1	TOWN OF CHESTER
2	PLANNING COMMISSION
3	December 19, 2022, Minutes
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5 6 7	Commission Members Present: Peter Hudkins, Cathy Hasbrouck, Barre Pinske, Tim Roper, and Hugh Quinn at Town Hall.
8 9	Staff Present: Preston Bristow, Zoning Administrator/Town Planner, at Town Hall; and Susan Bailey, Recording Secretary, via Zoom.
L0 L1 L2	Citizens Present: Bill Lindsay at Town Hall; and Jason Rasmussen, MARC, and Steve Mancuso via Zoom.
L3	Call to Order
L4 L5	Chair Hugh Quinn called the meeting to order at 6:37 p.m.
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L7 L8 L9	 Decisions Made: The Commission will not meet on January 2nd. Peter and Preston will present to the DRB on January 9th and Cathy will be at the meeting
20	as recording secretary for the DRB. Action Taken: None.
21 22	Agenda Item 1, Changes to the Agenda
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24	There were none.
25 26	Agenda Item 2, Review and Approve Minutes from December 5, 2022, meeting
27 28 29 30	Tim moved to review and approve the December 5, 2022, meeting minutes and Peter seconded the motion. Hugh asked if there were any updates to the minutes. There were no changes. A vote was taken, and the minutes were approved as written.
31 32	Agenda Item 3, Citizens Comments
33 34	Steve Mancuso said he put the details in the chat that there is a business that wants to move to
35	Chester and is looking at empty buildings. He expected the business would come before the
36	Commission sometime. He informed him about legacy and adaptive use and how it could pave the
37	way for him to set up shop in Chester. Steve thought he may be interested in the Kendall barn.
38	Steve said sooner or later the business would negotiate on one of the buildings. He asked the
39	Commission to carry on with their good work.
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11 12	Agenda Item 4, Complete Final Review of Proposed UBD Administrative Section Updates
12 13	This was the second round of updates to the administrative section of the UBD. The stuff in red
14 15	was from the original round of edits and there were new edits in blue. He recommended they focus on the blue edits if their goal was to get through everything being proposed.

Barre suggested they limit the amount of time on each item to get it done. Hugh would try to moderate and keep the discussion going if they got stuck.

Preston was the primary author of the changes in blue. All the things he wanted to see changed were addressed.

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On the first page, 2.41(b) addressed floodplain. They were really talking about the approximate A Zone. There are zones that have been surveyed with boots on the ground and those that have been photo interpreted from maps. The approximate A Zone has been photo interpreted. He included the provision, so a survey wasn't necessary to prove it was out of the flood zone. It would be nice if it was a farm structure, gazebo, or garage to say it's on top of a hillock, I don't think it's going to flood. The other change was to make sure it didn't apply to a dwelling. Possibly the flood plan office would push back on it, but he had seen it done and copied language from another bylaw.

They didn't address accessory dwelling units because there was no blue there.

Preston moved on to 3.11 home occupation and 3.12 home business. Currently, a home occupation must be operated only by members who live in the home and Preston proposed they could have 2 full-time equivalent employees and a home business could have 3 to 5. Heather Chase had to move her lactation business and she only has one employee and it required going through a business review with the DRB, which the DRB said wasn't necessary to bring to them. The Commission has the flexibility to address this, but Preston wouldn't open the door if they didn't want to. Hugh wasn't necessarily opposed to it but had believed one of the main distinctions was a home occupation was operated by family members and a home business could have employees. Peter asked what the state statute said. Preston said the statute gives the right of a home occupation and it was the occupants of the home. They don't address home business but just say it's a protected right for people who live in the home to have a business. Preston said they could expand it and have already expanded it, as have many towns, to include an accessory building. If it was going to be an obstacle, he would be happy to remove it. Barre thought it would allow people who needed help to run a business in their house. Preston said the distinction was home occupation only needed his approval for a permit and not the DRB's. It came down to how comfortable they were with that. Tim thought they had discussed it as part of Brandy's proposed bylaws. Tim thought they discussed including up to 2 full-time non-family employees at that point. The two were reasonable and he was in favor of it. Preston confirmed Brandy's allowed up to two. Hugh was okay with it. Barre thought two employees was a good idea because getting someone to be there 7 days would prove difficult. Preston thought it would go to the DRB and they would have a joint meeting with them and then vote on it after that. Cathy noted they would be substituting family with household in most places. Preston agreed that the term family didn't apply, and it was a group of people that lived together. HUD defines household as a group of people that share the same kitchen and dining. Tim noted, family and household are the same. Preston agreed. Jason said there are so many versions of a household today it's not necessarily family and household was the preferred term. Hugh assumed it didn't imply that the 2 employees lived there, and Preston agreed. Cathy said the two were the exceptions. Preston noted remote employees don't count because they didn't report to work there. Taking a cue from Brandy, up to two for a home occupation and three to five for a home business, which would increase the maximum from four to five. Hugh was fine with it.

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For walls and fences, Preston had crossed out higher than 6 feet in height.

Preston addressed non-conformities, legacy use, adaptive reuse, and non-conforming lots. It was requested at the last meeting that Preston make it a ratio and include a notification provision, so that's what this was attempting to do. Tim liked the language and thought it addressed his concerns. He wondered if a minimum setback should also be included. Preston suggested 20 feet. Tim wasn't sure what the number should be. Peter said there were some skewed lots. In Smokeshire, there are some half acres lots and some had a brook behind them. Preston got a call from someone who had a quarter acre lot with an existing structure in the R-5 Zone. He told them it was permitted if they didn't make the structure any bigger. Tim wondered if every lot should be built upon or if some lots should not because there isn't room for a minimum setback. Peter said wastewater would control it most of the time. Preston said the state's definition was at least 1/8th of an acre and a width or depth of at least 40 feet. Anything smaller than that was not considered a buildable lot. Tim didn't think that addressed this question. Barre said the idea was they were trying to get some of the small lots. Tim understood why they were discussing it but wondered if there could be a scenario where there was a 98% reduction based upon the formula and would it be acceptable. Cathy said if it was a 98% reduction, it would be a very small lot in an area of very large lots. If it was a quarter acre in an R-120, it didn't matter if you built out to the edge of the quarter acre because it would be surrounded by a lot of space. To Tim's point, Hugh remembered talking about the minimum as a stop gap because if the formula gets out whack and wondered if anyone had a notion of what would be an acceptable minimum setback in general. He wondered if they should establish a baseline minimum. Barre thought the problem was in town, it may not matter if there was 3 feet of density and as Cathy had said, out in the country, a small lot wouldn't affect the neighbors because they're not right next door. He thought they should have some flexibility. He would rather not have a minimum because it wasn't likely it would happen. Preston said some people would say you need 10 feet because of a roof overhang, painting the side of your house, or needing to lean a ladder against it. He thought 10 was a starting point. Barre said in a city, the houses are built side to side. Tim said they are zoned for that like in the Village Center where there are zero setbacks. Tim thought it applied more to the rural districts. Barre thought in the areas where they had less than a 10-foot setback to begin with, this would not apply. Cathy and Preston agreed. They agreed to go with 10 feet. Cathy said when she was interim zoning administrator someone in the R-120 with a quarter acre lot wanted to put up another garage and he had a strip of land 20 feet wide that was in a very unusable place. This would help him quite a bit.

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Regarding non-conformance, Preston added something that made it more readable and an illustration from a Two Rivers Regional Commission site and modified it to fit Chester. Tim thought it was clear and so did Hugh.

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Preston decided to address off-street parking. He replaced the current table with the one from Better Places. The current bylaw says 2 spaces per resident, and this says one. The others were close. For restaurants, it's 1 space for 4 seats and the current one is 1 space for 3 seats. For clarity, Tim questioned if a household unit would include an ADU or any structure where people were permitted to live. Preston agreed and said some people spelled it out that 1 parking space was needed for an ADU. Tim thought it covered it and was good use of the language. Preston had included a provision recommended by Better Places that on-site parking be located to the rear or side of the building, if possible. Tim asked if it would be for commercial or residential and Preston

said it would be for everything. Tim said a lot of homes in town have a driveway and garage in the front of the house and a lot of places would become non-conforming if they did it. Barre said it was only a suggestion. Tim disagreed. Hugh agreed with Tim except that it said rear or side so even a house with a garage adjacent to it would be the side of the building. Tim was picturing a ranch with an attached garage and the driveway comes from the street. Barre didn't think that applied because a ranch wouldn't allow for parking in the back. Peter suggested adding a commercial location and leaving residential out. Tim agreed. Preston would add the word commercial, and Cathy asked how they would define a commercial location and suggested uses. Preston thought uses would work. They would call it commercial uses. Jason asked if they wanted it commercial or non-residential uses. They decided on non-residential uses.

Preston said the wording on #6 was lifted out of Better Places. The DRB has had to approve some downtown properties based upon on-street parking because there was very little off-street parking. Peter pointed out what they had said in the Village Green that he liked was they had to demonstrate they had adequate off-street nighttime parking, either public or provided, consistent with Chester's snowplow parking ban. He wanted to see that be #9 because it applied to every district. Preston said they could add it.

Preston is aware that most renewable energy facilities are exempt from zoning, but Cathy had a situation where they scheduled a DRB hearing and cancelled it because they discovered it was exempt. The note was there to say if a project received a certificate of public good from a Vermont Public Utilities Commission, it's exempt. It only applies to things that don't go through the Public Utilities Commission. As an example, Preston said most people who put in solar panels are tied into the grid and receive a certificate of public good. It comes into play when people have a turbine or solar panel that's off the grid. Preston said they have been told to keep the requirements in the bylaws because state law may change, and they want to be ready. He doubted that would happen. Jason said there was no harm in keeping it. Preston added you want to be able to control someone installing something if it's not going through the public service board.

Preston had removed more than one principal building per lot because he didn't think they were ready for it. He added PUDs and subdivision waivers saying the Development Review Board can waive the requirement for subdividing if it furthers affordable housing. It would give DRB control and is done in instances that have a noble purpose. Cathy has been considering using the lot next to her and she would likely want to put two structures on it and subdividing would be difficult. Preston added short-term rentals and accessory on-farm business. Preston said they edited the entire section on signs. Cathy had included all of articles 3 and 4 but then thought the signs were 10 pages and they weren't changing them, so she removed it when she made copies. Hugh asked if they could find it by looking for blue text in the printout. They could, or they could look at Section 3.30. Hugh noted the Selectboard has adopted a short-term rental ordinance that would likely not be implemented until April. It is currently in its appeal phase, though nobody has appealed it. Their attorney recommended they include short-term rentals in the bylaws by addressing and defining them. His feeling was the Supreme Court decided if the bylaws were silent on short-term rentals, they're a presumed right. The wording allowed short-term rentals without a permit, but it may be regulated under a civil ordinance. Preston thought a short-term rental shouldn't have a sign other than a street number. He has seen them with signs. It was noted there is the 1828 Reunion House and two tiny houses on Grafton Road. Hugh liked it and would support it as written and Tim agreed. Barre wondered if it was a business and if it was a home business, wasn't a sign permitted. He saw it as a problem. Preston thought they could trust people would be reasonable by not saying it was a short-term rental. Cathy noted there was a limit to the sign for a business of 2 square feet, which wasn't very big, and they could use that. Hugh felt the State of Vermont doesn't view short-term rentals as a commercial operation currently, so they shouldn't be allowed to have a business sign. Tim and Hugh said they would support it as written.

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Preston addressed accessory on-farm businesses. The accessory on-farm business law has been in place for about 5 years. The legislature will consider modifying the law in this session. It was intended to protect the rights of on-farm businesses and get Act 250 off their back, and it hasn't worked. Preston suggested dropping it and considering it in the future. Peter and Hugh both wondered if a farm stay would now not make you an Airbnb. Preston noted the traditional exemption for farming had been around a long time and there were many court decisions which provided a lot of guidance on the subject. Preston attended a webinar from the Agency of Agriculture and a lot of questions were raised and they responded that it hadn't been litigated yet, so they didn't know. Preston thought they were learning that there were a lot of laws of unintended consequences with it. In Woodstock, someone wanted to open a restaurant on a farm in a rural zone and they didn't have the on-farm business language so the neighbors who were opposed to it asked Act 250 for jurisdiction, and they said it wasn't provided in the town plan and they denied it. Woodstock then quickly passed an on-farm rule which got Act 250 out of the way but provided ammunition for the neighbors to oppose it. Preston said the legislature was supposed to take it up this session. He thought the other possibility was they could keep it. He knew Peter offered sleigh rides and wagon rides and they could include language to allow a certain number of farm events per year. Preston asked if Jason had any opinions on on-farm business. In Jason's mind, it was intended for larger scale and not de minimis stuff. He thought if the legislature was going to be changing things, it may make sense to drop it for now. If someone was growing barley and hops and has beer, a tasting room, and traffic. He thought it was intended for bigger things and not wagon rides. Jason wondered if there was a way to clarify it, was it something they wanted to keep or would it be better to table it. Hugh thought it made sense to target bigger on-farm business activities, but because it felt like it would be controversial and the fact it was being taken up in the legislature next year, and given all the work they were trying to do in the bylaws to get things done, if it was something they could take out for now, it would help them move the process along and they could address it later. Peter thought it was hard enough to scramble by as a small farm and currently, the only big farm they have is the dairy below town which is under the radar for everything. Preston saw them as very unlikely to want to bring the public onto their property. Peter said you need to try something to see if it will work before going for a bigger permit. The others agreed. Peter thought if the legislature was going to work on it, they didn't have anyone pushing anything. Preston said some people have breweries and wineries that get big but if they're growing their own barley and hops or grapes, they kind of get a pass. And there are those who offer a farm restaurant. And those are the issues. Preston mentioned an enormous horse show in Dorset and that's what had triggered this law. Tim suggested since there are a lot of moving parts and they don't have any current issues surrounding it, that they set it on the shelf and deal with it at a more appropriate time. Hugh agreed. Barre wondered if there was a chance it would help someone or would someone be harmed if they did it now or waited. He didn't have an opinion and was concerned for the public. Peter said by not doing it, it was less restrictive. Preston said there was nobody that he could think of that would benefit from it. Tim said if someone came forward and

said it would help, it would be a prompt to discuss it. Preston thought Hugh was wise to suggest they not do something to jeopardize the whole package and was fine with that.

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Preston addressed Limitations and Exemptions, 4.3. Under Item #1, exempt structures must meet setbacks. Under Item #5, fuel and propane storage tanks must meet setbacks. Item #6, HAV systems, he changed from 120 square feet to 60 and said they must meet setbacks. When he got down to #14, Fences, he tried to clarify they don't want a 4 ½ foot fence on just the front line. For #19, Travel and Camper Trailers he suggested keeping it to 3 consecutive weeks or 60 days and if you have more than 3, you're a campground. Tim asked under #19, the way it read, a summer residence in a camper would be eliminated. He said he knew of someone that would stay in a travel trailer in the summer in the driveway of the house they owned. Did they want to eliminate that? Preston said it was basically the same language as a hunting camp. Preston would be open to and had seen language for 180 days which was half a year. Tim was more agreeable to that. Peter knew of someone who didn't have much money and rented her house short-term all summer and lived in a trailer next to it. Preston had messaged the zoning administrator listserv and very few people responded to the whole group but private messaged him instead. He said the problem is there's a housing crisis and people are living in campers. A lot of people are choosing to look the other way unless they're forced to act. Barre is trying to talk his dad into staying here, working with him, and living in his RV. Barre wondered if there was language that said they were seasonal or temporary rather than a residence. If a residence, how would you define it? Peter asked if his father would be here 180 days and Barre said 3 months. Cathy said there were 5 months of comfortable weather, May through October. Preston has heard some suggest they drive off the site for 4 days to restart the clock. Barre said that was the point you screw it up for honest people coming for vacation and you don't solve the problem for people living there with a pipe running into the river which was the real problem. Cathy thought the self-contained campers covered it. Preston said people who enforce the septic rules, Environmental Enforcement Officers, are fine with the self-contained ones because they're not polluting. Barre suggested they wise up and make it an ordinance. Hugh thought the other language was good and they should figure out a way to make it more lenient than 3 weeks. Cathy wanted 150 days or 5 months because the weather was good during that time. Preston said there was a rough rule of thumb that if you were living one day less than 6 months, you weren't a resident. Tim liked 180 days and suggested changing the language to limit it to not more than 180 days total in any calendar year. Hugh agreed. Preston was fine with that.

Preston addressed 4.9, Performance Standards. Under (b) Preston had air pollution, smoke, and odor.

Under Planned Unit Developments or PUDs Preston made 2 changes. One was to give guidance under purpose that examples may include but were not limited to townhouses, rowhouses, horizontal apartments, cottage courts, multiple accessory dwelling units and multiple tiny homes but not a mobile home park. Preston said horizontal houses was a new term and another way of referring to rowhouses or townhouses. Jason suggested not including terms that were confusing but that it was good to include examples. Preston thought they should leave horizontal houses out and that it was just a new buzz word. Preston said PUDs were generally done in larger lots in rural districts. One reason a PUD doesn't work well in village areas is because it requires a setback of public lands. It allows for 25% or 50% of greater density but all with the approval of the DRB so they likely wouldn't do anything too rash. PUDs are rarely exercised but with these changes, Preston may encourage people to go that route.

Preston has continued to feel that the current bylaws make subdivisions too difficult. Under 4.12, they encourage applicants to talk with the Zoning Administrator and give them the opportunity to have a preapplication meeting. It's not a hearing and there's no notification requirements and there will be no written findings and any comments by the DRB, applicant, or interested persons will be non-binding so it's an odd animal but something a lot of towns do. Tim thought potentially, it could be useful. Peter said they used to do it all the time but then all meetings had to be recorded so they had to go through the whole new process. Under preliminary plat review and under final plat review, they have the study phase. The DRB can't do that without warning and running it formally and that was the problem. Preston suggested they eliminate the studies and put in their place the preapplication meeting. Hugh said it looked like work the DRB would do. Hugh noted that subsection C was missing and was also missing in the original bylaws. Preston noted that.

Hugh wondered if they needed to talk about the final plot study. Peter said they would do a sketch plan study. Often, they go through the findings. Cathy said they were talking about a meeting and not a hearing. There would be 5 meetings to go through the subdivision process. They wanted to change it to a meeting to discuss the site plan, a preliminary hearing, and then a final hearing. Preston said if the procedure was followed literally, it would include a meeting, a hearing, then a meeting, and a hearing so there would be 4 sessions where the DRB met. He thought it was a lot of wasted time. The DRB could recess and postpone. Barre understood it didn't have to happen in 3 meetings because it wasn't realistic, but they weren't enforcing 5 meetings with the proposed rules. Preston agreed and said 20 years ago you would have subdivisions with 20 lots, but not anymore. Barre said it was a big deal and not like building a house or garage. He asked Peter if he agreed, and Peter said Remington didn't have that much trouble going through, so it all depended on the area. Bill Lindsay said the biggest problem was they didn't have the pins placed in. They developed a certificate the surveyor signed that the pins were in place. And that was important. Barre was used to seeing curbs and gutter and storm drainage put in and didn't imagine that was easy. Remington and similar places were like roads with lots and storm sewers, underground power, and paved road weren't being installed so that was a whole different deal. Preston said they have major subdivision criteria. Even though they don't happen often, it was important to have them in place for when they did. Hugh was unclear where they landed. Peter was fine with it.

Preston said they could go to 5.2, Road Standards. He and Peter agreed that they would change the wording to read any new road that serves more than 1 lot would need to meet Chester's road and bridge standards which was consistent with the DRB review criteria. Item K gave the DRB the ability to modify road standards. Preston pointed out that his pattern was to try to give the DRB more flexibility, but he agreed with Peter that this was an area where they really shouldn't have flexibility. Striking K would say the DRB doesn't get to tweak the road standards. Someone doing a layout of a subdivision would only have to meet road standards. It's important that firetrucks have access and that the state is very big into storm water control. To just allow people to make roads steeper isn't a good thing. Peter said if they wanted to modify standards in the ordinance, they could go to the director, which was Kirby. Kirby would make the decision and not the DRB. That made sense to Hugh. Preston included two things in waivers that in the Village District would allow affordable housing. One was to waive the requirement that each structure be subdivided. That would enhance subsidized or non-profit housing and it did basically the same thing under dimensional standards. It said setbacks could be reduced if it would enhance or facilitate subsidized

or non-profit housing with the DRB's approval. Peter said it could be done with a PUD previously. Preston said Cathy was considering a project on her lot and the PUD would require a certain percentage to be set aside as open space which didn't make sense. This would allow that. Cathy said it was as high as 50% of the land. Peter said it's proportional to the project if it's less than 25 acres. The next thing that would cause problems is if the parking couldn't be in front. Preston has seen projects where the parking is put under it, such as affordable housing in White River Junction. Peter said it couldn't be done with a wood structure.

Under accessory dwelling unit, they talked a lot about 900 square feet. Preston did an unscientific search and searched ADU square feet and 1,000 feet came up a lot, so he used it. The statute says 900 but towns can adopt a more lenient standard. Chester never defined a primitive camp and the one Preston used was the state definition. The short-term rental is the same one in the ordinance, which is pretty much the same one the State uses. Chester's includes more about tourist lodging.

Peter thought a home business shouldn't be limited to a minor sign. He used the popcorn people in the Stone Village as an example. A home business isn't really allowed a sign board. Cathy said it was because they were under the radar. Peter said they were back to Barre's argument that if there was a sign out, it wasn't a home business anymore. Barre asked if anyone had gotten permits for home businesses besides the Planning Board. Preston said some people had signed up. It was basically people in town government. Peter said a home occupation, like the popcorn people, should be able to have a reasonable sign because they are selling retail out of their house. Cathy said they had put a sandwich board out. The bylaws allow for a home occupation sign 6 square feet. Preston drives by the popcorn house every day but never thought about it. Barre said his neighbors across the street had an antique store and weren't there all the time and had a wheelbarrow with antiques hanging on the side which was a loophole and that's how these things work. The popcorn people aren't open 7 days a week so when they have it, they put a sign out. Cathy said they could have a sandwich board sign. Peter said a home business could have multiple signs and a home occupation was limited to just 2 signs. Barre thought if it wasn't on the agenda, they shouldn't be talking about it. Hugh said it was part of the administrative section.

 Preston noted the first Monday in January was January 2nd, so they probably didn't want to meet. They decided not to meet on January 2nd but will meet with the DRB on January 9th. Preston suggested only reviewing what would come before the DRB and not the others. Peter said not everyone needed to attend because they would bring back their considered opinion to the Commission. Peter said they would gather the DRB's feedback and have another meeting to discuss it. Barre suggested just sending a representative. They will provide the DRB with the changes in advance. Peter said that was how they did Legacy. Barre nominated Peter and Preston to present it to the DRB. Cathy will be there as secretary for the DRB. Barre asked Tim if he wanted to be at the DRB meeting. He didn't have strong feelings either way and would be fine with having Preston and another to represent them. Preston noted the DRB has been through it with every change they've made. They understand they only provide comments, and the Commission decides what to do with them.

Agenda Item 5, Adjournment

Cathy moved to adjourn, and Tim seconded. A vote was taken, and it passed unanimously. The meeting was adjourned at 8:16 p.m.