

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

August 22, 2023

FROM

MARK WARDLAW, Director, Land Use Services Department

SUBJECT

Platinum Storage Facility Appeal

RECOMMENDATION(S)

PUBLIC HEARING CLOSED AND CONTINUED FROM TUESDAY, AUGUST 8, 2023, ITEM NO. 66

1. Conduct a public hearing to consider an appeal of a Planning Commission action approving a variance and Conditional Use Permit for a mini-storage facility on approximately 1.47 acres.
 - Appellant: Ted and Laurie Shelton
 - Applicant: Platinum Storage Group
 - Community: Lake Arrowhead
 - Location: South side of Highway 189, approximately 500 feet east of the intersection of North Bay Road and Highway 189
2. Deny the appeal and take the following actions for the Conditional Use Permit and variance for a mini-storage facility approval:
 - a. Adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program.
 - b. Adopt the findings as contained in the Planning Commission staff report for the approval of the variance and Conditional Use Permit.
 - c. Approve the variance to increase the maximum floor area to lot area ratio from 0.5:1 to 1.13:1, subject to the Conditions of Approval.
 - d. Approve the Conditional Use Permit for a 59,855 square-foot mini-storage facility on approximately 1.47 acres, subject to the Conditions of Approval.
 - e. Direct the Clerk of the Board of Supervisors to file and post the Notice of Determination.

(Presenter: Mark Wardlaw, Director, 387-4431)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Create, Maintain and Grow Jobs and Economic Value in the County.

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary Funding (Net County Cost). Sufficient appropriation and revenue to complete this action have been included in the Land Use Services Department, Planning Division (LUS) 2023-2024 Budget. All costs of processing this application are paid by Ted and Laurie Shelton (Appellant) and Platinum Storage Group (Applicant).

BACKGROUND INFORMATION

This item includes an appeal of a Planning Commission action approving a Conditional Use Permit (CUP) for a 59,855 square-foot mini-storage facility with a variance to increase the maximum floor area ratio requirements (usable floor area) from 0.5:1 to 1.13:1 on approximately 1.47 acres (Project). The Project is located on the south side of Highway 189, east of the intersection of North Bay Road and Highway 189.

A thorough discussion analyzing the requested variance and CUP from the perspective of site planning, Countywide Plan/Policy Plan consistency, code compliance, and environmental analysis are contained in the staff report to the Planning Commission, dated April 6, 2023, and included in the documents attached to this item.

In accordance with the California Environmental Quality Act (CEQA), an Initial Study was prepared to identify potential impacts the Project may have on the environment. The Initial Study concludes that all potential significant impacts resulting from the construction and operation of the Project can be mitigated and reduced to a less than significant level. Therefore, the recommendation includes the adoption of a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program.

The Project was considered in a public hearing by the Planning Commission on April 6, 2023. One individual attended the hearing and spoke in opposition to the Project. Written comments were provided in response to the Project and CEQA notices and also provided to the Planning Commission. The Planning Commission approved the Project by unanimous vote of 4-0 with the 5th District Commissioner absent.

On April 11, 2023, adjacent property owners, the Appellant, appealed the Planning Commission's approval of the Project. The reasons for the appeal are set forth in Appellant's appeal application and included in the documents attached to this item. A summary of the Appellant's arguments and LUS responses are as follows:

1. Appellant Argument: The Project has overlooked the need to protect old growth trees at the top of the slope that separates the Project site from the Appellant's property. The potential removal of the old growth trees would adversely affect Appellant's view.

LUS Response: The Appellant authorized the preparation of an arborist report. The report itself concludes that the trees would not be rendered hazardous if appropriate caution is taken. The report does not, however, contest that the development standards required by the Project's conditions, including compliance with countywide grading, setbacks and development standards, are not sufficient or appropriate to protect the trees. There is no substantial evidence in the record that the Project would negatively impact the old growth trees.

The Project's building height does not exceed the maximum height limits established for the zoning designation and the potential removal of the trees, if needed, would not result in a significant impact. A rendering of the Appellant's view of the Project site is included in the Planning Commission Staff Report.

2. Appellant Argument: The slope around the edge of the Project site has been subject to erosion and previously resulted in the collapse of an access road on private property.

LUS Response: The Project has been reviewed and conditioned by the County Geologist. Staff is aware of the current slope condition and the Project's design features will need to comply with countywide development standards, including, but not limited to, hillside grading and slope stability. The Applicant will be required to submit the appropriate studies that will

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require additional review and approval by LUS Staff prior to issuance of any permit authorizing ground disturbance or constriction at the Project site.

3. Appellant Argument: The Project consists of two separate parcels, one of which was zoned for single family for many years and is also subject to a private restriction that restricts the use of the property for commercial use.

LUS Response: With the adoption of the Countywide Plan in 2020, the Project site is designated commercial. The smaller of the two parcels, referenced by the Appellant, has been zoned commercial since 1987. Regarding the allegation of a private use restriction, the County's land use authority is not subject to, or limited by, private restrictions such as covenants, conditions and restrictions (CC&Rs). CC&Rs consist of a private agreement between the respective homeowners that are enforced, or potentially waived, by members of the association or the association itself.

4. Appellant Argument: The building height was allowed due to the factoring in of the existing slope, which will have the effect of blocking the sunlight from the adjoining home. The proposed height of the retaining wall along Highway 189 is dangerous.

LUS Response: Staff has evaluated the pad elevation of the adjoining residence as compared to the height of the Project. The building will not exceed the maximum height limits established for the zoning designation and does not result in a significant impact.

The location of the wall has been designed to increase visibility for vehicles entering and exiting the site. The ultimate design of the wall within the highway right-of-way will need to be reviewed and approved by the California Department of Transportation (Caltrans).

5. Appellant Argument: The construction and operation of the facility does not comply with any of the regularly enforced building codes. The length of time Highway 189 will need to be closed to complete construction was not identified.

LUS Response: The Project will be required to comply with all applicable codes, including building codes. Staff is not aware of the future roadway construction schedule. The Project applicant will need to obtain approval from Caltrans for their design, construction schedule, and any traffic management criteria.

6. Appellant Argument: The environmentally friendly regulations contained in the County's Policy Plan were not reflected in this Project.

LUS Response: The Appellant does not cite any specific policy that conflicts with the Project. A project is consistent with the Policy Plan if, considering all its aspects, it will further the objectives and policies and will not inhibit or obstruct their attainment. Here, the site is substantially disturbed due to prior commercial use. Most of the site was previously cleared, with trees and shrubs around the perimeter of the site. The proposed findings conclude that the future development of the site would be consistent with the County's Policy Plan.

7. Appellant Argument: The Appellant was only allowed three minutes to speak before the Planning Commission.

LUS Response: The public's participation at the public hearing was conducted in accordance with state and local laws.

This item was continued from the July 25, 2023 (Item No. 72), Board of Supervisors (Board) meeting. On July 24, 2023, LUS staff received a letter from the California Department of Fish

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and Wildlife (CDFW) expressing concerns about the notification and availability of the proposed MND and biological assessment prepared for the Project. Upon further review, LUS confirmed that notification and posting were completed in compliance with State law and County procedures. CDFW also recommends additional Mitigation Measures be included to address potential impacts to biological resources. LUS determined that the Mitigation Measures and Conditions of Approval already proposed for the Project adequately address CDFW's concerns and will ensure the Project will have a less than significant impact on biological resources. The CDFW letter and detailed responses are included as an attachment to this item.

On August 8, 2023 (Item No. 66) the Board conducted a public hearing to consider the appeal and to take action on the Project. At the meeting, the Appellant submitted documents to the Board that included property related information, photos of trees along the adjoining property line, and a letter from a Certified Arborist recommending modifications to the Project that would address Appellant's concerns related to tree preservation. After closing the public hearing, the item was continued with direction to evaluate the recommendations in the letter relative to tree preservation, as well as further evaluate potential traffic safety concerns.

Upon further review, the letter provided by the Appellant includes the same report submitted to the Planning Commission and addressed in Appellant Argument No. 1, above. Specifically, the report recommends the avoidance of any physical improvement from being constructed within 12 feet horizontally from any tree. Based upon survey information provided by the Applicant demonstrating the location of trees six inches or greater in size that are to remain after construction, no trees within this distance would be affected by the Project. Further, LUS has confirmed that traffic would be improved from existing conditions as a result of implementing improvements conditioned by the County and Caltrans.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Jason Searles, Supervising Deputy County Counsel, 387-5455) on August 14, 2023; Finance (Penelope Chang, Administrative Analyst III, 387-5412) on June 30, 2023; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on July 1, 2023.

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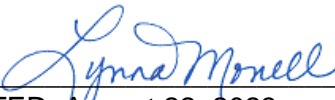
Record of Action of the Board of Supervisors
San Bernardino County

Hearing Opened
Public Comment: None
Hearing Closed

APPROVED

Moved: Jesse Armendarez Seconded: Curt Hagman
Ayes: Jesse Armendarez, Curt Hagman, Joe Baca, Jr.
Nays: Dawn Rowe
Absent: Col. Paul Cook (Ret.)

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: August 22, 2023



cc: LUSD - Wardlaw w/ NOD & Rec.
File - LUSD/Planning Appeals w/ attachments
JLL 08/25/2023