



**LAS VEGAS
CITY COUNCIL**

CAROLYN G. GOODMAN
MAYOR

STEVEN D. ROSS
MAYOR PRO TEM

LOIS TARKANIAN
RICKI Y. BARLOW
STAVROS S. ANTHONY
BOB COFFIN
BOB BEERS

ELIZABETH N. FRETWELL
CITY MANAGER

CITY OF LAS VEGAS
DEPARTMENT OF PLANNING

DEVELOPMENT SERVICES CENTER
333 NORTH RANCHO DRIVE
3RD FLOOR
LAS VEGAS, NEVADA 89106

VOICE 702.229.6301

FAX 702.474.0352

TTY 7-1-1

www.lasvegasnevada.gov



/city of las vegas

September 8, 2016

Mr. Mark Carlson
899 Fremont, LLC
PO Box 1570
Las Vegas, Nevada 89101

**RE: EOT-64070 - NON-CONFORMING USE - PUBLIC HEARING
CITY COUNCIL MEETING OF SEPTEMBER 7, 2016**

Dear Mr. Carlson:

The City Council at a regular meeting held on September 7, 2016 **APPROVED** a request for an Extension of Time FOR A NONCONFORMING LIQUOR ESTABLISHMENT (TAVERN) USE at 899 Fremont Street (APNs 139-34-612-056 and 027) C-2 (General Commercial) Zone, Ward 3 (Coffin).

This approval is subject to the following conditions:

Planning

1. This request for an Extension of Time for a nonconforming Liquor Establishment (Tavern) use located at 899 Fremont Street shall expire on September 16, 2017 unless another Extension of Time is approved by the City Council.

The Notice of Final Action was filed with the Las Vegas City Clerk on September 8, 2016.

Sincerely,

Thomas A. Perrigo
Director
Department of Planning

TAP:clb

cc: Mr. Joe Cain
Fifth Street Gaming, LLC
650 South Main Street
Las Vegas, Nevada 89106

Mr. Dennis Gutwald
Attorney for Applicant
100 North City Parkway, Suite #1600
Las Vegas, Nevada 89106

Development Notification

CC Meeting: September 7, 2016

The following neighborhood associations are located within approximately one(1) mile of this development application and have been notified of this case by the Department of Planning:

EOT-64070

18b The Las Vegas Arts District
Biltmore Bungalows
Church-Noblitt NA
Crestwood NA
Cultural Corridor Coalition NCG
Downtown Business Operators Council
Downtown Professional District
Eleventh Street Loft Owners Assn.
Five Points Business Assn.
Fremont Apartments
Fremont St. Lofts
Fremont Street Experience Business Association
Gateway Business Association
Hillside Heights NA
Hoover Apartments
Horizon Studio Apartments
Huntridge Park NA
John S. Park NA
Juhl Unit-Owners Association
L'Octaine Apartments Resident Council
Maverick - Hidden Village Apartments
Mayfair NA
Molasky Corporate Center Owners Assn.
Newport Lofts
Oak Tree Apartments
Orleans Square HOA
Robert Gordon Plaza Resident Council
SoHo Lofts HOA
Stewart Arms Apartments
Stewart Town HOA
Sunrise NA
The Ogden Unit Owners Assn.
Towne Terrace Apartments

Vera Johnson Manor A Resident Council

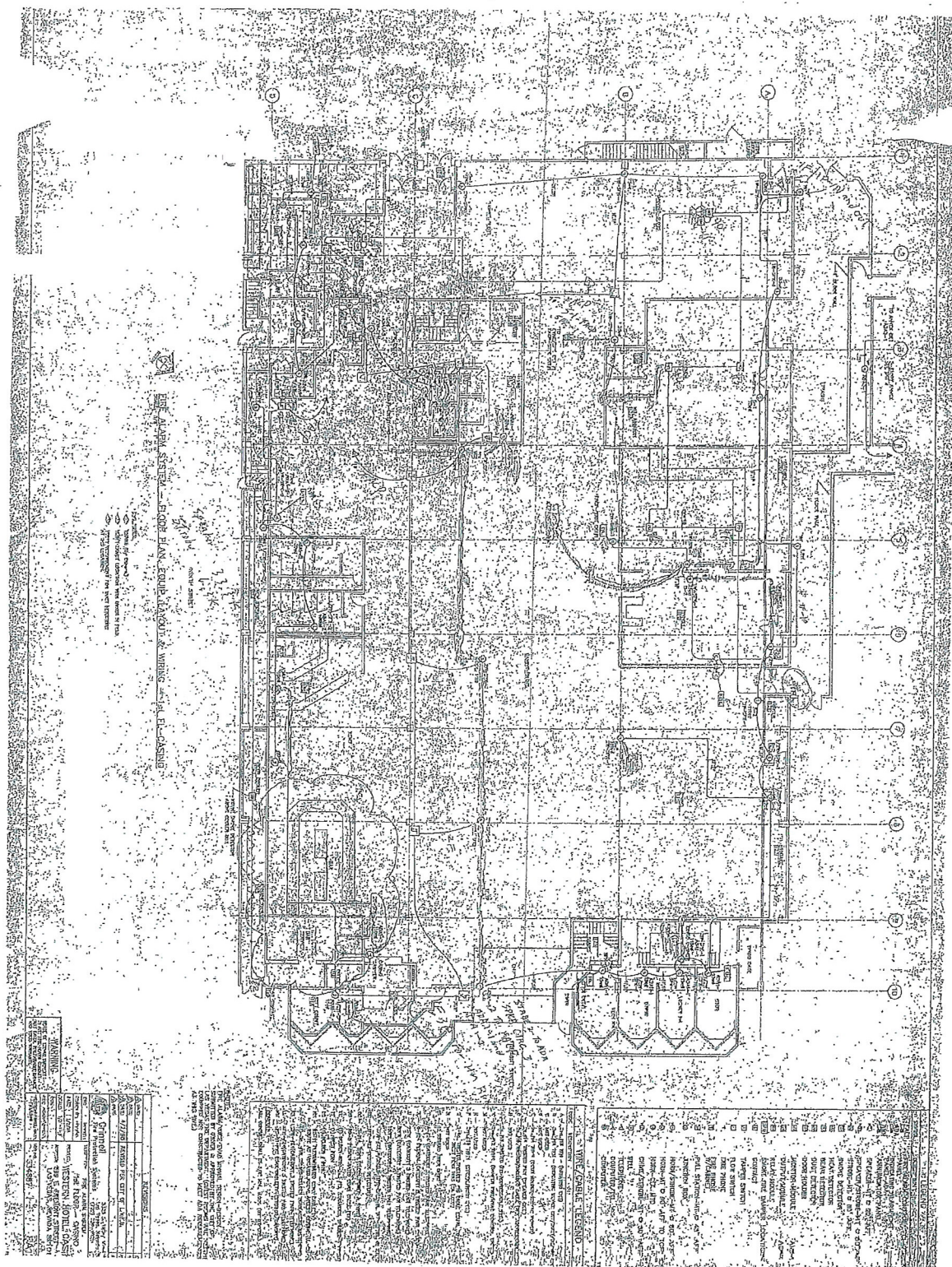
Villa Monterey Senior Apartments

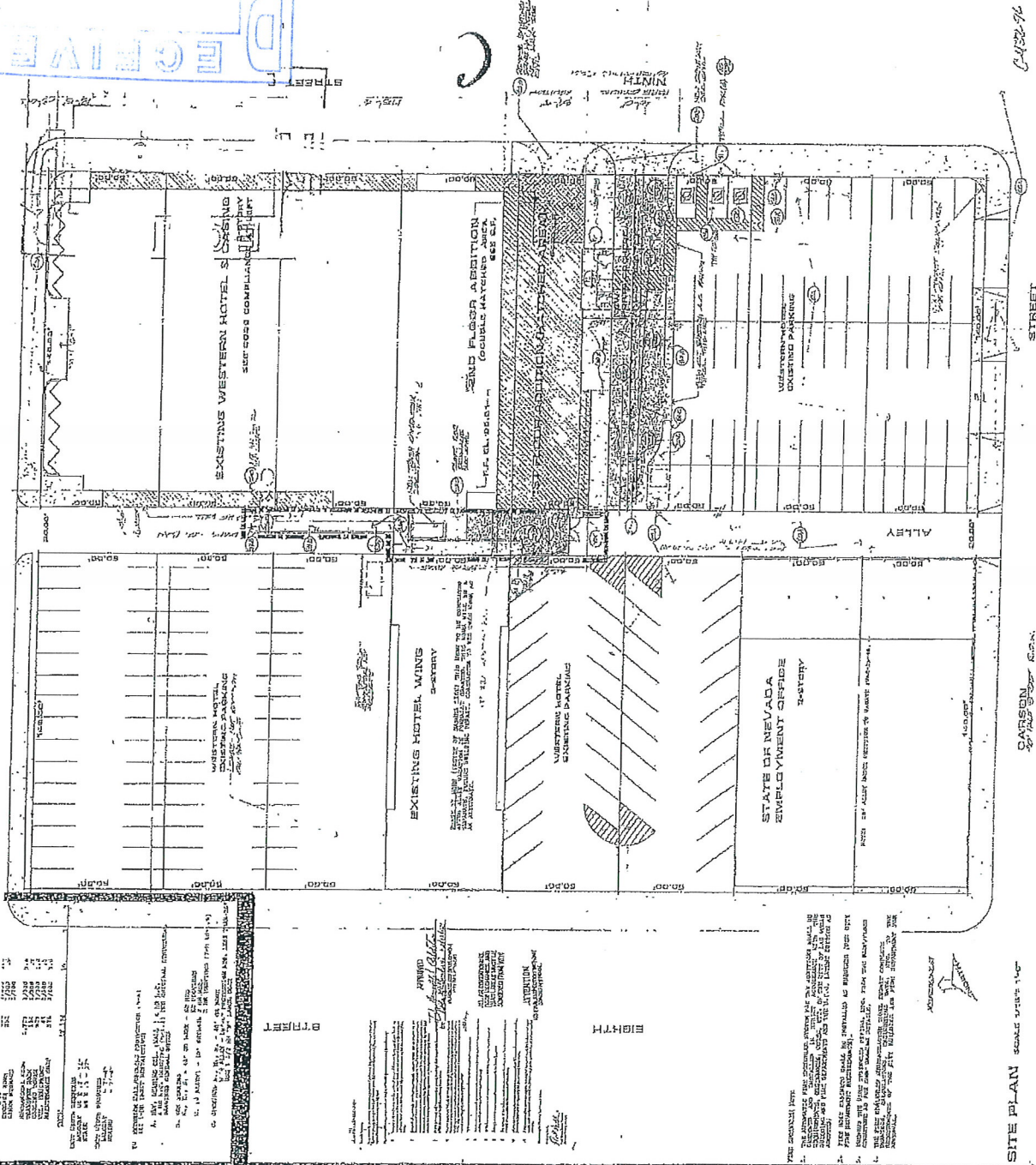
West Huntridge NA

WLV-NAA1

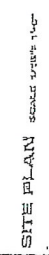
APR - 4 2016

EOT-64070



[illegible]

EOT-64070



CONTEMPORANCE

12

CITY OF LAS VEGAS

DEVELOPMENT REVIEW COMMENT FORM



*Department of Planning
Case Planning Division
333 North Rancho Drive, 3rd Floor
Las Vegas, Nevada 89106
(702) 229-6301 phone (702) 385-7268 fax*

EOT-64070 - EXTENSION OF TIME - NONCONFORMING - PUBLIC HEARING - APPLICANT:
FIFTH STREET GAMING, LLC - OWNER: 899 FREMONT, LLC - *For possible action on a request for an Extension of Time FOR A NONCONFORMING LIQUOR ESTABLISHMENT (TAVERN) USE at 899 Fremont Street (APNs 139-34-612-056 and 027) C-2 (General Commercial) Zone, Ward 3 (Coffin).*

CITY COUNCIL: **SEPTEMBER 7, 2016**

CASE PLANNER: **STEVE GEBEKE**



PUBLIC HEARING

Comments Due: **AUGUST 1, 2016**

Comments not returned by the due date will not be incorporated into the staff report for this case. Comments may be submitted either on this sheet and routed via interoffice mail, U.S. mail, fax, or e-mailed to: Carman Burney (cburney@lasvegasnevada.gov) and Steve Gebeke (sgebeke@lasvegasnevada.gov). If you desire to meet with the case planner you may schedule an appointment by calling (702) 229-6301.

LIST COMMENTS BELOW:



DEPARTMENT OF PLANNING

APPLICATION / PETITION FORM

Application/Petition For: Extension of Time - Preservation of Tavern Rights: Western Hotel
 Project Address (Location) 899 Fremont Street & 115 S. 8th Street, Las Vegas, NV 89101
 Project Name Western Hotel Casino Proposed Use No changes
 Assessor's Parcel #(s) 139-34-612-056 and 139-34-612-027 Ward # 3 (Bob Coffin)
 General Plan: existing C proposed Sam Zoning: existing C-2 proposed Same
 Commercial Square Footage 48,407 Floor Area Ratio N/A
 Gross Acres 1.36 and 0.51 Lots/Units 3 Density N/A
 Additional Information _____

PROPERTY OWNER 899 Fremont, LLC Contact Mark Carlson
 Address P.O. Box 1570 Phone: (702) 933-7140 Fax: _____
 City Las Vegas State NV Zip 89101
 E-mail Address joe.cain@finelv.com

APPLICANT Fifth Street Gaming, LLC Contact Joe Cain
 Address 650 S. Main Street Phone: (702) 933-7140 Fax: _____
 City Las Vegas State NV Zip 89106
 E-mail Address joe.cain@finelv.com

REPRESENTATIVE Attorney for Applicant Contact Dennis Gutwald
 Address c/o BHFS, 100 N. City Parkway, Suite 1600 Phone: (702) 464-7014 Fax: (702) 382-8135
 City Las Vegas State NV Zip 89106
 E-mail Address dgutwald@bhfs.com

I certify that I am the applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies, false information or incomplete application may cause the application to be rejected. I further certify that I am the owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature below.

Property Owner Signature* BY: DTP MGMT, LLC, it Manager

* An authorized agent may sign in lieu of the property owner for Final Maps, Tentative Maps, and Parcel Maps.

Print Name MARK CARLSON, VP of Operations

Subscribed and sworn before me

This 28th day of March, 2016

Julie Scott

Notary Public in and for said County and State



JULIE SCOTT
 NOTARY PUBLIC
 STATE OF NEVADA
 Appt. No. 05-100334-1
 My Appt. Expires Oct. 6, 2017

Revised 10/27/08

FOR DEPARTMENT USE ONLY

Case #	<u>EDT-64070</u>
Meeting Date:	<u>9/7/16</u>
Total Fee:	<u>1050⁰⁰</u>
Date Received:*	<u>4/4/16</u>
Received By:	<u>M. Mc</u>

*The application will not be deemed complete until the submitted materials have been reviewed by the Department of Planning for consistency with applicable sections of the Zoning Ordinance.

f:\depot\Application Packet\Application Form.pdf

**CONSENT OF THE MANAGER OF
DTP MGMT, LLC**

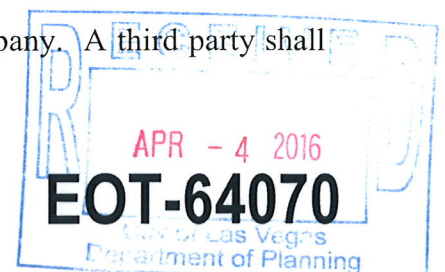
The undersigned, being the Manager of DTP Mgmt, LLC, a Nevada limited liability company (the "Company"), does pursuant to Section 5.1 of the Operating Agreement of the Company hereby consent to the adoption of, and adopt, the following preambles and resolutions:

WHEREAS, Section 5.1 of the Operating Agreement of the Company states that the Manager may designate one or more persons, officers or employees of the Company, who may in lieu of, or in addition to, the Manager, manage the day to day business of the Company, and, in the name of the Company, and sign contracts or agreements, and may authorize the use of facsimile signatures of any such persons.

WHEREAS, the Manager of the Company desires to create an officer position of Vice President of Operations (the "VP") who shall have all the same rights and duties of a Managing Person as defined in the Operating Agreement except that the VP shall not have any authority to vote on or open bank accounts on behalf of the Company. In addition, the VP shall not have the authority to sign checks on behalf of the Company nor have a vote regarding any expenditures made on behalf of the Company or whether a check of the Company may be signed by a Managing Peron on behalf of the Company.

WHEREAS, the Manager of the Company desires to appoint Mark Carlson as the Vice President of Operations of the Company.

WHEREAS, any third party dealing with the Mark Carlson may rely on the authority of Mark Carlson to bind the Company as a Managing Person of the Company. A third party shall



not incur any liability for its reliance upon this consent that Mark Carlson shall have the authority to bind the Company as a Managing Peron of the Company.

WHEREAS, the VP of the Company may be removed by the Manager of the Company at any time and for any reason by the Manager providing the VP with written notice of his/her removal as a VP of the Company.

NOW, THEREFORE, the Manager of the Company agrees as follows:

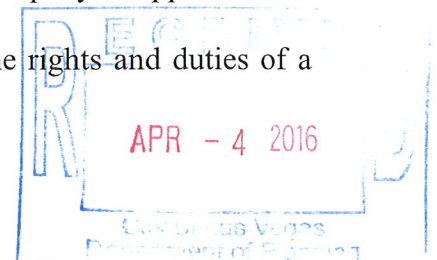
RESOLVED, Mark Carlson shall hereby be the VP of the Company.

FURTHER RESOLVED, that Mark Carlson shall be appointed as the Vice President of Operations who shall have all the same rights and duties of a Managing Person as defined in the Operating Agreement except that the VP shall not have any authority to vote on or open bank accounts on behalf of the Company. In addition, the VP shall not have the authority to sign checks on behalf of the Company nor have a vote regarding any expenditures made on behalf of the Company or whether a check of the Company may be signed by a Managing Peron on behalf of the Company.

FURTHER RESOLVED, any third party dealing with the Mark Carlson may rely on the authority of Mark Carlson to bind the Company as a Managing Person of the Company. A third party shall not incur any liability for its reliance upon this consent that Mark Carlson shall have the authority to bind the Company as a Managing Peron of the Company.

FURTHER RESOLVED, the VP of the Company may be removed by the Manager of the Company at any time and for any reason by the Manager providing the VP with written notice of his/her removal as a VP of the Company.

FURTHER RESOLVED, that it is in the best interests of the Company to appoint Mark Carlson as the Vice President of Operations who shall have all the same rights and duties of a

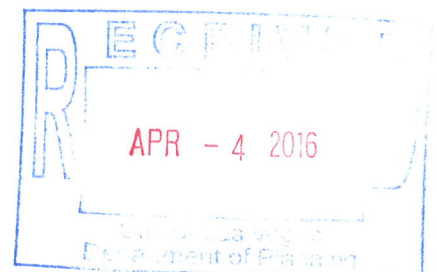


Managing Person as defined in the Operating Agreement except that the VP shall not have any authority to vote on or open bank accounts on behalf of the Company. In addition, the VP shall not have the authority to sign checks on behalf of the Company nor have a vote regarding any expenditures made on behalf of the Company or whether a check of the Company may be signed by a Managing Person on behalf of the Company.

DATED: September 1, 2015

DTP Mgmt, LLC, a Nevada limited liability
Company

By: 
Anthony Hsieh, Manager





DEPARTMENT OF PLANNING

STATEMENT OF FINANCIAL INTEREST

Case Number: **EOT-64070** APN: 139-34-612-056 and 139-34-612-027

Name of Property Owner: 899 Fremont, LLC

Name of Applicant: Fifth Street Gaming, LLC

Name of Representative: Dennis Gutwald, Attorney for Applicant

To the best of your knowledge, does the Mayor or any member of the City Council or Planning Commission have any financial interest in this or any other property with the property owner, applicant, the property owner or applicant's general or limited partners, or an officer of their corporation or limited liability company?

☐ Yes

☒ No

If yes, please indicate the member of the City Council or Planning Commission who is involved and list the name(s) of the person or persons with whom the City Official holds an interest. Also list the Assessor's Parcel Number if the property in which the interest is held is different from the case parcel.

City Official: Does not apply

Partner(s): Does not apply Does not apply

APN: Does not apply

BY: DTP Mgmt, LLC, its Manager

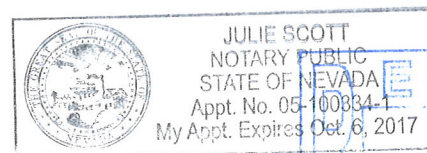
Signature of Property Owner: [Signature]

Print Name: MARK CARLSON, VP of Operations

Subscribed and sworn before me

This 28th day of March, 2016

[Signature]
Notary Public in and for said County and State



APR - 4 2016

March 31, 2016

Dennis C. Gutwald
Attorney at Law
702.464.7014 tel
702.382.8135 fax
DGutwald@bhfs.com

VIA HAND DELIVERY

Tom Perrigo
Planning Director
City of Las Vegas
Department of Planning
333 North Rancho Drive
Las Vegas, NV 89106

RE: Justification Letter for the Western Hotel & Casino

Dear Mr. Perrigo:

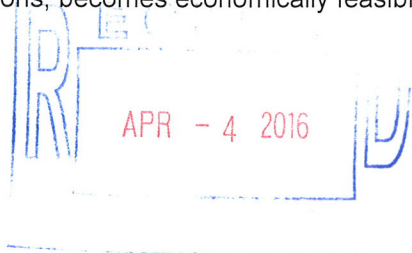
Please accept this justification letter submitted with and in support of an Application for Extension of Time ("AET") regarding the tavern land use rights at the property formerly known as the Western Hotel and Casino (the "**Western**"), located at 899 Fremont Street in a historic section of Downtown (APNs 139-34-612-056 and 139-34-612-027). The AET is being submitted to request an extension of the period of time that nonconforming tavern land use rights can be discontinued or abandoned before those rights are lost. The Western's nonconforming tavern rights will expire on September 16, 2016 if an extension of time is not granted.

With submission of the AET, corresponding State and City gaming license applications are being submitted so gaming can be operated (for 8 hours on September 8, 2016) to preserve the Western's nonconforming nonrestricted gaming land use rights (which otherwise would expire on September 16, 2016) and its nonconforming nonrestricted gaming license rights (which would otherwise expire on October 15, 2016).

Pursuant to Title 19.14.030.A.3.c. of the City Municipal Code (the "Code"), the Las Vegas City Council may extend the period of time that a nonconforming use is abandoned before the property must become conforming:

1. *If the extended abandoned period is a result of economic hardship*

The effects of the severe economic downturn that Downtown experienced still linger. While the Downtown economy is recovering, it has yet to reach pre-recession levels of business and the currently operating gaming establishments with their tavern operations are still not close to being utilized to capacity. Additional improvement in Downtown business must occur before opening or leasing the Western, as a nonrestricted gaming establishment with tavern operations, becomes economically feasible.



EOT-64070

100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
main 702.382.2101

014972\0009\12533139.2

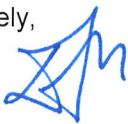
2. *Public health, safety and welfare will not be jeopardized by extending the period of abandonment that may occur before the property must become conforming*

The Western is located within a C-2 (General Commercial) zoning district, which allows for a tavern/casino license and liquor sales. Additionally, the subject property has a parking lot and parking garage adjacent to it, also owned by Western's owner. The Western has been well maintained and does not pose a threat to public health, safety, or welfare. Further, continuing the nonconforming gaming land use rights will assist in development of the site, and help maintain the property value of both it and its adjacent properties, with no ill affect since gaming is and will remain an integral part of Downtown. Because of the Western's location, its redevelopment will play a role in the revitalization of Downtown.

Based on the foregoing, we respectfully request your approval of the Western's request for an extension of time to preserve the grandfathered nonconforming tavern rights at the property.

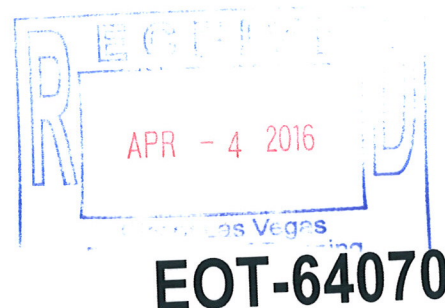
If you have any questions, please call me at (702) 464-7014 or e-mail me at dgutwald@bhfs.com. Thank you for your consideration of this request.

Sincerely,



Dennis Gutwald

DCG/dkh





**LAS VEGAS
CITY COUNCIL**

CAROLYN G. GOODMAN
MAYOR

STEVEN D. ROSS
MAYOR PRO TEM

LOIS TARKANIAN
RICKI Y. BARLOW
STAVROS S. ANTHONY
BOB COFFIN
BOB BEERS

ELIZABETH N. FRETWELL
CITY MANAGER

September 17, 2015

Mr. Andrew Donner
899 Fremont, LLC
PO Box 1570
Las Vegas, Nevada 89101

**RE: EOT-60638 - NON-CONFORMING USE - PUBLIC HEARING
CITY COUNCIL MEETING OF SEPTEMBER 16, 2015**

Dear Mr. Donner:

The City Council at a regular meeting held on September 16, 2015 **APPROVED** a request for a an Extension of Time FOR A NON-CONFORMING GAMING ESTABLISHMENT NON-RESTRICTED at 899 Fremont Street (APN 139-34-612-056 and 027) C-2 (General Commercial) Zone, Ward 3 (Coffin).

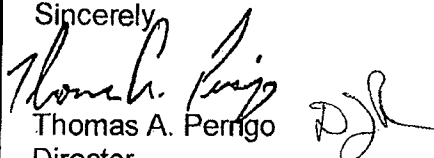
This approval is subject to the following conditions:

Planning

1. This request for an Extension of Time for a nonconforming Gaming Establishment, Non-restricted use located at 899 Fremont Street shall expire on September 16, 2016 unless another Extension of Time is approved by the City Council.

The Notice of Final Action was filed with the Las Vegas City Clerk on September 17, 2015.

Sincerely,


Thomas A. Perrigo
Director
Department of Planning

TAP:clb

cc: Mr. Joe Cain
Fifth Street Gaming, LLC
650 South Main Street
Las Vegas, Nevada 89106

Mr. Dennis Gutwald
BHFS
100 North City Parkway, Suite #1600
Las Vegas, Nevada 89106

2014 WINNER OF THE U.S. CONFERENCE OF MAYORS CLIMATE PROTECTION AWARD

CITY OF LAS VEGAS
DEPARTMENT OF PLANNING
DEVELOPMENT SERVICES CENTER
333 NORTH RANCHO DRIVE
3RD FLOOR
LAS VEGAS, NEVADA 89106

VOICE 702.229.6301
FAX 702.474.7463
TTY 7-1-1
www.lasvegasnevada.gov



/city of las vegas

EOT-64070



**LAS VEGAS
CITY COUNCIL**

CAROLYN G. GOODMAN
MAYOR

STEVEN D. ROSS
MAYOR PRO TEM

LOIS TARKANIAN
RICKI Y. BARLOW
STAVROS S. ANTHONY
BOB COFFIN
BOB BEERS

ELIZABETH N. FRETWELL
CITY MANAGER

September 17, 2015

Mr. Andrew Donner
899 Fremont, LLC
PO Box 1570
Las Vegas, Nevada 89101

Received

SEP 18 2015

Dennis Gutwald

**RE: EOT-60639 - NON-CONFORMING USE - PUBLIC HEARING
CITY COUNCIL MEETING OF SEPTEMBER 16, 2015**

Dear Mr. Donner:

The City Council at a regular meeting held on September 16, 2015 **APPROVED** a request for an Extension of Time FOR A NONCONFORMING LIQUOR ESTABLISHMENT (TAVERN) USE at 899 Fremont Street (APNs 139-34-612-056 and 027) C-2 (General Commercial) Zone, Ward 3 (Coffin).

This approval is subject to the following conditions:

Planning

1. This request for an Extension of Time for a nonconforming Liquor Establishment (Tavern) use located at 899 Fremont Street shall expire on September 16, 2016 unless another Extension of Time is approved by the City Council.

The Notice of Final Action was filed with the Las Vegas City Clerk on September 17, 2015.

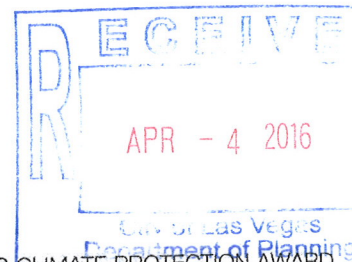
Sincerely,

Thomas A. Perrigo
Director
Department of Planning

TAP:clb

cc: Mr. Joe Cain
Fifth Street Gaming, LLC
650 South Main Street
Las Vegas, Nevada 89106

Mr. Dennis Gutwald
BHFS
100 North City Parkway, Suite #1600
Las Vegas, Nevada 89106



CITY OF LAS VEGAS
DEPARTMENT OF PLANNING
DEVELOPMENT SERVICES CENTER
333 NORTH RANCHO DRIVE
3RD FLOOR
LAS VEGAS, NEVADA 89106

VOICE 702.229.6301
FAX 702.474.7463
TTY 7-1-1
www.lasvegasnevada.gov



/city of las vegas

2014 WINNER OF THE U.S. CONFERENCE OF MAYORS CLIMATE PROTECTION AWARD

EOT-64070

Inst #: 201303140003001

Fees: \$19.00 N/C Fee: \$25.00

RPTT: \$71400.00 Ex: #

03/14/2013 01:45:05 PM

Receipt #: 1534491

Requestor:

CHICAGO TITLE OF NEVADA, D

Recorded By: RNS Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

GRANT, BARGAIN, SALE DEED

APN:

139-34-612-056

139-34-612-027

139-34-612-026

WHEN RECORDED RETURN TO:

1 Main St.

Las Vegas, NV 89101

Attn: Jonathan Jossel

1201 8/19 -JR

GRANT, BARGAIN, SALE DEED

T-WHR, LLC and T-Breo II, LLC, collectively as "Grantor," does hereby Grant, Bargain, Sell and Convey to 899 Fremont, LLC, as "Grantee," the real property in the County of Clark, State of Nevada (the "Land") described on Exhibit A attached hereto and incorporated herein by this reference, together with all and singular the tenements, hereditaments and appurtenances thereto belonging or otherwise appertaining.

SUBJECT TO:

1. General taxes for the current fiscal tax year.
2. All covenants, conditions, restrictions, reservations, rights, right-of-way and easements recorded against the Land prior to or concurrently with this Deed, and all other matters of record.

IN WITNESS WHEREOF, Grantor has caused its name to be affixed hereto and this instrument to be executed by its president thereunto duly authorized.

Dated as of March 13, 2013.

"GRANTOR"

T-WHR, LLC,

a Delaware limited liability company,

By: J-1

Is: MANAGER

JONATHAN JOSSEL

