



**For Immediate Release to the Press**

Wednesday, August 30, 2023

Release by: the Town of Hurley Planning Board

At a special meeting held today at 10:30 AM at the Town of Hurley Town Hall, the Town of Hurley Planning Board passed a resolution approving the site plan application of Southern Development and Realty, LLC (the "Applicant") to construct a 900 square foot concrete block building to be developed as a drive-thru only Dunkin' (hereafter the "Project") restaurant on property located at the northwest corner of the intersection of New York State Route 28 with New York State Route 375 in the Town of Hurley, Ulster County, New York, and bearing the Tax Map Parcel Number Section-Block-Lot 38.10-7-9 (hereafter "Property").

The Planning Board wants the community to know that the Board was aware of the community concerns about this application. The Board tried to review the application as best we could given the constraints which applied to our review, both from the courts, and due to the limitations on the scope of our site plan review authority under the Hurley Zoning Law.

The starting point regarding this application is that the use proposed is a use that is permitted as of right by the Town of Hurley Zoning Law, subject to site plan approval. Allowing this use at the location proposed is a land use policy decision that was already in place before the Planning Board began its review of this application.

The Planning Board had previously voted to disapprove this Project almost two years ago due to our concerns about the traffic and the potential for harm to the public should an accident occur at or near the intersection of Route 28 and Route 375.

The members of the Planning Board continued to have serious concerns about public health and safety arising from our concerns about traffic, and in particular, stemming from ingress and egress to the site at the intersection of Routes 28 and 375, a junction that already suffers from sub-optimal traffic safety conditions.

At the same time, as a matter of law the Planning Board is unquestionably bound by the decision of the panel of appellate judges dated July 6, 2023, which held that the record before the Planning Board on this application demonstrates that the Applicant had adequately addressed the traffic-related concerns and that, after the issuance of the court's order, the Planning Board could not continue to review traffic-related concerns in connection the Project.

Hence, the Appellate Division's order required the Board to engage in further proceedings "not inconsistent" with the court's ruling (i.e., that traffic issues have been adequately addressed).

Neither time, nor the court decisions, have changed the views of our Board members, who do not agree with the appellate court's decision that traffic issues have been adequately addressed.

But despite the Board's continued concerns and reservations about those issues, the Board recognized and understood its legal duty to abide by the law, and to follow and implement as best it could the holdings of both the State Supreme Court and the Appellate Division.

In continuing our review and approving the site plan, the Board fulfilled its duty.

In fulfilling its legal duty, the members of the Board tried hard, with the assistance of their consultants and within the boundaries of the court rulings and the Zoning Law, to fulfill the Zoning Law's site plan criteria to the best of the Board's ability with the aim of making this Project, outside of the traffic issues, as positive a Project as possible. We think that our 18-page resolution granting site plan approval, with conditions attached, demonstrates that.

Although the Board's concerns relating to traffic have not been alleviated, the Planning Board must respect to courts' decisions in this matter and so has completed its review in accordance with the dictates of those decisions. To do otherwise, would breach the Board's legal duty to abide by the decisions, and at the same time, expose our Board and the Town of Hurley to additional costly litigation without the prospect of a benefit to the Town or the community.

The Planning Board asks the members of this community who may be dissatisfied with our decision today to remember that we too are members of this community, and ones who have taken the time to volunteer our services for its benefit and the common good. We are trying serve to the best of our ability and by exercising our best judgment, and the decision which we issued today is, in our judgment, the best decision that could be made under the circumstances.

Copies of our site plan approval resolution have been posted on the Town's web site.

End of press release.