



Rochester Hills

Minutes

Planning Commission

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Chairperson Deborah Brnabic, Vice Chairperson Greg Hooper
Members: Sheila Denstaedt, Gerard Dettloff, Anthony Gallina, Dale Hetrick, Marvie Neubauer, Scott Struzik and Ben Weaver
Youth Representatives: Janelle Hayes and Siddh Sheth

Tuesday, March 19, 2024

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Brnabic called the March 19, 2024 Planning Commission meeting to order at 7:00 p.m., Michigan Time.

ROLL CALL

Present 7 - Deborah Brnabic, Sheila Denstaedt, Gerard Dettloff, Anthony Gallina, Greg Hooper, Marvie Neubauer and Dale Hetrick

Others Present:

Sara Roediger, Planning and Economic Development Director

Chris McLeod, Planning Manager

Jennifer MacDonald, Recording Secretary

Siddh Sheth, Rochester Hills Government Youth Council Representative

Mr. Weaver had provided prior notice that he would be unable to attend and was excused.

Chairperson Brnabic welcomed attendees to the March 19, 2024 Planning Commission meeting. She noted that if anyone would like to speak on an agenda item tonight or during Public Comment for non-agenda items to fill out a comment card, and hand that card to Ms. MacDonald. She noted that all comments and questions would be limited to three minutes per person, and all questions would be answered together after each speaker had the opportunity to speak on the same agenda item.

APPROVAL OF MINUTES

[2024-0163](#) February 20, 2024 Regular Meeting Minutes

A motion was made by Hooper, seconded by Neubauer, that this matter be Approved. The motion carried by the following vote:

Aye 8 - Brnabic, Denstaedt, Dettloff, Gallina, Hooper, Neubauer, Struzik and Hetrick

Excused 1 - Weaver

COMMUNICATIONS

Chairperson Brnabic noted that the Commissioners received the quarterly Road Report from the Road Commission for Oakland County along with a report regarding strategic planning for the Road Commission.

PUBLIC COMMENT

None.

NEW BUSINESS

2024-0160

Public Hearing and Request for Conditional Use Recommendation - File No. PCU2023-0012 - for MI Premier Dance Co. LLC, a health, recreation and physical education facility to occupy space in the EC Employment Center zoning district at 1866 Star Batt Dr., located east of Crooks, Parcel No. 15-28-177-022, Candice Durham, MI Premier Dance Co LLC, Applicant *(Staff report dated 3-19-24, Applicant's Letter and Plans, Development Application, Environmental Impact Statement, and Public Hearing Notice had been placed on file and by reference became a part of the record hereof.)*

Present for the applicant was Candice Durham, Michigan Premiere Dance Company.

Chairperson Brnabic introduced this item and invited the applicant forward. She asked for the Staff Report.

Mr. McLeod noted that this is a conditional use request for a health/recreation facility within the EC District. He reminded the Commissioners that these uses became conditional in that district last summer, and a couple have since come before the Commission.

He explained that Ms. Durham, with the Michigan Premiere Dance Studio, is the current tenant with this use located east of Crooks, north of Star Batt and has been in this location for almost four years. When a Certificate of Occupancy was required to be signed, it brought the issue forward; and this is why Ms. Durham is now before the Commission requesting the conditional use recommendation. He stated that this particular center consists of five buildings, with each building having multiple tenants.

He pointed out that parking is a bit unique in that it is located between the front doors of each of two buildings, and there is angled parking coming into the site. Seventeen parking spots basically face the direction of this particular tenant building where the studio is located, along with the same number for the building on the opposite side. Behind the building, while some parking does occur back there, most of that area is for loading, unloading, storage, and other industrial activities. He mentioned that these tenants are limited in size and there are a number of different uses in these buildings. He pointed out that there is parking along the very north end of the site as well. He noted that parking does not seem to be an issue.

He mentioned that there are four or five different recreational uses already within these various buildings, including Moose Baseball, along with golf and additional sports team activities. In addition, there are contractor spaces and auto repair shops.

Mr. McLeod stated that for a conditional use permit recommendation, hours of operation are taken into consideration. He pointed out that the hours stated within the application were limited to Mondays, Tuesdays, Wednesdays and Thursdays, generally anytime after normal business hours, five o'clock or so, and then between seven and nine o'clock in the evening. He mentioned that these hours would generally miss the daytime traffic that would be occurring for most of the contractors and industrial users within the complex.

He added that this is a relatively small tenant space of 2,000 square feet, including an office space, restroom space, utility area, and dance location toward the back of the building. He noted that the City has not received any complaints from anyone that they are aware of in terms of operation at this location. He reviewed the five ordinance standards the Planning Commission will consider for the conditional use.

Chairperson Brnabic invited Ms. Durham to provide any additional information.

Ms. Durham explained that her hours are extremely limited because her studio is more of a boutique facility. She stated that she has no more than 30 students and is not looking to grow. She noted that she only has one other employee, and stated that in order to be a part of their studio, students are required to audition. She commented that many of her clientele carpool to the studio which relieves a lot of the parking concerns. She stated that most of her hours are after business hours so parking is not a concern.

Chairperson Brnabic asked if Ms. Durham had future plans for daytime hours.

Ms. Durham responded that she does not offer daytime hours. She explained that she never has had daytime hours because she works elsewhere and teaches at the facility after normal business hours.

Chairperson Brnabic asked what the average age is of the students, number of classes per night, and length of the classes.

Ms. Durham responded that the average age is four to 12, and noted that she has adults on Monday evenings. She stated that her classes are approximately two hours long and there are no more than two or three classes per day.

Mr. Dettloff asked if the classes were given only four days a week on Monday through Thursday.

Ms. Durham responded that was correct, and commented that if they have a workshop it would be on Saturday evening or Sunday morning.

Mr. Dettloff stated that he has no problem with this request, and thinks it is a

great thing for kids.

Mr. Struzik commented that the questions he had have been answered. He mentioned that he frequents the adjacent building's auto repair shop and has an idea of the daytime parking situation. He stated that he has never had an issue with parking. He pointed out that there are a lot of vehicles parking on the north side which he assumes are vehicles that are being worked on, but it is not really where anyone would park as a customer of this business. He stated that there are other industrial facilities in the city that have a lot of recreational uses and some of those are starting to run into issues as their buildings were not designed for those uses. He noted that there are complementary uses where some businesses utilize the parking during the day and the recreational facilities use it more during the evening. He added that longer class times promote a drop-off as opposed to waiting, and he stated that he would concur with Mr. Dettloff that this is in a spot where it is harmonizing with the other uses there.

Ms. Denstaedt asked if they did a lot of birthday parties and when they are usually offered.

Ms. Durham responded that those are only offered on the weekends.

Chairperson Brnabic asked if they have occupied the building for four years and asked Mr. McLeod to reconfirm that there have been no complaints.

Ms. Durham responded that she has been there since November of 2020.

Mr. McLeod responded that they are not aware of any complaints at this location.

Chairperson Brnabic noted that a public hearing is required for this item. She opened the public hearing, noted that there were no speaker cards and saw no one wishing to speak, and therefore closed the public hearing.

Ms. Neubauer moved the motion in the packet to recommend City Council approval of the conditional use. The motion was seconded by Mr. Hooper.

After calling for a voice vote, Chairperson Brnabic noted that the motion passed unanimously. She congratulated Ms. Durham.

Mr. McLeod stated that this would move on to City Council for the April 8 meeting.

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

Aye 8 - Brnabic, Denstaedt, Dettloff, Gallina, Hooper, Neubauer, Struzik and Hetrick

Excused 1 - Weaver

Resolved, in the matter of File No. PCU2023-0012 (MI Premiere Dance Co.), the Planning Commission recommends to City Council Approval of the Conditional Use for a health, recreation and physical education facility to occupy space in the EC Employment Center

Zoning District at 1866 Star Batt Dr., based on documents received by the Planning Department and included as a part of the Planning Commission's deliberation with the following findings:

Findings

1. The proposed use will promote the intent and purpose of the Zoning Ordinance.
2. The existing building and proposed conditional use have 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 proposed health, recreation and physical education facility should have a positive impact on the community as a whole and the surrounding area by providing additional recreation and educational opportunities within the EC Employment Center District.
4. The existing building and proposed use are 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 existing building and proposed use should 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. The use shall remain consistent with the facts and information presented to the City as a part of the applicant's application and at the public hearing (as may be amended by this motion).
3. If, in the determination of City staff, the intensity of the operation 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.

2024-0161

Public Hearing and Request for Conditional Use Recommendation - File No. PCU2024-0002 - for alcoholic beverage sales for onsite consumption at Lifetime Fitness, located at 200 W. Avon Rd., located north of Avon Rd. and west of Rochester Rd., zoned I Industrial and NB Neighborhood Business with the FB Flex Business Overlay, Parcel No. 15-15-476-039, LTF Club Operations Company, Inc., d/b/a Life Time Fitness, Applicant

(Staff report dated 3-11-24, Applicant's Submittal, 2024 Alcohol Standard, Life Cafe Menu, Signage, Sublease Agreement, Public Comment received, City Council minutes from 1-9-17, Planning Commission minutes from 12-20-16, and Public Hearing Notice had been placed on file and by reference became a

part of the record hereof.)

Present for the Applicant was Steve Cullen, General Manager of Lifetime-Rochester Hills.

Chairperson Brnabic introduced this item noting it was a request for a conditional use recommendation for alcoholic beverage sales for onsite consumption at Lifetime Fitness, 200 W. Avon Road, north of Avon Road and west of Rochester Road, zoned I-Industrial and NB Neighborhood Business with the Flex Business overlay. She invited the applicant to the presenter's table and asked for the Staff Report.

Mr. McLeod stated that Lifetime has been in that location for a number of years, and he showed an aerial which highlighted the context of the site and its location relative to Rochester University and the Groves multiple-family residential development to the northwest and he reviewed the surrounding area zoning. He explained that the request will include outdoor sales and consumption with the pool deck area and an outdoor bistro being a part of the service area available for patrons to consume alcohol. He noted that there was an indoor component to the request as well, and a food option with the cafe. He noted that the hours of operation are proposed at 10 a.m. to 10 p.m. seven days a week and include the indoor cafe, outdoor bistro, outdoor pool area, and outdoor tennis and pickleball areas. He pointed out that this request was heard by the Planning Commission and City Council a number of years ago and it was not successful; however, this is a new application with new circumstances for the Commission's consideration.

Mr. Cullen noted that the outdoor facility is only open until 8 p.m., so alcohol sales would probably stop around 7 p.m. Monday through Saturday. On Sunday, the outdoor facility closes at 6 p.m., and they would stop selling at 5 p.m. Indoors, the cafe is open until 8 p.m., so they would stop selling at 7 p.m. He mentioned that they reviewed a lot of the comments and concerns from the public, and explained that they play soft music during the day and it is turned off nowhere near 10 p.m.

Chairperson Brnabic noted that this item requires a public hearing. She noted that three emails were received, noting that Ron and Barb Zuke stated that they are residents of the Groves and are not in favor of the requests as they believe that it would result in louder and later noise levels to the surrounding neighbors. Jeff Bass, also a Groves resident, questioned why a health club needs to serve alcohol. He noted in his email that Lifetime had an adult pool party last year and it was noisy with thumping music. He asked the Commission to reject the request, but if it chose to move forward, there should be a closing time of 9 p.m. She noted that one of the persons who emailed was in attendance, and she would let her speak. She asked if Mr. Cullen has spoken with any of the Groves neighbors.

Mr. Cullen stated that he has not. He commented that he received feedback from his frontline team and emailed one of the commenters just before the meeting. He explained that originally in 2017 something to do with the license was denied. Since 2017 they have tripled their prices, and their membership is

down by about 4,000, and they are selective of the type of member they have. He added that the Beach Club membership is extra, which includes the outdoor facility access. Last summer was the first year with the increased prices and additional pricing for outdoor access, and it was a great experience for all of their members and not overcrowded.

Chairperson Brnabic asked what the total occupancy was. She stated that from what was submitted, she computed the occupancy load for the cafe, tennis viewing, both pool decks and the bistro and came up with 2492, but that did not include the exercise areas.

Mr. Cullen responded that in terms of spaces that would allow alcohol, 600 for the pool deck includes the outdoor bistro facility, and no alcohol will be allowed in the indoor swimming facility. The cafe occupancy is 151. He confirmed that the overall club occupancy is around 2,000. He explained that they have a total of 6,000 members having about 2,100 swipes through the front desk each day. He noted that areas that would allow alcohol would be 751.

Chairperson Brnabic noted that their letter submitted stated that it was Lifetime's desire to have the ability to consume alcohol on the entire premises with the specific exclusion of the childcare area. She pointed out that the previous request went to the Planning Commission in December of 2016, and City Council in January of 2017, where there was a motion and no second. She mentioned that there were concerns even at the Planning Commission level about alcohol being carried across the facility or being permitted no matter where it was purchased across the facility.

Mr. Cullen responded that alcohol is allowed in about 99 percent of their new club openings in other regions. He noted that those locations have developed different signage for different spaces; however, he could envision a tennis house mixer or pickleball mixer where alcohol might be served. He stated that his vision is that they would not allow alcohol up on the fitness floor within the main area; however, they have three separate facilities including a tennis house, a pickleball dome, and the main facility.

Laura Athens, 746 Hummingbird Dr., stated that she has been a longtime member of Lifetime Fitness, and enjoys all of the amenities. She stated that she does not feel that the service of alcohol would enhance the experience for her or other members and expressed concerns including noise level, traffic and safety. She stated she resides in the Groves community and can walk from her front door to the locker room in three minutes, and does not do that anymore as people are racing around the corner and she has almost been hit many times. She expressed concern over the potential of intoxicated individuals coming in and out of the parking lot and onto Avon and Rochester Roads. She added that she has been awakened in the summertime after 10 p.m. by noise from a pool party and hears loud music, loudspeakers, and people hollering to one another. She mentioned that the people that supervise the pool area are young adults, and expressed concern they would not command respect to get compliance if someone was belligerent. She asked the Commission to deny the request, or if approved, to severely limit the hours to stop serving alcohol at 7 p.m.

Mr. Cullen responded that traffic has decreased over the last five or six years since they added an outdoor pool access fee on top of the membership upgrade. He stated that they had one summer mixer last year, and commented that it ended around 9 p.m. on a summer Saturday.

Chairperson Brnabic mentioned the concern regarding the age of the employees monitoring the pool area.

Mr. Cullen responded that lifeguards would be right out of high school to college age. He noted that the average management age is around 40 and they have anyone from 52 down to 26. He stated that maturity within the leadership is intact and there has not been a problem. He commented that he does not have a problem terminating membership based on non-compliance.

Seeing no one else wishing to speak, Chairperson Brnabic closed the public hearing. She expressed concern that Lifetime Fitness was approved as a fitness facility, and although they may wish to provide a country club atmosphere, it is not a country club. The size of the facility and serving alcohol is another concern. She pointed out that their plan is to transfer a Class C liquor license, and even though their menu does not include mixed drinks or hard liquor, they would have the ability to serve those drinks under that license. She asked for confirmation that there are currently no other Lifetimes in Michigan that serve alcohol.

Mr. Cullen responded that was correct.

Chairperson Brnabic asked how old someone has to be to enter the pool area without a parent.

Mr. Cullen responded 12 years of age.

Chairperson Brnabic stated that she knows that selling to minors would never be the goal or intention of the club, however things do happen. She noted that she found an example in Minnesota where alcohol was sold to a minor three times in 18 months at one Lifetime Fitness, with one instance resulting in a one week suspension of the license. She mentioned that having alcohol site-wide could leave unfinished drinks at different locations with kids everywhere that could pick up someone else's container. She stated that in 2016 she was originally a vote to deny it, and after some conditions were set up she did vote to approve it at that time.

Mr. Cullen asked for an explanation of the concerns of alcohol being site-wide, noting that the cafe, outdoor pool deck, and potentially a tennis or pickleball mixer would be zones of service.

Chairperson Brnabic responded that she took a statement from the letter about Lifetime's desire to have the ability to consume alcohol on the entire premises with the exception of the childcare area.

Mr. Cullen responded that at other clubs that have this license, they have signage from department to department for no alcohol past a certain point. He

stated that it would not be permitted on the fitness floor.

Chairperson Brnabic stated that if it could be brought out to the pool area, there are a lot of drinks that could be left at poolside. She asked how many staff members they plan on having monitor alcohol use.

Mr. Cullen stated that for any facility that has an alcohol license there would be concerns, and stressed that his staff training will be diligent and consistent. He noted that staffing would depend on the day, and they would up payroll greatly on the weekend to ensure safety. He noted that they typically have 20 lifeguards on hand every day and it goes up to 35 on the weekends. He stated that they have member counts, pool deck and occupancy counts every hour.

Chairperson Brnabic asked whether Lifetime is applying to serve alcohol at any other Michigan facility.

Mr. Cullen responded not to his knowledge. He noted that Bloomfield Hills does not have an outdoor pool deck. He stressed that this Lifetime has the second highest dues and is considered the high-end facility in Michigan.

Ms. Neubauer stated that she is struggling with a fitness club that wants to serve alcohol. She noted that a motion did not receive a second at City Council last time. She mentioned that she drops her kids off there because they are over the age of 12 and can be there by themselves; and she stated that while her kids are good kids, not everyone's kids are. She expressed concern about carrying alcohol from place to place in the facility, and noted that someone who drinks too much may go and weightlift and injure themselves. She commented that she would concur with Chairperson Brnabic that this is not a country club.

Mr. Cullen responded that this is not LA Fitness or Planet Fitness, and it is a different world. He stated that they are moving in the realm of a country club, noting that they now have eight pickleball courts and eight tennis courts, along with nine or 10 different departments in the club. He stated that he would challenge that what does a country club have that they do not have right now aside from \$20,000 a month dues.

Ms. Neubauer stated that the mission statement of a country club is different than the mission statement of a fitness club. She commented that one is primarily for socialization and the other is for fitness. She stated that they have granted liquor licenses countless times, but it gives her pause as she has been at that facility. She noted that she has chaperoned multiple fifth grade parties there, and it was overwhelming for staff to chaperone those parties with kids getting into the pool that did not have their bands or have done their test yet. She stated that she cannot imagine having alcohol there at the same time kids are playing. She added that a country club has age limitations in that members are not bringing their kids to the club all of the time.

Mr. Cullen responded that he has been to the Birmingham Country Club on Woodward and there are a lot of kids especially in the pool area.

Ms. Neubauer stated that she does not see how having an alcohol license at

Lifetime Fitness promotes the same points, and the same points that were presented in 2017 are the same issues she has here. She listed carrying alcohol throughout the entire facility will be hard to control, there are safety issues aside from just the kids, and it is more liability for the club and more dangerous for the people who are doing it and those around them. She stated that she does not see a purpose in serving, and commented that if there was another model in Michigan that was successful, maybe she would consider it.

Mr. Dettloff commented that this is a shift in the corporate business model.

Mr. Cullen responded that he started at Lifetime in 2020, and has been a member since 1999 in Troy. He noted that since he has been on staff, their goal has been to move in the country club or athletic club direction. He stated that in terms of pricing and amenities that they are currently still adding and will have in the next year-and-a-half, this is what they are trying to do nationwide. He pointed out that looking at the newer clubs in every other state, this model has been very successful.

Mr. Dettloff stated that he saw that there are 200 in the country, with 70 currently having a liquor license. He asked what the closest state to Michigan is that has one.

Mr. Cullen responded that River North in Chicago is downtown, and he believes that Dublin, Ohio has one. One or two in Ohio have been remodeled with this feature. He stated that Minnesota is the founding state for Lifetime and he knows that their home club does among others.

Mr. Dettloff noted that the pool is seasonal and asked if there were any plans to enclose it.

Mr. Cullen responded no. He stated that they open Memorial Day weekend and are probably open until the first week of September, or mid-September depending upon weather.

Mr. Dettloff asked if the State Liquor Control Commission has any additional requirements when it comes to a health facility serving alcohol. He asked if it was an existing license in escrow, and if the Lifetimes are corporate-owned and operated or franchise.

Mr. Cullen stated that he did not know regarding the State or about the license. He noted that all Lifetimes are corporate-owned and operated. He stressed that he is here representing his club.

Mr. Dettloff questioned the subagreement indemnifying the landlord.

Mr. McLeod noted that he believed Lifetime's lease is with itself.

Mr. Struzik asked a number of questions including:

- If alcohol was only for the outdoor pool facility would they in the future wish to expand it to the indoor pool.

- *What kind of parties and events are they looking to host in the outdoor area, and if their previous event mentioned was membership-invited or open.*
- *If the age restrictions pertain to just the outdoor pool or to the indoor pool as well, and if they had any statistics as to how many children attend the facility.*

Mr. Cullen responded with the following:

- *They do not wish to expand alcohol to the indoor pool as they have hot tubs and a sauna.*
- *A summer mixer last year was for members only but 80 to 100 people attended. The other pool decks were closed at that time and the mixer was just in the bistro area. They had a DJ, did line dancing and played Limbo. The party went to 9 or 9:30 p.m., but not 10 p.m.*
- *The age restrictions pertain to the entire club. They have 2,400 juniors on a membership. The average swiping juniors each day is around 300, and some exclusively play tennis, some are in the Kids' Academy, and some exclusively come for summer camp.*

Mr. Struzik asked when the Groves was built.

Mr. McLeod responded it was finalized in 2022.

Mr. Struzik stated that he shared many of Council Member Neubauer's concerns. He noted that he visited the site from both approaches and also drove into the Groves and walked the curve noted in public comment. He stated that it is about 110 feet, less than the width of a football field to the residential area. He commented that the nearby neighborhoods have backyards facing Lifetime and that is where the residents will be doing their entertaining. He stated that he noted Ms. Athens' concerns about cars whipping around the corner, and he noted that the pedestrian connectivity is not great. He commented that the pool area is an intense usage with an occupancy of 600 and serving alcohol in the area will only make that usage more intense and will increase noise, adding to his concern. He pointed out that the only difference between now and the last time they applied is that there is a residential development there and that makes him feel even less at ease.

Chairperson Brnabic noted that in answer to the question regarding the liquor license, Lifetime is currently in the process of transferring a Class C liquor license from Whole Foods Market Group Incorporated.

Mr. Hetrick noted that he was a Council member in 2017, and asked Mr. Cullen what is different about today's request. He mentioned that he recalls the same kind of layout where alcohol would be served from a spot in the tennis area, the bistro and the cafe.

Mr. Cullen responded that pricing, fewer members, and a better experience on the pool deck are differences. He stated that it will still be crowded as it is a seasonal club in Michigan, but he stressed that going from 9,000 members down to 6,000 will do something. With the current pricing structure, they are no longer overwhelmed on the pool deck as when he started in 2020, 2021, even 2022. He stated that the layout has not changed.

Mr. Hetrick asked about the 70 locations currently serving alcohol.

Mr. Cullen responded that it is a higher-end feel. He noted that West Palm Beach Club has a full bar and no restaurant plus a full bar on the pool deck. He added that West Palm Beach is about \$300 a member per month while they are at \$180. He stated that he has not heard of any extenuating circumstances that a normal restaurant would go through.

Mr. Hetrick asked if Mr. Cullen thought the demographic of Rochester Hills was like West Palm Beach or River North and the demographic would want a full bar at the pool.

Mr. Cullen responded that it could approach that level. He commented that he thought that Birmingham or Grosse Pointe could top Rochester Hills. He stated that they get a lot of requests, and commented that parents will drop their kids off at the Kids' Academy and lay out by the pool and have a seltzer and relax for a couple of hours or go for a dip.

Mr. Hetrick stated that along with his fellow Commissioners, the area in the layout that will be the problem is the pool area because the bistro is on the pool deck and is not enclosed. He commented that people will take their drinks out to the pool deck. He questioned what would keep them from taking alcohol inside as the entire facility would be allowed access and asked about the total square footage of the facility.

Mr. Cullen responded that they would be able to order alcohol at the bistro and take it back to their chair to drink it on the pool deck. He stated that there will be staff members at the cutoff point and those with alcohol would not be let back in. He noted that the entire facility is 200,000 square feet and alcohol would be deemed for the tennis house, pickleball dome and cafe. He stated that it will be up to management whether they add those areas or not.

Mr. Hetrick commented that if it is up to him, it would be a condition that they are not going to do that. He questioned how they would be able to monitor people carrying their seltzers from the cafe out to the pickleball court. He stated that the square footage where they can buy and drink would be considerably less than 200,000 square feet, and enforcement in those areas has to be incredibly vigilant. He expressed concern of the allowable hours being up to 10 p.m., and commented that there appears to be a number of variable hours. He noted that someone could have a seltzer on the pool deck at 10 a.m. He asked if other places in Michigan are taking this same tact.

Mr. Cullen responded that since he started with Lifetime, pool deck hours are 10 a.m. when family swim starts to 8 p.m. Monday through Saturday. Sunday hours are 10 a.m. through 6 p.m. on the outdoor pool deck. The indoor cafe is open until 8 p.m. Monday through Saturday and closes at 6 p.m. on Sunday. He commented that he does not think the others have a demographic that suits it, and Bloomfield Hills does not have an outdoor pool area.

Mr. Hetrick commented that when Lifetime was here in 2017, he remembers

that they were not too interested in this Lifetime being the first place in Michigan to add alcohol. He noted that they have had five years to find another location to test it and it has not happened. He stated that he appreciated Mr. Cullen's answers, and is very concerned about the ability to enforce 200,000 square feet versus the small number of spaces they currently have along with a pool deck pretty much open to everyone.

Ms. Denstaedt asked why they felt that the summer 2023 experience was better than those in the past and if it was based on customer satisfaction.

Mr. Cullen responded that the overall price has tripled since the last time they applied. He explained that if a family joined in 2017, they would not pay anything to get out to the pool. A family of five pays over \$500 now for the season on top of their membership dues.

Ms. Denstaedt noted that their satisfaction was still good without alcohol, and asked if their satisfied customers are requesting alcohol. She asked if there were concerns that if it is allowed, more people would join for that reason and they would have the same issues everyone is concerned about with too many people, enforcement and staffing.

Mr. Cullen responded that the members are asking for it. He commented that he understands the question but does not know with the price increases if they will be willing to pay that price for a seltzer.

Ms. Denstaedt stated that just because they have a different clientele, it does not mean that they will not overdrink and become better drinkers. She noted their plans for a cart for the pickleball and tennis courts and asked if they would get to the point to want a stationary bar there.

Mr. Cullen responded that the maturity of the clientele makes a difference. He commented that he did not envision more than a cart in those locations, and noted that right now the pickleball and tennis is a theory or vision more than something starting right off the bat.

Ms. Denstaedt stated that she is having a hard time correlating getting healthy, working out, and then eating and drinking.

Mr. Gallina stated that he would echo everything that has been said and he is struggling with this. He noted he respects the idea that it will be more of a country club social gathering but the challenge is that is not what was originally built. He stated that there is leisure, exercise and fitness, but when you start introducing alcohol it gives him concern. He commented that he would feel more comfortable if there were others in the state that had it. He expressed concern for safety, noise and a negative impact; and stated that the neighbors have expressed concerns now before alcohol is served. He stated that this is not a concept that he feels fits in at this time.

Mr. Hooper stated that he is a member of Lifetime and can attest to the increase in fees. He noted that he has been on the Planning Commission for 25 years and supported it in 2017. He commented that there is nothing wrong with

the country club concept and every country club he knows of has a liquor license with outdoor pools. He stated that while issues raised about over imbibing on liquor are valid, that is strictly the responsibility of the liquor license and the liquor control board. He added that the times for serving have changed since 2017 and are now 7 p.m. Monday through Saturday and 5 p.m. on Sunday. He mentioned the signage that will say it is limited or cannot be served or carried past a certain point, and alcohol will be restricted to three areas, the indoor cafe, the outdoor bistro and when there is a cart at the pickleball dome or in the tennis viewing area. He stated that this will have to be a condition in order for this to go forward. He commented that while he supports it, it does not appear that anyone else on the Commission will support it.

Ms. Neubauer moved the motion in the packet to recommend denial of the conditional use with the findings stated in the proposed motion. Mr. Struzik seconded the motion.

After calling for a roll call vote, Chairperson Brnabic noted that the motion recommending denial passed seven to one with Mr. Hooper voting nay. She stated that it will be the applicant's choice whether to move forward to City Council at the April 8 meeting. She commented that Lifetime is an awesome facility, but there are just too many concerns with alcohol at that facility.

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

Aye 7 - Brnabic, Denstaedt, Dettloff, Gallina, Neubauer, Struzik and Hetrick

Nay 1 - Hooper

Excused 1 - Weaver

Resolved, in the matter of File No. PCU2024-0002 (Life Time Fitness), the Planning Commission recommends to City Council Denial of the Conditional Use to allow sales for on premises alcoholic beverage consumption associated with a restaurant use, based on documents received by the Planning Department on February 13, 2024 with the following findings:

Findings

1. The proposed conditional use, particularly the outdoor service area, based on its overall size and intensity are not 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, particularly given the close proximity of the Groves apartment community.
2. The proposed addition of alcohol sales to the already existing fitness facility could have a negative impact on the surrounding residential properties by creating excessive noise and disturbances.
3. The existing Life Time facility was approved as a fitness facility and was not intended to be a full service indoor /outdoor restaurant facility with alcoholic sales and consumption, particularly of the size and natures of proposed conditional use, for the serving and consumption of alcoholic beverages.

2023-0373

Request for Conditional Use Approval to operate a car wash within the CB Community Business District for the proposed construction of a new Clean Express Car Wash located at 10 E. Auburn Rd., on the south side of Auburn Rd., east of Rochester Rd., zoned CB Community Business District with an FB Flex Business Overlay, Clean Express Auto Wash, LLC, c/o Mannik & Smith Group, Inc., Applicant

(Staff Reports dated 3-19-24, 9-19-23, and 8-15-23, Reviewed Plans dated 3-4-24, 9-19-23, and 8-15-23, WWRP letter dated 3-6-24, Public Comment from March 2024, Notices of Public Hearings for 3-19-24, 9-19-23, and 8-15-23, City Council Agenda Summary and Minutes from 10-9-23, Approved and Draft Planning Commission minutes of 9-19-23, Draft Commission minutes of 8-15-23, EIS and updated EIS dated 9-29-23, Mannik Smith letter of 8-28-23, Applicant's letter dated 7-18-23, Development Application, WRC Letter dated 12-21-22 and Council Draft Resolution had been placed on file and by reference became a part of the record hereof.)

Chairperson Brnabic introduced this item for conditional use approval for a car wash within the CB district for Clean Express proposed at 10 East Auburn, and invited the applicants forward and asked for the staff report.

Present for the applicant were John Gaber, WWRP, attorney for Clean Express, along with Dennis Miller, their real estate representative, and Jacob Rilett, project manager for Clean Express.

Mr. McLeod noted that this is a request for amendment to the originally approved conditional use and site plan approval. He mentioned that they previously received a tree removal permit. He stated that it is being developed under the Community Business District regulations, so this is a conditional use for that district. He described the site and surrounding uses, and stated that Clean Express has gone through their construction drawing phase, and Meijer is no longer willing to grant full access to their parking lot to the south and is willing to grant an exit-only drive. In addition, the west side driveway was originally approved as a two-way drive and it will now only be an exit-only drive. He reviewed traffic patterns, and stated that during Fire review, they said they needed emergency access across through the site and this provides it. He commented that if someone got into the stacking lane and decided they did not want to get a car wash, or were exiting through the vacuum area, they could exit there and would gain access to Rochester Road or Auburn driving through Meijer's parking lot.

He explained that the other change is to the east with the Culver's site. He stated that there is a legal easement document which provides cross access to the Culver's site to the east, and it will be ultimately for the Planning Commission to determine whether that cross access is appropriate at this particular time under this current set of circumstances. He noted that there were a number of conversations regarding potential options that were explored, and he stated that it is clear that Culver's does not want that connection. He noted that what is before the Commission is whether or not the current proposed traffic configuration is acceptable; the remainder of the site remains as originally approved.

Mr. Gaber stated that when they came forward previously, they had Meijer's approval verbally and in writing that they would agree to a cross access easement allowing entrance and exit between the Meijer site and the car wash site. Subsequently, Meijer changed personnel and has a different real estate representative in charge of this area and that store. When they came to them to talk about the actual easement, they had a change in position and decided that because there could be traffic backed up onto the Meijer drive, like what happens apparently with Culver's, they did not want to grant an entrance from Meijer to the car wash and will grant only an exit. He stated that without the Meijer entrance, if the Culver's access was closed the only other access is to and from Auburn Road, which will not work.

He read from the previous minutes and noted that Dr. Bowyer at the time asked why Culver's did not have an access point onto Auburn Road, and Ms. Roediger had responded that from an access management standpoint, fewer curb cuts on a road improved safety and circulation as the site is in proximity to Rochester Road. Ms. Roediger noted that it was actually a condition when Culver's was approved that they would not have a curb cut onto Auburn. Mr. Gaber pointed out that Ms. Roediger noted in her comments that the Culver's owner called her and sent an email and indicated that they definitely wanted to maintain the cross access, and now that position has obviously changed. He commented that it has been the policy of the City to facilitate internal cross access to minimize traffic concerns on the main roads.

Mr. Gaber noted that he was before the Commission for the Bank of America and they had that discussion in terms of providing cross access to both Meijer and potentially to the quick lube shop to the north. He stated that at that point Culver's was in favor of it and the Commission recommended approval to City Council with the cross access to Culver's open and operational. He noted that the difference was that they had the Meijer two-way cross access at that time, and now they only have one-way access. He stressed that Culver's was required to provide this cross access when it was approved in 2015-2016 and they recorded an easement, which benefits the Stone Shop and all future developments in the Stone Shop parcel. He stated that it was only at City Council when Culver's asked to have the cross access closed, and agreed that it would be closed at least for the time being. City Council's approval with the condition that Culver's access be closed off is what necessitated coming in front of the Commission to request a change or for a recommendation to City Council to eliminate that condition and allow the cross access.

He pointed out that there is a condition in the resolution that gives the City the right to revisit a conditional land use approval in the future if there is some type of adverse impact due to noise or traffic.

Mr. Rilett reviewed the traffic flow on the site noting that all traffic would enter from Auburn and the west entrance and there is a pork chop in place to prevent cars from turning left immediately into Culver's. He described how those using the vacuums would traverse the site, and how cars leaving the wash would go out to Auburn Road and have priority to avoid crossover incidents. He stated that this is a big opportunity for Culver's to alleviate some of the congestion they have with cars currently and allow the opportunity for them to leave through

Auburn Road.

Mr. Gaber commented that he thought the only reason they would go through Culver's is if they wanted to be a Culver's customer, and he stated that they believe it will benefit Culver's by giving them another outlet to Auburn Road. He stated that they think it is very important to have the cross access with Culver's, and they have a legal right to that access that Culver's agreed to when they developed their site and recorded the cross access easement the City mandated. He added that this can always be revisited pursuant to that condition that is included in the resolution that allows for reconsideration.

Chairperson Brnabic asked to display her monitor and pulled up page 13 of 26 in the color renderings of the site. She stated that she understood that they are saying they have a legal right to the Culver's access and have since lost the Meijer access, but she is still concerned with traffic and traffic movements within that connection. She stated that looking at the rendering, it could put an unfair stress on traffic movements on the site. She pointed out that people coming out of the car wash could make a right turn to travel out through the Culver's traffic and drive-through. She added that people making the right out of the car wash could create problems with a stacking line in the main traffic aisle to Culver's drive-through if they tried to get into it. At the same time cars are traveling across from the drive-through window to the same area.

Mr. Gaber suggested using signage to say no entry from that side to the drive-through.

Chairperson Brnabic stated that while there are solutions, she would question whether drivers would pay attention. She added that people could come in the Culver's entrance to get a car wash and would be cutting straight across. At the same time customers from the drive-through window can also decide to travel across to go to the car wash. She stated that she was trying to think of every possibility that could occur.

Mr. Gaber responded that it is the nature of a cross access to allow more traffic between sites. He stressed that Culver's agreed to do this as a condition of their approval in 2016 and they understood that at some point in time that the site would be redeveloped and there was going to be some cross traffic.

Chairperson Brnabic stated that at that time they had no idea the business adjacent would be a car wash. She added that in addition to the traffic movements, there will be pedestrian traffic walking across the traffic aisles to the parking spaces on the far west side which will include customers and food servers. She commented that while it has been said that the City could call this back if it turns into a major problem, she would like to see the options now before the building is constructed. She asked if someone wanted to come in from Culver's and go straight across if that would be okay.

Mr. Rilett responded that they have a stop sign and would be yielding to cars leaving the wash, but yes, they would be able to come in straight across. He added that if the Culver's stacking lane was to reach all the way back out, cars would be spilling out into the Meijer access drive and creating greater conflict

there, which already happens now. He mentioned that with the addition of some of their traffic being able to come in from the other side, it actually removes some of that concern. He noted that if someone were to be leaving Meijer and want a car wash, they would have to exit to Rochester Road, turn right onto Auburn and come in that way. He commented that would be creating extra traffic at the Rochester-Auburn intersection, which he stated is more contentious than a Culver's stacking conflict would be.

Discussion ensued whether people would be more likely to shop at Meijer first and then want a car wash, or vice versa.

Mr. Rilett stated that the entire point of internal cross connections that the City is pushing for is to alleviate the need to leave Meijer and come back into one of these sites. He stressed that without the Culver's connection, that is what everyone will be forced to do.

Chairperson Brnabic stated that while she understands what Mr. Rilett is saying, the business will be busy already and the traffic movements pushed over to Culver's may signal a problem. She added that as Culver's is objecting to this now, she would question whether this would equate to a safety issue. She stated that in consideration of a conditional use request, she has to consider the safety issue, that it will not be detrimental, hazardous, or disturbing to existing or future or neighboring land uses, persons, property, or public welfare.

She opened the public hearing.

Andrew Zielke, 4564 Oakhurst Ridge, stated that he was the owner of the Culver's. He stated that since the car wash did not get the Meijer access, they would be generating a lot of traffic onto their property. He stressed that their property is not a ring road, and there would be cars backing out along with cars coming through and it would generate internal conflicts on their site. He noted that once the cross access was opened, they had people trafficking into the drive-through lane from both sides, and cars could not get off their property. He explained that a manager had to go out there to resolve an issue with a guest because they thought they were line cutting. He noted that since they have added DoorDash, they are probably getting an extra hundred cars a day. He pointed out that the pork chop from Auburn will not stop cars from turning into their lot. He mentioned that some of their runners are mentally disabled who deliver food to learn a new skill and they do not have the ability to recognize traffic flow.

Vicki Zielke, 4564 Oakhurst Ridge, stated that she is the franchisee and owner and since they introduced DoorDash they have a lot more traffic. She noted that the special needs employees have vests and special name tags and she is happy to employ them to run food out. She stated that it will pose too large of a risk, and commented that they have already had combative situations where people are turning left into the drive-through and enter backwards. She stated that they love their location, but this will pose too much of a risk for her people and her guests.

Ms. Roediger noted that Mr. Gaber is absolutely correct that the City is always

looking to consolidate driveways and promote cross access because it helps with safety and efficiency of the main thoroughfares. She explained that when she first met Mr. Zielke at their original concept meeting, he had a driveway onto Auburn Road. She noted that if he had a drive onto Auburn, there would have been five driveways within 500 feet of the worst intersection in the city. She explained that through that concept plan, they worked with the Zielkes to get rid of that access off of Auburn Road and to create a future cross access because Staff was afraid that whatever happened at the Stone Shop they might not allow Culver's to have a cross access and they wanted to ensure in the future that if it was deemed appropriate they would have an access onto Auburn. She noted that they agreed to an access to Culver's off of the Meijer property and would provide that cross access in the event that it worked out in the future. She stated that the cross access was to benefit Culver's because they gave up the driveway on Auburn and lost direct access to their site.

She stated that the goal of the cross access is not being accomplished by what is being proposed this evening. She pointed out that Mr. Gaber indicated that there is a recorded cross access easement which is correct, and the Ordinance does indicate that an easement "shall" be provided which is a must. The Ordinance then says to ensure that a street system "may" connect in the future, with "may" being discretionary, or not a must. She commented that the intent of the original cross access agreement was to protect the future. She stated that it is always the goal to minimize conflicts especially on the major road system.

She commented that as indicated from the discussions internally with the applicant, the neighbors, and the Planning Commission, it is the internal circulation that is causing concern. She stated that at this point she does not regret having a cross access versus having a separate driveway from Culver's off of Auburn Road, noting that it would be horrendous.

Seeing no one else wishing to speak, Chairperson Brnabic closed the public hearing.

Mr. Struzik asked what would happen if cars are going through the car wash and something happened where there was no room for them to exit and cars would back up.

Mr. Rilett responded that there is a kill button if to stop the wash if there is a conflict in the tunnel that can be stopped by the person watching the wash. He added that there is an automatic system that will stop it if cars get too close to each other.

Mr. Struzik asked how many cars can be processed at the absolute peak.

Mr. Rilett responded that typically it is 20, 30 to 40 cars an hour, and that would be a relatively busy maximum. He stated that the absolute max would be 80 to 100 and that would be unlimited cars with no delays.

Mr. Struzik asked Chairperson Brnabic if he could address questions directly to the Zielke's. After she noted he could, he asked how many people could move through the Culver's drive-through.

Mr. Zielke responded that he can move as many cars as possible and is not limited.

Mr. Struzik stated that when Chick-Fil-A came before the Commission they said their goal was one car every 36 or 37 seconds and that they did better than that. He asked if Culver's had a similar number.

Mr. Zielke responded that if they got everyone humming along they could move a lot of cars and create a lot of traffic. He noted that the greatest conflict would come into play as they would be busy at the same time as the car wash would be busy.

Mr. Struzik asked if the runners cross the parking lot.

Mr. Zielke stated that they do when they get busy as they ask cars to pull around to that spot.

Ms. Zielke noted that people are told to pull forward if there is a backup to move the line, pull around facing the building, or back up along the fence line so that they can see their order number.

Mr. Zielke stated that they do not want them to be backed up on the Meijer side so they have them pull around to the front of the building. He pointed out that they only have six or seven spaces in front of the building besides the handicap spaces and the majority of their guests walk across the parking lot to get to their doors.

Mr. Struzik stated that he is a big fan of cross site access in general and likes seeing businesses and neighborhoods connected. He added that this is his neighborhood and he has walked or biked past Culver's many times, and reducing the amount of vehicles pulling out onto the main road with cross side access would be a good thing. He commented that Mr. Gaber makes a very compelling argument about how the Culver's site was approved for and designed with cross site access. He noted that he wants to see continued success for Culver's, and can see the problems this can potentially create; however, he also feels that some of these problems can be mitigated with signage and changes to the drive-through geometry. He noted that if they make it so that they cannot turn left or it is highly discouraged by adding an additional curb so the natural flow for the drive-through traffic is from the Meijer parking lot it will resolve some of the conflicts. He added that there is an opportunity for Culver's to have a lot of its traffic exiting the drive going directly out to Auburn instead of traversing through the site back the way they came in.

He noted that the oil change site was not in favor of cross site access and has asked the Sheriff to monitor their site for people illegally cutting through the business to make a right turn through the bank site from Rochester out to Auburn, but things could change and the oil change shop could change to something else which would perhaps eliminate the curb cuts completely at that corner and provide cross site access through the bank and the car wash.

He stated that he hoped that they are able to find a way to move forward and that Culver's is able to resolve the issues. He commented that he understands what they are saying about their workers, particularly those with special needs.

Mr. Hetrick asked for the cross connection to be displayed again. He asked if the car wash had 80 to 100 cars if they would be spilling out onto Auburn Road.

Mr. Rilett stated that the car wash has a high-tech drying system, and mentioned that hand drying typically slows down other car washes.

Mr. Hetrick stated that it was mentioned that patrons could do their vacuuming and then choose a direction to go. He noted that it was mentioned that the preference would be to go out Auburn Road, and asked why they couldn't go out the exit allowed into Meijer.

Mr. Rilett stated that they could. He noted that Meijer would prefer more going out Auburn and then they would also have the option to go through Culver's as well. He pointed out that the traffic going through Culver's to get to Meijer would be less than the number leaving Culver's through to Auburn Road, and would decrease the amount of cars heading south through the Culver's lot.

Mr. Hetrick asked if they could stop traffic going out to Auburn from the vacuum location. He asked how many people get their car washed and vacuum it versus just getting a car wash and leaving.

Mr. Rilett responded that Meijer may have some objections to that as they were okay with the exit to the south but do not want all of the traffic coming out that way. He stated that more than 70 percent get a car wash and leave.

Mr. Hetrick stated that the people choosing to vacuum their car and leave would be considerably less and would not put Meijer in a difficult spot. He stated that in many respects it would allow the cross access not to be used for now but still could be opened in the future if there was a need.

Additional discussion ensued regarding the cars from Meijer that would have to go back out onto the main road to get into the car wash without the Culver's connection and those who would come out of the car wash and have to go back through the vacuum lane and out through the Meijer exit to shop. Mr. Hetrick stated that he wanted to understand how this could work so that Culver's gets what they want with the least amount of cross traffic.

Mr. Rilett stated that it still leaves the car wash with the problem of having the only entrance being from Auburn Road, which is what they came back to try to avoid.

Mr. Hooper asked when Meijer stated that they changed their mind between a two-way access and a single exit access.

Mr. Miller noted that the process took about a year or 14 months, and recalled how they had the building on the same side it is now, flipped it before the Planning Commission, and then flipped it back. He stated that he did not have a

drawing to show Meijer because they kept switching the drawings and the access points. After they sent the drawings, a new person became involved, and at that point they got the exit-only approved. He added that they are now on their third contact from Meijer, who is actually the boss, as their second contact left last week. He stated that they will be fine with this exit point. He explained that they pushed back as much as they could, but Meijer representatives are concerned about backing up the Meijer access drive.

Mr. Rilett stated that they did propose several potential solutions, and all were rejected. He explained that they had an additional third kiosk proposed specifically for traffic from the Meijer side to try to get the stacking increase, and Meijer was not willing to listen to any of it.

Mr. Hooper commented that it appears the car wash is being penalized for Culver's success. He stated that he definitely supports cross access throughout the city and they should not be a location that forces more traffic onto Rochester Road. He commented that it is unfortunate that Meijer has taken this position, but he does not see another way around it. He stated that instead of a striped pork chop it should be a hard curb with a planter in the middle or on the end of it so it is a difficult physical barrier.

Mr. Rilett noted that the most up-to-date version of the drawings has a raised curve. He suggested they could put a bollard in the middle.

Mr. Hooper stated that he does not see any other solution other than increasing the difficulty for someone making a left turn inside the property after coming in.

Mr. Gaber stated that in terms of exiting the site, most of the traffic would go out Auburn Road and then come back into the Meijer drive because it will be easier and there will be less conflicts than turning into Culver's.

Mr. Hooper stated that he sees the benefit to Culver's of easy access onto Auburn Road instead of going through Meijer's parking lot. He commented that the problem is the people who do not want to go through the ring road and want to come in and go to Culver's. He noted that this is the opportunity that needs to be removed.

Chairperson Brnabic stated that they welcome Clean Express car wash and want to see it succeed. She commented that she wished that they could somehow get the access from Meijer. She stated that if it would cause any problem it would be people traveling to the west, otherwise anyone using their facility from the other directions all have access. She noted that she understands how they would have more business having that cross access, but she thinks they can function in business without it. She commented that she is more disturbed because Culver's is so against it, and the cross access was intended as an advantage to them. She stated that Culver's is saying that it won't be an advantage and will create safety concerns. She commented that she wants to find some sort of solution, because with the traffic movements it might be a safety issue.

Mr. Dettloff stated that the sentiment is to look for a win-win situation. He noted

that Meijer is a Michigan-based business and commented that they keep changing the guard. He asked the proposed hours of the car wash and the hours of Culver's.

Mr. Rilett responded that for the car wash it would be 7 a.m. to 8 p.m., Monday through Saturday, and 9 a.m. to 6 p.m. on Sunday.

Ms. Zielke responded that Culver's hours are 10 a.m. to 10 p.m. seven days a week.

Mr. Dettloff stated that from an agreement standpoint what Mr. Hooper suggested at this point in time is the only way moving forward that this could potentially work. He commented that people do not read signs. He asked if Meijer had any flexibility, and commented that the wrench Meijer threw into this is causing all of these issues and concerns.

Mr. Miller responded that he did not. He commented that he is on the third Meijer representative and the story is almost the same. He noted that he is now dealing with the boss who was most likely sending the signals during the negotiation process. He pointed out that Meijer never owned this site at all, and owned the Culver's site which was sold to Culver's. He mentioned that he has done other deals with them in other locations and has a pretty good relationship with them; however, they just cannot seem to get over the hump on this one.

Ms. Neubauer asked Mr. Gaber if he has tried to get involved with Meijer as an attorney and perhaps force their hand.

Mr. Rilett responded that they looked into this as well as there is an existing cross access easement between Meijer and the other two parcels; and determined that as far as they can tell the legality of the easement is that they provide the one cross access connection intended to serve the whole entirety of the area.

Mr. Gaber added that he does not know any legal basis. He pointed out that Meijer owned everything in there before and controlled the disposition and what happened with access rights. He stated that they can try to continue to push back; however, it is not their legal staff that makes that determination it will be their real estate representative.

Ms. Neubauer asked if it might be beneficial for the Commission to vote to postpone to allow more discussion on their end with Meijer. She commented that she does not know if they would get full approval and do not want to put them in jeopardy of not being able to come back for another year. She asked how they would feel about postponing this to allow more time to discuss this with the higher real estate person at Meijer. She commented that she does not want to give legal advice but more discussion must be had.

She stated that she believed the majority would be agreeable to postpone rather than to vote to approve or deny so that nobody is put in a bad situation tonight. She commented that she thinks it is a better option to come back and perhaps come with an updated plan with a raised curb in the middle and a bollard or a

new traffic study or something. She does not want to put the applicants in a position where the Commission makes a decision and they are barred for a year from returning.

Chairperson Brnabic stated that everyone on the Commission was nodding in agreement that they would be willing to postpone this due to the conversation.

Mr. Gaber asked if it could be postponed to the April meeting.

Ms. Neubauer stated that it could be postponed to give them the opportunity as long as they need it. She commented that she understands there is an urgency to open a business, but nobody is opposed to give them a chance to negotiate to May.

Mr. Gaber questioned whether they had to re-notice the request as the public hearing has been done.

Mr. McLeod stated that if a site plan modification is generated by whatever conversations take place, it will have to be re-reviewed, and that is 10 business days. He commented that with packet preparation it would be very tight for April.

Ms. Neubauer suggested that the Commission would be willing to do a special hearing for this item if needed. She noted that they want everyone in the community to thrive and work together. She commented that one business should not damage another business, and she stated that she knows everyone wants a solution. She made a motion to postpone until the applicant is able to come back at their earliest convenience. The motion was seconded by Mr. Gallina.

Mr. Dettloff asked the applicant who owns their parcel of land.

Mr. Miller responded that they ground lease it right now from a third party.

Mr. Struzik suggested if modifications are needed to the Culver's site because of this development, that they look at some kind of agreement to make those modifications for them, such as modifying their drive-through entrance signage or any shrubbery to block the view.

Chairperson Brnabic asked for page 13 of 26 to be displayed and asked about the trees that are lined up against the car wash and whether they would affect the site. She commented that she did not know if the access would occur but people coming out of the car wash cannot see anything. She stated that it is a sight impediment and wondered if it would be better with low landscape there.

Mr. McLeod stated that they can take a look at that. He pointed out that at least one of those is an existing tree and they would be getting into tree removal permit issues as they are currently right at their limit.

Mr. Rilett added that he believes they are all existing trees. He noted that all traffic turning right at that point would not be crossing any traffic heading the

opposite way.

Mr. McLeod stated that they would look at what type of trees they are and suggested that they might be able to be limbed up to get additional clear vision so the Commission feels more comfortable with it.

After calling for a voice vote, Chairperson Brnabic stated that the motion passed unanimously. She stated that she hopes everything works out with a satisfactory answer.

A motion was made by Neubauer, seconded by Gallina, that this matter be Postponed. The motion carried by the following vote:

Aye 8 - Brnabic, Denstaedt, Dettloff, Gallina, Hooper, Neubauer, Struzik and Hetrick

Excused 1 - Weaver

Resolved, in the matter of City File No. PCU2023-0007 and PSP2022-0032 (Clean Express Carwash), the Planning Commission hereby postpones consideration of the recommendation for Conditional Use and Site Plan approval to allow the applicant ample time to address concerns and resubmit the appropriate plans, and allow sufficient time for City review.

2023-0374

Request for Site Plan Approval - File No. PSP2022-0032 - to construct an approximately 3,677 sq. ft. car wash building with associated exterior cleaning stations for Clean Express Car Wash, located at 10 E. Auburn Rd., on the south side of Auburn Rd., east of Rochester Rd., zoned CB Community Business District with an FB Flex Business Overlay, Parcel No. 15-35-100-003, Clean Express Auto Wash, LLC, c/o Mannik & Smith Group, Inc., Applicant

Postponed.

ANY OTHER BUSINESS

None.

NEXT MEETING DATE

- April 2, 2024 Special Meeting
- April 16, 2024 Regular Meeting

ADJOURNMENT

Hearing no further business to come before the Planning Commission and upon motion by Neubauer, seconded by Denstaedt, Chairperson Brnabic adjourned the Regular Meeting at 9:49 p.m.

*Deborah Brnabic, Chairperson
Rochester Hills Planning Commission*

Jennifer MacDonald, Recording Secretary