



**TOWN OF FREEPORT, MAINE**

Planning Department

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**TO: FREEPORT PLANNING BOARD**

**FROM: CAROLINE PELLETIER, TOWN PLANNER**

**RE: STAFF REPORT**

**DATE: WEDNESDAY, AUGUST 4, 2021**

**ITEM II: Public Hearing – Proposed Amendments to the Freeport Zoning Ordinance (pertaining to Board of Appeals)**

This will be a public hearing to consider proposed amendments to the Freeport Zoning Ordinance to Section 104. Definitions and Section 601. Enforcement – pertaining to the functions, process and standards for the Board of Appeals. The language is being updated to provide consistency with State law. Some additional non-substantive text changes are also proposed.

**Background:** This item pertains to proposed amendments to the Freeport Zoning Ordinance to Section 104. Definitions and Section 601. Enforcement – pertaining to the functions, process, and standards for the Board of Appeals. The language is being updated to provide consistency with State law.

In Section 104, the definition of variance will be updated. In Section 601, there will be some general text clean-up. In addition, the text pertaining to variance appeals will be updated. The biggest changes will be the removal of the existing setback reduction language and the language for mislocated building appeals. The new proposed language, which will be consistent with state law will be the text regarding standards for a set-back variance for dwelling, one-family and a new standards that would allow the Codes Enforcement Officer to have the Authority to issue Disability Structures Permits. The procedures for Administrative Appeals will also be updated.

This proposed amendments before the Board were prepared with assistance of the Codes Enforcement Officer and the Town Attorney.

**ITEM III: Public Hearing – Proposed Amendments to the Freeport Zoning Ordinance (pertaining to solar energy regulations)**

This will be a public hearing to consider proposed amendments to the Freeport Zoning Ordinance pertaining to solar energy regulations. The following Sections of the Freeport Zoning Ordinance will be discussed:

- a. Section 104. Definitions - to increase the allowable size of a Large Solar Farm in the Commercial I (C-I) District to up to fifteen (15) acres;
- b. Section 409. Commercial I (C-I) District – to add Large Solar Farm as a permitted use subject to Site Plan Review;
- c. Section 412. Commercial IV (C-IV) District - to correct that the existing uses of Small Solar Farm and Large Solar Farm are subject to Site Plan Review, rather than Subdivision Review as currently listed; and,
- d. Section 534. Solar Energy Generation Systems – to prohibit the use of herbicides on solar farms and to add additional performance standards for Large Solar Farms in the Commercial I (C-I) District.

**Background:** In June of 2019, the Freeport Town Council requested that the Planning Board study adding a definition and allowed districts for the use “Community Solar Farm”. The Planning Board worked with North Star Planning, Town staff and the Town Attorney to developed proposed language. The Board had lengthy discussions and discussed the proposed language at multiple meetings (8/7/19, 10/2/19, 11/6/19, 12/4/19, 1/8/20, & 3/4/20).

In February 2021, the Planning Board held a public hearing to discuss proposed amendments to the Freeport Zoning Ordinance regarding the uses and standards for Solar Energy Generation Systems. The amendments discussed included:

- a. Section 104. Definitions, including adding the uses of: Solar Energy Generation System, Accessory; Solar Farm, Small; and, Solar Farm, Large.
- b. The use of Solar Farm, Small which was proposed to be added as a permitted use, subject to Site Plan Review, to the following zoning district Sections of the Freeport Zoning Ordinance: Section 402. Rural Residential District I and Rural Residential District IA; Section 403. Rural Residential District II; Section 405. Medium Density Residential District II; Section 411. Commercial District III; Section 420. Local Business District; Section 421. Industrial District I; and, Section 425. Resource Protection II.
- c. The uses of both Solar Farm, Small and Solar Farm, Large which were proposed to be added as permitted uses, subject to Site Plan Review, to the following zoning district Sections of the Freeport Zoning Ordinance: Section 406. Medium Density Districts; Section 409. Commercial District I; Section 412. Commercial District IV; and, Section 422. Industrial District II.
- d. A new Section 534: Solar Energy Generation Systems was proposed along with associated amendments to Section 602: Site Plan Review.

**Process:** The Planning Board voted to recommend the proposed amendments (as discussed at the February 2021 meeting) to the Town Council. The recommendation was sent to the Council, with the following items flagged for additional discussion:

- 1) If the proposed large solar farm size of 30 acres was right for Freeport;
- 2) If the Town want to strengthen the pesticide/herbicide requirement; and,
- 3) If the Council wanted to consider a stronger buffering requirement along the front setbacks.

The Council took action to adopt the language in March of 2021, with the request that the Planning Board examine adding a restriction on herbicide use and with the changes that a large solar farm could have a solar

array development area of up to ten (10) acres, and the use of a large solar farm would not be added as a permitted use (subject to site plan review) in the Commercial I (C-I) Zoning District.

After the language was adopted, an applicant approached the Council with a request for a contract zone to allow a solar farm on US Route One. The Council instead referred the solar language back to the Planning Board for consideration of the following:

- 1) to allow large solar farms in the Commercial I (C-I) District, to be allowed to have up to fifteen (15) acres of solar array development area;
- 2) to consider having a setback requirement for the solar array development area; and,
- 3) to consider a standard that large farms be no closer than one mile to each other.

These items were discussed by the Planning Board in June and have been incorporated into the proposed amendments (attached). Part of that discussion included whether a setback for the solar array development area of 100 or 200 feet would be appropriate. The proposed language includes a 100 foot setback, as that was what the majority of the Planning Board felt may be appropriate. Maps reflecting the approximate 100- or 200-foot setbacks are attached. A third map is also attached, and shows the proposed setbacks along with the parcels that are ten (10) acres or greater in size.

An updated provision regarding herbicide use and some typographical errors have also been included in the proposed text. Since a prohibition on herbicide use is proposed, notification regarding this Planning Board hearing was sent to the Maine Department of Agriculture, Conservation and Forestry Board of Pesticides Control in accordance with State law.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

## **Section 104. Definitions**

*Note: All existing definitions will remain unchanged, with the exception of the definition of “variance” as noted here:*

**Variance:** A departure from the requirements of the Zoning Ordinance as authorized by the ~~Zoning~~ Board of Appeals only where strict application of the Ordinance would cause undue hardship to the applicant and/or the applicant’s property. In addition, the Codes Enforcement Officer may issue a disability structures permit, pursuant to Section 601.G.2.b.(2) of the Zoning Ordinance and Title 30-A, Section 4353-A of the Maine Revised Statutes.

## **Section 601. Enforcement**

- A. Codes Enforcement Officer: It shall be the duty of the Codes Enforcement Officer of the Town of Freeport to enforce the provisions of this Ordinance. If the Codes Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, ~~he~~they shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. ~~He~~They shall order discontinuance of illegal use of land, building, or structures, removal of illegal building or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. The Codes Enforcement Officer may employ an independent, recognized consultant, if necessary, at the expense of the applicant, to assure compliance with performance standards of this Ordinance and abatement of nuisances.
- B. Legal Action and Violation: When any violation of any provision of this Ordinance shall be found to exist, including failure to comply with any subdivision or site plan approved by the Planning Board or the Project Review Board, or condition imposed by the Planning Board or the Project Review Board or Board of Appeals, the Codes Enforcement Officer shall notify the Town Manager who shall then initiate any and all actions to be brought in the name of the Town. The Town Manager shall notify the Town Council before any formal action begins.
- C. Fines: Any person, firm or corporation being the owner of or having control or use of any building or premises who violates any of the provisions hereof commits a civil violation and is subject to such fines as the Town Council shall have established for violations of this Ordinance. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Freeport.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

D. Building Permit: A Building Permit issued by the Codes Enforcement Officer shall be required for the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, change of use, location, relocation, maintenance, removal and demolition of any building or other structure, as defined in the most current Maine Uniform Building and Energy Code. No building permit shall be issued except in conformity with the provisions of this Ordinance and all other applicable ordinances of the Town of Freeport and any conditions imposed pursuant to said ordinances. A building permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one (1) year of the date on which the permit is granted, and if the work or change is not completed within two (2) years of the date on which the permit is granted. All building permits heretofore issued shall be subject to the provisions of this Paragraph. *{Amended, Effective 06/19/12}*

E. Application for Building Permit: All applications for building permits for the erection or enlargement of any new or existing building shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the sizes and locations on the lot of buildings already existing, if any, the location and dimensions of the proposed building or alteration, and the proposed sewage disposal system as required by the Maine State Plumbing Code. The application shall include such other information as may be required by the Codes Enforcement Officer to determine conformance with and to provide for the enforcement of this Ordinance. Applications shall be accompanied by a fee which shall be established by the Town Council. The Codes Enforcement Officer shall maintain a public record of all building permits which are issued.

If any part of the structure is proposed to be located closer than 5 feet to the minimum front, side, rear or shore setbacks required by the applicable zoning district regulations; or if the Codes Enforcement Officer determines that special conditions such as complex curves in the property lines, or other unusual features of lot shape or topography, the Codes Enforcement Officer may require that the foundation be set and pinned by a professional land surveyor.

F. Certificate of Occupancy

1. It shall be unlawful to use or occupy or permit the use or occupancy of any land, building, structure or part thereof in which the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, change of use, location, relocation, maintenance, removal and demolition of the use of any land, building, or structure as defined in the most current Maine Uniform Building and Energy Code until a Certificate of Occupancy is issued therefore by the Codes Enforcement Officer and endorsed to the effect that the proposed use of the land, building or structure conforms with the requirements of this Ordinance. *{Amended, Effective 06/19/12}*

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

2. An applicant for a building permit shall also make application for a Certificate of Occupancy, which application must be received before a building permit may be issued. Upon completion of the work permitted by the building permit, the Codes Enforcement Officer shall issue the Certificate of Occupancy upon finding that the building, structure or land and the use or occupancy thereof comply with the provisions of this Ordinance, with all provisions of any site plans or subdivision plans approved by the Planning Board or the Project Review Board and with any conditions imposed by the Planning Board or the Project Review Board or Board of Appeals. The Codes enforcement Officer shall maintain a public record of all Certificates of Occupancy which are issued. Failure to obtain a Certificate of Occupancy shall be a violation of this ordinance.

G. Board of Appeals:

1. Appointment and Composition: There shall be a Board of Appeals consisting of seven (7) voting members who are appointed by the Town Council for three (3) year terms. Members shall annually elect a ~~Chairman~~Chairperson, who shall preside at all Board meetings, a Vice-Chairperson and a Secretary, who shall provide for the keeping of the proceedings of the Board. A quorum shall consist of four (4) members qualified to vote on an appeal. A decision shall require a majority vote of those present and voting. A tie vote shall constitute denial of an appeal.
2. Powers and Duties: Appeals shall lie from ~~the any~~ decision of the Codes Enforcement Officer; or other duly authorized municipal official (in which appeals to the Board of Appeals are specifically described in this Ordinance or any other municipal ordinance).- Appeals may be taken to the Board of Appeals and from the Board of Appeals to the Superior Court according to the provisions of Title 30-A, Section 2691(3)(g) of the Maine Revised Statutes. The Board of Appeals shall have the following powers and duties:
  - a. Administrative Appeals. To hear and decide where it is alleged there is an error in any order, decision, interpretation, or ruling of (i) the Codes Enforcement Officer in the administration or enforcement of this Ordinance; or any other municipal ordinance, or (ii) any other duly authorized municipal official (in which appeals to the Board of Appeals are specifically described in this Ordinance or any other municipal ordinance).  
~~— Action of the Codes Enforcement Officer; or another duly authorized municipal official;~~ may be overturned only by a majority vote of those Board of Appeals members present and voting.
  - b. Variance Appeals. Except as provided in Section 601.G.2.b.(2), below,

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

~~(1) To~~ To hear and decide appeals requesting ~~such a~~ variance from the terms of this Ordinance ~~as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance only when strict application of this Ordinance to the applicant and the applicant's property~~ would ~~result in cause~~ undue hardship. A variance may be granted only by majority vote of those ~~Board~~ members present and ~~voting, and~~ voting and may include such conditions and safeguards as are appropriate under this Ordinance. The words "undue hardship" as used in this subsection means:

- ~~(1a)~~ That the land in question cannot yield a reasonable return unless a variance is granted;
- ~~(2b)~~ That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- ~~(3c)~~ That the granting of a variance will not alter the essential character of the locality; and,
- ~~(4d)~~ That the hardship is not the result of action taken by the applicant or a prior owner.

No variance from the ~~seventy-five~~ (75) foot setback from a stream in the Shoreland Zone shall be granted unless the ~~Zoning~~ Board of Appeals finds that the criteria under Section 602.F.1.~~L~~ are satisfied.

The applicant shall submit specific information to substantiate that the land in question cannot yield a reasonable return.

Except where specifically limited or prohibited, variances under this subsection may be authorized only for minimum setback, maximum building/lot ratio, parking requirements for housing for the elderly, minimum frontage, minimum area, fifteen percent (15%) expansion of non-conforming uses and buildings, and destroyed or demolished non-conforming buildings. Only the minimum variance which will alleviate the undue hardship shall be granted.

(2) Codes Enforcement Officer Authority for Disability Structures Permits. Notwithstanding the variance provisions in Section 601.G.2.b.1, above, the Codes Enforcement Officer, may issue a disability structures permit to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The Codes Enforcement

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

Officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with the disability lives in the dwelling. All medical records submitted to the Codes Enforcement Officer and any other documents submitted for the purpose of describing or verifying a person's disability are confidential. The term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls, or roof systems necessary for the safety or effectiveness of the ramps. For purposes of this Subsection, "disability" has the same meaning as a physical or mental disability under Title 5, Section 4553-A of the Maine Revised Statutes.

dc. ~~Limited setback reduction~~ Set-back variance for single-family dwellingsdwelling, one-family. To hear and decide requests for a Set-backsetback variance for a for single-family dwellingsdwelling, one-family, limited setback reduction for a lot in residential use, when the principal use of the lot is a dwelling, one-family, only when strict application of the Zoning Ordinance to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- (1) The need for the variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
- (2) The granting of the variance will not alter the essential character of the locality;
- (3) The hardship is not the result of action taken by the applicant or a prior owner;
- (4) The granting of the variance will not substantially reduce or impair the use of abutting property;
- (5) That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A variance under this subsection is strictly limited and may be permitted only from the setback requirements for a dwelling, one-family, that is the primary year-round residence of the applicant.

A variance under this subsection may not exceed twenty (20%) percent of a setback requirement and may not be granted if the variance would cause the combined area of the dwelling, one-family, and any other structures to exceed the maximum permissible lot coverage.



**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

A variance under this subsection may exceed twenty (20%) percent of a set-back requirement, except for minimum setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B of the Maine Revised Statutes, if the applicant has obtained the written consent of an affected abutting landowner.

ed. Miscellaneous Appeals. To hear and decide ~~only~~ the following miscellaneous appeals. Such appeals may be granted only by a majority vote of those Board members present and voting.

(1) Where uncertainty exists, to determine the precise location of any Zoning District Boundary line as specified in Section 303.3.

~~1) The following provisions apply for limited setback reductions for buildings and structures other than ground mounted solar panels. Such limited setback reductions may be granted in order to permit (i) the expansion or enlargement of an existing building or structure, (ii) the construction of a new building or structure which will be accessory to an existing building or structure, (iii) the construction of a new building or structure on a vacant non-conforming lot of record which can be built upon pursuant to Section 202(D) of the Ordinance; (iv) the dividing off of a new conforming lot from an existing lot of record that contains an existing building or structure; or (v) the creation of a new right of way within the required setback.~~

~~—“Limited setback reduction” means the reduction of a front, side or rear setback (but not a shore setback) by no more than 50% of the requirement of the applicable zoning district regulations except for the RR-1, RR-2 and RP-2 Districts where the reduction can be no more than 75% of the applicable zoning district regulations. A “lot in residential use” means a lot on which a dwelling has existed for at least three years prior to the date the limited setback reduction is requested or a vacant non-conforming lot of record on which a dwelling is proposed. A limited setback reduction may be granted only by a majority vote of those members present and voting and may include such conditions and safeguards as are appropriate under this Ordinance.~~

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

- ~~(i) the existing buildings or structures on the lot were erected at least three years prior to the date the limited setback reduction is requested, or the lot is a vacant non-conforming lot of record which can be built upon pursuant to Section 202(D) of this Ordinance;~~
  - ~~(ii) the limited setback reduction is reasonably necessary to permit the owner or occupant of the property to use and enjoy the property in essentially the same manner as other similar properties are utilized in the zoning district;~~
  - ~~(iii) due to the physical features of the lot and/or the location of existing structures on the lot, it would not be practical to construct the proposed expansion, enlargement, the new structure, new lot, or new right of way in conformance with the currently applicable setback requirements;~~
  - ~~(iv) the impacts and effects of the enlargement, expansion, new building or structure, new lot, or new right of way on existing uses in the neighborhood will not be substantially different from or greater than the impacts and effects of a building or structure which conforms to the setback requirements. In determining whether the applicant has met this standard, the Board of Appeals may consider the presence or absence of neighborhood support for or opposition to the request; and~~
  - ~~(v) the applicant has not commenced construction of the enlargement, expansion, building or structure, new lot, or new right of way for which the limited setback reduction is requested, so that the Board of Appeals is not considering an after the fact application.~~
- ~~(2) The following requirements apply for applications for limited setback reduction for ground mounted solar panels. Notwithstanding the above requirements, if the applicant's property is benefitted by a solar easement meeting the requirements of 33 M.R.S.A. § 1401 and the setback reduction is necessary to allow the location of the ground mounted solar panels on the portion of the applicant's property that is protected by that easement, an applicant may request a reduction greater than the allowances listed above. The~~

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

~~applicant for a limited setback reduction for ground-mounted solar panels must demonstrate the following:~~

- ~~(i) the limited setback reduction is reasonably necessary for obtaining the best possible orientation to the sun.~~
  - ~~(ii) due to the physical features of the lot, the location of mature trees and other buildings it is not practical to locate the ground-mounted solar panels in conformance with the applicable setback requirements,~~
  - ~~(iii) the impacts and effects of the ground-mounted solar panels on existing uses in the neighborhood will not be substantially different from the impacts and effects of the ground-mounted solar panels if they conformed to the setback requirements. In determining whether the applicant has met this standard, the Board of Appeals may consider neighborhood support or opposition to the project.~~
- ~~(3) Whenever the Board grants a limited setback reduction, the Board shall prepare a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, indicating that a limited setback reduction has been granted and setting forth the date it was granted. The applicant shall cause the certificate to be recorded in the Cumberland County Registry of Deeds within 90 days of approval of the limited setback reduction, or the approval shall be invalid.~~
- ~~(4) The granting of a limited setback reduction pursuant to this subsection 601(G)(2)(d) shall not require or be construed as the granting of a variance to relieve hardship. Notwithstanding Section 601(g)(4)(f), the denial of a variance request shall not preclude a subsequent application for a limited setback reduction under this subsection and the denial of a request under this subsection shall not preclude a subsequent application for a variance. If an application for a variance is pending, the Town shall not accept an application for a limited reduction of the same setback dimension on the same property; if an application for a limited setback reduction is pending, the Town shall not accept an application for a variance from the same setback dimension on the same property.~~

~~{Amended, Effective 08/05/14}~~

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

~~ed. Mislocated building appeal. To hear and decide, only by majority vote of those members present and voting, setback reduction appeals in specific cases where existing buildings are found to be in violation of the setback requirements and where the Board concludes it would not serve the public interest to require the building to be relocated or removed and that allowing the building to remain in its existing location would not be contrary to the public health, safety or welfare. Before granting an appeal under this subsection, the Board must find that the setback violation is not the result of a willful, premeditated act or of gross negligence on the part of the applicant, a predecessor in title to the applicant or an agent of either of them. An appeal under this subsection shall permit the existing building or structure to remain, but shall not authorize any expansion, enlargement or relocation of the structure.~~

3. Conditions attached to Variances

The Board of Appeals may attach such condition(s), in addition to those required by other provisions of this Ordinance, as it finds necessary to ~~insure~~ensure compliance with all standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; hours of operation; operation controls; professional inspection and maintenance; sureties; location of piers and docks; parking and signs; and types of construction. When a building or structure is erected pursuant to a variance approved by the Board of Appeals, the Board may require the location of the foundation to be set and pinned by a professional land surveyor.

4. Appeals Procedure

- a. ~~General. When the owner of property or authorized agent is informed by the Codes Enforcement Officer that an appeal is required, a~~General. When the owner of property or authorized agent is informed by the Codes Enforcement Officer that an appeal is required, aWhen a building or structure is erected pursuant to a variance approved by the Board of Appeals, the Board may require the location of the foundation to be set and pinned by a professional land surveyor.~~When the owner of property or authorized agent is informed by the Codes Enforcement Officer that an appeal is required, a~~An application for ~~the permit~~a ~~variance, administrative, or miscellaneous appeal~~ shall be filed with the Board of Appeals on forms provided for this purpose. The application shall be accompanied by a filing fee which shall be established by the Town Council, all information which is required for application for a building permit, and other information required by this section of the Ordinance. The applicant may submit any additional information relevant to the appeal.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

An administrative appeal shall be commenced within thirty (30) days of the order, decision, interpretation or ruling ~~of the Codes Enforcement Officer, or other municipal official being appealed.~~ A variance appeal or miscellaneous appeal which does not allege an error in any order, decision, interpretation, or ruling of the Codes Enforcement Officer or other municipal official may be commenced at any time.

- b. Variance ~~requests~~ appeals within a shoreland zone. A copy of each variance ~~request~~ appeal, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals prior to taking action on the variance appeal.

If a variance appeal within a shoreland zone is approved, a copy of the variance granted by the Board of Appeals to all land areas within the Shoreland Zone shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

- c. Appeal application requirements. The applicant for a variance, administrative appeal, or miscellaneous appeal ~~or a limited setback reduction~~ must present plans drawn to scale showing all lot lines of the property, the location of each existing building or structure and the location of each proposed expansion, enlargement or new building or structure. Upon review of the application, the Codes Enforcement Officer may require the applicant to provide a standard boundary survey showing the foregoing information if the Codes Enforcement Officer determines that the locations of the lot lines relevant to the request for a variance or a limited setback reduction cannot be determined accurately without a survey. In addition, the Board of Appeals, upon review of the application, may require a standard boundary survey and additional information such as, but not limited to, copies of recorded deeds and such other materials as the Board deems necessary to render its decision. The applicant is ultimately responsible for providing documentation and verification of the facts asserted by the applicant, and any decision of the Board based on incorrect or inaccurate information provided by or on behalf of the applicant may be declared invalid by the Board and neither the Board nor the Town shall be stopped from applying and enforcing the provisions of this Zoning Ordinance based on correct and accurate information subsequently discovered.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

d. Procedures for administrative appeals.

(1) An administrative appeal of a final decision of the Project Review Board on a subdivision application shall be filed and reviewed in accordance with Article 15 of the Freeport Subdivision Ordinance.

(2) All other administrative appeals are *de novo* and shall follow the following procedure:

(a) The Codes Enforcement Officer shall transmit to the Board of Appeals the decision and all documents and other evidence on which the decision was based, which may be considered as evidence in the *de novo* proceeding.

(b) Before making a decision on any ~~appeal or application~~ administrative appeal, the Board of Appeals shall hold a public hearing within ~~sixty (60)~~ days of receipt of an application ~~unless the parties agree to an extension of the sixty (60) day period.~~

(c) Notice of the nature of the appeal and the time and place shall be published at least seven days in advance of the date of the public hearing in a newspaper of general circulation in the area. Owners of property within ~~two hundred feet (200')~~ from the property which is the subject of the public hearing, the ~~Planning Board, the~~ Project Review Board and the Town Manager shall be mailed copies of the notice of hearing at least ~~ten (10)~~ days in advance of the hearing date. For the purposes of this subsection, the persons against whom municipal property taxes are assessed shall be considered owners of property. Failure of any property owner to receive notice by mail under this subsection shall not invalidate ~~this any~~ action by the Board of Appeals.

(d) At the public hearing, all persons shall have the right to present additional testimony and documentary evidence, and any party has the right to cross-examine witnesses. The Codes Enforcement Officer or their designee shall attend all public hearings and may present to the Board all plans, photographs, or other material they deem appropriate to a proper understanding of the appeal or application. Persons wishing to be heard by the Board may appear in person or through an agent or attorney with a written letter of authorization included in the submission. The Board of Appeals may adopt additional rules of procedure governing the conduct of meetings.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

~~(5e) The hearing shall not be continued to other times except to obtain additional evidence which cannot be produced at the scheduled hearing and only after a vote of the majority of the Board members present and voting to continue the hearing.~~

~~(5f) The standard of review is whether, on the basis of the evidence before the Board of Appeals, the application complies with the requirements of this Ordinance or any other applicable municipal ordinance. The burden of proof is on the applicant. The Board of Appeals has authority to grant or deny a permit or approval or to remand the matter to the Codes Enforcement Officer or other municipal official for further proceedings.~~

~~(6g) e. The Codes Enforcement Officer or designated assistanttheir designee shall attend all public hearings and may present to the Board all plans, photographs, or other material he they deems appropriate to a proper understanding of the appeal or application. Persons wishing to be heard by the Board may appear in person or through an agent or attorney with a written letter of authorization included in the submission. The Board of Appeals may adopt additional rules of procedure governing the conduct of meetings. The hearing shall not be continued to other times except to obtain additional evidence which cannot be produced at the scheduled hearing and only after a vote of the majority of the members present and voting to continue the hearing. If within sixty (60) days of the public hearing the Board has not reached a decision, the application shall be deemed to have been denied, unless the bBoard and the applicant agree to an extension of the sixty (60) day period. A decision of the Board of Appeals becomes final when it is rendered and may not only be reconsidered except in accordance with the provisions of subsection (I)(4)(d) of this Section 601. 30-A MRSA § 2691(3)(F).~~

~~fe. Denied appeal or application. If the Board of Appeals shall deny an appeal or application, a second appeal or application of a similar nature for the same property may not be brought before the Board within one (1) year of the date of denial of the first appeal or application, unless, in the opinion of the majority of the Board, substantial new evidence can be brought before the Board, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of fact has been made.~~

~~g. A permit secured under the provisions of this Ordinance by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one (1) year of the date on which the permit was issued. Upon application, before expiration of the original permit, to the Codes Enforcement Officer, the officer may grant a one (1) year extension,~~



**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to the Board of Appeals)  
For the August 4, 2021 Planning Board Meeting**

~~without change, of the permit. The permit shall expire if the work or change is not completed within two (2) years of the issuance of the original permit.~~

~~h. When a building or structure is erected pursuant to a variance or a limited setback reduction approved by the Board of Appeals, the Board may require the location of the foundation to be set and pinned by a professional land surveyor.~~

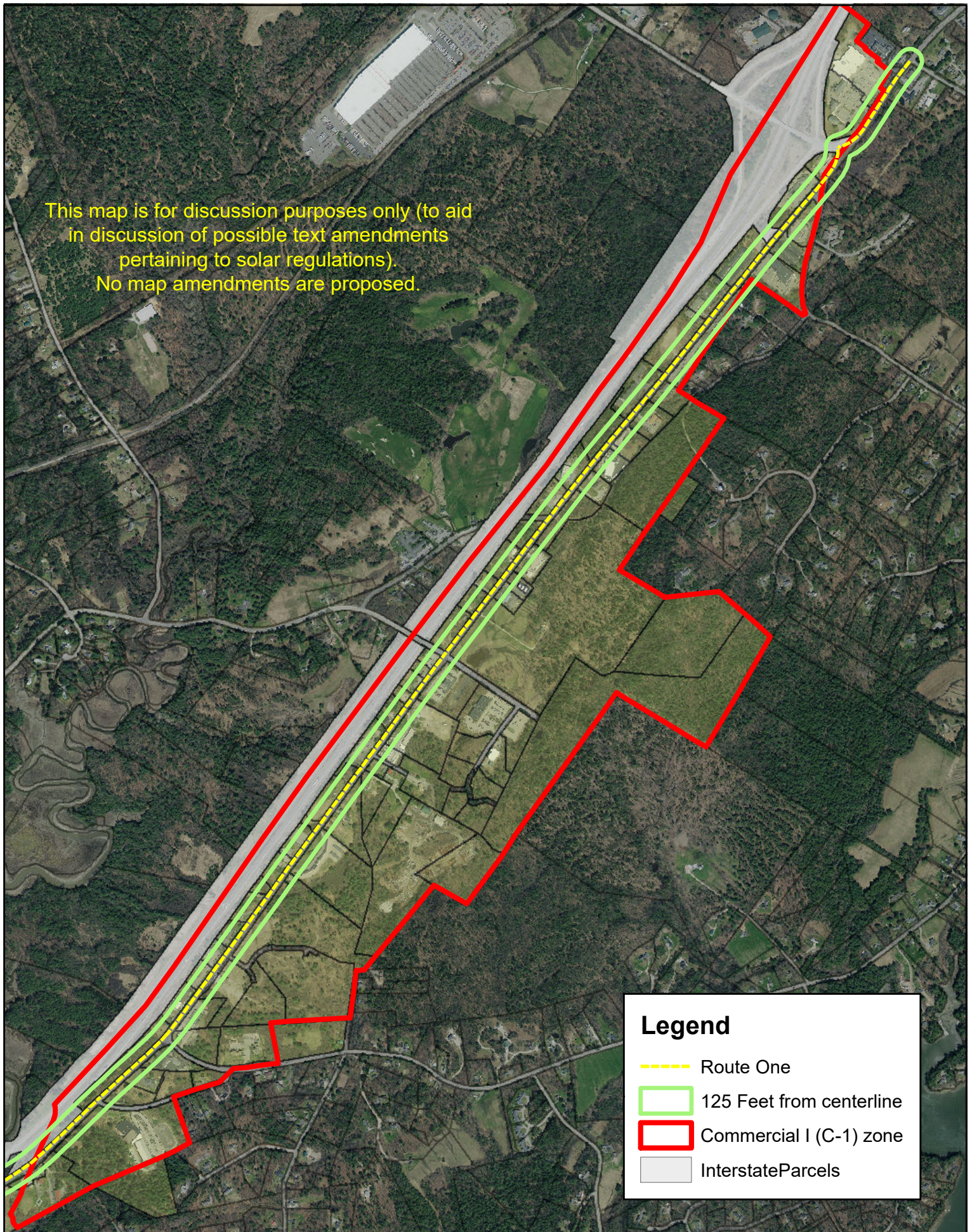
~~Shoreland Zoning Variances: A copy of all variances granted by the Board of Appeals to all land areas within the Shoreland Zone shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.~~

f. Certificates. Whenever the Board grants a variance or the Codes Enforcement Officer grants a disability structures permit under this Section G.2.b.2, the Town shall prepare a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, indicating that a variance or disability structures permit has been granted and setting forth the date it was granted, prepared in a recordable form. The applicant shall cause the certificate to be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the final written approval of the variance or the disability structures permit, or the approval shall be invalid. The variance or the disability structures permit is not valid until recorded as provided in this section.



# C-1 Zone Proposed Solar Setback 100 feet from Route One.\*

\* Approximate distance given 125 feet from the road centerline assuming a 50 feet wide road.

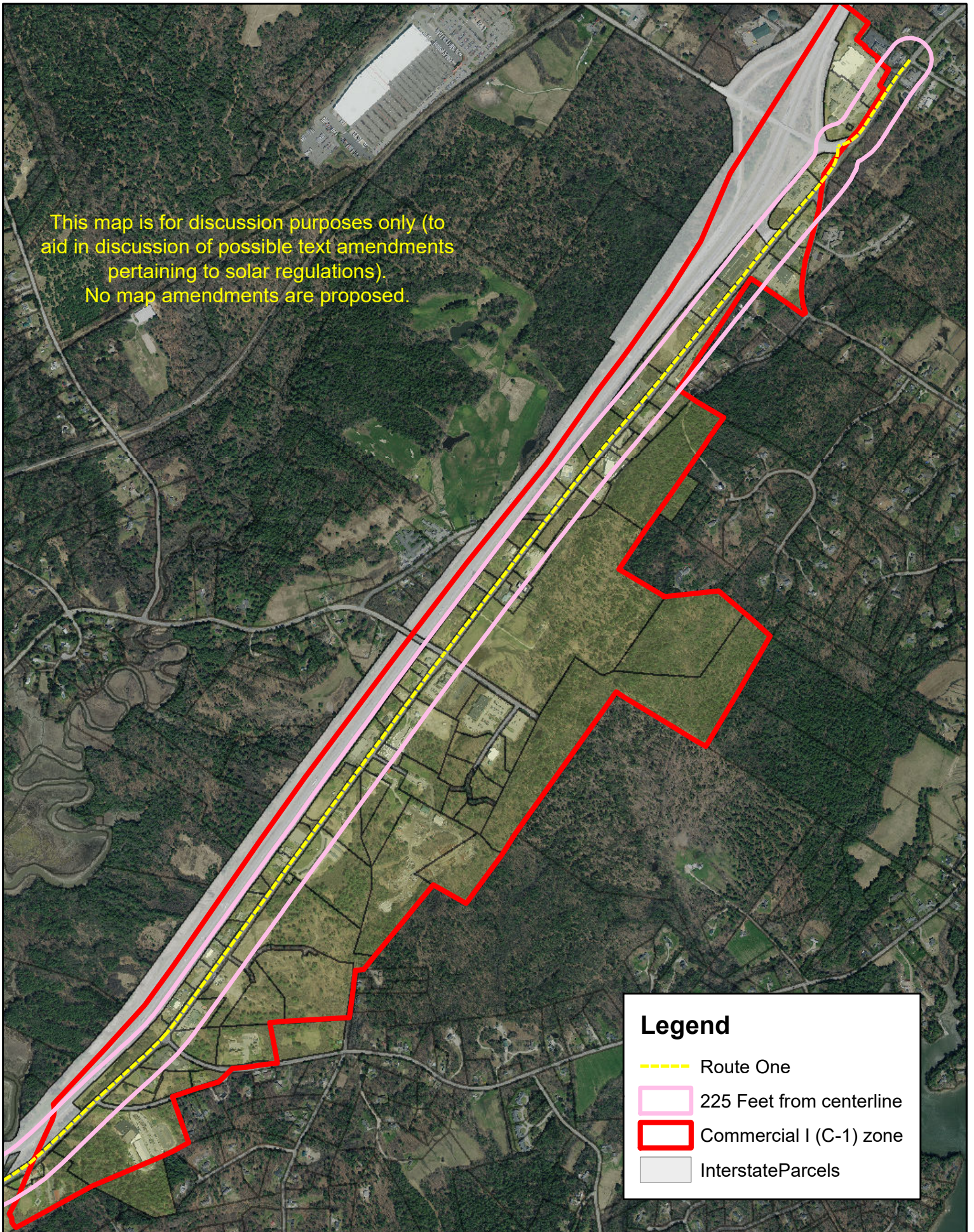




# C-1 Zone Proposed Solar Setback 200 feet from Route One.\*

\* Approximate distance given 225 feet from the road centerline assuming a 50 feet wide road.

This map is for discussion purposes only (to aid in discussion of possible text amendments pertaining to solar regulations).  
No map amendments are proposed.

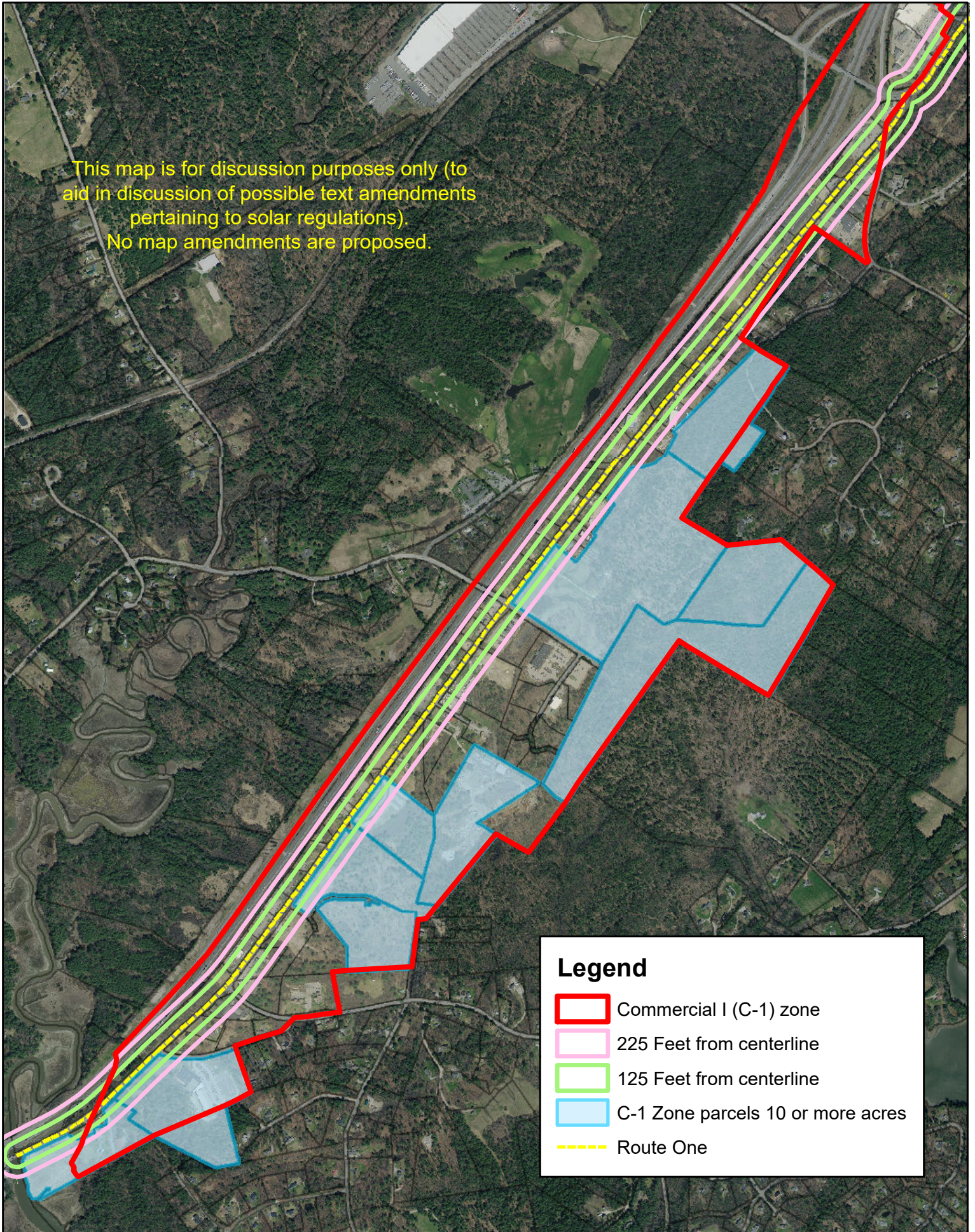




# C-1 Zone parcels greater than or equal to 10 acres

\* Buffers of 125 and 225 feet are approximate distances to 100 and 200 feet from the parcel's lines assuming a 50 feet wide road.

This map is for discussion purposes only (to aid in discussion of possible text amendments pertaining to solar regulations).  
No map amendments are proposed.





**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

**Section 104. Definitions**

**Solar Farm, Large or Large Solar Farm:** A Solar Energy Generation System that (i) may be roof or ground-mounted; (ii) primarily generates and delivers electricity to the energy grid for off-site consumption; and (iii) if it is ground-mounted, has a Solar Array Development Area that is 87,120 square feet (2 acres) or greater but less than 10 (ten) acres, except for in the Commercial I (C-I) District, where the Solar Array Development Area may be 87,120 square feet (2 acres) or greater but less than 15 (fifteen) acres. *{Amended, Effective 03/16/21}*

**Section 409. Commercial District I “C-I”**

A. Purpose: *{Amended, Effective 02/04/20}*

It is the intent of this District to provide for suitable locations for commercial uses and mixed use developments which are appropriately situated at highway locations and to encourage an attractive entrance to the Town of Freeport. This District comprises land along the U.S. 1 corridor from Yarmouth to the plaza just north of Desert Road and is the major local connector between Yarmouth and Freeport. This district is intended to be flexible with regard to minimum lot size, road frontage requirement, and setbacks from property lines provided points of access onto U.S. Route One are limited, and design standards are met.

B. Permitted Uses:

1. Single Family Dwelling
2. Two Family Dwelling
3. Agriculture *{Amended, Effective 06/18/13}*
4. Agritourism Activity *{Amended, Effective 06/18/13}*
5. Timber Harvesting
6. Peddler on Private Property subject to the requirements of Section 526

The following uses are subject to site plan review regardless of size: *{Amended, 03/19/19}*

7. Public or Private School
8. Commercial School
9. Outdoor Recreation School
10. Auto Repair Service Garage subject to the standards of Sec. 409.D.6 listed below
11. Auto Service Station
12. Retail Trade up to 15,000 s.f. building footprint
13. Commercial Sales and Service - Outdoor
14. Business and Professional Offices
15. Commercial Recreation – Indoor and Outdoor
16. Public Utilities
17. Convenience Store with Gas Pumps

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

18. Restaurant
19. Restaurant - Drive-Up
20. Restaurant - Carry-Out
21. Bed and Breakfast Inn
22. Hotel/Motel
23. Boatyard
24. Public and Private Assembly Indoor
25. Parking Facility
26. Commercial Sales and Service
27. Manufacturing and Processing
28. Day Care Center Facilities
29. Auto Sales for up to 30 vehicles stored outdoors
30. Flea Markets
31. Art Gallery and Museum
32. Residential Health Care Facility
33. Nursing Home
34. Construction Services
35. Research and Development Facility
36. Parking area for open space *{Amended, Effective 12/02/14}*
37. Artisan Food and Beverage *{Amended, Effective 02/04/20}*
38. Vehicle wash center *{Amended, 03/19/19}*
39. Mixed Use Development *{Amended, Effective 02/04/20}*
40. Food Truck, as an accessory to any permitted use that is subject to Site Plan Review, and subject to the provisions for Section 526A. – Food Trucks *{Amended, Effective 02/04/20}*

The following uses are permitted 300 feet or more from the easterly edge of the U.S. Route One right-of-way **or if closer than 300 feet from the easterly edge of U.S. Route One the standards of Section 409.D.8 shall be met**, and are subject to site plan review regardless of size: *{Amended, Effective 02/04/20}*

41. Multiple Family Dwelling
42. Warehouse and Storage Facility
43. Wireless Telecommunication Facilities
44. Truck Facilities
45. Small Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*
46. Large Solar Farm, subject to the standards of Section 534

C. Space and Bulk Standards

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

1. Minimum lot size and road frontage requirement if the building(s) or use(s) is/are connected to the public water and sewer system and if one of the following conditions exists or is provided<sup>1</sup>: *{Amended, Effective 10/03/17}*
- a. there is no more than one access point (existing or proposed) per lot of record as of May 6, 2008 on U.S. Route One, or
  - b. the only access point off U.S. Route One is shared with an adjacent lot or lots and the lot or lots sharing the access points don't have other access points on U.S. Route One; or
  - c. a lot has more than one existing access point per lot of record as of May 6, 2008; provided, however, that (i) in these situations the Project Review Board may relocate some or all of the access points, (ii) the development shall not have more access points than exist on May 6, 2008, and (iii) the Project Review Board may in its discretion limit access points to a number less than the number existing on May 6, 2008 if the Project Review Board shall determine that the maintenance of the number of access points existing as of May 6, 2008 is likely to<sup>2</sup>:
    - A. detract from public safety considering such factors such as accidents in the area, traffic volumes, road geometrics, types and frequency of traffic moving to and from existing uses within 1,000' of the proposed use; or
    - B. adversely effect the ability of vehicular traffic to maintain the existing speed limit; or
    - C. threaten an environmentally sensitive area,

**West** side of U.S. Route One and lots in the C-1 District just prior to May 6, 2008

Minimum lot size	20,000 s.f.
Minimum land area per dwelling unit if part of a mixed use development	10,000 s.f.
Road frontage requirement	none

**East** side of U.S. Route One other than lots in the C-1 District just prior to May 6, 2008

Minimum lot size	40,000 s.f.
Minimum land area per dwelling unit within 300' of U.S. Route One	40,000 s.f.
Minimum land area per dwelling unit 300' or beyond U.S. Route One	15,000 s.f.

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<sup>1</sup> It is the intent of this section to provide the incentives of reduced minimum lot sizes and road frontage requirements for developments that limit or share access points on to U.S. Route One. The limitation of access points on U.S. Route One applies to developments that intend to take advantage of the incentives of reduced minimum lot sizes and road frontage requirements when a new lot is created. The limitation of access points does not apply to existing developments, buildings, or uses or to existing developments, buildings, or uses that propose a change of some sort but that are not creating a new lot. For more information on the intent of this section refer to the Freeport Comprehensive Plan, Section VI.B – Future Land Use Directions – Commercial.

<sup>2</sup> It is the intent of this section to give the Project Review Board the authority to consider allowing two access points if the two access points existed prior to May 6, 2008. This exception was intended for proposed developments that are expected to have a minimal increase in traffic such as small residential developments or commercial uses with limited traffic needs, and for proposed developments that can easily meet the standards of this section.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

Minimum land area per dwelling unit if part of a mixed use development	10,000 s.f.
Road frontage requirement	none

2. Minimum lot size and road frontage requirements for lots that do not meet the requirements of Section 409.C.1 above

**West** side of U.S. Route One and lots in the C-1 District just prior to May 6, 2008

Minimum lot size	1 acre
Road frontage requirement	300 feet

**East** side of U.S. Route One other than lots in the C-1 District just prior to May 6, 2008

Minimum lot size	3 acres
Road frontage requirement	300 feet

3. Maximum building height: *{Amended, 03/19/19}* 35 feet  
Projects that meet the criteria of Sec. 409.D.7 are eligible for a maximum height of 45 feet.

4. Maximum impervious surface to lot area: 70%

5. Minimum setback *{Amended, 03/19/19}*
- |        |         |
|--------|---------|
| front: | 15 feet |
| side:  | 15 feet |
| rear:  | 15 feet |

Projects that meet the criteria of Sec.409.D.5 are eligible for a minimum side and rear setback of 5'.

**D. Other Standards: *{Amended, 06/18/19}***

1. Outdoor storage for non-residential uses is prohibited in the front setback. Outdoor storage areas shall be fenced.
2. For all uses subject to Site Plan Review, in the front setback, in a strip extending along the entire frontage of Route One, except for driveways, for a depth of 15 feet, landscaping is required. Landscaping is also required in all side setbacks for a depth of 15 feet extending from the front property line to the furthest back edge of the developed area (buildings, parking lots, other impervious surface). The Project Review Board shall determine whether the side landscaping shall consist of plantings and/or retention of the natural cover. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side landscaped setbacks. *{Amended, 03/19/19}*
3. Items for sale are allowed within all of the required setbacks.
4. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

5. The side and rear setback requirements may be reduced to a minimum of 5' if the proposed building is adjacent to an existing building used for commercial purposes, if a lot shares access, parking, and/or other facilities with another lot, or if environmental constraints on the property limit the logical location of buildings to be closer to the property line. *{Amended, 03/19/19}*
6. Building heights up to 45' are allowed provided the building can be adequately screened from U.S. Route One, I-295, Old South Freeport Road and South Freeport Road as applicable with existing trees and the building is 300' or greater from U.S. Route One. *{Amended, 03/19/19}*
7. The Performance Standards of Section 527 are applicable.
8. For uses that require outdoor storage of materials or the operation/storage of large equipment (other than inventory for sale), or outdoor equipment that is accessory to vehicle wash centers such as vacuuming devices, the Project Review Board shall require screening that visually obscures the storage area(s) or accessory uses to vehicle wash centers and/or reduces the ambient noise level of the use to the greatest extent practicable. Such screening may include plantings, retention of existing vegetation, berms, fences, or other vegetative or constructed barriers to mitigate the visual and auditory impact of the development on the surroundings. *{Amended, 03/19/19}*

The final shape, size and location of all screening shall be determined, at the discretion of the Project Review Board. In determining the shape and size of the screening, the board shall consider the amount of land being used for outdoor storage, the type of screening being used, the amount of noise that may be generated by the outdoor storage, the proximity of the outdoor storage to the road, and the amount of natural vegetation being maintained.



**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

**Section 412. Commercial District IV “C-IV”**

*{Amended, Effective 08/06/19}*

**A. Purpose:**

This District is intended to provide suitable locations for a variety of higher density residential and commercial uses which benefit from nearby major highway connections and existing public utilities. Open space and/or buffers are required to provide a buffer between higher density development and adjacent lower density residential properties and to protect environmentally sensitive areas.

**B. Permitted Uses:**

The following uses are subject to site plan review regardless of size:

1. Two-Family Dwelling
2. Multiple-Family Dwelling
3. Public or Private School
4. Commercial School
5. Outdoor Recreation School
6. Local convenience goods stores accommodating local needs such as but not limited to retail bakeries, delicatessens, candy, nut and fish stores, fruit and vegetable stores, grocery and food stores, 5 & 10 stores, hardware stores, auto parts supply, book stores, branch banks, dry goods stores and florist shops;
7. Personal service stores such as but not limited to beauty and barber shops, laundromats, cleaners, photography studios, shoe, jewelry and household appliance repair services and alterations services;
8. Supermarket
9. Business and Professional Offices
10. Commercial Recreation - Indoor
11. Commercial Recreation - Outdoor
12. Municipal Facilities
13. Public Utilities
14. Warehouse and Storage Facilities
15. Commercial Sales and Service
16. Truck Facility
17. Manufacturing and Processing which does not involve the basic refinement of bulk raw material
18. Hotel/Motel
19. Day Care Center Facilities
20. Convenience Store with Gas Pumps
21. Auto Service Station
22. Auto Repair Service Garage
23. Restaurant

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

24. Restaurant - Carry Out
25. Restaurant - Drive-up
26. Construction Services
27. Public Assembly
28. Private Assembly
29. Wireless Telecommunication Facility (See Sec. 528)
30. Parking area for open space *{Amended, Effective 12/02/14}*
31. Artisan Food and Beverage *{Effective 12/17/14}*
  - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
32. Medication Assisted Treatment Facility for Opioid Addiction *{Effective 10/04/16}*
33. Small Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*
34. Large Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*

The following uses are subject to subdivision review:

3335. Commercial Open Space Subdivision for two-family and/or multiple-family dwellings.
- ~~34. Small Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*~~
- ~~35. Large Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*~~

C. Space Standards for Lots which are Not Within Subdivisions as Listed in Section D below:

1. Minimum Lot Size:  
20,000 s.f. provided curb cuts on Hunter Road or Desert Road are at least 300 feet apart on the relevant side of the road; otherwise the minimum lot size is 1 acre. The minimum lot size of lots having frontage on roads other than Hunter Road or Desert Road is 20,000 s.f. provided that access to the lot is on a driveway serving 2 or more lots; otherwise the minimum lot size is 1 acre.
2. Maximum Building Height: 35 feet
3. Minimum Road Frontage:
  - a. Minimum Road Frontage for Lots that have one or more access(es) that is not shared with other lots: 100 feet
  - b. No Minimum Road Frontage for lots that share an access with one or more other lots.
4. Maximum Impervious Surface to Lot Area Ratio: 70%
5. Minimum Setback:

front:	25 feet
side:	25 feet
rear:	25 feet
6. Maximum Height - Wireless Telecommunication Facility (single user): 75 feet  
Wireless Telecommunication Facility, Co-located: 125 feet

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

**D. Space and Bulk Standards for Lots in Open Space Commercial Subdivisions approved after August 6, 2019**

1. Net residential density per dwelling unit; two family and multiple family – 1 unit per 2,904 s.f. (15 units per acre) of net residential acreage
2. Maximum impervious surface to lot area excluding designated open space 90%
3. Allowable number of stories 3 stories
4. Setbacks for developments with property in common ownership front: 25 feet  
rear: 50 feet  
side: 25 feet

For developments that will be divided into individual lots:

4. Minimum lot area per dwelling unit; two family and multiple family - 4,000 s.f.
5. Minimum road frontage 30 ft.
6. Minimum setback for commercial open space subdivisions front: 10 feet  
rear: 10 feet  
side: 5 feet

**E. Prohibited Uses:**

1. Manufacture, fabrication, disposal or any use of asbestos products
2. Paper Manufacturing
3. Petroleum and petrochemical refining and reprocessing
4. Production of lubrication oils and grease
5. Manufacture of explosives including, but not limited to, ammunition and fireworks
6. Offal or dead animal disposal and reprocessing
7. Abattoirs and slaughterhouses

**F. Other Standards:**

1. For developments that require open space, the open space shall be delineated by using the following priority system:
  - a. first priority – establish buffer of at least 50 feet where the Commercial District is adjacent to the Rural Residential District.
  - b. second priority – open space includes primary conservation areas to the greatest extent practical
  - c. third priority – at the discretion of the owner
2. If open space is not required, a 25 foot buffer shall be required where the adjacent property within this District is presently used for residential purposes. A 100 foot buffer strip shall be required where it abuts residential districts
3. Landscaping is required in the front setback as per Section 527.E.
4. The Performance Standards of Section 527 are applicable. *{Amended, Effective 01/02/18}*

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

**Section 534. Solar Energy Generation Systems** *{Amended, effective 03/16/21}*

The purpose of this Section 534 is to allow for the construction and operation of Solar Energy Generation Systems by establishing appropriate standards to ensure safe, effective, and efficient use of Solar Energy Generation Systems that are compatible with existing surrounding uses.

A. General Standards.

1. Accessory Solar Energy Generation Systems, Small Solar Farms, and Large Solar Farms must obtain all applicable permits from the Freeport Codes Enforcement Officer, including but not limited to building and electrical permits.
2. Accessory Solar Energy Generation Systems, Small Solar Farms, and Large Solar Farms shall be subject to the standards of the Freeport Design Review Ordinance and/or the Freeport Village Overlay District, as applicable.

B. Additional Standards for Accessory Solar Energy Generation Systems.

1. An Accessory Solar Energy Generation System shall be permitted wherever accessory structures or uses are permitted and shall conform to the standards for such accessory structures or uses of the applicable zoning district(s).
2. The maximum height of a roof-mounted Accessory Solar Energy Generation System shall be the maximum building height set forth in the applicable zoning district(s). The maximum height of a ground-mounted Accessory Solar Energy Generation System shall be 25 feet or the height of the principal structure, whichever is less.
3. Roof-mounted Accessory Solar Energy Generation Systems are not subject to Site Plan Review.
4. Ground-mounted Accessory Solar Energy Generation Systems accessory to uses other than single and two family dwellings are subject to Site Plan Review by the Freeport Project Review Board, per Section 602 of this Ordinance.

C. Standards for Small Solar Farms and Large Solar Farms.

1. Site Plan Review. Small Solar Farms and Large Solar Farms are subject to Site Plan Review by the Freeport Project Review Board, per Section 602 of this Ordinance.
2. Application Requirements. In addition to all of the applicable site plan review submission requirements set forth in Section 602.D.4 of this Ordinance, the following additional submissions are required unless waived by the Project Review Board.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

- a. Name(s) and contact information for the owner, operator and installer of the proposed system and the name(s) of the owner of the subject property on which the Small Solar Farm or Large Solar Farm is to be located.
- b. Cover letter describing the project, including details regarding the subject property on which the Small Solar Farm or Large Solar Farm will be located; the construction schedule and anticipated commercial operation date; dimensions of all major components of the Small Solar Farm or Large Solar Farm, including the solar panel specifications, manufacturer(s), and manufacturer-identified period of time for which the solar photovoltaic (PV) technology will be economically feasible for its intended use (referred to in this Section 534 as “useful life”); and a detailed description of how the project complies with each applicable standard of this Ordinance.
- c. A deed, lease, lease option agreement, or similar legal instrument describing the applicant’s right, title, and interest to the subject property and right of access to the subject property from the nearest public roadway.
- d. Site photos showing existing site vegetation, existing and adjacent structures, and views of and from the subject property.
- e. Plans, prepared by a professional engineer, professional surveyor, or licensed landscape architect containing, at minimum, the following information:
  - i. The proposed location of the Small Solar Farm or Large Solar Farm in relation to existing lot lines and natural features (including but not limited to vegetation, streams, and wetlands), as well as existing and proposed deed and lease lot lines, structures, fencing, roads and rights-of-way, driveways, parking areas, curb cuts on the subject property, easements, and underground and overhead utility lines.
  - ii. The proposed location of all Solar Energy Generation System components (including solar collectors (including the location of all inter-panel space), mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure), all existing and proposed structures, all existing and proposed impervious surfaces, all areas proposed to be cleared of vegetation, and their physical dimensions, including the dimensions and square footage of the Solar Array Development Area.
  - iii. A landscaping plan reflecting the location of any existing and proposed screening and demonstrating compliance with all applicable buffer requirements of this Ordinance.
  - iv. Scaled elevation drawings of all Solar Energy Generation System components (including solar collectors (including the location of all inter-panel space), mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure) and all existing and proposed structures, foundations, supports, fencing, security barriers, vegetation, and landscaping.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

- v. For ground-mounted Small Solar Farms or Large Solar Farms, a statement prepared and stamped by a professional engineer certifying that the proposed Solar Energy Generation System design is safe in terms of its strength, stability, security, and grounding.
- f. Documentation that the Small Solar Farm or Large Solar Farm complies with applicable state and federal laws and rules. Include copies of applications submitted to and permits granted by state regulatory agencies, including any applications and permits related to the interconnection of the Small Solar Farm or Large Solar Farm to the energy grid.
- g. A decommissioning plan for the removal of the Small Solar Farm or Large Solar Farm and stabilization of the site, consistent with the requirements of Section 534.C.3.f.i. A decommissioning plan shall include a proposed decommissioning time schedule and details of how the owner or operator of record of the Small Solar Farm or Large Solar Farm will ensure completion of the following tasks:
  - i. Physical removal of all Solar Energy Generation System components (including solar collectors, mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure), structures, foundations, supports, fencing, and security barriers from the site.
  - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal laws and rules.
  - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion and return the site to substantially its pre-construction state. Native, pollinator-friendly seed mixtures shall be used to re-vegetate areas the greatest extent practicable.
- a. Proof of financial capacity to build, maintain, and remove the Small Solar Farm or Large Solar Farm, including evidence which satisfies the requirements of Section 534.C.3.e.i. This proof should include documentation of the cost of constructing the Small Solar Farm or Large Solar Farm, as well as a statement or other documentation from a bank or lending institution that the owner of the Small Solar Farm or Large Solar Farm has secured adequate financing to cover the cost of construction.
- b. The following additional submission requirements apply to applications for Large Solar Farms:
  - i. Written documentation from the Maine Historic Preservation Commission (MHPC) regarding any known or likely historic, prehistoric, or archeological resources located in or on the subject property. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.i.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

- ii. Written documentation from the Maine Natural Areas Program (MNAP) regarding the presence of rare or exemplary natural communities located on the subject property, including any critically imperiled (S1) or imperiled (S2) natural communities or plant species. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.ii.
  - iii. Written documentation from the Maine Department of Inland Fisheries and Wildlife (MDIFW) regarding known locations of rare, endangered, threatened, and special concern species; essential and significant wildlife habitats (including waterfowl and wading bird habitats, deer wintering areas, and significant vernal pools); and significant fisheries habitats (including Atlantic salmon spawning, limited spawning, and rearing habitats) on the subject property. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.iii.
  - iv. For Large Solar Farms that trigger review by the Maine Department of Environmental Protection (MDEP) pursuant to the Site Location of Development Act (Site Law), 38 M.R.S.A. §§ 481-490, a copy of the Site Law application submitted to MDEP and any permits granted by the MDEP at the time of submission of the application to the Town.
3. Performance Standards for Small Solar Farms and Large Solar Farms.
- a. Dimensional Standards.
    - i. The maximum height of any ground-mounted Small Solar Farm or Large Solar Farm shall be twenty-five (25) feet. Height shall be measured from the lowest point of the Solar Energy Generation System components above grade to the highest point of the solar photovoltaic (PV) technology when oriented at maximum tilt or any other structures. This maximum height limitation does not apply to the transmission and distribution lines.
    - ii. The minimum setback of any part of the Solar Array Development Area and any other proposed structures shall conform to requirements of the applicable zoning district or twenty (20) feet from any lot lines, whichever is greater. This minimum setback does not apply to fencing or transmission and distribution lines.
    - iii. For Small Solar Farms or Large Solar Farms permitted in the following districts (RR-IA, C-I, C-III, C-IV, MD-A, MD-B, LB, I-I, I-II) which abut the following districts (RR-I, RR-IA, RR-II, RP-I, RP-II, MDR-I, MDR-II, V-I, V-II, VMU-1 and VMU-2), the Solar Array Development Area and any other proposed structures shall meet the minimum setback requirements of the applicable zoning district or following minimum whichever are greater:
      - (a) Front: 50 feet
      - (b) Side: 50 feet
      - (c) Rear: 75 feet

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

iv. In addition to the performance standards in Section 534.C.3.a.iii above, Large Solar Farms in the Commercial I (C-I) District must also meet a minimum setback of 100 feet from the US Route One right-of-way and may not locate within one mile of the solar array development area of another large solar farm within the Commercial I District.

b. Design & Aesthetics.

- i. Buffer Zones. The Small Solar Farm or Large Solar Farm shall, at minimum, conform to the requirements of the applicable zoning district and, where applicable, to the requirements of Section 506 of this Ordinance. For purposes of applying Section 506 to a Small Solar Farm or Large Solar Farm, (i) the Solar Array Development Area and any proposed structures shall be considered the “building or structure” to be buffered, and (ii) stands of trees shall be used to meet the buffer requirement only if the trees do not interfere with the capture of unobstructed flow of solar insolation (sunlight) by the solar photovoltaic (PV) technology.
- ii. Stormwater Management. The Small Solar Farm or Large Solar Farm shall conform to the requirements of Section 529 of this Ordinance.
- iii. Lighting. The Small Solar Farm or Large Solar Farm shall conform to the requirements of Section 521.A of this Ordinance.
- iv. Land Clearing, Soil Erosion, and Habitat Impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the Small Solar Farm or Large Solar Farm, including the need to maximize the capture of unobstructed flow of solar insolation (sunlight). Native, pollinator-friendly seed mixtures shall be used to re-vegetate cleared areas to the greatest extent practicable. Herbicide use shall be prohibited and pesticide use shall be avoided or minimized. No prime agricultural soil or significant volume of topsoil or prime agricultural soil shall be removed from the site for installation or repair of the Small Solar Farm or Large Solar Farm.
- v. Additional Performance Standards for Commercial Districts (C-I, C-III, C-IV). If the Small Solar Farm or Large Solar Farm is proposed to be located in a Commercial District (C-I, C-III, or C-IV), the requirements of Section 527 of this Ordinance shall apply; provided, however, that the requirements of Section 527.B (Building Design) shall only apply to proposed structures, if any, and not to the Solar Array Development Area. For purposes of applying Section 527.E (Front landscaped setback) to a Small Solar Farm or Large Solar Farm, (i) the Solar Array Development Area and any proposed structures shall be considered the “structure” whose appearance is to be softened, and (ii) landscaping using trees and preservation of existing mature trees shall be required only if such trees do not interfere with the capture of unobstructed flow of solar insolation (sunlight) by the solar photovoltaic (PV) technology.



**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

- c. Safety.
  - i. Small Solar Farm or Large Solar Farm shall comply with all applicable codes and ordinances, including but not limited to, the Town of Freeport Building Code Ordinance, the Town of Freeport Electrical Code Ordinance, the Town of Freeport Fire Protection Code, the Town of Freeport Floodplain Ordinance, and Shoreland Zoning.
  - ii. A sign shall be installed on the property to identify the owner or operator of the Small Solar Farm or Large Solar Farm and provide a 24-hour emergency contact phone number. Additional signage may be required, per the Town of Freeport Electrical Code Ordinance and the Town of Freeport Fire Protection Code. All signage shall also conform to the Town of Freeport Sign Ordinance.
  - iii. All electrical and control equipment for a ground-mounted Small Solar Farm or Large Solar Farm shall be labeled and secured to prevent unauthorized access.
  - iv. For any ground-mounted Small Solar Farm or Large Solar Farm, fencing shall be installed around the perimeter of the Solar Array Development Area. Where fencing is used, fences should be elevated by a minimum of 5 inches to allow for passage of small terrestrial animals.
- d. Protection of Natural and Cultural Resources.
  - i. If any portion of the Small Solar Farm or Large Solar Farm includes an archaeologically sensitive area or a structure listed in the National Register of Historic Places or is considered by the Maine Historic Preservation Commission (MHPC) as likely to contain a significant archaeological site or structure, the applicant shall conduct archaeological surveys or submit information on the structure, as requested by the MHPC. If a significant archaeological site or structure is located in or on the subject area, the applicant shall demonstrate that the proposal will cause no or minimal impact to the archaeological site or structure, either by project design, physical or legal protection, or by appropriate archaeological excavation or mitigation.
  - ii. If any portion of the Small Solar Farm or Large Solar Farm lies within an area identified by the Maine Natural Areas Program (MNAP) as containing rare or exemplary natural communities, including any critically imperiled (S1) or imperiled (S2) natural communities or plant species, the applicant shall demonstrate that the proposal will cause no or minimal impact to any such identified resources. The plan shall provide for protection of the identified resources in a manner acceptable to MNAP or in accordance with the recommendations of a biologist with demonstrated experience with the identified resources. In the latter situation, the report prepared by the biologist shall assess the potential impact of the Small Solar Farm or Large Solar Farm on the identified resources and any adjacent areas that are important to the maintenance of the identified resources and shall describe appropriate mitigation

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

measures to ensure that the Small Solar Farm or Large Solar Farm will have minimal impacts on the identified resources.

- iii. If any portion of the Small Solar Farm or Large Solar Farm lies within an area identified and mapped by the Maine Department of Inland Fisheries and Wildlife (MDIFW) as containing rare, endangered, threatened, and special concerned species; designated essential and significant wildlife habitat; or fisheries habitat concern, the applicant shall demonstrate that the proposal will cause no or minimal impact to any such identified resources. The plan shall provide for protection of the identified resources in a manner acceptable to MDIFW or in accordance with the recommendations of a wildlife biologist with demonstrated experience with the identified resources. In the latter situation, the report prepared by the wildlife biologist shall assess the potential impact of the Small Solar Farm or Large Solar Farm on the identified resources and any adjacent areas that are important to the maintenance of the identified resources and shall describe appropriate mitigation measures to ensure that the Small Solar Farm or Large Solar Farm will have minimal impacts on the identified resources.
- e. Financing and Insurance.
  - i. The owner or operator of record of the Small Solar Farm or Large Solar Farm shall secure financing to fully construct the Solar Energy Generation System before any construction or pre-construction site preparation activity (including, but not limited to, any clearing of vegetation) begins.
  - ii. Prior to commencing operations, the owner or operator of record of the Small Solar Farm or Large Solar Farm shall obtain and maintain for the full length of the useful life of the Small Solar Farm or Large Solar Farm, liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- f. Decommissioning and Removal; Performance Guarantee; Abandonment.
  - i. The owner or operator of record of a Small Solar Farm or Large Solar Farm shall, at its expense, be responsible for the decommissioning and removal of the Small Solar Farm or Large Solar Farm, in compliance with a decommissioning plan approved by the Project Review Board, within 12 months of the end of the useful life of the solar photovoltaic (PV) technology, or within 90 days of the receipt of a notice to the owner or operator of record of a determination by the Codes Enforcement Officer that the Solar Energy Generation System has been abandoned. A Solar Energy Generation System shall be considered abandoned if it ceases to generate electricity for a consecutive period of 12 months. The Project Review Board may extend the 12-month decommissioning deadline if the applicant demonstrates that the solar photovoltaic (PV) technology is likely to remain economically feasible for its intended use for longer than 12 months after the end of its manufacturer-identified useful life.

**Proposed Amendments to the Freeport Zoning Ordinance  
(pertaining to solar energy regulations)  
For the August 4, 2021 Planning Board Meeting**

- ii. For any ground-mounted Large Solar Farm, or any ground-mounted Small Solar Farm with a Solar Array Development Area that is 43,560 square feet (1 acre) or greater in size: A performance guarantee in the form of an escrow account, irrevocable letter of credit, or other form satisfactory to the Town Manager covering the cost of the decommissioning plan shall be delivered to the Town Manager at the time of Project Review Board approval. The amount of the performance guarantee shall be determined by the Project Review Board according to the time schedule for the decommissioning, shall be in an amount equal to 125% of the projected total cost of decommissioning and removing the Small Solar Farm or Large Solar Farm and restoring the site to its pre-construction condition, plus any adjustments for reasonable inflation estimates. The amount shall include a breakdown of costs of the various stages of decommissioning, if any. The performance guarantee shall remain in force until the Codes Enforcement Officer certifies that the site has been rehabilitated according to the approved decommissioning plan. Failure to complete the decommissioning plan approved by the Project Review Board shall constitute a violation of this Ordinance, subject to enforcement and legal action as provided in Section 601. In addition, if there is a default of any obligation to decommission a project under this Section 534 or if the Solar Energy Generation System is not removed within 90 days after a determination of abandonment made pursuant to Section 534.C.3.f.i, the Town may call upon the performance guarantee and cause the decommissioning plan to be implemented pursuant to the terms of that guarantee.
- g. Additional Performance Guarantee.  
The Project Review Board as a condition of approval may require the applicant to post a performance guarantee to ensure completion of site improvements associated with a Small Solar Farm or Large Solar Farm, as provided in Section 602.C.1.j.