



TOWN OF FREEPORT, MAINE
 Planning Department
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TO: SOPHIA WILSON, TOWN MANAGER
CC: FREEPORT TOWN COUNCIL
FROM: CECILIA SMITH, ASSISTANT TOWN PLANNER
RE: STAFF MEMO: PROPOSED AMENDMENTS TO SECTION 413. VILLAGE COMMERCIAL 1 (VC-1) DISTRICT REGARDING MAXIMUM BUILDING HEIGHT STANDARDS
DATE: TUESDAY APRIL 23RD, 2024

Background: At the April 3rd, 2024 Planning Board meeting, the Planning Board held a public hearing to discuss proposed amendments to the Freeport Zoning Ordinance regarding maximum building height standards in the Village Commercial 1 (VC-1) district. The Planning Board made a motion to recommend the proposed amendments to the Town Council. The agenda item was as follows:

ITEM III: Public Hearing – Proposed amendments to Section 413. Village Commercial I (VC-1) of the Freeport Zoning Ordinance regarding maximum building height standards

The Freeport Planning Board will hold a public hearing to discuss a proposed amendment to Section 413. Village Commercial I (VC-1) of Chapter 21 – Freeport Zoning Ordinance that would change the maximum building height standard for buildings in this district. The specific change would be to remove the limitation on the number of stories, which is currently limited to three stories. The maximum height, which is currently 45 feet, would remain unchanged.

General Background: The current standard for maximum building height in the Village Commercial 1 (VC-1) district is that buildings may be **up to three stories** high with a **maximum height of 45 feet**.¹ The limitation on the number of building stories could hinder desirable development outlined in the Downtown Vision Plan, including housing, parking lot redevelopment, and buildings with ground floor or underground parking. To address this, the Planning Board recommends removing the standard that restricts the number of stories. This change would allow more flexibility in building design and aligns with a priority policy recommendation made by the Freeport Housing Task Force.

Process: The Planning Board discussed this topic at their March 6th meeting and a public hearing was held at their following meeting on April 3rd, 2024. The required legal notice was published in the Times Record on 3/21/24 and 3/26/24 and approximately 200 notices were mailed as required per the Planning Board's notification policy. The text for the legal notice was as follows:

¹ Please keep in mind that due to how height is defined, when measured from the ground up, buildings might exceed the 45-foot limit on sloped terrain (because building height is calculated based on average elevation). In addition, please note that the standards under the Design Review Ordinance would still apply to any new development or redevelopment.

Public Notice

TOWN OF FREEPORT PLANNING BOARD – PUBLIC HEARING

The Freeport Planning Board will hold a public hearing on Wednesday, April 3rd, 2024 at 6:00pm in the Freeport Town Hall Council Chambers at 30 Main Street, Freeport, Maine, to discuss a proposed amendment to Section 413. Village Commercial I (VC-1) of Chapter 21 – Freeport Zoning Ordinance that would change the maximum building height standard for buildings in this district. The specific change would be to remove the limitation on the number of stories, which is currently limited to three stories. The maximum height, which is currently 45 feet, would remain unchanged.

The public is welcome to attend and may choose to attend in person, or on Zoom. The meeting agenda (including information on how to join on Zoom) can be viewed at the Freeport Town Office or on the Town's website at www.freeportmaine.com. Supporting materials are on file for viewing at the Freeport Town Hall.

Requesting Reasonable Accommodation Notice: Please contact the Town Clerk's Office at (207) 865-4743 or email swilson@freeportmaine.com prior to scheduled meetings or events to discuss auxiliary aids or services needed to participate in Town activities. The Town of Freeport is an equal opportunity employer and service provider that celebrates diversity and is committed to creating an inclusive environment for our employees and those we serve.

Recommendations from the Planning Board: The Planning Board made the following recommendation:

MOVED AND SECONDED: That the Freeport Planning Board recommend to the Freeport Town Council proposed amendments to Section 413, VC-1 of the Freeport Zoning Ordinance that would remove the limitation on the number of stories which is currently three stories. The maximum height of 45' will remain unchanged. This would support the Comprehensive Plan by providing a variety of housing conditions in the Town of Freeport and benefit the economic vitality of the town. (Spiers & Arsenault)

VOTE: (6 Ayes) (1 Excused: Burwell) (0 Nays)

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 plan 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. Multifamily 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 lot
24. Personal Services
25. Parking Structure subject to the standards of Sec. 413.E.4 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

31. Affordable Housing Developments, subject to the standards of Section 536

D. Space Standards:

1. Minimum lot area: 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. 10 feet from the property line if roof pitches toward the sidewalk;
 - ii. 5 feet from the property line if roof pitches away from the sidewalk;
 - 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.
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.

Proposed amendments to Section 413. Village Commercial “VC-I” of Chapter 21 – Town of Freeport Zoning Ordinance as Recommended at the 04/03/24 Planning Board Public Hearing
(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

- 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. *{Amended, 01/04/22}*

– END OF SECTION –