

STAFF REPORT

Date: March 12, 2025

To: Mayor and City Council

Through: Jackie Bryant, City Manager

Subject: Staff Report (For Possible Action): Case No. LDC25-00022 (Oppidan 5MW Data Center) - Appeal of the Planning Commission's decision to deny a request for a conditional use permit to allow: 1) development of a data center, and 2) business operations between 11:00 p.m. and 6:00 a.m. The ± 7.02 acre site is located on the north side of North Virginia Street $\pm 2,470$ feet east of its intersection with Stead Boulevard. The site is zoned Industrial Commercial (IC) and has a Master Plan land use designation of Industrial (I). An appeal was filed by the applicant, CLOP Reno NV LLC. City Council may affirm, modify, or reverse the decision of the Planning Commission. [Ward 4]

From: Jeff Foster, Associate Planner

Department: Development Services - Planning

Summary:

This is a public hearing to consider an appeal of the Planning Commission's denial of a conditional use permit (CUP) to allow for development of a data center with 24-hour operations in the IC zone. The subject ± 7.02 acre site is located on the north side of North Virginia Street $\pm 2,470$ feet east of its intersection with Stead Boulevard. Key project issues analyzed include: 1) compatibility with surrounding uses, and 2) site design. The Planning Commission was unable to make the findings related to availability of public services and facilities to serve the project and granting the CUP not being materially detrimental to public health, safety, or welfare.

An appeal of the Planning Commission's decision has been filed by the applicant (**Exhibit A**) and is generally summarized below:

- CLOP Reno NV LLC appealed on the basis of the Planning Commission's decision being arbitrary and capricious while failing to adhere to the established criteria and findings required under the Reno Municipal Code.

Alignment with Strategic Plan:

Economic and Community Development

Previous Council Action:

There is no recent Council action relevant to this item.

Background:

A detailed project analysis is provided in the attached Planning Commission staff report (**Exhibit B**). The discussion is summarized below:

- Land use compatibility with surrounding uses was evaluated. This geographic area is generally characterized by industrial zoning and uses that would allow for 24-hour indoor operations by right. There is no nearby residential zoning, though there is a nonconforming mobile home park abutting the site. Construction, building and site design, and operational conditions were recommended for noise. The proposed use is generally compatible with existing land uses in the area.
- Specific design considerations regarding site layout, screening, building design, and landscaping were reviewed against development standards for the IC zoning district. As presented, the proposed development generally complies with zoning code standards for: streets, utilities, and services (RMC Chapter 18.04 Article 5); access, connectivity, and circulation (RMC Chapter 18.04 Article 6); off-street parking and loading (RMC Chapter 18.04 Article 7); landscaping, buffering, screening, and fencing (RMC Chapter 18.04 Article 8); site and building standards for nonresidential/employment districts (RMC Chapter 18.04 Article 11); exterior lighting (RMC Chapter 18.04 Article 13); and the data center use-specific standards [ADM24-00020].

The proposed project was reviewed by various City divisions and partner agencies. Comments received were incorporated into the staff report. Courtesy and public hearing notices were sent out to all property owners within 1,750 feet of the project, and a public notice sign was posted on the property. One opposition comment was received regarding data center energy use and the appropriateness of the proposed location for data center use. The applicant presented their project at the December 19, 2024, Ward 4 Neighborhood Advisory Board meeting. Public comment cards were received with questions about wildfires, power outages and solar energy.

Minutes from the Planning Commission hearing on January 15, 2025, are attached (**Exhibit C**). Eight members of the public spoke in opposition citing concerns related to water and energy usage, rate increases, solar energy, wildfire, employment generation, and a comprehensive review of how the City should analyze data centers and define use-specific standards.

Discussion:

Staff analyzed the potential impacts of the project in light of the Master Plan and the required

findings. Based on potential issues being mitigated through project design, code compliance, and conditions of approval, the staff report recommends approval. Many of the issues brought up by members of the public and Planning Commissioners are outside of the realm of staff's required analysis. Building code requires that new buildings be provided with power; providing sufficient power for the specific use is up to the applicant (the burden is on them prior to issuance of a building permit). Master Plan concurrency standards do not apply to energy needs; however, the general framework is that "...developers must demonstrate concurrency prior to issuance of building permits by the City." For water, the Master Plan states, "New development must demonstrate an adequate water supply system for domestic use plus fire protection before occupancy of each structure per Reno Municipal Code (RMC) and consistent with the Regional Water Management Plan."

Data centers continue to evolve and improve in many respects, including water usage. The project is estimated to use ± 8 acre feet of water annually, which would be the equivalent of eight to 16 average single family homes, based on statistics provided by the Truckee Meadows Water Authority and Water Education Foundation.

Financial Implications:

None at this time.

Legal Implications:

Legal review completed for compliance with City procedures and Nevada law.

Recommendation:

Staff recommends Council review the letter of appeal and Planning Commission action and affirm, modify, or reverse the Planning Commission's decision.

Proposed Motion:

Below are proposed motions with the findings for affirmation, modification, and reversal of the Planning Commission decision.

Motion to Affirm Planning Commission Decision

(Denying the appeal and denying the CUP)

Regarding the appeal of LDC25-00022 (Oppidan 5MW Data Center), based on Council's review of the staff report, the record on appeal, and information presented at the public hearing for this appeal, and based on my inability to make all the applicable findings, I move to AFFIRM denial of the conditional use permit by the Planning Commission and DENY the appeal. The City Clerk is instructed to prepare and file an order.

Motion to Modify Planning Commission Decision

(Affirming the appeal, reversing the Planning Commission decision, and modifying the conditions of the CUP)

Regarding the appeal of LDC25-00022 (Oppidan 5MW Data Center), based on Council's review of the staff report, the record on appeal, and information presented at the public hearing for this appeal, I move to AFFIRM the appeal, REVERSE the denial of the conditional use permit by the Planning Commission, and MODIFY the decision of the Planning Commission as follows

_____. *. As modified, I can make all of the required findings as listed in the staff report, and I move to APPROVE the conditional use permit subject to conditions stated in the Planning Commission staff report and as modified by Council. The City Clerk is instructed to prepare and file an order. *Modifications to the conditions of approval outlined in the Planning Commission staff report are: [List modifications]

Motion to Reverse Planning Commission Decision

(Affirming the appeal, reversing the Planning Commission decision, and approving the CUP)

Regarding the appeal of LDC25-00022 (Oppidan 5MW Data Center), based on Council's review of the staff report, the record on appeal, and information presented at the public hearing for this appeal, I move to AFFIRM the appeal, REVERSE the denial of the conditional use permit by the Planning Commission, and directly APPROVE the conditional use permit, based on my ability to make all the applicable findings. The City Clerk is instructed to prepare and file an order.

Findings:

General Review Criteria and Considerations: The decision-making body shall review all development applications for compliance with the applicable general review criteria stated below.

General Review Criteria: The decision-making body shall review all development applications for compliance with the applicable general review criteria stated below.

- 1) **Consistency with the Reno Master Plan:** The proposed development shall be consistent with the Reno Master Plan. The decision-making authority:
 - a. Shall weigh competing plan goals, policies, and strategies; and
 - b. May approve an application that provides a public benefit even if the development is contrary to some of the goals, policies, or strategies in the Reno Master Plan.

- 2) Compliance with Title 18: The proposed development shall comply with all applicable standards in this Title, unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal.
- 3) Mitigates Traffic Impacts: The project mitigates traffic impacts based on applicable standards of the City of Reno and the Regional Transportation Commission.
- 4) Provides Safe Environment: The project provides a safe environment for pedestrians and people on bicycles.
- 5) Rational Phasing Plan. If the application involves phases, each phase of the proposed development contains all of the required streets, utilities, landscaping, open space, and other improvements that are required to serve or otherwise accompany the completed phases of the project, and shall not depend on subsequent phases for those improvements.

Conditional Use Permit: In addition to meeting the criteria in Section 18.08.304(e), *Approval Criteria Applicable to all Applications*, the following findings shall be made prior to granting a conditional use permit:

- 1) The proposed location of the use is in accordance with the objectives of this Title and the purpose of the zoning district in which the site is located;
- 2) The proposed land use and project design is compatible with surrounding development;
- 3) The proposed land use and project design is consistent with applicable development standards;
- 4) Public services and facilities are available to serve the project, or will be provided with development;
- 5) The characteristics of the use as proposed and as may be conditioned are reasonably compatible with the types of use permitted in the surrounding area; and
- 6) The granting of the conditional use permit will not be materially detrimental to the public health, safety, or welfare. The factors to be considered in evaluating this application shall include:
 - a. Property damage or nuisance resulting from noise, smoke, odor, dust, vibration, or illumination; and
 - b. Any hazard to persons and property.

Attachments:

Case Maps

Exhibit A – Appeal

Exhibit B – Planning Commission Staff Report

Exhibit C – Planning Commission Minutes