



Department of Planning and Economic Development

Staff Report to the Planning Commission

January 18, 2022

Biggby at Meijer

REQUEST	Conditional Use Recommendation Site Plan Approval Tree Removal Permit
APPLICANT	24Ten, LLC Kyan Flynn and Deanna Richard 807 Ironstone Drive Rochester Hills, MI 48309
LOCATION	3099-3175 S. Rochester Rd., south of Auburn Rd., within the existing Meijer parking lot
FILE NO.	21-022
PARCEL NOS.	15-35-100-056
ZONING	B-3 Shopping Center Business District with an FB-3 Flexible Business Overlay
STAFF	Kristen Kapelanski, AICP, Manager of Planning

Summary

The applicant is proposing to add a modular coffee drive-through with landscaping within an outlot in the Meijer parking lot. The applicant indicates this would provide drive-through as well as walk up services. A drive-through is permitted as a conditional use which requires a public hearing before the Planning Commission who makes a recommendation to the City Council.

At the November 16, 2021 Planning Commission meeting the commissioners expressed concerns that the structure presented was not harmonious with the setting and surrounding buildings, and also concerns with regard to traffic flow and potential drive-through conflicts. Recommendations included revising the structure's façade to include stone or brick; revising the elevations to accurately show how the structure will look skirting; and to address traffic flow. Revised plans were subsequently submitted for review showing a full brick structure with skirting at the bottom to cover the open space, and curbing has also been extended to the north and east of the structure, thereby enclosing nine (9) parking spaces to the east. With this revision the only entrance/exit is on the south side, to the southeast of the proposed structure. Per the Building Department, foundations for the structure would be per the manufacturer's specifications.



At the December 21, 2021 Planning Commission meeting the commissioners continued to express concerns that the revised modular structure is not harmonious with surrounding buildings and the proposed site plan is not compatible and fitting for the location presented. A motion was made to deny the application; however with a vote of 4-3 the motion failed since an affirmative vote of five (5) commissioners is required per the City of Rochester Hills Planning Commission Bylaws (adopted 2-7-12).

	Zoning	Existing Land Use	Future Land Use
Site	B-3 Shopping Center Business with an FB-3 Flexible Business Overlay	Vacant/Meijer parking lot	Commercial Residential Flex 3
North	B-3 Shopping Center Business w/FB-3 Flex Business Overlay	Medpost Medical Facility	Commercial Residential Flex 3
South	B-3 Shopping Center Business with an FB-3 Flexible Business Overlay	Panda Express	Commercial Residential Flex 3
East	B-3 Shopping Center Business with an FB-3 Flexible Business Overlay	Meijer Parking Lot	Commercial Residential Flex 3
West (across Rochester Rd.)	B-2 General Business w/FB-3 Flex Business Overlay	Retail Center	Commercial Residential Flex 2

Staff Recommendations

All staff have recommended approval or approval with conditions. If the Planning Commission feels that the proposed use and development will be compatible with its surroundings, below are motions for consideration.

Department	Comments & Waivers/Modifications	Recommendation
Planning	Approved with conditions	Approval
Fire	Approved with conditions	Approval
Assessing	Approved	Approval
Engineering	Comments to be handled at construction plan review	Approval
Parks & NR	Approved with conditions	Approval
Building	Comments to be handled at Building permit review	Approval

General Requirements for Conditional Uses

Per *Section 138-2.302* of the Zoning Ordinance, there are five areas of consideration for the Planning Commission to regard in the discretionary decision of a conditional use. Each of the criterion are listed below in italics, followed by staff comments on the proposed conditional use's compliance with each.

- Will promote the intent and purpose of (the Ordinance).* The B-3 and FB-3 districts do support and promote uses including a coffee shop with a drive-through, although not specifically a modular structure placed within an existing parking lot.
- Will be designed, constructed, operated, maintained, and managed so as to be compatible,*

harmonious, and appropriate in appearance with the existing or planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the land use and the community as a whole. At the November 16, 2021 Planning Commission meeting the commissioners expressed concerns that the proposed modular structure was not harmonious in appearance with the surrounding buildings. The applicant has submitted revised plans showing the structure to have full brick facades and skirting to cover the open space between grade and the bottom of the structure. Landscaping as shown on the plans will help the structure to fit into the setting.

3. *Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, refuse disposal, or that the persons or agencies responsible for the establishment of the land use or activity shall be able to provide adequately any such service.* The modular structure will utilize a holding tank for sanitary waste and a grinder pump before connecting to the sewer. The grinder pump which would be privately owned and maintained.
4. *Will not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.* There will be no detrimental, hazardous or disturbing activity to the existing or future neighboring uses, persons, property or to the public welfare. The Planning Commissioners previously expressed concerns with regard to traffic flow for the proposed coffee drive-through and whether it may affect traffic to neighboring uses at Culver's and Meijer. The applicant submitted revised plans which show one entrance and exit to the southeast of the structure to address these concerns.
5. *Will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.* There will be no additional requirements at a public cost for public facilities and services that would be detrimental to the economic welfare of the community. As previously mentioned, the grinder pump for sanitary waste would be privately owned and maintained.

The conditional use was noticed for a public hearing, and staff has not received any comments or concerns, and there were no public comments made at the November or December Planning Commission meetings.

Motion to Approve a Tree Removal Permit

MOTION by _____, seconded by _____, in the matter of City File No. 21-022 (Biggby at Meijer) the Planning Commission **grants a Tree Removal Permit**, based on plans dated received by the Planning Department on December 1, 2021 and September 17, 2021 with the following findings and subject to the following conditions:

Findings

1. The proposed removal and replacement of regulated trees is in conformance with the Tree Conservation Ordinance.
2. The applicant is proposing to remove one regulated tree. One replacement tree, as approved by Parks and Natural Resources is required; otherwise the applicant must pay into the City's tree replacement fund as required.

Conditions

1. Tree protective fencing, as reviewed and approved by the City staff, shall be installed prior to temporary

- grade being issued by Engineering.
2. A Land Improvement Permit must be issued prior to the tree being removed.

Motion to Recommend Conditional Use Approval

MOTION by _____, seconded by _____, in the matter of City File No. 21-022 (Biggby at Meijer), the Planning Commission **recommends** to City Council **Approval** 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 promote the intent and purpose of the Zoning Ordinance.
2. The site has been designed and is 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.
3. The proposal will have a positive impact on the community by adding trees and offering employment opportunities.
4. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, water and sewer, drainage ways, and refuse disposal.
5. The proposed development will not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.
6. The proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

Conditions

1. City Council approval of the Conditional Use.
2. If, in the determination of City staff, the intensity of the drive-through changes or increases, in terms of traffic, queuing, noise, hours, lighting, odor, or other aspects that may cause adverse off-site impact, City staff may require and order the conditional use approval to be remanded to the Planning Commission and City Council as necessary for re-examination of the conditional use approval and conditions for possible revocation, modification or supplementation.

Motion to Approve Site Plan

MOTION by _____, seconded by _____, in the matter of City File No. 21-022 (Biggby at Meijer), the Planning Commission **approves** the **Site Plan**, based on plans dated received by the Planning Department on December 1, 2021 and September 17, 2021 with the following findings and subject to the following conditions.

Findings

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City Ordinances, standards, and requirements, can be met subject to the conditions noted below.
2. The proposed project will be accessed from Rochester Rd. and Auburn Rd., thereby promoting safety and convenience of vehicular traffic both within the site and on adjoining streets.
3. The proposed improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.

4. The proposed development will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.

Conditions

1. Address all applicable comments from other City departments and outside agency review letters, prior to final approval by staff.
2. Provide a landscape bond in the amount of \$23,600, plus inspection fees, as adjusted by staff as necessary, prior to the preconstruction meeting with Engineering.
3. Any expansion or relocation of the structure requires Planning Commission approval.
4. The structure must be constructed with full brick facades on each side of the building; skirting at the bottom of the structure must fully cover the open space between grade and the bottom of the structure on all sides. No artificial turf is permitted to be installed.

Motion to Deny Conditional Use Approval

MOTION by _____, seconded by _____, 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.

Reference: Plans dated April 2021 received by the Planning December 1, 2021 and September 17, 2021

Attachments: EIS, Response Letter, Landscape estimate, Public hearing notice
