

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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Elizabeth A. Brown
Clerk of Supreme Court

No. 84640

**AMENDED
JOINT APPENDIX
VOLUME 85, PART 4 OF 6
(Nos. 14946-14985)**

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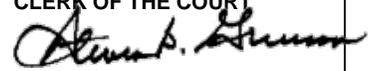
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DISTRICT COURT

CLARK COUNTY, NEVADA

11 180 LAND CO., LLC, a Nevada limited liability
12 company, FORE STARS Ltd., DOE
13 INDIVIDUALS I through X, ROE
14 CORPORATIONS I through X, and ROE
15 LIMITED LIABILITY COMPANIES I through
16 X,
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18 Plaintiffs,
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20 vs.
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22 CITY OF LAS VEGAS, political subdivision of
23 the State of Nevada, ROE government entities I
24 through X, ROE CORPORATIONS I through X,
ROE INDIVIDUALS I through X, ROE
LIMITED LIABILITY COMPANIES I through
X, ROE quasi-governmental entities I through X,
Defendant.

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

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

VOLUME 18

Hearing Date: September 23, 2021

Hearing Time: 1:30 p.m.

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

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

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

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

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

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

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83	The Two Fifty Design Guidelines, Development Standards and Permitted Uses	8	002757-002772
84	May 22, 2017 Justification letter for Development Agreement of The Two Fifty, from Yohan Lowie to Tom Perrigo	8	002773-002774
85	Aerial Map of Subject Property	8	002775-002776
86	June 21, 2017 emails between LuAnn D. Holmes and City Clerk Deputies	8	002777-002782
87	Flood Damage Control	8	002783-002809
88	June 28, 2016 Reasons for Access Points off Hualapai Way and Rampart Blvd. letter from Mark Colloton, Architect, to Victor Balanos	8	002810-002815
89	August 24, 2017 Access Denial letter from City of Las Vegas to Vickie Dehart	8	002816
90	19.16.100 Site Development Plan Review	8	002817-002821
91	8.10.17 Application for Walls, Fences, or Retaining Walls	8	002822-002829
92	August 24, 2017 City of Las Vegas Building Permit Fence Denial letter	8	002830
93	June 28, 2017 City of Las Vegas letter to Yohan Lowie Re Abeyance Item - TMP-68482 - Tentative Map - Public Hearing City Council Meeting of June 21, 2017	8	002831-002834
94	Declaration of Vickie Dehart, <i>Jack B. Binion, et al. v. Fore Stars, Ltd.</i> , Case No. A-15-729053-B	8	002835-002837
95	Supreme Court Order of Affirmance, <i>David Johnson, et al. v. McCarran International Airport, et al.</i> , Case No. 53677	8	002838-002845
96	De Facto Taking Case Law From State and Federal Jurisdictions	8	002846-002848
97	Department of Planning Application/Petition Form	8	002849-002986

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98	11.30.17 letter to City of Las Vegas Re: 180 Land Co LLC ("Applicant"t - Justification Letter for General Plan Amendment [SUBMITTED UNDER PROTEST] to Assessor's Parcel ("APN(st") 138-31-601-008, 138-31- 702-003, 138-31-702-004 (consisting of 132.92 acres collectively "Property"t - from PR-OS (Park, Recreation and Open Space) to ML (Medium Low Density Residential) as part of applications under PRJ-11990, PRJ-11991, and PRJ-71992	8	002987-002989
99	January 9, 2018 City Council Staff Recommendations	8	002990-003001
100	Item #44 - Staff Report for SDR-72005 [PRJ-71990] - amended condition #6 (renumbered to #7 with added condition)	8	003002
101	January 9, 2018 WVR-72007 Staff Recommendations	8	003003-003027
102	January 9, 2018 WVR-72004, SDR-72005 Staff Recommendations	8	003028-003051
103	January 9, 2018 WVR-72010 Staff Recommendations	8	003052-003074
104	February 21, 2018 City Council Meeting Verbatim Transcript	8	003075-003108
105	May 17, 2018 City of Las Vegas Letter re Abeyance - TMP-72012 [PRJ-71992] - Tentative Map Related to WVR-72010 and SDR-72011	9	003109-003118
106	May 16, 2018 Council Meeting Verbatim Transcript	9	003119-003192
107	Bill No. 2018-5, Ordinance 6617	9	003193-003201
108	Bill No. 2018-24, Ordinance 6650	9	003202-003217
109	November 7, 2018 City Council Meeting Verbatim Transcript	9	003218-003363
110	October 15, 2018 Recommending Committee Meeting Verbatim Transcript	9	003364-003392
111	October 15, 2018 Kaempfer Crowell Letter re: Proposed Bill No. 2018-24 (part 1 of 2)	10	003393-003590
112	October 15, 2018 Kaempfer Crowell Letter re: Proposed Bill No. 2018-24 (part 2 of 2)	11	003591-003843

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

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

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

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

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

1	194	Declaration of Yohan Lowie in Support of Plaintiff Landowners' Reply in Support of: Plaintiff Landowners' Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006076-006083
2	195	Declaration of Stephanie Allen, Esq., which Supports Plaintiff Landowners' Reply in Support of: Plaintiff Landowners' Evidentiary Hearing Brief #1: Memorandum of Points and Authorities Regarding the Landowners' Property Interest; and (2) Evidentiary Hearing Brief #2: Memorandum of Points and Authorities Regarding the City's Actions Which Have Resulted in a Taking of the Landowners' Property	21	006084-006089
3	196	January 3, 2018 CLV Agenda Memo-Planning-Staff Recommendation of Denial	21	006090-006098
4	197	City Council Meeting of January 17, 2018 Transcript re Agenda Items 74-75	21	006099-006117
5	198	May 13, 2021 Transcript of Hearing re City's Motion for Reconsideration of Order Granting in Part and Denying in Part the Landowners' Motion to Compel the City to Answer Interrogatories	21	006118-006213

DATED this 15th day of September, 2021.

LAW OFFICES OF KERMITT L. WATERS

/s/ Autumn Waters

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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermit L. Waters, and
3 that on the 15th day of September, 2021, pursuant to NRC 5(b), a true and correct copy of the
4 foregoing: **APPENDIX OF EXHIBITS IN SUPPORT OF PLAINTIFFS LANDOWNERS’**
5 **REPLY IN SUPPORT OF MOTION TO DETERMINE TAKE AND MOTION FOR**
6 **SUMMARY JUDGMENT ON THE FIRST, THIRD AND FOURTH CLAIMS FOR**
7 **RELIEF AND OPPOSITION TO THE CITY’S COUNTER-MOTION FOR SUMMARY**
8 **JUDGMENT- VOLUME 18** was served on the below via the Court’s electronic filing/service
9 system and/or deposited for mailing in the U.S. Mail, postage prepaid and addressed to, the
10 following:

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/s/ Sandy Guerra

an employee of the Law Offices of Kermit L. Waters

Exhibit 159

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D R A F T
T R A N S C R I P T

Binion vs. Fore Stars

Tom Perrigo, Volume I

Monday, December 5, 2016

By: Carre Lewis, NV CCR 497, CA CSR 13337
carre@envision.legal

Envision Legal Solutions
1-702-781-DEPO

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ROUGH DRAFT TRANSCRIPT

REALTIME AND INTERACTIVE REALTIME TRANSCRIPT
ROUGH DRAFT DISCLAIMER

IMPORTANT NOTICE: AGREEMENT OF PARTIES

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REPORTER'S NOTE:

Since this deposition has been provided in real time and is in rough draft form, please be aware that there may be a discrepancy regarding page and line number when comparing the realtime screen, the rough draft, rough draft disk, and the final transcript.

Also please be aware that the realtime screen and the uncertified rough draft transcript may contain untranslated steno, reporter's notes, asterisks, misspelled proper names, incorrect or missing Q/A symbols or punctuation, and/or nonsensical English word combinations. All such entries will be corrected on the final, certified transcript.

Court Reporter's Name:
Carre Lewis, CCR 497

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I N D E X

WITNESS: TOM PERRIGO

EXAMINATION	PAGE
By Mr. Rice	8

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1	Tom Perrigo		
2	Binion vs. Fore Stars		
3	Monday, December 5, 2016		
4	Carre Lewis, CCR No. 497		
5	E X H I B I T S		
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22	Exhibit 8	Agenda, City Council Minutes Meeting of April 4, 1990; BINION008313 - 314	155
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1	Exhibit 10	Code Provision	195
2	Exhibit 11	Title 19 Unified Development Code, Page 13	203
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4	Exhibit 12	November 24, 2015 Letter From Seventy Acres LLC to City of Las Vegas; CLV000247 - 249	205
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1 THE VIDEOGRAPHER: This is the beginning of
2 video record the No. 1 in the deposition of Tom
3 Perrigo, taken in the case of Binion, et al., versus
4 Fore Stars, et al., held at Pisanelli Bice, 400
5 South 7th Street, Suite 300, in Las Vegas, Nevada
6 89101.
7 The date is December 5, 2016. My name is
8 Hunter Blackburn, the videographer, working on
9 behalf of Envision Legal Services.
10 The court reporter is Carre Lewis.
11 Will all present please identify
12 themselves, beginning with the witness.
13 THE WITNESS: Tom Perrigo.
14 MR. BYRNES: Phil Byrnes representing City
15 of Las Vegas and the deponent.
16 MR. JIMMERSON: Good morning, Jim
17 Jimmerson I'm privileged to representing the
18 defendants in this matter, Fore Stars, LTD, 180 Land
19 Company, LLC, and Seventy Acres, LLC. Good morning
20 to you all.
21 MR. BICE: Todd Bice on behalf of the
22 plaintiffs.
23 ///
24 ///
25 ///

7

1 THE VIDEOGRAPHER: Would the court reporter
2 please swear in the witness.
3 Whereupon --
4 TOM PERRIGO,
5 having been first duly sworn to testify to the
6 truth, was examined and testified as follows:
7 EXAMINATION
8 BY MR. BICE:
9 Q. Good morning, Mr. Perrigo. Can you state
10 your full name for the record.
11 A. Thomas Andrew Perrigo.
12 Q. Can you tell me where you currently work?
13 A. I work for the City of Las Vegas.
14 Q. How long have you worked for the City of
15 Las Vegas?
16 A. Since August of 1994.
17 Q. What is your current position with City of
18 Las Vegas?
19 A. Current position is planning director and
20 chief sustainability officer.
21 Q. All right. Can you tell me what it means
22 to be the planning director and the chief
23 sustainability officer?
24 A. The planning director is responsible for
25 the function and operation of the planning

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

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

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

51

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

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1 what's the proper way to say it? The zoning governs
2 more -- I guess zoning first, land use second.
3 Q. So --
4 A. If the land use and the zoning aren't in
5 conformance, then the zoning would be a higher order
6 entitlement, I guess.
7 Q. So it's your position that zoning
8 supercedes the general plan --
9 A. Yes.
10 Q. Or the master plan?
11 A. Yes.
12 Q. Is that spelled out anywhere in the city's
13 code?
14 A. I don't -- I don't -- I don't know.
15 MR. BICE: Let's mark this one.
16 (Exhibit 2 marked.)
17 BY MR. BICE:
18 Q. Can you tell me what Exhibit No. 2 is.
19 A. It's entitled the Unified Development Code.
20 Q. What is that?
21 A. The -- used to be -- it's Title 19.
22 Q. Okay. What is Title 19?
23 A. Essentially a zoning code.
24 Q. Zoning code for the City of Las Vegas?
25 A. That is correct.

53

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

54

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

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

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

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1 A. I don't.
2 Q. How about Mr. Summerfield?
3 A. I don't believe so.
4 Q. What did they provide you in terms of
5 research, Mr. Lowenstein and company?
6 A. A copy of the original zoning case, of
7 the -- some of the maps, the master plan, the -- all
8 of the information regarding the zoning to R-PD7,
9 including the backup from the council hearings and
10 what was recorded and that kind of stuff.
11 Q. So you saw the agenda items from the --
12 from 1990 concerning the City council?
13 A. Yes.
14 Q. And planning commission meetings?
15 A. Yes.
16 (Exhibit 6 marked.)
17 BY MR. BICE:
18 Q. I want to make sure we are talking about
19 the same documents. This is Exhibit 6. Showing you
20 what's been marked as Exhibit No. 6, Mr. Perrigo, is
21 this some of the information you were provided by
22 your staff?
23 A. Yes.
24 Q. Can you tell us what this is?
25 A. This is the public hearing notice for

146

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

147

1 Q. Would that eliminate, then, the prior
2 zoning classifications on the property?
3 A. If approved, yes.
4 Q. Was this approved?
5 A. Yes.
6 Q. With conditions, correct?
7 A. Yes.
8 Q. Who was the applicant?
9 A. Peccole -- William Peccole trust.
10 Q. 1982 trust?
11 A. 1982 trust.
12 Q. Was that the developer?
13 A. I don't know.
14 Q. Do you know who the developer was, if not
15 the trust?
16 A. I don't know.
17 Q. Have you ever investigated who the
18 developer was?
19 A. I have not.
20 MR. BICE: Have this marked.
21 (Exhibit 7 marked.)
22 BY MR. BICE:
23 Q. Showing you what's been marked as Exhibit
24 No. 7, have you seen this document before?
25 A. I have.

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1 Q. Can you tell me what it is?
2 A. The Peccole Ranch master plan.
3 Q. When did you first see this Peccole Ranch
4 master plan?
5 A. I don't know, early on when the proposal
6 was first made and Mr. Lowenstein started his
7 research into the property.
8 Q. Did you ever show a copy -- do you know,
9 did anybody at the City ever give a copy of this to
10 the applicant EHB companies?
11 A. I don't know.
12 Q. Did it ever come up at any of the
13 preapplication meetings?
14 A. Yes.
15 Q. Where you were present?
16 A. Yes.
17 Q. Tell me what came up about it, about the
18 master plan.
19 A. At some point, I don't remember exactly
20 when, based on the plan, staff had requested that
21 the applicant also file for a major modification to
22 this plan.
23 Q. Okay.
24 A. And I don't know in what other context, but
25 that's really the key.

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1 Q. Did the applicant do so?
2 A. Yes.
3 Q. Why was it that staff determined that they
4 needed to submit a major modification to this plan,
5 Exhibit ??
6 A. Staff determination was based on the fact
7 that it was a rather large change to the existing
8 plan out there, and given the number of units that
9 were being requested and given the question as to
10 whether or not this plan existed or had any standing
11 and what that meant, staff requested a major
12 modification so that council could understand and
13 decide whether or not what was being proposed was
14 appropriate in the context of this earlier plan.
15 Q. All right. At the time that you were
16 alerted to this plan, you reviewed it, correct?
17 A. Yes.
18 Q. Did you believe that it was binding?
19 A. I did not.
20 Q. Did you tell anyone that?
21 A. I believe so.
22 Q. Who did you tell that you didn't think it
23 was binding?
24 A. I don't recall. I --
25 Q. When did you make that determination?

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1 A. After reviewing the materials that
2 Mr. Lowenstein had put together showing that over
3 the course of time that the plan had not been
4 consulted for the majority of changes that occurred
5 out there, that a majority of the rezonings were
6 done consistent with Title 19 and not the plan. The
7 language in the plan that talks about it being
8 conceptual in nature, conversations with the City
9 attorney's office, conversations with former
10 planning directors.
11 Q. Which former planning directors?
12 A. Bob Ginzer [phonetic] and Margo Wheeler.
13 Q. You contacted them about this plan?
14 A. I did.
15 Q. When?
16 A. I don't recall.
17 Q. Why?
18 A. Just to see if they remembered or could
19 recall why entitlements that had occurred during
20 their tenure didn't take into consideration the
21 plan.
22 Q. Did they provide you any information on
23 that?
24 A. They did not.
25 Q. You just said that a majority of things

151

1 that were done were not in reference to the plan?
2 A. Yes.
3 Q. Tell me all the things that weren't done
4 that weren't in reference to this plan?
5 A. I don't recall. There is a long list of
6 every entitlement that occurred out there.
7 Q. Who developed that list?
8 A. Mr. -- I believe Mr. Lowenstein or it was
9 developed at his direction.
10 Q. Did the applicant develop the list and
11 share it with the City?
12 A. They may have developed the list and shared
13 it with us. I don't recall for sure but I do know
14 Mr. Lowenstein did.
15 Q. Mr. Lowenstein did his own research?
16 A. He did his own research or directed his
17 staff to do the research.
18 Q. Who was it? Have you seen any written
19 report from Mr. Lowenstein on this?
20 A. Yes.
21 Q. How many pages is that?
22 A. I don't recall. There is a specific table,
23 though, that shows every action that occurred on
24 this property or within the planned area, phase 1
25 and phase 2, some of which do reference the original

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

153

1 A. Yes.
2 Q. So on the planning commission agenda going
3 back to item No. Of or Exhibit 6 we will come back
4 to 7 in a moment, second page, so the zoning change
5 was 2-17-90 was approved, correct?
6 A. Yes.
7 Q. And that was with the following -- do you
8 see where there are staff recommendations?
9 A. Yes.
10 Q. Says approval subject to the following.
11 What does that mean?
12 A. That there are certain conditions placed on
13 the approval of that particular item.
14 Q. So for zoning change that was sought by the
15 William Peccole 1982 trust zoning change was subject
16 to a maximum of 4427 dwelling units be allowed for
17 phase 2, correct?
18 A. Yes.
19 Q. And then conformance to the conditions of
20 approval for the Peccole Ranch master plan -- or
21 master development plan phase 2, correct?
22 A. Yes.
23 Q. So those -- that zoning change to R-PD7,
24 R-3, and C-1 were conditioned upon those two
25 requirements as well as the rest that are listed

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

155

1 exactly what it was called. Actually we call it a
2 final action letter.
3 Q. Letter. Okay.
4 This is what gets sent to the applicant,
5 correct?
6 A. Yes.
7 Q. Is this one of the documents that you were
8 shown by your staff who had looked into the status
9 of the Peccole master plan?
10 A. Yes.
11 Q. So this matter went to the City council
12 agenda for approval, correct?
13 A. Yes.
14 Q. And it was approved, right?
15 A. Yes.
16 Q. Unanimously approved, correct?
17 A. Yes.
18 Q. All right. And the first two conditions on
19 that approval of that zone change are what?
20 A. Of course there was one extension, but --
21 I'm sorry, the what?
22 Q. What were the first two conditions on that
23 approval?
24 A. A maximum of 4,247 dwelling units be
25 allowed for phase 2. Number two: Conformance to

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1 recite it off the top of my head.
2 Q. Is this a minor modification a 17-acre
3 application?
4 A. No.
5 Q. Why not?
6 A. Modification is required to certain plans
7 that typically the PCD plans, not that there are a
8 handful of plans like this one that are called out
9 in the master plan to not require a modification.
10 Q. To not require a major modification or not
11 require any modification?
12 A. Require any modification. If fact that's
13 why the plan today is completely inconsistent with
14 what's been built out there. The roads aren't in
15 the same place, land use is all changed. It's
16 completely inconsistent with what's built over time.
17 Q. So of the 1440 multifamily units that the
18 City approved, how many have actually been built, do
19 you know?
20 A. I don't.
21 Q. How have you determined that there are 720
22 available if you don't know how many have been
23 built?
24 A. Well, staff has looked at that very
25 carefully and did a very careful count of every

245

1 single unit that's been built in that area.
2 Q. Okay.
3 A. I do not recall the numbers off the top of
4 my head.
5 Q. So staff has determined that there are 720
6 of that 1440 still available somehow?
7 MR. BYRNES: Objection. Asked and
8 answered.
9 BY MR. BICE:
10 Q. Is that right?
11 MR. JIMMERSON: Join. He has never
12 testified to the number 720 was still permitted.
13 THE WITNESS: I don't recall the number off
14 the top of my head.
15 BY MR. BICE:
16 Q. My only question, sir, and I'm not asking
17 you to say the numbers off the top of your head.
18 But it's your understanding that there are 720 of of
19 that 1440 is somehow still available, correct?
20 A. I don't know that to be true. So going
21 back to your question about whether or not single
22 and multifamily are fungible, I guess the answer is
23 no, in this case. I don't know that it's relevant.
24 We have looked at over all number of units for the
25 area, and I just can't remember. I just can't

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1 remember what those numbers work out to be.
2 Q. Are you treating them as fungible in this
3 case?
4 A. I don't know because I don't recall what
5 those numbers are.
6 Q. Well, when was this project closed out?
7 A. What project?
8 Q. The Peccole Ranch master plan.
9 A. I don't recall any formal action that
10 closed it out.
11 Q. Has the City ever told anybody that it was
12 closed out?
13 A. Not that I'm aware of. I don't know.
14 Q. When were the models released?
15 A. I don't know.
16 Q. Were they released sometime in 1996, 1990?
17 A. I don't know. I do recall reading that the
18 bonds were released.
19 Q. When does the City consider a development
20 to be closed out?
21 MR. JIMMERSON: Object to the question.
22 THE WITNESS: I don't know that there is
23 any official determination of closed out. It likely
24 refers to a public works action regarding the
25 infrastructure.

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

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1 Mr. Perrigo, thank you. Can I ask you ten minutes
2 worth of questions?
3 THE WITNESS: Sure.
4 MR. BYRNES: Why don't -- I think this
5 would be better if we regroup to do it then.
6 MR. JIMMERSON: I will do it then. I'm
7 grouping, not regrouping.
8 MR. BICE: Thank you. We can go off the
9 record.
10 THE WITNESS: Going off the video record.
11 This includes the videotape deposition of Tom
12 Perrigo taken on December 5, 2016. The time is
13 approximately 4:34 p.m.
14 (Off the record.)
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Exhibit 160

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

1

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

2

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

3

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

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

5

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

6

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

7

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

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1 A. That is correct.
2 Q. And Miss Duddleston is the deputy director
3 of planning?
4 A. That's correct.
5 Q. Are there any other positions to whom you
6 report?
7 A. No.
8 Q. Now, if I understand this correctly and
9 I'm just trying to make sure I get the timeline
10 straight, you've been involved -- you've worked at
11 the city for more than 12 years?
12 A. In January, it will 14 years.
13 Q. In January it will be 14. Okay.
14 So let's just sort of start
15 chronologically. You joined the city in what
16 position originally?
17 A. As an entry level planner, which is a
18 planner one position.
19 Q. And how long were you a planner one?
20 A. I don't know. I would have to look it up,
21 but probably two years, a year and a half, two years.
22 Q. I understand you can't be precise but
23 we're just trying to get sort of a general
24 understanding of the timeline. That's all. And so
25 then your next position after you moved from planner

9

1 one after a couple years was what?
2 A. A planner II position.
3 Q. Got it. And how long would you have been
4 a planner II?
5 A. Probably for a similar amount of time. I
6 don't know specifically.
7 Q. Got it. So when you were a planner one
8 and planner II, what would be your job duties in
9 those positions?
10 A. I started at the front counter, so as part
11 of the current planning department division, which
12 was customer interaction, answering zoning questions,
13 processing building permits and licensing reviews.
14 Q. Got it.
15 A. Doing research of that nature. At some
16 point as either a planner one or two, would have
17 transitioned into the case planning role where I
18 prepared staff reports and gone through doing
19 reappliation conferences, hearing the information
20 and ultimately giving a recommendation to to our
21 management team.
22 Q. So then after you -- well let me phrase it
23 this way. What was your position -- what was the
24 next position after planner II?
25 A. I was promoted to a senior planner.

10

1 Q. Senior planner. And what does that
2 entail?
3 A. Basically similar -- similar job
4 responsibility, just more responsibility, more
5 complex projects to review and to manage as far as,
6 you know, being the case planner assigned to it. I
7 also was facilitating assistance at the front counter
8 basically making sure those operations ran smoothly.
9 Q. So as a senior planner, was your primary
10 responsibility in the case division?
11 A. I have to refer to the dates to -- I don't
12 recall off the top of my head. I know as a senior
13 planner I was basically running the front counter
14 portion and reporting to a supervisor.
15 Q. And who was that supervisor you would have
16 been reporting to?
17 A. Well, there -- I don't know exactly.
18 There's been a couple supervisors that you course of
19 the time. The majority of it going from maybe 2005
20 to 2008 more than likely was Doug rank in.
21 Q. Okay. And then the next position after
22 senior planner.
23 A. I became a planning supervisor.
24 Q. And what does it mean to be a planning
25 supervisor?

11

1 A. Well, your responsibility -- you're
2 responsible for the quality of the work, supervision
3 of performance, the overall processes of either --
4 whichever section you're over, making sure if you're
5 front counter that those operations are moving
6 smoothly, you handle more difficult questions, you
7 have interaction with customers and if they want to
8 speak to somebody else other than the planner they're
9 originally speaking with. On the case side of things
10 you would be reviewing staff reports, ensuring
11 quality of work once again, ensuring basically that
12 all the reports are done in a timely manner, that
13 things are being processed in accordance with the
14 policies and procedures of the department and
15 ultimately you're writing performance evaluations for
16 the employees underneath you.
17 Q. Okay. As the planning supervisor, were
18 you in current planning or were you in the long range
19 planning?
20 A. As a supervisor, I have been in both
21 divisions.
22 Q. Okay.
23 A. Primarily in the current planning
24 division.
25 Q. And as a planning supervisor, do you

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

13

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

14

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

15

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

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

17

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

18

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

19

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

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

21

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

22

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

23

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

24

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

25

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

26

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

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

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

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

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

30

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

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

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

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

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

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1 development agreement, we have numerous meetings and
2 then that qualifies as the preapplication conference.
3 Q. So you believe you set up a meeting with
4 the developer?
5 A. With members of the City and the
6 developer.
7 Q. All right. And who did you consider the
8 developer to be?
9 A. More than likely it was the point of
10 contact is Frank Pankratz.
11 Q. And would you communicate with him via
12 email?
13 A. I've communicated with Mr. Pankratz
14 through email, over the phone.
15 Q. Any other means of communication with Mr.
16 Pankratz other than via email or over the phone?
17 A. In person.
18 Q. Understood. Any other meetings?
19 A. Potentially a text message.
20 Q. What would you text message Mr. Pankratz
21 about?
22 A. I don't text him -- it would be in
23 response if he texted me.
24 Q. Okay.
25 Is the cell phone that you use for the text

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1 messaging, is that your personal cell phone. Yes.
2 What is the -- who is the carrier, the
3 service provider?
4 A. It's AT&T.
5 Q. AT&T. And how long have you had this cell
6 phone?
7 A. This particular model, maybe a year, maybe
8 a little bit over a year.
9 Q. Do you text anyone at the City concerning
10 your work?
11 A. The only other person that would be texted
12 would be my director who has my number, but various
13 people have my phone number. I've had office
14 assistants communicate with me.
15 Q. Sure.
16 A. Licensing officers communicate with me.
17 Q. Has anyone else on behalf of the applicant
18 regarding Badlands texted with you?
19 MR. JIMMERSON: Object to the form of the
20 question.
21 THE WITNESS: I've had a text message from
22 Mr. Lowie.
23 BY MR. BICE:
24 Q. Mr. Lowie, how many text messages has Mr.
25 Lowie sent you?

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1 A. Maybe three.
2 Q. Okay. Do you recall what those were
3 about?
4 A. Bourbon.
5 Q. What's that?
6 A. Bourbon.
7 Q. Bourbon. Okay. Anything else?
8 A. No. Not that I recall.
9 Q. And what is -- and we'll agree for
10 purposes of the record to keep it confidential, but
11 what is the cell phone number or the number that Mr.
12 Lowie would text you at?
13 A. 702-810-1088.
14 Q. And how long have you had that number?
15 A. Since I've had a cell phone.
16 Q. So a long time.
17 Have you deleted any text messages from
18 anyone concerning the Badlands golf course?
19 A. Not to my recollection.
20 Q. Have you deleted any emails from anyone
21 concerning the Badlands golf course?
22 A. If there are emails that say thanks,
23 things like that, potentially. So it's a possibility
24 that there are some pertinent ones I retained in a
25 folder.

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1 Q. So when you set up that first -- let me
2 put it this way. So you're informed about this
3 planned redevelopment. Is someone in the City
4 assigned to be the supervisor over it?
5 A. Can you restate the question?
6 Q. Sure. When you're informed by Mr. Perrigo
7 about this planned redevelopment of the Badlands golf
8 course, is someone in the City assigned to I guess
9 supervise or shepherd it through the process?
10 A. With his conversation to me, I'm assuming
11 that he basically assigned to me.
12 Q. To you?
13 A. As I have been on other projects, the lead
14 on development agreements on larger projects of that
15 nature and I've had that experience.
16 Q. Okay. So you were essentially assigned to
17 handle this project; is that accurate?
18 A. On the macro side of things, yes. In
19 regards to facilitating the meetings, pertaining to
20 the issues making sure it stays on point that people
21 from throughout the entire City are participating in
22 it when they're needing to be and to make sure that
23 it's basically an ongoing negotiation and to shepherd
24 to the point where it would be something that would
25 be able to be submitted to the City.

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1 Q. So who all was on your team to work on
2 this?
3 A. As part of the team we -- our division
4 basically works as a team. I have -- during this
5 process I have conversations with Doug Rankin. I've
6 had conversations with the planning supervisor at the
7 time.
8 Q. Who would that be?
9 A. It could have been Andy Read. He left the
10 City I believe -- I don't know if it was early 2016
11 or late part of 2015.
12 Q. Do you know where he went?
13 A. He's at Nellis. I think he's the
14 planning -- community planner for Nellis Air Force
15 Base.
16 Q. Okay.
17 A. And then Steve Gebeke, Steve Swanton and
18 then when -- eventually the items go before our
19 design review team for recommendations, that's the
20 entire case planning division.
21 Q. Did you say Steve Swan?
22 A. Swanton.
23 Q. Swanton?
24 A. He's a senior planner in the case planning
25 division.

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1 Q. And you say when items go to our design
2 review team for recommendation, that's the entire
3 case planning division?
4 A. Our current policy is that when we -- when
5 we have all the applications submitted for a certain
6 planning commission meeting, all those items are then
7 vet and the design review team, which is composed of
8 all of the members of the case planning division, as
9 far as the case planners, not any administrative
10 assistants or anything like that.
11 Q. So how many people would that be?
12 A. Again, I'm going to go to the fingers.
13 It's approximately six not including the supervisor
14 and a manager. So potentially eight.
15 Q. And what would these eight people provide?
16 A. Their own input into whichever issues is
17 being discussed and their own recommendation on it
18 and coming to a consensus at the end.
19 Q. Would Mr. Summerfield be one of those
20 people?
21 A. A member of long range planning is
22 requested to be as part of the design review team to
23 get their perspective on its implications on the
24 general plan or master plan. I don't recall if he
25 was directly in there or it was some other

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1 representative. Or if any representative was in from
2 long range.
3 Q. So what's Mr. Summerfield's role at the
4 City?
5 A. He is the planning section manager over
6 the long range division.
7 Q. And to whom does he report.
8 A. He reports to Tom Perrigo as the director
9 and Karen Duddlesten as the deputy director.
10 Q. So of these other people, eight other
11 people you said were in your design review team, was
12 there anyone of those eight people that was
13 principally responsible for this matter?
14 A. At the time when an application is
15 submitted, then it would be assigned to a case
16 planner to review, prepare, and write a staff report.
17 I believe -- depending on which applications you are
18 speaking to, Steve Swanton was responsible, was the
19 assigned case planner.
20 Q. Were there any others other than
21 Mr. Swanton assigned, designated as the assigned case
22 planner for the Badlands Golf Course applications?
23 A. No.
24 Q. All right. You indicated that one of the
25 first things you did after you spoke with Mr.

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1 Perrigo, was you set up a meeting with the developer?
2 A. I don't know what the overall timeline
3 from his initial letting me know that this project
4 had come about to when I set the meeting but it was
5 organizing the City side and the community to the
6 developer side to coordinate that meeting or those
7 meetings from there on.
8 Q. Where was the first meeting held?
9 A. I imagine it would be in the Charleston
10 conference room on the third floor at the development
11 service center at 333 North rancho Drive.
12 Q. All right.
13 And do you recall -- do you keep a log of
14 who attends those meetings?
15 A. No.
16 Q. Do you recall who was in attendance?
17 A. Not with specificity -- not specifically.
18 I imagine from our side, we had public works, which
19 would be either Lucien Piet or Bart Anderson. We
20 would have fire. At that time it could have been
21 either Chief Nolan, Chief Robert Bash, who's no
22 longer with the City or David Klein, which I don't
23 think it was him. Traffic, which would have been
24 Victor Bolanos. I don't know if we had building and
25 safety in the room. If they were it was Michael

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1 Cunningham or Mike Bouse. And then on the developer
2 side, more than likely it was at a minimum, Frank
3 Pankratz, Mr. Lowie, and probably -- I don't know who
4 else was probably there, but over the course of
5 different meetings there was different people that
6 were in the meeting.
7 Q. Who was -- who would be in attendance at
8 that first meeting from your department?
9 A. It would be Mr. Perrigo, myself. I
10 believe at that point that might have been the only
11 two.
12 Q. And what was the purpose of that first
13 meeting?
14 A. I guess it's tantamount to like a kickoff
15 meeting, have everybody in the room to discuss scope
16 of the project and then to go from there to see what
17 issues or concerns on both sides.
18 Q. Did the developer show plans?
19 A. Not that I recall. It's a possibility
20 Q. Did the developer -- what was your
21 impression from that first meeting of what the
22 developer was planning to do or going to propose to
23 do?
24 A. As I stated before, to propose a
25 redevelopment of that property into both multifamily

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1 and single family development.
2 Q. This property was already within the
3 Peccole Ranch residential development, correct?
4 A. The Peccole Ranch Master Development Plan?
5 Q. Yes.
6 A. Yes. The subject property is --
7 Q. Is within?
8 A. -- is encompassed by that, yes.
9 Q. Is it already -- is this property within
10 the Queensridge residential area?
11 A. The Queensridge is a marketing name.
12 Q. Okay.
13 A. So is it -- can you be specific in the
14 question?
15 Q. Well, let me rephrase it this way then.
16 Is this property located within a residential
17 development, the golf course? Is it located within a
18 residential development?
19 MR. JIMMERSON: Object to the form of the
20 question.
21 MR. BYRNES: Are you asking him what the
22 surrounding uses are or are you asking him --
23 BY MR. BICE:
24 Q. Did he consider the golf course to be
25 located within a residential development?

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1 A. It was within Peccole Ranch Master
2 Development.
3 Q. Is Peccole Ranch Master Development, is it
4 a residential development?
5 A. It is a combination of uses which
6 encompass commercial, multifamily and single family
7 development.
8 Q. What about phase two, is phase two of the
9 Peccole Ranch master plan development a residential
10 development?
11 A. Phase two is also composed of those
12 various components.
13 Q. Do you consider it to be a residential
14 development?
15 MR. JIMMERSON: Object to the form of the
16 question.
17 MR. BYRNES: Object. Vague and ambiguous.
18 BY MR. BICE:
19 Q. Have you ever -- I'll rephrase. Have you
20 ever told anyone that it is a residential
21 development, Peccole Ranch, phase two?
22 A. Not to my recollection.
23 Q. Have you ever discussed it inside the City
24 that it is a residential development?
25 A. Not to my recollection.

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1 Q. So do you consider it to be a residential
2 development, the Peccole Ranch phase two?
3 A. I consider it to be a master development
4 plan as it was approved.
5 Q. What do you mean by master development
6 plan?
7 A. That is what it was approved as through
8 the city council. A master development plan is an
9 overall development plan for an area, which in this
10 particular case was composed of at a minimum three
11 different categories of commercial, multifamily,
12 residential, public facilities, open space, drainage,
13 all those numbers -- those components.
14 Q. Okay. So this master plan had multiple
15 components that were approved?
16 A. The development plan, yes.
17 Q. So was the -- when you met with Mr.
18 Pankratz and company, the applicant, were they
19 planning on changing those components in any fashion?
20 A. The subject property, its current use to
21 another use, so yes.
22 Q. And what was the current use of the
23 property that they were going to change?
24 A. It is known as the Badlands Golf Course.
25 Q. Okay. What is its current use?

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1 A. As recreation. It's a golf course.
2 Q. And what were they going to change it --
3 what were they wanting to change it to?
4 MR. JIMMERSON: Object to the question as
5 being asked and answered..
6 THE WITNESS: To be a multifamily and
7 single family development.
8 BY MR. BICE:
9 Q. And did they -- when you first met with
10 them, did they talk about how many units that they
11 wanted to develop?
12 A. When we had our on going meetings, then
13 the unit count was made known. And so I don't know
14 which particular meeting it was that we got the exact
15 unit counts that were being asked for originally.
16 Q. What were the original unit counts?
17 A. I'm going to try and recall, but I think
18 it was 3,020 or 3,060, somewhere in there. So I
19 don't know exactly but I think it's one of those two
20 numbers.
21 Q. Okay. And was that broken up into single
22 family and multifamily resident?
23 A. If I recall there was one portion of it
24 being single family, those were called out and then
25 the other side was multifamily units.

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1 Q. So is it fair to say that from the time in
2 which you knew their plans, Mr. Pankratz and
3 company's plans, you knew that they intended to
4 develop this for multiple residences.
5 A. Meaning more than one single-family
6 residence, yes.
7 Q. Yes. You knew that they intended to have
8 several hundred residences, correct?
9 A. To develop it with multiple units as you
10 originally stated, that being whatever the unit count
11 was, yes.
12 Q.
13 So would it be accurate to say that you
14 knew that was the intended use as of August's of
15 2015?
16 MR. JIMMERSON: Object. That misstates
17 the witness' testimony.
18 BY MR. BICE:
19 Q. Are you saying you didn't know that as of
20 August 2015?
21 A. I don't recall. But I would assume if I
22 started to learn about the project in July, by August
23 it would be some understanding.
24 Q. Okay.
25 So how many meetings or discussions did you

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

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

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

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

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

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