



STAFF REPORT
BOARD OF ADJUSTMENT
For the November 18, 2015 meeting

TO: Board of Adjustment members
FROM: Sheena Nuetzman, Planning Director
SUBJECT: CUP03-15: Conditional uses permit application for an Aldi's grocery store and associated parking

GENERAL INFORMATION

Applicant: ISG, Inc.- Andy Brandel
7900 International Drive, Suite 550
Faribault, MN 55021

Property Owner: Colby Interests

Proposed Use: New grocery store and associated parking

Zoning: UC, University Commercial/Mixed Use

Location and size: 7204 University Avenue
17,825 square feet

QUICK SUMMARY

Both the Planning and Zoning Commission and City Council have reviewed the Master Plan for Midtown Center. The City Council approved the Master Plan at their August 17, 2015 Council meeting. Colby Interests were granted approval for their Master Plan following concept #43 which can be found in a separate attachment. The Master Plan (concept #43) approval did not consist of any uses for the proposed buildings so action is now needed as the applicant has applied for a conditional use permit for the west anchor building. The site layout, which includes parking, landscaping and building elevations, have been approved for the west anchor building.

ACTION REQUESTED

Food Sales, i.e. grocery stores over 10,000 square feet in the UC (University Commercial) zoning district are not permitted by right, but can indeed be approved or denied, or approved with conditions through a conditional use permit. The Board of Adjustment must review the application and provide an action as provided at the end of this staff report.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission met on September 23, 2015 and held a public hearing for the application request. Minutes for the meeting can be found as a separate attachment. A motion was made to approve the conditional use permit with the following conditions:

1. To see the building moved forward to the minimum setback of 25 feet from the right of way.
2. Parking to be located behind the building.
3. Be a mixed use building- both commercial and residential.
4. It must be at minimum a \$10 million assessed value, all construction to be done in 3 years.

APPLICABLE SECTIONS

The following are applicable sections of the zoning ordinance as it pertains to this application.

167.07 COMMERCIAL USE TYPES.

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

13. Food Sales. Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

C. General Food Sales: Establishments selling a wide variety of food commodities, using facilities larger than 10,000 square feet. Typical uses include supermarkets.

Table 168-2 – Permitted Uses by Zoning District

Use Types	R-1	R-2	R-3	R-4	MH	O	CC	GC	UC	TC	LI	Additional Regulations
Food Sales (General)							P	P	C	C		

177.03 CONDITIONAL USE AND SPECIAL USE PERMIT PROCEDURES.

1. Purpose.

The Conditional Use and Special Use Permit Procedures provide for Planning Commission review and discretionary Board of Adjustment action for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.

2. Administration.

The Planning Commission shall review and evaluate each application and transmit its recommendation to the Board of Adjustment. The Commission recommendation should include whether or not to approve or disallow the project and any suggested conditions if approval is recommended. The Board of Adjustment shall review, evaluate, and act upon all applications submitted pursuant to this procedure.

3. Application Requirements.

An application for a permit may be filed with the Zoning Administrator by the owner of a property or the owner’s authorized agent. The application shall include the following information:

- A. Name and address of the applicant.
- B. Owner, address, and legal description of the property.
- C. A description of the nature and operating characteristics of the proposed use.
- D. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.
- E. A written statement as to how the proposed project fits within the character of the neighborhood and that meets the intent of the City’s comprehensive plan.

4. Review Process.

- A. The Planning and Zoning Commission, following proper notice, shall hold a public hearing on each permit and, following such public hearing, shall recommend action to the Board of Adjustment.
- B. The Board of Adjustment, after publication and public hearing, shall act on the permit, choosing to approve or deny the project.

5. Criteria for Review.

The Planning Commission and the Board of Adjustment shall review the application based on the criteria established in Table 177-1 and conformance with applicable regulations in this Zoning Code.

6. Scope of Planning and Zoning’s Authority.

The Planning and Zoning Commission shall review and make recommendations to the Board of Adjustment based on the criteria established in Table 177-1 and based on compatibility with the surrounding neighborhood.

The Commission shall forward recommendations including whether or not to approve or deny the permit. If approval is recommended, the Commission shall include suggested conditions for the conditional or special use permit.

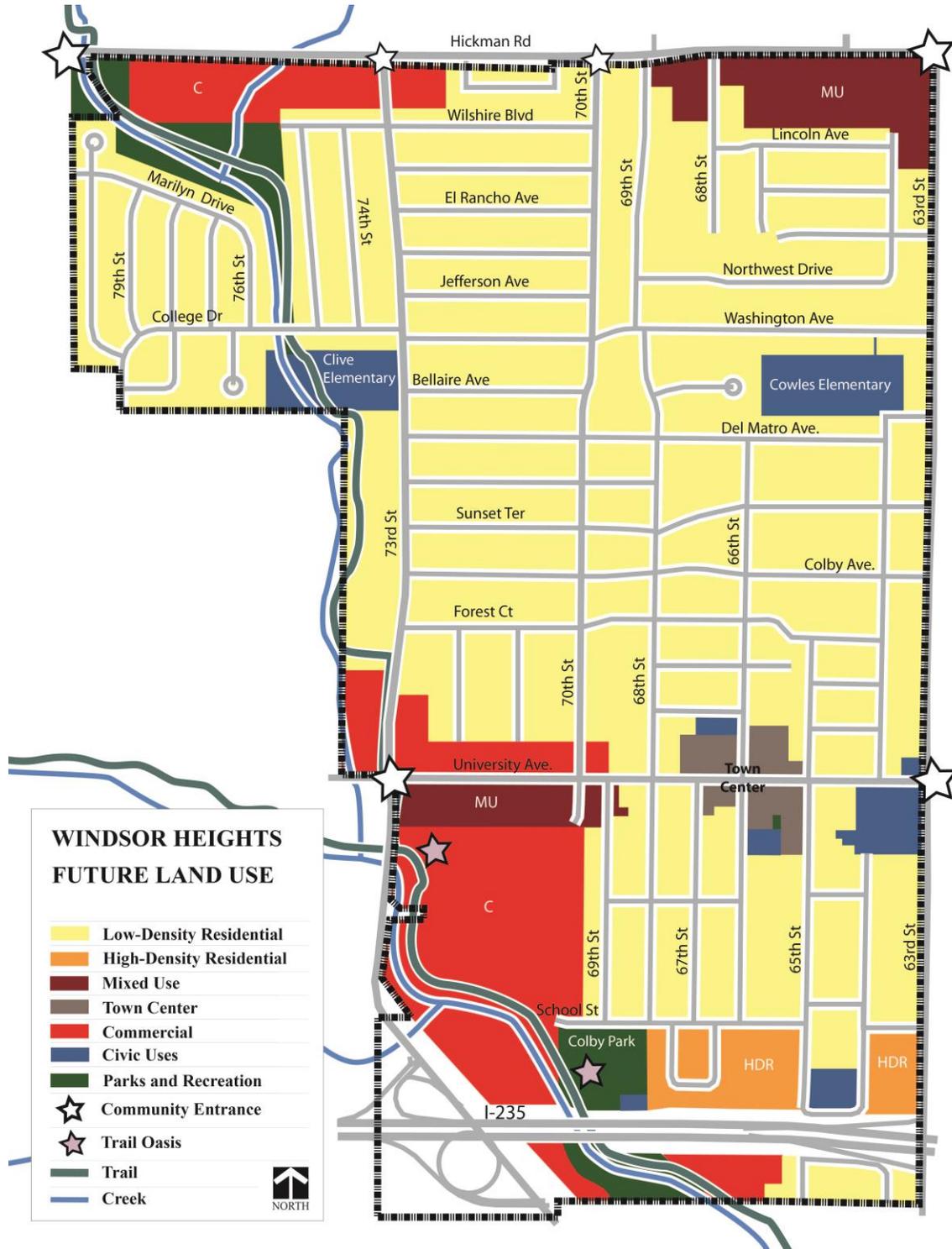
STAFF ANALYSIS

Land Use Compatibility		Staff Comments
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	No issues.
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	Setback requirements have been met. Setback requirements are as follows: Front- 25 feet, Street side yard-25, and interior side yard- 0, rear yard- 10 feet. The proposed buildings are approximately setback over 140 feet from the right-of-way.
Building Coverage	Building coverage should be similar to that of surrounding development if possible. Higher coverage should be mitigated by landscaping or site amenities.	No issues.
Frontage	Project frontage along a street should meet minimum frontage requirements and provide reasonable exposure for the development.	No issues.
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	317 parking spaces are being proposed for the entire Master Plan. The proposed use is required to have 1 space per 200 square feet which would total to 89 spaces. The anchor building may be using more than 89 spaces. The requirements for the remainder of the parking space will be determined later when uses are brought forth.
Parking and Internal Circulation	All structures must be accessible to public safety vehicles.	No issues.
Parking and Internal Circulation	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	No issues.
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage ways should be preserved.	The City Council has approved a final landscape plan which can be found in a separate document unless the Board requires additional or changes to landscaping or site features as part of the application.
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations	The building design has been approved as well by City Council unless the Board requires additional or changes to the building design features.
Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	A traffic study was completed and has been reviewed and approved by the City's engineer.
External Traffic Effects	Project design should direct nonresidential traffic away from residential areas.	Not applicable.
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	No issues. Anticipated hours of operation are 9:00am to 9:00pm daily.
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	Staff recommends that all outside storage of trash be enclosed in the back of the building.
Stormwater Management	Development should handle storm water	The stormwater management plan has

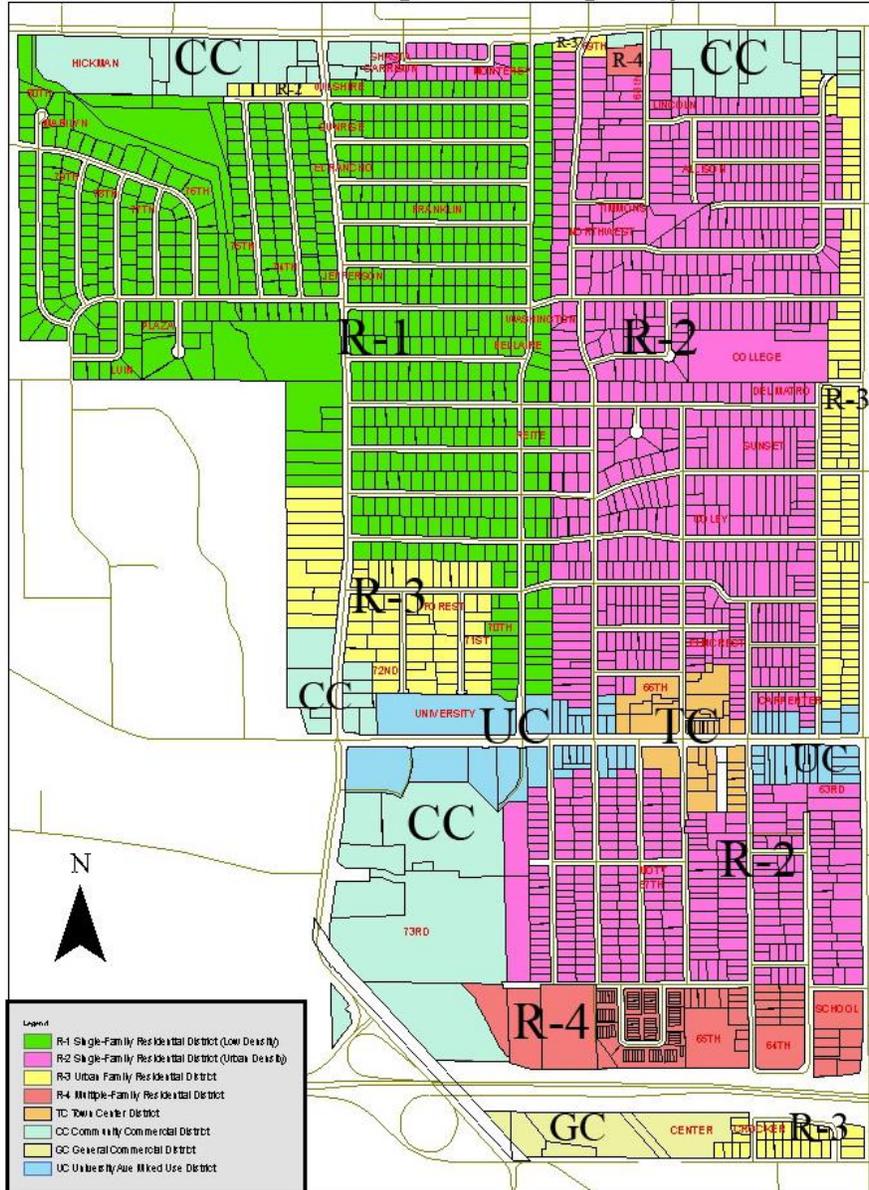
	adequately to prevent overloading of public storm water management system. Development should not inhibit development of other properties. Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	been reviewed and approved by the City's engineer. The stormwater plan will continue to be monitored during development.
Utilities	Project must be served by utilities.	No issues.
Comprehensive Plan	Projects should be consistent with the City Comprehensive Development Plan	The Comprehensive Plan does not address a specific use for the subject property; as shown on the next page, the future land use map designates the area as Mixed-Use which is intended for areas that encourage combinations of pedestrian-friendly commercial, office and residential. Commercial areas shown on the map are intended for uses that are oriented towards automobile access.

FUTURE LAND USE MAP

Below is the most recent adopted Future Land Use Plan (FLUM) which should be used when making decisions on future land use applications. It is not intended to be a zoning map as shown earlier. The FLUM is meant to provide general guidance at a block level and is not meant to provide specificity at the individual property level. The commercial areas designated on the map are intended for commercial and office uses that are oriented toward automobile access. The mixed use areas on the map are intended for areas that encourage combinations of pedestrian-friendly commercial, office and residential.



Windsor Heights Zoning Map



CONCLUSIONS

The Board of Adjustment may choose from the below alternatives for action.

1. Accept and approve CUP03-15 as proposed.
2. Accept and approve CUP03-15 as proposed with conditions.
3. Deny CUP03-15 as proposed.