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est. 2003

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November 1, 2025

Town of Chester  
1786 Kings Highway  
Chester NY 10918  
(sent via email)

Re: Public Hearing – Comp Plan & Zoning  
**Introductory Local Law 10 of 2025**  
**Supplemental Comments**

Dear Supervisor and Town Board –

Following our initial letter submitted for the public hearing on Local Law 10 of 2025, we are pleased to offer additional comments informed by insights shared during the hearing and by follow-up requests from concerned residents. These perspectives prompted a closer examination of the proposed zoning changes, and we respectfully submit the following critique with the hope that it contributes meaningfully to the ongoing dialogue and refinement of the legislation.

**Chapter 98 of the Town of Chester Town Code, entitled Zoning –**

§ 98-2 Definitions and word usage - Lots, to be buildable: The Town of Chester already has a comprehensive definition in the Subdivision Regulations, Chapter 83, Section 83-22, which we would recommend is used in Zoning to be consistent.

**§ 98-30 – Site Plan Approval**

§ 98-30.E(1)(a) – It is not clear if a Presubmission Conference or work session with the Planning Board must be conducted in an open meeting of the Planning Board. This should be clarified to state that these meetings must be public meetings.

§ 98-30.E(3) – We assume the wetlands protection requirements being eliminated in this section are to included and referenced in new section § 98-13.1.

§ 98-30.E(3) – Applicants should be required to submit a visual impact analysis and noise study.

§ 98-30.E(3) - Applicants should be required to submit a ridgeline impacts analysis, where applicable.

§ 98-30.E(4)(a)(iii) – The words “to the greatest extent practicable” should be deleted. Building in these protected areas should be prohibited.

§ 98-30.E(4)(a) – There is no requirement for prevention of visual impacts, other than in the immediate area (see (4)(a)(v)). “Avoidance of undue visual impacts” should be added to the list.

§ 98-30.E(5)(a) & (b) – Public hearings on preliminary site plans should be mandatory. Although hearings on final site plans are usually mandatory under § 98-30.F(3), by the time a project reaches that stage it may be too late to change it. See § 98-30.F(2) & (3). Holding hearings earlier in the process, and allowing the public to identify their concerns at that point, will help the Planning Board and the applicant identify potential problems earlier in the process.

§ 98-30.F(3) – This requires a public hearing on most final site plans, but allows the Planning Board to waive the hearing if the final site plan is in substantial agreement with the preliminary site plan, the hearing can be waived. Because hearings are optional for preliminary site plans, this would allow many projects to proceed without ever having been the subject of a public hearing.

§ 98-30.G(2) – This allows the Building Inspector and Planning Board to modify the approved site plan without any public hearing. All such changes should require notice to the public and a hearing. While some “field changes” may be minor, others could be significant, but this section does not differentiate.

### § 98-31 Special Use Permits

§ 98-31.A – This section should make it clear that the “authorized board” has “the power to approve, approve with modification or deny” applications for Special Use Permits, just like the Planning Board is authorized to do for Site Plan Review under § 98-30.B.

§ 98-31.B (the first one) - “Avoidance of undue visual impacts” should be added to the list of Objectives.

§ 98-31.B (the second one) – This waiver provision is unnecessary and is a giant loophole. Area variances can address any issues of noncompliance.

### Public Hearings

All sections which require notice of a public hearing to be published in a newspaper should also require that notice be mailed to property owners. Few people read newspapers anymore, and even those that do are unlikely to read the legal notices.

Notices of public should also be posted on the Town’s website at least two weeks in advance and distributed by any other means the Town uses to communicate with residents (e.g. Facebook, email blasts).

Notices should be mailed at least two weeks before the hearing and published at least two weeks in advance. Minimum of Five days of notice does not give the public enough time to become informed about an application.

Has the Town considered encouraging or requiring field visits by majority of Planning Board members for complex or controversial projects? Maps and documents can't fully capture terrain, neighborhood context, or environmental nuances. We recognize planning board members vary widely in their level of experience and engagement with project materials. Since some members will seek out more information and review documents meticulously, others may only depend on details on the site plan, therefore the site plan often becomes the central, and sometimes sole, reference point for key details when assessing a proposal.

With this said, we offer the following comments:

### § 98-12 Land Disturbance

Section, C.2.a.ii.m requires identification on site plans of wetlands, watercourses, and one-hundred-foot wetland buffer, which are referred to as "Controlled Areas".

- The buffers to streams should be clearly identified on any proposed plans.
- We would suggest that the plan identifies if the wetland is an Army Corps wetlands (which can be small and isolated and often serve as vernal pools in the spring) or if it is a NYSDEC mapped wetlands.
- Vernal pools have recently come under additional protection in the new wetlands regs DEC promulgated last year and effective this year, so specific identification of vernal pools would be additional information to include since this would be a "controlled area", though there are some limits on that, such as being locations of amphibian breeding. Regardless, they should be identified on a site plan to make sure that the proper studies and precautions are taken to protect them and their habitat if needed.
- Consistent with SEQR Environmental Assessment forms and requirements, identification of endangered or threatened species habitat and what those species could be included. Also if the property is located in a Critical Environmental Area (CEA). This would be identified in the environmental assessment, but could be helpful to include on the site plan, especially for a large site that perhaps is not fully covered as endangered species habitat for example.

### § 98-13.1 Wetlands and Watercourses

- Consistent with the above, the code should include requirements for protection of vernal pools consistent with the DEC regs where they are identified. There is a required buffer around "productive" vernal pools, as defined by the DEC regs. To be identified as productive a study of egg counts needs to be performed by a qualified professional.
- Reference to the Town's Comprehensive Plan page 20 wetland buffers "should be clearly marked during construction".
- Their development, where no other alternatives are feasible, must be limited and resisted.

- Also, for D. in this section regarding a 100 foot horizontal separation of a wetlands from a septic system drain field (i.e., leach field) or expansion area.
  - The DEC requirements include not only the leach field, but the septic tank of 50 feet, distribution box of 100 feet, and house sewer pipe of 25 feet. This should be specifically included in the town code. Source: Table 2 of Appendix 75-A Wastewater Treatment Standards – Residential Onsite Systems.
  - For larger systems, deemed “Intermediate Sized Treatment Systems” the standards are 100 feet separation from a wetlands for all septic system components, not just a leach field. Source: Table B-2 NYS Design Standards for Intermediate Sized Wastewater Treatment Systems, March 5, 2014.

We thank the Town Board for extending the public comment period on this important local law, which allowed residents who learned of the hearing later to participate in the process via in writing.

We typically refrain from commenting on submissions made by others in response to public concerns. However, concerned residents forwarded letters regarding “Camp Monroe” and VA Lake Station Holdings LLC, seeking our perspective on the related requests.

In response, we consulted with legal counsel and are sharing the following guidance based on that advice:

**§ 98-29.F(3) - Public Address Systems** –The Town’s Noise Pollution Control Law already has an exemption for religious uses for most hours of the day under § 66.6.E . Therefore, given that they already have this exemption, we think that proposed zoning law language is a reasonable regulation that does not substantially burden the practice of their religion.

As a side note, there were attachments submitted as part of ZBA application for “Camp Monroe” that suggests the noise ordinance may have been enacted solely in response to complaints targeting the Camp. While repeated instances of late-night disturbances could have prompted the Town to take legislative action, it's important to recognize that Chester has long received noise complaints from various parts of town. These include ATV activity, bus backup alarms at depot, recreational gunfire and outdoor music venues close to residential areas as well as excessive dog barking, private firework displays, short-term rental parties, and other persistent nuisances, which law enforcement needed improved guidance from the Town. Given the breadth and duration of these concerns, a town-wide noise ordinance was a necessary and timely measure to address the growing volume of complaints. This ordinance is seemingly a work in progress for enforcement measures such as addressing repeat offenders and/or as when new conflicts arise.

The Town Code intent is to secure and promote the public health, comfort, safety, welfare and peace and quiet of the Town of Chester and its residents.

**§ 98-29.F(4)(a) - Ingress and Egress** – The use of “to the greatest extent practicable” in the proposed law would not substantially burden the practice of their religion because it allows the Planning Board flexibility to waive the requirement if it can not be fulfilled. Towns have the right to reasonably regulate ingress and egress to religious facilities. See Pine Knolls Alliance Church v. Zoning Board of Appeals of Town of Moreau, 5 N.Y.3d 407412-414 (2005).

**§ 98-29(F)(4)(g) – Parking Requirements** – If there is not enough onsite parking, then people will be parking on the streets in residential areas.

- Only one parking space per five seats is probably not enough. This would assume that five people arrive in each car, which is very unlikely. It should probably be one parking space per 2 or 2.5 seats in the sanctuary, plus one for each employee.
- It is not clear where the seats are supposed to be counted. We assume that it is in the sanctuary, or whatever a particular religion calls the big room where everyone sits during services. This should be clarified.
- It should be specified that there must be sufficient parking for each additional use on the property. If there is a school, and a day-care, and a camp, and a big hall that is rented out, there should be sufficient parking for all of them. However, there could be some flexibility when the uses would not all be occurring at the same time.

**§ 98-29.F(6) - Public Water and Sewer** – same point. “To the greatest extent practicable” is very flexible and there is no need to remove the preference for public water and sewer.

**§ 98-29.F(9) - Schools of General Instruction** – The proposal does not prohibit religious schools, and there is nothing unreasonable about making a religious school meet certain minimum standards which are the same as the standards for other schools.

### **The Town of Chester Zoning Map amendment –**

The zoning change of several properties along Lake Station Road is consistent with the goals of the Comprehensive Plan as result of thorough review of the public’s vision for their future. Chester is experiencing a surge in warehouse development. Several large-scale projects are underway, prompting increased scrutiny of traffic, zoning, and environmental impact. The zoning change is a step in balancing industrial growth with residential quality of life.

The VA Lake Station Holdings LLC warehouse proposal has sparked debate due to its planned access via Lake Station Road, a predominantly residential area, contrasting with the more community-sensitive approach taken by Davidson Drive Holdings that rerouted access. Presumably the applicant was aware of this situation prior to submitting an application given the statements in the affidavit and contracting the same engineer. However, he proceeded at his own risk when being made aware that the Town was updating their comprehensive plan and a building moratorium was eminent.

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Although not central to this review, the Town should be concerned by the owner's assertion that he was advised to delay submitting his application until the Davidson Drive Holdings project was completed (see page 2, item 9). This raises two significant issues:

1. Whether this direction came from the Planning Board and they knowingly engaged in a segmented review of the Davidson Drive Holdings application, which could undermine the integrity of the review process.
2. Whether the engineer—who represents both the VA Lake Station Holdings and Davidson Drive projects—failed to inform his client of the Town's established position restricting industrial access via Lake Station Road and/or withheld information from the Planning Board.

Ultimately, zoning is a legislative function of local government, and municipalities possess broad discretion to amend zoning ordinances in response to evolving community needs, environmental priorities, or long-term planning objectives. Generally, an applicant does not acquire vested rights unless a valid building permit has been issued, substantial construction has commenced, or preliminary approval has been secured. To the best of our knowledge, VA Lake Station Holdings has not met any of these criteria. At the end of the day, it is our opinion that the zoning change does not preclude the owner of the property from realizing a reasonable return on their investment with the allowable uses in the new designation.

We hope this letter offers constructive contributions that align with and enhance your planning and zoning initiatives.

Respectfully,



Tracy Schuh  
President TPC, Inc.

Cc: Chester Comprehensive Plan Committee Chair  
Chester Planning Board Chair  
Orange County Planning Dept Commissioner