

**MINUTES**  
**Freeport Project Review Board**  
**Freeport Town Hall Council Chambers - 30 Main Street**  
**Wednesday, March 20, 2024**  
**6:00 p.m.**

**Attending:** Linda Berger, Lynn Hamlen, Fred Madeira, Chair Ford Reiche, Tod Yankee and Town Planner Caroline Pelletier

**Excused:** Jason Donahue

**Late:** James Monteleone (arrived at 6:10 p.m.)

Chair Reiche called the meeting to order at 6:06 p.m. and mentioned the Board has a quorum. Jason Donahue is excused this evening and we are expecting Jim Monteleone momentarily. He asked Ms. Pelletier to provide the Information Exchange.

**ITEM I:** Information Exchange

1) Update on topics reviewed by the Planning Board

Ms. Pelletier advised that the Planning Board continues to be busy. They are spending quite a bit of time of their meetings talking about the first draft of the Comprehensive Plan Chapters. There are about ten chapters that they are going through. Again, they are working with North Star Planning and they are planning an initial draft. These are inventory chapters which are part of what is required in state law. They are doing a first round of drafting and Staff is reviewing it and providing comments. They are making edits. We have a round that is going out to the Planning Board for review and questions. They are making additional edits and these will be posted on a new website for the Freeport Comprehensive Plan, Future of Freeport. She e-mailed it to everyone but it can also be found under Municipal News. We will be posting the draft and inventory chapters on line for people to review and comment. If you are involved with a stakeholder group such as another Board or Committee, they will soon be spamming you with stakeholder outreach and trying to see if you will review and comment on the draft inventory chapters as they try to get them to reflect current trends in data for Freeport. Once we get the chapters drafted, we can kind of see what our baseline is and we will start building upon that adding observations and trends. We will work on goal setting; the Vision Statement and we will have a series of public workshops. At this point, it looks like our first public workshop will be in June. In the meantime, the Planning Board typically has reviewed chapters on the first Wednesday of every month. If anyone wants to tune in this month of April, they will be looking at the Housing Chapter which is drawing a lot of interest so feel free to tune in and listen to that conversation.

In other news, the Planning Board had a directive from the Town Council to re-examine the food truck standards. We had a local business that wanted to try a food truck park. There was not a way to do that in the temporary nature of our current ordinance so they did recommend some amendments to the Zoning Ordinance to allow that to happen. That is at the Council level to review.

The Planning Board also talked about building heights. When we talked about the Downtown Vision Plan, we also talked about building heights in the VC-I and how for residential uses of which we said we wanted to see more, particularly for multi-family, we might need to consider going higher. We changed some other standards to try to encourage units in the village but we have yet to see them. One common theme from among property owners calling or people interested in buying property and calling, is that the overall height limit of 45 feet is not

an issue but the three stories is a limiting factor. A lot of people are looking to put parking underneath and that would not be exempt so we brought the idea to the Planning Board to see if they would be willing to look at the height in the VC-I and simply strike stories but keep the overall height of 45 feet. We all know we still have Design Review which we will talk about in a minute, but we did make some adjustments to Design Review as you are aware so at least now, if an application comes before you, you have a defined radius of compatibility that you are looking at. The Planning Board will have a hearing on that at the first April meeting. If that is recommended, it will go to the Council for review and discussion.

2) Update on Design Review Ordinance Update RFP

Ms. Pelletier mentioned with fingers crossed, the RFP will go out tomorrow or on Monday. It had been circulated to Chairs and the Manager for review and comment. She has gotten comments back so that would be for a complete update of the Design Review Ordinance. The Planning Board will be the primary driver but there will be opportunities for the Central Core Working Group and the Project Review Board to participate in that process and offer some feedback.

3) Update on the Town of Freeport Climate Action Plan

Ms. Pelletier advised that the Climate Action Plan is coming into the final phases of the project. The Council she believes will be seeing it for the first time in early April and will be having a workshop and will be at a point where they can consider adoption.

4) Update on the Freeport Comprehensive Plan

Ms. Pelletier mentioned that she provided an update on the Comp Plan under the Planning Board topics so she added a No. 5.

5) Ms. Pelletier advised that before the year started, we talked about the desire to go to all digital and get rid of paper materials. That is something being talked at Town Hall and to budget for the next coming year with the possibility that the Project Review Board being the first one to go all digital. She mentioned her office is swimming in paper because she gets 12 copies of everything in various sizes and feels we are wasting a lot of paper. It seems like there would be an opportunity to streamline the submission and review process if we condensed it. What we are looking at, which would require an Ordinance amendment, is potentially going to all digital. However, because we have retention rules under state law, we would still be getting one or two paper copies possibly that we would have at Town Hall so people could come by and look at them because some people, like her, like paper, especially if we are scaling stuff off but otherwise, copies to the Board would be digital. The questions she has for the Board, which she is not going to ask right now but wants you to e-mail her directly for planning purposes, is to make this work, 1) does everyone have access to Internet at their house? If you don't, that is fine because there are ways we can make it work. We can have you bring your device in or we can give you a flash drive to transmit. 2) Does each Board member have a device that they are comfortable bringing to each meeting or if they don't, she would need to know that and we would be looking at budgeting for devices that you could use for solely PRB purposes in a meeting room and at home to review. Or, knowing we are going that way and you would prefer to not use your personal device, you would prefer to use a Town device, we would want to know that. She asked that the Board e-mail her with answers to those questions directly so she could use them for planning purposes.

Ms. Hamlen asked if the applicants would be submitting their materials digitally? Ms. Pelletier advised that the applicants are already submitting digitally and in paper. Right now, we are keeping two records of everything and it is a lot of work. She thinks this will streamline things for applicants and again, we will have a paper copy. Legally we still need to retain a paper copy but we will be reducing the number of paper copies significantly. Mr. Yankee asked if retaining a paper copy is a town ordinance or a state requirement? Ms. Pelletier advised that it

is partly a state requirement. Mr. Yankee asked if that would be changing fairly soon? Ms. Pelletier hopes so but she doesn't know. For their own purposes, they retain everything identically in paper and digital. If the state would allow us to go digitally, that would be the preference. They got rid of their file cabinets and have big issues with storage of paper. All of their stuff has been digitized to date and is off site. If anyone comes in to see stuff, she has active projects on paper but anything in the past, is all digital viewed on a computer terminal.

Mr. Monteleone apologized for being late and noted that it can be a challenge to get out of work on time. The one issue he is interested with paper is the large-scale plans. Those can be really difficult to view on line. He asked if Ms. Pelletier is able to print them on large scale? She mentioned they have the ability to print them large scale but not very efficiently. She mentioned that tonight the Board has a very large plan set and she would not have the means to print that full size for every Board member. She envisions getting a full-size paper plan set that people could come in and look at. Mr. Monteleone advised that he feels it is significantly easier to read the full-sized plans than a scanned version of the plans. If we are receiving native pdf versions rather than scanned versions of the full true plan, that would resolve many of those issues.

Ms. Pelletier explained that when we have a small applicant like a homeowner who is doing it themselves, they often don't have scanning ability so we will scan them and the quality even when you zoom in, you can't read what is on the plan. Ms. Berger noted it is not exactly accurate when you have pdf or copied versions. Ms. Hamlen asked if applicants are continuing to give Ms. Pelletier 12 copies? Ms. Pelletier advised that they are because that is what is written in the Ordinance and explained what is done with the 12 different copies. If we go digital, we would be eliminating that requirement.

For the record, Ms. Berger is opposed to it. She likes to have the paper and to be able to look at a full scale and do her own moving around with it. She noted she would probably reach out to Ms. Pelletier to figure out what can be done. She would appreciate it if we held implementing this for the PRB until the end of everyone else's time but she knows it is a problem. Ms. Pelletier advised that Chair Reiche had hoped we could do this by January. At this point, we are budgeting so everyone has a device they can use and we are amending the Ordinance so we will be looking at a July 1 start date. Mr. Yankee commended the Town for doing this. He feels it is the right way to go. Chair Reiche added that it won't be without its wrinkles. Mr. Madeira supports this. Share Point is great but we need to make sure everything is in Share Point. Ms. Pelletier added that when they send out packets, they transmit them via Share Point but quite often they will get supplemental stuff in or different things and we make sure the Board sees them. They keep another record here and they definitely need to find a way to streamline. She would be happy to put this on the next agenda if the Board wants to think about it and in the meantime, everyone can e-mail her with their preferences and we can see where we are at and hearing the feedback or concerns would be great to see if there are ways to accommodate that knowing that the ultimate goal is to try to minimize the sea of paper and every time we get a revision, we are getting all these things full time and it is a lot of work and a lot of paper.

Mr. Yankee asked if the Town has consulted with a Document Management Consultant? Ms. Pelletier advised that they have a document management company that they use to scan all of their paperwork and they are still in the process of getting it all saved entirely. They are not hosting that in a formal document management system in a cloud at this time. Mr. Yankee feels it may be something worthwhile doing because large corporations do that and the public will be able to access that information as well. Ms. Pelletier noted that people still come in and look at paper copies so that is an important component even if we don't have to retain them. They are updating the website too. She will put this on the agenda for next month.

Chair Reiche advised that the Town Clerk has asked if we want to appear before the Council to raise issues that are of concern to us and hear anything they want to share with us. He is not aware of any issues they want to

raise with us. He asked if any Board member wants to bring up anything? Ms. Hamlen mentioned the Working Group that worked on Design Review and asked if the Council went over it and if they were happy with the changes? Ms. Pelletier advised that it has been adopted so she would say yes. They are putting out an RFP for further updates. The Board has 15 minutes so knowing that some members of this Board worked with the Central Core Working Group, they were working on Design Review and we are going to have an RFP out for Design Review. We are also going to apply for a grant to further overhaul the Subdivision Site Plan regulations to further streamline the process and update the standards with that marking component so she thinks there are definitely things the Board could talk about with the Council. She feels the Board has had an interesting year so you could definitely occupy 15 minutes and at least share your thoughts on some of the ordinance updates that we have talked about. If there are things the Board feels you need from the Council, it would be a good opportunity to share. Chair Reiche requested that Board members share their thoughts because the Council meeting is scheduled for April 20.

Ms. Berger mentioned that at last night's Council meeting, the Housing Committee presented their plans for what can be done. She would like to suggest that when that happens, they create a joint meeting so we can look into what they are talking about as it affects what we do rather than something going directly to the Town Council for their review. We should be able to have that look before it moves on to a higher level of approval. Ms. Pelletier agreed that this Board should have a role in that.

**ITEM II:** Review of the minutes from the February 21, 2024 Project Review Board meeting.

Mr. Madeira referred to page 2, 5<sup>th</sup> line down, he feels it is meant to be a Design Review RFP, not overhaul. There was consensus to make the change.

**MOVED AND SECONDED:** To approve the minutes from the February 21, 2024, Project Review Board meeting as amended. (Reiche & Madeira) **VOTE:** (5 Yes) (1 Abstention: Hamlen) (1 Excused: Donahue) (0 No)

Chair Reiche explained that coming up on the agenda the Board may give final approval to the Harraseeket Ridge Subdivision followed by one presenter for a shoreland stabilization and then another presenter for a package of five related shoreland stabilization projects.

**ITEM III:** Tabled Items

**Harraseeket Ridge Subdivision- Final Review - Subdivision Application**

The applicant is presenting Final Subdivision Plans for an 80-unit residential open space subdivision on a vacant parcel (approximately 90 acres) on US Route One North. Forty duplex structures and two new road entrances off US Route One are proposed. Approximately 43 acres of open space will be required. The Board may choose to take action on the final plans as a public hearing was held at the April 2022 Project Review Board meeting. Zoning District: Medium Density A (MD-A). Tax Assessor Map 18, Lot 16 (0 US Route One). Beta Zeta Properties, LLC, applicant and owner; Thomas Perkins, representative.

Ms. Pelletier pointed out that it is up to 45 acres being set aside for open space. The Board has talked about this project for three years but in a while. In 2021 the applicant came to the Board with an application for 80 dwelling units, 40 duplex structures on private roads with open space so it is an open space subdivision. She recalled the hot site walk and it was a big site. They did the site walk and the Board granted that the conceptual process was complete. In 2022 they obtained their preliminary approval and had conditions. One of the conditions required by the Ordinance is Site Location of Development Permit. They just got this permit last week so they were before the Board for concept in 2021 and for preliminary in 2022. They had come to

the Board two more times for extensions for the time between preliminary approval being granted and final approval being granted. They are back before the Board tonight with their Site Location Permit in hand trying to get approval. The last time they were here we talked about the wells and septic systems. We have seen a couple of different varieties as the project progressed but at preliminary review, they brought forward the idea of three community wells which are regulated by the State of Maine as community well suppliers and they have a bunch of shared septs. By bunch, she means in this case, they have 16 shared septic systems that would be serving the 80 units. The Board asked for this to be peer reviewed and it was completed with a lot of back and forth and she will get into that in a minute. We talked about wetlands and vernal pools in the past and they are all shown on the plan. There was one significant vernal pool and they did incorporate that into the open space.

As with any subdivision, they reached out to outside agencies to obtain letters on things like impact to wildlife, impact to natural areas, tribal areas and historic resources. Those letters all came back with little concern. The last couple of big pieces of this: 1) would be the road. We had this situation when we reviewed the apartments on Desert Road. We have this situation where we have a piece of land with all of the units on that piece of land. They have the area and they are meeting the road frontage requirement on U.S. Route One. Under the Subdivision Ordinance, you either have a road or a driveway. A driveway does not have the same standards and it only serves two units so they have no option but to design this other road unless the Board granted a waiver which they did not do in this case. They designed a private road system and actually built to a higher standard than the Subdivision Ordinance requires. The Subdivision Ordinance requires 18' and they built a 24' paved road with a pedestrian way or a way for other transportation 4' wide on the side.

One of the things that came up after preliminary going back and forth or just got flagged at this point, when they brought the final plans in, the roads are not within a right-of-way. In this case, because they are all on one lot under common ownership, and they don't have individual lots that meet frontage which would thereby require a right-of-way, to Staff it makes sense. When we had this issue with another project that was under common ownership, the legal advice from the Attorney was that it did make sense because it would be giving a right-of-way to themselves because they have the legal provisions that all the lands and all the improvements would be owned by the association. In this case, these roads are not located in rights-of-ways so they would need a waiver. We typically have the waiver requests much earlier in the process but in this case, it came up later. Because it is not in the right-of-way, we have another standard that says the road has to be located to the greatest extent possible, in the center of the right-of-way. That is the second waiver that is drafted here for consideration tonight. Staff does not have concern about it including her and the Codes Officer. She did confirm it with the Engineer. The only thing the Codes Officer asked is that if there is no right-of-way, we have certain monumentation requirements so with that and the fact that the surveyor had a note on the survey, his request is the actual physical location of the road be laid out on the face of the earth by a surveyor so we did put that as a proposed condition of approval.

As far as traffic studies, Mr. Bliss reviewed them and commented and the Board previously talked about them. There were no concerns. They did get driveway entrance permits from the MDOT because this is a state road. We did have all legal documents submitted and they were reviewed by the Town Attorney. They were included in the Board's packets and included any changes that Drummond Woodsum had suggested.

Ms. Pelletier asked if there are any questions on the road before she went on? There were no questions raised.

Ms. Pelletier advised that plans for Stormwater Management and Erosion Control were submitted and reviewed by Adam Bliss. He did put a memo in the packets. He recommends that the applicant enter into a

Stormwater Maintenance Agreement to be recorded in the Registry with a yearly reporting to the Town of Freeport. That is pretty standard. Again, they did get a Site Location Permit from the DEP. As Part of that approval, there are some buffers required. You will note that on the recording plat there were some buffers shown and there are some notes regarding buffers. DEP also has their own maintenance and reporting requirements. For open space, they talked about this in the past but they did come to an agreement with the Freeport Conservation Trust. There is a memorandum of understanding and the draft deed included in the packet. They do intend to transfer the 45 acres to the Conservation Trust. The Trust has reviewed those documents and is willing to accept the land.

They did include cost estimates for the project and they did note a phasing plan. They did not ask for any special timing on the phasing plan so the assumption is they are going to phase it which is fine from a financial standpoint and permitting performance guarantees and inspection accounts, the assumption is they will meet that threshold of substantial completion within the timeframe allotted by the Ordinance. This brings us to the wells and septics. Again, we talked about how they are going to have three community wells that would have to be approved by the state. They got a preliminary approval letter from the Department of Health and Human Services noting what they need to do to get final. We then got a subsequent letter from DHHS and these were both included in the Board's packet, noting that DHHS was going to require that a well to be drilled and some testing as part of the final approval process. They will have regular recording requirements to DHHS, she believes it is monthly, reporting on water quality. They did include provisions in the legal documents to ensure that that happens.

The other issue is the number of septic systems. We did have some back and forth with this. It has been reviewed internally by the Codes Officer. We did reach out to the state to make sure there were no concerns for minimum lot size. There are 16 shared systems. They did do a nitrate assessment which the Board required. All that information was submitted to Matthew Reynolds of Drumlin Environmental, LLC., the Town's peer reviewer and it was peer reviewed. There were some concerns noted by the peer reviewer. One of the concerns is that the Subdivision Ordinance has a more stringent requirement for the allowable level of nitrates at the property line. These are all calculations and assumptions, so there are some different ways to do it. Our peer reviewer did not like the way they did it for a couple of fields so as a remedy for that was for some specific leach fields to require a special treatment system when the fields are installed and that would remedy the situation. The details were all included in the memo but the Board has a condition of approval here regarding those specific fields that would require that special treatment and a note is on the plan.

One of the other things that came up was with the way the septics are going into wetlands, there was some concern about the level of ground water and making sure that those three wells maintain good quality and quantity over time. The Peer reviewer did have some concerns about that. He felt one way those could be remedied was to make sure the applicant provide the Town some clear monitoring in the future so we can observe the water quantity and quality levels to make sure that everything is functioning as designed and if there are any issues, they could be observed in advance so the recommendation of the Peer reviewer is that we put five shallow monitoring wells in which is something we did in another subdivision about 20 years ago and the applicant has agreed to this. When they put the original wells in, they will put five testing wells and they will test all of those wells to get a baseline for quantity and quality with regular testing recommended by the Peer reviewer as outlined in the memo. He gave us specifics on what we should be testing for and the frequency. He thinks we should be testing once a year during the dry season so we can test the quantity of water and he suggested we maintain that testing practice of the applicant testing and giving the results to the town for an additional three years after the project is completely filled out. As with any subdivision, in the legal documents there are provisions regarding when all of this community infrastructure turns over to the HOA, that is included. She did go back to our attorney and said, hey, this is the memo we have for the peer

reviewing engineer and how do we make sure all of this is incorporated? She advised that legal docs after the Board grants approval, have to incorporate any conditions of approval so the Board has a lot of conditions tonight that were crafted to hopefully and clearly get notes on the recording plan and in the legal docs to reflect all these things we talked about to make sure that any recommendations from the Town's peer reviewer were captured by the paper trail for this. She offered to answer questions and the applicant's engineering team will be happy to answer questions as well.

Chair Reiche asked if anyone has a question for Ms. Pelletier? Ms. Berger asked when they do the monitoring of the wells and the testing, is there anywhere in the document that states what happens if they are bad and what would they then be required to do? It is one thing to make a test result but then you have to fix it. Ms. Pelletier mentioned she would let them comment on their relationship and the oversight of DHHS. From a municipal perspective, there was a letter included in the packet dated January 24 to address this concern that the applicant was agreeing that if an issue did come up, they would take measures to correct it. It is not written in the motion but if we want to make sure that happens, the Board could tie that to permits or certificates of occupancies to make sure they remedy as outlined in that letter before issuing any additional permits or certificates of occupancies. Tom can also comment on what happens if they have a bad water test with DHHS. Ms. Berger asked if it comes back and it is bad, you are saying before they give the CO, she would think there would be testing after the fact of people having moved in, then they would have gotten their CO. She wants to make sure since this is such a sensitive area where it is wet and drainage to their septic and everything is followed through. Whether they live there or not, what do you do if they live there? Ms. Pelletier advised that her point is that there are 80 units and it will take them a while to build them all out. We know we will require them to monitor the water for the length of the build out plus three years but they will monitor that water from the get go. Hopefully, when they drill a well and the quantity and the quality are great and they get started with the project. Her point was that if the test shows something early on, while they are still permitting and building out the 80 units, withholding any additional building permits until it is remedied or any certificates of occupancies is a mechanism we have to make sure they uphold the obligation they identified in that January letter. We will get to a point down the road which it mentioned it will be 75% or 70% where everything gets turned over to the HOA so people buying into these just like any other private development with a privately owned infrastructure, they have legal obligations they are inheriting and taking on when they purchase these lots. She added that the HOA will contract with someone to be doing regular testing of the wells. One of the other things the peer reviewer said was we could look at requiring or allowing them to put a well in the open space if required. We do allow wells and septs in open space. They do have additional back land in this case. The majority of the open space they are proposing to transfer to the Conservation Trust. She does not know if that is a legal right they are retaining.

Chair Reiche added that it is his understanding that the developer should continue its obligations until the responsibilities for the new water supply is turned over to the HOA. Remedying problems and paying for the peer review after approval is an obligation of the developer. He asked Mr. Perkins if this was his understanding and Mr. Perkins agreed that it is. Chair Reiche pointed out that Mr. Perkins mentioned that it is three years for this project. In his opinion, it is because of the pace that the applicant has had to operate at because of state review and everything else. He does not want to create the impression that the Board was responsible for the full three years. Ms. Pelletier added that the Board contributed to that although they did work a lot with our peer reviewer to get their final materials to a point that everyone was comfortable with. Before this came to the Board, we had a meeting to go over Matt's comments with our engineer, our peer reviewer, the Town Manager and the whole team to make sure we were bringing the Board a complete package the peer reviewer was comfortable with. They did work a lot while they were waiting for a Site Location to get this to a point that they thought would meet all the requirements of the Ordinance. Chair Reiche thanked Mr. Perkins for his

accommodation working with the peer reviewer. It has gotten us to a high level of comfort.

Mr. Perkins advised that the monthly water testing, even in a perfect world, because it is a community well, it would have to be done by a third-party licensed operator with obligations otherwise to report open and transparently to not only the Homeowners Association but the state's Drinking Water Program as well. They feel that the ordinary wells are going to give them really good early detection if they do have an issue. Because of where they are located, they can apply the same sort of advanced filtration on where they will be able to pinpoint where perhaps a septic system is that is causing the nitrate and be able to retro fit that septic system if it proves to be problematic. Those five monitoring wells will give them an early indication before there is a problem at an elevated level.

Chair Reiche advised that the Board has already had a public hearing as required by the Ordinance but if anybody would like to ask questions or make comments, please come up to the microphone.

Ms. Hamlen mentioned that when we were talking about the open space long before the Conservation Trust came into it, there was some discussion of trails. She asked if Mr. Perkins knew they would keep it as pristine as it is or whether they would be putting in trails? Mr. Perkins believes they will be putting in trails because they have the trailhead in the parking lot and they found out through the survey that some of the trails meander onto the open space now as it is. The trails would be open to the public. Ms. Pelletier explained that the legal docs have to clarify that they reflect the open space requirements of the Ordinance and it was incorporated into the documents. We don't require public trails or anything like that but it outlines what they can do in that area.

Carrie Kenny from the Freeport Conservation Trust explained that this abuts a currently existing conserved land so public access will be through the parking lot right off Route One that goes through the Simpson Preserve. This will be expanding Simpson Preserve already. As mentioned, there are a lot of wetlands in there so where we can put the trail or potential extension of trails is a little tricky but they will work on that but it is wet back there. She added it will be open to the public.

Mr. Madeira asked if the Fire Chief has reviewed the fire protection plan? Ms. Pelletier advised that he reviewed it during the preliminary and they had the fire truck radius for the ladder truck and worked it into their plans. There is a note on the plan requiring that they have individual sprinkler systems and a tank in the basement. It is required under our Ordinance. She added that the point of the sprinkler system is to save lives, not structures.

Ms. Pelletier advised Chair Reiche that one thing he said was about the testing, there was a condition that they be reviewed by the town but not reviewed by the peer reviewer at the expense of the applicant so if that is something he feels the Board should consider requiring, that is something he would want to add as a condition. Chair Reiche feels it is important if we are going to be doing testing, we ought to receive a copy of it and we ought to be able to turn it over to somebody that can interpret it for us and at the applicant's expense which is normal. He asked Mr. Perkins if there is any problem with that if the Board adds it as an additional condition? Mr. Perkins advised that he did not see any problem.

Chair Reiche asked if the applicant plans to phase construction? Mr. Perkins advised that that is the plan. Chair Reiche asked if Mr. Perkins knows he has a certain deadline for completion or he would have to come back to the Board? Mr. Perkins noted he is aware of this and explained the line that shows their phased delineation that creates that loop and they will be in and out from day one. The start time is to be determined but is hoping tomorrow but it will be beyond that.



Mr. Monteleone had a question about the extended testing period. He noted that they are going to test throughout construction of the entire two-phased development and continue the testing requirement for three years after the complete development is built. What provisions are there in terms of enforcement if we get a bad test anywhere in that process? Is there some obligation that is then imposed that has to be remedied? Ms. Pelletier added that this was Ms. Berger's point. She thinks that if that is a concern of the Board after hearing the applicant talk tonight and knowing that in the Board's packet, they have a letter outlining what they would do. For example, he said they could go in and add pre-treatment or add well casings. She thinks the Board should add in a condition to reference that commitment to doing that. Mr. Monteleone wants to make sure that yes, there are things that can be done but we want to be clear that there is an obligation to do those things even after 30 units were constructed. Ms. Pelletier added that if the Board wants to reference that and put that commitment in writing, the Board would acknowledge that and if there is an issue identified, we would not issue any additional building permits or any certificates of occupancies until they remedied that issue as they agreed to in writing in that letter. It would be an issue anyway if there is a water quality issue because it is a standard they would have show that they have potable water for each of the units. They really have no choice because if they do not have good water quality, they will not be able to get a certificate of occupancy. More discussion followed. She feels it might make more sense to tie it to the infrastructure completely including the top coat of pavement on the landscaping because they are not finish that road and a top coat of pavement until they have constructed a high number of units. That is a good point we might want to tweak here. In another three years, she hopes we will see good quality and at that point it will default to their obligation of being a licensed public water supplier by DHHS.

Mr. Perkins mentioned Item 4 in Drumlin's memo speaks to what happens in the future and the obligation is transferred to either the applicant while it is under construction or the Homeowner's Association and the current conditions of approval letter proposed do tie them to this memo. To the extent that the Board would want to strengthen that, feel free but to say that it is silent, it is covered in a sense.

Chair Reiche added that he talked to the Codes Enforcement Officer about this issue trying to make sure that the developer is responsible to correct problems if the water testing over those three years presents a problem. His understanding is that we have that in place in the documents but more importantly, we have it because the state supervises this and is involved in forcing corrections to problems. Mr. Yankee asked if the testing includes radon mitigation? Ms. Pelletier did not know if DHHS testing requires that. It was not one of the items specified by our peer reviewer. Mr. Yankee feels it can get to be expensive treating well water for radon and it is not unusual in Freeport. Mr. Perkins did not know if that is something DHHS is requiring. He would have to ask them.

Chair Reiche mentioned that it would clarify from the Board's perspective and he suspects Mr. Perkins is already responsible for this, but if we add an additional provision related to water monitoring over a period beyond approval, saying correction of a problem that services as to quality or quantity is a developer's responsibility to fix until the responsibility is turned over to the Homeowner's Association. Mr. Perkins noted he is fine with that. Mr. Monteleone noted he has a bit of concern with that. In other cases, he has seen where handing over control to an association board and walks away. The new board has no funds so if something significant happens six months in, there is no money to pay for it because the developer effectively sold enough units to be out and not be on the hook.

Ms. Pelletier feels this is a different situation but when you buy into a subdivision, you are buying into a lot of cases, particularly in Freeport, many private features. We do not accept town roads so you are always buying into a town road. We could be in a situation for so many things forever. In the case of the monitoring, where

we know that the recommendation of monitoring three years past complete build out should really be tied to the site improvements. One thing we can do, which we haven't done yet, but for the additional three years beyond that, we could work with the applicant and the peer reviewer to come up with a dollar number to keep a performance guarantee on file so that if there is a situation, one of the mechanisms that the applicant agreed to whether it be for the 12 or 13 systems that are left that don't have pretreatment to cover the cost of that or to cover the cost of the extended well pipe. That would be a mechanism that we could add on there. She has not done this before but the Board can always do reasonable conditions and we do performance guarantees for all sorts of things such as landscaping. She does not know what a dollar value should be and doesn't know if it is something the applicant is open to. If they were, it is something they could provide some numbers and we could come up with a number with the peer reviewer. Mr. Monteleone pointed out that the peer reviewer in the Drumlin report recommended that a contingency be set aside to address potential future siting and he did not see it in the proposed findings. He read what the letter said into the public record. Ms. Pelletier pointed out that this is referencing the applicant's January 4<sup>th</sup> letter. The Board could do the financial guarantee for the extra three years. The other thing is the provision that they could put it in the open space. We would allow that, but in this case, they are not retaining all of that open space. The only open space they are retaining is the land area at the back of the lots on the other side of the buffer. They are owning that as common land so the other way this is set up is that they cannot make any changes to any wells or septic without coming back to you with an updated hydrogeologic assessment but that is something that would be allowed in the back area. It sounds like from what Tom has said before, it is not a right to retain the open space they were proposing to transfer but realistically speaking, she does not know if the other 45 acres is really an option. She asked Mr. Perkins if he knows how much acreage they are retaining in the back? He feels it is 11 or 12 acres.

Ms. Berger asked if the Homeowner's Agreement was legally reviewed and if it includes all of these things we are talking about such as the responsibilities of the homeowners? Ms. Pelletier advised that the Homeowner's Agreement was reviewed by our town attorney and the responsibilities are standards written into the Agreement and any conditions the Board puts on will need to be worked into that. The HOA document also references the recording plans which will have a lot of notes. She agrees that they can be pretty lengthy. Ms. Berger brought up the issue of abandonment. Ms. Pelletier explained that that is why we require a performance guarantee. Typically, the Board requires a performance guarantee in all these cases. Before they start Phase One, the cost of site work would be about \$4.8M. They will have to post a performance guarantee that the town could draw should they abandon the project partway. They would also do that before they start Phase Two that is estimated at \$3.9M.

Mr. Yankee mentioned while the Board was having these discussions, he was wondering if we are over regulating this. If we are going down that road, he is coming back to the radon thing because it can be devastating for a homeowner. He does not know how to work that into a condition. Ms. Pelletier advised that she is hesitant to start putting conditions on that specific thing not knowing enough about it or if it is something DHHS regulates and not being something that our peer reviewer weighed in on. She knows it is an issue in Maine and some of us have it in our homes but she doesn't know if it is something we have ever gotten into regulating. Mr. Yankee asked Mr. Perkins if he has any information on it or knows if they have tested for it? Mr. Perkins advised that they need to provide the DHHS Drinking Water Program with a fairly rigorous test before they approve their drinking water and they would gladly write that as well as the calcium, nitrates and other things they test for. Whether it has been recommended by the peer reviewer or not, they want to do the right thing.

Ms. Berger wanted to comment about Mr. Yankee's comment about over regulating. She found this subdivision when we first looked at it kind of suspect because of all the wetlands and geologic features and all

of that and we were in our rights to look very strongly at this, which we did. She thinks we have come back with lots of results and we are okay with moving on. She thinks it really needed to be looked at a little more than others. Mr. Yankee wanted to say that over regulating internally with the Homeowner's Association is why he does not agree. Ms. Pelletier advised that she is not sure about the radon and it is so common. We haven't gotten into it in other places and not knowing if it is a DHHS standard, she has concerns about this Board regulating that on the fly where it is so common in Maine. She is happy the Board required a peer review. She thinks it was a good move and it gave us an extra set of eyes. She is happy with the way the discussion ended up. The applicant has a commitment to this and when the peer reviewer recommended this, they were on board with putting these provisions in place because of the uniqueness of the site. There isn't the ability to tie into the public sewer and water system in a cost-effective manner at this time.

Chair Reiche advised that if there is a motion, he suggested a 14<sup>th</sup> condition saying: The developer shall meet with Town Staff and Peer reviewer to establish a sum in a project performance guarantee to assure correction by developer if any water quality or quantity issues arise during the monitoring period of three years from the completion of project infrastructure or according to the timeline set forth in 6.2 of the Condominium Association Declaration. More discussion followed. Mr. Perkins added that they need to have occupancy to test if they have any issues. Ms. Pelletier mentioned that if the applicant changes their mind, they would potentially want to come back to the Board to get a condition amendment because she doesn't think it is fair to have them do this for the next 30 years or until they build the last unit.

Ms. Pelletier suggested adding an additional condition. Chair Reiche asked her to compose her condition while he worked on No. 14.

Mr. Yankee pointed out that he plans to abstain because of the radon issue.

**Proposed Findings of Fact:** This project requires subdivision approval. A draft version of proposed findings for each standard is presented here for Board review, consideration and deliberation. Since the findings of fact for any project are findings of the Board, these draft findings can be altered at the meeting as appropriate:

## **Findings of Fact – Freeport Subdivision Ordinance:**

### **11.1 Pollution**

#### **A. State Standard**

**Pollution.** The proposed subdivision will not result in undue water or air pollution. In making the determination, the Board shall at least consider:

1. The elevation of the land above sea level and its relation to the floodplains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents; and
5. The applicable state and local health and water resources rules and regulations.

*No floodplains have been identified on the recording plat. The applicant completed an inventory and analysis for the site, and wetlands have been incorporated into the open space to the greatest extent possible. The significant vernal pool has also been incorporated into the open space. The location of passing test pits have been shown on the recording plan.*

*Wells will be provided through three community wells which will be regulated by the State of Maine – Department of Health and Human Services. A letter of preliminary approval was granted from DHHS on 8/8/23 and 10/20/23; final approval from DHHS will be required once the wells are drilled and before they are put*

online. Subsurface wastewater disposal will be provided through shared septic systems which will serve from two to five dwelling units each. A ground water narrative was generated by Scott Dixon, PE, CG, LSE from Main-Land Consultants. He also generated a narrative on wastewater disposal, including a nitrate-nitrogen assessment and nitrate plume plan (submission date 04/11/23). The wastewater analysis and nitrate assessment we all based on septic systems designed to serve two-bedroom dwelling units. Septic systems and well locations must be shown as reflected on this plan sheet. The plans for the shared wells, septic test pit information and the nitrate analysis we submitted by the applicant and as request by the Board were peer reviewed by Matthew D. Reynolds, L.G, P.E. Drumlin Environmental, LLC. His comments and recommendations are included in a memo dated February 20, 2024 (attached). Based upon this information, the Board finds that this standard has been met.

## **11.2 Sufficient Water**

### **A. State Standard**

**Sufficient water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

*Wells will be provided through three community wells (as shown on Sheet C4.1 of the final plan set – Utilities Plan). These wells will be regulated by the State of Maine – Department of Health and Human Services. A letter of preliminary approval was granted from DHHS on 8/8/23 for the three drinking water wells to serve the development. As outlined in the letters, final approval from DHHS will be required once the wells are drilled and before they are put online as additional forms will be required to be submitted to the State and the applicant will need to confirm that the wells meet the requirements for water quality and quantity. DHHS issued a supplemental letter dated 10/20/23, clarifying that “Due to the site setting and heavy wastewater loading, by this letter the DWP amends the preliminary approval for the Harraseeket Ridge Development to require a pumping test, which will include documentation of potential well interference, and any potential hydraulic connection between the pumping wells and groundwater in the shallow overburden. Please submit a pumping test work plan to me for review and approval prior to initiating the pumping test.” At the recommendation of Matthew D. Reynolds, L.G, P.E., Drumlin Environmental, LLC, the peer reviewer for the Town, the applicant will be installing shallow monitoring wells to monitor both water quantity and water quality (see memo dated February 20, 2024). Based upon this information, the Board finds that this standard has been met.*

## **11.3 Impact on Existing Water Supplies**

### **A. State Standard**

**Municipal water supply.** The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

*No connections to the public water supply are proposed. Wells will be provided through three community wells (as shown on Sheet C4.1 of the final plan set – Utilities Plan). These wells will be regulated by the State of Maine – Department of Health and Human Services. Based upon this information, the Board finds that this standard has been met.*

## **11.4 Soil Erosion**

### **A. State Standard**

**Erosion.** The proposed subdivision will not cause unreasonable sedimentation or a reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results.

*Erosion And Sedimentation Control, dated 12/2021, and prepared by BH2M was included in the submission and*

*reviewed and approved by the Town Engineer (see memo dated 03/13/24) for compliance with municipal ordinance requirements. A Site Location of Development Permit was issued 03/13/24 by the Maine Department of Environmental Protection; a copy of that permit was included in the final submission. In association with the requirement of permitting from the Maine Department of Environmental Protection (DEP), a Restricted Buffer area has been incorporated into the plans as part of the Stormwater Management System. These buffers are shown on the recording plan and per DEP permitting, must remain undeveloped in perpetuity. Based upon this information, the Board finds that this standard has been met.*

## **11.5 Traffic Conditions**

### **A. State Standards**

**Traffic.** The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.

*Road plans have been submitted and reviewed and approved by the Town Engineer (see memo dated 03/13/24). The road has been designed to be 24 feet in width which is beyond the requirement of the Freeport Subdivision Ordinance. The Engineer's memo states, "The proposed access drives have been designed in compliance with Section 11.5 of the Subdivision Ordinance and Section 512 of the Zoning Ordinance." The exception to this is that the road has not been designed in a right-of-way (required per Article 11, Table 11.5.1) and therefore the road also does not meet the following standard "To the extent possible, the centerline of the roadway shall be the centerline of the right-of-way (required by Article 11.5.C.2.i.6). Waivers were requested and granted by the Board at the 03/20/2024 meeting.*

*VHB completed a review of traffic conditions from the site and in a memo dated 03/10/22, determined that the project would not trigger the threshold (of 100 peak hour trips) and would therefore not require a Traffic Movement Permit from the State of Maine. In a letter dated 09/09/22, that Maine Department of Transportation noted their agreement with that determination, that a Traffic Movement Permit would not be required. VHB issued a supplemental memo dated 05/12/2022 demonstrating how the plan complies with the standards of the Freeport Subdivision Ordinance. A Driveway Entrance Permit from the Maine Department of Transportation was granted on 06/27/2022 with a copy included in the preliminary submission.*

*Per the Engineer's memo "The submitted Traffic Movement Study complies with traffic performance standards in Section 11.5.A and B of the Subdivision Ordinance and Section 512 of the Zoning Ordinance. A Maine DOT Traffic Movement Permit is not required since the peak hour vehicle trips are far below the 100-trip threshold. The required site distances exceed Maine DOT's and the Town's standards in this Maine DOT-maintained stretch of U.S. Route One North." Based upon this information, the Board finds that this standard has been met.*

## **11.6 Sewage Disposal**

### **A. State Standards**

**Sewage disposal.** The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

*Subsurface wastewater disposal will be provided through shared septic systems which will serve from two to five dwelling units each. A ground water narrative was generated by Scott Dixon, PE, CG, LSE from Main-Land Consultants. He also generated a narrative on wastewater disposal, including a nitrate-nitrogen assessment and nitrate plume plan (submission date 04/11/23). The wastewater analysis and nitrate assessment were all based on septic systems designed to serve two-bedroom dwelling units; a note indicating this has been added to the recording plat and as a suggested condition of approval. Septic systems and well locations must be shown as*

*reflected on this plan sheet and any changes to the location of any septic systems must be reviewed and approved by the Board, with an updated hydrogeologic plans also being submitted and peer reviewed by the Town's peer reviewer.*

*This plan has been reviewed by the Local Plumbing Inspector under Maine's Minimum Lot Size Law which requires 31,999 square feet of lot area per duplex, which reflects a total of four bedrooms (two per unit). No additional bedrooms will be permitted in any of the units.*

*The plans for the shared wells, septic test pit information and the nitrate analysis we submitted by the applicant and as request by the Board were peer reviewed by Matthew D. Reynolds, L.G, P.E. Drumlin Environmental, LLC. His comments and recommendations are included in a memo dated February 20, 2024. Based upon this information, the Board finds that this standard has been met.*

### **11.7 Solid Waste**

#### **A. State Standard**

**Municipal solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.

*Each unit owner will be responsible for the disposal of solid waste in accordance with the requirements of the Freeport Solid Waste Disposal Ordinance. No dumpsters are proposed on the site. Based upon this information, the Board finds that this standard has been met.*

### **11.8 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, or Public Access to the Shoreline**

#### **A. State Standard**

**Aesthetic, cultural, and natural values.** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline.

*The parcel is not within the Shoreland Zone. In a letter dated 8/3/21, Kirk Mahoney with the Maine Historic Preservation Commission included his comments on the proposed project noting that there are "...no known National Register eligible properties on or adjacent to these parcels". A letter dated 07/27/21 from the State of Maine Department of Conservation, Agriculture and Forestry notes that "...there are no rare botanical features documented specifically within the project area...." In an email dated 08/16/21, Tribal Historic Preservation Officer from the Houlton Band of the Maliseet Indians notes "...We do not have an immediate concern with your project or project site..." In a letter dated 07/27/21, Tribal Historic Preservation Officer from the Aroostook Band of Micmacs notes "...we do not knowledge of any specific sites or cultural features that exist at the proposed project location." A letter dated 09/28/20 from US Fish and Wildlife was also included in the submission notes that the project "...is not likely to result in an unauthorized take of the northern long-eared bat". Based upon this information, the Board finds that this standard has been met.*

### **11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.**

#### **A. State Standard**

**Conformity with local ordinances and plans.** The proposed subdivision conforms with a duly adopted subdivision ordinance, zoning ordinance, floodplain ordinance, the comprehensive plan, and other ordinances included in the municipal code as appropriate. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

*The net residential acreage as shown on the recording plan demonstrates that the proposed project complies with the space and bulk standards of the Freeport Zoning Ordinance. Approximately 45.16 square feet of open space is proposed and will be given to the Freeport Conservation Trust (FCT). A Memorandum of Understanding (dated 10/03/23) and draft deed for the transfer of 45.16 acres of open space from the current owner (Beta Zeta Properties, LLC) to FCT have been included in the submission. The MOU also acknowledges an easement over two of the proposed private roads and a trail easement for an existing trail which encroaches onto the applicant's property. The use of the open space appears to comply with the requirements of Section 504A. Open Space, Expanded Open Space, And Large Lot Residential Developments of the Freeport Zoning Ordinance.*

*The Site Inventory Map, Site Analysis and Conceptual Plan was considered complete at the 09/15/21 meeting and a site walk was held on 08/11/21. The Preliminary Review began at the 4/27/22 meeting at which time the Board held a public hearing. Preliminary Approval was granted by the Project Review Board at the 08/17/22 Project Review Board meeting. Due in part to the peer review being done and that the applicant was waiting for their Site Location of Development (SLODA) permit from the Maine Department of Environmental Protection (DEP), the applicant requested and was granted extensions (7/19/23 & 12/20/23 ) by the Project Review Board for the length of time allowed between preliminary approval being granted and returning to the Board for final review.*

*Based upon this information, the Board finds that this standard has been met.*

#### **11.10 Financial and Technical Capacity**

##### **A. State Standard**

**Financial and technical capacity.** The subdivider has adequate financial and technical capacity to meet the standards of this section.

*The applicant is Beta Zeta Properties, LLC. The applicant has been represented by Thomas Perkins, PE, from Dirigo Architecture. Engineering plans for the project were completed by BH2M and Main-Land Development Consultants. The updated recording plan was stamped by Jimmy Courbroun (PLS 2532), Professional Land Surveyor. The Developers plan to construction this project in two phases. A phase line is shown on Drawing Site Plan Sheet 1. A cost estimate was included in the submission and the amount was reviewed and approved by the Town Engineer, for a total cost for Phases 1 & 2 of \$8.8 million dollars. A letter dated 05/04/2023, from Machias Saving Bank, was included in the submission reflecting their relationship with the applicant, their financial capacity and they "...look forward to the opportunity to work with the developer and help finance this project." Based upon this information, the Board finds that this standard has been met.*

#### **11.11 Impact on Water Quality or Shoreline**

##### **A. State Standard**

**Surface waters; outstanding river segments.** Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred and fifty (250) feet of any wetland, great pond, or river as defined in Title 38, Chapter 3, Subchapter I, Article 2-B<sup>1</sup>, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

*This parcel is not located within the watershed of a great pond or lake nor is it within the Shoreland Zone. Based upon this information, the Board finds that this standard has been met.*

#### **11.12 Impact on Ground Water Quality or Quantity**

**Ground water.** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

*No changes that would impact water quality or quantity are proposed. Wells will be provided through three community wells (as shown on Sheet C4.1 of the final plan set – Utilities Plan). These wells will be regulated by the State of Maine – Department of Health and Human Services. A letter of preliminary approval was granted from DHHS on 8/8/23 for the three drinking water wells to serve the development. As outlined in the letters, final approval from DHHS will be required once the wells are drilled and before they are put online as additional forms will be required to be submitted to the State and the applicant will need to confirm that the wells meet the requirements for water quality and quantity. DHHS issued a supplemental letter dated 10/20/23, clarifying that “Due to the site setting and heavy wastewater loading, by this letter the DWP amends the preliminary approval for the Harraseeket Ridge Development to require a pumping test, which will include documentation of potential well interference, and any potential hydraulic connection between the pumping wells and groundwater in the shallow overburden. Please submit a pumping test work plan to me for review and approval prior to initiating the pumping test.” At the recommendation of Matthew D. Reynolds, L.G., P.E., Drumlin Environmental, LLC, the peer reviewer for the Town, the applicant will be installing shallow monitoring wells to monitor both water quantity and water quality (see memo dated February 20, 2024). Based upon this information, the Board finds that this standard has been met. Based upon this information, the Board finds that this standard has been met.*

### **11.13 Floodplain Management**

#### **A. State Standard**

**Flood areas.** Based on the Federal Emergency Management Agency’s Flood Boundary and Floodway Maps, Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

*The land is located within Zone C, areas of minimal flood hazard, as delineated on the Flood Insurance Rate Map for the Town of Freeport, Cumberland County, community panel #230046-0010b, having an effective date of January 17, 1985. Based upon this information, the Board finds that this standard has been met.*

### **11.14 Identification of Freshwater Wetlands**

#### **A. State Standard**

**Freshwater wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

*Main-Land Development Consultants, Inc. completed a Class A High Intensity and Class C Medium Intensity Soil Survey. Copies of that report was included with the preliminary submission. Wetland delineation was also completed by Main-Land in 2020 and the location of wetlands and vernal pools have been shown on the recording plan sheets. The applicant previously submitted information on vernal pools on the site with copies of the Maine State Vernal Pool Assessment Form being included in the preliminary submission. There is a significant vernal pool identified on the site and it has been incorporated into the open space. Based upon this information, the Board finds that this standard has been met.*

### **11.15 Rivers, Streams, and Brooks**



#### A. State Standard

**River, stream or brook.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in Title 38, Section 480-B, Subsection 9.

*The location of a stream and a related buffer has been identified on the plan. Based upon this information, the Board finds that this standard has been met.*

### 11.16 Storm Water Management

#### A. State Standard

**Storm water.** The proposed subdivision will provide for adequate storm water management.

*A Stormwater Management Plan (dated 01/22, revised 03/23) and prepared by BH2M was included in the submission and reviewed and approved by the Town Engineer (see memo dated 03/13/24) for compliance with municipal standards for Stormwater Management. A Maintenance Agreement for a Stormwater Management System (to be recorded in the Cumberland County Registry of Deeds) is a suggested condition of approval.*

*Erosion And Sedimentation Control, dated 12/2021, and prepared by BH2M was included in the submission and reviewed and approved by the Town Engineer (see memo dated 03/13/24) for compliance with municipal ordinance requirements.*

*A Site Location of Development Permit was issued 03/13/24 by the Maine Department of Environmental Protection; a copy of that permit was included in the final submission. In association with the requirement of permitting from the Maine Department of Environmental Protection (DEP), a Restricted Buffer area has been incorporated into the plans as part of the Stormwater Management System. These buffers are shown on the recording plan and per DEP permitting, must remain undeveloped in perpetuity. Based upon this information, the Board finds that this standard has been met.*

### 11.17 Spaghetti Lots

**Spaghetti lots prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or coastal wetland as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than five (5) to one (1).

*No spaghetti lots are proposed. Based upon this information, the Board finds that this standard has been met.*

### 11.18 Phosphorus Impacts on Great Ponds

#### A. State Standard

**Lake phosphorus concentration.** The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond’s phosphorus concentration during the construction phase and life of the proposed subdivision.

*The development is not within the watershed of a great pond. Based upon this information, the Board finds that this standard has been met.*

### 11.19 Impacts on Adjoining Municipalities

#### A. State Standard

**Impact on adjoining municipality.** For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use

of existing public ways in an adjoining municipality in which part of the subdivision is located.

*The parcels do not abut or cross the municipal boundary. Based upon this information, the Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Subdivision Ordinance.**

**BE IT ORDERED:** that the Freeport Project Review Board grant a waiver of Article 11, Table 11.5.1 of the Freeport Subdivision Ordinance that requires a subdivision road to be located in a fifty-foot wide right of way, due to the fact that the dwelling and roads will all remain on one parcel, with the land and roads under common ownership, and the right-of-way not being required for meeting road frontage requirements for individual lots, the Board finds that the right-of-way is not required.

**BE IT FURTHER ORDERED:** that the Freeport Project Review Board grant a waiver of Article 11.5.C.2.i.6 that requires to the extent possible, the centerline of the roadway shall be the centerline of the right-of-way as no right of way is proposed and the requirement for the right-of-way has been waived by the Board. (Hamlen & Berger) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**BE IT ORDERED:** that the Freeport Project Review Board approve the printed Findings of Fact and Subdivision Plan for Beta Zeta Properties LLC for the Harraseeket Ridge Subdivision, an 80-unit Open Space Subdivision, consisting of forty duplex buildings on private roads (Tax Assessor Map 18, Lot 16), recording plat dated 1-24-24 revised through 3-20-24 to be built substantially as proposed, finding that it meets the standards of the Freeport Subdivision Ordinance and the Freeport Zoning Ordinance, with the following Conditions of Approval:

1. This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and their representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
2. Prior to the sale of any units/lots, the applicant shall provide the Town Planner with a letter from a Professional Land Surveyor, stating that all monumentation shown on the plan has been installed.
3. The applicant shall provide the Town with digital file, in a format compatible with the Assessor's records, containing the information shown on the recording plan.
4. The final signed copy of the recording plan shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date upon which the plan is signed otherwise the plan shall become null and void.
5. Prior to any site work, including but not limited to clearing of the site, and prior to the issuance of any building permits, the applicant does the following:
  - A. Enter into a Maintenance Agreement for a Stormwater Management System with the Town of Freeport, to be recorded in the Cumberland County Registry of Deeds, with yearly stormwater reporting to the Town of Freeport being required.
  - b. Establish a performance guarantee in the amount to cover the cost of all site work associated with each phase of the project, in the amount of \$4,840,000 for phase 1 and \$3,960,000 for phase 2, in a form acceptable to the Town Attorney. The performance guarantee, in accordance with Article 12.9 of the Freeport Subdivision Ordinance, shall cover the cost of all site work, including the road, erosion control, stormwater management, landscaping and demarcation of property lines, etc. Along with the performance guarantee, a Non-refundable Administrative Fee, at the rate established by the Freeport Town Council, be paid.
  - c. Establish an inspection account, in the amount of \$30,000.00, to cover the cost of

inspection of the site improvements for Phase 1 of the project by the Town of Freeport. A separate inspection account, in an amount to be determined by the Town, will need to be established prior to the start of any sitework associated with Phase 2 of the project.

d. The developer have a pre-construction meeting with the Town Planner.

The applicant submit a final copy of the updated legal documents to the Town Planner.

e. The applicant submit a final copy of the updated legal documents to the Town Planner.

f. The applicant provide the Town of Freeport with a copy of the executed deed demonstrating that the transfer of the open space to the Freeport Conservation Trust (FCT) has occurred.

- 6) Pay a Pavement Maintenance Impact Fee at the time building permits are applied for and based upon the size of the structures, the length of the subdivision roads, and the current impact fee effective at such time.
- 7) Prior to any certificate of occupancies being issued, the applicant submitted written evidence of final approval from the Maine Department of Health and Human Services for the three shared wells on the site.
- 8) The location of the proposed roads for both Phase 1 and Phase 2 of the project be established on the site by a Professional Land Surveyor prior to any Certificates of Occupancy being issued for the corresponding phase, with a letter indicating such to be submitted to the Town Planner.
- 9) In accordance with the requirements of the Freeport Subdivision Ordinance, each dwelling unit shall have an automatic sprinkler system in accordance with NFPA 13.D.
- 10) Per Article 11.12.B.1.f of the Freeport Subdivision Ordinance, Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on Sheet C4.1 of the final plan set – Utilities Plan. Any changes to the location of any septic systems and/or wells must be reviewed and approved by the Project Review Board, with an updated hydrogeologic assessment and plans also being submitted and peer reviewed by the Town's peer reviewer.
- 11) This plan has been reviewed by the Local Plumbing Inspector under Maine's Minimum Lot Size Law which requires 31,999 square feet of lot area per duplex, which reflects a total of four bedrooms per two-family dwelling (two per unit). No additional bedrooms will be permitted in any of the units.
- 12) Advanced wastewater treatment with nitrogen reducing capacity be required for leach fields L, I and H (location of fields shown on Sheet C4.1 of the final plan set – Utilities Plan).
- 13) The applicant comply with the recommendations of Town of Freeport's Peer reviewer, Matthew D. Reynolds, L.G, P.E. from Drumlin Environmental, LLC., as detailed in a memo dated February 20, 2024 (to be attached to the Notice of Decision). Including, but not limited to, the installation of some advanced wastewater treatment and, the installation and monitoring of five shallow bedrock monitoring wells, at the intervals and frequencies recommended, for the water quality and quantity tests and with documentation being provided to the Town of Freeport.
- 14) The developer shall meet with Town Staff and Town peer reviewer to establish a sum in addition to the above stated performance guarantee amounts to assure correction by developer of any water quality or quantity issues which arise during the monitoring period of three years from the later of completion of project infrastructure or according to the timeline set forth in 6.2 of the Condominium Association Declaration.
- 15) The applicant submit an updated recording plat to reflect all conditions of approval to be reviewed by Staff for signing by the Board at the next meeting. (Hamlen & Madeira) **VOTE:** (5 Ayes) (1 Abstention: Yankee) (1 Excused: Donahue) (0 Nays)

**ITEM IV: New Items****Kelly and Brandon Roberts – 41 Shore Drive – Shoreland Stabilization**

The applicant is seeking approval for a Shoreland Zoning Permit (for Shoreland Stabilization). An area of approximately ninety feet in length will be stabilized with rip rap. An area existing timber retaining wall at the top of the bank (approximately three feet high and thirty feet long) will also be replaced. Zoning Districts: Medium Density Residential I (MDR-1) and Shoreland Area (SA). Tax Assessor Map 5, Lot 106 (41 Shore Drive). Tim Forrester, applicant and representative; Kelly and Brandon Roberts, owner.

Ms. Pelletier advised that the next six applications are all for shoreland stabilization. These are required by DEP to come to the Project Review Board which is why they come before you. Unfortunately, Freeport's coastline has taken a beating in recent storms so the Board is becoming a pro at these. In some cases, these projects go below the HAT line and impact wetlands and they also need permits from DEP and Army Corps which is what we usually see but tonight a couple of them don't. We had a question that came up at the last meeting about HAT. She did call DEP and got a hold of Jeff Kalinich and explained that the Board is seeing a lot of these and we are just trying to learn the best practice as we go forward. We talked a bit about the new process that we talked about at a high level at the last meeting. In the past not all DEP Staff was seeing these applications because a homeowner would go and apply to one branch of DEP for the wetland permit and the people on the shoreland area who regulate that for municipalities would not see it. That is not the case now so when she called Jeff, he had seen some of these but not all of them. The Shoreland Zoning Staff is consulting with municipalities a little more behind the scenes before they even come in. When she talked to him, he said the biggest thing with these shoreland applications is really is the bank eroding and do they need to do the rip-rap, how much vegetation is there and are they really clearing what they need to clear for the project or are they clearing in excess? She mentioned that the Board had a conversation about the HAT line and who should be evaluating it? He did not feel strongly that a surveyor needs to do it. He actually said it might not be right in all cases but in some cases having a surveyor doing it will work. A lot of it is going to be somebody that can go out in the field and determine based on the field conditions, where that highest annual tide line is. In some cases, it could be more appropriate to have someone that could look at the wetlands and see that line. Shoreland Zoning does not require a survey. That was one of the questions we had because it is not written in. She told him what we were looking at and what we had before him and he is comfortable with what the Board has been getting and what you are looking at tonight and the way people are telling you that they are going out and field verifying that HAT line in this point of time. In the Shoreland Zones, he himself is not getting into the wetlands. Again, those are regulated by others in the Natural Resources Protection Act Permit and Army Corps, so if they have the HAT line wrong, they have issues with other permitting agencies beyond the PRB. Again, he said the really important thing is looking at erosion, rip-rap, the need for the project and the vegetation.

Mr. Yankee advised that he talked with Ms. Pelletier about trying to work with the Staff Review Committee to do these rather than having them come to us. Ms. Pelletier clarified that his question is do these have to keep coming to PRB and the answer is yes for right now. In the past, she doesn't think DEP was open to having these be delegated to the Staff Review Board but knowing that we have a formal process and standards in place, we can go back and ask. She feels this is something we can revisit. Chair Reiche noted it is a great idea to ask.

In this case, the Roberts are proposing to stabilize about 90' of the bank with rip-rap. There is an existing timber wall that was shown that will also be replaced. Separately, as a side note not under the Board's purview, this is associated with an application they were granted approval last week from Coastal Waters for a dock. The area of rip-rap is in two sections. The first section will go 4' below the Hat line so they will have

some wetland impact and require outside agency permitting. It will be about 120 square feet of wetland impact. The second area will be about 300' and the rip-rap will be about 6' in height. Typically, they will use filter fabric and a variety of stones. They will bury the bottom row and pin it in a trench and cut back the bank as needed to get the grade that they need. They will be using native plantings and will be putting it on top of the rip-rap area. She noted that she learned something new in this application. She asked about the additional plantings and Tim Forrester explained that a good practice is to be stabilizing the top of the bank which is why you see another 1,000 sq. ft. of vegetation. They are not removing any upland vegetation. There is an existing access that they can use to get into the site that is 12' in width. If that is disturbed, they can loam and seed at the end. The Codes Officer has reviewed all these applications and doesn't have any concerns.

Chair Reiche asked the Board if they need any further information from Tim Forrester? Mr. Yankee noted that all these projects are pre-January. He asked Mr. Forrester when he expects to finalize projects in Freeport? Tim Forrester advised that he has a handful of projects throughout Freeport and a lot of stuff all over the State of Maine as well as phone calls for additional work that he has not had a chance to get to yet. Mr. Yankee pointed out that a lot of these properties are adjacent to each other and is there a benefit to that in terms of how it is being done and also if you are not adjacent to something that is being stabilized, does that mean your stabilization may be more prone to destabilization? Mr. Forrester advised that the project before the Board tonight is at 41 Shore Drive which is a stand-alone project. He does have other projects in Freeport that are accumulative that are quite similar to the other batch that the Board has this evening.

To answer Mr. Yankee's question, there is potential for wrap-around scour where someone stops their work and there is nothing that happens adjacent to it, there absolutely is. There are standards to try to reduce that but it can be a hard thing to prove that what you did impacts your neighbor. It could just be natural erosion that is occurring there. Some of those techniques are to try to tie into existing hardened areas or perhaps there is ledge right there or undisturbed areas with some good mature trees that are well anchored.

Chair Reiche asked if anyone on line had questions or comments on the Roberts' application? None were provided. Chair Reiche felt the Board had Ms. Pelletier's permission to not read these motions out loud because they are all so similar. He asked for a motion to accept the proposed motion as written?

Mr. Monteleone advised that based on Ms. Pelletier's communications with DEP, in lieu of having the condition about having the HAT line surveyor located instead incorporating the obligation to have it be field located by any professional surveyor, a hydrologist or a wetlands biologist. Chair Reiche feels it is embedded in the state. Mr. Forrester advised that the Hat definition is set out in the Shoreland Zoning standards and there are two ways to do it. You can have it surveyed or by best professional judgement based on the characteristics of the site. Typically, that would be someone like himself. He mentioned that anyone in the industry with credentials can get there. Mr. Monteleone asked him if all these projects have those professionals already engaged? He added that locating it before the construction starts is part of the condition of approval. He feels it does not impose a burden or delay on the project. It is just one step that Mr. Forrester would participate in before construction starts. Mr. Forrester advised that when a client calls him, he goes and visits the site and gives them a professional opinion on it. If they choose to hire him, he comes back and he surveys all his sites. They also do all their work in CADs so they will pull survey plans and overlay all their data so it is all Geo referenced. Chair Reiche asked if he is doing all this because it is required by state law? Mr. Forrester advised that he does all this but it is not required by state law. Mr. Forrester advised that plans are required to be drawn to scale and legible. Ms. Pelletier asked Mr. Monteleone if Note 3 on the plan in his hand actually address his concern? Mr. Monteleone agreed that it does and he withdrew his concern.

Ms. Pelletier pointed out that the Board needs to act on all of these separately.

Mr. Yankee mentioned that these were all engineered prior to January and asked if they reflect any damage that has happened since then? What modifications need to occur to these plans since January? Mr. Forrester advised that it is dependent on the site, the changes are ongoing day to day. He provided examples. There is such a huge timeframe from when you first see it and when you get approvals. There can be 6, 7 or 8 months and there is an opportunity for conditions to get worse depending on what happened. Mr. Yankee advised that it sounds like there have not been significant change in conditions for this one application. Mr. Forrester agreed and felt it was important to note that they are proposing to do a lot of vegetation work above that.

**Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 306. Land Use Standards**

Notwithstanding the standards of the underlying zoning district(s), all land use activities within the Shoreland Zone, shall also conform with the following provisions if applicable:

**A. Space Standards:**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**B. Principal and Accessory Structures**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland**

*Not applicable as no Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland are being reviewed under the authority granted to this Board. Based upon this information, the Board finds that this standard has been met.*

**D. Campgrounds.**

*Not applicable as no campgrounds are proposed. Based upon this information, the Board finds that this standard has been met.*

**E. Individual Private Campsites.**

*Not applicable as no individual private campsites are proposed. Based upon this information, the Board finds that this standard has been met.*

**F. Parking Areas:**

*Not applicable as no parking areas are proposed. Based upon this information, the Board finds that this standard has been met.*

**G. Roads and driveways**

*Not applicable as no new permanent roads and driveways are proposed. Based upon this information, the Board finds that this standard has been met.*

**H. Signs:**

*Not applicable as no signs are proposed. Based upon this information, the Board finds that this standard has been met.*

**I. Storm Water Runoff**

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

*No changes resulting in an increase of stormwater run-off are proposed. The applicant is proposing to install rip rap to improve the conditions of the eroding bank. The design of the rip rap area will use filter fabric, a mix of stone sizes with the bottom row to be buried in a trench and pinned to existing ledge. The bank will be cut back or graded as needed to get a 1:1 slope. Based upon this information, the Board finds that this standard has been met.*

**J. Septic Waste Disposal**

*Not applicable as no septic waste disposal systems are proposed. Based upon this information, the Board finds that this standard has been met.*

**K. Essential Services**

*Not applicable as no new utility connections are proposed. Based upon this information, the Board finds that this standard has been met.*

**L. Mineral Exploration**

*Not applicable as no mineral exploration is proposed. Based upon this information, the Board finds that this standard has been met.*

**M. Agriculture**

*Not applicable as no agriculture is proposed. Based upon this information, the Board finds that this standard has been met.*

**N. Clearing of Vegetation for Activities Other than Timber Harvesting**

*No upland vegetation will be removed with this project. The site will be accessed from a 12-foot wide construction entrance from Shore Drive. The area will be seeded and mulched when the project is complete. There will be someone on-site during construction that is certified in Maine DEP Erosion Control. Based upon this information, the Board finds that this standard has been met.*

**O. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

*No Hazard Trees, Storm-Damaged Trees, and Dead Trees will be removed with this project. Based upon this information, the Board finds that this standard has been met.*

**P. Exemptions to Clearing and Vegetation Removal Requirements**

*The bank will be cut back or graded as needed to get a 1:1 slope. Native plantings (juniper, bayberry, beach plum) will be placed at the top of the rip rap area. An additional 1,000 sf of vegetative buffer is*

*proposed along the top of the slope. No upland vegetation will be removed with this project. The site will be accessed from a 12-foot wide construction entrance from Shore Drive. The area will be seeded and mulched when the project is complete. Based upon this information, the Board finds that this standard has been met.*

**Q. Revegetation Requirements**

*The bank will be cut back or graded as needed to get a 1:1 slope. Native plantings (juniper, bayberry, beach plum) will be placed at the top of the rip rap area. An additional 1,000 sf of vegetative buffer is proposed along the top of the slope. No upland vegetation will be removed with this project. The site will be accessed from a 12-foot wide construction entrance from Shore Drive. The area will be seeded and mulched when the project is complete. Based upon this information, the Board finds that this standard has been met.*

**R. Erosion and Sedimentation Control**

*The area of rip rap will consist of two sections. The first section will extend four feet below the Highest Annual Tide (HAT) line and result in about 120 square feet of wetland impact. The rip rap will be about four feet in height. The second section will extend five feet below the Highest Annual Tide (HAT) line and result in about 300 square feet of wetland impact. The rip rap will be about six feet in height. The design of the rip rap area will use filter fabric, a mix of stone sizes with the bottom row to be buried in a trench and pinned to existing ledge. The bank will be cut back or graded as needed to get a 1:1 slope. Native plantings (juniper, bayberry, beach plum) will be placed at the top of the rip rap area. An additional 1,000 sf of vegetative buffer is proposed along the top of the slope. These improvements are proposed to stop the erosion occurring on the bank. There will be someone on-site during construction that is certified in Maine DEP Erosion Control. Based upon this information, the Board finds that this standard has been met.*

**S. Water Quality**

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

*The applicant will install rip rap to stabilize the eroding shoreline which should improve the water quality by reducing sediments runoff from the land. Based upon this information, the Board finds that this standard has been met.*

**T. Shoreline Stabilization**

Vegetation may be removed in excess of the standards in Section 306.N of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Project Review Board. Construction equipment must access the shoreline by barge when feasible as determined by the Project Review Board.

- (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
- (b) Revegetation must occur in accordance with Section 306.Q



*The area of rip rap will consist of two sections. The first section will extend four feet below the Highest Annual Tide (HAT) line and result in about 120 square feet of wetland impact. The rip rap will be about four feet in height. The second section will extend five feet below the Highest Annual Tide (HAT) line and result in about 300 square feet of wetland impact. The rip rap will be about six feet in height. The design of the rip rap area will use filter fabric, a mix of stone sizes with the bottom row to be buried in a trench and pinned to existing ledge. The bank will be cut back or graded as needed to get a 1:1 slope. Native plantings (juniper, bayberry, beach plum) will be placed at the top of the rip rap area. An additional 1,000 sf of vegetative buffer is proposed along the top of the slope. The site will be accessed from a 12-foot wide construction entrance from Shore Drive. The area will be seeded and mulched when the project is complete. Based upon this information, the Board finds that this standard has been met.*

#### **U. Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed design to counteract soil limitations where they exist.

*This is a shoreline stabilization project and no new land uses are proposed. Based upon this information, the Board finds that this standard has been met.*

#### **V. Archaeological Sites**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Codes Enforcement Officer, during the required review process, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the Codes Enforcement Officer who shall consider comments received from the Commission prior to rendering a decision on the application.

*There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

**Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 404. Administering Permits**

The Project Review Board, the Coastal Waters Commission, or the Codes Enforcement Officer shall approve an application for a permit, only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the following criteria:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Marine Waterfront District;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of Section 306, Land Use Standards.

*The project is for shoreline stabilization at a residential property on Shore Drive. The project was designed to minimize impacts to the coastal wetland, however will result in about 420 square feet of impact. Native plantings (juniper, bayberry, beach plum) will be placed at the top of the rip rap area. An additional 1,000 sf of vegetative buffer is proposed along the top of the slope. There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The property is not within the Marine Waterfront District and there is no public access to the water. Based upon this information, the Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

**MOVED AND SECONDED:** To accept the motion included in the Staff Report. (Madeira & Yankee)  
**VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**MOVED AND SECONDED:** Be it ordered that the Freeport Project Review Board approve a Shoreland Zoning Permit for Tim Forrester, Flycatcher, LLC on behalf of Kelly and Brandon Roberts, for a Shoreline Stabilization Project (approximately 90 feet in length) at a residential property at Tax Assessor Map 5, Lot 106 (41 Shore Drive), to be built substantially as proposed in an application dated 01/17/24, finding that it meets the standards of Section 306 & Section 404 of the Town of Freeport Shoreland Zoning Ordinance, with the following conditions of approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and their representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) Prior to the start of any sitework for the project, the applicant obtain any applicable permits from the Freeport Codes Enforcement Officer. (Madeira & Yankee) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

Ms. Pelletier advised that for all the shoreland stabilizations, they are all set up with the standard condition and a requirement that they get the permit from the Codes Enforcement Officer. Since they were pretty straight

forward conditions, if the Board wanted a break, you could accept them as written.

These are five separate ones and we do need to act on them individually. You still have public on line. For these applications, she knows that the Codes Officer, the applicant's representative and outside agencies, DEP and Army Corps did meet on site and did site inspections. When we get to the specific application, Mike Morse can give the Board an update on storm damage because there was a tree loss on one of these sites since these applications were originally submitted.

These are all relatively small parcels. Generally speaking, there is not a lot of vegetation. A lot of them have remnants of old rip-rap that has not held up well. They have the ability to re-use some of the old rip-rap remnants. They will, but that won't be the situation in all cases.

**Jeffrey & Claudette Mason – 110 Maquoit Drive – Shoreland Stabilization**

The applicant is seeking approval for a Shoreland Zoning Permit (for Shoreland Stabilization). An area of approximately fifty feet in length will be stabilized with rip rap. Proposed impact to the coastal wetland will be approximately fifteen square feet. Zoning Districts: Medium Density Residential I (MDR-1) and Shoreland Area (SA). Tax Assessor Map 5, Lot 52 (110 Maquoit Drive). Jeffrey & Claudette Mason, applicants & owners; Mike Morse, Archipelago, representative.

The first application you have before you is for the Masons at 110 Maquoit Drive. The Masons have .18 of an acre parcel. They are proposing to stabilize 50' of the bank. The rip-rap will extend about five' above the grade. Geotextile fabric with rip-rap will be installed along with stones of various sizes. There will be wetland impacts with this project. There is about 15 sq. ft. For all these properties, the bank is pretty steep including native and no-native species. In this case there are trees, grass and ground cover. They are not proposing any new vegetation. Some areas on this property do have bare soil exposed.

Mr. Monteleone disclosed that these folks are his neighbors and they have a good relationship. This does not trigger a conflict of interest under our rules and he does not believe there is one.

Mr. Yankee asked if there are any significant changes from the photos shown here in the application or from the remedies being proposed in the application? Mike Morse explained that there has been some additional erosion from the recent storms. What precipitated these applications primarily was the December 20, 2022 storm. That storm destroyed several bulkheads or retaining walls that were on the shoreline in front of two of the properties and additionally on the other three properties, it put a lot of damage to the shoreline. Some of the photos in the application are from their initial fieldwork they conducted after that December 20, 2022 storm and some of the photos are from after the January storms of this year. As far as whether the project will change, in this case they determined that it will remain the same project. It will be rip-rap stacked about 5' in height on a 1 to 1 slope with geotextile. The only slight difference we are probably going to see is that the rip-rap will be several feet further inland for a foot or two from what they initially proposed from the HAT line. Several of the properties will impact a little bit of coastal wetlands so it will be just below the HAT line on several of the properties. Mason, Lynette Larkin-Silva and the Nolan properties will each carry some amount of wetland impact. It is very minimal and it is likely that now some of that wetland impact will be reduced as the rip-rap may be pushed further inland. At this point in the application process to go back out and revise all the plans just to try to shave off a few square feet of coastal wetland impact did not make sense because we had another storm a week ago this past Sunday and we will have a really high tide next month. He thinks we will continue to see some incremental erosion but today the project will remain as originally proposed.

Mr. Yankee asked about structures and Mr. Morse advised that they would be applying a Codes Enforcement

Officer's approval for the stairways and access ways to the shore line but they wanted to include them on the plans as they are part of the overall project. Several access stairways are the only structures affected by the project. There are no piers in this location. To clarify on the Russell and Valicek properties, the original retaining wall is not proposed to be replaced. They will replace that structure with something that will be more suitable for these types of storm conditions. The rip-rap on a 1 to 1 slope should be superior. The work will be done by access via barge from the water. The houses are close together and the materials will be brought in.

Ms. Pelletier pointed out that this one notes the HAT is approximate drawings by a hardscape company. Mr. Monteleone noted that at least one set of the photos shows the HAT line flagged with blue flags. He asked who marked that? Mr. Morse advised that he marked out the HAT line based on field conditions. He explained that this is a lot of gravelly soil without vegetation in this upper part of the high end tidal so they ended up shooting it with a level based on the elevation of a known predicted low tide and transferred that to the locations flagged. Mr. Monteleone asked if that flagged location will remain in place through the time construction starts? Mr. Morse explained that it will not. Some of the flags have washed away/ From a construction standpoint, this is designed to be in its current location and because of the more recent erosion, it may be a little further inland and a little further away from the HAT line. It may not be, but it will not be any closer to the HAT line. They met with the contractor on site and identified what the project will be. Once that was established, they went out and shot the HAT line and looked at the vegetation and the other site characteristics and established that to figure out how much of the coastal wetland would be impacted for the DEP permit application in particular. When the contractor goes out, he won't need to know where the HAT line is because his focus will be on stabilizing the shoreline. To go back out and flag it, the flagging would be quickly covered up by some of the construction mats and it is immaterial to the contractor. The project is fixed to the slope only. He advised that some of the flags were washed away during some of the storms. Chair Reiche explained that in order to do this project under the state standard, the HAT line needs to be established by one of two different ways. In order to start construction, it needs to be determined by someone like Mr. Morse. He agreed. Chair Reiche feels this is embedded in the state permit. Ms. Pelletier advised that it was not in the last application. Not all of these are going to have wetland impacts or require DEP or Army Corps permits as she understands it. In this case, they would so they will be getting permits from the DEP and Army Corps. They have to do it regardless of what you put on it. Mor discussion followed.

Mr. Morse introduced himself as someone who has taught classes on identifying the HAT line, looking at vegetation and training Code Enforcement Officers municipal officials, contractors and the like. Ms. Pelletier added that he worked for DEP and she attended his Shoreland Zoning training.

## **Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 306.**

### **Land Use Standards**

Notwithstanding the standards of the underlying zoning district(s), all land use activities within the Shoreland Zone, shall also conform with the following provisions if applicable:

#### **A. Space Standards:**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

#### **B. Principal and Accessory Structures**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

#### **C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the**

**Normal High-Water Line of a Water Body or Within a Wetland**

*Not applicable as no Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland are being reviewed under the authority granted to this Board. Based upon this information, the Board finds that this standard has been met.*

**D. Campgrounds.**

*Not applicable as no campgrounds are proposed. Based upon this information, the Board finds that this standard has been met.*

**E. Individual Private Campsites.**

*Not applicable as no individual private campsites are proposed. Based upon this information, the Board finds that this standard has been met.*

**F. Parking Areas:**

*Not applicable as no parking areas are proposed. Based upon this information, the Board finds that this standard has been met.*

**G. Roads and driveways**

*Not applicable as no new permanent roads and driveways are proposed. Based upon this information, the Board finds that this standard has been met.*

**H. Signs:**

*Not applicable as no signs are proposed. Based upon this information, the Board finds that this standard has been met.*

**I. Storm Water Runoff**

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

*No changes resulting in an increase of stormwater run-off are proposed. The applicant is proposing to install rip rap to improve the conditions of the eroding bank. The design of the rip rap area will use Geotextile fabric using larger toe boulders and small stones above for the rip rap. The bank will be cut back or graded as needed to get a 1:1 slope. Based upon this information, the Board finds that this standard has been met.*

**J. Septic Waste Disposal**

*Not applicable as no septic waste disposal systems are proposed. Based upon this information, the Board finds that this standard has been met.*

**K. Essential Services**

*Not applicable as no new utility connections are proposed. Based upon this information, the Board finds*

*that this standard has been met.*

**L. Mineral Exploration**

*Not applicable as no mineral exploration is proposed. Based upon this information, the Board finds that this standard has been met.*

**M. Agriculture**

*Not applicable as no agriculture is proposed. Based upon this information, the Board finds that this standard has been met.*

**N. Clearing of Vegetation for Activities Other than Timber Harvesting**

*The applicant owns a .18 acre residential parcel and is before the Board seeking approval to stabilize approximately 50 feet of a bank with rip rap. The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. Existing vine growth will be cut back, but retained. A red oak tree and alder shrub are proposed to be removed, with 5 bayberry shrubs and 2 red oak saplings to be replanted. Based upon this information, the Board finds that this standard has been met.*

**O. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

*No Hazard Trees, Storm-Damaged Trees, and Dead Trees will be removed with this project. Based upon this information, the Board finds that this standard has been met.*

**P. Exemptions to Clearing and Vegetation Removal Requirements**

*The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. Existing vine growth will be cut back, but retained. A red oak tree and alder shrub are proposed to be removed, with 5 bayberry shrubs and 2 red oak saplings to be replanted. Based upon this information, the Board finds that this standard has been met.*

**Q. Revegetation Requirements**

*The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. Existing vine growth will be cut back, but retained. A red oak and alder shrub are proposed to be removed, with 5 bayberry shrubs and 2 red oak saplings to be replanted. Based upon this information, the Board finds that this standard has been met.*

**R. Erosion and Sedimentation Control**

*The applicant is proposing to stabilize approximately 50 feet of a bank with rip rap. The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. Proposed impact to the coastal wetland will be approximately fifteen square feet. The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. There are remnants of an old rip rap project in this area, however was not designed to today's standards and therefore did not protect the shore in recent storms. Other areas on the toe of the slope are bare soil. Existing stones will be reused as appropriate. Based upon this information, the Board finds that this standard has been met.*

**S. Water Quality**

*No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water*

classification of the water body, tributary stream or wetland.

*The applicant will install rip rap to stabilize the eroding shoreline which should improve the water quality by reducing sediments runoff from the land. Based upon this information, the Board finds that this standard has been met.*

#### **T. Shoreline Stabilization**

Vegetation may be removed in excess of the standards in Section 306.N of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Project Review Board. Construction equipment must access the shoreline by barge when feasible as determined by the Project Review Board.

- (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

- (b) Revegetation must occur in accordance with Section 306.Q

*The applicant is proposing to stabilize approximately 50 feet of a bank with rip rap. The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. Proposed impact to the coastal wetland will be approximately fifteen square feet. The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. There are remnants of an old rip rap project in this area, however was not designed to today's standards and therefore did not protect the shore in recent storms. Other areas on the toe of the slope are bare soil. Existing stones will be reused as appropriate. The site will be accessed by barge, with construction mats put over the wetland during construction. Based upon this information, the Board finds that this standard has been met.*

#### **U. Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed design to counteract soil limitations where they exist.

*This is a shoreline stabilization project and no new land uses are proposed. Based upon this information,*

*the Board finds that this standard has been met.*

#### **V. Archaeological Sites**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Codes Enforcement Officer, during the required review process, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the Codes Enforcement Officer who shall consider comments received from the Commission prior to rendering a decision on the application.

*There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

#### **Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 404. Administering Permits**

The Project Review Board, the Coastal Waters Commission, or the Codes Enforcement Officer shall approve an application for a permit, only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the following criteria:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Marine Waterfront District;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of Section 306, Land Use Standards.

*The project is for shoreline stabilization at a residential property on Maquoit Drive. The project was designed to minimize impacts to the coastal wetland, however will result in about 75 square feet of impact. The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. Existing vine growth will be cut back, but retained. A red oak tree and alder shrub are proposed to be removed, with 5 bayberry shrubs and 2 red oak saplings to be replanted. There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The property is not within the Marine Waterfront District and there is no public access to the water. Based upon this information, the Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**



**MOVED AND SECONDED:** Based on the facts and support we find that this project meets the criteria standards of the Shoreland Zoning as printed in the Staff Report for Jeffrey and Claudette Mason including the conditions. (Yankee & Madeira) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**MOVED AND SECONDED:** That the Freeport Project Review Board approve a Shoreland Zoning Permit for Jeffrey and Claudette Mason, for a Shoreline Stabilization Project (approximately 50 feet in length) at a residential property at Tax Assessor Map 5, Lot 52 (110 Maquoit Drive), to be built substantially as proposed in an application dated 02/20/24, finding that it meets the standards of Section 306 & Section 404 of the Town of Freeport Shoreland Zoning Ordinance, with the following conditions of approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and their representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) Prior to the start of any sitework for the project, the applicant obtain any applicable permits from the Freeport Codes Enforcement Officer. (Yankee & Madeira) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

#### **Rick & Megan Nolan – 108 Maquoit Drive – Shoreland Stabilization**

The applicant is seeking approval for a Shoreland Zoning Permit (for Shoreland Stabilization). An area of approximately forty-five feet in length will be stabilized with rip rap. Proposed impact to the coastal wetland will be approximately seventy-five square feet. Zoning Districts: Medium Density Residential I (MDR-1) and Shoreland Area (SA). Tax Assessor Map 5, Lot 53 (108 Maquoit Drive). Rick & Megan Nolan, applicants & owners; Mike Morse, Archipelago, representative.

Ms. Pelletier advised that the Nolans have a .16-acre residential parcel and are proposing to stabilize 45 feet of the bank. They will be going below the HAT line with 75' of coastal impact. They will be trying to install the rip-rap on a 1 to 1 slope. The standard make-up of the rip-rap will have bigger stones at the bottom with smaller as you go up. Again, there is a steep bank with some remnants of rip-rap in the area. She does not believe they are proposing any additional vegetation. Mike Morse is here to answer any questions. Mrs. Nolan introduced herself and advised that her husband was on zoom.

Chair Reiche requested a motion found on Page 16 with the two conditions on Page 17 of the Staff Report.

#### **Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 306.**

##### **Land Use Standards**

Notwithstanding the standards of the underlying zoning district(s), all land use activities within the Shoreland Zone, shall also conform with the following provisions if applicable:

##### **A. Space Standards:**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

##### **B. Principal and Accessory Structures**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland**

*Not applicable as no Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland are being reviewed under the authority granted to this Board. Based upon this information, the Board finds that this standard has been met.*

**D. Campgrounds.**

*Not applicable as no campgrounds are proposed. Based upon this information, the Board finds that this standard has been met.*

**E. Individual Private Campsites.**

*Not applicable as no individual private campsites are proposed. Based upon this information, the Board finds that this standard has been met.*

**F. Parking Areas:**

*Not applicable as no parking areas are proposed. Based upon this information, the Board finds that this standard has been met.*

**G. Roads and driveways**

*Not applicable as no new permanent roads and driveways are proposed. Based upon this information, the Board finds that this standard has been met.*

**H. Signs:**

*Not applicable as no signs are proposed. Based upon this information, the Board finds that this standard has been met.*

**I. Storm Water Runoff**

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

*No changes resulting in an increase of stormwater run-off are proposed. The applicant is proposing to install rip rap to improve the conditions of the eroding bank. The design of the rip rap area will use Geotextile fabric using larger toe boulders and small stones above for the rip rap. The rip rap will be installed at an 1:1 slope. Based upon this information, the Board finds that this standard has been met.*

**J. Septic Waste Disposal**

*Not applicable as no septic waste disposal systems are proposed. Based upon this information, the Board finds that this standard has been met.*

**K. Essential Services**

*Not applicable as no new utility connections are proposed. Based upon this information, the Board finds that this standard has been met.*

**L. Mineral Exploration**

*Not applicable as no mineral exploration is proposed. Based upon this information, the Board finds that this standard has been met.*

**M. Agriculture**

*Not applicable as no agriculture is proposed. Based upon this information, the Board finds that this standard has been met.*

**N. Clearing of Vegetation for Activities Other than Timber Harvesting**

*The applicant owns a .16 acre residential parcel and is before the Board seeking approval to stabilize approximately 45 feet of a bank with rip rap. The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. Existing vine growth will be cut back but retained. A red oak is proposed to be removed but otherwise removal will be minimal and no replanting is proposed. Based upon this information, the Board finds that this standard has been met.*

**O. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

*No Hazard Trees, Storm-Damaged Trees, and Dead Trees will be removed with this project. Based upon this information, the Board finds that this standard has been met.*

**P. Exemptions to Clearing and Vegetation Removal Requirements**

*The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. Existing vine growth will be cut back but retained. A red oak is proposed to be removed but otherwise removal will be minimal and no replanting is proposed. Based upon this information, the Board finds that this standard has been met.*

**Q. Revegetation Requirements**

*The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. Existing vine growth will be cut back but retained. A red oak is proposed to be removed but otherwise removal will be minimal and no replanting is proposed. Based upon this information, the Board finds that this standard has been met.*

**R. Erosion and Sedimentation Control**

*The applicant is proposing to stabilize approximately 45 feet of a bank with rip rap. The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. Proposed impact to the coastal wetland will be approximately 75 square feet. The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. There are remnants of an old rip rap project in this area, however was not designed to today's standards and therefore did not protect the shore in recent storms. Other areas on the toe of the slope are bare soil. Existing stones will be reused as appropriate. Based upon this information, the Board finds that this standard has been met.*

**S. Water Quality**

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

*The applicant will install rip rap to stabilize the eroding shoreline which should improve the water quality by reducing sediments runoff from the land. Based upon this information, the Board finds that this standard has been met.*

**T. Shoreline Stabilization**

Vegetation may be removed in excess of the standards in Section 306.N of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Project Review Board. Construction equipment must access the shoreline by barge when feasible as determined by the Project Review Board.

- (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
- (b) Revegetation must occur in accordance with Section 306.Q

*The applicant is proposing to stabilize approximately 45 feet of a bank with rip rap. The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. Proposed impact to the coastal wetland will be approximately fifteen square feet. The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. There are remnants of an old rip rap project in this area, however was not designed to today's standards and therefore did not protect the shore in recent storms. Other areas on the toe of the slope are bare soil. Existing stones will be reused as appropriate. The site will be accessed by barge, with construction mats put over the wetland during construction. Based upon this information, the Board finds that this standard has been met.*

**U. Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include

recommendations for a proposed design to counteract soil limitations where they exist.

*This is a shoreline stabilization project and no new land uses are proposed. Based upon this information, the Board finds that this standard has been met.*

#### **V. Archaeological Sites**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Codes Enforcement Officer, during the required review process, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the Codes Enforcement Officer who shall consider comments received from the Commission prior to rendering a decision on the application.

*There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

#### **Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 404. Administering Permits**

The Project Review Board, the Coastal Waters Commission, or the Codes Enforcement Officer shall approve an application for a permit, only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the following criteria:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Marine Waterfront District;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of Section 306, Land Use Standards.

*The project is for shoreline stabilization at a residential property on Maquoit Drive. The project was designed to minimize impacts to the coastal wetland, however will result in about 75 square feet of impact. There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The property is not within the Marine Waterfront District and there is no public access to the water. Based upon this information, the Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

**MOVED AND SECONDED:** To approve the application as written for Rick and Megan Nolan at 108 Maquoit Drive. (Yankee & Madeira) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**MOVED AND SECONDED:** the Freeport Project Review Board approve a Shoreland Zoning Permit for Rick and Megan Nolan, for a Shoreline Stabilization Project (approximately 45 feet in length) at a residential property at Tax Assessor Map 5, Lot 53 (108 Maquoit Drive), to be built substantially as proposed in an application dated 02/20/24, finding that it meets the standards of Section 306 & Section 404 of the Town of Freeport Shoreland Zoning Ordinance, with the following conditions of approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and their representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) Prior to the start of any sitework for the project, the applicant obtain any applicable permits from the Freeport Codes Enforcement Officer. (Yankee & Madeira) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**Lynett Larkin-Silva – 0 Maquoit Drive – Shoreland Stabilization**

The applicant is seeking approval for a Shoreland Zoning Permit (for Shoreland Stabilization). An area of approximately five feet in length will be stabilized with rip rap. Proposed impact to the coastal wetland will be approximately eight square feet. Zoning Districts: Medium Density Residential I (MDR-1) and Shoreland Area (SA). Tax Assessor Map 5, Lot 53-A (0 Maquoit Drive). Lynett Larkin-Silva, applicant; Lynda Renzello, Lynett Sylva, & Kevin Larkin, owners; Mike Morse, Archipelago, representative.

Ms. Pelletier explained that they have a 0.02-acre parcel and are proposing to stabilize 5'. There is a set of stairs in here that is not under the Board's purview but most of this area is covered by stairs so there is some bare area underneath and then they will be stabilizing by installing a geotextile fabric which will be covered by rip-rap. There are existing stones they will re-use if possible.

Chair Reiche asked if there are any questions for this application? Ms. Berger pointed out that it says the boulders will be 3'-4' in width. Does this mean there will be a 1 ½' boulder? Mr. Morse agreed but added that this will be a continuous rip-rap project.

**Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 306. Land Use Standards**

Notwithstanding the standards of the underlying zoning district(s), all land use activities within the Shoreland Zone, shall also conform with the following provisions if applicable:

**A. Space Standards:**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**B. Principal and Accessory Structures**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal**

**High-Water Line of a Water Body or Within a Wetland**

*Not applicable as no Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland are being reviewed under the authority granted to this Board. Based upon this information, the Board finds that this standard has been met.*

**D. Campgrounds.**

*Not applicable as no campgrounds are proposed. Based upon this information, the Board finds that this standard has been met.*

**E. Individual Private Campsites.**

*Not applicable as no individual private campsites are proposed. Based upon this information, the Board finds that this standard has been met.*

**F. Parking Areas:**

*Not applicable as no parking areas are proposed. Based upon this information, the Board finds that this standard has been met.*

**G. Roads and driveways**

*Not applicable as no new permanent roads and driveways are proposed. Based upon this information, the Board finds that this standard has been met.*

**H. Signs:**

*Not applicable as no signs are proposed. Based upon this information, the Board finds that this standard has been met.*

**I. Storm Water Runoff**

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

*No changes resulting in an increase of stormwater run-off are proposed. The applicant is proposing to install rip rap to improve the conditions of the eroding bank. The design of the rip rap area will use Geotextile fabric using larger toe boulders and small stones above for the rip rap. The rip rap will be installed at a 1:1 slope at the toe and follow the existing grade for the remaining area. Based upon this information, the Board finds that this standard has been met.*

**J. Septic Waste Disposal**

*Not applicable as no septic waste disposal systems are proposed. Based upon this information, the Board finds that this standard has been met.*

**K. Essential Services**

*Not applicable as no new utility connections are proposed. Based upon this information, the Board finds*

*that this standard has been met.*

**L. Mineral Exploration**

*Not applicable as no mineral exploration is proposed. Based upon this information, the Board finds that this standard has been met.*

**M. Agriculture**

*Not applicable as no agriculture is proposed. Based upon this information, the Board finds that this standard has been met.*

**N. Clearing of Vegetation for Activities Other than Timber Harvesting**

*The applicant owns a .02 acre parcel and is before the Board seeking approval to stabilize approximately 5 feet of a bank with rip rap. The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). Limited vegetation will be removed and no vegetation is proposed to be replanted. There are remnants of an old rip rap project in this area, however, was not designed to today's standards and therefore did not protect the shore in recent storms. Other areas on the toe of the slope are bare soil. Existing stones will be reused as appropriate. Based upon this information, the Board finds that this standard has been met.*

**O. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

*No Hazard Trees, Storm-Damaged Trees, and Dead Trees will be removed with this project. Based upon this information, the Board finds that this standard has been met.*

**P. Exemptions to Clearing and Vegetation Removal Requirements**

*The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). Limited vegetation will be removed and no vegetation is proposed to be replanted. Based upon this information, the Board finds that this standard has been met.*

**Q. Revegetation Requirements**

*The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). Limited vegetation will be removed and no vegetation is proposed to be replanted. Based upon this information, the Board finds that this standard has been met.*

**R. Erosion and Sedimentation Control**

*The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. Proposed impact to the coastal wetland will be approximately 8 square feet. The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). There are remnants of an old rip rap project in this area, however, was not designed to today's standards and therefore did not protect the shore in recent storms. Other areas on the toe of the slope are bare soil. Existing stones will be reused as appropriate. Based upon this information, the Board finds that this standard has been met.*

**S. Water Quality**

*No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.*



*The applicant will install rip rap to stabilize the eroding shoreline which should improve the water quality by reducing sediments runoff from the land. Based upon this information, the Board finds that this standard has been met.*

#### **T. Shoreline Stabilization**

Vegetation may be removed in excess of the standards in Section 306.N of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Project Review Board. Construction equipment must access the shoreline by barge when feasible as determined by the Project Review Board.

- (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
- (b) Revegetation must occur in accordance with Section 306.Q

*The applicant is proposing to stabilize approximately 5 feet of a bank with rip rap. The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. Proposed impact to the coastal wetland will be approximately eight square feet. The existing bank is considered steep and includes some native and non-native species of vegetation, with a mix of trees, shrubs and ground cover. There are remnants of an old rip rap project in this area, however was not designed to today's standards and therefore did not protect the shore in recent storms. Other areas on the toe of the slope are bare soil. Existing stones will be reused as appropriate. The site will be accessed by barge, with construction mats put over the wetland during construction. Based upon this information, the Board finds that this standard has been met.*

#### **U. Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed design to counteract soil limitations where they exist.

*This is a shoreline stabilization project and no new land uses are proposed. Based upon this information, the Board finds that this standard has been met.*

#### **V. Archaeological Sites**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to

sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Codes Enforcement Officer, during the required review process, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the Codes Enforcement Officer who shall consider comments received from the Commission prior to rendering a decision on the application.

*There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

**Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 404. Administering Permits**

The Project Review Board, the Coastal Waters Commission, or the Codes Enforcement Officer shall approve an application for a permit, only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the following criteria:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Marine Waterfront District;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of Section 306, Land Use Standards.

*The project is for shoreline stabilization at a residential property on Maquoit Drive. The project was designed to minimize impacts to the coastal wetland, however will result in about 8 square feet of impact. There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The property is not within the Marine Waterfront District and there is no public access to the water. Based upon this information, the Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

Chair Reiche asked if anyone wanted to present the motion shown on Page 21 & 22?

**MOVED AND SECONDED:** That the Freeport Project Review Board approve the motion as written for Lynett Larkin-Silva at 0 Maquoit Drive. (Yankee & Hamlen) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**MOVED AND SECONDED:** that the Freeport Project Review Board approve a Shoreland Zoning Permit for Lynett Larkin-Silva, for a Shoreline Stabilization Project (approximately 5 feet in length) at a property at Tax Assessor Map 5, Lot 53-A (0 Maquoit Drive), to be built substantially as proposed in an application dated 02/20/24, finding that it meets the standards of Section 306 & Section 404 of the Town of Freeport Shoreland Zoning Ordinance, with the following conditions of approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and their representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) Prior to the start of any sitework for the project, the applicant obtain any applicable permits from the Freeport Codes Enforcement Officer. (Yankee & Hamlen) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**Jesse Russell – 106 Maquoit Drive – Shoreland Stabilization**

The applicant is seeking approval for a Shoreland Zoning Permit (for Shoreland Stabilization). An area of approximately seventy-five feet in length will be stabilized with rip rap. No impact to the coastal wetland is proposed. Zoning Districts: Medium Density Residential I (MDR-1) and Shoreland Area (SA). Tax Assessor Map 5, Lot 54 (106 Maquoit Drive). Jesse Russell, applicant; Jesse Russell & Leslie Eastman, owners; Mike Morse, Archipelago, representative.

Ms. Pelletier explained that this is just over one-quarter of an acre and they are proposing to stabilize 75' of the bank. The rip-rap will not extend below the HAT so there will not be any impact to the coastal wetland. There are some areas of a wood retaining wall on the property. They are retaining some of the retaining wall but the lowest retaining wall will be replaced with the rip-rap as part of this project. They will use the standard rip-rap design. Steep bank vines will be cut back. There are a couple of compromised trees in this area and an existing set of stairs. She advised that all of these will be accessed by barge and then they will put mats down to protect the wetland. These five are contiguous.

**Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 306. Land Use Standards**

Notwithstanding the standards of the underlying zoning district(s), all land use activities within the Shoreland Zone, shall also conform with the following provisions if applicable:

**A. Space Standards:**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**B. Principal and Accessory Structures**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland**

*Not applicable as no Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland are being reviewed under the authority granted to this Board. Based upon this information, the Board finds that this standard has been*

met.

**D. Campgrounds.**

*Not applicable as no campgrounds are proposed. Based upon this information, the Board finds that this standard has been met.*

**E. Individual Private Campsites.**

*Not applicable as no individual private campsites are proposed. Based upon this information, the Board finds that this standard has been met.*

**F. Parking Areas:**

*Not applicable as no parking areas are proposed. Based upon this information, the Board finds that this standard has been met.*

**G. Roads and driveways**

*Not applicable as no new permanent roads and driveways are proposed. Based upon this information, the Board finds that this standard has been met.*

**H. Signs:**

*Not applicable as no signs are proposed. Based upon this information, the Board finds that this standard has been met.*

**I. Storm Water Runoff**

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

*No changes resulting in an increase of stormwater run-off are proposed. The applicant is proposing to install rip rap to improve the conditions of the eroding bank. The design of the rip rap area will use Geotextile fabric using larger toe boulders and small stones above for the rip rap. The rip rap will be installed at a 1:1 slope at the toe and follow the existing grade for the remaining area. Based upon this information, the Board finds that this standard has been met.*

**J. Septic Waste Disposal**

*Not applicable as no septic waste disposal systems are proposed. Based upon this information, the Board finds that this standard has been met.*

**K. Essential Services**

*Not applicable as no new utility connections are proposed. Based upon this information, the Board finds that this standard has been met.*

**L. Mineral Exploration**

*Not applicable as no mineral exploration is proposed. Based upon this information, the Board finds that*

*this standard has been met.*

**M. Agriculture**

*Not applicable as no agriculture is proposed. Based upon this information, the Board finds that this standard has been met.*

**N. Clearing of Vegetation for Activities Other than Timber Harvesting**

*The applicant owns a .27 acre parcel and is before the Board seeking approval to stabilize approximately 75 feet of a bank with rip rap. The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). Limited vegetation including two red oak trees will be removed and no vegetation is proposed to be replanted. Based upon this information, the Board finds that this standard has been met.*

**O. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

*No Hazard Trees, Storm-Damaged Trees, and Dead Trees will be removed with this project. Based upon this information, the Board finds that this standard has been met.*

**P. Exemptions to Clearing and Vegetation Removal Requirements**

*The applicant owns a .27 acre parcel and is before the Board seeking approval to stabilize approximately 75 feet of a bank with rip rap. The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). Limited vegetation including two red oak trees will be removed for this project and no vegetation is proposed to be replanted. Based upon this information, the Board finds that this standard has been met.*

**Q. Revegetation Requirements**

*The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). Limited vegetation including two red oak trees will be removed for this project and no vegetation is proposed to be replanted. Based upon this information, the Board finds that this standard has been met.*

**R. Erosion and Sedimentation Control**

*The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. There will be no rip rap installed below the Highest Annual Tide (HAT) line and therefore no wetland impact. There are some areas of wood retaining wall on the property; a few will be retained with this project; however the lowest one will be replaced with the rip rap as part of this project. Two trees will be removed with this project, however there is not area suitable for planting within the rip rap area. Based upon this information, the Board finds that this standard has been met.*

**S. Water Quality**

*No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.*

*The applicant will install rip rap to stabilize the eroding shoreline which should improve the water quality by reducing sediments runoff from the land. Based upon this information, the Board finds that this standard has been met.*

**T. Shoreline Stabilization**

Vegetation may be removed in excess of the standards in Section 306.N of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Project Review Board. Construction equipment must access the shoreline by barge when feasible as determined by the Project Review Board.

- (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

- (b) Revegetation must occur in accordance with Section 306.Q

*The applicant is proposing to stabilize approximately 75 feet of a bank with rip rap. The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. There will be no rip rap installed below the Highest Annual Tide (HAT) line and therefore no wetland impact. Limited vegetation including two red oak trees will be removed for this project and no vegetation is proposed to be replanted. The site will be accessed by barge, with construction mats put over the wetland during construction. Based upon this information, the Board finds that this standard has been met.*

**U. Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed design to counteract soil limitations where they exist.

*This is a shoreline stabilization project and no new land uses are proposed. Based upon this information, the Board finds that this standard has been met.*

**V. Archaeological Sites**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Codes Enforcement Officer, during the required review process, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the Codes Enforcement Officer who shall consider comments received from the Commission prior to rendering a decision on the application.

*There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

**Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 404.  
Administering Permits**

The Project Review Board, the Coastal Waters Commission, or the Codes Enforcement Officer shall approve an application for a permit, only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the following criteria:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Marine Waterfront District;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of Section 306, Land Use Standards.

*The project is for shoreline stabilization at a residential property on Maquoit Drive. There will be no wetland impact associated with this project. There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The property is not within the Marine Waterfront District and there is no public access to the water. Based upon this information, the Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

Chair Reiche asked if there are any questions for the applicant? None were provided. He asked if anyone would like to make a motion that is shown on Page 26 and 27 in the Staff Report?

**MOVED AND SECONDED:** That the Freeport Project Review Board approve the motion for Jesse Russell of 106 Maquoit Drive as written. (Yankee & Madeira) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**MOVED AND SECONDED:** that the Freeport Project Review Board approve a Shoreland Zoning Permit for Jesse Russell, for a Shoreline Stabilization Project (approximately 75 feet in length) at a property at Tax Assessor Map 5, Lot 54 (106 Maquoit Drive), to be built substantially as proposed in an application dated 02/20/24, finding that it meets the standards of Section 306 & Section 404 of the Town of Freeport Shoreland Zoning Ordinance, with the following conditions of approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and their representatives at Project Review Board

meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.

- 2) Prior to the start of any sitework for the project, the applicant obtain any applicable permits from the Freeport Codes Enforcement Officer. (Yankee & Madeira) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**Randy and Amelia Valicek – 102 Maquoit Drive – Shoreland Stabilization**

The applicant is seeking approval for a Shoreland Zoning Permit (for Shoreland Stabilization). An area of approximately seventy-five feet in length will be stabilized with rip rap. No impact to the coastal wetland is proposed. Zoning Districts: Medium Density Residential I (MDR-1) and Shoreland Area (SA). Tax Assessor Map 5, Lot 55 (102 Maquoit Drive). Randy and Amelia Valicek, applicants and owners; Mike Morse, Archipelago, representative.

Ms. Pelletier explained that have just over one-quarter of an acre parcel and are proposing to stabilize 75' of bank of rip-rap. The rip-rap will replace a wood retaining wall with stone cribbing that was previously on the property that was destroyed in a storm. They will not go below the HAT so they will not have any wetland impact. There will be similar construction for the rip-rap. The bank is in a similar situation but in this situation, there is some washed up debris in bare areas on this parcel. There is an existing stairway which is permitted by others but noted since it relates to this project. The applicants and their representative are here if there are any questions.

Chair Reiche asked if there are any questions for the applicants or if anyone would like to make some comments on this application? None were provided.

**Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 306. Land Use Standards**

Notwithstanding the standards of the underlying zoning district(s), all land use activities within the Shoreland Zone, shall also conform with the following provisions if applicable:

**A. Space Standards:**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**B. Principal and Accessory Structures**

*Not applicable as no structures or changes to the lot are proposed. Based upon this information, the Board finds that this standard has been met.*

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland**

*Not applicable as no Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland are being reviewed under the authority granted to this Board. Based upon this information, the Board finds that this standard has been met.*

**D. Campgrounds.**

*Not applicable as no campgrounds are proposed. Based upon this information, the Board finds that this standard has been met.*



**E. Individual Private Campsites.**

*Not applicable as no individual private campsites are proposed. Based upon this information, the Board finds that this standard has been met.*

**F. Parking Areas:**

*Not applicable as no parking areas are proposed. Based upon this information, the Board finds that this standard has been met.*

**G. Roads and driveways**

*Not applicable as no new permanent roads and driveways are proposed. Based upon this information, the Board finds that this standard has been met.*

**H. Signs:**

*Not applicable as no signs are proposed. Based upon this information, the Board finds that this standard has been met.*

**I. Storm Water Runoff**

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

*No changes resulting in an increase of stormwater run-off are proposed. The applicant is proposing to stabilize approximately 75 feet of a bank with rip rap. The rip rap will replace a food retaining wall/stone cribbing that was previously on the property and has since failed due to storm damage. The rip rap will not extend below the Highest Annual Tide (HAT) line and thereby impact to the coastal wetland will be none. The project will use a geotextile fabric which will be covered with rip rap to a height at about five feet above the existing grade. The boulders used at the toe of the slope will be about 3'-4' width and the rip rap boulders will be about 2' in size. The rip rap will be installed at a 1:1 slope. Based upon this information, the Board finds that this standard has been met.*

**J. Septic Waste Disposal**

*Not applicable as no septic waste disposal systems are proposed. Based upon this information, the Board finds that this standard has been met.*

**K. Essential Services**

*Not applicable as no new utility connections are proposed. Based upon this information, the Board finds that this standard has been met.*

**L. Mineral Exploration**

*Not applicable as no mineral exploration is proposed. Based upon this information, the Board finds that this standard has been met.*

**M. Agriculture**

*Not applicable as no agriculture is proposed. Based upon this information, the Board finds that this standard has been met.*

**N. Clearing of Vegetation for Activities Other than Timber Harvesting**

*The applicant is proposing stabilize approximately 75 feet of a bank with rip rap. The rip rap will replace a food retaining wall/stone cribbing that was previously on the property and has since failed due to storm damage. The rip rap will not extend below the Highest Annual Tide (HAT) line and thereby impact to the coastal wetland will be none. The existing bank is steep and is covered with a combination of native and non-native species; mostly vines. The rip rap will be installed in an area that is covered in stone, washed up debris, along with some bare areas. There is an existing stairway access in this area for which the applicant will apply for a permit from the Codes Enforcement Officer to replace. Based upon this information, the Board finds that this standard has been met.*

**O. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

*No Hazard Trees, Storm-Damaged Trees, and Dead Trees will be removed with this project. Based upon this information, the Board finds that this standard has been met.*

**P. Exemptions to Clearing and Vegetation Removal Requirements**

*The applicant owns a .28 acre parcel and is before the Board seeking approval to stabilize approximately 75 feet of a bank with rip rap. The existing bank is steep and is covered with a combination of native and non-native species; mostly vines. The rip rap will be installed in an area that is covered in stone, washed up debris, along with some bare areas. There is an existing stairway access in this area for which the applicant will apply for a permit from the Codes Enforcement Officer to replace. Based upon this information, the Board finds that this standard has been met.*

**Q. Revegetation Requirements**

*The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). Limited vegetation will need to be removed and vine growth will be cut back as needed. Based upon this information, the Board finds that this standard has been met.*

**R. Erosion and Sedimentation Control**

*The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. There will be no rip rap installed below the Highest Annual Tide (HAT) line and therefore now wetland impact. The existing bank is considered steep and is largely non-vegetated (mostly covered by existing stairs). Limited vegetation will need to be removed and vine growth will be cut back as needed. Based upon this information, the Board finds that this standard has been met.*

**S. Water Quality**

*No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.*

*The applicant will install rip rap to stabilize the eroding shoreline which should improve the water quality by reducing sediments runoff from the land. Based upon this information, the Board finds that this standard has been met.*

**T. Shoreline Stabilization**

Vegetation may be removed in excess of the standards in Section 306.N of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Project Review Board. Construction equipment must access the shoreline by barge when feasible as determined by the Project Review Board.

- (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

- (b) Revegetation must occur in accordance with Section 306.Q

*The applicant is proposing to stabilize approximately 75 feet of a bank with rip rap. The rip rap will extend about five feet above the existing grade. Geotextile fabric with rip rap will be installed, using larger toe boulders and small stones above. There will be no rip rap installed below the Highest Annual Tide (HAT) line and therefore now wetland impact. Limited vegetation will be removed for this project and no vegetation is proposed to be replanted. The site will be accessed by barge, with construction mats put over the wetland during construction. Based upon this information, the Board finds that this standard has been met.*

**U. Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed design to counteract soil limitations where they exist.

*This is a shoreline stabilization project and no new land uses are proposed. Based upon this information, the Board finds that this standard has been met.*

**V. Archaeological Sites**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Codes Enforcement Officer, during the required review process, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the Codes Enforcement Officer who shall consider comments received from the Commission prior to rendering a decision on the application.

*There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

**Proposed Findings of Fact – Chapter 65 Town of Freeport Shoreland Zoning Ordinance - Section 404. Administering Permits**

The Project Review Board, the Coastal Waters Commission, or the Codes Enforcement Officer shall approve an application for a permit, only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the following criteria:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Marine Waterfront District;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of Section 306, Land Use Standards.

*The project is for shoreline stabilization at a residential property on Maquoit Drive. There will be no wetland impact associated with this project. There are no known adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places. The property is not within the Marine Waterfront District and there is no public access to the water. Based upon this information, the Board finds that this standard has been met.*

**Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Town of Freeport Shoreland Zoning Ordinance.**

Chair Reiche asked if anyone would be willing to provide a motion that can be found on Page 31 and 31 in the Staff Report.

**MOVED AND SECONDED:** That the Freeport Project Review Board approve the application as submitted for Randy and Amelia Valicek of 102 Maquoit Drive in the motion with the conditions printed. (Yankee & Hamlen) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**MOVED AND SECONDED:** that the Freeport Project Review Board approve a Shoreland Zoning Permit for Randy and Amelia Valicek, for a Shoreline Stabilization Project (approximately 75 feet in length) at a property at Tax Assessor Map 5, Lot 55 (102 Maquoit Drive), to be built substantially as proposed in an application dated 02/20/24, finding that it meets the standards of Section 306 & Section 404 of the Town of Freeport Shoreland Zoning Ordinance, with the following conditions of approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and their representatives at Project Review Board

meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.

- 2) Prior to the start of any sitework for the project, the applicant obtain any applicable permits from the Freeport Codes Enforcement Officer. (Yankee & Hamlen) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

**ITEM V: New Business**

Mr. Yankee acknowledged Adam Bliss' service to the town and wished him well, Others agreed and Ms. Pelletier added he was here for eight years but tomorrow is his last day here.

Ms. Hamlen had questions about the auction that recently took place in Freeport and if we have any sense on how that would be impacting downtown Freeport? Ms. Pelletier advised that it is not the Board's business.

Ms. Pelletier asked if everyone can be here for the April 17th meeting? If anyone can't be here, please reach out to her prior to so she can arrange for a recording of that plan.

**ITEM VI: Adjourn**

**MOVED AND SECONDED:** To adjourn at 7:15 p.m. (Hamlen & Reiche) **VOTE:** (6 Yes) (1 Excused: Donahue) (0 No)

Recorded by Sharon Coffin