mining, Inc. on APN's 08-091-05 & 08-091-02, based on the following findings:

A. The proposed zoning is not in substantial compliance with the adopted Lyon County Comprehensive Master Plan, County-wide Component land use map.

B. The proposed zoning is not in substantial compliance with, nor does it sufficiently promote the Lyon County Comprehensive Master Plan, County-wide Component goals, policies and strategies.

This is not the final hearing or action on this application. The Board of County Commissioners will hear this application on January 2nd, 2014. Their office will notify you of this hearing.

If you have any questions or concerns please feel free to contact this office.

Sincerely,

Robert G. Loveberg,
Planning Director

cc: File
Manhard Consulting, Inc., Attn: Mark Rotter, 9850 Double R Blvd., Suite 101, Reno, NV 89521
Silver City Advisory Council, Attn: Erich Obermayr, P.O. Box 249, Silver City, NV 89428

Excerpt of Minutes from the December 10, 2013 Planning Commission hearing

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LYON COUNTY

Excerpt of Draft Minutes from the December 10, 2013 Planning Commission Meeting

1. **9:05 A.M. TIME SPECIFIC - COMSTOCK MINING, INC – MASTER PLAN AMENDMENT** (for possible action) - Request to change the Master Plan from Resource land use designation and Suburban Residential land use designation to Resource land use designation on approximately 32.34 acres and Rural Residential land use designation on approximately 54.86 acres of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0050

Larry Wahrenbrock made a motion to hear the Master Plan Amendment and the Zone Change for Comstock Mining, Inc., together as one item and vote on each separately. Betty Retzer seconded

Before the vote, Larry Wahrenbrock disclosed that he is a resident and property owner in Silver City and is also an advocate for historic preservation in the community. He said he has engaged in many public hearings and conversations involving this applicant and as a result of those conversations can objectively review all aspects of these applications to arrive at a balanced and unbiased conclusion, nor does he feel that his property ownership or advocacy for historic preservation constitutes any substantial conflict of interest sufficient to cause him to recuse himself from deliberating and voting on these applications. Additionally, Mr. Wahrenbrock said he has no pecuniary interest, nor has he received any gifts or loans from the applicant or anyone else with an interest in the company and will review the application and submitted materials reasonably and without prejudice.

Chairman Chuck Davies disclosed that he had contacted the applicant a few months ago to request a tour of the mine in Storey County. He did tour the facility so he could understand their processes and be able to speak more intelligently about the application. He also met with residents of Silver City to discuss their items of interest.

Harold Ritter, George Mortensen and Betty Retzer each disclosed that they too attended the same tour referenced by Mr. Davies. Mike Hardcastle said he did not attend the tour but did attend a luncheon presentation hosted by the applicant.

There being no further discussion the motion passed by a unanimous vote of those members present (6 ayes; 0 nays; 1 Absent – Paul Lanning).

2. **9:05 A.M. TIME SPECIFIC - COMSTOCK MINING, INC – ZONE CHANGE** (for possible action) - Request to change the zoning from NR-1 (Non-Rural Residential - 6,000 sq. ft. lot size) and RR-5 (Fifth Rural Residential - 20 acre minimum) to RR-3 (Third Rural Residential-5 acre minimum) on approximately 54.86 acres and RR-5 (Fifth Rural Residential - 20 acre minimum) on approximately 32.34 acres, of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0051

Chairman Davies stated that he will first ask the applicant to present his application then staff will present their report. The floor will then be opened for public comment starting with a presentation provided by Silver City residents and then any general public comment will be taken. He asked that each person who wants to speak to please sign the sheet at the podium as they come up.

John Marshall, representing Comstock Residents Association (CRA), stated he had earlier picked up a printed copy of the upcoming presentation to be made by the applicant. Mr. Marshall said they had specifically asked at the last meeting, that if the applicant has any new information to present regarding the application that it be provided with sufficient time for staff and public review and response. The presentation being provided today offers a major new argument which has to do with the alleged misrepresentation by Lyon County and staff, of the town site boundaries. This argument has never been presented in any of the submitted materials and to do so now presents a due process problem of whether the public and staff has had sufficient opportunity to respond to this argument. Mr. Marshall asked that the information be excluded from consideration or the items be continued so that a proper review can be done. Chairman Davies asked counsel to comment on the introduction of new information without opportunity for staff review. Mr. Steve Rye, Chief Deputy District Attorney, responded that there is no statutory prohibition of the applicants making a presentation and providing new information nor is it unusual for an applicant to provide additional information at their hearing. The Planning Commission will have to evaluate that information and if it is material to their decision, then they must decide if staff and the public should have additional time to present for or against that new information before a final decision is made. Mr. Rye mentioned that staff just received the information too so they are unable to comment on it. Mr. Marshall said it is not his intent to prohibit the applicant from making a presentation here today; it is the presentation of the new information that they object to but will abide by the recommendation of the county's counsel. He thinks it is notable that the applicant wanted a continuance at the last meeting due to the staff report being received a mere 4 days prior to the hearing and now they are doing the same thing. Rob Loveberg, Planning Director, said he will listen to the presentation this morning, but will not be able to discuss those issues because staff has not reviewed the material. Betty Retzer expressed her displeasure at having received the new information with such little time for review, with Mike Hardcastle stating that he feels they should disregard the document. Mr. Wahrenbrock agreed, and made a similar statement. George Mortensen said the presentation should proceed and they should all try to make the best decision possible. Harold Ritter said he is not adverse to either side presenting whatever information they think might be relevant, new or old, and it will be up to the Planning Commission to decide how to use that information in their deliberations.

Corrado DeGasperis, president of Comstock Mining, Inc. (CMI) stepped to the podium. Mr. DeGasperis said it was not their intent to change the foundational basis or revise their application, and that their fundamental argument remains the

same. He added that there are other presentations that will be made here today where no one has knowledge of their content. Mr. DeGasperis said that in 2010, during the Master Plan hearings, he spoke of the same town site boundary issues, as well issues with some of the mineral claims, before the Board of Commissioners and he was hopeful that that information would have come out over time. He continued that they have taken a lot of time and effort in preparing the presentation for today and in fact-checking the information. He said he is happy to make the presentation today but if the commission decides to disregard it, that they make sure, with the complexity of the issue at hand, that they are thorough in understanding all the points. Chuck Davies said they have no choice but to make their decision on the submitted materials and the oral presentation being made today and asked Mr. DeGasperis to proceed.

Mr. DeGasperis gave a brief introduction of the Comstock Mining Company and its parent company.

Mr. DeGasperis stated that this presentation represents only the most salient points that he hopes it satisfies and allows for positive consideration. He said the justifications for the information provided today are identical to the information submitted with the initial application. Mr. DeGasperis provided a printed copy of the PowerPoint presentation for each of the Planning Commissioners and staff. He said that he doesn't feel that this application is an unresolvable, win-lose conflict. He said that the feelings being reflected today stem from some deep assumptions about the potential land use, being mining, when there are other potential land uses involved as well. Today he hopes to clarify some points that weren't clarified well enough in advance. He said that with Silver City's complex history the issue fundamentally comes down to property rights but mostly the importance of real community planning and real collaboration of property owners in a community that can be complimentary.

Mr. DeGasperis He is not asking for a special use permit today and is fully committed to collaborative planning in advance of any such request. He explained that the request today is actually a down-zoning of the property. Currently the property is zoned NR-1 which would allow 6,000 sq. ft. lots. It is not practical to expect development of that size lots due to a lack of services and infrastructure, and the topography in that location and for those same reasons he feels this request is not irrational at all. The company is still conducting mineral exploration and assessing the economic potential of the subject parcels but they don't have specific plans for the ultimate use of the property which could be mining or another type of development, including residential. This request will clean up some of the existing inconsistencies between master planning and zoning on the property. Mr. DeGasperis continued to explain the request and justification for the particular master planning and zoning they are requesting. He discussed the surrounding land uses and explained the difficult topography which does not currently support the existing master plan of suburban residential and zoning nor would such development under those designations be a productive use of the land. He said they are not sure if those particular designations were intentionally assigned or how they came to be.

Mr. DeGasperis discussed some items within the staff report which they felt were discrepancies and explained that they feel the county has very broad discretion in terms of conditional uses. He said that discussion today is about getting the right designations, to open up the right possibilities, to open up the best and most productive uses. The presumption of a specific use and the planning of that use is not appropriate discussion for today. He continued with a discussion regarding the research into the history of this property and the some historic documents, which are of public record and have been presented as what has been deemed "new information". These property rights need to be understood. His discussion followed regarding some of the discrepancies surrounding the townsite boundaries. Chuck Davies asked if the most appropriate forum to address and resolve these issues would be within a "community plan". Mr. DeGasperis said this could be this forum or there could be a more formal and specific forum in the future. Larry Wahrenbrock asked of what factual consequence is it to today's request, where those boundary lines are drawn because from a Planning Commission standpoint they deal with all areas of Lyon County and are not bound by defined townsite boundaries. Discussion followed. Mr. DeGasperis responded that he didn't see anything while reviewing all of the minutes or all of the procedures relating to these boundaries where it was highlighted that these mineral surveys were ever excluded from the townsite boundaries. Mr. Wahrenbrock doesn't feel that the issue of the townsite boundaries has any bearing on the request here today. Mr. DeGasperis said it does to the extent that it appears the county is expanding the townsite boundary beyond its legal boundary and feels it is important to make that information known when it stands to essentially change someone's property rights. He said he is not trying to argue any point but is merely sharing some historic information. Mr. DeGasperis continued to review some of the original land patents recorded in the 1800's. Discussion followed regarding how the master planning and zoning processes have evolved over time and how they relate to this request.

Larry Wahrenbrock asked if the applicant had, during their extensive research, read the similar application from Nevex Gold, on the same property, that was denied due to being inappropriate on that particular land and because of the impacts it would have on the community. Mr. DeGasperis responded that he had read those proceedings and feels that the situation today, with the stringent permitting requirements for such uses and reclamation requirements in place, is very different from then. During those hearings, the master plan and zoning request was discussed with a specific land use assumption, being mining and their request today is being judged on those same assumptions when their ultimate use has not yet been determined or stated due to the multiple possibilities available for this land. He said that there are three solid options for the use of this land; one is mining; another being residential development and the other is the historic restoration of the existing facilities. A lengthy discussion followed regarding the intentions, contents and implications included in the applicant's submittal and Mr. DeGasperis concluded his presentation.

Rob Loveberg reminded the Planning Commission that adoption of a Master Plan Amendment requires a two-thirds majority (super majority) of the Planning Commission as a whole not just of those members present, therefore 5 members must vote to adopt a Master Plan Amendment. Mr. Loveberg said that the MPA is the most discretionary decision that the PC and the county can make in land use issues. You have the greatest leeway to consider information and the appropriateness of an action – it is at a policy level rather than at a regulatory level. Your discretion narrows once you get past the MPA level and into the zoning and land use issues because those applications are more specific in what they allow. He said that the PC must make their decision based on whether or not they feel that what is being requested is appropriate policy or blueprint for the future for a community and at that level the commission can decide if the existing master plan is preferable for the future development of a community, or if the applicant's request is a more preferable direction for its future. Mr. Loveberg said that staff reviewed this submittal based on the policy direction we are provided within the goals, policies, guidance and strategies of the 2010 master plan however this is dynamic document which can change over time through decisions made by the community. He said that Silver City has had fairly consistent master planning and zoning in its most recent history. Ultimately it boils down to what is the preferable land uses for future development within the community which must be weighed based on the considerations, guidance and findings contained in the master plan. Discussion followed.

Erich Obermeyr, Chairman of the Silver City Advisory Board, read the vote in favor of denial of the request from that advisory board. He stated that it is ultimately about mining. He said that the findings presented by the applicant stand to alter the vision of Silver City. The ultimate intended land use will inject a heavy industrial use into a quiet residential community causing dust, noise, traffic and unwanted activity. This will discourage potential buyers of property and reinvent Silver City. The existing master plan and zoning has protected the community and has been just fine with Silver City for many years and feels that this proposal is not conducive to the residents' goals for their future. He said that there are numerous other locations that are more suited to an open pit mining operation but this area of Silver City is not one of them. He concluded by asking for a vote of denial from the Planning Commission.

John Marshall, representing CRA, introduced a multi-part presentation, including a video made by Robert Elston, resident of Silver City, which shows several residents within the community each stating their reasons for wanting denial of this request. Mr. Marshall said that John Singlaub, AICP, will discuss certain planning issues, and an economic report prepared by Steve Johnson, Real Estate Appraiser.

Mr. Marshall stated that his primary objection to CMI's presentation of "new" materials is that he feels they have shifted their grounds away from what they initially tried to present here and that was the consistency and, is this a good planning decision. He feels that ultimately, their application is inconsistent with multiple provisions contained within the existing master plan and they failed to go through that with the Planning Commission. Mr. Marshall added that the applicant openly states within their materials that the purpose for this request is mining. He said this is not about mining vs. anti-mining. It is more about the appropriateness of locating heavy industrial, open-pit mining in such close proximity of a well-established, residential community. Mr. Marshall said that the existing designations have been in place for decades because that is what the community wants to retain. He added that the applicant does not need a master plan amendment and a zone change to assess the potential uses of the property, as they have stated is their intent at this time.

Chuck Davies also asked Mr. Marshall if he thought a Community Plan would be a good forum for the applicant to achieve their goals. Mr. Marshall said yes, in that that is what a community planning process is for, and no, because it is an issue that the community has already decided on. Mr. Davies asked if there is an appropriate place for mining within this community as the applicant owns numerous properties in Silver City. Mr. Marshall said that the community is not against mining – only in this particular location and the community should be involved in that decision.

Robert Elston stated his opposition to the request and presented a video that he and a few others produced where they interviewed residents of Silver City. The video featured comments from Gayle Sherman, Robert Elston, Cashion Callaway, Carol Godwin, Allison Woodman and Will and Sheree Rosevear among others. Those people interviewed gave their reasons for why they oppose this request, such as noise, air quality, visual impact and traffic. A copy of the video was entered into the record.

John Singlaub, Ascent Environmental, offered a video presentation which showed a map depicting the historic townsite boundaries of Silver City, consisting of 332 acres, which has never changed and was done under a townsite act. Mr. Singlaub proceeded with a history of the Silver City townsite and how it has evolved. He said the townsite was created there were two purposes; one was to recognize the existing mines that were there and if you were gain title to a piece of townsite property you would also retain the mineral rights. This was done to protect those townsite parcels from being mined on and underneath. This was the beginning of the residential areas within the townsite limits so that people didn't need to live in tents anymore. He said it appears that over time, community plan boundaries have expanded to include those portions outside the original townsite boundary. The actual townsite boundary hasn't been changed and it doesn't exclude patented mine sites from the town it just recognizes that they exist. He continued to explain the maps and diagrams included in his presentation and gave his reasons for supporting a denial of this request. Mr. Singlaub gave an extensive discussion on the environmental negatives that can come from mining, including air quality, noise, water quality, reclamation, which has specific requirements in the Comstock Mining District per Lyon County Code, and concerns of being named within the Carson River Mercury Superfund Site. A digital copy of the presentation was entered into the record.

Larry Wahrenbrock said if land is included in the superfund site area, clean-up is critical even if it is developed for residential purposes. John Singlaub said that is correct – the mercury contamination would either have to be cleaned up or stabilized somehow and that depends on what the EPA decides.

Steve Johnson, Real Estate Appraiser, said he was requested by Silver City residents to appraise the impact of the proposed master plan amendment and zone change. It is his understanding that approval of this request would pave the way for an open-pit mine to operate in close proximity to several residential properties. He said his research concluded that property values would be greatly impacted if this type of development were to come to fruition. This impact would be directly caused by noise from truck traffic, drilling and explosions, night time lighting, loss of dark night skies, visual impact and air quality, among other things. Mr. Johnson provided a copy of his study and it was entered into the record.

Chuck Davies announced that he will open the floor to public comments relating to this agendized item.

The following attendees spoke at the podium:

John Bennetts, professional engineer and long-time resident of Silver City, spoke in favor of this request.

Tom Cartwright, Mason Valley resident, read a prepared statement regarding the definition of private property rights. He is in favor of this request.

Lee Bonner, Douglas County Commissioner, here today representing the Northern Nevada Development Authority, spoke in favor of this request and the applicant.

Paul Eades, long-time resident of Dayton, spoke in favor of the request saying that Nevada was built on the legacy of mining.

Randy Harris, Silver City resident, spoke in favor of the request saying this is an economic issue for Lyon County. Mr. Harris mentioned that people stated earlier that they interviewed the residents of Silver City but no one came to interview him.

Serge Marchale, Executive Chef for Gold Hill Hotel, spoke in favor of the applicant. He said the CMI is to be commended for their historic preservation efforts so far. He also mentioned the number of people that are now and will be employed by CMI if they are allowed to proceed.

Carol Godwin, Silver City resident, spoke in opposition of this request. She said that rentals in the area remain vacant and properties unsaleable. There is also a high risk for soil contamination. Her son was employed by CMI and had to leave due to breathing problems caused by the dust.

Rita Wheeler, Silver City resident, spoke in favor of the applicant. She also mentioned that there are numerous residents of Silver City that were never approached by the CRA and although she no longer works for CMI, she remains committed to them as being a valuable, compassionate company. She added that laws are now in place to mediate potential environmental impacts. Ms. Wheeler asked that everyone keep an open mind regarding what the applicant's request can do for the development of Silver City, in bringing jobs and stability to the community.

Dee Westmoreland, Dayton resident, stated that the master plan in any area should be changed from time to time and that it cannot stay the same forever. He reminded everyone that Nevada is a dusty place and it is not just caused by mining. He said he is employed by CMI and is in favor of this request.

Janet Hess Rose, Silver City resident, is opposed to this request stating that when they were doing core samples close to her home the noise was unbearable. She feels the applicants are not good neighbors and they don't listen to resident's concerns.

Mandy Manyose, employee of Gold Hill Hotel, spoke in favor of the applicant. She said it was in a state of decay when CMI first bought the building. CMI has proven to be good stewards of the history of the community and have kept all of their promises and more.

Olivia Amos, Environmental Coordinator for CMI, spoke in favor of the applicant. She said that CMI has brought a lot of opportunity to the community where there is a long history of mining. She said that the existing land use designations on the subject property that were imposed in the 1970's are simply not appropriate today. She urged the Planning Commission to consider approval of the requests. **3:05:04**

Wayne Bachand, Lyon County resident and business owner, spoke in opposition of this request.

Austin Crouch, Silver City resident, spoke in opposition of the request and said that it appears that the residents of Silver City don't want what this applicant claims will be provided to the community. He stated that the exhaust from the idling trucks cause breathing problems to his direct family and that is just one issue.

Mary MacDonald, resident of Silver City and owner of an organic farm in the area. Her property is not in direct view of the site but is still affected by the noise that penetrates her home. She reminded the Planning Commission that previous requests for the same thing have been denied and they should consider that.

Sheree Rosevear, Silver City resident and business owner, spoke in opposition. She said that the noise and disturbance caused by truck traffic and blasting activities, her business has been negatively impacted because visitors are wary of that activity. Mrs. Rosevear presented a written letter for entry into the record.

Will Rosevear, Silver City resident and business owner, also spoke in opposition of these requests. He said he has had to discontinue giving music lessons due to the noise from the facility. He also presented a written letter for entry into the record.

Christy McGill, resident of Dayton and local business owner, asked that the Planning Commission uphold the existing master plan. She stated that she was directly involved in the creation of the master plan and feels it was adopted that way because that was what the individual communities wanted.

Darlene Cobbey, Silver City resident, spoke in opposition of this request. She said that her and her husband have always played by the rules of Lyon County and have invested vast amounts of money into their home. They felt they were protected by the current zoning laws and master plan because it was their understanding that mining was not allowed within the townsite. They feel that life as they know it is now in jeopardy because their home will be devalued and their health will be diminished.

Ann Price McCarthy, resident of Lyon County and retired attorney, commended county staff and asked that the Planning Commission uphold the existing master plan and zoning because that is what the residents of Silver City have fought to uphold.

Chad Olsen, resident of Silver City, business owner and employer, read a prepared statement which was in opposition of the requests. Their property is sloped very similar to the applicant's property. The topography caused additional struggles in development for residential purposes. They were made aware that they would have to rely on a well for water because they were not eligible for municipal water from the Virginia City Water System. He learned that " anyone interested in developing land, whether it be residential or mining, would now claim to not be within the townsite limits and that would exclude them from getting water service to those properties". **3:27:55**

Judi Olsen, Silver City resident, provided a schedule showing how much Silver City residents are each paying in property taxes compared to how much Comstock Mining is paying. Mrs. Olsen proceeded to explain her research. A copy of the document was entered into the record. She urged the Planning Commission not the change the existing Master Plan.

Cynthia Etchegoin, Silver City homeowner, spoke about layoffs throughout other mining companies in Nevada due to mining not being as viable as it once was.

Susan McCabe, Silver City homeowner, stated she feels tortured having to live here now due to the noise and dust. She urged the Planning Commission to deny the requests. A copy of her written correspondence was entered into the record.

Steve Litsinger, Stagecoach resident, recommended denial of these requests.

Steve Parrish, long time Land Surveyor, stated his objection to presumptions that mining will destroy the community of Silver City. He said that Comstock Mining has succeeded in cleaning up an inherited mining mess left behind by previous companies. He said that due to strict new regulations that are in effect today, mining is a different world compared to past practices when it comes to reclamation of those lands. Mr. Parrish said that, as a registered surveyor, and having worked for the BLM and three Nevada counties, he has vast experience in defining boundaries. He said that property rights are key to everyone's constitutional rights. He recommended that the Planning Commission vote to approve Comstock Mining's requests.

Roger Drum, resident of Silver City and employee of Comstock Mining, said that he believes strongly in what the applicant is doing in Silver City and urged approval of the applicant's requests.

Grahame Ross said he was born and raised in Silver City and currently works as a Surveyor for Comstock Mining. He said he wouldn't work for the company if he didn't feel they had a larger plan for the benefit of the entire community. He said he doesn't want an open pit mine in Silver City and that there are more options available other than the ugly picture being presented by opponents. He stated his support for the applicant's requests.

Scott Jolcover, employee of Comstock Mining, and owner of several properties throughout northern Nevada, stated his support for the applications. He said it doesn't matter what decision is made today as he thinks this will end up at the State Supreme Court based on the various issues he is hearing today. He stated that the Planning Commission is required to uphold the law when it comes to property rights issues and it is impossible to please everyone. Mr. Jolcover said that he has already seen this happen in Storey County and explained that situation. He added that Comstock Mining is not asking for a special use permit and has not yet said that their goal is for open pit mining.

Theo McCormick, Silver City resident, read a prepared statement. He said that while it is true that Silver City grew out of the mining boom of the 1800's this is not reason enough to allow industrial mining operations within such close proximity to the clearly, residential town. He said this is why the existing land use planning practices and master planning exists, so that compatible uses are grouped together and incompatible uses are kept separate. Mr. McCormick and his wife were of the belief that by participating in the recent master plan development process and due to the existing zoning, they would be protected from incompatible uses being located next door. Mr. McCormick said that there is a lot of perceived anger throughout the community stemming from the applicant's early conversations with them regarding the proposed revitalization of their town through mining. The residents read the materials that the applicant was using to sell stock in the company. The materials stated that the project will involve realigning state route 342, developing a mine and infrastructure using cyanide & heap leaching methods, among other things, on historic lands and relocating of certain landowners. He said the applicant offered the residents one rosy story and offered their potential investors a totally

different story. He feels the applicant did not expect the residents to actually read the materials presented and was shocked at the level of opposition from the community. Mr. McCormick recommended denial of these requests.

Allison Woodman, Silver City resident, said she sought out a quiet home to retire in and she doesn't want it to change, especially to something like this. She said she is concerned for the health of her family and other residents, due to the harsh chemicals and processes involved with open pit mining and those concerns have not been addressed by the applicant. Ms. Woodman said the applicant has appeared at many community meetings and has said that the ultimate goal is to mine but now, at this hearing, she feels they are trying to hide that intention, although it is clear to everyone what they intend to do with the land. In addition, Ms. Woodman does not feel that mining is a long term, sustainable economic benefit to the community. She urged the Planning Commission to deny the requests.

Chairman Davies reminded the attendees that conditions cannot be imposed upon a zone change, nor is an applicant required to prove what he plans to do once a zone change is approved. The Planning Commission cannot consider what may or may not occur on any given land. Assumptions can be made about the ultimate use of the land but the applicant is under no obligation to state the future plans for the land.

Ron Reno, Silver City resident, presented a statement of opposition and a copy was entered into the record. Mr. Reno said he was aware of the previous Nevex Gold decision before he purchased property in the Comstock and thought that with that denial, Silver City would not become a mining community. He said that he operates his business in Silver City and has had to add an expensive air conditioning system to his home office due to the high levels of particulate currently generated by Comstock Mining. He added he does not oppose Comstock Mining or mining in general but he does oppose it in this particular location. Mr. Reno stated that reclamation does not restore the land to 100% of its original, historic condition and is not enough to offset major landscape changes that occur with open pit mining.

Mark Rotter, Manhard Consulting representing Comstock Mining, Inc., said there is no question that the zone change, if approved, will be more conducive to mining but specifically, before mining activities can commence, a special use permit must by obtained and that by public process. He said that the question here today is whether a Master Plan designation of Suburban Residential is more appropriate than Rural Residential. Currently the existing zoning district on the property is NR-1. As it is, the land could be divided into 6,000 sq. ft. residential lots. The topography of the land simply wouldn't support that high of a density. Whether or not the mining occurs, the long term goal of the applicant is to have a lower density because of the topography, adjacency and availability to services and infrastructure. He said that Rural Residential just makes more sense. He reminded the Planning Commission that today, they are only considering whether Suburban Residential is better than Rural Residential for this property regardless of previous applications and regardless of the history of the site. Mr. Rotter wants to bring the focus back on this question as most of the conversation today has been about open pit mines, etc. If they were applying for a special use permit the applicant would be presenting a full set of specifications for whatever type of development he was requesting. Mr. Rotter said the applicant has not yet decided if mining is even an appropriate use for this land. He offered the answer any questions.

Rob Loveberg, Planning Director, closed discussion by reminding the Planning Commission that they are required to have a two thirds majority (5 members) of the membership not just of the quorum present, for adoption of a Master Plan Amendment but only a simple majority (4 members) is required for a Zone Change.

*Larry Wahrenbrock made a motion to **deny** the application for a Master Plan Amendment for Comstock Mining, Inc. based on the following findings:*

A. The proposed amendment is not in substantial compliance with, nor promotes the Master Plan goals, objectives and actions in that it is not in keeping with the majority of applicable guiding principles, goals, policies, strategies and community description contained in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

B. The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land use in that the amendment would change the planned character and intensity of residential development and enables the potential development of a land use incompatible with the actual and planned adjacent and predominant residential land uses.

C. The proposed amendment fails to identify or respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.

D. The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and will adversely impact the public health, safety or welfare.

E. The proposed amendment does not promote the desired pattern for the orderly physical growth of the County as set forth for the Silver City community in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

F. The existing Comprehensive Master Plan and/or any related element thereof is not in need of the proposed amendment.

G. The proposed amendment is not compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan, particularly those related to Silver City.

H. The proposed amendment will have effects on service provision, including adequacy or availability of facilities and services, and is not compatible with existing and planned service provision.

I. Deviation from the strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

J. The proposed Plan amendment will not promote the public welfare and will be inconsistent with the goals and policies of the Comprehensive Master Plan and the elements thereof, and

K. The burden of proof has not been met by the applicant in their application to warrant a change in the Master Plan at this time.

Mike Hardcastle seconded and the motion passed by a majority vote of those members present: (5 ayes; 1 nay – George Mortensen; 1 absent – Paul Lanning)

*Larry Wahrenbrock made a motion to recommend **denial** of the Zone Change presented based on the following findings:*

A. The proposed zoning is not in substantial compliance with the adopted Lyon County Comprehensive Master Plan, County-wide Component land use map.

B. The proposed zoning is not in substantial compliance with, nor does it sufficiently promote the Lyon County Comprehensive Master Plan, County-wide Component goals, policies and strategies.

Mike Hardcastle seconded and the motion passed by a unanimous vote of those members present: (6 ayes; 0 nays; 1 absent – Paul Lanning)

Excerpt of Minutes from the November 12, 2013 Planning Commission Meeting

14 CV 00128 - 000060
LYON COUNTY

5. **COMSTOCK MINING, INC – MASTER PLAN AMENDMENT** – Request to change the Master Plan from Resource land use designation and Suburban Residential land use designation to Resource land use designation on approximately 32.34 acres and Rural Residential land use designation on approximately 54.86 acres of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0050

Larry Wahrenbrock made a motion to hear the Master Plan Amendment and the Zone Change for Comstock Mining, Inc., together as one item and vote on each separately. Betty Retzer seconded. Before the vote, Larry Wahrenbrock disclosed that he is a resident and property owner in Silver City and is also an advocate for historic preservation in the community but doesn't feel that this will cause a conflict of interest and will review the application and submitted materials reasonably and without prejudice. The motion passed unanimously (6 ayes; 0 nays; 1 Absent - Mike Hardcastle).

6. **COMSTOCK MINING, INC – ZONE CHANGE** - Request to change the zoning from NR-1 (Non-Rural Residential - 6,000 sq. ft. lot size) and RR-5 (Fifth Rural Residential - 20 acre minimum) to RR-3 (Third Rural Residential-5 acre minimum) on approximately 54.86 acres and RR-5 (Fifth Rural Residential - 20 acre minimum) on approximately 32.34 acres, of a 94.27 total acre parcel; located off of Highway 341, Silver City (a portion of APN 08-091-05 & 08-091-02) PLZ-13-0051

Mark Rotter, Manhard Consulting, represented the applicant. He stated that because the staff report was received so late that they have not had time to present an adequate response to the issues included in that report and requested a 30 day continuance. Jeff Page, County Manager, stated that he has discussed the possibility for a 30 day continuance with the applicant and staff and agrees that this would be the most appropriate road to take at this time. He stated that because the staff report was so late, and this being one of the most controversial items that have come before the Planning Commission for some time, he would prefer that everyone have adequate time to address the issues raised.

Cynthia Etchegoin, Silver City resident, requested that the next hearing for this item be heard in Dayton which would make it easier for Silver City residents to attend that meeting. Chuck Davies said that it has been requested before but the County Manager has decided that it is best to hold the meeting at the regular location.

Theo McCormick, Silver City resident, said he had to miss work to attend the meeting today and wants the item to go forward as scheduled because he shouldn't need to take more time off of work to attend another meeting due to the requested continuance.

Gayle Sherman, representing the Comstock Residents Association, said that the citizens of Silver City are ready today to present their objections to this proposal. They have presented a very comprehensive compilation of their research and opinions and stated her preference for the item being heard today although she said they will all be back next month. Chairman Davies responded that if they so choose, the attendees can make their presentation today although if the continuance is granted, no decision will be made until next month.

Allison Woodman, Silver City resident, said they have had a couple of years to prepare for the possibility for mining in their neighborhood and she doesn't understand why the applicant needs additional time to prepare because the facts of the application are the same today as they will be next month.

John Marshall, representing the Comstock Residents Association, requested that if the continuance is approved, that the item be heard at a specific time on the agenda for the convenience of the residents that want to attend. Jeff Page, County Manager, favored the time specific request.

Janet Hess-Rose, former District Attorney for Storey County, said they used to conduct meetings every year outside of the regular meeting place. She understands that it can be a difficult task but it can be done.

Larry Wahrenbrock said he feels a continuance is appropriate when applicants receive their staff report so late without sufficient time for an adequate response however, he feels it is the applicant's responsibility to present the best and most complete case that they have, at the time they make the application. He added that if there is opportunity for additional or different material not presented in the original submittal, there would be room for consideration of a continuance, but if the reason for the continuation is merely that the applicant doesn't like the information contained in the staff report and they want additional time to rebut the report, then the burden should fall back on the applicant to have presented a solid case in the first place. He is concerned that so many people attended this meeting ready to present their side of the discussion only for it to be continued for another month and it appears they are being manipulated by an applicant based on an opinion rather than a change in the facts of the application. He questions what additional information will be presented by the applicant that will materially change the facts of the application. Chuck Davies said that we won't know that until they make their presentation although he understands the frustration caused by the continuance. He added that with the staff report being 35 pages long and being received so late, he is reluctant to deny a continuance when the applicant was not given sufficient time to respond to the issues presented. Mr. Davies said that today's attendees have been given the opportunity to present their case today and they have chosen to wait.

Paul Lanning said that numerous applicants have been granted continuances in the past, based on an applicant's request and without supporting evidence of why they need that continuance and feels that in all fairness this board should be consistent in its practices and that this applicant should not be treated any differently.

Mr. Marshall asked that if the applicant does present additional information they do it at least 2 weeks before the hearing so that everyone, including staff, has sufficient time to review and respond to it.

Betty Retzer made a motion to **continue** the two items, at the applicant's request, for 30 days or until the December 10th, 2013 Planning Commission meeting. Paul Lanning seconded and the motion passed unanimously (6 ayes; 0 nays; 1 Absent - Mike Hardcastle).

PLZ-13-0050

Comstock Mining, Inc.

Master Plan Amendment

Staff Report

For

November 12, 2013

&

December 10, 2013

Planning Commission Hearings

14 CV 00128 - 000063
LYON COUNTY

LYON COUNTY
PLANNING DEPARTMENT
27 SOUTH MAIN STREET, YERINGTON, NEVADA 89447
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ROBERT G. LOVEBERG
PLANNING DIRECTOR

CORRECTED STAFF REPORT

Lyon County Planning Commission

PLZ-13-0050	Master Plan Amendment from Resource to Rural Residential and Suburban Residential to Rural Residential
Meeting Date:	November 12, 2013
Owners:	Comstock Mining, Inc.
Applicant:	Same
Area Location:	Silver City
Parcel Number(s):	(APNs) 08-091-02 & 08-091-05
Current Master Plan Designation:	Resource and Suburban Residential
Proposed Master Plan Designation:	Rural Residential
Existing Zoning:	NR-1, Single-Family Nonrural Residential (6,000 square foot minimum)
Proposed Zoning:	RR-3, Third Rural Residential (5 acre minimum), and RR-5, Fifth Rural Residential (20 acre minimum)
Case Planner:	Rob Loveberg
Planning Director Approval:	*RGL*

Request

The applicant is requesting a master plan amendment from Resource to Rural Residential on approximately 12.29 acres outside of the Silver City town site and an amendment from Suburban Residential to Rural Residential on approximately 42.57 acres within the Silver City town site. See the enclosed applicant's revised submittal for more detailed information and the applicant's justification.

A zone change from NR-1, Single-Family Nonrural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum), and to RR-5, Fifth Rural Residential (20 acre minimum), was submitted concurrently with this request. A request for a reversion to acreage involving property included in the requested master plan amendment and zone change was also submitted concurrently and has been heard by the Planning Commission.

Current and Proposed Master Plan Designations:

Master Plan Designation	Current		Proposed	
	Acreage	Percentage	Acreage	Percentage
Resource	12.29±	22.4%	0	0%
Rural Residential	0	0%	54.86±	100%
Suburban Residential	42.57±	77.6%	0	0%
TOTAL	54.86±	100%	54.86±	100%

Background:

The applicant submitted requests for a master plan amendment, a zone change and a reversion to acreage in August 2013 in accordance with the requirements of Title 10.12.09 of the Lyon County Code. Subsequent to the submittal, Lyon County Planning staff discovered that certain zoning information provided to the applicant was incorrect. The applicant revised the requests for the master plan amendment, zone change and reversion to acreage to reflect the corrected information. This report is based on the revised application information.

The Lyon County Comprehensive Master Plan, County-wide Component, was adopted by the Board of Commissioners on December 23, 2010. The residential densities for the following Comprehensive Master Plan land use designations are:

- Resource – 1 dwelling per 40 acres,
- Rural Residential – 1 dwelling per 20 acres to 1 dwelling per 5 acres, and
- Suburban Residential – 1 dwelling per acre to 18 dwellings per acre

The characteristics used to describe the three pertinent land use designations are as follows:

- Resource – Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grazing, mining and large scale energy, general rural residential development at very low densities. Within communities uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.
- Rural Residential – Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".
- Suburban – Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Examples of uses: Single-family residences, duplexes and attached housing.

The Lyon County Master Plan, County-wide Component, land use designation "Rural Residential" is consistent with the following Lyon County residential zoning districts: RR-3, Third Rural Residential District (5 acre minimum), RR-4, Fourth Rural Residential District (10 acre minimum) and RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Resource" land use designation is consistent with the following Lyon County zoning district: RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Suburban Residential" land use designation is consistent with the following Lyon County zoning districts: E-1, First Estates Residential (12,000 square foot minimum), E-2, Second Estates Residential (one-half acre minimum), NR-1, Single-Family Nonrural Residential (6,000 square foot minimum), NR-2, Multiple Residence Nonrural Residential (8,000 square foot minimum) and NR-3, Single-Family Nonrural Residential (9,000 square foot minimum).

Property Information:

Location:

The parcels are located westerly of State Route 341 and 342, in the area of the southwesterly corner of the Silver City town site.

Size:

The subject properties total approximately 87.2 acres according to the Lyon County Assessor's files. The requested master plan amendment involves 56.86 acres of the total.

Land Use

The subject properties are generally undeveloped, with a historic mill site and buildings on a portion of the property near and visible from State Route 341 and 342 as well as a large portion of Silver City.

Subject Property and Surrounding Area Land Use

	Current Master Plan	*Zoning*	*Current Land Use*
Subject Property	Resource Suburban Residential	NR-1	Undeveloped and Historic Mill
North	Commercial Mixed Use Suburban Residential	M-1 NR-1	Historic Residential and Undeveloped
South	Public Lands Resource	RR-5	Undeveloped
East	Resource Suburban Residential	NR-1 RR-5	Historic Residential and Undeveloped
West	Public Lands Suburban Residential Resource	NR-1 RR-5	Historic Residential and Undeveloped

It should be noted that not all zoning districts are consistent with their respective master plan land use designations. A master plan designation is an expression of the county's long-term expectations for development within a particular area.

Physical and Topographic Attributes:

According to information submitted by the applicant, the subject parcels vary from 0% - 10% slopes to slopes greater than 30%. A portion of APN 08-091-05 along State Route 342 has an area of AE flood zone.

Access:

Current access to the subject properties is via State Route 341 and State Route 342.

Historic District:

The parcels are within the Comstock Historic District.

Public Facilities and Services:

The portion of subject properties within the Silver City town site are within the service area of the Storey County Public Works Department, Virginia City Water System. The parcels are not currently served by the municipal water system and significant improvements will be necessary to bring water services to the subject properties.

No municipal sewer system currently serves the Silver City area. Immediate development would require the installation of individual sewer disposal systems (ISDS) for residential development, or on-site sewer disposal systems (OSDS) or package sewer treatment plant for non-residential development. The Silver City area is not generally well suited for ISDS or OSDS, and a long term solution for waste water treatment would be the extension of a municipal sewer system. Densities as contemplated in the County's Comprehensive Master Plan would contribute to the cost effectiveness of a sewer system.

The Central Lyon County Fire Protection District provides fire and emergency medical service from the volunteer fire station located at 745 High Street, Silver City, approximately 455 feet to the northeast of the site and career station at 231 Coral Drive, Dayton, approximately 3.5 miles easterly of the site. The Lyon County Sheriff's Department maintains a substation at 801 Overland Loop, Dayton, approximately 6 miles northeast of the site.

Water Rights:

Water rights information has not been provided. It is anticipated that potential development will bring necessary water rights for the portions of the parcels outside of the water system service area when required for development.

Summary of Applicant's Justification:

The applicant includes the following arguments in support of the requested master plan amendments:

- A reduction in the potential residential development density provides a "more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure and also clean up and align certain parcels that currently have "split" master plan designations."
- "For more than a century the subject property has been used for mining, mine exploration and/or mine development."
- "The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles."
- "In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning."
- The "zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts."

The applicant believes that "the community Character District of Suburbanizing, the Community Plan Land Use Designation of High Density, Density of 5 to 18 dwelling units per acre, the

Examples of Uses and the Description/ Characteristics and the current Suburban Residential master plan designation" are inconsistent with the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU1: Orderly Growth Patterns – Direct and manage development in the county that it is orderly and fiscally responsible.
- Goal LU2: Services Coordinated with Growth – Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

The applicant believes that the requested master plan amendments are consistent with and supported by the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU3: Diverse Economy – The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.
- Goal NR9: Mining and Resource Extraction – Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

The revised application submittal, dated October 11, 2013, contains the applicant's detailed request and justification. One must examine the revised information for the complete justification and a full understanding of the applicant's views.

Staff Review and Comments:

Applicant's Request

As specified in the applicant's justification statement "[t]he application is requesting a "down zone" at both the master plan and zoning levels." If approved, the applicant's master plan amendment requests would result in a decrease in planned residential density. The current master plan designation and zoning allow development at densities that are less than the maximum density permitted by the master plan land use designation and the zoning district.

The applicant's justification states that "[t]he applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property." If approved, the amendments set the stage for zone change requests that may permit uses, such as mining, not currently permitted on the subject parcels.

Access:

Access to the subject properties would be from State Route 341 and 342. Specific access would need to be created based on the type and density/intensity of development. No plan for development of access, intersections and/or ingress and egress points from the subject parcels has been provided.

Comstock Historic District:

Silver City and the subject parcels are within the boundaries of the Comstock Historic District. The District comprises an effort to maintain the historic character and integrity of the Comstock.

The State Historic Preservation Office describes the Comstock Historic Commission as follows:

The Comstock Historic District Commission was created by Nevada Revised Statute 384 and dates to 1969. The state agency encourages the preservation and promotion of historic resources with the Virginia City National Landmark District, which the state refers to as the Comstock Historic District. The Commission provides permits for projects dealing with the exteriors of all buildings within the district, the construction of new structures, and work affecting pavement or fencing. The Commission also takes a proactive role in encouraging archaeological investigations and cemetery restoration within the district.

The District has authority over the exteriors of existing and new structures located on the subject parcels. The visual aspects of the built environment is one very important aspect of efforts to maintain the integrity and historic context of the Comstock. Another important aspect is the visual landscape of the Historic District.

The historic nature of the Comstock and Silver City was identified by the community as being very important during the preparation of the Comprehensive Master Plan. The importance of the community's historic component has remained consistently important during community meetings and discussions regarding land use issues.

Land Use:

The subject parcels are generally undeveloped with an area containing a historic mill site and multiple historic structures. The property appears to have had periodic mineral exploration within the past approximately 40 or more years, and intermittent mining activities in the more distant past.

The current Resource land use designation, which applies to 12.29 acres of the subject parcels, has the following attributes as described in Chapter3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – Resource (private)
- Density range – *1 du per 40 acres or one-sixteenth of a section as described by a government land office survey, or per existing parcel if less than 40 acres or one-sixteenth of a section*
- Characteristics – *Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grazing, mining and large scale energy, general rural residential development at very low densities. Within communities, uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.*

The current Suburban Residential land use designation, which applies to 42.57 acres of the subject parcels, has the following attributes as described in Chapter3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – *Medium Density Residential, High Density Residential and Residential Mixed-Use.*
- Density range – *1 du per acre to 18 du per acre.*
- Characteristics –
    - *Medium Density Residential, High Density Residential - Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and*

lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Examples of uses: Single-family residences, duplexes and attached housing.

- *Residential Mixed-Use – This category is designed to create opportunities for higher-density neighborhoods in a suburban-setting to promote neighborhoods with a mix of types and intensities in close proximity to commercial and commercial mixed-use districts. Examples of uses: A range of medium to high-density residential housing types with open space, parks, schools, and other public uses.*

The proposed Rural Residential land use designation, which is proposed to apply to 54.86 acres of the subject parcels, has the following attributes as described in Chapter 3 of the Comprehensive Master Plan, County-wide Component:

- Community Plan Land Use Categories – *General Rural and Rural Residential*
- Density range – *1 du per 20 acres to 1 du per 5 acres*
- Characteristics – *Characteristics: Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".*

The principal purpose of land-use regulation and zoning is to limit conflicts between incompatible land-uses. As a general rule, commercial and industrial uses are more compatible with higher density residential uses, particularly if they back up to them or if they are separated by a street. All master plan land use designations, zone changes, and special uses should be reviewed to ensure that existing and proposed land uses are compatible.

Past Lyon County Master Plans

Information regarding past master plan land use designations, goals and actions provide some context and insight for the current Comprehensive Master Plan provisions that pertain the subject parcels. From Planning staff's review of past documents, including the 1970s Lyon County Master Plan, zoning map circa the 1970s, the 1990 Lyon County Master Plan and the 2002 West Central Lyon County Final Land Use Plan, it appears that the County has been consistent in its planning approach, intended land use and zoning application.

Below are information, goals and actions from past master plans that illustrate the County's and Community's planning desires for Silver City.

1971 Lyon County General Plan

On the 1971 General Plan Map, Silver City is shown as an Urbanizing Area and the Mining Industry land use is not depicted in the Silver City area.

1990 Lyon County Master Plan – Silver City

Goal #1 To maintain, promote, and secure the historic character of the community and to prevent the destruction or degradation of the historic character.

2002 West Central Lyon County Final Land Use Plan – Silver City Master Plan Goals

Goal 1: To recognize, enhance, and protect the unique character of Silver City.
Actions:

- To maintain that scale and primary residential character by retaining the existing Master Plan designation and zoning categories.

Goal 8: To limit any earth disturbance or above ground mining activities that create visual scaring or that disrupt the fabric of the community.
Actions:

- Lyon County shall establish a land use policy that minimizes the impact of mining and other significant earth disturbing activities that degrade quality of life.

Goal 10: To maintain the primary focus of the community as residential.
Actions:

- To urge the Board of Commissioners to carefully consider all zone changes or Master Plan amendments that would substantially alter the character and identity of Silver City.

2010 Comprehensive Master Plan, County-wide Component

A consideration of the various and often competing provisions of the County's Comprehensive Master Plan is an essential aspect of the consideration of any master plan amendment request.

The applicant has provided information in the submitted, revised application materials regarding their opinions on the compatibility and importance of their master plan amendment request with the current County Comprehensive Master Plan, County-wide Component. The information includes discussions of the relevance of various goals, policies, strategies and land use designations. Please refer to the enclosed applicant's revised submittal for the complete text of the applicant's information.

Lyon County Planning staff compiled a listing of County Comprehensive Master Plan County-wide Component information that it considered relevant for background and for the analysis of the applicant's request. This list is enclosed with this report as Attachment 1.

Below are the Comprehensive Master Plan goals, policies and strategies identified by the County Planning staff with brief discussions.

Goal LU 1: Orderly Growth Patterns: Direct and manage development in the county so that it is orderly and fiscally responsible.

Policy LU 1.1: Follow Development Patterns as Established on Countywide Land Use Plan or a More Specific Community Plan

Future development of Lyon County will be consistent with the Countywide Land Use Plan or a more specific Community Plan, if one has been adopted. The Countywide Land Use Plan will guide future growth and development by defining appropriate land use types, densities, and character in different locations including cities and towns, suburbanizing areas, rural areas, farm and ranch land, hillsides, and public lands. The county's future urban and suburban growth will develop largely around existing communities.

Strategies:

- *Use the Countywide Land Use Plan and adopted Community Plans as a guide for decision-making on development approvals.*

- *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

The current County-wide Land Use Plan should be used to guide the decision regarding the applicant's requested master plan amendment. The current Land Use Plan is consistent with the identified long term development goals for Silver City and consistent with approximately 40 years of County master planning efforts and community input.

The applicant believes that the requested reduction in residential development potential provides for more orderly and fiscally responsible growth, and is more aligned with potential-to-actual development ratio and infrastructure availability.

The existing land use designation includes densities starting from one acre per dwelling unit and provides for density that could improve the potential for the expansion of infrastructure within Silver City.

Policy LU 1.4: Locate industrial development as designated on County-wide Land Use Plan or determined by criteria.

Industrial uses, including extractive industries, will occur in areas that are designated on the County-wide Land Use Plan. New industrial uses should only be located in areas that do not adversely impact existing residential settlements.

Strategies:

- *Consider developing a set of siting criteria to be used in determining the suitability of sites for industrial and extraction uses.*
- *Establish performance standards in areas of noise, odor, dust, traffic generation, etc.*

The potential for the location of a mining use within Silver City, where it was not identified in the Comprehensive Master Plan Land Use Plan, should be carefully considered. The County has not yet developed a set of siting criteria. The Comprehensive Master Plan policy discussion states that new industrial uses, which would include extractive industries, should only be located in areas that do not adversely impact existing residential settlements.

Goal LU 3: Diverse Economy: The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economic Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near to population centers.

The county will support economic diversification throughout the county to more fully utilize the broad range of skills, knowledge and abilities inherent in our workforce.

The requested master plan amendment would provide the basis for a zone change that could allow for the expansion of mining. Such a use has the potential for expanding employment opportunities. A mining use that adversely impacts existing Silver City businesses or tourism could also have an adverse impact on the economy and employment within the community.

The applicant states that: "The master plan change would allow for continued mineral exploration on the subject property helping to identify economic assets while employing local residents in primary jobs."

Policy LU 3.2: Business and Industry Locations that are Consistent with Future Land Use Plan

Encourage commercial and industrial development to locate in designated locations shown on the Future Land Use Plan, where public facilities exist or are planned to accommodate such development cost-effectively. The County-wide Land Use Plan will reserve adequate lands for jobs and industry.

Strategies:

- *Use the Countywide Land Use plan and Community Plans as a guide to determine appropriate locations for business and industry.*

The County-wide Land Use Plan should be used as a guide to determine appropriate locations for business and industry, including mining. The current County-wide Land Use Plan designations for the Silver City community do not identify lands for industry or mining within the community boundaries.

Goal CC 1: Quality Design: New development in Lyon County will improve the appearance and function of our communities.

Policy CC 1.1: Quality New Development

New development in the communities of Lyon County should create inviting places for locals and visitors to live, shop, eat, visit, and do business.

Policy CC 1.3: Design Tailored to Communities

New development in Lyon County should address and respect the unique character of communities within the county.

Consideration should be made to whether or not the proposed master plan amendment would improve the appearance and function of the Silver City community, and address and respect the community's unique character. The existing community development pattern is not inconsistent with the current master plan designation. The proposed decreased residential density does not follow the original town lot development pattern, but would not be inconsistent with the development pattern of parcels outside of the original town map area.

The establishment of uses that would be permitted through the concurrent zone change request may not be consistent with this goal and its policies.

Goal CC 3: Heritage: Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for resident and visitors to learn about and celebrate our heritage.

Policy CC 3.1: Maintain and Restore Historic Resources

Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts.

Strategies:

- *Revise zoning to encourage historic use and development patterns including mixed-use structures and districts.*
- *Support organizations in the county that apply for historic designation or grant funding for inventory or rehabilitation of historic structures, efforts to identify receiving sites for historic structures that cannot be maintained in their original locations, and similar historic preservation purposes and efforts.*

- *Work with knowledgeable organizations and individuals to ensure that building and development standards allow for adaptive reuse of valued historic structures, including those without official historic designation.*
- *Within historic districts, promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.*
- *Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district.*
- *Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.*

Staff is concerned that the requested master plan amendment, concurrent zone change request and the applicant's stated purpose for both could result in development directly contrary to this goal, policy and strategies. Silver City is a unique, historic community within Lyon County that lies within a historic district which contributes to its character and quality of life.

The following strategies are particularly relevant to the requested master plan amendment:

- *Within historic districts, promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.*
- *Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district.*
- *Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.*

Goal NR 3: Adequate, Clean Water: Adequate water supply will be available for current and future needs in Lyon County, including safe, healthy drinking water for all Lyon County residents.

Policy NR 3.1: Water Supply and Quality

Recognizing that clean water is a precious resource necessary to maintain our health, economy, and quality of life, Lyon County will protect the water supply and encourage efficient use of water resources.

Strategies:

- *Maintain and expand the piped municipal water and sewer systems within community core and urbanizing areas of the County as designated on the Future Land Use map.*

Consideration should be given to whether or not the change in development potential and pattern would have a positive or negative impact on the future expansion of the Salver City water system.

Goal NR 9: Mining and Resource Extraction: Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR 9.1: Guide Development

Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Strategies:

- *Consider the location of known resources when reviewing new development.*

Policy NR 9.3: Mitigate Operations

To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, etc.

Strategies:

- *Promote "limited impact"/environmentally safe resource extraction practices to protect the natural environment, enhance the quality of life of residents, and limit impacts on present and future public facilities and services.*

Policy NR 9.4: Mitigate long-term impacts

To the extent possible, Lyon County will promote long-term reclamation and rehabilitation of extractive sites.

Strategies:

- *Require resource extraction projects to submit detailed long-term reclamation and reuse plans and to provide adequate funding mechanisms to implement plans*

The future potential for mineral exploration and extraction operations should be considered for the requested master plan amendment and concurrent zone change requests.

Staff does not believe that the existing master plan land use designation or planned residential development within the Silver City community boundaries should be considered as development that should be guided away from mineralized areas. The Comprehensive Master Plan was created based on the concept of recognizing and developing the existing community core areas. Silver City is one of those areas.

The applicant believes that the existing Suburban Residential land use designation is inconsistent with the mining claims associated with the subject parcels and not appropriate with traditional land planning principles.

Goal FS 1: Provision of Services: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

Strategies:

- *Develop a Capital Improvements Plan and budget for Lyon County utility system expansion that is consistent with the Land Use Map in this Plan.*
- *Revise the County's development regulations in order to create incentives to build according to the Land Use map in this Plan.*
- *Require the developer to pay the full cost of utility system extension, in order to discourage inefficient utility system development, and provide for reimbursement mechanisms where appropriate.*

Silver City has an existing municipal water system. In keeping with this goal and strategies, the future improvement and expansion of the water system has been envisioned by Lyon County Public Works Department for some time.

Silver City has extensive limitations for individual and on-site sewer disposal systems. Additional large lot residential parcels requiring septic systems may be contrary to long term water quality and may reduce the opportunity for a future connection to a municipal sewer system.

Water system improvements are needed for the community and a sewer system may be necessary in the future. Cost effective improvement and expansion will be influenced by Silver City's the long term development potential.

Goal CP 1: Support Diversity: Lyon County will celebrate and support the diversity of character among communities in the county.

Policy CP 1.1: Recognize Diversity of Communities

Lyon County planning efforts and regulations will consider the unique aspects of communities in the county, and will allow for variation and exceptions to address key aspects of their diversity.

In considering the requested master plan amendment, Silver City's unique character, development pattern, historic location and dependence on the historic landscape should be recognized and supported.

Goal CP 3: Community Plans: Lyon County will support community-based planning efforts that elaborate community-specific goals and that are developed with strong public consensus.

Policy CP 3.1: Support Community Planning Efforts

Lyon County will encourage and offer guidance for community-based planning efforts, with the goal of ensuring that such an effort will result in a document that identifies the unique needs and values of the community in a manner that can be integrated with county-wide planning, regulations, and policies.

Over the past approximately 40 years, the Silver City community has actively participated in several master plan efforts, the results of which appear to be very consistent. During the development of the Comprehensive Master Plan, County-wide Component, the community was very active. Goals, policies, strategies and land use designations affecting Silver City were developed with strong public consensus.

Goal CP 4: Advisory Councils: County staff will confer with the applicable Community Advisory Council when developing programs or policies to address community-specific issues.

Policy CP 4.1: Confer with Community Advisory Councils

When developing a program or policy intended to address a community-specific issue, such as those listed in this Comprehensive Master Plan and in adopted community plans, county staff will confer with the applicable Community Advisory Council before finalizing a decision.

The Silver City Advisory Board has been very active in discussing, reviewing and commenting on the requested master plan amendment and zone change applications. The Advisory Board's comments should be considered in the review and deliberation regarding the requested master plan amendment.

Zoning:

The subject parcels are currently zoned NR-1, Single-Family Nonrural Residential District. A review of the County's zoning maps and zoning information for the subject parcels shows that the current zoning is consistent with zoning dating back to the 1970s.

The NR-1 zoning permits:

- Parcel size of 6,000 square feet or larger;
- Permitted uses consisting of single-family dwellings, detached guest building and accessory uses, garden houses, playhouses, tennis courts and "home occupations;"
- Special uses consisting of child care facilities, churches, group care facilities, parks, public utility serving centers, recreational areas, residential industry, schools, sanitariums and other like uses; and
- Special uses on parcels having a minimum area of 21,000 square feet consisting of private golf, swimming, tennis and similar clubs.

If the Planning Commission adopts the applicant's request for master plan amendments to the Rural Residential land use designation, the applicant's requested zone changes, contained in the concurrent zone change application, would become consistent with the County's Comprehensive Master Plan. If the Planning Commission does not adopt the requested master plan amendments, the applicant's requested zone changes will not be consistent with the County's Comprehensive Master Plan.

Guidance for Reviewing and Granting a Master Plan Amendment

The Lyon County Comprehensive Master Plan, County-wide Component, Chapter 11, Implementation, provides the following guidance for reviewing and granting a master plan amendment:

The public and the County may initiate Plan Amendments in accordance with the provisions of Lyon County Code. All Plan Amendments shall be considered by the Planning Commission and Board of County Commissioners pursuant to their respective powers. Based on its consideration of the recommendations from staff, advisory councils, boards and commissions, and evidence from public hearings, the Planning Commission could then adopt the Plan Amendment (with or without further revisions) or deny the Amendment. Any action on a Plan Amendment by the Planning Commission would be followed by County Commissioners action including, if applicable, its approval of the Plan Amendment. When considering a plan amendment, the County should consider whether:

1. *The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;*
2. *The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;*
3. *The proposed amendment will have no major negative impacts on transportation, services, and facilities;*
4. *The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;*
5. *Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and*
6. *The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.*

Requirements for Granting a Master Plan Amendment:

Chapter 10.12.09(F) of the Lyon County Code requires that:

When making an approval, modification or denial of an amendment to the Master Plan land use map or text, the Commission and the Board shall, at a minimum, make one of the following findings of fact:

A. *Consistency with the Master Plan.*

1. *Approval: The applicant has demonstrated that the amendment is in substantial compliance with and promotes the Master Plan goals, objectives and actions.*
2. *Denial: The proposed amendment is not in substantial compliance with, nor does it promote the Master Plan goals, objectives and actions.*

B. *Compatible Land Uses.*

1. *Approval: The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses.*
2. *Denial: The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land uses.*

C. *Response to Change Conditions.*

1. *Approval: The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land.*
2. *Denial: The proposed amendment does not identify and respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.*

D. *No Adverse Affects.*

1. *Approval: The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.*
2. *Denial: The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and would adversely impact the public health, safety or welfare.*

E. *Desired Pattern of Growth.*

1. *Approval: The proposed amendment will promote the desired pattern for the orderly physical growth of the County, allows infrastructure to be extended in efficient increments and patterns, maintains relatively compact development pattems, and guides development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.*
2. *Denial: The proposed amendment does not promote the desired pattern for the orderly physical growth of the County. The proposed amendment does not allow infrastructure to be extended in efficient increments and patterns, does not maintain relatively compact development patterns, and does not guide development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.*

Summary:

A master plan amendment is the most discretionary decision that the Planning Commission and Board of Commissioners can make regarding land use. After master plan decisions, the Planning Commission's and Board of Commissioners' breadth of discretion becomes more and more constrained until there is relatively little discretion in the matter of conditional and permitted uses.

The County's Comprehensive Master Plan is a long term plan for the development of the County and its individual communities. Decisions on master plan land use designations should be made with deliberate consideration of long term needs, opportunities, community aspirations, community stability, compatibility, and community character. To be most effective, master plans should be amended infrequently when there are compelling justifications which reflect long term community goals and interests.

In short, the prime considerations the Planning Commission needs to determine are whether the proposed master plan amendments:

- ✓ Are needed,
- ✓ Are compatible with the area and Comprehensive Master Plan,
- ✓ Will have no major negative impacts,
- ✓ Will have minimal effect on and will be compatible with services,
- ✓ Will promote the public welfare, and
- ✓ Are consistent with the Comprehensive Master Plan goals and policies.

Staff Recommendation:

Staff would generally recommend that the most appropriate process for making a land use designation decision would be as part of the preparation of a Community Plan for Silver City as envisioned in the Comprehensive Master Plan. However, the Comprehensive Master Plan and County Code provide a process for the master plan amendment now before the County.

Staff recommends denial of the requested master plan amendments based on the guidance provided by the Comprehensive Master Plan, County-wide Component, including the adopted Land Use Plan, the majority of applicable goals, policies and strategies, Silver City's unique and historic character, and the County's lengthy, consistent master plan record of land use planning for Silver City.

Alternative Findings and Motions:

The alternative motions suggested below are offered for Planning Commission consideration.

Alternative for Denial:

If the Commission determines that the request for a Master Plan Amendment should be denied, the Commission must make findings supporting a denial. The Planning Commission may wish to consider a motion similar to the following:

The Lyon County Planning Commission finds that:

A. The proposed amendment is not in substantial compliance with, nor promotes the Master Plan goals, objectives and actions in that it is not in keeping with the majority of applicable guiding principles, goals, policies, strategies and community description contained in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

B. The proposed amendment would result in land uses which are incompatible with the actual and planned adjacent land uses, and does not reflect a logical change in land use in that the amendment would change the planned character and intensity of residential development and enables the potential development of a land use incompatible with the actual and planned adjacent and predominant residential land uses.

C. The proposed amendment fails to identify or respond to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment does not represent a more desirable utilization of land.

D. The proposed amendment will adversely affect the implementation of the Master Plan goals, objectives and actions, and will adversely impact the public health, safety or welfare.

E. The proposed amendment does not promote the desired pattern for the orderly physical growth of the County as set forth for the Silver City community in the 2010 Lyon County Comprehensive Master Plan, County-wide Component.

F. The existing Comprehensive Master Plan and/or any related element thereof is not in need of the proposed amendment.

G. The proposed amendment is not compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan, particularly those related to Silver City.

H. The proposed amendment will have effects on service provision, including adequacy or availability of facilities and services, and is not compatible with existing and planned service provision.

I. Deviation from the strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

J. The proposed Plan amendment will not promote the public welfare and will be inconsistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.

Based on the above findings, the Lyon County Planning Commission denies the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050).

Alternative for Approval:

If the Commission desires to approve the requested Master Plan amendment from Low Density Residential to Commercial, the Commission must make findings supporting the proposed expansion of the Commercial Master Plan Classification on the subject parcels. The Commission may wish to consider a motion similar to the following:

The Lyon County Planning Commission finds that:

A. The applicant has demonstrated that the amendment is in substantial compliance with and promotes the Master Plan goals, objectives and actions in that it is in keeping with applicable guiding principles, goals, policies, strategies.

B. The proposed amendment is compatible with the actual and planned adjacent land uses, and reflects a logical change in land uses in that the amendment would decrease the intensity of residential development.

C. The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the Master Plan was adopted by the Board, and the requested amendment represents a more desirable utilization of land.

D. The proposed amendment will not adversely affect the implementation of the Master Plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.

E. The proposed amendment will promote the desired pattern for the orderly physical growth of the County, maintains relatively compact development patterns, and guides development of the County based on the least amount of natural resource impairment and the efficient expenditure of funds for public services.

F. The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan.

G. The proposed amendment will have no major negative impacts on transportation, services, and facilities.

H. The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision.

I. Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan.

Based on the aforementioned findings, the Lyon County Planning Commission approves the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050).

Alternative for Continuance:

If the Commission determines that additional information, discussion and public review are necessary for a more thorough review of the proposed Master Plan Amendment, the Commission should make appropriate findings and move to **continue** the Public Hearing with a specific time period for the applicant to provide additional specific information necessary for the analysis of the request. The Planning Commission may wish to consider a motion similar to the following:

The Lyon County Planning Commission finds that:

A. Additional information, discussion and public review are necessary for a more thorough review of the proposed Master Plan Amendment.

Based on the above findings and with the applicant's concurrence, the Lyon County Planning Commission continues the hearing for the Master Plan Amendments from Resource to Rural Residential on 12.29 acres and from Suburban Residential to Rural Residential on 42.57 acres for Comstock Mining, Inc. as set forth in the written and graphic information contained in the revised master plan amendment application and supporting documents, received by the Lyon County Planning Department on October 18, 2013 (APNs 08-091-02 and 08-091-05) (PLZ-13-0050), for __ days.

Attachment 1

Lyon County Comprehensive Master Plan, County-wide Component
Excerpts and Relevant Information

Chapter 1: Introduction

Plan Use

The Comprehensive Master Plan will be used as a decision-making tool by residents, landowners, developers, the County Planning Department, Planning Commission, and Board of Commissioners. The Plan does not change existing zoning or solve all of the county's problems; instead, it serves as a handbook for implementing the county vision. It specifies policy guidelines that respect the individual, reinforce community values, support healthy functioning communities, and advocate quality of life.

The Plan is a catalyst and guide to the establishment, or revision, of mechanisms to implement the selected goals and policies. These mechanisms include development codes and other planning tools such as zoning and subdivision codes, zoning maps, capital improvements programs, Community Plans for the eight identified communities within the County, and other specific "action items."

About Master Plans Generally

The Comprehensive Master Plan is an official public document adopted by the Lyon County Planning Commission and Board of Commissioners. The Plan is a general, long-range, policy and implementation guide for elected and appointed officials in making choices concerning the overall needs, growth and development of the county and its communities. It outlines Lyon County's vision and goals for the future.

The Plan is comprehensive because the elements cover a broad range of development and growth issues which can be influenced significantly by the County Planning Commission, Board of Commissioners and other governing authorities and agencies. The Plan is general because the recommendations are broad. The plan is long-range because consideration is given to the problems and opportunities which may arise over the next twenty or so years. The Plan is dynamic because there will be amendments to adapt to new situations and meet new challenges over time.

The written guiding principles, goals, policies and strategies, in combination with the Land Use Map, provide guidance for decisions affecting growth, the use and development of land, preservation of open space and the expansion of public facilities and services. The Comprehensive Master Plan written policy recommendations and maps should be used together when making decisions. It is also recognized that this document should be reviewed annually at a public hearing and revised as needed to reflect the availability of new implementation tools, changes in State and Federal law, changes in funding sources, the results of monitoring the effectiveness of existing policies and the impacts of past decisions, as well to reflect changes in the community's vision for the future.

How Does Zoning Relate to The Master Plan?

County zoning regulations consist of both a zoning map and a written ordinance that divides the county into zoning districts, including various residential, commercial, and industrial districts. The zoning regulations describe what type of land use and specific activities are permitted in each district, and also regulate how buildings, signs, parking, and other construction may be placed on a lot. The zoning regulations also provide procedures for re-zoning and other planning applications.

The zoning map and zoning regulations provide specific requirements for development of property, while the Master Plan provides a guide for the future development of the property. When changing the zoning of a particular property, it must be consistent with the Master Plan Land Use Map. That is to say, the Land Use Map contained in this Master Plan should guide future re-zoning decisions.

Consistency Between the Master Plan And Zoning

Master plan land use category designations shown on a Land Use Map are not the same as zoning. The adoption of a master plan and Land Use Map does not change a property's zoning.

Master plans are advisory in nature, serving to guide the community at a policy level and to guide future development decisions. Zoning is regulatory in nature, generally serving to implement the master plan and specify permitted uses, allowed densities and development standards.

In many instances, land use category designations on a Land Use Map may not directly correspond to a property's underlying zoning. Unless the County chooses to pro-actively re-zone properties that are not consistent with the Land Use Map, properties retain their underlying zoning. If a property owner desires to change zoning to be consistent with the Land Use Map, the property owner will be required to request re-zoning of the property as part of the development process to bring it into compliance with the Master Plan. There is no requirement in Nevada State law requiring that the zoning of properties be brought into compliance with the Master Plan and its Land Use Map.

Underlying zoning was reviewed and considered throughout the development of this Master Plan to ensure that consistency between planned land uses and zoning could be maintained to the maximum extent feasible. In some instances, land use designations do differ, however, as was necessary to meet the broader objectives of the Master Plan. Re-zoning may be required should the properties develop or redevelop in the future. It should be noted that in many of the cases where inconsistencies do exist, planned land use categories (e.g., mixed-use land use designations) and zoning that would subsequently be required, would allow a much broader range of uses than are allowed today.

Process for Plan Development and Adoption

This County-wide Component of the Comprehensive Master Plan is the culmination of four years of dialogue and analysis that has included a wide array of participants including the Board of Commissioners, the Planning Commission, community advisory councils, County staff and the community at large. A series of community meetings, open house events and workshops were held throughout the county to obtain citizen input and recommendations, including eight meetings on issues identification in March 2007, eight community meetings and 2 joint Planning Commission/Board of Commissioners sessions on

Chapter 2: Vision and Guiding Principals

The Vision, Guiding Principles, and Goals, Policies and Strategies of the Lyon County Comprehensive Master Plan will guide the County in its decisions, and as new development or changes occur, help to maintain and enhance the qualities that make Lyon County a great place in which to live, work, and play.

- *The Lyon County Vision Statement sets out a desired picture of the future of Lyon County. It represents a future toward which the County will strive.*

- *Guiding Principles represent the broad values and ideals for the County.*
- *Goals are statements about what the County aims to achieve over the life of the Comprehensive Plan. Goals are intended to give decision-makers and citizens a clear idea about the County's intended direction.*
- *Policies provide ongoing guidance for elected and appointed officials, staff, and administrators as these community leaders make decisions about specific development, programs, and capital investments in the County.*
- *Strategies list detailed actions and methods for implementing the plan. We have listed a range of possible strategies to be considered. Some strategies will be possible to accomplish in the near term, while others will be on-going, or will take place later in the life of the Comprehensive Master Plan.*

How Did We Get Here?

The Vision, Guiding Principles, Goals, Policies, and Strategies in this document are based on public comments gathered in a series of open houses and workshops held in communities throughout Lyon County, in meetings with community advisory councils, and on comments and direction provided by the Planning Commission and Board of County Commissioners. Feedback from these meetings was first distilled into a draft Vision, Guiding Principles, and Goals document that was reviewed by the Planning Board and Board of County Commissioners in September, 2007. Subsequently, comments and concerns and detailed policy direction, in the form of policies and strategies, have been addressed in numerous drafts and updates during 2008, 2009 and 2010.

Overall Vision for Lyon County

A Vision statement is an overall image of what the community wants to be and how it wants to look in the future. It describes the kind of community that residents, business owners, and leaders want their county to become. The Vision for Lyon County describes the community's collective values and aspirations and creates an image of the County based upon what it is today and what residents would like it to be in the future. The Vision is founded on the premise that the health of the County and the quality of life of its residents depend on the balancing of multiple factors, including environmental, economic and community/social considerations. These components are interrelated and essential to the continued health and sustainability of the community. Addressing these factors in a comprehensive manner provides a balanced and flexible basis for formulating the County's Comprehensive Master Plan.

Lyon County Vision

Lyon County will guide growth and change to meet the needs of current and future residents, building on its heritage, and exploring new and innovative techniques to address challenges. The diverse communities within Lyon County will work together to meet shared goals while respecting and promoting the individual character of each community. Residents will enjoy an excellent quality of life characterized by: diverse lifestyle opportunities, quality housing choices, plenty of clean air and water, access to open lands, recreation and wildlife, outstanding public schools, an efficient transportation network, a safe community, and a range of employment and occupational choices. Our rural character, and agricultural and mining heritage, will continue to be a strong part of Lyon County's identity.

Guiding Principals

Eight broad "Guiding Principles" have been identified as the basic beliefs behind the overall County Vision and this Comprehensive Master Plan. The Principles reflect the community's vision at a broad policy level and describe the community's aspirations; highlighting areas where the County has opportunities to build on its strengths—as well as those areas where a change in policy direction is needed to improve a condition that is not consistent with the Vision.

Chapter 3: Land Use, Economy and Growth

Land use patterns in Lyon County have not only been shaped by County regulations and development decisions, but also by physical factors such as topography and water availability. Throughout most of its history, Lyon County has been characterized by a number of compact communities and rural settlements spread over a landscape of valleys and mountains, farm/ranch lands, rivers, and extensive undisturbed areas. For years, the County has been noted for its rural character and image, its historical heritage, and its slow-paced rural way of life.

The rapid growth in the region has brought changes to the County: changes welcomed by many, lamented by others, but of concern to all. Inevitably, in such a process, Lyon County and its communities have been affected by development, increased traffic volumes, encroachment into floodplains, services stretched to meet needs, and a declining agricultural land base.

Future development will be influenced by factors such as population trends, employment growth, and water availability. Lyon County desires to be able to provide employment opportunities for its residents as well as a diverse choice of housing types, commercial services, recreational opportunities and community character.

The County's purpose is not to restrict future growth but to direct it in a way that minimizes negative impacts while offering residents a range of choices and promoting job creation. The County seeks to successfully accommodate growth and consciously decide how development should occur to achieve a more efficient pattern for future development. Lyon County intends to ensure the county's long-term viability by using methods to guide new development to locations where adequate public infrastructure such as roads, water, sewer, schools, and related facilities, is available or can be provided most efficiently and cost effectively, promoting infill development, and providing incentives for quality development.

Lyon County sees more growth and development occurring in and around the existing community cores (its towns and established settlement areas) with more focus on balancing residential, employment, and retail land uses. Less growth is desired in the remote unincorporated areas (outside of community cores). The County also desires to continue agricultural production and the retention of agricultural lands, but allow residential development especially in alternative rural patterns such as clustering, through incentives and density transfer mechanisms. Incentives and density transfer mechanisms are also desired to promote alternative development patterns and the conservation of areas of environmental significance or hazardous features.

Guiding Principal: ***Lyon County will grow in an orderly fashion concentrating development within designated community cores, maintaining the diversity characterized by its settlement patterns and landscapes, providing jobs as well as housing, and sustaining quality public services and facilities.***

Goal LU 1: Orderly Growth Patterns: Direct and manage development in the county so that it is orderly and fiscally responsible.

Policy LU 1.1: Follow Development Patterns as Established on Countywide Land Use Plan or a More Specific Community Plan

Future development of Lyon County will be consistent with the Countywide Land Use Plan or a more specific Community Plan, if one has been adopted. The Countywide Land Use Plan will guide future growth and development by defining appropriate land use types, densities, and character in different locations including cities and towns, suburbanizing areas, rural areas, farm and ranch land, hillsides, and public lands. The county's future urban and suburban growth will develop largely around existing communities.

Strategies:

- *Use the Countywide Land Use Plan and adopted Community Plans as a guide for decision-making on development approvals.*
- *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

Policy LU 1.4: Locate industrial development as designated on County-wide Land Use Plan or determined by criteria.

Industrial uses, including extractive industries, will occur in areas that are designated on the County-wide Land Use Plan. New industrial uses should only be located in areas that do not adversely impact existing residential settlements.

Strategies:

- *Consider developing a set of siting criteria to be used in determining the suitability of sites for industrial and extraction uses.*
- *Establish performance standards in areas of noise, odor, dust, traffic generation, etc.*

Goal LU 3: Diverse Economy: The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economic Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near to population centers.

The county will support economic diversification throughout the county to more fully utilize the broad range of skills, knowledge and abilities inherent in our workforce.

Policy LU 3.2: Business and Industry Locations that are Consistent with Future Land Use Plan

Encourage commercial and industrial development to locate in designated locations shown on the Future Land Use Plan, where public facilities exist or are planned to accommodate such development cost-effectively. The County-wide Land Use Plan will reserve adequate lands for jobs and industry.

Strategies:

- *Use the Countywide Land Use plan and Community Plans as a guide to determine appropriate locations for business and industry.*

Goal LU 5: Encourage Resource Sensitive Growth: Development will be designed to reduce energy use and minimize environmental impacts.

Overall Land Use Plan Approach – Community Core Concept

Early in the process of developing this Master Plan and based on input from the community and county leadership, an overall approach for future growth and development in the county was identified and is referred to as the Community Core Concept. Under this approach, Lyon County would see more growth and development occurring in and around the existing community cores (its towns and established settlement areas) with more focus on balancing residential, employment, and retail land uses. The concept encourages less growth in the remote unincorporated areas (outside of community cores). The agricultural areas around Smith and Mason Valleys would primarily continue for agricultural production, but would allow residential development especially in alternative rural patterns such as clustering, through such mechanisms as transfer of development rights and non-contiguous density transfers. In addition, the concept promotes alternative development and conservation approaches for areas of environmental significance or hazardous features, such as steep slopes, wetlands, or floodplains.

Community Description

Chapter 3, Land Use, states that "community descriptions should serve as a general guide when considering the implications of the Master Plan County-wide Component on individual communities." The description of Silver City is as follows:

Silver City

Silver City, situated in lower Gold Canyon, represents the first settlement in Nevada based on mining activity. The town is located about 4 miles northwest of Dayton, the site of Nevada's first gold discovery, and 3 miles south of Virginia City along Highways 341 and 342. Approximately 200 home-sites and 100 houses, along with some historic commercial and industrial buildings, comprise the historic town site which is an integral part of the Comstock Historic District – a National Landmark Historic District.

Over the past 30 years residential infill and limited commercial endeavors have occurred on existing historic properties in Silver City. The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims. The existing water service infrastructure dates to the late nineteenth century, when a water system to supply the mining operations and settlement demands of the Comstock communities was constructed. This aging water system and a lack of a sewer system limit growth in Silver City. Additionally, title issues due to the historic nature of the town site and complications based in local zoning and building codes, have limited development.

Silver City has a strong sense of identity and prides itself on its cohesive small town atmosphere. The community treasures its historic buildings and landscape features, as evidenced by the preservation and rehabilitation of many original structures. New construction is regulated for exterior architectural features by the Comstock Historic District Commission.

Character Districts

Character District Map Description

"Character" can generally be thought of as the look or feel of a place, including: the built environment, land use patterns, street patterns, open lands, and general density or

intensity and type of uses. The purpose of the Character Districts Map is to help define, maintain, or enhance desired character of development or intensity in particular areas of the county.

Five Character Districts

Character Districts provide guidance to the type, intensity, density, and general development standards for uses intended to occur within their boundaries. They control and modify the land use designations to achieve the type and character of development desired in communities. These Districts are defined areas within communities. A community may have one or more Character Districts within its boundary. The following character districts are described in the sections that follow:

- *Rural districts,*
- *Suburbanizing districts,*
- *Historic districts,*
- *Future Plan Areas, and*
- *General County.*

Rural Districts

Rural Districts include those areas that are predominately low density residential development with limited neighborhood commercial uses. They may or may not have agricultural land uses or grazing lands. Improvement standards will reflect the "rural" character of the area. Rural districts are not likely to have municipal water and sewer. Roads are likely to have dirt shoulders, some equestrian paths as well as bike facilities within road rights-of-way.

Suburbanizing Districts

Suburbanizing Districts include those areas that are predominately medium to high density residential development with regional/community commercial, neighborhood, industrial and employment uses. Improvement standards will reflect the "suburban" character of these areas and will include requirements for municipal water and sewer, roadway design appropriate to the planned land uses, landscaping of public areas, and pedestrian facilities (sidewalks and paths). Roads are likely to have some bike and pedestrian facilities within road rights-of-way or separate paths.

Historic Districts

Historic Districts include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote "historic" architectural design elements. Future historic districts could also be designated where the intent is to promote new compatible development that is in keeping with the "historic" development patterns and architectural design elements to create more vitality. Tools might include mixed-use, design guidelines and conservation easements.

General County

Lands outside the boundaries of defined community boundaries are classified as General County. These lands are rural or resource lands or public lands, and are intended to remain largely undeveloped or with very low intensity development within the Master Plan's planning horizon. The development standards applicable to General County lands are the same as those for Rural Character Districts.

County-wide Land Use Plan Map(s)

The intent of the County-Wide Land Use Plan Map(s) is to show the generalized land use patterns for the entire County and the land use designations for lands outside of defined communities. This Plan map(s) provides an overall view of the County's desired development pattern. The county-wide categories, which are very general and the broadest categories to be mapped, encompass the more specific community plan land use designations, as shown in the land use categories table in this section. The County-wide Land Use Plan map(s) provides broad direction for the land uses intended within communities and the County. (Note: The Land Use Plan designations are shown in the blue column in the master table beginning on page 3.28.) Until a Community Plan is adopted, the County-wide Land Use Plan will be the guide.

Land Use Categories shown are generally consistent with Lyon County zoning and do not remove or vastly change owner entitlements to properties. However, some categories suggest a slight refocus of future development patterns to better achieve Comprehensive Plan Goals. For example, the intent for lands designated as "Highway Corridor Mixed-Use" is to gradually transition away from the strip commercial pattern along the county's highways to become a more cohesive mix of uses with offices, residential, and commercial that is focused in centers. Likewise, some of the lands in Smith Valley that are zoned for Rural Residential are shown as Agriculture, because the intent is that they are part of a larger agricultural area where options for landowners to conserve lands, do clustered development, or transfer density to more concentrated rural development areas is desirable. The Agriculture designation does not imply a change in potential development units from current zoning.

Proposals for development must be consistent with the categories and centers shown on the County-wide Land Use Plan or applicable Community Land Use Plan, or be consistent with locational criteria for centers described later in this chapter. The plan amendment procedures section of this plan describes what developers must do when a proposal is not consistent with the land uses defined herein.

County-wide Land Use Categories Table [Excerpts]

Countywide Land Use Category	Community Plan Land Use Categories	Density Range	Description/ Characteristics and Examples of Uses
AGRICULTURE AND RESOURCE LANDS			
Resource	✓ Resource (private)	1 du per 40 acres or one-sixteenth of a section as described by a government land office survey, or per existing parcel if less than 40 acres or one-sixteenth of a section	Characteristics: Private property, generally inholdings or located in very remote or rural parts of the County (outside of community boundaries). Within communities may be private property used for resource uses. Examples of uses: Open range and dispersed grazing, mining and large scale energy, general rural residential developments at very low densities. Within communities uses such as mining, borrow pit or gravel pit operations, energy projects; may include limited employment/industrial uses complementary to and compatible with surrounding uses.
RESIDENTIAL			
Rural Residential	✓ General Rural ✓ Rural Residential	1 du per 20 acres to 1 du per 5 acres	Characteristics: Typically in rural districts and on the edge of suburbanizing areas. Lot sizes vary. Typically not served by

Countywide Land Use Category	Community Plan Land Use Categories	Density Range	Description/ Characteristics and Examples of Uses
			municipal utilities. Examples of uses: Single-family residences, ranches, and "farmettes".
Suburban Residential	✓ Medium Density Residential ✓ High Density Residential	1 du per acre to 18 du per acre	Characteristics: Typically in suburbanizing areas. Neighborhoods should contain a mix of housing types and lot sizes in a neighborhood setting with a recognizable center (with a park, school, or other public use) and connected, useable open space within the neighborhood. Will be served by municipal utilities. High density residential must be located near major roads and near commercial uses. Examples of uses: Single-family residences, duplexes and attached housing.
	✓ Residential Mixed-Use	3 du per acre to 18 du per acre.	Characteristics: This category is designed to create opportunities for higher-density neighborhoods in a suburban setting to promote neighborhoods with a mix of types and intensities in close proximity to commercial and commercial mixed-use districts. Examples of uses: A range of medium to high-density residential housing types with open space, parks, schools, and other public uses.

Chapter 5: Community Character and Design

Lyon County features a rich mosaic of communities, residents, and physical attributes. Residents and property owners have expressed considerable interest in maintaining their many diverse communities and improving community aesthetics. A community's character is defined by its design, its viewsheds, its gathering places, and its historic and cultural resources, as well as by environmental characteristics such as natural quiet and dark night skies. Maintaining this character is important—not only for promoting economic development and diversification, but also for protecting our living spaces, quality of life and open lands. In addition, preserving rural character is a core value of a majority of Lyon County residents.

This Chapter describes the factors that combine to create community character in our county. It also discusses the Guiding Principle, goals, policies and other mechanisms that help us to protect the community characteristics we value. This Community Character and Design Chapter seeks to define, preserve, and enhance the quality of the places where we live, work, and enjoy our leisure time. Its goals include protecting the unique characteristics of our communities.

Each community has distinct features that contribute to its physical character. Many of these features reflect common values for preserving a community's rural character, appearance, natural resources, open spaces, recreation areas, scenic views, vegetation, historic architecture, development patterns, and activity centers. These features promote quality of life and economic well-being. Preserving them should not prohibit

development; however, the County needs to consider them to ensure that new development fits into the existing community fabric.

Guiding Principal: ***Lyon County will respect and promote the distinct character and heritage of its communities, strive to retain its rural and agricultural culture and promote cohesive and high quality development to improve the overall image and function of its communities.***

Goal CC 1: Quality Design: New development in Lyon County will improve the appearance and function of our communities.

Policy CC 1.1: Quality New Development

New development in the communities of Lyon County should create inviting places for locals and visitors to live, shop, eat, visit, and do business.

Policy CC 1.3: Design Tailored to Communities

New development in Lyon County should address and respect the unique character of communities within the county.

Goal CC 3: Heritage: Historic places, structures, and landmarks in the county will be preserved and will provide an opportunity for resident and visitors to learn about and celebrate our heritage.

Policy CC 3.1: Maintain and Restore Historic Resources

Lyon County will encourage and support efforts to preserve and restore registered historic structures, and landmarks, and districts.

Strategies:

- *Revise zoning to encourage historic use and development patterns including mixed-use structures and districts.*
- *Support organizations in the county that apply for historic designation or grant funding for inventory or rehabilitation of historic structures, efforts to identify receiving sites for historic structures that cannot be maintained in their original locations, and similar historic preservation purposes and efforts.*
- *Work with knowledgeable organizations and individuals to ensure that building and development standards allow for adaptive reuse of valued historic structures, including those without official historic designation.*
- *Within historic districts, promote historic design elements, features and context, and prohibit building design that compromises the integrity of the historic community character.*
- *Within historic districts, limit new land uses that would pose a risk to historic structures or the historic character of the district.*
- *Promote the preservation of historic landscape features to maintain historic settings and the integrity of historic resources within historic districts.*

Chapter 6: Natural Resources and Environment

Guiding Principal: ***The proximity of the natural environment will continue to be an important part of life in Lyon County, where residents will enjoy sustainable supplies of clean water for drinking and agriculture; clean air; wildlife; access to rivers, lakes***

and public lands; scenic views, and dark night skies. Lyon County will work to reduce or mitigate natural hazards such as wildfire, flooding, earthquakes and dust.

Goal NR 3: Adequate, Clean Water: Adequate water supply will be available for current and future needs in Lyon County, including safe, healthy drinking water for all Lyon County residents.

Policy NR 3.1: Water Supply and Quality

Recognizing that clean water is a precious resource necessary to maintain our health, economy, and quality of life, Lyon County will protect the water supply and encourage efficient use of water resources.

Strategies:

- *Maintain and expand the piped municipal water and sewer systems within community core and urbanizing areas of the County as designated on the Future Land Use map.*

Goal NR 9: Mining and Resource Extraction: Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR 9.1: Guide Development

Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Strategies:

- *Consider the location of known resources when reviewing new development.*

Policy NR 9.3: Mitigate Operations

To the extent possible, Lyon County will require resource extraction projects to mitigate adverse operational impacts on such items as public infrastructure, traffic, agricultural operations, residential and commercial land uses, the visual character of the area, etc.

Strategies:

- *Promote "limited impact"/environmentally safe resource extraction practices to protect the natural environment, enhance the quality of life of residents, and limit impacts on present and future public facilities and services.*

Policy NR 9.4: Mitigate long-term impacts

To the extent possible, Lyon County will promote long-term reclamation and rehabilitation of extractive sites.

Strategies:

- *Require resource extraction projects to submit detailed long-term reclamation and reuse plans and to provide adequate funding mechanisms to implement plans*

Chapter 8: Public Facilities and Services

Lyon County desires to have adequate public facilities and services to support desirable land use and development patterns, to contribute to the quality of life and to encourage economic development. Ensuring that the provision of community facilities and services is phased with the demand or need is a major component of managing the future development and growth of communities.

Public facilities and services are those minimum facilities and services the County and other entities provide for the common good. Many entities provide community facilities and services — the County, state and federal agencies, special districts, and the private sector. Maintaining a high degree of coordination between these providers helps ensure that adequate facilities are available and improvements keep pace with development.

Generally, public facilities include land, buildings, equipment and whole systems of activity provided by the County on the behalf of the public. This Chapter addresses public facilities and services related to water and sewer systems, public safety, schools and libraries. The goals and policies are designed to ensure that we plan for adequate services and facilities, either during the land development process or through appropriate government programs.

Guiding Principal: ***Lyon County residents will have access to excellent schools and libraries, and effective response from well-equipped emergency services. The timing and location of future development will be coordinated with improvements to services and infrastructure to provide cost-effective services to existing and future residents.***

Goal FS 1: Provision of Services: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

Strategies:

- *Develop a Capital Improvements Plan and budget for Lyon County utility system expansion that is consistent with the Land Use Map in this Plan.*
- *Revise the County's development regulations in order to create incentives to build according to the Land Use map in this Plan.*
- *Require the developer to pay the full cost of utility system extension, in order to discourage inefficient utility system development, and provide for reimbursement mechanisms where appropriate.*

Chapter 10: Communities and Planning

Lyon County consists of several distinct and diverse communities. The diversity of these communities is reflected in their different growth patterns, character and personality. It is essential that the distinctive character of each identified community is established, maintained, and enhanced.

The Comprehensive Master Plan must address issues that are unique to each community, establish policies that apply strictly to the affected community and deal with issues that are special concerns to that community. The successful implementation of this Comprehensive Master Plan will require that community differences be respected and integrated into the Plan.

Guiding Principal: ***Through its Community Planning process, Lyon County will address individual community needs and desires while implementing county-wide policies and actions.***

Goal CP 1: Support Diversity: Lyon County will celebrate and support the diversity of character among communities in the county.

Policy CP 1.1: Recognize Diversity of Communities

Lyon County planning efforts and regulations will consider the unique aspects of communities in the county, and will allow for variation and exceptions to address key aspects of their diversity.

Goal CP 3: Community Plans: Lyon County will support community-based planning efforts that elaborate community-specific goals and that are developed with strong public consensus.

Policy CP 3.1: Support Community Planning Efforts

Lyon County will encourage and offer guidance for community-based planning efforts, with the goal of ensuring that such an effort will result in a document that identifies the unique needs and values of the community in a manner that can be integrated with county-wide planning, regulations, and policies.

Goal CP 4: Advisory Councils: County staff will confer with the applicable Community Advisory Council when developing programs or policies to address community-specific issues.

Policy CP 4.1: Confer with Community Advisory Councils

When developing a program or policy intended to address a community-specific issue, such as those listed in this Comprehensive Master Plan and in adopted community plans, county staff will confer with the applicable Community Advisory Council before finalizing a decision.

Community Plans

Community Plans comprise the second major component of the Lyon County Comprehensive Master Plan. These plans are essential in carrying out one of the Comprehensive Master Plan's fundamental goals – to recognize and promote the diversity and individual characters of the County's various communities.

Based on the framework established in the County-wide Component, the Community Plans address issues that are unique to each community. The Community Plans provide the specific vision, goals, policies, strategies and land use pattern for each identified community as determined through a community planning process. The Plans and maps contain the detailed information about each community and the views of the community's desired development for the future. They are intended to ensure that the distinctive character of each community is established, maintained, and enhanced.

Policies are established in the Community Plan that apply strictly to the defined community and deal with issues that are of special concern to that community. These may include policies that contain more detailed requirements for land use, development,

or public improvements than are identified in the chapters of the County-wide Component. The Community Plans may also contain detailed implementation measures. These action measures can address issues such as design standards and special use provisions. The goals and policies contained in the Master Plan's County-wide Component also apply to the areas covered by a Community Plan.

Community Plans are designated for the existing, established communities identified during development of the Comprehensive Master Plan. The County will work with the communities to complete Community Plans, including Community Land Use Plans, in each community.

Chapter 11: Implementation

Plan Amendment Process

For the Comprehensive Plan to function over time, Lyon County must be able to periodically review and update it to respond to significant trends or changes in the economic, physical, social, or political conditions.

Plan Amendment Process and Procedures

The public and the County may initiate Plan Amendments in accordance with the provisions of Lyon County Code. All Plan Amendments shall be considered by the Planning Commission and Board of County Commissioners pursuant to their respective powers. Based on its consideration of the recommendations from staff, advisory councils, boards and commissions, and evidence from public hearings, the Planning Commission could then adopt the Plan Amendment (with or without further revisions) or deny the Amendment. Any action on a Plan Amendment by the Planning Commission would be followed by County Commissioners action including, if applicable, its approval of the Plan Amendment. When considering a plan amendment, the County should consider whether:

1. *The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;*
2. *The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;*
3. *The proposed amendment will have no major negative impacts on transportation, services, and facilities;*
4. *The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;*
5. *Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and*
6. *The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.*

Summary of Priority Actions

To focus the County's efforts on actions that should be taken as soon as possible to ensure that future development decisions are consistent with the goals and policies

contained in this Plan and with the designations on the Land Use Map. Several priority actions are highlighted below. These are already underway or are anticipated to be underway shortly following the adoption of the Plan. The Priority Actions should be reviewed and updated periodically to reflect the County's accomplishments, available resources, and potential shifts in policy direction.

The priority actions listed below are recommended.

Prepare Community Plans

The implementation of the Comprehensive Master Plan framework requires the creation of Community Plans for each of the identified communities. These Plans are to be prepared through a community planning process directed by the County Planning Department. The Community Plans are intended to show the specific land use pattern for each identified community. The Plans will provide detailed views of the community's desired development pattern for the future.

Attachment 2

Past Lyon County Master Plans
Excerpts and Relevant Information

1971 Lyon County General Plan

On the 1971 General Plan Map, Silver City is shown as an Urbanizing Area and the Mining Industry land use is not depicted in the Silver City area.

1990 Lyon County Master Plan – Silver City

Goal #1: To maintain, promote, and secure the historic character of the community and to prevent the destruction or degradation of the historic character.

2002 West Central Lyon County Final Land Use Plan – Silver City Master Plan Goals

Goal 1: To recognize, enhance, and protect the unique character of Silver City.
Actions:

- To maintain that scale and primary residential character by retaining the existing Master Plan designation and zoning categories.

Goal 8: To limit any earth disturbance or above ground mining activities that create visual scaring or that disrupt the fabric of the community.
Actions:

- Lyon County shall establish a land use policy that minimizes the impact of mining and other significant earth disturbing activities that degrade quality of life.

Goal 10: To maintain the primary focus of the community as residential.
Actions:

- To urge the Board of Commissioners to carefully consider all zone changes or Master Plan amendments that would substantially alter the character and identity of Silver City.

PLZ-13-0051

Comstock Mining, Inc.

Zone Change

Staff Report

For

November 12, 2013

&

December 10, 2013

Planning Commission Hearings

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LYON COUNTY

LYON COUNTY
PLANNING DEPARTMENT

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STAFF REPORT

Lyon County Planning Commission

PLZ-13-0051 Zone Change from NR-1, Single-Family Non-Rural Residential, to RR-3, Third Rural Residential, and RR-5, Fifth Rural Residential

Meeting Date: November 12, 2013

Owners: Comstock Mining, Inc.

Applicant: Same

Area Location: Silver City

Parcel Number(s): (APNs) 08-091-02 & 08-091-05

Current Master Plan Designation: Resource and Suburban Residential

Proposed Master Plan Designation: Rural Residential

Existing Zoning: NR-1, Single-Family Non-Rural Residential (6,000 square foot minimum)

Proposed Zoning: RR-3, Third Rural Residential (5 acre minimum), and RR-5, Fifth Rural Residential (20 acre minimum)

Case Planner: Rob Loveberg

Planning Director Approval: *RGL*

Request

The applicants are requesting a change of zoning from NR-1, Single-Family Nonrural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum) and RR-5, Fifth Rural Residential (20 acre minimum). The applicant is requesting to change 42.57 acres of NR-1 zoning within the Silver City town site to RR-3, and to change 44.63 acres of NR-1 zoned land outside of the town site to RR-3 and RR-5 zoning. See the enclosed applicant's revised submittal for more detailed information and the applicant's justification.

An application for a master plan amendment from Resource to Rural Residential and Suburban Residential to Rural Residential was submitted concurrently with this request. A request for a reversion to acreage involving property included in the requested zone change and master plan amendment was also submitted concurrently and has been heard by the Planning Commission.

Current and Proposed Zoning:

Zoning District	Current		Proposed	
	Acreage	Percentage	Acreage	Percentage
NR-1, Single-Family Nonrural Residential	87.2±	100%	0	0%
RR-3, Third Rural Residential	0	0%	54.86±	62.91%
RR-5, Fifth Rural Residential	0	0%	32.34±	37.09%
TOTAL	87.2±	100%	87.2±	100%

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LYON COUNTY

Background:

The applicant submitted requests for a master plan amendment, a zone change and a reversion to acreage in August 2013 in accordance with the requirements of Title 10.12.09 of the Lyon County Code. Subsequent to the submittal, Lyon County Planning staff discovered that certain zoning information provided to the applicant was incorrect. The applicant revised the requests for the master plan amendment, zone change and reversion to acreage to reflect the corrected information. This report is based on the revised application information.

Chapter 10.12.07C of the Lyon County Code requires the Planning Commission to consider a request for a zone change within 45 days after the application is filed. In its application materials, the applicant has acknowledged that the zone change request would not be considered within the 45 day period since the master plan amendment and zone change applications were submitted simultaneously and Lyon County Code request that the master Plan amendment be heard at the November Planning Commission meeting.

The Lyon County Master Plan, County-wide Component, land use designation "Rural Residential" is consistent with the following Lyon County residential zoning districts: RR-3, Third Rural Residential District (5 acre minimum), RR-4, Fourth Rural Residential District (10 acre minimum) and RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Resource" land use designation is consistent with the following Lyon County zoning district: RR-5, Fifth Rural Residential (20 acre minimum) land uses. The "Suburban Residential" land use designation is consistent with the following Lyon County zoning districts: E-1, First Estates Residential (12,000 square foot minimum), E-2, Second Estates Residential (one-half acre minimum), NR-1, Single-Family Nonrural Residential (6,000 square foot minimum), NR-2, Multiple Residence Nonrural Residential (8,000 square foot minimum) and NR-3, Single-Family Nonrural Residential (9,000 square foot minimum).

Property Information:

Location:

The parcels are located westerly of State Route 341 and 342, in the area of the southwesterly corner of the Silver City town site.

Size:

The subject properties total approximately 87.2 acres according to the Lyon County Assessor's files.

Land Use

The subject properties are generally undeveloped, with a historic mill site and buildings on a portion of the property near and visible from State Route 341 and 342 as well as a large portion of Silver City.

Subject Property and Surrounding Area Land Use

	Current Master Plan	*Zoning*	*Current Land Use*
Subject Property	Resource Suburban Residential	NR-1	Undeveloped and Historic Mill
North	Commercial Mixed Use Suburban Residential	M-1 NR-1	Historic Residential and Undeveloped
South	Public Lands Resource	RR-5	Undeveloped
East	Resource Suburban Residential	NR-1 RR-5	Historic Residential and Undeveloped
West	Public Lands Suburban Residential Resource	NR-1 RR-5	Historic Residential and Undeveloped

It should be noted that not all of the zoning districts listed in the above table are consistent with their respective master plan land use designations. A master plan designation is an expression of the county's long-term expectations for development within a particular area. It does not necessarily mandate that zoning be changed concurrent with the master plan designation (see Nevada Attorney General Opinion No. 84-6).

Physical and Topographic Attributes:

According to information submitted by the applicant, the subject parcels vary from 0% - 10% slopes to slopes greater than 30%. A portion of APN 08-091-05 along State Route 342 has an area of AE flood zone.

Access:

Current access to the subject properties is via State Routes 341 and 342.

Historic District:

The parcels are within the Comstock Historic District.

Public Facilities and Services:

The portion of subject properties within the Silver City town site are within the service area of the Storey County Public Works Department, Virginia City Water System. The parcels are not currently served by the municipal water system and significant improvements will be necessary to bring water services to the subject properties.

No municipal sewer system currently serves the Silver City area. Immediate development would require the installation of individual sewer disposal systems (ISDS) for residential development, or on-site sewer disposal systems (OSDS) or package sewer treatment plant for non-residential development. The Silver City area is not generally well suited for ISDS or OSDS, and a long term solution for waste water treatment would be the extension of a municipal sewer system. Densities as contemplated in the County's Comprehensive Master Plan would contribute to the cost effectiveness of a sewer system.

The Central Lyon County Fire Protection District provides fire and emergency medical service from the volunteer fire station located at 745 High Street, Silver City, approximately 455 feet to the northeast of the site and career station at 231 Coral Drive, Dayton, approximately 3.5 miles

easterly of the site. The Lyon County Sheriff's Department maintains a substation at 801 Overland Loop, Dayton, approximately 6 miles northeast of the site.

Water Rights:

Water rights information has not been provided. It is anticipated that potential development will bring necessary water rights for the portions of the parcels outside of the water system service area when required for development.

Summary of Applicant's Justification:

The applicant includes the following arguments in support of the requested zone change:

- A reduction in the potential residential development density provides a "more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure."
- "For more than a century the subject property has been used for mining, mine exploration and/or mine development."
- The "NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles."
- The "zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning."
- The "zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts."

The applicant believes that the existing NR-1 zoning is inconsistent with the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU1: Orderly Growth Patterns – Direct and manage development in the county that it is orderly and fiscally responsible.
- Goal LU2: Services Coordinated with Growth – Future residential development will be coordinated with development of schools, parks, libraries, and other public services.
- Goal LU3: Diverse Economy –

The applicant believes that the requested zone change is consistent with and supported by the following Comprehensive Master Plan goals, and as detailed in the applicant's justification, some related policies and strategies:

- Goal LU3: Diverse Economy – The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.
- Goal NR9: Mining and Resource Extraction – Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

The revised application submittal, dated October 11, 2013, contains the applicant's detailed request and justification. One must examine the revised information for the complete justification and a full understanding of the applicant's views.

Staff Review and Comments:

Consistency with the Master Plan

If the Planning Commission adopts the applicant's concurrent application for master plan amendments to the Rural Residential land use designation, the applicant's requested zone changes would be consistent with the County's master plan. If the Planning Commission does not adopt the applicant's concurrent master plan amendment application, the applicant's requested zone changes would not be consistent with the County's master plan.

Applicant's Request

As specified in the applicant's justification statement "[t]he application is requesting a "down zone" at both the master plan and zoning levels." If approved, the applicant's zone change requests would result in a decrease in allowed residential density. The current zoning allows development at densities that are less than the maximum density permitted by the zoning district.

The applicant's justification states that "[t]he applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property." If approved, the zone changes set the stage for possible special use permit requests that may permit mining, not currently permitted on the subject parcels.

Access:

Access to the subject properties would be from State Route 341 and 342. Specific access would need to be created based on the type and density/intensity of development. No plan for development of access, intersections and/or ingress and egress points from the subject parcels has been provided.

Land Use:

The current NR-1 zoning permits single family residential development at densities up to 7.26 dwellings per acre. Uses allowed with the issuance of a special use permit include: child care facilities, churches, croup care facilities, parks, public utility serving centers, recreational areas, residential industry, schools, and other like uses. Also allowed with a special use permit on parcels a minimum of twenty one thousand (21,000) square feet in size are private golf, swimming, tennis and similar clubs, and sanitariums. The majority of the Silver City town site is zoned NR-1.

The requested RR-3 and RR-5 zoning permit single family detached dwellings at densities up to 0.2 and 0.05 dwellings per acre respectively. These zoning districts also permit farms, the raising of barnyard animals, the sale of products grown on the property, and hunting and fishing lodges, wildlife refuges and game farms. Uses allowed with ;the issuance of a special use permit include mining; airports; breeder's kennels, cemeteries; churches; due or guest ranches; racetracks and commercial stables; recreational and educational uses; residential industry; rest home, convalescent home, nursing home, group care facilities, home for the aged and sanitariums; tennis, golf, civic or country clubs; utility and public uses and serving centers; rifle

and archery ranges; trapshoots; campgrounds; and commercial farrowing pens and feedlots. The RR-5 zoning district also permits commercial wind energy conversion systems with the issuance of a special use permit.

Several of the uses permitted in the RR-3 and RR-5 zoning districts, by right or special use permit, would appear to be out of keeping with the existing and planned residential densities and commercial uses of Silver City.

RR-3 zoning is not found in Silver City. A small area of RR-1 zoning exists within the town site. RR-5 zoning exists generally outside of the town site, with a small area of a patented claim shown on the County's GIS as overlapping NR-1 zoning and extending into the town site near the subject parcels.

The NR-1 zoning reflects Silver City's historic development density and pattern. The NR-1 zoning has been in place since the 1970s when zoning was adopted in Lyon County. NR-1 zoning has been consistent with the master plan designation for the subject properties and Silver City through the various County master plan efforts.

The applicant proposes to rezone the steepest areas of the parcels to RR-3, one dwelling per five acres, and the majority of the lowest sloped areas to RR-5, one dwelling per 20 acres. If topography was a determining factor in the justification of the zone change request, it would seem to be more logical that the steepest and most difficult land to develop would be zoned RR-5.

The current residential use and density of parcels north and east of the subject parcels have the potential to be negatively impacted by mining activities conducted on the subject parcels, or portions thereof, and consideration should be given to the compatibility of potential mining development. Should uses such as mining be approved in the future, increasing the intensity of use on the subject parcels, adverse effects on current residents may be expected by increasing traffic, noise, a change in the character of this residential area, and impacts to the visual character and integrity of the Historic District.

Land use regulations and zoning are community master plan implementation measures intended to help promote and produce the community envisioned by its citizens. The principal purpose of land-use regulation and zoning is to limit conflicts between incompatible land-uses. As a general rule, lower density and rural residential uses can be compatible with higher density residential uses if properly arranged, particularly if they back up to them or if they are separated by a street. However, higher intensity industrial and mining uses are generally incompatible with residential uses.

The Lyon County Comprehensive Master Plan and Lyon County Code include the compatibility of proposed land uses with their surrounding areas as a consideration for master plan amendments. All developments, special uses, and/or zone changes should be similarly reviewed to ensure that existing and proposed land uses are compatible.

Requirements for Granting a Zone Change Request:

NRS 278.250 grants authority to the County to establish zoning districts, and to regulate the use of land within those zoning districts provided the districts and uses are adopted in accordance with the Master Plan and are designed to achieve specific goals.

When making an approval, modification or denial of a zoning map or text, the Commission and the Board should, at a minimum, make one of the following findings of fact:

1. *Consistency with the Master Plan.*
   a. *Approval: The applicant has demonstrated that the zone change is in substantial compliance with and promotes the Master Plan goals, objectives and actions.*
   b. *Denial: The proposed zone change is not in substantial compliance with, nor does it promote the Master Plan goals, objectives and actions.*
2. *Contributes to the timely, orderly and efficient arrangement of transportation and other public facilities and services.*
   a. *Approval: The proposed zoning is timely and contributes to the orderly and efficient arrangement of transportation and other public facilities and services.*
   b. *Denial: The proposed amendment would result in land uses which do not contribute to the timely, orderly and efficient arrangement of transportation and other public facilities and services.*
3. *Promotes development that is commensurate with the character and physical limitations of the land.*
   a. *Approval: The proposed zoning will promote development that is commensurate with the character and physical limitations of the land.*
   b. *Denial: The proposed zoning will not promote development that is commensurate with the character and physical limitations of the land.*
4. *Promotes the protection of existing neighborhoods and communities.*
   a. *Approval: The proposed zoning promotes the protection of existing neighborhoods and communities.*
   b. *Denial: The proposed zoning does not promote the protection of existing neighborhoods and communities.*

Staff Recommendation:

Staff recommends that, to the greatest extent practical, zoning be consistent with the Lyon County Comprehensive Master Plan.

Alternative Findings and Motions:

The alternative motions suggested below are offered for Planning Commission consideration.

Alternative for Denial where the Concurrent Master Plan Amendment was Denied

If the Planning Commission denied the concurrent request for a Master Plan amendment, the Planning Commission may take the following action:

The Lyon County Planning Commission finds that:

A. The proposed zoning is not in substantial compliance with the adopted Lyon County Comprehensive Master Plan, County-wide Component land use map.

B. The proposed zoning is not in substantial compliance with, nor does it sufficiently promote the Lyon County Comprehensive Master Plan, County-wide Component goals, policies and strategies.

Based on the above findings, the Lyon County Planning Commission recommends denial of the Zone Change request from NR-1, Single-Family Nonrural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum) on approximately 54.86 acres and to RR-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Inc. as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 & 08-091-05) (PLZ-13-0051).

Alternative for Approval

If the Planning Commission approved a Master Plan Amendment to the Rural Residential land use designation and the Commission desires to recommend approval of the requested Zone Change, the Commission must make findings that support the proposed zoning districts on the subject parcels. The Commission may wish to consider a motion similar to the following:

The Lyon County Planning Commission finds that:

A. The applicant has demonstrated that the zone change is in substantial compliance with and promotes the Lyon County Comprehensive Master Plan, County-wide Component goals, policies and strategies.

B. The applicant has demonstrated that the proposed zoning will promote development that is commensurate with the character and physical limitations of the land.

Based on the aforementioned findings, the Lyon County Planning Commission recommends approval of the Zone Change request from NR-1, Single-Family Nonrural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum) on approximately 54.86 acres and to RR-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Inc. as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 & 08-091-05) (PLZ-13-0051).

Alternative for Continuance

If the Commission determines that additional information, discussion and public review are necessary for a more thorough review of the proposed Zone Change, the Commission should make appropriate findings and move to **continue** the Public Hearing with a specific time period for the applicant to provide additional specific information necessary for the analysis of the request. The Commission may wish to consider a motion similar to the following:

The Lyon County Planning Commission finds that:

A. Additional information, discussion and public review are necessary for a more thorough review of the proposed Zone Change.

Based on the above findings and with the applicant's concurrence, the Planning Commission continues the Zone Change request from NR-1, Single-Family Nonrural Residential (6,000 square foot minimum) to RR-3, Third Rural Residential District (5 acre minimum) on approximately 54.86 acres and to RR-5, Fifth Rural Residential District (20 acre minimum) on approximately 32.34 acres for Comstock Mining, Inc. as set forth in the revised zoning map amendment application and supporting documents, received by the Planning Department October 11, 2013 (APNs 08-091-02 & 08-091-05) (PLZ-13-0051) for __ days.

REVISED

BACK-UP

MATERIALS

SUBMITTED BY

APPLICANT

ON

OCTOBER 31, 2013

Gmail by Google

Rob Loveberg <rloveberg@lyon-county.org>

a few more important thoughts

1 message

Corrado DeGasperis <DeGasperis@comstockmining.com> Fri, Nov 1, 2013 at 6:07 AM
To: "rloveberg@lyon-county.org" <rloveberg@lyon-county.org>

Rob, I was just reflecting on all the dialogue that has gone on since the application was filed and wanted to follow up with a brief discussion, thank you for scheduling the time and I look forward to discussing it today at 8:30 am PST. I appreciate all of the County and staffs support and I wanted to highlight some of the more salient points that would support staff recommending the accepting the changes proposed in our application.

1. Property currently conforms with zoning and MCP changes applied for and reflects an appropriate, zone and MPC consistent with historic mineral and rural residential character currently in place. Critical, is that this MP designation and zoning change would be the right zoning even if no minerals were ever approved for extraction. The topography and current SC character are rural and rural is most protective of any slow growth, sustaining rural community profile.

2. Proposed changes are consistent with historic land use and character. Cultural studies have recently been completed by Kaux, on our properties on the Comstock, for the BLM, confirming mineral uses are consistent with the Historic District uses, both in type and scale. This is key.

3. Enables immediate investments without any disturbances, hugely benefiting the County. These investments include exploration, engineering and development studies for all practical and possible land uses and post uses. No impact on land or community would occur until these assessments were completed.

4. Provides County with deep intelligence regarding all possible uses of our land and the economic benefits.

5. Enables studies that the SC community has long been demanding. This could provide that intelligence and the opportunity for unprecedented, practical and positive opportunity, in collaboration with the community, which the SUP process fully provides for, so real progress, regardless of the conclusion, can occur.

5. Avoids possible denser residential developments, by down zoning, that would most certainly burden the County and seems inconsistent with the COmmunities desired pace of residential development. Without it, the community will likely stagnate and deteriorate, like much of the historic district rather than sustain, with positive rural development.

I have attached some additional thoughts, consistent with our application but extracted and summarized. I look forward to speaking with you this morning.

Kind regards, Corrado

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LYON COUNTY

SupportingThoughts.docx
23K

Rob, I was just reflecting on all the dialogue that has gone on since the application was filed and felt compelled to summarize some of the most salient points supporting why staff should recommend the proposed changes.

Throughout the initial stages of the public process, as expected, the public's focus has been mired with speculation, misrepresentations and almost exclusively based on the fear of irresponsible mining operations impact on the subject property. The number of flawed assumptions heard in public hearings frankly overwhelms the dialogue and distracts from the applicants request.

Regardless of the ultimate, actual uses of the applicants current land holdings, the proposed zoning provides a more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure. The modified Zoning and MP would immediately:

- Conform with existing parcels, property lots and boundaries:
- Leverage the existing, diligent county processes for only "appropriate" zone changes and conforming Master Plan Changes that are consistent with (and accelerating of) current master plan implementations.
- Enable significant investments into practical, responsible planning and development, that is, millions of dollars of investment, to determine/validate existence of precious metal reserves and develop responsible mining and restorations plans that could provide significant, sustained economic benefit to the County at large:
- Enable significant assessment and investments into post-mining, practical residential development plans in a manner that does not "burden the county";
- If none of those investments and planning result in approved productive uses, the proposed zoning still results in the best, most practical and productive current and long range land uses and zoning strategy based on topography, actual development potential and proximity to infrastructure.

The intent of this memo is to refocus all parties involved that these application requests, if approved, do not in any way authorize or allow mining activities to occur on the subject property. Rather the application request is based on, and supported by, basic traditional planning principles that are consistent with Lyon County's Master Plan. Please refer to the following excerpts, primarily drawn from the application submittal:

- The application is requesting a "down zone" at both the master plan and zoning levels. These amendments modify the residential development potential of the property from its current allowed density of 655 total dwelling units to a maximum yield of a more rurally representative 10 dwelling units. If approved, these proposed requests change the master plan and zoning designations from "Suburban Residential and NR1" to "Rural Residential, RR3 and RR5."

- The requested reduction in development supports a much more practical (and fiscally feasible), orderly and responsible growth as compared to the current high density NR1 designation. It allows for responsible investment to develop responsible, economically and socially responsible plans for future land uses, including mineral development and/or residential development.

- The current designation of NR1 in no way suggests a demand base zoning strategy nor is it based on any current population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability. This is the desired zoning for the County and the applicant, regardless of ultimately approved land uses.

- A change in the master plan and zoning designations from Suburban Residential and NR1 to Rural Residential, RR3 and RR5 will not only support the productive evaluation of existing mineral potential but will, more importantly, also bring the property into conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure

and services, while helping to further promote the goals, policies, and strategies of the Lyon County Master Plan.

- Suburban Residential master plan designation and NR1 zoning designation are inconsistent with the following goals, policies and strategies of the current Lyon County Master Plan and conversely, these of goals, policies and strategies actually promote the proposed master plan and zone change requests from Suburban Residential and NR1 to Rural Residential, RR5 and RR3.

Goal LU1: Orderly Growth Patterns

Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

As expressed in the above excerpts, the basis for the application is supported by the basic planning principles of location, topography, density, and the availability of infrastructure and services as they relate to the subject property should be used to determine a property's highest and best use. These principles combined with consistency with the Lyon County Master Plan have us confident that these requested modifications, reducing the overall density, will provide a more appropriate long range plan and orderly growth of the subject property.

We understand and respect the public's position relating to mining on the subject property, but we also are aware that these application requests, if approved, in no way entitle us to engage in any mining activities. Furthermore, we fully understand that the special use permit process, not these applications will ultimately determine if mining is an appropriate use for the subject property. What we fear is that public outcry directed towards a potential future special use permit application request will unfairly influence the master plan and zone change process. We request that basic planning principles, rather than public outcry, are used in determining staff's recommendation regarding these applications.

Manhard
CONSULTING LTD

October 31, 2013

Mr. Rob Loveberg
Planning Director
Lyon County Planning Department
27 S. Main Street
Yerington, Nevada 89447

Re: Comstock Mining Master Plan Amendment & Zone Change Request

Mr. Loveberg:

On behalf of Comstock Mining, Manhard Consulting is submitting a revision to the Comstock Mining Master Plan Amendment and Zone Change Request (Lyon County Planning Case PLZ-13-0050 and PLZ-13-0051 respectively). A revision to the application is being requested due to inaccurate zoning information that was received from the Lyon County Assessor and Douglas County GIS Department, which distributes Lyon County's GIS data. The Assessor data and GIS data that we gathered showed the entire APN 008-091-05 as having NR-1 zoning. In actuality, APN 008-091-05 is made up of 21 legal parcels, 7 of which have an existing zoning of M1 – General Industrial. The zoning conflict was brought to Comstock Mining's attention during the Reversion to Acreage process, which was just completed on one of the Master Plan Amendment and Zone Change parcels. The area of these 7 parcels was removed from the reversion parcel, thus changing Parcel 6 in the Master Plan Amendment and Zone Change Request. With the Reversion to Acreage process completed on the effected parcel, we are now submitting a revision to update the acreage listed in the application and update the exhibits to properly depict the parcels that are a part of the Master Plan Amendment and Zone Change Request. Following is a summary of the changes to the Master Plan Amendment and Zone Change Request:

- The acreage referenced in the Cover Letter was updated.
- Pages 1 and 2 of the Narrative were revised to show the proper acreage.
- Page 1 of the Lyon County Development Application was revised to show the proper acreage of the request.
- Exhibits 2, 3, 4, 5, and 6 have been updated to reflect the proper parcel shape for Parcel 6 (the reversion parcel).
- The legal description for parcel 6 (the reversion parcel) has been updated to reflect the proper description.

If you have any questions or require additional information, please feel free to contact me directly.

Sincerely,

Andrew Motter, P.E.
Senior Project Manager

Manhard
CONSULTING LTD

October 11, 2013

Mr. Rob Loveberg
Planning Director
Lyon County Planning Department
27 S. Main Street
Yerington, Nevada 89447

Re: Comstock Mining Master Plan Amendment & Zone Change Request

Mr. Loveberg:

On behalf of Comstock Mining, we appreciate your consideration of the enclosed application. The property included with this application request is generally located north and west of State Highway 341 adjacent to and within the town site of Silver City.

This application includes the following requests:

1. A Master Plan Amendment request from Suburban Residential to Rural Residential on 42.57 acres.
2. A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres.
3. A Zoning Map Amendment request from NR1 to RR3 on 54.86 acres.
4. A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.

Due to the fact that the zone change and master plan amendment requests are being submitted simultaneously, we understand that the zone change request will not be considered by the commission within forty five (45) days after the application is filed with the administrator in accordance with Lyon County Code (10.12.07c).

If you have any questions or require additional information, please feel free to contact me directly.

Sincerely,

Andrew Motter, P.E.
Senior Project Manager

MASTER PLAN AMENDMENT AND ZONE CHANGE APPLICATION FOR COMSTOCK MINING PROPERTY

SILVER CITY, LYON COUNTY, NEVADA

PREPARD FOR:

COMSTOCK MINING

Comstock Mining Inc.
P.O Box 1118
Virginia City, Nevada 89440

PREPARED BY:

Manhard CONSULTING LTD

Manhard Consulting Inc.
9850 Double R Blvd.
Reno, NV 89521

AUGUST 2013

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Project Location

The property included with this application request is generally located north and west of State Highway 341 adjacent to the town site of Silver City. See Figure 1 Vicinity Map and Figure 2 Parcel Exhibit for additional detail.

Master Plan Land Use & Zoning Designations

Table 1: Current Land Use Designations (Ref. Figure 3 and Figure 4)

Parcel	Master Plan	Zoning	Land Use
1	Resource	NR1	Vacant
2	Suburban Residential	NR1	Vacant
3	Resource	NR1	Vacant
4	Suburban Residential	NR1	Vacant
5	Suburban Residential	NR1	Vacant
6	Suburban Residential	NR1	Vacant / Abandoned Mining Facilities

Table 2: – Proposed Land Use Designations (Ref. Figure 5 and Figure 6)

Parcel	Master Plan	Zoning	Area
1	Resource	RR-5	32.34 AC
2	Rural Residential	RR-3	7.20 AC
3	Rural Residential	RR-3	12.29 AC
4	Rural Residential	RR-3	10.28 AC
5	Rural Residential	RR-3	11.01 AC
6	Rural Residential	RR-3	14.08 AC

Table 3: Surrounding Property Designations

Location	Master Plan	Zoning	Land Use
North	Suburban Residential & Commercial Mixed Use	M1 & NR1	Vacant / Silver City Town Site
South	Resource, Open Space & Future Planning Area	RR5 & C2	Vacant
East	Resource & Suburban Residential	RR5 & NR1	Vacant / Silver City Town Site
West	Open Space & Suburban Residential	RR5 & NR1	Vacant

Application Request

This application includes the following requests:

1. A Master Plan Amendment request from Suburban Residential to Rural Residential on 42.57 acres.
2. A Master Plan Amendment request from Resource to Rural Residential on 12.29 acres.
3. A Zoning Map Amendment request from NR1 to RR3 on 54.86 acres.
4. A Zoning Map Amendment request from NR1 to RR5 on 32.34 acres.

Justification

The application is requesting a "down zone" at both the master plan and zoning levels. These amendments modify the residential development potential of the property from its current allowed density of 655 total dwelling units to a maximum yield of a more rurally representative 10 dwelling units. If approved, these proposed requests change the master plan and zoning designations from "Suburban Residential and NR1" to "Rural Residential, RR3 and RR5." This would provide a more practical and productive current and long range land use and zoning strategy based on topography, actual development potential and proximity to infrastructure and also clean up and align certain parcels that currently have "split" master plan designations.

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. Regardless of the

rationale, the designations have rendered the subject property unproductive for any activity other than mineral exploration for the last 40 years.

The applicant seeks the amendments for the purpose of pursuing continued mineral exploration, development and the economic mining potential of the subject property. Prior to proceeding with actual mining activities, the applicant would be required to obtain a special use permit from Lyon County. Such a permit would then address all manners of land use and include relevant conditions to limit the impacts and effects of potential or proposed mining activities. In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning.

A change in the master plan and zoning designations from Suburban Residential and NR1 to Rural Residential, RR3 and RR5 will not only support the productive evaluation of existing mineral potential but will, more importantly, also bring the property into conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure and services, while helping to further promote the goals, policies, and strategies of the Lyon County Master Plan.

The Lyon County Master Plan Community Description for Silver City states," *The pace of development has been slow for a variety of reasons, including challenging topography, limited water and sewer infrastructure, and an array of patented and unpatented mining claims. The existing water service infrastructure dates back to the late nineteenth century, when a water system to supply the mining operations and settlement demands of the Comstock communities was constructed. This aging water system and a lack of sewer system limit growth in Silver City."*

The Lyon County Master Plan includes five types of Character Districts, Rural, Suburbanizing, Historic, Future Plan Areas and General County. These Character Districts provide guidance to the type, intensity, density, and general development standards for uses intended to occur within their boundaries.

As defined in the Master Plan, Suburbanizing Districts, *"include areas that are predominately medium to high density residential development with regional/community commercial, neighborhood, industrial and employment uses. Improvement standards will reflect the "suburban" character of these areas and will include requirements for municipal water and sewer, roadway design appropriate to the planned uses, landscaping of public areas, and pedestrian facilities (sidewalks and paths). Roads are likely to have some bike and pedestrian facilities within the rights-of-way or separate paths."*

As defined in the Master Plan, Rural Districts, *"include those areas that are predominately low density residential development with limited neighborhood commercial uses. They may or may not have agricultural land uses or grazing lands. Improvement standards will reflect the "rural" character of the area. Rural districts are not likely to have municipal water and sewer. Roads are likely to have dirt shoulders, some equestrian paths as well as bike facilities within the road rights-of-way.*

As defined by the Master Plan, Historic Districts, *"include those areas in and around lands included in the Comstock Historic District and Silver City or other future historic designations to preserve existing historic character or to promote "historic" architectural design elements. Future historic districts could also be designated where the intent is to promote new compatible development that is in keeping with the "historic" development patterns and architectural design elements to create more vitality."*

As defined by the Master Plan, General County includes, *"Lands outside the boundaries of defined community boundaries are classified as General County. These lands are rural or resource lands or public lands, and are intended to remain largely undeveloped or with very low intensity development within the Master Plan's planning horizon."*

Table 4: Lyon County Land Use Categories

Land Use Category	Community Plan Land Use Designation	Density Range/ Size	Examples of Uses	Description/ Characteristics	Current Zoning Districts
Suburban Residential	High Density Residential	5 to 18 Dwelling Units per acre	Apartments, duplexes, fourplexes, condominiums and townhomes. Single Family Residential detached units at 5 to 10 dwelling units per acre.	High density residential is typically found in suburbanizing districts. High density residential should be located near major transportation facilities, near commercial uses, or civic centers and near parks	NR1 NR2 NR3 MHP
Rural Residential	Rural Residential	1 du per 5 to<20 acres	Single-family residences, "farmettes" and "ranchettes", etc.	Typically found in rural districts and on the suburbanizing fringe. Lot size and layout varies. Typically not served by municipal utilities, depending on location in suburbanizing district.	RR3 RR4

According to the Lyon County Character Districts Map, the subject property appears to reside within both the Historic and General County Districts. Despite this apparent inconsistency of Character Districts, the land use and zoning designations proposed in this application as well as the long-term planned use of the property owner are compatible with each of the applicable Character Districts. Clearly, the proposed land use and zoning designation are much more compatible and consistent with the Historic and General County Districts than the master plan designation of Suburban Residential which is currently assigned to the majority of the subject property.

Provided is the Silver City Community Description from the Lyon County Master Plan and the Master Plan's definitions for the types of residential Character Districts, also provided in Table 3: Lyon County Land Use Categories, is an excerpt from the Lyon County Master Plan comparing the current Land Use Category, Suburban Residential to the requested Land Use Category Rural Residential.

The community Character District of Suburbanizing, the Community Plan Land Use Designation of High Density, Density of 5 to 18 dwelling units per acre, the Examples of Uses and the Description/ Characteristics and the current Suburban Residential master plan designation and NR1 zoning designation are inconsistent with the following goals, policies and strategies of the current Lyon County Master Plan and conversely, these of goals, policies and strategies actually promote the proposed master plan and zoning modification requests from Suburban Residential and NR1 to Rural Residential, RR5 and RR3.

Goal LU1: *Orderly Growth Patterns*

Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: *Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.*

The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a demand base zoning strategy nor is it based on any current or realistic population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability.

Policy LU1.2: Residential development Patterns in Neighborhoods

New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

Development of the property at its current NR1 density would be out of character with the existing "neighborhood" of Silver City. A reduction in development potential is a more appropriate development pattern and more compatible with existing and historic uses.

Goal LU2: Services Coordinated with Growth

Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

According to the master plan "Suburban Residential" areas should be located near major transportation facilities, near commercial uses, or civic centers and near parks. The subject property is rural in nature and adequate facilities to accommodate such high density residential would be impractical to develop and completely out of character with the existing community. Therefore a reduction in development potential is warranted and appropriate.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions.

The subject property, although designated Suburban Residential, does not have adequate municipal water or sewer in close proximity and facility plans are not currently in place to allow for development to occur concurrently. A reduction in allowable units would be more consistent with the current and future services of the area.

Goal LU3: Diverse Economy

The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: *Work with Economic development agencies and community groups to identify economic assets and development opportunities.*

The master plan change would allow for continued mineral exploration on the subject property helping to identify economic assets while employing local residents in primary jobs.

Goal NR9: *Mining and Resource Extraction*

Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 *Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.*

For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. In the event that mining activities are ultimately not pursued on the subject property, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land uses than the current master plan designation and zoning.

Master Plan Amendment Findings:

1. ***Consistency with the Master Plan:***

   The proposed amendment is in substantial compliance with and promotes the following master plan goals, objectives and actions:

   Goal LU1: Orderly Growth Patterns

   Direct and manage development in the county so that it is orderly and fiscally responsible.

Strategies: Establish a demand based zoning strategy based on population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

Policy LU1.2: Residential development Patterns in Neighborhoods
New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

Goal LU2: Services Coordinated with Growth
Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

Policy LU 2.1 Residential Development in Areas with Services

Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal LU3: Diverse Economy
The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base
The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: Work with Economic development agencies and community groups to identify economic assets and development opportunities.

Goal NR9: Mining and Resource Extraction
Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development
New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

2. Compatible Land Uses:

The proposed amendment is compatible with the actual and planned adjacent uses, and reflects a logical change in land uses.

The proposed amendment to Rural Residential is consistent with the current and future development character of Silver City. The current Suburban Residential designation promotes high-density residential development on a property that is constrained by topography and infrastructure availability; and accordingly, has resulted in little to no productive use. The proposed Rural Residential designation according to the master plan is a more logical fit defined as, "*Typically found in rural districts and on the suburbanizing fringe.*"

3. Response to Change Conditions:

The proposed amendment has demonstrated and responds to changed conditions or further studies that have occurred since the master plan was adopted by the board, and the requested amendment represents a more desirable use of the land.

A change in the master plan designation from Suburban Residential to Rural Residential represents a more desirable use of land because it will bring the property in conformance with basic land planning principles relating to location, topography, density, and the availability of infrastructure and services. In addition, the proposed changes will allow for the exploration and evaluation of existing patented mining claims with potential for significant benefit to the County and community, while consistently promoting the goals, policies, and strategies of the Lyon County Master Plan.

4. No Adverse Effects:

The proposed amendment will not adversely affect the implementation of the master plan goals, objectives and actions, and will not adversely impact the public health, safety or welfare.

The amendment request will not adversely affect the implementation of the master plan or negatively impact public health, safety and welfare. The

amendment proposes a significant enhancement in nature and type of development potentials of the property while continuing to maintain the goals, objectives and actions of the current master plan and will have no foreseeable impact on public health, safety or welfare.

5. ***Desired Pattern of Growth:***

   The proposed amendment will promote the desired pattern for the orderly physical growth of the county, allows infrastructure to be extended in efficient increments and patterns, maintains relatively compact development patterns, and guides development of the county based on the least amount of natural resource impairment and efficient expenditure of the funds for public services.

   The proposed request to change the master plan designation from Suburban Residential to Rural Residential represents a desired pattern of growth by providing a realistic current and long range land use strategy based on actual development potential, considering factors like topography and proximity to adequate infrastructure. Although the potential use of the subject property for mining activities would necessarily involve the extraction of natural resources, we do not believe this would result in any impairment to the water resources and other resources that are important to existing residents and businesses in the area, and, we believe existing constraints or negative impacts would be reduced by the proposed amendments. The proposed Master Plan Amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of funds for public services.

Master Plan Amendment Process and Procedures Findings:

1. ***The existing Comprehensive Master Plan and/or any related element thereof is in need of the proposed amendment;***

   For more than a century the subject property has been used almost exclusively for mining, mine exploration and/or mine development. Active mining and development was ongoing in the 1940's and 1960's, while some form of active exploration and development activity has continued from the 1970's through today. The current Suburban Residential master plan and NR1 zoning designations that were adopted in the mid 1970's are inconsistent with the long existing patented and unpatented mining claims associated with the property and simply not appropriate based upon traditional land planning principles. It is unknown whether the existing designations were applied with an erroneous or impractical consideration of dense dwelling development or as an exclusionary attempt to prevent any future mining developments. In the event that mining activities are ultimately not pursued on the subject property, or even if they are pursued, the proposed master plan designation of Rural Residential and zoning of RR3 and RR5 are more appropriate and more compatible with existing land

uses and post-mining land opportunities, than the current master plan designation.

2. ***The proposed amendment is compatible with the surrounding area, and the goals and policies of the Comprehensive Master Plan;***

   The proposed amendment to Rural Residential is consistent with the current and future development character of Silver City. The current Suburban Residential designation promotes high-density residential development on a property that is constrained by topography and infrastructure availability; and accordingly, has been put to little or no productive use. The proposed Rural Residential designation according to the master plan is a more logical fit defined as, "*Typically found in rural districts and on the suburbanizing fringe*" and is supportive of the goals and policies identified above.

3. ***The proposed amendment will have no major negative impacts on transportation, services, and facilities;***

   The proposed amendment will help provide orderly physical growth of the county and allow development to be adequately planned based on the preservation of natural resources and efficient expenditure of funds for public services.

4. ***The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;***

   The proposed request to change the master plan designation from Suburban Residential to Rural Residential will actually have a positive effect on service provision by providing a realistic, more flexible, current and long range land use strategy based on actual development potential, considering factors like topography, surrounding uses and proximity to adequate infrastructure.

5. ***Strict adherence to the Comprehensive Master Plan would result in a situation neither intended nor in keeping with other key elements and policies of the Plan; and***

   The requested reduction in development potential provides for more orderly and fiscally responsible growth as compared to the current high density NR1 designation. The current designation of NR1 in no way suggests a demand based zoning strategy nor is it based on any current or realistic population projection. The reduction in development potential is more in line with potential–to-actual development ratio and infrastructure availability.

6. ***The proposed Plan amendment will promote the public welfare and will be consistent with the goals and policies of the Comprehensive Master Plan and the elements thereof.***

   The amendment proposes a significant increase in consistency between the actual and potential use of the subject property and the land use designation.

The proposed land use designation is consistent with the realistic development potential of the subject property while supporting the goals, objectives and actions of the current master plan. The requested designation will have no negative impact on public health, safety or welfare.

Zone Change Findings:

1. ***Consistency with the Master Plan Land Use Map.***

   The proposed zone change is not only in substantial conformance with the proposed master plan amendment request but the requested modifications will actually help correct existing conformance issues between the Lyon County Master Plan and Zoning Code.

2. ***Consistency with the Master Plan goals, policies and strategies.***

   The proposed zoning map amendment is in substantial compliance with and promotes the following master plan goals, objectives and actions:

   Goal LU1: Orderly Growth Patterns

   Direct and manage development in the county so that it is orderly and fiscally responsible.

   Strategies: Establish a demand based zoning strategy based on realistic population projections and potential-to-actual development ratio, infrastructure capacity and distance to services.

   Policy LU1.2: Residential development Patterns in Neighborhoods

   New residential development, particularly in suburbanizing areas, will be designed to reinforce "neighborhoods" as the primary building blocks of the county's residential areas.

   Goal LU2: Services Coordinated with Growth

   Future residential development will be coordinated with development of schools, parks, libraries, and other public services.

   Policy LU 2.1 Residential Development in Areas with Services

   Urban and suburban development will only locate in Suburbanizing Districts where municipal water and sewer can serve it and that are close to other municipal services and not "leapfrog" into rural areas. Conversely, low density rural development should not occur in existing or planned suburbanizing areas.

   Strategies: Ensure that plans are in place for required services to occur concurrently with all proposed development.

Goal LU3: Diverse Economy

The economy will continue to be strong and diverse; attracting businesses that employ residents in primary jobs, as well as service jobs that meet the needs of local residents.

Policy LU 3.1: Diverse Economy Base

The county will continue to support a diverse base of jobs to provide for a broader range of employment opportunities that are geographically distributed to be near population centers.

Strategies: Work with Economic development agencies and community groups to identify economic assets and development opportunities.

Goal LU5: Encourage Resource Sensitive Growth

Development will be designed to reduce energy use and minimize environmental impacts.

Goal NR9: Mining and Resource Extraction

Lyon County will promote the continued development of mineral and aggregate resources while working to prevent and reduce conflict between mining and other resource extraction activities and residential, commercial and industrial development.

Policy NR9.1 Lyon County will endeavor to guide development away from areas where minerals and aggregate extraction is currently occurring and where significant resources are known to exist.

Goal FS1: Municipal water and sewer systems will be expanded only in areas where they are cost effective.

Policy FS 1.1: Location of New Development

New urban development will occur in areas that are served by, or are adjacent to, areas with existing utility systems to avoid distant and costly extensions

3. ***Consistency with the desired pattern for the orderly physical growth of the County and maintains compact development patterns.***

The proposed request to change the zoning designation from NR1 to RR3 and RR5 represents a desired pattern of growth by providing a realistic, current and long range zoning strategy based on actual development potential considering factors like topography, existing uses and proximity to adequate Infrastructure.

4. ***Contributes to the timely, orderly and efficient arrangement of transportation and other public facilities and services.***

   The proposed zoning will help provide orderly physical growth of the county and allow development to be adequately planned based on the least amount of natural resource impairment and efficient expenditure of funds for public services.

5. ***Promotes development that is commensurate with the character and physical limitations of the land.***

   The proposed RR5 and RR3 designations will significantly reduce the development potential of the property not only taking into consideration the character and physical limitations of the land (i.e. topography and surrounding densities) but also reducing the need for additional infrastructure.

6. ***Promotes the protection and/or enhancement of existing neighborhoods and communities.***

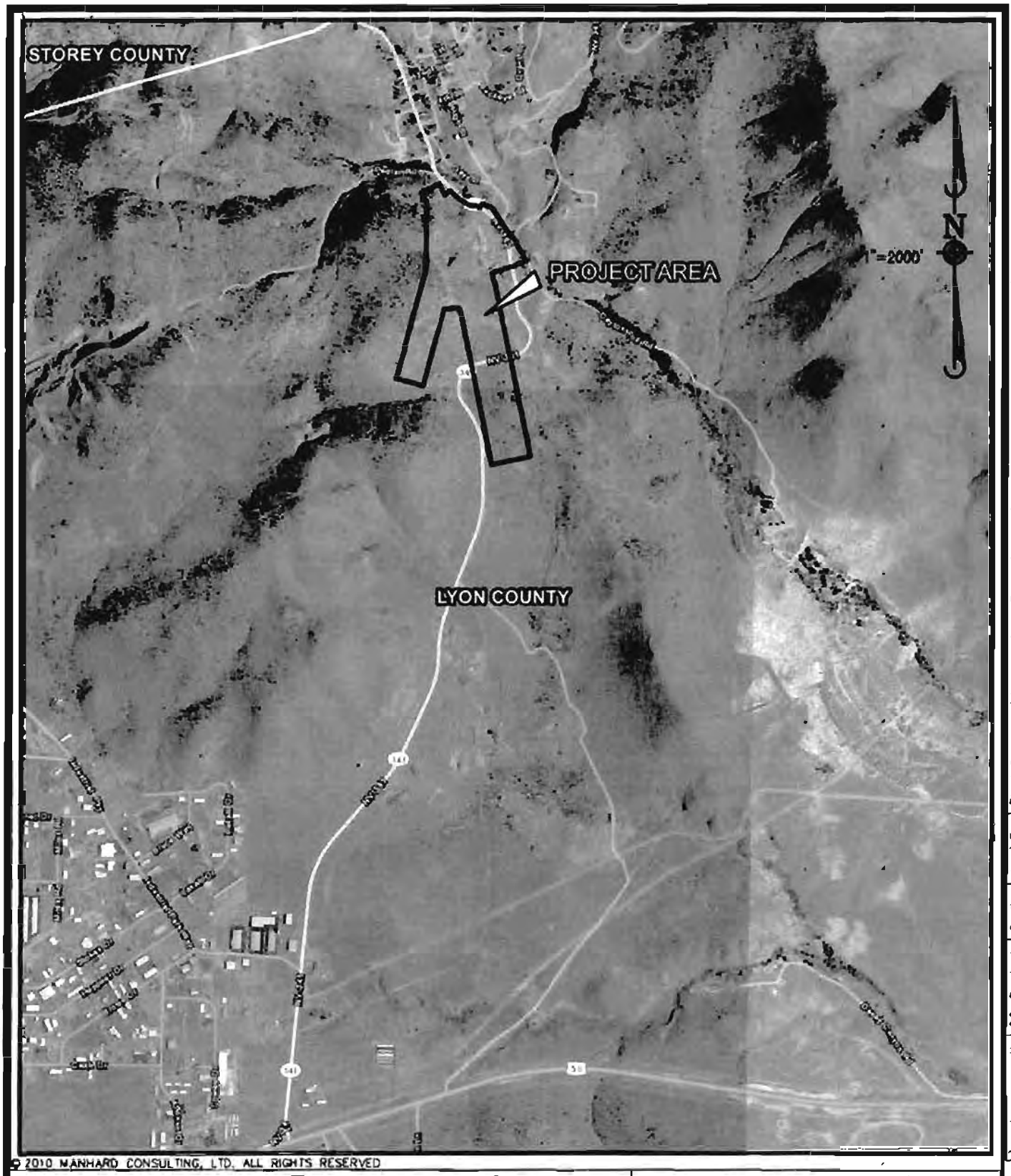
   The proposed zoning map amendment is consistent with the current and future development character of Silver City. The current NR1 designation promotes high density residential on a property that is constrained by topography and infrastructure availability.

7. ***No detrimental impacts to other properties in the vicinity.***

   The proposed zoning map amendment is sensitive to and compatible with the current and future development character of Silver City. The current NR1 designation promotes high density residential that is not only out of character with the rural nature of the area, but does not take into consideration the fact that the property is constrained by topography and infrastructure availability.

8. ***No adverse impacts to the public health, safety and welfare.***

   The proposed zone change will have no impacts to public health, safety and welfare, and although the potential use of the subject property for mining activities would necessarily involve the extraction of natural resources, this will not result in any impairment to the water resources and/or other resources that are important to existing residents and businesses in the area.



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Manhard CONSULTING

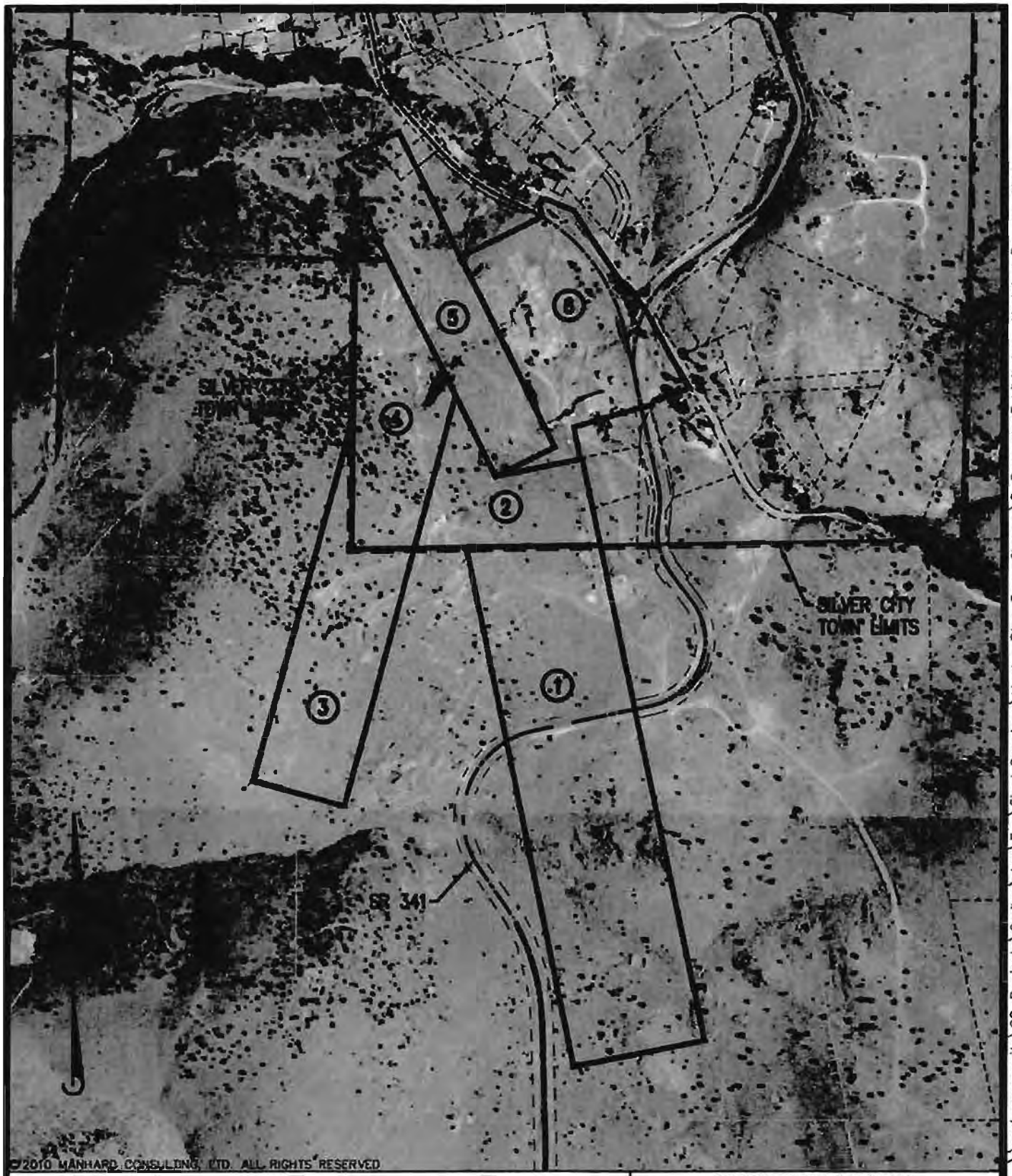
Civil Engineers · Surveyors · Water Resource Engineers · Water & Wastewater Engineers
Construction Managers · Environmental Scientists · Landscape Architects · Planners

COMSTOCK MINING INC.
VICINITY MAP
FIGURE 1

PROJ. MGR.: ASM
DRAWN BY: DCB
DATE: 7/24/2013
SCALE: 1"=2000'

SHEET 1 OF 7
CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\1-Vicinity Map.dwg Updated By: dbirchfield 10:13



Manhard CONSULTING

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Civil Engineers · Surveyors · Water Resources Engineers · Water & Wastewater Engineers
Construction Managers · Environmental Scientists · Landscape Architects · Planners

COMSTOCK MINING INC.

PARCEL EXHIBIT

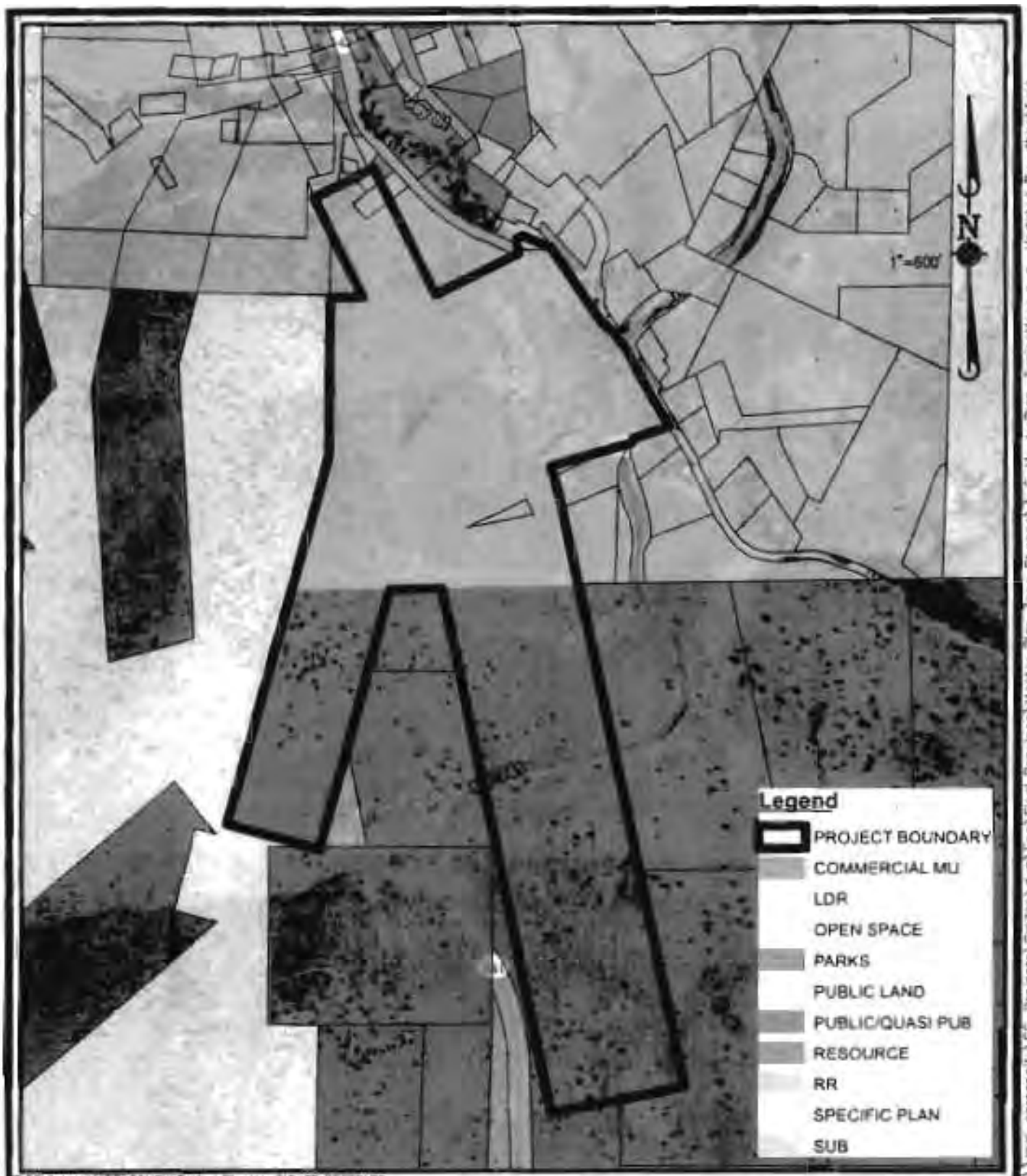
FIGURE 2

PROJ. MGR.:	ABM
DRAWN BY:	ABM
DATE:	10/10/2013
SCALE:	1"=400'

SHEET 2 OF 7

CMILCN

11:02 Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\2-Property Exhibit.dwg Updated By: cmotter



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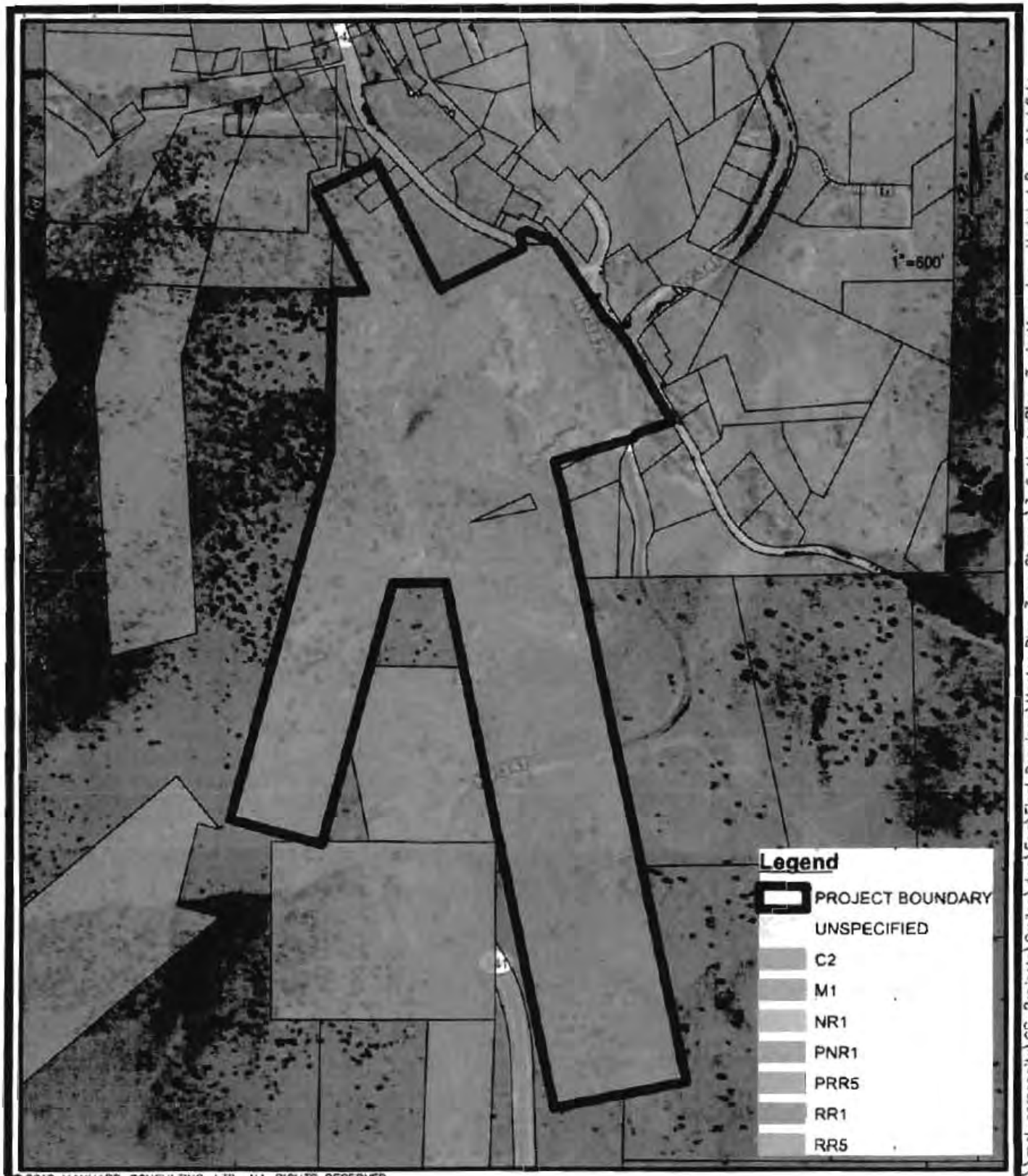
Civil Engineers · Surveyors · Water Resources Engineers · Water & Wastewater Engineers
Construction Managers · Environmental Scientists · Landscape Architects · Planners

COMSTOCK MINING INC.
EXISTING MASTER PLAN MAP
FIGURE 3

SCALE:	AS
DRAWN BY:	DG
DATE:	7/24/2013
SCALE:	1"=600'

SHEET 3 OF 7
CMILCN

Dwg Name: \\mis_carsonfs\CC_Projects\CMilCn\dwg\Lay\Final Drawings\Master Plan Zone Change\1-6_MasterPlan-ZoningMap1.dwg Updated By: dhichfield 13:26



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COMSTOCK MINING INC.

EXISTING ZONING MAP

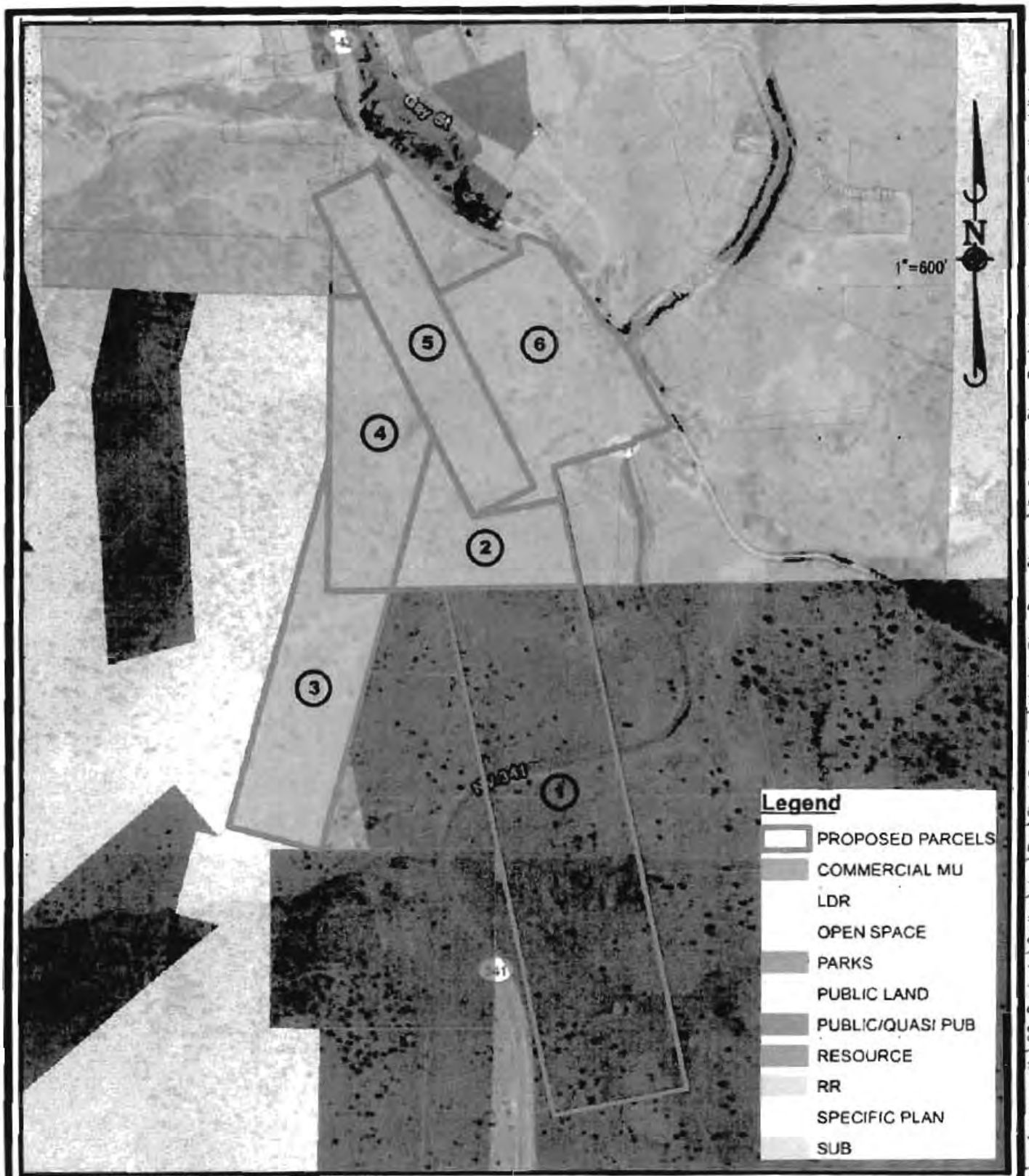
FIGURE 4

PROJ. MGR.:	AWM
DRAWN BY:	DCB
DATE:	7/24/2013
SCALE:	1"=600'

SHEET 4 OF 7

CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\3-6_MasterPlan-ZoningMaps.dwg Updated By: dbirchfield 13:26



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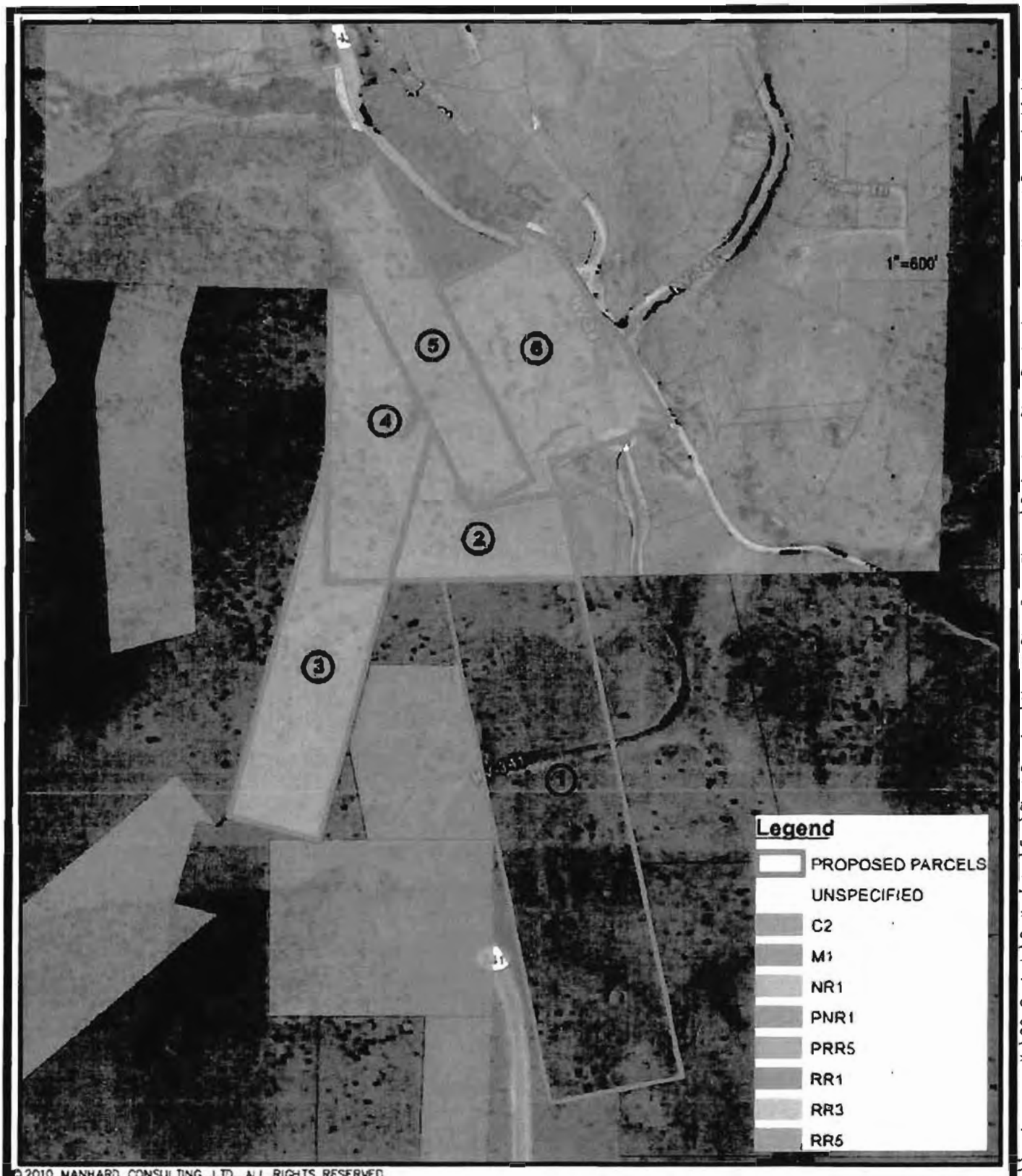
COMSTOCK MINING INC.
PROPOSED MASTER PLAN MAP
FIGURE 5

PROJ. MGR.:	AWM
DRAWN BY:	DCB
DATE:	7/24/2013
SCALE:	1"=600'

SHEET 5 OF 7
CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\3-6_MasterPlan-ZoningMaps.dwg Updated By: dbirchfield 13:26



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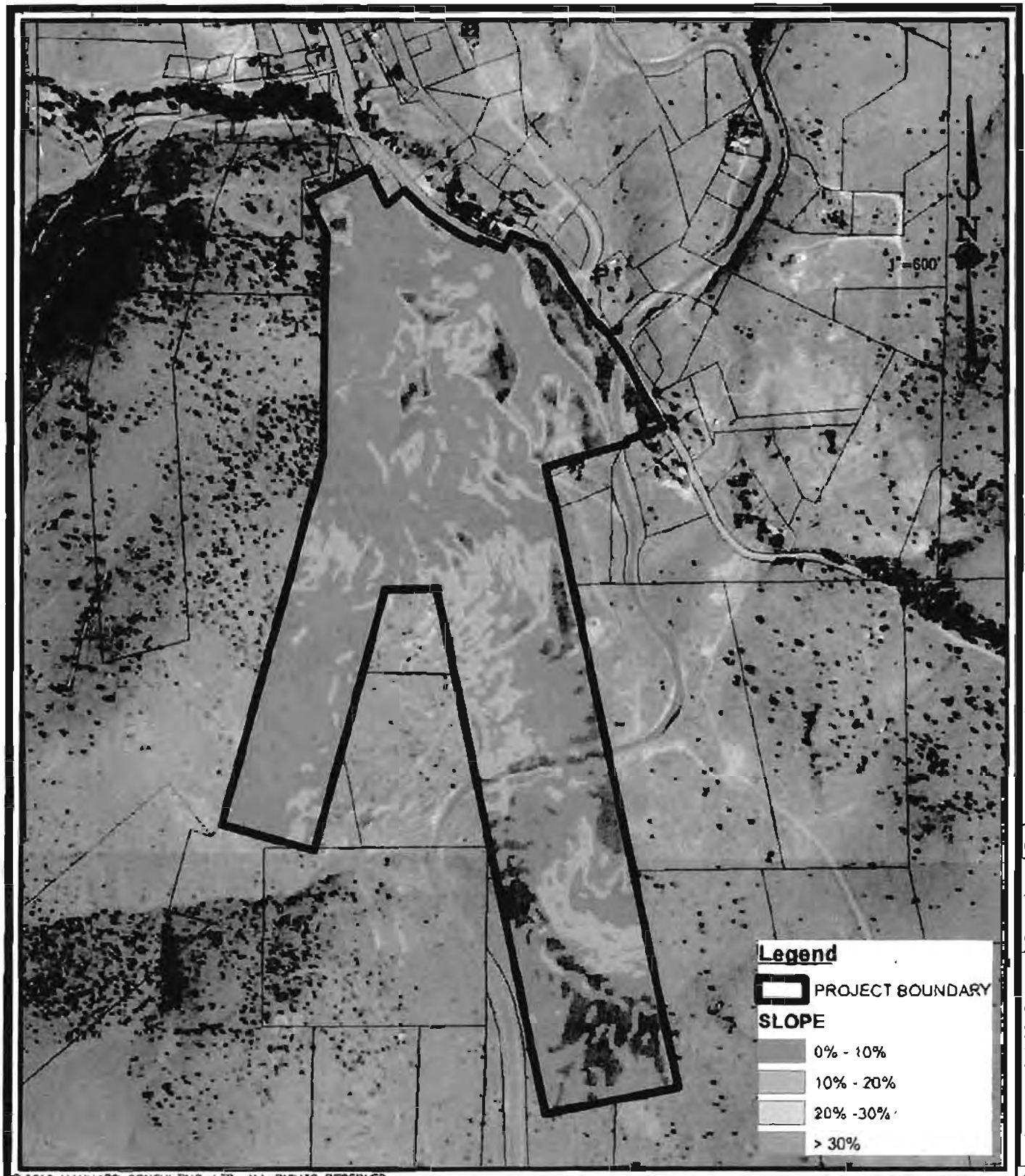
COMSTOCK MINING INC.
PROPOSED ZONING MAP
FIGURE 8

PROJ. MGR.: ABM
DRAWN BY: DCB
DATE: 7/24/2013
SCALE: 1"=600'

SHEET 6 OF 7
CMILCN

Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\3-6_MasterPlan-ZoningMaps.dwg Updated By dbirchfield 13:26



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COMSTOCK MINING INC.

EXISTING SLOPE MAP

FIGURE 7

PROJ. MGR.: AMM
DRAWN BY: DCB
DATE: 7/24/2013
SCALE: 1"=600'

SHEET 7 OF 7

CMILCN

Dwg Name: \\mcl_corsancity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\7-Slope Map.dwg Updated By: dbirchfield 17:31

APPENDIX

LYON COUNTY
PLANNING DEPARTMENT

27 South Main Street, Yerington, Nevada 89447
Voice: (775) 463-6789 • Fax: (775) 463-6596

DEVELOPMENT APPLICATION

This form must be completed and all requested information incorporated, as prescribed by the application submission requirements for each application type, before the application is deemed complete and accepted for processing by Lyon County.

Application Type (check all that apply)

☐ Abandonment	☐ Extension of Time Request	☐ Reimbursement Agreement
☐ Amended Map	☐ Hardship Exception Permit	☐ Reversion to Acreage
☐ Appeal of Administrative Decision	☐ Improvement Plan for Land Division	☐ Site Improvement Plan
☐ Appeal of Planning Commission Decision	☐ Improvement Standards Variance or Waiver	☐ Special Use Permit
☐ Approval Condition Amendment	☒ Master Plan Map Amendment	☐ Specific Plan
☐ Boundary Line Adjustment	☐ Master Plan Text Amendment	☐ Street Name Request
☐ Certificate of Amendment	☐ Mobile Home Park/Recreational Vehicle Park	☐ Subdivision Map, Tentative
☐ Continuation of Planning Application	☐ Parcel Map	☐ Subdivision Map, Final
☐ Development Agreement	☐ Parcel Map, Final	☐ Variance ☐ Administrative
☐ Development Agreement, Revision	☐ Parcel Map Waiver	☐ Wireless Communication Facility
☐ Division of Land into Large Parcels, Tentative Map Waiver	☐ Planned Unit Development, Final	☐ Wireless Communication Facility, Modification
☐ Division of Land into Large Parcels, Tentative Map	☐ Planned Unit Development, Tentative	☐ Zoning Determination
☐ Division of Land into Large Parcels, Final Map	☐ Pre-Application Conference	☒ Zoning Map / Text Change

General Information

Assessor's Parcel number(s)	Acreage	Assessor's Parcel number(s)	Acreage
Por. of 008-091-05	+/- 86.84 AC		
008-091-02	+/- 0.36 AC		

Applicant Name(s): ☒ Same as Owner ☐ Other (insert name(s)):

Community: ☐ Dayton ☐ Fernley ☐ Mark Twain ☐ Mason Townsite ☐ Mason Valley ☐ Mound House ☒ Other County ☒ Silver City ☐ Silver Springs ☐ Smith Valley ☐ Stagecoach

Previous applications filed on this site:

Project Name (if applicable):

Project Information

Project or Request Description: Comstock Mining is requesting a Master Plan Amendment and Zone Change on a portion of Lyon County APN 008-091-05 and APN 008-091-02. APN 008-091-05 includes 14 legal parcels (3 patented claim parcels and 11 Silver City town lots) which are a portion of this request. The Master Plan Amendment request is to change 42.57 acres within the Silver City town limits from Suburban Residential to Rural Residential and 12.29 acres in unincorporated Lyon County from Resource to Rural Residential. The Zone Change request is to change 42.577 acre within the Silver City town limits from NR-1 zoning to RR-3 zoning and 44.63 acres in unincorporated Lyon County from NR-1 Zoning to RR-3 and RR5 Zoning.

Project Area (square feet or acres): +/- 87.29 AC Number of proposed units: Smallest parcel size:

Uses proposed (check all that apply): ☐ Single Family Residential ☐ Multi-Family Residential ☐ Commercial ☐ Industrial

Project Location

Project Street Address: State Route 341

Primary Access: State Route 341 and State Route 342 Section(s)/Township/Range: Sect. 8,9,16,17 T18N R21E

Approximately feet ☐ north ☐ south of (street name)

Approximately feet ☐ east ☐ west of (street name)

If within a Subdivision, Name: Lot: Block:

Project Location (with point of reference to primary access, major cross streets or area locator): A portion of the property is located within the Silver City Town limits adjacent to State Route 342 and a portion is in unincorporated Lyon County adjacent to State Route 341.

Other Information

Current Master Plan designation(s):	Suburban Residential, Resource
Proposed Master Plan designation(s):	Rural Residential
Current Zoning designation(s):	NR1
Proposed Zoning designation(s):	RR-3 and RR-5
Floodplain designation (from FIRM maps):	Zone AE, Unshaded Zone X
Road/street surface of frontage/access:	Paved highway for frontage and dirt road for access to a portion.

Applicant Information

Applicant/Developer		Professional Consultant/Representative	
Name: Same as Property Owner		Name: Manhard Consulting Ltd.	
Address:		Address: 9850 Double R Blvd., Suite 101	
City:	State: Zip:	City: Reno	State: NV Zip: 89521
Phone:	Fax:	Phone: 775-746-3500	Fax: 775-746-3520
Cell:	Contact:	Cell:	Contact: Andrew Motter, P.E.
Email:		Email: amotter@manhard.com	
Property Owner		**Other Person(s) to be Contacted**	
Name: Comstock Mining Inc.		Name: Comstock Mining Inc.	
Address: 1120 American Flat Rd.		Address: 1120 American Flat Rd.	
City: Virginia City	State: NV Zip: 89440	City: Virginia City	State: NV Zip: 89440
Phone: 775-847-5272	Fax: 775-847-7118	Phone: 775-847-5272	Fax: 775-847-7118
Cell:	Contact: Corrado DeGasperis	Cell:	Contact: Scott Jolcover
Email: degasperis@comstockmining.com		Email: sjolcover@comstockmining.com	

The receipt of an application at the time of submission does not imply the application complies with all requirements of the Lyon County Code or Lyon County Planning Department, or that it is deemed complete and will be processed.

Property Tax Status:

As per Lyon County Code Title 10, Section 10.12.05, a signature is required from the Lyon County Clerk's Office showing the taxes are paid current on the subject property.

I, Nikki Bryan, hereby certify that all required property taxes are paid current on APN(s): 008-091-02, 008-091-05

By: _____ Date: _____
Deputy Clerk

Applicant's Affidavit (Complete if different from Property Owner):

I, _____ being duly sworn, depose and say that I am the applicant
(Printed name)
of the described project and/or request, and all the statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of the Lyon County Planning Department staff.

Signature of Applicant _____ Date _____

Subscribed and sworn to before me this _____ day of _____

Notary Public in and for said county

(Notary stamp)

Property Owner's Affidavit:

I, Corrado De Gasperis being duly sworn, depose and say that I am an owner* in
(Printed name)
fee of the described property involved in this application, that I have knowledge of, and agree to, the filing of this application, and that the statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I acknowledge that I am aware of the "right to farm" policy of the county and have been provided with a copy of a statement (attached to this application form) containing substantially the disclosure set forth in Chapter 10.15 of the Lyon County Code. I understand that no assurance or guarantee can be given by members of the Lyon County Planning Department staff.

(*A separate Affidavit must be provided by each property owner)

Signature of Property Owner _____ Date 08/01/2013

Subscribed and sworn to before me this 1st day of August, 2013

BY CORRADO DE GASPERIS

Notary Public in and for said county

(Notary stamp)
ANETA BUZNICEA-BERGE
Notary Public, State of Nevada
Appointment No. 12-8415-2
My Appt. Expires Dec 16, 2015

TRI STATE SURVEYING, LTD.
1925 E. Prater Way, Sparks, Nevada 89434
Telephone (775) 358-9491 ♦ FAX (775) 358-3664
Toll Free: 1-800-411-3752

Land Information Solutions

October 18, 2013
Project No. 10055.01.CC

Parcel Descriptions

All those certain parcel situate within portions of Sections Eight (8), Nine (9), Sixteen (16) and Seventeen (17), Township Sixteen (16) North, Range Twenty-One (21) East, Mount Diablo Meridian, Lyon County, Nevada, being more particularly described as follows:

Parcel 1:

All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying southerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 2:

All that All that portion of Mineral Survey 63, Kossuth Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 63 (Office No. 186), Kossuth Lode (Kossuth Mining Co's.), Devils Gate Mining District, by Don H. Barker, January 1874, lying northerly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 275 as shown on said Official Map of the TOWNSITE of SILVER CITY.

Parcel 3:

All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying southerly, westerly and outside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876.

Parcel 4:

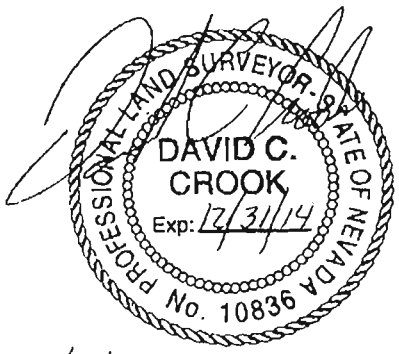
All that portion of Mineral Survey 56, Alhambra Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 56 (Office No. 183), Alhambra Lode (Alhambra Co's), Devils Gate Mining District, by Hugo Hochholzer, September 1872, lying northerly, easterly and inside of the Town Site boundary as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, together with all of Lot 274 as shown on said Official Map of the TOWNSITE of SILVER CITY.

Parcel 5:

All of Mineral Survey 66, Marble Lode, as shown on the General Land Office Survey of (Mineral) Survey No. 66 (Office No. 189), Marble Lode (Dayton Silver Mining Co's). Devils Gate Mining District, by J. H. Eaton, March 1873, together with that portion of Lot 129 of the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876, lying inside of said Marble Lode.

Parcel 6:

All of Lots 101, 102, 103, 133, 276, 277, 278 and 279, said Lots being as shown on the Official Map of the TOWNSITE of SILVER CITY, Lyon County, Nevada, Maps A & B, by Ross E. Browne, June 1874, recorded in the office of the County Recorder of Lyon County, Nevada on May 9, 1876 and a portion of Lot 104 of said Official Map of the TOWNSITE of SILVER CITY, being shown on Record of Survey Map No. 291213, recorded in the office of the County Recorder of Lyon County on February 21, 2003.



Date 10/18/2013
David C. Crook, P.L.S.
Nevada Certificate No. 10836

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COMSTOCK MINING INC.

PHOTO LOCATIONS

PROJ. MGR.	AMM
DRAWN BY:	AMM
DATE:	9/9/2013
SCALE:	1"=800'

SHEET 1 OF 1

CMILCN

13:04 Dwg Name: \\mcl_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amotter

PHOTO P1

PHOTO P2

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Construction Managers - Environmental Scientists - Landscape Architects - Planners

COMSTOCK MINING INC.
SITE PHOTOS

PROJ. MGR: AWM
DRAWN BY: AWM
DATE: 5/9/2013
SCALE:

SHEET 1 OF 1
CMILCN

Dwg Name: \\mid_carsoncity\CC_Projects\Cmilcn\dwg\Eng\Final Drawings\Master Plan Zone Change\Photo-Locations.dwg Updated By: amohler
17:30