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**Application:** Special Exception SE2021-6  
**Applicant:** 562 South Main, LLC/John Desena  
**Owner:** 562 South Main, LLC  
**Address:** 562 South Main Street (28-0222)  
**Zone:** B-2  
**Description:** New Drive-through Restaurant

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### Proposal

562 South Main, LLC/ John Desena submitted an application for special exception and site plan review for a change of use from retail to a new drive-through restaurant in a flood hazard area located at 562 South Main Street in the B-2 zone pursuant to Sections 33, 44, 46, 55, and 60 of the Middletown Zoning Code.

### Existing Conditions

The property is a corner lot consists of 25,570 SF in the B-2 zone with frontage on South Main Street and Norfolk Street. It is bounded to the north by a commercial office property, to the east by residential property in the RPZ zone, to the south by Norfolk Street with a gas station and a residential home beyond and to the west by South Main Street with Pameacha Pond beyond.

The property was formally improved with a retail building, paved parking and driveways with outdoor storage of inventory. The site was nearly 100% covered with building and asphalt.

The property is within the 100ft wetland upland review area and the AE flood zone.

### Proposed Conditions

The applicant proposes to construct a new 3,500 ft restaurant building, drive-through lane, driveway, 28 parking spaces, landscaping, utilities, mechanical equipment, drainage, lighting, landscaping, and other associated improvements.

### Yard, Coverage & Bulk Requirements (B-2)

	<b>Proposed</b>	<b>Required (Max or Min)</b>
Font Yard	26.1 ft <sup>1</sup>	50 ft
Rear Yard	68 ft	10 ft
Side Yard	44 ft	11.7 ft <sup>2</sup>
Side Yard (Norfolk St)	44 ft	26.7 ft <sup>3</sup>
Coverage	15.19%	30%
Height	1 story	3.5 Stories

<sup>1</sup> More conforming than existing building (22.9ft)

<sup>2</sup> See 13.03.05.A

<sup>3</sup> See 13.03.05.A and 13.03.05.C

### **Buildings and Uses**

The proposed building is one story and contains 3,500SF. The intended use is a restaurant with a drive-through component. The restaurant use is a permitted use in the B-2 zone (61.01.12). The drive-through requires a special exception (44.08.12A).

### **Flood Hazard Area**

The property is in the AE Flood Hazard Zone at elevation  $\pm 81.5$ . The proposed building has a first floor of 82 ft. The lowest floor must be elevated 1 ft above the base flood elevation (46.05.03.D.2a). No grading changes are required for compensatory storage since the proposed building is significantly smaller than the existing building. Non-residential development in a flood hazard area required special exception approval (46.03.04).

### **Parking, loading and Circulation.**

The site plan provides 28 parking spaces located on site. The parking demand for the restaurant is 1 space per 50 SF of space allocated to patron use. Since 28 spaces are provided, only 1,400 SF of building are can be allocated to patron use minus 25 SF per anticipated employee.

The site plan assumes 2,000 SF of building area devoted to patron use. This would demand 40 parking spaces plus 1 space for every 2 anticipated employees.

No electric vehicle charging stations are proposed (40.02.01).

### **Drainage**

The existing stormwater management system will remain resulting in the same drainage patterns will remain on site. Stormwater will be collected through a network of catch basins and directed to the storm sewer system under South Main Street.

### **Utilities**

The building will be connected to City sewer and water located under South Main Street.

### **Erosion & Sediment Controls**

The proposed erosion & sedimentation controls consisting of a single row of silt fencing along the eastern and south property lines adjacent to the public right of ways. Haybales will be placed around the existing catch basins.

### **Landscaping**

The proposal includes new planter strips along the southern and western property lines and planter islands on the north side of the property. The planting along Norfolk Street include a row of inkberry hedge. The western landscape buffer will consist of a row of mountain laurel. Creeping juniper will be planted in the landscaping island. A mountain maple will be planted along South Main Street as a street tree.

### **Lighting**

Sight lighting will consist of 3 new light poles installed around the parking and lights mounted on on the building.

#### **Inland Wetlands**

A portion of the property is within the 100 ft upland review area. On May 5, 2021, the Inland Wetlands & Watercourses Agency discussed the proposal and determined a wetlands permit would not be required and designated review of the proposal to staff.

#### **Special Exception Findings (44.04)**

The Commission may grant a special exception when making a finding on the following criteria below:

##### Compliance with the City Plan

The proposal is consistent with the 2020 Plan of Conservation and Development because it will assist and promotes development along the major corridor. Furthermore, the overall site development with a new building, landscaping and street trees will enhance the aesthetics of the street.

##### Adverse Effects

The property is adjacent to other commercial uses. It is unlikely that the change of use will have any adverse impacts to the area.

##### Visibility and Accessibility

N/A.

##### Traffic Movement

The horseshoe traffic pattern on site is a common design for drive-through businesses along state highways.

##### Orderly Development

The property is in B-2 (General Business Zone) this section of South Main Street has a mix of commercial uses from retail to offices, to restaurants and other drive-through businesses.

##### Property Values and Character

There is likely no impact on property values and character of the neighborhood. The former use had a significant amount of outdoor storage of inventory. Removal of this will benefit the neighborhood.

##### Parking and Loading

The parking provided does not appear to comply with that required in Section 40. See analysis above.

##### Compliance with Standards

Drive-through businesses have specific special exception standards (44.08.12A).

1. The site plan shows a 200ft drive-through lane onsite that does not conflict with parking.
2. The internal circulation onsite includes a one way, 14 ft wide driveway that meets the minimum required width when parking spaces are provided at a 45 degree angle (40.03.04C). Both curb cuts are located on South Main Street. Being a corner lot, the code requires the exit of the site be on the secondary street, in this case, Norfolk Street.
3. A variance of minimum lot area granted by the Zoning Board of Appeals on March 4, 2021 (ZBA2021-2).
4. A variance of minimum lot width granted by the Zoning Board of Appeals on March 4, 2021 (ZBA2021-2).
5. Landscape areas are provided in the front of the property along South Main Street and within a 10 ft buffer area that is required between the commercial and residential uses (12.08.01 & 40.03.07).

### **Issues to be Resolved**

1. No electric vehicle charging stations are proposed when one station is required.
2. Elevations of the mechanical equipment pads should be added to the plan.
3. Unless the exact flood elevation is confirmed, the first floor should be raised 6-12 inches above proposed grade.
4. The applicant should address compliance with Section 44.08.12.A.2 which requires the exit of the site onto the secondary street, which in this case would be Norfolk Street.
5. The applicant should address the deficiency in parking spaces provided based on the demand for the use and size of the building.
6. Interior floor plans should be provided to verify compliance with use and the parking demand prior to the issuance of permits.
7. The applicant should address Public Works Department comments dated 6/10/2021.
8. The applicant should address Water & Sewer Department comments dated 6/9/2021 prior to the issuance of permits.
9. The applicant should address Health Department comments dated 6/9/2021 prior to the issuance of permits.

### **Staff Recommendations**

1. Prior to the issuance of building permits:
  - a. Site development plans and architectural plans shall be submitted to Land Use Staff to verify compliance with this special exception/site plan approval and the Middletown Zoning Code. Any significant changes to the site plan would require Planning and Zoning Commission review.
  - b. Any outstanding department comments shall be addressed.