



PLANNING COMMISSION

PUBLIC HEARING NOTICE

PROPOSED AMENDMENT TO UNIFIED DEVELOPMENT BYLAWS

The Chester Planning Commission will hold a public hearing on a proposed amendment to the Town of Chester Unified Development Bylaws on **Monday, August 1, 2022 at 6:30 p.m.** at the Chester Town Hall at 556 Elm Street in Chester, Vermont. This public notice is given pursuant to 24 V.S.A. Section 4444.

The principal purpose of the proposed development bylaws amendment is to add two features to section 3.19 Non-Conformities. Legacy Uses will allow a parcel's former use to be re-instated after more than a 2-year discontinuance if the use is shown to have had a benign history and to be part of the town's cultural heritage. Adaptive Re-use will allow a specialized structure that has outlived its original function to be given a new use that is not currently allowed in the zoning district. The changes will affect every geographical area of Chester.

The full text of the proposed amendment to the Town of Chester Unified Development Bylaws may be viewed at the Town Clerk's office and on the home page of the Town's website at www.chestervt.gov.

Dated at Chester, Vermont this 13th day of July 2022.
Hugh Quinn, Planning Commission Chair

Chester Planning Commission Reporting Form for Municipal Bylaw Amendment
Legacy Uses and Adaptive Re-use

This report is in accordance with 24 V.S.A. §4441(c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments... The report shall provide (:)

(A) brief explanation of the proposed bylaw, amendment, or repeal and ... include a statement of purpose as required for notice under §4444 of this title,

The purpose of this amendment is to address two situations which involve non-conforming uses. In the case of a Legacy use, a parcel has had a use with a benign history that had become part of the town’s cultural heritage. If business was discontinued for more than 2 years and the use is no longer allowed in the zoning district, it cannot be restarted. The legacy use provision would allow the original use to be restarted on the parcel in question after the applicant shows the use had a benign history, is a part of the town’s heritage and a conditional use hearing is held. The purpose of adaptive re-use is to take advantage of the life left in a specialized building which has outlived its original purpose. The purpose may no longer be necessary or profitable. The amendment would allow a such a building to be put to a use it is suited for but is not currently allowed in the zoning district. Again, a conditional use hearing before the Development Review Board would be required before the permit could be issued.

1. The proposal conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing

This strategy will support Goal 1 of the Town Plan: “To encourage development so as to maintain the existing settlement pattern of compact village centers separated by rural countryside” and Goal 2, “to encourage a strong and diverse economy that provides satisfying and rewarding job opportunities”. The proposed amendments allow existing buildings to be put to new uses instead of sitting vacant and restore uses in the same place they have proven successful in the past.

2. Is compatible with the proposed future land uses and densities of the municipal plan

The amendments will encourage the re-use of existing buildings and the re-establishment of businesses in their traditional locations. They do not encourage development in areas currently not developed.

3. Carries out, as applicable, any specific proposals for any planned community facilities.

These changes foster in-fill development, not expansion of development into undeveloped areas. This will minimize any impact to planned community facilities. Adaptive re-use could provide space to house community facilities.

The two amendments will be added to Section 3.19 Non-Conformities.

Transmission Copy
CHESTER UNIFIED DEVELOPMENT BYLAWS

06/20/22

Changes are in red type

3.19 NON-CONFORMITIES, LEGACY USES AND ADAPTIVE RE-USE

A. Existing Nonconformities. Nothing in this section shall be construed to restrict the authority of the Town of Chester to abate public nuisances or to abate or remove public health risks or hazards. Any lawful lot, building or use in existence at the time of adoption or amendment of these Bylaws may be continued. Such lot, building or use shall meet all other requirements of these Bylaws, and is subject to the following provisions.

B. Nonconforming Lots.

1. Any existing lawful lot that does not meet the specified dimensional requirements in these Bylaws, may be maintained and developed for the purposes permitted in that district as long as all other requirements for that district are met.

2. **Existing Small Lots.** In accordance with the Act [§ 4412], any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet.

a. If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot may be separately conveyed if the lots are conveyed in their preexisting, nonconforming configuration, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet.

C. Nonconforming Structures

1. Any legal structure or part thereof, which is not in conformance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as parking, lighting, buffers, and lowest floor elevation in floodplain zoning) shall be deemed a nonconforming structure. Legal nonconforming structures exist as a result of construction prior to adoption of bylaws, or construction under an earlier set of less restrictive bylaws. Any nonconforming structure may be allowed to exist indefinitely, but shall be subject to the following provisions:

2. Subject to conditional use approval by the DRB, a nonconforming structure may be restored or reconstructed after unintentional loss provided the reconstruction is commenced within two years and does not increase the degree of non-conformance that existed prior to the damage.

3. A nonconforming structure which has been demolished shall not be reconstructed except in conformance with these bylaws. The DRB may grant a waiver from this provision if a

hardship would be created by rebuilding in strict conformance with the requirements of these bylaws. In considering a waiver from these provisions, the DRB shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.

4. A nonconforming structure shall not be moved, altered, extended, or enlarged in a manner which will increase the existing degree of non-conformance.
5. The phrase 'shall not increase the degree of non-conformance' shall be interpreted to mean that the portion of the structure which is nonconforming shall not increase in size (or decrease in the event of failing to meet minimum standards such as parking and lighting). Therefore, portions of a structure within a setback area cannot be enlarged, portions above the maximum height cannot be expanded where parking is deficient the number or size of spaces cannot be reduced, etc. This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios provided there is no increase in size.
6. Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of non-conformance.
7. The DRB shall permit the alteration or expansion of a nonconforming structure for the sole purpose of conformance with mandated environmental, safety, health, or energy codes.

D. Nonconforming Uses, Legacy Uses and Adaptive Re-use

1. **Nonconforming Uses.** Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in conformance with the provisions of these bylaws, shall be deemed a nonconforming use.
Nonconforming uses are those that exist legally as a result of existing prior to adoption of bylaws, or permitted under an earlier set of less restrictive bylaws. Any nonconforming use may be continued indefinitely, but shall be subject to the following provisions:
 - a. The nonconforming use shall not be changed to another nonconforming use without approval by the DRB, and then only to a use that, in the opinion of the DRB, is of the same or of a more conforming nature.
 - b. The nonconforming use shall not be re-established if such use has been discontinued for a period of two-years or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so. **See also 2. Legacy Uses.**
 - c. The nonconforming use shall not be expanded, extended, moved or enlarged unless the DRB finds that such expansion, extension, movement, or enlargement does not increase the degree of non-conformance. Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, number of employees or an increase in the size of the operation through the expansion of a conforming structure.
 - d. The DRB shall permit the alteration or expansion of a nonconforming use for the sole purpose of conformance with mandated environmental, safety, health, or energy codes.

2. **Legacy Uses.** The DRB may determine that a past or present nonconforming use, by virtue of its benign history and cultural heritage in Chester, is a Legacy Use and is therefore deemed an allowed and conforming conditional use in the district in which it is located. The applicant shall demonstrate that a past or present nonconforming use has sufficient benign history and cultural heritage in Chester to be determined a Legacy Use. Determination as a Legacy Use is indefinite in duration, but a Legacy Use may be re-established, expanded, extended or enlarged only following conditional use review and approval by the DRB and a zoning permit issued by the Zoning Administrator.

3. Adaptive Re-use.

- a. **Purpose.** To encourage the continued viability of older, special-use buildings that have outlived their original function by allowing for a variety of possible new uses to be established within the existing building in a manner that is compatible with the character of the area for the district in which it is located.
- b. **Applicability.** The adaptive reuse of special-use buildings within all zoning districts is subject to review by the Development Review Board and must meet the conditional use requirements specified in Section 4.8 and the adaptive re-use provisions in Section 3.19.D.
- c. **Eligible Building Criteria.** The Development Review Board will determine whether the adaptive reuse provision shall apply to any proposed building based upon either or both of the following criteria:
 - i. The building was originally built for purposes that are not currently allowed in the zoning district in which it is located.
 - ii. The building, by the nature of its size, type, construction method or location on the parcel, does not meet the regulations including dimensional standards for the zoning district in which it is located.
- d. **Review Process and Standards.** Conditional Use Approval by the Development Review Board is required for all adaptive re-use proposals, subject to the following additional standards:
 - i. An applicant may propose one or more uses to be established within an eligible building;
 - ii. Any rehabilitation or restoration associated with an adaptive re-use shall not significantly alter the façade or historic character of the structure. Any proposed exterior renovations shall conform to the guidelines set forth in the most recent edition of the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, whether or not the building qualifies or is designated as an Historic Building;

- iii. The Development Review Board may waive the zoning district dimensional standards or surface water protection setbacks if needed to support the proposed use.