



# TOWN OF WARE

Planning & Community Development

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## Planning Board Minutes

April 6, 2016

Planning Board members present:	Rick Starodoj (Chairman), John Chabot (Alternate), Joe Knight, David P. Kopacz, Sr., Fred Urban, Chris DiMarzio (7:06)
Planning Board members absent:	none
Staff present:	Karen Cullen, Director of Planning & Community Development
Public:	As taken from sign-in sheet: Kevin Pietrowski, Donald Frydryk, Sloane Perron, Mark Lukaskiewicz, and Brian Pepe

Chairman R. Starodoj called the meeting to order at 7:02 p.m.

### 1. Administrative

- a. Approve minutes from March 2, 2016 - **Motion** by F. Urban to approve the minutes as submitted; J. Knight seconded; so voted 4/0/0.
- b. Approve minutes from March 16, 2016 - **Motion** by D. Kopacz to approve the minutes as submitted; F. Urban seconded; so voted 4/0/0.

### 2. Charter Foods North LLC; SP-2016-01

R. Starodoj opened the hearing at 7:07 pm. J. Knight read the public hearing notice into the record. R. Starodoj reviewed the hearing process. It was noted that this hearing is for a special permit under the Floodplain Overlay District and the use for the proposed Taco Bell restaurant is permitted by-right under the Zoning Bylaw. In addition, there will be a separate public hearing for a major site plan review at some point in the future if this special permit tonight is granted.

Don Frydryk of Sherman and Frydryk attended to represent Charter Foods North LLC, and he submitted and presented revised plans.

- Noted they will be submitting a Notice of Intent application with the Conservation Commission, a Major Site Plan Review application with the Planning Board, and an application to MA Natural Heritage & Endangered Species Program (NHESP). They want to be sure they can building in the floodplain before moving forward with these other applications.
- Noted the 100 year flood elevation at this site is 404.3 feet National Geodetic Vertical Datum (NGVD), and the majority of this site is below that elevation.
- Explained the compensatory flood storage calculations are done foot by foot per Wetlands Protection Act (WPA) requirements.
- Stated the calculations also include the building, which is partly below the flood elevation; it is considered a solid block when figuring the calculations.
- Noted the changes on the plans submitted tonight – correcting the notation regarding the elevations which are 1929 NGVD, and adding the location of the compensatory flood storage area easement on this property which benefits the CVS site at 104 West Street.

Comments, Questions, and Discussion:

- R. Starodoj noted the Fire Department commented that the propane tank must be secured; he prefers that it be underground. The other Board members agreed.
- R. Starodoj noted the dumpster enclosure is proposed to be concrete block, which is fine, but the gates need to be designed to withstand flood forces as well as potential impacts by the dumpsters in the event they float during a flood.
- Discussion about building vents to allow flood waters to enter the building; D. Frydryk stated he is unaware of how such vents work or what is designed for this building.
- Abutter (Mark Lukaskiewicz) stated he is concerned about water flowing onto his property; it was noted that stormwater runoff will be directed into a swale and drainage facilities on the commercial site and will not impact the abutting property, and the proposed compensatory flood storage area will ensure the flood levels in the area will not increase as a result of the construction on this site.
- Mr. Lukaskiewicz also commented he is concerned about odors from the dumpster, since it is shown on these plans directly adjacent to his backyard. There was discussion regarding existing trees, unsure which property they are on, and the proposed landscaping along that property line.
- Discussion about the amount of fill for this site; it will be about 3.5 - 4 feet at the most – not a “mountain” like the CVS site.
- Discussion about the drainage system and whether there would be standing water or fencing; abutter noted that CVS has standing water in theirs which they fenced in. D. Frydryk stated this system is designed to be dry – the water in it

after a storm is supposed to infiltrate within a couple of days. C. DiMarzio stated that in his opinion, if this system ends up having standing water, there is something wrong with it and it needs to be fixed so there is no standing water. He added there should not be a fence around it.

- The Board noted we need to investigate the situation at CVS to see if there is a problem that needs to be addressed.
- Question regarding the NHESP filing; D. Frydryk said they have not filed yet and will do so along with the NOI application to the Conservation Commission.
- Discussion regarding the CVS easement and whether it is allowable to have the drainage structure in it; D. Frydryk said the attorneys have determined there is no problem with what they are proposing. The Board felt it is an issue for the attorneys to work out (Charter Foods LLC/Aldrich Management and CVS).

C. DiMarzio read through the findings in the draft decision and the Board agreed with all of them as written.

**Motion** by C. DiMarzio to approve the Special Permit (SP-2016-01) for the proposal as submitted on the revised plans submitted tonight, with the following conditions:

1. That construction of the compensatory flood storage area shall be completed prior to any fill being placed on the site of the new development;
2. That Best Construction Practices will be used with regard to dust, noise, vibration, and dirt on public roads;
3. That the hours of construction shall be between 7:00 am and 7:00 pm, with no construction on Sundays or standard holidays;
4. That the dumpster enclosure be kept closed and secured at all times;
5. That the propane tank be underground and secured as required by others to prevent lifting or movement during a flood event;
6. That all other applicable permits be obtained prior to commencing site work allowed by this Special Permit, including local, state or federal permits that may be required; and
7. That this Special Permit need not be amended based on modifications to the site plan for the proposed development on the site unless said modifications cause an increase in the needed compensatory flood storage that would exceed the designed capacity of the compensatory flood storage area approved by this Special Permit.

Seconded by F. Urban. There was no further discussion on the motion. R. Starodoj called for a roll call vote:

- F. Urban – Aye
- D. Kopacz – Aye
- J. Knight – Aye
- C. DiMarzio – Aye

R. Starodoj – Aye

The motion passed 5/0/0.

R. Starodoj closed the hearing at 7:33 pm.

R. Starodoj then invited the board to comment on issues the applicant should be aware of for the upcoming site plan review:

- Comments regarding traffic and entrance to the plaza; currently it is unsafe and there have been a number of accidents there. Suggestion to move entrance to the south to line up with the opposing driveway for the McDonalds's site (117 West St) and to design the entrance to better control traffic entering and exiting this site (plaza and Taco Bell). Suggestion to consider time restrictions on making a left turn out of the plaza to avoid holding up traffic during high volume times on West Street.
- Suggestion to discuss extending the center turn lane with MassDOT.
- Comment that the dumpster should be moved to improve conditions for the abutting residence and to improve access without interfering with the drive-thru lane traffic.
- Comment to look at the space for vehicle stacking at the drive-thru ordering station in relation to site circulation.

3. Open Space & Recreation Plan – K. Cullen handed out the Action Plan from the plan, and said the Board needs to write a letter of review which goes into the plan before it is submitted to DCR. The Board reviewed the Action Plan.

- Discussion regarding harvesting (tree cutting) at the Town forests; D. Kopacz noted the Conservation Commission has not moved forward on harvesting yet since the presence of invasive species is a problem that will get worse with opening up the canopy. They want to first remove the invasives (e.g. barberry and bittersweet) and then begin harvesting.
- D. Kopacz noted that the scorecard (prepared by PVPC as part of one of their regional plans) on our rail trail did not show good results. He noted the location of the rail trail in relation to where low-moderate income people live and where jobs, services, and shopping are located is not good; he doesn't think the rail trail should be a high priority.
- Discussion on the rail trail; location is not conducive to use by low-moderate income residents to access jobs, services, or shopping; several board members noted it is not likely to be used for commuting but is more of a recreational resource that may attract people from other communities. Noted users might stop downtown to shop or get something to eat. Also noted it advances efforts to keep people healthy. The Board noted it was not sensible to spend over a million dollars to pave it. *[Ed. Note: the OSRP does not discuss the type of surface for the rail trail; the southern section has an unpaved surface.]*

- D. Kopacz said the Conservation Commission is missing from the “responsible entities” column for a lot of the action items; K. Cullen noted they are included for quite a few and asked which ones in particular the Conservation Commission should be added for. D. Kopacz will review for next meeting.
- Discussion about routing the rail trail over or along the Ware River to connect to the northern section via downtown in order to avoid having it go along the side of Route 32 for that stretch. R. Starodoj noted he would place a higher priority on making that connection than on developing the northern section (north of Grenville Park).
- Discussion about uses for the Old Pennybrook land; could include trails, wildlife blinds, and “unorganized” sports fields. [Ed. Note: the OSRP discussed this on pages 39, 70, and 78.]
- C. DiMarzio and J. Knight both stated the plan is well written and they thought it was a good plan.

The Board decided to continue this discussion and take action on a review letter to DCR at the next meeting (April 20).

4. Discussion on a policy for accepting incomplete applications.

- K. Cullen described the application process and the issues the department faces when an application is submitted with insufficient information.
- After discussion, the Board recommended that staff call and email such applicants two or three times and if no response is received, then move forward with the process and file the application with the Town Clerk and schedule the hearing. The Board can then continue the hearing until the applicant provides the information necessary to allow the Board to make an informed decision.
- Suggestion to create a receipt to give the applicant when they drop off the application that the preliminary review done when the application is submitted is not a guarantee that the application is complete.
- Suggestion to create a “poster child” application sample to show applicants how to submit a good, complete application.

5. Adjourn – **Motion** by C. DiMarzio to adjourn at 8:30 pm; seconded by F. Urban; so voted 5/0/0.

**Documents reviewed at meeting:**

Minutes for March 2, 2016  
Minutes for March 16, 2016  
OSRP Action Plan  
Special Permit Application Package

**Documents received at meeting:**

Charter Foods North LLC – revised plans (2 sheets)

*Respectfully submitted by Karen Cullen  
Director*

<b>Minutes Approved on:</b> _____	
Starodoj	_____
DiMarzio	_____
Urban	_____
Kopacz	_____
Knight	_____