



Rochester Hills

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Commission

File Created Date : 11/09/2021

File Name: 21-022 Biggy at Meijer - Conditional Use
Recommendation

Final Action:

Title label: Request for Conditional Use Approval to allow 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, Kyan Flynn and Deanna Richard, 24Ten, LLC, Applicant

Notes:

Sponsors:

Enactment Date:

Attachments: 020722 Agenda Summary.pdf, Letter to City Council 012822.pdf, Presentation 012822.pdf, Staff Report 011822.pdf, Minutes PC 011822 (Draft).pdf, Applicant's Letter 011022.pdf, Letters of Support.pdf, Letter from Rochester Salon Suites.pdf, Minutes PC 122121.pdf, Staff Report 122121.pdf, Reviewed plans 120221.pdf, Minutes PC 111621.pdf, Staff Report 111621.pdf, PHN 111621.pdf, Response letter 111521.pdf, Reviewed Site Plan 101521.pdf, MDOT email 081621.pdf, Landscape estimate 091721.pdf, Irrigation schedule 091721.pdf, EIS 091721.pdf, Fire test 091421.pdf, Alternate Resolution (Draft).pdf, Resolution (Draft).pdf

Enactment Number:

Contact:

Hearing Date:

Drafter:

Effective Date:

Related Files:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	11/16/2021	Postponed				Pass
	Action Text: A motion was made by Kaltsounis, seconded by Neubauer, that this matter be Postponed. The motion carried by the following vote:						
	Notes: <i>Present for the applicant were Kyan Flynn and Deanne Richard, 24Ten LLC, 807 Ironstone Dr., Rochester Hills, MI 48309, and Tonia Olson with BCubed</i>						

Manufacturing, 666 McKinley Ave., Alpena, MI 49707.

Ms. Brnabic introduced the application for Biggby to add a modular coffee drive-through with landscaping within an outlot in the Meijer parking lot, on Rochester Rd. south of Auburn Rd.

Ms. Kapelanski reviewed the plans for a modular coffee drive through with landscaping to be installed within an outlot of the Meijer parking lot and Auburn and Rochester Road. The proposed service would include both drive through and walk up service. She noted that the applicant has provided the required parking counts, and staff has confirmed that adequate parking will remain for the entire square footage of the Meijer store. She noted that the development does not include any new access points, all access would be provided by the existing entrances on Rochester or Auburn Roads. The applicant has provided required lighting specifications, and mounting heights are within the ordinance requirements. The site is zoned B-3 with an FB-3 overlay, drive throughs are a conditional use in the B-3 district. All departments are recommending approval with some minor comments to be addressed in a future submittal. Ms. Kapelanski noted staff recommends a more natural brick or stone appearance for the façade instead of the proposed Indurawall material. She stated the applicant is seeking site plan approval and a positive recommendation for the conditional use this evening. A tree removal permit is required for one tree; adequate notice was not posted for this so it will have to be noticed again for a later date. Ms. Kapelanski suggested an approval condition that if the intensity of the drive through were to increase, the applicant may be required to come back to the Planning Commission for reconsideration of the conditional use request, and she noted this condition is similar to the condition the Planning Commission added for another drive through at the last meeting. Ms. Kapelanski introduced Mr. Boughton from the Engineering department who could answer any engineering and utility related questions.

Ms. Richard noted that she and Ms. Flynn have been dear friends for 30 years, this is their first business and they are the first franchisee. She explained that they are both Michiganders and what landed them back into Rochester Hills together was to open this Biggby. She said that they are partnering with Michigan based companies, Meijer, BCubed Manufacturing, and Biggby. She noted that they want to bring this before the Planning Commission, to put faces to names and they are excited to be here tonight.

Chairperson Brnabic noted that she agrees with staff that the façade needs some stone or brick; the facade is rather unattractive as it is presented right now. She said that she has a few concerns with this location. She explained that if someone was traveling west, and looking at where a customer would enter the drive through, there are ten stacking spaces. She expressed concern that traffic could back up into the main travel aisle, which is two-way as of now. Chairperson Brnabic noted that another concern is that if someone entered off Rochester Road and then came in the other way, they may try to go around and use that aisle with the parking there to go past where people are exiting the drive through, and then continue and try to come into the line, which looks like it would be a safety issue for a few reasons. She asked the applicants that since this is a modular building, if this structure is this meant to be temporary and asked the length of their lease.

Ms. Olson said that B Cubed Manufacturing is the company that invented this building. She explained that it has three different sections and an awning. It has the capability of being expandable and moveable. She said it is like any stick built building in that it will be connected to utilities and it is intended to be permanent, and stated that it is structurally sound and well built. She said they have a five year lease term with three renewals, so it is intended to be long term.

Chairperson Brnabic said that drive through stacking may extend out into the main aisleway. She said that someone could be trying to turn left or right to get into the drive through since that aisle is two-way, plus there could be someone coming around. She expressed that she really has some concerns with the setup and the location right now. She noted there is outdoor seating, and a walkway in this location is helpful; but drivers would have to be paying attention. She referred on the plans to the far aisle to the north of the structure, that is currently a two-way traffic aisle. She explained her concern is that people could be coming in off of Rochester Road and either choose to use that traffic aisle or the other to go to the front of the store. She noted that with the way that the drive through is set up, people could be turning left or right to enter the drive through, plus the concern about the stacking if it exceeds ten cars, because then those cars would come out and block people.

Ms. Olson said that her role for this project is beyond merely manufacturing or providing the building because this is a new concept. She said they currently have 23 of these structures installed in Michigan, Kentucky, Indiana and Ohio. She said she worked with their site plan support and engineers to make sure this location is suitable for the use. She explained that they did think a lot about the traffic and said that City staff has done a good job of pointing out concerns. She would agree there might be a need to address things in a different way in the future once they see what the traffic patterns are going to look like. She is comfortable knowing that they have provided the required stacking, the bypass lane, and have ensured that deliveries would not obstruct the flow of traffic. She said their engineers felt comfortable with the proposal as it is. She said that they have an understanding with Meijer, and they may have to look further with Meijer at some modifications.

Chairperson Brnabic said that she is also concerned about how close this proposal is to Rochester Road and expressed concern for the traffic patterns adjacent. She noted regarding the façade, that it had been suggested by staff to use stone or brick. She asked at this point whether the applicants did not think that is necessary.

Ms. Flynn said that the picture they provided does not do justice to the planned structure, and suggested that they could try to get pictures of current buildings that are already in use. She said that looking at the neighboring strip mall, Panda Express, Culvers and the building in front of Rochester Road they seem to be somewhat made out of the same material.

Ms. Olson referred to the rendering presented, and that they will have an attractive façade material with the landscaping, a dryvit stucco-like material, painted in two tones of gray. She said the kitchen unit will be a bit darker than the tower.

Chairperson Brnabic said that she would like to see some stone or brick on the façade as it would coordinate better in that area with the surrounding buildings as they basically all have those materials and noted that it would definitely give it a more

attractive façade.

Mr. Kaltsounis asked staff whether the City currently has a coffee drive through situation similar to this.

Ms. Roediger responded that there are coffee businesses in outlots, but none are similar to this proposal.

Mr. Kaltsounis shared his screen, and suggested the applicants should utilize similar façade materials as Panda Express, and showed a picture of their brick façade. He also showed an aerial photo of a Starbucks in the City with numerous stacking spaces. He noted that he went to a Biggby similar to this proposal in a Meijer's parking lot in Alpena, and was extremely disappointed, and showed a photo of it. He said that is not something that is Rochester Hills worthy. He commented regarding the poor placement of the structure within the parking lot, the sad the look of the building sitting on the columns, and noted that the window was not impressive. Mr. Kaltsounis remarked that the look of the building sitting on the columns does not impress much, and looking at what is presented it is the same thing which is being proposed here.

Ms. Olson said that the Alpena location is the prototype building, as they are manufactured there. Their owner reclaimed a foundry and that's where they are being manufactured. She said the one shown in Alpena fits that location more and not Rochester Hills. She said that is not how any of their other installations look. She explained that there would be a curb around the base of the building to create a skirt and therefore a more finished look together with the landscaping. She said that the window has an overhang on it in the newer buildings they have designed. Also the color scheme on the one in Alpena is nowhere near the color scheme that they are proposing. Mr. Kaltsounis said that the details he sees in the plans presented match the picture in Alpena, Michigan. Ms. Olson replied that the Alpena location is the only one that does not have a curb around the structure. She said that the renderings they provided were intended to be a reference sheet so that you could understand the elevation of the building and not necessarily how it fits into the land use.

Mr. Kaltsounis said that he agrees with staff on the façade needing brick and he would like to see more accurate renderings and designs. He noted that there are brick-style Biggby's around. Ms. Olson said that there is an option for brick veneer and it is an upgrade for the franchisees to consider, however it's all or nothing, they can't do a combination of materials. She said that using brick presents a concern for transportation weight.

Mr. Kaltsounis said the Planning Commission is charged with ensuring that the structure would be harmonious with the environment, and right now how it is presented it is not. He noted that he doesn't want to see under the building. He said in some of the other pictures presented you can see underneath the building and in some you can't. He said going back to the Alpena picture he was very concerned about it.

Ms. Olson said she has other examples in her binder of other locations.

Mr. Gaber said that in terms of the site working for what is being proposed, it has the potential with the drive through and the configuration and the surrounding drive aisles that it can work in that location. But in terms of the façade and the look he has a difficult time with it, as it's not compatible with anything in Rochester Hills in terms of the modular look with the three components, the height variation, and the way the drive through looks. He commented that Panda Express, Meijer, and Culver's, perhaps even the oil change place on the corner, all have stone or brick in their façade. He said that frankly this proposal is not what he wants to see in Rochester Hills, and he is afraid of setting a precedent. He said that this proposal doesn't meet the site plan or conditional land use criteria, it is not architecturally or aesthetically harmonious and compatible with surrounding land uses in the area. He said that the applicants may be able to design a building that could work on this site but this is not it.

Mr. Struzik asked to show his screen, and said that he is concerned with the aesthetics of the structure and it is not harmonious with surrounding developments. He presented a picture of a Biggby's in Akron, Ohio with a brick façade, and said that would be a lot closer to the mark. He said that he is not opposed to the modular design but he does oppose the current materials on the plans. He said that the applicant needs to provide better renderings to provide a better understanding of the texture of the materials. He pointed out the main aisle leading to where the Biggby's would be located. He noted he has a concern with two parking spaces, that already it's difficult to pull out of that aisle. Adding the Biggby's will add a lot of traffic to that particular aisle. He said that when he went to visit the site today there was a big Cadillac parked there. He said that any proposal is going to need to address the difficulties with those two parking spaces, there needs to be some sort of hard barrier and not just paint in order to increase visibility if the proposed development is going to be adding traffic to that location. He also said that it would be nice if there were more sidewalks to enter on foot and via bicycle from Rochester Road, although it's not necessarily a requirement for this proposal.

Ms. Neubauer also shared her screen and asked the applicant if the structure shown would be closer to what it the structure would look like. Ms. Olson responded that the photo being shown was taken during the installation and was not finished. She said contractors would come back and install a patio. Ms. Neubauer showed another picture with a patio, and asked if it would be the structure shown on one picture and the patio and curbing shown on another. She said that the material and color are gray from the first picture and it has the skirting.

Ms. Olson said that is 95% of what it would look like.

Ms. Neubauer asked the purpose of the second story.

Ms. Olson explained that the shorter piece is the kitchen unit, the taller portion contains a bathroom, and the top contains infrastructure including a reverse osmosis system, a water softener, and utility items.

Ms. Neubauer remarked that the façade presented tonight with the brick is much closer and more fitting for Rochester Hills.

Ms. Flynn explained that they went with the façade that Meijer has approved for all of

their locations.

Ms. Neubauer replied that the commissioners are trying to give the applicants advice so they can bring this use to Rochester Hills. She said that she is not a big fan of the modular type of structure, and she hates the Meijer parking lot as it's very difficult to navigate. She stated that as Chairperson Brnabic mentioned, she also watched someone at Taco Bell turn in, get stuck, and they just couldn't back out. She said that the area is always is so congested and people are always looking for shortcuts. She said that the way the drive is proposed it is very concerning, it is a safety issue, and the commissioners are trying to do what's best. She suggested that they discuss it with the commissioners today so it can be fixed today, to allow the applicants have the chance to do what they want to do.

Dr. Bowyer said that she appreciates the idea but doesn't think it fits in Rochester Hills at all. She suggested that the applicants custom design the building so that it is half brick, and resembles Panda Express, for example. She noted that Meijer's recently spent a lot of money to upgrade their façade. She suggested that to put something in there that won't have any brick at all would not fit in. She asked the applicant whether there would there would be a walk up window, and asked Ms. Kapelanski whether there are any buildings in Rochester Hills that are on piers.

Ms. Kapelanski responded that was not aware of any but did not know for sure.

Dr. Bowyer said that since you can't put a deck on piers in Rochester Hills, how it would be possible to put a structure on piers in Rochester Hills.

Ms. Kapelanski noted that the Building Department has reviewed these plans; however, they look more at the details during the permit review process.

Dr. Bowyer suggested that the piers may not work and they may need to dig a foundation. She noted she also has traffic concerns as Culvers backs up and it's going to be an issue. She remarked that Meijer may have to lose some of their spaces in the parking lot in order to have the area curbed, and so the traffic flow can be better directed.

Ms. Kapelanski responded that if the Planning Commission were to add a condition that there be more curbing to the site plan approval, then it would be up to Meijer or Biggy as to who would be responsible for installing it.

Dr. Bowyer said this is a quaint idea, but this would not be fitting with the buildings in the area and therefore would not be harmonious. She noted the commissioners are charged with ensuring buildings are kept to the same standard and are harmonious.

Chairperson Brnabic asked Mr. Boughton if he has any concerns about sanitary waste, kept in a holding tank and then pumped out with a two inch force main to the sewer.

Mr. Boughton responded that there are multiple properties that are on grinder pumps in the City, and explained that it is in essence a glorified sump pump with a special plate on the bottom if it, they discharge to a force main out and out to Rochester Road where there's an existing sanitary lead pretty close to the right/in-right/out

entrance at Rochester Road. He noted there are approximately 150 in the City. He said that at times, pumps do fail, and this one would be privately owned and maintained.

Mr. Weaver stated that he is concerned about setting a precedent for a modular structure, and commented that he doesn't want to see this everywhere. He stated that there are a lot of parking lots in the City. He suggested that the trees shown on the plans can get very large, and they would get too large for this spot. He suggested that the applicant should have some soil tests done, and commented that they may struggle with getting plants to grow in this location. He asked the applicants whether they would be looking to have signage on Auburn Road for this business.

Ms. Olson responded that the building comes with built-in signage. She commented that they would have to negotiate additional signage with Meijer, and did not think that Meijer would be a fan of additional signage.

Mr. Struzik shared his screen showing an aerial photo and referenced "Lake Meijer" right to the south of the proposal where water pools when it rains. The applicants responded that that issue has been resolved.

Chairperson Brnabic said that with all of the concerns expressed she cannot support this proposal, even with the comment that that the applicants could see how it goes. She stated that there needs to be a better plan before approval and not leave it until after. She noted that there have been many concerns expressed about safety, the façade, and about setting a precedent for a modular facility, especially one that looks like this.

Ms. Olson questioned the procedures if they were to receive a denial. Ms. Roediger responded that a denied site plan has to wait one year before coming back before the Planning Commission.

Ms. Olson asked if they can postpone the application, noting that they felt that they spent a long time working with staff to understand the requirements so they could determine where to go with this proposal. She said they were listening and taking notes about all of the concerns brought up tonight, and they'd like to have the opportunity to interact with staff and understand the requirements versus what are the interests. Chairperson Brnabic responded that it wouldn't just be the requirements, because there have been a lot of comment tonight expressing different concerns. She said the applicant has the option to request a postponement and to come back.

Chairperson Brnabic opened the public hearing at 8:17 p.m. There being no cards for public comment, she closed the public hearing.

Mr. Kaltsounis said that he took a lot of notes regarding the building, piers, and seeing underneath the structure. He noted that every time he has driven with his college-aged daughter to Meijer she has made the mistake of not looking, and stated that there is a lot of traffic. He said that the traffic flow needs to be addressed right away, which is why he showed the pictures of the Starbucks across the street. He commented that the Planning Commissioners have a tough job with the intangibles

and they have let these concerns be known today.

Motion by Kaltsounis 2nd by Neubauer to postpone to a later date when the applicant would like to come back with a revised plan.

Mr. Dettloff stated that there is a Biggby on Long Lake in Troy, there is not one in Rochester Hills. He asked if this is a partnership they see in the future between Biggby and Meijer, installing more of these. Ms. Olson said that she can't speak on behalf of Biggby but BCubed have the exclusive modular design with Biggby and they have enormous growth plans, mostly because they will be using this structure, which is 349 sq. ft. of coffee-making efficiency, it will be efficient and 40% less operating costs than a traditional building. So it is part of the Biggby growth plan to locate these in what would be considered overparked areas or on small lots that are not suitable to develop in any other fashion.

Mr. Dettloff said that he agrees with all the other commissioners' comments made tonight and suggested the applicants coming back with revised plans is a good plan, and wished the applicants good luck.

Aye 9 Brnabic, Dettloff, Gaber, Hooper, Kaltsounis, Bowyer, Weaver, Neubauer and Struzik

3 Planning Commission 12/21/2021 Postponed

Action Text: Postponed

Notes: *Dr. Bowyer said that she knows the applicants have done a lot of work, however when looking at the City there could be 100 of these by next year if this is approved. She stated that this is not something that Rochester Hills residents are going to want to see, and being on City Council, that is what she is concerned with. This is clearly not the type of building that the city would want to proliferate throughout all of the parking lots. Based on that, she is still a hard "no". She commented that if the applicants make it past the Planning Commission they have to go to City Council. Council will review all of the comments that are made, they will have to make a decision about if such structures are allowed, you may get McDonald, Taco Bell, Chick-fil-A who will all know that they don't need a sit-down restaurant and they will just put up a modular building that is cheap and they can run 100,000 cars a day. Then residents would wonder how they ended up with a city that has that; Rochester Hills is innovative and residents want businesses that are established and aesthetically pleasing. She admires the idea and what the applicants are doing but she doesn't want to see these buildings proliferate throughout the City. She commented that as Mr. Gaber said, that would not be harmonious; and she said she doesn't think that they have to worry about having standards for minimum building size, it comes back to what is fitting. There have been a couple of projects that have passed through and approved by the Planning Commission that don't look anything like the surrounding area and they look bad. She said that she doesn't want to be part of a commission that leads to residents asking what is that doing out here. She appreciates all of the applicants' efforts and the investment that they want to make, and noted that if the proposal does pass here it still has to go to City Council.*

Chairperson Brnabic noted that there have been no comment cards received at this meeting and the public hearing was held as part of the November meeting.

Chairperson Brnabic restated the motion on the table made by Mr. Gaber and

seconded by Dr. Bowyer with the preprinted Findings and Conditions. Mr. Gaber said that those Findings and Conditions do not apply to a motion for denial.

Ms. Richards said that it may be a moot point now but thinking back to the discussion about McDonald's and Taco Bell, they are a coffee shop and they don't serve fast food, the stacking is at most a minute in that line. They are not frying up things, it would not be a stacking issue because they go through so quickly. She explained that during their on-the-job training they literally have a counter right above them, they can see how quickly people are getting through the line and it's very quick. She concluded they're not making burgers, chicken or fries - it's espresso.

Ms. Olson asked regarding the comments made, hoping they could get in writing any record of public comment of how harmonious and compatible is defined, and some acknowledgement of their design exceeding stacking requirements.

Chairperson Brnabic asked for clarification if they are requesting that after the motion is voted on.

Ms. Kapelanski said that some of those items would be in the minutes, it's on the record how many stacking spaces are required and how many are provided. She said regarding the compatible and harmonious standard, she would suggest that as part of the motion the commission should lay out some findings as to why it is not compatible and harmonious.

Chairperson Brnabic said that they do need to provide Findings and Conditions because it is a motion to deny and the current preprinted ones only fit any approval, they could take them and do the opposite, that these wouldn't promote the intent and purpose of the zoning ordinance. Mr. Gaber and Dr. Bowyer have both explained why they do not believe it is compatible and harmonious, as have other commissioners, that information has already been stated for the record that will become the minutes.

Ms. Olson asked to reiterate is it because the building is too small that seems to be the primary comment that it is not harmonious and compatible. She said that the brick exterior and the structure's skirting were largely agreed to address concerns from the first meeting.

Chairperson Brnabic said that is one of the reasons; there are a few different opinions here on what the problem is, it is not just the size of the structure itself. She said that she is still concerned about the location and with everything that is going on right there, and would agree that this would set a precedent in the community.

Mr. Gaber said that the commission is not obligated to provide such a document. He appreciated the applicants asking for that information, but if they refer to the minutes the rationale will be clearly stated in the minutes. The commission is not obligated to provide a bullet point list of exactly what the reasoning is; it will be in the minutes and the applicant can glean from that once the minutes are approved.

The vote was taken at this point in the meeting.

A motion was made by Gaber, seconded by Bowyer, that this matter be

Denied. The motion failed by the following vote:

Aye 4 - Brnabic, Kaltsounis, Bowyer, Gaber

Nay 3 - Hooper, Dettloff, Struzik

Excused 2 - Neubauer, Weaver

There was some discussion on whether this motion passes or fails with a 4-3 vote. Chairperson Brnabic said that they have a quorum.

Mr. Hooper said that they faced this circumstance several years ago and it was the same thing, it's a nine member commission, five votes is the majority.

Chairperson Brnabic said they would review whether the yes vote with four (4) members to deny was sufficient to pass the vote or if there needs to be five (5) votes for a majority. She said that since this is being questioned Ms. Roediger is going to review the Bylaws.

Ms. Roediger said that in her reading of the Bylaws it states that for all transaction of ordinary business at any regular meeting, five (5) members shall constitute a quorum, and an affirmative vote of at least five (5) members present shall be necessary in order to take action. So Mr. Hooper is correct.

Chairperson Brnabic instructed the applicants that they would be scheduled for the January 18th agenda. She asked if they had any further questions and thanked them.

Chairperson Brnabic called for a brief break at 8:08 p.m. prior to the next agenda item.

3	Planning Commission	01/18/2022	Recommended for Denial	City Council Regular Meeting	Pass
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Action Text: 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:

Notes:

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. Stewarts' 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.

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

Nay 3 Dettloff, Hooper and Struzik

Text of Legislative File 2021-0472

Title

Request for Conditional Use Approval to allow 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, Kyan Flynn and Deanna Richard, 24Ten, LLC, Applicant

Body

Resolved, that the Rochester Hills City Council hereby denies the Conditional Use to allow 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, 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.