



CITY OF RENO

Planning Commission

June 7, 2006
Staff Report

Agenda #

VI-7

Ward #

1

CASE No.: LDC06-00406 (Waterfront TM)

APPLICANTS: Waterfront Properties, LLC

APN NUMBER: 011-075-01, 011-076-01, 011-076-07, 011-076-08, 011-072-01, 011-072-02 and 011-072-03

REQUEST: This is a request for:

- (1) a tentative map to allow for the construction of 190 condominium units in a 34 story building with an attached parking garage; and
- (2) a special use permit to (a) modify and upgrade the Redevelopment District Streetscape Master Plan design guidelines relating to sidewalks and light standards; (b) modify the Redevelopment Downtown Riverfront Design Guidelines relating specifically to building design, site improvement, landscaping design, sign design and lighting design guidelines; and (c) modify the Truckee River Corridor, Downtown Riverfront Special Purpose District relating to building orientation, setbacks (specifically reduction of the 50 foot building setback to 41 feet to allow for a single story pool enclosure), and site and pedestrian access.

LOCATION: The project includes two separate sites, one at ±3.34 acres in size that will contain the condominium units located on the southeast corner of the intersection of Lake Street and East Second Street in the TRD (Truckee River Corridor, Downtown Riverfront Special Purpose District/Downtown Area Overlay District) and the GRC (General Regional Center Overlay District) zones, and the other at ±0.66 acres in size containing the sales office which is located on the southwest corner of the intersection of Lake Street and East Second Street in the CB (Central Business) zone.

PROPOSED MOTION: Based upon compliance with the applicable findings, I move to approve the tentative map and special use permit, subject to conditions.

RECOMMENDED CONDITIONS OF APPROVAL:

All conditions shall be met to the satisfaction of Community Development Department staff, unless otherwise noted.

1. The project shall comply with all applicable City codes, plans, reports, materials, etc., as submitted. In the event of a conflict between said plans, reports, materials and City codes, City codes in effect at the time the building permit is applied for, shall prevail.
2. The applicants shall record the final map in accordance with the time limit contained in state law or this approval shall be null and void.
3. Prior to issuance of any permits, the developer shall prepare a disclosure statement that shall be provided to all future owners at time of purchase of a unit that the development may not be zoned for the closest elementary, middle or high school and that children may be bussed to the nearest school with capacity to accept new students. The disclosure shall be submitted to the School District for review and a letter from the School District approving the disclosure statement shall be submitted to Community Development staff.
4. If a framing plan is submitted separately from the site improvement plans, a courtesy set shall be provided to planning staff prior to issuance of a permit for framing. If a set cannot be provided, the applicants shall inform Planning staff via letter that one has been submitted to the City of Reno. The letter shall indicate the date and time of the submittal. Failure to comply with this condition shall make any building permit issued null and void.
5. Prior to issuance of any building permit, including a foundation permit, the applicants shall demonstrate compliance with the First Street Abandonment Case No. LDC06-00134, Condition No. 2: The applicants' final plans shall demonstrate that the public parking spaces are being replaced on the project site or, as approved by City Council, replaced off site or otherwise appropriated as deemed suitable by City Council.
6. A Homeowner's Association or equivalent shall be established to maintain all common area improvements not accepted or otherwise maintained by the City of Reno.
7. The trail on the north side of the river that terminates at Lake Street shall be continued across the project site via a public use easement along the riverfront.

- The trail shall be an eight foot wide paved swath and shall be landscaped and maintained by the Homeowner's Association. The final plans must be received and approved by the City's Landscape Architect and the Parks Department. Any permits from the Army Corps of Engineers shall be obtained by the applicants. The trail shall be completely installed prior to the issuance of the first Certificate of Occupancy for any tenant. The trail may be gated between Lake Street and the site's east property line from 10:00 p.m. to 6:00 a.m. until such time the trail is connected to the properties to the east. At the time of connection to the properties to the east, the gates must be removed and the trail must remain open to the public 24 hours a day.
8. Any upgrades to the pedestrian sidewalks for the project shall be maintained by the Homeowner's Association unless it is determined by Public Works staff that ongoing maintenance can be accepted by the City of Reno. A stockpile of the upgraded materials in an amount to be determined by Public Works staff shall be maintained on the site for future repairs.
 9. Prior to the approval of any permit, the applicants shall provide planning staff with appropriate documentation indicating an Avigation Easement has been granted and accepted by the Reno-Tahoe Airport Authority over the entire project site (Waterfront Tower and the Waterfront Sales Office).
 10. Prior to approval of any permit, the applicants shall provide planning staff with appropriate documentation demonstrating that a "will service" letter has been obtained from the Waste Management/Disposal Services and provided to planning staff.
 11. Prior to the issuance of any permit for construction, the applicants shall provide to and have approved by the City of Reno, a construction management and access plan. Full street closures of Lake and Second Streets adjacent to this project will not be allowed, nor will construction staging of materials or vehicles be allowed to occur on either street. Lane closures on either street shall be limited to short duration and shall be further limited to the existing adjoining parking lane of both streets. Coordination with the Citifare Bus Transit Service, Reno Fire Department and Reno Police Departments will be required for the duration of the project and during all subsequent phases of the project.
 12. Prior to issuance of any permit, the applicants shall provide a final hydrology report to the satisfaction of staff. The report shall include, at a minimum, a delineation of the 100-year flood limits within the site as determined from the Montgomery-Watson-Harza model for the Truckee River, an analysis of the impact of such flooding on all the proposed structures, an analysis of all encroachments within the flood limits, an analysis of any off-site impacts resulting from the development, and all interim conditions associated with each phase of development. No permits (grading, excavation, foundation, etc.) shall be issued

for any structure on this site until the final hydrology report is approved. An updated hydrology report may be required with each phase as determined by the City Engineer.

13. Prior to the issuance of any permit, the applicants shall provide plans for the construction of all public improvements that shall be approved by the City Engineer, and shall provide an improvement agreement and security for all public improvements.
14. Prior to the issuance of any certificate of occupancy for each construction phase, including a temporary certificate of occupancy, the applicants shall have verified all public improvements. No certificates of occupancy, including temporary certificates of occupancy, will be issued until all public improvements are functionally complete and ready to be accepted by the City of Reno.
15. Prior to the approval of each final map, the applicants shall demonstrate conformance to a mixed use facility, and shall floodproof all facilities located below an elevation 1 foot above that determined for the 100-year flood water surface elevation, and shall provide a complete vehicle evacuation plan, including 24-hour, on-site manned staffing. This requirement shall be identified by a note on all final maps and shall not be amendable without the concurrence of the City of Reno.
16. Prior to issuance of the first final map, applicants shall grant public access along all Truckee River frontages to the satisfaction of staff.
17. Prior to approval of the first final map, the applicants shall submit an updated sewerage report to the approval of the City Engineer.
18. Prior to each phase of development, the applicants shall provide an updated traffic study. All identified traffic improvements shall be constructed and functional prior to the start of any other construction activity for the respective phase.
19. Prior to the issuance of any permit, the applicants shall provide a proposed constructed flood elevation certificate. Prior to issuance of any certificate of occupancy, including temporary certificate of occupancy, the applicants shall provide individual constructed flood elevation certificates and, for each non-residential unit, shall provide flood proofing certificates for all areas located below an elevation of 1 foot above the regulated 100-year water surface elevation, to the satisfaction of Engineering staff.
20. Prior to approval of any building permit, the applicants shall provide a site plan that identifies the bearings and distances established by Record of Survey 1167,

and demonstrates compliance with required setbacks of all structures from that line.

21. All future phases shall be landscaped and irrigated for dust control and aesthetic improvement. The final landscaping plan shall be reviewed and approved by the City's Landscape Architect prior to issuance of a building permit.

BACKGROUND:

The larger site located east of Lake Street was originally subdivided in the early 1900's, and subsequently redeveloped in the 1950's as a hotel and restaurant known as the Bundox. The hotel operated until the early 1980's, and then remained vacant for a number of years. It was demolished in early 2000 and until the present has not had a proposal for redevelopment. The smaller site located on the southwest corner of West Second Street and Lake Street was developed in 1970 with a building known as the Oxford Motel. It remained in operation until late 2005 and has been recently demolished in preparation of the proposed condominium project sales center.

Due to the complexity of the project, several issues were identified during the review process that required legal interpretation. Planning issues identified included riverfront setbacks, replacement of public parking on First Street, public access along the river, and the 2% public amenity requirement. A memorandum was written by the City Attorney's Office that provided direction to Community Development staff and this report incorporates those conclusions. The memorandum is attached to this report as Exhibit N.

ANALYSIS:

The applicants are proposing a 34 story condominium tower that is phase 1 of a 3 phased project. In addition to the tower that will be constructed east of Lake Street, there will be a single story sales center building that will be constructed to the west of Lake Street where the Oxford Motel stood. This project includes a tentative map to subdivide on the tower site and special use permits that include both sites. Specifically, the special use permits that apply to the sales center are those related to the upgrades to the Redevelopment Downtown Design Guidelines for the streetscape standards. Items such as the candy cane lights, benches and the sidewalk materials will be upgraded to incorporate a look more consistent with the proposed architecture of the building.

Key Issues:

Zoning:

While the Downtown Regional Center Plan has been recently adopted, this application came in before its approval and therefore has been reviewed under the zoning in place

at the time the application was submitted. The zoning for the site is TRD (Truckee River Corridor, Downtown Riverfront Special Purpose District) and GRC (General Regional Center Overlay District) for the tower site and CB (Central Business) for the sales center.

It should be noted that at the time the tower came in for consideration, the City of Reno's development code was in transition and it became apparent that the tower site was located in four overlay districts. After an analysis by staff, it was determined that only the above zoning districts (overlays) applied. Although staff was able to narrow down the applicable zoning, a few of the standards in the districts are in conflict with one another. Staff has identified this in the report where pertinent. With the recent approval of the Downtown Regional Center Plan, these conflicts no longer exist. At the applicants' request, staff took a conservative approach in the administration of special use permits. Where any confusion and questions existed, review of a special use permit was conducted.

Abandonment/parking:

On October 26, 2005, and January 25, 2006, the City Council held hearings on the abandonment of the public street and easement of East First Street between Lake Street and East Second Streets (LDC06-00134). The Council upheld staff's recommendation and approved the request in which the title is to be reverted proportionally to the abutting properties in anticipation of this proposed project. As a stipulation of approval, Condition No. 2 was required which reserved to the City of Reno its rights and/or interests in the public parking on the street (Exhibit A). The applicants must find alternative parking on their site or if permitted by Council, off site. To keep the project compliant with the abandonment approval, staff has written Condition No. 5 that requires replacement of the parking spaces. The condition allows the applicants to provide the parking on their site, or return to Council and have an alternative parking arrangement approved prior to issuance of any building permit, including a foundation permit.

Land Use Compatibility: Land use surrounding the subject site consist of commercial with CB zoning and a hotel casino with HCD (Hotel Casino Downtown) zoning on the north across West Second Street, a communication facility with CB zoning and the river to the south, a parking garage with offices to the east with TRD zoning, and commercial uses with CB and TRD zoning to the west. Residential and commercial condominiums are compatible with the neighborhood.

Urban Design/Tentative Map: The Waterfront Condominium Project is a facility consisting of a 34 story tower that contains 190 dwelling units with a mechanical and elevator penthouse. A parking garage for tenants is also proposed that has 4 stories above grade and 1 story below grade with a total of 304 parking spaces (approximately 60 spaces per story). The height of the tower structure is ±407.6 feet and the height of the parking structure is ±44 feet.

The tower has a nearly all glass façade with a curtain wall and storefront wall system on all sides. Glare should be minimized due to the type of glass selected. The glass is clear and not "mirrored" and therefore should not have reflection. The color for the glazing is a clear glass with white ceramic fitted panels that graduate from a solid pattern at the top of the pane to a less dense pattern at the bottom. The applicants will have a sample of this glass at the hearing. The spandrel and ceramic frit areas have a Low E coating over a very clear glass which is not an extremely reflective or mirrored finished. In conjunction with the ceramic frit this will reduce the amount of reflected light/glare on the surroundings. A similar application is proposed for spandrel panels. All solid materials (stone or metal panels) on the building are not intended on being highly polished.

The parking garage portion of the facility will have only two sides exposed to view. These facades will have the edges of the structure exposed with the balance of the façade being a "green screen" with landscaping. Steel cables will be used around the perimeter of each level. The east façade is ±10 feet from the existing Harrah's parking garage and will be a combination of CMU, Stucco walls, and green screen openings and unobstructed openings.

The Tower has a basement level of ±13,992 square feet that includes a ±2,600 square foot fitness center. The balance of the basement square footage is dedicated to the operations of the building including boiler room, pool equipment room, Telecom, and Fire Pump Room. The basement level also has a direct connection to the lowest level of the parking garage which is ±25,892 square feet. The first floor of the tower is ±12,287 square feet and includes the lobby, doorman's station, elevator core, club room, and a pool. The pool area is ±2,500 square feet and opens up directly to a south facing patio. The main level will have a small retail component that may have a gallery, however the exact tenant is not known at this time. Floors 2-4 are residential units that have a direct connection to the parking garage. On floors 2-4 between the garage and tower are 190 residential storage units that range in size from 20 to 64 square feet for a total of ±2,200 square feet. Floors 2-29 contain the primary residential units with approximately 6-7 units per floor. Floors 30-33 are two story penthouse units with 6 units proposed for each of the two stories. These units range between ±1,873 to ±3,934 square feet. Floor 34 is a single penthouse unit of ±6,060 square feet. The top of the building will be an unoccupied area for mechanical and elevator equipment and is screened by a glass parapet wall of ±10 feet in height.

Tentative Map Findings:

The findings for a tentative map include: (1) compliance with environmental health laws; (2, 3 and 4) availability of water and utilities, schools, police, fire protection and parks; (5) conformance with zoning and master plan policies; (6) provision of streets to serve the subdivision; (7) sensitivity to physical characteristics; and (8) compliance with reviewing agencies. The applicants must meet all environmental health regulations

required by the Washoe County Health Department (finding 1). Water for the project will be provided by TMWA, sewer by the City of Reno, and solid waste disposal by Reno Disposal Company (finding 2). All necessary utilities are present and have been or will be extended to the site as conditioned for (finding 3). Police and fire protection to service the area already exist, and the applicants are finalizing an agreement with the Fire Chief on the provision of additional fire services (finding 4). As discussed under the Master Plan amendment section of this report the project meets the Master Plan policies (finding 5). Roadways to service the site already exist, and the physical characteristics (riverfront and abandonment) are addressed by conditions of approval (findings 6 and 7). All reviewing agency conditions are included in this report (finding 8).

Truckee Riverfront:

The riverfront area will be improved with an eight foot wide paved and landscaped pedestrian path that will be grade separated from the tower and its patio (Exhibit B). This will connect the path from the west side of Lake Street across the site to the east. East of the site the path ends briefly, but is picked up again south of the river at Brodhead Park and continues to the Kuenzli River Belt Pathway and John Champion Park. From John Champion Park a bridge over the river connects to Fisherman's Park I and II and to the Spark's City limits. While the path terminates immediately to the east of the site, staff believes there may be a future opportunity to connect should these adjacent property owners wish to redevelop their property. It is for this reason the path is required to be extended across the project site (Condition No. 7). However, the applicants are concerned about security and would like to gate the trail area at night until such time the trail is extended to the east allowing people to pass through the property unobstructed. Staff is in agreement with this request, and has included language in Condition No. 7 that allows the applicants to gate the trail from 10:00 p.m. to 6:00 a.m.

The development code requires that the project be setback from the high water mark of the river by 50 feet (Exhibit C). It should also be noted that the State of Nevada owns all lands/embankment areas up to the high water mark. While this is discussed in detail under the special use permit section, the applicants have honored this setback except for the corner of the pool enclosure that encroaches by 9 feet (Exhibit D).

Special use permits: The Redevelopment District Streetscape Master Plan design guidelines, the Downtown Riverfront Design Guidelines and the TRD standards require that a special use permit be processed to deviate from the standards rather than a variance. This includes items that are upgrades from the stipulated design standards. This project is large and complex, and there are many upgrades as well as modifications from the provisions. It should also be noted that modifications from the Redevelopment District Streetscape Master Plan design guidelines and the Redevelopment Downtown Riverfront Design Guidelines require Redevelopment staff review by their Administrator and that a letter be submitted approving the upgrades and modifications. A copy of this letter is attached in Exhibit E. Please also refer to

Exhibit F for streetscape and modifications, and refer to Exhibits G and H for building architecture. Staff will itemize each modification under special use permit review and offer an analysis for each:

Redevelopment District Streetscape Master Plan:

- a. *Candy cane lights with banner arms 30 feet on center and tinted, unstamped concrete paving, and terra cotta trash receptacle at corners.*

The applicants are proposing to upgrade the candy cane lights with an alternate pole light fixture, an alternative trash receptacle and an upgraded sidewalk and bench. The sidewalk may include solid stone, or a combination of pavers and stamped cement depending on availability. Ongoing maintenance will be conducted by the Homeowner's Association or should Public Works staff elect, the City of Reno (Condition No. 8). The proposed upgrades incorporate the Streetscape Master Plan components while complimenting the modern architectural style of the proposed tower (Exhibits G and H).

Redevelopment Downtown Riverfront Design Guidelines (per section numbers):

5. *Building Design Guidelines (d) (1) – In general, the building base should be approximately one-third the height of the building. As indicated by the stepback standards under the height and setbacks standards in Section 18.08.303(d)(TRD), the base for buildings in the Riverfront District can be designed to incorporate only ground level storefronts, or up to three floors of space.*

When reviewing the Downtown Riverfront Guidelines, it is apparent to staff that all of the graphics illustrating the design guidelines indicate much smaller multi-story buildings (about 3 to 8 stories). However the zoning of TRD and GRC does not limit the height of the structure when the building is located outside of the Esplanade, as in this case. The design of the building incorporates interesting pop outs, balconies, and surface changes along its entire height and circumference, but does not have ground level storefronts, or a uniform design for the first three stories. It will have one tenant and one public entrance that will face Lake Street and East Second Street. It is anticipated that the second phase of the project will have a larger retail component on the ground floor and front on Lake Street.

5. *Building Design Guidelines (d) (3) (b) – Along “active ground level commercial” frontage entries to businesses, shops or lobbies should be located a maximum of 50 feet apart, and (d) (4) (e) – Storefronts are like small buildings with their own base, roof line, and pattern of window and door openings.*

Only one public entrance with one retail tenant space is proposed.

Building Design Guidelines (h) (1) – If the building mass and pattern of windows and doors is complex, simple wall surfaces are preferable (e.g. stucco); if the building volume and the pattern of wall openings is simple, additional wall texture and articulation should be employed (e.g. bricks or blocks, rusticated stucco, ornamental reliefs). In both cases, pilasters, columns, and cornices should be used to add visual interest and pedestrian scale, and (i) (1) – The palette of wall materials should be preferably two (e.g. brick and granite), or three at the most. Using the same wall materials as adjacent or nearby building helps strengthen the district character.

The building volume and pattern is simple in terms of a contemporary design. As said above, the design of the building incorporates interesting pop outs, balconies, and surface changes along its entire height and circumference, but does not incorporate brick, blocks, stucco, pilasters, etc. The building is elliptical and while the palette of building materials is kept at primarily two, it is constructed of glass and concrete.

5. *Building Design Guidelines (i) (3) – Window inset glass should be inset a minimum of three inches from the exterior wall surface to add relief to the wall surface; this is especially important for stucco buildings.*

Due to the contemporary elliptical design, the windows and concrete are flush, except for the articulation of the balconies and other protruding architectural features.

5. *Building Design Guidelines (j) – Roofs should match the principle building in terms of style, detailing and materials. They should also contribute to the overall character of the district and are attractive when viewed from surrounding areas. Experimental, severe, and/or non-traditional roof lines or materials should not be used.*

As can be seen in Exhibits G and H, the roofline is non-traditional in design. The roof however blends in with the architecture proposed for the building and matches the principle building in terms of style, detailing and materials.

5. *Building Design Guidelines (l) (1) – In keeping with the formal yet lively character desired for the Riverfront District, color for trim, awnings, and other accessories should accent and contrast wall color; neutral or light wall colors with darker, saturated hues for trim, or warm brick colors with light trim; and secondary color can be used to give additional emphasis to architectural features such as building bases, columns, cornices, capitals, and bands.*

The color of the building is monochromatic in nature which is in keeping with the overall design theme of the architectural style of the building. Secondary color has not been used because there are significant architectural features designed into the building that stand out from the elliptical shape without using color to highlight them.

6. *Site improvement Design Guidelines (a) – Paving materials recommended for pedestrian surfaces should be a maximum of two materials combined in a single application. Materials may be stone such as slate or granite, brick, concrete unit pavers, or poured in place concrete with pigment color, aggregate, scoring patterns, ornamental insets such as tile.*

The applicants will be upgrading the pedestrian surfaces to include a combination of stone blocks and cement, or concrete pavers and cement.

6. *Site Improvement Design Guidelines (b) – Walls, fences and piers should be designed to reflect the architectural style and materials of the principal building.*

No walls, fencing and piers are proposed other than the fencing along the riverfront trail system which will be open view. Instead, berming and landscaping will be used to screen the parking structure and the temporary visitor surface parking. The parking structure will also have a roof top garden that will soften the appearance further. The applicants' would also like to install a "tree wall" along the top of the parking structure that will screen the Harrah's parking garage. It is not known at this time whether the wall will fit in with the applicants' construction budget and is therefore considered an optional item, but it is a desired component to provide screening of the adjacent building for the tenants.

9. *Lighting Design Guidelines (a) (1) – shall be shielded from casting light higher than 15 degrees below the horizontal plane, as measured from the light source. They shall not cast light directly into adjacent residential windows; a translucent or optical lens diffuser globe or shield is recommended.*

All light fixtures meet this requirement except for the interior roadway "Se' Lux Luminaire" poles that are proposed to be installed for the internal roadway. These luminaries have an internal shield, rather than external and will not shine directly into any residential unit (Exhibit I).

Truckee River Corridor, Downtown Riverfront Special Purpose District:

3. *District-specific development and design standards: (4) (i) Exceptions – Special use permits to modify the building setback envelope may be granted subject to the specific findings in Section 18.06.405.*

The applicants are asking to encroach into the required 50 foot Truckee River setback from the high water mark. While the tower is out of the 50 foot setback, the pool deck is encroaching 9 feet into the setback. The initial plans that were submitted had the pool and patio area into most of the setback area. After negotiations regarding setbacks, trail installation and public access, the applicants redesigned the site plan and have provided sufficient space for public access (Exhibit J). It should be noted that the 50 foot setback is established by the high

water mark for the Truckee River. The final plans shall identify the bearings and distances established by Record of Survey 1167 so that the encroachment into the setback can be verified as 9 feet (Exhibit C).

4. *District-specific development and design standards: (h) (1) Blank walls limitation - At least 50 percent of the width of a new or reconstructed first story building wall facing a street shall be devoted to pedestrian entrances, display windows or windows affording views into retail, office, restaurant or lobby space, public art, or other similar architectural features.*

The first story entrance is a mix of unique architectural features for the pedestrian entrance, and will have a view into the retail component (potentially an art gallery). While the mix may not meet the 50 percent requirement in any one category, the design meets the intent of the requirement. Please see Exhibit K for an elevation of the front entrance.

4. *District-specific development and design standards: (j) (1) Site Access – Every building and/or first floor use shall have its main entrance on a public street.*

While the building faces a public street (East Second Street and Lake Street), it is unclear whether this provision requires the front entrance of the building to be accessed directly at the sidewalk on the street, or merely accessed from the street onto the property. In addition, the GRC overlay district also requires the buildings to be oriented toward the main street from which the building is accessed, but this overlay defers to "more specific planning area overlay zoning districts" such as the TRD overlay. It also defers to the Redevelopment Administrator who may approve an alternative design, as in this project's case. The applicants and staff have chosen a conservative approach and have incorporated this as a special use permit. The main entrance is accessed by a sidewalk to the main lobby area, and has a circular drive for vehicles (Exhibit J). Staff supports this design since the main focus of this building's orientation is the river. To make the building compliant with these sections, the site design would have to change in a manner that could potentially put the garage closer to the river front. This is a less desirable design and would make the project non-compliant with other standards and policies regarding the riverfront and public access to it. In addition, the proposed garage location is positioned against the Harrah's parking garage, providing screening for the units. In all respects, the design as proposed is preferable.

4. *District-specific development and design standards: (l) (1) Landscaping and screening – Parking areas and driveways adjacent to streets and sidewalks shall be screened with an attractive low wall, fence, or line of piers a minimum of 32 inches and a maximum of 42 inches in height.*

As stated under the Downtown Riverfront Design Guidelines, the applicants is requesting to berm around the project perimeter rather than using fencing.

Special Use Permit Findings (General and TRD):

Findings for Special use permits include: a) compatibility with existing surrounding land uses and development; b) conformance with the master plan; c) adequate services and infrastructure to support the proposed development; d) adequate mitigation of traffic impacts of the project; e) site location and scale, intensity, density, height, layout, setbacks, and architectural and overall design of the development; f) adverse environmental impacts; g) project signage; and h) design of the structures.

The proposal is consistent with other developments in the downtown area and conforms to the Master Plan designation for the property (SPA for Tower and TC for Sales Center) and the policies contained in the Master Plan discussion below (findings a and b). The applicants have demonstrated or will be required to provide evidence of adequate services as a condition of approval (finding c). The project is located at the corner of a major arterial (Second Street) and a minor arterial (Lake Street). Additionally, parking will be accommodated on site in the parking garage structure which will reduce traffic and parking issues in and around the site. Engineering conditions require traffic improvements to be constructed and functional prior to the construction of any additional phases. In addition, plans are required for construction staging for the project (Condition No.11 and finding d). The site location and design is compatible with what is proposed. The Harrah's garage and office structure is to the east and is ±201 feet in height at 15 stories and the Harrah's Hotel Casino (Hampton) is 26 stories. Environmental concerns are addressed by conditions of approval, code or Washoe County Health Department. No project signage is proposed at this time. Any signs will be required to obtain separate permits. The conceptual design of the structure was approved by the Redevelopment Administrator, and with approval of the special use permits, meets code as it relates to architectural design standards (findings e-h).

In addition to the general special use permit findings, projects located in the TRD are subject to the following additional special use permit findings: a) strict application of the building envelope - height restrictions, Riverfront Esplanade setbacks, or provision of the design guidelines would constrain the design of the project; b) the proposed project will not negatively impact the visual integrity of the river or result in a visual barrier to the river corridor; c) the project provides adequate separation from the river course to allow for public circulation along the river corridor and creates pedestrian oriented public spaces adjacent to the river; d) the project does not unduly shade the North Esplanade, or increased shading has been mitigated by providing additional or enhanced pedestrian amenities; e) The project will enhance or preserve environmental resources; f) The project does not impede flood flows; and g) the project will be used by and benefits local residents.

The project is located in the TRD, but not in the Esplanade. As explained in the general findings, many of the modifications in the design standards are upgrades to the project or provide for a more cohesive design (finding a). The 50 foot setback will protect the

visual quality of the river. While the pool enclosure encroaches into the setback, it is only in one isolated area and is limited to 9 feet (finding b). An 8 foot trail with landscaping provides for public circulation along the river (finding c). Shading of the river will be minimized by the 50 foot setback and has been further mitigated by the trail (finding d). The State of Nevada owns up to the high water line of the Truckee River. This in combination with the 50 foot setback, the river environment should be enhanced (finding e). Phase 1 of the project will have one retail space on the ground floor and a public trail along the river (finding g).

Finally, four findings must be made by the Redevelopment Administrator for the special use permits. They include: (a) consistency with goals, objectives and policies of the Downtown Riverfront Special Purpose District and Redevelopment Plan; b) that the building or the modifications are consistent with the Downtown Riverfront Design Guidelines; c) that the project be compatible with the site and surrounding area both in scale and context; and d) the building is designed appropriately and the modifications preserve the architectural character of the building relative to its scale, mass, building proportion, building height, fenestration and articulation.

As discussed throughout this section of the report, the project meets or exceeds the Downtown Riverfront District Plan and Redevelopment Plan. The modifications requested to these plans are upgraded components (finding a). While modifications to the Downtown Riverfront Design guidelines are requested, they provide for consistency between the building and site improvements (finding b). The modifications requested are compatible with the surrounding area. The design is similar to the standards and has only been modified in a manner that provides for both internal and external consistency (finding c). The modifications preserve the architectural character of all components on site (finding d).

Pedestrian/Public Amenity Requirement: The project is required to have 2 percent of the total valuation of the development costs (excluding land costs) dedicated to public amenities. As long as the components qualify under Section 18.08.405(b)(6), the applicants may freely choose which components they want to allocate to the amenity requirement. The only stipulation is that standard code compliance items may not qualify. In the applicants' case, they are upgrading the street lights, sidewalks, and landscaping and providing a river walk path, all of which qualify. Staff has requested however that if possible, the optional tree wall be counted toward the 2% since its installation would have the greatest impact for the project (Exhibit L).

Public Safety and Improvements: The Engineering Division has reviewed this proposal and recommends that the applicants: provide a construction management and access plan (Condition No. 11); provide a final hydrology report (Condition No. 12); provide plans for the construction of all public improvements which includes an improvement agreement and security (Condition No. 13); verify all public improvements (Condition No. 14); demonstrate conformance to a mixed use facility, and the flood proofing of all facilities (Condition No. 15); grant public access along all Truckee River frontages

(Condition No.16); submit an updated sewerage report (Condition No. 17); an updated traffic report (Condition No. 18); provide a proposed constructed flood elevation certificate (Condition No. 19); and a site plan demonstrating bearings and distances established by Record of Survey 1167 (Condition No. 20).

Circulation: Traffic concerns for the Waterfront Tower project were considered with Council's deliberations when the abandonment of First Street was heard. Concerns raised included possible modifications to the intersections of Second and Lake Streets, First and Lake Streets, and Evans and Second Street, as well as time delays for emergency services vehicles from Fire Station 1. A traffic study provided by Fehr and Peers addressed those concerns, and conditions were levied that included directional signage for the Cal Neva Parking structures on Center and First Streets, modifications to the intersections as needed, and limitations on use of the adjoining streets for construction staging.

The current Waterfront Tower and sales office submissions have addressed several additional concerns that were raised by staff as the project design was formalized. These include provision for emergency services vehicles at the base of the tower, provision for moving vans and other large vehicles interior to the site, increased corner radii at Lake and Second Streets, signal phasing and interconnections, lighting along both street frontages, utility locations, etc. Pedestrian access along the river frontage was also a significant concern and appears to have been accommodated. Final construction plans will formalize the ultimate solutions to be implemented.

Master Plan: As proposed and with recommended conditions, the project appears to be consistent with the following applicable Master Plan Objective and policies: Objective #1 – Site Analysis; Objective #9 – Integrated Design; Objective #10 – Glare; Objective #14 – Building Planes; Objective #19 – Access; Objective #21 – Parking Circulation; Objective #22 – Landscaping; Objective #23 – Sidewalks; Encourage housing in housing target areas, adjacent to the redevelopment area pursuant to the City Center Plan, and near employment centers (H-4); Encourage new developments with intense activities to locate in existing and planned centers and areas served by public transit (CD-1); Locate new commercial development in existing or planned centers and districts (CD-2); Development design that contrasts with the neighborhood may be justified if it enhances rather than conflicts with the existing development or is in an area targeted for redevelopment (CD-5); Adaptive reuse of properties, particularly those downtown (CD-27); and Reno supports public and private efforts to improve downtown (UC-5).

General Code Compliance: The applicants have been made aware that the GRC overlay district requires buildings over 125 feet to provide an additional 25 percent of the gross landscaping required. While the project currently meets this standard because they are landscaping where the buildings in future phases will go (Condition No. 21), staff recommends they keep tabulation of the percentage as they develop or apply for a special use permit should they drop below the standard when the additional phases come in. The applicants meet parking requirements since there is no limit to the

number they may have if the spaces are placed in a parking garage structure. The surface parking shown along East Second Street is temporary and will be removed with future phases.

Other Reviewing Bodies:

Washoe County School District: Comments received from the School District indicate that this project as proposed would add 48 K-12 students to the Mt. Rose Elementary School, Clayton Middle School and Reno High School. The Washoe County School District does not anticipate any new school sites needed as a result of this development.

District Health Department/Environmental Health Services Division: The applicants shall comply with District Health Department conditions regarding sewerage disposal, domestic water supply, solid waste, vector control, and water quality and air quality management. Any landscape design containing turf grass shall comply with District Health standards by installing wind sensor control units.

Reno-Tahoe International Airport: The Waterfront project is located within the Airport Airspace Plan for The Reno-Tahoe International Airport. The property owner(s) shall grant an Avigation Easement to, and acceptable to, the Reno-Tahoe Airport Authority over the entire properties (Condition No. 9).

Waste Management/Disposal Services: Prior to approval of any permit, a "will serve" letter shall be obtained from Waste Management/Disposal Services (Condition No. 10).

Neighborhood Advisory Board: This project was reviewed by the Ward One Southwest Reno Downtown Neighborhood Advisory Board on May 9, 2006. A copy of their comments is attached to this report (Exhibit M).

AREA DESCRIPTION – FOR TOWER			
	LAND USE	MASTER PLAN DESIGNATION	ZONING
NORTH	Commercial & Hotel Casino	Tourist Commercial and Special Planning Area - TRD (Truckee River Corridor, and the GRC (General Regional Center Overlay District)	CB & HCD
SOUTH	Truckee River	Special Planning Area - TRD (Truckee River Corridor and the GRC (General Regional Center Overlay District)	TRD
EAST	Office and Parking Garage	Special Planning Area - TRD (Truckee River Corridor and the GRC (General Regional Center Overlay District)	TRD
WEST	Commercial and Communication Facility	Tourist Commercial and Special Planning Area - TRD (Truckee River Corridor and the GRC (General Regional Center Overlay District)	CB & TRD

AREA DESCRIPTION- SALES OFFICE			
	LAND USE	MASTER PLAN DESIGNATION	ZONING
NORTH	Commercial & Hotel Casino	Tourist Commercial	HCD & CB
SOUTH	Communication Facility	Tourist Commercial	CB
EAST	Proposed Waterfront Project	Special Planning Area - TRD (Truckee River Corridor and the GRC (General Regional Center Overlay District)	TRD
WEST	Commercial and Casino Parking Garage	Tourist Commercial	CB

LEGAL REQUIREMENTS:

RMC 18.06.501	Tentative Map
RMC 18.06.405(e)(1)	Special use permit
RMC 18.06.405(e)(5)	Special use permits for the TRD Truckee River Corridor Downtown Riverfront Special Purpose District
RMC 18.08.303(d)(5)	TRD Truckee River Corridor, Downtown Riverfront Special Purpose District

FINDINGS:

Tentative Map: When issuing a decision on a tentative map, the planning commission shall consider the following:

- (1) Environmental and health laws and regulations concerning water and air pollution, solid waste disposal, water supply facilities, community or public sewage disposal and, where applicable, individual systems for sewage disposal;
- (2) Availability of water which meets applicable health standards and is sufficient for the reasonably foreseeable needs of the subdivision;
- (3) Availability and accessibility of utilities;
- (4) Availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;
- (5) Conformity with the zoning ordinances, master plan, and elements thereof, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;
- (6) Effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;
- (7) Physical land characteristics such as flood plain, slope, soil; and
- (8) Recommendations and comments of those entities reviewing the tentative map pursuant to NRS 278.330 and 278.348.

Special use permit: General Special Use Permit Findings. Except where specifically noted, all special use permit applications shall require that all of the following general findings be met, as applicable.

- a. The proposed use is compatible with existing surrounding land uses and development.

- b. The project is in substantial conformance with the master plan.
- c. There are or will be adequate services and infrastructure to support the proposed development.
- d. The proposal adequately mitigates traffic impacts of the project and provides a safe pedestrian environment.
- e. The proposed site location and scale, intensity, density, height, layout, setbacks, and architectural and overall design of the development and the uses proposed, is appropriate to the area in which it is located.
- f. The project does not create adverse environmental impacts such as smoke, noise, glare, dust, vibrations, fumes, pollution or odor which would be detrimental to, or constitute a nuisance to area properties.
- g. Project signage is in character with project architecture and is compatible with or complementary to surrounding uses.
- h. The structure has been designed such that the window placement and height do not adversely affect the privacy of existing residential uses.

Special use permit: Special use permits for the TRD Truckee River Corridor Downtown Riverfront Special Purpose District. Special use permits to modify the building envelope-height restrictions, Riverfront Esplanade setbacks, or provisions of the design guidelines in the TRD Truckee River Corridor Downtown Riverfront Special Purpose District shall require that the following findings are met in addition to the general special use permit findings above:

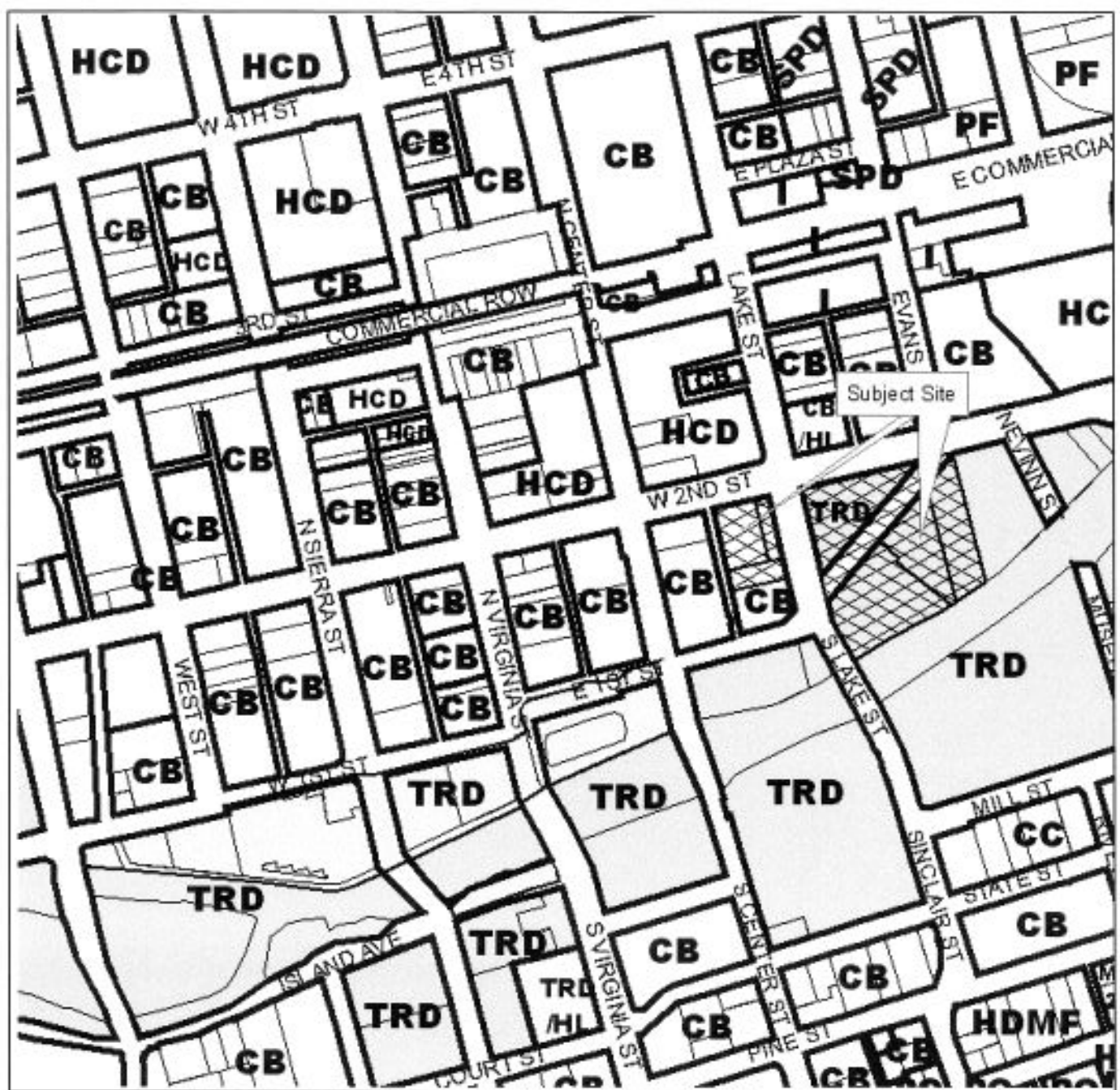
- a. Strict application of the building envelope - height restrictions, Riverfront Esplanade setbacks, or provision of the design guidelines would constrain the design of the project;
- b. The proposed project will not negatively impact the visual integrity of the river or result in a visual barrier to the river corridor;
- c. The project provides adequate separation from the river course to allow for public circulation along the river corridor and creates pedestrian oriented public spaces adjacent to the river;
- d. The project does not unduly shade the North Esplanade, or increased shading has been mitigated by providing additional or enhanced pedestrian amenities;
- e. The project will enhance or preserve environmental resources;
- f. The project does not impede flood flows; and

- g. The project will be used by and benefits local residents.




TRD Truckee River Corridor, Downtown Riverfront Special Purpose District: The following findings shall be made in the administrative determination for approval:


- a. The proposed project is consistent with the goals, objectives and policies of the Downtown Riverfront District Plan and the Redevelopment Plan;
- b. The proposed structure, building or modification is consistent with the Downtown Riverfront Design Guidelines;
- c. The proposed project will be compatible with the site and surrounding area both in scale and context; and
- d. The building has been appropriately designed, or the modification preserves the architectural character of the existing building relative to its scale, mass, building proportion, building height, fenestration and articulation.

Staff: Cheryl Ryan, AICP, Senior Planner
and Beverly Straub, Assistant Planner



LDC06-00406
Waterfront TM

-  Subject Site
-  Truckee River District (TRD)
-  Esplanade/Core Street Frontages



0 115 230 460 Feet

The information herein is approximate and is intended for display purposes only. Reproduction or use without a written introduction, please contact the City of Reno Community Development Department.

Map Produced: June 1, 2005



Community Development Department

400 South Street Reno, NV 89502 Phone: 775-334-2000 Fax: 775-334-2043 www.ci.reno.nv.us

J:\GIS\maps\lpc\06-00406_0001

AO.01

DATE: 10/10/2006

PROJECT NO. 2002006

THE WATERFRONT OF LAKE STREET & SECOND STREET, RENO, NEVADA

DATE: 10/10/2006

PROJECT NO. 2002006

AIR PHOTO FROM WASHOE COUNTY GIS DEPARTMENT,
1 FOOT RESOLUTION, DATED SEPT/OCT 2004



SCALE: 1"=75'





Lynnette R. Jones
City Clerk
(775) 334-2030
ljones@ci.reno.nv.us

Carmi D. Gundersen
Chief Deputy City Clerk
(775) 334-2030
cgundersen@ci.reno.nv.us

Office of the City Clerk
Central Cashiering (775)334-2032
Parking Tickets (775)334-2279

Steven D. Whitaker, CRM
Records Systems Manager
(775) 326-6633

January 30, 2006

Gonzo Triangle
6160 Plumas Street
Reno, NV 89509

FILED THIS DATE

1 30 2006
BY: CLS
CITY CLERK

Re: Case No. LDC06-00134 (First Street Abandonment)

Dear Applicant:

At regular meetings held October 26, 2005, and January 25, 2006, and following public hearings thereon, the City Council upheld the staff recommendation and approved abandonment of the City of Reno's public street and easement in First Street between Lake and Second Streets, in which the title will be reverted proportionally to the abutting properties in anticipation of the Applicant's future project in the area of the former Bundox site, subject to the following conditions:

1. The Order of Abandonment shall reserve to the City water rights, whether surface or groundwater, appurtenant to the area to be abandoned.
2. The Order of Abandonment shall reserve to the City of Reno's its rights and/or interests in public parking. *29 SPACES*
3. The Applicant shall provide for easements for existing utilities until the utilities are relocated with the approval of the City Engineer.
4. The Applicant shall provide to the City of Reno a deed for the area of First Street, which shall be binding on the Applicant, its successors in interest, heirs, and assigns. If a deed of trust securing a loan in the amount of at least Ten Million Dollars (\$10,000,000.00) to finance the construction of a project on the applicant's property has not been recorded by December 31, 2008, the City may record the deed. Any and all costs of transference of the property either to or

Gonzo Triangle
Case No. LDC06-00134 (First Street Abandonment)
January 30, 2006
Page 2

- from the City shall be borne by the Applicant. The actual mechanism of transfer shall be approved by the City Attorney's Office, and if necessary, the case shall be brought before Council for further consideration. The Applicant shall notify any potential purchasers of the property of the provisions of the Order of Abandonment until the Order of Abandonment is recorded.
5. Prior to the recordation of the Order of Abandonment, the Applicant shall deposit with the City a check made payable to the Washoe County Recorder for any and all recording fees.
 6. The Order of Abandonment shall be recorded no later than the date on which the Applicant is issued a clearing and grubbing permit for the Applicant's property and will burden the properties abutting the abandoned street and easement.
 7. Within one hundred eighty (180) days after the recordation of the order of abandonment, the Applicant shall provide demolition plans detailing modifications to all signals, signage and striping; removal and salvage of all parking meters; and a traffic access and control plan to the satisfaction of the City of Reno's Community Development Department.
 8. No later than when the abandoned portion of First Street is closed to public access, the Applicant shall, at its expense, add public directional, but not private marketing, signage at the intersection of Second and Lake Streets directing traffic to the Club Cal Neva parking facilities.
 9. Prior to the issuance of any certificate of occupancy, the Applicant will analyze traffic impacts at the intersection of Second and Lake Streets to determine if the Applicant must add, at its expense, a dedicated left turn lane to allow westbound traffic on Second Street to turn south onto Lake Street.

Sincerely,

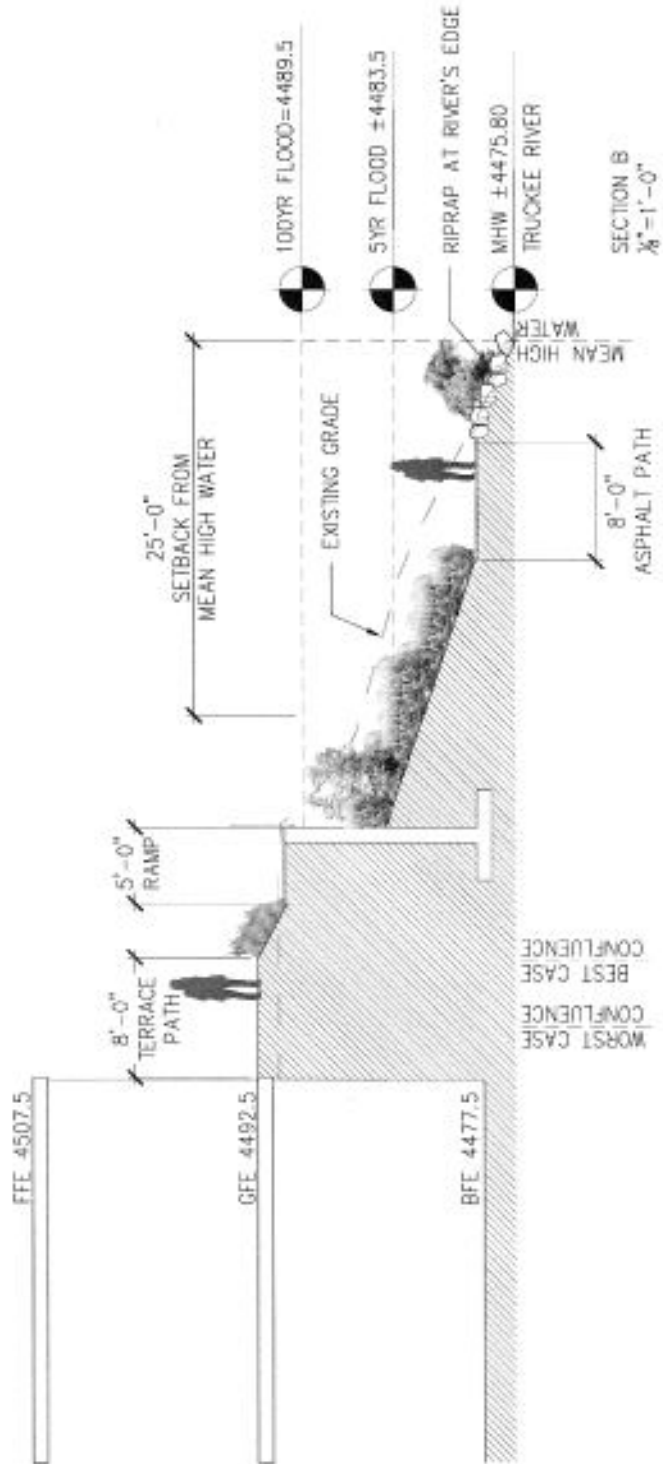


Lynnette R. Jones
City Clerk

LRJ:cdg

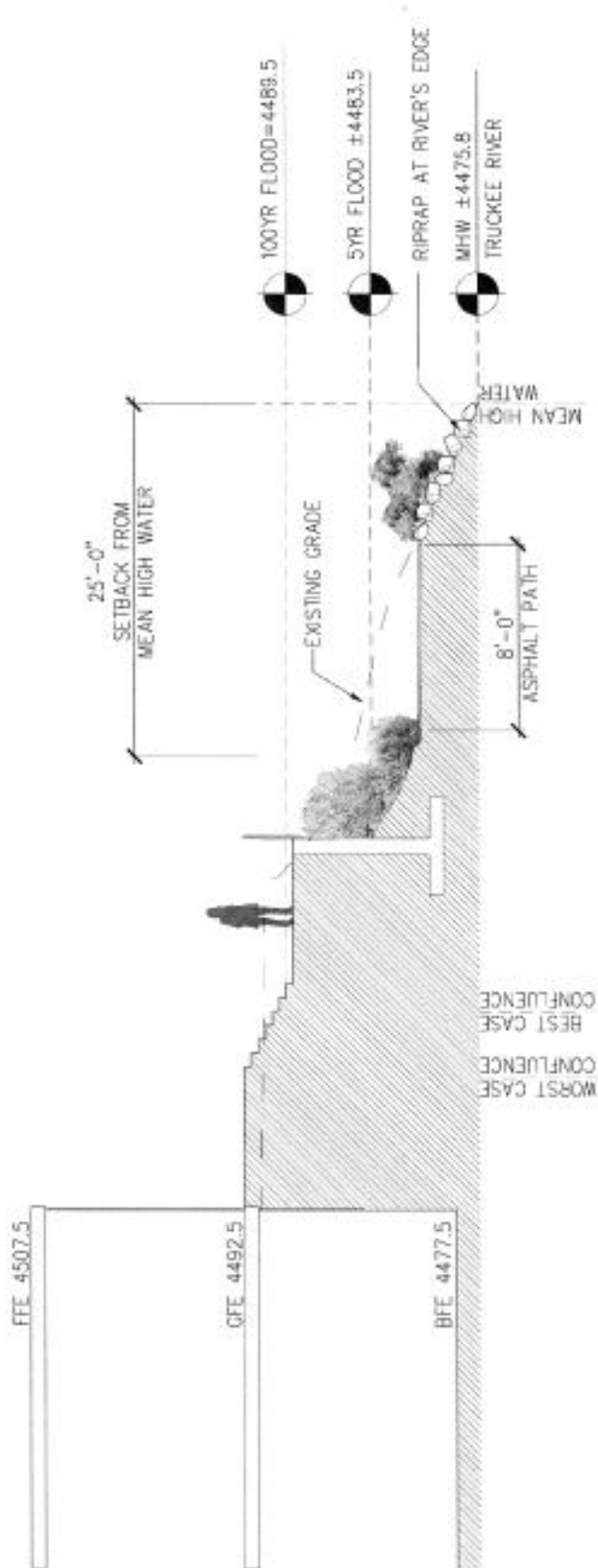
Gonzo Triangle
Case No. LDC06-00134 (First Street Abandonment)
January 30, 2006
Page 3

xc: Community Development
Traffic Design Engineer
Al Rogers, Parks, Recreation, & Community Services
Tonia Meyers, Community Development
David Adams, Public Works
Debra Goodwin, Regional Transportation Commission
Vero Development
George Lindesmith



WATERFRONT CONDOMINIUMS

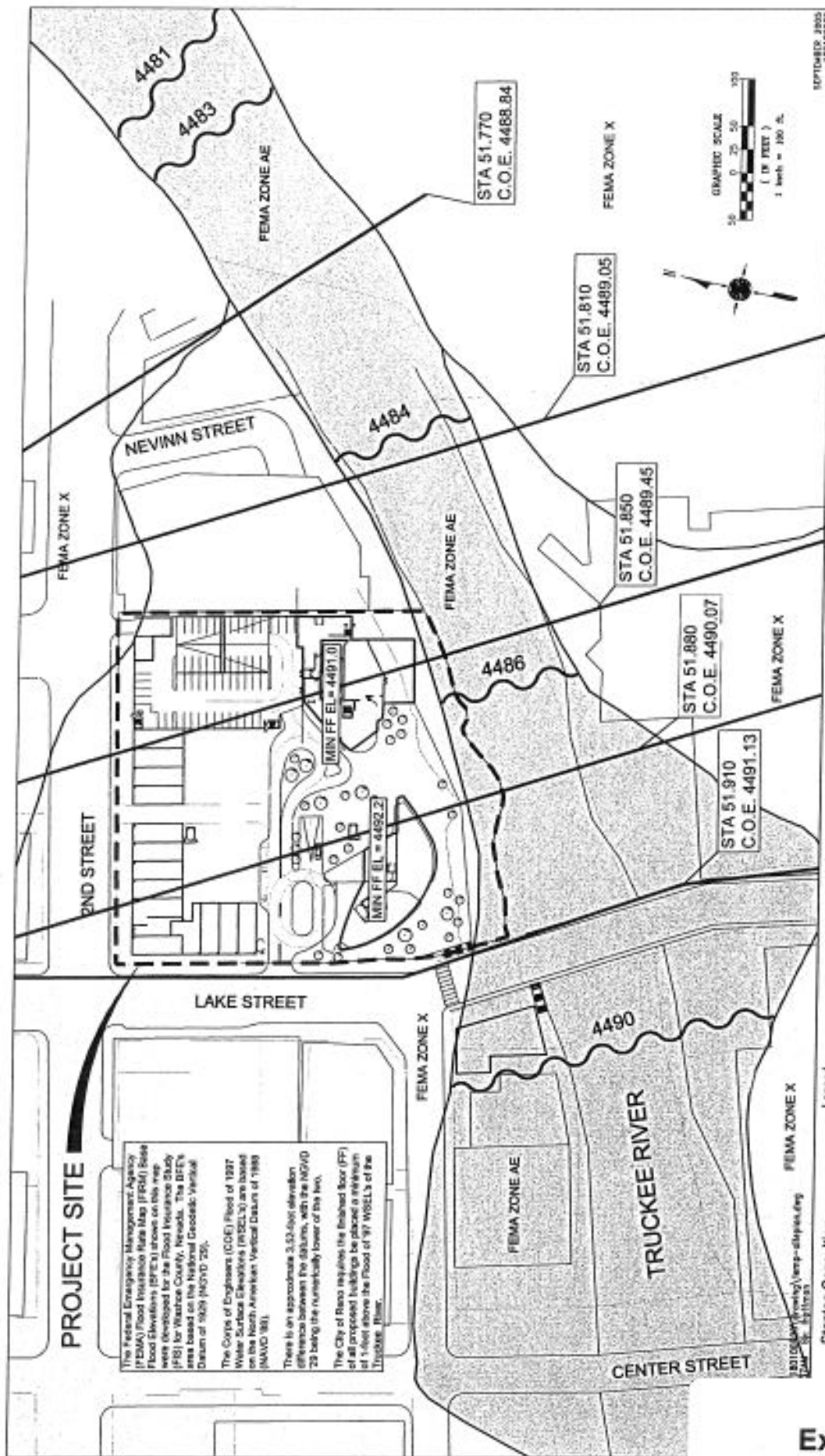
RENO, NEVADA
CALA 05.08.06



SECTION A
 1/8" = 1'-0"

WATERFRONT CONDOMINIUMS

RENO, NEVADA
 CALA 05.09.06



PROJECT SITE

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Base Flood Elevations (BFE's) shown on this map were developed for the Flood Insurance Study (FIS) for Washoe County, Nevada. The BFE's are based on the National Geospatial Vertical Datum of 1929 (NGVD 29).

The Corps of Engineers (COE) Flood of 1937 Water Surface Elevations (WSEL's) are based on the North American Vertical Datum of 1988 (NAVD 88).

There is an approximate 3.5-foot elevation difference between the datums, with the NGVD 29 being the numerically lower of the two.

The City of Reno requires the finished floor (FF) of all proposed buildings be placed a minimum of 1-foot above the Flood of '37 WSEL's of the Truckee River.

SEPTUAGINTA JESU
181108920

Drawn/Project
TATE SWINDEY RUMSEY ARCHITECTS
MONUMENT CENTER

Figure No.
1.0

Date
FLOOD OF '37 WSEL'S
AND FEMA FIS BFE'S

STA - RIVER STATION
C.O.E. - ARMY CORP OF ENGINEERS FLOOD
OF 1937 MODELLED WSEL

Notes

FEMA BFE - BASE FLOOD ELEVATION
FEMA ZONE AE
FEMA ZONE X (SHADED) - 500 YEAR FLOOD
AREAS
FEMA ZONE X (UNSHADED) - OUTSIDE 500
YEAR FLOODPLAIN

Legend

Slantec Consulting
6080 Sierra Center Parkway, Suite 100
Reno NV U.S.A.
89511
Tel. 775.850.0777
Fax. 775.850.0787
www.slantec.com

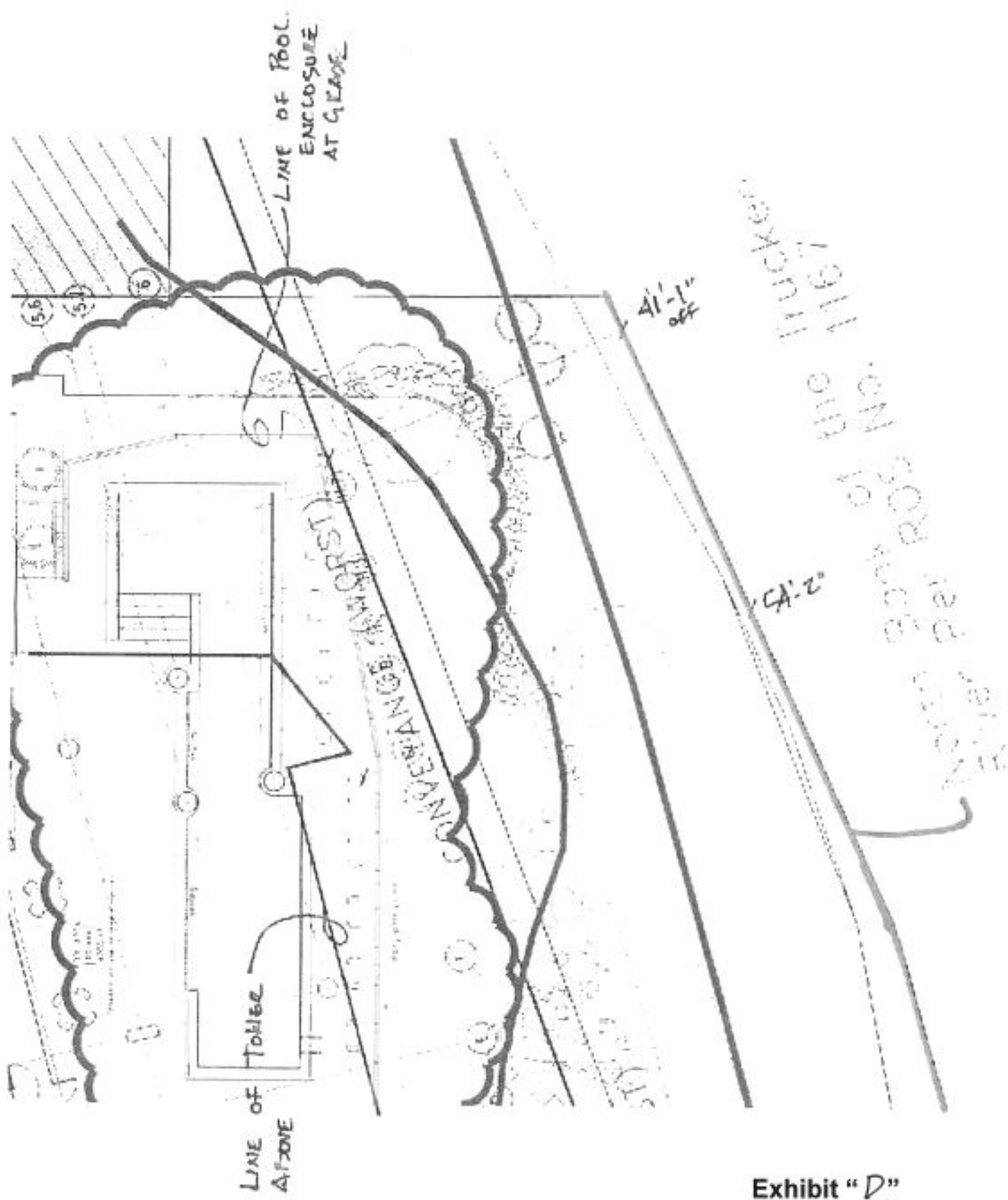


Exhibit "D"
 LDC06-00406 (Waterfront TM)



REDEVELOPMENT AGENCY

MEMORANDUM

May 16, 2006

TO: John Hester, Community Development Director
FROM: Peter Gillon, Administrator, Redevelopment Agency
CC: Cheryl Ryan
Gillian Pollard
RE: The Waterfront Project

This letter is in regards to the Waterfront project, a 34 story, 190 unit condominium project proposed for 100 Lake Street, bounded by the Truckee River on the South, First Street on the North, Lake Street on the west and Harrah's garage on the east.

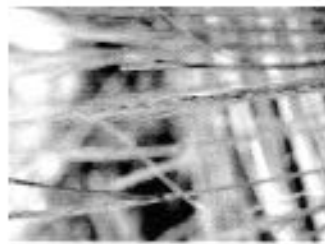
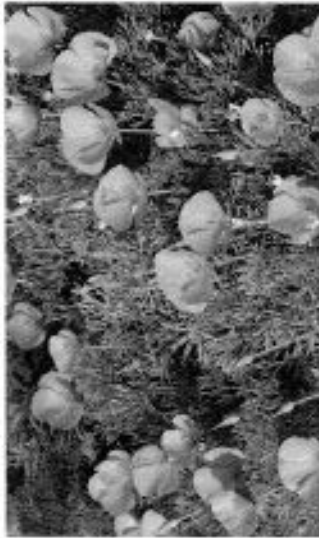
The Redevelopment Agency met with the representatives for the Waterfront project and reviewed their plans for compliance with the Redevelopment Streetscape Standards.

The landscaping proposed for the project, represents an upgrade to the Redevelopment Streetscape Master Plan. This design sought to include some elements of uniqueness and branding into the project while providing a transition and continuum based on the Redevelopment Streetscape Master Plan.

The Redevelopment Agency recommends the implementation of this project with the following elements, some of which provide an upgrade to the current Streetscape Standard:

1. Trees: The spacing of the trees, the tree species and the tree grates are consistent with the Streetscape Master Plan.
2. Benches – three benches with back will be incorporated into the landscape.
3. Lighting: the project proposes an alternate lighting fixture. The Streetscape Master Plan specifies Verde green finished candy cane lights. The project's pole will be aluminum with double candy cane lights.
4. Sidewalk – the project proposes an upgrade from stamped concrete to stone.

Thank you for your cooperation.



MEADOW LEGEND

- | | |
|------------------------------|---------------------|
| 1. ACHILLEA MILLEFOLIUM | WHITE YARROW |
| 2. ESCHSCHOLZIA CALIFORNICA | CALIFORNIA POPPY |
| 3. FESTUCA IDAHOENSIS | IDAHO FESCUE |
| 4. JUNO LEMNIS | WESTERN BLUE FLAX |
| 5. TRIFOLIUM GEMELLUM | SPANISH CLOVER |
| 6. VULPIA MYRTOIDES V. TORRO | TORRO FESCUE |
| 7. LUPINUS ALBICAULIS | STICKLE KEEL LUPINE |



MEADOW PLANTINGS

PLANTING SCHEDULE



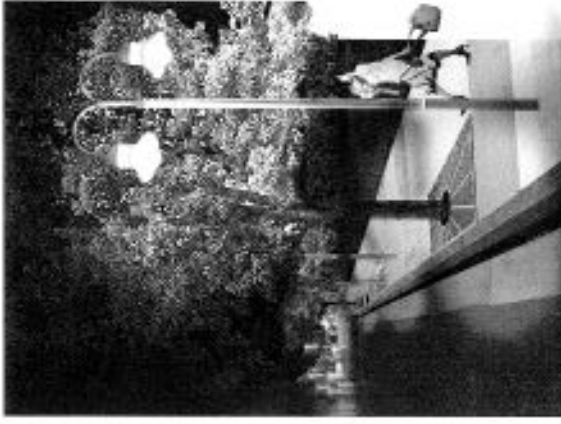
WATERFRONT DISTRICT STANDARD
SECOND STREET - DAY



WATERFRONT DISTRICT STANDARD
SECOND STREET - NIGHT



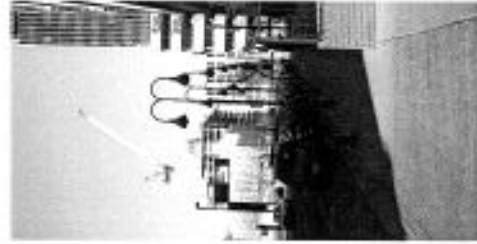
WATERFRONT DISTRICT STANDARD
LAVE STREET - DAY



WATERFRONT DISTRICT STANDARD
LAVE STREET - NIGHT



RDA STANDARD
INTERMEDIATE CLASS
SERENA STREET



RDA STANDARD
ENTERMEDIATE CLASS
FIRST STREET

RDA STREETScape PALETTE
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING

WATERFRONT DISTRICT STREETScape PALETTE
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



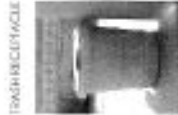
WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING

WATERFRONT DISTRICT STREETScape PALETTE
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



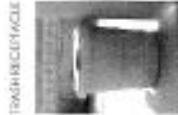
WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING



WATERFRONT DISTRICT
STREET TREE SPECIES + SPACING

Exhibit "F"
LDC06-00406 (Waterfront TM)

WATERFRONT DISTRICT - BEND, NEVADA
PLANNING DEPARTMENT
100 SOUTH MAIN STREET, SUITE 100
BEND, OR 97701
PH: 503.325.4000
WWW.CITYOFBEND.ORG



Exhibit "G"
LDC06-00406 (Waterfront TM)

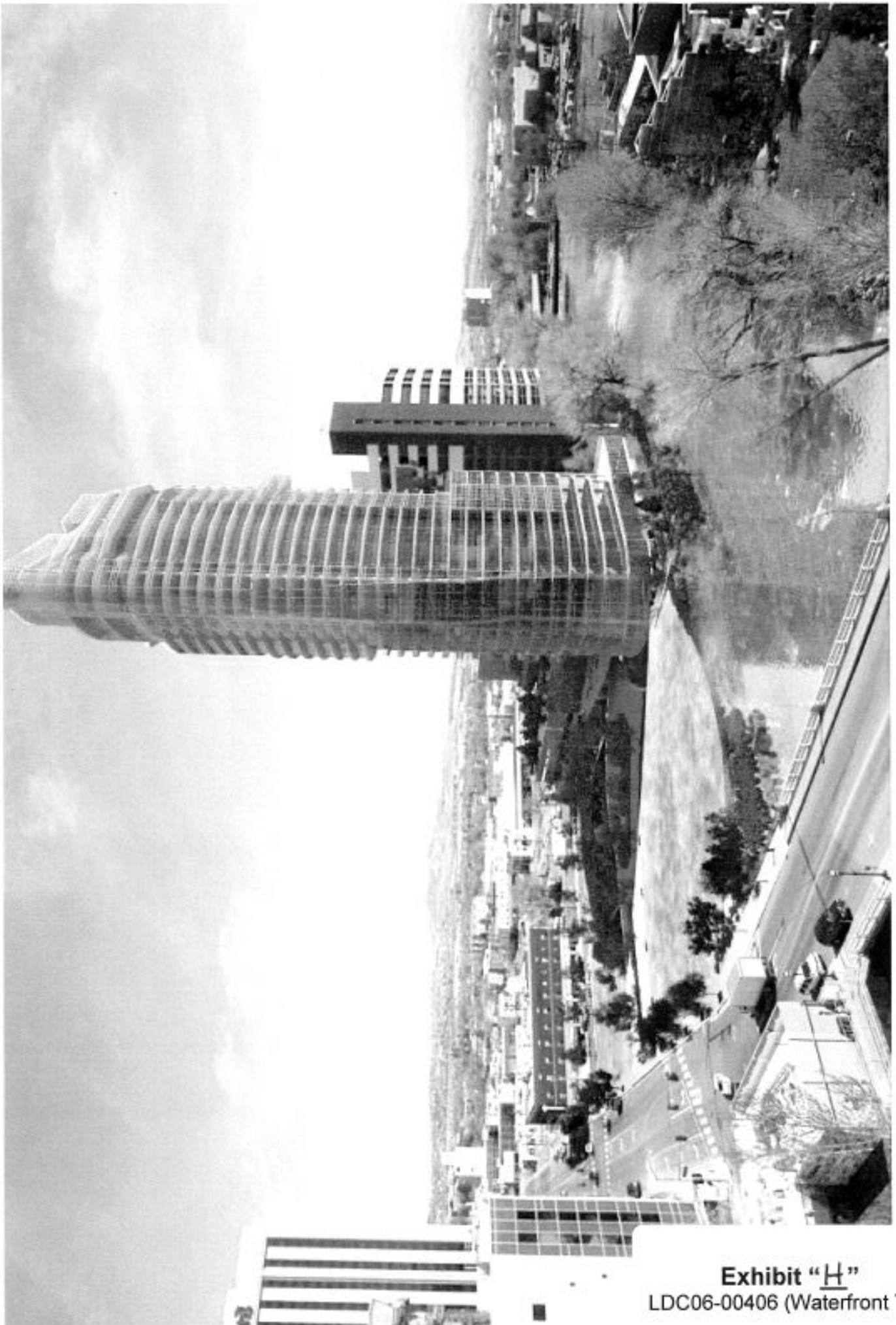


Exhibit "H"
LDC06-00406 (Waterfront TM)

MTR Column





se'lux®



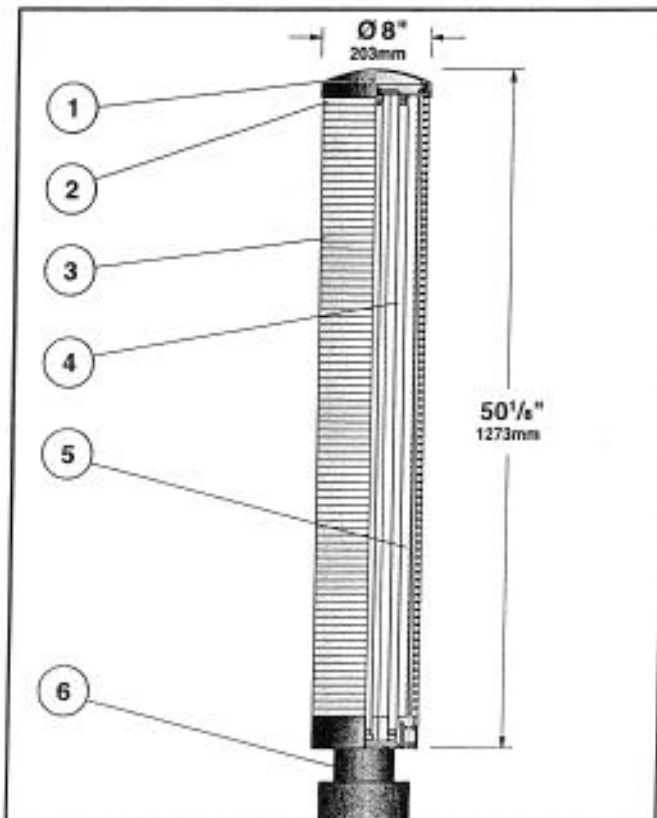
Project: _____

Type: _____ Qty: _____

Fixture Series Height Lamp Type / Wattage Finish Voltage Options

Series	Height	Lamp Type / Wattage	Finish	Voltage	Options
MTRT MTR* Column Round Tapered Pole	12 12'	1T8 (1x)FO32T8 	WH White	120	REC GFCI Receptacle Consult factory for other heights and options
	14 14'	2T8 (2x)FO32T8 	BK Black	277	
	16 16'		BZ Bronze	347	
MTRS MTR* Column Round Straight Pole		3T8 (3x)FO32T8 	SV Silver		
		4T8 (4x)FO32T8 	SP Specify RAL#		

* US Patent No. 4,669,034



1. Fixture Cover - Die-cast, aluminum cover, with smooth crisp form to reflect and complement the column design. Thick-walled, aluminum cover is painted white on the interior for maximum luminaire efficiency. Removes by loosening three vandal-resistant, stainless steel screws for easy access to lamp chamber.

2. Gasketing - Continuous gaskets provide weather-proofing, dust, and insect control at base of column, fixture cover, and between MTR rings.

3. Shielding - Consists of 8" (200mm) diameter injection-molded acrylic multi-prisms for total reflection (MTR). MTR rings have a wall thickness of .591" and are patterned after the light-bending characteristics of a prism (US Patent 4,669,034).

4. Lamps - One, two, three or four FO32T8 (32 watts each) fluorescent lamps on removable gear tray, mounted vertically. Lamps provided by others.

5. Diffusing Cylinder - Satine acrylic cylinder between lamps and MTR rings to diffuse lamp image for maximum performance and visual comfort.

6. Column Fitter - Die-cast aluminum fitter, with built-in gasketing ridges, for smooth transition to column.

7. Ballast (not shown)- Electronic ESB, high power factor, class P, type A sound rating. Minimum lamp starting temperature 0 F (-20 C). Consult factory for more detailed ballast information.

8. Base Cover - (not shown) Standard two-piece base cover is made from die-cast 356 alloy aluminum which is heat treated to produce a T6 temper, measuring 4 1/2" (115mm) height by 12 1/2" (316mm) diameter.

Exterior Luminaire Finish - SELUX utilizes a high quality Polyester Powder Coating. All se lux luminaires and poles undergo a five stage intensive pretreatment process where product is thoroughly cleaned, phosphated and sealed. se lux powder coated products provide excellent salt and humidity resistance as well as ultra violet resistance for color retention. All products are tested in accordance with test specifications for coatings from ASTM and PCI.

Standard exterior colors are White (WH), Black (BK), Bronze (BZ), and Silver (SV). RAL colors (SP) are available, please specify RAL#.

In a continuing effort to offer the best product

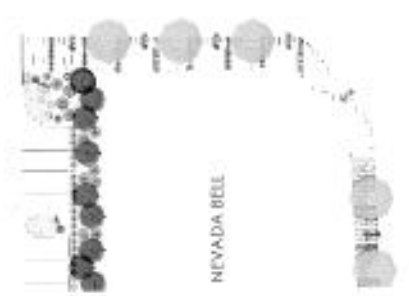
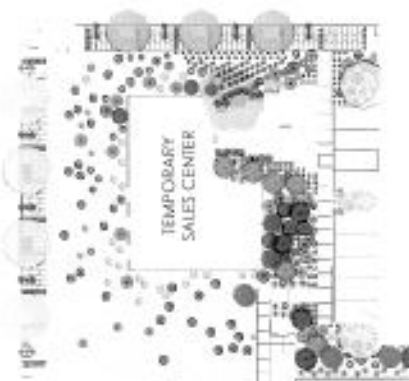
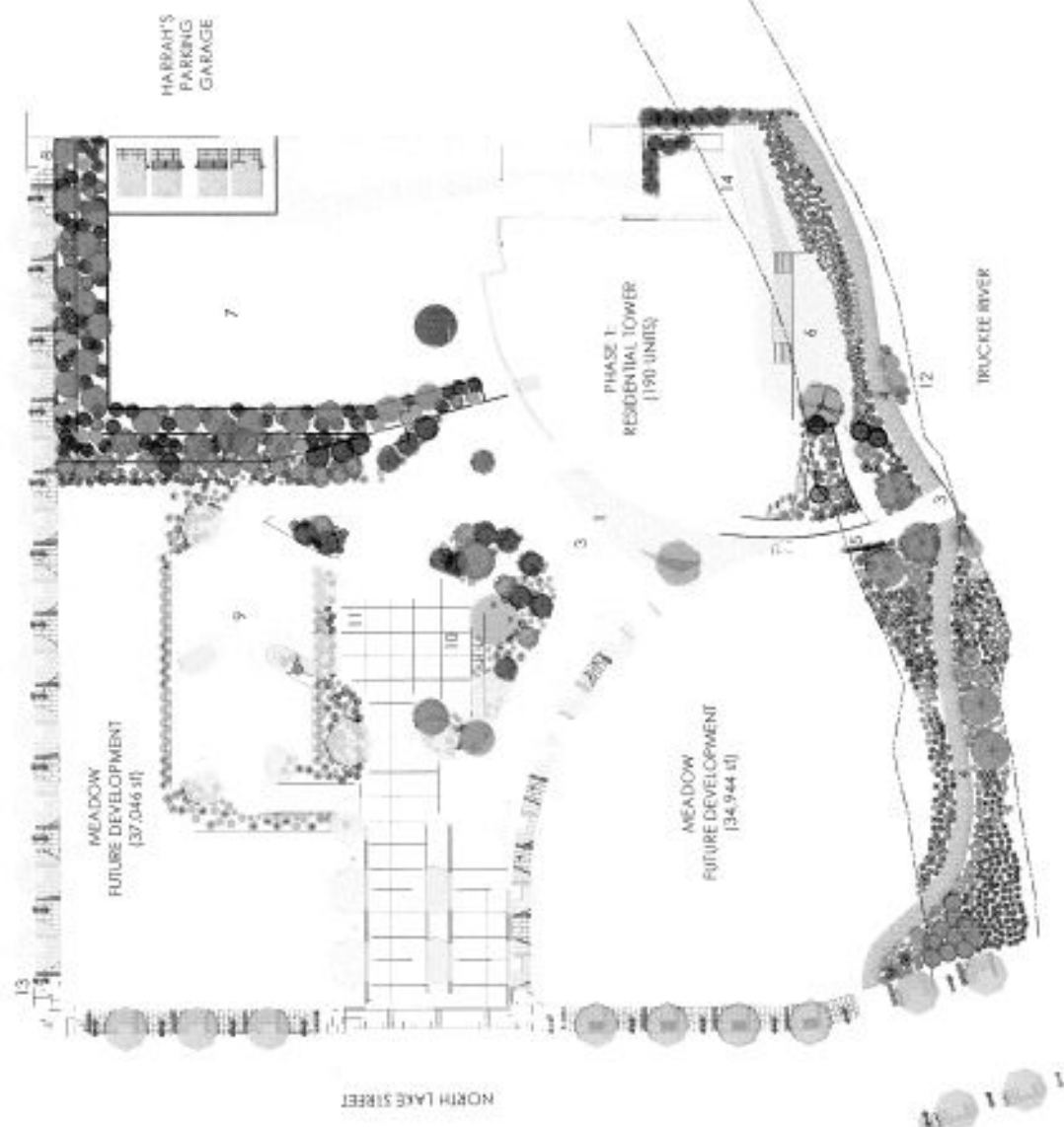
SELUX Corp. © 2003
PO Box 1090, 5 Lumen Lane
Highland, NY 12528
TEL: (845) 691-7723
FAX: (845) 691-6749
E-mail: seluxus@selux.com
Web Site: www.selux.com/usa
MTRC-0704-01 (ss-V1.82)



Union Made
Affiliated with
IBEW Local 363

Exhibit "I"
LDC06-00406 (Waterfront TM)

EAST SECOND STREET



- LEGEND**
1. ENTRANCE PLAZA
 2. PICK-UP/DROP-OFF
 3. PROSPECT POINT
 4. 8' WIDE ASPHALT RIVER WALK (DEAD ENDS AT HARRAH'S GARAGE PROPERTY LINE)
 5. STAIRS TO RIVER
 6. PATIO WITH VIEW TO WATER
 7. ARCHITECTURAL GRAVEL ROOF OVER 305 SPACE PARKING GARAGE
 8. VINE WALL
 9. 15 VISITOR SURFACE PARKING SPACES
 10. 4 SHORT-TERM PARKING SPACES
 11. LOAD/UNLOAD ZONE
 12. BRAP ARMORING ALONG RIVER
 13. 3E LUX BETA PENDANT LIGHT
 14. 8' SETBACK ENCROACHMENT

- TREE LEGEND**
- SCARLET SENTINEL RED MAPLE
 - APPLE SERVICEBERRY
 - INCENSE CEDAR
 - HIBOKI FALSE CYPRESS
 - COMMON HACKBERRY
 - GINKGO
 - SHADEMASTER HONEY LOCUST
 - ROCKY MOUNTAIN JUNIFER
 - LODGEPOLE PINE
 - FLOWERING CHANTICLEER PEAR
 - FRESIA BLACK LOCUST
 - GIANT SEQUOIA

- MATERIALS LEGEND**
- STONE PAVING
 - CONCRETE/STONE PAVING
 - CONCRETE DRIVE
 - ASPHALT PATH
 - ROOFING STONE
 - MEADOW
 - MEAN HIGH WATER

OVERALL SITEPLAN

Exhibit "J"
LDC06-00406 (Waterfront TM)

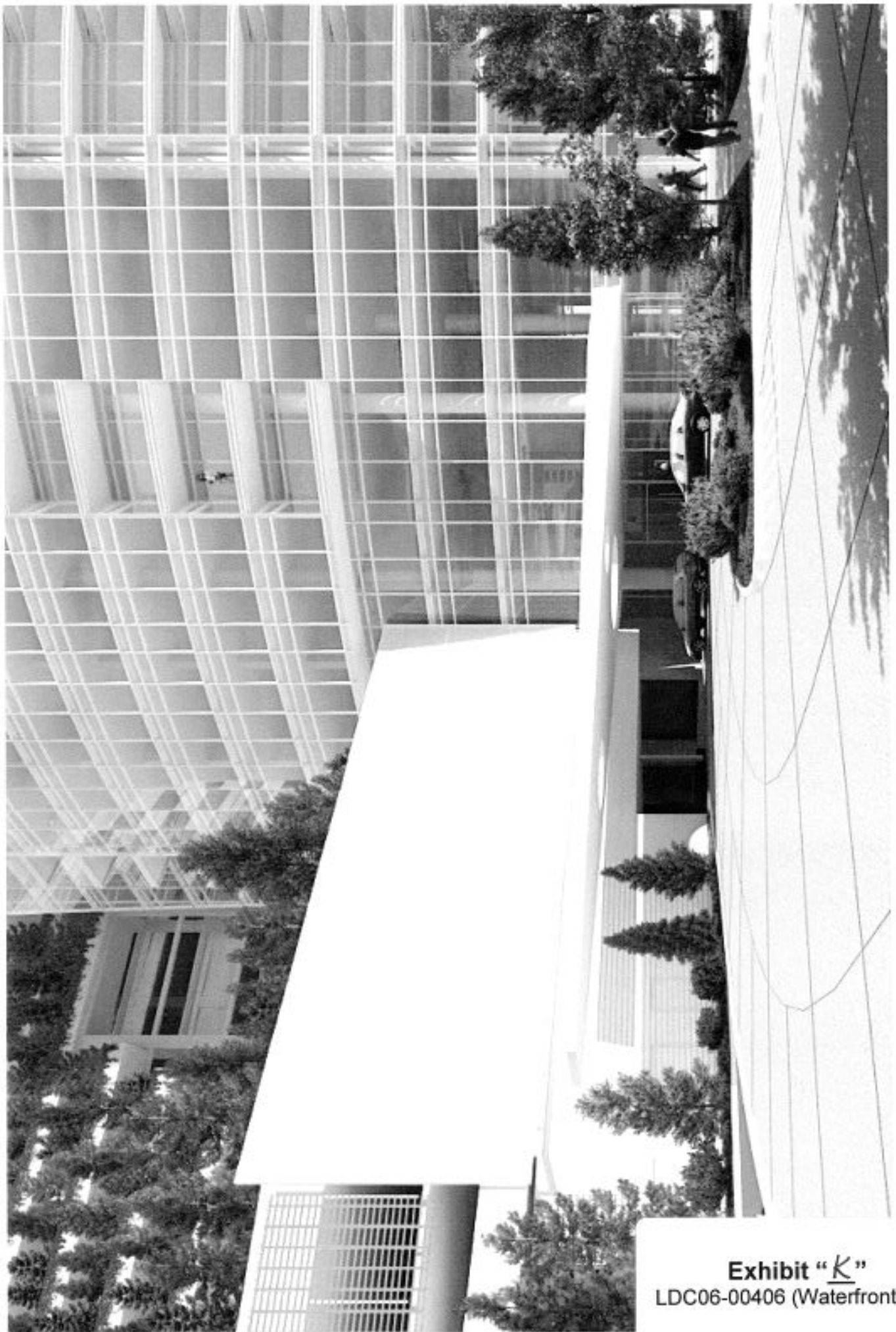


Exhibit "K"
LDC06-00406 (Waterfront TM)

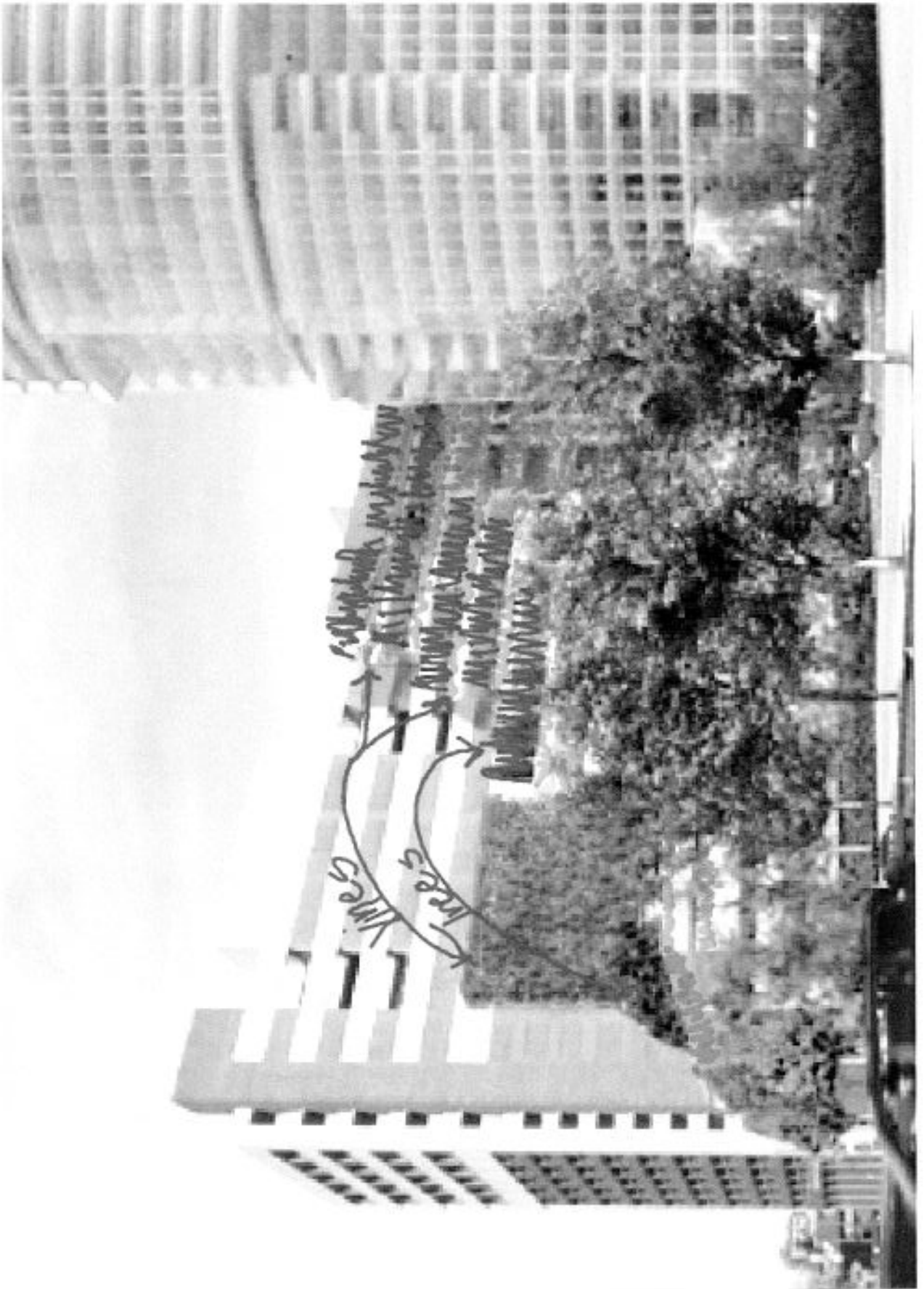


Exhibit "L"
LDC06-00406 (Waterfront TM)



PROJECT REVIEW FORM
Ward One Southwest Reno
Neighborhood Advisory Board

Case No. # LDC06-00406 Date: 5-9-06
 Case Name: "The Waterfront" (TM) Condos
 Case Planner: Cheryl Ryan
 NAB Member Name: JAKKI FORD
 Community Liaison: Lisa Mann

NAB COMMENTS:

Design looks Attractive.

open space pathway concerns.

looking forward to cost/estimates for Condo's #
like Greenery/Landscaping.

of ART component to come.

Public Parking (Special Event use? 90)

Issues/Concerns: The "sample issues" box below may be used as a guide during the project review process.

SAMPLE ISSUES:

<i>Auto & Pedestrian Access</i>	<i>Public/Fire Safety</i>	<i>Architecture</i>	<i>School Impact</i>
<i>Neighborhood Compatibility</i>	<i>Traffic</i>	<i>Building Height</i>	<i>Pollution</i>
<i>Intensity/Density</i>	<i>Signage</i>	<i>Landscaping</i>	<i>Privacy</i>
<i>Good Location</i>	<i>Lighting</i>	<i>Environmental Concerns</i>	

Suggested modifications to the proposal to address NAB concerns:

also Color/Height concerns.

Jakki Ford
 NAB Member Signature

Exhibit "M"
 LDC06-00406 (Waterfront TM)



PROJECT REVIEW FORM
Ward One Southwest Reno
Neighborhood Advisory Board

Case No. LDC06-00406 Date: 05/09/06
Case Name: Waterfront T.M
Case Planner: Cheryl Ryan
NAB Member Name: Doug Smith
Community Liaison: Lisa Mann

NAB COMMENTS:

30' foot set back 41' Overhang
Public Access path along river
Upgrade side walk

Issues/Concerns: The "sample issues" box below may be used as a guide during the project review process.

SAMPLE ISSUES:

Table with 4 columns: Auto & Pedestrian Access, Public/Fire Safety, Architecture, School Impact, Neighborhood Compatibility, Traffic, Building Height, Pollution, Intensity/Density, Signage, Landscaping, Privacy, Good Location, Lighting, Environmental Concerns.

Suggested modifications to the proposal to address NAB concerns:

Good project
Needed for location
Public path good idea

Doug Smith
NAB Member Signature



PROJECT REVIEW FORM
Ward One Southwest Reno
Neighborhood Advisory Board

Case No. LDC06-00406

Date: 5/9/06

Case Name: WATERFRONT

Case Planner: Cheryl Ryan

NAB Member Name: Richard Hill

Community Liaison: Lisa Mann

NAB COMMENTS:

WOULD BE NICE TO SEE THE SHALE PROJECT
AS ONE PACKAGE AND NOT IN PIECES. "FUTURE DEVELOPMENT"
WHAT ARE WE GETTING? WHAT ABOUT THE OXBOW
THEY ARE OFFERING A PATH ALONG THE RIVER TO NOWHERE
THE PARKING GARAGE IS NOT ON THE PLAN?
THEY ARE SAYING NO FUTURE VARIANCES! ← Yeah Right

Issues/Concerns: The "sample issues" box below may be used as a guide during the project review process.

SAMPLE ISSUES:

Auto & Pedestrian Access	Public/Fire Safety	Architecture	School Impact
Neighborhood Compatibility	Traffic	Building Height	Pollution
Intensity/Density	Signage	Landscaping	Privacy
Good Location	Lighting	Environmental Concerns	

Suggested modifications to the proposal to address NAB concerns:

A PROJECT OF THIS MAGNITUDE SHOULD NOT BE
PRESENTED IN PIECES -
THE BIKE PATH ACROSS THE RIVER IS BEING
OVERLOADED! USE THIS SIDE FOR THE KAYAK EXIT.
VARIANCE ON DISTANCE FROM RIVER IS NOT
AN ISSUE.

CONSIDERING THE SLOW PACE OF THIS PROJECT, IT IS
VERY UNFAIR (SUSPICIOUS?)
THAT WE CANNOT GET A
FULL-REASONABLE PRESENTATION.
BY COMPARISON, THE BSC USE
TOWERS SEEM MUCH BETTER
ORGANIZED.

NAB Member Signature

Exhibit "M"

LDC06-00406 (Waterfront TM)



PROJECT REVIEW FORM
Ward One Southwest Reno
Neighborhood Advisory Board

Case No. LDC06-00406

Date: 5-9-06

Case Name: WATERFRONT TM

Case Planner: CHERYL RYAN

NAB Member Name: J KEEPER

Community Liaison: Lisa Mann

NAB COMMENTS:

PROJECT APPEARS TO ADD TO THE AREA

Issues/Concerns: The "sample issues" box below may be used as a guide during the project review process.

SAMPLE ISSUES:

<i>Auto & Pedestrian Access</i>	<i>Public/Fire Safety</i>	<i>Architecture</i>	<i>School Impact</i>
<i>Neighborhood Compatibility</i>	<i>Traffic</i>	<i>Building Height</i>	<i>Pollution</i>
<i>Intensity/Density</i>	<i>Signage</i>	<i>Landscaping</i>	<i>Privacy</i>
<i>Good Location</i>	<i>Lighting</i>	<i>Environmental Concerns</i>	

Suggested modifications to the proposal to address NAB concerns:

J. KEEPER
NAB Member Signature

Exhibit "M"
LDC06-00406 (Waterfront TM)



PROJECT REVIEW FORM
Ward One Southwest Reno
Neighborhood Advisory Board

Case No. LDC06-00406 Date: 5/9/06
Case Name: Waterfront TM
Case Planner: Cheryl Ryan
NAB Member Name: Lori W
Community Liaison: Lisa Mann

NAB COMMENTS:

Beautiful project. Public Access to the river will be provided,
making this a walkable area near the river. Encroachment in
set back doesn't interfere w/ River walk area

Issues/Concerns: The "sample issues" box below may be used as a guide during the project review process.

SAMPLE ISSUES:

<i>Auto & Pedestrian Access</i>	<i>Public/Fire Safety</i>	<i>Architecture</i>	<i>School Impact</i>
<i>Neighborhood Compatibility</i>	<i>Traffic</i>	<i>Building Height</i>	<i>Pollution</i>
<i>Intensity/Density</i>	<i>Signage</i>	<i>Landscaping</i>	<i>Privacy</i>
<i>Good Location</i>	<i>Lighting</i>	<i>Environmental Concerns</i>	

Suggested modifications to the proposal to address NAB concerns:

Lori Wray
NAB Member Signature

Exhibit "M"
LDC06-00406 (Waterfront TM)



PROJECT REVIEW FORM
Ward One Southwest Reno
Neighborhood Advisory Board

Case No. LDC 06-00406

Date: 5/9/06

Case Name: WATERFRONT TM

Case Planner: CHERYL RYAN

NAB Member Name: _____

Community Liaison: Lisa Mann

NAB COMMENTS:

LOOK FORWARD TO THE COMPLETION OF THIS PROJECT. IT LOOKS TO BE OF HIGH QUALITY IT IS NICE TO SEE THE PARKING INCORPORATED ON THE SITE. THE SHAPE OF THE TOWER APPEARS TO ACCOMMODATE THE WIND ALONG THE RIVER.

Issues/Concerns: The "sample issues" box below may be used as a guide during the project review process.

SAMPLE ISSUES:

<i>Auto & Pedestrian Access</i>	<i>Public/Fire Safety</i>	<i>Architecture</i>	<i>School Impact</i>
<i>Neighborhood Compatibility</i>	<i>Traffic</i>	<i>Building Height</i>	<i>Pollution</i>
<i>Intensity/Density</i>	<i>Signage</i>	<i>Landscaping</i>	<i>Privacy</i>
<i>Good Location</i>	<i>Lighting</i>	<i>Environmental Concerns</i>	

Suggested modifications to the proposal to address NAB concerns:

Jon Dewey, MEMBER
NAB Member Signature

Exhibit "M"
LDC06-00406 (Waterfront TM)



PROJECT REVIEW FORM
 Ward One Southwest Reno
 Neighborhood Advisory Board

Case No. LDC06-00406

Date: May 9, 2006

Case Name: WATERFRONT TM

Case Planner: CHERYL RYAN

NAB Member Name: Alan RONEY

Community Liaison: Lisa Mann

NAB COMMENTS:

300 Space parking in 1st phase, might be an
ISSUE for future growth

Issues/Concerns: The "sample issues" box below may be used as a guide during the project review process.

SAMPLE ISSUES:

<i>Auto & Pedestrian Access</i>	<i>Public/Fire Safety</i>	<i>Architecture</i>	<i>School Impact</i>
<i>Neighborhood Compatibility</i>	<i>Traffic</i>	<i>Building Height</i>	<i>Pollution</i>
<i>Intensity/Density</i>	<i>Signage</i>	<i>Landscaping</i>	<i>Privacy</i>
<i>Good Location</i>	<i>Lighting</i>	<i>Environmental Concerns</i>	

Suggested modifications to the proposal to address NAB concerns:

think about future phases and increase parking.


 NAB Member Signature

Exhibit "M"
 LDC06-00406 (Waterfront TM)



Reno City Attorney

MEMORANDUM

Date: May 6, 2006
To: John Hester, Community Development Director, Claudia Hanson, Acting Planning Manager, and Cheryl Ryan, Senior Planner with courtesy copies to Mayor, Council, City Manager, and Assistant City Manager
From: Marilyn D. Craig, Deputy City Attorney *MDC*
Subject: The Waterfront – access to and set-backs from the Truckee River, requirement for public art and/or pedestrian amenities, and parking

Questions: Staff has asked the following questions with respect to the project commonly known as The Waterfront: (1) may the City require public access to and along the Truckee River on the parcels, (2) what are the applicable set-back requirements, (3) which art and/or pedestrian amenities requirements, if any, are applicable, and (4) may the applicant, Waterfront Partners, LLC (“Waterfront”) provide off-site, in lieu of on-site, parking or pay into an account to be used by the City of Reno (“City”) under the parking reservation set forth in the Order of Abandonment?

I. Background:

On or about March 7, 2006, Waterfront submitted an application for subdivision tentative map on an approximately 3.5 acres parcel of land lying adjacent to, and between, the Truckee River, Lake Street, and Second Street on which it proposes a 34-story condominium tower composed of 190 residential units with 304 parking spaces. The project lies within the Truckee River Special Purpose base District (“TRD”), a base zoning district which is composed of two areas, the Esplanade and the area outside the Esplanade; the Downtown Area Overlay Zoning District (“DT”); and the General Regional Center Overlay Zoning District (“GRC”). In addition, The Waterfront lies within the boundaries of the City of Reno Redevelopment Agency.

II. Assumptions:

- A. That the City has not “paid for wholly or in part ... for the construction or renovation of any building, park, highway or arterial, streetscape or road beautification, bridge, transit or aviation facility, trail or bikeway, parking facility, above-grade utility, or any portion thereof, to which the public has access or which is visible from a public right-of-way.” “Renovation means any major

redesign of a facility or system, or portion thereof, which is included in eligible construction projects, including expansion or upgrading the capacity of the facility or system, enlarging the facility or creating a new use for the facility. It does not include repairs, maintenance or installation of replacement mechanical equipment or modifications required solely for the purposes of compliance with state or federal laws.”

- B. The value of a parking space is Twenty-five thousand Dollars (\$25,000) based upon comments from Waterfront to Staff.

III. Overview of legal principles:

First, the State of Nevada holds title to the land between the ordinary and permanent high water mark underlying navigable waters; the Truckee River is a navigable water of the State of Nevada. Nevada Division of State Lands, “Proprietary and Regulatory Authority for Navigable Waters;” *Nevada v. Julius Bunkowski, et al*, 88 Nev. 623, 629, 503 P.2d 841 (1972); *Sierra Pacific Power Co. v. F.E.R.C.*, 681 F.2d 1134, 1138 (9th Cir. 1982).

Second, governmental entities are to preserve the natural function and scenic value of rivers as open space, parks, trails and recreational areas. See, e.g. Truckee Meadows Regional Plan, Planning Principle #2: “Management of the Region’s Natural Resources.”

Third, the State generally requires that City and other local governments to include within their master plans, a recreation plan “[s]howing a comprehensive system of recreation areas, including natural reservations, parks, parkways, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.” NRS 278.160(1)(j).

Moreover, NRS 278.250(2) provides, among other things, that zoning regulations must be designed:

- (a) To preserve the quality of air and water resources.
- (b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.
- (c) To provide for recreational needs.
- (d) To promote the health and general welfare.

“In exercising the powers granted in the section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.”¹

Finally, the City has a policy that developments within mixed and non-residential land use designations in the City should:

¹ This is a reference to the City’s authority to require the building of affordable housing with development.

Contain public, as well as open space. Large centers should provide public outdoor spaces, while individual commercial or office properties should provide small plazas, seating areas, or benches in combination with landscaping. Properties along the river should provide or link with paths, plazas, or promenades.

City of Reno Master Plan, Land Use Plan, Mixed and Non-Residential Land Use Designations, June 25, 2003, p. 10.

Master Plan Policy UC -3 provides: "Support the development of pedestrian plazas, parks, walkways and commercial enterprises aimed at pedestrians, such as sidewalk cafes and boutiques, with the intent of establishing the Truckee River as the focus of pedestrian activity in the downtown area."

Fourth, among other things, the purpose of TRD is to provide "a pedestrian oriented environment with land uses that generate activity and build upon the prominence of the Truckee River." RMC § 18.08.101(d)(4).

An overlay district is a zoning district that is superimposed on an underlying base zoning district, thus establishing a layer of additional regulations that modifies the base zoning district's regulations. RMC § 18.08.101(e)(1). The DT and GRC are both planning area overlay districts. Planning area overlay districts are intended to address unique land use issues in a specific geographic area or portion of the City. RMC § 18.08.101(e)(2) and Table 18.08-2.

Fifth, there are provisions in the RMC to guide interpretation of the ordinances in case of conflict. With respect to TRD, RMC 18.08.303(d)(1) provides that "[w]hen a conflict exists between the provisions required in this section and other portions of this title, the TRD Truckee River Corridor, Downtown Riverfront Special Purpose District requirements shall prevail."

With respect to the GRC, RMC §18.08.101(e)(1) provides that "[i]f a conflict exists between one or more standards applicable in the base zoning district and one or more standards applicable in the overlay zoning district, provisions of the zoning overlay district shall apply and control. If a conflict exists between standards applicable in a general overlay district and standards applicable in a planning area overlay district provisions of the general overlay district shall apply and control."

Sixth, the City through its police powers can impose development exactions. Development exactions are "levies imposed upon developers as conditions of carrying forward a project within a municipality." Susan M. Denbo, "Development Exactions: A New way to fund State and Local Government Infrastructure Improvements and Affordable Housing?" 23 Real Est. L.J. 7, p.2. Exactions can include requirements to dedicate land within the project area and to build infrastructure or public facilities to serve the project. *City of Annapolis v. Waterman*, 745 A.2d 1000 (Md. 2000).

NRS 278.349 provides in part that the City, in determining whether to grant or deny a tentative subdivision map may impose conditions on the map.

RMC § 18.10.201 provides that the width and approximate location of all existing or proposed easements, which public or private ... dedication of land for public purposes be set forth on the tentative map.

RMC § 18.10.301 requires compliance with zoning and development standards.

RMC § 18.10.302 requires compliance with improvements and dedications.

Sixth, there are rules pertaining to the interpretation of statutes and ordinances. "When interpreting a statute, a court must give its terms their plain meaning, considering its provisions as a whole so as to read them 'in a way that would not render words or phrases superfluous or make a provision nugatory.'" *Southern Nevada Homebuilders Ass'n v. Clark County*, ___ Nev. ___, 117 P.3d 171, 175 (2005) citing *Charlie Brown Constr. Co. v. Boulder City*, 106 Nev. 497, 502, 797 P.2d 946, 949 (1990), *overruled on other grounds by Calloway v. City of Reno*, 116 Nev. 250, 993 P.2d. 1259 (2000).

"When interpreting a statute, we first determine whether its language is ambiguous. If the language is clear and unambiguous, we do not look beyond its plain meaning and give effect to this apparent intent, unless that meaning was clearly not intended." *Stockmeier v. Psychological Review Panel*, ___ Nev. ___, 125 P.3d 1154, 1157 (2005) following *State v. Quinn*, 117 Nev. 709, 713, 30 P.3d 1117, 1120 (2001).

"It is the duty of this court, when possible to interpret provisions within a common statutory scheme 'harmoniously with one another in accordance with the general purpose of those statutes' and to avoid unreasonable or absurd results, thereby giving effect to the Legislature's intent." ___ Nev. ___, 119 P.3d 1241, 1245 (2006) citing *Washington v. State*, 117 Nev. 735, 739, 30 P.3d 1134, 1136 (2001).

In the face of statutory silence, question of interpretation are governed by legislative intent. *Williams v. White Mt.*, 749 P.2d 423, 428 (1988).

"An agency charged with the duty of administering an act is impliedly clothed with the power to construe it as a necessary precedent to administrative action" and that 'great deference should be given to the agency's interpretation when it is within the language of the statute. *State v. State Engineer*, 104 Nev. 709, 713, 766 P.2d 263, 266 (1988) citing *Clark Co. Sch. Dist. v. Local Gov't*, 90 Nev. 442, 446, 530 P.2d 114, 117 (1974).

Seventh, conditions must meet the requirements of *Nollan v. California Coastal Commission*, 483 U.S. 825, 107 S.Ct.3141 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374, 114 S.Ct. 2309 (1994).

Eighth, an interest "is the most general terms that can be employed to denote a right, claim, title, or legal share in something ... [m]ore particularly it means a right to have the advantage accruing from anything; any right in the nature of property, but less than title." Black's Law Dictionary, Fifth Ed.

An easement creates a burden on the servient tract and requires that the owner of that land refrain from interfering with the privilege conferred for the benefit of the dominant tract. *Chesapeake & Potomac Tel. Co. v. Properties One*, 439 S.E.2d 369, 371 (Va. 1994).

III. Analysis:

The analysis begins with a determination of which provisions of the applicable zoning districts apply to The Waterfront. It should be first noted that the Waterfront filed its application preceding April 5, 2006, the day on which Council adopted Ordinance 6367, replacing the TRD with the MU/DRRC. Accordingly, we will analysis these questions under the TRD, not the MU/DRRC.

Evident immediately upon inspection of the provisions of ordinances pertinent to the TRD and the GRC is that RMC §18.08.303 regarding the TRD, the base zoning district, and RMC §18.08.101 regarding overlay zoning districts in general, while clear on their face, are arguably in conflict. The City should first try to read the ordinances harmoniously. "When interpreting a statute, [the City] must give its terms their plain meaning, considering its provisions as a whole so as to read them 'in a way that would not render words or phrases superfluous or make a provision nugatory' [and] to interpret provisions within a common statutory scheme 'harmoniously ... in accordance with the general purpose of those statutes' and 'thereby giving effect to the legislature's intent'" *Southern Nevada Homebuilders Association v. Clark County*, ___ Nev. ___, 117 P.3d 171, 173 (2005).

The TRD's provisions could be read to apply only to those "other portions of the title," the overlay district. Accordingly, where the provisions of the TRD are in conflict with the provisions of the overlay district, the provisions of the overlay district governs; but, where the provisions of the TRD are in conflict with "other portions of the title" outside of the overlay district, the provisions of the TRD govern. This approach allows the harmoniously reading the two ordinances together. Moreover, this approach is supported by RMC § 18.08.101(e) which describes the purpose of the overlay district within a common statutory scheme:

An overlay district, whether a general or a planning area overlay district, is a zoning district that is superimposed on an underlying base zoning district, thus establishing a layer of additional regulations that restrict, prohibit, or add to the base zoning regulations set forth in this title.

The above approach preserves Council's legislative scheme of overlay districts modifying base districts and the TRD provisions modifying the provisions of other base districts when in conflict. Conversely, to allow the TRD, a base zoning district, to modify an overlay district would undermine RMC § 18.08.101(e).

A. Setbacks from the Truckee River

The Waterfront lies within the GRC and the TRD but outside the Esplanade section of the

TRD. Because the GRC overlay district does not contain set-back standards, the requirements of the TRD govern. With respect to the Esplanade, RMC § 18.08.303(d) (3)(d.) provides that the riverfront setback for all buildings shall be a minimum of 25 feet from “the existing face of the river flood wall or top of bank to provide safe and adequate passage and facilitate police and fire protection access.” Because Council explicitly identified the set-backs in the Esplanade, as opposed to generally in the TRD, Council must have intended that the Esplanade have a different set-back from the remainder of the TRD.

In the face of statutory silence, questions of interpretation are governed by legislative intent. *Williams v. White Mt.*, 749 P.2d 423, 428 (1988). Legislative intent can be derived from other sources such as the legislative history and related policies and documents.

Title 18, Annexation and Land Development, “Appendix A: Downtown Riverfront Design Guidelines” sets forth that [t]he City of Reno Master Plan, Zoning Ordinances, Redevelopment Plan, Revitalization Strategy for the Downtown River Corridor, Historic Resources Ordinance and other policies and regulations also apply within the Riverfront District.” RMC § 18.12.105(1), an ordinance governing the general set-backs for the Truckee River, provides the set-back is 50 feet. The TRD provisions regarding the set-backs in the Esplanade are in conflict with the general provisions but are silent with respect to the area outside the Esplanade. As noted earlier, where the provisions within the TRD are in conflict with “other portions of the Title, the TRD provisions govern. However, the TRD is silent regarding the set-backs outside of the Esplanade. Silence cannot be construed as conflict. Instead Council’s intent must be discerned. Because the Council choose to change only the set-backs within the Esplanade, it is reasonable to conclude that Council intended a 50-foot set-back along the river consistent with the general provisions except where the TRD provided otherwise. Accordingly, there is no conflict regarding the set-back requirements in the TRD outside of the Esplanade. The set-backs along the Truckee River are 50 feet except in the Esplanade. If Waterfront seeks a different set-back, Waterfront should apply for a special use permit, the Planning Manager’s approval, or variance.

B. Access to the Truckee River

Development is a privilege, not a right. *Associated Home Builders, Inc. v. City of Walnut Cree*, 4 Cal. 3d 633 (1971); *Trent Meredith, Inc. v. City of Oxnard*, 114 Cal. App. 3d 317 (1981). The City has the authority to impose conditions on projects provided the conditions substantially advance a legitimate government interest (related to the common good including quality of life, promotion of public health, safety, welfare, and general well-being of the community such as view protection, open space, streets, parks) and are roughly proportional to the anticipated impact of the project. *Nollan, supra*, and *Dolan, supra*. In *Nollan, supra*, the Supreme Court looked favorably upon, but did not decide, that diminishing the blockage of the view of the ocean caused by construction of an enlarged house is a governmental interest for which the project could be have conditioned and that requiring the dedication of a viewing spot on the Nollan property might have been appropriate. *Nollan, supra*, 483 U.S. at 836, 107 S.Ct. at 3149.

It is well settled that conditions may be imposed by a [city] in connection with the approval of a proposed subdivision map or

plan. The subdivision of land has a definite economic impact upon the municipality and hence the regulation of subdivision activities has been sustained as a means by which the interests of the public and the general taxpayer may be safeguarded and protected ...”

‘[t]he privilege of the individual to use his property as he pleases is subject always to legitimate exercise of the police power under which new burdens may be imposed upon property and new restrictions placed upon it when the public welfare demands.’

City of Annapolis v. Waterman, 745 A.2d 1000, 1008 (Md. 2000) citing *Petterson v. City of Naperville*, 9 Ill. 2d 233, 137 N.E.2d 371 (1956).

The City may condition the project in accordance with *Nollan and Dolan*.

C. Amenities

There is a difference between “public art” and “pedestrian amenities.” The applicability of the requirement to fund public art is set forth in RMC Title 22, §22.02.030(5). RMC § 22.02.030 (5) states:

Eligible construction project means any capital project paid for wholly or in part by the city for the construction or renovation of any building, park, highway or arterial, streetscape or road beautification, bridge, transit or aviation facility, trail or bikeway, parking facility, above-grade utility, or any portion thereof, to which the public has access or which is visible from a public right-of-way.

Accordingly, unless the Waterfront is an eligible construction project, the requirement to fund public art does not apply.

RMC Title 18, Article IV, “District-Specific Standards – Overlay Zoning Districts, Section 18.08.405, “Regional Center and Corridor Planning Area Overlay Districts,” subsection (b) “GRC General Regional Center Overlay Zoning District” requires pedestrian amenities, “including walkways (outside of and through buildings), plazas, artwork, fountains, seating and landscaping above code shall be provided in an amount equal to two percent of the entire project costs exclusive of land and financing for building 65 feet or taller.” RMC §18.08.405(b)(6). The Waterfront being 34 stories in height triggers this requirement.

D. Parking

The City reserved its interest and/or rights in the Order of Abandonment. The City’s interests and rights, or dominant tract, burden The Waterfront property, the servient tract. The

owners of the servient tract cannot interfere with the City's rights in the dominant tract. The City may enforce its rights. By the same token, the City may contractually agree to forego the enforcement of those rights by, for example, entering into a contract with Waterfront and its assigns and successors to provide parking elsewhere in the City consistent with the value of the reservation. Any contract should be negotiated at or before the approval of the tentative map. To determine if the City Council desires Staff to consider alternatives to on-site parking, legal has placed an item on Council's agenda for May 24, 2006 so that Council may provide instruction to Staff.

IV. Conclusion

Staff has requested advice on four issues regarding the Waterfront. We recommend Staff proceed in accordance with the above.