

**DRAFT MINUTES  
WINDSOR HEIGHTS  
BOARD OF ADJUSTMENT**

**November 18, 2015  
5:30 p.m.**

**Council Chambers  
1133 66<sup>th</sup> Street**

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**1. Call to Order/Roll Call**

Dave Knau called the meeting to order at 5:30 p.m. Sara Walker, Kathy Warnsholz, Donna Markley and David Jenison were in attendance; Planning Director, Sheena Nuetzman and representing the Board Attorney, Brad Skinner, were also present.

**2. Approval of the agenda**

Walker made a motion for approval of the agenda, seconded by Markley. Voice vote passed unanimously.

**3. Approval of August 19, 2015, Board of Adjustment Minutes**

Jenison moved approval of the minutes, Warnsholz seconded. Voice vote passed unanimously.

**4. Public Hearing for a conditional use permit request (CUP03-15) at 7204 University Avenue, for a new Aldi's grocery store over 10,000 square feet and associated parking in the Midtown Center Master Plan re-development area, formally known as Apple Valley Shopping Center.**

Knau opened the public hearing at 5:32pm.

Aldi's representative, Dan Manning with Lillis O'Malley, submitted a packet of information, requesting it be officially added to the record to supplement the application for CUP. The packet consists of 15 different exhibits, which includes April 16th P&Z minutes; memorandum of traffic analysis of the property in March of 2015, by city engineers and October 2014; agenda of minutes of August 17<sup>th</sup> council meeting and approved site plan for midtown center, concept #43; Sept. 23rd staff report prepared for P and Z in reference to the CUP application ; chart of food services in metro and references to zoning ordinance(s); etc. Mr. Manning also stated that there shouldn't be confusion who applicant is, consent is submitted by Aldi's; We ask they become part of record.

Knau- "let's make that a part of the record".

Simsonson and Associates, Mike Simonson spoke next: Starting Jan. 21<sup>st</sup> submitted site plan application; Oct. 2014 Snyder conducted first traffic report which was a trip generation for the property and showed a grocery store less than 18,000 square feet; submitted first site plan on Jan. 21<sup>st</sup> of 2015, resubmitted Feb. 17th based on staff comments, first P&Z meeting was on Feb 25<sup>th</sup> this

year, followed by full traffic review on March 25<sup>th</sup>, again showed grocery store less than 18,000 square feet; then first city council workshop to talk about issues on property on May 14<sup>th</sup> and June 15<sup>th</sup>; based on comments, revised plans on July 27<sup>th</sup>, resubmitted in August; Simonson went through recent staff report;

Worked on the mixed use development at 63<sup>rd</sup> and Hickman; currently constructing Unity Point which is a single story building; proposing that we are fairly similar and have different types of uses; referring back to the Midtown plan for perspective have completed 89 Walgreen's stores; what we are proposing is slightly larger than a Walgreen's; the site plan was approved by City Council; signage, benches, pedestrian walkways, etc.; in compliance with site circulation and pedestrian circulation, landscaping, parking, etc.; next image is of one of the plaza spaces for the kind of amenities to announce corners; more enhanced than what you see today; went through elevation detail.

Dan Manning: we have an approved site plan and have a tenant ready to occupy west building; because property, although relatively smaller than other food users is still in excess of 10,000 square feet, the Board has the ability to review the permit; CUP needs to be tied to the ordinance and staff report; every issue has been addressed; exhibit 10- list of food services in metro area; in order to be competitive there isn't a store that wouldn't be under 10,000 square feet; under your ordinance, a store under 10,000 square feet is permitted; it is still a permitted use; ask you consider, under ordinance it is permitted with conditions you propose or ties to Table 177; City Council has spoken to site plan; issue now is recognizing the building is over 10,000 square feet and for Aldi's to locate there it needs to be approved; have to make a record; legal points: it is the action of the Board of Adjustment to make the decision; cases- Holland vs Decorah, point out under ordinance, the requirement that a CUP be considered by the P&Z then the BOA is redundancy; not binding on you for the recommendations from the Sept. 23<sup>rd</sup> meeting; were not consistent with standards the BOA should consider; we've established the size of building is a size that will not be a negative impact to neighborhood and is authorized with conditions under zoning ordinance; ask to grant CUP based on zoning ordinance, specifically Table 177.

5:54pm opened to audience

Nuetzman: had just received a petition electronically from an audience member with 93 signatures and 30 comments; do not have it physically. The audience member will speak to the petition.

Spoke in opposition of the conditional use permit request:

1. Kathryn Dickel- 1007 67<sup>th</sup>; started online petition
2. Joe McConville- 2009 66<sup>th</sup>
3. Doreen Chamberlain- 7019 Sunset
4. Diane Foss- 6608 Del Matro
5. Dave Ferneau- 6404 Del Matro
6. Unknown name- 1414 63<sup>rd</sup>
7. Amy Hughes- 954 64<sup>th</sup>

8. Zach Bales-Henry- 1000 65<sup>th</sup>

9. Bill Strate- 7015 Sunset

Spoke in favor of the conditional use permit request:

10. Betty Koepsel- 2250 70<sup>th</sup>

Knau closed the public hearing at 6:14 pm.

Walker moved that CUP03-15 for an Aldi's market be denied; Markley seconded.

Jenison: the oversaturation is well taken; in talking of the most recent Hy-Vee gas station application; didn't want every corner to have a gas station; it's not the right location, over saturation; sorry people feel they should have been involved earlier; not much more a city can do to inform; if you want to be involved, watch media, notifications are all over the place, they're free; also think if there would have been other options from other committees in cleaner form, but another story

Knau: stated the 10,000 square feet issue would make the motion supportive of the ordinance of the city; the fact that it is over 10,000 square feet and that is the issue that is in front of us

Warnsholz- yes

Jenison- yes

Walker- yes

Markley-yes

Knau- yes

Roll call vote; passed unanimously.

## **5. Adjourn**

Jenison moved to adjourn at 6:18 pm; seconded by Markley. Voice vote passed unanimously.

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Dave Knau, Chair

ATTEST:

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Sheena Nuetzman, Planning Director