

## STAFF REPORT

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**Date:** May 10, 2023

**To:** Mayor and City Council

**Thru:** Doug Thornley, City Manager

**Subject:** Staff Report (For Possible Action): Case No. LDC23-00035 (Green Acres Storage) Appeal of the Planning Commission's decision to approve a request for: 1) a conditional use permit to establish a 310-unit mini-warehouse facility comprised of seven buildings and RV storage; and 2) an alternative equivalent compliance to vary from site landscape requirements. The ±1.85 acre project site is located south of the terminus of Green Acres Drive. The project site is located within the Mixed-Use Suburban (MS) zoning district and has a Master Plan land use designation of Suburban Mixed-Use (SMU). An appeal was filed by Tony M. May of May Brock Law Group on behalf of their client David T & Judith L Harvey Trust. City Council may affirm, modify, or reverse the decision of the Planning Commission. This item was continued from the April 12, 2023 City Council meeting.

**From:** Carter Williams, Assistant Planner

**Department:** Development Services - Planning

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### Summary:

This is a public hearing to consider an appeal of the Planning Commission's approval of a conditional use permit and alternative equivalent compliance to allow for the construction of a 310-unit mini-warehouse facility and to vary from landscape and wall articulation requirements by providing for alternative site features. The project includes 310 self-storage units across eight buildings including indoor RV storage. This is a continuation from the April 12, 2023 Regular City Council meeting.

The proposed use is allowed only with the approval of a conditional use permit in the Mixed-Use Suburban (MS) zoning district. The MS zone requires a minimum of 20 percent of the site to be landscaped and the applicant proposes to meet ±91.5 percent of the requirement counting the vertical area of a living landscape fence facing the freeway. This fence element provides additional screening that would otherwise not be required. Five wall articulation design elements are required facing Green Acres Drive, and four are proposed along with an expanded landscape area, pedestrian amenities, and varied architectural features on the building and screen wall. The

±1.85 acre site consists of a single parcel located south of the terminus of Green Acres Drive. An appeal of the Planning Commission's decision has been filed, and is described below:

- Tony M. May of May Brock Law Group appealed on behalf of their client David T & Judith L Harvey Trust citing concerns regarding access to a portion of their clients property, impacts on their clients on-site well, impacts on the floodplain, civil disputes regarding property lines and easements of the subject parcel, and the impacts on the visibility of the existing off-premises advertising display located on their clients property.

Council may affirm the Planning Commission's decision and deny the appeal, approve the appeal and modify the conditions of approval, or approve the appeal and deny the conditional use permit and alternative equivalent compliance.

**Alignment with Strategic Plan:**

Economic and Community Development

**Previous Council Action:**

At the April 12, 2023 Council meeting, the Reno City Council considered this request. Three failed motions were made and are summarized below:

- A motion was made by Councilmember Duerr, seconded by Councilmember Taylor, to affirm the approval of the conditional use permit and alternative equivalent compliance and deny the appeal. The motion failed three to three.
- A motion was made by Councilmember Brekhus, seconded by Councilmember Duerr, to modify the decision of the Planning Commission by adding an additional condition to render the Flood Zone A Hazard Area non-buildable. The motion failed three to three.
- A motion was made by Councilmember Taylor, seconded by Councilmember Martinez, to affirm the approval of the conditional use permit and alternative equivalent compliance and deny the appeal. The motion failed three to three.

Per Reno City Council rule 8.12, an action item is continued to a following regular meeting of the City Council after three failed motions and after concurrence with the respondent and the appellant. The item was continued, date certain to the May 10, 2023 City Council meeting.

**Discussion:**

A detailed project analysis is provided in the attached Planning Commission staff report. The Planning Commission discussion is summarized in the following points:

- Concerns regarding the flood zone were observed as being mitigated by conditional and code requirements demonstrating buildings will not be constructed in the flood plain and

will not further impact adjacent properties with flood waters with the development of the site.

- The easement concerns raised at the hearing were regarded as a civil issue between the individual property owners.
- Generally no concerns were raised about the use of the site as a mini-warehouse facility or the alternative measures proposed to justify the reduction in landscape area or wall articulation requirements.

Minutes from the February 15, 2023 Planning Commission public hearing are attached. The appellant's representative spoke during public comment but no other concerns specific to the project were received at the Planning Commission hearing. Concerns were raised at the January 24, 2023 Ward 2 Neighborhood Advisory Board (NAB) meeting that included building height and the project's proximity to the freeway.

**Planning Commission Vote:**

Motion for Approval: seven in favor; none opposed

**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 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 approving the conditional use permit and alternative equivalent compliance)

Regarding the appeal of LDC23-00035 (Green Acres Storage), 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 ability to make all of the findings, I move to AFFIRM approval of the conditional use permit and alternative equivalent compliance by the Planning Commission and DENY the appeals. The City Clerk is instructed to prepare and file an order.

***Motion to Modify Planning Commission Decision***

(Affirming the appeal and modifying the conditions of the conditional use permit and alternative equivalent compliance)

Regarding the appeal of LDC23-00035 (Green Acres Storage), based on this Council's review of the staff report, the record on appeal, and information presented at the public hearing, I move to AFFIRM the appeal 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 and alternative equivalent compliance subject to conditions stated in the Planning Commission decision letter and as modified by City 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 deny the conditional use permit and alternative equivalent compliance)

In regards to the appeals of LDC23-00035 (Green Acres Storage), based on this Council's review of the staff report, the record on appeal, and information presented at the public hearing, I move to AFFIRM the appeal, REVERSE the approval of the conditional use permit and alternative equivalent compliance by the Planning Commission, and directly DENY the conditional use permit and alternative equivalent compliance, based on the inability to make all the applicable findings. The City Clerk is instructed to prepare and file an order.

***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 and application that provides a public benefit even if the development is contrary to some of the foals, 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.

***Alternative Equivalent Compliance:*** 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 alternative equivalent compliance pursuant to RMC 18.08.803(d):

- (1) Achieves the intent of the subject standard to the same or better degree than the subject standard;
- (2) Advances the goals and policies of this Title to the same or better degree than the subject standard;

- (3) Results in benefits to the community that are equivalent to or exceed benefits associated with the subject standard;
- (4) Imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this Title; and
- (5) Is not be materially detrimental to the public health, safety, or welfare.

**Attachments:**

Appeal

Planning Commission Staff Report

Planning Commission Minutes

Public Noticing

I.1 Harvey Trust Presentation

I.1 Green Acres Storage Appeal (LDC23-00035) Memo to Council

I.1 LDC23-00035 Green Acres Storage Public Comment (Monday 4-10-23 Dist)

I.1 LDC23-00035 Appeal Staff Presentation

I.1 LDC23-00035 Green Acres Storage Public Comment (Tuesday 4-11-23 Dist)

I.1 UPDATED LDC23-00035 Appeal Staff Presentation

I.1 LDC23-00035 Green Acres Storage Public Comment (Final Dist)