

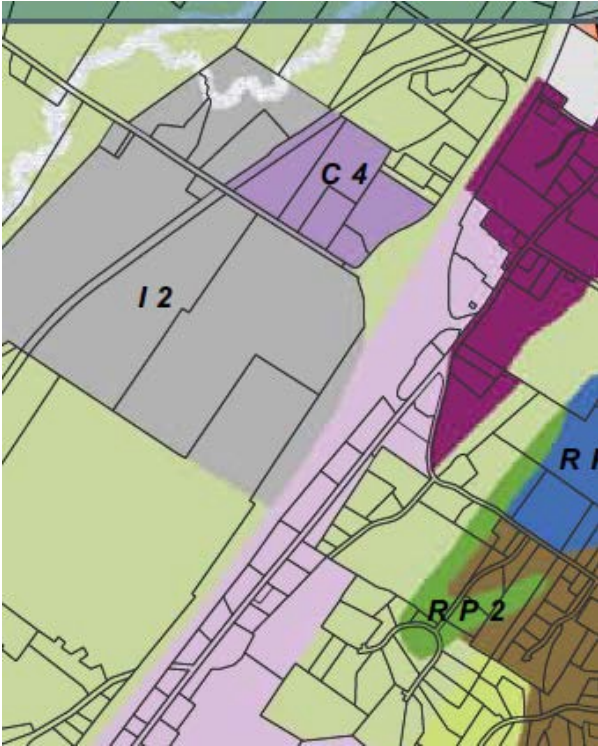


**TOWN OF FREEPORT, MAINE**  
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**TO: FREEPORT TOWN COUNCIL**  
**FROM: CAROLINE PELLETIER, INTERIM TOWN PLANNER**  
**RE: PROPOSED SUBDIVISION ORDINANCE AMENDMENTS – “SUBDIVISION – COMMERCIAL OPEN SPACE”**  
**DATE: TUESDAY, AUGUST 27, 2019**

**Background:** The Freeport Planning Board recently reviewed a request from Devine Capital LLC for proposed amendments to the Freeport Subdivision Ordinance and Freeport Zoning Ordinance pertaining to a new use of “Subdivision – Commercial Open Space” and specifically permitting the use on the Commercial IV (C-IV) Zoning District); a relatively small zoning district on the west side of 295, and abutting Desert Road and the railroad. See area of “C-4” as shown below:



**Process:** The Board discussed the item at their June 5, 2019 meeting and held a formal public hearing at the July 10, 2019 Planning Board meeting. A legal advertisement was run in the Brunswick Times Record on

6/26/19 and 7/2/19. Abutter notification was sent in accordance with the notification requirements outlined in the Rules of Order and Procedure of the Freeport Planning Board. There were no public comments at the public hearing.

The Council held a public hearing and took public comments on the Zoning Ordinance amendments at the July meeting, however due to notification issues, the public hearing and action on the proposed Subdivision Ordinance Amendments was postponed until the September meeting. There have been no further changes to the proposed amendments to the Freeport Subdivision Ordinance since the last Council meeting.

**Proposal:** The attached language includes a combination of the language proposed by the applicant with some minor changes recommended by staff. The language has been reviewed and approved by the Town Attorney. The language can be summarized as follows:

- a. Add definitions for “Subdivision – Commercial Open Space” and “story” to Article 3.2 of the Freeport Subdivision Ordinance;
- b. Amend Article 11.5.C.2.i of the Freeport Subdivision Ordinance pertaining to traffic conditions and commercial open space subdivisions; and,
- c. Other minor amendments relating to subdivisions (updating definitions of “Conservation Land” and “Required Open Space” and updating Appendix A of the Freeport Subdivision Ordinance. Note: The use of “village open space subdivision” is also added, as it was an oversight and previously omitted from these sections; the use and standards are already in effect).

**Planning Board Recommendation:** The Planning Board made the following motion as they found the proposal to be consistent with the Town’s Comprehensive Plan:

“Be it ordered that the Freeport Planning Board recommend to the Freeport Town Council, the proposed amendments from Devine Capital LLC, to the Freeport Subdivision Ordinance and the Freeport Zoning Ordinance, pertaining to Commercial Open Space Subdivisions in the Commercial IV District, incorporating the changes suggested by staff, in that the Board finds that the proposal is in harmony with the Freeport Comprehensive Plan in that it promotes growth in an area close to the village and outside of the rural zones.”  
Moved and Seconded: Savona / Torres. Vote: 4 Ayes /0 Nays (3 excused)

**Proposed Amendments**  
**Chapter 25: Subdivision Ordinance Town of Freeport, Maine**

**ARTICLE 3 - DEFINITIONS**

**Conservation Land:** The portion of required open space to be set aside as part of an open space subdivision, ~~or~~ expanded open space subdivisions, village open space subdivision or commercial open space subdivision. For open space subdivisions, fifty percent (50%) of the net residential acreage shall be conservation land. For expanded open space subdivisions, sixty-five percent (65%) of the net residential acreage shall be conservation land. For village open space subdivisions, thirty percent (30%) of the net residential acreage shall be conservation land. For commercial open space subdivisions, twenty percent (20%) of net residential acreage shall be conservation land.

**Required Open Space:** The sum of the land area of conservation land and unbuildable land (primary conservation areas) as defined in net residential acreage. This land is within a subdivision with uses as permitted in Sec. 504A, Sec. 504.B and 504.D of the Freeport Zoning Ordinance and which is permanently restricted from future development. Subsurface wastewater disposal systems, or individual wells serving units within an open space or expanded open space subdivision may be located within the required open space if approved by the Project Review Board.

**Story:** that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

**Subdivision – Commercial Open Space:** a higher-density residential development in a Commercial Districts that permits higher density residential units with reduced road frontage, setbacks and lot sizes, and that maintains open space. The area of the required open space shall be equal or exceed the sum of the unbuildable land (primary conservation areas) as defined by net residential acreage plus twenty percent (20%) of the net residential acreage. The required open space must meet the standards of Section 504.D of this Ordinance.

## Article 11 – APPROVAL STANDARDS

### 11.5 Traffic Conditions

- i. Street Design Standards.
  5. Any subdivision except Commercial Open Space Subdivisions, containing more than fifteen (15) dwelling units or lots, whichever is less, shall have at least two (2) street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. In Village Open Space Subdivisions this section may be met by reserving right-of-way for future connections and offering the right-of-way to the town for acceptance as a public way.
  - 8) Dead-End Streets.

In addition to the design standards in Table 11.5-1, dead-end streets shall be constructed to provide a cul-de-sac turnaround or other turnaround approved by the Director of Public Works. Where a turning circle is used, it shall meet the following requirements for radii:

Property line: eighty-five (85) feet Outer edge  
of pavement: seventy-five (75) feet Inner edge  
of pavement: fifty (50) feet

The Project Review Board may require larger radii for turning circles on a commercial street. The island in the circle shall be landscaped in a manner requiring low maintenance. Where the turning circle is in a wooded area prior to development, a stand of trees shall be maintained within the center of the circle if possible. The Board shall require the reservation of a twenty- (20-) foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty- (50-) foot easement in line with the street to provide continuation of the road where future subdivision is possible. If a hammerhead or T-turnaround is approved, no driveways shall enter onto the turnaround. In all subdivisions except Commercial Open Space Subdivisions, A-a dead-end street shall be limited to a maximum of fifteen (15) dwelling units (not including corner lots that gain their access from another street). The length of a dead-end shall not exceed two thousand five hundred (2,500) feet.

## APPENDIX A

### Four-Step Design Process

This process is intended to allow the developer the full potential of the legally allowable number of lots, while at the same time preserving valuable open space for the Town of Freeport. The Ordinance requires that a landscape architect or a professional engineer experienced in Civil/site engineering proposes a Site Analysis and Conceptual Sketch Plan on behalf of the applicant using the process outlined below.

#### Step 1: Delineation of Conservation Lands (does not apply to large lot subdivisions)

- A. Calculate the net residential density of the development by determining the net residential acreage of a tract or parcel. The net residential density formula for an open space, expanded open space, ~~or~~ large lot subdivision, village open space subdivision or commercial open space subdivision is provided in the district regulation section of the Zoning Ordinance for the zoning district in which a tract or parcel is located. For all other subdivisions, the net residential density is calculated by dividing the net residential acreage by the minimum lot size (or minimum land area for two-family and multiple family dwellings) in the district in which the tract or parcel is located.