

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: **01/26/2009**

Item No.: 12.e

Department Approval

City Manager Approval



Item Description: Request by Joel McCarty (Old Dominion Freight Line) and Cent Ventures 2 for an **Interim Use Permit** to allow the temporary storage of trailers on a portion of the property at 2750 Cleveland Avenue (**PF09-001**)

**1.0 REQUESTED ACTION**

1.1 Mr. Joel McCarty- Old Dominion Freight Line (property owner) and Cent Ventures 2 are requesting an INTERIM USE PERMIT to allow storage of semi-truck trailers on the remaining portion of the Old Dominion parcel in accordance with §1012.09 (Interim Uses) of the City Code.

**Project Review History**

- Application submitted and determined complete: December 24, 2008
- Sixty-day review deadline: February 15, 2009
- Public Open House: December 23, 2008
- Project report recommendation: January 7, 2009
- Anticipated Planning Commission action: January 7, 2009
- Anticipated City Council action: January 26, 2009

**2.0 PLANNING COMMISSION RECOMMENDATION**

2.1 At the duly noticed public hearing on January 7, 2009, the Roseville Planning Commission voted (7-0) to recommend approval of the INTERIM USE PERMIT, subject to revised conditions. The Roseville Planning Division concurs with the Commission's recommendation.

**3.0 SUGGESTED CITY COUNCIL ACTION**

3.1 ADOPT a RESOLUTION, APPROVING the requested INTERIM USE PERMIT, pursuant to §1012.09 (Interim Uses) of the City Code, subject to the conditions listed in Section 7( please see Section 8 of this report for the detailed action).

## 4.0 BACKGROUND

4.1 The Old Dominion Freight Line property at 2750 Cleveland Avenue is located within the Twin Lakes Redevelopment Area and has a current Comprehensive Land Use Map designation of BP, Business Park.

4.2 In 2008, the City of Roseville began the process to update the Roseville Comprehensive Plan as required by the Metropolitan Council System Statement. This process, which is anticipated to conclude in the first quarter of 2009, seeks a land use designation change for the Twin Lakes Redevelopment Area to Community Mixed Use.

4.3 The Old Dominion parcel has an existing zoning designation of Mixed Use Business Park, B-6 (Metro Transit property) and General Industrial, I-2 (remainder).

4.4 The 2008 update to the Comprehensive Land Use Map will require zoning changes for a number of properties throughout Roseville in order meet State Statute requirements of consistency between zoning and land use designations. The Twin Lakes Redevelopment Area will be one area that will see a zoning change for all current designations to a zone consistent with the Community Mixed Use designation.

4.5 Section 1007.03 (I-2, General Industrial Districts) of the Roseville City Code, identifies specific storage allowances. Subsection B reads as follows:

### *B. Storage:*

- 1. Within Enclosed Structure: The following storage shall be conducted wholly within an enclosed structure:*
  - a. Inoperative equipment, with "inoperative" being interpreted to mean a state of malfunction, physical deterioration or some other physical condition rendering the equipment incapable of being properly utilized for its intended purpose and in need of repairs, disposal or replacement.*
  - b. Inoperative vehicles, with "inoperative" being interpreted to mean a state of malfunction, deterioration or other physical condition rendering the vehicle incapable of movement under its own power. Such vehicles would include those involved in accidents, awaiting engine repairs, in need of body repair or painting and similar conditions.*
- 2. Within Solid Opaque Wall Or Fence: The following storage shall be conducted wholly within an area enclosed by a solid opaque wall or fence no less than eight (8) feet in height and only in a I-2 General Industrial District:*
  - a. Building materials and lumber sales.*
  - b. Areas used for rental yards.*
  - c. Machinery sales, and bulk firewood sales.*
  - d. Dirt, sand, gravel and rock sales.*
  - e. Heavy equipment sales. (Ord. 537, 5-8-1967)*
  - f. Construction equipment. (1990 Code)*

4.6 Semi-truck trailers are not listed as a permitted storage use, unless as a component of an approved Motor Freight Terminal (approved Conditional Use Permit required). Thus, outdoor storage of semi-truck trailers has been determined to be prohibited and can only be accommodated with the requested INTERIM USE PERMIT (IUP).

4.7 As a result of receiving a grant from Metropolitan Council and in anticipation of future redevelopment, the existing buildings on the Old Dominion piece were torn down this fall, so there is no longer the possibility of resuming the motor freight terminal use on the property.

## 5.0 INTERIM USE PERMIT APPLICATIONS

5.1 Section 1012.09 (Interim Uses) of the City Code establishes the regulations pertaining to INTERIM USE PERMITS.

- a. Section 1012.09A states: *The City Council may authorize an interim use of property. Interim uses may not be consistent with the land uses designated on the adopted Land Use Plan. They may also fail to meet all of the zoning standards established for the district within which it is located.*
- b. Section 1012.09B states: *The City Council may attach conditions to Interim Use Permits. In reviewing Interim use Permit applications, the City will establish a specific date or event that will terminate the use on the property. The Council will also determine that the approval of the interim use would not result in adverse effects on the public health, safety, and general welfare, and that it will not impose additional costs on the public if it is necessary for the public to take the property in the future.*

## 6.0 STAFF COMMENTS/RECOMMENDATION

6.1 The IUP request is prompted by the current challenges in the economy. Although Cent Ventures is in a contractual agreement with Old Dominion to purchase the parcel, the current tight credit market and the recession have delayed the potential redevelopment of the property. Besides the recently approved Metro Transit project, the Planning Division is not currently aware of any other Twin Lakes development projects that will occur in 2009 except for anticipated infrastructure improvements for Iona Lane and portions of Mount Ridge Road and Twin Lakes Parkway.

6.2 The Planning Division understands the challenges of the current redevelopment climate. However, the Planning Division sees the Twin Lakes Redevelopment Area, specifically in this location, as a highly visible land area and therefore any action on this request must weigh the impact of continuing the use of storing semi-trailers on the property on the ability to attract potential projects elsewhere in Twin Lakes.

6.3 The Development Review Committee (DRC) had the following comments:

- a. The Police Department had no concern about the particular request but is concerned about the potential of break-ins to the trailers stored on site. There were some thefts this past summer. While it would not prevent a determined thief, the Police Department would like for the property owner to monitor the maintenance of the security fence currently in place to make sure that the property is as secure as possible.
- b. The Fire Department did not have any issues with the IUP request as long as there was not any truck repair or maintenance on site and that there would be no hazardous material stored on the site or within the trailers.

- c. The Public Works Department had the following comments:
- When the buildings were demolished, the County, due to the time of the year, would not let the contractor dig into Cleveland Ave. As a result, the services were not disconnected at the main. These sewer and water services need to be disconnected at main by June 15, 2009.
  - Washing of trailers should be prohibited on site.
  - Parking of trailers should be limited to the existing areas on site where there is asphalt, gravel or concrete.
  - Fuel Tanks should be prohibited on site.
  - Any paving or major maintenance of the existing parking lot will require the addition of storm water best management practices to meet the City's storm water quality and volume reduction requirements

6.4 The Planning Division supports the temporary storage of semi-truck trailers in a limited capacity, such as regulating the number of trailers stored and limiting the duration to no more than two years from the time of approval. The recommendation forwarded to the Planning Commission on January 7, 2009 included 8 conditions of approval.

## **7.0 PLANNING COMMISSION ACTION**

7.1 On January 7, 2009, the Roseville Planning Commission held the duly noticed public hearing regarding the McCarthy/Cent Ventures INTERIM USE PERMIT request. No citizens were present to address the Commission, however the applicant and the property owner's legal counsel were present to address the Commission.

7.2 The Cent Ventures representative sought clarification on what could be stored on the premises, in light of the fact that the application indicated the allowance of storage, not just specific to truck trailers. The property owner's representative also sought clarification on the allowance of shipping containers as a storage option and sought a term of five years instead of the two years recommended by staff.

7.3 The Planning Commission took the two items under consideration and began discussing the proposal and potential impacts that shipping containers could present; whether such items could be screened; what other sort to items could potentially be stored on the premises; and what time line was in the best interest of the City.

7.4 The Commission indicated concerns over stacking abilities of shipping containers as well as the number (225) being sought by the applicants. It was noted (by applicants) that due to construction of Metro Transit's park and ride facility, few if any trailers/containers could be stored on the site given the projects construction.

7.5 As the Commission debated a recommendation, the City Planner provided staff's perspective on the proposal, stating that in staff's opinion there is not a difference between a single trailer and a single container – they are virtually the same. He added that the issue is whether containers are stacked, and indicated that staff would not support stacking of containers. He provided the Commission with a possible condition the allowed trailers and un-stacked shipping containers on the premises.

- 147 7.6 The Roseville Planning Commission recommended approval of the request for an  
148 INTERIM USE PERMIT for up to 225 semi-truck trailers and un-stacked containers for a  
149 period of three years and subject to the following conditions:
- 150 a. There shall not be any truck/trailer maintenance, washing or repair on the  
151 property.
  - 152 b. Fuel tanks shall not be located on the site.
  - 153 c. Hazardous material shall not be stored on the property.
  - 154 d. The property owner shall maintain the security fence in a manner that will  
155 reasonably secure the site from trespassing and theft.
  - 156 e. City sewer and water services into Cleveland Ave. from the property shall be  
157 disconnected at main by June 15, 2009.
  - 158 f. Parking of trailers and containers shall be limited to the existing areas on site  
159 where there is asphalt, gravel or concrete.
  - 160 g. Any paving or major maintenance of the existing parking lot will require the  
161 addition of storm water best management practices to meet the City's storm water  
162 quality and volume reduction requirements.
  - 163 h. Access to this site shall be through Cleveland Avenue only;
  - 164 i. Storage shall consist of only empty trailers and/or empty containers (known as  
165 land/sea storage/shipping containers).
  - 166 j. No other outside storage shall be allowed.
  - 167 k. At the expiration or the termination of the Interim Use, or after any extension  
168 thereof, any future use of the property shall be conforming to the Roseville  
169 Comprehensive Land Use Plan and the City Code.
  - 170 l. The INTERIM USE PERMIT shall be valid from the day after it is approved by the  
171 City Council and expire three years from that date.

172 **8.0 SUGGESTED CITY COUNCIL ACTION**

- 173 8.1 **ADOPT a RESOLUTION APPROVING an INTERIM USE PERMIT** for Joel McCarthy  
174 (property owner) and Cent Ventures 2, for a portion of the property at 2750 Cleveland  
175 Avenue, based on the comments in Section 6 and the conditions of Section 7 of the  
176 project report dated January 26, 2009.

177  
**Prepared by:** City Planner Thomas Paschke

Attachments:

A: Area map

B: Aerial photo

C: Narrative

D: Open House Summary

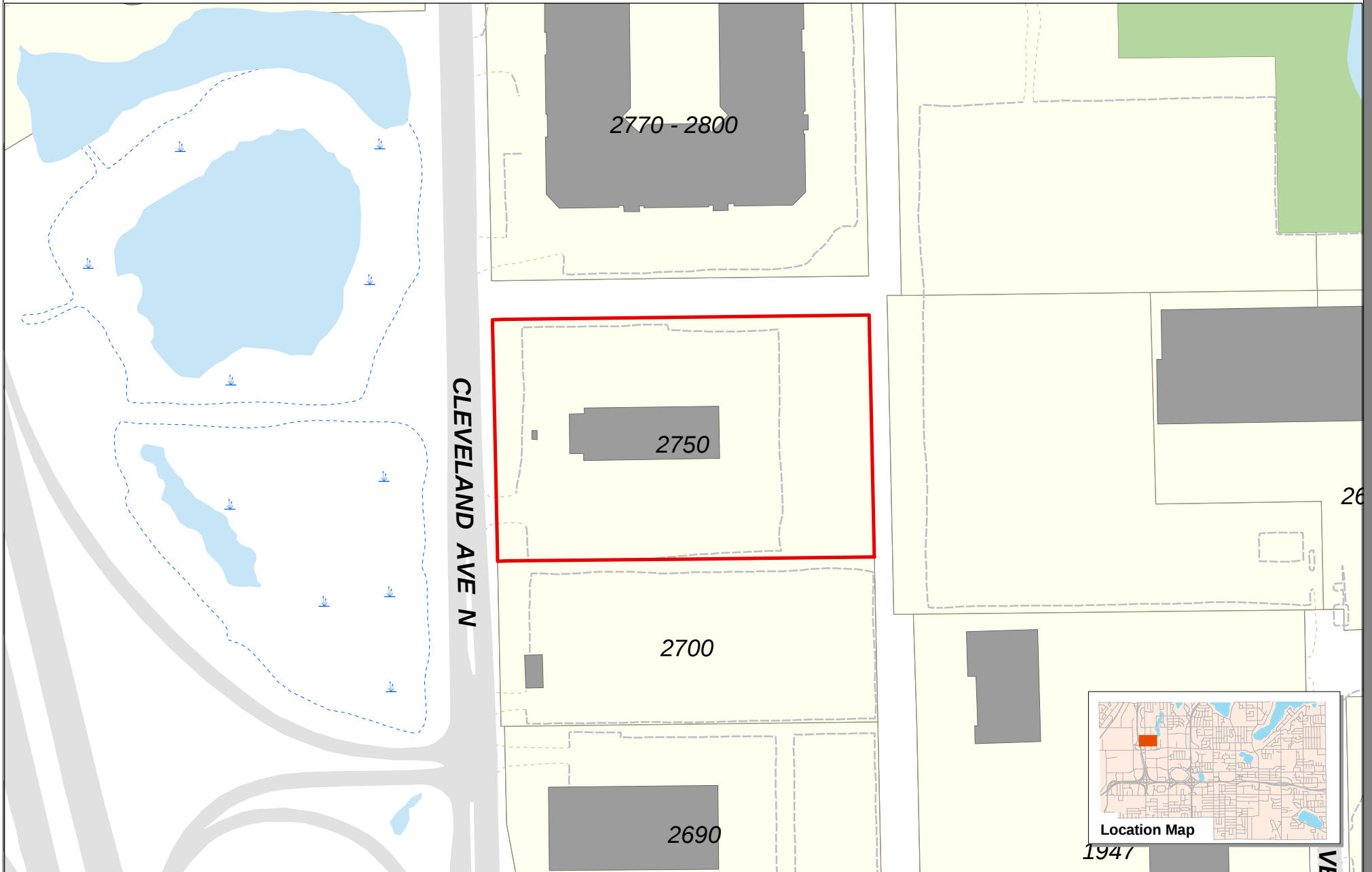
E: PC Minutes

F: Exhibit showing location of trailer storage area.

G: Resolution

H: Email Attachments

# Attachment A: Location Map for Planning File 09-001



Prepared by:  
Community Development Department  
Printed: August 22, 2008



**Site Location**

LR / R1 Comp Plan / Zoning  
Designations

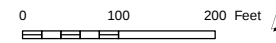
## Data Sources

\* Ramsey County GIS Base Map (8/4/2008)

For further information regarding the contents of this map contact:  
City of Roseville, Community Development Department,  
2660 Civic Center Drive, Roseville MN

## Disclaimer

This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.03, Subd. 21 (2000), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.



mapdoc: planning\_commission\_location.mxd

## Attachment B: Aerial Map of Planning File 09-001



Prepared by:  
Community Development Department  
Printed: August 22, 2008



Site Location

### Data Sources

\* Ramsey County GIS Base Map (8/4/2008)

\* Aerial Data: Ramsey County and Martinez Corp (4/2006)

For further information regarding the contents of this map contact:  
City of Roseville, Community Development Department,  
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0 50 100 Feet



12/09/2008

## **Narrative In Support of the Interim Use Permit Application**

### **Applicant**

Old Dominion Freight Line, Inc & Cent Ventures 2  
Contacts: Joel McCarty esq. & Thomas Noble

For Property Located at 2750 Cleveland Avenue

This narrative is in support of the Interim Use Permit application. The narrative addresses, among other things, the questions posed in the City's Interim Use Application.

**Existing conditions:**

The 5.16 – acre parcel is currently used for parking and storage. The property is relatively flat and had, until recently, two structures related to this use which are currently being removed.

The site is bordered by Cleveland Avenue on the west, the proposed Iona Lane on the north and the proposed Mount Ridge Road on the east. The City has recently approved seeking bids for the construction of Mount Ridge Road and a portion of Twin Lakes Parkway. If approved construction of Mount Ridge Road and a portion of Twin Lakes Parkway could commence in the year 2009.

The existing Building, Weigh Station and Weigh Station Building are being, or about to be, removed. Removal was approved by the City and is being managed by Braun and Veit companies. Removal of the structures is expected to be completed by the end of December 2008.

**Proposal:**

In September of 2007 the City hosted an open house for parties interested in the Twin Lakes Development area. Representatives of the Metropolitan Transit Commission ("MTC") attended the meeting and were introduced to Cent Ventures 2 ("CV2"). CV2 is under contract to purchase the property from Old Dominion Freight Lines, Inc ("OD").

MTC, at the 2007 meeting, presented a concept for a Park and Ride facility they wanted to construct near Interstate 35W in Roseville. Since then MTC, CV2, OD and the City have worked together to provide MTC with a location suitable to their needs that is consistent with the City's plans for the area and the community's needs in general. MTC has sought and obtained approvals for its Park and Ride facility from the City. The Park and Ride will be a multi level structure for more the 400 cars to be built on a portion of the site of approximately 1.3 acres. MTC will require temporary access across the site until Mount Ridge Road and Twin Lakes Parkway are completed to the extent necessary to serve their facility.

MTC's Park and Ride requires delineation of approximately 1.3 acres of the northeast corner of the parcel. The remainder of the parcel continues to be used by Old Dominion for storage and parking and CV2 wishes to purchase that portion of the parcel and pursue development. In order to complete the sale to the MTC the parcel will be divided in to the pieces depicted in Exhibit B-2. The MTC will use that portion of the parcel labeled Lot 1 and the remainder, labeled Outlot A, Old Dominion will use, as it has, for storage and trailer parking.

Upon the division of the land the MTC will Lot 1 for their Park and Ride facility. We request approval of this application so OD and CV2 can rely on the continued use of the balance of the property.

**Impact on Traffic:**

MTC has addressed any traffic impact within their study and approvals. The use shall continue as it is so no change will result to the balance of the property.

**Impact on parks, streets, and other public facilities:**

No changes to the current use are requested so no impact will result. The MTC's Park and Ride facility has independently addressed its impact for that portion of the site to be purchased for the Park and Ride.

**Compatibility of the proposed site plan, internal traffic circulation, landscaping, and structures with contiguous properties:**

No changes are requested of the internal circulation or landscape of the site. The existing structures are being removed and there are no contiguous properties with structures.

**Impact of the proposed use on the market value of the contiguous properties:**

The use remains the same – storage and trailer parking so no change in the value will occur as a result of this approval. The parcel's size will be reduced from 5.16 acres to approximately 3.86 acres. It is possible the completed MTC Park and Ride structure will improve interest in development in this area.

**Impact of the proposed use on the public health, safety, and general welfare:**

The delineation of the site to create the 1.3 acre parcel for the MTC's Park and Ride Facility is beneficial to the public's health, safety and general welfare. Public transportation is a key component of the City, County and State's goals for future development. Access to parking for public transportation is of great value to the local community in the reduction of local and state traffic congestion and levels as well as reducing air pollution. This is an excellent example of City, State and Federal cooperation to address the public's needs and welfare.

**Compatibility of the proposed use with the City's comprehensive plan:**

The proposed use of parcel sold to MTC is consistent with the City's comprehensive plan of BP – (B6) zoning. The remainder of the parcel may benefit from the MTC's development by increased interest in redevelopment of the parcel and the assistance they will provide to the proposed completion of Mount Ridge Road and Twin Lakes Parkway. The use approval requested is the same as is currently enjoyed by the property.

**OPEN HOUSE SUMMARY**

**CENT VENTURES 2/ OLD DOMINION FREIGHT LINE, INC.  
INTERIM USE PERMIT APPLICATION**

**MEETING DATE AND TIME:** December 23, 2008, 6:00 p.m.

**LOCATION:** City of Roseville City Hall, Willow Room

**ATTENDEES:**

John Livingston on behalf of Cent Ventures 2.

James Walston on behalf of Old Dominion Freight Line, Inc.

Lindsay Sheppard on behalf of Met Council.

Other Attendees: None.

**SUMMARY:**

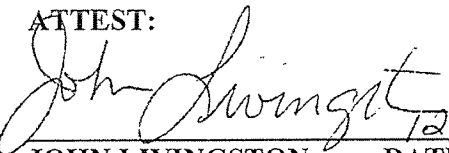
The Open House was convened at 6:00 p.m. by John Livingston. Mr. Livingston made available the proposed plat of Twin Lakes Addition as well as other maps and handouts relating to the Metro Transit project and the proposed interim and future use of the subject property.

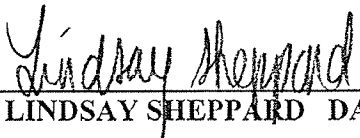
Lindsay Sheppard was on hand to answer questions about the Park and Ride facility to be constructed on the NE portion of the subject property.

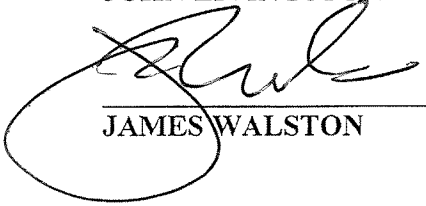
James Walston was on hand to answer questions relative to the proposed interim use of the subject property.

The meeting was adjourned at 7:15 p.m.

**ATTEST:**

  
\_\_\_\_\_  
JOHN LIVINGSTON      DATE 12/23/08

  
\_\_\_\_\_  
LINDSAY SHEPPARD      DATE 12/29/08

  
\_\_\_\_\_  
JAMES WALSTON      DATE 12/29/08

1           a.     **PLANNING FILE 09-001**  
2               **Request by Old Dominion Freight Line, Inc. for approval of an INTERIM USE**  
3               **PERMIT (IUP) to allow the temporary storage of semi trailers at 2750 Cleveland**  
4               **Avenue.**

5  
6               Chair Bakeman opened the Public Hearing for Planning File 09-001.

7  
8               Community Development Director Patrick Trudgeon reviewed staff's analysis of the  
9               request of Joel McCarty – Old Dominion Freight Line (property owner) and Cent  
10              Ventures II, for an IUP at 2750 Cleveland Avenue, to allow outdoor storage of semi-  
11              truck trailers on the remaining portion of the Old Dominion parcel in accordance with  
12              Roseville City Code, Section 1012.09 Interim Uses).

13  
14              Mr. Trudgeon advised that, as a result of receiving a grant from the Metropolitan  
15              Council and in anticipation of future redevelopment, the existing buildings on the Old  
16              Dominion parcel were demolished in the fall of 2008. Mr. Trudgeon clarified that the  
17              applicant was not requesting to operate the parcel as a terminal, but to use it for  
18              storage. Mr. Trudgeon noted that the northeast corner of the parcel was planned for  
19              construction of the Metropolitan Council's Park and Ride Facility.

20  
21              Mr. Trudgeon drew the Commissioner's attention specifically to staff comments  
22              detailed in Sections 6.1 and 6.2 of the staff report dated January 7, 2009; and the  
23              applicant's rationale for requesting an Interim Use Permit (IUP).

24  
25              Commissioner Gottfried arrived at this time, 7:40 p.m.

26  
27              Staff recommended APPROVAL of the requested IUP; based on the comments and  
28              findings of Sections 5 and 6, the recommendation of Section 7 of the project report  
29              dated January 7, 2009; and conditions addressed in the staff report, and as more  
30              clearly-defined and detailed in the bench handout distributed at the meeting, entitled,  
31              "Conditions of approval (revised 1/7/09); ***attached hereto and made a part thereof,***  
32              ***and including comments from the applicant and subsequent staff response.***

33  
34              Mr. Trudgeon advised that these conditions were revised following further discussions  
35              with the applicant, with the applicant seeking to keep the IUP as flexibility as possible;  
36              and staff seeking to condition approval based on code (i.e., screening;  
37              materials/trailers intended for storage on site; and length of term), with staff  
38              recommending two (2) years with possible amendment if circumstances so warranted  
39              it, or reapplication by the applicant; and the applicant requesting a term of five (5)  
40              years. Mr. Trudgeon also noted Condition 4 related to storm water management on  
41              the site.

42  
43              Discussion included specifying that storage would be on certain portions of the parcel  
44              depending on the surface materials (i.e., bituminous or gravel); circulation and  
45              parking; emergency vehicle access and discussion with the Fire marshal; and  
46              clarification of the applicant's intent for outside storage and screening or enclosure as  
47              per City Code.

48  
49              Further discussion included preferred egress from the site to Cleveland as opposed to  
50              future access off Iona or Mount Ridge Road; past operation of the site as a truck  
51              terminal and past discussions with the former master developer on potential purchase  
52              of the property with condemnation being initiated and trucks/trailers being removed at  
53              that time, however, now back on site; and non-conforming use perceptions of the  
54              owner and the City if the IUP is granted as restricted and conditioned with the  
55              applicant understanding that they were thus giving up their rights to assert past non-  
56              conforming uses and/or their continued use after expiration of the IUP.

1  
2 Mr. Trudgeon advised that he would seek the advice of the City Attorney as to specific  
3 language in the conditions applied to the IUP to clarify for the applicant the City's  
4 expectations and intent in granting the IUP.  
5

6 Additional discussion included past violations of ordinance by the property owner that  
7 have been discussed with the owner, but have not been enforced by staff due to the  
8 potential redevelopment of the area; and whether the applicant would be more  
9 amenable to complying with ordinance and conditions of IUP approval, given their  
10 past history of violations.  
11

12 Mr. Trudgeon noted that, under the terms of the IUP, if the applicant didn't meet those  
13 terms, their IUP could be revoked, with potential court action to follow if the applicant  
14 continued in violation of those conditions, allowing greater regulation of the parcel and  
15 its uses. Mr. Trudgeon advised that he couldn't speak to the history of the City's  
16 relationship with Old Dominion; however, noted that the property owner appeared to  
17 be sincere in their desire to sell the property, and offered staff's willingness to work  
18 through past difficulties and allow for potential resale and redevelopment of the parcel  
19 in the best interests of all parties.  
20

21 Repeated consensus of Commissioners was that the property owner and applicant(s)  
22 be clear on their intent, as well as the City's expectations.  
23

24 Chair Bakeman noted that an additional condition could be included for staff to confer  
25 with the City Attorney between tonight's public hearing and the City Council meeting  
26 of January 26, 2008, to provide additional verbiage based on the advice of the City  
27 Attorney for as much clarity and specificity as possible, thus allowing the  
28 recommendation of the Planning Commission to proceed to the City Council.  
29

30 Additional discussion included defining hazardous and/or flammable materials on the  
31 site and/or in the containers themselves; definition by the Fire Marshal to clarify  
32 hazardous material for inclusion of various materials, and addressing concerns about  
33 spillage on the site; and concerns if storage pods or containers are stacked, how the  
34 Fire Department could access them to prevent the spread of fire and/or toxic fumes;  
35 and potential development of a fire prevention plan by the applicant to be periodically  
36 submitted to the City's Fire Marshal, recognizing that materials could be constantly  
37 changing as storage containers and trailers were moved in and out on the site.  
38

39 Further discussion included renewability of IUP's as per City Code and annual  
40 monitoring and notice processes; potential research and guidance from other  
41 communities with outdoor storage of trailers in massive quantities (i.e., Blaine); and  
42 confirmation of the applicant scheduling a neighborhood meeting with adjacent  
43 property owners and the neighborhood, with no one in attendance.  
44

45 **Applicants, Jim Walston, Attorney for Old Dominion Freight Line, Inc.**  
46 **John Livingston, Cent Ventures II**

47 Mr. Walston addressed staff's proposed revised condition #8 related to the term of the  
48 IUP, and requested that a longer term be applied, based on economic factors and  
49 practical purposes due to construction of the park and Ride facility, easements on the  
50 property, and the desire of Mr. McCarty to preserve property rights. Mr. Walston  
51 noted that diminished use of the property based on past condemnation proceedings,  
52 and credited Mr. Livingston with suggesting the IUP approach going forward.  
53

54 When asked by Chair Bakeman if the property owner was clear on the intent of the  
55 IUP replacing past non-conforming uses, Mr. Walston assured the Commissioners  
56 and concurred that this was the understanding of himself and Mr. McCarty.

1  
2 Mr. Livingston advised that, related to materials proposed for storage, the application  
3 was seeking to address a range of possibilities that had been discussed with staff for  
4 potential uses of the site until redevelopment could be achieved on the site, after the  
5 economic market improves. Mr. Livingston further advised that there was no specific  
6 material storage proposed on the site, other than to have the area in general utilized  
7 for container storage (land/sea containers). While unable to speak for the current  
8 owner, Old Dominion, Mr. Livingston advised that those trailers currently stored on  
9 site were empty, but noted that some had refrigerated units that may hold fuel, and be  
10 a potential hazardous material. Mr. Livingston further advised that the purpose of the  
11 application was to provide some ongoing economic revenue to the site while awaiting  
12 improvement in the financial market, allowing for future planning and redevelopment  
13 of the site, allowing a huge benefit for all interested parties in the Twin Lakes area,  
14 and potential developers. Mr. Livingston opined that, development of Mount Ridge  
15 Road and Twin Lakes Parkway, and other infrastructure construction was vital to  
16 interesting potential developers once the market improved.  
17

18 Further discussion with Mr. Livingston included access to emergency equipment  
19 related to materials stored outside storage containers; problems with stacking of  
20 containers and access by the Fire Department; whether the containers would be  
21 empty or what type of materials could be contained in them.  
22

23 Mr. Livingston, as the property owner, advised that everything done on the property  
24 was in compliance with the law; and recognized the concerns expressed about  
25 hazards, noting that he shared those concerns. Mr. Livingston noted that the first  
26 word of the requested permit indicated "Interim" and questioned how in such a permit  
27 every possible use could be defined. Mr. Livingston advised that the applicant's intent  
28 was to allow themselves the latitude to garner some kind of income on the site, until  
29 the City completes infrastructure construction, and the Metropolitan Transit  
30 Commission completes their Park and Ride facility, allowing for ultimate  
31 redevelopment of the site.  
32

33 Chair Bakeman noted that the Twin Lakes area had been of concern for a long period  
34 of time, and designated for clean up and redevelopment, obviously motivating the  
35 Commission's concern about how it looked, noting other areas of the City that also  
36 had trailer storage; and also noted that it would be prudent to ensure that the Park  
37 and Ride facility looked good in its new setting.  
38

39 Mr. Livingston advised that he had worked hard over the last year with the  
40 Metropolitan Transit Commission (MTC) on the public good and design aspects  
41 desirable to the City, and motivating them to complete this project and hopefully  
42 precipitate other development in the Twin Lakes area.  
43

44 Commissioner Boerigter clarified that outside storage was not part of this IUP request  
45 as he understood it; and was only allowed under City Code under certain  
46 circumstances. Commissioner Boerigter opined that the IUP didn't really change that  
47 circumstance, nor allow for outside storage of materials other than in the trailers.  
48

49 Mr. Trudgeon advised that the applicant's original request was for outside storage and  
50 trailers; but that it hadn't been discussed in depth. Mr. Trudgeon noted that, while  
51 outside storage was often allowed as an accessory use, this site didn't qualify for that,  
52 since there was no primary use of the site since demolition of the previous buildings  
53 on site. Mr. Trudgeon noted that the primary use was outside storage, and while not  
54 allowed as a principal use, the trailer storage was being proposed for an interim  
55 period, in addition to the applicant seeking storage of outside materials. Mr. Trudgeon

1 noted the distinction that outside storage on that site today would not be allowed as a  
2 primary use.

3  
4 Discussion ensued regarding Section 4.5 of the staff report dated January 7, 2009,  
5 related to specific uses allowed with other storage units not allowed even within that  
6 category.

7  
8 Further discussion included the term of the proposed IUP.

9  
10 Mr. Livingston advised that his goals for use of the site were intended to be from today  
11 forward, as indicated in his discussions with staff and from his perspective. Mr.  
12 Livingston advised that the proposed interval of time was of concern to him, as the  
13 MTC would be accessing their site and utilizing it for storage of construction materials  
14 throughout their construction process in 2009, and to maneuvering to their  
15 construction site. Mr. Livingston sought assurances that, following that construction  
16 phase, the applicant would be allowed to park storage trailers; and sought clarification  
17 on how to define a "trailer." Mr. Livingston advised that he had sought potential users  
18 of the site for storage trailers to calculate their potential need, and they had provided  
19 the number "225," and noted his intent to meet screening requirements; and noted the  
20 intent in the application was to indicate that no more than 225 trailers could be located  
21 on site.

22  
23 Discussion ensued regarding storage of containers outside trailers; number of  
24 proposed trailers; different perimeters for trailers and/or storage containers; reiteration  
25 by Mr. Livingston of the need for flexibility, and request for five (5) years for the term  
26 of the IUP to allow sufficient marketing of the site after construction of the  
27 infrastructure and completion of the MTC facility, anticipating that it would take a  
28 minimum of two (2) years to make the property marketable. Mr. Livingston asked that,  
29 before the parties became ensconced in minutia, that construction of a fence for  
30 screening would not prove functional or financially feasible, or prove to fully screen the  
31 site.

32  
33 Further discussion included City Code related to screening of outdoor storage; fence  
34 height in commercial areas of eight feet (8'); market driving discussion for container  
35 height and sufficiency of City Code on screening; recognizing capital investment for  
36 installing a fence for a two (2) year IUP and potential for renewal of the IUP after the  
37 proposed two (2) year term and uncertainties or a waiver of requirements, and  
38 dependence on the mercy of the Planning Commission and City Council on moving  
39 forward at that time in extending the term.

40  
41 Chair Bakeman closed the Public Hearing at this time, with no one appearing to  
42 speak.

43  
44 Chair Bakeman expressed concern with extending the IUP term beyond the two (2)  
45 years; opining that following completion of the MTC facility, it would have ugly trailer  
46 storage surrounding it and would not be conducive to area aesthetics.

47  
48 Commissioner Doherty advised that he had considered a term of one (1) year  
49 specifically related to those concerns raised by Chair Bakeman; opining that he hadn't  
50 seen a site plan and didn't want the proposed use allowed in the IUP to be extremely  
51 economically viable; and suggested that the applicant return after one (1) year  
52 advising the Commission and City Council of other mitigating factors depending on  
53 the economic climate. Commissioner Doherty advised that he was willing to let such  
54 a use apply for one (1) year, but not for five (5) years.

1 City Planner Thomas Paschke advised that trailers on site would not be screened;  
2 and opined that whether there was one (1) container, or 225, a trailer was simply a  
3 box with wheels. Mr. Paschke opined, from staff's perspective, he was not sure if  
4 there was a need for screening of the trailers, allowing flexibility for the applicant; but  
5 noted that outdoor storage was an entirely different matter.  
6

7  
8 **MOTION**

9 Member Bakeman moved, seconded by Member Doherty to RECOMMEND  
10 APPROVAL of an INTERIM USE PERMIT for Joel McCarty, owner of the property  
11 at 2750 Cleveland Avenue, to allow temporary outdoor storage of a MAXIMUM  
12 OF NO MORE THAN TWO HUNDRED TWENTY-FIVE (225) semi-truck trailers  
13 AND/OR UNSTACKED CONTAINERS; based on the comments and findings of  
14 Sections 5 and 6, and the recommendations of Section 7 of the project report  
15 dated January 7, 2009; and CONDITIONS OF APPROVAL as revised and dated  
16 January 7, 2009, attached hereto and made a part thereof, and detailed in the  
17 bench handout; and recognizing the comments in writing from Tom Noble of  
18 Cent Ventures LLC, and subsequent staff comment via e-mail dated January 7,  
19 2009; and further AMENDED AS FOLLOWS by makers of the motion and  
20 acceptance of a friendly amendment:

- 21 ▪ *Access to this site shall be through Cleveland Avenue only;*  
22 ▪ *The applicant acknowledges, as discussed at tonight's meeting, that*  
23 *issuance of the IUP serves to eliminate any potential uses identified or*  
24 *apparent as non-conformity issues as defined under Minnesota State Code;*  
25 *with staff directed to review language of the conditions of approval with the*  
26 *City Attorney to ensure clarity for all parties of intents and expectations;*  
27 ▪ *No outside storage uses allowed without further review of the IUP;*  
28 ▪ *Storage will consist of only EMPTY trailers and/or EMPTY containers*  
29 *(known as land/sea storage/shipping containers)*  
30

31 Mr. Trudgeon advised that he would review with the City Attorney, and seek advice to  
32 provide understandable language in a format to ensure that the applicant and City  
33 staff are in agreement and clear as to the intent that the IUP will guide future uses,  
34 and no other non-conforming uses will be considered; that the IUP will initiate future  
35 uses from this point forward.  
36

37 Commissioners concurred and by consensus, clarified to the applicant that if this IUP  
38 was granted, use restrictions are enforceable and the applicant was clear that they  
39 were giving up their right to assert any previous or perceived non-conforming use or  
40 their continues use after the expiration of the IUP;  
41

42 Commissioner Boerigter spoke in support of the motion; however opined that a longer  
43 term may be appropriate, suggesting three (3) years rather than five (5) years; based  
44 on the limited use and space available on the site for some period of time before it  
45 could be marketed and/or developed.  
46

47 **AMENDMENT TO THE ORIGINAL MOTION**

48 Member Boerigter moved, seconded by Member Wozniak, to modify the  
49 condition of the original motion to allow the IUP to be valid from the day after it  
50 is approved by the City Council for a term of three (3) rather than two (2) years.  
51

52 *[Amendment to the Original Motion]*

53 Ayes: 4 (Best; Martinson; Wozniak; Boerigter)

54 Nays: 3 (Gottfried; Doherty; Bakeman)

55 Motion carried.  
56

1  
2  
3  
4  
5

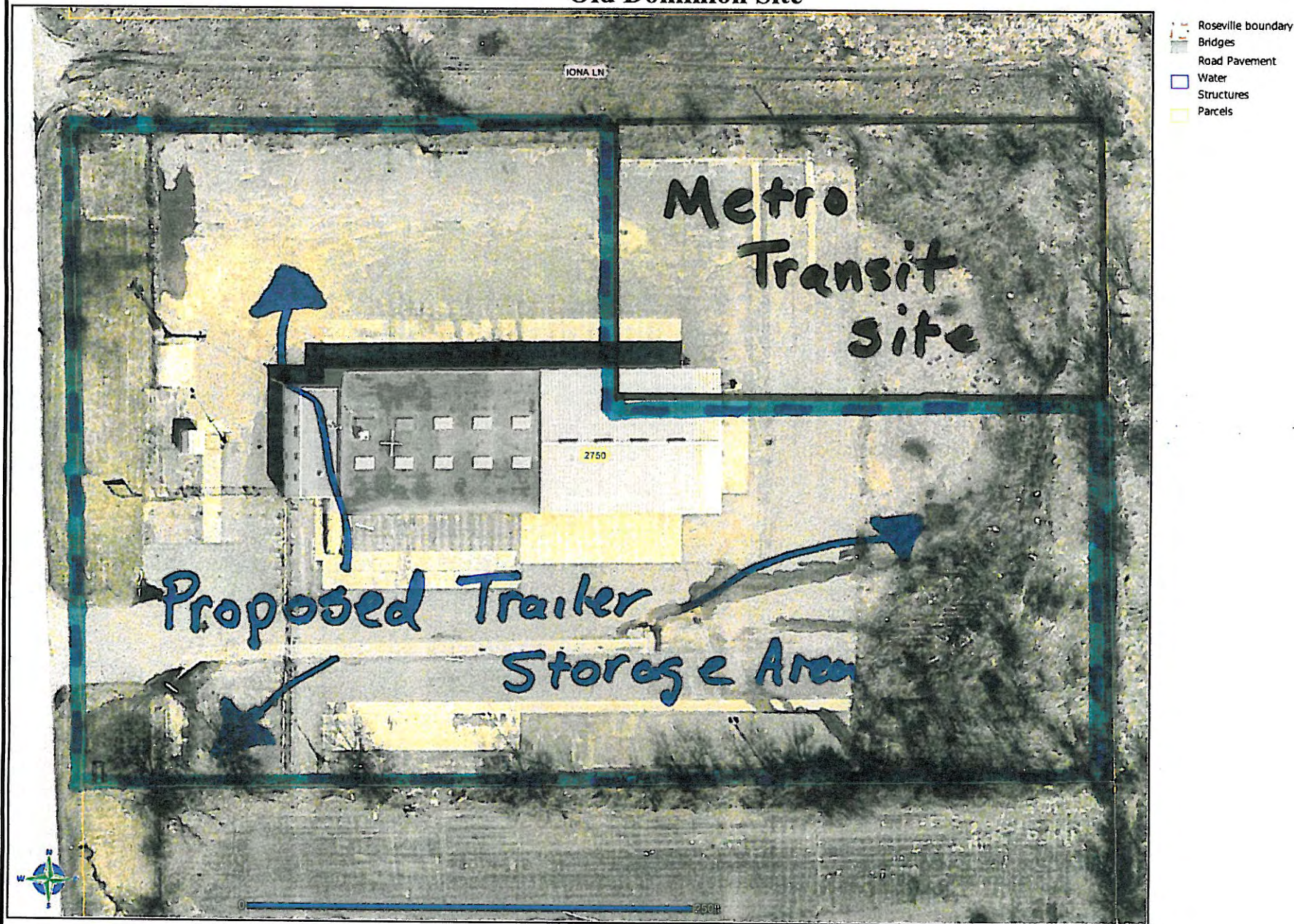
***Original Motion [as amended]***

**Ayes: 7**

**Nays: 0**

**Motion carried.**

## Old Dominion Site



DISCLAIMER: This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only.

SOURCES: City of Roseville and Ramsey County, The Lawrence Group; December 1, 2008 for City of Roseville data and Ramsey County property records data, December 2008 for commercial and residential data, April

## **EXTRACT OF MINUTES OF MEETING OF THE CITY COUNCIL OF THE CITY OF ROSEVILLE**

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, State of Minnesota, was held on the 26<sup>th</sup> day of January, 2009 at 6:00 p.m.

The following members were present:  
and none were absent.

Council Member \_\_\_\_\_ introduced the following resolution and moved its adoption:

### **RESOLUTION NO. \_\_\_\_\_**

#### **A RESOLUTION APPROVING AN INTERIM USE PERMIT IN ACCORDANCE WITH §1012.09 OF THE ROSEVILLE CITY CODE FOR JOEL MCCARTY AND CENT VENTURES 2, AT 2750 CLEVELAND AVENUE (PF09-001)**

WHEREAS, Joel McCarty owns the property addressed as 2750 Cleveland Avenue, known as the former Old Dominion Freight Line property, and he along with Cent Ventures 2, has requested an INTERIM USE PERMIT in accordance with §1012.09 of the Roseville City Code; and

WHEREAS, the subject property is legally described as:

**Lots 1, 2, 3, 18, 19, and 20, Block B, Twin View  
PIN: 04-29-23-33-0001**

WHEREAS, the applicant seeks to store motor freight trailers and containers on the property; and

WHEREAS, The Roseville Planning Commission held a public hearing regarding the requested INTERIM USE PERMIT, voting 7-0 to recommend approval of the request based on the comments and findings of the staff report dated January 7, 2009;

NOW THEREFORE BE IT RESOLVED, by the Roseville City Council, to APPROVE the request by Joel McCarthy and Cent Ventures 2 for an INTERIM USE PERMIT in accordance with Section §1012.09 of the Roseville City Code, subject to the following conditions;

- a. The site shall be limited to a maximum of 225 semi-truck and/or unstacked land/sea containers.
- b. There shall not be any truck/trailer maintenance, washing or repair on the property.
- c. Fuel tanks shall not be located on the site.
- d. Hazardous material shall not be stored on the property.

- e.** The property owner shall maintain the security fence in a manner that will reasonably secure the site from trespassing and theft.
- f.** City sewer and water services into Cleveland Ave. from the property shall be disconnected at main by June 15, 2009.
- g.** Parking of trailers and containers shall be limited to the existing areas on site where there is asphalt, gravel or concrete.
- h.** Any paving or major maintenance of the existing parking lot will require the addition of storm water best management practices to meet the City's storm water quality and volume reduction requirements.
- i.** Access to this site shall be through Cleveland Avenue only;
- j.** Storage shall consist of only empty trailers and/or empty containers (known as land/sea storage/shipping containers).
- k.** No other outside storage shall be allowed.
- l.** At the expiration or the termination of the Interim Use, or after any extension thereof, any future use of the property shall be conforming to the Roseville Comprehensive Land Use Plan and the City Code.
- m.** The INTERIM USE PERMIT shall be valid from the day after it is approved by the City Council and expire three years from that date.

The motion for the adoption of the foregoing resolution was duly seconded by Council Member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor: and none voted against;

WHEREUPON said resolution was declared duly passed and adopted.

[illegible]

WITNESS MY HAND officially as such Manager this 26<sup>th</sup> day of January, 2009

Page 3 of 3

**Thomas Paschke**

---

**From:** Pat Trudgeon  
**Sent:** Monday, January 19, 2009 11:11 AM  
**To:** Thomas Paschke  
**Subject:** FW: IUP Permit Comments - Draft

---

**From:** John Livingston [livingston@cognoscente.biz]  
**Sent:** Monday, January 19, 2009 9:25 AM  
**To:** Pat Trudgeon  
**Cc:** James R. Walston; McCarty, Joel; Tom  
**Subject:** IUP Permit Comments - Draft

Pat,  
 Regarding the Interim Use Permit Application for the Outlot at 2750 Cleveland I would like to comment on the approvals granted by the Planning Commission in advance of the upcoming City Council meeting later this month. The terms and conditions of the permit will add to the hardship we are facing in development of the site.

Please let this serve to request the staff report and subsequent Planning Commission approval recommend terms and conditions be amended for the following reasons:

1. The staff report recommended a term of 2 years and the Planning Commission approved a term of 3 years. We are asking for a 5 year term to the permit for the following reasons.

- \* The current economic realities continue to delay interest in the site until the credit markets for development return to solvency.

- \* Tenants have refused to consider the location until the date for the infrastructure improvements has been established and approved.

- \* We need revenue from the site to pay for debt service, taxes and other expenses until such time as these issues are resolved and development is begun. Any rents the site might generate will not cover these holding expenses. The cost of holding the site till development will add to the considerable sum of costs beyond the site price.

- \* The shorter term you've approved would limit the possibility of rental revenue severely hampering our ability to secure financing once the credit markets can be approached. Such short terms are typically not granted consideration by lenders. The near term revenue will also be reduced during construction of the Metropolitan Councils Park and Ride.

2. We wish to be able to pave within the Outlot and ask that this be included in the approval without additional storm water management. This is desired for multiple reasons which are:

- \* The Metropolitan Council will use their easement for temporary access which will have the buses driving over the area where the building stood. It is not desirable, and may

not be practical, for them if the are is not paved.

\* Paving the area where the building stood does not add to the impervious surface. Water from the roof of the building was shed to the existing pavement. We propose to be able to pave over the area exposed after demolition of the buildings.

\* Some paving may be needed to connect the existing surface of the site to Iona Lane which the Metropolitan Council is constructing.

Please consider our request in your final recommendation to the City Council.

Yours very truly,

John Livingston  
Cent Ventures 2  
1660 S. Highway 100, Suite 500  
St. Louis Park, MN 55416

(612) 272-1246  
livingston@cognoscente.biz<blocked::mailto:livingston@cognoscente.biz>

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---

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---

**From:** James R. Walston [jwalston@lindquist.com]  
**Sent:** Monday, January 19, 2009 10:04 AM  
**To:** John Livingston; Pat Trudgeon  
**Cc:** McCarty, Joel; Tom  
**Subject:** RE: IUP Permit Comments - Draft

Pat-

Please note that the requests, comments and reasoning of John Livingston outlined below is fully supported by Old Dominion Freight Line, Inc.

Accordingly, Old Dominion requests Roseville City Staff to reexamine its conclusions and recommendations --as it is evident that a longer IUP term provided for "up front" and allowing the flexibility to make improvements (paving) will well serve the interests of Cent Ventures in the short term to wait out the economic uncertainties we face. This, in turn, will serve to assure that a quality/desired development will ultimately occur on the subject site by allowing Cent Ventures the ability to hold the property for a longer time period.

Jim Walston

---

**From:** John Livingston [mailto:livingston@cognoscente.biz]  
**Sent:** Monday, January 19, 2009 9:25 AM  
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Yours very truly,

John Livingston  
Cent Ventures 2  
1660 S. Highway 100, Suite 500  
St. Louis Park, MN 55416

(612) 272-1246

livingston@cognoscente.biz<blocked::mailto:livingston@cognoscente.biz>

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