

**TOWN OF CHESTER  
PLANNING COMMISSION**

**December 19, 2016  
Minutes**

**Board Members Present:** Tom Bock, Naomi Johnson, Tom Hildreth, Randy Wiggin, and Claudio Veliz.

**Staff Present:** Michael Normyle, Zoning Administrator, Cathy Hasbrouck, Recording Secretary

**Visitors Present:** Kelly Arrison, Amy Mosher, Brian Mosher, Barry Goodrich, Patty Goodrich, Randy Miles, Roy Spaulding Sr., Roy Spaulding Jr., Marilyn Mahusky, Gail Stewart, Huzon (“Jerry”) Stewart, Amy O’Neil, Mike O’Neil, Carla Westine, Barre Pinske, Shawn Cunningham, Justin Savage, Wally Kangas, Stephanie Whitney-Payne, Mary Semones, Dennis Allard, Roger Batchelder, Ruthanne Batchelder, Mark A. Mitchell, Jan Moot, Gary Rapanotti, Richard Keene, Glen Gustafson, Russell Monier, Laurie Goodrich.

**Public Hearing to take comments on the proposed amendments to the  
Chester Unified Development Bylaws**

Tom Bock opened the meeting at 6:00 PM asking for comments from citizens. Amy Mosher got up first and gave the Planning Commission members copies of a memo addressed to the Chester Planning Commission. She read the memo aloud for the group. The text of the memo is included at the end of these minutes. Amy advocated a closer alignment of permitted and conditional uses with the zoning district purposes, the land use maps, and goals and policies outlined in the Town Plan. She did not favor moving forward with Article 2 changes.

The second citizen to speak was Gail Stewart. She spoke in favor of sending the proposed changes to the Select Board for approval. She disputed some facts asserted in a November 9, 2016 article in the Chester Telegraph which discussed a building permit issued for her property in the Commercial-Industrial zoning district on Elm Street. Gail gave a history of her quest to build a kennel somewhere in Chester and her attendance at meetings of the Planning Commission and Development Review Board. She said she did not ask the Planning Commission to add animal kennel as a conditional use and did not ask the Commission to forward the animal kennel conditional use change separately to the Select Board.

Marilyn Mahusky read remarks from Phil Perlah, who was not able to attend the meeting. The text of his remarks is included at the end of these minutes. Phil urged the Commission to remove the added uses in the R-120 district and submit the rest of the changes to the Select Board. He also wanted the Commission to finish the new version of the Town Plan, reconsider the zoning district map in light of the new Town Plan and then reconsider permitted and conditional uses in light of the new district map and Town Plan.

Marilyn made a statement of her own after reading Phil's remarks. The text of her remarks is included at the end of these minutes. She favored the sign ordinance changes but did not want to forward the changes to Article 2 or Article 3.21 to the Select Board for approval.

Randy Miles spoke in favor of the proposed changes. He said businesses currently face considerable regulation. Businesses need space to expand and create jobs. He did not believe Chester could survive

as a bedroom community. Without jobs young people leave town to find work and do not return. He felt these changes would improve the environment for businesses in Chester.

Gary Rapanotti spoke in favor of the changes. He introduced himself as a 30-year resident of the town and a surveyor who works out of his house. As a surveyor he has dealt with regulations in several towns and found Chester's regulations to be "tough", and the regulators unlikely to let anything slip through. He said the current mode of business for many people is to work out of their home. He felt that this model is necessary and should be permitted. A balance of regulation and activity is needed.

Amy Mosher asked Michael Normyle what prevents a citizen from having a business such as an electrician based at home. Michael replied that if the person confines the business to the house and uses a pickup truck there is no regulation to prevent that.

Amy O'Neil spoke next. She pointed out that Home Business and Home Occupation are defined in the bylaws and said it was unfair to ask the Zoning Administrator to answer a theoretical question on the bylaws. She then responded to a suggestion from Amy Mosher that all permissible trades be enumerated in the bylaws. Amy O'Neil said that a changing environment creates new trades and technologies that are impossible to anticipate. She said the Planning Commission relies on the bylaw Performance Standards and Special Criteria to evaluate proposed uses and decide whether they are permissible.

Amy then gave a brief history of the excavating business she runs with her husband at the junction of Route 11 and the Green Mountain Railroad tracks. The 2014 Bylaws put her business out of compliance and the business, which employs nearly 20 people cannot grow as a result. She believed the stated purpose of the changes was to correct inadvertent omissions from the 2014 Bylaws, not to realign the Bylaws with the Town Plan or Future Use maps. She felt that most of the proposed changes were corrections and restored omissions. She favored passing the changes on to the Select Board to implement.

Kelly Arrison spoke. He was not in favor of the changes to Article 2 or Article 3.21. He felt that people speaking in opposition to the changes were being dismissed or demonized by those in favor of the changes.

Randy Miles spoke briefly again to say that his business serves hundreds of people, many from other towns. He said he was in business to provide a service and his customers frequently ask him how he is doing and express gratitude for his service.

Barre Pinske spoke in favor of moving the bylaws forward. He had a business in Massachusetts for 16 years and found it difficult because he could not live, work and sell his products on the same property. He felt the town should be realistic and support business, not aspire to simply be beautiful.

Marilyn Mahusky spoke briefly to say planning should not be driven solely by economic development.

Carla Westine, current chair of the Development Review Board, pointed out that the uses being added are not permitted uses, but conditional uses, subject to review. Any application will have to meet the Performance Standards and Special Criteria in the bylaws. She wanted the changes to be sent to the Select Board.

There were no further comments from citizens. After some discussion about what to do next, Tom Hildreth moved to send the UDB changes to the Select Board. Claudio Veliz favored waiting until January to vote on passing it on to the Select Board. Randy Wiggin wanted to vote immediately and Naomi Johnson seconded Tom Hildreth's motion to send the changes to the Select Board. A vote was taken and the motion passed 4 to 1.

Randy Wiggin moved to adjourn the meeting. Claudio Veliz seconded the motion. The motion passed.

Text of the memo read by Amy Mosher:

December 19, 2016

To: The Chester Planning Commission

Re: Proposed changes to the Unified Development Bylaws

I first began attending Planning Commission meetings in June when I found out about the changes being made to the zoning laws. I've lived in Chester for 13 years. Chester is a beautiful community with character, history, and many scenic areas and diverse resources.

Since that first meeting in June, I started gathering information to learn more about planning and zoning in Vermont. In reading Chapter 117, reading Chester Town Plan, The Municipal Plan Planning Manual and other documents on planning and zoning put out by the State of Vermont, it became clear that the Town Plan is the guiding document for a Town and any new zoning bylaws have to be in conformance with the Town Plan and the Future Land Use Map (FLUM).

**In the Town Plan Chapter 1 – Land Use** states:

*The two most important considerations in determining desirable land uses are:*

*Does it appear, from objective evidence, expert opinion, public opinion or common sense that the proposed use in the area proposed will be good for Chester and the majority of its residents?*

*If it is good for Chester and most of its residents, is the proposed location compatible with the proposed use of the land?*

*The land use recommendations of the Town Plan should reflect both of these criteria in guiding the future growth of the Town. A use which will have an undue adverse effect on the Town should not be undertaken, even if the land is perfectly capable of supporting it. A use which the land can not support should not be undertaken, even if it might otherwise be good for the Town (ref Town Plan page 8)*

**Town Plan Future Land Use** reads:

*The Future Land Use map is a representation of the basic land use patterns that the Town would like to see develop in the years to come. It is intended to show the types and relative concentrations of development that are most appropriate for different parts of Chester. This information is meant to: (1) help the Town to maintain and update effective implementation bylaws; (2) give clear guidance on local priorities in the state planning and regulatory proceedings; and (3) provide landowners and developers with a tool that will help them locate and design projects in efficient and locally acceptable ways.*

*It is based on historical development patterns, public input received in the 2008 planning survey and planning workshops, locations where public water and sewer infrastructure support dense mixed-use development, and rural areas that support low-density uses and a working landscape. Workshop participants cherish the historic village area and encourage future growth that will not diminish the historical character or vitality of the village. The most intensive development (commercial, industrial*

*and higher-density residential) should occur in and around the village area. Outlying areas should grow at a slower pace, and should see relatively lower-intensity and lower-density uses (page 9).*

Other pertinent Goals, Policies and Recommendations from the Town Plan include:

**Goal 1:** *To encourage development so as to maintain the existing settlement pattern of compact village centers separated by rural country side (page 4).*

**Recommendation:**

*Business and industrial growth should occur in areas adjacent to where business and industry now exist and where town water and sewer are available or plan to be made available (page 4).*

**Recommendation:**

*Economic growth should be encouraged in village centers and areas designated for industry on the future Land Use Map and should be employed to revitalize and rehabilitate existing village centers (page 5)*

**Recommendation:**

*Discourage development in areas of natural, cultural and scenic significance (page 6).*

**Land Use Goals:**

1. *Preserve the historical development pattern of mixed-use village areas surrounded by open land, agriculture, forest, and low-density residential use (page 12).*

**Land Use Policies:**

1. *In order to maintain the existing settlement patterns, higher density residential, commercial, and industrial development should be located in the village areas of the Town, and within walking distance of most of the residents of the village.*

Comments regarding the UDB's:

A **Table of Contents** at the beginning of the draft document would make it user friendly and easier to reference sections. It is very difficult to make sense of the document without a Table of Contents.

Several of the the **definitions** need to be more specific. For example, Heavy Construction Trades and Building and Construction Trades would benefit from listing all the trades and then omitting the “but not limited to”. It would also be helpful if they provided a description of the size and scale of the business and the type of activity.

Is there a definition for **Public Broadcast Facility** and **Commercial Broadcast Facility** in the document? It would be helpful to describe each facility in order to understand the size and scale and the type of structure.

The current definition of **Wood Processing** is “*Commercial processing of firewood for sale.*” This definition needs to provide more information and it need to address the size and the scale of the activity going on.

**In the R-120 District:** under Supplemental Standards (page 12)

1. Leave in *“Open space and recreational resources should be preserved wherever possible.”*

In **Section 3.21** Parcels in two or more districts. This text is unclear. I don't understand what the intent of the proposed change is ? It would be beneficial to know how many properties in Chester are in two or more Districts.?

When the Bylaws are amended and changed they are required by Vermont Statutes to be in conformance with the Town Plan and the Future Land Use Map. This is in order to maintain the quality of the town not only for the next 5 years but for the next 50 years and beyond. People come to Vermont to live and vacation because Vermont has maintained the scenic, rural and historic characteristics which make it unique and special.

In Article 2, the Planning Commission has added uses to the various Districts that are not consistent with the PURPOSE of the Districts.

**My concern is that the proposed conditional uses would result in an undue adverse effect on the character of the area as defined by the purpose of the zoning district in which the use is located and that many of the proposed uses are not in conformance with stated policies and standards of the municipal plan.**

The Planning Commission needs to revisit each of the Districts, read the purpose of the District, understand the goals, policies and recommendation in the Town Plan and omit the uses that are not in conformance with the Town Plan and Land Use Maps.

Currently, the town of Chester and steering committee are working on a Master Plan. The Plan will be complete this summer. Since the bylaws need to be in conformance with the Town Plan, it would be appropriate if the Planning Commission move forward with only the aspects of the draft bylaws that are in conformance and hold off on Article 2.

I hope the information provided tonight will be discussed and carefully considered by the Planning Commission. Thank you for providing the community an opportunity to be heard and for your consideration of the information provided.

Respectfully submitted by;

Amy Mosher

Here is the text of the statement Phil Perlah sent to the committee:

There is much that is good in these proposed bylaws and those provisions should be transmitted to the Select Board. Unfortunately, there are provisions that are not well thought out and they should be reconsidered.

The problems as I see it is in the permitted and conditional uses, especially in the R-40 and R-120 districts, but particularly in the R-120. In these cases, the Planning Commission did not act as planners, but rather as politicians satisfying the needs of voters one at a time, without regard for the town-wide implications.

As I have noted at previous meetings of this commission, many of these uses are not consistent with the proposed Town Plan draft of April 27, 2016, nor the current town plan adopted July 15, 2015.

The proposed Town Plan deals with economic development. After describing several districts suitable for commercial development, namely: the Green; the Depot; Stone Village; Elm Street; Southern Gateway; the area surrounding the former Armory; and Gassetts. It provides, and I quote: “The remainder of the town is primarily rural in character, and current economic activities in these rural areas involve such things as farming, forestry, home occupations, inns and small-scale antique stores. In addition, many residents commute to jobs in other towns. This is discussed more in the next section. A regional economy that provides good jobs within a short drive from Chester is highly desirable.” Further in the proposed Town Plan, and I quote: “ the remainder of Chester is generally rural in character where farming and sustainable forestry activities are desired. In striving to pursue health community and local food initiatives, Chester wishes to encourage the local production of farm-fresh foods and value-added farm products in order to improve access to fresh and healthy foods. There may be opportunities to pursue local businesses that tap into the growing farm-to-table and natural food, hormone-free or GMO-free food initiatives.” As an aside, the economic development portion of the existing Town Plan merely incorporates by reference the 2014 Southern Windsor County Regional Plan, which is a regional plan specifically focusing on Chester. The current Town Plan, on page 4 recommendation 5 provides: “ Business and industrial growth should occur in areas adjacent to where business and industry now exist and where town water and sewer are available or plan to be available.” On page 45, the current Town Plan identifies farms along the Williams River as having been identified as “scenic” at the 2008 Community Values workshop. The current Town Plan provides that, “development is discouraged in identified scenic areas and ridge lines and the town should consider land use regulations to restrict developments along ridge lines and in scenic areas.”

The future land use map prepared by the Southern Windsor County Regional Planning Commission and dated April 26, 2016 shows Green Mountain Turnpike from Cummings Road to the Springfield/Rockingham borders as farmland. In the land use section of the proposed Town Plan, referring to farmlands, it provides “farming activities and residential structures are desired in these areas; commercial uses are not appropriate.” The current Town Plan also refers to future land use, and for farmlands provides that, “the potential for agricultural use and production should not be impaired in designated agricultural areas.” A simple solution to my concerns would be to create a new agricultural/residential 12 zone for Green Mountain Turnpike, hardly spot zoning as it is over 4 miles long, with the current permitted uses and home business and tourist lodging as conditional uses. This would be totally consistent with the existing and proposed Town Plan. This would be a truly planning function.

Unfortunately, the Planning Commission is not interested in planning, it is interested in permitting activities that are inconsistent with both the existing and draft Town Plan.

As an example of the approach this Commission has taken, Chapter 3 of the proposed Town Plan deals with Utilities and Facilities. In the section dealing with telecommunication towers, the plan states, “the Town of Chester should assess where these facilities may be located within the municipality and enact

conditions under the Zoning Authority to implement that policy decision.” Rather than designate the locations where telecommunications towers make sense, this commission has allowed them as a conditional use throughout the R-40 and R-120 districts, which includes the vast majority of the acreage in Chester. Certainly the better approach would be to delete these uses from the R-40 and R-120 districts until the Town Plan is adopted and these careful pin-point decisions are made.

But what would be the result under the existing Town Plan for telecommunications facilities? The same. The quoted language from the proposed Town Plan is carried over from the existing plan.

The Planning Commission, in developing the permitted and conditional uses, ignored the directive of the proposed Town Plan by authorizing conditional uses in districts incompatible with rural, residential or agricultural uses. Virtually every page of the proposed Town Plan that the Commission has been considering is inconsistent with these draft bylaws.

During the course of the hearings on these bylaws, numerous individuals appeared before the Planning Commission to request changes that would allow the expansion of their businesses. Most of these requests were reasonable and appropriate for the location of the property in question. The problem arises because the Planning Commission allowed that requested use in an entire district. What is really involved here is that the districts are too broad, too large and encompass property that, according to the proposed Town Plan, should have different uses. For example, R-40 includes both part of the Route 103 Southern Gateway as well as more rural sections along Route 11 towards Springfield. R-120, which is by far the greatest proportion of land in the town, includes property along Route 11 and Route 103 as well as the most rural and bucolic parts of the town. This is reflected on two draft maps: “Future Land Use Map – Village and Future Land Use Map – Town, Town Plan 2016 – Town of Chester.”

The solution to the admittedly reasonable requests of the people who appeared before the Planning Commission should be to re-evaluate the zoning district maps so that commercial development can occur in the parts of town where that activity is appropriate and the rural, residential parts of town are protected. This type of review has already been started in the “Future Land Use Map” referred to previously. However, by allowing one person to undertake a commercial use in the R-40 or R-120 districts, the Planning Commission is opening up virtually the entire town to such development.

What about economic development? Well, I think there are two parts to economic development: First, jobs and business opportunities; and second, tax revenue. The proposed economic development portion of the Town Plan recognizes the dichotomy, and I quote: “ a regional economy that provides good jobs within a short drive from Chester is highly desirable.” Jobs do not have to be in Chester. I drive to Norwich for my job; my wife works in Woodstock. What is more important is growth of the Grand List and growth of property tax revenue for the town. Unfortunately, most of the conditional uses that the Planning Commission is proposing would add very few jobs and virtually nothing to the Grand List. What could do both? Residential development.

Chester – the Vermont you were hoping to find – which is from our new website – is an ideal location for residential development. Close to skiing; close to the interstate; close to Connecticut suburbs with four beautiful seasons. Making Chester friendly for residential development has the potential to add considerably to the Grand List and to provide employment for numerous trades people and suppliers. The uses being proposed by the Planning Commission make Chester a less desirable place to live.



So, what should the Planning Commission do? Very simple.

- (1) Remove the changed permitted and conditional uses in the R-120 district and forward the remainder to the Select Board. The other changes in permitted and conditional uses do not change the nature of the districts and impact on districts where those new uses are appropriate. I will support them.
- (2) Complete the Town Plan currently under consideration.
- (3) Revisit and re-consider the district map in keeping with the Town Plan that is adopted.
- (4) Consider permitted and conditional uses in keeping with the new Town Plan and a new district map.

At a prior meeting of this Planning Commission, there was a discussion about why the 2014 UDB's deleted certain conditional uses, which these proposed draft UDB's seek to re-insert. It was suggested that the 2014 deletion was an error or oversight. There is a more cogent explanation: I submit that those conditional uses were deleted to harmonize the UDB's with the Town Plan. That harmonization should be returned by restoring the R-120 conditional uses to those that currently exist.

A lot of time and energy has gone into these draft bylaws. Unfortunately, the Planning Commission has only itself to blame for the inconsistencies between the UDB's and both the current and proposed Town Plans. I hate to say, "I told you so", but I have been raising these inconsistencies for the past 8 months.

Here is the text of Marilyn Mahusky's statement:

I've lived in Chester for almost 25 years. I've owned 2 homes here. I've raised my children in this community. I want to thank you for the opportunity to comment on the most recent draft of the proposed Unified Development Bylaws.

As I have stated in the past, I remain concerned about the number of proposed changes, specifically the addition of permitted and conditional uses to all zoning districts. Under Vermont Law, the Planning Commission is required to explain its rationale for making changes to the bylaws. I believe that the explanation provided in the September 19, 2016 Report is inadequate and fails to explain how adding Building and Construction Trades, Heavy Construction Trades and Wireless Communication Facilities in the Commercial Industrial District, the R-40, the R-120, the Residential-Commercial District and the Conservation-Residential districts, or Wood Processing in the R-40, R-120, CR, and Forest districts, or Sawmill to the R-120, CR and Forest districts or Light Industry to the Village Center and Residential Commercial districts complies with the Town Plan and benefits all of the residents of Chester and not just a few.

I believe it is incorrect to state that "These uses have historically existed and been compatible with other uses that exist within a district." That's a quote from the first page of the report. It is also incorrect to state that "The existence of these uses has not created an undue impact to the community at large." This latter statement is an opinion that is unsupportable. Indeed, these uses will have a huge impact on the community at large, and forever alter the rural character and aesthetic of our town.

Since May I have attended almost all of the Planning Commission meetings and all of the meetings from the end of May and when the report was approved and the bylaws passed. During that period I did not see the Planning Commission refer to the Future Land Use map, Zoning Districts maps or the

Town Plan. I did not hear the Planning Commission discuss other uses within districts or make a determination that the proposed uses were compatible within a particular zone as is required by state law. Instead, I heard the Planning Commission respond favorably to individual requests by individual business owners that a use be added to an entire zoning district for the sole benefit of the individual.

When thoughtful, informed citizens questioned the wisdom of these proposed uses, for example, the animal shelter on Elm Street, the gravel extraction operation on Route 103 South, the landscaping business on Route 103 South, or a wood processing operation on Route 103 north along the Williams River or whether gas tanks should be installed around Route 11 west, the Planning Commission gave no response, staring passively, or worse, arguing with the speaker. What I observed was the Planning Commission finding a way to include every proposed use without considering how the use would impact the zoning district as a whole, or the neighboring property owners or the residences or businesses, which is what the law requires.

This is not thoughtful or considered planning. It is, instead, a response based on the mistaken view that “any business, anywhere, any time” is good for Chester. This view ignores the value of planning, the value of place, the value of aesthetics.

We live in a beautiful place surrounded by natural beauty. Culturetrip.com places Chester number one as the most beautiful town in Vermont. We have a responsibility as stewards of our natural resources, the river, the forest, the mountains. For our community to thrive economically we need to be vigilant in protecting that which sets us apart, makes us distinct, which includes our town center, the Depot, the Stone Village, our rural countryside and yes, Elm Street.

Spot zoning is zoning for the benefit of an individual. The conditional uses you have proposed is spot zoning on a grand scale. I would encourage you to set aside article 2 in its entirety until after completion of the Master Planning process and the Town Planning process. This will enable the community as a whole to have a voice in the future of our town.

In addition to setting aside Article 2, I would encourage you to set aside Article 3.21. This provision affects parcels in two or more districts and would, under the proposed bylaws, permit a more expansive interpretation of the zoning requirements. In other words, instead of requiring an application of the more restrictive district standards as under the current bylaws, the proposed bylaws would permit the district standard in which the structure is physically located to apply.

Again, the only reference I heard in Planning Commission meetings relative to this provision is for the benefit of a single property owner. This, too, is spot zoning and should be reconsidered in the context of what is the best for the community as a whole. The property in question on the corner of Route 11 and Elm Street is surrounded by homes and farmland, despite its proximity to the railroad. It is very close to an important section of the Williams River. Any change in commercial use in that property would have a huge impact on the surrounding homes and countryside. Again, without consulting the future land use maps or the borders of zoning districts, the Planning Commission has included a zoning change without consideration of the greater community.

Finally, I would like to comment on the language of the Report relative to the addition of animal kennel as a conditional use in the commercial industrial district that I believe is inaccurate. I would like to say that Mrs. Stewart corrected some of the inaccuracies, but nonetheless, these are inaccuracies that appear in the Report, so I think it is really important to point them out. The Report clearly provides

that this use was added by “the request of the property owner”. If that is not the case, that should be changed.

The report also provides that the Planning Commission discussed and approved this use in this district, the district being Elm Street. I do not recall a specific discussion relative to the merits of this request. It is therefore inaccurate to state, as it does on page 3, that it would “fit within the commercial-industrial district.” or that “there have been no complaints made by those surrounding properties.” or that “there are only a few residential properties located within the CI district”.

First, let me say that there has been no opportunity to complain because there has never been a DRB hearing. In fact, there are 13 residences on Elm Street, 6 commercial businesses and the state garage. So to say that there are only a few residences is a complete and total inaccurate statement. The northwest end of Elm Street where it intersects with Depot Street is officially designated a part of the Village Center, and under the new Village Center Master Plan project, I believe is being considered for renovation and preservation.

The property where the proposed animal kennel will be built abuts the Williams River and the protected flood plain. That portion of the property and all of the properties along Elm Street which borders the river is designated scenic farmland and prime agricultural soil by the state of Vermont. These important environmental designations did not exist a century ago when Elm Street was lined with freight, cattle and lumber yards, or for that matter, when it was covered in a thick coat of talc and soapstone. It is critically important that any development on Elm Street be carefully evaluated to minimize any negative impact on these important waterways and farmlands. Clearly the Planning Commission did not consider this when it added animal kennel so casually to the list of conditional uses in the CI district.

So, in conclusion I would like to encourage you to not move forward Article 2, to not move forward Article 3.21, but I think that with respect to the signage requirements that those would be beneficial to businesses of our community and I would encourage you to go ahead and pass those forward to the Select Board.