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March 6, 2024

By Email Only (macdonaldj@rochesterhills.org)

Rochester Hills Planning Commission
c/o Jennifer MacDonald, Planning Specialist
1000 Rochester Hills Dr.
Rochester Hills, MI 48309

**Re: Clean Express Car Wash
Parcel No. 15-35-100-003 – 10 E. Auburn Road
Files #PCU2023-0007, PSP2022-0032 and PTP2023-0009**

Dear Planning Commissioners,

While the conditional use approval, site plan approval and tree removal permit approval were granted for this project by this Planning Commission and City Council last fall, there have been further developments which require that a modified site plan be resubmitted to you for approval.

At your meeting on September 19, 2023, the plans approved by the Planning Commission reflected full cross-access both with the Meijer property and the Culver's property. However, City Council subsequently approved the conditional use by adding the following condition: "3. Removal of the connection access to Culver's." See attached Certified Resolution. The Culver's owner appeared at the meeting and requested that there be no cross access. Clean Express had no objections, based upon its understanding that it had full cross access with Meijer.

Subsequently, Meijer reconsidered its position on the full cross access with Clean Express. While Meijer originally agreed in email correspondence to both the ingress and egress between the car wash parcel and the internal Meijer ring road, Meijer changed personnel and the new property manager was concerned about traffic on the Meijer ring road entering the car wash site. Therefore, Meijer would agree to only the egress from the car wash to the Meijer site, but not ingress from the Meijer site to the car wash. The exit is of little use, because it operates more as an escape lane from the car wash queue. Vehicles exiting the wash tunnel cannot utilize this exit.

Due to Meijer's change in position, Clean Express believes that the full cross access with Culver's is necessary to facilitate traffic flow to and from the car wash site. Otherwise, the car wash would essentially have only right-in, right-out access onto Auburn Road, which is inadequate for its operation. When Culver's was approved, it recorded a "Grant of Easement and Cross Access Agreement for Driveway Purposes" granting cross access rights to the Stone Shop, and its successors and assigns, to run with the land in perpetuity. Please see copy attached. Clean

Rochester Hills Planning Commission
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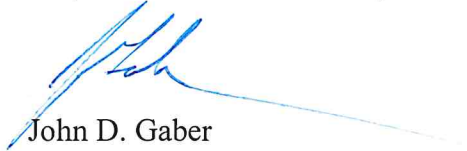
Express needs to rely upon this cross access easement, which was part of the Culver's site plan approval for this purpose. Clean Express will execute and record a similar cross access easement giving Culver's reciprocal access rights over the car wash site. These cross access rights were presumed by the Planning Commission to be utilized by Culver's and the car wash when it granted site plan approval last fall.

Clean Express is submitting a modified site plan, which was modified to reflect the cross access drive with Culver's, and the ingress drive to the car wash site from Meijer being converted to a fire access lane, with markings indicating this limited purpose. No other changes have been made to the site plan.

The Applicant respectfully requests site plan approval and recommended conditional use approval for the project based upon the revised site plan. Thank you for your consideration.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.



John D. Gaber

JDG/cmc

cc: Craig Van Bremen (craig@expresswashconcepts.com)
Dennis Miller (dennismiller@mkiezi.com)



Rochester Hills

1000 Rochester Hills Dr
Rochester Hills, MI 48309
(248) 656-4600
Home Page:
www.rochesterhills.org

Certified Copy

Project: RES0266-2023

File Number: 2023-0373

Enactment Number: RES0266-2023

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

Resolved, that the Rochester Hills City Council hereby approves the Conditional Use to allow a car wash facility at 10 E. Auburn, on Parcel No. 70-15-35-100-0038, based on plans received by the Planning Department on August 29, 2023, with the following findings and conditions:

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 as a whole and the surrounding area by further offering additional car cleaning options along with additional job 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. 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.
2. 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.
3. Removal of the connection access to Culvers.

I, Leanne Scott, City Clerk, certify that this is a true copy of RES0266-2023 passed at the Rochester Hills City Council Regular Meeting held on 10/9/2023 by the following vote:

Moved by Theresa Mungioli, Seconded by Susan M. Bowyer

Aye: 7 - Blair, Bowyer, Deel, Hetrick, Morlan, Mungioli and Walker



Leanne Scott, MMC, City Clerk

October 12, 2023
Date Certified

LIBER 50318 PAGE 729
\$21.00 MISC RECORDING
\$4.00 REMONUMENTATION
\$5.00 AUTOMATION
01/25/2017 10:37:07 AM RECEIPT# 10595
PAID RECORDED - Oakland County, MI
Lisa Brown, Clerk/Register of Deeds

RECEIVED
OAKLAND COUNTY
REGISTER OF DEEDS

2017 JAN 23 AM 10:00

**GRANT OF EASEMENT AND CROSS ACCESS
AGREEMENT FOR DRIVEWAY PURPOSES**

This Grant of Easement and Cross Access Agreement for Driveway Purposes (hereinafter "Grant") is created this NOVEMBER 7, 2016, by Just Burgers & Fries Holdings, LLC, a Michigan limited liability company, whose address is 4564 Oakhurst Ridge Road, Clarkston, Michigan 48348 (hereinafter "Owner").

RECITALS

- A. Owner owns land situated in the City of Rochester Hills, County of Oakland, State of Michigan, which is more particularly described in the attached "Exhibit A" (hereinafter Owner's Parcel).
- B. Joann Vermander, whose mailing address is 4590 Secord Lake Road, Leonard, MI 48367 is the owner of a certain parcel of land located in the City of Rochester Hills, Oakland County, Michigan, which is commonly known as 10 East Auburn Road, Rochester Hills, MI 48307, Tax Identification Number 70-15-35-100-003, containing a business commonly known as the "Stone Shop" and is more particularly described in the attached "Exhibit B" (hereinafter the "Stone Shop Parcel").
- C. The Stone Shop Parcel and the Owner's Parcel are adjacent to one another. The Stone Shop Parcel is located to the north and west of the Owner's parcel, and abuts the northern portion of the western boundary line of the Owner's Parcel.
- D. The City of Rochester Hills, as a condition of approving Owner's planned development of the property described in "Exhibit A," has required that there be a cross access easement agreement establishing the right for both the Owner and the adjacent Stone Shop Parcel to utilize a shared access driveway through the parking lot located on the Owner's Parcel in order to improve the flow of traffic in the area.

NOW THEREFORE, in consideration of the foregoing, the execution of this Grant by the parties hereto and for other good and valuable consideration, the receipt of which is hereby acknowledged by the parties hereto, it is agreed as follows:

TP
E

- 1. Owner hereby grants to the Stone Shop Parcel (for the benefit of the Stone Shop Parcel) a twenty four (24) foot wide, perpetual, non-exclusive easement over, through and across the parking lot located on the Owner's Parcel, which easement is legally described on "Exhibit C" (hereinafter the "Easement Area"), and located approximately as depicted in "Exhibit D" attached hereto, for the sole purpose of permitting ingress and egress of vehicles from the Stone Shop Parcel through the Owner's Parcel.
- 2. The above described easement shall burden the Owner's Parcel and benefit the Stone Shop Parcel, and shall be appurtenant to and run with the land, and be binding upon the heirs, assigns, and successors in interest or title to the Owner's Parcel and the Stone Shop Parcel.

3. The above described easement is solely intended to promote better vehicular access to and from the Stone Shop Parcel, and to satisfy the site plan approval requirements of the City of Rochester Hills for the development intended for the subject property described in the attached "Exhibit A". This Grant does not provide the Stone Shop, or its successors, transferees, assigns, employees, agents, or licensees, the right to use the Easement Area for any purpose other than ingress and egress, and shall under no circumstances be used for parking any vehicles, or for the loading, unloading, backing up or turning around of delivery vehicles.
4. This Grant and the easement granted herein may not be expanded or modified except by a further agreement in writing and in recordable form by Owner and all benefitted or burdened parties, or their heirs, successors, transferees or assigns.
5. All exhibits referred to herein and attached hereto shall be deemed to be a part of this Grant.
6. This Grant is exempt from transfer taxes under MCL 207.505(a) and MCL 207.526(a).

EXHIBIT A

TO GRANT OF EASEMENT AND CROSS ACCESS AGREEMENT FOR DRIVEWAY PURPOSES

Legal description of the Owner's Parcel

Land situated in the City of Rochester Hills, County of Oakland, and State of Michigan, described as:

A part of the Northwest ¼ of Section 35, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, being more particularly described as commencing at the Northwest corner of said Section 35, thence North 87 degrees 47 minutes 36 seconds East 378.42 feet along the North line of said Section 35 and following Auburn Road to the point of beginning, thence continuing North 87 degrees 47 minutes 36 seconds East 128.19 feet along said North line and following said Auburn Road; thence south 02 degrees 12 minutes 24 seconds East 33.00 feet; thence along a curve to the right 62.83 feet, said curve having a radius of 40.00 feet, a central angle of 90 degrees 00 minutes 00 seconds and a long chord bearing of South 47 degrees 12 minutes 24 seconds East 56.57 feet; thence South 02 degrees 12 minutes 24 seconds East 126.00 feet; thence along a curve to the right 271.63 feet, said curve having a radius of 186.00 feet, a central angle of 83 degrees 40 minutes 27 seconds and a long chord bearing of South 39 degrees 37 minutes 49 seconds West 248.13 feet; thence North 02 degrees 36 minutes 28 seconds West 383.88 feet to the point of beginning. Containing 1.2 acres (gross) or 1.08 acres (net) excluding the Northerly 60 feet for the Auburn Road right of Way.

Currently part of Tax ID Number-70-15-35-100-053

Mike Tawt
Approved 11/29/16

EXHIBIT B

**TO GRANT OF EASEMENT AND CROSS ACCESS AGREEMENT FOR DRIVEWAY
PURPOSES**

Legal description of the Stone Shop Parcel

Land located in the City of Rochester Hills, County of Oakland, State of Michigan, described as:

T3N, R11E, SEC 35 PART OF W ½ OF NW ¼ BEG AT PT ON N SEC LINE DIST E 264 FT
FROM NW SEC COR, TH E 114.42 FT, TH S 00-28-00 E 362.46 FT, TH W 118.17 FT, TH N
00-07-30 E 362.45 FT TO BEG 0.98 A B608A-1D

Tax Parcel Number: 70-15-35-100-003

Address: 10 East Auburn Road, Rochester Hills, Michigan 48307

EXHIBIT C

TO GRANT OF EASEMENT AND CROSS ACCESS AGREEMENT FOR DRIVEWAY PURPOSES

Legal description of the Easement Area

Land located in the City of Rochester Hills, County of Oakland, State of Michigan, described as:

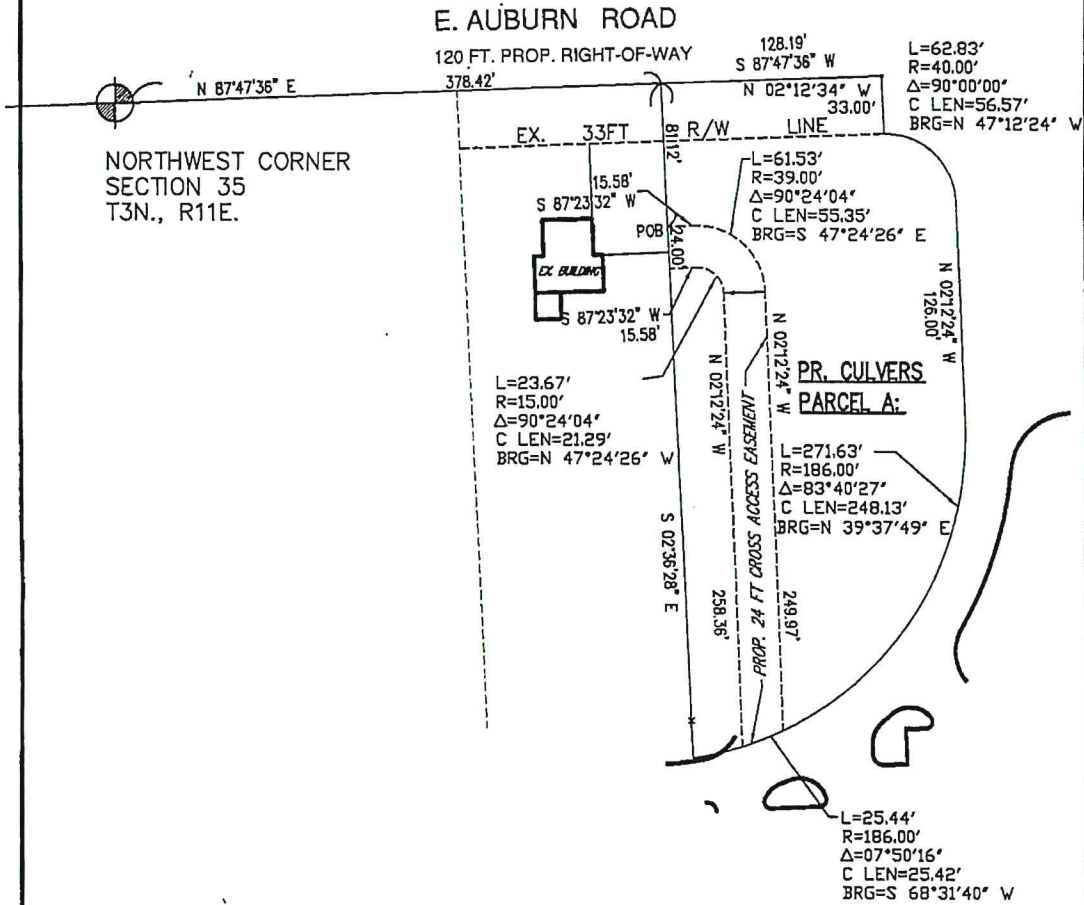
Part of the Northwest ¼ of Section 35, T3N, R11E, City of Rochester Hills, Oakland County, Michigan, described as beginning N 87°47'36" E 378.42 feet & S 02°36'28" E, 81.12 feet from Northwest Corner of said Section 35, thence N 87°23'32" E 15.58 feet; thence along a curve to the right, radius = 39.00 feet, chord bearing S 47°24'26" E, 55.35 feet, an arc distance of 61.53 feet; thence S 02°12'24" E, 249.97 feet; thence along a curve to the right, radius = 186.00 feet, chord bearing S 68°31'40" W, 25.42 feet, an arc distance of 25.44 feet; thence N 02°12'24" W, 258.36 feet; thence along a curve to the left, radius = 15.00 feet, chord bearing N 47°24'26" W, 21.29 feet, an arc distance of 23.67 feet; thence S 87°23'32" W, 15.58 feet; thence N 02°36'28" W, 24.00 feet to the point of beginning.

pt 15-35-100-063

EXHIBIT D

TO GRANT OF EASEMENT AND CROSS ACCESS AGREEMENT FOR DRIVEWAY PURPOSED

ILLUSTRATION OF EASEMENT AREA



Mike Tawst
Approved 12/19/16

ISSUED FOR: 12-5-16: CITY	REV'D BY:	ISSUED FOR:	REV'D BY:
THOMAS M. SMITH P.S. PROFESSIONAL LAND SURVEYOR			
7559 OLDE STURBRIDGE TRAIL CLARKSTON, MICHIGAN 48348		tsmith7559@yahoo.com PHONE: (248) 625-3276	
DRAWN BY TMS	JOB No. 16-134	DESCRIPTION CULVERS CROSS ACCESS ESMT	SURVEYOR'S SEAL
DATE 09-09-16 SHEET No. 1 OF 2		SCALE 1"=80'	