

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

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1 Plaintiffs' Motions were the epitome of a pleading that "fails to be well grounded in fact and
2 warranted by existing law and where the attorney fails to make a reasonable competent inquiry;"

3
4 96. There was absolutely no competent evidence to support the contentions in
5 Plaintiffs' Motions--neither the purported "facts" they asserted, nor the "irreparable harm" that
6 they alleged would occur if their Motions were denied. There was no Affidavit or Declaration
7 filed supporting those alleged facts, and Plaintiffs even changed the facts of this case to suit their
8 needs by transferring title to their property mid-litigation after the Opposition to Motion for
9 Preliminary Injunction had been filed by Defendants. Plaintiffs were blindly asserting "vested
10 rights" which they had no right to assert against Defendants;

11
12 97. Plaintiffs certainly did not, and cannot present any set of circumstances under
13 which they would have had a good faith basis in law or fact to assert their Motion for
14 Preliminary Injunction against the non-Applicant Defendants whose names do not appear on the
15 Applications. The non-Applicant Defendants had nothing to do with the Applications, and
16 Plaintiffs maintenance of the Motion against the non-Applicant Defendants, named personally,
17 served no purpose but to harass and annoy and cause them to incur unnecessary fees and costs;

18
19 98. On October 21, 2016, Defendants filed their Motion for Attorneys' Fees and
20 Costs, seeking an award of attorneys' fees and costs pursuant to EDCR 7.60 and NRS 18.070,
21 which was set to be heard in Chambers on November 21, 2016. Plaintiffs filed a response on
22 November 17, 2016, which was considered by the Court;

23
24 99. Defendants have been forced to incur significant attorneys' fees and costs to
25 respond to the repetitive filings of Plaintiffs. Plaintiffs' Motions are without merit and
26 unnecessarily duplicative, and made a repetitive advancement of arguments that were without
27 merit, even after the Court expressly warned Plaintiffs that they were "too close" to the dispute;
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1 100. Plaintiff, Robert N. Peccole, Esq., by being so personally close to the case, is so
2 blinded by his personal feelings that he is ignoring the key issues central to the causes of action
3 and failing to recognize that continuing to pursue flawed claims for relief, and rehashing the
4 arguments again and again, following the date of the Defendants' September 2, 2016 Opposition,
5 is improper and unnecessarily harms Defendants;
6

7 101. In making an award of attorneys' fees and costs, the Court shall consider the
8 quality of the advocate, the character of the work to be done, the work actually performed, and
9 the result. *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969). Defendants
10 submitted, pursuant to the *Brunzell* case, affidavits regarding attorney's fees and costs they
11 requested. The Court, in its separate Order of January 20, 2017, has analyzed and found, and
12 now reaffirms, that counsel meets the *Brunzell* factors, that the costs incurred were reasonable
13 and actually incurred pursuant to *Cadle Co. v. Woods & Erickson LLP*, 131 Nev. Adv. Op. 15
14 (Mar. 26, 2015), and outlined the reasonableness and necessity of the attorneys' fees and costs
15 incurred, to which there has been no challenge by Plaintiffs;
16

17 102. Plaintiffs were on notice that their position was maintained without reasonable
18 ground after the September 2, 2016 filing of Defendants' Opposition to the first Motion for
19 Preliminary Injunction. The voluminous documentation attached thereto made clear that the
20 Master Declaration does not apply to Defendants' land which was not annexed into the
21 Queensridge CIC. Thus, relating to the preliminary injunction issues, the sums incurred after
22 September 2, 2016 were reasonable and necessary, as Plaintiffs continued to maintain their
23 frivolous position and filed multiple, repetitive documents which required response;
24

25 103. Defendants are the prevailing party when it comes to Defendants' Motions for
26 Preliminary Injunction, Motion for Stay Pending Appeal and Motion for Rehearing filed in
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1 September and October, and Plaintiffs' position was maintained without reasonable ground or to
2 harass the prevailing party. *NRS 18.010*;

3 104. Plaintiffs presented to the court motions which were, or became, frivolous,
4 unnecessary or unwarranted, in bad faith, and which so multiplied the proceedings in a case as to
5 increase costs unreasonably and vexatiously, and failed to follow the rules of the Court. *EDCR*
6 *7.60*;

7
8 105. Given these facts, there is no basis to hold an Evidentiary Hearing with respect to
9 the Order granting Defendants' attorneys' fees and costs, and the Order should stand;

10 **Plaintiffs' Opposition to Countermotion for Fees and Costs**

11 106. This Opposition to "Countermotion," substantively, does not address the pending
12 Countermotions for attorneys' fees and costs, but rather the Motion for Attorneys' Fees and
13 Costs which was filed October 21, 2016 and granted November 21, 2016;

14
15 107. The Opposition to that Motion was required to be filed on or before November
16 10, 2016. It was not filed until January 7, 2017;

17 108. Separately, Plaintiffs filed a "response" to the Motion for Attorneys' Fees and
18 Costs, and Supplement thereto, on November 17, 2016. As indicated in the Court's November
19 21, 2016 Minute Order, as confirmed by and incorporated into the Fee Order filed January 20,
20 2017, that Response was reviewed and considered;

21
22 109. Plaintiffs did not attach any Affidavit as required by *EDCR 2.21* to attack the
23 reasonableness or the attorneys' fees and costs incurred, the necessity of the attorneys' fees and
24 costs, or the accuracy of the attorneys' fees and costs incurred;

25 110. There is sufficient basis to strike this untimely Opposition pursuant to *EDCR 2.21*
26 and *NRCP 56(e)* and the same can be construed as an admission that the Motion was meritorious
27 and should be granted;
28

1 111. On the merits, Plaintiffs' "assumptions" that "attorneys' fees and costs are being
2 requested based upon the Motion to Dismiss" and that "sanctions under Rule 11 for filing a
3 Motion for Preliminary Injunction against Fore Stars Defendants" is incorrect. As made clear by
4 the itemized billing statements submitted by Defendants, none of the attorneys' fees and costs
5 requested within that Motion related to the Motion to Dismiss. Further, this is also clear because
6 at the time the Motion for Attorneys' Fees and Costs was filed, the hearings on the City's Motion
7 to Dismiss, or the remaining Defendants' Motion to Dismiss, had not even occurred;

9 112. Plaintiffs erroneously claim that Defendants cited "no statutes or written contracts
10 that would allow for attorneys' fees and costs." Defendants clearly cited to NRS 18.010 and
11 EDCR 7.60;

12 113. The argument that if this Court declines to sanction Plaintiffs' counsel pursuant to
13 NRCF 11, they cannot grant attorneys' fees and costs pursuant to NRS 18.010 and EDCR 7.60 is
14 nonsensical. These are district statutes with distinct bases for awarding fees;

15 114. This Court was gracious to Plaintiffs' counsel in exercising its sound discretion in
16 denying the Rule 11 request, and had solid ground for awarding EDCR 7.60 sanctions and
17 attorneys' fees under NRS 18.010 under the facts;

18 115. Since Motion for Attorneys' Fees and Costs, and Supplement, was not relating to
19 the Motion to Dismiss, the arguments regarding the frivolousness of the Amended Complaint
20 need not be addressed within this section;

21 116. The argument that Plaintiffs are entitled to fees because they "are the prevailing
22 party under the Rule 11 Motion" fails. Defendants prevailed on every Motion. That the Court
23 declined to impose additional sanctions against Plaintiffs' counsel does not make Plaintiffs the
24 "prevailing party," as the Motion for Attorneys' Fees and Costs was granted. Moreover,
25 Plaintiffs have not properly sought Rule 11 sanctions against Defendants;
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1 117. There is no statute or rule that allows for the filing of an Opposition after a
2 Motion has been granted. The Opposition was improper and should not have been belatedly
3 filed. It compelled Defendants to further respond, causing Defendants to incur further
4 unnecessary attorneys' fees and costs;

5 **Plaintiffs' Motion for Court to Reconsider Order of Dismissal**

6
7 118. Plaintiffs seek reconsideration pursuant to NRCP 60(b) based on the alleged
8 "misrepresentation" of the Defendants regarding the Amended Master Declaration at the
9 November 1, 2016 Hearing;

10 119. No such "misrepresentation" occurred. The record reflects that Mr. Jimmerson
11 was reading correctly from the first page of the Amended Master Declaration, which states it was
12 "effective October, 2000." The Court understood that to be the effective date and not necessarily
13 the date it was signed or recorded. Defendants also provided the Supplemental Exhibit R which
14 evidenced that the Amended Master Declaration was recorded on August 16, 2002, and
15 reiterated it was "effective October, 2000," as Defendants' counsel accurately stated. This
16 exhibit also negated Plaintiffs' earlier contention that the Amended Master Declaration had not
17 been recorded at all. Therefore, not only was there no misrepresentation, there was transparency
18 by the Defendants in open Court;

19
20 120. The Amended Master Declaration did not "take out" the 27-hole golf course from
21 the definition of "Property," as Plaintiffs erroneously now allege. More accurately, it excluded
22 the entire 27-hole golf course from the possible Annexable Property. This means that not only
23 was it never annexed, and therefore never made part of the Queensridge CIC, but it was no
24 longer even *eligible* to be annexed in the future, and thus could never become part of the
25 Queensridge CIC;
26
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1 121. It is significant, however, that there are two (2) recorded documents, the Master
2 Declaration and the Amended Master Declaration, which both make clear in Recital A that the
3 GC Land, since it was not annexed, is not a part of the Queensridge CIC;

4 122. Whether the Amended Master Declaration, effective October, 2000, was recorded
5 in October, 2000, March, 2001 or August, 2002, does not matter, because, as Defendants pointed
6 out at the hearing, Mr. Peccole's July 2000 Deed indicated it was "subject to the CC&Rs that
7 were recorded at the time and as may be amended in the future" and that the "CC&Rs which he
8 knew were going to be amended and subject to being amended, were amended;"

9 123. The only effect of the Amended Master Declaration's language that the "entire
10 27-hole golf course is not a part of the Property or the Annexable Property" instead of just the
11 "18 holes," is that the 9 holes which were never annexed were no longer even annexable.
12 Effectively, William and Wanda Peccole and their entities took that lot off the table and made
13 clear that this lot would not and could not later become part of the Queensridge CIC;

14 124. None of that means that the 9-holes was a part of the "Property" before—as this
15 Court clearly found, it was not. The 1996 Master Declaration makes clear that the 9-holes was
16 only Annexable Property, and it could only become "Property" by recording a Declaration of
17 Annexation. This never occurred;

18 125. The real relevance of the fact that the Amended Master Declaration was recorded,
19 in the context of the Motion to Dismiss, is that, pursuant to *Brelint v. Preferred Equities*, 109
20 Nev. 842, the Court is permitted to take judicial notice of, and take into consideration, recorded
21 documents in granting or denying a motion to dismiss;

22 126. Plaintiffs ignore the fact that notwithstanding the fact that the Amended Master
23 Declaration, effective October, 2000, was not recorded until August, 2002, Plaintiffs transferred
24 Deed to their lot twice, once in 2013 into their Trust, and again in September, 2016, both times
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1 after the Amended Master Declaration (which they were, under their Deeds, subject to) was
2 recorded and both times with notice of the development rights and zoning rights associated with
3 the adjacent GC Land;

4
5 127. Plaintiffs' argument that the Amended Master Declaration is "invalid" because it
6 "did not contain the certification and signatures of the Association President and Secretary" is
7 irrelevant, since the frivolousness of Plaintiffs' position is based on the original Master
8 Declaration and not the amendment. But this Court notes that the Declarations of Annexation
9 which are recorded do not contain such signatures of the Association President and Secretary
10 either. Hypothetically, if that renders such Declarations of Annexation "invalid," then Parcel 19,
11 where Plaintiffs' home sits, was never properly "annexed" into the Queensridge CIC, and thus
12 Plaintiffs would have no standing to assert the terms of the Master Declaration against anyone,
13 even other members of the Queensridge CIC. This last minute argument is without basis in fact
14 or law;

15
16 128. A Motion for reconsideration under EDCR 2.24 is only appropriate when
17 "substantially different evidence is subsequently introduced or the decision is clearly erroneous."
18 *Masonry & Tile Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741,
19 941 P.2d 486, 489 (1997). And so motions for reconsideration that present no new evidence or
20 intervening case law are "superfluous," and it is an "abuse of discretion" for a trial court to
21 consider such motions. *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (76).

22
23 129. Plaintiffs' request that the Order be reconsidered because it does not consider
24 issues subsequent to the City Council Meeting of November 16, 2016 is also without merit. The
25 Motion to Dismiss was heard on November 1, 2016 and the Court allowed the parties until
26 November 15, 2016 to supplement their filings. Although late filed, Plaintiffs did file
27 "Additional Information to Brief," and their "Renewed Motion for Preliminary Injunction," on
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1 November 18, 2016—before issuance of the *Findings of Fact, Conclusions of Law, Order and*
2 *Judgment* on November 30th --putting the Court on notice of what occurred at the City Council
3 Meeting. However, as found hereinabove, the withdrawal and abeyance of City Council
4 Applications does not matter in relation to the Motion to Dismiss. Plaintiffs did not possess
5 “vested rights” over Defendants’ GC Land before the meeting and they do not possess “vested
6 rights” over it now;
7

8 130. Plaintiffs’ objection to the Findings relating NRS 116, NRS 278, NRS 278A and
9 R-PD7 zoning is also without merit, because those Findings are supported by the Supplements
10 timely filed by Defendants, and those statutes and the zoning issue are all relevant to this case
11 with respect to Defendants’ right to develop their land. This was raised and discussed in the
12 Motion to Dismiss and Opposition to the first Motion for Preliminary Injunction, and properly
13 and timely supplemented. Defendants did specifically and timely submit multiple documents,
14 including the Declaration of City Clerk Luann Holmes to attest to the fact that NRS 278A does
15 not apply to this controversy, and thus it is clear that the GC Land is not part of or within a
16 planned unit development. Plaintiffs do not even possess standing to assert a claim under NRS
17 278A, as they are governed by NRS 116. Further, Defendants’ deeds contain no title exception or
18 reference to NRS 278A, as would be required were NRS 278A to apply, which it does not;
19

20 131. Recital B of the Master Declaration states that Queensridge is a “common interest
21 community pursuant to Chapter 116 of the Nevada Revised Statutes.” Plaintiffs raised issues
22 concerning NRS 278A. While Plaintiffs may not have specifically cited NRS 278A in their
23 Amended Complaint, in paragraph 67, they did claim that “The City of Las Vegas with respect to
24 the Queensridge Master Planned Development required ‘open space’ and ‘flood drainage’ upon
25 the acreage designated as golf course (The Badlands Golf Course).” NRS 278A, entitled
26 “Planned Unit Development,” contains a framework of law on Planned Unit Developments, as
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1 defined therein, and their 'common open space.' NRS 116.1201(4) states that the provisions of
2 NRS 278A do not apply to NRS 116 common-interest communities like Queensridge. Thus,
3 while Plaintiffs may not have directly mentioned NRS 278A, they did make an allegation
4 invoking its applicability;

5
6 132. Zoning on the subject GC Land is appropriately referenced in the November 30,
7 2016 *Findings of Fact, Conclusions of Law, Order and Judgment*, because Plaintiffs contended
8 that the Badlands Golf Course was open space and drainage, but the Court rejected that
9 argument, finding that the subject GC Land was zoned R-PD7;

10
11 133. Plaintiffs now allege that alter-ego claims against the individual Defendants
12 (Lowie, DeHart and Pankratz) should not have been dismissed without giving them a chance to
13 investigate and flush out their allegations through discovery. But no alter ego claims were made,
14 and alter ego is a remedy, not a cause of action. The only Cause of Action in the Amended
15 Complaint that could possibly support individual liability by piercing the corporate veil is the
16 Fraud Cause of Action. The Court has rejected Plaintiffs' Fraud Cause of Action, not solely on
17 the basis that it was not plead with particularity, but, more importantly, on the basis that
18 Plaintiffs failed to state a claim for Fraud because Plaintiffs have never alleged that Lowie,
19 DeHart or Pankratz made any false representations to them prior to their purchase of their lot.
20 The Court further notes that in Plaintiffs' lengthy oral argument before the Court, the Plaintiffs
21 did not even mention its claim for, or a basis for, its fraud claim. The Plaintiffs have offered
22 insufficient basis for the allegations of fraud in the first place, and any attempt to re-plead the
23 same, on this record, is futile;

24
25 134. Fraud requires a false representation, or, alternatively an intentional omission
26 when an affirmative duty to represent exists. See *Lubbe v. Barba*, 91 Nev. 596, 541 P.2d 115
27 (1975). Plaintiffs alleged Fraud against Lowie, DeHart and Pankratz, while admitting they never
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1 spoke with any of the prior to the purchase of their lot and have never spoken to them prior to
2 this litigation. Plaintiffs' Fraud Cause of Action was dismissed because they cannot state facts
3 that would support the elements of Fraud. No amount of additional time will cure this
4 fundamental defect of their Fraud claim;

5
6 135. Plaintiffs claim that the GC Land that later became the additional nine holes was
7 "Property" subject to the CC&Rs of the Master Declaration at the time they purchased their lot,
8 because Plaintiffs purchased their lot between execution of the Master Declaration (which
9 contains an exclusion that "The existing 18-hole golf course commonly known as the 'Badlands
10 Golf Course' is not a part of the Property or the Annexable Property") and the Amended and
11 Restated Master Declaration (which provides that "The existing 27-hole golf course commonly
12 known as the 'Badlands Golf Course' is not a part of the Property or the Annexable Property"),
13 is meritless, since it ignores the clear and unequivocal language of Recital A (of both documents)
14 that "In no event shall the term "Property" include any portion of the Annexable Property for
15 which a Declaration of Annexation has not been Recorded..."

16
17 136. All three of Plaintiffs' claims for relief in the Amended Complaint are based on
18 the concept of Plaintiffs' alleged vested rights, which do not exist against Defendants;

19
20 137. There was no "misrepresentation," and there is no basis to set aside the Order of
21 Dismissal;

22
23 138. In order for a complaint to be dismissed for failure to state a claim, it must appear
24 beyond a doubt that the plaintiff could prove no set of facts which, if accepted by the trier of fact,
25 would entitle him or her to relief. *Blackjack Bonding v. City of Las Vegas Mun. Court*, 116 Nev.
26 1213, 1217, 14 P.3d 1275, 1278 (2000) (emphasis added);

27
28 139. It must draw every fair inference in favor of the non-moving party. *Id.* (emphasis
added);

1 140. Generally, the Court is to accept the factual allegations of a Complaint as true on
2 a Motion to Dismiss, but the allegations must be legally sufficient to constitute the elements of
3 the claim asserted. *Carpenter v. Shalev*, 126 Nev. 698, 367 P.3d 755 (2010);

4 141. Plaintiffs have failed to state a claim upon which relief can be granted, even with
5 every fair inference in favor of Plaintiffs. It appears beyond a doubt that Plaintiffs can prove no
6 set of facts which would entitle them to relief. The Court has grave concerns about Plaintiffs'
7 motives in suing these Defendants for fraud in the first instance;
8

9 **Defendants' Memorandum of Costs and Disbursements**

10 142. Defendants' Memorandum of Costs and Disbursements was timely filed and
11 served on December 7, 2016;

12 143. Pursuant to NRS 18.110, Plaintiffs were entitled to file, within three (3) days of
13 service of the Memorandum of Costs, a Motion to Retax Costs. Such a Motion should have been
14 filed on or before December 15, 2016

15 144. Plaintiffs failed to file any Motion to Retax Costs, or any objection to the costs
16 whatsoever. Plaintiffs have therefore waived any objection to the Memorandum of Costs, and
17 the same is now final;
18

19 145. Defendants have provided evidence to the Court along with their Verified
20 Memorandum of Costs and Disbursements, demonstrating that the costs incurred were
21 reasonable, necessary and actually incurred. *Cadle Co. v. Woods & Erickson LLP*, 131 Nev.
22 Adv. Op. 15 (Mar. 26, 2015);
23

24 **Defendants' Countermotions for Attorneys' Fees and Costs**

25 146. The Court has allowed Plaintiffs to enter thirteen (13) exhibits, only three (3) of
26 which had been previously produced to opposing counsel, by attaching them to Plaintiffs'
27 "*Additional Information to Renewed Motion for Preliminary Injunction*," filed November 28,
28

1 2016. The Exhibits should have been submitted and filed on or before November 15, 2016, in
2 advance of the hearing, and shown to counsel before being marked. The Court has allowed
3 Plaintiffs to make a record and to enter never before disclosed Exhibits at this post-judgment
4 hearing, including one document dated January 6, 2017, over Defendants' objection that there
5 has been no Affidavit or competent evidence to support the genuineness and authenticity of these
6 documents, as well as because of their untimely disclosure. The Court notes that Plaintiffs
7 should have been prepared for their presentation and these Exhibits should have been prepared,
8 marked and disclosed in advance, but Plaintiffs failed to do so. *EDCR 7.60(b)(2)*;

10 147. The efforts of Plaintiffs throughout these proceedings to repeatedly, vexatiously
11 attempt to obtain a Preliminary Injunction against Defendants has indeed resulted in prejudice
12 and substantial harm to Defendants. That harm is not only due to being forced to incur
13 attorneys' fees, but harm to their reputation and to their ability to obtain financing or refinancing,
14 just by the pendency of this litigation;

16 148. Plaintiffs are so close to this matter that even with counsel's experience, he fails
17 to follow the rules in this litigation. Plaintiffs' accusation that the Court was "sleeping" during
18 his oral argument, when the Court was listening intently to all of Plaintiffs' arguments, is
19 objectionable and insulting to the Court. It was extremely unprofessional conduct by Plaintiff;

21 149. Plaintiffs' claim of an alleged representation that the golf course would never be
22 changed, if true, was alleged to have occurred sixteen (16) years prior to Defendants acquiring
23 the membership interests in Fore Stars, Ltd. Of the nineteen (19) Defendants, twelve (12) were
24 relatives of Plaintiffs or entities of relatives, all of whom were voluntarily dismissed by
25 Plaintiffs. The original Complaint faulted the Peccole Defendants for not "insisting on a
26 restrictive covenant" on the golf course limiting its use, which would not have been necessary if
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1 the Master Declaration applied. This was a confession of the frivolousness of Plaintiffs' position.
2 *NRS 18.010(2)(b); EDCR 7.60(b)(1);*

3
4 150. Between September 1, 2016 and the date of this hearing, there were
5 approximately ninety (90) filings. This multiplication of the proceedings vexatiously is in
6 violation of EDCR 7.60. *EDCR 7.60(b)(3);*

7
8 151. Three (3) Defendants, Lowie, DeHart and Pankratz, were sued individually for
9 fraud, without one sentence alleging any fraud with particularity against these individuals. The
10 maintenance of this action against these individuals is a violation itself of NRS 18.010, as bad
11 faith and without reasonable ground, based on personal animus;

12
13 152. Additionally, EDCR 2.30 requires that any Motion to amend a complaint be
14 accompanied by a proposed amended Complaint. Plaintiffs' failure to do so is a violation of
15 EDCR 2.30. *EDCR 7.60(b)(4);*

16
17 153. Plaintiffs violated EDCR 2.20 and EDCR 2.21 by failing to submit their Motions
18 upon sworn Affidavits or Declarations under penalty of perjury, which cannot be cured at the
19 hearing absent a stipulation. *Id.*;

20
21 154. Plaintiffs did not file any post-judgment Motions under NRCP 52 or 59, and two
22 of their Motions, namely the *Motion to Reconsider Order of Dismissal* and the *Motion for*
23 *Evidentiary Hearing and Stay of Order for Rule 11 Fees and Costs*, were untimely filed after the
24 10 day time limit contained within those rules, or within EDCR 2.24.

25
26 155. Plaintiffs also failed to seek leave of the Court prior to filing its Renewed Motion
27 for Preliminary Injunction or its Motion to Reconsider Order of Dismissal. *Id.*;

28
29 156. Plaintiffs' Opposition to Countermotion for Attorneys' Fees and Costs, filed
30 January 5, 2017, was an extremely untimely Opposition to the October 21, 2016 Motion for

1 Attorneys' Fees and Costs, which was due on or before November 10, 2016. All of these are
2 failures or refusals to comply with the Rules. EDCR 7.60(b)(4);

3 157. While it does not believe Plaintiffs are intentionally doing anything nefarious,
4 they are too close to this matter and they have refused to heed the Court's Orders, Findings and
5 rules and their actions have severely harmed the Defendants;

6 158. While Plaintiffs claim to have researched the *Eagle Thrifty* case prior to filing the
7 initial Complaint, admitting they were familiar with the requirement to exhaust the
8 administrative remedies, they filed the first Motion for Preliminary Injunction anyway, in which
9 they failed to even cite to the *Eagle Thrifty* case, let alone attempt to exhaust their administrative
10 remedies;

11 159. Plaintiffs' motivation in filing these baseless "preliminary injunction" motions
12 was to interfere with, and delay, Defendants' development of their land, particularly the land
13 adjoining Plaintiffs' lot. But while the facts, law and evidence are overwhelming that Plaintiffs
14 ultimately could not deny Defendants' development of their land, Plaintiffs have continued to
15 maintain this action and forced Defendants to incur substantial attorneys' fees to respond to the
16 unsupported positions taken by Plaintiffs, and their frivolous attempt to bypass City Ordinances
17 and circumvent the legislative process. These actions continue with the current four (4) Motions
18 and the Opposition;

19 160. Plaintiffs' Renewed Motion for Preliminary Injunction (a sixth attempt),
20 Plaintiffs' untimely Motion to Amend Amended Complaint (with no proposed amendment
21 attached), Plaintiffs' untimely Motion to Reconsider Order of Dismissal, Plaintiffs' Motion for
22 Evidentiary Hearing and Stay of Rule 11 Fees and Costs (which had been denied) and Plaintiffs'
23 untimely Opposition were patently frivolous, unnecessary, and unsupported, and so multiplied
24 the proceedings in this case so as to increase costs unreasonably and vexatiously;
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1 161. Plaintiffs proceed in making "scurrilous allegations" which have no merit, and to
2 asset "vested rights" which they do not possess against Defendants;

3 162. Considering the length of time that the Plaintiffs have maintained their action, and
4 the fact that they filed four (4) new Motions after dismissal of this action, and ignored the prior
5 rulings of the Court in doing so, and ignored the rules, and continued to name individual
6 Defendants personally with no basis whatsoever, the Court finds that Plaintiffs are seeking to
7 harm the Defendants, their project and their land, improperly and without justification.
8 Plaintiffs' emotional approach and lack of clear analysis or care in the drafting and submission of
9 their pleadings and Motions warrant the award of reasonable attorney's fees and costs in favor of
10 the Defendants and against the Plaintiffs, *See EDCR 7.60 and NRS 18.010(b)(2)*;

11 163. Pursuant to *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31
12 (1969), Defendants have submitted affidavits regarding attorney's fees and costs they requested,
13 in the sum of \$7,500 per Motion. Considering the number of Motions filed by Plaintiffs on an
14 Order Shortening Time, including two not filed or served until December 22, 2016, and an
15 Opposition and Replies to two Motions filed by Plaintiffs on January 5, 2017, which required
16 response in two (2) business days, the requested sum of \$7,500 in attorneys' fees per each of the
17 four (4) motions is most reasonable and necessarily incurred. Given the detail within the filings
18 and the timeframe in which they were prepared, the Court finds these sums, totaling \$30,000
19 (\$7,500 x 4) to have been reasonably and necessarily incurred;

20 **Plaintiffs' Oral Motion for Stay Pending Appeal.**

21 164. Plaintiffs failed to satisfy the requirements of NRAP 8 and NRCPC 62(c). Plaintiffs
22 failed to show that the object of their potential appeal will be defeated if their stay is denied, they
23 failed to show that they would suffer irreparable harm or serious injury if the stay is not issued,
24 and they failed to show a likelihood of success on the merits.
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ORDER AND JUDGMENT

NOW, THEREFORE:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that *Plaintiffs' Renewed Motion for Preliminary Injunction* is hereby denied, with prejudice;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that *Plaintiffs' Motion For Leave To Amend Amended Complaint*, is hereby denied, with prejudice;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that *Plaintiffs' Motion For Evidentiary Hearing And Stay Of Order For Rule 11 Fees And Costs*, is hereby denied, with prejudice;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that *Plaintiffs' Motion For Court To Reconsider Order Of Dismissal*, is hereby denied, with prejudice;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that *Defendants' Countermotion to Strike Plaintiffs' Rogue and Untimely Opposition Filed 1/5/17 (titled Opposition to "Countermotion" but substantively an Opposition to the 10/21/16 Motion for Attorney's Fees And Costs, granted November 21, 2016)*, is hereby granted, and such *Opposition* is hereby stricken;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that *Defendants' request for \$20,818.72 in costs, including the \$5,406 already awarded on November 21, 2016, and the balance of \$15,412.72 in costs through October 20, 2016, pursuant to their timely Memorandum of Costs and Disbursements*, is hereby granted and confirmed to *Defendants*, no *Motion to Retax* having been filed by *Plaintiffs*. Said costs are hereby reduced to *Judgment*, collectible by any lawful means;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the *Judgment* entered in favor of *Defendants* and against *Plaintiffs* in the sum of \$82,718.50, comprised of \$77,312.50

1 in attorneys' fees and \$5,406 in costs relating only to the preliminary injunction issues after the
2 September 2, 2016 filing of Defendants' first Opposition through the end of the October, 2016
3 billing cycle, is hereby confirmed and collectible by any lawful means;

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants
5 Counter-motion for Attorneys' Fees relating to their responses to Plaintiffs four (4) motions and
6 one (1) opposition, and the time for appearance at this hearing, is hereby GRANTED.
7 Defendants are hereby awarded additional attorneys' fees in the sum of \$30,000 relating to those
8 matters pending for this hearing;

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, therefore,
10 Defendants are awarded a total sum of \$128,131.22 (\$20,818.72 in attorneys' fees and costs,
11 including the \$5,406 in the November 21, 2016 Minute Order and confirmed by the Fee Order
12 filed January 20, 2017, \$77,312.50 in attorneys' fees pursuant to the November 21, 2016 Minute
13 Order, as incorporated within and confirmed by Fee Order filed January 20, 2017, and \$30,000
14 in additional attorneys' fees relating to the instant Motions, Oppositions and Counter-motions
15 addressed in this Order), which is reduced to judgment in favor of Defendants and against
16 Plaintiffs, collectible by any lawful means, plus legal interest;

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiffs' oral Motion
18 for Stay pending appeal is hereby denied;

19 DATED this 31 day of January, 2017.

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DISTRICT COURT JUDGE
A-16-719654-C
BA



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1 ORDR

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 *****

5 JACK B. BINION, an individual; DUNCAN R.
6 and IRENE LEE, individuals and Trustees of the
7 LEE FAMILY TRUST; ROBERT N. and
8 NANCY C. PECCOLE, individuals, and
9 Trustees of the ROBERT N. and NANCY
10 PECCOLE TRUST; FRANK A. SCHRECK, an
11 individual; TURNER INVESTMENTS, LTD., a
12 Nevada Limited Liability Company; and
13 ROGER P. and CAROLYN G. WAGNER,
14 individuals and Trustees of the WAGNER
15 FAMILY TRUST,

16 Plaintiffs,

17 vs.

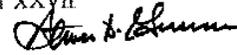
18 FORE STARS, LTD., a Nevada Limited
19 Liability Company; 180 LAND CO., LLC, a
20 Nevada Limited Liability Company; SEVENTY
21 ACRES, LLC, a Nevada Limited Liability
22 Company; and THE CITY OF LAS VEGAS

23 Defendants.

CASE NO.: A-15-729053-B

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DEPARTMENT XXVII



CLERK OF THE COURT

24 ORDER GRANTING DEFENDANTS FORE STARS, LTD., 180 LAND CO., LLC
25 AND SEVENTY ACRES, LLC'S MOTION TO DISMISS THE SECOND CAUSE
26 OF ACTION OF FIRST AMENDED COMPLAINT AND DEFENDANT CITY OF
27 LAS VEGAS' MOTION TO DISMISS THE SECOND CAUSE OF ACTION OF
28 FIRST AMENDED COMPLAINT

THE COURT FINDS after review that on November 14, 2016, Defendants Fore Stars, Ltd., 180 Land Co., LLC, and Seventy Acres, LLC filed a Motion to Dismiss Plaintiff's First Amended Complaint and on November 14, 2016, Defendant City of Las Vegas filed a separate Motion to Dismiss Plaintiff's First Amended Complaint (collectively the "Motions"). On December 29, 2016, Plaintiffs' filed an Opposition to the Motions and a Countermotion under NRCP 56(f).

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1 **THE COURT FURTHER FINDS** after review that the Motions and
2 Counter motions were set for a Hearing on Motions Calendar on February 2, 2017.
3 Following the hearing, the Court took the matter under advisement regarding the
4 Plaintiffs' second claim for relief for declaratory judgment based on NRS Chapter 278A.

5 **THE COURT FURTHER FINDS** after review that NRS Chapter 278A does not
6 apply to common interest communities pursuant to NRS 116.1201(4). Plaintiffs claim
7 ownership interest in the common interest communities known as Queensridge or One
8 Queensridge Place. For this reason, NRS Chapter 278A is not applicable and Plaintiffs'
9 request for declaratory judgment fails to state a claim upon which relief can be granted.

11 **THE COURT FURTHER FINDS** after review that NRS Chapter 278A only
12 applies to the City of Las Vegas upon enactment of ordinances which the City of Las
13 Vegas has not adopted. Queensridge or One Queensridge Place, as part of the Peccole
14 Ranch Master Plan Phase II, is located within the City of Las Vegas and for this
15 additional reason NRS Chapter 278A is not applicable to the instant case and Plaintiffs'
16 requested for declaratory judgment fails to state a claim upon which relief can be granted.

18 **THE COURT ORDERS** for good cause appearing, Defendant Fore Stars, Ltd.,
19 180 Land Co., LLC, and Seventy Acres, LLC's Motion to Dismiss Plaintiff's second
20 cause of action for declaratory relief in Plaintiff's First Amended Complaint is
21 **GRANTED.**

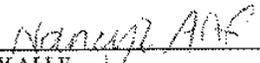
22 **THE COURT FURTHER ORDERS** for good cause appearing, Defendant City
23 of Las Vegas' Motion to Dismiss Plaintiff's second cause of action for declaratory relief
24 in Plaintiff's First Amended Complaint is **GRANTED.**

26 **THE COURT FURTHER ORDERS** for good cause appearing, Plaintiff's
27 Counter motion under NRCP 56(f) is **DENIED.** Defendant Fore Stars, Ltd., 180 Land
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1 Co., LLC, and Seventy Acres to draft Findings of Fact and Conclusions of Law in an
2 Order pursuant to the Court's Order dated March 22, 2017, and to present them only after
3 all parties' counsel have the ability to review and approve the form of the Findings and
4 Conclusions.

5 **THE COURT FURTHER ORDERS** for good cause appearing, the status check
6 set for March 21, 2017 is vacated.

7 Dated: March 22, 2017

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10 NANCY ALLF
11 DISTRICT COURT JUDGE

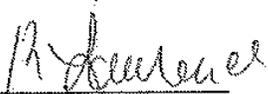
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13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on or about the date signed I caused the foregoing document to be
15 electronically served pursuant to HDCR 8.05(a) and 8.05(f), through the Eighth Judicial
16 District Court's electronic filing system, with the date and time of the electronic service
17 substituted for the date and place of deposit in the mail and by email to:

18 Greenberg Traurig – Mark E. Ferrario, Esq.
19 ferrariom@gtlaw.com

20 The Jimmerson Law Firm, P.C. – James J. Jimmerson, Esq.
21 jjj@jimmersonlawfirm.com

22 Pisanelli Bice, PLLC – Todd L. Bice, Esq.
23 tlb@pisanellibice.com; smt@pisanellibice.com

24 
25 Karen Lawrence
26 Judicial Executive Assistant



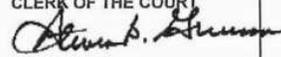
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1 **NEOJ**
Todd L. Bice, Esq., Bar No. 4534
2 tlb@pisanellibice.com
Dustun H. Holmes, Esq., Bar No. 12776
3 dhh@pisanellibice.com
PISANELLI BICE PLLC
4 400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
5 Telephone: 702.214.2100
Facsimile: 702.214.2101

6 *Attorneys for Plaintiffs*

7
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 JACK B. BINION, an individual; DUNCAN
R. and IRENE LEE, individuals and Trustees
of the LEE FAMILY TRUST; FRANK A.
11 SCHRECK, an individual; TURNER
INVESTMENTS, LTD., a Nevada Limited
12 Liability Company; ROGER P. and
CAROLYN G. WAGNER, individuals and
13 Trustees of the WAGNER FAMILY TRUST;
BETTY ENGLESTAD AS TRUSTEE OF
14 THE BETTY ENGLESTAD TRUST;
PYRAMID LAKE HOLDINGS, LLC.;
15 JASON AND SHEREEN AWAD AS
TRUSTEES OF THE AWAD ASSET
16 PROTECTION TRUST; THOMAS LOVE
AS TRUSTEE OF THE ZENA TRUST;
17 STEVE AND KAREN THOMAS AS
TRUSTEES OF THE STEVE AND KAREN
18 THOMAS TRUST; SUSAN SULLIVAN AS
TRUSTEE OF THE KENNETH J.
19 SULLIVAN FAMILY TRUST, AND DR.
GREGORY BIGLER AND SALLY
20 BIGLER,

21 Plaintiffs,

22 v.

23 FORE STARS, LTD., a Nevada Limited
Liability Company; 180 LAND CO., LLC, a
24 Nevada Limited Liability Company;
SEVENTY ACRES, LLC, a Nevada Limited
25 Liability Company; and THE CITY OF LAS
VEGAS,

26 Defendants.
27
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Case No.: A-15-729053-B

Dept. No.: XXVII

NOTICE OF ENTRY OF ORDER

PISANELLI BICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101
702.214.2100

1 PLEASE TAKE NOTICE that a "Finding of Fact, Conclusions of Law and Order
2 Granting in Part and Denying in Part, Defendant City of Las Vegas' Motion to Dismiss Plaintiff's
3 First Amended Complaint, and Defendants' Fore Stars, Ltd; 180 Land Co., LLC, Seventy Acres,
4 LLC's Motion to Dismiss Plaintiff's First Amended Complaint, and Denying Plaintiff's
5 Counter-motion Under NRCP 56(f)" was entered in the above-captioned matter on May 2, 2017, a
6 true and correct copy of which is attached hereto.

7 DATED this 3rd day of May, 2017.

8 PISANELLI BICE

9
10 By: /s/ Todd L. Bice
11 Todd L. Bice, Esq., Bar No. 4534
12 Dustan H. Holmes, Esq., Bar No. 12776
13 400 South 7th Street, Suite 300
14 Las Vegas, Nevada 89101

15 *Attorneys for Plaintiffs*

PISANELLI BICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101
702.214.2100

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PISANELLI BICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101
702.214.2100

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 3rd day of May, 2017, I caused to be served via the Court's E-Filing system true and correct copies of the above and foregoing **NOTICE OF ENTRY OF ORDER** to the following:

Mark E. Ferrario, Esq.
GREENBERG TRAUERIG
3773 Howard Hughes Pkwy, Suite 400 North
Las Vegas, NV 89169
lvlitdock@gtlaw.com

Bradford R. Jerbic, Esq.
Jeffrey M. Dorocak, Esq.
495 South Main Street, Sixth Floor
Las Vegas, NV 89101
jdorocak@lasvegasnevada.gov

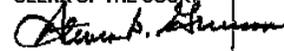
and

Attorneys for the City of Las Vegas

James J. Jimmerson, Esq., Bar No. 264
The JIMMERSON LAW FIRM, P.C.
415 South Sixth Street, Suite 100
Las Vegas, Nevada 89101

*Attorney for Fore Stars, Ltd., 180 Land Co.,
LLC and Seventy Acres, LLC*

/s/ Shannon Dinkel
An employee of PISANELLI BICE PLLC



1 **ORDER**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 JACK B. BINION, an individual; DUNCAN
5 R. and IRENE LEE, individuals and Trustees
6 of the LEE FAMILY TRUST; FRANK A.
7 SCHRECK, an individual; TURNER
8 INVESTMENTS, LTD., a Nevada Limited
9 Liability Company; ROGER P. and CAROL
10 YN G. WAGNER, individuals and Trustees
11 of the WAGNER FAMILY TRUST; BETTY
12 ENGLESTAD AS TRUSTEE OF THE
13 BETTY ENGLESTAD TRUST; PYRAMID
14 LAKE HOLDINGS, LLC.; JASON AND
15 SHEREEN AWAD AS TRUSTEES OF
16 THE AWAD ASSET PROTECTION
17 TRUST; THOMAS LOVE AS TRUSTEE
18 OF THE ZENA TRUST; STEVE AND
19 KAREN THOMAS AS TRUSTEES OF
20 THE STEVE AND KAREN THOMAS
21 TRUST; SUSAN SULLIVAN AS
22 TRUSTEE OF THE KENNETH
23 J.SULLIVAN FAMILY TRUST, AND DR.
24 GREGORY BIGLER AND SALLY
25 BIGLER

26 **Plaintiffs,**

27 vs.

28 FORE STARS, LTD., a Nevada Limited
Liability Company; 180 LAND CO., LLC, a
Nevada Limited Liability Company;
SEVENTY ACRES, LLC, a Nevada Limited
Liability Company; and THE CITY OF LAS
VEGAS,

Defendants.

CASE NO. A-15-729053-B

DEPT. NO. XXVII

Courtroom #3A

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER GRANTING IN
PART AND DENYING IN PART,
DEFENDANT CITY OF LAS VEGAS'
MOTION TO DISMISS PLAINTIFF'S
FIRST AMENDED COMPLAINT, AND
DEFENDANTS' FORE STARS, LTD;
180 LAND CO., LLC, SEVENTY
ACRES, LLC'S MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED
COMPLAINT, AND DENYING
PLAINTIFF'S COUNTERMOTION
UNDER NRCP 56(f)**

Date of Hearing: February 2, 2017

Time of Hearing: 1:30 pm

22 THIS MATTER coming on for hearing on the 2nd day of February, 2017 on Defendants CITY
23 OF LAS VEGAS' *Motion to Dismiss Plaintiffs' First Amended Complaint*, and Defendants FORE
24 STARS, LTD; 180 LAND CO., LLC, SEVENTY ACRES, LLC'S *Motion to Dismiss Plaintiffs' First*
25 *Amended Complaint*, and Plaintiffs' Oppositions thereto, and Counter motions under NRCP 56(f), and
26 the Court having reviewed the papers and pleadings on file and heard the arguments of counsel at the
27 hearing, and good cause appearing hereby
28 FINDS and ORDERS as follows:

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1. Plaintiffs First Amended Complaint alleges two causes of action. Plaintiffs' first cause of action alleges Defendants violated NRS 278.4925 and LVMC § 19.16.070 in the recordation of a parcel map. Plaintiffs' second cause of action alleges a claim for declaratory relief based upon, as Plaintiffs allege, "Plaintiffs' rights to notice and an opportunity to be heard prior to the recordation of any parcel map," and "Plaintiffs' rights under NRS Chapter 278A and the City's attempt to cooperate with the other Defendants in circumventing those rights." (First Amended Complaint, p. 16).

2. Defendants' Motions to Dismiss Plaintiffs' First Amended Complaint are made pursuant to NRCP 12(b)(5). Accordingly, the Court must "regard all factual allegations in the complaint as true and draw all inferences in favor of the nonmoving party." *Stockmeier v. Nevada Dep't of Corr. Psychological Review Panel*, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008). The court may not consider matters outside the allegations of Plaintiffs' complaint. *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993).

3. The Court finds that Plaintiffs have stated claims upon which relief may be granted as it relates to the parcel map recording alleged in Plaintiffs' First Amended Complaint.

4. Moreover, the Court finds that Plaintiffs have standing and rejects Defendants' argument that Plaintiffs have failed to exhaust their administrative remedies as no notice was provided to Plaintiffs.

5. The Court took under submission Defendant's Motion to Dismiss the Second Cause of Action in Plaintiffs' First Amended Complaint (Declaratory Relief) as to whether Plaintiffs have any rights under NRS 278A over Defendants' property. Plaintiffs seek an order "declaring that NRS Chapter 278A applies to the Queenridge/Badlands development and that no modifications may be made to the Peccole Ranch Master Plan without the consent of property owners" and "enjoining Defendants from taking any action (iii) without complying with the provisions of NRS Chapter 278A." (First Amended Complaint, p. 16).

6. The Court finds that Plaintiffs' second claim for relief for declaratory judgment based upon NRS Chapter 278A fails to state a claim upon which relief may be granted.

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7. The Court finds that pursuant to NRS 116.1201(4) as a matter of law NRS Chapter 278A does not apply to common interest communities. NRS 116.1201(4) provides, "The provisions of chapters 117 and 278A of NRS do not apply to common interest communities." Plaintiffs have alleged ownership interest in the common interest communities as defined in NRS Chapter 116 known as Queensridge or One Queensridge Place. For this reason, NRS Chapter 278A is not applicable to Plaintiffs' claim.

8. The Court further finds that a "planned unit development" as used and defined in NRS 278A only applies to the City of Las Vegas upon enactment of an ordinance in conformance with NRS 278A. Plaintiffs allege that Queensridge or One Queensridge Place is part of the Peccole Ranch Master Plan Phase II that is located within the City of Las Vegas. The City of Las Vegas has not adopted an ordinance in conformance with NRS 278A and for this additional reason NRS Chapter 278A is not applicable and Plaintiffs' request for declaratory judgment based upon NRS Chapter 278A fails to state a claim upon which relief can be granted.

9. Because the Court finds that Plaintiffs' claim for declaratory judgment based upon NRS 278A fails under Rule 12(b)(5) of the Nevada Rules of Civil Procedure, Plaintiffs' countermotion under NRCP 56(f) is denied.

ORDER

NOW, THEREFORE:

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss the First Cause of Action (Breach of NRS 278 and LVMC 19.16.070) and Second Cause of Action based upon the recordation of the parcel map in Plaintiffs' First Amended Complaint is hereby DENIED;

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss the Second Cause of Action (Declaratory Relief) based upon NRS 278A in Plaintiffs' First Amended Complaint is hereby GRANTED, and is hereby dismissed, with prejudice.

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IT IS FURTHER ORDERED that Plaintiffs' Counter-motion under NRCP 56(f) is hereby DENIED.

Dated this 1 day of May, 2017.

Nancy Allf
HONORABLE NANCY ALLF

Respectfully Submitted:
JIMMERSON LAW FIRM

Approved as to Form:
PISANELLI BICE PLLC

James J. Jimmerson, Esq.
Nevada Bar No. 00264
415 S. Sixth Street, #100
Las Vegas, Nevada 89101
Attorneys for Fore Stars Ltd., 180 Land Co.,
LLC, and Seventy Acres, LLC

Todd L. Bice, Esq.
Nevada Bar No. 4534
Dustin H. Holmes, Esq.
Nevada Bar No. 12776
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

Approved as to Form:
CITY OF LAS VEGAS

Bradford R. Jerbic, Esq.
Nevada Bar No. 1056
Philip R. Byrnes, Esq.
Nevada Bar No. 0166
495 S. Main Street, 6th Floor
Las Vegas, Nevada 89101
Attorneys for the City of Las Vegas

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**Excerpt of Brad Jerbic from
10/18/2016 Planning Commission Meeting
Starting at 01:40:43**

MR. JERBIC: I will be happy to. The - With all due respect to what everybody says, this is what I believe are the facts. When EMB acquired the property in Queensridge that's the Badlands golf course, they requested of the Planning Department a letter asking what the zoning classification, if there was any, for the golf course was at that time.

Planning provided two letters. One addressed three APN numbers. One addressed one APN number. Both of those letters identified those properties as having hard zoning RPD-7. RPD-7 no longer exists in our zoning code. But at the time it did exist, it allowed up to, that is up to, 7.49 units per acre. Because RPD-7 stands for residential planned development, the reason it is up to is you have to be compatible with surrounding land uses.

So as I have opined before, in my opinion, just my opinion, that if an individual were to come forward with RPD-7 and ask for seven and a half units per acre next to acre parcels, half-acre parcels, quarter-acre parcels, the

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Planning Department would not ever recommend approval of that because it's not harmonious or compatible?

The other thing a lot of people have said is that gives you a right to build up to 7.9 units per acre. I have said it does not give you a right to build 7.9 units per acre. It gives you a right to ask. Now, does denial of 7.9 units per acre -- 7.49 units per acre amount to inverse condemnation? Absolutely not.

Mr. Schreck is correct. I have told him that. I have told the HOA meetings. Every meeting I have gone to I have said that. And the developer here will say the same thing. They do not believe that there is an inverse condemnation case if 7.49 units per acre were denied.

However, and this is where there will be some disagreement I'm sure, the developer did acquire property that has hard zoning. Many other golf courses here in town are zoned very specifically for civic use or for open space use. This golf course was not. I don't know why.

~~JA~~ But 25 years ago or more when the hard zoning went into place, it covered the entire golf course, the 250 that was referenced by Mr. Kaempfer. As a result the developer has a right to come in and ask for some development there. What

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that development is, how much there is is up to this
Planning Commission and up to the Las Vegas City Council.

**Excerpt of Brad Jerbic from
10/18/2016 Planning Commission Meeting
Ending at 01:43:05**

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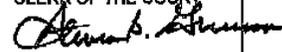


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MOT
James J. Jimmerson, Esq.
Nevada State Bar No. 00264
JIMMERSON LAW FIRM, P.C.
415 South 6th Street, Suite 100
Las Vegas, Nevada 89101
Telephone: (702) 388-7171
Facsimile: (702) 380-6422
Email: ks@jimmersonlawfirm.com
Attorneys for Fore Stars, Ltd.
180 Land Co., LLC and
Seventy Acres, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

JACK B. BINION, an individual; DUNCAN R. and IRENE LEE, individuals and Trustees of the LEE FAMILY TRUST; FRANK A. SCHRECK, an individual; TURNER INVESTMENTS, LTD., a Nevada Limited Liability Company; ROGER P. and CAROLYN G. WAGNER, individuals and Trustees of the WAGNER FAMILY TRUST; BETTY ENGLESTAD AS TRUSTEE OF THE BETTY ENGLESTAD TRUST; PYRAMID LAKE HOLDINGS, LLC.; JASON AND SHEREEN AWAD AS TRUSTEES OF THE AWAD ASSET PROTECTION TRUST; THOMAS LOVE AS TRUSTEE OF THE ZENA TRUST; STEVE AND KAREN THOMAS AS TRUSTEES OF THE STEVE AND KAREN THOMAS TRUST; SUSAN SULLIVAN AS TRUSTEE OF THE KENNETH J. SULLIVAN FAMILY TRUST, AND DR. GREGORY BIGLER AND SALLY BIGLER
Plaintiffs,
vs.
FORE STARS, LTD., a Nevada Limited Liability Company; 180 LAND CO., LLC, a Nevada Limited Liability Company; SEVENTY ACRES, LLC, a Nevada Limited Liability Company; and THE CITY OF LAS VEGAS,
Defendants.

CASE NO. A-15-729053-B
DEPT. NO. XXVII
Courtroom #3A
**DEFENDANTS FORE STARS, LTD.,
180 LAND CO., LLC AND SEVENTY
ACRES, LLC'S**
**MOTION FOR SUMMARY JUDGMENT
ON ISSUE OF ALLEGED
"UNLAWFULNESS" OF PARCEL MAP**

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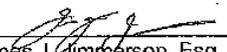
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Come now Defendants Fore Stars, Ltd. ("Fore Stars"), 180 Land Co., LLC ("180 Land Co") and Seventy Acres, LLC ("Seventy Acres") (collectively "Developer Defendants"), and hereby submit their Motion for Summary Judgment, to dismiss with prejudice the remaining claim(s) against them as it relates to Plaintiffs' baseless allegations that Fore Stars' submission of its parcel map, and/or the City of Las Vegas' approval and release of the same for recordation, was "unlawful" and/or that the same allegedly "breached" NRS 278 and LVMC 19.16.070.

This Motion is based on NRCP 56, the pleadings and papers on file herein, the attached memorandum of points and authorities, the Declaration of Frank Pankratz, attached hereto as **Exhibit "A,"** the Declaration of Counsel, attached hereto as **Exhibit "B,"** the Declaration of Paul Burn with CV, attached hereto as **Exhibit "C,"** the deposition testimony of representatives of the City of Las Vegas, representative(s) of the Plaintiffs, and representatives of the Developer Defendants, the supporting exhibits attached hereto, and any oral argument this Court should choose to entertain at a hearing on this motion.

Dated this 12th day of June, 2017.

JIMMERSON LAW FIRM, P.C.


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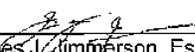
NOTICE OF MOTION

TO: ALL PARTIES AND ATTORNEYS OF RECORD

YOU AND EACH OF YOU will please take notice that the undersigned will bring the foregoing **Defendants Fore Stars, Ltd., 180 Land Co., LLC and Seventy Acres, LLC's Motion for Summary Judgment On Issue Of Alleged "Unlawfulness" Of Parcel Map** for hearing before the above-entitled Court in Department XXVII, on the 20th day of July, 2017, at 10:30 a.m./p.m., or as soon thereafter as counsel may be heard.

Dated this 12th day of June, 2017.

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 i. INTRODUCTION

3 This case involves claims by Plaintiffs concerning Defendants' alleged "violation of
4 Nevada law in the recording of a parcel map" on June 15, 2015. See *Amended Complaint*
5 ¶¶ 1; 72-74; 76. Plaintiff's Complaint fails in its claim the map was "unlawful," because as a
6 matter of law, the preparation of such a parcel map, which merged three (3) contiguous
7 large parcels of land (179.2 acres, 53.02 acres and 18.67 acres) and then divided the
8 merged parcel into four (4) new parcels (166.99 acres, 70.52 acres, 11.28 acres and 2.13
9 acres), was not only proper, but was expressly required under state law and local
10 ordinance. When dividing any land "into four lot or less" an applicant shall prepare a parcel
11 map. *NRS 278.461*. Parcel maps merely draw boundary lines, and the map itself does not,
12 on its own, grant entitlements for development, and therefore does not necessitate notice
13 to abutting parcels.
14

15 Because Plaintiffs' claim has no merit, in an attempt to confuse the Court, Plaintiffs
16 sprinkle half-truths throughout the Amended Complaint, citing various sections of NRS 278
17 (and NRS 278A), which have no applicability to the instant case. In fact, Plaintiffs' scurrilous
18 allegations have no nexus to the law cited in the Amended Complaint. Indeed, Plaintiffs'
19 Amended Complaint is based on the *false* legal premise that Developer Defendants were
20 required to file a "tentative map" despite (1) clear statutory provisions *requiring* the filing of
21 a parcel map because it involved "four lots or less" (See *NRS 278.461*), and (2) clear
22 statutory provisions requiring the filing of tentative maps only where land is subdivided into
23 five (5), or more, parcels, thereby creating a "subdivision". (See *NRS 278.320*)
24

25 Under NRS Chapter 278 — Planning and Zoning, the statutory requirements for the
26 creation of a "parcel map" are separate and distinct (under Sections NRS 278.461-469)
27 from the statutory requirements for the creation of a "tentative map" when creating a
28

1 "subdivision" (NRS 278.320-329; 330-353). Similarly, Title 19 of the Unified Development
2 Code of the City of Las Vegas ("LVMC"), the City of Las Vegas ordinances that govern
3 mapping, also differentiates between a "Parcel Map," and a "Tentative Map," and details
4 the process for each within separate sections of the LVMC. The "tentative map" sections
5 simply do not apply to the parcel map filed by Developer Defendants, and Plaintiffs'
6 improper attempt to apply the "tentative map" requirements a parcel map filed *two years*
7 *ago* is nothing more than a transparent attempt to delay development, and avoid the
8 "arbitrary and capricious" standard they would have to meet if they filed suit *after* exhausting
9 their administrative remedies. In fact, during the period of pendency of the meritless
10 Amended Complaint wherein Plaintiffs claim they were denied public notice (for an
11 administrative action redrawing the property boundaries to land, but not affecting
12 development entitlements), Plaintiffs have received countless notices and actively
13 participated in Planning Commission and City Council hearings relating specifically to
14 Developer Defendants requests to revise entitlements on their property.
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16
17 Additionally, since their underlying claim regarding the June 18, 2015 parcel map—
18 the only parcel map referenced and objected to in their Amended Complaint—has no merit,
19 Plaintiffs raised an entirely new claim in their Opposition to Defendants' Motion to Dismiss,
20 that Developer Defendants have engaged in "serial mapping" in order to "evade" the
21 requirements of NRS 278. While these factual allegations are entirely false and contained
22 nowhere in the Amended Complaint, that claim, if they *had* been made therein, as a matter
23 of law, they would also have to be dismissed, as they are unsupported by Nevada law.
24

25 As will be shown herein, the Plaintiffs have failed to create any genuine issue of
26 material fact, and further have glaringly distorted the clear and controlling law that applies
27 to parcel map processing. Indeed, both parties agree that this matter is a straightforward
28 statutory interpretation case for this Honorable Court to resolve. The City of Las Vegas

1 parcel map approval process is a pure issue of law only, which is ripe for a dispositive ruling
2 from this Honorable Court. This Motion for Summary Judgment should be granted, and the
3 Amended Complaint should be dismissed as a matter of law.
4

5 **II. STATEMENT OF RELEVANT FACTS**

6 **A. THE PARCEL MAP FILED BY FORE STARS, LTD IN JUNE, 2015.**

7 1. On March 2, 2015, the date that the entity Fore Stars, Ltd. changed ownership,
8 it owned four (4) parcels of land,¹ as follows:

- 9 a. APN# 138-31-713-002: 179.2 acres
10 b. APN# 138-31-610-002: 53.02 acres
11 c. APN# 138-31-212-002: 18.67 acres
12 d. APN# 138-31-712-004: 0.22 acres (never became part of a subsequent
13 parcel map)

14 Division of land by parcel map for the purpose of sale or financing is a routine and
15 typical. This was the purpose in the instant case. Fore Stars' was using its property as
16 collateral for a loan. Because Fore Stars did not wish to pledge all 250 acres as security for
17 the loan, Fore Stars reconfigured the boundaries of its property, re-drawing three lots² into
18 four lots creating a 70 acre parcel which was then pledged as collateral for the loan. That 70-
19 acre parcel was then transferred to a newly formed entity, Seventy Acres, LLC.

20 Map revisions requires the engagement of "a professional land surveyor" to survey
21 the property and prepare appropriate maps for submission and consideration by the City of
22 Las Vegas, one that is "licensed by the state licensing board" which "guarantees that the
23 licensee, the professional land surveyor has a minimum professional competency."³ In this
24 case, Developer Defendants engaged GCW Engineering, which "puts a great number of
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27 ¹ See depiction of Acquisition Parcels attached hereto as Exhibit "D."

28 ²A fourth lot, a tiny 0.22 acre parcel owned by Fore Stars was never part of any later Parcel Map.

³ See, e.g., Excerpts from Transcript of Alan Reikki, City Surveyor, attached as Exhibit "J," at 56:24-57:4; 57.

1 maps through the system,"⁴ and whose Director, Paul Burn, Mr. Burn has 38 years of
2 experience as a licensed, registered professional land surveyor and supervisor, with
3 extensive mapping knowledge, familiarity with local conditions, and expertise in a vast array
4 of development conditions.⁵ Paul Burn created and oversaw the parcel map at issue, and
5 attests that he "followed the law" in the preparation of the subject map, and that its
6 classification and recordation as a "parcel map" was "appropriate".⁶

7
8 2. Thus, the three lots reflected in 1.a., b., and c. above, became four lots by virtue
9 of PM 120-49 (referred to as Parcel Map 59572 by Douglas Rankin)⁷ (06/18/2015), filed by
10 Fore Stars, Ltd., all created as part of the same parcel map as follows:

- 11 a. Lot 1: APN#138-32-202-001: 2.13 acres.
- 12 b. Lot 2: APN# 138-32-301-004: 70.52 acres. This lot was created and
13 used as collateral for financing purposes.
- 14 c. Lot 3: APN#138-31-702-002: 166.99 acres.
- 15 d. Lot 4: APN# 138-31-801-002: 11.28 acres.

16
17 The parcel map is attached hereto as **Exhibit "E,"** and the visual depiction of the four
18 (4) lots created by this division is attached hereto as **Exhibit "F."** At the time the Parcel Map
19 was submitted, a beneficiary Statement for NLV, LLC was also submitted as required.⁸ The
20 Court should note that this is the only Parcel Map Plaintiffs reference in their Amended
21 Complaint and, therefore, is the only Parcel Map at issue in this litigation.

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⁴ *Id.*

⁵ See Declaration and CV of Paul Burn, Exhibit "C."

⁶ *Id.*

⁷ Parcel Maps are colloquially referenced by their File Book and Page number, and not the PMP number that Mr. Rankin incorrectly uses. For ease of comparison to the maps referenced by Mr. Rankin in his Declaration, however, both references are being used here.

⁸ See Beneficiary Statement attached hereto as **Exhibit "G."** See, also, Excerpts from Riekki Deposition, **Exhibit "J,"** at 169:18-170:5.

1 again, Plaintiff's witness, even confirmed that he was unaware of anything "improper" with
2 respect to the parcel map approvals, and both the City, and the Developer Defendants, acted
3 in "good faith," and the issue is one of law:¹⁴

4 Q. As far as you know, did anyone approve a parcel map for any
5 developer because of improper means, bribery or anything else?

6 A. I'm not aware of any of that.

7 Q. Are you aware of any planner who approved parcel maps as being
8 in bed with or conniving with a developer?

9 A. I've not aware of any of that.

10 Q. It certainly is expected that these decisions be made on the merits
by the City Planning Department employees?

11 A. I believe so.

12 Q. And while you can disagree or they can disagree, you believe that
13 both sides are coming from a point of good faith?

14 MR. BICE: Objection to the form. Assumes facts not in evidence.

15 BY MR. JIMMERSON:

16 Q. As far as you know?

17 A. I believe they acted in good faith, as we are on our side.

18 Q. So what we have is a legal conclusion that is being disagreed upon,
right?

19 A. I believe that is the point.

20 City of Las Vegas Planning Director Tom Perrigo testified that he had read the
21 Amended Complaint in this case—and specifically the allegations contained therein that the
22 City acted in complicity with the Developer Defendants—and denied that those allegations
23 were true or correct.¹⁵ He was aware of no actions on the part of the City of Las Vegas that
24 were improper or unlawful.¹⁶ With regard to the Parcel Map process that is at issue in this
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27 ¹⁴ Exhibit "H," Excerpts from Deposition of Doug Rankin at p. 235/n. 2-22 (Emphasis added).

¹⁵ See Deposition Transcript of Tom Perrigo, Vol. II of December 19, 2016, attached hereto as Exhibit "I," at
p. 420/n. 20-421/n. 1).

28 ¹⁶ Exhibit "I," Excerpts from Deposition of Tom Perrigo at p. 421/n. 5-8.

1 litigation, he provided the various Plaintiffs with open access to his agency and his processes
2 and did not conduct business behind closed doors.¹⁷ He maintained that the City did not act
3 improperly or in complicity with Developer Defendants or others to deprive the Plaintiffs and
4 other homeowners of an opportunity to be heard.¹⁸

5 City of Las Vegas City Surveyor, Alan Riecki testified that he had read Plaintiff's
6 Amended Complaint and denied that the City of Las Vegas acted in complicity with the
7 Developer Defendants for approval of the Parcel Maps at issue in this litigation as alleged in
8 the Amended Complaint.¹⁹ He also testified, explicitly that the parcel map "is not unlawful"
9 because:

10 "The parcel map was submitted in accordance with Chapter 278 of Nevada
11 Revised Statutes and, also, in accordance with local ordinance."
12 He was aware of no activity or actions by Developer Defendants that suggested that they
13 were trying to circumvent rules or regulations for which they are required to comply and there
14 had been no conduct by Developer Defendants to circumvent the rules and regulations
15 applicable to mapping.²⁰ He was unaware of any actions by Developer Defendants that were
16 in violation of the Nevada Revised Statutes or the Uniform Development Code.²¹ He further
17 confirmed:²²

18 Q. Do you have any information whatsoever to suggest or support
19 the allegations by these plaintiffs that the City of Las Vegas has been
20 complicit with the other codefendants, the developers here, my clients,
with regard an attempt to evade any laws of mapping whatsoever?

21 MR. BICE: Objections to form.

22 THE WITNESS: No

23 Mr. Riecki confirmed the lawfulness of the parcel map at page 20 of his deposition.²³

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25 ¹⁷ Exhibit "I," Excerpts from Deposition of Tom Perrigo at p. 422/ln 12-18

26 ¹⁸ Exhibit "I," Excerpts from Deposition of Tom Perrigo at p. 423/ln. 10-13.

27 ¹⁹ See Excerpts from Deposition Transcript of Alan Riecki of May 23, 2017, attached as Exhibit "J," at p.
13/ln. 6-14/ln 13).

28 ²⁰ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 46/ln. 17-p. 47/ln. 7.

²¹ Exhibit "J" Excerpts from Deposition of Alan Riecki at p. 48/ln. 22-25.

²² Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 49/ln. 16-23.

²³ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 20/ln. 5-17.

1 Q. Now, as you read the plaintiff's amended complaint, they
2 complain, as I read the complaint as well as you, that you -- that the recording,
3 or that the approval of Exhibit Number 2, the parcel map, that was recorded in
4 or about June 18th, 2015, was "unlawful." So knowing what it was before, three
5 parcels, and then having it re -- having been divided into four parcels, why is
6 that not unlawful? Another way to say, why is it proper? Why is it lawful?

7 MR. BICE: Objection. Form.

8 THE WITNESS: I believe it follows the provided-for statute for mergers
9 and resubdivisions.

10 Indeed, he confirmed it was proper, citing NRS 278.4925 as allowing owners of adjoining
11 properties to merge and resubdivide their parcels with a Parcel Map.²⁴ In this particular case,
12 he testified, because all of the parcels were owned by the same entity, **"it is perfectly legal
13 to apply for a map to merge all of those parcels into one parcel and to re--resubdivide
14 them, which is exactly what happened."**²⁵ Mr. Riecki testified that the **"choice of parcel
15 map has to do with the number of resultant lots that you're going to end up with. It
16 has nothing to do with the character of the lots that you start with."**²⁶

17 Mr. Riecki confirmed the correctness of Mr. Rankin's testimony that approximately
18 nineteen (19) different departments and agencies at the City of Las Vegas and outside parties
19 review each map, and testified that, in fact, at least two copies go outside the City to the
20 Health Department and the Department of Water Resources.²⁷ Within the City Departments,
21 copies go to Planning Department, Traffic Planning, Traffic Engineering, Development
22 Coordination, Fire Department, Right-of-Way Section, amongst a "long list" of many others.²⁸

23 Mr. Riecki further testified that the resulting lots created when the Developer
24 Defendants' Parcel Maps were approved.²⁹

25 A. In this particular case, because the resultant lots are so large, they
26 certainly were not ready for development.

27 ²⁴ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 20/n. 23-p. 21/n. 4.

28 ²⁵ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 22/n. 15-21.

²⁶ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 43/n. 15-18.

²⁷ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 25/n. 9-23.

²⁸ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 26/n. 6-15.

²⁹ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 39/n. 15-22.

1 Q. And to develop like a subdivision requirement, it would require using
2 a tentative map and then ultimately moving to a final map; is that right?

3 A. That's correct.

4 Unless Developer Defendants "wanted to build eight 50, 60-, 70-, 80-, 90-acre home sites,"
5 they would have to, at some point, use a Tentative Map and Final Map process to ultimately
6 build out their property.³⁰ Mr. Riecki also confirmed that when Developer Defendants used
7 the Parcel Map process, they were simply dividing land "internal to the property owner's
8 property,"³¹ and that it is a common and regular practice, even after final maps:

9 "I have myself mapped final map lots into parcel map lots. I've divided a single
10 lot in a subdivision into multiple lots. I've taken three lots in a subdivision and
11 merged them into one lot with a merger and resubdivision. I can think of
12 numerous cases where that's been done. And I have never found anything in
13 the code that would give me any pause about doing so."³²

14 The use of a parcel map by Fore Stars, Ltd., Seventy Acres, LLC and 180 Land Co. LLC to
15 redraw boundary lines within their respective property and to assign APN numbers to the
16 parcels, and the City of Las Vegas' approval of the same, was wholly legal and proper, and
17 this Motion should be granted.

18 **III. LEGAL ANALYSIS**

19 **A. LEGAL STANDARD FOR SUMMARY JUDGMENT**

20 NRCP 56(c) sets forth the standard for granting summary judgment: The court must
21 enter summary judgment where "there is no issue of genuine material fact and ... the moving
22 party is entitled to judgment as a matter of law." *Fire Ins. Exch. v. Cornell*, 120 Nev. 303, 90
23 P.3d 978, 979 (2004). The movant has the burden to demonstrate that there is no genuine
24 issue of any material fact to be determined. NRCP 56 (c). The moving party must specifically
25 identify and cite to the parts of the record that indicate the absence of a genuine issue of
26 _____

27 ³⁰ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 242/n. 16-21.

28 ³¹ Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 40/n. 14-18.

³² Exhibit "J," Excerpts from Deposition of Alan Riecki at p. 43/n. 19-44/n.1.

1 material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S.Ct. 2548, 91 L.Ed. 2d 265
2 (1986).

3 The Nevada Supreme Court has made it clear that "when a motion for summary
4 judgment is made and supported as required by NRCP 56, the non-moving party may not
5 rest upon general allegations and conclusions, but must, by affidavit or otherwise, set forth
6 specific facts demonstrating the existence of a genuine factual issue." *Wood v. Safeway,*
7 *Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1030 (2005). A factual dispute is genuine when the
8 evidence is such that a rational trier of fact could return a verdict for the non-moving party.
9 *Id.* at 731, 1031. The court stated, a non-moving party "is not entitled to build a case on the
10 gossamer threads of whimsy, speculation, and conjecture." *Id.* at 732, 1031.

11
12 **B. THERE IS NO GENUINE ISSUE OF MATERIAL FACT.**

13 The sole basis for Plaintiffs' Amended Complaint is the recordation of a Parcel Map
14 by Developer Defendants on June 18, 2015 (the "June 2015 Parcel Map"). *Amended*
15 *Complaint* ¶ 29. Developer Defendants owned only four (4) parcels when they first began
16 the parcel map process in the Spring of 2015. The parcel map in question that the Plaintiffs
17 wrongly characterize as being "unlawful" simply merged three (3) of those lots together,
18 and re-divided them into four (4) new lots. This is undisputed. *See June 2015 Parcel Map,*
19 *attached hereto as Exhibit "E", at Sheet 3 of 11; Amended Complaint* ¶29. The re-drawing
20 of lot boundaries was simply an internal matter within the Defendants' property, preparatory
21 to financing and/or transferring certain chunks of land.
22

23 It is undisputed that the map that is the subject of Plaintiffs' claims was in fact a
24 "parcel map." Defendants and co-defendant City of Las Vegas, fully complied with Nevada
25 Revised Statutes ("NRS") Chapter 278 — Planning and Zoning and Title 19 of the Unified
26 Development Code of the City of Las Vegas ("LVMC") governing the legal requirements for
27 preparation, approval, and recordation of a valid parcel map. Indeed, even the City of Las
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1 Vegas website provides that a parcel map "may be used to create four or fewer lots for
2 purposes of sale, transfer or development. No [Tentative Map] is required."; "Only a
3 [Tentative Map] application will require a public hearing." and "[Parcel Maps] are reviewed
4 administratively."³³

5
6 There is no debate about whether a parcel map was recorded instead of a tentative
7 map, and there is no dispute the process was followed on more than one occasion.
8 Developer Defendants Ltd. recorded a parcel map on June 18, 2015. Seventy Acres
9 recorded two parcel maps: one on November 30, 2015 and another four months later on
10 March 15, 2016. 180 Land Co. recorded one parcel map on January 24, 2017. **Of the four**
11 **parcel maps listed above, only one is made the subject of the Amended Complaint**
12 **filed by Plaintiffs herein—the June 18, 2015 parcel map.** See Amended Complaint, ¶¶ 36-
13 43, 64-74. Despite the fact that the Amended Complaint was filed on October 10, 2016—
14 long after the parcel maps filed November 30, 2015 and March 15, 2016—the Amended
15 Complaint makes no mention of them.
16

17 The only question is whether a tentative map or a parcel map was "required" to be
18 filed when Developer Defendants were establishing new boundaries of their lots within the
19 property they owned, without developing the same. Indeed, when portions of the land were
20 finally submitted for consideration for development in the form a statutorily defined
21 "subdivision" (see NRS 278.320(1)(a)), it is undisputed that Developer Defendants did file for
22 a tentative map, and followed all the statutory process and notification requirements relating
23 to the same. Neither Developer Defendants, nor the City, are doing this for the first time.
24 Both entities are experience in the area of land division and land development and
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27
28 ³³ See City of Las Vegas Mapping Information, attached hereto as Exhibit "K" at 13.1 at FAQ 3 and 4 (emphasis added).

1 understand the distinct procedural requirements of each the parcel map and tentative map
2 process as required under the law.

3 On February 2, 2017, this Court denied Developer Defendant's Motion to Dismiss the
4 first cause of action in Plaintiffs' Amended Complaint on the basis that "Plaintiffs appear to
5 have stated a claim on whether Nevada law allows successive maps." Developer
6 Defendants note that the issue or allegation of "successive maps" appears nowhere
7 within Plaintiff's First Amended Complaint, but rather was a new tale spun in Plaintiff's
8 Opposition to the Defendants' Motion to Dismiss. This Court dismissed, with prejudice,
9 Plaintiff's second cause of action entirely which related to NRS 278A not applying to the facts
10 of this case.

11
12 Plaintiffs first cause of action is for "breach of NRS 278 & LVMC §19.16.040." But
13 Plaintiffs have not asserted, and cannot assert, any facts from this case that show a breach
14 of this statute and ordinance. A review of the plain language of these provisions shows that
15 the Plaintiffs' first cause of action is based upon a misunderstanding, or even an intentional
16 misconception, of the requirements of NRS Chapter 278 & LVMC §19.16.040 as neither of
17 them impose a requirement that a tentative map be submitted where the proposed division
18 of land involves a parcel or contiguous parcels being divided into **four or less** parcels with
19 new boundaries. The facts alleged by the Plaintiffs which relate to only four parcels cannot
20 give rise to the claim asserted in the Amended Complaint.
21
22

23 **C. JUDGMENT SHOULD BE ENTERED AS A MATTER OF LAW BECAUSE UNDER**
24 **THE LAW, THE PROPER PROCEDURE FOR RECORDING THE DIVISION OF**
25 **LAND INTO FOUR OR FEWER PARCELS IS WITH A PARCEL MAP, NOT A**
26 **TENTATIVE MAP.**

27 Since there is no dispute regarding the facts surrounding the creation and use of the
28 parcel map, the Court must turn to the law and determine whether, under the law, with the
division of land at issue, what kind of "map" were Defendants required to file.

1 A Parcel Map is a map that divides a parcel into **four or fewer new lots**. See NRS
2 278.017. It can be used to divide a single parcel, or a landowner who owns several
3 contiguous parcels may simultaneously merge the parcels and re-divide them as appropriate,
4 which typically would have, after the division, different boundary lines. See NRS 278.4295.
5 The division would be by parcel map if the resultant number of lots is four (4) or fewer, or by
6 a tentative map/final map process if the resultant number of lots on the map is **five (5) or**
7 **more** lots. See NRS 278.4611 NRS 278.320. The "resultant" number of lots is specific to
8 each individual map that is filed, and is what dictates the appropriate type of "map" to use to
9 divide the land, and the use of Parcel Maps to do so is quite common. *Id.*³⁴

11 In the City of Las Vegas, in addition to the Nevada State Statutes, the Parcel Map is
12 governed by the Uniform Development Code ("UDC") 19.16.040. The final approval of a
13 Parcel Map is exclusively the decision of the City of Las Vegas, after input from the various
14 departments and agencies as outlined above. The process to have a Parcel Map approved
15 requires the applicant to submit more than a dozen sets of the proposed parcel map which
16 are routed to the various divisions or departments within the City of Las Vegas and/or other
17 governmental agencies for review and approval. In short, there more than a dozen—and
18 according to Mr. Rankin, **approximately nineteen (19)** sets of eyes, and nineteen required
19 approvals, which must be obtained, before a Parcel Map will be formally approved by the
20 City of Las Vegas and released for recordation.
21
22

23 As a matter of general usage, Parcel Maps are commonly used for boundary line
24 adjustments in larger chunks of ground, as opposed to smaller lots for residential or
25 commercial development. As set forth above, Parcel Maps are limited to an owner parceling,
26 or processing, four lots or fewer and, after division, having created four lots or fewer, with
27

28 _____
³⁴ See, also, Excerpt from Riecki Deposition, Exhibit "J," at p. 43/ln 15-24.
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1 presumably new boundary lines. They are also used when a portion of a parcel needs to be
2 "carved out" for some purpose, such as financing or to apply for new zoning or other change
3 to a portion of an area of land. The approval process for a developer using a Parcel Map is
4 an administrative one where the approval is ultimately given by the City of Las Vegas
5 Planning Department after approximately nineteen different City sections, divisions and
6 departments and other government agencies reviewing for completeness, compliance, and
7 approve the Parcel Map.
8

9 The Plaintiffs complain that the City of Las Vegas should not have approved
10 Developers' Parcel Map because a Tentative Map should have been used instead. Tentative
11 maps, which are a precursor to a Subdivision Map of five (5) or more lots, purposefully require
12 a huge amount of additional detail and cost, including depicting lot sizes, lot elevations,
13 grades, utility connections and the like. NRS 278.
14

15 Citing NRS 278.349, NRS 278.4925 and UDC 19.16.070, Plaintiffs further argued, as
16 part of their overall scheme to defeat or delay the overall development of Developer
17 Defendants' property that the Tentative Map process requires "public action" by the City
18 Planning Commission or the City Council and was unlawfully recorded. See Amended
19 Complaint ¶ 71-72. It should be noted, however, that neither NRS 278.4925 nor UDC
20 19.16.070 make mention of any sort of public action requirement by the Planning
21 Commission as alleged by Plaintiffs. NRS 278.349 requires that the Planning Commission
22 "take final action ... by an affirmative vote of a majority of all the members" to approve or
23 disapprove a tentative map." Again, Plaintiffs' goal is to delay Developers' development of
24 their property. Plaintiffs' mischief is not a credit to them, and their refusal to acknowledge the
25 frivolousness of their position, despite the statutes being clear and unambiguous, is further
26 evidence before this Court of Plaintiffs' unclean hands.
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1 Separate and apart from the above, the Developer Defendants' use of the Parcel Map
2 was entirely lawful and proper and consistent with Nevada State Statute and the City of Las
3 Vegas Uniform Development Code. **The map was lawful, not unlawful.** But, in addition,
4 it is undisputed under the facts of this case that the lots that were divided or merged and re-
5 divided, as expressly permitted by NRS 278.461 and NRS 278.4295. Furthermore, all parties
6 agree, the four (4) new lots were lots that could not be developed into residential housing
7 without further mapping (including use of Tentative Maps) and/or Site Development Review
8 (hereinafter "SDR") which would result in public notice and public hearing regarding any
9 development plans. Clearly, Plaintiffs' cannot show prejudice by Developer Defendants
10 preparation and recordation of a Parcel Map. Under the facts of this case, it is undisputed
11 that there is no prohibition or any law or ordinance that requires the Defendants to use a
12 Tentative Map for the large lot division that the Defendants undertook to meet their
13 refinancing needs. It is undisputed under the facts of this case that parcel map division,
14 merger, and re-division of lots is expressly permitted by NRS 278.461 and NRS 278.4295.
15

16 So, to this point, it is simply an issue of law, and not fact, that this Court should decide.
17
18 The Court should find that the City of Las Vegas' process of multi-departmental review and
19 decision in approving the Parcel Map for recordation was entirely proper and was not an
20 arbitrary or capricious, nor improper, decision. Rather, it was entirely consistent with state
21 statute and local ordinance. The Court, in making its determination, would be granting
22 summary judgment in favor of Developer Defendants and would also be effectively granting
23 summary judgment in favor of Defendant City of Las Vegas since the Plaintiffs' allegations
24 are that the City of Las Vegas' actions to approve this Parcel Map were unlawful, wherein
25 Plaintiffs claim that a Tentative Map was required to be used, even though the law provides
26 no such requirement when the map involves four lots or less.
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1 As noted in the introduction above, as it relates to the Developer Defendants, even
2 were this Court to be uncertain as to the applicability of a Parcel Map, versus Tentative Map,
3 which essentially is challenging the City of Las Vegas' processes and decision making, it is
4 clear, by the evidence that has been adduced to this time, that there is absolutely no evidence
5 cited by the Plaintiffs which would allow any reasonable inference to be drawn that: 1) the
6 approval of the Parcel Map was in error; and 2) that, as it relates to the Developer
7 Defendants, that they were "complicit" in the City's approval of an allegedly "unlawful" map.
8 In other words, there is no evidence that Developer Defendants did anything other
9 than comply with the City of Las Vegas procedural requirements in submitting the
10 Parcel Map and seeking approval from the City of Las Vegas to support any reasonable
11 inference of "complicity" or "circumvention." As such, as a matter of law, the Parcel Map
12 approved by the City of Las Vegas was entirely proper and consistent and directly followed
13 the law. In addition, Developer Defendants were frivolously named in this lawsuit because
14 there is no evidence, contrary to Plaintiffs' allegations, that would create a genuine issue of
15 fact that Developer Defendants acted in any way improperly. Defendants submit that the
16 evidence points to Developer Defendants acting in good faith and in accordance with law.
17
18

19 The viability of Plaintiffs' first cause of action turns on the meaning of NRS 278.4925,
20 which provides:

21 (1) An owner or governing body that owns two or more contiguous parcels may
22 merge and resubdivide the land into new parcels or lots without reverting the
23 preexisting parcels to acreage pursuant to NRS 278.490.³⁵

24 (2) Parcels merged without reversion to acreage pursuant to this section must
25 be resubdivided and recorded on a final map, parcel map or map of division
into large parcels, as appropriate, in accordance with NRS 278.320 to

26
27 ³⁵ This ability to merge and resubdivide without reverting to acreage is echoed by UDC 19.16.070(C), which
28 states "In accordance with NRS 278.4925, the owner of two or more contiguous parcels may merge and
resubdivide the land into new parcels or lots without reverting the preexisting parcels to acreage pursuant to
NRS 278.490." Note that the term "resubdivide" as set forth in UDC 19.16.070(C) does not mean "subdivision"
as that term is used and defined in NRS 278.320.

1 278.4725, inclusive, and any applicable local ordinances. The recording of the
2 resubdivided parcels or lots on a final map, *parcel map* or map of division into
3 large parcels, *as appropriate*, constitutes the merging of the preexisting
4 parcels into a single parcel and the simultaneous resubdivision of that single
5 parcel into parcels or lots of a size and description set forth in the final map,
6 *parcel map* or map of division into large parcels, *as appropriate*. (Emphasis
7 added.)

8 Mr. Riecki explained that prior to the enactment of this subsection, a developer had to take
9 two separate steps to merge divided land, reverting it to acreage, and then divide it anew,
10 using a Parcel Map if it was creating four (4) or fewer lots on that map, and a Tentative
11 Map/Final Map process if he wanted to create five (5) or more lots on a single map. Now, as
12 can be seen, the first part of this statute permits the owner of contiguous lots to merge such
13 lots, and re-divide them, without requiring the lots to be reverted to acreage. *NRS*
14 *278.4925(1)*. There is no dispute among the parties as to the meaning of subparagraph (1).
15 Instead, the dispute centers on subparagraph (2), which requires that the map of the new
16 division be recorded on one of three types of maps: a "final map," a "parcel map," or "map of
17 large division into large parcels." *NRS 278.4925(2)*. Which of these three types of maps
18 should be recorded to effect the "merger and re-division" depends on which type of map is
19 "appropriate," in accordance with *NRS 278.320 to 278.4725, inclusive, and any applicable*
20 *local ordinances.* *Id.* The statutes cited within subparagraph (2) are the statutes that set
21 forth the procedures governing land division. Accordingly, in order to understand which type
22 of map is "appropriate," those statutes must be examined.

23 The Court need only look at the structure of *NRS 278* to see that it is broken up by
24 **headers**, each of which are followed by the applicable sections of the statute. ***NRS 278.320-***
25 ***278.329*** has the title "**Subdivision of Land: General Provisions**,"³⁶ These statutes set
26 forth the general provisions governing the division of land. The most significant of these
27 statutes is the following:

28 "Subdivision" means any land, vacant or improved, which is divided or
proposed to be divided into *five or more* lots, parcels, sites, units or
plots, for the purpose of any transfer or development, or any proposed
transfer or development, unless exempted by one of the following
provisions. *NRS 278.320.*

³⁶ See Excerpts from *NRS 278*, attached hereto as Exhibit "L."

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Thus, as used in NRS 278.320-278-4725, a "subdivision" as used in the subsequent statutes only involves a division into five or more parcels. As a matter of law, Developer Defendants' division of land underlying this action did not result in a "subdivision" because only **four lots** resulted, not five (5) or more.

Another statute within the general provisions requires local governments to enact ordinances consistent with, *inter alia*, the state's mapping requirements. NRS 278.326.

The final statute contained within these general provisions that is relevant to this Motion is the following:

Approval of any map pursuant to the provisions of NRS 278.010 to 278.630, inclusive, does not in itself prohibit the further division of the lots, parcels, sites, units or plots described, but any such further division shall conform to the applicable provisions of those sections. NRS 278.327. (Emphasis added.)

This statute makes clear that approval of specific divisions of land in the past does not preclude future division of the same land. This is because, as noted above, the re-parceling of land of four lots or less is an internal matter within the Developer Defendants' property and does not affect nearby landowners.

NRS 278.330-278.353 has the title "**Subdivision of Land: Tentative Maps,**" and they set forth the procedures related to "tentative maps," including provisions relating to the agencies that must be provided with copies of a tentative map, and the actions that must be taken for approval of a tentative map. These statutes are relevant to this Motion *only* because Plaintiffs erroneously contend that the tentative map procedure should have been followed here. Simply stated, the issue between the Plaintiffs and the City is that the City has long ago determined that a parcel is lawful and proper when dividing a parcel, or merging and dividing contiguous parcels by a single owner, into four (4) or less lots, see *Exhibit E*, compared to Plaintiffs knowingly mistaken position set forth within its Amended Complaint at

¶1 that "tentative map procedures must be followed. As a matter of law the Plaintiffs are wrong. Indeed, NRS 278.330 reveals the error of this contention:

1. The initial action in connection with the making of any *subdivision* is the preparation of a tentative map.

NRS 278.330(1).³⁷ (Emphasis added.)

As can be plainly seen, a "tentative map" is part of the process used to create a "subdivision" which was defined in the previous sections as a land division resulting in *five or more lots*. No tentative map process would apply to a division that would result in *four lots or less*.

NRS 278.360-278.460 has the title "Subdivision of Land: Final Maps," which is, simply, the follow-up and final process in the tentative map process, and thus, also relates to "subdivisions," *i.e.*, divisions into *five or more lots*. NRS 278.360. The timing for final maps is keyed to the tentative map process. *Id.* A final map also requires professional surveying; placement of monuments for boundaries; certifications by multiple agencies; plans for installation of water meters; and approval of the local authorities – all requirements indicative of the concerns of subdivisions. NRS 278.371-278.390.

NRS 278.461-278.469 has the title "Parcel Maps" and this wholly separate section from "subdivisions" governs the procedures related to parcel maps, which is what was filed in this case. As outlined in the very first section of the "Parcel Maps" header, the use of the parcel map was **mandated** and the City of Las Vegas' approval of Developer Defendants' parcel map was correct. NRS 278.461 provides:

1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into *four lots or less shall*:

(a) **Prepare a parcel map** and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its designated representative or, if there is no planning commission, with the clerk of the governing body; and

³⁷ The corresponding ordinance for the City of Las Vegas is set forth in Section LVMC Section 19.16.050 ("Tentative Map Ordinance"). See LVMC § 19.16.050, which includes a flow chart of the Typical Review Process for creation of a Tentative Map, attached hereto as Exhibit "M".

1 (b) Pay a filing fee in an amount determined by the governing
2 body,
3 unless those requirements are waived or the provisions of NRS
4 278.471 to 278.4725, inclusive, apply. The map must be
5 accompanied by a written statement signed by the treasurer of the
6 county in which the land to be divided is located indicating that all
7 property taxes on the land for the fiscal year have been paid,
8 and by the affidavit of the person who proposes to divide the
9 land stating that the person will make provision for the
10 payment of the tax imposed by chapter 375 of NRS and for
11 compliance with the disclosure and recording requirements of
12 subsection 5 of NRS 598.0923, if applicable, by the person
13 who proposes to divide the land or any successor in interest.³⁸
14 NRS 278.461 (emphasis added).³⁹

15 As can be seen, when a person proposes to divide land into four lots, he *shall* prepare and
16 file a parcel map. That is exactly what was done by each of the Developer Defendants. The
17 remaining provisions in this range of cited statutes refer to procedures specific to parcel
18 maps, including approval by the local government authority. The only other provision
19 relevant here is NRS 278.464(7), which provides that any person aggrieved by a decision of
20 the local authority may appeal the decision.

21 **NRS 278.471-278.4725** has the title "Division of Land Into Large Parcels," and
22 these sections govern the procedures for division into lots that are at least 1/16th of a section
23 as described by the government land office survey, or at least 40 acres in area. NRS
24 278.471. A local governing body can also make these statutory provisions applicable to lots
25 that are at least 1/64th of a section, or ten acres in area. *Id.*

26 The above review of the range of statutes cited in NRS 278.4925 fully explains the
27 requirements of that statute. The "appropriate" map to be used to effect the merger and re-
28 division depends on the number of lots that result from the division. If the re-division yields

³⁸ The subsequent subparagraphs of NRS 278.461 include requirements or exemptions that are not applicable under the facts here.

³⁹ The corresponding ordinance for the City of Las Vegas is set forth in UDC Section 19.16.040 ("Parcel Map Ordinance"), Exhibit "N." The Ordinance includes a flow chart of the Typical Review Process for creation of a Parcel Map. *Id.*

1 *five or more lots*, then a final map, which would first require a tentative map, would be
2 "appropriate." But when the yield is four or fewer lots, a parcel map is required. Even if
3 more than one type of map can be deemed "appropriate" in this case, the fact remains that
4 the parcel map was certainly not "unlawful."

5
6 From this analysis, it is clear that Plaintiffs' contention that the tentative map process
7 should have been followed here, even though there is no dispute that the merger and re-
8 division resulted in only four lots, is simply wrong. Indeed, pursuant to NRS 278.461, when
9 the resulting division will leave four lots, the owner "shall" prepare and file a parcel map.
10 When interpreting statutes, "[t]he word "shall" is generally regarded as mandatory."
11 *Markowitz v. Saxon Special Servicing*, 129 Nev. Adv. Op. 69, 310 P.3d 569, 572 (2013).
12 Thus, it is apparent that here, *only* a "parcel map" *could* be "appropriate."

13
14 Because the Plaintiffs' first cause of action is premised on the *erroneous* notion that
15 the tentative map procedures must be followed, as a matter of law, judgment should be
16 entered for Defendants, and this Court should reach the same conclusion as Judge Douglas
17 E. Smith, *Peccole, et al, v. Peccole, et al*, Case No. A-16-739654-C (2017), which was that
18 "The City Planning Director properly followed the procedure for approval of a parcel map
19 rather than a tentative map."⁴⁰

20
21 **D. PLAINTIFFS ARE STILL REQUIRED TO EXHAUST THEIR ADMINISTRATIVE
REMEDIES, AND HAVE FAILED TO DO SO.**

22 Plaintiffs' First Amended Complaint seeks to bypass the normal administrative process to
23 create rules that do not exist to contrive approvals not required.

24 Plaintiffs argued that they were not required to exhaust their administrative remedies
25 because no notice was required to be provided to them in the Parcel Map process. The very
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⁴⁰ See Order Granting CLV Motion to Dismiss, attached as Exhibit "O" at ¶ 18.

1 fact that notice was not required to be provide to adjacent landowners is further evidence
2 that a Parcel Map, which redraws boundary lines within an applicant's own property, and
3 does not "add land to" or "take away land from" does not "aggrieve" adjacent landowners,
4 does not, by itself, affect them. Indeed, the single "parcel map" complained of in the
5 Amended Complaint was filed two (2) years ago in June, 2015, and had absolutely no effect
6 or prejudice upon the Plaintiffs.
7

8 What could, potentially, affect some of them is the proposed zoning changes, General
9 Plan Amendments, and other development proposals that have been made by different
10 entities for portions of the land. But these proposals have all been discussed in weekly
11 meetings among the Plaintiffs, dozens of meetings between Plaintiffs and representatives of
12 Developer Defendants, between **August, 2015** and the present, and nearly two (2) years' of
13 public hearings before the Las Vegas Planning Commission and City Council, and when
14 approval was finally obtained on one (1) project, Plaintiffs filed a "Petition for Judicial Review,"
15 which currently pends before Judge Crockett. They exercised the administrative remedies
16 they know are available under *NRS 278.3195* and *LVMC 19.16.040(T)*. Further, it is
17 undisputed that Plaintiffs had **actual knowledge** of the recording of the Parcel Map of June
18 18, 2015, certainly by the time they filed their Complaint in December, 2015, if not earlier.
19

20 It is established law that the failure to exhaust all administrative remedies precludes
21 judicial review. *Allstate Ins. Co. v. Thorpe*, 123 Nev. 565, 571, 170 P.3d 989, 993 (2007);
22 *City of Henderson v. Kilgore*, 122 Nev., 331, 336 n. 10, 131 P.3d 11, 15 n. 10 (2006); *Kay v.*
23 *Nunez*, 122 Nev. 1100, 1104, 146 P.3d 801, 805 (2006). The failure to exhaust administrative
24 remedies pursuant to *NRS 278.3195(4)* **absolutely precludes** any subsequent court action.
25 *Mesagato HOA v. City of Fernley*, 124 Nev. 1092, 1100-01, 194 P.3d 1248, 1254 (2008).
26 Until Plaintiffs pursue these administrative avenues of review, they cannot be considered an
27 "aggrieved person" under *NRS 278.3195(1)* and the local Ordinances in question. See *City*
28

1 of *North Las Vegas v. Eighth Judicial District Court*, 122 Nev. 1197, 147 P.3d 1109 (2006).

2 Here, we likewise have a situation where neighboring property owners such as Plaintiff have
3 no standing because they have not availed themselves of the administrative review process
4 and cannot show how they are aggrieved by a parcel map approval on land they do not have
5 any interest in.

6
7 Plaintiffs want this Court to ignore the law, ignore the discretion of the government
8 body charged with making those decisions, and ignore the administrative process to force
9 Developer Defendants to "start all over." The *only* reason for Plaintiffs to maintain such an
10 unreasonable position is to cause delay in development, and financial and political harm to
11 Defendants.

12 **IV. CONCLUSION**

13
14 Developer Defendants followed the applicable statutory procedure for obtaining
15 approval and recording the required Parcel Map, as others have done before them for years.
16 City of Las Vegas City Surveyor Alan Riecki testified that there are in excess of 13,000 parcel
17 maps on file with the County of Clark⁴¹ and there have been multiple parcel maps filed within
18 Peccole Ranch and Peccole West themselves⁴²

19
20 The Plaintiffs have simply ignored the plain language of the statute they claim to be
21 enforcing, in an effort to fashion a claim and to delay development and approval of Developer
22 Defendants' property. Plaintiffs should not be allowed to proceed with delay tactics and
23 gamesmanship. Their actions have irreparably harmed Developer Defendants and have
24 caused them huge financial damages, which continue to accrue every day this lawsuit
25 remains open.

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28 ⁴¹ Exhibit "J", Riecki Deposition Excerpt, at page 33.

⁴² See, sample list of parcel map filings, Exhibit "P."
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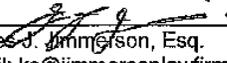
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1 For the reasons stated above, Defendants Fore Stars, Ltd., 180 Land Co., LLC and
2 Seventy Acres, LLC respectfully request this Court grant their Motion and grant Summary
3 Judgment in their favor on Plaintiffs' remaining cause of action.

4 DATED this 12th day of June, 2017.

6 JIMMERSON LAW FIRM, P.C.

7 
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16 *Attorneys for Fore Stars, Ltd., 180 Land Co., LLC*
17 *and Seventy Acres, LLC*

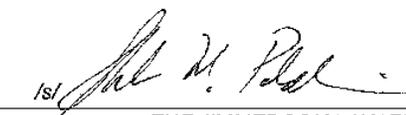
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this ^{14th} day of June, 2017, I caused a true and correct copy of the foregoing *Defendants Fore Stars, Ltd., 180 Land Co., LLC and Seventy Acres, LLC's Motion for Summary Judgment On Issue Of Alleged "Unlawfulness" Of Parcel Map* to be filed and e-served via the Court's Wiznet E-Filing system on the parties listed below. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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Dustun H. Holmes, Esq.
Pisanelli Bice, PLLC
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Attorneys for Plaintiffs

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Las Vegas, Nevada 89101
Attorneys for the City of Las Vegas


AN EMPLOYEE OF THE JIMMERSON LAW FIRM, P.C.

**EXHIBITS TO
DEFENDANTS FORE STARS, LTD., 180 LAND CO., LLC AND SEVENTY ACRES,
LLC'S MOTION FOR SUMMARY JUDGMENT ON ISSUE OF ALLEGED
"UNLAWFULNESS" OF PARCEL MAP(S)**

- A. Declaration of Frank Pankratz
- B. Declaration of JJJ
- C. Declaration/Expert Report of Paul Burn with CV
- D. Visual Depiction- Acquisition Parcels
- E. Fore Stars, Ltd.- June 18, 2015 Parcel Map
- F. Visual Depiction of June 18, 2015 Parcel Map
- G. Beneficiary Statement
- H. Deposition Transcript Excerpts- Doug Rankin
- I. Deposition Transcript Excerpts- Tom Perrigo
- J. Deposition Transcript Excerpts- Alan Riecki
- K. City of Las Vegas Mapping FAQ
- L. Excerpts from NRS 278
- M. LVMC 19.16.050- Tentative Map
- N. LVMC 19.16.040- Parcel Map
- O. Peccole et al v Fore Stars et al- Order Granting City of Las Vegas' Motion to Dismiss (10/19/16)
- P. Sample List of Parcel Map Filings

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EXHIBIT A

ROR024072

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DECLARATION OF FRANK PANKRATZ

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STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

FRANK PANKRATZ, declares, alleges and states as follows:

1. I am the President of EHB Companies, LLC, who manages the Defendants Fore Stars, Ltd., 180 Land Co., LLC and Seventy Acres, LLC's in this matter. I have personal knowledge of all matters contained herein, and am competent to testify thereto, except for those matter stated on information and belief, and to those matters, I believe them to be true. I make this Declaration in support of *Defendants Fore Stars, Ltd., 180 Land Co., LLC and Seventy Acres, LLC's Motion for Summary Judgment On Issue Of Alleged "Unlawfulness" Of Parcel Map(s).*

2. That I have reviewed the factual assertions made in the introduction and the Statement of Relevant Facts, and can attest that they are true of my own personal knowledge, except when stated upon information and belief, and as for those matters, I believe them to be true. I hereby incorporate such factual statements herein as if set forth in full.

3. At the time of the acquisition of the membership interests in Fore Stars, Ltd. on or around March 2, 2015, Four Stars, Ltd. owned four (4) parcels as detailed within the Statement of Relevant Facts. One parcel, a tiny piece of .22 acres, remains owned by Fore Stars, Ltd., but was never part of any subsequent parcel map since its acquisition.

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1 4. That the Statement of Relevant Facts as it relates to the June 18, 2015
2 Parcel Map, which is the only Parcel Map of which Plaintiffs' complain in their Amended
3 Complaint, is accurately described in the Statement of Relevant Facts.

4 5. I can further attest that the purpose for the Parcel Map was to carve out an
5 approximately 70-acre parcel that was required by our bank to be pledged as collateral
6 for refinancing our loan that was used to acquire this property in the first place.

7 6. The three (3) parcels became four (4) parcels after the approval by the City
8 of Las Vegas of our Parcel Map, as described in paragraph 2 in the Statement of Relevant
9 Facts, which is incorporated by reference as if fully stated herein.

10 7. The description of the process of submitting and getting approval of the
11 Parcel Map as set forth in the Motion is true and correct, and known by me personally, as
12 I was responsible for working with our professionally engineering and land surveying
13 company, GCW Engineering, and its Director, Paul Bum, and the City of Las Vegas
14 Planning Department, and the City Land Surveyor, Mr. Alan Riekk. That is also true with
15 regard to the other Parcel Maps submitted by companies managed by EHB Companies,
16 LLC, after June, 2015, each of which were approved and released for recordation by the
17 City of Las Vegas and its various departments and other governmental agencies as being
18 legal and appropriate.

19 8. The parcel maps attached to the Motion are true and correct copies of those
20 submitted to, and approved by, the City of Las Vegas and its 19 departments and/or
21 agencies, and the the visual depictions of the parcel maps attached to the Motion are true
22 and correct depictions of the lots that existed before and after the approval of each of the
23 parcel maps.
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1 9. At no time did Developer Defendants submit parcel maps to "evade" state
2 or city requirements or to avoid public hearing. We have had multiple public hearings on
3 development plans, as well as multiple private meetings with the homeowners in the
4 adjacent common interest community, including with some of the Plaintiffs. We have
5 been transparent and have at all times followed the law and its requirements with respect
6 to the filing of our maps.
7

8 10. The description in the Statement of Relevant Facts regarding the
9 preparation of the maps is true and accurate to the best of my knowledge.

10 11. Fore Stars, Ltd. transferred three (3) parcels of the four (4) that were created
11 by the initial Parcel Map in June, 2015, one parcel of 70.52 acres to "Seventy Acres, LLC"
12 and the other two (2) to 180 Land Co., LLC.

13 12. In November, 2015, after several months of meetings with adjacent
14 Queensridge homeowners regarding potential development of some or all of the land now
15 owned by Fore Stars, Ltd., Seventy Acres, LLC and/or 180 Land Co, LLC, Seventy Acres
16 recorded a parcel map to take its 70.52 acre parcel and divide it into two (2) lots, one of
17 17.49 acres, as described at paragraph 3 in the Statement of Relevant Facts. This parcel
18 map was undertaken by a different company, Seventy Acres, LLC, a separate company
19 from Fore Stars, Ltd, who had filed the original parcel map that was recorded in June,
20 2015. This land was parcelized in order to allow the company to build what was originally
21 contemplated to be 720 multi-family units on 17.49 acres, but which was ultimately
22 recommended by the City Staff, and by the City Planning Commission, and approved by
23 the City Council in or around February, 2017 for 435 multi-family units.
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1 13. An application to develop land must pertain to a single parcel, and not
2 merely a portion of a parcel, and thus boundary lines need to be created by a parcel map
3 before a tentative map or a Site Development Review, or other document, can be filed to
4 develop a portion of the land.

5 14. As it relates to the new parcels that were created by the approved parcel
6 maps, prior to proceeding for development, each of these parcels would require further
7 mapping or action, i.e. tentative maps, Site Development Review plans (SDR), or the like.
8 At the time those are submitted for consideration, public notice would be given. Indeed,
9 that is exactly what occurred. There has been no "complicity," "collusion," "conspiracy,"
10 or "circumvention" by Fore Stars, Ltd., 180 Land Co, LLC or Seventy Acres, LLC.

11 15. The Court can take judicial notice that the City Council's approval of the 435
12 multi-family units on 17.49 acres only occurred with Seventy Acres, LLC having submitted
13 a request for a General Plan amendment (GPA-62387) on the 17.49 acres, a Rezoning
14 Application (ZON-62392) on the 17.49 acres and a Site Development Review (SDR-
15 62393) which were publically noticed and set for hearing before the Planning Commission
16 on November 15, 2015, January 12, 2016, March , 2016, April 12, 2016, May 10, 2016,
17 July 5, 2016, July 12, 2016 and October 12, 2016, and approved in February, 2017 by
18 the City Council of the City of Las Vegas. The continuances were largely a result of the
19 City asking us to continue to meet and negotiate with the surrounding homeowners, which
20 we did.

21 16. The developer's desire to begin its project on the 17.49 acres, and not the
22 entire 250 acres, was initially rejected by the City of Las Vegas. The City of Las Vegas
23 instead demanded Fore Stars, Ltd., Seventy Acres, LLC and 180 Land Co., LLC to come
24

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1 forward jointly and make a proposal for a "global project" and development plan from
2 these three (3) separate and distinct companies, for all of its separately owned property,
3 before the City would approve the original develop plan for the 17.49 acres by Seventy
4 Acres. Only in February, 2017, did the City relent and approve development on the 17.49
5 acres, but only for a substantially reduced density of 435 residential, multi-family units.

6
7 17. As the development plans changed to meet the requirements of the City
8 and the requests of the homeowners in the adjacent common interest community known
9 as Queensridge, the creation of two parcels from the 53.03 acre parcel was necessary
10 because a portion was the subject of an application for multi-family zoning, and another
11 portion was the subject of an application for single family zoning, and the City does not
12 allow different zonings in the same parcel. Thus, PM 121-12 (referenced as Parcel Map
13 63468 by Doug Rankin) was filed on March 15, 2016 by Seventy Acres, LLC, which
14 resulted in the above 3.b.'s 53.03 acre parcel becoming two parcels as outlined in
15 paragraph 4 in the Statement of Relevant Facts.
16

17 18. When the various applications continued to meet stiff opposition at the
18 multiple public hearings and meetings, 180 Land Co contemplated a development plan
19 that was consistent with their existing zoning and generally compatible with the adjacent
20 properties. PM-121-100 (referenced as Parcel Map 64285 by Doug Rankin) was
21 recorded on January 24, 2017, by 180 Land Co., resulting in a 166.99 acre parcel
22 becoming four parcels in preparation for future tentative maps, with the intention of initially
23 seeking approval to build 61 lots on the 34.07 acre parcel, and to subsequently submit
24 applications for tentative maps on the other three parcels. That application has been
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1 recommended by City staff and by the Planning Commission, and pends before the Las
2 Vegas City Council.

3 19. I have been involved in development of real estate for many years. I am
4 familiar with the City of Las Vegas' requirements for the preparation and filing of parcel
5 maps, tentative maps, site development reviews, general plan amendments,
6 development agreements and the like, and when each are necessary to be used. The
7 allegations by the Plaintiffs are without merit because the Defendants' use of a parcel
8 map on June 18, 2015 was not only correct and lawful, but was required by statute and
9 by the City of Las Vegas. The City is the exclusive decision-maker in approving parcel
10 maps, tentative/final maps, and reversionary maps.

11 20. I can also attest that an applicant submits more than a dozen copies of its
12 parcel map with each application, which is reviewed by more than a dozen different
13 City departments, positions, and/or governmental agencies, before being approved.
14 As attested to in the depositions of Tom Perrigo, City Planning Department Director,
15 Peter Lowenstein, City of Las Vegas Planning Manager, Alan Riecki, the City Surveyor
16 for the City of Las Vegas, and Doug Rankin, a former Planning Manager in the City of
17 Las Vegas Planning Department and witness for the Plaintiffs, to the best of my
18 knowledge, each of these witnesses testified that the parcel map application submitted
19 by Defendants was done in good faith, and most importantly, that it is the City of Las
20 Vegas alone, and not the applicant, that solely makes the decision regarding approving
21 the parcel map and releasing it for recordation with the Clark County Recorder's Office.
22 The applicant has no control over the City's approval process, as both the process to
23 be followed, the type of maps to be used, and the decision to approve or not approve
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1 is left entirely to the City of Las Vegas. We simply follow the requirements within the
2 code and statute, which dictate that when dividing a parcel into four or less lots, a parcel
3 map shall be used.

4 21. It is noteworthy that the Plaintiff's witness, Doug Rankin, was an employee
5 of the Planning Department at the time the June 18, 2015 Parcel Map application was
6 filed and approved. He did not, to my knowledge, object to that parcel map application
7 as being improper in any way. Mr. Rankin testified that he, himself, did not believe the
8 City did anything to hurt the Plaintiffs or benefit the Defendants. Indeed, there is no
9 evidence from the record that I have reviewed that Mr. Rankin ever objected,
10 individually or on behalf of the City Planning Department, at the time the application
11 was filed, as being improper or in contravention of Nevada law. In fact, Mr. Rankin was
12 also the one who, at the September 2015 Planning Commission Meeting, which I
13 attended, presented and proposed the amendment to the 2020 Master Plan which
14 Plaintiffs complain of in their Amended Complaint.
15

16
17 22. The parcel map submitted by the respective individual landowner, whether
18 it be Fore Stars originally, or Seventy Acres or 180 Land Co thereafter, have never
19 engaged in "four by fouring" or "serial mapping," or acted in any manner with an intent
20 to evade public notice requirements regarding its maps. Mr. Riecki, City Surveyor,
21 testified in his deposition with respect to the parcel map(s) that there was no
22 "complicity," or "conspiracy" or "collusion" or "circumvention," and, further, as a matter
23 of law, the application and use of a parcel map was entirely lawful and proper. Tom
24 Perrigo, Peter Lowenstein and Doug Rankin, likewise, denied there was any such
25 complicity," or "conspiracy" or "collusion" or "circumvention." I also attest to the same.
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23. The presence of this lawsuit for these last 18 months—over one parcel map filed two (2) years ago—has caused irreparable harm and substantial financial damages to Fore Stars, Ltd., Seventy Acres, LLC and 180 Land Co, LLC, amongst others. We respectfully request that the Motion for Summary Judgment be granted.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.


FRANK PANKRATZ

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EXHIBIT B

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1 particular witness. That, as a matter of convenience and brevity to the parties and the Court, the
2 undersigned has not file-stamped the entirety of the deposition transcript for each witness, but
3 instead has attached excerpts of the deposition testimony of the witness to highlight or confirm the
4 facts being stated, without further burdening the Court with the entire deposition. The excerpts are
5 from true and authentic copies of the pages from the deposition cited. However, the entire
6 transcripts can be provided to the Court, should the Court and parties require the same.
7

8 4. That the other exhibits that are referenced within the *Defendants Fore Stars, Ltd.,*
9 *180 Land Co., LLC and Seventy Acres, LLC's Motion for Summary Judgment On Issue Of Alleged*
10 *"Unlawfulness" Of Parcel Map(s)*, including, for example, the Parcel Maps approved by the City
11 of Las Vegas and recorded by the Clark County Recorder's Office, which are attached to the
12 Motion, are true and correct copies of those documents actually approved and recorded, and kept
13 in the ordinary course of business, and that the colored visual depictions of the parcel maps
14 submitted by Defendants in depositions and in this Motion are accurate in depicting the change
15 created by the parcel maps, each of which divided the land into four or fewer lots. I can also attest
16 that the excerpts from NRS 278 are true and correct excerpts from the statutes as they exist,
17 including NRS 278.461 and NRS 278.4925.
18

19 5. That the excerpts regarding Badlands abeyance timeline and the depiction of the
20 same downloaded from the City of Las Vegas' "Badlands" website, is offered to provide the Court
21 a true and accurate understanding of the timeline as described within the Motion.
22

23 6. That, to the best of my knowledge and belief, the Tentative Map in Footnote 15 is
24 a true and correct copy of that which was actually submitted, and that reference to the City of Las
25 Vegas website and its content is true and correct regarding mapping. Also, references to the City
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of Las Vegas Unified Development Code, including title 19, specifically 19.16.040 and 19.16.050
are true and correct to the best of my knowledge.

7. That Defendants Fore Stars, Ltd., 180 Land Co., LLC and Seventy Acres, LLC
respectfully request that their *Motion for Summary Judgment On Issue Of Alleged "Unlawfulness"*
Of Parcel Map(s) be granted for the reasons set forth in the Motion.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing
is true and correct.


JAMES J. JIMMERSON, ESQ.

EXHIBIT C

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Declaration

My name is Paul Burn, and I am a Professional Land Surveyor licensed in Nevada since January 3, 1995. I am also licensed in Colorado and California. I am a resident of Las Vegas, in Clark County, Nevada, and am employed as a Vice President, and Survey Director, at GCW, Inc., 1555 South Rainbow Blvd., Las Vegas, NV 89146. I am the responsible charge Surveyor for the Parcel Map surveyed, produced, and recorded for Fore Stars, Ltd. in 2015 (PMP-59572). It is but one of more than a thousand Parcel Maps that I have been responsible for in my 38 years in the Land Surveying profession. The entire process adhered to state and local laws and rules, as do all my surveys. Included in my certificate on the cover sheet of the map filed in File 120 at Page 0049 of Parcel Maps on file at the Clark County, Nevada Recorder's Office, on June 18, 2015, is a statement that reads "This plat complies with the applicable state statutes and any local ordinances in effect on the date that the governing body gave its final approval". This statement remains true today. As the position of responsible charge requires, I supervised all phases of the map's creation, from field survey through to recording. I have affixed my stamp and signed it in the Surveyor's Certificate on the face of Page 1 of the map.

I read the First Amended Complaint of Case No. A-15-729053-B, particularly the "First Cause of Action, Breach of NRS Chapter 278 & LVMC 19.16.070". I have followed the law in this map. Since the dividing of the land was into four lots, a Parcel Map is the appropriate mapping application, as provided in NRS 278.461. My use of Parcel Mapping is never used to circumvent, evade, or not comply with the provisions of NRS, nor any Tentative Map/Final Map provisions. Since the desired four lots is not a Subdivision as defined in NRS 278.320 (1), it is a Parcel Map, not a Final Map. This map, when drafted after field survey, was submitted to the City of Las Vegas for review and comment from all pertinent departments, which is the proper procedure for Parcel Maps within the City limits. The city created their Conditions of Approval, which were then assembled and sent to me. After all mapping conditions were complied with, a Mylar (recordable) set was delivered to the City for the appropriate signatures of approval. When that was completed and returned to me, the map was recorded. At that moment, the lots defined in the map became legal and viable.



Paul Burn

5-29-17
Date

Attachment: Exhibit A

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Exhibit A

Signed and sealed by my stamp below, as authorized by the Nevada State Board of Professional Engineers and Professional Land Surveyors.



FORE002892

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CURRICULUM VITAE

Paul Burn, PLS, WRS
Vice President
Director, Survey Division

1555 South Rainbow Blvd.
Las Vegas, Nevada 89146
(702) 804-2060

EDUCATION

AAS/1985/Surveying, Red Rocks College, CO
Pre- and Postgraduate studies:
Catawba College, Salisbury, NC
Glassboro State College (now Rowan
University), Glassboro, NJ

REGISTRATIONS

Professional Land Surveyor (PLS),
Nevada 11174(1995),
California 6464(1990),
Colorado 24307(1986)

Water Right Surveyor (WRS), NV 1121

AFFILIATIONS

Nevada Association of Land Surveyors, Southern
Nevada Chapter (Former President)
Nevada Association of Land Surveyors, Former
State Representative
National Society of Professional Surveyors,
Nevada Director (since 2004)
California Land Surveyors Association

DEPOSITIONS/TRIALS/ARBITRATIONS

JMD Development

Deposition Date: Approximately 2005/2006. It was between JMD and Horizon Surveys, where I was formerly employed. I was a very minor player in it, and my deposition was 30 minutes or less, but contention was based on a radius map.

Grigoriev adv. Quagliana

Jolley Urga Wirth Woodbury & Standish (Client)
Mr. Chris Rose, Esq.
3300 Howard Hughes Parkway
16th Floor
Las Vegas, NV 89169

Project Opened: 04/12/2007
Deposition Date: 12/04/2007

Task included boundary and building location and deposition to settle boundary dispute. I am expert witness; trial has been delayed several times, have been deposed.

Trump - Tower I

The Trump Organization
Mr. Brian K. Baudreau
3128 Las Vegas Blvd. South
Las Vegas, NV 89109

Project Opened: 05/06/2009
Deposition Date: 05/13/2009
Attorneys: Snell & Wilmer L.L.P.

Legal support. Condominium addressing/mapping issues.

Wynn Design & Development

Attorneys: Schreck Brignone (now Brownstein Hyatt Farber Schreck,LLP) Approximate Date: 2004-2005

Expert witness in case where 10 private property owners sued Wynn for view easements, ingress/egress to their property, access to golf course, boundary dispute.

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CURRICULUM VITAE

Cosmopolitan Resort
Mr. Anthony Pearl, Gen. Counsel
Attorneys: Snell & Wilmer L.L.P.

Served as witness, or consultant, in three arbitration cases. Most were focused on material change issues; tentative map to final map.
March-April 2011: Bang v. NP1
May 2011: Wong v. NP1
June 2011: Gittin v. NP1

EXPERIENCE:

Mr. Burn has 38 years of experience as a registered professional land surveyor and supervisor. He has extensive mapping knowledge, familiarity with local conditions, and expertise in a vast array of development conditions. Mr. Burn began his career in the deserts of New Mexico with the BLM, progressed through easement and right-of-way involvement with major utilities in Colorado, encompassed significant capital improvement projects with the City of Thornton, Colorado where he functioned as chief of parties and assistant city surveyor, and now entails diverse responsibilities as Director of Surveying for GCW, Inc. His experience has ranged from small 40-acre tracts, through the vast aerial control project for the design and implementation of the central sewer and water system covering the entire city of Rosamond, California, to the 5,000 acre boundary of BLM land south of Las Vegas. He has directed boundary, topographic, and construction surveys successfully in the desert and mountain environs. Mr. Burn has extensive experience in mapping, including parcel maps, final maps, records of survey, ALTA/NSPS maps, and condominiums.

Participation in numerous professional and civic organizations enables Mr. Burn to stay abreast of industry changes at both local and national levels. He is a past president of the Southern Nevada chapter of the Nevada Association of Land Surveyors (NALS) and served for 3 years on the executive board of the state body. He has attended, participated in, and provided instruction through several seminars and workshops in various states for NALS and others. He has also served as an expert witness, participating in several depositions and cases. Currently, Mr. Burn writes a column for the quarterly publication, Nevada Traverse, as the Nevada representative to the National Society of Professional Surveyors (NSPS).
Mr. Burn's recent experience includes the following:

Station Casinos Resort Properties ALTA Surveys - Phase 1: GCW was contracted to complete ALTA/NSPS surveys on various resort properties located throughout Southern Nevada. Land surveying services were provided to resolve boundaries, plot easements, and locate all permanent physical features and utilities for each property. Phase 1 of the work includes approximately 81 parcels. Initial survey production was on schedule and within budget. Mr. Burn was in responsible charge of administration of survey crews and supervisory personnel on project. He provided contract negotiation, conflict resolution, and quality assurance. Responsible charge of all mapping.

CC 215 South and West Bruce Woodbury Beltway, Rainbow Boulevard to Hualapai Way (Section 7B, 8, & 9): Construction staking of 3 beltway segments and the Flamingo Road grade

separation including storm drainage channels, Durango Drive and Buffalo Road embankments, Beltway frontage roads, Flamingo Road street and utility improvements, Sunset Road and Russell Road ramps and utility improvements, Tropicana Avenue improvements, Beltway A-line and access ramps, Fort Apache Road bridge at Peace Way, and the Flamingo Road bridge. Set alignment and provided boundary survey, set up with Public Land Survey System, and provided Record of Survey. Construction staking contract value for the combined three sections plus the Flamingo Bridge was \$2.3 million. Mr. Burn was in responsible charge of administration of field crew and supervisory personnel on the project. He provided contract negotiation, conflict resolution, and quality assurance.

Anthem Boundary Survey: Multiple boundary surveys of more than 6,066 acres in 2 townships to

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complete resurvey and breakdown of more than 1-1/2 townships unsurveyed since the 1800s. Research and mapping included all constraints that burden the property and records of survey depicting the setting of more than 200 monuments. Coordinated with BLM state and local offices, Clark County School District, and US Fish & Wildlife to resolve the adjacent wilderness study area boundary. Assisted BLM surveyors with 2 separate resurveys to facilitate additional breakdown of government lots. Determined sectional locations and monumented more than 100 corners. Filed records of survey. Topography of more than 2,500 acres. Mr. Burn was project manager throughout this project in responsible charge for all phases of field and office effort. Directed as many as six crews in monument search and recovery, and reestablishment of PLSS corners. Signed and sealed all maps. Survey contract value was \$150,000.

CC 215 North Bruce Woodbury Beltway, Decatur Boulevard to North 5th Street: Construction staking of the beltway A-line and frontage roadways including all adjacent access ramps, and layout for all phases of the bridge construction for Allante Parkway over I-215, including the temporary Allante detour. Construction staking for sewer and water installation and relocation and for all drain pipe, inlets, box culverts, channels and drainage structures. Additional staking for all traffic signals, overhead sign structures and pavement markings.

Hughes Commercial Centers: Concurrently produce 52 ALTA/ACSM surveys on commercial properties in the two centers. Phase one deadline was six weeks; project total length with additional requirements, 8 months. Surveying contract value was \$118,000. Mr. Burn directed all phases of field and office effort. Provided liaison with client, seller, title companies, and a multitude of attorneys.

Desert Inn Resort and Golf Course ALTA Survey: Provided ALTA, boundary surveys, and topographic data for the Desert Inn Hotel. Property bounded by Las Vegas Boulevard, Desert Inn Arterial, Paradise Road, and Sands Avenue. Property history includes more than 50 parcels with 148 title report Schedule B exceptions. Survey contract value was \$50,000. Mr. Burn directed all phases of field and office effort. Assisted client in survey matters including boundary and easement issues and rendered final decisions on all conflicts. Signed and sealed map.

Summerlin South: Resurvey of public land survey to re-establish section monumentation, providing perimeter boundary. Scope of work included the determination of sectional monuments on 8 sections south of Charleston Boulevard to determine final boundary. Filed Record of Survey. Mr. Burn directed all phases of field and office survey effort. Resolved conflicts. Directed preparation of record of survey for monuments used and set.

Summerlin West Boundary Survey: Boundary determination of Summerlin area to be annexed to CLV, and Red Rock Conservation area. Perimeter extends from Charleston Boulevard to Cheyenne Avenue, and from Western Beltway to BLM property at Red Rock. Executed topographic surveys in many areas of the approximately 12-square mile area. Filed Record of Survey for monuments found and set. Mr. Burn was in responsible charge of all phases of field and office effort. Directed as many as six crews in monument search and recovery, and reestablishment of PLSS corners. Signed and sealed all maps.

Charleston Overlay: Project required the establishment of land lines, land corners, centerline, and right-of-way alignment of approximately six miles along Charleston Boulevard from Commerce Avenue to Nellis Boulevard including the production of right-of-way maps and horizontal control plans. Mr. Burn, while a partner in his own firm, performed as project surveyor for NDOT, and was responsible for all phases of the survey work and ensuring the timely completion of all tasks.

LVCVA Master Plan Enhancement Program Surveys: As principal land surveyor and partner in his own firm, Mr. Burn provided survey services for the Central and South Hall Improvements and Renovations as part of the LVCVA's \$890 million master plan enhancement program. Primary elements of the project include adding meeting rooms to support the facility's South Hall exhibition space, and renovating and upgrading the existing Grand Concourse and Central Hall. Other projects in the program include improving access to and from the facility, relocating underground storm drains and utilities, construction of an enclosed connector between the convention center and the Las Vegas Monorail station, a Las Vegas Metropolitan Police Department substation, a Clark County Fire Department Station and a customer service support center. As part of the convention center major renovations, 3 firms collaborated to provide surveying services within a 3-month window. The project was recognized in POB

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Magazine's annual national "Highlights in Surveying" 2008 contest (2nd Place) for the documentation of existing conditions and delivery of accurate 2D and 3D plans and models. Mr. Burn provided new interrelated data about existing convention center structures and grounds. He also supported project coordination of the boundary and control aspects with the other 2 firms.

Trump Tower I: Mr. Burn was principal land surveyor for this project, preparing and recording a commercial final map for the Trump Towers. Prior to returning to GCW, his research and mapping on this

project included boundary verification, exhibits, and the Condominium Final Map for Tower I.

Cosmopolitan Surveys: GCW assumed responsibility for this project to perform major mapping services necessary for the advancement of the resort property development and continue on schedule with the planned opening. Tasks included 3 final maps, 2 records of survey, and numerous legal descriptions/documentation. GCW crews also performed on-site field surveys in support of the project. Mr. Burn was principal land surveyor for this project.

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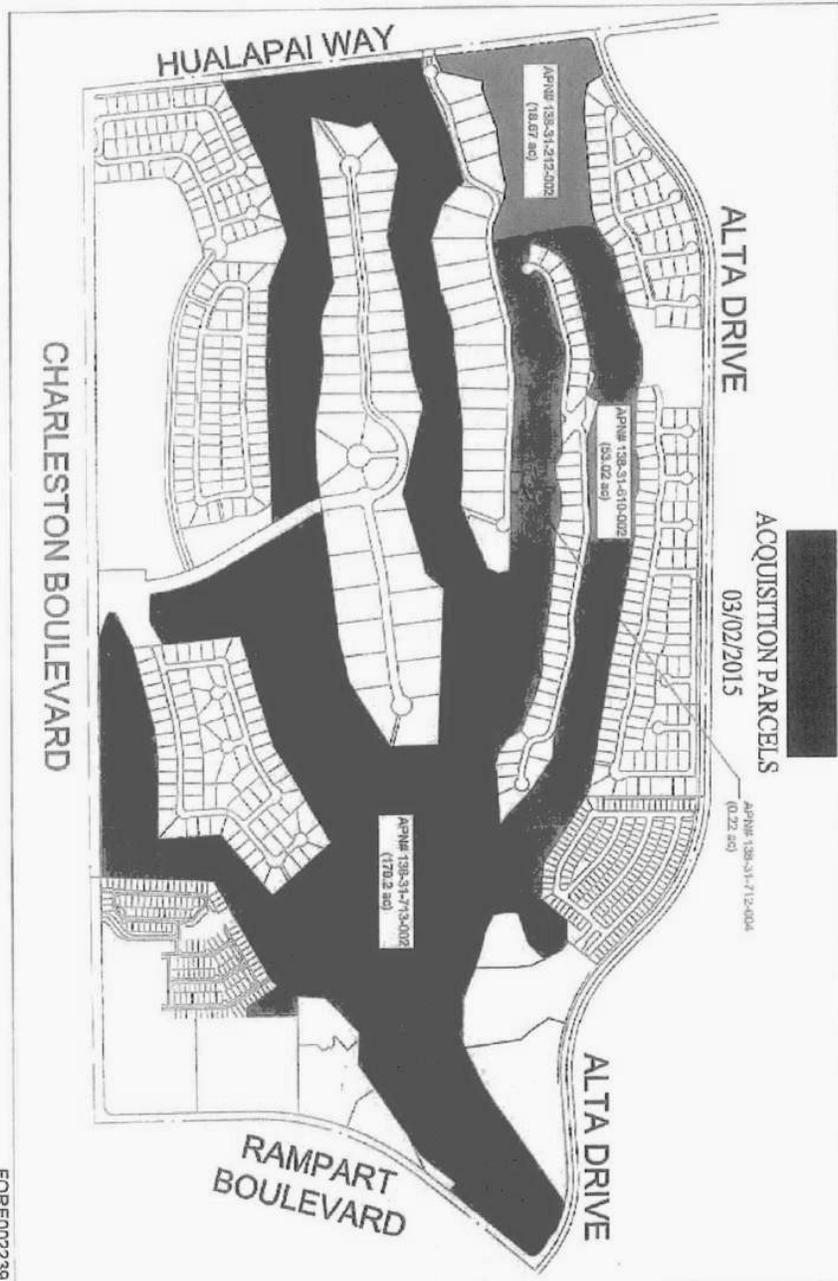
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EXHIBIT D

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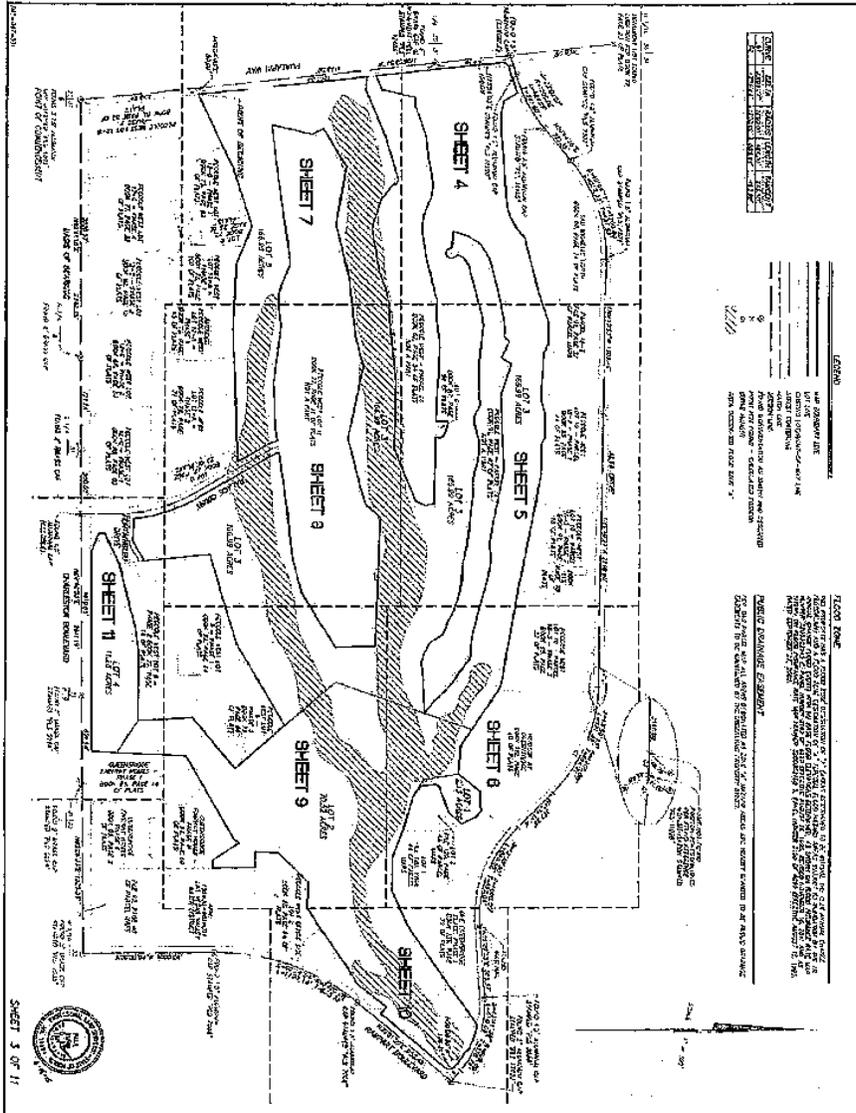
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EXHIBIT E

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DATE	BY	REVISION
10/10/2011	J. J. J.	ISSUED FOR TENDERS
10/10/2011	J. J. J.	ISSUED FOR TENDERS
10/10/2011	J. J. J.	ISSUED FOR TENDERS
10/10/2011	J. J. J.	ISSUED FOR TENDERS

GENERAL
 THE INFORMATION ON THIS PLAN IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A CONTRACT.
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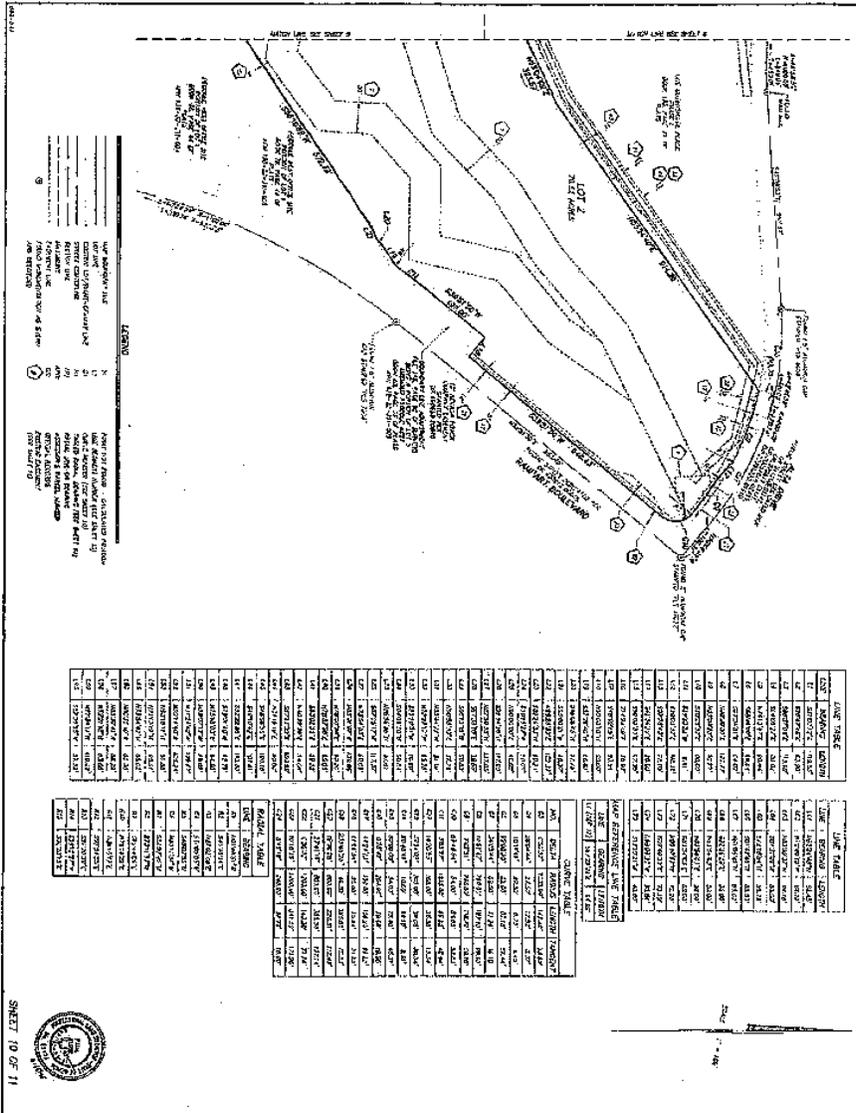
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SHEET 3 OF 11
 FILE 122 PAGE 1087
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LEGEND

1. 10' SIDE SETBACK FROM LOT LINE

2. 10' FRONT SETBACK FROM LOT LINE

3. 10' REAR SETBACK FROM LOT LINE

4. 10' SIDE SETBACK FROM ADJACENT LOT LINE

5. 10' FRONT SETBACK FROM ADJACENT LOT LINE

6. 10' REAR SETBACK FROM ADJACENT LOT LINE

7. 10' SIDE SETBACK FROM STREET

8. 10' FRONT SETBACK FROM STREET

9. 10' REAR SETBACK FROM STREET

10. 10' SIDE SETBACK FROM ALLEY

11. 10' FRONT SETBACK FROM ALLEY

12. 10' REAR SETBACK FROM ALLEY

13. 10' SIDE SETBACK FROM RAILROAD

14. 10' FRONT SETBACK FROM RAILROAD

15. 10' REAR SETBACK FROM RAILROAD

16. 10' SIDE SETBACK FROM WATERWAY

17. 10' FRONT SETBACK FROM WATERWAY

18. 10' REAR SETBACK FROM WATERWAY

19. 10' SIDE SETBACK FROM PUBLIC UTILITY

20. 10' FRONT SETBACK FROM PUBLIC UTILITY

21. 10' REAR SETBACK FROM PUBLIC UTILITY

22. 10' SIDE SETBACK FROM PRIVATE UTILITY

23. 10' FRONT SETBACK FROM PRIVATE UTILITY

24. 10' REAR SETBACK FROM PRIVATE UTILITY

25. 10' SIDE SETBACK FROM EASEMENT

26. 10' FRONT SETBACK FROM EASEMENT

27. 10' REAR SETBACK FROM EASEMENT

28. 10' SIDE SETBACK FROM CORNER

29. 10' FRONT SETBACK FROM CORNER

30. 10' REAR SETBACK FROM CORNER

LOT NO.	AREA (SQ. FT.)	PERMITS
1	10,000	100
2	10,000	100
3	10,000	100
4	10,000	100
5	10,000	100
6	10,000	100
7	10,000	100
8	10,000	100
9	10,000	100
10	10,000	100
11	10,000	100
12	10,000	100
13	10,000	100
14	10,000	100
15	10,000	100
16	10,000	100
17	10,000	100
18	10,000	100
19	10,000	100
20	10,000	100
21	10,000	100
22	10,000	100
23	10,000	100
24	10,000	100
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26	10,000	100
27	10,000	100
28	10,000	100
29	10,000	100
30	10,000	100

LOT NO.	AREA (SQ. FT.)	PERMITS
31	10,000	100
32	10,000	100
33	10,000	100
34	10,000	100
35	10,000	100
36	10,000	100
37	10,000	100
38	10,000	100
39	10,000	100
40	10,000	100
41	10,000	100
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43	10,000	100
44	10,000	100
45	10,000	100
46	10,000	100
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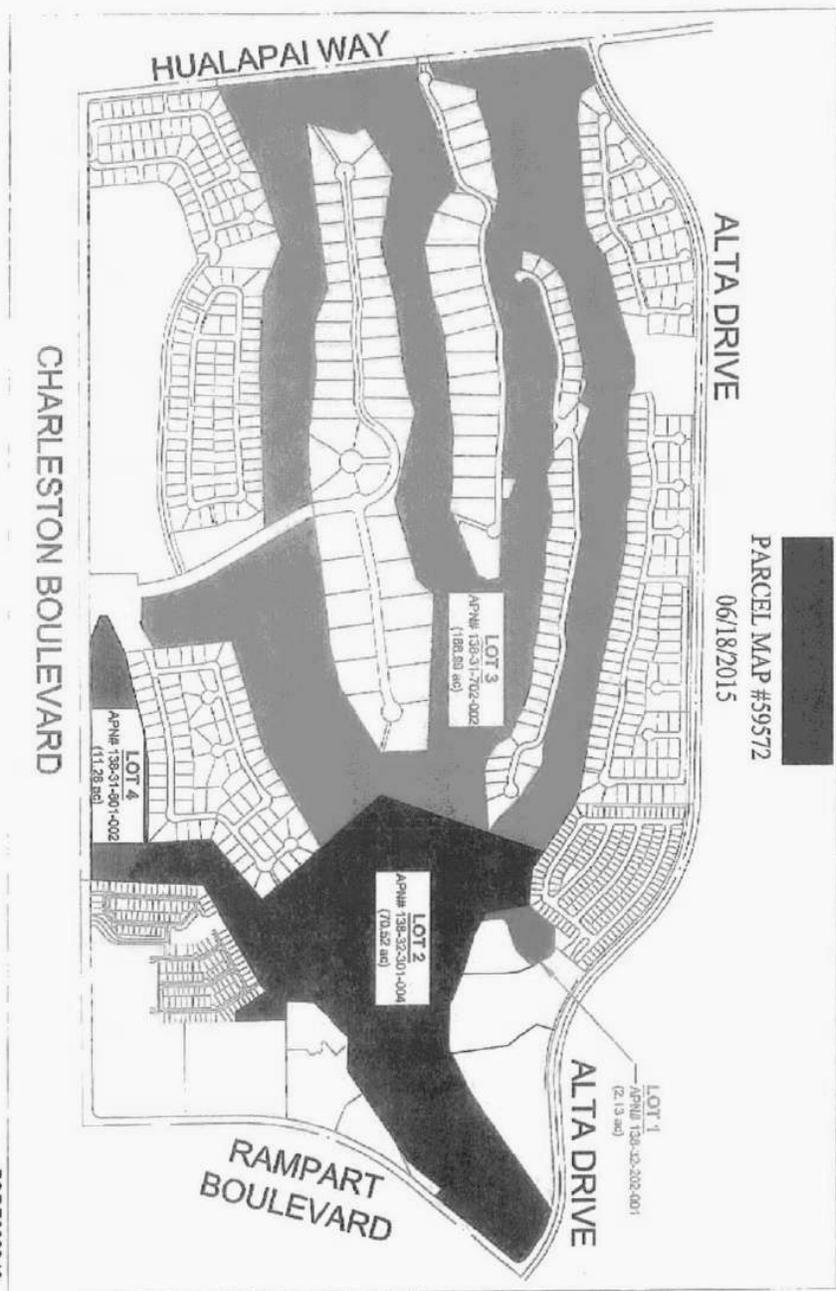
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EXHIBIT F

ROR024106

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ROR024107

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EXHIBIT G

ROR024108

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APN# 138-31-713-002; 138-31-610-002;
138-31-212-002

Return To:

Fore Stars Ltd.
Attention: Cynthia Callegaro
9755 West Charleston Boulevard
Las Vegas, NV 89117



BENEFICIARY STATEMENT

I/WE, NLV LLC, AS BENEFICIARY UNDER THAT CERTAIN DEED OF TRUST AND
FIXTURE FILING RECORDED ON MARCH 2, 2015, AS INSTRUMENT #20150302-0003807,
DOES HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS G.C.
WALLACE, INC PARCEL MAP (PMP 59872 COPY ATTACHED) IN CONFORMANCE WITH
THE GIVNER'S CERTIFICATE.

NLV LLC, a Nevada Limited Liability Company

By: Thomas Siegel, as Managing Member of NLV LLC

JUNE 17, 2015
(Date)

ACKNOWLEDGMENT

STATE OF NEVADA

COUNTY OF CLARK

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON JUNE 17, 2015

BY THOMAS SIEGEL AS MANAGING MEMBER

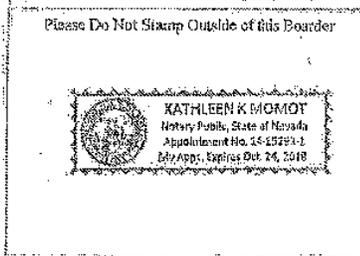
OF NLV LLC

Kathleen K. Momot
Notary Signature

NOTARY PUBLIC IN AND FOR
SAID COUNTY AND STATE

MY APPOINTMENT EXPIRES,

OCTOBER 24, 2018



FORE002810

ROR024109

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EXHIBIT H

ROR024110

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DISTRICT COURT

CLARK COUNTY, NEVADA

JACK B. BINION, an individual;)
DUNCAN R. and IRENE LEE,)
individuals and Trustees of the)
LEE FAMILY TRUST; FRANK A. SCHRECK,)
an individual; TURNER INVESTMENTS,)
LTD., a Nevada Limited Liability)
Company; ROGER P. and CAROLYN G.)
WAGNER, individuals and Trustees)
of the WAGNER FAMILY TRUST;)
BETTY ENGLESTAD AS TRUSTEE OF THE)
BETTY ENGLESTAD TRUST; PYRAMID)
LAKE HOLDINGS, LLC.; JASON AND) CASE A-15-729053-B
SHEREEN AWAD AS TRUSTEES OF THE)
AWAD ASSET PROTECTION TRUST;) DEPT NO XXVII
THOMAS LOVE AS TRUSTEE OF THE)
ZENA TRUST; STEVE AND KAREN THOMAS)
AS TRUSTEES OF THE STEVE AND KAREN)
THOMAS TRUST; SUSAN SULLIVAN AS)
TRUSTEE OF THE KENNETH J.)
SULLIVAN FAMILY TRUST, AND)
DR. GREGORY BIGLER AND SALLY)
BIGLER,)

Plaintiffs,

vs.

FORE STARS, LTD., a Nevada Limited)
Liability Company; 180 LAND CO.,)
LLC, a Nevada Limited Liability)
Company; SEVENTY ACRES, LLC, a)
Nevada Limited Liability Company;)
and THE CITY OF LAS VEGAS,)

Defendants.

VIDEOTAPED DEPOSITION OF DOUG RANKIN
LAS VEGAS, NEVADA
WEDNESDAY, MAY 3, 2017

REPORTED BY: MONICE K. CAMPBELL, NV CCR NO. 312

1 developer might provide 18, 19, 20 copies, and they
2 would all be circulated to different departments
3 within the city planning, and, generally speaking,
4 all the departments; is that right?

5 A. Correct. I don't know off the top of my
6 head how many copies are required.

7 Q. Nineteen?

8 A. It's 19 usually.

9 Q. It is 19.

10 But my point being that it's an all-hands
11 look at mapping, right? All the different
12 departments within the City take a look at -- they
13 have different functions. Some are looking for
14 certain things, others look for different things, but
15 collectively you're looking at the requested mapping
16 or requested dividing of property, right?

17 MR. BICE: Objection to form.

18 BY MR. JIMMERSON:

19 Q. You can answer the question.

20 A. Correct.

21 Q. Have I said anything that's inappropriate
22 or incorrect?

23 A. No.

24 Q. Now, over the last two or three years,
25 would you know whether or not, for example, more

1 at the City of Las Vegas you would defer to, or are
2 you the grand poo-bah?
3 MR. BICE: Objection to the form.
4 BY MR. JIMMERSON:
5 Q. Is there anybody whose opinion at the City
6 that you worked with that you would defer to?
7 A. If the City surveyor indicated that the
8 surveying on the mapping process was approved, I
9 would defer to the City surveyor in regards to those
10 type of mapping actions, as long as it was in
11 conformance of Title 19 in the zoning code.
12 Q. Who is the City surveyor within the
13 meaning of your last answer?
14 A. Currently, I believe the City surveyor is
15 Allen Riecki.
16 Q. How do you spell that name?
17 A. R-i-k-k -- R-i-e-k-e something. Well,
18 wait a minute. It's on the map.
19 R-i-e-k-k-i.
20 Q. Thank you.
21 And what is his position?
22 A. He is the City of Las Vegas surveyor.
23 Q. And why would you defer to him?
24 A. He is a certified land use surveyor and is
25 the administrator specifically of mapping actions.

ROR024113

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1 recorded?
2 A. It is.
3 Q. So would it be a fair statement that the
4 men and women of the City Planning Department who
5 made the determination that the parcel map being used
6 here was proper on these three maps that we've
7 discussed -- there is actually a fourth map you
8 didn't identify -- have a different view than you do?
9 MR. BICE: Objection to the form. Assumes
10 facts not in evidence.
11 BY MR. JIMMERSON:
12 Q. You may answer the question, sir.
13 A. It would assume so.
14 Q. All right. And did you find the men and
15 women who would make decisions like this, in other
16 words approving parcel maps in the various
17 departments, were competent?
18 A. In my experience I found them to be
19 competent in their duties they performed.
20 Q. Okay. Did you consider yourself to be
21 competent?
22 A. I did.
23 Q. Okay. Did you believe the men and women
24 that you knew and worked on approval of these parcel
25 maps to be honest?

ROR024114

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A. I do.

Q. As far as you know, did anyone approve a parcel map for any developer because of improper means, bribery or anything else?

A. I'm not aware of any of that.

Q. Are you aware of any planner who approved parcel maps as being in bed with or conniving with a developer?

A. I've not aware of any of that.

Q. It certainly is expected that these decisions be made on the merits by the City Planning Department employees?

A. I believe so.

Q. And while you can disagree or they can disagree, you believe that both sides are coming from a point of good faith?

MR. BICE: Objection to the form. Assumes facts not in evidence.

BY MR. JIMMERSON:

Q. As far as you know?

A. I believe they acted in good faith, as we are on our side.

Q. So what we have is a legal conclusion that is being disagreed upon, right?

A. I believe that is the point.

ROR024115

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1 BY MR. JIMMERSON:

2 Q. Is that all that you can recall in
3 terms --

4 A. That's what I recall. That's what it
5 indicates, that you cannot avoid the mapping
6 process -- basically you can't serial map your way
7 into smaller units of developable land.

8 Q. Would the City have any reason, as the
9 approver, the final word, if you will, to circumvent
10 a tentative map process?

11 A. Not that I am aware of.

12 Q. So would the City's approval of these
13 parcel maps, based upon your experience of working at
14 the City, be based upon their good faith belief that
15 the developer and his request is consistent with the
16 law?

17 MR. BICE: Objection. Objection as to the
18 form. Assumes facts not in evidence. Go ahead.

19 THE WITNESS: I believe they reviewed the
20 maps pursuant to what they believed was correct.

21 BY MR. JIMMERSON:

22 Q. And ultimately this is the City's
23 decision. Agreed?

24 MR. BICE: Objection as to the form.
25 Misstates the law.

ROR024116

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1 that.

2 A. That's my opinion.

3 Q. I'm taking it further. Do you believe the
4 City has disregarded its own precedence in attempting
5 to circumvent the rights of the plaintiffs to benefit
6 Fore Stars? In other words, an intentional act upon
7 their part to circumvent the plaintiffs?

8 A. I don't know if they did, what process
9 they did the review on. I have no knowledge of that.

10 Q. You have no facts to offer?

11 A. I have no facts to offer.

12 Q. Were you consulted regarding the
13 preparation of this amended complaint?

14 A. I may -- I may have been consulted as far
15 as what is in the amended complaint, some of it.

16 Q. The date is October 10th of 2016. So
17 what I want to know is what -- what role, if any, did
18 you have with regard to the preparation of this
19 amended complaint?

20 A. I provided information similar to what
21 I've stated here today, and in my declaration, to
22 the -- to Mr. Bice and his law firm and to our
23 clients.

24 Q. Did you at any point communicate to
25 Mr. Bice to advise him that, in your opinion, there

ROR024117

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1 was something intentional done by the City Planning
2 Department to hurt certain -- or to harm certain
3 plaintiffs and to benefit the defendants, the
4 non-City defendants?

5 A. No, I did not indicate that.

6 Q. Are you familiar with any use by Howard
7 Hughes Corporation in developing Summerlin parcel
8 maps by them within the City of Las Vegas?

9 A. I'm not familiar with any specific parcel
10 maps for Summerlin.

11 Q. Are you familiar with Summerlin utilizing
12 parcel maps to divide their property after a final
13 map has been recorded?

14 A. I'm not aware of any.

15 Q. Are you familiar with any use of parcel
16 maps to -- after a final map is recorded to add lots?

17 A. I am not aware of any that have done so.

18 Q. As a part of your general duties and
19 responsibilities, however, you were not working with
20 the mapping of land, right?

21 A. I did not -- I have reviewed final maps
22 and parcel maps but I did not do that on a day-to-day
23 basis. Only when needed.

24 Q. I'm not suggesting that you have never run
25 across that, I don't mean that, but realistically,

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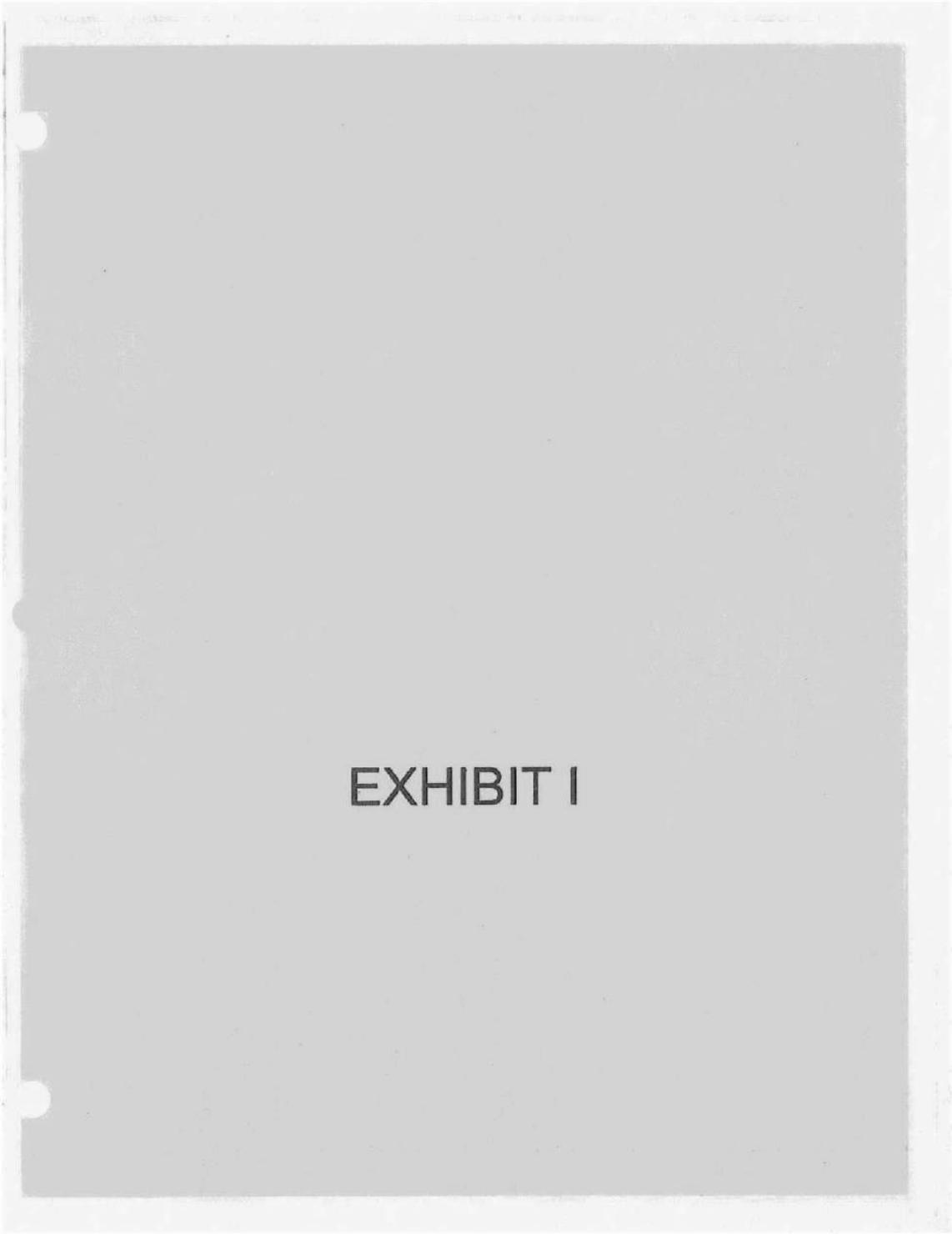


EXHIBIT I

ROR024119

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DISTRICT COURT
CLARK COUNTY, NEVADA

JACK B. BINION, an)
individual; DUNCAN R. And)
IRENE LEE, individuals and)
Trustees of the LEE FAMILY)
TRUST; FRANK A. SCHRECK, an)
individual; TURNER)
INVESTMENTS, LTD., a Nevada)
Limited Liability Company;)
ROGER P. And CAROLYN G.)
WAGNER, individuals and)
Trustees of the WAGNER FAMILY)
TRUST; BETTY ENGLESTAD AS)
TRUSTEE OF THE BETTY)
ENGLESTAD TRUST; PYRAMID LAKE)
HOLDINGS, LLC.; JASON AND)
SHEREEN AWAD AS TRUSTEES OF)
THE AWAD ASSET PROTECTION)
TRUST; THOMAS LOVE AS TRUSTEE)
OF THE ZENA TRUST; STEVE AND)
KAREN THOMAS AS TRUSTEES OF)
THE STEVE AND KAREN THOMAS)
TRUST; SUSAN SULLIVAN AS)
TRUSTEE OF THE KENNETH J.)
SULLIVAN FAMILY TRUST, AND)
DR. GREGORY BIGLER AND SALLY)
BIGLER,)

Case No.: A-15-729053-B
Dept. No.: XXVII

Plaintiffs,

vs.

FORE STARS, LTD., a Nevada)
Limited Liability Company;)
180 LAND CO., LLC, a Nevada)
Limited Liability Company;)
SEVENTY ACRES, LLC, a Nevada)
Limited Liability Company;)
and THE CITY OF LAS VEGAS,)

Defendants.

DEPOSITION OF TOM PERRIGO
VIDEOTAPED
VOLUME II, PAGES 262 THROUGH 574
LAS VEGAS, NEVADA
MONDAY, DECEMBER 19, 2016
REPORTED BY: CARRE LEWIS, CCR NO. 497, CSR NO. 13337
JOB NO. 1066

ROR024120

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1 A. Yes.

2 Q. And Mr. Jerbic would have had to rely upon
3 you or someone in your office to do that
4 calculation. Fair statement?

5 A. Yes. Mr. -- (overlapping dialogue.)

6 Q. -- a City Attorney is going to know. If
7 Mr. Burns isn't going to know, he is going to call
8 you up or somebody like you to get the answer,
9 right?

10 A. Yes, Mr. Jerbic was provided all of the
11 research, all the documents.

12 Q. Okay.

13 A. And --

14 Q. And by whom? By the City Planning
15 Department?

16 A. Yes.

17 Q. By your office?

18 A. Yes.

19 Q. Thank you, sir.

20 All right. You have read the Amended
21 Complaint. It accuses the City of complicity with
22 my clients. You're familiar with that?

23 A. Yes.

24 Q. Are any of those allegations true and
25 correct?

ROR024121

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1 A. No.

2 MR. BICE: Objection to form.

3 BY MR. JIMMERSON:

4 Q. You are doing fine.

5 And is there -- has there been any actions

6 on the part of you or the City of Las Vegas that you

7 are aware of that would be improper or unlawful?

8 A. Not that I'm aware of.

9 Q. Has there been any -- withdraw.

10 Have you met with representatives of the

11 plaintiffs, Mr. Binion or Mr. Schreck or Mr. Bice or

12 anyone else who you understood were some of the

13 individual homeowners who have brought this lawsuit?

14 A. I have.

15 Q. And why did you do that?

16 A. At one point we were invited, Mr. Jerbic

17 and I were invited to meet with -- excuse me,

18 members of the HOA board.

19 Q. Bless you.

20 A. I believe we met with them on two separate

21 occasions. Mr. Jerbic was -- invited me to attend a

22 meeting with him with Mr. Binion and a few other

23 homeowners. And I believe there were two meetings.

24 There -- is this before or after the filing of this

25 Complaint?

ROR024122

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1 Q. Well, the amended lawsuit is October.
2 Mr. Bice could probably give us the date of the
3 original. I'm going to say it was something in the
4 neighborhood of, what, February of 2016?
5 MR. BICE: Don't remember. I apologize.
6 And I don't have a copy of it here.
7 MR. JIMMERSON: We could probably find that
8 date.
9 MS. POLSELLI: I can find that out.
10 MR. JIMMERSON: Would you?
11 BY MR. JIMMERSON:
12 Q. But is the purpose of meeting with the
13 various plaintiffs to provide open access to your
14 agency and to your processes?
15 A. Yes.
16 Q. To not conduct business behind closed
17 doors?
18 A. No.
19 Q. To --
20 A. Yes, to not.
21 Q. To -- that was a double negative. I
22 apologize. In other words, to act in an open and
23 transparent manner and not in a secret or
24 inappropriate one?
25 A. Yes.

ROR024123

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1 Q. Is there any truth to any of the
2 allegations made by the plaintiffs that the City has
3 been complicit with the other defendants in this
4 case to deprive surrounding homeowners of legal
5 notice?

6 MR. BICE: Objection to the form.

7 Go ahead.

8 THE WITNESS: Not that I'm aware of.

9 BY MR. JIMMERSON:

10 Q. Has the City in any way acted improperly to
11 be complicit to deprive surrounding homeowners of an
12 opportunity to be heard?

13 A. Not that I'm aware of.

14 Q. When it came to the new policy that you
15 were asked by opposing counsel many, many questions,
16 an hour or two at least, in -- that came on board on
17 September 8th of 2015 -- do you recall that line of
18 questioning?

19 A. I do.

20 Q. And you were -- I thought you were very
21 clear that it was the City who developed that
22 policy; is that true?

23 A. Yes.

24 Q. It was not something that had been
25 suggested by Mr. Lowie, Ms. DeHart, Mr. DeHart or

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EXHIBIT J

ROR024125

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D R A F T

T R A N S C R I P T

Binion vs. Fore Stars

Deposition of Alan Riekki

Tuesday, May 23, 2017

By: Monice K. Campbell, NV CCR 312

monice@envision.legal

ROR024126

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1 sorry -- last June or July of 2016.

2 Have you had a chance to review this or
3 that amended complaint?

4 A. A couple of weeks ago, I read through it
5 once.

6 Q. All right. And in that complaint, or
7 amended complaint, did you read that the allegation
8 by these plaintiffs is that the use -- the approval
9 by the City of Las Vegas of a proposed parcel map
10 submitted by my clients was, quote, unlawful, end of
11 quote, or allegations along those lines?

12 A. I did read that.

13 Q. And did you read that the City of
14 Las Vegas has been complicit -- they use the word
15 "complicit" or "complicity" -- with my clients in
16 having the parcel map approved?

17 MR. BICE: Objection to the form.

18 Go ahead.

19 THE WITNESS: I did read that.

20 BY MR. JIMMERSON:

21 Q. Okay. Now, are either one of those
22 allegations true?

23 A. No.

24 Q. Now, I'm going to go back to this in
25 detail. But just tell us, why is the parcel map not

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unlawful?

MR. BICE: Objection to form.

Go ahead.

BY MR. JIMMERSON:

Q. Why do you believe -- what reasons, if any, do you have to tell Judge Allf that the parcel map is not unlawful?

MR. BICE: Same objection.

Go ahead.

THE WITNESS: The parcel map was submitted in accordance with Chapter 278 of Nevada Revised Statutes and, also, in accordance with local ordinance.

BY MR. JIMMERSON:

Q. Within the meaning of your last answer, what statute within 278? Do you have a specific statute you could point us to?

A. It would fall, in part, under NRS 278, chapter -- or section 461 and, also, within 278.4925, I believe, under the merger and resubdivision statute.

Q. All right. And relative to the local ordinance, if you could give us a number for that, sir?

A. It's the Unified Development Code. It

ROR024128

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1 number -- another; is that right?

2 A. That's correct. The assessor would
3 reassign new assessor's parcel numbers for the
4 resultant lots.

5 Q. Now, as you read the plaintiff's amended
6 complaint, they complain, as I read the complaint as
7 well as you, that you -- that the recording, or that
8 the approval of Exhibit Number 2, the parcel map,
9 that was recorded in or about June 18th, 2015, was,
10 quote, unlawful, end of quote.

11 So knowing what it was before, three
12 parcels, and then having it re -- having been divided
13 into four parcels, why is that not unlawful? Another
14 way to say, why is it proper? Why is it lawful?

15 MR. BICE: Objection. Form.

16 THE WITNESS: I believe it follows the
17 provided-for statute for mergers and resubdivisions.

18 BY MR. JIMMERSON:

19 Q. Now, my understanding -- and can you maybe
20 amplify that answer as to why you believe it follows
21 the provided-for requirements, statutes, and
22 ordinances?

23 A. Under Nevada Revised Statutes 278.4925, it
24 allows for owners of adjoining properties, which were
25 previously mapped, to simultaneously merge all of

1 those parcels together and redivide them with a
2 parcel map, a final map, or a division of lots into
3 large parcels, I believe, without first reverting all
4 of those lots to raw acreage.

5 Prior to -- just for information purposes,
6 prior to 1999, the steps would have been first a
7 reversion to acreage of all the lots, and then a
8 brand-new map would come into the system with the
9 proposed division. The merger and resubdivision law
10 went into effect in '99, I believe.

11 Q. And with the merger and resubdivision law
12 going into effect in 1999, what did it allow the
13 developers to do and what did the City do in
14 response?

15 A. Rather than a two-map process, it could be
16 done simultaneously with the same map. And that's
17 throughout the State of Nevada.

18 Q. Okay. Now, I want you to imagine that
19 this camera is Judge Allf. Okay? Say hello to Judge
20 Allf.

21 A. Hello, Judge Allf.

22 Q. By looking at the maps, would you show the
23 Judge why what has occurred was lawful, in your
24 opinion and your judgment, because you are the City
25 surveyor, and why it falls under 278, 451 and 4925?

ROR024130

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1 MR. BICE: Objection to the form.
2 MR. BYRNES: Mr. Jimmerson, are you asking
3 the witness to describe why a parcel map would be
4 proper as opposed to a tentative, slash, final map?
5 MR. JIMMERSON: Yes. But I also want him
6 to show the Judge on videotape what the change was,
7 from what to what, and why it's proper.
8 BY MR. JIMMERSON:
9 Q. So, yes, I'm asking both, but it's sort of
10 in a step-by-step process, like if you were to leave
11 the witness stand and go to an easel and show us
12 exactly what took place.
13 MR. BICE: Objection to form.
14 Go ahead.
15 THE WITNESS: The parcels that were in
16 existence on this particular exhibit were all owned
17 by the same entity. In accordance with state
18 statute, it is perfectly legal to apply for a map to
19 merge all of those parcels into one parcel or to
20 re -- resubdivide them, which is exactly what
21 happened.
22 It's probably harder to explain why it's
23 perfectly legal than it is to explain why it's not
24 illegal. Every step was followed before the map was
25 released for recordation, before I signed it. We

ROR024131

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1 insist on seeing a subdivision guarantee from a title
2 company, guaranteeing that the owners of the
3 record -- of the parcels are the owners as listed on
4 that subdivision guarantee. We check to make sure
5 those are the same owners that are signing the map.

6 And if there is a holder of a beneficial
7 interest in any of the parcels which comes to light
8 through the title company and the subdivision
9 guarantee, then we ask further for a beneficiary
10 statement. And the beneficiary has to sign a
11 statement that says that they are aware of and that
12 they consent to the preparation and recordation of
13 the subject map before it's signed.

14 BY MR. JIMMERSON:

15 Q. Okay. All right. Now, would you look at
16 Exhibit 1, which was the parcel map owned by the
17 defendants at the time that they acquired the company
18 that owned it. So could you hold that up for the
19 Judge to look at?

20 So in March of 2015, my clients acquired
21 the membership interest in a company called Fore
22 Stars, Limited, and Fore Stars, Limited, in turn,
23 owned those three parcels: The green to the top
24 left; the light blue to the top of the map; and the
25 rest being in dark blue. Is that right?

1 THE WITNESS: They would fill out a parcel
2 map application with planning, the department of
3 planning at the City of Las Vegas. They would hire a
4 professional land surveyor to survey the property and
5 prepare a parcel map. And that would be submitted,
6 along with the appropriate fees, at the front counter
7 in planning.

8 BY MR. JIMMERSON:

9 Q. Now, I took the deposition a couple of
10 weeks ago of a man named Doug Rankin, who used to be
11 a middle-level manager or manager of some sort at
12 City planning. And he said there's as many as 19
13 different departments or sets of eyes that review a
14 request for a parcel map; in other words, many, many
15 departments. The applicant has to supply 19 copies
16 of his map, and so different people, different
17 agencies in the City, would review and approve it; is
18 that right?

19 A. That's correct. In fact, there are a
20 couple of copies that go outside of the City.

21 Q. And who do they go to?

22 A. The Health Department and the Department
23 of Water Resources.

24 Q. Can you tell Judge Alf some of the
25 department names who have gotten copies of the 19

ROR024133

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1 copies that are required to be submitted for usage to
2 reparcel a property?

3 A. Sure.

4 MR. BICE: Objection to form.

5 Go ahead.

6 THE WITNESS: They're not all full-on
7 departments. There are certainly different sections.
8 The planning department is one. A copy of the map
9 goes to traffic planning. A copy of the map goes to
10 traffic engineering, development coordination. I
11 believe a copy of the map goes to the fire
12 department. A copy of the map goes to the
13 right-of-way section. There's a long list. I would
14 hesitate to try to tell you that I could name them
15 all off the top of my head.

16 We generally, in the survey section, we
17 also get a copy of the map, of course. We mainly
18 deal with planning and development coordination.
19 Development coordination kind of pulls the comments
20 in from all of the other sections in the City that
21 review the map.

22 BY MR. JIMMERSON:

23 Q. And they're sort of the administrative
24 leader in terms of gathering the results of all the
25 investigation from all the different departments or

ROR024134

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1 Q. So you would be in a position to be
2 involved in the mapping and allocation of water
3 rights for one parcel to another or one location in
4 the City to another?

5 A. That's correct.

6 Q. Okay. As a City of Las Vegas land
7 surveyor, how many parcel maps have you approved
8 during your tenure? I think you said since 1997; is
9 that right?

10 A. Since -- I was appointed in 2004. The
11 first six years of my tenure with the City of
12 Las Vegas, we were approving about 30 maps a month.
13 It slowed down considerably. I couldn't tell you how
14 many. I know that we are in, I think it's book 130
15 at the recorder's office, since the -- since we first
16 started putting books in the Clark County Recorder's
17 office.

18 Q. And how many maps would be in a book?

19 A. One hundred maps, one hundred parcel maps.
20 Now, that doesn't include final maps and records of
21 survey. That's just parcel maps.

22 Q. So that's thousands of maps?

23 A. So it's over one -- that's over 13,000
24 parcel maps.

25 Q. Wow. All right. Do you also approve or

1 approved by the City of Las Vegas and then recorded,
2 as shown in Exhibit 2 in June of 2015, at that point,
3 that is to say upon the approval by the City, and by
4 recordation with the County Recorder's Office, the
5 property has been divided or redivided into these
6 chunks of ground, but the property is not ready for
7 development. Would you agree?

8 A. That would be -- I would have to defer to
9 the planning department on that.

10 Q. Well, but in order to build half-acre
11 lots, for example, for a home, you would need to
12 depict that and call for the different things that a
13 tentative map and a final map requires; is that
14 right?

15 A. In this particular case, because the
16 resultant lots are so large, they certainly were not
17 ready for development.

18 Q. And to develop like a subdivision
19 requirement, it would require using a tentative map
20 and then ultimately moving to a final map; is that
21 right?

22 A. That's correct.

23 Q. And there would be notice to adjoining
24 landowners within some radius required by law of that
25 intended development of a subdivision?

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1 A. I believe that's a regular step in the
2 tentative map/final map process.
3 Q. But it's not something that you use and
4 notice is not given to landowners for redivision of
5 parcel maps, correct?
6 A. No.
7 Q. And the difference is because of the
8 number of lots and, also, of the requirements that a
9 tentative map has regarding what its relationship is
10 to adjoining land and the like?
11 A. That's correct.
12 MR. BICE: Objection to form.
13 BY MR. JIMMERSON:
14 Q. And with regard to the parcel map, they're
15 just dividing larger parcels that are internal to the
16 property owner's property; is that right?
17 A. In this case, the lines were internal to
18 the property owner's property.
19 Q. All right. Now, have you had an
20 opportunity to read an affidavit -- I'm sorry, not an
21 affidavit -- I'm sorry, an affidavit from a man named
22 Douglas Rankin?
23 A. I have read it.
24 Q. Okay. I want to bring it to your
25 attention. I am going to show it to you.

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1 all depositions. We've just got a few left.

2 (Exhibit Number AR-5J was marked.)

3 BY MR. JIMMERSON:

4 Q. Is this the declaration of Doug Rankin
5 that you indicated you have seen sometime in the
6 past, Exhibit 5J?

7 A. I believe it is, yes.

8 Q. All right. Now, in this declaration, he
9 claims that the use of the parcel map by my clients,
10 and the request that it be re-parcelled from
11 Exhibit 1, which was shown, to Exhibit 2, was
12 unlawful.

13 Are you familiar with that?

14 MR. BICE: Objection to the form.

15 THE WITNESS: I remember reading that,
16 yes.

17 BY MR. JIMMERSON:

18 Q. All right. And you have made it very
19 clear that you don't believe that to be true and that
20 you believe the City of Las Vegas' actions were
21 entirely lawful; is that right?

22 A. Yes.

23 Q. Now, I want you to look at some of the
24 allegations within the Rankin declaration. And if
25 you could explain why Mr. Rankin is in error and then

1 tell us, you know, what is correct, I would be
2 appreciative. There is just a few that I want to
3 cover.

4 The way I understand his declaration is,
5 he's saying that once you have a final map, you can
6 never use a parcel map to add lots. I think that's a
7 very succinct statement of what he claims.

8 MR. BICE: Objection to the form.

9 BY MR. JIMMERSON:

10 Q. Do you agree with that?

11 A. No, I do not.

12 Q. Please tell the Court why, if you have a
13 final map, you can still use a parcel map to add lots
14 and not have to use a tentative map?

15 A. The choice of parcel map has to do with
16 the number of resultant lots that you're going to end
17 up with. It has nothing to do with the character of
18 the lots that you start with.

19 I have myself mapped final map lots into
20 parcel map lots. I've divided a single lot in a
21 subdivision into multiple lots. I've taken three
22 lots in a subdivision and merged them into one lot
23 with a merger and resubdivision. I can think of
24 numerous cases where that's been done. And I have
25 never found anything in the code that would give me

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1 any pause about doing so.

2 Q. When I took Mr. Rankin's deposition, the
3 only statute or only case or anything he could point
4 to about what he thought might be a reason that you
5 would be forced to use a tentative map and not a
6 parcel map was the provision that said, "You shall
7 take no action to circumvent mapping requirements."

8 Are you familiar with that general statute
9 or rule?

10 MR. BICE: Objection to the form of the
11 question.

12 THE WITNESS: Yes. I believe that falls
13 under exceptions to parcel maps.

14 BY MR. JIMMERSON:

15 Q. Okay. And is that within the exhibit I
16 just showed you, the statute NRS 278.461? I think it
17 was 5P.

18 A. Yes, it's under number 8.

19 Q. All right. And that's at the second page
20 of Exhibit {5P?

21 A. Correct.

22 Q. Would you read the language into the court
23 record for Judge Allf?

24 A. Sure. "Unless a method of dividing land
25 is adopted for the purpose or would have the effect

1 Now, has there been any effort on the part
2 of my clients, with regard to any parcel map that
3 they've asked for the City of Las Vegas' approval and
4 for which approval has been given, and the subject
5 parcel maps recorded, any suggestion from your
6 observation of any intent on its part to evade any
7 provisions of the NRS 278 or the united -- Unified
8 Development Code?

9 MR. BICE: Objection to form.

10 Go ahead.

11 THE WITNESS: I don't know that I can
12 answer that. I certainly don't see any -- I can't
13 speak to their intent. Every map we look at, we look
14 at the map in front of us. We don't go beyond the
15 four corners of the map.

16 BY MR. JIMMERSON:

17 Q. Okay. But has there been any activity or
18 any actions on the part of my clients that would
19 suggest in any way that they're trying to circumvent
20 the rules and regulations upon which they are obliged
21 to comply?

22 A. No.

23 MR. BICE: Objection to form.

24 BY MR. JIMMERSON:

25 Q. Now, has there been any conduct by any

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1 representative of my clients, who you recognize as a
2 representative of my clients, who have conducted
3 themselves in any way to deviate from or to not
4 follow the rules and regulations regarding mapping?

5 MR. BICE: Objection to the form.

6 Go ahead.

7 THE WITNESS: No.

8 BY MR. JIMMERSON:

9 Q. Have they taken any actions that would
10 suggest that they are trying to do something improper
11 in any regard in conjunction with the City of
12 Las Vegas to somehow avoid requirements for mapping
13 or for dividing their property?

14 A. No.

15 Q. Has there been any type of back-door
16 meetings or secret meetings or anything untoward that
17 you observed by my clients or by anyone acting on
18 behalf of the City of Las Vegas?

19 A. No.

20 Q. Has there been anything untoward regarding
21 the City of Las Vegas and my clients regarding any
22 type of a mapping issue?

23 MR. BICE: Objection to form.

24 Go ahead.

25 THE WITNESS: No.

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1 BY MR. JIMMERSON:

2 Q. Now, since June of 2015, my clients have
3 submitted different parcel maps, I think another two
4 or three, in the months following 2015 and into early
5 2016; I think even one in 2017.

6 Are you familiar with that?

7 A. I am aware that there are more maps.

8 Q. Okay. And those are parcel maps, correct?

9 A. Yes.

10 Q. Because they involve four or less lots?

11 A. Yes.

12 Q. And each of them were approved by or, as
13 you say, released for recording by the City of
14 Las Vegas; is that right?

15 A. I haven't checked that, but I believe
16 there were several that recorded.

17 Q. I would submit there is only two or three
18 others, three or four others, but not very many. And
19 then they were subsequently recorded, as far as you
20 know?

21 A. As far as I know.

22 Q. During that process, at any time, did my
23 clients act in any inappropriate or improper manner
24 to avoid their obligation to comply with the Nevada
25 Revised Statutes and Uniform Development Code?

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1 MR. BICE: Objection to the form.
2 THE WITNESS: No.
3 BY MR. JIMMERSON:
4 Q. Has the City of Las Vegas, in any of the
5 reviews that they've conducted and in the decision to
6 release for recordation the requested parcel maps of
7 my clients, acted in any proper -- improper or
8 untoward regarding the -- to avoid the requirement of
9 the laws?
10 A. No.
11 Q. Requirement of the laws under 278 or the
12 Unified Development Code?
13 A. No.
14 MR. BICE: Objection to the form.
15 BY MR. JIMMERSON:
16 Q. Do you have any information whatsoever to
17 suggest or support the allegations by these
18 plaintiffs that the City of Las Vegas has been
19 complicit with the other codefendants, the developers
20 here, my clients, with regard an attempt to evade any
21 laws of mapping whatsoever?
22 MR. BICE: Objections to form.
23 THE WITNESS: No.
24 BY MR. JIMMERSON:
25 Q. Are you familiar with any -- do you have

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1 Q. And you have seen 13,000 parcel maps,
2 approximately, over your years?

3 A. I haven't seen them personally, but
4 certainly every parcel map processed through the City
5 of Las Vegas since January of 2004, yes.

6 Q. Now, you mentioned that you, of course,
7 are reviewing the applicants' submission to the City
8 and to its 19, you know, different parts to review
9 this. Agreed?

10 A. Agreed.

11 Q. And in the unique facts of our case, you
12 have some additional reassurance in the sense that
13 it's -- the submitting company for my clients was
14 also a qualified surveyor at GCW; is that right?

15 MR. BICE: Objection to form.

16 THE WITNESS: Correct.

17 BY MR. JIMMERSON:

18 Q. Please tell me why that gives you comfort,
19 who GCW is and what their role is, and then how it
20 interplays with the City of Las Vegas' role and the
21 City of Las Vegas' approval and release for
22 recordation?

23 MR. BICE: Objection to form.

24 THE WITNESS: Well, of course, anyone
25 submitting a map to the entity has to engage a

1 professional land surveyor that is licensed by the
2 state licensing board, and that license guarantees
3 that the licensee, the professional land surveyor,
4 has a minimum professional competency.

5 Some firms submit more maps than others.
6 There are many professional land surveyors who never
7 submit a map or limit their practice specifically to
8 construction staking, for example, layout.

9 GCW puts a great number of maps through
10 the system. I would hesitate to, you know, go on
11 record as saying that one firm is better than
12 another, one professional land surveyor is better
13 than another.

14 BY MR. JIMMERSON:

15 Q. All right. This gentleman to my right is
16 man named Paul Burn. Do you know him?

17 A. I do.

18 Q. How do you know him?

19 A. I first met Paul through the Southern
20 Nevada Chapter of the Nevada Association of Land
21 Surveyors. And I think Paul was the president of the
22 Southern Chapter -- was it the year after?

23 MR. BURN: Before you.

24 THE WITNESS: He was my predecessor as
25 president of the association.

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1 Q. Why would it be an irritation?

2 A. Well, not knowing the reason for the lines
3 that were being drawn by the maps -- and I have seen
4 situations where developers began a mapping process,
5 changed their mind, changed their product, and came
6 back in and filed another map, changed their mind
7 again, or sold a portion off because of financial
8 purposes, and then came back in with another map.

9 And you have to remember that the City of
10 Las Vegas collects a very, very nominal fee to check
11 these maps. It's just irritating to see another map
12 come in when you've just barely finished looking at
13 the last one.

14 Q. All right. So your only issue would just
15 be the time and expense that it would take the City
16 to process each successive map?

17 A. Yes.

18 Q. In this particular case, have you obtained
19 any form of beneficiary statement from the property
20 owner?

21 A. I believe at the time of the signing and
22 release of the map, there was a beneficiary
23 statement.

24 Q. Do you recall who had signed it?

25 A. I believe it was a company, something like

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1 PNC or N -- it was a series of initials. It was an
2 LLC that had a beneficiary interest in the property.

3 Q. And you received that before you released
4 the map?

5 A. Yes, sir.

6 Q. And that would be docketed where in the
7 City's records on the date it was received?

8 A. It's in the survey -- we have a copy of
9 the original document. I believe the original
10 document is required for recording at the Clark
11 County Recorder's office. So we insist on seeing the
12 original beneficiary statement, as well as a
13 subdivision guarantee. We make a copy of it for our
14 records.

15 Q. So you have that in your mapping file that
16 you just described?

17 A. Yes, sir.

18 Q. Do you have any other than just that one?

19 A. No, there was just the one beneficiary
20 statement listed on the subdivision guarantee.

21 Q. I wrote this down. Tell me if I got this
22 wrong. Did you say that a tentative map is for
23 planning purposes?

24 A. Yes, planning and entitlements, I believe.

25 Q. Okay. And then a final map is just a

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1 BY MR. BYRNES:

2 Q. Right.

3 Now, somebody comes to -- or a landowner
4 decides in lot number 1, I want to put 40 houses on
5 the west 10 acres of lot number 1. And I come to the
6 City with a subdivision, with a tentative map,
7 showing 40 acres only on the west 10 acres.

8 Would the City accept that?

9 A. In other words, a tentative map that only
10 covered a portion of Lot 1?

11 Q. Yes.

12 A. No.

13 Q. What would the City make you do?

14 A. They would make you do a parcel map to
15 create that boundary.

16 Q. So you create a boundary dividing lot
17 number 1 in half?

18 A. Uh-huh.

19 Q. And then you would accept the 10-acre lot.

20 A. Then we would accept the tentative map
21 that covered the west 10 acres.

22 Q. And that wouldn't be serial mapping?

23 A. No.

24 Q. Or wouldn't violate the law?

25 A. No.

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1 shown you here today, to get a building permit, you
2 would have to go to a tentative map/final map
3 process, agreed?

4 A. I don't think a tentative map or final map
5 process is part of the requirements for the building
6 permit.

7 If the zoning was appropriate and they
8 wanted to put a gas station on the corner, I suppose
9 they could. But that would have been true for the
10 entire golf course parcel to begin with. Anything
11 that they could have done with the original four lots
12 in the golf course, they could do today. But again,
13 I -- I'm not aware of those criteria.

14 Q. All right. But to follow up -- again, I'm
15 trying to get specific to my clients.

16 Their desire to build residential housing
17 would require, at some point, their submission of a
18 tentative map and final map or a final map?

19 MR. BICE: Objection to form.

20 THE WITNESS: Unless they wanted to build
21 eight 50-, 60-, 70-, 80-, 90-acre home sites.

22 BY MR. JIMMERSON:

23 Q. Was there ever any intention or
24 information you've acquired from my client that they
25 wanted to build eight 50-, 60-, 70-, 80-, or 90-acre

EXHIBIT K

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Mapping FAQs

Please refer to the sources listed for complete information regarding the following questions.

- 1) Where can I find information regarding mapping requirements?
- 2) Where do I submit a Tentative Map (TM), Final Map (FM), Parcel Map (PM) or Boundary Line Adjustment (BLA) application? Where do I submit mylars?
- 3) Do map applications require a public hearing for approval?
- 4) What type of map is required to subdivide a lot?
- 5) What are the differences between an Amended map, a Reversionary map and a Merger and Re-subdivision map? What is a Certificate of Amendment?
- 6) How do I submit an Amended or Reversionary (FM or PM) map?
- 7) How long does it take to review a FM?
- 8) How long does it take to review a PM?
- 9) How long does it take to review a BLA?
- 10) When does a TM expire? Can the expiration date of a TM be extended?
- 11) What happens when a TM expires?
- 12) When does a PM expire?
- 13) Can the FM name be different from the TM name? What if there is to be a series of FMs based on a single TM?
- 14) Do PMs and BLAs need to be named? If so, how is the name determined?
- 15) What is a BLA?
- 16) Can a parcel without access to a public street (i.e. a "land-locked" parcel) be created with a map?
- 17) When subdividing a parcel, what other issues should be considered?
- 18) What are the fees involved for each type of map?
- 19) If a FM / PM / BLA technical review is denied, do I have to submit a new application and start over?
- 20) Who do I contact if I have additional questions?

-
- 1) Where can I find information regarding mapping requirements?
 - a) General mapping information and requirements may be found in:
 - i) NRS Chapter 278: <http://www.leg.state.nv.us/nrs/nrs-278.html>
 - ii) LVMC Title 19 (Unified Development Code)
 - b) Application checklists, Monument requirements, and required Certificates may be found in LVMC Title 19, Appendices A-E.
 - c) Specific submittal requirements and application forms may be found on the City of Las Vegas website or by [clicking here](#)
 - 2) Where do I submit a Tentative Map (TM), Final Map (FM), Parcel Map (PM) or Boundary Line Adjustment (BLA) application? Where do I submit mylars?
 - a) Initial applications for all maps are submitted at the front counter for the Department of Planning, at the Development Services Center (333 N. Rancho Drive, first floor), and the materials are then distributed to the appropriate departments for review. A pre-application meeting is required prior to submission of a TM, but not for a FM, PM or BLA.
 - b) Mylars for FMs and PMs are submitted to the Department of Building and Safety - Land Development, and then routed to appropriate departments for review.
 - c) Mylars for BLAs are submitted directly to the Department of Planning, and are then routed to the Department of Public Works - Survey for review.
 - 3) Do map applications require a public hearing for approval?
 - a) Only a TM map application will require a public hearing. Final action on the TM will be taken at the Planning Commission, unless the decision is appealed to City Council within seven days, or City Council requests that the map application be heard at a council meeting. A pre-application meeting is required prior to TM submittal.
 - b) FMs, PMs and BLAs are reviewed administratively.
 - 4) What type of map is required to subdivide a lot?
 - a) A PM may be used to create four or fewer lots for purposes of sale, transfer or development. No TM is required.
 - b) A FM may be used to create more than four lots, or a one-lot commercial subdivision. A TM is required. [LVMC Title 19.16.040, NRS 278]

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Mapping FAQs

- 5) **What are the differences between a Reversionary map, a Merger and Re-subdivision map, and an Amended map? What is a Certificate of Amendment?**
- A Reversionary map is submitted to revert a previously subdivided parcel or multiple contiguous parcels into raw acreage. If contiguous parcels are involved, the intervening property lines are removed. It may be a PM or FM, depending on the type of map that was previously recorded for the parcel(s) involved.
 - A Merger and Re-subdivision map may be either a parcel map or final map, and is submitted to simultaneously merge contiguous parcels and then re-subdivide the acreage into one or more lots (see #4, above, for type of map required).
 - An Amended map is submitted to correct an error or omission on a recorded map, *if the correction changes the physical location of any survey monument, property line or boundary line.* It may be a PM or FM, depending on the type of map to be corrected. [NRS 278]
 - A Certificate of Amendment may be submitted to correct an error or omission on a recorded map, *if the correction does not change the physical location of any survey monument, property line or boundary line.* The Certificate of Amendment is submitted directly to the City Surveyors office. [NRS 278]
- 6) **How do I submit an Amended or Reversionary (FM or PM) map?**
- Submittal requirements and review times are the same as for any other FM or PM. The type of map required (FM or PM) depends on the type of map that was previously recorded.
- 7) **How long does it take to review a FM?**
- Upon submittal of a FM, a determination of completeness must be made within 5 working days, and the map is then accepted for review, or denied until all required materials are submitted.
 - Upon acceptance of a FM, a technical review is conducted to determine whether the map conforms to the approved TM, NRS Chapter 278, LVMC Title 19 and any applicable case files (i.e. a Site Development Review). The technical review must occur within a 30 day period following the initial determination that an application is complete. The review period does not apply if the FM is referred or appealed to the Planning Commission. The review period may also be waived by the subdivider.
 - After technical review approval, FM mylars may be submitted for review. The review period for mylar submittal is 10 days. The review period does not apply if the FM is referred or appealed to the Planning commission. The review period may also be waived by the subdivider.
[LVMC Title 19.16.060]
- 8) **How long does it take to review a PM?**
- Upon acceptance of a PM, a technical review is conducted to determine whether the map conforms to NRS Chapter 278, LVMC Title 19 and any applicable case files (i.e. a Site Development Review). The technical review must occur within a 45 day period. The review period may be waived by the subdivider.
[LVMC Title 19.16.040; NRS 278]
- 9) **How long does it take to review a BLA?**
- On average, BLAs take less than 30 days for a technical review (a maximum time period is not set by either NRS 278 or LVMC Title 19).
- 10) **When does a TM expire? Can the expiration date of a TM be extended?**
- If no FM is recorded within the initial four years after approval, the TM expires, and no extension of time is permitted.
 - If a series of FMs are to be recorded based on a single TM (i.e. multiple units, pods, phases, etc.), the first map in the series must be recorded within the initial 4-year period, or the TM expires. Subsequent maps must record within two years of the date of recordation of the most recently recorded FM.
 - A single two-year extension may be granted to any one of the series of FMs (with the exception of the initial FM, as stated in "a" above), subject to an application for an Extension of Time (EOT) submitted prior to expiration of the TM.
 - If a TM is approved that is based on an approved Site Development Plan Review (SDR), and the SDR is allowed to expire prior to recordation of a FM, then the TM expires concurrent with the SDR. For residential subdivisions with an approved SDR, recordation of the FM exercises the SDR. Recordation of the FM does not exercise an SDR for a commercial development.
[LVMC Title 19.16.050]

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Mapping FAQs

- 11) What happens when a TM expires?**
- Approval of a new TM application is required, even if nothing will change from the previously approved map.
 - If a FM has been submitted based on a TM, but has not been recorded when the TM it is based on expires, the submitted FM is void. Once a new TM is approved, a new FM application may be accepted for review, based on the conditions of approval for the new TM.
[LVMC Title 19.16.050]
- 12) When does a PM expire?**
- A PM expires if it is not recorded within one year of the approval date by the City of Las Vegas.
[LVMC Title 19.16.040]
- 13) Can the FM name be different from the TM name? What if there is to be a series of FMs based on a single TM?**
- No. The name of the FM must match the name of the approved TM exactly.
 - If a project is to be developed with a series of FMs based on the same TM, then each FM shall also receive an appropriate secondary unit/phase designation, i.e. if the TM is named Spring Mountain Ranch, then the first FM in the series would be named Spring Mountain Ranch, Unit 1; the second would be named Spring Mountain Ranch, Unit 2, etc.
- 14) Do PMs and BLAs need to be named? If so, how is the name determined?**
- For administrative purposes, all maps require a name. Names for PMs and BLAs are usually based on a project/owner name or location (i.e. Smith PM, Jones-Johnson BLA, 123 Las Vegas Blvd PM, etc.), and may be selected by the applicant.
- 15) What is a BLA?**
- A BLA is an adjustment to a boundary line between two or more property owners. Although considered as a single application with a single fee, an Application form and Deeds for each affected property/owner must be completed and submitted with the corresponding map application.
 - A BLA cannot be used to create a new parcel.
[NRS 278]
- 16) Can a parcel without access to a public street (i.e. a "land-locked" parcel) be created with a map?**
- No. All lots or parcels shall have frontage upon a public street; provided however, that lots within a recorded subdivision or Parcel Map may provide access to a public street by way of a commonly owned private street or a private access easement.
[LVMC Title 19.06.030, 19.08.030]
- 17) When subdividing a parcel, what other issues should be considered?**
- All development standards in LVMC Title 19 (Unified Development Code) or other applicable Master Plan must be met, including minimum lot size, minimum lot width, setbacks (for existing structures) and maximum lot coverage (as applicable).
 - No buildings, structures or utilities that will service multiple lots are permitted to cross a lot line, i.e. sewer service, water, etc. shall be provided independently to each lot. Easements may be required as part of the map for the provision of utilities, drainage, sewer service, shared access and/or shared parking.
 - All required trails, as depicted in the Las Vegas Master Plan Transportation Trails and Recreational Trails Elements, shall be indicated on submitted map applications.
[LVMC Title 19]
- 18) What are the fees involved for each type of map?**
- Fees for all Planning applications may be found on the City of Las Vegas website or by [clicking here](#).
 - Additional review fees may be assessed at the time of mylar submittal; contact the Department of Building and Safety - Land Development at (702) 229-6251 for more information.
- 19) If a FM / PM / BLA technical review is denied, do I have to submit a new application and start over?**
- No. If a technical review is denied, a revised map may be submitted with corrections completed based on the technical review. The map will then be reviewed again, and the process will continue. Additional fees may apply for multiple reviews.

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Mapping FAQs

20) Who do I contact if I have additional questions?

- a) Department of Planning at (702) 229-6301.
- b) Department of Building and Safety - Land Development at (702) 229-6251.
- c) Department of Public Works - Development Coordination at (702) 229-6578.
- d) Department of Public Works - Survey at (702) 229-6217.
- e) Additional information is also available online at:
 - i) <http://www.lasvegasnevada.gov/> and
 - ii) <http://www.leg.state.nv.us/nrs/nrs-278.html>.

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Using Google Chrome for Desktop

Type "chrome://plugins" into the address bar and press Enter. Then click "Disable" under the "Chrome PDF Viewer" plugin. Return to the forms page and click the desired pdf link again.

Land Use & Project Development Application Forms

- Labels Request Form
- Public Records Request Form
- Justification Letter
- PreApplication Conference Request Form
- Application Form
- Statement of Financial Interest – (required for all applications)

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- DINA/Project of Regional Significance Form
- Neighborhood Meeting Instructions
- Mapping FAQs
- Planning Comments

Administrative Permits

- Commercial Addressing Information
- Apartment Addressing Information
- Address Change Requirements
- Administrative Deviation Submittal Requirements
- Boundary Line Adjustment
- Conditional Use Verification
- Final Map Technical Review Submittal Requirements
- Minor Deviation
- Minor Modification
- Model Home Submittal Requirements
- Nonconforming Sign Registration
- Open Air Vendor Submittal Requirements
- Parcel Map Submittal Requirements PM Checklist
- Subdivision Addressing Residential Submittal Requirements
- Temporary Commercial Permit Submittal Requirements
- Temporary Sign Permit Submittal Requirements
- Wireless Communications Facility

Planning Commission Application Submittal Requirements

- Annexation Submittal Requirements
 - o Petition for Annexation
- Extension of Time Submittal Requirements
- General Plan Amendment
- Major Deviation
- Major Modification
- Master Sign Plan Submittal Requirements
- Review of Conditions Submittal Requirements
- Rezoning Submittal Requirements
- Site Development Plan Review Submittal Requirements
- Special Use Permit Submittal Requirements
- Street Name Change Submittal Requirements
- Tentative Map Submittal Requirements

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- (b) The board of adjustment, if the governing body has created a board of adjustment pursuant to NRS 278.270;
- (c) A hearing examiner, if the governing body has appointed a hearing examiner pursuant to NRS 278.262; or
- (d) Any other person appointed or employed by the governing body who is authorized to make administrative decisions regarding the use of land.
- may appeal the decision to the governing body. In a county whose population is 700,000 or more, a person shall be deemed to be aggrieved under an ordinance adopted pursuant to this subsection if the person appeared, either in person, through an authorized representative or in writing, before a person or entity described in paragraphs (a) to (d), inclusive, on the matter which is the subject of the decision.
2. Except as otherwise provided in NRS 278.310, an ordinance adopted pursuant to subsection 1 must set forth, without limitation:
- (a) The period within which an appeal must be filed with the governing body.
- (b) The procedures pursuant to which the governing body will hear the appeal.
- (c) That the governing body may affirm, modify or reverse a decision.
- (d) The period within which the governing body must render its decision except that:
- (1) In a county whose population is 700,000 or more, that period must not exceed 45 days.
- (2) In a county whose population is less than 700,000, that period must not exceed 60 days.
- (e) That the decision of the governing body is a final decision for the purpose of judicial review.
- (f) That, in reviewing a decision, the governing body will be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020.
- (g) That the governing body may charge the appellant a fee for the filing of an appeal.
3. In addition to the requirements set forth in subsection 2, in a county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 must:
- (a) Set forth procedures for the consolidation of appeals; and
- (b) Prohibit the governing body from granting to an aggrieved person more than two continuances on the same matter, unless the governing body determines, upon good cause shown, that the granting of additional continuances is warranted.
4. Any person who:
- (a) Has appealed a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1; and
- (b) Is aggrieved by the decision of the governing body,
- may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235.
5. As used in this section, "person" includes the Armed Forces of the United States or an official component or representative thereof.
- (Added to NRS by 2001, 2803; A 2003, 1734; 2007, 354; 2011, 1193)

DIVISIONS OF LAND

Subdivision of Land: General Provisions

NRS 278.320 "Subdivision" defined; exemptions for certain land.

1. "Subdivision" means any land, vacant or improved, which is divided or proposed to be divided into five or more lots, parcels, sites, units or plots, for the purpose of any transfer or development, or any proposed transfer or development, unless exempted by one of the following provisions:
- (a) The term "subdivision" does not apply to any division of land which is subject to the provisions of NRS 278.471 to 278.4725, inclusive.
- (b) Any joint tenancy or tenancy in common shall be deemed a single interest in land.
- (c) Unless a method of disposition is adopted for the purpose of evading this chapter or would have the effect of evading this chapter, the term "subdivision" does not apply to:
- (1) Any division of land which is ordered by any court in this State or created by operation of law;
- (2) A lien, mortgage, deed of trust or any other security instrument;
- (3) A security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;
- (4) Cemetery lots; or
- (5) An interest in oil, gas, minerals or building materials, which are now or hereafter severed from the surface ownership of real property.
2. A common-interest community consisting of five or more units shall be deemed to be a subdivision of land within the meaning of this section, but need only comply with NRS 278.326 to 278.460, inclusive, and 278.473 to 278.490, inclusive.
3. The board of county commissioners of any county may exempt any parcel or parcels of land from the provisions of NRS 278.010 to 278.630, inclusive, if:
- (a) The land is owned by a railroad company or by a nonprofit corporation organized and existing pursuant to the provisions of chapter 81 or 82 of NRS which is an immediate successor in title to a railroad company, and the land was in the past used in connection with any railroad operation; and
- (b) Other persons now permanently reside on the land.
4. Except as otherwise provided in subsection 5, this chapter, including, without limitation, any requirements relating to the adjustment of boundary lines or the filing of a parcel map or record of survey, does not apply to the division, exchange or transfer of land for agricultural purposes if each parcel resulting from such a division, exchange or transfer:
- (a) Is 10 acres or more in size, unless local zoning laws require a larger minimum parcel size, in which case each parcel resulting from the division, exchange or transfer must comply with the parcel size required by those local zoning laws;
- (b) Has a zoning classification that is consistent with the designation in the master plan, if any, regarding land use for the parcel;
- (c) Can be described by reference to the standard subdivisions used in the United States Public Land Survey System;
- (d) Qualifies for agricultural use assessment under NRS 361A.100 to 361A.160, inclusive, and any regulations adopted pursuant thereto; and
- (e) Is accessible:
- (1) By way of an existing street, road or highway;
- (2) Through other adjacent lands owned by the same person; or
- (3) By way of an easement for agricultural purposes that was granted in connection with the division, exchange or transfer.

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5. The exemption from the provisions of this chapter, which exemption is set forth in subsection 4, does not apply with respect to any parcel resulting from the division, exchange or transfer of agricultural lands if:

(a) Such resulting parcel ceases to qualify for agricultural use assessment under NRS 361A.100 to 361A.160, inclusive, and any regulations adopted pursuant thereto; or

(b) New commercial buildings or residential dwelling units are proposed to be constructed on the parcel after the date on which the division, exchange or transfer took place. The provisions of this paragraph do not prohibit the expansion, repair, reconstruction, renovation or replacement of preexisting buildings or dwelling units that are:

- (1) Dilapidated;
- (2) Dangerous;
- (3) At risk of being declared a public nuisance;
- (4) Damaged or destroyed by fire, flood, earthquake or any natural or man-made disaster; or
- (5) Otherwise in need of expansion, repair, reconstruction, renovation or replacement.

[18.1:110:1941; added 1947, 834; 1943 NCL § 5063.17a]—(NRS A 1971, 938; 1973, 1336; 1975, 6, 1178, 1563; 1977, 1495; 1979, 1498; 1991, 582, 1312, 1318; 2003, 974; 2007, 563; 2013, 3224)

NRS 278.325 Mapping for industrial or commercial development; restriction on sale of parcel for residential use; requirements for creating boundary by conveyance.

1. If a subdivision is proposed on land which is zoned for industrial or commercial development, neither the tentative nor the final map need show any division of the land into lots or parcels, but the streets and any other required improvements are subject to the requirements of NRS 278.010 to 278.630, inclusive.

2. No parcel of land may be sold for residential use from a subdivision whose final map does not show a division of the land into lots.

3. Except as otherwise provided in subsection 4, a boundary or line must not be created by a conveyance of a parcel from an industrial or commercial subdivision unless a professional land surveyor has surveyed the boundary or line and set the monuments. The surveyor shall file a record of the survey pursuant to the requirements set forth in NRS 625.340. Any conveyance of such a parcel must contain a legal description of the parcel that is independent of the record of survey.

4. The provisions of subsection 3 do not apply to a boundary or line that is created entirely within an existing industrial or commercial building. A certificate prepared by a professional engineer or registered architect certifying compliance with the applicable law of this State in effect at the time of the preparation of the certificate and with the building code in effect at the time the building was constructed must be attached to any document which proposes to subdivide such a building.

5. A certificate prepared pursuant to subsection 4 for a building located in a county whose population is 700,000 or more must be reviewed, approved and signed by the building official having jurisdiction over the area within which the building is situated.
(Added to NRS by 1969, 723; A 1993, 2560; 2005, 2668; 2007, 2922; 2011, 1194; 2013, 3226)

NRS 278.326 Local ordinances governing improvements, mapping, accuracy, engineering and related subjects.

1. Local subdivision ordinances shall be enacted by the governing body of every incorporated city and every county, prescribing regulations which, in addition to the provisions of NRS 278.010 to 278.630, inclusive, govern matters of improvements, mapping, accuracy, engineering and related subjects, but shall not be in conflict with NRS 278.010 to 278.630, inclusive.

2. The subdivider shall comply with the provisions of the appropriate local ordinance before the final map is approved.
[23:110:1941; 1931 NCL § 5063.22]—(NRS A 1973, 1769; 1977, 1500; 2013, 3226)

NRS 278.327 Approval of map does not preclude further division. Approval of any map pursuant to the provisions of NRS 278.010 to 278.630, inclusive, does not in itself prohibit the further division of the lots, parcels, sites, units or plots described, but any such further division shall conform to the applicable provisions of those sections.
(Added to NRS by 1975, 1562; A 1977, 1496; 2013, 3227)

NRS 278.328 Final action by planning commission on tentative map and final map: Authorization; appeal. The governing body may, by ordinance, authorize the planning commission to take final action on a tentative map and a final map. Any person aggrieved by the commission's action may appeal the commission's decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

(Added to NRS by 1987, 658; A 1997, 2424; 2001, 2808)

NRS 278.329 Relief from requirement to dedicate certain easements. A governing body or its authorized representative may relieve a person who proposes to divide land pursuant to NRS 278.360 to 278.460, inclusive, or 278.471 to 278.4725, inclusive, from the requirement to dedicate easements to public utilities that provide gas, electric, telecommunications, water and sewer services and any video service providers pursuant to paragraph (d) or (e) of subsection 9 of NRS 278.372 or paragraph (c) or (d) of subsection 4 of NRS 278.472 if the person demonstrates to the public body or its authorized representative that there is not an essential nexus to the public purpose for the dedication and the dedication is not roughly proportional in nature and extent to the impact of the proposed development.
(Added to NRS by 2003, 2345; A 2007, 1379)

Subdivision of Land: Tentative Maps

NRS 278.330 Preparation of tentative map; filing and distribution of copies; action by planning commission.

1. The initial action in connection with the making of any subdivision is the preparation of a tentative map.

2. The subdivider shall file copies of the map with the planning commission or its designated representative, or with the clerk of the governing body if there is no planning commission, together with a filing fee in an amount determined by the governing body.

3. The commission, its designated representative, the clerk or other designated representative of the governing body or, when authorized by the governing body, the subdivider or any other appropriate agency shall distribute copies of the map and any accompanying data to all state and local agencies and persons charged with reviewing the proposed subdivision.

4. If there is no planning commission, the clerk of the governing body shall submit the tentative map to the governing body at its next regular meeting.

5. Except as otherwise provided by subsection 6, if there is a planning commission, it shall:

- (a) In a county whose population is 700,000 or more, within 45 days; or
- (b) In a county whose population is less than 700,000, within 60 days,

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↪ after accepting as a complete application a tentative map, recommend approval, conditional approval or disapproval of the map in a written report filed with the governing body.

6. If the governing body has authorized the planning commission to take final action on a tentative map, the planning commission shall:

- (a) In a county whose population is 700,000 or more, within 45 days; or
 - (b) In a county whose population is less than 700,000, within 60 days,
- ↪ after accepting as a complete application a tentative map, approve, conditionally approve or disapprove the tentative map in the manner provided for in NRS 278.349. The planning commission shall file its written decision with the governing body.
[21:110:1941; 1931 NCL § 5063.20]—(NRS A 1971, 1207; 1973, 1829; 1977, 647, 1496; 1979, 58; 1987, 658; 1993, 2561; 1997, 2424; 2001, 1967, 2808; 2003, 975; 2011, 1194)

NRS 278.335 Review of tentative map by agencies of State; reviews and inspections by district board of health.

1. A copy of the tentative map must be forwarded by the planning commission or its designated representative, or if there is no planning commission, the clerk or other designated representative of the governing body, for review to:

- (a) The Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources;
- (b) The district board of health acting for the Division of Environmental Protection pursuant to subsection 2; and
- (c) If the subdivision is subject to the provisions of NRS 704.6672, the Public Utilities Commission of Nevada.

2. In a county whose population is 100,000 or more, if the county and one or more incorporated cities in the county have established a district board of health, the authority of the Division of Environmental Protection to review and certify proposed subdivisions and to conduct construction or installation inspections must be exercised by the district board of health.

3. A district board of health which conducts reviews and inspections under this section shall consider all the requirements of the law concerning sewage disposal, water pollution, water quality and water supply facilities. At least four times annually, the district board of health shall notify the Division of Environmental Protection which subdivisions met these requirements of law and have been certified by the district board of health.

4. The State is not chargeable with any expense incurred by a district board of health acting pursuant to this section.

5. Each reviewing agency shall, within 15 days after the receipt of the tentative map, file its written comments with the planning commission or the governing body recommending approval, conditional approval or disapproval and stating the reasons therefor.

(Added to NRS by 1977, 1497; A 1979, 704; 1987, 520; 1993, 2561; 1997, 1984; 2005, 559, 692)

NRS 278.340 Review by city of tentative map of subdivision proposed to be located within 1 mile of boundary of city.

Except as otherwise provided in a comprehensive regional plan adopted pursuant to NRS 278.026 to 278.029, inclusive, whenever a subdivider proposes to subdivide any land within 1 mile of the boundary of a city, the planning commission of the county or its designated representative, or, if there is no planning commission, the clerk or other designated representative of the governing body of the county shall forward a copy of the tentative map to the planning commission of the city or, if there is no planning commission, the governing body of the city for review and comment.

[19:110:1941; 1931 NCL § 5063.18]—(NRS A 1959, 499; 1973, 1768; 1993, 2562)

NRS 278.345 Review by county of tentative map of subdivision proposed to be located within 1 mile of boundary of unincorporated area of county. Whenever a subdivider proposes to subdivide any land within an incorporated city in a county whose population is 100,000 or more, and the proposed subdivision is within 1 mile of the boundary of an unincorporated area of the county, the planning commission of the city or its designated representative, or, if there is no planning commission, the governing body of the city or its designated representative shall forward a copy of the subdivider's tentative map:

- 1. To the planning commission of the county for review and comment; or
- 2. If there is no planning commission of the county, to the clerk of the governing body of the county. The clerk shall submit the map to the governing body of the county at its next regular meeting for review and comment.

(Added to NRS by 1963, 102; A 1969, 1539; 1973, 1768; 1979, 530; 1989, 1917; 1993, 2563)

NRS 278.346 Tentative map to be forwarded to school board; acquisition or disposal of school site.

1. The planning commission or its designated representative or, if there is no planning commission, the clerk or other designated representative of the governing body shall, not more than 10 days after the tentative map is filed pursuant to the provisions of subsection 2 of NRS 278.330, forward a copy of the tentative map to the board of trustees of the school district within which the proposed subdivision is located. Within 15 days after receipt of the copy, the board of trustees or its designee shall, if a school site is needed within the area, notify the commission or governing body that a site is requested.

2. If the board of trustees requests a site:

- (a) The subdivider shall, except as otherwise provided in subsection 8, set aside a site of the size which is determined by the board.

- (b) The subdivider and the board of trustees shall, except as otherwise provided in subsections 7 and 8, negotiate for the price of the site, which must not exceed the fair market value of the land as determined by an independent appraisal paid for by the board.

3. If any land purchased by the school district pursuant to the provisions of subsection 2 has not been placed in use as a school site at the end of 10 years from the date of purchase, the land must be offered to the subdivider or the successor in interest of the subdivider at a sale price equal to the fair market value of the land at the time of the offer, as determined by an independent appraisal paid for by the board.

4. If the subdivider or the successor in interest of the subdivider does not accept an offer made pursuant to the provisions of subsection 3 or 9, then the board of trustees may:

- (a) Sell or lease such property in the manner provided in NRS 277.050 or 393.220 to 393.320, inclusive;
- (b) Exchange such property in the manner provided in NRS 277.050 or 393.326 to 393.3293, inclusive; or
- (c) Retain such property, if such retention is determined to be in the best interests of the school district.

5. Except as otherwise provided in subsection 6, when any land dedicated to the use of the public school system or any land purchased and used as a school site becomes unsuitable, undesirable or impractical for any school uses or purposes, the board of trustees of the county school district in which the land is located shall dispose of the land as provided in subsection 4.

6. Land dedicated under the provisions of former NRS 116.020, as it read before April 6, 1961, which the board of trustees determines is unsuitable, undesirable or impractical for school purposes may be reconveyed without cost to the dedicator or the successor or successors in interest of the dedicator.

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7. Except as otherwise provided in subsection 8, in a county whose population is 100,000 or more but less than 700,000, the school district may purchase the site for a price negotiated between the subdivider and the board of trustees, which price must not exceed the lesser of:

(a) The fair market value of the land at the time the tentative map was approved, as determined by an independent appraisal paid for by the board, plus any costs paid by the subdivider with respect to that land between the date the tentative map was approved and the date of purchase; or

(b) The fair market value of the land on the date of purchase, as determined by an independent appraisal paid for by the board.

8. If 5 years after the date on which the final map that contains the school site was approved, a school district has not purchased the site pursuant to the provisions of subsection 7, the subdivider need not continue to set aside the site pursuant to the provisions of subsection 2.

9. If 10 years after the date on which the final map that contains the school site was approved, construction of a school at the school site has not yet begun, the land purchased by the school district pursuant to subsection 7 must be offered to the subdivider or the successor in interest of the subdivider at a sale price equal to the fair market value of the land at the time of the offer, as determined by an independent appraisal paid for by the board.

(Added to NRS by 1977, 1499; A 1993, 2563; 2009, 1234; 2011, 1195)

NRS 278.347 Review of tentative map by general improvement district. When any subdivider proposes to subdivide land, any part of which is located within the boundaries of any general improvement district organized or reorganized pursuant to [chapter 318](#) of NRS, the planning commission or its designated representative, or, if there is no planning commission, the clerk or other designated representative of the governing body shall file a copy of the subdivider's tentative map with the board of trustees of the district. The board of trustees may within 30 days review and comment in writing upon the map to the planning commission or governing body. The planning commission or governing body shall take any such comments into consideration before approving the tentative map.

(Added to NRS by 1977, 424; A 1993, 2564)

NRS 278.348 Review of tentative map by irrigation district in county whose population is less than 100,000. In any county whose population is less than 100,000, when any subdivider proposes to subdivide land, any part of which is located within the boundaries of any irrigation district organized pursuant to [chapter 539](#) of NRS, the planning commission or its designated representative, or, if there is no planning commission, the clerk or other designated representative of the governing body shall file a copy of the subdivider's tentative map with the board of directors of the district. The board of directors shall within 30 days review and comment in writing upon the map to the planning commission or governing body. The planning commission or governing body shall take those comments into consideration before approving the tentative map.

(Added to NRS by 1987, 1391; A 1993, 2564)

NRS 278.3485 Review of tentative map for subdivision of land containing irrigation ditch located outside irrigation district in county whose population is less than 100,000.

1. In any county whose population is less than 100,000, when any subdivider proposes to subdivide land which is located outside the boundaries of any irrigation district organized pursuant to [chapter 539](#) of NRS on which an irrigation ditch is located, the planning commission or its designated representative, or if there is no planning commission, the clerk or other designated representative of the governing body, shall forward a copy of the subdivider's tentative map, by certified or registered mail, to the last known address of the owner of record of any land to which the irrigation ditch is appurtenant that is on file in the office of the county assessor pursuant to this section. An owner of record who receives a copy of a subdivider's tentative map shall, within 30 days after receiving the map, review and comment in writing upon the map to the planning commission or governing body. The planning commission or governing body shall take those comments into consideration before approving the tentative map.

2. A subdivider whose tentative map is provided to an owner of record pursuant to this section is responsible for any costs incurred by the planning commission or its designated representative, or by the clerk or other designated representative of the governing body, in identifying the owner of record and providing a copy of the tentative map to the owner of record.

(Added to NRS by 2003, 974)

NRS 278.349 Action on tentative map by governing body; considerations in determining action on tentative map; final disposition.

1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to [NRS 278.330](#):

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days,

↪ after receipt of the planning commission's recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days,

↪ after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) 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;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

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(i) The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive;

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands; and

(k) The submission by the subdivider of an affidavit stating that the subdivider will make provision for payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest.

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the tentative map. The governing body or planning commission shall not approve the tentative map unless the subdivider has submitted an affidavit stating that the subdivider will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest. Any disapproval or conditional approval must include a statement of the reason for that action.

(Added to NRS by 1977, 1498; A 1979, 705; 1981, 1707; 1987, 659; 1989, 499; 1993, 2564; 1997, 2424; 2001, 1126, 1968, 2809; 2003, 976; 2009, 1113; 2011, 1196)

NRS 278.350 Limitations on time for action on tentative or final map; effect of certain agreements extending time limits covering portion of approved tentative map.

1. Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201:

(a) The time limit for acting and reporting on a tentative or final map may be extended by mutual consent of the subdivider and the governing body or planning commission, as the case may be.

(b) If no action is taken within the time limits set forth in NRS 278.010 to 278.630, inclusive, a tentative map as filed shall be deemed to be approved, and the clerk of the governing body, or the planning commission if it has been authorized to take final action, shall certify the map as approved.

(c) The time limits set forth in NRS 278.010 to 278.630, inclusive, for tentative and final maps are suspended for a period, not to exceed 1 year, during which this State or the Federal Government takes any action to protect the environment or an endangered species which prohibits, stops or delays the processing of a tentative map or the development, processing or recordation of a final map.

2. If the subdivider enters into an agreement pursuant to paragraph (a) of subsection 1 covering a portion of an approved tentative map, no requirements other than those imposed on each of the final maps in a series of final maps may be placed on a map when the agreement is entered into unless the requirement is directly attributable to a change in applicable laws which affects the public health, safety or welfare.

[Part 22:110:1941; 1931 NCL § 5063.21]—(NRS A 1977, 1499; 1985, 2116; 1987, 660, 1304; 1991, 299; 1997, 2425; 2009, 164)

NRS 278.353 Disclosure required when property offered for sale before final map recorded. If any property in a subdivision is offered for sale before a final map is recorded for that subdivision, the seller or his or her agent shall disclose to any potential buyer that the final map has not been recorded.

(Added to NRS by 1979, 1361)

Subdivision of Land: Final Maps

NRS 278.360 Requirements for presentation of final map or series of final maps; extensions of time.

1. Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201 or 278.350:

(a) Unless the time is extended, the subdivider shall present to the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, within 4 years after the approval of a tentative map:

(i) A final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved; or

(ii) The first of a series of final maps covering a portion of the approved tentative map. If the subdivider elects to present a successive map in a series of final maps, each covering a portion of the approved tentative map, the subdivider shall present to the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, on or before the second anniversary of the date on which the subdivider recorded the first in the series of final maps:

(I) A final map, prepared in accordance with the tentative map, for the entire area for which the tentative map has been approved; or

(II) The next final map in the series of final maps covering a portion of the approved tentative map.

(b) If the subdivider fails to comply with the provisions of paragraph (a), all proceedings concerning the subdivision are terminated.

(c) The governing body or planning commission may grant an extension of not more than 2 years for the presentation of any final map after the 2-year period for presenting a successive final map has expired.

2. If the subdivider is presenting in a timely manner a series of final maps, each covering a portion of the approved tentative map, no requirements other than those imposed on each of the final maps in the series may be placed on the map when an extension of time is granted unless the requirement is directly attributable to a change in applicable laws which affect the public health, safety or welfare.

[Part 22:110:1941; 1931 NCL § 5063.21]—(NRS A 1973, 1768; 1977, 1500; 1981, 165, 1182; 1985, 564, 2116; 1987, 660, 1304; 1993, 2565; 1997, 2426; 2001, 2810; 2003, 2343; 2009, 165; 2011, 695)

NRS 278.371 Survey, setting of monuments and preparation of final map; performance bond.

1. The survey, setting of monuments and final map must be made by a professional land surveyor licensed in the State of Nevada.

2. The final monuments must be set before the recordation of the final map unless the subdivider furnishes a performance bond or other suitable assurance to the governing body or planning commission guaranteeing that the subdivider will provide a professional land surveyor to set the monuments on or before a day certain. The governing body or planning commission shall

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determine the amount of the performance bond, if any is required. If a surveyor other than the one signing the final plat accepts responsibility for the setting of monuments, a certificate of amendment must be filed and recorded.

3. The final monument must, except as otherwise provided in subsections 6 and 7, consist of a nonferrous tablet, disc or cap securely attached to the top of a metallic shaft solidly embedded in the ground, with a minimum diameter of 5/8 of an inch and a length sufficient to resist removal, and a mark for the exact point and stamped "PLS" followed by the number of the professional land surveyor's license.

4. Final monuments must be set at:

(a) Each corner of the boundary of the subdivision and at any point necessary to ensure that each monument on a given boundary can be seen from the next monument on that boundary.

(b) Intersections of centerlines of streets.

(c) Sufficient locations along the centerlines of streets so that the centerlines may be retraced. These locations may be at, or on an offset to, an angle to the centerline of a street, the center of a cul-de-sac, a point which defines a curve (the beginning or end of a curve or a point of intersection of a tangent) or an intersection with a boundary of the subdivision.

(d) A position for a corner of the system of rectangular surveys which is used as control in the survey required by this chapter to establish property lines and corners of the subdivision.

5. The governing body shall, by ordinance, adopt any additional standards for the setting of final monuments which are reasonably necessary, including the establishment of Nevada state plane coordinates thereon pursuant to [chapter 327](#) of NRS.

5. A final monument required in subsection 4 which falls in a paved area must:

(a) Consist of a well with lid placed so that the top of the tablet, disc or cap of the monument is not less than 4 inches below the surface of the pavement; or

(b) Be of comparable construction as required by the governing body.

6. The monument must be set flush with the top of the pavement with such references as are required by the governing body.

6. If a point designated in subsection 4 falls on solid bedrock or on a concrete or stone roadway, curb, gutter or walk, a durable nonferrous metal tablet, disc or cap must be securely anchored in the rock or concrete and marked as required in subsection 3.

7. If a monument required by subsection 3 cannot be set because of steep terrain, water, marsh or existing structures, or if it would be obliterated as a result of proposed construction, one or more reference monuments must be set. In addition to the physical requirements for a monument set forth in subsections 3 to 6, inclusive, the letters "RM" and "WC" must be stamped in the tablet, disc or cap. If only one reference monument is used, it must be set on the actual line or a prolongation thereof. Otherwise, at least two reference monuments must be set. These monuments shall be deemed final monuments.

8. A corner of a lot must be set by the land surveyor in the manner approved by the governing body.

(Added to NRS by [1977, 1501](#); [A 1985, 564](#); [1987, 660](#); [1989, 790](#); [1993, 1196](#); [1997, 1063](#))

NRS 278.372 Final map: Requirements and contents.

1. The final map must be clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the final map with permanent black ink.

2. The size of each sheet of the final map must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom and right edges, and of 2 inches at the left edge along the 24-inch dimension.

3. The scale of the final map must be large enough to show all details clearly. The final map must have a sufficient number of sheets to accomplish this end.

4. Each sheet of the final map must indicate its particular number, the total number of sheets in the final map and its relation to each adjoining sheet.

5. The final map must show all surveyed and mathematical information and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing thereon, including the bearings and distances of straight lines, central angle, radii and arc length for all curves and such information as may be necessary to determine the location of the centers of curves.

6. Each lot must be numbered or lettered.

7. Each street must be named, and each block may be numbered or lettered.

8. The exterior boundary of the land included within the subdivision must be indicated by graphic border.

9. The final map must show:

(a) The definite location of the subdivision, particularly its relation to surrounding surveys.

(b) The area of each lot and the total area of the land in the subdivision in the following manner:

(1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or

(2) In square feet if the area is less than 2 acres.

(c) Any roads or easements of access which the owner intends to offer for dedication.

(d) Except as otherwise provided in [NRS 278.329](#), an easement for public utilities that provide gas, electric and telecommunications services and for any video service providers that are authorized pursuant to [chapter 711](#) of NRS to operate a video service network in that area.

(e) Except as otherwise provided in [NRS 278.329](#), an easement for public utilities that provide water and sewer services.

10. The final map for a condominium must also indicate, for the purpose of assessing taxes, whether any garage units, parking spaces or storage units may be conveyed separately from the units within the condominium or are parceled separately from those units. As used in this subsection, "condominium" has the meaning ascribed to it in [NRS 116.027](#).

11. The final map must also satisfy any additional survey and map requirements, including the delineation of Nevada state plane coordinates established pursuant to [chapter 327](#) of NRS, for any corner of the subdivision or any other point prescribed by the local ordinance.

[Part 26:110:1941; 1931 NCL § 5063.25]—(NRS A 1960, 137; [1973, 1830](#); [1977, 1502](#); [1985, 896](#); [1991, 827](#); [1993, 1197, 2566](#); [2003, 2345](#); [2005, 2669](#); [2007, 1379](#))

NRS 278.373 Certificates and acknowledgments to appear on final map. The certificates and acknowledgments required by [NRS 116.2109](#) and [278.374](#) to [278.378](#), inclusive, must appear on a final map and may be combined where appropriate.

(Added to NRS by [1977, 1502](#); [A 1991, 583](#))

NRS 278.374 Certificate of owner of land; report and guarantee of title company.

1. Except as otherwise provided in subsection 2, a final map presented for filing must include a certificate signed and acknowledged, in the manner provided in [NRS 240.1665](#) or [240.167](#), by each person who is an owner of the land:

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- (a) Consenting to the preparation and recordation of the final map.
- (b) Offering for dedication that part of the land which the person wishes to dedicate for public use, subject to any reservation contained therein.
- (c) Reserving any parcel from dedication.
- (d) Granting any permanent easement for utility or video service network installation or access, as designated on the final map, together with a statement approving such easement, signed by the public utility, video service provider or person in whose favor the easement is created or whose services are required.
2. If the map presented for filing is an amended map of a common-interest community, the certificate need only be signed and acknowledged by a person authorized to record the map under [chapter 116](#) of NRS.
3. A final map of a common-interest community presented for recording and, if required by local ordinance, a final map of any other subdivision presented for recording must include:
- (a) A report from a title company in which the title company certifies that it has issued a guarantee for the benefit of the local government which lists the names of:
- (1) Each owner of record of the land to be divided; and
 - (2) Each holder of record of a security interest in the land to be divided, if the security interest was created by a mortgage or a deed of trust.
- ↪ The guarantee accompanying a final map of a common-interest community must also show that there are no liens of record against the common-interest community or any part thereof for delinquent state, county, municipal, federal or local taxes or assessments collected as taxes or special assessments.
- (b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a), to the preparation and recordation of the final map. A holder of record may consent by signing:
- (1) The final map; or
 - (2) A separate document that is filed with the final map and declares his or her consent to the division of land.
4. For the purpose of this section, the following shall be deemed not to be an interest in land:
- (a) A lien for taxes or special assessments.
 - (b) A trust interest under a bond indenture.
5. As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (c) of subsection 1 of [NRS 692A.120](#).
(Added to NRS by 1977, 1502; A 1991, 583; 1993, 205, 2337, 2378, 2566; 1995, 710; 2003, 2346; 2007, 1380)

NRS 278.375 Certificate of professional land surveyor. A final map presented for filing must include a certificate of the surveyor responsible for the survey. The certificate must be in the following form:

Surveyor's Certificate

I,(Name of Surveyor), a Professional Land Surveyor licensed in the State of Nevada, certify that:

1. This plat represents the results of a survey conducted under my direct supervision at the instance of
(Owner, Trustee, Etc.).
 2. The lands surveyed lie within.....
(Section, Township, Range, Meridian and, if required by the governing body, a description by metes and bounds for any subdivision which is divided into lots containing 5 acres in area or less),
and the survey was completed on..... (date).
 3. This plat complies with the applicable state statutes and any local ordinances in effect on the date that the governing body gave its final approval.
 4. The monuments depicted on the plat are of the character shown, occupy the positions indicated and are of sufficient number and durability.
- (OR)
4. The monuments depicted on the plat will be of the character shown and occupy the positions indicated by (a day certain) and an appropriate financial guarantee will be posted with the governing body before recordation to ensure the installation of the monuments.
- License Number and Stamp:
(Name of Surveyor)

(Added to NRS by 1977, 1503; A 1979, 440; 1981, 1159; 1989, 791; 1993, 2567; 1997, 1064)

NRS 278.376 Certificate by county or city surveyor or by county or city engineer.

1. A final map presented for filing must include a certificate by the county surveyor or county engineer if a subdivision lies within an unincorporated area, and if a subdivision lies within a city, a certificate by the city surveyor, city engineer or county surveyor when for that purpose appointed by the governing body of the city, stating:
 - (a) That he or she has examined the final map; and
 - (b) That the map is technically correct and that if the monuments have not been set, that a proper performance bond has been deposited guaranteeing their setting on or before a day certain.
2. The person certifying the information required by this section must be licensed as a professional land surveyor or civil engineer pursuant to [chapter 625](#) of NRS.
(Added to NRS by 1977, 1503; A 1989, 792; 1991, 1890; 1997, 1065)

NRS 278.377 Certificates of certain governmental entities required; appeal from adverse decision of Division of Environmental Protection; copies of certain certificates to be furnished to subdivider and purchaser.

1. A final map presented for filing must include a certificate by:
 - (a) The Division of Environmental Protection of the State Department of Conservation and Natural Resources or the district board of health acting pursuant to [NRS 278.335](#) indicating that the final map is approved concerning sewage disposal, water pollution, water quality and water supply facilities. The district board of health may not issue a certificate unless it has received:

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(1) Written verification from the Division of Environmental Protection that the final map has been approved by the Division with regard to water pollution and sewage disposal in accordance with the Nevada Water Pollution Control Law; and

(2) If the final map pertains to a subdivision which is subject to the provisions of NRS 704.6672, written verification from the Public Utilities Commission of Nevada that the final map has been approved by the Public Utilities Commission with regard to continuity and adequacy of water supply or sewer service, or both, as applicable.

(b) The Division of Water Resources of the State Department of Conservation and Natural Resources, showing that the final map is approved by the Division of Water Resources concerning water quantity. If the final map pertains to a subdivision which is subject to the provisions of NRS 704.6672, the Division of Water Resources may not issue a certificate unless it has received written verification from the Public Utilities Commission of Nevada that the final map has been approved by the Public Utilities Commission with regard to continuity and adequacy of water supply or sewer service, or both, as applicable.

2. Any person aggrieved by the issuance or denial of approval with regard to water pollution and sewage disposal by the Division of Environmental Protection may appeal to the State Environmental Commission, which shall affirm, modify or reverse the action of the Division of Environmental Protection. The State Environmental Commission shall adopt regulations providing the time within which appeals must be taken and the manner of taking the appeal to the State Environmental Commission.

3. A copy of the certificate by the Division of Water Resources required by subsection 1 must be furnished to the subdivider who in turn shall provide a copy of the certificate to each purchaser of land before the time the sale is completed. Any statement of approval as required in subsection 1 is not a warranty or representation in favor of any person as to the safety or quantity of such water.

(Added to NRS by 1977, 1504; A 1979, 706, 1919, 1920; 1993, 2568; 2005, 560, 693)

NRS 278.378 Certificate by clerk of governing body, planning commission or other authorized person or agency; clerk to present final map to county recorder for recording.

1. A final map presented to the county recorder for recording must include a certificate by the clerk of the governing body or planning commission, or the director of planning or other authorized person or agency if authorized to take final action by the governing body, stating that the governing body, planning commission, director of planning or other authorized person or agency:

(a) Approved the map;

(b) Accepted or rejected on behalf of the public any parcel of land offered for dedication for public use in conformity with the terms of the offer of dedication; and

(c) If applicable, determined that a public street, easement or utility easement that will not remain in effect after a merger and resubdivision of parcels conducted pursuant to NRS 278.4925, has been vacated or abandoned in accordance with NRS 278.480.

2. The director of planning or, if there is no director of planning, the clerk of the governing body shall certify on the final map that it substantially complies with the tentative map and all conditions have been met.

3. The clerk of the governing body or planning commission shall cause the approved final map to be presented to the county recorder for recording.

(Added to NRS by 1977, 1504; A 1985, 566; 1987, 662; 1999, 788; 2001, 1759)

NRS 278.380 Approval of final map: General requirements; acceptance of dedications; imposition and appeal of requirements for improvements and security.

1. After receipt of the final map:

(a) The governing body or planning commission, at its next meeting; or

(b) If authorized by the governing body, the director of planning or other authorized person or agency, within 10 days after the map is accepted as a complete application by the governing body, planning commission, the director of planning or other authorized person or agency,

shall approve the map if it conforms to all the requirements of NRS 278.010 to 278.630, inclusive, and of any local ordinance applicable at the time of approval of the final map, or any rulings made thereunder.

2. The governing body, planning commission or director of planning or other authorized person or agency shall at that time also accept or reject all offers of dedication and may, as a condition precedent to the acceptance of streets or easements, require that the subdivider improve or agree to improve the streets or easements.

3. If an agreement for a required improvement is entered into, the governing body or planning commission may require that the agreement be secured by a good and sufficient bond or other security in the amount determined by the governing body, planning commission or director of planning or other authorized person or agency.

4. Any requirement imposed by the planning commission, director of planning or other authorized person or agency pursuant to this section may be appealed in accordance with the ordinance adopted pursuant to NRS 278.3195. If such an appeal is filed, the limit on time to approve or disapprove a final map in subsection 1 is extended until 10 days after:

(a) The decision of the governing body on the appeal; or

(b) The decision of the district court, if the decision of the governing body is appealed to the district court.

[24:110:1941; 1931 NCL § 5063.23]—(NRS A 1977, 1500; 1981, 1183; 1985, 566; 1987, 662; 1997, 2426; 2001, 2811)

NRS 278.385 Approval of final map: Submission of plans to install water meters. The governing body, planning commission or director of planning or other authorized person or agency shall not approve any final map for a subdivision served by a public water system which it receives after May 15, 1977, unless the subdivider has submitted plans which provide for the installation of water meters or other devices which will measure water delivered to each water user in the subdivision.

(Added to NRS by 1977, 1401; A 1987, 662; 1997, 2427)

NRS 278.390 Title to dedicated property passes when final map recorded; offer of dedication may remain open. Title to property dedicated or accepted for streets and easements passes when the final map is recorded. If at the time the final map is approved any streets are rejected, the offer of dedication shall be deemed to remain open and the governing body or planning commission may by resolution at any later date, and without further action by the subdivider, rescind its action and accept and open the streets for public use. Such an acceptance must be recorded in the office of the county recorder and be so noted by the recorder on the subdivision plat, if the county recorder does not maintain a cumulative index for such plats and amendments. If such an index is maintained, the county recorder shall direct an appropriate entry for the acceptance or amendment.

[25:110:1941; 1931 NCL § 5063.24]—(NRS A 1977, 1501; 1987, 379, 662, 664; 1997, 2427)

NRS 278.450 Fee for recording final map. For the recordation of any final map, the county recorder shall collect a fee of \$50 for the first sheet of the map and \$10 for each additional sheet. The fee must be deposited in the general fund of the county where

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it is collected.

[32:110:1941; 1931 NCL § 5063.31]—(NRS A 1973, 1773; 1975, 1425; 1977, 1504; 1993, 1357; 2001, 3217)

NRS 278.460 Requirements for recording final map; county recorder to provide copy of final map or access to digital final map to county assessor.

1. A county recorder shall not record any final map unless the map:
 - (a) Contains or is accompanied by the report of a title company and all the certificates of approval, conveyance and consent required by the provisions of NRS 278.374 to 278.378, inclusive, and by the provisions of any local ordinance; and
 - (b) Is accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid and that the full amount of any deferred property taxes for the conversion of the property from agricultural use has been paid pursuant to NRS 361A.265.
 2. The provisions of NRS 278.010 to 278.630, inclusive, do not prevent the recording, pursuant to the provisions of NRS 278.010 to 278.630, inclusive, and any applicable local ordinances, of a map of any land which is not a subdivision, nor do NRS 278.010 to 278.630, inclusive, prohibit the recording of a map in accordance with the provisions of any statute requiring the recording of professional land surveyor's records of surveys.
 3. A county recorder shall accept or refuse a final map for recordation within 10 days after its delivery to the county recorder.
 4. A county recorder who records a final map pursuant to this section shall, within 7 working days after he or she records the final map, provide to the county assessor at no charge:
 - (a) A duplicate copy of the final map and any supporting documents; or
 - (b) Access to the digital final map and any digital supporting documents. The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.
- [18.2:110:1941; added 1947, 834; 1943 NCL § 5063.17b]—(NRS A 1973, 1773; 1977, 1504; 1989, 500; 1991, 1383; 1993, 2569; 1997, 1584; 2001, 1559, 1760; 2003, 2785; 2009, 834)

Parcel Maps

NRS 278.461 General requirements; exemptions.

1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into four lots or less shall:
 - (a) Prepare a parcel map and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its designated representative or, if there is no planning commission, with the clerk of the governing body; and
 - (b) Pay a filing fee in an amount determined by the governing body.

↪ unless those requirements are waived or the provisions of NRS 278.471 to 278.472, inclusive, apply. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid, and by the affidavit of the person who proposes to divide the land stating that the person will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the person who proposes to divide the land or any successor in interest.
2. In addition to any other requirement set forth in this section, a person who is required to prepare a parcel map pursuant to subsection 1 shall provide a copy of the parcel map to the Division of Water Resources of the State Department of Conservation and Natural Resources and obtain a certificate from the Division indicating that the parcel map is approved as to the quantity of water available for use if:
 - (a) Any parcel included in the parcel map:
 - (1) Is within or partially within a basin designated by the State Engineer pursuant to NRS 534.120 for which the State Engineer has issued an order requiring the approval of the parcel map by the State Engineer; and
 - (2) Will be served by a domestic well; and
 - (b) The dedication of a right to appropriate water to ensure a sufficient supply of water is not required by an applicable local ordinance.
3. If the parcel map is submitted to the clerk of the governing body, the clerk shall submit the parcel map to the governing body at its next regular meeting.
4. A common-interest community consisting of four units or less shall be deemed to be a division of land within the meaning of this section, but need only comply with this section and NRS 278.371, 278.373 to 278.378, inclusive, 278.462, 278.464 and 278.466.
5. A parcel map is not required when the division is for the express purpose of:
 - (a) The creation or realignment of a public right-of-way by a public agency.
 - (b) The creation or realignment of an easement.
 - (c) An adjustment of the boundary line between two abutting parcels or the transfer of land between two owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.
 - (d) The purchase, transfer or development of space within an apartment building or an industrial or commercial building.
 - (e) Carrying out an order of any court or dividing land as a result of an operation of law.
6. A parcel map is not required for any of the following transactions involving land:
 - (a) The creation of a lien, mortgage, deed of trust or any other security instrument.
 - (b) The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity.
 - (c) Conveying an interest in oil, gas, minerals or building materials, which is severed from the surface ownership of real property.
 - (d) Conveying an interest in land acquired by the Department of Transportation pursuant to chapter 408 of NRS.
 - (e) Filing a certificate of amendment pursuant to NRS 278.473.
7. When two or more separate lots, parcels, sites, units or plots of land are purchased, they remain separate for the purposes of this section and NRS 278.468, 278.590 and 278.630. When the lots, parcels, sites, units or plots are resold or conveyed they are exempt from the provisions of NRS 278.010 to 278.630, inclusive, until further divided.
8. Unless a method of dividing land is adopted for the purpose or would have the effect of evading this chapter, the provisions for the division of land by a parcel map do not apply to a transaction exempted by paragraph (c) of subsection 1 of NRS 278.320.
9. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

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[27.1:110:1941; added 1947, 834; 1943 NCL § 5063.26a]—(NRS A 1973, 453, 1338; 1975, 1564; 1977, 1508; 1979, 1499; 1983, 251; 1985, 709; 1989, 501; 1991, 583, 1383, 1387; 1993, 2569; 2007, 849; 2009, 1114)

NRS 278.462 Requirements which may be imposed by governing body. The governing body or, if authorized by the governing body, the planning commission or other authorized person:

1. May require street grading, drainage provisions and lot designs as are reasonably necessary.
 2. If it anticipates, based upon duly adopted ordinances and plans, that the parcels will be used for residential, commercial or industrial purposes, may require off-site access, street alignment, surfacing and width, water quality, water supply and sewerage provisions only as necessary and consistent with the existing use of any land zoned for similar use which is within 660 feet of the proposed parcel. If the proposed parcels are less than 1 acre, the governing body or, if authorized by the governing body, the planning commission or other authorized person may require additional improvements which are reasonably necessary and consistent with the use of the land if it is developed as proposed.
 3. For a second or subsequent parcel map with respect to:
 - (a) A single parcel; or
 - (b) A contiguous tract of land under the same ownership,
- may require any reasonable improvement, but not more than would be required if the parcel were a subdivision.
(Added to NRS by 1977, 1509; A 1991, 624; 1993, 2570; 1995, 710; 2003, 656)

NRS 278.4625 Minimum size of mobile home lot. The governing body of a city or county may not require the minimum size of a mobile home lot that is individually owned to be larger than the minimum size of a mobile home lot that is leased to a tenant.

(Added to NRS by 1993, 1470)

NRS 278.463 Survey required; exception. Except as otherwise provided in this section, a parcel map must be based on a survey made for that purpose. The county surveyor, city surveyor or professional land surveyor appointed by the governing body, may pursuant to NRS 278.464 waive the requirement of a survey if, in his or her judgment, a survey is not required to accomplish the purposes of NRS 278.010 to 278.630, inclusive.

(Added to NRS by 1975, 1562; A 1993, 2571)

NRS 278.464 Action on parcel map by planning commission, governing body or other authorized person or agency; waiver of requirement for map and survey; consideration of certain criteria authorized in determining approval of certain parcel maps; appeals; certificate of approval of parcel map.

1. Except as otherwise provided in subsection 2, if there is a planning commission, it shall:
 - (a) In a county whose population is 700,000 or more, within 45 days; or
 - (b) In a county whose population is less than 700,000, within 60 days,
2. If the governing body has authorized the planning commission to take final action on a parcel map, the planning commission shall:
 - (a) In a county whose population is 700,000 or more, within 45 days; or
 - (b) In a county whose population is less than 700,000, within 60 days,
3. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or, by authorization of the governing body, the director of planning or other authorized person or agency shall:
 - (a) In a county whose population is 700,000 or more, within 45 days; or
 - (b) In a county whose population is less than 700,000, within 60 days,
4. The planning commission and the governing body or director of planning or other authorized person or agency shall not approve the parcel map unless the person proposing to divide the land has submitted an affidavit stating that the person will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the person proposing to divide the land or any successor in interest.
5. Except as otherwise provided in NRS 278.463, if unusual circumstances exist, a governing body or, if authorized by the governing body, the planning commission may waive the requirement for a parcel map. Before waiving the requirement for a parcel map, a determination must be made by the county surveyor, city surveyor or professional land surveyor appointed by the governing body that a survey is not required. Unless the time is extended by mutual agreement, a request for a waiver must be acted upon:
 - (a) In a county whose population is 700,000 or more, within 45 days; or
 - (b) In a county whose population is less than 700,000, within 60 days,
6. A governing body may consider or may, by ordinance, authorize the consideration of the criteria set forth in subsection 3 of NRS 278.349 in determining whether to approve, conditionally approve or disapprove a second or subsequent parcel map for land that has been divided by a parcel map which was recorded within the 5 years immediately preceding the acceptance of the second or subsequent parcel map as a complete application.
7. An applicant or other person aggrieved by a decision of the governing body's authorized representative or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.
8. If a parcel map and the associated division of land are approved or deemed approved pursuant to this section, the approval must be noted on the map in the form of a certificate attached thereto and executed by the clerk of the governing body, the governing body's designated representative or the chair of the planning commission. A certificate attached to a parcel map pursuant to this subsection must indicate, if applicable, that the governing body or planning commission determined that a public street, easement or

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utility easement which will not remain in effect after a merger and subdivision of parcels conducted pursuant to NRS 278.4925 has been vacated or abandoned in accordance with NRS 278.480.

(Added to NRS by 1977, 1510; A 1989, 792; 1993, 2571; 1997, 2427; 1999, 788, 893; 2001, 64, 1969, 2811; 2007, 850; 2009, 1116; 2011, 1197)

NRS 278.466 Form and contents of parcel map; reference to parcel number and recording.

1. The parcel map must be legibly drawn in permanent black ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for that purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink. The size of each sheet must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom and right edges, and of 2 inches at the left edge along the 24-inch dimension.

2. A parcel map must indicate the owner of any adjoining land, or any right-of-way if owned by the person dividing the land.

3. A parcel map must show:

(a) The area of each parcel or lot and the total area of the land to be divided in the following manner:

- (1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or
- (2) In square feet if the area is less than 2 acres.

(b) All monuments found, set, reset, replaced or removed, describing their kind, size and location and giving other data relating thereto.

(c) Bearing or witness monuments, the basis of bearings, bearing and length of lines and the scale of the map.

(d) The name and legal designation of the tract or grant in which the survey is located and any ties to adjoining tracts.

(e) Any easements granted or dedications made.

(f) Any other data necessary for the intelligent interpretation of the various items and locations of the points, lines and area shown.

4. A parcel map must include:

(a) The memorandum of oaths described in NRS 625.320.

(b) The certificate of the surveyor required pursuant to NRS 278.375.

(c) The certificate of the Division of Water Resources of the State Department of Conservation and Natural Resources issued pursuant to NRS 278.461, if any.

(d) The signature of each owner of the land to be divided.

5. A governing body may by local ordinance require a parcel map to include:

(a) A report from a title company which lists the names of:

- (1) Each owner of record of the land to be divided; and
- (2) Each holder of record of a security interest in the land to be divided,

if the security interest was created by a mortgage or a deed of trust.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a) to the preparation and recording of the parcel map. A holder of record of a security interest may consent by signing:

(1) The parcel map; or

(2) A separate document that is recorded with the parcel map and declares his or her consent to the division of land, if the map contains a notation that a separate document has been recorded to this effect.

6. If the requirement for a parcel map is waived, the governing body may specify by local ordinance the type and extent of information or mapping necessary for the division of land.

7. Reference to the parcel number and recording data of a recorded parcel map is a complete legal description of the land contained in the parcel.

(Part 27.2:110:1941; added 1947, 834; 1943 NCL § 5063.26b)—(NRS A 1960, 138; 1973, 1338; 1975, 1566; 1977, 1510; 1985, 897; 1989, 793; 1993, 2572; 1995, 198; 2007, 852)

NRS 278.467 Preparation, recordation and contents of document which may be required if parcel map waived; statement indicating that property taxes have been paid; county recorder to provide copy of document or access to digital document to county assessor.

1. If the requirement for a parcel map is waived, the authority which granted the waiver may require the preparation and recordation of a document which contains:

(a) A legal description of all parts based on a system of rectangular surveys;

(b) A provision for the dedication or reservation of any road right-of-way or easement; and

(c) The approval of the authority which granted the waiver.

2. If a description by metes and bounds is necessary in describing the parcel division, it must be prepared by a professional land surveyor and bear his or her signature and stamp.

3. The person preparing the document may include the following statement:

This document was prepared from existing information (identifying it and stating where filed and recorded), and the undersigned assumes no responsibility for the existence of monuments or correctness of other information shown on or copied from any such prior documents.

4. A document recorded pursuant to this section must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

5. A county recorder who records a document pursuant to this section shall, within 7 working days after he or she records the document, provide to the county assessor at no charge:

(a) A duplicate copy of the document; or

(b) Access to the digital document. The document must be in a form that is acceptable to the county recorder and the county assessor.

(Added to NRS by 1977, 1511; A 1989, 501, 794; 1991, 1384; 1993, 2573; 2001, 1560; 2003, 2786)

NRS 278.468 Duties of preparer of parcel map upon approval; duties of county recorder.

1. If a parcel map is approved or deemed approved pursuant to NRS 278.464, the preparer of the map shall:

(a) Except as otherwise provided in subsection 2, cause the approved map to be recorded in the office of the county recorder within 1 year after the date the map was approved or deemed approved, unless the governing body establishes by ordinance a longer

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period, not to exceed 2 years, for recording the map. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

(b) Pay a fee of \$17 for the first sheet of the map plus \$10 for each additional sheet to the county recorder for filing and indexing.

2. In a county whose population is less than 100,000, if the parcel map shows an area totaling 50 acres or more that is subject to a conservation easement, the preparer of the map shall cause the approved map to be recorded in the office of the county recorder within 3 years after the date the map was approved or deemed approved, unless the governing body grants an extension of time for recording the map, which may not exceed 1 year. As used in this subsection, "conservation easement" means an easement that permanently preserves or protects open space, a floodplain or agricultural land from being parceled, subdivided or otherwise developed in a manner incompatible with the preservation or protection of the open space, floodplain or agricultural land.

3. Upon receipt of a parcel map, the county recorder shall file the map in a suitable place. The county recorder shall keep proper indexes of parcel maps by the name of grant, tract, subdivision or United States subdivision.

4. A county recorder who records a parcel map pursuant to this section shall, within 7 working days after he or she records the parcel map, provide to the county assessor at no charge:

- (a) A duplicate copy of the parcel map and any supporting documents; or
- (b) Access to the digital parcel map and any digital supporting documents. The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.

[Part 27.2:110:1941; added 1947, 834; 1943 NCL § 5063.26b]—(NRS A 1969, 255; 1973, 1339; 1975, 757; 1981, 214; 1993, 1357, 2574; 1995, 710; 1997, 2428; 1999, 895; 2001, 1560, 3217; 2003, 2786; 2011, 695)

NRS 278.469 Map to indicate record of survey not in conflict with planning and zoning requirements. If a record of survey contains two or more lots or parcels, the surveyor or a person for whom the record of survey is made shall place upon the map thereof a statement of the facts which will clearly show that such record of survey is not in conflict with the requirements of NRS 278.010 to 278.630, inclusive, and the regulations of transactions pertaining thereto shall be complied with.

[Part 27.2:110:1941; added 1947, 834; 1943 NCL § 5063.26b]—(NRS A 1973, 1339; 1977, 1511)—(Substituted in revision for NRS 278.540)

Division of Land Into Large Parcels

NRS 278.471 Divisions of land subject to NRS 278.471 to 278.4725, inclusive; exemption.

1. Except as provided in subsections 2 and 3, a proposed division of land is subject to the provisions of NRS 278.471 to 278.4725, inclusive, if each proposed lot is at least:

- (a) One-sixteenth of a section as described by a government land office survey; or
 - (b) Forty acres in area, including roads and easements.
2. The governing body of a city, the board of county commissioners with respect to the unincorporated area, may by ordinance elect to make NRS 278.471 to 278.4725, inclusive, apply to each proposed division of land where each proposed lot is at least:

- (a) One-sixty-fourth of a section as described by a government land office survey; or
 - (b) Ten acres in area, including roads and easements.
3. A proposed division of land into lots or parcels, each of which contains not less than one section or 640 acres, is not subject to NRS 278.471 to 278.4725, inclusive.

(Added to NRS by 1979, 1504)

NRS 278.4713 Preparation, contents and filing of tentative map; affidavit required.

1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

- (a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission;
- (b) Submit an affidavit stating that the person will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the person who proposes to make a division of land or any successor in interest; and
- (c) Pay a filing fee of no more than \$750 set by the governing body.

2. This map must be:

- (a) Entitled "Tentative Map of Division into Large Parcels"; and
- (b) Prepared and certified by a professional land surveyor.

3. This map must show:

- (a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.
- (b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

4. The planning commission and the governing body or its authorized representative shall not approve the tentative map unless the person proposing to divide the land has submitted an affidavit stating that the person will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the person proposing to divide the land or any successor in interest.

(Added to NRS by 1979, 1504; A 1989, 794; 1993, 2574; 1997, 2429; 1999, 895; 2003, 2347; 2007, 1381; 2009, 1117)

NRS 278.4715 Waiver of requirement to file tentative map; designation of easements.

1. The planning commission or, if there is no planning commission, the governing body or its authorized representative may waive the requirement of filing the tentative map.

2. If the tentative map is filed with the planning commission or with the governing body or its authorized representative, the planning commission or the governing body or its authorized representative may within 60 days after the filing of the tentative map

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designate the location and width of any easements for roads and public utilities as shown on the master plan if there is one applicable to the area to be divided, or designate the location and width of any easements for roads and public utilities which may be reasonably necessary to serve the area to be divided if there is no master plan.

3. The planning commission or the governing body or its authorized representative shall not designate an easement after the expiration of 60 days from the filing of the tentative map.

(Added to NRS by 1979, 1505; A 1997, 2429)

NRS 278.472 Final map: Filing; form and contents.

1. After the planning commission or the governing body or its authorized representative has approved the tentative map or waived the requirement of its filing, or 60 days after the date of its filing, whichever is earlier, the person who proposes to divide the land may file a final map of the division with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

2. This map must be:

(a) Entitled "Map of Division into Large Parcels."

(b) Filed with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission not later than 1 year after the date that the tentative map was first filed with the planning commission or the governing body or its authorized representative or that the requirement of its filing was waived.

(c) Prepared by a professional land surveyor.

(d) Based upon an actual survey by the preparer and show the date of the survey and contain the certificate of the surveyor required pursuant to NRS 278.375.

(e) Clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for this purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink.

(f) Twenty-four by 32 inches in size with a marginal line drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

(g) Of scale large enough to show clearly all details.

3. The particular number of the sheet and the total number of sheets comprising the map must be stated on each of the sheets, and its relation to each adjoining sheet must be clearly shown.

4. This map must show and define:

(a) All subdivision lots by the number and actual acreage of each lot.

(b) Any roads or easements of access which exist and which the owner intends to offer for dedication, any roads or easements of access which are shown on the applicable master plan and any roads or easements of access which are specially required by the planning commission or the governing body or its authorized representative.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(Added to NRS by 1979, 1505; A 1989, 502, 795; 1991, 280, 1384; 1993, 2575; 1997, 2430; 2003, 2348; 2007, 1382)

NRS 278.4725 Final map: Action by planning commission or governing body; appeal; procedures in event of disapproval; conditions for approval; filing; contents; fee for recording; county recorder to provide copy of final map or access to digital final map to county assessor.

1. Except as otherwise provided in this section, if the governing body has authorized the planning commission to take final action on a final map, the planning commission shall approve, conditionally approve or disapprove the final map, basing its action upon the requirements of NRS 278.472:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days,

after accepting the final map as a complete application. The planning commission shall file its written decision with the governing body. Except as otherwise provided in subsection 5, or unless the time is extended by mutual agreement, if the planning commission is authorized to take final action and it fails to take action within the period specified in this subsection, the final map shall be deemed approved unconditionally.

2. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or its authorized representative shall approve, conditionally approve or disapprove the final map, basing its action upon the requirements of NRS 278.472:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days,

after the final map is accepted as a complete application. Except as otherwise provided in subsection 5 or unless the time is extended by mutual agreement, if the governing body or its authorized representative fails to take action within the period specified in this subsection, the final map shall be deemed approved unconditionally.

3. An applicant or other person aggrieved by a decision of the authorized representative of the governing body or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

4. If the map is disapproved, the governing body or its authorized representative or the planning commission shall return the map to the person who proposes to divide the land, with the reason for its action and a statement of the changes necessary to render the map acceptable.

5. If the final map divides the land into 16 lots or more, the governing body or its authorized representative or the planning commission shall not approve a map, and a map shall not be deemed approved, unless:

(a) Each lot contains an access road that is suitable for use by emergency vehicles; and

(b) The corners of each lot are set by a professional land surveyor.

6. If the final map divides the land into 15 lots or less, the governing body or its authorized representative or the planning commission may, if reasonably necessary, require the map to comply with the provisions of subsection 5.

7. Upon approval, the map must be filed with the county recorder. Filing with the county recorder operates as a continuing:

(a) Offer to dedicate for public roads the areas shown as proposed roads or easements of access, which the governing body may accept in whole or in part at any time or from time to time.

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- (b) Offer to grant the easements shown for public utilities, which any public utility may similarly accept without excluding any other public utility whose presence is physically compatible.
8. The map filed with the county recorder must include:
- (a) A certificate signed and acknowledged by each owner of land to be divided consenting to the preparation of the map, the dedication of the roads and the granting of the easements.
- (b) A certificate signed by the clerk of the governing body or authorized representative of the governing body or the secretary to the planning commission that the map was approved, or the affidavit of the person presenting the map for filing that the time limited by subsection 1 or 2 for action by the governing body or its authorized representative or the planning commission has expired and that the requirements of subsection 5 have been met. A certificate signed pursuant to this paragraph must also indicate, if applicable, that the governing body or planning commission determined that a public street, easement or utility easement which will not remain in effect after a merger and subdivision of parcels conducted pursuant to NRS 278.4925, has been vacated or abandoned in accordance with NRS 278.480.
- (c) A written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.
9. A governing body may by local ordinance require a final map to include:
- (a) A report from a title company which lists the names of:
- (1) Each owner of record of the land to be divided; and
 - (2) Each holder of record of a security interest in the land to be divided, if the security interest was created by a mortgage or a deed of trust.
- (b) The signature of each owner of record of the land to be divided.
- (c) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a), to the preparation and recording of the final map. A holder of record may consent by signing:
- (1) The final map; or
 - (2) A separate document that is filed with the final map and declares his or her consent to the division of land.
10. After a map has been filed with the county recorder, any lot shown thereon may be conveyed by reference to the map, without further description.
11. The county recorder shall charge and collect for recording the map a fee set by the board of county commissioners of not more than \$50 for the first sheet of the map plus \$10 for each additional sheet.
12. A county recorder who records a final map pursuant to this section shall, within 7 working days after he or she records the final map, provide to the county assessor at no charge:
- (a) A duplicate copy of the final map and any supporting documents; or
 - (b) Access to the digital final map and any digital supporting documents. The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.
- (Added to NRS by 1979, 1506; A 1979, 1506; 1989, 503; 1991, 281, 1385; 1993, 1358, 2576; 1995, 199, 710; 1997, 2430; 1999, 790; 2001, 1561, 1970, 2813, 3218; 2003, 227, 2787; 2011, 1199)

Amendment of Plats, Surveys and Maps

NRS 278.473 Certificate of amendment to correct or amend recorded plat, survey or map if correction or amendment does not change location of survey monument, property line or boundary line: Request; preparation, contents and recordation.

1. To correct an error or omission in or to amend any recorded subdivision plat, record of survey, parcel map, map of division into large parcels or reversionary map, if the correction or amendment does not change or purport to change the physical location of any survey monument, property line or boundary line, a certificate of amendment must be requested and recorded pursuant to this section.
2. A certificate of amendment may be requested by:
- (a) The county surveyor to make a correction or amendment which affects land located within the boundaries of an unincorporated area or Carson City;
 - (b) The city surveyor or a professional land surveyor appointed by the governing body of the city to make a correction or amendment which affects land located within an incorporated city;
 - (c) The planning commission if authorized by local ordinance; or
 - (d) A professional land surveyor registered pursuant to chapter 625 of NRS.
3. If a certificate of amendment is requested to correct or amend a record of survey, the surveyor who:
- (a) Requests the certificate of amendment; or
 - (b) Is responsible for an error or omission which is to be corrected,
- shall prepare and record the certificate of amendment within 90 days after the surveyor receives notification of the request made pursuant to subsection 2. If the surveyor is no longer professionally active, the county surveyor, city surveyor or a professional land surveyor appointed by the governing body shall prepare and file the certificate.
4. The certificate of amendment must:
- (a) Be in the form of a letter addressed to the county surveyor, the city surveyor, a professional land surveyor appointed by the governing body of the city or, if authorized by local ordinance, the planning commission;
 - (b) Specify the title, legal description and recording date of the document being corrected or amended;
 - (c) Concisely state the data being changed and the correction or amendment;
 - (d) Be dated, signed and sealed by the surveyor preparing the certificate; and
 - (e) Contain the following statement, dated and signed by the county surveyor, city surveyor or a professional land surveyor appointed by the governing body:

I hereby certify that I have examined the certificate of amendment and that the changes to the original document specified therein are provided for in applicable sections of NRS 278.010 to 278.630, inclusive, 625.340 to 625.380, inclusive, and local ordinances adopted pursuant thereto, and I am satisfied that this certificate of amendment so amends or corrects the document as to make it technically correct.

5. Upon the recording of a certificate of amendment, the county recorder shall cause a proper notation to be entered upon all recorded sheets of the original document being amended, if the county recorder does not maintain a cumulative index for such maps and amendments. If such an index is maintained, the county recorder shall direct an appropriate entry for the amendment.
- (Added to NRS by 1977, 1505; A 1979, 1500; 1987, 380; 1989, 795; 1991, 1151; 1993, 2577; 1997, 2432)

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(b) Access to the digital map and any digital supporting documents. The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.

[31:110:1941; 1931 NCL § 5063.30]—(NRS A 1973, 1774; 1977, 1507; 1979, 1502; 1981, 1160; 1985, 1689; 1987, 381; 1991, 1152, 1891; 1993, 580, 2581; 1997, 2437; 1999, 792; 2001, 1564; 2003, 2790)

NRS 278.4925 Merger and resubdivision of land without reversion to acreage: Authority; procedure; delineation of remaining streets and easements; crediting of security.

1. An owner or governing body that owns two or more contiguous parcels may merge and resubdivide the land into new parcels or lots without reverting the preexisting parcels to acreage pursuant to NRS 278.490.

2. Parcels merged without reversion to acreage pursuant to this section must be resubdivided and recorded on a final map, parcel map or map of division into large parcels, as appropriate, in accordance with NRS 278.320 to 278.4725, inclusive, and any applicable local ordinances. The recording of the resubdivided parcels or lots on a final map, parcel map or map of division into large parcels, as appropriate, constitutes the merging of the preexisting parcels into a single parcel and the simultaneous resubdivision of that single parcel into parcels or lots of a size and description set forth in the final map, parcel map or map of division into large parcels, as appropriate.

3. With respect to a merger and resubdivision of parcels pursuant to this section, the owner or governing body conducting the merger and resubdivision shall ensure that streets, easements and utility easements, whether public or private, that will remain in effect after the merger and resubdivision, are delineated clearly on the final map, parcel map or map of division into large parcels, as appropriate, on which the merger and resubdivision is recorded.

4. If a governing body required an owner or governing body to post security to secure the completion of improvements to two or more contiguous parcels and those improvements will not be completed because of a merger and resubdivision conducted pursuant to this section, the governing body shall credit on a pro rata basis the security posted by the owner or governing body toward the same purposes with respect to the parcels as merged and resubdivided.

(Added to NRS by 1999, 784)

NRS 278.4955 Requirements for submitting map of reversion.

1. The map of reversion submitted pursuant to NRS 278.490 must contain the appropriate certificates required by NRS 278.376 and 278.377 for the original division of the land, any agreement entered into for a required improvement pursuant to NRS 278.380 for the original division of the land, and the certificates required by NRS 278.496 and 278.4965. If the map includes the reversion of any street or easement owned by a city, a county or the State, the provisions of NRS 278.480 must be followed before approval of the map.

2. The final map of reversion must:

(a) Be prepared by a professional land surveyor licensed pursuant to chapter 625 of NRS. The professional land surveyor shall state in his or her certificate that the map has been prepared from information on a recorded map or maps that are being reverted. The professional land surveyor may state in the certificate that he or she assumes no responsibility for the existence of the monuments or for correctness of other information shown on or copied from the document. The professional land surveyor shall include in the certificate information which is sufficient to identify clearly the recorded map or maps being reverted.

(b) Be clearly and legibly drawn in black permanent ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such a purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with black permanent ink.

3. The size of each sheet of the final map must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom and right edges, and of 2 inches at the left edge along the 24-inch dimension.

4. The scale of the final map must be large enough to show all details clearly, and enough sheets must be used to accomplish this end.

5. The particular number of the sheet and the total number of sheets comprising the final map must be stated on each of the sheets, and its relation to each adjoining sheet must be clearly shown.

6. Each future conveyance of the reverted property must contain a metes and bounds legal description of the property and must include the name and mailing address of the person who prepared the legal description.

(Added to NRS by 1993, 2558; A 1997, 1066, 2438; 2003, 2791)

NRS 278.496 Requirements for presenting map of reversion for recording.

1. A map of reversion presented for recording must include a certificate signed and acknowledged, pursuant to NRS 240.166, 240.1665 or 240.167, by each person who is an owner of the land consenting to the preparation and recordation of the map for the purpose of reversion.

2. A governing body may by ordinance require a map of reversion presented for recording to include:

(a) A report from a title company which lists the names of:

(1) Each owner of record of the land; and

(2) Each holder of record of a security interest in the land, if the security interest was created by a mortgage or a deed of trust.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a), to the preparation and recordation of the map of reversion. A holder of record of a security interest may consent by signing:

(1) The map of reversion; or

(2) A separate document that is recorded with the map of reversion and declares his or her consent to the reversion, if the map contains a notation that a separate document has been recorded to this effect.

3. For the purpose of this section, the following shall be deemed not to be an interest in land:

(a) A lien for taxes or special assessments.

(b) A trust interest under a bond indenture.

(Added to NRS by 1993, 2559)

NRS 278.4965 Map of reversion must include certificate of approval from appropriate person. A map of reversion presented to the county recorder for recording must include a certificate by the clerk of the governing body or the planning commission or other authorized person stating that it approved the map.

(Added to NRS by 1993, 2559)

Parks and Playgrounds for Residential Developments

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EXHIBIT M

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TENTATIVE MAP

A. Purpose

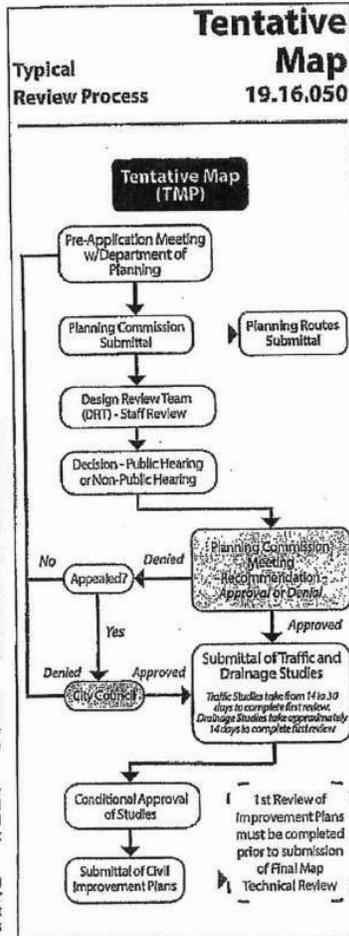
The provisions of this Section set forth the administrative and procedural requirements for the subdivision of land by means of a tentative map. The tentative map process requires Planning Commission review and action.

B. Applicability

Whenever a division of land is proposed that does not meet the criteria for a parcel map, the applicant shall file a tentative map of the proposed subdivision with the Secretary of the Planning Commission at the office of the Department. The preparation and submission of a tentative map shall be in compliance with the provisions of NRS Chapter 278 and any additional regulations contained in this Title.

C. Conformance with Zoning Requirements

1. No application for a tentative map is eligible for approval unless it is determined that the proposed subdivision will be in conformance with all applicable zoning regulations, including all applicable provisions of this Title; the zoning classification of the site; and all zoning, master plan or site plan approvals for the site, including all applicable subdivisions that are in effect. If the proposed subdivision will not so conform, the Director is under no obligation to accept or process an application for a tentative map until the applicant has made any necessary application for rezoning or site development plan review, or both; the Planning Commission has made a recommendation in support of the zoning-related application(s); and a City Council hearing date has been set for the zoning-related application(s).
2. Except as otherwise provided in Paragraph (4) of this Section (C), in cases where approval of a rezoning or a site development plan review by the City Council is necessary before a tentative map can be approved:
 - a. The Director shall withhold presentation of the tentative map to the Planning Commission until at least two weeks after the City Council's final approval of the rezoning or site development plan review application, or both; and
 - b. The Director may extend the time for reviewing the tentative map if the Council's rezoning or site development plan approval requires that additional issues be addressed or changes



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made before map approval can occur.

3. Except as otherwise provided in Paragraph (4) of this Section (C), in cases where a rezoning is unnecessary and the Planning Commission is authorized to take final action on a site development plan review, the Director shall withhold presentation of the tentative map to the Planning Commission until at least two weeks after the Planning Commission has approved the application for site development plan review.
4. Notwithstanding any provision of Paragraphs (2) and (3) above relative to the timing of the presentation of a tentative map, a subdivider or representative may elect an alternative procedure whereby a tentative map application may be submitted and processed concurrent with any related application for rezoning or site development plan review. The intent to elect the alternative procedure should be indicated at the time of the pre-application conference and the election must be made at the time of submittal of the tentative map application, on a form provided by the Department. In the case of any such election:
 1. The election to use the alternative procedure and the Director's acceptance of a tentative map application as complete shall be deemed to constitute the parties' mutual consent to extend the time limits pursuant to NRS 278.350, and
 2. Final action on the tentative map may not occur until final action has been taken on any related rezoning application, site development plan review, or both.
5. The Director's obligation to withhold action or ability to extend time under Paragraph (2) is subject to the time limits referred to in NRS 278.350, as they may be extended by mutual consent. In addition, the Director's failure to comply with any obligation described in this Subsection shall not be deemed a violation subject to criminal or administrative action and shall not invalidate any action taken.

(Ed. 6/23/52, 10/02/13)

D. Procedure.

Tentative maps shall be processed in accordance with the procedures and standards set forth in the remaining sections of this Section.

E. Pre-Application Conference Required

Before submitting an application for tentative map, the subdivider or a representative shall attend a pre-application conference with the Department to obtain the Department's assessment of the proposed tentative map and notice of any changes necessary to bring the application into conformance with City requirements.

F. Application -- Form -- Copies

A complete application for a tentative map shall be made to the Planning Commission on a separate application form to be provided by the Department. An application for a tentative map shall be accompanied by a sufficient number of copies, as determined by the Director, each twenty-four by thirty-six inches in size, of a tentative map drawing and contain the items set forth in Appendix B to this Title. The drawing shall be made at an engineer's scale and should be such that it will fill no less than seventy-five percent of the sheet. A scale of 1"=30' is preferred, with 1"=40', 1"=100' and 1"=200' the next most preferred scales. If the Director determines that the tentative map will not fit on a twenty-four by thirty-six inch drawing such that all pertinent information is clearly legible, the Director may approve the use of a larger map size that does not exceed thirty-six by forty-eight inches.

G. Application -- Determination of Completeness

The Director shall determine if the application is complete and includes all required data and information necessary to conduct a complete evaluation. Within five working days after submittal of a tentative map application, the Director shall:

1. Accept the application as complete and begin the review process, scheduling the map for consideration on the next available Planning Commission agenda; or
2. Provide written notice to the applicant specifying the deficiencies of the application. Such notice is sufficient if it has been delivered, mailed or faxed to the applicant. The Director shall take no further action on the application until the deficiencies are remedied.

H. Application -- Review

Upon determining that the tentative map application is complete, the Director shall cause review of the application and preparation of a staff report. The Director shall coordinate the review of the application by other departments and shall incorporate appropriate recommendations by those Departments into the staff report.



The report shall be made available to the applicant, if possible, at least five days before the Planning Commission meeting for which the application is scheduled to be heard. The Director shall recommend any changes in the design of the proposed subdivision necessary to achieve the purposes of this Title.

I. Tentative Map Requirements

A tentative map shall indicate, without limitation:

1. Demonstration of compliance with the necessary traffic circulation and access requirements set forth in this Title, including those relating to streets, access points, driveways, and site visibility restriction zones, as well as compliance with LVMC 19.02.170 and 19.02.280;
2. Demonstration, by means of preliminary drawings, of compliance with good traffic control practices and applicable standards and ordinances, as determined by the Traffic Engineer;
3. Demonstration of compliance with the requirements of the Title regarding residential parking, walls and landscaping; and
4. Demonstration of how each parcel will be served by the public sewer system including the proposed sanitary sewer layout.
5. Any and all trails that are necessary to be provided in accordance with the City's Master Plan and ordinances.

J. Proposed Perimeter Grades

1. It is the intent of the City to minimize to the extent possible those instances in which grade changes result in large expenses of monotonous walls facing adjacent property or public streets. Type "B" and Type "C" drainage and cross-fall streets, while undesirable, may be allowed on a case-by-case basis as measures to mitigate large expenses of monotonous walls.
2. Each tentative map application must include, for all sites, a legible schematic cross section drawing which:
 - a. Has a minimum size of eleven inches by seventeen inches and a maximum size of twenty-four inches by thirty-six inches;
 - b. Has an exaggerated vertical scale, with labeled horizontal and vertical dimensions at the property lines;

- c. Shows the maximum grade differentials;
- d. Includes the existing and proposed condition elevations on the cross sections;
- e. Includes cross sections that extend a minimum of one hundred feet beyond the limits of the project at each property line, showing the location and finish floor elevations of adjacent structures. Measurements shall be made from the centerline of adjacent streets, or from the property line where no street exists. The Department may require cross sections for up to one hundred feet beyond the property line or the centerline of an abutting street, whichever is greater; and
- f. Includes cross sections, to scale, for maximum wall heights, typical wall heights and wall elevations.
3. When considering the tentative map application, the Planning Commission shall take into account the submitted plan of proposed project perimeter grades. Approval of the tentative map shall constitute approval of the associated plan of project perimeter grades.
4. If the final drainage and grading plan for the project changes an approved plan for project perimeter grades by more than two feet in either direction, as determined by the Director or by the Director of Public Works, the tentative map and a new project perimeter grade plan must be reviewed and approved by the Planning Commission as in the first instance. Nothing in this Paragraph (4) affects the application of the maximum retaining wall height limitations contained in this Title.

K. Parks And Playgrounds In Lieu Of Residential Construction Tax

A subdivider who desires to construct parks or playgrounds in lieu of paying the residential construction tax described in LVMC Chapter 4.24 shall show such parks or playgrounds on the tentative map, demonstrating that the parks and playgrounds will conform to all applicable City standards, regulations, plans and policies regarding the construction of such facilities in lieu of paying the tax.

L. Forwarding Copy of Map

1. In connection with an application for tentative map that proposes to subdivide land within one mile of the boundary of an unincorporated area of the county, the City shall forward a copy of



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the proposed map to the Clark County Planning Commission or its designated representative, as required by NRS 278.345.

2. In connection with any application for tentative map, the City shall forward a copy of the proposed map to the Clark County School District and to any general improvement district in which the property is located, as required by NRS 278.346 and 278.347.
3. Comment and action by the agencies described in this Subsection concerning the proposed map shall be in accordance with and subject to the provisions of NRS 278.345 to 278.347, inclusive.

M. Planning Commission Review

The Planning Commission shall conduct its review and take action on the application for tentative map in accordance with NRS Chapter 278, and within the time frames set forth in NRS 278.349 and 278.350.

N. Revisions or Amendments to Tentative Map

In the event that Planning Commission approval of a tentative map is contingent upon significant revisions or amendments, the applicant shall submit to the Director four new prints of the revised tentative map incorporating such revisions or amendments before the submission of an application for final map.

O. Recordation Time Limits

1. If a final map is not approved and recorded within:
 - a. Four years following the date of approval of the tentative map;
 - b. Two years following the date of approval of a previously-recorded final map covering a portion of the tentative map; or
 - c. Two years following an extension of time granted pursuant to Subsection (P) of this Section, the tentative map application and approval shall lapse and a new tentative map shall be required.
2. For a phased project, the first of a series of final maps covering a portion of the approved tentative map must be approved and recorded within four years following the date of approval of the tentative map. Subsequent final maps must be approved and recorded within two years following the date of the approval of the previously recorded final map, unless an extension is granted pursuant to Subsection (P) of this Section, or all further

proceedings concerning the subdivision shall be terminated.

P. Recordation Extension of Time

By delegation, the Director, upon application, may grant a single two-year extension of time within which to present and record a final map or any one of a series of final maps covering a portion of the tentative map, except that no extension may be granted if a final map, or the first in a series of final maps, is not recorded within four years following the date of approval of the tentative map. In order to qualify for an extension of time under this Subsection, application therefore must be made prior to expiration of the approval.

Q. Appeals

Any person aggrieved by the final action of the Planning Commission with respect to a tentative map may appeal that action, in writing, to the City Council within seven days after receiving written notice of the decision. All appeals shall be filed with the Director and be accompanied by a nonrefundable fee as set forth in the fee schedule. The City Council shall hear the appeal within thirty days after the appeal is filed.



EXHIBIT N

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PARCEL MAP

A. Purpose

The provisions of this Section set forth the administrative and procedural requirements for the division of land by a parcel map. The parcel map process does not require Planning Commission or City Council action.

B. Applicability

Whenever a division of land property into four or fewer lots is proposed for purposes of sale, transfer or development, this submittal, approval and recording of a parcel map is required. Parcel maps shall be processed in accordance with the procedures and standards set forth in the remaining sections of this Section.

C. Application - Form and Copies

The owner of property to be divided by means of the parcel map process shall file with the Director an application on a form to be provided by the Department and made available to the public. The complete parcel map application submission shall be accompanied by a sufficient number of copies, as determined by the Director, of a twenty-four by thirty-two inch original of a parcel map drawing and shall contain the items set forth in Appendix A to this Title.

D. Application - Review

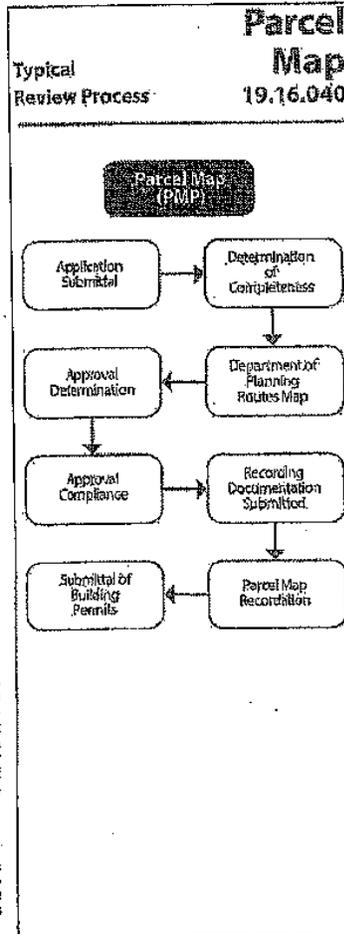
Upon determining that a parcel map application is complete, the Director shall cause review of the application for a parcel map and obtain comments from other affected departments. This review shall be conducted within the time period specified by NRS Chapter 278.

E. Approval - Determination

The Director, in conjunction with the Director of Public Works, shall determine whether or not a parcel map complies with this Section. Upon determining, pursuant to this Section, that all conditions and requirements have been met and that all appropriate certification signatures are complete, the Director and the Director of Public Works shall give final approval for the parcel map, sign the appropriate certifications, and release the parcel map for recording.

F. Approval - Compliance

Approval of a parcel map shall be contingent upon a determination that the map and the proposed development comply with applicable zoning regulations, the provisions of this Title and all requirements set forth in



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Subsections (G) to (S), inclusive, of this Section.

G. Water Supply Systems

Water supply systems shall be installed and maintained in accordance with City standards, Las Vegas Valley Water District standards, Clark County District Board of Health standards or State of Nevada standards, whichever are applicable. Approval of a parcel map does not in any manner ensure the adequacy or availability of future water supplies to service the proposed development.

H. Sanitary Sewer Collection and Disposal Systems

Sanitary sewer collection and disposal systems shall be required, installed and maintained in accordance with City standards. Unless septic systems are permitted by the Clark County Health District, connection to the public sanitary sewer system shall be required. If required improvements are deferred, a public improvements covenant which runs with the land shall be recorded which ensures future installation of any deferred improvements.

I. Public Street Access

All lots resulting from the division of land in accordance with the parcel map process shall have frontage on a public street or access to a public street via a private street or private drive. Public street dedications to ensure lot access or the continuity of necessary public streets adjacent to or through the parcel map site also may be required, as necessary, by the Department of Public Works.

J. Lots Less Than Two And One-Half Acres - Access by Way of All-Weather Street Required

All lots resulting from the division of land in accordance with the parcel map process that are less than two and one-half acres in size shall have access by way of an all-weather street which meets the requirements of the Air Pollution Control Regulations of the Clark County District Board of Health. Proof of legal access to the parcel map site may be required to be submitted prior to approval of the parcel map.

K. Public Improvements

Except as otherwise specifically provided in this Subsection or in a development agreement, all public improvements adjacent to and, if proposed, interior to the parcel map site shall be fully installed, to current City standards, before the parcel map is released for recordation. The Director of Public Works is authorized to allow the installation of public improvements or any

portion thereof to be delayed for any of the following reasons, but only if the applicant provides security, in accordance with Subsection (O), for the installation of all improvements so delayed prior to the release of the parcel map for recordation:

1. The parcel map will create large lots upon which no immediate development is intended;
2. The parcel map sites located more than six hundred sixty feet (one nominal block) from existing full or partial improvements;
3. The parcel map site is located in an area where partial or full public street improvements are not customary;
4. The parcel map site is located in an area where no street improvements currently exist and none have been obligated by means of a public improvements covenant, a covenant running with land agreement, a valid outstanding condition of approval for zoning or site development plan review, a budget appropriation or signed contract or another similar document or evidence of commitment; or
5. Other extenuating site-related circumstances exist.

L. Dust Control Improvements

The applicant shall be responsible for the installation of all dust control improvements that may be required under applicable law, or the contribution of moneys in lieu of improvements, on all public streets adjacent to the parcel map site. Bonds will not be allowed in lieu of improvements for dust control improvements.

M. Private Street Improvements

Private streets shall be constructed to applicable City standards.

N. Flood Control Requirements

A parcel map site two gross acres or larger in size shall comply with the requirements of WMC Title 20, relating to flood control. A parcel map site smaller than two acres gross may be required to meet such requirements if the site is determined by the Department of Public Works to be in an area of known flooding or if the site is in an area of unknown flood potential.

O. Completion of Dedications and Required Improvements

Prior to or concurrent with the release of the parcel map for recordation, all dedications and required improve-



ments shall be completed, unless additional time has been granted pursuant to Subsection (G) for the installation of improvements, and security for their installation has been provided. The installation of improvements shall be secured by means of a recorded covenant running with land agreement or as otherwise provided under UVMC Chapter 19.02.

P. Memorandum of Oaths and Certificate of Surveyor

The parcel map shall include the memorandum of oaths described in NRS 625.320 and the certificate of the surveyor required pursuant to NRS 278.375.

Q. Recording -- Documentation Requirements

A parcel map presented for recording shall include the following items:

1. A report from a title company which lists the names of each owner of record of the land to be divided and each holder of record of a security interest in the land to be divided, if the security interest was created by a mortgage or a deed of trust. The report must be updated as necessary so that it is current within seven days of the date the map is released for recording;
2. The written consent of each holder of record of a security interest described in Paragraph (1), consenting to the preparation and recording of the parcel map. A holder of record may consent by signing the parcel map or a separate document that is filed with the parcel map and that declares his consent to the division of land;
3. Certificates that are in substantial compliance with Appendix E; and
4. All other information required by NRS Chapter 278.

R. Recordation

The parcel map shall be recorded within one year after the map has been approved by the City, or such approval shall become null and void. The approved parcel map and any covenants shall be filed and recorded with the County Recorder prior to the sale or transfer of land that is included within a parcel map. Immediately following recordation of the parcel map, the surveyor (or a designee) shall submit to the Director a reproducible copy of the recorded parcel map or a compatible digital format (or both, if required by the Director).

S. Issuance of Building Permit

No building permit shall be issued for any structure on property within a parcel map land division until:

1. The parcel map has been recorded with the County Recorder;
2. A reproducible copy of the recorded parcel map has been filed in accordance with Subsection (R);
3. All required public streets and easements, including access from public streets to the parcels, have been dedicated; and
4. Required street improvements have been constructed or their construction adequately secured or guaranteed.

T. Appeals

Any person aggrieved by a decision of the Director or the Director of Public Works to approve or deny a parcel map may appeal to the Planning Commission in writing within fifteen days after receiving written notice of the decision. All appeals of parcel map decisions shall be filed with the Director and be accompanied by a nonrefundable fee as set forth in the fee schedule. The Planning Commission shall hear the appeal within thirty days after the appeal is filed. If the appeal is denied, the applicant shall have seven days in which to file an appeal with the City Council. The City Council shall hear the appeal within thirty days after the appeal to the City Council is filed. All appeals granted by the Planning Commission shall be forwarded automatically to the City Council for final action.



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March 16, 2011

City of Las Vegas
Unified Development Code



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EXHIBIT O

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Ann L. Johnson
CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

ROBERT N. PECCOLE and NANCY A. PECCOLE, individuals, and Trustees of the ROBERT N. and NANCY A. PECCOLE FAMILY TRUST,

Plaintiffs,

vs.

FORE STARS, LTD., a Nevada Limited Liability Company; 180 LAND CO., LLC., a Nevada Limited Liability Company; SEVENTY ACRES, LLC., a Nevada Limited Liability Company; EHB COMPANIES, LLC., a Nevada Limited Liability Company; THE CITY OF LAS VEGAS; YOHAN LOWIE, an individual; VICKIE DEHART, an Individual; FRANK PANKRATZ, an individual,

Defendants.

CASE NO. A-16-739654-C
DEPT. NO. VIII

ORDER GRANTING CITY OF LAS VEGAS' MOTION TO DISMISS

Defendant City of Las Vegas' Motion to Dismiss came on for hearing before this Court on October 11, 2016. Robert N. Peccole of Peccole & Peccole, Ltd. appeared on behalf of the Plaintiffs; Philip R. Byrnes, appeared on behalf of the Defendant City of Las Vegas; James J. Jimmerson of the Jimmerson Law Firm, P.C., appeared on behalf of Defendants Fore Stars, Ltd., 180 Land Co., LLC, Seventy Acres, LLC, Yohan Lowie, Vickie DeHart and Frank Pankratz; Steven R. Hackett of Sklar Williams, PLLC appeared on behalf of Defendant EHB Companies, LLC; and Donald H. Williams of Williams & Associates, and Lance C. Earl of Holland & Hart LLP appeared on behalf of Defendants Peccole Nevada Corporation, Bruce Bayne, Laretta P. Bayne, Laretta P. Bayne 1976 Trust, Leann P. Goorjian 1976 Trust, Lisa P. Miller 1976 Trust, Larry Miller, Lisa Miller, William Peccole 1982 Trust, William Peccole and

DOUGLAS E. SMITH
DISTRICT JUDGE
DEPARTMENT EIGHT
LAS VEGAS NV 89155

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Wanda Peccole 1991 Trust, William Peccole and Wanda Peccole 1971 Trust, and the William Peter and Wanda Peccole Family Limited Partnership.

The Court having fully considered the motion, the Plaintiffs' opposition thereto, the City's reply and all other necessary papers on file therein, hearing oral argument, and good cause appearing, finds as follows:

1. The Amended Complaint alleges the following claims against the City of Las Vegas ("City"):

(a) The City Director of Planning certified a parcel map merging three lots constituting the site of Badlands Golf Course. Amended Complaint ¶¶ 47, 49.

(b) The Planning Director did not follow the procedures for a tentative map in certifying the parcel map. Amended Complaint ¶¶ 50, 51.

(c) The City accepted applications for a general plan amendment, zone change and site development review for the site of the Badlands Golf Course and has scheduled a hearing before the Planning Commission on the applications. Amended Complaint ¶ 53.

2. Defendants Fore Stars, Ltd., 180 Land Co., LLC, Seventy Acres LLC, Yohan Lowie, Vickie DeHart and Frank Pankratz filed a Joinder to the City of Las Vegas' Motion to Dismiss Amended Complaint on October 5, 2016.

3. Defendant EHB Companies, LLC filed a Joinder to the City of Las Vegas' Motion to Dismiss Amended Complaint on October 6, 2016.

4. Section 19.16.040(T) of the City's Uniform Development Code ("UDC") provides an administrative appeal process for a person aggrieved by the decision of the Planning Director to approve a parcel map:

Any person aggrieved by a decision of the Director or the Director of Public Works to approve or deny a parcel map may appeal to the Planning Commission in writing within fifteen days after receiving written notice of the decision. All appeals of parcel map decisions shall be filed with the Director and be accompanied by a nonrefundable fee as set forth in the fee schedule. The Planning Commission shall hear the appeal within thirty days after the appeal is filed. If the appeal is denied, the applicant shall have seven days in which to file an appeal with

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the City Council. The City Council shall hear the appeal within thirty days after the appeal to the City Council is filed. All appeals granted by the Planning Commission shall be forwarded automatically to the City Council for final action.

5. A party is required to exhaust available administrative remedies before seeking relief from the district court. *Benson v. State Engineer*, 131 Nev. ___, 358 P.3d 221, 224 (2015). In *Allstate Insurance Co. v. Thorpe*, 123 Nev. 565, 571, 170 P.3d 989, 993-94 (2007), the Nevada Supreme Court stated:

While in the past we have held that the failure to exhaust administrative remedies deprives the district court of subject-matter jurisdiction, more recently, in *City of Henderson v. Kilgore*, we noted that failure to exhaust all available administrative remedies before proceeding in district court renders the matter unripe for district court review. Nevertheless, whether couched in terms of subject-matter jurisdiction or ripeness, a person generally must exhaust all available administrative remedies before initiating a lawsuit, and failure to do so renders the controversy nonjusticiable. The exhaustion doctrine gives administrative agencies an opportunity to correct mistakes and conserves judicial resources, so its purpose is valuable; requiring exhaustion of administrative remedies often resolves disputes without the need for judicial involvement. [Emphasis added.]

6. Plaintiffs failed to exhaust the administrative remedies set forth in UDC 19.16.040(T) prior to filing the instant action.

7. Plaintiffs' failure to exhaust their administrative remedies regarding the approval of the parcel map renders their claims against the City of Las Vegas nonjusticiable.

8. Planning Commission decisions may be challenged in accordance with local ordinances adopted under NRS 278.3195. See *City of North Las Vegas v. Eighth Judicial District Court ex rel. County of Clark*, 122 Nev. 1197, 147 P.3d 1109 (2006). UDC 19.00.080(N) permits any person aggrieved in connection with the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of any provision of the UDC to appeal the decision to the City Council.

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9. City Council decisions also may be challenged in applicable law. NRS 278.0235 permits judicial relief or review of any final action, decision or order of the City Council.

10. In *Eagle Thrifty Drugs & Markets, Inc. v. Hunter Lake Parent Teachers Association*, 85 Nev. 162, 165, 451 P.2d 713, 714 (1969), the Nevada Supreme Court held, in relevant part:

In Nevada it is established that equity cannot directly interfere with, or in advance restrain, the discretion of an administrative body's exercise of legislative power. This means that a court could not enjoin the City of Reno from entertaining Eagle Thrifty's request to review the planning commission recommendation. This established principle may not be avoided by the expedient of directing the injunction to the applicant instead of the City Council. [Citation omitted.]

11. Plaintiffs have not exhausted their administrative remedies regarding the applications pending hearing before the City Council. Plaintiffs' claims regarding the pending applications are nonjusticiable and cannot become justiciable until the completion of the City's administrative procedures and judicial review of the final decision of the Las Vegas City Council pursuant to NRS 278.0235.

12. Plaintiffs contend that the actions of the City violate the Master Declaration of Covenants, Conditions, Restrictions and Easements for Queensridge in effect as of July 25, 2000, when Plaintiffs Robert and Nancy Peccole purchased property within the Queensridge common interest community.

13. UDC 19.00.080(J) provides:

No provision of this Title is intended to interfere with or abrogate or annul any easement, private covenants, deed restriction or other agreement between private parties. In cases in which this Title imposes a greater restriction upon the use of land or structures, the provisions of this Title shall prevail and control. By virtue of this Title, the City is not a party to and has no power or authority to enforce private deed covenants, conditions or restrictions. Private covenants or deed restrictions which impose conditions more restrictive than those imposed by this Title, or which impose restrictions not covered by this Title, are not implemented nor superseded by this Title.

1 See also *Western Land Co. v. Truskolaski*, 88 Nev. 200, 495 P.2d 624 (1972) (a zoning
2 ordinance cannot override privately-placed restrictions, and a trial court cannot be compelled to
3 invalidate restrictive covenants merely because of a zoning change). The City ordinance is not
4 inconsistent with *Gladstone v. Gregory*, 95 Nev. 474, 596 P.2d 491 (1979), cited by Plaintiffs.
5 Specifically, the Nevada Supreme Court noted that zoning regulations permitted two-story
6 residences that restrictive covenants in the recorded declaration did not.

7 14. NRS 278.4925 states, in pertinent part:

8 1. An owner or governing body that owns two or more
9 contiguous parcels may merge and resubdivide the land into new
10 parcels or lots without reverting the preexisting parcels to acreage
pursuant to NRS 278.490.

11 2. Parcels merged without reversion to acreage pursuant
12 to this section must be resubdivided and recorded on a final map,
13 parcel map or map of division into large parcels, as appropriate,
14 in accordance with NRS 278.320 to 278.4725, inclusive, and any
15 applicable local ordinances. The recording of the resubdivided
16 parcels or lots on a final map, parcel map or map of division into
large parcels, as appropriate, constitutes the merging of the
preexisting parcels into a single parcel and the simultaneous
resubdivision of that single parcel into parcels or lots of a size
and description set forth in the final map, parcel map or map of
division into large parcels, as appropriate.

17 15. Paragraph 47 of the Amended Complaint alleges that the subject parcel map
18 merged three parcels into one.

19 16. NRS 278.461(1)(a) provides: “[a] person who proposes to divide any land for
20 transfer or development into four lots or less shall . . . [p]repare a parcel map . . .”

21 17. The procedures applicable to the tentative and final maps are only applicable to
22 transactions involving “five or more lots.” NRS 278.320(1).

23 18. The City Planning Director properly followed the procedure for approval of a
24 parcel map rather than for a tentative map.

25 19. Plaintiffs’ allegations of fraud fail as insufficient pursuant to N.R.C.P. 9(b)
26 because they are not pled with particularity and do not include averments as to time, place,
27 identity of parties involved and the nature of the fraud. This is all the more so since the
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Plaintiffs have voluntarily dismissed the Peccole Defendants who allegedly engaged in said alleged fraud.

20. Plaintiffs cannot prove a set of facts under which the City can be guilty of fraud because both the City Council and City Planning Commission have yet to vote.

21. Plaintiffs are alleging a conspiracy, but that would be a criminal matter. What they are trying to do is stop an administrative arm of the City from doing their job so that they cannot make a recommendation to the City Planning Commission.

22. The Court does not understand what benefit the City Planning Commission would receive in this alleged conspiracy. This allegation does not make sense to the Court. The Court has experience with white collar crime prosecution and is familiar with conspiracies.

23. Plaintiffs' general and unsupported allegations of a "scheme" involving several Defendants do not meet the legal burden of stating a fraud claim with particularity. There is quite simply no competent evidence to even begin to suggest the truth of such scurrilous allegations. Accordingly,

IT IS HEREBY ORDERED that Defendant City of Las Vegas' Motion to Dismiss is hereby GRANTED; and

IT IS FURTHER ORDERED that the above-entitled action is DISMISSED as to Defendant City of Las Vegas.

DATED this 19 day of October, 2016.


DISTRICT COURT JUDGE


CERTIFICATE OF SERVICE

I hereby certify that on or about the date efiled, a copy of the foregoing was served on the parties by electronic service, by placing a copy in the attorneys' folders in the Clerk's Office, by mailing, emailing or faxing to the following:

City of Las Vegas-City Attorney's Office		
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Cindy Kelly	ckelly@lasvegasnevada.gov	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
Jeffrey M. Dorocak, Esq.	jdorocak@lasvegasnevada.gov	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
Keith Hansen	khansen@lasvegasnevada.gov	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
Philip R. Byrnes, Esq.	pbyrnes@lasvegasnevada.gov	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>

EHB Companies LLC		
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Todd Davis, Esq.	tdavis@ehbcompanies.com	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>

Gazda & Tadayon		
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Kaye	kgerwick@gazdatadayon.com	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
Lewis Gazda	lewisgazda@gmail.com	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
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Name	Email	Select
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Lars Evensen	lkevensen@hollandhart.com	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
Lorie Januskevicius	ljanuskevicius@hollandhart.com	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>

Holland & Hart, LLP		
Name	Email	Select
Wendi Muir	wamuir@hollandhart.com	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>

Holland and Hart, LLP		
Name	Email	Select
Lance C. Earl	lcart@hollandhart.com	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>

DOUGLAS E. SMITH
DISTRICT JUDGE
DEPT. 3
LAS VEGAS, NV 89155

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Jimmerson Law Firm, P.C.			
	Name	Email	Select
2	Brian Brancato	br@jimmersonlawfirm.com	<input checked="" type="checkbox"/> <input type="checkbox"/>
3	James J. Jimmerson, Esq.	jj@jimmersonlawfirm.com	<input checked="" type="checkbox"/> <input type="checkbox"/>
4	Kimberly Stewart	ks@jimmersonlawfirm.com	<input checked="" type="checkbox"/> <input type="checkbox"/>
4	Shahana Poisell	sp@jimmersonlawfirm.com	<input checked="" type="checkbox"/> <input type="checkbox"/>

Peccole & Peccole LTD.			
	Name	Email	Select
6	Robert Peccole	Bob@Peccole.lycoxmail.com	<input checked="" type="checkbox"/> <input type="checkbox"/>

Sklar Williams PLLC			
	Name	Email	Select
8	Emily Kapornal	ekapornal@sklar-law.com	<input checked="" type="checkbox"/> <input type="checkbox"/>
9	Stephen R. Hockett, Esq.	shockett@sklar-law.com	<input checked="" type="checkbox"/> <input type="checkbox"/>
10	Steve Hackett	shackett@sklar-law.com	<input checked="" type="checkbox"/> <input type="checkbox"/>

13 *Paula Walsh*
 14 Paula Walsh
 15 Relief Judicial Executive Assistant

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EXHIBIT P

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Search by Document Text
Search for specific words or phrases within the text of a document.

- Planning Land Use - Case Files
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Results: View:

Planning Land Use - Case Files						
View	Case Number - Hansen Number	Project Description	Project Name	Applicant	Owner	APN Parcel Number Address
	ME-0013-98	9500 W CHARLESTON BLVD	MINOR EXCEPTION ON PROPERTY LOCATED AT 9500 WEST CHARLESTON BOULEVARD FOR A 7 FT 4 IN HIGH WALL ALONG RTHE PERIMETER PROPERTY LINE WHERE 8 FT IS THE MAXIMUM HEIGHT ALLOWED	PECCOLE FAMILY TRUST		
	PM-0010-92	CHARLESTON BLVD AND HUALAPAI WAY	PARCEL MAP FOR RECORDATION	PECCOLE 1982 TRUST		
	PM-0011-93	CHARLESTON BLVD & FORT APACHE RD	PARCEL MAP FOR RECORDATION	PECCOLE 1982 TRUST		
	PM-0012-93	ALTA DR & DURANGO DR	PARCEL MAP FOR RECORDATION	PECCOLE 1982 TRUST		
	PM-0024-95	CHARLESTON & RAMPART	PARCEL MAP APPLICATION.	PECCOLE 1971, 1982 & 1991 TRUST		
	PM-0048-91	Durango Dr & Charleston Blvd	Parcel Map	Peccole 1982 Trust		
	PM-0059-89	DURANGO & CHARLSTON	CREATING THREE PARCELS	WILLIAM PECCOLE		
	PM-0064-90	Charleston & Sahara	Partial improvements on both streets	Peccole 1982 Trust		
	PM-06-02	NE RAMPART- AND ALTA	PARCEL MAP FOR CHEVRON SERVICE STATION	PECCOLE 1982 TRUST		
	PM-23-00	SW CORNER OF CHARLESTON & FORT APACHE	PARCEL MAP	PECCOLE NEVADA CORPORATION		
	PM-24-02	CHARLESTON & FORT APACHE	PARCEL MAP FOR FORT APACHE COMMONS I	PECCOLE NEVADA CORP.		
	PM-26-01	SAHARA & CIMARRON	PARCEL MAP FOR 24 HOJR FITNESS COMMERCIAL USE	PECCOLENEVADA CORP -		

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PM-26-99	SE CORNER CHARLESTON BLVD & HUALAPAI-WY	PARCEL MAP	PECCOLE NEVADA CORPORATION
PM-3-98	S of Alta Dr & W of Rampart Blvd		William Peter & Wanda Ruth Peccole
PM-36-97	South of Alta Dr & East of Hualapai Way	APN: 138-31-210-001, 138-31-210-001-002	Peccole Family Limited Partnership
PM-37-88	Charleston & Durango		William Peccole 1982 Trust
PM-41-97	Charleston Blvd & Fort Apache Rd		Peccole Family Trust Partnership
PM-43-95	Alta, Rampart & Charleston	138-32-201-002; 138-31-601-003	Peccole Family Partnership
PM-45-96	Alta Drive & hualapai Way		Peccole Trust
PM-64-87	SEE BELOW	PARCEL MAP TO CREATE FOUR PARCELS IN THE AREA BOUNDED BY CHARLESTON BLVD, ODETTE LANE, FORT APACHE RD AND SAHARA AVE	PECCOLE 1982 TRUST, ET AL
PM-8-98	Rampart & Charleston		Peccole Town Center
SO-0018-90	Timbertop Dr and Fort Apache Rd		Wm. Peccole Trust
V-0010-82	W Merialdo btwn Angelo	To allow (parcel 1) a permanent Las Vegas Valley Water District pumping station with an 8' high chain link fence (parcel 2) a temporary pump station with an 8' high chain link fence.	W Peccole et al/B & McGah
V-0039-89	NWC of Charleston Blvd and Durango Dr	To allow a proposed 8' high block wall where 6' is the maximum height permitted in the rear and side yard areas, and 4' with the top 2' 50% open is the maximum height permitted in the front yard area.	William Peccole, Trustee
V-0143-85	NW of Durango Dr and Sahara Ave	Allow public restaurant, pro-shop, cocktail lounge, gold course, and related miscellaneous commercial uses in ocotillo Country Club Development	William Peccole
		PETITION OF VACATE A 100FT WIDE DRAINAGE ROW	

FORE002979

[http://www5.lasvegasnevada.gov/sirepub/docs.aspx?tab=RD&pageType=results&Planning%20Land%20Use%20-%20Case%20Files=\(Applicant%20like%20...](http://www5.lasvegasnevada.gov/sirepub/docs.aspx?tab=RD&pageType=results&Planning%20Land%20Use%20-%20Case%20Files=(Applicant%20like%20...) 2/7

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CITY COUNCIL MEETING

JUNE 21, 2017

COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

1 **NOTE: This combined verbatim transcript includes Items 82 and 130 through 134, which**
2 **were heard in the following order: Items 131-134; Item 130; Item 82.**

3

4 **ITEM 82 - NOT TO BE HEARD BEFORE 3:00 P.M. - Bill No. 2017-27 - For possible**
5 **action - Adopts that certain development agreement entitled “Development Agreement For**
6 **The Two Fifty,” entered into between the City and 180 Land Co, LLC, et al., pertaining to**
7 **property generally located at the southwest corner of Alta Drive and Rampart Boulevard.**
8 **Sponsored by: Councilman Bob Beers**

9 **ITEM 130 - NOT TO BE HEARD BEFORE 3:00 P.M. - DIR-70539 - DIRECTOR'S**
10 **BUSINESS - PUBLIC HEARING - APPLICANT/OWNER: 180 LAND CO, LLC, ET AL -**
11 **For possible action on a request for a Development Agreement between 180 Land Co, LLC,**
12 **et al. and the City of Las Vegas on 250.92 acres at the southwest corner of Alta Drive and**
13 **Rampart Boulevard (APNs 138-31-201-005; 138-31-601-008; 138-31-702-003 and 004; 138-**
14 **31-801-002 and 003; 138-32-202-001; and 138-32-301-005 and 007), Ward 2 (Beers) [PRJ-**
15 **70542]. Staff recommends APPROVAL.**

16 **ITEM 131 - NOT TO BE HEARD BEFORE 3:00 P.M. - GPA-68385 - ABEYANCE ITEM -**
17 **GENERAL PLAN AMENDMENT - PUBLIC HEARING - APPLICANT/OWNER: 180**
18 **LAND COMPANY, LLC - For possible action on a request for a General Plan Amendment**
19 **FROM: PR-OS (PARKS/RECREATION/OPEN SPACE) TO: L (LOW DENSITY**
20 **RESIDENTIAL) on 166.99 acres at the southeast corner of Alta Drive and Hualapai Way**
21 **(APN 138-31-702-002), Ward 2 (Beers) [PRJ-67184]. Staff has NO RECOMMENDATION.**
22 **The Planning Commission failed to obtain a supermajority vote which is tantamount to**
23 **DENIAL.**

CITY COUNCIL MEETING

JUNE 21, 2017

COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

24 **ITEM 132 - NOT TO BE HEARD BEFORE 3:00 P.M. - WVR-68480 - ABEYANCE ITEM**
25 **- WAIVER RELATED TO GPA-68385 - PUBLIC HEARING - APPLICANT/OWNER: 180**
26 **LAND COMPANY, LLC - For possible action on a request for a Waiver TO ALLOW 32-**
27 **FOOT PRIVATE STREETS WITH A SIDEWALK ON ONE SIDE WHERE 47-FOOT**
28 **PRIVATE STREETS WITH SIDEWALKS ON BOTH SIDES ARE REQUIRED WITHIN**
29 **A PROPOSED GATED RESIDENTIAL DEVELOPMENT on 34.07 acres at the southeast**
30 **corner of Alta Drive and Hualapai Way (Lot 1 in File 121, Page 100 of Parcel Maps on file**
31 **at the Clark County Recorder's Office; formerly a portion of APN 138-31-702-002), R-PD7**
32 **(Residential Planned Development - 7 Units per Acre) Zone, Ward 2 (Beers) [PRJ-67184].**
33 **The Planning Commission (4-2 vote) and Staff recommend APPROVAL.**
34 **ITEM 133 - NOT TO BE HEARD BEFORE 3:00 P.M. - SDR-68481 - ABEYANCE ITEM -**
35 **SITE DEVELOPMENT PLAN REVIEW RELATED TO GPA-68385 AND WVR-68480 -**
36 **PUBLIC HEARING - APPLICANT/OWNER: 180 LAND COMPANY, LLC - For possible**
37 **action on a request for a Site Development Plan Review FOR A PROPOSED 61-LOT**
38 **SINGLE FAMILY RESIDENTIAL DEVELOPMENT on 34.07 acres at the southeast**
39 **corner of Alta Drive and Hualapai Way (Lot 1 in File 121, Page 100 of Parcel Maps on file**
40 **at the Clark County Recorder's Office; formerly a portion of APN 138-31-702-002), R-PD7**
41 **(Residential Planned Development - 7 Units per Acre) Zone, Ward 2 (Beers) [PRJ-67184].**
42 **The Planning Commission (4-2 vote) and Staff recommend APPROVAL.**
43 **ITEM 134 - NOT TO BE HEARD BEFORE 3:00 P.M. - TMP-68482 - ABEYANCE ITEM -**
44 **TENTATIVE MAP RELATED TO GPA-68385, WVR-68480 AND SDR-68481 - PARCEL 1**
45 **@ THE 180 - PUBLIC HEARING - APPLICANT/OWNER: 180 LAND COMPANY, LLC**
46 **- For possible action on a request for a Tentative Map FOR A 61-LOT SINGLE FAMILY**
47 **RESIDENTIAL SUBDIVISION on 34.07 acres at the southeast corner of Alta Drive and**
48 **Hualapai Way (Lot 1 in File 121, Page 100 of Parcel Maps on file at the Clark County**
49 **Recorder's Office; formerly a portion of APN 138-31-702-002), R-PD7 (Residential**
50 **Planned Development - 7 Units per Acre) Zone, Ward 2 (Beers) [PRJ-67184]. The Planning**
51 **Commission (4-2 vote) and Staff recommend APPROVAL.**

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CITY COUNCIL MEETING

JUNE 21, 2017

COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

- 52 **Appearance List – Items 131-134:**
53 CAROLYN GOODMAN, Mayor
54 BRAD JERBIC, City Attorney
55 BOB COFFIN, Councilman
56 TODD BICE, Legal Counsel for the Queensridge Homeowners
57 STEPHANIE ALLEN, Legal Counsel for the Applicant
58 FRANK SCHRECK, Queensridge resident
59 CHRIS KAEMPFER, Legal Counsel for the Applicant
60 TOM PERRIGO, Planning Director
61 GEORGE C. SCOTT WALLACE
62 LILIAN MANDEL, Fairway Pointe resident
63 DAN OMERZA, Queensridge resident
64 TRESSA STEVENS HADDOCK, Queensridge resident
65 NGAI PINDELL, William S. Boyd School of Law
66 DOUG RANKIN, 1055 Whitney Ranch Drive
67 LOIS TARKANIAN, Councilwoman
68 GEORGE GARCIA, 1055 Whitney Ranch Drive
69 MICHAEL BUCKLEY, on behalf of Frank and Jill Fertitta Family Trust
70 STAVROS ANTHONY, Councilman
71 SHAUNA HUGHES, on behalf of the Queensridge homeowners
72 HERMAN AHLERS, Queensridge resident
73 BOB PECCOLE, on behalf of Appellants in the Nevada Supreme Court
74 DALE ROESSNER, Queensridge resident
75 ANNE SMITH, Queensridge resident
76 KARA KELLEY, Queensridge resident
77 PAUL LARSEN, Queensridge resident
78 LARRY SADOFF, Queensridge resident
79 LUCILLE MONGELLI, Queensridge resident

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CITY COUNCIL MEETING
JUNE 21, 2017
COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

- 80 **Appearance List continued – Items 131-134:**
- 81 RICK KOSS, St. Michelle resident
- 82 HOWARD PEARLMAN
- 83 SALLY JOHNSON-BIGLER, Queensridge resident
- 84 DAVID MASON, Queensridge resident
- 85 TERRY MURPHY, on behalf of the Frank and Jill Fertitta Trust
- 86 ELAINE WENGER-ROESSNER
- 87 TALI LOWIE, Queensridge resident
- 88 JAMES JIMMERSON, Legal Counsel for the Applicant
- 89 YOHAN LOWIE, Applicant/Owner
- 90 RICKI BARLOW, Councilman
- 91 BOB BEERS, Councilman
- 92
- 93
- 94 **Appearance List – Item 130:**
- 95 CAROLYN GOODMAN, Mayor
- 96 BRAD JERBIC, City Attorney
- 97 LOIS TARKANIAN, Councilman
- 98 CHRIS KAEMPFER, Legal Counsel for the Applicant
- 99 YOHAN LOWIE, Applicant/Owner
- 100 BOB COFFIN, Councilman
- 101 JAMES JIMMERSON, Legal Counsel for the Applicant
- 102 STEVEN D. ROSS, Councilman
- 103 STEPHANIE ALLEN, Legal Counsel for the Applicant

CITY COUNCIL MEETING
JUNE 21, 2017
COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

104 **Appearance List – Item 82:**
105 CAROLYN GOODMAN, Mayor
106 BRAD JERBIC, City Attorney
107 CHRIS KAEMPFER, Legal Counsel for the Applicant
108 STEVEN D. ROSS, Councilman
109 STEPHANIE ALLEN, Legal Counsel for the Applicant
110
111
112
113 In the order noted above:
114 **Items 131-134**
115 (7:29:35 – 10:27:00) [2 hours, 58 minutes, 35 seconds]
116 **Item 130**
117 (10:27:00 – 10:48:47) [21 minutes, 47 seconds]
118 **Item 82**
119 (10:48:47 – 10:51:57) [3 minutes, 10 seconds]
120
121 Typed by: Speechpad.com
122 Proofed by: Arlene Coleman

CITY COUNCIL MEETING
JUNE 21, 2017
COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

123 **ITEMS 131-134**

124 **MAYOR GOODMAN**

125 Alright, we're on to Agenda Item 130.

126

127 **BRAD JERBIC**

128 Your Honor, if I could interrupt for a moment.

129

130 **MAYOR GOODMAN**

131 Okay. Hold on one second until I've got everybody here. Okay. We have to have – excuse me.

132

133 **COUNCILMAN COFFIN**

134 Well, I can hear it.

135

136 **MAYOR GOODMAN**

137 You can hear it as you walk in back?

138

139 **COUNCILMAN COFFIN**

140 Yes, I can hear it.

141

142 **MAYOR GOODMAN**

143 Okay. Wait. They're still talking. Okay, Mr. Jerbic.

144

145 **BRAD JERBIC**

146 Thank you. As I indicated earlier, I have a recommendation on 130 and Item 82, which are kind

147 of companion items. But I've been in contact with the developer's attorney, and I believe it would

148 be in the interest of the Council to hear four other items before you hear the Development

149 Agreement for Badlands. There happen to be four other items that are not related to the

150 Development Agreement, they are standalone items: Items 131, 132, 133 and 134, that all relate

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CITY COUNCIL MEETING

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COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

151 to a request for 61 individual home sites on the property known as Badlands. I would ask that
152 you at this time call 131 through 134 and hold that hearing before we discuss Item 130.

153

154 **MAYOR GOODMAN**

155 And when do we get to 82?

156

157 **BRAD JERBIC**

158 After you vote on 131 through 134 -

159

160 **MAYOR GOODMAN**

161 Okay.

162

163 **BRAD JERBIC**

164 We'll hear –

165

166 **MAYOR GOODMAN**

167 Okay. So 131 through – okay, 131 through 134.

168

169 **BRAD JERBIC**

170 That's correct.

171

172 **MAYOR GOODMAN**

173 Then back to 130, then to 82.

174

175 **BRAD JERBIC**

176 That's correct. Okay. So I will read –

CITY COUNCIL MEETING
JUNE 21, 2017
COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

177 **TODD BICE**
178 We'd like to be heard on this abeyance issue.
179
180 **BRAD JERBIC**
181 We haven't gotten to that yet, Mr. Bice.
182
183 **MAYOR GOODMAN**
184 What abeyance issue?
185
186 **TODD BICE**
187 I think the problem with that is, is that -
188
189 **MAYOR GOODMAN**
190 You want to go to the microphone? Please.
191
192 **TODD BICE**
193 My apologies.
194
195 **MAYOR GOODMAN**
196 And then who are you, please, for the record.
197
198 **TODD BICE**
199 Todd Bice. My address is 400 South 7th Street. We don't believe that it's accurate to say that
200 these items are unrelated to Item 82 and Item 130, which pertain to the Development Agreement.
201 This is all part and parcel of the same development.
202 I do agree with the City Attorney that the Development Agreement, quite frankly, has to be held.
203 We dispute that it is even properly on this agenda. But nonetheless, with respect to that item,

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CITY COUNCIL MEETING

JUNE 21, 2017

COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

204 these other items are – the City is allowing the developer to submit competing items. These are
205 competing with that, and you don't allow any other developer to do that.
206 So, with all due respect, not only does that Development Agreement need to be held, which
207 applies to this same property, so do these items. Otherwise, you're allowing competing items to
208 be put on the agenda, or you then turn around and you're allowing this sort of piecemeal
209 development, where well, we'll consider this application, we'll consider that application, we
210 won't consider others. That is, again, inconsistent with everything you do for every other
211 developer. It's just simply not consistent with your conduct on everyone else.
212 So we ask that if you're, that all these items should be considered together and they should all be
213 held. Just because, as I agree with the City Attorney, the Development Agreement has to be held.
214 So that's our position. I thank you.

215

216 **STEPHANIE ALLEN**

217 Your Honor, members of the Council, Stephanie Allen here on behalf of the applicant for all of
218 the items listed. The reason we prefer to hear the former items rather than the earlier items is to
219 avoid, basically, a multiple-hour discussion on the abeyance issue. We've had 19 abeyances up
220 'til today's date. We've been going at this for two years.
221 So we'd very much appreciate your consideration on the items that have been on the agenda.
222 They were held intentionally so that the holistic project could catch up to them and you'd have
223 them both on your agenda, with the idea that one of them would be withdrawn. To the extent the
224 Development Agreement is going to be held tonight, we'd very much appreciate your
225 consideration on those items that have been held in abeyance.

226

227 **MAYOR GOODMAN**

228 Okay. So returning back, as stated.

CITY COUNCIL MEETING

JUNE 21, 2017

COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

229 **BRAD JERBIC**

230 Again, I believe the request for the applicant is to have 131 through 134 heard first. Mr. Bice, let
231 me ask you a question. I assume you intend to ask for an abeyance on 131 through 134. And my
232 question to you is: Do you want to make that case right now, or do you want to make it after the
233 developer does their presentation?

234

235 **TODD BICE**

236 No. I think they need to be held in an abeyance just like the – you can't, with all due respect, I
237 don't believe it's appropriate to separate the Development Agreement aspect out of these
238 applications and say, well, let's consider that after the fact. That's an admission by the developer
239 that he's trying to use one as a bargaining chip for the other to try and offer up inconsistent
240 positions. That's not the purpose of a planning meeting for the City Council. We have simply
241 made the point all along. They've brought this Development Agreement forward. The
242 Development Agreement governs the entire project. It has to be held in abeyance.
243 This attempt to thread – spot zone isn't the right terminology, but it's the equivalent of
244 piecemealing a project by these individual applications, which are then, in fact, in competition
245 and in conflict with the very application for the Development Agreement, that the developer has
246 proposed and sought an approval of from the Planning Commission. It's just simply not the way
247 in which the City has done business for anyone else, and it's inconsistent with the City Code.
248 So yes, we ask right now all of these items be held in abeyance until the Development
249 Agreement is considered, because that's ultimately what overrides all of this.
250 I thank you. Go ahead.

251

252 **FRANK SCHRECK**

253 Frank Schreck, 9824 Winter Palace. This item has been held three times. It's been held at the
254 request of the City. It's been held at the request of the City and then the request of the developer.
255 It was held four months in a row – April, March, April and May. Or no, I guess April, May and
256 June at the request of the City and a request of the developer. We were all here, but those were

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COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

257 held in abeyance. We've asked to have this held in abeyance, because it conflicts, you know, with
258 the Development Agreement which covers the same land.

259 So now you're piecemealing it and doing this now. What are you going to approve when you
260 approve a development agreement later? They already have this already approved. It's
261 inconsistent. They shouldn't be on the same agenda, as Todd said, and the three continuances
262 were asked by them and the City, not us.

263

264 **CHRIS KAEMPFER**

265 First of all, Your Honor, may I respond to those comments and actually those of Mr. Bice? It is
266 not fair to say that considerations like this have never been granted to any other developer in the
267 history of the City of Las Vegas. I have been around for a lot of years, and I can tell you
268 considerations are granted when it's fair and when it's right. The application that is before you
269 now, the first is (sic) the applications 131 through 134. Those are the applications that in due
270 course are said here.

271 Now, were they delayed at the request of the City a couple of times? Yes. And then the other one,
272 the neighbors suggested to us that they should be delayed, and we said okay. So it was our
273 request working with the neighborhood to delay it. But we are entitled to be heard on an
274 application that staff is recommending approval on, that the Planning Commission recommended
275 approval on and that conforms to every standard of zoning practice in the City of Las Vegas.
276 We're saying if this item is heard and approved, then the holding of the other item and working
277 with that to get that thing resolved would then handle the whole thing. But right now, we would
278 like to proceed with an application that has been noticed properly for this hearing now.

279

280 **MAYOR GOODMAN**

281 Well, what I'm going to do is I'm going to do as our attorney has suggested. I am going to read
282 Items 131 through 134, because you will understand as we get to the commentary at the end of
283 that, then I will read 130, and then we'll go back to Agenda Item whatever that is, 82.

CITY COUNCIL MEETING

JUNE 21, 2017

COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

284 So 131, GPA-68385, on a request for a General Plan Amendment from PR-OS
285 (Parks/Recreation/Open Space) to L (Low Density Residential) on 166.99 acres at the southeast
286 corner of Alta and Hualapai Way.
287 Agenda Item 132, WVR-68480, on a request for a waiver to allow 32-foot private streets with a
288 sidewalk on one side where 47-foot private streets with sidewalks on both sides are required
289 within a proposed gated residential development.
290 And related Item 133, SDR-68481, on a request for a Site Development Plan Review for a
291 proposed 61-lot single-family residential development.
292 And related Item 134, TMP-68482, on a request for a tentative map for a 61-lot single-family
293 residential subdivision on 34.07 acres, southeast corner of Alta and Hualapai Way (Lot 1 in File
294 121 Page 100 of Parcel Maps on file at the Clark County Recorder's Office, formerly a portion of
295 APN 138-31-702-002), R-PD7 (Residential Planned Development - 7 Units per Acre) Zone.
296 The Applicant/Owner is 180 Land Company, LLC. Staff has no recommendation on Item 131,
297 and the Planning Commission failed to obtain a supermajority vote on Item 131, which is
298 tantamount to denial. The Planning Commission and Staff recommend approval on Items 132
299 through 134. These are in Ward 2, with Councilman Beers, and are public hearings which I
300 declare open.
301 So, at this point, to continue on with that, we will go forward on these, or shall I read in 130 at
302 this point and include that?

303

304 **BRAD JERBIC**

305 No. I believe that you should hear these at this point. Let me say for the record too that I agree
306 with Mr. Bice that these two things are incompatible. The Development Agreement, as
307 contemplated, does not have 61 custom home sites. It's got 65 total for the whole 183 acres of the
308 golf course. This is simply 61 sites at 34 acres.
309 I think the answer is pretty clear. If this passes, then there will have to be a reconciliation in the
310 future if there is a development agreement. And I think that Mr. Kaempfer will be the first to
311 stipulate that if the Development Agreement contains 65 custom home sites, then they'll rescind

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CITY COUNCIL MEETING

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COMBINED VERBATIM TRANSCRIPT – AGENDA ITEMS 82, 130-134

312 this request if that agreement is eventually approved. But I think that's the way that this is
313 resolved is you can certainly vote up or down on this. Now, and, of course, if you vote no on this
314 right now, you don't have any issue at all. There's no inconsistency with anything.

315

316 **MAYOR GOODMAN**

317 I have a question of you, because we have been meeting on this for a long, long time with a lot of
318 issues. And when we approved the development on the, let's see, the south – what is it – the
319 southeast corner for the development under the high rises, I personally, with the support of
320 Council, asked you if you would go in and try to negotiate so we were not in piecemeal
321 development and could come through with an agreement where everybody is, you know, I mean,
322 he's a great developer. I've never seen anything he's built that hasn't been absolutely fabulous.
323 But we were at a point that we made the decision to go ahead with that, that corner that is
324 actually it's the northeast corner, not the southeast. It's the northeast corner at Rampart and Alta
325 for that development.

326 And so my request to you, specifically with the support of the Council was: Can you get in there
327 so we can approve the whole thing and then move from there? So where are we before I even go
328 into this?

329

330 **BRAD JERBIC**

331 Yeah. I don't want to say too much right now, because you haven't called 130 forward. But when
332 we get to 130, I'm going to make a record that's exactly what we have been doing since you gave
333 that direction in January of this year. Mr. Perrigo and myself have been meeting with Mr. Lowie
334 and his team on a regular basis. We've been meeting with neighborhood groups, neighborhood
335 attorneys on a regular basis, individual neighborhoods that are uniquely affected.

336 We, I believe, are very, very, very close in my opinion. There may be some disagreement. But I
337 think we are very, very close to a, an agreement. But last night we had a couple of issues, that I
338 will talk about later when we get to 130, that did not resolve. At the same time, there is not a