IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA, Appellant, vs.		No. 84345 Electronically Filed Oct 27 2022 03:09 PM Elizabeth A. Brown Clerk of Supreme Court
180 LAND CO., LLC, A NEVADA LIMI LIABILITY COMPANY; AND FORE ST LTD., A NEVADA LIMITED-LIABILIT COMPANY, Respondents.	ΓARS,	
180 LAND CO., LLC, A NEVADA LIMI LIABILITY COMPANY; AND FORE ST LTD., A NEVADA LIMITED-LIABILIT COMPANY,	ΓARS, Ύ	No. 84640 AMENDED
Appellants/Cross-Responde vs. CITY OF LAS VEGAS, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA,	nts,	JOINT APPENDIX VOLUME 85, PART 6 OF 6 (Nos. 15014–15033)
Respondent/Cross-Appellan	ıt.	
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Attorneys for City of Las Vegas

1	BY MR. BICE:
2	Q. Right.
3	A. Subsequent action adopting a general plan
4	to the as far as my knowledge the map reflects
5	what was approved through the master development
6	plan.
7	MR. JIMMERSON: May I have the last
8	question and answer, please.
9	(Record read back by the reporter)
10	BY MR. BICE:
11	Q. And what you're saying is the map reflects
12	the plan of the general plan reflects what was
13	approved, correct?
14	A. The map of the general plan.
15	Q. Right.
16	A. Reflects what was approved through the
17	master development plan which is known as Peccole
18	Ranch Master Plan Exhibit 8.
19	Q. And Exhibit 7 is a copy of if I
20	understand the date is 1999 but that map reflects
21	what was approved as of that date for Peccole Ranch,
22	correct?
23	MR. JIMMERSON: Objection.
24	THE WITNESS: No.
25	MR. JIMMERSON: Misstates the record and
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A. It says adopted August 18th, 1999, so I 2 imagine that would be the City council action adopting that. Q. And the property owner of the land at that 4 5 point in time would get notice prior to this adoption, correct? A. I can't speak to how the open meeting law was met on this particular thing. It was prior to my time. But if it is a general plan, we don't send 10 notice to every owner within the City of Las Vegas. 11 Q. Right. 12 A. We do a general posting through the 13 newspaper. 14 Q. Well let's -- can we agree on this? The 15 property owner in that case at the time of the 16 adoption of the general plan map got just as much 17 notice as all the homeowners did in September of 2015 18 about the amendment with the asterisk correct? 19 MR. JIMMERSON: Objection. Misstates the 20 records in light of the witness' earlier testimony 21 about greater radius and greater notice. 22 THE WITNESS: As I stated before, I don't know how they noticed this one but if the minimum 23 24 open meeting law was being met, then yes. 25 111

171

also is confusing as to the date. 1 2 BY MR. BICE: Q. It shows the open space that was designated by the City -- by the applicant, correct? A. I understand what you're asking but the one that was adopted in? 92 does not reflect this configuration. 7 Q. I understand but the one in '99 does 8 reflect the configuration, correct? 10 MR. JIMMERSON: Objection. Misstates the 11 record. THE WITNESS: The one adopted in 1999 is 12 13 showing the existing configuration of the golf 14 course. 15 BY MR. BICE: 16 Q. The 1992 didn't reflect the nine holes, 17 correct? 18 A. Correct. It reflected the composition shown in the master development plan, not the 19 20 composition of how it was constructed and exists 21 today. 22 Q. Right. And then how it was constructed 23 and exists today is reflected in the 1999 map? A. In regards to Exhibit 7, yes, it does. 24 25 Q. Correct? As approved by the City?



1 BY MR. BICE: 2 0. And as your research, did you find any 3 proof that the property owner disputed the designation -- the property owner at the time --4 5 disputed the designation as open space as reflected on that 1999 map? 6 7 A. I personally haven't but I personally 8 haven't researched everything that the City clerk may have regarding to this. 9 10 Q. Has anyone told you that the property 11 owner at the time disputed that designation? 12 A. Not to my recollection. 13 Q. Does the property owner obtain a 14 significant benefit under that designation, open 15 space? MR. JIMMERSON: Objection. Calls for 16 17 expert opinion and testimony that this witness has 18 not been retained or compensated. 19 THE WITNESS: I can't speculate as far as 20 who would -- you know, what benefit one would garner for it. Are you asking as an overall community open 21 22 space is a benefit? 23 BY MR. BICE: 24 Q. No? 25 A. Or is it an individual that owns open

172

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space do they get a benefit? 2 Q. Well the applicant in this particular case, the Peccole's got a benefit did they not by designating all that area as open space? A. I imagine if they were trying to create a 5 community based around golf courses that would be a 7 sales pitch, you know. MR. JIMMERSON: Move to strike the answer 8 9 as calling for speculation. Mr. Bice, please. When 10 I'm speaking please don't speak and I'll give the 11 same respect. 12 MR. BICE: If you have an actual objection 13 that's fine but if you're going to give more of the 14 lengthy speaking objections I don't think that's 15 appropriate. MR. JIMMERSON: I said move to strike 16 17 because the answer says I would imagine. I said 18 therefore the answer evidences speculation and I 19 stopped. But you continued talking and that's 20 disrespectful and I just asked you so the court 21 reporter gets it all down. That's all. 22 MR. BICE: I wasn't trying to be 23 disrespectful, Mr. Jimmerson. I thought you had 24 ended your statement, so --MR. JIMMERSON: I have. 25

173

1	MR. JIMMERSON: Objection. Calls for
2	speculation.
3	THE WITNESS: That criteria came as a
4	condition of approval on the zoning the final
5	action letter for the zoning approval which I believe
6	the applicant at that time was Peccole Trust 1982 or
7	Peccole Trust.
8	BY MR. BICE:
9	Q. And the Peccole Trust has sold a lot of
10	that property to other people, correct?
11	A. I don't know to what extent.
12	Q. Well, do you know that Mr. Schreck owns a
13	piece of the property in Peccole Ranch was created or
14	approved as part of this master plan? Do you know
15	that?
16	A. I do.
17	Q. Does Mr. Schreck have the right to develop
18	additional houses on his property?
19	A. He's held to the confines of the zoning
20	ordinance and the approval of his individual
21	subdivision.
22	Q. What individual subdivision?
23	A. His home is one lot within a
24	subdivision
25	Q. Okay.

175

MR. BICE: So you were? 2 MR. JIMMERSON: And I move to strike and yes, thank you. MR. BICE: So I'm not sure why you interrupted you. 5 MR. JIMMERSON: Because I was still 6 speaking and you started talking again and then you 7 started asking the next question. That's why I 8 9 voiced a concern. 10 BY MR. BICE: Q. In addition to trying to create a 11 12 community around a golf course are you aware whether 13 or not the property owner by designating it as open 14 space gets any tax advantages? MR. JIMMERSON: Calls for speculation. 15 The question is also misstating earlier testimony of 16 17 the witness. THE WITNESS: I don't know. I would have 18 19 to defer to counsel. 20 BY MR. BICE: 21 Q. Okay. So back to my earlier question, you 22 said that you thought that there was something around 23 1200 units that hadn't been developed of what had been approved. But those 1200 units had been 24 approved for the Peccole family trust correct? 25 174 A. -- and to establish the development.

2 standards and that configuration of lots it went 3 through a subsequent action which has its own 4 conditions of approval for setbacks and things like 5 that, and he's also held to the Las Vegas Municipal 6 Code and then the zoning code, he would be held to 7 the legacy district. As far as multiple dwelling units with kitchens and things like that, there are a 8 number of things that he would have to deviate from 9 10 to be able to do so. 11 Q. In order to do so, right? Can he just 12 knock down his house and build multiple units on his 13 lot, his large lot? 14 A. He can demolish his house. He can 15 petition and go through the many applications it 16 would take. He has the right to petition to do so. 17 Q. Well, how many units then are allocated to Mr. Schreck's property of this 1200 that you say were 18 19 never used up? 20 A. Well he would get all 1200 if he could 21 develop it. Q. What's that? 22 23 A. If he entitled it, to have 1200 on his 24 lot 25 Q. On his lot then he could -- the 1200 are

176

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his? 1 2 A. Well, it's a geographical area and if he's within that area he's held to that condition of 3 approval as well. Q. Here's what I'm confused by, Mr. Lowenstein. How would the 1200 be available to the 6 7 owner of the golf course property which was 8 designated as open space under the approved plan? 9 How is it that those 1200 are somehow available to 10 somebody who bought property designated as open 11 space? MR. JIMMERSON: Objection. The question 12 13 is argumentative, assumes facts not in evidence. The 14 property was never designated as open space in 1990. 15 BY MR. BICE: 16 Q. Go ahead. 17 A. As I said you have the act to petition 18 your government. In this case it would be up to the 19 council's discretion to amend it from open space to 20 something else and allot the units. 21 Q. Just so -- so I quess the units are just 22 as much available to everybody else that owns 23 property in this community as they are to the golf courses; is that what you're saying? 24 25 A. Saying within that geographical area there

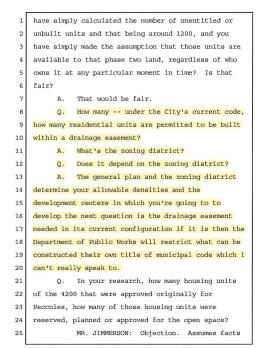
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1	what I'm trying to understand.
2	MR. BYRNES: Objection. Asked and
3	answered this is really beating a dead horse. This
4	is about the $15^{\mbox{th}}$ time you asked the same question.
5	MR. BICE: Phil I'm not trying to be
6	argumentative. I don't think it is. I don't
7	understand how it is that those units are and if
8	he has an explanation I'd like to hear it. I don't
9	know how it is some guy comes out of the woodwork 25
10	years later and says 1200 units that were approved
11	for Mr for the particular, 30 plus years ago are
12	somehow his. Can you explain to me?
13	MR. JIMMERSON: Object to the question as
14	calling for object to all editorialization and all
15	the argumentative nature of it. Also there's not
16	establishing in effect. { Assuming facts not in
17	evidence that it was open space in 1990.
18	THE WITNESS: So to your question in
19	regard to land use entitlement, it stays with the
20	property. The geographical that was with the initial
21	rezoning stays with the property regardless of
22	property owner other than that I'll defer to counsel
23	for my answer.
24	BY MR. BICE:
25	Q. Is it fair to say Mr. Lowenstein that you

179

1	is developable land and within that whoever petitions
2	their government is still able to ask for those
3	units.
4	Q. All right. Is this the first come first
5	serve principle?
6	MR. JIMMERSON: Object to the form of the
7	question. Argumentative.
8	MR. BYRNES: Join in that.
9	THE WITNESS: That's one way somebody
10	could put it.
11	BY MR. BICE:
12	Q. Is that codified anywhere in the City
13	code?
14	A. Not
15	MR. BYRNES: Calls for a legal conclusion.
16	THE WITNESS: Not that I am aware of. If
17	you have a condition that limits the number of units
18	and you still have that available number of units,
19	what curtails someone from applying for it?
20	BY MR. BICE:
21	Q. And I think the difference that you and I
22	are talking about is you say you still have those
23	available number of units. Who has them available?
24	The people got an approval or just somebody who comes
25	along 25 years later and buys open space? That's

178



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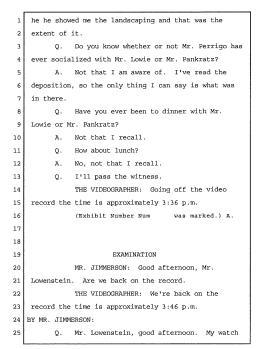
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1	not in evidence that open space was even referenced
2	within that 4247.
3	THE WITNESS: Can you restate the question
4	please.
5	BY MR. BICE:
6	Q. Let me make sure I read it back correctly.
7	In your research, how many housing units of the 4200
8	were approved originally for the Peccoles, or that
9	were approved originally for the Peccoles, how many
10	of those housing units were reserved planned or
11	approved for the open space?
12	MR. JIMMERSON: Same objection.
13	THE WITNESS: So referring to Exhibit 8
14	BY MR. BICE:
15	Q. Yes?
16	A in Exhibit 8 there are associated
17	tables with it which delineates acreages, net
18	densities, regarding various different uses of land
19	use.
20	Q. Yes.
21	A. And the golf course drainage does not
22	indicate a net density or net units.
23	Q. Is it accurate to say to my question
24	would it be an accurate answer to my question to say
25	zero?

1	A. I have not been to Mr. Pankratz'
2	residence. I have been to Mr. Lowie's residence
3	once.
4	Q. And when was that?
5	A. I don't recall the exact date.
6	Q. Has it been within the last year?
7	A. I don't recall.
8	Q. What was the circumstances you were at Mr.
9	Lowie's residence?
10	A. I had asked him as well as my director,
11	because they were traveling international, to see if
12	they could procure me a bottle of Blanton's bourbon.
13	Q. Okay. Mr. Lowie was traveling
14	internationally; is that what you're saying?
15	A. Yes. Same as my director was.
16	Q. Were they traveling together?
17	A. No. Separate things. I'm just stating
18	because of their travels internationally, I had asked
19	to see if they could procure a bottle of Blantons
20	bourbon in their travels.
21	Q. And Mr. Lowie did?
22	A. He was able to and and I went to his house
23	and refunded his money, \$56 for the bottle.
24	Q. And that was
25	A. It was just a very cordial conversation,

1	MR. JIMMERSON: Objection. Same
2	objection as I incorporate by reference before the
3	witness has already answered the question.
4	THE WITNESS: Yes.
5	MR. JIMMERSON: Is there an answer to the
6	question?
7	THE COURT REPORTER: Yes.
8	MR. JIMMERSON: So he said yes to the
9	answer zero.
10	MR. BICE: Yes.
11	THE WITNESS: My answer is yes of this
12	Exhibit 8 does not illustrate a number. This has a
13	dash you can refer to a dash technically as a zero.
14	BY MR. BICE:
15	Q. Have you ever socialized with Mr. Lowie or
16	Mr. Pankratz?
17	A. Outside of the regularly scheduled
18	meetings?
19	Q. Yes.
20	A. I've seen Mr. Lowie out in passing and in
21	Tivoli outside of the Cafe Leon.
22	Q. Okay. Any other circumstances?
23	A. Not that I recall.
24	Q. Have you ever been to either of their
25	residences?

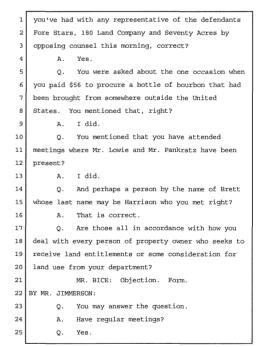




1	tells me it's about five minutes to 4:00, 3:55 is
2	what my phone says. I had the privilege and we've
3	just met this morning I have the privilege of
4	representing Fore Stars, 180 Land Company and Seventy
5	Acres in this litigation that was brought by
6	Mr. Binion and others against the City of Las Vegas
7	and against my clients. Do you understand that?
8	A. Yes, I do.
9	Q. Before this morning, had you and I ever
10	met?
11	A. Not to my recollection.
12	Q. And had we ever had any conversations
13	before now, I mean in terms other than good morning
14	or hello my name is Jim Jimmerson my name is Peter
15	Lowenstein. Have we had any communication at all?
16	A. Not that I recall.
17	Q. Thank you, sir. Now I've shown you what's
18	been marked as Exhibit A. And this is the first
19	amended complaint that has been filed by the
20	plaintiff through Mr. Bice who was examining you this
21	morning from about 950 this morning to the present.
22	And I want to know, have you ever seen that
23	document before?
24	A. I may have from counsel.
25	Q. And counsel would be Mr. Byrnes or

1	legal notice and an opportunity to be heard." To
2	your knowledge, has the City been complicit to
3	deprive surrounding homeowners of legal notice and an
4	opportunity to be heard?
5	MR. BICE: Objection. Form.
6	THE WITNESS: My understanding is that the
7	City followed the open meeting law requirements.
8	BY MR. JIMMERSON:
9	Q. So the answer's no?
10	A. That would be correct.
11	Q. And what is your understanding that the
12	City follows legal notice requirements if not gone
13	beyond that as you've indicated on your direct
14	examination?
15	A. Can you restate that please?
16	Q. You said no to your knowledge that the
17	legal requirements of notice have been satisfied.
18	What's the basis for your answer, sir?
19	A. That a neighborhood meeting was held,
20	depending on which applications we're talking about,
21	public notification cards were mailed out,
22	neighborhood meetings were held and all of that done
23	in a timely manner and in accordance with the open
24	meeting law.
25	

1	Mr. Jerbic?
2	A. Correct.
3	Q. There are allegations here that claim that
4	the City of Las Vegas, through its representatives,
5	have colluded ed with Fore Stars, 180 Land Company
6	and Seventy Acres as a group to try to achieve an
7	improper purpose or improper result. Are you aware
8	of any such basis for such a claim like that?
9	MR. BICE: Objection to form.
10	THE WITNESS: No.
11	MR. BICE: Go ahead.
12	THE WITNESS: Sorry. No.
13	BY MR. JIMMERSON:
14	Q. Has the City in any way colluded with the
15	entities that I represent relative to the
16	partialization that was occurred in order to receive
17	zoning change in zoning entitlements?
18	MR. BICE: Objection to form.
19	THE WITNESS: No, not that I am aware of.
20	No.
21	BY MR. JIMMERSON:
22	Q. Has the City of Las Vegas as far as you
23	are personally involved been complicit, as is alleged
24	at page six, line seven, quote, "The City's
25	complicity in deriving surrounding homeowners of



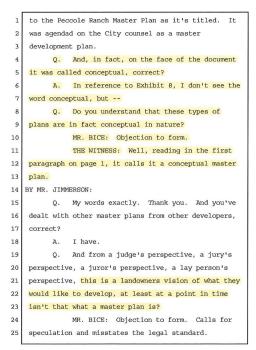
1	А. Үев.
2	Q. Has there been anything untoward or
3	inappropriate in any communications you've had with
4	anyone that you recognize to be a representative of
5	my clients?
6	MR. BICE: Objection to form.
7	THE WITNESS: Not that I am aware of.
8	BY MR. JIMMERSON:
9	Q. Have you conducted yourself in any manner
10	that you believe to be inappropriate with regard to
11	dealing with this applicant and these applications?
12	A. No. Not to my understanding.
13	Q. Have you observed Mr. Perrigo conduct
14	hisself in any manner that would be, in your
15	judgment, inappropriate in dealing with these
16	applications and these applicants?
17	A. No, not to my knowledge.
18	Q. Have you conducted yourself appropriately
19	with regard to these applicants as you have with all
20	applicants that appear before the City of Las Vegas?
21	A. I have.
22	Q. Do you know of any basis upon which the
23	plaintiffs would be able to successfully demonstrate
24	any complicity on the part of the City of Las Vegas
25	and in particular Pete Lowenstein towards my clients?
. J	

1 BY MR. JIMMERSON: Q. And that's what you have done in this 2 3 case? 4 A. I have, as previously stated, reviewed 5 some documents, land use entitlements on the 6 property. I've looked at the associated document, 7 the Peccole Ranch Master Plan as part of that, and 8 the 1992 at that time what was the general plan, the 9 label, and current versions of the Las Vegas 2020 10 Master Plan Unified Development Code. 11 Q. And Mr. Bice representing the plaintiffs 12 has asked you many many questions with regard to 13 events and documents that predate your involvement 14 with the City of Las Vegas? A. They have asked me regarding materials 15 that predate my employment at the City of Las Vegas. 16 17 Q. All right. From your observations of 18 documents you reviewed, you observed that there was a 19 conceptual master plan developed by the Peccole 20 family to develop proper that they owned in Northwest 21 Las Vegas? 22 MR. BICE: Objection to form. 23 BY MR. JIMMERSON: 24 Q. You may answer the question, sir? 25 A. In the deposition we were making reference

191

1	MR. BICE: Objection to form.
2	MR. JIMMERSON: You may answers the
3	question sir.
4	THE WITNESS: I'm not aware of that.
5	BY MR. JIMMERSON:
6	Q. Any such allegations you believe any
7	such allegations to be false?
8	MR. BICE: Objection to form.
9	THE WITNESS: There is no basis for the
10	allegations?
11	Q. And why do you say so?
12	A. To my knowledge and my own actions,
13	there's nothing that would have been construed as
14	being complacent or preferential.
15	Q. All right. Now, following the allegations
16	in the amended complaint, there is some requirement,
17	I believe, for all of us in this room to look back at
18	records that may have existed in the late 1980s and
19	early 1990s since none of us were directly involved
20	with the applications at that time. Fair statement?
21	MR. BICE: Objection to form.
22	THE WITNESS: As part of researching
23	projects, one is called upon to look at entitlements
24	and previous zoning codes, potentially codes or
25	general plans from air as before them.

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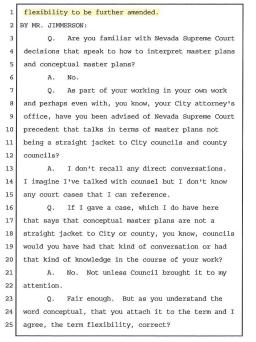
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1	MR. JIMMERSON: I only want to respond by
2	saying these are the very kinds of questions you
3	asked Mr. Lowenstein for five hours and now you're
4	objecting to the same question he's being asked.
5	It's just so unfair.
6	MR. BICE: Actually, I disagree with you
7	Mr. Jimmerson. My questions are quite different and
8	if you can't recognize from the caption on which side
9	of the case you're aligned, that is an issue for you.
10	My objection
11	MR. JIMMERSON: This is cross examination
12	counsel. This is a party that is separate and apart
13	and distinct from my clients and somebody I may or
14	may not have agreement with, Counsel.
15	MR. BICE: I've noted my objection for the
16	record.
17	MR. JIMMERSON: Thank you.
18	BY MR. JIMMERSON:
19	Q. Now return to the question which was a
20	while ago.
21	MR. BYRNES: Do you recall what the
22	question is?
23	BY MR. JIMMERSON:
24	Q. I'll ask it again. A master plan is a
25	developer vision of what he would like to develop

2 plan, the Venetian plan I think you referenced 3 correct? 4 A. That is correct. I'm not sure on the date 5 but there was the Venetian foothills. 6 Q. And then you saw the your first master 7 plan I think you told opposing counsel was in 1989, with an amended plan in 1990 is that right? 9 A. As far as the Peccole Ranch Master Plan, 10 yes. 11 Q. And as indicated on page 1 of the master 12 plan it was his conceptual plan; is that right? 13 A. In Exhibit A? 14 Q. Yes. Exhibit A. 15 A. On page 1, it reads the proposed 16 559.6-acre Peccole Ranch Master Plan is being 17 submitted to the City of Las Vegas for the approval 18 of and amendment to the over all conceptual master 19 plan along with the rezoning of a 996.4 acres in 19 plase two to R-PD7 and R3 and C1 designations. 12 Q. Okay. Now, what does the word conceptual 13 in the term conceptual master plan mean to you as you 14 have just read it into the court record? 15 M	1	Q. And in 199 1986 there was this original
 A. That is correct. I'm not sure on the date but there was the Venetian foothills. Q. And then you saw the your first master plan I think you told opposing counsel was in 1989, with an amended plan in 1990 is that right? A. As far as the Peccole Ranch Master Plan, yes. Q. And as indicated on page 1 of the master plan it was his conceptual plan; is that right? A. In Exhibit A? Q. Yes. Exhibit A. A. On page 1, it reads the proposed 569.6-acre Peccole Ranch Master Plan is being submitted to the City of Las Vegas for the approval of and amendment to the over all conceptual master plan along with the rezoning of a 996.4 acres in phase two to R-PD7 and R3 and CI designations. Q. Okay. Now, what does the word conceptual in the term conceptual master plan mean to you as you have just read it into the court record? 	2	plan, the Venetian plan I think you referenced
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9 A. As far as the Peccole Ranch Master Plan, 10 yes. 11 Q. And as indicated on page 1 of the master 12 plan it was his conceptual plan; is that right? 13 A. In Exhibit A? 14 Q. Yes. Exhibit A. 15 A. On page 1, it reads the proposed 16 569.6-acre Peccole Ranch Master Plan is being 17 submitted to the City of Las Vegas for the approval 18 of and amendment to the over all conceptual master 19 plan along with the rezoning of a 996.4 acres in 10 phase two to R-PD7 and R3 and Cl designations. 12 Q. Okay. Now, what does the word conceptual 12 in the term conceptual master plan mean to you as you 13 have just read it into the court record?	7	plan I think you told opposing counsel was in 1989,
11 Q. And as indicated on page 1 of the master 12 plan it was his conceptual plan; is that right? 13 A. In Exhibit A? 14 Q. Yes. Exhibit A. 15 A. On page 1, it reads the proposed 16 569.6-acre Peccole Ranch Master Plan is being 17 submitted to the City of Las Vegas for the approval 18 of and amendment to the over all conceptual master 19 plan along with the rezoning of a 996.4 acres in 10 phase two to R-PD7 and R3 and C1 designations. 12 Q. Okay. Now, what does the word conceptual 13 in the term conceptual master plan mean to you as you 14 plast read it into the court record?	8	with an amended plan in 1990 is that right?
Q. And as indicated on page 1 of the master Image: Plan it was his conceptual plan; is that right? Image: Plan it was his conceptual plan; is that right? Image: Plan it was his conceptual plan; is that right? Image: Plan it was his conceptual plan; is that right? Image: Plan it was his conceptual plan; is that right? Image: Plan it was his conceptual haster Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in Image: Plan along with the rezoning of a 996.4 acres in </td <td>9</td> <td>A. As far as the Peccole Ranch Master Plan,</td>	9	A. As far as the Peccole Ranch Master Plan,
plan it was his conceptual plan; is that right? 13 A. In Exhibit A? 14 Q. Yes. Exhibit A. 15 A. On page 1, it reads the proposed 16 569.6-acre Peccole Ranch Master Plan is being 17 submitted to the City of Las Vegas for the approval 18 of and amendment to the over all conceptual master 19 plan along with the rezoning of a 996.4 acres in 10 phase two to R-PD7 and R3 and C1 designations. 12 Q. Okay. Now, what does the word conceptual 12 in the term conceptual master plan mean to you as you 13 have just read it into the court record?	10	yes.
13 A. In Exhibit A? 14 Q. Yes. Exhibit A. 15 A. On page 1, it reads the proposed 16 569.6-acre Peccole Ranch Master Plan is being 17 submitted to the City of Las Vegas for the approval 18 of and amendment to the over all conceptual master 19 plan along with the rezoning of a 996.4 acres in 20 phase two to R-PD7 and R3 and C1 designations. 21 Q. Okay. Now, what does the word conceptual 22 in the term conceptual master plan mean to you as you 23 have just read it into the court record?	11	Q. And as indicated on page 1 of the master
Q. Yes. Exhibit A. 15 A. On page 1, it reads the proposed 16 569.6-acre Peccole Ranch Master Plan is being 17 submitted to the City of Las Vegas for the approval 18 of and amendment to the over all conceptual master 19 plan along with the rezoning of a 996.4 acres in 10 phase two to R-PD7 and R3 and C1 designations. 21 Q. Okay. Now, what does the word conceptual 22 in the term conceptual master plan mean to you as you 23 have just read it into the court record?	12	plan it was his conceptual plan; is that right?
 A. On page 1, it reads the proposed 569.6-acre Peccole Ranch Master Plan is being submitted to the City of Las Vegas for the approval of and amendment to the over all conceptual master plan along with the rezoning of a 996.4 acres in phase two to R-PD7 and R3 and C1 designations. Q. Okay. Now, what does the word conceptual in the term conceptual master plan mean to you as you have just read it into the court record? 	13	A. In Exhibit A?
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 18 of and amendment to the over all conceptual master 19 plan along with the rezoning of a 996.4 acres in 20 phase two to R-PD7 and R3 and C1 designations. 21 Q. Okay. Now, what does the word conceptual 22 in the term conceptual master plan mean to you as you 23 have just read it into the court record? 	16	569.6-acre Peccole Ranch Master Plan is being
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 phase two to R-PD7 and R3 and C1 designations. Q. Okay. Now, what does the word conceptual in the term conceptual master plan mean to you as you have just read it into the court record? 	18	of and amendment to the over all conceptual master
Q. Okay. Now, what does the word conceptual in the term conceptual master plan mean to you as you have just read it into the court record?	19	plan along with the rezoning of a 996.4 acres in
22 in the term conceptual master plan mean to you as you 23 have just read it into the court record?	20	phase two to R-PD7 and R3 and C1 designations.
23 have just read it into the court record?	21	Q. Okay. Now, what does the word conceptual
and a second sec	22	in the term conceptual master plan mean to you as you
24 MR. BICE: Objection to form.	23	have just read it into the court record?
	24	MR. BICE: Objection to form.
25 THE WITNESS: That it has, you know,	25	THE WITNESS: That it has, you know,

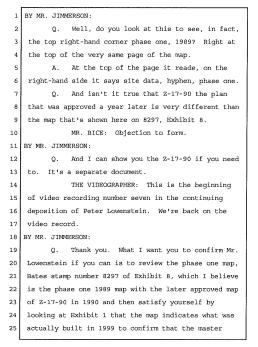
1	conceptually; is that correct?
2	MR. BICE: Objection to the form.
3	Misstates the legal standard.
4	THE WITNESS: Master plans to my
5	understanding and my experience working with them,
6	they are overall layout of how the development is to
7	occur. The specifics on the subdivision are
8	subsequent actions.
9	BY MR. JIMMERSON:
10	Q. And master plans is it true that master
11	plans can change over time?
12	A. They can.
13	Q. And what are some of the factors, some of
14	the reasons why a developer's, you know, intent or
15	vision or conceptual plan might change?
16	A. Land use designations within the plan
17	based on their own whatever their reasons are,
18	they can petition to amend those to be from a
19	residential to a commercial or vice versa. I don't
20	know what drives the master developer. It could be
21	market driven it could be any other number of reasons
22	I won't speculate why but they would be able to
23	petition the City council to amend that plan to go
24	forward with whatever their vision is on or their
25	amended vision is.
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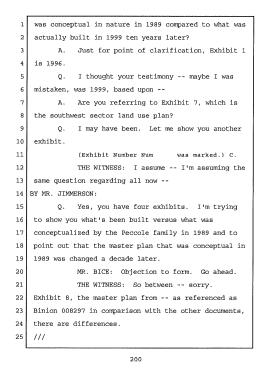


1	MR. BICE: Objection to form.
2	BY MR. JIMMERSON:
3	Q. Have I characterized or summarized your
4	testimony correctly?
5	A. As I stated, it gives it the ability to
6	amend at a future date and one would ever could apply
7	the word flexible to that.
8	Q. And you in fact did apply the word
9	flexibility?
10	A. I'm not sure. We'll have to ask the
11	stenographer.
12	Q. Now, looking at the map of the proposed
13	master plan would you look please at page it's
14	Bates stamped number 297 or 8297 of Exhibit 8. Now,
15	do you see that this plan is a plan from 1989 and is,
16	in fact, not the final plan approved by the City of
17	Las Vegas in 1990?
18	MR. BICE: What's the page number?
19	MR. JIMMERSON: 8297, Counsel.
20	MR. BICE: Thank you.
21	THE WITNESS: I don't see an associated
22	date on the page. It's referenced as Exhibit B
23	within the document, so individual to read the
24	document to say as far as what its full purpose is.
25	///
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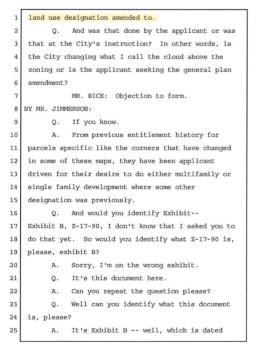
1	plan map in Exhibit 8 was not followed by the
2	developer. So I need we're still waiting for that
3	one piece of paper, Z-17-90, but that's the task I'm
4	asking you to take a moment and look at. While we're
5	waiting for that document, can you
6	MR. BICE: Here it is.
7	MR. JIMMERSON: Thank you.
8	MR. BICE: Can I just take one?
9	MR. JIMMERSON: Of course.
10	(Exhibit Number Num was marked.)
11	BY MR. JIMMERSON:
12	Q. Now before you you have three documents,
13	you have Exhibit 8 the 1989 phase one document,
14	document 8297, you have Exhibit B, the 2-17-90
15	approved by the City Council in 1990, April 4 th ,
16	and you have Exhibit 1, Lowenstein 1, which has
17	the what purports what you testified purports
18	to be an as-built of the golf course in 1999. So you
19	have those three documents in front of you, right?
20	A. That is correct. I have these documents.
21	Q. Just to make it easier, why don't we stick
22	with the '89 draft of Exhibit 8 and compare it to the
23	1999 golf course of Exhibit 1. And can you tell me
24	the differences that you observe as to the location
25	of holes and other infrastructure between that which



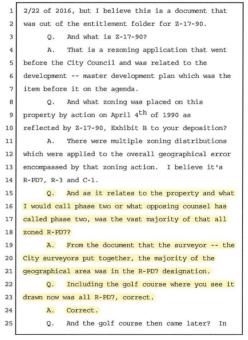




1	BY MR. JIMMERSON:
2	Q. What are they that you can easily observe
3	just in the short time you have been given by myself?
4	A. In looking at it I can see the assignment
5	of the Alta Drive. I can see single family has been
6	changed to commercial center. Looking at the
7	composition of the golf course that has also changed.
8	Q. And referring to the composition of the
9	golf course, can you give me a little bit more
10	specifics and details?
11	A. Well, in
12	Q. The design of the course is significantly
13	different, would you agree?
14	MR. BICE: Objection. Form.
15	A. The original, referring to the Binion
16	00297, shows 18 holes in pretty much a triangular
17	pattern, and when looking at the Peccole West map,
18	there are now fingerlings to it.
19	Q. And you're referring to Exhibit C, the
20	as-built, the thick someone Exhibit C.
21	A. Well I was referring to Peccole West
22	Exhibit 1 and you can also see that it's different
23	from the Binion 008297 in regards to the composition
24	of the golf course. This is Exhibit C, sorry,.
25	Q. You're doing fine.



1	A. Which is labeled final map for Peccole
2	West. It also differs in composition.
3	Q. Have you completed your answer?
4	A. In regards to those four exhibits that's
5	what I
6	Q. And all right. And in order to well
7	what approvals, if any, would the City make to the
8	changes that the developer has obviously made between
9	1989, Exhibit 8297, and 1999 in the as-built that you
10	have in Exhibit C? In other words, how does the City
11	get involved to approve the developer changes in all
12	the differences you've identified?
13	A. From the Z-17-90, that amended the
14	original Peccole Master Plan and included the
15	rezoning of phase two as part of it. Subsequent
16	actions were done by parentheticals of that zoning
17	action, as well as changing the land use plan were
18	done through general plan amendments, meaning the
19	land use plan of the general plan, the designations
20	that were existing at that time.
21	Q. And how is that accomplished, the change
22	of designations of the general plan?
23	A. Through a general plan amendment
24	application which was then followed by a rezoning
25	application to have a compatible zoning district with
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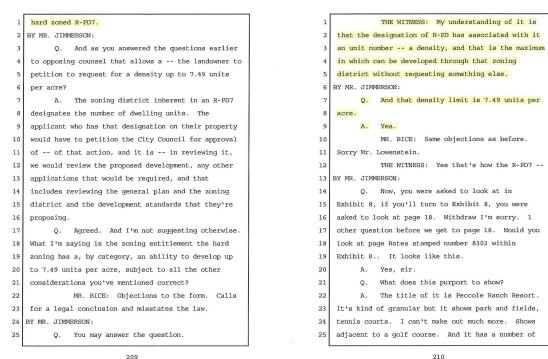


1	other words, the property is zoned R-PD7 and then the
2	golf course is super imposed on that later as we see
3	in the 1995/96 time period?
4	MR. BICE: Objection to form.
5	THE WITNESS: I'm trying to follow the
6	question. Can you restate that.
7	BY MR. JIMMERSON:
8	Q. The majority of the land as you indicated
9	and the land that is being sought to be developed by
10	my clients is presently zoned R-PD7; is that correct?
11	A. That is correct.
12	Q. And it was zoned R-PD7, as far as you're
13	looking at the historical documents, on or about
14	April 4 th of 1990, correct?
15	A. Correct.
16	Q. Originally through a resolution of intent
17	correct?
18	A. I believe that was the zoning practice at
19	the time, yes.
20	Q. And then we know formally in October of
21	2001 a hard ordinance that did confirm R-PD7 for all
22	that property owned by my clients, correct.
23	A. I don't recall the exact ordinance that
24	solidified the zoning out of a resolution of intent
25	but there is an ordinance that did so.

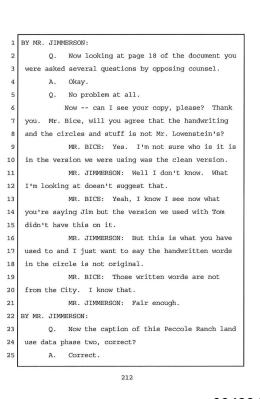
1	you misheard. All seven were heard by City planning
2	commission?
3	A. That is correct.
4	Q. And then three were formally heard to vote
5	by City Council.
6	A. Not to be a stickler but City Council,
7	they heard all the items. They took a vote on the
8	request for withdrawal, which they did.
9	Q. And you are right.
10	A. And then they reviewed the subsequent
11	three applications.
12	Q. Good for you. And thank you for the
13	correction. I mean that. I want you to be careful
14	for not only my clients protection, the City's
15	protection and the plaintiff's protection as well.
16	So the withdrawal occurred without
17	prejudice at the time of the City Council meeting on
18	November 16 th but you were present for both
19	meetings?
20	A. That is correct.
21	Q. You were present to hear Mr. Jurbic's
22	response to questions asked by the chairman of the
23	City Planning Commission with regard to the hard
24	zoning that existed on my clients.
25	(Reporter interruption.)

1	Q. The way it was described to me, Mr.
2	Lowenstein, and correct me if I'm wrong it's an atlas
3	where all the property where for all the City was
4	confirmed and it was then through City ordinance
5	approved and passed as being whatever the particular
6	property location would be assigned a zoning
7	entitlement.
8	A. Through the zoning plan atlas is the term
9	for the overall zoning of the City. To amend that
10	they do that by ordinance and they did an ordinance
11	which included these properties as part of it which
12	then solidified it as R-PD7.
13	Q. You have been present at the meeting of
14	the planning commission before the City Planning
15	Commission in I think it was October of 2016 where
16	the seven applications, I believe, were pending.
17	Were you present for that meeting?
18	A. That is correct.
19	Q. And then you recall that four were
20	withdrawn and three went to full hearing before the
21	City counsel on November 16th of 2016?
22	A. I believe all of them were heard at
23	planning commission. The withdrawal occurred at city
24	council.
25	Q. That's what I said if I misstated or if

1	Q. You were present to hear Mr. Jurbic's
2	words in answering a question by the planning
3	commission chairman, whose name I don't recall, where
4	he stated, in response to a question asked, that the
5	applicants had hard zoning for R-PD for the property
6	in question, correct?
7	MR. BICE: Objection to the form.
8	BY MR. JIMMERSON:
9	Q. Did you hear those words?
10	MR. BICE: Objection to form the record
11	speaks for itself.
12	MR. JIMMERSON: Thank you counsel.
13	THE WITNESS: I was present at the
14	meeting. I don't recall the specific conversation
15	but it is recorded, so I could refresh my memory to
16	answer that if you like.
17	BY MR. JIMMERSON:
18	Q. When I resume your deposition in the next
19	day, I might play it for you and you can listen to it
20	again.
21	But do you agree that the property owned by
22	my clients enjoys hard zoning for R-PD7?
23	MR. BICE: Objection to the form. States
24	a legal conclusion. Go ahead.
25	THE WITNESS: I agree that the property is
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1	buildings in the center of it.
2	Q. Where is it located? What intersection?
3	A. The roadways are it's hard to discern
4	but it's just south of Angel Park which you can make
5	out, so that would be Alta on the east west road, and
6	my assumption is that this is Rampart or at that
7	point it might have still been Fort Apache.
8	Q. And is that a golf course that runs
9	that crosses the road?
10	A. I can't really discern that. I see what
11	looks to be fairways and greens on the west side of
12	the road.
13	Q. Crossing the road right?
14	A. Well crossing the road. I'm not sure if
15	that's golf course. I don't see any fairway or
16	greens. I can't discern.
17	Q. Was any of this built as we now sit here
18	in 2016?
19	A. In this composition, no.
20	BY MR. JIMMERSON:
21	Q. Can you let me know which page number
22	you're looking at.
23	MR. JIMMERSON: I did and I put it in the
24	record 8303 counsel.
25	MR. BICE: Thank you.



1	Q. And for the benefit of the judge who might	1	Q. But in any event it's clear it was
2	read this transcript or who might have it read to him	2	eliminated by 1989, correct?
3	or the injury who might listen to this this is	3	MR. BICE: Objection to form.
4	relating to phase two and would you agree with me	4	THE WITNESS: Well if it was part of
5	that would be the property north of Charleston?	5	Venetian Foothills and then '89 and then '90, the '90
6	A. Primarily, phase two includes, for lack of	6	obviously doesn't reflect it.
7	better terms, basically a peninsula that runs all the	7	BY MR. JIMMERSON:
8	way down to Sahara.	8	Q. There is no golf course built there now
9	Q. Got it. Thank you so much. So the land	9	south of Charleston between Rampart and wall pie or
10	use is identified in these these seven or eight	10	Rampart and correct?
11	categories? Would you read those land use categories	11	A. Not as part of the Peccole Ranch Master
12	please?	12	Development.
13	A. Single family, multi family, commercial	13	Q. All right. Now, looking at these land
14	slash office, resort-casino, golf course drainage,	14	uses, there is proposed acreage to be allocated to
15	right of way, elementary school.	15	these different land uses, correct?
16	Q. Did you happen to notice whether or not	16	A. There are associated acreages in the
17	there was a golf course in the 1986 to 1990 time	17	column to the right of the land uses.
18	period scheduled for the phase one of the Peccole	18	Q. But this is conceptual, it can vary,
19	Ranch Master Plan?	19	correct?
20	A. In relation to this document?	20	MR. BICE: Objection to the form.
21	Q. No. Phase one south of Charleston.	21	BY MR. JIMMERSON:
22	A. I would have to review it. I don't	22	Q. Can it vary? Can 402 acres be used for
23	recall. My recollection says there may have been	23	single family?
24	actual golf course holes on the southern portion, but	24	MR. BICE: Same objection. Go ahead.
25	I would have to review that to confirm.	25	THE WITNESS: On page 1 of this Exhibit B
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8 ahead.

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90 plan.

slash office?

1	it says it's conceptual. Then as subsequent land use
2	applications have modified land use designations, my
3	answer would be yes.
4	BY MR. JIMMERSON:
5	Q. You said you read Mr. Perrigo's
6	deposition.
7	A. That is correct.
8	Q. Mr. Perrigo was clear to denominate the
9	many departures from this conceptual plan that
10	occurred from 199 to the present, correct?
11	MR. BICE: Objection to the form.
12	Foundation.
13	THE WITNESS: My recollection is that he
14	made mention that there were instances.
15	Q. And he used the word in fact on several
16	occasions inconsistencies. Do you recall?
17	MR. BICE: Objection to the form. Go
18	ahead.
19	THE WITNESS: It was a long deposition and
20	a lot of reading.
21	BY MR. JIMMERSON:
22	Q. Yes, it was?
23	A. So I'm not sure if I'm retaining
24	everything from that.
25	Q. But your own oaks would observe that there

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are wholesale number of inconsistencies between what

the conceptually was discussed in 1989 and what was

actually constructed in the years that followed to

original master development plan from '90 going on

forward. As far as his deposition, I don't know if

he had any examples, but there are, you know -- my

only recollection of things that would differ would

be northern portion of Boca Park, the Queensridge

towers, the southwest corner of wall -- sorry, it

Charleston and there's some other examples. Those

off the top of my head I know are different from the

would be the northeast corner of Hualapai and

Q. Now does the fact that -- what

significance if any do you take from the fact that

there is a place holder of a dash next to commercial

216

MR. BICE: Objection to the form and the representation that a dash is a quote place holder.

MR. JIMMERSON: Thank you counsel.

MR. BICE: Objection to the form. Go

THE WITNESS: There are changes from that

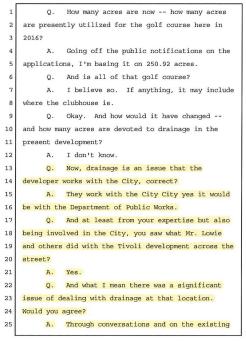
MR. BICE: Objection. Sorry are you done?

the present date, agreed?

1	THE WITNESS: As previously stated, one
2	can infer that it has a zero as I stated. It could
3	be inferred as other things. If, in fact, somebody
4	applies to amend something, then obviously the
5	acreage would change.
6	BY MR. JIMMERSON:
7	Q. Well under this conceptual plan, how
8	much how many offices how many offices could be
9	placed in the commercial office category? How many
10	could be built under the conceptual master plan?
11	BY MR. BYRNES:
12	Q. Of commercial slash office.
13	MR. BYRNES: Acres.
14	Q. No I want to know how many offices can be
15	built.
16	MR. BICE: Units.
17	BY MR. JIMMERSON:
18	Q. How much square foot can be built. I'll
19	withdraw the objection.
20	BY MR. JIMMERSON:
21	Q. How many units?
22	REPORTER'S NOTE while withdraw?
23	A. This table does not delineate any units.
24	It doesn't speak to that. It just says acreage dash
25	on density dash on units, both of which are met.

1	density.
2	Q. So if I understand your testimony, and
3	this is an area where you're teaching me, Mr.
4	Lowenstein, you wouldn't use the hotel/casino as a
5	count against 4742. Is that what you're saying?
6	MR. BICE: Objection. Form. Go ahead.
7	THE WITNESS: That is correct.
8	BY MR. JIMMERSON:
9	Q. Did you understand my question?
10	A. I did.
11	Q. Okay. But nonetheless there is no attempt
12	in 1989 or 1990 when the master plan is being
13	discussed in Exhibit 8 to identify the density or the
14	number of hotel rooms or the like associated with the
15	resort-casino. Agreed?
16	A. I would have to read through the verbiage
17	of the entire document but pursuant to this table it
18	does not address that.
19	Q. All right. And the golf course drainage
20	talks about 211.6 acres if I'm reading that correct.
21	A. I am assuming there should be a decimal
22	point there, yes.
23	Q. If there's not then my mind put it in.
24	Thank you.
25	A. There's not a decimal.

1	Q. It certainly allows it to be constructed
2	would you agree?
3	A. Yes.
4	Q. Okay. But the amount isn't determined at
5	least at the conceptual time of this in 1989?
6	MR. BICE: Objection to form.
7	BY MR. JIMMERSON:
8	Q. Correct?
9	A. Yes.
10	MR. BICE: I'm sorry object to form and
11	objection to the reference 1989.
12	BY MR. JIMMERSON:
13	Q. Even if this were deemed to be in 1990,
14	there's no limitation on how many units are going to
15	be placed in commercial office at this time, correct?
16	A. Not by this table.
17	Q. And if you will read the next line,
18	resort-casino, supposedly going to be on 56 acres, we
19	don't know how many with what the density for that
20	hotel is going to be, correct, how many rooms are
21	going to be built, how many square foot of casino?
22	A. Right. As far as a resort-casino it's not
23	looked at in regards to density. It's just the
24	development. There are hotel rooms associated with
25	it, but they're not looked at in the sense of



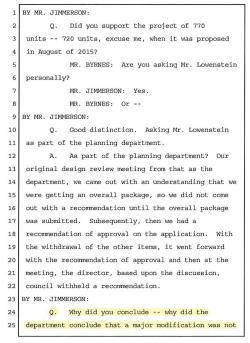
1	projects about the box culverts and things like that,
2	I have been made aware of the conditions that needed
3	to be remedied.
4	Q. You and I could drive right there to Alta
5	and Rampart we could be on the golf course side on
6	see where the drainage is, we could then go over to
7	Tivoli and see how they dealt with the drainage
8	there, building over it. That's a fair statement,
9	correct?
10	A. Yes, that is correct.
11	Q. All I'm trying to get at is the City can
12	work with the developer resolve issues involving
13	drainage, and was, you have indicated, with the
14	proper permissions you can build over drainage, you
15	can build around drainage, you can solve the issue as
16	long as you have both federal and state approval.
17	Agreed?
18	A. I agree to that, yes. I previously stated
19	that drainage easements if they're not needed in
20	their current configurations or immediate, it's
21	pretty much up to the Department of Public Works.
22	Q. Within the City of Las Vegas.
23	A. If they agreed ever agree it's immediate
24	they would also be able to tell you if whichever
25	process your meeting, if you can build (CHECK).
- J	

1	BY MR. JIMMERSON:
2	Q. You know roundabouts, things like that?
3	A. I would have to defer to counsel as far as
4	the full scope of what right of way could entail.
5	Q. But at least as you understand it, it's
6	the roads and the ability to egress and ingress on
7	the property. Would that be a fair statement?
8	A. Yes, that would.
9	Q. And then you have elementary school for
10	13.1 acres. Do you ever do you know with dash as
11	density how do you treat density relative to an
12	elementary school. Does that count against density
13	is really the question or do you treat it like a
14	resort-casino, it does not count against density?
15	MR. BICE: Objection to form.
16	Q. First of all do you understand my
17	question.
18	A. I do understand the question.
19	Q. Now answer to the best of your ability
20	please.
21	A. The type of development would not be
22	subject to any density. It's not calculated similar
23	to how I stated on the resort-casino.
24	Q. Then you have total of 995.4 acres if I'm
25	inserting the point correctly. Do you see that?

1	Q. And you work with the City to solve that
2	issue or at least you agree it can't be solved and it
3	has to be left to drainage?
4	MR. BICE: Object to form.
5	THE WITNESS: The applicant would work
6	with, yes the Department of Public Works.
7	Q. And the Department of Public Works is part
8	of the City of Las Vegas.
9	A. That is correct.
10	Q. It's one of your sister departments at the
11	City.
12	A. Yes, a fellow department.
13	Q. Now, looking at the right of way, there
14	are 60.4 acres that are guesstimated to be right of
15	way. Do you see that?
16	A. I do.
17	Q. And there is, again, no place I call it
18	a dash, not a zero, but a dash, right?
19	A. That is correct, there's a dash.
20	Q. And what do you understand is being
21	communicated by the term right of way?
22	A. The public roadways.
23	Q. Could it also include open space, small
24	parks?
25	MR. BICE: Objection to the form.
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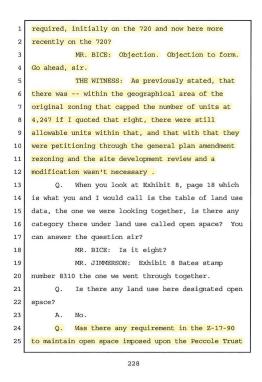
1	A. The one I'm looking at 99 99 996
2	and I'm assuming there is a point and four.
3	Q. Again, based upon the total acreage of
4	doing the math at that time, that's roughly 4.5
5	dwelling units per acre, correct?
6	A. That is correct.
7	Q. For a total of net units of 4,247?
8	A. Correct.
9	Q. I have read that correctly?
10	Yes.
11	Q. Would you read the note right below that
12	please?
13	A. Note: Overall density based on all areas
14	except right of way.
15	Q. Now, what did that mean to you as you read
16	those words then as you study this and now?
17	A. That the right of way acreage was not
18	included in the acreage to calculate the overall
19	density.
20	Q. So excluding 60.4 acres, the density was
21	computed upon the other categories except for right
22	of way; is that right?
23	A. I'm assuming so. I would have to do the
24	math.
25	Q. All right. Now, because hard zoning on
ļ	
	224

1	this property owned by my clients occurred first in
2	time in 1990 and then as you have noted in 1996 a
3	golf course was constructed that originally as you
4	have seen in the plans was supposed to be 18 holes
5	and turned out to be 27 holes and we can look at it
6	and know it was 27 holes. Is that a reason why the
7	City has and your department believes that my
8	client has the right to build on the golf course?
9	MR. BICE: Objection. Were you done?
10	MR. JIMMERSON: I am.
11	MR. BICE: Okay. Countless objections.
12	Objections to form. Calls for a legal conclusion.
13	Calls for speculation by the witness. And misstates
14	the law.
15	BY MR. JIMMERSON:
16	Q. I'm going to revise the question.
17	Is it your understanding based upon your
18	work at the City of Las Vegas and your position there
19	and knowing the hard zoning that exists there, that
20	my clients have the right to build towards 7.49 units
21	on the property that they own, otherwise you and I
22	would call is the golf course?
23	MR. BICE: Objection to form. Calls for a
24	legal conclusion. Misstates the facts and objection
25	that it misstates the law.



1	BY MR. JIMMERSON:
2	Q. I must be getting to the heart of the
3	matter.
4	MR. BICE: Go ahead. I just want to
5	preserve my objection?
6	MR. JIMMERSON: Please answer.
7	MR. BICE: I would like to hear the
8	answer.
9	THE WITNESS: The applicant has the right
10	to petition the City Council to develop their
11	property.
12	Q. And does it have the right to develop the
13	property with the zoning that exists, some form of
14	development on the property?
15	MR. BICE: Same objections. Go ahead.
16	MR. BYRNES: I think I would also say
17	legal conclusion there. Go ahead and answer.
18	THE WITNESS: In their petition to develop
19	their property, they're going to have to apply for
20	all required applications and then ultimately the
21	decision by the City Council as to what is
22	whatever their finding may be compatible harmonious
23	with the surrounding area, but it would be their
24	their discretion.
25	///





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1	when they received the City Council approval on	1	with a master plan. I'm trying to square your last
2	April 4 th of 1990?	2	answer if you'll be more clear to me with regard to
3	MR. BICE: Objection to the form.	3	what it is you mean when you say I have never been
4	THE WITNESS: The conditions of approval	4	able to confirm as I stated I have not been able to
5	for that zoning action, I don't recall having	5	find any. Would you please help us understand your
6	something specific to required amount of even space.	6	testimony or at least help me understand your
7	BY MR. JIMMERSON:	7	testimony better, please?
8	Q. What were, to the best of your	8	MR. BICE: Objection to the form and the
9	recollection, the only condition or conditions placed	9	factual representation.
10	upon the approval of Z-17-90 and the R-PD7 zoning for	10	BY MR. JIMMERSON:
11	this land in April 1990?	11	Q. You can go ahead and answer the question.
12	A. Just to be specific, the rezoning had	12	A. So in doing the research of the land use
13	multiple zoning district. It was applicable to all	13	entitlements and specifically this zoning action and
14	of those district. They had a maximum number of	14	then reviewing that conditions of approval part of
15	units as a condition placed on them. As previously	15	it.
16	discussed, they had a condition to conformance of the	16	Q. Referring to April of 1990.
17	conditions of the master development plan, which I	17	A. Correct referring to Z-17-90 as the
18	have stated I have not been able to find any. And	18	rezoning application and the condition in there, I
19	then I imagine there are a number of other conditions	19	don't know if it's condition number 2 or three on
20	from public works and other departments, they're all	20	that a on that final action letter, rereviewing the
21	(roped into one letter.	21	minutes from and the agenda from that same
22	MR. JIMMERSON: Thank you. Can we pause	22	meeting, I have not been able to find any conditions
23	just for a minute please.	23	that are specific to that agenda item which is the
24	Q. I have never seen on this property a	24	master development plan, regarding phase two.
25	condition that requires the Peccole Trust to comply	25	Q. Meaning there's no minutes or any
229			230

1	requirement you can find to comply with the phase two	
2	master plan. Is that what you mean by that last	
3	answer?	
4	MR. BICE: Objection to form.	
5	BY MR. JIMMERSON:	
6	Q. You can answer the question sir.	
7	A. Meaning there weren't as the zoning	
8	action Z-17-90 had its own specific condition	
9	approval letter.	
10	Q. I understand.	
11	A. The master development plan did not have	
12	have its own specific letter with conditions imposed	
13	that I have found at this point.	
14	Q. And what is the significance of that?	
15	A. The condition that it says to conform to	
16	it, if there are no conditions, then it's moot.	
17	Q. And you don't find any conditions at least	
18	through your research in studying the minutes and the	
19	folder that you examined is that right?	
20	MR. BICE: Objection to form. Go ahead.	
21	THE WITNESS: Based upon the research, I	
22	have not found an action letter regarding that	
23	development master development plan item.	
24	BY MR. JIMMERSON:	
25	Q. And so I understand in my vernacular,	

therefore, there is no condition that you have been 1 2 able to find that requires compliance with the 3 conceptual master plan in the Z-17-90 action by the City Council; is that correct? 4 MR. BICE: Objection to form. Misstates 5 6 the law. Misstates the facts. 7 Go ahead, sir. THE WITNESS: The items are related. I 8 9 would have to defer to counsel on their 10 interpretation. 11 BY MR. JIMMERSON: 12 Q. I'm asking what you found. I'm trying to 13 understand wht you're saying. You're saying, Mr. Jimmerson, I don't see any condition that 14 15 requires compliance with a master plan in my 16 research. Is that what you're telling us? 17 MR. BICE: I apologize, sir. I need to 18 state my objection. Object to form. Misstates the 19 law and misstates the facts. Go ahead, sir. THE WITNESS: The zoning action has a 20 21 condition that says to conform to the conditions of 22 the master development -- master development plan. I 23 have not been able to locate a separate conditions of 24 approval letter for that master development plan. 25 That is what I'm stating.

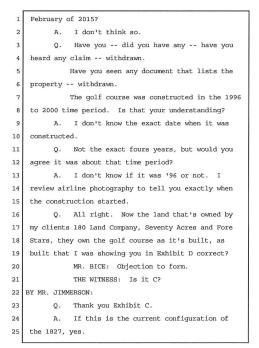
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1 BY MR. JIMMERSON: 2 Q. All right. And did you observe that the approval the City Council in April of 1990 had a five 3 year limit after which it expired? 5 A. Without reviewing the condition of approval, if it had resolution of intent it would 6 have been listed as a condition on it. Some actions don't and run indefinitely. Q. What happens if there's a five year limit 9 10 to the approval? 11 A. That is usually the duration in time which 12 the council has deemed for the entitlement to be 13 exercised. 14 Q. Now, you mentioned something called PR-OS. 15 Right? I heard a question asked of you this morning 16 about that. 17 A. Yes. Throughout the course of this 18 deposition, we have referred to a general land use or 19 in the Las Vegas 2020 Master Plan a designation 20 called PR dash OS which is parks recreation and open 21 Q. In 1990 was there any designation for this 22 23 ground as PR-OS? A. From my research the designation on this 24 25 property or this general area would have been to

233



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the in the 1985 general plan which did not have specific designations but more of and it's I guess they called it the title might be a general land use plan in the sense that it's not a site specific. It
they called it the title might be a general land use
plan in the sense that it's not a site specific. It
had swaths of rural, suburban or urban designations.
Q. So PR-OS was not something that was was
not a designated land use in 1990 when Mr. Pecuniary
or the Peccole Trust obtained its entitlements before
the City Council?
A. Not to my knowledge.
Q. Is it your contention today, now in 2016,
December, that there is a land use designation for
the golf course owned by the companies that I
represent that they're subject to PR-OS land use
designation?
A. As reflected on the current southwest
sector land use map, yes.
Q. And when was the PR-OS land use
designation affixed to the property owned by my
clients, to the best of your knowledge?
A. I don't know. Research would have to be
done. I understand there's a 92 plan and then
there's the adoption of the Las Vegas 2020 Master
Plan in 2000.
Q. Could it have been done as recently as

234

Q. And since we know that the location of the 2 golf course has significantly changed from what was 3 conceptually thought about in 1989 or 1990, how does the land use designation change to match the -- you 4 know, the current as built location? How does that 5 work? 6 MR. BICE: Objection to the form. Go ahead. 9 MR. BYRNES: Do you understand the question? 10 11 THE WITNESS: Are you asking how did the 12 golf course become designated parks recreation open space? 13 Q. The answer is yes, but what I'm trying to 14 15 understand is you couldn't have the current land use 16 desig -- I'm asking. I'm not telling you. I'm 17 asking. You would not have a land use designation of 18 PR-OS on the golf course that's built today until 19 it's built today, until it was built. Agreed? A. I'm not sure. 20 21 Q. Do you understand the question? You 22 couldn't put a PR-OS land use on another location, 23 that didn't happen in this case right I mean we don't 24 have PR-OS in 1990 when my clients not my clients but 25 the owner, obtains the Z-17-90 right of entitlement

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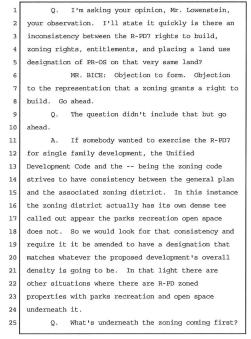
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1	under zoning the golf course as-built in '96 to 1999
2	time period. So the PR-OS designation land use would
3	have had to occur after you know where the location
4	of the golf course is built. Would that be a fair
5	statement?
6	MR. BICE: Objection to form.
7	THE WITNESS: From my recollection in the
8	1992 general plan, there was a comprehensive survey
9	and that is where they designated land use
10	designations.
11	Q. Was PR-OS designated on my clients
12	property in 1992?
13	A. I believe the designation it could have
14	been P, I'm not sure if PR-OS existed, but P existed
15	and it would be in the configuration of I believe the
16	master development plan.
17	Q. And what configuration in 1992 was that?
18	A. That would be the configuration as ${\tt I'm}$
19	assuming it's the configuration of the Z-17-90 phase
20	two rezoning and and subsequent amendment of over all
21	Peccole Ranch Master Development.
22	Q. When was PR-OS as a designated land use
23	created by the City of Las Vegas?
24	A. I don't know research would have to be
25	done.
1	

1	wasn't here when they did it, so I can't confirm.
2	Q. What if there is a conflict as we have
3	here with hard zoning of R-D7 since 1990 and possibly
4	working together PR-OS being put on this property in
5	the late 1990s?
6	MR. BICE: Objection to form. Objection
7	to the representation of conflict.
8	Q. First of all would you agree, as Mr.
9	Perrigo, said that's a conflict, R-PD7 zoning and
10	building rights and a land use designation of PR-OS?
11	MR. BICE: Objection to form and objection
12	to the representation that Mr. Perrigo said it's a
13	conflict.
14	BY MR. JIMMERSON:
15	Q. He used the word inconsistency. Would you
16	agree that there is an inconsistency between this
17	property having a hard zoning of 1990 of R-PD7 and
18	sometime thereafter a PR-OS placement of land use
19	designation by the City?
20	MR. BICE: Objection to the form.
21	Objection to the representation he claimed it was a
22	an inconsistency.
23	MR. JIMMERSON: You can answer the
24	question. I'm quite satisfied that's the word Mr.

25 Perrigo used.

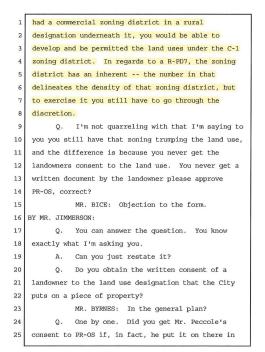
1	Q. Was it before or after you became a
2	planner in 2003?
3	A. As a guess I would say before.
4	Q. It existed at the time you came to work
5	there?
6	A. I believe so. I mean I can look at
7	Exhibit 7, which says it's adopted in 1999, which has
8	parks recreation and open space.
9	Q. And how is a PR-OS how is a land use
10	designation like PR-OS adopted by the City of Las
11	Vegas? What has to be done to adopt it?
12	A. My limited exposure with the overall
13	process, this is where Mr. Summerfeld would probably
14	be more apt to speak to, but there is a lot of public
15	input, {shurets and public outreach in coming up with
16	the general plan and then there are neighborhood
17	meetings when the plan is towards the final draft and
18	then obviously it goes before the City Council for
19	adoption and ordinance.
20	Q. And is the affected are there any
21	notice of the landowner of PR-OS being placed upon
22	their property?
23	A. As I previously stated earlier, I believe
24	as it's a City-wide effect that they don't notice
25	every individual property owner but once again I
I	
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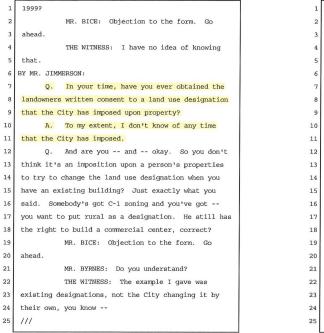


1	MR. BICE: Objection.
2	THE WITNESS: I'm just using sorry.
3	MR. BICE: Objection to form. Go ahead.
4	THE WITNESS: I'm using that as far as the
5	hierarchy of land use and general plan, broad stroke
6	and then you go to on finer point and underring with
7	the general plan and zoning above.
8	Q. But requesting a change in general
9	amendment is because there is an inconsistency in the
10	R-PD7 and the PR-OS?
11	MR. BICE: Objection to form.
12	Q. Otherwise there wouldn't be a need to
13	amend the general plan, correct?
14	A. For the exercising of that residential
15	plan, yes.
16	Q. And as between any conflict between PR-OS
17	and R-PD7, the zoning trumps the land use
18	designation, isn't that true, by statute?
19	MR. BICE: Objection.
20	THE WITNESS: That I would have to defer
21	to counsel.
22	MR. BICE: Object to form. Misstates the
23	law.
24	BY MR. JIMMERSON:
25	Q. Let me ask your opinion. If there is a

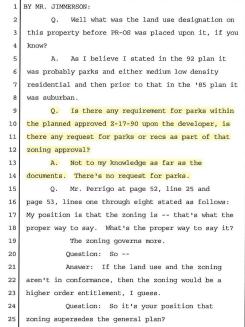
1	basis of privilege.
2	MR. JIMMERSON: But he's not relied upon
3	the City attorney. He can rely on Tom Perrigo who
4	said the very same thing at page 52 and 53 of his
5	deposition.
6	MR. BICE: Actually, he didn't say that
7	and for you to represent
8	MR. JIMMERSON: I'll read it to you,
9	Counsel.
10	MR. BICE: There's a lot of things he did.
11	MR. JIMMERSON: I'll read it counsel.
12	MR. BICE: Go ahead, Jim, read whatever
13	you like.
14	MR. JIMMERSON: Can we have the answer to
15	the question?
16	BY MR. JIMMERSON:
17	Q. The property rights trumps the land use
18	designation, correct?
19	MR. BICE: Objection to form. Misstates
20	the law and the City code.
21	MR. BYRNES: And legal conclusion.
22	Q. You may answer the question, sir. Your
23	understanding.
24	A. The zoning district as I said gives the
25	property owner certain rights. For example, if you

1	conflict between land use designation and zoning what
2	trumps what?
3	MR. BYRNES: Just object calls for a legal
4	conclusion go ahead and answer.
5	THE WITNESS: It's my understanding a zone
6	district gives a property owner property rights.
7	Q. So therefore it trumps the land use
8	designation when they are inconsistent.
9	MR. BICE: Objection to form go ahead.
10	BY MR. JIMMERSON:
11	Q. You can answer the question yes or no sir?
12	MR. BICE: Also can you hold on one
13	second. I need to make this objection. Phil, if you
14	allow him to answer this question, since he says it's
15	his understanding, I'm going to follow up and ask him
16	what's the basis for that understanding if he's
17	giving a representation.
18	MR. JIMMERSON: You don't have to,
19	Counsel, I'll be asking the next question following
20	that.
21	MR. BICE: All I'm saying if he's going to
22	claim it's I don't think he's allowed to testify
23	that he has an understanding of X based on something
24	told to him by the City attorney's office but then
25	turn around and say I'm not going to explain X on the









2 Or the master plan? 3 Answer: Yes. 4 Is that also your understanding Mr. 5 Lowenstein as it is Mr. Perrigo's? 6 A. Similar in nature. The zoning zoning 7 is the implementation of the general plan, and it has 8 inalienable rights, it has property rights, 9 associated with certain development standards. 10 MR. BICE: Objection to form. 11 BY MR. JINMERSON: 12 Q. What does the term inalienable rights mean 13 to you as you use it? 14 A. Meaning it has that entitlement. 15 Q. I would like to take a restroom break and 16 also try to work with you counsel with regard to 17 it's 5:20. I would like to find another time before 18 Christmas where we can complete both Mr. Perrigo's 19 and Mr. Lowenstein's depo with of course the consent 20 of you Mr. Lowenstein, Mr. Perrigo and Mr. Byrnes. 21 Why don't we go off the record to discuss scheduling. 22 It's 5:20. I have worked long enough today. But I 23 will need additional time.	1	Answer: Yes.
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