



**TOWN OF NEWBURGH
PLANNING BOARD
TECHNICAL REVIEW COMMENTS**

PROJECT NAME: NEWBURGH CHICKEN, LLC - POPEYES
PROJECT NO.: 23-17
PROJECT LOCATION: 197 SOUTH PLANK ROAD/SECTION 60, BLOCK 3, LOT 6.1
REVIEW DATE: 1 MARCH 2024
MEETING DATE: 7 MARCH 2024
PROJECT REPRESENTATIVE: DYNAMIC ENGINEERING

1. The applicant's attorney has requested to appear before the Planning Board. The applicant's attorney requests that the Planning Board should re-refer the project to the Zoning Board of Appeals (ZBA). Recent Planning Board discussions involve the applicant's representatives working with the NYSDOT to determine the amount of property needed to be dedicated to address sufficient lanes within the intersection. This is an important issue for the Town of Newburgh addressing necessary improvements within the intersection.
2. NYSDOT comments are outstanding. The applicant's representative are requested to address DOT comments including requests from DOT regarding the Route 300 access point. This office believes that plan modifications requested by the DOT will require the applicant to return to the ZBA in the future. The applicant's representative identifies that the property would be "taking" by DOT. We believe it would be a gratuitous offer of dedication typically required of projects during Planning Board/NYSOT review. Applicant's representative may wish to prepare a plan identifying the necessary dedication areas for proposed traffic improvements. The applicant's representatives can work with the Town's Traffic Consultant to develop the plan prior to returning to the ZBA.
3. The plans should be provided to the Town's Traffic Consultant for review and comment, as is the typical course of action for the Planning Board.
4. The Planning Board typically does not schedule Site Plan Public Hearings while projects are before the ZBA. Action before the ZBA and the NYSDOT may alter the project as currently proposed.
5. The applicant's representatives are currently coordinating with the Town of Newburgh to discuss a "fair share contribution" to the intersection.

Respectfully submitted,

MHE Engineering, D.P.C.

A handwritten signature in blue ink that reads "Patrick J. Hines".

Patrick J. Hines
Principal
PJH/kbw

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February 28, 2024

VIA EMAIL planningboard@townofnewburgh.org

Chairman John P. Ewasutyn
Town of Newburgh Planning Board
21 Hudson Valley Professional Plaza
Newburgh, NY 12550

NICHOLAS M. WARD-WILLIS
Principal Member
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Also Admitted in CT

Re: Newburgh Chicken, LLC – Proposed Popeyes Chicken
197 South Plank Road
Parcel ID No. 60-3-6.1
Case No. 23-17

Dear Chairman Ewasutyn:

Our office last appeared before the Planning Board at its February 1, 2024 meeting to present on the above-referenced application. At the conclusion of that meeting, the Board determined a public hearing could not be scheduled nor could the matter be referred to the ZBA until there was further clarification on any variances required, dimensional setbacks required to be confirmed by the ZBA pursuant to the previously issued special permit to allow the grandfathered use to continue and to take into account the DOT right-of-way taking that was discussed. The threshold question that affects the other two issues (the variance and the approvals from the ZBA) will be based upon the answer from DOT as to the necessary land that would be considered for dedication for road widening. Unfortunately, the issue has not advanced with DOT and it is not reasonable to expect that will proceed in a timely manner. There is also no guarantee that DOT will accept the dedication. We also again believe the variances and dimensions should be based upon the property lines as existing as there is always the possibility that DOT will not accept the dedication and therefore the property lines remain as is.

Accordingly, we suggest the best course of action is to appear before the Planning Board at its March 7, 2024 meeting to present a concept plan detailing what we anticipate being the land area to be offered to the DOT for future road widening and to have further discussions on this issue with the intent the Board will consider referring this matter to the ZBA and schedule a public hearing. We look forward to appearing before your Board at your March 7th meeting and request we be placed on the agenda. Thank you for your consideration.

Very truly yours,



Nicholas M. Ward-Willis

NMW/sj