TOWN OF FREEPORT, MAINE
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TO: **FREEPORT TOWN COUNCIL**

FROM: **CAROLINE PELLETIER, TOWN PLANNER**

RE: **RECOMMENDED ZONING ORDINANCE AMENDMENTS – PERTAINING TO SEASONAL OUTDOOR SEATING**

DATE: **TUESDAY, DECEMBER 21, 2021**

Background: At the Wednesday, December 1, 2021, Planning Board meeting, the Planning Board reviewed the following agenda item:

c) This will be a **public hearing** to discuss proposed amendments to Chapter 21 Freeport Zoning Ordinance, Section 409. Commercial District I "C-I", Section 411. Commercial District III "C-III", Section 413. Village Commercial District I "VC-I", Section 414. Village Commercial District II "VC-I" and Section 602. Site Plan Review to add standard to allow seasonal outdoor seating when certain conditions can be met, and to be subject to Town Planner Review under Section 602.C.1.c.1 of the Freeport Zoning Ordinance.

This item was based upon a request by the Freeport Town Council for the Freeport Planning Board to consider some of the provisions from the *Emergency Ordinance: Temporary Suspension of Certain Ordinance Standards To Safely Accommodate Expanded Outdoor Business Activities due to COVID-19* and whether or not the Town should consider adopting some of these provisions permenantly.

The proposed language would allow seasonal, accessory, outdoor seating in certain zoning districts (Commercial District I "C-I", Commercial District III "C-III", Village Commercial District I "VC-I", Village Commercial District II "VC-II") when certain conditions could be met and with administrative review. The seating would need to meet the following standards:

- use an area of up to one thousand (1,000) square feet;
- be anytime from May 1st through October 31st;
- located entirely on private property;
- no new impervious area will be created; and,
- egress and accessible features, including parking and access routes, will not be altered.

If these conditions could be met, no additional off-street parking would be required for such outdoor seating and the outdoor seating would be subject to Town Planner review and therefore would not require review and approval by either the Project Review Board and/or the Staff Review Board for a Site Plan Amendment. If the above noted conditions could not be met, the applicant could still have outdoor seating, subject to the existing standards and process in any applicable ordinances.

This process is similar to that followed during the time period in which the Emergency Ordinance was in effect.

Furthermore, this recommendation comes with input from the Planning Board that the Town Council consider making such accessory outdoor seating exempt from Design Review, for parcels in the Freeport Design Review Districts.

Process: The Planning Board generally discussed the Emergency Ordinance provisions at the 08/04/21 Planning Board meeting, and discussed this specific topic at the 10/6/21, 11/3/21, & 12/1/21 Planning Board meetings. Notification was completed in accordance with the Planning Board Rules of Order and Procedure and included standard posting and circulation of the agenda. Legal ads for the public hearing were published in the Brunswick Times Record on 11/19/21 and 11/23/21. Four members of the public commented on this item at the public hearing.

Public Notice

PUBLIC HEARINGS

The Freeport Planning Board will hold a public hearing on Wednesday, December 1, 2021 at 6:00p.m. in the Freeport Town Hall Council Chambers to discuss proposed amendments to the following sections of the Freeport Zoning Ordinance:

a) Proposed amendments to Chapter 21 Freeport Zoning Ordinance, Section 104. Definitions, Section 526.A Food Trucks, to update the definition of a food truck to include a trailer; update standards for food trucks including permitting them during Temporary Activities which are being held to draw visitors to Freeport; to update the food truck permitting and licensing process; and clarifying exemptions for food truck licensing.

b) Proposed amendments to Chapter 21 Freeport Zoning Ordinance, Section 501. Temporary Activity, to add a standard about maintaining accessible (under the Americans with Disabilities Act) parking and access; requiring property owners to sign-off on applications for multi-tenant properties; and to remove the restriction on permits in the Village Commercial I "VC-I" and Village Commercial II "VC-II" Districts that restrict the displacing of parking spaces during certain times for the year.

c) Proposed amendments to Chapter 21 Freeport Zoning Ordinance, Section 409. Commercial District I "C-I", Section 411. Commercial District III "C-III", Section 413. Village Commercial District I "VC-I", Section 414. Village Commercial District II "VC-I" and Section 602. Site Plan Review to add standard to allow seasonal outdoor seating when certain conditions can be met, and to be subject to Town Planner Review under Section 602.C.1.c.1 of the Freeport Zoning Ordinance.

The public is welcome to attend. Submitted materials are available for viewing on the Town's website at www.freeportmaine.com or in the Planning Department at the Freeport Town Office during normal business hours.

Recommendation from the Planning Board: The Planning Board made the following motion:

MOVED AND SECONDED: That the Planning Board recommend amendments to Chapter 21 Freeport Zoning Ordinance, Section 409. Commercial District I "C-I", Section 411. Commercial District III "C-III", Section 413. Village Commercial District I "VC-I", Section 414. Village Commercial District II "VC-II" and Section 602. Site Plan Review to add standard to allow seasonal outdoor seating when certain conditions can be met, and to be subject to Town Planner Review under Section 602.C.1.c.1 of the Freeport Zoning Ordinance in that these amendments are consistent with Freeport's Comprehensive Plan in that it provides flexible regulations that allow creative sites and building designs. We make this recommendation without the requirement that the outdoor seating be subject to Design Review. (Cannan & Burwell) **VOTE**: (5 Ayes) (2 Excused-Ball & Savona) (0 Nays)

Proposed Amendments to the Freeport Zoning Ordinance
pertaining to Seasonal, Accessory, Outdoor Seating
As recommended by the Planning Board at the 12/01/21 meeting

Note: Proposed new text is shown with an underline and proposed text to be deleted is shown with a strikethrough.

Section 409. Commercial District I "C-I"

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

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

B. Permitted Uses:

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

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

7. Public or Private School
8. Commercial School
9. Outdoor Recreation School
10. Auto Repair Service Garage subject to the standards of Sec. 409.D.6 listed below
11. Auto Service Station
12. Retail Trade up to 15,000 s.f. building footprint
13. Commercial Sales and Service - Outdoor
14. Business and Professional Offices
15. Commercial Recreation – Indoor and Outdoor
16. Public Utilities
17. Convenience Store with Gas Pumps
18. Restaurant
19 Restaurant - Drive-Up
20. Restaurant - Carry-Out
21. Bed and Breakfast Inn
22. Hotel/Motel
23. Boatyard
24. Public and Private Assembly Indoor
25. Parking Facility

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

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

41. Multiple Family Dwelling
42. Warehouse and Storage Facility
43. Wireless Telecommunication Facilities
44. Truck Facilities
45. Small Solar Farm, subject to the standards of Section 534 *{Amended, Effective 03/16/21}*
46. Large Solar Farm, subject to the standards of Section 534 *{Amended, Effective 10/05/21}*

C. Space and Bulk Standards

1. Minimum lot size and road frontage requirement if the building(s) or use(s) is/are connected to the public water and sewer system and if one of the following conditions exists or is provided[1]: *{Amended, Effective 10/03/17}*

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

a. there is no more than one access point (existing or proposed) per lot of record as of May 6, 2008 on U.S. Route One, or
b. the only access point off U.S. Route One is shared with an adjacent lot or lots and the lot or lots sharing the access points don't have other access points on U.S. Route One; or
c. a lot has more than one existing access point per lot of record as of May 6, 2008; provided, however, that (i) in these situations the Project Review Board may relocate some or all of the access points, (ii) the development shall not have more access points than exist on May 6, 2008, and (iii) the Project Review Board may in its discretion limit access points to a number less than the number existing on May 6, 2008 if the Project Review Board shall determine that the maintenance of the number of access points existing as of May 6, 2008 is likely to[2]:
   A. detract from public safety considering such factors such as accidents in the area, traffic volumes, road geometrics, types and frequency of traffic moving to and from existing uses within 1,000' of the proposed use; or
   B. adversely effect the ability of vehicular traffic to maintain the existing speed limit; or
   C. threaten an environmentally sensitive area,

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

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

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

Minimum lot size	40,000 s.f.
Minimum land area per dwelling unit within 300' of U.S. Route One	40,000 s.f.
Minimum land area per dwelling unit 300' or beyond U.S. Route One	15,000 s.f.
Minimum land area per dwelling unit if part of a mixed use development	10,000 s.f.
Road frontage requirement	none

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

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

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

Minimum lot size	1 acre
Road frontage requirement	300 feet

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

Minimum lot size	3 acres
Road frontage requirement	300 feet

3. Maximum building height: *{Amended, 03/19/19}* 35 feet
   Projects that meet the criteria of Sec. 409.D.7 are eligible for a maximum height of 45 feet.
4. Maximum impervious surface to lot area: 70%
5. Minimum setback *{Amended, 03/19/19}*

front:	15 feet
side:	15 feet
rear:	15 feet

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

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

1. Outdoor storage for non-residential uses is prohibited in the front setback. Outdoor storage areas shall be fenced.

2. For all uses subject to Site Plan Review, in the front setback, in a strip extending along the entire frontage of Route One, except for driveways, for a depth of 15 feet, landscaping is required. Landscaping is also required in all side setbacks for a depth of 15 feet extending from the front property line to the furthest back edge of the developed area (buildings, parking lots, other impervious surface). The Project Review Board shall determine whether the side landscaping shall consist of plantings and/or retention of the natural cover. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side landscaped setbacks. *{Amended, 03/19/19}*

3. Items for sale are allowed within all of the required setbacks.

4. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.

5. The side and rear setback requirements may be reduced to a minimum of 5' if the proposed building is adjacent to an existing building used for commercial purposes, if a lot shares access, parking, and/or other facilities with another lot, or if environmental

constraints on the property limit the logical location of buildings to be closer to the property line. *{Amended, 03/19/19}*

6. Building heights up to 45' are allowed provided the building can be adequately screened from U.S. Route One, I-295, Old South Freeport Road and South Freeport Road as applicable with existing trees and the building is 300' or greater from U.S. Route One. *{Amended, 03/19/19}*

7. The Performance Standards of Section 527 are applicable.

8. For uses that require outdoor storage of materials or the operation/storage of large equipment (other than inventory for sale), or outdoor equipment that is accessory to vehicle wash centers such as vacuuming devices, the Project Review Board shall require screening that visually obscures the storage area(s) or accessory uses to vehicle wash centers and/or reduces the ambient noise level of the use to the greatest extent practicable. Such screening may include plantings, retention of existing vegetation, berms, fences, or other vegetative or constructed barriers to mitigate the visual and auditory impact of the development on the surroundings. *{Amended, 03/19/19}*

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

9. A permitted use may have seasonal, accessory, outdoor seating using an area of up to one thousand (1,000) square feet, anytime from May 1st through October 31st, so long as the seating will be located entirely on private property; no new impervious area will be created; and, egress and accessible features, including parking and access routes, will not be altered. (For this standard, the term accessible refers to features designed to meet the accessible design standards under the Americans with Disabilities Act.) No additional off-street parking will be required for outdoor seating being provided in accordance with this section. Town Planner review will be required for such seasonal, accessory outdoor seating, per Section 602 of this Ordinance.

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Section 411. Commercial District III - "C-III"

A. Purpose:

It is the intent of this District to create an attractive entrance to the Village. A mix of commercial and residential uses are permitted with restrictions on building size and parking locations. Landscaping requirements are mandated in the front setback. In order to limit access points on heavily traveled U.S. Route 1, access on other streets and on service roads is encouraged through decreased road frontage requirements. This District is part of the Design Review District and contains historically and architecturally significant buildings and structures which should influence the design of future development.

B. Permitted Uses:

1. Single Family Dwelling
2. Two Family Dwelling

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

3. Public or Private School
4. Commercial School
5. Outdoor Recreation School
6. Cemeteries
7. Public Utilities excluding commercial communications towers
8. Municipal Use
9. Multiple-family Dwelling
    a. Existing buildings shall not be subject to the provisions of Section 411.D.6 below
10. PUD (Subject to the provisions of Article V, Section 504)
11. Restaurant
12. Restaurant - Carry-Out
13. Bed & Breakfast Inn
14. Business and Professional Offices
15. Public Assembly - Indoor
16. Private Assembly
17. Auto Repair Service Garage
18. Religious Institutions
19. Hotel - Motel
20. Commercial Sales and Service, including up to 200 square feet of incidental, accessory outdoor storage. This outdoor storage is permitted only on a seasonal basis (April to October). Materials such as propane, which must be located outdoors at all times, are exempt from the seasonal restriction, but they must be screened from abuttor and street views.

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21. Parking Facility
22. Retail Trade
23. Manufacturing and Processing
24. Day Care Center Facilities
25. Commercial Recreation – Indoor
26. Parking area for open space *{Amended, Effective 12/02/14}*
27. Artisan Food and Beverage *{Effective 12/17/14}*
    a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
28. Small Solar Farm, subject to the standards of Section 534 *{Amended, Effective 12/02/14}*

C. Prohibited Uses:

Specifically include, but are not limited to, the following:

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

D. Space Standards:

1. Minimum lot size:	2 acres
2. Maximum Building Height:	35 feet
3. Minimum Road Frontage	
U.S. Route 1 and Pine Street:	300 feet
Other Streets:	150 feet
4. Maximum Impervious Surface to lot area ratio:	70%

5. Minimum Setback:
   a. All setbacks except from I-95 boundary:
      Front: 50 feet, if parking is located between the 25' front landscaped setback and the 50' setback. 25' if parking is located beyond 50' of the front property boundary line.
      Side: On a lot with two side lot lines, the total combined minimum width of both side setbacks shall be 75' and the minimum side setback shall be 25'. If a parcel has only one side lot line, the minimum side setback shall be 35'. *{Amended, 03/19/19}*

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Rear: 35 feet
b. All setbacks from I-95 boundary: 25 feet
6. Minimum Land Area per Dwelling Unit: 7,000 s.f.
7. Maximum Gross Floor Area per lot: 40,000 s.f.

E. Other Standards:

1. Buffer strips, as required by Section 506, shall consist of at least the minimum required setbacks.
2. Landscaping is required in the setback from U.S. Route 1 and in the front setback from all other streets for a minimum of 25 feet except for driveways. Landscaping is 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 vegetative 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 setback.
3. Outdoor storage is prohibited except as permitted in Section 411 B.17 above.
4. The Performance Standards of Section 527 are applicable. *{Amended, Effective 01/02/18}*
5. 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.
6. Curb cuts on Route One and Pine Street should be limited, where possible, to one per lot. In addition, because of the limited sight distance at certain parcels containing frontage on Pine Street, if any lot fronting on Pine Street is subdivided after May 1, 1997, one common driveway location which provides access to all existing and new lots shall be provided in the deed. The common driveway location shall meet MDOT requirements for sight distance and all necessary easements shall be included in each deed.
7. A permitted use may have seasonal, accessory, outdoor seating using an area of up to one thousand (1,000) square feet, anytime from May 1st through October 31st, so long as the seating will be located entirely on private property; no new impervious area will be created; and, egress and accessible features, including parking and access routes, will not be altered. (For this standard, the term accessible refers to features designed to meet the accessible design standards under the Americans with Disabilities Act.) No additional off-street parking will be required for outdoor seating being provided in accordance with this section. Town Planner review will be required for such seasonal, accessory outdoor seating, per Section 602 of this Ordinance.

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Section 413. Village Commercial "VC-I" *{Amended, Effective 04/27/21}*

A. Purpose:
It is the intent of this District to concentrate commercial activity within the Village Center:

B. Permitted Use

1. Single Family Dwelling (existing as of October 20, 2020) *{Amended, Effective 10/20/20}*

C. Permitted Uses subject to site review regardless of size: *{Amended, Effective 04/27/21}*

2. Retail Trade
3. Commercial Recreation, Indoor
4. Business and Professional Offices
5. Arts Center – Indoor and/or Outdoor with or without permanent structures
6. Municipal Facility
7. Private Assembly
8. Public Assembly - Indoor
9. Public Utilities
10. Public or Private School
11. Commercial School
12. Outdoor Recreation School
13. Religious Institution
14. Peddler on Private Property subject to the requirements of Section 526
15. Multiple Family Dwelling
16. Restaurant
17. Restaurant - Carry-Out
18. Visitors' Center
19. Manufacturing accessory to or associated with a retail trade located in this District
20. Bed and Breakfast Inn
21. Day Care Center Facilities
22. Convenience Store
23. Parking lots to serve A & B buildings, as defined in the Freeport Design Review Ordinance in the VC-II District, which meet the requirements of Section 413.D.2.
24. Personal Services
25. Parking Structure subject to the standards of Sec. 413.D.7 below
26. Inn – not over 25 rooms and shall be at least two stories high
27. Parking area for open space *{Amended, Effective 12/02/14}*
28. Artisan Food and Beverage *{Effective 12/17/14}*
29. Community Centers and Services *{Amended, Effective 12/18/18}*
30. Mixed Use Development

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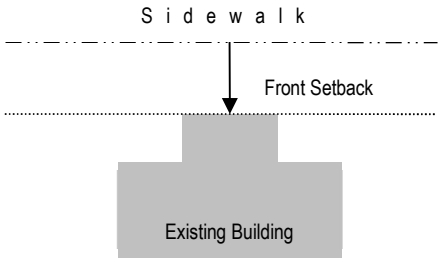
D. Space Standards:

1. Minimum lot size: 8,000 s.f.
2. Minimum road frontage: None
3. Maximum building height: up to three stories, with a maximum height of 45 feet
4. Minimum setback/front:
   a. Where a sidewalk exists:
      i. New Structures
         - 10 feet from the property line if roof pitches toward the sidewalk;
         - 5 feet from the property line if roof pitches away from the sidewalk;

      ii. Additions to existing structures: the distance between the closest point of the existing building and the edge of the sidewalk closest to the building. In no instance shall the addition encroach into the public right-of-way;

      Example:



   b. Where no sidewalk exists: 15 feet from property line;

   c. Landscaping or other amenities such as planters, benches or expanded sidewalk shall be required within the front setback.

5. Minimum setback side and rear: None if non-combustible construction is used and roof does not pitch in that direction. Five (5) feet if non-combustible construction is used and roof pitches in that direction. Fifteen (15) feet for combustible construction or walls with points of ingress or egress in them. *{Amended, 12/01/2020}*
6. Minimum land area per dwelling unit: 0 s.f.
7. Maximum impervious surface to lot area ratio 90%

E. Other Standards: *{Amended, Effective 12/18/18}*

1. Parking in the VC-I District is further subject to the provisions of Section 514 as applicable of this Ordinance.

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2. A Buffer Zone as required by Article V, Section 506 shall be at least 20 feet in depth, and shall be required whenever new construction or renovation requiring a building permit is applied for. Where existing structures are within the 20-foot area, no further encroachment shall be permitted.
3. Peddler trucks are prohibited.
4. Parking structures shall meet the following design standards:
    a. Active uses such as retail, display windows, or other Permitted Uses shall be incorporated into a parking structure. At least 50% of the total pedestrian-level frontage facing streets or other pedestrian areas shall incorporate retail, display windows, or other Permitted Uses. For the purposes of this section, pedestrian areas shall mean existing or proposed sidewalks, walkways, or plazas. The required frontage incorporating retail, display windows or other Permitted Uses may be included in another structure that is physically separate from the parking structure provided that such other structure is separated by no more than 10 feet from the parking structure. If the space between such separate structures abuts a public street, other pedestrian area or parking lot, such space shall be integrated into the building design as a sidewalk or it shall be concealed from view from such street, pedestrian area or parking lot in a manner consistent with this Ordinance. Neither vehicular access to parking structures nor the parking portion of the structure shall be permitted on the street level of Main and Bow Streets. Upper levels of parking structures on these streets shall be designed to be compatible with the street level structure.
    b. The retail, display windows or other Permitted Uses meeting the 50% frontage requirement described above may be allocated across different elevations of the structure in any manner, provided that the result of such allocations in conjunction with other adjacent uses is not to cause any street upon which the parking structure has frontage to be significantly lacking in pedestrian destinations with the result that the street is inconsistent with the character of the District.
    c. The parking space dimension and aisle width of Section 514 of this Ordinance may be reduced to maximize the efficiency of the parking structure provided the safety of the structure is not reduced.
    d. Parking structures may exceed the maximum impervious surface to lot area requirement; provided the required pervious land area is met on another property in the VC-1, VC-2, or VC-4 Districts provided a permanent agreement is documented publicly in a format approved by the Town Attorney.
    e. At least 75% of the street level of the parking structure that does not include retail, display windows or other Permitted Uses shall be screened with landscaping, art work, plants that grow on vines, or other material that softens the appearance of the parking structure. The 75% does not include entrances and exits or commercial uses. Street trees shall be provided at 1 tree for every 30’ feet of parking garage clearly visible from a public street or a parking lot. If the Project Review Board determines that street trees are not appropriate in the sidewalk along the parking

structure, the standard may be met at another location in the VC-1 District or at the village gateways at exit 20 and/or 21 provided a permanent agreement is documented publicly in a format approved by the Town Attorney.

f. The façade of the parking structure along the street or sides of the structure that are clearly visible from a road, other pedestrian area or parking lot shall consist of materials found on nearby buildings such as brick, stone, or wood-like material; or shall have a functional use such as a climbing wall.

g. The façade of the structure along sides other than those described in paragraph f. above shall be treated to soften the stark appearance of concrete, for example red sand mixed with the concrete provides a brick-like color and texture to the minimally visible walls.

h. On the side of the structure facing the street or sides of the structure that are clearly visible from a road, other pedestrian area or parking lot, the façade shall have vertical elements that cover support columns and shall be done in such a way to mimic window openings similar to nearby buildings, while providing proper ventilation, such as grill work, window boxes or other types of adornment that soften the look of the structure. The sides of the structure along other buildings shall maximize the openings between floors to improve ventilation.

i. Pedestrian access is required on all sides of a parking structure that run along a public street, sidewalk, other pedestrian area or parking lot and shall be clearly marked.

j. At no point shall a parking structure exceed 40 feet in height.

k. A plan for providing security to parking structures is required. This plan shall include provisions for interior lighting and provisions for protecting the public such as but not limited to: surveillance cameras, regular patrol, etc.

l. The Project Review Board may allow minor reductions to any of the standards listed above if strict compliance with the standard would result in the need for a mechanically ventilated parking structure. The Board may only allow a reduction up to the point where the standards of an open parking structure are in accordance with the current building code being enforced by the Town of Freeport. *{Amended, Effective 10/03/17}*

5. A permitted use may have seasonal, accessory, outdoor seating using an area of up to one thousand (1,000) square feet, anytime from May 1st through October 31st, so long as the seating will be located entirely on private property; no new impervious area will be created; and, egress and accessible features, including parking and access routes, will not be altered. (For this standard, the term accessible refers to features designed to meet the accessible design standards under the Americans with Disabilities Act.) No additional off-street parking will be required for outdoor seating being provided in accordance with this section. Town Planner review will be required for such seasonal, accessory outdoor seating, per Section 602 of this Ordinance.

Proposed Amendments to the Freeport Zoning Ordinance
pertaining to Seasonal, Accessory, Outdoor Seating
As recommended by the Planning Board at the 12/01/21 meeting

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Section 414. Village Commercial II "VC-II" *{Amended, Effective 04/27/21}*

A. Purpose:

It is the intent of this District to begin the transition from the Village Commercial District to the neighboring residential districts.

B. Permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling
3. Peddler on Private Property subject to the requirements of Section 526

The following uses are subject to subdivision review

4. Subdivisions for one-family, two-family, or multiple family dwellings. Any such subdivision must be designed as a Village Open Space Subdivision.
    a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 414.D.2, 4 and 6 below provided the provisions of section 414.E.6 below are met *{Amended, Effective 01/22/13}*

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

5. Religious Institution
6. Public or Private School
7. Commercial School
8. Outdoor Recreation School
9. Municipal Facility
10. Multiple Family Dwelling
    a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 414.C.5 below provided the provisions of section 414.E.6 below are met *{Amended, Effective 01/22/13} {Amended, Effective 10/03/17}*
11. Retail Trade
    A minimum 20,000 sq. ft. lot may contain one of the following:
    (a) New Structure: Gross floor area of a new structure shall not exceed 5,000 s.f. No floor shall exceed a maximum of 2,500 s.f. A maximum of 5,000 s.f. of floor area may be used for retail trade; or
    (b) Existing Structure: A maximum of 6,000 s.f. of gross floor area in an existing building may be used for retail trade; or
    (c) Combined New and Existing Structure: Total gross floor area shall not exceed 5,000 sq. ft.

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12. Public Utilities
13. Business and Professional Offices New, existing or combined new and existing structures: total gross floor area shall not exceed 10,000 square feet. No floor shall exceed a maximum of 5,000 square feet.
14. Public Assembly, Indoor
15. Bed & Breakfast Inn
16. Hotel or Motel - not over 10 units
17. Private Assembly
18. Restaurant
19. Restaurant - Carry-Out
20. Restaurant Drive-Up, provided there is no vehicle access to Main Street, provided that the restaurant contains a minimum of 75 indoor seats, an outdoor intercom system shall use the lowest volume level necessary to service the intended user but to not be audible at the property line. Outdoor broadcast systems are prohibited. *{Amended, Effective 12/07/10}*
21. Arts Center – Indoor and/or Outdoor with or without permanent structures
22. Parking lots serving A & B buildings, as defined in the Freeport Design Review Ordinance, located in the VC-II District, when such parking is provided pursuant to Section 413.D.2.
23. Parking area for open space *{Amended, Effective 12/02/14}*
24. Artisan Food and Beverage *{Effective 12/17/14}*
25. Mixed Use Development

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size, except for lots that meet all of the standards in Sec. 414.E.6 below: *{Amended, Effective 01/22/13}* 20,000 s.f.
2. Minimum road frontage: 100 feet
3. Maximum building height: up to three stories, with a maximum height of 45 feet
4. Minimum Setback front: 25 feet, except for the east side of Main Street and the north side of Davis Avenue where it shall be 10 feet from the interior edge of any sidewalk or 15 feet from lot line if no sidewalk.
   Side: 15 feet
   Rear: 25 feet
5. Minimum land area per dwelling unit: 5,000 s.f.
6. Maximum impervious surface to lot area ratio 90%

Please consult the Freeport Village Design Standards for additional standards that may apply.

D. Space Standards for Lots in Village Open Space Subdivisions approved after August 2, 2005

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1. Net residential density; single family - 1 unit per 12,000 s.f. of net residential acreage
2. Net residential density per dwelling unit; two family and multiple family – 1 unit per 3,630 s.f. of net residential acreage
3. Average lot size for single family – not less than 6,000 s.f.
4. Average lot size area per dwelling unit; two family and multiple family – not less than 1,800 s.f.
5. Minimum lot size; single family 3,000 s.f.
6. Minimum lot area per dwelling unit; two family and multiple family - 600 s.f.
7. Minimum road frontage 30 ft.
8. Maximum impervious surface to lot area ratio 80%

E. Other Standards:

1. Peddler trucks are prohibited.
2. The following conditions shall be met for all non-residential uses which are located on parcels having access to Main Street or Mallett Drive as well as minor streets as defined in the Street Acceptance and Standards Ordinance of the Town of Freeport:
    a. Access to Map 12, Lots 7, 30A, 30D, 31A and 33A shall be from Mallet Drive only. Lots on Davis Avenue shall not provide access directly to Main Street. Wherever possible, common access ways shall be created for adjacent lots.
    b. Parking areas shall not be located within the side and rear setback. Driveways and drive-throughs shall not be located within the side and rear setback.
    c. Buffering, consisting of natural features, plantings and/or fencing, shall be required to provide an effective visual and physical screen between residential and nonresidential uses at the lot boundaries and surrounding parking areas. During site review, the Project Review Board shall review and approve the type, size and quantity of materials which will provide the most harmonious transition between uses.
3. If an existing building, which is classified A or B in the Freeport Design Review Ordinance and is going to be converted to non-residential use, does not have sufficient space on site or within 300' to meet the existing parking requirements, and municipal parking spaces are unavailable, the parking requirements may be satisfied by permitting spaces to be owned and developed within the VC-I and/or VC-II Districts. The purpose of this provision is to encourage the preservation of historically significant structures.
4. Any new construction, addition, or reconstruction in this District are also subject to the Freeport Village Design Standards as indicated as being applicable in those Standards.
5. Building height requirements and building setback requirements are included in the Freeport Village Design Standards.
6. For Section 414.B.10.a, additions to the building are prohibited. Decks, open air porches, garages used solely for storage and vehicles, and fire escapes necessary to

meet the Life Safety Code are not considered to be additions. The parking requirements and maximum impervious surface to lot area ratio must be able to be met on-site. No building may have more than 8 units unless the land area per dwelling unit requirement can be met. All units must be connected to the public water and sewer system. To encourage the development of affordable housing for every three units that are created at least one of those units must be a one-bedroom or efficiency unit that is no greater than 650 sf. *{Amended, Effective 01/22/13} {Amended, Effective 10/03/17}*

7. To allow for a variety of housing types at a variety of prices, lots that are smaller than the minimum lot size may be created and will be considered conforming lots provided all of the following provisions are met:
    a. The small lot is no less than 5,000 square feet.
    b. The remaining lot is no less than 20,000 square feet.
    c. Only one small lot may be created per lot of record as of January 22, 2013.
    d. The gross floor area of the house and garage on a small lot can be no more than 1,300 square feet. This does not include covered or uncovered open air porches, decks, basements or outbuildings that are used solely for storage such as sheds. This requirement shall be set forth in a deed covenant or other legal instrument that binds the lot owner and that runs with the land so that future lot owners are also bound to the same restriction.
    e. The house shall meet the minimum front and rear setback requirements as established in the Freeport Village Design Standards.
    f. The side setback requirements shall be as set forth in this section, not the Freeport Village Design Standards. The side setback requirement that is adjacent to the lot from which the small lot was created shall have a minimum setback requirement of 5'and a maximum of 10'. Side lot lines adjacent to lots other than the one that the small lot was created from shall have a minimum setback requirement of 15'.
    g. The road frontage requirement shall be no less than 50'.
    h. Small lots must be connected to the public water and sewer system.
    i. The lot may be used for single family houses only.
    {Amended, Effective 01/22/13}

8. A permitted use may have seasonal, accessory, outdoor seating using an area of up to one thousand (1,000) square feet, anytime from May 1st through October 31st, so long as the seating will be located entirely on private property; no new impervious area will be created; and, egress and accessible features, including parking and access routes, will not be altered. (For this standard, the term accessible refers to features designed to meet the accessible design standards under the Americans with Disabilities Act.) No additional off-street parking will be required for outdoor seating being provided in accordance with this section. Town Planner review will be required for such seasonal, accessory outdoor seating, per Section 602 of this Ordinance.

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Section 602. Site Plan Review *{Amended, Effective 01/22/13}*

A. Purpose

The purpose and objectives of the Site Plan Review requirements are to conserve the Town's natural beauty and visual character and to provide for public safety and environmental stewardship of the immediate neighborhood including light and noise and by insuring that structures, signs and other improvements are properly related to their sites and to surrounding sites and structures, especially in regard to the natural terrain and landscaping, and that the exterior appearance of structures, signs and other improvements harmoniously relates to their environment.

B. Applicability

1. **Site Plan Review** is required for all development proposals as outlined in Article IV of this Ordinance. In addition, , in accordance with the provisions of this Ordinance. In addition Site Plan Review is required for the following activities:

    a. A change of use when the new use is subject to Site Plan Review, except that a change of use of an existing building in the VC-I District from a restaurant to retail trade or from retail trade to a restaurant may be approved by the Town Planner as allowed in Section 602 (C)(c) (1), provided the building is located on a lot which does not abut a lot in residential use and no change occurs to the existing elements and features of the site except for necessary changes to the content of signage.

    b. A reduction in the number of or a reconfiguration of parking spaces serving a restaurant in the VC-I District, where such reduction or reconfiguration is allowed under Section 514(A)(5) of this Ordinance as amended on April 3, 2001; such reduction may be approved by the Town Planner as allowed in Section 602(C)(c) (1).

2. **Build according to plan.** Construction, site development and landscaping shall be carried out in accord with the plans, drawings, sketches, and other documents approved by the Project Review Board, unless altered with Board approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and improvement of existing structures and facilities.

3. **Multiple Reviews.** When a development is subject to multiple reviews such as Site Plan Review, Design Review, and/or Subdivision Review, the Project Review Board shall conduct a concurrent review; the project is required to meet the criteria and standards of all ordinance under review. If Subdivision Review is required, the procedures of

Subdivision Ordinance shall be used. If the development requires action by the Board of Appeals, Project Review Board review shall not commence until the Board of Appeals has made a decision.

C. Administration

1. The following procedures and requirements shall apply to all applications for site plan review:

a. **Pre-Application Conference**. Prior to submitting a formal application for a project requiring Site Plan Review, the owner of the property or agent, as designated in writing by the owner, is urged to schedule a pre-application conference with the Town Planner. The purpose of this meeting is to familiarize the applicant with the review procedures, submission requirements and the approval criteria and to familiarize the Town Planner and other relevant Town staff with the project. The Town Planner shall determine who has the authority to review the project: the town planner, the Staff Review Board, or the Project Review Board.

b. **Notification**. Notwithstanding other notification requirements included in Sec. 602, all agendas of the Project Review Board and the Staff Review Board shall be posted in the Town Clerk's Office and the Freeport Community Library for inspection during normal business hours and the notice shall be placed on Freeport's local cable channel 7 and the Town's website.

c. **Classification of Site Plans**:

1. **Town Planner review**. The Town Planner has the authority to review and take action on projects that do not modify the intent of the approved site plan. They shall be shown on a plan submitted by the applicant to the Town Planner and the Town Planner shall sign and date the plan to record agreement that the change does not modify the intent of the approved site plan. Examples include, but are not limited to, minimal lighting, recalculations of parking requirements, landscaping changes and changes to previously approved ground and building mounted signs and new building mounted signs provided the signs meet the standards of the Freeport Sign Ordinance, building modifications up to 500 square feet, impervious surface modifications up to 500 square feet, seasonal accessory outdoor seating as permitted in the Village Commercial I, Village Commercial II, Commercial I and Commercial III Zoning Districts and site plan renewals in which the plans still meet the local standards.

Notwithstanding the above, either the Town Planner or the applicant may request a hearing by the Project Review Board. *{Amended, Effective 01/02/18}*

2. **Staff Review Board**. Developments that meet the criteria of Sec. 602.C.c.2.a-g below shall be considered minor amendments and shall be eligible for review by the Staff Review Board. Developments that also require a Design Review Certificate or Subdivision approval are not eligible for review by Staff Review Board , those projects require review by the Project Review Board. The Staff Review Board shall consist of the Town Planner, the Fire Chief, the Codes Enforcement Officer, the Town Engineer and the Public Works ~~Superintendant~~Superintendent, or the designee of any of them, with input from other Town departments as needed. The Staff Review Board shall have the same powers and duties as the Project Review Board. A public hearing shall not be required; however, notification of the nature of the application and the time and place of the meeting shall be given by mail to the applicant and the owners of all property within 200 feet of the property involved at least 5 days in advance of the meeting. The Staff Review Board shall accept public comment for all application. A quorum of the Board necessary to conduct an official Board meeting shall consist of at least three (3) members. Action on any application by the Staff Review Board shall require a majority of those members present and voting. An audio recording of each meeting shall be made and retained by the Town. The completed application for site plan review, together with the documentation required in these regulations shall be placed on the Staff Review Board's agenda for consideration within 20 days. Any appeals from the decisions of the Staff Review Board shall be taken directly to the Project Review Board within 30 days of decision. The following developments shall be eligible for staff review:
    a. Change of use from one permitted use to another permitted use provided any expansions do not exceed the limits stated in Section 602.C.c.2.b-c.. listed below
    b. Building footprint modifications greater than 500 square feet but less than 1,500 square feet.
    c. Parking lot modifications greater than 500 square feet but less than 1,500 square feet.
    d. Filling of lands or creation of ponds on properties where the primary use is residential.
    e. Filling of lands or creation of ponds where the primary use of the property is commercial which are greater than 200 cubic yards but less than 600 cubic yards of material.

f. Renewal of gravel pit operations that do not include an expansion or other modification.

g. Any increase in height of a wireless telecommunication tower that is more than 20 feet or 10%, whichever is greater; any appurtenance to the tower that protrudes out from the edge of the tower more than 20 feet or the width of the tower at the level of the appurtenance, whichever is greater; the installation of more than 4 cabinets per carrier for the technology involved; any excavation or deployment outside of the limits of the approved site plan; changes around the base of the tower structure that reduces the concealment elements of the support structure; amendments that alter the approved site plan. *{Amended, Effective 10/03/17}*

h. Accessory Solar Energy Generation Systems for uses other than single and/or two family dwellings. *{Amended, Effective 03/16/21}*

If, however, the Town Planner or the applicant determines that a project appears to be complicated or disputed, the Town Planner may refer the application to the Project Review Board for their review at the next available meeting.

3. **Project Review Board**. Developments that don't meet the criteria for review and action by either the Town Planner or the Staff Review Board shall require review and action by the Project Review Board. The Project Review Board shall accept public comments on any item at any stage of the review process. A public hearing shall not be required, but the Project Review Board may decide to schedule a public hearing if the size and/or nature of the development is perceived to have a significant impact on the community, not just the nearby properties.

Projects that amend previously approved site plans, and that have sufficient information to be considered complete by the Town Planner, may be reviewed and have action taken in a single meeting of the Project Review Board.

Projects that are proposed on undeveloped land, that include the demolition of buildings, that are located in the Resource Protection 1 District, or when a building and/or parking area is more than doubled in size than the existing building and/or parking area should first submit a conceptual plan. A conceptual plan should include environmentally sensitive areas such as wetlands, water bodies, streams, and steep slopes,

locations of passing test pits if a subsurface sewage disposal system is proposed, the location of buildings and parking areas, and building elevations if a building is proposed. Conceptual plans should not be engineered plans. The purpose of the conceptual plan is to introduce the project to the Board and to contact property owners near the development. This portion of the review gives the Board and nearby property owners an opportunity to comment on the project before any engineering is done for the project. This phase of the review process is to direct the applicant as to what changes should be made and what information should be included in the final plan.

d. **Timing of review.** The completed application for site plan review, together with the documentation required in these regulations, shall be placed on the Project Review Board's agenda for consideration within thirty (30) days of its receipt for either conceptual or final review unless the Project Review Board and applicant agree to a continuance; however, any application which is not complete shall not be placed on the agenda but shall be returned to the applicant by the Town Planner with an indication of the additional information required. Within sixty (60) days of the receipt of a Site Plan submission which is determined by the Project Review Board to be complete, the Project Review Board shall act

e. **Possible action.** Action may include approval, approval with conditions, or disapproval of the site plan as submitted or amended.. If the Project Review Board shall vote to disapprove an application, the owner or authorized agent shall be notified in writing and the specific cause of disapproval shall be noted.

f. **Site walk.** The Project Review Board or Staff Review Board may schedule a site visit of the property before making a final decision on the application. All property owners within 200 feet of the property on which a development proposal is being made will be notified of the date, time and location of the site visit and the Board will report on its findings at its next scheduled meeting.

g. **Conditions of approval.** The Project Review Board or Staff Review Board may attach such condition(s) as it finds necessary to ensure compliance with the purpose and standards of Site Plan Review and all other applicable sections of this Ordinance. Requests for changes in the conditions of approval require Project Review Board review under the provisions of this section.

h. **Review by an expert.** The Project Review Board or Staff Review Board may require that the Town Engineer or other expert consultant(s) review one or more submissions of an application and report as to compliance or noncompliance with this Ordinance and, advise if necessary, of procedures which will result in

compliance. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. If the actual cost is more than the estimated cost, the applicant shall pay any overages before the Notice of Decision of the Board is issued to the applicant. The consultants shall be fully qualified to provide the required information as determined by the Town of Freeport Project Review Board in its sole discretion. .

The Project Review Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.

i. **Public Hearing**. If the Project Review Board decides to hold a public hearing a notice of the nature of the application and of the time and place of the public hearing shall be given by mail to the applicant and the owners of all property within two hundred (200) feet of the property involved at least ten (10) days in advance of the hearing and shall be published at least seven (7) days in advance in a newspaper of general circulation in the area.

The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Project Review Board.

j. **Performance Guarantee**: The Project Review Board as a condition of approval may require the applicant to post a performance guarantee. The performance guarantee may be in the form of an escrow agreement, irrevocable letter of credit, or other surety in such amount as is approved by the Project Review Board as being reasonably necessary to ensure completion of site improvements such as erosion control, stormwater management facilities, parking areas, landscaping, retaining walls, lighting and any off-site improvements that were required as a condition of approval.

The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review the field logs maintained by the construction monitor. Any deficiencies noted by the Town representative shall be brought to the attention of the construction monitor who shall see that remedial measures are taken. If the Municipal Engineer or appointed representative shall find, upon inspection of the improvements performed before expiration date of the performance bond, that required improvements have not been constructed in

accordance with plans and specifications filed by the applicant, he shall so report to the Municipal Officers or their appointed designee. The Municipal Officer shall then notify the applicant and, if necessary, the issuer of the performance guarantee, and take necessary steps to preserve the municipality's rights under the performance guarantee.

k. **Payment of fees** At the time of application for a building permit, the applicant shall pay to the Town Treasurer any fees that were required as a condition of the approval. Fees such as an inspection fee to cover ensure that the project is constructed as approved, impact fees, and the administrative fee on the performance guarantee.

l. **Pre-construction meeting**. The applicant shall notify the Municipal Officers or their appointed designee when construction of such improvements shall commence so that the Municipal Officers or their appointed designee can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Project Review Board; or

m. **As-built plans.** The Project Review Board, Planning Staff or Codes Enforcement Officer may require that as a condition of approval, or for an occupancy permit, that upon completion of construction , the owner shall present to the Town a set of as-built drawings indicating the location of underground utilities on the developed site and in all abutting roads and easements/right of ways. These "as-built" plans shall be submitted in both paper and electronic copies (including a pdf copy) prior to the issuance of a Certificate of Occupancy for the project or occupancy of the building. *{Amended 06/06/17}*

n. **Review of future plans.** No new plan by the applicant shall be approved by the Project Review Board as long as the applicant is in default on a previously approved plan.

o. **Certificate of occupancy**. A certificate of occupancy shall not be granted until the Codes Enforcement Officer determines that the completed project meets all of the requirements of the plan as approved by the Project Review Board.

Nothing contained in this section shall prevent the Town from pursuing any other action.

p. **Existing development**. Nothing herein contained shall require any change in plans, construction or structure, the construction of which shall have been

diligently prosecuted previous to the date of enactment or amendment of this Ordinance, provided plans for such building or structure shall have been timely filed with and approved by the Codes Enforcement Officer.

q. **State and federal permits.** The applicant shall comply with all State and Federal requirements and receive all relevant approvals before application is made for a building permit and/or any development activities may begin. The Codes Enforcement Officer shall issue a building permit after a determination that the application complies with the plan approved by the Staff Review Board or the Project Review Board.

r. **Approval duration**. The approval of a site plan shall become void if construction of site improvements is not initiated within two (2) years of the date of such approval unless such time limit is extended by the Project Review Board. The site may be developed and used only as shown on the approved site plan. All elements and features of the plan are conditions of the approval and no change from the approved plan is permitted unless an amended plan is first submitted to and approved by the Freeport Project Review Board. *{Amended, Effective 02/08/11}*

s. **Violations.** Failure to comply with any conditions of the Site Plan Review, subsequent to approval of the Plan, shall be construed to be a violation of this Ordinance and shall be the grounds for revoking the approval, initiating legal proceedings to enjoin construction or any specific activity violating the conditions of approval, or imposing such fines as the Town Council shall have established for violations of this Ordinance, for each day that the violation continues to exist after official notification by the Codes Enforcement Officer.

A. **Submission Requirements**: When the owner of the property or authorized agent makes formal application for Site Plan Review, the application for the Site Plan or an amendment to an approved plan shall contain at least an application, a deed for the property, plans, building elevations, and a cover letter. More details on each of these items are listed below. The Town Planner shall make an initial review of the application to determine if it is complete.

1. **Application**: A fully executed and signed copy of the application for Site Plan Review. The application form will be provided by the planning department.

2. **Deed**: A copy of the recorded deed for the property. If the applicant is not the property owner a purchase and sale agreement or a lease agreement shall also be submitted to show that the applicant has a serious interest in the project and sufficient title, right, and/or interest to complete the project. The amount being paid for the property may be blacked out.

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3. **Cover letter:** A cover letter explaining the project should include details on any proposed construction or change of use that can't be explained by the plans. The cover letter should also list other local, state, or federal permits or licenses that will be required. If applicable, the cover letter should include the applicant's intent for ownership of the open space.

4. **Plans**: At least twelve (12) copies of a site plan drawn at a scale sufficient to allow review under the Criteria and Standards of section (G) of this Section, but at not more than 50 feet to the inch for that portion of the total tract of land being proposed for development and twelve (12) copies of the plan on 11 X 17" size sheets. All plan sheets must also be submitted electronically in a pdf format. All plans shall include the following information: *{Amended 06/06/17}*

   a. Owner's name, address and signature;

   b. *Boundaries* of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;

   c. The *bearings and distances* of all property lines, and easements and the location of the adjacent right-of-way.. A formal survey is recommended for new developments; however, the Project Review Board may waive the requirement of a formal boundary survey when sufficient information is available to establish, on the ground, all property boundaries;

   d. *Zoning classification*(s) of the property and the location of Zoning District boundaries if the property is located in two or more Zoning Districts;

   e. The *lot area* of the parcel and the *road frontage*;

   f. The *location, size, and type of all existing and proposed buildings* and structures (including size and height) and the setbacks from property lines, driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping;

   Developments proposed on land that hasn't been previously developed, redevelopment of property, and or significant expansion shall also include the following information. The Town Planner may determine what additional information will need to be submitted. The Project Review Board may require additional information or may waive the additional submission requirements required by the Town Planner.

   g. Sketch map showing general location of the site within the town;

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h. The location of all *buildings within 150 feet* of the parcel to be developed and the location of *intersecting roads or driveways within 200 feet* of the parcel;

i. Existing and proposed *topography* of the site at two foot contour intervals if major changes to the existing topography are being proposes;

j. A *stormwater drainage* plan showing:
   (1) the existing and proposed method of handling stormwater run-off;
   (2) the direction of flow of the run-off through the use of arrows;
   (3) the location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
   (4) engineering calculations used to determine the increased rate of drainage based upon the pre and post development conditions of a two year, ten (10) year and twenty-five (25) year storm frequency. The drainage plan shall result in no increase to the rate of off site-drainage from the pre-development rate.
   (5) Plan for maintaining and/or improving stormwater quality. Retention of the first one-half inch of run-off from a storm event for 24 hours may be required.
   (6) Compliance with Section 529.4, if applicable.

k. A *utility plan* showing provisions for water supply and waste water disposal, including the size and location of all piping, holding tanks, leach fields, etc., and showing the location and nature of any solid waste collection facility and all electrical, telephone and any other utility services to be installed on the site. Impact on groundwater shall be evaluated. All utilities shall be underground whenever feasible as determined by the Project Review Board.

l. *Lighting* showing the location, type, radius and intensity in foot candles of all exterior lighting, including sidewalk lighting in the Village Commercial 1 and 2 Districts.

m. A *landscaping* schedule keyed to the site plan and indicating the varieties, sizes, and the locations of trees, shrubs, plants and any other landscaping elements to be retained or to be planted or placed on the site. It should include proposed methods of protecting existing trees and growth during and after construction.

n. If a new entrance is proposed; *sight distances* at the entrance is required in both directions

o. *Building elevations*: For new building construction, building elevation drawings of all sides of the building including the description of type, color, and texture of all buildings.

p. Estimated *peak-hour traffic* to be generated by the proposal.

q. The *type and size of all permanent machinery* likely to generate appreciable noise at the lot lines.

r. The amount and type of any raw, finished *or waste materials to be stored* outside of roofed buildings, including their physical and chemical properties, if applicable.

s. A *list of construction items* that will be included in the performance guarantee and the estimated or actual cost of completing those items.

t. Provisions for *maintenance agreements* of all common areas, if applicable.

u. *Condominium declarations*, if applicable, including, but not limited to, organization of the homeowners' association and provisions for maintenance of common areas.

The Project Review Board may waive any of these submission requirements if it determines that the scale of the project is of such size as to make the information unnecessary. The Project Review Board may require other pertinent information necessary to determine if the planned use meets the provisions of this Ordinance.

E. All applications for Site Plan Review shall meet all applicable provisions of Sec. 602.F, Criteria and Standards.

F. Criteria and Standards

1. The following criteria and standards shall be utilized by the staff and the Project Review Board in reviewing applications for Site Plan Review. These standards are intended to provide a guide for the applicant in the development of site and building plans as well as a method of review for the Project Review Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The Project Review Board may waive the criteria presented in this section upon a determination by the Project Review Board that the criteria are not applicable to the proposed action or upon a determination by the Project Review Board that the application of this criteria are not necessary to carry out the intent of this Ordinance. The Project Review Board shall approve the site plan unless the plan does not reasonably

meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Project Review Board.

a. **Preservation of Landscape**: The landscape shall be developed in such a manner as to be in keeping with the character of the surrounding neighborhoods and in accordance with good development practice by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscaping are potential methods of preserving the scenic vista.

b. **Relation of Proposed Buildings to the Environment**: The design and layout of the buildings and/or other development areas shall encourage safety, including fire protection. Proposed structures shall be related harmoniously to the terrain and to existing buildings and land uses in the vicinity which have a visual relationship to the proposed buildings. Visual compatibility, not uniformity with the surrounding area, shall be emphasized. Special attention shall be paid to the scale (mass), height and bulk, proportions of the proposed buildings, the nature of the open spaces (setbacks, landscaping) around the buildings, the design of the buildings (including roof style, facade openings, architectural style and details), building materials and signs.

   If the structure is in the Design Review District, the Project Review Board shall incorporate the findings of the standards or the Design Review Ordinance in its Site Plan Review findings.

c. **Vehicular Access**: The proposed layout of access points shall be designed so as to avoid unnecessary adverse impacts on existing vehicular and pedestrial traffic patterns. Special consideration shall be given to the location, number, and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, and existing or proposed traffic signalization and pedestrial-vehicular contacts. The entrance to the site shall meet the minimum sight distance according to MDOT standards to the greatest extent possible

d. **Parking and Circulation**: The layout and design of all means of vehicular and pedestrial circulation, including walkways, interior drives, and parking areas shall be safe and convenient and, insofar as practical, shall not detract from the proposed buildings and neighboring properties. General interior circulation, separation of pedestrian and vehicular traffic, service traffic, drive-up facilities, loading areas, and the arrangement and use of parking areas shall be considered.

e. **Surface Water Drainage**: Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down-stream conditions, or the public storm drainage system. The increase in rate of runoff in the post development condition shall be held to a zero or less percent of the predevelopment condition unless an engineering study has been performed as described in Section 529.2 above. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a two year, ten year and twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains; reservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on-site and off-site, to adequately control the rate, volume and velocity of storm drainage and the quality of the stormwater leaving the site. Maintenance responsibilities shall be reviewed to determine their adequacy.

f. **Utilities**: All utilities included in the site plan shall be reviewed as to their adequacy, safety, and impact on the property under review and surrounding properties. The site plan shall show what provisions are being proposed for water supply, wastewater, solid waste disposal and storm drainage. Whenever feasible, as determined by the Project Review Board, all electric, telephone and other utility lines shall be installed underground. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.

g. **Advertising Features**: The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding properties, and shall not constitute hazards to vehicles and pedestrians.

h. **Special Features**: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

i. **Exterior Lighting**: All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage

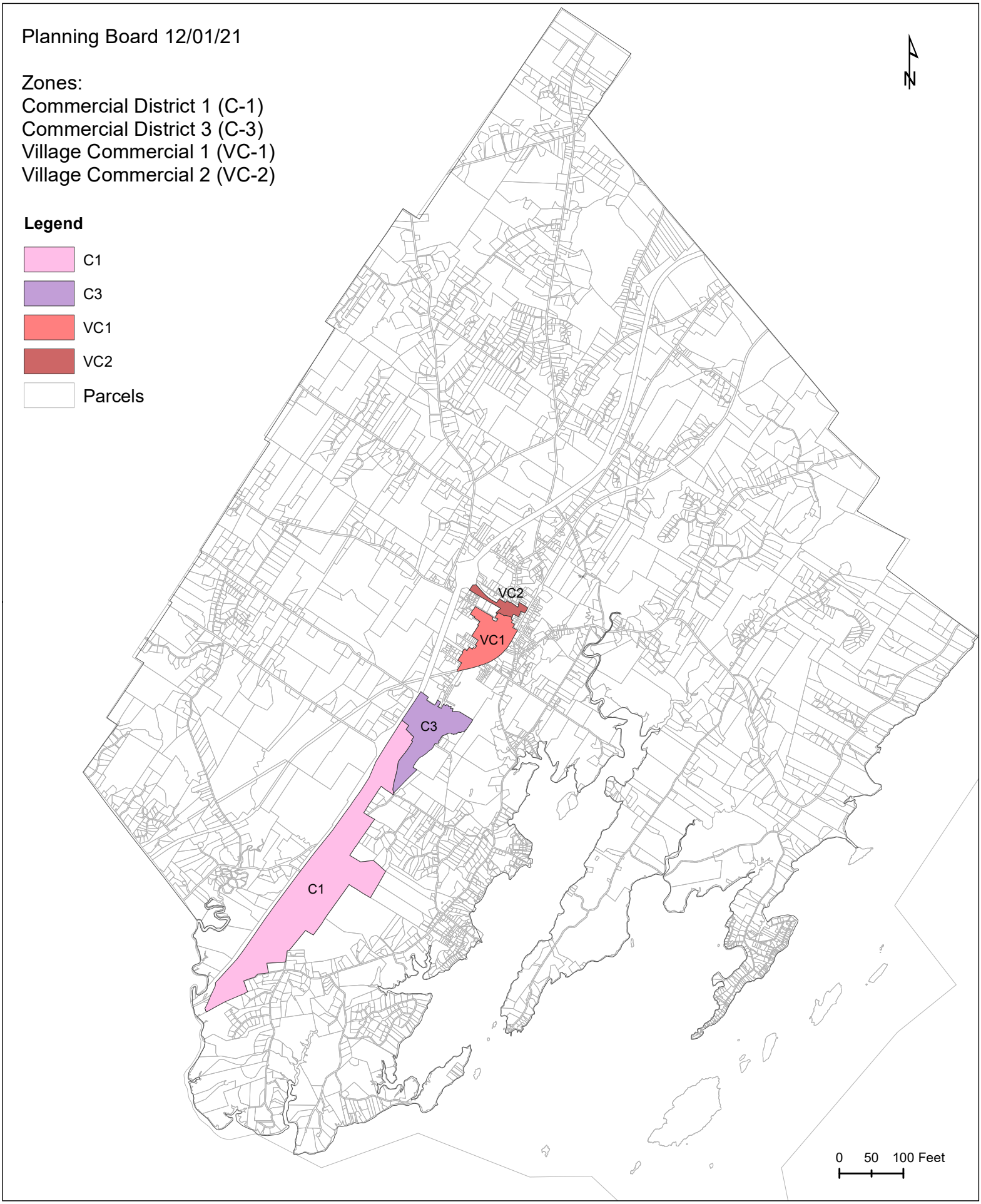
to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. For all proposed lighting, the source of the light shall be shielded and the light should be directed to the ground, except in the case of ground sign lighting. In the Village Commercial 1 and 2 Districts, lighting for pedestrian walkways and adjacent public sidewalks shall also be provided.

j. **Emergency Vehicle Access**: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

k. **Landscaping:** Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right(s)-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, perennials, annuals, plants, grading and the use of building and paving materials in an imaginative manner.

l. **Environmental Considerations**: A site plan shall not be approved unless it meets the following criteria:

(1) The project will not result in water pollution, erosion or sedimentation to surface waters;
(2) The project will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
(3) The project will conserve shoreland vegetation;
(4) The project will conserve points of public access to waters;
(5) The project will adequately provide for the disposal of all wastewater;
(6) The project will protect archaeological and historic resources;
(7) The project will not adversely affect existing commercial fishing or maritime activities in the Marine Waterfront District.

H. Project Review Board Appeals.
Any appeals from the decisions of the Project Review Board shall be taken only directly to Superior Court.

Proposed Zones Where Seasonal Accessory Outdoor Seating Would be Permitted