

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellant,

vs.

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

Respondents.

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

Appellants/Cross-Respondents,

vs.

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

Respondent/Cross-Appellant.

No. 84345

Electronically Filed
Aug 25 2022 04:05 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

No. 84640

**JOINT APPENDIX,
VOLUME NO. 103**

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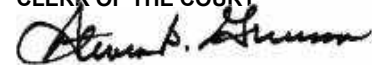


Exhibit 3

Part 2 of 3

Andrea Cole

From: Peter Lowenstein <plowenstein@LasVegasNevada.GOV>
Sent: Tuesday, November 21, 2017 1:44 PM
To: George Garcia
Cc: Andrea Cole
Subject: RE: QR - Inquiry on Tentative Map and SDR Applications - Badlands Parcels 2, 3, & 4

Mr. Garcia,

Thank you for your inquiries into the Projects PRJ-71990, PRJ-71991 & PRJ-71992. The Department of Planning has requested (not required) a General Plan Amendment to accompany the proposed projects. Pursuant to the Las Vegas Municipal Code the submitted application types should be consistent with the General Plan, however are not required through specific code language.

The three before mentioned projects are scheduled for the December 12, 2017 Planning Commission meeting. The projects are all to be heard as public hearing items at that meeting. Neighborhood meetings are not required for the proposed application types pursuant to the Las Vegas Municipal Code Title 19, nor has the applicant indicated that they will be holding any prior to the December 12, 2018 Planning Commission meeting.

Once again, thank you for your inquiries and have a happy Thanksgiving.

Sincerely,

Peter Lowenstein
Acting Planning Director
Department of Planning
702-229-4693 Office | 702-474-7463 Fax
333 N. Rancho Drive, 3rd Floor, NV 89106



lasvegasnevada.gov



From: Andrea Cole [mailto:acole@gcgarciainc.com]
Sent: Monday, November 20, 2017 3:41 PM
To: Peter Lowenstein
Cc: George Garcia
Subject: QR - Inquiry on Tentative Map and SDR Applications - Badlands Parcels 2, 3, & 4

Good Afternoon Peter,

Please see the attached letter regarding an inquiry on the Tentative Map and SDR Applications - Badlands Parcels 2, 3, & 4. We would appreciate a response to the questions included.

If you have any questions please feel free to contact me at the number listed below.

Thanks and Best Regards.

To: alejandro.garcia[agarcia@LasVegasNevada.GOV]; Crystal H. Makridis[cmakridis@LasVegasNevada.GOV]; Nashira Ling[nling@LasVegasNevada.GOV]; rafiq ali[rali@LasVegasNevada.GOV]; Sandy Gravseth[sgravseth@LasVegasNevada.GOV]; Victor Ravelo[vavelo@LasVegasNevada.GOV]
From: Lauren E. Storia
Sent: Tue 6/27/2017 8:47:09 PM
Subject: Badlands

If anyone sees a permit for grading or clear and grub at the **Badlands** Golf Course, please see Kevin, Rod, or me. Do Not Permit without approval from one of these three.



Lauren Storia | Senior Permit Technician
Building & Safety
333 N. Rancho Drive, Las Vegas, NV 89106
702-229-5460

lasvegasnevada.gov



City of Las Vegas Building & Safety

Your opinion is important! Click [here](#) to take a short survey.

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18114

To: Jorge Cervantes[JCervantes@LasVegasNevada.GOV]
From: Sara Garcia
Sent: Thur 5/11/2017 10:11:24 PM
Subject: RE: Key/Burning Issues: Week of May 8

For your review/approval:

Key/Burning Issues: - Week of May 8

BUILDING & SAFETY:

Customer Service:

- No new issues this week to report to Council – continuing to train and prepare for implementation of INFOR. We are reaching out to frequent customer to invite them to see the new web functions of the program.

Inspections/Permits:

- No new issues this week to report to Council – continuing to train and prepare for implementation of INFOR

OIT/Lab:

- Began Integrated Systems Testing for the INFOR10 application and associated web functions.

PLANNING:

BUSINESS LICENSING:

- **Cannabis Wedding Chapel** – A search warrant was issued on the Cannabis Wedding Chapel for issuing fraudulent medical marijuana cards and on-site consumption. The licenses for this establishment are temporary and will be suspended.
- **Cox Cable Audit** – Final settlement \$1.3 million.
- **Safari Motel** – The judge has continued the case brought by the City to declare the motel a chronic nuisance for a week. The property failed the inspection of May 9, 2017 by Code Enforcement and Licensing has issued notice to the owner that Licensing will not be renewing the license on May 30, 2017 unless the motel addresses the violations. The judge allowed the owner until May 30 to complete improvements and alleviate the activity occurring on the property.
- **Guerrero Tires** - BL compliance assisted Metro Narcotics immediately following service of Metro's search warrant on Thurs. May 4. This is 1845 N. Rancho and one of two locations for Guerrero (I don't know whether the second location is in the city). Guerrero is one of two owners and was arrested immediately on felony charges of controlled substances sales and possession of illegal firearms (shotguns with silencers, e.g.). Meth and cocaine were found on the premises, along with large amounts of cash. Metro is investigating the co-owner, probably Guerrero's wife. It appears unlikely at this time that the shop will reopen because Guerrero is in custody. In addition, the landlord will be evicting Guerrero. We have not found the location open since the time of search warrant execution last week.

PLANNING:

Badlands Golf Course

- An agreement between all three parties has been reached.
- Applications for the June PC item will be submitted this week.

Renaissance (Northern portion of Boca Park)

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18115

To: Bob Coffin (lvcouncilman@hotmail.com)[lvcouncilman@hotmail.com]
Cc: Susan Finucan[sfinucan@LasVegasNevada.GOV]; Felipe Ortiz[fortiz@LasVegasNevada.GOV]; Maria Jose Norero[mnorero@LasVegasNevada.GOV]
From: Felipe Ortiz
Sent: Tue 6/6/2017 9:42:41 PM
Subject: Notes from today's briefing

Hello Councilman,

Of importance on the City Council Agenda for tomorrow.

Item 46 – Bed and Breakfast Bill for licensing and zoning.

Lois Tarkanian told the morning group that she will be making a Motion to send the Bill back to the June 19

Recommending Committee meeting for amendments and then back to City Council on June 21.

Item 48 - Bill 2017-27 "Development Agreement for Two Fifty" or Badlands will be introduced as a new Bill tomorrow.

Brad reported that there is resolution on most matters and the entire area.

This item and matter should be considered a hearing and per Brad Jerbic in no circumstance should you tip the way that you are going to vote,

as a pre-judgement comment on a quasi-judicial hearing could trigger legal action.

There will be another briefing on the almost Final and Revised Amended Development Agreement with respect to Badlands and will go to a final vote on June 21, 2017,

no matter what.

Item 51 - Is Vegas Antiques and your item for a hearing on the sign on the roof and the storage container in the back of the lot which has electricity.

Item 55 and 56 Ward 1 will be abeyed.

Felipe

004269
005250

18116

To: Ervin Kral[ekral@LasVegasNevada.GOV]
From: David F. Klein
Sent: Wed 12/20/2017 10:44:29 PM
Subject: Badlands

Just for giggles, can we update the numbers you provided for calls in the Summerlin Village Paesos II for 2016 and 2017 I figure evenif the Badlands site is gogin to be about 1000 homes less it can show that the hand full of calls we get will not be any impact.

David F. Klein

Deputy Fire Marshal | Fire Protection Engineering
Las Vegas Fire & Rescue, Fire Prevention Division
333 N. Rancho Drive, #500, Las Vegas, NV 89106
Direct: 702-229-0336 | Cell 702-303-0720



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01005064

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Exhibit 136

Transcription of Recorded Homeowners Association Meeting

9101 Alta Drive

Case:

180 Land Company, LLC, et al. v. City of Las Vegas, et al.
A-17-758528-J

Date:

06/21/2018



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TRANSCRIPTION OF AUDIO RECORDED

9101 Alta Drive HOA Meeting

Steve Seroka, Main Speaker

June 21, 2018

In Re: 180 Land Company, LLC, et. al.

V.

City of Las Vegas, et. al.

Cause No: A-17-758528

RECORDED BY ELECTRONIC SOUND RECORDING;
TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE

Transcribed by: Carmelita E. Lee
Certified Electronic Transcriber
Certificate No. CET**D-499

1 Transcription of Audio Recording of June 21, 2018

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HOA MEETING

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Thank you.

15

COUNCILMAN SEROKA: Thank you.

16

Is it okay if I take this off here?

17

CHAIR: Yes.

18

19

COUNCILMAN SEROKA: If that's okay, I would like to get everybody in on it.

20

21

22

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24

25

Steve Seroka. I'm your neighbor up the street here off of Alta, and I'm your city councilman. If you don't know that, you should by now. It's funny, I go places and people stop me and I introduce myself, and they say, I know who you are.

But I'll give you an update. Last time I

1 And I said, well, tell me about this real
2 confusing part. They say ah, it's confusing, and you
3 wouldn't understand it. I go what are you talking
4 about? Well, I don't know if it was confusing, it might
5 have been that they didn't understand it, or now that I
6 do understand it, what it says is, it is very clear that
7 the land formally known as the Badlands Golf Course is
8 the agreed upon, approved, documented, required by the
9 city open space and recreational area for this part of
10 the city of Las Vegas. Far beyond that, far beyond
11 Queensridge.

12 What that means is, back in the day when
13 this area was being developed, it was put forth and the
14 city said, well, tell us where your open space and your
15 recreation is going to be, and they said, see this land
16 that is a flood zone? See this land that is marshland?
17 It is called -- it is called wetlands now, even though
18 it is not wet all of the time -- it is federally
19 protected. We are going to use that as our required
20 open space. We will make it a golf course, so we will
21 get two for one. It is a recreational space as well.
22 It is documented, and it is written down.

23 So when they built over there off of
24 Hualapai and Sierra -- Sahara -- this land is the open
25 space. Every item that was built along Hualapai and

1 Sahara, this is the open space. Every community that
2 was built around here, that is the open space.

3 The development across the street, across
4 Rampart, that is the open space. It is documented, it
5 is designated. You can track it through the system,
6 when there was change, and there were all of the three
7 letter identifiers that our city planners have used over
8 the years.

9 The result has been -- it is also
10 documented as part recreation, open space. It is green
11 on the map, and there has been statements that say, oh,
12 that was just thrown in on the map. It is clearly
13 documented, even the process is outlined in documents
14 that are signed and approved by the city. That is part
15 recreation and open space.

16 What does that mean? What it means is
17 park recreation and open space is zero entitlements. It
18 doesn't even say zero, it says not applicable. Not
19 applicable. When it is park, recreation, open space,
20 development is not applicable. Underneath that zone,
21 when it is zoned RPD 7, that is a residential plan
22 development district.

23 We don't do that any more, they changed
24 the rules. So when you look at an RPD district, it says
25 RPD 7. In an RPD 7 area, you can get up to seven units

1 per acre over all. And part of that is you have a
2 requirement for open space and recreational space, like
3 I said.

4 So when you have an RPD district, there is
5 a plan, and in that plan it outlines whatever area of
6 that acreage is going to be. You have a plan formally
7 known as -- a golf course known as Badlands, is drainage
8 and golf course. As I say, it is a required open space,
9 it is a required recreational space.

10 At that time, it was generally accepted
11 accounting principals and generally accepted percentage
12 of acreage that is open space/recreational. It is 20
13 percent. What we have up here is the agreed upon
14 roughly 20 percent. It's in the ballpark.

15 So we were going to change this into a
16 developmental land at this point. It would be like
17 Scott Canyon (phonetic) that is going up in the
18 northwest, where they have required open space, they
19 have required plots. It would be similar to, then once
20 that community has completed that, then the city council
21 is approached, and the city council would vote to, now
22 that it is completed, that park that you built your
23 house on, we are not going to build in that park. That
24 is the park for this area.

25 So is there a process to build through and

1 have that requested? Absolutely. Judge Crockett
2 outlined that in the lawsuit where he said the city
3 violated the law and overturned the 435 (indiscernible)
4 because you didn't follow the process that the city has.
5 Here is the process, follow it if you want to do it.

6 So there is a process to do that. It is
7 procedural. And then you would have the context for the
8 city council to judge whether they would like to approve
9 development. And that goes back to what is the
10 recommended solution around the country.

11 If you are going to do that, if there is
12 no requirement to, there is absolutely no reason for the
13 city council to say yes in that case, because the city
14 has already said that is a recreational space, that is
15 the open space. That goes back to all of these
16 successful concepts around the nation, is a concentrated
17 small development and a small part, usually multi
18 dwelling, very beautiful, multi towered kind of thing
19 like this, in a very small place. And the rest is open.
20 It is generally the solution around the country. That
21 doesn't mean that is a solution here but I am just
22 sharing with you.

23 Now that we have the documentation clear,
24 that is open space for this part of our community. It
25 is the recreation space for this part of it. It is not

1 me, it is what the law says. It is what the contracts
2 say between the city and the community, and that is what
3 you all are living on right now.

4 There is a way to go forward. In the
5 meantime, I just wanted to share that the city has
6 approximately ten lawsuits against it filed by the
7 developer. One of those lawsuits I mentioned includes
8 myself and Councilman Kaufman by name. We were being
9 sued in a federal case. The other cases are claiming
10 other things like inverse condemnation, people are
11 biased and the city is breaking its rules. Judge
12 Crockett has already said the city broke its rules.

13 When you follow the rules, you get sued as
14 well. The city got sued after this last one.

15 So what is going to happen with those
16 lawsuits? Well, the city has a litigator. The city has
17 a team. But in addition, because there are so many, and
18 because they are so intense, and because the talent of
19 the firms that are representing the developer, and the
20 best inverse condemnation lawyer in the State of Nevada
21 on their team, and they have the Lieutenant Governor of
22 the State of Nevada on their team. You want to make
23 sure that the city, if you are a physical conservative,
24 you would want the best team to prevent further
25 financial liability down the road.

Exhibit 144

To: Joseph Volmar[jvolmar@LasVegasNevada.GOV]; Marc Newman[mnewman@LasVegasNevada.Gov]
From: Steven Seroka
Sent: Tue 1/9/2018 7:42:53 PM
Subject: Opiod suit discussion--please review and comment
2017-12-15 Eglet-Prince Opioid Law Suit Version 2.docx

Hey Marc and Joe

Please review the attached document. I would like you comments. Please use "Word" to make comments.

Respectfully,
Steve

Steven Seroka
Cell: [REDACTED]
Email: StevenSeroka@Live.com
<https://www.facebook.com/Steve-Seroka-1808280539414177/>
<https://www.twitter.com/SteveSeroka>
<https://steveseroka.com/>

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2017-12-15
Thoughts on:
Eglet-Prince Opioid Proposed Law Suit

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Understanding of Eglet-Prince Proposal

Purpose:

Sue Opioid Pharma for damages due to prior knowledge of harmful effects

Goal:

Use suit funds to fight and rehabilitate Opioid addiction

Targeted groups to benefit: Homeless, Veterans, enforcement, rehab, mental health

No cost to city unless a financial win

Then:

25% to Eglet-Prince

Plus Eglet-Prince Expenses paid:

Not to Exceed \$15 million (to be divided proportionately by each)

Otherwise:

\$0

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Expectation:

Out of Court Settlement:

\$4-6 Billion

Or if settled in court:

Court Damages: Win actual expenses for previous 15-20 year

Most of expenses go here: Requires most research

Estimate approximately \$1-\$2 Billion

Court Punitive Damages:

Up to 10-15 times Actual Damages

Estimate \$5-\$30 Billion

Potential Suit Funds Distribution based on \$4 Billion settlement:

\$4 Billion Settlement at 25% Fee

Eglet-Prince: \$1 Billion

Clark County: \$1 Billion

Las Vegas \$.5 Billion

Henderson \$.15 Billion

North Las Vegas \$.15 Billion

Reno \$.15 Billion

Lincoln County\$.025 Billion

Nye County \$.025 Billion

\$4 Billion Settlement at 15% Fee
 Eglet-Prince: \$.6 Billion
 Clark County: \$1.12 Billion
 Las Vegas \$.566 Billion
 Henderson \$.17 Billion
 North Las Vegas \$.17 Billion
 Reno \$.17 Billion
 Lincoln County\$.028 Billion
 Nye County \$.028 Billion

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Considerations if City:

Why Take This On: Impact to Veterans, Community and Govt resources
 Out for bid: Nevada based legal team, History to Big Suit Victory
 Which pharma and why? All of them...they changed to chronic pain and lied!
 Distribution/Use of settlement funds coming to city.

+++++

Out for Bid:

Rationale for Suit
 Nevada based company
 Licensed, Based and Operating in NV for previous 4 consecutive years
 History of Large Settlements
 Percentage fee 25% or less
 Expenses included in fee or additional cost to city
 Time Table for filing, final settlement and payout to city
 Which Pharma sued and why

+++++

What City of Las Vegas will use its funds for:

(Using most conservative values (Eglet-Prince fee is 25%)

City of Las Vegas will allocate:

50% (\$250M) toward public safety:
 75% (\$187.5M) Enforcement:
 20% (\$37.5) Metro
 15% (\$28.125M) Fire
 20% (\$37.5M) Marshalls
 20% (\$7.5M) Animal Control

40% (\$15M) Detention
 40% (\$15M) Marshalls
 20% (\$37.5M) Veterans Facility
 25% (\$46.875M) Mental Health facility
 25% (\$62.5 M) Rehabilitation all the way to self-sufficiency (12 months)
 50% (\$31.25M) Programs for Mental Health (new for city)
 50% (\$31.25M) Programs for Veterans
 Funds to be used for:
 Additional personnel
 Associated additional personal equipment
 Training for additional personnel
 New Patriot Veterans Center
 New combined "station" in Corridor or Hope
 Public Safety-Public Health-Mental Health
 10% (\$50 Million) toward paying down Public Debt
 RDA bonds
 TID bonds
 Etc:
 25% (\$125 Million) toward Corridor of hope facilities
 15% (\$75 million) Misc:
 \$15 Million- Purchase Badlands and operate
 \$50 Million- New RJC
 \$9 Million- Parks
 \$1 Million-Animal Control/Animal Foundation

Exhibit 150

1 **AFFIDAVIT OF DONALD RICHARDS**

2 STATE OF NEVADA)
3)
4 COUNTY OF CLARK)

5 DON RICHARDS, being duly sworn, deposes and says:

6 1. That I am over 18 years of age and am competent to testify to the matters stated
7 herein based upon my own personal knowledge except for those matters stated on
8 information and belief, and to those matters, I believe them to be true.

9 2. I have been the superintendent of 250 acres of land formerly known as the
10 Badlands Golf Course (the "Land") since approximately November 2015 having
11 managed the Land ever since.

12 3. Almost immediately upon the departure of the golf course operators, in or around
13 December of 2015, I began encountering trespassers daily. Upon information and belief,
14 there was rarely an issue of trespassers during the golf course operations.

15 4. In or around early 2016, I obtained and installed infrared trail cameras to properly
16 surveil the Land.

17 5. Attached are true and correct copies of a sampling of photographs taken of
18 trespassers on the Land over the past 5 years.

19 6. Since early 2016, I engaged with these trespassers and informed them that they
20 were on private property and requested they exit the Land. The trespassers were largely
21 neighbors from the abutting community of Queensridge and they ignored my request.
22 The trespassing continued and has increased over the years.

23 7. In or around early fall 2017, upon engaging with trespassers, they began
24 responding to me that they were allowed to be on the Land because
25 "it is our open space". Some of them informed me that they learned this at a Queensridge
26 HOA meeting.

27 8. I have observed a steady increase of trespassing over the last 5 years.
28

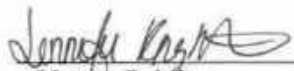
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9. I have used photographic surveillance on the property since early 2016. Attached are true and correct copies of photographs taken as a result of the use of these camera's to this affidavit.
10. I declare under penalty of perjury that the foregoing is true and correct.


DONALD RICHARDS

Subscribed and Sworn to before me
this 23 day of March, 2021


Notary Public



004670

18134



27.25 inHg ↓ 46°F 04/05/2018 07:16AM CAMERA4



27.02 inHg ↓ 77°F 03/30/2018 03:56PM CAMERA 2



26.99 inHg ↓ 71°F 04/11/2020 06:29PM CAMERA6

18137



27.28 inHg ↑ 86°F 04/25/2020 12:58PM CAMERA6



27.20 inHg ↑ 62°F 04/13/2020 12:16PM CAMERA6



27.20 inHg ↑ 62°F 04/13/2020 12:16PM CAMERA6





27.14 inHg ↓ 68°F 04/13/2020 03:50PM CAMERA6



27.17 inHg ↓ 107°F 08/28/2020 05:41PM CAMERA8



18143



27.20 inHg - 64°F 08/31/2020 06:40AM CAMERA8



18144



18145



27.20 inHg - 64°F (08/26/2019 06:28AM CAMERA8



27.46 inHg - 51°F 01/04/2020 03:24PM CAMERA6



18148



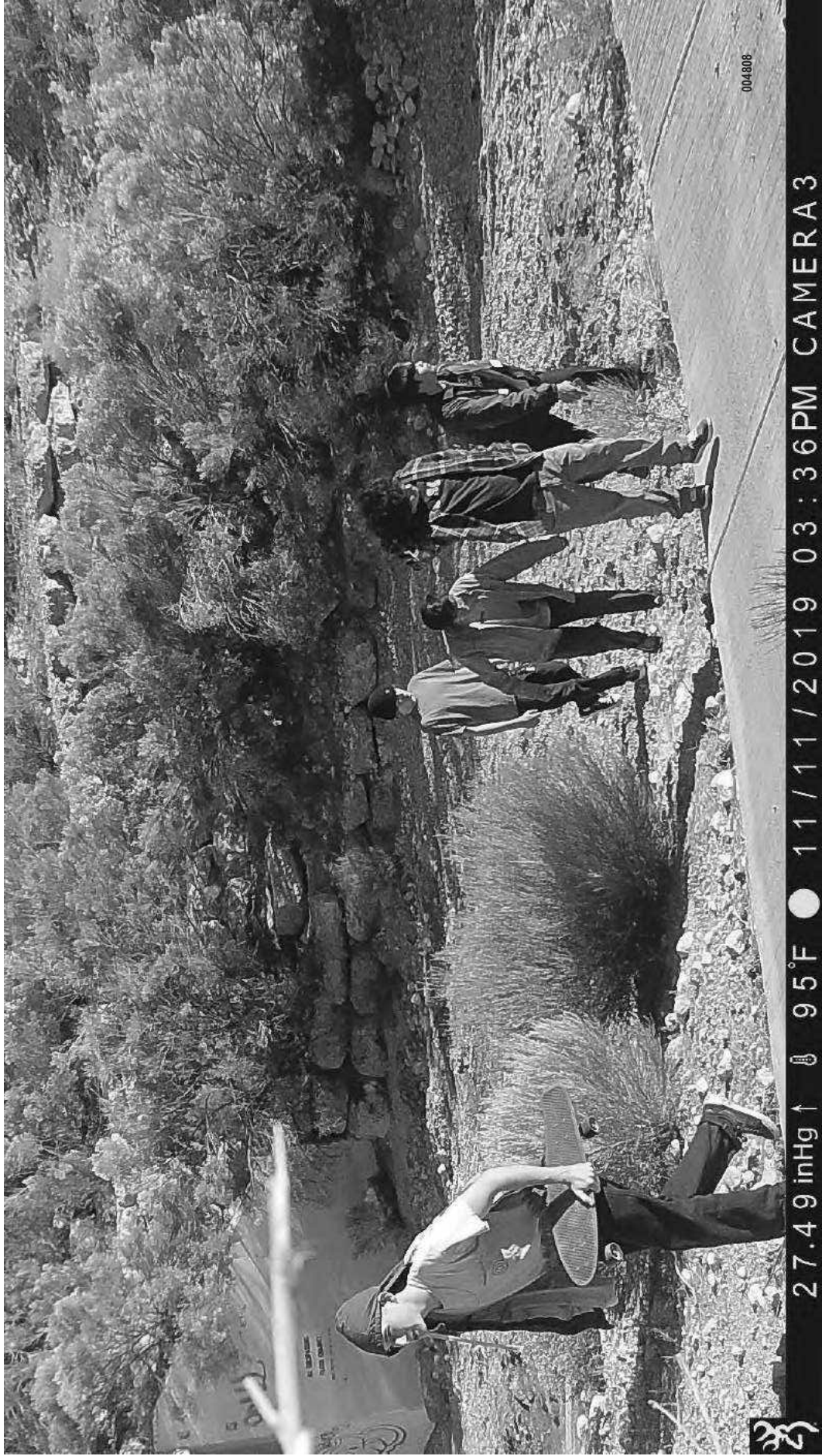
18149



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27.31 inHg - 57°F (11/04/2018 10:23AM CAMERA6

18150



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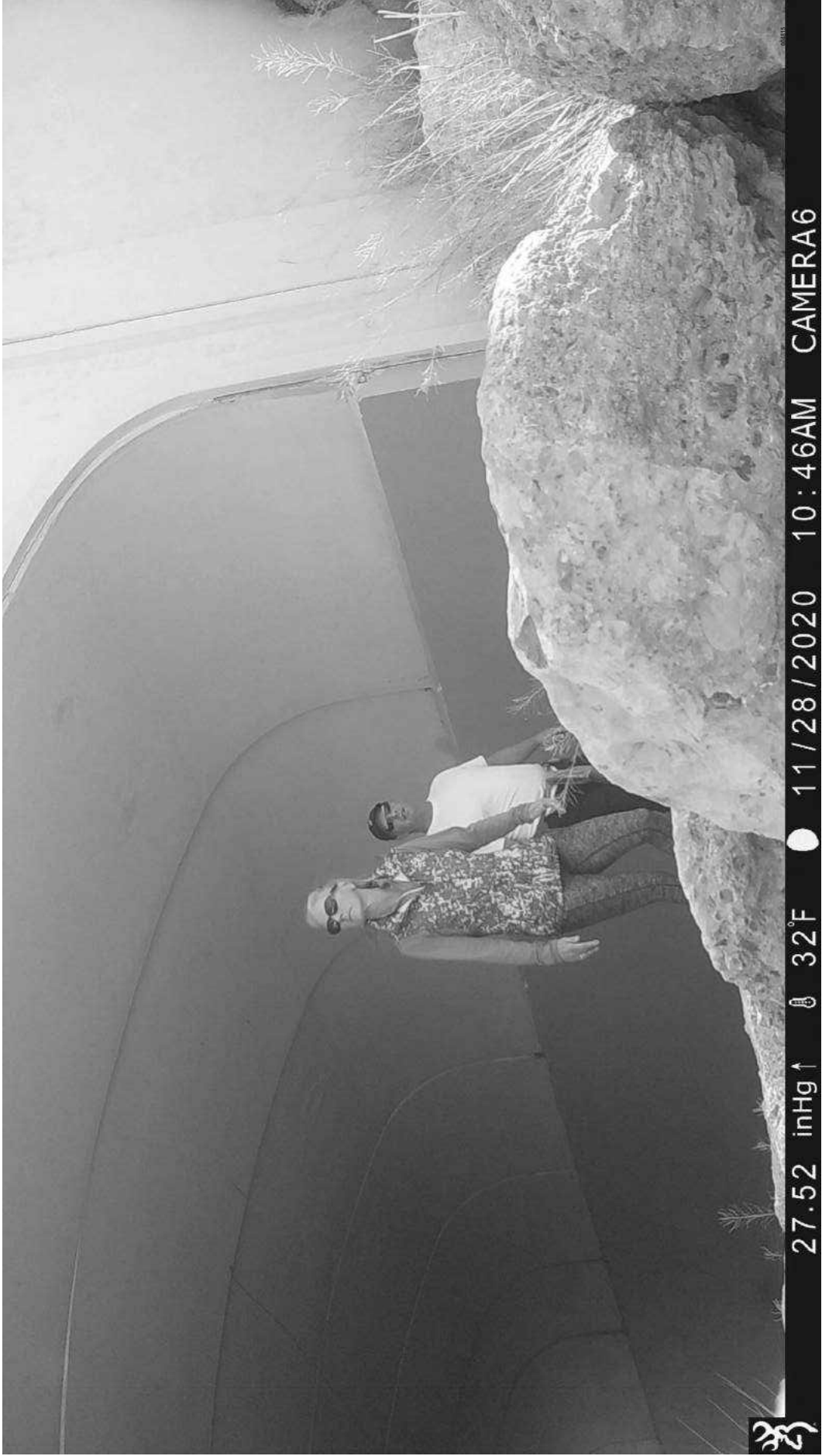
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18152



27.52 inHg ↑ 32°F 11/28/2020 10:46AM CAMERA6

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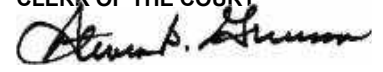
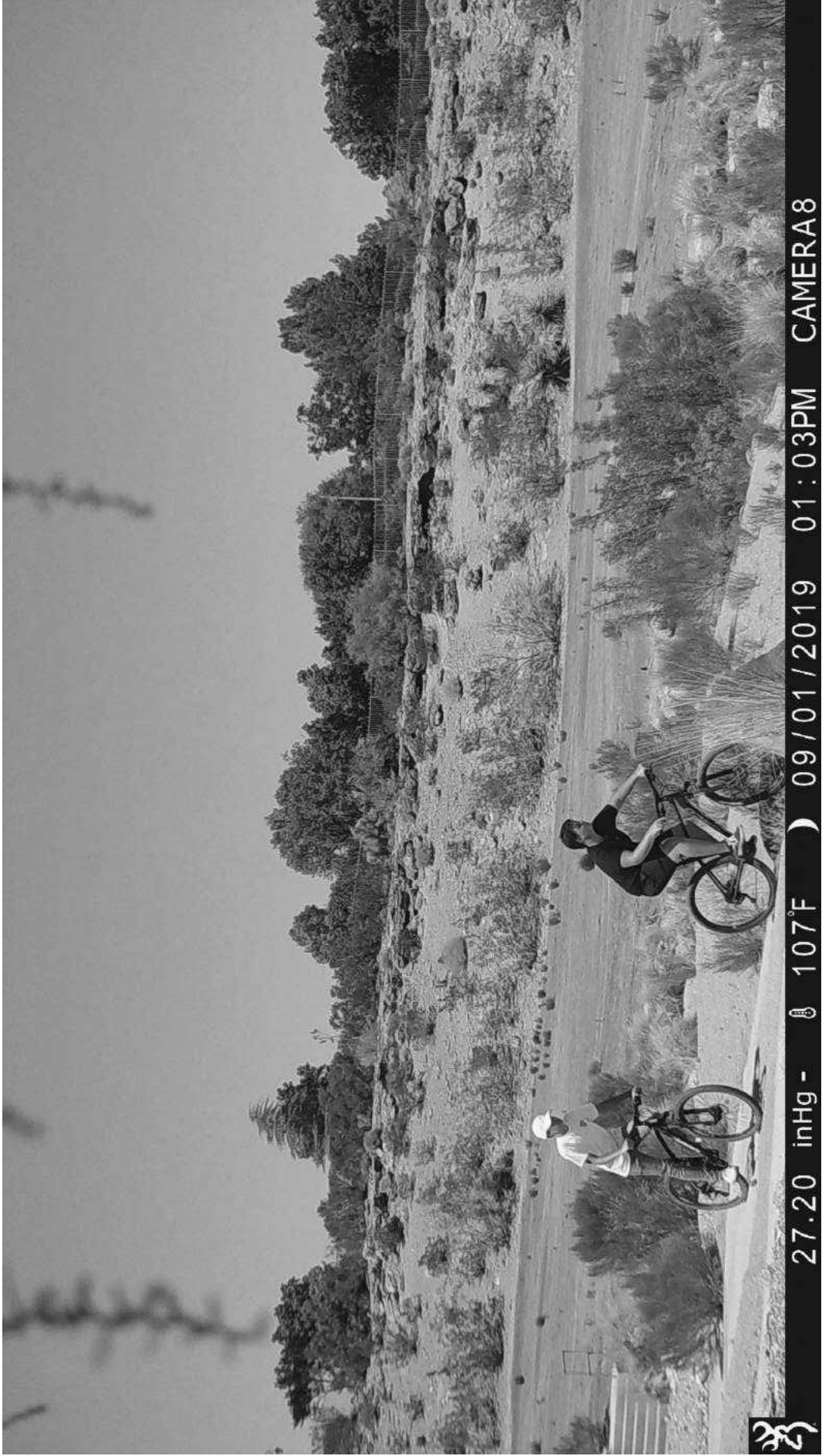


Exhibit 3

Part 3 of 3





27.20 inHg - 107°F 09/01/2019 01:03PM CAMERA8

Exhibit 160

1 THE VIDEOGRAPHER: This is the beginning
2 of video recording number 1 in the deposition of
3 Peter Lowenstein taken in the matter of Rinco versus
4 Fore Stars, et al. held at Pisanelli Rice, 400 south
5 seven street, suite 300 in Las Vegas, Nevada on
6 December, 2016. The time is approximately 9:45 a.m.
7 The court reporter is Monice Campbell. My name is
8 Hunter Blackburn, the videographer representing
9 Revision Legal Solutions. Will the -- will everybody
10 identify themselves, please beginning, with the
11 witness.
12 THE WITNESS: Sure. Peter David
13 Lowenstein.
14 MR. RYNNER: Phil Rynner representing the
15 deponent and City of Las Vegas Inc.
16 MR. JIMMERSON: Good morning. My name is
17 Jim Jimmerson. I have the privilege of representing
18 the defendant Fore Star entities. Good morning
19 everyone here.
20 MR. RICE: Todd Rice on behalf of the
21 plaintiffs and Frank Schreck will be joining us. So
22 when he steps in, that's who else may be in the room.
23 MR. JIMMERSON: Mr. Lowie may or may not
24 be here today.
25 THE VIDEOGRAPHER: Will the court reporter

1

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

2

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

3

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

4

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1 similar titles.

2 BY MR. BICE:

3 Q. All right. So would you agree that this

4 is the final map for what is known as the Pecc --

5 what is identified as the Peccole west subdivision?

6 MR. JIMMERSON: Object to form of the

7 question in light the prior answer. Calling for

8 speculation.

9 THE WITNESS: Exhibit 1.

10 BY MR. BICE:

11 Q. Yes?

12 A. Yes.

13 Q. How does one go about amending a

14 subdivision map, approved -- strike that. How does

15 one go about amending a final map of a subdivision.

16 A. Well, mapping is -- tends to be fairly

17 complicated and we usually rely on the City surveyor.

18 There are different processes to accomplish different

19 outcomes. So if you could be more specific, I might

20 be able to give you one of the mechanisms but

21 ultimately it's the City surveyor that makes the

22 determination on what is the best mapping action.

23 Q. Well, didn't you -- strike that, maybe I

24 don't know this. I'll phrase it this way: Did you

25 previously work in mapping as part of your

81

1 responsibilities?

2 A. There was something called a maps team.

3 Maps teams reviewed building permits. Some of them

4 reviewed civil improvement plans and some reviewed

5 final maps.

6 Q. Have you ever told anyone that adding

7 additional lots to a final map of a subdivision

8 requires a new tentative map process?

9 MR. JIMMERSON: Object to the question as

10 to lack of foundation, form. It's unfair to the

11 witness.

12 THE WITNESS: It's possible.

13 BY MR. BICE:

14 Q. Did you in fact tell the applicant here

15 that it required a new tentative map process?

16 A. It's possible.

17 Q. Did someone ask you to allow the developer

18 to subdivide the property without going through the

19 tentative map process?

20 MR. JIMMERSON: Object to the question

21 lack of foundation. Move to strike that.

22 MR. BICE: I'll rephrase.

23 Q. To further subdivide the property without

24 going through the tentative map process.

25 MR. JIMMERSON: Same objection. Lack of

82

1 foundation, when and where and between whom.

2 THE WITNESS: I don't recall. As I said,

3 the mapping actions we usually defer to our City

4 surveyor.

5 Q. Well did you talk to anyone in the City

6 about the mapping process for subdividing the golf

7 course?

8 A. Not that I recall. But it's not out of

9 the realm of possibility.

10 Q. So to find out -- is it your position to

11 find out about mapping, the person that you would --

12 or that I would need to consult is the City surveyor?

13 A. Yes.

14 Q. Okay. But you have been involved in

15 mapping before, have you not?

16 A. Through my tenure at the City, yes.

17 Q. Okay. Have you -- are you aware of any

18 circumstance where the City has allowed further

19 subdividing of a subdivision without going through

20 the tentative map process?

21 MR. BYRNES: Objection. That's an

22 incomplete hypothetical.

23 MR. JIMMERSON: Sustain.

24 THE WITNESS: Quite possibly in the Sky

25 Canyon and one of their developer parcels.

83

1 BY MR. BICE:

2 Q. When would the City have allowed that?

3 A. In maybe 2016. Other examples I would

4 have to do research to see.

5 Q. Did you ever discuss the applicant wanting

6 to subdivide the golf course property without going

7 through the tentative map process with anyone in the

8 City?

9 A. Not that I recall. I recall having

10 conversations about mapping in general, but as -- not

11 in light of your question.

12 Q. Who did you discuss mapping in general

13 with about this applicant?

14 A. Well, in regards to applications being

15 submitted, we wanted separate parcels for -- so we

16 didn't create any kind of split designated parcel.

17 Q. What do you mean you want separated

18 parcels?

19 A. A portion of a larger parcel so that as

20 not to create a split designated either zoning

21 district and/or land use designation.

22 Q. Okay. So you wanted the developer here to

23 subdivide the property further, correct?

24 A. As part of the submittal, we were looking

25 for that to be accomplished prior to notification,

84

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Exhibit 183

APPRAISAL OF REAL PROPERTY

A 34.07 Acre Vacant Site

Located at the southeast corner (SEC) of
Alta Drive & Hualapai Way
Las Vegas, Clark County, Nevada 89102

PREPARED FOR:

180 Land Co., LLC
c/o Mr. James J. Leavitt, Esq.
Ms. Autumn Waters, Esq.
The Law Offices of Kermit Waters
704 South 9th Street,
Las Vegas, Nevada 89101

EFFECTIVE DATE OF THE APPRAISAL:

Retrospective - September 14, 2017

REPORT FORMAT:

Appraisal Report

PREPARED BY:

Tio S. DiFederico, MAI
The DiFederico Group
7641 W. Post Road
Las Vegas, NV 89113

THE DiFEDERICO GROUP

File Number: 19-035

THE DiFEDERICO GROUP · INTERNATIONAL APPRAISAL & CONSULTING
7641 W. POST ROAD, LAS VEGAS, NV 89113 · (702) 734-3030 · FAX (702) 240-4674

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THE DiFEDERICO GROUP

INTERNATIONAL APPRAISAL & CONSULTING

April 23, 2021

180 Land Co., LLC
c/o Mr. James J. Leavitt, Esq.
Ms. Autumn L. Waters, Esq.
The Law Offices of Kermit Waters
704 South 9th Street
Las Vegas, NV 89101

SUBJECT: The subject of the attached analysis involves a vacant 34.07-acre site located at the southeast corner (SEC) of Alta Drive and Hualapai Way, Las Vegas, Clark County, NV 89145. Assessor Parcel Number 138-31-201-005.

Dear Mr. Leavitt and Ms. Waters:

The DiFederico Group is pleased to submit the attached appraisal report of the above referenced property. The purpose of the appraisal was to develop an opinion of the just compensation due to the landowner for the City of Las Vegas' taking of the subject property. The effective date of value is September 14, 2017. The client and intended user of the report is the 180 Land Co., LLC, c/o James J. Leavitt, Esq., and Autumn L. Waters, Esq., of the Law Offices of Kermit Waters. The intended use of this appraisal report is for litigation purposes.

The appraisal report is intended to conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. To report the assignment results, I used the appraisal report option of Standards Rule 2-2(a) of USPAP. The attached appraisal report contains discussions of the data, reasoning, and analyses used in the appraisal process. The depth of discussion contained in the report is specific to the needs of the client and the intended use of the appraisal.

The attached analysis involves a 34.07-acre parcel of land located at the southeast corner (SEC) of Alta Drive and Hualapai Way, in Las Vegas, Clark County, Nevada. As of the effective date of value, the site's Alta and Hualapai frontages were improved with concrete curbs, gutters, sidewalks, and landscaping. The site was reported to have had general access to public roadways along Hualapai Way to the west and Alta Drive to the north. Public sewer easements had been provided to connect the subject property to the City of Las Vegas sanitary sewer system and the drainage study and soils reports indicated that the property was suitable for development.

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The subject property's zoning was recently addressed in a hearing before District Court Judge Timothy C. Williams. In the Findings of Fact and Conclusions of Law Regarding Plaintiff Landowners Motion to Determine "Property Interest," Judge Williams stated, "the Court bases its property interest decision on eminent domain law. Nevada eminent domain law provides that zoning must be relied upon to determine a landowners' property interest in an eminent domain case. The Court concludes that the 35 Acre Property has been hard zoned R-PD7 since at least 1990. The Court further concludes that the Las Vegas Municipal Code Section LVMC 19.10.050 lists single family and multi-family residential as the legally permissible uses on R-PD7 zoned properties. Therefore, the Landowners' Motion to Determine Property Interest is Granted in its entirety and it is hereby Ordered that:

- 1) the 35 Acre Property is hard zoned R-PD7 at all relevant times herein; and
- 2) the permitted uses by right of the 35 Acre Property are single-family and multi-family residential."

Although the site had been zoned R-PD7 since the early 1990's, the property had historically been used as a portion of the Badlands Golf Course. The landowner had leased the property to Elite Golf, a local operator managing the Badlands and five (5) other local golf courses.

According to that operator, revenue in 2015 was down 11% from 2014. The 2016 revenue was down another 25% from 2015, and the 2016 net operating income (NOI) was down over 85% from that reported in 2015. The landowner tried to re-lease the property to that operator at a lower rate. The operator refused saying they would still lose money. The landowner then offered it to the operator for a year for free. The operator said that they would still lose money and passed. It is my understanding that two (2) other golf course operators were approached to take over, but both refused. The landowner then offered the golf course operations to the Queensridge Homeowner's Association (HOA) for one (1) year for \$1.00. The HOA did not respond. At that point, December 1, 2016, the golf course was closed.

According to a 2017 National Golf Foundation (NGF) report, from 1986 to 2005, golf course supply increased by 44%, which far outpaced growth in golf participation. The trend being experienced in 2016 was referred to as "correction." This was because at that time golf course closures occurring throughout the U.S. indicated there was an oversupply that required market correction. And local market data showed that the Badlands wasn't an outlier struggling in a thriving golf course market. Based on what was happening in the national and local golf course markets, Las Vegas was also experiencing this market "correction" and the Badlands golf course was part of that "correction."

After looking at the historical operations of the golf course, which were trending downward rapidly, I concluded that operating the golf course was not a financially feasible use of this property as of September 14, 2017. Based on my research, I concluded that the highest and best use of this property was a residential development. This use would be similar to the surrounding uses in the Queensridge and Summerlin communities.

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On September 21, 2017, the Clark County Assessor sent the landowner a letter that stated since the subject property had ceased being used as a golf course on December 1, 2016, the land no longer met the definition of open space and was “disqualified for open-space assessment.” The Assessor converted the property to a residential designation for tax purposes and then the deferred taxes were owed as provided in NRS 361A.280. The following explains how they apply deferred taxes.

NRS 361A.280 Payment of deferred tax when property converted to higher use. If the county assessor is notified or otherwise becomes aware that a parcel or any portion of a parcel of real property which has received agricultural or open-space use assessment has been converted to a higher use, the county assessor shall add to the tax extended against that portion of the property on the next property tax statement the deferred tax, which is the difference between the taxes that would have been paid or payable on the basis of the agricultural or open-space use valuation and the taxes which would have been paid or payable on the basis of the taxable value calculated pursuant to NRS 361A.277 for each year in which agricultural or open-space use assessment was in effect for the property during the fiscal year in which the property ceased to be used exclusively for agricultural use or approved open-space use and the preceding 6 fiscal years. The county assessor shall assess the property pursuant to NRS 361.227 for the next fiscal year following the date of conversion to a higher use.

While the taxes were being increased, the owner was attempting to develop the property with a residential use. The site was zoned and taxed by the government as residential land, but the City of Las Vegas prevented the legal use of the property as it would not allow the landowner to develop the property with a residential use. Instead, the City of Las Vegas has required that the property remain vacant.

With the City preventing the legally permitted use of property, and requiring the property to remain vacant, I concluded that the property had no value in the “after condition.” That is because there is no market that I can find interested in purchasing property taxed as if it can be used for residential development but restricted to remain vacant.

In this case, the landowner purchased this residentially zoned site and submitted an application to the City of Las Vegas for approval to develop the property with a residential development. The City of Las Vegas denied the landowner’s application.

NRS 37.112 provides that any decrease or increase in the fair market value of a property before the date of valuation which is caused by the public work or public improvement for which the property is acquired; or the likelihood that the property would be acquired for such a purpose, has to be disregarded when estimating the value of the property. Therefore, when valuing this property in the before condition, I must value the property as of September 14, 2017, the effective date of value, disregarding the City’s actions to prevent the legal use of the property. This will be referred to as the “before condition” throughout the attached report. I will then value the property as of September 14, 2017, considering the City’s actions to prevent the legal use of the property. This will be referred to as the “after condition” throughout the report.

For this assignment I first analyzed the property as if it were available to be developed with a residential use in compliance with its R-PD7 zoning on September 14, 2017. After concluding the “before value”, I analyzed the remainder. Due to the effect of the government’s actions, I concluded there was no market to sell this property with the substantial tax burden but no potential use or income to offset the tax expense. Based on the government’s actions, I concluded that the “after value” would be zero.

Based on the analyses and conclusions in the accompanying report and subject to the definitions, assumptions, and limiting conditions expressed in this report, it is my opinion that the retrospective just compensation due to the landowner for the government’s actions, as of September 14, 2017, was as follows:

Estimated Just Compensation Due to Landowner	
1. Value before taking	\$ 34,135,000
2. Less value after the taking	- \$ -
3. Damages to the remainder	= \$ 34,135,000
4. Less special benefits to remainder	- \$ -
5. Just compensation due to property owner	= \$ 34,135,000

The previous values are based on the following extraordinary assumption and its use might have affected the assignment results:

1. The value estimated in this appraisal is based on the extraordinary assumption that the condition of the site noted during my August 12, 2020 property inspection was similar to its condition on September 14, 2017, the effective date of value for this assignment.

If you have any questions or comments, please contact the undersigned. Thank you for the opportunity to be of service.

Respectfully submitted,

THE DIFEDERICO GROUP



Tio S. DiFederico, MAI
Certified General Real Estate Appraiser
Nevada Certificate #A.0000150-CG

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005216

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TABLE OF CONTENTS

	PAGE NO.
GENERAL INFORMATION	3
Identification of Subject.....	3
Current Ownership and Sales History.....	3
Purpose, Property Rights and Effective Date	5
Client, Intended User and Intended Use	5
Applicable Requirements.....	5
Definition of Market Value.....	6
Definition of Property Rights Appraised	7
Scope of Work	7
Report Format	8
REGIONAL AREA ANALYSIS.....	9
Area Map	27
PROPERTY ANALYSIS	28
Subject Photographs.....	29
Property Description and Analysis	35
Real Estate Taxes Analysis.....	48
Highest and Best Use Analysis	49
VALUATION ANALYSIS	63
Valuation Methodology	63
Sales Comparison Approach.....	64
Income Approach DCF in Subdivision Development Analysis	80
ANALYSIS OF THE GOVERNMENT ACTIONS.....	91
Description of the Government Actions	91
Value of the Remainder After the Government Actions	95
Conclusion	96
Special Benefits	97
Conclusion to Just Compensation.....	98
CERTIFICATION	99
ASSUMPTIONS AND LIMITING CONDITIONS.....	101
ADDENDA	
Appraiser Qualifications.....	Addendum A
Additional Definitions	Addendum B
Property Information	Addendum C
Golf Course Lease Cancellation Letters	Addendum D
City Letters.....	Addendum E

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Property Type:	Vacant Land
Location:	SEC Alta Drive & Hualapai Way, Las Vegas, Clark County, NV 89145
Assessor Parcel Numbers (APN):	138-31-201-005
Owner of Record:	180 Land Co, LLC
Date of value opinion - Retrospective:	September 14, 2017
Date of inspection:	August 12, 2020
Date of report:	April 23, 2021
Property rights appraised:	Fee Simple estate
Land Area:	34.07 acres / 1,484,089 square feet
Zoning Designation	Residential Planned Development District (R-PD7), under the jurisdiction of the City of Las Vegas.
Flood Panel / Designation / Date	Panel 2145 and 2150 of 4090 / Zone X / 11/16/11 and 09/27/02, respectively.
Client/Intended user/Intended use:	The client and intended user is the 180 Land Co., LLC, c/o Mr. James J. Leavitt, Esq., and Autumn Waters, Esq., of the Law Offices of Kermit Waters. The intended use is for litigation purposes.
Highest and Best use in the Before Situation:	Residential Development.

Based on the analyses and conclusions in this report and subject to the definitions, assumptions, and limiting conditions expressed herein, it is my opinion that the just compensation due the property owner due to the government actions, as of September 14, 2017, was:

Estimated Just Compensation Due to Landowner	
1. Value before taking	\$34,135,000
2. Less value after the taking	- \$ -
3. Damages to the remainder	= \$34,135,000
4. Less special benefits to remainder	- \$ -
5. Just compensation	= \$34,135,000

The above value is based on the following extraordinary assumption and its use might have affected the assignment results:

1. The value estimated in this appraisal is based on the extraordinary assumption that the condition of the site noted during my August 12, 2020 property inspection was similar to its condition on September 14, 2017, the effective date of value for this assignment.

The Assessor's office informed me that Nevada State Law used to have a minimal figure that the Assessor could put on properties with what was concluded to be a nominal value. The Assessor had been subject to a State law that set the minimum or nominal value at \$1.25 per acre. In this case, that would reflect the nominal value at \$42.59 (34.07 Acres x \$1.25/Acre = \$42.59). That law is no longer in effect and the Assessor can now put \$0.00 on a nominal use parcel.

I also learned from the Assessor's office that the Nevada State Board of Equalization had used \$100 for parcels with nominal value. As for my peers, I have seen appraisers use \$100 and \$100 per acre as a nominal value when looking at patent easements. However, even an "after value" of \$100 lacks any market support.

Based on my research, an informed buyer would not be interested in a property under these conditions; no economic benefits but annual an annual expense of over \$200,000 that would be expected to increase. Due to the government actions, it is my opinion that there would have been no interest for the subject property in the after condition.

CONCLUSION

I previously estimated the value of the subject property in the before condition at \$34,135,000. Based on my analysis of the property in the after condition, the City's actions result in catastrophic damages to this property. This is based on the value of the property in the after condition being zero. The following is a summary of the calculation and the resulting damages due to the City's actions.

SUMMARY OF JUST COMPENSATION DUE TO THE CITY' ACTIONS

Just Compensation Due to Property Owner Due to City's Actions	
Indicated Value in the Before Condition	\$ 34,135,000
Less: Indicated Value in the After Condition	\$ -
Damages Due to the Government Actions	\$ 34,135,000
Rounded to:	\$ 34,135,000

Exhibit 184



3034 S. Durango Drive
Suite 100
Las Vegas, NV 89117
702-242-9369 phone
702-242-6391 fax
valbridge.com

August 26, 2015

Ms. Cheryl Moss
Bank of Nevada
2700 W. Sahara Avenue, 4th Floor
Las Vegas, NV 89102

RE: Appraisal Report Of
NWC of Rampart & Charleston
Portion of Badlands Golf Course
Las Vegas, Clark County, Nevada 89145

Dear Ms. Moss:

In accordance with your request, we have performed an appraisal of the above referenced property. This appraisal report sets forth the pertinent data gathered, the techniques employed, and the reasoning leading to our value opinions. This letter of transmittal is not valid if separated from the appraisal report.

The subject property, as referenced above, is located near the northwest corner of Rampart Boulevard and Alta Drive and is further identified as Assessor's Parcel Number (APN) 138-32-301-004. The site measures approximately 70.52 acres or 3,071,851 square feet. The subject is currently a portion of the Badlands Golf Course with residential zoning of R-PD7 (Residential Planned Development) allowing for development of 7 units to the acre. The subject is currently encumbered by lease between Fore Stars Ltd. and Par 4 Golf Management which began June 2010. However, the lease includes a clause stating that after May 31, 2016, the landlord shall have the right to reduce the number of holes in service on the course. According to the owner, the lease would be terminated at this time for the subject site in order to begin development of the site. We have appraised the subject under the extraordinary assumption that the lease will be terminated at this time. Since the time frame between effective date of value and the termination date is less than one year (10 months), and rent of \$22,510 per month will be collected, the lease is not expected to affect the market value of site, making it commensurate to the fee simple market value.

We developed our analyses, opinions, and conclusions and prepared this report in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation; the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute; the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA); and the requirements of our client as we understand them.

Bank of Nevada is the client in this assignment. The intended user(s) of this report are Bank of Nevada and-or affiliates. The intended use is for loan underwriting and-or credit decisions by Bank and or participants. The value opinions reported herein are subject to the definitions, assumptions and limiting conditions, and certification contained in this report.

The acceptance of this appraisal assignment and the completion of the appraisal report submitted herewith are contingent on the following extraordinary assumptions and/or hypothetical conditions which may have impacted the assignment results:

Extraordinary Assumptions:

- We have been provided a cost estimate for drainage and grading on the site, provided by the borrower. A formal bid was requested but was not provided. We assume these costs are accurate. If not, this could impact the appraiser's opinions and conclusions included herein.
- According to the borrower and owner Yohan Lowie, the Badlands Golf Course was purchased in 2007 and his company possesses the declarant rights and development rights associated with the property. We have requested and have not been provided with a purchase agreement or written documentation confirming this. We have appraised the subject under the extraordinary assumption that the verbal information provided by the owner that they have the declarant rights and development rights is correct and accurate, if not; this could impact the appraiser's opinions and conclusions herein.
- The subject is currently encumbered by a lease between Fore Stars Ltd. and Par 4 Golf Management. However, the lease includes a clause stating that after May 31, 2016, the landlord shall have the right to reduce the number of holes in service on the course. According to the owner, the lease would be terminated at this time for the subject site in order to begin development of the site. We have appraised the subject under the extraordinary assumption that the lease will be terminated at this time, otherwise the lease payments could have an adverse effect on the market value of the property and the appraiser's opinions and conclusions included herein.

Hypothetical Conditions:

- There are no hypothetical conditions for this appraisal assignment.

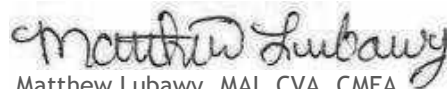
Based on the analysis contained in the following report, our value conclusions are summarized as follows:

Value Conclusions	
	As Is
Value Type	Market Value
Property Rights Appraised	Leased Fee
Effective Date of Value	July 23, 2015
Value Conclusion	\$49,400,000
	\$700,510 per acre

Respectfully submitted,
Valbridge Property Advisors | Lubawy & Associates, Inc.



Brenda Cazares
Appraiser
Nevada License #A.0206506-CG
License Expires 02-28-2016



Matthew Lubawy, MAI, CVA, CMEA
Senior Managing Director
Nevada License #A.0000044-CG
License Expires 04-30-2017

Exhibit 195



1 DECL

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12 Las Vegas, Nevada 89101

13 Telephone: (702) 733-8877

14 Facsimile: (702) 731-1964

15 *Attorneys for Plaintiff Landowners*

16 DISTRICT COURT

17 CLARK COUNTY, NEVADA

18 180 LAND CO LLC, a Nevada limited liability
19 company; SEVENTY ACRES LLC, a Nevada
20 Limited Liability Company; FORE STARS, Ltd;
21 DOE INDIVIDUALS I through X, DOE
22 CORPORATIONS I through X, and DOE
23 LIMITED LIABILITY COMPANIES I through
24 X,

25 Plaintiffs,

26 vs.

27 CITY OF LAS VEGAS, political subdivision of
28 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-18-780184-C

Dept. No.: III

**DECLARATION OF STEPHANIE
ALLEN, ESQ., WHICH SUPPORTS
PLAINTIFF LANDOWNERS' REPLY IN
SUPPORT OF: PLAINTIFF
LANDOWNERS' EVIDENTIARY
HEARING BRIEF #1 MEMORANDUM
OF POINTS AND AUTHORITIES
REGARDING THE LANDOWNERS'
PROPERTY INTEREST AND REPLY IN
SUPPORT OF PLAINTIFF
LANDOWNERS' EVIDENTIARY
HEARING BRIEF #2 MEMORANDUM
OF POINTS AND AUTHORITIES
REGARDING THE CITY'S ACTIONS
WHICH HAVE RESULTED IN A
TAKING OF THE LANDOWNERS'
PROPERTY**

Hearing Date: May 27 & 28, 2021

Hearing Time: 9:00 a.m.

DECLARATION OF STEPHANIE ALLEN, ESQ.

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

1. I, Stephanie Allen, am licensed to practice law in the State of Nevada since 2003.

2. Since 2004, my principal area of my practice has been government affairs with an emphasis on land use and zoning.

3. Over the past 17 years, I have presented thousands of applications to local government agencies for a wide variety of developments, including various hotel/casino, commercial, and single family and multi-family developments.

4. I have also worked on and/or completed approximately ten development agreements for large developments. A Development Agreement is an agreement between a government entity and a person who has a legal or equitable interest in land, and it sets forth the long-range plans for the development of property.

5. I have presented these applications to various municipal agencies, including the City of Las Vegas, City of North Las Vegas, Clark County and Lincoln County.

6. I was retained by and assisted the owners of the 250 acre property located generally between Alta, Charleston, Hualapai, and Rampart in the jurisdiction of the City of Las Vegas – formally known as the Badlands golf course – to develop this property. In this capacity, I attended meetings with the landowners, the City of Las Vegas employees and representatives, including councilpersons, and the surrounding property owners. I estimate I attended more than 25 meetings in my efforts to assist with developing the 250 acre property.

///

///

1 7. There was when I was assisting with preparing and presenting separate
2 applications, including but not limited to, an approximately 35 acre portion of the 250 acre
3 property, an approximately 133 acre portion of the 250 acre property, and a separate Master
4 Development Agreement (“MDA”) that would govern the development of the entire 250 acre
5 property.
6

7 8. Eventually, it was made clear by City of Las Vegas employees, councilpersons,
8 and the Mayor that the City would accept only one type of application to develop the 250 acre
9 property – an MDA. The City was very clear that it would not approve any application that
10 sought to develop the various parcels that made up the 250 acre property individually.
11

12 9. During the June 21, 2017, hearing before the City Council on the applications to
13 develop the 35 Acre Property several councilpersons and the Mayor stated on the record that
14 they did not want piecemeal development, meaning they did not want and would not approve
15 individual application for the 35, 133 or 65 acre properties. This was consistent with what I
16 was repeatedly told – that the City would accept only one application to develop the 250 acre
17 property – an MDA.
18

19 10. On June 21, 2017, the applications to develop 61 residential units on the 35 Acre
20 Property were presented to the City Council for approval. The City planning staff confirmed in
21 a staff report that the applications and the proposed 61 lot residential use on the 35 Acre
22 Property were in compliance with the R-PD7 zoning on the property, the City’s development
23 requirements, the City Municipal Code, and the Nevada Revised Statutes and, accordingly,
24 recommended approval.
25

26 11. The City Council denied the 35 Acre Property development applications at the
27 June 21, 2017, City Council meeting despite the fact that the proposal was allowed within the
28 existing R-RD7 zoning on the property.

1 12. I have presented thousands of applications to various local government agencies,
2 including the City of Las Vegas, in the past, and I cannot recall an application that I have
3 handled being denied when the development proposal was allowed as a matter of right under
4 the existing zoning.

5 13. On August 2, 2017, the MDA was presented to the City Council for approval.
6 The City planning staff confirmed in a staff report that the MDA met all Nevada Revised
7 Statute requirements and all City Municipal Code requirements and, accordingly,
8 recommended approval.
9

10 14. The City Council denied the MDA at the August 2, 2017, City Council meeting
11 despite the fact that the proposed written agreement had been negotiated and agreed upon in
12 good faith between the parties.
13

14 15. I have presented approximately ten development agreements before various
15 local government agencies, including the City of Las Vegas, in the past, and I cannot recall a
16 development agreement application being denied when the proposed written agreement had
17 been negotiated and agreed upon in good faith between the parties.
18

19 ///

20 ///

21 ///

22 ///

23 ///

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27 ///

28 ///

16. During my 17 years of work in the area of land use, it has always been the practice that zoning governs the determination of how land may be used. The master plan land use designation has always been considered a general planning document. I do not recall any government agency or employee ever making the argument that a master plan land use designation trumps zoning.

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

Dated this 21st day of May, 2021.


Stephanie Allen, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and that on the 24th day of May, 2021, pursuant to NRCP 5(b) and EDCR 8.05(f), a true and correct copy of the foregoing: Declaration Of Stephanie Allen, Esq., Which Supports Plaintiff Landowners' Reply In Support Of: Plaintiff Landowners' Evidentiary Hearing Brief #1 Memorandum Of Points And Authorities Regarding The Landowners' Property Interest And Reply In Support Of Plaintiff Landowners' Evidentiary Hearing Brief #2 Memorandum Of Points And Authorities Regarding The City's Actions Which Have Resulted In A Taking Of The Landowners' Property was served on the below via the Court's electronic filing/service system and/or deposited for mailing in the U.S. Mail, postage prepaid and addressed to, the following:

MCDONALD CARANO LLP

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LAS VEGAS CITY ATTORNEY'S OFFICE

Bryan K. Scott, City Attorney
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Seth T. Floyd, Esq.
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sfloyd@lasvegasnevada.gov

/s/ Sandy Guerra

Sandy Guerra, an Employee of the
Law Offices of Kermitt L. Waters

006089

18179

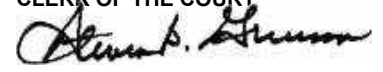


Exhibit 4

Landowners' Application of Facts and Law

Applying the City's Actions to Nevada's Three Invariable Rules

Per Se Regulatory Taking – First Claim for Relief

Issue:

Where the Landowners had the right to use the 35 Acre Property for residential purposes, did the City engage in actions to preserve the 35 Acre Property for use by the public or authorize the public to use the 35 Acre Property?

Facts:

35 Acre Application Denial Letter. Exhibit 93

MDA Denial. Exhibit 78

Access Denial Letter. Exhibit 89

Fence Denial Letter. Exhibit 92

Chris Kaempfer Affidavit. Exhibit 48, para. 12

Bills 2018-5 and 2018-24. Exhibits 107, 108

Transcript of Councilman Seroka at HOA meeting, Exhibit 136, at 4498-4499, 4501-4502.

Don Richards Affidavit. Exhibit 150, para. 7

Per Se Categorical Taking – Third Claim for Relief.

Issue:

Where the Landowners had the right to use the 35 Acre Property for residential purposes, did the City engage in actions to completely deprive the Landowners of all economical beneficial use of the 35 Acre Property?

Facts:

The City denied all Landowner applications to use the 35 Acre Property for a residential use – its only economically beneficial use permitted under its zoning.

The City imposed, and the Landowners are paying, a real estate tax on the 35 Acre Property in the amount of \$205,227.22 / year based on a residential R-PD7 zoning use. Exhibit 50.

Non-regulatory / De Facto Taking – Fourth Claim for Relief.

Issue:

Did the City engage in actions to substantially interfere with the Landowners' right to use the 35 Acre Property for residential purposes?

Facts:

The City **denied** all of the Landowners' applications to use the 35 Acre Property for a residential use – its only economically beneficial use permitted under its zoning.

The City **adopted** two City Bills that: 1) targeted only the Landowners' property; 2) made it impossible to put the 35 Acre Property to any viable use; and 3) required ongoing public access to the property.

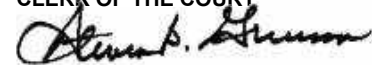


Exhibit 5

Landowners Rebuttal of City Arguments

35 Acre Property

Landowners' Rebuttal of City Property Rights Arguments

Court Orders Rebutting the City’s PR-OS, Peccole Ranch Master Plan, and Zoning Does Not Confer Property Rights Arguments

35 Acre – Denial of Motion for Judgment on the Pleadings. Exhibit 8

3 Nevada Supreme Court Opinions Upholding This Court. Exhibits 12, 13, 14

35 Acre – FFCL Granting Landowners’ Motion to Determine Property Interest “In Its Entirety.” Exhibit 1



**FFCL
LAW OFFICES OF KERMITT L. WATERS**

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Telephone: (702) 733-8877
Facsimile: (702) 731-1964

Attorneys for Plaintiff Landowners

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

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

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW REGARDING
PLAINTIFF LANDOWNERS' MOTION
TO DETERMINE "PROPERTY
INTEREST"**

Hearing Date: September 17, 2020
Hearing Time: 9:00 a.m.

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.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiffs, 180 LAND COMPANY, LLC and FORE STARS, Ltd (hereinafter Landowners), brought Plaintiff Landowners' Motion to Determine Property Interest before the Court on September 17, 2020, with James Jack Leavitt, Esq of the Law Offices of Kermitt L. Waters, appearing for and on behalf of the Landowners along with the Landowners' corporate counsel, Elizabeth Ghanem Ham, Esq., and George F. Ogilvie III Esq. and Andrew Schwartz, Esq. appearing for and on behalf

000001

of the Defendant, City of Las Vegas (hereinafter the City). Having reviewed all pleadings and attached exhibits filed in this matter and having heard extensive oral arguments on September 17, 2020, in regards to Plaintiff Landowners' Motion to Determine Property Interest, the Court hereby enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Plaintiff 180 Land Company, LLC is the owner of an approximately 35 acre parcel of property generally located near the southeast corner of Hualapai Way and Alta Drive within the geographic boundaries of the City of Las Vegas, more particularly described as Clark County Assessor Parcel 138-31-201-005 (hereinafter 35 Acre Property).

2. The Landowners' Motion to Determine Property Interest requests this Court enter an order that: 1) the 35 Acre Property is hard zoned R-PD7 as of the relevant September 14, 2017, date of valuation; and, 2) that the permitted uses by right under the R-PD7 zoning are single-family and multi-family residential.

3. In their submitted briefs, the Landowners and the City presented evidence that the 35 Acre Property has been zoned R-PD7 since at least 1990, including: 1) Z-17-90, Resolution of Intent to Rezone the 35 Acre Property to R-PD7, dated March 8, 1990 (Exhibit H to City's Opposition, Vol. 1:00193); and, Ordinance 5353, passed by the City of Las Vegas City Council in 2001, which hard zoned the 35 Acre Property to R-PD7 and repealed anything in conflict (Exhibit 10 to Landowners' Motion).

4. In response to the Landowners' inquiry regarding zoning prior to purchasing the 35 Acre Property, on December 30, 2014, the City of Las Vegas Planning & Development Department provided the Landowners a Zoning Verification Letter, stating, in part: 1) the 35 Acre Property is "zoned R-PD7 (Residential Planned Development District - 7 unites per acre);" 2) "[t]he density allowed in the R-PD District shall be reflected by a numerical designation for that district. (Example, R-PD4 allows up to four units per gross acre.); and 3) "A detailed listing of the permissible uses and all applicable requirements for the R-PD Zone are located in Title 19 ("Las Vegas Zoning Code") of the Las Vegas Municipal Code." Exhibit 3 to Landowners' Motion.

000002

1 5. The City stated in its opposition to the Landowners' motion that the R-PD7 zoning on the
2 35 Acre Property "is not disputed." City's Opposition to Motion to Determine Property Interest,
3 10:17-18.

4 6. As stated in the City Zoning Verification Letter provided to the Landowners on December
5 30, 2014, the legally permitted uses of property zoned R-PD7 are include in the Las Vegas Municipal
6 Code (hereinafter LVMC), Title 19.

7 7. LVMC 19.10.050 is entitled "R-PD Residential Planned Development District" and is the
8 applicable section of the LVMC used to determine those permitted uses on R-PD7 zoned properties
9 in the City of Las Vegas. Exhibit 5 to Landowners' Motion.

10 8. LVMC 19.10.050(C) lists as "Permitted Land Uses" on R-PD zoned properties "[s]ingle-
11 family and multi-family residential." Id.

12 9. LVMC 19.10.050(A) also provides that "the types of development permitted within the
13 R-PD District can be more consistently achieved using the standard residential districts." Id. The
14 standard residential districts are listed on the City Land Use Table, LVMC 19.12.010. Exhibit 6 to
15 Landowners' Motion. The R-2 residential district listed on the City Land Use Table is the standard
16 residential district most comparable to the R-PD7 zoning, because R-PD7 allows up to 7 units per
17 acre¹ and R-2 allows 6-12 units per acre.² The "permitted" uses under the R-2 zoning on the City
18 Land Use Table include "Single Family, Attached" and "Single-Family, Detached" residential uses.
19 LVMC 19.12.010, Exhibit 6 to Landowners' Motion.

20 10. Table 1 to the City Land Use Table provides that if a use is "permitted" in a certain
21 zoning district then "the use is permitted as a principle use in that zoning district by right." Id.

22 11. "Permitted Use" is also defined at LVMC 19.18.020 as "[a]ny use allowed in a zoning
23 district as a matter of right." Exhibit 8 to Landowners' Motion.

24 12. The Landowners have alleged that the City of Las Vegas has taken the 35 Acre Property
25 by inverse condemnation, asserting five (5) separate inverse condemnation claims for relief, a
26

27 ¹ See City Zoning Verification Letter, Exhibit 3 to Landowners' Motion and LVMC
28 19.10.050 (A), Exhibit 5 to Landowners' Motion.

² See LVMC 19.06.100, Exhibit 7 to Landowners' Motion.

1 Categorical Taking, a Penn Central Regulatory Taking, a Regulatory Per Se Taking, a Non-
2 regulatory Taking, and a Temporary Taking.

3 **CONCLUSIONS OF LAW**

4 13. The Nevada Supreme Court has held that in an inverse condemnation, such as this, the
5 District Court Judge is required to make two distinct sub inquiries, which are mixed questions of fact
6 and law. ASAP Storage, Inc., v. City of Sparks, 123 Nev. 639 (2008); McCarran Int'l Airport v.
7 Sisolak, 122 Nev. 645 (2006). First, the District Court Judge must determine the "property interest"
8 owned by the landowner or, stated another way, the bundle of sticks owned by the landowner prior
9 to any alleged taking actions by the government. *Id.* Second, the District Court Judge must
10 determine whether the government actions alleged by the landowner constitute a taking of the
11 landowners property. *Id.*

12 14. The Landowners' Motion to Determine Property Interest narrowly addresses this first
13 sub inquiry and, accordingly, this Court will only determine the first sub inquiry.

14 15. In addressing this first sub inquiry, this Court has previously held that: 1) "it would be
15 improper to apply the Court's ruling from the Landowners' petition for judicial review to the
16 Landowners' inverse condemnation claims,"³ and, 2) "[a]ny determination of whether the
17 Landowners have a 'property interest' or the vested right to use the 35 Acre Property must be based
18 on eminent domain law, rather than the land use law."⁴

19 16. Therefore, the Court bases its property interest decision on eminent domain law.

20 17. Nevada eminent domain law provides that zoning must be relied upon to determine a
21 landowners' property interest in an eminent domain case. City of Las Vegas v. C. Bustos, 119 Nev.
22 360 (2003); Clark County v. Alper, 100 Nev. 382 (1984).

23 18. The Court concludes that the 35 Acre Property has been hard zoned R-PD7 since at least
24 1990.

25
26
27 ³ Exhibit 18 to Landowners' Reply, App. at 0026 / 23:7-8

28 ⁴ Exhibit 18 to Landowners' Reply, App. at 0010 / 7:26-27

19. The Court further concludes that the Las Vegas Municipal Code Section LVMC 19.10.050 lists single family and multi family residential as the legally permissible uses on R-PD7 zoned properties.

20. Therefore, the Landowners' Motion to Determine Property Interest is **GRANTED** in its entirety and it is hereby **ORDERED** that:

- 1) the 35 Acre Property is hard zoned R-PD7 at all relevant times herein; and,
- 2) the permitted uses by right of the 35 Acre Property are single-family and multi-family residential.

DATED this 9th day of October, 2020.


DISTRICT COURT JUDGE zj

Respectfully Submitted By:

LAW OFFICES OF KERMIT L. WATERS

By: /s/ James J. Leavitt
Kermit L. Waters, ESQ., NBN 2571
James Jack Leavitt, ESQ., NBN 6032
Michael A. Schneider, ESQ., NBN 8887
Autumn Waters, ESQ., NBN 8917
704 S. 9th Street
Las Vegas, NV 89101
Attorneys for Plaintiff Landowners

Submitted to and Reviewed by:

MCDONALD CARANO LLP

By: *Declined signing*
George F. Ogilvie III, ESQ., NBN 3552
Amanda C. Yen, ESQ., NBN 9726
2300 W. Sahara Ave., Suite 1200
Las Vegas, Nevada 89102
Attorneys for the City of Las Vegas

City's Arguments to Reverse the Property Interest Order

Due Diligence –

The City claims the Landowners did not do their due diligence and bought a “pig in a poke”

Zoning –

The City claims zoning is not used to decide property rights in inverse condemnation cases

Peccole Ranch Master Plan –

The City claims there is a Peccole Ranch Concept Plan that says the 250 Acres must remain open space

PR-OS –

The City claims there is a City Master Plan that lists the 250 Acre Property as PR-OS and the Master Plan supersedes zoning.

DUE DILIGENCE

Rebuttal of the City's argument the Landowners did not perform a proper due diligence

The Landowners Due Diligence with the City Planning and William Peccole

➤ 2001

Landowners had been working with Peccole Family for 6 years and learned the 250 Acre Land is zoned R-PD7, it had “rights to develop,” it was “intended for residential development,” and Peccole confirmed they would “never” put a deed restriction on the property.

Exhibit 34, 000734, paras. 4-5.

➤ 2001

The Landowner confirms the Queensridge CC&Rs and all land disclosures for surrounding owners disclose the 250 Acre Property is available for “future development” and all land disclosures to surrounding owners confirms this.

Exhibit 38

➤ 2006

The Landowner meets with Robert Genzer, City Planning Official

The entire 250 Acres is zoned R-PD7; and there is nothing that can stop development.

Exhibit 34, 000734, para. 6

➤ 2014

The Landowner meets with Tom Perrigo and Peter Lowenstein, City Head Planners

The City Planning Department conducts a three -week study and confirms:

“the 250 Acres is hard zoned for residential use and had “vested rights” to develop up to 7 units an acre; “the zoning trumps everything;” and, any owner of the 250 Acres can develop the property.

Exhibit 34, 000735, para 8.

The City confirms the **CITY’s AND THE LANDOWNERS’** due diligence in writing

Exhibit 134

➤ **Tom Perrigo, Head of City Planning, Confirms the due diligence in Deposition:**

“if the land use [Master Plan] and the zoning aren’t in conformance, then the zoning would be the higher order entitlement.”

Exhibit 159,004936, p. 53:1-4

➤ **Peter Lowenstein, Head of City Planning, confirms the due diligence in Deposition**

“a zone district gives a property owner property rights.”

Exhibit 160, 005002, p. 242:5-6, 005002.



LAS VEGAS
CITY COUNCIL
CAROLYN G. GOODMAN
MAYOR

STAVROS S. ANTHONY
MAYOR PRO TEM
LOIS TARKANIAN
STEVEN D. ROSS
RICKI Y. BARLOW
BOB COFFIN
BOB BEERS

ELIZABETH N. FRETWELL
CITY MANAGER

December 30, 2014

Frank Pankratz
ENB Companies
9755 W. Charleston Blvd.
Las Vegas, NV 89117

RE: 138-31-713-002
138-31-712-004
138-31-610-002
138-31-212-002 (ZVL-57350)

Mr. Pankratz,

This letter is in response to a request for zoning verification on properties located within Las Vegas, Nevada with Assessor's Parcel Numbers of 138-31-713-002; 138-31-712-004; 138-31-610-002; and 138-31-212-002. The subject properties are zoned R-PD7 (Residential Planned Development District - 7 Units per Acre).

The R-PD District is intended to provide for flexibility and innovation in residential development, with emphasis on enhanced residential amenities, efficient utilization of open space, the separation of pedestrian and vehicular traffic, and homogeneity of land use patterns. The density allowed in the R-PD District shall be reflected by a numerical designation for that district. (Example, R-PD4 allows up to four units per gross acre.) A detailed listing of the permissible uses and all applicable requirements for the R-PD Zone are located in Title 19 ("Las Vegas Zoning Code") of the Las Vegas Municipal Code. The Las Vegas Zoning Code may be found on the City of Las Vegas website:

http://www.lasvegasnevada.gov/LawsCodes/zoning_laws.htm

The department is unable to provide you with a statement as to whether or not this property conforms to current City codes. If a use or building is nonconforming, then Title 19.14 grants certain rights to the owner, which are addressed in Sections 19.14.040 and 19.14.050 located in Title 19 ("Unified Development Code") of the Las Vegas Municipal Code. The Unified Development Code may be found on the City of Las Vegas website:

http://www.lasvegasnevada.gov/files/CLV_Unified_Development_Code.pdf

Should you wish to obtain copies of a Certificate of Occupancy or other public records related to the subject property, please contact the Las Vegas Building and Safety Department at (702) 229-6251. Information regarding City code violations on the subject property can be obtained from the Code Enforcement Division of the Building and Safety Department at (702) 229-2330.

If you have any questions concerning this matter, please contact me at (702) 229-5745.

Sincerely,

Nicole Eddowes
Planner I
Planning & Development Department

CITY OF LAS VEGAS
DEPARTMENT OF PLANNING
DEVELOPMENT SERVICES CENTER
333 NORTH PARKLAND DRIVE
LAS VEGAS, NEVADA 89108

VOICE 702.229.6501
FAX 702.474.0332
TTY 702.386.9108
www.lasvegasnevada.gov

EXHIBIT H



The R-PD District is intended to provide for flexibility and innovation in residential development, with emphasis on enhanced residential amenities, efficient utilization of open space, the separation of pedestrian and vehicular traffic, and homogeneity of land use patterns. The density allowed in the R-PD District shall be reflected by a numerical designation for that district. (Example, R-PD4 allows up to four units per gross acre.) A detailed listing of the permissible uses and all applicable requirements for the R-PD Zone are located in Title 19 ("Las Vegas Zoning Code") of the Las Vegas Municipal Code. The Las Vegas Zoning Code may be found on the City of Las Vegas website

Exhibit 134

18197

PRJ-63491
02/25/16

FW 004406
LO 00000084

City Attorney's Office

Confirming the Landowners' and City's Due Diligence was Accurate

1. Brad Jerbic, 30-year City Attorney – specific to the 35 Acre Property

“Council gave hard zoning to this golf course, R-PD7, which allows somebody to come in and develop.”
Exhibit 163, Trans. 10.18.16 Special Planning Comm. Meeting, 005023:3444-3445.

“the rule is the hard zoning, in my opinion, does trump the General Plan [Master Plan] designation.”
Exhibit 75, Trans. 2.14.17 Planning Comm., p. 002629:1787-1789.

2. Brad Jerbic and Phil Byrnes – Motion in a 2011 Inverse Condemnation Case

A designation on the Master Plan “was a routine planning activity that had no legal effect on the use and development” of affected property.

Exhibit 156, at 004925-4926.

3. Affidavits of City Attorney Bryan Scott and City Deputy Attorney Jim Lewis 2011 Inverse Condemnation Case

“the Office of the City Attorney has consistently advised the City Council and the City staff that the City's Master Plan is a planning document only and that placement of a roadway [designation] on the Master Plan cannot be used to restrict or impair the development of adjoining parcels.”

Exhibits 157 and 158.

4. Phil Byrnes – 25-year City Attorney – Motion to District Court under Rule 11 – specific to the 250 Acre Property

“[i]n the hierarchy, the land use designation is subordinate to the zoning designation.”

“zoning designations specifically define allowable uses and contain the design and development guidelines for those intended uses.”

Exhibit 42, p. 000992:8-12

City Tax Department Confirming the City's AND Landowners' Due Diligence

The Assessor applied NRS 361.227.

Determine the “lawful” use of the 250 Acre Property is “residential.”

Placed a value of \$88 million on the 250 Acre Property.

The City is taxing the Landowners \$1 million / year based on this “lawful” residential use.

Exhibits 49, 120 (SJMT OPP Exhibit)

**The Landowners Acquire the 250 Acre Property
AFTER receiving the City's Zoning Verification Letter that the 250 Acre Property could
be put to a Residential Use**

- March 2015 the Landowners acquired Fore Stars Ltd. Which owned 5 parcels comprising the 250-acre property.
Exhibit 44 - Original Purchase Deed
- During the development process the City advised Landowners that the property should be re-parcelized into a total of 10 parcels.
- **Deposition of Peter Lowenstein, City of Las Vegas Planning Section Manager:**
 - A. "Well, in regards to applications being submitted, **we wanted separate parcels** for – so we didn't create any kind of split designated parcel."
 - Q. "Okay. So you wanted the developer here to subdivide the property further, correct?"
 - A. "As part of the submittal, we were looking for that to be accomplished prior to notification."
Exhibit 160 pg. 84 Ln. 14-25
- The acquisition is a "complicated transaction," "with a lot of hair on it", \$45 million cash attributed, with a \$100 million value. Yohan Lowie and William Bayne Depositions.
- The Landowners KNEW the past golf course was failing and it had residential use "rights."

**The City Planners Confirm the
R-PD7 Zoning and the
Landowners' Right to use the 35
Acre Property Residentally
During the Landowners'
Application Process**

The City Planning Department Confirmed That the MDA Application was Properly Complete and Should be Approved.

DIR-70539 [PRJ-70542]

Staff Report Page Nineteen
June 21, 2017 – City Council Meeting

FINDINGS (DIR-70539)

The proposed Development Agreement conforms to the requirements of NRS 278 regarding the content of development agreements. The proposed density and intensity of development conforms to the existing zoning district requirements for each specified development area. Through additional development and design controls, the proposed development demonstrates sensitivity to and compatibility with the existing single-family uses on the adjacent parcels. Furthermore, the development as proposed would be consistent with goals, objectives and policies of the Las Vegas 2020 Master Plan that call for walkable communities, access to transit options, access to recreational opportunities and dense urban hubs at the intersection of primary roads. Staff therefore recommends approval of the proposed Development Agreement.

Exhibit 77

s (also termed "The Two Fifty Drive Extension") approval for construction of the 1,500th residential street (see permit).

It Boulevard entrance to Development Area 1 is not possible pursuant to updated traffic studies. Development Areas 1 through 3 are to be completed in three phases: multi-family residential units and commercial units in the first phase, the 1,500th residential unit in the second phase, and the private park area must be completed.

Box culverts and/or drainage channels, access to Development Area 4, is to be completed prior to the 1,700th residential unit.

Any development designated as FEMA flood zones cannot be developed until the developer receives a Conditional Letter of Map

as of the Effective Date

ster Developer intends to "freeze" the standards Title 19 (Unified Development Code) in order to throughout the life of the Agreement. The version of the Agreement would become the standard activity not explicitly contained within the documents approved prior to the Effective Date of the UDC.

FINDINGS (DIR-70539)

The proposed Development Agreement conforms to the requirements of NRS 278 regarding the content of development agreements. The proposed density and intensity of development conforms to the existing zoning district requirements for each specified development area. Through additional development and design controls, the proposed development demonstrates sensitivity to and compatibility with the existing single-family uses on the adjacent parcels. Furthermore, the development as proposed would be consistent with goals, objectives and policies of the Las Vegas 2020 Master Plan that call for walkable communities, access to transit options, access to recreational opportunities and dense urban hubs at the intersection of primary roads. Staff therefore recommends approval of the proposed Development Agreement.

Uncontested Evidence

55

002671

17

The City Planning Department Confirmed The City and Landowners' Due Diligence – Confirming the 35 Acre Applications Should Have Been Approved

➤ GPA -68385

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.

Exhibit 74 pg. 002551

➤ SDR-68481

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.

Exhibit 74 pg. 002552.

➤ TMP-68482

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

Exhibit 74 pg. 002553

CONSISTENT WITH PROPERTY INTEREST ORDER, EXHIBIT 1.

The 35 Acre Applications Were Consistent with the Due Diligence

➤ Councilman Bob Beers – June 21, 2017 City Council Meeting:

“So I think actually the fastest way for the property owner to exercise their property rights would probably be for us to deny this, because then they can go to court and a court will immediately reverse us, because this is so far inside the existing lines.”

Exhibit 33 pg 000701, Ln 2588-2590.

CONSISTENT WITH PROPERTY INTEREST ORDER, EXHIBIT 1

**The Nevada Supreme Court
Confirms the City's and
Landowners' Due Diligence**

**The Court Relies on Zoning –
NOT OTHER PLANS AND
NOT THE MASTER PLAN –
When deciding the property
rights in inverse condemnation
cases.**

Before the Court En Banc.

***650 OPINION**

HARDESTY, J.

In this appeal, we determine whether the district court properly concluded that a county height restriction ordinance effected a "per se" taking of the airspace above private land that is located within the departure critical area of an airport approach zone. Appellant Clark County operates McCarran International Airport, the primary commercial airport serving southern Nevada. The County adopted height restriction ordinances limiting the development of respondent Steve Sisolak's airspace. The district court concluded that the height

restriction ordinance awarded Sisolak an award of just compensation. Thereafter, the district court's judgment was affirmed by the Nevada Supreme Court. We granted Sisolak's petition for writ of certiorari to review the district court's judgment.

***651 FACTS**

The property

Since 1955, the County has owned and operated the McCarran International Airport. The County's height restriction ordinance was adopted to protect the property of airport users from air navigation hazards that could be caused by property occupants.

During the 1980s, Sisolak bought three adjacent parcels of land for investment purposes, which were each zoned for the development of a hotel, a casino, or apartments.³ Located on the southwest corner of South Las Vegas Boulevard and Arby Avenue in Las Vegas, the parcels lie 5,191 feet from the west end of a McCarran International Airport runway.

When Sisolak purchased the property, Clark County Ordinance 728 was in effect. Passed in order to regulate the height of structures and the use of property in the vicinity of all public use airports, the Ordinance aimed to prevent the establishment of obstructions that would pose air navigation

hazards. According to Clark County's legislative findings, such obstructions could "reduce the size of the areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility and capacity of [public use airports] and the public investment therein."⁴

Under Ordinance 728, Sisolak's property was in a generalized area known as the "horizontal zone." The Ordinance restricted the height for development of property located in the horizontal zone to 150 feet above the established airport elevation. Because Sisolak's property was at a higher elevation than the established airport elevation, Ordinance 728 actually imposed restrictions limiting the height of structures on his property to between 80 and 90 feet above ground level (AGL).

"During the 1980s, Sisolak bought three adjacent parcels of land for investment purposes, which were each zoned for the development of a hotel, a casino, or apartments."

McCarran Int'l Airport v. Sisolak, 122 Nev. 645, 651 (2006)

In 1990, McCarran Airport began expanding and upgrading the runway for use by commercial jet aircraft, in conformity with the 1979 Clark County master plan. As a result, the county enacted two ordinances that further affected Sisolak's property.

First, the County adopted Ordinance 1221, amending Ordinance 728, in response to the changes in the runway's use. Ordinance 1221 placed Sisolak's property in the precision instrument runway approach zone, which subjected the property to a 50-foot slope restriction.⁵ On Sisolak's property, this resulted in an actual height restriction between 47 and 51 feet. However, regardless of the height restrictions for a particular zone, nothing in the Ordinance could be construed as prohibiting the construction or maintenance of

[6] Ordinarily, zoning restrictions permitting a viable economic use of the property may be considered for valuation purposes. See *United States v. Eminent Temporal Park Ass'n*, 350 U.S. 242, 933 (9th Cir. 1955). However, as noted in *United States v. Virginia Electric & Power Co.*, 363 U.S. 624, 636, 81 S.Ct. 784, 792, 2 L.Ed.2d 838 (1961), it would be manifestly unjust to permit a public authority to depreciate property values by the threat of a construction of a government project and then to take advantage of this depreciation in price when the property is eventually condemned. See *Lower Merces River Water Supply District v. Collins*, 357 S.W.2d 449, 454 (Tex.Civ.App. 1962); *Board of Comm'rs of State Inst. v. Tallahassee Bay & Trust Co.*, 168 So.2d 74 (Fla.App. 1958). The court must therefore conclude any evidence of the depreciation in value caused by the prospective taking once the government has announced its commitment to the project. *State Dept. of Highways v. Cooper Mountain*, 624 P.2d 936 (Colo.App. 1981); *Dade County v. Shell*, 377 So.2d 689 (Fla. 1979); *Klapperg v. City of Whittier*, 8 Cal.3d 39, 104 Cal.Rptr. 1, 500 P.2d 1345 (1973); *United States v. Arizona Elec. & Power Co.*, above-cited.

390 *States v.*
Annot. 5 A1

[illegible]

In conclusion, when determining the market value of a parcel of land at its highest and best use, due consideration should be given to those zoning ordinances that would be taken into account by a prudent and willing buyer.⁶ Nevertheless,

the impact on the fair market value that resulted from the taking itself should be excluded. The property is to be valued as if the government project that resulted in the taking was neither contemplated nor carried out. In the present appeal, although the county's appraisal was based on community planning guides which ultimately were carried into effect when Planning 9949 Read was enlarged, the introduction of such evidence was harmless. The trial court is therefore affirmed on these issues.

#391 Time of Vibration

The county appeals from the lower court's ruling that the property should be valued as of the time that the action was brought to trial rather than the time that the property was taken. The district court based its holding on NRS 47.130(1)(b), which allows valuation to be made as of the time of trial in formal eminent domain proceedings not brought as trial within a two-year period.⁷ In response, the county

“In conclusion, when determining the market value of a parcel of land at its highest and best use, due consideration should be given to those zoning ordinances that would be taken into account by a prudent and willing buyer.”

Clark Cty. v. Alper, 100 Nev. 382, 390 (1984)

The Appors filed the present action on July 31, 1972, for inverse condemnation. We hold that the county cannot delay until the landowner will file an action for inverse condemnation and thereby avoid its obligation to bring the matter to trial within two years. Inverse condemnation proceedings are the constitutional equivalent to eminent domain actions and are governed by the same rules and principles that are applied to

1998). The issue before the trial court was whether an error occurred 37-27 unless County raising inadmissible issue an

The State of Nevada does not contend that Clark County acted without authority in zoning as it did, nor does it contend that Clark County intended to prevent outdoor advertising structures to encumber the purposes of the act. Therefore, the issue before this court is the validity of the lower court's determination that H-2 was not a commercial zone within the meaning of NRS 41A.020. Esley.

(2) On premises subject to the provisions of Section 29.44 (B)(3) of this title.

(1) Multiple dwellings, dwelling groups, apartment houses, provided that all buildings and structures shall comply to Section 29.21 (b) (property development standards) of the Re-3 (multiple family high density) district.

(10) Offices and office buildings.

Alper v. State, Dep't of Highways, 95 Nev. 876, 878-79 (1979), *on reh'g sub nom. Alper v. State*, 96 Nev. 925 (1980)

Law Offices of Kermit L. Waters, and Laura Wightman Fitzsimmons, Las Vegas, for respondents.

***59 OPINION**

ROSE, C.J.

Appellant Clark County (the "county"), acting on behalf of the Las Vegas Convention Authority, filed a condemnation action seeking two parcels of property located across from the Las Vegas Convention Center (the "property"). The property was owned by Brian Buckwalter, John R. Reese, and several others (the "landowners").

Prior to trial, the landowners filed a motion to define fair market value as the "highest price" the property would bring on the open market. The district court granted this motion, instructing the jury to award the "highest price," despite the fact that the legislature in *amendina* NRS 37.000 had defined fair

Prior to trial, the district court held several hearings on the parties' motions in limine, including the landowners' motion to define fair market value. In this motion, the landowners argued that the fair market value of the property should be defined as the "highest price" the property would bring on the open market. The landowners further argued that the legislature's enactment of NRS 37.000, defining fair market value as the "most probable price," was unconstitutional as a violation of the separation of powers because the legislature had no authority to deflate just compensation. In contrast, the county argued that fair market value should be defined as the "most probable price," the property would bring on an open market pursuant to NRS 37.000. The district court granted the landowners' motion, adopting the "highest price" definition of fair market value.

On April 8, 1996, the matter proceeded to trial. Each party presented experts who testified on the market value of the property. The landowners' experts testified that the

"Although the property housed apartment buildings, it was zoned for commercial use, to include retail, food and beverage, or gaming facilities."

Cty. of Clark v. Buckwalter, 115 Nev. 58, 59 (1999)

In the early 1980's, the county purchased a partnership and purchased the property, which consisted of two parcels near the Las Vegas Convention Center. Although the property housed apartment buildings, it was zoned for commercial use to include retail, food and beverage, or gaming facilities.

In September 1993, the county adopted a resolution of "need and necessity" announcing its intention to condemn the property for expansion of the Las Vegas Convention Center. After a period of unsuccessful negotiations concerning the fair market value of the property, in April 1994, the county filed a condemnation action against the landowners in Clark County district court. Approximately one month later, the county gained the right of *60 immediate occupancy of the property. After rejecting the landowners' offer of judgment of \$4,850,000.00, the parties prepared for trial.

motion for a new trial, the district court stated that the "highest price" definition of fair market value was "the one legal issue that we [the county] really ha[d] in arguing before ... the Nevada Supreme Court." Thereafter, the county filed this timely appeal.

DISCUSSION

[1] The county argues that the district court committed reversible error by giving the jury an erroneous instruction on the definition of fair market value.¹ Specifically, the county contends that jury *61 instruction no. 12² was erroneous because the "highest price" standard, which the district court adopted from *Wheeler v. State Department of Transportation*, 105 Nev. 217, 773 P.2d 728 (1989), had been

THOMPSON, Chief Justice.

The property owners appeal from that part of a district court judgment in a condemnation case denying them severance damages and refusing to tax as costs the fee of their expert witness for court testimony and preparation of an appraisal report.¹

John and Karin Andrews own a rectangular parcel of land within the Kingsbury General Improvement District, Douglas County, near Lake Thross. The Improvement District brought a condemnation suit to acquire a strip of the Andrews' property for a public road. The proposed road courses approximately through the middle of the Andrews' property in a general north-south direction. The area is "zoned for single family residences and the zoning regulations require 12,000 square feet of lot area for each dwelling. The east side of the property where the Andrews have their residence is susceptible of division into lots suitable for family dwelling lots

seems clear that such damage may result if the 12,000 square feet per lot requirement is strictly enforced. However, the trial court's erroneous belief that the owners were also required to offer evidence of their intention to subdivide for single family residence use, caused it to deny severance damages out of hand, and effectively precluded the condemnor from submitting competent countervailing evidence on the issue. For example, there is a suggestion in the record that the appropriate authority would probably grant a variance from the square footage restriction, if the Andrews made application therefor. Evidence of that kind, if offered through a competent witness, is relevant to severance damage. *School Dist. No. 13 v. Wicks*, Sup., 227 N.Y.S.2d 768 (1962). In *re Old Riverhead Road*, 48 Misc.2d 39, 264 N.Y.S.2d 162 (1965).⁴ Since there was not a full hearing on this aspect of the severance damage issue, we must remand for further consideration.

With regard to costs in an eminent domain case, our statute provides that "Costs may be allowed or not, and if allowed

"The area is zoned for single family residences and the zoning regulations require 12,000 square feet of lot area for each dwelling."

Andrews v. Kingsbury Gen. Imp. Dist. No. 2, 84 Nev. 88, 89 (1968)

entitled to compensation for the highest and best use to which his property may be put, and is not limited by the use actually made of it (*State v. Jacobs*, 16 Utah 2d 167, 397 P.2d 463, 464 (1964); *People v. Ocean Shore R.R.*, 32 Cal. 2d 406, 196 P.2d 570, 584, 6 A.L.R.2d 1179 (1948); *Moyle v. Salt Lake City*, 111 Utah 201, 176 P.2d 882, 888 (1947)), and severance damages must be given by the trier of fact if such damages are incurred. NRS 37.110.³ The burden rests with the owner to prove such damages. *State ex rel. Mack v. Department of Highways*, 77 Nev. 422, 424, 365 P.2d 1117 (1961); *State ex rel. Department of Highways v. Pinson*, 66 Nev. 227, 236, 237 P.2d 1105 (1949).

[3] [4] In the case at hand the landowner offered and the court received competent evidence of severance damage. It

our general cost statutes do not provide for the inclusion of the cost of securing an appraisal report or the expert fee of an expert witness (NRS 48.290(1) limits witness fees as costs to \$5 for each day's attendance in court), we must conclude that the lower court correctly denied recovery for the cost of the report, but erred in allowing more than \$5 for the witness fee.

Although it was not essential to discuss the cost issue (since our remand for further proceedings itself effectively nullifies the judgment for costs), perhaps an expression of our view will aid the district court in settling costs following completion of the case in the trial court.

Reversed, and remanded for further proceedings consistent with this opinion.

Also, a number of residences in the medical district had already been converted into professional offices.

After viewing the property and hearing conflicting testimony regarding the likelihood of a zoning change and the value of the property, both as a residence and as a professional office, the district court determined that obtaining a zoning change for use as an office was reasonably possible. Therefore, the district court determined that the property should be valued as if it were zoned for commercial use as a professional office because that would represent the highest and best use of the property. The district court set that value at \$190,000, after taking into account the costs of converting the property from a residence to an office.

[1] On appeal, the City argues that the district court erred in its valuation. The City contends that the district court was required to value the property based on the highest and best use that was legally permissible, and that use as

[2] [3] The landowner is entitled to just compensation for the government's taking of private property⁴ and has the burden of establishing the value of land so taken.⁵ Just compensation is determined by the property's market value "by reference to the highest and best use for which the land is available and for which it is plainly adaptable."⁶ However, such use must be reasonably probable.⁷ In general, the trier of fact may consider zoning restrictions permitting a viable economic use of the property in determining the property's value.⁸ In fact, the district court should give "due consideration ... to those zoning ordinances that would be taken into account by a prudent and willing buyer."⁹

[4] We conclude that the district court properly considered the current zoning of the property, as well as the likelihood of a zoning change. The trier of fact may consider the effect of future rezoning or variances on the highest and best use of the

"We conclude that the district court properly considered the current zoning of the property, as well as the likelihood of a zoning change."

City of Las Vegas v. Bustos, 119 Nev. 360, 362 (2003)

Footnote – cites to 10 supporting cases.

are impossible because they address enforcement of a master plan, not whether the district court may take into account the reasonable probability of rezoning in an eminent domain case. They argue that the very purpose of eminent domain proceedings is to provide the landowner with just compensation, premised on the highest and best use of the property, rather than the actual use, and that refusal to consider potential zoning changes has resulted in reversible error.³ Further, given the neighborhood's evolution from a sleepy residential neighborhood to a busy thoroughfare and entrance to the ³⁶² downtown business district, it was proper for the district court to consider the probability of a zoning change. Finally, the Bustoses assert that, at the very least, there was competing evidence as to the probability of a zoning change, and that it was within the district court's discretion to weigh the evidence and determine the credibility of the witnesses.

the risk of condemnation proceedings. He thought he could convince the City to ³⁶⁴ straighten Alta Drive through vacant land rather than simply widen it, which would have required the City to condemn only seven properties instead of sixteen and would have bypassed his house. Bustos testified that he had experience with obtaining zoning variances in the area and that he thought he could obtain one for the subject property.

Gary Kent, the Bustoses' appraiser, testified that he appraised the property as an office conversion because he had concluded that that was the highest and best use of the property. He testified that he reached his conclusion because of the property's access to downtown Las Vegas, the reclassification of properties surrounding it as professional, commercial or high density residential, Alta Drive's high traffic volume, and Alta Drive's designated entry into the Union Pacific Development Area. Kent testified that, in his opinion, a buyer

The Nevada Legislature Confirms the City's and Landowners' Due Diligence

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

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

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

AGO 84-6

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

“This recent enactment buttresses our conclusion that Nevada Legislature has always intended local zoning ordinances to control over general statements or provisions of a master plan.”

Exhibit 23

NRS 40.005 – “In any proceeding involving the disposition of land the court **shall** consider lot size and **other applicable zoning requirements** before ordering a physical division of land.”

Real World Practice Confirms the City AND Landowners' due diligence:

Lenders
Bankers
Real Estate Brokers
Investors
Title Companies
Insurance Companies
and even the Government

No Government entity has argued otherwise in these type of cases.

Declaration of Stephanie Allen Exhibit 195 Paragraph 16

16. During my 17 years of work in the area of land use, it has always been the practice that zoning governs the determination of how land may be used. The master plan land use designation has always been considered a general planning document. I do not recall any government agency or employee ever making the argument that a master plan land use designation trumps zoning.

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

Dated this 21st day of May, 2021.


Stephanie Allen, Esq.

16. During my 17 years of work in the area of land use, it has always been the practice that zoning governs the determination of how land may be used. The master plan land use designation has always been considered a general planning document. I do not recall any government agency or employee ever making the argument that a master plan land use designation trumps zoning.

4

006088

**Zoning should be used in this
case to decide the property
rights issue.**



LAS VEGAS
CITY COUNCIL
CAROLYN G. GOODMAN
MAYOR
STAVROS S. ANTHONY
MAYOR PRO TEM
LOUIS TARKANIAN
STEVEN D. ROSS
RICKY Y. BARLOW
BOB COFFIN
BOB BEERS
ELIZABETH N. FRETWELL
CITY MANAGER

December 30, 2014

Frank Pankratz
ENB Companies
9755 W. Charleston Blvd.
Las Vegas, NV 89117

RE: 138-31-713-002
138-31-712-004
138-31-610-002
138-31-212-002 (ZVL-57350)

Mr. Pankratz,

This letter is in response to a request for zoning verification on properties located within Las Vegas, Nevada with Assessor's Parcel Numbers of 138-31-713-002; 138-31-712-004; 138-31-610-002; and 138-31-212-002. The subject properties are zoned R-PD7 (Residential Planned Development District - 7 Units per Acre).

The R-PD District is intended to provide for flexibility and innovation in residential development, with emphasis on enhanced residential amenities, efficient utilization of open space, the separation of pedestrian and vehicular traffic, and homogeneity of land use patterns. The density allowed in the R-PD District shall be reflected by a numerical designation for that district. (Example, R-PD4 allows up to four units per gross acre.) A detailed listing of the permissible uses and all applicable requirements for the R-PD Zone are located in Title 19 ("Las Vegas Zoning Code") of the Las Vegas Municipal Code. The Las Vegas Zoning Code may be found on the City of Las Vegas website:

http://www.lasvegasnevada.gov/LawsCodes/zoning_laws.htm

The department is unable to provide you with a statement as to whether or not this property conforms to current City codes. If a use or building is nonconforming, then Title 19.14 grants certain rights to the owner, which are addressed in Sections 19.14.040 and 19.14.050 located in Title 19 ("Unified Development Code") of the Las Vegas Municipal Code. The Unified Development Code may be found on the City of Las Vegas website:

http://www.lasvegasnevada.gov/files/CLV_Unified_Development_Code.pdf

Should you wish to obtain copies of a Certificate of Occupancy or other public records related to the subject property, please contact the Las Vegas Building and Safety Department at (702) 229-6251. Information regarding City code violations on the subject property can be obtained from the Code Enforcement Division of the Building and Safety Department at (702) 229-2330.

If you have any questions concerning this matter, please contact me at (702) 229-6745.

Sincerely,

Nicole Eddowes
Planner I
Planning & Development Department

CITY OF LAS VEGAS
DEPARTMENT OF PLANNING
DEVELOPMENT SERVICES CENTER
333 NORTH PARKLAND DRIVE
SUITE 100
LAS VEGAS, NEVADA 89108
VOICE 702.229.6001
FAX 702.474.0352
TTY 702.366.9108
www.lasvegasnevada.gov

EXHIBIT H



The R-PD District is intended to provide for flexibility and innovation in residential development, with emphasis on enhanced residential amenities, efficient utilization of open space, the separation of pedestrian and vehicular traffic, and homogeneity of land use patterns. The density allowed in the R-PD District shall be reflected by a numerical designation for that district. (Example, R-PD4 allows up to four units per gross acre.) A detailed listing of the permissible uses and all applicable requirements for the R-PD Zone are located in Title 19 ("Las Vegas Zoning Code") of the Las Vegas Municipal Code. The Las Vegas Zoning Code may be found on the City of Las Vegas website

Exhibit 134

18219

PRJ-63491
02/25/16

FILED
001406
LO 00000084

R-PD7 Zoning Rights

ent District

Figure 1. Residential Placement Development District Map

A. Intent of R-PD District

The R-PD District has been to provide for flexibility and innovation in residential development

g. Development Standards

- Map is representative of where the R-PD District is located.

C. Permitted Land Uses

- i. Single and Two-Family residential developments Indicated in LVMC 19.06.140 for the R-1 District; and
- ii. Multi-family residential developments within a LVMC 19.06.140 for the R-3 District.

Permitted Land Uses

- a. Home Occupations for which prior approvals have been secured.
 - b. Child Care-Family Home and Child Care-Group Home, to the extent the Director determines that such uses would be permitted in the equivalent standard residential district.
 2. For any use which, pursuant to this Subsection, is deemed to be permitted within the R-PD District, the Director may apply the development standards and procedures which would apply to that use if it were located in the equivalent standard residential district.
 3. For purposes of this Subsection, the "equivalent standard residential district" means a residential district listed in the Land Use Tables which, in the Director's judgment, represents the (or a) district which is most comparable to the R-PD District in question, in terms of density and development type.
- Plan Amendment Approvals, Conditions, Conformance**
- Amendments to an approved Site Development Plan Review shall be reviewed and approved pursuant to UMCE 19.16.100(1). The approving body may attach to the amendment to an approved Site Development Plan Review whatever conditions are deemed necessary to ensure the proper amenities and to assure that the proposed development will be compatible with surrounding existing and proposed land uses.

**Conclusion on the property
rights issue:**

**Zoning must be used to decide
the property rights issue.**

The Zoning is R-PD7

**Under R-PD7 zoning, single
family and multi family are the
legally permissible uses of the 35
Acre Property**

**This Court's Property Interest
FFCL is well reasoned and
legally correct.**

Rejection of the City's Peccole Ranch Master Plan Argument

30 year veteran attorney – present during the entire time the alleged Peccole Ranch Master Plan was being considered

November 1, 2016 Queensridge Homeowner Meeting Exhibit 186 pg. 60–
“ The Peccole Ranch Phase II Plan was a very, very, very, general plan. I have read every bit of it. If you look at the original plan and look what’s out here today, it’s different.

November 1, 2016 Queensridge Homeowner Meeting Exhibit 186 pg. 117 –
“ So the plan – the master plan that we talk about, the Peccole phase 2 master plan is not a 278A agreement, it never was, never has been, not a word of that language was in it.”

Supreme Court Determined Not in a PD district.

Having considered the record and the parties' arguments, we conclude that the City Council properly interpreted the City's land use ordinances in determining that Seventy Acres was not required to obtain a major modification of the Peccole Ranch Master Plan before it could develop the parcel. LVMC 19.10.040(B)(1) expressly limits master development plans to planned development district zoning designations. Therefore, the major modification process described in LVMC 19.10.040(G)(2), which is required to amend a master development plan, only applies to planned development district zoning designations. Here, the parcel does not carry the planned development district zoning designation. Therefore, the major modification process is not applicable to the parcel.

Instead, the parcel carries a zoning designation of residential planned development district. LVMC 19.10.050(B)(1) expressly states that site development plans govern the development of residential planned development districts. Therefore, as the City correctly determined, Seventy Acres must follow the site development plan amendment process outlined under LVMC 19.16.100(H) to develop the parcel. LVMC 19.10.050(D). This process does not require Seventy Acres to obtain a major modification of the Peccole Ranch Master Plan prior to submitting the at-issue applications. Accordingly, we conclude that the City Council's interpretation of the City's land use ordinances did not constitute a manifest abuse of discretion. *Cinnamon Hills Assoc.*, 110 Nev. at 247, 871 P.2d at 326 (1994).

Substantial evidence supports the City's approval of the applications

We next consider whether substantial evidence supports the City's decision to grant Seventy Acres's applications. "Substantial evidence is evidence that a reasonable person would deem adequate to support a decision." *City of Reno v. Reno Police Protective Ass'n*, 118 Nev. 889, 899,

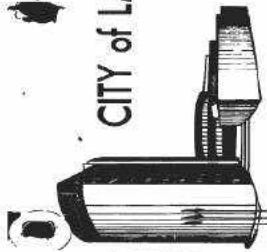
"Here, the parcel does not carry the planned development district zoning designation."

"Instead, the parcel carries a zoning designation of residential planned development district."

Peccole and the City worked together to assure there was no restriction on the use of the 250 Acre Property AND expressly took action to assure there was no open space requirement.

Z-17-90

CITY of LAS VEGAS



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

CORRECTED LETTER

January 29, 1991

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

REF. 7-17-90 - ZONE CHANGE

Sentlemen

The City Council at a regular meeting held April 4, 1990 APPROVED the request for reclassification of property located on the east side of Hualapai Way, west of Durango Drive, between the south boundary of Angel Park and Sahara Avenue, from: R-1J (Non-Urban) under Reason of Intent to: R-1, R-2, R-3, R-PD7, R-PB8, R-MP4, R-P, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15, C-16, C-17, C-18, C-19, C-20, C-21, C-22, C-23, C-24, C-25, C-26, C-27, C-28, C-29, C-30, C-31, C-32, C-33, C-34, C-35, C-36, C-37, C-38, C-39, C-40, C-41, C-42, C-43, C-44, C-45, C-46, C-47, C-48, C-49, C-50, C-51, C-52, C-53, C-54, C-55, C-56, C-57, C-58, C-59, C-60, C-61, C-62, C-63, C-64, C-65, C-66, C-67, C-68, C-69, C-70, C-71, C-72, C-73, C-74, C-75, C-76, C-77, C-78, C-79, C-80, C-81, C-82, C-83, C-84, C-85, C-86, C-87, C-88, C-89, C-90, C-91, C-92, C-93, C-94, C-95, C-96, C-97, C-98, C-99, C-100, C-101, C-102, C-103, C-104, C-105, C-106, C-107, C-108, C-109, C-110, C-111, 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C-6

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

Children's Pecuniary Trust
January 29, 1991
FILE 2-17-90 - INURE CHANGE
PAGE 2

3. Signs shall be placed on the reconfiguring and commercial center sites to indicate the proposed work.
4. The surrounding property owners shall be notified when the development plans for the reconfiguring and commercial center sites are submitted for review.
5. The existing resolution of this property is assigned upon approval of this application.
6. Resolution of Incent with a five year time limit.
7. Satisfaction of City Code requirements and design standards of all City departments.
8. Approval of the parking and driveway plans by the Traffic Engineer.
9. Receipt of any change to the existing street improvements resulting from this development as required by the Department of Public Works
10. Provision of fire hydrants and water flow as required by the Department of Fire Services.

Sincerely,

CATHLEEN M. TIGHE
Betsy Clark

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

Conditions of Approval for Z-17-90

1433 to 1437	X. COMMUNITY PLANNING AND DEVELOPMENT DEPT. (CONTINUED)		NOI to Noi =al dor Cic
	G. ZONE CHANGE - PUBLIC HEARING		ROE app con and cen Cou COU wro and pos the ask the whi sit and ack inf of No
	3. <u>Master Development Plan Amendment related to Z-17-90</u>		
	Request for approval to amend the Master Development Plan for property located on the east side of Hualpai Way, west of Durango Drive, between the south boundary of Angel Park and Sahara Avenue.		
	Planning Commission unanimously recommended APPROVAL, subject to:		
	1. A maximum of 4,247 dwelling units be allowed for Phase II.		
	2. Hualpai Way be extended as a public street north of Charleston Boulevard to the north property line as required by the Department of Public Works.		
	3. Extend Apple Lane along the north side of this site and adjacent to Angel Park, east of Rampart Boulevard to Durango Drive, as required by the Department of Public Works.		
	4. Signs shall be posted on the resort/casino and commercial center sites to indicate the proposed uses.		
	5. The surrounding property owners shall be notified when the development plans for the resort/casino and commercial center sites are submitted for review.		
	Staff Recommendation: APPROVAL		
	PROTESTS: 5 (at meeting)		

-----Original Message-----

From: Vicki Ozuna

Sent: Tuesday, December 6, 2016 3:04 PM

To: Tom Perrigo <tperrigo@LasVegasNevada.GOV>

Cc: Karen Duddleston <kduddleston@LasVegasNevada.GOV>; Tony Guarino <TGuarno@LasVegasNevada.GOV>

Subject: RE: Fire Hazard apr 138-31-702-002 BADLAND GOLF COURSE CITY OF LAS VEGAS

Code Enforcement has received two complaints addressing different issues with Badland Golf Course. One is concerning vegetation that it is alleged to be creating a fire hazard, and the other is regarding the well pump being down, and the course not being watered. The second issue came to me this morning from Councilman Bears.

Tony inspected the site and found nothing that is creating a fire hazard. He also looked at the ponds and areas of the course. He met with the well service who is repairing the pump, who advised Tony that the well has been down the last 30 days. The pump should be repaired by the end of today.

In order to determine what standards Code Enforcement can use for enforcement for the golf course, I reviewed the Peccole Ranch Master Plan Phase II and all development agreements/SDR's that were approved for this area.

There are no conditions mentioned that pertain to the maintenance of the open space/golf course area.

Since the property is zoned RPD-7 I believe UDC 19.06.040 Development Standards- Residential would apply. Specifically section 4b that states property owners are responsible for maintaining all landscaping in a healthy and vigorous living condition. Additionally 4c addresses replacement of dead vegetation with healthy, living plants, in accordance with standard seasonal planting practices, could be applicable. I discussed the intent of this section of the code with Steve G. and he agrees that it could be used to require the property owner maintain the existing landscaping.

I have reviewed pictures that Tony G took Monday onsite and feel that if the property owner determines not to restore water to the property, then the ponds should all be drained as they are not able to be circulated to keep them from becoming stagnant. As this is an open area and adjacent residents are able to access the area, it would also be a safety concern for drownings. I think we would also want to include that they be kept water free for in the future so as not to become mosquito breeding grounds. This could be addressed under Nuisance 8.04.010.2) that addresses stagnant/polluted water.

As far as vegetation, under Nuisance 8.04, Code Enforcement can require that all grass and weeds be kept below 6" at all times and dead vegetation if it constitutes a fire hazard should be removed.

In order to determine what standards Code Enforcement can use for enforcement for the golf course, I reviewed the Peccole Ranch Master Plan Phase II and all development agreements/SDR's that were approved for this area.

There are no conditions mentioned that pertain to the maintenance of the open space/golf course area.

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RIGHTS

Queensridge Lot Purchase Agreement

13. Future Development

...Seller has made no representations or warranties concerning zoning or the future development of phases of the Planned Community or the surrounding area or nearby property.

4. No Golf Course or Membership Privileges. Purchaser shall not acquire any rights, privileges, interest, or membership in the Badlands Golf Course or any other golf course, public or private, or any country club membership by virtue of its purchase of the Lot.

7. Views / Location Advantages.

The view may at present or in the future include, without limitation, adjacent or nearby single-family homes, multiple family residential structures, commercial structures, utility facilities, landscaping and other items...

Exhibit 38

RIGHTS

Queensridge CC&R's: Exhibit C - 1996 + 2000

MASTER DECLARATION - 1996

3-20-96 01:53
3-20-96 01:53

Property and the Annexable Property is more than 1000'. The existing 18-hole golf course commonly known as the "Badlands Golf Course" is not a part of the Property or the Annexable Property.

'The existing 18-hole golf course commonly known as the "Badlands Golf Course" is not a part of the Property or the Annexable Property.'

Use of some Portions of the said Project Type within the Annexable Property, with regard and pursuant to necessary therefore, including, without limitation, the right of the Project Association to cross its members.

E. As part of the various phases of development of the Property, Declarant intends, without obligation, to dedicate or transfer portions of the Property to public entities that utility companies for purposes such as water, highways, drainage, flood control, water sewage, utility service and such other purposes which may enhance the Property as a whole or which are required pursuant to any Local Use Ordinances or other applicable law.

DECLARATION:

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, transferred, leased, and, occupied and improved subject to the easements, restrictions, covenants, conditions and equivalent servitudes contained in this Master Declaration, all of which are for the purpose of uniformly subdividing and developing the Property for the use and enjoyment of the Property, its successors and assigns, and for the protection, maintenance, enjoyment, sale, lease, care, use and management of the Property, or any portion thereof. The

LO000002572

DECLARATION 14
MAY 20, 1996

-2-

AMENDED AND RESTATED DECLARATION - 2000

AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR QUEENSRIDGE

THIS AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (the "Master Declaration") is made this 14th day of May, 2000, by and between the undersigned parties, with reference to the following Assisted and its interests:

RECITALS:

A. Declarant is the master developer of certain real property in the City of Las Vegas, County of Clark, State of Nevada, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. Declarant and its successors and assigns have acquired title to certain portions of the Property, including the Annexable Property, and have developed the same for residential use. The Annexable Property is shown on the attached map, which is incorporated herein by reference. The Annexable Property is shown on the attached map, which is incorporated herein by reference. The Annexable Property is shown on the attached map, which is incorporated herein by reference.

The existing 27-hole golf course commonly known as as the "Badlands Golf Course" is not a part of the Property or the Annexable Property.

Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, transferred, leased, and, occupied and improved subject to the easements, restrictions, covenants, conditions and equivalent servitudes contained in this Master Declaration, all of which are for the purpose of uniformly subdividing and developing the Property for the use and enjoyment of the Property, its successors and assigns, and for the protection, maintenance, enjoyment, sale, lease, care, use and management of the Property, or any portion thereof. The

C. The Property is subject to that certain Master Declaration of Covenants, Conditions, Restrictions and Easements for Queensridge recorded on May 20, 1996, in the

DECLARATION
2000/05/20/01:53

-1-

Declarant

ROR007790

RIGHTS

One Queensridg Placo: Purchase Contract + Public Offering Statement

PURCHASE CONTRACT

PUBLIC OFFERING STATEMENT - 2007

14. Land Use and Views.

(b) Seller makes no representation as to the subdivision, use or development of any adjoining or neighboring land...views from the Unit may be obstructed by future development of adjoining or neighboring land and Seller disclaims any representation that views from the Unit will not be altered or obstructed by development of neighboring land;

Zoning Classifications describe the land use currently permitted on a parcel of land.

14. Land Use and Views. Seller has informed Purchaser and Purchaser acknowledges, understands and agrees to the following:

(a) Seller has two (2) lots located over and to not responsible for any easements on, easements, and/or other rights may have specific rights granted by these statements, if any, including:

(b) Seller may be subject to the future development of neighboring or adjacent land and Seller or Seller's affiliates determine in their sole discretion.

(c) Seller or Seller's affiliates determine in their sole discretion.

(d) Seller or Seller's affiliates determine in their sole discretion.

(e) Seller or Seller's affiliates determine in their sole discretion.

(f) Seller or Seller's affiliates determine in their sole discretion.

(g) Seller or Seller's affiliates determine in their sole discretion.

(h) Seller or Seller's affiliates determine in their sole discretion.

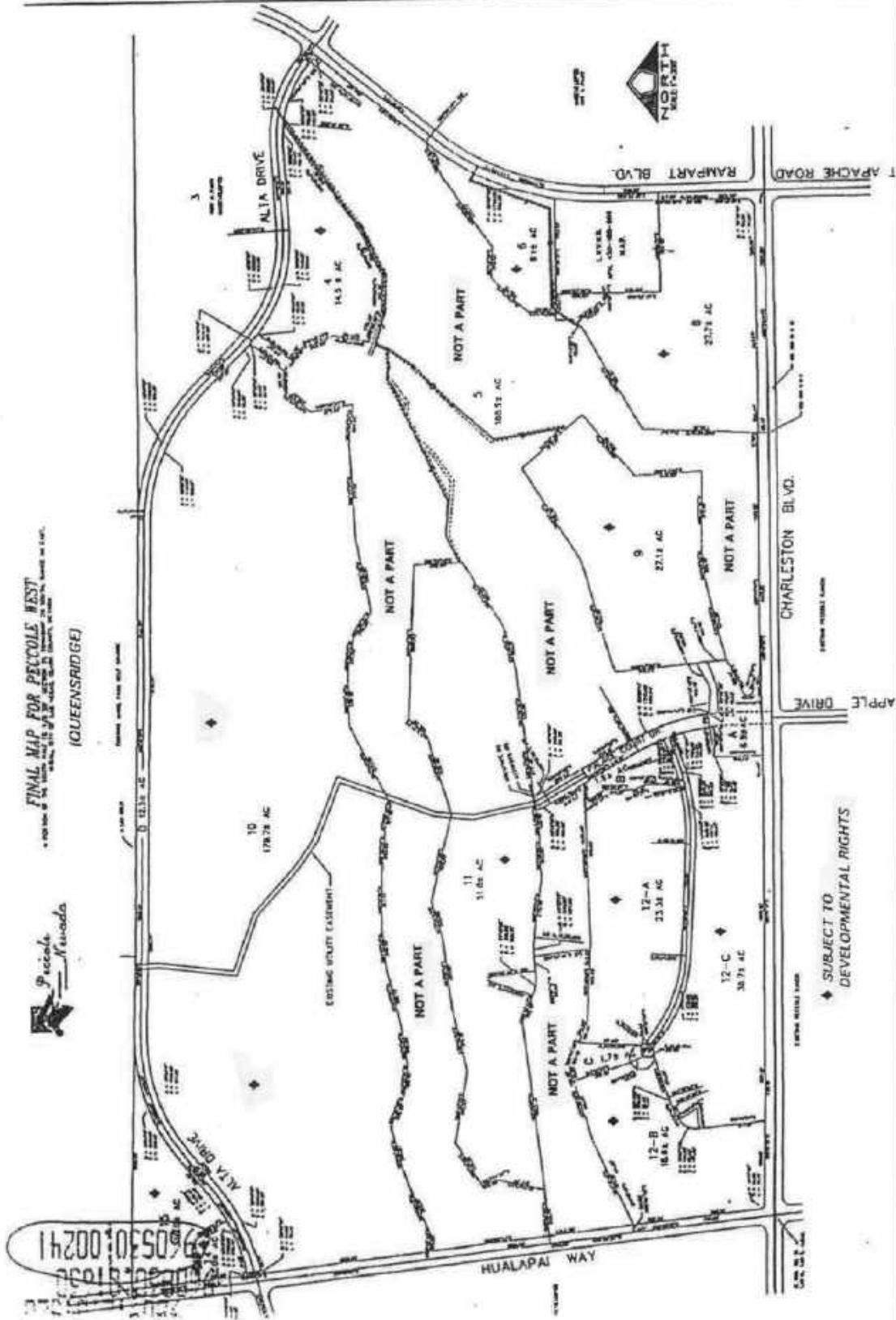
(i) Seller or Seller's affiliates determine in their sole discretion.

(d) ...Neither Seller nor its affiliates make any representation whatsoever relating to the future development of neighboring or adjacent land and expressly reserve the right to develop this land in any manner that Seller or Seller's affiliates determine in their sole discretion.

The current zoning on the contiguous parcels is as follows:

North	C-1	Casino/Gaming
South	R-PD7	Residential up to 7 du
East	PD	Commercial/Retail
West	R-PD10	Residential up to 10 du
Northeast	C-2(GC)	General Commercial

LO0023147



BILL NO. Z-2001-1

ORDINANCE NO. 5353

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP ATLAS OF THE CITY OF LAS VEGAS BY CHANGING THE ZONING DESIGNATIONS OF CERTAIN PARCELS OF LAND, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Robert S. Genzer,
Director of Planning and Development

Summary: Amends the Official Zoning Map Atlas of the City of Las Vegas by changing the zoning designations of certain parcels of land.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN

AS FOLLOWS:

SECTION 1: The Official Zoning Map Atlas of the City of Las Vegas, as adopted in Title 19A, Chapter 2, Section 10, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by changing the zoning designations for the parcels of land listed in the attached document. The parcels of land have been approved for rezoning by vote of the City Council or by means of a resolution of intent to rezone pursuant to applicable zoning regulations. In each case the conditions of rezoning have been fulfilled, and changing the corresponding zoning designations on the Official Zoning Map Atlas is now indicated. On the attached document, the parcels are listed by Assessor's Parcel Number. The attached document shows, for each parcel, the zoning designation currently shown on the Official Zoning Map Atlas (indicated as "Current Zoning") and the new zoning designation to be shown for the parcel (indicated as "New Zoning").

SECTION 2: Of the parcels referred to in Section 1 of this Ordinance whose rezoning was approved by means of a resolution of intent to rezone, some or all of those resolutions were not reduced to writing—as has been the practice previously. All actions and proceedings by the City concerning the rezoning of those parcels are hereby ratified, approved and confirmed as if the resolutions of intent had been reduced to writing, and the City Council deems that no additional action in that regard is necessary.

SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional, or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the

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LO 00000002

Exhibit 43

Exhibit 43

1 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
2 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
3 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
4 invalid or ineffective.

5 SECTION 4: All ordinances or parts of ordinances or sections, subsections, phrases,
6 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
7 1983 Edition, in conflict herewith are hereby repealed.

8 PASSED, ADOPTED and APPROVED this 15th day of August, 2001.

9 APPROVED:

10 By 
11 OSCAR B. GOODMAN, Mayor

12 ATTEST:

13 
14 BARBARA JO RONEMUS, City Clerk

15 APPROVED AS TO FORM:

16 Valsted 7-6-01
17 Date

26 LO 00000003

27 001020

The City's 5 examples:

Deed restricted for golf course

Owned by the HOAs – which gives ownership rights to the HOAs

Not privately owned properties

Rebuttal of the City's Argument

there is a City Master Plan (PR-OS) that should apply over the R-PD7 zoning

There is no legal PR-OS on the property

AGENDA*City of Las Vegas*

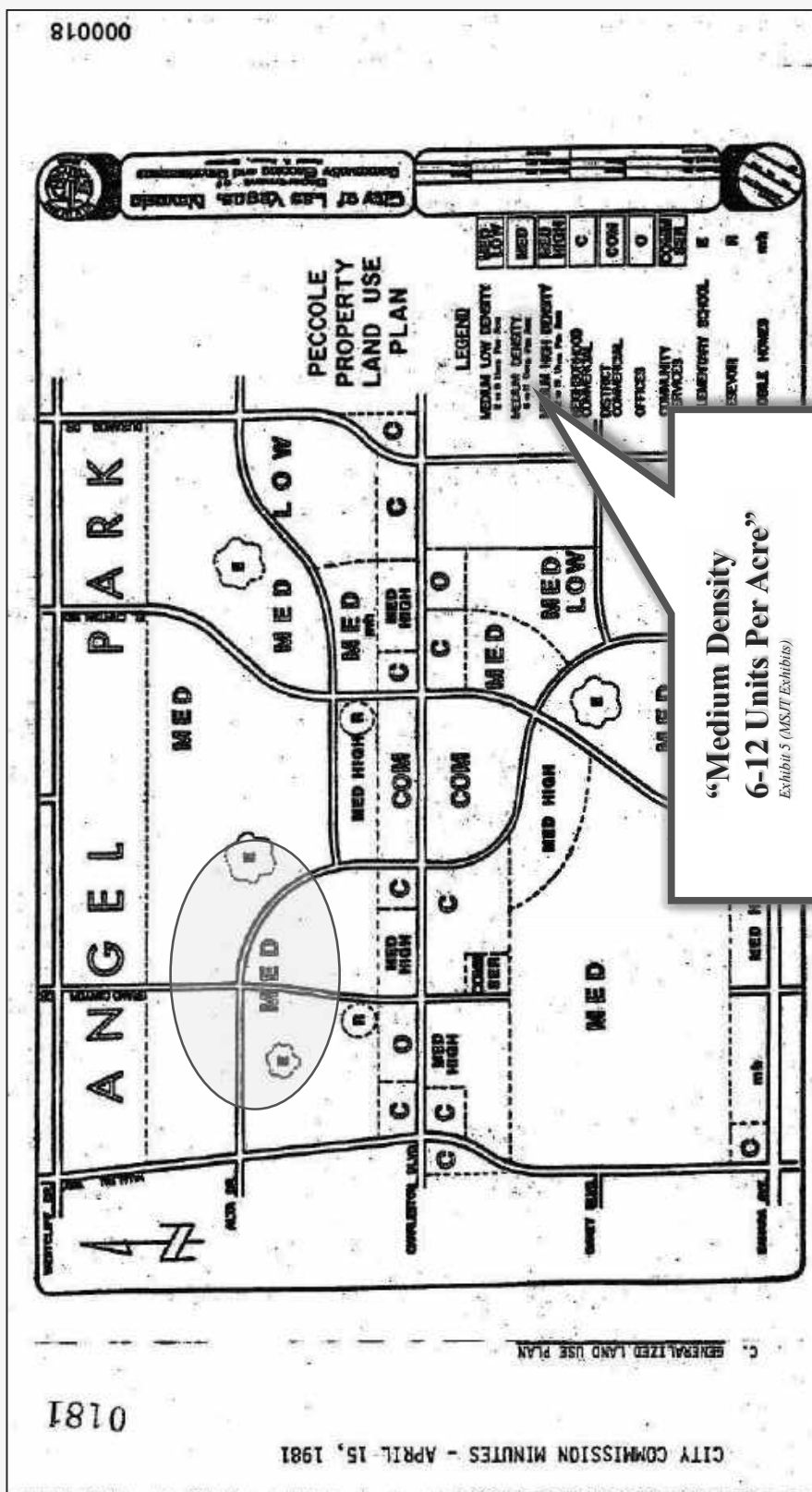
April 15, 1981

BOARD OF CITY COMMISSIONERS
COMMISSION CHAMBERS • 400 EAST STEWART AVENUE
PHONE 266-4011

Page 31

0176

ITEM	Commission Action	Department Action
IX. 2:00 P.M. - PUBLIC HEARINGS		
A. VAC-5-81 - Petition of Vacation submitted by NORBERTO M. GUASPARI, ET AL, to vacate a portion of Irene Avenue, a 60' wide right-of-way, commencing at the west right-of-way line of Marco Street and extending westerly approximately 122' to the west line of Sunland Village Subdivision.	Item A. Lurie - APPROVED as recommended by Planning Commission. Unanimous	City Clerk to notify and Plan to proceed. No one spoke in opposition. Applicant did not appear.
B. GENERAL PLAN AMENDMENT - Consideration of an Amendment to the Land Use Map in the southwest portion of the City.	Item B. Christensen - ADOPTED as recommended by Planning Commission. Unanimous with Levy abstaining.	Staff to proceed G. C. Wallace, 1100 East Sahara Avenue and Oran Gragson appeared to represent Wm. Peccole on Items B and C. No protest.
C. GENERALIZED LAND USE PLAN - Consideration of adopting a Generalized Land Use Plan for Sections 31 and 32, Township 20 South, Range 60 East, M.D.B. & M. and Sections 5 and 6, Township 21 South, Range 60 East, M.D.B. & M.	Item C. Lurie - Unanimous as recommended by Planning Commission. Identified parcels people move into the area. Unanimous with Levy abstaining. Item D. Christensen - DENIED as recommended by Planning Commission. Unanimous with Lurie voting "no."	C. Generalized Land Use Plan - Consideration of adopting a Generalized Land Use Plan, Exhibit 5 (MSJT Exhibits)
D. VAC-4-81 - Petition of Vacation submitted by LAWRENCE TOURVILLE, ET AL, to vacate a portion of an alley located east of Fairfield Avenue and south of Philadelphia Street.		
APPROVED AGENDA ITEM <i>Ashley Hall</i>		No protest or opposition.
		000013 CLV03408



Tom Perrigo – Referencing the need for a GPA

“The zoning for this property, R-PD7 was in existence prior to the change in the General Plan. The General Plan was a staff-initiated change that I believe came in about 2005. The applicant has a right to that zoning. And there is a requirement that the land use will be amended as some future point to make it consistent. But even if that action didn’t come forward, it doesn’t take away the rights that applicant has to the zoning.”

Brad Jerbic – Referencing the City Planning and City Attorney Office research on the alleged PR-OS change:

“There is absolutely no document that we could find that really explains why anybody thought it should be changed to PR-OS, except maybe somebody looked at a map one day and said, hey look, it’s all golf course. It should be PR-OS. I don’t know.”

Exhibit 18, June 13, 2017 City Planning Commission Meeting Transcript.

Law to Change “M” to “PR-OS” on Master Plan

NRS Chapter 278

2. The adoption of the master plan, or of any amendment, extension or addition thereof, ~~shall~~ **must** be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution ~~shall~~ **must** refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken ~~shall~~ **must** be recorded on the map and plan and descriptive matter by identifying signatures of the secretary and chairman of the commission.

NRS 278.210 Exhibit 177 (MSJT Exhibits)

LVMC 19.16.030

- e. **Parcel-Specific Amendment Defined.** For purposes of this Paragraph (2), “parcel-specific General Plan Amendment” means an amendment to the land use designation assigned to one or more specific parcels, as that designation is found in the land Use element of the General Plan, where the amendment is sought by or on behalf of one or more property owners in order to develop those parcels in a particular way.

Exhibit 178

**Even if there is a PR-OS on the Master Plan, the R-PD7
zoning takes precedence**

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

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

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

Exhibit 161 City 2050 Master Plan

LA INTRODUCTION



A VISION FOR LAND USE AND CHARACTER

While the 2005 Master Plan was adopted, the City of Los Angeles was in the midst of a major restructuring of its land use and character. The City's 2005 Master Plan was a landmark document that set the stage for the City's future. It provided a vision for the City's land use and character, and it set the stage for the City's future. The City's 2005 Master Plan was a landmark document that set the stage for the City's future. It provided a vision for the City's land use and character, and it set the stage for the City's future.

2005 MASTER PLAN

The 2005 Master Plan was a landmark document that set the stage for the City's future. It provided a vision for the City's land use and character, and it set the stage for the City's future. The City's 2005 Master Plan was a landmark document that set the stage for the City's future. It provided a vision for the City's land use and character, and it set the stage for the City's future.

Category	2005 Master Plan	2005 Master Plan	2005 Master Plan
Land Use	Residential	Commercial	Industrial
Character	Residential	Commercial	Industrial
Policy	Residential	Commercial	Industrial
Program	Residential	Commercial	Industrial

005011

MASTER PLAN	GENERAL PLAN	ZONING ORDINANCE
Provides general policies, a guiding framework	Finer grain detail of parcel-specific future land use	Provides specific regulations, the law
Describes what should happen in the future, recommends land use for the next 10 to 20 years	Implements the goals and strategies of this plan and sets the stage for future rezonings	Describes what is and what is not allowed today
Adopted under MRS 278.150	Adopted under MRS 278.150.1(d)	Adopted under MRS 278.250 as LVMC Title 19
Includes recommendations that involve other agencies and groups		Deals only with development-related issues under city control
Flexible to respond to changing conditions	Amended over time via sub-area planning to implement plan type strategies	Fairly rigid, requires formal amendment to change

005006

City Statements That Zoning Trumps

CITY ATTORNEY JERBIC – February 14, 2017 – Planning Commission Meeting Exhibit 75

"I just wanted to break it down so that what happened over time, somehow PR-OS became the General Plan designation only after the hard zoning was put in place. And the rule is the hard zoning, in my opinion, does trump the General Plan designation."

"I want to go a step further, even though you haven't asked a question, because I think it's going to come up, and that is, what happens if you do not grant the general plan amendment tonight? If you do not grant the general plan amendment tonight, you will merely leave in place a general plan that's inconsistent with the zoning, and the zoning trumps it, in my opinion."

Deposition of Tom Perrigo Exhibit 159

A. "If the land use and zoning aren't in conformance, then the zoning would be a higher order entitlement, I guess.

Q. "So it's your position that zoning supercedes the general plan--

A. "Yes"

Q. "Or the Master Plan"

A. "Yes"

Tom Perrigo –

"The zoning for this property, R-PD7 was in existence prior to the change in the General Plan. The General Plan was a staff-initiated change that I believe came in about 2005. The applicant has a right to that zoning. And there is a requirement that the land use will be amended as some future point to make it consistent. But even if that action didn't come forward, it doesn't take away the rights that applicant has to the zoning."

Exhibit 18, June 13, 2017 City Planning Commission Meeting Transcript.

Ten Times the City’s PR-OS Argument Was Made to Other Nevada Courts and Was Rejected

PR-OS Argument Made

1. 35 Acre Property Interest Motion
2. 17 Acre Property Interest Motion

1. To Dismiss 35 Acre Inverse Condemnation Case

4. As Part of PJR in 17 Acres Case –
Crockett Order accepted the PR-OS

5. Motion to Dismiss 17 Acre Inverse Condemnation Case

6. Queensridge Homeowners Open Space Argument

Result

Judge Williams Denied PR-OS Exhibit 1
Judge Jones Denied PR-OS. Submitted to Court

Judge Williams Denied PR- OS as grounds for
dismissal

Supreme Court Denied Writ
Supreme Court Denied Rehearing
Supreme Court Denied En Banc
Exhibits 8, 11,12,13

Supreme Court Reversed Crocket PR-OS Order
Supreme Court Denied Rehearing
Supreme Court Denied En Banc
Exhibits 22,23,24

Judge Bixler Denied PR-OS as grounds for dismissal
Exhibit 17 and 18

District Court Rejected the Open Space argument,
holding the Landowners have RPD-7 zoning with
“Right to develop”
Supreme Court Affirmed
Supreme Court denied rehearing
Exhibits 26-29

Rebuttal of City's Repeated Citation to Petition for Judicial Review Law

Inverse Condemnation Law - “Acquiring, possessing, protecting property are inalienable rights.” Sisolak at 653. “Nevadans hold a [vested] property right in the useable airspace.” Sisolak at 660. Property in Nevada includes “the right to possess, use, and enjoy the property.” Sisolak at 658.

Petition for Judicial Review Law – City Argues - Landowners do not have the right to have land use applications approved to use property, because the government has “discretion” to deny the land use application.

Resolution – Nevada property may be subject to “valid zoning and related regulations which do not give rise to a taking claim.” Sisolak, at 661, fn 25.

Sloat v. Turner – Inverse Condemnation case where the Court cited with approval – “a restriction on the right to use property in the form of a zoning ordinance was considered a taking even though there had been no actual exercise of the right of eminent domain.” Sloat, at 268-269.

Boulder City v. Cinnamon Hills – PJR case where the Court found there was not a denial of all economic viable use of the property.

The City ignores the difference – Almost all of the law cited by the City is PJR law - Excluding inverse condemnation law right on point. “[c]ivil actions and judicial review proceedings are fundamentally different” and should not be comingled. City of Henderson v. Eighth Judicial District Court, 137 Nev., Adv. Op 26 at 2 (June 24, 2021)

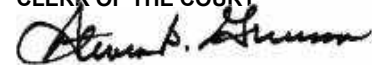


Exhibit 6

Landowners' Rebuttal of City's Take Issue Arguments

Three Invariable Rules

- * There is “no magic formula” to determine a taking; there are “nearly infinite variety of ways” in which government action can result in a taking. State v. Eighth Jud. Dist. Ct., 131 Nev. 411 (2015).
- * “Nevertheless, there are several invariable rules applicable to specific circumstances.” Id.
- * Three “Invariable Rules” where the Court always finds a taking:
 - 1) **Per Se Regulatory Taking** – Third Claim for Relief.
 - 2) **Per Se Categorical Taking** – First Claim for Relief.
 - 3) **Non-regulatory/De Facto Taking** – Fourth Claim for Relief.

SUMMARY OF TAKING ISSUE BASED ON NEVADA'S THREE "INVARIABLE RULES"

Per Se Regulatory Taking – Third Claim for Relief.

Where the Landowners had the right to use the 35 Acre Property for residential purposes, did the City engage in actions to preserve the 35 Acre Property for use by the public or authorize the public to use the 35 Acre Property?. McCarran Intern. Airport v. Sisolak; Tien Fu Hsu v. County of Clark; Cedar Point Nursery v. Hassid, 141 S.Ct. 2063 (June 23, 2021)

Per Se Categorical Taking – First Claim for Relief.

Where the Landowners had the right to use the 35 Acre Property for residential purposes, did the City engage in actions to completely deprive the Landowners of all economical beneficial use of the 35 Acre Property? McCarran Intern. Airport v. Sisolak; Tien Fu Hsu v. County of Clark; City of Monterey v. Del Monte Dunes, 119 S.Ct. 1612 (1999)

Non-regulatory / De Facto Taking – Fourth Claim for Relief.

Did the City engage in actions to substantially interfere with the Landowners' right to use the 35 Acre Property for residential purposes? Schwartz, p. 1003, *citing* Las Vegas Bldg. Materials; Sloat v. Turner.

FOUR TIMES NEVADA REJECTED THE “TOTAL WIPE OUT” ARGUMENT

1. Schwartz v. State (1995) – Nevada taking occurs where “a property right which is directly connected to the use or ownership of the property is **substantially impaired or extinguished**.”
2. Nevada Constitution Art. 1, sec. 22(3) – “the **taken or damaged** property shall be valued at its highest and best use.” 2008 amendment.
3. Richmond Elks Hall (9th Cir. 1977) - “[t]o constitute a taking under the Fifth Amendment it is not necessary that property be absolutely ‘taken’ in the narrow sense of that word to come within the protection of this constitutional provision; it is sufficient if the action by the government involves a **direct interference with or disturbance of property rights**.”
4. Nichols on Eminent Domain Law - “[c]ontrary to prevalent earlier views, it is now clear that **a de facto taking does not require a physical invasion or appropriation of property**. Rather, a **substantial deprivation of a property owner’s use and enjoyment of his property** may, in appropriate circumstances, be found to constitute a ‘taking’ of that property or of a compensable interest in the property...”

Taking Facts The “aggregate” of City Actions

The City preserved the 35 Acre Property for use by the public and authorized the public to enter onto the Property.

The Councilman publicly announced the Landowners' Property is "recreation" for the surrounding public

The Councilman sponsored Bill 2018-24 to force the Landowners to allow "ongoing public access" to their 250 Acre Property

AND

The City did it – the City adopted Bill No. 2018-24

AND

The public is following the City's direction to use the 35 Acre Property

Public Use

- Councilman – “... is the agreed upon, approved, documented, required by the City, Open Space and Recreation Area for this part of the city Las Vegas.”

Exhibit 136, HOA mtg., June 21, 2018, *LO0034090*

Bill 2018-24 Authorizes the Public to Use the 250 Acre Property

1	through CC&R's are similar to or consistent with this Section. This exemption applies whether or not there is	003211
2	any likelihood that the applicable provisions of the CC&R's will be enforced.	
3	G. Closure Maintenance Plan. At any time after the Department becomes aware that a golf course	
4	that would be subject to this Section if repurposed has ceased operation or will be ceasing operation, the	
5	Department may notify the property owner of the requirement to comply with this Section. Similarly, at any	
6	time after the Department becomes aware that an open space that would be subject to this Section if	
7	repurposed has been withdrawn from use or will be withdrawn from use, the Department may notify the	
8	property owner of the requirement to comply with this Section. Any such notification shall be by means of	
9	certified mail and by posting at the subject site. Within 10 days after the mailing and posting of the notice,	
10	the property owner shall meet with the Department to discuss the proposed plans for the property and process	
11		
12		
13		
14		
15		
16		
17		
18		
19		
20	level as existed on the date of discontinuance or withdrawal until a repurposing project and related	
21	development applications have been approved pursuant to this Title. For discontinuances or withdrawals	
22	occurring before the effective date of this Ordinance, the required maintenance level shall be as established	
23	by the Department, taking into account the lapse of time, availability of resources, and other relevant factors.	
24	2. Maintenance Plan Requirements. In addition to detailing how the subject property will be	
25	maintained so as to be in compliance with LVMC Chapter 9.04, LVMC 16.02.010, and LVMC 19.16.040(F),	
26	the maintenance plan must, at a minimum and with respect to the property:	
	- 10 -	

“Provide documentation regarding ongoing public access, access to utility easements, and plans to ensure that such access is maintained”

1	a. Ensure that all exterior areas are kept free from dry vegetation, tumbleweeds, weeds,	003212
2	bushes, tall grass, and trees which present a visual blight upon the area, which may harbor insect or rodent	
3	infestations, or which are likely to become a fire hazard or result in a condition which may threaten the health,	
4	safety or welfare of adjacent property owners or occupants;	
5	b. Provide security and monitoring details;	
6	c. Establish a service or other contact information by which the public may register	
7	comments or complaints regarding maintenance concerns;	
8	d. Provide documentation regarding ongoing public access, access to utility easements,	
9	and plans to ensure that such access is maintained;	
10	e. Detail how all applicable federal, state and local permitting requirements will be	
11	maintained;	
12	f. Provide any additional or supplemental items the Department may determine are	
13	necessary in connection with review of the maintenance plan.	
14	3. Maintenance Plan Neighborhood Meeting. The property owner shall conduct a	
15	neighborhood meeting regarding the proposed maintenance plan, which shall be a prerequisite to final	
16	approval of the maintenance plan. Notice of such a meeting shall be provided in general accordance with the	
17	notice provisions and procedures for a General Plan Amendment in LVMC 19.16.030(F)(2), except that no	
18	newspaper publication is required and the providing of notice shall be the responsibility of the applicant	
19	rather than the City. In addition, notice of the meeting shall be provided to the Department at least 10 calendar	
20	days in advance of the meeting.	
21	4. A maintenance plan that has been approved by the City may be recorded against the property	
22	at the property owner's expense.	
23	5. Failure to comply with the provisions of this Subsection (3) or with the terms of an approved	
24	maintenance plan:	
25	a. Shall be grounds for the denial of any development application under this Title that	
26	would be required for a repurposing project subject to this Section;	
	- 11 -	

➤ Don Richards Affidavit – “ In or around early fall 2017, upon engaging with trespassers, they begun responding to me that they were allowed to be on the Land because “it is our open space”. Some of them informed me that they learned this at a Queensridge HOA meeting.”

Exhibit 150 paragraph 7

Can statements by councilmembers be considered in the “aggregate of City Actions”?

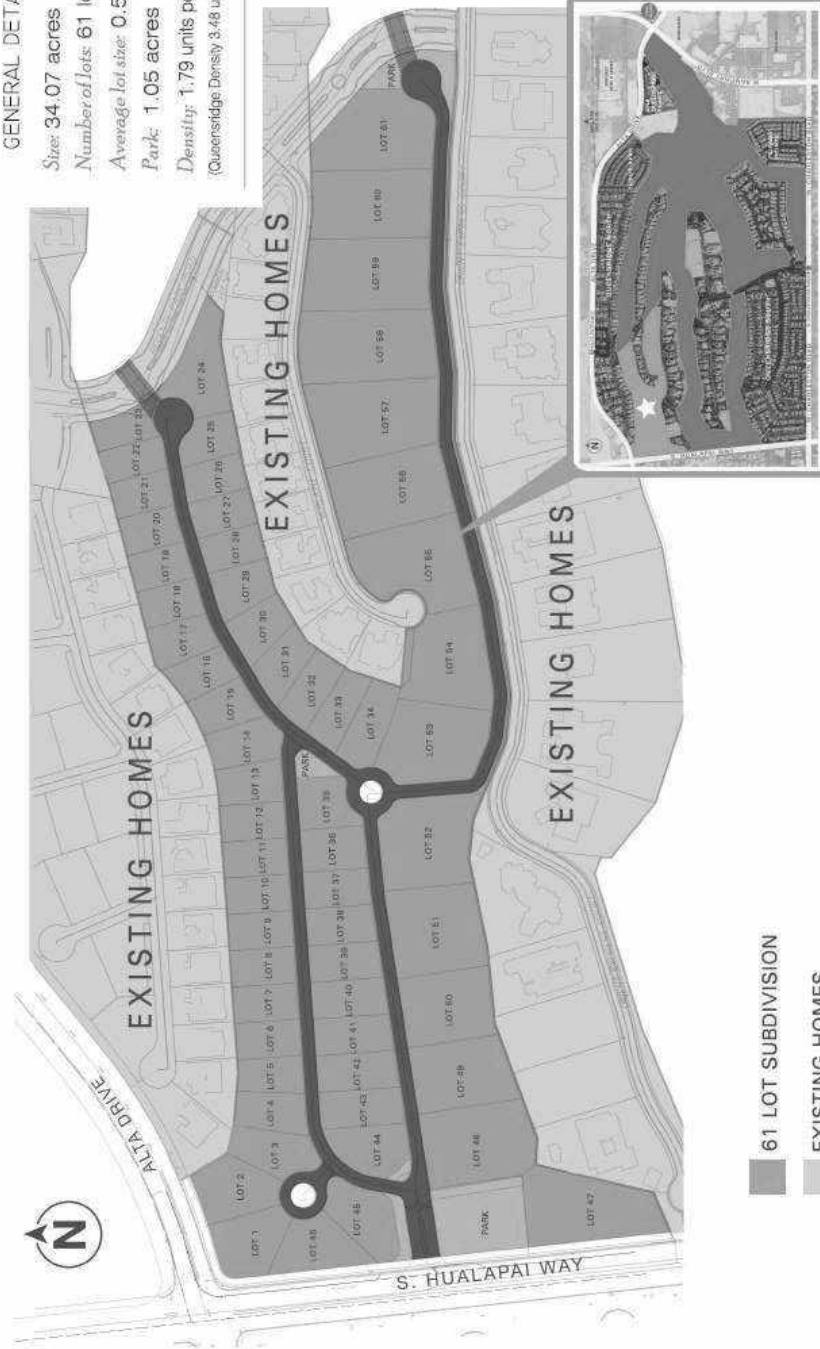
“Sisolak spoke with Bill Keller, a principal planner with the Clark County Department of Aviation. Sisolak testified that Keller explained the height restrictions on the property and told Sisolak about the variance process. Sisolak claimed that Keller told him not to bother asking for a variance to build to more than 75 feet because the County would not approve it.” Sisolak, at 653.

And, the statements by the City in this case were followed up by action – Bill No. 2018-24.

**The City Precluded all Economic use of the 35 Acre Property by Denying
the 35 Acre Stand Alone Applications That the City's own Planning
Department Opined Should have been Approved**

61 LOT SUBDIVISION

GENERAL DETAILS
 Size: 34.07 acres
 Number of lots: 61 lots
 Average lot size: 0.57 acres
 Park: 1.05 acres
 Density: 1.79 units per acre
 (Queensridge Density 3.48 units per acre)



Rebuttal of the City argument the wrong applications were filed for the 35 Acre Property stand alone applications.

1. The City dictates the applications to file
2. This “wrong applications” is not listed in the hearing minutes or the 35 Acre Denial letter.

The 35 Acre Applications - Denial Letter

 June 28, 2017

**LAS VEGAS
CITY COUNCIL**
Carolyn G. Goodman
Mayor

Mr. Yohan Lowie
180 Land Company, LLC
12115 South Fort Apache Road, Suite #120
Las Vegas, Nevada 89117

**RE: ABEYANCE ITEM - TMP-68482 - TENTATIVE MAP - PUBLIC HEARING
CITY COUNCIL MEETING OF JUNE 21, 2017**

Dear Mr. Lowie:

Your request for a Tentative Map 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-PDT (Residential Planned Development - 7 Units per Acre) Zone, Ward 2 (Beers) [PRJ-67194], was considered by the City Council on June 21, 2017.

The City Council voted to **DENY** your request due to significant public opposition to the proposed development, concerns over the impact of the proposed development on surrounding residents, and concerns on piecemeal development of the Master Development Plan area rather than a cohesive plan for the entire area.

The Notice of Final Action was filed with the Las Vegas City Clerk on 6/28/2017.

City of Las Vegas
702.229.6011
TTY 711
City of Las Vegas
Las Vegas, NV 89101

GCW, Inc.
1555 South Rainbow Boulevard
Las Vegas, Nevada 89146

 002831

Exhibit 93

Uncontested Evidence 78

18264

The Applications were consistent with the ongoing Master Development Agreement AND

The Planning Department recommended approval and the Planning Commission recommended approval AND

The Landowners agreed that it would be incorporated into the MDA

June 21, 2017 City Council Hearing Exhibit 33 –

Councilman Barlow “..if I heard the Councilman correctly, and for them to come back after the Development Agreement is approved and have the Development Agreement supersede what we have before us here today.”

Chris Kaempfer: “ We are stating absolutely on the record that an approval today will be superseded by the Development Agreement.”

The City Precluded ALL Economic use of the 35 Acre Property by Denying the Master Development Agreement That the City's own Planning Department Opined Should have been Approved

Rebuttal of the City argument the wrong applications were filed for the Master Development Agreement.

1. The City dictates the applications to file

2. The City drafted the MDA.

3. This “wrong applications” is not listed in the hearing minutes or the MDA denial.

The City Denied the MDA Entirely

➤ On August 2, 2017, the City Council denied the MDA in its entirety. *Exhibit 78.*

“The City did not ask us to make more concessions, like increasing the setbacks or reducing the units per acre, it just simply rejected the MDA altogether.”

Lowie Declaration, Exhibit 34, para. 26

1	25.	On August 2, 2017, the MDA was presented to the City Council for approval.
2		Despite offering the MDA as the only application the City would accept to develop the 65 Acre
3		Property, the City's own Planning Staff and Planning Commission recommending approval,
4		repeated assurances from the City, and the fact that the City itself almost entirely drafted the
5		MDA, the City denied the MDA altogether.
6		
7	26.	The City did not ask us to make more concessions, like increasing the setbacks
8		or reducing the units per acre, it just simply rejected the MDA altogether.
9		
10		Dated this 23 rd day of November 2020.

/s/ Yohani Lowie

Yohani Lowie

Uncontested Evidence

If the City’s **newfound argument** that the wrong applications were filed for the 35 Acre stand-alone applications or the MDA, then:

The City perpetrated a profound bad faith act on the Landowners for all the years they tried to develop and this would make the Landowners’ inverse condemnation claims “much more formidable.” Justice Stevens.

The City Perpetuated its Denial of A Use of the Property and Authorization for the Public to Use the Property With the Fence Denial

“[W]e have stated that **the right to exclude** is ‘universally held to be a fundamental element of the property right,’ and is ‘one of the **most essential sticks in the bundle** of rights that are commonly characterized as property.’”

Cedar Point Nursery v. Hassid, at 2072 (2021).

Rebuttal of the City argument that the fence application denial and referral to a “major review” was appropriate.

1. A fence application must be done by “minor review”
2. The fence application cannot be submitted to a “major review.”
3. The City violated its own code by ordering a “major review” for the fence.



19.16.100 Site Development Plan Review

2. **Minor Review Process.** A Minor Development Review is initiated by the submittal of a Site Development Plan Review application or an application for a Building Permit.

a. **Building Permit Level Review.** Minor Site Development Plans for the construction types listed in this Subparagraph (a) shall be submitted and reviewed as part of a building permit application. Issuance of a

building permit shall constitute approval of the Minor Review and no further action is required. The construction types eligible for such treatment are the following:

- i. Single family dwelling units, duplex dwelling units or multi-family residential development not exceeding four units;
- ii. Residential accessory buildings;
- iii. On-site signs, walls and fences;

application.

3. **Review by City Council.** Except as otherwise provided by this Paragraph (3), the administrative approval of a Site Development Plan pursuant to this Subsection (F) shall be final action unless, no later than 10 days following the approval, a member of the City Council files with the Director a written request for the Site Development Plan to be reviewed pursuant to the Major Review Process. In the event such a request is filed, the Site Development Plan shall be subject to the Major Review Process set forth in Paragraph (2) of Subsection (G) of this Section. Such a review may require the payment of a notification fee prior to a public hearing. The provisions of this Paragraph (3) shall not apply to building permit level reviews described in Paragraph 2(a) of this Subsection (f).

City Excuse:

The City must have succumbed to “political pressure” – City attorney, on Friday.

Stated another way – the City did not want the fence put up so the Landowners could exclude others. The City did not apply the law, it allowed the “surrounding owners” to dictate the use of the 35 Acre Property.

City’s Pattern of Conduct:

Announce to the public that the 35 Acre Property is the public’s recreation area

AND

Adopting Bill No. 2018-24 to authorize the public to enter onto the property.

This was clearly a taking action (DENIAL OF THE FENCE)

It prohibited the Landowners from excluding others

It allowed the public to enter

It exposed the Landowners to significant liability and invited the public onto the property – consistent with the City’s “aggregate” of actions to preserve the property for the publics use.

The City’s “ponds are empty” argument fails – the ponds are more dangerous as there are now 30 foot drops into the ponds.

New Horizon Academy – W. Charleston Blvd.



Leslie's Pool Supply – W. Charleston



18276

Vacant Land W. Charleston



18277

Nevada Supreme Court Building



18278

When the government takes action that targets only one property owner, the inverse condemnation claims become “much more formidable.”

Justice Stevens
United States Supreme Court

The City Perpetuated its Denial of All Use of the Property and Authorization for the Public to Use the Property With the Access Denial

All Nevada landowners have a property right described as “a special right of easement in a public road for access purposes.” Schwartz v. State, at 1001.

“The Badlands [250 Acre Land] had general legal access to public roadways along Hualapai Way, Alta Drive, and Rampart Blvd.”
City Third Supplement to Interrogatory Answers, electronically served, June 9, 2021, 10:4-5.

Uncontested Evidence

The City Denied the Access Application

“After reviewing the permit submitted (L17-0198) for perimeter wall modifications and controlled access gates on the subject site, I have determined that the proximity to adjacent properties has the potential to have significant impact on the surrounding properties. As such, the Minor Development Review (Building Permit Level Review) is denied and an application for a Major Review will be required pursuant to LVMC 19.16.100(G)(1)(b).

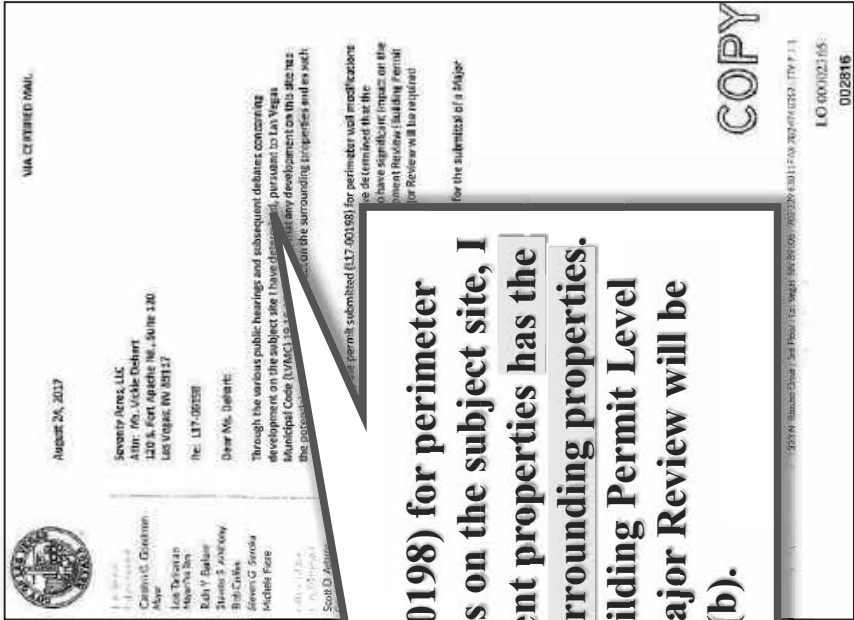


EXHIBIT 89

Impact of the City's Actions

Expert MAI appraiser Tio DiFederico:

* denial of all economical beneficial use

Exhibit 183

Inverse Condemnation = “Battle of the Experts”

THE DiFEDERICO GROUP

INTERNATIONAL APPRAISAL & CONSULTING

APPRAISAL OF REAL PROPERTY

A 34.07 Acre Vacant Site
Located at the southeast corner (SEC) of
Alta Drive & Hualapai Way
Las Vegas, Clark County, Nevada 89102

PREPARED FOR:
180 Land Co., LLC
c/o Mr. James J. Leavitt, Esq.
Ms. Autumn Waters, Esq.
The Law Offices of Kermit Waters
704 South 9th Street,
Las Vegas, Nevada 89101

EFFECTIVE DATE OF THE APPRAISAL:
Retrospective - September 14, 2017

REPORT FORMAT:
Appraisal Report

PREPARED BY:
Tio S. DiFederico, MAI
The DiFederico Group
7641 W. Post Road
Las Vegas, NV 89113

THE DiFEDERICO GROUP
File Number: 19-055

THE DiFEDERICO GROUP · INTERNATIONAL APPRAISAL & CONSULTING
7641 W. Post Road, Las Vegas, NV 89113 · (702) 734-3030 · FAX (702) 240-4674

TDG Rpt 000001
005212

THE DIFEDERICO GROUP

INTERNATIONAL APPRAISAL & CONSULTING

April 23, 2021

180 Land Co., LLC
c/o Mr. James J. Leavitt, Esq.
Ms. Autumn L. Waters, Esq.
The Law Offices of Kermit Waters
704 South 9th Street
Las Vegas, NV 89101

SUBJECT: The subject of the attached analysis involves a vacant 34.07-acre site located at the southeast corner (SEC) of Alta Drive and Hualapai Way, Las Vegas, Clark County, NV 89145. Assessor Parcel Number 138-31-201-005.

Dear Mr. Leavitt and Ms. Waters:

The DiFederico Group is pleased to submit the attached appraisal report of the above referenced property. The purpose of the appraisal was to develop an opinion of the just compensation due to the landowner for the City of Las Vegas' taking of the subject property. The effective date of value is September 14, 2017. The client and intended user of the report is the 180 Land Co., LLC, c/o James J. Leavitt, Esq., and Autumn L. Waters, Esq., of the Law Offices of Kermit Waters. The intended use of this appraisal report is for litigation purposes. The appraisal report is intended to conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. To report the assignment results, I used the appraisal report option of Standards Rule 2-2(a) of USPAP. The attached appraisal report contains discussions of the data, reasoning, and analyses used in the appraisal process. The depth of discussion contained in the report is specific to the needs of the client and the intended use of the appraisal.

The attached analysis involves a 34.07-acre parcel of land located at the southeast corner (SEC) of Alta Drive and Hualapai Way, in Las Vegas, Clark County, Nevada. As of the effective date of value, the site's Alta and Hualapai frontages were improved with concrete curbs, gutters, sidewalks, and landscaping. The site was reported to have had general access to public roadways along Hualapai Way to the west and Alta Drive to the north. Public sewer easements had been provided to connect the subject property to the City of Las Vegas sanitary sewer system and the drainage study and soils reports indicated that the property was suitable for development.

THE DIFEDERICO GROUP - INTERNATIONAL APPRAISAL & CONSULTING
7641 W. POST ROAD, LAS VEGAS, NV 89113 • (702) 734-3030 • FAX (702) 240-4674

TDG Rpt 000002
005213

The attached analysis involves a 34.07-acre parcel of land located at the southeast corner (SEC) of Alta Drive and Hualapai Way, in Las Vegas, Clark County, Nevada.

James J. Leavitt, Esq.
Anthony L. Waters, Esq.
April 23, 2021
Page 2

The subject property's zoning was recently addressed in a hearing before District Court Judge Timothy C. Williams. In the Findings of Fact and Conclusions of Law Regarding Plaintiff Landowners Motion to Determine "Property Interest," Judge Williams stated, "the Court bases its property interest decision on eminent domain law. Nevada eminent domain law provides that zoning must be relied upon to determine a landowners' property interest in an eminent domain case. The Court concludes that the 35 Acre Property has been hard zoned R-PD7 since at least 1990. The Court further concludes that the Las Vegas Municipal Code Section LVMC 19.10.050 lists single family and multi-family residential as the legally permissible uses on R-PD7 zoned properties. Therefore, the Landowners' Motion to Determine Property Interest is Granted in its entirety and it is hereby Ordered that:

- 1) the 35 Acre Property is hard zoned R-PD7 at all relevant times herein; and
- 2) the permitted uses by right of the 35 Acre Property are single-family and multi-family residential."

Although the site had been zoned R-PD7 since the early 1990's, the property had historically been used as a portion of the Badlands Golf Course. The landowner had leased the property to Elite Golf, a local operator managing the Badlands and five (5) other local golf courses.

According to that operator, revenue in 2015 was down 11% from 2014. The 2016 revenue was down another 25% from 2015, and the 2016 net operating income (NOI) was down over 83% from that reported in 2015. The landowner tried to re-lease the property to that operator at a lower rate. The operator refused saying they would still lose money. The landowner then offered it to the operator for a year for free. The operator said that they would still lose money and passed. It is my understanding that two (2) other golf course operators were approached to take over, but both refused. The landowner then offered the golf course operations to the Queensridge Homeowner's Association (HOA) for one (1) year for \$1.00. The HOA did not respond. At that point, December 1, 2016, the golf course was closed.

According to a 2017 National Golf Foundation (NGF) report, from 1986 to 2005, golf course supply increased by 44%, which far outpaced growth in golf participation. The trend being experienced in 2016 was referred to as "correction." This was because at that time golf course closures occurring throughout the U.S. indicated there was an oversupply that required market correction. And local market data showed that the Badlands wasn't an outlier struggling in a thriving golf course market. Based on what was happening in the national and local golf course markets, Las Vegas was also experiencing this market "correction" and the Badlands golf course was part of that "correction."

After looking at the historical operations of the golf course, which were trending downward rapidly, I concluded that operating the golf course was not a financially feasible use of this property as of September 14, 2017. Based on my research, I concluded that the highest and best use of this property was a residential development. This use would be similar to the surrounding uses in the Queensridge and Summerlin communities.

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TDG Rpt 000003
005214

After looking at the historical operations of the golf course, which were trending downward rapidly, I concluded that operating the golf course was not financially feasible use of this property as of September 14, 2017. Based on my research, I concluded that the highest and best use of this property was a residential development. This use would be similar to the surrounding uses in the Queensridge and Summerlin Communities.

On September 21, 2017, the Clark County Assessor sent the landowner a letter that stated since the subject property had ceased being used as a golf course on December 1, 2016, the land no longer met the definition of open space and was "disqualified for open-space assessment." The Assessor converted the property to a residential designation for tax purposes and then the deferred taxes were owed as provided in NRS 361A.280. The following explains how they apply: deferred taxes.

NRS 361A.280 Payment of deferred tax when property converted to higher use. If the county assessor is notified or otherwise becomes aware that a parcel or any portion of a parcel of real property which has received agricultural or open-space use assessment has been converted to a higher use, the county assessor shall add to the tax extended against that portion of the property on the next property tax statement the deferred tax, which is the difference between the taxes that would have been paid or payable on the basis of the agricultural or open-space use valuation and the taxes which would have been paid or payable on the basis of the taxable value calculated pursuant to NRS 361A.277 for each year in which agricultural or open-space use assessment was in effect for the property during the fiscal year in which the property ceased to be used exclusively for agricultural use or approved open-space use and the preceding 6 fiscal years. The county assessor shall assess the property pursuant to NRS 361.227 for the next fiscal year following the date of conversion to a higher use.

While the taxes were being increased, the owner was attempting to develop the property with a residential use. The site was zoned and taxed by the government as residential land, but the City of Las Vegas prevented the legal use of the property as it would not allow the landowner to develop the property with a residential use. Instead, the City of Las Vegas has required that the property remain vacant.

With the City preventing the legally permitted use of property, and requiring the property to remain vacant, I concluded that the property had no value in the "after condition." That is because there is no market that I can find interested in purchasing property taxed as if it can be used for residential development but restricted to remain vacant.

In this case, the landowner purchased this residentially zoned site and submitted an application to the City of Las Vegas for approval to develop the property with a residential development. The City of Las Vegas denied the landowner's application.

NRS 37.112 provides that any decrease or increase in the fair market value of a property before the date of valuation which is caused by the public work or public improvement for which the property is acquired, or the likelihood that the property would be acquired for such a purpose, has to be disregarded when estimating the value of the property. Therefore, when valuing this property in the before condition, I must value the property as of September 14, 2017, the effective date of value, disregarding the City's actions to prevent the legal use of the property. This will be referred to as the "before condition" throughout the attached report. I will then value the property as of September 14, 2017, considering the City's actions to prevent the legal use of the property. This will be referred to as the "after condition" throughout the report.

With the City preventing legally permitted use of property, and requiring the property to remain vacant, I conclude that the property had no value in the "after condition". That is because there is no market that I can find interested in purchasing property taxed as if it can be used for residential development but restricted to remain vacant.

James J. Leavitt, Esq.
Autumn L. Waters, Esq.
April 23, 2021
Page 4

For this assignment I first analyzed the property as if it were available to be developed with a residential use in compliance with its R-PD7 zoning on September 14, 2017. After concluding the "before value", I analyzed the remainder. Due to the effect of the government's actions, I concluded there was no market to sell this property with the substantial tax burden but no potential use or income to offset the tax expense. Based on the government's actions, I concluded that the "after value" would be zero.

Based on the analyses and conclusions in the accompanying report and subject to the definitions, assumptions, and limiting conditions expressed in this report, it is my opinion that the retrospective just compensation due to the landowner for the government's actions, as of September 14, 2017, was as follows:

Estimated Just Compensation Due to Landowner	
1. Value before taking	\$34,135,000
2. Less value after the taking	- \$ -
3. Damages to the remainder	= \$34,135,000
4. Less special benefits to remainder	- \$ -
5. Just compensation due to property owner	= \$34,135,000

The previous values are based on the following extraordinary assumption and its use might have affected the assignment result:

1. The value estimated in this appraisal is based on the extraordinary assumption that the condition of the site noted during my August 12, 2020 property inspection was similar to its condition on September 14, 2017, the effective date of value for this assignment.

If you have any questions or comments, please contact the undersigned. Thank you for the opportunity to be of service.
Respectfully submitted,

THE DIFEDERICO GROUP

Tio S. DiFederico, MAI
Certified General Real Estate Appraiser
Nevada Certificate #A.0000150-CG

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TDG Rpt 000005
005716

For this assignment I first analyzed the property as if it were available to be developed with a residential use in compliance with its R-PD7 zoning on September 14, 2017. After concluding the "before value", I analyzed the remainder. Due to the effect of the government's actions, I concluded there was no market to sell this property with the substantial tax burden but no potential use or income to offset the tax expense. Based on the government's actions, I concluded that the "after value" would be zero.

The Golf Course is not an economic use
Expert MAI appraiser – Tio DiFederico. Exhibit 183
Global Golf. Exhibit 183
Par 4. Exhibit 45
Elite Golf. Exhibit 46
Keith Flatt Deposition. Exhibit 47

The Golf Course is not even legally permissible, and the City cannot promote a nonconforming use.

Interpretation of Land Use Tables Table 1

Symbol	Meaning
P	The use is permitted as a principal use in that zoning district by right.
A	The use is permitted as an accessory use to a main use in the district. This does not exclude other land uses which are generally considered accessory to the primary use.
C	The use is permitted, but only in accordance with the conditions specified in LVMC 19.12.070 for conditional uses.
S	The principal use is permitted in that zoning district only after first obtaining a Special Use Permit (SUP) as set forth in LVMC 19.16.110. Base standards may apply to an SUP approval, as specified in LVMC 19.12.070.
H	The use is permitted by means of a Home Occupation Permit.
T	The use is permitted by means of a Temporary Commercial Permit in accordance with LVMC 19.16.160.
	A blank square shall mean that the use is not allowed in that zoning district.

P - Permitted	A - Accessory	C - Conditional
S - Special Use Permit	H - Home Occupation Permit	T - Temporary Commercial Permit

19.12.010 Permitted Use - Table 2

	U	R-F	R-1	R-CL	R-TH	R-2	R-3	R-4	R-MH	P-O	O	C-1	C-2	C-PB	C-M	M	Additional Information
Bus Charter Service & Service Facility															P	P	page 324
Business School											P	P	P	P	P	P	page 324
Car Wash, Full Service or Auto Detailing												S	C	C	C	C	page 324
Car Wash, Self-Service												S	C	C	C	C	page 324
Catering Service												P	P	P	P	P	page 325
Cemetery/Mausoleum	C	C											C	C	C	C	page 325
Check Cashing Service, Limited											C	C	C	C	C	C	page 325
Church/House of Worship	S	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	page 325
Cleaners, Commercial/Industrial												S	S	S	P	P	page 326
Clinic												P	P	P	P	P	page 326
Cold Storage Plant													P	P	P	P	page 326
Colleges, University, or Seminary											S	P	P	P	P	P	page 326
Commercial, Other than Listed												S	P	S	P	P	page 326
Commercial Recreation/Amusement (Indoor)											S	P	P	P	P	P	page 326
Commercial Recreation/Amusement (Outdoor)													P	P	P	P	page 327

Rebuttal of Additional City Arguments on the Take Issue

Rebuttal of City Argument that a GPA was necessary to develop the properties

The City dictates the applications to file and the City did not require a GPA for the 35 acre stand alone applications NOR the Master Development Agreement application.

There is NO CODE PROVISION that requires a GPA application where:

- 1) the property is zoned residential and
- 2) the owner is proposing the use the property residential.

**CITY COUNCIL MEETING OF
AUGUST 2, 2017
COMBINED VERBATIM TRANSCRIPT – ITEM 8 EXCERPT AND ITEMS 53 AND 31**

Brad Jerbic:

It's a desirable thing, a very desirable thing to have the Master Plan, the General Plan, same thing, synchronized with the zoning, and they're not in sync right now. And at some point in time, an application will come forward to synchronize them. And you'll vote for it or you won't. But the fact is, if you didn't even have a general plan amendment that synchronized the General Plan with the zoning, the zoning is still in place, and it doesn't change a thing. I think, to me, and this is my personal opinion, Councilwoman, this is a red-herring argument.

Exhibit 54 Pg. 54 – 54 In 2649-2655

**CITY COUNCIL MEETING OF
AUGUST 2, 2017
COMBINED VERBATIM TRANSCRIPT – ITEM 8 EXCERPT AND ITEMS 53 AND 31**

Tom Perrigo:

So, as the Code requires and as staff and Council always ask, that the zoning and land use be consistent. In this case, the zoning district includes the density. The application was consistent with the zoning and the density that's contained within – the zoning. So, this, and – overall in – this area, the original Master Plan, back in 1985, showed a residential neighborhood development and service and general commercial. The zoning came along in 1990. In 1992, the plan was amended, and it showed open space that roughly followed where the golf course was anticipated to be. And then in 2005, it was changed again to reflect where the golf course is, and it was given PR-OS. So, with all that, sort of as background, the way that staff evaluated this, and I'll ask Mr. Summerfield or Mr. Lowenstein to add to this as well, is that given the densities embedded in the zoning, and given that the zoning has existed for a number of years, 27 years with that density, that although, yes, as the Staff Report reflects, a general plan amendment is – something that would be requested and that should come along to make the two consistent, as Mr. Jerbic stated and as has been said repeatedly, the opinion of staff is that the applicant has a right to come forward and request development under – the zoning.

Exhibit 95 pg. 94 -95 lns 2609-2629

Rebuttal of the City's Ripeness Argument

Already decided by this Court

The Landowners' inverse condemnation "claims were ripe because 180 Land [the Landowners] obtained a final decision from the City regarding the property at issue and 'a final decision by the responsible state agency informs the constitutional determination whether a regulation has deprived a landowner of 'all economically beneficial use' of the property."

Palazzolo v. Rhode Island, 533 U.S. 606, 618, 121 S.Ct. 2448, 2458 (2001).”
Court Order, dated February 1, 2018.

Ripeness / Futility analysis does not apply to any of the three relevant claims

Sisolak Majority
Sisolak Dissent (Justice Maupin)
County of Clark v. Hsu
State v. Eighth Judicial District

Ripeness / Futility analysis ONLY applies to a Penn Central claim.

Ripeness / Futility met as follows:

1. Filing of an application and denial:

A Penn Central Regulatory Taking Claim is not ripe “until the government entity charged with implementing the regulations has reached a **final decision** regarding the application of the regulations to the property at issue.”

OR

2. A showing it would be futile to file an application - “But when exhausting available remedies, **including the filing of a land-use permit application**, is futile, a matter is deemed ripe for review.”

State v. Eighth Judicial District, 419-420.

Even if Ripeness applied, it is met in this case:

The City provided only one way to develop (MDA)

The Landowners tried the City's one way (MDA)

The Landowners tried a second way to develop (the 35 Acre applications)

The Landowners tried to get access

The Landowners tried to get a perimeter fence

The Landowners tried to get a fence around a pond

The City denied ALL attempts to use

AND

The City adopted Bill No 2018-24 that 1) targets only the Landowners' Property; 2) entirely precludes all development; and 3) authorizes the public to use the property.

The City's "two application" rule is not Nevada law.

Justice Maupin did not adopt this "two application" rule in his Sisolak dissent.

But, even if it is the law, the "two application" rule is met.

Citation to inapplicable Orders is Improper

The Herndon Order – Judge Herndon held the Order should not be cited to. The Order is not final; it has been set aside.

The Sturman Order – Judge Sturman specifically “withdrew” the order on September 13, 2021, based on the Crockett Order reversal.

Transcript of September 13, 2021 hearing pg.101 Ln 22-25 pg. 102 Ln 1-2

The Ninth Circuit Order – not an inverse condemnation case, but a discrimination case that was applying the Petition for Judicial Review standard.

Rebuttal of the City's Segmentation Argument

The City's segmentation argument is not Nevada law.

- “A question often arises as to how to determine what areas are portions of the parcel being condemned, and what areas constitute separate and independent parcels? **Typically, the legal units into which land has been legally divided control the issue. That is, each legal unit (typically a tax parcel) is treated as a separate parcel....**”
- City of North Las Vegas v. Eighth Judicial Dist. Court, 133 Nev. 995, *2, 401 P.3d 211 (table)(**May 17, 2017**) 2017 WL 2210130 (unpublished disposition), *citing* 4A Julius L. Sackman, *Nichols on Eminent Domain* § 14B.01 (3d ed. 2016).
- **Policy – This prevents the government from claiming approval on parcel A allows it to take parcel B without paying for it.**
- **The 35 acre parcel is separate and apart from the 17 acre parcel AND with separate ownerships.**
- **The 17 acre case before Judge Jones alleges “claw back” of entitlements**

The City's segmentation argument violates Nevada law.

The Court's Questions on Friday – Does the City have to pay to make Open Space?

The City on Friday – “no”

NRS 37.039.

The final one is the City has to pay for it.

Kelly v. Tahoe Regional (1993), Facts Do Not Apply

1. It was a Penn Central case and the Nevada Supreme Court held a Penn Central analysis does not apply to the Landowners' three claims for which summary judgment is requested. At 650.
2. All lots were in one ownership and all lots were under the jurisdiction of one court.
3. Kelly was approved for development, but the development was staggered to protect Lake Tahoe. At 648-649.
4. It was a 39 lot subdivision and only 4 of the lots were ineligible for development. At 651.
5. Kelly's appraiser testified there was significant value in the property. At 651.

The City's segmentation argument fails, because the City clawed back the 17 Acre Approvals.

2017

February

2017

- 17 Acre approvals
- Seroka states over his dead body will Landowner build. Exhibit 124
- Surrounding property owners unify behind Seroka

June

2017

- Seroka defeats Beers
- City **Denies** 35 Acre development application. Exhibit 93.

August

2017

- City **Denies** MDA development application (that includes 17 acres). Exhibit 78
- City **Denies** access application. Exhibit 89
- City **Denies** fence application. Exhibit 92

December

2017

- City identifies \$15 million to “**purchase Badlands.**” Exhibit 144

2018

May

2018

- City **adopts** Bill No. 2018-5 to stop development. Exhibit 107
- City **strikes** 133 Acre development applications. Exhibit 105

July

2018

- (17 acre inverse case filing) – City argues the 17 Acre approvals were **error**.

August

2018

- (133 acre inverse case filing) – City argues the 17 Acre approvals were **error**. Exhibit 19

November

2018

- City **adopts** Bill No. 2018-24 to stop development **and allow public access**. Exhibit 108

2019

January

2019

- City **Denies** extension of original 17 Acre approvals. Exhibit 189.

Rebuttal of the City's Purchase Price Argument

The City's Purchase Price Argument is Based on a False Premise

- Declaration of Yohan Lowie. Exhibit 34
- Depositions of Yohan Lowie and William Bayne
- Appraiser DiFederico - \$1 million per acre (35 Acre Property only). Exhibit 183
- City Tax Assessor - \$88 million value. Exhibit 49
- Appraiser Lubawy - \$45,500,000 for part of 65 Acre Property (\$700,510 per acre). Exhibit 184

The city's Purchase Price Argument is Not Nevada Law

The Nevada Supreme Court did not ask how much the owners paid for the property in:

County of Clark v. Hsu

McCarran Intl. Airport v. Sisolak

State v. Eight Judicial District Court

Sloat v. Turner

Richmond Elks Hall Assoc. v. Richmond Red. Agency

NOTE: The City's 65 Acre Filing on the purchase price

The purchase price defense is bad public policy

Example – A landowner inherits property or gets a great deal on property during a rapidly ascending market – the government can take it without paying for it

Rebuttal of The City’s Argument that the City May Have Removed the Offending Taking Actions

City of Monterey v. Del Monte Dunes and Knick v. Township of Scott, Pennsylvania

Knick Facts

Township of Scott responded to a lawsuit by “staying enforcement of the ordinance.”

Del Monte Dunes Facts

After denying Del Monte Dunes’ land use applications and being sued, the City of Monterey said it would allow development.

The Rule

“Once the government’s actions have worked a taking of property, ‘no subsequent action by the government can relieve it of the duty to provide compensation for the period during with the taking was effective.’”

“a property owner acquires an irrevocable right to just compensation immediately upon a taking.”

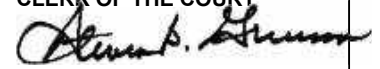
“[a] bank robber might give the loot back, but he still robbed the bank.”

Knick v. Township of Scott, Pennsylvania, 139 S.Ct. 2162, 2170, 2172 (2019); Arkansas Game and Fish v. U.S., 133 S.Ct. 511 (2012).

Conclusion:

The Landowners Case – the Landowners have cited to United States and Nevada caselaw that includes facts less egregious than the facts of this case and the Courts found a taking.

The City's Case – the City has failed to cite to one case with facts similar to this case where the Court did not find a taking.



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Attorneys for Plaintiffs Landowners

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendant.

Case No.: A-17-758528-J

Dept. No.: XVI

**PLAINTIFFS LANDOWNERS'
PRETRIAL DISCLOSURES**

Pursuant to Rule 16.1(a)(3) of the Nevada Rules of Civil Procedure and the Court's recent
setting of the trial date to begin on November 1, 2021, Plaintiffs Landowners, 180 Land Co., LLC
and Fore Stars Ltd. ("Landowners"), hereby make the following disclosures:

///

1 As a preliminary matter these disclosures are made in light of the Finding of Fact and
2 Conclusions of Law Regarding Plaintiff Landowners' Motion to Determine "Property Interest"
3 dated October 12, 2020 as well as the Court's Granting of the Landowners' Motion to Determine
4 Take (Order pending). Depending upon the City's disclosures and the Court's rulings on pending
5 motions in limine, the Landowners reserve the right to supplement and amend these disclosures as
6 deemed necessary.

7 **I. RULE 16.1(a)(3)(A)(i): IDENTIFICATION OF WITNESSES**

8 **A. Witnesses List**

9 The Landowners expect to present the following witnesses at trial, all of whom have been
10 previously disclosed:

- 11 1. Yohan Lowie
12 CEO EHB Companies LLC
- 13 2. Frank Pankratz
14 President, EHB Companies LLC
- 15 3. Tio S. DiFederico, MAI
16 The DiFederico Group

16 **B. Witnesses Landowners May Call if the Need Arises**

17 The Landowners may call the following witnesses if the need arises:

- 18 1. Donald Richards
19 Superintendent of 250 Acres

20 In addition, the Landowners reserve the right to call any witness that the City discloses or
21 presents through deposition.

21 **II. RULE 16.1(a)(3)(A)(ii): DEPOSITION DESIGNATIONS**

22 The Landowners reserve the right to supplement their disclosures upon receiving the City's
23 disclosures.

24 ///

1 **III. RULE 16.1(a)(3)(A)(iii): IDENTIFICATION OF DOCUMENTS/EXHIBITS**

2 The Landowners identify the exhibits they expect to offer at trial and those they may offer
3 if the need arises, as set forth in *Attachment 1*. The Landowners have included exhibits which
4 may not be necessary, depending upon the Court's rulings on pending motions in limine. The
5 Landowners reserve the right to supplement their disclosures upon receiving the City's disclosures
6 and depending upon the Court's rulings on pending motions in limine.

7 DATED this 4th day of October, 2021.

8 **LAW OFFICES OF KERMITT L. WATERS**

9 /s/ Autumn Waters
10 Kermitt L. Waters, Esq. (NSB 2571)
11 James J. Leavitt, Esq. (NSB 6032)
12 Michael A. Schneider, Esq. (NSB 8887)
13 Autumn L. Waters, Esq. (NSB 8917)
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18 ***Attorneys for Plaintiffs Landowners***

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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and
3 that on the 4th day of October, 2021, pursuant to NRCP 5(b), a true and correct copy of the
4 foregoing: **PLAINTIFFS LANDOWNERS' PRETRIAL DISCLOSURES** was served on the
5 below via the Court's electronic filing/service system and/or deposited for mailing in the U.S.
6 Mail, postage prepaid and addressed to, the following:

7 **McDONALD CARANO LLP**

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9 Christopher Molina, Esq.
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20 /s/ Sandy Guerra
21 an employee of the Law Offices of Kermitt L. Waters
22
23
24

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
1.	Aerials of subject property		Exhibit 3 to Motion for Summary Judgment	Will	
2.	Aerial maps of the subject property as of the relevant date of valuation		Available for review at the Law Offices of Kerritt L. Waters	Will	
3.	Map or different properties		LO 00000001	May	
4.	EHB 20 Years in the Neighborhood		LO 0034766	Will	
5.	Appraisal report prepared by Tio DiFederico		TDG Rpt 000001-000136	Will	
	The following are sub-documents from the Tio DiFederico Report				
6.		Professional Qualification of Tio S. DiFederico MAI	TDG Rpt 000111-000113	Will	
7.		Appraisal Certification of Tio DiFederico MAI	TDG Rpt 000114	Will	
8.		Testimony of Depositions Tio S. DiFederico, MAI	TDG Rpt 000115	May	
9.		Legend of Photographs taken during August 12, 2020 site inspection	TDG Rpt 000033	Will	
10.		Subject Photographs	TDG Rpt 000034-000039	Will	
11.		Assessor parcel Map 138-31-2&138-31-3	TDG Rpt 000046	Will	
12.		Before Condition aerial	TDG Rpt 000045	Will	
13.		Assessor's Parcel Map 138-31-2	TDG Rpt 000047	Will	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
14.		Assessor's parcel Map 138-31-3	TDG Rpt 000048	Will	
15.		Site Plan for 61 Custom Home Lots (prepared by GCW 10/24/2017)	TDG Rpt 000049-000050	Will	
16.		Site Plan for 16 Custom Home Lots (prepared by GCW 10/13/2020)	TDG Rpt 000051	Will	
17.		Site Plan for 7 Custom Home Lots	TDG Rpt 000052	Will	
18.		Comparable Land Sales Chart	TDG Rpt 000069	Will	
19.		Comparable Land Sales Map	TDG Rpt 000070	Will	
20.		Comparable Land Sale 1	TDG Rpt 000071	Will	
21.		Comparable Land Sale 2	TDG Rpt 000072	Will	
22.		Comparable Land Sale 3	TDG Rpt 000073	Will	
23.		Comparable Land Sale 4	TDG Rpt 000074	Will	
24.		Comparable Land Sale 5	TDG Rpt 000075	Will	
25.		Summary of Just Compensation Due Chart	TDG Rpt 000101, 103	Will	
26.		Land Value Conclusion	TDG Rpt 000084	May	
27.		Summary of Salient Facts	TDG Rpt 000007	May	
28.		Southern Nevada Coincident Index	TDG Rpt 000017	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
29.		Southern Nevada Leading Index	TDG 000018	May	
30.		Southern Nevada Construction Index	TDG 000019	May	
31.		Southern Nevada Tourism Index	TDG 000020	May	
32.		Market Area Analysis	TDG 000023	May	
33.		Income Approach – Before Condition charts and analysis and conclusion	TDG Rpt 000091-95	May	
34.		Golf Course Closure Letters, Par 4	LO 001106-001107	May	
35.		Golf Course Closure Letter, Elite	LO 001108	May	
36.		Elite Golf Deposition, Keith Flatt	LO 001109 – 001159	May	
37.		Summary of Just Compensation Due to the Property Owner Due to the City's Actions	TDG Rpt 000101	May	
38.		Conclusion of Just Compensation	TDG Rpt 000103	Will	
39.	Appraisal work file of Tio DiFederico		TDG WF 000001-0006593; FP WF 000001-000456		
	The following are sub-documents from the Tio DiFederico Work File				
40.		Zoning Verification Letter	TDG WF 000028	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
41.		LVMC 19.10.050	TDG WF 000050	May	
42.		The Summit newspaper article	TDG WF 000134-136	May	
43.		75% up newspaper article	TDG WF 000138-139	May	
44.		The New Vision	TDG WF 000145-153, 005804-5811	May	
45.		LVMC 19.12 – entire section	TDG WF 05523-5603	May	
46.		Summit Lot Sales Chart	TDG WF 005786-5788	Will	
47.		Ridges / QR Lot Sales Chart	TDG WF 005789-5790	Will	
48.		Land Sales Adjustment Grid	TDG WF 005802	Will	
49.		7 Lots Index	TDG WF 006137-6140	May	
50.		Drainage feasibility report	TDG WF 006141-6149	May	
51.		Geotechnical Engineering Report	TDG WF 006150-6167	May	
52.		Water Pressure Maps	TDG WF 006168-6169	May	
53.		Sewer Map	TDG WF 006170	May	
54.		GCW Report	TDG WF 006172-6185	May	
55.		Landscape Cost Estimate	TDG WF 006196	May	
56.		16 Lots Index and attached documents and cost comparison chart	TDG WF 006206-6249	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
57.		61 Lots Index and attached documents and cost comparison chart	TDG WF 006251-6339	May	
58.		Las Vegas Luxury Market on the Rise article	TDG WF 006415-6422	May	
59.	Yohan Lowie's Work File		YL WF 000001 – YL WF 000818		
	The following are sub-documents from the Yohan Lowie Work File				
60.		Site Plan	YL WF 000001	Will	
61.		180 Land Cost Comparison 6 16 7	YL WF 000002	Will	
62.		Commercial Projects List	YL WF 000003	Will	
63.		Commercial Projects Map	YL WF 000004 – YL WF 000005	Will	
64.		Discovery Lands Summit Club Sells Custom Lots from \$3 to \$10 million LVRJ	YL WF 000006 – YL WF 000010	Will	
65.		Hutchison Office Deed	YL WF 000011- YL WF 000014	May	
66.		Calida PSA (17 acres)	LO 00037070 – 00037093 <i>See Mr. Lowie's deposition</i>	Will	
67.		Calida PSA RA	YL 000050 – YL WF 000084	Will	
68.		PSA Intermountain Health	YL WF 000084 – YL WF 000105	Will	
69.		The New Vision	YL WF 000106-000207	Will	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
70.		QT Appraisal	YL WF 000208-000339	May	
71.		Valbridge Appraisal	YL WF 000340-000429	May	
72.		Panther Alta Corner Deed	YL WF 000430 – YL WF 000435	May	
73.		Panther Hualapai Deed	YL WF 000436 – YL WF 000445	May	
74.		Queensridge Home list and map	YL WF 000446-000447	May	
75.		Photos of Projects completed by EHB	YL WF 000448-000462	May	
76.		Yohan Deposition – Binion	YL WF 000463 – YL WF 000517	May	
77.		Back Up Data for Damages Disclosed in Mr. Lowie's testimony disclosure - \$1,450,173.84	YL WF 000518 – 000695 (A summary will also be provided)	Will	
78.		35 acre Lots breakdown	YL WF 000696	Will	
79.		CMA SUMMARY / Land	YL WF 000697 – YL WF 000700	Will	
80.		RAS to DC Rampart Grant Bargain and Sale Deed	YL WF 000701 – YL WF 000776	May	
81.		Design – Build Lease	YL WF 000777 – YL WF 000818	May	
82.	Frank Pankratz Work File		FP WF 000001 – FP WF 000456		
	The following are sub-documents from the Frank Pankratz Work File				
	7 Lots Work File		FP WF 00003 – FP WF 000135		

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
83.		Cost Summary – 7 Lots	FP WF 000003	Will	
84.		Preliminary Site Plan	FP WF 000004	Will	
85.		Drainage	FP WF 000005 – 000007	5-6 (May) 7 (Will)	
86.		Soils & Other Suitability	FP WF 000008	May	
87.		Hydraulic Grade Lines	FP WF 000009 – 000010	May	
88.		Sewer	FP WF 000011	May	
89.		Traffic	FP WF 000012	May	
90.		Wastewater	FP WF 000013	May	
91.		Soils Report Part 1	FP WF 000014 – 000030	May	
92.		Soils Report Part 2	FP WF 000031 – 000055	31 (May) 32-33 (Will) 34-55 (May)	
93.		Soils Report Part 3	FP WF 000056 – 000074	May	
94.		CTS Firm Overview	FP WF 000075 – 000078	May	
95.		CTS Firm Overview (supplemental)	FP WF 000079	May	
96.		Existing Sewer	FP WF 000080	Will	
97.		LVVWD Pressure Zones	FP WF 000081	Will	
98.		Prelim Grading Plan – Color	FP WF 000082	Will	
99.		Prelim Grading Plan - B&W	FP WF 000083	Will	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
100.		Prelim Site Plan	FP WF 000084	Will	
101.		Sewer	FP WF 000085	Will	
102.		Water	FP WF 000086	Will	
103.		Storm Drain	FP WF 000087	Will	
104.		Roadways	FP WF 000088	Will	
105.		Landscaping	FP WF 000089	Will	
106.		Walls	FP WF 000090	Will	
107.		Grading Details and Sections	FP WF 000091	May	
108.		GCW Firm overview	FP WF 000092	May	
109.		GCW Firm Overview (supplemental)	FP WF 000093 - 000094	May	
110.		Aggregate Cost Estimate	FP WF 000095 – 000099	May	
111.		Aggregate Company Overview	FP WF 000100	May	
112.		Hirschi Company Reference Letter	FP WF 000101 - 000102	May	
113.		Engineering & Mapping Proposal	FP WF 000103 – 000108	May	
114.		Bond Estimate	FP WF 000109 – 000116	May	
115.		Cost Estimate	FP WF 000117	May	
116.		NVE Planning Memo	FP WF 000118	May	
117.		15% Cost increase description	FP WF 000119 – 000120	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
118.		STF INC. Firm Overview	FP WF 000121	May	
119.		Landscaping Cost Estimate	FP WF 000127	May	
120.		Plan Check Fee Schedule	FP WF 000128	May	
121.		Water Fee Schedule	FP WF 000129	May	
122.		Mark Fakler Resume	FP WF 000130 - 000132	May	
123.		Telephone and Cable Cost Estimate	FP WF 000133 – 000134	May	
124.		Tand Company Overview	FP WF 000135	May	
	16 Lots Work File		FP WF 000136 - 000270		
125.		Cost Summary – 16 Lots	FP WF 000138	Will	
126.		Prelim Site Plan	FP WF 000139	Will	
127.		Drainage	FP WF 000140 – 000142	May	
128.		Soils & Other Suitability	FP WF 000143	May	
129.		Hydraulic Grade Lines	FP WF 000144-000145	May	
130.		Sewer	FP WF 000146	May	
131.		Traffic	FP WF 000147	May	
132.		Waste Water	FP WF 000148	May	
133.		Soils Report Part 1	FP WF 000149 – 000165	May	
134.		Soils Report Part 2	FP WF 000166 – 000190	166 (May) 167-168 (Will) 169-190 (May)	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
135.		Soils Report Part 3	FP WF 000191 – 000209	May	
136.		CTS Firm Overview	FP WF 000210-000213	May	
137.		CTS Firm Overview (Supplemental)	FP WF 000214	May	
138.		Existing Sewer	FP WF 000215	Will	
139.		LVVWD Pressure Zones	FP WF 000216	Will	
140.		Prelim Grading Plan – Color	FP WF 000217	Will	
141.		Prelim Grading Plan – B&W	FP WF 000218	Will	
142.		Prelim Site Plan	FP WF 000219	Will	
143.		Sewer	FP WF 000220	Will	
144.		Water	FP WF 000221	Will	
145.		Storm Drain	FP WF 000222	Will	
146.		Roadways	FP WF 000223	Will	
147.		Landscaping	FP WF 000224	Will	
148.		Walls	FP WF 000225	Will	
149.		Grading Detail and Sections	FP WF 000226	May	
150.		GCW Firm Overview	FP WF 000227	May	
151.		GCW Firm Overview (supplemental)	FP WF 000228- 000229	May	
152.		Aggregate Cost Estimate	FP WF 000230 – 000234	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
153.		Aggregate Company Overview	FP WF 000235	May	
154.		Hirschi Company Reference Letter	FP WF 000236 - 000237	May	
155.		Engineering & mapping Proposal	FP WF 000238	May	
156.		Bond Estimate	FP WF 000244-000251	May	
157.		Cost Estimate	FP WF 000252	May	
158.		NVE Planning Memo	FP WF 000253	May	
159.		15% Cost Increase Description	FP WF 000254 – 000255	May	
160.		STF In Firm Overview	FP WF 000256	May	
161.		Natural Gas Cost Estimate	FP WF 000257 – 00258	May	
162.		15% Cost Increase Description	FP WF 000259 – 000260	May	
163.		STF Inc. Firm Overview	FP WF 000261	May	
164.		Landscaping Cost Estimate	FP WF 000262	May	
165.		Plan Check Fees Schedule	FP WF 000263	May	
166.		Water Fees Schedule	FP WF 000264	May	
167.		Mark Fakler Resume	FP WF 000265-000267	May	
168.		Telephone and Cable Cost Estimate	FP WF 000268 – 000269	May	
169.		Tand Company Overview	FP WF 000270	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
	61 Lots Work File		FP WF 000271 - 000456		
170.		Cost Summary – 61 Lot	FP WF 000273	Will	
171.		Approved SDR, TMP & Landscaping Plan	FP WF 000274 – 000289	275, 276, 280, 281, 283, 284, 285, (Will) 274, 277-279, 282, 286-289 (May)	
172.		Staff Report: SDR, TMP, WVR, GPA	FP WF 000290 – 000315	May	
173.		SDR Approval	FP WF 000316 – 000320	May	
174.		TMP Approval	FP WF 000321 – 000322	May	
175.		WVR Approval	FP WF 000323 – 000324	May	
176.		Drainage	FP WF 000325 -000327	May	
177.		Soils & Other Suitability	FP WF 000328	May	
178.		Hydraulic Grade Lines	FP WF 00329 – 000330	May	
179.		Sewer	FP WF 000331	May	
180.		Traffic	FP WF 000332	May	
181.		Wastewater	FP WF 000333	May	
182.		Soils Report Part 1	FP WF 000334 - 000350	May	
183.		Soils Report Part 2	FP WF 000351 - 000375	351 (May) 352-353 (Will) 354-375 (May)	
184.		Soils Report Part 3	FP WF 000376 – 000394	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
185.		CTS Firm Overview	FP WF 000395 – 000398	May	
186.		CTS Firm Overview (supplemental)	FP WF 000399	May	
187.		Existing Sewer	FP WF 000400	Will	
188.		LVVWD Pressure Zones	FP WF 000401	Will	
189.		Prelim Grading Plan – Color	FP WF 000402	Will	
190.		Prelim Grading Plan – B&W	FP WF 000403	Will	
191.		Sewer	FP WF 000404 – 000405	Will	
192.		Water	FP WF 000406	Will	
193.		Storm Drain	FP WF 000407	Will	
194.		Roadways	FP WF 000408	Will	
195.		Landscaping	FP WF 000409	Will	
196.		Walls	FP WF 000410	Will	
197.		Grading Details and Sections	FP WF 000411	May	
198.		GCW Firm Overview	FP WF 000412	May	
199.		GCW Firm Overview (Supplemental)	FP WF 000413 – 000414	May	
200.		Aggregate Cost Estimate	FP WF 000415 - 000419	May	
201.		Aggregate Company Overview	FP WF 000420	May	
202.		Hirschi Company Reference Letter	FP WF 000421 - 000422	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
203.		Engineering & Mapping Proposal	FP WF 000423 – 000428	May	
204.		Bond Estimate	FP WF 000429 – 000436	May	
205.		NVE Cost Estimate	FP WF 000437	May	
206.		NVE Planning Memo	FP WF 000438	May	
207.		15% Cost Increase Description	FP WF 000439 – 000440	May	
208.		STF INC Firm Overview	FP WF 000441	May	
209.		SWG Cost Estimate	FP WF 000442 – 000443	May	
210.		15% Cost Increase Description	FP WF 000444 – 000445	May	
211.		STF Inc. Firm Overview	FP WF 000446	May	
212.		Landscaping Cost Estimate	FP WF 000447	May	
213.		Landscaping Cost Estimate Memo	FP WF 000448	May	
214.		Plan Check Fees Schedule	FP WF 000449	May	
215.		Water Fees Schedule	FP WF 000450	May	
216.		Mark Fakler Resume	FP WF 000451 – 000453	May	
217.		Telephone and Cable Cost Estimate	FP WF 000454 – 000455	May	
218.		Tand Company Overview	FP WF 000456	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
	<i>The need for the following exhibits is dependent upon rulings on pending motions in limine</i>		<i>The need for the following exhibits is dependent upon rulings on pending motions in limine</i>		
219.	Lowie Deposition Exhibits	Exhibit 1 - Ownership Chart	FORE000798	May	
220.		Exhibit 6 – June 25, 2015- Letter from The Calida Group	LO 00037065 - 00037068 (Confidential)	May	
221.		Exhibit 7 – Agreement of Purchase and Sale of Property	LO 00037070- LO 00037093	May	
222.		Exhibit 9 – CLV125530	CLV 125530	May	
223.		Exhibit 11 – Record of Survey Boundary Line Adjustment	CLV305596 – CLV305600	May	
224.		Exhibit 12 – Flash Drive and Flash Drive	None	May	
225.		Exhibit 13 – Terms Sheet	LO 00037589 – 00037608 (Confidential A-17-758528-J)	May	
226.		Exhibit 14 – Securities Redemption Agreement dated September 14, 2005	LO 00037571 - 00037588 (Confidential A-17-758528-J)	May	
227.		Exhibit 15 – Securities Purchase Agreement (QT)	LO 00037485 - 00037522 (Confidential A-17-758528-J)	May	
228.		Exhibit 16 – Securities Redemption Agreement	LO 00037547 - 00037559 (Confidential A-17-758528-J)	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
229.		Exhibit 17 – Securities Purchase Agreement (GW)	LO 00037459 - 00037484 (Confidential A-17-758528-J)	May	
230.		Exhibit 18 – Securities Redemption Agreement	LO 00037560 - 00037567 (Confidential A-17-758528-J)	May	
231.		Exhibit 19 – Securities Purchase Agreement (SH)	LO 00037523 - 00037546 (Confidential A-17-758528-J)	May	
232.		Exhibit 20 – Badlands Golf Course Clubhouse Improvements Agreement	LO 00037620 - 00037657 (Confidential A-17-758528-J)	May	
233.		Exhibit 22 – Settlement Agreement	PNC0000677 – PNC0000682	May	
234.		Exhibit 23 – Restrictive Covenant	CLV303971 – CLV303972	May	
235.		Exhibit 24 – Settlement Agreement and Mutual Release	LO 0021093 - 0021144 (Confidential and Privileged NRCP 26 A-17-758528-J)	May	
236.		Exhibit 25 – PNC000748	PNC 000748	May	
237.		Exhibit 26 – June 12, 2014 Letter	LO 0035970-0035972 (Confidential and Privileged NRCP 26 A-17-758528-J)	May	
238.		Exhibit 27 – E-mail Exchange and Purchase and Sale Agreement	LO 0025237 - 0025263 (Confidential and Privileged NRCP 26c A-17-758528-J)	May	
239.		Exhibit 28 – Emails	LO 0018062 - 0018064 (Confidential and Privileged NRCP 26c A-17-758528-J)	May	
240.		Exhibit 29 – PNC000756- PNC000757	PNC 000756- PNC 000757	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
241.		Exhibit 30 – PNC000082	PNC 000082	May	
242.		Exhibit 31 – PNC001648-PNC001650	PNC 001648 – PNC 001650	May	
243.		Exhibit 32 – E-mail and Membership Interest Purchase and Sale Agreement	LO 0018675 - 0018693 (Confidential and Privileged NRCp 26 A-17-758528-J)	May	
244.		Exhibit 33 – E-mails	LO 0018821 - 0018822 (Confidential and Privileged NRCp 26 A-17-758528-J)	May	
245.		Exhibit 34 – LO 0018084	LO 0018084 (Confidential and Privileged NRCp 26c A-17-758528-J)	May	
246.		Exhibit 35 – PNC001241-PNC001242	PNC 001241 – PNC 001242	May	
247.		Exhibit 36 – LO 0024862- LO 0024863	LO 0024862 - 0024863 (Confidential and Privileged NRCp 26c A-17-758528-J)	May	
248.		Exhibit 37 – Membership Interest Purchase and Sale Agreement	LO 00004063 - 00004079 (Confidential)	May	
249.		Exhibit 38 – PNC000373-PNC000380	PNC 000373 – PNC 000373	May	
250.		Exhibit 39 – LO 0018083- LO 0018084	LO 0018083 - 0018084 (Confidential and Privileged NRCp 26c A-17-758528-J)	May	
251.		Exhibit 40 – December 23, 2014 Letter from Bobby Weed Golf Design	LO 00008835 – 00008839	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
252.		Exhibit 41 – LO 00009125	LO 00009125	May	
253.		Exhibit 42 – Badlands Conceptual Land Use Scenario	LO 00008833 – 00008834	May	
254.		Exhibit 43 – February 16, 2017 Letter	None	May	
255.		Exhibit 44 – May 27, 2016 Letter from The Calida Group	LO 00037105 (Confidential)	May	
	Bayne Deposition Exhibits				
256.		Exhibit 2 – Certificate of Amendment of the Articles of Incorporation of Peccole-Nevada Corporation	None	May	
257.		Exhibit 3 – Peccole Generalized Land Use Plan 04/15/1981	CLV 204367	May	
258.		Exhibit 3-A Peccole Generalized Land Use Plan 04/15/1981	CLV 204367	May	
259.		Exhibit 3-B Peccole Generalized Land Use Plan 04/15/1981	CLV 204367	May	
260.		Exhibit 4 -Peccole Ranch Phase One Land Use Case Files	CLV 204375	May	
261.		Exhibit 5 – Peccole Ranch Phase Two Land Use Case Files	CLV204366	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
262.		Exhibit 6 -Grant, Bargain and Sale Deed	CLV088319 – CLV088323	May	
263.		Exhibit 7 – Termination of Operating Lease Agreement (Badlands Golf Club)	LO 0016180 (A-17-758528-J Confidential and Privileged NRCP 26c)	May	
264.		Exhibit 9 – Operating Agreement of Queensridge Towers LLC	None	May	
265.		Exhibit 10 – Option to Purchase Real Property	CLV 307031 – CLV 307034	May	
266.		Exhibit 20 – Planning & Development Department Application/Petition Form	None	May	
267.		Exhibit 21 – Site Plan/Landscape Plan, Townhomes at Rampart and Alta	None	May	
268.		Exhibit 22 – JMA Architecture Studios Letter	None	May	
269.		Exhibit 23 – JMA Architecture Studios Letter	None	May	
270.		Exhibit 24 – Peccole Nevada Letter	None	May	

Attachment 1:
Landowners' 16.1(a)(3)(A)(iii) Document-Exhibit List

Exhibit No.	Document Name/Type	Sub-Document Name/Type	Bate Stamp # (if available)	Will Use/ May Use	Objection Yes/No
271.		Exhibit 25 – JMA Architecture Studios Letter	None	May	
272.		Exhibit 33 - E-mail	LO 0021073	May	
273.		Exhibit 34 – E-mail	PNC 001326- PNC 001327	May	
274.		Exhibit 35 – E-mail and Purchase and Sale Agreement	LO 0025688 - 0025717 (A-17-758528-J Confidential and Privileged NRCIP 26c)	May	
275.		Exhibit 37 – E-mail and Purchase and Sale Agreement	LO 0026221 - 0026248 (A-17-758528-J Confidential and Privileged NRCIP 26c)	May	
276.		Exhibit 41 – E-mail	LO 0018596 - 0018597 (A-17-758528-J Confidential and Privileged NRCIP 26)	May	
277.		Exhibit 42 – Lot Line Adjustment Agreement	LO 0021863 – 0021869 (A-17-758528-J Confidential and Privileged NRCIP 26)	May	
278.		Exhibit 47 – E-mail	PNC 001603 – 001605	May	
279.		Exhibit 51 – Grant, Bargain, Sale Deed	None	May	
280.		Exhibit 52 – Record of Survey	None	May	
281.		Exhibit 53 – Minutes of Special Meeting of Board of Directors of Peccole-Nevada Corporation	LO 00037342-37343 (Confidential A-17-758528-J)	May	