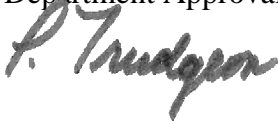


**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

DATE: 2/22/2010  
ITEM NO: 12.c

Department Approval:



City Manager Approval:



Item Description: Request by Riaz Hussain for approval of an amendment to an existing CONDITIONAL USE PERMIT to allow the parking areas adjacent to Autumn Street to remain at 1901 Lexington Avenue (PF10-002)

**1.0 REQUESTED ACTION**

Mr. Hussain is seeking to amend the provisions of an existing CONDITIONAL USE PERMIT, pursuant to §1014 (Conditional Uses) of the City Code, to eliminate a condition requiring the removal of two paved parking areas on the south side of the property, accessing Autumn Street.

**Project Review History**

- Application submitted and determined complete: December 2, 2009
- Extended review deadline: March 30, 2010
- Planning Commission recommendation (5-0 to deny): February 3, 2010
- Project report prepared: February 17, 2010
- Anticipated City Council action: February 22, 2010

**2.0 SUMMARY OF RECOMMENDATION**

Planning Division staff concurs with the recommendation of the Planning Commission to deny the requested CONDITIONAL USE PERMIT AMENDMENT; see Section 8 of this report for the detailed recommendation.

**3.0 SUMMARY OF SUGGESTED ACTION**

- 3.1 Adopt a resolution denying the proposed CONDITIONAL USE PERMIT AMENDMENT, pursuant to §1014.01 (Conditional Uses) of the City Code; see Section 9 of this report for the detailed action.
- 3.2 Adopt a resolution ordering compliance with Resolution 9414, requiring the removal of the subject parking areas by June 1, 2010 based on the determination of the Public Works Director that the use of these parking areas would adversely affect the flow of traffic in the area.

24 **4.0 BACKGROUND**

25 4.1 Riaz Hussain owns the property at 1901 Lexington Avenue, which has a Comprehensive  
26 Plan designation of Neighborhood Business (NB) and a zoning classification of Limited  
27 Business (B-1) District.

28 4.2 In 1997 Roseville’s City Council adopted Resolution 9414, approving a CONDITIONAL  
29 USE PERMIT for a veterinary clinic on the property. The primary condition of this approval  
30 states that the existing parking areas may be used only for employee parking but that:  
31 *“The parking area[s] along Autumn Street must be removed if the determination is made*  
32 *by the City that said parking area[s] creates [sic] a safety hazard or adversely affects*  
33 *[sic] the flow of traffic in this area.”* Although the original language suggests a singular  
34 parking area, the aerial photographs from that time illustrate the presence of two paved  
35 areas and the Planning Commission minutes clearly indicate that the discussion includes  
36 removal of both parking areas.

37 4.3 As the Planning Commission and City Council were considering a subsequent application  
38 in March 2008 to approve the temporary use of the property as a deli, Public Works  
39 Department staff determined that the use of these parking areas accessing Autumn Street  
40 would, in fact, create a safety hazard and adversely affect the flow of traffic in the area  
41 given its close proximity to busy Lexington Avenue. Because of this determination, the  
42 Planning Commission recommended (and the City Council then required) the removal of  
43 these parking areas in compliance with the conditions of the 1997 approval.

44 4.4 What follows is a brief summary of the communications between the property owner and  
45 the City pertaining to the removal of the parking areas from March 2008 to the present:

- 46 **a.** Summer 2008: the property owner’s real estate agent called to inform staff that  
47 the approved deli use would not be going forward. Staff reminded the agent of the  
48 requirement to remove the paved areas, and the agent indicated that he would, in  
49 turn, remind the property owner.
- 50 **b.** October 6, 2008: staff sent a letter to the property owner to request compliance by  
51 June 1, 2009 since the weather in 2008 was no longer conducive to removing the  
52 asphalt and establishing grass or other landscaping.
- 53 **c.** May 15, 2009: staff sent a letter to the property owner as a reminder of the  
54 approach of the June 1 deadline.
- 55 **d.** May 26, 2009: property owner sent a letter to staff acknowledging that he had  
56 misread the deadline established in the October 6<sup>th</sup> letter and requesting until July  
57 1, 2009 to attend to the matter.
- 58 **e.** June 29, 2009: property owner addressed the City Council to request that the  
59 requirement to remove the paved areas be reconsidered. Council asked staff for  
60 additional information on the topic so that Councilmembers could determine if  
61 they would revisit their previous decision. City Council decided not to reconsider  
62 its earlier decision, leaving in place the requirement to remove the paved areas.
- 63 **f.** September 28, 2009: staff sent a letter to inform the property owner of the  
64 Council’s decision and establish a new deadline for compliance of October 16<sup>th</sup>.  
65 This letter also informed the property owner of his legal right to attempt to amend

66 the existing conditional use permit as a possible final alternative to removing the  
67 pavement although staff would not be supportive of such an application.

68 **g.** October 19, 2009: property owner again appeared before the City Council to state  
69 his intent to apply for an amendment to the effective conditional use permit. On  
70 the following day, staff sent a letter to the property owner requesting that the  
71 necessary land use application be submitted by November 6, 2009 to ensure the  
72 earliest possible resolution of the matter; the application was received on  
73 December 2<sup>nd</sup>.

74 4.5 The current request for CONDITIONAL USE PERMIT AMENDMENT has been prompted by the  
75 applicant's desire to leave the parking areas in place, using them for employee parking  
76 when necessary.

## 77 **5.0 STAFF COMMENTS**

78 5.1 During the Development Review Committee meeting on December 10, 2009 the Public  
79 Works Director reconfirmed the determination that the use of the subject parking areas  
80 creates too great a potential for conflicts with traffic on Lexington Avenue, even though  
81 traffic volume on Autumn Street is relatively low and the use of the parking areas is  
82 expected to be light.

83 5.2 It should be noted that neither the existing business use on the property nor the  
84 previously approved deli would be expected to generate unusually large traffic volumes  
85 or parking demand given the size of the building and other site constraints, so it is not a  
86 special concern with these particular uses that has triggered enforcement of the parking-  
87 removal condition. Instead, staff has long recognized that any use of parking areas such  
88 as these would invite unnecessary risk, but staff had been unaware of the ability to  
89 require the removal of the paved areas before researching the property in conjunction  
90 with the deli proposal.

91 5.3 Section 1014.01 (Conditional Uses) of the City Code requires the Planning Commission  
92 and City Council to consider the following criteria when reviewing an application for  
93 new or amended CONDITIONAL USE approvals:

- 94 • Impact on traffic;
- 95 • Impact on parks, streets, and other public facilities;
- 96 • Compatibility of the site plan, internal traffic circulation, landscaping, and  
97 structures with contiguous properties;
- 98 • Impact of the use on the market value of contiguous properties;
- 99 • Impact on the general public health, safety, and welfare; and
- 100 • Compatibility with the City's Comprehensive Plan.

101 **a. Impact on traffic:** Public Works staff has determined that utilization of the  
102 parking areas unnecessarily increases the potential for traffic conflicts because of  
103 the close proximity with the high traffic volume of Lexington Avenue.

104 **b. Impact on parks, streets and other public facilities:** Aside from the above  
105 potential for conflict, Planning Division staff does not believe that the request to

- 106 utilize the existing parking areas would have additional impacts on parks, streets,  
107 and other public facilities.
- 108 **c. Compatibility ... with contiguous properties:** If the parking areas remained, the  
109 site plan and internal traffic circulation would not adversely affect nearby private  
110 property, but the size and location of these parking areas makes it necessary for  
111 motorists to back in from the street or back out onto the street because there is no  
112 space for vehicles to enter in a forward direction, turn around within the property  
113 boundaries, and exit in a forward direction. It is predominantly this need to back  
114 into or out of the parking areas that has the greatest potential to create traffic  
115 hazards in the area.
- 116 **d. Impact of the use on the market value of contiguous properties:** Planning  
117 Division staff believes that leaving the parking areas in place would not impact  
118 the market value of surrounding properties.
- 119 **e. Impact on the general public health, safety, and welfare:** City staff has  
120 determined that the potential traffic conflicts related to the continued use of the  
121 existing parking areas needlessly compromise the public safety.
- 122 **f. Compatibility with the City's Comprehensive Plan:** Business uses and the  
123 attendant parking facilities are compatible with the City's Comprehensive Plan.

## 124 **6.0 PUBLIC HEARING**

- 125 6.1 The duly-noticed public hearing for this application was begun on January 6, 2010.  
126 Earlier that same day, however, the applicant had requested an extension to the 60 day  
127 action timeline to allow more time to gather information in support of the application;  
128 because insufficient time remained to provide public notice of the change of schedule, the  
129 Planning Commission opened the public hearing and allowed the one person in  
130 attendance to comment on the proposal and recommendation as represented in the staff  
131 report prepared for review in case that individual was unable to attend when the hearing  
132 was continued at a later date. Immediately following the comments, the public hearing  
133 was continued until the February 3<sup>rd</sup> meeting date, without formal review or discussion of  
134 the application and staff recommendation.
- 135 6.2 Through the remainder of January, a handful of email messages were traded by the  
136 applicant and Planning Division staff in which tentative arrangements were made to meet  
137 and discuss the applicant's supplemental information in advance of the continuation of  
138 the public hearing on February 3, 2010. In the end, none of the potential meeting dates  
139 appeared to work for the applicant.
- 140 6.3 On February 3, 2010 the Planning Commission resumed the public hearing to review and  
141 discuss the proposed CONDITIONAL USE PERMIT AMENDMENT; the applicant was not  
142 present and one additional member of the public was in attendance to watch the  
143 proceedings without commenting. At the conclusion of the public hearing, held to  
144 consider the proposal and the related public comment, the Planning Commission voted  
145 unanimously (i.e., 5-0) to deny to the request; draft minutes of the public hearing are  
146 included with this staff report as Attachment G.

147 6.4 A day after the public hearing, the applicant again contacted Planning Division staff to  
148 admit his continuing misapprehension of the public hearing date and to express his hope  
149 that further delay could be accommodated so that he could complete his process of  
150 gathering supplemental information. Staff replied by indicating that the public hearing  
151 had been concluded, but that the applicant could select the Council meeting date from  
152 among the four dates remaining until the expiration of the 60-day action deadline on  
153 March 30, 2010; the applicant has selected the February 22<sup>nd</sup> meeting date.

154 **7.0 RECOMMENDATION**

155 Based on comments and findings outlined in Sections 4-6 of this report, the Planning  
156 Division concurs with the recommendation of the Planning Commission to deny the  
157 proposed CONDITIONAL USE PERMIT AMENDMENT and order compliance with the terms of  
158 the existing CONDITIONAL USE PERMIT.

159 **8.0 SUGGESTED ACTION**

160 8.1 Adopt a resolution denying the proposed CONDITIONAL USE PERMIT AMENDMENT, based  
161 on the comments and recommendation of Sections 4-6 of this report and the findings that:

162 a. Public Works staff has determined that utilization of the parking areas adjacent to  
163 Autumn Street unnecessarily increases the potential for traffic conflicts because  
164 of the close proximity with the high traffic volume of Lexington Avenue;

165 b. If the parking areas remained, the size and location of the parking areas makes it  
166 necessary for motorists to back in from the street or back out onto the street  
167 because there is no space for vehicles to enter in a forward direction, turn around  
168 within the property boundaries, and exit in a forward direction, and it is  
169 predominantly this need to back into or out of the parking areas that has the  
170 greatest potential to create traffic hazards in the area; and

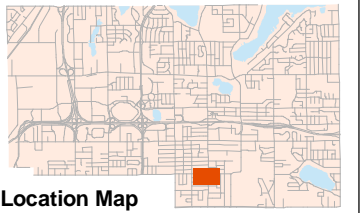
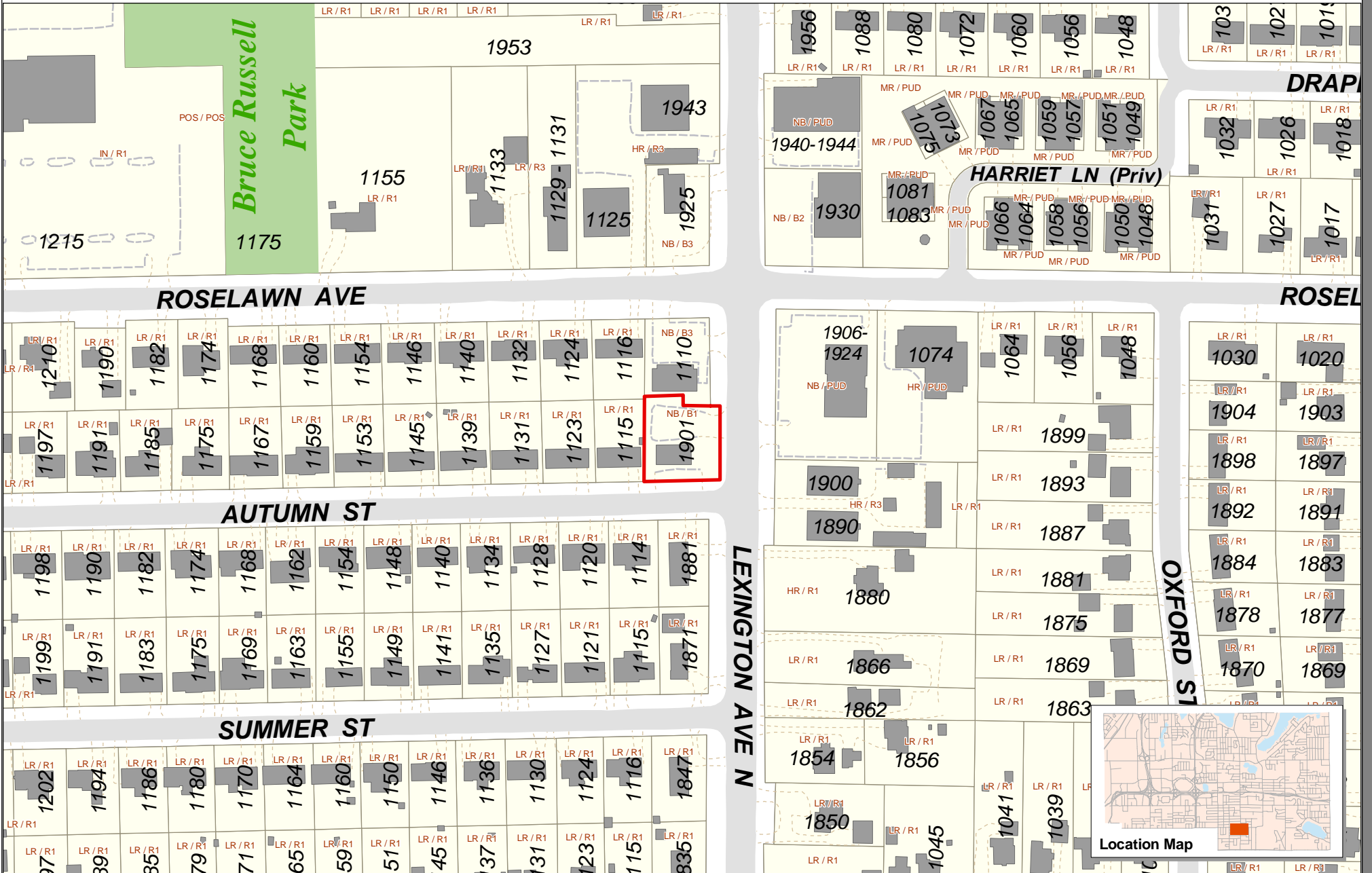
171 c. The potential traffic conflicts related to the continued use of the existing parking  
172 areas needlessly compromise the public safety.

173 8.2 Adopt a resolution ordering compliance with Resolution 9414, requiring the removal of  
174 the subject parking areas by June 1, 2010 based on the determination of the Public Works  
175 Director that the use of these parking areas would adversely affect the flow of traffic in  
176 the area.

**Prepared by:** Associate Planner Bryan Lloyd (651-792-7073)

Attachments:	A: Area map	E: Excerpt of 5/14/97 Planning Commission minutes
	B: Aerial photo	F: Resolution 9414
	C: Site illustration	G: Draft public hearing minutes
	D: Applicant narrative	H: Draft resolution denying proposed amendment
		I: Draft resolution ordering pavement removal

# Attachment A: Location Map for Planning File 10-002



Prepared by:  
 Community Development Department  
 Printed: December 21, 2009

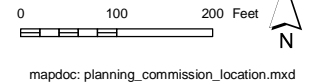


### Site Location

LR / R1 Comp Plan / Zoning Designations

**Data Sources**  
 \* Ramsey County GIS Base Map (12/1/2009)  
 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.

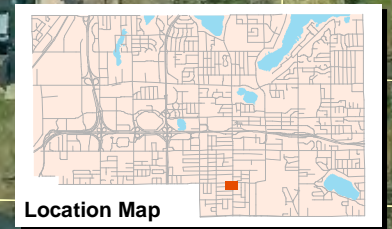


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# Attachment B: Aerial Map of Planning File 10-002



LEXINGTON A



Location Map



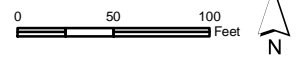
Prepared by:  
Community Development Department  
Printed: December 21, 2009



Site Location

**Data Sources**  
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\* Aerial Data: Pictometry (4/2008)  
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SOURCES: City of Roseville and Ramsey County, The Lawrence Group; July 1, 2009 for City of Roseville data and Ramsey County property records data, July 2009 for commercial and residential data, April 2008 for



# 1901 Lexington Avenue

## Conditional Use Narrative

1. The requested use has no impact on the traffic in the area. The traffic in the area is 1-3 cars per day, if that. I have collected data on this.
2. The requested use has no impact on any parks, streets or other public facilities.
3. The proposed plan has no compatibility problems. Each house/building has more than one car parked in their respective drive way just like this one on the subject property.
4. There is no impact on the market value of the adjacent properties since each has a similar structure and use of that structure.
5. The requested use has no impact on any health issues since no emissions or other discharges are involved and there is no impact on general welfare since the requested use is compatible with the similar property use on all properties in the area.
6. There is no impact on the city's comprehensive plan since no city plan impacts the subject property.

Zoning Code. The City may need to re-think digital cellular sites or add additional sites.

A general discussion of cellular effectiveness ensued.

**Motion:** Chairperson Wietecki moved, seconded by Member Wilke, to recommend approval of the Conditional Use Permit with the following condition:

1. The antennas are to be removed within twelve months after they are no longer in use.

The motion passed 6-0.

Ayes: Cunningham, Wietecki, Harms, Thein, Wilke, Mulder.

Nays: None

Member Cunningham stated the City should develop an ordinance to share spaces on equal basis. Member Wilke stated this antenna helps remodel an existing site.

**6(c) Planning File 2897.** Request for a Conditional Use Permit, by William Graham, DVM, and Wendy Elert, DVM, to reuse an existing building for a veterinary clinic, located at 1901 Lexington Avenue.

Chairman Wietecki opened the public hearing and requested City Planner Kim Lee summarize the staff report of May 14, 1997. Staff recommended approval of the Conditional Use Permit with conditions.

Drs. Elert and Graham explained that hours of operation are acceptable except for rare emergencies or other happenings.

Member Cunningham asked what type of services would be provided. Dr. Graham stated there will be no boarding, but may be an overnight for hospital patients.

Member Wilke asked for details on dumpsters. The dumpster size will be reduced and retained in back vestibule. No exterior trash storage will be placed on site.

Member Harms asked if there is a problem with loss of parking spaces along Autumn Street. Dr. Graham suggested designating the parking as employee spaces.

Suzanne McGregor, Autumn Street, expressed concern about parking on Autumn and preferred that the spaces be eliminated or used only for employees. Privacy fencing was also requested along the west property line adjacent to the north and south parking areas. Dr. Elert stated that the fence is already planned. Member Cunningham expressed concern about hours of operation and asked that the neighbors consider extended hours.

Member Harms asked if there is objections to the 4' fence along the west property line adjacent to the south parking area (no).

**Motion:** Member Harms moved, second by Member Wieteki, to recommend approval of the Conditional Use Permit for William Graham DVM, and Wendy Elert, DVM, to reuse an existing building, located at 1901 Lexington Avenue, for a veterinary clinic, with the following conditions (Planning Commission modifications/additions to the staff recommendation are underlined):

1. Off-street parking must be provided in accordance with the provisions of Section 1005.01D, City Code of Ordinances. The parking area along Autumn Street must be removed if a determination is made by the City that said parking area creates a safety hazard or adversely affects the flow of traffic in this area. Prior to operation of the facility, the parking area along Autumn Street must be designated as employee parking only.
2. The hours of operation must be limited to the following: 8:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 noon on Saturday. Minor modifications to hours of operation may be approved administratively by the Director of Community Development. There shall be no overnight boarding of animals, exercising of animals outside of the building, or placement of kennels and/or cages outside of the building. The clinic practice shall be limited to small domestic animals.
3. A waste management plan for grounds must be submitted to the City for review and approval prior to occupation of the property.
4. The exterior dumpster must be removed from the property. Trash collection activities must be relocated to the interior of the building or an attached structure must be constructed on the north side of the building. Any attached structure must be of the same materials and design as the principal structure in accordance with Section 1010.11 of the City Code.
5. A screening fence or landscaping must be installed along the west side of the off-street parking area north of the building. Said fence and/or landscaping must create an all-season screen, eighty percent (80%) opaque, to a height of five feet, in accordance with Section 1010.09 of the City Code. A screening fence or landscaping must also be installed along the west side of the off-street parking area off Autumn Street in accordance with City requirements.
6. Landscaping must be installed around the ground sign in accordance with the provisions included with the variance granted for the sign in 1988.

The motion passed 6-0.

Ayes: Cunningham, Wietecki, Harms, Thein, Wilke, Mulder

Nays: None

**7(a) OPUS: Environmental Assessment Work Sheet Report:**

Dennis Welsch explained the EAW comment process and stated the public comment period is from May 5 through June 4, 1997.

The Commission received an overview of the OPUS/Gateway EAW from Janet Dagleish, Barr Engineering, and Farrell Robinson, S.R.F, on traffic. The project will generate 5,200 trips per day.

Chairperson Wietecki asked for clarification of ADT. Member Wilke asked for phasing and service levels at County Rd. C and 35W ramps. The County and City should tie these systems signals together (coordinate them).

Chairperson Wietecki explained the EAW process to provide necessary information for future decisions.

Julie Kimble, OPUS, presented information on the light industrial site architecture. OPUS reworked the architectural design as requested after concept approval. Kimble also explained the soil correction requirements in the northeast corner of the site.

Chairperson Wietecki commented on the extensive plantings and building plantings along the front of the building, parking, and ponding areas. All the designs are acceptable and will work with landscaping, especially coniferous material. He stated the simpler the design, the better.

Member Harms stated she preferred the simpler look (#2) as standing the test of time and blending with the Hoffman Building.

Member Mulder asked the relative elevation of the building in comparison to the freeway. The floor will be slightly higher than the road surface.

Member Harms explained that the higher the finish, the higher the cost of rents.

Member Wilke asked for details regarding the need or use of the site for office uses.

Member Cunningham stated that all three design alternatives would work and the site will be visible from the freeway. The view of the building is an image builder for tenant and city and he preferred the upscale design.

**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, Minnesota, was duly called held at the City Hall on Tuesday, the 9th day of June, 1997 at 6:30 P.M.

The following members were present: Maschka, Goedeke, Wiski, Mastel and the following were absent: Wall

Council Member Wiski introduced the following resolution and moved its adoption:

**RESOLUTION NO. 9414**

**RESOLUTION APPROVING CONDITIONAL USE PERMIT  
FOR A VETERINARY CLINIC AT  
1901 LEXINGTON AVENUE**

WHEREAS, Section 1005.01D of the Roseville City Code identifies veterinary clinics as a conditional use in a B-1 Limited Business district; and

WHEREAS, Drs. Wendy Elert and William Graham have requested a conditional use permit to allow the reuse of property at 1901 Lexington Avenue for a veterinary clinic; and

WHEREAS, the Roseville Planning Commission conducted a public hearing on the request on Wednesday, May 14, 1997, and recommended approval of the requested conditional use permit subject to conditions; and

WHEREAS, the Roseville City Council received the Planning Commission's recommendation on Tuesday, May 27, 1997, and Tuesday, June 9, 1997; and

WHEREAS, the Roseville City Council made the following findings:

1. The proposed re-use of the property will have a minimum impact on traffic in the area. The building has historically been used for medical office/clinic uses. The use of the property as a veterinary clinic will not substantially change the outward appearance and/or operation of the facility.
2. The proposed re-use of the property will have a minimum impact on parks, streets and other public facilities.
3. The proposed re-use of the property will be compatible with contiguous properties. Adequate parking is being provided on site for the proposed use, based on both the square footage of the facility as well as the number of employees and clients. Hours will be limited to typical business hours and no clinic activities will take place outside of the building. Site improvements will be required to bring the property into compliance with existing site development standards.

4. The proposed re-use of the property will not have an adverse impact on the market value of contiguous properties.
5. The proposed re-use of the property will not have an adverse impact on the general public health, safety and welfare.
6. The proposed re-use is consistent with the City's Comprehensive Plan's Limited Business designation.

NOW THEREFORE BE IT RESOLVED by the City Council (the "Council") of the City of Roseville, Minnesota (the "City"), Ramsey County, Minnesota, that a conditional use permit for a veterinary clinic within a B-1 Limited Business district be approved subject to the following conditions:

1. Off-street parking must be provided in accordance with the provisions of Section 1005.01D, City Code of Ordinances. The parking area along Autumn Street must be removed if a determination is made by the City that said parking area creates a safety hazard or adversely affects the flow of traffic in this area. Prior to operation of the facility, the parking area along Autumn Street must be designated as employee parking only.
2. The hours of operation must be limited to the following: 8:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 noon on Saturday. Minor modifications to hours of operation may be approved administratively by the Director of Community Development. There shall be no overnight boarding of animals, exercising of animals outside of the building, or placement of kennels and/or cages outside of the building. The clinic practice shall be limited to small domestic animals.
3. A waste management plan for grounds must be submitted to the City for review and approval prior to occupation of the property.
4. The exterior dumpster must be removed from the property. Trash collection activities must be relocated to the interior of the building or an attached structure must be constructed on the north side of the building. Any attached structure must be of the same materials and design as the principal structure in accordance with Section 1010.11 of the City Code.
5. A screening fence or landscaping must be installed along the west side of the off-street parking area north of the building. Said fence and/or landscaping must create an all-season screen, eighty percent (80%) opaque, to a height of five feet, in accordance with Section 1010.09 of the City Code. A screening fence or landscaping must also be installed along the west side of the off-street parking area off Autumn Street in accordance with City requirements.
6. Landscaping must be installed around the ground sign in accordance with the provisions included with the variance granted for the sign in 1988.

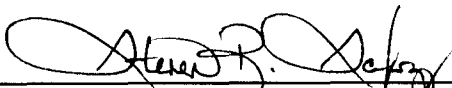
The motion for the adoption of the foregoing resolution was duly seconded by Council Member Maschka and upon vote being taken thereon, the following voted in favor: Maschka, Goedeke, Wiski, Mastel and the following voted against the same: None

WHEREUPON said resolution was declared duly passed and adopted.

STATE OF MINNESOTA )  
 ) SS  
COUNTY OF RAMSEY )

I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of said City Council held on the 9th day of June, 1997, with the original thereof on file in my office.

WITNESS MY HAND officially as such Manager this 9th day of June, 1997.

  
\_\_\_\_\_  
Steven R. Sarkozy, City Manager

SEAL

January 6, 2010

1 **PLANNING FILE 10-002**

2 **Request by Raiz Hussain for approval of an amendment to an existing CONDITIONAL USE PERMIT to**  
 3 **allow the parking areas adjacent to Autumn Street to remain at 1901 Lexington Avenue.**

4 Chair Doherty opened the Public Hearing for Project File 10-002 at 8:56 p.m.; advising that the applicant had  
 5 requested an extension and deferral to a future meeting to allow time for further traffic research on his part.  
 6 Chair Doherty advised that the Commission would hear public comment if so desired based on the public  
 7 notice of the meeting for Planning File 10-002.

8 **Public Comment**

9 ***Staff noted receipt of a nuisance comment from the public prior to tonight's meeting.***

10 **Patrick Schmidt, 1140 Autumn Street**

11 Mr. Schmidt noted that City staff had recommended denial of this request, with his concurrence, based on the  
 12 proximity of the property to Lexington Avenue. Mr. Schmidt sought to raise wider concerns of his and others in  
 13 the neighborhood, opining that staff's analysis didn't capture other concerns to traffic, impacts to the value of  
 14 contiguous properties, and the health, safety and welfare of the neighborhood. Mr. Schmidt reviewed the  
 15 availability of spots and access of the building from Autumn Street, making it attractive as an alternative to  
 16 Lexington Avenue; and advised that residents are mindful of the various proposals for zoning changes in this  
 17 neighborhood, but that there wasn't unified opposition to business improvements generally of that site. Mr.  
 18 Schmidt advised, however, that there was a unified concern with a change of use that could intensify traffic on  
 19 Autumn Street, and opined that past staff discussions on traffic volumes pertained to traffic volumes on  
 20 Lexington, but not Autumn Street traffic.

21 Mr. Schmidt advised that the neighborhood was also concerned with the visual impact of the property, with it  
 22 currently being poorly maintained, with common overgrown weeds and un-mown grass, discarded bathroom  
 23 fixtures outside the building, and pallets at the rear of the property for several months at a time. Mr. Schmidt  
 24 advised that last fall, the owner had attempted to block the use of the driveway with a string attached to  
 25 stakes, which was ineffective and was currently buried by snow. Mr. Schmidt opined that the property owner  
 26 was not being a conscientious neighbor in good faith, and while understanding the cost of removing this  
 27 parking area, the neighborhood was not sympathetic based on the numerous code nuisances on that site. Mr.  
 28 Schmidt asked that the City consider long-term use for this neighborhood, with a commercial use more  
 29 beneficial to those adjacent properties on Roselawn and Lexington; with the neighborhood supporting  
 30 demolition of the existing building with any future commercial use not having access on Roselawn and  
 31 sufficiently screened from those adjacent residential properties.

32 Chair Doherty closed the Public Hearing at 9:15 p.m., with no one else appearing for or against.

33 **MOTION**

34 **Member Doherty moved, seconded by Member Gisselquist to CONTINUE consideration of this**  
 35 **proposed CONDITIOANL USE PERMIT AMENDMENT to the February 3, 2010 Planning Commission**  
 36 **meeting.**

37 **Ayes: 5**

38 **Nays: 0**

39 **Motion carried.**

February 3, 2010

40 **PLANNING FILE 10-002**

41 **Request by Raiz Hussain for approval of an amendment to an existing CONDITIONAL USE PERMIT to**  
 42 **allow the parking areas adjacent to Autumn Street to remain at 1901 Lexington Avenue.**

43 Chair Doherty opened the Public Hearing for Project File 10-002 at 7:22 p.m.

44 Associate Planner Bryan Lloyd reviewed staff's analysis of the request by Raiz Hussain for an amendment to  
 45 an existing CONDITIONAL USE PERMIT to allow the parking areas adjacent to Autumn Street to remain at  
 46 1901 Lexington Avenue. Mr. Lloyd noted that the Public Hearing was opened at the January 6, 2010 meeting  
 47 of the Planning Commission; however, there was no discussion of the application as the applicant had  
 48 requested additional time to continue gathering information in support of his application. Mr. Lloyd further  
 49 noted that one member of the public from the neighborhood was in attendance at that meeting and was  
 50 allowed to comment for the record as he would be unable to attend the continued public hearing when the  
 51 request would be discussed in more detail.



52 Mr. Lloyd noted that, in 1997 approval for a Conditional Use Permit for parking to accommodate a veterinary  
53 clinic was allowed; and that the parking was allowed to remain until such a time as the City determined that  
54 the parking spots were hazardous to traffic, at which time the original conditions could be enforced for  
55 removal of that parking. Mr. Lloyd advised that, due to staff turnover, the condition had not been enforced until  
56 current staff's research had found this previous Conditional Use Permit and conditions when reviewing the  
57 parcel for an Interim Use application in March 2008 for a deli use at the site. Mr. Lloyd advised that, as part of  
58 that Interim Use approval in 2008, as a separate action, the City Council required that those parking areas be  
59 removed, as it had been determined by staff and the City Council that it would be hazardous to continue their  
60 use, even if not often. Mr. Lloyd advised that, since 2008, staff had been in discussion with the property owner  
61 to remove that parking, to no avail; and Mr. Hussain's request for an amendment to the existing Conditional  
62 Use to allow the parking areas to remain being a legitimate option at Mr. Hussain's disposal.

63 Mr. Lloyd advised that, in the Planning Commission's review of conditional use criteria, two were of  
64 importance: that of traffic and circulation around the property; and advised that there was no way to use the  
65 parking areas except for ingress/egress based on their proximity to Lexington Avenue and impacts to Autumn  
66 Street. Mr. Lloyd advised that it continued to be staff's recommendation that those parking spaces are too  
67 dangerous to remain in use and recommended DENIAL of the proposed Conditional Use amendment  
68 pursuant to City Code, Section 1013.01, based on the comments and findings of Sections 4 – 5, and the  
69 recommendations of Section 6 of the staff report dated February 3, 2010.

70 Discussion among Commissioners and staff included County Road requirements for a vehicle to turn around  
71 on site before accessing a County Road, and a similar case on Autumn Street based on potential safety  
72 considerations, as repeatedly expressed by residents along Autumn Street during past hearings.

73 Commissioner Gottfried expressed consternation that the property owner had not complied with previous City  
74 Council findings requiring removal of the parking areas; and why staff had been unsuccessful to-date in  
75 enforcing this Council provision. Commissioner Gottfried noted the waste of taxpayer dollars in staff time in  
76 attempting to remedy this situation, when the property owner had been asked repeatedly to bring the property  
77 up to City Code. Commissioner Gottfried spoke adamantly in support of DENIAL of the applicant's request.

78 Further discussion included whether the property owner had violated the conditions of the original Conditional  
79 Use Permit, with the CUP remaining with the property; and if this were a newly-developed property, the  
80 condition would not be allowed under today's City Code and ordinances.

81 Mr. Paschke advised that the property owner had not been amenable to removing the parking areas due to  
82 costs of removing the blacktop and installing concrete curb; and that staff continued to work with the City's  
83 legal counsel to remedy the situation that had been ongoing since 2008; however, those processes took time.

84 Mr. Lloyd concurred, and noted that the applicant was not concerned with the use of the parking areas, but  
85 was more concerned with the expense related to removing the parking areas, sod for those areas, and  
86 installation of new curb at the driveway aprons.

87 Commissioner Wozniak observed that costs had probably increased since the 2008 City Council directive;  
88 however, noted that in today's market, the property owner may be able to get favorable rates from a  
89 contractor.

90 The applicant was not present.

91 Chair Doherty opened closed the Public Hearing at 7:36 p.m., with no one appearing for or against.

## 92 MOTION

93 **Member Gottfried moved, seconded by Member Doherty to RECOMMEND TO THE CITY COUNCIL**  
94 **DENIAL of the proposed CONDITIONAL USE PERMIT AMENDMENT based on the comments and**  
95 **findings of Sections 4 and 5, and the conditions of Section 6 of the staff report dated February 3,**  
96 **2010; and to RECOMMEND TO THE CITY COUNCIL ORDERING COMPLIANCE with Resolution 9414,**  
97 **requiring the removal of the subject parking areas by June 1, 2010; based on the determination of the**  
98 **Public Works Director that the use of these parking areas would adversely affect the flow of traffic in**  
99 **the area, as detailed in said staff report dated February 3, 2010.**

100 **Ayes: 5**

101 **Nays: 0**

102 **Motion carried.**

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

1 Pursuant to due call and notice thereof, a regular meeting of the City Council of the City  
2 of Roseville, County of Ramsey, Minnesota, was held on the 22<sup>nd</sup> day of February 2010 at 6:00  
3 p.m.

4 The following Members were present: \_\_\_\_\_;  
5 and the following Members were absent: \_\_\_\_\_.

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

7 **RESOLUTION NO. \_\_\_\_\_**  
8 **A RESOLUTION DENYING AN AMENDMENT TO A CONDITIONAL USE PERMIT**  
9 **INTENDED TO ALLOW EXISTING PARKING AREAS ADJACENT TO AUTUMN**  
10 **STREET TO REMAIN AT 1901 LEXINGTON AVENUE (PF10-002)**

11 WHEREAS, the property at 1901 Lexington Avenue is owned by Riaz Hussain; and

12 WHEREAS, the subject property is legally described as:

13 **Section 15 Township 29 Range 23, subject to highway and street, part of N 1/4 of NE 1/4 of**  
14 **SE 1/4 E of Ed Bossards Addition Plat 2 and S of a line beginning on E line of said 1/4 1/4**  
15 **and 183 ft S from NE corner thereof, thence W at a right angle 89 ft, thence N and parallel**  
16 **with said E line 18 ft, thence W at a right angle to the E line of said Plat**  
17 **PIN: 15-29-23-41-0030**

18 WHEREAS, the property owner seeks to amend an existing conditional use permit to  
19 change a requirement pertaining to when or whether certain existing parking areas accessing  
20 Autumn Street are to be removed; and

21 WHEREAS, the Roseville Planning Commission held the public hearing regarding the  
22 proposed amendment on February 3, 2010, voting 5-0 to recommend denial of the proposed  
23 amendment based on the comments and findings of the staff report prepared for said public  
24 hearing;

25 NOW THEREFORE BE IT RESOLVED, by the Roseville City Council, to DENY the  
26 proposed CONDITIONAL USE PERMIT AMENDMENT in accordance with Section §1014.01  
27 of the Roseville City Code, based on the findings that:

- 28 **a.** Public Works staff has determined that utilization of the parking areas adjacent to  
29 Autumn Street unnecessarily increases the potential for traffic conflicts because  
30 of the close proximity with the high traffic volume of Lexington Avenue;
- 31 **b.** If the parking areas remained, the size and location of the parking areas makes it  
32 necessary for motorists to back in from the street or back out onto the street  
33 because there is no space for vehicles to enter in a forward direction, turn around  
34 within the property boundaries, and exit in a forward direction, and it is

35                   predominantly this need to back into or out of the parking areas that has the  
36                   greatest potential to create traffic hazards in the area; and

37           **c.**       The potential traffic conflicts related to the continued use of the existing parking  
38           areas needlessly compromise the public safety.

39           The motion for the adoption of the foregoing resolution was duly seconded by Council  
40 Member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor: \_\_\_\_\_;  
41 and \_\_\_\_\_ voted against.

42           WHEREUPON said resolution was declared duly passed and adopted.

**Resolution – Riaz Hussain, 1901 Lexington Avenue (PF10-002)**

STATE OF MINNESOTA   )  
                                       ) ss  
COUNTY OF RAMSEY     )

I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of said City Council held on the 22<sup>nd</sup> day of February 2010 with the original thereof on file in my office.

WITNESS MY HAND officially as such Manager this 22<sup>nd</sup> day of February 2010.

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William J. Malinen, City Manager

(SEAL)

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

1 Pursuant to due call and notice thereof, a regular meeting of the City Council of the City  
2 of Roseville, County of Ramsey, Minnesota, was held on the 22<sup>nd</sup> day of February 2010 at 6:00  
3 p.m.

4 The following Members were present: \_\_\_\_\_;  
5 and the following Members were absent: \_\_\_\_\_.

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

8 **RESOLUTION NO. \_\_\_\_\_**  
9 **A RESOLUTION ORDERING COMPLIANCE WITH THE TERMS OF RESOLUTION**  
10 **9414 (PF10-002)**

11 WHEREAS, the property at 1901 Lexington Avenue is owned by Riaz Hussain; and

12 WHEREAS, the subject property is legally described as:

13 **Section 15 Township 29 Range 23, subject to highway and street, part of N 1/4 of NE 1/4 of**  
14 **SE 1/4 E of Ed Bossards Addition Plat 2 and S of a line beginning on E line of said 1/4 1/4**  
15 **and 183 ft S from NE corner thereof, thence W at a right angle 89 ft, thence N and parallel**  
16 **with said E line 18 ft, thence W at a right angle to the E line of said Plat**  
17 **PIN: 15-29-23-41-0030**

18 WHEREAS, Resolution 9414 approved a Conditional Use Permit for 1901 Lexington  
19 Avenue with the condition that the parking areas along Autumn Street must be removed if the  
20 determination is made by the City that said parking areas create a safety hazard or adversely  
21 affect the flow of traffic in this area; and

22 WHEREAS, Roseville's staff, Planning Commission, City Council have determined that  
23 the parking areas create a safety hazard and that use of the parking areas would have an adverse  
24 effect on the flow of traffic in the area;

25 NOW THEREFORE BE IT RESOLVED, by the Roseville City Council, to ORDER  
26 COMPLIANCE with the provision of Resolution 9414 which requires the removal of said  
27 parking areas, such that the removal is completed by June 1, 2010 and conforms with all  
28 pertinent City Code requirements.

29 The motion for the adoption of the foregoing resolution was duly seconded by Council  
30 Member \_\_\_\_\_ and upon vote being taken thereon, the following voted in favor: \_\_\_\_\_;  
31 and \_\_\_\_\_ voted against.

32 WHEREUPON said resolution was declared duly passed and adopted.

**Resolution – Riaz Hussain, 1901 Lexington Avenue (PF10-002)**

STATE OF MINNESOTA    )  
  ) ss  
COUNTY OF RAMSEY     )

I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of said City Council held on the 22<sup>nd</sup> day of February 2010 with the original thereof on file in my office.

WITNESS MY HAND officially as such Manager this 22<sup>nd</sup> day of February 2010.

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William J. Malinen, City Manager

(SEAL)