



Department of Planning and Economic Development

Staff Report to the Planning Commission

August 12, 2016

Culver's of Rochester Hills

REQUEST	Conditional Use Recommendation Tree Removal Permit Site Plan Approval
APPLICANT	Andrew Zielke, Just Burgers & Fries 4564 Oakhurst Ridge Rd. Clarkston, MI 48348
LOCATION	Meijer outlot at Southeast Corner of Rochester and Auburn Roads
FILE NO.	16-015
PARCEL NO.	15-35-100-053
ZONING	B-3 Shopping Center Business with an FB-3 Flex Business Overlay
STAFF	Sara Roediger, AICP, Manager of Planning

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Summary

The applicant is proposing to construct a new 4,062 square-foot, drive-through restaurant and outdoor seating area with associated site improvements on a 1.08-acre site (net) located on an outlot on the Meijer property at the southwest corner of Rochester Rd. and Auburn Rd. The site will be developed under the FB-3 regulations which permit drive-through restaurants as a conditional use after a public hearing by the Planning Commission and recommendation to City Council. Please refer to the attached staff report dated August 2, 2016 for the requirements and compliance for drive-throughs as listed in *Section 138-4.410* of the zoning ordinance.

Adjacent Land Uses and Zoning

The site is surrounded by commercial zoning and is Master Planned for Business/Flexible Use 3, which allows the drive-through restaurant use. There are commercial, retail and shopping center uses surrounding the site, including Meijer and Rochester Square to the south, the Stone Shop and an oil change facility to the west, a bank to the east and Famous Dave's restaurant and Hampton Village to the north.

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. The Planning Commission shall find that the conditional land use will:

1. Will promote the intent and purpose of (the ordinance).
2. 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.
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.
4. Will not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.
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.

Site Plan Review Considerations

1. **Site Layout.** As proposed, the site will need modifications from the Planning Commission from the FB-3 regulations relating to the front yard setback along arterials (Auburn) and minor roads (Meijer Access Dr.), the minimum building frontage build-to area and the minimum façade transparency. Many of the requested modifications are the result of the requirements to have a fire access lane surrounding the building. Please refer to the staff report for the specific criteria, compliance and recommendations under paragraph 2b and c.
2. **Parking.** The proposed parking exceeds the maximum number of spaces for a restaurant of this size, based on the FB parking requirements which is one space per 400 sq. ft. for all non-residential uses (14 permitted, 46 proposed). Parking standards may be modified by the Planning Commission if the applicant provides evidence that additional parking is required based on demand on a typical day. The applicant has provided Culver's site criteria which require one space per every two seats (typically 50 spaces). Parking spaces are being removed for the development that belong to the Meijer site, however the resulting number of spaces for Meijer remains in compliance with ordinance requirements.
3. **Access.** The site will be accessed from the existing Meijer access drive, with a future connection to the property to the west, an access point is not being proposed directly onto Auburn. A cross access easement agreement will need to be provided between Culver's and Meijer and Culver's and the property to the west, which is currently for sale. A crosswalk is proposed across the Meijer access drive along with a sidewalk connecting the site to Auburn. As required in the FB district, an outdoor amenity space, including two benches, will be added near the pathway on Auburn
4. **Landscaping.** The plans comply with the landscaping and tree replacement requirements applicable to the site with the exception of the front yard FB requirements, which the site is short by 5 ornamental trees, however the site has over 47 shrubs and staff felt this meets the intent of the requirements, which provides better screening for the drive-through. The applicant will be required to post a landscape bond and submit an irrigation plan and cost estimate. The landscape plan will be conditioned upon the comments in Parks and Forestry's memo, which was provided after the most recent review.

5. **Tree Removal.** The site is subject to the city's tree conservation ordinance, and 17 regulated trees are proposed to be removed. As noted in the review letter, the proposed plan accounts for 3 tree replacements, and the remaining 14 credits need to be accommodated for through \$2,877 being placed into the tree fund or the addition of 14 tree credits. Staff recommends additional trees to meet this requirement be planted along the west property line.
6. **Building Design.** The proposed building is Culver's standard design that has been configured to fit this site. The building has been designed to meet the City's Architectural Standards, and it consists primarily of stone with fiber cement siding or EIFS accents. Colored elevations are included in the booklet Culver's provided.
7. **Other Reviews.** The plans have received a conditional recommendation of approval from the City's engineering, fire and building departments subject to conditions identified in their applicable review letters which will not impact the site layout, and which may be handled prior to final plan and construction plan approval. Please refer to the appropriate attached reviews.

Site Plan Summary

As part of the technical review for this project, the plans and supplemental documentation have been reviewed by all applicable city departments and consultants. The applicant has provided a letter stating how minor outstanding comments from the review letters will be addressed. Please refer to the letter from A. Zielke dated August 8, 2016. Based on the review comments included in this report or contained within the enclosed information, and if the Planning Commission agrees the addition will be harmonious and compatible in appearance with the existing development, staff recommends approval of the following motions relative to City File No. 16-015 (Culver's of Rochester Hills).

Motion to Recommend Conditional Use Approval

MOTION by _____, seconded by _____, in the matter of City File No. 16-015 (Culver's of Rochester Hills) the Planning Commission **recommends** to City Council **Approval** of the **Conditional Use** to construct a drive-through, based on plans dated received by the Planning Department on July 19, 2016, with the following findings.

Findings

1. The proposed building and other necessary site improvements meet or exceed the standards of the zoning ordinance.
2. The expanded use will promote the intent and purpose of the zoning ordinance.
3. The proposed building has been designed and is proposed to be constructed, 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.
4. The proposal should have a positive impact on the community as a whole and the surrounding area by further offering jobs and another dining option.
5. The proposed development is served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.
6. The proposed development should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.
7. 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.

Motion to Approve Tree Removal Permit

MOTION by _____, seconded by _____, in the matter of City File No. 16-015 (Culver's of Rochester Hills), the Planning Commission grants a Tree Removal Permit to remove and replace up to 17 trees, based on plans dated received by the Planning Department on July 19, 2016, 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 replace six existing trees being removed on the Meijer property with six Linden trees.
3. The applicant is replacing 17 trees with 17 tree credits or the associated contribution to the City's tree fund if replacement trees are not proposed.

Conditions

1. Tree protective and silt fencing, as reviewed and approved by the City staff, shall be installed prior to issuance of the Land Improvement Permit.
2. Should the applicant not be able to meet the tree replacement requirements on site the balance shall be paid into the City's Tree Fund.

Motion to Approve Site Plan

MOTION by _____, seconded by _____, in the matter of City File No. 16-015 (Culver's of Rochester Hills), the Planning Commission **approves** the **Site Plan**, based on plans dated received by the Planning Department on July 19, 2016, 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 requested front yard setbacks are modified based upon the Planning Commission's determination that the building is located similarly to other outlot development in the City; it will not negatively impact the potential of adjacent parcels to develop in accordance with the standards of *Article 8*; is necessary for adequate fire safety; and will be compatible with adjoining properties as the project is part of a larger development.
3. The minimum building frontage build-to area and minimum façade transparency requirements are modified based upon the Planning Commission's determination that they meet the intent of the FB district; that it will not make future adjacent development impractical; that evidence has been submitted demonstrating that compliance with the standard makes development impractical; that it is the smallest modification necessary; and that it will permit innovative design.
4. The proposed project will be accessed by an existing driveway, thereby promoting safety and convenience of vehicular traffic both within the site and on adjoining streets. Walkways have been incorporated to promote safety and convenience of pedestrian traffic.
5. The applicant has submitted evidence that additional parking (32 spaces) is necessary based on demand on a typical day and the Planning Commission has the ability to modify the requirements based on this criterion.

6. Off-street parking areas have been designed to avoid common traffic problems and promote safety.
7. The proposed improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.
8. 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. City Council approval of the conditional use.
2. Provide a landscape bond in the amount of \$36,499.00, as adjusted as necessary after all landscaping has been determined with a cost estimate for additional ornamental trees and shrubs and the irrigation plan required, prior to temporary grade certification being issued by Engineering.
3. Provide an irrigation plan, prior to final approval by staff.
4. Address all applicable comments from other City departments and outside agency review letters, prior to final approval by staff.

Reference: Plans dated received by the Planning Department July 19, 2016 (*Topographic/Tree Survey, Sheet 1 of 1, prepared by Thomas M. Smith; Floor Plan, Sheet A-2; Exterior Elevations, Door & Window Schedule, Sheet A-3; Dumpster Enclosure, Sheet A-3A, prepared by Culver Franchising System, Inc.; Landscape Planting Plan, Sheet LP-1, prepared by Nagy Devlin Land Design; Cover Sheet, Sheet C1.0; Survey Plan, Sheet C2.0; Removal Plan, Sheet C2.1; Site Layout and Paving Plan, Sheet C3.0; Grading Plan, Sheet C4.0; Utility Plan, Sheet C5.0; Storm Management Plan, Sheet C5.1, prepared by Bud Design & Engineering Services, Inc.; Construction Plan Overall Drainage Area Plan, Sheet CP-43; Construction Plan Storm Sewer Calculations, Sheet CP-45, prepared by Atwell-Hicks; Colored Rendering.*

Attachments: Building Department memo dated 6/27/16; Fire Department memo dated 7/27/16; Parks and Forestry memo dated 7/1/16; DPS/Engineering memo dated 7/27/16; Planning Memo dated 8/2/16; MDOT Email dated 7/8/16; EIS dated received 7/19/16; and Notice of Public Hearing and Tree Removal Notice.

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