

MINUTES
FREEPORT PROJECT REVIEW BOARD
FREEPORT TOWN HALL COUNCIL CHAMBERS
WEDNESDAY, SEPTEMBER 18, 2019
6 p.m.

Prior to the meeting, the Board held a site walk for the proposed Beacon Residences project at 6 & 8 Desert Road (Tax Assessor Map 22, Lots 24 & 24B).

ATTENDING: Chair Campanelli, Guy Blanchard, Gordon Hamlin, Ford Reiche, Adam Troidl, Drew Wing and Caroline Pelletier, Interim Planner

EXCUSED: Suzanne Watson

CALL TO ORDER: Chair Campanelli called the meeting to order at 6:05 p.m. and apologized for the delay.

ITEM I: Informational Exchange: (Ms. Pelletier did not have anything to report)

- a) Update on Staff Approvals (there were none)

ITEM II: Approval of the minutes from the Wednesday, August 21, 2019 Project Review Board meeting.

MOVED AND SECONDED: To approve the Minutes of the August 21, 2019 Project Review Board meeting as written. (Wing & Hamlin) **VOTE:** (6 Ayes) (1 Excused-Watson)

ITEM III: Reviews

Fletcher Property Group – Residential Open Space Subdivision

The applicant is seeking final subdivision approval for a residential open-space subdivision located off Young's Lane. Plans include four residential lots with a total of six single-family dwellings and four duplexes. A road extension and 34 acres of open space are proposed. Zoning Districts: Rural Residential I (RR-I), Resource Protection II (RP-II), & Stream Protection (SP). Tax Assessor Map 26, Lot 4A. Fletcher Property Group, LLC, applicant and owner; Peter Biegel, Land Design Solutions, representatives.

Ms. Pelletier explained there are handouts on the table and explained what has come in. This application before the Board this evening is for Final Subdivision Review. It has come in quite a few times. At this point they are proposing six single-family dwellings and four duplexes, a road extension and 34 acres of open space. It is a major subdivision so it has been through conceptual and preliminary. We held a public hearing and now they are back for final. She highlighted things in the Staff Report which she feels the Board should still address and some things that are noted for conditions. We talked about the road previously and back in February, the Board agreed, based on a recommendation by a traffic engineer, to allow a reduced sight distance at the road entrance, which the applicant was proposing. Those improvements were incorporated into the final road design. We did have a peer review done and typically that is done in-house by our Town Engineer. In this case it was done by Will Haskell of Gorrill Palmer. He provided a memo stating that he feels the design does meet the standards of the Freeport Subdivision Ordinance in terms of the road. There was an issue raised at the last meeting based upon his memo regarding access and the Board did have a condition and asked the Code Officer to weigh in on that issue. The Code Officer did issue an opinion on that and it was attached to the Staff Report. He didn't feel that it applied to a driveway. Regarding stormwater, the project did not require a DEP Site Location Permit but did require a DEP Chapter 500 Stormwater Permit. They did receive that permit at the end of August. There was a reference in the Staff

Report requiring a Maine Construction General Permit which is a permit from the DEP. That has actually been obtained as part of their stormwater permit. For stormwater review, we do have the peer reviewer review on behalf of the Town's standards. We have standards in the Subdivision Ordinance and also Section 529 of the Zoning Ordinance. He is reviewing for the quantity of water coming on and off the site pre and post development. His conclusion was that the proposal meets the standards of Section 11.16 and Section 529 of the Zoning Ordinance.

The biggest issue the Board needs to talk about tonight is the issue of the fill material that is on the site and the proposed processing. We have had extensive discussion that it is not clearly covered by the Ordinance and does not fall under a lot of sections. However, we have heard from the neighbors that there are significant concerns about the impact this could have to their properties. DEP was aware of the fill material. We did mention it when we contacted them to do the stormwater review but it didn't fall under those requirements. A couple of things to note here: 1) the estimates are between 4,500 and 5,500 cubic yards of fill have already been brought into that site and are sitting there. They are going to need to bring in additional fill to construct the project. They are proposing that the new fill they will be bringing in will already be processed and will not require additional processing on the site. There has been extensive discussion about the hours of processing. We have heard from the neighbors 9 to 3 or 8 to 5. We have heard they have some concerns with the hours and they would like to see them shortened. Specifically, they have noted kids and people enjoying their backyards. In the applicant's submission, they proposed some restrictions 7 to 5 Monday through Friday with no processing within 300 feet of a dwelling, controlling particle emission of dust with water and they approximate it will take 7-10 days. As a Board, there is no standard for you to apply for the filling and processing but you are approving this project which would enable the applicant to build a road and you do have the ability to apply reasonable conditions pertaining to the project. If there is a condition that the Board could consider reasonable, and would also be willing to apply in another situation, that would be a way to look at it. That is something the Board can address if it wants to take what the applicant proposed or whether or not it wants to take into account consideration of the neighbors and put restrictions on the timing of the processing of the material. We received some questions from an abutter which the Board has in an e-mail regarding concerns about the emissions, the particle matter and the noise. The Code Officer stated that those do not fall under the restrictions of the Ordinance. We reached out to DEP and learned that to be able to process on the site, the portable crusher needs to be licensed through the DEP and if there are complaints or concerns, the concerns would go to DEP and they would come out. She mentioned that is something the Board might want to consider as a condition, that is not before it in a draft motion but could add that on before they do any site work or do any processing on that site, they provide some sort of documentation from the DEP that whoever is going to be doing the processing, is, in fact, licensed from the DEP. That is something the Board could talk about.

Moving on to other issues, we have talked about wells and septic. Typically, when we have these large projects that have hydrogeologic assessments, we ask applicants to put serious thought into where they are so they don't come back and want to move them around. There is a proposed note, note 17 that the septic systems have to be shown as installed and if they want to make any changes, they would need to change that hydrogeologic assessment and come back to the Board to amend the Plan. There was some talk about Public Safety concerns. Two things: The Fire Chief is requiring each house to have a residential sprinkler and that is noted on the plan. Concerns were raised by the Board and an abutter about the parking in the paved turnaround on the plan. Ms. Pelletier reached out to the Fire Chief and he is concerned about that. He does not want cars parking there because he wants to be able to get his fire trucks in there in an emergency and not worry about plowing into cars. The applicant came up with an alternative proposal within the existing easement area noted on the recording plan that abutting the paved parking turnaround, there be two parallel parking spaces. It would be signed that they could only park in the grassed-over parking spaces and there be no parking in the paved turnaround. The Fire Chief has stated that he would be okay with that. It would have to be signed and maintained in the future.

There was talk about association documents. Ms. Pelletier heard from the Town Attorney today that the applicant made the changes he requested and he has signed off on those. That condition can be stricken because they agreed to what the attorney said. At the last meeting, the Board asked for some information from the Freeport Conservation Trust. There is a

letter in the Board's packet. There has been some question about the parking and the quantity which they have not addressed. Katrina VanDusen from the Conservation Trust is here tonight if the Board has questions.

There has been significant talk about buffering and the Board had some concerns. The Board asked for a peer review and Peter Biegel will explain their proposal. They do show a 20-foot limited no disturbance buffer abutting the property line of the Norton Farm Subdivision. There were some questions raised in the Staff Report that Ms. Pelletier hopes the applicant will address tonight. There was a note saying that construction of the proposed development for road grading and drainage purposes might disturb that area but there is not a lot of detail. She thinks that is one question.

The Board saw the questions from the Peer Reviewer. He had questions about the landscaping on the Burch property and the Duhaime property. Again, the applicant can talk about it. She does not know if those property owners are here tonight or if they are happy with the proposal. That is something for the Board to consider.

Peter Biegel, landscape architect, explained that he is here on behalf of the owner/applicant, Justin Fletcher. He introduced Tom Saucier a civil engineer. He noted that Ms. Pelletier did a great job with the run-through so he wouldn't go back through the history but will address the questions and issues still up for discussion. He was unable to display a plan. Regarding the buffer, they had a couple of back and forths with Gorrill & Palmer's landscape architect. He looked at headlights which is a concern the Board had brought up. On the Burch property, trees are being removed and there is a grade change there. Mr. Biegel met with Mr. Burch and he had a number of plantings he had put in recently. They walked the property and Mr. Burch indicated that he would really like to have the drainage corrected on the entrance side because as it is now, he has a lot of water and soil sediment washing into his driveway from Young's Lane and he would like shrubs just like the ones he has. Mr. Biegel checked the tags on Mr. Burch's shrubs and measured off the property line and spaced out ten rhododendron shrubs. He was glad to do that. Mr. Burch indicated that losing some of the oaks was not a big concern because of the late leaf loss and raking. It was not something he was looking to have replaced. Mr. Biegel made it clear that he was glad to plant whatever Mr. Burch would like. That became part of the buffer plan they submitted that went to the peer review landscape architect. Mr. Biegel does not believe any of the existing trees will be disturbed with the road grading. There is one little place where the road seems to encroach slightly. None of the survey trees are in that so it looks like everything is going to be good. He wrote the note that way. They are primarily looking for the 20-foot wide strip to remain a wild strip and let nature take its course with the trees that are in there and what blows in there and seeds itself and what we plant in there. He wanted to give the homeowners the ability to go in when a tree dies to clean it out if they would like. They could also leave everything in there and let nature takes its course or they could go in and clean some things up. They could also plant in there to enhance the buffer if they desire. A protective note appears on the recording plan and it will appear in the people's deeds and the covenant. It should be very well covered and everybody should be aware of what is allowed and not allowed in the buffer. They also added three extra Balsam Fir trees around the Duhaime property. He pointed out all the trees he is proposing. They will be field located to maximize their buffering potential. When it is time to plant, he will be on hand to make sure he gets the maximum bang for the trees. He described the trees and their growth rates. Per discussion with the peer review, they originally said their plants would be guaranteed for one year but they have now changed it to two years in compliance with the peer review comments.

A 2-minute break was taken in an effort to get the screen working. A board was borrowed from another developer for Mr. Biegel to show his plan. For fill and processing, Mr. Biegel pointed out that they were asked to submit some guidelines which he did in writing. The plan finally came on and Mr. Biegel oriented everyone. He pointed out the 49-acre property and that the boundary is Harvey Brook. He pointed to the land they will be deeding to the Freeport Conservation Trust as open space. They have an existing house which has been reconstructed. The sheds have been removed. He pointed out the portion their development will be taking place in as well as the Burch and Duhaime residences. He also pointed out the abutting Norton Farm Subdivision and Sequoia Drive. Their entrance drive will be reconstructing it to a better condition. Their proposed road is approximately 1,800 feet long, 22 feet of paved width with 2-foot grass shoulders on either side. At

the entrance they are proposing to have a curb with catch basins down at the entrance to pick up as much water as possible to keep it from going out onto Sequoia Drive.

Next, Mr. Biegel displayed a revised subdivision plan. The notes requested to be added have been added to this plan.

1. All homes will be required to have sprinklers.
2. A waste water disposal system for Lot 3 will require a de-nitrification system. To deal with the nitrate plume, this lot right here will have a de-nitrification system with its septic system.
3. Lot 16 addresses the 20-foot wide proposed limited landscape buffer is to be left undisturbed with the exception of removal of dead and diseased trees and limbs and the removal of invasive species, construction of the proposed development for road grading, drainage purposes and the installation of trees, shrubs and herbaceous material by the landowners to enhance the buffer.
4. Septic systems must be installed as shown on the plan and cannot be relocated without review and approval by the Project Review Board and an updated hydrological assessment being completed.

He believes they have added the conditions that were requested to be added to that plan. They have added the 20-foot wide landscaped buffer and is now shown on the recording plan. He explained that they received the DEP permit on August 27 and also received a Permit by Rule notification for their culvert because of its location approximation to the stream. They received an Army Corps. of Engineers General Permit notification for approximately 3,000 sq. ft. of wetland impact at the end of July. He pointed out where the wetlands exist.

Mr. Biegel wanted the record to reflect that before any material was brought here, Mr. Fletcher made a phone call to Planning Staff saying, "we are blasting this other lot. I have material I want to bring to the site. Can I bring it to the site?" He was told he could do that. Missing from that conversation, not to cover anything up, was the amount. Mr. Fletcher didn't know it was an issue. He didn't say anything about it and Planning Staff did not inquire about it. That was the miscommunication or missing link if you will. That phone call was made before anything was brought here. If you look at the fill permit, if that was what was going to be required, it is not an onerous thing. It is not an expensive thing or a time-consuming thing to take care of. They would have dealt with that if they had known something like that was needed. That aside, they are where they are. Their estimate and Crooker's estimate of between 4,500 and 5,500 cubic yards of material will take 7-10 days to crush. In the materials they submitted, the hours of operation for crushing would be Monday through Friday 7 a.m.-5 p.m. but they are flexible to adjust that if need be. They have a location they can set up that is 300 feet away from any dwelling. They took these guidelines from different sections of the Ordinance even though it does not apply to them in trying to come up with best practices for the situation they are in. There will be no hammering of any large rock. Any rock too large for the crusher will be used as is. They have plenty of areas where they could use a large rock as fill. There had been concerns raised by people with the hammering.

The plan showing the hammerhead parking space was displayed. Mr. Biegel explained that they will now fill the area with typical gravel fill for a road and then 4 inches of topsoil on top so that it will have stability. They will be able to maintain it and will not increase impervious area. They would construct that for parking. A sign designates that as parking and a sign will say, "don't park on the pavement. It is not allowed." This is all within an easement written up for the Conservation Trust. He explained how walkers would access the open space. If more spaces are needed in the future, it will have to be worked out with the Homeowner's Association. Mr. Biegel does not know how to plan for that at this point because it may or may never happen. They are glad to provide the two spaces and if something changes in the future, they can talk about it. Their agreement with the Conservation Trust and their discussion with DEP, since they were involved in their deeding part of the land away as part of site location, and because they are giving the land to a third party, they don't have to go through the Site Location Development Act Permit but they want to ensure that the land does actually go to a third party. That needs to be happening at the same time the Subdivision Plan is recorded. They will make that happen. They are also paying a stewardship fee of \$15,000 to the Conservation Trust for ongoing maintenance. They are comfortable with the agreement they have ironed out and have received the okay from them. A draft was provided in the Board's packets.

One thing in the conditions of approval in the Board's notes, they have the paperwork and have already formed the non-profit Homeowner's Association. While the Board can leave it as a condition if it likes, but it is taken care of. He offered to answer questions.

Mr. Reiche mentioned that Gorrill Palmer's peer reviewer expressed concern about the inadequacy of the buffering for the Duhaime property. Mr. Biegel mentioned that he submitted a plan proposing the additional three trees but did not hear back from them. Ms. Pelletier advised that Gorrill Palmer felt they provided an opinion and with the addition, their opinion hasn't changed but feel the Board needs to make a determination. Mr. Biegel reached out to Steve Duhaime and sent him a plan showing the additional trees as well as comments from Gorrill Palmer. He reached out again today but has not heard anything. These trees came from Mr. Duhaime speaking up during a neighborhood meeting before the applicant came to the Board. He asked if they could put trees around his property and Mr. Biegel said "sure". He has not heard that anything is inadequate. When Gorrill Palmer said it was inadequate, they didn't say if it was because of headlights. They talked about being able to see the rip rap out there so he put the trees in to help with that. He felt it was sufficient and he has not heard from Mr. Duhaime that it isn't.

Mr. Reiche pointed out the proposed hours of operation for the crushing are different. Mr. Biegel saw in the minutes that Mr. Fletcher had said 7 a.m. to 4 p.m. in a preliminary meeting. He put 7 a.m. to 5 p.m. in the Board's packets, not realizing Mr. Fletcher had said 7 a.m. to 4 p.m. They would be glad to do whatever. Mr. Troidl noted that if crushing stops at 3 construction noise will continue to 5 p.m. Ms. Pelletier advised that construction usually starts at 6 a.m. and can go as late as 9 p.m. but practically speaking, she doesn't believe they will be working out there in the dark. Mr. Blanchard asked if 7 a.m. to 5 p.m. is a reasonable time for crushing or does the Board feel it should limit it. Mr. Biegel advised that they would like to start as soon as possible. Mr. Reiche advised that the Board got an e-mail today from an abutter saying they would prefer crushing from 8 a.m. to 3p.m. and asked if it would be a problem to comply with that. Chair Campanelli pointed out that this schedule would take longer. Mr. Troidl agreed that it would add four more days theoretically. Mr. Biegel recalled another development in Freeport with the same situation and he did not hear anything about it.

Mr. Reiche asked about the \$15,000 for the Conservation Trust and if Ms. VanDusen is clear when it will change hands. Katrina VanDusen, Executive Director of the Freeport Conservation Trust explained that she is assuming that they will give her a check when the land is transferred. Mr. Biegel agreed.

Chair Campanelli opened the meeting up for the public to speak and asked them to limit their conversation because the Board has a very full agenda tonight.

Tammy Morrissey of 6 Norton Farm Road mentioned she is speaking on behalf of the neighborhood. They have been through the meetings but after reviewing the final plan, they still have a few more questions and concerns that need to be addressed before any approval should be made. As stated at the beginning, their neighborhood has never been against this development but want to be sure their properties are protected and their health and welfare is not adversely affected by the development. They are also concerned about other residents of Freeport and the precedent that is being set. After talking about access at the last meeting, she looked at the plans and in Section 512, page 6, there is a statement in there about road entrance setbacks. Her question is about sight distance and how this plan meets the requirement at the entrance of Young's Lane and Sequoia. While Young's driveway was a private driveway in the past, with the change of use and it now being a subdivision road, it is a concern. She wants to look at this and would appreciate feedback on that. Referring to drainage at the entrance, she is not sure if Gorrill Palmer understands that it is a dirt road now and it will be paved. Common sense would say that with heavy rain, water is being absorbed by the dirt. Now we are improving the ditches and paving the road so the water that used to be absorbed by the road is now flowing down the road. Looking at the plan, the two basins being put in on either side of the entrance will collect the water off the pavement and new ditches and send it down the right side of Sequoia through an existing Town culvert. She wonders if Gorrill Palmer knew

the history of the water problem on Sequoia even existed. For this reason, she wonders why the Town is not putting a bond on this road to protect the Sequoia residents from a potential flooding situation, knowing there was a problem before.

Talking about the tree buffer on the Norton Farm side, she understands they are being promised a 20-foot wide buffer. She noted they have leach beds up against their property lines and ideally one doesn't plant trees near leach beds because of the root systems. She asked how they will prevent roots from getting into the distribution lines. They are concerned about protection of their own trees so when the developer is building the leach beds up against the property lines, those root systems of the existing trees will get damaged. She asked what the guarantee is for that if the tree dies because of construction. She asked if trees would be replaced.

As far as the rock processing, they were told by the Code Enforcement Officer that rock processing is a normal construction activity and that the Noise Ordinance would not apply. She asked how the Code Enforcement Officer could consider this normal when it has never happened in Freeport before. She appreciates that Mr. Biegel referred to the Mining Ordinance as far as some of the rock processing regulations from the Ordinance. She asked why the Town didn't do the same.

Chair Campanelli noted the Board wants to hear what she wants and asked Mrs. Morrissey to move forward. Mrs. Morrissey referred to 515 of the Zoning Ordinance pertaining to noise and asked if we know what the average decibel will be on the crushing machine. Chair Campanelli noted that Nick has already addressed that and it falls within construction noise. She explained that the decibel number is the average. Unless they run the crusher 24 hours, they won't go over the decibel level. Mrs. Morrissey referred to Section 515 E for activities of a temporary nature unable to meet the requirements, a special permit must be obtained from the Code Enforcement Officer. Again, going back to being told they don't need a permit, it is in the Ordinance that yes, they do for the rock processing. She asked if a special permit will be provided. Ms. Pelletier explained that Mr. Adams' interpretation is that if they get approval to do the subdivision, they have approval to build the project. It will give them the right to build the road. Mrs. Morrissey referred back to the Noise Ordinance on page 169 A and read sections of it into the public record. Ms. Pelletier noted that the e-mail response today from the Code Officer advises that Section 515 is not applicable to the construction activities including the processing of materials to construct the road for the proposed residential subdivision. This is consistent with the Town's Noise Ordinance, Chapter 39 in State Statute which state both construction activities are not regulated during day time hours.

Mrs. Morrissey referred to Section 518 in the same ordinance. We are going to have someone from the Land Bureau monitoring the dust but we are not going to pay attention to 515. She asked how we are picking and choosing. Ms. Pelletier advised that the Code Officer says 518 pertains to the residential use of the property, not the construction activity. DEP will be monitoring what emissions are coming from the portable crusher. The Code Officer called DEP and figured out that they will license the portable crusher and they have rules for certain emissions. The Board has the ability to hear about the neighborhood's concerns about the hours of crushing and she does not want them to miss that opportunity.

Mrs. Morrissey asked what would happen if the crushing takes more than 7-10 days. Chair Campanelli advised that it would take longer if the hours are changed. Mrs. Morrissey wants to be sure there is notification and they are not blindsided at the end of the tenth day. Someone could have an event planned based on the dates they were given. Chair Campanelli agreed there are things that could go wrong such as the equipment breaking down. Mrs. Morrissey asked if there could be compromise on the timing. Could it change to 7 a.m. to 3 p.m. because of the quality of life. Chair Campanelli wanted them to be aware that they will be cutting three hours off of processing every day and that many extra hours would be added on to the duration. Mrs. Morrissey understood that. She asked how they would be notified when the processing would start so they can make plans for their lives and schedules. If they see something significant in the processing, she asked for a number for the Land Bureau to call about the dust. Can they reach out to the Code Officer to

investigate? Ms. Pelletier advised that if there are questions regarding regulations, they can be filtered through the Code Officer's department. Mrs. Morrissey asked about phases of construction. Ms. Pelletier advised that no phasing plan has been presented. It is not required.

Chair Campanelli explained that the Board has been respectful to the public input but now the Board has to move along and Mrs. Morrissey has been afforded a long time.

In closing, Mrs. Morrissey advised that they have done an extensive amount of research this past year. They realize the Board was provided with guidance from the Town Staff but they have come to the conclusion that the Town has provided the Board with their interpretation of the ordinances as it seems to suit the Town's needs rather than how they are written and meant to be enforced. That is what they have been trying to say all along. There is a lot of interpretation going on. They know the ordinances are poorly written. There are so many discrepancies and they do not match. Where they conflict, they felt in those cases common sense from the Town should have prevailed and it didn't. While it appears they have lost in their efforts, they hope they have given the Board a reason to also question some of the information it is given by Town Staff when evaluating future projects. Chair Campanelli suggested that Mrs. Morrissey share that information with the Planning Board that actually writes the ordinances and the Council. This Board does not write this stuff. It has to use the tools it is given. She assured Mrs. Morrissey that the Board sees conflicts in them all the time but the Board's hands are tied.

Tom Saucier explained that the Section of the Ordinance in 512 D.6 is not applicable in this situation. He noted the curve radius on the plan is not applicable. The storm water analysis that was prepared by a professional engineer and reviewed by two professional engineers showed a decrease in the peak run-off rate from this development.

Mr. Biegel pointed out that certain septic systems are all outside the 20-foot limited disturbance buffer so they shall not impact any trees on the other side of the property line. He noted that trees can be planted around septic systems so he sees no problem installing those septic systems in those locations and having the 20-foot limited disturbance buffering.

They would be happy to change the timing for rock processing to 8 a.m. to 3 p.m. and extending the period. Chair Campanelli asked if there is a timeline for construction. Mr. Biegel said no but they would like to get the road constructed as soon as possible. The initial push would be to sell the houses in the front and then work back. The site would be stabilized, the road would be built and the storm water things would be in place. Mr. Troidl noted that it appears if the hours change, they will be adding four days for crushing. Instead of 7-10 it will be up to 14 days. Ms. Pelletier advised that the Town does not have any notification requirements before someone starts construction. We can't restrict the duration. For a major subdivision, the approval is good for two years. She explained the threshold needed to keep the approval in place and finish building out the project.

Sarah Cronin of 14 Norton Farm Road pointed out her lot and that they can see clearly into the field. She is requesting that they get improved buffering in two spots and would be happy to provide pictures to show what they see. She requested more mature buffering in those two spots. She noted that the road has been moved and she really wants increased buffering.

Mr. Biegel explained that they did move the road over some because they were looking at the Duhaime residence which is much more out in the open and there are some residences that do have trees in there. As for buffering, they have 17 evergreen trees that are proposed and they would be happy to move them wherever it makes sense to maximize the buffering. Mrs. Cronin asked if she could provide input on the location of the trees. Mr. Biegel mentioned he would be glad to have her input. She pointed out that she does not want a sales office in her backyard. It is bad enough there will be condos. Mr. Biegel advised that Mr. Fletcher would own and rent the duplexes and sell the single-family units so that is in the documents to give him the ability if he wants to build a spec unit.

Shawn Cronin of 14 Norton Farm Road asked the Board how they would feel if they had commercial properties, an office building and a spec house in their backyards. He feels it is important for the Board to think about it. He feels it is important that the applicant not have a customer service center in the backyard. Mr. Fletcher advised that he did not add the note to the documents and he does not anticipate having an office or a model home. Ms. Pelletier advised that if the Board wants to strike that note, it should be included as a condition. Mrs. Cronin advised that the note is in the covenant of the HOA document on Page 4, Article 2, Creation of Easements, it is No. 1.

Mr. Reiche had a question about the performance guarantee and that Gorrill Palmer recommended a different amount than the applicant proposed. Ms. Pelletier advised that she asked Gorrill Palmer what the number should be and they came back with a number close to \$372,000 that should be the cost of the site work if something were to happen to the project and the Town had to go in and complete the infrastructure. Mr. Reiche asked about the forms of the guarantee. Ms. Pelletier explained the different options outlined in the Ordinance. The applicant must show financial capacity but we don't let them start until we have the cash or letter of credit in hand.

Ms. Pelletier had suggestions for changes to be made to the draft motion in the Staff Report. The Board agreed to change the hours for rock crushing to 8 a.m. to 3 p.m. and that the operator be licensed. The performance guarantee should be included at \$372,000, in a form acceptable to the Town Attorney and add 2% at \$7,440.

Mark Morrissey of Norton Farm Road mentioned that he didn't feel the limitation on rock processing should be left open ended. Ms. Pelletier suggested looking at making it reasonable in the event something breaks, bad weather, other factors to consider. It can't be so restrictive that it prohibits the project but the Board has the ability to add reasonable conditions. Mrs. Morrissey calculated it would take up to 15 days and Mr. Biegel agreed that would be fine. She requested that work on federal holidays be restricted. Mr. Biegel agreed.

Findings of Fact:

11.1 Pollution

A. State Standard

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

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

The parcel is not located within the watershed of an Urban Impaired Stream. The location of Harvey Brook and its associated wetlands have been shown on the plan. There is an area of FEMA Zone A flood plain on the property, abutting this area and the boundaries are shown on the plan. There is approximately 34.7 acres of open space on the parcel which directly abuts the flood plain, wetlands and brook, and which will be deeded to the Freeport Conservation Trust. This open space will be protected from future development. Per a letter dated 01/30/19 from the DEP, the transfer of the gift of the open space land to the Freeport Conservation Trust, would have to occur before or at the same time as the subdivision is recorded; this has been added as a proposed condition of approval.

Each lot will be served by a private wastewater disposal system which will be designed in accordance with the State of Maine Subsurface Wastewater Disposal Rules. The location of the passing test pits has been shown on the recording plan. A hydrogeologic assessment and nitrate study have been completed by Mark Cenci Geologic, Inc. (dated April 22, 2019). His conclusion was that the proposal meets the requirements of the Town of Freeport for both water quality and

quantity, with the note that the wastewater disposal system for lot three would require a de-nitrification system. This has been added as a note on the final recording plan. The location of passing test pits has been shown on the recording plan.

The applicant will be processing the existing fill material on-site and to be used for the buildout of the development. The applicant is proposing to use water to control dust and particulate matter during the processing operation.

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

11.2 Sufficient Water

A. State Standard

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

Each lot will have a private well. A note has been added to the recording plan that “within one year of the date of purchase, each lot owner shall be guaranteed by the subdivider access to a supply of potable water of at least 350 gallons per day...” A water withdrawal impact analysis was completed by Mark Cenci Geologic and determined that there should be adequate water for the development and recharge of the aquifer. Based upon this information, the Board finds that this standard has been met.

11.3 Impact on Existing Water Supplies

A. State Standard

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

Each lot will have a private well and will not be connected to the municipal water supply. Based upon this information, the Board finds that this standard has been met.

11.4 Soil Erosion.

A. State Standard

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

Erosion control plans have been included in the submission. A peer review of the project, on behalf of the Town of Freeport, was conducted by Will Haskell, PE from Gorrill Palmer. Final review comments are included in a memo dated September 10, 2019 (attached). He concludes that the “erosion control plan is in general compliance” with this Article. Based upon this information, the Board finds that this standard has been met.

11.5 Traffic Conditions

A. State Standards

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

The Board agreed at the February meeting, per the recommendation of a traffic engineer (see previously submitted letter from William Bray, dated January 22, 2019), and per Article 11.5.C.2.b (Freeport Subdivision Ordinance), to allow a less stringent standard for sight distances if the proposed improvements recommended by the traffic engineer are made. These recommendations have been incorporated in to the final road design included in the submission. A traffic assessment of the proposal was completed by Bill Bray of Traffic Solutions.

On behalf of the Town of Freeport, a peer review of the project was conducted by Will Haskell, PE from Gorrill Palmer. Mr. Haskell's has completed his peer review of the final submission, and all of his prior comments have been incorporated into the final submission. His final review comments are included in a memo dated September 10, 2019 (attached). He concludes that the proposed road has been designed in general compliance with Article 11.5.i of the Freeport Subdivision Ordinance. Based upon this information, the Board finds that this standard has been met.

11.6 Sewage Disposal

A. State Standards

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

The project will not utilize the public sewer system. The location of subsurface wastewater disposal systems has been shown on the plan. A hydrogeologic assessment and nitrate study have been completed by Mark Cenci Geologic, Inc. (dated April 22, 2019). His conclusion was that the proposal meets the requirements of the Town of Freeport for both water quality and quantity, with the note that the wastewater disposal system for lot three would require a de-nitrification system. This has been added as a note on the final recording plan. Based upon this information, the Board finds that this standard has been met.

11.7 Solid Waste

A. State Standard

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

In accordance with Town of Freeport Chapter 28: Solid Waste Disposal Ordinance, each lot owner will be required to contract with a private waste hauler for the disposal of solid waste. The applicant has stated that the trees removed for required clearing will be chipped by a logging company and hauled away. Stumps will be ground and used for erosion control. Construction debris from the construction of homes will be collected in containers on site and hauled away. Based upon this information, the Board finds that this standard has been met.

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

A. State Standard

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

There are no known historic sites or significant wildlife habitat identified on the site. In a letter dated 04-18-18, Kirk Mohney from the Maine Historic Preservation Commission states that "No national register buildings or known national register eligible properties are on or adjacent to the parcels. In addition, the project area is not considered sensitive for archaeological resources."

In a letter dated 5/8/18, John Perry from the Maine Department of Inland Fisheries and Wildlife states that they have "...not mapped any Essential Habitats that would be directly affected by the project." He does note that there could be bats and the applicant should contact US Fish and Wildlife. They are not aware of any Significant Wildlife Habitats within the project area. They do recommend that there be a 100-foot undisturbed vegetative buffer maintained along the any streams.

In a letter dated 04/18/18, Kristen Puryear, Maine Natural Areas Program, states "...that there are no rare botanical features documented specifically within the project area."

A vernal pool assessment was completed by Mark Hampton Associates Inc with a report dated 05/28/18. No significant vernal pools were identified on the site. Based upon this information, the Board finds that this standard has been met.

11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.

A. State Standard

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

The parcel is within the Rural Residential I and Resource Protection II Zoning Districts with the developed area (other than a small portion of the road) being within the Rural Residential I portion of the property. There is an area of FEMA Zone A flood plain on the property, abutting this area and the boundaries are shown on the plan. There is approximately 34.7 acres of open space on the parcel which directly abuts the flood plain, wetlands and brook, and which will be deeded to the Freeport Conservation Trust. This open space will be protected from future development. This is a Subdivision – Open Space and 29.9 acres of open space are required; 34.7 acres are proposed. The proposal is in harmony with the vision of the 2011 Freeport Comprehensive Plan which states part of the vision as "allowing a variety of neighborhoods and housing types, at a variety of prices; protecting natural and historic resources; maintaining large tracts of undeveloped fields and forests, and providing opportunities to enjoy these places." Based upon this information, the Board finds that this standard has been met.

11.10 Financial and Technical Capacity

A. State Standard

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

The subdivision plan was prepared by Dick Hamilton, a Professional Land Surveyor licensed by the State of Maine. The applicant's team of professionals includes: Peter Biegel, Maine Licensed Landscape Architect with Land Design Solutions; Tom Saucier, Professional Engineer, Site Design Associates; Silas Canavan, Professional Engineer, Walsh Associates; and, other professional as previously referenced.

The cost estimate included in the submission for the proposed site improvements is estimated at \$320,000.00. A letter was submitted from C&G Capital LLC to confirm that the applicant has the funds available. In addition, in a letter dated 8/26/19 from Bangor Savings Bank, it is stated that C&G Capital has the funds available to assist with the financing of the proposed development. In the comments from Will Haskell, the Town's peer reviewer, he feels that the cost estimate should be slightly higher. A proposed condition of approval has been added that the applicant "Establish a performance guarantee in the amount to cover the cost of all site work associated with the project, in an amount to be reviewed and approved by the Town's peer reviewing engineer..." Based upon this information, the Board finds that this standard has been met.

11.11 Impact on Water Quality or Shoreline

A. State Standard

Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred and fifty (250) feet of any wetland, great pond, or river as defined in Title 38, Chapter 3,

Subchapter I, Article 2-B¹, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

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

11.12 Impact on Ground Water Quality or Quantity

A. State Standard

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

Each lot will be served by a private wastewater disposal system which will be designed in accordance with the State of Maine Subsurface Wastewater Disposal Rules. The location of the passing test pits has been shown on the recording plan. A hydrogeologic assessment and nitrate study have been completed by Mark Cenci Geologic, Inc. (dated April 22, 2019). His conclusion was that the proposal meets the requirements of the Town of Freeport for both water quality and quantity. The Harvey Brook is shown on the recording plan and will be protected by the abutting required open space which remained undeveloped. Based upon this information, the Board finds that this standard has been met.

11.13 Floodplain Management

A. State Standard

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

The developed area is in Zone C, areas of minimal flooding, on the FEMA Flood Insurance Rate Maps (FIRM). The location of Harvey Brook and its associated wetlands have been shown on the plan. There is an area of FEMA Zone A flood plain on the property, abutting this area and the boundaries are shown on the plan. There is approximately 34.7 acres of open space on the parcel which directly abuts the flood plain, wetlands and brook, and which will be deeded to the Freeport Conservation Trust. This open space will be protected from future development. No development is proposed within the flood plain. Based upon this information, the Board finds that this standard has been met.

11.14 Identification of Freshwater Wetlands

A. State Standard

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

Wetlands were delineated by Mark Hampton Associates, Inc. and the location of wetlands are shown on the recording plan. Based upon this information, the Board finds that this standard has been met.

11.15 Rivers, Streams, and Brooks

A. State Standard

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

The location of Harvey Brook and its associated wetlands have been shown on the plan. Based upon this information, the Board finds that this standard has been met.

11.16 Storm Water Management

A. State Standard

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

Based upon documentation previously submitted (letter dated 01/30/19) from the Maine Department of Environmental Protection (DEP), the development, does not require a DEP Site Location of Development Permit. The application requires a DEP Chapter 500 Stormwater Permit. That review and licensing was conducted by the DEP and issued to Fletcher Property Group, with referenced approval of L-28328-MJ-A-N on 27 August 2019. The preliminary memo from Will Haskell, peer reviewer on behalf of the Town of Freeport, did contain some comments on stormwater and those comments were addressed in the final submission. Mr. Haskell's final comments are included in a memo dated September 10, 2019. He concludes that the proposed stormwater design has been designed in general compliance with Section 11.16 of the Town of Freeport Subdivision Ordinance and Section 529 of the Town of Freeport Zoning Ordinance. Two conditions of approval are proposed: that the applicant obtain a Maine Construction General Permit and the applicant enter into a Maintenance Agreement for a Stormwater Management System, with the Town of Freeport, and to be recorded in the Cumberland County Registry of Deeds. Based upon this information, the Board finds that this standard has been met.

11.17 Spaghetti Lots

A. State Standard

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

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

11.18 Phosphorus Impacts on Great Ponds

A. State Standard

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

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

11.19 Impacts on Adjoining Municipalities

A. State Standard

Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

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

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

MOVED AND SECONDED: Be it ordered that the Freeport Project Review Board approve the printed Findings of Fact and final subdivision plan for Fletcher Property Group LLC, Inc. for a four lot, 14 units, open space residential subdivision, to be located on Young's Lane (Tax Assessor Map 26, Lot 4A), subdivision recording plan dated 04/23/19 and revised through 09/13/19, to be built substantially as proposed, finding that it meets the standards of the Freeport Subdivision Ordinance, with the following Conditions of Approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and his/her representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) Prior to any site work, including but not limited to clearing of the site and/or processing of the existing material on the site, the applicant do the following:
 - A. Enter into a Maintenance Agreement for a Stormwater Management System with the Town of Freeport, to be recorded in the Cumberland County Registry of Deeds, with yearly stormwater reporting to the Town of Freeport being required.
 - B. Pay a Pavement Maintenance Impact Fee to the Town of Freeport, to be based upon length of the road and the current impact fee effective at such time that the fee is paid. Applicants for building permits will also be required to pay a Pavement Maintenance Impact Fee at the time a building permit is applied for and based upon the size of the structure and the current impact fee effective at such time.
 - C. Establish a performance guarantee in the amount of \$372,000 to cover the cost of all site work associated with the project, in a form acceptable to the Town Attorney. The performance guarantee, in accordance with Article 12.9 of the Freeport Subdivision Ordinance, shall cover the cost of all site work, including the road, erosion control, stormwater management, landscaping and demarcation of property lines, etc., along with the performance guarantee, a non-refundable administrative fee of 2% of the performance guarantee, in the amount of \$7,440, be paid.
 - D. Establish an inspection account, in the amount of 2% of the estimated costs of the required improvements, for inspection of the site improvements by the Town Engineer.
 - E. The developer have a pre-construction meeting with the Town Engineer.
 - F. The developer obtain all required permits from Freeport Public Works including the Entrance Permit and Contractor License Permit.
- 3) The final signed mylar of the recording plan shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date upon which the plan is signed otherwise the plan shall become null and void.
- 4) The transfer of the gift of the open space land to the Freeport Conservation Trust shall occur prior to the start of any sitework, and occur before or at the same time as the subdivision plan is recorded in the Cumberland County Registry of Deeds.
- 5) Prior to the sale of any lot, the applicant shall provide the Town Planner with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- 6) The applicant adhere to the following conditions in regards to the processing of fill material on the property: limiting the hours for processing between 8am-3pm Monday through Friday and no federal holidays; no processing within 300 feet of a dwelling (other than the one existing on the subject property); and, controlling particle emissions and dust with water. Crushing operations shall be limited to 15 working days of the crusher within the above-mentioned restrictions.
- 7) All plants planted on the development parcel as part of the buffer planting shall have a guarantee period of 2 years, beginning at such time that all plantings are installed and with review and inspection by the Town Engineer, or by the peer reviewing engineer, that plantings have been installed as approved. A performance guarantee, filed with the Town of Freeport, will be required to remain in effect for the duration of this time

and will only be released upon completion of this time period and with final review and inspection of the plantings, by the Town, with confirmation that all plantings are viable.

- 8) The applicant submit documentation of the actual formation of the non-profit corporation of the Subdivision Association prior to the sale of any building lots and/or dwellings.
- 9) Parking for the Freeport Conservation Trust shall be in accordance with the Open Space Parking Sketch dated 09/16/2019 by Land Design Solutions. No trail parking shall be allowed on the paved area.
- 10) The rock crushing operation shall be by a licensed contractor by Maine DEP. The applicant shall submit proof of licensing to the Town.
- 11) The section in the Declaration of Protected Covenants, Restrictions and Easements, Article 2, Paragraph 1 shall be stricken from that document.

Mr. Wing suggested adding to No. 7 that the developer will meet with the abutter, Sarah Cronin to identify mutually agreeable placement for the trees. If a mutually agreeable place is not determined, they will default to the landscape plan as shown. Mr. Troidl accepted this friendly amendment. (Troidl & Blanchard) **VOTE:** (6 Ayes) (1 Excused-Watson)

Chair Campanelli thanked everyone.

Falcon Way Subdivision – Village Open Space Subdivision – Public Hearing

The applicant is seeking approval of an amendment to a previously approved subdivision plan to update a note regarding the maximum building footprint. The stormwater management plan has also been updated. No other changes and no new lots are proposed. Zoning District: Village I (V-I) & Freeport Village Overlay District (FVOD). Tax Assessor Map 20, Lot 13E. John Libby, John Libby Construction, Inc., applicant and owner; Adrienne Fine, PE, Terradyn Consultants, representative.

Ms. Pelletier explained she advertised this as a public hearing for the sake of caution. In this case, it is a formality. Anytime you are in a subdivision and there is a change, you have to come back. They designed their stormwater as a limitation on the square footage of a dwellings. Once they went to market them, they realized that people want a little more space so they wanted to increase the footprint square footage but there is a note on the plan. They had to revise the note on the plan. They looked at their stormwater with Adam Bliss, our Town Engineer and he signed off on it. The way it is designed, they can accommodate the minor increase in impervious area. The only other note they added on the plan is that they have to reference the previously recorded plan anytime they make an amendment. This is pretty straight forward. We sent agendas and notified the abutters but didn't hear from anybody.

Adrienne Fine explained that the house size is remaining the same but the applicant wants to be able to build a garage two feet wider and they did not take into account a front and rear porch so the change allows for a larger garage and porches. It does not affect the setbacks.

MOVED AND SECONDED: To open the public hearing. (Troidl & Reiche) **VOTE:** (6 Ayes) (1 Excused-Watson)

There were no public comments provided.

MOVED AND SECONDED: To close the public hearing. (Troidl & Reiche) **VOTE:** (6 Ayes) (1 Excused-Watson)

Findings of Fact:

11.1 Pollution

A. State Standard

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

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

The parcel is located within the watershed of Frost Gully Brook, an Urban Impaired Stream. The brook and its wetlands do abut/are in the parcel and the location is shown on the plan. There is an area of FEMA Zone A flood plain on the property, abutting this area and the boundaries are shown on the plan. There is approximately 46,317 s.f. of open space on the parcel which directly abuts the flood plain, wetlands and brook. This open space will be protected from future development. Each lot will be served by a private wastewater disposal system and each lot meets the required State minimum lot size of 20,000 s.f. for lots with septic systems. Based upon this information, the Board finds that this standard has been met.

11.2 Sufficient Water

A. State Standard

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

Each lot will be connected to the public water system. In a letter dated 04/25/19, Aric Odone of MaineWater notes that they have the capacity to serve the project. Based upon this information, the Board finds that this standard has been met.

11.3 Impact on Existing Water Supplies

A. State Standard

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

Each lot will be connected to the public water system. In a letter dated 04/25/19, Aric Odone of MaineWater notes that they have the capacity to serve the project. Based upon this information, the Board finds that this standard has been met.

11.4 Soil Erosion.

A. State Standard

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

Erosion control plans have been reviewed and approved by the Town Engineer (see memo dated 06/11/19). Based upon this information, the Board finds that this standard has been met.

11.5 Traffic Conditions

A. State Standards

Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions

with respect to the use of the highways or public roads existing or proposed.

The applicant is proposing an extension of Falcon Way. The road would be 630 feet. A gravel road is proposed and the waiver to allow gravel was previously granted by the Board at the 03/20/19 Project Review Board meeting. In a memo (dated 03/13/19), the Town of Freeport's Superintendent of Public Works did request that the portion of Frost Brook Lane that is within the Route One right-of-way be paved and further suggests that an additional 10 feet beyond the right of way be paved to provide safer travel conditions due to the increase in use of the private gravel road. This has been added as a condition of approval. Adam Bliss, Town Engineer, did review and approve the plans for the reconstruction and extension of Falcon Way (06/11/19). Based upon this information, the Board finds that this standard has been met.

11.6 Sewage Disposal

A. State Standards

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

Each lot will be served by a private wastewater disposal system and each lot meets the required State minimum lot size of 20,000 s.f. for lots with septic systems. Based upon this information, the Board finds that this standard has been met.

11.7 Solid Waste

A. State Standard

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

In accordance with Town of Freeport Chapter 28: Solid Waste Disposal Ordinance, each lot owner will be required to contract with a private waste hauler for the disposal of solid waste. In a letter dated 04/24/19 from Adrienne Fine, it is stated that during construction the disposal of land clearing and construction debris will be managed by the applicant and stumps and brush will be removed to a licensed facility. Building contractors will handle their own construction debris. Based upon this information, the Board finds that this standard has been met.

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

A. State Standard

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

There are no known historic sites or significant wildlife habitat identified on the site. Based upon this information, the Board finds that this standard has been met.

11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.

A. State Standard

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

The parcel is in the Village 1 Zoning District and the Freeport Village Overlay District. There is an area in the gully that is

in the floodplain and in which no development is proposed. This is a “Subdivision – Village Open Space”; 70,313 sf of open space is required. Approximately, 46,317 sf has been identified as being shown in the Secondary Conservation Area on the Village Open Space map, and the additional 23,966 sf will require a fee to be paid in lieu of open space (based on current fee set by the Freeport Town Council and in effect as such time that the fee is paid). Based upon this information, the Board finds that this standard has been met.

11.10 Financial and Technical Capacity

A. State Standard

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

The subdivision plan was prepared by Wayne Wood, licensed land surveyor with Wayne T. Wood & Co. In a letter dated 04/24/19, Aaron Cannan from Katahdin Trust states that the applicant has the financial capacity to complete the project. Based upon this information, the Board finds that this standard has been met.

11.11 Impact on Water Quality or Shoreline

A. State Standard

Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred and fifty (250) feet of any wetland, great pond, or river as defined in Title 38, Chapter 3, Subchapter I, Article 2-B¹, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

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

11.12 Impact on Ground Water Quality or Quantity

A. State Standard

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

Passing test pit locations were determined by Mark Hampton Associates, Inc. and the locations have been shown on the plan. Each lot will have a private septic system. The brook and gully will be protected by the abutting required open space which remained undeveloped. Based upon this information, the Board finds that this standard has been met.

11.13 Floodplain Management

A. State Standard

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

The developed area is in Zone C, areas of minimal flooding, on the FEMA Flood Insurance Rate Maps (FIRM). The parcel is located within the watershed of Frost Gully Brook, an Urban Impaired Stream. The brook and its wetlands do abut the parcel and the location is shown on the plan. There is an area of FEMA Zone A flood plain on the property and the boundaries are shown on the plan. No development is proposed within the flood plain. Based upon this information, the Board finds that this standard has been met.

11.14 Identification of Freshwater Wetlands

A. State Standard

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

Wetlands were delineated by Mark Hampton Associates, Inc. and the location of wetlands are shown on the recording plan. Based upon this information, the Board finds that this standard has been met.

11.15 Rivers, Streams, and Brooks

A. State Standard

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

The parcel is located within the watershed of Frost Gully Brook, an Urban Impaired Stream. The brook and its wetlands do abut the parcel and the location is shown on the plan. Based upon this information, the Board finds that this standard has been met.

11.16 Storm Water Management

A. State Standard

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

The Town Engineer conducted the review and stormwater permitting for the project. The parcel is within the Frost Gully Brook watershed, an urban impaired stream, which means that a reduced permitting threshold was applicable. In a memo dated June 11, 2019 (attached to the staff report) the Town Engineer concludes that the Stormwater Management plans meet the standards of the Freeport Subdivision Ordinance and the Maine DEP Chapter 500 Rules. The stormwater management analysis has been updated to reflect the new building footprint of 1,800 s.f. per dwelling on each lot and the design has the capacity for the change. Note 15 on the recording plat has also been updated to reflect this change. Two conditions of approval are proposed: that the applicant obtain a Maine Construction General Permit and the applicant enter into a Maintenance Agreement for a Stormwater Management System, with the Town of Freeport, and to be recorded in the Cumberland County Registry of Deeds. Based upon this information, the Board finds that this standard has been met.

11.17 Spaghetti Lots

A. State Standard

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

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

11.18 Phosphorus Impacts on Great Ponds

A. State Standard

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

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

11.19 Impacts on Adjoining Municipalities

A. State Standard

Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

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

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

Proposed Motion: Be it ordered that the Freeport Project Review Board approve the printed Findings of Fact and subdivision plan amendment for John Libby Construction, Inc. for an amendment to the previously approved Falcon Way Subdivision Plan, to be located on Falcon Way (Tax Assessor Map 20, Lot 13E), subdivision recording plan dated 12/17/18 and revised through 08/12/19, to be built substantially as proposed, finding that it meets the standards of the Freeport Subdivision Ordinance, with the following Conditions of Approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and his/her representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) The conditions of the June 19, 2019 approval are still applicable.
- 3) The final signed mylar of the recording plan shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date upon which the plan is signed otherwise the plan shall become null and void.

MOVED AND SECONDED: To approve the proposed motion as read and written in the Staff Report. (Blanchard & Troidl) **VOTE:** (6 Ayes) (1 Excused-Watson)

The Beacon Residences – Commercial Open Space Subdivision

The applicant is presenting conceptual plans for a Commercial Open Space Subdivision. 144 units (in six residential buildings). 5 garage buildings, a clubhouse with pool and associated site improvements are proposed. Open space is required. Zoning District: Commercial IV (C-IV). Tax Assessor Map 22, Lots 24 & 24B. Ben Devine, Devine Capital LLC, applicant; L.L. Bean, Inc., owner; Kylie Mason, Sebago Technics, representative.

Mr. Wing explained that he has been professionally involved on the property so he recused himself. Mr. Reiche disclosed that he has had a land/tenant relationship with one of the applicants in the past but it doesn't exist now. Additionally, he is a landlord for L.L. Bean and he just learned that they are the owner and seller of this property. He doesn't feel either of these conflict him. For that to apply, he would have to have a financial interest in the outcome of this matter which he can't imagine happening or give appearance of a conflict. He wanted to disclose it on the record and if anyone on the Board wants to put it to a vote, could ask to do so. No one had any problem with Mr. Reiche participating. Chair Campanelli alerted the public that the Board did a site walk before the meeting started on this proposed project.

Ms. Pelletier pointed out that this is an exciting large project for Freeport. In the Board's packets there are some draft zoning amendments that were recently adopted by the Freeport Town Council adding a new use for Subdivision Commercial open space and also permitting that use in the Commercial IV District, added some definitions, and some space and bulk standards. Most of the subdivisions the Board sees are residential and have the 50% of the net residential acreage added to the open space. In this case, it is 20% so it is different than any of the other ones. They did amend the standards in the Subdivision Ordinance that would allow more than 15 units on a dead-end road in the case of a commercial open space subdivision. She noted that the Planning Board is very busy and there are a lot of proposed zoning amendments and two additional ones were approved last night. She expects the Board will have ordinances in the next week or so but the Board does have the adopted version in their packet and that is what is allowing this project to move forward.

They are here tonight for a major subdivision. There are three steps to the review: conceptual, typically a site walk (which the Board agreed to do before the meeting tonight) and once conceptual is granted, they come back for preliminary and then final. The point of conceptual is determined if the appropriate areas of the parcel have been determined for development and for the preservation of open space. Ms. Pelletier provided a motion in the event the Board felt it had everything it needed to make that decision but it doesn't mean that the Board has to act on the concept plan tonight. If the Board feels it needs more information, it would be good to give the application direction as to what that information is that the Board feels it needs to make a decision. Since this involves multi family, it will also be subject to site plan review so many of those standards are going to overlap so the Board will look at parking, road construction, storm water and also Section 527 applies here since it pertains to the commercial district. They do propose a series of garages with overhead doors but Ms. Pelletier does not feel they will be visible. The only thing new for the Board is how they determine what open space they are preserving. The first priority is to establish a buffer of at least 50 feet where the commercial district is adjacent to the residential district. The second priority is to include primary conservation areas to the greatest practical extent. The third priority would be at the discretion of the owner. They did request a waiver. Freeport has a parking stall dimension of 9' x 18 1/2'. They are requesting 9' x 18'. Ms. Pelletier consulted with the Town Engineer and he is not overly concerned. Typically, the Board would act on the waiver request during the conceptual review process and typically as the Board takes action on the plan. She mentioned that Kylie Mason of Sebago Technics could go into the details of the project.

Ms. Mason displayed plans and pointed out where Desert Road is located, the DOT garage and where their driveway would come in and cross a small stream. It would be a culverted crossing. They did have a great pre-application meeting with DEP today and they will be submitting their application in the coming weeks. Open space will be in the rear and she pointed to the 50-foot buffer abutting the residential. They will have 25-foot setbacks. The open space does exceed the requirements. It protects areas of stream, areas of wetlands and areas of upland.

There will be three buildings in the rear with garages. Parking will be within. There will be landscaping. With the open space separating it, one will not see much from the street. The clubhouse and pool will be in the front along with substantial landscaping. The Board will see it when they come back. The waiver for parking stall dimensions is important to them because it will reduce impervious across the site and she hopes the Board will be favorable to it. She brought in pictures of their development in Scarborough to give the Board a feel for what it will look like. She just wanted to give the Board an idea of what they are talking about for buildings.

Mr. Troidl feels the landscaping towards the road will be a nice feature. He asked if residents would want to use the pool and the clubhouse situated at the corner. Ms. Mason advised that they would be well screened and will feel private. Mr. Troidl asked about the single lane in. Ms. Pelletier advised that there was a meeting today but the Fire Chief was out of town. They will have to meet with the Chief and address hydrants and sprinklers. Ms. Mason noted these are not high-rise buildings and in an emergency, no one would feel stranded on a single road. Mr. Troidl asked what drives the parking space count and is there any thought to electric vehicle charging being provided. Ms. Mason advised that the

Ordinance calls for one space per bedroom but in a one-bedroom unit such as this, there may be two driving residents. She will look into the electric vehicle chargers.

Chair Campanelli mentioned a letter received today from Earl Gibson from Public Works explaining that they will need to get salt and equipment from their facility so it needs to be made aware for screening and buffering for noise. It is important for the Fire Chief to look at this and also for egress through the parking lot that they can get through and make all these turn arounds. She assumes Ms. Mason will be looking at that as well as working with the Sewer District. Chair Campanelli asked about traffic impacts. Ms. Mason noted she is aware of the traffic issues on Desert Road but will provide traffic calculations in her next submittal. Chair Campanelli noted her concerns and that traffic will have to be addressed in some way. She mentioned bike/pedestrian access on Desert Road and she is happy to know there will be a new bridge on Desert Road and we are actively seeking bike/pedestrian access on that road. She encouraged Ms. Mason to create pedestrian access that eventually will connect to the bridge. She encouraged Ms. Mason to look into connectivity to any other trails to Hunter Road and also along Desert to the future new bridge. Mr. Troidl asked if there was any way a trail could be made to make a loop on their own site. Ms. Mason offered to look at it but her initial thought was that it would be an expensive walkway. Chair Campanelli noted it would not need to be paved but since the Board did not walk through there, she is not aware of how wet it is or what the conditions are.

Mr. Blanchard asked if there is any intent to retain the trees on the right side? Ms. Mason advised that they will be cleared but plantings will be put back after the construction. Mr. Reiche asked about the sample photos. Ms. Mason advised that they are pictures of Scarborough and East Lyme, Connecticut. Chair Campanelli asked if the apartments would be all one-bedroom? Ms. Mason indicated they would be studios, one bedroom, two bedrooms and three-bedroom apartments.

Chair Campanelli opened the public portion of the meeting. Dale Inman of 37 Hunter Road advised that he abuts the back corner of this development. He is concerned about the bridge over 295 which is so congested now. This project will add another 200 cars. He knows the State is going to rebuild it and maybe if it could all be combined together to fix it, it would be great. When the traffic from L.L. Bean's Distribution Center lets out, getting from Hunter Road onto Desert Road is really tough. He would like to see some sort of solution so people can get in and out. Those are his major concerns but other than that, it is their land and their project but he doesn't want them to congest it and make him pay for things that may congest more.

Chair Campanelli asked if a letter to the Sewer Department has been sent and Ms. Mason answered that a letter was sent to them. Mr. Troidl asked what heating fuel is planned. Ms. Mason did not know but will have an answer when she comes back. Mr. Troidl brought up traffic. Ms. Mason advised that she understands there are existing traffic issues but they can't make this a burden on the next project to solve those problems. There are mechanisms in place to try to improve that but each property has its right to contribute trips. This applicant will follow the local Ordinance and State requirements. They will provide traffic engineering for the project. Chair Campanelli added that this needs to be properly evaluated.

Mr. Troidl asked Ms. Pelletier about the timeline for the bridge and how much do they consult with the Town. Ms. Pelletier was not sure of the timeline. She has heard from residents about the traffic from this project and 11.5 of the Subdivision Ordinance has specific standards and there are some specific thresholds regarding intersections of different service levels. They are going to have to look at that and work with Adam Bliss, our Town Engineer who will closely look it over. She will try to get an update on the bridge for the next meeting. They will have to provide some data to the Board to show how they are going to contribute to that situation.

Chair Campanelli explained that the bridges at Exit 20, 22 and 17 are being looked at together. There was a meeting a couple of months ago and MDOT asked for a community group to participate in the discussion. We have a couple of

Freeport residents, a Town Councilor, Adam Bliss, Peter Joseph and then some Yarmouth folks to be involved in the process. The money for those bridges seems to be there. Mallett is also part of it. We need to be aware that it is happening and be involved as this project will impact that area.

For the record but it doesn't mean anything, Chair Campanelli explained that the way our Subdivision requirements are really minimal for concept, in her opinion, it's too minimal but we can't ask for more than what is in this Subdivision Ordinance. She feels the Site Plan could be more and would like to see some attempt at the pedestrian access and wished it could have been on here but be that as it may. Mr. Troidl mentioned that on the waiver, it is the length of the parking stall they want to change, not the width. Chair Campanelli noted it does decrease impervious.

MOVED AND SECONDED: Be it ordered that the Freeport Project Review Board finds that the review of the Site Inventory Map and Conceptual Plan for The Beacon Residences – Commercial Open Space Subdivision (Tax Assessor Map 22, Lots 24 & 24B) is complete, as based upon plans dated 08/09/19 and revised through 09/06/19, the Board finds that the appropriate areas have been determined for development and for open space as the open space in accordance with the standards of Section 412.F.1 of the Freeport Zoning Ordinance and the proposed waiver be approved to reduce stall measurements from 9'x18.5' to 9'x18'. (Reiche & Blanchard) 9'x18.5' to 9'x18'. **VOTE:** (5 Ayes) (1 Excused-Watson) (1 Recused-Wing)

Denney Block Freeport LLC – Demolition Request – PUBLIC HEARING

The applicant is seeking approval to demolish a portion of an existing Class B building at 58 Main Street in Design Review District I. The four-month notice period for demolition is applicable. Design Review District I – Class B property. Zoning District: Village Commercial I (VC-I) Tax Assessor Map 11, Lot 110. Denney Block Freeport LLC, applicant and owners; Kevin Nice, EBI Consulting, representative.

Ms. Pelletier explained that the Board talked about this at the last meeting. It started back in 2015. At the last meeting the Board determined that the way the Ordinance is written, it is still an open application. She needed to close some loopholes on the notification requirements and they are back today regarding the demolition request. In the Board's packet are the public hearing notices that they applied for over time. They also e-mailed the Planning Board Chair but they haven't met so she is unsure that they had an opportunity to talk about it. They did what the Ordinance requires. They notified the Historical Society as well as the Town Council. The Council did talk about it last night. They were aware of the project because it was talked about as a contract zone. They did not have any objection to the demolition request. She has not been contacted by anyone as a result of the ad looking to save the building which was the goal of the ad. She put this as a public hearing because it has been a long time since the Board had a public hearing. It appears there is not a lot of public interest in the demolition. They will be back with a separate application regarding Site Plan Design Review Certificate for the in-fill itself so the Board's comments are strictly on the demolition.

There would be three conditions based upon Staff circulation of the project. The motion as it is written, if the Board takes action on it, is that they don't demo it until they first get a Design Review Certificate for the restoration of the remaining building façade. She is confident the Board will see that coming in their package so she is comfortable that the Board puts this as a condition. They will need to get a demolition permit from the Code Officer for the building. Earl Gibson, Public Works Superintendent, did provide a memo. He has concerns that they properly block off and do whatever they need to do so they are not obstructing passage in the right-of-way so he would say before demolition that they need to work with Public Works regarding any obstruction and required signage in the right-of-way. Adam Bliss who oversees the landfill and recycling center recommends that the Board add a condition that no demolition debris be allowed on the ground and dumpsters with lids must be used that will be closed at all times so we don't have stuff all over Main Street. Otherwise, we feel they have done their notification which is why they are before the Board.

MOVED AND SECONDED: To open the Public Hearing. (Reiche & Troidl) **VOTE:** (6 Ayes) (1 Excused-Watson)

Mr. Yebba advised that they have not heard from anyone.

MOVED AND SECONDED: To close the Public Hearing. (Reiche & Troidl) **VOTE:** (6 Ayes) (1 Excused-Watson)

MOVED AND SECONDED: Be it ordered that the Freeport Project Review Board issue a Design Review Certificate for Denny Block LLC, for the demolition of a portion of the building at 58 Main Street, application dated 12/29/14, as the Board finds that the requirements of the four-month notice period have been met, with the following conditions:

1. That the demolition of the portion not occur until the applicant first obtains a Design Review Certificate for the restoration of the remaining building façade.
2. Before demo begins, the applicant needs to work with Freeport Public Works and that there not be any obstruction in the right of way and regarding required signage.
3. No demo debris be allowed on the ground and they must use dumpsters with lids that must be closed at all times.
4. Obtain a demolition permit from the Town of Freeport. (Wing & Hamlin) **VOTE:** (6 Ayes) (1 Excused-Watson)

Mr. Yebba thanked the Board and noted he would see them next month.

Ms. Pelletier explained that she has not had time to prepare for the next two items. She doesn't have a map or the draft ordinance language but if the Board has a lull next month, she will put them back on there. Chair Campanelli noted how hard Ms. Pelletier has been working on this agenda and had to staff the Council meeting last night. She thanked everybody for coming to the Planning Workshop. Ms. Pelletier will draft a summary of what came out of the Workshop with the Planning Board and will circulate it. She feels the workshop was a good one and was productive. Chair Campanelli agreed and noted that everyone was happy with how it went. Mr. Troidl agreed it was good and feels working together more would be a benefit, especially seeing the make-up of the current Planning Board and being on this Board when we had a different era of membership for both boards. There were different folks with different experience on there and both boards working together he feels will be very helpful for the Town. Chair Campanelli mentioned that she finds it encouraging and that everyone wants to work together for a vision for the Town which is why we are here. She pointed out that the Board will have a meeting next month.

ITEM IV: Review of parcels to possibly include in the Freeport Design Review District Historic Inventory Project and discussion of next steps.

Ms. Pelletier asked if the Board still wants to look at those ten or so parcels on the map and seeing where they are and deciding if we want to get them inventoried for Design Review. The Board agreed.

ITEM V: Discussion of public notice options.

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

ITEM VII: Adjourn

MOVED AND SECONDED: To adjourn at 8:45 p.m. (Troidl & Hamlin) **VOTE:** (6 Ayes) (1 Excused-Watson)

Recorded by Sharon Coffin