



TOWN OF FREEPORT, MAINE
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TO: FREEPORT TOWN COUNCIL
FROM: CAROLINE PELLETIER, INTERIM TOWN PLANNER
**RE: PROPOSED ZONING ORDINANCE AMENDMENTS – DEFINITION OF MIXED USE DEVELOPMENT
AND ADDING IT AS A PERMITTED USE IN THE COMMERCIAL I (C-I) ZONING DISTRICT**
DATE: MONDAY, JANUARY 6, 2020

The Freeport Planning Board recently reviewed a request from Hal and Mark LLC for proposed amendments to the Freeport Zoning Ordinance to allow residential and commercial uses in one building within the Commercial I (C-I) Zoning District; the zoning district that primarily encompasses the Route One South corridor. See area of “C-1” as shown below:



The request was made by the applicant as they had an existing structure with multiple commercial tenants and one residential unit. They wanted to add an additional residential unit, however discovered that a mixed use building was not permitted in that district. *(Note: There are some other “mixed use” properties existing in this District).*

The applicant presented a few options for possible ordinance amendments to the Planning Board, and upon discussion at the October 2, 2019 Planning Board meeting the Board decided that it made sense to review the existing Ordinance definition (Section 104) for “mixed use development” and add the use as a permitted use, subject to Site Plan Review in the Commercial I District (Section 409).

The proposed amendments to the Freeport Zoning Ordinance (attached) include amending the definition of “mixed use development” to reduce the requirement for three residential units down to one, along with a commercial use, all in one building. One thing to take into consideration, is that by amending the

definition of mixed use development, the change would apply to any and all zones where this use is permitted. The use is currently only permitted in the Village Mixed Use 1 and Village Mixed Use 2 – both of which are smaller zoning districts, located in the area of Bow and South Streets.

The Planning Board held a formal public hearing at the December 4, 2019 Planning Board meeting. A legal advertisement was run in the Brunswick Times Record on 11/22/19 & 11/26/19.

Public Notice

PUBLIC HEARINGS

The Freeport Planning Board will hold public hearings on Wednesday, December 4, 2019 at 6:00 p.m. in the Freeport Town Hall Council Chambers to discuss the following proposed amendments to Chapter 21: Zoning Ordinance of the Town of Freeport, Maine:

1. Section 104 – Definitions to amend the existing definition of “Mixed Use Development” and Section 409 - Commercial I District “C-I” to add Mixed Use Development as a permitted use subject to site plan review and may consider adjusting the land per dwelling unit requirement for the use (Hal & Mark LLC, applicant); and,

2. Section 409 - Commercial I District “C-I” to allow food trucks as an accessory use to any use subject to site plan review (Maine Wicked Goods Mercantile, Nick and Amanda Kent, applicants). The public is welcome to attend. Submitted materials are available for viewing in the Planning Department at the Freeport Town Hall during normal business hours.

Abutter notification was sent in accordance with the notification requirements outlined in the Rules of Order and Procedure of the Freeport Planning Board. In addition to the applicant, one member of the public spoke at the public hearing and was in support of the proposed amendment.

The attached language is the draft recommended by the Planning Board and was generated as a result of comments at the two Planning Board meetings, and a collaboration of staff working with both the applicant’s attorney and the Town Attorney.

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

“MOVED AND SECONDED: BE IT ORDERED: That the Freeport Planning Board recommend to the Freeport Town Council the proposed amendments to the Freeport Zoning Ordinance, Section 104, Definitions in Section 409 Commercial I District pertaining to the Mixed Use Development and adding the permitted use subject to Site Plan Review in the Commercial I District based upon the application submitted by Hal & Mark LLC, and changes suggested by Staff. The Board finds the proposal is in harmony with the Freeport Comprehensive Plan based on the transportation that the closer to people where they live, shop, go to school and play, the fewer miles they need to drive. Land Use and transportation. Land use and transportation are intrinsically connected. (Ball & Canaan) VOTE: (4 Ayes) (3 Excused-Savona, Torres & Winrich)”

Proposed Amendments
Chapter 21: Zoning Ordinance

Section 104. Definitions

Mixed Use Development: A structure with at least ~~three~~one residential units and at least one other use that is permitted within the District.

Section 409. Commercial District I “C-I”

A. Purpose:

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
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 *{Effective 12/17/14}*
 - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
38. Vehicle wash center *{Amended, 03/19/19}*
39. Mixed Use Development

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.9-8 shall be met**, and are subject to site review regardless of size:

- ~~3840.~~ Multiple Family Dwelling
- ~~3941.~~ Warehouse and Storage Facility
- ~~4042.~~ Wireless Telecommunication Facilities
- ~~4143.~~ Truck Facilities

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 provided¹: *{Amended, Effective 10/03/17}*
 - 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

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.

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 to²:

- 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

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%

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.

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.