



**CITY of MALDEN PLANNING BOARD  
NOTICE of DECISION**

CASE NUMBER 21-09

LOCATION of SUBJECT PROPERTY 75 Broadway, Malden, MA

NAME of PETITIONER DE Foods, LLC

NAME of PROPERTY OWNER KLT Realty LLC

DATE of PUBLIC HEARING July 14, 2021

DATE of DECISION July 14, 2021

DATE of FILING DECISION with CITY CLERK July 28, 2021

DATE of NOTIFICATION to BUILDING INSPECTOR July 28, 2021

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT August 17, 2021

*[Any appeal must be made pursuant to M.G.L. c. 40A, §17 and filed within 20 days after date this Notice is filed with City Clerk.]*

**PROCEDURAL HISTORY (Case #21-09):**

1. The subject property is known as and numbered 75 Broadway and by City Assessor's Parcel Identification #123 486 608.
2. The property owner is KLT Realty LLC, c/o KFC Y321092, P.O. Box 35370, Louisville, KY 40232; and owner consents to the filing of this petition.
3. Petitioner is DE Foods LLC, 101 Accord Park Drive, Suite 104, Norwell, MA 02061, the franchise owner and proposed tenant and operator, and was represented at the public hearing by Dan Whitney, and Nicole Duquette, project designer and Heather Monticup, traffic engineer, of Greenman-Pedersen, Inc., 44 Stiles Road, Salem, NH 03079.
4. The petition in Permit #CMID-036821-2021, filed under §§12.12.060 and 12.12.150, Chapter 12, Revised Ordinances of 2020, as Amended, of the City of Malden ("Ordinance"), seeks to allow a fast-food service restaurant with accessory drive-thru.
5. The following information was submitted in support of the petition: set of plans, "Site Plans Proposed KFC Restaurant Renovation 75 Broadway Malden, Massachusetts," dated May 12, 2021 (stamped/signed May 11, 2021), prepared by Frank C. Monteiro, P.E., Greenman-Pedersen, Inc., Salem, NH, prepared for D.E. Foods, Norwell, MA, that include: Amended Site Plan; Sign Details; and Floor Plan Equipment Seating (A2.0), dated March 11, 2021 and Exterior Elevations (A4.0 and A4.1), dated March 18, 2021, prepared by Mark D. McCluggage, Wichita, KS; "Traffic Impact and Access Study, DE Foods, LLC Restaurant Redevelopment," dated May 6, 2021, prepared by Greenman-Pedersen, Inc., Wilmington, MA; "Landscape Plan, Site Plan Proposed KFC Restaurant Renovation 75 Broadway Malden, Massachusetts," dated July 7, 2021, prepared by Jamie P. Falise, Reg. Landscape Architect, Greenman-Pedersen, Inc., Salem, NH; and correspondence dated July 13, 2021 from Heather L. Monticup, P.E., Greenman-Pedersen, Inc., re: "Response to Traffic Peer Review Comments – 6/30/2021."
6. The public hearing complied with the notice requirements of §12.32.020(K) of the Ordinance and Massachusetts General Laws, Chapter 40A, §11.

**FINDINGS of FACT (Case #21-09):**

The City of Malden Planning Board finds the following facts:

1. The property is the site of a single-story building with drive-thru and a gross floor area of approximately 3,460 square feet.
2. The proposal is to renovate and reoccupy the existing building and property for a fast-food restaurant with 52 seats and drive-thru, namely, a KFC restaurant, formerly known as, Kentucky Fried Chicken.
3. The property has been vacant since 2007 and was most recently occupied by a KFC and Long John Silver restaurant.
4. The property is located in the Highway Business zoning district.
5. Fast-food service restaurant and accessory drive-thru may be allowed by special permit, per §12.12.030 of the Ordinance.
6. The previous fast-food service restaurant use was allowed by special permit granted by the Board of Appeal on February 19, 2004, and the prior drive-thru use was allowed by right under the then-existing Ordinance.
7. Whereas the property has been vacant for fourteen years, the special permit has lapsed and the uses are considered abandoned.
8. Direct abutters are, to the north, a motor vehicle repair shop and used car sales; to the south, a fast-food restaurant with drive-thru (Burger King); to the east, the Holy Cross Cemetery and the Residence A zoning district; and to the west, on the other side of Broadway, a new car wash under construction.
9. Surrounding land uses are business and industrial and include Broadway Plaza.
10. The proposal is not in conflict with surrounding land uses.
11. The rear (eastern) side of the property is located in the AE Zone of the Flood Plain district.
12. The existing building complies with all dimensional controls, except one side yard setback, per §12.16.030 of the Ordinance; and this yard setback violation was allowed by a variance granted on February 19, 2004.
13. The proposal does not increase or create new violations of dimensional controls.
14. The proposal requires 87 off-street/on-site parking spaces, per §12.20.010 of the Ordinance.
15. As depicted on the site plan, there are 35 parking spaces on-site, as allowed by the variance granted on February 19, 2004.
16. The parking layout is conforming, per §12.20.020.B of the Ordinance.
17. Under the proposal, the existing southern site driveway will provide access and egress; the existing northern site driveway will provide egress from the drive-thru lane; and the driveways are conforming per §12.20.020.C of the Ordinance.
18. The property may also have access and egress through the parking lot of the adjacent property, 61 Broadway, via an existing driveway, currently restricted by bollards.
19. The proposed drive-thru lane, 12 feet by 227 feet, provides the required line-up area, per §12.20.020.D of the Ordinance.

20. The site plan does not depict the required bicycle parking for two bikes, per §12.20.020.19 of the Ordinance.
21. The proposal complies with landscaping requirements for landscaped yard areas and three shade trees, and the required landscaping plan prepared by a Landscape Architect was submitted, per §§12.20.020.10 and 12.12.060 of the Ordinance.
22. Regarding screening, the site plan depicts a “10’ residential landscape buffer” at the eastern side, as required per §12.20.040 of the Ordinance; no screening or fencing details were provided; and petitioner agrees to submit a screening plan prepared by a Landscape Architect, as required by §12.12.060 of the Ordinance.
23. As modified by conditions of the special permit, there will be adequate landscaping and screening of abutting properties.
24. Under the proposal, there will be adequate protection of adjacent premises against detrimental impacts of sound and lighting.
25. The site plan depicts snow storage areas with a total of 1,470 square feet, as required by §12.20.020.11 of the Ordinance.
26. The one loading space, required by §12.20.030 of the Ordinance, is not provided, as allowed by February 19, 2004 variance.
27. The proposed dumpster is located within twenty feet of the rear property line, in violation of §12.20.030.H of the Ordinance, which was allowed by the February 19, 2004 variance.
28. The dumpster will be visually screened, as required by §12.20.030.H of the Ordinance; and the dumpster enclosure will be renovated, power-washed, painted and have new gates installed.
29. The proposal does not increase or create new violations of parking requirements.
30. The City’s peer review of petitioner’s traffic impact study is described in correspondence dated June 30, 2021 from Kenneth Petraglia, P.E., P.T.O.E. and recommends the following traffic and safety mitigation: install STOP signs at each intersection approach, including both site drives; restripe pavement markings for the length of the project area; and work with adjacent fast-food restaurant at 61 Broadway to address existing traffic issues, namely, queuing on Broadway on both approaches and tie-up at the southerly entrance, a hazardous condition that may impact safe access to the subject site.
31. As modified by the conditions of the special permit, the fast-food restaurant will not create a traffic or safety hazard and traffic generated by the drive-thru will not adversely impact any of the surrounding streets or create a traffic or safety hazard.
32. The condition of the property, including trash, debris, overgrown vegetation, and broken fencing, has been an on-going issue.
33. Under the proposal, petitioner intends to perform litter control of the site on an hourly basis.
34. Under the proposal, there will be adequate protection against the creation and spread of litter and debris.
35. Under the proposal, the existing freestanding sign structure on the property will be used; the structure was allowed by a variance granted on March 18, 2004; new facing on this sign and other signage must comply with the City’s Sign Ordinance.
36. Petitioner expects to employ a total of 35 to 40 employees, staffing seven to eight employees per shift.
37. The proposed use is consistent with the vision statement of the Broadway (Route 99) Corridor Framework Plan (2020).
38. The Ward 8 City Councilor, Ward 7 City Councilor, one of three City Councilors-at-large, Ward 1 City Councilor, and Malden Police Chief are in favor of the proposal.
39. One of three City Councilors-at-Large, Ward 4 City Councilor, Ward 7 School Committee member, and one Malden resident are in opposition to the proposal.
40. As modified by conditions of the special permit, the fast-food restaurant and drive-thru are in the interest of the common good.

**DECISION (Case #21-09):**

On July 14, 2021, pursuant to the foregoing Findings of Fact, the Planning Board granted a special permit subject to the following ten (10) conditions:

1. All development shall be as per plans unless modified by these conditions.
2. Modifications of the floor plans are allowed.
3. No outside storage of any kind is allowed, excluding trash stored in dumpsters in gated enclosure.
4. Repair/replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of the DPW Director.
5. Submit revised Landscape Plan that includes screening and fencing details within 14 days of granting this special permit; install and maintain landscaping and screening in accordance with Plan.
6. Implement traffic and safety mitigation to install STOP signs at both site drives and restripe pavement markings on Broadway for length of project area (Taylor Street to northern site drive).
7. The freestanding sign is allowed as to height and location; sign faces and all other signs are subject to the Sign Design Review Ordinance.
8. Perform litter control throughout the entire site, a minimum of every four hours, daily.
9. Install bike rack on-site for minimum of two bicycles.
10. Maintain bollards at access to/with parking lot at 61 Broadway.

**RECORD of VOTES (Case #21-09):**

The vote on the motion by Fitzgerald, seconded by Antonucci, to grant a special permit subject to ten (10) conditions was nine in favor, none opposed, and the motion passed (9-0):

Antonucci, yes; Chuha, yes; Fitzgerald, yes; Gebreselassie, yes; Hayes, yes; Henry, yes; MacCuish, yes; Soucy, yes; Ioven, yes.

*I hereby certify that the above is a true copy of the decision of the Malden Planning Board.*

By   
Michelle A. Romero, City Planner