



CHET ADAMS  
CITY ATTORNEY

April 15, 2013

Mr. Steven T. Polikalas  
Watson Rounds  
5371 Kietzke Lane  
Reno, NV 89511

**Re: PCN12022 Special Use Permit**

Dear Steve,

On Friday, April 12, you posed four questions of the City on behalf of your client in an effort to distill information related to PCN 12022, a special use permit approved by the Sparks Planning Commission that provides for a non-restricted gaming operation at the Legends at Sparks Marina Development. The answers to your questions are provided herein, and I think you will find that what my answers lack in style and grace, they make up for in brevity:

**1. The City's Understanding Regarding Location and Ownership of Buildings Associated with PCN 12022**

The City approved a Special Use Permit Application that contemplates three buildings on a single legal parcel, that a common owner will maintain control over each building, and that buildings would be separated by a private access easement. A map of the proposal is included as page 26 of the Staff Report associated with PCN 12022. I have attached a copy of the Report to this letter for your convenience.

**2. The City's Understanding of the Location of Bar and Restaurant Facilities Within the Project**

The City believes that the bar and restaurant facilities required by NRS 463.01865 will be located in the same building as the gaming operation. The Staff Report associated with PCN 12022 speaks, albeit briefly, to this issue at the bottom of page 5: "[i]t is anticipated that the initial phase will include approximately 60,000 square feet of casino, restaurant, and "back of house" areas along with two hotels consisting of a total of 201 rooms." That notwithstanding, the City further believes that a plain reading of NRS 463.01865 reveals that the mandated component parts of a "resort hotel" can be located in any of the buildings associated with a multi-structure operation.

**3. The City's Perspective Regarding the Compilation of Multiple Hotels' Rooms to Satisfy the Requirements of NRS 463.01865(1)**

The City is not aware of any precedent involving the combination of rooms from multiple hotels in order to reach the 201 room threshold. Nevertheless, the plain language of NRS 463.01865 contemplates that the characteristics of more than one building, in the aggregate, may satisfy the requirements of the statute. In our view, that is the practical result of the presently approved three building project.

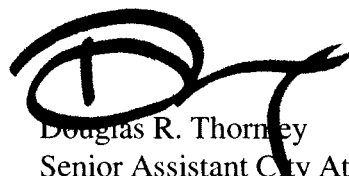
**4. The City's Position with Respect to SMC 20.05.940**

As just described, the City believes that the project described in PCN 12022 satisfies the requirements of state law. In so far as the City's own definition of "non-restricted gaming operation" includes the phrase "at one establishment," we similarly believe that this requirement has been satisfied by the three building project. Based on the premise that an "establishment" is often defined as a place of business, and that state law requires a "resort hotel" component, which may be comprised of multiple buildings, in order to commence most non-restricted gaming operations, we conclude that when a project that meets conditions of state law without which it cannot otherwise exist it is properly viewed as a single establishment.

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We believe that the decision of the Sparks Planning Commission is legally sound. However, Section 2.090(5), (7), (10), and (11) of the Sparks City Charter empowers the City Council with considerable discretion related to the ultimate approval or rejection of the Special Use Permit associated with PCN 12022, and it is conceivable that the City Council could reach an opposing, but equally supportable decision under the law. To the extent your clients question the wisdom of a policy that allows the requirements of NRS 463.01865 to be satisfied by combining the elements of multiple, unconnected buildings, we respectfully suggest that the Nevada Gaming Control Board, Nevada Gaming Commission, and Nevada Legislature are more appropriate forums for that debate.

Sincerely,



Douglas R. Thorney  
Senior Assistant City Attorney

DRT/sll  
Enclosures