



**PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT
DECEMBER 12, 2023**

Application #: 2023-35
Application Name: City Market Fueling Station
Application Type: Conditional Use Permit
Representative: Galloway
Location: 437 W. Aspen Avenue
Zone: Downtown-Mixed Use (DMU)
Description: This is a request for approval of a Conditional Use Permit for a drive-through facility for a retail fueling station on approximately .52 acres.

Project Description:

This is a Conditional Use Permit (CUP) application to allow for a drive-through type use in the Downtown Mixed-Use (DMU) zone. Section 17.05.090 the Land Use Code states that drive-up/drive-through Facilities require approval of a CUP. The overall use of the property is proposed to be a City Market Fueling Station. Fuel Sales are an allowed land use in the DMU zone and the primary purpose of this CUP application is to review the approval criteria for Conditional Uses in accordance with Section 17.09.030. As for process, Conditional Use Permits are reviewed by Staff and the decision-making body is the Planning Commission.

Currently, there are two (2) buildings and a parking lot on the property. On the southwest corner of the property is a 1,700 square foot building that has been used for different types of business uses over the past 10 years. The other building on the property is a 5-unit residential building.

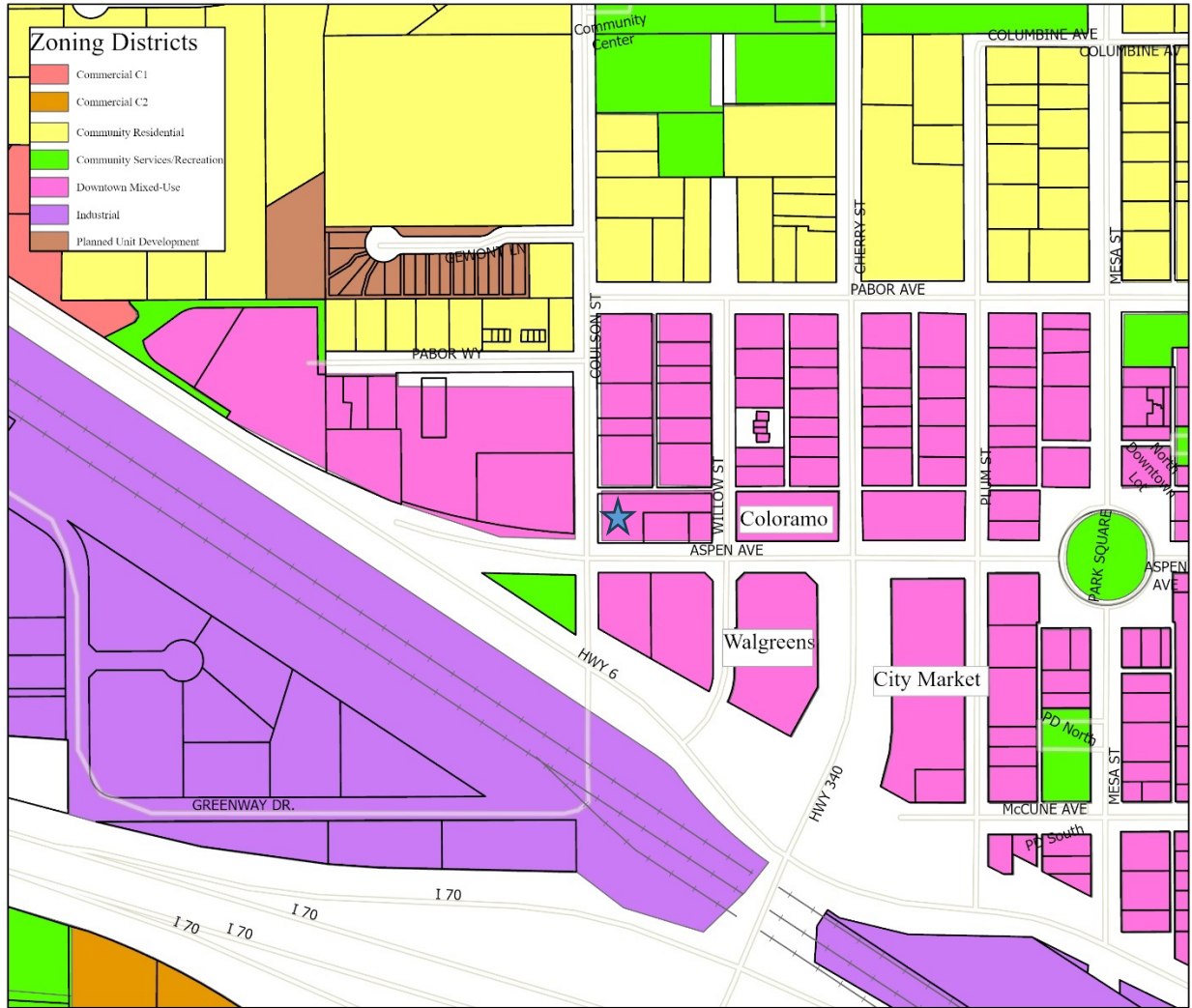
In order to make an informed decision on the Conditional Use Permit application, Staff has requested that the applicant provide a Site Plan (included with the Staff Report). The purpose of the site plan is to ensure that if the CUP is granted, that the site circulation and layout can work. If the CUP is approved, the applicant will then go through a Site Design Review Application process which can be approved administratively. With that said, the approval criteria and Staff's review of this application only pertains to the drive-through portion of the business.

Surrounding Land Uses and Zoning:

Land Uses surrounding the subject property consist of a mix of residential and commercial. The Fruita Recreation Center and Family Health West Hospital are to the north along with residential land uses. The Walgreens, Balanced Rock Motel, and City Market are to the south and southeast.

The Burger King and Coloramo Federal Credit Union are located to the east. Zoning surrounding the subject property consists of Downtown Mixed-Use (DMU) and the Comprehensive Plan identifies this area as the City's Core.

Zoning Map



2022 Location Map



CONDITIONAL USE PERMIT APPROVAL CRITERIA

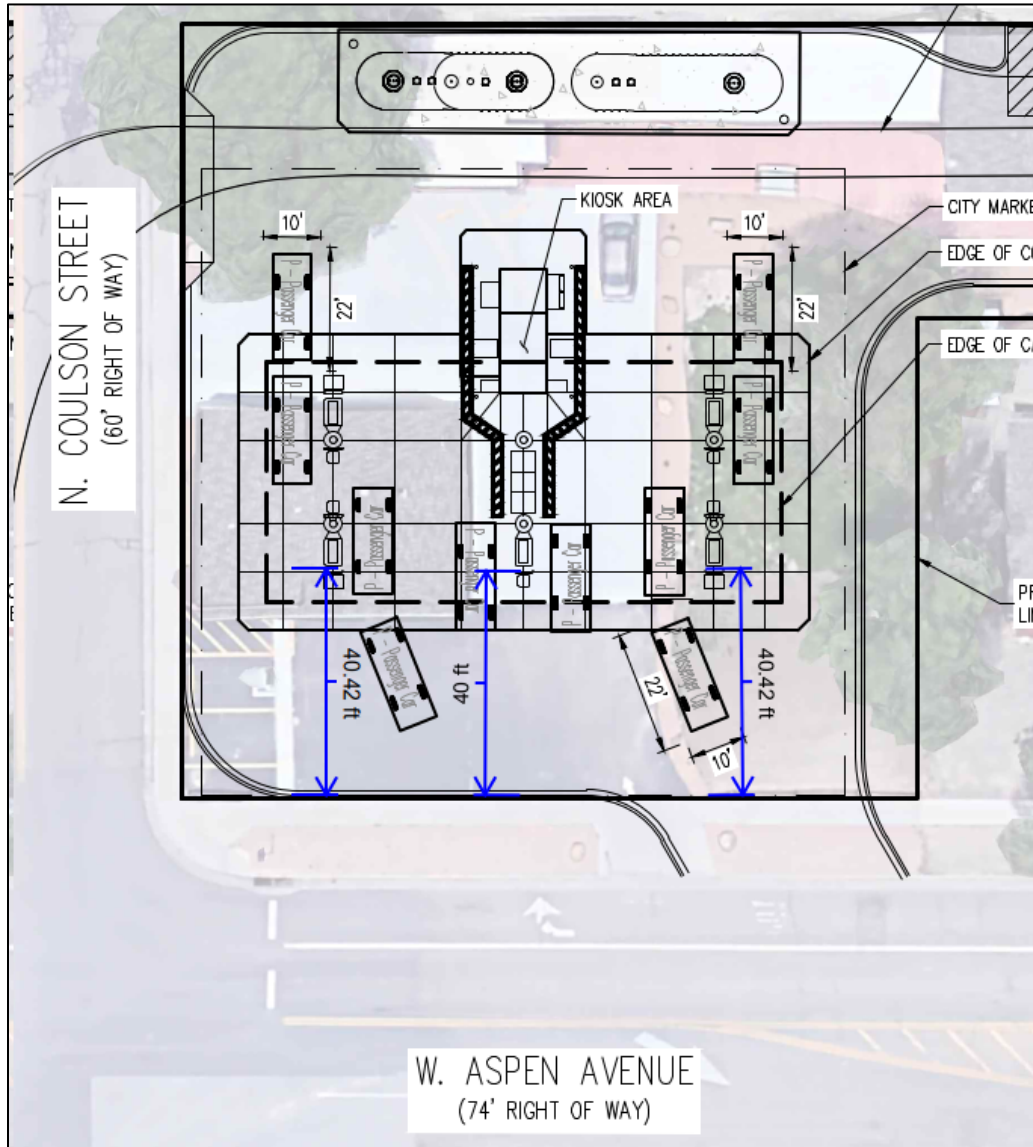
A conditional use is defined as a use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone district.

Section 17.09.030, Conditional Uses, of the Land Development Code requires that a conditional use be approved after considering the following:

- 1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;**

Based on this review, the proposed conditional use as it relates to the proposed fueling station can be consistent with the provisions and purposes of this Title (the Land Use Code), which is to promote the health, safety and welfare of the present and future inhabitants of the community.

The Land Use Code identifies the subject property as being in the Downtown Mixed-Use Core area. Section 17.13.050 (A)(2)(c) of the Land Use Code states that new drive-up/drive-through facilities (e.g., windows, ATM's, Etc.) are not permitted in the Downtown Core within forty (40) feet of Aspen Avenue. The plans submitted show a setback of approximately 40 feet. This portion of the code has been met.



Section 17.37.070 (B) states that, “For service uses (such as gas stations, quick lube and car washes), two stacking spaces shall be provided for each bay on the entrance side and one such space on the exit side. Stacking spaces shall not interfere with other required parking areas. Stacking spaces must measure at least twenty-two (22) feet long by ten (10) feet wide.” The Site Plan provided shows two (2) stacking spaces per fueling station/bay will work and they meet the measurement requirements. It’s unclear from the submittal that the additional stacking space for the exit side will work. It is Staff’s

interpretation that the Code requires 3 stacking spaces per bay. If the applicant can show the additional exit side space or a total of 3 stacking spaces per bay, then this part of the Land Use Code can be met.

As for vehicular circulation, the proposed plan shows access from Willow Street, Aspen Avenue, and Coulson Street. The access from Aspen Avenue will need to be reviewed and approved by CDOT and as its proposed right now, the Aspen Avenue access is only a right in turn, similar to the Coloramo access from Aspen Avenue.

The purpose of the Downtown Mixed-Use zone is to maintain and enhance downtown as a vibrant, pedestrian-oriented commercial and residential area. The Master Plan supports development and redevelopment in the downtown area with an emphasis toward promoting businesses that support existing and future associations that advocate for the downtown area. The Fruita City Market has been a key focal point in the City's downtown area for many years. Additionally, the Master Plan supports and encourages revitalization of existing areas in the Downtown with a focus on areas where the community can see the benefits of redevelopment. The Land Use Code is one of the main documents used to implement the goals and policies of the City's Master Plan. This criteria has been met.

2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.05.080 (C); and

Section 17.05.080 (C) requires that a proposed development be compatible with adjacent properties, considering both existing and potential land uses on adjacent properties. For all land uses, "compatibility" is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The city decision-making body may consider other uses existing and approved, and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between a proposed use and existing uses in the vicinity to ensure compatibility.

It appears that this proposed drive-through facility will be compatible with surrounding land uses. This area is considered the Core area, which supports a number of allowed land uses that can be considered as compatible with a drive-through fueling station like the one proposed. It is important to consider that the property directly to the west has been approved for an 88-unit multi-family complex which consists of 3 apartment buildings and 16 townhome style residential units. The 1st of the 3 apartment buildings is currently under construction. In addition to multi-family, land uses supported in the Core area are restaurants, personal services, retail, hotels/motels, medical and dental clinics, and childcare.

There are many other businesses along Aspen Avenue in this area that have a drive-through component to them. The most recent is the Coloramo Federal Credit Union, and

others are the Walgreens pharmacy, the City Market pharmacy, the Sinclair gas station, and the Burger King.

This criterion can be met.

3. The proposed use will not materially endanger the public health or safety; and

If the drive-through facility is placed in a manner to provide for adequate vehicle stacking on the subject property, then the proposed use doesn't appear that it will endanger the public health or safety. The project, if approved, will need to address concerns from CDOT. Some uses in the Downtown Mixed-Use zone generate more traffic than other uses. If the principle use were to change, a traffic study may be required in order to justify whether the use, in conjunction with a drive-through, can be safe. This criterion can be met.

4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.

Public services and facilities have been available to this property and will continue to be available to this property. The drive-through facility is expected to put more pressure on the adjacent transportation system, most likely Willow Street and Coulson Street, however these roadways are designed and constructed to handle a large amount of daily traffic. Other public services and facilities are not expected to have a substantial increase. This criterion has been met.

Legal Notice:

Legal Notice (minimum of 15 days prior to Planning Commission)	
November 22, 2023	Post Cards
November 22, 2023	Sign Posting
November 22, 2023	Legal Ad

Review Comments:

CDOT has provided written comments that require a Traffic Study and an access permit for the connection to Aspen Avenue, this comment will need to be addressed with the Site Plan application if the CUP is approved.

Public Comments:

No written public comments have been received regarding this application.

Staff Recommendation:

Because all approval criteria either have been met or can be met, Staff recommends approval of application 2023-35 with the condition that all review comments and issues identified in the Staff Report be met.

Suggested Motion:

Mr. Chair, I move to approve application 2023-35, the City Market Fuel Station Conditional Use Permit, with the condition that all review comments be adequately addressed with the Site Plan application.