

2021-0472 Request for Conditional Use Recommendation - City File No. 21-022 - Biggby - to add a modular coffee drive-through with landscaping within an outlot within the Meijer parking lot, 3099-3175 S. Rochester Rd., south of Auburn Rd., zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-35-100-056, Kyan Flynn and Deanna Richard, 24Ten, LLC, Applicant

Present for the applicant were Kyan Flynn and Deanne Richard, 24Ten LLC, 807 Ironstone Dr., Rochester Hills, MI 48309, and Matt Levitt, representing Meijer. Present via Zoom was Tonia Olson, BCubed Manufacturing, 666 McKinley Ave., Alpena, MI 49707.

Chairperson Brnabic introduced the request for Biggby to add a modular coffee drive through with landscaping within an outlot in the Meijer parking lot, located at 3099- 3175 S. Rochester Road, south of Auburn Road, zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay. She introduced the applicants.

Ms. Kapelanski stated that there is not much new information to add for this application since it was discussed extensively at last month's meeting. She said that the discussion is noted in the minutes presented for approval tonight. She pointed out that there have been no changes to the plan, and explained that this is brought back because the motion at the previous meeting failed for lack of the minimum five required votes, as outlined in the Planning Commission Bylaws. Therefore, the applicant is before the Commission this evening with the same request.

Chairperson Brnabic asked the applicants if they have a presentation or anything to add.

Ms. Richards said they have an abbreviated presentation, and she had a few things she wanted to say personally. She thanked the commissioners for having them back for the third time, and she hoped that the commissioners had a chance to read the letter they provided in advance. She explained that they also provided letters of support from local businesses and residents that gave them more inspiration in coming to tonight's meeting, and they connected with Mayor Barnett. Ms. Richards said that Mayor Barnett was very interested and asked a lot of great questions about their story. She expressed hope that the commissioners had a chance to read about their story in their letter. She said that she and Mayor Barnett go back to Oakland University (OU), graduating just a few years apart; they did not know that at the time but they discussed that today. She said that they are going to show an abbreviated version of their presentation. She stated that they addressed all of the concerns from the November meeting, including the stacking, landscaping and facade, and took it further with the traffic flow, revising to a one-way in one-way out traffic pattern, at the recommendation of Matt Levitt and his corporate team. Ms. Richard said that they want the commissioners to know that they understand the aesthetics are very important, and they will beautify the project as much as possible. They are eager to address the concerns that came out in December, mostly the drive through and the issue of precedent. She noted that Biggby Coffee's values align with their own, and they speak to the drive through, walk up window and patio

concept. As customers, people want to feel like they are a priority, and the values of Biggby Coffee accomplish just that. Customers leave Biggby Coffee in a better mood than when they started, whether they are driving through or walking up. She said you might be thinking to yourself, that can't happen in a drive through, but it absolutely can. She said that she can speak for Ms. Flynn and herself, it happens to everyone that goes to a Biggby. They had the engagement first hand with customers in stores with their on-the-job training, and it is fantastic. She explained that it was amazing how they knew your choice of drink before you even got to the window, maybe by the customer's voice or by the car they drove. And if they didn't know that they were willing to give suggestions on coffee choices if a customer didn't know what they want. The energy they brought was fantastic, and they had the opportunity to see that in action, which was phenomenal, and they are excited to bring this concept to the community. She said they are coming back to their roots in Rochester Hills, that is the obvious reason why they want to be involved.

Ms. Flynn said that both Ms. Richards and herself have had successful careers in leadership and in delivering the bottom line. That's why they decided they wanted to bring Biggby to Rochester Hills. She said that Ms. Richards was a successful collegiate basketball coach and she has led multiple sales departments across the country. She said that when their careers took them both out of state they knew they would be coming back to Michigan and Rochester Hills. She said that with the parks and trails and with how active both of them are with their families, you really can't beat Rochester Hills in southeast Michigan. She said she had the opportunity to move back to Michigan in 2019 and chose Rochester Hills. She said that the last time she lived here, she knew that her family would thrive with the outstanding school system and the community that makes up Rochester Hills. She said she has a seventh grade son who goes to school at West and is on the football team, and noted "West is Best", and he loves it there. She explained that Deanna went to OU and she is probably one of the most humble people you will ever meet, she is not going to tell you that she was one of ten all American basketball players at Oakland University, and you'll see her on the wall at the gym at OU. She has strong ties to the community through that. When they dug into the beliefs of Biggby Coffee, they couldn't believe how compatible they were with their values and beliefs. They knew that they could utilize those beliefs, while developing a profitable company and bringing people together. She said that they heard the board's concerns and they feel they can address them to allow the Commission to feel comfortable to approve this Biggby Coffee. These were the concerns they heard from the November meeting and then addressed for the December meeting, they fall into two categories: the harmonious appearance, which was corrected with a brick veneer, and they enhanced landscaping, based on what Commissioner Weaver was looking for, and then also concealed the foundation, which was showing in some of the different pictures that you can find online. She said that working with Mr. Levitt and Meijer, they were able to change up the traffic flow, and were able to actually increase the stacking of cars that would be right on the Biggby property, with a one entrance and one exit approach.

Ms. Richards showed slides of a similar building, and she said what they presented in November was a facade with more of a stucco feel, and now it is just brick. She said that the picture does not depict a good view of the walk up

window itself, but they will have planters on the side to conceal the patio area with tables and chairs and umbrellas so people can enjoy their coffee. Ms. Flynn said the picture highlights that the foundation is not showing; it goes all the way down and around the building, and shows the complete encasement with brick veneer. She showed a depiction of the revised landscaping, and she said their initial presentation showed too many trees, and not enough smaller species so that it would be easier to maintain and to improve the aesthetics of the space. She showed pictures of the smaller plantings, and noted they worked with their landscaper to beautify the space. Ms. Richards showed a rendering from an overhead view of what they think it will look like, with stacking spaces plus additional parking spaces encased within the landscaping. She noted that to the right is Culvers, to the left you will see Panda Express, and then Meijer would be behind.

Ms. Flynn said that at the December meeting they heard the commissioners' concerns and so they want to address those as well. She said that one concern they heard is that their space needs to be compatible, harmonious and appropriate in appearance with the existing and planned character of the general vicinity. So in changing up the brick façade and using a neutral gray color, and attractive landscaping really will enhance that space. Now it is a parking lot, with lots of cars wandering through and creating traffic hazards. There used to be "Lake Meijer" in that location, which has now been corrected. She said that with encasing the space with special curbing and landscaping, traffic flow will actually improve. They also want to discuss the issue of precedent, and said that precedent has already been established with drive through and walk up only businesses. She said that there's one on Auburn Road, and several others, they want to bring those to attention today, and note that the convenience of a drive through business model is really in demand right now, especially with the pandemic that's going on and people are on the go consistently. When her son was little, she wished there was something in her neighborhood, so that it was easy to get in and get out to get a coffee, instead of taking him out of the car. So that drive through convenience really does improve what they can bring to Rochester Hills.

Ms. Richards showed pictures of the Meijer, and said the brick façade goes well with the Meijer, and also with surrounding buildings including Culver's, which has more of a stone facade. She noted that Panda Express has a brick facade, as do surrounding businesses including Lowes, Verizon, the Polish Kitchen, Medpost, and Huntington Bank. They believe what they are presenting is very compatible with these buildings.

Ms. Richards explained that the pictures shown are some of the precedents they were able to find in Rochester Hills on Auburn Road, she said they both have walk up windows, and the Dairy Treat which is across the street on Auburn Road to Avondale High School has a drive through feature that always has a line wrapped around its building and into the street during the summer months, that precedent has been out there for 30 years.

Chairperson Brnabic said that with regard to the Dairy Treat, that is an independent piece of property with a drive through and the walk up on it. She said that it is a standalone parcel and not in a parking lot. She said that the

Brain Freeze does not have a drive through, it is part of the Auburn Road corridor, and a new drive through is not permitted in the Auburn Road corridor at all. She noticed the applicants provided examples of businesses for pizza, she said that she doesn't believe that any one of those has a drive through. She said that she guesses you can say that there are businesses you can walk up to for service but a drive through is key here too.

Ms. Flynn said that for most of these businesses you can't go in and sit down either, and that's what they were pointing out.

Chairperson Brnabic said she guessed if you were looking at precedent for that, but not if you were including a drive through, which is why this request is a conditional use.

Mr. Levitt introduced himself as the real estate manager for Meijer, and stated that he is in charge of all external development for Meijers stores, including all of the outlots. He said the Culver's was his first deal when he started working at Meijer, so he has been working on outlot developments for a few years now. He said that he drove over from Grand Rapids for this meeting and apologized that this was his first meeting he has been able to attend, travel was harder with COVID, and there was poor weather on the west side of Michigan. He said the first reason he wanted to attend this meeting is to show support for Ms. Richards and Ms. Flynn; they are trying to do something that is not the easiest in the world, to start a business as franchisees, and to find a way to be successful. He said they made a great choice with Biggby. He said this would be his thirteenth BCubed building approved that they have hosted on a Meijer site. He explained that he was one of the first people approached for this concept, whether he was crazy or not, and he was the first person who said yes. So the first one they hosted was at the Alpena Meijer; it has been hugely successful as have been all of the other ones they have done in three different states now. He said that he is a big believer in the BCubed project. He said if anything, the last two years have taught them in the development world that pick up windows and drive throughs are both the present and absolutely the future. Businesses that you typically wouldn't have seen in the past requiring a pick up window, ordering from a mobile app or by calling in and having a window to drive through, as well as a standard drive through, is now being required on a national scale by a number of food and coffee and other businesses that previously didn't require those options. He said that two that pop into his head are Chipotle and Qdoba; their new requirement for a national prototype includes a pick up window at a minimum, if not a drive through. He said that is one of the things he's had to deal with in the development world, working with different franchisees, in how to incorporate those items successfully into new projects or as projects they are already working on for the past 6-12 months. He said that in his opinion BCubed was incredibly ahead of its time for years, and was even more successful because it was positioned that way before the pandemic, when they started this project about four years ago, and weirdly enough they were ready for it. The walk up window is how business will be done in the future. They have tried to do their best in designing these sites so that they are attractive, functional, and fit into the landscape. The most concerned group with how this will function in the Meijer parking lot is the Meijer operational group, and they are watching this very closely. That is not to say that they didn't have any

reservations when he proposed stealing some of their parking spaces and putting businesses out there. He said that the ones that are there, have said that they can't imagine what it would be like without it. Their team members love it and their customers love it, they are able to stop for coffee when stopping for gas or prescriptions or doing weekly food shopping. They have had a number of store directors around the Midwest who have called him asking if they can get a BCubed in their parking lot, because they see the benefit of providing those amenities to customers and team members, and making it a more enjoyable place to work and shop. They are definitely onboard, they are doing about ten more of these also with Ms. Olson. He explained that he had a conversation with her on Friday about all of the things he owes her because he is far behind but it is one project at a time and tonight it is Rochester Hills. He read the comments and listened to the concerns and is happy to answer questions both as a representative of Meijer, as someone who has worked on a dozen of these developments, and has seen them operating in Meijer parking lots. He is here to support this request and Meijer supports this idea, they take the layout seriously and the functioning of how it will work, it is not something that they just approve. They actively work with developers and franchisees to make sure these are successful both for Biggby and for Meijer.

Chairperson Brnabic noted the public comments received in the form of letters of support from business acquaintances or personal acquaintances including from Rochester Salon Suites/Q Salon and Spa, Christina A. Yee, Amanda Kirksey, Joe Puma, Brian Kirksey, Hal Commerson, Dr. Ondre Jacques, Rose Dalton, and Garth Pleasant. She noted that several speakers cards had been turned in, and reminded speakers that they have three minutes to comment and ask questions, and if there are any questions all of those questions would be answered together after everyone has had an opportunity to speak.

Katie Starn - 741 Spartan Drive, Rochester Hills, MI - Ms. Starn said that she was born and raised and is currently a resident of Rochester Hills. She said that she is a taxpayer, a mother, a wife, an educator, and an avid coffee drinker. She said that she is elated to hear Biggby is coming to Rochester Hills, since it is a Michigan made company and brought by two Michigan women. Biggby would bring jobs to Rochester Hills, and having a Biggby in Rochester means progression. The idea that she could drive through and get coffee is welcomed. She said it is 2022, people are busier than ever, probably too busy. This is the type of establishment that is needed. Change is something new, but this Biggby would bring healthy competition which is needed. After attending college in Michigan she moved to the south and lived there for 16 years, where they have a wildly popular fast food chain called Sonic. Sonic is a drive through only concept that is currently thriving in Troy, Clinton Township, and Shelby Township, just to name a few. She said that she looks forward to the opening of this new franchise and allowing these responsible and intelligent business owners to finally open their doors.

Rhiannon Gakecki - 807 Ironstone Drive, Rochester Hills, MI - Ms. Gakecki said that she is a resident of Rochester Hills and she has a seventh grader at West Middle School. She said she was really disappointed when the Biggby on Walton and Livernois closed during the pandemic as that was her go-to. She said that she and her friends loved to go to Biggby when going shopping or

before going to games. She said that when she heard of the BCubed concept and that they would be bringing Biggby Coffee, she was excited to hear of this concept and thought this is exactly what is needed in Rochester Hills. She said that she likes to support female owner operators of a Michigan based company. She said this coffee shop checks all of the boxes for her, she is always taking her child to practices and has her dog in the car, so being able to get a coffee to-go is a must. She said that she spends a lot of time on Rochester Road shopping so the location is perfect. She said that she looks forward to the grand opening of Biggby.

Jimmy Stewart - 3600 W. 12 Mile Road, Berkeley, MI - Mr. Stewart said that he is from Biggby and he is a franchisee, and he said the applicants trained in his location, which has a drive through. He said that he noticed when the pandemic hit and when the Governor shut everything down, one of the things they were able to do was to leave the drive through open. That was one of the things that made the business successful and they didn't have to borrow money from the government to stay open. After people got used to being in a pandemic people kept coming and kept challenging them to get better at what they do, which meant to get more cars through the line faster. He said that regular coffee is easy to prepare, but specialty drinks take some time. He said that Starbucks can backup and impede traffic quite a bit. One of the things they learned to do was to accommodate customers, and give them what they want, which was to keep them out of the traffic and to keep things going. He said that they had to learn to be a drive through only because of the pandemic. He said the BCubed buildings are small and compact and can handle a lot of cars, and this is a great opportunity not only for these ladies but also for the community itself. He said that he could answer any questions, he said that he has one location that is not a drive through and one that has interior seating and a drive through, and it was forced to become drive through only. He said that he could answer questions as to what happens when the traffic goes where you don't want it to.

Joe Puma - 2457 Beacon Hill Ct., Rochester Hills, MI - Mr. Puma said that he is a resident and Rochester Hills is a great place to raise his family. He said that he is a big fan of The Profit on CNBC, and he is a coffee snob so he loves the coffee already. He said that in terms of the process Biggby does a great job, putting together a culture that allows entrepreneurs to become successful. He said that he knows Deanna very well and her wife Amy, and he is getting to know Kyan, he has heard a lot of good things, they are great people. He said that they are successful, driven and inspirational. He said that he doesn't think of this just as a business that is serving people; he thinks of the young folks who will work there. They are not just representatives of a corporation; they will be working side by side as owner operators. He said they will be inspiring the people that they work with. He said it is a great concept. He said that his wife is excited about it. He said that he can't stand it when he searches on his phone for a place to get coffee, and what he finds is a Starbucks that is within Target or a grocery store, and he just wants a drive through so he doesn't have to park. He said with great people like this, you need to find a way to say yes and then find a way to work out the details because Biggby would be a great addition to the business community in Rochester Hills.

Amy Achesinski - 1896 Ledbury Dr., Bloomfield Hills, MI - Ms. Achesinski said that she lives in Bloomfield Hills, and she is Deanna's wife and silent partner. She said that they spend most of their time in Rochester Hills for shopping and entertainment, and their day to day living is basically here. She referred to some letters from community members and other small business owners, who feel this would be a great addition to the area. She said she appreciates the commissioners being kind enough to listen tonight. She said since the previous meetings she has seen vast improvements in the plans to comply with the businesses it will be surrounded by. She said the applicants took everything that was said to heart to try to make it work, to appease the community and the commissioners. She said this is not a matter of fairness but of equal opportunity with two female entrepreneurs, they are trying to better the community and have graciously exceeded what was required. She said they should not be denied their dream because of differing views of appearances. Everyone has their right to an opinion, everyone has a different view. The meaning of "harmonious" is very different from person to person, and differences make this such a wonderful community. She said the community needs to change and grow with the times. For having checked the box twice, they have been approved by staff twice, with the support of community members and business owners, it's hard to wrap their minds around still discussing disapproval at this third meeting. She said that denying this proposal would be too easily dismissing something that you could easily say yes to, and prove that Rochester Hills has an innovative and progressive way of looking at things, like the City's slogan that says Innovative by Nature. She said that the commissioners should want to support this when they will be providing new jobs, mentoring young employees, paying taxes, all of that will be going back into the community. Nowadays it's questioned whether the American dream still exists, whether it is attainable, and she is making a plea to the commission since they are fighting for their dreams and also asked them to consider what constitutes a no instead of a yes.

Craig Binkley - 789 Ironstone Drive, Rochester Hills, MI - He said that he's been a resident of Rochester Hills or Rochester for about 20 years now, and for the last 2.5 years he and his family have been blessed to have as next door neighbors Kyan, Rhiannon and Brody since they moved back from Texas. He said that they have always found Kyan and Rhiannon to be thoughtful, warm and caring neighbors, the best they have ever had. He said that Kyan takes immaculate care of her property, and that quality would transfer to her new business with Deanna for Biggby. He said that he fully supports them as Michigan entrepreneurs, to bring a new Michigan based business, Biggby, and putting it on the property of a huge Michigan corporation, Meijer. To him it ticks all of the boxes of what the City should be looking for. It should enhance Rochester Hills' progressive reputation in the business community. He asked the commissioners to please say yes to this proposal.

Chairperson Brnabic thanked everyone for taking the time to come and speak in regard to this proposal for a conditional use. She said that she is happy they want to be a part of Rochester Hills and is glad that they are so enthusiastic to start a business. She said that they have excellent character as demonstrated by the community support that has been presented. She said that she never doubted that; however, they are looking at the specific proposal before the

Commission. But it is good to know that they have such good character.

Mr. Gaber said that the applicants obviously have a lot of friends and acquaintances who think highly of them. He said he's sure that is well deserved. He said that he appreciates what they are trying to do and their sense of entrepreneurialism. He said that clearly they have worked hard on this and to be able to present it in it's best light. He said that however he had mentioned their characters may be unassailable, that is not what the Planning Commission is looking at. He said the Planning Commissioners as appointed by the City basically oversee the development and redevelopment within the city of Rochester Hills, in accordance with the ordinance standards and the standards of the community and the majority of the residents. He said that is what they are here to do and they try to do that to the best of their abilities. He said that the letters provided mostly had to do with the character and not the building and architectural characteristics of the building, and that is where the issue is. He noted that Chairperson Brnabic has talked previously about traffic concerns and conflict that were raised. He said that the other issue is the aesthetic issue, and the architectural look of the site the building proposed, and the fact that he does not think this is harmonious or compatible with Rochester Hills, and the standards that they have set as the Planning Commission. He took the plans since the December meeting and asked several residents what they thought, and he received no favorable opinions.

Mr. Gaber said that with regard to the precedent issue, he appreciates the applicants taking a stab at it but he doesn't think they rebutted it successfully. The only comparable business that has a similar format is the Dairy Treat, and that is a seasonal business that has been there for several decades, and he doesn't think that is comparable and doesn't consider that a precedent. He commented that like Mr. Levitt said, this drive through concept is something that is a fad right now; and it can be argued whether that will continue in the future, or will be cyclical, and that is something that must be considered. In terms of the precedent, this is a 2/10 of an acre site, it fits in many places in this community, it would fit in many other parking lots. It would fit in North Hill, Winchester, across from Rochester High School at the Gordon Food Service plaza, University Marketplace, Whole Foods; it would fit in a number of those parking lots. He stated that with all due consideration to Mr. Levitt's comments, this is excess property that is not generating any revenue for the property owner. It is very easy for the owner to carve out 2/10 of an acre where a traditional fast food business or coffee shop would not fit. For that reason there is a basis to set a precedent if we do approve this development, and he is not in favor of it.

Mr. Gaber said that he also doesn't favor the aesthetics of the Biggby building presented but there are others too which he showed. He said that if you put brick veneer on these, they could be construed to be similar to the proposed Biggby, and then they would have to allow them in the community. He showed a picture of Seattle's Best coffee shop, a Wendy's with a similar use of container type structure, and showed pictures of a modular format with similar facilities, including a Chick-fil-A. He showed a picture of a third coffee shop that is basically a crate that appears to be similar to the Biggby's presented. He showed a picture of a restaurant, and stated that although it is dressed up a little

more, it is still a modular type container facility. Finally he showed another coffee shop. He said that his point is that they know what they'll be getting with the building presented, and there are some requirements they can make if it doesn't meet the conditional land use standards. He said that however the precedent would be set for having these infill structures placed elsewhere in the community; there is a low entry cost for these types of buildings and they could be plentiful in the community. Due to these reasons, due to the fact that the aesthetics and architecture are not harmonious or compatible, and there are potential traffic conflicts and circulation issues as mentioned previously, he is just not in favor of this development.

Motion by Gaber to as presented in the agenda packet to deny the findings as stated in the packet. The motion was seconded by Bowyer.

Chairperson Brnabic asked for any discussion of the motion.

Ms. Neubauer welcomed the applicants back and noted that she had missed the last meeting and had a lot to catch up on. She said she wanted to clear up some items so there is no misunderstanding. She said one of the speakers mentioned the American dream. She said that she is an immigrant and a female business owner herself; and it was very difficult to start her own business and to keep and maintain it. She said that she is very proud to have the applicants sitting in front of the commission with this proposal, and with all of the support received the applicants should be happy. She said the same speaker said to try to find a way to say yes and not say no. She said that none of the commissioners want to say no, and the applicants are not the problem. She said the problem is the BCubed design. She was not aware that the applicants made those changes for the December meeting, since she is playing catch up from the November meeting. She said that it is a huge improvement with the brick, however the issue is the shape. She said that she did not want to offend the architect or the design, it is not her intention, however it looks like a porta potty in the middle of the parking lot. She said that if it looked like the coffee shop in the middle of the parking lot at Papa Joe's, it would be much more fitting for Rochester Hills. If it looked like that, she did not think there would be a "no" vote. She said it's not an issue of equal opportunity, it's not an issue of the applicants' character, it's not an issue that you did not make enough of the changes. She said she thinks that the commissioners hoped that if they made the changes, it would help them to get to that point, but it just did not take it that far. She said Biggby is not the issue, they would love to have Biggby in the City. For her, the drive through by itself is not an issue, and it is not the value system of Biggby, as they all share those values. She said as was read by Mr. Gaber it is not compatible or harmonious in appearance, notwithstanding the change to stone; it is the roof lines and the shape of the structure itself which does not feel appropriate for the area. The design does not match the area.

Ms. Roediger thanked the Zoom meeting attendees and noted she would close the Zoom portion of the meeting.

Mr. Struzik said that he certainly respects the views of his fellow commissioners. He explained that back in November had concerns with the site lines, traffic flow, and design presented. He said that the revisions presented at the December meeting addressed his previous concerns. He said this will be an improvement of the bland and oversized parking that Meijer has, he said that it is underutilized. He said that there is a pre-printed condition to address the situation in case there is a back up with the drive through, which will protect the City if the business is too popular or the business is not efficient enough in serving customers, causing cars to back up. If there are backups, it will affect traffic flow in the Meijer parking lot; it's still a concern but it is different that it will back up onto a private property instead of onto Rochester Road or Auburn Road. He said that with regard to buildings made out of shipping containers, he agrees that he doesn't think that those are compatible or harmonious with the surrounding development; however he would argue that is not what this proposal is. Shipping containers are boxes made out of corrugated metal, that is not what this looks like.

Dr. Bowyer thanked all of the people who have come to this meeting to speak. She said they would love to have a Biggby that is in a building, and if Meijer's would let them construct a building that would tie in and match they would all be supportive. She said kudos to Ms. Neubauer for mentioning this looks like a porta potty, she had previously thought that it looks like a trailer. She explained that Rochester Hills is conservative, although innovative by nature. She said the commissioners don't want to be so out there that people are going to look at the structure and wonder why we allowed it, and now we have 100 of them and in every parking lot. That is why she is personally a no on this, if they say yes to this then the Commission would have to say yes to every other one that is proposed and before you would know it, the City would be littered with these little units that don't fit in harmoniously. She said that if the building was tied in, if it was a regular building and not modular and it didn't have a grinder for the sewage that may break down all of the time, it is an additional worry. She said they want a solid building with a foundation that ties into sewage as it should. There is the potential if traffic backs up the applicants would have to come back, if the Commission removed the conditional use approval then you would have a building with no drive through. She said that she's not sure how you would deal with that mess at that point and remove the building. She would love to have the business here, but not that building in that location.

Mr. Kaltsounis said that Dr. Bowyer's comments about this type of building popping up in the City is his main reason. He said the comments about the type of people that you are is not what this is about at all. He said if this were to be approved, you could then sell the same concept on the other side of Meijer's property to Chick-fil-A, and they do have a modular version. He saw a bunch of other businesses that are doing this modular type drive through only, with nowhere to sit, nowhere to relax, that's part of the thing, just get them out. The Starbucks that Ms. Neubauer mentioned was probably the last time the commissioners came close to a discussion like this, because it was a small outlot. He said it was a regular coffee house, it had a seating area and a drive

through, they manipulated the traffic flow to work, and it does work. He said that you could say that the Starbucks across the street with all of the people in line is an issue, and he said that he wishes the same type of success for wherever Biggby goes. However he said that he doesn't want this type of concept without a dining room coming to the City, and if we say yes to this, the monster mall across the street will put three in, Bordine's will put one in, all of a sudden we would have these drive throughs going in everywhere and we will get a lot of grief from residents about over development, which is requiring us to change our ordinances. He said that it's for profit and you get them out, that is the type of development that we don't have in the City and he doesn't want. He said that he appreciates the applicants as people and he hopes that they do land here in the City. He said that when the applicants leave, the burden is on the City for a very long time, now everyone will come in. He said that is the reason why he is voting for this motion. He thanked the applicants for listening to put in some changes and to bring the plans aesthetically up to where they are today. However there was always the elephant in the room, which is the type of building that it is. Mr. Kaltsounis explained that the ice cream facility the applicants showed is from the 1960s and the Dairy Treat was constructed in the 1980s. Since then those are the closest to something like this. He said that is his concern, that is his elephant in the room, if he votes for this it is because the type of facility it is, he is concerned about the precedent it sets.

Mr. Hooper asked the applicants for the average wait time for the average car in the drive through, based on the applicant's experience.

Mr. Stewart responded that it is from 55 seconds to 3.5 minutes. He asked Mr. Stewart if his buildings were the same concept with coffee only.

Mr. Flynn said that his building is drive through only and they would have some pre-prepared food.

Mr. Hooper said his understanding is that the applicants would not be preparing food in this location.

Ms. Richards said their menu would be the same as Mr. Stewart's menu.

Mr. Stewart said it takes about 52 seconds to make three sandwiches.

Ms. Richards clarified that they don't make the food in-house, they don't have a fryer, they would just be heating it up.

Mr. Hooper asked so for the person waiting 55 seconds to 3.5 minutes, they are in line, talk into the speaker, get their coffee and get out.

Mr. Stewart agreed for the most part.

Mr. Hooper said there are ten stacking spots shown. He asked Mr. Stewart how much stacking they see historically at their peak time, if it exceeds ten spots.

Mr. Stewart responded that with Covid they have trained to get 100 cars during the peak hour through their drive through.

Mr. Hooper said with 100 cars an hour they are doing better than 55 seconds.

Mr. Stewart said that often people are placing their orders online ahead of time, or using DoorDash.

Mr. Hooper said that realistically the order time would be about 30 seconds to a minute. He asked Mr. Levitt if they've had complaints about backups in the stacking at Culver's drive through.

Mr. Levitt said that he doesn't remember any complaints about their design. He recalled they had to do some interesting design alterations to accommodate fire trucks, and they had to bump out the Meijer ring road when they developed that parcel to accommodate a different traffic pattern. He said they worked with civil engineers who understand traffic and design.

Mr. Hooper suggested the Culvers must have about a maximum of ten stacking spaces onsite. He said that Culvers takes longer because you are ordering food. Mr. Hooper said that he's not aware of any issues, it does not appear that staff has heard complaints, and Meijer is not aware of issues with backups at Culvers. He asked if Mr. Levitt was aware of any issues with these small building concepts, 380 sq. ft. type structures at other Meijer locations in Michigan.

Mr. Levitt responded that Meijer is probably the most active outlot developer in the Midwest, and Biggby was the first to do a modular building. He said that Mr. Gaber had shown the pictures of shipping containers, and said that no one has ever approached him with that. He said shipping containers are not an efficient way to do business. He said that they have heard nothing but positive feedback for the Biggby's modular building from an aesthetic standpoint. He said that originally the building was designed to have the tower element be a bright orange, and a leadership member at Meijer said they would not be putting that flag up in their parking lot. He said Meijer is the reason it has been turned to a more muted brown, and the brick veneer has been favorably received when they've been required to do that from cities. He said there is a stigma associated with these buildings and he said the shape of the building is unconventional; however this allows the footprint to be more tenable. He said the operators have been happy with how quickly they are able to get customers through and their operations have been highly successful. Mr. Levitt said that the design makes preparation more efficient because employees don't have to travel too far to get what they need, as compared to a regular brick and mortar store. He said employees have to walk much less than if the building was 900 sq. ft., and the smaller buildings have been very successful.

Mr. Hooper asked if there would be just two people working inside the 384 sq. ft. building at any one time.

Ms. Richards said it would be a minimum of two people, however it could accommodate 7-8 people at once at different stations.

Mr. Hooper asked for confirmation if they would have fryers and what kind of

food they would be serving.

Mr. Levitt said that with a BCubed building employees aren't having to go into a back room to get food with the cube building as opposed to an 1,800 sq. ft. building, so it makes it more efficient and cuts down on service times.

Mr. Hooper said that you eliminate the number of offerings that you have in order to do that, and make a limited number of products so that all of the additional storage is not needed.

Ms. Richards said they have the same menu board as Jim Stewart's location in Madison Heights.

Mr. Levitt said they are not offering 100 products at any given time, and then switching over from breakfast to lunch, it's a standard menu of primarily drinks.

Mr. Hooper asked if the difference between theirs and Mr. Stewart's would be that he is cooking food.

Ms. Richards said they have all of the same toaster ovens, to make a meat, cheese and egg sandwich that is precooked, and there is a microwave, everything else is standard to what you would see in a standalone Biggby.

Mr. Hooper said that a lot of the board members are asking for a traditional building, but for a traditional building you would need a much larger footprint. He stated that you would just be spending more money on a building and it would be only for aesthetics.

Ms. Richards said that you could put all of Mr. Stewart's store inside their building, there is a lot of wasted space in his store, and the lobby is not open so there are no customers inside it. When they were there doing on-the-job training, the space was very small for the employees, and they were on a shift that had 7-8 people on it, and you are right there shoulder to shoulder making coffee, toasting bagels, making brewed coffee it is all right there at the counter top.

Mr. Hooper said that he really wants to support these ladies, they are Rochester Hills residents, came from Oakland University, he wants to support small businesses and these are first time business owners and Michigan based businesses. He said the building being on piers is a non-issue, the modular concept is a non-issue, the sanitary force main is a definite non-issue, there are a couple hundred of them in the City already. He said every residential home that has a sump pump, that is a force main essentially. He said if there was a sewer issue it would not affect the public, it would just affect the business only, unlike a public force main, if that fails it affects public safety and public service and is a big issue. He said that it comes down to aesthetics, and he doesn't have an issue with it. He brought up at the last meeting, twenty-some years ago the City had proposed the first drive through coffee establishment, the Starbucks on Tienken Road and Rochester Road. He was on the Planning Commission then and recalled the discussion they had then; he said he thought it would be a hit, and it was. He said that this concept with the drive through only

and walk up only will be the way of the future. Some people want a different look to the building, that is a matter of opinion. He said that he would support this development. It would appear that this will be denied here, he said that he heard five negative opinions and five votes are needed.

Mr. Hooper cautioned fellow commissioners about denying the application. With regard to the findings for denial, he said that Finding #1 is an opinion, that the ordinance does not specifically support modular structures, there are hundreds of things that are not identified in the zoning ordinance, and to isolate this one may not be appropriate. For Finding #2, whether the proposal is compatible and harmonious, he said that is the elephant in the room; that is a different interpretation for everyone, and the leg commission stands on when there is nothing specific. For #3 he said about the proposal not having a positive impact, he doesn't think that's the case at all. He said Culver's has less than ten stacking spaces, and that has not been an issue by what the Meijer representative here tonight has said. For #4 regarding the proposal not being adequately served by essential public services, he said the reasoning is completely not true and it would apply for any drive through. He said those comments would apply to any drive through that is successful, if it leads to more stacking than is provided. He said that frankly if you were successful then people would find a new way to get around it, or wait in line, they know to get out of the way. He said that he can't wait until a more popular restaurant service gets approved, knowing there will be multiples of stacking and multiples of people waiting in line with only access on a public MDOT owned road. He said that to possibly approve another drive through would be disingenuous in his opinion. For #5, that the proposed development would be detrimental or disturbing to surrounding land uses or the public welfare either, he doesn't agree with that. For #6, he said that would be true for anything that is developed in the community, there will always be additional public costs, whether it is for police or fire or public services. Mr. Hooper explained that the issue has been discussed in the past with regard to senior living developments, since they cause an increase in the number of fire runs and police activity for those properties. He said that we are an aging population, that is just the cost to provide those services and it is a fact of life that when there is new development there is an incremental cost increase to the community. With that he would caution his fellow commissioners if they are going to support this denial and he will be voting no.

Chairperson Brnabic asked Ms. Olson if she had a comment.

Ms. Olson responded that the question was answered by someone else.

Chairperson Brnabic reread the motion, the findings were already read for the record. She clarified that a "yes" vote is a vote to deny, a "no" vote is to vote against the denial. She called for the vote.

The result of the vote was for Denial 6-3.

Chairperson Brnabic said the vote passes 6-3, and said that this is a recommendation to deny. She said that this will move forward to City Council, because in the case of a conditional use the Planning Commission makes a

recommendation to City Council who has the final vote. She asked staff if there is a date for this to move forward to City Council.

Ms. Kapelanski responded that the next City Council meeting is February 7th, and we would try to get that on that meeting.

Chairperson Brnabic thanked the applicants and wished them good luck.

A motion was made by Gaber, seconded by Bowyer, that this matter be Recommended for Denial to the City Council Regular Meeting,. The motion carried by the following vote:

Aye 6 - Brnabic, Gaber, Kaltsounis, Bowyer, Weaver and Neubauer

Nay 3 - Dettloff, Hooper and Struzik

Resolved, in the matter of City File No. 21-022 (Biggby at Meijer), the Planning Commission recommends to City Council **Denial** of the Conditional Use to allow a drive-through, based on plans dated received by the Planning Department on December 1, 2021 and September 17, 2021 with the following findings.

Findings

1. The use will not promote the intent and purpose of the Zoning Ordinance. The Zoning Ordinance does not specifically promote modular drive-through structures that look like modular structures to be installed within existing parking lots, nor does it promote a business with only a drive-through and no seating area inside a building. If approved, there are concerns that such uses could proliferate throughout the City, which would not be harmonious and would provide visual clutter.
2. The site has not been designed and proposed to be operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the general vicinity, adjacent uses of land, and the capacity of public services and facilities affected by the use. The proposed modular drive-through structure will not be compatible or harmonious with the existing or planned character of the general vicinity and adjacent uses of land since the Meijer parking lot was not designed to accommodate such a structure in this location. The proposed site plan within the existing parking lot will restrict or inhibit vehicular circulation for adjoining uses, as it is filling a large portion of a relatively small space. Based on Planning Commissioners' experiences as residents, the proposed location is a very busy area. Further, the proposed building is not compatible or harmonious in appearance with any of the existing buildings surrounding the site, including the Meijer store, the Beaumont Urgent Care, the Culver's restaurant or the center with Panda Express. These other sites have buildings that are conventional rectangular shaped buildings, and do not contain a vertical and a horizontal component that resemble shipping crates, such as the proposed development. Allowing the proposed use would set an adverse precedent to allow such buildings to be developed elsewhere in the City which would detract from the architectural and aesthetic standards expected by the Rochester Hills community.
3. The proposal will not have a positive impact on the community since the chosen location within an existing parking lot could lead to potential traffic conflicts and restriction of access to adjoining businesses. This may be detrimental to both the customers of those businesses and the businesses themselves if they suffer a loss of customers.
4. The proposed development is not served adequately by essential public facilities and

services, such as highways, streets, police and fire protection, water and sewer, drainage ways, and refuse disposal. There are significant concerns with regard to circulation and the potential for cars in excess of the planned drive-through queue which may interfere significantly with customer access to surrounding businesses and create traffic hazards for both drivers and pedestrians. Specifically, if cars in the drive-through queue "spill out" outside of the site plan shown to the south, they would be directly interfering with access and circulation of that two-way drive which may cause traffic conflicts, accidents, and difficulties in accessing adjoining businesses.

5. The proposed development will be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare. The potential for an excess of cars in the drive-through queue may be detrimental to existing land uses by restricting access to nearby businesses or by creating traffic hazards for patrons of surrounding businesses, including drivers and any pedestrians. Surrounding businesses may be negatively harmed financially if they suffer a loss of business due to frustration of potential customers who experience such difficulties with access.

6. The proposal may create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community, if circulation conflicts cause traffic accidents which require emergency response.

2021-0473

Request for Site Plan Approval - City File No. 21-022 - City File No. 21-022 - Biggby - to add a modular coffee drive-through with landscaping within an outlet within the Meijer parking lot, 3099-3175 S. Rochester Rd., south of Auburn Rd., zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-35-100-056, Kyan Flynn and Deanna Richard, 24Ten, LLC, Applicant

See discussion in Legislative File 2021-0472.

Postponed

2021-0569

Request for approval of a Tree Removal Permit - City File No. 21-022 - for the removal and replacement of one regulated tree for Biggby, a modular coffee drive-through with landscaping within an outlet within the Meijer parking lot, 3099-3175 S. Rochester Rd., south of Auburn, zoned B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay, Parcel No. 15-35-100-056, Kyan Flynn and Deanna Richard, 24Ten, LLC, Applicant

See discussion in Legislative File 2021-0472.

Postponed