

# Chester Planning & Zoning Commission

## Minutes

April 14, 2022

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### 1. Call to Order

The Chester Planning & Zoning Commission met on Thursday, April 14, 2022 as a hybrid meeting, with virtual participation via ZOOM. Chair Michael Sanders called the meeting to order at 7:03 P.M.

### 2. Roll Call and Seating of Alternates:

- a. Commission members attending in person at Town Hall and seated were Michael Sanders, Pat Bisacky, Elaine Fitzgibbons, Henry Krempel, Andrew Landsman (seated for Steve Merola, Bettie Perreault, and Peter Zanardi (seated for Keith Scherber). Present via ZOOM were Seth Fidel, Shubert Koong, and Zoning Compliance Officer John Guszowski. Present in person at various times during the meeting included the following: Ray Archambault, Tom Archambault, Tom Brelsford, Joe Cohen, Carol LeWitt, Heather Riebold (owner's rep), Tula McDougal and Christiana Barabe (managers of Honeycone Craft Ice Cream), and others. Attending via ZOOM were Susan Wright and others.

### 3. Public Hearings:

- a. Application for Special Exception: 9 Water Street – High End Chester LLC, to convert the building from a bank to an ice cream shop.

Legal Notice was read into the record. Stephen Seitz was appointed to the position held by Pat Bisacky, who recused herself and left the premises.

Honeycone managers distributed packet of information and reviewed the information provided, answering a few questions posed by Commission members, including the successes of the business, which has a lot of "to-go business" which could expand if space were available. The addition of exterior seating and a drive-through pick-up window would allow additional patronage. Among the questions/answers were the following:

- There are currently approximately 23 parking spaces on the site, which would be retained and not expanded.
- There are currently dumpsters on site, which are used for the on-site business and one other Main Street restaurant (River Tavern) and would remain and continue as currently used.
- On-site preparation of the product(s) sold ("small batch" production) would remain the same.
- Pedestrian cross-walk, crossing Water Street/Route 148 does not currently exist and is of concern. Considerable discussion and alternative solutions were discussed, with note that CT DOT would require review, approval and,

potentially, implementation to address concerns voiced and those which might develop as the proposed operation opened and developed.

- Extensive discussion and exchange of ideas and information concerning the interaction with pedestrians, particularly children, were exchanged between applicants, Commission members and other guests, with note that “walking” in the retail area was both encouraged and welcomed.
- Potential for a fence, landscape or other similar “barrier” to redirect pedestrian travel were discussed.
- Ms. Riebold, site manager and property owner Carol LeWitt both stated they were willing to work with CT DOT, potentially would pay for the installation of a sidewalk on the north side of Water Street under certain circumstances, and would work with others to facilitate pedestrian safety improvements.
- There is currently a private well on the property in close proximity to the property line with Route 148. Public water (CT Water Company) might be available but cost would be considerable.
  - The existing well is within an estimated 45 feet from an existing storm drain on Route 148.
  - To accommodate the change in use, the CT Health Department would need to approve and register the existing well.

Members of the audience, including abutting property owners, Ray Archambault and Tom Archambault spoke in favor of the proposed operation, with Tom Archambault suggesting that pervious material rather than concrete or other impervious material be utilized for any patio or similar installation. Susan Wright stated the operation would bring business “around the corner” from Main Street. (Note, the existing property is within a floodway but the existing building is above that level. The IWWA has been consulted; so long as there is no change in the building or abutting property, its current location/condition is acceptable.)

Voice Mail message to the Zoning Office as transcribed by the voice mail system was read into the record: “Hi. This is Nick or on Jessica Debra. It’s 10:36 AM on April 14 and we’re calling in to support the Honeycomb application. I know there’s a public hearing tonight. We’re unable to attend but we support the business and they’re moving to the new location and Water Street and if you could put that on the record that would be great and our cell number is 860-\*\*\*-\*\*\*\*. If you have any further questions or need to verify anything else. Thanks. Bye.”



There was nobody who spoke in opposition to the application. Applicants advised they would continue to work with officials in connection with the proposed change of use and potential activation of the business.

**On Motion by Peter Zanardi, seconded by Henry Krempel, the Public Hearing was adjourned at 7:48 P.M. .**

4. Audience of Citizens

Tom Brelsford, Chester representative to the CT River Gateway Commission was present. Letter dated April 1, 2022 from J.H. Torrance Downes, Deputy Director of RiverCOG was read into the record and is appended to these minutes. It was noted that the riparian area along the CT River is designated as tidal wetlands. The activities which had been conducted by the present property owners, including removal of vegetation along the CT River shoreline, installation of crushed stone "pads" for roadway, parking area, etc., installation of electrical service, etc. were discussed. DEEP approval for deposition of dredge spoils in connection with current dredging of Chester Creek was noted. The requirement to seek permission within Section 90.G.1.a of the Zoning Regulations for vegetation removal or for any purpose within 50 feet inland from the high tide line including a footpath was noted. Construction of any improvements within the 100 foot horizontal clearance of the river shoreline (Section 90.D of Chester Zoning Regulations) would also appear to apply to this site and any improvements. Removal of trees or large vegetation is not allowed. Joe Cohen, Commission members and others provided additional information concerning their personal knowledge of earlier conditions of the property and the removal of vegetation and installation of roadway, pads, etc.

ZCO Guskowski advised he and other Town officials have had extensive conversations with the current owners and others in connection with the property.

Mr. Brelsford noted horizontal clearing of the site within 100 feet of the CT River requires approval; DEEP has approved of Creek-side dredging while the alleged violating activity is on the CT River side of the property and would require PZC and potentially Gateway review and action. ZCO Guskowski advised no application has ever been submitted or approved by the Town. It is possible that the beach area may not be original, natural material, and new material may have been imported. The Commission will address any perceived violations; Commission members were requested to personally visit and become familiar with the site, accessing it as Commission members. One guest said, "The Town of Chester has failed to protect its resources," with others pointing out the area is and has historically been "the entrance to Chester".

5. Old Business

- a. Next steps in review of marijuana statutes and local regulations.

As First Selectman Janeczek had a previous commitment, Chair Sanders advised RiverCOG is collecting information from various sources, including out-of-state locations, and hopes to have a report and public information available for presentation by June or early summer.

6. New Business

- a. Review and action on Application for Special Exception: 9 Water Street – High End Chester LLC, to convert the building from a bank to an ice cream shop.

Review of the proceedings of the public hearing included the following:

- A number of conditions will be required to address concerns raised during the hearing. These conditions may include:
  - Providing measures to ensure pedestrians' safe access to the site including instillation of a crosswalk, providing deterrent features to minimize, control and to direct individuals, particularly children, in connection with access to Route 148/ Water Street.
  - Ensure entrance/exit driveways and any potential crosswalk address both local conditions and concerns, as well as requirements of the DOT and any other regulatory agencies which might be involved.
  - Receipt, review and approval of a site plan by the Commission, CT DOT and other officials.
  - Preparation, review and approval of a (pedestrian) safety plan by the Commission, other local and State officials and agencies.
  - Review of existing traffic volume information as well as potential traffic volume with a change of use, including anticipated increased vehicular traffic which may be generated using standard CT DOT traffic generation forecasts.
  - Identification of who will pay for the cost of the various actions which may be required and/or desired: property owner, Town or State.
  - Confirmation of details associated with on-site preparation of product as well as delivery options, including hours, vehicle location, and volume.



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- Confirmation of details associated with on-site dumpster(s) including volume of waste received, identification of all users, the responsible party for payment, and the number and timing of pick-ups.
- Site and exterior lighting with particular attention to ensure minimal effect on surrounding properties and residences.
- Details of landscaping and proposed patio area, including installation of pervious surface, potentially to include rain garden or similar to minimize runoff.
- Compliance with all regulatory agencies and officials including but not limited to Health Department, Building Official, Zoning Official, Fire Marshal, CT DOT, etc.

Commission members again reviewed the conditions and requirements discussed, with consideration of whether to approve the change of use without addressing and ensuring that the conditions and details had been or could be implemented.

**On motion by Henry Krempel, seconded by Elaine Fitzgibbons the application for change of use for 9 Water Street – High End Chester LLC to allow the conversion of the building from a bank to an ice cream shop upon compliance with the conditions and requirements outlined above was unanimously approved.**

7. Other – Guests or Members: There were none with any to present.
8. Report of Officers and Subcommittees: Nothing was brought up.
9. Report of Zoning Compliance Officer

ZCO Guskowski advised Land Use Office personnel are meeting every other week to review and address issues and concerns arising within the agencies in that office. ZCO is working with the Chair of the Affordable Housing committee, Pat Bandzes. Executive Orders connected with requirements for availability of virtual meetings may require additional legislative approval to continue beyond expiration of the Executive Order.

10. Bills for Payment: Hartford Courant - \$81.66 publication of legal notices.

**Motion by Peter Zanardi, seconded by Henry Krempel to approve Hartford Courant statement in the amount of \$81.66 for payment was unanimously approved.**

11. Communications, Receipt of New Petitions, New Applications received after posting of Agenda.
  - a. Receipt of Application for Special Exception: 91 Main Street – Approval of cupola. Commission will schedule a Public Hearing to be held on Thursday, May 12, 2022

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12. Approval of Minutes: March 10, 2022 Regular Meeting

**On Motion by Henry Krempel, seconded by Seth Fidel, the Minutes of the March 10, 2022 meeting were unanimously approved:**

12. Pending Litigation – there is no pending litigation at this time.

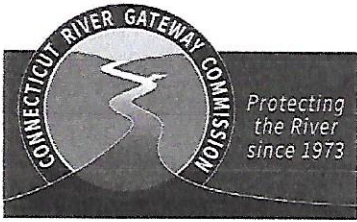
13. Adjournment

There being no further business to come before the Commission,

**On Motion by Henry Krempel, seconded by Peter Zanardi, the meeting was adjourned at 9:18 P.M.**

Respectfully submitted,

*Bettie Perreault*, Secretary



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Essex, CT 06475  
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Chester  
Deep River  
East Haddam  
Essex  
Haddam  
Lyme  
Old Lyme  
Old Saybrook

April 1, 2022

Mr. Mike Sanders, Chairman  
Chester Planning & Zoning Commission  
Chester Town Hall  
203 Middlesex Turnpike  
Chester, CT 06412

**SUBJECT: Possible Violation of Gateway Standards/Chester Zoning Regulations**  
**Parcel ID: 10-187. Dock Road,**  
**Owners: Bernie, Jacqueline and Jerry Eckhouse; Co-Owner: Marjorie E. Cross**

Dear Mr. Sanders:

It has come to the attention of the Connecticut River Gateway Commission that a potential violation of Section 90.G.1, Required Vegetated Buffer of the Chester Zoning Regulations, appears to have occurred at the identified property on the north side of the mouth of Chester Creek and the Connecticut River. The site in question, designated as Planned Residential District (PRD), has been approved for use as an upland dredge spoils disposal area as a part of DEEP License #201912493-COP with the Licensee recorded as the Chester Harbor Management Commission. The potential violation of Section 90.G.1 has been witnessed by Gateway Commission member and Chester Representative Tom Brelsford and witnessed during a Gateway-sponsored boat trip on October 7, 2021. Gateway staff J. H. Torrance Downes and Chester Land Use Administrator John Guskowski have visited the site as well.

It appears that the property owner cleared vegetation on the river side of the property and within the 50-foot Required Vegetation Buffer in order to clear a view to a small Connecticut River beach, at the same time, clearing the vegetation for easier access to that beach. In that Section 90.G.1 prohibits such vegetation removal within that 50-foot area, the actions appear to be a violation of that section of the regulations, which is also a Minimum Standard of the Gateway Commission. The Gateway Commission derives its authority from Sections 25-102a through 102s of the Connecticut General Statutes.

#### Findings

The Gateway Commission requests that the Town of Chester institute a formal enforcement action against the property owners with the goal being the replanting of native, non-invasive vegetation that has been removed within the 50-foot Required Riparian Buffer in order to restore the area as much as possible to its previous condition. Further, the property owners should be notified that the property is under the jurisdiction of both the Chester Planning & Zoning Commission and, through the Zoning Regulations, the Connecticut River Gateway Commission. Please include the Gateway Commission in any communications with the property owner.

If there are any questions regarding the requested enforcement action, please feel free to contact me at (860) 581-8554 or [tdownes@rivercog.org](mailto:tdownes@rivercog.org).

For the Commission,

J. H. Torrance Downes  
Deputy Director, RiverCOG

Copies by Email: Members of the Gateway Commission

*Protecting the River Since 1973*