

GENERAL INFORMATION

Applicant:	Rosa Development Company (owner)
Location:	3700 American Boulevard East 3750 American Boulevard East
Request:	Five-year interim use permit for remote airport parking facility located at 3700 and 3750 American Blvd. E. and modifications to conditions of approval
Existing Land Use and Zoning:	Remote airport parking facility; zoned HX-R(PD) High Intensity Mixed Use with Residential (Planned Development)
Surrounding Land Use and Zoning:	North – Interstate 494 West and East – Hotels; zoned HX-R South – Appletree Square hotel/office/residential; zoned HX-R(PD)
Comprehensive Plan Designation:	South Loop Mixed Use

HISTORY

City Council Action:	08/02/2021 – Approved modifications to development milestones approved as conditions of approval for an interim use permit approval for remote airport parking at 3700 American Blvd. E. (PL2021-129).
City Council Action:	08/03/2020 – Approved an interim use permit with modifications to previously adopted development milestones for phased development; denied an extended expiration date at 3700 American Blvd. E. subject to the listed conditions of approval; and denied an interim use permit with a new expiration date at 3750 American Blvd. E. (PL2020-102).
City Council Action:	04/06/2020 – Approved a major revision to preliminary development plans for a multi-phase planned development at 3700 and 3750 American Boulevard E.; final development plans to convert a portion of the Park N Fly remote airport parking facility into a six-story, 183-unit apartment building located at 3700 American Blvd. E. (Phase 1); preliminary and final plat ROSA ADDITION; and a platting variance to defer park dedication fees for future development phases (PL2020-28).

City Council Action: 04/15/2019 – Approved a five-year interim use permit for remote airport parking at 3700 American Blvd. E., subject to development milestones (PL2019-11).

City Council Action: 02/23/2015 – Approved a five-year interim use permit for remote airport parking at 3700 American Blvd. E.; approved a variance to increase the interim use permit term from five to 10 years for 3750 American Blvd. E.; and approved a 10-year interim use for a remote airport parking facility at 3750 American Blvd. E. (Case 9250ABC-14).

City Council Action: 08/03/2009 – Denied variance requesting the ability to have a 10-year interim use permit. Denied request for 10-year interim use permit. Approved a five-year interim use permit for remote airport parking, expiring July 1, 2014 (Case 9250AB-09).

City Council Action: 04/25/2005 – Rezoned to the HX-R Zoning District where remote airport parking is allowed only as an interim use.

City Council Action: 04/21/2003 – Reclassified remote airport parking as an interim use in the CS-1 Zoning District.

City Council Action: 09/23/2002 – Approved a revised final development plan to change the sunset date for the remote airport parking use in Condition #9 from 2004 to 2009 (a five-year extension) (Case 9250B-94).

City Council Action: 03/24/1994 – Approved revised preliminary development plan for the site and approved a final development plan for a parking structure with a sunset date for the remote airport parking use (Case 9250A-94).

City Council Action: 03/30/1992 – Rezoned site to apply the Planned Development Overlay District, approved a temporary conditional use permit and adopted a preliminary development plan with a sunset date for the remote airport parking use (Case 9250B-91).

City Council Action: 11/18/1991 – Approved three-year temporary conditional use permit for remote airport parking (Case 9250A-91).

City Council Action: 08/08/1988 – Approved three-year temporary conditional use permit for remote airport parking (Case 9250B-88).

City Council Action: 11/24/1986 – Adopted ordinance amending City Code to allow remote airport parking as temporary conditional uses in the CS-1 and CO-1 zoning districts.

CHRONOLOGY

Planning Commission	07/14/2022 – Public hearing continued to July 28, 2022, Planning Commission meeting at the request of the applicant.
Planning Commission	07/28/2022 – Recommended City Council approval of the 5-year interim use permit for remote airport parking at Park N Fly, subject to conditions. Additional details on the Planning Commission's discussion and recommendation are in this report's "Planning Commission Recommendation" section.
City Council	08/08/2021 – Consent Agenda item

DEADLINE FOR AGENCY ACTION

Application Date:	06/08/2022
60 Days:	08/07/2022
120 Days:	10/06/2022
Applicable Deadline:	10/06/2022 (Extended by City)
Newspaper Notification:	Confirmed – (06/30/2022 Sun Current – 10-day notice)
Direct Mail Notification:	Confirmed – (500 buffer – 10-day notice)

STAFF CONTACT

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PROPOSAL

The applicant is requesting a five-year interim use permit (IUP) for remote airport parking at Park N Fly, located at 3700 and 3750 American Blvd. E. Consisting of two parcels, 3700 American Blvd. E. is the surface parking lot while 3750 American Blvd. E. is the parking structure. As part of the IUP request, the applicant is proposing modifications to development milestones that were established as part of previous IUP approvals. In April 2019, a five-year interim use permit was approved, subject to development milestones for a Phase 1 development. The general intent of the development milestone approach was for a permanent development phase to be implemented roughly every 5 years – corresponding with IUP extensions. With the COVID 19 pandemic, the applicant sought and received approval for development milestone revisions to delay Phase 1 construction. The application before the City today would be a third such extension of the approved milestones.

BACKGROUND

In 2014, the applicant applied for a five-year IUP for the surface lot, 3700 American Blvd. E., a 10-year IUP for the parking structure, 3750 American Blvd. E., and a variance to allow a 10-year IUP (the IUP limit is five years) for the parking structure. The City Council ultimately approved the IUPs and the variance, subject to a condition requiring a development agreement where the applicant acknowledges remote airport parking is a temporary use and the City of Bloomington is under no obligation to approve future IUPs for remote airport parking. However, the agreement did not remove the applicant's ability to apply for future IUPs, which they did for the surface parking lot in 2019.

The surface lot IUP was approved with an expiration of July 1, 2024, which matches the IUP expiration date of the parking structure. As a condition of approval, development milestones were established to require a phased development plan for the entire site and the construction of an initial phase. The preliminary development plan identified four development phases for the site, and the final development plan for Phase 1, were approved by the City Council in April 2020. Phase 1 is intended to be a six-story, 183-unit apartment building.

ANALYSIS

Redevelopment of 3700 and 3750 American Blvd. E. from temporary remote airport parking to permanent development consistent with the South Loop District Plan is strongly in the City's interest. The COVID-19 pandemic continues, has significantly impacted the economy, and has had lasting ramifications on the construction industry. Construction cost increases, interest rate increases, and supply and labor shortages have made new development much more challenging. As established in the approved IUP, the applicant is required to commence construction of Phase 1 by September 1, 2022. Due to the increased construction costs and higher interest rates, the applicant will not meet that milestone, which led to the proposed five-year IUP application with new development milestones.

Given the changes in construction economics, staff is supportive of the development milestones as revised by the applicant. The increased construction prices have impacted multiple residential projects in Bloomington, although there are several under construction presently. The applicant has been actively collaborating with City staff to prepare construction documents and work towards procuring a building permit, but those efforts stopped when construction pricing continued to rise in 2022. The proposed development milestones related to the construction of phases include a return on equity metric. This metric determines whether the applicant's required updated proforma provides sufficient returns for the commencement of Phase 1 construction. If the City Council determines returns would not be sufficient after Planning Commission review, the proforma review milestone would automatically extend by one year, though the term of the IUP itself would not be extended and is capped at five years. The entity reviewing the milestone extension was changed by the applicant at the Planning Commission meeting. The Planning Commission was not comfortable with granting staff the discretion to extend construction milestones. References to the extension of milestones have been shifted to the the City Council, after review of the Planning Commission.

The development milestones as revised by the applicant and recommended by the Planning Commission are:

Milestone	Description	Due
Phase 1 Resubmittal	Due to the plans' expiration, the Applicant will submit a new Final Development Plan application for Phase 1 that is substantially consistent with the previously approved Phase 1 Final Development Plan.	February 1, 2023
Phase 1 Status Update	The applicant will meet with City and Port Authority staff to provide the status of construction materials pricing and financing markets.	October 31, 2023
Phase 1 Proforma	The applicant will provide an updated Phase 1 proforma based on the current construction pricing, market rents and projected returns.	February 28, 2024
Phase 1 Construction Start	The applicant will commence construction of Phase 1 project, provided project returns based on market conditions, including rents, interest rates and construction costs exceed an average of six percent (6%) Return on Equity for the first ten years of projected operations in the proforma submitted by the Applicant and reviewed by the the Planning Commission and City Council. If the City Council determines the proforma is at market conditions and the returns are insufficient, this milestone will be extended for annual proforma reviews based on updated information.	June 30, 2024
Phase 2 Development Concept Plan	The applicant will submit a development concept plan for Phase 2 with projected uses and development schedule.	July 31, 2024
Phase 2 Revised Preliminary and Final Development Plans	The applicant will submit to the City a complete application for a major revision to Preliminary Development Plans for the Property and Final Development Plans for Phase 2.	December 31, 2026
Phase 2 Building Permit	The applicant will submit a complete application for a building permit for the Phase 2 project	May 30, 2027
Phase 2 Construction	The applicant will commence construction of Phase 2 project, provided returns are sufficient based on market conditions, including rents, interest rates and construction costs, as determined by the City Council after Planning Commission review and based upon the proforma submitted by the Applicant and reviewed by the Port Authority Administrator.	July 31, 2027

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a public hearing on July 28, 2022, and considered the 5-year IUP for remote airport parking at 3700 and 3750 American Blvd. E. Following an extensive discussion, the Planning Commission ultimately recommended approval of the IUP, subject to conditions and development milestones, by a 4-3 vote.

Commissioners expressed concern about continued extensions and delays of permanent development within the Park N Fly site. It was the belief by several Commissioners that authorization to extend any milestone should rest with the Planning Commission and City Council rather than with staff as proposed. Based on those concerns, the applicant's representative stipulated during the meeting and again subsequent to the meeting via e-mail that the property owner agrees to revise their application to provide review authority for extending the Phase 1 and 2 construction start milestones in the event of poor proforma results to the City Council after Planning Commission review rather than to staff.

FINDINGS

Interim Use Permit Findings of Fact – Section 21.501.05(e)(1-6)

Required Finding	Finding Outcome/Discussion
(1) The proposed use will not delay permanent development of the site	Finding Made- The requested modification to the development timelines results in permanent development of the site and is reasonable based upon the ongoing impacts of the COVID-19 pandemic and shocks to construction markets.
(2) The proposed use is not in conflict with any adopted District Plan for the area.	Finding Made – The extension of the development milestones does not conflict with the Comprehensive Plan's and South Loop District Plan's long-term vision for the site and surrounding area for high-density, mixed use, pedestrian-oriented development. As approved, the proposed Phase 1 construction will achieve that long-term vision for the site. In addition, the additional time needed for construction is reasonable based on the disruptions caused by COVID-19 and the construction industry.
(3) The proposed use will not be in conflict with any provisions of the city code on an ongoing basis	Finding Made – The HX-R zoning district restricts remote airport parking to being an interim use within the district. Permanent use of the site for remote airport parking would conflict with the HX-R zoning district. Phased development within the large site is consistent with the intent of the IUP.
(4) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety, and welfare	Finding Made – The use has not adversely impacted nearby properties in the past and there is no reason to expect adverse nuisance impacts based on the extension of development milestones.

(5) The date or event that will terminate the use has been identified with certainty	Finding Made – The applicant’s request to modify the development timeline provided by the existing IUP provides a date at which development will occur and allows the applicant to navigate the challenges existing in the construction industry.
(6) The property on which the use is situated has no open enforcement orders and there are no nuisance characteristics associated with the property or its current use	Finding Made – There are currently no enforcement actions, outstanding code violations, or nuisance characteristics on the site.

RECOMMENDATION

The Planning Commission and staff recommend approval using the following motion:

In Case PL2022-127, having been able to make the required findings, I move to approve an interim use permit with modifications to previously adopted development milestones for phased development at 3700 and 3750 American Blvd. E., subject to the listed conditions of approval attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL202200127

Project Description: Interim Use Permit for Park 'N Fly remote airport parking facility located at 3700 and 3750 American Blvd. E. and modifications to conditions of approval

Address: 3700 and 3750 American Boulevard West

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Permit The applicant must sign a new Site Development Agreement relating to the remote airport parking use with the City that incorporates all conditions of approval attached to Case PL2022-127 and confirms the interim nature of the use.
2. Ongoing The conditions attached to this approval of the interim use permit for remote airport parking (Case PL2022-127) replace and supersede all previous conditions of approval related to the remote airport parking use on the property.
3. Ongoing Upon interim use permit expiration (Case PL2022-127), the physical surface parking lot and physical parking structure may remain, however, the use of the site for remote airport parking must cease.
4. Ongoing The remote airport parking use is limited to 2,059 vehicles.
5. Ongoing Any physical changes to the site must follow the relevant approval process outlined in the City Code.
6. Ongoing Motor vehicles must be parked at all times in a manner allowing Fire Department access.
7. Ongoing Landscaping and required screening must be maintained during the term of the interim use permit.
8. Ongoing Maintenance or cleaning of customer or employee vehicles is prohibited.
9. Ongoing All trash and recyclable materials must be stored inside the principal building.
10. Ongoing Fire lanes be posted as approved by the Fire Marshal.
11. Ongoing Failure to meet any of the milestones identified in the staff report will result in termination of this interim use permit for remote airport parking, provided the City makes available sufficient sewer infrastructure capacity to be available. In any event, termination of this interim use permit is subject to the Applicant's right to cure an event of default or otherwise undertake corrective measures. In no case may the use of the Property for remote airport parking extend beyond August 8, 2027, unless a subsequent interim use permit is issued.