

## NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: **763-767 ORANGE STREET** Special Exception to permit the sale of baked goods in a Residence District. Zone: RM-2. (Owner: Formichella Associates, LLC. Applicant: James Perito.)  
REPORT: **1554-22**  
ADVICE: **Special Exception: Approve**

### PRINCIPAL APPLICABLE REGULATIONS

**Section 31(b): Uses provided for.** Where provided for in the District Regulations, the supplying of any of the following convenience goods and services, entirely at retail, shall be considered a *use* which may be permitted by special exception under the conditions of this section 31:

(2): Baked goods, including incidental seating for a maximum of six people. No additional parking shall be required for incidental seating.

**Section 63(d) Special Exceptions.** The development and execution of a comprehensive zoning ordinance is based upon the division of the city into districts, within which the use of land and structures and the bulk and location of structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses and features which, because of their unique characteristics, cannot be distinctly classified or regulated in a particular district or districts, without consideration, in each case, of the impact of such uses and features upon neighboring uses and the surrounding area, compared with the public need for them at particular locations. Such uses and features are therefore treated as special exceptions.

### BACKGROUND

The applicant is requesting a variance to allow for 20 seats where a maximum of 6 is allowed accompanied by a Special Exception to allow to permit the sale of baked goods in a Residence District. The proposed use "Common Grounds" would occupy the approximately 2,500sf first floor of the 3-story, 7,309sf structure located on a 6,300sf parcel on the corner of Linden Street and Orange Street. The first floor is currently vacant but was previously a drug store with the 2<sup>nd</sup> and 3<sup>rd</sup> floors consisting of 4 dwelling units. Proposed hours of operation are daily from 6am-10pm with 1-2 employees during the weekdays and 2-3 employees on weekends.

### FEBRUARY 19 PUBLIC HEARING

The attorney representing the applicant spoke regarding the proposed use stating that the previous use was a pharmacy and trying to get another pharmacy into the space was unrealistic. The owners of the building met with neighbors and received support of the proposed use with most of the business coming from local residents that will walk or take alternative means of transportation.

Four members of the public spoke in favor of this proposal and two spoke in opposition stating that they anticipate the lack of parking to be a problem.

### PLANNING CONSIDERATIONS:

#### Special Exception

Reviewed in respect to applicable standards of Section 31(d) of the New Haven Zoning Ordinance staff offers the following (bold):

*(1) There must be a finding by the City Plan Commission that space for such a use is not available in nearby areas which are zoned for business, and that such new use or expansion of an existing use is necessary to serve the immediate neighborhood adequately with convenience goods or services, giving due consideration, among other things, to the character of the neighborhood, the density of*

*development, the shopping habits of neighborhood residents, and the availability of public and private transportation.*

**This area appears to be an obvious location for a neighborhood commercial area due to the fact that 3 out of the 4 properties at the intersection mentioned above are mixed use. The property is located in an area of the city that is largely residential with the nearest commercially zoned area (along State Street and Lawrence Street to the South-East) is over 1600ft away. With the distance to the nearest commercial zoning district being so vast, and no similar establishments located within the immediate vicinity staff finds that the use is an adequate replacement to the former drugstore, keeping to the character of the neighborhood and shopping habits of it's residents. The area is also serviced by public transportation along Orange Street allowing access by means of alternative transportation.**

*(2)The net floor area used for sales or other business purposes in any establishment (excluding space used for storage and similar purposes) shall not exceed 1,500 square feet.*

**The overall size of the proposed bakery exceeds this number at roughly 2,500sf, but much of the space will be allocated to seating.**

*(3) No business shall be conducted, and no goods, materials or equipment shall be stored, except in a fully enclosed building.*

**No outside use of the property is proposed.**

*(4)The exterior presentation and design of storefront(s) shall be submitted as part of the special exception review. The following shall not be allowed on the exterior of a building or grounds: telephones; on-premises or off-premises signs, banners, or temporary advertising materials except those permitted pursuant to section 29(a)(9) [these regulations]; security gates covering window and door openings; and vending machines.*

**The exterior of the building is to remain the same with the existing storefront having large windows and wood treatment.**

*(5)The ground-floor storefront shall consist, at a minimum, of 50% non-opaque visible windows. The existing storefront contains large windows at the entrance of the store along both Orange Street and Linden and appears to comply with the minimum 50% non-opaque visible window standard of Section 31(d)(8)*

### **Special Exception Considerations**

- **Nature of the Proposed Site:** The continued commercial use of this location does not appear to be disruptive of the neighborhood and provides a compatible use with surrounding residential and multi-use properties conditional upon largely daytime hours of operation and anticipated patterns of activity and customer access.
- **Resulting Traffic Patterns:** Given the availability of on-street parking in the area, the pedestrian-orientation of the surrounding neighborhood, and access to public transportation staff does not anticipate traffic or parking issues associated with this use.
- **Nature of the Surrounding Area:** The surrounding area is largely residential with a mix of single-family and multi-family homes along with a handful of multi-use properties.
- **The Comprehensive Plan:** The portion of the Comprehensive Plan, Vision 2025 that deals with Neighborhood Development encourages an appropriate mix of uses that would facilitate a high quality of life in the city's residential areas. The proposed use appears to be a good complement to the area.

**Findings and Recommendations**

Based on considerations discussed above, the Commission views the Special Exception to be essentially in harmony with the general purpose and intent of the ordinance and that the public health, safety and general welfare will be served, and substantial justice done by its approval.

**ADOPTED:** February 20, 2019  
Edward Mattison  
Chair

**ATTEST:** MPL  
Michael Piscitelli, AICP  
Interim Economic Development Administrator

