

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellant,

vs.

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

Respondents.

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

Appellants/Cross-Respondents,

vs.

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

Respondent/Cross-Appellant.

No. 84345

Electronically Filed
Aug 22 2022 11:29 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

No. 84640

**JOINT APPENDIX,
VOLUME NO. 16**

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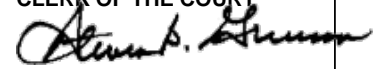
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Page)

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DISTRICT COURT

CLARK COUNTY, NEVADA

180 LAND CO LLC, a Nevada limited liability company,
FORE STARS, LTD, a Nevada limited liability company
and SEVENTY ACRES, LLC, a Nevada limited liability
company, DOE INDIVIDUALS I-X, DOE
CORPORATIONS I-X, and DOE LIMITED LIABILITY
COMPANIES I-X,

Plaintiffs,

v.

CITY OF LAS VEGAS, a political subdivision of the State
of Nevada; ROE GOVERNMENT ENTITIES I-X; ROE
CORPORATIONS I-X; ROE INDIVIDUALS I-X; ROE
LIMITED-LIABILITY COMPANIES I-X; ROE QUASI-
GOVERNMENTAL ENTITIES I-X,

Defendants.

Case No. A-17-758528-J

DEPT. NO.: XVI

**APPENDIX OF EXHIBITS
TO CITY'S OPPOSITION TO
"MOTION TO DETERMINE
PROPERTY INTEREST"**

VOLUME 4

Defendant CITY OF LAS VEGAS ("City") hereby submits its Appendix of Exhibits to
Opposition to "Motion to Determine Property Interest."

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Appendix to City's Opposition to "Motion to Determine Property Interest"
Case No. A-17-758528-J

Case Number: A-17-758528-J

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Exhibit	Exhibit Description	Vol.	Bates No.
A	Judge Williams' Findings of Fact and Conclusions of Law, Case No. A-17-758528-J (Nov. 21, 2018)	1	00001-00025
B	City records regarding Ordinance No. 2136 (Annexing 2,246 acres to the City of Las Vegas)	1	00026-00036
C	City records regarding Peccole Land Use Plan and Z-34-81 rezoning application	1	00037-00055
D	City records regarding Venetian Foothills Master Plan and Z-30-86 rezoning application	1	00056-00075
E	2015 Aerial Identifying Phase I and Phase II boundaries	1	00076
F	City records regarding Peccole Ranch Master Plan and Z-139-88 Phase I rezoning application	1	00077-00121
G	Ordinance No. 3472 and related records	1	00122-00145
H	City records regarding Amendment to Peccole Ranch Master Plan and Z-17-90 phase II rezoning application	1	00146-00202
I	Excerpts of 1992 City of Las Vegas General Plan	2	00203-00256
J	1996 aerial identifying Phase I and Phase II boundaries	2	00257
K	City records related to Badlands Golf Course expansion	2	00258-00263
L	1998 aerial identifying Phase I and Phase II boundaries	2	00264
M	Excerpt of land use case files for GPA-24-98 and GPA-6199	2	00265-00267
N	Excerpts of Las Vegas 2020 Master Plan	2	00268-00283
O	Excerpts of 2005 Land Use Element	2	00284-00297
P	Excerpts of 2009 Land Use Element	2	00298-00307
Q	Excerpts of 2012 Land Use Element	2	00308-00323
R	Excerpts of 2018 Land Use Element	2	00324-00338
S	Ordinance No. 1582	2	00339-00345
T	Excerpt of the 1997 City of Las Vegas Zoning Code	2	00346-00347
U	Ordinance No. 5353	2	00348-00373
V	Excerpts of City of Las Vegas Unified Development Code adopted March 16, 2011	2	00374-00376
W	Deeds transferring ownership of the Badlands Golf Course	2	00377-00389
X	2015 aerial identifying Phase I and Phase II boundaries, retail development, hotel/casino, and Developer projects	2	00390

Exhibit	Exhibit Description	Vol.	Bates No.
Y	Third Revised Justification Letter regarding the Major Modification to the 1990 Conceptual Peccole Ranch Master Plan	2	00391-00394
Z	Parcel maps recorded by the Developer subdividing the Badlands Golf Course	2	00395-00423
AA	2019 aerial identifying Phase I and Phase II boundaries, and current assessor parcel numbers for the Badlands property	2	00424
BB	Second Amendment and First Supplement to Complaint for Severed Alternative Verified Claims in Inverse Condemnation; Case No. A-17-758528-J (May 15,19)	3	00425-00462
CC	General Plan Amendment (GPA-62387), Rezoning (ZON-62392) and Site Development Plan Review (SDR-62393) applications	3	00463-00483
DD	Transcript of February 15, 2017 City Council meeting	3	00484-00497
EE	Judge Crockett's March 5, 2018 order granting Queensridge homeowners' petition for judicial review, Case No. A-17-752344-J	3	00498-00511
FF	<i>Seventy Acre, LLC v. Jack Binion, et al.</i> , Nev. Sup. Ct. Case No. 75481 (Nev. 2020) (unpublished table decision)	3	00512-00518
GG	Letter from City of Las Vegas Office of the City Attorney to Chris Kaempfer, Re: Entitlements on 17 Acres (March 26, 2020)	3	00519
HH	2019 aerial identifying Phase I and Phase II boundaries, and areas subject to inverse condemnation litigation	3	00520
II	Miscellaneous Southwest Sector Land Use Maps	3	00521-00524
JJ	General Plan Amendment (GPA-68385), Site Development Plan Review (SDR-68481), Tentative Map (TMP-68482), and Waiver (68480) applications	3	00525-00552
KK	Development Agreement (DIR-70539) application	3	00553-00638
LL	June 21, 2017 City Council meeting minutes and transcript excerpt regarding GPA-68385, SDR-68481, TMP-68482, and 68480.	3	00639-00646
MM	Docket for Case No. A-17-758528-J	4	00647-00735
NN	The City of Las Vegas' Petition for Removal of Civil Action, Docket No. 1 in United States District Court for the District of Nevada Case No. 2:19-cv-01467 (8/22/19)	4	00736-00742

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Exhibit	Exhibit Description	Vol.	Bates No.
OO	Order, Docket No. 30 in United States District Court for the District of Nevada Case No. 2:19-cv-01467-KJD-DJA, Order (2/12/20)	4	00743-00751
PP	Excerpt of the 1983 Edition of the Las Vegas Municipal Code	4	00752-00761
QQ	Ordinance No. 2185	4	00762-00766
RR	Staff Report for June 21, 2017 City Council Meeting – GPA-68385, WVR-68480, SDR-68481, and TMS-68482	4	00767-00793
SS	Notice of Entry of Order Nunc Pro Tunc Regarding Findings of Fact and Conclusion of Law Entered November 21, 2019; Case No. A-17-758528-J (2/6/19)	4	00794-00799
TT	Notice of Entry of Findings of Fact and Conclusions of Law, Case No. A-17-758528-J (5/8/19)	4	00800-00815
UU	Order Granting the Landowners’ Countermotion to Amend/Supplement the Pleadings; Denying the City’s Motion for Judgment on the Pleadings on Developer’s Inverse Condemnation Claims, and Denying the Landowners’ Countermotion for Judicial Determination of Liability on the Landowners’ Inverse Condemnation Claims; Case No. A-17-758528-J (5/15/19)	4	00816-00839

1 DATED this 18th day of August, 2020.

2 By: /s/ Philip R. Byrnes

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on the 18th day of August, 2020, a true and correct copy of the foregoing **APPENDIX TO CITY'S OPPOSITION TO "MOTION TO DETERMINE PROPERTY INTEREST" – VOLUME 4** was electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic
An employee of McDonald Carano LLP

EXHIBIT MM

EXHIBIT MM

Case Information

A-17-758528-J | 180 Land Company LLC, Petitioner(s) vs. Las Vegas City of, Respondent(s)

Case Number	Court	Judicial Officer
A-17-758528-J	Department 16	Williams, Timothy C.
File Date	Case Type	Case Status
07/18/2017	Other Judicial Review/Appeal	Closed

Party

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Las Vegas City of

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Fore Stars Ltd

Petitioner
Seventy Acres LLC

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Attorney
Holmes, Dustun H
Retained

Attorney
Mikhaylov, Kiril V.
Retained

Disposition Events

11/21/2018 Judgment ▼

Judicial Officer
Williams, Timothy C.

Judgment Type
Order Denying Judicial Review

Monetary Judgment

Debtors: 180 Land Company LLC (Petitioner)

Creditors: Las Vegas City of (Respondent)

0690
00657

2894

11/21/2018 Judgment ▼

Judicial Officer
Williams, Timothy C.

Judgment Type
Order of Dismissal

Monetary Judgment

Debtors: 180 Land Company LLC (Petitioner)

Creditors: Las Vegas City of (Respondent)

Judgment: 11/21/2018 Docketed: 11/26/2018

Comment: Certain Claims

05/21/2019 Judgment ▼

Judicial Officer
Williams, Timothy C.

Judgment Type
Clerk's Certificate

Monetary Judgment

Debtors: 180 Land Company LLC (Petitioner)

Creditors: Las Vegas City of (Respondent)

Judgment: 05/21/2019 Docketed: 05/21/2019

Comment: Supreme Court No 77771 Appeal Dismissed

0691
00658

2895

Events and Hearings

07/18/2017 Petition for Judicial Review ▼

Petition for Judicial Review - PTJR

Comment

Petition for Judicial Review

07/18/2017 Initial Appearance Fee Disclosure ▼

Initial Appearance Fee Disclosure - IAFD

Comment

Initial Appearance Fee Disclosure

07/19/2017 Summons Electronically Issued - Service Pending ▼

Comment

Summons

09/07/2017 Notice of Association of Counsel ▼

Association of Counsel - ASSC

Comment

Notice of Association of Counsel

09/07/2017 Petition for Judicial Review ▼

Petition for Judicial Review - PTJR

Comment

**First Amended Petition for Judicial Review and Alternative Verified
Claims in Inverse Condemnation**

09/14/2017 Summons Electronically Issued - Service Pending ▼

Comment

Summons

09/20/2017 Affidavit of Service ▼

Affidavit of Service - AOS

Comment

Affidavit of Service (City of Las Vegas)

10/30/2017 Motion to Dismiss ▼

Motion to Dismiss - MDSM

0692
00659

2896

Comment
City of Las Vegas' Motion to Dismiss or, in the Alternative, Motion to Strike

11/17/2017 Opposition and Countermotion ▼

Opposition and Countermotion - OPPC (CIV)

Comment
Petitioner s Opposition To City Of Las Vegas Motion To Dismiss And Countermotion To Stay Litigation Of Alternative Inverse Condemnation Claims Until Resolution Of The Petition For Judicial Review

12/05/2017 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment
Stipulation and Order to Continue Hearing on City of Las Vegas' Motion to Dismiss and Countermotion to Stay Litigation of Alternative Inverse Condemnation Claims Until Resolution of the Petition for Judicial Review

12/06/2017 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment
Notice of Entry of Order to Continue Hearing on City of Las Vegas' Motion to Dismiss and Countermotion to Stay Litigation of Alternative Inverse Condemnation Claims Until Resolution of the Petition for Judicial Review

12/14/2017 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment
Stipulation and Order to Extend Response Deadlines

12/19/2017 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment
Notice of Entry of Stipulation and Order to Extend Response Deadlines

12/21/2017 Reply in Support ▼

Reply - RPLY (CIV)

Comment
City of Las Vegas' Reply in Support of its Motion to Dismiss and Opposition to Petitioner's Countermotion to Stay Litigation

0693
00660

2897

01/05/2018 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

Petitioner s Reply In Support Of Its Countermotion To Stay Litigation
Of Alternative Inverse Condemnation Claims Until Resolution Of The
Petition For Judicial Review

01/11/2018 Motion to Dismiss ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Motion Denied

Comment

City of Las Vegas' Motion to Dismiss or, in the Alternative, Motion to Strike

01/11/2018 Opposition and Countermotion ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Granted

Comment

Petitioner's Opposition to City of Las Vegas' Motion to Dismiss and
Countermotion to Stay Litigation of Alternative Inverse Condemnation
Claims Until Resolution of the Petition for Judicial Review

01/11/2018 All Pending Motions ▼

All Pending Motions

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Heard

Parties Present ▲

Petitioner

Attorney: Waters, Kermitt L.

Attorney: Leavitt, James J

0694
00661

2898

Attorney: Schneider, Michael A.

Attorney: Daniels, Ryan W.

Respondent

Attorney: Dorocak, Jeffry M.

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 1 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 2 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 3 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 4 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 5 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 6 of 157

01/18/2018 Transmittal of Record ▼

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00662

2899

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 7 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 8 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 9 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 10 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 11 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 12 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 13 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

Comment

Transmittal of Record for Review, Volume 14 of 157

01/18/2018 Transmittal of Record ▼

Transmittal of Record - TOR (CIV)

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ROR031781 ROR032070

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ROR032071 ROR032360

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ROR032941 ROR033230

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Transmittal of Record - TOR (CIV)

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Transmittal of Record - TOR (CIV)

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Transmittal of Record - TOR (CIV)

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Transmittal of Record - TOR (CIV)

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02/01/2018 Order ▼

Order Denying Motion - ODM (CIV)

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Order Denying Motion to Dismiss and Countermotion to Stay
Litigation

02/02/2018 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

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Comment
Notice of Entry of Order Denying Motion to Dismiss and
Countermotion to Stay Litigation

02/05/2018 Notice ▼

Notice - NOTC (CIV)

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Notice of Disassociation

02/05/2018 Answer to Complaint ▼

Answer to Complaint - ANSC (CIV)

Comment
City of Las Vegas' Answer to First Amended Petition for Judicial
Review

02/13/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment
Stipulation and Order to Set Briefing Schedule

02/13/2018 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

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Notice of Entry of Stipulation and Order to Set Briefing Schedule

02/13/2018 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

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Notice of Entry of Stipulation and Order to Set Briefing Schedule
(Corrected)

02/23/2018 First Amended Complaint ▼

First Amended Complaint - FAC (CIV)

Comment
First Amended Complaint Pursuant to Court Order Entered on
February 2, 2018 for Severed Alternative Verified Claims in Inverse
Condemnation

02/28/2018 Amended Petition ▼

Amended Petition - APET (CIV)

Comment
Second Amended Petition for Judicial Review to Sever Alternative
Verified Claims in Inverse Condemnation per Court Order entered on

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February 1, 2018

02/28/2018 Errata ▼

Errata - ERR (CIV)

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Errata to First Amended Complaint Pursuant to Court Order Entered on February 1, 2018 for Severed Alternative Verified Claims in Inverse Condemnation

03/13/2018 Answer to Amended Complaint ▼

Answer to Amended Complaint - ANAC (CIV)

Comment

City of Las Vegas' Answer to First Amended Complaint Pursuant to Court Order Entered on February 1, 2018 for Severed Alternative Verified Claims in Inverse Condemnation

03/19/2018 Answer to Complaint ▼

Answer to Complaint - ANSC (CIV)

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City of Las Vegas' Answer to Second Amended Petition for Judicial Review

03/28/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order to Extend Briefing Schedule Deadlines Relating to Petitioner's Second Amended Petition for Judicial Review

03/28/2018 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

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Notice of Entry of Stipulation and order to Extend Briefing Schedule Deadlines Relating to Petitioner's Second Amended Petition for Judicial Review

04/02/2018 Association of Counsel ▼

Association of Counsel - ASSC (CIV)

Comment

Association of Counsel/Notice of Appearance

04/12/2018 Status Check ▼

Minutes - Status Check

0717
00684

2921

Judicial Officer
Williams, Timothy C.

Hearing Time
11:00 AM

Result
Matter Heard

Comment
Status Check (Telephonic) with Counsel re production of copies of cites to Record to the court [counsel to schedule conference call-court to dial in]

Parties Present ▲
Petitioner

Attorney: Kistler, Joseph S.

Attorney: Stewart, Robert T.

Respondent

Attorney: Byrnes, Philip R.

04/16/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment
Stipulation and Order to Extend Briefing Schedule Deadlines Relating to Petitioner's Second Amended Petition for Judicial Review [Second Request]

04/16/2018 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment
Notice of Entry of Stipulation and Order to Extend Briefing Schedule Deadlines Relating to Petitioner's Second Amended Petition for Judicial Review

04/17/2018 Motion to Intervene ▼

Motion to Intervene - MINV (CIV)

Comment
Motion to Intervene on an Order Shortening Time

04/17/2018 Petitioners Opening Brief ▼

Petitioners Opening Brief - PTOB (CIV)

Comment
Petitioner's Memorandum of Points and Authorities in support of Second Amended Petition for Judicial Review

04/20/2018 Substitution of Attorney ▼

Substitution of Attorney - SUBT (CIV)

0718
00685

2922

Comment
Substitution of Counsel

04/26/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment
Stipulation And Order To Continue Hearing On Motion To Intervene

04/26/2018 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment
Notice Of Entry Of Order

05/02/2018 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment
Petitioner's Opposition to Motion to Intervene

05/07/2018 Motion to Extend ▼

Motion to Extend - MEX (CIV)

Comment
City of Las Vegas' Motion to Extend Briefing Schedule and Continue
Hearing on 180 Land Co LLC's Second Amended Petition for Judicial
Review on Order Shortening Time

05/08/2018 Motion to Intervene ▼

Minutes - Motion to Intervene

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Motion Granted

Comment
Motion to Intervene on an Order Shortening Time

Parties Present ▲
Petitioner

Attorney: Hutchison, Mark A

Respondent

Attorney: Ogilvie, George F., III

Intervenor

0719
00686

2923

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

05/09/2018 Opposition ▼

Opposition - OPPS (CIV)

Comment

Petitioner's Opposition to Motion to Extend Briefing Schedule and Continue Hearing

05/09/2018 Reply ▼

Reply - RPLY (CIV)

Comment

Reply in Support of City of Las Vegas' Motion to Extend Briefing Schedule and Continue Hearing on 180 Land Co LLC's Second Amended Petition for Judicial Review on Order Shortening Time

05/10/2018 Motion ▼

Minutes - Motion

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Heard

Comment

City of Las Vegas' Motion to Extend Briefing Schedule and Continue Hearing on 180 Land Co LLC's Second Amended Petition for Judicial Review on Order Shortening Time

Parties Present ▲

Petitioner

Attorney: Hutchison, Mark A

Attorney: Stewart, Robert T.

Respondent

0721
00688

2925

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

Intervenor

0722
00689

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

05/16/2018 Minute Order ▼

Minute Order

Judicial Officer

Williams, Timothy C.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

06/06/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order to Extend Briefing Schedule Deadlines and Continue Hearing relating to Second Amended Petition for Judicial Review

06/08/2018 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

Notice of Entry of Stipulation and Order to Extend Briefing Schedule Deadlines and Continue Hearing relating to Second Amended Petition for Judicial Review (third request)

06/11/2018 Notice ▼

Notice - NOTC (CIV)

Comment

Notice of Submission of Proposed Order

0723
00690

2927

06/21/2018 Errata ▼

Errata - ERR (CIV)

Comment

Errata to Transmittal of Record for Review

06/26/2018 Respondent's Answering Brief ▼

Respondent's Answering Brief - RAB (CIV)

Comment

City of Las Vegas' Points and Authorities in Response to Second Amended Petition for Judicial Review

06/26/2018 Request for Judicial Notice ▼

Request for Judicial Notice - RFJN (CIV)

Comment

Request for Judicial Notice in Support of City of Las Vegas' Points and Authorities in Response to Second Amended Petition for Judicial Review

06/26/2018 Appendix ▼

Appendix - APEN (CIV)

Comment

Appendix to Intervenor's Answering Brief

06/26/2018 Errata ▼

Errata - ERR (CIV)

Comment

Errata to Petitioner's Memorandum of Points and Authorities in Support of Second Amended Petition for Judicial Review

06/26/2018 Answering Brief ▼

Answering Brief - ANSB (CIV)

Comment

Intervenor's Answering Brief

06/28/2018 Errata ▼

Errata - ERR (CIV)

Comment

City of Las Vegas' Errata to Points and Authorities in Response to Second Amended Petition for Judicial Review

06/28/2018 Initial Appearance Fee Disclosure ▼

0724
00691

2928

Initial Appearance Fee Disclosure - IAFD (CIV)

Comment

Initial Appearance Fee Disclosure

06/28/2018 Order Granting Motion ▼

Order Granting Motion - OGM (CIV)

Comment

Order Granting Motion to Intervene

06/28/2018 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

Notice of Entry of Order Granting Motion to Intervene

06/28/2018 Request for Judicial Notice ▼

Request for Judicial Notice - RFJN (CIV)

Comment

REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PETITIONER
S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF SECOND AMENDED PETITION FOR JUDICIAL REVIEW

06/29/2018 Petition for Judicial Review ▼

Minutes - Petition for Judicial Review

Judicial Officer

Williams, Timothy C.

Hearing Time

9:30 AM

Result

Denied

Comment

Oral Argument on Petition for Judicial Review

Parties Present ▲

Petitioner

Attorney: Kaempfer, Christopher Leigh

Attorney: Hutchison, Mark A

Attorney: Leavitt, James J

Attorney: Allen, Stephanie Hardie

Attorney: Kistler, Joseph S.

Respondent

Attorney: Yen, Amanda C.

Attorney: Ogilvie, George F., III

0725
00692

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

0726
00693

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

Intervenor

Attorney: Holmes, Dustun H

Attorney: Mikhaylov, Kiril V.

06/29/2018 Motion to Strike ▼

0727
00694

Motion to Strike - MSTR (CIV)

Comment

Emergency Motion to Strike "Errata to Transmittal of Record for Review" filed by the City of Las Vegas on June 21, 2018; Application for Order Shortening Tme

07/02/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment

Petitioner 180 Land Co LLC's Hearing Exhibits to Petition for Judicial Review

07/03/2018 Motion ▼

Minutes - Motion

Minutes - Motion

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Vacate

Comment

Emergency Motion to Strike " Errata to Transmittal of Record for Review" Filed by the City of Las Vegas on June 21, 2018; Application for Order Shortening Time

07/13/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order Regarding Briefing Schedule and Hearing Date for Petitioner's Emergency Motion to Strike "Errata to Transmittal of Record of Review"

07/16/2018 Status Check ▼

Minutes - Status Check

Judicial Officer

Williams, Timothy C.

Hearing Time

1:30 PM

Result

Matter Heard

Comment

Telephonic Status Check

0728
00695

2932

Parties Present ▲

Respondent

Attorney: Ogilvie, George F., III

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

0729
00696

[illegible]

0730
00697

Attorney: Holmes, Dustun H

07/17/2018 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment

Notice of Entry of Stipulation and Order regarding Briefing Schedule and Hearing Date for Petitioner's Emergency Motion to Strike "Errata to Transmittal of Record for Review"

07/17/2018 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

City of Las Vegas' Opposition to Petitioner's Motion to Strike Errata to Transmittal of Record for Review

07/20/2018 Reply to Opposition ▼

Reply to Opposition - ROPP (CIV)

Comment

180 Land's Reply to City of Las Vegas' Opposition to Motion to Strike

07/31/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order Regarding Post-Hearing Submissions

07/31/2018 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment

Notice of Entry of Stipulation and Order Regarding Post-Hearing Submissions

07/31/2018 Reply ▼

Reply - RPLY (CIV)

Comment

Petitioner's Post-Hearing Reply Brief

08/06/2018 Errata ▼

Errata - ERR (CIV)

Comment

Notice of Errata re Petitioner's Post-Hearing Reply Brief

08/07/2018 Order Denying Motion ▼

0731
00698

2935

Order Denying Motion - ODM (CIV)

Comment

Order Denying Petitioner's Emergency Motion to Strike Errata to Transmittal of Record for Review

08/07/2018 Reply ▼

Reply - RPLY (CIV)

Comment

City of Las Vegas' Post-Hearing Sur-Reply Brief

08/07/2018 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

Notice of Entry of Order Denying Petitioner's Emergency Motion to Strike Errata to Transmittal of Record

08/07/2018 Brief ▼

Brief - BREF (CIV)

Comment

Intervenors' Post-Hearing Brief

08/14/2018 Notice ▼

Notice - NOTC (CIV)

Comment

Notice of Lodging Proposed Findings of Fact, Conclusions of Law and Order Granting Petition for Judicial Review

08/14/2018 Notice ▼

Notice - NOTC (CIV)

Comment

Notice of Submission of Proposed Findings of Fact, Conclusions of Law, and Order

08/15/2018 Notice ▼

Notice - NOTC (CIV)

Comment

Notice of Erratum for Proposed Findings of Fact, Conclusions of Law and Order Lodged August 14, 2018

08/17/2018 Request ▼

Request - REQT (CIV)

Comment

Petitioner's Request for Consideration of Additional Pleading

0732
00699

2936

08/21/2018 Request for Judicial Notice ▼

Request for Judicial Notice - RFJN (CIV)

Comment

REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PETITIONER
S PROPOSED REPLY TO CITY OF LAS VEGAS POST-HEARING
SUR-REPLY BRIEF (REQUEST FOR CONSIDERATION OF THE
REPLY FILED AUGUST 17, 2018)

08/21/2018 Errata ▼

Errata - ERR (CIV)

Comment

City of Las Vegas' Errata to Sur-Reply Brief and Proposed Findings of
Fact and Conclusions of Law

10/11/2018 Minute Order ▼

Minute Order

Judicial Officer

Williams, Timothy C.

Hearing Time

1:53 PM

Result

Minute Order - No Hearing Held

Comment

Re: Petition for Judicial Review

10/29/2018 Request for Judicial Notice ▼

Request for Judicial Notice - RFJN (CIV)

Comment

Request for Judicial Notice

10/29/2018 Notice ▼

Notice - NOTC (CIV)

Comment

Notice of Submission of [Proposed] Findings of Fact and Conclusions
of Law on Petition for Judicial Review

11/06/2018 Notice ▼

Notice - NOTC (CIV)

Comment

Notice Of Submission Of [Proposed] Findings Of Fact, Conclusions
Of Law And Order Denying Petition For Judicial Review

0733
00700

2937

11/08/2018 Calendar Call ▼

Judicial Officer
Williams, Timothy C.

Hearing Time
10:30 AM

Cancel Reason
Vacated - Set in Error

11/21/2018 Findings of Fact, Conclusions of Law and Order ▼

Findings of Fact, Conclusions of Law and Order - FFCO (CIV)
Comment
Findings of Fact and Conclusions of Law on Petition for Judicial Review

11/26/2018 Notice of Entry of Findings of Fact, Conclusions of Law ▼

Notice of Entry of Findings of Fact, Conclusions of Law - NEFF (CIV)
Comment
Notice of Entry of Findings of Fact and Conclusions of Law on Petition for Judicial Review

12/11/2018 Ex Parte Application ▼

Ex Parte Application - EPAP (CIV)
Comment
Ex Parte Application to File Motion for Summary Judgment that Exceeds the EDCR 2.20(a) Page Limit

12/11/2018 Appendix ▼

Appendix - APEN (CIV)
Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims, Vol. 1

12/11/2018 Appendix ▼

Appendix - APEN (CIV)
Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims, Vol. 2

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

0734
00701

2938

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 3

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 7

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgement
on Liability for the Landowners' Inverse Condemnation Claims, Vol.
16

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 4

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 8

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 5

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 6

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

0735
00702

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 9

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 15

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 10

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 11

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 12

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 13

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on
Liability for the Landowners' Inverse Condemnation Claims, Vol. 15

12/11/2018 Appendix ▼

Appendix - APEN (CIV)

0736
00703

Comment
Appendix of Exhibits in Support of Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims, Vol. 14

12/11/2018 Motion for Summary Judgment ▼

Motion for Summary Judgment - MSJD (CIV)

Comment
Plaintiff Landowners' Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims

12/11/2018 Motion ▼

Motion - MOT (CIV)

Comment
Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims

12/12/2018 Order to Statistically Close Case ▼

Order to Statistically Close Case - OSCC (CIV)

Comment
Civil Order to Statistically Close Case

12/13/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment
Exhibits 7 - 8 in Support of Motion for a New Trial Pursuant to NRCP 59(e) and Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsider the Findings of Fact and Conclusions of Law and Motion to Stay Pending Nevada Supreme Court Directives

12/13/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment
Exhibits 1 - 6 in Support of Motion for a New Trial Pursuant to NRCP 59(e) and Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsider the Findings of Fact and Conclusions of Law and Motion to Stay Pending Nevada Supreme Court Directives

12/13/2018 Motion for New Trial ▼

Motion for New Trial - MNTR (CIV)

Comment
Motion for a New Trial Pursuant to NRCP 59(e) and Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsider the Findings of Fact and Conclusions of Law and Motion to Stay Pending Nevada Supreme Court Directives

0737
00704

2941

12/14/2018 Supplement ▼

Supplement - SUPPL (CIV)

Comment

Supplement to: Plaintiff Landowners' Request for
Rehearing/Reconsideration of Order/Judgment Dismissing Inverse
Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment

Exhibit 5 - Supplement to: Request for Rehearing/Reconsideration of
Order/Judgment Dismissing Inverse Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment

Exhibit 6 - Supplement to: Plaintiff Landowners' Request for
Rehearing/Reconsideration of Order/Judgment Dismissing Inverse
Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment

Exhibit 7 - Supplement to: Plaintiff Landowners' Request for
Rehearing/Reconsideration of Order/Judgment Dismissing Inverse
Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment

Exhibit 8 - Supplement to: Plaintiff Landowners' Request for
Rehearing/Reconsideration of Order/Judgment Dismissing Inverse
Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment

Exhibit 9 - Support to: Plaintiff Landowners' Request for
Rehearing/Reconsideration of Order/Judgment Dismissing Inverse
Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

0738
00705

2942

Comment
Exhibit 11 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment
Exhibit 12 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment
Exhibit 10 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment
Exhibit 13 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment
Exhibit 14 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment
Exhibit 16 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims

12/14/2018 Exhibits ▼

Exhibits - EXHS (CIV)

Comment
Exhibit 15 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse

0739
00706

Condemnation Claims
12/14/2018 Exhibits ▼ Exhibits - EXHS (CIV) Comment Exhibit 17 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims
12/14/2018 Exhibits ▼ Exhibits - EXHS (CIV) Comment Exhibit 19 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims
12/14/2018 Exhibits ▼ Exhibits - EXHS (CIV) Comment Exhibit 18 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims
12/14/2018 Exhibits ▼ Exhibits - EXHS (CIV) Comment Exhibit 20 - Supplement to: Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims
12/17/2018 Opposition to Motion ▼ Opposition to Motion - OPPM (CIV) Comment Plaintiff Landowners' Opposition to the City's Motion to Strike Plaintiffs' Motion for Summary Judgment on Liability for The Landowners' Inverse Condemnation Claims on Order Shortening Time
12/20/2018 Notice of Appeal ▼ Notice of Appeal - NOAS (CIV) Comment Notice of Appeal
12/20/2018 Case Appeal Statement ▼

0740
00707

<p>Case Appeal Statement - ASTA (CIV)</p> <p>Comment</p> <p>Case Appeal Statement</p>
<p>12/21/2018 Motion to Strike ▼</p> <p>Motion to Strike - MSTR (CIV)</p> <p>Comment</p> <p>Motion to Strike Plaintiffs' Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims on Order Shortening Time</p>
<p>12/27/2018 Joinder To Motion ▼</p> <p>Joinder To Motion - JMOT (CIV)</p> <p>Comment</p> <p>Joinder to Motion to Strike Plaintiffs' Motion For Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims</p>
<p>01/02/2019 Notice of Filing Cost Bond ▼</p> <p>Notice of Filing Cost Bond - NOCB (CIV)</p> <p>Comment</p> <p>Notice of Filing Cost Bond</p>
<p>01/07/2019 Opposition to Motion ▼</p> <p>Opposition to Motion - OPPM (CIV)</p> <p>Comment</p> <p>City of Las Vegas' Opposition to Motion for a New Trial Pursuant to NRCP 59(e) and Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsider the Findings of Fact and Conclusions of Law and Motion to Stay Pending Nevada Supreme Court Directives</p>
<p>01/07/2019 Opposition to Motion ▼</p> <p>Opposition to Motion - OPPM (CIV)</p> <p>Comment</p> <p>City of Las Vegas' Opposition to Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims</p>
<p>01/07/2019 Opposition to Motion ▼</p> <p>Opposition to Motion - OPPM (CIV)</p> <p>Comment</p> <p>Opposition to Motion for A New Trial Pursuant to NRCP 59(e); Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsideration the Findings of Fact and Conclusions of Law; and Motion to Stay Pending Nevada Supreme Court Directives</p>

0741
00708

01/09/2019 Joinder to Opposition to Motion ▼

Joinder to Opposition to Motion - JOPP (CIV)

Comment

Joinder to City of Las Vegas' Opposition to Plaintiff Landowners'
Request for Rehearing/Reconsideration of Order/Judgment
Dismissing Inverse Condemnation Claims

01/10/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order re Briefing Schedule re Petitioner's Motion for a
New Trial Pursuant to NRCP 59(E) and Motion to Alter or Amend
Pursuant to NRCP 52(B) and/or Reconsider the Findings of Fact and
Conclusions of Law and Motion to Stay Pending Nevada Supreme
Court Directives

01/10/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

Notice of Entry of Stipulation and Order re Briefing Schedule re
Petitioner's Motion for a New Trial Pursuant to NRCP 59(E) and
Motion to Alter or Amend Pursuant to NRCP 52(B) and/or Reconsider
the Findings of Fact and Conclusions of Law and Motion to Stay
Pending Nevada Supreme Court Directives

01/10/2019 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

Reply in Support of Motion to Strike Plaintiffs' Motion for Summary
Judgment on Liability for the Landowners' Inverse Condemnation
Claims

01/10/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order Re: City of Las Vegas' Motion to Strike
Plaintiffs' Motion for Summary Judgment on Liability for the
Landowners' Inverse Condemnation Claims and Plaintiffs' Motion for
Summary Judgment on Liability for the Landowners' Inverse
Condemnation Claims

01/10/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

0742
00709

2946

Comment
Stipulation and Order re Briefing Schedule and Hearing Date re
Plaintiff Landowners' Request for Rehearing/Reconsideration of
Order/Judgment Dismissing Inverse Condemnation Claims

01/11/2019 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment
Notice of Entry of Stipulation and Order re City of Las Vegas' Motion
to Strike Plaintiffs' Motion for Summary Judgment on Liability for the
Landowners' Inverse Condemnation Claims and Plaintiffs' Motion for
Summary Judgment on Liability for the Landowners' Inverse
Condemnation Claims

01/11/2019 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment
Notice of Entry of Stipulation and Order re Briefing Schedule and
Hearing Date re Plaintiff Landowners' Request for
Rehearing/Reconsideration of Order/Judgment Dismissing Inverse
Condemnation Claims

01/14/2019 Reply ▼

Reply - RPLY (CIV)

Comment
Reply Re: Plaintiff Landowners' Request for Rehearing /
Reconsideration of Order / Judgment Dismissing Inverse
Condemnation Claims

01/14/2019 Reply ▼

Reply - RPLY (CIV)

Comment
Petitioner's Omnibus Reply in Support of Motion for New Trial
Pursuant to NRCP 59(e) and Motion to Alter or Amend Pursuant to
NRCP 52(b) and/or Reconsider the Findings of Fact and Conclusions
of Law and Motion to Stay Pending Nevada Supreme Court
Directives

01/17/2019 Motion For Reconsideration ▼

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Decision Made

0743
00710

2947

Comment
Plaintiff Landowners' Request for Rehearing/Reconsideration of
Order/Judgment Dismissing Inverse Condemnation Claims

01/17/2019 Motion to Strike ▼

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Decision Made

Comment
Motion to Strike Plaintiff's Motion for Summary Judgment on Liability for the
Landowners Inverse Condemnation Claims on Order Shortening Time

01/17/2019 Joinder ▼

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Decision Made

Comment
Joinder to Motion to Strike Plaintiff's Motion for Summary Judgment on
Liability for the Landowners Inverse Condemnation Claims on Order
Shortening Time

01/17/2019 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Matter Heard

Parties Present ▲
Petitioner

Attorney: Hutchison, Mark A

Attorney: Waters, Kermitt L.

Attorney: Leavitt, James J

Respondent

Attorney: Ogilvie, George F., III

0744
00711

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

01/22/2019 Motion for New Trial ▼

Minutes - Motion for New Trial

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Motion Denied

Comment

Motion for a New Trial Pursuant to NRCP 59(e) and Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsider the Findings of Fact and Conclusions of Law and Motion to Stay Pending Nevada Supreme Court Directives

Parties Present ▲

Petitioner

Attorney: Hutchison, Mark A

Respondent

Attorney: Ogilvie, George F., III

Attorney: Leonard, Debbie A.

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

0746
00713

2950

[illegible]

0747
00714

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

01/29/2019 Demand for Jury Trial ▼

Demand for Jury Trial - DMJT (CIV)

Comment

Demand for Jury Trial

02/06/2019 Motion for Summary Judgment ▼

Minutes - Motion for Summary Judgment

0748
00715

2952

Judicial Officer
Williams, Timothy C.

Hearing Time
9:30 AM

Result
Vacate

Comment
Plaintiff Landowners' Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims

Parties Present ▲
Petitioner

Attorney: Leavitt, James J

Respondent

Attorney: Ogilvie, George F., III

02/06/2019 Order Nunc Pro Tunc ▼

Order Nunc Pro Tunc - ONPT (CIV)

Comment
Order Nunc Pro Tunc Regarding Findings of Fact and Conclusion of Law Entered November 21, 2018

02/06/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment
Notice of Entry of Order Nunc Pro Tunc Regarding Findings of Fact and Conclusion of Law Entered November 21, 2018

02/12/2019 Status Check ▼

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Cancel Reason
Vacated - per Judge

Comment
Status Check: Setting Briefing and Hearing on Pltf. Landowners' Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims

02/13/2019 Motion for Judgment ▼

Motion for Judgment - MJUD (CIV)

0749
00716

2953

Comment
City of Las Vegas' Motion for Judgment on the Pleadings on
Developer's Inverse Condemnation Claims

03/04/2019 Ex Parte Application ▼

Ex Parte Application - EPAP (CIV)

Comment
Ex Parte Application to File Motion for Judicial Determination of
Liability that Exceeds the EDCR 2.20(a) Page Limit

03/04/2019 Opposition and Countermotion ▼

Opposition and Countermotion - OPPC (CIV)

Comment
Plaintiff Landowners' Opposition to City's Motion for Judgment on the
Pleadings on Developer's Inverse Condemnation Claims and
Countermotion for Judicial Determination of Liability on the
Landowners' Condemnation Claims and Countermotion to
Supplement/Amend the Pleading, If Required

03/04/2019 Appendix ▼

Appendix - APEN (CIV)

Comment
Supplemental Appendix of Exhibits in Support of Plaintiff
Landowners' Opposition to City's Motion for Judgment on the
Pleadings on Developer's Inverse Condemnation Claims and
Countermotion for Judicial Determination of Liability on the
Landowners' Inverse Condemnation Claims and Countermotion to
Supplement/Amend the, if Required

03/08/2019 Motion ▼

Motion - MOT (CIV)

Comment
Plaintiff Landowners' Motion to Estop the City's Private Attorney from
Making the Major Modification Argument or for an Order to Show
Cause Why the Argument May Proceed in this Matter on Order
Shortening Time

03/08/2019 Appendix ▼

Appendix - APEN (CIV)

Comment
Supplement to Appendix of Exhibits in Support of Plaintiff
Landowners' Motion to Estop the City's Private Attorney from Making
the Major Modification Argument or for an Order to Show Cause Why
the Argument May Proceed in this Matter on Order Shortening Time,
Vol. 17

03/11/2019 Order Granting ▼

0750
00717

2954

Order Granting - ORDG (CIV)

Comment

(Proposed) Order Granting Ex Parte Application to File Motion for Judicial Determination of Liability in Excess of 30 Pages

03/11/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

Notice of Entry of Order Granting Ex Parte Application to File Motion for Judicial Determination of Liability in Excess of 30 Pages

03/14/2019 Reply ▼

Reply - RPLY (CIV)

Comment

City of Las Vegas' Reply in Support of Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims

03/18/2019 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

City of Las Vegas' Opposition to Plaintiff Landowners' Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims and Countermotion to Supplement/Amend the Pleadings, if Required

03/18/2019 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

City of Las Vegas' Opposition to Plaintiff Landowners' Motion to Estop the City's Private Attorney from Making the Major Modification Argument or for an Order to Show Cause Why the Argument May Proceed in this Matter on Order Shortening Time

03/19/2019 Motion for Judgment ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Continued

Comment

City of Las Vegas' Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims

0751
00718

2955

03/19/2019 Opposition and Countermotion ▼

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Matter Continued

Comment
Plaintiff Landowners' Opposition to City's Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims and Countermotion for Judicial Determination of Liability on the Landowners' Condemnation Claims and Countermotion to Supplement/Amend the Pleading, If Required

03/19/2019 Motion ▼

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Matter Continued

Comment
Plaintiff Landowners' Motion to Estop the City's Private Attorney from Making the Major Modification Argument or for an Order to Show Cause Why the Argument May Proceed in this Matter on Order Shortening Time

03/19/2019 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Matter Heard

Parties Present ▲
Petitioner

Attorney: Hutchison, Mark A

Attorney: Waters, Kermitt L.

Attorney: Leavitt, James J

Attorney: Waters, Autumn L.

Respondent

Attorney: Ogilvie, George F., III

0752
00719

2956

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

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Attorney: Holmes, Dustun H

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Attorney: Holmes, Dustun H

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Attorney: Holmes, Dustun H

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Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

Intervenor

Attorney: Holmes, Dustun H

2957

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

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Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

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Attorney: Holmes, Dustun H

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Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

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Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

03/21/2019 Reply in Support ▼

0754
00721

2958

Reply in Support - RIS (CIV)

Comment

Reply in Support of Plaintiff Landowners' Motion to Estop the City's Private Attorney for Making the Major Modification Argument or for an Order to Show Cause Why the Argument May Proceed in this Matter on Order Shortening Time

03/21/2019 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

Landowners' Reply in Support of Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims and Countermotion to Supplement/Amend the Pleadings, if Required

03/21/2019 Appendix ▼

Appendix - APEN (CIV)

Comment

Supplement to Appendix of Exhibits in Support of Landowners' Reply in Support of Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims and Countermotion to Supplement/Amend the Pleadings, if Required

03/21/2019 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

Opposition To Plaintiff Landowners' Motion To Estop The City's Private Attorney From Making The Major Modification Argument Or For An Order To Show Cause Why The Argument May Proceed In This Matter On Order Shortening Time

03/21/2019 Reply ▼

Reply - RPLY (CIV)

Comment

Plaintiff Landowners' Reply and Request to Strike Neighbors' Opposition to Motion to Estop the City's Private Attorney from Making the Major Modification Argument or for an Order to Show Cause Why the Argument May Proceed in this Matter on Order Shortening Time as a Fugitive Document

03/22/2019 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer

Williams, Timothy C.

0755
00722

2959

Hearing Time

1:30 PM

Result

Matter Heard

Parties Present ▲

Petitioner

Attorney: Hutchison, Mark A

Attorney: Waters, Kermitt L.

Attorney: Leavitt, James J

Attorney: Waters, Autumn L.

Respondent

Attorney: Ogilvie, George F., III

Attorney: Leonard, Debbie A.

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

0756
00723

2960

[illegible]

0757
00724

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

03/22/2019 Minute Order ▼

Minute Order

Judicial Officer

Williams, Timothy C.

Hearing Time

4:59 PM

Result

Minute Order - No Hearing Held

Comment

re: Motion for New Trial Pursuant to NRCP 59(e) AND Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsider the FFCL AND Motion to Stay Pending Nevada Supreme Court Directives

03/25/2019 Miscellaneous Filing ▼

Miscellaneous Filing - MISC (CIV)

Comment

Submittal of Powerpoint Slides

04/02/2019 Discovery Conference ▼

Minutes - Discovery Conference

Judicial Officer

Williams, Timothy C.

Hearing Time

10:30 AM

Result

Matter Heard

Comment

Mandatory Rule 16.1 Conference (Business Court Application Pending)

Parties Present ▲

0758
00725

2962

Petitioner

Attorney: Leavitt, James J

Attorney: Waters, Autumn L.

Attorney: Kistler, Joseph S.

Respondent

Attorney: Ogilvie, George F., III

04/23/2019 Motion to Stay ▼

Motion to Stay - MSTY (CIV)

Comment

City of Las Vegas' Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time

05/07/2019 Reporters Transcript ▼

Reporters Transcript - TRAN (CIV)

Comment

Court Reporters transcript of Proceedings (Civil) 1-22-19

05/07/2019 Reporters Transcript ▼

Reporters Transcript - TRAN (CIV)

Comment

Court Reporters transcript of Proceedings (Civil) 5-8-18

05/07/2019 Reporters Transcript ▼

Reporters Transcript - TRAN (CIV)

Comment

Court Reporters transcript of Proceedings (Civil) 7-25-18

05/07/2019 Reporters Transcript ▼

Reporters Transcript - TRAN (CIV)

Comment

Court Reporters transcript of Proceedings (Civil) 1-11-18

05/07/2019 Opposition and Countermotion ▼

Opposition and Countermotion - OPPC (CIV)

Comment

Opposition to the City of Las Vegas' Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time and Countermotion for Nunc Pro Tunc Order

05/07/2019 Findings of Fact, Conclusions of Law and Order ▼

0759
00726

2963

Findings of Fact, Conclusions of Law and Order - FFCO (CIV)

Comment

Findings of Fact and Conclusions of Law Regarding Plaintiff's Motion for a New Trial, Mtn to Alter or Amend

05/08/2019 Notice of Entry of Findings of Fact, Conclusions of Law ▼

Notice of Entry of Findings of Fact, Conclusions of Law - NEFF (CIV)

Comment

Notice of Entry of Findings of Fact and Conclusions of Law

05/10/2019 Reply ▼

Reply - RPLY (CIV)

Comment

Reply in Support of City of Las Vegas Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time and Opposition to Countermotion for Nunc Pro Tunc Order

05/13/2019 Joinder to Opposition to Motion ▼

Joinder to Opposition to Motion - JOPP (CIV)

Comment

Joinder to the City of Las Vegas' Opposition to Countermotion for Nunc Pro Tunc Order

05/14/2019 Reply ▼

Reply - RPLY (CIV)

Comment

Landowners' Reply Re: Countermotion for Nunc Pro Nunc Order

05/15/2019 Motion to Stay ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Motion Denied

Comment

City of Las Vegas' Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time

05/15/2019 Opposition and Countermotion ▼

0760
00727

2964

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Motion Denied

Comment
Plaintiff's Opposition to the City of Las Vegas' Motion to Stay Proceedings
Pending Resolution of Writ Petition to the Nevada Supreme Court on Order
Shortening Time AND Countermotion for Nunc Pro Tunc Order

05/15/2019 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer
Williams, Timothy C.

Hearing Time
9:00 AM

Result
Matter Heard

Parties Present ▲

Petitioner

Attorney: Hutchison, Mark A

Attorney: Waters, Kermitt L.

Attorney: Leavitt, James J

Attorney: Waters, Autumn L.

Respondent

Attorney: Leonard, Debbie A.

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

0761
00728

2965

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

Intervenor

Attorney: Bice, Todd L

Attorney: Holmes, Dustun H

05/15/2019 Minute Order ▼

Minute Order

Judicial Officer

Williams, Timothy C.

Hearing Time

3:25 PM

Result

Minute Order - No Hearing Held

Comment

re: Plaintiff's Opposition to the City of Las Vegas' Motion to Stay
Proceedings Pending Resolution of Writ Petition to the Nevada Supreme
Court on Order Shortening Time AND Countermotion for Nunc Pro Tunc
Order

05/15/2019 Order ▼

Order - ORDR (CIV)

0763
00730

2967

<p>Comment</p> <p>Order Granting the Landowners' Countermotion to Amend/Supplement the Pleadings; Denying the City's Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims; and Denying the Landowners' Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims</p>
<p>05/15/2019 Notice of Entry of Order ▼</p> <p>Notice of Entry of Order - NEOJ (CIV)</p> <p>Comment</p> <p>Notice of Entry of Order Granting the Landowners' Countermotion to Amend/Supplement the Pleadings; Denying the City's Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims; and Denying Landowners' Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims</p>
<p>05/15/2019 Amended Complaint ▼</p> <p>Amended Complaint - ACOM (CIV)</p> <p>Comment</p> <p>Second Amendment and First Supplement to Complaint for Severed Alternative Verified Claims in Inverse Condemnation</p>
<p>05/16/2019 Order ▼</p> <p>Order - ORDR (CIV)</p> <p>Comment</p> <p>Order re April 2, 2019 NRCP 16 Conference</p>
<p>05/17/2019 Notice of Entry of Order ▼</p> <p>Notice of Entry of Order - NEOJ (CIV)</p> <p>Comment</p> <p>Notice of Entry of Order</p>
<p>05/17/2019 Notice ▼</p> <p>Notice - NOTC (CIV)</p> <p>Comment</p> <p>Notice of Filing of Petition for Writ of Mandamus, or in the Alternative, Writ of Prohibition and Emergency Motion Under NRAP 27(e) for Stay in the Nevada Supreme Court</p>
<p>05/19/2019 Reporters Transcript ▼</p> <p>Reporters Transcript - TRAN (CIV)</p> <p>Comment</p> <p>Court Reporters transcript of Proceedings (Civil) 5-15-19</p>

0764
00731

05/20/2019 Certificate of Service ▼

Certificate of Service - CSERV (CIV)

Comment

Certificate of Service

05/21/2019 NV Supreme Court Clerks Certificate/Judgment - Dismissed ▼

NV Supreme Court Clerks Certificate/Judgment - Dismissed

Comment

Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed

05/23/2019 Certificate of Service ▼

Certificate of Service - CSERV (CIV)

Comment

Certificate of Service

06/05/2019 Change of Address ▼

Change of Address - COA (CIV)

Comment

Notice of Change of Firm Affiliation and Contact Information

06/13/2019 Case Conference Report ▼

Case Conference Report - CCR (CIV)

Comment

Landowners' Individual Case Conference Report

06/18/2019 Answer to Amended Complaint ▼

Answer to Amended Complaint - ANAC (CIV)

Comment

City of Las Vegas' Answer to Plaintiff 180 Land Company's Second Amendment and First Supplement to Complaint for Severed Alternative Verified Claims in Inverse Condemnation

06/27/2019 Individual Case Conference Report ▼

Individual Case Conference Report - ICCR (CIV)

Comment

Individual Case Conference Report

06/28/2019 Errata ▼

Errata - ERR (CIV)

0765
00732

2969

<p>Comment</p> <p>Errata to Notice of Change of Firm Affiliation and Contact Information</p>
<p>07/16/2019 Status Report ▼</p> <p>Status Report - SR (CIV)</p> <p>Comment</p> <p>The City of Las Vegas' Status Report for the July 23, 2019 Status Check</p>
<p>07/16/2019 Status Report ▼</p> <p>Status Report - SR (CIV)</p> <p>Comment</p> <p>Status Report</p>
<p>07/23/2019 Status Check ▼</p> <p>Minutes - Status Check</p> <p>Judicial Officer</p> <p>Williams, Timothy C.</p> <p>Hearing Time</p> <p>9:00 AM</p> <p>Result</p> <p>Matter Heard</p> <p>Comment</p> <p>Status Check: Liability/Damages/Discovery/Trial Setting/Scheduling Order</p> <p>Parties Present ▲</p> <p>Petitioner</p> <p>Attorney: Leavitt, James J</p> <p>Attorney: Waters, Autumn L.</p> <p>Respondent</p> <p>Attorney: Ogilvie, George F., III</p> <p>Attorney: Leonard, Debbie A.</p>
<p>08/07/2019 Motion ▼</p> <p>Motion - MOT (CIV)</p> <p>Comment</p> <p>Plaintiff Landowners' Motion on the Procedure to Determine Liability in an Inverse Condemnation Proceeding</p>
<p>08/08/2019 Notice of Hearing ▼</p> <p>Notice of Hearing - NOH (CIV)</p>

0766
00733

<p>Comment</p> <p>Notice of Hearing Re: Plaintiff Landowners Motion on the Procedure to Determine Liability in an Inverse Condemnation Proceeding</p>
<p>08/08/2019 Clerk's Notice of Hearing ▼</p> <p>Clerk's Notice of Hearing - CNOC (CIV)</p> <p>Comment</p> <p>Clerk's Notice of Hearing</p>
<p>08/09/2019 Notice of Rescheduling of Hearing ▼</p> <p>Notice of Rescheduling of Hearing - NORH (CIV)</p> <p>Comment</p> <p>Notice of Rescheduling Hearing</p>
<p>08/15/2019 Application for Issuance of Commission to Take Deposition ▼</p> <p>Application for Issuance of Commission to Take Deposition - APCOM (CIV)</p> <p>Comment</p> <p>Application for Issuance of Commission to Take Out-Of-State Deposition of Clyde Spitze</p>
<p>08/15/2019 Commission Issued ▼</p> <p>Comment</p> <p>Commission to Take Out-Of-State Deposition of Clyde Spitze</p>
<p>08/22/2019 Removal to Federal Court ▼</p> <p>Removal to Federal Court - RMFC (CIV)</p> <p>Comment</p> <p>Notice to State Court of Removal to the United States District Court</p>
<p>02/10/2020 Hearing ▼</p> <p>Judicial Officer Williams, Timothy C.</p> <p>Hearing Time 9:30 AM</p> <p>Cancel Reason Vacated - Duplicate Entry</p> <p>Comment Hearing on Phase 1 Liability</p>
<p>02/10/2020 Motion ▼</p>

0767
00734

Judicial Officer
Williams, Timothy C.

Hearing Time
9:30 AM

Cancel Reason
Vacated

Comment
**Plaintiff Landowners Motion on the Procedure to Determine Liability in an
Inverse Condemnation Proceeding (Phase 1)**

0768
00735

EXHIBIT NN

EXHIBIT NN

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Attorneys for City of Las Vegas

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

180 LAND COMPANY, LLC, a Nevada limited liability company, FORE STARS, LTD., SEVENTY ACRES, LLC, a Nevada limited liability company, DOE INDIVIDUALS I through X, DOE CORPORATIONS I through X, and DOE LIMITED LIABILITY COMPANIES I through X,

Plaintiffs,

v.

CITY OF LAS VEGAS, a political subdivision of the State of Nevada; ROE GOVERNMENT ENTITIES I through X; ROE CORPORATIONS I through X; ROE INDIVIDUALS I through X; ROE LIMITED-LIABILITY COMPANIES I through X; ROE QUASI-GOVERNMENTAL ENTITIES I through X,

Defendants.

CASE NO.

**THE CITY OF LAS VEGAS'
 PETITION FOR REMOVAL OF
 CIVIL ACTION**

(Clark County District Court, Case No. A-17-758528-J)

00736

2974

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TO: THE CLERK OF THE ABOVE-ENTITLED COURT, THE PARTIES, AND ALL ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446, defendant City of Las Vegas (the “City”) files this Petition for Removal of Civil Action with respect to the above-captioned case, which was filed and currently is pending in the District Court of Clark County, State of Nevada, Case No. A-17-758528-J (the “State Court Action”). In support of its Petition for Removal of Civil Action, the City states as follows:

THE ACTION

1. On May 15, 2019, plaintiffs 180 Land Company, LLC; Fore Stars, Ltd. and Seventy Acres, LLC (collectively, the “Developer”) filed their Second Amendment and First Supplement to Complaint for Severed Alternative Verified Claims In Inverse Condemnation (“Complaint”) against the City. *See* Complaint attached hereto as **Exhibit A**.

2. The Complaint alleges causes of action for (1) Categorical Taking; (2) Penn Central Regulatory Taking; (3) Regulatory Per Se Taking; (4) Nonregulatory Taking; (5) Temporary Taking; and (6) Judicial Taking. *Id.*

3. The Developer claims that the City’s alleged taking was in violation of the United States Constitution, the Nevada State Constitution and the Nevada Revised Statutes. *Id.*, ¶¶ 173, 194, 203, 215 and 221.

4. The Developer also alleges that the “City is also subject to all of the provisions of the Just Compensation Clause of the United States Constitution.” *Id.*, ¶ 2; *see also* ¶¶ 173, 174, 193-5, 202-4, 214-16 and 219-22 (alleging that the City has not paid just compensation for the alleged taking). For their relief, Developer seeks, among other things, “[a]n award of just compensation. . . for the taking.” *Id.* at 35:15.

5. In addition to the Developer’s Complaint at **Exhibit A**, **Exhibit B** contains all prior pleadings, services of process and orders that have been served on the City prior to the filing of this Petition for Removal of Civil Action.

...

...

JURISDICTION AND VENUE

6. On June 21, 2019, the United States Supreme Court decided *Knick v. Township of Scott, Pennsylvania, et al.*, 139 S.Ct. 2162 (2019). *Knick* overruled, in part, *Williamson County Regional Planning Comm’n v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985) and held that a property owner has an actionable Fifth Amendment takings claim when the government takes his property without paying for it and, therefore, may bring his claim in federal court under 42 U.S.C §1983 at the time of the alleged taking. *Knick*, 139 S.Ct. at 2167-8. In other words, *Knick* overturned the Supreme Court’s prior ruling that a property owner’s state law remedies must be exhausted before a taking claim could be filed in federal court.

7. Based on *Knick*, this Court has original jurisdiction under 28 U.S.C. § 1331. “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. The Developer’s Complaint seeks just compensation for the City’s alleged taking under the United States Constitution; therefore, pursuant to 28 U.S.C. § 1331, the Fifth Amendment of the United States Constitution and the United States Supreme Court’s decision in *Knick*, this Court has jurisdiction over this action.

8. This action may be removed to this Court pursuant to 28 U.S.C. § 1441 as any action commenced in state court is removable if it might have been brought originally in federal court. *See* 28 U.S.C. § 1441(a); *see also Exxon Mobil Corp. v. Allapattach Servs., Inc.*, 545 U.S. 546, 563-64 (2005) (“[A] district court has original jurisdiction of a civil action for purposes of section 1441(a) as long as it has original jurisdiction over a subset of claims constituting the action”).

9. The United States Supreme Court entered judgment in *Knick* on July 23, 2019. *See* United States Supreme Court Case No. 17-647 Docket and Notice of Issuance of Court Mandate collectively attached as **Exhibit C**. Therefore, this Removal is timely in that the City has sought removal within 30 days of the final judgment authorizing removal of this matter. *See* 28 U.S.C. § 1446(b)(3) (“[I]f the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy

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1 of an amended pleading, motion, order or other paper from which it may first be ascertained that
2 the case is one which is or has become removable.”).

3 10. To the extent the Complaint alleges any state causes of action or other non-federal
4 claims, this Court has supplemental jurisdiction over any such claims pursuant to 28 U.S.C. §
5 1367 because those claims arise out of the same operative facts as the Developer’s federal claims
6 and “form part of the same case or controversy under Article III of the United States Constitution.”
7 28 U.S.C. § 1367(a).

8 11. This Court is in the judicial district and division embracing the place where the
9 state court action was brought and is pending. Thus, this Court is the proper district court to which
10 this case should be removed. *See* 28 U.S.C. §§ 1441 and 1446(a).

11 **COMPLIANCE WITH 28 U.S.C. § 1446(d)**

12 12. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Petition for
13 Removal of Civil Action will be promptly served on the Developer and will be filed with the Clerk
14 of the District Court of the State of Nevada, Clark County, in the State Court Action.

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PRAYER FOR REMOVAL

WHEREFORE, the City prays that the State Court Action be removed to the United States District Court for the District of Nevada.

DATED this 22nd day of August, 2019.

McDONALD CARANO LLP

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EXHIBIT LIST

Second Amendment and First Supplement to Complaint for Severed Alternative Verified Claims In Inverse Condemnation	Exhibit A
State Court Action Prior Pleadings, Process and Orders	Exhibit B
United States Supreme Court Case No. 17-647 Docket and Notice of Issuance of Court Mandate	Exhibit C

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on the 22nd day of August, 2019, I caused a true and correct copy of the foregoing **THE CITY OF LAS VEGAS' PETITION FOR REMOVAL OF CIVIL ACTION** to be electronically filed with the Clerk of the Court by using CM/ECF service and serving on all parties of record via U.S. Mail as follows:

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/s/ Jelena Jovanovic
An employee of McDonald Carano LLP

EXHIBIT OO

EXHIBIT OO

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

180 LAND COMPANY, LLC, *et al.*,

Plaintiffs,

v.

CITY OF LAS VEGAS, *et al.*,

Defendants.

Case No. 2:19-cv-1467-KJD-DJA

ORDER

Before the Court is a motion to remand to state court (ECF No. 7) filed by plaintiffs 180 Land Company, LLC, Fore Stars, LTD., and Seventy Acres, LLC.¹ Defendant, the City of Las Vegas, has responded (ECF No. 10), and the developers replied (ECF No. 11). Also before the Court is the City's motion for leave to file a sur-reply (ECF No. 16), to which the developers responded (ECF No. 17), and the City replied (ECF No. 19).

The developers' motion to remand turns on whether a Supreme Court opinion from an unrelated case constitutes an "other paper" under 28 U.S.C. § 1446(b)(3), which would re-open the window for the City to remove this case to federal court. Until recently, this type of inverse-condemnation claim required state-court exhaustion before a federal district court assumed jurisdiction. However, the Supreme Court's decision in Knick v. Twp. of Scott, 139 S.Ct. 2162 (2019), removed the state-exhaustion requirement and allowed property owners to skip state court and bring their claim directly to federal court. The Court concludes that an order from an unrelated case—even from the Supreme Court—does not meet § 1446(b)(3)'s definition of "other paper" and could not reopen the City's removal widow. Because Knick did not reopen the removal window, this removal was untimely. Accordingly, the Court remands this case to the

¹ For ease of reference, the Court will refer to the defendants collectively as "the developers" unless otherwise necessary.

1 Eighth Judicial District Court of Nevada.

2 **I. Background**

3 This is one of four related cases that have been removed from the Eighth Judicial District
 4 Court.² The underlying dispute in each case involves the developers' plans to build homes on a
 5 250-acre parcel of land formerly known as the Badlands Golf Course. D's Resp. to Mot. to Rem.
 6 3, ECF No. 10. The developers' predecessor-in-interest, non-party Peccole Ranch Partnership,
 7 designated the parcel as "open space," which the Las Vegas City Council approved in 1990. Id.
 8 Around December of 2016, the developers sought City Council approval re-classify 35-acre
 9 sections of the original 250-acre parcel as "Low Density Residential." Id. The plan was to divide
 10 the 35-acre portions into sixty-one lots and build homes on the individual lots. Id. The plan met
 11 considerable backlash from the community, leading the City Council to deny the applications. Id.

12 The developers challenged the denial in a petition for judicial review in the Eighth
 13 Judicial District Court. That petition became the underlying state court action. The state court
 14 eventually denied the petition for judicial review but not before the developers amended their
 15 complaint to include inverse condemnation claims against the City. Mot. to Rem. 3, ECF No. 7.
 16 The gist of the complaint was that the City Council's denial decreased the value of the
 17 developers' property, resulting in a taking without just compensation. Id. The parties litigated the
 18 case exclusively in state court, and the City repeatedly moved to dismiss the developers'
 19 complaint. The City first moved to dismiss the developers' inverse condemnation claims in
 20 October of 2017, which the state court denied. Id. at 6. The City moved for reconsideration,
 21 which that court also denied. Id. More than a year later, the City moved for judgment on the
 22 pleadings but was denied again. Id.

23 The City then sought interlocutory review by writ petition with the Nevada Supreme
 24 Court. In an unpublished order, the Nevada Supreme Court denied the City's writ petition and
 25 found that its "extraordinary intervention" was not warranted. See Order of Denial at *1, No.
 26 78792, 2019 WL 2252876 (Nev. May 24, 2019). The City moved for both panel and en banc

27 ² See 180 Land Co. v. City of Las Vegas, 2:19-cv-1471 JCM (EJY) (remanded to state court); Fore Stars,
 28 Ltd. v. City of Las Vegas, 2:19-cv-1469-JAD-NJK (currently pending); 180 Land Co., LLC v. City of Las Vegas,
 2:19-cv-1470-RFB-BNW (currently pending).

1 rehearing, which both failed. See Mot. to Rem., ECF No. 7 Exs. 8, 9. The case returned to the
 2 state trial court for further proceedings.

3 In August of 2019, the Supreme Court issued Knick, which allowed inverse-
 4 condemnation plaintiffs to skip state court and bring their claims directly to federal court under
 5 § 1983. The City promptly removed to this Court after Knick. Its justification for removal was
 6 that this Court lacked jurisdiction before Knick and that the Supreme Court's decision re-opened
 7 the window to remove the case to federal court. This motion to remand followed.

8 **II. Legal Standard**

9 Federal jurisdiction is limited to the power granted by the Constitution and federal
 10 statutes. Gunn v. Minton, 568 U.S. 251, 256 (2013). Where a plaintiff elects to bring its claims in
 11 state court, 28 U.S.C. 1441(a) authorizes the defendant to remove the case to federal court if the
 12 federal court has original jurisdiction over the matter. It is the removing party's burden to
 13 demonstrate that federal jurisdiction is appropriate. Hunter v. United Van Lines, 746 F.2d 635,
 14 639 (9th Cir. 1984). Because the federal court's jurisdiction is limited, the threshold question is
 15 whether the plaintiff's complaint includes a cause of action that would vest jurisdiction in the
 16 federal court. Ansley v. Ameriquet Mortg. Co., 340 F.3d 858, 861 (9th Cir. 2003). The Court
 17 presumes that a case is not removeable until the defendant demonstrates otherwise. Hunter v.
 18 Philip Morris, 582 F.3d 1039, 1042 (9th Cir. 2009).

19 A removing defendant generally has two opportunities to remove a case to federal court.
 20 The first opportunity happens early in the case and is fairly straightforward. The defendant has
 21 thirty days to remove a case where it is clear from the face of the complaint that at least one
 22 cause of action creates federal jurisdiction. 28 U.S.C. § 1446(b). The thirty-day clock starts when
 23 the defendant receives service of the initial complaint. Alternatively, if the complaint is not
 24 required to be served, the clock starts when the plaintiff files the complaint, whichever period is
 25 shorter. Id. Importantly, the Court only considers the allegations in the plaintiff's well-pleaded
 26 complaint to determine whether a federal claim exists. Caterpillar Inc. v. Williams, 482 U.S. 386,
 27 392 (1987). The so-called well-pleaded complaint rule excludes from the analysis any federal
 28 defenses the defendant may bring and recognizes that the plaintiff is the "master of his or her

claim.” Id.

The defendants’ second opportunity to remove is at issue here. This opportunity arises later and is less straightforward. The window only opens if an “amended pleading, motion, order or other paper” alerts the defendant that the case has become removable. 28 U.S.C. § 1446(b)(3). Still, the defendant must overcome the “strong presumption against removal jurisdiction” and demonstrate that removal is proper. Hunter, 582 F.3d at 1042. Given the presumption against removability, the Court resolves ambiguity in favor of remanding to state court. Id.

III. Analysis

The parties agree that the City’s first opportunity to remove expired long before it removed to this Court. At issue here is whether the second window ever opened, and if so, did the City timely remove during that thirty-day window? That question boils down to whether the Supreme Court’s decision in Knick qualifies as “other paper” under § 1446(b)(3). If the Knick decision is, in fact, an “other paper” under § 1446(b)(3), the City had thirty days to remove after that decision became final.³ If, on the other hand, the Knick decision does not satisfy § 1446(b)(3), the second removal window never opened, and removal was untimely.

A. *Inverse Condemnation Claims Before Knick*

A brief history of these inverse-condemnation claims is helpful. Since the mid-eighties, parties pursuing inverse condemnation claims must have fully exhausted their state law remedies before filing in federal court. Williamson Cty. Reg. Planning Com’n v. Hamilton Bank of Johnson City, 473 U.S. 172 (1985). The state-exhaustion requirement rested on the assumption that a taking did not actually occur until the government denied the landowner reasonable compensation. Id. at 195. It followed that a final judgment in state court would be the culmination of the taking. The problem with that assumption was the state court’s ultimate judgment would have a preclusive effect on any future federal suit. In essence, the very judgment that unlocked the door to federal court simultaneously barred the federal case. See Knick, 139 S.Ct. at 2167 (discussing San Remo Hotel, L.P. v. City and Cty. of San Francisco, 545 U.S. 323

³ The parties disagree when exactly the thirty-day clock began ticking: the date the Court issued Knick vs. the date the Knick decision was no longer eligible for rehearing or reconsideration. However, the Court need not determine that issue here because Knick was not an “other paper” under the statute.

1 (2005)).

2 That catch-22 became apparent twenty years after Williamson Cty. when the Supreme
3 Court issued San Remo. There, the San Remo Hotel sued the City and County of San Francisco
4 over a city ordinance that required the hotel to pay a \$567,000 “conversion fee.” San Remo, 545
5 U.S. at 326. Under Williamson Cty., the hotel pursued its claim against the city and county in
6 California state court and expressly reserved its federal constitutional claims in case the city suit
7 was unsuccessful. Id. at 331. Despite the hotel’s efforts to reserve its constitutional claims, the
8 Supreme Court found that the Full Faith and Credit Clause required the federal court to honor the
9 state court decision, dooming the federal claim before it begun. Id. at 336.

10 Enter Knick v. Twp. of Scott, Pa. 139 S.Ct. 2162 (2019). In June of 2019, the Supreme
11 Court overturned Williamson Cty. to the extent that it required a takings plaintiff to first exhaust
12 all available state remedies. Knick made two vital findings. First, it clarified that a governmental
13 taking occurs “as soon as private property has been taken.” Id. at 2172 (internal alterations
14 omitted). Whether the taking happens through a formal condemnation or by regulation, “the
15 landowner has *already* suffered a constitutional violation.” Id. (citing San Diego Gas & Elec. Co.
16 v. San Diego, 450 U.S. 621, 654 (1981) (Brennan, J., dissenting). The fact that the landowner
17 suffers a taking at the time the government interferes with the property leads to Knick’s second
18 vital finding: the landowner’s claim is ripe *before* the state court decides the merits of the claim.
19 The landowner has a viable takings claim when the government takes its property not when the
20 state refuses just compensation. After all, “the violation is the only reason compensation was
21 owed in the first place.” Id. at 2172. Therefore, a landowner may bring a takings claim in federal
22 court without first seeking just compensation from the state.

23 *B. The Developers’ Motion to Remand*

24 It is against that backdrop that the City of Las Vegas removed the developers’ claims to
25 this Court. The City argues that removal is proper this late in the game because removal was
26 impossible before Knick vested this Court with jurisdiction. The developers disagree. They
27 classify the City’s removal as an attempt to forum shop their way around several adverse
28 decisions in state court. The developers also argue that even if removal was available under

1 Knick, the City has waived removal by litigating extensively in state court.

2 Knick does not directly address the issue of whether previously unremovable takings
3 cases would become removable upon its issuance. Knick stands for the proposition that a
4 landowner may now bypass state court and bring a *new* takings claim directly to federal court.
5 Nothing in Knick leads the Court to believe that the decision opened the federal courts to
6 pending takings cases. Accordingly, the federal removal statutes—not Knick—are the key to
7 whether removal is proper here. The parties agree that the first removal window has closed.
8 Therefore, this entire motion to remand turns on whether Knick constitutes “other paper” under
9 § 1446(b)(3).

10 Whether a Supreme Court opinion from an unrelated case constitutes an “other paper”
11 under § 1446 is somewhat of an open question. Neither the Supreme Court nor the Ninth Circuit
12 has directly addressed the issue. As discussed more fully below, the majority of courts have
13 rejected the City’s argument. However, there seems to be at least some support for the
14 proposition that an intervening change in the law can reopen the removal window in narrow
15 circumstances. For example, the City points to Rea v. Michaels Stores, Inc., 742 F.3d 1234 (9th
16 Cir. 2014). Rea was a class action between the Michael’s retail chain and a group of its store
17 managers who were allegedly excluded from receiving overtime pay. The managers filed their
18 case in state court, and Michaels removed within the first thirty-day window under the Class
19 Action Fairness Act (“CAFA”). Id. at 1236. The district court remanded the case, however,
20 finding that the plaintiffs’ demand did not satisfy CAFA’s \$5,000,000 amount-in-controversy
21 requirement because the plaintiffs expressly disclaimed any recovery greater than \$4,999,999. Id.
22 Shortly after remand, the Supreme Court determined that damages waivers, like the one in Rea,
23 could not defeat removal under CAFA. Id. (citing Standard Fire Ins. Co., v. Knowles, 568 U.S.
24 588 (2013)). Following the Supreme Court’s clarification of CAFA’s amount-in-controversy
25 requirement, Michaels again removed to federal court. The Ninth Circuit found the removal
26 proper, holding that the controlling law at the time Michaels received the complaint did not
27 “affirmatively reveal[] on its face the facts necessary for federal court jurisdiction.” Id. at 1238.

1 The City argues that Rea also supports removal here. The Court disagrees. There are two
 2 problems with Rea. First, there are fundamental differences between the federal question
 3 jurisdiction asserted here and the CAFA-based diversity jurisdiction in Rea. CAFA's
 4 jurisdictional requirements *expanded* federal jurisdiction over diverse class action cases.
 5 Diversity jurisdiction generally requires complete diversity. However, CAFA relaxed the
 6 diversity requirement, which is "noteworthy" because it "expand[ed] the jurisdiction of federal
 7 court: unlike traditional diversity cases . . . which require complete diversity." Chan Healthcare
 8 Grp. PS v. Liberty Mut. Fire Ins. Co., 844 F.3d 1133, 1137 (9th Cir. 2017). By contrast, federal
 9 question cases like this one, confront a presumption that they do not belong in federal court.
 10 Hunter v. Philip Morris USA, 582 F.3d 1039, 1042 (9th Cir. 1039) ("[a] defendant may remove
 11 an action to federal court based on federal question jurisdiction," however "it is presumed that a
 12 cause lies outside [the] limited jurisdiction [of the federal courts]") (internal quotations omitted).
 13 Thus, CAFA-diversity jurisdiction presents a completely different standard than federal question
 14 jurisdiction.

15 Second, Rea does not answer the question this case asks, which is whether a Supreme
 16 Court decision in an unrelated case constitutes an "other paper" under § 1446(b)(3). Admittedly,
 17 Rea briefly discusses § 1446(b)(3)'s requirement that some "other paper" reveal that the case has
 18 become removeable. However, Rea stopped short of deciding that the Supreme Court's
 19 intervening decision (Standard Fire, 568 U.S. 588 (2013)) qualifies as "other paper." It merely
 20 found that Standard Fire was a "relevant change of circumstances" that justified a second chance
 21 at removal. Rea, 742 F.3d at 1238. Simply put, the Ninth Circuit confronted Rea in a different
 22 context (CAFA diversity jurisdiction) and did not directly answer whether unrelated Supreme
 23 Court precedent constitutes "other paper" under § 1446(b)(3). Therefore, Rea is distinguishable.

24 Meanwhile, most other courts who have confronted this issue have concluded that an
 25 order from an unrelated case does not constitute "other paper." Two cases are particularly
 26 persuasive. First is Phillips v. Allstate Ins. Co., 702 F.Supp. 1466 (C.D. Cal. 1989). At issue
 27 there was the removability of cases involving fictitious defendants under the Judicial
 28 Improvement and Access to Justice Act. Id. at 1467. At the time Phillips filed the complaint, the

1 presence of properly joined Doe defendants precluded removal. Id. (citing Bryant v. Ford Motor
 2 Co., 844 F.2d 602 (9th Cir. 1987)). During the litigation, Congress passed the Judicial
 3 Improvement and Access to Justice Act, which allowed removing defendants to disregard the
 4 citizenship of fictitious defendants” and remove the case to federal court based solely on the
 5 citizenship of the named parties. Id. Armed with that authority, Allstate removed the case to
 6 federal court. That court remanded, however, finding that an “other paper” under § 1446(b)(3)
 7 “does not include intervening statutory or case law changes.” Id. at 1468. It continued, “a
 8 reasonable interpretation of that section *would limit its effect to papers generated within the*
 9 *action.*” Id. (quoting Ehrlich v. The Oxford Ins. Co., 700 F.Supp. 495, 498 (N.D. Cal. 1988))
 10 (emphasis added). Thus, the Phillips court clearly believed an intervening change of law outside
 11 the underlying state action is not an “other paper” for purposes of removal.

12 The Ninth Circuit’s decision in Eyak Native Village v. Exxon Corp., 25 F.3d 773 (9th
 13 Cir. 1994) reinforced that “other paper” is limited to papers filed in the underlying state court
 14 action. Eyak Native Village arose out of the 1989 Exxon Valdez oil spill. In March of 1999,
 15 several environmental groups sued Exxon in Alaska state court for damages related to the spill.
 16 Around the same time, the state of Alaska and the federal government also sued Exxon, but in
 17 federal court. Id. at 775. Two years after the state court action began, Alaska and the federal
 18 government settled their claims by Consent Decree in federal court. Id. Having settled the federal
 19 case, Exxon removed the environmental groups’ state court actions, claiming that the Consent
 20 Decree in the federal case presented a federal question. Id. In their reply brief, the state court
 21 plaintiffs admitted that they challenged the legitimacy of the federal Consent Decree and argued
 22 that the decree was not fully representative of their interests. Id. at 776. Exxon argued that
 23 removal was proper because the plaintiffs’ reply brief implicated a federal question and because
 24 the Consent Decree itself represented a federal question.

25 The Ninth Circuit disagreed that the Consent Decree from a separate case created federal
 26 jurisdiction. The Court expressly rejected that the Consent Decree triggered removability
 27 because the decree “was not filed in state court in [those] cases.” Id. Thus, Eyak Native Village
 28 also supports the conclusion that an order from an unrelated case does not trigger removal under

1 § 1446(b)(3).⁴

2 Having reviewed the parties' arguments and their cited authority, the Court finds that the
3 term "other paper" "does not include intervening . . . case law changes" even from the United
4 States Supreme Court. Phillips, 702 F.Supp. at 1468. The Court agrees with Phillips and Evak
5 Native Village that a reasonable interpretation of § 1446(b)(3) limits the definition of "other
6 papers" to papers filed in the parties' underlying state court proceeding. The City's reliance on
7 Rea and its other arguments do not persuade the Court otherwise. Because the City of Las Vegas
8 cannot point to an "other paper" filed in its state court action that supports removal, the window
9 to remove never opened. As a result, the City's removal is untimely.

10 **IV. Conclusion**

11 Accordingly, the motion to remand (ECF No. 7) filed by plaintiffs 180 Land Company,
12 LLC, Fore Stars, LTD., and Seventy Acres, LLC, is **GRANTED**, and this case is **REMANDED**
13 to the Eighth Judicial District Court. All other motions are denied as moot.

14 Dated this 12th day of February, 2020.

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16 _____
17 Kent J. Dawson
18 United States District Judge
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28 _____
⁴ The Court ultimately allowed removal based upon the environmental groups' admission in their reply brief that they challenged the Consent Decree.

EXHIBIT PP

EXHIBIT PP

FIRST AMENDMENT

Bill No. 82-73

ORDINANCE NO. 3021

AN ORDINANCE CODIFYING AND COMPILING THE GENERAL AND PERMANENT ORDINANCES OF THE CITY OF LAS VEGAS, NEVADA; ADOPTING THE MUNICIPAL CODE OF THE CITY OF LAS VEGAS, NEVADA, 1983 EDITION; PROVIDING FOR THE CONTINUOUS USE AND PERPETUAL CODIFICATION OF EACH SUBSEQUENTLY ADOPTED ORDINANCE OF GENERAL AND PERMANENT NATURE WHICH AMENDS, ALTERS, ADDS TO OR DELETES FROM THE PROVISIONS OF SAID MUNICIPAL CODE; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

Sponsored by
CITY ATTORNEY'S OFFICE

Summary: Adopts the Las Vegas
Municipal Code, 1983 Edition.

THE BOARD OF COMMISSIONERS OF THE CITY OF LAS VEGAS,
NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The general and permanent ordinances of the City of Las Vegas, Nevada, are hereby codified and compiled as the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, as edited and published by Book Publishing Company, and said Municipal Code is hereby accepted, approved and adopted.

SECTION 2: From and after the effective date of this ordinance, said Municipal Code, as hereby accepted, approved and adopted, shall be the official code of all ordinances of general and permanent nature of said City through Ordinance No. 2262 which was passed, adopted and approved on January 6, 1982.

SECTION 3: There is hereby adopted, as a method of perpetual codification, the loose leaf type of binding together with a continuous supplement service whereby each ordinance of general and permanent nature which is passed, adopted and approved subsequent to January 6, 1982, and which amends, alters, adds to or deletes from the provisions of said Municipal Code is to be inserted in the proper place in each of the official copies of said Municipal Code and, when so inserted, shall become an official part of said Municipal Code.

SECTION 4: At least two copies of said Municipal Code

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1 shall at all times be on file and available for inspection in the
2 office of the City Clerk of said City, which said copies shall
3 constitute the "official copies" of said Municipal Code, and
4 two copies of said Municipal Code shall be filed with the
5 Librarian of the Supreme Court Law Library, which shall be supple-
6 mented in the same manner and at the same time as the official
7 copies of said Municipal Code are supplemented.

8 SECTION 5: The provisions of said Municipal Code shall
9 not in any manner affect matters of record which refer to, or are
10 otherwise connected with the Municipal Code of the City of
11 Las Vegas, Nevada, 1960 Edition, or with any ordinance of said
12 City which is therein specifically designated by number or
13 otherwise and which is included within the 1983 edition of said
14 Municipal Code, but such references shall be construed to apply
15 to the corresponding provisions contained within the 1983 edition
16 of said Municipal Code.

17 SECTION 6: Neither the adoption of the 1983 edition
18 of said Municipal Code nor the repeal or amendment hereby of the
19 Municipal Code of the City of Las Vegas, Nevada, 1960 Edition, or
20 of any ordinance, or any part or portion of any such ordinance,
21 of the City of Las Vegas shall in any manner affect the prosecu-
22 tions for violations of such Code or ordinance, which violations
23 were committed prior to the effective date thereof, nor be
24 construed as a waiver of any license, fee or penalty at said
25 effective date which is due and unpaid under such Code or ordi-
26 nance, nor be construed as affecting any of the provisions of
27 such Code or of any such ordinance which relates to the collection
28 of any such license, fee or penalty or the penal provisions which
29 are applicable to any violation thereof, nor to affect the validity
30 of any bond or cash deposit in lieu thereof which is required to
31 be posted, filed or deposited pursuant to such Code or to any such
32 ordinance, and all rights and obligations thereunder appertaining

1 shall continue in full force and effect.

2 SECTION 7: If any section, subsection, subdivision,
3 paragraph, sentence, clause or phrase in this ordinance or in
4 the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition,
5 which is hereby adopted, or any part thereof, is for any reason
6 held to be unconstitutional or invalid or ineffective by any
7 court of competent jurisdiction, such decision shall not affect
8 the validity or effectiveness of the remaining portions of this
9 ordinance or of said Municipal Code, or any part thereof. The
10 Board of Commissioners of the City of Las Vegas hereby declares
11 that it would have passed, approved and adopted this ordinance,
12 and each section, subsection, subdivision, paragraph, sentence,
13 clause or phrase of said Municipal Code, irrespective of the
14 fact that any one or more sections, subsections, subdivisions,
15 paragraphs, sentences, clauses or phrases be declared unconstitu-
16 tional, invalid or ineffective, and, if for any reason this
17 ordinance or said Municipal Code should be declared unconstitutional,
18 invalid or ineffective, the original ordinance or ordinances, as
19 from time to time amended, which are codified and compiled herein
20 shall be in full force and effect.

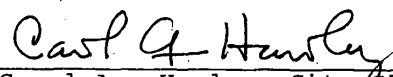
21 SECTION 8: All ordinances or parts of ordinances, and
22 all sections, subsections, phrases, sentences, clauses or para-
23 graphs which are contained in the Municipal Code of the City of
24 Las Vegas, Nevada, 1960 Edition, are hereby repealed.

25 PASSED, ADOPTED and APPROVED this 15th day of
26 December _____, 1982.

27 APPROVED:

28 
29 By WILLIAM H. BRIARE, Mayor

30 ATTEST:

31 
32 Carol Ann Hawley, City Clerk

1 The above and foregoing ordinance was first proposed and read by
2 title to the Board of Commissioners on the 1st day of December
3 , 1982, and referred to the following committee composed
4 of Commissioners Lurie and Levy
5 for recommendation; thereafter the said committee reported
6 favorably on said ordinance on the 15th day of December,
7 1982, which was a regular meeting of said Board;
8 that at said regular meeting, the proposed ordinance
9 was read by title to the Board of Commissioners as amended and
10 adopted by the following vote:

11
12 VOTING "AYE" Commissioners: Christensen, Levy, Lurie, Pearson, and Mayor Briare

13 VOTING "NAY" Commissioners: NONE

14 ABSENT: NONE

15 APPROVED:

16
17 BY William H. Briare
18 WILLIAM H. BRIARE, Mayor

19 ATTEST:

20
21 Carol Ann Hawley
22 CAROL ANN HAWLEY, City Clerk

updated
by Supp # 2
Jed 8/83

PREFACE

The Las Vegas Municipal Code, originally published by Book Publishing Company in 1982, has been kept current by regular supplementation.

During original codification, the ordinances were compiled, edited and indexed by the editorial staff of Book Publishing Company under the direction of George Ogilvie, City Attorney.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the title, chapter, and section. Thus, Section 18.12.050 is Section .050, located in Chapter .12 of Title 18. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification.

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

This supplement brings the code up to date through Ordinance 2292, passed June 16, 1982.

SUPREME COURT LIBRARY

FEB 1 1983

SUPREME COURT

Book Publishing Company
2518 Western Avenue
Seattle, Washington 98121

*updated
by Suppl #3
dated 8-83
rec'd 11-4-83*

PREFACE

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A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

This supplement brings the code up to date through Ordinance 3041, passed April 6, 1983.

Book Publishing Company
2518 Western Avenue
Seattle, Washington 98121

(Las Vegas 6-83)

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19.16.060

feet. The minimum frontage shall be ninety feet, except in the case of prior-recorded lots, which may be used as provided in Section 19.60.010. (Ord. 972 § 10(C), 1962: prior code § 11-1-10(C))

19.16.060 Front yard. No building shall be erected closer than twenty five feet to either the front property line of the building site or the line of any future street as provided in the Major Street Section of the Master Plan codified in Chapter 13.12 or any official street plan. (Ord.972 § 10(D), 1962: prior code § 11-1-10(D))

19.16.070 Side yard. There shall be a side yard on each side of a building in the R-D District. Such side yard shall not be less than ten feet. On a corner lot recorded subsequent to the adoption of the 1962 ordinance codified in this Title, and lots recorded under the provisions of Title 18, there shall be a side yard of not less than fifteen feet extending to the rear property line on the street side of the lot. (Ord. 972 § 10(E), 1962: prior code § 11-1-10(E))

19.16.080 Rear yard. There shall be a rear yard of not less than thirty feet in the R-D District; provided, however, a covered patio or carport may extend up to fifteen feet of the rear property lines. A covered patio may be enclosed provided that each exterior wall shall consist of at least fifty percent screen area, screen being of a mesh character allowing a free flow of air, which shall not be covered. (Ord. 1726 § 1 (part), 1974: Ord. 1696 § 1 (part), 1974: Ord. 972 § 10(F), 1962: prior code § 11-1-10(F))

Chapter 19.18

R-PD RESIDENTIAL PLANNED DEVELOPMENT DISTRICT

Sections:

- 19.18.010 Purpose.
- 19.18.020 Permitted uses.
- 19.18.025 Liquefied petroleum gas installations.
- 19.18.030 Density designation.
- 19.18.040 Size.
- 19.18.050 Presubmission conference—Plans required.
- 19.18.060 Plans approval, conditions, conformance.
- 19.18.070 Design standards—Designated—Accordance.
- 19.18.080 Common recreation, other facilities.
- 19.18.090 Subdivision procedure conformance.

19.18.010 Purpose. The purpose of a planned unit development is to allow a maximum flexibility for imaginative and innovative residential design and land utilization in accordance with the General Plan. It is intended to promote an enhancement of residential amenities by means of an efficient consolidation and utilization of open space, separation of pedestrian and vehicular traffic and a homogeneity of use patterns.

(Ord. 1582 § 3 (part), 1972: prior code § 11-1-11.B(A))

19.18.020 Permitted uses. A development in the R-PD District may consist of attached or detached single-family units, townhouses, cluster units, condominiums, garden apartments, or any combination thereof.

(Ord. 1582 § 3 (part), 1972: prior code § 11-1-11.B(B))

19.18.025 Liquefied petroleum gas installations. Liquefied petroleum gas installations are permitted as an accessory use in the R-PD District, subject to the limitations set forth in Sections 19.55.010 and 19.55.020

(Ord. 3224 § 8, 1986)

19.18.030 Density designation. The number of dwelling units permitted per gross acre in the R-PD District shall be determined by the General Land Use Plan. The number of dwelling units per gross acre shall be placed after the zoning symbol "R-PD"; for example, a development for six units per gross acre shall be designated as "R-PD6."

(Ord. 1582 § 3 (part), 1972: prior code § 11-1-11.B(C))

19.18.040 Size. The minimum site area requested in the R-PD District shall be five acres, except the Board of Commissioners may waive the minimum site area.

(Ord. 1582 § 3 (part), 1972: prior code § 11-1-11.B(D))

19.18.050 Presubmission conference — Plans required.

(A) Generally, a presubmission conference shall be required for a planned unit development with the developer, or his authorized representative, and staff of the Planning Department to discuss density requirements and preliminary site planning.

(B) Plans necessary for submission with an application for a planned unit development are as follows:

(1) Five sets of complete development plans showing the proposed uses for the property including dimensions and location of all proposed structures, parking spaces, common areas, private drives,

19.18.060

public streets and the exterior boundaries. If the development is to be constructed in phases, each phase shall be delineated on the site plan. Each set of plans shall include floor plans and elevations of buildings;

(2) Drainage information which shall consist of either a contour map or sufficient information indicating the general flow pattern or percentage of slope;

(3) One copy of the conditions, covenants and restrictions (CC&R's).

(Ord. 1582 § 3 (part), 1972: prior code § 11-1-11.B(E))

19.18.060 Plans approval, conditions, conformance.

(A) Plans shall be approved by the Planning Commission and the Board of Commissioners. Upon completion of the construction, in accordance with the approved plan, no changes of any type shall be permitted unless first approved by the Board of Commissioners;

(B) The Planning Commission and the Board of Commissioners, in their approval, may attach whatever conditions they deem necessary to ensure the proper amenities of residential usage and to assure that the proposed development will be compatible with surrounding existing and proposed land uses.

(Ord. 1582 § 3 (part), 1972: prior code § 11-1-11.B(F))

19.18.070 Design standards — Designated — Accordance. All developments shall be in accordance with the design standards adopted by the Board of Commissioners as evidenced by a resolution of record and copies of said resolution shall be available in the Planning Department. The design standards in the resolution may be amended when deemed necessary by the Board of Commissioners.

(Ord. 2185 § 1 (part), 1981: Ord. 1582 § 3 (part), 1972: prior code § 11-1-11.B(G) (part))

19.18.080 Common recreation, other facilities. All developments shall provide common recreation facilities or other common facilities when deemed necessary by the Board of Commissioners; however, common open space shall be provided for all developments in this district containing single family compact-lot units.

(Ord. 2185 § 1 (part), 1981: prior code § 11-1-11.B(G)(part))

19.18.090 Subdivision procedure conformance. A planned unit development shall follow the standard subdivision procedure. The tentative map shall include the public and private street design and dimension, lot design and dimension, location of driveways, buildings, walls,

fences, walkways, open space areas, parking areas, drainage information, street names and location of utilities. The final map shall indicate the use, location and dimension of all proposed structures, streets, easements, driveways, walkways, parking areas, recreational facilities, open spaces and landscaped areas.
(Ord. 1582 § 3 (part), 1972: prior code § 11-1-11.B(H))

Chapter 19.20

R-1 SINGLE-FAMILY RESIDENCE DISTRICT

Sections:

- 19.20.010 Permitted uses—Accessories.
- 19.20.020 Conditional uses.
- 19.20.030 Height limit.
- 19.20.040 Building site area, frontage.
- 19.20.050 Front yard.
- 19.20.060 Side yard.
- 19.20.070 Rear yard.
- 19.20.080 Lot coverage.

19.20.010 Permitted uses — Accessories. Uses permitted in the R-1 District include:

(A) One-family dwellings of a permanent character, placed in a permanent location, containing not more than one kitchen and occupied by but one family;

(B) Flower gardening and private nursery and greenhouse for purposes of propagation and culture, when incidental to the residential use of the property and not for commercial purposes;

(C) Family child-care home as defined in Chapter 6.24, provided such facility is approved by the Child Welfare Board and meets all duly adopted standards for such facility;

(D) Accessory buildings and uses incidental to the use of the property as a single-family residence;

(E) Liquefied petroleum gas installations, as an accessory use, subject to the limitations set forth in Sections 19.55.010 and 19.55.020. (Ord. 3224 § 9, 1986: Ord. 3050 § 11, 1983: Ord. 972 § 11(A)(1—4), 1962: prior code § 11-1-11(A)(1—4))

19.20.020 Conditional uses. The following additional uses are permitted in the R-1 District, subject to the securing of a use permit and in each case as provided in Chapter 19.90:

EXHIBIT QQ

EXHIBIT QQ

1 Bill No. 81-51

2 ORDINANCE NO. 2185

3
4 AN ORDINANCE TO AMEND TITLE XI, CHAPTER 1 OF THE MUNICIPAL CODE
5 OF THE CITY OF LAS VEGAS, NEVADA, 1960 EDITION, BY ADDING A NEW
6 SECTION 11.C ENTITLED "R-CL, SINGLE FAMILY, COMPACT LOT DISTRICT
7 REGULATIONS" WHICH PROVIDES FOR COMPACT LOT DEVELOPMENTS IN
8 SUBURBAN RESIDENTIAL AREAS; AND TO AMEND TITLE XI, CHAPTER 1,
9 SECTION 11.B, SUBSECTION (G) TO REQUIRE COMMON OPEN SPACE IF
10 COMPACT LOT DEVELOPMENTS ARE PROPOSED IN THE R-PD DISTRICT; TO
11 PROVIDE FOR OTHER MATTERS PROPERLY RELATING THERETO; TO PROVIDE
12 PENALTIES FOR THE VIOLATION THEREOF; AND TO REPEAL ALL ORDINANCES
13 OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

14 Sponsored by
15 COMMISSIONER RON LURIE

Summary: The proposed bill establishes
the R-CL - Single Family Compact Lot
zoning district and the regulations
therefor and requires common open
space if compact lot developments
are proposed in the R-PD district.

16 THE BOARD OF COMMISSIONERS OF THE CITY OF LAS VEGAS,
17 NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

18 SECTION 1: Title XI, Chapter 1, Section 11.B, Subsec-
19 tion (G) of the Municipal Code of the City of Las Vegas, Nevada,
20 1960 Edition, is hereby amended to read as follows:

11-1-11.B:

21 (G) Development Standards: All developments shall be in accor-
22 dance with the design standards adopted by the City Commission
23 as evidenced by a resolution of record and copies of said
24 resolution shall be available in the Planning Department.
25 The design standards in the resolution may be amended when
26 deemed necessary by the City Commission.

27 All developments shall provide common recreation facilities
28 or other common facilities when deemed necessary by the
29 City Commission; however, common open space shall be provided
30 for all developments in this district containing single
31 family, compact lot (R-CL) units.

32 SECTION 2: Title XI, Chapter 1 of the Municipal Code

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1 of the City of Las Vegas, Nevada, 1960 Edition, is hereby amended
2 by adding a new Section 11.C to read as follows:

3 11-1-11.C: R-CL, SINGLE FAMILY, COMPACT LOT DISTRICT

4 REGULATIONS: The R-CL zoning district is appro-
5 priate where a density between 6 to 10 dwelling units per gross
6 acre, or the density permitted in the R-2 zoning district, is
7 provided for in the general plan of the City of Las Vegas.

8 (A) Uses Permitted:

9 1. One (1) family dwelling of a permanent character,
10 placed in a permanent location, containing not more than one
11 (1) kitchen and occupied by one (1) family.

12 2. Accessory buildings and uses incidental to the use of
13 the property as a single family residence.

14 3. The following additional uses subject to the securing
15 of a use permit and in each case as provided in Section
16 11-1-24 of this Chapter:

17 (a) Family-care home as defined in Chapter 5 of
18 Title II of this Code, provided such facility is
19 approved by the Child Welfare Board and meets all
20 duly adopted standards for such facility.

21 (b) Home occupations as defined in Section 11-1-24 of
22 this Chapter.

23 (B) Building Height Limit: No main building or structure shall
24 have a height greater than two (2) stories, not to exceed
25 35 feet.

26 (C) Building Site Area Required: The minimum building site area
27 for each one family dwelling shall be 4,000 square feet with
28 a minimum frontage of 40 feet. Notwithstanding the foregoing
29 one-third of the lots in any block may range in size from
30 less than 4,000 to 3,500 square feet with a minimum lot width
31 of 35'; and one-third of the lots in any block may range in
32 size from less than 3,500 to 3,000 square feet with a minimum

1 lot width of 30'. These smaller lots shall be dispersed
2 throughout each block with the lots 4,000 square feet and
3 over. The minimum size of a compact lot development shall
4 be five gross acres unless waived by the City Commission.

5 (D) Front Yard Required: No building shall be erected closer
6 than ten feet (10') to either the front property line of the
7 building site or the line of any future street as provided
8 in the Major Street Section of the Master Plan or any official
9 street plan.

10 (E) Side Yard Required: There shall be a total minimum side yard
11 of ten feet (10'). One side yard may be reduced to zero
12 feet (0') if the other is a minimum of ten feet (10').
13 (These setbacks shall be in accordance with the Uniform
14 Building Code.) A corner lot shall have a side yard of not
15 less than ten feet (10') extending to the rear property line
16 on the street side of the lot.

17 (F) Rear Yard Required: There shall be a rear yard of not less
18 than ten feet (10').

19 (G) Maximum Building Site Coverage: The maximum building
20 coverage for lots 4,000 square feet and over shall be fifty
21 percent (50%). Permitted lots containing less than 4,000,
22 but 3,500 or more square feet, shall have a maximum building
23 coverage of forty-five percent (45%). Permitted lots
24 containing less than 3,500, but 3,000 or more square feet,
25 shall have a maximum building coverage of forty percent (40%).

26 (H) Off-Street Parking: A minimum of two off-street parking
27 spaces, 9' x 16' in size, shall be required for each building
28 site, including carport or garage area. Tandem parking shall
29 be allowed on lots with 35' or less frontage, provided there
30 is a 16' minimum front yard setback. All parking shall be in
31 accordance with the provisions of 11-1-6(H) of this Code.

32 SECTION 3: If any section, subsection, subdivision,

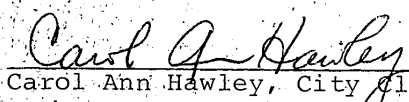
1 paragraph, sentence, clause or phrase in this Chapter or any
2 part thereof, is for any reason held to be unconstitutional, or
3 invalid or ineffective by any court of competent jurisdiction,
4 such decision shall not affect the validity or effectiveness of
5 the remaining portions of this Chapter or any part thereof. The
6 Board of Commissioners of the City of Las Vegas hereby declares
7 that it would have passed each section, subsection, subdivision,
8 paragraph, sentence, clause or phrase thereof irrespective of
9 the fact that any one or more sections, subsections, subdivisions,
10 paragraphs, sentences, clauses or phrases be declared unconstitu-
11 tional, invalid or ineffective.

12 SECTION 4: Any person, firm, corporation or association
13 violating any of the provisions of this ordinance shall, upon
14 conviction thereof, be punished by a fine of not more than \$1,000.00
15 and/or imprisonment in the City jail for not more than six (6)
16 months, or any combination of such fine and imprisonment.

17 SECTION 5: All ordinances or parts of ordinances,
18 sections, subsections, phrases, sentences, clauses or paragraphs
19 contained in the Municipal Code of the City of Las Vegas, Nevada,
20 1960 Edition, in conflict herewith are hereby repealed.

21 PASSED, ADOPTED and APPROVED this 16th day of
22 September, 1981.

23 APPROVED:
24 
25 By WILLIAM H. BRIARE, Mayor
26

27 ATTEST:
28 
29 Carol Ann Hawley, City Clerk
30
31
32

1 The above and foregoing ordinance was first proposed and read by
2 title to the Board of Commissioners on the 2nd day of September
3 , 1981, and referred to the following committee composed
4 of Commissioners Lurie and Levy
5 for recommendation; thereafter the said committee reported
6 favorably on said ordinance on the 16th day of September,
7 1981, which was a Regular meeting of said Board;
8 that at said Regular meeting, the proposed ordinance
9 was read by title to the Board of Commissioners as first
10 introduced and adopted by the following vote:

11
12 VOTING "AYE" Commissioners: Christensen, Lurie, Woofter and Mayor Briare

13 VOTING "NAY" Commissioners: None

14 ABSENT: Commissioner Levy

15 APPROVED:

16
17 William H. Briare
18 By WILLIAM H. BRIARE, Mayor

19 ATTEST:

20
21 Carol Ann Hawley
22 Carol Ann Hawley, City Clerk

EXHIBIT RR

EXHIBIT RR

*City of Las Vegas***AGENDA MEMO - PLANNING**

CITY COUNCIL MEETING DATE: JUNE 21, 2017

DEPARTMENT: PLANNING

ITEM DESCRIPTION: - APPLICANT/OWNER: 180 LAND COMPANY, LLC

**** STAFF RECOMMENDATION(S) ****

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
GPA-68385	Staff recommends APPROVAL.	
WVR-68480	Staff recommends APPROVAL, subject to conditions:	GPA-68385
SDR-68481	Staff recommends APPROVAL, subject to conditions:	GPA-68385 WVR-68480
TMP-68482	Staff recommends APPROVAL, subject to conditions:	GPA-68385 WVR-68480 SDR-68481

**** NOTIFICATION ******NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

32

NOTICES MAILED

1,025 - GPA-68385 (By City Clerk)
 255 - WVR-68480 and SDR-68481 (By City Clerk)
 255 - TMP-68482 (By City Clerk)

APPROVALS

24 - GPA-68385
 0 - WVR-68480 and SDR-68481
 0 - TMP-68482

PROTESTS

121 - GPA-68385
 67 - WVR-68480 and SDR-68481
 60 - TMP-68482

SS

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**** CONDITIONS ****

WVR-68480 CONDITIONS

Planning

1. Approval of a General Plan Amendment (GPA-68385) and approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-68481) and Tentative Map (TMP-68482) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

SDR-68481 CONDITIONS

Planning

1. The single family residential subdivision shall be limited to no more than 61 residential lots.
2. The residential subdivision shall be gated.
3. A separate HOA from that of the Queensridge HOA shall be created.
4. Sidewalks shall be installed on one side of each street within the residential subdivision.
5. Landscaping within the community shall meet or exceed City standards. Palm trees are a permitted plant material within common lots and buildable lots.
6. Development within the community shall be limited to single-family residential homes only.
7. Building heights shall not exceed 46 feet.

SS

CLV180817
00768

3010

GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
Conditions Page Two
June 21, 2017 - City Council Meeting

8. A minimum home size of 3,000 square feet on lots less than or equal to 20,000 square feet in size shall be required.
9. A minimum home size of 3,500 square feet on lots over 20,000 square feet in size shall be required.
10. Perimeter and interior walls shall be composed of decorative block wall, wrought iron fencing or a combination of both. Perimeter decorative block walls are to comply with Title 19 requirements.
11. No construction shall occur during the hours of 8:00 pm and 6:00 am.
12. The subdivision's associated CC&Rs are to include design guidelines generally compatible with the Queensridge design guidelines.
13. Approval of a General Plan Amendment (GPA-68385) and approval of and conformance to the Conditions of Approval for a Waiver (WVR-68480) and Tentative Map (TMP-68482) shall be required, if approved.
14. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
15. All development shall be in conformance with the site plan, date stamped 01/25/17 and landscape plan, date stamped 01/26/17, except as amended by conditions herein.
16. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
17. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.

SS

CLV180818
00769

GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
Conditions Page Three
June 21, 2017 - City Council Meeting

18. The standards for this development shall include the following:

Standard	Lots less than or equal to 20,000 sf*	Lots greater than 20,000 sf
Minimum Lot Size	10,000 sf	20,000 sf
Building Setbacks:		
• Front yard to private street or access easement	30 feet	35 feet
• Side yard	5 feet	7.5 feet
• Corner side yard	12.5 feet	15 feet
• Rear yard	25 feet	30 feet

Standard	Lots less than or equal to 20,000 sf*	Lots greater than 20,000 sf
Accessory structure setbacks:		
• Porte cochere to private street	15 feet	15 feet
• Side loaded garage to side yard property line	15 feet	15 feet
• Patio covers and/or 2 nd story decks	20 feet	20 feet
• Separation from principal dwelling	6 feet	6 feet
• Side yard	5 feet	5 feet
• Corner side yard	5 feet	5 feet
• Rear yard	5 feet	5 feet
Building Heights:		
• Principal dwelling	46 feet	46 feet
• Accessory structures	25 feet	30 feet
• Floors	2 stories on slab or over basement	3 stories on lots greater than 35,000 sf; otherwise 2 stories
Permitted uses	Single family residence and accessory structures**	Single family residence and accessory structures**

*Includes Lots 1, 2 and 24.

**Accessory structures may have a trellis or canopy attached to the principal dwelling.

19. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time as Final Map submittal. A permanent underground sprinkler system is required, and shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications. Installed landscaping shall not impede visibility of any traffic control device.

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20. No turf shall be permitted in the non-recreational common areas, such as medians and amenity zones in this development.
21. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
22. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

23. Correct all Americans with Disabilities Act (ADA) deficiencies on the public sidewalks adjacent to this site in accordance with code requirements of Title 13.56.040, if any, to the satisfaction of the City Engineer concurrent with development of this site.
24. Meet with the Fire Protection Engineering Section of the Department of Fire Services to discuss fire requirements for the proposed subdivision. The design and layout of all onsite private circulation and access drives shall meet the approval of the Department of Fire Services. Curbing on one side of the 32-foot private streets shall be constructed of red concrete and shall be in accordance with the adopted Fire Code (Ordinance #6325). The required curb coloring, painting, and signage shall be privately maintained in perpetuity by the Homeowner's Association.
25. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.
26. Coordinate with the Sewer Planning Section of the Department of Public Works to determine the appropriate location and depth of public sewer lines servicing this site prior to approval of construction drawings for this site. Provide appropriate Public Sewer Easements for all public sewers not located within existing public street right-of-way. Construct paved vehicular access to all new Public Sewer Manholes proposed east of this site concurrent with on-site development activities. No structures, and no trees or vegetation taller than three feet shall be allowed within any Public Sewer Easements.

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27. A Drainage Plan and Technical Drainage Study must be submitted to and approved by the Department of Public Works prior to the issuance of any building or grading permits or submittal of any construction drawings, whichever may occur first. Provide and improve all drainageways recommended in the approved drainage plan/study. The developer of this site shall be responsible to construct such neighborhood or local drainage facility improvements as are recommended by the City of Las Vegas Neighborhood Drainage Studies and approved Drainage Plan/Study concurrent with development of this site. The Drainage Study required by TMP-68482 may be used to satisfy this condition.
28. Site Development to comply with all applicable conditions of approval for TMP-68482 and any other site related actions.

TMP-68482 CONDITIONS

Planning

1. Approval of the Tentative Map shall be for no more than four (4) years. If a Final Map is not recorded on all or a portion of the area embraced by the Tentative Map within four (4) years of the approval of the Tentative Map, this action is void.
2. Approval of a General Plan Amendment (GPA-68385) and approval of and conformance to the Conditions of Approval for Waiver (WVR-68480) and Site Development Plan Review (SDR-68481) shall be required, if approved.
3. Street names must be provided in accordance with the City's Street Naming Regulations.
4. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
5. In conjunction with creation, declaration and recordation of the subject common-interest community, and prior to recordation of the Covenants, Codes and Restrictions ("CC&R"), or conveyance of any unit within the community, the Developer is required to record a Declaration of Private Maintenance Requirements ("DPMR") as a covenant on all associated properties, and on behalf of all current and future property owners. The DPMR is to include a listing of all privately owned and/or maintained infrastructure improvements, along with assignment of maintenance responsibility for each to the common interest community or the respective individual property owners, and is to provide a brief

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description of the required level of maintenance for privately maintained components. The DPMR must be reviewed and approved by the City of Las Vegas Department of Field Operations prior to recordation, and must include a statement that all properties within the community are subject to assessment for all associated costs should private maintenance obligations not be met, and the City of Las Vegas be required to provide for said maintenance. Also, the CC&R are to include a statement of obligation of compliance with the DPMR. Following recordation, the Developer is to submit copies of the recorded DPMR and CC&R documents to the City of Las Vegas Department of Field Operations.

6. All development is subject to the conditions of City Departments and State Subdivision Statutes.

Public Works

7. Grant all required public easements (sewer, drainage, fire, etc.) that are outside the boundaries of this site prior to or concurrent with the recordation of a Final Map for this site.
8. Correct all Americans with Disabilities Act (ADA) deficiencies on the public sidewalks adjacent to this site in accordance with code requirements of Title 13.56.040, if any, to the satisfaction of the City Engineer concurrent with development of this site.
9. Private streets must be granted and labeled on the Final Map for this site as Public Utility Easements (P.U.E.), Public Sewer Easements, and Public Drainage Easements to be privately maintained by the Homeowner's Association.
10. Meet with the Fire Protection Engineering Section of the Department of Fire Services to discuss fire requirements for the proposed subdivision. The design and layout of all onsite private circulation and access drives shall meet the approval of the Department of Fire Services. Curbing on one side of the 32-foot private streets shall be constructed of red concrete and shall be in accordance with the adopted Fire Code (Ordinance #6325). The required curb coloring, painting, and signage shall be privately maintained in perpetuity by the Homeowner's Association.
11. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.

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12. Coordinate with the Sewer Planning Section of the Department of Public Works to determine the appropriate location and depth of public sewer lines servicing this site prior to approval of construction drawings for this site. Provide appropriate Public Sewer Easements for all public sewers not located within existing public street right-of-way. Construct paved vehicular access to all new Public Sewer Manholes proposed east of this site concurrent with on-site development activities. No structures, and no trees or vegetation taller than three feet, shall be allowed within any Public Sewer Easements.
13. A working sanitary sewer connection shall be in place prior to final inspection of any units within this development. Full permanent improvements on all major access streets, including all required landscaped areas between the perimeter wall and adjacent public street, shall be constructed and accepted by the City prior to issuance of any building permits beyond 50% of all units within this development. All off-site improvements adjacent to this site, including all required landscaped areas between the perimeter walls and adjacent public streets, shall be constructed and accepted prior to issuance of building permits beyond 75%. The above thresholds notwithstanding, all required improvements shall be constructed in accordance with the Title 19.
14. A Drainage Plan and Technical Drainage Study must be submitted to and approved by the Department of Public Works prior to the issuance of any building or grading permits or submittal of any construction drawings, whichever may occur first. Provide and improve all drainageways recommended in the approved drainage plan/study. The developer of this site shall be responsible to construct such neighborhood or local drainage facility improvements as are recommended by the City of Las Vegas Neighborhood Drainage Studies and approved Drainage Plan/Study concurrent with development of this site.
15. The approval of all Public Works related improvements shown on this Tentative Map is in concept only. Specific design and construction details relating to size, type and/or alignment of improvements, including but not limited to street, sewer and drainage improvements, shall be resolved prior to approval of the construction plans by the City. No deviations from adopted City Standards shall be allowed unless specific written approval for such is received from the City Engineer prior to the recordation of a Final Map or the approval of subdivision-related construction plans, whichever may occur first. Approval of this Tentative Map does not constitute approval of any deviations. If such approval cannot be obtained, a revised Tentative Map must be submitted showing elimination of such deviations. We note that curved sewers are not allowed and do not comply with City Standards.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is proposing a 61-lot gated single-family residential development on a portion of a large lot currently developed as a golf course generally located at the southeast corner of Alta Drive and Hualapai Way. The development would feature custom homes and contain small open space and park areas.

ISSUES

- A General Plan Amendment is requested from PR-OS (Parks/Recreation/Open Space) to L (Low Density Residential) on the primary parcel (that makes up the Badlands Golf Course).
- A Waiver of Title 19.02 is requested to allow 32-foot wide private streets with a private sidewalk and landscape easement on one side and another landscape easement on the other side where 47-foot wide streets including sidewalks on both sides are required within a proposed gated development. Staff supports this request.
- A Site Development Plan Review for a single-family residential development on this site is required for all planned developments zoned R-PD (Residential Planned Development). The proposal includes developer-proposed standards for development of the site.
- A Tentative Map is requested for a 61-lot single-family residential subdivision on a 34.07-acre parcel, which is a portion of the primary golf course parcel that is the subject of the proposed General Plan Amendment.
- A Parcel Map (PMP-64285) dividing the majority of the Badlands Golf Course into four separate lots, including a 34.07-acre lot at the southeast corner of Alta Drive and Hualapai Way that defines the extent of the proposed residential development, was recorded on 01/24/17. Although Assessor's Parcel Numbers have not yet been assigned, recordation of the Parcel Map has created four legal lots with valid legal descriptions.

ANALYSIS

The subject parent parcel (APN 138-31-702-002) is a significant portion of a developed golf course that is located within the Peccole Ranch Master Plan. The parcel is zoned R-PD7 (Residential Planned Development – 7 Units per Acre), allowing up to 7.49 dwelling units per acre spread out across the zoning district. The proposed L (Low Density Residential) General Plan designation allows density up to 5.49 dwelling units per acre, which is consistent with the density permitted by the existing R-PD7

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zoning across the Peccole Ranch Master Plan area. The approved 1990 Peccole Ranch Master Plan indicates that the subject area is planned for both single family residential and golf course/open space/drainage uses. Over time, the development pattern in this area did not follow the master plan as approved.

Title 19.16.110 states that “except as otherwise authorized by this Title, approval of all Maps, Vacations, Rezoning, Site Development Plan Reviews, Special Use Permits, Variances, Waivers, Exceptions, Deviations and Development Agreements shall be consistent with the spirit and intent of the General Plan.” Within the area known as the Peccole Ranch Master Plan, the 1992 General Plan for the City of Las Vegas designated the proposed golf course area P (Parks/Recreation/Open Space) and the various residential areas around the proposed golf course as ML (Medium Low Density Residential). As other uses within the Peccole Ranch Master Plan were proposed that deviated from the established General Plan or zoning, a General Plan Amendment or Rezoning was required for consistency with the General Plan. As the proposed land area is no longer intended for a golf course or open space, but instead for residential development, an amendment to the General Plan is necessary and appropriate.

As a Residential Planned Development, density may be concentrated in some areas while other areas remain less dense, as long as the overall density for this site does not exceed 7.49 dwelling units per acre. Therefore, portions of the subject area can be restricted in density by various General Plan designations. A closer examination of the existing development reveals that single-family lots adjacent to the golf course average 12,261 square feet and a density of 3.55 units per acre along Queen Charlotte Drive west of Regents Park Road, an average of 11,844 square feet and a density of 3.68 units per acre along Verlaine Court and an average of 42,806 square feet and a density of 1.02 units per acre along Orient Express Court west of Regents Park Road. Each of these adjacent developments are designated ML (Medium Low Density Residential) with a density cap of 8.49 dwelling units per acre. The proposed development would have a density of 1.79 dwelling units per acre, with an average lot size of 19,871 square feet. In addition, open space and planned park areas are included as required for all new R-PD developments. Compared with the densities and General Plan designations of the adjacent residential development, the proposed L (Low Density Residential) designation is less dense and therefore appropriate for this area, capped at 5.49 units per acre.

Open space is provided in the form of three small park areas totaling approximately 62,000 square feet. Approximately 44,000 square feet or 1.01 acres of the development must consist of usable open space, which this proposal meets. An eight-foot buffer and six-foot wrought iron fence would separate the proposed “D” Avenue from Orient Express Court to the south. These areas are all common lots to be privately maintained.

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Title 19.04 requires private streets to be developed to public street standards, which require 47-foot wide streets with sidewalks on both sides of the street, as well as either a three-foot amenity zone with street trees or a five-foot planting zone on the adjacent private properties. This is to allow adequate space for vehicular travel in both directions, as well as a safe environment for pedestrians, bicycles and other modes of transportation. In the existing adjacent residential developments, the streets range in size from 36 feet to 40 feet in width with wide roll curbs. In addition, the San Michelle North development abutting this site to the north also contains a four-foot sidewalk, six-foot amenity zone and three-foot landscape strip within a common element on the north side of Queen Charlotte Drive. The side streets in that development contain the 36-foot private roadway with a four-foot sidewalk and five-foot amenity zone on one side contained in a private easement for a total sectional width of 45 feet.

The applicant is requesting a street section comparable to San Michelle North, with proposed 32-foot private streets with 30-inch roll curbs, a four-foot sidewalk and three-foot private landscape easement on one side and a five-foot private landscape easement on the other side for a total sectional width of 44 feet. A 32-foot wide street will allow for emergency vehicle access while still permitting parking on one side. Red colored concrete and signage will be required to clearly mark the side of the street with no parking. This design is comparable to the private streets in the adjacent gated subdivisions along the golf course. Staff can support the Waiver request with conditions that include a requirement for the applicant to coordinate with the Fire Protection Engineering Section of the Department of Fire Services to discuss the design and layout of all onsite private circulation and access drives to meet current fire codes.

The Site Development Plan Review describes two lot types with different development standards; those that contain 20,000 square feet or less and those containing greater than 20,000 square feet. However, three lots (Lots 1, 2 and 24) are included with the "20,000 square feet or less" classification for consistency of development. Development standards for lots that are 20,000 square feet or less are generally consistent with R-D zoned properties, while those in the category greater than 20,000 square feet are generally consistent with R-E zoned properties. Some exceptions include building height, which is proposed to be 40-50 feet where 35 feet is the requirement in the standard zoning districts, and patio covers, which are treated the same as second story decks unlike in the Unified Development Code. The additional height is comparable to existing residential dwellings in the R-PD7 zoning district. It is noted that no building height restriction was conditioned for the existing residential development surrounding the subject property.

The submitted Tentative Map contains the elements necessary for a complete submittal. The natural slope from west to east across the site is approximately 2.5 percent. Per Title 19, a development having a natural slope of greater than two percent is allowed to contain up to six-foot retaining walls and eight-foot screen walls on the perimeter, with a maximum height of 12 feet. A 10-foot combined perimeter wall consisting of no more

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than six feet of retaining is proposed along Hualapai Way, set back 20 feet from the property line. Only the screen wall would be visible from Hualapai Way. A six-foot screen wall or fence is proposed on the east perimeter at Regents Park Road.

The submitted north-south cross section depicts maximum natural grade at two percent across this site. Per Title 19, a development with natural slope of two percent or greater is allowed to contain up to six-foot retaining walls and eight-foot screen walls on the perimeter, with a maximum height of 12 feet. The retaining walls along the northern property line are shown as maximum six-foot retaining walls, with a maximum of 10 feet of both retaining and screening. From the adjacent properties, no more than 10 feet of wall or wrought iron fencing would be visible.

Per Title 19.04.040, the Connectivity Ratio requirement does not apply for R-PD developments. In addition, per Title 19.04.010, where a proposed development is adjacent to existing improvements, the Director of Public Works has the right to determine the appropriateness of implementing Complete Streets standards, including connectivity. In this case, Public Works has determined that it would be inappropriate to implement the connectivity standards, given the design of the existing residential development and configuration of available land for development.

FINDINGS (GPA-68385)

Section 19.16.030(l) of the Las Vegas Zoning Code requires that the following conditions be met in order to justify a General Plan Amendment:

- 1. The density and intensity of the proposed General Plan Amendment is compatible with the existing adjacent land use designations,**

The density of the proposed General Plan Amendment is compatible with the existing adjacent land use designations, which include ML (Medium Low Density Residential), MLA (Medium Low Attached Density Residential) and PR-OS (Parks/Recreation/Open Space); the L (Low Density Residential) designation is less dense than any of these residential land use designations. However, as a Residential Planned Development, density may be concentrated in some areas while other areas remain less dense.

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- 2. The zoning designations allowed by the proposed amendment will be compatible with the existing adjacent land uses or zoning districts,**

The overall residential development, including the proposed site and surrounding adjacent residential development, is zoned R-PD7 (Residential Planned Development – 7 Units per Acre), which is allowed by the proposed amendment. Additionally, the zoning districts allowed by the proposed L (Low Density Residential) designation would be less dense than the existing R-PD7 zoning district.

- 3. There are adequate transportation, recreation, utility, and other facilities to accommodate the uses and densities permitted by the proposed General Plan Amendment; and**

Additional streets, utilities and open space amenities would be constructed or extended to support the residential uses permitted by the proposed General Plan Amendment to L (Low Density Residential).

- 4. The proposed amendment conforms to other applicable adopted plans and policies that include approved neighborhood plans.**

The proposed General Plan Amendment is consistent with the Peccole Ranch Master Plan, which designates the subject area for single family residential uses.

FINDINGS (WVR-68480)

Staff supports Title 19 requirements for streets within the city, which require private streets to be developed to public street standards. The Unified Development Code requires 47-foot wide private streets that contain sidewalks on both sides. However, none of the existing residential developments with private streets in this area adhere to this standard. The applicant is proposing streets that provide similar amenities and widths to the adjacent private streets, once private easements are granted. This configuration would be more compatible with the surrounding development than the required 47-foot streets. Build-out of the proposed streets will not cause an undue hardship to the surrounding properties and will allow for fire access and limited on-street parking. Therefore, staff recommends approval of the requested waiver, with conditions.

FINDINGS (SDR-68481)

In order to approve a Site Development Plan Review application, per Title 19.16.100(E) the Planning Commission and/or City Council must affirm the following:

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1. **The proposed development is compatible with adjacent development and development in the area;**

The proposed residential lots throughout the subject site are comparable in size to the existing residential lots directly adjacent to the proposed lots. The development standards proposed are compatible with those imposed on the adjacent lots. Several small park and open space amenities are provided for the benefit of residents.

2. **The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;**

The proposed development would be consistent with the General Plan if the plan is concurrently amended to L (Low Density Residential) or a lower density designation. The proposal for single-family residential and accessory uses is consistent with the approved 1990 Peccole Ranch Master Plan, which designates the subject area for single family uses. The proposed R-PD development is consistent with Title 19 requirements for residential planned developments prior to the adoption of the Unified Development Code. However, streets are not designed to public street standards as required by the Unified Development Code Title 19.04, for which a waiver is necessary.

3. **Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;**

Site access is proposed from Hualapai Way through a gate that meets Uniform Standard Drawing specifications. The street system does not connect to any existing streets and therefore should not negatively affect traffic within the existing residential areas.

4. **Building and landscape materials are appropriate for the area and for the City;**

Custom homes are proposed on the subject lots, which will be subject to future permit review. Landscape materials are drought tolerant and appropriate for this area.

5. **Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;**

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GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
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Custom homes are proposed on the subject lots, which will be subject to future permit review against the proposed development standards.

6. Appropriate measures are taken to secure and protect the public health, safety and general welfare.

Development of this site will be subject to building permit review and inspection, thereby protecting the public health, safety and general welfare.

FINDINGS (TMP-68482)

The submitted Tentative Map is in conformance with all Title 19 and NRS requirements for tentative maps.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/17/80	The Board of City Commissioners approved the Annexation (A-0018-80) of 2,243 acres bounded by Sahara Avenue on the south, Hualapai Way on the west, Ducharme Avenue on the north and Durango Drive on the east. The annexation became effective on 12/26/80.
04/15/81	The Board of City Commissioners approved a General Plan Amendment (Agenda Item IX.B) to expand the Suburban Residential Land Use category and add the Rural Density Residential category generally located north of Sahara Avenue, west of Durango Drive.
	The Board of City Commissioners approved a Generalized Land Use Plan (Agenda Item IX.C) for residential, commercial and public facility uses on the Peccole property and the south portion of Angel Park lying within city limits. The maximum density of this plan was 24 dwelling units per acre.
05/20/81	The Board of City Commissioners approved a Rezoning (Z-0034-81) from N-U (Non-Urban) to R-1 (Single Family Residence), R-2 (Two Family Residence), R-3 (Limited Multiple Residence), R-MHP (Residential Mobile Home Park), R-PD7 (Residential Planned Development), R-PD8 (Residential Planned Development), P-R (Professional Offices and Parking), C-1 (Limited Commercial), C-2 (General Commercial) and C-V (Civic) generally located north of Sahara Avenue, south of Westcliff Drive and extending two miles west of Durango Drive. The Planning Commission and staff recommended approval.

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GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
05/07/86	The City Council approved the Master Development Plan for Venetian Foothills on 1,923 acres generally located north of Sahara Avenue between Durango Drive and Hualapai Way. The Planning Commission and staff recommended approval. This plan included two 18-hole golf courses and a 106-acre regional shopping center. [Venetian Foothills Master Development Plan]
	The City Council approved a Rezoning (Z-0030-86) to reclassify property from N-U (Non-Urban) (under Resolution of Intent) to R-PD4 (Residential Planned Development), P-R (Professional Offices and Parking), C-1 (Limited Commercial), and C-V (Civic) on 585.00 acres generally located north of Sahara Avenue between Durango Drive and Hualapai Way. The Planning Commission and staff recommended approval. [Venetian Foothills Phase One]
02/15/89	The City Council considered and approved a revised master development plan for the subject site and renamed it Peccole Ranch to include 1,716.30 acres. Phase One of the Plan is generally located south of Charleston Boulevard, west of Fort Apache Road. Phase Two of the Plan is generally located north of Charleston Boulevard, west of Durango Drive, and south of Charleston Boulevard, east of Hualapai Way. The Planning Commission and staff recommended approval. A condition of approval limited the maximum number of dwelling units in Phase One to 3,150. [Peccole Ranch Master Development Plan]
02/15/89	The City Council approved a Rezoning (Z-0139-88) on 448.80 acres from N-U (Non-Urban) under Resolution of Intent to R-PD4, P-R, C-1 and C-V to R-PD7 (Residential Planned Development – 7 Units per Acre), R-3 (Limited Multiple Residence) and C-1 (Limited Commercial). [Peccole Ranch Phase One]
04/04/90	The City Council approved an amendment to the Peccole Ranch Master Development Plan to make changes related to Phase Two of the Plan and to reduce the overall acreage to 1,569.60 acres. Approximately 212 acres of land in Phase Two was planned for a golf course. The Planning Commission and staff recommended approval. [Peccole Ranch Master Development Plan]
	The City Council approved a Rezoning (Z-0017-90) from N-U (Non-Urban) (under Resolution of Intent to multiple zoning districts) to R-3 (Limited Multiple Residence), R-PD7 (Residential Planned Development – 7 Units per Acre) and C-1 (Limited Commercial) on 996.40 acres on the east side of Hualapai Way, west of Durango Drive, between the south boundary of Angel Park and Sahara Avenue. A condition of approval limited the maximum number of dwelling units for Phase Two of the Peccole Ranch Master Development Plan to 4,247 units. The Planning Commission and staff recommended approval. [Peccole Ranch Phase Two]

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GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/05/96	A (Parent) Final Map (FM-0008-96) for a 16-lot subdivision (Peccole West) on 570.47 acres at the northeast corner of Charleston Boulevard and Hualapai Way was recorded [Book 77 Page 23 of Plats]. The golf course was located on Lot 5 of this map.
08/14/97	The Planning Commission approved a request for a Site Development Plan Review [Z-0017-90(20)] for a proposed 76-lot single family residential development on 36.30 acres south of Alta Drive, east of Hualapai Way. Staff recommended approval.
03/30/98	A Final Map (FM-0190-96) for a four-lot subdivision (Peccole West Lot 10) on 184.01 acres at the southeast corner of Alta Drive and Hualapai Way was recorded [Book 83 Page 61 of Plats].
03/30/98	A Final Map [FM-0008-96(1)] to amend portions of Lots 5 and 10 of the Peccole West Subdivision Map on 368.81 acres at the northeast corner of Charleston Boulevard and Hualapai Way was recorded [Book 83 Page 57 of Plats].
10/19/98	A Final Map (FM-0027-98) for a 45-lot single family residential subdivision (San Michelle North) on 17.41 acres generally located south of Alta Drive, east of Hualapai Way was recorded [Book 86 Page 74 of Plats].
12/17/98	A Final Map (FM-0158-97) for a 21-lot single family residential subdivision (Peccole West – Parcel 20) on 20.65 acres generally located south of Alta Drive, east of Hualapai Way was recorded [Book 87 Page 54 of Plats].
09/23/99	A Final Map (FM-0157-97) for a 41-lot single family residential subdivision (Peccole West – Parcel 19) on 15.10 acres generally located south of Alta Drive, east of Hualapai Way was recorded [Book 91 Page 47 of Plats].
06/18/15	A four-lot Parcel Map (PMP-59572) on 250.92 acres at the southwest corner of Alta Drive and Rampart Boulevard was recorded [Book 120 Page 49 of Parcel Maps].
11/30/15	A two-lot Parcel Map (PMP-62257) on 70.52 acres at the southwest corner of Alta Drive and Rampart Boulevard was recorded [Book 120 Page 91 of Parcel Maps].
01/12/16	The Planning Commission voted [6-0] to hold requests for a General Plan Amendment (GPA-62387) from PR-OS (Parks/Recreation/Open Space) to H (High Density Residential), a Rezoning (ZON-62392) from R-PD7 (Residential Planned Development – 7 Units per Acre) to R-4 (High Density Residential) and a Site Development Plan Review (SDR-62393) for a proposed 720-unit multi-family residential development in abeyance to the March 8, 2016 Planning Commission meeting at the request of the applicant.

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GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
03/08/16	The Planning Commission voted [7-0] to hold GPA-62387, ZON-62392 and SDR-62393 in abeyance to the April 12, 2016 Planning Commission meeting at the request of the applicant.
03/15/16	A two-lot Parcel Map (PMP-63468) on 53.03 acres at the southwest corner of Alta Drive and Rampart Boulevard was recorded [Book 121 Page 12 of Parcel Maps].
04/12/16	The Planning Commission voted [7-0] to hold GPA-62387, ZON-62392 and SDR-62393 in abeyance to the May 10, 2016 Planning Commission meeting at the request of the applicant.
04/12/16	The Planning Commission voted [7-0] to hold requests for a Major Modification (MOD-63600) of the 1990 Peccole Ranch Master Plan; a Development Agreement (DIR-63602) between 180 Land Co., LLC, et al. and the City of Las Vegas; a General Plan Amendment (GPA-63599) from PR-OS (Parks/Recreation/Open Space) to DR (Desert Rural Density Residential) and H (High Density Residential); and a Rezoning (ZON-62392) from R-PD7 (Residential Planned Development – 7 Units per Acre) to R-E (Residence Estates) and R-4 (High Density Residential) on 250.92 acres at the southwest corner of Alta Drive and Rampart Boulevard in abeyance to the May 10, 2016 Planning Commission meeting at the request of the applicant.
05/10/16	The Planning Commission voted [7-0] to hold GPA-62387, ZON-62392 and SDR-62393 in abeyance to the July 12, 2016 Planning Commission meeting at the request of City staff.
	The Planning Commission voted [7-0] to hold MOD-63600, GPA-63599, ZON-63601 and DIR-63602 in abeyance to the July 12, 2016 Planning Commission meeting at the request of City staff.
07/12/16	The Planning Commission voted [5-2] to hold GPA-62387, ZON-62392 and SDR-62393 in abeyance to the October 11, 2016 Planning Commission meeting.
	The Planning Commission voted [5-2] to hold MOD-63600, GPA-63599, ZON-63601 and DIR-63602 in abeyance to the October 11, 2016 Planning Commission meeting.
08/09/16	The Planning Commission voted [7-0] to rescind the action taken on 07/12/16 to hold GPA-62387, ZON-62392 and SDR-62393 in abeyance to the October 11, 2016 Planning Commission meeting. Action was then taken to reschedule the hearing of these items at a special Planning Commission meeting on 10/18/16.
08/09/16	The Planning Commission voted [7-0] to rescind the action taken on 07/12/16 to hold MOD-63600, GPA-63599, ZON-63601 and DIR-63602 in abeyance to the October 11, 2016 Planning Commission meeting. Action was then taken to reschedule the hearing of these items at a special Planning Commission meeting on 10/18/16, at which they were recommended for denial.

SS

CLV180833
00784

GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
Staff Report Page Eleven
June 21, 2017 - City Council Meeting

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
11/16/16	At the applicant's request, the City Council voted to Withdraw Without Prejudice requests for a Major Modification (MOD-63600) of the 1990 Peccole Ranch Master Plan; a Development Agreement (DIR-63602) between 180 Land Co., LLC, et al. and the City of Las Vegas; a General Plan Amendment (GPA-63599) from PR-OS (Parks/Recreation/Open Space) to DR (Desert Rural Density Residential) and H (High Density Residential); and a Rezoning (ZON-62392) from R-PD7 (Residential Planned Development – 7 Units per Acre) to R-E (Residence Estates) and R-4 (High Density Residential) on 250.92 acres at the southwest corner of Alta Drive and Rampart Boulevard. The Planning Commission recommended denial; staff recommended approval.
	The Planning Commission voted to hold in abeyance to the January 18, 2017 City Council meeting a General Plan Amendment (GPA-62387) from PR-OS (Parks/Recreation/Open Space) to H (High Density Residential), a Rezoning (ZON-62392) from R-PD7 (Residential Planned Development – 7 Units per Acre) to R-4 (High Density Residential) and a Site Development Plan Review (SDR-62393) for a proposed 720-unit multi-family residential development on 17.49 acres at the southwest corner of Alta Drive and Rampart Boulevard. The Planning Commission and staff recommended approval.
01/10/17	The Planning Commission voted to hold in abeyance to the February 14, 2017 Planning Commission meeting GPA-68385 [PRJ-67184].
01/18/17	The City Council voted to hold in abeyance to the February 15, 2017 City Council meeting GPA-62387, ZON-62392 and SDR-62393 at the applicant's request.
01/24/17	A four-lot Parcel Map (PMP-64285) on 166.99 acres at the southeast corner of Alta Drive and Hualapai Way was recorded [File 121 Page 100 of Parcel Maps].
02/14/17	<p>The Planning Commission voted to recommend APPROVAL on the following requests:</p> <ul style="list-style-type: none"> • Waiver (WVR-68480) TO ALLOW 32-FOOT PRIVATE STREETS WITH A SIDEWALK ON ONE SIDE WHERE 47-FOOT PRIVATE STREETS WITH SIDEWALKS ON BOTH SIDES ARE REQUIRED WITHIN A PROPOSED GATED RESIDENTIAL DEVELOPMENT • Site Development Plan Review (SDR-68481) FOR A PROPOSED 61-LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT • Tentative Map (TMP-68482) FOR A 61-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION on 34.07 acres at the southeast corner of Alta Drive and Hualapai Way (Lot 1 in File 121, Page 100 of Parcel Maps on file at the Clark County Recorder's Office; formerly a portion of APN 138-31-702-002), R-PD7 (Residential Planned Development - 7 Units per Acre) Zone, Ward 2 (Beers) [PRJ-67184]

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CLV180834
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GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
Staff Report Page Twelve
June 21, 2017 - City Council Meeting

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/14/17	The Planning Commission vote resulted in a TIE which is tantamount to DENIAL on a request for a General Plan Amendment (GPA-68385) which is a FROM: PR-OS (PARKS/RECREATION/OPEN SPACE) TO: L (LOW DENSITY RESIDENTIAL) on 166.99 acres at the southeast corner of Alta Drive and Hualapai Way (APN 138-31-702-002), Ward 2 (Beers) [PRJ-67184].
03/15/17	<p>The City Council voted to hold the following four related items in abeyance to the April 19, 2017 City Council meeting.</p> <ul style="list-style-type: none"> • General Plan Amendment (GPA-68385) which is a FROM: PR-OS (PARKS/RECREATION/OPEN SPACE) TO: L (LOW DENSITY RESIDENTIAL) • Waiver (WVR-68480) TO ALLOW 32-FOOT PRIVATE STREETS WITH A SIDEWALK ON ONE SIDE WHERE 47-FOOT PRIVATE STREETS WITH SIDEWALKS ON BOTH SIDES ARE REQUIRED WITHIN A PROPOSED GATED RESIDENTIAL DEVELOPMENT • Site Development Plan Review (SDR-68481) FOR A PROPOSED 61-LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT • Tentative Map (TMP-68482) FOR A 61-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION on 34.07 acres at the southeast corner of Alta Drive and Hualapai Way (Lot 1 in File 121, Page 100 of Parcel Maps on file at the Clark County Recorder's Office; formerly a portion of APN 138-31-702-002), R-PD7 (Residential Planned Development - 7 Units per Acre) Zone, Ward 2 (Beers) [PRJ-67184]
04/19/17	<p>The City Council voted to hold the following four related items in abeyance to the May 17, 2017 City Council meeting.</p> <ul style="list-style-type: none"> • General Plan Amendment (GPA-68385) which is a FROM: PR-OS (PARKS/RECREATION/OPEN SPACE) TO: L (LOW DENSITY RESIDENTIAL) • Waiver (WVR-68480) TO ALLOW 32-FOOT PRIVATE STREETS WITH A SIDEWALK ON ONE SIDE WHERE 47-FOOT PRIVATE STREETS WITH SIDEWALKS ON BOTH SIDES ARE REQUIRED WITHIN A PROPOSED GATED RESIDENTIAL DEVELOPMENT • Site Development Plan Review (SDR-68481) FOR A PROPOSED 61-LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT • Tentative Map (TMP-68482) FOR A 61-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION on 34.07 acres at the southeast corner of Alta Drive and Hualapai Way (Lot 1 in File 121, Page 100 of Parcel Maps on file at the Clark County Recorder's Office; formerly a portion of APN 138-31-702-002), R-PD7 (Residential Planned Development - 7 Units per Acre) Zone, Ward 2 (Beers) [PRJ-67184]

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CLV180835
00786

GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
Staff Report Page Thirteen
June 21, 2017 - City Council Meeting

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
05/17/17	<p>The City Council voted to hold the following four related items in abeyance to the June 21, 2017 City Council meeting.</p> <ul style="list-style-type: none"> • General Plan Amendment (GPA-68385) which is a FROM: PR-OS (PARKS/RECREATION/OPEN SPACE) TO: L (LOW DENSITY RESIDENTIAL) • Waiver (WVR-68480) TO ALLOW 32-FOOT PRIVATE STREETS WITH A SIDEWALK ON ONE SIDE WHERE 47-FOOT PRIVATE STREETS WITH SIDEWALKS ON BOTH SIDES ARE REQUIRED WITHIN A PROPOSED GATED RESIDENTIAL DEVELOPMENT • Site Development Plan Review (SDR-68481) FOR A PROPOSED 61-LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT • Tentative Map (TMP-68482) FOR A 61-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION on 34.07 acres at the southeast corner of Alta Drive and Hualapai Way (Lot 1 in File 121, Page 100 of Parcel Maps on file at the Clark County Recorder's Office; formerly a portion of APN 138-31-702-002), R-PD7 (Residential Planned Development - 7 Units per Acre) Zone, Ward 2 (Beers) [PRJ-67184]

<i>Most Recent Change of Ownership</i>	
11/16/15	A deed was recorded for a change in ownership on APN 138-31-702-002.

<i>Related Building Permits/Business Licenses</i>	
There are no building permits or business licenses relevant to these requests.	

<i>Pre-Application Meeting</i>	
09/29/16	A pre-application meeting was held to discuss submittal requirements for Site Development Plan Review and Tentative Map applications. The applicant proposed 30-foot wide private streets with 30-inch roll curbs. Staff indicated that a Waiver would be necessary to deviate from public street standards. There was concern that the long and narrow streets would come into conflict with fire codes and that the applicant should work with staff to address these issues. In addition, the applicant was advised that a parcel map currently in review would need to be recorded prior to these items being notified for hearing.
12/06/16	The requirement for a General Plan Amendment and neighborhood meeting was added to the original submittal checklist.

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GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
Staff Report Page Fourteen
June 21, 2017 - City Council Meeting

Neighborhood Meeting	
01/09/17	<p>A neighborhood meeting was held at the Badlands Golf Course Clubhouse at 9119 Alta Drive, Las Vegas, Nevada. Approximately 50 members of the public were in attendance, as well as seven members of the development team, one City Council Ward staff member and one Department of Planning staff member.</p> <p>The applicant set up display boards showing the proposed General Plan Amendment. At sign in, neighbors were given a handout describing the request, which noted that the item had been requested to be abeyed to the February 14, 2017 Planning Commission meeting. No formal presentation was given; instead, members of the public were invited to examine the request and approach development team members with any questions.</p>

Field Check	
01/05/17	The site contains a well-maintained golf course surrounded by existing single-family residential dwellings.

Details of Application Request	
Site Area	
Net Acres (GPA)	166.99
Net Acres (WVR/SDR/TMP)	34.07

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Commercial Recreation/Amusement (Outdoor) – Golf Course	PR-OS (Parks/Recreation/Open Space)	R-PD7 (Residential Planned Development – 7 Units per Acre)
North	Multi-Family Residential (Condominiums) / Club House	GTC (General Tourist Commercial)	PD (Planned Development)
	Hotel/Casino	SC (Service Commercial)	C-1 (Limited Commercial)
	Office, Medical or Dental		

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GPA-68385, WVR-68480, SDR-68481 and TMP-68482 [PRJ-67184]
Staff Report Page Fifteen
June 21, 2017 - City Council Meeting

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
North	Single Family, Detached	ML (Medium Low Density Residential)	R-PD7 (Residential Planned Development – 7 Units per Acre)
		MLA (Medium Low Attached Density Residential)	R-PD10 (Residential Planned Development – 10 Units per Acre)
South	Office, Other Than Listed	SC (Service Commercial)	C-1 (Limited Commercial)
	Single Family, Detached	ML (Medium Low Density Residential)	R-PD7 (Residential Planned Development – 7 Units per Acre)
	Single Family, Attached	M (Medium Density Residential)	R-PD10 (Residential Planned Development – 10 Units per Acre)
	Multi-Family Residential		R-3 (Medium Density Residential)
East	Shopping Center	SC (Service Commercial)	PD (Planned Development)
	Office, Other Than Listed		C-1 (Limited Commercial)
	Mixed Use	GC (General Commercial)	C-2 (General Commercial)
	Utility Installation	PF (Public Facilities)	C-V (Civic)
	Single Family, Attached	M (Medium Density Residential)	R-PD10 (Residential Planned Development – 10 Units per Acre)
West	Single Family, Detached	SF2 (Single Family Detached – 6 Units per Acre)	P-C (Planned Community)
	Golf Course	P (Parks/Open Space)	

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Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
West	Multi-Family Residential	MF2 (Medium Density Multi-family – 21 Units per Acre)	

Master Plan Areas	Compliance
Peccole Ranch	Y
Special Purpose and Overlay Districts	Compliance
R-PD (Residential Planned Development) District	Y
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Pursuant to Las Vegas Zoning Code Title 19.06.040 prior to Ordinance 6135 (March 2011), the Development Standards within an R-PD District are established by the Site Development Plan. The following standards are proposed by the applicant:

Standard	Lots less than or equal to 20,000 sf*	Lots greater than 20,000 sf
Minimum Lot Size	10,000 sf	20,000 sf
Building Setbacks:		
• Front yard to private street or access easement	30 feet	35 feet
• Side yard	5 feet	7.5 feet
• Corner side yard	12.5 feet	15 feet
• Rear yard	25 feet	30 feet
Accessory structure setbacks:		
• Porte cochere to private street	15 feet	15 feet
• Side loaded garage to side yard property line	15 feet	15 feet
• Patio covers and/or 2 nd story decks	20 feet	20 feet
• Separation from principal dwelling	6 feet	6 feet
• Side yard	5 feet	5 feet
• Corner side yard	5 feet	5 feet
• Rear yard	5 feet	5 feet

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00790

Standard	Lots less than or equal to 20,000 sf*	Lots greater than 20,000 sf
Building Heights: • Principal dwelling • Accessory structures • Floors	40 feet 25 feet 2 stories on slab or over basement	50 feet 30 feet 3 stories on lots greater than 35,000 sf; otherwise 2 stories
Permitted uses	Single family residence and accessory structures**	Single family residence and accessory structures**
Lot Coverage	Bound by setbacks	Bound by setbacks

*Includes Lots 1, 2 and 24.

**Accessory structures may have a trellis or canopy attached to the principal dwelling.

Existing Zoning	Permitted Density	Units Allowed
R-PD7	7.49 du/ac	1,250 (based on 166.99 acres)
Proposed Zoning	Permitted Density	Units Allowed
N/A	N/A	N/A
General Plan	Permitted Density	Units Allowed
PR-OS	N/A	N/A
Proposed General Plan	Permitted Density	Units Allowed
L	5.49 du/ac	916 (based on 166.99 acres)

Pursuant to Title 19.06.040, the following standards apply:

Landscaping and Open Space Standards				
Standards	Required		Provided	Compliance
	Ratio	Trees		
Buffer Trees:				
• North	1 Tree / 20 Linear Feet	10 Trees	15 Trees	Y
• South	N/A	N/A	81 Trees	N/A
• East	N/A	N/A	0 Trees	N/A
• West	1 Tree / 20 Linear Feet	43 Trees	47 Trees	Y

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Pursuant to Title 19.06.040, the following standards apply:

Landscaping and Open Space Standards					
Standards	Required		Provided		Compliance
	Ratio	Trees			
TOTAL PERIMETER TREES			53 Trees	143 Trees	Y
LANDSCAPE BUFFER WIDTHS					
Min. Zone Width					
• North	6 Feet			20 Feet	Y
• South	0 Feet			0 Feet	Y
• East	0 Feet			0 Feet	Y
• West	6 Feet			20 Feet	Y
Wall Height	Not required	6' wrought iron or CMU adjacent to Orient Express Ct. Stepped retaining/screen wall not exceeding 10' adjacent to Verlaine Ct. and existing lots to the north 10' retaining/screen wall adjacent to Hualapai Way			Y

Open Space – R-PD only							
Total Acreage	Density	Required			Provided		Compliance
		Ratio	Percent	Area	Percent	Area	
34.07 ac	1.8	1.65	2.97%	1.01 ac	6.22%	2.12 ac	Y

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Alta Drive	Major Collector	Master Plan of Streets and Highways Map	84	Y
Hualapai Way	Primary Arterial	Master Plan of Streets and Highways Map	98	N

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19.04.040 Connectivity		
Transportation Network Element	# Links	# Nodes
Internal Street	9	0
Intersection – Internal	0	5
Cul-de-sac Terminus	0	3
Intersection – External Street or Stub Terminus	0	0
Intersection – Stub Terminus w/ Temporary Turn Around Easements	0	0
Non-Vehicular Path - Unrestricted	0	0
Total	9	8

	Required	Provided
Connectivity Ratio (Links / Nodes):	N/A	1.13

Pursuant to Title 19.08 and 19.12, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required		Provided		Compliance	
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Single Family, Detached	61 units	2 spaces per unit	122				
Accessory Structure (Class I) [Casita]	61 casitas	1 additional space per lot	61				
TOTAL SPACES REQUIRED			183		183		Y
Regular and Handicap Spaces Required			183	0	183	0	Y

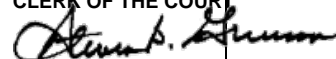
Waivers		
Requirement	Request	Staff Recommendation
Private streets must meet public street standards unless waived (47' minimum with L-curbs and sidewalks on both sides of the street)	To allow 32' wide private streets with 30" roll curbs with sidewalk on one side (easement) in a gated community	Approval

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CLV180842
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EXHIBIT SS

EXHIBIT SS



**NEOJ
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

180 LAND COMPANY, LLC, a Nevada limited
liability company, DOE INDIVIDUALS I
through X, DOE CORPORATIONS I through X,
and DOE LIMITED LIABILITY COMPANIES I
through X,

Plaintiffs,

vs.

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

Defendant.

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

**NOTICE OF ENTRY OF ORDER
NUNC PRO TUNC Regarding Findings of
Fact and Conclusion of Law Entered
November 21, 2019**

PLEASE TAKE NOTICE that on the 6th day of February, 2019, an Order *Nunc Pro Tunc* Regarding Findings of Fact and Conclusion of Law Entered November 21, 2018, was entered in the above-captioned case, a copy of which is attached hereto.

Dated this 6th day of February, 2019.

LAW OFFICES OF KERMITT L. WATERS

By: /s/ Kermitt L. Waters

KERMIT L. WATERS, ESQ., NBN 2571
JAMES JACK LEAVITT, ESQ., NBN 6032
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CERTIFICATE OF SERVICE

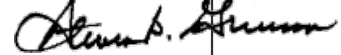
I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and that on the 6th day of February, 2019, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER *NUNC PRO TUNC* Regarding Findings of Fact and Conclusion of Law Entered November 21, 2019**, was made by electronic means pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court’s electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail and addressed to each of the following:

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Attorneys for Plaintiff Landowners

**DISTRICT COURT
CLARK COUNTY, NEVADA**

180 LAND COMPANY, LLC, a Nevada limited
liability company, DOE INDIVIDUALS I
through X, DOE CORPORATIONS I through X,
and DOE LIMITED LIABILITY COMPANIES I
through X,

Plaintiffs,

vs.

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

Defendant.

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

**ORDER NUNC PRO TUNC
Regarding Findings of Fact and
Conclusion of Law Entered
November 21, 2018**

Hearing Date: January 17, 2019
Hearing Time: 9:00 a.m.

01-29-19A10:51 RCVD

ORDER NUNC PRO TUNC
Regarding Findings of Fact and Conclusions of Law Entered November 21, 2018

Plaintiff, 180 LAND COMPANY, LLC ("Plaintiff" and/or "Landowner") Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims and the City of Las Vegas' Motion to Strike Plaintiffs' Motion for Summary Judgment on Liability For the Landowners' Inverse Condemnation Claims On Order Shortening Time and the Intervenor's Joinder thereto having come for hearing on January 17, 2019 at 9:00 a.m. in Department XVI of the Eighth Judicial District Court, Kermitt L. Waters, Esq., James J. Leavitt, Esq., and Mark Hutchison, Esq., appearing for and on behalf of the Plaintiff, George F. Ogilvie III Esq., and Debbie Leonard, Esq., appearing for and on behalf of Defendant, the City of Las Vegas, and Dustun H. Holmes, Esq., appearing for and on behalf of Intervenor. The Court having read all the papers filed by the parties and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED and DECREED that Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims filed on December 11, 2018, is GRANTED, as this Court had no intention of making any findings of fact, conclusions of law or orders regarding the Landowners' severed inverse condemnation claims as part of the Findings of Fact and Conclusions of Law entered on November 21, 2018, ("FFCL"). Accordingly, as stated at the hearing on January 17, 2019, the findings, conclusions and order set forth at page 23:4-20 and page 24:4-5 of the FFCL are hereby removed *nunc pro tunc*.

IT IS HEREBY FURTHER ORDERED, ADJUDGED and DECREED that Defendant, City of Las Vegas' Motion to Strike Plaintiffs' Motion for Summary Judgment on Liability For the Landowners' Inverse Condemnation Claims On Order Shortening Time filed on December 21, 2018, and the Joinder thereto is DENIED AS MOOT.

IT IS SO ORDERED.


DATED this 5th day of January, 2019.


DISTRICT COURT JUDGE

CJ +
TEW

Respectfully Submitted By:

LAW OFFICES OF KERRITT L. WATERS

By: 
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Reviewed and Approved By:

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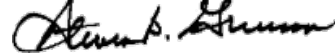
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EXHIBIT TT

EXHIBIT TT



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21 **DISTRICT COURT**
22 **CLARK COUNTY, NEVADA**

23 180 LAND CO LLC, a Nevada limited-liability
24 company; DOE INDIVIDUALS I through X;
25 DOE CORPORATIONS I through X; and
26 DOE LIMITED-LIABILITY COMPANIES I
27 through X,

28 Plaintiff,

v.

29 CITY OF LAS VEGAS, a political
30 subdivision of the State of Nevada; ROE
31 GOVERNMENT ENTITIES I through X;
32 ROE CORPORATIONS I through X; ROE
33 INDIVIDUALS I through X; ROE
34 LIMITED-LIABILITY COMPANIES I
35 through X; ROE QUASI-
36 GOVERNMENTAL ENTITIES I through
37 X,

38 Defendants.

Case No. A-17-758528-J

Dept. No. XVI

**NOTICE OF ENTRY OF FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

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TO: ALL INTERESTED PARTIES

NOTICE IS HEREBY GIVEN that *Findings of Fact and Conclusions of Law Regarding Plaintiff's Motion for a New Trial, Motion to Alter or Amend and/or Reconsider the Findings of Fact and Conclusions of Law, and Motion to Stay Pending Nevada Supreme Court Directives* was entered in the above-entitled action on May 7, 2019, a copy of which is attached hereto.

Dated this 8th day of May, 2019.

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CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that I am an employee of Hutchison & Steffen, PLLC and that on this 8th day of May, 2019, I caused the above and foregoing document entitled **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW** to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ to be served via facsimile; and/or
- ☒ pursuant to NEFCR (9), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or
- ☐ to be hand-delivered;

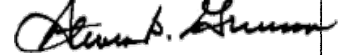
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Attorneys for 180 Land Company, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

180 LAND CO LLC, a Nevada limited-liability
company; DOE INDIVIDUALS I through X;
DOE CORPORATIONS I through X; and
DOE LIMITED-LIABILITY COMPANIES I
through X,

Plaintiffs,

v.

CITY OF LAS VEGAS, a political
subdivision of the State of Nevada; ROE
GOVERNMENT ENTITIES I through X;
ROE CORPORATIONS I through X; ROE
INDIVIDUALS I through X; ROE LIMITED-
LIABILITY COMPANIES I through X; ROE
QUASI-GOVERNMENTAL ENTITIES I
through X,

Defendants.

CASE NO.: A-17-758528-J

DEPT. NO.: XVI

**[PROPOSED] FINDINGS OF FACT AND
CONCLUSIONS OF LAW REGARDING
PLAINTIFF'S MOTION FOR A NEW
TRIAL, MOTION TO ALTER OR
AMEND AND/OR RECONSIDER THE
FINDINGS OF FACT AND
CONCLUSIONS OF LAW, AND
MOTION TO STAY PENDING NEVADA
SUPREME COURT DIRECTIVES**

05-01-19P03:20 RCVD

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

12
13 Intervenor.
14

15 Currently before the Court is Plaintiff 180 Land Co, LLC's Motion For A New Trial
16 Pursuant To NRCP 59(e) And Motion To Alter Or Amend Pursuant To NRCP 52(b) And/Or
17 Reconsider The Findings Of Fact And Conclusions Of Law And Motion To Stay Pending Nevada
18 Supreme Court Directives ("the Motion") filed on December 13, 2018. The alternative relief
19 sought by the Developer is a stay of the proceedings until the Nevada Supreme Court decides an
20 appeal from the judgment entered March 5, 2018 by the Honorable James Crockett in Case No.
21 A-17-752344-J ("Judge Crockett's Order"). The City filed an opposition, to which the Intervenor
22 joined, and the Plaintiff filed a reply. The Court held oral argument on the Motion on January 22,
23 2019.

24 Having considered the record on file, the written and oral arguments presented, and being
25 fully informed in the premises, the Court makes the following findings of facts and conclusions
26 of law:
27
28

1 **I. FINDINGS OF FACT**

2 1. Plaintiff 180 Land Co, LLC (“the Developer”) filed a Petition for Judicial Review
3 (the “Petition”) challenging the Las Vegas City Council’s June 21, 2017 decision to deny its four
4 land use applications (“the 35-Acre Applications”) to develop its 34.07 acres of R-PD7 zoned
5 property (the “35-Acre Property”).

6 2. On November 21, 2018, this Court entered Findings of Fact and Conclusions of
7 Law on Petition for Judicial Review (“FFCL”) that denied the Petition and dismissed the
8 alternative claims for inverse condemnation. The Court concluded that the Las Vegas City Council
9 properly exercised its discretion to deny the 35-Acre Applications and that substantial evidence
10 supported the City Council’s June 21, 2017 decision. The Court further concluded that the
11 Developer had no vested rights to have the 35-Acre Applications approved.

12 3. On February 6, 2019, the Court entered an Order *Nunc Pro Tunc* that removed
13 those portions of the FFCL that dismissed the inverse condemnation claims. Specifically, the
14 Order *Nunc Pro Tunc* removed FFCL page 23:4-20 and page 24:4-5 but left all findings of fact
15 and all other conclusions of law intact.

16 4. The Developer seeks a new trial; however, because this matter is a petition for
17 judicial review, no trial occurred.

18 5. While the Developer has raised new facts, substantially different evidence and new
19 issues of law, none of these new matters warrant rehearing or reconsideration, as discussed infra.

20 6. The Developer identifies claimed errors in the Court’s previous findings of fact in
21 the FFCL and disagrees with the Court’s interpretation of law.

22 7. The Developer has failed to show that the Court’s previous findings that the City
23 Council did not abuse its discretion or that sufficient privity exists to bar Plaintiff’s Petition under
24 issue preclusion were clearly erroneous.

25 8. The Developer repeats its arguments that it raised previously in support of its
26 petition for judicial review; namely, that public opposition, the desire for a comprehensive and
27 cohesive development proposal to amend the General Plan’s open space designation, and the City
28

1 Council's choice not to follow Staff's recommendation purportedly were not ample grounds to
2 affirm the City Council's June 21, 2017 decision.

3 9. The Developer also reasserts its contentions that: (a) NRS 278.349 gives it vested
4 rights to have the 35-Acre Applications approved; (b) the Queensridge homeowners have no rights
5 in the golf course; (c) no major modification is required; (d) Judge Crockett's Order should be
6 disregarded; and (e) the County Assessor changed the assessed value of the property after the
7 Developer stopped using it as a golf course. The Developer made each of these arguments in the
8 briefs submitted by the Developer in support of the Petition. *See* Pet. Memo. of P&A in support
9 of Second Amended PJR at 5:17-20, 6:3, 7:4-10, 10:4-14:17, 17:8-18:7, 22-42, 26:10-17, 29:10-
10 30:24, n.6, n.37, n.42, n.45, n.79, n.112; Post Hearing Reply Br. at 2:2-4, 2:19-4:3, 7:18-13:14,
11 13-16, 26:16-29:15, n.79.

12 10. The Motion also cites to and attaches documents that were not part of the record
13 on review at the time the City Council rendered its June 21, 2017 decision to deny the 35-Acre
14 Applications. *See* Motion at 2:14-3:23, 8:1-21; n.2, n.3, n.18, n.20, n. 21, n.22, citing Exs. 1-6 to
15 the Motion.

16 11. The transcripts and minutes from the August 2, 2017 and March 21, 2018 City
17 Council meetings on which the Developer relies (Exs. 1 and 6 to the Motion) post-dated the City
18 Council's June 21, 2017 decision to deny the 35-Acre Applications and are, therefore, not part of
19 the record on review.

20 12. Similarly, the Developer's attacks on Councilmember Seroka are beyond the
21 record on review because he was not on the City Council on June 21, 2017 when the City Council
22 voted to deny the 35-Acre Applications.

23 13. The Supreme Court's order of affirmance and order denying rehearing related to
24 Judge Smith's orders (Exs. 4 and 5 to the Motion) were entered on October 17, 2018 and
25 November 27, 2018, respectively, after the City Council denied the 35-Acre Applications and,
26 therefore, are not part of the record on review.

27 14. The Developer previously cited to Judge Smith's underlying orders before the
28 Nevada Supreme Court's actions both before the City Council and before this Court. *See* Pet.'s

1 P&A at 9:5-10:10, 17:1-2; *see also* 6.29.18 Hrg. Trans. at 109:6-110:13, attached as Exhibit B to
2 City Opp.

3 15. The Motion relies not only on the aforestated orders, but also the Nevada Supreme
4 Court's decision affirming the orders Judge Smith issued in that case.

5 16. Judge Smith's orders interpreted the rights of the Queensridge homeowners under
6 the Queensridge CC&Rs, which in the Court's view, have no relevance to the issues in this case
7 or the reasons supporting the Court's denial of the Petition.

8 17. Judge Smith described the matter before him as the Queensridge homeowners'
9 claims that *their* "vested rights" in the CC&Rs were violated. *See* 11.30.16 Smith FFCL at ¶¶2, 7,
10 29, 108, Ex. 2 to the Motion.

11 18. Whether the Developer had vested rights to have its development applications
12 approved was not precisely at issue in the matter before Judge Smith. *See id.*

13 19. Indeed, Judge Smith confirmed that, notwithstanding the zoning designation for
14 the golf course property, the Developer is nonetheless "subject to City of Las Vegas requirements"
15 and that the City is not obligated to make any particular decision on the Developer's applications.
16 1.31.17 FFCL ¶¶9, 16-17, 71.

17 20. The Supreme Court's affirmance of Judge Smith's orders has no impact on this
18 Court's denial of the Developer's Petition for Judicial Review.

19 21. In the Motion, the Developer challenges the Court's application of issue preclusion
20 to Judge Crockett's Order. The Developer reargues its attacks on the substance of Judge Crockett's
21 Order (Motion at 17:21-20:7) and also reargues the application of issue preclusion to Judge
22 Crockett's Order.

23 22. The Court finds no conflict between Judge Crockett's Order and Judge Smith's
24 orders and therefore rejects the Developer's argument that such orders are "irreconcilable."

25 23. In its Motion, the Developer argues that this Court's factual findings are incorrect
26 and need amendment. Two findings from the FFCL the Developer argues are incorrect are ¶¶12-
27 13, which the Developer contends are different than Judge Smith's findings. Motion at 20, n.67.

1 24. As stated supra in finding No. 17, Judge Smith's orders are irrelevant to this
2 Petition for Judicial Review. Thus, the Court finds no cause exists to alter or amend the findings
3 in the FFCL.

4 **II. CONCLUSIONS OF LAW**

5 **A. The Court May Not Consider Matters Outside The Record On Review**

6 1. The scope of the Court's review is limited to the record made before the
7 administrative tribunal. *Bd. of Cty. Comm'rs of Clark Cty. v. C.A.G., Inc.*, 98 Nev. 497, 500, 654
8 P.2d 531, 533 (1982). That scope cannot be expanded with a motion for reconsideration of the
9 Court's denial of a petition for judicial review. *See id.*

10 2. The Developer's Motion cites to matters that post-dated the City Council's June
11 21, 2017 Decision and that are otherwise outside the record on review.

12 3. Because the Court's review is limited to the record before the City Council on June
13 21, 2017, the Court may not consider the documents that post-date the City Council's June 21,
14 2017 decision submitted by the Developer. *See Bd. of Cty. Comm'rs of Clark Cty. v. C.A.G., Inc.*,
15 98 Nev. 497, 500, 654 P.2d 531, 533 (1982).

16 **B. No "Retrial" Is Appropriate For A Petition For Judicial Review**

17 4. Under NRCP 59(a), the Court may grant a new trial on some or all issues based
18 upon certain grounds specifically enumerated in that rule.

19 5. Where a petition for judicial review is limited to the record and does not involve
20 the Court's consideration of new evidence, a motion for a new trial is not the appropriate
21 mechanism to seek reconsideration of the denial of a petition for judicial review.

22 6. "Retrial" presupposes that a trial occurred in the first instance, but no trial occurred
23 here or is allowed for a petition for judicial review because the Court's role is limited to reviewing
24 the record below for substantial evidence to support the City Council's decision. *See City of Reno*
25 *v. Citizens for Cold Springs*, 126 Nev. 263, 271, 236 P. 3d 10, 15-16 (2010) (citing *Kay v. Nunez*,
26 122 Nev. 1100, 1105, 146 P.3d 801, 805 (2006)).

27 7. Moreover, a motion for a new trial under NRCP 59(a), which is the authority cited
28 by the Developer (at 16:22-23), may only be granted based upon specific enumerated grounds

1 cited in the rule, none of which is invoked by the Developer. As a result, no “retrial” may be
2 granted.

3 **C. The Developer’s Repetition of its Previous Arguments is Not Grounds for**
4 **Reconsideration**

5 8. Pursuant to EDCR 2.24(a), no motions once heard and disposed of may be renewed
6 in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the
7 court.

8 9. “Although Rule 59(e) permits a district court to reconsider and amend a previous
9 order, the rule offers an ‘extraordinary remedy, to be used sparingly in the interests of finality and
10 conservation of judicial resources.’” *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th
11 Cir. 2000), quoting 12 Moore’s Federal Practice §59.30[4] (3d ed. 2000) (discussing the federal
12 corollary of NRCP 59(e)).

13 10. A Rule 59(e) motion may not be used “to relitigate old matters.” 11 Fed. Prac. &
14 Proc. Civ. §2810.1 (3d ed.); accord *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 486 n.5 (2008).

15 11. “Rehearings are not granted as a matter of right and are not allowed for the purpose
16 of re-argument, unless there is a reasonable probability that the court may have arrived at an
17 erroneous conclusion.” *Geller v. McCowan*, 64 Nev. 106, 108, 178 P.2d 380, 381 (1947) (citations
18 omitted) (discussing petition for rehearing of appellate decision).

19 12. Because the Developer has not raised sufficient new facts, substantially different
20 evidence or new issues of law for rehearing or reconsideration showing an erroneous conclusion,
21 the Court rejects the Developer’s repetitive arguments.

22 **D. NRCP 52(b) Does Not Apply Where the Developer Does Not Identify Any of**
23 **the Court’s Findings of Fact That Warrant Amendment**

24 13. Although it brings its motion to alter or amend pursuant to NRCP 52(b), that rule
25 is directed only at amendment of factual “findings,” not legal conclusions. *See id.* “Rule 52(b)
26 merely provides a method for amplifying and expanding the lower court’s findings, and is not
27 intended as a vehicle for securing a re-hearing on the merits.” *Matter of Estate of Herrmann*, 100
28 Nev. 1, 21 n.16, 677 P.2d 594, 607 n.16 (1984).

1 14. The only findings mentioned in the Motion (at ¶¶12-13) are supported by the
2 portion of the record cited by the Court, namely, the Peccole Ranch Master Development Plan.
3 Judge Smith's findings in support of his interpretation of the Queensridge CC&Rs do not alter the
4 Court's findings.

5 15. Because the Developer has not identified any findings that should be amended
6 under NRCP 52(b), the Court declines to amend any of its findings.

7 **E. The Developer May Not Present Arguments and Materials it Could Have**
8 **Presented Earlier But Did Not**

9 16. The Developer's Motion cannot be granted based upon arguments the Developer
10 could have raised earlier but chose not to.

11 17. "A Rule 59(e) motion may not be used to raise arguments or present evidence for
12 the first time when they could reasonably have been raised earlier in the litigation." *Kona Enters.*,
13 229 F.3d at 890.

14 18. "Points or contentions not raised in the original hearing cannot be maintained or
15 considered on rehearing." *Achrem v. Expressway Plaza Ltd. P'ship*, 112 Nev. 737, 742, 917 P.2d
16 447, 450 (1996).

17 19. Contrary to the Developer's assertion (Motion at 16:1-2), the Court considered all
18 of the arguments in its Petition related to Judge Smith's orders. The Court simply rejected them
19 because Judge Smith's interpretation of the Queensridge CC&R's does not affect the City
20 Council's discretion under NRS Chapter 278 and the City's Unified Development Code to deny
21 the 35-Acre Applications.

22 **F. The Supreme Court's Affirmance of Judge Smith's Orders Has No Impact on**
23 **this Court's Denial of the Developer's Petition for Judicial Review**

24 20. The fact that the Supreme Court affirmed Judge Smith's orders is not grounds for
25 reconsideration because Judge Smith's orders interpreted the Queensridge homeowners' rights
26 under the CC&R's, not the City Council's discretion to deny re-development applications.

1 21. As a result, the Developer's assertion (at 3:4-5) that Judge Smith's Orders are
2 "irreconcilable" with Judge Crockett's Decision does not accurately reflect the scope of the matter
3 before Judge Smith.

4 22. This Court correctly concluded that the Developer does not have vested rights to
5 have the 35-Acre Applications approved, and neither Judge Smith's orders, nor the Supreme
6 Court's orders of affirmance, alter that conclusion.

7 **G. The Court Correctly Determined That Judge Crockett's Order Has**
8 **Preclusive Effect Here**

9 23. The Developer has failed to show that the Court's conclusion that sufficient privity
10 exists to bar the Developer's petition under the doctrine of issue preclusion was clearly erroneous.

11 24. The Court correctly determined that Judge Crockett's Order has preclusive effect
12 here and, as a result, the Developer must obtain the City Council's approval of a major
13 modification to the Peccole Ranch Master Developer Plan before it may develop the 35-Acre
14 Property.

15 25. The Court's conclusion that the City Council's decision was supported by
16 substantial evidence was independent of its determination that Judge Crockett's Order has
17 preclusive effect here. Judge Crockett's Order was only a "further" (i.e., not exclusive) reason to
18 deny the Developer's petition for judicial review.

19 **H. The Developer Does Not Identify Any Clear Error That Warrants**
20 **Reconsideration**

21 26. The sole legal grounds for reconsideration asserted by the Developer is purported
22 "clear error."

23 27. The only legal conclusions in the FFCL with which the Developer takes issue are
24 the Court's determinations that public opposition constitutes substantial evidence for denial of the
25 35-Acre Applications and that the City Council properly exercised its discretion to insist on
26 comprehensive and orderly development for the entirety of the property of which the 35-Acre
27 Property was a part. Motion at 20:8-24:7. In making these arguments, however, the Developer
28 never contends that the Court incorrectly interpreted the law cited in the FFCL. *See id.* It therefore

1 cannot satisfy its burden of showing “clear error.” The Developer has failed to show that the
2 Court’s previous conclusion that the City Council did not abuse its discretion was clearly
3 erroneous.

4 28. The Court’s analysis of these issues was correct. The *Stratosphere* and *C.A.G.*
5 cases hold that public opposition from neighbors, even if rebutted by a developer, constitutes
6 substantial evidence to support denial of development applications. *See Stratosphere Gaming*, 120
7 Nev. at 529, 96 P.3d at 760; *C.A.G.*, 98 Nev. at 500-01, 654 P.2d at 533. The Developer’s Motion
8 is silent as to this point.

9 29. Citing NRS 278.349(3)(e), the Developer contests the Court’s reliance on *Nova*
10 *Horizon* and *Cold Springs* that zoning must substantially conform to the master plan and that the
11 master plan presumptively governs a municipality’s land use decisions. *Nova Horizon*, 105 Nev.
12 at 97, 769 P.2d at 724; *Citizens for Cold Springs*, 126 Nev. at 266, 236 P.3d at 12. The Developer’s
13 discussion fails to discredit the *Nova Horizon* decision given NRS 278.349(3)(a) and does not
14 address the *Cold Springs* case.

15 30. Having failed to demonstrate any clear error in the Court’s decision, the Developer
16 fails to satisfy its burden for reconsideration.

17 31. Nothing presented in the Motion alters the Court’s conclusion that the City Council
18 properly exercised its discretion to deny the 35-Acre Applications and the June 21, 2017 decision
19 was supported by substantial evidence. *See City of Reno v. Citizens for Cold Springs*, 126 Nev.
20 263, 271, 236 P.3d 10, 15-16 (2010) (*citing Kay v. Nunez*, 122 Nev. 1100, 1105, 146 P.3d 801,
21 805 (2006)); *Cty. of Clark v. Doumani*, 114 Nev. 46, 53, 952 P.2d 13, 17 (1998), *superseded by*
22 *statute on other grounds*; *Stratosphere Gaming Corp. v. City of Las Vegas*, 120 Nev. 523, 528, 96
23 P.3d 756, 760 (2004).

24 32. As the Court correctly concluded, its job was to evaluate whether substantial
25 evidence supports the City Council’s decision, not whether there is substantial evidence to support
26 a contrary decision. *Nevada Power Co. v. Pub. Utilities Comm’n of Nevada*, 122 Nev. 821, 836
27 n.36, 138 P.3d 486, 497 (2006).

1 33. This is because the administrative body alone, not a reviewing court, is entitled to
2 weigh the evidence for and against a project. *Liquor & Gaming Licensing Bd.*, 106 Nev. at 99,
3 787 P.2d at 784.

4 **I. The Developer Failed to Advance Any Argument to Justify a Stay**

5 34. The Motion lacks any argument or citation whatsoever related to its request for a
6 stay.

7 35. “A party filing a motion must also serve and file with it a memorandum of points
8 and authorities in support of each ground thereof. The absence of such memorandum may be
9 construed as an admission that the motion is not meritorious, as cause for its denial or as a waiver
10 of all grounds not so supported.” EDCR 2.20(c) (emphasis added).

11 36. Because the Developer provides no points and authorities in support of its motion
12 for stay, the motion for stay must be denied.

13 **J. Effect On The Developer’s Inverse Condemnation Claims**

14 37. The Developer’s petition for judicial review and its inverse condemnation claims
15 involve different evidentiary standards.

16 38. Relative to the petition for judicial review, the Developer had to demonstrate that
17 the City Council abused its discretion in that the June 21, 2017 decision was not supported by
18 substantial evidence; whereas, relative to its inverse condemnation claims, the Developer must
19 prove its claims by a preponderance of the evidence.


20 39. Because of these different evidentiary standards, the Court concludes that its
21 conclusions of law regarding the petition for judicial review do not control its consideration of the
22 Developer’s inverse condemnation claims.

23 **ORDER**

24 Accordingly, IT IS HEREBY ORDERED, ADJUDGED and DECREED that the Motion
25 For A New Trial Pursuant To NRCP 59(e) And Motion To Alter Or Amend Pursuant To NRCP
26 52(b) And/Or Reconsider The Findings Of Fact And Conclusions Of Law And Motion To Stay
27 Pending Nevada Supreme Court Directives is DENIED.

1 IT IS FURTHER ORDERED THAT the Court's conclusions of law regarding the petition
2 for judicial review do not control its consideration of the Developer's inverse condemnation
3 claims, which will be subject to further action by the Court.

4 DATED: April 6th, 2019.

6
7
8 
TIMOTHY C. WILLIAMS
District Court Judge
9 CB + TCW

10 Submitted By:

11 HUTCHISON & STEFFEN, PLLC

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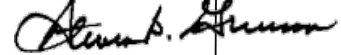
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17 **DISTRICT COURT**
18 **CLARK COUNTY, NEVADA**

18 180 LAND COMPANY, LLC, a Nevada limited
19 liability company, DOE INDIVIDUALS I
20 through X, DOE CORPORATIONS I through X,
21 and DOE LIMITED LIABILITY COMPANIES I
22 through X,

23 Plaintiffs,

24 vs.

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

27 Defendant.

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

ORDER GRANTING The Landowners'
Countermotion to Amend/Supplement the
Pleadings; DENYING The City's Motion
for Judgment on the Pleadings on
Developer's Inverse Condemnation Claims;
and DENYING the Landowners'
Countermotion for Judicial Determination
of Liability on the Landowners' Inverse
Condemnation Claims

Hearing Date: March 22, 2019
Hearing Time: 1:30 p.m.

04-24-19P02:49 RCVD

1 **ORDER GRANTING The Landowners' Countermotion to Amend/Supplement the**
2 **Pleadings; DENYING The City's Motion for Judgment on the Pleadings on Developer's**
3 **Inverse Condemnation Claims; and DENYING the Landowners' Countermotion for**
4 **Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims**

5 The City of Las Vegas's (The City") Motion for Judgment on the Pleadings on Developer's
6 Inverse Condemnation Claims; Plaintiff, 180 LAND COMPANY, LLC's ("Landowner") Opposition
7 to City's Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims and
8 Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation
9 Claims and Countermotion to Supplement/amend the Pleadings, if Required; and Plaintiff
10 Landowners' Motion to Estop the City's Private Attorney from Making the Major Modification
11 Argument or for an Order to Show Cause Why the Argument May Proceed in this Matter on Order
12 Shortening Time along with the City's and the Intervenor's (from the Petition for Judicial Review¹)
13 Oppositions and the Landowners Replies² to the same having come for hearing on March 22, 2019
14 at 1:30 p.m. in Department XVI of the Eighth Judicial District Court, Kermitt L. Waters, Esq., James
15 J. Leavitt, Esq., Mark Hutchison, Esq., and Autumn Waters, Esq., appearing for and on behalf of the
16 Landowners, George F. Ogilvie III Esq., and Debbie Leonard, Esq., appearing for and on behalf of
17 the City, and Todd Bice, Esq., and Dustun H. Holmes, Esq., appearing for and on behalf of
18 Intervenor's (from the Petition for Judicial Review). The Court having read the briefings, conducted
19 a hearing and after considering the writings and oral arguments presented and being fully informed
20 in the premise makes the following findings of facts and conclusions of law:

21 **I. The Landowners' Countermotion to Supplement/Amend the Pleadings**

22 The Landowners moved this Court to supplement/amend their pleadings. The Landowners
23 attached a copy of their proposed amended/supplemental complaint to their request pursuant to
24 NRCP Rule 15. This matter is in its early stages, as discovery has yet to commence so no prejudice

25 ¹ The Intervenor's have not moved nor been granted entry into this case dealing with the
26 Landowners' inverse condemnation claims, they have moved and been granted entry into the
severed petition for judicial review.

27 ² The Landowners withdrew this Motion to Estop the City's Private Attorney from
28 Making the Major Modification Argument or for an Order to Show Cause Why the Argument
May Proceed in this Matter on Order Shortening Time, accordingly, no arguments were taken nor
rulings issued.

1 or delay will result in allowing the amendment. The City argues that permitting the amendment
2 would result in impermissible claim splitting as the Landowners currently have other litigation
3 pending which also address the City action complained of in the amended/supplemental complaint.
4 However, those other pending cases deal with other property also allegedly affected by the City
5 action and do not seek relief for the property at issue in this case.

6 Leave to amend should be freely given when justice so requires. NRCP Rule 15(a)(2);
7 Adamson v. Bowker, 85 Nev. 115, 121 (1969). Absent undue delay, bad faith or dilatory motive on
8 the part of the movant, leave to amend should be freely given. Stephens v. Southern Nev. Music Co.,
9 89 Nev. 104 (1973). Justice requires leave to amend under the facts of this case and there has been
10 no showing of bad faith or dilatory motive on the part of the Landowners.

11 Accordingly, IT IS HEREBY ORDERED that the Landowners' Countermotion to
12 Supplement/Amend the Pleadings is **GRANTED**. The Landowners may file the amended /
13 supplemental complaint in this matter.

14 **II. The City's Motion for Judgment on the Pleadings on Developer's Inverse
Condemnation Claims**

15 The City moved this Court for judgment on the pleadings on the Landowners' inverse
16 condemnation claims pursuant to NRCP 12(c). Only under rare circumstances is dismissal proper,
17 such as where plaintiff can prove no set of facts entitling him to relief. Williams v. Gerber Prod.,
18 552 F.3d 934, 939 (9th Cir. 2008). The Nevada Supreme Court has held that a motion to dismiss "is
19 subject to a rigorous standard of review on appeal," that it will recognize all factual allegations as
20 true, and draw all inferences in favor of the plaintiff. Buzz Stew, LLC v. City of North Las Vegas,
21 181 P.3d 670, 672 (2008). The Nevada Supreme Court rejected the reasonable doubt standard and
22 held that a complaint should be dismissed only where it appears beyond a doubt that the plaintiff
23 could prove no set of facts, which, if true, would entitle the plaintiff to relief. Id., see also fn. 6.
24 Additionally, Nevada is a notice pleading state. NRCP Rule 8; Liston v. Las Vegas Metropolitan
25 Police Dep't, 111 Nev. 1575 (1995) (referring to an amended complaint, deposition testimony,
26 interrogatory responses and pretrial demand statement as a basis to provide notice of facts that
27 support a claim). Moreover, the Nevada Supreme Court has adopted the "policy of this state that
28

1 cases be heard on the merits, whenever possible.” Schulman v. Bongberg-Whitney Elec., Inc., 98
2 Nev. 226, 228 (1982).

3 **A. The Landowners’ Inverse Condemnation Claims**

4 The Landowners have asserted five (5) separate inverse condemnation claims for relief, a
5 Categorical Taking, a Penn Central Regulatory Taking, a Regulatory Per Se Taking, a Non-
6 regulatory Taking and, finally, a Temporary Taking. Each of these claims is a valid claim in the
7 State of Nevada:

8 Categorical Taking - “Categorical [taking] rules apply when a government regulation either
9 (1) requires an owner to suffer a permanent physical invasion of her property or (2) completely
10 deprives an owner of all economical use of her property.” McCarran Intern. Airport v. Sisolak, 122
11 Nev. 645, 663, 137 P. 3d 1110, 1122 (2006).

12 Penn Central Regulatory Taking - A Penn Central taking analysis examines three guideposts:
13 the regulations economic impact on the property owner; the regulations interference with investment
14 backed expectations; and, the character of the government action. Sisolak, supra, at 663.

15 Regulatory Per Se Taking - A Per Se Regulatory Taking occurs where government action
16 “preserves” property for future use by the government. Sisolak, supra, at 731.

17 Non-regulatory Taking / De Facto Taking - A non-regulatory/de facto taking occurs where
18 the government has “taken steps that directly and substantially interfere with [an] owner’s property
19 rights to the extent of rendering the property unusable or valueless to the owner.” State v. Eighth
20 Jud. Dist. Ct., 131 Nev. Adv. Op. 41, 351 P.3d 736 (2015). “To constitute a taking under the Fifth
21 Amendment it is not necessary that property be absolutely ‘taken’ in the narrow sense of that word
22 to come within the protection of this constitutional provision; it is sufficient if the action by the
23 government involves a direct interference with or disturbance of property rights.” Richmond Elks
24 Hall Assoc. v. Richmond Red. Agency, 561 F.2d 1327, 1330 (9th Cir. Ct. App. 1977).

25 Temporary Taking - “[T]emporary deprivations of use are compensable under the Taking
26 Clause.” Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 1011-12 (1992); Arkansas Game
27 & Fish Comm’s v. United States, 568 U.S. 23, 133 S.Ct. 511 (2012).

1 Here, the Landowners have alleged facts and provided documents sufficient to sustain these
2 inverse condemnation claims as further set forth herein, which is sufficient to defeat the City's
3 motion for judgment on the pleadings.

4 **B. The Landowners' Property Interest**

5 "An individual must have a property interest in order to support a takings claim....The term
6 'property' includes all rights inherent in ownership, including the right to possess, use, and enjoy the
7 property." McCarran v. Sisolak, 122 Nev. 645, 137 P.3d 1110, 1119 (2006). "It is well established
8 that an individual's real property interest in land supports a takings claim." ASAP Storage, Inc. v.
9 City of Sparks, 123 Nev. 639, 645, 173 P.3d 734, 738 (2007) *citing to Sisolak and Clark County v.*
10 Alper, 100 Nev. 382 (1984). Meaning a landowner merely need allege an ownership interest in the
11 land at issue to support a takings claim and defeat a judgment on the pleadings. The Landowners
12 have made such an allegation.

13 The Landowners assert that they have a property interest and vested property rights in the
14 Subject Property for the following reasons:

15 1) The Landowners assert that they own approximately 250 acres of real property
16 generally located south of Alta Drive, east of Hualapai Way and north of Charleston Boulevard
17 within the City of Las Vegas, Nevada; all of which acreage is more particularly described as
18 Assessor's Parcel Numbers 138-31-702-003, 138-31-601-008, 138-31-702-004; 138-31-201-005;
19 138-31-801-002; 138-31-801-003; 138-32-301-007; 138-32-301-005; 138-32-210-008; and 138-32-
20 202-001 ("250 Acre Residential Zoned Land"). This action deals specifically and only with Assessor
21 Parcel Number 138-31-201-005 (the "35 Acre Property" and/or "35 Acres" and/or "Landowners'
22 Property" or "Property").

23 2) The Landowners assert that they had a property interest in the 35 Acre Property; that
24 they had the vested right to use and develop the 35 Acre Property; that the hard zoning on the 35
25 Acre Property has always been for a residential use, including R-PD7 (Residential Planned
26 Development District – 7.49 Units per Acre). The City does not contest that the hard zoning on the
27 Landowners' Property has always been R-PD7.

1 3) The Landowners assert that they had the vested right to use and develop the 35 Acre
2 Property up to a density of 7.49 residential units per acre as long as the development is comparable
3 and compatible with the existing adjacent and nearby residential development. The Landowners'
4 property interest and vested property rights in the 35 Acre Property are recognized under the United
5 States and Nevada Constitutions, Nevada case law, and the Nevada Revised Statutes.

6 4) The Landowners assert that their property interest and vested right to use and develop
7 the 35 Acre Property is further confirmed by the following:

- 8 a) On March 26, 1986, a letter was submitted to the City Planning Commission
9 requesting zoning on the entire 250 Acre Residential Zoned Land (which
10 includes the 35 Acre Property) and the zoning that was sought was R-PD7 as
11 it allows the developer flexibility and shows that developing the 35 Acre
12 Property for a residential use has always been the intent of the City and all
13 prior owners.
- 14 b) The City has confirmed the Landowners' property interest and vested right
15 to use and develop the 35 Acre Property residentially in writing and orally in,
16 without limitation, 1996, 2001, 2014, 2016, and 2018.
- 17 c) The City adopted Zoning Bill No. Z-2001, Ordinance 5353, which
18 specifically and further demonstrates that the R-PD7 Zoning was codified and
19 incorporated into the City of Las Vegas' Amended Zoning Atlas in 2001. As
20 part of this action, the City "repealed" any prior City actions that could
21 conflict with this R-PD7 hard zoning adopting: "SECTION 4: All ordinances
22 or parts of ordinances or sections, subsections, phrases, sentences, clauses or
23 paragraphs contained in the Municipal Code of the City of Las Vegas,
24 Nevada, 1983 Edition, in conflict herewith are hereby repealed."
- 25 d) At a November 16, 2016, City Council hearing, Tom Perrigo, the City
26 Planning Director, confirmed the 250 Acre Residential Zoned Land (which
27 includes the 35 Acre Property) is hard zoned R-PD7, which allows up to 7.49
28 residential units per acre.
- e) Long time City Attorney, Brad Jerbic, has also confirmed the 250 Acre
Residential Zoned Land (which includes the 35 Acre Property) is hard zoned
R-PD7, which allows up to 7.49 residential units per acre.
- f) The City Planning Staff has also confirmed the 250 Acre Residential Zoned
Land (which includes the 35 Acre Property) is hard zoned R-PD7, which
allows up to 7.49 residential units per acre.
- g) The City's own 2020 master plan confirms the 250 Acre Residential Zoned
Land (which includes the 35 Acre Property) is hard zoned R-PD7, which
allows up to 7.49 residential units per acre.
- h) The City issued two formal Zoning Verification Letters dated December 20,
2014, confirming the R-PD7 zoning on the entire 250 Acre Residential Zoned
Land (which includes the 35 Acre Property).

- 1 i) The City confirmed the Landowners' vested right to use and develop the 35
2 Acres prior to the Landowners' acquisition of the 35 Acres and the
3 Landowners materially relied upon the City's confirmation regarding the
4 Subject Property's vested zoning rights.
- 5 j) The City has approved development on approximately 26 projects and over
6 1,000 units in the area of the 250 Acre Residential Zoned Land (which
7 includes the 35 Acre Property) on properties that are similarly situated to the
8 35 Acre Property further establishing the Landowners' property interest and
9 vested right to use and develop the 35 Acre Property.
- 10 k) The City has never denied an application to develop in the area of the 250
11 Acre Residential Zoned Land (which includes the 35 Acre Property) on
12 properties that are similarly situated to the 35 Acre Property further
13 establishing the Landowners' property interest and vested right to use and
14 develop the 35 Acre Property.
- 15 l) There has been a judicial finding that the Landowners have the "right to
16 develop" the 35 Acre Property.
- 17 m) The Landowners' property interest and vested right to use and develop the
18 entire 250 Acre Residential Zoned Land (which includes the 35 Acre
19 Property) is so widely accepted that even the Clark County tax Assessor has
20 assessed the property as residential for a value of approximately \$88 Million
21 and the current Clark County website identifies the 35 Acre Property "zoned"
22 R-PD7.
- 23 n) There have been no other officially and properly adopted plans or maps or
24 other recorded document(s) that nullify, replace, and/or trump the
25 Landowners' property interest and vested right to use and develop the 35
Acre Property.
- 26 o) Although certain City of Las Vegas planning documents show a general plan
designation of PR-OS (Parks/Recreation/Open Space) on the 35 Acre
Property, that designation was placed on the Property by the City without the
City having followed its own proper notice requirements or procedures.
Therefore, any alleged PR-OS on any City planning document is being shown
on the 35 Acre Property in error. The City's Attorney confirmed the City
cannot determine how the PR-OS designation was placed on the Subject
Property.
- 27 p) The 35 Acre Property has always been zoned and land use planned for a
residential use. The City has argued that the Peccole Concept Plan applies
to the Landowners' 35 Acre Property and that plan has always identified the
specific 35 Acre Property in this case for a residential use. The land use
designation where the 35 Acre Property is located is identified for a
residential use under the Peccole Concept Plan and no major modification of
Mr. Peccole's Plan would be needed in this specific case to use the 35 Acre
Property for a residential use.

26 Any determination of whether the Landowners have a "property interest" or the vested right to use
27 the 35 Acre Property must be based on eminent domain law, rather than the land use law. The
28 Nevada Supreme Court in both the Sisolak and Schwartz v. State, 111 Nev. 998, fn 6 (1995)

1 decisions held that all property owners in Nevada, including the Landowners in this case, have the
2 vested right to use their property, even if that property is vacant, undeveloped, and without City
3 approvals. The City can apply “valid” zoning regulations to the property to regulate the use of the
4 property, but if those zoning regulations “rise to a taking,” Sisolak at fn 25, then the City is liable
5 for the taking and must pay just compensation.

6 Here, the Landowners have alleged facts and provided documents sufficient to show they
7 have a property interest in and a vested right to use the 35 Acre Property for a residential use, which
8 is sufficient to defeat the City’s motion for judgment on the pleadings.

9 **C. City Actions the Landowners Claim Amount to A Taking**

10 In determining whether a taking has occurred, Courts must look at the aggregate of all of the
11 government actions because “the form, intensity, and the deliberateness of the government actions
12 toward the property must be examined ... All actions by the [government], in the aggregate, must
13 be analyzed.” Merkur v. City of Detroit, 680 N.W.2d 485, 496 (Mich.Ct.App. 2004). *See also* State
14 v. Eighth Jud. Dist. Ct., 351 P.3d 736 (Nev. 2015) (*citing* Arkansas Game & Fish Comm’s v. United
15 States, 568 U.S. --- (2012)) (there is no “magic formula” in every case for determining whether
16 particular government interference constitutes a taking under the U.S. Constitution; there are “nearly
17 infinite variety of ways in which government actions or regulations can effect property interests.”
18 Id., at 741); City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687 (1999) (inverse
19 condemnation action is an “ad hoc” proceeding that requires “complex factual assessments.” Id.,
20 at 720.); Lehigh-Northampton Airport Auth. v. WBF Assoc., L.P., 728 A.2d 981 (Comm. Ct. Penn.
21 1999) (“There is no bright line test to determine when government action shall be deemed a de facto
22 taking; instead, each case must be examined and decided on its own facts.” Id., at 985-86).

23 The City has argued that the Court is limited to the record before the City Council in
24 considering the Landowners’ applications and cannot consider all the other City action towards the
25 Subject Property, however, the City cites the standard for petitions for judicial review, not inverse
26 condemnation claims. A petition for judicial review is one of legislative grace and limits a court’s
27 review to the record before the administrative body, unlike an inverse condemnation, which is of
28

1 constitutional magnitude and requires all government actions against the property at issue to be
2 considered.

3 The Landowners assert that the following City actions individually and/or cumulatively
4 amount to a taking of their Property:

5 **1. City Denial of the 35 Acre Property Applications.**

6 The Landowners submitted complete applications to develop the 35 Acre Property for a
7 residential use consistent with the R-PD7 hard zoning. *Exhibit 22: App LO 00000932-949*. The City
8 Planning Staff determined that the proposed residential development was consistent with the R-PD7
9 hard zoning, that it met all requirements in the Nevada Revised Statutes, and in the City's Unified
10 Development Code (Title 19), and appropriately recommended approval. *Exhibit 22: 4 App LO*
11 *00000932-949 and Exhibit 23: 4 App LO 00000950-976*. Tom Perrigo, the City Planning Director,
12 stated at the hearing on the Landowners' applications that the proposed development met all City
13 requirements and should be approved. *Exhibit 5: 2 App LO 00000376 line 566 - 377 line 587*. The
14 City Council denied the 35 Acre Property applications, stating as the sole basis for denial that the
15 City did not want piecemeal development and instead wanted to see the entire 250 Acre Residential
16 Zoned Land developed under one Master Development Agreement ("MDA").

17 **2. City Action #2: Denial of the Master Development Agreement (MDA).**

18 To comply with the City demand to have one unified development, for over two years
19 (between July, 2015, and August 2, 2017), the Landowners worked with the City on an MDA that
20 would allow development on the 35 Acre Property along with all other parcels that made up the 250
21 Acre Residential Zoned Land. *Exhibit 25: 5 App LO 00001132-1179*. The Landowners complied
22 with each and every City demand, making more concessions than any developer that has ever
23 appeared before this City Council. A non-exhaustive list of the Landowners' concessions, as part
24 of the MDA, include: 1) donation of approximately 100 acres as landscape, park equestrian facility,
25 and recreation areas (*Exhibit 29: 8 App LO 00001836; Exhibit 24: 4 App LO 00000998 lines 599-*
26 *601; Exhibit 30: 8 App LO 00001837*); 2) building two new parks, one with a vineyard; (Id.) and,
27 3) reducing the number of units, increasing the minimum acreage lot size, and reducing the number
28 and height of towers. *Exhibit 5: 2 App LO 00000431 lines 2060-2070; Exhibit 29: 8 App LO*

00001836; and Exhibit 30: 8 App LO 00001837. In total, the City required at least 16 new and revised versions of the MDA. Exhibit 28: 5-7 App LO 00001188-00001835. The City's own Planning Staff, who participated at every step in preparing the MDA, recommended approval, stating the MDA "is in conformance with the requirements of the Nevada Revised Statutes 278" and "the goals, objectives, and policies of the Las Vegas 2020 Master Plan" and "[a]s such, staff [the City Planning Department] is in support of the development Agreement." Exhibit 24: 4 App LO 00000985 line 236 – 00000986 line 245; LO 00001071-00001073; and Exhibit 40: 9 App LO 00002047-2072. And, as will be explained below, the MDA also met and exceeded any and all major modification procedures and standards that are set forth in the City Code.

On August 2, 2017, the MDA was presented to the City Council and the City denied the MDA. Exhibit 24: 5 App LO 00001128-112. The City did not ask the Landowners to make more concessions, like increasing the setbacks or reducing the units per acre, it simply and plainly denied the MDA altogether. *Id.* As the 35 Acre Property is vacant, this meant that the property would remain vacant.

3. City Action #3: Adoption of the Yohan Lowie Bills.

After denial of the MDA, the City adopted two Bills that solely target the 250 Acre Residential Zoned Land and preserve the Landowners' Property for public use. City Bill No. 2018-5 and Bill No. 2018-24 (now City Ordinances LVMC 19.16.105) not only target solely the Landowners' Property (no other golf course in the City is privately owned with residential zoning and no deed restrictions); but also requires the Landowners to preserve their Property for public use (LVMC 19.16.105 (E)(1)(d), (G)(1)(d)), provide ongoing public access to their Property (LVMC 19.16.105(G)(1)(d)), and provides that failure to comply with the Ordinances will result in a misdemeanor crime punishable by imprisonment and \$1,000 per day fine. (LVMC 19.16.105 (E)(1)(d), (G)(5)(b)&(c)). The Ordinance requires the Landowners to perform an extensive list of requirement, beyond any other development requirements in the City for residential development, before development applications will be accepted by the City. LVMC 19.16.105.

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1 **4. City Action #4: Denial of an Over the Counter, Routine Access Request.**

2 The Landowners have sufficiently alleged that in August of 2017, the Landowners filed with
3 the City a routine over the counter request (specifically excluded from City Council review - LVMC
4 19.16.100(f)(2)(a) and 19.16.100(f)(2)(a)(iii)) for three access points to streets the 250 Acre
5 Residential Zoned Land abuts – one on Rampart Blvd. and two on Hualapai Way. *Exhibit 58: 10 App*
6 *LO 00002359-2364*. The City denied the access applications citing as the sole basis for the denial,
7 “the various public hearings and subsequent debates concerning the development on the subject site.”
8 *Exhibit 59: 10 App LO 00002365*. The City required that the matter be presented to the City Council
9 through a “Major Review.” The City has required that this extraordinary standard apply only to the
10 Landowners to gain access to their property.

11 The Nevada Supreme Court has held that a landowner cannot be denied access to abutting
12 roadways, because all property that abuts a public highway has a special right of easement to the
13 public road for access purposes and this is a recognized property right in Nevada. Schwartz v. State,
14 111 Nev. 998 (1995). The Court held that this right exists “despite the fact that the Landowner had
15 not yet developed access.”Id., at 1003.

16 **5. City Action #5: Denial of an Over the Counter, Routine Fence Request.**

17 The Landowners have sufficiently alleged that in August, 2017, the Landowners filed with
18 the City a routine request to install chain link fencing to enclose two water features/ponds that are
19 located on the 250 Acre Residential Zoned Land. *Exhibit 55: 10 App LO 00002345-2352*. The City
20 Code expressly states that this application is similar to a building permit review that is granted over
21 the counter and not subject to City Council review. LVMC 19.16.100(f)(2)(a) and
22 19.16.100(f)(2)(a)(iii). The City denied the application, citing as the sole basis for denial, “the
23 various public hearings and subsequent debates concerning the development on the subject site.”
24 *Exhibit 56: 10 App LO 2343*. The City then required that the matter be presented to the City Council
25 through a “Major Review” pursuant to LVMC 19.16.100(G)(1)(b) which states that “the Director
26 determines that the proposed development could significantly impact the land uses on the site or on
27 surrounding properties.” *Exhibit 57: 10 App LO 00002354-2358*.

1 The Major Review Process contained in LVMC 19.16.100 is substantial. It requires a pre-
2 application conference, plans submittal, circulation to interested City departments for
3 comments/recommendation/requirements, and publicly noticed Planning Commission and City
4 Council hearings. The City has required that this extraordinary standard apply despite the fact that
5 LVMC 19.16.100 F(3) specifically prohibits review by the City Council, “[t]he Provisions of this
6 Paragraph (3) shall not apply to *building permit level reviews* described in Paragraph 2(a) of this
7 Subsection (F). Enumerated in Paragraph 2(a) as only requiring a “building level review” are “onsite
8 signs, walls and fences.”

9 **6. City Action #6: Denial of a Drainage Study.**

10 The Landowners have sufficiently alleged that in an attempt to clear the property, replace
11 drainage facilities, etc., the Landowners submitted an application for a technical drainage study,
12 which should have been routine, because the City and the Landowners already executed an On-Site
13 Drainage Improvements Maintenance Agreement that allows the Landowners to remove and replace
14 the flood control facilities on their property. *Exhibit 78: 12 App LO 00002936-2947*. Additionally,
15 the two new City Ordinances referenced in City Action #3 require a technical drainage study.
16 However, the City has refused to accept an application for a technical drainage study from the
17 Landowners claiming the Landowners must first obtain entitlements, however, the new City
18 Ordinances will not provide entitlements until a drainage study is received.

19 **7. City Action #7: The City’s Refusal to Even Consider the 133 Acre**
20 **Property Applications.**

21 The Landowners have sufficiently alleged that as part of the numerous development
22 applications filed by the Landowners over the past three years to develop all or portions of the 250
23 Acre Residential Zoned Land, in October and November 2017, the necessary applications were filed
24 to develop residential units on the 133 Acre Property (part of the 250 Acre Residential Zoned Land)
25 consistent with the R-PD7 hard zoning. *Exhibit 47: 9 App LO 00002119-10 App LO 2256. Exhibit*
26 *49: 10 App LO 00002271-2273*. The City Planning Staff determined that the proposed residential
27 development was consistent with the R-PD7 hard zoning, that it met all requirements in the Nevada
28 Revised Statutes, the City Planning Department, and the Unified Development Code (Title 19), and
recommended approval. *Exhibit 51: 10 App. LO 00002308-2321*. Instead of approving the

1 development, the City Council delayed the hearing for several months until May 16, 2018 - the same
2 day it was considering the Yohan Lowie Bill (now LVMC 19.16.105), referenced above in City
3 Action #3. *Exhibit 50: 10 App LO 00002285-2287*. The City put the Yohan Lowie Bill on the
4 morning agenda and the 133 Acre Property applications on the afternoon agenda. The City then
5 approved the Yohan Lowie Bill in the morning session. Thereafter, Councilman Seroka asserted that
6 the Yohan Lowie Bill applied to deny development on the 133 Acre Property and moved to strike
7 all of the applications for the 133 Acre Property filed by the Landowners. *Exhibit 6: 2 App LO*
8 *00000490 lines 206-207*. The City then refused to allow the Landowners to be heard on their
9 applications for the 133 Acre Property and voted to strike the applications. *Exhibit 51: 10 App LO*
10 *00002308-2321 and Exhibit 53: 10 App LO 00002327-2336*.

11 **8. City Action #8: The City Announces It Will Never Allow Development**
12 **on the 35 Acre Property, Because the City Wants the Property for a City**
Park and Wants to Pay Pennies on the Dollar for it.

13 The Landowners have sufficiently alleged that in documents obtained from the City it was
14 discovered that the City has already allocated \$15 million to acquire the Landowners' private
15 property - "\$15 Million-Purchase Badlands and operate." *Exhibit 35: 8 App LO 00001922*. In this
16 same connection, Councilman Seroka issued a statement during his campaign entitled "The Seroka
17 Badlands Solution" which provides the intent to convert the Landowners' private property into a
18 "fitness park." *Exhibit 34: 8 App LO 00001915*. In an interview with KNPR Seroka stated that he
19 would "turn [the Landowners' private property] over to the City." *Id. at LO 00001917*. Councilman
20 Coffin agreed, stating his intent referenced in an email as follows: "I think your third way is the only
21 quick solution...Sell off the balance to be a golf course with water rights (key). Keep the bulk of
22 Queensridge green." *Exhibit 54: 10 App LO 00002344*. Councilman Coffin and Seroka also
23 exchanged emails wherein they state they will not compromise one inch and that they "need an
24 approach to accomplish the desired outcome," which, as explained, is to prevent all development on
25 the Landowners' Property so the City can take it for the City's park and only pay \$15 Million.
26 *Exhibit 54: 10 App LO 00002340*. In furtherance of the City's preservation for public use, the City
27 has announced that it will never allow any development on the 35 Acre Property or any other part
28 of the 250 Acre Residential Zoned Land.

1 As it is universally understood that tax assessed value is well below market value, to
2 "Purchase Badlands and operate" for "\$15 Million," (which equates to less than 6% of the tax
3 assessed value and likely less than 1% of the fair market value) shocks the conscience. And, this
4 shows that the City's actions are in furtherance of a City scheme to specifically target the
5 Landowners' Property to have it remain in a vacant condition to be "turned over to the City" for a
6 "fitness park" for 1% of its fair market value. *Exhibit 34: 8 App LO 00001915 and Exhibit 35: 8*
7 *App LO 00001922.*

8 **9. City Action #9: The City Shows an Unprecedented Level of Aggression**
9 **To Deny All Use of the 250 Acre Residential Zoned Land.**

10 The Landowners have sufficiently alleged that the City has gone to unprecedented lengths
11 to interfere with the use and enjoyment of the Landowners's Property. Council members sought
12 "intel" against one of the Landowners so that the "intel" could, presumably, be used to deny any
13 development on the 250 Acre Residential Zoned Land (including the 35 Acre Property). In a text
14 message to an unknown recipient, Councilman Coffin stated:

15 Any word on your PI enquiry about badlands [250 Acre Residential Zoned Land]
16 guy?

17 While you are waiting to hear **is there a fair amount of intel on the scum** behind
18 [sic] the badlands [250 Acre Residential Zoned Land] takeover? **Dirt will be handy**
19 **if I need to get rough.** *Exhibit 81: 12 App LO 00002969. (emphasis supplied).*

20 Instructions were then given by Council Members on how to hide communications regarding the 250
21 Acre Residential Zoned Land from the Courts. Councilman Coffin, after being issued a documents
22 subpoena, wrote:

23 "Also, his team has filed an official request for all txt msg, email, anything at all on
24 my personal phone and computer under an erroneous supreme court opinion...So
25 everything is subject to being turned over so, for example, your letter to the c[i]ty
26 email is now public and this response might become public (to Yohan). I am
27 considering only using the phone but awaiting clarity from court. **Please pass word**
28 **to all your neighbors. In any event tell them to NOT use the city email address**
but call or write to our personal addresses. For now...PS. Same crap applies to
Steve [Seroka] as he is also being individually sued i[n] Fed Court and also his
personal stuff being sought. This is no secret so let all your neighbors know."
Exhibit 54: 10 App LO 00002343. (Emphasis added).

26 Councilman Coffin advised Queensridge residents on how to circumvent the legal process and the
27 Nevada Public Records Act *NRS 239.001(4)* by instructing them on how not to trigger any of the
28 search terms being used in the subpoenas. "Also, please pass the word for everyone to not use
B...l..nds in title or text of comms. That is how search works." Councilman Seroka testified at the

1 Planning Commission (during his campaign) that it would be “over his dead body” before the
2 Landowners could use their private property for which they have a vested right to develop. *Exhibit*
3 *21: 4 App LO 00000930-931*. And, In reference to development on the Landowners’ Property,
4 Councilman Coffin stated firmly “I am voting against the whole thing,” (*Exhibit 54: 10 App LO*
5 *00002341*)

6 **10. City Action #10: the City Reverses the Past Approval on the 17 Acre**
7 **Property.**

8 The Landowners have sufficiently alleged that in approving the 17 Acre Property applications
9 the City agreed the Landowners had the vested right to develop without a Major Modification, now
10 the City is arguing in other documents that: 1) the Landowners have no property rights; and, 2) the
11 approval on the 17 Acre Property was erroneous, because no major modification was filed:

12 “[T]he Developer must still apply for a major modification of the Master Plan before
13 a takings claim can be considered...” *Exhibit 37: 8 App LO 00001943 lines 18-20*;

14 “Moreover, because the Developer has not sought a major modification of the Master
15 Plan, the Court cannot determine if or to what extent a taking has occurred.” *Id. at*
16 *LO 00001944 lines 4-5*;

17 “According to the Council’s decision, the Developer need only file an application for
18 a major modification to the Peccole Ranch Master Development Plan ...to have its
19 Applications considered.” *Exhibit 39: 9 App LO 00002028 lines 11-15*;

20 “Here, the Council’s action to strike the Applications as incomplete in the absence
21 of a major modification application does not foreclose development on the Property
22 or preclude the City from ultimately approving the Applications or other
23 development applications that the Developer may subsequently submit. It simply held
24 that the City would not consider the Applications without the Developer first
25 submitting a major modification application.” *Id. at LO 00002032 lines 18-22*.

26 The reason the City changed its position is the City is seeking to deny the Landowners their
27 constitutional property rights so the Landowners’ Property will remain in a vacant condition to be
28 “turned over to the City” for a “fitness park” for 1% of its fair market value. *Exhibit 34: 8 App LO*
00001915 and Exhibit 35: 8 App LO 00001922.

29 **11. City Action #11: The City Retains Private Counsel to Advance an Open**
30 **Space Designation on the 35 Acre Property.**

31 The Landowners have sufficiently alleged that the City has retained and authorized private
32 counsel to advance an “open space” designation/major modification argument in this case to prevent
33 any and all development on the 35 Acre Property. This is a contrary position from that taken by the

1 City over the past 32 years on at least 1,067 development units in the Peccole Concept Plan area.
2 *Exhibit 105*. As explained above, over 1,000 units have been developed over the past 32 years in
3 the Peccole Concept Plan area and not once did the City apply the “open space”/major modification
4 argument it is now advancing, even though those +1,000 units were developed contrary to the land
5 use designation on the Peccole Concept Plan. The City has specifically targeted the Landowners and
6 their Property and is treating them differently than it has treated all other properties and owners in
7 the area (+1,000 other units in the area) for the purpose of forcing the Landowners’ Property to
8 remain in a vacant condition to be “turned over to the City” for a “fitness park” for 1% of its fair
9 market value. *Exhibit 34: 8 App LO 00001915 and Exhibit 35: 8 App LO 00001922*.

10 Here, the Landowners have alleged facts and provided documents sufficient to show their
11 Property has been taken by inverse condemnation, which is sufficient to defeat the City’s motion for
12 judgment on the pleadings.

13 **D. The City’s Argument that the Landowners have No Vested Property Right**

14 The City contends that the Landowners do not have a vested right to use their property for
15 anything other than open space or a golf course. As set forth above, the Landowners have alleged
16 facts and provided documents sufficient to show they have a property interest in and a vested right
17 to use the 35 Acre Property for a residential use, which is sufficient to defeat the City’s motion for
18 judgment on the pleadings.

19 **E. The City’s Argument that the Landowners’ Taking Claims are Not Ripe**

20 The City contends that the Landowners’s taking claims are not ripe, because they have not
21 filed a major modification application, which the City contends is a precondition to any development
22 on the Landowners’ Property. This City argument is closely related to the City’s vested rights
23 argument as the City also contends the Landowners have no vested right to use their property for
24 anything other than a golf course until such time as they submit a major modification application.
25 The Landowners have alleged that a ripeness/exhaustion of administrative remedies analysis does
26 not apply to the four inverse condemnation claims for which the Landowners’ are requesting a
27 judicial finding of a taking - regulatory per se, non-regulatory/de facto, categorical, or temporary
28

1 taking of property⁴ and, therefore, the City's ripeness/exhaustion of administrative remedies
2 argument has no application to these four inverse condemnation claims. The Landowners further
3 allege that the ripeness analysis only applies to the Landowners' inverse condemnation Penn Central
4 Regulatory Takings Claim and, if the Court applies the ripeness analysis, all claims are ripe,⁵
5 including the Penn Central claim.

6
7 **1. The Landowners Allege Facts Sufficient to Show They Made At Least
One Meaningful Application and It Would be Futile to Seek Any
Further Approvals From the City.**

8 "While a landowner must give a land-use authority an opportunity to exercise its discretion,
9 once [...] the permissible uses of the property are known to a reasonable degree of certainty, a
10 [regulatory] taking claim [Penn Central claim] is likely to have ripened."⁶ The purpose of this rule
11 is to understand what the land use authority will and will not allow to be developed on the property
12 at issue. But, "[g]overnment authorities, of course, may not burden property by imposition of
13 repetitive or unfair land-use procedures in order to avoid a final decision."⁷ "[W]hen exhausting
14 available remedies, including the filing of a land-use permit application, is futile, a matter is deemed
15 ripe for review."⁸

16
17 ⁴ Hsu v. County of Clark, supra, ("[d]ue to the "per se" nature of this taking, we further
18 conclude that the landowners were not required to apply for a variance or otherwise exhaust their
19 administrative remedies prior to bringing suit." *Id.*, at 732); McCarran Int'l Airport v. Sisolak, 122
20 Nev. 645, 137 P.3d 1110 (2006) ("Sisolak was not required to exhaust administrative remedies or
21 obtain a final decision from the Clark County Commission by applying for a variance before
bringing his inverse condemnation action based on a regulatory per se taking of his private property."
Id. at 664).

22 ⁵ The Nevada Supreme Court has stated regulatory takings claims are generally "not
23 ripe until the government entity charged with implementing the regulations has reached a final
24 decision regarding the application of the regulations to the property at issue." State v. Eighth Jud.
Dist. Ct., 131 Nev. Adv. Op. 41 (2015) (quoting Williamson County Reg'l Planning Comm'n v.
Hamilton Bank of Johnson City, 473 U.S. 172, 186, 105 S. Ct. 3108, 87 L. Ed. 2d 126 (1985)).

25 ⁶ Palazzolo v. Rhode Island, 533 U.S. 606, 620, (2001) ("The central question in
26 resolving the ripeness issue, under *Williamson County* and other relevant decisions, is whether
petitioner obtained a final decision from the Council determining the permitted use for the land." *Id.*,
at 618.).

27 ⁷ Palazzolo, at 621. Citing to Monterey v. Del Monte Dunes at Monterey, Ltd., 526
28 U.S. 687, 698, 119 S.Ct. 1624, 143 L.Ed. 2d 882 (1999).

⁸ State v. Eighth Judicial Dist. Court of Nev., 351 P.3d 736, 742 (Nev. 2015). For
example, in Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687, 698, 119 S.Ct. 1624,

1 In City of Monterey v. Del Monte Dunes 526 U.S. 687, 119 S.Ct. 1624 (1999) the United
2 States Supreme Court held that a taking claim was ripe where the City of Monterey required 19
3 changes to a development application and then asked the landowner to make even more changes.
4 Finally, the landowner filed inverse condemnation claims. Similar to the City argument in this case,
5 the City of Monterey asserted the landowners' inverse condemnation claims were not ripe for review.
6 The City of Monterey asserted that the City's decision was not final and the landowners' claim was
7 not ripe, because, if the landowner had worked longer with the City of Monterey or filed a different
8 type of application with the City of Monterey, the City of Monterey may have approved development
9 on the landowner's property. The United States Supreme Court approved the Ninth Circuit opinion
10 as follows: "to require additional proposals would implicate the concerns about repetitive and unfair
11 procedures" and "the city's decision was sufficiently final to render [the landowner's] claim ripe for
12 review." Del Monte Dunes, at 698. The United States Supreme Court re-affirmed this rule in the
13 Palazzolo v. Rhode Island, 533 U.S. 606, 121 S.Ct. 2448 (2001) holding the "Ripeness Doctrine does
14 not require a landowner to submit applications for their own sake. Petitioner is required to explore
15 development opportunities on his upland parcel only if there is uncertainty as to the land's permitted
16 uses." Id at 622.

17 As set forth above, the Landowners have alleged facts and provided documents sufficient to
18 show they submitted the necessary applications to develop the 35 Acre Property, that the City denied
19 every attempt at development, and that it would be futile to seek any further development
20

21 143 L.Ed. 2d 882 (1999) "[a]fter five years, five formal decisions, and 19 different site plans,
22 [internal citation omitted] Del Monte Dunes decided the city would not permit development of the
23 property under any circumstances." Id., at 698. "After reviewing at some length the history of
24 attempts to develop the property, the court found that to require additional proposals would implicate
25 the concerns about repetitive and unfair procedures expressed in MacDonld, Commer & Frates v.
Yolo County, 477 U.S. 340, 350 n. 7, (1986) [citing Stevens concurring in judgment from
26 Williamson Planning Comm'n v. Hamilton Bank, 473 U.S. 172 at 205-206, 105 S.Ct. 3108 at 3126
(1985)] and that the city's decision was sufficiently final to render Del Monte Dunes' claim ripe for
27 review." Del Monte Dunes, at 698. The "Ripeness Doctrine does not require a landowner to submit
28 applications for their own sake. Petitioner is required to explore development opportunities on his
upland parcel only if there is uncertainty as to the land's permitted uses." Palazzolo v. Rhode Island,
at 622.

1 applications from the City, which is sufficient to defeat the City's motion for judgment on the
2 pleadings.

3 **2. The Landowners Allege Facts Sufficient to Show That a Major**
4 **Modification Application Was Not Required To Ripen Their Inverse**
5 **Condemnation Claims**

6 The Landowners further allege that no major modification of the Peccole Concept Plan was
7 necessary to develop the 35 Acre Property, because the Landowners were seeking to develop the 35
8 Acre Property residentially and the land use designation on the Peccole Concept Plan for the 35 Acre
9 Property is a residential use. *Exhibit 107*. Therefore, there was no need to "modify" the Peccole
10 Concept Plan to develop the 35 Acre Property residentially.

11 The Landowners have also alleged that the City has never required a major modification
12 application to develop properties included in the area of the Peccole Concept Plan. The Landowners
13 allege the City has approved development for approximately 26 projects and over 1,000 units in the
14 area of the 250 Acre Residential Zoned Land (which includes the 35 Acre Property) on properties
15 that were developed with a use contrary to the Peccole Concept Plan and not once did the City
16 require a major modification application.

17 Here, the Landowners have alleged facts and provided documents sufficient to show that a
18 major modification was not required to ripen their inverse condemnation claims, which is sufficient
19 to defeat the City's motion for judgment on the pleadings.

20 **3. The Landowners Allege Facts Sufficient to Show That, Even if a Major**
21 **Modification Application was Necessary to Ripen Their Inverse**
22 **Condemnation Claims, They Met this Requirement**

23 Specific to the City's assertion that a major modification application is necessary to ripen the
24 Landowners' inverse condemnation claims, the Landowners allege that even if a major modification
25 application is required, the MDA the Landowners worked on with the City for over two years,
26 referenced above, included and far exceeded all of the requirements of a major modification
27 application. *Exhibit 28*. Moreover, the Landowners have cited to a statement by the City Attorney
28 wherein he stated on the City Council record as follows: "Let me state something for the record just
to make sure we're absolutely accurate on this. There was a request for a major modification that

1 accompanied the development agreement [MDA], that was voted down by Council. So that the
2 modification, major mod was also voted down.” Exhibit 61, City Council Meeting of January 3,
3 2018 Verbatim Transcript – Item 78, Page 80 of 83, lines 2353-2361. Additionally, the Landowners
4 allege that they also submitted an application referred to as a General Plan Amendment (GPA),
5 which includes and far exceeds the requirements of the City’s major modification application and
6 the City denied the GPA as part of its denial of any use of the 35 Acre Property. Exhibit 5.

7 Here, the Landowners have alleged facts and provided documents sufficient to show that,
8 even if a major modification application is required to ripen their inverse condemnation claims, they
9 met these requirements, which is sufficient to defeat the City’s motion for judgment on the
10 pleadings.

11 **F. The City’s Argument that the Statute of Limitation has Run on the Landowners**
12 **Inverse Condemnation Claims**

13 The City contends that, if there was a taking, it resulted from the City action related to
14 adoption of the City’s Master Plan and the City’s Master Plan was adopted more than 15 years ago
15 and, therefore, the statute of limitations has run on the Landowners’ inverse condemnation claims.
16 The Landowners contend that a City Plan cannot result in a taking, that the City must take action to
17 implement the Plan on a specific property to make the City liable for a taking.

18 The statute of limitations for an inverse condemnation action in Nevada is 15 years. White
19 Pine Limber v. City of Reno, 106 Nev. 778 (1990). Nevada law holds that merely writing a land use
20 designation over a parcel of property on a City land use plan is “insufficient to constitute a taking
21 for which an inverse condemnation action will lie.” Sproul Homes of Nev. v. State ex rel. Dept of
22 Highways, 96 Nev. 441, 443 (1980) *citing to* Selby Realty Co. v. City of San Buenaventura, 169
23 Cal.Rptr. 799, 514 P.2d 111, 116 (1973) (Inverse claims could not be maintained from a City’s
24 “General Plan” showing public use of private land). *See also* State v. Eighth Jud. Dist. Ct., 131 Nev.
25 Adv. Op. 41, 351 P.3d 736 (2015) (City’s amendment to its master plan to allow for a road widening
26 project on private land did not amount to a regulatory taking). This rule and its policy are set forth
27 by the Nevada Supreme Court as follows:

28 If a governmental entity and its responsible officials were held subject to a claim for
inverse condemnation merely because a parcel of land was designated for potential

1 public use on one of the several authorized plans, the process of community planning
2 would either grind to a halt, or deteriorate to publication of vacuous generalizations
3 regarding the future use of land. We indulge in no hyperbole to suggest that if every
4 landowner whose property might be affected at some vague and distant future time
5 by any of these legislatively permissible plans was entitled to bring an action in
6 declaratory relief to obtain a judicial declaration as to the validity and potential effect
7 of the plan upon his land, the courts of this state would be inundated with futile
8 litigation. Sproul Homes, supra, at 444.

9 Accordingly, the date that would trigger the statute of limitations would not be the master plan or
10 necessarily the designation of the Property as PR-OS, but it will be the acts of the City of Las Vegas
11 / City Council that would control.

12 Here, the Landowners have alleged facts and provided documents sufficient to show their
13 property has been taken by inverse condemnation based upon the acts of the City of Las Vegas / City
14 Council that occurred less than 15 years ago. Therefore, the City's statute of limitations argument
15 is denied.

16 **G. The City's Argument that the Court Should Apply Its Holding in the Petition
17 For Judicial Review to the Landowners Inverse Condemnation Claims**

18 The City contends that the Court's holding in the Landowners' petition for judicial review
19 should control in this inverse condemnation action. However, both the facts and the law are different
20 between the petition for judicial review and the inverse condemnation claims. The City itself made
21 this argument when it moved to have the Landowners' inverse condemnation claims dismissed from
22 the petition for judicial review earlier in this litigation. Calling them "two disparate sets of claims"
23 the City argued that:

24 "The procedural and structural limitations imposed by petitions for judicial review
25 and complaints, however, are such that they cannot afford either party ample
26 opportunity to litigate, in a single lawsuit, all claims arising from the transaction. For
27 instance, Petitioner's claim for judicial review will be "limited to the record below,"
28 and "[t]he central inquiry is whether substantial evidence supports the agency's
decision." United Exposition Service Company v. State Industrial Insurance System,
109 Nev. 421, 424, 851 P.2d 423, 425 (1993). On the other hand, Petitioner's inverse
condemnation claims initiate a new a civil action requiring discovery (not limited to
the record below), and the central inquiry is whether Petitioner (as plaintiff) can
establish its claims by a preponderance of the evidence. Thus, allowing Petitioner's
four "alternative" inverse condemnation claims (i.e., the complaint) to remain on the
Petition will create an impractical situation for the Court and parties, and may allow
Petitioner to confuse the record for judicial review by attempting to augment it with
discovery obtained in the inverse condemnation action." (October 30, 2017, City of
Las Vegas Motion to Dismiss at 8:2)

1 The evidence and burden of proof are significantly different in a petition for judicial review
2 than in civil litigation. And, as further recognized by the City, there will be additional facts in the
3 inverse condemnation case that must be considered which were not permitted to be considered in
4 the petition for judicial review. This is true, as only City Action #1 above was considered in the
5 petition for judicial review, not City Actions #2-11. And, as stated above, this Court must consider
6 all city actions in the aggregate in this inverse condemnation proceeding.

7 As an example, if the Court determined in a petition for judicial review that there was
8 substantial evidence in the record to support the findings of a workers' compensation hearing
9 officer's decision, that would certainly not be grounds to dismiss a civil tort action brought by the
10 alleged injured individual, as there are different fact, different legal standards and different burdens
11 of proof.

12 Furthermore, the law is also very different in an inverse condemnation case than in a petition
13 for judicial review. Under inverse condemnation law, if the City exercises discretion to render a
14 property valueless or useless, there is a taking. Tien Fu Hsu v. County of Clark, 173 P.3d 724 (Nev.
15 2007), McCarran Int'l Airport v. Sisolak, 122 Nev. 645, 137 P.3d 1110 (Nev. 2006), City of
16 Monterey v. Del Monte Dunes, 526 U.S. 687, 119 S.Ct. 1624 (1999), Lucas v. South Carolina
17 Coastal Council, 505 U.S. 1003 (1992). In an inverse condemnation case, every landowner in the
18 state of Nevada has the vested right to possess, use, and enjoy their property and if this right is taken,
19 just compensation must be paid. Sisolak. And, the Court must consider the "aggregate" of all
20 government action and the evidence considered is not limited to the record before the City Council.
21 Merkur v. City of Detroit, 680 N.W.2d 485 (Mich.Ct.App. 2004), State v. Eighth Jud. Dist. Ct., 131
22 Nev. Adv. Op. 41, 351 P.3d 736 (2015), Arkansas Game & Fish Comm's v. United States, 568 U.S.
23 23, 133 S.Ct. 511 (2012). On the other hand, in petitions for judicial review, the City has discretion
24 to deny a land use application as long as valid zoning laws are applied, there is no vested right to
25 have a land use application granted, and the record is limited to the record before the City Council.
26 Stratosphere Gaming Corp., v. City of Las Vegas, 120 Nev. 523, 96 P.3d 756 (2004).
27
28

1 The Court has previously entered a Nunc Pro Tunc Order in this case recognizing the petition
2 for judicial review matter is different from the inverse condemnation matter:

3 “this Court had no intention of making any findings, conclusions of law or orders
4 regarding the Landowners’ severed inverse condemnation claims as a part of the
5 Findings of Fact and Conclusions of Law entered on November 21, 2018, (“FFCL”).
6 Accordingly, as stated at the hearing on January 17, 2019, the findings, conclusions
and order set forth at page 23:4-20 and page 24:4-5 of the FFCL are hereby removed
nunc pro tunc.” (Order filed February 6, 2019).

7 For these reasons, it would be improper to apply the Court’s ruling from the Landowners’
8 petition for judicial review to the Landowners’ inverse condemnation claims.

9
10 **H. Conclusion on The City’s Motion for Judgment on the Pleadings on Developer’s
Inverse Condemnation Claims**

11 The City moved the Court for judgment on the pleadings pursuant to NRCP 12(c). The rule
12 is designed to provide a means of disposing of cases when material facts are not in dispute, and a
13 judgment on the merits can be achieved by focusing on the contents of the pleadings. It has utility
14 only when all material allegations of facts are admitted in the pleadings and only questions of law
15 remain.

16 This Court reviewed extensive briefings and entertained three and a half to four hours of oral
17 arguments which contained factual disputes and argument throughout the entire hearing. The Court
18 cannot say as a matter of law that the Landowners have no case, there are still factual disputes that
19 must be resolved. Moreover, the court finds that this case can be heard on the merits as that policy
20 is provided in Schulman v. Bongberg-Whitney Elec., Inc., 98 Nev. 226, 228 (1982).

21 Accordingly, IT IS HEREBY ORDERED that The City’s Motion for Judgment on the
22 Pleadings on Developer’s Inverse Condemnation Claims is **DENIED**.

23
24 **III. The Landowners Rule 56 Motion for Summary Judgment on Liability for the
Landowners Inverse Condemnation Claims**

25 The Landowners countermoved this Court for summary judgment on the Landowners’
26 inverse condemnation claims. Discovery has not commenced nor as of the date of the hearing have
27 the parties had a NRCP 16.1 case conference. The Court finds it would be error to consider a Rule
28 56 motion at this time.


1 Accordingly, IT IS HEREBY ORDERED that the Landowners' Countermotion for Judicial
2 Determination of Liability on the Landowners' Inverse Condemnation Claims is **DENIED** without
3 prejudice.

4 **IT IS SO ORDERED.**

5 DATED this ~~6th~~ day of April, 2019. ~~CD~~
6 May 14,
7

8 
9 DISTRICT COURT JUDGE

10 Respectfully Submitted By:
11 **LAW OFFICES OF KERRITT L. WATERS**

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