

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Appellant,

vs.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Respondents.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Appellants/Cross-Respondents,

vs.

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Respondent/Cross-Appellant.

No. 84345

Electronically Filed
Aug 25 2022 02:52 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

No. 84640

**JOINT APPENDIX,
VOLUME NO. 85**

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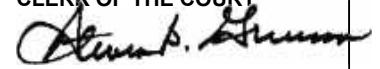
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DISTRICT COURT

CLARK COUNTY, NEVADA

180 LAND CO., LLC, a Nevada limited liability
company, FORE STARS Ltd., DOE
INDIVIDUALS I through X, ROE
CORPORATIONS I through X, and ROE
LIMITED LIABILITY COMPANIES I through
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of
the State of Nevada, ROE government entities I
through X, ROE CORPORATIONS I through X,
ROE INDIVIDUALS I through X, ROE
LIMITED LIABILITY COMPANIES I through
X, ROE quasi-governmental entities I through X,

Defendant.

Case No.: A-17-758528-J
Dept. No.: XVI

**APPENDIX OF EXHIBITS IN SUPPORT
OF PLAINTIFFS LANDOWNERS'
REPLY IN SUPPORT OF MOTION TO
DETERMINE TAKE AND MOTION FOR
SUMMARY JUDGMENT ON THE FIRST,
THIRD AND FOURTH CLAIMS FOR
RELIEF AND OPPOSITION TO THE
CITY'S COUNTER-MOTION FOR
SUMMARY JUDGMENT**

VOLUME 17

Hearing Date: September 23, 2021

Hearing Time: 1:30 p.m.

The Plaintiffs, 180 Land Co LLC and Fore Stars, Ltd. (hereinafter referred to as
“Landowners”) hereby submit this Appendix of Exhibits in Support of their Reply in Support of
their Motion to Determine Take and Motion for Summary Judgment on the First, Third and Fourth
Claims for Relief which also Opposes the City’s Counter-Motion for Summary Judgment as
follows:

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Exhibit No.	Description	Vol. No.	Bates No.
1	Findings of Fact and Conclusions of Law Regarding Plaintiff Landowners' Motion to Determine "Property Interest"	1	000001-000005
2	Map 1 of 250 Acre Land	1	000006
3	Map 2 of 250 Acre Land	1	000007
4	Notice of Related Cases	1	000008-000012
5	April 15, 1981 City Commission Minutes	1	000013-000050
6	December 20, 1984 City of Las Vegas Planning Commission hearing on General Plan Update	1	000051-000151
7	Findings of Fact and Conclusions of Law Regarding Plaintiffs' Motion for New Trial, Motion to Alter or Amend and/or Reconsider the Findings of Fact and Conclusions of Law, Motion to Stay Pending Nevada Supreme Court Directives	2	000152-000164
8	ORDER GRANTING the Landowners' Countermotion to Amend/Supplement the Pleadings; DENYING the Landowners' Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims	2	000165-000188
9	City's Opposition to Motion to Determine "Property Interest"	2	000189-000216
10	City of Las Vegas' Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims	2	000217-000230
11	Petition for Writ of Mandamus, or in the Alternative, Writ of Prohibition	2	000231-000282
12	Supreme Court Order Denying Petition for Writ of Mandamus or Prohibition	2	000283-000284
13	Supreme Court Order Denying Rehearing	2	000285-000286
14	Supreme Court Order Denying En Banc Reconsideration	2	000287-000288

1	15	Motion to Dismiss Complaint for Declaratory and Injunctive Relief and in Inverse Condemnation, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000289-000308
2	16	City's Sur Reply Memorandum of Points and Authorities in Support of Motion to Dismiss Complaint for Declaratory and Injunctive Relief and Inverse Condemnation, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000309-000319
3	17	City's Proposed Findings of Fact and Conclusion of Law Granting City's Motion to Dismiss Complaint, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000320-000340
4	18	Order Denying City of Las Vegas' Motion to Dismiss, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000341-000350
5	19	City of Las Vegas' Motion to Dismiss, <i>180 Land Co., LLC v. City of Las Vegas, et al.</i> , Case No. A-18-775804-J	2	000351-000378
6	20	2.15.19 Minute Order re City's Motion to Dismiss	2	000379
7	21	Respondents' Answer Brief, Supreme Court Case No. 75481	2	000380-000449
8	22	Order Granting Plaintiffs' Petition for Judicial Review, <i>Jack B. Binion, et al vs. The City of Las Vegas</i> , Case No. A-17-752344-J	2	000450-000463
9	23	Supreme Court Order of Reversal	2	000464-000470
10	24	Supreme Court Order Denying Rehearing	2	000471-000472
11	25	Supreme Court Order Denying En Banc Reconsideration	2	000473-000475
12	26	Findings of Fact, Conclusions of Law and Judgment Granting Defendants Fore Stars, Ltd., 180 Land Co LLC, Seventy Acres LLC, EHB Companies LLC, Yohan Lowie, Vickie Dehart and Frank Pankratz's NRCP 12(b)(5) Motion to Dismiss Plaintiffs' Amended Complaint	2	000476-000500
13	27	Notice of Entry of Findings of Fact, Conclusions of Law, Final Order of Judgment, <i>Robert Peccole, et al v. Peccole Nevada Corporation, et al.</i> , Case No. A-16-739654-C	2	000501-000545

1	28	Supreme Court Order of Affirmance	2	000546-000550
2	29	Supreme Court Order Denying Rehearing	2	000551-000553
3	30	November 1, 2016 Badlands Homeowners Meeting Transcript	2	000554-000562
4	31	June 13, 2017 Planning Commission Meeting Verbatim Transcript	2	000563-000566
5	32	Notice of Entry of Findings of Fact and Conclusions of Law Granting City of Las Vegas' Motion for Summary Judgment, <i>180 Land Co. LLC, et al v. City of Las Vegas</i> , Case No. A-18-780184-C	3	000567-000604
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8	33	June 21, 2017 City Council Meeting Combined Verbatim Transcript	3	000605-000732
9	34	Declaration of Yohan Lowie	3	000733-000739
10	35	Declaration of Yohan Lowie in Support of Plaintiff Landowners' Motion for New Trial and Amend Related to: Judge Herndon's Findings of Fact and Conclusion of Law Granting City of Las Vegas' Motion for Summary Judgment, Entered on December 30, 2020	3	000740-000741
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14	36	Master Declaration of Covenants, Conditions Restrictions and Easements for Queensridge	3	000742-000894
15	37	Queensridge Master Planned Community Standards - Section C (Custom Lot Design Guidelines)	3	000895-000896
16	38	Custom Lots at Queensridge Purchase Agreement, Earnest Money Receipt and Escrow Instructions	3	000897-000907
17				
18	39	Public Offering Statement for Queensridge North (Custom Lots)	4	000908-000915
19	40	Deposition of Yohan Lowie, <i>In the Matter of Binion v. Fore Stars</i>	4	000916-000970
20	41	The City of Las Vegas' Response to Requests for Production of Documents, Set One	4	000971-000987
21				
22	42	Respondent City of Las Vegas' Answering Brief, <i>Jack B. Binion, et al v. The City of Las Vegas, et al.</i> , Case No. 17-752344-J	4	000988-001018
23	43	Ordinance No. 5353	4	001019-001100
24	44	Original Grant, Bargain and Sale Deed	4	001101-001105

1	45	May 23, 2016 Par 4 Golf Management, Inc.'s letter to Fore Stars, Ltd. re Termination of Lease	4	001106-001107
2	46	December 1, 2016 Elite Golf Management letter to Mr. Yohan Lowie re: Badlands Golf Club	4	001108
3	47	October 30, 2018 Deposition of Keith Flatt, <i>Fore Stars, Ltd. v. Allen G. Nel</i> , Case No. A-16-748359-C	4	001109-001159
4	48	Declaration of Christopher L. Kaempfer	4	001160-001163
5	49	Clark County Real Property Tax Values	4	001164-001179
6	50	Clark County Tax Assessor's Property Account Inquiry - Summary Screen	4	001180-001181
7	51	Assessor's Summary of Taxable Values	5	001182-001183
8	52	State Board of Equalization Assessor Valuation	5	001184-001189
9	53	June 21, 2017 City Council Meeting Combined Verbatim Transcript	5	001190-001317
10	54	August 2, 2017 City Council Meeting Combined Verbatim Transcript	5	001318-001472
11	55	City Required Concessions signed by Yohan Lowie	5	001473
12	56	Badlands Development Agreement CLV Comments	5	001474-001521
13	57	Development Agreement for the Two Fifty, Section Four, Maintenance of the Community	5	001522-001529
14	58	Development Agreement for the Two Fifty	5	001530-001584
15	59	The Two Fifty Design Guidelines, Development Standards and Uses	5	001585-001597
16	60	The Two Fifty Development Agreement's Executive Summary	5	001598
17	61	Development Agreement for the Forest at Queensridge and Orchestra Village at Queensridge	5	001599-002246
18	62	Department of Planning Statement of Financial Interest	6	002247-002267
19	63	December 27, 2016 Justification Letter for General Plan Amendment of Parcel No. 138-31-702-002 from Yohan Lowie to Tom Perrigo	6	002268-002270
20	64	Department of Planning Statement of Financial Interest	6	002271-002273

1	65	January 1, 2017 Revised Justification letter for Waiver on 34.07 Acre Portion of Parcel No. 138-31-702-002 to Tom Perrigo from Yohan Lowie	6	002274-002275
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3	66	Department of Planning Statement of Financial Interest	6	002276-002279
4	67	Department of Planning Statement of Financial Interest	6	002280-002290
5				
6	68	Site Plan for Site Development Review, Parcel 1 @ the 180, a portion of APN 138-31-702-002	6	002291-002306
7	69	December 12, 2016 Revised Justification Letter for Tentative Map and Site Development Plan Review on 61 Lot Subdivision to Tom Perrigo from Yohan Lowie	6	002307-002308
8				
9	70	Custom Lots at Queensridge North Purchase Agreement, Earnest Money Receipt and Escrow Instructions	7	002309-002501
10				
11	71	Location and Aerial Maps	7	002502-002503
12	72	City Photos of Southeast Corner of Alta Drive and Hualapai Way	7	002504-002512
13	73	February 14, 2017 Planning Commission Staff Recommendations	7	002513-002538
14	74	June 21, 2017 Planning Commission Staff Recommendations	7	002539-002565
15				
16	75	February 14, 2017 Planning Commission Meeting Verbatim Transcript	7	002566-002645
17	76	June 21, 2017 Minute re: City Council Meeting	7	002646-002651
18	77	June 21, 2017 City Council Staff Recommendations	7	002652-002677
19	78	August 2, 2017 City Council Agenda Summary Page	7	002678-002680
20				
21	79	Department of Planning Statement of Financial Interest	7	002681-002703
22	80	Bill No. 2017-22	7	002704-002706
23	81	Development Agreement for the Two Fifty	7	002707-002755
24	82	Addendum to the Development Agreement for the Two Fifty	8	002756

1	83	The Two Fifty Design Guidelines, Development Standards and Permitted Uses	8	002757-002772
2	84	May 22, 2017 Justification letter for Development Agreement of The Two Fifty, from Yohan Lowie to Tom Perrigo	8	002773-002774
3	85	Aerial Map of Subject Property	8	002775-002776
4	86	June 21, 2017 emails between LuAnn D. Holmes and City Clerk Deputies	8	002777-002782
5	87	Flood Damage Control	8	002783-002809
6	88	June 28, 2016 Reasons for Access Points off Hualapai Way and Rampart Blvd. letter from Mark Colloton, Architect, to Victor Balanos	8	002810-002815
7	89	August 24, 2017 Access Denial letter from City of Las Vegas to Vickie Dehart	8	002816
8	90	19.16.100 Site Development Plan Review	8	002817-002821
9	91	8.10.17 Application for Walls, Fences, or Retaining Walls	8	002822-002829
10	92	August 24, 2017 City of Las Vegas Building Permit Fence Denial letter	8	002830
11	93	June 28, 2017 City of Las Vegas letter to Yohan Lowie Re Abeyance Item - TMP-68482 - Tentative Map - Public Hearing City Council Meeting of June 21, 2017	8	002831-002834
12	94	Declaration of Vickie Dehart, <i>Jack B. Binion, et al. v. Fore Stars, Ltd.</i> , Case No. A-15-729053-B	8	002835-002837
13	95	Supreme Court Order of Affirmance, <i>David Johnson, et al. v. McCarran International Airport, et al.</i> , Case No. 53677	8	002838-002845
14	96	De Facto Taking Case Law From State and Federal Jurisdictions	8	002846-002848
15	97	Department of Planning Application/Petition Form	8	002849-002986
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1	98	11.30.17 letter to City of Las Vegas Re: 180 Land Co LLC ("Applicant"t - Justification Letter for General Plan Amendment [SUBMITTED UNDER PROTEST] to Assessor's Parcel ("APN(st") 138-31-601-008, 138-31- 702-003, 138-31-702-004 (consisting of 132.92 acres collectively "Property"t - from PR-OS (Park, Recreation and Open Space) to ML (Medium Low Density Residential) as part of applications under PRJ-11990, PRJ-11991, and PRJ-71992	8	002987-002989
2	99	January 9, 2018 City Council Staff Recommendations	8	002990-003001
3	100	Item #44 - Staff Report for SDR-72005 [PRJ-71990] - amended condition #6 (renumbered to #7 with added condition)	8	003002
4	101	January 9, 2018 WVR-72007 Staff Recommendations	8	003003-003027
5	102	January 9, 2018 WVR-72004, SDR-72005 Staff Recommendations	8	003028-003051
6	103	January 9, 2018 WVR-72010 Staff Recommendations	8	003052-003074
7	104	February 21, 2018 City Council Meeting Verbatim Transcript	8	003075-003108
8	105	May 17, 2018 City of Las Vegas Letter re Abeyance - TMP-72012 [PRJ-71992] - Tentative Map Related to WVR-72010 and SDR-72011	9	003109-003118
9	106	May 16, 2018 Council Meeting Verbatim Transcript	9	003119-003192
10	107	Bill No. 2018-5, Ordinance 6617	9	003193-003201
11	108	Bill No. 2018-24, Ordinance 6650	9	003202-003217
12	109	November 7, 2018 City Council Meeting Verbatim Transcript	9	003218-003363
13	110	October 15, 2018 Recommending Committee Meeting Verbatim Transcript	9	003364-003392
14	111	October 15, 2018 Kaempfer Crowell Letter re: Proposed Bill No. 2018-24 (part 1 of 2)	10	003393-003590
15	112	October 15, 2018 Kaempfer Crowell Letter re: Proposed Bill No. 2018-24 (part 2 of 2)	11	003591-003843

1	113	July 17, 2018 Hutchison & Steffen letter re Agenda Item Number 86 to Las Vegas City Attorney	11	003844-003846
2				
3	114	5.16.18 City Council Meeting Verbatim Transcript	11	003847-003867
4	115	5.14.18 Bill No. 2018-5, Councilwoman Fiore Opening Statement	11	003868-003873
5	116	May 14, 2018 Recommending Committee Meeting Verbatim Transcript	11	003874-003913
6	117	August 13, 2018 Meeting Minutes	11	003914-003919
7	118	November 7, 2018 transcript In the Matter of Las Vegas City Council Meeting, Agenda Item 50, Bill No. 2018-24	12	003920-004153
8				
9	119	September 4, 2018 Recommending Committee Meeting Verbatim Transcript	12	004154-004219
10	120	State of Nevada State Board of Equalization Notice of Decision, <i>In the Matter of Fore Star Ltd., et al.</i>	12	004220-004224
11				
12	121	August 29, 2018 Bob Coffin email re Recommend and Vote for Ordinance Bill 2108-24	12	004225
13	122	April 6, 2017 Email between Terry Murphy and Bob Coffin	12	004226-004233
14	123	March 27, 2017 letter from City of Las Vegas to Todd S. Polikoff	12	004234-004235
15				
16	124	February 14, 2017 Planning Commission Meeting Verbatim Transcript	12	004236-004237
17	125	Steve Seroka Campaign letter	12	004238-004243
18	126	Coffin Facebook Posts	12	004244-004245
19	127	September 17, 2018 Coffin text messages	12	004246-004257
20	128	September 26, 2018 email to Steve Seroka re: meeting with Craig Billings	12	004258
21	129	Letter to Mr. Peter Lowenstein re: City's Justification	12	004259-004261
22	130	August 30, 2018 email between City Employees	12	004262-004270
23	131	February 15, 2017 City Council Meeting Verbatim Transcript	12	004271-004398
24	132	May 14, 2018 Councilman Fiore Opening Statement	12	004399-004404

1	133	Map of Peccole Ranch Conceptual Master Plan (PRCMP)	12	004405
2	134	December 30, 2014 letter to Frank Pankratz re: zoning verification	12	004406
3	135	May 16, 2018 City Council Meeting Verbatim Transcript	13	004407-004480
4	136	June 21, 2018 Transcription of Recorded Homeowners Association Meeting	13	004481-004554
5	137	Pictures of recreational use by the public of the Subject Property	13	004555-004559
6	138	Appellees' Opposition Brief and Cross-Brief, <i>Del Monte Dunes at Monterey, Ltd., et al. v. City of Monterey</i>	13	004560-004575
7	139	Respondent City of Las Vegas' Answering Brief, <i>Binion, et al. v. City of Las Vegas, et al.</i>	13	004576-004578
8	140	Grant, Bargain and Sale Deed	13	004579-004583
9	141	City's Land Use Hierarchy Chart	13	004584
10	142	August 3, 2017 deposition of Bob Beers, pgs. 31-36 - <i>The Matter of Binion v. Fore Stars</i>	13	004585-004587
11	143	November 2, 2016 email between Frank A. Schreck and George West III	13	004588
12	144	January 9, 2018 email between Steven Seroka and Joseph Volmar re: Opioid suit	13	004589-004592
13	145	May 2, 2018 email between Forrest Richardson and Steven Seroka re Las Vegas Badlands Consulting/Proposal	13	004593-004594
14	146	November 16, 2017 email between Steven Seroka and Frank Schreck	13	004595-004597
15	147	June 20, 2017 representation letter to Councilman Bob Coffin from Jimmerson Law Firm	13	004598-004600
16	148	September 6, 2017, City Council Verbatim Transcript	13	004601-004663
17	149	December 17, 2015 LVRJ Article, Group that includes rich and famous files suit over condo plans	13	004664-04668

1	150	Affidavit of Donald Richards with referenced pictures attached	14, 15, 16	004669-004830
2	151	65 Acres Combined Clark County Tax Assessor Summary of Taxable Values	17	004831-004836
3	152	Clark County Assessor Valuation (includes 65 Acre Parcel)	17	004837-004861
4	153	Taxes Assessed on 65 Acre Property	17	004862-004864
5	154	(1990) Zoning Ordinance Z-17-90 including the Peccole Ranch Plan (1990)	17	004865-004921
6	155	04.11.84 Attorney General Opinion No. 84-6	17	004922-004928
7	156	<u>Moccasin & 95, LLC v. City of Las Vegas</u>, Eighth Judicial Dist. Crt. Case no. A-10-627506, 12.13.11 City of Las Vegas' Opposition to Plaintiff Landowner's Motion for Partial Summary Judgment on Liability for a Taking (partial)	17	004929-004933
8	157	Affidavit of Bryan K. Scott	17	004934-004935
9	158	Affidavit of James B. Lewis	17	004936-004937
10	159	12.05.16 Deposition Transcript of Tom Perrigo in case <u>Binion v. Fore Stars</u>	18	004938-004946
11	160	December 2016 Deposition Transcript of Peter Lowenstein in case Binion v. Fore Stars	18	004947-005008
12	161	2050 City of Las Vegas Master Plan (Excerpts)	19	005009-005011
13	162	City of Las Vegas Ordinance No. 3636	19	005012-005020
14	163	10.18.16 Special Planning Commission Meeting Transcript (partial)	19	005021-005026
15	164	05.16.18 City Council Meeting Partial Transcript	19	005027
16	165	04.15.81 City of Las Vegas Commission Minutes re Zone Change Z-34-81	19	005028-005065
17	166	Fore Stars Membership Interest Purchase and Sale Agreement, dated Dec. 1, 2014	19	005066-005082
18	167	LVMC 19.16.090	19	005083-005088
19	168	LVMC 19.10.050 R-PD Residential Planned Development District	19	005089

1	169	LVMC 19.18.020	19	005090
2	170	LVMC 19.12010 CLV Land Use Tables	19	005091-005092
3	171	LVMC 19.06.100 R-2 Medium-Low Density Residential District Designation	19	005093-005097
4	172	11.30.16 Findings of Fact, Conclusions of Law, and Judgment Granting Defendants' NRCF 12(b)(5) Motion to Dismiss Plaintiffs' Amended Complaint, <u>Robert N. Peccole v. Peccole Nevada Corp. et al.</u> , Case No. A-16-739654-C	19	005098-005122
5	173	01.31.17 Notice of Entry of Findings of Fact, Conclusions of Law, Final Order, and Judgment, <u>Robert N. Peccole v. Peccole Nevada Corp. et al.</u> , Case No. A-16-739654-C	19	005123-005167
6	174	11.27.18 NV Supreme Court Order Denying Rehearing, <u>Robert N. Peccole v. Fore Stars, Ltd. et al.</u> , Case No. 72410	19	005168-005170
7	175	10.17.18 NV Supreme Court Order of Affirmance, <u>Robert N. Peccole v. Fore Stars, Ltd. et al.</u> , Case No. 72455	19	005171-005175
8	176	09.21.17 Clark County Assessor Appraisal Division Stipulation for the State Board of Equalization	19	005176-005178
9	177	Chapter 278 applicable as of 1992	20	005179 – 005190
10	178	10.16.030 General Plan Amendment	20	005191-005195
11	179	City Master Plan Land Use Designations, showing the C-V zoning and PR-OS as consistent uses	20	005196-005198
12	180	Letter from Landowners' attorney James Jimmerson to City Attorney Brad Jerbic dated December 7, 2016.	20	005199-005207
13	181	Email from Peter Lowenstein to Landowners re submission of General Plan Amendment application filed under protest, dated November 13, 2017	20	005208
14	182	Letter from Landowners to Peter Lowenstein re GPA Justification dated November 30, 2017	20	005209-005211
15	183	The DiFederico Group Expert Report	20	005212-005347

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184	Appraisal Report by Lubawy & Associates	20	005348-005350
185	Declaration of Tio DiFederico	20	005351-005352
186	November 1, 2016 Transcript of Badlands Homeowners Meeting	20	00535- 005361
187	August 16, 2019 Deposition Transcript of Clyde O. Spitze (In the matter of 180 Land Co. LLC vs City of Las Vegas, et al., A-17-758528-J)	20	005362-005376
188	Clark County Ordinance 728	20	005377-005390
189	January 7, 2019 Email from Robert Summerfield to Frank Pankratz	20	005391
190	Clark County Ordinance 1221	20	005392-005408
191	Certified Videotaped Deposition Transcript of Peter Lowenstein- Volumes 1 & 2	21	005409- 006061
192	Declaration of Elizabeth Ghanem Ham in Support of Plaintiffs' (1) Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006062-006070
193	Declaration of Frank Pankratz Support of Plaintiff Landowners' Reply in Support of: Plaintiff Landowners' Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006071-006075

194	Declaration of Yohan Lowie in Support of Plaintiff Landowners' Reply in Support of: Plaintiff Landowners' Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006076-006083
195	Declaration of Stephanie Allen, Esq., which Supports Plaintiff Landowners' Reply in Support of: Plaintiff Landowners' Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006084-006089
196	January 3, 2018 CLV Agenda Memo-Planning-Staff Recommendation of Denial	21	006090-006098
197	City Council Meeting of January 17, 2018 Transcript re Agenda Items 74-75	21	006099-006117
198	May 13, 2021 Transcript of Hearing re City's Motion for Reconsideration of Order Granting in Part and Denying in Part the Landowners' Motion to Compel the City to Answer Interrogatories	21	006118-006213

DATED this 15th day of September, 2021.

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/s/ Autumn Waters

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14830

Exhibit 151

[illegible]

OWNER(S)/MAIL TO				SITUS				138-31-801-003				Printed: 8/15/2017		
SEVENTY ACRES L L C %V DEHART 1215 S FORT APACHE RD #120 LAS VEGAS NV, 89117 NV				LAS VEGAS PARCEL STATUS A Active - Locally Assessed Parcel NEIGHBORHOOD 1351.73 Summerlin East PRIMARY USE 45.346 Golf Course, Public BUILDING(S) No Buildings								Page: 2 of 2		
												2017/18		
BLDG /SECTION												NOTES		
PROJECT NAME														
OCCUPANCY														
CLASS / RANK														
YR BLT / EFF YR BLT														
% COMPLETE														
BUILDING SF														
PERIMETER														
WALL HEIGHT														
# STORIES														
# UNITS														
EXT. WALL														
HEATING/COOLING	/													
HEATING/COOLING	/													
HEATING/COOLING	/													
SPRINKLERS														
ELEVATORS														
BALCONY														
FINISHED BSMT.														
UNFIN. BSMT.														
SEMI FIN. BSMT.														
BSMT. PARKING														
OFFICE MEZZ														
STORAGE MEZZ														
OPEN MEZZ														
RCN \$ PER SF														
RCN												TOTALS		
DEPR STATUTORY/TOT												RCN		
BLDG. RCNLD	/													
BLDG. OVERRIDE												RCNLD		
EXTRA FEATURES												Extra Features		
TOTAL RCNLD												IMPS VALUE		
CODE	DESCRIPTION	BLDG	UNITS	UNIT PRICE	FAC	ADJ UNIT PR	AYB	EYB	RCN	DEPR%	RCNLD	NOTES	PI	PPID

OWNER(S)/MAIL TO										SITUS				138-31-801-002				Printed: 8/15/2017					
180 LAND COLL C %V DEHART 1215 S FORT APACHE RD #120 LAS VEGAS NV, 89117 NV										LAS VEGAS								Page: 2 of 2					
										PARCEL STATUS										A Active - Locally Assessed Parcel			
										NEIGHBORHOOD										1351.73 Summerlin East			
										PRIMARY USE										45.346 Golf Course, Public			
BUILDING(S)										No Buildings								2017/18					
BLDG./SECTION										NOTES													
PROJECT NAME																							
OCCUPANCY																							
CLASS / RANK																							
YR BLT / EFF YR BLT																							
% COMPLETE																							
BUILDING SF																							
PERIMETER																							
WALL HEIGHT																							
# STORIES																							
# UNITS																							
EXT. WALL																							
HEATING/COOLING										/													
HEATING/COOLING										/													
HEATING/COOLING										/													
SPRINKLERS																							
ELEVATORS																							
BALCONY																							
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SEMI FIN. BSMT.																							
BSMT. PARKING																							
OFFICE MEZZ																							
STORAGE MEZZ																							
OPEN MEZZ																							
RCN \$ PER SF																							
RCN										TOTALS													
DEPR STATUTORY/TOT										RCN													
BLDG. RCNLD																							
BLDG. OVERRIDE										RCNLD													
EXTRA FEATURES										Extra Features													
TOTAL RCNLD										IMPS VALUE													
CODE	DESCRIPTION	BLDG	UNITS	UNIT PRICE	FAC	ADJ UNIT PR	AYB	EYB	RCN	DEPR%	RCNLD	NOTES	PI	PPID									

14837

~~004836~~

Exhibit 152

STATE BOARD OF EQUALIZATION



ASSESSOR VALUATION

Cases: 17- 175, 176, 177

004837

14839

CASE #		17-175				SUBJECT PARCEL INFORMATION				FISCAL YEAR		2017/2018		
APN		138-32-202-001		Location		Alta and Rampart		Zoning Designation		PD		Vacant		
Size (acres)		4.50		Gross		Net		Size (sq ft)		RESIDENTIAL		Offsites		
General Description		4.50		4.50		4.50		195,020		RESIDENTIAL		Density		
This appeal includes the following parcels that are active for the 17-18 tax year: 138-32-202-001 and 138-32-210-008 totalling 4.50 gross acres. Parcel are currently zoned Planned Development District which allows for a variety of uses. These parcels have the clubhouse and parking lot improvements on them. Parcels are located within the former Badlands Golf Course, near the corner of Alta and Rampart.														
COMPARABLE LAND SALES GRID														
Sale No.	1	2	3	4	5	6	7	8						
Parcel #	137-27-717-001	175-01-510-001	176-06-310-001	176-06-814-001	138-19-419-009	164-02-510-003	163-19-111-002	163-19-402-007						
Buyer	RYLAND HOMES NEVADA	Pardee Homes	RICHMOND AMERICAN HOMES NEVADA	HUGHES HOWARD COMP	A L F LAND CO L L C	CHARLESTON 215 L L	C R P CALIDA FLAMIN	GRAND CANYON TROPIC						
Seller	HUGHES HOWARD COMP	HUGHES HOWARD COMP	HUGHES HOWARD COMP	HUGHES HOWARD COMP	Crossing Business C	S A V W C L I I L L	BURBANK L L C	SOROOSH FARHANG REV						
Date of Sale	5/20/2016	6/7/2016	9/9/2016	10/7/2016	7/13/2016	2/1/2016	3/25/2016	10/7/2016						
Sale Price	\$10,115,200	\$16,872,000	\$15,000,000	\$14,855,550	\$2,212,500	\$16,650,000	\$11,690,000	\$6,100,000						
Cross Streets	Far Hills / Fox Hill	Hualapai / Sunset	Warm Sprin / Ft. Apache	Fort Apache / Warm Sprin	Summerlin / Town Centre	Charleston / Hughes Par	Flamingo / Hualapai	Tropicana / Hualapai						
Acres	18.56	33.44	30.86	30.63	3.53	31.46	11.69	9.22						
\$/Acre	545,000	504,545	486,066	485,000	626,771	529,243	1,000,000	661,605						
Time/Market/Other Adj.*														
Adjusted \$/Acre	545,000	504,545	486,066	485,000	626,771	529,243	1,000,000	661,605						
Location	Summerlin West	Summerlin South	Summerlin South	Summerlin South	Summerlin East	Summerlin South	Southwest	Southwest						
Zoning/Probable Use	P-C	R2/RH	R-E/MDP	R-E/MDP	P-C	R-URM	C-2/CG	R-E/ROI R-5						
Density (maximum)	5.6-12 du/acre	5.6-12 du/acre	5.6-12 du/acre	5.6-12 du/acre	26 du/acre	25 du/acre	25 du/acre	50 du/acre						
Size	18.56 Acres	33.44 Acres	30.86 Acres	30.63 Acres	3.53 Acres	31.46 Acres	11.69 Acres	9.22 Acres						
Shape	Regular	Irregular	Regular	Regular	Regular	Irregular	Regular	Regular						
Topography	Level	Undulating	Level	Level	Level	Undulating	Level	Level						
Access	Typical	Typical	Typical	Typical	Typical	Typical	Typical	Typical						
Offsites	Full	Partial	Partial	Partial	Partial	Partial	Partial	Partial						
Overall Comparison to Subject	SIMILAR	INFERIOR	INFERIOR	INFERIOR	SIMILAR	SIMILAR	SIMILAR	SIMILAR						
* Analysis of Market Conditions Adjustment attached.														
RECONCILIATION														
INDICATED VALUE RANGE OF COMPARABLES		485,000		TO		1,000,000		PER ACRE						
CURRENT TAXABLE VALUE OF SUBJECT		525,000		PER ACRE		525,000		PER ACRE		TOTAL TXBL LAND VALUE		2,362,500		
RECOMMEND		525,000		PER ACRE		525,000		PER ACRE		TOTAL TXBL LAND VALUE		NO CHANGE		
This appeal consists of 2 total parcels with a total of 4.5 gross acres. Parcels in question are flat and currently have The Badlands clubhouse and parking lot improvements on them, this appeal is for land values only. Comps 1 thru 4 have similar zoning to the subject's PD with 1 being most similar in location. Comps 5 thru 8 have higher zoning similar to the R-3 zoning approved by the Las Vegas City Council on parcel 138-32-301-005. Based on the information provided recommend no change of land values.														
RECONCILIATION COMMENTS														
004838														

Clark County Assessor's Office

Case #: 17175
FORE STARS LTD

Subject(s):
S. 138-32-202-001
S2. 138-32-210-008

1:2,000
Date: 8/1/2017

Legend

 Subject

 Comparable



Aerial Map (NearMap 08/02/2016)

14841

Clark County Assessor's Office

Case #: 17175
FORE STARS LTD

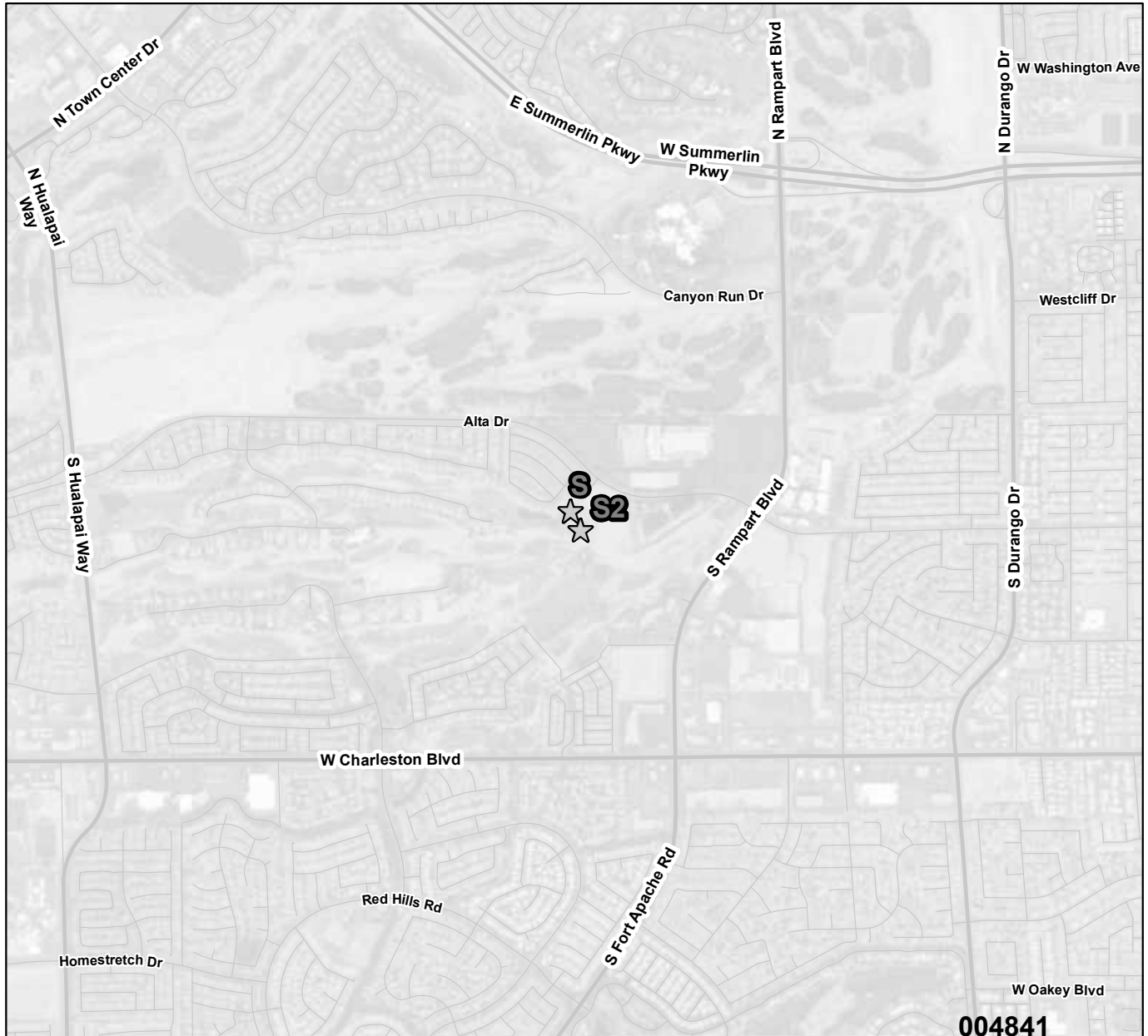
Subject(s):
S. 138-32-202-001
S2. 138-32-210-008

1:20,000
Date: 8/1/2017

Legend

☆ Subject

☆ Comparable



Vicinity Map

14843

Clark County Assessor's Office

Case #: 17175
FORE STARS LTD

Subject(s):
S1. 138-32-202-001
S2. 138-32-210-008

Comparable(s):
1. 137-27-717-002
2. 175-01-512-001
3. 176-06-311-001
4. 176-06-312-001
5. 138-19-419-009
6. 164-02-510-007
7. 163-19-111-002
8. 163-19-402-007

1:86,158
Date: 9/5/2017

Legend

☆ Subject

☆ Comparable



Vicinity Map

14844

CASE #		17-176		SUBJECT PARCEL INFORMATION				FISCAL YEAR		2017/2018	
APN		138-31-801-002 et al		Location		Charleston and Rampart		Zoning Designation		Vacant	
Size (acres)		178.27		Gross		178.27		Net		7,765,441	
General Description		138-31-801-002, 138-31-801-005, 138-31-201-005, 138-31-601-008, 138-31-702-003, 138-31-702-004. Approx 26.4% of the gross acreage is in wash. Parcels are located within the former Badlands Golf Course ner the corner of Charleston and Rampart		Probable Use		RESIDENTIAL		OFFSITES		Partial	
										Density	
										7 DU/AC	
COMPARABLE LAND SALES GRID											
Sale No.	1	2	3	4	5	6	7	8			
Parcel #	137-27-717-001	175-01-510-001	176-06-310-001	176-06-814-001	138-19-419-009	164-02-510-003	163-19-111-002	163-19-402-007			
Buyer	RYLAND HOMES NEVADA	Pardee Homes	RICHMOND AMERICAN HOMES NEVADA	176-06-814-001	A L F LAND CO L L C	CHARLESTON 215 L L	C R P CALIDA FLAMIN	GRAND CANYON TROPIC			
Seller	HUGHES HOWARD COMP	HUGHES HOWARD COMP	HUGHES HOWARD COMP	HUGHES HOWARD COMP	Crossing Business C	S A V W C L I I L L	BURBANK L L C	BOROOSH FARHANG REV			
Date of Sale	5/20/2016	6/7/2016	9/9/2016	10/7/2016	7/13/2016	2/1/2016	3/25/2016	10/7/2016			
Sale Price	\$10,115,200	\$16,872,000	\$15,000,000	\$14,855,550	\$2,212,500	\$16,650,000	\$11,690,000	\$6,100,000			
Cross Streets	Far Hills / Fox Hill	Hualapai / Sunset	Warm Sprin / Ft. Apache	Fort Apache / Warm Sprin	Summerlin / Town Centre	Charleston / Hughes Par	Flamingo / Hualapai	Tropicana / Hualapai			
Acreage	18.56	33.44	30.86	30.63	3.53	31.46	11.69	9.22			
\$/Acre	545,000	504,545	486,066	485,000	626,771	529,243	1,000,000	661,605			
Time/Market/Other Adj.*											
Adjusted \$/Acre	545,000	504,545	486,066	485,000	626,771	529,243	1,000,000	661,605			
Location	Summerlin West	Summerlin South	Summerlin South	Summerlin South	Summerlin East	Summerlin South	Southwest	Southwest			
Zoning/Probable Use	P-C	R2/RH	R-E/MDP	R-E/MDP	P-C	R-URM	C-2/CG	R-E/ROI R-5			
Density (maximum)	5.6-12 du/acre	5.6-12 du/acre	5.6-12 du/acre	5.6-12 du/acre	26 du/acre	25 du/acre	25 du/acre	50 du/acre			
Size	18.56 Acres	33.44 Acres	30.86 Acres	30.63 Acres	3.53 Acres	31.46 Acres	11.69 Acres	9.22 Acres			
Shape	Regular	Irregular	Regular	Regular	Regular	Irregular	Regular	Regular			
Topography	Level	Undulating	Level	Level	Level	Undulating	Level	Level			
Access	Typical	Typical	Typical	Typical	Typical	Typical	Typical	Typical			
Offsites	Full	Partial	Partial	Partial	Partial	Partial	Partial	Partial			
Overall Comparison to Subject	SUPERIOR	SIMILAR	SIMILAR	SIMILAR	SUPERIOR	SUPERIOR	SUPERIOR	SUPERIOR			
* Analysis of Market Conditions Adjustment attached.											
RECONCILIATION											
INDICATED VALUE RANGE OF COMPARABLES		485,000		TO		1,000,000		PER ACRE			
CURRENT TAXABLE VALUE OF SUBJECT		386,143		PER ACRE		386,143		PER ACRE		TOTAL TXBL LAND VALUE	
RECOMMEND		386,143		PER ACRE		386,143		PER ACRE		TOTAL TXBL LAND VALUE	
										68,837,790	
										NO CHANGE	
RECONCILIATION COMMENTS		This appeal consists of 5 total parcels with gross acreages of: 11.28, 34.07, 22.19, 76.93, 33.80. For a total of 178.27 acres. Approx. 26.4% of these parcels or about 47.15 acres lie in washes and are not valued, approx. 24% of these parcels lie within the FEMA flood zone. Gross acreage value for these parcels is approx. \$386,143 per acre. Comps 1 thru 4 have similar zoning to the subject's PD-7 with 1 being most similar in location. Comps 5 thru 8 have higher zoning similar to the R-3 zoning approved by the Las Vegas City Council on parcel 138-32-301-005. Based on the information provided recommend no change in value.									
		004843									

Clark County Assessor's Office

Case #: 17176
180 LAND CO L L C

Subject(s):
S. 138-31-201-005
S2. 138-31-601-008
S3. 138-31-702-003
S4. 138-31-702-004
S5. 138-31-801-002

1:10,000
Date: 8/1/2017

Legend

 Subject

 Comparable



Aerial Map (NearMap 08/02/2016)

14846

Clark County Assessor's Office

Case #: 17176
180 LAND CO L L C

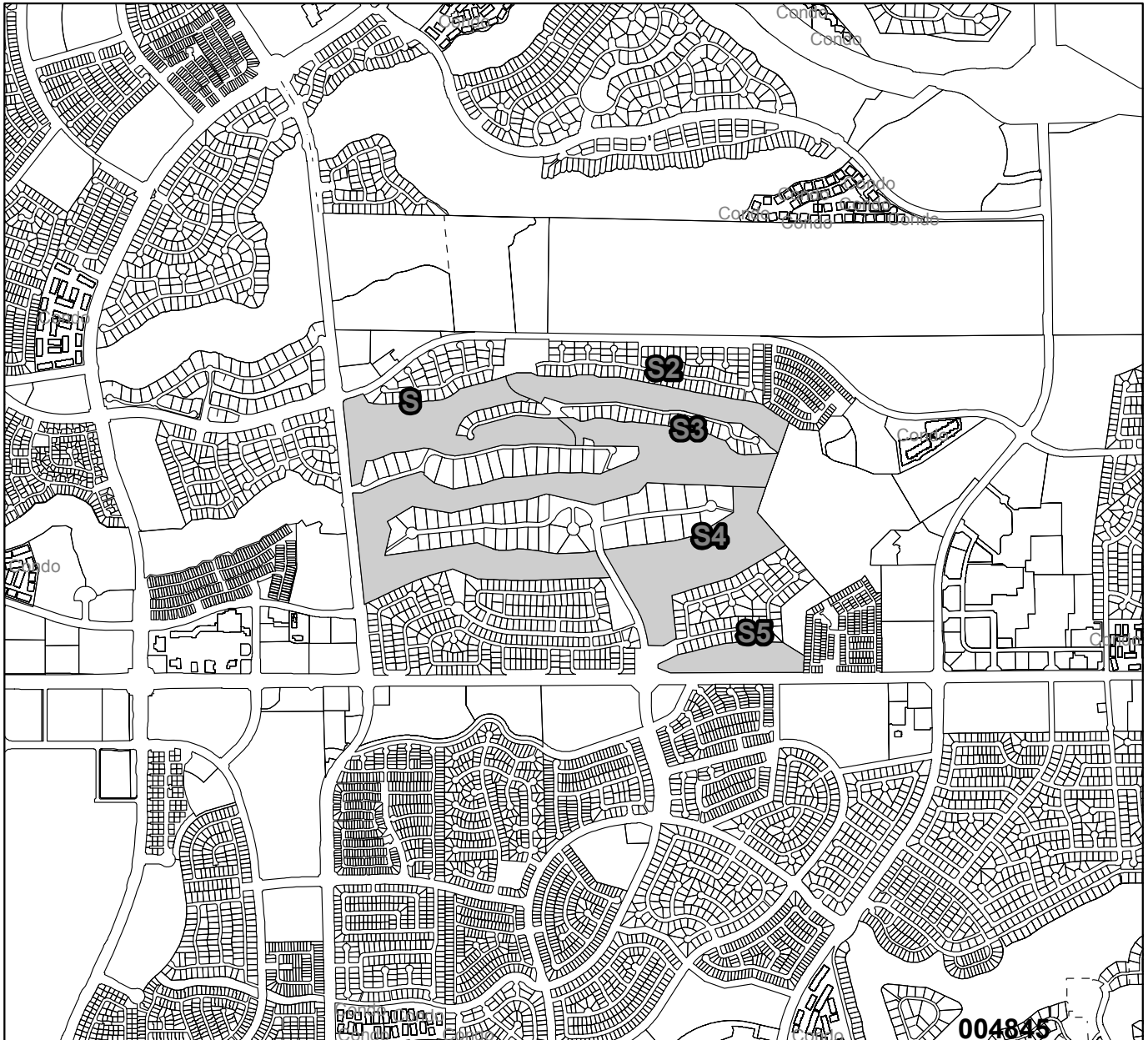
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S. 138-31-201-005
S2. 138-31-601-008
S3. 138-31-702-003
S4. 138-31-702-004
S5. 138-31-801-002

1:20,000
Date: 8/1/2017

Legend

■ Subject

□ Comparable



Subject Map

14847

Clark County Assessor's Office

Case #: 17176
180 LAND CO L L C

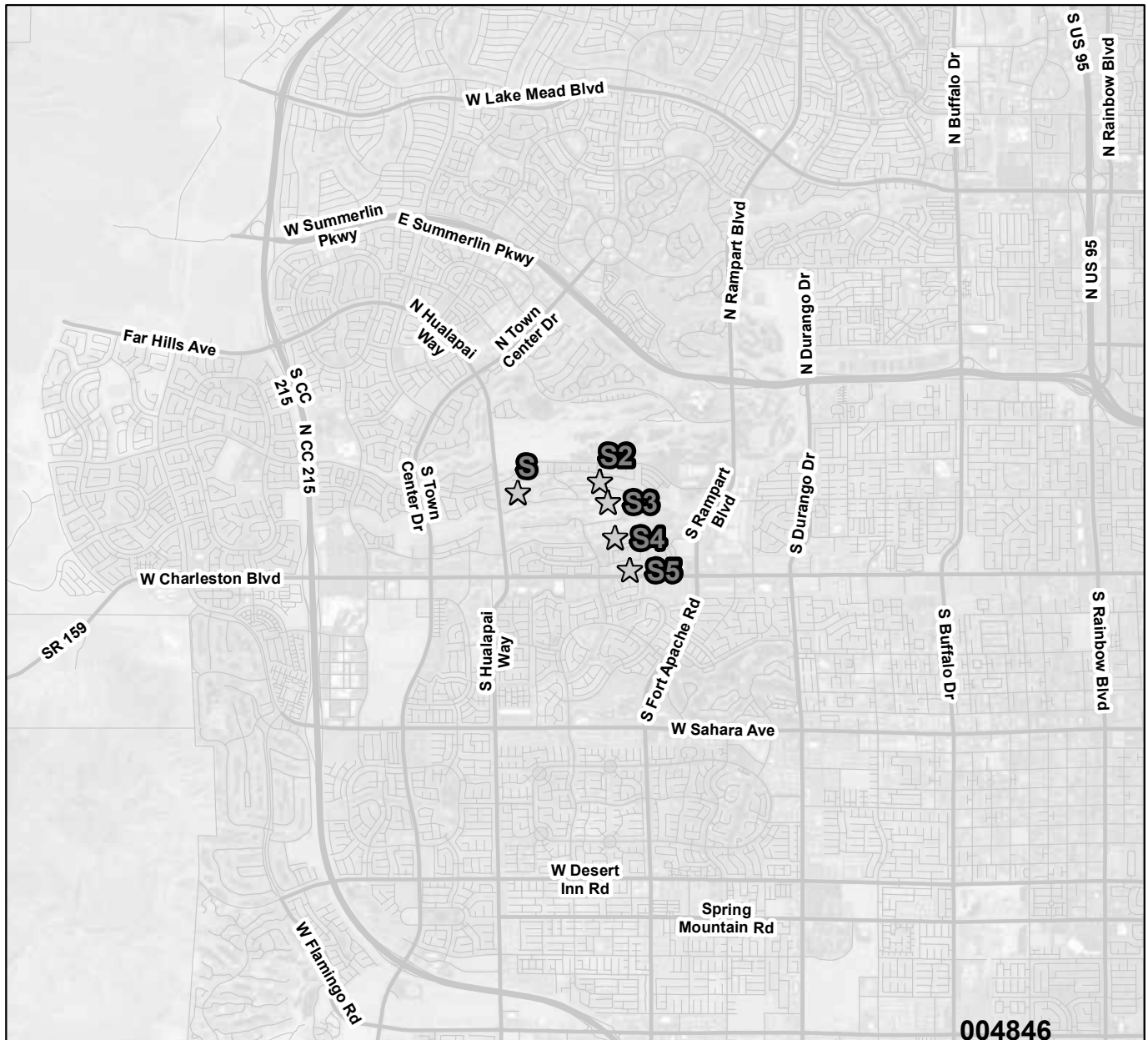
Subject(s):
S. 138-31-201-005
S2. 138-31-601-008
S3. 138-31-702-003
S4. 138-31-702-004
S5. 138-31-801-002

1:60,000
Date: 8/1/2017

Legend

☆ Subject

☆ Comparable



Vicinity Map

14848

Clark County Assessor's Office

Case #: 17176
180 LAND CO L L C

Subject(s):
S1. 138-31-801-002
S2. 138-31-201-005
S3. 138-31-601-008
S4. 138-31-702-003
S5. 138-31-702-004

Comparable(s):
1. 137-27-717-002
2. 175-01-512-001
3. 176-06-311-001
4. 176-06-312-001
5. 138-19-419-009
6. 164-02-510-007
7. 163-19-111-002
8. 163-19-402-007

1:86,158
Date: 9/5/2017

Legend

★ Subject

★ Comparable



Vicinity Map

14849

CASE #	17-177	SUBJECT PARCEL INFORMATION				FISCAL YEAR	2017/2018
APN	138-31-801-003 et al	Location	Charleston and Rampart		Zoning Designation	PD	Vacant
Size (acres)	70.52	Gross	70.52	Net	3,071,851	RESIDENTIAL	Offsites
General Description	This appeal includes the following parcels that are active for the 17-18 tax year: 138-31-801-003, 138-32-301-007, 138-32-301-005. Approx 46.3% of the gross acreage is in wash. Parcels are located within the former Badlands Golf Course near the corner of Charleston and Rampart.						

COMPARABLE LAND SALES GRID									
Sale No.	1	2	3	4	5	6	7	8	
Parcel #	137-27-717-001	175-01-510-001	176-06-310-001	176-06-814-001	138-19-419-009	164-02-510-003	163-19-111-002	163-19-402-007	
Buyer	RYLAND HOMES NEVADA	Pardee Homes	RICHMOND AMERICAN H	PARDEE HOMES NEVADA	A L F LAND CO L L C	CHARLESTON 215 L L	C R P CALIDA FLAMIN	GRAND CANYON TROPIC	
Seller	HUGHES HOWARD COMP	HUGHES HOWARD COMP	HUGHES HOWARD COMP	HUGHES HOWARD COMP	Crossing Business C	S A V W C L I I L L	BURBANK L L C	SOROOSH FARHANG REV	
Date of Sale	5/20/2016	6/7/2016	9/9/2016	10/7/2016	7/13/2016	2/1/2016	3/25/2016	10/7/2016	
Sale Price	\$10,115,200	\$16,872,000	\$15,000,000	\$14,855,550	\$2,212,500	\$16,650,000	\$11,690,000	\$6,100,000	
Cross Streets	Far Hills / Fox Hill	Hualapai / Sunset	Warm Sprin / Ft. Apache	Fort Apache / Warm Sprin	Summerlin / Town Centre	Charleston / Hughes Par	Flamingo / Hualapai	Tropicana / Hualapai	
Acre	18.56	33.44	30.86	30.63	3.53	31.46	11.69	9.22	
\$/Acre	545,000	504,545	486,066	485,000	626,771	529,243	1,000,000	661,605	
Time/Market/Other Adj.*									
Adjusted \$/Acre	545,000	504,545	486,066	485,000	626,771	529,243	1,000,000	661,605	
Location	Summerlin West	Summerlin South	Summerlin South	Summerlin South	Summerlin East	Summerlin South	Southwest	Southwest	
Zoning/Probable Use	P-C	R2/RH	R-E/MDP	R-E/MDP	P-C	R-URM	C-2/CG	R-E/ROI R-5	
Density (maximum)	5.6-12 du/acre	5.6-12 du/acre	5.6-12 du/acre	5.6-12 du/acre	26 du/acre	25 du/acre	25 du/acre	50 du/acre	
Size	18.56 Acres	33.44 Acres	30.86 Acres	30.63 Acres	3.53 Acres	31.46 Acres	11.69 Acres	9.22 Acres	
Shape	Regular	Irregular	Regular	Regular	Regular	Irregular	Regular	Regular	
Topography	-	Undulating	-	-	Level	Undulating	Level	Level	
Access	Typical	Typical	Typical	Typical	Typical	Typical	Typical	Typical	
Offsites	Full	Partial	Partial	Partial	Partial	Partial	Partial	Partial	
Overall Comparison to Subject	SUPERIOR	SIMILAR	SIMILAR	SIMILAR	SUPERIOR	SUPERIOR	SUPERIOR	SUPERIOR	

* Analysis of Market Conditions Adjustment attached.

RECONCILIATION				
INDICATED VALUE RANGE OF COMPARABLES	485,000	TO	1,000,000	PER ACRE
CURRENT TAXABLE VALUE OF SUBJECT	282,039	PER ACRE		
RECOMMEND	282,039	PER ACRE		
TOTAL TXBL LAND VALUE 19,889,363 TOTAL TXBL LAND VALUE NO CHANGE				
This appeal consists of 3 total parcels with gross acreages of: 5.44, 47.59, and 17.49, for a total of 70.52 gross acres. Approx. 46.3% of these parcels or about 37.885 acres lie in washes and are not valued, approx. 31% of these parcels lie within the FEMA flood zone. Gross acreage value for these parcels is approx. \$282,039. Comps 1 thru 4 have similar zoning to the subject's PD-7 with 1 being most similar in location. Comps 5 thru 8 have higher zoning similar to the R-3 zoning approved by the Las Vegas City Council on parcel 138-32-301-005. Based on the information provided recommend no change in value.				
RECONCILIATION COMMENTS	004848			

Clark County Assessor's Office

Case #: 17177
SEVENTY ACRES L L C

Subject(s):
S. 138-31-801-003
S2. 138-32-301-005
S3. 138-32-301-007

1:7,000
Date: 8/1/2017

Legend

☐ Subject

☐ Comparable

Aerial Map (NearMap 08/02/2016)

14851

Clark County Assessor's Office

Case #: 17177
SEVENTY ACRES L L C

Subject(s):
S. 138-31-801-003
S2. 138-32-301-005
S3. 138-32-301-007

1:14,000
Date: 8/1/2017

Legend

■ Subject

■ Comparable



Subject Map

14852

Clark County Assessor's Office

Case #: 17177
SEVENTY ACRES L L C

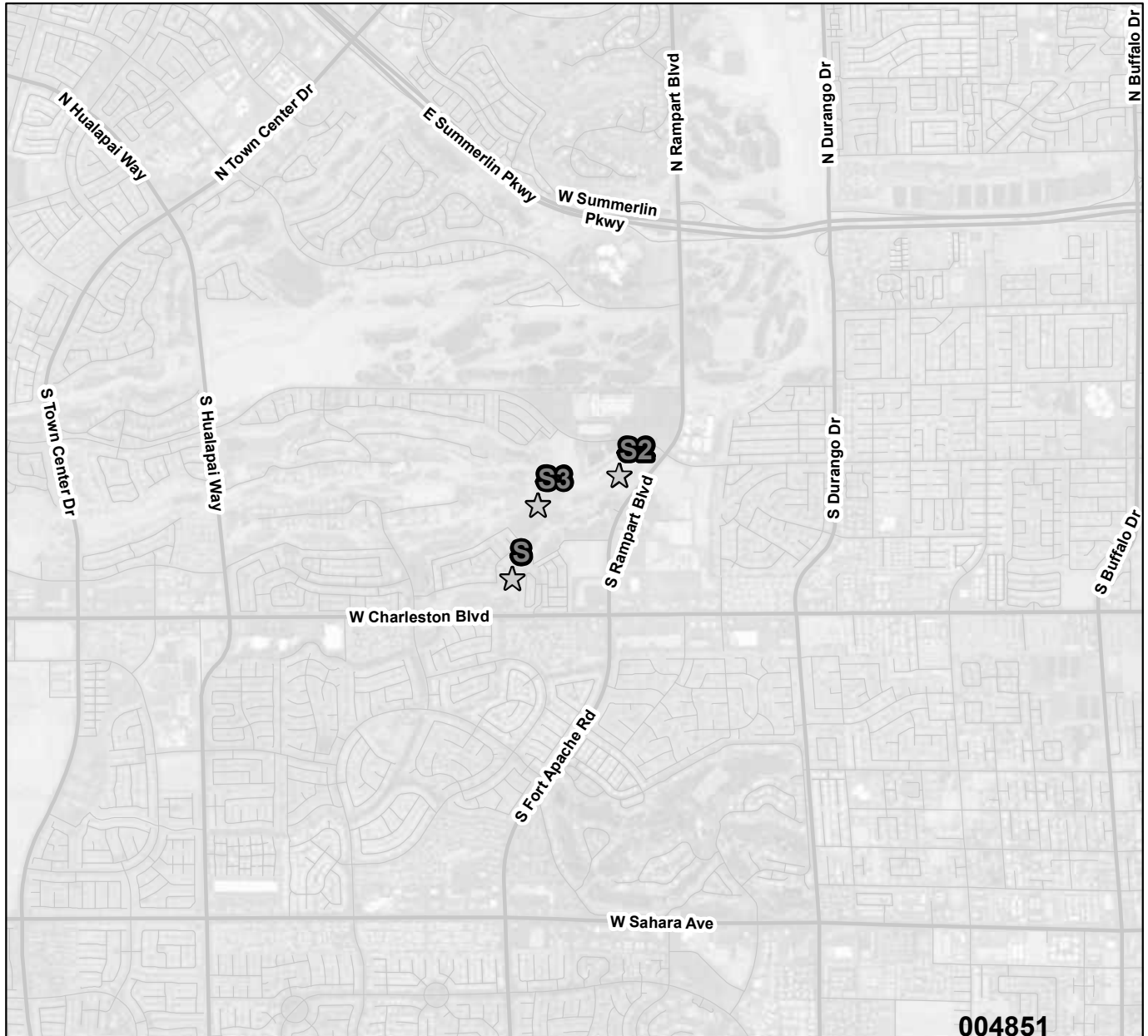
Subject(s):
S. 138-31-801-003
S2. 138-32-301-005
S3. 138-32-301-007

1:30,000
Date: 8/1/2017

Legend

☆ Subject

☆ Comparable



Vicinity Map

14853

Clark County Assessor's Office

Case #: 17177
SEVENTY ACRES L L C

Subject(s):
S1. 138-31-801-003
S2. 138-32-301-007
S3. 138-32-301-005

Comparable(s):
1. 137-27-717-002
2. 175-01-512-001
3. 176-06-311-001
4. 176-06-312-001
5. 138-19-419-009
6. 164-02-510-007
7. 163-19-111-002
8. 163-19-402-007

1:86,158
Date: 9/5/2017

Legend

☆ Subject

☆ Comparable



Vicinity Map

14854

Comparable Sale:
Property Description:

1

Summerlin West

Master plan calls for medium density residential

Parcel Number:

137-27-717-001

Parcel Count:

1

Site Address:

Seller:

HUGHES HOWARD COMPANY L L C

Buyer:

RYLAND HOMES NEVADA L L C

Deed Number:

20160520:00001623

Sale Date:

5/20/2016

Sale Price:

\$10,115,200.00

Gross Size SF/Acre:

810,144

18.56

Net Size SF/Acre:

810,144

18.56

Sale Price Per SF/Acre

\$12.51

\$545,000

Zoning:

P-C

Planned Community

Utilities/Offsites:

Yes

Verification Source:

Public Records



Comparable Sale:

2

Summerlin South



Property Description:

R2 Lot in Summerlin South Planned Community. Both parcels have a secondary ROI for R-3 zoning or up to 18 du per acre. Some marketable views towards the back of parcel 610-002.

Parcel Number:

175-01-510-001

Parcel Count:

2

Site Address:

Seller:

HUGHES HOWARD COMPANY L L C

Buyer:

Pardee Homes

Deed Number:

20160607:00001054

Sale Date:

6/7/2016

Sale Price:

\$16,872,000.00

Gross Size SF/Acre:

1,459,656

33.44

Net Size SF/Acre:

1,459,656

33.44

Sale Price Per SF/Acre

\$11.58

\$504,545

Zoning:

R2

MediumLow Density Residential

Utilities/Offsites:

Verification Source:

Public Records



Comparable Sale:
Property Description:

3

Summerlin South

Typical subdivision land, no marketable views.

Parcel Number:

176-06-310-001

Parcel Count:

1

Site Address:

Seller:

HUGHES HOWARD COMPANY L L C

Buyer:

RICHMOND AMERICAN HOMES NEVADA

Deed Number:

20160909:00001377

Sale Date:

9/9/2016

Sale Price:

\$15,000,000.00

Gross Size SF/Acre:

1,347,039

30.86

Net Size SF/Acre:

1,347,039

30.86

Sale Price Per SF/Acre

\$11.16

\$486,066

Zoning:

R-E

Rural Estates Residential District

Utilities/Offsites:

Yes

Verification Source:

MLS/COSStar/Property Line



004855

Comparable Sale:
Property Description:

4	Summerlin South
Typical subbdivision land, no marketable views.	
Parcel Number:	176-06-814-001
Parcel Count:	1
Site Address:	
Seller:	HUGHES HOWARD COMPANY L L C
Buyer:	PARDEE HOMES NEVADA
Deed Number:	20161007:00000606
Sale Date:	10/7/2016
Sale Price:	\$14,855,550.00
Gross Size SF/Acre:	1,337,000 30.63
Net Size SF/Acre:	1,337,000 30.63
Sale Price Per SF/Acre	\$11.13 \$485,000
Zoning:	R-E Rural Estates Residential District
Utilities/Offsites:	Yes
Verification Source:	Other



Comparable Sale:
Property Description:

5

Summerlin East



Sale was for a portion of 138-19-419-006 which is now 13-19-419-009. -010 was part of the sale also but is now a street parcel and carries zero value (.44 acres).

138-19-419-009

1

1490 CENTER CROSSING RD

Crossing Business Center 8 LLC

A L F LAND CO L L C

20160713:00002748

7/13/2016

\$2,212,500.00

154,084

3.53

154,084

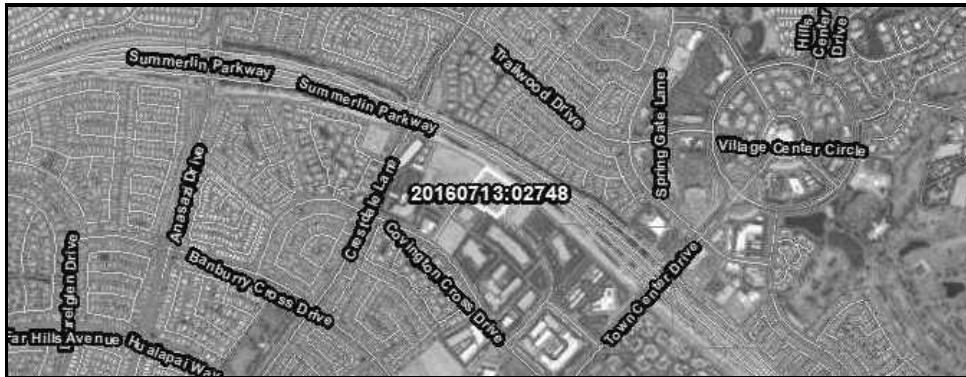
3.53

\$14.39

\$626,771

P-C

Planned Community



Comparable Sale:

6

Summerlin South

Property Description:

31.46 acres in Summerlin South master plan with ROI to R4 zoning secondary zoning C-2.

Parcel Number:

164-02-510-003

Parcel Count:

2

Site Address:

11325 W CHARLESTON BLVD

Seller:

S A V W C L I I I L L C

Buyer:

CHARLESTON 215 L L C

Deed Number:

20160201:00000296

Sale Date:

2/1/2016

Sale Price:

\$16,650,000.00

Gross Size SF/Acre:

1,373,229

31.46

Net Size SF/Acre:

1,373,229

31.46

Sale Price Per SF/Acre

\$12.15

\$529,243

Zoning:

R-U

Rural Open Land District

Utilities/Offsites:

Verification Source:

Public Records



004858

Comparable Sale:
Property Description:

7

Southwest



Parcel Number:

163-19-111-002

Parcel Count:

1

Site Address:

0

Seller:

BURBANK L L C

Buyer:

C R P CALIDA FLAMINGO HUALAPAI OWNER L L C

Deed Number:

20160325:00002514

Sale Date:

3/25/2016

Sale Price:

\$11,690,000.00

Gross Size SF/Acre:

510,268

11.69

Net Size SF/Acre:

510,268

11.69

Sale Price Per SF/Acre

\$22.96

\$1,000,000

Zoning:

C-2

General Commercial

Utilities/Offsites:

Verification Source:

Public Records



004859

Comparable Sale:
Property Description:

8

Southwest

Includes parcel 163-19-402-008

Parcel Number:

163-19-402-007

Parcel Count:

2

Site Address:

0

Seller:

SOROOSH FARHANG REV LIV TR

Buyer:

GRAND CANYON TROPICANA APTS LLC

Deed Number:

20161007:00000763

Sale Date:

10/7/2016

Sale Price:

\$6,100,000.00

Gross Size SF/Acre:

402,453

9.22

Net Size SF/Acre:

402,453

9.22

Sale Price Per SF/Acre

\$15.19

\$661,605

Zoning:

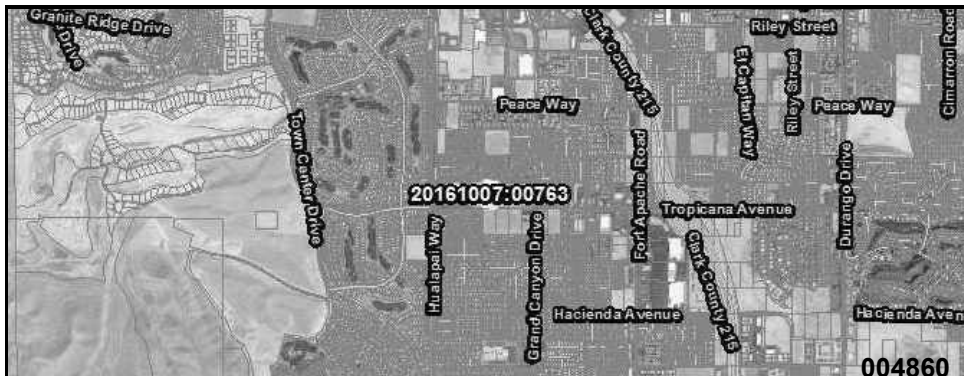
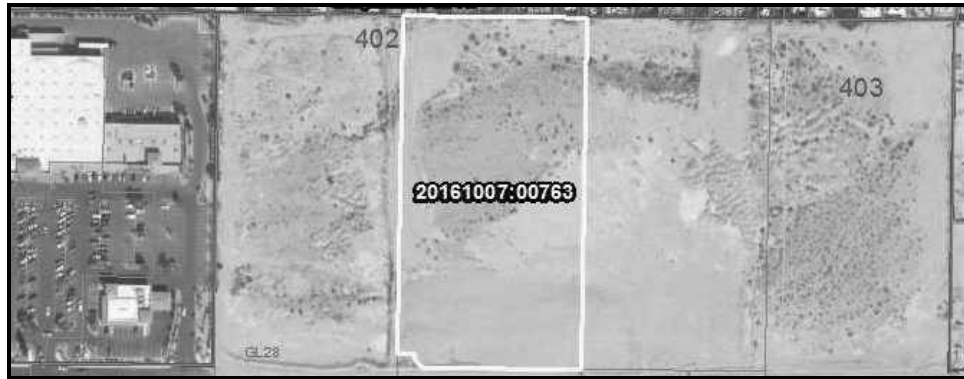
R-E

Rural Estates Residential District

Utilities/Offsites:

Verification Source:

MLS/COSar/Property Line





004861

Wednesday, Aug 16, 2017 01:34 PM

14863

Exhibit 153

Property Account Inquiry - Summary Screen

[New Search](#)
[Recorder](#)
[Treasurer](#)
[Assessor](#)
[Clark County Home](#)

Parcel ID	138-31-801-003	Tax Year	2021	District	200	Rate	3.2782
-----------	----------------	----------	------	----------	-----	------	--------

Situs Address:	UNASSIGNED SITUS LAS VEGAS
Legal Description:	ASSESSOR DESCRIPTION: PARCEL MAP FILE 121 PAGE 12 LOT 2

Status:	Property Characteristics		Property Values		Property Documents	
Active	Tax Cap Increase Pct.	6.7	Land	719712	2015111600239	11/16/2015
Taxable	Tax Cap Limit Amount	21524.11	Total Assessed Value	719712		
	Tax Cap Reduction	2069.49	Net Assessed Value	719712		
	Land Use	0-00 Vacant - Single Family Re	Exemption Value New Construction	0		
	Cap Type	OTHER	New Construction - Supp Value	0		
	Acreage	5.4400				
	Exemption Amount	0.00				

Role	Name	Address	Since	To
Owner	SEVENTY ACRES L C	C/O V DEHART 1215 S FORT APACHE RD #120 , LAS VEGAS, NV 89117 UNITED STATES	6/14/2019	Current

Summary

Item	Amount
Taxes as Assessed	\$23,593.60
Less Cap Reduction	\$2,069.49
Net Taxes	\$21,524.11

PAST AND CURRENT CHARGES DUE TODAY

Tax Year	Charge Category	Amount Due Today
THERE IS NO PAST OR CURRENT AMOUNT DUE as of 4/5/2021		\$0.00

NEXT INSTALLMENT AMOUNTS

Tax Year	Charge Category	Installment Amount Due
THERE IS NO NEXT INSTALLMENT AMOUNT DUE as of 4/5/2021		

TOTAL AMOUNTS DUE FOR ENTIRE TAX YEAR

Tax Year	Charge Category	Remaining Balance Due
THERE IS NO TOTAL AMOUNT DUE FOR THE ENTIRE TAX YEAR as of 4/5/2021		

PAYMENT HISTORY

Last Payment Amount	\$5,381.03
Last Payment Date	3/11/2021
Fiscal Tax Year Payments	\$21,526.53
Prior Calendar Year Payments	\$20,850.75
Current Calendar Year Payments	\$10,762.06

004862

14865

Property Account Inquiry - Summary Screen

[New Search](#)
[Recorder](#)
[Treasurer](#)
[Assessor](#)
[Clark County Home](#)

Parcel ID	138-31-801-002	Tax Year	2021	District	200	Rate	3.2782
-----------	----------------	----------	------	----------	-----	------	--------

Situs Address:	UNASSIGNED SITUS LAS VEGAS
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Legal Description:	ASSESSOR DESCRIPTION: PARCEL MAP FILE 120 PAGE 49 LOT 4
--------------------	---

Status:	Property Characteristics		Property Values		Property Documents	
Active	Tax Cap Increase Pct.	6.7	Land	1741068	2015111600238	11/16/2015
Taxable	Tax Cap Limit Amount	45411.55	Total Assessed Value	1741068	2005041402951	4/14/2005
	Tax Cap Reduction	11664.14	Net Assessed Value	1741068		
	Land Use	0-00 Vacant - Single Family Re	Exemption Value New Construction	0		
	Cap Type	OTHER	New Construction - Supp Value	0		
	Acreage	11.2800				
	Exemption Amount	0.00				

Role	Name	Address	Since	To
Owner	180 LAND CO L C	C/O V DEHART 1215 S FORT APACHE RD #120 , LAS VEGAS, NV 89117 UNITED STATES	6/14/2019	Current

Summary

Item	Amount
Taxes as Assessed	\$57,075.69
Less Cap Reduction	\$11,664.14
Net Taxes	\$45,411.55

PAST AND CURRENT CHARGES DUE TODAY

Tax Year	Charge Category	Amount Due Today
THERE IS NO PAST OR CURRENT AMOUNT DUE as of 4/5/2021		\$0.00

NEXT INSTALLMENT AMOUNTS

Tax Year	Charge Category	Installment Amount Due
THERE IS NO NEXT INSTALLMENT AMOUNT DUE as of 4/5/2021		

TOTAL AMOUNTS DUE FOR ENTIRE TAX YEAR

Tax Year	Charge Category	Remaining Balance Due
THERE IS NO TOTAL AMOUNT DUE FOR THE ENTIRE TAX YEAR as of 4/5/2021		

PAYMENT HISTORY

Last Payment Amount	\$11,352.89
Last Payment Date	3/11/2021
Fiscal Tax Year Payments	\$45,413.97
Prior Calendar Year Payments	\$43,988.21
Current Calendar Year Payments	\$22,705.78

004863

14866

Property Account Inquiry - Summary Screen

[New Search](#)
[Recorder](#)
[Treasurer](#)
[Assessor](#)
[Clark County Home](#)

Parcel ID	138-32-301-007	Tax Year	2021	District	200	Rate	3.2782
-----------	----------------	----------	------	----------	-----	------	--------

Situs Address:	721 S RAMPART BLVD LAS VEGAS
----------------	------------------------------

Legal Description:	ASSESSOR DESCRIPTION: PARCEL MAP FILE 121 PAGE 12 LOT 1
--------------------	---

Status:	Property Characteristics		Property Values		Property Documents	
Active	Tax Cap Increase Pct.	6.7	Land	4634671	2015111600239	11/16/2015
Taxable	Tax Cap Limit Amount	139648.01	Total Assessed Value	4634671		
	Tax Cap Reduction	12285.77	Net Assessed Value	4634671		
	Land Use	0-00 Vacant - Single Family Re	Exemption Value New Construction	0		
	Cap Type	OTHER	New Construction - Supp Value	0		
	Acreage	47.5900				
	Exemption Amount	0.00				

Role	Name	Address	Since	To
Owner	SEVENTY ACRES L C	C/O V DEHART 1215 S FORT APACHE RD #120 , LAS VEGAS, NV 89117 UNITED STATES	6/14/2019	Current

Summary

Item	Amount
Taxes as Assessed	\$151,933.78
Less Cap Reduction	\$12,285.77
Net Taxes	\$139,648.01

PAST AND CURRENT CHARGES DUE TODAY

Tax Year	Charge Category	Amount Due Today
THERE IS NO PAST OR CURRENT AMOUNT DUE as of 4/5/2021		\$0.00

NEXT INSTALLMENT AMOUNTS

Tax Year	Charge Category	Installment Amount Due
THERE IS NO NEXT INSTALLMENT AMOUNT DUE as of 4/5/2021		

TOTAL AMOUNTS DUE FOR ENTIRE TAX YEAR

Tax Year	Charge Category	Remaining Balance Due
THERE IS NO TOTAL AMOUNT DUE FOR THE ENTIRE TAX YEAR as of 4/5/2021		

PAYMENT HISTORY

Last Payment Amount	\$34,912.00
Last Payment Date	3/11/2021
Fiscal Tax Year Payments	\$139,650.43
Prior Calendar Year Payments	\$135,265.99
Current Calendar Year Payments	\$69,824.00

004864

14867

Exhibit 154

**A. WAYNE SMITH
& ASSOCIATES**

A Subsidiary of Cornoyer-Hedrick

February 6, 1990.

Mr. Harold P. Foster
Planning Director
CITY OF LAS VEGAS
400 East Stewart Avenue
Las Vegas, Nevada 89101

Dear Mr. Foster:

On behalf of the Peccole Ranch Partnership, we herein submit this application for overall Master Plan Amendment for 1,569.6 acres, and a zoning reclassification for a 996.4 acre Phase Two project.

Enclosed, as per your requirements are:

- Application for zoning reclassification of property executed by the property owner
- Application fee of \$200.00
- Eight (8) blueprints of the Master Plan for the overall 1,569.6 acres, the 996.4 acre Phase Two area, and the zoning reclassification narrative.

The Legal Descriptions of the Phase Two R-PD7, R-3, and C-1 areas will be prepared and submitted under separate cover from VTN engineers.

If you have any questions or require additional information, please contact us at (602) 234-3474. Your review and approval is respectfully requested.

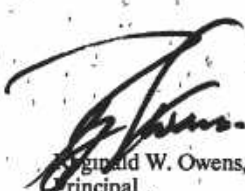
Very truly yours,


A. Wayne Smith, ASLA
Principal

AWS/RWO/mb

LAND PLANNING
LANDSCAPE
ARCHITECTURE
REAL ESTATE
ADVISORY SERVICES
1515 East Missouri
Suite 100
Phoenix, Arizona
85014

602 234-3474
602 230-9143 FAX


Reginald W. Owens, AICP
Principal

Principals
Jeffrey M. Cornoyer
Robert C. Hedrick
A. Wayne Smith
Reginald W. Owens
Charles C. Wootman
Douglas W. Fredrickson
John H. Hugg
Reginald W. Owens
Mark L. Guther

Senior Associates
Don Cox
James A. Erickson
John D. Chivagow
Barry L. Linder
David A. Linker
Donald S. Ziebell

Associates
Betsy Blakely
Michael T. Burke
Kristina Dixon
John G. Gendle
Kimberly Harris
Loretta A. Henderson
Oscar Hernandez
James J. Hoffman
Brian R. Knecht
Michael L. Lasky
Karen R. MacIntyre
Tom Miller
Neal Nordin
Dann Oates
Sally Pickard
Michael I. Porter
George C. Rice
James K. Snavely
Vernon M. Terrell
Joseph H. Wurtell III
Linda J. Young

CLV65-000138
004865

14869

**A WAYNE SMITH
& ASSOCIATES**
A Subsidiary of Cornoyer-Hedrick

T R A N S M I T T A L

To City of Las Vegas Date February 8, 1990
400 East Stewart Project Peccole Ranch - Phase II
Las Vegas, Nevada 89101 Job No L89314-11

Attn Mr. Harold Foster, Director of Community Planning & Development
Mr. Richard Williams, Chief of Current Planning

We transmit Via Regular Mail Under separate cover via _____

For your Approval Review + comment Distribution Record X Information

The following

Drawings prints reproducibles X Documents Samples
 Shop drawings prints reproducibles Specifications Other
 Submittal No _____ Change order

copies	date	rev no	description
2			Original Peccole Ranch Master Plan Amendment and Phase II
			Rezoning Application Booklets

Remarks

Enclosed are two original Peccole Ranch Master Plan Amendment and
 Phase Two Rezoning Application booklets for your review and use.

Copies to

encl

encl

1515 East Missouri
 Suite 100
 Phoenix, Arizona
 85014
 602 234-3474
 602 230-9143 FAX

Reginald W. Owens, AICP
 Signed

CLV65-000139
004866

14870

PECCOLE RANCH
MASTER PLAN

A Master Plan Amendment and Phase Two Rezoning Application

PREPARED FOR:

The Peccole Ranch Partnership:

Peccole Trust
2300 West Sahara Avenue
Box 17, Suite 870
Las Vegas, Nevada 89102
(702) 871-2700

Triple Five Development Group Central, Ltd.

Suite 900, Capital Place
9707 - 110 Street
Edmonton, Alberta
Canada T5K 2L9
(403) 482-7800

PREPARED BY:

A. Wayne Smith & Associates
1515 East Missouri Avenue
Suite 100
Phoenix, Arizona 85014
(602) 234-3474

February 6, 1990

CLV65-000140

004867

14871

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Master Plan Comparison: Proposed Peccole Ranch Vs. Approved Peccole Ranch	3
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Development Plan - Phase Two	16
Quality of Development	16
General Plan Conformance	17

CLV65-000141

004868

14872

EXHIBITS

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Exhibit B	Approved Peccole Ranch Partnership Master Plan 2/89, 5
Exhibit C	Area Plan 2
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Exhibit E	Roadway Plan and Cross Sections 13
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CLV65-000142

004869

14873

PECCOLE RANCH

The proposed 1,569.6 acre Peccole Ranch Master Plan is being submitted to the City of Las Vegas for the approval of an Amendment to the overall Conceptual Master Plan, along with the rezoning of the 990.4 acres in Phase Two to R-PD7, R-3, and C-1 designations. The following narrative describes the intent of the proposed overall Master Plan, compares the Plan with the previously approved overall Peccole Ranch Master Plan, and discusses in detail those land uses proposed in the Phase Two development of Peccole Ranch.

INTRODUCTION - PECCOLE RANCH OVERALL MASTER PLAN

The Peccole Ranch overall Conceptual Master Plan which was approved on February 15, 1989 consisted of 1,716.3 acres. The present overall Plan illustrates a reduction in the 1,716.3 acreage due to the elimination of a previously zoned multi-family parcel and several neighborhood commercial/office parcels totaling 83.9 acres. The existing 10.9 acre water storage parcel owned and managed by the Las Vegas Valley Water District was also removed. The proposed overall Master Plan now consists of 1,569.6 acres

Peccole Ranch is located within the northwest and southwest growth areas of the Las Vegas Metropolitan Area (Exhibit C, page 2), and has an excellent time-distance relationship to surrounding support services, employment centers, and transportation network including McCarran International Airport. This particular area of the Valley has been experiencing a rapid growth rate as demonstrated by those developments occurring in the Peccole Ranch vicinity such as Canyon Gate, Summerlin, and The Lakes. Planning efforts for these planned communities promote viable growth, compatibility with adjacent uses, and a commitment to quality. It is this trend that became the basis of a Plan that would maintain flexibility to accommodate future market changes. The proposed Plan is conceptual in nature to allow detailed planning at the time of development. In this way the lifestyles of the anticipated population can be met. The physical character of Peccole Ranch is enhanced by its higher elevation than the rest of the City. Views of the surrounding mountains provide a visually pleasant backdrop and the evening lights of downtown Las Vegas are in the distant view.

The proposed Peccole Ranch overall Master Plan (Exhibit A, page 4) incorporates office, neighborhood commercial, a nursing home, and a mixed use village center around a strong residential base in a cohesive manner. A destination resort-casino, commercial/office and commercial center have been proposed in the most northern portion of the project area. Special attention has been given to the compatibility of neighboring uses for smooth transitioning, circulation patterns, convenience and aesthetics. An extensive 253 acre golf course and linear open space system winding throughout the community provides a positive focal point while creating a mechanism to handle drainage flows.

Also of importance to Peccole Ranch is the alignment of the Summerlin Parkway under construction north of the Project. The Summerlin Parkway is an east/west expressway which will be approximately three to three and one-half miles long originating at the curve of the Oran A. Gragson Expressway (Westcliff Drive and Rainbow Boulevard) with a terminus at the corner of the two initial Summerlin Villages. Adjacent to the northern boundary of the Peccole Ranch property is the 640 acre Angel Park. When complete, this regional park will include two world class golf courses designed by Arnold Palmer.

The development plan for Peccole Ranch is designed to benefit the current and long range needs of the Las Vegas Metropolitan Area as the population expansion is realized. Overall project character and identity will reflect the high standards of quality envisioned by the developer and a consistency with the pattern of regional community development.

**OVERALL MASTER PLAN COMPARISON:
PROPOSED PECCOLE RANCH MASTER PLAN VS.
APPROVED PECCOLE RANCH MASTER PLAN**

The proposed Peccole Ranch Master Plan is an amendment to the Peccole Ranch Master Plan which was approved by the City of Las Vegas on February 15, 1989 (Exhibit B, page 5). The main difference between the Plans is the redesignation of 100.1 acres located at the northeast corner of the property to a commercial land use more properly reflecting its location near the Summerlin Parkway and the destination

resort-casino. The golf course and drainageways have been refined and roadways were realigned to provide primary visibility and access to all parcels. In addition, the internal collector system will ultimately promote a reduction of traffic along the principle arterials.

The proposed Peccole Ranch Master Plan realigns the major internal collector roadways through the residential and golf course area in Phase Two. The locations for both major entrances to the Project were changed. The Charleston Boulevard entry now aligns with Apple Road in Phase One, and the Rampart Boulevard entry was moved to the northern boundary of the Project to avoid the need for an arroyo crossing and to provide a better relationship between the destination resort-casino and the golf course. An additional collector intersecting with Rampart Boulevard provides a second point of ingress/egress and also forms a buffer between a single family neighborhood, and the higher intensity uses along Charleston Boulevard. Alta Road, an east/west arterial, forms the boundary between the proposed Phase Two commercial center and the Bailey-McGah parcel. All arterial roadway names have remained consistent with the exception of Fort Apache Road which becomes Rampart Boulevard north of Charleston Boulevard.

Phase One is currently under development and is anticipated for completion during the early 1990's. Four single family subdivision plats have been recorded the City and several others are in process. Infrastructure for Phase One is anticipated for completion by Spring 1990. Phase One is progressing as planned and is anticipated to continue development to meet the demand for housing alternatives with supporting commercial areas. Exhibit G on page 7 identifies those home builders currently active in Phase One.

Overall, the addition of the commercial center, the refinement of the golf course and drainageways, and the shifting of parcels and parcel boundaries to better use open space areas, creates the difference between the approved Peccole Ranch Master Plan and the proposed Peccole Ranch Master Plan. The proposed Phase Two has become more clearly defined in response to current market trends and remains consistent with the goals and the integrity of the approved Peccole Ranch Master Plan.

PHASE TWO - PECCOLE RANCH

Phase Two of Peccole Ranch comprises approximately 996.4 acres bounded by Angel Park Golf Course on the north, Durango Drive on the east, small sections of Sahara Avenue, Charleston Boulevard, and Alta Road on the south, and the alignment of Hualapai Way on the west. Phase Two encompasses all of the remaining acreage within Peccole Ranch. The zoning designations proposed in Phase Two are R-PD7, R-3, and C-1, as described in the following land use descriptions. Overall density of Phase Two is 4.5 DU/AC.

Single Family Residential

The demand for housing remains strong in the Peccole Ranch vicinity, reflecting the continued growth of immigration to the area. The delineation of residential uses (single family and multi-family totalling 461.0 acres) proposed for Peccole Ranch Phase Two is based upon market study documentation of historical and projected single family housing subdivision and multi-family absorption patterns. Approximately 401.0 acres or 40.2 percent of Phase Two is devoted to quality golf course oriented single-family and custom lot developments, reflecting the fact that there is a demand for higher priced single family housing in the strong northwest/southwest markets. This fact is evident particularly at the Project location which is positioned as a natural northerly growth extension to the successful Lakes community, and which will benefit greatly from the surrounding golf environment and the Summerlin Parkway. Recent market data obtained evidences that there is now a growing preference for detached single family homes over apartment and condominiums, reflecting a stabilization of the Las Vegas Metropolitan economy. The significance of this growth is the expanding opportunity to provide single family housing alternatives to an increasingly diverse income base - particularly in association with a golf course community.

There is potential for gated entries to several of the single family parcels. Gated entries into Phase Two residential parcels will not only provide residents with a sense of security, but will promote the construction of quality housing products, and form an enclave within Peccole Ranch. A 50 acre single-family parcel central to Phase Two offers extensive golf course frontage to future residents in an exclusive environment bounded on all sides by the golf course. Depending upon market demand, additional gated neighborhoods can be provided in proximity to the clubhouse and adjacent to the golf course.

Multiple-Family Residential

The historical strong consumer demand for apartments has not yet reached a saturation point, however, existing inventory will most likely adequately meet current requirements. Therefore, Phase Two reflects a larger single family environment while still maintaining a small inventory of multi-family land areas which will be geared toward those future residents who prefer a more urban oriented lifestyle.

Two multi-family parcels are planned along Charleston Boulevard, and one 20 acre parcel is planned adjacent to Hualpai Way north of the commercial center on Sahara. Multi-family parcels are located adjacent to principal arterials to maximize exposure and to provide buffering to the internal single family neighborhoods from arterial traffic. Approximately 60 acres, or 60 percent of Phase Two is devoted to multi-family use.

Commercial

High intensity uses such as commercial, office, and employment opportunities are incorporated in the commercial/office, neighborhood commercial, and commercial center areas in Phase Two of Peccole Ranch. The largest commercial parcel (100.1 acres), the commercial center, is located adjacent to Angel Park Golf Course on the north, Durango Drive on the east, Alta Road on the south and Rampart Boulevard on the west to provide prime exposure and access. This commercial center is physically well sited in relationship to surrounding high volume major arterials and the future Summerlin Parkway interchange only one-half mile to the north. The site offers an excellent opportunity for internal circulation with arterials on two sides. This may be

evidenced from a review of the Area Plan (Exhibit C, page 2) which depicts the current lack of commercial centers, and the potential urbanization of the vacant residential lands from Jones Boulevard west to Hualapai Way.

Additional neighborhood commercial/office areas are located at intersection nodes to provide easy access and buffer less intense land uses. These parcels will accommodate basic support facilities and services required by the residential community. Commercial and office areas comprise a total of 83.5 acres in Phase Two.

A. 56.0 acre destination resort-casino site is located at the intersection of an internal collector and Rampart Boulevard. The boundary of this parcel was altered from the previously approved overall Master Plan to accommodate the boundary changes of the refined golf course and road system. The golf course along the southern border of the parcel provides an aesthetic quality to the destination resort-casino. The resort-casino is planned as a destination golf resort and casino, and will provide the transition from a commercial center to single family residential. The resort will be comprised of approximately 300 to 500 guest rooms, and other elements which may include meeting, conference and ballroom facilities, restaurants, bars, and a casino including its own specialty restaurant and bar areas. Guest amenities may include use of the adjacent golf course, tennis facilities, fitness center, beauty salon, game rooms, a nursery and swimming pool. Exhibit D on page 11 illustrates the anticipated site layout and character for the resort-casino. The Peccole Ranch Resort will be designed to maximize the beauty of the desert surroundings, maintaining sensitivity to scale, character, landscape, and topography, and represents the true centerpiece of the Peccole Ranch Community.

Open Space and Drainage

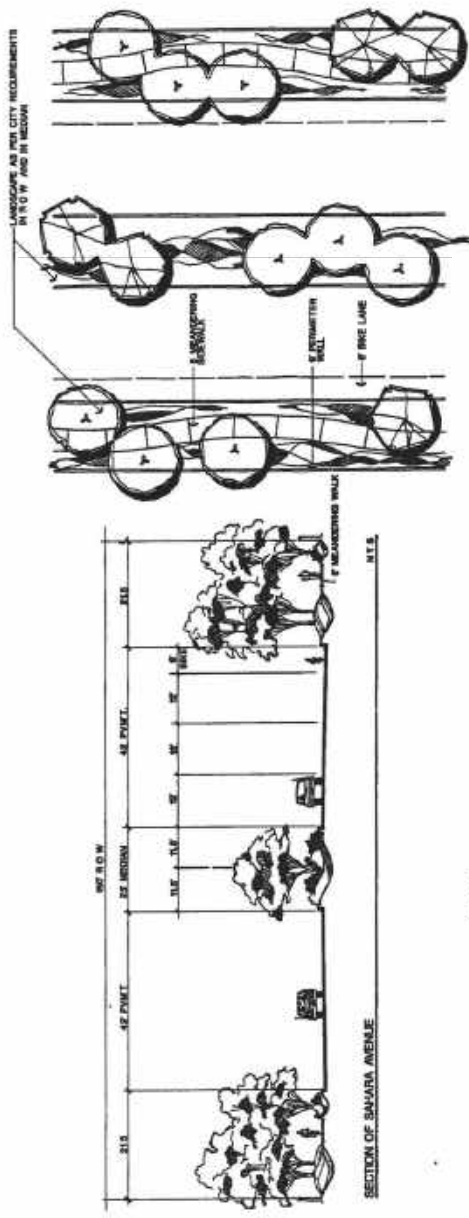
A focal point of Peccole Ranch Phase Two is the 199.8 acre golf course and open space drainage system which traverses the site along the natural wash system. All residential parcels within Phase Two, except one, have exposure to the golf course and open space areas. The single family parcel which is not adjacent to the open space system borders Angel Park Golf Course on its northern boundary. Passive and active recreational areas will be provided, and residents will have an opportunity to utilize alternative modes of transportation throughout with the bike paths and pedestrian

walkways (see Exhibits E and F on pages 13 and 14). The surrounding community as well as project residents may use the open space system to travel to neighboring areas including Angel Park. In addition, recreational improvements such as picnic tables, ramadas and pleasing water features will be located in passive gathering areas located throughout the open space.

The close proximity to Angel Park along with the extensive golf course and open space network were determining factors in the decision not to integrate a public park in the proposed Plan. According to the Parks, Recreation and Senior Citizen Activities Division a need for a dedicated public facility within Peccole Ranch is not indicated nor anticipated in the future.

South of Charleston Boulevard, drainage flows through the washes initially enter the site in two locations along the western boundary at a peak rate of 800 cubic feet per second (cfs), and move in a east/northeast direction. Two wash flows are then directed into the main drainage wash which flows northeasterly towards the large Angel Park reservoir at a rate of approximately 1,600 cfs. North of Charleston Boulevard an off-site flow of 2,000 cfs enters the Project. This storm water will be contained within the golf course until it reaches Rampart Boulevard, and will then flow through a channel adjacent to the commercial center to the Angel Park Basin. Based on the golf course routing plan by Mr. Ted Robinson, renowned golf course architect, the golf course has been designed in conjunction with existing drainage features on the site. The design of the golf course has been instrumental in preserving the natural character of the land and controlling drainage on and through the property.

Phase Two of the proposed Peccole Ranch Master Plan has approximately 33.1 additional acres allotted for golf course and drainageways. The additional acreage accommodates a clubhouse and driving range centrally located within the golf course and surrounding residential community. These features are also accessible to visitors staying at the adjacent destination resort-casino.



CLV65-000154

004881

14885

Schools

A 19.7 acre school site is designated in Phase Two of Peccole Ranch. The level of education served by the site, such as elementary or middle school status, will not be determined until development occurs and the student population becomes more clearly defined. A 10.1 acre elementary school site is reserved in Phase One, and according to the Clark County School District the site has been approved and will be purchased based upon acceptable appraisals. The sites will be developed to meet the requirements of the Clark County School District. According to Clark County School District standards, a typical elementary school requires a student body of approximately 600 to support the facility, whereas a junior high school requires 1,250 students. Student population projections for Phase One and Two are attached.

DEVELOPMENT PLAN - PHASE TWO

The Peccole Ranch Partnership is the land developer for Peccole Ranch and will assume the responsibility of the following:

- Full street improvements for internal collector streets and partial improvements for other public streets adjacent to the development, or as agreed upon with the City of Las Vegas. See roadway Exhibits E and F on the following pages
- Delivery of water, sewer, telephone, and power to all parcels.
- Rough grade of all parcels
- Open Space development and landscaping.
- Entry treatments, including landscaping, water features, special pavement, and project signs.
- All landscaping along arterial roads (Charleston Boulevard, Sahara Avenue, and Fort Apache Road) and within internal boulevards.
- An information center.

Street and utilities are currently under construction in Phase One.

QUALITY OF DEVELOPMENT

Design, Architecture, and Landscape standards will be established for the development. A Design Review Committee will review and approve all plans for parcel development in Peccole Ranch. Covenants, Conditions and Restrictions will be established to guarantee the continued quality of development, and a Master Homeowner's Association will be established for the maintenance of common landscaping and open space. Separate subsidiary associations will be created within individual development parcels to maintain the common area within these areas.

GENERAL PLAN CONFORMANCE

As the City of Las Vegas General Plan is designed as a set of guidelines to help direct the future growth of the City, so is the proposed Peccole Ranch Master Plan designed with an inherent flexibility to meet changing market demands at the time of actual development. Specifically, the proposed Plan is in conformance with the following Las Vegas General Plan Planning Guidelines:

- Provide for an efficient, orderly and complementary variety of land uses.
- Provide for "activity centers" as a logical concentration of development in each community area of the City to encourage economic, social and physical vitality, and expand the level of services.
- Encourage the master planning of large parcels under single ownership in the growth areas of the City to ensure a desirable living environment and maximum efficiency and savings in the provision of new public facilities and services.
- Provide for the continuing development of a diverse system of open space.

PECCOLE RANCH
LAND USE DATA
PHASE TWO

LAND USE	ACRES	NET DENSITY	NET UNITS
Single-Family	401.0	7.0 du/ac	2,807
Multi-Family	60.0	24.0 du/ac	1,440
Commercial/Office	194.3	-	-
Resort-Casino	56.0	-	-
Golf Course Drainage	211.6	-	-
Right-of-Way	60.4	-	-
Elementary School	13.1	-	-
TOTAL	996.4	4.5 du/ac	4,247

Note Overall density based upon all areas except R.O.W

CLV65-000159
004886

14890

PECCOLE RANCH
LAND USE DATA
OVERALL MASTER PLAN

LAND USE	NET ACRES	DENSITY RANGES
Single Family	729.49	4.0 - 8.0 du/ac
Multi-Family	105.36	8.0 - 24.0 du/ac
Mixed Use Village Center	75.56	20.0 - 35.0 du/ac
(Commercial, Office, Multi-Family)		
Neighborhood Commercial/Office	197.05	
Resort-Casino	56.0	
Nursing Home	8.25	
Golf Course/Open Space/Drainage	253.07	
Right-of-Way	114.37	
Schools	30.44	
TOTAL	1,569.6	

19

CLV65-000160
004887

14891

PECCOLE RANCH
STUDENT POPULATION PROJECTIONS

<u>GRADE</u>	<u>PHASE ONE</u>	<u>PHASE TWO</u>	<u>MASTER PLAN</u>
K thru 6	902	765	1,667
7 thru 9	347	294	641
10 thru 12	343	291	634
TOTAL	1,592	1,350	2,942



CONSULTING ENGINEERS
PLANNERS SURVEYORS

PRINCIPALS

K D WEIR
C R JOHNSON, P E
J L MacFARLANE, P E, R L S

LETTER OF TRANSMITTAL

TO CITY OF LAS VEGAS DATE FEBRUARY 9, 1990
PROJECT PECCOLE RANCH PHASE 2
ATTN BEN MCGUIRE WO NO 3974
BY MAIL BY MESSENGER XX PICK-UP EXPRESS MAIL
FAX FEDERAL EXPRESS
No Copies Description
1 PACKAGE LEGAL DESCRIPTION

COMMENTS

PLEASE FIND ATTACHED THE LEGAL DESCRIPTIONS WHICH SHOULD ACCOMPANY THE ZONE CHANGE
FOR WILLIAM PECCOLE PREPARED BY A. WAYNE SMITH & ASSOICATES. IF YOU HAVE ANY
QUESTIONS, PLEASE DO NOT HESITATE TO CALL. THANK YOU.

MATERIAL SENT FOR THE FOLLOWING REASONS

CHECKING FILING APPROVAL YOUR FILES
OTHER CC

PLEASE SIGN COPIES/ORIGINAL(S) AND RETURN TO OUR OFFICE

SENDER SALLY PELHAM

ABOVE MATERIAL RECEIVED BY

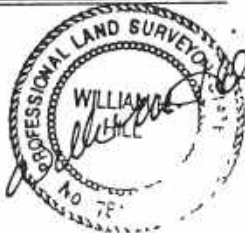
2300 PASEO DEL PRADO, BUILDING A, SUITE 100 LAS VEGAS, NEVADA 89102
TEL (702) 873-7550 FAX 362-2597

CLV65-000162
004889

14893



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON, P.E.
J L MacFARLANE, P.E., R.L.S.

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2590

This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 2 generally located on the Northwest Corner (NW Cor.) of Charleston Boulevard and Rampart Boulevard.

Legal Description

Lot 31 - R-PD7

That portion of Section 31 and 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Northwest Corner (NW Cor.) of the South Half (S1/2) of the Northwest Quarter (NW1/4) of Section 31; thence S.89°10'53"E., along the North line thereof, 2886.78 feet; thence S.89°10'39"E., continuing along said North line, 2846.00 feet to the Northeast Corner (NE Cor.) of the aforementioned South Half (S1/2) of the Northwest Quarter (NW1/4); thence N.89°31'58"E., 1278.67 feet; thence S.00°28'02"E., 140.00 feet to a point on a curve concave Southeasterly and having a radius of 1250.00 feet, a radial line to said point bears N.20°24'57"W.; thence Southwesterly along said curve, through a central angle of 07°40'18", an arc distance of 167.37 feet to a point of tangency; thence S.61°54'45"W., 415.38 feet to a point of tangency with a curve concave Northwesterly and having a radius of 2000.00 feet; thence Southwesterly along said curve, through a central angle of 18°58'02", an arc distance of 662.08 feet to a point, a radial line to said point bears S.09°07'13"E.; thence S.04°47'06"W., along a radial line, 857.50 feet to a point on a curve concave Southwesterly and having a radius of 985.00 feet; thence Southeasterly along said curve, through a central angle of 42°07'20", an arc distance of 724.14 feet to a point of reverse curvature with a curve concave Northeasterly and having a radius of 325.00 feet, a radial line to said point bears N.46°54'26"E.; thence Southeasterly along said curve, through a central angle of 67°27'19", an arc distance of 382.63 feet to a point of compound curvature with a curve concave Northwesterly and having a radius of 625.00 feet, a radial line to said point bears S.20°32'52"E.; thence Northeasterly along said curve, through a central angle of 20°08'35", an arc distance of 219.73 feet to a point of reverse curvature concave Southeasterly and having a radius of 4400.00 feet, a radial to said point bears S.40°41'28"E.; thence Northeasterly along said curve, through a central angle of 14°58'58", an arc distance of 1150.60 feet to a point of compound

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TEL (702) 873-7550 FAX 362-2597

CLV65-000163
004890

14894

Legal Description
W.O. 3974
February 2, 1990
Page 2

curvature with a curve concave Southerly and having a radius of 375.00 feet, a radial line to said point bears N.25°42'29"W.; thence Easterly along said curve, through a central angle of 38°30'11", an arc distance of 252.00 feet to a point, a radial line to said point bears N.12°47'42"E.; thence S.63°03'01"E., along a radial line, 50.00 feet to a point on a curve concave Northwesterly and having a radius of 1700.00 feet; thence Southwesterly along said curve, through a central angle of 24°54'26", an arc distance of 739.01 feet to a point of reverse curvature with a curve concave Southeasterly and having a radius of 1700.00 feet, a radial line to said point bears S.38°08'35"E.; thence Southeasterly along said curve, through a central angle of 40°11'32", an arc distance of 1192.52 feet to a point, a radial line to said point bears N.78°20'06"W.; thence S.89°26'21"W., 698.56 feet; thence S.00°33'39"E., 685.00 feet; thence S.89°26'21"W., 267.74 feet to a point of tangency with a curve concave Northeasterly and having a radius of 550.00 feet; thence Northwesterly along said curve, through a central angle of 30°21'23", an arc distance of 291.40 feet to a point of tangency; thence N.60°12'17"W., 316.30 feet; thence S.29°55'31"W., 494.03 feet to a point of tangency with a curve concave Southeasterly and having a radius of 750.00 feet; thence Southwesterly along said curve, through a central angle of 30°15'27", an arc distance of 396.07 feet to a point of tangency; thence S.00°19'56"E. 65.00 feet to a point on the South line of the aforementioned Section 31; thence S.89°40'04"W., along said South line, 1603.27 feet; thence N.00°19'56"W., 260.10 feet to a point of tangency with a curve concave Southwesterly and having a radius of 1200.00 feet; thence Northwesterly along said curve, through a central angle of 29°45'02", an arc distance of 623.09 feet to a point of tangency; thence N.30°04'58"W., 201.28 feet; thence S.72°05'07"W., 1836.70 feet; thence N.52°05'16"W., 527.49 feet; thence S.89°41'18"W., 900.05 feet to a point on the West line of the aforementioned Section 31; thence N.06°05'57"W., along said West line, 3328.05 feet to the POINT OF BEGINNING.



CLV65-000164
004891

14895

Legal Description
W.O. 3974
February 2, 1990
Page 3

Containing 519.878 acres, more or less.

BASIS OF BEARINGS

N.89°26'21"E., being the South line of the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-2
3900-3999

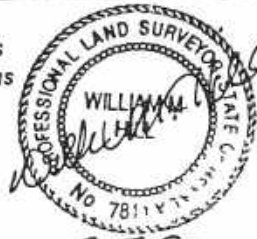


CLV65-000165
004892

14896



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON, P.E.
J L MacFARLANE, P.E., R.L.S.

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-5-90
This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 3 generally located East of Hualpai Way approximately 735.00 feet North of Sahara Avenue.

**Legal Description
Lot 20 - R-3**

That portion of the West Half (W1/2) of Section 6, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

COMMENCING at the Southwest Corner (SW Cor.) of said Section 6; thence N.01°20'45"W., along the West line thereof, 734.62 feet to the TRUE POINT OF BEGINNING; thence N.01°20'45"W., continuing along said West line and a radial line, 791.10 feet to a point on a curve concave Southerly and having a radius of 1200.00 feet; thence Easterly along said curve, through a central angle of 10°09'04", an arc distance of 212.60 feet to a point of reverse curvature with a curve concave Northerly and having a radius of 1650.00 feet, a radial line to said point bears N.08°48'19"E.; thence Easterly along said curve, through a central angle of 17°06'58", an arc distance of 492.91 feet to a point of tangency; thence N.81°41'21"E., 126.10 feet to a point of tangency with a curve concave Southerly and having a radius of 800.00 feet; thence Easterly along said curve, through a central angle of 26°50'24", an arc distance of 374.76 feet to a point of reverse curvature with a curve concave Northeasterly and having a radius of 660.00 feet, a radial line to said point bears N.18°31'45"E.; thence Southeasterly along said curve, through a central angle of 12°55'49", an arc distance of 148.95 feet to a point, a radial line to said point bears S.05°35'56"W.; thence S.00°12'52"E., 723.86 feet; thence S.89°46'34"W., 1327.07 feet to the TRUE POINT OF BEGINNING.

Containing 23.654 acres, more or less.

BASIS OF BEARINGS

N.89°46'34"E., being the South line of the Southwest Quarter (SW1/4) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

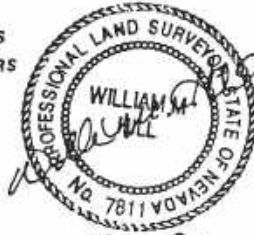
reference 3974-8 3990-3999
2300 PASEO DEL PRADO, BUILDING A, SUITE 100 LAS VEGAS, NEVADA 89102
TEL (702) 873-7550 FAX 362-2597

CLV65-000166
004893

14897



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON, P.E.
J L MacFARLANE, P.E. R.L.S.

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-5-90

This legal describes a parcel of land to be rezoned generally located within the proposed Peccole Ranch - Phase 3 generally located approximately 2200.00 feet North of Sahara Avenue and West of the existing Peccole Ranch Subdivision.

Legal Description

Lot 21 - R-PD7

That portion of the West Half (W1/2) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Southwest Corner (SW Cor.) of the Northwest Quarter (NW1/4) of said Section 6; thence N.01°21'03"W., along the West line thereof, 300.61 feet; thence N.88°38'57"E., 611.22 feet to a point of tangency with a curve concave Southwesterly and having a radius of 3125.00 feet; thence Southeasterly along said curve, through a central angle of 14°02'24", an arc distance of 765.77 feet to a point, a radial line to said point bears N.12°41'21"E.; thence S.00°12'52"E., 1428.83 feet to a point on a curve concave Northeasterly and having a radius of 660.00 feet, a radial line to said point bears S.05°35'56"W.; thence Northwesterly along said curve, through a central angle of 12°55'49", arc distance of 148.95 feet to a point of reverse curvature with a curve concave Southerly and having a radius of 800.00 feet, a radial line to said point bears S.18°31'45"W.; thence Westerly along said curve, through a central angle of 26°50'24", an arc distance of 374.76 feet to a point of tangency; thence S.81°41'21"W., 126.10 feet to a point of tangency with a curve concave Northerly and having a radius of 1650.00 feet; thence Westerly along said curve, through a central angle of 17°06'58", an arc distance of 492.91 feet to a point of reverse curvature with a curve concave Southerly and having a radius of 1200.00 feet, a radial line to said point bears S.08°48'19"W.; thence Westerly along said curve, through a central angle of 10°09'04", an arc distance of 212.60 feet to a point; thence N.01°20'45"W., along a radial line, 1127.82 feet to the POINT OF BEGINNING.

2330 PASEO DEL PRADO, BUILDING A, SUITE 100 LAS VEGAS, NEVADA 89102
TEL (702) 873-7550 FAX 362-2597

CLV65-000167
004894

14898

Legal Description
W.O. 3974-9
February 1, 1989
Page 2

Containing 44.953 acres, more or less.

BASIS OF BEARINGS

N.89°46'34"E., being the South line of the Southwest Quarter (SW1/4) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-9
3900-3999

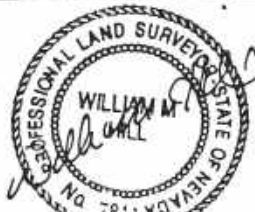


CLV65-000168
004895

14899



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON P E
J L MacFARLANE, P E, R L S

W.O. 3974
February 3, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-5-90

This legal describes a parcel of land located within the proposed Peccole Ranch - Phase 3 project to be rezoned generally located on the Southeast Corner (SE Cor.) of Hualpai Way and Charleston Boulevard.

Legal Description
Lot 24 - C-1

That portion of the Northwest Quarter (NW1/4) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

COMMENCING at the Northwest Corner (NW Cor.) of said Northwest Quarter (NW1/4); thence N.89°41'47"E., along the North line thereof, 529.69 feet to the TRUE POINT OF BEGINNING; thence N.89°41'18"E. continuing along said North line, 2020.58 feet; thence S.01°43'29"E., 789.60 feet to a point on a curve concave Southwesterly and having a radius of 345.00 feet, a radial line to said point bears N.41°18'26"E.; thence Northwesterly along said curve, through a central angle of 43°12'49", an arc distance of 260.21 feet to a point of reverse curvature with a curve concave Northeasterly and having a radius of 230.00 feet, a radial line to said point bears N.01°54'24"W.; thence Northwesterly along said curve, through a central angle of 70°18'05", an arc distance of 282.21 feet to a point of reverse curvature with a curve concave Southerly and having a radius of 175.00 feet, a radial line to said point bears S.68°23'41"W.; thence Westerly along said curve, through a central angle of 120°10'17", an arc distance of 367.04 feet to a point of reverse curvature with a curve concave Northwesterly and having a radius of 595.00 feet, a radial line to said point bears N.51°46'35"W.; thence Southwesterly along said curve, through a central angle of 65°57'59", an arc distance of 685.04 feet to a point of reverse curvature with a curve concave Southerly and having a radius of 850.00 feet, a radial line to said point bears S.14°11'23"W.; thence Westerly along said curve, through a central angle of 24°10'09", an arc distance of 358.56 feet to a point of compound curvature with a curve concave Southeasterly and having a radius of 2000.00 feet, a radial line to said point bears N.09°58'45"W.; thence Southwesterly along said curve, through a central angle of 12°19'35", an arc distance of 430.27 feet to a point of reverse

2300 PASEO DEL PRADO, BUILDING A, SUITE 100 LAS VEGAS, NEVADA 89102
TEL (702) 873-7550 FAX 362-2597

CLV65-000169
004896

14900

Legal Description
W.O. 3974
February 3, 1990
Page 2

curvature with a curve concave Northerly and having a radius of 230.00 feet, a radial line to said point bears N.22°18'20"W.; thence Westerly along said curve, through a central angle of 32°28'22", an arc distance of 130.35 feet to a point on a curve concave Northwesterly and having a radius of 800.00 feet, a radial line to said point bears S.10°10'03"W.; thence Northeasterly along said curve, from a radial line which bears S.45°13'48"E., through a central angle of 46°07'15", an arc distance of 643.97 feet to a point of tangency; thence N.01°21'03"W., 250.00 feet to the TRUE POINT OF BEGINNING.

Containing 31.761 acres, more or less.

BASIS OF BEARINGS

N.89°46'34"E., being the South line of the Southwest Quarter (SW1/4) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-13
3900-3999



CLV65-000170
004897

14901



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON P E
J L MacFARLANE, P E, R L S

W.O. 3974
February 3, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-590

This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 3 project generally located West of the existing Peccole Ranch Subdivision and approximately 800.00 feet South Charleston Boulevard.

Legal Description
Lot 22 - R-PD7

That portion of the West Half (W1/2) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

COMMENCING at the Southwest Corner (SW Cor.) of the Northwest Quarter (NW1/4) of said Section 6; thence N.01°21'03"W., along the West line thereof, 300.61 feet to the TRUE POINT OF BEGINNING; thence continuing N.01°21'03"W., along said West line, 895.46 feet to a point of tangency with a curve concave Southeasterly and having a radius of 800.00 feet; thence Northeasterly along said curve, through a central angle of 48°00'37", an arc distance of 670.35 feet to a point of reverse curvature with a curve concave Northwesterly and having a radius of 800.00 feet, a radial line to said point bears N.43°20'26"W.; thence Northeasterly along said curve, through a central angle of 01°53'22", an arc distance of 26.38 feet to a point on a curve concave Northwesterly and having a radius of 230.00 feet, a radial line to said point bears S.45°13'48"E.; thence Northeasterly along said curve, from a radial line which bears S.10°10'03"W., through a central angle of 32°28'22", an arc distance of 130.35 feet to a point of reverse curvature with a curve concave Southeasterly and having a radius of 2000.00 feet, a radial line to said point bears S.22°18'20"E.; thence Northeasterly along said curve, through a central angle of 12°19'35", an arc distance of 430.27 feet to a point of compound curvature with a curve concave Southerly and having a radius of 850.00 feet, line to said point bears N.09°58'45"W.; thence Easterly along said curve, through a central angle of 24°10'09", an arc distance of 358.56 feet to a point of reverse curvature with a curve concave Northeasterly and having a radius of 595.00 feet, a radial line to said point bears N.14°11'23"E.; thence

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CLV65-000171
004898

14902

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W.O. 3974
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Southeasterly along said curve, through a central angle of 21°22'45", an arc distance of 222.02 feet to a point, a radial line to said point bears S.07°11'22"E.; thence S.00°12'52"E., 1681.82 feet to a point on a curve concave Southwesterly and having a radius of 3125.00 feet, a radial line to said point bears N.12°41'21"E.; thence Northwesterly along said curve, through a central angle of 14°02'24", an arc distance of 765.77 feet to a point of tangency; thence S.88°38'57"W., 611.22 feet to the TRUE POINT OF BEGINNING.

Containing 49.411 acres, more or less.

BASIS OF BEARINGS

N.89°46'34"E., being the South line of the Southwest Quarter (SW1/4) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-12
3900-3999



CLV65-000172
004899

14903



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON, P E
J L McFARLANE, P E, R L S

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 3 project generally located on the Northeast Corner (NE Cor.) of Sahara Avenue and Hualpai Way to be rezoned.

Legal Description
Lot 19 - C-1

That portion of the West Half (W1/2) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Southwest Corner (SW Cor.) of said Section 6; thence N.01°20'45"W., along the West line thereof, 734.62 feet; thence N.89°46'34"E., 1327.07 feet; thence S.00°12'52"E., 734.48 feet to a point on the South line of Section 6; thence S.89°46'34"W., along said South line, 1312.57 feet to the POINT OF BEGINNING.

Containing 22.254 acres, more or less.

BASIS OF BEARINGS

N.89°46'34"E., being the South line of the Southwest Quarter (SW1/4) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-7
3900-3999

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CLV65-000173
004900

14904



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON, P E
J L MacFARLANE, P E, R L S

W.O. 3974
February 3, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-5-90

This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 3 generally located on the Southeast Corner (SE Cor.) of Hualpai Way and Charleston Boulevard.

Legal Description
Lot 23 - C-1

That portion of the Northwest Quarter (NW1/4) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Northwest Corner (NW Cor.) of said Northwest Quarter (NW1/4); thence N.89°41'47"E., along the North line thereof, 529.69 feet; thence S.01°21'03"E., 250.00 feet to a point of tangency with a curve concave Northwesterly and having a radius of 800.00 feet; thence Southwesterly along said curve, through a central angle of 48°00'37", an arc distance of 670.35 feet to a point of reverse curvature with a curve concave Southeasterly and having a radius of 800.00 feet, a radial line to said point bears S.43°20'26"E.; thence Southwesterly along said curve, through a central angle of 48°00'37", an arc distance of 670.35 feet to a point of tangency with the West line of the aforementioned Northwest Quarter (NW1/4); thence N.01°21'03"W., along said West line, 1448.90 feet to the POINT OF BEGINNING.

Containing 10.328 acres, more or less.

BASIS OF BEARINGS

N.89°46'34"E., being the South line of the Southwest Quarter (SW1/4) of Section 6, T. 21 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-10
3900-3999

2300 PASEO DEL PRADO, BUILDING A, SUITE 100 LAS VEGAS, NEVADA 89102
TEL (702) 873-7550 FAX 362-2597

CLV65-000174
004901

14905



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON P E
J L MacFARLANE, P.E., R.L.S.

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-5-90

This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 2 generally located on the Southwest Corner (SW Cor.) of Rampart Boulevard and Alta Drive.

**Legal Description
Lot 30 - C-1**

That portion of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Northwest Corner (NW Cor.) of the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of said Section 32; thence N.89°46'07"E., along the North line thereof, 2677.87 feet to the Northeast Corner (NE Cor.) of the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) of said Section; thence S.00°18'42"E., along the East line thereof, 1336.70 feet to the Southeast Corner (SE Cor.) of the aforementioned Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4); thence S.89°41'45"W., 604.05 feet to a point of tangency with a curve concave Southeasterly and having a radius of 1500.00 feet; thence Southwesterly along said curve, through a central angle of 39°37'19", an arc distance of 1037.30 feet to a point of tangency; thence S.50°04'26"W., 1015.26 feet to a point of tangency with a curve concave Northwesterly and having a radius of 1500.00 feet; thence Southwesterly along said curve, through a central angle of 39°21'55", an arc distance of 1030.58 feet to a point of tangency; thence S.89°26'21"W., 661.44 feet to a point on a curve concave Southeasterly and having a radius of 1700.00 feet, a radial line to said point bears N.78°20'06"W.; thence Northeasterly along said curve, through a central angle of 40°11'32", an arc distance of 1192.52 feet to a point of reverse curvature with a curve concave Northwesterly and having a radius of 1700.00 feet, a radial line to said point bears N.38°08'35"W.; thence Northeasterly along said curve, through a central angle of 52°24'05", an arc distance of 1554.78 feet to a point of tangency; thence N.00°32'39"W., 340.02 feet to the POINT OF BEGINNING.

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CLV65-000175
004902

14906

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Containing 134.394 acres, more or less.

BASIS OF BEARINGS

N.89°26'21"E., being the South line of the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974
3900-3999



CLV65-000176
004903

14907



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON, P E
J L MacFARLANE, P E, R L S

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-5-90
This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 2 project generally located on the Northeast Corner (NE Cor.) of Charleston Boulevard and Hualpai Way.

Legal Description
Lot 25 - C-1

That portion of the Southwest Quarter (SW1/4) of Section 31, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Southwest Corner (SW Cor.) of said Southwest Quarter (SW1/4); thence N.06°05'57"W., along the West line thereof, 805.43 feet; thence N.89°41'18"E., 900.05 feet; thence S.52°05'16"E., 527.49 feet; thence S.04°52'26"W., 411.63 feet; thence S.00°18'42"E., 65.00 feet to the point on the South line of the aforementioned Southwest Quarter (SW1/4); thence S.89°41'18"W., 1196.03 feet to the POINT OF BEGINNING.

Containing 21.650 acres, more or less.

BASIS OF BEARINGS

N.89°26'21"E., being the South line of the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-6
3900-3999

2300 PASEO DEL PRADO, BUILDING A, SUITE 100 LAS VEGAS, NEVADA 89102
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CLV65-000177
004904

14908



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON, P E
J L MacFARLANE, P E, R L S

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-5-90

This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 2 generally located on the Northwest Corner (NW Cor.) of Apple Drive and Charleston Boulevard.

Legal Description
Lot 26 - R-3

That portion of the South Half (S1/2) of Section 31, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Southeast Corner (SE Cor.) of the Southwest Quarter (SW1/4) of said Section 31; thence S.89°41'18"W., along the South line thereof, 1546.32 feet; thence N.00°18'42"W., 65.00 feet; thence N.04°52'26"E., 411.63 feet; thence N.72°05'07"E., 1836.70 feet; thence S.30°04'58"E., 201.28 feet to a point of tangency with a curve concave Southwesterly and having a radius of 1200.00 feet; thence Southeasterly along said curve, through a central angle of 29°45'02", an arc distance of 623.09 feet to a point of tangency; thence S.00°19'56"E., 260.10 feet to a point on the South line of the Southeast Quarter (SE1/4) of said Section 31; thence S.89°40'04"W., along said South line, 500.00 feet to the POINT OF BEGINNING.

Containing 35.054 acres, more or less.

BASIS OF BEARINGS

N.89°26'21"E., being the South line of the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-5
3900-3999

2300 PASEO DEL PRADO, BUILDING A, SUITE 100 LAS VEGAS, NEVADA 89102
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CLV65-000178
004905

14909



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON P E
J L MacFARLANE, P E, R L S

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-E-90

This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 2 generally located North of Charleston Boulevard approximately 1050.00 feet West of Rampart Boulevard.

**Legal Description
Lot 27 - R-3**

That portion of the Southeast Quarter (SE1/4) of Section 31 and the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Southeast Corner (SE Cor.) of the Southeast Quarter (SE1/4) of said Section 31; thence S.89°40'04"W., along the South line thereof, 507.92 feet; thence N.00°19'56"W., 65.00 feet to a point of tangency with a curve concave Southeasterly and having a radius of 750.00 feet; thence Northeasterly along said curve, through a central angle of 30°15'27", an arc distance of 396.07 feet to a point of tangency; thence N.29°55'31"E., 494.03 feet; thence S.60°12'17"E., 316.30 feet to a point of tangency with a curve concave Northeasterly and having a radius of 550.00 feet; thence Southeasterly along said curve, through a central angle of 24°12'26", an arc distance of 232.37 feet to a point; thence S.05°35'17"W., along a radial line, 576.48 feet; thence S.00°33'39"E., 65.00 feet to a point on the South line of the aforementioned Southwest Quarter (SW1/4) of Section 32; thence S.89°26'21"W., along said South line, 276.89 feet to the POINT OF BEGINNING.

Containing 12.337 acres, more or less.

BASIS OF BEARINGS

N.89°26'21"E., being the South line of the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-4
3900-3999

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CLV65-000179
004906

14910



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON, P E
J L MacFARLANE, P E, R L S

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

2-5-90
This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 2 generally located on the Northwest Corner (NW Cor.) of Rampart Boulevard and Charleston Boulevard.

Legal Description
Lot 28 - C-1

That portion of the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

COMMENCING at the Southwest Corner (SW Cor.) of said Southwest Quarter (SW1/4); thence N.89°26'21"E., along the South line thereof, 276.89 feet to the TRUE POINT OF BEGINNING; thence N.00°33'39"W., 65.00 feet; thence N.05°35'17"E., along a radial line, 576.48 feet to a point on a curve concave Northerly and having a radius of 550.00 feet; thence Easterly along said curve, through a central angle of 06°08'57", an arc distance of 59.03 feet to a point of tangency; thence N.89°26'21"E., 267.74 feet; thence N.00°33'39"W., 25.00 feet; thence N.89°26'21"E., 660.00 feet; thence S.00°33'39"E., 660.00 feet to a point on the South line of the aforementioned Southwest Quarter (SW1/4); thence S.89°26'21"W., along said South line, 1048.41 feet to the TRUE POINT OF BEGINNING.

Containing 15.262 acres, more or less.

BASIS OF BEARINGS

N.89°26'21"E., being the South line of the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-3
3900-3999

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CLV65-000180
004907

14911



CONSULTING ENGINEERS
PLANNERS SURVEYORS



PRINCIPALS

K D WEIR
C R JOHNSON P E
J L MacFARLANE, P E, R L S

W.O. 3974
February 2, 1990
By: R.M.
P.R. By: R.M.

EXPLANATION:

This legal describes a parcel of land to be rezoned located within the proposed Peccole Ranch - Phase 2 generally located West of Rampart Boulevard and South of Angle Park.

Legal Description
Lot 29 - C-1

That portion of the West Half (W1/2) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

BEGINNING at the Northeast Corner (NE Cor.) of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of said Section 32; thence S.00°32'39"E., along the East line thereof, 340.02 feet to a point of tangency with a curve concave Northwesterly and having a radius of 1700.00 feet; thence Southwesterly along said curve, through a central of 27°29'39", an arc distance of 815.77 feet to a point; thence N.63°03'01"W., along a radial line, 50.00 feet to a point on a curve concave Southerly and having a radius of 375.00 feet, a radial line to said point bears N.12°47'42"E.; thence Westerly along said curve, through a central angle of 38°30'11", an arc distance of 252.00 feet to a point of compound curvature with a curve concave Southeasterly and having a radius of 4400.00 feet, a radial line to said point bears N.25°42'29"W.; thence Southwesterly along said curve, through a central angle of 14°58'58", an arc distance of 1150.60 feet to a point of reverse curvature with a curve concave Northwesterly and having a radius of 625.00 feet, a radial line to said point bears N.40°41'28"W.; thence Southwesterly along said curve, through a central angle of 20°08'35", an arc distance of 219.73 feet to a point of compound curvature with a curve concave Northeasterly and having a radius of 325.00 feet, a radial line to said point bears S.20°32'52"E.; thence Northwesterly along said curve, through a central angle of 67°27'19", an arc distance of 382.63 feet to a point of reverse curvature with a curve concave Southwesterly and having a radius of 985.00 feet, a radial line to said point bears S.46°54'26"W.; thence Northwesterly along said curve, through a central angle of 42°07'20", an arc distance of 724.14 feet to a point; thence N.04°47'06"E., along a radial line, 857.50 feet to a point on a

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CLV65-000181
004908

14912

Legal Description
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curve concave Northwesterly and having a radius of 2000.00 feet, a radial line to said point bears S.09°07'13"E.; thence Northeasterly along said curve, through a central angle of 18°58'02", an arc distance of 662.08 feet to a point of tangency; thence N.61°54'45"E., 415.38 feet to a point of tangency with a curve concave Southeasterly and having a radius of 1250.00 feet; thence Northeasterly along said curve, through a central angle of 07°40'18", an arc distance of 167.37 feet to a point, a radial line to said point bears N.20°24'57"W.; thence N.00°28'02"W., 140.00 feet to a point on the North line of the South Half (S1/2) of the Northwest Quarter (NW1/4) of said Section; thence N.89°31'58"E., along said North line, 1394.37 feet to the POINT OF BEGINNING.

Containing 75.439 acres, more or less.

BASIS OF BEARINGS

N.89°26'21"E., being the South line of the Southwest Quarter (SW1/4) of Section 32, T. 20 S., R. 60 E., M.D.M., City of Las Vegas, Clark County, Nevada, as shown by a map on file in the Office of the County Recorder in File 36 of Records of Surveys, Page 89.

reference 3974-1
3900-3999



CLV65-000182
004909

14913

AGENDA

ANNOTATED AGENDA AND FINAL MINUTES

City of Las Vegas

March 8, 1990

PLANNING COMMISSION

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COUNCIL CHAMBERS • 400 EAST STEWART AVENUE

PHONE 386-6301

ITEM

COMMISSION ACTION

24. MASTER DEVELOPMENT PLAN AMENDMENT

Applicant: WILLIAM PECCOLE 1982 TRUST
Application: Request for approval to
amend the Master Development
Plan
Location: East side of Hualpai Way,
west of Durango Drive,
between the south
boundary of Angel Park and
Sahara Avenue
Size: 996.4 Acres

STAFF RECOMMENDATION: APPROVAL, subject
to the following:

1. A maximum of 4,247 dwelling units
be allowed for Phase II.
2. Hualpai Way be extended as a public
street north of Charleston Boulevard
to the north property line as required
by the Department of Public Works.
3. Extend Apple Lane along the north
side of this site and adjacent to
Angel Park, east of Rampart Boulevard
to Durango Drive, as required by
the Department of Public Works.

PROTESTS: 5 Speakers at Meeting

Babero -
APPROVED, subject to staff's
conditions and Condition No. 4
requiring public notice when
there will be an architectural
review on the resort/casino
and commercial center sites,
and Condition No. 5 stating
the applicant is to post signs
on the property indicating
the proposed uses.
Unanimous
(Bugbee and Dixon excused)

MR. WILLIAMS stated this request
is to amend the approved Master
Development Plan that was approved
in 1989. Phase II contains
996.4 acres. It is predominantly
single family dwellings. However,
there will be multifamily,
resort/casino, golf course,
commercial office, school and
rights-of-way. The significant
change is the addition of the
golf course and a larger resort/casino
site and 100 acre shopping
center site. The commercial
site was in the 1981 plan and
taken out in the 1989 plan.
Each parcel will be subject
to a review by the Planning
Commission. The overall density
is 4.3 units per acre. Staff
feels Apple Lane should be
extended over from Rampart
Boulevard to Durango Drive
to give better vehicular access
to the commercial parcel.
Hualpai Way also has to be
extended. The Gaming Enterprise
District indicates this area
could contain one destination
resort/casino, but the applicant
would have to have a major
recreational facility and a
minimum of 200 rooms. Staff
recommended approval, subject
to the conditions.

WILLIAM PECCOLE appeared and
represented the application.
Phase I is 75% complete. This
request is for Phase II.

A. WAYNE SMITH, Land Planner,
1515 East Missouri Avenue,
Phoenix, Arizona, appeared
and represented the applicant.
The main street will be 80
feet wide from Charleston Boulevard
south and then curving to the
northeast.

CLV65-000183

004910**14914**

AGENDA

ANNOTATED AGENDA AND FINAL MINUTES

City of Las Vegas

March 8, 1990

PLANNING COMMISSION

Page 30

COUNCIL CHAMBERS • 400 EAST STEWART AVENUE

ITEM

PHONE 386-6301

COMMISSION ACTION

24. MASTER DEVELOPMENT PLAN AMENDMENT (CONT'D)

GREGORY BARLOW, 704 Minto Court, appeared in protest. He was concerned about the 100 acres for a shopping center because of its large size bringing too much traffic into the area and the aesthetics of the center. However, he would like to have some shopping in that area. He would like to have a public hearing held when this project comes back for a design review. The various types of zoning should be posted on the property.

KATHERINE SAUER, 8917 Condotti Court, appeared in protest. She objected to the casino because of the traffic it will generate. There are a lot of children in that area and she does not want the children to live near a casino.

PAM EASTBERG, 7913 Fanciful, appeared in protest. She objected to the casino being in a residential area.

ULRICH SMITH, 8813 Brescia Drive, appeared in protest. He objected to the casino.

RAY BINGHAM, 8345 Cove Landing Avenue, appeared in protest. He objected to locating the shopping center next to a park because of all the traffic the center will generate.

WILLIAM PECCOLE appeared in rebuttal. They are working with the City on the interchange at the Summerlin Parkway so that traffic can move north and south. They will participate in a Special Improvement District for their area. Two schools are being constructed in Phase I. This will be a quality project. He would be agreeable to an architectural review by the City. All their property shows the zoning. The shopping center will be approximately a million square feet containing stores that are not presently in Las Vegas.

To be heard by the City Council on 4/4/90.

(7:37-8:09)

CLV65-000184

004911**14915**

AGENDA

ANNOTATED AGENDA AND FINAL MINUTES

City of Las Vegas

March 8, 1990

PLANNING COMMISSION

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COUNCIL CHAMBERS • 400 EAST STEWART AVENUE

PHONE 386-6301

COMMISSION ACTION

ITEM

25. 2-17-90

Applicant: WILLIAM PECCOLE 1982 TRUST
Application: Zoning Reclassification
From: N-U (under Resolution of Intent to R-1, R-2, R-3, R-PD7, R-PD8, R-MHP, C-1, C-2, P-R and C-V)
To: R-PD7, R-3 and C-1
Location: East side of Hualpai Way, west of Durango Drive, between the south boundary of Angel Park and Sahara Avenue
Proposed Use: Single Family Dwellings, Multi-Family Dwellings, Commercial, Office and Resort/Casino
Size: 996.4 Acres

STAFF RECOMMENDATION: APPROVAL, subject to the following:

1. A maximum of 4,247 dwelling units be allowed for Phase II.
2. Conformance to the Conditions of Approval for the Peccole Ranch Master Development Plan, Phase II.
3. Approval of plot plans and building elevations by the Planning Commission for each parcel prior to development.
4. At the time development is proposed on each parcel appropriate right-of-way dedication, street improvements, drainage plan/study submittal, drainageway improvements, sanitary sewer collection system extensions and traffic signal system participation shall be provided as required by the Department of Public Works.
5. The existing Resolution of Intent on this property is expunged upon approval of this application.
6. Resolution of intent with a five year time limit.
7. Standard Conditions 6 - 8 and 11.

PROTESTS: 2 on record with staff
1 speaker at meeting

FAYOR: 1 speaker at meeting

Babero - APPROVED, subject to staff's conditions and additional conditions requiring the applicant to post signs on property indicating the zoning and that a public hearing be held on the development plan on the commercial and casino sites.
Unanimous
(Bugbee and Dixon excused)

MR. WILLIAMS stated this request is to approve the zoning that was indicated on the Master Development Plan. The development plans will be submitted to the Planning Commission for review prior to development. Staff recommended approval, subject to the conditions.

WILLIAM PECCOLE appeared and represented the application. He concurred with staff's conditions.

GREGORY BARLOW, 704 Ninto Court, appeared in favor if certain conditions are met. He wants a review of each parcel before the Planning Commission with a notice posted announcing that a public hearing will be held. Before any building is completed Rampart Boulevard must be finished. He would like the feeder routes also improved.

ULRICH SMITH, 8813 Brescia Drive, appeared in protest. He objected to the casino.

WILLIAM PECCOLE appeared in rebuttal. The casino will be buffered on the north by the Angel Park Golf Course and on the south by his golf course. On the east side will be commercial and on the west side a tennis court.

A. WAYNE SMITH, Land Planner, 1515 East Missouri Avenue, Phoenix, Arizona, appeared and represented the applicant. The applicant has reduced the density by about 2,200 units to help balance the traffic flow.

To be heard by the City Council on 4/4/90.

(8:09-8:23)

CLV65-000185

004912

14916

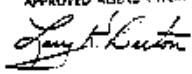
CITY COUNCIL MINUTES

MEETING OF
APRIL 4, 1990**AGENDA***City of Las Vegas*

000648

CITY COUNCIL
COUNCIL CHAMBERS • 400 EAST STEWART AVENUE
PHONE 388-9001

Page 48

ITEM		ACTION
	X. COMMUNITY PLANNING AND DEVELOPMENT DEPT. (CONTINUED)	
1433	G. <u>ZONE CHANGE - PUBLIC HEARING</u>	
to 1437	3. <u>Master Development Plan Amendment related to 2-17-90</u>	MOLEN - APPROVED as recommended subject to the conditions. Motion carried with Higginson "abstaining" because his employer had some business with Mr. Peccole.
	Request for approval to amend the Master Development Plan for property located on the east side of Hualpai Way, west of Durango Drive, between the south boundary of Angel Park and Sahara Avenue.	Clerk to Notify and Planning to Proceed.
	Planning Commission unanimously recommended APPROVAL, subject to:	*****
	1. A maximum of 4,247 dwelling units be allowed for Phase II.	ROBERT PECCOLE, 2760 Tigua Pine Circle, appeared. He stipulated to the conditions indicating that the hotel and casino along with the commercial center plans would be approved by the Council.
	2. Hualpai Way be extended as a public street north of Charleston Boulevard to the north property line as required by the Department of Public Works.	COUNCILMAN ADAMSEN said he previously wrote a letter to both the Peccole and Summerlin people asking them to post signs on the property indicating the hotel and casino sites. He also asked that when people buy property they be given a plot plan and a map which would show the future casino site in relation to their property and they are asked to sign an acknowledgment when they receive this information to resolve any problems of notification.
	3. Extend Apple Lane along the north side of this site and adjacent to Angel Park, east of Rampart Boulevard to Durango Drive, as required by the Depart- ment of Public Works.	No one appeared in opposition.
	4. Signs shall be posted on the resort/casino and commercial center sites to indicate the proposed uses.	
	5. The surrounding property owners shall be notified when the devel- opment plans for the resort/casino and commercial center sites are submitted for review.	
	Staff Recommendation: APPROVAL	
	PROTESTS: 5 (at meeting)	
	APPROVED AGENDA ITEM: 	

CLV65-000186

004913

14917

G. ZONE CHANGE - PUBLIC HEARING

J. Master Development Plan Amendment related to Z-17-90

This is a request to amend a portion of a previously approved Master Plan for the Peccola Ranch Property, Phase II. Phase II contains 996.4 acres and comprises property located south of Angel Park between Durango Drive and Mulpai Way extending south to Sahara Avenue. There are 4,247 units proposed and the gross density for Phase II is 4.3 dwelling units per acre. A related item, Z-17-90, is Item X.G.4. on this agenda.

Master Development Plans have been approved for this property in 1981, 1986 and 1989. The portion identified as Phase I was approved as part of the 1989 Plan and is currently under development. The significant changes to this plan from the 1989 plan is the addition of a golf course, a larger resort/casino site and the 100 acre commercial center site north of Alta Drive, between Durango Drive and Rampart Boulevard. The proposed multi-family uses have been reduced from 105 acres to 60 acres. A 19.7 acre school site is designated on a site south of Charleston Boulevard. The following table indicates the proposed land uses and acreage for Phase II:

<u>LAND USE</u>	<u>PHASE II ACREAGE</u>	<u>PERCENT OF SITE</u>
Single Family	401	40.30%
Multi-Family	60	6.02%
Neighborhood Commercial/Office	194.3	19.50%
Resort/Casino	56.0	5.62%
Golf Course/Drainage	211.6	21.24%
School	13.1	1.31%
Rights-of-Way	60.4	6.07%

At the Planning Commission meeting, staff indicated that the density of this Master Plan was within the average density of 7 units per acre recommended in the General Plan. Staff recommended, however, that Apple Lane should be extended to Durango Drive in conjunction with the shopping center site. The Planning Commission recommended approval of the Plan subject to the resort site and shopping center uses being posted with signs to indicate the proposed uses. The Planning Commission also required that the surrounding property owners be notified when development plans for the resort and commercial center sites are submitted for review.

There were several protestants at the meeting who voiced their objection to the size of the shopping center site and the proposed destination resort site.

Planning Commission Recommendation: APPROVAL

Staff Recommendation: APPROVAL

PROTESTS: 5 (at meeting)

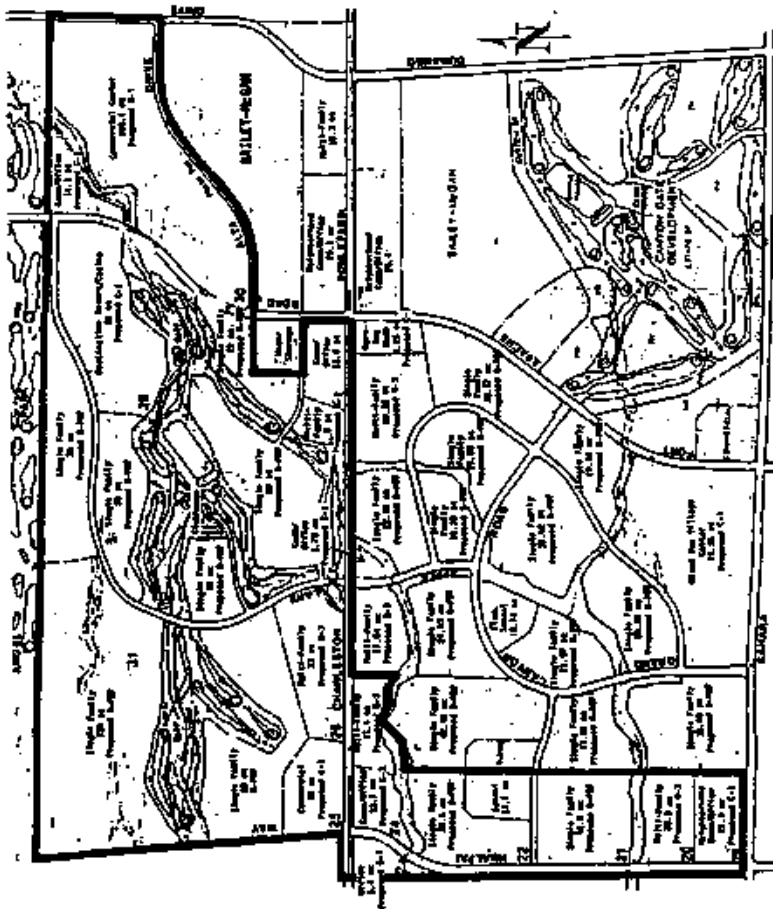
SEE ATTACHED LOCATION MAP


HAROLD M. FOSTER, DIRECTOR
DEPARTMENT OF COMMUNITY PLANNING
AND DEVELOPMENT

CITY COUNCIL MINUTES
MEETING OF
APR 04 1990

000650

LOCATION MAP - ITEM X.G.3. - Master Development Plan Amendment



MASTER DEVELOPMENT PLAN AMENDMENT

CLV65-000188
004915

CITY COUNCIL MINUTES
MEETING OF
APRIL 4, 1990
AGENDA *City of Las Vegas*
CITY COUNCIL
COUNCIL CHAMBERS - 400 EAST STEWART AVENUE
PHONE 398-8001

000651

Page 49

ITEM	ACTION
X. COMMUNITY PLANNING AND DEVELOPMENT DEPT. (CONTINUED)	
G. <u>ZONE CHANGE - PUBLIC HEARING</u>	
4. <u>2-17-90 - William Peccole 1982 Trust</u>	
Request for reclassification of property located on the east side of Hualpai Way, west of Durango Drive, between the south boundary of Angel Park and Sahara Avenue.	MOLES - APPROVED as recommended subject to the conditions. Motion carried with Higginson "abstaining" because his employer had some business with Mr. Peccole.
From: N-U (Non-Urban)(under Resolution of intent to R-1, R-2, R-3, R-PD7, R-PD8, R-MAP, P-R, C-1, C-2 and C-V)	Clerk to Notify and Planning to Proceed.
To: R-PD3 (Residential Planned Development) R-PD7 (Residential Planned Development) and C-1 (Limited Commercial)	WILLIAM PECCOLE, 2760 Tioga Pine Circle, was present.
Proposed Use: SINGLE FAMILY DWELLINGS, MULTI-FAMILY DWELLINGS, COMMERCIAL, OFFICE AND RESORT/CASINO	COUNCILMAN ADAMSEN said this was in conformance with the General Plan. The multi-family acreage was reduced from 100 to 60 and it will all be located on the major streets.
Planning Commission unanimously recommended APPROVAL, subject to:	No one appeared in opposition.
1. A maximum of 4,247 dwelling units be allowed for Phase II.	There was no discussion.
2. Conformance to the conditions of approval for the Peccole Ranch Master Development Plan, Phase II.	NOTE: The portion of this agenda which indicates this reclassification includes a request for R-PD3 zoning, in addition to R-PD7 and C-1, is a typographical error. The application and all other documentation correctly identifies the request as <u>R-3 (Limited Multiple Residence)</u>, R-PD7 and C-1.
3. Approval of plot plans and building elevations by the Planning Commission for each parcel prior to development.	
4. At the time development is proposed on each parcel appropriate right-of-way dedication, street improvements, drainage plan/study submittal, drainageway improvements, sanitary sewer collection system extensions and traffic signal system participation shall be provided as required by the Department of Public Works.	
- continued - APPROVED AGENDA ITEM	

CLV65-000189
004916

14920

CITY COUNCIL MINUTES

MEETING OF
APRIL 4, 1990**AGENDA** *City of Las Vegas*

000652

CITY COUNCIL
COUNCIL CHAMBERS • 400 EAST STEWART AVENUE
PHONE 386-8211

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ITEM

ACTION

**X. COMMUNITY PLANNING AND DEVELOPMENT DEPT.
(CONTINUED)****G. ZONE CHANGE - PUBLIC HEARING**

APPROVED - See page 49

**4. Z-17-90 - William Peccole 1982
Trust (continued)**

5. Signs shall be posted on the resort/casino and commercial center sites to indicate the proposed uses.

6. The surrounding property owners shall be notified when the development plans for the resort/casino and commercial center sites are submitted for review.

7. The existing Resolution of Intent on this property is expunged upon approval of this application.

8. Resolution of Intent with a five year time limit.

9. Standard conditions 6-B and 11.

Staff Recommendation: APPROVAL

PROTESTS: 3 (2 letters, 1 at meeting)

APPROVED AGENDA ITEM

Luigi A. Reston

CLV65-000190

004917

14921

CITY COUNCIL MINUTES
MEETING OF
APRIL 4, 1990

000653

X.

G. ZONE CHANGE - PUBLIC HEARING

4. Z-17-90 - William Peccole 1982 Trust

This is a request to rezone 996.4 acres from N-U (under Resolution of Intent to R-1, R-2, R-3, R-PD7, R-PD8, R-MHP, C-1, C-2, P-R and C-V) to R-PD7, R-3 and C-1 for Phase II of Peccole Ranch. The proposal includes 401 acres for single family development at a density of 7 units per acre, 60 acres of multi-family at a density of 24 units per acre, 194.3 acres for commercial/office uses, 56 acres for a resort/casino, approximately 212 acres for a golf course and drainage, 13.1 acres for a school and approximately 61 acres for rights-of-way. The Master Development Plan Amendment for this property is Item X.6.3. on this agenda.

To the north is Angel Park in a C-V zone. To the west is vacant land in the County. There is N-U, R-PD7, R-PD20, R-3 and C-1 zoning to the east and south.

Last year, Phase I on the south side of Charleston Boulevard was approved to develop 3,150 dwelling units on 448.8 acres at a density of seven units per acre. Another zoning request expanded Phase I and allowed 931 additional dwelling units also at a density of seven units per acre.

Phase II of the proposed development will contain 4,247 dwelling units at an overall gross density of 4.3 units per acre for the entire 746.1 acres of residential zoning. This is below the 7 units per acre allowed in the General Plan.

Staff recommended approval of the application and the Planning Commission concurred, subject to the resort and commercial center uses being posted with signs that indicate the proposed uses. The Planning Commission also required that the surrounding property owners be notified when development plans for the resort/casino and the commercial center sites are submitted for review.

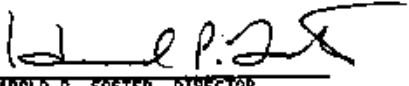
General Plan Conformance: Yes. Conforms to the density recommendations of the General Plan.

Planning Commission Recommendation: APPROVAL

Staff Recommendation: APPROVAL

PROTESTS: 3 (2 letters, 1 at meeting)

SEE ATTACHED LOCATION MAP


HAROLD P. FOSTER, DIRECTOR
DEPARTMENT OF COMMUNITY PLANNING
AND DEVELOPMENT

CLV65-000191
004918

14922

MAYOR RON LURIE
COUNCILMEN
BOB NOLEN
STEVE MILLER
ARNIE ADAMSEN
SCOTT HIGGINSON



CITY of LAS VEGAS

CORRECTED LETTER

January 29, 1991

William Peccole 1982 Trust
2760 Tioga Pines Circle
Las Vegas, Nevada 89117

RE: Z-17-90 - ZONE CHANGE

Gentlemen

The City Council at a regular meeting held April 4, 1990 APPROVED the request for reclassification of property located on the east side of Hualpai Way, west of Durango Drive, between the south boundary of Angel Park and Sahara Avenue, from: N-U (Non-Urban)(under Resolution of Intent to R-1, R-2, R-3, R-PD7, R-PD8, R-MHP, P-R, C-1, C-2 and C-V), to: R-3 (Limited Multiple Residence), R-PD7 (Residential Planned Development) and C-1 (Limited Commercial), Proposed Use Single Family Dwellings, Multi-Family Dwellings, Commercial, Office and Resort/Casino, subject to:

1. A maximum of 4,247 dwelling units be allowed for Phase II
2. Conformance to the conditions of approval for the Peccole Ranch Master Development Plan, Phase II.
3. Approval of plot plans and building elevations by the Planning Commission for each parcel prior to development.
4. At the time development is proposed on each parcel appropriate right-of-way dedication, street improvements, drainage plan/study submittal, drainageway improvements, sanitary sewer collection system extensions and traffic signal system participation shall be provided as required by the Department of Public Works



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William Peccole 1982 Trust
January 29, 1991
RE. Z-17-90 - ZONE CHANGE
Page 2.

- 5 Signs shall be posted on the resort/casino and commercial center sites to indicate the proposed uses.
- 6 The surrounding property owners shall be notified when the development plans for the resort/casino and commercial center sites are submitted for review.
7. The existing Resolution of Intent on this property is expunged upon approval of this application.
8. Resolution of Intent with a five year time limit.
- 9 Satisfaction of City Code requirements and design standards of all City departments.
10. Approval of the parking and driveway plans by the Traffic Engineer.
11. Repair of any damage to the existing street improvements resulting from this development as required by the Department of Public Works
12. Provision of fire hydrants and water flow as required by the Department of Fire Services.

Sincerely,


KATHLEEN M TIGHE
City Clerk

KMT.cmp

cc: Dept. of Community Planning & Development
Dept. of Public Works
Dept. of Fire Services
Dept. of Building & Safety
Land Development Services

Mr. A. Wayne Smith
A. Wayne Smith & Associates
1414 E. Missouri, Suite 100
Phoenix, Arizona 85014

1515

VTN Nevada
2300 Paseo Del Prado, A-100
Las Vegas, Nevada 89102

Sean McGowan
2300 W. Sahara, Box 10
Las Vegas, Nevada 89102

01465-000194
004921

14925

Exhibit 155

district for a specified time would violate NRS 391.350 by executing a contract with another school district without the written consent of the board currently employing him. An employee who merely indicates an intention to accept reemployment with a particular school district is under no contractual obligation to that district and would, therefore, not violate NRS 391.350 by executing an employment contract with another school district.

If we can be of any further assistance in this area, please do not hesitate to contact us.

Sincerely,

BRIAN MCKAY, *Attorney General*

By SCOTT W. DOYLE., *Chief Deputy Attorney General,*
Civil Division

OPINION NO. 84-6 Planning and Zoning: Amendment of land use element of master plan does not require immediate amendment of pre-existing zoning ordinances that are not in strict compliance with amended master plan.

LAS VEGAS, April 11, 1984

THE HONORABLE ROBERT L. VAN WAGONER, *City Attorney, City of Reno*, Post Office Box 1900,
Reno, Nevada 89505

DEAR MR. VAN WAGONER:

This is in response to your March 12, 1984 request for advice on behalf of your client, the Reno City Council, concerning several provisions of Chapter 278 of the Nevada Revised Statutes. You have asked several questions regarding the same issue, and we believe they may all be answered by a response to the following:

QUESTION

Does an amendment of the Reno City Land-Use Plan map invalidate existing zoning ordinances that are in conflict with the amendment or, alternatively, require the Reno City Council to amend any existing zoning ordinances not in strict conformity with the newly-adopted map?

ANALYSIS

The Nevada Legislature has enacted a comprehensive statutory scheme authorizing cities and counties to plan and zone land use in their respective jurisdictions for the purpose of promoting health, safety, morals and the general welfare of the community. NRS 278.020. As noted by our Supreme Court:

The State of Nevada has delegated comprehensive powers to cities and towns in the area of zoning regulation. The legislative body of a city or of a county of at least 15,000 people must, under Chapter 278, create a planning commission which in turn must adopt a long-term plan of physical development. NRS 278.030, 278.150. Elements of the plan include community design, conservation, economics, housing, land use, public buildings, public services and facilities, recreation, streets and highways, transit and transportation.

NRS 278.160. The commission may adopt the plan in whole or in part after prescribed notice and public hearing and by a two-thirds vote. NRS 278.170, 278.210. The legislative body may adopt all or any part of this plan after giving prescribed notice and holding a public hearing; any change or addition must be referred to the commission. NRS 278.220.

Pursuant to this legislative directive the City of Reno adopted a comprehensive land-use program embodied in Title 16 of the Reno Municipal Code.

Forman v. Eagle Thrifty Drugs and Markets, 89 Nev. 533, 538, 516 P.2d 1234 (1973).

You have informed us that the Reno City Council is presently considering adoption of an amended map which is to become part of the “land-use plan” element of the Reno City Master Plan. The starting point for an attempt to determine the legal effect of such an amended map must, as always, be with the intent of the legislature in enacting the provisions of Chapter 278. *Acklin v. McCarthy*, 96 Nev. 520, 612 P.2d 219 (1980); *Thomas v. State*, 88 Nev. 382, 498 P.2d 1314 (1972); *Ex parte Iratacable*, 55 Nev. 263, 30 P.2d 284 (1934). Additionally, the Nevada Supreme Court has delineated the guidelines for such an inquiry.

Our prime concern is to ascertain the intent of the legislature. The court must, if possible, and if consistent with the intention of the legislature, give effect to all the statutory provisions in controversy, and to every part of them. It is our duty, so far as practicable, to reconcile the various provisions so as to make them consistent and harmonious. The court, in interpreting these provisions, must also have in mind the purposes sought to be accomplished and the benefits intended to be attained.

School Trustees v. Bray, 60 Nev. 345, 353-4, 109 P.2d 274 (1941).

With these requirements of statutory construction in mind, we turn now to consider the pertinent provisions of Chapter 278.

As noted above, NRS 278.020 provides a statement of the purpose of the legislature in enacting Chapter 278 and giving authority to regulate land-use control to the local government entities. Under the Nevada statutory scheme, once a “Master Plan” has been adopted by a planning commission and that plan or any part thereof has been adopted by the governing body, there is a duty for the local government entity to determine the means of putting the plan into effect. NRS 278.230 provides:

1. Whenever the governing body of any city or county shall have adopted a master plan or part thereof for the city or county, or for any major section or district thereof, the governing body shall, upon recommendation of the planning commission, *determine upon reasonable and practical means for putting into effect the master plan or part thereof, in order that the same will serve as a pattern and guide for the kind of orderly physical growth and development of the city or county which will cause the least amount of natural resource impairment* and will conform to the adopted population plan where required, and as a basis for the efficient expenditure of funds thereof relating to the subjects of the master plan.

2. The governing body may adopt and use such procedure as may be necessary for this purpose. (Emphasis supplied.)

Aside from this general grant of authority to implement the master plan as a pattern and guide, the legislature has also provided specific power to local government entities to create zoning districts and enact zoning regulations. NRS 278.250 provides, in pertinent part:

1. For the purposes of NRS 278.010 to 278.630, inclusive, the governing body

may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations shall be adopted in accordance with the master plan for land use and shall be designed:

3. The zoning regulations shall be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region. (Emphasis supplied.)

In attempting to construe these two statutory provisions (NRS 278.230 and 278.250) with an eye towards harmonizing them, we are also required to give the language used by the legislature a reasonable and common sense construction.

In construing statutes, the court must consider sections together and place upon language the interpretation which will give to each section of an act its proper effect, and which at least will make it compatible with common sense and plain dictates of justice.

Gruber v. Baker, 20 Nev. 453, 467-8, 23 P. 858 (1890).

It has always been the rule in Nevada that when language is plain and unambiguous in a statute there is no room for construction. *Brown v. Davis*, 1 Nev. 346 (1865); *Lynip v. Buckner*, 22 Nev. 426, 41 P. 762 (1895); *Seaborn v. District Court*, 55 Nev. 206, 29 P.2d 500 (1934).

NRS 278.230 provides that the master plan shall be a “pattern and guide” for the development of cities, counties or regions. “Pattern” is defined by *Webster’s New World Dictionary*, p. 1042 (2d ed. 1980), as:

1. a person or thing considered worthy of imitation or copying;

2. a model or plan used as a guide in making things; . . .

“Guide” has been defined, in relation to the question presented here, as “applied to various contrivances intended to direct or keep to a fixed course or motion.” *Webster’s Encyclopedic Dictionary*, p. 867 (1967).

NRS 278.250 provides that zoning regulations be adopted “in accordance with the master plan for land use.” “Accordance” has been defined as “agreement, harmony, conformity.” *Webster’s New World Dictionary*, p. 9 (2d ed. 1976). We believe the above-cited language is clear and unambiguous and requires a local government entity to adopt zoning regulations that are in substantial agreement or conformity with the principles, directions and general provisions of the adopted master plan for land use. It should be noted, however, that the agreement or conformity is not required to be strict or absolute.

Moreover, a zoning ordinance must be pursuant to, and in *substantial conformity with, the zoning or enabling act authorizing it*. 8 McQuillan, *Municipal Corporations*, Sec. 25.58. The legislature has delegated the power to zone to the legislative bodies of cities and towns, *so that the need for a comprehensive plan might be met*, and has provided means for the protection of private property through notice and public hearing. (Emphasis supplied.)

Forman, supra, at 539.

In 1977 the Nevada Legislature expressly declared its intention that zoning ordinances take precedence over provisions contained in a master plan. 1977 Nev. Stat. Ch. 580, §§ 4-10, at 1496-1500. This recent enactment buttresses our conclusion that the Nevada Legislature has

always intended local zoning ordinances to control over general statements or provisions of a master plan. This express declaration is contained in the statutory requirements for approval of a tentative subdivision map contained in chapter 278 of the Nevada Revised Statutes. Pursuant to these provisions any person wishing to subdivide land in Nevada is required to take specified steps and prepare various maps for approval by the local government entities. NRS 278.349 sets out the procedure for action by a local governing body on a tentative map submitted by any person wishing to subdivide. The pertinent language of NRS 278.349 provides:

1. Except as provided in subsection 2, the governing body shall, by a majority vote of the members present, approve, conditionally approve, or disapprove a tentative map filed with it pursuant to NRS 278.330 within 30 days after receipt of the planning commission's recommendations.

....

3. The governing body shall consider:

....

(e) *General conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;*

....

(Emphasis supplied.)

A further rule of statutory construction requires that statutes are to be construed and harmonized so as to avoid absurd results. Thus, the language of this statute must also be given meaning and effect. *School Trustees v. Bray, supra*; *Lynip v. Buckner*, 22 Nev. 426, 41 P. 762 (1895); *Corbett v. Bradley*, 7 Nev. 106 (1871). We, therefore, view the statutory provision of NRS 278.349(3)(e) as providing that local zoning ordinances enacted pursuant to the "guide" of a master plan take precedence until modified or amended in a particular zoning or rezoning case. To interpret the statutory scheme in any other manner would be to leave this statutory provision devoid of any meaning.

We are aware of the recent Supreme Court decisions of the State of Oregon which judicially construed their statutes as requiring strict compliance of zoning ordinances with a comprehensive plan, even to the extent of requiring amendment of local zoning ordinances in light of the later adoption of a plan or an amendment to a plan *Fasano v. Board of County Commissioners*, 507 P.2d 23 (Ore. 1973); *Baker v. City of Milwaukie*, 533 P.2d 772 (Ore. 1975). We are also aware of a trend amongst a minority of states to legislatively require strict compliance of local zoning regulations with a comprehensive plan. (See generally J. Sullivan and L. Kressel, *Twenty Years After—Renewed Significance of the Comprehensive Plan Requirement*, 9 Urban L. Ann. 33 (1975); D. Mandelker, *The Role of the Local Comprehensive Plan in Land Use Regulation*, 74 Mich.L.Rev. 899 (1976); Note—*Developments in Zoning*, 91 Harv.L.Rev. 1548-1550 (1978). However, in our opinion, the Nevada Supreme Court would not undertake such judicial activism without first recognizing a clear legislative initiative to modify our existing statutory framework.

The Nevada Supreme Court has long recognized that zoning is a matter properly within the province of the legislature and that the judiciary should not interfere unless it is proven to be clearly necessary. *Henderson v. Henderson Auto*, 77 Nev. 118, 359 P.2d 743 (1961), (judicial interference justified to correct a manifest abuse of discretion); *McKenzie v. Shelly*, 77 Nev. 237, 362 P.2d 268 (1961), (judiciary must not interfere with board's determination to recognize desirability of commercial growth within a zoning district); *Coronet Homes, Inc. v. McKenzie*, 84 Nev. 250, 439 P.2d 219 (1968), (judiciary must not interfere with the zoning power unless clearly necessary); *Eagle Thrifty v. Hunter Lake P.T.A.*, 85 Nev. 162, 451 P.2d 713 (1969), (it is not the business of the judiciary to write a new city zoning ordinance, overruling the court's opinion in *Eagle Thrifty v. Hunter Lake P.T.A.*, 84 Nev. 466, 443 P.2d 608 (1968)); *Forman v. Eagle Thrifty Drugs and Markets*, 89 Nev. 533, 516 P.2d 1234 (1973), (statutes guide the zoning

process and the means of implementation until amended, repealed, referred or changed through initiative); *State ex rel. Johns v. Gragson*, 89 Nev. 478, 515 P.2d 65 (1973), (court will interfere where administrative decision is arbitrary, oppressive or accompanied by manifest abuse). As stated by the court:

Zoning is a legislative matter, and the legislature has acted. *Eagle Thrifty v. Hunter Lake P.T.A.*, 85 Nev. 162, 451 P.2d 713 (1969). It has authorized ‘the governing body’ to provide for zoning districts and to establish the administrative machinery to amend, supplement and change zoning districts. NRS 278.260. *As a general proposition, the zoning powers should not be subjected to judicial interference unless clearly necessary.* *Coronet Homes, Inc. v. McKenzie*, 84 Nev. 250, 439 P.2d 219 (1968). (Emphasis supplied.)

Board of Commissioners v. Dayton Dev. Co., 91 Nev. 71, 530 P.2d 1187 (1975).

In view of the above-described history of judicial restraint, it is our opinion that the Nevada Supreme Court would more likely adopt the judicial reasoning of the Supreme Courts sitting in the States of Washington, Colorado and Montana which have recently considered this exact question.

It may be argued that the purpose of the act assuring the highest standards of environment for living—is defeated when the plan is not strictly followed. However, since planning agency reports and recommendations on proposed projects and controls—which must indicate conformity or nonconformity with the comprehensive plan—are ‘advisory only’ (RCW 36.70.650 and RCW 36.70.540), it is evident the legislature intended that nonconformance with the plan should not necessarily block a project. *South Hills Sewer District v. Pierce Co.*, 22 Wash.App. 738, 745-46, 591 P.2d 877 (1979). *This is confirmed by the admonition that the comprehensive plan shall not be considered other than a guide to development and adoption of official controls.* RCW 36.70.340.

Appellants argue that the court should follow Oregon by holding that the plan should be given preference over conflicting ordinances. But Oregon’s statutory scheme substantially differs from Washington’s. (Emphasis supplied.)

Barrie v. Kitsap County, 613 P.2d 1148 (Wash. 1980).

At least one of the differences between the Oregon statutory scheme and that of Nevada is the former’s requirement that a master plan can only be adopted by a planning commission which then recommends zoning ordinances to be enacted by the governing body of a county to carry out the objectives of the plan. *Fasano, supra*, at 27. In Nevada, however, statutes give the local governing body the discretion to adopt or not adopt all or part of a master plan that has previously been adopted by a planning commission. NRS 278.220. Only after adopting all or part of a master plan is a governing body required to adopt regulations to implement it as a pattern and guide for development. NRS 278.230.

The Colorado Supreme Court addressed the issue of requiring strict compliance of zoning ordinances to the master plan in *Theobald v. Board of County Commissioners*, 644 P.2d 942 (Colo. 1982), and determined:

The master plan is the planning commission’s recommendation of the most desirable use of land (citations omitted). *Conceptually, a master plan is a guide to development rather than an instrument to control land use.* *R. Anderson, American Law of Zoning*, §§ 21.15, 22.12 (2d ed.); *E. McQuillan, Municipal Corporations, Zoning*, § 25.08 (3d ed., 1976 Repl. Vol.).

The general rule is that zoning should be enacted in conformance with the comprehensive plan for development of an area, *Fasano, supra*; *Harr, In Accordance*

with the Comprehensive Plan, 68 Harv.L.Rev. 1154 (1955); 1 E. Yokely, *Zoning Law Practice*, § 2-1 (4th ed. 1978). However, the Master Plan itself is only one source of comprehensive planning and is generally held to be advisory only and not the equivalent of zoning, nor binding upon the zoning discretion of the legislative body. 1 & 2a. Rathkopf, *Law of Zoning and Planning*, § 12.01, et seq., § 30.02 (4th ed.); *State ex rel. Rochester Ass'n of Neighborhoods v. City of Rochester*, 268 N.W.2d 885 (Minn. 1978); *Holmgren v. City of Lincoln*, 199 Neb. 178, 256 N.W.2d 686 (1977); *Todrin v. Board of Supervisors*, 27 Pa.Cmwlth. 583, 367 A.2d 332 (1976); *Coughlin v. City of Topeka*, 206 Kan. 552, 480 P.2d 91 (1971); *Sharninghouse v. City of Bellingham*, 4 Wash.App. 198, 480 P.2d 233 (1971).

This rule is embodied in our statute. While the statute provides for master planning on a county level, the board of county commissioners is specifically empowered, by majority vote, to disregard the recommendations of the planning commission as set forth in the master plan. (Citations omitted.) (Emphasis supplied.)

Id. at 948-949.

It should be noted that a local governing body in Nevada may also disregard the recommendations of a planning commission as set forth in a master plan. NRS 278.220-278.240.

The court went on to consider what standard of review was appropriate when confronted with an amendment to a master plan.

The Barries third argument that the council acted arbitrarily and capriciously presents this question: Does a comprehensive plan amendment require a showing of changed circumstances and, if so, has this showing been made? *A comprehensive plan amendment, the Barries argue, affects landowners' property rights so a showing that conditions have changed is necessary. This court, however, has only required this showing where a municipality rezones property.* (Citations omitted.) (Emphasis supplied.)

Theobald, supra, at 1154.

In reviewing the statutory scheme for planning and zoning in the State of Montana, their Supreme Court determined that substantial conformity to a master plan was required of zoning ordinances but strict compliance was unnecessary and unworkable.

The first phrase of section 76-2-304, sets the tone for all that comes after it. It states that '*the zoning regulations shall be made in accordance with a comprehensive development plan . . .*' (emphasis in original). We assume here that the term 'zoning regulations' is also meant to cover the term 'zoning districts.' We cannot ignore the mandatory language ('shall') of this statute.

The vital role given the planning board by these statutes cannot be undercut by giving the governing body the freedom to ignore the product of these boards—the master plan. We hold that the governmental unit, when zoning, must substantially adhere to the master plan.

To require strict compliance with the master plan would result in a master plan so unworkable that it would have to be constantly changed to comply with the realities. The master plan is, after all, a plan. On the other hand, to require no compliance at all would defeat the whole idea of planning. Why have a plan if the local government units are free to ignore it at any time? *The statutes are clear enough to send the message that in reaching zoning decisions, the local governmental unit should at least substantially comply with the comprehensive plan (or master plan).*

This standard is flexible enough so that the master plan would not have to be undergoing constant change. Yet, this standard is sufficiently definite so that those charged with adhering to it will know when there is an acceptable deviation, and when there is an unacceptable deviation from the master plan.

....
We are aware that changes in the master plan may well be dictated by changed circumstances occurring after the adoption of the plan. If this is so, the correct procedure is to amend the master plan rather than to erode the master plan by simply refusing to adhere to its guidelines. If the local governing bodies cannot cooperate to this end, the only alternative is to ask the Legislature to change the statutes governing planning and zoning. (Emphasis supplied.)

Little v. Board of County Commissioners, 631 P.2d 1282 (Mont. 1981).

These courts' opinions have been well reasoned and reflect the majority view. We find no reason to believe that the Nevada courts would take any different position.

CONCLUSION

An amendment of a land-use map, which is part of a Master Plan as that term is defined in NRS 278.150 and NRS 278.160, does not require immediate amendment of all local zoning ordinances which are not in strict conformity with the map as amended. Additionally, all ordinances that exist at the time of a land-use map amendment remain in effect until modified or amended by the local governing body.

BRIAN MCKAY, *Attorney General*

By: MICHAEL D. RUMBOLZ, *Chief Deputy Attorney General*

OPINION NO. 84-7 County Clerks; Elections; Initiative and Referendum; Secretary of State: Nev. Admin. Code § 295.010 is not in conflict with constitutional and statutory provisions relating to the filing of statewide petitions for initiative and referendum. County clerks should not accept submission of any statewide petition for initiative or referendum which is not presented within the time limits established by Nev. Admin. Code § 295.010.

CARSON CITY, April 16, 1984

ROBERT J. MILLER, *Clark County District Attorney*, Clark County Courthouse, Las Vegas, Nevada 89155

ATTENTION: CHARLES K. HAUSER, *Deputy District Attorney*

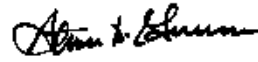
DEAR MR. MILLER:

You have sought our opinion concerning the validity of Nev. Admin. Code § 295.010.

QUESTION

Does Nev. Admin. Code § 295.010 conflict with Nev. Const. art. 19, § 2, or Nev. Rev. Stat. §§ 295.025(1), 295.035(1), 295.045(2), 295.056, 295.057, 295.058 and 295.059?

Exhibit 156



CLERK OF THE COURT

OPPM
BRADFORD R. JERBIC
City Attorney
Nevada Bar No. 1056
By: PHILIP R. BYRNES
Deputy City Attorney
Nevada Bar No. 166
400 Stewart Avenue, Ninth Floor
Las Vegas, NV 89101
(702) 229-6629
(702) 386-1749 (fax)
Email: pbyrnes@lasvegasnevada.gov
Attorneys for CITY OF LAS VEGAS
and REGIONAL TRANSPORTATION COMMISSION

DISTRICT COURT

CLARK COUNTY, NEVADA

MOCCASIN & 95 LLC, a Nevada Limited
Liability Company; DOE INDIVIDUALS I
through XXX; DOE CORPORATIONS I
through XXX; DOE LIMITED LIABILITY
COMPANIES I through XXX,

Plaintiffs,

vs.

CITY OF LAS VEGAS, a political
subdivision of the State of Nevada; THE
REGIONAL TRANSPORTATION
COMMISSION OF SOUTHERN
NEVADA; ROE government entities I
through XXX; ROE CORPORATIONS I
through XXX; ROE INDIVIDUALS I
through XXX; ROE LIMITED LIABILITY
COMPANIES I through XXX, ROE quasi-
governmental entities I through XXX,

Defendants.

CASE NO. A-10-627506-C
DEPT. NO. XXVI

**OPPOSITION TO PLAINTIFF LANDOWNER'S MOTION FOR
PARTIAL SUMMARY JUDGMENT ON LIABILITY FOR A TAKING**

Defendants CITY OF LAS VEGAS and REGIONAL TRANSPORTATION
COMMISSION OF SOUTHERN NEVADA, through their attorneys BRADFORD R. JERBIC,
City Attorney, by PHILIP R. BYRNES, Deputy City Attorney, files the following points and

1 approval. If denied, the proposed changes could not be made to
2 the Master Plan of Streets and Highways and the Las Vegas
3 2020 Master Plan, and the approved Sheep Mountain Parkway
and master planned streets would remain in their current
alignments.

4 *Id.*

5 III.

6 **THE SUMMARY JUDGMENT STANDARD**

7 In *Butler ex rel. Biller v. Bayer*, 123 Nev. 450, 457-58, 168 P.3d 1055, 1061 (2007), the
8 Nevada Supreme Court described the standards for granting a motion for summary judgment:

9 This court reviews a summary judgment order de novo.
10 We have previously explained that “[s]ummary judgment is
11 appropriate when the pleadings, depositions, answers to
12 interrogatories, admissions, and affidavits on file show that there
13 exists no genuine issue as to any material fact and that the moving
party is entitled to judgment as a matter of law.” A genuine issue
of material fact exists if, based on the evidence presented, a
reasonable jury could return a verdict for the nonmoving party.

14 The party requesting summary judgment bears the burden of establishing that no triable issues
15 remain. *Butler v. Bogdanovich*, 101 Nev. 449, 451, 705 P.2d 662, 663 (1985). All reasonable
16 inferences must be made in favor of the opposing party and the Court may not weigh the
17 credibility of the evidence. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 714, 57 P.3d 82,
18 87 (2002).

19 IV.

20 **THE PLACEMENT OF THE NORTH ALIGNMENT ON**
21 **THE CITY’S MASTER PLAN OF STREETS AND HIGHWAYS**
22 **DID NOT CONSTITUTE A TAKING OF THE SUBJECT PROPERTY**

23 The City’s Master Plan of Streets and Highways is a planning document. Nevada law
24 clearly provides that planning activities do not constitute a taking. In an effort to circumvent this
25 clearly established law, Plaintiff argues that the setback requirements of Las Vegas Municipal
26 Code (LVMC) 13.12.150 preclude all development of the subject property under the unique
27 circumstances of this case. The setback requirements of LVMC 13.12.150 do not even apply to
28 the subject property since the City Council never adopted an ordinance establishing a center line
for the North Alignment. The placement of the North Alignment on the City’s Master Plan of

1 Streets and Highways was a routine planning activity that had no legal effect on the use and
2 development of the subject property. The amendment did not constitute taking of the subject
3 property.

4 The Master Plan of Streets and Highways is part of the City's Master Plan. LVMC
5 13.12.020. NRS 278.230(1)(a) describes the purpose of the Master Plan:

6 A pattern and guide for that kind of orderly physical growth
7 and development of the city or county which will cause the least
8 amount of natural resource impairment and will conform to the
9 adopted population plan, where required, and ensure an adequate
10 supply of housing, including affordable housing

11 The purpose of the City's Master Plan of Streets and Highways is described in LVMC 13.12.010:

12 The Master Plan of Streets and Highways has been
13 prepared by the City Planning Commission to promote the orderly
14 development of land which an increasing population will require,
15 to eliminate existing congestion and facilitate rapid traffic
16 movement, and to make provisions for anticipated future traffic
17 needs.

18 The Master Plan of Streets and Highways is a planning document and the placement of a
19 potential roadway on the Plan does not constitute a taking of private property.

20 In *Sproul Homes of Nevada v. State ex rel. Department of Highways*, 96 Nev. 441, 444,
21 611 P.2d 620, 621 (1980), the Nevada Supreme Court found that inclusion of a street on a master
22 plan does not constitute a taking:

23 It is well-established that the mere planning of a project is
24 insufficient to constitute a taking for which an inverse
25 condemnation action will lie.

26 The Court adopted the reasoning of a California court in *Selby Realty Company v. City of San*
27 *Buenaventura*, 514 P.2d 111 (Cal. 1973):

28 On appeal, the court stated: "In order to state a cause of action for
inverse condemnation, there must be an invasion or an
appropriation of some valuable property right which the landowner
possesses and the invasion or appropriation must directly and
specially affect the landowner to his injury." *Id.* at 117. The court
continued:

If a governmental entity and its responsible officials were
held subject to a claim for inverse condemnation merely because a
parcel of land was designated for potential public use on one of the
several authorized plans, the process of community planning would

1 either grind to a halt, or deteriorate to publication of vacuous
2 generalizations regarding the future use of land. We indulge in no
3 hyperbole to suggest that if every landowner whose property might
4 be affected at some vague and distant future time by any of these
5 legislatively permissible plans was entitled to bring an action in
6 declaratory relief to obtain a judicial declaration as to the validity
7 and potential effect of the plan upon his land, the courts of this
8 state would be inundated with futile litigation.

9 *Id.* at 117-18 (emphasis added). We agree with this reasoning.

10 96 Nev. at 444, 514 P.2d at 621-22.

11 In an effort to avoid the clear reasoning of *Sproul Homes*, Plaintiff argues that the
12 amendment of the Master Plan of Streets and Highways in conjunction with the setback
13 requirements of LVMC 13.12.150 constitutes a taking. LVMC 13.12.150 provides:

14 All buildings or structures to be built along any major street
15 or highway embraced by the Master Plan shall be set back from the
16 centerline of any existing or proposed major street or highway a
17 distance equal to one-half the proposed right-of-way width, plus the
18 distance required by the particular zone in which the property is
19 located, unless an ordinance is adopted to establish a distance other
20 than one-half the proposed right-of-way width. With respect to any
21 building or structure located at any intersection described in
22 Section 13.12.100, the foregoing setback requirements shall be
23 increased to conform to the property line radius specified in that
24 Section.

25 A setback requirement is a legitimate exercise of the city's police power and does not
26 amount to a per se taking. *Echevarrieta v. City of Rancho Palos Verdes*, 103 Cal. Rptr. 2d 165,
27 171 (Cal. App. 2001), the Court stated:

28 Here, while the City has imposed limitations on the height
of pre-existing foliage, it is a legitimate exercise of police power
which does not rise to the level of a taking. Contrary to "per se"
takings, "traditional land-use regulations" such as the
imposition of minimal building setbacks, parking and lighting
conditions, landscaping requirements, and other design
conditions "have long been held to be valid exercises of the
city's traditional police power, and do not amount to a taking
merely because they might incidentally restrict a use, diminish
the value, or impose a cost in connection with the property.
[Citations.]" (*Ehrlich v. City of Culver City*, *supra*, 12 Cal. 4th at p.
886, 50 Cal. Rptr. 2d 242, 911 P.2d 429; *HFH, Ltd. v. Superior
Court* (1975) 15 Cal. 3d 508, 518, 125 Cal. Rptr. 365, 542 P.2d
237 ["[A] zoning action which merely decreases the market value
of property does not violate the constitutional provisions
forbidding uncompensated taking or damaging. . . ."]) "The denial
of the highest and best use does not constitute an unconstitutional

1 taking of property. [Citation.] 'Even where there is a very
2 substantial diminution in the value of land, there is no taking . . .'
[Emphasis added.]

3 See also *R & Y, Inc. v. Municipality of Anchorage*, 34 P.3d 289, 296-97 (Alaska 2001).

4 In the case of the subject property, the setback requirements of LVMC 13.12.150 are not
5 even applicable since the City Council did not adopt an ordinance establishing a centerline for
6 the North Alignment. LVMC 13.12.130 provides:

7 With respect to any major street or highway located on a
8 section line, the section line shall be the centerline unless the
9 Board of Commissioners adopts an ordinance which establishes a
10 different centerline. **With respect to any proposed or existing
major street or highway which does not follow a
predetermined line, the location of the centerline in each case
shall be described by ordinance.** [Emphasis added.]

11 Since the setback requirements of LVMC 13.12.150 are measured from the centerline of the
12 roadway and the City Council did not establish a centerline by ordinance, the setback
13 requirements of LVMC 13.12.150 could not be enforced in any land use application regarding
14 the subject property.² See Exhibit A; Affidavit of Bryan K. Scott, attached as Exhibit K;
15 Affidavit of James B. Lewis, attached as Exhibit L.

16 The placement of the North Alignment on the Master Plan of Streets and Highways was a
17 planning activity that did not legally effect Plaintiff's ability to use or develop the subject
18 property. This amendment did not constitute a taking of the subject property.

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26 ² In *Boulder City v. Cinnamon Hills Associates*, 110 Nev. 238, 247, 871 P.2d 320, 326
27 (1994), the Nevada Supreme Court noted that a city's "interpretation of its own land use laws is
28 cloaked with a presumption of validity and will not be disturbed absent a manifest abuse of
discretion."

Exhibit 157

AFFIDAVIT OF BRYAN K. SCOTT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

BRYAN K. SCOTT, being first duly sworn, deposes and says:

1. I am employed by the City of Las Vegas as an Assistant City Attorney. I have personal knowledge of the matters stated herein; and, if called upon, I am competent to testify thereto.

2. I have been assigned as counsel for the City regarding land use and planning matters for more than eleven years.

3. During my tenure with the City, the Office of the City Attorney has consistently advised the City Council and the City staff that the City's Master Plan of Streets and Highways is a planning document only and that the placement of a roadway on the Master Plan cannot be used to restrict or impair the development of adjoining parcels.

4. I am aware of the setback requirements of LVMC 13.12.150. I cannot recall any situation in my tenure when those setback requirements have been enforced against any proposed project on a parcel abutting a roadway placed on the Master Plan.

5. The proposals for the Sheep Mountain Parkway do not follow a predetermined section line. LVMC 13.12.130 requires the City Council to describe the centerline of the roadway by ordinance. The City Council did not adopt an ordinance describing the centerline of the North Alignment of the Sheep Mountain Parkway.

6. The setback requirements of LVMC 13.12.150 are calculated from the centerline of a roadway placed on the Master Plan of Streets and Highways. Since the City Council did not describe the centerline of the North Alignment of the Sheep Mountain Parkway by ordinance, the

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1 setback requirements of LVMC 13.12.150 could not be applied to parcels abutting the North
2 Alignment.

3 DATED this 18th day of December, 2011.

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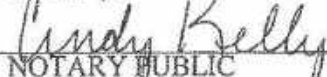
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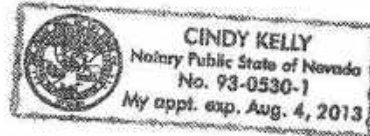

BRYAN K. SCOTT

7 SUBSCRIBED and SWORN to before

8 me this 13th day of December, 2011.

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NOTARY PUBLIC



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Exhibit 158

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AFFIDAVIT OF JAMES B. LEWIS

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

JAMES B. LEWIS, being first duly sworn, deposes and says:

1. I am employed by the City of Las Vegas as a Deputy City Attorney. I have personal knowledge of the matters stated herein; and, if called upon, I am competent to testify thereto.

2. I have been assigned as counsel for the City regarding land use and planning matters for more than six years.

3. During my tenure with the City, the Office of the City Attorney has consistently advised the City Council and the City staff that the City's Master Plan of Streets and Highways is a planning document only and that the placement of a roadway on the Master Plan cannot be used to restrict or impair the development of adjoining parcels.

4. I am aware of the setback requirements of LVMC 13.12.150. I cannot recall any situation in my tenure when those setback requirements have been enforced against any proposed project on a parcel abutting a roadway placed on the Master Plan.

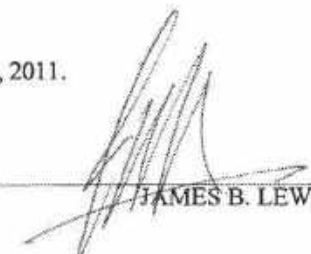
5. The proposals for the Sheep Mountain Parkway do not follow a predetermined section line. LVMC 13.12.130 requires the City Council to describe the centerline of the roadway by ordinance. The City Council did not adopt an ordinance describing the centerline of the North Alignment of the Sheep Mountain Parkway.

6. The setback requirements of LVMC 13.12.150 are calculated from the centerline of a roadway placed on the Master Plan of Streets and Highways. Since the City Council did not describe the centerline of the North Alignment of the Sheep Mountain Parkway by ordinance, the

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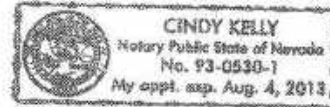
1 setback requirements of LVMC 13.12.150 could not be applied to parcels abutting the North
2 Alignment.

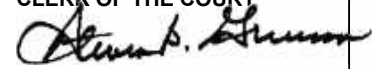
3 DATED this 13th day of December, 2011.

4
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6 
JAMES B. LEWIS

7 SUBSCRIBED and SWORN to before
8 me this 13th day of December, 2011.

9 Cindy Kelly
10 NOTARY PUBLIC





APPN
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Attorneys for Plaintiffs Landowners

DISTRICT COURT

CLARK COUNTY, NEVADA

180 LAND CO., LLC, a Nevada limited liability
company, FORE STARS Ltd., DOE
INDIVIDUALS I through X, ROE
CORPORATIONS I through X, and ROE
LIMITED LIABILITY COMPANIES I through
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of
the State of Nevada, ROE government entities I
through X, ROE CORPORATIONS I through X,
ROE INDIVIDUALS I through X, ROE
LIMITED LIABILITY COMPANIES I through
X, ROE quasi-governmental entities I through X,

Defendant.

Case No.: A-17-758528-J
Dept. No.: XVI

**APPENDIX OF EXHIBITS IN SUPPORT
OF PLAINTIFFS LANDOWNERS'
REPLY IN SUPPORT OF MOTION TO
DETERMINE TAKE AND MOTION FOR
SUMMARY JUDGMENT ON THE FIRST,
THIRD AND FOURTH CLAIMS FOR
RELIEF AND OPPOSITION TO THE
CITY'S COUNTER-MOTION FOR
SUMMARY JUDGMENT**

VOLUME 18

Hearing Date: September 23, 2021

Hearing Time: 1:30 p.m.

The Plaintiffs, 180 Land Co LLC and Fore Stars, Ltd. (hereinafter referred to as
“Landowners”) hereby submit this Appendix of Exhibits in Support of their Reply in Support of
their Motion to Determine Take and Motion for Summary Judgment on the First, Third and Fourth
Claims for Relief which also Opposes the City’s Counter-Motion for Summary Judgment as
follows:

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Exhibit No.	Description	Vol. No.	Bates No.
1	Findings of Fact and Conclusions of Law Regarding Plaintiff Landowners' Motion to Determine "Property Interest"	1	000001-000005
2	Map 1 of 250 Acre Land	1	000006
3	Map 2 of 250 Acre Land	1	000007
4	Notice of Related Cases	1	000008-000012
5	April 15, 1981 City Commission Minutes	1	000013-000050
6	December 20, 1984 City of Las Vegas Planning Commission hearing on General Plan Update	1	000051-000151
7	Findings of Fact and Conclusions of Law Regarding Plaintiffs' Motion for New Trial, Motion to Alter or Amend and/or Reconsider the Findings of Fact and Conclusions of Law, Motion to Stay Pending Nevada Supreme Court Directives	2	000152-000164
8	ORDER GRANTING the Landowners' Countermotion to Amend/Supplement the Pleadings; DENYING the Landowners' Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims	2	000165-000188
9	City's Opposition to Motion to Determine "Property Interest"	2	000189-000216
10	City of Las Vegas' Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims	2	000217-000230
11	Petition for Writ of Mandamus, or in the Alternative, Writ of Prohibition	2	000231-000282
12	Supreme Court Order Denying Petition for Writ of Mandamus or Prohibition	2	000283-000284
13	Supreme Court Order Denying Rehearing	2	000285-000286
14	Supreme Court Order Denying En Banc Reconsideration	2	000287-000288

1	15	Motion to Dismiss Complaint for Declaratory and Injunctive Relief and in Inverse Condemnation, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000289-000308
2	16	City's Sur Reply Memorandum of Points and Authorities in Support of Motion to Dismiss Complaint for Declaratory and Injunctive Relief and Inverse Condemnation, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000309-000319
3	17	City's Proposed Findings of Fact and Conclusion of Law Granting City's Motion to Dismiss Complaint, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000320-000340
4	18	Order Denying City of Las Vegas' Motion to Dismiss, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000341-000350
5	19	City of Las Vegas' Motion to Dismiss, <i>180 Land Co., LLC v. City of Las Vegas, et al.</i> , Case No. A-18-775804-J	2	000351-000378
6	20	2.15.19 Minute Order re City's Motion to Dismiss	2	000379
7	21	Respondents' Answer Brief, Supreme Court Case No. 75481	2	000380-000449
8	22	Order Granting Plaintiffs' Petition for Judicial Review, <i>Jack B. Binion, et al vs. The City of Las Vegas</i> , Case No. A-17-752344-J	2	000450-000463
9	23	Supreme Court Order of Reversal	2	000464-000470
10	24	Supreme Court Order Denying Rehearing	2	000471-000472
11	25	Supreme Court Order Denying En Banc Reconsideration	2	000473-000475
12	26	Findings of Fact, Conclusions of Law and Judgment Granting Defendants Fore Stars, Ltd., 180 Land Co LLC, Seventy Acres LLC, EHB Companies LLC, Yohan Lowie, Vickie Dehart and Frank Pankratz's NRCP 12(b)(5) Motion to Dismiss Plaintiffs' Amended Complaint	2	000476-000500
13	27	Notice of Entry of Findings of Fact, Conclusions of Law, Final Order of Judgment, <i>Robert Peccole, et al v. Peccole Nevada Corporation, et al.</i> , Case No. A-16-739654-C	2	000501-000545

1	28	Supreme Court Order of Affirmance	2	000546-000550
2	29	Supreme Court Order Denying Rehearing	2	000551-000553
3	30	November 1, 2016 Badlands Homeowners Meeting Transcript	2	000554-000562
4	31	June 13, 2017 Planning Commission Meeting Verbatim Transcript	2	000563-000566
5	32	Notice of Entry of Findings of Fact and Conclusions of Law Granting City of Las Vegas' Motion for Summary Judgment, <i>180 Land Co. LLC, et al v. City of Las Vegas</i> , Case No. A-18-780184-C	3	000567-000604
6				
7				
8	33	June 21, 2017 City Council Meeting Combined Verbatim Transcript	3	000605-000732
9	34	Declaration of Yohan Lowie	3	000733-000739
10	35	Declaration of Yohan Lowie in Support of Plaintiff Landowners' Motion for New Trial and Amend Related to: Judge Herndon's Findings of Fact and Conclusion of Law Granting City of Las Vegas' Motion for Summary Judgment, Entered on December 30, 2020	3	000740-000741
11				
12				
13				
14	36	Master Declaration of Covenants, Conditions Restrictions and Easements for Queensridge	3	000742-000894
15	37	Queensridge Master Planned Community Standards - Section C (Custom Lot Design Guidelines)	3	000895-000896
16	38	Custom Lots at Queensridge Purchase Agreement, Earnest Money Receipt and Escrow Instructions	3	000897-000907
17				
18	39	Public Offering Statement for Queensridge North (Custom Lots)	4	000908-000915
19	40	Deposition of Yohan Lowie, <i>In the Matter of Binion v. Fore Stars</i>	4	000916-000970
20	41	The City of Las Vegas' Response to Requests for Production of Documents, Set One	4	000971-000987
21				
22	42	Respondent City of Las Vegas' Answering Brief, <i>Jack B. Binion, et al v. The City of Las Vegas, et al.</i> , Case No. 17-752344-J	4	000988-001018
23	43	Ordinance No. 5353	4	001019-001100
24	44	Original Grant, Bargain and Sale Deed	4	001101-001105

1	45	May 23, 2016 Par 4 Golf Management, Inc.'s letter to Fore Stars, Ltd. re Termination of Lease	4	001106-001107
2	46	December 1, 2016 Elite Golf Management letter to Mr. Yohan Lowie re: Badlands Golf Club	4	001108
3	47	October 30, 2018 Deposition of Keith Flatt, <i>Fore Stars, Ltd. v. Allen G. Nel</i> , Case No. A-16-748359-C	4	001109-001159
4	48	Declaration of Christopher L. Kaempfer	4	001160-001163
5	49	Clark County Real Property Tax Values	4	001164-001179
6	50	Clark County Tax Assessor's Property Account Inquiry - Summary Screen	4	001180-001181
7	51	Assessor's Summary of Taxable Values	5	001182-001183
8	52	State Board of Equalization Assessor Valuation	5	001184-001189
9	53	June 21, 2017 City Council Meeting Combined Verbatim Transcript	5	001190-001317
10	54	August 2, 2017 City Council Meeting Combined Verbatim Transcript	5	001318-001472
11	55	City Required Concessions signed by Yohan Lowie	5	001473
12	56	Badlands Development Agreement CLV Comments	5	001474-001521
13	57	Development Agreement for the Two Fifty, Section Four, Maintenance of the Community	5	001522-001529
14	58	Development Agreement for the Two Fifty	5	001530-001584
15	59	The Two Fifty Design Guidelines, Development Standards and Uses	5	001585-001597
16	60	The Two Fifty Development Agreement's Executive Summary	5	001598
17	61	Development Agreement for the Forest at Queensridge and Orchestra Village at Queensridge	5	001599-002246
18	62	Department of Planning Statement of Financial Interest	6	002247-002267
19	63	December 27, 2016 Justification Letter for General Plan Amendment of Parcel No. 138-31-702-002 from Yohan Lowie to Tom Perrigo	6	002268-002270
20	64	Department of Planning Statement of Financial Interest	6	002271-002273

1	65	January 1, 2017 Revised Justification letter for Waiver on 34.07 Acre Portion of Parcel No. 138-31-702-002 to Tom Perrigo from Yohan Lowie	6	002274-002275
2				
3	66	Department of Planning Statement of Financial Interest	6	002276-002279
4	67	Department of Planning Statement of Financial Interest	6	002280-002290
5				
6	68	Site Plan for Site Development Review, Parcel 1 @ the 180, a portion of APN 138-31-702-002	6	002291-002306
7	69	December 12, 2016 Revised Justification Letter for Tentative Map and Site Development Plan Review on 61 Lot Subdivision to Tom Perrigo from Yohan Lowie	6	002307-002308
8				
9	70	Custom Lots at Queensridge North Purchase Agreement, Earnest Money Receipt and Escrow Instructions	7	002309-002501
10				
11	71	Location and Aerial Maps	7	002502-002503
12	72	City Photos of Southeast Corner of Alta Drive and Hualapai Way	7	002504-002512
13	73	February 14, 2017 Planning Commission Staff Recommendations	7	002513-002538
14	74	June 21, 2017 Planning Commission Staff Recommendations	7	002539-002565
15				
16	75	February 14, 2017 Planning Commission Meeting Verbatim Transcript	7	002566-002645
17	76	June 21, 2017 Minute re: City Council Meeting	7	002646-002651
18	77	June 21, 2017 City Council Staff Recommendations	7	002652-002677
19	78	August 2, 2017 City Council Agenda Summary Page	7	002678-002680
20				
21	79	Department of Planning Statement of Financial Interest	7	002681-002703
22	80	Bill No. 2017-22	7	002704-002706
23	81	Development Agreement for the Two Fifty	7	002707-002755
24	82	Addendum to the Development Agreement for the Two Fifty	8	002756

1	83	The Two Fifty Design Guidelines, Development Standards and Permitted Uses	8	002757-002772
2	84	May 22, 2017 Justification letter for Development Agreement of The Two Fifty, from Yohan Lowie to Tom Perrigo	8	002773-002774
3	85	Aerial Map of Subject Property	8	002775-002776
4	86	June 21, 2017 emails between LuAnn D. Holmes and City Clerk Deputies	8	002777-002782
5	87	Flood Damage Control	8	002783-002809
6	88	June 28, 2016 Reasons for Access Points off Hualapai Way and Rampart Blvd. letter from Mark Colloton, Architect, to Victor Balanos	8	002810-002815
7	89	August 24, 2017 Access Denial letter from City of Las Vegas to Vickie Dehart	8	002816
8	90	19.16.100 Site Development Plan Review	8	002817-002821
9	91	8.10.17 Application for Walls, Fences, or Retaining Walls	8	002822-002829
10	92	August 24, 2017 City of Las Vegas Building Permit Fence Denial letter	8	002830
11	93	June 28, 2017 City of Las Vegas letter to Yohan Lowie Re Abeyance Item - TMP-68482 - Tentative Map - Public Hearing City Council Meeting of June 21, 2017	8	002831-002834
12	94	Declaration of Vickie Dehart, <i>Jack B. Binion, et al. v. Fore Stars, Ltd.</i> , Case No. A-15-729053-B	8	002835-002837
13	95	Supreme Court Order of Affirmance, <i>David Johnson, et al. v. McCarran International Airport, et al.</i> , Case No. 53677	8	002838-002845
14	96	De Facto Taking Case Law From State and Federal Jurisdictions	8	002846-002848
15	97	Department of Planning Application/Petition Form	8	002849-002986
16				
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1	98	11.30.17 letter to City of Las Vegas Re: 180 Land Co LLC ("Applicant"t - Justification Letter for General Plan Amendment [SUBMITTED UNDER PROTEST] to Assessor's Parcel ("APN(st") 138-31-601-008, 138-31- 702-003, 138-31-702-004 (consisting of 132.92 acres collectively "Property"t - from PR-OS (Park, Recreation and Open Space) to ML (Medium Low Density Residential) as part of applications under PRJ-11990, PRJ-11991, and PRJ-71992	8	002987-002989
2	99	January 9, 2018 City Council Staff Recommendations	8	002990-003001
3	100	Item #44 - Staff Report for SDR-72005 [PRJ-71990] - amended condition #6 (renumbered to #7 with added condition)	8	003002
4	101	January 9, 2018 WVR-72007 Staff Recommendations	8	003003-003027
5	102	January 9, 2018 WVR-72004, SDR-72005 Staff Recommendations	8	003028-003051
6	103	January 9, 2018 WVR-72010 Staff Recommendations	8	003052-003074
7	104	February 21, 2018 City Council Meeting Verbatim Transcript	8	003075-003108
8	105	May 17, 2018 City of Las Vegas Letter re Abeyance - TMP-72012 [PRJ-71992] - Tentative Map Related to WVR-72010 and SDR-72011	9	003109-003118
9	106	May 16, 2018 Council Meeting Verbatim Transcript	9	003119-003192
10	107	Bill No. 2018-5, Ordinance 6617	9	003193-003201
11	108	Bill No. 2018-24, Ordinance 6650	9	003202-003217
12	109	November 7, 2018 City Council Meeting Verbatim Transcript	9	003218-003363
13	110	October 15, 2018 Recommending Committee Meeting Verbatim Transcript	9	003364-003392
14	111	October 15, 2018 Kaempfer Crowell Letter re: Proposed Bill No. 2018-24 (part 1 of 2)	10	003393-003590
15	112	October 15, 2018 Kaempfer Crowell Letter re: Proposed Bill No. 2018-24 (part 2 of 2)	11	003591-003843

1	113	July 17, 2018 Hutchison & Steffen letter re Agenda Item Number 86 to Las Vegas City Attorney	11	003844-003846
2				
3	114	5.16.18 City Council Meeting Verbatim Transcript	11	003847-003867
4	115	5.14.18 Bill No. 2018-5, Councilwoman Fiore Opening Statement	11	003868-003873
5	116	May 14, 2018 Recommending Committee Meeting Verbatim Transcript	11	003874-003913
6	117	August 13, 2018 Meeting Minutes	11	003914-003919
7	118	November 7, 2018 transcript In the Matter of Las Vegas City Council Meeting, Agenda Item 50, Bill No. 2018-24	12	003920-004153
8				
9	119	September 4, 2018 Recommending Committee Meeting Verbatim Transcript	12	004154-004219
10	120	State of Nevada State Board of Equalization Notice of Decision, <i>In the Matter of Fore Star Ltd., et al.</i>	12	004220-004224
11				
12	121	August 29, 2018 Bob Coffin email re Recommend and Vote for Ordinance Bill 2108-24	12	004225
13	122	April 6, 2017 Email between Terry Murphy and Bob Coffin	12	004226-004233
14	123	March 27, 2017 letter from City of Las Vegas to Todd S. Polikoff	12	004234-004235
15				
16	124	February 14, 2017 Planning Commission Meeting Verbatim Transcript	12	004236-004237
17	125	Steve Seroka Campaign letter	12	004238-004243
18	126	Coffin Facebook Posts	12	004244-004245
19	127	September 17, 2018 Coffin text messages	12	004246-004257
20	128	September 26, 2018 email to Steve Seroka re: meeting with Craig Billings	12	004258
21	129	Letter to Mr. Peter Lowenstein re: City's Justification	12	004259-004261
22	130	August 30, 2018 email between City Employees	12	004262-004270
23	131	February 15, 2017 City Council Meeting Verbatim Transcript	12	004271-004398
24	132	May 14, 2018 Councilman Fiore Opening Statement	12	004399-004404

1	133	Map of Peccole Ranch Conceptual Master Plan (PRCMP)	12	004405
2	134	December 30, 2014 letter to Frank Pankratz re: zoning verification	12	004406
3	135	May 16, 2018 City Council Meeting Verbatim Transcript	13	004407-004480
4	136	June 21, 2018 Transcription of Recorded Homeowners Association Meeting	13	004481-004554
5	137	Pictures of recreational use by the public of the Subject Property	13	004555-004559
6	138	Appellees' Opposition Brief and Cross-Brief, <i>Del Monte Dunes at Monterey, Ltd., et al. v. City of Monterey</i>	13	004560-004575
7	139	Respondent City of Las Vegas' Answering Brief, <i>Binion, et al. v. City of Las Vegas, et al.</i>	13	004576-004578
8	140	Grant, Bargain and Sale Deed	13	004579-004583
9	141	City's Land Use Hierarchy Chart	13	004584
10	142	August 3, 2017 deposition of Bob Beers, pgs. 31-36 - <i>The Matter of Binion v. Fore Stars</i>	13	004585-004587
11	143	November 2, 2016 email between Frank A. Schreck and George West III	13	004588
12	144	January 9, 2018 email between Steven Seroka and Joseph Volmar re: Opioid suit	13	004589-004592
13	145	May 2, 2018 email between Forrest Richardson and Steven Seroka re Las Vegas Badlands Consulting/Proposal	13	004593-004594
14	146	November 16, 2017 email between Steven Seroka and Frank Schreck	13	004595-004597
15	147	June 20, 2017 representation letter to Councilman Bob Coffin from Jimmerson Law Firm	13	004598-004600
16	148	September 6, 2017, City Council Verbatim Transcript	13	004601-004663
17	149	December 17, 2015 LVRJ Article, Group that includes rich and famous files suit over condo plans	13	004664-04668

1	150	Affidavit of Donald Richards with referenced pictures attached	14, 15, 16	004669-004830
2	151	65 Acres Combined Clark County Tax Assessor Summary of Taxable Values	17	004831-004836
3	152	Clark County Assessor Valuation (includes 65 Acre Parcel)	17	004837-004861
4	153	Taxes Assessed on 65 Acre Property	17	004862-004864
5	154	(1990) Zoning Ordinance Z-17-90 including the Peccole Ranch Plan (1990)	17	004865-004921
6	155	04.11.84 Attorney General Opinion No. 84-6	17	004922-004928
7	156	<u>Moccasin & 95, LLC v. City of Las Vegas</u>, Eighth Judicial Dist. Crt. Case no. A-10-627506, 12.13.11 City of Las Vegas' Opposition to Plaintiff Landowner's Motion for Partial Summary Judgment on Liability for a Taking (partial)	17	004929-004933
8	157	Affidavit of Bryan K. Scott	17	004934-004935
9	158	Affidavit of James B. Lewis	17	004936-004937
10	159	12.05.16 Deposition Transcript of Tom Perrigo in case <u>Binion v. Fore Stars</u>	18	004938-004946
11	160	December 2016 Deposition Transcript of Peter Lowenstein in case Binion v. Fore Stars	18	004947-005008
12	161	2050 City of Las Vegas Master Plan (Excerpts)	19	005009-005011
13	162	City of Las Vegas Ordinance No. 3636	19	005012-005020
14	163	10.18.16 Special Planning Commission Meeting Transcript (partial)	19	005021-005026
15	164	05.16.18 City Council Meeting Partial Transcript	19	005027
16	165	04.15.81 City of Las Vegas Commission Minutes re Zone Change Z-34-81	19	005028-005065
17	166	Fore Stars Membership Interest Purchase and Sale Agreement, dated Dec. 1, 2014	19	005066-005082
18	167	LVMC 19.16.090	19	005083-005088
19	168	LVMC 19.10.050 R-PD Residential Planned Development District	19	005089

1	169	LVMC 19.18.020	19	005090
2	170	LVMC 19.12010 CLV Land Use Tables	19	005091-005092
3	171	LVMC 19.06.100 R-2 Medium-Low Density Residential District Designation	19	005093-005097
4	172	11.30.16 Findings of Fact, Conclusions of Law, and Judgment Granting Defendants' NRCF 12(b)(5) Motion to Dismiss Plaintiffs' Amended Complaint, <u>Robert N. Peccole v. Peccole Nevada Corp. et al.</u> , Case No. A-16-739654-C	19	005098-005122
5	173	01.31.17 Notice of Entry of Findings of Fact, Conclusions of Law, Final Order, and Judgment, <u>Robert N. Peccole v. Peccole Nevada Corp. et al.</u> , Case No. A-16-739654-C	19	005123-005167
6	174	11.27.18 NV Supreme Court Order Denying Rehearing, <u>Robert N. Peccole v. Fore Stars, Ltd. et al.</u> , Case No. 72410	19	005168-005170
7	175	10.17.18 NV Supreme Court Order of Affirmance, <u>Robert N. Peccole v. Fore Stars, Ltd. et al.</u> , Case No. 72455	19	005171-005175
8	176	09.21.17 Clark County Assessor Appraisal Division Stipulation for the State Board of Equalization	19	005176-005178
9	177	Chapter 278 applicable as of 1992	20	005179 – 005190
10	178	10.16.030 General Plan Amendment	20	005191-005195
11	179	City Master Plan Land Use Designations, showing the C-V zoning and PR-OS as consistent uses	20	005196-005198
12	180	Letter from Landowners' attorney James Jimmerson to City Attorney Brad Jerbic dated December 7, 2016.	20	005199-005207
13	181	Email from Peter Lowenstein to Landowners re submission of General Plan Amendment application filed under protest, dated November 13, 2017	20	005208
14	182	Letter from Landowners to Peter Lowenstein re GPA Justification dated November 30, 2017	20	005209-005211
15	183	The DiFederico Group Expert Report	20	005212-005347

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184	Appraisal Report by Lubawy & Associates	20	005348-005350
185	Declaration of Tio DiFederico	20	005351-005352
186	November 1, 2016 Transcript of Badlands Homeowners Meeting	20	00535- 005361
187	August 16, 2019 Deposition Transcript of Clyde O. Spitze (In the matter of 180 Land Co. LLC vs City of Las Vegas, et al., A-17-758528-J)	20	005362-005376
188	Clark County Ordinance 728	20	005377-005390
189	January 7, 2019 Email from Robert Summerfield to Frank Pankratz	20	005391
190	Clark County Ordinance 1221	20	005392-005408
191	Certified Videotaped Deposition Transcript of Peter Lowenstein- Volumes 1 & 2	21	005409- 006061
192	Declaration of Elizabeth Ghanem Ham in Support of Plaintiffs' (1) Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006062-006070
193	Declaration of Frank Pankratz Support of Plaintiff Landowners' Reply in Support of: Plaintiff Landowners' Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006071-006075

194	Declaration of Yohan Lowie in Support of Plaintiff Landowners' Reply in Support of: Plaintiff Landowners' Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006076-006083
195	Declaration of Stephanie Allen, Esq., which Supports Plaintiff Landowners' Reply in Support of: Plaintiff Landowners' Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006084-006089
196	January 3, 2018 CLV Agenda Memo-Planning-Staff Recommendation of Denial	21	006090-006098
197	City Council Meeting of January 17, 2018 Transcript re Agenda Items 74-75	21	006099-006117
198	May 13, 2021 Transcript of Hearing re City's Motion for Reconsideration of Order Granting in Part and Denying in Part the Landowners' Motion to Compel the City to Answer Interrogatories	21	006118-006213

DATED this 15th day of September, 2021.

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24

Exhibit 159

[illegible]

1 DODGE DRAFT TRANSCRIPT
2
3
4 REQUESTING AND THE FACTS OF THE CASE BEING DISCLOSED
5 DODGE DRAFT DISCUSSION
6
7
8 CONTACTS SHOULD BE MADE WITH THE DODGE DRAFT
9
10
11 We, the staff working with the Dodge Draft, have
12 discussed, understood that it is our intent to use the
13 existing Dodge Draft as the basis for the project, that we
14 are doing it with the understanding that the Dodge
15 draft is the underlying copy.
16
17 We if other agree to be doing, given, may, then, the
18 it is any way disclose this existing Dodge Draft
19 in any form written or otherwise, that in any form.
20 However, we are aware of the fact that the staff may
21 have taken the draft of the Dodge Draft and the
22 information that we have is being put together
23 and placed it with the final transcript of the
24 consultation.

14-00000-1 (25)

1 If an OIA objection has been received in that case
2 and is in rough draft form, please be aware that
3 there may be a discrepancy regarding page and line
4 number when comparing the tentative document, the rough
5 draft, rough draft copy, and the final transcript.
6
7
8 Also, please be aware that the tentative version of
9 the Unclassified Rough Draft Transcript may contain
10 unredacted names, report's dates, collection,
11 fingerprint page(s), a list(s) of missing Q&A
12 subject's position, subject's name(s), English
13 and/or Arabic names, and each section will be
14 identified on the finally verified transcript.
15
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17 Clark Report's name
18 - Clark Report, C R 297
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1	Tom Ferrigo		
2	Binion vs. Fore Stars		
3	Monday, December 5, 2014		
4	Carre Lewis, CCE No. 497		
5	E X H I B I T S		
6	NUMBER		PAGE
7	Exhibit 1	December 30, 2014 Letter	89
8		from City of Las Vegas to	
9		Frank Paikratz at SRB	
10		Companies: BINION008326	
11	Exhibit 2	Unified Development Code,	93
12		8-4: BINION008322 and 928	
13	Exhibit 3	Map, Southwest Sector:	74
14		BINION008324	
15	Exhibit 4	August 20, 2015, Letter	118
16		from City of Las Vegas to	
17		Lewenstein, Planning	
18		Section Manager:	
19		BINION008327	
20	Exhibit 5	City of Las Vegas Agenda	110
21		Survey Page, Planning,	
22		September 8, 2015:	
23		BINION008328 - 343	
24	Exhibit 6	Notice of Public Hearing,	146
25		March 8, 1990: BINION01315	
26		- 316	
27	Exhibit 7	Pecolie Ranch Master Plan	148
28	Exhibit 8	Agenda, City Council	159
29		Minutes Meeting of April 4,	
30		1990: BINION01313 - 314	
31	Exhibit 9	Agenda, City Council	179
32		Minutes Meeting of April 4,	
33		1990 and Zoning Action	
34		Letter	

1	Exhibit 10	Code Provision	195
2	Exhibit 11	Title 19 Unified	203
3		Development Code, Page 13	
4	Exhibit 12	November 24, 2015 Letter	205
5		from Seventy Acres LLC to	
6		City of Las Vegas:	
7		CLV000747 - 249	

1 THE VIDEOGRAPHER: This is the beginning of
2 video record the No. 1 is the deposition of Tom
3 Ferrigo, taken in the case of Binion, et al., versus
4 Fore Stars, et al., held at Pisanelli Bldg, 400
5 South 7th Street, Suite 300, in Las Vegas, Nevada
6 89101.
7 The date is December 5, 2014. My name is
8 Hunter Blackburn, the videographer, working on
9 behalf of Khivison Legal Services.
10 The court reporter is Carre Lewis.
11 Will all present please identify
12 themselves, beginning with the witness.
13 THE WITNESS: Tom Ferrigo.
14 MR. BYRNES: Phil Byrnes representing City
15 of Las Vegas and the Defendant.
16 MR. SUMNERSON: Good morning, Jim.
17 Firstroom I'm privileged to representing the
18 Defendants in this matter, Fore Stars, LTD, 100 Land
19 Company, LLC, and Seventy Acres, LLC. Good morning
20 to you all.
21 MR. BICE: Todd Bice on behalf of the
22 plaintiffs.
23 ///

1 THE VIDEOGRAPHER: Would the court reporter
2 please swear in the witness.
3 Whereupon --
4 TOM FERRIGO,
5 having been first duly sworn to testify to the
6 truth, was examined and testified as follows:
7 EXAMINATION
8 BY MR. BICE:
9 Q. Good morning, Mr. Ferrigo. Can you state
10 your full name for the record.
11 A. Thomas Andrew Ferrigo.
12 Q. Can you tell me where you currently work?
13 A. I work for the City of Las Vegas.
14 Q. How long have you worked for the City of
15 Las Vegas?
16 A. Since August of 1986.
17 Q. What is your current position with City of
18 Las Vegas?
19 A. Current position is planning director and
20 chief sustainability officer.
21 Q. All right. Can you tell me what it means
22 to be the planning director and the chief
23 sustainability officer?
24 A. The planning director is responsible for
25 the function and operation of the planning

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1 senior planners who has worked in that area will get
2 together and really evaluate the proposal.
3 Q. And then they will do a recommendation to
4 you?
5 A. Yes.
6 Q. And then you will decide whether or not it
7 moves forward before planning commission?
8 A. Yes.
9 MR. JIMMERSON: Mr. Rice, while you are
10 pausing, can you just work with us in terms of what
11 you and anybody else would have plans for in terms
12 of lunch? Is it 12 to 1? 12:30 to 1:30? What did
13 you have in mind?
14 MR. RICE: Irish is fine. I can have lunch
15 brought in, if you would rather do that or you can
16 go out for lunch, I'm indifferent.
17 MR. JIMMERSON: I would like to wait across
18 the alley.
19 MR. RICE: Understood. We will break
20 around noonish and come back whenever Phil and the
21 witnesses are ready.
22 MR. JIMMERSON: Thank you.
23 (Exhibit 1 marked.)
24 BY MR. RICE:
25 Q. I'm going to show you what's been marked as

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1 Exhibit No. 1. Do you need your glasses?
2 A. I do.
3 Q. Understood.
4 Showing you what's been marked as Exhibit
5 No. 1 Mr. Perrigo, I will let you read it and ask
6 you if you have ever seen this document before.
7 A. Yes, I have seen it.
8 Q. Did you see it before it was sent?
9 A. No.
10 Q. How did you find out about it, "this" being
11 Exhibit 1, this letter?
12 A. I don't recall. It became a question at
13 some point, this letter. And I don't recall when I
14 first heard about it.
15 Q. Can you tell me what is a request for
16 zoning verification?
17 A. It's fairly standard and routine where
18 people when they are wanting to know what the zoning
19 is, they will come in and ask for this letter. And
20 the planner will look it up in our system and verify
21 what is the designated zoning is and issue the
22 letter.
23 Q. So how many of these letters does the City
24 issue in a year?
25 A. I don't know the exact number but it's

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1 quite a few.
2 Q. And so any property owner can come in or
3 actually I guess anyone can come in and ask you --
4 ask the City to tell them what the zoning is on a
5 piece of property, correct?
6 A. Yes.
7 Q. Do you ever have to be the property owner?
8 A. No.
9 Q. What's the purpose of this letter? Strike
10 that let me rephrase Mr. Perrigo.
11 What's the purpose of a letter like this?
12 A. Typically people want to verify what their
13 zoning is, I guess. I don't know. I suppose
14 everybody who comes and asks maybe has a different
15 reason I can't speculate.
16 Q. This information is all publicly available
17 correct?
18 A. Yes.
19 Q. They can look on the city's map and
20 determine what the zoning is, can they not?
21 A. Yes.
22 Q. Do people seek a similar letter like this
23 concerning the master plan?
24 A. I'm not aware of a similar letter.
25 Q. So when you issue letters like this it's

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1 limited to zoning?
2 A. Yes.
3 Q. Why is it limited to zoning?
4 A. Zoning I guess I need to back up on the
5 question of whether or not land use is binding. It
6 is to a certain extent. There are instances where
7 it's not in conformance to the zoning and the zoning
8 is sought to have more veracity, I guess, be more
9 important in terms of what somebody has -- what
10 entitlements they have to the property, then the
11 land use.
12 Q. You say that there are instances where
13 people think that the zoning has more veracity than
14 the land use?
15 A. The -- not instances. Again, my
16 understanding and probably have to defer to the City
17 attorney's office with whom I have had conversations
18 regarding this exact question.
19 Q. Don't tell me exactly what they have told
20 you. I'm trying to understand what your position
21 is?
22 A. I'm not going to tell you what they told
23 me.
24 Q. Okay.
25 A. My position is that the zoning is the --

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1 what's the proper way to say it? The zoning governs
2 more -- I guess zoning first, land use second.
3 Q. So --
4 A. If the land use and the zoning aren't in
5 conformance, then the zoning would be a higher order
6 entitlement, I guess.
7 Q. So it's your position that zoning
8 supercedes the general plan --
9 A. Yes.
10 Q. Or the master plan?
11 A. Yes.
12 Q. Is that spelled out anywhere in the city's
13 code?
14 A. I don't -- I don't -- I don't know.
15 MR. BICE: Let's mark this one.
16 (Exhibit 2 marked.)
17 BY MR. BICE:
18 Q. Can you tell me what Exhibit B6, 2 is.
19 A. It's entitled the Unified Development Code.
20 Q. What is that?
21 A. The -- need to be -- it's Title 19.
22 Q. Okay. What is Title 19?
23 A. Essentially a zoning code.
24 Q. Zoning code for the City of Las Vegas?
25 A. That is correct.

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1 Q. Is this something that you were familiar
2 with?
3 A. Yes.
4 Q. Is this something that governs developments
5 in the City of Las Vegas?
6 A. Yes.
7 Q. And this is something I assume that your
8 department is responsible for adhering to?
9 A. The planning department among other
10 departments, yes, building and safety, public works.
11 Q. Who prepares the Title 19 or Chapter 19?
12 A. Who prepares?
13 Q. Yes. In other words, who drafted it? Do
14 you know?
15 A. Well, a number of people have been involved
16 in drafting it over the years. Ultimately the final
17 drafting comes out of the City attorney's office.
18 Q. Then it gets adopted by the City council,
19 correct?
20 A. Yes.
21 Q. Do you consider the City ordinance here
22 Title 19 to be binding?
23 MR. BYRNES: I'm going to object. Calls
24 for legal conclusions.
25 Go ahead and answer.

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1 BY MR. BICE:
2 Q. Just asking you for you as the planning
3 director do you consider it to be binding?
4 A. I consider it to be binding. Again, the
5 council has discretion.
6 Q. If you -- I'm just using this one as an
7 example. This is B-4, can you tell me what B-4 is
8 presently?
9 A. High density residential district.
10 Q. If you look at the bottom left-hand corner
11 of this document, this is dated as of March 16 of
12 2011, do you see that?
13 A. Yes.
14 Q. Does know whether or not that's the current
15 version of the City code of Title 19?
16 A. Title 19 -- well, this would not be.
17 Q. Okay.
18 A. It's -- Title 19 is amended quite
19 frequently.
20 Q. Okay.
21 A. And every time it's amended then it becomes
22 the new.
23 Q. A new version, correct?
24 A. A new version.
25 Q. Is amended multiple times a year in your

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1 experience?
2 A. Yes.
3 Q. So dealing with this version that existed
4 at least as of March 16 of 2011, B-4 District is for
5 high density you said?
6 A. Yes.
7 Q. Can you -- in layman's terms can you tell
8 me what that means? Does that mean like apartments?
9 A. Means multifamily dwellings, attached.
10 Q. Condos, apartments, things like that: is
11 that correct?
12 A. That's correct.
13 Q. It says here: "The B-4 District is intend
14 to allow for the development of high density
15 multifamily units within the downtown urban core and
16 in other high intensity areas suitable for high
17 density residential projects."
18 How would I figure out what are the other
19 high intensity areas suitable for high density
20 residential development; where would I look to
21 figure out those areas?
22 A. I don't know that those are specifically
23 spelled out.
24 Q. Okay. Are those -- are areas appropriately
25 designated for high density residential development.

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1 A. Yes.
2 Q. All right. Now as parts of that process,
3 did you -- and let's just deal with you personally
4 for a minute did you do any research concerning the
5 master plan -- the Peccole master plan concerning
6 this property?
7 A. I did not. Let me put a finer point on
8 that. I read materials that my staff put together
9 in their research.
10 Q. Who did the research for you at that?
11 A. Mr. Lowenstein headed it up and I believe
12 Mr. Swanton assisted and I don't know who else.
13 Q. Mr. Swanton?
14 MR. JIMMERSON: Can we get a spelling on
15 that please.
16 THE WITNESS: S W A N T O N.
17 MR. JIMMERSON: Thank you very much. Do
18 you have a first name?
19 THE WITNESS: Steve.
20 MR. JIMMERSON: Thank you very much.
21 BY MR. RICE:
22 Q. Did Mr. Rankin have any involvement in
23 that?
24 A. I believe so.
25 Q. Do you recall what his involvement was?

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1 A. I don't.
2 Q. How about Mr. Summerfield?
3 A. I don't believe so.
4 Q. What did they provide you in terms of
5 research, Mr. Lowenstein and company?
6 A. A copy of the original zoning case, of
7 the -- some of the maps, the master plan, the -- all
8 of the information regarding the zoning to R-PD7,
9 including the backup from the council hearings and
10 what was recorded and that kind of stuff.
11 Q. So you saw the agenda items from the --
12 from 1992 concerning the city council?
13 A. Yes.
14 Q. And planning commission meetings?
15 A. Yes.
16 (Exhibit 6 marked.)
17 BY MR. RICE:
18 Q. I want to make sure we are talking about
19 the same documents. This is Exhibit 6. Showing you
20 what's been marked as Exhibit No. 6, Mr. Parrish, is
21 this some of the information you were provided by
22 your staff?
23 A. Yes.
24 Q. Can you tell us what this is?
25 A. This is the public hearing notice for

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1 2-17-90.
2 Q. What is 2-17-90?
3 A. It would be the zoning case.
4 Q. Zoning case for what?
5 A. To rezone property at Peccole Ranch.
6 Q. Got it. That's the number that gets
7 assigned based on an application; is that right?
8 A. Yes.
9 Q. So this is for notice for March 8 of 1990,
10 correct?
11 A. Yes.
12 Q. Can you tell me what the next page of of
13 this exhibit is?
14 A. The annotated agenda with minutes.
15 Q. What does that mean, annotated agenda
16 minutes?
17 A. Has the staff recommendation, the
18 conditions of approval, and some of the -- I don't
19 know that this is the entire document, but I don't
20 remember for sure. Some of the comments from some
21 of the planning commissioners.
22 Q. What was the -- what was the application --
23 what was the applicant seeking to do?
24 A. To rezone property from suburban to R-PD7,
25 R-3 and C-1.

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1 Q. Would that eliminate, then, the prior
2 zoning classifications on the property?
3 A. If approved, yes.
4 Q. Was this approved?
5 A. Yes.
6 Q. With conditions, correct?
7 A. Yes.
8 Q. Who was the applicant?
9 A. Wendale -- William Peccole trust.
10 Q. 1992 trust?
11 A. 1992 trust.
12 Q. Was that the developer?
13 A. I don't know.
14 Q. Do you know who the developer was, if not
15 the trust?
16 A. I don't know.
17 Q. Have you ever investigated who the
18 developer was?
19 A. I have not.
20 MR. RICE: Have this marked.
21 (Exhibit 7 marked.)
22 BY MR. RICE:
23 Q. Showing you what's been marked as Exhibit
24 No. 7, have you seen this document before?
25 A. I have.

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1 Q. Can you tell me what it is?

2 A. The Peccole Ranch master plan.

3 Q. When did you first see this Peccole Ranch

4 master plan?

5 A. I don't know, early on when the proposal

6 was first made and Mr. Lowenstein started his

7 research into the property.

8 Q. Did you ever know a copy -- do you know,

9 did anybody at the City ever give a copy of this to

10 the applicant EHS companies?

11 A. I don't know.

12 Q. Did it ever come up at any of the

13 preapplication meetings?

14 A. Yes.

15 Q. Where you were present?

16 A. Yes.

17 Q. Tell me what came up about it, about the

18 master plan.

19 A. At some point, I don't remember exactly

20 when, based on the plan, staff had requested that

21 the applicant also file for a major modification to

22 this plan.

23 Q. Okay.

24 A. And I don't know in what other context, but

25 that's really the key.

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1 Q. Did the applicant do so?

2 A. Yes.

3 Q. Why was it that staff determined that they

4 needed to submit a major modification to this plan,

5 Exhibit 7?

6 A. Staff determination was based on the fact

7 that it was a rather large change to the existing

8 plan out there, and given the number of units that

9 were being requested and given the question as to

10 whether or not this plan existed or had any standing

11 and what that meant, staff requested a major

12 modification so that council could understand and

13 decide whether or not what was being proposed was

14 appropriate in the context of this earlier plan.

15 Q. All right. At the time that you were

16 alerted to this plan, you reviewed it, correct?

17 A. Yes.

18 Q. Did you believe that it was binding?

19 A. I did not.

20 Q. Did you tell anyone that?

21 A. I believe so.

22 Q. Who did you tell that you didn't think it

23 was binding?

24 A. I don't recall. I --

25 Q. When did you make that determination?

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1 A. After reviewing the materials that

2 Mr. Lowenstein had put together showing that over

3 the course of time that the plan had not been

4 consulted for the majority of changes that occurred

5 out there, that a majority of the rezonings were

6 done consistent with Title 19 and not the plan. The

7 language in the plan that talks about it being

8 conceptual in nature, conversations with the City

9 attorney's office, conversations with former

10 planning directors.

11 Q. Which former planning directors?

12 A. Bob Ginter [phonetic] and Marge Wheeler.

13 Q. You contacted them about this plan?

14 A. I did.

15 Q. When?

16 A. I don't recall.

17 Q. Why?

18 A. Just to see if they remembered or could

19 recall any entitlements that had occurred during

20 their tenure didn't take into consideration the

21 plan.

22 Q. Did they provide you any information on

23 that?

24 A. They did not.

25 Q. You just said that a majority of things

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1 that were done were not in reference to the plan?

2 A. Yes.

3 Q. Tell me all the things that weren't done

4 that weren't in reference to this plan?

5 A. I don't recall. There is a long list of

6 every entitlement that occurred out there.

7 Q. Who developed that list?

8 A. Mr. -- I believe Mr. Lowenstein or it was

9 developed at his direction.

10 Q. Did the applicant develop the list and

11 share it with the City?

12 A. They may have developed the list and shared

13 it with us. I don't recall for sure but I do know

14 Mr. Lowenstein did.

15 Q. Mr. Lowenstein did his own research?

16 A. He did his own research or directed his

17 staff to do the research.

18 Q. When was it? Have you seen any written

19 report from Mr. Lowenstein on this?

20 A. Yes.

21 Q. How many pages is that?

22 A. I don't recall. There is a specific table,

23 though, that shows every action that occurred on

24 this property or within the planned area, phase 1

25 and phase 2, some of which do reference the original

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1 2-17-90 and I believe the majority don't. And the
2 plan was never modified as it sits. I remember the
3 final thing was the land use element to the general
4 plan speaks of all master plans in the City but
5 describes those that require major modifications to
6 change, and this is not one of those.
7 Q. What does that mean?
8 A. The master plan -- the land use element to
9 the master plan lists all of the master plans and
10 describes the area and has a map. And it speaks to
11 which of those master plan areas require major
12 modification. And there is five, I believe, in the
13 City that were actually developed as planned
14 developments. And this one, according to that plan
15 land use development did not and did not require
16 major modification.
17 Q. Who developed that list?
18 A. That was done by the planning department
19 adopted by City council.
20 Q. When?
21 A. I don't know.
22 Q. Was it -- has it been in the last two
23 years?
24 A. No.
25 Q. No prior to that?

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1 A. Yes.
2 Q. So on the planning commission agenda going
3 back to line No. 87 or Exhibit 4 we will come back
4 to 1 in a moment, second page, so the zoning change
5 was 2-17-90 was approved, correct?
6 A. Yes.
7 Q. And that was with the following -- do you
8 see where there are staff recommendations?
9 A. Yes.
10 Q. Says approval subject to the following.
11 What does that mean?
12 A. That there are certain conditions placed on
13 the approval of that particular item.
14 Q. So for zoning change that was sought by the
15 William Pecore 1982 trust zoning change was subject
16 to a maximum of 427 dwelling units be allowed for
17 phase 2, correct?
18 A. Yes.
19 Q. And then conformance to the conditions of
20 approval for the Pecore Ranch master plan -- or
21 master development plan phase 2, correct?
22 A. Yes.
23 Q. So those -- that zoning change to R-FD7,
24 R-3, and C-1 were conditioned upon those two
25 requirements as well as the rest that are listed

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1 there, correct?
2 A. Correct.
3 Q. Did the Pecore -- did the way the Pecore
4 1982 Trust have the ability to challenge any of
5 those conditions at the City council if it wanted
6 to?
7 A. Yes.
8 Q. It could have appealed those decisions if
9 it was dissatisfied with them to the City council?
10 A. Yes.
11 Q. Did it do so?
12 A. I don't know.
13 Q. Well, in your research on this, has anyone
14 told you that they did?
15 A. No.
16 Q. Then the matter would go forward to the
17 City council, correct?
18 A. Yes.
19 (Exhibit B marked.)
20 BY MR. BICE:
21 Q. This is Exhibit No. 3. Can you tell me
22 what Exhibit No. 3 is?
23 A. It's the -- well, we would call today an
24 approval letter which lays out the action and
25 conditions of approval. I don't know in 1990

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1 exactly what it was called. Actually we call it a
2 final action letter.
3 Q. Letter. Okay.
4 This is what gets sent to the applicant,
5 correct?
6 A. Yes.
7 Q. Is this one of the documents that you were
8 shown by your staff who had looked into the status
9 of the Pecore master plan?
10 A. Yes.
11 Q. So this matter went to the City council
12 agenda for approval, correct?
13 A. Yes.
14 Q. And it was approved, right?
15 A. Yes.
16 Q. Unanimously approved, correct?
17 A. Yes.
18 Q. All right. And the first two conditions on
19 that approval of that zoning change are what?
20 A. Of course there was one extension, but --
21 I'm sorry, the what?
22 Q. What were the first two conditions on that
23 approval?
24 A. A maximum of 427 dwelling units be
25 allowed for phase 2. Number two: Conformance to

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1 recite it off the top of my head.
2 Q. Is this a minor modification a 17-acre
3 application?
4 A. No.
5 Q. Why not?
6 A. Modification is required to certain plans
7 that typically the PCD plans, not that there are a
8 handful of plans like this one that are called out
9 in the master plan to not require a modification.
10 Q. To not require a major modification or not
11 require any modification?
12 A. Require any modification. If fact that's
13 why the plan today is completely inconsistent with
14 what's been built out there. The roads aren't in
15 the same place, land use is all changed. It's
16 completely inconsistent with what's built over time.
17 Q. So of the 1449 multifamily units that the
18 City approved, how many have actually been built, do
19 you know?
20 A. I don't.
21 Q. How have you determined that there are 728
22 available if you don't know how many have been
23 built?
24 A. Well, staff has looked at that very
25 carefully and did a very careful count of every

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1 single unit that's been built in that area.
2 Q. Okay.
3 A. I do not recall the numbers off the top of
4 my head.
5 Q. So staff has determined that there are 728
6 of that 1440 still available somehow?
7 MR. BYRNES: Objection. Asked and
8 answered.
9 BY MR. RICE:
10 Q. Is that right?
11 MR. JIMMERSON: Join. He has never
12 testified to the number 728 was still permitted.
13 THE WITNESS: I don't recall the number off
14 the top of my head.
15 BY MR. RICE:
16 Q. My only question, sir, and I'm not asking
17 you to say the numbers off the top of your head.
18 But it's your understanding that there are 728 of of
19 that 1440 is somehow still available, correct?
20 A. I don't know that to be true. So going
21 back to your question about whether or not single
22 and multifamily are fungible, I guess the answer is
23 no, in this case. I don't know that it's relevant.
24 We have looked at over all number of units for the
25 area, and I just can't remember. I just can't.

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1 remember what those numbers work out to be.
2 Q. Are you treating them as fungible in this
3 case?
4 A. I don't know because I don't recall what
5 those numbers are.
6 Q. Well, when was this project closed out?
7 A. What project?
8 Q. The Pecoles Ranch master plan.
9 A. I don't recall any formal action that
10 closed it out.
11 Q. Has the City ever told anybody that it was
12 closed out?
13 A. Not that I'm aware of. I don't know.
14 Q. When were the bonds released?
15 A. I don't know.
16 Q. Were they released sometime in 1994, 1995?
17 A. I don't know. I do recall reading that the
18 bonds were released.
19 Q. When does the City consider a development
20 to be closed out?
21 MR. JIMMERSON: Object to the question.
22 THE WITNESS: I don't know that there is
23 any official determination or closed out. It likely
24 refers to a public works action regarding the
25 infrastructure.

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1 BY MR. RICE:
2 Q. And the bonds are what secure the
3 infrastructure, right?
4 A. Yes.
5 Q. And so when the bonds are released -- the
6 bonds are only released when the infrastructure is
7 deemed complete, correct?
8 A. That would be a question for public works.
9 Q. Is that your understanding?
10 A. I don't know if there are circumstances
11 where that wouldn't be the case. I don't know.
12 That would have to be a question for public works.
13 Q. Have you ever heard the term parent final
14 map before?
15 A. Yes.
16 Q. What is that?
17 A. Well, the parent final map is the map that
18 all of the specific various areas final maps relate
19 to in the tentative maps.
20 MR. JIMMERSON: Mr. Rice -- I need, can you
21 tell me what's the first word before the words
22 "final map."
23 MR. RICE: Parent.
24 MR. JIMMERSON: F-A-R-E-N-T.
25 MR. BYRNES: Do you want a break?

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1 Mr. Petrucci, thank you. I'm looking at the witness
2 name of Josephine.
3 The witness, yes.
4 Yes, yes. By me. I think that
5 would be better if we proceed to the next one.
6 Mr. LEBRON: I will do it then. I'm
7 proceeding, not proceeding.
8 OK. Thank you. I'll go off to
9 review.
10 THE WITNESS: During the time, we did.
11 This includes the witness separation of the
12 evidence taken on December 11, 2016, the time is
13 approximately 10:15 p.m.
14 Off the record.
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Exhibit 160

1 THE VIDEOGRAPHER: This is the beginning
2 of video recording number 1 in the deposition of
3 Peter Lowenstein taken in the matter of Rinco versus
4 Fore Stars, et al. held at Pisanelli Bice, 400 south
5 seven street, suite 300 in Las Vegas, Nevada on
6 December, 2016. The time is approximately 9:40 a.m.
7 The court reporter is Monica Campbell. My name is
8 Hunter Blackburn, the videographer representing
9 Invision Legal Solutions. Will the -- will everybody
10 identify themselves, please beginning, with the
11 witness.
12 THE WITNESS: Sure. Peter David
13 Lowenstein.
14 MR. BYRNES: Phil Byrnes representing the
15 deponent and City of Las Vegas Inc.
16 MR. JIMMERSON: Good morning. My name is
17 Jim Jimmerson. I have the privilege of representing
18 the defendant Fore Star entities. Good morning
19 everyone here.
20 MR. BICE: Todd Bice on behalf of the
21 plaintiffs and Frank Schreck will be joining us. So
22 when he steps in, that's who else may be in the room.
23 MR. JIMMERSON: Mr. Lewis may or may not
24 be here today.
25 THE VIDEOGRAPHER: Will the court reporter

1

1 please swear in the witness.
2 PROCEEDINGS
3 Deponent
4 called as a witness herein,
5 being first duly sworn,
6 was examined and testified as follows:
7
8 EXAMINATION
9 BY MR. BICE:
10 Q. Good morning, sir. Can you state your
11 full name for the record, please.
12 A. Peter David Lowenstein.
13 Q. Mr. Lowenstein, can you tell me where you
14 currently work?
15 A. I work for the City of Las Vegas in the
16 department of planning.
17 Q. All right. Do you have a title in your --
18 A. My current title is the planning section
19 manager.
20 Q. Can you tell me what it means to be the
21 planning section manager?
22 A. As a planning section manager, I am
23 responsible for the current planning division of the
24 planning department.
25 Q. Okay. What does the planning -- I think I

2

1 got it right. The planning section, what is that?
2 A. Our department is composed much a number
3 of different divisions and in the current planning
4 division is composed of -- what is known is case
5 planning which is land use entitlements and the front
6 or public planning which is our front counter
7 customer direction.
8 Q. Because you're using using terminology I
9 can follow along here so I can make I use the
10 right -- the same words you're using. I just want to
11 make sure. My apologies.
12 A. If there is any clarification let me know?
13 Q. I'm sure I will need some as we progress
14 today.
15 So when you say -- let's sort of break that
16 down. You've got under the branch of current
17 planning and I guess really is it a division?
18 A. Yes.
19 Q. Division?
20 A. Section division would be synonymous.
21 Q. Got it then there are two sort of subparts
22 under that. You said land use.
23 A. It's referred to as case planning.
24 Q. Case planning. Okay.
25 And then you've got the front counter you

3

1 said.
2 A. Which is the public planning portion of
3 that division.
4 Q. Got it. Okay. And both of those
5 divisions report to you.
6 A. That's correct.
7 Q. And who is -- who is in charge -- who is
8 the person that reports to you on case planning?
9 A. That would be my planning supervisor,
10 Steve go Becky.
11 Q. Any chance you could spell the last name.
12 A. GEBEKE.
13 MR. JIMMERSON: Can you help me with that
14 again please Mr. Lowenstein?
15 THE WITNESS: What was that?
16 MR. JIMMERSON: The spelling again.
17 THE WITNESS: Sure, GEBEKE.
18 MR. JIMMERSON: The first name is Steven
19 did you say.
20 THE WITNESS: Steve.
21 MR. JIMMERSON: Steve thank you so much.
22 BY MR. BICE:
23 Q. How long has Mr. Gebeke been supervisor
24 over the case planning?
25 A. He's been the supervisor on and off

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1 throughout the last -- I'm approximating but probably
2 six years he's been the supervisor at the front as
3 well as on case, yes.
4 Q. But he's been involved in the current
5 planning department for a number of years, at least
6 six years?
7 A. That's correct.
8 Q. All right. And who is the supervisor that
9 reports to you in public planning?
10 A. There is no immediate supervisor in the
11 public planning?
12 Q. When you mean there is no immediate
13 supervisor does that mean you just don't -- the
14 position is vacant right now or --
15 A. Historically the department had a
16 supervisor over each.
17 Q. Uh-huh.
18 A. With the loss of one of our supervisors,
19 the remaining supervisor took the lead on case and we
20 have a senior planner who's now taking the lead at
21 the front counter. As far as is there a vacant
22 position? I believe it's been filled with a senior
23 administrative assistant of some sort.
24 Q. So then who is the person that reports to
25 you concerning the public planning division?

5

1 A. Both the senior planner and Mr. Gebeke are
2 still reporting to me on issues for the front
3 counter.
4 Q. Who is the senior planner?
5 A. That would be Jim Marshall currently.
6 Q. And how long has Mr. Marshall been serving
7 in that role?
8 A. I don't know the exact date. He's been
9 there at least a year.
10 Q. Okay. Do you know how long Mr. Marshall
11 has been working for current planning, regardless of
12 the title or capacity?
13 A. Our department planners tend to circulate
14 through the different divisions, so on and off, I
15 can't tell you exactly how much time he's been in
16 either one or the other. He's currently been in the
17 current planning division, as I stated previously, I
18 don't know exact amount of time but I estimate a year
19 at least --
20 Q. Okay.
21 A. -- if not longer.
22 Q. So what does the case planning division
23 do?
24 A. The case planning is responsible for the
25 processing and preparing of staff reports for land

6

1 use entitlements that the -- either the appointed
2 body or elected body at the City of Las Vegas will
3 review and make their determinations on. They also
4 can handle administrative amendments to other land
5 use entitlements as well.
6 Q. All right. And what does the public
7 planning division do?
8 A. That is the front line, so to speak,
9 customer interaction. So anybody who comes in with a
10 question or even process the building permits or
11 license applications, can get information from the
12 city planning department at the front counter as well
13 as have initial reviews by the planning department
14 on, say, that perspective, a specific portion of
15 their building permit or licensing application.
16 Q. So public planning doesn't -- doesn't
17 handle any sort of zoning issues or land use, or do
18 they?
19 A. They -- unless we're short staffed, we're
20 not called upon to write detailed staff reports on a
21 regular basis.
22 Q. Okay.
23 A. If they are also asked to facilitate
24 research, anything from code enforcement actions to
25 zoning history.

7

1 Q. So is there anyone other than those two
2 positions, case planning and public planning, that
3 report directly to you?
4 A. The only other individual that reports to
5 me currently is our senior technical assistant who
6 does computer software, things of that nature.
7 Q. And how long have you been in the
8 planning -- in the current planning department?
9 A. Well, I've only done one period of time
10 where I was in the long-range division, so
11 subtracting that, about 12 years.
12 Q. Okay. When you say the long range
13 division, what do you mean by that?
14 A. As previously stated, the planning
15 department has multiple divisions, and the current
16 planning covers the case and the front counter. The
17 long range division or comprehensive planning, as
18 some people may refer to it, is where individuals
19 work on special area plans, master plan, corridor
20 plans, things of a more macro scale.
21 Q. Okay. So to whom do you directly report?
22 A. I currently directly report to Tom
23 Ferrigo, the acting -- the director as well as Karen
24 Boddlestein the deputy director.
25 Q. Mr. Ferrigo is the director of planning?

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1 A. That is correct.

2 Q. And Miss Middleton is the deputy director

3 of planning?

4 A. That's correct.

5 Q. Are there any other positions in which you

6 report?

7 A. No.

8 Q. Now, to I understand this correctly and

9 I'm just trying to make sure I get the timeline

10 straight, you've been involved -- you've worked at

11 the city for more than 12 years?

12 A. In January, it will be 14 years.

13 Q. In January it will be 14. Okay.

14 Q. Let's just sort of start

15 chronologically. You joined the city in what

16 position originally?

17 A. As an entry level planner, which is a

18 planner one position.

19 Q. And how long were you a planner one?

20 A. I don't know. I would have to look it up,

21 but probably two years, a year and a half, two years.

22 Q. I understand you can't be precise but

23 we're just trying to get sort of a general

24 understanding of the timeline. That's all. And so

25 then your next position after you moved from planner

9

1 one after a couple years ago what?

2 A. A planner II position.

3 Q. So it. And how long would you have been

4 a planner II?

5 A. Probably for a similar amount of time. I

6 don't know specifically.

7 Q. Okay. So when you were a planner one

8 and planner II, what would be your job duties in

9 those positions?

10 A. I started at the front counter, so as part

11 of the current planning department division, which

12 was customer interaction, answering zoning questions,

13 processing building permits and licensing reviews.

14 Q. Got it.

15 A. Being somewhat of that nature. At some

16 point -- either a planner one or two, would have

17 transitioned into the case planning role where I

18 prepared staff reports and gone through doing

19 reapplication conferences, hearing the information

20 and ultimately giving a recommendation to the our

21 management team.

22 Q. So then after you -- well let me phrase it

23 this way. What was your position -- what was the

24 next position after planner II?

25 A. I was promoted to a senior planner.

10

1 Q. Senior planner. And what does that

2 entail?

3 A. Basically similar. Similar job

4 responsibility, just more responsibility, more

5 complex projects to review and to manage as far as,

6 you know, being the case planner assigned to it. I

7 also was facilitating assistance at the front counter

8 basically making sure those operations ran smoothly.

9 Q. So as a senior planner, was your primary

10 responsibility in the case division?

11 A. I have to refer to the duties to -- I don't

12 recall off the top of my head. I know as a senior

13 planner I was basically running the front counter

14 position and reporting to a supervisor.

15 Q. And was that supervisor you would have

16 been reporting to?

17 A. Well, there -- I don't know exactly.

18 There's been a couple supervisors that you would of

19 the time. The majority of it coming from maybe 2006

20 to 2008 more than likely was Doug Rankin.

21 Q. Okay. And then the next position after

22 senior planner?

23 A. I became a planning supervisor.

24 Q. And what does it mean to be a planning

25 supervisor?

11

1 A. Well, you're responsible -- you're

2 responsible for the quality of the work, supervision

3 or performance, the overall progression of either --

4 whichever section you're over, making sure if you're

5 front counter that those operations are moving

6 smoothly, you handle more difficult questions, you

7 have interaction with customers and if they want to

8 speak to somebody else other than the planner they're

9 originally speaking with. On the case side of things

10 you would be reviewing staff reports, ensuring

11 quality of work over again, ensuring basically that

12 all the reports are done in a timely manner, that

13 things are being processed in accordance with the

14 policies and procedures of the department and

15 ultimately you're writing performance evaluations for

16 the employees underneath you.

17 Q. Okay. As the planning supervisor, were

18 you in current planning or were you in the long range

19 planning?

20 A. As a supervisor, I have been in both

21 divisions.

22 Q. Okay.

23 A. Primarily in the current planning

24 division.

25 Q. And as a planning supervisor, do you

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1 recall approximately what years that you held that
2 position?
3 A. Well, I was promoted to section manager in
4 April of '15, so either -- go back seven years, seven
5 or eight years from there is the stint of as being a
6 supervisor.
7 Q. Got it. So the next position is your
8 current position being section manager is that right?
9 A. That is correct.
10 Q. All right.
11 And so you were in that position as
12 planning supervisor for seven years or so. Is that
13 about right?
14 A. I'd have to check my resume' but I believe
15 it's seven to eight.
16 Q. Seems like?
17 A. Yes.
18 Q. So who would have -- to whom would you
19 have reported in your position as planning
20 supervisor?
21 A. To the planning manager, and most of it
22 was Doug Rankin for almost the entirety.
23 Q. And what was Mr. Rankin's role?
24 A. He was the planning manager and as
25 planning manager, he was over case planning and

13

1 current planning.
2 Q. So in your capacity today as section
3 manager, how many people do you have working under
4 you?
5 A. I have to count it on my fingers, but.
6 Q. Understood.
7 MR. JIMMERSON: He has a lot of fingers.
8 THE WITNESS: As of right now -- give me a
9 moment. I can read through all the name.
10 Q. You know what -- is it more than a dozen
11 people?
12 A. It's probably right about there.
13 Q. Fair enough.
14 So when you joined -- prior to joining the
15 City of Las Vegas, were you employed else where?
16 A. I had Graduated from east Carolina
17 university and there was a period of six months that
18 I was doing a job search. So it was graduate school
19 to this employment.
20 Q. Got it. So do you have a graduate degree?
21 A. That I do.
22 Q. In what can you tell me?
23 A. I have a graduate degree in geography with
24 a concentration in urban development.
25 Q. And when did you receive that degree?

14

1 A. In 2002.
2 Q. And so you moved here from North Carolina?
3 A. From graduating I moved back to Long
4 Island, New York and then from there to here.
5 Q. So you're originally from Long Island?
6 A. That's correct.
7 Q. So it sounds like, and tell me if I'm
8 wrong, that your introduction to Las Vegas was
9 employment related?
10 A. Yes. Safe to say.
11 Q. All right. Did you look at any documents
12 to prepare for your deposition today?
13 A. I refreshed my memory on the master plan.
14 I conferred with my counsel.
15 Q. Okay. Which master plan did you look at?
16 A. I looked at the Las Vegas 2020 master
17 plan.
18 Q. And how long did you look at the Las Vegas
19 2020 master plan?
20 A. As an estimate of time, maybe 30 minutes.
21 Q. And what were you looking for in the Las
22 Vegas master plan?
23 A. I was looking at the land use element.
24 Q. You were looking at the land use element.
25 A. Mm-hmm.

15

1 Q. And what about the land use element were
2 you looking at?
3 A. In its entirety.
4 Q. And why were you looking at the land use
5 element?
6 A. To refresh my memory.
7 Q. And what memory were you trying to
8 refresh?
9 A. My general knowledge.
10 Q. All right. Did you look at any particular
11 land use elements for any particular property?
12 A. There's only one land use element as part
13 of the Las Vegas 2020 master plan.
14 Q. And what is that land use -- how would you
15 describe it for a layman like myself?
16 A. As part of the -- of the general plan
17 prescribed by Nevada Revised Statutes, they require
18 certain elements to be part of the general plan. 1
19 of those elements is the land use element.
20 Q. Okay.
21 A. And reviewing that portion of the Las
22 Vegas master plan, I know the names start changing,
23 but as far as the general plan is what the state
24 statute calls it. When they adopt it in 2000 they
25 called it the Las Vegas 2020 master plan. So they're

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1 kind of synonymous.
2 Q. Okay. So you -- do you use the term
3 master plan or do you use the term general plan?
4 A. They're kind of interchangeable.
5 Q. Interchangeable. Okay. Did you look at
6 any land use elements for any particular property as
7 part of your review?
8 A. No. There's no such thing.
9 Q. All right. Did you look at any particular
10 property for your review?
11 A. No.
12 Q. Other than looking at the master plan, did
13 you review any other documents?
14 A. I think I looked at potentially emails.
15 Q. Okay. And how long did you spend looking
16 at emails?
17 A. Probably about 20 minutes.
18 Q. I'm sorry.
19 A. Probably about 20 minutes each time.
20 Q. And what emails were you looking at?
21 A. I was just refreshing my memory as far as
22 chronology.
23 Q. And whose emails were you looking at?
24 Your own. All the emails that I may have.
25 Q. Okay. And did you look at those -- were

17

1 they printed off or did you look at them on your
2 computer?
3 A. On the computer.
4 Q. And what was the -- what is your email
5 address?
6 A. It's PLONERSTEIN@Las Vegas, Nevada.gov
7 GOV.
8 Q. And about how many emails did you look at?
9 A. I don't know.
10 Q. Do you have those emails saved in a
11 folder.
12 A. Yes.
13 Q. Did you search the email in any fashion?
14 A. No.
15 Q. You just looked at them in a chronological
16 fashion?
17 A. Correct.
18 Q. Did those emails refresh your recollection
19 of events?
20 MR. JIMMERSON: Mr. Rice, forgive me, I
21 did want to note the appearance of Mr. Lowie on the
22 deposition and Mr. Schreck joined us about 10 minutes
23 earlier. Thank you sir.
24 THE WITNESS: To a limited extent.
25 ///

18

1 BY MR. RICE:
2 Q. But they did refresh your recollection of
3 some events.
4 A. Yes.
5 Q. Is that the only email address that you
6 use in your role at the city?
7 A. Yes.
8 Q. Do you ever use your personal email
9 address?
10 A. No.
11 Q. And what did those emails -- what was
12 itself information that you gleaned from the emails
13 that you reviewed?
14 A. Approximate date of when dialogue started.
15 Q. Okay. And do you recall when that was?
16 A. July 2015.
17 Q. And was there a particular email that
18 reminded you of the dialogue that started in July of
19 2015?
20 A. No.
21 Q. How do you save your emails? Is there a
22 folder that's designated for a particular project?
23 A. On projects? Yes. On large projects such
24 as things that involve development agreements, yes I
25 create a folder for it.

19

1 Q. What is the name of the folder that you
2 have for this matter well strikes that let me phrase
3 it this way. What's the name of your folder that you
4 looked through?
5 A. It's called Radlands.
6 Q. Called Radlands.
7 And do you recall when you set up that
8 folder fortunate?
9 A. No, I don't recall.
10 Q. Are you responsible for setting it up or
11 is there someone else in the City that's responsible
12 for setting up the folder?
13 A. It would be my responsibility.
14 Q. Is there anything in that folder other
15 than your own emails?
16 A. It would be any emails that are relevant
17 to the project.
18 Q. Including -- here's what I'm trying to
19 understand so you can explain this to me a little
20 bit. This folder, is that a City -- in other words a
21 planning department wide folder where numerous people
22 emails get put into it or is it just yours?
23 A. It is a folder within Microsoft outlook
24 which from -- I can move any one of the emails that
25 were -- either I was sent or copied on I can I can

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1 place into that folder.
2 Q. But is it just the emails that you place
3 into that folder that are in there?
4 A. Correct. I would be the one that would be
5 able to move it into that folder.
6 Q. Other people -- because it sounds like
7 this is a local folder for your computer as opposed
8 to a network folder.
9 A. I can't speak to what our IT department
10 could do but I don't think anybody else has access
11 unless they logged in as me.
12 Q. As you?
13 A. Or administrator.
14 Q. Okay. And that had lands folder, in
15 addition to emails what else would you have in there?
16 A. That's all it contains.
17 Q. That's all it contains. Okay.
18 All right. Any other documents -- other
19 than the master plan and reviewing your emails, any
20 other documents you looked at?
21 A. Just previous staff research.
22 Q. Okay?
23 A. In the sense of maps.
24 Q. Maps. Okay. Anything else other than the
25 maps?

22

1 A. Not that I recall, no.
2 Q. And what about -- what maps did you look
3 at?
4 A. The maps were unit counts. Basically
5 geographic areas with dots identifying constructed
6 units versus nonconstructed units.
7 Q. And this is an internal map?
8 A. This was an internal exhibit, map, yes,
9 that was created by the department.
10 Q. And when was that map created, do you
11 know?
12 A. I don't know.
13 Q. Did you create it?
14 A. I requested it to be created by our GIS
15 analyst.
16 Q. And who was the GIS analyst that you asked
17 to create the map?
18 A. Jorge Mateo.
19 Q. And do you recall approximately when you
20 requested Mr. Mateo to prepare that map?
21 A. That type of request has actually been
22 done more than once.
23 Q. Okay. When was the first time you
24 requested it?
25 A. I don't recall exactly. But some time

32

1 ago.
2 Q. How many times have you requested such a
3 map be prepared?
4 A. Possibly three times.
5 Q. All right. And what does the map show?
6 It shows the units.
7 A. It shows existing unit counts.
8 Q. Okay.
9 A. It shows units not constructed.
10 Q. Does that mean units that are approved but
11 not constructed?
12 A. Yes. It could be -- referred to -- it
13 shows -- it identifies entitled units but not
14 constructed units.
15 Q. So does it show anything other than
16 existing units and entitled units that are not
17 constructed?
18 A. It may refer to the land use case, which
19 entitled the subdivision or the multifamily
20 development.
21 Q. Anything else it would show?
22 A. Not that I recall. I would have to look
23 at it again to make sure.
24 Q. What's the purpose of creating such a map?
25 A. Information.

23

1 Q. Well, what was -- it was just for
2 information that you had it created?
3 A. Well, in reference to the project, we look
4 at the unit counts.
5 Q. Well, what are -- strike that let me put
6 it this way. Why are you looking at the unit counts?
7 What are you trying to determine?
8 A. When looking at the property, we look at
9 the previous land use entitlement history and as part
10 of the previous land use entitlement history as part
11 of this project, there is a zoning case which has a
12 maximum number of units associated as a condition of
13 approval that was placed upon it by the city council
14 at the time. So to assess the total number of units
15 in that development area for conformance, either
16 above, below, where we stand, basically, status.
17 Q. And so you've had that done -- why would
18 that need to be done more than once?
19 A. To make sure that it's been done accurate
20 and to make sure that if something wasn't looked at
21 the first time that it was caught the second time.
22 Q. Were you asked by someone to do it more
23 than once?
24 A. No.
25 Q. And did Mr. Mateo, is he the one that did

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1 it all better way to phrase it in or had now that did
2 it each time you asked?
3 A. I believe so.
4 Q. And how big is this map?
5 A. It is 15 inches.
6 Q. And how many -- have you saved all
7 versions of it that have been created?
8 A. I'm sure that no must have. I don't know
9 if I have every version.
10 Q. Understood.
11 And so when you looked at the map for --
12 prior to today for your deposition, what were you
13 looking at in that
14 A. Once again, the screen will create
15 Q. Unit counts. What were the unit counts
16 that were contained in this map?
17 A. They're individual in each subdivision
18 So I can't recall off the top of my head what the
19 numbers are on each one.
20 Q. Okay?
21 A. And then there's a total.
22 Q. Do you recall what the totals are?
23 A. No. I can't give you an exact number right
24 now. I would have to refer to -- the map.
25 Q. Look at the map right out you have that

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1 map of the City has that map right.
2 A. Correct.
3 Q. Now, is the purpose of that map to
4 determine whether or not there are any units
5 available for further entitlement?
6 A. No. It's just to see what the -- phase
7 the overall development is as far as what the unit
8 counts are.
9 Q. Based on what had previously been approved
10 by the City?
11 A. No-hum.
12 Q. Is that right?
13 A. I've looked at the previous land use
14 entitlements, and based on that map, it includes not
15 only -- it includes the Perry's Ranch master plan as
16 it's labeled when it was first adopted and then
17 amended subsequently. It includes both the phases of
18 the plan.
19 Q. Phase one and phase two?
20 A. No-hum. Because it's just one plan.
21 Q. Got it. So have I just need a quick
22 clarification with you. When I ask you a question,
23 because I do this all the time too that you must need
24 to answer yes or no not an uh-huh or shaking of your
25 head because she doesn't --

26

1 A. Okay. I apologize.
2 Q. That's quite all right. We will do that.
3 I just want -- wanted to remind you of that so she
4 can make a clear record.
5 So you looked at the previous land use
6 approvals for phase 1 and phase two?
7 A. At one point or another, yes.
8 Q. And is that -- did you then provide that
9 information on the approved unit counts to Mr. Bell?
10 A. No, he did his own research.
11 Q. So on the research that you did, did you
12 create any internal documents concerning your own
13 research on the unit counts?
14 A. I have working documents. It's not where it
15 that's gone or not. It's since I looked at unit
16 counts based on the research I requested from my GIS
17 analyst.
18 Q. And what sort of internal doc -- internal
19 working documents would you have?
20 A. They could be anything from hypothetical
21 scenarios to this is a proposed procedure. This is
22 the process by which to achieve something. It could
23 be reference to looking at entitlements for specific
24 information. It could range. I mean it's a large
25 project you look at a number of different things.

26

1 Q. Okay. And have you assembled all those
2 documents in this folder?
3 A. I just had them saved on my computer.
4 Q. Okay. But you haven't provided copies of
5 those to the city attorney's office?
6 A. Not to my recollection.
7 Q. And approximately -- what's the volume of
8 documents that we're talking about?
9 A. Well, there's meeting notes, there's
10 development agreement comments, there's other working
11 documents. So in total, maybe there's 25, somewhere
12 in there.
13 Q. Okay. And so meeting notes, what sort of
14 meeting notes would you have?
15 A. Meeting notes are just taking down
16 outstanding issues or issues that have been brought
17 up in our meetings that we had as far as recurring
18 meetings with -- in regard to the development
19 agreement or major project.
20 Q. Would those be meeting notes from meetings
21 with the developer?
22 A. Yes. They could include notes from issues
23 on the developer's side or issues on the City side.
24 It could be flood related, fire related. It could be
25 a planning board, it could be a developing council

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1 Q. And then you just -- are these handwritten
2 notes or are these typed up notes?
3 A. They're typed. Usually work off of a
4 surface tablet, which is -- that connects to the
5 network so they're all saved in the same place.
6 Q. Sure. And those are saved on your device,
7 correct?
8 A. I guess they're in a document drive.
9 Q. Okay.
10 A. I don't know the architecture of the
11 computer system.
12 Q. Does it sync to the network?
13 A. I'm not sure if it's on the local drive or
14 it's on a network drive. I believe it's more of a
15 local drive. But the tablet's able to access the
16 local drive. So there is some kind of network
17 activity going on.
18 Q. Got it.
19 Did you look at any of those documents for
20 your deposition?
21 A. No.
22 Q. Have you had -- other than the unit count
23 map we just talked about, have you had any other maps
24 created for the Badlands project?
25 A. There was the legal descriptions from a

29

1 zoning case, #17-90, that we had the City surveyor
2 plot out the areas in reference to legal descriptions
3 provided in that zoning case.
4 Q. And why did you have that done?
5 A. It illustrated the areas that were rezoned
6 by that zoning application.
7 Q. weren't those legal descriptions already
8 in the map?
9 A. There -- they're written legal
10 descriptions, they're not illustrative.
11 Q. I see. So you had the surveyor plot that
12 on a map for you.
13 A. Right. Based on the boundaries that are
14 called out in the legal description like fining the
15 geographical area.
16 Q. Do you still have this map that the
17 surveyor created. I do. I have hard copy and it was
18 electronically uploaded to a FTP that was shared with
19 anybody that wanted it.
20 Okay. Any other maps that you have had
21 created for the Badlands project.
22 A. Off the top of my head, I don't recall any
23 other ones. Not to say there wasn't other research
24 done.
25 Q. Sure. So just to sort of summarize, we

30

1 talked about your reviewing the master slash general
2 plan, your emails and the unit count map. Are there
3 any other documents that you reviewed for purposes of
4 your deposition?
5 A. Not that I recall. I mean I work on
6 various other projects during this time so I'm
7 looking at other documents, such as the Unified
8 Development Code every day.
9 Q. Sure.
10 A. Not specifically for this.
11 MR. JIMMERSON: Madam court reporter,
12 would you please read the last question and last
13 answer..
14
15 Thank you very much.
16 MR. BYRNES: I would like to speak to
17 Mr. Lowenstein for a second.
18 MR. BICE: Absolutely. Let's go off the
19 record.
20 THE VIDEOGRAPHER: Going off the record.
21 The time is approximately 10:21 a.m.
22
23 THE VIDEOGRAPHER: This is the beginning
24 of video recording number 2 in the continuing
25 deposition of Peter Lowenstein. We're back on the

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1 record. The time is 10:26 a.m.
2 BY MR. BICE:
3 Q. Are there any other documents than what
4 we've gone over that you looked at to prepare for
5 your deposition?
6 A. I looked at the transcript for the
7 deposition of Tom Perrigo.
8 Q. Okay. And how long did you review that?
9 A. I don't recall how long it took me to read
10 it.
11 Q. Did you read the entirety of it?
12 A. Almost the entirety.
13 Q. Okay. Anything in there that you
14 disagreed with.
15 MR. JIMMERSON: Objection to the form of
16 the question calls for a narrative and attempts to
17 summarize a 300 page or 200 page document. It's
18 unfair to the witness.
19 MR. BYRNES: I join with that. Go ahead
20 and answer.
21 THE WITNESS: No.
22 BY MR. BICE:
23 Q. What was the purpose in reviewing Mr.
24 Perrigo's depo transcript?
25 A. I was provided it by counsel so I read it.

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1 Q. Okay. Any other documents?
2 A. Not to my recollection.
3 Q. Other than legal counsel did you speak
4 with anyone about your deposition?
5 A. When Mr. Ferrigo returned on Monday we had
6 a scheduled meeting and he just made reference that
7 it went long and they talked about a number of
8 different things. That's the extent of our
9 conversation.
10 Q. Okay. Have you spoken to anyone else.
11 A. Just counsel.
12 Q. All right. So backing up a little bit,
13 you indicated that your email -- your folder, the
14 Badlands folder indicated that April 2015 is when you
15 first learned about the Badlands Golf Course
16 development?
17 A. No, I never stated that.
18 Q. My apologies. I must have misunderstood
19 then. What did you first learn about then when you
20 were indicating April of 2015?
21 A. That's when I became the section manager.
22 Q. That's when you became a section manager?
23 A. That's correct.
24 Q. When did you first learn about development
25 plans for the Badlands Golf Course?

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1 A. I don't know an exact date but I would say
2 July of 2015.
3 Q. And how did you learn about it?
4 A. Through my director.
5 Q. Would that be Mr. Ferrigo?
6 A. That is correct.
7 Q. And what did Mr. Ferrigo tell you?
8 A. I don't know the exact details of the
9 conversation but in general, that the development --
10 a redevelopment of the golf courses, you know,
11 project of that nature, and starting discussions on
12 that project.
13 Q. Was this -- who all was present for this
14 discussion that you had with Mr. Ferrigo in or around
15 July 2015?
16 A. I don't recall. I'm assuming that we had
17 a verbal conversation about it. I don't recall any
18 specifics.
19 Q. Well, had an application been submitted?
20 A. No.
21 Q. Did he tell you how he knew about it?
22 A. No. Not that I am aware of or that I
23 recall. I don't know if he had a phone call, a
24 meeting or anything.
25 Q. All right. Well, what was your

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1 understanding of what that development was going to
2 be?
3 A. The redevelopment of a portion of the golf
4 course to -- either a portion or in the entirety to
5 redevelop it for a combination of multifamily and
6 single family development.
7 Q. It was going to be a residential
8 development.
9 A. Both multifamily and single family
10 residential development.
11 Q. So had you in your prior experience worked
12 on the Peccole Ranch phase two master plan?
13 A. Not to my recollection.
14 Q. Okay. Had you had any relation -- or any
15 work on any aspects of the Peccole Ranch master plan?
16 A. Of the master plan?
17 Q. Yes.
18 A. It was approved by city council prior to
19 my employment at the City of Las Vegas.
20 Q. How about any work subsequent on the
21 property within the master plan, after you joined the
22 City of Las Vegas?
23 A. Potentially. I would have to go back
24 through every case to see if I was a case planner,
25 supervisor or any of those. Land use entitlements

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1 spanning the 20 some odd years.
2 Q. Got it. Okay. So when you first spoke to
3 Mr. Ferrigo I understand -- you had an understanding
4 they were going to put a residential development on
5 the existing golf course; is that what you
6 understood?
7 A. On the property which is composed of the
8 golf course, yes.
9 Q. Okay. Did you have any understanding of
10 what -- what this residential development was going
11 to look like, in terms of the number of units, et
12 cetera?
13 A. From -- I don't recall. I think I had an
14 initial conversation that I had, I don't think there
15 was any specifics.
16 Q. All right. So once you were told this by
17 Mr. Ferrigo, what did you do next relative to the
18 Badlands project?
19 A. I don't recall specifically, but I believe
20 I created a meeting, potentially, to bring the
21 developer and to start going towards specific.
22 Q. Was this -- would you characterize this as
23 a preapplication meeting?
24 A. It's an ongoing dialogue. Usually on very
25 large projects, in the case of, say, the Sky Canyon

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development agreement, we have numerous meetings and then that qualifies as the pre-application conference.

Q. So you indicate you set up a meeting with the developer?

A. With members of the City and the developer.

Q. All right. And who did you consider the developer to be?

A. More than likely it was the point of contact is Eugene Bankratz.

Q. And would you communicate with him via email?

A. I've communicated with Mr. Bankratz through email, over the phone.

Q. Any other means of communication with Mr. Bankratz other than via email or over the phone?

A. In person.

Q. Understand. Any other meetings?

A. Potentially a text message.

Q. What would you text message Mr. Bankratz about?

A. I don't text him -- it would be in response if he texted me.

Q. Okay.

A. Is the cell phone that you use for the text

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meeting, is that your personal cell phone. Yes.

What is the -- who is the carrier, the service provider?

A. AT&T.

Q. AT&T. And how long have you had this cell phone?

A. This particular model, maybe a year, maybe a little bit over a year.

Q. Do you text anyone at the City concerning your work?

A. The only other person that would be texted would be my director who has my number, but various people have my phone number. I've had office assistants communicate with me.

Q. Sure.

A. Licensing officers communicate with me.

Q. Has anyone else on behalf of the applicant requesting Radlands texted with you?

MR. JENSEN: Object to the issue of the question.

THE WITNESS: I've had a text message from Mr. Leslie.

MR. BICK:

Q. Mr. Leslie, how many text messages has Mr. Leslie sent you?

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A. Maybe three.

Q. Okay. Do you recall what those were about?

A. Reason.

Q. What is that?

A. Reason.

Q. In other words, okay. Anything else?

A. No, not that I recall.

Q. And that is -- and we'll agree for purposes of the record to keep it confidential, but what is the cell phone number or the number that Mr. Leslie would text you at?

A. 702-610-1688.

Q. And how long have you had that number?

A. Since I've had a cell phone.

Q. So a long time.

A. Have you deleted any text messages from anyone concerning the Radlands golf course?

A. Not to my recollection.

Q. Have you deleted any email from anyone concerning the Radlands golf course?

A. If there are email that say thanks, things like that, potentially. So it's a possibility that there are some pertinent ones I retained in a folder.

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Q. So when you set up that folder -- for me put it this way. So you're informed about this planned redevelopment. Is someone in the City assigned to be the supervisor over it?

A. Can you restate the question?

Q. Sure. When you're informed by Mr. Parrigo about this planned redevelopment of the Radlands golf course, is someone in the City assigned to to guide or supervise or shepherd it through the process?

A. With his contribution to me, I'm assuming that he basically assigned to me.

Q. To you?

A. As I have been on other projects, the lead on development agreements on larger projects of that nature and I've had that experience.

Q. Okay. So you were essentially assigned to handle this project, is that accurate?

A. On the macro side of things, yes. In regards to facilitating the meetings, pertaining to the issues making sure it stays on point, the people even throughout the entire City the participating in it when they're meeting to be and to make sure that it's basically an ongoing negotiation and to shepherd to the point where it would be something that would be able to be submitted to the City.

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1 Q. So who all was on your team to work on
2 this?

3 A. As part of the team we -- our division
4 basically works as a team. I have -- during this
5 process I have conversations with Tony Rankin. I've
6 had conversations with the planning supervisor at the
7 time.

8 Q. How would that be?

9 A. It could have been Andy Reed. He left the
10 City I believe -- I don't know if it was early 2016
11 or late part of 2015.

12 Q. Do you know where he went?

13 A. He's at Nellis. I think he's the
14 planning -- community planner for Nellis Air Force
15 Base.

16 Q. Okay.

17 A. And then Steve Behke, Steve Downing and
18 then when -- eventually the items go before our
19 design review team for recommendations, that's the
20 entire case planning division.

21 Q. Did you say Steve Saxe?

22 A. Swanton.

23 Q. Swanton?

24 A. He's a senior planner in the case planning
25 division.

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1 Q. And you say when it comes up to our design
2 review team for recommendation, that's the entire
3 case planning division?

4 A. Our current policy is that when we -- when
5 we have all the applications submitted for a certain
6 planning committee meeting, all those items are then
7 sent and the design review team, which is composed of
8 all of the members of the case planning division, as
9 far as the case planners, not any administrative
10 assistants or anything like that.

11 Q. So how many people would that be?

12 A. Again, I'm going to go to the square.
13 It's approximately six not including the supervisor
14 and a manager -- so potentially eight.

15 Q. And what would those eight people provide?

16 A. Their own input into whatever issues is
17 being discussed and their own recommendation on it
18 and coming to a consensus at the end.

19 Q. Would Mr. Summerfield be one of those
20 people?

21 A. A member of long range planning is
22 requested to be as part of the design review team to
23 get their perspective on its implications on the
24 general plan or master plan. I don't recall if he
25 was directly in there or if was some other

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1 representative -- or if any representative was in from
2 long range.

3 Q. So what's Mr. Summerfield's role at the
4 City?

5 A. He is the planning section manager over
6 the long range division.

7 Q. And to whom does he report?

8 A. He reports to Tom Herring as the director
9 and Karen Toddler as the deputy director.

10 Q. So of those other people, eight other
11 people you said were in your design review team, was
12 there anyone of those eight people that was
13 potentially responsible for this matter?

14 A. At the time when an application is
15 submitted, that it would be assigned to a case
16 planner to review, prepare, and write a staff report.
17 I believe -- depending on which applications you are
18 speaking to, Steve Swanton was responsible, was the
19 assigned case planner.

20 Q. Were there any others other than
21 Mr. Swanton assigned, designated as the assigned case
22 planner for the Matthews Golf Course applications?

23 A. No.

24 Q. All right. You indicated that one of the
25 first things you did after you spoke with Mr.

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1 Summerfield, was you set up a meeting with the developer?

2 A. I don't know what the details of that
3 from his initial letting me know that this project
4 has come about so when I set the meeting but it was
5 organized the City side and the community so the
6 developer side to coordinate that meeting on those
7 meetings from there on.

8 Q. Where was the first meeting held?

9 A. I imagine it would be in the Charleston
10 conference room on the third floor at the development
11 service center at 133 South Yuma Drive.

12 Q. All right.

13 And do you recall -- do you keep a log of
14 who attends those meetings?

15 A. No.

16 Q. Do you recall who was in attendance?

17 A. Not with specificity -- not specifically.
18 I imagine from our side, we had public works, which
19 would be either Kevin Diet or Tom Anderson. We
20 would have fire. At that time it would have been
21 either Chief Nolan, Chief Michael Bach, who's no
22 longer with the City or David Klein, which I don't
23 think it was him. Traffic, which would have been
24 Victor Balanov. I don't know if we had building and
25 safety in the room. If they were it was Michael

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1 Cunningham or Mike House. And then on the developer
2 side, more than likely it was at a minimum, Frank
3 Bankratz, Mr. Davis, and probably -- I don't know who
4 else was probably there, but over the course of
5 different meetings there was different people that
6 were in the meeting.

7 Q. Who was -- who would be in attendance at
8 that first meeting with your department?

9 A. It would be Mr. Perrigo, myself. I
10 believe at that point that might have been the only
11 two.

12 Q. And what was the purpose of that first
13 meeting?

14 A. I guess it's fair to say it was like a kick-off
15 meeting, have everybody in the room to discuss scope
16 of the project and then to go from there to see what
17 issues or concerns on both sides.

18 Q. Did the developer show plans?

19 A. Not that I recall. It's a possibility.

20 Q. Did the developer -- what was your
21 impression from that first meeting or what the
22 developer was planning to do or going to propose to
23 do?

24 A. As I stated before, to propose a
25 redevelopment of that property into both multifamily

15

1 and single family development.

2 Q. This property was already within the
3 Pecore Ranch residential development, correct?

4 A. The Pecore Ranch Master Development Plan?

5 Q. Yes.

6 A. Yes. The subject property is --

7 Q. Is within?

8 A. -- is encompassed by that, yes.

9 Q. Is it already -- is this property within
10 the Quakeridge residential area?

11 A. The Quakeridge is a marketing name.

12 Q. Okay.

13 A. So in it -- can you be specific in this
14 question?

15 Q. Well, let me rephrase it this way then.
16 Is this property located within a residential
17 development, the golf course? Is it located within a
18 residential development?

19 MR. JOHNSON: Object to the form of the
20 question.

21 MR. BYRNE: Are you asking him what the
22 surrounding uses are or are you asking him --

23 BY MR. BICE:

24 Q. Did he consider the golf course to be
25 located within a residential development?

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1 A. It was within Pecore Ranch Master
2 Development.

3 Q. Is Pecore Ranch Master Development, is it
4 a residential development?

5 A. It is a combination of uses which
6 encompass commercial, multifamily and single family
7 development.

8 Q. What about phase two, is phase two of the
9 Pecore Ranch master plan development a residential
10 development?

11 A. Phase two is also composed of those
12 various components.

13 Q. Do you consider it to be a residential
14 development?

15 MR. JOHNSON: Object to the form of the
16 question.

17 MR. BYRNE: Object. Vague and ambiguous.

18 BY MR. BICE:

19 Q. Have you ever -- I'll rephrase. Have you
20 ever told anyone that it is a residential
21 development, Pecore Ranch, phase two?

22 A. Not to my recollection.

23 Q. Have you ever discussed it inside the city
24 that it is a residential development?

25 A. Not to my recollection.

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1 Q. So do you consider it to be a residential
2 development, the Pecore Ranch phase two?

3 A. I consider it to be a master development
4 plan as it was approved.

5 Q. What do you mean by master development
6 plan?

7 A. That is what it was approved as through
8 the city council. A master development plan is an
9 overall development plan for an area which in this
10 particular case was composed of a minimum three
11 different categories of commercial, multifamily,
12 residential, public facilities, open space, drainage,
13 all those matters -- those components.

14 Q. Okay. So this master plan had multiple
15 components that were approved?

16 A. The development plan, yes.

17 Q. So was the -- when you met with Mr.
18 Bankratz and company, the applicant, were they
19 planning on changing those components in any fashion?

20 A. The subject property, its current use is
21 another use, so yes.

22 Q. And what was the current use of the
23 property that they were going to change?

24 A. It is known as the Indiana Golf Course.

25 Q. Okay. What is its current use?

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1 A. No recreation. It's a gain source.
2 Q. And that were they going to change it --
3 what were they wanting to change it to?
4 MR. JIMMERS: Object to the question as
5 being asked and answered.
6 THE COURT: To be a multi-family and
7 single-family development.
8 BY MR. BICE:
9 Q. And did they -- when you first met with
10 them, did they talk about how many units that they
11 wanted to develop?
12 A. When we had our on-going meetings, then
13 the unit count was made known. And so I don't know
14 which particular meeting it was that we got the exact
15 unit counts that were being asked for originally.
16 Q. What were the original unit counts?
17 A. I'm going to try and recall, but I think
18 it was 1,025 or 1,060, somewhere in there. And I
19 don't know exactly but I think it's one of those two
20 numbers.
21 Q. Okay. And was that broken up into single-
22 family and multifamily residents?
23 A. If I recall there was one portion of it
24 being single family, those were called out and then
25 the other side was multifamily units.

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1 Q. So is it fair to say that from the time in
2 which you knew their plans, Mr. Barkins and
3 company's plans, you knew that they intended to
4 develop this for multiple residences?
5 A. Meaning more than one single-family
6 residence, yes.
7 Q. Yes. You knew that they intended to have
8 several hundred residences, correct?
9 A. In developing it with multiple units as you
10 originally stated, that being whatever the unit count
11 was, yes.
12 Q.
13 So would it be accurate to say that you
14 knew that was the intended use as of August 10
15 2013?
16 MR. JIMMERS: Object. That violates
17 the witness's testimony.
18 BY MR. BICE:
19 Q. Are you saying you didn't know that as of
20 August 2013?
21 A. I don't recall. But I would assume if I
22 started to learn about the project in July, by August
23 it would be some understanding.
24 Q. Okay.
25 So how many meetings or discussions did you

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1 have with Mr. Benzige about this project?
2 MR. JIMMERS: Object to the question as
3 being vague as to time period. No foundation.
4 THE COURT: I don't recall.
5 BY MR. BICE:
6 Q. Would it literally be in the hundreds?
7 A. It could be. I don't know a number.
8 Q. How about with Mr. Debeke would it again
9 similarly be in the hundreds?
10 A. Probably less than that.
11 Q. Probably less than that -- how about with
12 Mr. Rankin?
13 A. Since he hasn't been employed with the
14 City for some time, as it would be less than that as
15 well.
16 Q. Okay. When did Mr. Rankin leave the City?
17 A. Not 100 percent sure. I think it was in
18 this past calendar year.
19 Q. And what was his role -- we'll strike that.
20 What was Mr. Debeke's role in this project?
21 A. As the planning supervisor, he would have
22 reviewed the staff report and made sure that it was
23 finished in time for the -- and regular deadlines.
24 unrecalled.
25 Q. And what would Mr. Rankin's role have been

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1 when he was there?
2 A. When he was there, as the planning
3 manager, you know, he still would have been a player
4 or -- basically a person in which I could go to to
5 any other staff member could go to and discuss the
6 project with. I don't exactly recall what his role
7 at that moment.
8 Q. Well, when you -- when he was planning
9 manager, did you report to him?
10 A. Yes.
11 Q. And were you then reporting to him
12 concerning this project in this redevelopment plan
13 when he was there?
14 A. I don't recall if it was in August then
15 when he was planning manager and I was reporting to
16 Mr. Benzige that we were in transition, and there was
17 a number -- you know if he was still working on
18 projects or whatever his assignment changed may have
19 been pursuant to whatever Mr. Benzige assigned him.
20 There's a possibility that there was overlap. But in
21 regards to the functions of case planning, he was
22 and part of it in regards to administrative and some
23 other things, for now again, those assignments and
24 roles and responsibilities, that wasn't something
25 that I was necessarily privy to. That could be the

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1 director's decision.
 2 Q All right. So I used a little bit of
 3 clarification. By apologies if that is backtracking
 4 a little bit. You said that when you became section
 5 manager
 6 A Planning section manager to clarify.
 7 Q Planning section manager. What was your
 8 role then relative to Mr. Rankin at that point?
 9 A I was a planning section manager. I was
 10 over rate and public. He was also over some
 11 functions that were both in case and public. So
 12 there was no clear demarcation where it was a split.
 13 There was overlap in responsibilities that he would
 14 still have to do as the planning manager.
 15 Q Was -- was your -- the position that you
 16 assumed, section manager, was that a new position
 17 or was that a newly created position at the City?
 18 A No. The former planning director, Flint
 19 Fagg actually created it.
 20 Q Okay.
 21 A And I believe it was first instituted in
 22 business licensing division and then subsequently it
 23 was filled in the planning division, meaning long
 24 range and current planning.
 25 Q So if you -- so when Mr. Fagg was there,

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1 who would be the people that would have reported
 2 directly to him?
 3 A As far as -- everybody reports to him.
 4 He's the director.
 5 Q Mr. Lowenstein, I understand. That's not
 6 a very good -- not a well-phrased question. Here's
 7 what I'm trying to have you sort of conceptually draw
 8 for me the hierarchy chart. You would have Mr. Fagg
 9 would have been the planning director?
 10 A Yes, him.
 11 Q And directly below Mr. Fagg would have
 12 been who?
 13 A For a period when there was no deputy
 14 director, it was just the planning manager.
 15 Q And that would have been Mr. Rankin at
 16 that time.
 17 A That is correct.
 18 Q So at some point, did Mr. Fagg have a
 19 deputy director?
 20 A I believe that's when Karen Faddis was
 21 became deputy.
 22 Mr. Lowenstein: Mr. Fagg, could you just
 23 help with a time? In other words, the time for a
 24 deputy manager. {
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1 BY MR. DUBE:
 2 Q I'm just talking about when Mr. Fagg was
 3 there. Mr. Fagg was the planning director for two
 4 years. Or was it longer than that?
 5 A I don't recall exactly whenever the former
 6 director Margo Wheeler left he assumed that role. I
 7 don't know the exact dates so it could have been
 8 two plus.
 9 Q All right. So the hierarchy while at
 10 least towards the end of Mr. Fagg's tenure, let's
 11 deal with the towards the end of his tenure, he was
 12 obviously the director, the deputy director would
 13 have been Karen Faddis and then below her would
 14 have been the planning manager, which would have been
 15 Mr. Rankin, is that correct?
 16 A That is correct.
 17 Q And so then where -- who would have been
 18 below Mr. Rankin?
 19 A It would have been the supervisors.
 20 Q The supervisors. And were you one of
 21 those supervisors?
 22 A That is correct.
 23 Q Okay. So it's sort of below Mr. Rankin it
 24 sounds like the chart would spread out then, is that
 25 fair?

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1 A. In your question in regards to the
 2 creation of the section manager?
 3 Q Yes, sir.
 4 A I don't really intend to shut the thinking
 5 of the director open in regards to why they created
 6 that position.
 7 Q Okay. So when those -- the creation of
 8 the section manager, was that sort of someone to be
 9 in par with Mr. Rankin as the planning director?
 10 A. Mr. Rankin as the planning manager.
 11 Q. Planning manager. My apologies. You're
 12 right.
 13 A. And to my recollection from our
 14 discussions when we were hired, meaning
 15 Mr. Summerfield and I were in a meeting with the
 16 director and the managers that it would allocate
 17 some of the daily grind stuff and allow them to focus
 18 on our strategic initiatives, some of the larger
 19 initiatives in the department and the goals within
 20 the City of Las Vegas.
 21 Q. Got it. So when you became section
 22 manager did you really sort of have two reporting
 23 lines at that point one to the planning manager and
 24 one to the planning director slash deputy director?
 25 A. There was, as I said a period of overlap

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1 where there was transition, so I would say yes, for a
2 period of time. I don't know exactly how long that
3 was.

4 Q. When Mr. Hankin left, is there still the
5 position of planning manager?

6 A. There's a manager position I believe that
7 was filled in the business licensing side of the
8 planning department.

9 Q. Okay. But was his position, the position
10 that he was fulfilling at the planning department,
11 was it essentially subsumed by the people in your
12 position, the section managers?

13 A. As of this point there is no planning
14 manager as far as if it's still a vacant position
15 that could be filled, I don't know.

16 Q. Okay. But is it fair to say that now the
17 role of planning manager has really been allocated to
18 the section managers for the respective sections?

19 A. That could be a fair statement.

20 Q. All right. Okay. So let's turn up
21 then -- actually not turn up. Okay forward has where
22 I got a little clarification on the Whimsy, which
23 I appreciate. So you understand, as of this first
24 meeting that you had with them, that they were
25 proposing a confidential development for the golf

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1 course. Now do you think that that's sometime in or
2 August of 2007?

3 A. As I stated, I think it was somewhere in
4 July and then we started having meetings going
5 towards August forward.

6 Q. Got it. Okay we would know that first
7 meeting that you think you had would have been
8 sometime in August probably?

9 MR. BYRNES. Objection. Answer and
10 answered.

11 MR. BYRNES. My apologies Bill. If it was
12 I'm not saying it wasn't I'm just a little fuzzy on I
13 guess the difference between meetings where he was
14 meeting with the developer as opposed to his meeting
15 with Mr. Perrigo, which I understood that first one
16 had in July. So if I'm remembering some ground by
17 something I just want to make sure for my own self
18 it's clear.

19 A. As far as meetings, coordinating City
20 meetings with the developer, it could have been the
21 end of July and then into August.

22 Q. Got it. Now, would you take notes of
23 these meetings?

24 A. As I stated, I would take meeting notes on
25 outstanding issues.

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1 Q. And in your experience, do the other
2 participants at these meetings on behalf of the City,
3 do they take their own notes relative to their
4 involvement?

5 A. I don't say definitely, but I would
6 assume they take some of their own notes.

7 Q. Okay.

8 MR. BYRNES. Can we make a short recess
9 break?

10 MR. BYRNES. Screen okay to me.

11 MR. BYRNES. Let's go off the record.

12 THE VIDEOGRAPHER. Going off the video
13 record. The time is approximately 11:02 a.m.

14 THE VIDEOGRAPHER. This is the beginning
15 of video recording number 1 in the continuing
16 deposition of Peter Lowenstein. The time is
17 approximately 11:09 a.m. We're back on the video
18 record.

19 BY MR. BYRNES:

20 Q. All right. So before we took the break,
21 Mr. Lowenstein, we were talking about these meetings
22 that you were setting up or the first meeting you had
23 set up with the developer and who had attended. So
24 let's go to the next meeting that you can recall.
25 Did you set up another meeting after the first one?

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1 A. I assume so. My recollection, I don't
2 know if there was immediately, but eventually there
3 was a recurring standing meeting on Thursdays,
4 starting at I believe 4:00 which that could go
5 until 4:30 was the regular schedule.

6 Q. All right. Were these meetings -- do you
7 maintain any form of a calendar?

8 A. Through Microsoft Outlook. I just add
9 those things to the calendar and add the invitees.

10 Q. Would those -- and this is on your City
11 computer, correct?

12 A. Yes.

13 Q. All right. Would the original meeting
14 that you had with the developer be reflected on your
15 calendar?

16 A. It should be yes.

17 Q. And would it reflect who the attendees
18 were or the invitees I speak?

19 A. It would be the invitees.

20 Q. And would each subsequent meeting that you
21 had with the developer be reflected on that calendar?

22 A. It should be, yes.

23 Q. Who is responsible for maintaining your
24 calendar? So you personally do it or do you have an
25 assistant?

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1 A. Primarily myself, but I do have meetings
2 that come up to those that are from other people
3 requesting or from the executive assistant.
4 Q. Okay. And who is the executive assistant
5 that assists you?
6 A. Currently -- sorry I don't know her full
7 name is. Miles is her abbreviated name.
8 Q. Okay. And how long has she been the
9 executive assistant assisting you?
10 A. She's not my direct executive assistant,
11 she's the executive assistant to the administrative
12 kind of things, primarily the director, again the
13 deputy director.
14 Q. Do you have a direct administrative
15 assistant?
16 A. No. We have office assistants that we can
17 call upon, and as I inferred, we can call upon the
18 executive assistant as well.
19 Q. So I'll refer to her as Miles. Is she the
20 person though that would -- to the extent you're not
21 handling your meetings or scheduling, would she be
22 the one that would do that?
23 A. It is a possibility, yes. There really has
24 been no need on my side for -- I mean I essentially
25 get double booked, I don't get quadruple booked.

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1 Q. Would it be accurate to say she is
2 principally the assistant for Mr. Perrygo and
3 Mrs. Daddleston?
4 A. Yes, that's fair to say.
5 Q. So let's keep marching along. You said at
6 point there would be a weekly meeting set for
7 Thursdays at 5:00 o'clock.
8 A. Yes.
9 Q. How often? Is that a year?
10 THE WITNESS. Yes. Sorry I apologize.
11 BY THE COURT:
12 Q. And how many people would attend those
13 meetings, generally?
14 A. It depends on the scope of the meeting.
15 Issues, it depended on other people's schedules. It
16 could range, but to put an average, maybe three or
17 the developer side and five or six on the city side.
18 Q. Why would generally be the attendees on
19 behalf of the developer?
20 A. That predominantly would have been Mr.
21 Buckner, Mr. Lisle, and I'm forgetting -- well, they
22 didn't have their municipal aide. So there could have
23 been somebody from GCM Engineering there or from any
24 other company. The other individual would be Brent
25 and I'm forgetting his last name at the moment. I'm

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1 sorry.
2 Q. Brett?
3 A. I think it's -- I think it's Brett.
4 Instead of Brent. I think it's Brett.
5 Q. Now, were these meetings -- can you tell
6 me when these weekly meetings started relative to
7 when they first submitted an application?
8 A. I don't recall exactly, but if they
9 started at the end of July or into August, then the
10 application, the final applications for the Edmonds
11 17 was submitted for January of '16. So it would
12 have been either the month before, at a minimum.
13 Q. Month before they submitted any
14 applications?
15 A. No. Before they -- something as scheduled
16 as the planning commission meeting. I'm working in
17 my head backwards from the meeting it was scheduled
18 prior to potentially when they could have submitted
19 their applications, because I don't know the exact
20 dates. That is -- just as clarity there is a line
21 in time when you literally go through the process,
22 there are internal deadlines that need to be met and
23 state statutes that need to be met before the item
24 can be heard. So our processes are built backwards
25 from that meeting date for when somebody's able to

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1 submit there's an application closing deadline and
2 it's usually -- approximately a month back from the
3 actual meeting dates.
4 Is just another little detail on this,
5 were these weekly meetings started before an
6 application is submitted or after?
7 A. Before.
8 Q. Before. Okay. Do you recall -- do you
9 recall an application that was proposed by City staff
10 to add an asterisk to certain density limitations in
11 the general plan?
12 A. I do.
13 Q. In 2014?
14 A. I do.
15 Q. What was your involvement in that?
16 A. As the section manager, I was asked to
17 prepare the planning community development
18 designation within the general plan or planning plan,
19 to look at that as ability to be used as a tool which
20 would give the city council the discretion to grant
21 additional density for certain development that met
22 criteria. And in that process reviewed that with
23 the other section manager and the planning manager,
24 and a consensus came up with those as potential -- as
25 a potential zoning tool.

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1 Q. Well, who was the other section manager?
2 A. There was only one other, and that's
3 Robert Summerfield.
4 Q. Okay. And the planning manager that you
5 were referencing would be have been Mr. Rankin; is
6 that correct?
7 A. That is correct.
8 Q. So the three of you discussed adding this
9 asterisk to the density criteria?
10 A. It would be to one of the tables within
11 the land use element of the Las Vegas 2020 master
12 plan. That asterisk, as I said, would provide the
13 city council the discretion to grant additional
14 density if it met the criteria of that, but in
15 reviewing that as a tool, we, as in that group,
16 discussed its feasibility for use in the City as a
17 whole.
18 Q. How did it first come up, this tool, what
19 you're calling the tool?
20 A. In reviewing the -- in reviewing the
21 development and utilization of the planned community
22 development and planned development zoning district,
23 that was looked at having the most flexibility and
24 the most security as a tool for dynamic projects.
25 (Mr. Harrison entered the proceedings.)

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1 Q. You say in reviewing the development and
2 utilization of the planned community development,
3 What development are you talking about?
4 A. So in reviewing -- in light of the
5 Badlands project, brought focus to the potential need
6 for a tool that would help development in infill
7 projects. Now, as a City wide effect, because this
8 is not development specific, this is City specific.
9 I mean, it impacts the entire City.
10 Q. You say infill projects. What do you mean
11 by that?
12 A. Well, there is infill where you have --
13 such as undeveloped land or even developed land such
14 as Cashman center. You have a large property if it's
15 going to be redevelopment or infill development, then
16 you can use that interchangeably.
17 Q. So in other words, when you say infill
18 development, you mean property that is otherwise
19 surrounded by existing development; is that correct?
20 A. Infill it could have adjacent to it some
21 undevelopment there is different circumstances but
22 yes, that's one scenario.
23 Q. So in this particular case, this idea
24 about an asterisk to grant the City discretion to
25 increase the density beyond eight was developed in

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1 conjunction with the Badlands -- the plans for the
2 Badlands Golf Course correct?
3 MR. JIMMERSON: Object to the form of the
4 question. Misstates the witnesses testimony.
5 THE WITNESS: No.
6 Q. It's not correct because -- let me
7 rephrase. Is it your testimony this was developed
8 prior to the Badlands project being proposed?
9 A. No.
10 Q. Do you dispute that Mr. Ferrigo told you
11 come up with some tool to accommodate the Badlands
12 plans proposed?
13 MR. JIMMERSON: Objection. Misstates Mr.
14 Ferrigo's testimony. You can read his deposition.
15 THE WITNESS: Yes.
16 Q. He did tell that you didn't he.
17 A. That wasn't your question.
18 Q. Did he tell you that?
19 A. No.
20 Q. So he never suggested to you that you
21 needed to find a tool to accommodate the developer
22 here; is that right?
23 A. He did not tell me.
24 Q. Did you ever tell that to Mr. Rankin?
25 A. Not to my recollection.

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1 Q. So this tool that you're referencing
2 according to you is unrelated to the Badlands Golf
3 Course; is that right?
4 MR. BYRNES: Objection. Vague and
5 ambiguous based on unrelated. Go ahead and answer.
6 THE WITNESS: My mindset is it brought
7 light to a need for the City.
8 Q. What brought light to a need?
9 A. In reference to your question, the
10 Badlands development brought into focus the potential
11 need for a tool for development.
12 Q. How is it that the Badlands development
13 brought into focus the potential need for a tool for
14 development? How did it do that?
15 A. Well, based on the complexity of such a
16 project, the planned community development and the
17 associated planning -- the planned development zoning
18 district, that -- that zoning district allows for the
19 ability to create something that would be more
20 compatible and harmonious with the adjacent uses in
21 the sense that it has flexibility, it also has
22 assurances and in addition to that, its most usually
23 asked for a development agreement in addition to
24 that.
25 Q. You say the complexity of such a project,

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1 the planned community development and the associated
2 planning. What do you mean by planned community
3 development?
4 A. Can you repeat that?
5 Q. Sure. I'm just reading your answer, sir.
6 And what, based on the complexity of such a project,
7 the planned community development and the associated
8 planning. So what do you mean by planned community
9 development?
10 A. Planned community development, land use
11 designation with the associated planned development
12 zoning district is what I was referring to.
13 Q. What do you mean by planned community
14 development?
15 A. As a master plan land use designation
16 because to -- we have to have compatibility between
17 the general plan and the zoning district and on each,
18 the equivalent general plan designation associated
19 with the planned development zoning district is
20 planned community development land use within the
21 general plan.
22 Q. Planned community development is a planned
23 development, is that right?
24 MR. JENSEN: Object to the form of the
25 question.

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1 THE WITNESS: The planned community
2 development is found all throughout the northwest in
3 undeveloped land. It has been used for master plan
4 communities.
5 REPORTER'S NOTE check if he said
6 undeveloped or developed land.
7 THE WITNESS: It has -- in my recollection
8 of when it was adopted out there was for almost a
9 place holder because they didn't know how it was
10 going to develop.
11 BY MR. RICE:
12 Q. You said master planned communities. Tell
13 me what you consider to be a master planned
14 community.
15 A. Cliffs Edge, also known as Providence,
16 Lone Mountain.
17 Q. Any others?
18 A. Lone Mountain West.
19 MR. JENSEN: I'm sorry something west.
20 THE WITNESS: West to Sutterville, Lone
21 Mountain and Lone Mountain West are both special area
22 plans and master planned communities.
23 Q. Does the City maintain a map of what it
24 calls planned communities?
25 A. If it does it should be in the land use

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1 element.
2 Q. Okay Canyon Lake would be one, would it?
3 A. Potentially, yes.
4 Q. And about Desert Shores?
5 A. Potentially, yes.
6 Q. Los Padres?
7 A. Possibly.
8 Q. Painted Desert?
9 A. Possibly.
10 Q. Pecos's Ranch?
11 A. As a --
12 C. Planned communities.
13 A. As a planned community.
14 Q. Unlikely?
15 A. Possibly yes.
16 Q. When you say possibly are they in fact
17 designated as planned communities by the City the
18 ones I've just listed?
19 A. Well, the planned community R2 zoning
20 district is associated with Summerlin. The other
21 ones are other designations. They could be planned
22 RU, planned development. They could be a RPD,
23 residential planned development zoning district.
24 Q. Are they designated as master plan --
25 master development plan areas? Canyon Lake?

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1 A. It's possible.
2 Q. How about the lakes?
3 A. I don't know off the top of my head.
4 Q. Okay. How about South Shores, is that
5 designated as a master plan -- master development
6 plan area?
7 A. I'm not familiar with South Shores.
8 Q. How about America Ranch?
9 A. It's possible.
10 Q. Sun City?
11 A. Sun City is part of Summerlin.
12 Q. Well would it be fair to say you
13 researched all this as part of working on the
14 redevelopment for Redlands golf course?
15 MR. RICE: Objection vague and
16 ambiguous. What do you mean all of this?
17 BY MR. RICE:
18 Q. Did you research the planned community
19 designations in the City's code and the City's map?
20 A. Well, as far as the procedures in which to
21 address a special area plan, yes, as looked at the
22 land use element, which dictates which ones require
23 mayor modifications and the other ones that don't.
24 Other ones that don't would go through a general plan
25 amendment, similar to what has occurred in Pecos

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1 Ranch
2 Q. Have you ever heard such the term -- have
3 you ever heard of the term parent final map before?
4 A. Yes.
5 Q. What does that mean?
6 A. It is indicative of a final map that
7 denotes large developer parcels that would be
8 developed in the future.
9 Q. What do you mean --
10 A. With subsequent mapping actions.
11 Q. What do you mean it is indicative of a
12 final map? Is there a difference between a final map
13 and a parent final map?
14 A. No.
15 Q. So a parent final map is just a final map?
16 A. That is correct.
17 Q. What is the reference to the word parent
18 do you know?
19 A. It is as I stated it would show large
20 developer parcels which would then be subsequently
21 developed with future mapping actions. Other final
22 maps.
23 Q. Has there a final map recorded in the
24 Penelope Ranch phase two?
25 A. I don't have off the top of my head but I

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1 would know so.
2 MR. JIMMERSON: Objection now to strike
3 the answer calling for an assumption, speculation
4 Q. As part of your research did you locate
5 the final map regarding Penelope Ranch phase two?
6 A. I don't recall. I may have.
7 Q. Has the split parcel designated as a
8 particular parcel under a street that was in
9 designated as a particular parcel, do you recall?
10 A. It currently is. I can't speak to what
11 was on the map without reviewing it.
12 Q. Well let me show you. Have you ever heard
13 of something called FMS95?
14 A. Not that I recall.
15 Q. Is FM in reference to final map typically
16 on the City's designations for maps?
17 A. For application numbers it's usually
18 of two FM, FM2 dash, then a series of numbers, then
19 dash, for indicating the year of the FM2 dash and a
20 series of numbers in the next system.
21 Q. What does FM2 mean?
22 A. Final map.
23 Q. Is there a difference between FM and FM2?
24 A. It is just the categorizing that was used by
25 the City as far as application types.

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1 Q. All right.
2 A. And databases.
3 Q. I'll show you this one and see if we're
4 talking about the same thing and you can explain it
5 to me. Mark this as you please.
6 [Exhibit Number 300 was marked.]
7 BY MR. RICE:
8 Q. Showing you what's Exhibit number 1, do
9 you think you've seen this document before?
10 A. It's possible.
11 Q. Can you tell me what it looks like to you?
12 A. This looks to me to be the recorded final
13 map of Penelope west, an titled book 77, page 22.
14 Q. And do you know what Penelope west is?
15 A. It is a title.
16 Q. Have you ever seen that description
17 anywhere else before?
18 A. I've seen the reference of the Penelope
19 name in numerous places.
20 Q. Does this show what you understand to be
21 Penelope phase two?
22 MR. JIMMERSON: Obect to the question
23 He's not been able to demonstrate he has the ability
24 to know. He said doesn't know and his answer --
25 MR. RICE: That's an inappropriate

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1 speaking objection. Mr. Jimmerson
2 MR. JIMMERSON: Objection. Calling for
3 speculation in light of the answer that you and I
4 just listened to, struck.
5 MR. RICE: Then if you want to file your
6 objection it's fine for speculation, fine, but stop
7 trying to coach the witness.
8 MR. JIMMERSON: And I have stopped --
9 coaching the witness? I have never met the man
10 before. Stop this coaching the witness. That's an
11 unfair characterization and that's the second time
12 you have made that.
13 MR. RICE: That's right. And I'm going to
14 continue to do it every time you do it.
15 MR. JIMMERSON: It's false. Don't lie.
16 MR. RICE: Stop doing it.
17 MR. JIMMERSON: Don't misrepresent to this
18 record, Council.
19 MR. RICE: Then you stop making those
20 inappropriate statements.
21 MR. JIMMERSON: I don't object on the
22 grounds it calls for speculation.
23 MR. RICE: No, you did not. Hear the
24 Unsubscript. Nice try.
25 MR. JIMMERSON: I'm happy to do that

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1 MR. BICE: Nice try at leaving yourself.
2 MR. JIMMERSON: I didn't suggest any
3 answer in any comment that I made, Council.
4 MR. BICE: Yes, you did.
5 MR. JIMMERSON: What did I say that
6 suggested --
7 MR. BICE: Read the transcript. Let's see
8 if anyone what you just represented.
9 MR. JIMMERSON: You don't even answer a
10 simple question.
11 MR. BICE: Let's move on.
12 MR. BYRNES: Could you repeat your
13 question.
14 BY MR. BICE:
15 Q. I can. Does this map show what you
16 understand to be Le Feuvre phase two?
17 A. No.
18 Q. What does it represent relative to
19 Levee, do you know?
20 A. A portion thereof.
21 Q. A portion thereof. Do you know what
22 portion?
23 A. From the geographical boundaries shown on
24 here, it shows east of the Hualapai. A portion south
25 and a portion north of Area Drive, north of

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1 Charleston and to the west of Rumpert Boulevard.
2 Q. Do you know what that shows in Levee's
3 terms? Is that the exit channel?
4 A. It shows the geographical area and that
5 shows the number of lots to be recorded.
6 Q. Is one of those lot five?
7 A. There's 11 lots on here, so I believe five
8 would be one of them.
9 Q. All right. Do you know, is there a parcel
10 five?
11 A. Referenced to an island.
12 Q. Okay.
13 I think I'm missing the second page of this
14 but I'll see what I can do to find it. Mark that two
15 please.
16 EXHIBIT NUMBER TWO AND MARKED I TWO.
17 BY MR. BICE:
18 Q. I believe there's a second page of this
19 but we got it missing the second page, but for right
20 now have you seen this letter before?
21 A. Not that I recall. Not that possible.
22 Q. All right.
23 MR. JIMMERSON: Mr. Bice, before you go
24 forward today, could you explain to us what is the --
25 who is the author of the box of paragraph two.

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1 MR. BICE: I am. It's my intention to ask
2 the witnesses.
3 MR. JIMMERSON: Are you the one who drew
4 the box.
5 MR. BICE: No, not my team did.
6 MR. JIMMERSON: Not the police too.
7 MR. BICE: It was not in the original.
8 MR. JIMMERSON: Not there when it was
9 originally produced?
10 MR. BICE: That is absolutely correct.
11 BY MR. BICE:
12 Q. Looking at paragraph number 2 the one that
13 we have placed in a box, it says parcel five must be
14 shown on this final map as public drainage easement
15 with private maintenance as per the approved master
16 drainage plan. Do you see that?
17 A. Do you see that?
18 Q. Do you know whether that is in reference
19 to the golf course the Indianola Golf Course or not?
20 A. Well, if this is -- once again we don't
21 have the complete document.
22 Q. Right.
23 A. These are the conditions of approval by
24 the planning commission on the approval of a final
25 map. And that corresponding final map number shows

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1 itself, or does it?
2 MR. JIMMERSON: Mr. Bice, can you make a
3 representation as to who is the author of the letter
4 since we don't have page 2 in a letter however many it
5 is.
6 MR. BICE: I haven't right now.
7 MR. JIMMERSON: I don't. Unless can you
8 pointed it out to me, I don't see the final map
9 number recommended ever represented on Exhibit 1.
10 Q. So you don't know whether exhibited one is
11 the final map or not, is that correct?
12 A. Repeat the question.
13 Q. So you don't know whether Exhibit 1 is the
14 final map that is being referenced in exhibit
15 number 2; is that correct?
16 A. There's -- common practice is to have the
17 final map studies on the actual recorded final map,
18 show the bottom right hand corner. I don't ask
19 that, but on the assumption that it is.
20 MR. BYRNES: The question is do you know
21 if it is.
22 Q. I'll rephrase. Do you believe that it is?
23 MR. JIMMERSON: Move to strike the answer
24 as being irrelevant. Calling for assumption.
25 THE WITNESS: Yes, it is. Yes based on

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1 similar titles.
2 BY MR. RICE:
3 Q. All right. So would you agree that this
4 is the final map for what is known as the Pecc --
5 what is identified as the Peccole west subdivision?
6 MR. JIMMERSON: Object to form of the
7 question in light the prior answer. Calling for
8 speculation.
9 THE WITNESS: Exhibit 1.
10 BY MR. RICE:
11 Q. Yes?
12 A. Yes.
13 Q. How does one go about amending a
14 subdivision map, approved -- strike that. How does
15 one go about amending a final map of a subdivision.
16 A. Well, mapping is -- tends to be fairly
17 complicated and we usually rely on the City surveyor.
18 There are different processes to accomplish different
19 outcomes. So if you could be more specific, I might
20 be able to give you one of the mechanisms but
21 ultimately it's the City surveyor that makes the
22 determination on what is the best mapping action.
23 Q. Well, didn't you -- strike that. Maybe I
24 don't know this. I'll phrase it this way. Did you
25 previously work in mapping as part of your

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1 responsibilities?
2 A. There was something called a maps team.
3 Maps teams reviewed building permits. Some of them
4 reviewed civil improvement plans and some reviewed
5 final maps.
6 Q. Have you ever told anyone that adding
7 additional lots to a final map of a subdivision
8 requires a new tentative map process?
9 MR. JIMMERSON: Object to the question as
10 to lack of foundation, form. It's unfair to the
11 witness.
12 THE WITNESS: It's possible.
13 BY MR. RICE:
14 Q. Did you in fact tell the applicant here
15 that it required a new tentative map process?
16 A. It's possible.
17 Q. Did someone ask you to allow the developer
18 to subdivide the property without going through the
19 tentative map process?
20 MR. JIMMERSON: Object to the question
21 lack of foundation. Move to strike that.
22 MR. RICE: I'll rephrase.
23 Q. To further subdivide the property without
24 going through the tentative map process.
25 MR. JIMMERSON: Same objection. Lack of

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1 foundation, when and where and between whom.
2 THE WITNESS: I don't recall. As I said,
3 the mapping actions we usually defer to our City
4 surveyor.
5 Q. Well did you talk to anyone in the City
6 about the mapping process for subdividing the golf
7 course?
8 A. Not that I recall. But it's not out of
9 the realm of possibility.
10 Q. So to find out -- is it your position to
11 find out about mapping, the person that you would --
12 or that I would need to consult is the City surveyor?
13 A. Yes.
14 Q. Okay. But you have been involved in
15 mapping before, have you not?
16 A. Through my tenure at the City, yes.
17 Q. Okay. Have you -- are you aware of any
18 circumstance where the City has allowed further
19 subdividing of a subdivision without going through
20 the tentative map process?
21 MR. BYRNES: Objection. That's an
22 incomplete hypothetical.
23 MR. JIMMERSON: Join.
24 THE WITNESS: Quite possibly in the Sky
25 Canyon and one of their developer parcels.

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1 BY MR. RICE:
2 Q. When would the City have allowed that?
3 A. In maybe 2016. Other examples I would
4 have to do research to see.
5 Q. Did you ever discuss the applicant wanting
6 to subdivide the golf course property without going
7 through the tentative map process with anyone in the
8 City?
9 A. Not that I recall. I recall having
10 conversations about mapping in general, but as -- not
11 in light of your question.
12 Q. Who did you discuss mapping in general
13 with about this applicant?
14 A. Well, in regards to applications being
15 submitted, we wanted separate parcels for -- so we
16 didn't create any kind of split designated parcel.
17 Q. What do you mean you want separated
18 parcels?
19 A. A portion of a larger parcel so that as
20 not to create a split designated either zoning
21 district and/or land use designation.
22 Q. Okay. So you wanted the developer here to
23 subdivide the property further, correct?
24 A. As part of the submittal, we were looking
25 for that to be accomplished prior to notification,

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1 Yes.

2 Q. And so did the applicant then further

3 subdivide the property?

4 A. I think they had -- to my recollection it

5 was a subdivision prior to that and then subsequent

6 to that.

7 Q. So prior to your request, you say that

8 they had already subdivided it once?

9 A. Possibly. I would have to go and look at

10 all the mapping actions to be clear on what dates.

11 Q. Okay. I'm going to have you mark this

12 white piece of paper as an exhibit.

13 (Exhibit Number 1111 was marked.)

14 BY MR. BICE:

15 Q. I'm going to show you a blank piece of

16 paper as Exhibit Number 1.

17 A. I see it.

18 Q. All right. Would you slide that over to

19 me.

20 I want to understand your understanding of

21 what the City has done in the past. So if this is --

22 if this is the parcel. Let's say this is parcel

23 number 5. It's the golf course. I understand this

24 is rectangle. But let's assume that it is. If I

25 want to subdivide that into two lots, do I have to go

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1 through the tentative map process?

2 A. To my understanding, no, the tentative map

3 process would be used to establish an actual

4 subdivision of as a subdivision -- as a residential

5 subdivision.

6 Q. Okay. But if I'm coming to you -- if I

7 want to divide it into four lots, do I have to go

8 through the tentative map process?

9 A. To my understanding if there are still

10 builder parcels and they're not actual eminent

11 development, no.

12 Q. All right. Even though you know I'm going

13 to subdivide it further, is that right, for

14 residential development?

15 MR. JIMMERSON: Objection. Calls for

16 speculation.

17 THE WITNESS: That's calling for me to

18 assume that they're going to divide it into a

19 subdivision.

20 BY MR. BICE:

21 Q. In other words, someone comes to you and

22 you know they're going to subdivide it further and

23 further and further. But it's your position as long

24 as they just do four lots, they don't have to go

25 through the tentative map process; is that correct?

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1 A. 4 lots or less.

2 Q. 4 lots or less. Okay. So they can do

3 this and then they can do this, correct, because now

4 you've got a new lot over here and we can subdivide

5 that down into four more lots, is that right, without

6 going through the tentative map process?

7 A. Yes. And that has occurred in the

8 northwest area.

9 Q. And then they can do this.

10 A. There's -- just I see your drawing.

11 Q. Right.

12 A. At a certain point for improvements and

13 things like that, the Department of Public Works

14 would step in.

15 Q. Well, what do you mean at a certain point?

16 Who determines that certain point?

17 A. That's something that either -- public

18 works would be able to answer.

19 Q. Well, what's public work's involvement in

20 mapping?

21 A. They include the City surveyor under its

22 umbrella.

23 Q. Okay. So at what -- do you know what

24 point it is where you're not going to allow them to

25 just subdivide it under a parcel map amendment?

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1 A. Well, from my own opinion, would be where

2 it shows that it's imminently turning into a

3 residential subdivision. It's not a parcel -- it's

4 actual development versus laying for future

5 development.

6 Q. Well how many parcels does that require?

7 A. I imagine it's a matter of scale.

8 Q. Well where would I find the scale in the

9 City code so that I would know when I need to go

10 through the tentative map process as opposed to using

11 parcel maps to simply break it up?

12 A. I'm not aware if there is a scale in the

13 code. It would probably go to the point where the

14 City has the ability to interpret its code.

15 Q. Are you aware that at Peccole Ranch, that

16 the City required the Peccoles to go through the

17 tentative map process to just create two parcels?

18 MR. JIMMERSON: Objection. Assumes facts

19 not in evidence.

20 THE WITNESS: I'm not aware. It's

21 possible.

22 BY MR. BICE:

23 Q. Well, have you investigated that?

24 A. I don't believe I investigated ever

25 mapping action in the Peccole master plan.

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1 Q. Well, did you investigate any mapping
2 actions at all concerning the Peccole Master Plan?
3 A. I would assume at some point I have looked
4 at the entitlements that lead themselves to mapping.
5 Q. Have you specifically looked at any
6 mapping action concerning the Peccole Master Plan?
7 A. Yes, I just looked at Exhibit 1.
8 Q. Okay. Any others, prior to the deposition
9 have you looked at any mapping actions?
10 A. It is quite possible that I have.
11 Q. But you don't recall any of them?
12 A. There are at least one, two, three, four,
13 five potential subdivisions or less, more or less, in
14 there.
15 Q. Did you investigate any of those?
16 A. I may have looked at the recorded final
17 maps, yes.
18 Q. Did you -- did you look into the mapping
19 action -- or did you look into any of the mapping
20 actions in response to this lawsuit?
21 A. No.
22 Q. Did you ever tell anyone in the City that
23 you're not allowed to amend an existing subdivision
24 map by way of a parcel map?
25 A. I don't recall.

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1 Q. Is that your -- is that how -- is it your
2 understanding that you can't amend an existing
3 parcel -- an existing subdivision map by way of a
4 parcel map?
5 A. So if you have a subdivision of a hundred
6 lots and you want to add two more lots to it.
7 Q. Yes?
8 A. The approved tentative map for -- and
9 we're talking lots for development of another
10 residential home on it, so that's what a sub --
11 residential subdivision is for individual homes, then
12 that approval that you received on the tentative map
13 was less intense. The intensification requires the
14 new tentative map.
15 Q. If you're going to increase the intensity
16 of an existing subdivision, you have to file for a
17 new tentative map, correct?
18 A. Correct.
19 Q. Even if you're just going to create two
20 lots?
21 A. Correct.
22 Q. And, in fact, the City has uniformly
23 applied that to everyone, has it not, to your
24 knowledge?
25 A. To my knowledge, yes.

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1 Q. Bear with me one second and it was your
2 understanding is it not that since day one, the
3 intent of the developer here was to create a
4 residential planned development?
5 A. Was to create a -- redevelop the site to
6 have multifamily and single family development.
7 Q. Do you know what a residential planned
8 development is?
9 A. In reference to the legacy zoning
10 district, R-PD.
11 Q. Sure?
12 A. That is what -- to my recollection what a
13 residential planning development is?
14 Q. So this property was already a residential
15 planned development, correct?
16 A. It is zoned residential plan development,
17 seven dwelling units per acre. 7 is indicative of
18 the density.
19 Q. Can you mark this provision of the City
20 code please.
21 (Exhibit Number Num was marked.)
22 MR. JIMMERSON: Counsel may I have copies
23 of your white piece of paper and have it marked
24 please.
25 Did you mark it as an exhibit?

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1 MR. RICE: It is marked as Exhibit
2 Number 3.
3 MR. JIMMERSON: So this will be four.
4 MR. RICE: This will be four.
5 (Exhibit Number Num was marked.)
6 BY MR. RICE:
7 Q. Showing you what's been marked as Exhibit
8 Number 4, have you seen this provision of the City
9 code before?
10 MR. BYRNES: Can you identify which
11 version of the code this is?
12 MR. RICE: I think this is from 2011.
13 Q. Do you know whether it still exists in the
14 City code, this requirement.
15 A. One moment. You want me to review what's
16 in the box.
17 Q. In the box, yes. Your copy is in red.
18 That's my highlighting to bring it to your attention.
19 MR. JIMMERSON: Counsel, what is your
20 citation to this code? What is this code section?
21 MR. RICE: 19.06.
22 MR. JIMMERSON: Point what?
23 MR. RICE: .040, sub H, I believe.
24 MR. JIMMERSON: That's what I understand
25 because it's not apparent on the document, at least

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1 in my review of it. I see the H but I don't see the
2 940.

3 MR. BYRNES: For the record has your
4 office added the box to this page?

5 MR. RICE: Yes? For my apologies. I
6 thought I made that clear. He added the box to
7 bring -- to focus the witness' attention.

8 Thank you.

9 THE WITNESS: I have reviewed the box.

10 BY MR. RICE:

11 Q. Yes. Are you familiar with that
12 provision?

13 A. After reading it -- after reading it,
14 yeah, it hasn't been utilized since the adoption of
15 the Urban Development Code and prior to that we
16 were a newspaper, so there really wasn't much
17 development -- it's been quite some time.

18 Q. Okay, but this code provision says that a
19 residential planned development shall follow the
20 standard subdivision procedure, correct?

21 A. Yes, that's what it reads.

22 Q. And from day one you knew that this
23 developer was planning to create a residential
24 subdivision, correct?

25 A. They were planning on doing a multifamily

4)

1 and single family development multifamily does not
2 necessarily include a mapping action.

3 Q. Did the -- does the single family
4 residential include a mapping action?

5 A. It would.

6 Q. Including a requirement that they submit a
7 tentative map, correct?

8 MR. JAMESON: Objection. Objection the
9 witness' testimony.

10 THE WITNESS: It says follow standard
11 subdividing procedures.

12 Q. Let's then walk through what you
13 understand the standard subdivision procedure to be.

14 MR. BYRNES: Are you saying now or in
15 2011?

16 MR. RICE: I'll actually ask him now and
17 ask him if it's changed.

18 BY MR. RICE:

19 Q. What is it now?

20 A. Depending on the type of development, so
21 do you have a specific type of development you would
22 like me to speak to.

23 Q. Sure let's talk about the plans for the
24 Hacienda Golf Course that you know that they were
25 planning since July of '16. At least you personally

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1 660. Correct?

2 A. That's when the initial conversation that
3 development was being looked at on those. But as far
4 as the full plans, I can't tell you exactly which
5 date that was.

6 Q. All right. So what sort of mapping action
7 would be required if I came to you telling you that
8 I'm going to put more than 50 residential units on
9 the golf course? What's the mapping action that you
10 would require of me?

11 MR. BYRNES: Can you answer that
12 hypothetical? I object as to multiple hypotheticals.
13 Are you saying single family? Multifamily? Break it
14 down.

15 Q. Let's do single family residential. I'm
16 going to put more than 50 units on this piece of
17 property. What's the mapping action that you
18 require, that the City requires?

19 A. Besides all the other lands use
20 entitlements, specifically to the mapping action you
21 would do a tentative map and then a final map.

22 Q. You would have to submit a tentative map.
23 And tell me how does the 10 map process work?

24 A. You would start with a preapplication
25 conference. You would then receive a preapplication

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1 check list verifying a 10 map check list from the
2 Department of Public Works. If both of those were
3 signed off and agreed it could move forward for
4 submittal, then it would submit then it would be
5 scheduled for the planning commission hearing and it
6 would then be heard on the consent agenda.

7 Q. On the planned commission agenda it gets
8 noticed to the public, correct?

9 A. As a consent item, it does not.

10 Q. It does not. So you're saying --

11 A. If anything the agenda is published and
12 the public has the ability to view the agenda.

13 Q. So in other words, it's a public hearing
14 agenda?

15 A. I would have to defer to the city attorney
16 as far as the open meeting law and what a public
17 hearing constitutes in regards to the consent agenda
18 versus the regular public hearing portion of the
19 agenda.

20 Q. Can you subdivide -- can you subdivide
21 property for purposes of creating a residential plan
22 development by way of administrative action without
23 the tentative map?

24 A. I don't believe so.

25 Q. Has the City ever allowed anyone to

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1 subdivided property of an existing subdivision to
2 create greater density without going through the
3 tentative map process?
4 MR. JENSEN: Object to the question.
5 assumes facts not in evidence incomplete
6 hypothetical.
7 MR. BYRNES: Join in that.
8 THE WITNESS: Going back to your previous
9 time you asked that in asking for examples, I would
10 say yes, because if it was a developer parcel not
11 pertinent to a resident of subdivision, there has been
12 places where they have allowed additional
13 subdivisions into way making development parcels
14 which would then have future residential subdivisions
15 to create the actual lots for building and
16 subdividing homes on.
17 Q. And the one you can think of was Sky
18 Canyon, right?
19 A. At this point in time, I'm sure there's
20 other examples.
21 Q. Well, tell me what they are, if you say
22 you're sure of it.
23 A. Well, I don't recall the entire mapping
24 history of the City of Las Vegas.
25 Q. I don't think I was asking you for the

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1 entire mapping history. I think I was asking you
2 since you said you're sure of something, tell me what
3 you're talking about?
4 A. I apologize.
5 MR. JENSEN: Object to the question as
6 argumentative.
7 THE WITNESS: It is quite possible that it
8 happens in the downtown village. It is quite
9 possible that it has happened in Chinatown. It is
10 quite possible that large parcels have been
11 subdivided in the north west, 5-acre parcels that
12 are chopped into two and a half acres and then are
13 chopped into basically half acres.
14 BY MR. BYRNES:
15 Q. But you don't know, you're saying it's
16 possible.
17 A. The way I'm sure that I'd only I would
18 have to go and research it to give you exact
19 examples.
20 Q. So you would be able to research these and
21 find these for us or someone could, right?
22 A. Yes.
23 MR. BYRNES: For the record, I don't know
24 of any provision of rule 30 that allows the
25 assignment of homework.

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1 MR. BYRNES: I'm not saying it does not
2 rule 30 does. I have no intention of assigning him
3 that as part of the deposition. Will
4 BY MR. BYRNES:
5 Q. All right. Why don't we -- it's 12:10.
6 Why don't we take our quick lunch break and we'll see
7 you back here whenever you can come back, still a
8 little after noon?
9 MR. JENSEN: That's okay.
10 THE VIDEOGRAPHER: Going off the video
11 record. The time is 12:04 p.m.
12
13 THE VIDEOGRAPHER: This is the beginning
14 of video recording number 4 in the continuing
15 deposition -- sorry, I forgot your name.
16 Q. Mr. Greenstein you understand you're still
17 under oath correct?
18 A. I do.
19 Q. All right. Let's go back to your proposed
20 general plan amendment that the staff had proposed
21 concerning the Saravika that we talked about. Do
22 you recall that?
23 A. I do.
24 Q. Do you recall when that item was put on
25 the planning commission agenda?

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1 A. I believe it was the September planning
2 commission in 2016.
3 Q. Did you have any meetings with Mr.
4 Saravika -- strike that.
5 Did you have any meetings internally in the
6 planning department concerning that substantial for the
7 planning commission meeting?
8 A. The substantial one or City initiated?
9 Q. The City initiated substantial.
10 A. There was a conversation with Robert
11 Summerville and Doug Ransin regarding the creation of
12 the tool itself and then from there on those
13 recommendations were given to the Director and then
14 he said "we're moving forward, we placed it on the
15 agenda and prepared the public notification, the
16 neighborhood meeting in compliance with the meeting
17 law.
18 Q. What neighborhood meeting was held?
19 A. There was one neighborhood meeting. It
20 was advertised and held at the development service
21 center, I believe.
22 Q. Did anybody show up at it?
23 A. I don't recall the attendance.
24 Q. I'm sorry, were you in attendance?
25 A. I don't recall the attendance. I don't

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1 know if I was in attendance either.
 2 Q. When did the notice go out for that
 3 neighborhood meeting do you know?
 4 A. It would have to have been probably 10
 5 days or greater from the date of the meeting.
 6 Q. And you're sure that it went out before
 7 the meeting date was set?
 8 A. I would have to double-check but I'm
 9 pretty sure, yes.
 10 Q. Did you give any notice to the impacted
 11 homeowners in the area where you knew this tool was
 12 being made available for?
 13 A. No, not the intent of the open meeting law
 14 and that discretion was up to the director.
 15 Q. But did you internally discuss whether or
 16 not you should give notice to homeowners that you
 17 knew were going to be impacted?
 18 A. I gave a statement to the director as far
 19 as we met the open meeting law and any other hearings
 20 would be at his discretion.
 21 Q. Did you and Mr. Rankin strike that did you
 22 discuss with anyone whether or not additional people
 23 should be notified?
 24 A. I don't recall.
 25 Q. Do you dispute that you did?

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1 A. If I don't recall now can I dispute it?
 2 Q. Okay. Do you recall whether you discussed
 3 that specific fact with Mr. Rankin?
 4 A. I'm not sure. I don't recall.
 5 Q. Well, did you and Mr. Jennings have any
 6 discussions -- were you at the planning commission
 7 meeting when this item was heard?
 8 A. I believe I was.
 9 Q. And you have any discussions with Mr.
 10 Rankin in advance of the planning commission meeting
 11 about making sure that the matter wasn't held in
 12 abeyance?
 13 A. That's not in my purview.
 14 Q. That's --
 15 A. That's not on my scope. I don't have any
 16 conversation like that.
 17 Q. The way?
 18 A. I did not have any conversation like that.
 19 Q. Did you overhear any conversations like
 20 that?
 21 A. No.
 22 Q. Did you ever discuss that fact with the
 23 deputy director?
 24 MR. JENSEN: Objection. Assumes facts
 25 not in evidence.

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1 THE COURT: Yes.
 2 MR. JENSEN: The question is ruled
 3 because it claims it to be a fact when there is no
 4 facts to demonstrate yet.
 5 Q. Did you discuss the issue of abeyance with
 6 Mr. Rankin?
 7 A. No. Not that I did.
 8 Q. What happened to that agenda item?
 9 A. That agenda item if I recall the meeting
 10 was held in abeyance.
 11 Q. Has there any controversy about holding it
 12 in abeyance?
 13 A. There was public input on it and regarding
 14 that public public input the item was held in
 15 abeyance.
 16 Q. Did you provide any input to the planning
 17 commission concerning that item?
 18 A. The only time I would have had the ability
 19 to do so would be at the PC -- the planning
 20 commission chair briefing which is usually attended
 21 by the director and planning manager.
 22 Q. Were you in attendance at that?
 23 A. I'm not sure. I would have to check the
 24 calendar and make sure that I was there or not, but I
 25 don't recall off the top of my head.

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1 Q. Well, was the chairman of the planning
 2 commission informed that this tool was being -- that
 3 this tool was being put on the agenda now because of
 4 the forthcoming plans on the Badlands Golf Course?
 5 A. Well, I don't recall if I was at the
 6 meeting first. If I was at the meeting, I don't
 7 recall that conversation.
 8 Q. Is that something that would customarily
 9 be disclosed to the chairman of the planning
 10 commission?
 11 A. The item would be discussed as far as its
 12 impact on the city.
 13 Q. Would the chairman -- would the input on
 14 specific neighborhoods be discussed or discussed to
 15 the planning commission?
 16 MR. BYRNES: Are you asking a hypothetical
 17 as to a conversation?
 18 MR. BYRNES: I'm asking him generally.
 19 practice.
 20 MR. BYRNES: Just any planning commission
 21 MR. BYRNES: The chairman's meeting.
 22 MR. BYRNES: But as to any planning
 23 commission, that.
 24 BY MR. BYRNES:
 25 Q. As to a planning commission item, is it

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1 was going to impact a specific neighborhood, would
2 you discuss that with the planning commission
3 chairman?
4 A. MR. JIMMERSON: Objection to form
5 incoherent hypothetical.
6 MR. JIMMERSON: In regards to planning
7 commission items they are discussed. As far as site
8 specific and then you have the secondary impacts of
9 the application.
10 BY MR. BICE:
11 Q. Well did you disclose or would you
12 disclose to the chairman or any other planning
13 commissioners that an application had been already
14 filed in anticipation of this -- of this change to
15 the general plan?
16 MR. JIMMERSON: Objection. Relevance facts
17 not in evidence.
18 MR. BICE: Also incoherent hypothetical.
19 THE COURT: I don't recall.
20 Q. Well, did you not know that the applicant
21 had already filed an application on August 26th to
22 try and take advantage of this anticipated change?
23 A. Yes.
24 Q. Did you disclose that to any of the
25 planning commissioners?

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1 A. It is possible, yes.
2 Q. Well, I didn't ask -- let's break it down.
3 Did you actually do so or are you saying maybe you
4 did?
5 A. I don't recall if you're asking Mr.
6 Townsend personally.
7 Q. Yes, yes?
8 A. I personally don't recall.
9 Q. Did you disclose it to anyone in the city
10 council?
11 A. I personally don't recall.
12 Q. Was that application filed before you held
13 was you characterize as the neighborhood meeting?
14 A. I would have to know the dates to be able
15 to answer that question.
16 Q. Well if the neighborhood meeting was going
17 to be held after the application could be filed,
18 wouldn't you want to alert the specific neighborhood
19 where the application was pending?
20 A. Would it?
21 Q. Yes.
22 A. As a matter of preference to what you're
23 asking?
24 Q. Yes.
25 A. I was following the standard policies of

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1 star department. And to initiate additional
2 certification or something that would have to be the
3 call of the director.
4 Q. But did you make any recommendations for
5 the director about issuing additional notifications?
6 A. As I previously stated I made a statement
7 to him saying that any other notifications would be
8 at his discretion.
9 Q. Did you make a recommendation to him as to
10 whether he should exercise his discretion in any
11 particular fashion?
12 A. Not that I recall.
13 Q. Did anyone else, to your knowledge?
14 A. Not that I recall.
15 Q. When the item was held in abeyance did you
16 get a phone call from anyone?
17 A. No.
18 MR. BURNES: Regarding the item.
19 BY MR. BICE:
20 Q. Regarding that item you
21 MR. BURNES: I'm sure he's reviewed phone
22 calls.
23 MR. BICE: I'm sure he has too.
24 Q. Did you talk to anyone about the item
25 being held in abeyance?

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1 A. Not that I recall, no.
2 Q. Did you ever subsequently talk to Mr.
3 Peridge about the item?
4 A. As he is the director of the department I'm
5 sure I spoke to him.
6 Q. Okay what about?
7 A. About the -- what he wanted to do with the
8 item?
9 Q. And what was done with it?
10 A. I think ultimately his recommendation was
11 to table it for further consideration.
12 Q. And was that done?
13 A. I believe the planning commission accepted
14 that recommendation and approved the tabling of the
15 item.
16 Q. Have you taken any further action on the
17 item?
18 A. To my knowledge, no.
19 Q. Did you -- were you involved in the
20 preparation of the staff report for that item?
21 A. The senior planner, Derek Marshall, also
22 known as Mr. Marshall, prepared that staff report.
23 Q. I understand. But were you also involved
24 in its preparation?
25 A. Not to my recollection, no.

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1 Q. You didn't provide any input into it.
2 A. He was given discretion as for as what the
3 zoning tool was supposed to be. That discretion was
4 given to him both by Robert Farmerfield, myself and
5 the planning manager he got his input from.
6 Q. Did you review the report?
7 A. The planning supervisor reviewed the
8 report and I may have reviewed the report as well.
9 Q. Did you make any changes to the report?
10 A. I don't recall.
11 Q. Do you know whether or not the report was
12 prepared after the application was filed, the
13 application from Mr. Lovel's company to take
14 advantage of the change, assuming it passed?
15 MR. JENSEN: Objection to the form of
16 the question. Assumes facts not in evidence, and
17 goes to take advantage of the change, and quote.
18 THE WITNESS: I'm not aware of which date
19 the report was completed. I would have to look in
20 the record to see the best date it was modified which
21 even when the agenda modifications tend to happen after
22 certain dates getting it ready for agenda. So it's
23 hard to say. I don't have an exact answer or
24 knowledge of what that date would be.
25 ///

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1 BY MR. JENSEN:
2 Q. Well, tell me -- you had indicated that
3 it's within the planning director's discretion as to
4 whether to call for more notice than the statutory
5 minimum. Tell me, in your experience, how is that
6 discretion exercised or when is it exercised?
7 A. Currently our notification notices exceed
8 the state statutory requirements. So in all these our
9 notification notices exceed state requirements. Items of
10 larger significance might request to have meetings by
11 the planning commission to have additional
12 neighborhood meetings or even at -- if it's reached
13 city council level, they can request additional
14 neighborhood meetings.
15 Q. My question though was in your experience
16 what guides the planning director's discretion as to
17 whether to have additional notice beyond the minimum
18 required?
19 A. I don't begin to think what the director
20 would be thinking.
21 Q. Have you not been involved in
22 discussions about additional notice was given?
23 A. I'm sure there might be an example of
24 that, but then again I still don't know what the
25 director was thinking when making that call.

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1 Q. So you and the director have never
2 discussed when additional notice should be given, is
3 that correct?
4 A. In my knowledge, I don't recall.
5 Q. Did you and Mr. Sumnerville discuss the
6 impact that this change would have on Greenbridge
7 community?
8 MR. JENSEN: Object to the form of the
9 question vague and/or ambiguous.
10 THE WITNESS: No. The scope of the
11 conversation that we had with Mr. Rankin in the room
12 as the planning manager was in regards to the city
13 wide
14 by MR. JENSEN:
15 Q. So you never discussed with
16 Mr. Sumnerville or with Mr. Rankin the impact of this
17 change on the Greenbridge community, is that
18 correct?
19 A. Not that I recall.
20 Q. Now -- was it you that came up with this
21 idea?
22 A. I don't --
23 MR. JENSEN: Could you clarify what idea?
24 BY MR. JENSEN:
25 Q. Now -- the idea for the change, the

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1 definition is what we're talking to
2 A. Not that I recall. My recollection is
3 being directed to look at the 120 by the director and
4 having that discussion with the group, and out of
5 that group coming the option for the city council to
6 have the discretion to grant additional density for
7 developments that met certain criteria.
8 Q. And how had you determine what that
9 criteria would be?
10 A. Once again, I don't recall the specifics.
11 It was coming out of that meeting.
12 Q. Well, you said that you were directed to
13 look at the 120 by the director. What do you mean by
14 that?
15 A. The planning community development and the
16 associated plan development. Nothing specific, as I
17 previously stated, something that allows for
18 flexibility for complex projects, as well as a level
19 of variance with it, usually associated development
20 agreement, as a potential tool for large
21 redevelopment projects.
22 Q. And so the -- when did the director tell
23 you to look at that?
24 A. I don't recall a specific date.
25 Q. Well, when you were directed to look at

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1 Q. Were you aware of the current applicant's plans
2 to submit an application?
3 A. Yes.
4 Q. And were you aware of the current
5 applicant's plans to submit an application to take
6 advantage of that change ensuring that it passed?
7 MR. JIMMERSON: Object as to point of the
8 question assumes facts not in evidence and that such
9 an intent was possessed by the applicant.
10 THE WITNESS: I was aware if the they
11 counsel seemed it a tool that they wanted to utilize,
12 then the applicant would be requesting to ask the
13 council for discretion to get if they would be able
14 to use that.
15 Q. And you know that at the time that you
16 were directed to prepare -- well make that -- you
17 knew that at the time that the agenda was being
18 prepared, correct?
19 MR. BYRNES: Agenda for what.
20 MR. RICE: I'm sorry.
21 MR. BYRNES: What agenda?
22 MR. RICE: The agenda for the amendment to
23 add the asterisk.
24 THE WITNESS: Could you restate the
25 question.

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1 Q. Sure. You've already testified let me go
2 back and make sure I read it correctly you already
3 testified that you knew the applicant was going to
4 submit an application if it passed, correct?
5 A. That's correct.
6 Q. And know that the applicant had already
7 submitted the application even before it was -- wait
8 before the planning commission, correct?
9 A. I don't know the exact date but if you're
10 referring to when he had the meeting with the
11 planning manager and Robert Summersfeld, if one was
12 before the other or after the other, I don't recall.
13 Q. So at the time that the agenda for that
14 item was prepared to be before the planning
15 commission, you know that the applicant had already
16 submitted an application, correct?
17 A. Can you restate that, please?
18 Q. At the time that the agenda for that item
19 was prepared to go before the planning commission,
20 you knew that the applicant had already submitted
21 their application to the City, correct?
22 MR. JIMMERSON: I'm just going to object.
23 I don't know that this witness has testified that
24 that Mr. Rice -- I'm concerned by your question.
25 MR. BYRNES: Also object it's asked and

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1 EXAMINED.
2 THE WITNESS: The agenda prepared, I'm not
3 specifying over what you're referring to. When it
4 was post, meaning when it was completed and posted to
5 the public or prior to it when it was being -- from
6 the date of application closing.
7 Q. Was when? October what?
8 A. The date for the October planning
9 commission?
10 Q. Yes?
11 A. What is the closing date for that?
12 Q. Yes.
13 A. It would -- I don't have the specific date
14 but it would be about a month before.
15 Q. When was the application submitted do you
16 know was it August 26th?
17 MR. JIMMERSON: That's the date you're
18 suggesting Mr. Rice?
19 MR. RICE: I'm asking him if it was that
20 day.
21 THE WITNESS: I don't recall. I would
22 have to refer to our internal database system to get
23 you a specific date.
24 MR. RICE: Make that please.
25 EXHIBIT NUMBER TWO WAS MARKED I

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1 BY MR. RICE:
2 Q. Showing you what's been marked as Exhibit
3 Number 5, have you seen this before?
4 A. I don't recall it's a possibility yes.
5 Q. Can you tell me what it is?
6 A. These are potential materials.
7 Q. Submittals for what?
8 A. These are a statement of financial
9 interests, which is a standard form in the City of
10 Las Vegas. There is an application petition form,
11 which is another standard form to be filled out for
12 an application submitted.
13 Q. An application for what?
14 A. Land use entitlement. The next part of
15 this is a grant bargain sale deed with associated
16 legal description to it, declaration of value,
17 justification letter dated August 26th, and a
18 neighborhood meeting notice, then a City prepared
19 notice map. Okay. And in the justification letter
20 say that is being sought? It reads Page Seven,
21 Council is requesting approval of a general plan
22 amendment for the 250.92 acres represented by APNs,
23 Also known as Henderson parcel numbers,
24 118-21-002002, 118-21-001002, 118-22-002001 and APN
25 118-22-001001. The amendment request for these APNs

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1 changed in their designation from public recreational
2 open space (P2-080), general back to planned community
3 development, (P2-09), a subsequent rezoning and site
4 development review will be submitted and be heard
5 this GRP period. Thank you for your consideration.
6 Q. What was -- and what was your
7 understanding of the change to the planned community
8 development that was being sought?
9 A. It is a change of the general plan land
10 use designation on the subject sites from P2-09 to
11 planned community development.
12 Q. But that the agenda item with the
13 notes that to change the general plan had been
14 approved, this application would have sought to take
15 advantage of that, that was your understanding
16 correct?
17 A. Correct.
18 MR. JIMMERSON: Objection. Assumes facts
19 not in evidence.
20 MR. BYRNE: Also calls for speculation.
21 THE WITNESS: But yes they would -- at
22 the time this application would be heard, if it was
23 approved, they would have the ability to request for
24 subsequent applications, moving through a site
25 development review, additional density at the

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1 dissolution of the City council council.
2 Q. And this addition of dissolution that was
3 going to be given to the City council was done in
4 anticipation of the application, wasn't it? Are you
5 denying that?
6 MR. JIMMERSON: Objection. Compound.
7 THE WITNESS: As I previously stated, this
8 development was basically put a focus on the need for
9 such a tool.
10 Q. Okay. So the tool was going to be
11 created.
12 A. Correct, yes.
13 Q. And it would be applied in this
14 circumstance and potentially others down the road,
15 correct?
16 A. It could be.
17 Q. It could be but the only circumstance that
18 was presently that you were aware of where it would
19 be applied to was Exhibit Number 57.
20 MR. JIMMERSON: Objection. Assumes facts
21 not in evidence.
22 MR. BYRNE: Correct.
23 MR. JIMMERSON: Objection. Assumes facts
24 not in evidence.
25 THE WITNESS: Potentially, yes.

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1 BY MR. BYRNE:
2 Q. Did you ever meet with Mr. Borel about
3 Exhibit Number 57?
4 A. With recurring meetings, it is a
5 possibility, but I don't recall.
6 Q. Did he suggest ever attending any of these
7 pre-application meetings that you've described?
8 A. I'm not sure who that afternoon term at
9 those early on our meetings. He's been in meetings
10 about the development agreement and other things, at
11 those regularly constituted planning meetings.
12 Q. To you recall now -- you said you were
13 at this planning commission meeting, correct, for the
14 agenda, right?
15 A. To my recollection I was in attendance.
16 Q. Do you recall any of the planning
17 commission asking out loud who was the real
18 applicant behind that amendment?
19 A. I don't recall.
20 Q. Did any -- did anyone, any of the planning
21 commission want to know whether there was a
22 particular applicant that wanted this amendment?
23 MR. JIMMERSON: Objection. Assumes facts
24 not in evidence. The amendment according to the
25 witness was sponsored by the City.

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1 THE WITNESS: I don't recall but it is
2 recorded so one can review that tape and assess.
3 BY MR. BYRNE:
4 Q. Did you volunteer that information to any
5 of the planning commissioners?
6 A. I did not present the item.
7 Q. Those responsibility would it have been to
8 answer that question if it was asked?
9 A. That would be Mr. Doug Back's because I
10 believe he presented the item.
11 Q. So you don't recall whether you ultimately
12 answered that question when it was repeated or not,
13 is that fair?
14 MR. BYRNE: Objection. Asked and
15 answered.
16 THE WITNESS: I don't recall it that was
17 the specific question asked of me.
18 BY MR. BYRNE:
19 Q. What was the question that you believe you
20 answered then?
21 MR. JIMMERSON: Objection. Exceeds.
22 Objection. There has been no foundation in the
23 circumstances that even such a question was asked Mr.
24 Byrnes. I object on that basis.
25 THE WITNESS: I don't recall the

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15001

1 specific. I would have to rewatch the video to see
2 where the -- if there was any question and where it
3 came from.
4 Q. Do you recall speaking at all on this
5 agenda item?
6 A. I may have.
7 Q. May would you speak on it?
8 A. If Mr. Rankin did not have information and
9 was looking for something, I would assist him.
10 Q. Well did Mr. Rankin know about the plans
11 for the Badlands Golf Course at this point in time?
12 A. Yes.
13 Q. So to your knowledge no further action had
14 been taken relative to that amendment
15 correct?
16 MR. BARNES: Objection. Asked and
17 answered.
18 BY MR. BICE:
19 Q. In that context?
20 A. I don't -- on my recollection, I don't
21 believe so.
22 Q. And Exhibit Number 8 was the application
23 was withdrawn, correct?
24 A. This application, if I recall, was
25 withdrawn before it was publicly noticed.

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1 Q. It was withdrawn after the planning
2 commission tabled the amendment, correct?
3 A. I don't know the exact dates.
4 Q. I understand you don't know the exact
5 dates but it was sometime after September the eighth,
6 correct?
7 A. Well the item --
8 MR. JIMMERSON: Object to form the
9 question. 2 years, year and a half later.
10 MR. BARNES: If you recall the September
11 planning commission meeting was the meeting in which
12 it was held in any case.
13 BY MR. BICE:
14 Q. Right.
15 A. And then it was not tabled until the
16 subsequent planning commission meeting which would
17 have been in October.
18 Q. Okay. So it was held in any case, and
19 after it was held in any case by the planning
20 commission the application in Exhibit Number 8 was
21 withdrawn, correct?
22 A. I would have to research the note of the
23 request for withdrawal.
24 Q. Well do you believe it was withdrawn prior
25 to the planning commission meeting on September the

122

1 eighth, give?
2 A. I don't recall. I don't think so.
3 Q. So you believe that it was withdrawn
4 sometime after the September 8th planning
5 commission meeting, correct?
6 A. It is possible.
7 Q. Is it likely?
8 MR. JIMMERSON: Objection calls for
9 speculation in light of the last three answers.
10 THE WITNESS: What's the difference?
11 BY MR. BICE:
12 Q. You know that's a fair question but
13 you're the one using this language so I guess I need
14 to really drill down. So you say it's possible. I
15 think we both know that it was so I don't know why
16 you're trying to qualify the answer but I'm going to
17 press you to give me an actual answer?
18 MR. BARNES: Do you have a document?
19 MR. JIMMERSON: Objection. Have to strike
20 the question as being argumentative and
21 editorializing the question is improper.
22 MR. BARNES: Do you have a document that
23 establishes the date you can show the witness?
24 MR. BICE: I do, still, but I think this
25 witness knows it and I don't think I need to waste my

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1 time pulling out documents on things that he
2 absolutely knows the answer to. So if he wants to
3 play this game, I'll just keep it up all day long.
4 MR. JIMMERSON: Object on. The only game
5 being played is I'm guessing what the witness knows and
6 doesn't know.
7 Q. Do you want to tell me that you know it
8 was withdrawn sometime after the planning commission
9 meeting on September the 8th, Mr. Lowenstein?
10 A. Sure.
11 Q. What's that?
12 A. I will but I don't know the exact date.
13 Q. I told you I didn't care whether you knew
14 the exact date. I asked you whether it was withdrawn
15 after that meeting?
16 MR. JIMMERSON: Object to the question.
17 BY MR. BICE:
18 Q. And you know that it was.
19 A. Well, I'm assuming it was.
20 MR. JIMMERSON: Excuse me, guys, if you
21 don't mind I would like to make an objection before
22 the two of you continue the re-pair. Object to the
23 question as calling for speculation, arguing with the
24 witness and editorializing improperly.
25 ///

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004977

15002

1 BY MR. BICK:

2 Q. Why do you assume that it was?

3 A. For the simple fact that if an application

4 was still looming forward, one would be able to still

5 entertain the possibility of using planned community

6 development but it's all in light of what would be

7 the subsequent applications, if it conformed to the

8 density requirements of the current planned community

9 development, it still would have been a viable

10 application.

11 Q. You knew that it was not in conformity

12 with the current density requirements, didn't you?

13 A. From previous understanding of the unit

14 counts it did not seem that it was going to be in

15 conformance but one can always amend their

16 applications at any point.

17 Q. Do you believe that this application was

18 amended?

19 A. I would have to speculate as far as what

20 they would want to do with their own property.

21 Q. My question, sir, is do you believe that

22 this application was amended?

23 A. They had not submitted any amendments to

24 us or subsequent applications to show it would be

25 amended so at that point I don't have an idea if they

125

1 were going to amend it or not.

2 Q. What was a master development plan in

3 1990, do you know what the City considered that to

4 be?

5 A. Not having worked here, then the

6 terminology and the institutional knowledge is no

7 longer available in our department for me to

8 accurately answer that.

9 Q. Can you apply for one today?

10 A. For a?

11 Q. Master development plan.

12 A. We would call it a plan development under

13 the PD, a special area plan. Master plan community.

14 Q. What is a planned development?

15 A. It's a zoning district which has criteria

16 if you apply for it, minimum size requirement, a

17 number of different things being required as far as

18 development standards, infrastructure, things of that

19 nature.

20 Q. Okay. Is it different than a residential

21 plan development.

22 A. Yes. Residential plan development is a

23 legacy zoning district currently.

24 Q. Okay. What's the difference?

25 A. Well, there's two distinct zoning district

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1 that have been both in existence at the same time,

2 one has a zoning district which delineates the

3 density in its title with R-PD and then associated

4 number with it. The other is a planned development

5 which is a comprehensive development plan for more of

6 a community approach where you have multiple

7 developer parcels.

8 Q. And what is -- what did a R-PD consist of?

9 A. Residential plan developments in my tenure

10 at the City have consisted of single family

11 residential subdivisions.

12 Q. Single family residential subdivisions?

13 A. Correct.

14 Q. Anything beyond that?

15 A. Not while I've been at the City that I'm

16 aware of.

17 Q. Multifamily -- do they include multifamily

18 in your experience.

19 A. It's my recollection it's possible that

20 they could use an R-PD for a multifamily. Usually

21 associated with condominium maps but I don't see why

22 they couldn't use it for multifamily apartments.

23 Q. And you say that that designation doesn't

24 exist any longer?

25 A. Since the adoption of the Unified

127

1 Development Code, it has become a legacy zoning

2 district, so it does not -- no longer exists in a --

3 as -- in the zoning ordinance as a zoning district in

4 which someone who doesn't already have it can apply

5 for.

6 Q. Understood. But it still exists correct?

7 A. Still exists as a legacy district. So as

8 our commercial design district, our neighborhood

9 services district, our other examples of legacy

10 district.

11 Q. And what's the most analogous to it today?

12 A. Today we go with -- and the terminology

13 starts -- we have the straight zoning. Basically

14 there are associated zoning district have you that

15 zoning district you comply with those minimum lot

16 sizes and you go forward with tentative maps.

17 Q. What do you mean by straight zoning?

18 A. The existing zoning district and the

19 Unified Development Code, they all have minimum

20 development standards. You would then, if you

21 currently have the one that meets your needs, you

22 utilize that and follow those development standards

23 and create the tentative map. If we're talking about

24 a residential subdivision.

25 Q. What if you were doing it as a planned

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004973

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15003

1 development, then you would follow PD.
 2 A. The planned development has its own
 3 prescribed application requirements.
 4 Q. If you were going to do a Peccole Ranch
 5 master plan development today, what would be the
 6 zoning clarification that you would look to?
 7 MR. JIMMERSON: Object to the form of the
 8 question as vague and ambiguous.
 9 THE WITNESS: I would look towards it as a
 10 PD.
 11 (Exhibit Number Num was marked.)
 12 BY MR. BICE:
 13 Q. When say that you look towards a PD,
 14 that's even though it would be residential, correct?
 15 A. Sorry?
 16 Q. You said that you would look towards a PD
 17 today, under today's code.
 18 A. Do you have to be to accomplish something
 19 similar to the Peccole Ranch Master Development Plan?
 20 Q. Yes?
 21 A. Yes, I would look towards something as a
 22 planned development, planned development zoning
 23 district.
 24 Q. The R in the former R-PD designation stood
 25 for residential, correct?

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1 A. Yes.
 2 Q. So it stood for residential planned
 3 development, right?
 4 A. Correct.
 5 Q. Okay. I'm showing you now what's been
 6 marked as Exhibit Number 6, I believe. Have you seen
 7 this before?
 8 A. It's possible. I probably have.
 9 Q. If you look at the second paragraph is
 10 that an accurate description of what you understand
 11 R-PD to mean?
 12 A. It's more than likely verbatim out of the
 13 zoning code.
 14 Q. So is it accurate to say the R-PD district
 15 was to provide flexibility and invasion in
 16 residential development? Is that your understanding
 17 of what it was designed to do?
 18 A. Correct.
 19 Q. And with emphasis on enhanced residential
 20 amenities. What sort of amenities?
 21 A. During my tenure there was a requirement
 22 for it to have a provision of open space based on
 23 our -- a calculation of dwelling units per acre times
 24 I believe it's 1.65 and then you would have how much
 25 open space was required for a residential planned

130

1 development.
 2 Q. Okay. And so is that open space
 3 considered to be one of the amenities under the
 4 zoning clarification?
 5 A. I would assume so, yes.
 6 Q. And then it goes to resite efficient
 7 utilization of open space do you see that.
 8 A. I see that.
 9 Q. And what is the purpose of efficient
 10 utilization of open space in the R-PD designation?
 11 A. My understanding of it is that it's not
 12 to be little fringe silvers of common elements that
 13 act as landscape buffers or things of that nature, it
 14 has to be utilized or to be able to be utilized or
 15 enjoyed by the development.
 16 Q. Would golf courses fall within that
 17 definition of efficient utilization of open space?
 18 A. I see no reason why not.
 19 Q. Well, in your experience would that be
 20 something that the City would consider to be an
 21 efficient utilization of open space?
 22 MR. JIMMERSON: Objection calls for
 23 speculation and/or expert witness testimony to which
 24 this witness has not yet been designated. Calls for
 25 opinion.

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1 THE WITNESS: In my tenure, I haven't had
 2 a development with a golf course as part of it. But
 3 in light of an recreation and open space is part of
 4 it, it could be considered that, yea.
 5 BY MR. BICE:
 6 Q. And you have reviewed the Peccole Master
 7 Plan, have you not?
 8 A. Yes, I have.
 9 Q. And was there a representation about open
 10 space as part of that master plan?
 11 MR. JIMMERSON: Objection. Vague and
 12 ambiguous as to what's being referred to, what part
 13 of the plan, what time.
 14 THE WITNESS: There are segments in that
 15 plan that speak to open space. There's tables that
 16 reflect acreage. There's -- even going back to the
 17 Venetian foothills and speculative where they were
 18 going to place certain things, ultimate design, you
 19 know is what we have today.
 20 BY MR. BICE:
 21 Q. Okay. And then you say ultimate design of
 22 what we have today. Let me show you -- bear with me
 23 one second.
 24 (Exhibit Number Num was marked.)
 25 ///

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15004

1 BY MR. RICE:
2 Q. Showing you what's been marked as Exhibit
3 Number 7, and again just for the record, Phil and
4 counsel, the red -- the two red blocks, the one on
5 the plan and the one on the description on the right,
6 under the land use categories, those are mine, so as
7 to draw attention to the questions I sent the witness
8 to answer.
9 Have you seen Exhibit Number 7 before?
10 A. It's possible this is the southwest sector
11 land use categories of the Las Vegas 2020 Master
12 Plan.
13 Q. Well let's --
14 A. I'm just saying because there are
15 different additions.
16 Q. Right. So I want to bring to your
17 attention, if you look down the right-hand corner
18 there are some dates.
19 A. Okay.
20 Q. So --
21 A. Yes.
22 Q. I just -- before you committed to a
23 particular timeframe on this, I wanted you to be
24 aware that I'm not representing to you that this is
25 the current map?

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1 A. Okay.
2 Q. Okay.
3 But does it look like to you, knowing with
4 your experience, that this is the map that at least
5 exist as of August 18 of 1999?
6 A. Yes.
7 MR. JIMMERSON: Object to the question
8 with regard to this document not bearing that date.
9 Calls for speculation.
10 BY MR. RICE:
11 Q. So what is the Pecc -- what is the
12 Badlands Golf Course designated under this map as of
13 August 18 of 1999?
14 A. It is designated as green which
15 corresponds to the legend of park slash recreation
16 slash open space.
17 Q. Now you said that you had looked at the
18 master plan, the Peccole Ranch Master Plan and you
19 had indicated there were various areas that were
20 designated or there were various descriptions about
21 open space as part of the R-PD zoning; is that
22 correct?
23 A. As part of the development, master
24 development plan, there was a booklet, the plan or
25 brochure, whichever you want to call it, which had

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1 called for in this particular case we're talking
2 about this is the amendment and phase two rezoning.
3 That booklet.
4 Q. Yes?
5 A. Which has tables which showed what was
6 the -- what was amended or had the verbiage as far as
7 what's being amended, tables of what's in phase two
8 and as total data for the entire Peccole Ranch Master
9 Development.
10 Q. Just so we make sure we're talking about
11 the same document, let me get that marked.
12 (Exhibit Number 8 was marked.)
13 Q. Is this the Peccole Ranch Master Plan
14 amendment and phase two rezoning application that you
15 just previously referenced?
16 A. Yes.
17 Q. And this is in the City's files?
18 A. Yes.
19 Q. And as part of your research into the
20 current application, is this one of the documents
21 that you researched and found?
22 A. Yes, as part of looking at previous land
23 use entitlements this is one of the documents that's
24 part of that.
25 Q. Is this one of the documents that the City

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1 has relied upon in evaluating the application?
2 A. This document was given consideration. It
3 was one of the reasons that the department requested
4 that a major modification to this document be filed.
5 Q. Okay. When you looked at the document and
6 you were talking about unit counts, is this the
7 document that you were looking at in evaluating unit
8 counts?
9 A. No.
10 Q. You were looking at planning commission or
11 city council approval letters on the unit counts?
12 A. May I ask you a question?
13 Q. Absolutely.
14 A. When you say researching unit counts, do
15 you mean as far as what's existing out there, as far
16 as what was proposed originally, what they're held to
17 as far as the overall community?
18 Q. Yes?
19 A. Which specific one.
20 Q. Fair enough. Let's break it down. What
21 are they allowed to build?
22 A. The overall unit count comes from the
23 conditions of approval out of an action letter for
24 the associated zoning action, which is the 2-17-90 if
25 I recall correctly.

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15005

1 Q. And is that the 14 -- 4,247 units?
2 A. I believe that's correct.
3 Q. 2807 of single family and 1440 of
4 multifamily, correct?
5 A. The condition doesn't state that.
6 Q. What's that?
7 A. The condition doesn't state that. The
8 condition just says that there's a maximum of 4247.
9 Q. Of units?
10 A. Mm-hmm.
11 MR. JIMMERSON: Is that a yes?
12 THE WITNESS: Yes. Sorry.
13 BY MR. RICE:
14 Q. And where did those numbers come from?
15 A. Where did the number and condition of
16 approval come from?
17 Q. Or do you believe that it was plucked out
18 of thin air by someone?
19 MR. JIMMERSON: Object to the form of the
20 question. Argumentative.
21 THE WITNESS: At the point when this was
22 done, I wasn't working at the City of Las Vegas but
23 on assumption I would have based it on their related
24 document that they submitted.
25 ///

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1 BY MR. RICE:
2 Q. Would that be Exhibit #?
3 A. Exhibit 8 would be part of the
4 development -- the master development plan that was
5 heard either -- was related to the zoning action.
6 Q. And when did you did your research in
7 determining the number of units, the number of actual
8 units are set forth in this master plan amendment and
9 phase two rezoning application, correct?
10 A. I'm sorry, can you repeat that?
11 Q. Sure. And when you did your research to
12 determine the number of units, the number of actual
13 units are set forth in Exhibit 7, the master plan
14 amendment and phase two rezoning application,
15 correct?
16 A. Well, if you're referring to Exhibit 8 --
17 Q. Oh, Exhibit 8, you're right. My
18 apologies.
19 A. In reviewing it we looked at the maximum
20 unit count from the action letter. We've also looked
21 at these tables.
22 Q. And as part of your research did you
23 determine where those unit counts had come from that
24 were contained in the action letter?
25 A. As I just stated we looked at that

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1 condition of the approval letter in addition to this
2 document on the table.
3 Q. That meaning Exhibit 8.
4 A. Exhibit 8, yes. Sorry.
5 Q. And did that approval letter also state
6 that in addition to the maximum -- a maximum of 4247
7 dwelling units be allowed for phase two, that it
8 was -- another condition was conformance to the
9 conditions of approval for the Peccole Ranch Master
10 Development Plan, phase two?
11 A. I believe so if you're reading it right
12 from the document. I imagine there would be a second
13 condition. In my research I have never found any
14 conditions for the development of the master
15 development plan.
16 Q. Just the plan itself.
17 A. In reference to the condition you just
18 read.
19 MR. JIMMERSON: Please stop now. Will you
20 please read the last two questions and answers
21 please.
22 (Record read back by the reporter.)
23 MR. JIMMERSON: Move to strike the
24 question and answer. Calls for speculation and
25 assuming facts not in evidence. I was trying to make

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1 my objection between the question and answer but it
2 happened so quick.
3 BY MR. RICE:
4 Q. When was the Peccole Ranch Master Plan
5 closed out?
6 A. That's under the assumption that it is
7 closed out. There are undeveloped parcels within the
8 Peccole Ranch Master Plan that have yet to be
9 developed.
10 Q. So that means it's not closed out? Is
11 that your position?
12 A. What is the definition of closed out?
13 Q. What's the City's definition of closed out
14 in every other project except for this one?
15 MR. JIMMERSON: Object to the question as
16 being either. Calling something that's not relevant
17 to the case.
18 THE WITNESS: I'm not aware of we have a
19 definition of something is closed out.
20 BY MR. RICE:
21 Q. You don't know or you're saying the City
22 doesn't have one?
23 MR. JIMMERSON: Object to the question as
24 it being ambiguous, compound.
25 THE WITNESS: There's nothing in the

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15006

1 Unified Development Code that says closed out on
2 being defined. And to your second point, I don't
3 know.
4 BY MR. BICE:
5 Q. So is it your -- let's just deal with your
6 position -- in it your position, as long as it's not
7 an empty lot in any planned development, it's not
8 completed?
9 A. The subdivision or on commercial property
10 if it's not completely built out is not -- just that
11 it's not closed out and there's still ability to
12 construct in it, develop in it.
13 Q. How many words are left on the Peccole
14 Ranch phase two?
15 A. I don't know.
16 Q. Did you do any research into that?
17 A. Not that I am aware of, no.
18 Q. Did you ask anyone on the staff to do any
19 research on that?
20 A. Those matters usually fall to land
21 development which is either part of building and
22 safety or if need be from the Department of Public
23 Works to review those matters.
24 Q. But my question was did you ask anyone to
25 do it.

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1 A. Not that I would.
2 Q. Have you never learned about whether there
3 are any birds left in the project?
4 A. Only by looking through the depiction of
5 Mr. Harrison.
6 Q. Who was the -- who was the developer on
7 the Peccole Ranch Master Plan?
8 A. The initial developer?
9 Q. Is there more than one?
10 A. Through the land use entitlement history
11 there have been other applicants but is your question
12 specific to Exhibit A what?
13 Q. Talking about the Peccole Ranch Master
14 Plan, who was the developer?
15 A. I believe it was Peccole, the Peccole
16 Trust.
17 Q. The Trust?
18 A. I've seen it stated Peccole Trust, I've
19 seen Peccole Trust 1982. I've seen it just as
20 Peccole.
21 Q. Not it. And what is the status of -- who
22 is the declarant on the development?
23 BY JENNIFER: Object to the extent it
24 calls for a legal conclusion or attempting to use
25 this witness as an expert witness improperly.

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1 Q. Do you know?
2 A. Are you referring to Exhibit A?
3 Q. No. I'm not referring to Exhibit A who is the
4 development declarant do you know if you don't, I
5 understand?
6 MR. JENSEN: Object. Assumes facts not
7 in evidence that there exists such a thing as a
8 development declarant.
9 THE WITNESS: There is an applicant and
10 that's what I'm aware of.
11 Q. And that applicant is the Peccole Trust.
12 AND as far as you know, correct?
13 A. Correct.
14 MR. JENSEN: Objection, he indicated
15 that there were three different applicants.
16 Q. What is the status of that applicant
17 today, do you know?
18 A. I don't know.
19 Exhibit number 821 was marked as nine
20 BY MR. BICE:
21 Q. Showing you what's been marked as
22 Exhibit 9, Mr. Rosenbaum, have you seen this exhibit
23 before?
24 A. Very bly.
25 Q. Well --

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1 A. And was then likely -- it looks like the
2 justification letter for one of the applications, so
3 you.
4 Q. It's addressed to you, do you see that?
5 A. I do.
6 Q. So you don't have any reason to believe
7 that you didn't receive it?
8 A. That is correct.
9 Q. All right. By this point in time, this is
10 November 24, 2015. Would you be completed the lead
11 on this plan?
12 A. This is the normal application submittal,
13 so at this time it would have been assigned to the
14 case planner.
15 Q. And that would have been.
16 A. That would have been Steve Swanton.
17 Q. And would you oversee his work on this
18 case?
19 A. His supervisor would review his staff
20 report and if he had any questions, he would then
21 able to ask his supervisor, his section manager, he
22 will have again been notified.
23 Q. And who would be his supervisor?
24 A. At this time I believe it was -- it should
25 have either been Andy Reid or Steve Gebauer. I would

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1 have to double-check when Andy had left the City.
2 Q. All right. You'll see near the second
3 sentence of the first paragraph, the land zoning
4 designation is R-100 and under the general plan is
5 YES, correct?
6 A. Second sentence, yes, I see.
7 Q. Right.
8 A. Yes.
9 Q. And then it goes on to say, it says the
10 17 acres is in the process of being subdivided into a
11 separate parcel and will have its own APR. Do you
12 see that?
13 A. I do.
14 Q. And what was the plan that was being
15 submitted as this land was going to be subdivided?
16 A. This. In relation to this letter, this
17 is an application for 720 multifamily units on the
18 17.49 acres.
19 Q. If you go to below the first bullet point
20 there is a sentence there that states the land is and
21 all ways says not a part and all ways of any common
22 interest community, YES, nor is it permitted a
23 property with the YES of adjacent properties and is
24 it in any way under the control of the YES and the
25 adjacent properties. Do you see that?

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1 A. I see that.
2 Q. Does that have any significance to you?
3 A. No.
4 WYNNER'S B.Y.F. check reading.
5 Q. Do you know why the applicant was
6 emphasizing that point?
7 A. I don't.
8 Q. Is that a consideration that the City
9 would give under its -- as it was considering this
10 application?
11 A. Can you restate the question please.
12 Q. Is that a consideration for the City in
13 deciding what to do with this application?
14 A. No.
15 Q. May not?
16 A. The City does not take into account YESs.
17 Q. Because these are just private contracts?
18 A. I believe they're -- yes, they're civil
19 contracts between two private parties.
20 Q. Right. So you'd leave it up to them to
21 work out what those provisions are, correct?
22 A. If there was anything to be worked out,
23 yes.
24 Q. Have you ever heard of Nevada Revised
25 Statutes Chapter 110?

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1 A. In regards to YESs? Because I do not see
2 an YES word.
3 Q. Yes.
4 A. Yes.
5 Q. And you understand that property that is
6 subject to a homeowner's association or YES is
7 governed by Chapter 116, correct?
8 MR. STAFF: Objection. Calls for a legal
9 conclusion.
10 MR. WITKINS: I'm answering you.
11 BY MR. BICE:
12 Q. And the homeowner here is an action -- the
13 property owner here is affirmatively representing
14 that this property isn't subject to Chapter 116.
15 Would you agree?
16 MR. CROWSON: Object. That
17 mischaracterizes the letter.
18 THE WITNESS: All I can do is read the
19 statement that's in it. It doesn't state YES 116.
20 BY MR. BICE:
21 Q. Or you're interpreting this, I don't
22 believe there is a disclaimer that Chapter 116 doesn't
23 apply to this property.
24 MR. STAFF: Objection. Calls for
25 speculation.

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1 THE WITNESS. It is not part of my
2 consideration of the justification letter.
3 BY MR. BICE:
4 Q. Are there any -- any other statute that
5 you are aware of concerning Homeowner's Associations
6 outside of Chapter 110?
7 MR. STAFF: Objection. Calls for a legal
8 conclusion.
9 MR. WITKINS: Mischaracterization. Also
10 mischaracterizes the letter, Exhibit B.
11 THE WITNESS: Actually, until very
12 recently, no.
13 BY MR. BICE:
14 Q. And did you very recently determine
15 something else?
16 A. No. I didn't determine anything. I was
17 just made aware that the YES is also in YESA, I
18 believe.
19 Q. Oh.
20 A. Unless I'm mistaken.
21 Q. Was brought that to your attention?
22 A. I believe that was in talk with counsel.
23 Q. Oh, well then don't tell me what you
24 learned from legal counsel.
25 MR. STAFF: Stop there.

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1 BY MR. BICE:
2 Q. I'll rephrase it next time. You didn't
3 learn that from anyone outside of your discussions
4 with the City attorney is that fair?
5 A. Yes, that's fair.
6 Q. Okay. And when was that, that you became
7 aware?
8 A. I'm thinking in the last three weeks.
9 Q. Okay.
10 MR. JIMMERSON: Could I just ask aware of
11 what?
12 MR. BICE: I'm sorry?
13 MR. JIMMERSON: Aware of what?
14 MR. BICE: Aware of his testimony that he
15 referenced Chapter 116's reference in 278A.
16 BY MR. BICE:
17 Q. Is it your view, Mr. Lowenstein, that
18 there's a difference between a planned unit
19 development and a plan development?
20 A. I've never worked with a planned unit
21 development pursuant to the 278A.
22 Q. Does the City have code provisions that
23 deal with planned use developments?
24 A. To my knowledge.
25 MR. BYRNES: Objection. Calls for a legal

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1 considered them to be distinct.
2 MR. BYRNES: Calls for a legal conclusion.
3 THE WITNESS: Without further review and
4 consultation with the City attorney, I can't give you
5 an answer.
6 BY MR. BICE:
7 Q. Can you identify any distinctions
8 yourself?
9 A. One is a residential plan development and
10 one's -- residential plan -- planned unit
11 development.
12 Q. Okay. Other than the name, can you
13 identify any distinctions for us?
14 A. Two sections of NRS.
15 Q. Okay. Other than two sections of NRS and
16 the name, can you identify any other distinctions for
17 us?
18 MR. BYRNES: Objection. Calls for a legal
19 conclusion.
20 THE WITNESS: As I said without further
21 review of both of them, I can't give you an answer on
22 the difference between the two.
23 BY MR. BICE:
24 Q. Well did you review them for your work on
25 this case?

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1 conclusion.
2 THE WITNESS: To my knowledge in reference
3 to that section of NRS, no.
4 BY MR. BICE:
5 Q. Have you ever looked at old versions of
6 the municipal code about whether it contained terms
7 about planned unit developments?
8 A. No.
9 Q. So tell me what you believe the difference
10 is between a residential planned development and a
11 planned unit development, if you think that there is
12 one?
13 MR. BYRNES: Objection. Calls for a legal
14 conclusion.
15 MR. JIMMERSON: Objection. Calls for
16 speculation on the last two answers.
17 THE WITNESS: I would have to defer to the
18 City attorney as far as what that difference of state
19 statute would be.
20 BY MR. BICE:
21 Q. I understand. But as you're sitting here
22 at least working in the planning department, you
23 can't identify any differences that you are aware?
24 MR. JIMMERSON: Objection. That
25 mischaracterizes his testimony. He said he

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1 A. I did not review planned unit developments
2 as part of this case.
3 Q. As part of the application, did you review
4 any of the provisions of the Nevada revised statutes?
5 MR. JIMMERSON: Object to the question as
6 vague and ambiguous and/or irrelevant.
7 THE WITNESS: As part of these
8 applications for development agreements, they are
9 covered in NRS 278 and, therefore, I didn't review
10 Nevada statutes in regards to the development
11 agreement.
12 BY MR. BICE:
13 Q. Okay. Which provisions did you review?
14 A. I don't recall exactly which one. It
15 would just be me spouting off some of the familiar
16 ones without being accurate, so I don't recall the
17 exact reference.
18 Q. Anything other than pertaining to the
19 development agreement? Did you review any other
20 provisions?
21 A. Not to my knowledge, no.
22 Q. Are there any planning books that you
23 consult other than the City code and the Nevada
24 Revised Statutes?
25 A. Are you referring to any adopted books

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1 from the City or any literature in general?

2 Q. Let's break it down. Is there anything

3 that the City council has adopted that you would

4 consult other than the planning code -- the City's

5 municipal codes or the Nevada Revised Statutes?

6 A. The Las Vegas 2020 Master Plan, its

7 associated elements.

8 Q. All right. Anything else?

9 A. As part of some of the submittals there's

10 documentation from ULI, which is the Urban Land

11 Institute.

12 Q. Is that adopted by the City?

13 A. No, that is not.

14 Q. But that's something you would consult?

15 A. That is an accredited I guess disciplined

16 journal, I guess for lack of better terminology.

17 Q. Any others that you would consult? Any

18 other sort of planning journals or anything like

19 that?

20 A. I'm not sure if I did or did not, but if I

21 was to use -- I would use the American Planning

22 Association's website. It has a searchable database

23 for journal articles or just articles in general.

24 Q. Did you ever consult the Urban Land

25 Institute residential land development handbook?

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1 A. Not on a very frequent basis.

2 Q. Okay. How about the International City

3 manager's associations, the practice of local

4 government planning?

5 A. I don't believe so.

6 Q. Okay. How about the American Planning

7 Association's Growth Smart Legislative Guidebook?

8 A. I'm not particularly sure if I reviewed

9 that or not.

10 Q. Would you agree that a planned development

11 means an area of land controlled by a landowner,

12 which is to be developed as a single entity for one

13 or more planned unit residential developments, one or

14 more public quasi public commercial or industrial

15 areas or both?

16 MR. JIMMERSON: Objection. Calls for an

17 expert opinion to which this witness has not been

18 retained.

19 MR. BYRNES: Are you asking for a

20 statutory definition or --

21 Q. I'm asking if he disputes that that's what

22 a planned development is.

23 MR. JIMMERSON: Objection. Assumes facts

24 not in evidence.

25 THE WITNESS: That definition is stating

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1 that it's solely one person. My experience had been

2 that there is one entity that creates such a thing

3 and it is then sold off and and other people then

4 develop within the confines of that development plan.

5 BY MR. RICE:

6 Q. Sure. They develop parts of it, right?

7 A. Correct. Or the majority. It depends on

8 what sales go through.

9 Q. But that doesn't mean it's not a planned

10 development correct, or do you maintain that it does?

11 A. Are you asking if that definition -- I'm

12 kind of losing your questioning. Your train of

13 questioning. Can you --

14 Q. Sure. You had indicated that a single

15 owner will develop the plan and then will maybe sell

16 off certain segments of it for I guess development by

17 an individual, like a home builder or something like

18 that. Is that what you meant?

19 A. Correct.

20 Q. All right. Even though that may happen

21 you're not disputing that that is still a planned

22 development are you?

23 MR. JIMMERSON: Objection.

24 Mischaracterizes the witness' testimony.

25 THE WITNESS: An individual, depending on

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1 how much property they own, they could go the route

2 of a planned development or they could do it through

3 a piecemeal approach as well.

4 Q. So is it your position that a planned

5 development has to be that the developer has to

6 individual lie develop each segment in order to be a

7 planned development if he sells part of it after

8 getting the plan approved it's no longer a planned

9 development?

10 A. No, that's not what I was saying. I was

11 stating that you could establish a planned

12 development --

13 Q. Got it.

14 A. -- as one mode of development.

15 Q. Right.

16 A. As a separate mode of development. You

17 could not do a planned development and piecemeal

18 develop a site is what I was stating.

19 Q. And do you dispute that the Peccole Ranch

20 is a planned development?

21 A. It is as it states a master planned --

22 master planned development.

23 Q. And that's what it is, isn't it?

24 A. That is what the city council approved as

25 a master planned development.

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Q. You're not contending this was a master plan development, are you?

A. No. That's the city council action they took was for a master planned development.

Q. And as part of your processing of applications for the official application, you used the Redstone Ranch Master Plan as a master plan development, correct?

MR. JIMMERSON: Objection. Misstates the testimony in evidence.

THE WITNESS: In light of the development, it was determined that a major modification would be requested in light of the land use element is not defined as one of the special area plans that require a major modification. So out of the number of the scope of the proposed changes, that determination was made.

BY MR. RICE:

Q. The scope of the proposed changes were so significant that you all determined that a major modification to the 1989 plan was required; is that correct?

MR. JIMMERSON: Objection. Lack of foundation as to when where and what project was being discussed.

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THE WITNESS: In regards to the development of the property, the major instruction was -- was required by staff based on the scope of the project.

BY MR. RICE:

Q. When you say development of the property what do you mean development of the golf course?

A. Development on the 190.92 acres.

Q. Okay. What about -- did you originally require a major modification for the development of the seven acres after it was subdivided?

MR. JIMMERSON: Objection. The question makes no sense under the facts of this case.

BY MR. RICE:

Q. Or 17?

A. I understand.

Q. If I may ask, my apologies.

A. In reference to the 17.45 acres then applications were held in abeyance in an effort to having a comprehensive package being submitted which subsequently were, and we were requesting major modification as more of that for that overall.

Q. Was that subsequently changed?

A. The requirement for a major modification is that your question?

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Q. Yes.

A. Yes.

Q. Okay. Well, strike that. First let me ask you who made that decision that it would be changed?

A. The decision that a major modification would be required after the withdrawal of the overall plan?

Q. Yes.

A. That decision would have had to have been made by the director.

Q. Did the director have meetings with the applicant about that change?

A. Not that I recall. I imagine the director had meetings with counsel.

Q. Hearing legal counsel?

A. Witness needed that.

Q. I need you to answer yes or no.

A. Yes. Sorry.

Q. No problem.

A. Counselor's help.

Q. Don't worry about it. We all do it.

MR. JIMMERSON: Can I clarify, you went city attorney counsel, Mr. Derrigo -- Mr. Lowenstein.

THE WITNESS: That is correct.

MR. JIMMERSON: Thank you.

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MR. RICE: Let's take a short break.

THE VIDEOGRABBER: Going off the video record. The time is approximately 3:42 p.m.

THE VIDEOGRABBER: This is the beginning of video recording number 5 in the continuing deposition of Mr. Lowenstein. We're back on the video record. The time is approximately 3:50 p.m.

BY MR. RICE:

Q. Mr. Lowenstein, have you discussed this application or strike that.

Have you discussed the redevelopment of the Redlands Golf Course with construction lawyer?

A. Not to my recollection. Direct access to the natural persons are usually held by the director, so I have very limited exposure.

Q. Have you discussed it with the mayor?

A. No. Not to my recollection.

Q. All right. Have you personally discussed it with any of the planning commissioners?

A. The planning commissioners had briefings, so in that regard they had scheduled meetings with the planning department, and I was part of those briefings, so that would -- I assume that's yes.

Q. Did each of the planning commissioners

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1 have such a meeting?

2 A. They were held in groups and all were
3 invited if they -- I'm not particularly recalling
4 which ones did not appear but they were in groups of
5 either two, potentially three.

6 Q. Did you tell -- did you tell any of the
7 planning commissioners of any particular number of
8 units that were purportedly available for development
9 on the golf course?

10 MR. BYRNES: You're asking him personally
11 or --

12 MR. RICE: Yes.

13 MR. BYRNES: -- or the department?

14 BY MR. RICE:

15 Q. Him?

16 A. I don't know that I recall.

17 Q. I know you talked about some maps earlier
18 but I believe Mr. Ferrigo said you were the one that
19 was looking into the unit allocation.

20 A. Or my direct staff.

21 Q. Or your direct staff. Did you ever make a
22 determination of what you contend are the number of
23 allowed units on the golf course?

24 A. The number of allowed units on -- within
25 the phase two area is called out by the condition of

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1 approval. As far as units on the golf course, one
2 has the right to petition their government for an
3 amendment and that is what was applied for.

4 Q. Because under the current -- under what
5 was approved there are no allowed units on the golf
6 course?

7 MR. JIMMERSON: Objection.

8 Mischaracterizes the testimony. Mischaracterizes
9 Exhibit 8.

10 MR. BYRNES: Calls for a legal conclusion.

11 BY MR. RICE:

12 Q. I'm correct, am I not?

13 MR. JIMMERSON: Same objection.

14 THE WITNESS: In regards to what this plan
15 called out and as far as on the table, as far as
16 allocation of the units, it does not state units -- a
17 density associated with parks, recreation and open
18 space. However, it shows an area where additional
19 golf course was built on top of where single family
20 was in addition to that.

21 Q. That's the nine holes that were later
22 added correct.

23 A. Additional nine holes, correct.

24 Q. But under your code, when you say that
25 they have the right to petition the government to

162

1 change, to change what the general plan?

2 A. I has -- I believe has a constitutional
3 right.

4 Q. To petition the government?

5 A. To petition the government.

6 Q. But when you're saying it could change,
7 the change in the general plan.

8 A. It could be any land use entitlement is
9 that petition.

10 Q. But in this particular case you understood
11 that they would need to petition to change the
12 general plan because the property has all been
13 designated as open space correct?

14 MR. JIMMERSON: Objection calls for a
15 legal conclusion also absence of foundation.

16 THE WITNESS: One of the submitted
17 applications are for amendments to the general plan
18 amendments.

19 BY MR. RICE:

20 Q. To change the open space designation to
21 allow residential on the open space, what is
22 currently designated as open space?

23 A. The applications that were submitted were
24 from parks recreation open space designation to
25 either R high density residential or -- it's either

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1 desert rural or rural I apologize I don't recall
2 exactly what the other designation was. It may be in
3 one of these other exhibits if you want me to look.

4 Q. When you met with Mr. Lowie and his team,
5 did they ever -- did they ever deny that they knew
6 that the property was designated as open space at the
7 time that they purchased?

8 A. I don't recall that specifically.

9 Q. Did they ever suggest to you that they
10 didn't know it was open space at the time they
11 purchased it?

12 MR. JIMMERSON: Objection. Assumes facts
13 not in evidence that they even exist as open space at
14 the time.

15 THE WITNESS: I don't recall conversations
16 like that.

17 BY MR. RICE:

18 Q. Did you ever hear them, Mr. Lowie or any
19 of his representatives claim that they didn't know it
20 was open space at the time that they purchased it?

21 MR. BYRNES: Objection. Asked and
22 answered.

23 MR. JIMMERSON: Same objection.

24 THE WITNESS: I don't recall that
25 conversation.

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15012

1 BY MR. RICE:
2 Q. At the time that they submitted -- when I
3 say they Mr. Louis's company submitted the
4 application for the 720 multifamily units, were they
5 told that they wouldn't have to do a major plan
6 modification?
7 A. I don't recall the moment in which they
8 were required to submit a major modification. As I
9 previously stated on the record, it was in light of
10 an overall plan being submitted that the major
11 modification was being required of them.
12 Q. Well, did the staff originally say that --
13 do you recall them -- do you recall there being a
14 staff report that they would need to do a major
15 modification even on the 17 acres?
16 A. I don't recall. I believe it was in light
17 of an overall package coming that the major
18 modification was requested.
19 Q. And how was it determined that they would
20 not need to do a major modification on -- if they
21 just applied on the 17 acres?
22 A. The overall number of units would still be
23 in line with the 4247, and in the mode of development
24 of phase one and subsequently phase two, it still met
25 that -- it still met the overall number of units

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1 within phase two, that 4247.
2 Q. Well, how many units are you saying were
3 left of the 4247 that hadn't already been built or
4 hadn't already been entitled?
5 A. Exact number, I'm not aware, but I believe
6 it's about 1200 plus or minus.
7 Q. And how many of those unentitled or
8 unbuilt units were of the 1446 multifamily that had
9 been approved?
10 A. Based on the previous development of phase
11 I and II, it doesn't differentiate between them.
12 Q. What doesn't differentiate between them?
13 A. The total number unit count. For phase
14 one, it exceeds the multifamily that's called out in
15 in this plan. In phase two there were still a lot of
16 units, both multifamily and single family.
17 Q. Well, so are you -- so when you claim that
18 there are multiple units available, you said about
19 1200?
20 A. Well, if you look at all the entitled and
21 existing or even nonconstructed, there is a still a
22 delta of approximately 1200 units.
23 Q. Of -- for phase two: is that correct?
24 A. I believe so, yes.
25 Q. And so those are -- they weren't construct

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1 where, within phase two or are you also -- here's
2 what I'm trying to clarify. Are you reaching into
3 areas of phase one as well or are you just saying in
4 phase two alone?
5 A. In phase two alone.
6 Q. And what is your basis for contending that
7 the current purchaser of the golf course has an
8 entitlement to claim those units?
9 A. Can you restate the question?
10 Q. Sure. You're saying those units are
11 somehow available. It sounds like: is that correct,
12 but there are 1200 units available for someone to to
13 develop is what it sounds like you're saying?
14 A. I'm saying the condition of approval from
15 the City council action allotted a specific number of
16 units and those number of units are still available
17 unless they did a review of condition of that zoning
18 action to either delete, amend, what have you, to
19 increase or eliminate any kind of density unit cap.
20 Q. The condition of approval for whom? Who
21 were those units allotted to?
22 A. Well, referring back to -- I don't know if
23 it is one of the exhibits you gave me.
24 Q. Yep.
25 A. No, I don't think we have that. I'm sorry

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1 I got distracted can you repeat the question.
2 Q. Sure you just said -- I'm reading what you
3 said. You said I'm saying the conditions of approval
4 from the City council action allocated a specific
5 number of units, and those units are still available.
6 Okay? They allocated a specific number of units to
7 whom?
8 A. At the time of entitlement it would have
9 been the applicant.
10 Q. The applicant got an approval for a
11 certain number of units correct.
12 A. Within a geographical area.
13 Q. Within a geographical area and the
14 applicant also designated within that geographical
15 area a certain amount of that was open space,
16 correct?
17 A. On the plan as was adopted, yes.
18 Q. And that's what the City ultimately
19 recorded as part of its master plan, correct?
20 MR. JIMMERSON: Objection. I think it
21 misstates the record. It's not accurate.
22 THE WITNESS: The zoning action and the
23 master development plan did not amend the master plan
24 or the general plan at that point.
25 ///

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15013

1 BY MR. RICE:
2 Q. Right.
3 A. Subsequent action adopting a general plan
4 to the -- as far as my knowledge the map reflects
5 what was approved through the master development
6 plan.
7 MR. JIMMERSON: May I have the last
8 question and answer, please.
9 (Record read back by the reporter)
10 BY MR. RICE:
11 Q. And what you're saying is the map reflects
12 the plan of the general plan reflects what was
13 approved, correct?
14 A. The map of the general plan.
15 Q. Right.
16 A. Reflects what was approved through the
17 master development plan which is known as Peccole
18 Ranch Master Plan Exhibit 8.
19 Q. And Exhibit 7 is a copy of -- if I
20 understand the date is 1999 but that map reflects
21 what was approved as of that date for Peccole Ranch,
22 correct?
23 MR. JIMMERSON: Objection.
24 THE WITNESS: No.
25 MR. JIMMERSON: Misstates the record and

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1 also in confusing as to the date.
2 BY MR. RICE:
3 Q. It shows the open space that was
4 designated by the City -- by the applicant, correct?
5 A. I understand what you're asking but the
6 one that was adopted in '92 does not reflect this
7 configuration.
8 Q. I understand but the one in '99 does
9 reflect the configuration, correct?
10 MR. JIMMERSON: Objection. Misstates the
11 record.
12 THE WITNESS: The one adopted in 1999 is
13 showing the existing configuration of the golf
14 course.
15 BY MR. RICE:
16 Q. The 1992 didn't reflect the nine holes,
17 correct?
18 A. Correct. It reflected the composition
19 shown in the master development plan, not the
20 composition of how it was constructed and exists
21 today.
22 Q. Right. And then how it was constructed
23 and exists today is reflected in the 1999 map?
24 A. In regards to Exhibit 7, yes, it does.
25 Q. Correct? As approved by the City?

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1 A. It says adopted August 10th, 1995, so I
2 imagine that would be the City council action
3 adopting that.
4 Q. And the property owner of the land at that
5 point in time would get notice prior to this
6 adoption, correct?
7 A. I can't speak to how the open meeting law
8 was met on this particular thing. It was prior to my
9 time. But if it is a general plan, we don't send
10 notice to every owner within the City of Las Vegas.
11 Q. Right.
12 A. We do a general posting through the
13 newspaper.
14 Q. Well let's -- can we agree on this? The
15 property owner in that case at the time of the
16 adoption of the general plan map got just as much
17 notice as all the homeowners did in September of 2015
18 about the amendment with the asterisk correct?
19 MR. JIMMERSON: Objection. Misstates the
20 records in light of the witness' earlier testimony
21 about greater radius and greater notice.
22 THE WITNESS: As I stated before, I don't
23 know how they noticed this one but if the minimum
24 open meeting law was being met, then yes.
25 ///

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1 BY MR. RICE:
2 Q. And as your research, did you find any
3 proof that the property owner disputed the
4 designation -- the property owner at the time --
5 disputed the designation as open space as reflected
6 on that 1999 map?
7 A. I personally haven't but I personally
8 haven't researched everything that the City clerk may
9 have regarding to this.
10 Q. Has anyone told you that the property
11 owner at the time disputed that designation?
12 A. Not to my recollection.
13 Q. Does the property owner obtain a
14 significant benefit under that designation, open
15 space?
16 MR. JIMMERSON: Objection. Calls for
17 expert opinion and testimony that this witness has
18 not been retained or compensated.
19 THE WITNESS: I can't speculate as far as
20 who would -- you know, what benefit one would garner
21 for it. Are you asking as an overall community open
22 space is a benefit?
23 BY MR. RICE:
24 Q. No?
25 A. Or is it an individual that owns open

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1 space so they get a benefit?

2 Q. Well, the applicant in this particular

3 case, the developer got a benefit did they not by

4 designating all that area as open space?

5 A. I imagine if they were trying to create a

6 community around a golf course that would be a

7 sales pitch, you know.

8 MR. JENSEN: Move to strike the answer

9 as calling for speculation. Mr. Rice, please. When

10 I'm speaking please don't speak and I'll give the

11 same respect.

12 MR. RICE: If you have an actual object in

13 that's fine but if you're going to give more of the

14 empty speaking object then I don't think that's

15 appropriate.

16 MR. JENSEN: I would have no strike

17 because the answer says I would imagine. I said

18 therefore the answer evinces speculation and I

19 stopped. But you continued talking and that's

20 disrespectful, and I just asked you to the court

21 reporter gets it all down. That's all.

22 MR. RICE: I wasn't trying to be

23 disrespectful, Mr. Jensen. I thought you had

24 ended your statement. --

25 MR. JENSEN: I have

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MR. JENSEN: No you were.

MR. JENSEN: And I have to strike and

yes, thank you.

MR. RICE: So I'm not sure why you

interrupted me.

MR. JENSEN: Because I was still

speaking and you started talking again and then you

started asking the next question. And in my I

voiced a concern.

BY MR. RICE:

Q. In addition to trying to create a

community around a golf course are you aware whether

or not the property owner by designating it as open

space gets any tax advantages?

MR. JENSEN: Calls for speculation.

The question is also violating earlier testimony of

the witness.

THE WITNESS: I don't know. I would have

to defer to counsel.

BY MR. RICE:

Q. Okay. So back to my earlier question, you

said that you thought that there was something around

1990 units that hadn't been developed of that had

been approved. But those 1200 units had been

approved for the female family tract correct?

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MR. JENSEN: Objection. Calls for

speculation.

THE WITNESS: That criteria come as a

condition of approval on the zoning -- the final

action letter for the zoning approval which I believe

the applicant at that time was Peccole Trust 1982 or

Peccole Trust.

BY MR. RICE:

Q. And the Peccole Trust has sold a lot of

that property to other people, correct?

A. I don't know to what extent.

Q. Well, do you know that Mr. Schreck owns a

piece of the property in Peccole Trust was created or

approved as part of this named plan? Do you know

that?

A. I do.

Q. Does Mr. Schreck have the right to develop

additional houses on his property?

A. He's held to the confines of the zoning

ordinance and the approval of his individual

subdivider.

Q. What individual subdividers?

A. His name is on the subdivision

subdivision.

Q. Okay.

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A. -- and to establish the development

standards and that configuration of lots it went

through a subsequent action which has the same

conditions of approval for setbacks and things like

that, and he's also held to the same zoning ordinance

code and then the zoning code, he would be held to

the legacy district. As far as multiple dwelling

units with kitchens and things like that, there are a

number of things that he would have to deviate from

to be able to do so.

Q. In order to do so, right? Can he just

knock down the house and build multiple units on his

lot, his large lot?

A. He can demolish his house. He can

petition and go through the many applications it

would take. He has the right to petition to do so.

Q. Well, how many units then are allowed to

be developed on his property of this 1200 that you say were

approved?

A. Well he would get all 1200 if he could

develop it.

Q. What's that?

A. It is entitled to, to have 1200 on his

lot.

Q. On his lot then he could -- the 1200 are

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1 his?

2 A. Well, it's a geographical area and if he's

3 within that area he's held to that condition of

4 approval as well.

5 Q. Here's what I'm confused by, Mr.

6 Lowenstein. How would the 1200 be available to the

7 owner of the golf course property which was

8 designated as open space under the approved plan?

9 How is it that those 1200 are somehow available to

10 somebody who bought property designated as open

11 space?

12 MR. JIMMERSON: Objection. The question

13 is argumentative, assumes facts not in evidence. The

14 property was never designated as open space in 1990.

15 BY MR. BICE:

16 Q. Go ahead.

17 A. As I said you have the act to petition

18 your government. In this case it would be up to the

19 council's discretion to amend it from open space to

20 something else and allot the units.

21 Q. Just so -- so I guess the units are just

22 as much available to everybody else that owns

23 property in this community as they are to the golf

24 courses; is that what you're saying?

25 A. Saying within that geographical area there

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1 is developable land and within that whoever petitions

2 their government is still able to ask for those

3 units.

4 Q. All right. Is this the first come first

5 serve principle?

6 MR. JIMMERSON: Object to the form of the

7 question. Argumentative.

8 MR. BYRNES: Join in that.

9 THE WITNESS: That's one way somebody

10 could put it.

11 BY MR. BICE:

12 Q. Is that codified anywhere in the City

13 code?

14 A. Not --

15 MR. BYRNES: Calls for a legal conclusion.

16 THE WITNESS: Not that I am aware of. If

17 you have a condition that limits the number of units

18 and you still have that available number of units,

19 what curtails someone from applying for it?

20 BY MR. BICE:

21 Q. And I think the difference that you and I

22 are talking about is you say you still have those

23 available number of units. Who has them available?

24 The people got an approval or just somebody who comes

25 along 25 years later and buys open space? That's

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1 what I'm trying to understand.

2 MR. BYRNES: Objection. Asked and

3 answered this is really beating a dead horse. This

4 is about the 15th time you asked the same question.

5 MR. BICE: Phil I'm not trying to be

6 argumentative. I don't think it is. I don't

7 understand how it is that those units are -- and if

8 he has an explanation I'd like to hear it. I don't

9 know how it is some guy comes out of the woodwork 25

10 years later and says 1200 units that were approved

11 for Mr. -- for the particular, 30 plus years ago are

12 somehow his. Can you explain to me?

13 MR. JIMMERSON: Object to the question as

14 calling for -- object to all editorialization and all

15 the argumentative nature of it. Also there's not

16 establishing in effect. { Assuming facts not in

17 evidence that it was open space in 1990.

18 THE WITNESS: So to your question in

19 regard to land use entitlement, it stays with the

20 property. The geographical that was with the initial

21 rezoning stays with the property regardless of

22 property owner other than that I'll defer to counsel

23 for my answer.

24 BY MR. BICE:

25 Q. Is it fair to say Mr. Lowenstein that you

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1 have simply calculated the number of unentitled or

2 unbuilt units and that being around 1200, and you

3 have simply made the assumption that those units are

4 available to that phase two land, regardless of who

5 owns it at any particular moment in time? Is that

6 fair?

7 A. That would be fair.

8 Q. How many -- under the City's current code,

9 how many residential units are permitted to be built

10 within a drainage easement?

11 A. What's the zoning district?

12 Q. Does it depend on the zoning district?

13 A. The general plan and the zoning district

14 determine your allowable densities and the

15 development centers in which you're going to to

16 develop the next question is the drainage easement

17 needed in its current configuration if it is then the

18 Department of Public Works will restrict what can be

19 constructed their own title of municipal code which I

20 can't really speak to.

21 Q. In your research, how many housing units

22 of the 4200 that were approved originally for

23 Peccoles, how many of those housing units were

24 reserved, planned or approved for the open space?

25 MR. JIMMERSON: Objection. Assumes facts

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1 but in evidence that open space was also delineated
2 within that 4200.
3 THE WITNESS: Can you restate the question
4 please.
5 BY MR. RICE:
6 Q Let me make sure I read it back correctly
7 in your research, how many housing units of the 4200
8 were approved originally for the Pecoles or that
9 were approved originally for the Pecoles how many
10 of those housing units were reserved planned or
11 approved for the open space?
12 MR. JENSEN: Same objection.
13 THE WITNESS: As relating to Exhibit B --
14 BY MR. RICE:
15 Q Yes?
16 A -- in Exhibit B there are associated
17 tables with it which delineates answers, not
18 densities, regarding various different uses of land
19 use.
20 Q Yes.
21 A And the golf course drainage does not
22 indicate a wet density or wet unit?
23 Q Is it accurate to say in my question --
24 would it be an accurate answer to my question to say
25 yes?

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1 MR. JENSEN: Objection. Same --
2 objection as I incorporate by reference before the
3 witness has already answered the question.
4 THE WITNESS: Yes.
5 MR. JENSEN: Is there an answer to the
6 question?
7 THE COURT: Witness: Yes.
8 MR. JENSEN: So he said yes to the
9 answer yes.
10 MR. RICE: Yes.
11 THE WITNESS: My answer is yes of late
12 Exhibit B does not illustrate a number. This has a
13 dash you can refer to a dash technically as a zero.
14 BY MR. RICE:
15 Q Have you ever socialized with Mr. Lewis or
16 Mr. Bankroft?
17 A Outside of the regularly scheduled
18 meetings?
19 Q Yes.
20 A I've seen Mr. Lewis out in passing and in
21 front outside of the Gate Lodge.
22 Q Okay. Any other circumstances?
23 A Not that I recall.
24 Q Have you ever been to either of their
25 residences?

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1 A. I have not been to Mr. Bankroft's
2 residence. I have been to Mr. Lewis's residence
3 once.
4 Q And when was that?
5 A I don't recall the exact date.
6 Q Was it been within the last year?
7 A I don't recall.
8 Q What was the circumstances just with Mr.
9 Lewis's residence?
10 A. I had asked him as well as my director,
11 because they were traveling internationally, to see if
12 they could procure a bottle of Blanton's bourbon.
13 Q Okay. Mr. Lewis was traveling
14 internationally; is that what you're saying?
15 A Yes. Same as my director was.
16 Q Were they traveling together?
17 A No. Separate things. The just stating
18 because of their traveling internationally, I had asked
19 to see if they could procure a bottle of Blanton's
20 bourbon in that travel.
21 Q And Mr. Lewis did?
22 A He was able to and and I went to his house
23 and returned his money, \$55 and the bottle.
24 Q And that was --
25 A It was just a very cordial conversation.

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1 he be showed me the landscaping and that was the
2 extent of it.
3 Q Do you know whether or not Mr. Persign has
4 ever socialized with Mr. Lewis or Mr. Bankroft?
5 A Not that I am aware of. I've heard the
6 deposition, so the only thing I can say in what was
7 in there.
8 Q Have you ever been to dinner with Mr.
9 Lewis or Mr. Bankroft?
10 A Not that I recall.
11 Q How about lunch?
12 A Not that I recall.
13 Q I'll pose the witness.
14 THE VIDEOGRAPHER: Going off the video
15 record the time is approximately 3:46 p.m.
16 [Exhibit Number 800 was tracked.] A.
17
18 EXAMINATION
19 MR. JENSEN: Good afternoon, Mr.
20 Lowenstein. Are we back on the record?
21 THE VIDEOGRAPHER: We're back on the
22 record the time is approximately 3:46 p.m.
23 BY MR. JENSEN:
24 Q Mr. Lowenstein good afternoon. My watch

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1 follow up this about five minutes to 4:00, 3:55. It
2 what my phone says. I had the privilege and we've
3 have met this morning. I have the privilege of
4 representing Mrs. Davis, 160 Land Company and Beverly
5 Acres in this litigation that was brought by
6 Mr. Simon and others against the City of Las Vegas
7 and against my clients. Do you understand that?
8 A. Yes, I do.
9 Q. Before this morning, had you and I ever
10 met?
11 A. Not to my recollection.
12 Q. And had we ever had any conversations
13 before now, I mean to name other than good morning
14 or hello my name is Jim Timmerman my name is Janet
15 Lowenstein. Have we had any communication at all?
16 A. Not that I recall.
17 Q. Thank you, sir. Now I've shown you what's
18 been marked as Exhibit A. And this is the first
19 amended complaint that has been filed by the
20 plaintiff through Mr. Rice who has examining you this
21 morning from about 9:00 this morning to the present,
22 and I want to know, have you ever seen that
23 document before?
24 A. I may have from evidence.
25 Q. And counsel would be Mr. Blyskal or

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1 Mr. Jeschke?
2 A. Correct.
3 Q. There are allegations here that claim that
4 the City of Las Vegas, through its representative,
5 have colluded with Foxe Slacks, 160 Land Company
6 and Beverly Acres as a group to try to achieve an
7 improper purpose or improper result. Are you aware
8 of any such basis for such a claim like that?
9 MR. BICE: Objection to form.
10 THE COURT: No.
11 MR. BICE: So stated.
12 THE COURT: Sorry, no.
13 BY MR. JIMMERSON:
14 Q. Has the City in any way colluded with the
15 coalition that I represent relative to the
16 partitioning that was occurred in order to achieve
17 zoning change to zoning entitlements?
18 MR. BICE: Objection to form.
19 THE COURT: No, not that I am aware of.
20 No.
21 BY MR. JIMMERSON:
22 Q. Has the City of Las Vegas so far as you
23 are personally involved been compliant, as is alleged
24 at page six, line seven, quote, "the City's
25 complicity in devising surrounding homeowners of

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1 legal notice and an opportunity to be heard." To
2 your knowledge, has the City been compliant to
3 provide a surrounding homeowners of legal notice and an
4 opportunity to be heard?
5 MR. BICE: Objection. Form.
6 THE COURT: My understanding is that the
7 City followed the open meeting law requirements.
8 BY MR. JIMMERSON:
9 Q. So the answer is no?
10 A. That would be correct.
11 Q. And what is your understanding that the
12 City follows legal notice requirements if not open
13 beyond that as you've indicated on your direct
14 examination?
15 A. Can you restate that please?
16 Q. You said no to your knowledge that -- the
17 legal requirements of notice have been satisfied.
18 What's the basis for your answer, sir?
19 A. That a neighborhood meeting was held,
20 depending on which neighborhoods we're talking about,
21 public notification cards were mailed out,
22 neighborhood meetings were held and all of that done
23 in a timely manner and in accordance with the open
24 meeting law.
25 Q. You've been asked about meetings that

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1 you've had with any representatives of the defendants
2 Foxe Slacks, 160 Land Company and Beverly Acres by
3 opposing counsel this morning, correct?
4 A. Yes.
5 Q. You were asked about the one occasion when
6 you paid \$25 to procure a bottle of bourbon that had
7 been brought from somewhere outside the United
8 States -- you mentioned that, right?
9 A. I did.
10 Q. You mentioned that you have attended
11 meetings where Mr. Davis and Mr. Fairbank have been
12 present?
13 A. I did.
14 Q. And perhaps a person by the name of Keith
15 whose last name may be Harrison who you met, right?
16 A. That is correct.
17 Q. Are those all in accordance with how you
18 deal with every person of property owner who seeks to
19 receive land entitlements or some consideration for
20 land use from your department?
21 MR. BICE: Objection. Form.
22 BY MR. JIMMERSON:
23 Q. You may answer the question.
24 A. Have regular meetings?
25 Q. Yes.

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1 A. Yes.

2 Q. Has there been anything untoward or

3 inappropriate in any communications you've had with

4 anyone that you recognize to be a representative of

5 my clients?

6 MR. BICE: Objection to form.

7 THE WITNESS: Not that I am aware of.

8 BY MR. JIMMERSON:

9 Q. Have you conducted yourself in any manner

10 that you believe to be inappropriate with regard to

11 dealing with this applicant and these applications?

12 A. No. Not to my understanding.

13 Q. Have you observed Mr. Perrigo conduct

14 himself in any manner that would be, in your

15 judgment, inappropriate in dealing with these

16 applications and these applicants?

17 A. No, not to my knowledge.

18 Q. Have you conducted yourself appropriately

19 with regard to these applicants as you have with all

20 applicants that appear before the City of Las Vegas?

21 A. I have.

22 Q. Do you know of any basis upon which the

23 plaintiffs would be able to successfully demonstrate

24 any complicity on the part of the City of Las Vegas

25 and in particular Pete Lowenstein towards my clients?

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1 MR. BICE: Objection to form.

2 MR. JIMMERSON: You may answer the

3 question sir.

4 THE WITNESS: I'm not aware of that.

5 BY MR. JIMMERSON:

6 Q. Any such allegations you believe -- any

7 such allegations to be false?

8 MR. BICE: Objection to form.

9 THE WITNESS: There is no basis for the

10 allegations?

11 Q. And why do you say so?

12 A. To my knowledge and my own actions,

13 there's nothing that would have been construed as

14 being complacent or preferential.

15 Q. All right. Now, following the allegations

16 in the amended complaint, there is some requirement,

17 I believe, for all of us in this room to look back at

18 records that may have existed in the late 1980s and

19 early 1990s since none of us were directly involved

20 with the applications at that time. Fair statement?

21 MR. BICE: Objection to form.

22 THE WITNESS: As part of researching

23 projects, one is called upon to look at entitlements

24 and previous zoning codes, potentially codes or

25 general plans from air as before then.

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1 BY MR. JIMMERSON:

2 Q. And that's what you have done in this

3 case?

4 A. I have, as previously stated, reviewed

5 some documents, land use entitlements on the

6 property. I've looked at the associated document,

7 the Peccole Ranch Master Plan as part of that, and

8 the 1992 at that time what was the general plan, the

9 label, and current versions of the Las Vegas 2020

10 Master Plan Unified Development Code.

11 Q. And Mr. Bice representing the plaintiffs

12 has asked you many many questions with regard to

13 events and documents that predate your involvement

14 with the City of Las Vegas?

15 A. They have asked me regarding materials

16 that predate my employment at the City of Las Vegas.

17 Q. All right. From your observations of

18 documents you reviewed, you observed that there was a

19 conceptual master plan developed by the Peccole

20 family to develop proper that they owned in Northwest

21 Las Vegas?

22 MR. BICE: Objection to form.

23 BY MR. JIMMERSON:

24 Q. You may answer the question, sir?

25 A. In the deposition we were making reference

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1 to the Peccole Ranch Master Plan as it's titled. It

2 was agenda'd on the City council as a master

3 development plan.

4 Q. And, in fact, on the face of the document

5 it was called conceptual, correct?

6 A. In reference to Exhibit 8, I don't see the

7 word conceptual, but --

8 Q. Do you understand that these types of

9 plans are in fact conceptual in nature?

10 MR. BICE: Objection to form.

11 THE WITNESS: Well, reading in the first

12 paragraph on page 1, it calls it a conceptual master

13 plan.

14 BY MR. JIMMERSON:

15 Q. My words exactly. Thank you. And you've

16 dealt with other master plans from other developers,

17 correct?

18 A. I have.

19 Q. And from a judge's perspective, a jury's

20 perspective, a juror's perspective, a lay person's

21 perspective, this is a landowners vision of what they

22 would like to develop, at least at a point in time

23 isn't that what a master plan is?

24 MR. BICE: Objection to form. Calls for

25 speculation and misstates the legal standard.

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1 MR. JIMMERSON: I only want to respond by
2 saying these are the very kinds of questions you
3 asked Mr. Lewenstein for five hours and now you're
4 objecting to the same question he's being asked.
5 It's just so unfair.
6 MR. BICE: Actually, I disagree with you
7 Mr. Jimmerson. My questions are quite different and
8 if you can't recognize from the caption on which side
9 of the case you're aligned, that is an issue for you.
10 My objection --
11 MR. JIMMERSON: This is cross examination
12 counsel. This is a party that is separate and apart
13 and distinct from my clients and somebody I may or
14 may not have agreement with, Counsel.
15 MR. BICE: I've noted my objection for the
16 record.
17 MR. JIMMERSON: Thank you.
18 BY MR. JIMMERSON:
19 Q. Now return to the question which was a
20 while ago.
21 MR. BYRNES: Do you recall what the
22 question is?
23 BY MR. JIMMERSON:
24 Q. I'll ask it again. A master plan is a
25 developer vision of what he would like to develop

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1 conceptually; is that correct?
2 MR. BICE: Objection to the form.
3 Misstates the legal standard.
4 THE WITNESS: Master plans to my
5 understanding and my experience working with them,
6 they are overall layout of how the development is to
7 occur. The specifics on the subdivision are
8 subsequent actions.
9 BY MR. JIMMERSON:
10 Q. And master plans -- is it true that master
11 plans can change over time?
12 A. They can.
13 Q. And what are some of the factors, some of
14 the reasons why a developer's, you know, intent or
15 vision or conceptual plan might change?
16 A. Land use designations within the plan
17 based on their own -- whatever their reasons are,
18 they can petition to amend those to be from a
19 residential to a commercial or vice versa. I don't
20 know what drives the master developer. It could be
21 market driven it could be any other number of reasons
22 I won't speculate why but they would be able to
23 petition the City council to amend that plan to go
24 forward with whatever their vision is on or their
25 amended vision is.

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1 Q. And in 199 -- 1986 there was this original
2 plan, the Venetian plan I think you referenced
3 correct?
4 A. That is correct. I'm not sure on the date
5 but there was the Venetian foothills.
6 Q. And then you saw the -- your first master
7 plan I think you told opposing counsel was in 1989,
8 with an amended plan in 1990 is that right?
9 A. As far as the Peccole Ranch Master Plan,
10 yes.
11 Q. And as indicated on page 1 of the master
12 plan it was his conceptual plan; is that right?
13 A. In Exhibit A?
14 Q. Yes. Exhibit A.
15 A. On page 1, it reads the proposed
16 569.6-acre Peccole Ranch Master Plan is being
17 submitted to the City of Las Vegas for the approval
18 of and amendment to the over all conceptual master
19 plan along with the rezoning of a 996.4 acres in
20 phase two to R-MD7 and R3 and C1 designations.
21 Q. Okay. Now, what does the word conceptual
22 in the term conceptual master plan mean to you as you
23 have just read it into the court record?
24 MR. BICE: Objection to form.
25 THE WITNESS: That it has, you know,

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1 flexibility to be further amended,
2 BY MR. JIMMERSON:
3 Q. Are you familiar with Nevada Supreme Court
4 decisions that speak to how to interpret master plans
5 and conceptual master plans?
6 A. No.
7 Q. As part of your working in your own work
8 and perhaps even with, you know, your City attorney's
9 office, have you been advised of Nevada Supreme Court
10 precedent that talks in terms of master plans not
11 being a straight jacket to City councils and county
12 councils?
13 A. I don't recall any direct conversations.
14 I imagine I've talked with counsel but I don't know
15 any court cases that I can reference.
16 Q. If I gave a case, which I do have here
17 that says that conceptual master plans are not a
18 straight jacket to City or county, you know, councils
19 would you have had that kind of conversation or had
20 that kind of knowledge in the course of your work?
21 A. No. Not unless Council brought it to my
22 attention.
23 Q. Fair enough. But as you understand the
24 word conceptual, that you attach it to the term and I
25 agree, the term flexibility, correct?

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1 MR. BICE: Objection to form.

2 BY MR. JIMMERSON:

3 Q. Have I characterized or summarized your

4 testimony correctly?

5 A. As I stated, if given the ability to

6 attend at a future date and the would does could apply

7 the word flexible to that.

8 Q. And you at last did apply the word

9 flexibility?

10 A. I'm not sure. We'll have to ask the

11 stenographer.

12 Q. Now, looking at the map of the proposed

13 master plan could you look please at page -- it's

14 been stamped number 299 of Exhibit 6 -- now,

15 do you see that this plan is a plan from 1969 and is,

16 in fact, not the final plan approved by the city of

17 Las Vegas in 1999?

18 MR. BICE: What's the page number?

19 MR. JIMMERSON: 299, Counsel.

20 MR. BICE: Thank you.

21 THE WITNESS: I don't see an annotated

22 date on the page. It's referenced as Exhibit 6

23 within the document, so individual to read the

24 document to say as far as what its full purpose is.

25 ///

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1 BY MR. JIMMERSON:

2 Q. Well, do you look at this to see, in fact,

3 the top right-hand corner phase one, 1969? Right at

4 the top of the very same page of the map?

5 A. At the top of the page it reads, on the

6 right-hand side it says site data, typical, phase one.

7 Q. And isn't it true that 8-17-90 the plan

8 that was approved a year later is very different than

9 the map that is shown here as 299? Exhibit 9

10 MR. BICE: Objection to form.

11 BY MR. JIMMERSON:

12 Q. And I can show you the 8-17-99 if you need

13 to. It's a separate document.

14 THE WITNESS: This is the regarding

15 of video recording number seven in the continuing

16 deposition of Peter Rosenbaum. We're back on the

17 video record.

18 BY MR. JIMMERSON:

19 Q. Thank you. What I want you to confirm is

20 knowledge if you can is to review the phase one map,

21 data stamp number 299 of Exhibit 6 which I believe

22 is the phase one 1969 map with the later approved map

23 of 8-17-99 in 1999 and then satisfy yourself by

24 looking at Exhibit 1 that the map indicates what was

25 actually built in 1999 is different than the master

149

1 plan map in Exhibit 10 was not followed by the

2 developer. As I need -- we're still waiting for that

3 one piece of paper, 8-17-99, but that's the task I'm

4 asking you to take a moment and look at. While we're

5 waiting for that document, can you --

6 MR. BICE: Here it is.

7 MR. JIMMERSON: Thank you.

8 MR. BICE: Can I just take one?

9 MR. JIMMERSON: Of course.

10 [Exhibit number was -- was marked 5]

11 BY MR. JIMMERSON:

12 Q. Now before you you have three documents.

13 you have Exhibit 6 the 1969 phase one document

14 document #299, you have Exhibit 10, the 8-17-99

15 approved by the City Council in 1999, April 15th,

16 and you have Exhibit 1, Development 1, which has

17 the -- what purports -- what you testified purports

18 to be an architect of the golf course in 1969. So you

19 have those three documents in front of you, right?

20 A. That is correct. I have those documents.

21 Q. Just to make it easier, why don't we stick

22 with the 1969 draft of Exhibit 6 and compare it to the

23 1999 approved of Exhibit 10. And can you tell me

24 the differences that you observe as to the location

25 of holes and other natural features between that which

148

1 was conceptual in nature in 1969 contrasted to what was

2 actually built in 1999 ten years later?

3 A. Just for point of clarification Exhibit 1

4 is 1996.

5 Q. I thought your testimony -- maybe I was

6 mistaken, was 1999, named then --

7 A. Are you referring to Exhibit 1, which is

8 the architectural master land use plan?

9 Q. I may have been. Let me show you another

10 exhibit.

11 [Exhibit number was -- was marked 5]

12 THE WITNESS: I assume -- I'm assuming the

13 same question regarding all now --

14 BY MR. JIMMERSON:

15 Q. Yes, you have four exhibits. I'm trying

16 to show you what's been built versus what was

17 conceptualized by the Sevens family in 1969 and to

18 point out that the master plan that was conceptual in

19 1969 was changed a decade later.

20 MR. BICE: Objection to form. Go ahead.

21 THE WITNESS: So between -- sorry,

22 Exhibit 6, the master plan from -- as referenced as

23 Brian UCHIZU in comparison with the other documents,

24 there are differences.

25 ///

150

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1 BY MR. JIMMERSON:
2 Q. What are they that you can easily observe
3 just in the short time you have been given by myself?
4 A. In looking at it I can see the assignment
5 of the Alta Drive. I can see single family has been
6 changed to commercial center. Looking at the
7 composition of the golf course that has also changed.
8 Q. And referring to the composition of the
9 golf course, can you give me a little bit more
10 specifics and details?
11 A. Well, in --
12 Q. The design of the course is significantly
13 different, would you agree?
14 MR. RICE: Objection. Form.
15 A. The original, referring to the Binion
16 00297, shows 18 holes in pretty much a triangular
17 pattern, and when looking at the Peccole West map,
18 there are now fingerlings to it.
19 Q. And you're referring to Exhibit C, the
20 as-built, the thick someone Exhibit C.
21 A. Well I was referring to Peccole West
22 Exhibit 1 and you can also see that it's different
23 from the Binion 008297 in regards to the composition
24 of the golf course. This is Exhibit C, sorry.
25 Q. You're doing fine.

201

1 A. Which is labeled final map for Peccole
2 West. It also differs in composition.
3 Q. Have you completed your answer?
4 A. In regards to those four exhibits that's
5 what I --
6 Q. And -- all right. And in order to -- well
7 what approvals, if any, would the City make to the
8 changes that the developer has obviously made between
9 1989, Exhibit 8297, and 1999 in the as-built that you
10 have in Exhibit C? In other words, how does the City
11 get involved to approve the developer changes in all
12 the differences you've identified?
13 A. From the 2-17-90, that amended the
14 original Peccole Master Plan and included the
15 rezoning of phase two as part of it. Subsequent
16 actions were done by parentheticals of that zoning
17 action, as well as changing the land use plan were
18 done through general plan amendments, meaning the
19 land use plan of the general plan, the designations
20 that were existing at that time.
21 Q. And how is that accomplished, the change
22 of designations of the general plan?
23 A. Through a general plan amendment
24 application which was then followed by a rezoning
25 application to have a compatible zoning district with

202

1 land use designation amended to.
2 Q. And was that done by the applicant or was
3 that at the City's instruction? In other words, is
4 the City changing what I call the cloud above the
5 zoning or is the applicant seeking the general plan
6 amendment?
7 MR. RICE: Objection to form.
8 BY MR. JIMMERSON:
9 Q. If you know.
10 A. From previous entitlement history for
11 parcels specific like the corners that have changed
12 in some of these maps, they have been applicant
13 driven for their desire to do either multifamily or
14 single family development where some other
15 designation was previously.
16 Q. And would you identify Exhibit --
17 Exhibit B, 2-17-90, I don't know that I asked you to
18 do that yet. So would you identify what 2-17-90 is,
19 please, exhibit B?
20 A. Sorry, I'm on the wrong exhibit.
21 Q. It's this document here.
22 A. Can you repeat the question please?
23 Q. Well can you identify what this document
24 is, please?
25 A. It's Exhibit B -- well, which is dated

203

1 2/22 of 2016, but I believe this is a document that
2 was out of the entitlement folder for 2-17-90.
3 Q. And what is 2-17-90?
4 A. That is a rezoning application that went
5 before the City Council and was related to the
6 development -- master development plan which was the
7 item before it on the agenda.
8 Q. And what zoning was placed on this
9 property by action on April 4th of 1990 as
10 reflected by 2-17-90, Exhibit B to your deposition?
11 A. There were multiple zoning distributions
12 which were applied to the overall geographical error
13 encompassed by that zoning action. I believe it's
14 R-PD7, R-1 and C-1.
15 Q. And as it relates to the property and what
16 I would call phase two or what opposing counsel has
17 called phase two, was the vast majority of that all
18 zoned R-PD7?
19 A. From the document that the surveyor -- the
20 City surveyors put together, the majority of the
21 geographical area was in the R-PD7 designation.
22 Q. Including the golf course where you see it
23 drawn now was all R-PD7, correct?
24 A. Correct.
25 Q. And the golf course then came later? In

204

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1 other words, the property is zoned R-PD? and then the
2 golf course is super imposed on that later as we see
3 in the 1995/96 time period?
4 MR. BICE: Objection to form.
5 THE WITNESS: I'm trying to follow the
6 question. Can you restate that?
7 BY MR. JIMMERSON:
8 Q. The majority of the land as you indicated
9 and the land that is being sought to be developed by
10 my clients is presently zoned R-PD? is that correct?
11 A. That is correct.
12 Q. And it was zoned R-PD?, as far as you're
13 looking at the historical documents, on or about
14 April 4th of 1990, correct?
15 A. Correct.
16 Q. Originally through a resolution of intent
17 correct?
18 A. I believe that was the zoning practice at
19 the time, yes.
20 Q. And then we know formally in October of
21 2001 a hard ordinance that did confirm R-PD? for all
22 that property owned by my clients, correct?
23 A. I don't recall the exact ordinance that
24 solidified the zoning out of a resolution of intent
25 but there is an ordinance that did so.

205

1 Q. The way it was described to me, Mr.
2 Lowenstein, and correct me if I'm wrong it's an atlas
3 where all the property where for all the City was
4 confirmed and it was then through City ordinance
5 approved and passed as being whatever the particular
6 property location would be assigned a zoning
7 entitlement.
8 A. Through the zoning plan atlas is the term
9 for the overall zoning of the City. To amend that
10 they do that by ordinance and they did an ordinance
11 which included these properties as part of it which
12 then solidified it as R-PD?
13 Q. You have been present at the meeting of
14 the planning commission before the City Planning
15 Commission in I think it was October of 2016 where
16 the seven applications, I believe, were pending.
17 Were you present for that meeting?
18 A. That is correct.
19 Q. And then you recall that four were
20 withdrawn and three went to full hearing before the
21 City council on November 16th of 2016?
22 A. I believe all of them were heard at
23 planning commission. The withdrawal occurred at city
24 council.
25 Q. That's what I said if I misstated or if

206

1 you misheard. All seven were heard by City planning
2 commission?
3 A. That is correct.
4 Q. And then three were formally heard to vote
5 by City Council.
6 A. Not to be a stickler but City Council,
7 they heard all the items. They took a vote on the
8 request for withdrawal, which they did.
9 Q. And you are right.
10 A. And then they reviewed the subsequent
11 three applications.
12 Q. Good for you. And thank you for the
13 correction. I mean that. I want you to be careful
14 for not only my clients protection, the City's
15 protection and the plaintiff's protection as well.
16 So the withdrawal occurred without
17 prejudice at the time of the City Council meeting on
18 November 16th but you were present for both
19 meetings?
20 A. That is correct.
21 Q. You were present to hear Mr. Jurbic's
22 response to questions asked by the chairman of the
23 City Planning Commission with regard to the hard
24 zoning that existed on my clients.
25 (Reporter interruption.)

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1 Q. You were present to hear Mr. Jurbic's
2 words in answering a question by the planning
3 commission chairman, whose name I don't recall, where
4 he stated, in response to a question asked, that the
5 applicants had hard zoning for R-PD for the property
6 in question, correct?
7 MR. BICE: Objection to the form.
8 BY MR. JIMMERSON:
9 Q. Did you hear those words?
10 MR. BICE: Objection to form the record
11 speaks for itself.
12 MR. JIMMERSON: Thank you counsel.
13 THE WITNESS: I was present at the
14 meeting. I don't recall the specific conversation
15 but it is recorded, so I could refresh my memory to
16 answer that if you like.
17 BY MR. JIMMERSON:
18 Q. When I resume your deposition in the next
19 day, I might play it for you and you can listen to it
20 again.
21 But do you agree that the property owned by
22 my clients enjoys hard zoning for R-PD?
23 MR. BICE: Objection to the form. States
24 a legal conclusion. Go ahead.
25 THE WITNESS: I agree that the property is

208

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1 hard zoned R-PD7.
2 BY MR. JIMMERSON:
3 Q. And as you answered the questions earlier
4 to opposing counsel that allows a -- the landowner to
5 petition to request for a density up to 7.49 units
6 per acre?
7 A. The zoning district inherent in an R-PD7
8 designates the number of dwelling units. The
9 applicant who has that designation on their property
10 would have to petition the City Council for approval
11 of -- of that action, and it is -- in reviewing it,
12 we would review the proposed development, any other
13 applications that would be required, and that
14 includes reviewing the general plan and the zoning
15 district and the development standards that they're
16 proposing.
17 Q. Agreed. And I'm not suggesting otherwise.
18 What I'm saying is the zoning entitlement the hard
19 zoning has a, by category, an ability to develop up
20 to 7.49 units per acre, subject to all the other
21 considerations you've mentioned correct?
22 MR. BICE: Objections to the form. Calls
23 for a legal conclusion and misstates the law.
24 BY MR. JIMMERSON:
25 Q. You may answer the question.

209

1 THE WITNESS: My understanding of it is
2 that the designation of R-PD has associated with it
3 an unit number -- a density, and that is the maximum
4 in which can be developed through that zoning
5 district without requesting something else.
6 BY MR. JIMMERSON:
7 Q. And that density limit is 7.49 units per
8 acre.
9 A. Yes.
10 MR. BICE: Same objections as before.
11 Sorry Mr. Lownstein.
12 THE WITNESS: Yes that's how the R-PD7 --
13 BY MR. JIMMERSON:
14 Q. Now, you were asked to look at in
15 Exhibit B, if you'll turn to Exhibit B, you were
16 asked to look at page 18. Withdraw I'm sorry, I
17 other question before we get to page 18. Would you
18 look at page Bates stamped number 8303 within
19 Exhibit B.. It looks like this.
20 A. Yes, sir.
21 Q. What does this purport to show?
22 A. The title of it is Peccole Ranch Resort.
23 It's kind of granular but it shows park and fields,
24 tennis courts. I can't make out much more. Shows
25 adjacent to a golf course. And it has a number of

210

1 buildings in the center of it.
2 Q. Where is it located? What intersection?
3 A. The roadways are -- it's hard to discern
4 but it's just south of Angel Park which you can make
5 out, so that would be Alta on the east west road, and
6 my assumption is that this is Rampart or at that
7 point it might have still been Fort Apache.
8 Q. And is that a golf course that runs --
9 that crosses the road?
10 A. I can't really discern that. I see what
11 looks to be fairways and greens on the west side of
12 the road.
13 Q. Crossing the road right?
14 A. Well crossing the road. I'm not sure if
15 that's golf course. I don't see any fairway or
16 greens. I can't discern.
17 Q. Was any of this built as we now sit here
18 in 2016?
19 A. In this composition, no.
20 BY MR. JIMMERSON:
21 Q. Can you let me know which page number
22 you're looking at.
23 MR. JIMMERSON: I did and I put it in the
24 record 8303 counsel.
25 MR. BICE: Thank you.

211

1 BY MR. JIMMERSON:
2 Q. Now looking at page 18 of the document you
3 were asked several questions by opposing counsel.
4 A. Okay.
5 Q. No problem at all.
6 Now -- can I see your copy, please? Thank
7 you. Mr. Bice, will you agree that the handwriting
8 and the circles and stuff is not Mr. Lownstein's?
9 MR. BICE: Yes. I'm not sure who is it is
10 in the version we were using was the clean version.
11 MR. JIMMERSON: Well I don't know. What
12 I'm looking at doesn't suggest that.
13 MR. BICE: Yeah, I know I see now what
14 you're saying Jim but the version we used with Tom
15 didn't have this on it.
16 MR. JIMMERSON: But this is what you have
17 used to and I just want to say the handwritten words
18 in the circle is not original.
19 MR. BICE: Those written words are not
20 from the City. I know that.
21 MR. JIMMERSON: Fair enough.
22 BY MR. JIMMERSON:
23 Q. Now the caption of this Peccole Ranch land
24 use data phase two, correct?
25 A. Correct.

212

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1 Q. And for the benefit of the judge who might
2 read this transcript or who might have it read to him
3 or the jury who might listen to this this is
4 relating to phase two and would you agree with me
5 that would be the property north of Charleston?
6 A. Primarily, phase two includes, for lack of
7 better terms, basically a peninsula that runs all the
8 way down to Sahara.
9 Q. Got it. Thank you so much. So the land
10 use is identified in these these seven or eight
11 categories? Would you read those land use categories
12 please?
13 A. Single family, multi family, commercial
14 slash office, resort-casino, golf course drainage,
15 right of way, elementary school.
16 Q. Did you happen to notice whether or not
17 there was a golf course in the 1986 to 1990 time
18 period scheduled for the phase one of the Peccole
19 Ranch Master Plan?
20 A. In relation to this document?
21 Q. No. Phase one south of Charleston.
22 A. I would have to review it. I don't
23 recall. My recollection says there may have been
24 actual golf course holes on the southern portion, but
25 I would have to review that to confirm.

213

1 Q. But in any event it's clear it was
2 eliminated by 1989, correct?
3 MR. RICE: Objection to form.
4 THE WITNESS: Well if it was part of
5 Venetian Foothills and then '89 and then '90, the '90
6 obviously doesn't reflect it.
7 BY MR. JIMMERSON:
8 Q. There is no golf courses built there now
9 south of Charleston between Rampart and wall pie or
10 Rampart and -- correct?
11 A. Not as part of the Peccole Ranch Master
12 Development.
13 Q. All right. Now, looking at these land
14 uses, there is proposed acreage to be allocated to
15 these different land uses, correct?
16 A. There are associated acreages in the
17 column to the right of the land uses.
18 Q. But this is conceptual, it can vary,
19 correct?
20 MR. RICE: Objection to the form.
21 BY MR. JIMMERSON:
22 Q. Can it vary? Can 402 acres be used for
23 single family?
24 MR. RICE: Same objection. Go ahead.
25 THE WITNESS: On page 1 of this Exhibit B

214

1 it says it's conceptual. Then as subsequent land use
2 applications have modified land use designations, my
3 answer would be yes.
4 BY MR. JIMMERSON:
5 Q. You said you read Mr. Pettrigo's
6 deposition.
7 A. That is correct.
8 Q. Mr. Pettrigo was clear to denominate the
9 many departures from this conceptual plan that
10 occurred from 199 to the present, correct?
11 MR. RICE: Objection to the form.
12 Foundation.
13 THE WITNESS: My recollection is that he
14 made mention that there were instances.
15 Q. And he used the word in fact on several
16 occasions inconsistencies. Do you recall?
17 MR. RICE: Objection to the form. Go
18 ahead.
19 THE WITNESS: It was a long deposition and
20 a lot of reading.
21 BY MR. JIMMERSON:
22 Q. Yes, it was?
23 A. So I'm not sure if I'm retaining
24 everything from that.
25 Q. But your own eyes would observe that there

215

1 are wholesale number of inconsistencies between what
2 the conceptually was discussed in 1989 and what was
3 actually constructed in the years that followed to
4 the present date, agreed?
5 MR. RICE: Objection. Sorry are you done?
6 MR. JIMMERSON: Thank you counsel.
7 MR. RICE: Objection to the form. Go
8 ahead.
9 THE WITNESS: There are changes from that
10 original master development plan from '90 going on
11 forward. As far as his deposition, I don't know if
12 he had any examples, but there are, you know -- my
13 only recollection of things that would differ would
14 be northern portion of Boca Park, the Queensridge
15 towers, the southwest corner of wall -- sorry, it
16 would be the northeast corner of Hualapai and
17 Charleston and there's some other examples. Those
18 off the top of my head I know are different from the
19 90 plan.
20 Q. Now does the fact that -- what
21 significance if any do you take from the fact that
22 there is a place holder of a dash next to commercial
23 slash office?
24 MR. RICE: Objection to the form and the
25 representation that a dash is a quote place holder.

216

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1 THE WITNESS: As previously stated, one
2 can infer that it has a zero as I stated. It could
3 be inferred as other things. If, in fact, somebody
4 applies to amend something, then obviously the
5 acreage would change.

6 BY MR. JIMMERSON:
7 Q. Well under this conceptual plan, how
8 much -- how many offices -- how many offices could be
9 placed in the commercial office category? How many
10 could be built under the conceptual master plan?

11 BY MR. BYRNES:
12 Q. Of commercial slash office.
13 MR. BYRNES: Acres.
14 Q. No I want to know how many offices can be
15 built.

16 MR. BICE: Unite.

17 BY MR. JIMMERSON:
18 Q. How much square foot can be built. I'll
19 withdraw the objection.

20 BY MR. JIMMERSON:
21 Q. How many units?
22 REPORTER'S NOTE while withdraw?
23 A. This table does not delineate any units.
24 It doesn't speak to that. It just says acreage dash
25 on density dash on units, both of which are met.

217

1 Q. It certainly allows it to be constructed
2 would you agree?
3 A. Yes.
4 Q. Okay. But the amount isn't determined at
5 least at the conceptual time of this in 1989?
6 MR. BICE: Objection to form.

7 BY MR. JIMMERSON:
8 Q. Correct?
9 A. Yes.
10 MR. BICE: I'm sorry object to form and
11 objection to the reference 1989.

12 BY MR. JIMMERSON:
13 Q. Even if this were deemed to be in 1990,
14 there's no limitation on how many units are going to
15 be placed in commercial office at this time, correct?
16 A. Not by this table.
17 Q. And if you will read the next line,
18 resort-casino, supposedly going to be on 56 acres, we
19 don't know how many with -- what the density for that
20 hotel is going to be, correct, how many rooms are
21 going to be built, how many square foot of casino?
22 A. Right. As far as a resort-casino it's not
23 looked at in regards to density. It's just the
24 development. There are hotel rooms associated with
25 it, but they're not looked at in the sense of

218

1 density.
2 Q. So if I understand your testimony, and
3 this is an area where you're teaching me, Mr.
4 Lowenstein, you wouldn't use the hotel/casino as a
5 count against 4742. Is that what you're saying?
6 MR. BICE: Objection. Form. Go ahead.
7 THE WITNESS: That is correct.

8 BY MR. JIMMERSON:
9 Q. Did you understand my question?
10 A. I did.
11 Q. Okay. But nonetheless there is no attempt
12 in 1989 or 1990 when the master plan is being
13 discussed in Exhibit 8 to identify the density or the
14 number of hotel rooms or the like associated with the
15 resort-casino. Agreed?
16 A. I would have to read through the verbiage
17 of the entire document but pursuant to this table it
18 does not address that.
19 Q. All right. And the golf course drainage
20 talks about 211.6 acres if I'm reading that correct.
21 A. I am assuming there should be a decimal
22 point there, yes.
23 Q. If there's not then my mind put it in.
24 Thank you.
25 A. There's not a decimal.

219

1 Q. How many acres are now -- how many acres
2 are presently utilized for the golf course here in
3 2016?
4 A. Going off the public notifications on the
5 applications, I'm basing it on 250.92 acres.
6 Q. And is all of that golf course?
7 A. I believe so. If anything, it may include
8 where the clubhouse is.
9 Q. Okay. And how would it have changed --
10 and how many acres are devoted to drainage in the
11 present development?
12 A. I don't know.
13 Q. Now, drainage is an issue that the
14 developer works with the City, correct?
15 A. They work with the City City yes it would
16 be with the Department of Public Works.
17 Q. And at least from your expertise but also
18 being involved in the City, you saw what Mr. Lowe
19 and others did with the Tivoli development across the
20 street?
21 A. Yes.
22 Q. And what I mean there was a significant
23 issue of dealing with drainage at that location.
24 Would you agree?
25 A. Through conversations and on the existing

220

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1 projects about the box culverts and things like that,
2 I have been made aware of the conditions that needed
3 to be remedied.
4 Q. You and I could drive right there to Alta
5 and Bampart we could be on the golf course side on
6 see where the drainage is, we could then go over to
7 Tivoli and see how they dealt with the drainage
8 there, building over it. That's a fair statement,
9 correct?
10 A. Yes, that is correct.
11 Q. All I'm trying to get at is the City can
12 work with the developer resolve issues involving
13 drainage, and was, you have indicated, with the
14 proper permissions you can build over drainage, you
15 can build around drainage, you can solve the issue as
16 long as you have both federal and state approval.
17 Agreed?
18 A. I agree to that, yes. I previously stated
19 that drainage easements if they're not needed in
20 their current configurations or immediate, it's
21 pretty much up to the Department of Public Works.
22 Q. Within the City of Las Vegas.
23 A. If they agreed ever agree it's immediate
24 they would also be able to tell you if -- whichever
25 process your meeting, if you can build (CHECK).

221

1 Q. And you work with the City to solve that
2 issue or at least you agree it can't be solved and it
3 has to be left to drainage?
4 MR. BICE: Object to form.
5 THE WITNESS: The applicant would work
6 with, yes the Department of Public Works.
7 Q. And the Department of Public Works is part
8 of the City of Las Vegas.
9 A. That is correct.
10 Q. It's one of your sister departments at the
11 City.
12 A. Yes, a fellow department.
13 Q. Now, looking at the right of way, there
14 are 60.4 acres that are guesstimated to be right of
15 way. Do you see that?
16 A. I do.
17 Q. And there is, again, no place -- I call it
18 a dash, not a zero, but a dash, right?
19 A. That is correct, there's a dash.
20 Q. And what do you understand is being
21 communicated by the term right of way?
22 A. The public roadways.
23 Q. Could it also include open space, small
24 parks?
25 MR. BICE: Objection to the form.

222

1 BY MR. JIMMERSON:
2 Q. You know roundabouts, things like that?
3 A. I would have to defer to counsel as far as
4 the full scope of what right of way could entail.
5 Q. But at least as you understand it, it's
6 the roads and the ability to egress and ingress on
7 the property. Would that be a fair statement?
8 A. Yes, that would.
9 Q. And then you have elementary school for
10 13.1 acres. Do you ever do you know with dash as
11 density how do you treat density relative to an
12 elementary school. Does that count against density
13 is really the question or do you treat it like a
14 resort-casino, it does not count against density?
15 MR. BICE: Objection to form.
16 Q. First of all do you understand my
17 question.
18 A. I do understand the question.
19 Q. Now answer to the best of your ability
20 please.
21 A. The type of development would not be
22 subject to any density. It's not calculated similar
23 to how I stated on the resort-casino.
24 Q. Then you have total of 995.4 acres if I'm
25 inserting the point correctly. Do you see that?

223

1 A. The one I'm looking at 99- -- 99 -- 996
2 and I'm assuming there is a point and four.
3 Q. Again, based upon the total acreage of
4 doing the math at that time, that's roughly 4.5
5 dwelling units per acre, correct?
6 A. That is correct.
7 Q. For a total of net units of 4,247?
8 A. Correct.
9 Q. I have read that correctly?
10 Yes.
11 Q. Would you read the note right below that
12 please?
13 A. Note: Overall density based on all areas
14 except right of way.
15 Q. Now, what did that mean to you as you read
16 those words then as you study this and now?
17 A. That the right of way acreage was not
18 included in the acreage to calculate the overall
19 density.
20 Q. So excluding 60.4 acres, the density was
21 computed upon the other categories except for right
22 of way; is that right?
23 A. I'm assuming so. I would have to do the
24 math.
25 Q. All right. Now, because hard zoning on

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1 this property owned by my clients occurred first in
2 time in 1990 and then as you have noted in 1996 a
3 golf course was constructed that originally as you
4 have seen in the plans was supposed to be 18 holes
5 and turned out to be 27 holes and we can look at it
6 and know it was 27 holes. Is that a reason why the
7 City has -- and your department believes that my
8 client has the right to build on the golf course?
9 MR. BICE: Objection. Were you done?
10 MR. JIMMERSON: I am.
11 MR. BICE: Okay. Countless objections.
12 Objections to form. Calls for a legal conclusion.
13 Calls for speculation by the witness. And misstates
14 the law.
15 BY MR. JIMMERSON:
16 Q. I'm going to revise the question.
17 Is it your understanding based upon your
18 work at the City of Las Vegas and your position there
19 and knowing the hard zoning that exists there, that
20 my clients have the right to build towards 7.49 units
21 on the property that they own, otherwise you and I
22 would call is the golf course?
23 MR. BICE: Objection to form. Calls for a
24 legal conclusion. Misstates the facts and objection
25 that it misstates the law.

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1 BY MR. JIMMERSON:
2 Q. I must be getting to the heart of the
3 matter.
4 MR. BICE: Go ahead. I just want to
5 preserve my objection?
6 MR. JIMMERSON: Please answer.
7 MR. BICE: I would like to hear the
8 answer.
9 THE WITNESS: The applicant has the right
10 to petition the City Council to develop their
11 property.
12 Q. And does it have the right to develop the
13 property with the zoning that exists, some form of
14 development on the property?
15 MR. BICE: Same objections. Go ahead.
16 MR. BYRNES: I think I would also say
17 legal conclusion there. Go ahead and answer.
18 THE WITNESS: In their petition to develop
19 their property, they're going to have to apply for
20 all required applications and then ultimately the
21 decision by the City Council as to what is --
22 whatever their finding may be compatible harmonious
23 with the surrounding area, but it would be their --
24 their discretion.
25 ///

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1 BY MR. JIMMERSON:
2 Q. Did you support the project of 779
3 units -- 720 units, excuse me, when it was proposed
4 in August of 2015?
5 MR. BYRNES: Are you asking Mr. Lowenstein
6 personally?
7 MR. JIMMERSON: Yes.
8 MR. BYRNES: Or --
9 BY MR. JIMMERSON:
10 Q. Good distinction. Asking Mr. Lowenstein
11 as part of the planning department.
12 A. As part of the planning department? Our
13 original design review meeting from that as the
14 department, we came out with an understanding that we
15 were getting an overall package, so we did not come
16 out with a recommendation until the overall package
17 was submitted. Subsequently, then we had a
18 recommendation of approval on the application. With
19 the withdrawal of the other items, it went forward
20 with the recommendation of approval and then at the
21 meeting, the director, based upon the discussion,
22 council withheld a recommendation.
23 BY MR. JIMMERSON:
24 Q. Why did you conclude -- why did the
25 department conclude that a major modification was not

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1 required, initially on the 720 and now here more
2 recently on the 720?
3 MR. BICE: Objection. Objection to form.
4 Go ahead, sir.
5 THE WITNESS: As previously stated, that
6 there was -- within the geographical area of the
7 original zoning that capped the number of units at
8 4,247 if I quoted that right, there were still
9 allowable units within that, and that with that they
10 were petitioning through the general plan amendment
11 rezoning and the site development review and a
12 modification wasn't necessary.
13 Q. When you look at Exhibit 8, page 18 which
14 is what you and I would call is the table of land use
15 data, the one we were looking together, is there any
16 category there under land use called open space? You
17 can answer the question sir?
18 MR. BICE: Is it eight?
19 MR. JIMMERSON: Exhibit 8 Bates stamp
20 number 8310 the one we went through together.
21 Q. Is there any land use here designated open
22 space?
23 A. No.
24 Q. Was there any requirement in the E-17-90
25 to maintain open space imposed upon the Peccole Trust

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1 when they received the City Council approval on
2 April 4th of 1990?
3 MR. BICE: Objection to the form.
4 THE WITNESS: The conditions of approval
5 for that zoning action, I don't recall having
6 something specific to required amount of even space.
7 BY MR. JIMMERSON:
8 Q. What were, to the best of your
9 recollection, the only condition or conditions placed
10 upon the approval of R-17-90 and the R-PD? zoning for
11 this land in April 1990?
12 A. Just to be specific, the rezoning had
13 multiple zoning district. It was applicable to all
14 of those district. They had a maximum number of
15 units as a condition placed on them. As previously
16 discussed, they had a condition to conformance of the
17 conditions of the master development plan, which I
18 have stated I have not been able to find any. And
19 then I imagine there are a number of other conditions
20 from public works and other departments, they're all
21 roped into one letter.
22 MR. JIMMERSON: Thank you. Can we pause
23 just for a minute please.
24 Q. I have never seen on this property a
25 condition that requires the Peccole Trust to comply

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1 with a master plan. I'm trying to square your last
2 answer if you'll be more clear to me with regard to
3 what it is you mean when you say I have never been
4 able to confirm as I stated I have not been able to
5 find any. Would you please help us understand your
6 testimony or at least help me understand your
7 testimony better, please?
8 MR. BICE: Objection to the form and the
9 factual representation.
10 BY MR. JIMMERSON:
11 Q. You can go ahead and answer the question.
12 A. So in doing the research of the land use
13 entitlements and specifically this zoning action and
14 then reviewing that conditions of approval part of
15 it.
16 Q. Referring to April of 1990.
17 A. Correct referring to R-17-90 as the
18 rezoning application and the condition in there, I
19 don't know if it's condition number 2 or three on
20 that a-- on that final action letter, rereviewing the
21 minutes from -- and the agenda from that same
22 meeting, I have not been able to find any conditions
23 that are specific to that agenda item which is the
24 master development plan, regarding phase two.
25 Q. Meaning there's no minutes or any

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1 requirement you can find to comply with the phase two
2 master plan. Is that what you mean by that last
3 answer?
4 MR. BICE: Objection to form.
5 BY MR. JIMMERSON:
6 Q. You can answer the question sir.
7 A. Meaning there weren't -- as the zoning
8 action R-17-90 had its own specific condition
9 approval letter.
10 Q. I understand.
11 A. The master development plan did not have
12 have its own specific letter with conditions imposed
13 that I have found at this point.
14 Q. And what is the significance of that?
15 A. The condition that it says to conform to
16 it, if there are no conditions, then it's moot.
17 Q. And you don't find any conditions at least
18 through your research in studying the minutes and the
19 folder that you examined is that right?
20 MR. BICE: Objection to form. Go ahead.
21 THE WITNESS: Based upon the research, I
22 have not found an action letter regarding that
23 development -- master development plan item.
24 BY MR. JIMMERSON:
25 Q. And so I understand -- in my vernacular,

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1 therefore, there is no condition that you have been
2 able to find that requires compliance with the
3 conceptual master plan in the R-17-90 action by the
4 City Council; is that correct?
5 MR. BICE: Objection to form. Misstates
6 the law. Misstates the facts.
7 Go ahead, sir.
8 THE WITNESS: The items are related. I
9 would have to defer to counsel on their
10 interpretation.
11 BY MR. JIMMERSON:
12 Q. I'm asking what you found. I'm trying to
13 understand what you're saying. You're saying,
14 Mr. Jimmerson, I don't see any condition that
15 requires compliance with a master plan in my
16 research. Is that what you're telling us?
17 MR. BICE: I apologize, sir. I need to
18 state my objection. Object to form. Misstates the
19 law and misstates the facts. Go ahead, sir.
20 THE WITNESS: The zoning action has a
21 condition that says to conform to the conditions of
22 the master development -- master development plan. I
23 have not been able to locate a separate conditions of
24 approval letter for that master development plan.
25 That is what I'm stating.

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1 BY MR. JIMMERSON:
2 Q. All right. And did you observe that the
3 approval the City Council in April of 1990 had a five
4 year limit after which it expired?
5 A. Without reviewing the condition of
6 approval, if it had resolution of intent it would
7 have been listed as a condition on it. Some actions
8 don't and run indefinitely.
9 Q. What happens if there's a five year limit
10 to the approval?
11 A. That is usually the duration in time which
12 the council has deemed for the entitlement to be
13 exercised.
14 Q. Now, you mentioned something called PR-OS.
15 Right? I heard a question asked of you this morning
16 about that.
17 A. Yes. Throughout the course of this
18 deposition, we have referred to a general land use or
19 in the Las Vegas 2020 Master Plan a designation
20 called PR dash OS which is parks recreation and open
21 space.
22 Q. In 1990 was there any designation for this
23 ground as PR-OS?
24 A. From my research the designation on this
25 property or this general area would have been to

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1 the -- in the 1985 general plan which did not have
2 specific designations but more of -- and it's I guess
3 they called it the title might be a general land use
4 plan in the sense that it's not a site specific. It
5 had swaths of rural, suburban or urban designations.
6 Q. So PR-OS was not something that was -- was
7 not a designated land use in 1990 when Mr. Pecuniary
8 or the Fencole Trust obtained its entitlements before
9 the City Council?
10 A. Not to my knowledge.
11 Q. Is it your contention today, now in 2015,
12 December, that there is a land use designation for
13 the golf course owned by the companies that I
14 represent that they're subject to PR-OS land use
15 designation?
16 A. As reflected on the current southwest
17 sector land use map, yes.
18 Q. And when was the PR-OS land use
19 designation affixed to the property owned by my
20 clients, to the best of your knowledge?
21 A. I don't know. Research would have to be
22 done. I understand there's a 92 plan and then
23 there's the adoption of the Las Vegas 2020 Master
24 Plan in 2000.
25 Q. Could it have been done as recently as

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1 February of 2015?
2 A. I don't think so.
3 Q. Have you -- did you have any -- have you
4 heard any claim -- withdrawn.
5 Have you seen any document that lists the
6 property -- withdrawn.
7 The golf course was constructed in the 1996
8 to 2000 time period. Is that your understanding?
9 A. I don't know the exact date when it was
10 constructed.
11 Q. Not the exact four years, but would you
12 agree it was about that time period?
13 A. I don't know if it was '96 or not. I
14 review airline photography to tell you exactly when
15 the construction started.
16 Q. All right. Now the land that's owned by
17 my clients 180 Land Company, Seventy Acres and Fore
18 Stars, they own the golf course as it's built, as
19 built that I was showing you in Exhibit D correct?
20 MR. BICE: Objection to form.
21 THE WITNESS: Is it C?
22 BY MR. JIMMERSON:
23 Q. Thank you Exhibit C.
24 A. If this is the current configuration of
25 the 1827, yes.

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1 Q. And since we know that the location of the
2 golf course has significantly changed from what was
3 conceptually thought about in 1989 or 1990, how does
4 the land use designation change to match the -- you
5 know, the current as built location? How does that
6 work?
7 MR. BICE: Objection to the form. Go
8 ahead.
9 MR. HYMER: Do you understand the
10 question?
11 THE WITNESS: Are you asking how did the
12 golf course become designated parks recreation open
13 space?
14 Q. The answer is yes, but what I'm trying to
15 understand is you couldn't have the current land use
16 design -- I'm asking. I'm not telling you. I'm
17 asking. You would not have a land use designation of
18 PR-OS on the golf course that's built today until
19 it's built today, until it was built. Agreed?
20 A. I'm not sure.
21 Q. Do you understand the question? You
22 couldn't put a PR-OS land use on another location,
23 that didn't happen in this case right I mean we don't
24 have PR-OS in 1990 when my clients not my clients but
25 the owner, obtains the 2-17-90 right of entitlement

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1 under zoning the golf course as-built in '96 to 1999
2 time period. So the PR-OS designation land use would
3 have had to occur after you know where the location
4 of the golf course is built. Would that be a fair
5 statement?

6 MR. BICE: Objection to form.

7 THE WITNESS: From my recollection in the
8 1992 general plan, there was a comprehensive survey
9 and that is where they designated land use
10 designations.

11 Q. Was PR-OS designated on my clients
12 property in 1992?

13 A. I believe the designation it could have
14 been P, I'm not sure if PR-OS existed, but P existed
15 and it would be in the configuration of I believe the
16 master development plan.

17 Q. And what configuration in 1992 was that?

18 A. That would be the configuration as I'm
19 assuming it's the configuration of the X-17-90 phase
20 two rezoning and and subsequent amendment of over all
21 Peccole Ranch Master Development.

22 Q. When was PR-OS as a designated land use
23 created by the City of Las Vegas?

24 A. I don't know research would have to be
25 done.

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1 Q. Was it before or after you became a
2 planner in 2003?

3 A. As a guess I would say before.

4 Q. It existed at the time you came to work
5 there?

6 A. I believe so. I mean I can look at
7 Exhibit 7, which says it's adopted in 1999, which has
8 parks recreation and open space.

9 Q. And how is a PR-OS -- how is a land use
10 designation like PR-OS adopted by the City of Las
11 Vegas? What has to be done to adopt it?

12 A. My limited exposure with the overall
13 process, this is where Mr. Summerfeld would probably
14 be more apt to speak to, but there is a lot of public
15 input, {shurets and public outreach in coming up with
16 the general plan and then there are neighborhood
17 meetings when the plan is towards the final draft and
18 then obviously it goes before the City Council for
19 adoption and ordinance.

20 Q. And is the affected -- are there any
21 notice of the landowner of PR-OS being placed upon
22 their property?

23 A. As I previously stated earlier, I believe
24 as it's a City-wide effect that they don't notice
25 every individual property owner but once again I

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1 wasn't here when they did it, so I can't confirm.

2 Q. What if there is a conflict as we have
3 here with hard zoning of R-D7 since 1990 and possibly
4 working together PR-OS being put on this property in
5 the late 1990s?

6 MR. BICE: Objection to form. Objection
7 to the representation of conflict.

8 Q. First of all would you agree, as Mr.
9 Perrigo, said that's a conflict, R-PD7 zoning and
10 building rights and a land use designation of PR-OS?

11 MR. BICE: Objection to form and objection
12 to the representation that Mr. Perrigo said it's a
13 conflict.

14 BY MR. JIMMERSON:

15 Q. He used the word inconsistency. Would you
16 agree that there is an inconsistency between this
17 property having a hard zoning of 1990 of R-PD7 and
18 sometime thereafter a PR-OS placement of land use
19 designation by the City?

20 MR. BICE: Objection to the form.
21 Objection to the representation he claimed it was a
22 an inconsistency.

23 MR. JIMMERSON: You can answer the
24 question. I'm quite satisfied that's the word Mr.
25 Perrigo used.

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1 Q. I'm asking your opinion, Mr. Lowenstein,
2 your observation. I'll state it quickly is there an
3 inconsistency between the R-PD7 rights to build,
4 zoning rights, entitlements, and placing a land use
5 designation of PR-OS on that very same land?

6 MR. BICE: Objection to form. Objection
7 to the representation that a zoning grants a right to
8 build. Go ahead.

9 Q. The question didn't include that but go
10 ahead.

11 A. If somebody wanted to exercise the R-PD7
12 for single family development, the Unified
13 Development Code and the -- being the zoning code
14 strives to have consistency between the general plan
15 and the associated zoning district. In this instance
16 the zoning district actually has its own dense tee
17 called out appear the parks recreation open space
18 does not. So we would look for that consistency and
19 require it it be amended to have a designation that
20 matches whatever the proposed development's overall
21 density is going to be. In that light there are
22 other situations where there are R-PD zoned
23 properties with parks recreation and open space
24 underneath it.

25 Q. What's underneath the zoning coming first?

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1 MR. BICE: Objection.

2 THE WITNESS: I'm just using -- sorry.

3 MR. BICE: Objection to form. Go ahead.

4 THE WITNESS: I'm using that as far as the

5 hierarchy of land use and general plan, broad stroke

6 and then you go to on finer point and underrring with

7 the general plan and zoning above.

8 Q. But requesting a change in general

9 amendment is because there is an inconsistency in the

10 R-PD7 and the PR-OS?

11 MR. BICE: Objection to form.

12 Q. Otherwise there wouldn't be a need to

13 amend the general plan, correct?

14 A. For the exercising of that residential

15 plan, yes.

16 Q. And as between any conflict between PR-OS

17 and R-PD7, the zoning trumps the land use

18 designation, isn't that true, by statute?

19 MR. BICE: Objection.

20 THE WITNESS: That I would have to defer

21 to counsel.

22 MR. BICE: Object to form. Misstates the

23 law.

24 BY MR. JIMMERSON:

25 Q. Let me ask your opinion. If there is a

241

1 conflict between land use designation and zoning what

2 trumps what?

3 MR. BYRNES: Just object calls for a legal

4 conclusion go ahead and answer.

5 THE WITNESS: It's my understanding a zone

6 district gives a property owner property rights.

7 Q. So therefore it trumps the land use

8 designation when they are inconsistent.

9 MR. BICE: Objection to form go ahead.

10 BY MR. JIMMERSON:

11 Q. You can answer the question yes or no sir?

12 MR. BICE: Also can you hold on one

13 second. I need to make this objection. Phil, if you

14 allow him to answer this question, since he says it's

15 his understanding, I'm going to follow up and ask him

16 what's the basis for that understanding if he's

17 giving a representation.

18 MR. JIMMERSON: You don't have to,

19 Counsel. I'll be asking the next question following

20 that.

21 MR. BICE: All I'm saying if he's going to

22 claim it's -- I don't think he's allowed to testify

23 that he has an understanding of X based on something

24 told to him by the City attorney's office but then

25 turn around and say I'm not going to explain X on the

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1 basis of privilege.

2 MR. JIMMERSON: But he's not relied upon

3 the City attorney. He can rely on Tom Perrigo who

4 said the very same thing at page 52 and 53 of his

5 deposition.

6 MR. BICE: Actually, he didn't say that

7 and for you to represent --

8 MR. JIMMERSON: I'll read it to you,

9 Counsel.

10 MR. BICE: There's a lot of things he did.

11 MR. JIMMERSON: I'll read it counsel.

12 MR. BICE: Go ahead, Jim, read whatever

13 you like.

14 MR. JIMMERSON: Can we have the answer to

15 the question?

16 BY MR. JIMMERSON:

17 Q. The property rights trumps the land use

18 designation, correct?

19 MR. BICE: Objection to form. Misstates

20 the law and the City code.

21 MR. BYRNES: And legal conclusion.

22 Q. You may answer the question, sir. Your

23 understanding.

24 A. The zoning district as I said gives the

25 property owner certain rights. For example, if you

243

1 had a commercial zoning district in a rural

2 designation underneath it, you would be able to

3 develop and be permitted the land uses under the C-1

4 zoning district. In regards to a R-PD7, the zoning

5 district has an inherent -- the number in that

6 delineates the density of that zoning district, but

7 to exercise it you still have to go through the

8 discretion.

9 Q. I'm not quarreling with that I'm saying to

10 you you still have that zoning trumping the land use,

11 and the difference is because you never get the

12 landowners consent to the land use. You never get a

13 written document by the landowner please approve

14 PR-OS, correct?

15 MR. BICE: Objection to the form.

16 BY MR. JIMMERSON:

17 Q. You can answer the question. You know

18 exactly what I'm asking you.

19 A. Can you just restate it?

20 Q. Do you obtain the written consent of a

21 landowner to the land use designation that the City

22 puts on a piece of property?

23 MR. BYRNES: In the general plan?

24 Q. One by one. Did you get Mr. Pecole's

25 consent to PR-OS if, in fact, he put it on there in

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1 1999?
2 MR. RICK: Objection to the form. Go
3 ahead.
4 THE WITNESS: I have no idea of knowing
5 that.
6 BY MR. JIMMERSON:
7 Q. In your time, have you ever obtained the
8 landowners written consent to a land use designation
9 that the City has imposed upon property?
10 A. To my extent, I don't know of any time
11 that the City has imposed.
12 Q. And are you -- and -- okay. So you don't
13 think it's an imposition upon a person's properties
14 to try to change the land use designation when you
15 have an existing building? Just exactly what you
16 said. Somebody's got C-1 zoning and you've got --
17 you want to put rural as a designation. He still has
18 the right to build a commercial center, correct?
19 MR. RICE: Objection to the form. Go
20 ahead.
21 MR. BYRNES: Do you understand?
22 THE WITNESS: The example I gave was
23 existing designations, not the City changing it by
24 their own, you know --
25 ///

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1 BY MR. JIMMERSON:
2 Q. Well what was the land use designation on
3 this property before PR-03 was placed upon it, if you
4 know?
5 A. As I believe I stated in the 92 plan it
6 was probably parks and either medium low density
7 residential and then prior to that in the '85 plan it
8 was suburban.
9 Q. Is there any requirement for parks within
10 the planned approved E-17-90 upon the developer, is
11 there any request for parks or recreation as part of that
12 zoning approval?
13 A. Not to my knowledge as far as the
14 documents. There's no request for parks.
15 Q. Mr. Ferrigo at page 53, line 25 and
16 page 53, lines one through eight stated as follows:
17 My position is that the zoning is -- that's what the
18 proper way to say. What's the proper way to say it?
19 The zoning governs more.
20 Question: So --
21 Answer: If the land use and the zoning
22 aren't in conformance, then the zoning would be a
23 higher order entitlement, I guess.
24 Question: So it's your position that
25 zoning supersedes the general plan?

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1 Answer: Yes.
2 Or the master plan?
3 Answer: Yes.
4 Is that also your understanding Mr.
5 Lowenstein as it is Mr. Ferrigo's?
6 A. Similar in nature. The zoning -- zoning
7 is the implementation of the general plan, and it has
8 inalienable rights, it has property rights,
9 associated with certain development standards.
10 MR. RICK: Objection to form.
11 BY MR. JIMMERSON:
12 Q. What does the term inalienable rights mean
13 to you as you use it?
14 A. Meaning it has that entitlement.
15 Q. I would like to take a restroom break and
16 also try to work with you counsel with regard to --
17 it's 5:20. I would like to find another time before
18 Christmas where we can complete both Mr. Ferrigo's
19 and Mr. Lowenstein's depo with of course the consent
20 of you Mr. Lowenstein, Mr. Ferrigo and Mr. Byrnes.
21 Why don't we go off the record to discuss scheduling.
22 It's 5:20. I have worked long enough today. But I
23 will need additional time.
24 THE VIDEOGRAPHER: Going off the video
25 record. The time is approximately 5:11 p.m.

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