



TOWN OF FREEPORT, MAINE
Planning Department
30 Main Street
Freeport, ME 04032
Phone: 207-865-4743
www.freeportmaine.com

TO: FREEPORT PROJECT REVIEW BOARD
FROM: CAROLINE PELLETIER, INTERIM TOWN PLANNER
RE: STAFF REPORT
DATE: WEDNESDAY, JUNE 5, 2019

ITEM 3 - *Review wording change to the previously recommended Zoning Ordinance amendments pertaining to overhead doors in the Commercial District(s), and specifically the standards recommended for Section Sec. 527 regarding the appearance of the overhead doors and “visibility”.*

Background: The Planning Board recently recommended proposed amendments to the Freeport Zoning Ordinance regarding overhead doors in the Commercial District(s). The amendments included removing the limitation on the number of overhead doors (Section 409. Commercial District I) and amendments regarding the appearance of the overhead doors (Section 527. Performance Standards for Commercial Districts).

At the public hearing at the 05/21/19 Town Council meeting, the Council suggested a change to the amendment for Section 527.B.1.f to change the word “visibly” to “unreasonably”. This was to create a standard for reasonableness as opposed to visibility which would be more subjective. This change was proposed as the result of public comment and discussion at the meeting.

This change is not considered substantive; therefore another public hearing is not required, however the Council did want to send the wording change back to the Planning Board for their review and input. The updated proposed amendment language is attached.

ITEM 4 - *Discussion on an application submitted by Devine Capital LLC for the following amendments:*

- a. Add a definition for “Subdivision – Commercial Open Space” to Section 104 of the Freeport Zoning Ordinance;*
- b. Amend the purpose, permitted uses, space standards, and other standards sections of Section 412 Commercial District IV of the Freeport Zoning Ordinance;*
- c. Add a new Section 504.D Commercial Open Space Subdivisions to the Freeport Zoning Ordinance; and,*
- d. Article 11.5.C.2.i of the Freeport Subdivision Ordinance pertaining to traffic conditions and commercial open space subdivisions.*

Background: The proposed amendments for this item have been requested by Devine Capital LLC who currently has a purchase and sale agreement for two properties within the Commercial IV Zoning District. The proposal includes amendments to both the Freeport Subdivision Ordinance and the Freeport Zoning Ordinance. The Ordinance procedures for amendments are as follows:

Freeport Subdivision Ordinance – Article 2.3 Amendments

“2.3 Amendments.

- A. This ordinance may be amended by vote of the Town Council of the Town of Freeport.
- B. The Planning Board shall hold a public hearing prior to the adoption of any amendments to this ordinance. Notice of the public hearing shall be provided at least seven days in advance of the hearing.”

Freeport Zoning Ordinance - Section 203. Changes and Amendments

- “A. This Ordinance may be amended and its regulations, boundaries, and district classifications changed by the Town Council at a regular or special meeting pursuant to the following procedures:
 - 1. Amendments or changes may be initiated by the Planning Board, Project Review Board or Town Council, or may be requested by any owner of property (or authorized agent) or other person with equivalent right, title or interest in the property (or authorized agent). Amendments or changes may also be initiated by any person as permitted by the Constitution and laws of the State of Maine;
 - 2. All requests for amendments to the text of the Zoning Ordinance, or for changes in zone boundary lines, or other requests to change the zoning map, initiated by persons other than the Planning Board, the Town Council, or other Town Boards and Commissioners, shall be accompanied by a fee which shall be set by the Town Council. No such request shall be referred to the Planning Board for public hearing or otherwise considered as a Planning Board agenda item until the required fee has been paid;
 - 3. For request for amendments or changes shall be referred to the Town Council for consideration until the Planning Board has held a public hearing on that request, notice of which shall be given at least ten (10) days prior to such hearing in a newspaper of general circulation in the Town of Freeport and to all abutters of the affected property if a zoning map change is being considered. Abutters shall include owners of property separated from the affected property by a public or private way;
 - 4. Submissions: All requests for amendment or changes other than those initiated by the Planning Board, Project Review Board, or Town Council shall include:
 - a. A map showing existing and proposed zone lines;
 - b. Address or exact location of the request;
 - c. Name and address of property owner and applicant;
 - d. Statement regarding existing and proposed land use;
 - e. Existing and proposed zone classification;

- f. Statement, where applicable, indicating the developer has the financial ability to complete the proposed development.
- g. If the request is for designation as a MEOD District, the following additional submissions are required:
 - (1) Total project acreage;
 - (2) Approximate acreage and locations of areas to be excavated and areas to be left undisturbed;
 - (3) Locations of wetlands, water bodies, flood zones and environmentally sensitive land as defined in subparagraph (e) of the definition of Net Residential Acreage in Section 104 of this Ordinance;
 - (4) General description of the extraction methods, amount of extraction, shipping procedures and land reclamation.
 - (5) Description of visual impact on abutting residential properties of the extraction operation and methods of screening the view of the operation from surrounding properties;
 - (6) Explanation of how the project will meet the standards listed in Section 509 G.

- 5. On the initiative of a person requesting an amendment or change (“petitioner”) or at the request of the Planning Board, Project Review Board or the Town Council, a proposed amendment or change may be based upon, and the amendment or change conditioned upon and limited to, development of the affected property in accordance with a site plan drawn in accordance with the Site Plan Review requirements; and the property shall not be rezoned unless the petitioner has posted a performance bond equal to at least 25% of the estimated cost of the development. The bond shall become payable to the municipality if the petitioner fails to begin construction in a substantial manner within two years of the effective date of the rezoning or fails to construct the project in accordance with the final site plan approved by the Project Review Board, except that the Town Council, upon a showing by the petitioner that due to extenuating circumstances beyond the petitioner’s control, it is no longer economically or technically feasible to construct the development, may waive payment and release the bond. If an amendment or change under this paragraph 5 is finally approved by the Town Council, no changes or alterations in the site plan shall be made without resubmitting the proposed changes for approval by the Project Review Board.

Nothing in this paragraph 5 limits the authority of the Planning Board to consider and make a recommendation regarding a proposed amendment or change which is submitted without a site plan.

Nothing in this paragraph 5 limits the authority of the Town Council to consider and act upon a proposed amendment or change which is submitted without a site plan.

Nothing in this paragraph 5 limits the ability of a petitioner to decline a request from the Planning Board or the Town Council to condition the amendment or change on development in accordance with a site plan, or to request a change or amendment not so conditioned.

Nothing in this paragraph 5 prohibits a petitioner from submitting or the Planning Board or Town Council from requesting the submission of conceptual plans not drawn in accordance with the Site Plan Review requirements either as preliminary plans in anticipation of a change or amendment conditioned upon development in accordance with a site plan or as illustrative materials in support of a change or amendment not so conditioned.

6. The Planning Board shall review all requests for amendments or changes and make its recommendations to the Town Council regarding the land use implications of the request. If the Planning Board has made recommendations on a proposed amendment or change which is not conditioned upon and limited to development in accordance with a site plan under paragraph 5 and the Town Council then requests that the proposal be so conditioned and limited, the site plan shall be submitted to the Planning Board for its recommendations before the Council takes final action on the proposed amendment or change.
7. If the provisions of the Shoreland Zone are amended, copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

If amendments are made in the Shoreland Zone boundaries, such changes shall be made on the Official Zoning Maps within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

8. The Federal Insurance Administration and the State Coordinating Office shall be notified before Flood Plain Management Regulations are amended based upon modified data reflecting natural or man-made changes.”

Location: The existing Commercial IV Zoning District is located between the railroad tracks and 295, in the area of Desert Road. A copy of the Freeport Zoning Map is attached to the end of the staff report.

Process: The process for the amendments to each Ordinance are as outlined above and any required documentation would need to be submitted. The applicable application fee has been paid. This meeting is an introduction to the request and if the application moves forward, the Planning Board is legally required to hold a public hearing and comply with applicable public notification processes per municipal Ordinance requirements and State Law. Once the public hearing is held, the Board could then take action on the request and decide whether or not to recommend the amendments to the Freeport Town Council. All Zoning Ordinance Amendments must be consistent with the Town of Freeport Comprehensive Plan and the Planning Board would need to make a finding as such, if a recommendation to approve the proposed amendments are made. Specific consideration should be made as to whether or not a proposed amendment is consistent with “The Vision” of the Plan.

ITEM 5: Continued discussion of the Draft Parking Lot Redevelopment Overlay District (which now includes draft design guidelines).

Background: This is a continued discussion from the last meeting. Donna Larson did provide updated proposed Zoning Ordinance language for Section 534 which incorporates feedback from the last meeting. In addition, Malcolm Collins did provide proposed design guidelines for the Districts. He will be present at the meeting to answer any questions from the Board.

Process: The Board has been discussing this item for a while and property owners within the Village Commercial I District were notified of this meeting. The Board is still legally required to hold a formal public hearing and comply with applicable public notification requirements per municipal Ordinance requirements and State Law. Once the Board feels that they are comfortable with the completed draft language, it will be sent to the Town Attorney for review and comment and the Board can schedule a public hearing for a future meeting.

Once the public hearing is held, the Board could take action on the complete proposal and whether or not to recommend the amendments to the Freeport Town Council. Again, all Zoning Ordinance Amendments must be consistent with the Town of Freeport Comprehensive Plan and the Planning Board would need to make a finding as such, if a recommendation to approve the proposed amendments are made.

Section 409. Commercial District I “C-I”

A. Purpose:

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

D. Other Standards:

1. Outdoor storage for non-residential uses is prohibited in the front setback. Outdoor storage areas shall be fenced.
2. In the front setback, in a strip extending along the entire frontage of Route One, except for driveways, for a depth of 15 feet, landscaping is required. Landscaping is also required in all side setbacks for a depth of 15 feet extending from the front property line to the furthest back edge of the developed area (buildings, parking lots, other impervious surface). The Project Review Board shall determine whether the side landscaping shall consist of plantings and/or retention of the natural cover. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side landscaped setbacks.
3. Items for sale are allowed within all of the required setbacks.
4. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.
5. The Project Review Board may reduce the setback requirements if the proposed building is adjacent to an existing building used for commercial purposes, if a lot shares access, parking, or other facilities with another lot, or if environmental constraints on the property limit the logical location of buildings to be closer to the property line.

~~6.a. Non-residential uses allowed one overhead door that will be used for boats, equipment and vehicles of all types and/or storage on a side of the building visible from U.S. Route One. The Project Review Board may approve more than one overhead door on a side of the building visible from U.S. Route One~~

*Proposed Amendments to Section 409 & Section 527 of the Freeport Zoning Ordinance
(updated as a result of the 05/21/19 Town Council Public Hearing)*

~~if the size and shape of the lot are such that no other reasonable alternatives exist, that adequate screening is provided, and that the doors are designed to not visually stand out from the overall facade.~~

~~b. Non-residential uses may have more than one overhead doors that are visible from US Route One if the overhead doors are not used for boats, vehicles, equipment or storage, but instead to open a use to the outdoors and to allow customers and employees to walk between the inside and outside of the building. This applies to uses such as, but not limited to, artisan food and beverage, retail and restaurants. In these cases, the overhead doors must include architectural details such as glass and trim. *{Amended, Effective 10/02/18}*~~

76. The Project Review Board may allow building heights up to 45' provided the building can be adequately screened from U.S. Route One, I-295, Old South Freeport Road and South Freeport Road as applicable with existing trees and the building is 300' or greater from U.S. Route One.

87. The Performance Standards of Section 527 are applicable.

98. For uses that require outdoor storage of materials or the operation/storage of large equipment (other than inventory for sale), the Project Review Board shall require screening that visually obscures the storage area(s) and/or reduces the ambient noise level of the use to the greatest extent practicable. Such screening may include plantings, retention of existing vegetation, berms, fences, or other vegetative or constructed barriers to mitigate the visual and auditory impact of the development on the surroundings.

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

Section 527. Performance Standards for Commercial Districts (C-I, C-III, C-IV)

The purpose of this section is to encourage a pattern of development along major roadways which minimizes the appearance of strip development and supports the following goals:

- Create harmonious and attractive signage;
- Encourage the development of architecturally well designed buildings;

*Proposed Amendments to Section 409 & Section 527 of the Freeport Zoning Ordinance
(updated as a result of the 05/21/19 Town Council Public Hearing)*

Provide for a safe flow of vehicular traffic;
Encourage connectors between parcels for vehicles and pedestrians;
Encourage pedestrian activity along the corridor;
Minimize sky glow from lighting; and
Create attractive settings for developments through the use of extensive plantings in the setbacks.

The following performance standards are for the Project Review Board to use to evaluate the specific plans for a site. The standards are mainly general in nature to encourage creative solutions related to the unique characteristics of individual sites. Detailed advisory guidance on suggested methods to meet the following standards is available in the Route One South Design Guidelines. These referenced Guidelines are provided as a supplement to this Ordinance, but do not take precedence over and are not requirements of this Ordinance. *{Amended, Effective 01/02/18}*

A. Signage

1. Placement, materials, shape, size, colors and style of the sign(s) should complement the building and nearby properties.
2. The amount and size of the information on the sign should be consistent with the ability of the viewer to comprehend it.
3. Framing/supports should be in proportion to, and compatible with, the size of the sign and the size of the building.
4. One free standing sign per building is preferred
5. Lighting of interior illuminated signs should not create sky glow.
6. Dark background colors and light letter colors are preferred for interior illuminated signs.
7. Free standing signs should not be located in the side setback of lots.
8. One building sign per building side is preferred.
9. For multi-tenant signage, the review process may be streamlined if, at the original time of approval, minimum and maximum sign size and placement and a design plan are established. Subsequently, each tenant may choose the lettering. When tenants change, administrative approval can be obtained unless the sign changes are more significant than the name change.
10. The establishment of integrated sign systems for multi-tenant developments is encouraged.
11. Gooseneck lights on signs are preferable to ground lights. Ground lights are discouraged. If ground lights are used they shall have year-round screening with landscaping or some other method.

B. Building Design *{Amended, Effective 01/02/18}*

In addition to the criteria and standards included in Section 602.F.1.b. of the Freeport Zoning Ordinance regarding the relation of proposed buildings to the environment, the following standards apply.

*Proposed Amendments to Section 409 & Section 527 of the Freeport Zoning Ordinance
(updated as a result of the 05/21/19 Town Council Public Hearing)*

1. For proposed building facades that face or are visible from any public road including but not limited to US Route One and Interstate 295, residential neighborhoods, or buildings on abutting properties, the following standards apply:
 - a. To prevent long, visually monotonous buildings facades, design features shall be added to the building such as but not limited to, wall plane projections, recesses, windows, roof elevation variations, variations in siding materials and orientations, moldings and trim are design features that must be incorporated into a building. In no case shall there be an uninterrupted span of wall for more than 50 feet. In addition, commercial buildings with wall heights greater than 20' shall be treated as a 2-story building in terms of window and trim treatment regardless of the number of floors on the inside of the building.
 - b. To encourage high quality buildings, architectural details on the front and side edges of pitched and flat roofs are required.
 - c. To create consistent building styles, all sides of the building should match or complement the style of the building that has the greatest visibility from a public street.
 - d. In addition to the standards of this section, to blend metal sided buildings in with other stick built buildings along a corridor, metal siding installed in a single direction is not permitted on a façade more than 12 feet tall or more than 50 feet long.
 - e. All façade elements shall be coordinated with the landscape plan.
 - f. For buildings with overhead doors, the overhead doors should be designed to not visibly unreasonably stand out; this may be accomplished through the use of color, material and/or form. Except if the overhead door is a prominent feature of the building, in which case the design must include architectural features such as trim or type of glass.
2. Blank or unadorned walls are allowed if the walls are NOT directly visible from any public road including but not limited to US Route One and Interstate 295, residential neighborhoods, or buildings on abutting properties.

C. Vehicular Access.

1. New access points on Route One shall not be closer than 300 feet to an existing access point to the greatest extent possible.
2. Sharing of common driveways is encouraged, especially for access to abutting lots which are nonconforming in area and/or frontage.
3. Where possible, access from a side street or driveway is preferable to access from Route One.
4. A minimum of the first 50 feet of any driveway off Route One shall be paved.
5. Driveways between parcels to connect adjacent parking lots are required where they are practical to improve vehicular travel without using U.S. Route One and where environmentally feasible.

D. Pedestrian Access

*Proposed Amendments to Section 409 & Section 527 of the Freeport Zoning Ordinance
(updated as a result of the 05/21/19 Town Council Public Hearing)*

1. A pedestrian access at least 5 feet wide connecting abutting parcels shall be constructed on each parcel where development is proposed. If the adjoining parcel is developed, the access should be designed to relate to existing facilities on the abutting lot. Materials might be asphalt, stone dust or wood, as examples. If the abutting lot is not developed, the plan shall contain a statement that says that continuous and consistent access will be created when the abutting lot is developed. The Project Review Board may waive this requirement if no reasonable access is available due to, for example the presence of wetlands, and/or steep slopes.

E. Front landscaped setback

The purpose of the landscaped setback is to soften the appearance of structures and parking lots from the road and to screen vehicular headlight glare on and off site.

1. If drainage basins and swales are located in the setback, they should be landscaped with trees or shrubs and the edge of the basin should be graded, if possible, to create height variations (a berm effect). If landscaping and berming will eliminate the retention/detention function of the basin, the basin should be relocated outside of the setback or the size of the setback should be increased to accommodate the basin and the landscaped strip.
2. Preservation of existing mature trees and planting or preservation of masses of shrubs in the setback is encouraged.
3. Landscaping should include planting of new trees and shrubs if none presently exist.
4. Loaming and seeding may be a part of the landscaping plan but should not be the only element of the plan.
5. Fencing may be incorporated into the landscaping plan, at the interior edge of the front landscaped setback, especially to screen vehicular lights from the roadway.

G. Site Features

1. In general, no more than three flagpoles should be located on a parcel.
2. The height of the flagpole shall be in proportion to the height of the building. The dimensions of the flag shall be in proportion to the dimensions of the flagpole

Proposed Motion:

Be it ordered that the Planning Board recommends that the Town Council adopted the proposed amendments (add changes) as the architectural and landscaping standards for buildings and projects will allow new construction and redevelopment to blend in with the character of the District. The Board further

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finds that the proposed amendments are consistent with the Comprehensive plan to allow a wide variety of uses that provide the goods and services needed.

Town of Freeport Official Zoning Map

Adopted February 26, 2013

Amendment approved 03/15/16 to add
the VI-R in the area of Cottage St

Legend

Zoning Districts

- Commercial 1 C1
- Commercial 3 C3
- Commercial 4 C4
- Industrial 1 I1
- Industrial 2 I2
- Local Business LB
- Medium Density A MDA
- Medium Density B MDB
- Medium Density Residential 1 MDR1
- Medium Density Residential 2 MDR2
- Resource Protection 1 RP1
- Resource Protection 2 RP2
- Rural Residential 1 RR1
- Rural Residential 1A RR1A
- Rural Residential 2 RR2
- Village Commercial 1 VC1
- Village Commercial 2 VC2
- Village Commercial 3 VC3
- Village Commercial 4 VC4
- Village Mixed Use 1 VMU-1
- Village Mixed Use 2 VMU-2
- Village 1 V1
- Village 2 V2

- BUSTINS
- Island District ID
- Parcels (2012)
- Setback from top of bank
- Marine Waterfront MW
- Stream Protection SP
- Shoreland Area SA
- Protected Eagle's Nests

