

MINUTES
FREEPORT PLANNING BOARD
WEDNESDAY, JANUARY 6, 2021
6: P.M.

This meeting was held online/virtually, using Zoom teleconferencing

Attending: Robert Ball, Rose Mary Burwell, Aaron Cannan, Wayne Jortner, Chair Sam Kapala, Greg Savona and Town Planner, Caroline Pelletier

Excused: Anna Child

Call to Order: Chair Kapala called the meeting to order at 6:08 p.m. and noted there are a few items on the agenda tonight.

ITEM I: Information Exchange

1) Update on recent actions by the Project Review Board

Ms. Pelletier advised that the Project Review Board has been meeting monthly. In December they had two meetings. They approved some new portable classrooms for Morse Street School and they approved a Site Plan Amendment for a new sign at the new car wash on U.S. Route One South. They provided a Design Review Certificate for some exterior building alterations at Kendall Tavern and also approved some parking areas for open space for the Freeport Conservation Trust for the newly acquired property on U.S. Route One.

Ms. Pelletier advised that they also had a Staff Review meeting this month and they reviewed smaller projects. The former Friendly's building now Casco Bay Antiques got a change of use. They moved in and are operating.

She noted that we were lucky to get Mary Burwell appointed to the Planning Board last month. She noted that we would be having some upcoming vacancies on Project Review Board so if there are members of the public out there and are thinking about volunteering to serve on Town Boards and Committees, we have quite a few vacancies. If they are interested, they were encouraged to reach out. They can be given an application and informed of the kind of vacancies we have and any questions will be answered.

Last month we talked about schedules and were going to have solar on here but we had things come up that was time sensitive so she added Item 2 and 3 tonight and the Board is scheduled to have its solar hearing next month. Those notices will start going out next week. If there is any reason Board members can't be at the February meeting, please let her know as soon as possible.

ITEM II: Zoning Ordinance Amendment (Sections 104 & 201) – PUBLIC HEARING

This will be a public hearing regarding amendments to Section 104 (Definitions) and Section 201 (General Restrictions). A new definition of "Lot, oversized" will be added, in addition to standards to allow oversized lots, within certain zoning districts and partially in the Shoreland Zone, but that do not have sufficient shore frontage or lot width (under Section 507.I.1), to possibly be divided. *Note: This amendment is being brought forward by staff with input from the Town Attorney and the Maine Department of Environmental Protection.*

Ms. Pelletier explained that we have had this unique situation come up in Freeport a couple of times in the past year. We have some landowners that own large parcels of land that want to split them. Sometimes we have land within the Shoreland Zone, meaning within 250' but it is actually not on the water. When you have a lot that has a portion in the Shoreland Zone but you are not actually on the water, you physically cannot meet the shore frontage requirement. If you can't meet the shore frontage requirement, you can't meet the lot width

requirement of Shoreland Zoning. The Board has some attachments in its packets that highlight example parcels, perhaps there are 20 parcels in Freeport where this could apply. Our Town Attorney reached out to DEP and involved the Attorney General's Office to work with DEP to see if we could get some special language to address these situations where the lots are oversized, as they are described in the language in front of the Board, but to allow them to be split in certain conditions when the resource can still be protected. There are some big requirements if they are going to split them and it has to be mostly out of the Shoreland Zone. They can't have a driveway in the Shoreland Zone, and things highlighted in the language in front of the Board. How it works for Shoreland Zoning, as you are all aware, any amendments have to be approved by the DEP. In this case, we worked with the DEP and the Town Attorney did work up front to come up with this draft language but they said, go through your process which is having the Planning Board having a hearing, then having the Council having a hearing and then we will need to submit the final adopted language to DEP for review and approval. Our Town Manager did work a lot more on this behind the scenes so if the Board has questions, this is a public hearing and the Board will need to open and close that. Shoreland Zoning is one time the Board does not need to make a consistency finding for consistency with the Comp Plan because we have to be compliant with State Shoreland Zoning. The Board will notice that the proposed motion in front of it is a bit different tonight than what it ordinarily sees.

Mrs. Burwell asked for clarification. The verbiage says it will be a hardship for Freeport residents and she is baffled about that. When she took the four examples, it added up to possibly 30 new houses so she asked if we are opening up Pandora's Box to allow a lot of new development? That is her question by reading this. Mr. Joseph explained that specifically, there have been three cases in the past two years that have prompted this. One of the property owners is planning to be here tonight and may be in the audience and ready to speak. The three he has dealt with along with the Town Planner and the Codes Officer have applied to properties in the Shoreland Zone but do not have shore frontage. This is difficult to grasp for everybody, especially Town Staff and the applicants who tried to work through these issues and/or be rejected for their applications. Our current regulations require that you have frontage in the Shoreland Zone. If you do not but your property is within 250' of the water, the ones we are specifically talking about here do not front on the water but are within the 250-foot setback. One is across a public road from a water body. Another is a couple of feet back and another had a couple feet of water frontage. Because they don't have the required frontage, their lots were considered non-compliant and they were not able to subdivide the upland portions of those lots so we are talking about hundreds of feet back from the water and maybe not subdivide but divide. A couple of these lots that were completely out of the Shoreland Zone were not able to be created because this one corner of the lot went down into the Shoreland Zone but did not have the required frontage so the entire lot was non-compliant. It is very confusing.

Mrs. Burwell noted she read it all and it made sense but it is saying we are encouraging that we should start dividing these large tracts of land and that is what she is questioning. Chair Kapala pointed out that the issue to him is that there is an undue burden on these landowners because of this technicality. If they had this lot and it were anywhere else, or if this technicality did not exist, it would be perfectly within their rights to divide the lot and create conforming lots. Because there is this little piece of it, they are put in a tricky situation which could be considered an undue burden. Mrs. Burwell agreed it made sense but we have had it for a long time that these restrictions are there and it will change the landscape if you start dividing those lots or not? Mr. Joseph advised that it will not change how close things can be built to the Shoreland Zone. It may allow lots to be divided. He provided an example. There are situations where we haven't been able to resolve them due to technicalities. Mr. Joseph doesn't think it allows any more density than what the underlying zone would allow and it doesn't allow any greater non-conformance with the Shoreland Zone than the underlying district would allow. It just allows the lot otherwise to be built on which because of this strange technicality, would not be allowed to be built on. In respect to how many can be built, he would say four or five in the past two or three years. None would have been affected by this and none within 250 feet. Mr. Ball explained that these are 15 to 30 acre lots and this is not encouragement. They have a large land base and have not been able to divide it because of this

technicality and we are just trying to fix that. It makes total sense to him. Chair Kapala noted he sees this as a matter of scope. If the Board has an issue with development in these areas and overall density in these areas, it seems to him to be a separate issue and should be tackled separately. This is correcting an issue of fairness where certain landowners are subject to a different regulation than their neighbors. Mrs. Burwell agreed it made sense but the possibility of building 30 new houses on these four examples the Board was provided. She wanted to be aware of that and a large number of houses being built could be a possibility and what is going on with building around the State is a little crazy which is why her antennae went out and she asked what are we allowing? Ms. Pelletier clarified that we have a lot of Freeport on the coastline but this only pertains to three specific zones. To get to Mrs. Burwell's point, if they wanted to divide, they can't just take that huge parcel and cut it into ten lots today without triggering other things like subdivision and other land use factors that would come into play. It looks scarier on paper because it looks like it could happen overnight but there would be a lot of other standards that would come into play. Mr. Joseph added that a good example is one in South Freeport Village where the owner owns three lots worth of space up on the road but part of the lot goes down near the mudflats and it made it so they needed an acre or half acre and they had twice that to divide off another building lot up on the road that was 300 or 400 feet away from the wetland but they were not able to divide that lot further because they were not compliant with this specific problem. It wouldn't mean that they could go build down in the resource within the 250 feet. That is what we want to protect and would not be recommending this if it allowed people to develop closer to the water. Anybody that has a lot created as a condition of this still will have to comply with all the setbacks in the Shoreland Zone requirements so the 150 foot and 250-foot setbacks with various restrictions within them. They won't be able to build within those but they will be able to build on a lot that otherwise would be unbuildable outside of those setbacks.

MOVED AND SECONDED: To open the public hearing. (Cannan & Ball) **ROLL CALL VOTE:**
(6 Ayes) (1 Excused-Child) (0 Nays)

Keith Andrews and his wife, Heidi, thanked the Board for considering these amendments. They are on the side of a parcel that was previously subdivided 30 years ago off of a parent parcel. They attempted to get a building permit two summers ago and were surprised that they were unable to get that permit due to land violations related to the Shoreland Zone. Their parcel is 2 ½ acres and has a very small sliver on the lower right corner of the property that is within the 250-foot zone of the high-water mark of the Harraseeket River. Because they are on the upland side of Lower Mast Landing Road, there is no possible way for them to have shore frontage so they have a situation there where because of this technicality, the permit is not able to be issued to them. They are hoping that everyone will take this into consideration and not just these larger parcels hoping to be further subdivided down the road, but their situation where they were blind sided by this situation. They bought their property almost two years ago and are hoping for some resolution that will benefit everybody. They feel it is important to promote growth and development in the area while doing so responsibly. With land prices and real estate values at a all time high, it makes purchasing, owning and building in Freeport difficult and they hope to be able to build their own modest home. They hope to continue to live in the area and raise their daughter. He works in the RSU5.

Chair Kapala thanked them for being here and sharing their story with the Board.

MOVED AND SECONDED: To close the public hearing. (Savona & Cannan) **ROLL CALL VOTE:**
(6 Ayes) (1 Excused-Child) (0 Nays)

Mr. Ball feels this makes a lot of sense. A lot of communities run into this issue and this does a good job of making sense and trying to fix it. Mr. Savona agreed with what Mr. Ball said. Mr. Cannan also agreed and is happy the State has a process where you can appeal some of these rules. He is glad we are moving forward with this. Mr. Jortner noted that it makes sense to him as well.

MOVED AND SECONDED: Be it ordered that the Freeport Planning Board recommend to the Freeport Town Council amendments to Section 104 and 201 of the Freeport Zoning Ordinance pertaining to the possible division of oversized lots in the Shoreland Zone, in that the Board finds that based upon the letter from the Town Attorney and the letter from the Maine Department of Environmental Protection, the proposed amendments would be consistent with the State of Maine Mandatory Shoreland Zoning Act. (Cannan & Savona) **ROLL CALL VOTE** (6 Ayes) (1 Excused-Child) (0 Nays)

ITEM III: **Zoning Ordinance and Subdivision Ordinance Amendments Regarding Public Notice – PUBLIC HEARING**

This will be a public hearing regarding amendments to Section 602.C.1.i of the Freeport Zoning Ordinance and Article 6.2.D.1, Article 7.1.C.1, and Article 8.1.H of the Freeport Subdivision Ordinance to require that additional notification be published in another paper of circulation within the Municipality in cases where legal public hearings are scheduled to be held. *Note: This amendment is being brought forward by staff based upon public input and previous discussions on this topic by both the Freeport Project Review Board and the Freeport Planning Board.*

Chair Kapala explained that the Board has discussed this a bit and comes as a result of feedback from members of the public that feel the current public hearing notification requirements are insufficient to notify people. They feel they were blindsided by issues that have come up without warning in the past and the idea is to address some of those concerns.

Ms. Pelletier agreed that was a good summary and that the Town historically has done all their legal ads, not just Planning and Project Review Board but also the Town Council, primarily in Brunswick's *The Times Record*. If we can't use that sometimes for various reasons, we will use the *Portland Press Herald*. A lot of stuff this Board does is outlined by State Law so there are certain thresholds of newspapers we need to publish legal ads in. Subdivisions are another case where we typically use newspapers of general circulation to meet the notification requirements under State Law. To do that, one of the big factors is that it has to be a certain class of postal matters so it can be a mailed newspaper. Using a paper like *The Forecaster*, they don't mail it to subscribers so it is not an option for our sole notification. Here the language would add two notifications required. One would cover the formal language and be more consistent with Town practice and the second one would be a local paper and not tied to a certain paper so it gives us options if another paper of circulation is not available for some reason such as not printing for a certain week or can't meet deadlines. It is open ended. Yes, the Board talked about it when it came up during the public process. This pertains to subdivisions and they always hold a public hearing for a new subdivision. They don't actually hold public hearings with legal ads in the paper often but in cases that they do, the language before you would require additional notification for that situation.

Mr. Cannan asked Ms. Pelletier to talk to costs. She explained that we have a public hearing fee and right now it is about \$100, which typically in most cases, covers the cost of legal ads. She explained how she runs those ads. She learned that a basic ad in *The Forecaster* would run about \$150. It is not something the Town is budgeting for so it is something that when this goes to the Council, part of the discussion they will have, is to determine if there is going to be a fee we are going to set and pass on to applicants since it is not currently covered or if it is something we are going to pass on to the taxpayers. By doing this requirement, ultimately it could potentially add an additional fee to applicants. She estimates that we are looking at between 6 and 10 for Project Review Board. This does not cover the Planning Board. It would come under amendments and she will bring this to the Board separately. The Planning Board costs can be much more substantial than Project Review Board. She clarified that it is not every meeting. It is just cases where there is a public hearing and typically it would be subdivisions and site plan projects.

Mr. Ball noted that these things affect everybody and this is not a lot of money. If it catches a certain segment of people, he would support it. Chair Kapala pointed out that this is the result of public feedback and it makes sense.

MOVED AND SECONDED: To open the public hearing. (Cannan & Savona) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Child) (0 Nays)

There were no public comments provided.

MOVED AND SECONDED: To close the public hearing. (Cannan & Savona) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Child) (0 Nays)

MOVED AND SECONDED: Be it ordered that the Freeport Planning Board recommend to the Freeport Town Council amendments to Section 602.C.1.i of the Freeport Zoning Ordinance and Article 6.2.D.1, Article 7.1.C.1, and Article 8.1.H of the Freeport Subdivision Ordinance to require that additional notification be published in another paper of circulation within the Municipality in cases where legal public hearings are scheduled to be held. (Cannan & Savona) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Child) (0 Nays)

ITEM IV: **Workshop Discussion with Freeport Economic Development Corporation**

This will be a continued discussion with Freeport Economic Development Corporation regarding residential development in Freeport's Village Zoning Districts. Information will be shared about changes that could be made in existing land use regulations to encourage new residential housing downtown, encourage re-development of vacant properties and the economic impact and value of downtown housing on Freeport. No action will be taken by the Board on this item. *Note: This discussion was initiated by Keith McBride, Executive Director, Freeport Economic Development Corporation (FEDC).*

Chair Kapala pointed out that no action will be taken by the Board tonight since it is not a public hearing. If any members of the public wish to comment, they may have that opportunity later. Last month we requested a few items of information that Mr. McBride and Ms. Pelletier were going to research and we were going to reconvene in a month and here we are in a new year.

Keith McBride of FEDC thanked the Board for continuing to consider this item. He has had a lot of conversations with Ms. Pelletier as they explored the feedback the Board gave at the last meeting and looking at next steps. One of the things they learned is that there is potential complication with the Ordinance as it applies to other VC Zones. One of the recommendations that was made last month was to consider expanding the changes that were proposed to the VC-2, VC-3 and VC-4 as well as VC-1. They discussed the differences in the Ordinance and the way it is drafted and some of the requirements make it a little more complicated which he had not considered. He feels it was good to get that feedback and Ms. Pelletier's Staff Report for the Board tonight is very good and paints a lot of those images of what they learned about where some of these things might become troublesome. He thinks that what the Chair was referring about learning is they were engaging with an Economic Development analysis firm to conduct a fiscal impact analysis and they don't yet have data on that because they ran into the question of how that will get paid for. That is one of the items on his agenda tomorrow morning when he meets with his Board is to talk about whether they can afford to pay entirely for that study or whether they should pursue other options including potential grants and possibly hiring someone to help them locate grants for this study as well as other data analysis work they would like done related to other projects they are working on for downtown. He advised that he does not have that data for the Board tonight and apologized for that. He feels there is plenty for the Board to discuss on this and Ms. Pelletier's Staff Report highlights a lot of the major questions that are still out there and also gives language should the Board decide to

move forward with the proposed changes as they apply to the VC-I. He feels the changes apply very well to the current Zoning Ordinance in the VC-I without causing any conflict. Getting outside of that pose some challenges that were not anticipated but they will continue to work on that.

He wanted to give the Board an opportunity to digest the language that was proposed in the Staff Report. He feels like the role for FEDC was to say hey, we have gotten a lot of feedback from the community, residents, developers and businesses. They feel there is a lot of groundswell of support for seeing more housing in the downtown area. They feel the market is shifting in a way that it would support that which means that if there is money to be made and there is housing to be filled and developers are interested in building it, it seems like a confluence of positive factors that might lead to actually getting something done. He feels they have brought that information to the Board with suggestions and at this point he feels the process of getting a Zoning Ordinance change falls in the hands of this Board who is entrusted with that duty by the community to take a look at the proposals. He would like to trust that process to move them forward through this. It certainly is not FEDC's role to make any of those decisions. He feels that their role in bringing this forward for discussion has been largely fulfilled. If he can continue to be an information source and a resource to the Board as it makes this decision and taking a look at these post changes, he is thrilled to do that. He mentioned that two members of his Board have been working on a committee revolving around the possibility of downtown housing and they are also in tonight's attendees' list.

Chair Kapala asked Mr. McBride if he has a sense of the timeline? Mr. McBride advised that consultants are telling him that the lead time on getting this project done is a month or two kind of thing but trying to find a grant to pay for it would extend it a lot. It is a cost benefit thing. He questions if they can put out that money themselves and maybe as we get around to budget season make an argument to the Town Council that they should have a portion of that as part of their annual allocation back because he feels there is real value in that data for the Planning Board, for the Comprehensive Plan update and for the downtown strategic plan that the Town Council has been discussing over the last couple of months and has been looking heavily to FEDC to help manage that process. All of those will benefit from the information. This is a look at what their discussion will be about tomorrow. If he can put words in the Board's mouth, it sounds like time is of the essence especially as it relates to the Planning Board's piece of that.

Chair Kapala is aware that these things take time and if the Board can expedite the process, it would be great. He knows there is momentum coming out of last month's meeting and if we can capitalize on that and get those changes going, it would be great. He added that he would leave it at that and look forward to Mr. McBride's report tomorrow. He asked how the Board is feeling about the proposed changes in the Staff Report? The bulk of it is reducing the land area per dwelling unit to zero and the building heights. He feels building height is up for discussion and, of course, the addition of mixed use as an allowed use in one or more of the VC Zones and also eliminating the restriction on residential on the first floor. He added that going back a year or more the Board has talked about this intermittently and there is a fair amount of support for that.

Mr. Savona advised that he agrees with a lot of that, but is not sure about the building height thing. The Board has been talking about this for years and he doesn't know if it is up to the Planning Board to come up with this or if we need Mr. McBride or a developer to come in with a fully comprehensive plan. He thinks everybody seems to be in agreement on this. The Board needs something it can pull the trigger on. Mr. Cannan is curious as to how this relates to the Town recently spending money on a strategic plan for the downtown. He asked Ms. Pelletier if this is a piece of that? He is not sure how it relates or whether the Board is jumping ahead of a more comprehensive study of our downtown district. Ms. Pelletier explained that the Town Council just allocated money for a downtown plan. It is a Town project but they are having FEDC take the lead on it. She believes it is an independent project. People feel there is a need to get people in the village and the way to do that is to allow certain housing if it is appropriate. She would not be surprised if part of the recommendation that comes from the village project includes a housing component, but it is definitely separate.

Mr. McBride added that when they started getting feedback about this and started hearing from the community and residents, people kept saying, what about downtown? Why aren't we focusing on downtown? Why can't we talk about residential? We lost residential units downtown to parking lots and why can't we get some of that back? They kept hearing these pieces of feedback, talk about sustainable development and development in more sustainable patterns, more environmentally-friendly patterns, more transit- oriented patterns of development. All of this seemed to be headed in the same direction and the question they brought was, well do we wait until we have a strategic plan telling us what we think it is going to say or do we take this feedback we are hearing and put together the recommendations they think are right. While on this topic we think we have a strong enough indication that everything seems to be pointing in the same direction but it is not for them to decide. That is for the Planning Board and Town Council to decide but they can at least bring forward what they heard and what they think will be an impactful change and let the Board and community voice their opinion on whether we have translated what we heard correctly so they said they can do that without waiting for the recommendations of a Comprehensive Plan update or of this downtown strategic plan because it seems fairly clear that a lot of the feedback they are hearing appears to be locked in step with the idea of generating more people downtown, more residential opportunities downtown, more rental opportunities downtown. Rental opportunities in Freeport simply do not exist and housing units in general are also hard to find. All of those things seem to point in the same direction.

Mr. Ball asked what is the purpose of the study Mr. McBride is going to be talking about tomorrow? Mr. McBride advised that it will be a fiscal impact study and coming back to the feedback they heard from the KV Enterprises project, people kept saying what is the impact going to be? How is this going to affect schools, taxes? Is it going to be a tax revenue positive thing or will it have more of a cost on infrastructure and Municipal services than it is worth? He feels this is a really important question and in many cases where there is a specific development proposal being brought forward by a developer, the Town should and in many cases does require that person to go ahead and do that work so they can have some data and be able to say all right. He imagines that this is a Project Review Board function, not Planning Board. Fr them because they are not arguing this particular project. They are just talking about larger scale Zoning Ordinance changes in a larger scale goal. It still seems like in a broader sense that they could have a study that looks at different patterns of development downtown. If they were to put 100 rental units downtown, what would that look like? Speaking about it in a general sense, should they be looking at something more duplex or town home style? What is the difference in that impact? Long answer to a short question and he apologized for that. The answer is going to be fiscal impact looking specifically at what the cost would be cost to Municipal services and tax revenue. It is really looking at cost benefit. Mr. Ball asked if it is looking at different scenarios? He is surprised that the strategic plan the Town is paying for it wouldn't incorporate a lot of this information. He does not know how someone could create a strategic plan without having some of this information but in theory you can because we want more development and leave it at that. Mr. McBride added that the folks who are doing the strategic plan, the Principle Group, are absolutely watching this and saying, when you get this information, we want that so it will feed into it, which is why who is holding the check at the end of dinner is kind of the question. The consultants who are going to be doing this fiscal impact study for them have offered to work with them on development those scenarios. They might look at apartments, some condos, some new development and redevelopment of existing spaces, development of existing parking lots into housing. They can come up with a bunch of different scenarios and they offered to work with them to do that.

Mr. Ball clarified that the question for the Board is do they want to wait for this information? The Board knows there is a lot of demand for the VC to convert to more residential uses. Should we just start with this and go from there? Is that the idea we are discussing here? Chair Kapala thought so but his question was do we do it for all the VCs or just start with the VC-I. He asked what the feeling is on that and building heights. If we have a bunch of 45-foot buildings right on Main Street, that is twice as tall but he estimated that the façade of L.L. Bean is 25 feet at the street level.

Ms. Pelletier pointed out that she brought some samples of building heights and a map of the VC if the Board feels it would be helpful to see.

Mr. Jortner mentioned that a resident who could not be here tonight requested that he ask a few questions on her behalf. One of the questions is about the consulting contract. She is interested in what the scope is and whether there will be any opportunity for public input with the people doing the study. Mr. McBride advised that the Council has hired the Principle Group to conduct the downtown strategic plan and he assumes that is the one the resident is asking about. The short answer is that there will absolutely be an opportunity for public input and that process is really just getting started.

Ms. Pelletier mentioned that the draft language before the Board is something she just took a stab at because the Board talked a lot about mixed use so she added that. She changed the land per dwelling unit and the height in the VC-I language but not beyond that. It is a working document. She had two things to share. The first one was a map and explained the locations and the different VCs. She noted there are a lot of grade changes. For height, she spot checked a couple of things and explained how height is measured in the Zoning Ordinance. The Order Fulfillment Center out on Desert Road is 35 feet in height. She showed a drawing of buildings on Main Street to give the Board a sense of scale. The definition FEDC was proposing was that we go by stories and add a height maximum on top of that.

Mr. Cannan noted that the proposed increase is about 30% bigger than this. It is another 10 feet on 35 using the way we calculate height now. Ms. Pelletier agreed it would add up to another 10 feet but we have some exemptions. We don't include steeples or non-habitable areas on the top. Mr. Cannan advised that personally he doesn't have a problem with more height particularly in the VC-I. None of the buildings seem too imposing to him.

Mr. Jortner asked what the new height limit would be in feet? Ms. Pelletier advised that the ideal that was presented to the Board is 45 feet. She wasn't able to find the height of the different facades of the parking garage. If that would be helpful to the Board, she could pull that information. One comment she heard from a resident was that they were concerned that if we had a narrow road and get a 45-foot building on either side, what that would be to the feel. She doesn't know if that is a concern for the Board. She suggested that the Board keep in mind that currently almost all of these parcels are in one of the Design Review Districts and some of them are in the Overlay. Although it says you can be three stories and up to 45 feet, a big part of Design Review is compatibility to size and scale so if someone has a one-story building and they want to put a three-story, 45-foot structure, they would still have to get through Design Review and show how it is compatible.

Mr. Jortner agreed with Mr. Cannan that the height of this magnitude doesn't seem to be a big concern. He would be interested if anybody could articulate the harms that would come from a building being even 10 feet higher than the maximum we are saying now. It is mostly just an aesthetic feel. Mr. Cannan agreed that it is aesthetics. We have the Fire/Safety equipment to handle buildings of that size. Mrs. Burwell added that it would also be light blockage if a building is overshadowed by a building.

Chair Kapala added that it feels like there is a general consensus that a 45-foot building height in the VC-I makes sense. He asked for the Board's thoughts on building heights in the other VC Zones. Ms. Pelletier noted the VC-2 includes Mallett Drive and would go to the highway. The Board did not voice concerns for extending the building height in the other VC Zones. Mrs. Burwell feels that if this is encroaching on the residential areas, the Board would have trouble. In the VC-4 we will be getting into a lot of residential. Chair Kapala noted that there are some pretty tall buildings such as The Hilton as well as the apartment buildings in that area are pretty tall. Ms. Pelletier displayed the area on the screen and noted that potentially we could see some development in parking lots. Of the VCs, the one most heavily residential in nature is the village commercial down on Independence

Drive. There are a lot of houses and vacant parcels of land that have development potential. Mr. Jortner mentioned that even with increased height limitations, there would still be project review and if it was inappropriate in any given project, that is a fail/safe thing we could take comfort in. Chair Kapala agreed it would be another layer and there would be another whole host of efficiencies, economic and sustainable building and all sorts of things that come from bigger buildings, etc. He noted that it feels like the Board is in favor of bringing forward a higher building height restriction. So far in the Staff Report we have seen land area per dwelling at zero only in the VC-I. He asked if the Board feels we should go ahead and drop the land area per dwelling unit in all the VC Districts? Mr. Ball feels like the Board is being rushed to make decisions because there is pent up demand and we might not want to miss the boat before we get more information. Chair Kapala agrees there is benefit to more information but he is thinking if there are some changes that can be made relatively quickly here to advance the potential development of the downtown, it is worth taking a couple of steps. For him, if we drop the land area per dwelling to zero in the VC-I and adopt the higher building heights in all the VC Districts and take it to public hearing as it is written, he would be good with that. Mr. Cannan agreed. The Board has been talking about encouraging residential uses in the village for a long, long time and he doesn't feel it feels rushed at all. These changes we will continue to vet them thoroughly and they don't seem to jaw dropping to him with all the other standards in place. Chair Kapala noted his informal motion would be to move this along as written to public comment. He asked the Board if this makes sense to maybe take this moderate approach to add in land area per dwelling in the VC-2, 3 and 4 and leave those untouched and drop it in the VC-I. Allow higher building heights and allow mixed use development in all four of the VCs. That one really makes sense. If somebody wants to build a mixed-use development on Mallett Drive, he cannot see any reason why that should not be allowed to happen. Other Board members agreed. Mr. Savona offered to renew his caution on building height and feels it would be really interesting if we had a proposal in front of us for a development downtown. Everyone wants something downtown but we yet have a developer come and say if you do x, y and z we can build a great project. We are here trying to create what we think people would want but what would be really nice if we had a project on the table and somebody say, hey we can do this if these were the changes in the regulations. He is cautious on the unintended consequences.

Chair Kapala offered to open the conversation up to public comment.

Susan Cherbulez explained she is interested hearing what the Board says about heights. She thinks that if we had a narrow street and someone wanted to construct buildings of 45 feet on both sides of the street, it might create some problems both aesthetically and questions of shade. It also must relate to the setbacks. Those are her comments. She is not for or against. These are considerations for the Board. Chair Kapala wondered if we could tie the setback to the building height? For every 10 feet of building height, you would need 2 feet of setback. Ms. Pelletier noted this was discussed but it wasn't anything the Board got into. Something for the Board to consider is the setback. The setbacks in the VC-I are pretty small so if you have a new structure with a roof pitching away from a sidewalk, it could be 5 feet. The side and rear setbacks could actually be zero if they build using non-combustible materials and meet the other code requirements. She had not looked into examples for the Board to alter setbacks in relation to the height but if that is something the Board wants to look at, she can pull some information for the Board. Chair Kapala feels it is a valid point but it seems like something that would not materialize overnight. Ms. Pelletier pointed out that parking requirements have gone down so we could see some development from these changes in these big vacant parking lots. We have had some general inquiries as to housing in the village. One thing she has heard is that due to the cost of land in the village, it has been problematic.

Mr. Savona mentioned that the conversations we had years ago with these parking lots, is there a value to putting the buildings out on the street front? One of the goals down town was keeping the buildings out on the edge of the sidewalk and putting parking behind and keep the buildings on the front of the street but not have them too high. One of the conversations we had back then when we were talking about the potential building of parking lots was across the road from the movie theater and what do you build on that corner lot and how does

that height relate to it? There was a fair amount of thought that happened way back then and perhaps we would want to revisit. Mr. Jortner feels these types of considerations are very location specific in terms of when it is going to be appropriate to have no setback with a tall building versus not. He would lean toward eliminating global obstacles to help attract development and leave it to Project Review to find it inappropriate for whatever reason in a particular location. Chair Kapala feels that is a pretty reasonable approach. One of the things we have heard from Project Review in the past is that some specific guidelines and frameworks within which to maneuver are very helpful. Mr. Savona added that if there is going to be development downtown, there needs to be a vision of what it will look like to start before it is too late. Mr. Cannan pointed out that he keeps coming back to is that land is expensive and if we can give a developer more height, it will promote things that are more affordable for people. Chair Kapala added that the more of the 45-foot buildings there are downtown, the more visually compatible they will be. The first one may be a bit of a shock but the fifth one will look great.

Ms. Pelletier displayed the Design Review Ordinance and read the design guidelines into the public record.

Town Engineer, Adam Bliss wanted to raise everyone's awareness of stormwater concerns within the village. He is not here to thwart economic development and hopes to be in front of this Board to educate on stormwater. We do have two urban impaired streams within the village so we will want to visit our stormwater requirements within both of those watersheds but also the downtown area and look at the redevelopment standards to make sure they do align with the minimum standards DEP sets forth and hopefully get back to a water quality status that de-lists us from the urban impaired status. He would be happy to come in and talk in future meetings. Chair Kapala asked if Mr. Bliss is suggesting that along with these changes that are meant to promote more development in the VC-1 that we should consider stormwater amendments along side them as they go through? Mr. Bliss did not feel it was essential that they go together. He thinks our hand will be forced down the road in six months to three years' time when we will have to look at redevelopment standards and low impacts development measures which will be mandated by our Stormwater Discharge Permit with the DEP. He suggested that the Board move forward and prioritize its changes and start the conversation a few months down the road about stormwater. Mr. Bliss noted this is a good time of year to go for a site walk. There aren't any leaves on the trees and 40 degrees on a sunny day is not a bad thing so anybody wants to go on a site walk, it is nice. He and Keith have done this.

Jen Chace explained that she lives on Dennison Avenue and is very interested in there being greater residential density in downtown for sure. She chose to live in Freeport and agrees aesthetics are important. People come to Freeport not just to shop but to live there because of the aesthetics. She wants to be sure it is held as a primary consideration. She asked if the Project Review Board could really reject a project solely based on the height even if the height requirements are met? Chair Kapala advised that an outright rejection is unlikely. It seems as though there is a pretty good understanding that if things are generally within requirements, there is a certain expectation that the revision process can't be endless and the Board has a chance to request updates to the plan. Assuming that the requests are met, the project will move forward assuming that the letter of the law is met. Ms. Pelletier explained that in order to deny something, the Board would have to make a finding for example of how that height standard had not been met. They often give applicants feedback so they will know where they are headed and can make appropriate adjustments. She noted the way the wording was suggested, they said three stories but the suggestion was that the Board put a height limit in there. In the Commercial 4 where the Board adopted language for just stories, she heard from a lot of people asking why is that building so high? The reason was because there is no maximum so in this case the Board is giving some flexibility but you know these three stories are not going to be any higher than that number. She feels that this way with a maximum would give them more guidance and you are not leaving it entirely open ended to get to the Chair's point of a little more guidance to the Board.

Chair Kapala summarized the next steps: he estimated that the Board is ready to get some additional public feedback on these proposed changes, not the land use in the VC-1, 2, and 3 but dropping the land area per

dwelling unit to zero in the VC-1, the building height and the mixed-use development. He asked if this seems reasonable to do next month generally speaking? Board members agreed that it was. Chair Kapala recalled that the Board is scheduled to do solar next month. Ms. Pelletier agreed that solar is scheduled for next month and notices will need to go out. Chair Kapala speaking personally, noted he would be willing to move forward to a public hearing and use Mr. McBride's feedback from the consultant for other changes to the VC Districts. Other Board members agreed.

Ms. Pelletier noted that for solar, she is looking to send out 3,000 notices and invite people to the meeting. If we were to do the Village Commercial, The VC-1 is the one district where no solar is proposed but the Board could have a meeting and invite the whole town at once. She feels these are both important conversations for Freeport and she does not want to be short on time and not give everybody including the Board enough time for deliberation. She mentioned that the Board could consider having a second meeting in February.

Mr. Jortner had a couple of questions on a resident's behalf that could not be here. Her concern is that we are naturally going to attract more new parking lot type development as opposed to repurposing existing buildings and was interested in finding out what incentives, whether they are TIFs or some financial incentives would be to steer development towards existing buildings and mixed-use existing buildings so we don't have those remaining empty while we have parking lot developments. Mr. McBride added that this is complicated but a lot of barriers around redevelopment tend to be around code especially life, safety and fire code require multiple entrances and exits and sprinklers for fire protection. It is easier to build new into a facility rather than have to try to retrofit them into a building especially for property owners who already have a dent load in their commercial property that they purchased and are struggling to keep. It is a financial issue and a code issue and the things he mentioned such as life, safety and fire are things that the Town cannot change. That would have to go to the State, particularly for fire. It is complicated but is something they are looking into because they feel there is tremendous opportunity for under utilized spaces in the village to become residential space. The potential solutions for that are much more complicated and harder to get to than the Zoning Ordinances changes they looked at and said, we just have to go to the Planning Board and tell them what we think and see if what we are concluding actually makes sense. It is a much harder journey. Regarding TIFs and financial incentives, TIF is the only financial incentive that a municipality can offer and typically for redevelopment, you would not be adding enough new taxable value to justify a TIF. His personal opinion is it is a very dangerous road to go down to TIF residential development. Commercial development definitely does not put kids in schools but residential development may.

Chair Kapala pointed out that we are at least lowering one barrier if we have an existing building and it is going to be gutted, there are convenient places to locate sprinkler pipes, some enterprising developer could redevelop it as a residential use where it would not have been possible to do that before this potential change. Mr. McBride agreed the mixed-use piece of this will have an impact on that as well as the building height. If you can add five units by adding another level up, maybe it makes financial sense. That is a benefit of adding the additional height.

Mr. Jortner mentioned that it appears we are affirming the resident's concern that we are more likely to see more new development outside of existing buildings and we will still have this vacancy rate that we are all not happy about. Chair Kapala agreed that is a very valid concern. It seems it is difficult for the Board to address that concern through zoning and if we were to try to address it through zoning, this is a pretty good way to do it. If we encourage residential zoning downtown, that is a good way to get more people to live downtown and more people living there will encourage other stuff to happen downtown which would in turn lower vacancy rates. Mr. McBride added that this is an excellent step in the correct direction. The solution to the vacancy issue lies elsewhere and is one they are pursuing in a couple of other ways. It will require more study which they are launching into. This will take a community effort, not just FEDC.

Board members mentioned they didn't mind having an extra meeting in February which will accommodate both topics. Ms. Pelletier advised that the solar meeting will take place on the first Wednesday and she will shoot for the 10th for the second meeting. If it proves problematic, she will go with the 24th. She asked that Board members let her know if they find they can't make these meetings. She added that there are only two things the Board is not addressing is a continued discussion on Design Review and the Overlay which has to follow its own path.

Mr. Cannan feels height is unresolved and we do not have a clear consensus on height. Chair Kapala agreed that he feels the Board should go to public hearing on the draft height because it appeared that everybody was in agreement that 45 was a reasonable number for these zones. It isn't like we are proposing 60 feet or 80 feet for downtown. Mr. Cannan noted that 45 feet never bothered him and it is site specific. Chair Kapala added that there is the question of measuring the height which is the other piece of it. Mr. Cannan mentioned Ms. Pelletier's screen showing that there are other standards in place at the Design Review level and Project Review level which gave him a great deal of comfort that this is not just inviting automatically 45-foot buildings. Mr. Ball mentioned that he has no problem going to public hearing and talking about it. He feels it makes total sense to allow mixed-use development within this VC. 2 and 3 make sense but he would like to have more information and think about the repercussions but he understands the benefits.

Ms. Pelletier advised the Board that when it goes to public hearing, it wants to have its final draft in hand so the public knows what you are considering. You can by all means change it but if you make a certain number of changes, we would have to re-notice and readvertise with the new language. If the Board wants to go to public hearing, that is fine but she wants to make sure the Board is ready or we could have a not formal hearing and invite people in those districts to have a discussion so the Board can hear from them before finalizing the draft for formal action. Chair Kapala noted his preference is to just go to public hearing with 45 feet for all four districts and the land per dwelling unit brought down to zero on the VC-I. Others agreed.

Ms. Pelletier offered to get some more height examples for the next meeting. Chair Kapala asked if she could get the height on the tower of the movie theatre and Ms. Pelletier offered to research it and bring it back on the four facades. Mr. Ball noted that 45 feet doesn't seem outlandish so he suggested just going for it.

ITEM V: Persons wishing to address the Board on non-agenda items.

No public comments were provided.

ITEM VI: Adjourn.

MOVED AND SECONDED: To adjourn at 8:06 p.m. (Savona & Ball) **ROLL CALL VOTE:**
(6 Ayes) (1 Excused-Child) (0 Nays)

Recorded by Sharon Coffin